

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF BEAUFORT)

C/A No.: 2012-CP-07-02338)

Jane Doe, Individually, and as Guardian ad
Litem for and on behalf of John Doe;
and John Doe,)

Plaintiffs,)

v.)

Beaufort Count Board of Education;)
Beaufort County School District;)
South Carolina State Board of Education;)
South Carolina Department of Public Safety;)
and First Student, Inc.,)

Defendants.)

2012 JUN 25 PM 2:50
CLERK OF COURT
BEAUFORT COUNTY, S.C.

COMPLAINT

Forcibly Placing John Doe On School Bus Despite Knowledge That John Doe Had Been
Repeatedly and Continuously Subjected To Physical Abuse By Other Students On The Bus
(Jury Trial Requested)

Plaintiffs, complaining of the above named Defendants, would allege as follows:

1. Plaintiff Jane Doe is a citizen and resident of the County of Beaufort, State of South Carolina. Plaintiff Jane Doe is the biological mother, custodial parent, primary care provider, guardian, and Court Appointed Guardian ad Litem of the minor child, John Doe.
2. Plaintiff John Doe is a citizen and resident of the County of Beaufort, State of South Carolina. John Doe is a minor and incompetent as defined by Rule 17, SCRCF, and the statutory and case law of the State of South Carolina.
3. Plaintiff Jane Doe brings this action, both individually and as biological mother, custodial parent, primary care giver, guardian, and Court Appointed Guardian ad Litem of, and on behalf of, the minor child, John Doe, against the Defendants named herein.
4. Plaintiffs are using pseudonyms due to the sensitive nature of the subject matter of this

action, the handicapped status of John Doe, his tender age of minority at the time of the actions alleged herein, and the sensitive nature of these allegations. As such, it is in the best interests of both Plaintiffs to proceed anonymously in this action, under the pseudonyms set forth herein. Plaintiffs have obtained a Court Order requiring that all identifying information which would reveal the true identities and/or the actual names of the Plaintiffs involved in this action be sealed by the Clerk of Court.

5. The Beaufort County Board of Education is now and was at all times material hereto, an agency, political subdivision, and/or governmental entity within the meaning of the *South Carolina Tort Claims Act*, S.C. Code Ann., § 15-78-30, *et seq.*, operating in the County of Beaufort, State of South Carolina. This entity is subject to suit and the jurisdiction in this Court.
6. The Beaufort County Board of Education is required to prescribe rules and regulations not inconsistent with the statutory law of the State as it deems necessary or advisable for the proper disposition of the students in the Beaufort County School System and all matters brought before it.
7. The Beaufort County School District is now and was at all times material hereto, an agency, political subdivision, and/or governmental entity within the meaning of the *South Carolina Tort Claims Act*, S.C. Code Ann., § 15-78-10, *et seq.*, operating in the County of Beaufort, State of South Carolina. The Beaufort County School District is subject to suit and the jurisdiction of this Court pursuant to the *South Carolina Tort Claims Act*, S.C. Code Ann. §59-17-10, and other statutory and common laws of this State.
8. The Beaufort County School District is and was at all times material hereto required by statute to adopt policies requiring that the students have respect for authority and respect for

others, honesty, self control, cleanliness, courtesy, good manners, cooperation, citizenship, patriotism, courage, fairness, kindness, self respect, compassion, diligence, good work ethics, sound educational habits, generosity, punctuality, cheerfulness, patience, sportsmanship, loyalty and virtue. S.C. Code Ann., § 59-17-135.

9. The South Carolina State Board of Education, hereinafter also referred to as the "State Board of Education," is now and was at all times material hereto, an agency, political subdivision, and/or governmental entity within the meaning of the *South Carolina Tort Claims Act*, S.C. Code Ann., § 15-78-30-*et seq.*, operating in the County of Beaufort, State of South Carolina. This entity is subject to suit and the jurisdiction of this Court. At all times material herein, Defendant State Board of Education along with each of the other Defendants named herein had actual control over the other Defendants listed, Plaintiff John Doe, and the students, teachers, and other staff at Broad River Elementary School, during school hours and during the time that students were on the school buses obtained by this Defendant to transport students to and from school. This Defendant had the duties, obligations, and powers as set forth more herein below.
10. As required by the Legislature of the State of South Carolina, the State Board of Education is required to and has the power to adopt policies, rules and regulations for its own government, and for the government of the free public schools of the State of South Carolina; the State Board of Education has the power and responsibility to adopt standards for any and all phases of education; to aid in providing adequate educational opportunities and facilities; to prescribe and enforce courses of studying for the free public schools of the State of South Carolina; to assume such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it, or as it may find necessary to aid in carrying out

the purposes and objectives of the Constitution of the State of South Carolina, pursuant to S.C. Code Ann., § 59-5-60.

11. The State Board of Education has the power and responsibility to establish regulations prescribing the minimum standards of conduct and behavior that must be met by all persons as a condition to their right to attend the public schools of this state; as well as to promulgate regulations prescribing a uniform system of minimum enforcement of the rules of conduct and behavior by the various school districts. S.C. Code Ann., § 59-5-65.
12. The State Board of Education is obligated and required to establish rules, regulations and policies for screening, classifying and determining the eligibility of persons to receive any and all benefits under the provisions of S.C. Code Ann., § 59-21-510; and to determine certification requirements and special qualifications of teachers; to outline the manner and procedure by which applications for aid and plans for operation may be made and approved, and for other matters not specified when necessary to carry out the provisions of Article S.C. Code Ann., § 59-21-510, *et seq.*
13. South Carolina Department of Public Safety is a public entity subject to suit under the *South Carolina Tort Claims Act*, S.C. Code Ann., § 15-78-10, *et seq.*, operating in the County of Beaufort, State of South Carolina.
14. First Student, Inc. was and is a business entity organized and existing under the laws of the State of Florida with agents, employees and a place of business in the County of Beaufort, State of South Carolina, earning a substantial revenue therefrom.
14. At all material times herein, Plaintiff John Doe was a student in the Beaufort County School District, under the watch, control, authority and supervision of Defendants Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of

Education, South Carolina Department of Public Safety, and First Student, Inc.

15. At all times alleged herein, Defendants Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Public Safety, and First Student, Inc. acted by and through their agents, servants and employees, acting in the course and scope of their employment, and all acts and omissions thereby are imputed as a matter of law to their respective principals, masters, and employers.
16. That the parties hereto, subject matter hereof, and all matters and things hereinafter alleged are within the jurisdiction of this Honorable Court; and that this Court is the proper venue for this action.
17. At all times herein, Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Public Safety, and First Student, Inc., had the actual care and control over the other listed Defendants, Plaintiff John Doe, and the students, teachers, and other staff at Broad River Elementary School.
18. That upon information and belief, Defendants Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Public Safety and First Student, Inc. had supervision and control over their agents, servants and employees acting in the scope of their employment, and/or all acts and omissions are imputed to Defendants Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Public Safety, and First Student, Inc., as a matter of law.
19. Defendants South Carolina State Board of Education and South Carolina Department of Public Safety, pursuant to §59-67-20, are required to adopt and enforce regulations to be used

for the transportation of school children. Defendants South Carolina State Board of Education, South Carolina Department of Public Safety, Beaufort County Board of Education, Beaufort County School District, and First Student, Inc., failed to follow and/or subject the other to these regulations.

20. §59-67-240 requires school bus drivers to be responsible for, *inter alia*, maintaining good conduct upon his or her bus during the transport of students.
21. Before and leading up to November 10, 2010, Defendants forcibly placed Plaintiff John Doe onto a school bus, despite objections and protestation from John Doe, and while on the school bus, John Doe was subjected to physical abuse at the hands of other students on the bus, which students were also enrolled in the public schools of Beaufort County and who were also subject to and in the care, custody, control, and supervision of Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Public Safety, and First Student, Inc.
22. Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Public Safety, and First Student, Inc. and/or their agents and/or employees each had knowledge that John Doe had been and was being subjected to physical assault at the hands of other students on the bus, which students were also subject to and in the care, custody, control, and supervision of Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Public Safety, and First Student, Inc.
23. Despite their knowledge of past and ongoing continuing physical abuse of John Doe by other students on the bus, Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Public Safety, and

- First Student, Inc. each continued to forcibly place John Doe on the bus against his will, thereby placing John Doe in harm's way.
24. In continuing to forcibly place John Doe on the school bus, where they knew he had been and would be a victim of physical assault, Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Public Safety, and First Student, Inc. each failed to exercise the slightest care to prevent John Doe, and each acted intentionally, recklessly, wantonly, maliciously, and with deliberate indifference to the rights of John Doe.
 25. On November 10, 2010, after having been subjected to physical restraint and assault by his teachers earlier that morning, employees of Broad River Elementary School physically restrained John Doe and forcibly placed him onto the school bus, without his jacket and without his shoes or socks, thereby restricting his movement and liberties. Each of the employees who forcibly placed John Doe on to the school bus on that day acted maliciously, willfully, wantonly, recklessly, and with deliberate indifference to the rights of John Doe, and each employee was subject to the control, supervision, monitoring, training, instruction, and retention of Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Public Safety, and First Student, Inc.
 26. Each employee responsible for forcibly placing John Doe on the school bus had the intent to restrain and confine John Doe's freedom of movement.
 27. Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Public Safety, and First Student, Inc. each breached one or more of the non-delegable, legal, statutory or other duties which were owed

to Plaintiffs, and, in particular, to the minor Plaintiff John Doe, as a student at Broad River Elementary School and a student on a bus obtained by each of the Defendants. These Defendants breached their duties to the John Doe in the following manners: in failing to properly supervise the student who assaulted John Doe; in failing to properly monitor John Doe; in failing to properly monitor the student who assaulted John Doe; in failing to create and implement proper programs to provide for the safety of John Doe; and failing to properly educate and train the staff and other students in the bus programs; in failing to protect John Doe; in employing individuals who were not properly trained or knowledgeable to protect John Doe; in failing to take any action to preclude John Doe from being assaulted at any time; in placing John Doe in the way of harm; in failing to implement or adhere to statutes adopted by §59-67-20; in unlawfully restricting John Doe's freedom of movement; and in such other ways as will be proven at trial in this case.

28. Defendants First Student, Inc., Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, and South Carolina Department of Public Safety were negligent, grossly negligent, reckless, wilful, and wanton in allowing John Doe to be physically assaulted and battered, resulting in serious physical, emotional, and psychological injury.

FOR A FIRST CAUSE OF ACTION AS TO DEFENDANTS BEAUFORT COUNTY
BOARD OF EDUCATION; BEAUFORT COUNTY SCHOOL DISTRICT;
SOUTH CAROLINA STATE BOARD OF EDUCATION; AND SOUTH
CAROLINA DEPARTMENT OF PUBLIC SAFETY
(Gross Negligence, Recklessness, Wilfulness, Wantonness and Carelessness)

29. Plaintiffs reallege each and every allegation of this Complaint as if stated verbatim herein.
30. Plaintiffs each suffered severe injuries, economic damages to include medical bills, lost earnings, lost earning capacity, loss of services of the other and additional damages, as a

result of the grossly negligent, wilful, wanton, reckless and careless acts of all of the Defendants, in the following particulars:

- a. In failing to properly supervise John Doe;
- b. In failing to properly supervise the student who assaulted John Doe;
- c. In failing to properly monitor John Doe;
- d. In failing to properly monitor the students who assaulted John Doe;
- e. In failing to create and implement proper programs to provide for the safety of John Doe and failing to properly educate and train the staffs and other students in those programs;
- f. In failing to protect John Doe;
- g. In employing individuals who were not properly trained or knowledgeable to protect John Doe;
- h. In failing to take any action to preclude John Doe from being assaulted at any time;
- i. In placing John Doe in the way of harm;
- j. In failing to implement or adhere to statutes adopted by §59-67-20;
- k. In failing to maintain order on the school bus;
- l. In failing to exercise control or discipline over the students on the bus; and
- m. Other ways that will be proven during the litigation and trial of this case.

31. As a result of the foregoing acts and/or omissions of Defendant, Plaintiffs suffered severe injuries, economic damages to include but not limited to medical bills, lost earnings, lost earning capacity, loss of services of the other and additional damages, non-economic damages to include, but not limited to, emotional distress, pain and suffering, and loss of enjoyment and quality of life; as a result Plaintiffs request a jury trial, to determine damages,

actual and punitive, plus the penalties, costs, and fees allowed and prescribed by this cause of action.

FOR A SECOND CAUSE OF ACTION AS TO DEFENDANTS BEAUFORT COUNTY BOARD OF EDUCATION, BEAUFORT COUNTY SCHOOL DISTRICT, SOUTH CAROLINA BOARD OF EDUCATION, SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, AND FIRST STUDENT, INC.

(False Imprisonment)

32. Plaintiffs reallege each and every allegation of this Complaint as if stated verbatim herein.
33. John Doe was restrained by employees and agents of the Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Education, and First Student, Inc.
34. At the time of the restraint, the employees and agents of Beaufort County Board of Education, Beaufort County School District, South Carolina State Board of Education, South Carolina Department of Education, and First Student, Inc. acting with gross negligence, wantonness, malice, and deliberate indifference to the rights of John Doe, restrained John Doe, had the intent to confine and restrict the movements of John Doe, the restraint was intentional, and the restraint was unlawful.
35. As a result of the unlawful restraint and constriction of his movements, John Doe suffered damages in the form of deprivation of his liberty, as well as physical, mental, and psychological injuries for which John Doe required extensive medical treatment, and non-economic damages to include, but not limited to, emotional distress, pain and suffering, public humiliation and embarrassment, loss of enjoyment and quality of life, and additional damages. In addition, Jane Doe suffered economic damages, including but not limited to medical bills, therapy and counseling bills, lost earnings, lost earning capacity, loss of contribution to the household of John Doe, and loss of services of John Doe.

36. As such, Plaintiffs seek a jury trial to determine all damages, actual and punitive.

FOR A THIRD CAUSE OF ACTION AS TO DEFENDANT FIRST STUDENT, INC.
(Negligence, Recklessness, Wilfulness, Wantonness and Carelessness)

37. Plaintiffs reallege each and every allegation of this Complaint as if stated verbatim herein.

38. Plaintiffs each suffered severe injuries, economic damages to include medical bills, lost earnings, lost earning capacity, loss of services of the other and additional damages, as a result of the grossly negligent, wilful, wanton, reckless and careless acts of First Student, Inc., in the following particulars:

- a. In failing to properly supervise John Doe;
- b. In failing to properly supervise the students who assaulted John Doe;
- c. In failing to properly monitor John Doe;
- d. In failing to properly monitor the student who assaulted John Doe;
- e. In failing to create and implement proper programs to provide for the safety of John Doe and failing to properly educate and train the staffs and other students in those programs;
- f. In failing to protect John Doe;
- g. In employing individuals who were not properly trained or knowledgeable to protect John Doe;
- h. In failing to take any action to preclude John Doe from being assaulted at any time;
- i. In placing John Doe in the way of harm;
- j. In failing to implement or adhere to statutes adopted by §59-67-20; and
- k. In failing to maintain order on the school bus;
- l. In failing to exercise control or discipline over the students on the bus; and

m. Other ways that will be proven during the litigation and trial of this case.

39. As a result of the foregoing acts and/or omissions of Defendant, Plaintiffs suffered severe injuries, economic damages to include but not limited to medical bills, lost earnings, lost earning capacity, loss of services of the other and additional damages, non-economic damages to include, but not limited to, emotional distress, pain and suffering, and loss of enjoyment and quality of life; as a result Plaintiffs request a jury trial, to determine damages, actual and punitive, plus the penalties, costs, and fees allowed and prescribed by this cause of action.

FOR A FOURTH CAUSE OF ACTION AS TO DEFENDANTS SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY, SOUTH CAROLINA BOARD OF EDUCATION,
BEAUFORT COUNTY SCHOOL DISTRICT, BEAUFORT COUNTY BOARD OF
EDUCATION, AND FIRST STUDENT
(Economic Loss of Jane Doe)

40. Plaintiffs reallege each and every allegation of this Complaint as if stated verbatim herein.
41. Based on the facts set forth more fully hereinabove, Plaintiff Jane Doe suffered severe injuries, and economic damages to include medical bills, therapy and counseling bills, loss of contribution to the household by John Doe, loss of services of John Doe and additional damages, non-economic damages to include, emotional distress, pain and suffering, and loss of enjoyment and quality of life and upset over her child, John Doe; as a result Plaintiffs request a jury trial, to determine damages, actual and punitive, plus the penalties, costs, and fees allowed and prescribed by this cause of action.

CONCLUSION

WHEREFORE, Plaintiffs demand a jury trial and pray for actual and punitive damages, plus the costs, penalties, and attorney fees of this action and for such further relief as the Court deems Plaintiffs to be entitled.

MCDUGATT LAW FIRM


J. Olin McDougall, II
Davis A. Whitfield-Cargile
Post Office Box 1336
Beaufort, South Carolina 29901-1336
(843) 379-7000
Attorney for Plaintiff

June 12, 2012
Beaufort, South Carolina

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the **7th day of November, 2012**, and a copy mailed first class or placed in the appropriate attorney's box on the **14th day of November, 2012**, to attorneys of record or to parties (when appearing pro se) as follows:

J. Olin McDougall II PO Box 1336 Beaufort, SC 299011107

James A. Stuckey Jr. 123 Meeting Street Charleston, SC 29401

Steven James Pugh 1900 Barnwell St. Columbia, SC 29201

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Lynn Geren - Staff

Jerri Ann Roseneau - Clerk of Court

Court Reporter

CPFORM4M
SCCA SCRP Form 10 (Rev. 4-13-2011)

Signatures, initials, and personal information (i.e. address, phone, social security number) were redacted by House Legislative Oversight Committee staff.

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

JANE DOE, INDIVIDUALLY AND AS)
GUARDIAN AD LITEM FOR AND ON)
BEHALF OF JOHN DOE, AND JOHN)
DOE ,)

PLAINTIFFS,)

vs.)

BEAUFORT COUNTY BOARD OF)
EDUCATION; BEAUFORT COUNTY)
SCHOOL DISTRICT; SOUTH)
CAROLINA BOARD OF EDUCATION;)
SOUTH CAROLINA DEPARTMENT)
OF PUBLIC SAFETY; AND FIRST)
STUDENT,)

DEFENDANTS.)

IN THE COURT OF COMMON PLEAS)
FOURTEENTH JUDICIAL CIRCUIT)
CASE NO. 2012-CP-07-2338)12 NOV -7 PM 4:10
CLERK OF COURT
S.C.**STIPULATION OF DISMISSAL**

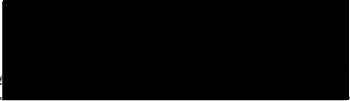
The above-captioned matter having been compromised and settled, now, by stipulation of Young Clement Rivers, LLP, attorneys for Defendants Beaufort County Board of Education and Beaufort County School District; Stuckey Law Offices, LLC, attorneys for Defendants South Carolina State Board of Education and South Carolina Department of Public Safety; Richardson, Plowden & Robinson, P.A., attorneys for Defendant First Student; and McDougall Law Firm, LLC, attorneys for the Plaintiffs, it is

Hereby stipulated by the above-named parties and the above-named counsel of record that the above case be ended with prejudice as to Defendants and the causes of action therein sued upon be forever barred.

AND IT IS SO STIPULATED.

WE STIPULATE:

YOUNG CLEMENT RIVERS, LLP

By 
Duke R. Highfield
Attorneys for Defendants
Beaufort County Board of Education
and Beaufort County School District

WE STIPULATE:

STUCKEY LAW OFFICES, LLC

By 
James A. Stuckey
Attorneys for Defendant
South Carolina State Board of Education

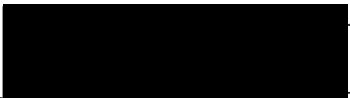
WE STIPULATE:

STUCKEY LAW OFFICES, LLC

By 
James A. Stuckey
Attorneys for Defendant
South Carolina Department of Public Safety

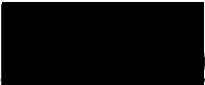
WE STIPULATE:

RICHARDSON, PLOWDEN & ROBINSON, P.A.

By 
Steven J. Pugh
Attorneys for Defendant First Student

WE STIPULATE:

MCDUGALL LAW FIRM, LLC

By 
J. Olin McDougall II
Attorneys for Plaintiffs

10/21/12

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

February 28, 2013

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T87186
Date of Occurrence: November 10, 2010
Claimant: Doe, John Doe, Jane, As Gal
Date Closed: February 28, 2013

Dear Mr. Ganjehsani:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 1,742.52

If you should have any questions, please contact us.

Sincerely,


Libby Holder
Small Claims Unit Manager

/lh

PS: case dismissed 12-CP-07-2338

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF HAMPTON)

CIVIL ACTION NO.: 2014-CP-25- 284)

Porter Drawdy,)

Plaintiff,)

v.)

South Carolina Department of Transportation)
and South Carolina Department of Public)
Safety,)

Defendants.)

COMPLAINT

(Jury Trial Demanded)

FILED
2014 AUG 15 PM 3:36
MYLINDA D. NETTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.

The Plaintiff alleges:

1. Venue is proper in Hampton County pursuant to §15-78-10 because the below described incident occurred on the Hampton and Colleton County line. The defendants are governmental agencies and are subject to suit pursuant to the South Carolina Tort Claims Act (S.C. Code Ann. §15-78-10, et seq.).

2. On September 1, 2012, the plaintiff was the driver of a vehicle which was driving in a northerly direction on U. S. Highway 601 near the Hampton County line. As the plaintiff was crossing the bridge at the Salkehatchie River his vehicle struck a tree which was in the highway causing him to suffer serious and severe injuries.

3. The plaintiff's injuries were due to and caused by the negligence of the defendants in the following ways:

AS TO SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

- a) In failing to remove the tree from the roadway after notice;
- b) In failing to warn the public of the dangerous tree in the roadway;
- c) In failing to remove the dangerous tree prior to it falling after notice of the dangerous condition of the tree.

AS TO SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY

- a) In failing to timely notify appropriate authorities of the dangerous condition created by the tree in the roadway.

4. By reason of the defendants' negligence, the plaintiff suffered serious and severe injuries to his head, neck, and other parts of his body. He has incurred medical expenses, lost wages, and pain and suffering all to his actual damages.

WHEREFORE, plaintiff prays for judgment against the defendant for actual and punitive damages, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

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

BY: 

John E. Parker
Post Office Box 457
101 Mulberry Street East
Hampton, SC 29924
(803) 943-2111

ATTORNEYS FOR PLAINTIFF

August 15, 2014
Hampton, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2016-CP-38

Edward Easterling,

PLAINTIFF,

-vs.-

South Carolina Highway Patrol,

DEFENDANT.

COMPLAINT
(Jury Trial Demanded)

FILED FOR RECORD
JUL 1 2016
CLERK
JUL 1 2016
P 3:48
ORANGEBURG, SC

00349

1. Plaintiff, Edward Easterling, is a resident and citizen of Orangeburg County, South Carolina.
2. Defendant, South Carolina Highway Patrol (hereinafter "SCHP"), is a political subdivision, department, or agency of the state of South Carolina within the meaning of §15-78-30(a) *South Carolina Code of Laws*, and as such, qualifies for treatment under the *South Carolina Tort Claims Act*, §15-78-10 *et. sec.* At all times herein after alleged Defendant acted through its employees (as defined by S.C. Code Ann. §15-78-30(c)).
3. Defendant maintains a law enforcement agency whose officers are employees and/or agents of the Defendant and for whose conduct the Defendant is responsible.
4. The acts giving rise to this action were committed, either in whole or in part, in Orangeburg County, South Carolina, and, therefore, venue is appropriate in this court, pursuant to S.C. Code Ann. §15-78-100.
5. At all times material to the allegations contained herein, all of the Defendant's officers who had contact with Plaintiff were acting within the course of and scope of their employment and/or agency as law enforcement officer.
6. On or about April 5, 2014, in Orangeburg County, South Carolina, Plaintiff was

stopped by Defendant's officer, Officer S.M. Williams, for allegedly driving above the speed limit.

7. Officer Williams asked Plaintiff if he had been drinking; Plaintiff stated he had one alcoholic beverage that evening.

8. Officer Williams asked Plaintiff to get out of the car and administered field sobriety tests.

9. The field sobriety tests were inconclusive; regardless, Officer Williams arrested Plaintiff for driving under the influence.

10. Plaintiff's children came to the scene to assist with the vehicle and witnessed their father's arrest.

11. The Defendant's officer handcuffed and transported Plaintiff to the Datamaster room at the Orangeburg Detention Center to administer a breath alcohol analysis.

12. Plaintiff gave a breath sample, resulting in a 0.00 percent reading.

13. Officer Williams then asked Plaintiff to provide a urine sample, which he submitted to.

14. Plaintiff was then booked into the Orangeburg County Detention Center for Driving Under the Influence.

15. Plaintiff's bond hearing was in the morning after his arrest. He was given a personal recognizance (PR) bond. Plaintiff remained in the detention center until about 2 p.m. the day after the arrest, approximately 14 hours after the traffic stop.

16. As a requirement of his bond, Plaintiff was ordered to appear at Central Traffic Court of Orangeburg on May 13, 2014.

17. Plaintiff had to retain an attorney to defend him. He also incurred towing

expenses.

18. On or about April 16, 2014, Plaintiff's criminal defense attorney submitted a Rule 5 Discovery Request to obtain all of Defendant's investigation pertaining to the April 5, 2014, arrest.

19. Plaintiff's criminal defense attorney attended at least two (2) pre-trial hearings in Orangeburg with regards to the April 5, 2014, arrest. Each time, as well as various times throughout, Plaintiff's criminal defense attorney asked Defendant and its officer to dismiss the case.

20. Plaintiff and Plaintiff's criminal defense attorney picked a jury for the trial of the criminal case on or about October 8, 2014.

21. A bench trial was scheduled for November 4, 2014.

22. On or about the date of trial, Defendant's Officer Williams realized that he had received a negative urinalysis result on or about July 10, 2014, but failed to disclose the negative result to Plaintiff and his criminal defense attorney prior to November 4, 2014.

23. On the trial date, Plaintiff's criminal defense attorney moved to dismiss the charges based on no evidence of DUI and non-disclosure of the urinalysis result. The motion was granted and the charge against Plaintiff was dismissed.

FOR A FIRST CAUSE OF ACTION
VIOLATION OF THE SOUTH CAROLINA CONSTITUTION, ARTICLE I, § 10

24. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.

25. Pursuant to the South Carolina Constitution art. I, § 10, the Plaintiff has the right to be secure in his person against unreasonable searches and seizures and unreasonable invasions of his privacy.

26. On April 5, 2014, the Defendant's officer seized and arrested the Plaintiff in an unreasonable manner and without any legal justification.

27. The April 5, 2014, seizure and arrest constituted an unreasonable invasion of the Plaintiff's privacy.

28. On April 5, 2014, Defendant's officer held, restrained, and detained the Plaintiff for an unreasonable period of time.

29. As a direct and proximate result of Defendant's officer's conduct, the Plaintiff was deprived of his rights, privileges, and immunities secured by South Carolina Constitution art. I, § 10.

30. In the course of conducting an unreasonable seizure of Plaintiff's person, Defendant's officer acted with deliberate indifference to Plaintiff's constitutional rights.

31. No reasonable law enforcement officer could have believed that the unreasonable seizure and arrest of the Plaintiff comported with South Carolina Constitution art. I, § 10, in light of the clearly established rules for such arrests.

32. At the time of the Plaintiff's arrest, the legal rules establishing the requirement that law enforcement officer must have a warrant, probable cause, or other legal justification in order to search and/or arrest a private citizen were clearly established.

33. At the time of the Plaintiff's imprisonment, the legal rules establishing the requirement that law enforcement officer must have a warrant, probable cause, or other legal justification in order to search and/or arrest a private citizen were clearly established.

34. As a direct and proximate result of the violations of the South Carolina Constitution art. I, § 10 by the Defendant, Plaintiff suffered injuries and damages, which include but are not limited to, false imprisonment, false arrest, malicious prosecution, severe emotional

distress, lost time, humiliation, embarrassment, mental anguish and suffering, pain and suffering, inconvenience, and was forced to incur unnecessary costs and expenses in defending himself against this charge.

FOR A SECOND CAUSE OF ACTION
WRONGFUL FAILURE TO TRAIN AND SUPERVISE POLICE OFFICER

35. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.

36. Defendant had a duty to hire, train, and supervise persons hired to serve as a South Carolina Highway Patrol officer with due care to ensure that its officer complied with state and federal laws.

37. Defendant breached its duty to adequately hire, train, and supervise its officer involved with and/or making the arrest and detention of the Plaintiff in the following particulars:

- a. By failing to instruct the officer in the nature of fundamental rights protected by the Constitution of the State of South Carolina and the Constitution of the United States;
- b. By failing to instruct the officer in the nature of rights to personal privacy and security protected by state law;
- c. By failing to instruct the officer in the proper manner of, and the legal requirements for the detention and/or arrest of Plaintiff;
- d. By failing to instruct the officer in the proper manner of releasing the Plaintiff after discovering that Defendant's officer had no lawful reason to detain and/or arrest the Plaintiff;
- e. By failing to adequately supervise the officer to ensure that they did not violate the procedural and substantive guarantees of the United States Constitution and

South Carolina Constitution;

- f. By failing to adequately supervise the officer to ensure that the officer complied with the published policies and procedures regarding law enforcement procedure of the State of South Carolina and the South Carolina Highway Patrol;
- g. By failing to institute procedures designed to detect and/or prevent violations of constitutional and statutory guarantees of fundamental civil and property rights, and if such procedures and methods were instituted, by failing to follow them; and
- h. In other such particulars as the evidence may show.

38. As a direct and proximate result of the reckless, grossly negligent, negligent, and careless acts and omissions of Defendant, Plaintiff suffered injuries and damages, which include but are not limited to, false imprisonment, false arrest, malicious prosecution, severe emotional distress, lost time, humiliation, embarrassment, mental anguish and suffering, pain and suffering, inconvenience, and was forced to incur unnecessary costs and expenses in defending himself against this charge.

FOR A THIRD CAUSE OF ACTION FALSE IMPRISONMENT

39. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.

40. On April 5, 2014, Officer Williams, officer employed by Defendant, arrested Plaintiff, handcuffed him, detained him, placed him in his patrolling vessel, transported him to the Datamaster room at the Orangeburg County Detention Center, and then booked him into the Orangeburg County Detention, where he remained for approximately fourteen hours.

41. Defendant's officer who arrested, restrained, and detained Plaintiff acted with the intent to arrest and restrain him.

42. Defendant's officer, without probable cause, caused Plaintiff to be falsely imprisoned against his will without his consent and deprived Plaintiff of liberty and freedom by arresting and holding him in their custody.

43. Defendant's officer had no lawful authority or justification to arrest, restrain, and/or detain Plaintiff.

44. If Defendant's officer had any lawful authority to temporarily detain Plaintiff, such authority ceased after Defendant's officer had determined that the Plaintiff was not under the influence of alcohol as demonstrated by a 0.00% blood-alcohol concentration on the breathalyzer test and a negative urinalysis exam.

45. Defendant's officers kept Plaintiff in their physical custody and control for fourteen hours. At no time during this period of constant restraint, arrest, and detention was the Plaintiff permitted to leave.

46. As a direct and proximate result of the negligent, wrongful, reckless, willful, wanton, and grossly negligent conduct of Defendant's officer, Plaintiff suffered severe emotional distress, lost time, humiliation, fright, outrage, embarrassment, mental anguish and suffering, pain and suffering, inconvenience, and was forced to incur unnecessary costs and expenses.

FOR A FOURTH CAUSE OF ACTION
FALSE ARREST

47. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.

48. On April 5, 2014, Officer Williams, an officer employed by Defendant, arrested Plaintiff, handcuffed him, detained him, placed him in their police car, transported him to the Datamaster room at the Orangeburg County Detention Center, and ordered him to be held at the Orangeburg County Detention Center, where he remained for approximately fourteen (14) hours

on the charge of Driving Under the Influence under S.C. Code Ann. §56-05-2930(A).

49. Defendant's officer who arrested, restrained, and detained Plaintiff acted with the intent to arrest and restrain him.

50. Defendant's officer had no lawful authority or justification to arrest, restrain, and/or detain Plaintiff.

51. The arrest of Plaintiff was made without probable cause, in that no facts existed that would lead a reasonable police officer to believe that Plaintiff was guilty of the crime of Driving Under the Influence under S.C. Code Ann. §56-05-2930(A).

52. On November 4, 2014, Plaintiff was awarded a directed verdict by the Orangeburg County Magistrate.

53. As a result of Plaintiff's arrest, Plaintiff was in Defendant's officer's physical custody and control approximately fourteen hours. At no time during this period of constant restraint and detention was Plaintiff permitted to leave.

54. As a direct and proximate result of the reckless, willful, wanton, and grossly negligent conduct of the Defendant's officer, the Plaintiff suffered severe emotional distress, lost time, humiliation, embarrassment, mental anguish and suffering, pain and suffering, inconvenience, and was forced to incur unnecessary costs and expenses.

FOR A FIFTH CAUSE OF ACTION
MALICIOUS PROSECUTION

55. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.

56. On April 5, 2014, Officer Williams with Defendant SCHP arrested Plaintiff, handcuffed him, detained him, placed him in the police car, transported him to the Datamaster room at the Orangeburg County Detention Center where the officer charged Plaintiff with

Driving Under the Influence and ordered him to be held at the Orangeburg County Detention Center, where he remained for approximately fourteen (14) hours before a bond was set and he was released.

57. The arrest of Plaintiff was made without probable cause, in that no facts existed that would lead a reasonable officer to believe that Plaintiff was guilty of the crime of Driving Under the Influence under S.C. Code Ann. §56-05-2930(A).

58. On November 4, 2014, Plaintiff was awarded a directed verdict by the Orangeburg County Magistrate.

59. The actions of Defendant's officer in arresting Plaintiff were instituted with malice and were intentional, deliberate, and without just cause or excuse.

60. As a direct and proximate result of the reckless, willful, wanton, and grossly negligent conduct of Defendant's officer, Plaintiff suffered severe emotional distress, lost time, humiliation, fright, nervousness, indignity, injuries to his reputation and person, embarrassment, mental anguish and suffering, pain and suffering, inconvenience, and incurred the unnecessary costs and expense of attorney's fees in defending the charge against him.

FOR A SIXTH CAUSE OF ACTION
COMMON LAW LIABILITY FOR GROSS NEGLIGENCE & RECKLESSNESS

61. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.

62. Each of Defendant's officer involved with Plaintiff's arrest on April 5, 2014, had a duty to exercise slight care.

63. Each of Defendant's officer present at the scene on April 5, 2014, had a duty to exercise at least slight care appropriate for their special line of work.

64. Defendant is liable for the conduct of its officers involved with Plaintiff's arrest

on April 5, 2014.

65. Defendant's officer involved with Plaintiff's arrest on April 5, 2014, were acting pursuant to the policies and customs generally adopted, ratified, and accepted as regular practice by Defendant.

66. Defendant's officer involved with Plaintiff's arrest on April 5, 2014, were grossly negligent and recklessly breached their duties in following particulars:

- a. By wrongfully arresting Plaintiff;
- b. By failing to release Plaintiff after ascertaining that the officer had no lawful reason to arrest and/or detain the Plaintiff against his will;
- c. By failing to end prosecution of Plaintiff after determining they had no lawful basis for arrest and that the investigation was mishandled; and
- d. In other such particulars as the evidence may show.

67. As a direct and proximate result of the grossly negligent, and reckless acts and omissions of the Defendant's officer, Plaintiff suffered severe emotional distress, lost time, humiliation, fright, nervousness, indignity, injuries to his reputation and person, embarrassment, mental anguish and suffering, pain and suffering, inconvenience, and incurred the unnecessary costs and expense of attorney's fees in defending the charge against him.

68. The conduct of Defendant, as set forth in the causes of action stated above, was a proximate cause of Plaintiff's damages, which damages include humiliation, embarrassment, mental anguish and suffering, inconvenience, lost time, pain and suffering, wounded feelings and incurred the unnecessary costs and expense of attorney's fees in defending the charge against him.

WHEREFORE, Plaintiff requests appropriate judgment against Defendant for actual damages, costs, attorney's fees, and such other and further relief as the Court deems just and proper, in an amount to be determined by the triers of facts.

Respectfully submitted,

A large black rectangular redaction box covering the signature area.

Virginia W. Williams
WILLIAMS & WILLIAMS
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ATTORNEYS FOR PLAINTIFF

March 22, 2016
Orangeburg, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

IN THE COURT OF COMMON PLEAS
IN THE TWELFTH CIRCUIT
CASE NO. 2015-CP-21- 1770

James Bradford Enzor,

Plaintiff,

v.

South Carolina Department of Public Safety,
Leroy Smith

Defendant.

COMPLAINT
(Jury Trial Demanded)

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CONNOR & SHEARIN
FLORENCE COUNTY, S.C.

EMPLOYMENT CASE

The Plaintiff complaining of the Defendant respectfully alleges as follows.

PARTIES AND JURISDICTION

1. The Plaintiff, James Bradford Enzor, is a citizen and resident of Florence County, South Carolina.

2. The Defendant, South Carolina Department of Public Safety (Defendant Department), is a State Law Enforcement Agency headquartered in Richland County, South Carolina and operating throughout the State of South Carolina including within Florence County, South Carolina.

3. The Defendant Leroy Smith (Defendant Smith) is the Director of the Defendant Department, he oversees employees and operations throughout the state of South Carolina (including within Florence County, South Carolina) and upon information and belief resides in Richland County, South Carolina.

4. The Defendant Department employed the Plaintiff in Florence County for over 7 years.

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FLORENCE COUNTY, S.C.

5. This action alleges race discrimination under Title VII of the Civil Rights Act of 1964, as amended ("Title VII") (41 U.S.C. § 2000(e) *et seq.*), public policy discharge and breach of contract claims against the Defendant Department, and a violation of Plaintiff's First Amendment rights under the Federal Constitution made actionable by 42 U.S.C. § 1983 against Defendant Smith.

6. The Defendant Department employs a sufficient number of employees to be subject to legal action under Title VII.

7. The Plaintiff filed charges of discrimination with the South Carolina Human Affairs Commission and the Equal Opportunity Commission, received his right to sue letter, and this action is timely.

8. The parties have sufficient connections to Florence County, the occurrences giving rise to this action occurred in Florence County, and jurisdiction is proper.

FACTUAL ALLEGATIONS

9. Plaintiff, a white male, was hired by the Defendant Department on July 8, 2005 as a State Trooper.

10. Plaintiff was at all times a competent, if not better than competent employee of the Defendant Department, and was qualified for his job.

11. Plaintiff was promoted to Lance Corporal on August 10, 2010.

12. Plaintiff was demoted to Senior Trooper on February 13, 2013 for improper conduct/conduct unbecoming a state employee as a result of Plaintiff's alleged conduct during an October 14, 2012 traffic stop. Where Plaintiff stopped and ticketed a black female.

13. Federal lawsuits arose out of that traffic stop filed by the driver and her husband, Jerome Newkirk a black male, alleging, among other claims, a deprivation of civil rights against the Plaintiff and negligence against the Defendant Department. *See, Jerome C. Newkirk, Sr. v. Enzor, et. al.* 4:13-cv-01634-RBH-KDW.

14. In responding to Mr. Newkirk's lawsuit the Defendant Department denied wrongdoing by Plaintiff in carrying out the subject traffic stop. (Exhibit 1; *Newkirk v. Enzor et. al.* Complaint ¶ 14); (Exhibit 2; *Newkirk v. Enzor et. al.* S, Answer ¶¶ 13, 16, 25).

15. Plaintiff grieved his demotion to the South Carolina Office of Human Resources as required by state policies and procedures

16. In the mediation of that matter, Plaintiff withdrew his grievance in exchange for an agreement by the Defendant Department not to exercise further discipline toward him relating to the subject traffic stop, and also to withdraw his demotion effective November 17, 2013. (Exhibit 3; Mediation Agreement and Release August 5, 2013).

17. After the execution of the aforementioned settlement agreement, the Defendant audited the in-car radio of Plaintiff's supervisor Corporal N.A. Tart.

18. The Defendant Department determined that on June 18, 2013, while pacing alongside his supervisor to slow traffic near a work zone, Plaintiff, in a discussion with Cpl. Tart, remarked "That's that dumbass director we got."

19. Plaintiff had been regularly encouraged to "vent up" (talk about problems in employment up the chain of command) by both his supervisor Cpl. Tart and the Defendant Department generally.

20. Plaintiff was allegedly terminated on the basis of this remark on November 14, 2013.

21. Plaintiff appealed his termination to the State Office of Human Resources thereafter. That appeal was timely, and the Plaintiff received a final decision from the grievance committee.

22. The date of Plaintiff's termination fell three days prior to the date he was to be restored to Lance Corporal according to his prior settlement agreement. (Ex. 3).

23. The Defendant sited to Plaintiff's only prior discipline, which arose out of the Newkirk traffic stop, and terminated the Plaintiff in accord with the it's progressive discipline policy. (Exhibit 4; Termination Letter).

24. The use of curse words to describe supervisors, including Director-Level, personnel is not uncommon within the Defendant Department. Furthermore, several black males have used curse words to disparagingly describe supervisory staff and have not been terminated or disciplined even though they are subject to the same decision-makers as the Plaintiff.

25. Plaintiff's termination was pretextual, and was done for racial and retaliatory reasons related to his prior stop of a black motorist, his grievance of discipline resulting from the same, and his protected speech.

FOR A FIRST CAUSE OF ACTION
Against the Defendant Department
(Race Discrimination)

26. Where not inconsistent herewith, the Plaintiff realleges the foregoing paragraphs.

27. Plaintiff, a white male, has been subjected to disparate terms and conditions of employment in comparison to similarly situated black employees.

28. Plaintiff had a competent if not better than competent performance history with the Defendant.

29. Plaintiff was allegedly terminated for making a derogatory remark about the Defendant Director in a conversation with his supervisor.

30. Several similarly situated black law enforcement officers within the Defendant Department have made similar remarks, and have not been terminated or disciplined.

31. Plaintiff was subjected to harsher standards of performance and stricter disciplinary measures than his black counterparts on the basis of his race.

32. Plaintiff's termination on the alleged basis of improper conduct/conduct unbecoming of a state employee is pretextual where his conduct was not uncommon amongst similarly situated black law enforcement officers employed by the Defendant Department.

33. Such conduct constitutes unlawful race discrimination in violation of Title VII for which the Defendant Department is liable

34. The Defendant Department directly and proximately caused the Plaintiff damages including back pay, front pay, back benefits, front benefits, loss of earning capacity, reputational loss, pain and suffering, mental and emotional distress, shock and humiliation, and stress and anxiety. The Plaintiff is further entitled to an award of attorney's fees and costs under South Carolina and Federal Law. Last the Plaintiff is entitled to injunctive relief including reinstatement. Plaintiff also requests pre-judgment interest.

FOR A SECOND CAUSE OF ACTION
Against Defendant Smith
 (1st Amendment Violation 42 U.S.C. 1983)

35. Where not inconsistent herewith, the Plaintiff realleges the foregoing paragraphs.

36. The alleged reason for Plaintiff's termination, Plaintiff's use of disparaging remarks to describe the Defendant Smith, is an unlawful basis for termination as it violates the Plaintiff's right to free speech protected by the First Amendment.

37. Plaintiff's remarks about the Defendant Smith were not made pursuant to his job duties; but rather, were made as a citizen about a matter of public concern (the competency and conduct of the Defendant Smith – a state agency head).

38. The Plaintiff's actions were not disruptive or problematic for Defendant Smith or the Defendant Department, but to the contrary Plaintiff's actions reflect his longstanding commitment to the Defendant Department of advocating for positive change to customs and conduct that he perceived as a disservice to the organization.

39. Defendant Smith, through his deputy directors, directed that the Plaintiff be terminated in retaliation for his speech as described herein.

40. These actions taken against the Plaintiff violate his civil rights under the First Amendment and Fourteenth Amendments to the United States Constitution made actionable by 42 U.S.C. Section 1983, and these actions specifically impair the Plaintiff's rights to freedom of speech and freedom of expression guaranteed to him.

41. Defendant Smith's conduct is disposed to chill similar speech by similarly situated co-workers.

42. As a direct and proximate cause of the violation of the Plaintiff's rights as set forth herein, the Plaintiff lost his position with SCDPS and his earning capacity has been impaired. Such damages are in addition to his economic losses, including back pay, front pay, and benefits, as well as loss of retirement benefits and other benefits associated with employment. Furthermore, the Plaintiff has sustained reputational loss, mental and emotional suffering and pain and suffering, which will continue into the future. Plaintiff is also entitled to pre-judgment interest, appropriate equitable relief, and attorney's fees and costs.

**FOR A THIRD CAUSE OF ACTION
Against the Defendant Department
(Public Policy Discharge)**

43. Where not inconsistent herewith, Plaintiff realleges the foregoing.

44. In 2012-2013, Plaintiff grieved his demotion through the South Carolina Office of Human Resources.

45. In so doing, Plaintiff pursued his rights as a public employee.

46. Those grievance rights, and the right to be protected from retaliation for exercising the same, constitute a clear mandate of public policy.

47. The basis for Plaintiff's termination was pretextual, and his termination was motivated by his prior protected activity in grieving his demotion which arose out of the Newkirk traffic stop.

48. The same constitutes a termination in violation of a clear mandate of the public policy of the state of South Carolina for which the Defendant Department is liable.

49. Plaintiff has no alternative remedy to redress this public policy violation.

50. The Plaintiff, as a result of this public policy discharge, is entitled to recover from the Defendant Department economic losses including back pay, front pay, and benefits, and loss of retirement benefits and other benefits associated with employment; as well as, damages for reputational loss, mental and emotional suffering and pain and suffering, which will continue into the future. Plaintiff is also entitled to pre-judgment interest.

**FOR A FOURTH CAUSE OF ACTION
Against the Defendant Department
(Breach of Contract)**

51. Where not inconsistent herewith, Plaintiff realleges the foregoing.

52. In settling Plaintiff's 2012-2013 grievance, the Defendant agreed not to further discipline Plaintiff for the 2012 Newkirk traffic stop. (Ex. 4).

53. Contrary to that agreement, the Defendant relied on its progressive discipline policy, with the Newkirk stop as Plaintiff's only prior discipline, in terminating the Plaintiff.

54. The same constitutes a breach of the Defendant's contractual agreement with the Plaintiff and a breach of the duty of good faith and fair dealing underlying that agreement.

55. As a result of the Breach of contract alleged herein, Plaintiff is entitled to reliance and expectancy damages, as well as all other recoverable damages including reinstatement to the position of Lance Corporal, back pay, back benefits, and interest thereupon, as well as consequential damages and the attorney's fees and costs of this action.

PRAYER FOR RELIEF

WHEREFORE, for the actions alleged above, Plaintiff prays for judgment to be awarded against the Defendant Department for all recoverable damages he has suffered as a result of the Title VII race discrimination, public policy discharge, and breach of contract claims as alleged herein in an appropriate amount to be determined by a jury; as well as any restitution or equitable action this Court should deem proper. Plaintiff is further entitled to Attorney's Fees and Costs in accord with Federal and State law. Plaintiff also requests injunctive relief to be deemed just and proper including reinstatement. Last Plaintiff requests prejudgment interest be awarded on all of his damages.

FURTHERMORE, for the 42 U.S.C. § 1983 violation of First and Fourteenth Amendment Rights alleged herein against Defendant Smith, Plaintiff prays for judgment for all recoverable damages alleged therein in an amount to be determined by a jury; as well as any restitution or equitable relief this Court should deem proper. Plaintiff is also entitled to Attorney's fees and costs in accord with Federal and State Law. Plaintiff also requests injunctive relief to be deemed just and proper including reinstatement. Last Plaintiff requests prejudgment interest on all damages.

J. LEWIS CROMER & ASSOCIATES, LLC

BY: 

J. Lewis Cromer (#1470)
 J. Paul Porter (# 100723)
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 Columbia, South Carolina 29211
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Attorneys for Plaintiff

June 16, 2015
 Columbia, South Carolina

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Exhibit 1: Newkirk v. Enzor et. al.; Complaint

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	CASE NO.: 2013-CP-21-1076
Jerome C. Newkirk, Sr.,)	
)	
Plaintiff,	)	COMPLAINT
	)	(Jury Trial Demanded)
v.)	
James B. Enzor, individually and as an)	
employee and agent of the South Carolina)	
Department of Public Safety; South Carolina)	
Department of Public Safety,)	
)	
Defendants.)	

Comes now the Plaintiff, Jerome C. Newkirk, Sr., and files this Complaint for damages against the Defendants named above, showing the court as follows:

PARTIES

1. Plaintiff, Jerome C. Newkirk, Sr., hereinafter "Plaintiff" or "Newkirk", is, and was at all times relevant herein a resident of Duplin County, North Carolina.
2. Upon information and belief, Defendant, James B. Enzor, hereinafter "Enzor", is and at all times relevant herein was a resident of Florence County, South Carolina. At all times relevant to this action, Defendant Enzor was a duly appointed and acting officer of the South Carolina Highway Patrol employed by the Defendant, South Carolina Department of Public Safety. As such, Defendant was a duly appointed agent authorized to enforce the laws of the State of South Carolina, and was so acting under the color of the law of South Carolina at all times relevant herein.

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FLORENCE COUNTY, S.C.

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3. Defendant, South Carolina Department of Public Safety, hereinafter "Department of Public Safety" is an agency of the State of South Carolina within the meaning of the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-30.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter based on Article V of the South Carolina Constitution and S.C. Code Ann. § 15-77-50.

5. Venue is appropriate in Florence, South Carolina as a substantial portion of the conduct alleged herein took place in Florence County, South Carolina.

6. On or about October 14, 2012, the Plaintiff was a passenger in a 2009 black Cadillac Escalade driven by his wife, Catherine B. Newkirk, traveling north on a public highway known as Interstate 95 at or near the City of Florence, South Carolina.

7. As Plaintiff and his wife traveled in the northbound lane of I-95, they travelled through a construction zone area and were in a line of three or four other vehicles all travelling at the same rate of speed when they noticed that they were being followed by a South Carolina Highway Patrol automobile with its blue lights activated.

8. In response to the patrol vehicle's blue lights, the Plaintiff's wife pulled over to the safety lane of I-95.

9. Defendant Enzor approached the Plaintiff's vehicle on the passenger's side, and requested the Plaintiff's wife's driver license and registration information. Defendant Enzor returned to his vehicle and then shortly thereafter returned to the Plaintiff's vehicle and advised his wife that she was travelling at 77 mph in a 55 mph zone and that he was going to ticket her for speeding. After being handed the ticket, Plaintiff's wife stated to Defendant Enzor that she felt

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she was the subject of discrimination whereupon Defendant Enzor snatched the ticket from the Plaintiff's wife and commanded that she exit the vehicle.

10. The Plaintiff's wife complied with the officer's command and exited the vehicle but as the Plaintiff approached the rear of the vehicle, Defendant Enzor began pointing his finger and shouting at the Plaintiff's wife in a loud, abusive, and discourteous manner. He grabbed the Plaintiff's wife then advised her that she was under arrest and proceeded to manhandle her, placing her in handcuffs.

11. As this confrontation between the Plaintiff's wife and Defendant Enzor was occurring, the Plaintiff exited the vehicle, and walked to the rear of the vehicle to inquire about the events taking place. The Plaintiff stated to Defendant Enzor that his actions were not necessary.

12. Defendant Enzor commanded the Plaintiff to return to the vehicle and advised that he was under arrest also.

13. Plaintiff complied with Trooper Enzor's commands and returned to his vehicle. Plaintiff was then placed under arrest.

14. Defendant Enzor conducted an unlawful arrest of the Plaintiff, in violation of 42 U.S.C.A. § 1983. As a result, Plaintiff has suffered injuries and damages, including, but not limited to, medical and other expenses, mental anguish, emotional distress, humiliation, deprivation of his freedom, and attorney's fees.

15. Following initial reports of Defendant Enzor's conduct, the S.C. Department of Public Safety conducted an internal investigation of the traffic stop and arrest of the Plaintiff. The internal investigation found that the arrest of Plaintiff was unlawful. Accordingly, Defendant Enzor was disciplined by receiving a demotion in rank.

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FOR A FIRST CAUSE OF ACTION
(Violation of 42 U.S.C.A. § 1983 as to Defendant James R. Enzor)

16. Plaintiff re-alleges paragraphs 1-15 as if restated herein verbatim.
17. The above described actions subjected Plaintiff to a deprivation of rights and privileges secured to the Plaintiff by the Constitution and laws of the United States, including the right to be free from unlawful arrest under the 4th, 5th, and 14th Amendments.
18. Plaintiff's arrest was made under the color of law as Defendant Enzor was acting pursuant to his duties as a law enforcement officer for the South Carolina Highway Patrol and an employee and agent of the South Carolina Department of Public Safety.
19. As a direct and proximate result of the above mentioned unconstitutional acts of Defendant Enzor, Plaintiff's civil rights were violated and he has suffered physical injuries and damages, including, but not limited to, medical and other expenses, mental anguish, emotional distress, humiliation, deprivation of his freedom, and attorney's fees.
20. Plaintiff is entitled to compensatory damages, attorney's fees, and cost in an amount to be determined by the trier of fact and punitive damages in an amount sufficient to deter similar conduct by this Defendant and others.

FOR A SECOND CAUSE OF ACTION
(Negligence/Gross Negligence/Recklessness as to Defendant South Carolina Department of Public Safety)

21. Plaintiff re-alleges paragraphs 1-20 as if stated herein verbatim.
22. Defendant Enzor owed a duty of reasonable care to Plaintiff and was negligent, grossly negligent, reckless, willful, and or wanton in the discharge of his duties.

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23. During and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety, Defendant Enzor breached the applicable duty of care by his unlawful arrest of the Plaintiff.

24. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor.

25. As a direct and proximate cause of the negligent, grossly negligent, reckless, willful, and/or wanton acts and/or omissions of Defendant Enzor, as set forth above, Plaintiff's civil rights were violated. Plaintiff has also suffered physical injuries and damages, including, but not limited to, medical and other expenses, mental anguish, emotional distress, humiliation, deprivation of his freedom, and attorney's fees.

26. Plaintiff is entitled to a judgment against Defendant South Carolina Department of Public Safety for compensatory damages in an amount to be determined by a jury.

FOR A THIRD CAUSE OF ACTION
(Intentional Infliction of Emotional Distress/Outrage
as to Defendant South Carolina Department of Public Safety)

27. Plaintiff re-alleges paragraphs 1-26 as if stated herein verbatim.

28. By and through the conduct alleged above, Defendant Enzor intentionally and/or recklessly inflicted severe emotional distress on the Plaintiff or was certain or substantially certain that such distress would result from his conduct.

29. Defendant Enzor's conduct was so extreme and outrageous that it exceeds all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community.

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30. The actions of Defendant Enzor caused the Plaintiff emotional distress and the emotional distress suffered by the Plaintiff was so severe that no reasonable person could be expected to endure it.

31. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent. Defendant Enzor, as Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.

32. As a direct and proximate result of the outrageous conduct of the Defendant, Plaintiff's civil rights were violated. Plaintiff has suffered physical injuries and damages, including but not limited to, medical and other expenses, mental anguish, emotional distress, humiliation, deprivation of freedom, and attorney's fees.

33. Plaintiff is entitled to a judgment against Defendant South Carolina Department of Public Safety for compensatory damages in an amount to be determined by a jury.

FOR A FOURTH CAUSE OF ACTION
(Malicious Prosecution as to Defendant South Carolina Department of Public)

34. Plaintiff alleges paragraphs 1-33 as if restated herein verbatim.

35. Defendant Enzor maliciously instituted and continued criminal proceedings against the Plaintiff without probable cause.

36. The criminal proceedings were terminated in Plaintiff's favor and under circumstances consistent or implicit with his innocence.

37. Defendant was malicious in instituting and continuing such criminal proceedings against Plaintiff.

38. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor, as

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Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.

39. As a direct and proximate result of the malicious prosecution of the Plaintiff by Defendant Enzor, Plaintiff's civil rights were violated, and he has suffered physical injuries and damages, including, but not limited to, mental anguish, emotional distress, humiliation, medical and other expenses, deprivation of freedom and attorney's fees.

40. Plaintiff is entitled to a judgment against Defendant South Carolina Department of Public Safety for compensatory damages in an amount to be determined by a jury.

FOR A FIFTH CAUSE OF ACTION

~~(False Imprisonment as to Defendant South Carolina Department of Public Safety)~~

41. Plaintiff re-alleges paragraphs 1-40 as if restated herein verbatim.

42. Based on an unlawful arrest, Plaintiff was restrained and detained by Defendant and deprived of his personal liberty, all without probable cause.

43. Defendant Enzor continued to unlawfully restrain and detain Plaintiff by failing to properly remit arrest information and bond paperwork to the Florence County Detention Center in a timely manner, thus delaying Plaintiff's release from imprisonment.

44. This restraint was intentional and unlawful.

45. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor, as Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.

46. As a direct and proximate result of Defendant Enzor's action, Plaintiff's civil rights were violated and he has suffered physical injuries and damages, including, but not limited to, mental

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anguish, emotional distress, humiliation, medical and other expenses, deprivation of freedom, and attorney's fees.

47. Plaintiff is entitled to a judgment against Defendant South Carolina Department of Public Safety for compensatory damages in an amount to be determined by the trier of fact.

FOR A SIXTH CAUSE OF ACTION
(Negligent Supervision/Training as to Defendant S.C. Department of Public Safety)

48. Plaintiff re-alleges paragraphs 1-47 as if restated herein verbatim.

49. As an agency of the State of South Carolina and Defendant Enzor's employer, Defendant, Department of Public Safety has a duty of care to Plaintiff and the general public to adequately and sufficiently train and supervise its law enforcement employees in the proper and constitutional methods of law enforcement.

50. At all times relevant herein, Defendant Enzor acted in his capacity as a South Carolina Highway Patrolman, under the control of Defendant, Department of Public Safety, and was using the property of Defendant, Department of Public Safety, in his unlawful arrest of Plaintiff.

51. As Defendant Enzor's employer, Department of Public Safety, had the ability to control Enzor's conduct and knew or should have known of the necessity and opportunity for exercising control over Enzor's conduct.

52. Defendant, Department of Public Safety, either: 1) knew or should have known of the unfitness of its agent or employee, Defendant Enzor, and yet employed him or continued to employ him, failed to adequately train or supervise him regarding the proper and constitutional methods of law enforcement and/or used his services without proper instruction with a reckless disregard of the rights of the Plaintiff; 2) authorized the wrongful conduct of Defendant Enzor; or 3) ratified the wrongful conduct of Defendant Enzor; and said wrongful acts of Defendant Enzor were calculated to and did benefit the Defendant, Department of Public Safety.

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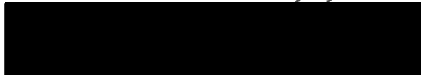
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53. As a direct and proximate cause of the above mentioned carelessness and/or negligence of Defendant, Department of Public Safety, Plaintiff's civil rights have been violated, and he has suffered significant physical injuries and damages, including, but not limited to, mental anguish, emotional distress, humiliation, substantial medical and other expenses, deprivation of freedom, and attorney's fees.

54. Plaintiff is entitled to a judgment against Defendant Department of Public Safety for compensatory damages in an amount to be determined by a jury.

WHEREFORE, The Plaintiff prays for actual, compensatory, punitive damages against the Defendants for the acts and omissions alleged herein, for judgment against the Defendants, for attorney's fees, costs, and interest where allowed by law, and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,


 James T. McBratney, Jr.
 J. Thomas McBratney, III
 Attorneys for the Plaintiff
 MCBRATNEY LAW FIRM
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 Florence, SC 29502
 T - (843) 662-8155
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Florence, South Carolina

April 2, 2013

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Exhibit 2: Newkirk v. Enzor et. al.; Answer

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION
Civil Action No. 4:13-cv-01634-RBH-KDW

Jerome C. Newkirk, Sr.,

Plaintiff,

v.

James H. Enzor, individually and as an
officer of the South Carolina Highway
Patrol, and the South Carolina Department
of Public Safety,

Defendants.

ANSWER OF DEFENDANT SOUTH
CAROLINA DEPARTMENT OF PUBLIC
SAFETY TO PLAINTIFF'S COMPLAINT

NOW COMES the Defendant South Carolina Department of Public Safety ("SCDPS"), by and through its undersigned counsel, and answers the allegations of Plaintiff's Complaint, denying each and every allegation not specifically admitted, admitted in part, or otherwise qualified, as follows:

FOR A FIRST DEFENSE

1. SCDPS is without sufficient information to either confirm or deny the allegations of Paragraph 1. It therefore denies the same and demands strict proof thereof.
2. SCDPS admits only so much of Paragraph 2 as states that Defendant Enzor is a resident of Florence County, and that he is a duly appointed, certified, and authorized law enforcement officer. The remaining allegations of the paragraph are denied.
3. Paragraph 3 is admitted.
4. Regarding Paragraph 4 of the Complaint, SCDPS asserts that as Plaintiff's First Cause of Action purports to state a claim for violations of Plaintiff's 4th Amendment rights under the United States Constitution, such a claim presents a federal question under 28 U.S.C. § 1331,

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over which the federal courts exercise original jurisdiction. Accordingly the case may be removed under 28 U.S.C. § 1441, and SCDPS asserts that jurisdiction properly lies with the federal courts.

5. Regarding Paragraph 5 of the Complaint, SCDPS asserts that pursuant to 28 U.S.C. § 1391(b), venue is proper within the federal District of South Carolina.

6. Regarding Paragraph 6, SCDPS admits that Plaintiff was a passenger in the Cadillac Escalade driven by Catherine B. Newkirk on October 14, 2012 and that the vehicle was traveling on I-95 near Florence, South Carolina. The remaining allegations of Paragraph 6 are denied upon lack of information and belief.

7. Regarding Paragraph 7, SCDPS admits that Plaintiff and the driver of the Escalade were traveling northbound on I-95 through a construction work zone at a speed in excess of the posted limits. Defendant Enzor was standing outside of his vehicle performing speed checks with a radar gun within the construction work zone. Defendant Enzor used the radar gun to confirm that Plaintiff was driving in excess of the posted limit and indicated to the driver that she should pull over by pointing his index finger at the vehicle as she passed. When the driver failed to stop, Defendant Enzor entered his patrol vehicle and effected a stop on the Escalade. SCDPS lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations of Paragraph 7. It therefore denies any remaining allegations and demands strict proof thereof.

8. Regarding Paragraph 8, it is admitted that Plaintiff's wife eventually pulled over after the patrol vehicle's lights were activated.

9. Regarding Paragraph 9, SCDPS admits that after Defendant Enzor informed the Escalade's driver that he was citing her for speeding, the driver refused to accept the citation and

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accused Defendant Enzor of being a racist. Upon information and belief, SCDPS denies that "Defendant Enzor snatched the ticket from the Plaintiff's wife." SCDPS admits that Defendant Enzor instructed the driver to exit the vehicle and meet him at the rear of the vehicle.

10. Regarding Paragraph 10, SCDPS admits only that Defendant Enzor, being confronted with a belligerent and uncooperative speeder, met with the driver at the rear of the vehicle and attempted to explain the grounds for issuance of her citation. Upon being flatly informed by the driver that she had no intention of voluntarily accepting the courtesy summons, Defendant Enzor placed the driver under arrest for speeding and attempted to place her in handcuffs. The Plaintiff resisted this lawful arrest. The remaining allegations of Paragraph 10 are denied.

11. Regarding Paragraph 11, SCDPS admits only that, as Defendant Enzor was attempting to effect a legal arrest with an uncooperative subject, Plaintiff interjected himself into a volatile situation by leaving the vehicle and approaching Defendant Enzor.

12. Regarding Paragraphs 12 and 13, SCDPS admits only that after repeated instructions from Defendant Enzor to re-enter the vehicle, Plaintiff's passenger eventually retreated to stand beside the vehicle. After being informed that he was also under arrest, Plaintiff's passenger finally complied with the repeated instructions to re-enter the vehicle.

13. Paragraph 14 is denied.

14. Regarding Paragraph 15, the referenced reports speak for themselves. SCDPS craves reference to the report(s) on any investigations conducted and denies any allegations inconsistent with the same.

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FOR A FIRST CAUSE OF ACTION
(VIOLATION OF 42 U.S.C. § 1983 AS TO DEFENDANT INZOK)

15. Regarding Paragraph 16, SCDPS incorporates and re-alleges its responses in Paragraphs 1 through 15 of this Answer as if restated verbatim.

16. Paragraphs 17, 18, 19 and 20 of the Complaint are denied.

FOR A SECOND CAUSE OF ACTION
(NEGLIGENCE/GROSS NEGLIGENCE AS TO SCDPS)

17. Regarding Paragraph 21, SCDPS incorporates and re-alleges its responses in Paragraphs 1 through 20 of this Answer as if restated verbatim.

18. Paragraphs 22 and 23 concern another defendant, and SCDPS is not required to either confirm or deny these allegations. To the extent these paragraphs are held to allege allegations of fact or causes of action against SCDPS, they are denied.

19. Paragraphs 24, 25 and 26 of the Complaint are denied.

FOR A THIRD CAUSE OF ACTION
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS/OUTRAGE AS TO SCDPS)

20. Regarding Paragraph 27, SCDPS incorporates and re-alleges its responses in Paragraphs 1 through 26 of this Answer as if restated verbatim.

21. Paragraphs 28, 29 and 30 concern another defendant, and SCDPS is not required to either confirm or deny these allegations. To the extent these paragraphs are held to allege allegations of fact or causes of action against SCDPS, they are denied.

22. Paragraphs 31, 32 and 33 of the Complaint are denied.

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FOR A FOURTH CAUSE OF ACTION
(MALICIOUS PROSECUTION AS TO SCDPS)

23. Regarding Paragraph 34, SCDPS incorporates and re-alleges its responses in Paragraphs 1 through 33 of this Answer as if restated verbatim.

24. Paragraph 35 of the Complaint states allegations regarding another defendant and SCDPS is not required to either admit or deny these allegations. To the extent these paragraphs are interpreted to contain allegations of fact or causes of action against SCDPS, they are denied.

25. Paragraphs 36, 37, 38, 39 and 40 are denied.

FOR A FIFTH CAUSE OF ACTION
(FALSE IMPRISONMENT AS TO SCDPS)

26. Regarding Paragraph 41, SCDPS incorporates and re-alleges its responses in Paragraphs 1 through 40 of this Answer as if restated verbatim.

27. Paragraphs 42, 43, 44, 45, 46 and 47 are denied.

FOR A SIXTH CAUSE OF ACTION
(NEGLIGENT SUPERVISION/TRAINING AS TO SCDPS)

28. Regarding Paragraph 48, SCDPS incorporates and re-alleges its responses in Paragraphs 1 through 47 of this Answer as if restated verbatim.

29. Paragraph 49 states a purported principle of law rather than a factual allegation, which cannot be admitted or denied as fact. To the extent a response is required, the allegations in Paragraph 48 are denied.

30. Paragraphs 50, 51, 52, 53 and 54 are denied.

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FOR A SECOND DEFENSE

31. The Complaint, and each purported cause of action therein, fails to state a claim upon which relief can be granted and should be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

FOR A THIRD DEFENSE

32. The conduct of this Defendant is not the proximate cause of the Plaintiff's injuries, if any, which the Defendant specifically denies.

FOR A FOURTH DEFENSE

33. To the extent that the Plaintiff is suing the State of South Carolina, or an agency of the State of South Carolina, such a claim is barred by the doctrine of sovereign immunity.

FOR A FIFTH DEFENSE

34. The Plaintiff has failed to mitigate any damages allegedly suffered, and his claims are otherwise barred by the doctrines of waiver, estoppel, and/or unclean hands.

FOR A SIXTH DEFENSE

35. The Plaintiff's tort claims are barred, in whole or in part, by the South Carolina Tort Claims Act.

FOR A SEVENTH DEFENSE

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

FOR AN EIGHTH DEFENSE

37. Regarding Plaintiff's claim for intentional infliction of emotional distress/outrage, SCDPS denies that it has engaged in such conduct, and asserts that Plaintiff cannot produce evidence proving the elements of such a claim against this Defendant.

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FOR AN NINTH DEFENSE

38. This Defendant asserts the existence of probable cause as a complete bar to Plaintiff's claims for malicious prosecution.

FOR A TENTH DEFENSE

39. This Defendant asserts the lawfulness of the restraint as a complete bar to Plaintiff's claims for false imprisonment.

FOR AN ELEVENTH DEFENSE

40. To the extent the Plaintiff has alleged a cause of action under 42 U.S.C. § 1983 against state agencies or individuals in their official capacities, the Plaintiff's claims are barred by the Eleventh Amendment to the U.S. Constitution and must be dismissed.

FOR A TWELFTH DEFENSE

41. This Defendant did not violate any clearly established federal, statutory, or constitutional rights, and is entitled to qualified immunity as a complete bar to any claims in this action as a matter of law.

FOR A THIRTEENTH DEFENSE

42. That the Plaintiff's alleged damages, which are expressly denied, were caused, in whole or in part by the Plaintiff's sole negligence, gross negligence, recklessness, willfulness and/or wanton conduct, acts, or omissions.

FOR A FOURTEENTH DEFENSE

43. That to the extent this action is one seeking to collect punitive damages brought against this Defendant, 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

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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; the South Carolina Tort Claims Act; 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 this Defendant.

44. 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; and award of punitive damages would violate this Defendant's constitutional rights and guarantees.

45. That further, the Plaintiff has failed as a matter of law to state a claim for which punitive damage relief is available against this Defendant.

WHEREFORE, having fully answered the Plaintiff's Complaint herein, the Defendant South Carolina Department of Public Safety requests:

1. That the relief sought by the Plaintiff be denied in each and every respect;
2. That the claims asserted by Plaintiff be denied in each and every respect;
3. That the claims asserted by Plaintiff be dismissed in their entirety with prejudice;
4. That SCDPS be awarded its 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 17th day of June, 2013.

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RICHARDSON PLOWDEN & ROBINSON, P.A.

s/Eugene H. Matthews
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**COUNSEL FOR DEFENDANT SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY**

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Exhibit 3: Mediation Agreement and Release

Mediation Agreement and Release

James B. Enzor

v.

South Carolina Department of Public Safety (DPS)

DPS and Mr. James B. Enzor (Mr. Enzor) have voluntarily entered into this Agreement and Release and mutually agreed to the following:

1. (a) DPS agrees to provide confirmation within seven (7) days from the execution of the agreement that Mr. Enzor will be reinstated to the rank of Lance Corporal effective on November 17, 2013, barring any future discipline or official notice of sub-standard performance issued from the date this agreement is executed until November 17, 2013.
- (b) DPS agrees to provide confirmation within seven (7) days from the execution of the agreement that Mr. Enzor's pay will not be reduced for any reason related to his suspension, reduction in rank, or other reason related to the Newkirk traffic stop on October 14, 2012. [REDACTED]
- (c) DPS agrees that a senior S.C. Highway Patrol Trooper will meet with Mr. Enzor on behalf of DPS to explain to him the basis for the discipline imposed.
2. Mr. Enzor withdraws his appeal under the State Employee Grievance Procedure Act pending before the State Human Resources Director. Neither Mr. Enzor nor DPS will take any further legal or administrative action regarding this appeal. This does not, however, preclude Mr. Enzor from actions regarding any pending Workers' Compensation claims made by Mr. Enzor.
3. Mr. Enzor, on behalf of himself and his respective heirs, executors, successors and assigns, releases DPS, its present and past officers, and employees to the fullest extent possible by law, from any and all claims, obligations, duties, causes of action, whether now known or unknown, that Mr. Enzor may possess based upon or arising out of any matter, cause, fact, thing, act, or omission whatsoever occurring or existing at any time prior to and including without limitation:
 - (a) any and all claims relating to or arising from Mr. Enzor's employment with DPS from the start of Mr. Enzor's employment with DPS to the date of this Agreement and Release;
 - (b) any and all claims including, but not limited to, wrongful discharge of employment, termination in violation of public policy, discrimination, civil conspiracy or breach of contract;
 - (c) any and all claims for violation of any federal, state or municipal statute, including, but not limited to, Title VII of the Civil Rights Act, the Civil Rights

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Act, the Americans with Disabilities Act, and the Employee Retirement Income Security Act;

(d) any and all claims for violation of federal or state constitutions; and

(e) any and all claims for attorneys' fees and costs.


Exceptions to this release, however, include any pending Workers' Compensation claim, or any claim under the Fair Labor Standards Act (FLSA), or for state health or pension benefits.

4. If any term, condition, covenant or obligation of this Agreement and Release shall be determined to be unenforceable, invalid, or void, such determination shall not affect, impair, invalidate, or render unenforceable any other term, condition, covenant, or obligation of this Agreement and Release.
5. The laws of South Carolina govern this Agreement and Release.
6. This Agreement and Release is executed voluntarily and without any duress or undue influence on the part or behalf of the parties hereto, with the full intent of releasing all claims. Mr. Enzor and DPS further acknowledge the Release does not release claims that cannot lawfully be released. Mr. Enzor and DPS acknowledge that: (a) they have read this Agreement and Release; (b) they have been represented in the preparation, negotiation, and execution of this Agreement and Release by legal counsel of their own choice or that they have voluntarily declined to seek such counsel; (c) they understand the terms and consequences of this Agreement and Release and of the releases it contains; and (d) they are fully aware of the legal and binding effect of this Agreement and Release.

Agreed to by:



James B. Enzor
Appellant

8-5-2013
Date



Witness for Mr. Enzor
Appellant's Attorney

8/5/13
Date

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Eugene H. Matthews
Agency's Attorney

August 5, 2013
Date


Warren Chittenden
General Counsel
DPS

8/5/2013
Date

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Exhibit 4: Termination Letter



South Carolina Department of Public Safety



November 14, 2013

HAND-DELIVERED

Senior Trooper James B. Enzor
614 South Botany Drive
Florence, SC 29501

Dear Senior Trooper Enzor:

This letter is to officially inform you that you are hereby terminated effective Thursday, November 14, 2013 at 5:00 p.m. The foregoing action is imposed upon you for violation of South Carolina Department of Public Safety ("SCDPS" or "Department") Policy #400.08 (Disciplinary Action) and #400.08G (Guidelines for Progressive Disciplinary Action) for a second offense of Improper Conduct/Conduct Unbecoming a State Employee in connection with a conversation you had with a superior during which you made disparaging comments about the agency's Director and other Department personnel.

An investigation conducted by the Office of Professional Responsibility revealed that on June 18, 2013, an audio conversation between you and your superior officer was recorded on that superior's in-car video. The video was subsequently reviewed as part of an audit of in-car videos. During the conversation on the video your voice could be heard saying, "That's that dumba** director we got." You also made disparaging comments regarding the Highway Patrol's leadership in administering corrective action against you based on an October 14, 2012 incident.

The June 18th incident was not the first in which you displayed poor judgment, as your disciplinary history reflects a pattern of unprofessionalism and difficulty controlling your anger. In February 2013, you received an 80-hour (ten day) suspension and a reduction in rank from Lance Corporal to Senior Trooper for Improper Conduct/Conduct Unbecoming a State Employee because you were discourteous and displayed behavior unbecoming an officer toward a motorist while conducting a traffic stop on October 14, 2012. During the traffic stop, you also made an unlawful arrest against a passenger in the motorist's vehicle. In addition to the suspension and rank decrease imposed as a result of this incident, you were also required to attend anger management counseling.

It is troubling that as a law enforcement officer you have conducted yourself in such an unprofessional manner during two separate incidents that reflect negatively on SCDPS. The Highway Patrol's Manual of Operations makes clear that it is "the duty of every Trooper to conduct himself in a manner that is above reproach." The Manual of Operations also provides that "All troopers are employees of the South Carolina Department of Public Safety and should be in complete harmony with the policies and aims of the whole Department" and "Troopers will not criticize fellow employees, superiors, or Department policies under any circumstances. If complaints or criticisms are justifiable and warranted, they will take the matter up through the

10311 Wilson Blvd. Blythewood, SC - US Mall; P.O. Box 1993 Blythewood, SC 29018

EXHIBIT

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Senior Trooper James B. Enzor
November 14, 2013
Page 2

proper channels or with the appropriate official in the Department." Your conduct fell woefully short of these standards.

Your June 18, 2013 comments on audio about the agency Director and other members of the Highway Patrol's chain of command reflect a blatant attitude of disrespect for the Department's leadership and make clear that you have not accepted responsibility for your actions. Such an attitude will not be tolerated. Discipline for the first and second occurrences of Improper Conduct/Conduct Unbecoming a State Employee ranges from a reprimand to termination, and this is your second such offense.

Given the nature of your comments about the agency's Director, the Director designated me as the decision maker in this matter. My final decision is to terminate your employment.

This is a grievable action. If you wish to file a grievance, you may do so in accordance with the enclosed grievance policy. Please contact Ms. Patty Duggan in the SCDPS Human Resources Office at (803) 896-8018 regarding your separation and State benefits. Any questions regarding this matter should be directed to Major Melvin Warren.

Sincerely,


Colonel Leroy Taylor
Deputy Director

cc: Colonel Michael R. Oliver
LTC Christopher N. Williamson
Major Melvin Warren

Enclosure: SCDPS Grievance Policy

My signature acknowledges that I received this document and its contents were discussed with me.

Employee Signature 

Date 11-14-13

THIS DOCUMENT WILL BECOME PART OF YOUR PERSONNEL FILE

Jenny Miles

From: SCDEfilingstat@scd.uscourts.gov
Sent: Tuesday, June 30, 2015 10:19 AM
To: scd_ecf_nef@scd.uscourts.gov
Subject: Activity in Case 4:15-cv-02593-RBH-KDW Enzor v. South Carolina Department of Public Safety et al Local Rule 26.01 Answers to Interrogatories

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U.S. District Court

District of South Carolina

Notice of Electronic Filing

The following transaction was entered on 6/30/2015 at 10:19 AM EDT and filed on 6/29/2015

Case Name: Enzor v. South Carolina Department of Public Safety et al

Case Number: 4:15-cv-02593-RBH-KDW

Filer: Leroy Smith
 South Carolina Department of Public Safety

Document Number: 3

Docket Text:

Local Rule 26.01 Answers to Interrogatories by Leroy Smith, South Carolina Department of Public Safety.(mcot,)

4:15-cv-02593-RBH-KDW Notice has been electronically mailed to:

James Lewis Cromer jlc@jlewiscromerlaw.com, crikard@jlewiscromerlaw.com,
ebowen@jlewiscromerlaw.com, iray@jlewiscromerlaw.com, jjohnson@jlewiscromerlaw.com,
ldunlap@jlewiscromerlaw.com

Eugene H Matthews gmatthews@richardsonplowden.com, jmiles@richardsonplowden.com

James Paul Porter pporter@jlewiscromerlaw.com, crikard@jlewiscromerlaw.com,
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ldunlap@jlewiscromerlaw.com

4:15-cv-02593-RBH-KDW Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1091130295 [Date=6/30/2015] [FileNumber=6808858-0]
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION
Civil Action No.: 3:15-cv-0_____

James Bradford Enzor,

Plaintiff,

v.

South Carolina Department of Public
Safety and Leroy Smith,

Defendants.

**ANSWER OF DEFENDANTS TO
L.R. 26.01 INTERROGATORIES**

NOW COME Defendants South Carolina Department of Public Safety ("SCDPS") and Leroy Smith, by and through their undersigned counsel, and answer the Interrogatories set forth in Local Rule 26.01 of the South Carolina Federal Rules of Civil Procedure as follows:

A. State the full name, address, and telephone number of all persons or legal entities who may have a subrogation interest in each claim and state the basis and extent of said interest.

ANSWER: None known.

B. As to each claim, state whether it should be tried jury or non-jury and why.

ANSWER: Plaintiff has requested a trial by jury.

C. State whether the party submitting these responses is a publicly owned company and separately identify: (1) each publicly owned company or which it is a parent, subsidiary, partner, or affiliate; (2) each publicly owned company which owns ten percent or more of the outstanding shares or other indicia ownership of the party; and (3) each publicly owned company in which the party owns ten percent or more of the outstanding shares.

ANSWER: The Defendant South Carolina Department of Public Safety is public agency of the State of South Carolina. Defendant Leroy Smith is an individual.

D. State the basis for asserting the claim in the division in which it was filed (or the basis of any challenge to the appropriateness of the division). See Local Civil Rule 3.01

ANSWER: Plaintiff filed this action in the Florence County Court of Common Pleas for the State of South Carolina. As Plaintiff's allegations purport to state a claim that presents a federal question under 28 U.S.C. § 1331, Defendants are removing this action to the Federal Court pursuant to 28 U.S.C. § 1441. Venue in the Columbia Division is appropriate as SCDPS is headquartered in Richland County.

E. Is this action related in whole or in part to any other matter filed in this District, whether civil or criminal? If so, provide: (1) a short caption and the full case number of the related action; (2) an explanation of how matters are related; and (3) a statement of the status of the related action.

ANSWER: None known.

F. [Defendants only.] If the Defendant is improperly identified, give the proper identification and state whether counsel will accept service of an amended summons and pleading reflecting the correct identification.

ANSWER: Defendants are properly identified.

G. [Defendants only.] If you contend that some other person or legal entity is, in whole or in part, liable to you or the party asserting a claim against you in this matter, identify such person or entity and describe the basis of said liability.

4:15-cv-02593-RBH-DW Date Filed 06/29/15 Entry Number 3 Page 3 of 3

ANSWER: None known.

Dated this the 29th day of June, 2015.

RICHARDSON PLOWDEN & ROBINSON, P.A.

s/Eugene H. Matthews

Eugene H. Matthews, ID #7141

1900 Barnwell Street (29201)

Post Office Drawer 7788

Columbia, South Carolina 29202

T: (803) 771-4400

F: (803) 779-0016

E-mail: gmatthews@RichardsonPlowden.com

**COUNSEL FOR DEFENDANT SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY AND LEROY SMITH**

STATE OF SOUTH CAROLINA)
COUNTY OF LAURENS)
IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Gene Stockholm, Special
Administrator of the Estate
of Jose Luis Escoto,

2012 -CP30- 830

COMPLAINT

Plaintiff,

v.

South Carolina Department of
Public Safety and T.K. Teaster,

Defendants,

The Plaintiff above named, complaining of the Defendants herein, would
respectfully show unto the Court:

1. The Plaintiff is the duly appointed Special Administrator of the Estate of Jose Luis Escoto, and is a citizen of the County of Richland, State of South Carolina.
2. The Defendant South Carolina Department of Public Safety is an agency of the State of South Carolina. At all times herein mentioned and in regard to all matters herein mentioned this Defendant acted by and through its respective agents, servants, and employees who were at all times acting within the course and scope of their agency and employment and for whose acts or omissions this Defendant is liable.
3. The Defendant Teaster is, upon information and belief, a citizen and resident of the State of South Carolina. At all times herein mentioned he was an employee of the Department of Public Safety. This action is

brought against him individually and as an employee of the Department of Public Safety.

4. On or about October 21, 2010, an automobile driven by Plaintiff's Decedent was stopped by the Defendant Teaster, a S.C. Highway Patrol trooper. After stopping the Decedent's vehicle, the Defendant Teaster, acting individually and as an agent and servant of the Defendant Department of Public Safety, did wrongfully and without justification shoot Plaintiff's Decedent.
5. As a result of the aforementioned shooting Plaintiff's Decedent died a few hours later on October 21, 2010.

FOR A FIRST CAUSE OF ACTION

6. All allegations of Paragraphs 1 through 5 hereinabove are hereby incorporated herein as fully as if repeated herein verbatim.
7. In shooting Plaintiff's Decedent on October 21, 2010, the Defendant Teaster, acting as agent of the Defendant Department of Public Safety, acted without any reasonable just cause or excuse and had no reasonable basis or belief that his conduct was lawful, valid, or justifiable.
8. The Plaintiff believes the action of the Defendant Teaster was improper and constituted an assault and battery upon Plaintiff's Decedent.
9. As a direct and proximate result of the wrongful actions of the Defendants, the Plaintiff suffered injury as follows:
 - a. Suffered multiple gunshot wounds;

- b. Suffered substantial medical expenses;
 - c. Suffered severe pain and mental anguish during the final hours of his life.
10. As a result of the aforementioned actions of the Defendant Teaster, acting individually and as agent for the Defendant Department of Public Safety, the Plaintiff's Decedent was injured, and Plaintiff is informed and believes he is entitled to recover actual and punitive damages against the Defendants, for which they are both jointly and severally liable.

FOR A SECOND CAUSE OF ACTION

11. All allegations of Paragraphs 1 through 10 are hereby incorporated herein as fully as if repeated herein verbatim.
12. In assaulting and battering Plaintiff's Decedent, the Defendant Teaster, acting individually and as the agent of the Defendant Department of Public Safety, acted under of color of State law and in his authority as a law enforcement officer.
13. In assaulting and battering Plaintiff's Decedent, the Defendant Teaster had no probable cause to believe Plaintiff's Decedent had committed any crime or legal violation and had no reasonable basis for believing his (Teaster's) conduct was lawful, valid, or justifiable.
14. The Plaintiff is informed and believes the actions of the Defendant Teaster, individually and as agent of the Defendant Department of Public Safety, was in violation of 42 U.S. Section 1983 and as direct and

proximate result of such violation Plaintiff's Decedent suffered the injuries and damages as set forth above.

15. As a result of the Defendant Teaster's willful, malicious, and reckless violation of the civil rights of Plaintiff's Decedent, Plaintiff is informed and believes he is entitled to recover actual damages, punitive damages, attorney's fees, and the costs to bring this action, for which the Defendants are both jointly and severally liable.

FOR A THIRD CAUSE OF ACTION

16. All allegations of Paragraphs 1 through 15 are hereby incorporated herein as fully as if repeated herein verbatim.
17. This is an action for wrongful death brought by the Plaintiff pursuant to South Carolina Code Section 15-51-10 for the benefit of the statutory beneficiaries.
18. As a result of the wrongful, unlawful, and unjustifiable shooting of the Plaintiff's Decedent as mentioned above, Plaintiff's Decedent died on October 21, 2010.
19. As a result of the wrongful shooting of Plaintiff's Decedent, the beneficiaries were caused grief, mental anguish, shock, the loss of society and companionship of the Decedent, and the loss of support from the Decedent.
20. As a result of the wrongful death of Plaintiff's Decedent caused by the Defendants, the Plaintiff is informed and believes he is entitled to recover


actual and punitive damages against the Defendants, for which they are both jointly and severally liable.

FOR A FORTH CAUSE OF ACTION

21. All allegations of Paragraphs 1 through 20 are hereby incorporated herein as fully as if repeated herein verbatim.
22. In wrongfully shooting and killing Plaintiff's Decedent, the Defendants acted under color of State law and under their authority as law enforcement officers.
23. In wrongfully shooting and causing the death of Plaintiff's Decedent, the Defendants acted with no probable cause to believe the Plaintiff's Decedent had committed any crime or legal violation and had no reasonable basis for believing the conduct of shooting the Plaintiff's Decedent was lawful, valid, or justifiable.
24. The Plaintiff is informed and believes the actions of the Defendant Teaster, individually and as the agent of the Defendant Department of Public Safety, were in violation of 42 U.S. Section 1983 and as a direct and proximate result of such violation the Plaintiff was shot and killed and Decedent's beneficiaries suffered the damages set forth in Paragraph 19 above.
25. As a result of the Defendants' willful, malicious, reckless violation of the civil rights of Plaintiff's Decedent, the Plaintiff is informed and believes he is entitled to recover actual damages, punitive damages, and attorney's fees for which the Defendants are both jointly and severally liable.

WHEREFORE, the Plaintiff prays for judgment against the Defendants, both jointly and severally, in an amount in excess of One Million (\$1,000,000.00) Dollars, actual and punitive damages, legal fees, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

October 17, 2012
West Columbia, South Carolina


Frank A. Barton
ATTORNEY AT LAW
H. Wayne Floyd Law Office, P.A.
1611 Augusta Highway / P.O. Box 3972
West Columbia, SC 29171
(803) 739-1824 / fax (803) 739-1888

JURY TRIAL DEMANDED

AO 450 (SCD 04/2010) Judgment in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of South Carolina

Gene Stockholm, Special Administrator of the Estate
of Jose Luis Escoto,*Plaintiff*

v.

South Carolina Department of Public Safety, T. K.
Teaster,*Defendant*)
)
)
)
)
)

Civil Action No. 6:13-cv-00680-TMC

SUMMARY JUDGMENT IN A CIVIL ACTION

The court has ordered that *(check one)*:☐ the plaintiff *(name)* _____ recover from the defendant *(name)* _____ the amount of _____ dollars (\$___), which includes prejudgment interest at the rate of ____ %, plus postjudgment interest at the rate of ____ %, along with costs.☐ the plaintiff recover nothing, the action be dismissed on the merits, and the defendant *(name)* _____ recover costs from the plaintiff *(name)* _____.☒ Summary Judgment is entered as to South Carolina Department of Public Safety, T. K. Teaster.This action was *(check one)*:☐ tried by a jury, the Honorable _____ presiding, and the jury has rendered a verdict.☐ tried by the Honorable _____ presiding, without a jury and the above decision was reached.☒ decided by the Honorable Timothy M. Cain after consideration and upon motions by the defendants, South Carolina Department of Public Safety, T. K. Teaster.

Date: June 3, 2014

CLERK OF COURT

S/Georgia. Prescott, Deputy Clerk

Signature of Clerk or Deputy Clerk

2014-10-08 12:17:01

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND
POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

October 8, 2014

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T92898
Date of Occurrence: October 21, 2010
Claimant: Escoto, Jose Luis Stockholm, Gene (Administrator)
Date Closed: October 8, 2014

Dear MR. GANJEHSANI:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 30,180.80

If you should have any questions, please contact us.

Sincerely,

Barry Rice
Litigation Consultant

/wbr

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)

Roger Dean Ezell,)
)
Plaintiff,)
) COMPLAINT
Case Number: 2013-DR-42-_____
vs.) (Non-Jury)
)
S.M. Williams and South)
Carolina Department of Public)
Safety,)
)
Defendants.)

2013-CP-42- 1300

Plaintiff would respectfully show into this Court:

FOR A FIRST CAUSE OF ACTION

1. Plaintiff is a citizen and resident of Spartanburg County, South Carolina.
2. Plaintiff is informed and believes that the Defendant S.M. Williams is a citizen and resident of Spartanburg County, South Carolina, employed at all times mentioned herein by the Defendant South Carolina Department of Public Safety as a highway patrol officer.
3. The Defendant South Carolina Department of Public Safety is a department of the state of South Carolina employing highway patrol officers.
4. On or about July 11, 2012, the Plaintiff was operating his vehicle and attempting to merge onto business Interstate 85 in Spartanburg County. The Defendant Williams, operating a vehicle of the Defendant South Carolina Department of Public Safety, blocked his entry onto the highway. As a result of the actions of the Defendant

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CLERK OF COURT
SPARTANBURG COUNTY
2013 MAR 28 PM 3:59
H. NUNEZ
CLERK

Williams, the Plaintiff gestured to Williams. Williams then proceeded to activate his blue lights and siren on his vehicle and forced the Plaintiff to pull off of the highway and stop. The Defendant Williams then proceeded to arrest the Plaintiff, charging him with Public Disorderly Conduct. The Defendant Williams then had Plaintiff's vehicle towed even though Plaintiff's place of business was nearby. Plaintiff was placed in handcuffs, placed in the patrol car and taken to the Spartanburg County Detention Facility where he was photographed, fingerprinted, and held against his will for a number of hours.

5. When the case was called for trial on February 27, 2013, the Defendant Williams chose to dismiss the case without trial.

6. The actions of the Defendant Williams at the time and place above mentioned, violates 42 USC Section 1983, in that the Plaintiff was deprived of his rights, privileges and immunities secured by the US Constitution and laws while the Defendant Williams was purporting to act under color of South Carolina Statute.

7. Plaintiff is informed and believes that he is entitled to actual and punitive damages as well as attorneys' fees, by reason of the actions of the Defendant Williams.

FOR A SECOND CAUSE OF ACTION

8. Plaintiff reiterates and re-alleges all of the allegations contained in Paragraphs One (1) through Five (5), as fully as though set forth verbatim.

9. The Defendant Williams, and, through the doctrine of respondeat superior, the Defendant South Carolina Department of Public Safety falsely imprisoned the Plaintiff.

10. The Plaintiff is entitled to actual damages by reason of this false imprisonment.

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SPARTANBURG COUNTY
2013 MAR 14 PM 3:59
JANOR A. GLENNLEY

FOR A THIRD CAUSE OF ACTION

11. Plaintiff reiterates and re-alleges all of the allegations contained in Paragraphs One (1) through Five (5), as fully as though set forth verbatim.
12. The actions of the Defendant Williams, through the doctrine of respondeat superior, the Defendant South Carolina Department of Public Safety have defamed the good name and reputation of the Plaintiff by charging him with a crime, resulting in his name, information concerning the charges, and his photograph being posted to various locations and sites in various forms and fashions, all of which may never be fully eradicated.
13. Plaintiff is entitled to judgement against the Defendants by reason of this defamation per se.

FOR A FOURTH CAUSE OF ACTION

14. Plaintiff reiterates and re-alleges all of the allegations contained in Paragraphs One (1) through Five (5), as fully as though set forth verbatim.
15. The injuries and damages suffered herein were the direct and proximate result of the following negligent, wilful, wanton, careless and grossly negligent acts on the part of the Defendants herein at the time and place above mentioned:
- a) Failing to know the law;
 - b) Failing to apply the law properly;
 - c) Failing to heed the protestations of the Plaintiff;
 - d) Failing to train the Defendant Williams properly.
16. Plaintiff is entitled to actual damages from the Defendants.

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CLERK OF COURT
SPRINGFIELD COUNTY
MAY 14 PM 3:59
JESSIE BLANCHLEY

WHEREFORE, Plaintiff prays judgment against the Defendants for actual and punitive damages, attorneys' fees, cost of this action and such other and further relief as may seem just and proper.

THE ANTHONY LAW FIRM, P.A.



KENNETH C. ANTHONY, JR.

Attorney for Plaintiff
250 Magnolia Street
Spartanburg, SC 29304
(864) 582-2355

March 5, 2013
Spartanburg, SC

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 MAR 14 PM 3:59
H. JEFF CLAWLEY

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Roger Dean Ezell,	)	CA No. 7:13-cv-1188-TMC-KFM
)	
Plaintiff,)	
)	
v.	)	STIPULATION OF DISMISSAL
	)	WITH PREJUDICE
S.M. Williams; South Carolina)	
Department of Public Safety,)	
)	
Defendants.)	
_____)	

COMES NOW the Plaintiff, by and through his undersigned attorney, and Defendants, by and through their undersigned attorney, and pursuant to the Federal Rules of Civil Procedure, Rule 41(a)(1)(A)(ii), files this Stipulation of Dismissal with Prejudice.

WE SO STIPULATE:

THE ANTHONY LAW FIRM, P.A.

By: /s/ Kenneth C. Anthony, Jr.
Kenneth C. Anthony, Jr.
Fed. I.D. No. 1102
250 Magnolia Street
Spartanburg, SC 29304
Attorney for Plaintiff

HOLCOMBE BOMAR, P.A.

By: /s/ A. Todd Darwin
A. Todd Darwin
Fed. I.D. No. 6382
100 Dunbar Street, Suite 200
Spartanburg, South Carolina 29306
Attorneys for Defendants

2014-05-05 12:27:11

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0043

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCLA ADAMS
EXECUTIVE DIRECTOR

May 5, 2014

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T94598
Date of Occurrence: July 11, 2012
Claimant: Ezell, Roger Dean
Date Closed: May 5, 2014

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$ 35,000.00
Expenses Paid: \$ 20,150.97

If you should have any questions, please contact us.

Sincerely,

Jacqueline M. Patterson
Senior Claims Representative

/jmp

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
CELINA FLORES,)
Plaintiff,)
v.)
STATE OF SOUTH CAROLINA)
and TARAH J. ANDRE,)
Defendants.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-10- 855

**COMPLAINT
MOTOR VEHICLE NEGLIGENCE
(JURY TRIAL REQUESTED)**

FILED
2016 FEB 22 PM 2:59
JULIE J. ARMSTRONG
CLERK OF COURT

TO: THE DEFENDANTS ABOVE-NAMED

The Plaintiff, Celina Flores, complaining of the acts and omissions of the Defendant above named, says as follows:

1. The Plaintiff is a citizen and resident of the County of Charleston, State of South Carolina.
2. Upon information and belief, the Defendant, Tarah J. Andre, is a citizen and resident of the County of Charleston, State of South Carolina.
3. At the time of the occurrence herein mentioned, Plaintiff was a passenger in a 2010 Toyota, South Carolina license tag #HYN760.
4. At the time of the occurrence herein mentioned, Defendant, Tarah J. Andre, was the operator of a 2007 Ford, South Carolina license tag #HP3548 which was owned by Defendant, State of South Carolina.
5. At the time of the occurrence herein mentioned, Defendant, Tarah J. Andre, was operating the 2007 Ford for the purposes of Defendant, State of South Carolina.
6. Upon information and belief, Defendant, Tarah J. Andre, was operating the vehicle within the scope of her employment with the consent of and for the purpose of her employer,

Defendant, State of South Carolina.

7. That on October 13, 2014 at approximately 1:54 p.m., the vehicle occupied by Plaintiff was traveling west on Interstate 26 in North Charleston, South Carolina when the vehicle stopped for traffic while attempting to exit onto Ashley Phosphate Road.

8. At the aforementioned date and time, the Defendant, Tarah J. Andre, was distracted while operating the vehicle when she was unable to stop causing her to strike the vehicle in front of her; subsequently causing that vehicle to strike the rear of Plaintiff's vehicle.

CLAIM FOR RELIEF: NEGLIGENCE

9. That the Defendant, Tarah J. Andre, failed to keep a proper lookout.

10. That the Defendant, Tarah J. Andre, failed to take any evasive action to keep from striking the vehicle in front of her; subsequently striking the vehicle occupied by the Plaintiff.

11. That the Defendant, Tarah J. Andre, failed to exercise that degree of care which a reasonable and prudent person would have exercised under the same or similar circumstances.

12. That the Defendant, Tarah J. Andre, violated South Carolina Statute §56-5-3230.

Drivers to exercise due care:

“Notwithstanding other provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian or any person propelling a human powered vehicle...”

13. That the Defendant, State of South Carolina, by its acts and omissions was negligent grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars, to wit:

- a) In causing and allowing the 2007 Ford vehicle to be operated by a reckless and careless driver;
- b) In allowing a motor vehicle owned and maintained by the State of South Carolina to be equipped with faulty brakes, or if so equipped with good and sufficient

brakes, in allowing such motor vehicle to be driven by a reckless and careless driver, who failed to properly apply the brakes;

- c) In endangering the lives of the traveling public and more especially this Plaintiff, by placing a motor vehicle, a dangerous instrumentality, in the care and under the control of a reckless, careless, and incompetent driver.

14. That as a direct and proximate result of the aforesaid negligent, grossly negligent, careless, reckless, willful and wanton acts or omissions of the Defendants, the Plaintiff:

- a. Suffered injuries to her body;
- b. Was subject to pain and discomfort over a long period of time;
- c. Has incurred medical and doctor bills; and
- d. Was unable to pursue many of her usual avocations, thereby being deprived of the enjoyment of life.

SECOND CLAIM FOR RELIEF: PUNITIVE DAMAGES

15. Plaintiff hereby incorporates by reference paragraphs 1-14 of the Complaint.

16. The conduct of the Defendants was negligent, willful, wanton, careless, grossly negligent and in complete disregard for the safety and rights of others, particularly the Plaintiff.

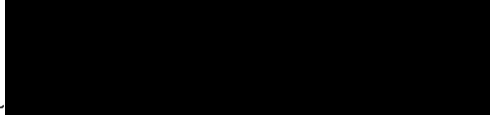
17. This reckless indifference by Defendants included the intentional decision to operate a motor vehicle in a manner that would endanger not only their own lives, but the lives of anyone else on the road at the time.

18. As a result of the negligent, willful, wanton, careless, grossly negligent action of the Defendants, Defendants are liable to Plaintiff for punitive damages.

WHEREFORE, the Plaintiff demands judgment against the Defendants for such sum of actual and punitive damages, for the cost of this action, attorney's fees and for such other relief as the Court may deem just and proper.

(Signature page to follow)

Green Law Firm, LLC.



Samuel B. Cooper, Jr.
Attorney for Plaintiff
PO Box 70306
North Charleston, SC 29405
(843) 747-2455

North Charleston, South Carolina

February 15, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
John Fulmer,	)	C. A. FILE NO.: 2015-CP-23- <u>06820</u>
)	
Plaintiff,)	
)	
vs.	)	COMPLAINT
	)	(Jury Trial Demanded)
)	
Concrete Supply Co, LLC, CEMEX USA,)	
John Doe,)	
South Carolina Department of)	
Transportation, South Carolina)	
Department of Public Safety, and)	
City of Mauldin,)	
)	
Defendants.)	

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GREENVILLE CO. S.C.
PAUL B. WICKENHISNER
2016 NOV 13 AM 9 13

Plaintiff John Fulmer, complaining of the Defendants herein, would allege and show as follows:

Parties and Jurisdiction

1. Plaintiff John Fulmer is, and was at all relevant times, a citizen and resident of Laurens County, South Carolina.
2. Upon information and belief, Defendant Concrete Supply Co, LLC is a limited liability company organized and existing under the laws of the State of North Carolina and was, at all relevant times, regularly doing business in Greenville County, South Carolina.
3. Upon information and belief, Defendant CEMEX USA is a corporation organized and existing under the laws of a state other than South Carolina and was, at all relevant times, regularly doing business in Greenville County, South Carolina.
4. Upon information and belief, Defendant John Doe is a citizen and resident of the State of South Carolina. John Doe was the driver of a commercial truck hauling cement product

at times relevant to this action. The identity of said driver has not yet been ascertained. At all times relevant to this action, John Doe was acting in the course and scope of his employment with Defendants Concrete Supply Co, LLC and CEMEX USA, which are independently and vicariously liable for the acts and/or omissions of John Doe.

5. Defendant South Carolina Department of Transportation (“SCDOT”) is, and was at all relevant times, a state department agency organized by and existing within the State of South Carolina and is, in whole or in part, responsible for the maintenance of highways and roadways within the State of South Carolina, including the roadway and traffic control device that is the subject of this action.

6. Defendant South Carolina Department of Public Safety (“SCDPS”) is, and was at all relevant times, a state department agency organized by and existing within the State of South Carolina and is responsible, inter alia, for responding, upon notice, to situations in which a traffic control device is missing or inoperable for the purpose of directing traffic. DPS is further responsible for notifying the South Carolina Department of Transportation in the event that a traffic control device is missing or inoperable so that prompt repair can be made.

7. Defendant City of Mauldin is, and was at all relevant times, a municipality within the State of South Carolina and is responsible, through its agencies such as its police, fire, and public works departments, for responding to situations in which a traffic control device is missing or inoperable and taking appropriate action, including but not limited to directing traffic. The City of Mauldin is further responsible for notifying the South Carolina Department of Transportation or other appropriate agencies in the event that a traffic control device is missing or inoperable so that prompt repair can be made.

8. The incidents giving rise to this action occurred in Greenville County, South Carolina and within the municipal boundaries of Mauldin, South Carolina.

9. This Honorable Court has jurisdiction of the parties and the subject matter herein set forth, and venue is proper in Greenville County.

Factual Background

10. Defendants Concrete Supply Co, LLC and CEMEX were operating a business at the intersection of Old Stage Road (SC Secondary 48) and Greer Drive (SC Secondary 566) at all times relevant to this action.

11. At all times relevant to this action, John Doe was driving a commercial vehicle hauling cement product in the course and scope of his employment with Defendants Concrete Supply Co and CEMEX.

12. Upon information and belief, during the summer of 2013, Defendant John Doe was operating a truck on behalf of Defendants Concrete Supply Co and CEMEX and attempted a right turn from Greer Drive/Sec. 48 on to Old Stage Rd/Sec. 566. In spite of Defendant John Doe having knowledge of a stop sign at said intersection, he ran off the roadway and ran over the stop sign.

13. An eyewitness to the above-referenced action by John Doe called the City of Mauldin and reported that the stop sign at the above-referenced intersection had been knocked down. In spite of the report to Defendant City of Mauldin, the stop sign remained down for several months without being replaced. Furthermore, in spite of its knowledge of the dangerous condition, the City of Mauldin failed to take other measures such as placing a temporary traffic control device or warning and/or having personnel direct traffic.

14. Upon information and belief, Defendants South Carolina Department of Transportation and South Carolina Department of Public Safety had actual or constructive knowledge that the subject stop sign was missing and had ample time to replace it and/or take other appropriate safety measures prior to the collision that is the subject of this matter.

15. Thereafter, on November 17, 2013, at approximately 9:15 p.m., Plaintiff John Fulmer was operating his 1988 Ford westbound on Greer Drive/SC Secondary 48 toward its terminus at Old State Road. Mr. Fulmer was not familiar with the intersection and did not know that the road terminated at that point. As a direct result of the absence of the stop sign, Mr. Fulmer continued over Old State Road and collided with a guy wire.

16. As a result of said collision, Plaintiff Fulmer was injured seriously, severely and permanently in and about various parts of his body.

Causes of Action

FOR A FIRST CAUSE OF ACTION

(Negligence, Gross Negligence as to Defendant John Doe, Concrete Products Co, LLC, and CEMEX USA)

17. All previous allegations are incorporated herein as if set forth verbatim.

18. In his operation of the commercial truck on behalf of Defendants Concrete Products Co, LLC and CEMEX USA, Defendant John Doe had a duty to use due care. However, Defendant John Doe was negligent, grossly negligent, reckless, willful and wanton, and breached his duties to Plaintiff in one of more of the following particulars, to wit:

- a. In failing to operate the vehicle within the roadway;
- b. In running over a traffic control device in the form of a stop sign;
- c. In failing to stop and report the above-referenced incident to authorities;
- d. In not being mentally and physically alert to the impending dangers;

- e. In failing to use proper protocol while driving;
- f. In failing to maintain proper control of his vehicle while driving;
- g. In failing to exercise that degree of care and prudence that a reasonable person would have under the same or similar circumstances; and
- h. In such other particulars as may be revealed through discovery in this matter.

19. Defendant John Doe's negligence, gross negligence, and recklessness as more particularly described hereinabove, was additional to and independent of the separate and distinctive acts or omissions of any co-Defendant alleged herein.

20. The collision and injuries sustained by the Plaintiff were the direct result of and were proximately caused by Defendant Biles' negligent, reckless, willful and wanton conduct and inattention to the task at hand, which was operation a motor vehicle in the above-listed particulars.

21. These injuries have directly and proximately caused said Plaintiff to suffer the following damages:

- a. Past and present medical expenses;
- b. Future medical expenses which are reasonably certain to occur;
- c. Past and present physical pain and suffering;
- d. Future physical pain and suffering as is reasonably certain will result;
- e. Past and present emotional and mental pain and suffering;
- f. Future emotional and mental pain and suffering as it is reasonably certain will result;
- g. Permanent impairment and disability;

- h. Loss of enjoyment of life;
- i. Property damage; and
- j. Loss of income and earning capacity.

22. The acts and/or omissions of Defendant John Doe were while within the course and scope of his employment with Defendants Concrete Products Co, LLC and CEMEX USA as his employers, and Defendants Concrete Products Co, LLC and CEMEX USA are vicariously liable for the same.

23. Plaintiff is entitled to judgment against Defendants John Doe, Concrete Products Co, LLC, and CEMEX USA for actual and punitive damages in such fair, just and reasonable amount as may be determined by the jury to have been sustained by him.

FOR A SECOND CAUSE OF ACTION
(Negligence, Gross Negligence as to Defendants Concrete Products Co, LLC, and CEMEX USA)

24. All previous allegations are incorporated herein as if set forth verbatim.

25. At all relevant times, Defendants Concrete Products Co, LLC and CEMEX USA had a duty to exercise due care in the hiring, supervision, training of their drivers, including John Doe, and in entrusting vehicles to them for use in their business. In spite of their duties, Defendants Concrete Products Co, LLC and CEMEX USA were negligent, grossly negligent, reckless, willful and wanton, and breached their duties to Plaintiff in one of more of the following particulars, to wit:

- a. In failing to use due care in the hiring process of John Doe;
- b. In failing to properly train and supervise their drivers including John Doe;

- c. In entrusting the operation of the subject motor vehicle to John Doe when they knew or should have known that he was not fit, capable, willing, and/or able to operate the vehicle in a safe and reasonable manner; and
- d. In such other particulars as may be revealed through discovery in this matter.

26. Defendants' negligence, gross negligence, and recklessness as more particularly described hereinabove, was additional to and independent of the separate and distinctive acts or omissions of any co-Defendant alleged herein.

27. The collision and injuries sustained by the Plaintiff were the direct result of and were proximately caused by Defendants' negligent, grossly negligent, reckless, willful and wanton conduct in the above-listed particulars.

28. These injuries have directly and proximately caused Plaintiff to suffer the following damages:

- a. Past and present medical expenses;
- b. Future medical expenses which are reasonably certain to occur;
- c. Past and present physical pain and suffering;
- d. Future physical pain and suffering as is reasonably certain will result;
- e. Past and present emotional and mental pain and suffering;
- f. Future emotional and mental pain and suffering as it is reasonably certain will result;
- g. Permanent impairment and disability;
- h. Loss of enjoyment of life;
- i. Property damage; and

j. Loss of income and earning capacity.

29. Plaintiff is entitled to judgment against Defendants Concrete Products Co, LLC and CEMEX USA for actual and punitive damages in such fair, just and reasonable amount as may be determined by the jury to have been sustained by him.

**FOR A THIRD CAUSE OF ACTION
(Negligence, Gross Negligence as to Defendant City of Mauldin)**

30. All previous allegations are incorporated herein as if set forth verbatim.

31. At all relevant times, Defendant City of Mauldin, through its police department, fire department or other agency, owed Plaintiff a duty to respond to situations in which a traffic control device is missing or inoperable and take appropriate action, including but not limited to placing temporary traffic control devices or warnings and/or directing traffic. The City of Mauldin further has a duty to promptly notify the South Carolina Department of Transportation or other appropriate agencies in the event that a traffic control device is missing or inoperable so that prompt repair can be made.

32. Defendant City of Mauldin, by and through its police department, fire department or other agency, was negligent, grossly negligent, reckless, willful and wanton, in one of more of the following particulars, to wit:

- a. In failing to place a temporary stop sign and/or other traffic signal or device at the subject intersection, and until the same or similar object could be installed, despite actual or constructive notice of the absence of a stop sign created a dangerous and hazardous condition;
- b. In failing to assign an officer to maintain or direct traffic at the subject intersection, and until another stop sign or similar object could be

installed, despite actual or constructive notice of the absence of a stop sign created a dangerous and hazardous condition;

- c. In failing to timely notify Defendant SCDOT and/or other appropriate agencies that the subject stop sign was missing or absent at the subject intersection despite actual or constructive notice of the same condition and such condition created a dangerous and hazardous condition;
- d. In failing to implement any policy or protocol for directing or controlling traffic in the absence of a stop sign or in the event that a stop sign has been damaged, rendered defective, surreptitiously removed or is otherwise missing, and such absence would create a dangerous and hazardous condition;
- e. In failing to properly maintain its roadways and highways within the geographical boundaries in a reasonable manner and safe condition;
- f. In failing to exercise that degree of care and prudence that a reasonable person would have under the same or similar circumstances, and in failing to use slight care; and
- g. In such other particulars as may be shown through discovery in this matter.

33. Defendant City of Mauldin's negligence and gross negligence, as more particularly described hereinabove, was additional to and independent of the separate and distinctive acts or omissions of any co-Defendant alleged herein, and its acts and/or omissions constitute a separate occurrence.

34. Defendant City of Mauldin's negligence and gross negligence breached the duties it owed to Plaintiff.

35. The collision and injuries sustained by Plaintiff Fulmer were the direct and proximate result of Defendant City of Mauldin's negligent, grossly negligent, reckless, willful and wanton conduct and inattention to its duties owed to Plaintiff.

36. These injuries have directly and proximately caused said Plaintiff to suffer the following damages:

- a. Past and present medical expenses;
- b. Future medical expenses which are reasonably certain to occur;
- c. Past and present physical pain and suffering;
- d. Future physical pain and suffering as is reasonably certain will result;
- e. Past and present emotional and mental pain and suffering;
- f. Future emotional and mental pain and suffering as it is reasonably certain will result;
- g. Permanent impairment and disability;
- h. Loss of enjoyment of life;
- i. Property damage; and
- j. Loss of income and earning capacity.

37. Plaintiff is informed and believes that he is entitled to judgment against Defendant City of Mauldin for actual damages in such fair, just and reasonable amount as may be determined by the jury to have been sustained by him.

**FOR A FOURTH CAUSE OF ACTION
(Negligence, Gross Negligence as to Defendant SCDOT)**

38. All previous allegations are incorporated herein as if set forth verbatim.

39. At all relevant times, Defendant SCDOT owed Plaintiff the duties of inspecting and maintaining its roadways and highways in a reasonable and prudent manner and in a safe condition. Furthermore, at all relevant times, Defendant SCDOT had actual or constructive notice that the intersection that is the subject of this matter was unsafe due to it not being properly equipped with a stop sign.

40. In spite of the duties owed to Plaintiff, Defendant SCDOT was negligent, grossly negligent, reckless, willful and wanton, and breached its duties to Plaintiff, in one of more of the following particulars, to wit:

- a. In failing to place a temporary stop sign and/or other traffic signal or device at the subject intersection until the same or similar object could be installed despite actual or constructive notice of the absence of a stop sign created a dangerous and hazardous condition;
- b. In failing to assign an officer or agent to maintain or direct or control traffic at the subject intersection until another stop sign or similar object could be installed despite actual or constructive notice of the absence of a stop sign created a dangerous and hazardous condition;
- c. In failing to timely communicate to its officers, agents or employees the dangerous and defective condition that existed at the subject intersection despite actual or constructive notice of the absence of a stop sign created a dangerous and hazardous condition;
- d. In failing to timely process its work orders for repairing the dangerous and defective condition that existed at the subject intersection despite actual or

constructive notice of the absence of a stop sign created a dangerous and hazardous condition;

- e. In failing to remedy a dangerous or defective condition – viz., the absence of a stop sign at the subject intersection – within a reasonable time despite actual or constructive notice of the absence of a stop sign created a dangerous and hazardous condition;
- f. In failing to implement an appropriate stop sign replacement policy or protocol remedying or preventing the dangerous and defective conditions existing at the time and place of the subject intersection;
- g. In failing to properly inspect and maintain its roadways and highways, including the subject intersection, in a reasonably prudent manner and safe condition;
- h. In failing to exercise that degree of care and prudence that a reasonable person would have under the same or similar circumstances and in failing to exercise slight care; and
- i. In such other particulars as may be shown through discovery in this matter.

41. Defendant SCDOT's negligence and gross negligence, as more particularly described hereinabove, was additional to and independent of the separate and distinctive acts or omissions of any co-Defendant alleged herein and constituted a separate occurrence.

42. The collision and injuries sustained by Plaintiff were the direct and proximate result of Defendant SCDOT's negligent, grossly negligent, reckless, willful and wanton conduct and inattention to its duties owed to Plaintiffs.

43. These injuries have directly and proximately caused Plaintiff to suffer the following damages:

- a. Past and present medical expenses;
- b. Future medical expenses which are reasonably certain to occur;
- c. Past and present physical pain and suffering;
- d. Future physical pain and suffering as is reasonably certain will result;
- e. Past and present emotional and mental pain and suffering;
- f. Future emotional and mental pain and suffering as it is reasonably certain will result;
- g. Permanent impairment and disability;
- h. Loss of enjoyment of life;
- i. Property damage; and
- j. Loss of income and earning capacity.

44. Plaintiff is informed and believes that he is entitled to judgment against Defendant SCDOT for actual damages in such fair, just and reasonable amount as may be determined by the jury to have been sustained by him.

**FOR A FIFTH CAUSE OF ACTION
(Negligence, Gross Negligence as to Defendant South Carolina
Department of Public Safety)**

45. All previous allegations are incorporated herein as if set forth verbatim.

46. At all relevant times, Defendant South Carolina Department of Public Safety owed Plaintiff a duty to respond to situations in which a traffic control device is missing or inoperable and take appropriate action, including but not limited to placing temporary traffic control devices or warnings and/or directing traffic. Defendant SCDPS further has a duty to

promptly notify the South Carolina Department of Transportation or other appropriate agencies in the event that a traffic control device is missing or inoperable so that prompt repair can be made.

47. Defendant SCDPS was negligent, grossly negligent, reckless, willful and wanton, in one of more of the following particulars, to wit:

- a. In failing to place a temporary stop sign and/or other traffic signal or device at the subject intersection, and until the same or similar object could be installed, despite actual or constructive notice of the absence of a stop sign created a dangerous and hazardous condition;
- b. In failing to assign an officer to maintain or direct traffic at the subject intersection, and until another stop sign or similar object could be installed, despite actual or constructive notice of the absence of a stop sign created a dangerous and hazardous condition;
- c. In failing to timely notify Defendant SCDOT and/or other appropriate agencies that the subject stop sign was missing or absent at the subject intersection despite actual or constructive notice of the same condition and such condition created a dangerous and hazardous condition;
- d. In failing to implement any policy or protocol for directing or controlling traffic in the absence of a stop sign or in the event that a stop sign has been damaged, rendered defective, surreptitiously removed or is otherwise missing, and such absence would create a dangerous and hazardous condition;

- e. In failing to properly maintain its roadways and highways within the geographical boundaries in a reasonable manner and safe condition;
- f. In failing to exercise that degree of care and prudence that a reasonable person would have under the same or similar circumstances, and in failing to use slight care; and
- g. In such other particulars as may be shown through discovery in this matter.

48. Defendant SCDPS's negligence and gross negligence, as more particularly described hereinabove, was additional to and independent of the separate and distinctive acts or omissions of any co-Defendant alleged herein, and its acts and/or omissions constitute a separate occurrence.

49. Defendant SCDPS's negligence and gross negligence breached the duties it owed to Plaintiff.

50. The collision and injuries sustained by Plaintiff Fulmer were the direct and proximate result of Defendant SCDPS's negligent, grossly negligent, reckless, willful and wanton conduct and inattention to its duties owed to Plaintiff.

51. These injuries have directly and proximately caused said Plaintiff to suffer the following damages:

- a. Past and present medical expenses;
- b. Future medical expenses which are reasonably certain to occur;
- c. Past and present physical pain and suffering;
- d. Future physical pain and suffering as is reasonably certain will result;
- e. Past and present emotional and mental pain and suffering;


- f. Future emotional and mental pain and suffering as it is reasonably certain will result;
- g. Permanent impairment and disability;
- h. Loss of enjoyment of life;
- i. Property damage; and
- j. Loss of income and earning capacity.

52. Plaintiff is informed and believes that he is entitled to judgment against Defendant SCDPS for actual damages in such fair, just and reasonable amount as may be determined by the jury to have been sustained by him.

Prayer for Relief

WHEREFORE, Plaintiff prays for actual damages against all Defendants in an amount to be determined by the jury, for punitive damages against Defendants John Doe, Concrete Products Co, LLC, and CEMEX USA, for the costs of this action, and for such other relief as this Honorable Court deems just and proper.

FAYSSOUX LAW FIRM, P.A.,


Paul S. Landis
P.O. Box 10207
Greenville, SC 29602
(864) 233-0445
(864) 233-4781 (Fax)
paul@fayssouxlaw.com

- f. Future emotional and mental pain and suffering as it is reasonably certain will result;
- g. Permanent impairment and disability;
- h. Loss of enjoyment of life;
- i. Property damage; and
- j. Loss of income and earning capacity.

52. Plaintiff is informed and believes that he is entitled to judgment against Defendant SCDPS for actual damages in such fair, just and reasonable amount as may be determined by the jury to have been sustained by him.

Prayer for Relief

WHEREFORE, Plaintiff prays for actual damages against all Defendants in an amount to be determined by the jury, for punitive damages against Defendants John Doe, Concrete Products Co, LLC, and CEMEX USA, for the costs of this action, and for such other relief as this Honorable Court deems just and proper.

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(864) 233-4567 (Fax)

Attorneys for Plaintiff

November 12, 2015

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS	
	)	FOURTEENTH JUDICIAL CIRCUIT	
COUNTY OF COLLETON	)	CASE NO.: 16-CP-15-361	
)		
LATASHA M. GABE and JEKERA)		
GABE,)		
)		
Plaintiff,)		
)	AMENDED	
vs.)	COMPLAINT	
)		
SOUTH CAROLINA DEPARTMENT OF)		
PUBLIC SAFETY)		
)		
Defendants.)		

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PAULINA C. SMITH
COLLETON COUNTY
COMMON PLEAS

Plaintiffs, complaining of the Defendant herein, would show unto the Court as follows:

1. Plaintiff Latasha M. Gabe is a citizen and resident of the County of Colleton, State of South Carolina.
2. Plaintiff Jekera Gabe is a citizen and resident of the County of Colleton, State of South Carolina.
3. Lavonda Gabe is with the South Carolina Highway Patrol of the Defendant South Carolina Department of Public Safety, and a South Carolina State Trooper in and a citizen and resident of the County of Colleton, State of South Carolina.
4. Defendant South Carolina Department of Public Safety is a governmental entity of the State of South Carolina, operates in the County of Colleton and this action is brought pursuant to the South Carolina Tort Claims Act, South Carolina Code Ann. Section 15-78-10 et seq.
5. That on April 6, 2013, Lavonda Gabe was driving and operating a four door Ford, South Carolina Highway Patrol vehicle, bearing vehicle identification number 2FAFP71V18167351, and traveling West on Route 64 in the County of Colleton.

6. That on April 6, 2013, Plaintiff Latasha Gabe, a restrained driver, was operating a 1989 Toyota bearing vehicle identification number 4T1B622K1WU188863 traveling east on Route 64 in the County of Colleton.

7. That on April 6, 2013, Plaintiff Jakera Gabe, was a front seat restrained passenger in the 1989 Toyota vehicle driven by Plaintiff Latasha Gabe.

9. That the Lavonda Gabe, in the course and scope of her employment for the South Carolina Department of Public Safety, made a u-turn in close proximity to Plaintiffs' vehicle on Route 64, crashed into the front of the Plaintiffs' vehicle, and caused Plaintiffs to be injured.

10. That Defendant, through its employee, was negligent, negligent per se, careless, grossly negligent, reckless, willful, and wanton in the

- a. In failing to signal that she was making a u-turn;
- b. In attempting a u-turn in close proximity to a curve in the road;
- c. In attempting a u-turn when Plaintiffs' vehicle was in too close of a proximity;
- d. In failing to warn Plaintiffs' that Lavonda Gabe was about to make a u-turn;
In failing to maintain a proper lookout of the traffic conditions then and there existing;
- e. In failing to timely apply her brakes;
- f. In failing to maintain her vehicle with properly functioning brakes, and, if so maintained, in failing to utilize her brakes to avoid the accident;
- g. In failing to maintain her vehicle with a properly functioning steering mechanism and, if so maintained, in failing to utilize the steering mechanism to avoid the collision;
- h. In not checking her side-view and rearview mirrors;

- i. In striking Plaintiffs' vehicle;
- j. In not giving Plaintiff the right of way;
- k. In failing to keep her vehicle under proper control;
- l. In operating her vehicle in a reckless manner without regard to the safety and well being of other motorists;
- m. In such other particulars as may be revealed by discovery conducted pursuant to the South Carolina Rules of Civil Procedure.

All of which were the direct and proximate cause of the injuries and damages suffered by the Plaintiff more fully described below.

FOR A FIRST CAUSE OF ACTION
(LATASHA GABE)

9. Plaintiff Gabe repeats and reiterates Paragraphs One (1) through Eight (8) as fully and effectually as if set forth verbatim.

10. That as a direct and proximate result of the aforesaid negligent, negligent per se, careless, grossly negligent, reckless, willful and wanton acts and omissions of Defendant, Plaintiff suffered physical injury, experienced pain and suffering, experienced a loss of enjoyment of life, was required to undergo medical care, was forced to incur medical expenses, lost income, and suffered property damage.

11. Plaintiff Latasha Gabe is therefor informed and believes herself entitled to judgment against Defendant for all actual damages.

FOR A SECOND CAUSE OF ACTION
(JEKERA GABE)


12. Plaintiff, Jekera Gabe repeats and reiterates each and every allegation of Paragraphs One (1) through Eight (8) as fully and effectually as if set forth verbatim.

13. That as a direct and proximate result of the aforesaid negligent, negligent per se, careless, grossly negligent, reckless, willful and wanton acts and omissions of Defendant, Plaintiff, Jekera Gabe suffered physical injury, experienced pain and suffering, experienced a loss of enjoyment of life, was required to undergo medical care, was forced to incur medical expenses, and lost income.

14. Plaintiff, Jekera Gabe is therefore informed and believes herself entitled to judgment against Defendant for all actual damages.

WHEREFORE, Plaintiffs pray for judgment against Defendant for all actual damages, for the costs of this action, and for such other and further relief as the Court deems appropriate.

FULMER LAW FIRM, LLC

By: 
H. Asby Fulmer, III
Attorney for Plaintiff
314 West 5th North Street
P.O. Box 1330
Summerville, SC 29484
(843) 821-3100

May 5, 2016
Summerville, South Carolina

7:11-cv-03129-TMC Date Filed 11/16/11 Entry Number Page 1 of 7

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
PRO SE COMPLAINT NON PRISONER

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HENRY FLOYD GILCHRIST,)	
553 Burnetts Road)	
Chesnee, South Carolina, 29323)	
Phone No. (864) 237-2789)	
Plaintiff,)	
Vs.	)	No.
)	
South Carolina Highway Patrol)	
8749 Fairforest Road,)	
Spartanburg, South Carolina 29303)	
)	
Greenville Casualty Insurance Company, Inc.)	
706 West Wade Hampton Blvd.)	
Greer, South Carolina, 29650-5783)	
)	
Vitaliy Pipenko)	
305 Carissa Ct.)	
Chesnee, South Carolina 29323)	
)	
V. Y. Express, Inc., A.k.a Vera Vitalyevn Pipenko)	
8378 Golden Valley Blvd.)	
Maple Falls, Washington 98266)	
)	
State Auto Insurance Companies)	
518 East Broad Street)	
Post Office Box 182822)	
Columbus, OH, 43218-2822)	
)	
Jackie Page)	
1604 Fish Camp Road)	
Chesnee, South Carolina 29323)	
)	
Mary Black Hospital)	
1700 Skyland Drive)	
Spartanburg, South Carolina 29307)	
)	
Allstate Fire and Casualty Insurance Company)	
Post Office Box 7068 Palmetto Building)	
Columbia, South Carolina 29202)	
)	
Gerod Allison, Allstate Agency)	
770 Union Street)	

Spartanburg, S.C. 29306)
 Defendants,)
 _____)

STATEMENT OF THE ISSUES

1. Whether this court posses jurisdiction to review and seek an investigation of an Agency for a Civil Class-Action Claim of Discrimination; based upon 'Written Accident Reports' and 'Accident Audit Forms', written in auto accidents in Spartanburg County, by South Carolina Highway Patrolman that may be targeting minority groups and / or to allow Insurance Companies, Insurance Agencies, or Insurance Adjustors to deny or embezzle funds associated in an Auto Accident.
2. Whether a person cited in a 'Written Accident Report' or 'Accident Audit Form' as having been at fault by a South Carolina Highway Patrolman in an Auto Accident, can Defend him or her self against the claim of being at fault, pursuant to South Carolina Law at Title 56 [We are not making reference to a Ticket or a Charge related to an Auto Accident, they can be defended in local courts, but the " Written Accident Report" or "Accident Audit Form" is not changed after a successful defense of the ticket or charge in an accident.] South Carolina Insurance Companies and Insurance Adjustors rely on a South Carolina Highway Patrolman's 'Written Accident Report' or 'Accident Audit Form' when determining their pay-out of claims and increase in a policy-holder's premiums.
3. Whether this Practice and Procedure by Insurance Companies, Insurance Agents, or Insurance Adjustors can lead to Disparate Treatment of Minority Groups [' Written Accident Reports' or 'Accident Audit Forms'], such as Ex-Felons, Low-Income, Black, Disabled, or Hispanic Groups, etc., or have denied these Minorities' their Civil Rights to Equal Treatment under their Policies and Contracts, and Access to defense procedures in a court of law pursuant to the South Carolina Law.
4. Whether this Court posses Jurisdiction to Review the Civil Standards of South Carolina Insurance Laws and Statutes; to determine the Civil Rights of an Insured Auto Policy-Holder, with Full- Coverage to collect on Claims against them incurred in an Auto Accident, under the Liability Portion of an Auto Insurance Policy, along with Collision, Personal Medical, Rental, or Comprehensive for Debts incurred in an Auto Accident. Regardless of, "Who's at Fault", when the Policy Holder is forced by the Laws of South Carolina to purchase and maintain Auto Insurance, and the Policy-Holder has complied with these South Carolina State Laws.

STATEMENT OF THE CLAIM

I. Nature of the Claim

Plaintiff seeks a Class-Action Review and Investigation of Discrimination under Title VII of the 1964 Civil Rights Bill, Amended. Whether, the Practice and Procedure of South Carolina Highway Patrolman and Insurance Companies in combination is Discriminatory, and maybe targeting minority groups such as Low Income, Blacks, Hispanics, Disabled, and Ex- Felons; based on the way a 'Written Accident Report' and / or 'Accident Audit Form' is used by a South Carolina Highway Patrol and South Carolina Insurance Companies to establish and pay insurance claims. Rather than the Actual Contract of the Insurance Policy, or Pursuant to South Carolina Code of Law at Title 56. And based on the way an Insurance Company is allowed or disallowed to pay-out claims or debts incurred in an Auto Accident as a result of the ' Written Accident Report ' and / or 'Accident Audit Form'.

II. Statement of Facts And Course of Proceedings in the Claim

1. On October 13, 2011, at 6: 45 PM in the Evening, I Henry Floyd Gilchrist of 553 Burnetts Road, in Chesnee, South Carolina, was involved in an Auto Accident with a non-resident of South Carolina. Ms. Vera Vitalyevn Pipenko of 8378 Golden Valley Blvd., Maple Falls, Washington. Ms. Vera Vitalyevn Pipenko while traveling in front of Henry Floyd Gilchrist; made a right turn off the highway, but entered back into the highway, striking the rear-passengner side of Henry Floyd Gilchrist's vehicle forcing him violently into an electrical-pole. Henry Floyd Gilchrist's Life was saved by the Front and Side Air Bags that his vehicle was equipped with from the Factory. A South Carolina Highway Patrolman, State Trooper W.S. Childers, Badge No. T340 was dispatched to the accident. The State Trooper, W.S. Childers wrote a ticket charging Henry Floyd Gilchrist with improper passing, and gave Henry Floyd Gilchrist a written 'Accident Audit Form' contributing Henry Floyd Gilchrist at fault. Ms. Vera Vitalyevn Pipenko had no license plates on her vehicle, no South Carolina Driver's License, and gave a Commerical Insurance Policy Number for the vehicle she was driving to South Carolina Highway Patrolman W.S. Childers.

2. On October 14, 2011, at 8:30 AM. I, Henry Floyd Gilchrist went to my Insurance Companies. Greenville Casualty Insurance Company,Inc., that handles the claims portion of my Auto Insurance Policy, and Leon Hix Agency that sold the Auto Insurance Policy # PAA0123401-0 / ACA0123401-0, with a contract for Full-Coverage with the Greenville Causuality Insurance Company,[see copy of Policy Coverage]. The Leon Hix Insurance Agency and the Greenville Casualty Insurance Company, Inc. are both located at 706 Wade Hampton Blvd.,Greer, South Carolina 29650. I, Henry Floyd Gilchrist told the Leon Hix Insurance Agency [Ms. Leslie Gray], about the accident that took place on October 13, 2011, and what had happened to cause the Accident. I, Henry Floyd Gilchrist than was referred to Greenville Casualty Insurance Company, Inc. [Shannon Morrow]. Ms. Shannon Morrow, an Insurance Adjustor for Greenville Casualty Insurance Company, Inc., refused to talk with Henry Floyd Gilchrist about paying for his damages, or supplying him a rental car until she first saw who the South Carolina Highway Patrolman's name was on the Accident Audit Form. Ms. Shannon Morrow also insisted that Henry Floyd Gilchrist sign release forms for Greenville

Casualty Insurance Company, Inc., to take possession of the wreckage prior to any pay-out of claims or rental car[Plaintiff had Full-Coverage on his Vehicle and owned the car]. Henry Floyd Gilchrist, refused to give-up the wreckage because it was his defense in court of not-guilty in the Accident. The Greenville Casualty Insurance Company, Inc. [Ms. Shannon Morrow], then refused to give Henry Floyd Gilchrist a rental car or come-out to Estimate the damages which is part of his policy coverage.

3. On October 18, 2011, at 10:00 AM, Travelers Insurance Company [Ms. Heather Abercombie, An Insurance Adjustor]; Insuror for the Commerical Policy Ms. Vera Vitalyevn Pipenko claimed, came to Henry Floyd Gilchrist's home to establish a claim for the October 13, 2011 accident. The Travelers Insurance Company[Ms. Heather Abercombie] also provided Henry Floyd Gilchrist with an on sight estimated cost of \$8000.00 to repair his vehicle[see copy enclosed]. A copy of the estimate written by Travelers Insurance Company was taken to Greenville Casualty Insurance Company so that they could start the process of reimbursement of the damages to Henry Floyd Gilchrist on his Policy Contract of Full-Coverage. Again, Greenville Casualty Insurance Company, Inc., refused to pay the claim or honor the contract purchased through Leon Hix Insurance Agency until the wreckage is turned over and release forms are signed days prior to any form of pay-off. The Greenville Casualty Insurance Company, Inc. { Ms. Shannon Marrow and Claim Manager "Jill" }, tried to convince Henry Floyd Gilchrist's that the front-end damage to his vehicle was from him rear-ending Ms. Vera Vitalyevn Pipenko and the rear-end damages was from a prior accident. Henry Floyd Gilchrist decided to file this complaint at that junction in the Claim.

4. On December 09, 2008; at 8:00AM, a 2005 Chrysler 300 purchased by Henry Floyd Gilchrist from Crown Chrysler of Greenville, South Carolina, caught on fire damaging the dash board in the vehicle. I, Henry Floyd Gilchrist had purchased a policy with a contract for Full-Coverage through Leon Hix Agency from Greenville Causality Insurance Companies, Inc. I, Henry Floyd Gilchrist had also purchased a contract for insurance through the dealership[Crown Chrysler of Greenville, S.C.], and through the Wachovia Bank of Charlotte, North Carolina, the combined policy-contracts were suppose to replace and paid-off whatever balance left owning on the 2005 Chrysler 300, in the event of an accident or incident such as the fire....Etc. The Greenville Causality Insurance Company, Inc. never honored the contract and /or policy written by Leon Hix on the 2005 Chrysler 300, and Henry Floyd Gilchrist never recieved any type of pay-off on the Chrysler 300, nor was any kind of releases signed by Henry Floyd Gilchrist giving Greenville Casualty Insurance Company, Inc., the Right to take possession of the 2005 Chrysler 300, to settle any type of claim, or negotiate in a settlement for a claim. The Same set of circumstances are happening between Henry Floyd Gilchrist and Greenville Casualty Insurance Company, Inc., in regards to the Contract and/ or policy for the Vehicle in the October 13, 2011 accident. The Breach in Contracts are leaving Henry Floyd Gilchrist with hardships in his marriage, and his travel to visit elderly parents, schedule back and forward to work for his wife, to visit his grandchildren, and children. I, Henry Floyd Gilchrist had to take back pay recieved from Veteran's Service-Connected Disability to purchase a vehicle because of Judgements, Debts, Hospital Bills, and refusal of Insurance Companies to pay-off Claims, and / or pay to replace or repair a vehicle, Henry Floyd Gilchrist could not afford an attorney to represent him.

5. On August 24, 2011, at 4:30PM, Tommy Lee Young of 621 Oak Dale Road, Cowpens, South Carolina ran into the rear-end of a vehicle driven by Henry Floyd Gilchrist. Tommy Lee Young and Henry Floyd Gilchrist upon determining that there was no damage to neither vehicle, made a verbal agreement to forget what had occurred because they were on Private Property. Soon after Henry Floyd Gilchrist left the scene of the accident, around 6:30PM, a Uniformed Highway Officer, named S.R. Snow, Badge No. T866, contacted Henry Floyd Gilchrist by cell phone. The Officer told Henry Floyd Gilchrist that he was being charged with leaving the scene of an accident and hit & run. Henry Floyd Gilchrist informed the Uniformed Highway Officer while on the cell phone about the verbal agreement between himself and Tommy Lee Young. The Uniformed Highway Officer said he was willing to accept that Henry Floyd Gilchrist did not leave the scene of the accident or commit hit & run but that there was extensive damage to Mr. Tommy Lee Young's Vehicle which was witnessed by him, Officer S.R. Snow, Badge # T866. Three Days Later, the Uniformed Highway Officer named, S.R. Snow send an 'Accident Audit Form' # E-115516 & E-115517 to the home of Henry Floyd Gilchrist via U.S. Mail, charging Henry Floyd Gilchrist for being at Fault, Henry Floyd Gilchrist asked his agent to deny the claim.

6. On September 18, 2009, around 1:00 in the afternoon. A young white female crossed over four lanes of busy traffic where there was no intersection, stop sign, or signal light, causing Mr. Jackie Page, an elderly white man, of 1604 Fish Camp Road, Chesnee, South Carolina to hit brakes than swerving into Henry Floyd Gilchrist's lane of traffic. Leaving Henry Floyd Gilchrist, a Black middle-aged male with no other choice but to violently hit Mr. Jackie Page's vehicle. Wherefor, Henry Floyd Gilchrist had to be cut from his vehicle, and rushed to the Mary Black Memorial Hospital, at 1700 Skyland Drive, Spartanburg, South Carolina. Upon arriving at the Mary Black Memorial Hospital, treating head nurse a Ms. Molly Hoeffner refused to treat Henry Floyd Gilchrist until a Uniformed Highway Officer arrived at the Hospital, and give her instructions for a Blood withdrawal hoping to charge him, Henry Floyd Gilchrist with DUI.. The Uniformed Highway Officer, named Ellis, issued an 'Accident Audit Form', FR10 Audit No.Z-353131, and Audit No. Z-353132, charging no-one at fault, after Henry Floyd Gilchrist tested negative for drugs or alcohol. However, Henry Floyd Gilchrist's Insurance Company, State Auto of Greer, South Carolina, a subsidiary of State Auto Insurance Companies of Ohio [Policy # ASC 0021365], found that Henry Floyd Gilchrist was liable for causing the accident on September 18, 2009, and refused to pay the Mary Black Hospital Bill associated with the accident of September 18, 2009.

7. The Mary Black Memorial Hospital started harrassing, Henry Floyd Gilchrist and his wife to sign over their 'Writ to Suit' concerning the Accident of September 18, 2009. The wife of Henry Floyd Gilchrist is an Employee at the Mary Black Memorial Hospital. When Henry Floyd Gilchrist refused to sign over the 'Writ to Suit', to the Mary Black Memorial Hospital. Attorneys from the Korn Law Firm of Columbia, South Carolina, filed for Mary Black Hospital a suit in the Spartanburg, South Carolina, County's General Sections Court, the case went before the bench on June 30, 2011, the Judge left the case open with the hopes that they will get Henry Floyd Gilchrist to sign over the 'Writ to Suit' or hire a lawyer to file suit on his behalf in the Accident

8. In April of 2009, Henry Floyd Gilchrist purchased a six month Auto Insurance Policy; from the Allstate Fire and Casualty Insurance Company, through the Gerrod Allison Allstate Insurance Agency, on Union Street, Spartanburg, South Carolina. The Policy was full coverage with a \$5000.00 Personal Injury Protection. Henry Floyd Gilchrist left the Allstate Fire and Casualty Insurance Company, after being dishearten with the way Gerrod's agency handled policies. Example putting his grown son's name on policy to increase his policy premiums, or putting Henry Floyd Gilchrist's wife or son as head policy holder to prevent Henry Floyd Gilchrist from making any kind of legal or claim decisions on the policy. On September 18, 2009, when Henry Floyd Gilchrist was involved in the accident with Mr. Jackie Page, of 1604 Fish Camp Road, Chesnee, South Carolina, 29323, Henry Floyd Gilchrist had 12 days left on the six month policy, again Gerrod placed Henry Floyd Gilchrist's wife as Head policy holder, disabling Henry Floyd Gilchrist's ability to negotiate the claim, and Allstate Fire and Casualty is showing that they paid out in the September 18, 2009 accident, thousands of dollars on Behalf of Henry Floyd Gilchrist to Mr. Jackie Page and Henry Floyd Gilchrist for Personal Injury Protection. Monies, Henry Floyd Gilchrist never recieved, and claims that Allstate Fire and Casualty Insurance Company did not pay because State Auto Insurance Company of Ohio claims they paid, or due to the Fact that Henry Floyd Gilchrist was suited by Mary Black Hospital for non payment of Hospital Bill or Spartanburg Regional Healthcare for Ambulance Service.

9. On September 01, 2011, when Henry Floyd Gilchrist went to purchase his Auto Insurance, his premiums was extremely high. The Reason given by different Insurance Agencies for quoting such a high premium. All of Henry Floyd Gilchrist's prior accidents had paid out big sums of amouts of money his insurance companies, and Henry Floyd Gilchrist was either found at fault by his Insurance Company, or the Accident Audit Reports written by a Uniform Highway Officer. Henry Floyd Gilchrist is belittled as to how it is shown on paper and in records that he or other enities have been paid large sums of money on his behalf, when Henry Floyd Gilchrist have not signed releases, hired lawyers or even had his Hospital, Ambulance, or vehicles repaired or replaced by some of these Insurance Companies. Where or Who was these monies paid, it is certain that Henry Floyd Gilchrist has never recieved a big settlement in any Auto Accident.

SCOPE OF JURISDICTION AND STANDARD FOR REVIEW

Congress has established the authority of this Court to review and investigate Agencies for Discrimination under Title VII of the Civil Rights Act of 1964, as amended, when the Plaintiff has shown substance in his or her allegations through the accomplishment of an established *Prima Facie* case of Discrimination. McDonnel Douglas Corp vs.Green, 411 U.S. 792,802,(1973), and Texas Dept. of Community Affairs v Burdine, 450 U.S. 248, 253 (1981). The Plaintiff has shown disparate treatment because he was treated less favorably than other similar persons that are involved in

accidents outside his protected group. The Plaintiff is Black-Male, an Ex-convict, a Disabled Veteran, and has low-income, receiving \$707.00 a month from Social Security for income. The Greenville Casualty Insurance Company, Inc., the Allstate Fire and Casualty Insurance Company, and the State Auto Insurance Company, has refused to pay the Plaintiff for claims incurred in auto accidents from his Policy Contract for Full Coverage, for Claims on Liability, Comprehensive, or Personal Injuries substandard in these accident as allowable by law, for a Total of over \$100,000.00 Dollars, but forces the Plaintiff to pay higher premiums for full Coverage Insurance on Voided and Breached contracts. Traveler's Insurance Company[Heather Abercromie] has acknowledged that Greenville Casualty Insurance Company, Inc., has paid-out liability on Ms. Vera Vitalyevn Pipenko's Claim. Although, Ms. Vera Vitalyevn Pipenko did not have a tag on her vehicle at the time of the accident on October 13, 2011, or a South Carolina Driver's License, etc....See Potter v. Goodwill Industries of Cleveland, 518 F. 2d 864, 865, (6th Cir. 1975). The Plaintiff need only to set forth some evidence of acts from which is unexplainable, then an inference of discrimination does exist. See Furnco Construction Corp. v. Waters, 438 U.S. 567, 576 (1978).. Thus the Plaintiff has established a *Prima Facie* case of Racial and Disparate Discrimination. The Greenville Casualty Insurance Company, Inc., the Allstate Fire And Casualty Insurance Company, and the State Auto Insurance Company has placed in their records and files that they have paid out in these claims, some even duplicate claims but the plaintiff has never seen these pay-outs and is being sued for claims against him that should be paid through the policy contracts. The Uniformed Highway Officers in these cases has refused to cite White Persons, Business Persons, or any person in an accident involving the plaintiff, when common evidence, common rules of the road, and common laws of the state should dictate otherwise.

RELIEF

" The language of 29 C.F.R. Section 1614.109(e), and Fed. R. Civ. P. 56(c)". Permits a Judge to enter a Summary Judgement when the moving party is entitled to a Judgement under the governing law, which is South Carolina's Code of Law, Title 56, and Federal Law of Title VII of the 1964 Civil Rights Bill, as amended, Anderson v. Liberty Lobby, 477 U.S. 247, 106 S. Ct 2505, 2510 (1986). The Plaintiff seek a Class-Action Review and Investigation into the way South Carolina Highway Patrol and South Carolina Insurance Companies discriminate against minority groups by denying them certain Legal and Civil Rights under the Laws and Policy-Contracts held in South Carolina. The Plaintiff further seeks Punitive, Compensatory, and compensation for Bills, Loss Income, and Debts incurred such as Hospital, Ambulance Service, Vehicle Replacement, Co-pay for Medicines, and Hardships as a result of the disparated treatment.[Plaintiff will submit Bills, Estimates, and Medical Records from Asheville's Veterans Hospital for treatments after accidents]

I declare under penalty of perjury that the foregoing is true and correct.

Signed Under Penalty of Perjury this 16th day of [REDACTED], 2011
2011

7:11-cv-03129-TMC Date Filed 05/25/12 Entry Number 24 1 Page 1 of 1
Appeal: 12-1168 Doc: 6-2 Filed: 05/03/2012 Pg: 1 of 1

FILED: May 3, 2012

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-1168
(7:11-cv-03129-TMC)

HENRY FLOYD GILCHRIST

Plaintiff - Appellant

v.

SOUTH CAROLINA HIGHWAY PATROL; GREENVILLE CASUALTY
INSURANCE COMPANY INC.; VITALIY PIPENKO; V Y EXPRESS INC.,
a/k/a Vera Vitalyevn Pipenko; STATE AUTO INSURANCE COMPANIES;
JACKIE PAGE; MARY BLACK HOSPITAL; ALLSTATE FIRE AND
CASUALTY INSURANCE COMPANY; GEROD ALLISON, Allstate Agency

Defendants - Appellees

J U D G M E N T

In accordance with the decision of this court, this appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in
accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND
POST OFFICE BOX 11066
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(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

May 1, 2013

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T83012
Date of Occurrence: November 16, 2011
Claimant: Gilchrist, Henry Floyd
Date Closed: May 1, 2013

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	1,421.00

If you should have any questions, please contact us.

Sincerely,

Tony Chapman
Senior Claims Representative

/tc

PS: This case/appeal has been dismissed.
C/A#: 7:11-cv-03129-TMC

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF AIKEN)

SECOND JUDICIAL CIRCUIT)

Barbara Grant,)

Plaintiff,)

COMPLAINT)

vs.)

CASE No.: 12-CP-02- 00670)South Carolina Department of Public Safety)
and John Christopher Frances,)

JURY TRIAL DEMANDED)

Defendants.)

COPY
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a

The plaintiff would respectfully show unto this Honorable Court:

AIKEN COUNTY
CLERK OF COURT

1. The plaintiff is a resident of the County of Aiken, State of South Carolina.

The defendant, South Carolina Department of Public Safety, is an agency of the State of South Carolina. The defendant, John Christopher Frances, is an employee of the South Carolina Department of Public Safety and a resident of the County of Aiken, State of South Carolina.

2. The automobile accident, that is the subject of this action, occurred on April 11, 2010 in Aiken County, South Carolina.

3. That on April 11, 2010, the plaintiff was driving a 1997 truck owned by her friend, Christopher R. Boyd, in a southwesterly direction along S.C. Highway 421 in or near the town of Warrenville, South Carolina in the County of Aiken, State of South Carolina. At that same time and place, the defendant, John Christopher Frances, employed as a State Trooper with the South Carolina Department of Public Safety was driving his patrol car behind the plaintiff along said roadway. When the plaintiff slowed

to make a right hand turn into a parking lot, the defendant, John Christopher Frances, rear-ended the plaintiff with great force and impact.

4. That, upon information and belief, at all times mentioned herein, the defendant, John Christopher Frances, was acting as the agent and servant of the defendant, S.C. Department of Public Safety, and within the scope of said agency and employment.

5. That at the time and place mentioned above, the defendant, John Christopher Frances, was negligent, reckless, willful and wanton, in one or more of the following particulars, to wit:

- a. In operating said motor vehicle at a rate of speed which was excessive for the circumstances then prevailing;
- b. In failing to keep a proper lookout;
- c. In failing to maintain proper control over the aforesaid vehicle;
- d. In driving too closely;
- e. In failing to take any evasive action, by any means, to keep from striking the plaintiff;
- f. In failing properly to observe the road and traffic conditions;

All of which were the direct and proximate cause of the injuries and damages suffered by the plaintiff herein, said acts being in violation of the statute laws of the State of South Carolina.

6. That as a direct and proximate result of the defendants' negligence, recklessness, willfulness and wantonness, as aforesaid, the plaintiff, Barbara Grant, was thrown about the interior of the vehicle and suffered great bodily injury which has caused

plaintiff, and will cause plaintiff in the future, to incur medical expense, to suffer tremendous pain and suffering and to lose time from work and lost wages. Furthermore, upon information and belief, the plaintiff has suffered permanent and disabling injuries as a result of the above described automobile wreck.

7. The plaintiff is informed and believes and does believe that she is entitled to judgment against the defendants, jointly and severally, for actual damages in an amount sufficient to fully compensate her for injuries and damages received, for punitive damages in an appropriate amount, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

SURASKY LAW FIRM, LLC

BY: 

Stephen K. Surasky
Attorney for Plaintiff
PO Box 1890
Langley, SC 29834

March 8, 2012
Langley, SC

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
) IN THE COURT OF THE COMMON PLEAS
) FOR THE FIFTH JUDICIAL CIRCUIT
) CIVIL ACTION NO.: 2014-CP-40-_____

Louis Green Jr.

Plaintiff,

-vs-

South Carolina Department of
Transportation, South Carolina
Department of Public Safety
and Richland County

Defendants.

**COMPLAINT
(JURY TRIAL DEMANDED)**

RICHLAND COUNTY
FILED
2014 NOV -4 PM 4:24
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

NOW COMES THE PLANITIFF, above-named, complaining of the Defendants, above-named, who alleges and shows unto this Honorable Court as follows:

JURISDICTIONAL STATEMENT

1. That the Plaintiff did suffer injury while on a public road in the County of Richland, in the State of South Carolina.
2. The Defendants, upon information and belief, are authorized regulatory departments of the State of South Carolina charged with construction, maintenance, and/or repair of the public roads of this state.
3. The collision that is the subject of this action occurred in the county of Richland, State of South Carolina, on July 6, 2013.
4. This Court has jurisdiction over the parties and the subject matter of this action.

FACTUAL BACKGROUND

5. On July 6, 2013 at approximately 11:40 PM, Mr. Green was traveling east on Secondary Road 2089, known as Rabbit Run Road in the County of Richland, in the State of South Carolina.
6. It was raining that night and Mr. Green entered a portion of the roadway where standing rain water had pooled across the road.
7. When Mr. Green encountered an accumulation of standing rain water, his vehicle suddenly went out of control causing it to leave the roadway and fall into an embankment.
8. As a result, Mr. Green's vehicle was damaged and Mr. Green was seriously injured.

FOR FIRST CAUSE OF ACTION
(Negligence/Gross Negligence)

9. Plaintiff hereby incorporates the allegations of the foregoing Paragraphs as if fully restated herein.
10. Defendants, either by their own employees or through the use of subcontractors, designed, constructed, maintained, and/or operated the roadway at issue.
11. Defendants owe the general public, including the aforementioned Plaintiff a duty to exercise reasonable care in the construction and maintenance of public roadways.
12. The Defendants, their agents, servants, employees, and/or subcontractors were negligent, negligent *per se*, grossly negligent, careless, reckless, willful, and wanton in failing to design, construct, maintain, and/or operate the roadway in a careful, diligent, and

workmanlike manner, thereby breaching the above-reference duty by, but not limited to, the following particulars:

- a. In failing to maintain a safe roadway for vehicles;
 - b. In failing to design, construct, and maintain the roadways so that it would effectively drain away water;
 - c. In failing to inspect the roadways to ensure that excess accumulations of water do not develop;
 - d. In failing to maintain the turf shoulders and drainage ditches on each side of the roadway, causing rainwater to flow onto the road;
 - e. In failing to construct and maintain a proper slope for the roadway;
 - f. In operating a roadway with a reckless disregard for the right and safety of the others, and especially the rights and safety of the Plaintiff;
 - g. In failing to exercise that degree of care and caution that a reasonable and prudent person would have exercised under the same or similar conditions.
13. As a direct and proximate result of the Defendants' negligence and carelessness described above, Plaintiff's vehicle was damaged and Plaintiff was seriously injured.
 14. Plaintiff, due to recent investigations, has determined that the excess accumulation of standing water on the roadway that does not effectively drain away, together with a lack of maintenance and inspection to prevent the excess accumulation of water in the area where the accident occurred, affected the vehicle's traction and ability to maintain stability while traversing the road during heavy rain and wet conditions, which was proximately caused by the Defendants, their agents, servants, employees, and/or subcontractors.
 15. The breach of duty, violations, and deviations from industry standards on the part of the Defendants constitute gross negligence, entitling Plaintiff to an award of all actual, consequential, and punitive damages.

FOR A SECOND CAUSE OF ACTION
(Strict products Liability)

16. Plaintiff hereby incorporates the allegations of the foregoing paragraphs as if fully restated herein.
17. At all times mentioned in the Complaint, the roadway and its component parts were defective as to design, manufacture, warnings, maintenance, and operation, causing the roadway and its component parts to be in a defective condition that made it dangerous and unsafe for its intended uses.
18. As a direct and proximate result of the dangerous and defective condition of the roadway as described above, the Plaintiff's vehicle and the Plaintiff was seriously injured on July 6, 2013 while using the roadway in the manner for which it was intended.


WHEREFORE, the Plaintiff demands judgment against the Defendants, jointly and severally, for actual and punitive damages, for the cost of this action, for prejudgment interest and post-judgment interest according to law, and for such other further relief that this Court deems just, equitable, and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

Signature page to follow

MOORE LAW FIRM


Dwight C. Moore, Bar No.: SC 63008
26 North Main Street
Post Office Box 1229
Sumter, South Carolina 29150
Telephone (803) 778-6520
Facsimile (803) 775-6365
ATTORNEY FOR THE PLAINTIFF

0.9.31, 2014
Sumter, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Louis Green, Jr.,

Plaintiff,

V

South Carolina Department of
Transportation, South Carolina
Department of Public Safety and
Richland County,

Defendants.

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTH JUDICIAL CIRCUIT
) C/A NO : 2014-CP-40-6958

**STIPULATION OF DISMISSAL
WITHOUT PREJUDICE AS TO SOUTH
CAROLINA DEPARTMENT OF PUBLIC
SAFETY**

Plaintiff hereby desires to dismiss the claims and causes of action against the Defendant South Carolina Department of Public Safety, under Rule 41(a)(1)(A) of the South Carolina Rules of Civil Procedure.

Therefore, the above-captioned action is dismissed as to Defendant South Carolina Department of Public Safety, pursuant to Rule 41(a)(1)(A) of the South Carolina Rules of Civil Procedure, without prejudice.

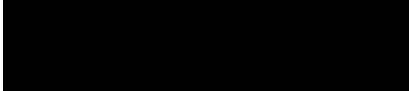
WE SO MOVE:

Dwight C Moore, Esquire
Moore Law Firm, LLC
Post Office Box 1229
Sumter, SC 29150
Attorney for the Plaintiff


Jan 4, 2015

2014-CP-40-6958

Stipulation of Dismissal Without Prejudice as to
South Carolina Department of Public Safety



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Attorneys for SCDOT and SCPS



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Columbia, South Carolina 29202
Attorneys for Richland County

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

RECEIVED

JUL 21 2015

SCDPS
Office of General Counsel

July 17, 2015

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T92681
Date of Occurrence: July 6, 2013
Claimant: Green, Louis, Jr
Date Closed: July 17, 2015

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	1,497.32

If you should have any questions, please contact us.

Sincerely,

Nancy Stevenson
Litigation Consultant

/ns

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

IN THE COURT OF COMMON PLEAS

Case No.: 2013-CP-_____

Glenda W. Hawkins,

Plaintiff,

vs.

Leverne McCrea, Mountain Milk Hauling,
Inc.; Pineland Farm, LLC; Blackbottom
Farm, Inc.; Michael Todd Smith; South
Carolina Forestry Commission, South
Carolina Department of Transportation;
and South Carolina Department of Public
Safety,

Defendants.

COMPLAINT

(Jury Trial Requested)

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE

5/6/13

CLERK OF COURT
CLARENDON COUNTY, SC

BEULAH S. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC

The Plaintiff alleges the following:

1. That she is a resident of the County of Sumter, the State of South Carolina.
2. The Defendant, Leverne McCrea (hereinafter "McRea"), upon information and belief, is a resident of the County of Sumter, State of South Carolina.
3. The Defendant, Mountain Milk Hauling, Inc. (hereinafter "MMH"), upon information and belief, is a company organized and existing under the Laws of the State of Virginia and transports commodities through the State of South Carolina and the United States through owner-operator drivers and employee drivers.
4. The Defendants, Pineland Farm, LLC (hereinafter "PF") and Blackbottom Farm, Inc. (hereinafter "BF"), upon information and belief, are the owners of certain property in Clarendon County, State of South Carolina and were conducting a burn.

5. The Defendant, Michael Todd Smith, hereinafter (Smith"), upon information and belief, is a resident of the State of South Carolina.
6. The Defendant, South Carolina Forestry Commission (hereinafter "SCFC"), is a governmental entity responsible for administering Smoke Management Guidelines. SCFC is organized and exists under the laws of South Carolina and is therefore subject to the general personal jurisdiction of this Court.
7. The Defendant, South Carolina Department of Transportation (hereinafter SCDOT"), is a governmental entity and exists under the laws of South Carolina and is subject to the personal jurisdiction of this Court. SCDOT is responsible for the design, construction and maintenance of signs on the roadways of South Carolina.
8. The Defendant, South Carolina Department of Public Safety (hereinafter SCDPS), is a governmental entity and exists under the laws of South Carolina and is subject to the personal jurisdiction of this Court. SCDPS is responsible for enforcing and maintaining safety on the roadways of South Carolina.
9. The negligent acts, omissions and liability of all Defendants includes their agents, principals, employees and /or servants, both directly and vicariously, pursuant to principals of corporate liability, apparent authority, agency, ostensible agency and/or respondeat superior.
10. That all of the above-named Defendants are jointly and severally liable as to all damages alleged herein since their negligent, grossly negligent, reckless and wanton acts and omissions, singularly or in combination, were a direct and proximate cause of the Plaintiff's damages, injuries and losses.

VENUE

11. Venue is appropriate in Clarendon County since the accident which is the subject of this action occurred in Clarendon County and the alleged tortious actions of the Defendants occurred in Clarendon County.

FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

12. Prior to March 15, 2012, the Defendants, PF and/or BF had applied for and received a permit or permission for a prescribed burn, # 12FB03671, near Highway 15 in Clarendon County. A controlled burn is where an entity burns of trees, shrubbery or some form of debris under strict supervision and control.
13. The permit supposedly allowed PF and/or BF to conduct a controlled burn along 100 acres of property which, upon information and belief, is owned by PF and/or BF.
14. The permit had been requested through SCFC which granted the request for the controlled burn permit.
15. The Defendants PF and/or BF did burn certain acreage resulting in smoke standing on the highway creating a dangerous and hazardous condition for the operators of vehicles and travelers on Highway 15.
16. The dangerous condition was such that the Defendants PF and/or BF knew or should have known that a dangerous condition existed on the roadway in South Carolina and their acts and omissions caused such dangerous conditions.
17. The Defendant SCFC, did not manage, oversee, warn, place signs or cause signs to be placed and took no action to warn motorists of a dangerous

condition on the highway resulting in this accident and causing injury to the Plaintiff.

18. Upon information and belief, on March 15, 2012, SCFC was the agency in South Carolina charged with the responsibility of issuing permits and performing inspections and investigations into permits from companies requesting permission to do controlled burns of natural resources such as tress and brush in a given area.
19. Upon information and belief, sometime prior to March 15, 2012, SCFC received a request from a company in the County of Williamsburg, State of South Carolina, by the name of Smith in the County of Clarendon, State of South Carolina to do a controlled burn of 300 tons of timber and/or brush.
20. SCFC had a duty and obligation to inspect and investigate the request and either grant or deny the request for a controlled burn of natural resources.
21. SCFC failed to do a proper inspection and/or investigation of the request and did not discover some of the very dangerous ramifications of this potential controlled burn.
22. A controlled burn is not supposed to create a hazardous situation on public thoroughfares in the State of South Carolina.
23. This supposed controlled burn by PF and/or BF created an extremely hazardous situation since the smoke from the burn settled on a public thoroughfare in Clarendon County.
24. This smoke created a hazard to members of the traveling public and the Defendants SCDPS and SCDOT were supposed to warn people of this hazard or help control this hazard and it appears they did nothing to warn of

this hazard or control this hazard.

25. That, on or about, March 15, 2012, McRea, an employee or agent of MMH, was operating a tractor trailer truck owned and/or being operated under the placard of in a northerly direction on, or near Highway 15 in Clarendon County.
26. At the same time and traveling in the same direction as McRea on Highway 15 in Clarendon County, the Plaintiff was operating a 2004 Chevrolet Trailblazer.
27. The Plaintiff unexpectedly encountered settling smoke on Highway 15 in Clarendon County and slowed down her vehicle in a safe manner.
28. Upon information and belief, McRea also encountered the smoke on the highway while traveling ahead of Plaintiff and stopped the vehicle on the roadway in an unsafe manner.
29. The Plaintiff's vehicle collided with the tractor trailer driven by Defendant McRea with enough force and violence to cause the Plaintiff severe injuries.
30. Along with the unlawful actions of MMH and McRea and as a result of the hazard created by PF, BF and SCFC, and the hazard which was not warned about or controlled by SCDPS or SCDOT, the Plaintiff was involved in a severe motor collision.
31. The vehicular collision caused the severe injuries of the Plaintiff and resulted due to the negligence, carelessness, recklessness and gross negligence of all parties.

FOR A FIRST CAUSE OF ACTION
NEGLIGENCE AND GROSS NEGLIGENCE

32. The Plaintiff repeats and re-alleges paragraphs 1-34 as if set forth herein verbatim, and would further allege:

VICARIOUS LIABILITY OF MMH AND McREA

33. The Plaintiff is informed and does believe that the Defendants MMH and McRea owed a duty to the Plaintiff to operate the Defendants' tractor trailer safely on March 15, 2012, including maintaining proper safety standards prior to the tractor trailer and McRea entering the highway on March 15, 2012.
34. On March 15, 2012, the Defendants MMH and McRea were negligent, careless, reckless, wanton, and grossly negligent in the following particulars, which contributed to the severe injuries suffered by the Plaintiff:
- a. Driving a motor vehicle in such a manner as to indicate a willful, wanton, reckless, grossly negligent disregard for the safety of others, in violation of S.C. Code Ann. 56-5-2920;
 - b. Failing to maintain a proper lookout;
 - c. Failing to take evasive action;
 - d. Failing to use the degree of care and caution that a reasonable person would have used under the circumstances then and there prevailing;
 - e. Failing to keep the motor vehicle he was operating under control;
 - f. Failing to operate a commercial vehicle in a manner required by the Federal Motor Carriers Safety Regulations; and
 - g. In such other and further particulars as the evidence at trial may show.

INSTITUTIONAL LIABILITY OF MMH
NEGLIGENT HIRING, RETENTION, TRAINING AND SUPERVISION

35. The Plaintiff is informed and does believe that the Defendants MMH and McRea owed a duty to Plaintiff to operate the Defendants' tractor trailer safely on March 15, 2012, including maintaining proper safety standards prior to the tractor trailer and McRea entering the highway on March 15, 2012.
36. On March 15, 2012, the Defendant MMH was negligent, careless, reckless, wanton, and gross negligent in the following particulars, which contributed to the injuries of the Plaintiff:
- a. In failing to have in place policies and procedures to train and/or monitor its drivers, or if such procedures were in place, in failing to enforce them;
 - b. In failing to have in place adequate policies and procedures to mandate compliance by its drivers with statutes, laws, and regulations regarding the operation of motor vehicles, or if such policies and procedures were in place, in failing to enforce them;
 - c. In failing to have in place an adequate safety program for the safety and protection of the motoring public, or if such program was in place, in failing to implement it;
 - d. In failing to ensure that Defendant McRea had the proper training and experience to be able to navigate a vehicle in a safe and effective manner.
 - e. In entrusting a vehicle to Defendant McRea when MMH knew or

should have known that McRea could not navigate the vehicle in a safe and effective manner;

- f. In failing to properly investigate Defendant McRea's driving record and/or ability to drive to ensure that McRea possessed the requisite skill and attention to maintain control of and ability drive a vehicle for MMH.
- g. In failing to ensure that Defendant Bethea had sufficient, adequate and current training, credentials and skills to properly drive a company vehicle;
- h. In hiring McRea as a driver when MMH knew or should have known that McRea was not qualified or had the requisite skill to drive a company vehicle;
- i. In retaining McRea as a driver when MMH knew or should have known that McRea was not qualified or had the requisite skill to drive a company vehicle;
- j. In generally failing to use the degree of care and caution that a reasonably prudent entity would have used under the same or similar circumstances.

SCFC

- 37. The Plaintiff is informed and does believe that the Defendant SCFC owed a duty to all motorists on the highway in South carolina, including the Plaintiff, to properly investigate, grant and deny permits to do controlled burns for requesting entities in all counties in South Carolina, including the permits for PF,BF and Smith in Clarendon County.

38. On March 15, 2012, the Defendant SCFC was negligent, careless, reckless, wanton, and grossly negligent in the following particulars, which contributed to the death of the Decedent:
- a. Failing to properly supervise the persons doing an investigation or inspection of the permit request by Smith to do a controlled burn in Clarendon County
 - b. Failing to conduct a proper inspection of the permit to ascertain the rationale and determine safety standards of the request by Smith to do a controlled burn in Clarendon County;
 - c. Failing to conduct a proper investigation of the permit to ascertain the rationale and determine safety standards of the request by Smith to do a controlled burn in Clarendon County.
 - d. Failing to timely notice that the controlled burn by Smith/PF/BF was not proceeding as planned and either detouring traffic away from the self created safety hazard or warning motorists properly of the safety hazard;
 - e. Failing to timely enact or enforce proper safety procedures for a controlled burn in Clarendon County in March, 2012;
 - f. Failing to protect Motorists on the highway from a hazard created in part by SCFC;
 - g. Failing to notice or act in a timely manner to a hazard created in part by SCFC's own actions;
 - h. Failing to properly train all persons in the chain of command who could supervise employees or do a proper inspection or investigation

of the permit request by Smith to do a controlled burn in Clarendon County in March, 2012.

SCDPS and SCDOT

39. The Plaintiff is informed and does believe that the Defendant SCDPS and SCDOT owed a duty to all motorists on the highway in South carolina, including the Plaintiff, to properly facilitate safe travel on the highways of South Carolina.
40. On March 15, 2012, the Defendants SCDPS and SCDOT were negligent, careless, reckless, wanton, and grossly negligent in the following particulars, which contributed to the injuries of the Plaintiff:
 - a. In failing to warn those traveling on Highway 15 that dangerous conditions on the roadway existed at the time of the accident herein;
 - b. In failing to correct the problems that existed on Highway 15, although the SCDOT and the SCDPS knew or should have known of the dangerous condition of the roadway;
 - c. In failing to properly train and supervise their employees so that they would be aware of when to advise of any such hazardous conditions;
 - d. In failing to properly maintain Highway 15 and failing to maintain safety on Highway 15.
 - e. In failing to properly patrol the intersection of Highway 15;
 - f. In failing to warn of the smoke in the roadway prior to the time of the accident;
 - g. In failing to keep the roadway in a reasonable safe condition for public travel;

- h. In failing to use that degree of care that a reasonably prudent entity would have exhibited under the same or similar circumstances.

**MICHAEL TODD SMITH; PINELAND FARM, LLC AND
BLACKBOTTOM FARM, INC.**

- 41. The Plaintiff is informed and does believe that the Defendants Smith, PF and BF owed a duty to all motorists on the highway in South Carolina, including the Plaintiff, to properly facilitate a safe controlled burn so as to prevent standing smoke on the highway adjacent to the controlled burn.
- 42. On March 15, 2012, the Defendants Smith, PF and BF were negligent, careless, reckless, wanton, and grossly negligent in the following particulars, which contributed to the death of the Decedent:
 - a. In failing to adequately prepare for the prescribed burn;
 - b. In failing to supervise said burn;
 - c. In failing to supervise its agents, servants and employees;
 - d. In failing to notify proper authorities regarding the smoke settling on the highway when they knew or should have known of the dangerous condition;
 - e. In failing to have in place an adequate safety program for the safety and protection of the motoring public and public at large.
 - f. In failing to monitor said burn;
 - g. In failing to act as a reasonable and prudent person under the circumstances;
 - h. In failing to abide by the ordinances, regulations and laws in existence;

- i. In failing to return to the site of the fire to check it; and
- j. In failing to pay attention to the weather conditions and other conditions so as to prevent an immediate hazard.

WHEREFORE, the Plaintiff prays for Judgment against the non-governmental Defendants for actual and punitive damages in an amount to be determined by the jury at the trial in this action and judgment against the governmental Defendants for actual and consequential damages in an amount to be determined by the jury at the trial in this action, for the costs and disbursements of this action and for such other and further relief as this Court deems just and proper.

McGOWAN HOOD & FELDER, LLC

Patrick M. Killen
Attorney for Plaintiff
28 North Main Street
Sumter, SC 29150
(803) 774-5026
(803) 774-5028 Fax
pkillen@mcgowanhood.com


Sumter, South Carolina


Date: 5-1-13

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CLARENDON	)	Case No: 2013-CP-14-192
)	
Glenda Hawkins,)	
)	
Plaintiff,)	
)	
vs.	)	STIPULATION OF DISMISSAL
)	
Leverne McCrea; Mountain Milk Hauling,)	
Inc.; Pineland Farm, LLC; Blackbottom)	
Farm, Inc.; Michael Todd Smith; South)	
Carolina Forestry Commission, South)	
Carolina Department of Transportation;)	
And South Carolina Department of)	
Public Safety,)	
)	
Defendants.)	


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CLERK OF COURT
CLARENDON COUNTY, SC

IT IS HEREBY STIPULATED AND AGREED, by and between the parties and their respective counsel, that the above-captioned action is voluntarily dismissed, with prejudice, against the Defendant South Carolina Department of Public Safety, pursuant to the Federal Rules of Civil Procedure 41(a)(1). All parties agree also to be responsible for their own costs and attorney's fees.


Patrick M. Killen, Esq.
McGowan, Hood & Felder
28 N. Main Street
Sumter, SC 29150
Attorney for the Plaintiff


J. Scott Kozacki, Esq.
Willcox, Buyck & Williams, PA
248 West Evans Street
Florence, SC 29501
Attorney for the SC Department of
Public Safety

July 2, 2015
South Carolina

CERTIFIED TRUE COPY
ORIGINAL FILED IN THIS OFFICE
DATE 7/13/15

CLERK OF COURT
CLARENDON COUNTY, SC

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

June 22, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T98111
Date of Occurrence: March 15, 2012
Claimant: Masincupp, Kathryn, et al.
Date Closed: December 8, 2015

Also, Hawkins, Glendon

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 63,735.73

If you should have any questions, please contact us.

Sincerely,

Dennis T. Elledge
Manager, Tort Claims Department

/dte

In the Name of Allah, the Most Gracious, the Most Merciful

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

RECEIVED
USDC CLERK, COLUMBIA, SC

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5

Regina M. Hunter

v.

Civil Action No.

State of South Carolina Government

The Honorable Nikki R. Haley, Governor

COMPLAINT

Sumter County South Carolina Government

Mr. Gary A. Mixon, Administrator

Mrs. Naomi D. Sanders, Chairman, D-1

Mr. Larry Blanding, Former Chair

Mr. Artie Baker, Council Member, D-2

Mr. James R. Byrd, Jr. Council Member, D-3

Mr. Charles T. Eden, Council Member, D-4

Mrs. Vivian Fleming-McGhaney, Council Mbr. D-5

Mr. James T. McCain, Jr. Council Member, D-6

Mr. Eugene Baten, Council Member, D-7

for

**Injunctive Relief
& Punitive Damages**

Civil Rights Act of 1866

Civil Rights Act of 1957

Civil Rights Act of 1960

Civil Rights Act of 1964

Civil Rights Restoration Act of 1987

Civil Rights Act of 1991

Title 18 USC Ch. 13 §241

Title 18 USC Ch. 13 §242

Title 18 USC Ch. 13 §245

Title 18 USC Ch. 13 §247

Title 42 USC Ch. 21B §2000bb-1

Title 42 USC Ch. 21 §1988

Religious Freedom Restoration Act 1993

South Carolina Judicial Dept. (SCJD), Supreme Court

The Honorable Jean Hoefer Toal, Chief Justice

The Honorable Costa M. Pleicones, Justice

The Honorable Donald W. Beatty, Justice

The Honorable John W. Kittredge, Justice

The Honorable Kaye G. Hearn, Justice

Mrs. Rosalyn Frierson, Director, Court Admin.

South Carolina Court of Appeals (SCJD)

The Honorable John C. Few, Chief Judge

The Honorable Thomas E. Huff, Judge

The Honorable Paul E. Short, Jr., Judge

The Honorable H. Bruce Williams, Judge

The Honorable Paula H. Thomas, Judge

The Honorable Aphrodite K. Konduros, Judge

The Honorable John D. Geathers, Judge

The Honorable James E. Lockemy, Judge

The Honorable Stephanie P. McDonald, Judge

The Honorable Jasper Cureton, Associate Judge

Sumter County Court of Common Pleas (SCJD)

The Hon. R. Ferrell Cothran, 3rd Circuit Judge

The Hon. George C. Campbell, 3rd Circuit Judge

The Hon. W. Jeffrey Young, Jr., 3rd Circuit Judge

The Hon. James C. Campbell, Clerk of Court

<i>Sumter County Court of Common Pleas (SCJD) (cont'd)</i>)	
The Honorable Donna Griffin, Deputy Clerk)	
Mrs. Sherry Yow, Clerk-Common Pleas	)	Civil Action No.
Mrs. Barbara Sharper, Clerk-Common Pleas)	
Mr. Joseph Bradley (Sr. Court Bailiff))	
[John Doe 01], Court Bailiff, Jan. 8, 2013)	
[John Doe 02], Court Bailiff, Feb. 5, 2013	)	COMPLAINT
[John Doe 03], Court Bailiff, Feb. 5, 2013)	
[John Doe 04], Court Bailiff, June 17, 2013	)	for
)	
<i>Sumter County Summary Court (SCJD)</i>	)	Injunctive Relief
The Honorable Kristi F. Curtis, Chief Magistrate	)	& Punitive Damages
)	
<i>Sumter County Probate Court (SCJD)</i>	)	Civil Rights Act of 1866
The Honorable Dale W. Atkinson, Probate Judge	)	Civil Rights Act of 1957
The Honorable Betty Brown, Associate Judge	)	Civil Rights Act of 1960
The Honorable Theresa Duggan, Associate Judge	)	Civil Rights Act of 1964
Mrs. Yvonne Choice, Clerk	)	Civil Rights Restoration Act of 1987
Mrs. Joy King, Clerk	)	Civil Rights Act of 1991
	)	Title 18 USC Ch. 13 §241
<i>Sumter County Sheriff's Office (SCSO)</i>	)	Title 18 USC Ch. 13 §242
Mr. Anthony Dennis, Sheriff	)	Title 18 USC Ch. 13 §245
Mr. Terrance Colclough, Captain	)	Title 18 USC Ch. 13 §247
Mr. Kevin Lindsey, Lieutenant or Sergeant	)	Title 42 USC Ch. 21B §2000bb-1
Mr. Symeon Graham, Senior Deputy	)	Title 42 USC Ch. 21 §1988
Mr. Steven Rulong, Deputy Sheriff	)	Religious Freedom Restoration Act 1993
[John Doe 01] Deputy Sheriff)	
[John Doe 02] Deputy Sheriff)	
[John Doe 03] Deputy Sheriff)	
[John Doe 04] Deputy Sheriff)	
[John Doe 05] Deputy Sheriff)	
[John Doe 06] Deputy Sheriff)	
[John Doe 07] Deputy Sheriff)	
[John Doe 08] Deputy Sheriff)	
[John Doe 09] Deputy Sheriff)	
)	
<i>South Carolina Human Affairs Commission</i>)	
Mr. Raymond Buxton, Commissioner)	
Mrs. Cheryl Ludlam (1 st Cong. District))	
Mrs. Ashley Case (3 rd Cong. District))	
Mr. Willie Thompson (4 th Cong. District))	
Mr. Harold Jean Brown (7 th Cong. District))	
Mr. Kenneth Willingham (<i>At-Large Member</i>))	
Mr. Joseph Fragale (<i>At-Large Member</i>))	

<i>South Carolina Dept. of Mental Health Commission</i>)	
Mrs. Alison Y. Evans, Psy.D, Chair)	
Mrs. Beverly F. Cardwell, Member	)	Civil Action No.
Mrs. Jane B. Jones, Member)	
Mrs. Joan Moore, Member)	
Mr. Everard Rutledge, Ph.D., Member)	
Mr. James B. Terry, Member	)	COMPLAINT
Mrs. Sharon L. Wilson, FACHE, CEAP, Member)	
	)	for
<i>South Carolina Department of Mental Health</i>)	
Mr. John H. Magill, Director	)	Injunctive Relief
Mr. Mark Binkley, Deputy Director, Admin. Svcs.	)	& Punitive Damages
Mrs. Rochelle Caton, Director, Client Advocacy)	
	)	Civil Rights Act of 1866
<i>Santee-Wateree Community Mental Health Center</i>	)	Civil Rights Act of 1957
Mr. Richard B. Guess, MEd., Executive Director	)	Civil Rights Act of 1960
Mrs. Marian Dehlinger, MD, Medical Director	)	Civil Rights Act of 1964
Mr. Lynn Melton, Elder Service Program Dir.	)	Civil Rights Restoration Act of 1987
Mrs. Lanalle Darden, CAF Director	)	Civil Rights Act of 1991
Mr. Jeemy Grate-Pearson, M.Ed.	)	Title 18 USC Ch. 13 §241
[Jane Doe-1] "T. Miller"	)	Title 18 USC Ch. 13 §242
	)	Title 18 USC Ch. 13 §245
<i>Tuomey Healthcare System</i>	)	Title 18 USC Ch. 13 §247
Mr. Michael J. Schwartz, President & CEO	)	Title 42 USC Ch. 21B §2000bb-1
Mr. James Balvich, MD	)	Title 42 USC Ch. 21 §1988
Mr. Michael Hanna, PA-C	)	Religious Freedom Restoration Act 1993
Mrs. Billie Vanburen, RN)	
Brenda Holmes, RN)	
Cheryl Madarang, RN)	
Monica A. Fortin, Interface, Ed)	
Robin Beaufort)	
[Jane Doe 1], PAMAF (Admissions Clerk))	
[Jane Doe 2], Security Guard)	
)	
<i>South Carolina Dept. of Transportation Commission</i>)	
Mr. John Edwards, Former Chair)	
Mr. Jim Rozier, Chairman (1 st Cong. District))	
Mr. Harrison Rearden, Former Member)	
Mr. Samuel Glover (6 th Cong. District))	
Mrs. Janet P. Oakley, SCDOT Secretary)	
)	
<i>South Carolina Department of Public Safety</i>		
Mr. Leroy Smith, Director SCDPS		
Mr. Zackary Wise, Chief of Police, [BPS]		
Corporal Griffin, [BPS] Officer		

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ABBREVIATIONS

1. OCR: Office for Civil Rights
2. OJP: Office of Justice Programs
3. DOJ: U.S. Department of Justice
4. SCSO: Sumter County Sheriff's Office
5. SCPD: Sumter County Police Department
6. SCJD: South Carolina Judicial Department
7. FRCP: Federal Rules of Civil Procedures
8. SCCA: South Carolina Court Administration
9. FOIA: Freedom of Information Act
10. CRA: Civil Rights Act
11. FOIA: Freedom of Information Act

FORM OF PLEADING

This complaint adheres to FRCP Rule 10 and Local Civil Rules as of August 20, 2014. It also includes a discussion on the geographical background, historic documents, case precedents, and International Covenants on Human Rights that buttress the arguments set forth herein.

This complaint is also a Bill of Certiorari to President Barack Obama pursuant to the Civil Rights Act of 1964 (as amended by the Civil Rights Restoration Act of 1987). The Attorney General Nominee is Mrs. Loretta Lynch. At the time of this complaint, the current Attorney General is Mr. Eric Holder and the Acting Assistant Attorney General for the Civil Rights Division is Vanita Gupta. The Director of the Office of Justice Programs is Mr. Michael Alston and the DOJ attorney assigned to the complaint submitted to DOJ in March 2014 was Mrs. Shelley Langguth. The United States of America, Inc. is a federal corporation, Title 28, Chapter 15, § 3002 15 (A) with the capacity to sue or be sued. The Attorney General was established by the Judiciary Act of 1789. The Department of Justice was created by an act of Congress under President Ulysses S. Grant on June 22, 1870 and began official operations on July 1, 1870. The Civil Rights Division “is the institution within the federal government responsible for enforcing federal statutes prohibiting discrimination on the basis of race, sex, disability, religion, and national origin.” The Division was established on December 9, 1957, by order of Attorney General William P. Rogers, after the Civil Rights Act of 1957 created the office of Assistant Attorney General for Civil Rights, who has since then headed the division.”¹

¹ http://en.wikipedia.org/wiki/United_States_Department_of_Justice_Civil_Rights_Division

TABLE OF AUTHORITIES

The Holy Qu'ran

Surah <i>Nur</i> 24:30-31	
Surah <i>Ahzab</i> 33:59	
Surah <i>Shura</i> 42: 39-43	

Founding Documents

Magna Charta, 1297	
Province of Carolina Land Grant by King Charles II, March 24, 1633	
Charter of Carolina, June 30, 1665	
Concessions & Agreements of the Lords Proprietors, Province of Carolina 1665	
The Declaration of Independence, July 4, 1776	
Articles of Confederation, 1777	
Northwest Ordinance, July 13, 1787	
An Act to Incorporate the Village of Sumterville, December 15, 1845 (Act No. 2956)	
An Act to Recharter the Town of Sumter, S.C., December 24, 1883 (Act No. 587)	

International Covenants

The Treaty of Peace and Friendship, July 18, 1787	
Charter of the United Nations, October 24, 1945	
Universal Declaration of Human Rights, December 16, 1949	
International Covenant on Civil and Political Rights, March 23, 1976	
The Convention on the Rights of the Child, September 2, 1990	
Inter-American Declaration of Principles on Freedom of Expression	
American Convention on Human Rights	

United States Republic and U.S. Federal Authorities

The Constitution of the United States, September 17, 1787	
The Bill of Rights, 1791	
Emancipation Proclamation 1863	
Freedmen's Bureau Bill 1865	
Civil Rights Act of 1866	
Civil Rights Act of 1957	
Civil Rights Act of 1964	
Civil Rights Restoration Act of 1987	
Civil Rights Act of 1991	
Religious Freedom Restoration Act of 1993	
Title 18 USC Ch. 13 §241 Conspiracy against civil rights	
Title 18 USC Ch. 13 §242 Deprivation of rights	
Title 18 USC Ch. 13 §245 Federally protected activities	
Title 18 USC Ch. 13 §247: Damage to religious property; obstruction of persons in the	

free exercise of religious beliefs
 Title 42 USC Ch. 21B §2000bb-1: Free exercise of religion protected.....
 Title 42 USC §1988: Proceedings in vindication of civil rights

South Carolina State Authorities

The Constitution of South Carolina, December 4, 1895.....
 S.C. Code of Law § 14-1-50
 S.C. Code of Law §1-13-90 (f)
 S.C. Code of Law § 4-1-10
 S.C. Code of Law § 4-9-30
 S.C. Code of Law § 4-3-490
 S.C. Code of Law § 44-17-430

Federal Cases

Sherbert v. Verner, 374 U.S. 398 (1963)

PARTIES TO THE CASE TABLE

Plaintiff	Regina M. Hunter 3390 Highway 261 North Rembert, SC 29128 Tel: (803) 883-0600 Cell: (803) 305-7790 reginahunter@fic-i.net	
FRCP Rule 4(e)(1) & Rule 4(h)(1)(B)		
Defendant	State of South Carolina Government The Honorable Nikki R. Haley, Governor Office of the Governor 1205 Pendleton Street Columbia, SC 29201 Phone: (803) 734-2100 Fax: (803) 734-5167	The Honorable Alan Wilson S.C. Attorney General Rembert Dennis Building 1000 Assembly Street Room 519 Columbia, SC 29201 Tel (803) 734-3970
FRCP Rule 4(e)(1) & Rule 4(h)(1)(B)		
Defendant & Et al.	Sumter County South Carolina Government c/o Mr. Johnathan W. Bryan, County Attorney Administration Building 13 East Canal Street Sumter, SC 29150-4925 Tel. (803) 774-3877 Fax: (803) 436-2108	The Honorable Alan Wilson S.C. Attorney General Rembert Dennis Building 1000 Assembly Street Room 519 Columbia, SC 29201 Tel (803) 734-3970
FRCP Rule 4(e)(1) & Rule 4(h)(1)(B)		
Defendant & Et al.	The Supreme Court of South Carolina (SCJD) c/o The Honorable Mr. Daniel Shearouse Clerk of Court 1231 Gervais Street Columbia, SC 29201 Tel. (803) 734-1080 Fax: (803) 734-1499	The Honorable Alan Wilson S.C. Attorney General Rembert Dennis Building 1000 Assembly Street Room 519 Columbia, SC 29201 Tel (803) 734-3970
FRCP Rule 4(e)(1) & Rule 4(h)(1)(B)		
Defendant & Et al.	The South Carolina Court of Appeals (SCJD) c/o The Honorable Mrs. Jenny Kitchings Clerk of Court 1015 Sumter Street Columbia, SC 29201 Tel. (803) 734-1890 Fax: (803) 734-1839	The Honorable Alan Wilson S.C. Attorney General Rembert Dennis Building 1000 Assembly Street Room 519 Columbia, SC 29201 Tel (803) 734-3970
FRCP Rule 4(e)(1) & Rule 4(h)(1)(B)		
Defendant & Et al.	Sumter County Court of Common Pleas (SCJD) c/o The Honorable James C. Campbell 215 North Harvin Street Sumter, SC 29150 Tel. (803) 436-2227 Fax: (803) 436-2223	Mr. Johnathan W. Bryan, County Attorney Administration Building 13 East Canal Street Sumter, SC 29150-4925 Tel. (803) 774-3877, Fax: (803) 436-2108

PARTIES TO THE CASE TABLE (Continued)

Defendant	Sumter County Summary Court (SCJD) The Honorable Kristi F. Curtis Chief Magistrate 190 E. Canal St Sumter, SC 29150 Phone: 803-436-2280 Fax: 803-436-2789, Fax 2: 803-436-2223	FRCP Rule 4(e)(1) & Rule 4(h)(1)(B) Mr. Johnathan W. Bryan, County Attorney Administration Building 13 East Canal Street Sumter, SC 29150-4925 Tel. (803) 774-3877 Fax: (803) 436-2108
		FRCP Rule 4(e)(1) & Rule 4(h)(1)(B)
Defendant & Et al.	Sumter County Probate Court (SCJD) The Honorable Dale W. Atkinson Probate Judge 215 North Harvin Street Sumter, SC 29150 Sumter, SC 29150 Tel: 803-436-2166 Fax: 803-436-2407	Mr. Johnathan W. Bryan, County Attorney Administration Building 13 East Canal Street Sumter, SC 29150-4925 Tel. (803) 774-3877 Fax: (803) 436-2108
		FRCP Rule 4(e)(1) & Rule 4(h)(1)(B)
Defendant & Et al.	Sumter County Sheriff's Office (SCJD) Mr. Anthony Dennis, Sheriff 1281 North Main Street Sumter, SC 29150 Tel: 803-436-2000 Fax: 803-774-4595	The Honorable Alan Wilson S.C. Attorney General Rembert Dennis Building 1000 Assembly Street Room 519 Columbia, SC 29201 Tel (803) 734-3970
		FRCP Rule 4(e)(1) & Rule 4(h)(1)(B)
Defendant & Et al.	South Carolina Human Affairs Commission Mr. Raymond Buxton, Commissioner 2612 Forest Drive, Suite 200 P.O. Box 4490 Columbia, SC 29240 Tel. (803) 737-7800 Fax: (803) 737-7835, Fax 2: (803) 253-4191	The Honorable Alan Wilson S.C. Attorney General Rembert Dennis Building 1000 Assembly Street Room 519 Columbia, SC 29201 Tel (803) 734-3970
		FRCP Rule 4(e)(1) & Rule 4(h)(1)(B)
Defendant & Et al.	South Carolina Department of Mental Health Commission, c/o Mr. Alan Powell, General Counsel 2414 Bull Street P.O. Box 485 Columbia, SC 29202	The Honorable Alan Wilson S.C. Attorney General Rembert Dennis Building 1000 Assembly Street, Room 519 Columbia, SC 29201 Tel (803) 734-3970
		FRCP Rule 4(e)(1) & Rule 4(h)(1)(B)
Defendant & Et al.	South Carolina Department of Mental Health Mrs. Alison Y. Evans, Psy.D, Chair c/o Mr. Alan Powell, General Counsel S.C. Department of Mental Health 2414 Bull Street, P.O. Box 485 Columbia, SC 29202	The Honorable Alan Wilson S.C. Attorney General Rembert Dennis Building 1000 Assembly Street, Room 519 Columbia, SC 29201 Tel (803) 734-3970
		FRCP Rule 4(e)(1) & Rule 4(h)(1)(B)

Defendant & Et al.	Santee-Wateree Community Mental Health Center Mr. Richard B. Guess, M.Ed., Exec. Director 215 N. Magnolia Street Sumter, SC 29151-1946 Columbia, SC 29202	Mr. Alan Powell, General Counsel S.C. Department of Mental Health 2414 Bull Street P.O. Box 485 Columbia, SC 29202
<hr/>		
Defendant	Tuomey Healthcare System Mr. Michael Schwarz, President & CEO c/o Mrs. Macaulay Smith, Attorney 129 North Washington Sumter, SC 29150 Tel.: 803-774-1773 Fax: 803-774-9846	
<hr/>		
Defendant & Et al.	South Carolina Dept. of Transportation Commission Mr. Jim Rozier, Chairman 955 Park Street, P.O. Box 191 Columbia, SC 29201-3959 Tel. (803) 737-0013	FRCP Rule 4(e)(1) & Rule 4(h)(1)(B) The Honorable Alan Wilson S.C. Attorney General Rembert Dennis Building 1000 Assembly Street, Room 519 Columbia, SC 29201 Tel (803) 734-3970
<hr/>		
Defendant & Et al.	South Carolina Department of Transportation Mr. Janet P. Oakley., Trans. Secretary c/o Linda C. McDonald, Chief Counsel Office of the Transportation Secretary 955 Park Street, P.O. Box 191 Columbia, SC 29202-0191	FRCP Rule 4(e)(1) & Rule 4(h)(1)(B) The Honorable Alan Wilson S.C. Attorney General Rembert Dennis Building 1000 Assembly Street, Room 519 Columbia, SC 29201 Tel (803) 734-3970
<hr/>		
Defendant & Et. al.	South Carolina Department of Public Safety (Bureau of Protective Services) Mr. Leroy Smith, Director 10311 Wilson Blvd. Blythewood, SC 29016 Tel. (803) 896-7979 Fax: (803) 896-7967	FRCP Rule 4(e)(1) & Rule 4(h)(1)(B) The Honorable Alan Wilson S.C. Attorney General Rembert Dennis Building 1000 Assembly Street, Room 519 Columbia, SC 29201 Tel (803) 734-3970

PREVIOUS LITIGATIONS

- | | |
|---|---|
| 1 | Parties: Regina M. Hunter v. Sammie Taylor
Docket No. 2012-OR-00041
Venue: Sumter County Summary Court
Judge: The Honorable Kristi F. Curtis, Chief Magistrate
Status of Case: Disposed
Date File: August 7, 2012
Date Disposed: August 16, 2012; September 6, 2012 |
| 2 | Parties: Regina M. Hunter v. Sammie Taylor
Docket No. 2013-OR-00039
Venue: Sumter County Summary Court
Judge: The Honorable Kristi F. Curtis, Chief Magistrate
Status of Case: Disposed
Date File: March 27, 2013
Date Disposed: April 11, 2013 |
| 3 | Parties: Regina M. Hunter v. Sammie Taylor
Docket No. 2012-CP4301965
Venue: Sumter County Court of Common Pleas
Judge (s): The Honorable R. R. Ferrell Cothran, The Honorable George C. Campbell, The Honorable W. Jeffrey Young, Jr.
Status of Case: Disposed
Date File: October 5, 2012
Date Disposed: February 26, 2013 |
| 4 | Parties: Regina M. Hunter v. Sammie Taylor
Docket No. 2013-CP4300803
Venue: Sumter County Court of Common Pleas
Judge (s): The Honorable W. Jeffrey Young, Jr.
Status of Case: Dismissed per Rule 41(a)
Date File: May 13, 2013
Date Disposed: August 26, 2013 |
| 5 | Parties: Regina M. Hunter v. Sammie Taylor
Docket No. 2013-002794, 2013-002646
Venue: The South Carolina Court of Appeals
Judge (s): The Honorable John C. Few, Chief Judge
The Honorable Paul E. Short, Jr., Judge
The Honorable Jasper Cureton, Associate Judge
Status of Case: Dismissed, Remittitur Remittitur, Amended Remittitur Remittitur
Date File: December 16, 2013
Date Disposed: March 3, 2013 2014 |

PREVIOUS LITIGATIONS

- | | |
|----------|---|
| 6 | Parties: Regina M. Hunter v. Sammie Taylor
Docket No. 2014-001508
Venue: 2014-001029
2013-000374, 2013-001350 (Hunter v. Taylor 2012-CP43019645)
The Supreme Court of South Carolina
The Honorable Chief Justice Jean Hoefer Toal
Judge (s): Justice Costa M. Pleicones
Justice Donald W. Beatty
Justice John W. Kittredge
Justice Kaye G. Hearn
Status of Case: Petition for Writ Certiorari Denied
Date File: July 11, 2013 2014
Date Disposed: November 20, 2013 2014 |
| 7 | Parties: Regina M. Hunter <i>ex-parte</i>
Docket No. 2014-001116
Venue: The Supreme Court of South Carolina
The Honorable Chief Justice Jean Hoefer Toal
Judge (s): Justice Costa M. Pleicones; Justice Donald W. Beatty
Justice John W. Kittredge; Justice Kaye G. Hearn
Status of Case: Petition for Extraordinary Relief
Date File: May 18, 2014
Date Disposed: June 25, 2014 |
| 8 | Parties: Regina M. Hunter v. Sumter County Court of Common Pleas
Complaint No. Charge #: 3-7-24-13-2, EEOC FEPA: 14C-2013-00980N
Venues: South Carolina Human Affairs Commission
U.S. Equal Employment Opportunity Commission (Charlotte)
Commissioner: Mr. Raymond Buxton, Commissioner
Status of Case: Notice of Right to Sue (Dismissal)
Date File: July 30, 2013
Date Disposed: February 21, 2014 |
| 9 | Parties: Regina M. Hunter v. South Carolina Judicial Department (SCJD)
and Sumter County Sheriff Office (SCSO)
Complaint No. 14-OCR-29
Venues: U.S. Department of Justice, Office of Justice Programs, Office of
Civil Rights
Director: Mr. Michael Alston, Director
Status of Case: Dismissed, Notice of Closure
Date File: March 26, 2014
Date Disposed: June 3, 2014 |

STATUS

I, Regina Michelle Hunter bear witness that there is no God but Allah, The Creator of the Heavens and Earth, The Sovereignty (*Al-Mulk*), All-Powerful, Full of Strength Able to Enforce His Will. I have inalienable human rights from my Creator, revealer of the Holy Qu'ran. I, the Plaintiff, Regina Michelle Hunter, In Full Life, In Propria Persona, Sur Juris am part and parcel of the United States Republic. I assert my human rights secured by The Charter of the United Nations and the Statute of the International Court of Justice, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Inter-American Commission on Human Rights, The Declaration of the Rights of Indigenous Peoples, the Convention on the Rights of the Child, and the constitutions of the United States and the State of South Carolina².

I, Regina Michelle Hunter, am not at war with the United States of America, a federal corporation, it citizens; several States, executives, legislators or administrators. I am perpetually at peace, not an enemy combatant. I am not a minor, minority, or slave, nor corporate ward, but free, a freeholder, with legal capacity to represent, prosecute and defend and advocate for my inalienable human rights and freedoms in the community of nations and nation-states.

I am currently undertaking genealogical research and autosomal DNA testing to declare my nationality. Nationality is the legal relationship between the person and the country.³ The Convention of the Rights of the Child effective September 2, 1990, in accordance with Article 49 of the Charter of the United Nations states in Article 7 "1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents. 2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless."

Further, Article 8 of the Convention of the Rights of the Child states "1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. 2. Where a child is *illegally* deprived of *some or all* of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity." The United States of America signed this multilateral treaty on February 16, 1995.

I am an heir of the late Sarah Brown Hunter and James Samuel Hunter. My paternal great grandmother's citizenship is blank on her South Carolina death certificate, the late *Sarah Brown Hunter* (born c. 1881, dec. 1959). However, it indicates her race as "Col" for "Colored". My great grandmother died 183 years after the Declaration of Independence was adopted (July 4,

² The Constitution of the State of South Carolina, 1895, Convention of People of South Carolina begun and held September 9, 1894 through December 4, 1895.

³ Vonk, Olivier (March 19, 2012). *Dual Nationality in the European Union: A Study on Changing Norms in Public and Private International Law and in the Municipal Laws of Four EU Member States*. Martinus Nijhoff Publishers. pp. 19–20. ISBN 90-04-22720-2.

1776; signing commenced on and after August 2, 1776); 168 years after The Bill of Rights was added to the Constitution as the first ten amendments on December 15, 1791; 96 years after the Emancipation Proclamation (January 1, 1863); and 93 years after the passage of the Civil Rights Act of 1866, yet her citizenship was still omitted by the South Carolina State Department of Health, Education, and Welfare, Office of Vital Statistics. My maternal great grandmother Adeline Mack was of the Cherokee Nation who wed an Irish man named Caliph (Caleb) Mack. My maternal grandmother, Elouise (Ella) Mack was born in 1910-1911 on John Island, Charleston South Carolina. She died in 1946 after having nine children. Grandma Ella is listed as a "Negro" with a 4th grade education on the 1940 U.S. Census and was divested of her indigenous birth rights. My maternal grandfather, Arthur Bouregard or Rivers born on James Island, then later lived on Edisto Island.

The U.S. Constitution included the *Three-Fifths Compromise*, in Article 1, Section 2, Paragraph 3 which reads: "Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons." Therefore, my forefathers and foremothers status was property, "chattel", which is no persona standi in judicio. Further the Emancipation Proclamation was not law, only a public announcement, a formal declaration, an avowal issued by Abraham Lincoln on January 1, 1863 that did not free enslaved persons. Rather, the proclamation seized or delivered, transferred [manumission] as property enslaved persons from the European slave holding families or slave holding states in rebellion from the Union under executive war powers to the United States.

The state of the perpetual union made the enforcement of the Civil Rights Act of 1866 difficult to apply to my great, great grandparents because they were disenfranchised from participating in the political life of the state. The CRA of 1866 declared "*That all persons born in the United States and subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude....shall have the same right, in every State and Territory of the United States....*" The Freedmen's Bureau Bill, which established the Freedmen's Bureau on March 3, 1865, was initiated by President Abraham Lincoln and was intended to last for one year after the end of the Civil War."⁴ **"The Bureau of Refugees, Freedmen, and Abandoned Lands**, usually referred to as simply the Freedmen's Bureau, was a U.S. federal government agency that aided distressed freedmen (freed slaves) during the Reconstruction era of the United States.

In 1872, the U.S. Congress shut down the Freedmen Bureau Headed by Union Army General Oliver O. Howard. This abandonment deprived my forefathers and foremothers of the right of reclamation of their birthrights. The lack of knowledge of their birthrights caused the adoption and mistaken usage of misnomers such as "Colored", "Negro", "Black", "Afro-American," "African American". These labels are not designated nationalities in the family of nations.

⁴ http://en.wikipedia.org/wiki/Freedmen%27s_Bureau

Also, the Supreme Court issued two infamous decisions—the *Dred Scott, Plaintiff in Error v. John. F.A. Sandford* 60 U.S. 393 (1857) and the 1896 *Plessy v. Ferguson* 163 U.S. 537 (May 18, 1896). Pre-Civil War, in the *Dred v. Sandford* decision The Supreme Court ruled that slaves were “property” and that persons of African descent were barred from citizenship and thereby could not sue for their freedom in federal courts. The Court also invalidated the Missouri Compromise of 1820 that made slavery illegal in a free state or territory. Post-Civil War, is the *Plessy v. Ferguson* decision that upheld the “*separate but equal*” principles for Americans based on race difference the lent to support to Jim Crow Laws.

Further “*An Act for the Better Ordering and Governing of Negroes and Other Slaves in this Province*” or Slave Code of South Carolina, May 1740 remained in force until 1865. The Act was a series of laws aimed at controlling the population of enslaved African Americans.⁵ It prohibited enslaved peoples from gathering without white supervision, learning to read and write, and growing their own food.⁶ The 1871 Enforcement Act that imposed civil and criminal penalties on state and private actors for conspiracies to prevent a person from exercising “any right or privilege of a citizen of the United States 42 U.S.C. § 1985(3) did not prevent lynching and discrimination. The Jim Crow Laws, racial segregation laws enacted between 1876 to 1965 at the state and local level⁷ set firmly in.

The Supreme Court would not declare institutions that established separate facilities based on race unconstitutional until *Brown v. Board of Education of Topeka* 347 U.S. 483 (May 17, 1954), 58 years later.

Interesting also are the Reconstruction Amendments adopted by the U.S. after the Civil War. The version of the Thirteenth Amendment that passed in the Senate on April 8, 1864 included 20 sections which passed by a vote of 38-6. The House of Representatives passed the 13th amendment (S.J Res. 16) by a vote of 119 to 56 on January 31, 1965 after it initially failed. Section 12 of the Thirteenth Amendment states “*The traffic in Slaves with Africa is hereby forever prohibited on pain of death and the forfeiture of all the rights and property of persons engaged therein; and the descendants of Africans shall not be citizens.*” It also provided for compensation of both the “slave”, and the “slave holder”, land and Naturalization. However, the joint resolution signed into law by Abraham Lincoln includes two sections only. My research is ongoing for the records of the 38th Congress Senate Judiciary Committee revisions to S.R. 16 and various state archives. The accepted norm of the Thirteenth Amendment, § 1 now reads: “*Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.*”

Interesting also is the July 9, 1868 ratification of the Fourteenth Amendment of the U.S. Constitution. Although, my birth state of New York state legislature ratified the amendment on January 10, 1867, The South Carolina Legislature by Resolution on November 27, 1866 protested the proposal of the amendment by two-thirds of both Houses citing deprivation of

⁵ 1740 South Carolina Slave Code. Acts of the South Carolina General Assembly, 1740 # 670. South Carolina Department of Archives and History, Columbia, South Carolina.

⁶ <http://www.teachingushistory.org/trove/1740slavecode.htm>

⁷ http://en.wikipedia.org/wiki/Jim_Crow_laws

representation in the Congress⁸ and later rejected the 14th Amendment on December 20, 1866. In fact, the 14th amendment proclamations of July 20, 1868 and July 28, 1868 were issued as Presidential Executive Orders and both signed by William H. Seward, Secretary of State. It is a historical fact that the State of South Carolina was organized into a military district under the "Reconstruction Acts." The government of South Carolina had been reestablished under a Proclamation issued by President Andrew Jackson dated June 30, 1865.

The Fourteenth Amendment, Section 1 reads "*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges, or immunities or citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*"

The controversial Fourteenth Amendment allegedly nullifies the *Dred Scott v. Sandford*, 60 U.S. 393 (March 6, 1857), a landmark decision by the U.S. Supreme Court in which the Court held that "African Americans", whether enslaved or free, could not be American citizens and therefore had no standing to sue in federal court, and that the federal government had no power to regulate slavery in the federal territories acquired after the creation of the United States.⁹ However, Dred Scott was a "Plaintiff in Error" because he was still considered an article of property or slaveholding and not a "person" or "American citizen" of the state of Missouri.

Finally is the Fifteenth Amendment that gave so called "African American" men the right to vote when ratified on February 3, 1870; women's suffrage would not be attended until the passage of the 19th Amendment to the U.S. Constitution; ratified August 18, 1920. However, this right would not be realized for so called "African Americans" until the passage of the Voting Rights Act of 1965. The Fifteenth Amendment, Section 1 reads "The right of citizens of the United States to vote shall not be denied or abridged by the Unites States or by any State on account of race, color, or previous condition of servitude." Women suffrage granted ~~woman~~ ~~women~~ the right to vote upon ratification (August 18, 1920).

Therefore, considering the historic, controversial legality and applicable of the amendments, my declaration of nationality is imperative to avoid being classified as a stateless person or with a indeterminate legal status. I am looking forward to completing genealogical testing and research, filing an Affidavit of Identity and Distinction and casting off the brands of "Colored", "Negro", "Black", "Afro-American," or "African American".

⁸ South Carolina House Journal, 1868, pp. 33 and 34.

⁹ http://en.wikipedia.org/wiki/Dred_Scott_v._Sandford

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who filed a notice of appeal with the Sumter County Court of Common Pleas, I was subjected to a literacy inquiry by the court bailiff.

6. The Civil Rights Act of 1964, Public Law 88-352, Title III § 301--Desegregation of Public Facilities permits the Attorney General who receives a complaint "in writing signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to equal protection of the laws, on account of his race, color, religion, or national origin, by being denied equal utilization of any public facility which is owned, operated, or managed by or on behalf of any State or subdivision thereof..." to institute a civil action "in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section." In this complaint, the Plaintiff submitted a complaint to DOJ, OJP, OCR in March 2014.
7. The Civil Rights Restoration Act of 1987 extended protections ~~to of~~ Title VI of the Civil Rights Act of 1964, (Public Law 88-352, 78 Stat. 241) by **adding § 606** to Title VI (*Nondiscrimination in Federally Assisted Programs*). The public law is clear that federally funded agencies are prohibited from discriminating in all their programs or activities. **Title 42 U.S.C. § 2000d-4a (1)** states that a "program or activity" means "***all the operations of (1) (A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or (B) the entity of such State or local government that distributes such assistance and each such department or agency...to which the assistance is extended, in the case of assistance to a State or local government.***"
8. Although this case does not involve employment discrimination, the plaintiff complaint with the South Carolina Human Affairs office was issued EEOC Complaint #: 14C-2013-00980N. The Civil Rights Act of 1991, Public Law 102-166 amended Title VII of the Civil Rights Act of 1964 by expanding the remedies available to victims in employment discrimination cases. Title VII claims allows plaintiffs to recover for emotional distress and punitive damages and permits jury trials. Further, § 706 (f), Title VII states "Each United States district court and each United States court of a place subject to the

jurisdiction of the United States shall have jurisdiction of actions brought under this title.”

9. Title I, § 102 of the Civil Rights Act of 1991 (Federal Civil Rights Remedies) permits for damages in cases of intentional discrimination by amended § 1977 of Title 42 USC 1981 to include the following new sections § 1977 (a) Right of Recovery, (B) Compensatory and Punitive Damages, and (c) Jury Trial.
10. Title 18 USC Chapter 211 § 3231 states “The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States. Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof.” This complaint includes arguments in support of violations of Title 18 USC, 241, 18 USC 242, 18 USC 245, 18 USC 247, Title 42 USC Ch. 21B §2000bb-1, and Title 42 USC Ch. 21 §1988.
11. The Religious Freedom Act of 1993 (Public Law 103-141) § 3, (c) Judicial Relief states “a person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under Art. III of the U.S. Constitution [§ 1 and § 2]. § 1 Article III of the U.S. Constitution vest judicial power of the United States *“in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.”* § 2 Article III of the U.S. Constitution states *“The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority... ”.*
12. Venue: The Plaintiff, Regina M. Hunter, is a non-electronic filer. Thus, it’s imperative that she have access to Matthew J. Perry, Jr. United States Courthouse in Columbia, the closest and most accessible courthouse to her residence.

INTRODUCTION & JURY DEMAND

When faced with the stark choice of either to remove my hijab or forfeit my right to appeal, I chose to adhere to the tenets of my faith. The Holy Quran instructs believing men women on modest dress and conduct. Surah *Nur* or *Light* (24:30:31) and Surah *Ahzab* or *Confederates* (Surah 33:59) states:

30 "Say to the believing men that they should lower their gaze and guard their modesty; that will make for greater purity for them: And God is well acquainted with all that they do. 31 And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veils over their bosoms and not display their beauty except to their husbands...."

59 "O Prophet! Tell thy wives and daughters, and the believing women, that they should cast their outer garments over their persons (when abroad): That is most convenient that they should be know (as such) and not molested. And God is Oft-Forgiving, Most Merciful."

My headscarf neither posed a substantial threat to public safety, peace or order. As a Muslim woman, no one cannot decide for me, which tenets of my faith I adhere to or deny me access to a public building on the basis of the free exercise of my religious beliefs and practices. By June 17, 2013, I had been obstructed and denied access to ~~the~~ Sumter County public courtrooms for wearing my hijab on three occasions. I am a natural person, not an artificial being, endowed with certain inalienable rights by The Creator of the Heavens and Earth. I helped and defended myself against oppression and sought redress of injury in degree with patience and constancy according to The Holy Quran Surah 42 *Ash Shura*, Ayats 39-43 that reads:

"39: And those who, when an oppressive wrong is inflicted on them, (are not cowed but) help and defend themselves. 40: The recompense for an injury is an injury equal thereto (in degree): but if a person forgives and makes reconciliation, his reward is due from God: for (God) loveth not those who do wrong. 41: But indeed if any do help and defend themselves after a wrong (done) to them, against such there is no cause of blame. 42: The blame is only against those who oppress men with wrong-doing and insolently transgress beyond bounds through the land, defying right and justice: for such there will be a penalty grievous. 43: But indeed if any show patience and forgive, that would truly

be an exercise of courageous will and resolution in the conduct of affairs." Indeed, I am so grateful to Allah for the patience bestowed upon me.

My request for a change of venue, a stay of proceedings and appeal ~~from the Circuit Court~~ to the South Carolina Court of Appeals; ~~all~~ attempts to gain equitable relief from the tolling time fell in light of the discriminatory treatment suffered fell on deaf ears. The South Carolina Rule 203 of the South Carolina Appellate Court Rules (SCACR) is virtually identical to Federal Rules of Appellate Procedures (FRAP) 4a(4)(A). The South Carolina Commission on Human Affairs was unwilling to exercise the authorities delegated to them by the people under the state constitution of 1895. The Court of Appeals was unable to reconcile its mandatory and statutory jurisdiction requirement and issued a dismissal and remittitur despite knowledge of The Supreme Court of South Carolina February 26, 2013 order. The Supreme Court of South Carolina denied my Petition for Writ of Certiorari and then failed to provide any explanation. . Simply put, the State of Carolina, its subdivision and departments have acted contrary to its own constitution and code of laws. The State refuses to remedy my public access obstructions to grant me my day in court.

Therefore, this complaint is to enjoin the several state departments, and its public officials, elected or appointed, from violating federal laws. I also demand punitive damages for emotional distress, physical injury, lost of self-employment income, fraud and kidnapping, and other violations of constitutional rights. I would like the Sumter County Probate Court file in the matter of *Regina Mack v. State of South Carolina* destroyed. Finally, I would like a temporary restraining order ~~against~~ Sammie Taylor and an injunction against *Taylor Concrete and Finishing* as the State has obstructed the appellate review of her two complaints of harassment for more than one year and administratively for more than 1,821 days or 5 years. And where permitted by law, I demand a jury trial.

GEOGRAPHICAL BACKGROUND (*Sumter County v. City of Sumter*)

The courthouse then located at 141 N. Main Street is not under the jurisdiction of the “City of Sumter” or Sumter County Police Department (SCPD), but the SCSO. SCPD was not responsible for security staffing at the old courthouse building or its new edifice called “Sumter County Judicial Center” now located at 215 N. Harvin Street. Then, and now, SCSO provides security staffing at the new edifice. The new Judicial Center is **not** on its square, but located within the municipality’s corporate limits. I was correct to seek the assistance of SCPD for escort back into the building on June 17, 2013, but rather erroneously directed to SCSO at 1281 North Main Street, Sumter, SC 29150.

Incorporated in 1845, the City of Sumter is a municipality, a body politic and corporate. The original act that incorporated the Village of Sumterville (“Town of Sumter”) designated the corporate limits to extend three-fourths of a mile in the direction of the cardinal points **from the Court House that stood in the village as a *centre* and form a square.**¹⁰ In fact, the original charter for the City of Sumter laid a twelve cents tax on each slave as personal property and two dollars per head on free persons of color (Act. 2956, § VII).

The City of Sumter rechartered in 1887. The amended charter would later rename the “*Town of Sumter*” as the “*City of Sumter*” and extend the municipalities corporate limits to “*include all the area embraced in a circle, the **centre** of which is the **centre** of the Court House Square, and the radius of which is one mile.*”¹¹ Thus the original courthouse is a pivot point or fixed point, but not inclusive of the municipality’s corporate limits, but rather all points radiating out there from. The radius of a circle is the distance from the centre of the circle to any point on its perimeter. Under the amended charter, every person constitutionally qualified to vote for members of the General Assembly of the State, were **members of the said corporation**. Of course the right of suffrage for enslaved peoples 1845 did not exist and was not secured until the passage of the *Voting Rights Act of 1965* for men and later the 19th Amendment for women. Thus peoples identified as “Colored”, “Negro”, “Black”, “Afro-American,” “African American” were stateless persons and today are corporate ward citizens. A ward is “A person, especially an infant, placed by authority of law under the care of a guardian.”¹²

The County of Sumter is a political subdivision of the State of Carolina; a “body politic and corporate” (S.C. Code of Law § 4-1-10). The South Carolina Government, County of Sumter is established and authorized under S.C. Code of Law § 4-9-30 [Home Rule]. The corporate boundaries of the quasi-corporation of the County of Sumter is indicated in S.C. Code of Laws §4-3-490. Also, the County of Sumter is listed as the 100% tax-exempt owner of “*Sumter County Judicial Center*” purchased in a quit claim deed from the City of Sumter. The parcel number is 2490902002. The City of Sumter, Inc. and the Sumter County South Carolina Government, Inc. are separate corporate entities with various cooperative agreements. The violations of my human rights occurred within both the original courthouse and new judicial center that resides in the municipality’s corporate limits.

¹⁰ Act. 2956, §. 1 titled “*An Act to Incorporate the Village of Sumterville*, December 15, 1845

¹¹ Act 587, § 1 titled “*An Act to Recharter the Town of Sumter, S.C.*”, December 24, 1883

¹² Black’s Law Dictionary, Rev. 4th Ed. 1891, 1910, 1933, 1951, 1957, and 1968, p. 1755

FOUNDING DOCUMENTS

The State of South Carolina and its several departments are subject to abide by the Law of the Land. The term Law of the Land in the 1297 Magna Charta states, "*No Freeman shall be taken or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any other wise destroyed; nor will We not pass upon him, nor condemn him, but by lawful judgment of his Peers, or by the Law of the Land.*" And the Law of the Land is due process.

The Declaration of Independence was adopted by the Continental Congress, in Philadelphia, on July 4, 1776, and was signed by John Hancock as President and by Charles Thomson as Secretary. It was published first on July 6 in the Pennsylvania Evening Post. A copy of the declaration, engrossed on parchment, was signed by members of Congress on and after August 2, 1776. It states: "*We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights. That among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.*" The South Carolina delegates to the Congress that signed the Declaration were Thomas Heyward, Jr., Arthur Middleton, and Edward Rutledge.

The 1777 Articles of Confederation established the name of the confederation as the "United States of America" and was a perpetual agreement between the original 13 colonies "for friendship with each other, for their common defense, the security of their liberties, including religion, sovereignty, trade, or any other pretense whatever." South Carolina was the first state to ratify the Articles of Confederation on February 5, 1778 and the State of South Carolina ratified the United States Constitution on May 23, 1788. On March 6, 1776, the first Constitution for the State of South Carolina was adopted making South Carolina the first republic in the United States of America.

The Supremacy Clause of the 1787 United States Constitution¹³ and reads "*This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.*"

On January 19, 1790, South Carolina ratified the Bills of Rights (Articles 3-12)¹⁴. The South Carolina Constitution of 1895 contains the same rights in The Declaration of Rights. Art. 1, § 3 states, "*The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.*"

¹³ See definition of Constitution from Black's Law Dictionary.

¹⁴ Ten of the proposed 12 amendments were ratified by three-fourths of the state legislatures on December 15, 1791. The ratified Articles (Articles 3-12) constitute the first 10 amendments of the Constitution, or the U.S. Bill of Rights. U.S. National Archives & Records Administration, September 17, 2004, <http://www.archives.gov>

HISTORICAL RELIGIOUS FREEDOMS

The S.C. Code of Law §14-1-50 states “*All, and every part, of the common law of England, where it is not altered by the Code or inconsistent with the Constitution or laws of this State, is hereby continued in full force and effect in the same manner as before the adoption of this section.*”

In 1629, King Charles I granted a royal charter or patent¹⁵ for the Province to Carolina to his Attorney General for England and Wales Robert Heath on October 30, 1629. The grant was for the territory between 31 degrees and 36 degrees North latitude. He held this vast domain as sole proprietor. King Charles declared the region granted to Heath to be a province (another word for province is plantation) and he named it *Carolana* for himself. The patent was not fulfilled when Robert Heath fled abroad in 1645 to France and failed to fulfill its original purpose as a plantation. However, the patent included text for the desire of enlarging the Christian religion.

On March 24, 1663, King Charles II granted a new charter to eight English nobleman known as the Lord’s Proprietors which encouraged settlement with promises of religious freedom, self-government and land grants. The original Charter of Carolina granted “*indulgencies and dispensations*” from the public exercise of the religion, according to the liturgy, form and ceremonies of the Church of England.

A Declaration and Proposals of the Lord Proprietor of Carolina, August 25—September 4, 1663 states in Section 5 “*We will grant, in as ample manner as the undertakers shall desire, freedom and liberty of conscience in all religious and spiritual things, and to be kept inviolably with them, we having power in our charter so to do.*” Both the June 30, 1665 Charter of Carolina and the Concessions and Agreement of the Lords Proprietors of the Province of Carolina, 1665 (Section 8) supported religious liberty as long as it was not used to cause civil injury to disturbances to other.

The Fundamental Constitutions of Carolina, adopted in March 1669 by the eight Lords Proprietor of the Province of Carolina was unpopular and never ratified but included provisions of religious freedom. Article 97 stated “*...any seven or more persons agreeing in any religion, shall constitute a church or profession, to which they shall give some name, to distinguish it from others.*”

The Northwest Ordinance, an act of the Congress of the Confederation of the United States, passed July 13, 1787, and a precursor to the U.S. Constitution and the Bill of Rights, proclaimed religious tolerance and stated in Article 1 “*No person, demeaning himself in a peaceably and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments in the said territory.*” Further, Article 3 states “*Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.*”

¹⁵ Patent. Black Law’s Dictionary, 4th edition, p. 1282 Patent: “In English law. A grant by the sovereign to a subject or subjects, under the great seal, conferring some authority, title, franchise, or property; termed “letters patent” from being delivered open, and not closed up from inspection.

INTERNATIONAL COVENANTS ON HUMAN RIGHTS

The duress, threat and intimidation I have suffered on account of the free exercise of my religious freedoms is **a violation of fundamental human rights and religious freedoms**. The opening statement of the United Nations signed on June 26, 1945 and effective October 24, 1945 reaffirms faith in the fundamental human rights and the equal rights of men and women all of nations small and big. Article 1 identifies one of the aim of achieving international cooperation in “promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”

The General Assembly of the United Nations adopted the **Universal Declaration of Human Rights** on December 10, 1948 to recognize the unalienable rights of all members of the human family. Article 2 of the Universal Declaration of Human Rights states everyone is entitled the fundamental rights and freedoms without regard for “*race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*” Article 7 of the Declaration entitles everyone to equal protection of the law without any discrimination. Article 8 of the Declaration entitles effective remedy before national judicial systems for acts violating the fundamental rights granted by the constitution or by law.

This declaration was a precursor to the **International Covenant on Civil and Political Rights** effective March 26, 1976 under the Charter of the United Nations. Part II, Article 2, §1 obliges the United States to undertake measures to **ensure** all individuals political and civil rights “*without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*”

Article 2, §3(a) ensures that any person whose rights or freedoms are violated shall have an effective remedy. Article 2, § 3(b) provides that a claim for such remedy be determined by competent judicial, administrative or legislative authorities. Mr. Alston’s department did a very poor job of providing an effective remedy for violations of my civil rights. Mainly, it failed to adhere to the Civil Rights Restoration Act of 1987 and conduct a thorough and independent investigation.

Further, American Convention on Human Rights, Article 1 obligates state parties to respect the rights and freedoms of all persons subject to their jurisdiction “*without any discrimination for reasons of race, color, sex, language, religion, political, or other opinion, national or social origin, economic status, birth, or any other social condition.*” Also, the Declaration of Principles of Freedom of Expression, Principle 2 states all people “*All people should be afforded equal opportunities to receive, seek and impart information by any means of communication without any discrimination...*”

Finally, the Treaty of Peace and Friendship, ratified by the United States on July 18, 1787 in the month of 12 Ramadan 1201, is the world’s longest standing and unbroken treaty.¹⁶ This treaty continues in force every fifty years. It documents ~~the~~ relationship of the Moors and citizens of the United States when the fundamental rights and freedoms of people are perpetually respected.

¹⁶ The treaty was sealed at Morocco with the seal of the Emperor of Morocco June 23, 1786 (25 Shaban, A. H. 1200).

FEDERAL ARGUMENTS

1. **Violation of Civil Rights Act of 1866:** The *Civil Rights Act of 1866* (39th Congress) defined U.S. citizenship as all persons born in the United States and affirmed all citizens were equally protected by civil rights as amended by the *Civil Rights Act of 1991* (Public Law 102-166; 102nd Congress), 42 U.S. Code, §1981 (et seq.) guarantees equal rights under law—(a)

Statement of equal rights: *All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.*

The original complaints I submitted to The State of South Carolina Governor, The South Carolina Judicial Department Administrative Head and offices, The South Carolina Human Affairs Commission, and the USDOJ CRD held substantial evidence that a pattern of discriminatory treatment on the basis of religion occurred. Yet, the State, its several departments, agencies, offices, bureaus, commission and the USDOJ Attorney General's office have failed to ~~uphold~~ my constitutional rights, as a person born in the United States. My equal right to plead and transact business in the State of South Carolina and its subdivision without being segregated, willfully injured, intimidated, threatened and discriminated against for wearing a hijab in observance of my Islamic religious faith or race must be upheld.

2. **Violation of Civil Rights Act of 1964:** Public Law 88-352, Title III, § 301 of the **Civil Rights Act of 1964** (*Desegregation of Public Facilities*) prohibits an individual from being denied equal utilization of any public facility, on account of his or her race, color, religion or national origin, which is owned, operated or managed by or on behalf of any State or subdivision thereof. Sumter County South Carolina Government, a political subdivision of the State of Carolina, is the 100% tax-exempt owner of "Sumter County Judicial Center" purchased in a quit claim deed from the City of Sumter. The parcel number is 2490902002. I repeatedly wrote the Sumter County Council, District 1 ~~member~~, Mrs. Naomi Sanders and its ~~former~~ Chair, Mr. Larry Blanding seeking

intervention and received no response. The entire Council was mute despite its own Citizen Day and Constitution Week Proclamation issued on September 17, 2012.

3. **Application of the Civil Rights Restoration Act of 1987.** The Civil Rights Restoration Act of 1987 is a broad brush (Public Law No. 100-259, 102 Stat. 28) and extended protections to Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241) by adding § 606 to Title VI (*Nondiscrimination in Federally Assisted Programs*). The public law is clear that federally funded agencies are prohibited from discriminating in all their programs or activities. Title 42 U.S.C. § 2000d-4a (1) states that a “program or activity” means “*all the operations of (1) (A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or (B) the entity of such State or local government that distributes such assistance and each such department or agency...to which the assistance is extended, in the case of assistance to a State or local government.*”
 - a. Both The South Carolina Judicial Department (SCJD) and the Sumter County Sheriff’s Office (SCSO) receive financial assistance from DOJ and the 46 Clerk of Court Offices are quintessential human resources for both the *operations and activities* of the SCJD and SCSO. Yes, the Clerk of Court is a publicly elected official but not autonomous! The Sumter County Clerk of Court is an administrative officer of the unified judicial system (SC Const. Art. V, § 24) and is listed under the heading “*court officials*” on the SCJD website. The SCJD issues the Clerk of Court’s manual pursuant to SC Const. Art. V, § 4—the most recent Administrative Order dated May 21, 2014.
 - b. On February 26, 2013 the Supreme Court of South Carolina issued an order instructing me to address my concerns about treatment by **personnel** at the county courthouse. It stated “*These concerns should first be raised to the county clerk of court, and if necessary, then to the Chief Judge for Administrative Purposes in the Third Judicial Circuit...*” Therefore, The Honorable Costa M. Pleicones, identified a path for the resolution of my grievance. Yet, I did not receive the mail until Thursday, February 28, 2013 two days after my hearing date or hear in writing from the Clerk of Court, Mr. Campbell until March 6-8, 2013 which provided no apology or explanation for Mr. Bradley’s conduct or statement on local court dress rules.
 - c. All of the court bailiffs present on the days my case was scheduled sought direction on dress code policy from the presiding judges, not Clerk of Court. On

January 8, 2013, February 5, 2013, June 17, 2013 the court bailiffs stated they would speak with the presiding judges, The Honorable George C. James; The Honorable R. Ferrell Cothran Jr.; and the Honorable Jeffrey Young, Jr., respectively. Each bailiff sought direction about a woman wearing a headscarf in observance of her Islamic religious beliefs and practices. These court bailiffs did not turn to the Clerk of Court or Deputy Clerk of Court, but rather dealt with the presiding judges as their immediate supervisors.

- d. It is a significant fact that the deputy sheriff substituted as a court bailiff still wore his insignia, but only half his uniform on January 8, 2013.

4. Violation of Title 18 USC 241 Conspiracy against rights states *"If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or ...they shall be fined under this title or imprisoned not more than ten years, or both."*

- a. On February 5, 2013, I arrived at the courthouse for the second court date with only my papers. I successfully complete the building screening procedures passing through the metal detector and hand wand screening and permitted upstairs to the third floor. However, I was deeply saddened when I was again denied access to the courtroom for wearing a hijab. I cooperated with the court bailiff (name unknown) when he asked me to sit outside the court room while he went to inquire with the judge. Yet, on this date, the head court bailiff, Mr. Joseph Bradley approached me with a tyrannical rant on whether I had a knife on my person. I told him I already cleared building security, but he did not accept my answer and continued intimidating me. Finally, Mr. Bradley went to inquire with security personnel on the first floor, but never returned to inform me of his findings. I had no weapons or electric devices on my person. I had already cleared the building security apparatuses on first floor of the building. Yet, I was detained because Mr. Bradley may have lacked confidence in the building security equipment and personnel. Mr. Bradley and the other court bailiffs sought

to injure, oppress, threaten, and intimidate me without probable cause. Another court bailiff [unknown] returned stated *"I don't think we had any problem out of your before"* and permitted me to enter the courtroom. Mr. Bradley and his subordinate court bailiffs conspired to obstruct the free exercise and enjoyment of the religious freedoms and rights secured by the Constitution.

- b. Mr. Bradley also subjected me to a literacy inquiry when I asked him for his name, he pulled his lapel where his name badge was pinned and asked if I was able to read! Mr. Bradley treated me indifferently on the basis of both religion and race.
- c. The Clerk of Court, James C. Campbell stated the court bailiffs were not his employees, but under the authority of the Sumter County Sheriff, Mr. Anthony Dennis. ~~Regardless, if~~ he was ignorant or sought to deliberately mislead me, Mr. Dennis denied responsibility for the court bailiffs, never conducted a ~~through~~ ~~thorough~~ investigation, refused to provide me with of my complaint submitted online or a valid complaint number. Neither, The Clerk of Court, SCJD or provided an explanation for Mr. Bradley's erratic, volatile behavior.
- d. I was never a threat to building security, court personnel or the public at any time (January 8, 2013, February 5, 2013 or June 17, 2013). I adhered to security screening procedures, was cooperative, not belligerent and neatly dressed with clean clothing. Based on the court bailiff's comment and Mr. Bradley's actions, it was their intent was to deter my appeal, inflict emotional distress and perhaps provoke an altercation that would lead to my arrest.
- e. The emotional distress I endured would not stop, again on June 17, 2013, I was denied access to courtroom where my post-trial motion was schedule to be heard. After clearing the security screening at the front entrance of the new edifice located at 215 N. Harvin Street, I was told I could not come into the courtroom #3B wearing my hijab. The tried relentless to obtain assistance from the Sumter County Police Department. Based on the geographical facts already presented, SCPD was erroneous to not assume jurisdiction at 215 N. Harvin Street. On June 17, 2013, I suffered chest pain and was diagnosed with an acute stress reaction—anxiety at Tuomey Hospital when I was unable to gain access to courtroom #3B for my 2:30 p.m. hearing.

5. Violation of Title 18 USC 242 (**Deprivation of rights under color of law**) states: *"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death."*

- a. On two occasions, the court bailiffs cited "court rules" as objection to *hijab*; however, S.C. Court Administration cites no written dress code policy for the unified judicial system. On February 5th, the bailiff told me I was not able to enter the courtroom wearing my *hijab*. When I asked why, he said it was "Court Rules." S.C. Const, Art. 5, § 4 states *"The Supreme Court shall make rules governing the administration of all the courts of the State. Subject to the statutory law, the Supreme Court shall make rules governing the practice and procedure in all such courts...."* The court bailiff believed it was Court rules not to admit because I had on a *hijab*. Therefore, if SCJD makes the rules that govern the conduct of the court bailiff, the bailiff was acting under SCJD's authority. SCJD's authority to govern the practice and procedure in all courts in the State of South Carolina and thus obligates SCJD to assume liability for the court bailiffs' actions.
- b. Also, according to the S.C. Court Administration, the SCJD does not have a dress code policy. On July 16, 2014, Mrs. Rosalyn W. Frierson, Director of S.C. Court Administration responded to my Freedom on Information Act request about the

SCJD “dress code policies”. She stated “*There is not a Judicial Department written dress code policy. Individuals are required to act and address respectfully for court proceedings.*” Her letter further stated “You will find that County Clerks of Court have written information posted in the courthouse or on their websites related to appropriate attire in the courthouse and for jurors.” In September 2012, I was provided with a copy of the “*Frequently Asked Questions in South Carolina Circuit Court and Family Courts*” issued by SCJD when I filed my appeal with Mrs. Barbara Sharper, a clerk for Sumter County Court of Common Pleas.

- c. I also received this same ~~file~~ document from the Chief Administrative Judge of the Third Judicial Circuit, W. Jeffrey Young. Page 4 of 19 states “*Don’t wear a hat or head covering in the courtroom unless for religious or medical reasons.*” Therefore, I did not need to ask for a religious accommodation because the FAQs sufficiently addressed any question I had about religious apparel.
- d. Furthermore, each “*Notice of Case Scheduling*” sent by the Clerk of Court’s office with the seal of the State of South Carolina did not indicate any specific dress code policy. From December 2012 to August 2013, I received a total of seven docket notices. None of these notices mentioned restricted clothing apparel. Therefore, I firmly argue that the SCJD deprived me of my rights to practice my religious freedoms that are protected by the Constitution. Yet, Chief Justice Toal failure to enforce the Court’s own February 26, 2013 order and ~~her~~ oath of office ~~setting~~ the tone for future acts of retaliation and intimidation by her department and administrative offices.
- e. After the third incident, I was effectively block from the judicial process unable to appeal my complaint for harassment which emboldened the Defendant and ~~left~~ without a civil remedy to protect myself from future threats to my property and physical well-being. The Circuit Court did not regard an appeal on a matter of domestic violence as important and withheld taking action in chamber from March 2013 until June 2013. I had to wait 120 days for my post-trial motion to be placed on docket and then after paying the motion fee was denied access for wearing my hijab.

- f. Unable to address threats of harassment from the Defendant in previous litigations with the lower courts, acts of aggression continued and property damaged occurred. On February 10, 2014, before my Notice of Appeal in the South Carolina Court of Appeals was dismissed, Mr. Sammie Taylor, owner and operator of Taylor Concrete & Finishing modified the landscape on the Plaintiff property causing damage to landscaping materials. Subsequently, the SCSO threatened the Plaintiff's by ordering her vehicle towed from her own property to accommodate the commercial business activities of a non-property owner. The SCSO was not vested with authority to interpret any claim of easement.
- g. On February 10, 2014, I filed an Emergency Petition for an Extraordinary Writ with the South Court of Appeals. I requested a Temporary Injunction and Restraining Order against the Mr. Taylor and his business. After, The Honorable Kristi F. Curtis, Sumter County Chief Magistrate lifted the restraining order on Mr. Taylor on September 6, 2012 and my appeal in the Circuit Court was systematically obstructed, I had no protections as a victim of domestic violence.
- h. On February 10, 2014, my cousin Elijah Hunter made an Application for Involuntary Commitment with the Santee-Wateree Community Mental Center (SWCMC), an agency of the South Carolina Department of Mental Health. I was illegally taken into custody based on a false affidavit. SCSO and its deputies claimed it had possession of an Emergency Custody or Detention Order (ECO or EDO) delivered thereof to them by Summary Court Judge Lee A. Tindal to serve and execute on the plaintiff, "Regina M. Hunter".
- i. The Defendants, Tuomey Healthcare System its Emergency Department Director, agents, representatives, Jane Doe, deputy sheriff were presented with paper(s) by the SCSO. Under § 44-17-430, the Plaintiff was transported to Tuomey for mental evaluation and in the custody of the said hospital. Lt. Kevin Lindsey told the plaintiff that she would receive her paper(s) at the hospital. However, neither the SCSO or its deputies or the Tuomey's Director orally or in written informed the Plaintiff of her rights or served the paper(s) upon the Plaintiff. When the Tuomey Emergency Department found a discrepancy in the legal name upon presentment of paper(s) it violated the Plaintiff's U.S. and state constitutional

rights against self-incrimination (U.S. Constitution Sixth Amendment and Fifth Amendment and S.C. Const. Art. 1, § 12). The Plaintiff was under duress. The Plaintiff was not informed of her right to remain silent and that biological evidence, oral and/or written statements would be used against her in a proceeding for involuntary commitment.

- j. On February 10, 2014, the Petitioner's legal capacity was not nullified although she was subject to an involuntary medical evaluation pursuant to S.C. Code of Laws § 44-17-430. S.C. Code of Law § 44-17-430 states that "the individual taken into custody has the right to representation by an attorney." SCDMH, SCSO deputies, and Tuomey Hospital personnel did not inform her of rights in at the onset of a legal proceeding. The deputies never exhibited the precept or gave the Petitioner a copy upon arrival at Tuomey Healthcare System. I received a bill in the amount of \$1,028.65 on February 16, 2014. It was rescinded by Mr. Michael Schwarz, President and CEO of Tuomey on May 9, 2014. Yet, I still keep a copy of the discharge papers in my car's glove compartment. I continue to pray and rebuke the emotional distress and fears I have since the evaluation. Even though, **no grounds to commit were found and I was released** within 3 hours of being taken into custody, the incident has changed my life forever!
- k. Repeated request for a copy of the order to Tuomey, SCDMH, SWMHC, SCSO, and intervention by Administrative Head, Chief Justice Jean H. Toal were not met affirmatively. Therefore, I have never seen the order, know who signed it, or sought to file a Complaint of Perjury against Elijah Hunter because I do not have access to the Probate Court case file without providing a copy of my legal name change order from the Sumter County Family Court.

- 6. Violation of Title 18 USC 245 **Federally protected activities** provides protection from willful injury, and intimidation on account of my race, color, religion or national origin from enjoying the goods, services, facilities, privileges, advantages or accommodations of any establishment which serves the public. On June 18, 2013, I went to make a public comment at the South Carolina Transportation Commission meeting and was obstructed by a South Carolina Department of Public Safety, Bureau of Protective Services officer—Corporal Griffin. I assert that SCDPS, its BPS division, and its BPS officer with the SCDOT

wearing my *hijab* violated any written or unwritten dress code policy in effect. Notification would have afforded me the opportunity to contest in an appropriate forum or at the very least make a request for a religious accommodation.

8. Violation of Title 42 USC 1988 **Proceedings in vindication of civil rights.** USDOJ has mishandled my complaint. 42 USC 1988 state proceedings in vindication of civil rights “*shall be exercised and enforced in conformity with the laws of the United States.*” The Civil Rights Restoration Act of 1987 extended protections The Civil Rights Act of 1964, Title VI. Mr. Michael Alston, Director of USDOJ, OJP, OCR neglected to exercise the authorities delegated to his office.

- a. Similarly, the South Carolina Human Affairs Commission denied me due process when ~~its Commission refused to~~ adhere to the letter of the law and 1) hold a hearing, 2) request the attendance of persons to give testimony, 3) receive for the record any written statements, documents, exhibits and other items pertinent to the subject matter, and 4) subsequent to any investigation or hearing issue a report and recommendations?
- b. Pursuant to § 1-13-90, my complaint asserted a violation by the Sumter Court of Common Pleas, [a circuit court], a local subdivision of the South Carolina Judicial Department, thus the Commission is obliged to follow §1-13-90 (f) S.C. Code of Law--that there were sufficient facts in the written complaint to warrant the processing of the complaint under the procedures provided by subsection (c) or (d) and the SCHAC Notice of Right to Sue was deficient and never amended.

Substantial Burden under Religious Freedom Restoration Act of 1993 (Pub. L. 103–141 Nov. 16, 1993, 107 Stat. 1488) requires that the State demonstrate a burden “is in furtherance of a compelling governmental interest with the least restrictive means of furthering that compelling governmental interest.” In response to my FOIA request, The Honorable Rosalyn W. Frierson, Director of SC Court Administration stated “*There is not a Judicial Department written dress code policy*” in her July 16, 2014 letter. Therefore, why was I asked to remove my hijab? What is the State’s compelling governmental interest on each of the three occasions?

RELIEF SOUGHT

1. Injunctive Relief: Public access to court buildings, courtrooms, public facilities and public accommodations in the entire State without discrimination on the basis of religion or race.
2. Punitive damages: Obstruction to public facilities, emotional distress, physical injury, loss self-employment income.
3. Punitive damages: Fraud and kidnapping, denial of due process, and right to lawyer in State action for involuntary commitment
4. Punitive damages: Impediment of First Amendment right to peaceably assembly at public meeting
5. Expungement: Probate Court file Regina Mack v. State of South Carolina
6. Temporary Restraining Order: Sammie Taylor
7. Temporary Injunction: Taylor Concrete & Finishing

Signed this 5 day of February 2015, 16 Rabi Al-Thani 1436 A.H.



Signature of Plaintiff

Regina M. Hunter

All Rights Reserved

In Full Life, In Propria Persona, Sui Juris

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

Regina M. Hunter,	)	Civil Action No.: 3:15-547-MGL
)	
Plaintiff,)	
)	
vs.	)	ORDER
)	
)	
The Honorable Nikki R. Haley, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

On February 5, 2015, Plaintiff Regina M. Hunter, (“Plaintiff”), proceeding *pro se*, filed this action alleging violations of her constitutional rights. (ECF No. 1). In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for review pursuant to the procedural provisions of 28 U.S.C. § 1915 and § 1915A. On March 5, 2015, the Magistrate Judge prepared a Report and Recommendation, (“the Report”), recommending that this action be dismissed *without prejudice* and without issuance and service of process, pursuant to Federal Rule of Civil Procedure 41(b), based upon Plaintiff’s failure to prosecute and failure to comply with court orders. (ECF No. 12). Objections to the Report were due by April 16, 2015. On April 16, 2015, Plaintiff filed a “Motion to Vacate and Application for *Nunc Pro Tunc* Order,” (ECF No. 14), which includes arguments in the nature of “objections” to the Report. The matter is now ripe for review.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is

made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). In the absence of a timely filed Objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

In light of the standards set forth above, the Court has reviewed, *de novo*, the Report and Plaintiff’s “Motion to Vacate and Application for *Nunc Pro Tunc* Order,” (ECF No. 14), which includes arguments in the nature of objections to the Report. The Court has undertaken this *de novo* review, even though it is evident from Plaintiff’s filing that Plaintiff remains out of compliance with the Court’s Proper Form Order, (ECF No. 7), entered February 27, 2015.

As the Magistrate Judge sets out in the Report, the Magistrate Judge issued an Order on February 27, 2015, providing Plaintiff with an additional opportunity to bring this case within proper form by March 23, 2015, by either paying the required \$350 filing fee or completing and signing the appropriate paperwork, showing her inability to pay the filing fee. (ECF No. 7). As of the date of this Order, Plaintiff still has not responded as directed. Indeed, in Plaintiff’s most recent filing, Plaintiff objects to and asks to be excused from these basic requirements on grounds that she is exercising her “unconditional and constitutional Fifth Amendment right.” (ECF No. 14-2 at p. 6).

Based on all of the foregoing, the Court concurs with the reasoning of the Magistrate Judge and adopts the Report and incorporates it herein by reference, (ECF No. 12), overruling Plaintiff’s objections. It is hereby **ORDERED** that Plaintiff’s complaint is **DISMISSED** *without prejudice* and without issuance and service of process based upon Plaintiff’s failure to prosecute and failure

to comply with court orders. Additionally, Plaintiff's one sentence long "Motion for Leave to Proceed Without Prepayment of Costs," (ECF No. 2), is **DENIED**. Finally, those portions of Plaintiff's "Motion to Vacate and Application for *Nunc Pro Tunc* Order," (ECF No. 14), that are not in the nature of "objections" to the Magistrate Judge's Report but seek other relief from this Court are properly terminated as **MOOT**.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

April 20, 2015
Columbia, South Carolina

2015-01-12 12:23:58

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND
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HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

January 9, 2015

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T95331
Date of Occurrence: July 18, 2013
Claimant: Hunter, Regina M.
Date Closed: January 9, 2015

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	402.00

If you should have any questions, please contact us.

Sincerely,

Nancy Stevenson
Litigation Consultant

/ns

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
IN THE FIFTH JUDICIAL CIRCUIT
CASE NO. 2016-CP-40-

Philip Hunter,

Plaintiff,

v.

South Carolina Department of Public Safety,

Defendant.

COMPLAINT
(Jury Trial Demanded)

Plaintiff, complaining of Defendant herein, would respectfully allege as follows:

1. Philip Hunter ("Plaintiff") is a white male who was recently employed with the South Carolina Department of Public Safety ("SCPDS") until his unlawful termination in October of 2014. Plaintiff resides in Prosperity, South Carolina but while employed with Defendant worked at its various offices throughout the state of South Carolina.

2. Defendant SCDPS is a state agency of South Carolina, with its headquarters located in Richland County, South Carolina and various offices located throughout the state.

3. Plaintiff appropriately filed charges asserting violations of Title VII of the 1991 Civil Rights Act with the South Carolina Human Affairs Commission and the Equal Employment Opportunity Commission ("EEOC") and has received his Notice of Right to Sue.

4. Plaintiff was employed with SCDPS as a law enforcement officer; Plaintiff also serves in the armed forces of the U.S. military. As a law enforcement officer with SCDPS, Plaintiff was charged with various responsibilities including but not limited to issuing citations for traffic violations, monitoring the safety of state highways, and other law enforcement related duties.

5. On or around October 4, 2014, Plaintiff was on duty for patrol. During his routine watch, Plaintiff noticed that there was a citizen pulled off to the side of the highway. Fearing an emergency, Plaintiff situated his patrol vehicle beside the parked car and realized that he was acquainted with the driver, who happened to be a retired, white SCDPS employee named Mr. Grant.

6. Plaintiff exchanged friendly pleasantries with Mr. Grant briefly and learned that he had been hired as a process server to serve legal papers on a local individual named Thomas M. Chiles ("Chiles"). Chiles is black. Mr. Grant was trying to locate Chiles after multiple missed attempts. Upon information and belief, Mr. Grant learned that Chiles was potentially violent.

7. In less than a few minutes, Mr. Grant summarized his job and the difficulties he experienced trying to locate Chiles. He also mentioned the make and model of the car that Chiles was known to drive and informed Plaintiff that he had information that Chiles's car was not insured in violation of state law.

8. During Plaintiff's brief conversation with Mr. Grant and while he was still actively patrolling, he noticed a car drive by on the highway where he was pulled over. He further observed that at least one passenger in the car was not wearing a seatbelt, which is a violation of law and amounted to probable cause to pursue the vehicle.

9. Immediately, Plaintiff turned-on his blue lights, called-in the information to dispatch, and pursued the vehicle, which coincidentally met the description of the vehicle that Mr. Chiles was alleged to be driving. Shortly thereafter, the vehicle pulled over to the side of the road, and Plaintiff approached as he would normally do during any other routine traffic stop.

Plaintiff did not know that Mr. Grant followed him and that after he made the stop, Mr. Grant pulled over behind Plaintiff's squad car.

10. Eventually, Plaintiff noticed Mr. Grant and gave him a "thumbs-up" signal that he was alright. Plaintiff experienced other traffic stops, during which time colleagues would routinely check behind him for safety, and he would give this positive signal to indicate that he was not in danger.

11. As Plaintiff continued to conduct the traffic stop and issue a citation for one of the passengers for a seatbelt violation, Mr. Grant approached the stopped vehicle and served the driver, who was Chiles, with the legal paperwork. Immediately, Chiles became disruptive and belligerent; he threw the papers on the ground and began shouting. Mr. Grant walked back to his vehicle because the situation became tense. He exchanged words with Plaintiff, who was attempting to de-escalate and control the stop.

12. Plaintiff approached Chiles, issued a directive for him to pick-up the paperwork because by throwing it onto the ground he was littering, and further directed Chiles to calm down. Chiles anger escalated to the point when, fearing for his safety and for the safety of the others in the car, Plaintiff instructed Chiles to step out of the car and placed him under arrest.

13. Once Plaintiff secured control of Chiles and the situation, the passengers were permitted to drive the car home, and Chiles was escorted to the local jail facility for processing. During the car ride, Chiles repeatedly threatened Plaintiff, told Plaintiff he knew people, and further informed Plaintiff that he would ensure that Plaintiff lost his job for what occurred during the stop.

14. Plaintiff reported the incident to his immediate supervisor and further denies that he had any arrangement with Mr. Grant to help him or assist him with the service process.

Plaintiff had probable cause to stop Chiles's vehicle. Plaintiff was placed on leave, and SCDPS allegedly investigated the stop. Less than a week after SCDPS launched an investigation into the stop, Plaintiff was notified by SCDPS Director Leroy Smith, a black man, that Plaintiff's employment was terminated immediately for "conduct unbecoming."

15. Plaintiff is personally aware of a black SCDPS patrol officer who conducted himself in a way that was inconsistent with SCDPS policy by excessively speeding through an apartment complex parking lot. Plaintiff is also aware that a black SCDPS patrol officer was caught engaging in an affair with a colleague's wife while on duty. Moreover, Plaintiff has knowledge that another black SCDPS officer committed perjury while working. Upon information and belief, these three black SCDPS employees were not terminated for the same and were not disciplined, unlike Plaintiff, who was accused of "conduct unbecoming" for participating in a valid traffic stop.

FOR A FIRST CAUSE OF ACTION
AGAINST SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
(Race Discrimination in Violation of Title VII)

16. Plaintiff realleges the paragraphs above as if set forth herein verbatim, where not inconsistent herewith.

17. The actions taken by the Defendant SCDPS, as described herein, violate Plaintiff's rights under Title VII of the 1991 Civil Rights Act and amendments thereto.

18. The Defendant SCDPS unlawfully targeted Plaintiff to have him disciplined, charged with alleged employee violations, and ultimately to have Plaintiff terminated from his position because he is white.

19. The actions taken against Plaintiff by the Defendant SCDPS were disproportionate and unfair when compared to actions taken against black, similarly situated

employees because Plaintiff was the subjected to biased disciplinary action and ultimately terminated; Plaintiff's race was the proximate cause of his treatment and termination by Defendant SCDPS's agents and employees, acting within the course and scope of their duties, which violated the Civil Rights Act of 1964, for which the Defendant SCDPS is liable.


20. As a direct and proximate result of the violations of his civil rights under Title VII by the Defendant SCDPS, Plaintiff suffered the loss of his job and sustained permanent impairment of his earning capacity. Plaintiff is entitled to an award of actual damages for the acts of the Defendant through its agents and employees, for reasonable attorneys' fees, and costs of this action.

WHEREFORE, Plaintiff prays for judgment against the Defendant SCDPS herein for actual damages in an amount to be determined by a jury. Plaintiff also prays for attorneys' fees, where applicable, for costs of this action, and any such other and further relief as this Court may deem just and proper from Defendant SCDPS.

[SIGNATURES FOLLOW]

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January 25, 2016
Columbia, South Carolina

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Julia Hyman, Individually; Julia Hyman as
Parent and Legal Guardian of J. H.; and J.
H., Individually
Plaintiff,

v.

CASE NO.: 2:15-CV-2029-DCN-BM

COMPLAINT
(Jury Trial Requested)

Berkeley County; Berkeley County
Sheriff's Department; Whitesville Rural
Fire Department; Whitesville Rural Fire
Department, Station 1; South Carolina
Highway Patrol; South Carolina Department
of Public Safety; Officer John Pittman,
Individually and in his official capacity of
the Berkeley County Sheriff's Department;
James Sienathe, Individually and in his
official capacity of the Berkeley County
Sheriff's Department; Sergeant Nathan
Rollins, Individually and in his official
capacity of the Berkeley County Sheriff's
Department; Michael Stephenson
Individually and in his official capacity of
the Whitesville Rural Fire Department,
Station 1; Matthew Gaskins, Individually
and in his official capacity of the
Whitesville Rural Fire Department, Station
1; Paul Yacobozzi Individually and in his
official capacity of the South Carolina
Highway Patrol and/or Whitesville Rural
Fire Department, Station 1;
Defendants.

JURISDICTION AND PARTIES

1. This suit is brought and jurisdiction lies pursuant to Title 42, United States Code, Sections 1983 and 1988 and the Fourth and Fourteenth Amendments of the Constitution of the United States. The Court has subject matter jurisdiction of this action under Title 28, United States Code, and Section 1331 as it arises under the Constitution and laws of

the United States and under Section 1343 of Title 28 as it seeks to redress civil-rights violations. Plaintiffs also bring state-law claims arising out of the same events and occurrences, and the Court may exercise subject-matter jurisdiction over these claims pursuant to Section 1367 of Title 28, United States Code, Section 1391(b) because all of the Defendants reside in the District of South Carolina and the events giving rise to the action occurred in this District.

2. Plaintiffs, Julia Hyman, Individually, Julia Hyman as Parent and Legal Guardian of J. H. and J. H., Individually, are citizens and residents of the State of South Carolina, and reside in Berkeley County, South Carolina.
3. Defendants, Berkeley County; Berkeley County Sheriff's Department; Whitesville Rural Fire Department; Whitesville Rural Fire Department, Station 1; South Carolina Department of Public Safety; and South Carolina Highway Patrol a division of the South Carolina Department of Public Safety, are upon information and belief, governmental entities within the meaning of the South Carolina Tort Claims Act, and are organized and doing business in Berkeley County, State of South Carolina.
4. Defendant Officer John Pittman (hereinafter "Pittman"), upon information and belief, is an officer in the Berkeley County Sheriff's Department who in his individual and official capacities, participated in the arrest and confinement of Plaintiffs Julia Hyman and J. H. and under color of law violated the clearly established constitutionally protected rights of Plaintiffs.
5. Defendant Officer James Sienathe (hereinafter "Sienathe"), upon information and belief, is an officer in the Berkeley County Sheriff's Department who in his individual and official capacities, participated in the arrest and confinement of Plaintiffs Julia Hyman

and J. H. and under color of law violated the clearly established constitutionally protected rights of Plaintiffs.

6. Defendant Sergeant Nathan Rollins (hereinafter "Rollins"), upon information and belief, is an officer in the Berkeley County Sheriff's Department who in his individual and official capacities, participated in the arrest and confinement of Plaintiffs Julia Hyman and J. H. and under color of law violated the clearly established constitutionally protected rights of Plaintiffs.
7. Defendant Michael Stephenson (hereinafter "Stephenson"), upon information and belief, is a fire fighter in the Whitesville Rural Fire Department, Station 1 who in his individual and official capacities, participated in the arrest and confinement of Plaintiffs Julia Hyman and J. H. and under color of law violated the clearly established constitutionally protected rights of Plaintiffs.
8. Defendant Matthew Gaskins (hereinafter "Gaskins"), upon information and belief, is a fire fighter in the Whitesville Rural Fire Department, Station 1 who in his individual and official capacities, participated in the arrest and confinement of Plaintiffs Julia Hyman and J. H. and under color of law violated the clearly established constitutionally protected rights of Plaintiffs.
9. Defendant Officer Paul Yacobozzi (hereinafter "Yacobozzi"), upon information and belief, is an officer in the South Carolina Department of Public Safety; and South Carolina Highway Patrol a division of the South Carolina Department of Public Safety and is a volunteer fire fighter in the Whitesville Rural Fire Department, Station 1, who in his individual and official capacities, participated in the arrest and confinement of

Plaintiffs Julia Hyman and J. H. and under color of law violated the clearly established constitutionally protected rights of Plaintiffs.

10. All violations of the Plaintiffs established constitutionally protected rights alleged herein were committed within the State of South Carolina.
11. The parties, matters and all things and matters hereinafter alleged are within the jurisdiction of the Court.
12. This action is brought pursuant to the common law of the State of South Carolina and S.C. Code Ann. § 15-78-10 to 15-78-190, commonly referred to as the South Carolina Tort Claims Act, to recover for personal injuries sustained by the Plaintiff.
13. This claim is also brought to remedy Civil Rights violations, as described under 42 USC § 1983.

FACTUAL BASIS OF CLAIM

14. The Plaintiff repeats and re-alleges all of the above paragraphs and all subsequent paragraphs as if each were set forth herein verbatim.
15. On or about May 16, 2014, there was a car wreck which resulted in an overturned vehicle near the Plaintiffs' residence around 9:00 p.m.
16. Plaintiffs called 911 and reported the car wreck. As the Plaintiffs hung up with the 911 operator, Defendant Michael Stephenson arrived on the scene for the Defendant Whitesville Rural Fire Department, Station 1.
17. Plaintiff J. H., a minor, explained what happened to Defendant Stephenson and that the Plaintiff was a Junior Firefighter. Defendant Stephenson asked the Plaintiff to divert traffic to keep the area open for emergency vehicles.

18. Defendant Pittman, with the Berkeley County Sheriff's Department, arrived in an unmarked white vehicle, approached the scene at a high rate of speed, and fish-tailed as he stopped on the gravel, almost hitting the Plaintiffs.
19. As Defendant Pittman exited his vehicle, he screamed at the Plaintiffs to "get the fuck out of the road!"
20. Plaintiffs began to exit the road when Defendant Pittman again screamed at the Plaintiffs and told them that if they "do not get out of the fucking road, I am going to arrest you."
21. Plaintiffs entered their property and continued watching the emergency response teams.
22. Defendant Pittman followed the Plaintiffs onto their property and continued screaming in their faces to get off the road.
23. Plaintiff Julia Hyman went to protect herself by wrapping her arms around herself as she was recovering from breast surgery which occurred on May 5, 2014. Defendant Pittman slapped the Plaintiffs arms away and then aggressively threw Plaintiff Julia Hyman to the ground and hand cuffed her.
24. Plaintiff Julia Hyman cried out in pain and tried to explain her situation, but Defendant Pittman continued screaming at her to "shut the fuck up" and that he did not "give a fuck" about her pain.
25. Plaintiff J. H. ran up to Defendant Pittman and tried to explain that Plaintiff Julia Hyman had just had surgery. Defendant Pittman pushed Plaintiff Julia Hyman's face into the ground and screamed at her to lay there and shut up.
26. Defendant Pittman charged after Plaintiff J. H., and along with Defendant James Sienathe of the Berkeley County Sheriff's Department, began beating Plaintiff J. H. with a metal baton.

27. Plaintiff Julia Hyman witnessed Defendant Stephenson, Defendant Matthew Gaskins with the Whitesville Rural Fire Department, Station 1, and Defendant Nathan Rollins with the Berkeley County Sheriff's Department leave the scene of the accident and assist Defendant Pittman in beating Plaintiff J. H..
28. Once Defendant Pittman and Defendant Sienathe restrained Plaintiff J. H. they continued to beat him with metal batons.
29. Plaintiff Julia Hyman tried to protect her son by lying across him to stop the force of the batons. By doing so Plaintiff Julia Hyman was hit by the batons and Defendant Stephenson elbowed Plaintiff Julia Hyman in the eye in order to remove her.
30. Defendants Pittman and Sienathe dragged Plaintiff J. H. to Defendant Pittman's cruiser while continuously beating him with the batons.
31. Once Plaintiff J. H. was in the cruiser Defendants Pittman, Sienathe and Rollins continued to verbally and physically assault Plaintiff J. H..
32. Defendant Pittman appointed Officer Mortan and another female officer to stand over Plaintiff Julia Hyman.
33. Plaintiff Julia Hyman tried to explain to the officers that she suffered from anxiety and when her blood pressure gets to high she passes out. Plaintiff Julia Hyman passed out. The female officer gave the Plaintiff a sternum rub to bring her around. After waking up, Plaintiff heard the female officer tell Officer Morton that she was just faking it.
34. Plaintiff Julia Hyman continued to be verbally assaulted by Officer Morton.
35. Officer Morton moved away from the Plaintiff to allow Defendant Paul Yacobozzi, with the South Carolina Department of Public Safety; and South Carolina Highway Patrol a

division of the South Carolina Department of Public Safety and a volunteer firefighter with the Whitesville Rural Fire Department, to stand in front of the Plaintiff.

36. Defendant Yacobozzi proceeded to verbally threaten the Plaintiff saying that she was going to know who he was and she would remember it.
37. Defendant Pittman instructed to other officers to transport Plaintiff Julia Hyman to the Hill Finklea Detention Center.
38. Defendant Pittman transported Plaintiff J. H. to the Juvenile Detention Center.
39. The deficiencies in the policies in place at the Berkeley County Sheriff's Department have resulted in Defendants Pittman, Sienathe, and Rollins violating the Plaintiffs constitutionally protected rights.
40. The deficiencies in the policies in place at the Whitesville Rural Fire Department have resulted in Defendants Stephenson, Gaskins and Yacobozzi violating the Plaintiffs constitutionally protected rights.
41. The deficiencies in the policies in place at the Whitesville Rural Fire Department, Station 1 have resulted in Defendants Stephenson, Gaskins and Yacobozzi violating the Plaintiffs constitutionally protected rights.
42. The deficiencies in the policies in place at the South Carolina Department of Public Safety; and South Carolina Highway Patrol a division of the South Carolina Department of Public Safety Patrol have resulted in Defendant Yacobozzi violating the Plaintiffs constitutionally protected rights.
43. As a direct and proximate result of the Defendants' misconduct, the Plaintiffs suffered actual damages, including, but not limited to, deprivation of their liberty, injury to their

reputation, public embarrassment and humiliation, loss of freedom, mental anguish, emotional distress and attorney fees. These injuries are serious and ongoing.

44. The Plaintiffs are informed and believe that they are entitled to actual and punitive damages in an amount to be determined at trial.

FOR A FIRST CAUSE OF ACTION
(Deprivation of Constitutional Rights, Pursuant to 42 USC § 1983)

45. The Plaintiffs repeat and re-allege all of the above paragraphs and all subsequent paragraphs as if each were set forth herein verbatim.

46. The Plaintiffs had, at the time of the violations alleged herein, clearly established rights under the United States Constitution and the South Carolina Constitution which states that “the right of the people to be secure in their persons, ... papers, and effects, against unreasonable searches and seizures, shall not be violated” (U.S.Const. amend. IV), and the Fourteenth Amendment provides that no state shall “deprive any person of life, liberty, or property without due process of law” (*id.* at amend. XIV).

47. Defendant Berkeley County, Berkeley County Sheriff's Department, Whitesville Rural Fire Department, Whitesville Rural Fire Department, Station 1, South Carolina Department of Public Safety; and South Carolina Highway Patrol a division of the South Carolina Department of Public Safety are liable for the violations of Plaintiffs' Fourth and Fourteenth Amendment rights because their policies, practices and/or customs amounted to deliberate indifference to the Plaintiff's Fourth and Fourteenth Amendment rights and directly caused the deprivations of Plaintiffs' Fourth and Fourteenth Amendment rights.

48. Defendant Berkeley County, Berkeley County Sheriff's Department, Whitesville Rural Fire Department, Whitesville Rural Fire Department, Station 1, South Carolina

Department of Public Safety; and South Carolina Highway Patrol a division of the South Carolina Department of Public Safety failed to train and/or supervise its Officers and Principals; their failure to train and/or supervise amounted to deliberate indifference to the Plaintiff's Fourth and Fourteenth Amendment rights and directly caused the deprivation of Plaintiffs' Fourth and Fourteenth Amendment rights. The Defendants failed to properly exercise the appropriate use of physical force during searches, seizures and arrests at the scene of a traffic accident.

49. Berkeley County, Berkeley County Sheriff's Department, Whitesville Rural Fire Department, Whitesville Rural Fire Department, Station 1, South Carolina Department of Public Safety; and South Carolina Highway Patrol a division of the South Carolina Department of Public Safety's failure to take remedial action in response to complaints about constitutional violations perpetrated by its police officers and firefighters evidences its inadequate training and supervision and constitutes a pattern of Fourth and Fourteenth Amendment violations in its jurisdiction that amounts to deliberate indifference to the Plaintiff's Fourth and Fourteenth Amendment rights and directly caused the deprivation of Plaintiffs' Fourth and Fourteenth Amendment rights.

50. Defendants Pittman, Sienathe, Rollins, Stephenson, Gaskins, and Yacobozzi, acting in their individual and official capacities, acted jointly and pursuant to a common plan to arrest and detain Plaintiffs Julia Hyman and J. H. without probable cause or reasonable suspicion on wrongful activity on Plaintiffs part or danger to any person. They acted under color of law and directly and proximately caused the deprivation of Plaintiffs' constitutional rights by planning, ordering, orchestrating, and/or executing the arrest and detainment of Plaintiffs Julia Hyman and J. H..

51. Defendants Pittman, Sienathe, Rollins, Stephenson, Gaskins, and Yacobozzi, acting in their individual and official capacities, made final decisions that were undertaken with malice, or in reckless, callous, or with willful disregard for, and indifference to Plaintiffs' Fourth and Fourteenth Amendment rights. The Defendants failed to properly carry out the adopted policies and procedures of the police department and the fire department. Such policies and procedures were deficient and failed to perfect protection for individual rights. Deprivation of civil rights is a constitutional violation of the Plaintiffs' rights.
52. The Defendants acted with reckless or callous indifference to state and federally protected rights of the Plaintiffs. They acted jointly and pursuant to a common plan to wrongfully detain Plaintiffs Julia Hyman and J. H. without probable cause or reasonable suspicion of wrongful activity.
53. Defendants' conduct deprived the Plaintiffs of their Fourth and Fourteenth Amendment rights and Plaintiffs' right to be free from unreasonable searches and seizures.
54. The Defendants' misconduct as set forth above occurred under color of law and caused the Plaintiffs to be deprived of their rights, privileges and immunities secured by the United States Constitution, South Carolina laws and laws of the United States.
55. The acts and omissions of Defendants were undertaken with malice, or in reckless, callous, or willful disregard for, and indifference to, Plaintiffs' Constitutional Rights.
56. Berkeley County, Berkeley County Sheriff's Department, Whitesville Rural Fire Department, Whitesville Rural Fire Department, Station 1, South Carolina Department of Public Safety; and South Carolina Highway Patrol a division of the South Carolina Department of Public Safety's policy of inadequate training and supervision of its employees, including Defendants Pittman, Sienathe, Rollins, Stephenson, Gaskins, and

Yacobozzi, amounted to deliberate indifference to Plaintiff's Fourth and Fourteenth Amendment rights and directly and proximately caused the deprivation of Plaintiffs' Fourth and Fourteenth Amendment rights and their damages.

57. As a direct and proximate result of the Defendants' misconduct, the Plaintiffs suffered actual damages, including, but not limited to, deprivation of their liberty, injury to their reputation, public embarrassment and humiliation, loss of freedom, mental anguish, emotional distress and attorney fees. These injuries are serious and ongoing.
58. The Plaintiffs are informed and believe that they are entitled to actual and punitive damages in an amount to be determined at trial.

FOR A SECOND CAUSE OF ACTION

(False Arrest and Confinement – 42 USC §1983)

59. The Plaintiffs repeat and re-allege all of the above paragraphs and all subsequent paragraphs as if each were set forth herein verbatim.
60. Defendants acted negligently, willfully, wantonly, and/or in reckless disregard for the Plaintiffs' constitutionally protected rights under the Fourth and Fourteenth Amendments of the United States Constitution and the South Carolina Code of Laws 16-5-60, as amended, and placed Plaintiffs under arrest.
61. Defendants acts and omissions were done under the color of State and Municipal law and were in violation of Plaintiffs' constitutionally protected rights under the Fourth and Fourteenth Amendments of the United States Constitution and the South Carolina Code of Laws 16-5-60, as amended.
62. Defendants Berkeley County, Berkeley County Sheriff's Department, Whitesville Rural Fire Department, Whitesville Rural Fire Department, Station 1, South Carolina Department of Public Safety; and South Carolina Highway Patrol a division of the South

Carolina Department of Public Safety are liable for the violations of Plaintiffs' Fourth and Fourteenth Amendment rights because their policies, practices and/or customs amounted to deliberate indifference to the Plaintiff's Fourth and Fourteenth Amendment rights and directly caused the deprivations of Plaintiffs' Fourth and Fourteenth Amendment rights.

63. Defendant Berkeley County, Berkeley County Sheriff's Department, Whitesville Rural Fire Department, Whitesville Rural Fire Department, Station 1, South Carolina Department of Public Safety; and South Carolina Highway Patrol a division of the South Carolina Department of Public Safety failed to train and/or supervise officers and firefighters. Their failure to train and/or supervise amounted to deliberate indifference to the Plaintiff's Fourth and Fourteenth Amendment rights and directly caused the deprivations of Plaintiffs' Fourth and Fourteenth Amendment rights.

64. Berkeley County, Berkeley County Sheriff's Department, Whitesville Rural Fire Department, Whitesville Rural Fire Department, Station 1, South Carolina Department of Public Safety; and South Carolina Highway Patrol a division of the South Carolina Department of Public Safety's failure to take remedial action in response to complaints about constitutional violations perpetrated by its police officers evidences its inadequate training and supervision and constitutes a pattern of Fourth and Fourteenth Amendment violations in its jurisdiction that amounts to deliberate indifference to the Plaintiff's Fourth and Fourteenth Amendment rights and directly caused the deprivations of Plaintiffs' Fourth and Fourteenth Amendment rights.

65. Defendants Pittman, Sienathe, Rollins, Stephenson, Gaskins, and Yacobozzi, acting in their individual and official capacities, acted jointly and pursuant to a common plan to

arrest and detain Plaintiffs Julia Hyman and J. H. without probable cause or reasonable suspicion on wrongful activity on Plaintiffs part or danger to any person. They acted under color of law and directly and proximately caused the deprivation of Plaintiffs' constitutional rights by planning, ordering, orchestrating, and/or executing the arrest and detainment of Plaintiffs Julia Hyman and J. H..

66. Defendants Pittman, Sienathe, Rollins, Stephenson, Gaskins, and Yacobozzi, acting in their individual and official capacities, made final decisions that were undertaken with malice, or in reckless, callous, or with willful disregard for, and indifference to Plaintiffs' Fourth and Fourteenth Amendment rights. The Defendants failed to properly carry out the adopted policies and procedures of the police department and the fire department. Such policies and procedures were deficient and failed to perfect protection for individual rights. Deprivation of civil rights is a constitutional violation of the Plaintiffs' rights.
67. The Defendants acted with reckless or callous indifference to state and federally protected rights of the Plaintiffs. They acted jointly and pursuant to a common plan to wrongfully detain Plaintiffs Julia Hyman and J. H. without probable cause or reasonable suspicion of wrongful activity.
68. Defendants' conduct deprived the Plaintiffs of their Fourth and Fourteenth Amendment rights and Plaintiffs' right to be free from unreasonable searches and seizures.
69. The Defendants' misconduct as set forth above occurred under color of law and caused the Plaintiffs to be deprived of their rights, privileges and immunities secured by the United States Constitution, South Carolina laws and laws of the United States
70. Defendants knew or should have know that their acts and omissions were in violation of Plaintiffs' constitutionally protected rights under the Fourth and Fourteenth Amendments

of the Constitution and the South Carolina Code of Laws 16-5-60, as amended as there was no legitimate reason or purpose under state authority for which to detain, arrest, and subsequently confine the Plaintiffs and Defendants lacked probable cause to do so.

71. As a direct and proximate result of the Defendants' misconduct, the Plaintiffs suffered actual damages, including, but not limited to, deprivation of their liberty, injury to their reputation, public embarrassment and humiliation, loss of freedom, mental anguish, emotional distress and attorney fees. These injuries are serious and ongoing.

72. The Plaintiffs are informed and believe that they is entitled to actual and punitive damages in an amount to be determined at trial.

FOR A THIRD CAUSE OF ACTION

(Negligence and Gross Negligence)

73. The Plaintiffs repeat and re-allege all of the above paragraphs and all subsequent paragraphs as if each were set forth herein verbatim.

74. Defendants were negligent, grossly negligent, willful and wanton and reckless in the following particulars:

- a. In using excessive force to effectuate the arrest;
- b. In failing to follow proper procedure of detaining the Plaintiffs, including a minor;
- c. In failing to exhibit the warrant to the Plaintiffs or otherwise inform them of the charges as required by law;
- d. In failing to use the degree of care of an ordinary and reasonable person under the same or similar circumstances;
- e. In failing to protect the Plaintiffs by allowing and participating in the wrongful detainment, interrogation and by failing to notify the minor child's parents or obtain consent from the parents;
- f. In using extreme and harsh tactics and putting the Plaintiffs in reasonable fear of imminent bodily harm;

- g. In detaining the Plaintiffs, including a minor, while armed with loaded weapons thereby inflicting fear of imminent bodily harm upon the Plaintiffs.
- h. In denying Plaintiffs due process and depriving them of liberty and property in violation of due process and his civil rights, and in violation of 42 U.S.C. 1983 and of South Carolina Code Section 16-5-60.
- i. In failing to carry out the adopted policies and procedures of the Defendants;
- j. In failing to provide adequate training and supervision of its employee.
- k. In failing to maintain adequate policies and procedures to prevent violations of civil rights and constitutional protections.

75. Defendants were negligent, wanton, reckless and/or acted with deliberate indifference in the following particulars:

- a. Failure to adequately monitor and supervise the hiring practices of Defendants to insure that only qualified applicants were hired;
- b. Failure to institute and follow reasonable hiring practices to insure that only qualified applicants were hired;
- c. Failure to adequately monitor and supervise the training practices that Defendants followed with regard to personnel;
- d. Failure to adequately train personnel in public interaction, dispute resolution, and proper arrest procedure;
- e. Failure to supervise and correct actions of the Defendants, its personnel employees when they knew or should have known that a pattern of questionable and unconstitutional practices and behavior existed;
- f. In failing to carry out the adopted policies and procedures of the Defendants;
- g. In failing to provide adequate training and supervision of its employees, and
- h. In such other and further particulars as discovery will show.

76. As a direct and proximate result of the Defendants' misconduct, the Plaintiffs suffered actual damages, including, but not limited to, deprivation of their liberty, injury to their reputation, public embarrassment and humiliation, loss of freedom, mental anguish, emotional distress and attorney fees. These injuries are serious and ongoing.

77. The Plaintiffs are informed and believe that they is entitled to actual and punitive damages in an amount to be determined at trial.

FOR A FIFTH CAUSE OF ACTION
(Invasion of Privacy)

78. The Plaintiffs repeat and re-allege all of the above paragraphs and all subsequent paragraphs as if each were set forth herein verbatim.

79. The Plaintiffs have a common law right to privacy and a constitutional right to privacy pursuant to Article 1, section 10 of the South Carolina Constitution, which confers on Plaintiffs a right to be let alone and to be free from unreasonable intrusions.

80. The Defendants wrongfully, intentionally, substantially and unreasonably intruded into the private affairs of the Plaintiffs.

81. The Defendants' intrusion as alleged hereinabove has resulted in injury and damage to the Plaintiffs.

82. As a direct and proximate result of the Defendants' misconduct, the Plaintiffs suffered actual damages, including, but not limited to, deprivation of their liberty, injury to their reputation, public embarrassment and humiliation, loss of freedom, mental anguish, emotional distress and attorney fees. These injuries are serious and ongoing.

83. The Plaintiffs are informed and believes that they are entitled to actual and punitive damages in an amount to be determined at trial.

FOR A SIXTH CAUSE OF ACTION
(Grossly Negligent And Intentional Infliction Of Emotional Distress/Outrage)

84. Plaintiffs reiterate and reallege the allegation above as if fully set forth herein

85. The Defendants' extreme and harsh tactics utilized by the Defendants were excessive, extreme and outrageous beyond the bounds of what reasonable adults or children should endure and put the Plaintiffs in reasonable fear of imminent bodily harm.
86. The Defendants restraint of the Plaintiffs was intentional and unlawful. As a result, the Plaintiffs were deprived of their liberty without lawful jurisdiction
87. Defendants agreed to a common scheme to execute a false arrest of the Plaintiffs, knowing that its manner of execution would cause Plaintiffs' constitutional and commonlaw rights to be violated and Defendants acted pursuant to their common scheme, and thereby, violated Plaintiffs' rights.
88. The emotional distresses suffered by Plaintiffs were so severe that no reasonable person could be expected to endure it.
89. As a direct and proximate cause of the negligence of the Defendants, the Plaintiffs have suffered traumatic stress, pain and suffering, and the Defendants are liable for said damages.

FOR A SEVENTH CAUSE OF ACTION
(Doctrine Of Necessities)

90. The Plaintiffs reallege and reiterate the preceding paragraphs as if fully set forth herein verbatim.
91. The Plaintiff, Julia Hyman, as natural parent and guardian of Plaintiff J. H., provides necessities, including medical expenses, for the minor Plaintiff, and as such, is the party in interest of any payment of medical bills.
92. As a direct and proximate result of the Defendants' negligence, the minor Plaintiff suffered an injury and was forced to undergo medical treatment and has had to endure

physical and mental pain and suffering resulting in the loss of enjoyment of life and the pain and suffering will continue to impair the Plaintiff.

93. By reason of the foregoing, the Plaintiffs have been damaged to the extent and in the sum to be determined by the trier of fact.

WHEREFORE, the Plaintiff prays for a judgment against the Defendants, jointly and severally, for actual and punitive damages, attorney fees and costs, and for such other and further relief as the Court may deem just and proper.

s/Brice E. Ricker
Brice E. Ricker, Esquire
Fed ID # : 12049
8086 Rivers Avenue, Ste. A
North Charleston, SC 29406
(843) 553-9800
Attorney for the Plaintiff

North Charleston, South Carolina
This 15th day of May, 2015.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Julia Hyman, individually; Julia Hyman as
Parent and Legal Guardian of J.H.; and J.H.,
individually,

Plaintiffs,

v.

Berkeley County; Berkeley County Sheriff's
Department; Whitesville Rural Fire
Department; Whitesville Rural Fire
Department, Station 1; South Carolina
Highway Patrol; South Carolina Department
of Public Safety; Officer John Pittman,
Individually and in his official capacity of the
Berkeley County Sheriff's Department; James
Sienathe, Individually and in his official
capacity of the Berkeley County Sheriff's
Department; Sergeant Nathan Rollins,
Individually and in his official capacity of the
Berkeley County Sheriff's Department;
Michael Stephenson, Individually and in his
official capacity of the Whitesville Rural Fire
Department, Station 1; Matthew Gaskins,
Individually and in his official capacity of the
Whitesville Rural Fire Department, Station 1;
Paul Yacobozzi, Individually and in his
official capacity of the South Carolina
Highway Patrol and/or Whitesville Rural Fire
Department, Station 1;

Defendants.

C/A No.: 2:15-CV-2029-DCN-BM

**VOLUNTARY PARTIAL
DISMISSAL OF CERTAIN
DEFENDANTS WITHOUT
PREJUDICE AND REQUEST
FOR CHANGE OF CAPTION**

The Plaintiffs, Julie Hyman, individually, Julia Hyman as Parent and Legal Guardian of J.H., and J.H., individually, hereby voluntarily dismiss without prejudice all claims asserted or that might have been asserted against (1) Berkeley County, (2) South Carolina Highway Patrol, (3) South Carolina Department of Public Safety and (4) Paul Yacobozzi, in his official capacity

of the South Carolina Highway Patrol, in the above-captioned matter pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure.

This dismissal is based on two representations of counsel for Defendants Berkeley County, Berkeley County Sheriff's Office (incorrectly named as Berkeley County Sheriff's Department), South Carolina Highway Patrol, South Carolina Department of Public Safety, Officer John Pittman, James Sineath and Sergeant Nathan Rollins. First, Berkeley County Sheriff's Office, and not Berkeley County is the proper legal entity to be named, as the Sheriff is a constitutional officer. Second, Defendant Paul Yacobozzi was not working in his capacity as a Highway Patrolman at the time of the incident alleged in the Complaint. For that reason, Defendants South Carolina Highway Patrol, South Carolina Department of Public Safety, and Paul Yacobozzi, in his official capacity of the South Carolina Highway Patrol are not proper parties. Based on these representations and prior to any defendants filing an answer or other responsive pleading, Plaintiffs wish to dismiss the claims against Defendants Berkeley County, South Carolina Highway Patrol, South Carolina Department of Public Safety, and Paul Yacobozzi, in his official capacity of the South Carolina Highway Patrol¹ without prejudice. The Plaintiffs reserve the right to amend and relate back if the evidence later supports such.

The Plaintiffs further request that this Honorable Court issue an order amending the caption in this case to reflect the dismissal of the parties herein. Plaintiffs respectfully request that the new caption be amended to read: Julie Hyman, individually, Julia Hyman as Parent and Legal Guardian of J.H., and J.H., individually v. Berkeley County Sheriff's Office, Whitesville Rural Fire Department, Whitesville Rural Fire Department- Station 1, Officer John Pittman, Individually and in his official capacity of the Berkeley County Sheriff's Office, James

¹ Plaintiff is not dismissing Paul Yacobozzi, Individually or in his official capacity of the Whitesville Rural First Department, Station 1. Plaintiff is only dismissing Paul Yacobozzi, in his official capacity of the South Carolina Highway Patrol.

Sienathe, Individually and in his official capacity of the Berkeley County Sheriff's Office,
Sergeant Nathan Rollins, Individually and in his official capacity of the Berkeley County
Sheriff's Office, Michael Stephenson, Individually and in his official capacity of the Whitesville
Rural Fire Department- Station 1, Matthew Gaskins, Individually and in his official capacity of
the Whitesville Rural Fire Department- Station 1, Paul Yacobozzi, Individually and in his
official capacity of the Whitesville Rural Fire Department- Station 1.

s/ Brice E. Ricker

Brice E. Ricker, Esquire

Fed ID#: 12049

8086 Rivers Avenue, Ste. A

North Charleston, SC 29406

Attorneys for the Plaintiffs

July 1, 2015

North Charleston, South Carolina

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

January 5, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T08771
Date of Occurrence: May 16, 2014
Claimant: Hyman, Julia, et al.
Date Closed: January 5, 2016

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	3,014.45

If you should have any questions, please contact us.

Sincerely,

Nancy Stevenson
Manager, Intermediate Claims Unit

/ns

RECEIVED

JAN 07 2016

SCDPS
Office of General Counsel

STATE OF SOUTH CAROLINA)
COUNTY OF DILLON)
Danny W. Jackson,)
Plaintiff,)
vs.)
Jimmy B. King, in his individual)
Capacity as a Lance Corporal with)
the South Carolina Highway Patrol;)
South Carolina Department of Public)
Safety; Kievers L. Cunningham,)
M.D., McLeod Medical Center-)
Dillon; Emcare, Inc.)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOURTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2015-CP-17-

134

COMPLAINT
(JURY TRIAL DEMANDED)

Comes now the Plaintiff Danny W. Jackson, complaining of the Defendants and alleges the following:

PARTIES AND JURISDICTION

1. That Plaintiff Danny W. Jackson, hereinafter JACKSON, was at all times relevant to this complaint a resident of Latta, Dillon County, South Carolina.
2. That Defendant Jimmy B. King, hereinafter KING, was at all times herein an officer with the SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, acting under color of state law in the course and scope of his employment as a law enforcement officer. Defendant KING is sued in his individual capacity under federal law for compensatory and punitive damages.
3. That Defendant South Carolina Department of Public Safety, hereinafter SCDPS, is the appropriate party defendant as a state agency for the acts and omissions of its agents/employees in the course and scope of their employment and/or official duties

pursuant to the South Carolina Tort Claims Act. Defendant SCDPS is sued for compensatory damages only.

4. That Defendant Kievers L. Cunningham, hereinafter CUNNINGHAM, was at all times herein a medical doctor working in the emergency department at McLeod Medical Center-Dillon. Defendant CUNNINGHAM is sued in his individual capacity under federal and state law for compensatory and punitive damages.
5. That Defendant McLeod Medical Center-Dillon, hereinafter MMCD, is a non-profit corporation organized and incorporated under the laws of South Carolina and doing business in the County of Dillon, State of South Carolina. Defendant MMCD is sued under state law for compensatory and punitive damages.
6. That Defendant Emcare, Inc., hereinafter EMCARE, is a corporation organized and incorporated under the laws of Delaware and doing business in the county of Dillon, State of South Carolina. Defendant EMCARE is sued under state law for compensatory and punitive damages.
7. The Plaintiff brings his state claims pursuant to the S.C. Code Ann. §15-78-10 et seq. and §15-7-30. The Plaintiff further invokes this court's concurrent jurisdiction to hear claims arising under the United States Constitution and federal statutes. Specifically 42 U.S.C. § 1983, 1988, the Fourth and Fourteenth Amendments to the United States Constitution.

FACTUAL ALLEGATIONS

8. On or about April 21, 2013, KING stopped JACKSON for a traffic stop. Subsequent to that stop, KING arrested JACKSON for DUI, issuing JACKSON uniform traffic ticket G-323461 for a violation of S.C. Code 56-5-2930.
9. Subsequent to the above, KING handcuffed JACKSON, placed JACKSON in his patrol

car and transported JACKSON to the Dillon County Jail.

10. Upon arrival at the Dillon County Jail, JACKSON submitted to a Datamaster DMT breath test. That sample produced a 0.00 result.
11. Subsequent to the above, KING transported JACKSON to MMCD's emergency room. JACKSON is informed and believes that CUNNINGHAM was the attending physician on duty at that time.
12. The medical records of the visit described above note that JACKSON "arrived in custody of the SC Highway Patrol, ambulatory, clear speech, steady gait & handcuffed to front. Placed in Room 18 & Officer King. Triage completed urinal given of HP. ordered drug urine test..."
13. The medical records also note that when JACKSON was admitted, he "was not involved in MVA or altercation. Denies injury or pain," that his neuro/psych was "oriented x3" and "mood/affect nml," that he was in "no acute distress" and "alert," that his respiratory and cardiovascular signs were all normal and that his skin was warm and dry.
14. Despite the examination findings upon intake and the 0.00 alcohol breath test as described above, the clinical impression as recorded by MMCD was "alcohol intoxication."
15. At some point during the ER visit, JACKSON was unable to provide a urine sample that KING had requested. At that time, a urine sample was forcefully obtained from JACKSON via an in/out catheter.
16. That agents/employees/representatives of MMCD performed the catheter procedure on JACKSON, under the direction/supervision of CUNNINGHAM.
17. That at no time was JACKSON ever under arrest for a Felony DUI pursuant to S.C. Code

- 56-5-2945, which is the only statute requiring that a defendant must submit to any chemical testing of his breath, blood or urine.
18. That any person charged with a DUI under S.C. Code 56-5-2930 has the right “not have to take the test or give the samples” pursuant to S.C. Code 56-5-2950(B)(1).
 19. That “blood and urine samples must be obtained and handled in accordance with procedures approved by SLED,” pursuant to S.C. Code 56-5-2950(A) and that the procedures approved by SLED for obtaining and handling urine and blood samples is proscribed in SLED Regulation 73-2.1.
 20. That no warrant was obtained by KING or SCDPS to support the search and seizure of a urine sample via catheter.
 21. That the urine sample was collected from JACKSON by MMCD, CUNNINGHAM and EMCARE without KING or SCDPS executing or providing them with an executed “Urine/Blood Collection Report.”
 22. That the warrantless search and seizure of JACKSON’s urine sample via a catheter violates South Carolina law and regulations, specifically S.C. Code 56-5-2930, -2945, -2950 and SLED Regulation 73-2.1 and falls outside South Carolina’s Implied Consent law.
 23. That at all times relevant to this complaint, CUNNINGHAM was an agent/employee/representative of EMCARE, which contracts with MMCD to provide emergency room physicians.
 24. That at all times relevant to this complaint, KING was acting out of and in the course and scope of his duties as an agent/employee with Defendant SCDPS.

FOR A FIRST CAUSE OF ACTION

§1983 Fourth Amendment claim against Defendant KING individually for
Unlawfully searching and seizing JACKSON in violation of the 4th and 14th Amendments to the
United States Constitution

25. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
26. The acts and omissions of Defendant KING, in directing/ordering that a urine sample be obtained via catheter was an unreasonable search and seizure violating the Plaintiff's fourth amendment rights.
27. As a direct and proximate cause result of this unreasonable search and seizure, the Plaintiff suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A SECOND CAUSE OF ACTION

Battery against Defendant MMCD

28. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
29. The acts and omissions of Defendant MMCD, in executing and allowing an unlawful search and seizure via catheter against the Plaintiff constituted an unlawful touching, not legally consented to, which harmed the Plaintiff.
30. As a direct and proximate cause result of the Battery, the Plaintiff suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A THIRD CAUSE OF ACTION

Negligence/Negligence Per Se/Gross Negligence against Defendants MMCD

31. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

32. Defendant MMCD is vicariously liable for the acts and omissions of its agents/employees/representatives acting within the course and scope of their employment.
33. The acts and omissions of Defendant MMCD in directing, ordering, allowing, participating and assisting in the unreasonable search and seizure of JACKSON via the catheter procedure was negligent or careless and/or reckless, willful or wanton.
34. The acts and omissions of Defendant MMCD in directing, ordering, allowing, participating and assisting in the unreasonable search and seizure of JACKSON via the catheter procedure violated South Carolina law and regulations making it negligence per se. Specifically, but not limited to, the code sections and regulations referred to in paragraph twenty-two (22).
35. That JACKSON was injured and damaged in his person as the result of Defendant MMCD's acts and omissions.
36. As a direct and proximate cause result of Defendant MMCD's negligence/negligence per se/gross negligence, the Plaintiff suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A FOURTH CAUSE OF ACTION

Negligence Per Se/Gross Negligence against Defendant SCDPS

37. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
38. Defendant SCDPS is vicariously liable for the acts and omissions of its agents/employees/representatives acting within the course and scope of their employment.
39. The acts and omissions of Defendant SCDPS in directing, ordering, allowing, participating and assisting in the unreasonable search and seizure of JACKSON via the catheter procedure was reckless, willful or wanton.

40. The acts and omissions of Defendant SCDPS in directing, ordering, allowing, participating and assisting in the unreasonable search and seizure of JACKSON via the catheter procedure violated South Carolina law and regulations making it negligence per se. Specifically, but not limited to, the code sections and regulations referred to in paragraph twenty-two (22).
41. That JACKSON was injured and damaged in his person as the result of Defendant SCDPS' acts and omissions.
42. As a direct and proximate cause result of Defendant SCDPS's negligence per se/gross negligence, the Plaintiff suffered mental, emotional and physical harm, as well as other damages as set out below

FOR A FIFTH CAUSE OF ACTION

Gross Negligence against Defendant SCDPS for negligent supervision of Defendant KING

43. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
44. Defendant SCDPS had actual or constructive knowledge of the conduct of Defendant KING, all the acts and omissions of Defendant KING as described above, and that said conduct posed a pervasive and unreasonable risk of injury to citizens like the Plaintiff.
45. Defendant SCDPS had a duty to supervise Defendant KING, a duty that encompasses training, supervision and discipline. Defendant SCDPS was grossly negligent in its supervision of Defendant KING in failing to properly and adequately supervise Defendant KING's acts and omissions as described above.
46. Defendant SCDPS's response to the knowledge of the acts and omissions as described above shows deliberate indifference or tacit authorization of the alleged offensive conduct and created/condoned customs, policies and/or practices that are deliberately

indifferent to the likelihood that their employees/agents will violate the constitutional rights of citizens like JACKSON.

47. Defendant SCDPS knew or should have known that its supervision of Defendant KING was inadequate and created the possibility for potential harm such that the Plaintiff has suffered harm due to Defendant SCDPS's acts and omissions in the supervision of Defendant KING.
48. As a direct and proximate cause result of Defendant SCDPS's grossly negligent supervision of Defendant KING, the Plaintiff suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A SIXTH CAUSE OF ACTION

Gross Negligence against Defendant EMCARE for negligent supervision of Defendant
CUNNINGHAM

49. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
50. Defendant EMCARE had actual or constructive knowledge of the conduct of Defendant CUNNINGHAM, all the acts and omissions of Defendant CUNNINGHAM as described above, and that said conduct posed a pervasive and unreasonable risk of injury to citizens like the Plaintiff.
51. Defendant EMCARE had a duty to supervise Defendant CUNNINGHAM, a duty that encompasses training, supervision and discipline. Defendant EMCARE was grossly negligent in its supervision of Defendant CUNNINGHAM in failing to properly and adequately supervise Defendant CUNNINGHAM's acts and omissions as described above.

52. Defendant EMCARE's response to the knowledge of the acts and omissions as described above shows deliberate indifference or tacit authorization of the alleged offensive conduct and created/condoned customs, policies and/or practices that are deliberately indifferent to the likelihood that their employees/agents will violate the constitutional rights of citizens like JACKSON.
53. Defendant EMCARE knew or should have known that its supervision of Defendant CUNNINGHAM was inadequate and created the possibility for potential harm such that the Plaintiff has suffered harm due to Defendant EMCARE's acts and omissions in the supervision of Defendant CUNNINGHAM.
54. As a direct and proximate cause result of Defendant EMCARE's grossly negligent supervision of Defendant CUNNINGHAM, the Plaintiff suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A SEVENTH CAUSE OF ACTION
Civil Conspiracy against all Defendants

55. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
56. Defendants KING, SCDPS, MMCD, CUNNINGHAM and EMCARE combined and joined together for the purpose of injuring JACKSON. This combining and joining included, but was not limited to, representations to JACKSON that he had to submit to a catheter procedure and/or encouragement/advisement to submit to the catheter procedure, in violation of state law and regulations and his constitutional rights, causing JACKSON special damages.
57. As a direct and proximate cause result of this conspiracy, the Plaintiff suffered mental, emotional and physical harm, as well as other damages as set out below.

DAMAGES

58. That as to Defendant SCDPS, the Plaintiff is informed and believes that he is entitled to actual and consequential damages and such other relief as the Court deems just and proper.
59. That as to Defendant KING, the Plaintiff is informed and believes that he is entitled to actual, consequential and punitive damages, attorney's fees and costs pursuant to 42 U.S.C. §1988, and such other relief as this court deems just and proper.
60. That as to Defendants MMCD, CUNNINGHAM and EMCARE, the Plaintiff is informed and believes that he is entitled to actual, consequential and punitive damages, and such other relief as this court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE, having fully set forth the grounds of their complaint, Plaintiff asks this court to award compensatory and punitive damages in an appropriate amount, attorney fees and costs pursuant to 42 U.S.C. §1988, and such other relief as this court deems just and proper.

WUKELA LAW FIRM

BY: 

PATRICK J. MCLAUGHLIN

PO Box 13057

Florence SC 29504

T:843-669-5634

F:843-669-5150

Patrick@wukelalaw.com

Florence, South Carolina

April 16, 2015

Attorney for Plaintiff

Danny W. Jackson,)	Civil Action No. 4:15-cv-02082-RBH-TER
)	
Plaintiff,)	
)	
vs.)	
)	
Jimmy B. King, in his individual)	CONSENT STIPULATION OF
capacity as a Lance Corporal with the)	DISMISSAL WITH PREJUDICE
South Carolina Highway Patrol; South)	
Department of Public Safety;)	
Kievers L. Cunningham, MD; McLeod)	
Medical Center – Dillon; Emcare, Inc.,)	
)	
Defendants.)	
)	

WUKELA LAW FIRM

May 9, 2016

Signatures, initials, and personal information (i.e. address, phone, social security number) were redacted by House Legislative Oversight Committee staff.

WE CONSENT:

s/Joel S. Hughes
JOEL S. HUGHES
ATTORNEY FOR DEFENDANT JIMMY
B. KING AND SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY

s/Julius W. McKay, II
JULIUS W. MCKAY, II
ATTORNEY FOR DEFENDANTS
KIEVERS L. CUNNINGHAM, MD
AND EMCARE, INC.


s/J. Boone Aiken, III
J. BOONE AIKEN, III
ATTORNEY FOR DEFENDANT
MCLEOD MEDICAL CENTER DILLON

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Danny W. Jackson,	)	Civil Action No. 4:15-cv-02082-RBH-TER
)	
Plaintiff,)	
)	
vs.)	
)	
Jimmy B. King, in his individual	)	CONSENT STIPULATION OF
capacity as a Lance Corporal with the	)	DISMISSAL WITH PREJUDICE
South Carolina Highway Patrol; South)	
Department of Public Safety;)	
Kievers L. Cunningham, MD; McLeod)	
Medical Center – Dillon; Emcare, Inc.,)	
)	
Defendants.)	

NOW COMES THE PLAINTIFF, by and through his undersigned counsel, having brought a lawsuit in this matter and engaged in discovery, the Plaintiff now wishes to withdraw his lawsuit. By his signature below, the Plaintiff understands that this dismissal would be with prejudice and would forever bar his pursuing any claims related to the underlying incident. By their signatures below, the Defendants have consented to this dismissal and are acknowledging that this dismissal concludes and resolves all claims between the parties arising from the underlying incident of April 21, 2013.

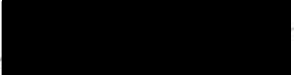
WUKELA LAW FIRM


PATRICK J. MCLAUGHLIN
ATTORNEY FOR PLAINTIFF
PO Box 13057
Florence, SC 29504-3057
Telephone: 843-669-5634
Facsimile: 843-6695150
patrick@wukelalaw.com

May 2, 2016


DANNY W. JACKSON

WE CONSENT:



JOEL S. HUGHES
ATTORNEY FOR DEFENDANT JIMMY
B. KING AND SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY

JULIUS W. MCKAY, II
ATTORNEY FOR DEFENDANTS
KIEVERS L. CUNNINGHAM, MD
AND EMCARE, INC.

J. BOONE AIKEN, III
ATTORNEY FOR DEFENDANT
MCLEOD MEDICAL CENTER DILLON

WE CONSENT:

JOEL S. HUGHES
ATTORNEY FOR DEFENDANT JIMMY
B. KING AND SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY


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ATTORNEY FOR DEFENDANTS
KIEVERS L. CUNNINGHAM, MD
AND EMCARE, INC.

J. BOONE AIKEN, III
ATTORNEY FOR DEFENDANT
MCLEOD MEDICAL CENTER DILLON

WE CONSENT:

JOEL S. HUGHES
ATTORNEY FOR DEFENDANT JIMMY
B. KING AND SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY

JULIUS W. MCKAY, II
ATTORNEY FOR DEFENDANTS
KIEVERS L. CUNNINGHAM, MD
AND EMCARE, INC.



J. BOONE AIKEN, III
ATTORNEY FOR DEFENDANT
MCLEOD MEDICAL CENTER DILLON

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

) IN THE COURT OF COMMON PLEAS
) C.A. File No. 13-CP-04-01825

BARWRUE TARR JOHNSON,
individually and as Guardian ad Litem
for NAILAH JOHNSON and EVE
WULAH, minors under the age of
eighteen (18) years,

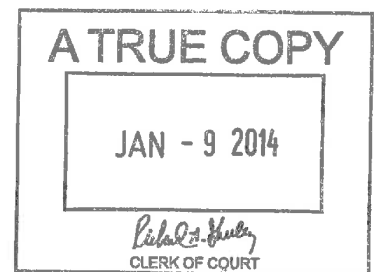
Plaintiffs,

vs.

**EVANDOR THOMPSON and SOUTH
CAROLINA HIGHWAY PATROL,**

Defendants.

**AMENDED
COMPLAINT FOR DAMAGES
AND
JURY TRIAL DEMANDED**



Plaintiffs, complaining of the defendants herein, would respectfully show unto the Court and allege that:

1. Plaintiffs, **BARWRUE TARR JOHNSON** (hereinafter “Mother”), **individually and as Guardian ad Litem for NAILAH JOHNSON and EVE WULAH** (hereinafter “Daughters”), **minors under the age of eighteen (18) years**, are residents of State of Georgia.
2. Plaintiffs are informed and believe that the Defendant **EVANDOR THOMPSON** lives in the County of Anderson, State of South Carolina.
3. Defendant **SOUTH CAROLINA HIGHWAY PATROL, (hereinafter “SCHP”)**, is a political subdivision charged with protecting the health and safety of the citizens throughout the State of South Carolina. Defendant **SCHP** has a principal place of business located in the County of Richland, State of South Carolina, and has agents and employees who perform work for the

agency in the County of Anderson, State of South Carolina.

4. Plaintiffs are informed and believe that Leslie Smith was an agent, servant, and/or employee for Defendant SCHK at the time of this collision and was driving a vehicle owned by Defendant SCHK and any negligence on behalf of Leslie Smith is imputed upon SCHK through respondent superior.

5. On November 28, 2011, at approximately 9:00 p.m., plaintiffs were traveling on Interstate 85 in Greenville County when suddenly and without warning defendants failed to yield right of way on Interstate I-85 causing serious personal injuries to plaintiffs.

6. The collision was the direct and proximate result of, and was caused and occasioned by the negligence of defendants, in one or more of the following particulars, to-wit:

- A. In failing to allow a reasonable and prudent distance between defendants' vehicle and other vehicles on the roadway in violation of **S.C. Code Ann. § 56-5-1930**;
- B. In failing to maintain proper control of their vehicle at all times in view of the circumstances existing at the time and place of the aforesaid collision in violation of **S.C. Code Ann. § 56-5-1520**;
- C. In failing to control the speed of their vehicle so as to avoid entering into another vehicle's lane of travel in violation of **S.C. Code Ann. § 56-5-1520**;
- D. In failing to obey the instructions of a traffic control device in violation of **S.C. Code Ann. § 56-5-950**;
- E. In failing to devote their full attention to the road on which they were

traveling and to the operation of their vehicles;

- F. In failing to keep a proper lookout for others traveling upon the highway;
- G. In operating their vehicles in a highly improper manner in view of the circumstances, then and there existing;
- H. In not being mentally and physically alert to the impending dangers;
- I. In failing to take any action whatsoever to avoid the incident in question; and
- J. In operating a motor vehicle in violation of the provisions of law or negligently, carelessly, recklessly, wilfully or wantonly and causing plaintiffs to incur personal injuries and/or damages which should be attached by lien to defendants' vehicle in accordance with **S.C. Code Ann. § 29-15-20**.

7. As a direct and proximate result of the negligence of defendants, which caused the aforesaid collision, the Daughters were injured seriously, severely and permanently in or about various and diverse parts of their bodies, including, but not limited to, upper and lower extremity pains, neck pains, back pains, which injuries caused the Daughters to suffer the following damages:

- A. Impairment of ability to work in the future and earn a livelihood;
- B. Future medical expenses which are reasonably certain to occur after they reach the age of eighteen;
- C. Past physical pain and suffering and future physical pain and suffering as it is reasonably certain will of necessity result;
- D. Past emotional and mental pain and suffering and future emotional and mental pain and suffering as it is reasonably certain will of necessity result;
- E. Permanent disability, either partial or total, to one or more of the parts of the

Daughters' body; and

F. Loss of enjoyment of life.

8. As a direct and proximate result of the negligence of defendants, which caused the aforesaid collision, the Daughters were injured seriously, severely and permanently in or about various and diverse parts of their bodies, which, in turn, has caused the Mother to sustain the following damages:

- A. Loss of services of the Daughters;
- B. Past and present medical expenses incurred by the Daughters; and
- C. Future medical expenses which are reasonably certain to occur until the Daughters reach the age of eighteen years;

7. As a direct and proximate result of the negligence of defendants, which caused the aforesaid collision, Plaintiff Barwrue Tarr-Johnson was injured seriously, severely and permanently in or about various and diverse parts of her body, including, but not limited to upper and lower extremity pains, neck pains, back pains, which injuries have caused Plaintiff Barwrue Tarr-Johnson to suffer the following damages:

- A. Loss of time and income from being unable to engage in gainful employment and impairment of future earning capacity;
- B. Past medical expenses and future medical expenses which are reasonably certain to occur;
- C. Past physical pain and suffering and future physical pain and suffering as it is reasonably certain will of necessity result;
- D. Past emotional and mental pain and suffering and future emotional and


mental pain and suffering as it is reasonably certain will of necessity result;

- E. Permanent disability, either partial or total, to one or more of the parts of her body; and
- F. Loss of enjoyment of life.

8. As a direct and proximate result of the aforementioned acts of defendants, jointly and severally, plaintiffs are entitled to judgment against defendants for actual damages in such fair, just and reasonable amount as may be determined by the jury.

WHEREFORE, plaintiffs demand a trial by jury pursuant to **Rule 38(b)** of the **South Carolina Rules of Civil Procedure (SCRCP)**, and plaintiffs pray for judgment against defendants, jointly and severally, for actual damages in an amount to be determined by the jury, for the costs of this action, and for such other and further relief as this court may deem just and proper.

TRAMMELL & MILLS LAW FIRM, LLC


 Floyd S. Mills III
 SC Bar # 74038
 1650 East Greenville Street
 Post Office Box 1656
 Anderson, South Carolina 29622-1656
 (864) 231-7171
ATTORNEYS FOR THE PLAINTIFF
JURY TRIAL DEMANDED

20 December 2013

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

) IN THE COURT OF COMMON PLEAS
) C.A. File No. 13-CP-04-01825

BARWRUE TARR JOHNSON,
individually and as Guardian ad Litem
for NAILAH JOHNSON and EVE
WULAH, minors under the age of
eighteen (18) years,

Plaintiff,

VS.

**EVANDOR THOMPSON and SOUTH
CAROLINA HIGHWAY PATROL,**

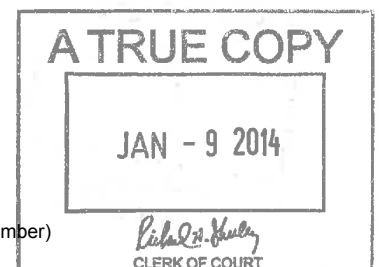
Defendants.

**SUBSTITUTION OF PARTY
AND
AMENDED COMPLAINT**


Upon further inquiry, the original pleadings arose out of the conduct, transaction or occurrence of Evandor Thompson. Therefore an additional party for which the above filed pleadings should be added is South Carolina Highway Patrol, and an Amended Complaint is attached to put on notice the proper party. No additional parties have been added or causes of actions raised. This substitution and amendment are done in accordance with SCRPC Rule 15.

This Substitution of Party and Amended Complaint is done with no opposition from opposing counsels as attested by their signature below and will be properly served on Evandor Thompson and South Carolina Highway Patrol, at which time the Amended Complaint has been clocked in with the Anderson County Clerk of Court.

-Attorneys Signatures on Following Page-




TRAMMELL & MILLS LAW FIRM, LLC


Floyd S. Mills III
S.C. ID # 74038
Post Office Box 1656
Anderson, South Carolina 29622-1656
(864) 231-7171
ATTORNEYS FOR THE PLAINTIFF
JURY TRIAL DEMANDED

36 December 2013

I consent:


Michael T. Coulter, Esquire
CLARKSON, WALSH, TERRELL & COULTER, P.A.
PO Box 6728, Greenville, SC 29606
1164 A Woodruff Road
Greenville, SC 29607
864-232-4400
Fax 864-235-4399
mcoulter@clarksonwalsh.com

Signatures, initials, and personal information (i.e. address, phone, social security number)
were redacted by House Legislative Oversight Committee staff.

A TRUE COPY

JAN - 9 2014


CLERK OF COURT

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

Barwrue Tarr Johnson, individually and
as Guardian ad Litem for Nailah Johnson
and Eve Wulah, minors under the age of
eighteen (18) years,

Plaintiffs,

v.

Evandor Thompson and South Carolina
Highway Patrol,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No. 13-CP-04-01825

A TRUE COPY

SEP - 3 2014

ORDER

FILED - CLERK'S OFFICE
ANDERSON SC
2014 SEP 29 P 2:54
CLERK OF COURT
COMMON PLEAS AND
GENERAL SESSIONS

This matter is before the Court upon the motion of the Defendant South Carolina Highway Patrol (hereinafter, "SCHP") for an Order partially dismissing the Plaintiffs' claims against it. Specifically, the Defendant SCHP has sought an Order dismissing the claims of Plaintiff Barwrue Tarr Johnson, individually, as time-barred by the applicable statute of limitations and striking all references to joint and several liability from the Plaintiffs' Amended Complaint. A hearing was held in this matter before the undersigned on August 1, 2014, at the Anderson County Courthouse. Present at the time and presenting arguments were Justin Bagwell, counsel for the Defendant SCHP, Roy Trammell, counsel for the Plaintiffs, and Michael Coulter, counsel for the Defendant Evandor Thompson. After carefully considering the arguments made and the entirety of the matters on file in this case, the Court finds that summary judgment should be granted in favor of the Defendant SCHP as to the claims being made by the Plaintiff Barwrue Tarr Johnson. Additionally, the Court finds that the Defendant SCHP's motion to dismiss the Plaintiffs' claim for joint and several liability should be granted.

This matter arises from an automobile accident that occurred on November 28, 2011, on Interstate 85 in Greenville County. The Plaintiff Barwue Tarr Johnson originally filed her lawsuit exclusively against Defendant Evandor Thompson on behalf of herself and her two minor children, Nailah Johnson and Eve Wulah, in August 2013. On December 30, 2013, counsel for the Plaintiffs received written consent from counsel for Defendant Thompson to add SCHP as a party defendant. The Plaintiffs' Amended Complaint naming SCHP as a defendant in this action was filed on January 9, 2014.

As to the Defendant SCHP's motion regarding the claims being made by the Plaintiff Barwue Tarr Johnson, the Court concludes as a matter of law that the Plaintiff's claims are barred by the applicable statute of limitations. The South Carolina Tort Claims Act is the exclusive remedy for any tort committed by an employee of a governmental entity. S.C. Code Ann. § 15-78-70(a). Thus, all of Plaintiff Barwue Tarr Johnson's claims are governed by the Tort Claims Act, including its statute of limitations found in S.C. Code Ann. § 15-78-110. That section provides that "any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered...." S.C. Code Ann. § 15-78-110. The record before the Court establishes more than two years elapsed between the date of the Plaintiffs' accident and the date that the Plaintiff commenced her claim against the SCHP. Because Plaintiff Barwue Tarr Johnson did not commence an action against the Defendant SCHP within two years after the date the loss was known or discovered, her claims for her damages against the SCHP are forever barred in accordance with S.C. Code Ann. § 15-78-110. However, because the Plaintiff's children have not yet reached the age of majority, this Order does not affect the claims she has asserted as guardian ad litem on their behalf against the Defendant SCHP. Moreover, this Order does not

affect any of the claims that have been asserted by the Plaintiff, either individually or on behalf of her minor children, against Defendant Thompson.

As to the Defendant SCHP's motion to dismiss the Plaintiffs' claim joint and several liability, the Court concludes as a matter of law that the Defendant's motion should be granted. As previously mentioned, this action has been brought against the SCHP pursuant to the South Carolina Tort Claims Act. In accordance with S.C. Code Ann. § 15-78-100(c), the Court is required to apportion fault among all Defendants when an alleged joint tortfeasor is named as party defendant in addition to a governmental entity. Accordingly, the Plaintiffs' claim for joint and several liability must be dismissed.

IT IS THEREFORE ORDERED that the claims being asserted by the Plaintiff Barwruce Tarr Johnson, individually, against the Defendant SCHP be dismissed with prejudice. This Order does not affect the claims being asserted by the Plaintiff as Guardian ad Litem on behalf of her two minor children, Nailah Johnson and Eve Wulah, against SCHP, nor does it affect the claims being asserted by the Plaintiff, either individually or on behalf of her minor children, against Defendant Evandor Thompson.

IT IS FURTHER ORDERED that the Plaintiffs' claim for joint and several liability should be dismissed, and all references to joint and several liability should be stricken from the Plaintiffs' Amended Complaint.

AND IT IS SO ORDERED.

Dated: 8-27, 2014

Anderson, South Carolina



R. Lawton McIntosh
Presiding Circuit Court Judge

FILED-CLERK'S OFFICE
ANDERSON SC
2014 AUG 29 P 2:54
COMMON PLEAS AND
GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

In the Court of Common Pleas
for the Second Judicial Circuit

Christine Johnson,)

Case No. 2014.CP.02.02155

Plaintiff,
v.)

Complaint

South Carolina Department
of Public Safety,)

Jury Trial Demanded

Defendants.)

The Plaintiff, by and through her undersigned attorney, respectfully alleges the following against the Defendant:

Preface

This complaint alleges the state common law tort claim of false arrest, assault and battery pursuant to the South Carolina Tort Claims Act, against the South Carolina Department of Public Safety. The complaint is based on the acts and omissions of Trooper Smith in arresting and prosecuting Plaintiff without probable cause on the charges of Public Disorderly Conduct and for his acts of assault and battery on Plaintiff.

Parties

1. The plaintiff, Christine Johnson is a resident of Aiken County, South Carolina.
2. The defendant, South Carolina Department of Public Safety, is a state agency organized under the laws of South Carolina. It is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70, which makes the employing agency statutorily liable for the acts and omissions of its officers acting in the course and scope of their official duties. South Carolina Department of Public Safety is sued under a common law

COPY
ORIGINAL FILED

SEP 24 2014

AIKEN COUNTY
CLERK OF COURT

for the acts of Smith in charging Christine Johnson with Public Disorderly Conduct and for physically assaulting her without legal justification.

Jurisdiction

3. Plaintiff brings her state law claims pursuant to the South Carolina Tort Claims Act, *S.C. Code Ann. §1-78-10 et seq.* The incident that gives rise to this action occurred in Aiken County.

Statement of Facts

4. The Plaintiff and her husband, Keith Johnson, were returning home after having dinner with friends.

5. On the drive home they encountered a road block initiated by the North Augusta Police Department and the South Carolina Highway Patrol. Keith Johnson was the driver of the car. When he acknowledged having consumed some beer earlier in the evening he was ordered out of the car and subjected to sobriety tests.

6. Mrs. Johnson remained in the car. Trooper Smith got in the driver's side and moved the car about 50 yards up the road, out of view of the sobriety tests. He then exited the car and returned to the scene where Mr. Johnson was being detained by other officers.

7. Mrs. Johnson had never been stopped under circumstances like these, and started walking towards the area where her husband was being questioned. As she approached the area she heard a voice tell her to return to her car and wait there. She immediately returned and sat down inside her vehicle.

8. Curious about what was going on with her husband, Mrs. Johnson struck up a conversation with a tow truck operator who was already on the scene and parked near her

car. He was visiting with friends who were parked in a car at the same location. He made a comment to her that it looked like her husband was getting arrested.

9. She then called her sister to advise that her husband was being arrested for DUI and although she did not believe he was impaired nor was she impaired, she did not want to drive the car away under the circumstances. Her sister advised that she would call her daughter who was closer to the road block location and see if she could come pick her up.

10. While waiting for her sister's return call, Mrs. Johnson asked the tow trucker operator whether he would be willing to tow her car to her house. He agreed to tow her car. There was no discussion of means of payment and payment was not demanded by the operator before he would tow her car.

11. Mrs. Johnson's sister called her back to let her know that her daughter was able to come pick her up, as well as bring a friend to drive her car so that it would not have to be towed. Mrs. Johnson communicated to the operator that she may not need his services since an extra person was coming to drive her car. She continued talking on the phone with her sister.

12. While Mrs. Johnson was still on the phone, Trooper Smith returned to her car. As he approached the car the tow operator indicated he may not need to tow the car. Without any discussion with the operator or Mrs. Johnson, Trooper Smith demanded she exit the car so it could be towed away. She advised him that she had already made arrangements with the driver and that she had someone coming to pick her up.

13. Trooper Smith asked if she was going to pay the tow driver \$185.00. She told she would if she had to. Smith then asked if she had \$185.00 cash to pay him. She said she had a credit card. The operator indicated they only took credit cards back at the office

and he could not process one on the scene. At no time had the tow operator demanded he be paid \$185.00 in cash. He had not been summoned to the scene to tow her car, but was already at the road block when Trooper Smith drove her car to that location.

14. Trooper Smith then ordered her out the car "or she was going to jail". She questioned why she should have to leave the car and tried to explain that someone was picking her up. Trooper Smith ignored her statements and continued ordering her from the car or she would go to jail.

15. While Mrs. Johnson was still trying to get an explanation why she had to exit the car, Trooper Smith opened the door and began dragging her from the car. He forcibly took her to the ground, and then pushed her body against the gravel pavement. He raised her arm rolling her body onto her right side and cuffed the left wrist.

16. Trooper Smith continued yelling at Mrs. Johnson to give him her other arm; however, because he was on top of her and had her leveraged into the ground she could not move her right arm.

17. During this assault Mrs. Johnson continually asked Trooper Smith what she did and why she was being arrested. Trooper Smith refused to answer until he was placing her in his patrol car. At that time he advised that she was being arrested for public drunk.

18. Mrs. Johnson was taken to the jail, forced to undress in the presence of strangers and ultimately bonded out the following morning. She retained the services of a criminal defense attorney and demanded a jury trial. The case was tried before a jury. She was found not guilty.

Legal Theories of Recovery

For a First Cause of Action

False Arrest against the South Carolina Department of

Public Safety pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

19. The South Carolina Department of Public Safety is vicariously liable for the acts of Trooper Smith acting within the course and scope of his employment. The acts and omissions of Smith in arresting plaintiff on the charges of public disorderly conduct were without probable cause or lawful authority constituting the tort of false arrest. As a direct and proximate result, Plaintiff incurred attorney fees, physical and emotional damage.

For a Second Cause of Action

Assault against the South Carolina Department of
Public Safety pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

20. The South Carolina Department of Public is vicariously liable for the acts of Trooper Smith acting within the course and scope of his employment. The acts and omissions of the Smith placed Ms. Johnson in imminent fear of an unlawful touching constituting the tort of assault. As a direct and proximate result of this illegal action the plaintiff suffered emotional harm.

For a Third Cause of Action

Battery against the South Carolina Department of
Public Safety pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

21. The South Carolina Department of Public Safety is vicariously liable for the acts of Trooper Smith acting within the course and scope of his employment. The acts and omissions of the trooper of dragging Plaintiff from her car, forcing her to the ground, and placing a knee in her back without consent constitutes the tort of battery. As a direct and proximate result of this illegal touching the plaintiff suffered emotional and physical harm.

Prayer for Relief

Wherefore, having fully set forth the grounds of his complaint, Plaintiff asks this court to award compensatory damages in an appropriate amount and for such other relief as this court deems just and proper.

Respectfully submitted this the 23rd day of September 2014 in Columbia, South Carolina.



J. Christopher Mills, Esquire
P.O. Box 8475
Columbia, South Carolina 29202
Telephone: 803-748-9533
Facsimile: 803-753-9123
Email: chris@chrismillslaw.com

ATTORNEY FOR THE PLAINTIFF

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SECOND JUDICIAL CIRCUIT
COUNTY OF AIKEN)	
)	
Christine Johnson,	)	Civil Action No.: 2014-CP-02-02155
)	
Plaintiff,)	
)	
vs.	)	STIPULATION OF DISMISSAL
)	
South Carolina Department of)	
Public Safety,)	
)	
Defendant.)	
)	

It appearing that Plaintiff filed a complaint against The Defendant, South Carolina Department of Public Safety, and that Defendant, South Carolina Department of Public Safety, has filed an Answer thereto; and


It appearing that after the conclusion of settlement negotiations conducted by the parties, and the settlement of the action between the parties, the Plaintiff now desires to dismiss the action against Defendant South Carolina Public Safety, with prejudice.

THEREFORE, it is hereby stipulated that the above action now pending against Defendant, South Carolina Department of Public safety, be and hereby is, Dismissed With Prejudice, pursuant to the provisions of Rule 41(a)(1)(B), SCRCp.

[Signature page follows]

C O P Y
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DEC 03 2015 135
AIKEN COUNTY
CLERK OF COURT

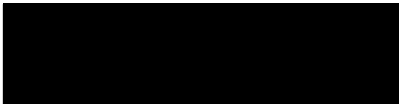
We Consent:


J. Christopher Mills, Esq.
CHRIS MILLS LAW
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Post Office Box 8475
Columbia, SC 29202
Telephone: (803) 748-9533
Facsimile: (803) 753-9123

chris@chrismillslaw.com

ATTORNEY FOR PLAINTIFF

Lexington, South Carolina
November 30, 2015


Michael S. Pauley
THE PAULEY LAW FIRM, LLC
711 East Main St., Suite E
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Lexington, South Carolina 29072
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Facsimile: (803) 808-1887

mpauley@pauleylawfirm.com

ATTORNEY FOR DEFENDANT,
SOUTH CAROLINA DEPARTMENT
OF PUBLIC SAFETY

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

RECEIVED

DEC 30 2015

**SCDPS
Office of General Counsel**

December 28, 2015

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T85531
Date of Occurrence: September 29, 2012
Claimant: Johnson, Christine
Date Closed: December 28, 2015

Dear WARREN:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$ 20,000.00
Expenses Paid: \$ 38,238.68

If you should have any questions, please contact us.

Sincerely,

Jacqueline M. Patterson
Litigation Consultant

/jmp

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
Josie Kendall,)
Plaintiff,)
v.)
South Carolina Department of)
Public Safety and the)
City of Clover)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE SIXTEENTH JUDICIAL CIRCUIT

Case No. 2012CP4602799

COMPLAINT

FILED-RECEIVED
2012 AUG -3 AM 8:37
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

Comes now the Plaintiff Josie Kendall complaining of the Defendant and alleging the following:

PREFACE

This action is brought pursuant South Carolina Tort Claims Act against the employing agency of the officers involved in the arrest and prosecution of Josie Kendall on the Charge of Driving under the Influence. Ms. Kendall was being stopped at a sobriety checkpoint. She was given sobriety test by Trooper Bradshaw which she passed. She was nonetheless taken to the Tega Cay Police Department by Trooper Donald Bradshaw with the SC Highway Patrol. She was given a breath test which registered .05 below the legal limit. Officer Bradshaw then took Ms. Kendall to talk to Officer Chris Ford, who presented himself as a Drug Recognition Expert. He opined that Ms Kendall was under the influence of drugs. Both Bradshaw and Ford refused Ms. Kendall's request for blood and urine tests. The charge against Ms. Kendall was nolle prossed. Ms. Kendall brings claims of false arrest and battery against the arresting agencies.

PARTIES

1. The defendant City of Clover is a political subdivision organized under the laws of the state of South Carolina. It is a statutory defendant for state law claims made pursuant to the South Carolina Tort Claims Act for the acts and omissions of its employees acting in the course and scope of their official duties. It is sued for the acts and omission of Officer Christopher B. Ford of the Clover police department. Plaintiff seeks compensatory damages against the City.
2. The Defendant South Carolina Department of Public Safety (SCDPS) is a state agency organized under the laws of the state of South Carolina. It is a statutory defendant for state law claims made pursuant to the South Carolina Tort Claims Act for the acts and omissions of its employees acting in the course and scope of their official duties. It is sued for the acts and omission of Officer Donald Bradshaw of the SCDPS. Plaintiff seeks compensatory damages against the SCDPS.

JURISDICTION AND VENUE

3. The Plaintiff brings his state law claims pursuant to the South Carolina Tort Claims Act (SCTCA), S.C. Code Ann. §1-78-10 et seq. The incident that gives rise to this action occurred in York County.

FACTUAL ALLEGATIONS

4. On August 29, 2010, at approximately 1:20 a.m., Plaintiff Josie Kendall was driving home from a friend's house in Tega Cay. She came upon a highway patrol check point off of I-77.
5. After producing a valid license and registration Officer Donald Bradshaw told Ms. Kendall that her eyes were blood shot and directed her to get out of her car so that he could administer Field Sobriety tests. Ms. Kendall performed all tests appropriately. Despite her successfully passing the tests, Trooper Bradshaw arrested Ms. Kendall and placed her in handcuffs. Ms. Kendall requested a blood/urine testing and was refused.

6. Trooper Bradshaw transported Ms. Kendall to the Tega Cay Police Department to do a breath test. The breathalyzer registered a level of .05, which is within the legal limit to drive a vehicle. Ms. Kendall asked if that was legal and was told it was, in fact, the legal limit.
7. Unsatisfied that Ms. Kendall had not failed the breathalyzer test, Officer Bradshaw took her to see Christopher Ford who represented himself as a Drug Recognition Expert. Upon information and belief, Officer Ford was not qualified as a drug recognition expert. He nonetheless conducted a strenuous series of tests that yielded results completely consistent with a sober individual who was not under the influence of any drugs.
8. Officer Ford opined that Kendall was possibly under the influence of Cannabis, which she adamantly denied. He suggested that her tongue had a greenish tint to it and that was consistent with marijuana. Ms. Kendall again assured the officer that she did not do marijuana and she again requested they run blood and urine tests. Officer Ford ignored this request and stated that she was "under the influence of something; we just don't know what. You're going to jail".
9. Ms. Kendall was taken to the Moss Justice Center where she was booked, photographed and searched prior to being placed in a cell. She was released the following afternoon. Upon her release, she went to the hospital to have her blood and urine tests run, both of which came back negative.
10. Ms. Kendall retained the services of Leland Greeley to represent her on the criminal charge. A jury trial was requested.
11. During the course of the prosecution, Mr. Greeley was never provided with the discovery from the case. Ms. Kendall received a voicemail from Officer Bradshaw informing her that her case has been dismissed because the video tape at the checkpoint of the arrest had been destroyed because it was "chewed up".
12. The charges against Ms. Kendall were dropped and the case was nolle prossed.

FOR A FIRST CAUSE OF ACTION
False Arrest against the SCDPS and the City of Clover
Pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

13. The SCDPS and the City of Clover are vicariously liable for the acts of Bradshaw and Ford acting within the course and scope of their employment. The acts and omissions of the Bradshaw and Ford in arresting plaintiff on the charges of Driving Under the Influence without probable cause constituted the tort of false arrest. As a direct and proximate result, Plaintiff incurred attorney fees, physical and emotional damage.

FOR A SECOND CAUSE OF ACTION
Battery against the SCDPS pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

14. The SCDPS is liable for the acts of Bradshaw acting within the course and scope of his employment. The acts and omissions of the defendant in handcuffing plaintiff constitutes the tort of battery. As a direct and proximate result of this illegal touching the plaintiff suffered emotional and physical harm.

Wherefore having fully set forth his grounds for relief the plaintiff requests compensatory damages in an appropriate amount and such other relief as the court deems just and proper.

Respectfully submitted this the 30th day of July 2012.



Christopher Mills, Esquire
P.O. Box 8475
Columbia, South Carolina 29202
Telephone: 803-748-9533
Facsimile: 803-753-9123
Email: chris@chrismillslaw.com

ATTORNEY FOR THE PLAINTIFF

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2012CP4602799

Josie Kendall

Department of Public
Safety South Carolina

Clover City of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Robert D. Garfield

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;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

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

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

ORDER INFORMATION

STIPULATION OF DISMISSAL

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

CPFORM4Cm
SCCA SCRCP Form 4C (Revised 3/2013)

Signatures, initials, and personal information (i.e. address, phone, social security number)
were redacted by House Legislative Oversight Committee staff.

DLSCN 02/02/15

David Hamilton

Clerk of Court

2099

Judge Code

1/28/2015

Date

For Clerk of Court Office Use Only

This judgment was entered on **January 28, 2015**, and a copy mailed first class or placed in the appropriate attorney's box on **January 28, 2015**, to attorneys of record or to parties (when appearing pro se) as follows:

John Christopher Mills PO Box 8475 Columbia, SC 29202

ATTORNEY(S) FOR THE PLAINTIFF(S)

Robert David Garfield PO Box 8568 Columbia, SC 29202-8568

A. Todd Darwin PO Box 1897 Spartanburg, SC 29304

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter

David Hamilton - 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 YORK	)	CIVIL ACTION NO.: 2012-CP-46-2799
)	
Josie Kendall,)	
)	
Plaintiff,)	
)	
v.	)	STIPULATION OF DISMISSAL
	)	WITH PREJUDICE
)	
South Carolina Department of)	
Public Safety and the Town of Clover,)	
)	
Defendants.)	

COMES NOW the Plaintiff, by and through her undersigned attorney, and Defendants, by and through their undersigned attorneys, and pursuant to the South Carolina Rules of Civil Procedure, Rule 41(a)(1), files this Stipulation of Dismissal with Prejudice as to all causes of action brought in this action.

WE SO STIPULATE:


 J. Christopher Mills
 Attorney for Plaintiff


 Robert D. Garfield
 Attorney for Defendant
 South Carolina Department of Public Safety


 A. Todd Darwin
 Attorney for Defendant Town of Clover

FILED - RECEIVED
 2015 JAN 23 PM 12:14
 CLERK OF COURT
 U.S. DISTRICT COURT
 YORK COUNTY, SC

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

June 22, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T87446
Date of Occurrence: August 29, 2010
Claimant: Kendall, Josie
Date Closed: February 17, 2015

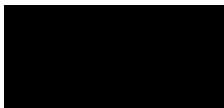
Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	6,952.09

If you should have any questions, please contact us.

Sincerely,



Dennis T. Elledge
Manager, Tort Claims Department

/dte

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS
FOR THE 4TH JUDICIAL CIRCUIT
CASE NO: 2016-cp-16-

KIMBERLY ANN KENNEDY,

Plaintiff(s),

v.

STATE OF SOUTH CAROLINA AND
THE SOUTH CAROLINA HIGHWAY
PATROL,

Defendant(s).

COMPLAINT
(Jury Trial Demanded)

16CP160275

CASE SYNOPSIS

1. On November 29, 2014, Kimberly Ann Kennedy was traveling on US Highway 52. As she did so, she was unaware that at the same time, John Allison Buddin, a Highway Patrolman working for the State of South Carolina was travelling in the same direction on US Highway 52. Without any warning, John struck Kimberly with his vehicle, causing her severe injury and distress. The impact of the collision was so forceful, that Kimberly was thrown to the ground and suffered injuries including, but not limited to her arm and her neck.

SPECIFIC AVERMENTS

The Plaintiff, complaining of the Defendant, alleges and says as follows:

2. That the Plaintiff, Kimberly Ann Kennedy (herein referred to as "Plaintiff") is a citizen and resident of Darlington County, State of South Carolina.
3. That upon information and belief, Defendants are properly named as STATE OF SOUTH CAROLINA and THE SOUTH CAROLINA HIGHWAY PATROL (herein referred to as "Defendant South Carolina" and "Defendant Highway Patrol").
4. That the motor vehicle/pedestrian collision that is the subject of this action occurred

TRUE CERTIFIED COPY,
Scot & Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

FILED
2016 MAR -5 AM 10:52
CLERK OF COURT
DARLINGTON COUNTY, S.C.

in Darlington County, State of South Carolina.

5. That this Court has jurisdiction over the parties and the subject matter of this action.
6. That on or about November 29, 2014 the Plaintiff was lawfully traveling on US Hwy 52.
7. Upon information and belief, that on or about November 29, 2014, Defendant employee was traveling northbound on US Hwy 52 in a 2008 Ford 4s with South Carolina license plate HPS860 and VIN# 2FAFP71V48X111288.
8. Upon information and belief, that Defendant employee was in the course and scope of his official duties at all times pertinent to the allegations herein.
9. That on or about November 29, 2014, Defendant employee was travelling too fast for conditions and struck Plaintiff from behind.
10. That at all times material hereto, Defendant employee had a duty to operate his vehicle in a safe and prudent manner and to avoid injuring other motorists.
11. That the collision and the resulting injuries and damages to Plaintiff were caused directly and proximately by one or more of the following negligent, grossly negligent, negligent *per se*, careless, reckless, willful, wanton and unlawful acts, and/or omissions of the Defendant employee in any one or more of the following respects:
 - a. In failing to keep a proper lookout while operating the vehicle;
 - b. In failing to maintain control of the vehicle;
 - c. In failing to stay in his lane of traffic;
 - d. In failing to slow down to a controllable speed to stay in his lane of traffic;
 - e. In failing to keep a safe distance from Plaintiff;
 - f. In failing to use due care;

- g. In failing to properly observe the road and traffic conditions;
- h. In failing to obey traffic laws and/or signs;
- i. In failing to use his horn, if he had any;
- j. In traveling too fast for conditions;
- k. In failing to properly maintain the vehicle;
- l. In failing to yield the right of way;
- m. In failing to apply his brakes or use his steering mechanism to avoid the collision;
- n. In negligently and carelessly operating the vehicle in a high and excessive rate of speed under the circumstances then and there existing;
- o. In operating the vehicle at a high rate of speed and far in excess of the reasonable and prudent speed under the circumstances and conditions then and there existing;
- p. In operating the vehicle without using due care and without regard for safety and rights of Plaintiff;
- q. In operating the vehicle in a negligent, grossly negligent, careless, reckless, willful, wanton and unlawful manner so as to create a dangerous situation;
- r. In failing to exercise the degree of care and caution that a reasonable and prudent person would have exercised under the circumstances then and there prevailing;
- s. In negligently and carelessly operating the vehicle in such a manner to cause the vehicle to strike Plaintiff and cause personal injuries;
- t. In driving while distracted;
- u. In failing to immediately report an accident involving personal injury;
- v. In any other acts that represent a breach of the statutory or common laws of the State of South Carolina; and *
- w. In any other such manner that Plaintiff may become aware of through discovery and/or at trial.

As to Defendants South Carolina and Highway Patrol:

- a. In negligently entrusting the vehicle to someone they knew or should have known would operate the vehicle without using due care and without regard for the safety and rights of the public using the highway and the Plaintiff in particular;
- b. In negligently entrusting the vehicle to someone they knew or should have known would operate the vehicle in a negligent, grossly negligent, careless, reckless, willful, wanton and unlawful manner as to create a dangerous situation and render an accident inevitable, in utter disregard of the laws of the State of South Carolina;
- c. In negligently entrusting the vehicle to someone they knew or should have known would fail to exercise that degree of care that a reasonable and prudent person would have exercised under the same or similar circumstances;
- d. In failing to appreciate the gravity and seriousness of having an unsafe, unqualified, incompetent driver use their vehicle;
- e. In failing to ensure that the driver of their vehicle would comply with all statutory codes and regulations;
- f. In failing to properly hire, train and/or supervise their employee driver to ensure that the cruiser was driven/operated in a safe and proper manner;
- g. In failing to properly hire, train and/or supervise their employee driver, and others involved with maintenance, regulatory compliance, and/or safety, to ensure that proper pre-trip, post-trip, periodic, quarterly and/or annual inspections were performed, including properly, on the cruiser, and its component parts;
- h. In failing to properly train and/or supervise their employee driver and others as defined in the safe and appropriate operation and use of the cruiser;
- i. In failing, by and through their employee driver to have the required driver knowledge necessary in order to safely operate the cruiser, including but not limited to the procedures to obey traffic laws;
- j. In failing, by and through their employee driver to safely and properly operate the cruiser, including on the trip and up to the time of the occurrence alleged in this Complaint;
- k. In permitting their employee driver to drive the cruiser when he was not fully qualified to do so,

- l. In failing to create, maintain, and/or implement appropriate policies and procedures related to inspection and safety for its drivers, including their employee driver, and for safety, regulatory compliance, and/or inspection, maintenance, and service of commercial motor vehicles;
- m. In failing to properly and/or timely inspect, maintain, service and/or repair the cruiser, and its component parts, to ensure that the same could be utilized and operated safely;
- n. In failing to use due care;
- o. In any other acts that represent a breach of the statutory or common laws of the State of South Carolina or the United States; and
- p. In any other such manner that Plaintiff may become aware of through discovery and/or at trial.

12. That as a direct and proximate result of the negligence, gross negligence, carelessness, recklessness, willfulness and wantonness of the Defendants, as is set forth more fully above, Plaintiff was injured, has endured pain and suffering, has suffered mentally and emotionally, and has incurred, and will incur, various medical expenses, and has otherwise been damaged and injured.

13. That as a direct and proximate result of the negligence, gross negligence, carelessness, recklessness, willfulness and wantonness of the Defendants, as is set forth more fully above, Plaintiff was jerked, thrown and slammed to the ground by the force of the Defendant Employee's vehicle, causing her to sustain serious and painful personal injuries including, but not limited to, pain and suffering, and injuries to her arm and neck.

14. That as a direct and proximate result of the negligence, gross negligence, carelessness, recklessness, willfulness and wantonness of the Defendants, as is set forth more fully above, Plaintiff has been damaged and injured in the following

respects:

- a) Plaintiff has been required to expend a significant amount of money for her medical care, treatment and attendant services;
- b) Upon information and belief, the nature of Plaintiff's injuries will require her to expend a significant amount of money for her medical care, treatment and attendant services in the future;
- c) Plaintiff has been unable to work and has been deprived of her income;
- d) Upon information and belief, the nature of Plaintiff's injuries will deprive her of employment opportunity and income in the future;
- e) The pain of her injuries has resulted in her loss of enjoyment of life and change in her personality, all to permanent detriment to her health and physical well-being; and
- f) Upon information and belief, the Plaintiff was required to expend significant amounts of money to replace and repair property damage caused in the accident.

15. That Defendants' acts and omissions, as is set forth more fully above, show willful misconduct, malice, wantonness and an entire want of care, raising a presumption of the Defendants' conscious indifference to the consequences of such acts and omissions.

16. That upon information and belief, Plaintiff is entitled to judgment against the Defendants for actual, compensatory and exemplary damages for her personal injuries and property damages set forth herein in an amount that is fair, just and reasonable under the circumstances, plus whatever costs, interest and attorney fees that she may be entitled, to be determined by a jury.

WHEREFORE, the Plaintiff prays for judgment against the Defendants for an amount to be ascertained by the jury at the trial of this action, for all actual damages, for the cost and

disbursements of this action, and both prejudgment and post judgment interest, and for such other and further relief, in law or in equity, as this court may deem just and proper.

ANASTOPOULO LAW FIRM, LLC



Eric M. Poulin
S.C. Bar No.: 100209
Roy T. Willey, IV
S.C. Bar No.: 101010
Katie M. Wilensky
S.C. Bar No.: 101897
62 Columbus St.
Charleston, SC 29403

Dated at Charleston, SC

This 2 day of may 2016

TRUE CERTIFIED COPY.
Scott B. Suggs
CLERK OF COURT/RMC
CHARLINGTON COUNTY SC

FILED
2016 MAY -5 AM 10:52
SCOTT B. SUGGS
CLERK OF COURT/RMC
CHARLINGTON COUNTY, S.C.

CL# A2070784

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)
Wendell F. Langston,)
Plaintiff,)
vs.)
Dontrell L. Milton, Darryl J. Milton, the)
South Carolina Department of)
Public Safety and/or the South Carolina)
Highway Patrol, individually and)
severally,)
Defendants.)

IN THE COURT OF COMMON PLEAS

COPY

SUMMONS

(Automobile Tort Claim)
(Jury Trial Requested)


RECEIVED
DIRECTOR
JUL 25 2011

Ref: OGC
FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
JUL 20 A 11:20
ANDY MCREE

Civil Action No. 2011-CP-0110476

TO: THE ABOVE-NAMED DEFENDANTS AND DEFENDANTS' ATTORNEYS:

YOU MAY PLEASE TAKE NOTICE that you are hereby summoned and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer on the attorney for the Plaintiff listed below at her office at Post Office Box 12627, Rock Hill, South Carolina, 29731-6670, within thirty (30) days after service hereof excluding the date of such service. IF YOU FAIL TO ANSWER THE COMPLAINT WITHIN THE TIME AFORESAID, PLAINTIFF WILL APPLY TO THE COURT FOR A JUDGMENT BY DEFAULT FOR THE RELIEF DEMANDED IN THE COMPLAINT AND ANY OTHER RELIEF DEEMED APPROPRIATE.


Sabrina M. Love-Sloan (S.C. Bar #8668)
Attorney for Plaintiff
Love Sloan Law, LLC
P. O. Box 12627
(312 Oakland Ave., 29730)
Rock Hill, SC 29731
(803)326-0000
(803)326-0007 - Fax

Date:

7/18/11

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHEROKEE)

Wendell F. Langston,)

Plaintiff,)

vs.)

Dontrell L. Milton, Darryl J. Milton, the
 South Carolina Department of
 Public Safety and/or the South Carolina
 Highway Patrol, individually and
 severally,

Defendants.)

COMPLAINT

(Automobile Tort Claim)
(Jury Trial Requested)

DEAN W. MCBEE

2011 JUL 20 A 11:20

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

0110380476

Civil Action No.: 2011-CP-_____

TO: THE ABOVE-NAMED DEFENDANTS AND DEFENDANTS' ATTORNEYS:

The Plaintiff, complaining of the acts and omissions of the Defendants, says as follows:

1. Plaintiff Wendell F. Langston is a citizen and resident of Las Vegas, Nevada.
2. Upon information and belief, at the time of the accident which is the subject of this action, the Defendants were both citizens and residents of Lawrenceville, Georgia.
3. Upon information and belief, the Defendant South Carolina Department of Public Safety and/or the South Carolina Highway Patrol is a state agency and/or political subdivision, whose mission is to provide equitable service and protection, and uphold the laws of the constitutions of the United States and the State of South Carolina in order to promote a safe and security environment for the public.
4. The accident which is the subject of this litigation occurred on Interstate 85 in Cherokee County, South Carolina.

5. This honorable court has jurisdiction over the parties herein and of the hereof complained subject matter.

6. That on or about August 17, 2008, the Plaintiff was operating his 1997 Freightliner tractor-trailer truck in a southerly direction on Interstate 85 in Cherokee County, South Carolina; the Defendant Dontrell L. Milton was operating a 1996 Dodge vehicle, owned by Defendant Darryl J. Milton and operated by Defendant Dontrell L. Milton with the owner's express permission, which was also traveling in a southerly direction on Interstate 85 in Cherokee County, South Carolina; a vehicle owned and being operated by an employee/agent of Defendant South Carolina Department of Public Safety and/or South Carolina Highway Patrol entered Interstate 85 at or near Defendant Miltons' vehicle which caused the Milton vehicle to change lanes unlawfully, strike the left front of the Plaintiff's vehicle, causing Plaintiff's vehicle to veer off the right side of the roadway and strike a guard rail end and bridge pier, resulting in significant personal injury to the Plaintiff and significant property damage to the Plaintiff's vehicle.

7. That as a result of said collision, the Plaintiff suffered substantial property damage, together with significant physical injuries, including, but not limited to, contusions, abrasions, lumbar sprain/strain, lumbar pain, right foot pain, right ankle pain, and swelling of the right leg.

8. The Plaintiff is informed and believes that each of the Defendants, jointly and severally, were negligent, careless and reckless in causing the accident of August 16, 2008, in which the Plaintiff was injured.

FOR A FIRST CAUSE OF ACTION
(GENERAL NEGLIGENCE AS TO DEFENDANT DONTRELL LAVOY MILTON)

9. That each and every allegation contained in paragraphs one (1) through eight (8) of this Complaint is re-alleged as if set forth here fully in its entirety.

10. That Defendant Dontrell L. Milton, by his acts and/or omissions, was negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars, to wit:

- a. In then and there failing to yield the right of way to the Plaintiff's vehicle;
- b. In then and there failing to keep a proper lookout;
- c. In then and there failing to maintain proper control over the above-mentioned motor vehicle;
- d. In then and there failing to properly equip said motor vehicle with adequate and safe brakes; and, if so properly equipped, in failing to properly utilize them;
- e. In then and there failing to properly equip said motor vehicle with adequate and safe steering mechanisms; and, if so properly equipped, in failing to properly utilize them;
- f. In then and there failing to take advantage of any last clear chance to avoid striking the Plaintiff's vehicle, when the Defendant saw or should have seen said vehicle;
- g. In then and there failing to take any evasive action, by any means, to keep from striking the Plaintiff's vehicle;
- h. In then and there colliding with the vehicle operated by the Plaintiff;
- i. In then and there failing to properly observe the road and traffic conditions;
- j. In then and there failing to exercise that degree of care which a reasonable and

prudent person would have exercised under the same or similar circumstances;

k. In then and there operating a motor vehicle with a reckless disregard for the rights and safety of others, and especially the rights and safety of Plaintiff Wendell F. Langston;

l. In then and there failing to take any evasive action, by any means whatsoever, to keep from causing a collision;

m. In then and there entering the roadway into the path of travel of oncoming traffic, and specifically into the path of Plaintiff's travel, without first ascertaining that the roadway was clear of approaching traffic;

n. And, such other and further particulars as the evidence at trial may show.

All of which were the direct and proximate cause of injuries and damages the Plaintiff suffered, as are more fully set forth below, said acts being in violation of the laws of the State of South Carolina.

11. That as the direct and proximate result of the aforementioned negligent, grossly negligent, careless, reckless, willful and wanton acts and/or omissions of this Defendant, jointly and severally, which combined, contributed and joined to create the circumstances then and there existing, the Plaintiff was injured. Accordingly, the Plaintiff:

a. Was severely, seriously, and painfully injured;

b. Suffered extreme and painful injuries including, but not limited to, contusions, abrasions, lumbar sprain/strain, lumbar pain, right foot pain, right ankle pain, and swelling of the right leg, from which the Plaintiff is informed and believes he will have permanent adverse affect and disability;

c. Has incurred and will incur in the future substantial medical and doctor bills;

- d. Was subjected to physical rehabilitation, and the administration of strong and potent drugs and medications;
- e. Was subjected to extreme pain, mental anguish, suffering and discomfort over a long period of time, said condition to be permanent;
- f. Has suffered a loss of enjoyment of life;
- g. Has suffered lost wages and lost earning capacity;
- h. Has suffered a loss of physical condition and disfigurement; and
- i. For such other and further particulars as the evidence at trial may show.

WHEREFORE, the Plaintiff demands judgment against the Defendants, jointly and severally, for such sum of actual and punitive damages that a trier of fact may find, for the costs of this action, and for such other relief as the Court may deem just and proper.

FOR A SECOND CAUSE OF ACTION
(GENERAL NEGLIGENCE AS TO AS TO DEFENDANT THE SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY AND/OR THE SOUTH CAROLINA
HIGHWAY PATROL)

12. That each and every allegation contained in paragraphs one (1) through eleven (11) of this Complaint is re-alleged as if set forth here fully in its entirety.

13. That the employee/agent of the Defendant South Carolina Department of Public Safety and/or South Carolina Highway Patrol, by his acts and/or omissions, was negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars, to wit:

- a. In then and there failing to yield the right of way;
- b. In then and there failing to keep a proper lookout;
- c. In then and there failing to maintain proper control over the above-mentioned motor

vehicle;

d. In then and there failing to properly equip said motor vehicle with adequate and safe brakes; and, if so properly equipped, in failing to properly utilize them;

e. In then and there failing to properly equip said motor vehicle with adequate and safe steering mechanisms; and, if so properly equipped, in failing to properly utilize them;

f. In then and there failing to take advantage of any last clear chance to avoid a collision involving the Plaintiff's vehicle, when this Defendant saw or should have seen said vehicle;

g. In then and there failing to take any evasive action, by any means, to keep from causing a collision with the Plaintiff's vehicle;

h. In then and there causing a collision with the vehicle operated by the Plaintiff;

i. In then and there failing to properly observe the road and traffic conditions;

j. In then and there failing to exercise that degree of care which a reasonable and prudent person would have exercised under the same or similar circumstances;

k. In then and there operating a motor vehicle with a reckless disregard for the rights and safety of others, and especially the rights and safety of Plaintiff Wendell F. Langston;

l. In then and there failing to take any evasive action, by any means whatsoever, to keep from causing a collision;

m. In then and there entering the roadway into the path of travel of oncoming traffic, and specifically into the path of Plaintiff's travel, without first ascertaining that the roadway was clear of approaching traffic;

n. And, such other and further particulars as the evidence at trial may show.

All of which were the direct and proximate cause of injuries and damages the Plaintiff

suffered, as are more fully set forth below, said acts being in violation of the laws of the State of South Carolina.

14. That as the direct and proximate result of the aforementioned negligent, grossly negligent, careless, reckless, willful and wanton acts or omissions of the Defendants, jointly and severally, which combined, contributed and joined to create the circumstances then and there existing, the Plaintiff was injured. Accordingly, the Plaintiff:

- a. Was severely, seriously, and painfully injured;
- b. Suffered extreme and painful injuries including, but not limited to, contusions, abrasions, lumbar sprain/strain, lumbar pain, right foot pain, right ankle pain, and swelling of the right leg, from which the Plaintiff is informed and believes he will have permanent adverse affect and disability;
- c. Has incurred and will incur in the future substantial medical and doctor bills;
- d. Was subjected to physical rehabilitation, and the administration of strong and potent drugs and medications;
- e. Was subjected to extreme pain, mental anguish, suffering and discomfort over a long period of time, said condition to be permanent;
- f. Has suffered a loss of enjoyment of life;
- g. Has suffered lost wages and lost earning capacity;
- h. Has suffered a loss of physical condition and disfigurement; and
- i. For such other and further particulars as the evidence at trial may show.

WHEREFORE, the Plaintiff demands judgment against the Defendants, jointly and severally, for such sum of actual and punitive damages that a trier of fact may find, for the costs of this action,

and for such other relief as the Court may deem just and proper.

FOR A THIRD CAUSE OF ACTION
(NEGLIGENT ENTRUSTMENT AS TO DEFENDANT DARRYL J. MILTON)

15. That each and every allegation contained in paragraphs one (1) through fourteen (14) of this Complaint is re-alleged as if set forth here fully in its entirety.

16. That Defendant Darryl J. Milton, by his acts and omissions, was negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars, to wit:

a. In then and there causing and allowing said vehicle to be operated by a reckless, careless and incompetent driver, namely Defendant Dontrell L. Milton;

b. In then and there failing to equip and maintain a motor vehicle owned with adequate and proper brakes, or if so equipped, in allowing said motor vehicle to be driven by a reckless and careless driver, namely Defendant Dontrell L. Milton, who failed to properly apply the same;

c. In then and there failing to equip and maintain a motor vehicle owned with adequate and safe steering mechanisms; or if so equipped, in allowing said motor vehicle to be driven by a reckless and careless driver, namely Defendant Dontrell L. Milton, who failed to properly apply the same;

d. In then and there failing to properly instruct Defendant Dontrell L. Milton to observe the road and traffic conditions;

e. In then and there failing to properly instruct Defendant Dontrell L. Milton to exercise that degree of care which a reasonable and prudent person would have exercised under the same or similar circumstances;

f. In then and there allowing the operation of a motor vehicle by Defendant Dontrell L.

Milton with a reckless disregard for the rights and safety of others, and especially the rights and safety of Plaintiff Wendell F. Langston;

g. In then and there failing to take any evasive action by any means whatsoever to keep Defendant Dontrell L. Milton from causing a collision;

h. In then and there causing and allowing said vehicle to be maintained and operated in a reckless, careless and incompetent manner by Defendant Dontrell L. Milton;

i. In then and there endangering the life of the traveling public, and more specifically this Plaintiff, by placing said vehicle, a dangerous instrumentality, in the care and under the control of a reckless, careless and incompetent driver, namely Defendant Dontrell L. Milton;

j. And, such other and further particulars as the evidence at trial may show.

All of which were the direct and proximate cause of injuries and damages the Plaintiff Wendell F. Langston suffered, as are more fully set forth below, said acts being in violation of the laws of the State of South Carolina.

17. That as the direct and proximate result of the aforementioned negligent, grossly negligent, careless, reckless, willful and wanton acts or omissions of the Defendants, jointly and severally, which combined, contributed and joined to create the circumstances then and there existing, the Plaintiff was injured. Accordingly, the Plaintiff:

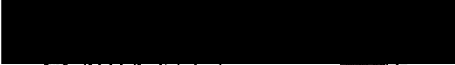
a. Was severely, seriously, and painfully injured;

b. Suffered extreme and painful injuries including, but not limited to, contusions, abrasions, lumbar sprain/strain, lumbar pain, right foot pain, right ankle pain, and swelling of the right leg, from which the Plaintiff is informed and believes he will have permanent adverse affect and disability;

- c. Has incurred and will incur in the future substantial medical and doctor bills;
- d. Was subjected to physical rehabilitation, and the administration of strong and potent drugs and medications;
- e. Was subjected to extreme pain, mental anguish, suffering and discomfort over a long period of time, said condition to be permanent;
- f. Has suffered a loss of enjoyment of life;
- g. Has suffered lost wages and lost earning capacity;
- h. Has suffered a loss of physical condition and disfigurement; and
- i. For such other and further particulars as the evidence at trial may show.

WHEREFORE, the Plaintiff demands judgment against this Defendant, jointly and severally, for such sum of actual and punitive damages that a trier of fact may find, for the costs of this action, and for such other relief as the Court may deem just and proper.

Respectfully submitted


Sabrina M. Love-Sloan (S.C. Bar #8668)
Attorney for Plaintiff
Love Sloan Law, LLC
P. O. Box 12627
(312 Oakland Ave., 29730)
Rock Hill, SC 29731
(803)326-0000
(803)326-0007 - Fax

Dated: 7/18/11

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

Wendell F. Langston,

Plaintiff,

v.

South Carolina Department of Public Safety
and/or the South Carolina Highway Patrol,
individually and severally,

Defendants.

IN THE COURT OF COMMON PLEAS


Civil Action Number: 11-CP-11476

ORDER GRANTING SUMMARY
JUDGMENT ON BEHALF OF
DEFENDANTSFILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2014 MAY 12 AM 8 58
BRANDY
MCBEE

This matter came before the court upon Motion for Summary Judgment filed by the Defendant Department of Public Safety pursuant to Rules 37, 41(b) and 56 of the South Carolina Rules of Civil Procedure. Present at the hearing on behalf of Defendant DPS was Joel Hughes of Davidson & Lindemann, PA. Plaintiff, Wendell F. Langston did not appear after his named was called three times outside the courtroom by the Bailiff. Plaintiff was given proper notice of the hearing by the Clerk of Court.

The Defendant DPS' motion was based on the Plaintiff having failed to prosecute this matter. The Defendants presented an affidavit of Joel S. Hughes, who swore the Plaintiff had over 19 letters forwarded to him which were returned. The Court finds that Plaintiff's previous counsel, Sabrina Love-Sloan, was relieved from representation by Order of this Court dated June 12, 2012. Ms. Love-Sloan was relieved as counsel based upon lack of communication from the Plaintiff. This Court further finds previous defendants Daryl and Dontrell Milton were dismissed by Order of this Court dated December 21, 2012 for lack of prosecution.

This Court finds the Plaintiff has failed to cooperate in the prosecution of the case. Having been given proper notice of the Defendant DPS' motion, the Plaintiff failed to appear. Therefore, IT IS ORDERED that this matter is dismissed as to the Defendant DPS based upon the Plaintiff's failure to prosecute this matter.


Honorable J. Mark Hayes, II
Circuit Judge, 7th Judicial Circuit

April 20, 2014

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF COLLETON)	
	)	CASE NUMBER: <i>14-CP-15-744</i>
Chadwick Barr,)	
)	
Plaintiff,	)	COMPLAINT
	)	(Jury Trial Demanded)
v.)	
	)	(Negligence; Negligent Entrustment; Negligent
South Carolina Department of	)	Hiring, Retention, and Supervision; Negligent
Public Safety,	)	Maintenance)
)	
Defendant.)	

The Plaintiff Chadwick Barr, and his undersigned attorneys, complaining the Defendant, would allege and show unto the Court the following:

JURISDICTION AND VENUE

1. This suit arises out of an automobile collision that occurred in Colleton County, South Carolina on March 13, 2013.
2. At the time of the collision, the Plaintiff was a citizen and resident of Beaufort County, State of South Carolina.
3. Upon information and belief, Defendant South Carolina Department of Public Safety ("SCDPS") is now and at all times mentioned was a governmental entity and a political subdivision of the State of South Carolina and was operating a police vehicle in the County of Colleton, State of South Carolina on March 13, 2013. At all times pertinent hereto SCDPS was acting by and through its respective employees, agents, officers, independent contractors and servants who were acting within the course and scope of their employment, agency, and/or contractual or other relationship and/or authority. SCDPS is made a party to this action pursuant to South Carolina Code Ann. § 15-78-10 et. seq., commonly referred to as the South Carolina Tort Claims Act.

4. This Court has personal jurisdiction over the parties to this action and subject matter jurisdiction over the claims asserted in this Complaint.

5. Venue is proper in Colleton County.

FOR A FIRST CAUSE OF ACTION
(Negligence)

6. Plaintiff realleges and reincorporates the above paragraphs as if fully set forth herein verbatim.

7. Upon information and belief, Mark L. Meadows ("Meadows") was an employee of SCDPS on March 13, 2013.

8. On or about March 13, 2013 at approximately 4:00 p.m., Meadows was operating a police vehicle, owned and operated by SCDPS, and was parked on the shoulder of Highway 17 southbound in Colleton County, South Carolina.

9. At the same time, the Plaintiff was operating a motorcycle and traveling south on Highway 17 in Colleton County, South Carolina.

10. The Plaintiff was acting in a reasonably prudent and careful manner at all times pertinent hereto.

11. A black sports utility vehicle ("SUV") was also traveling south on Highway 17 and was traveling in front of Plaintiff's motorcycle.

12. Suddenly and without warning, Meadows' SCDPS vehicle attempted a u-turn across the southbound lane of Highway 17 and into the northbound lane.

13. Meadows' vehicle pulled out directly in front of the SUV and caused the SUV to slam on its brakes, squealing the tires and causing the tires to smoke, in order to avoid colliding with Meadows' vehicle.

14. Plaintiff, traveling behind the SUV, was also forced to brake hard.

15. Plaintiff was unable to stop his motorcycle and attempted to avoid a collision by navigating around the left side of the SUV.

16. Meadows' vehicle violently struck Plaintiff's motorcycle head on and the force of the collision threw Plaintiff from the motorcycle.

17. As a result of the collision, the Plaintiff suffered substantial multiple body trauma, blunt force trauma, a compound leg fracture, and hip, neck, back injuries.

18. The collision, injuries, and damages described in this Complaint were the direct, foreseeable and proximate result of the negligent and careless, and willful, wanton, reckless, and grossly negligent acts or omissions of Meadows who was acting in the course and scope of his employment, agency, and representation of SCDPS in the following particulars:

- a. In failing to keep a proper lookout;
- b. Improperly entering the roadway;
- c. In failing to yield the right-of-way;
- d. In failing to abide by the laws and customs of operating a police vehicle;
- e. In failing to properly maintain his vehicle;
- f. In driving in a grossly negligent manner;
- g. In exercising a conscious disregard of public safety which amounted to actual malice and intent to harm;
- h. Failing to exercise the degree of care and caution that a reasonable and prudent person would have exercised under the circumstances then and there prevailing; and
- i. In such other and further particulars as the evidence at trial may show.

All of which acts and omissions, or both, were the actual, direct and proximate cause of the damages and injuries claimed herein.

19. As a direct, foreseeable, and proximate result of the negligent, grossly negligent, reckless, willful, and wanton acts and omissions of Meadows, Plaintiff suffered conscious pain and suffering, physical harm and injury, permanent impairment, lost wages and other damages.

20. Due to the willful, wanton, reckless, grossly negligent, and negligent acts of Meadows as set out above, as well as his violation of state law, Plaintiff is entitled to recover actual and punitive damages, jointly and severally, as determined by a jury.

FOR A SECOND CAUSE OF ACTION
(Negligent Hiring, Supervision and Retention)

21. Plaintiff realleges and reincorporates the above Paragraphs as if fully set forth herein verbatim.

22. SCDPS owed statutory and common law duties to the Plaintiff not to negligently hire, supervise, or retain employees incapable of complying with all provisions of state law.

23. SCDPS failed to properly review, interview, or interact with Meadows prior to hiring Meadows as a SCDPS employee.

24. SCDPS knew or should have known that Meadows lacked the proper training, experience, and ability to comply with all provisions of state law.

25. SCDPS knew or should have known that Meadows's inexperience, lack of training, and inability to comply with state law was evidence that he was therefore a reckless driver.

26. SCDPS failed to comply with state law prior to utilizing Meadows as an employee.

27. SCDPS failed to properly supervise and train Meadows, specifically with regard to properly entering the roadway, in violation of state law.

28. SCDPS allowed Meadows to continue to operate a police vehicle without the most basic training, specifically with regard to properly entering the roadway in a SCDPS vehicle, in violation of state law.

29. The collision, injuries, and damages described in this Complaint were the direct, foreseeable and proximate result of the negligent and careless, and willful, wanton, reckless, and grossly negligent acts or omissions of SCDPS in the following particulars:

- a. In failing to properly train its employees/agents in a reasonable manner;
- b. In hiring Meadows, when they knew or should have known that he was likely to cause a collision such as the one described in this Complaint;
- c. In failing to adequately train Meadows in how to properly operate the SCDPS vehicle;
- d. In failing to adequately supervise Meadows;
- e. In failing to have its employees and agents properly administer to their duties;
- f. In negligently retaining its employees and agents;
- g. In the failure of SCDPS to have or follow policies and procedures to monitor the actions of its employees;
- h. In the failure of SCDPS to have or follow policies and procedures to ensure that an incident, such as the incident described above that caused injury to the Plaintiff, does not occur;
- i. In the failure of SCDPS to have or in violating policies or procedures to adequately address the actions and conduct of their employees;
- j. In the failure of SCDPS in hiring and retaining a negligent and grossly negligent driver;
- k. In failing to appreciate the gravity and seriousness of hiring and retaining a negligent and grossly negligent driver;
- l. In the failure of SCDPS to have or follow policies and procedures to ensure that a negligent and grossly negligent driver was not driving a SCDPS's vehicle;
- m. In the failure of SCDPS to have in place appropriate policies and procedures to ensure compliance with the South Carolina Code;
- n. In failing to exercise the degree of care and caution that a reasonable and prudent entity would have exercised under the circumstances then and there prevailing; and
- o. In such other and further particulars as the evidence at trial may show.

30. As a direct, foreseeable, and proximate result of the negligent, grossly negligent, reckless, willful, and wanton acts and omissions of SCDPS and Meadows, Plaintiff suffered conscious pain and suffering, physical harm and injury, permanent impairment, lost wages and other damages.

31. Due to the willful, wanton, reckless, grossly negligent, and negligent acts of SCDPS and Meadows as set out above, Plaintiff is entitled to recover actual and punitive damages, jointly and severally, as determined by a jury.

FOR A THIRD CAUSE OF ACTION
(Negligent Entrustment)

32. Plaintiff realleges and reincorporates the above Paragraphs as if fully set forth herein verbatim.

33. SCDPS knew or should have known that Meadows was untrained and incapable of operating his vehicle in the manner required by state law, specifically with regard to properly entering the roadway in a SCDPS vehicle.

34. SCDPS knew or should have known that Meadows's inexperience and lack of training was evidence that he was incapable of complying with state law and was therefore a reckless driver.

35. SCDPS entrusted an SCDPS vehicle to Meadows despite knowing that he lacked proper training and experience, specifically with regard to properly entering the roadway in a SCDPS vehicle.

36. As a direct, foreseeable, and proximate result of the negligent, grossly negligent, reckless, willful, and wanton acts and omissions of SCDPS and Meadows, Plaintiff suffered conscious pain and suffering, physical harm and injury, lost wages and other damages.


37. Due to the willful, wanton, reckless, grossly negligent, and negligent acts of SCDPS and Meadows as set out above, Plaintiff is entitled to recover actual and punitive damages, jointly and severally, as determined by a jury.

38. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff prays for the following:

- i. Judgment against Defendant for actual and punitive damages in an amount to be determined by the jury;
- ii. For the costs of this action including interest from the date of filing of this Complaint, and a reasonable attorney's fee be taxed against the Defendant; and
- iii. For such other and further relief as this court deems just and proper.

PIERCE, HERNS, SLOAN & WILSON, LLC
321 East Bay Street
Post Office Box 22437
Charleston, SC 29401
(843) 722-7733



Carl E. Pierce, II
Ryan K. Miller
Attorneys for the Plaintiff

September 5, 2014
Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

Chadwick Barr,

Plaintiff,

v.

South Carolina Department of Public Safety,

Defendant.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2014-CP-15-744

**STIPULATION OF DISMISSAL WITH
PREJUDICE**

2015 OCT -2 PM 2:44
COLLETON
COMMON PLEAS

IT IS HEREBY stipulated and agreed by and between the Plaintiff, Chadwick Barr, and the Defendant, South Carolina Department of Public Safety, signified by the signatures of their respective counsel below, that all of the claims of the Plaintiff, against the Defendant in the above entitled action are dismissed with prejudice, with each party to bear their own attorney's fees, costs and expenses.

PIERCE HERNS SLOAN & WILSON

[Redacted Signature]

Carl E. Pierce II, Esquire
Ryan K. Miller, Esquire
P.O. Box 22437
Charleston, SC 29413-2437
843-722-7733
843-722-7732 (facsimile)
Email: carlpierce@phswlaw.com
Attorneys for Plaintiff

Dated: _____

MURPHY & GRANTLAND, P.A.

[Redacted Signature]

Brent M. Boyd, Esquire
4406-B Forest Drive
Post Office Box 6648
Columbia, South Carolina 29260
(803) 782-4100; ext. 1210
(803) 782-4140 (facsimile)
Email: bboyd@murphygrantland.com
*Attorneys for Defendant South Carolina
Department of Public Safety*

Dated: 9/28/15

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

Peter C. Baumann

Plaintiffs,

v.

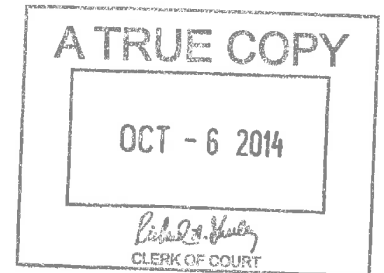
David L. Stephenson,
South Carolina Department of Transportation
&
South Carolina Department of Public Safety

Defendants.

IN THE COURT OF COMMON PLEAS
TENTH CIRCUIT COURT

C.A. NO. 2014-CP-04- 02309

**COMPLAINT
(Jury Trial Demanded)**



The Plaintiff, complaining of the Defendants herein, would respectfully allege and show unto the Court as follows:

Factual Allegations

1. The Plaintiff, Peter C. Baumann, is and at all times relevant to this cause of action was a citizen and resident of Anderson County, South Carolina.
2. That on information and belief the Defendant, David L Stephenson, is and at all times relevant to this cause of action was a citizen and resident of Pickens County, South Carolina.
3. That the Defendant, The South Carolina Department of Transportation is an agency of the State of South Carolina organized and existing pursuant to laws of the State of South Carolina and is responsible for the safe and proper operation, maintenance, repair and inspection of roadways and traffic signals and other devices controlling said roadways of the State of South Carolina.

4. That the Defendant, the South Carolina Department of Public Safety, is an agency of the State of South Carolina organized and existing pursuant to the laws of the State of South Carolina and is responsible for promoting a safe and secure environment for the public by providing law enforcement services upon the roads of South Carolina including traffic enforcement and inspection of roadways.

5. That the Defendants, the South Carolina Department of Transportation and the South Carolina Department of Public Safety are subject to liability pursuant to S.C. Code §15-78-40.

6. That at all times referred to in this Complaint, South Carolina Secondary Road 205 (Broadway School Road) and South Carolina Secondary Road 208 (Griffin Road) were roadways under the supervision and control of the Defendant, the South Carolina Department of Transportation and the police jurisdiction of the South Carolina Department of Public Safety. As such the Defendants the South Carolina Department of Transportation and the South Carolina Department of Public Safety were responsible for the safe and proper maintenance, repair and inspection of these roadways and the traffic signals and devices controlling said roadways and the exercise of police jurisdiction including traffic enforcement.

7. That at all times referred to in this Complaint, traffic flowing through the intersection of South Carolina Secondary Road 205 (Broadway School Road) and South Carolina Secondary Road 208 (Griffin Road) was controlled by stop signs for traffic traveling in both the southerly and northerly directions on South Carolina Secondary Road 208 (Griffin Road). The stop signs on South Carolina Secondary Road 208 (Griffin Road) were installed and maintained by, the Defendant the South Carolina Department of Transportation.

8. That on November 11, 2011 at approximately 1:00 pm John H. Whitt was travelling south on South Carolina Secondary Road 208 (Griffin Road) when he fell asleep and

ran off the right side of said road and knocked down the stop sign for southbound traffic on South Carolina Secondary Road 208 (Griffin Road) at its intersection with South Carolina Secondary Road 205 (Broadway School Road). Plaintiff alleges on information and belief that said accident and the downed stop sign were reported to the proper authorities through the 911 system. That a member of the South Carolina Highway Patrol responded to the aforementioned accident and investigated the same. The Plaintiff is further informed and believes that the downed stop sign was reported, to the Defendant South Carolina Department of Transportation's maintenance division for Anderson County.

9. That subsequently on November 11, 2011 at approximately 3:18 pm the Plaintiff was travelling in an easterly direction South Carolina Secondary 205 (Broadway School Road) at a proper and lawful speed when suddenly and without warning a vehicle driven by the Defendant, David L. Stephenson traveling in a southerly direction on South Carolina Secondary 208 (Griffin Road) failed to stop due to the downed stop sign entered the intersection and collided with the vehicle being driven by the Plaintiff.

10. That as a direct and proximate result of the collision the Plaintiff sustained severe and debilitating injuries requiring him to be hospitalized and to incur medical and other related expenses.

**For a First Cause of Action as to the Defendant
David L. Stephenson**

11. The allegations of the preceding paragraphs are realleged and incorporated herein by reference as if they were fully set forth herein.

12. That the aforementioned collision and the resulting injuries and damages sustained by the Plaintiff were directly and proximately caused by the carelessness, negligence,

gross negligence, willfulness, wantonness, and recklessness of the Defendant, David L. Stephenson in following specifications:

- a. In entering into said intersection without stopping or slowing down to ascertain whether crossing through the intersection could be done safely;
- b. In failing to maintain a proper lookout for vehicles traveling on the intersecting road;
- c. In failing to yield the right of way to the Plaintiff;
- d. In traveling too fast for the conditions then and there prevailing;
- e. In failing to use that degree of care and caution that a reasonable and prudent person would have used under the circumstances then and there prevailing.

All of which were a direct and proximate cause of the accident and the resulting injuries and damages to the Plaintiff.

13. As a direct and proximate cause of the carelessness, negligence, gross negligence, willfulness, wantonness, and recklessness of the Defendant, David L. Stephenson the Plaintiff has sustained: severe bodily injury; has suffered and will continue to suffer severe physical pain and mental anguish; loss of enjoyment of life; and has incurred and will continue medical and other injury related expenses.

14. The Plaintiff is therefore informed and believes that he is entitled to a judgment against the Defendant, David L. Stephenson for actual and punitive damages in such amount as a jury may deem be appropriate.

**For a Second Cause of Action as to
South Carolina Department of Transportation**

15. The allegations of the preceding paragraphs are realleged and incorporated herein by reference as if they were fully set forth herein.

16. That the injuries and damages of the Plaintiff were directly and proximately caused by the carelessness, negligence, gross negligence, willfulness, wantonness, and recklessness of the Defendant, South Carolina Department of Transportation in one of more of the following specifications:

- a. In failing to timely dispatch personnel to erect a temporary stop sign; or replace the downed stop sign or otherwise control traffic until a permanent replacement for the downed stop sign could be erected.
- b. In failing to have in place proper procedures to insure an appropriate and timely response to missing and/or malfunctioning traffic control devices and more particularly a downed stop sign;
- c. In failing to timely respond to a report of a downed stop sign at a busy intersection after notice;
- d. In failing to exercise due care with respect to the operation, maintenance, repair and inspection of traffic control devices within its jurisdiction.

17. As a direct and proximate result of the carelessness, negligence, gross negligence, willfulness, wantonness, and recklessness of the Defendant, South Carolina Department of Transportation, as described hereinabove the stop sign for southbound traffic on South Carolina Secondary Road 208 (Griffin Road) at its intersection with South Carolina Secondary Road 205 (Broadway School Road) was down and there was no other appropriate traffic control device or

personnel in place to warn traffic to stop before entering the intersection which was a direct and proximate cause of the Plaintiff's accident.

18. As a direct and proximate cause of the carelessness, negligence, gross negligence, willfulness, wantonness, and recklessness of the Defendant, South Carolina Department of Transportation the Plaintiff has sustained severe bodily injury: has suffered and will continue to suffer severe physical pain and mental anguish; loss of enjoyment of life; and has incurred and will continue medical and other injury related expenses.

19. The Plaintiff is therefore informed and believes that he is entitled to a judgment against the Defendant, South Carolina Department of Transportation for actual damages in such amount as a jury may deem appropriate.

**For a Third Cause of Action as to
South Carolina Department of Public Safety**

20. The allegations of the preceding paragraphs are realleged and incorporated herein by reference as if they were fully set forth herein.

21. That the injuries and damages of the Plaintiff were directly and proximately caused by the carelessness, negligence, gross negligence, willfulness, wantonness, and recklessness of the Defendant, South Carolina Department of Public Safety in one of more of the following specifications:

- a. In failing to provide traffic control services at the intersection of South Carolina Secondary Road 208 (Griffin Road) and South Carolina Secondary Road 205 (Broadway School Road) when through its agent and/or employee, a member of the Highway Patrol, it had actual notice and knowledge that the stop sign was down for traffic traveling in a southerly direction on South Carolina Secondary 208 (Griffin Road);

- b. In failing to warn motorists at the intersection of South Carolina Secondary Road 208 (Griffin Road) and South Carolina Secondary Road 205 (Broadway School Road) that the stop sign was down.
- c. In its employ and/or agent, a member of the Highway patrol, failing to position himself and his highway patrol vehicle in such a position as to warn approaching traffic of the downed stop sign and properly control traffic at the aforementioned intersection;
- d. In failing, through its agent, to promptly contact the South Carolina Department of Transportation's Anderson County maintenance department and advise of the downed stop sign and request an immediate response to erect a temporary stop sign or permanent stop sign when he knew or should have known that failure to do so could result in a motor vehicle accident;
- e. In failing to have in place proper procedures for members of the Highway Patrol when they encounter a downed stop sign;
- f. In failing to properly train members of the Highway Patrol as to the appropriate response to a downed stop sign;
- g. In failing to exercise due care with respect to a downed stop sign to insure that the intersection was safe for the motoring public;

22. As a direct and proximate cause of the carelessness, negligence, gross negligence, willfulness, wantonness, and recklessness by the Defendant, South Carolina Department of Public Safety as described above the Plaintiff's accident occurred.

23. As a direct and proximate cause of the carelessness, negligence, gross negligence, willfulness, wantonness, and recklessness of the Defendant, South Carolina Department of

Public Safety, the Plaintiff has sustained: severe bodily injury; has suffered and will continue to suffer severe physical pain and mental anguish; loss of enjoyment of life; and has incurred and will continue medical and other injury related expenses.

24. The Plaintiff is therefore informed and believes that he is entitled to a judgment against the Defendant, South Carolina Department of Public Safety, for actual damages in such amount as a jury may deem appropriate.

**As to the Defendants,
The South Carolina Department of Transportation
and
The South Carolina Department of Public Safety**

25. The allegations of the preceding paragraphs are realleged and are incorporated herein by reference as if they were full set forth herein.

26. The Plaintiff alleges that the negligent acts of the South Carolina Department of Transportation in the specifications set forth hereinabove and the negligent acts of the South Carolina Department of Public Safety in the specifications set forth hereinabove constitute two independent and separate acts of negligence directly and proximately resulting in the Plaintiff's accident and his resulting damages thereby constituting two separate occurrences.

27. The Plaintiff would further alleges that as there are two occurrences the monetary caps on any judgment against the Defendant, the South Carolina Department of Transportation and the South Carolina Department of Public Safety as set forth S.C. Code §15-78-120 (1) and 15-78-20(2) are inapplicable to this case.

WHEREFORE, the Plaintiff prays for judgment against all Defendants as follows:

- a. For actual and punitive damages against the Defendant David L. Stephenson;

- b. For actual damages against Defendants, The South Carolina Department of Transportation and The South Carolina Department of Public Safety;
- c. For costs and disbursements of this action;
- d. And for such other relief as the Court deems just and proper.

JOHN M. O'Rourke, ATTORNEY AT LAW, P.A.

By: 

John M. O'Rourke (S.C. Bar No. 4286)

P.O. Box 2205

Greenville, SC 29602

864.242.1086

jmorourkelaw@gmail.com

Attorney for the Plaintiff

Peter C. Baumann

October 2nd, 2014

STATE OF SOUTH CAROLINA)

COUNTY OF Oconee)Robert Lee Bearden)

PLAINTIFF)

ADDRESS)

STATE ZIP)

TELEPHONE)

VS.)

SC HP Post B & J.A. Pitts)

DEFENDANT(S))

ADDRESS)

STATE ZIP)

TELEPHONE)

CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT
Common PleasFILED OCONEE, SC
BEVERLY H. WHITEFIELD
CLERK OF COURT
2013 MAY 21 A 10:56
COMPLAINTCommon Pleas # 2013-cp-37-403I, Robert Lee Bearden, the plaintiff in this civil action do make the following claims:


1. I believe the defendant, J.A. Pitts, is a resident of South Carolina County, and resides at Church Street Central SC 29130 which is within Judge _____'s magisterial jurisdiction or this Complaint is properly filed in Oconee County.

2. I make this complaint on the following:

on the day of 07/30/2011 I was to take the breathe alizer test at 11:25 P.m. I tried to blow in the breathe alizer and I have cough and I had left my medicine in my truck and that's why I could not blow in the breathe alizer test hard. Then he took me to the hospital for blood test and the results where 0.0. The officer refused to send my (Attach supplement if necessary) blood results to the highway department in Columbia.
0.02. 08

3. I believe, because of the above information, that I am entitled to and do request a judgment for \$ 50,000.00 and/or other relief as below requested:

reinstatement of driver's license
They also dropped Keep my license for over 17 months then they dropped the charges after they keep my license that whole time

including any costs resulting in this action. 

SCCA/701 (Amended 05/08)

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2013-CP-37-00403

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

Robert Lee Bearden

SC HP Post B and J. A. Pitts

2013 SEP 25 AM 11 01

PLAINTIFF(S)

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. ☐ 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; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk :

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	N/A	\$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.**

S/ALEXANDER S. MACAULAY

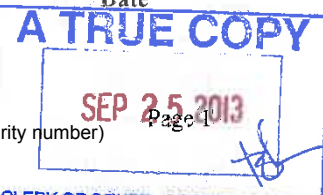
Circuit Court Judge

2063

Judge Code

9/24/13

Date



For Clerk of Court Office Use Only

This judgment was entered on the 25th day of September, 2013 and a copy mailed first class or placed in the appropriate attorney's box on this 25th day of September, 2013 to attorneys of record or to parties (when appearing pro se) as follows:

Robert Lee Bearden, pro se

Russell W. Harter, Jr.

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Beverly H. Whitfield

CLERK OF COURT

Court Reporter:

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.

FILED DOORCE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2013 SEP 25 PM 11 01

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Robert Lee Bearden,

Plaintiff,

vs.

SC HP POST B and J.A. Pitts,

Defendants.

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

C.A. No.: 2013-CP-37-00403

ORDER

FILED OCONEE, SC
BEVERLY H. WHITEFIELD
CLERK OF COURT
2013 SEP 25 AM 11 01

This matter came before me for a hearing on the 6th day of September, 2013 on the Defendants' Motion to Dismiss pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

NATURE OF CLAIM

The plaintiff filed this action on May 21, 2013, designating SC HP Post B and J.A. Pitts as the named defendants. The plaintiff's Complaint contains three numbered paragraphs and makes reference to an incident on July 31, 2011 when the plaintiff alleges he was taken for a breathalyser test at 11:25 p.m. The Complaint filed by the plaintiff alleges that he tried to blow in the breathalyser, but because of COPD he alleges he could not blow into the breathalyser hard. The Complaint further alleges that the plaintiff was taken to the hospital for a blood test, which indicated a reading of 0.02%. The plaintiff alleges entitlement to \$50,000 in damages and reinstatement of his driver's license. He makes reference to the fact that his driver's license was kept for seventeen months and that charges were later dropped. The plaintiff's Complaint contains a bare statement of those general facts recited above, but does not make any specific allegations as to any theory of liability or claim.

The defendants filed a Motion to Dismiss pursuant to Rule 12(b)(6) on the basis that the Complaint filed by the plaintiff fails to state facts sufficient to constitute a cause of action. Further, and as an additional basis for dismissal, the defendants recite reliance upon the South Carolina Tort Claims Act.

STANDARD OF REVIEW

A ruling on a Motion to Dismiss for failure to state a claim must be based solely on the allegations as are set forth in the face of the Complaint. *S.C.R.C.P. Rule 12(b)*. It is also appropriate to view the evidence in favor of the plaintiff and to give the plaintiff the benefit of any inferences reasonably deducible therefrom. If, however, the allegations of the Complaint and inferences reasonably deducible therefrom do not entitle the plaintiff to relief on any theory of the case, then a Motion to Dismiss must be granted. *Brown v. Theos*, 338 S.C. 305, 526 S.E. 2d 232 (1999).

ANALYSIS

The plaintiff's Complaint contains generally the facts recited hereinabove and it does not recite any legal theory upon which the plaintiff claims as the basis for his suit. It is inferred from the plaintiff's Complaint that he was administered a breathalyzer on July 31, 2011 at the request of J.A. Pitts, and it appears from the allegations of the Complaint that the plaintiff's driving privilege was suspended for failing to comply with the implied consent law.

The defendants argue that pursuant to S.C. Code Ann. § 56-5-2951, there is an established procedure to be followed regarding a party's desire to contest the suspension of their license for failure to comply with the implied consent law. S.C. Code Ann. § 56-5-2951

provides that within thirty days from the notice of suspension, an administrative hearing may be requested to contest the suspension. If no hearing is requested, that right is deemed waived under the statute. Further, S.C. Code Ann. § 56-5-2951 provides that any appeal from an administrative hearing contesting the suspension of one's license must be made to the Administrative Law Court in accordance with its applicable rules.

The allegations of the Complaint, as worded, do not give rise to a claim for damages and/or for reinstatement of the plaintiff's driving privileges.

Additionally, the defendants contend that the plaintiff has not designated appropriate parties in the action, and more specifically, that the plaintiff did not bring his claim against the state of South Carolina, the Department of Motor Vehicles, and/or the South Carolina Department of Public Safety. The plaintiff's failure to name and/or identify a proper defendant is likewise fatal to his claim as pled in his Complaint.

Further and additionally, the defendants contend that the South Carolina Tort Claims Act specifically bars any claim against J.A. Pitts in his individual capacity, and based upon S.C. Code Ann. § 15-78-70, it appears that J.A. Pitts is not a proper party to this claim.

CONCLUSION

Based upon the arguments as set forth above, it appears the plaintiff has failed to designate the proper defendants and the plaintiff has failed to state facts in the body of his Complaint to meet the requirements of law to state a claim. Accordingly, I find that the defendants' motion pursuant to Rule 12(b)(6) should be granted and the plaintiff's Complaint should be dismissed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the plaintiff's Complaint fails to state facts sufficient to constitute a cause of action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the plaintiff's Complaint be dismissed.

IT IS SO ORDERED this 24th day of SEPTEMBER, 2013.



S/ALEXANDER S. MACAULAY

The Honorable Alexander S. Macaulay
Circuit Court Judge

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2013 SEP 25 AM 11 01

2014-08-11 12:29:33

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

August 11, 2014

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T96243
Date of Occurrence: July 31, 2011
Claimant: Bearden, Robert
Date Closed: August 11, 2014

Dear WARREN:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 1,441.72

If you should have any questions, please contact us.

Sincerely,

Jerry B. Anderson
Senior Claims Representative

/jba

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Sam Bowser,

Plaintiff,

v.

South Carolina Department of Public Safety,
and Leroy Smith, Kenneth Phelps, and Zackary
Wise, in their individual capacities,

Defendants.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

C/A No.: 2015-CP-40- 6410

COMPLAINT
(Jury Trial Demanded)

Plaintiff, Sam Bowser, complaining of the Defendants would respectfully show
unto the court:

PARTIES AND JURISDICTION

1. Plaintiff is a resident of Richland County, South Carolina and was employed by Defendant South Carolina Department of Public Safety ("SCDPS") as an officer within the Bureau of Protective Services Unit ("Protective Services").
2. Defendant SCDPS provides public safety throughout the state and is headquartered in Richland County.
3. Defendant Leroy Smith ("Director Smith") is the current Director of SCDPS; at the time of the events giving rise to the following causes of action, Director Smith was directly involved in the series of events that led to Plaintiff's constructive discharge.
4. Defendant Kenneth Phelps ("Chief Phelps") is employed by SCDPS and is responsible for the oversight and management of SCDPS's Office of

Professional Responsibility (“OPR”), which conducts internal investigations involving employees like Plaintiff. Chief Phelps was directly involved in and responsible for the OPR investigation involving Plaintiff.

5. Defendant Zackary Wise (“Chief Wise”) manages Protective Services and served as in Plaintiff’s chain of command during the events that give rise to this lawsuit.

6. The events giving rise to the following causes of action occurred in Richland County, and jurisdiction is proper.

FACTUAL ALLEGATIONS

7. Plaintiff, an African American, has spent his entire career in the field of law enforcement. Prior to working for Protective Services for SCDPS after he retired and returned to the workforce, Plaintiff formerly worked for SCDPS when it had oversight of the South Carolina Criminal Justice Academy (“SCCJA”). During that time, Plaintiff taught various training techniques that were sanctioned by SCDPS for new officer training, including the use of force and other standard methods of self-protection and protection of others. In this capacity, Plaintiff taught hundreds of SCCJA cadets of all races.

8. While working for Protective Services in 2015, Plaintiff reported directly to Sergeant Shawn Crosby (“Sgt. Crosby”), who reported to Chief Wise. Chief Wise reports directly to Director Smith. Plaintiff was assigned to work in and protect the Justices of the South Carolina Supreme Court. Plaintiff received positive performance evaluations for his work and enjoyed it immensely.

9. During the time that Plaintiff worked for SCDPS most recently, he also enjoyed employment separate and apart from his law enforcement duties at SCDPS, and Plaintiff followed the protocol for having this outside employment approved by his supervisors.
10. Sometime prior to January of 2015, Plaintiff was contacted by a local attorney regarding Plaintiff's knowledge of SCCJA training on the use of force during the time he taught at the SCCJA. Particularly, Plaintiff was sought out for this information because he was actively teaching the use of force, as mandated by SCDPS, at the SCCJA during the relevant time period.
11. As a result of Plaintiff's first-hand knowledge of the training techniques used and sanctioned by SCDPS during the relevant time period, Plaintiff was subpoenaed as a witness to testify at a high profile criminal trial in Orangeburg County involving a white police chief who stood accused of murder for using excessive force on an African American man. Plaintiff did not review any records or documents until after he was lawfully served with the subpoena. Plaintiff's review of the criminal defendant chief's training records confirmed that he was one of the chief instructors at the SCCJA.
12. Plaintiff received a subpoena for the trial, which was scheduled for January of 2015. Plaintiff, after receiving the subpoena, immediately reported it to his superior Sgt. Crosby, as outside employment because he was being paid for the time he took to review the case information and per the court rules for witness and mileage fees.

13. Initially, Sgt. Crosby approved Plaintiff's request, gave Plaintiff time off, and gave Plaintiff permission to attend the trial to which he had been subpoenaed. Plaintiff was scheduled to testify on a Friday. In the meantime, Sgt. Crosby called Chief Wise, and Chief Wise contacted Plaintiff in regards to the testimony and asked him several questions.
14. The Thursday night prior to Plaintiff's scheduled testimony, Plaintiff received a call from Chief Wise who informed Plaintiff that the criminal case to which he was being subpoenaed was "a high profile case" and instructed Plaintiff not to wear any SCDPS uniforms or paraphernalia.
15. The next day, Plaintiff arrived to the court house in accordance with the lawful subpoena he received. Prior to his testimony, general counsel for SCDPS arrived and attempted to quash the subpoena relating to Plaintiff's testimony. Plaintiff was shocked at this series of events and was concerned about the attempts to have his testimony quashed since he had received prior approval from SCDPS.
16. Trial proceedings were delayed, and attorneys for both the prosecution and defense discussed the matter with the presiding judge in chambers. General Counsel for SCDPS was also called in to explain the motion to quash. The attorney who subpoenaed Plaintiff argued that SCDPS's motion could result in a "chilling effect" upon Plaintiff's testimony given that his employing agency, Defendant SCDPS, sent its general counsel to silence Plaintiff from truthfully testifying to his knowledge of SCDPS approved training involving excessive

use of force, which was a primary component of the defendant police chief's case.

17. The presiding judge did not grant SCDPS's motion to quash, and Plaintiff was permitted to testify. Essentially, he testified that the criminal defendant, a white police chief who received training through the SCCJA, properly used force against the African American male who later died. Plaintiff testified that the criminal defendant used the same force taught during Plaintiff's tenure at the SCCAJ and that Plaintiff was one of the criminal defendant's instructors who taught him methods approved by SCDPS.
18. At the conclusion of the testimony of the trial in January, the presiding judge declared a mistrial after the jury returned without a unanimous verdict. A second trial was scheduled for June of 2015.
19. Between the conclusion of the first trial and the start of the second trial, SCDPS notified Plaintiff that he was "under investigation" for what was loosely characterized as an issue with "outside employment." Plaintiff, upon receiving notice of the investigation, had no clue what it pertained to, as his requests for outside employment, including the aforementioned subpoenaed testimony, were approved.
20. Plaintiff was forced to succumb to hostile and invasive questioning in the OPR office by various OPR investigators. Additionally, Plaintiff learned that the attorney who subpoenaed him to the trial was also questioned by OPR investigators at Phelps's direction. Counsel refused to answer any inquiry.

Plaintiff continually felt harassed and pressured during this time period and feared for his job.

21. On or around June 2015, Plaintiff again received a subpoena, requiring his presence for the second trial involving the white police chief charged in Orangeburg County.

22. With the knowledge that he was under investigation for the same, prior event, Plaintiff went to unnecessary bounds to disclose any and all pertinent information with Sgt. Crosby. He even completed an outside employment approval form ("form").

23. After submitting the form, Plaintiff received an e-mail from his superiors, requesting further clarification about the subpoena through a series of invasive and specific written questions. Plaintiff responded in writing to these questions to the best of his ability; however, SCDPS denied his application for the "outside employment" although Plaintiff received a subpoena for his presence at trial.

24. After denying Plaintiff and effectively attempting to preclude him from speaking under oath, Plaintiff was informed by his superiors that SCDPS would compensate him for the same amount he would otherwise have earned by adhering to the subpoena since his request was denied. Effectively, Plaintiff was offered payment for his silence on the training issue.

25. Plaintiff, after countless nights of sleep loss and worry about the issue, ultimately complied with the subpoena, as it was a matter of being held in contempt for not presenting himself at the trial. Plaintiff, while making himself

available as a witness, gravely feared for the loss of his job since he was complying with the subpoena and disregarding orders that he could not testify.

26. Again, Plaintiff provided the same testimony under oath, told the absolute truth as to his knowledge of the pertinent training and the white police chief who was accused of murder. The second trial was held in Richland County as agreed upon by the parties.

27. Subsequently, the police chief's second trial also resulted in a mistrial.

28. Following his second round of testimony, Plaintiff returned to his job at SCDPS and was issued a written reprimand at the conclusion of a six-month long investigation for "unauthorized side employment." Plaintiff was constructively discharged because of this continued pattern of harassment that was used against him to silence him from truthfully testifying and speaking out about a well-publicized issue that was casting a negative light on SCDPS.

29. After his constructive discharge, SCDPS reported to the SCCJA that Plaintiff "resigned pending investigation;" this statement was dishonest and maliciously made because at the time of Plaintiff's constructive discharge, he was informed that the investigation had been completed, resulting in the issuance of written discipline to him.

FOR A FIRST CAUSE OF ACTION
(Wrongful Termination in Violation of the Public Policy of South Carolina)

30. Plaintiff realleges paragraphs 1-29 herein.

31. Witness subpoenas involving criminal matters are governed by Rule 13 of the South Carolina Criminal Rules of Procedure. In this case, Plaintiff was

properly served a subpoena to serve as a witness at both aforementioned trials.

Had Plaintiff failed to adhere to the subpoena, he would be made to answer to the court, in the form of being held in contempt, which could include jail time.

32. The actions of Defendant SCDPS – effectively attempting to silence and prevent Plaintiff from testifying under oath – violate a clear mandate of public policy, law, and conduct.

33. As a direct and proximate result of the foregoing, Plaintiff was constructively discharged from his position with SCDPS, sustained a loss of income, earning capacity, and other benefits associated with her position. Moreover, Defendant SCDPS's conduct caused Plaintiff to suffer mental anguish, emotional distress, pain and suffering, which will continue into the future.

FOR A SECOND CAUSE OF ACTION
AGAINST DEFENDANT SCDPS
(Defamation of Character)

34. Plaintiff realleges paragraphs 1-33 herein.

35. Plaintiff was slandered by oral and written statements as well as by actions of Defendant SCDPS when he was subjected to and forced to participate in a sham investigation that was used for the sole purpose of intimidating Plaintiff.

36. These statements and actions made against Plaintiff were made by agents and servants of Defendant SCDPS acting in the course and scope of their employment under the circumstances alleged above, charging Plaintiff with misconduct in office and further reporting to the SCCJA that Plaintiff resigned during a pending investigation, which is patently false and dishonest.

37. These statements and actions are false.

38. These statements and actions, including false accusations that Plaintiff violated SCDPS policy willingly and with purposeful intent, injured Plaintiff and have defamed Plaintiff in his trade, business, and profession, and made Plaintiff out to be a liar.
39. By the false statements and actions made against Plaintiff by agents and servants of Defendant SCDPS acting in the course and scope of their employment, Defendant SCDPS defamed Plaintiff, and the defamation was published to Plaintiff's colleagues, acquaintances, the SCCJA, and possibly others.
40. The false statements and actions were not privileged, as there was no duty to furnish the information to the recipients, and they circulated to persons other than Plaintiff and his superiors, injuring his professional reputation, which will follow Plaintiff for the remainder of his professional career in law enforcement.
41. The statements and actions made by the agents and servants of Defendant SCDPS acting within the course and scope of their employment, together with the actions that Defendant SCDPS took, including the actions that proximately caused Plaintiff's termination, are defamatory *per se*.
42. That such statements and actions were false, known to be false, and given with reckless disregard for the truth, were maliciously made, and have proximately caused Plaintiff's severe and continuing damages including the loss of his job, loss of income, loss of earning capacity, and future income and benefits associated therewith. Further, Plaintiff has sustained embarrassment, humiliation, damage to his reputation, emotional distress, and pain and

suffering, which will continue into the foreseeable future. As a result of these actions, Plaintiff lost a considerable amount of sleep, self-confidence, and standing within the law enforcement community.

FOR A THIRD CAUSE OF ACTION
AGAINST DEFENDANT SCDPS
(Negligent Supervision)

43. Plaintiff realleges paragraphs 1-42 herein.

44. Defendant SCDPS, through its agents, servants, and employees, acting within the course and scope of their employment, was negligent in failing to properly supervise the Individual Defendants, particularly Chief Phelps, as it concerned the approval of and subsequent denial of Plaintiff's outside work request. The Defendant SCDPS was further negligent in failing to properly supervise and oversee the work and actions of its employee, Chief Phelps, with whom it delegated internal investigatory duties, to prevent the type of injury and harm suffered by Plaintiff.

45. As a direct and proximate result of the negligent supervision on the part of the Defendant SCDPS, Plaintiff has sustained physical injury, loss of earning capacity, loss of reputation, embarrassment, humiliation, and has sustained emotional and mental anguish. Plaintiff further asks for attorneys' fees and costs of this action.

FOR A FOURTH CAUSE OF ACTION
AGAINST DEFENDANT SCDPS
(Negligent Retention)

46. Plaintiff realleges paragraphs 1-45 herein.

47. Defendant SCDPS, through its agents, servants, and employees, acting within the course and scope of their employment, was negligent in continuing to employ the Individual Defendants – Director Smith and Chief Phelps – and retain them for continued employment because these two Individual Defendants have a pattern of engaging in misconduct as it relates to the treatment and supervision of other SCDPS employees, including Plaintiff. Specifically, Defendant Smith has, upon information and belief, directed and authorized Chief Phelps to carry out sham and baseless investigations to threaten, intimidate, embarrass, and harass employees, including Plaintiff, which result in false and malicious charges of misconduct and conduct unbecoming being lodged at Defendant SCDPS employees like Plaintiff.

48. As a direct and proximate result of the negligent retention of Director Smith and Chief Phelps on the part of the Defendant SCDPS, Plaintiff has sustained physical injury, loss of earning capacity, loss of reputation, embarrassment, humiliation, and has sustained emotional and mental anguish. Plaintiff further asks for attorneys' fees and costs of this action.

FOR A FIFTH CAUSE OF ACTION
AGAINST INDIVIDUAL DEFENDANTS SMITH, PHELPS, AND WISE
(Civil Conspiracy)

49. Plaintiff realleges paragraphs 1-48 herein.

50. Defendants Smith, Phelps, Wise, and others met at various times and places, schemed, conspired, and planned in secret – outside the scope of their SCDPS duties and supervisory roles – to harm the Plaintiff by attempting to have him silenced from speaking the truth, forcing upon him a chilling effect relating to

his truthful testimony, ostracizing him from amongst his colleagues, and setting him up for discipline and harassment because they wanted to silence him from testifying in a way that would bring much negative light and attention to SCDPS by testifying to facts surrounding the training in support of a white officer who used reasonable and lawful force. Such actions and activities are well outside of the course and scope of their employment and were done as a part of a wicked and malicious agenda to harm the Plaintiff and to cause him special damages such as extreme and severe emotional suffering attributable to his being unlawfully ostracized, blacklisted, and singled out for harassment and discipline.

51. Such a combination of persons acting, planning, and scheming outside the course and scope of their employment duties to promote personal interests constitutes an unlawful civil conspiracy for which the Individual Defendants are liable. The Individual Defendants through their actions, words, and the actions of others were able to accomplish their wicked purpose and further their personal agendas against the Plaintiff, resulting in him being ostracized and singled out among his colleagues and peers.

52. The Individual Defendants used their respective positions of authority to perpetuate their personal vendettas against the Plaintiff. They were threatened by the Plaintiff's testimony that SCDPS sanctioned a use of reasonable force that was used by a former white police chief that resulted in the death of an African American man.

53. Such a civil conspiracy on the part of the Individual Defendants, acting as set forth herein, caused the Plaintiff injuries that are personal to him, extreme and severe pain and suffering, being blacklisted, and other intangible damages. The Plaintiff is further entitled to an award of punitive damages against these Individual Defendants for their willful, wanton, and grossly negligent conduct and for attorneys' fees and costs associated with this cause of action against the Individual Defendants.

**FOR A SIXTH CAUSE OF ACTION
AGAINST INDIVIDUAL DEFENDANTS SMITH, PHELPS, AND WISE
(Deprivation of Civil Rights – Violation of 42 U.S.C. § 1983)**

54. Where not inconsistent herewith, Plaintiff realleges the foregoing paragraphs herein.

55. Under color of state and county authority, Smith, Phelps, and Wise perpetuated a course of disparate treatment and action towards the Plaintiff to silence his testimony that would impact the trial of a white police chief. In so doing, Smith, Phelps, and Wise acted in an unlawful and discriminatory manner toward the Plaintiff in violation of the Civil Rights Acts of 1871.

56. Such actions on the part of Smith, Phelps, and Wise, which include their attempts to silence Plaintiff from testifying publically, amount to an infringement upon and deprivation of the rights of Plaintiff and unlawful discrimination on the basis of his race for which the Defendants Smith, Phelps, and Wise are liable.

57. The discriminatory conduct alleged herein includes, but is not limited to, threats against Plaintiff— specifically targeted at Plaintiff's employment and formerly

unblemished disciplinary record, malicious interference with Plaintiff's personal dealings to testify at trial and his rights under the 1st Amendment of the U.S. Constitution, and malicious interference with Plaintiff's business dealings – including specifically Plaintiff's opportunity to serve as a witness and gain other outside employment.

58. These actions of Smith, Phelps, and Wise acting in their individual capacities, under color of state law, violate 42 U.S.C. § 1983, and Smith, Phelps, and Wise are liable to the Plaintiff for all damages caused thereby.

59. As a direct and proximate result of the civil rights violations of 42 U.S.C. § 1983 alleged herein, Smith, Phelps, and Wise have caused and are liable to the Plaintiff for back pay, front pay, loss of pay and benefits from his private employment, loss of benefits, prospective benefits, embarrassment, humiliation, pain and suffering and mental anguish as well as the reasonable attorneys' fees and costs associated with this action.

FOR A SEVENTH CAUSE OF ACTION
AGAINST INDIVIDUAL DEFENDANTS SMITH, PHELPS, AND WISE
(Deprivation of Civil Rights – Violation of 42 U.S.C. § 1985)

60. Where not inconsistent herewith, Plaintiff realleges the foregoing paragraphs herein.

61. The Individual Defendants, acting in their individual capacities outside the course and scope of their respective employment in and involvement with SCDPS, combined to cause Plaintiff harm including silencing his truthful testimony about the use of force employed by a white police chief against an African American man; ostracizing Plaintiff from his peers and singling him out

as a pariah for his given testimony; threatening Plaintiff's employment to Plaintiff directly and before the SCCJA; and discriminating against Plaintiff on the basis of his race in violation of 42 U.S.C. § 1985.

62. The Individual Defendants did so because of the Plaintiff's race and out of their own self-interests to protect themselves from due criticism from the Plaintiff's testimony, which was being used to defend a white police officer.

63. Said conduct, for which the Individual Defendants are liable, proximately caused Plaintiff damages for which they are liable, including but not limited to the following: back pay, front pay, loss of pay and benefits from her employment with SCDPS, loss of benefits, prospective benefits, embarrassment, humiliation, pain and suffering and mental anguish, as well as the reasonable attorneys' fees and costs associated with this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendant SCDPS for an appropriate amount of compensatory and actual damages, as well as an appropriate award of attorneys' fees and the costs of the public policy discharge action. Plaintiff also prays for equitable relief in the form of full back pay and any other relief granted by the court.

FURTHERMORE, Plaintiff prays for judgment against the Individual Defendants for all cognizable damages, including punitive damages to deter future bad behavior, alleged as a result of his Civil Conspiracy claim, and 42 U.S.C. §§ 1983 and 1985 claims in their official and individual capacities, respectively, in such an amount

as the jury may deem appropriate. Plaintiff further prays for the costs and fees of prosecuting these actions against the Individual Defendants.

J. LEWIS CROMER & ASSOCIATES, LLC

By: 

J. Lewis Cromer (#1470)
Ashley C. Story (#100578)
Ryan K. Hicks (#100941)
P.O. Box 11675
Columbia SC 29211
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astory@jlewiscromerlaw.com
rhicks@jlewiscromerlaw.com

Attorneys for Plaintiff

October 28, 2015
Columbia, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF ORANGEBURG)	
)	
Darla Branham,)	
	)	CASE NO. 10-CP-38-1790
)	
Plaintiff,)	
)	
v.	)	COMPLAINT
)	
South Carolina Highway Patrol,	)	JURY TRIAL REQUESTED
)	
Defendant.)	
)	

TO THE DEFENDANT ABOVE NAMED:

The Plaintiff, Darla Branham, complaining of the acts and omissions of the Defendants above named, says as follows:

JURISDICTION

1. The Plaintiff, Darla Branham, is a citizen and resident of the County of Richland, State of South Carolina.
2. Upon information and belief, the Defendant, South Carolina Highway Patrol, is a governmental entity or agency within the meaning of the South Carolina Tort Claims Act.
3. The incident giving rise to the cause of action set forth herein occurred in both Calhoun and Orangeburg Counties in the State of South Carolina.
4. This action is brought pursuant to S.C. Code Ann. 15-78-10 to 15-78-190 (Supp. 1991) to recover damages for personal injuries to the Plaintiff.

FACTUAL ALLEGATIONS

5. That on or about December 19, 2008, at approximately 12:05 a.m., Plaintiff, was

traveling south on S.C. Highway 176 in Calhoun County, South Carolina, when she observed an approaching S.C. Highway Patrol vehicle with its blue light activated in her rear view mirror.

6. That the Plaintiff pulled her vehicle from the road and was thereafter arrested by Trooper L.C. Porter of the South Carolina Highway Patrol.

7. That upon information and belief, at all times relevant hereto, Trooper L.C. Porter was employed by the Defendant South Carolina Highway Patrol and was acting in the course and scope of his employment and at the direction of his employer.

8. That pursuant to the arrest, Trooper Porter asked the Plaintiff to place her hands behind her back to enable him to place her in handcuffs.

9. That the Plaintiff immediately complied with the trooper's request and was thereafter handcuffed with her hands behind her back.

10. That the Trooper thereafter placed the Plaintiff into his patrol car while he completed paperwork and transported the Plaintiff to the local detention facility.

11. That during the time the handcuffs were in place, the Plaintiff repeatedly pled with the trooper to remove or loosen the handcuffs due to the fact that she was experiencing tremendous pain and a loss of sensation in her hands.

12. That the trooper ignored and disregarded her multiple requests to remove and/or loosen the handcuffs despite her explicit complaints and her tearful pleas for help.

13. That as a result of the improper and unnecessary handcuff placement, the Plaintiff suffered severe, painful and permanent injuries.

FOR A FIRST CAUSE OF ACTION

(NEGLIGENCE/ GROSS NEGLIGENCE)

14. The Plaintiff restates paragraphs one (1) through thirteen (13) of the Complaint as if fully rewritten herein.

15. That the Defendant, by its acts and omissions, was negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars, to wit:

- a) In then and there handcuffing the Plaintiff when she exhibited no sign of violent or aggressive behavior and had no prior history of violent behavior or aggressive behavior toward law enforcement or any other individual;
- b) In then and then handcuffing the Plaintiff when she was obviously fully cooperative and exhibited a full and complete willingness to comply with law enforcement;
- c) In handcuffing the Plaintiff in such a manner and with such force as to cause injury to the Plaintiff;
- d) In failing to remove the handcuffs when the Defendant employee was made aware that the handcuffs were inflicting tremendous pain and injury upon the fully cooperative Plaintiff;
- e) In failing to properly adjust the handcuffs to avoid damage or injury to the Plaintiff when the Defendant employee was made aware that the handcuffs were inflicting injury upon the fully cooperative Plaintiff;
- f) In failing to follow instructions for the use and application of the handcuffs;
- g) In failing to follow proper training protocol for the use and application of the handcuffs;
- h) In then and there allowing the Plaintiff to be handcuffed for an excessive period of time; thereby increasing the likelihood that the Plaintiff would suffer injury;
- i) In then and there failing to perform periodic checks to determine if the handcuffs were causing injury to the

Plaintiff;

- j) In then and there acting with a conscious indifference and disregard for the rights and safety of the Plaintiff; and
- k) In then and there failing to exercise that degree of care which a reasonable and prudent entity would have exercised under the same or similar circumstances.

All of which were the direct and proximate cause of the injuries and damages the Plaintiff suffered, as are more fully set forth below, said acts being in violation of the laws of the State of South Carolina.

FOR A SECOND CAUSE OF ACTION

(ASSAULT AND BATTERY)

16. The Plaintiff restates paragraphs one (1) through fifteen (15) of the Complaint as if fully rewritten herein.

17. That the Defendant, by its acts and omissions, was negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars, to wit:

- a) In then and there placing the Plaintiff in fear of bodily harm;
- b) In then and there contacting the Plaintiff in a harmful or offensive manner resulting in physical injury to the Plaintiff;
- c) In then and there handcuffing the Plaintiff when she exhibited no sign of violent or aggressive behavior and had no prior history of violent behavior or aggressive behavior toward law enforcement or any other individual;
- d) In then and then handcuffing the Plaintiff when she was obviously fully cooperative and exhibited a full and complete willingness to comply with the requests of law

enforcement;

- e) In handcuffing the Plaintiff in such a manner and with such force as to cause injury to the Plaintiff;
- f) In utilizing greater force than was reasonably necessary under the circumstances to restrain the Plaintiff;
- g) In failing to remove the handcuffs when the Defendant employee was made aware that the handcuffs were inflicting tremendous pain and injury upon the fully cooperative Plaintiff;
- h) In failing to properly adjust the handcuffs in such a manner as to avoid damage or injury to the Plaintiff when the Defendant employee was made aware that the handcuffs were inflicting injury upon the fully cooperative Plaintiff;

DAMAGES

18. The Plaintiff restates paragraphs one (1) through seventeen (17) of the Complaint as if fully rewritten herein.

19. That as the direct and proximate result of the aforesaid negligent, grossly negligent, careless, reckless, willful and wanton acts or omissions of the Defendant, the Plaintiff:

- a) Suffered injuries to both wrists and hands;
- b) Required extensive medical care and treatment for her injuries to include surgery;
- d) Was subjected to and continues to experience pain, suffering and discomfort;
- e) Was subjected to the administration of strong and potent drugs and medications and may require strong and potent medications in the future;

- f) Has incurred, and may continue to incur, substantial medical and doctor bills;
- g) Was unable to pursue many of her usual avocations, thereby being deprived of the enjoyment of life;
- h) Suffered a loss of income; and
- i) Is informed and believes that she has suffered severe and permanent injuries to her body including but not limited to her right hand.

20. The Plaintiff is informed and believes that she is entitled to judgment against the Defendant, in the sum of such actual damages as a jury may find, together with the costs of this action.

WHEREFORE, the Plaintiff demands judgment against the Defendant for such sum of actual damages as a jury may find, for the costs of this action, and for such other and further relief as this Court may deem just and proper.

POPOWSKI, CALLAS & SHIRLEY, P.A.



Vanessa C. Overbay
 Attorney for Plaintiff
 1430 Blanding Street
 P.O. Box 7397
 Columbia, SC 29202
 803) 771-2455

Columbia, South Carolina

Dated this 15th day of Dec, 2010.

FILED

STATE OF SOUTH CAROLINA
COUNTY OF CALHOUN2012 AUG -1) IN THE COURT OF COMMONS PLEAS
AUG 15) FIRST JUDICIAL CIRCUIT

Darla Branham,

KENNETH HASTY
CLERK OF COURT
CALHOUN COUNTY
ST. MATTHEWS, SC

Civil Action Number 2011-CP-09-234

Plaintiff,

vs.

STIPULATION OF DISMISSAL
WITH PREJUDICE

South Carolina Highway Patrol,

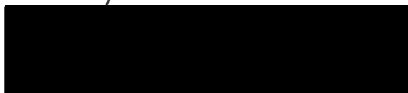
Defendant.

Now come the undersigned counsel for the Plaintiff and the undersigned counsel for the Defendant,
and stipulate to the dismissal with prejudice of the above-entitled action pursuant to Rule 41(a)(1)(b) of the
South Carolina Rules of Civil Procedure.

WE SO STIPULATE:

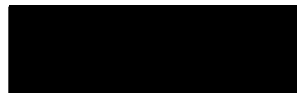
POPOWSKI, CALLAS & SHIRLEY, P.A.

RICHARDSON PLOWDEN & ROBINSON, P.A.



Vanessa C. Overbay, Esquire
Post Office Box 7397
Columbia, South Carolina 29202

Attorney for the Plaintiff

Date: 7/26/12

Drew Hamilton Butler, Esquire
Post Office Drawer 7788
Columbia, South Carolina 29202

Attorney for the Defendant

Date: 7/30/12

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

August 30, 2012

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T56281
Date of Occurrence: December 19, 2008
Claimant: Branham, Darla Williams, Darla
Date Closed: August 30, 2012

Dear Mr. Ganjehsani:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$ 50,000.00
Expenses Paid: \$ 16,842.73

If you should have any questions, please contact us.

Sincerely,

Nancy Stevenson
Senior Claims Representative

/ns

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Kenneth E. Branham)	
)	
Plaintiff,)	
)	
Vs.	)	COMPLAINT
	)	(Jury Trial Demanded)
South Carolina Department of Public Safety and)	
Kenneth Lancaster, and Christopher Madden)	
in their individual capacities,)	
)	
Defendants.)	
)	

The plaintiff, Kenneth E. Branham ("the Plaintiff") by and through his undersigned counsel, would respectfully show to the court:

1. The plaintiff is a citizen and resident of Union County, South Carolina, residing at 376 Happy Valley Road, Union, SC 29379.
2. The defendant, South Carolina Department of Public Safety ("SCDPS"), is an agency of the State of South Carolina, having offices and institutions throughout the State of South Carolina, with its principal offices in Columbia, South Carolina.
3. The individual defendants, Kenneth Lancaster ("Lancaster") and Christopher Madden ("Madden") and are, upon information and belief, citizens and residents of Richland County, South Carolina, who at all times relevant hereto, were the Commander of the S.C. Highway Patrol and a Major within the S.C. Highway Patrol, and as such were high ranking employees and agents of the defendant SCDPS.
4. This action arises under 42 U.S.C. Section 1983 and the First Amendment to the Constitution of the United States, as well as the common law of the State of South Carolina.

5. Jurisdiction exists pursuant to 28 U.S.C. Section 1343 (4), which gives the District Court original jurisdiction over any civil action authorized by law to be commenced by any person to recover damages under any Act of Congress providing for the protection of civil rights.

6. Venue lies within the Columbia Division pursuant to 28 U.S.C. Section 1391 (b) because the Department's principal office is located in this judicial district and most of the events giving rise to this claim occurred in the Columbia judicial district.

7. Prior to the events set forth herein, the plaintiff had served as a loyal and effective patrol officer and sergeant of the SCDPS with a record of outstanding service and the recipient of many awards.

8. The plaintiff at the time of the events in question had always enjoyed harmonious and positive relationships with all of his superiors and co-workers at the Department, and other law enforcement agencies.

9. Beginning in December, 2010, the plaintiff began to observe a change in the long relationship with his wife, Shannon, and suspected that she may be sexually and romantically involved with another male. Eventually the parties separated and now his marriage is ended causing him great emotional and physical distress and otherwise impacting on his life.

10. The plaintiff hired a private detective after suspecting that the SC Patrol Commander, the defendant Lancaster, was his wife's paramour and discovered proof that such defendant had an improper and adulterous relationship with her.

11. When it became public knowledge that an improper affair was taking place, the defendant Lancaster resigned his position and because of the widespread publicity surrounding the same, the plaintiff was placed on sick leave, with pay, until he could emotionally cope with

the circumstances which included his reporting to the defendant Madden who he learned had aided and abetted in the adulterous relationship between the defendant Lancaster and plaintiff's wife.

12. That Mark Keel, the Director of SCDPS was appointed as director of SLED in the summer of 2011 and finally confronted plaintiff's wife and removed her from Governor Nikki Haley's executive escort detail.

13. That plaintiff has recently returned to work but is in a hostile and impractical work environment because of these events and his future is uncertain.

14. That such events have caused strained relationships between the plaintiff and his fellow officers with whom he previously freely associated and interacted in his position with SCDPS.

15. That such action taken, as well as the severe and continuing hostile work environment caused by the named defendants constitutes adverse employment action and violate the plaintiff's civil rights.

**FOR A FIRST CAUSE OF ACTION AGAINST
THE INDIVIDUAL DEFENDANTS LANCASTER AND MADDEN
IN THEIR INDIVIDUAL CAPACITIES
(Violation of First Amendment)**

16. Plaintiff realleges paragraphs 1 through 15 aforesaid.

17. The actions taken against the plaintiff by the defendants Lancaster and Madden while acting under color of state law and in their individual capacities as set forth herein violated the plaintiff's rights of freedom of speech and association guaranteed to him by the First Amendment to the United States Constitution.

18. As a direct and proximate result of the violation of the plaintiff's First Amendment rights, he has lost his position and stature within the Department, and his ability to

effectively communicate and interact adversely affect his future earnings and retirement prospects, both within and outside of the same. The plaintiff further has sustained great reputational loss, mental and emotional suffering and pain and suffering, which will continue into the future. Plaintiff is entitled to back pay, front pay, compensatory damages and an award of punitive damages against the individual defendants for their malicious conduct, intent to harm and deliberate conduct knowingly in violation of plaintiff's constitutional rights.

**FOR A SECOND AND SEPARATE CAUSE OF ACTION
AGAINST AND AS A PENDENT STATE CLAIM AGAINST THE
SC DEPARTMENT OF PUBLIC SAFETY
(Negligence and Gross Negligence)**

19. Plaintiff realleges paragraphs 1 through 18 aforesaid.

20. The defendant SCDPS, through its agents and servants acting within the course and scope of their employment failed to recognize, report and deal with an ongoing improper sexual relationship, prohibited by its policies and procedures by failing to investigate, ignoring clear and credible signs and evidence and allowing the same to continue in spite of knowledge as assigned knowledge which impacts directly upon the plaintiff, a uniformed and respected officer of SCDPS, causing him damages and harm.

21. As a direct and proximate result of the same plaintiff has sustained the actual damages referred to in paragraph 18 hereof which is incorporated herein.

**FOR A THIRD AND SEPARATE CAUSE OF ACTION
AGAINST THE DEFENDANTS LANCASTER AND MADDEN
IN THEIR INDIVIDUAL CAPACITIES
(Civil Conspiracy)**

22. Plaintiff realleges paragraphs 1 through 21.

23. That the defendants Lancaster and Madden improperly, unlawfully and intentionally met, schemed, planned and conspired to foster and conceal an ongoing improper

and unlawful sexual relationship as set forth herein and to discourage, suppress and withhold evidence of the same to try to keep it secret and hidden from the top officials of SCDPS and SLED.

24. Such acting and scheme was a combination of persons for the purpose of having the plaintiff and causing him special damages including personal injuries, humiliation and be subject to scorn, ridicule and hurtful conduct with consequences to his continues service.

25. That the civil conspiracy was a part of a personal agenda on the part of the defendants Lancaster, who was married at the time, and Madden, acting outside of the course and scope of their duties for their personal satisfaction in keeping the relationship and other improper relationships alive.

26. That as a direct and proximate result of the civil conspiracy referred to herein, the plaintiff has lost his stature within the Department, adversely affecting his future earnings and retirement prospects, both within and outside of the same. The plaintiff further has sustained great reputational loss, mental and emotional suffering and pain and suffering, which will continue into the future. Plaintiff is further entitled to an award of punitive damages against the individual defendants for their malice, intent to harm and deliberate conduct set forth herein.

WHEREFORE, plaintiff prays for judgment against the defendant SCDPS as well as the other defendants herein jointly and severally for the sum of One Hundred Thousand (\$100,000) actual damages as well as a judgment against the individual defendants for an appropriate award of punitive damages to be assessed by a jury as well as the costs of this litigation and any such other relief as this Court may deem just and proper.

[Signature Block on Following Page]

3:12-cv-00379-MBS Date Filed 02/09/12 Entry Number 1 Page 6 of 6

J. LEWIS CROMER & ASSOCIATES

BY: /s/ J. Lewis Cromer
J. Lewis Cromer (#362)
Tandi R. Card (#10370)
Julius W. Babb, IV (#10500)
1522 Lady Street
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Fax 803-799-9533

Attorneys for Plaintiff

February 9, 2012

3:12-cv-00379-MBS Date Filed 10/18/12 Entry Number 22 Page 1 of 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Kenneth E. Branham,)	
	)	C.A. No. 3:12-cv-00379-MBS
Plaintiff,)	
)	
v.)	
	)	STIPULATION OF DISMISSAL
	)	WITH PREJUDICE
South Carolina Department of Public Safety,)	
)	
Defendant.)	
)	

It is hereby stipulated and agreed that the above action be discontinued and dismissed with prejudice, the parties to bear their respective costs and attorneys' fees.

s/ J. Lewis Cromer
J. Lewis Cromer (FID 362)
Tandi R. Card (FID 10370)
J. Lewis Cromer & Associates, LLC
Post Office Box 11675
Columbia, SC 29211
Phone: 803-799-9530
Fax: 803-799-9533
Email: jlc@jlewiscromerlaw.com
tcad@jlewiscromerlaw.com

ATTORNEYS FOR PLAINTIFF

s/ Vance J. Bettis
Vance J. Bettis (FID 1323)
Gignilliat, Savitz & Bettis, LLP
900 Elmwood Ave., Suite 100
Columbia, SC 29201
Phone: (803) 799-9311
Fax: (803) 254-6951
Email: vbettis@gsblaw.net

ATTORNEY FOR DEFENDANT

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

August 30, 2012

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T56281
Date of Occurrence: December 19, 2008
Claimant: Branham, Darla Williams, Darla
Date Closed: August 30, 2012

Dear Mr. Ganjehsani:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$ 50,000.00
Expenses Paid: \$ 16,842.73

If you should have any questions, please contact us.

Sincerely,

Nancy Stevenson
Senior Claims Representative

/ns

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

Margin Breaker, Sr.,)

Plaintiff,)

vs.)

South Carolina Department of
Transportation, South Carolina Highway
Patrol and Providence Fire
Department, Jointly and Severally)

Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUITCase No.: 2016-CP-38- COLL20COMPLAINT
(Jury Trial Demanded)

NOW COMES the Plaintiff, above named, complaining of the Defendant(s), above named, and does allege and show unto this Court as follows:

1. That the Plaintiff, Margin Breaker, Sr., (hereinafter referred to as Plaintiff) is a citizen and resident of the County of Orangeburg, State of South Carolina.
2. That this Court has jurisdiction over the matters and parties contained herein.
3. That this action is brought pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. Sections 15-78-10 to 15-78-190 (1976, as amended), to recover damages for personal injuries sustained by the Plaintiff. This action is brought under the terms of the South Carolina Tort Claims Act, §15-78-2000, *et seq.*, seeking damages sustained by the Plaintiff, as herein averred against the South Carolina Department of Transportation, South Carolina Highway Patrol and Providence Fire Department for acts or omissions engaged in by officers, agents, and/or representatives of South Carolina Department of Transportation, South Carolina Highway Patrol and Providence Fire Department, hereinafter referred to as Defendant(s).
4. The Defendant(s) are political subdivisions in the state of South Carolina or otherwise

an entity which is properly the subject of suit under the Tort Claims Act as the employer of transportation agents and first responders who, at all material times complained of herein, worked for the Defendant(s) as transportation agents, employees, and first responders, and were operating in the course and scope of their employment.

STATEMENT OF THE FACTS

5. On or about February 13, 2014, Margin Breaker, Sr., the Plaintiff, an 82 year old veteran, was the driver of a vehicle traveling north on SC Highway 210 in Santee, South Carolina, Orangeburg County.
6. Unknown to the Plaintiff, a large tree fell in the roadway of SC Highway 210 that blocked both lanes of the roadway and impeded traffic flow for approximately two days.
7. The Defendants received actual and/or constructive notice that the fallen tree was blocking the road shortly after it fell, and they knew or could have known or foreseen that the fallen tree was a direct hazard to motorists.
8. Yet, the Defendants took no action to remove the fallen tree, establish a detour, place warning signs of the hazard, or close the road to protect the public for two days before the Plaintiff's horrible and almost fatal collision with the tree on February 13, 2014.
9. Plaintiff was taken to The Regional Medical Center in Orangeburg, South Carolina by ambulance and was later admitted to the Intensive Care Unit for his injuries.
10. Plaintiff suffered serious physical harm and injuries to his chest, bilateral rib fractures, left clavicular fracture, a severe injury to his left thigh, and he is currently using an oxygen tank as a result of this horrific accident.

11. Plaintiff suffered extreme pain and suffering, permanent scarring and disfigurement, trauma, anxiety, emotional distress, depression, post-traumatic stress disorder, insomnia, annoyance, whole body impairment, disability, functional limitations, and reduced life expectancy.
12. Plaintiff has also incurred, and will incur, large amounts of medical bills and expenses as a direct and proximate result of the negligence, recklessness, wantonness, and gross negligence of the Defendant(s).

AS A FIRST CAUSE OF ACTION
Negligence, Negligence Per Se, Gross Negligence, Willful, Wanton, Reckless
Misconduct

13. Paragraphs one through twelve are incorporated as if repeated herein verbatim.
14. As a direct and proximate result of the negligent and grossly negligent acts of the Defendant(s), Plaintiff suffered serious injuries, damages and losses.

AS A SECOND CAUSE OF ACTION
Negligence, Negligence Per Se, Gross Negligence, Willful, Wanton, Reckless Misconduct
Premises Liability

15. Paragraphs one through twelve are incorporated as if repeated herein verbatim.
16. That the Defendant(s) were negligent, grossly negligent, wanton, willful, and careless in one or more of the following particulars:
 - a. In failing to remove the large fallen tree for two days;
 - b. In failing to place warning signs to alert the public that the fallen tree was blocking the roadway;
 - c. In failing to warn the public of a fallen tree in the roadway;
 - d. In failing to detour all traffic until the fallen tree was removed;

- e. In failing to establish barricades or road blocks to prevent the public from using the road until the fallen tree was removed; and
 - f. In failing to use the degree of care and caution that a reasonable and prudent person would have used under the circumstances then and there prevailing, all of which was the direct and proximate cause of the damages and injuries suffered by the Plaintiff herein, said acts being in violation of statutory and common laws of the State of South Carolina. Therefore, the Defendant(s) were negligent per se.
17. That the above negligent and grossly negligent acts of the Defendant(s) were the direct and proximate causes of the losses, injuries, pain and suffering, medical bills and costs, present and future, and all damages incurred by Plaintiff.
18. That by reason of the acts of the Defendant(s) as set forth above, the Plaintiff is informed and believes that he is entitled to an award of actual and compensatory damages in an appropriate amount set forth by the Court, and for the costs of this action.

WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and severally, and for actual and compensatory damages in an amount set by the Court, for the costs of this action, and for such other and further relief as this Court might deem just and proper.

Respectfully submitted,



Carl B. Grant, Esquire
 The Law Firm of Carl B. Grant, P.A.
 Post Office Box 1203
 960 Doyle Street
 Orangeburg, South Carolina 29116
 (803) 536-4011
 Attorney for the Plaintiff

February 11, 2016
 Orangeburg, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
 2012 JAN -6 PM 12:54) THE FIRST JUDICIAL CIRCUIT
 COUNTY OF ORANGEBURG) C/A NO.: 2012-CP-38-0005
 WILLIAM BRELAND,) FILED FOR RECORD
) WINNIFA B. CLARK
) CLERK OF COURT
) ORANGEBURG, SC
Plaintiff,)
)
 vs.) **COMPLAINT**
) **(Jury Trial Demanded)**
)
 ORANGEBURG COUNTY and SOUTH)
 CAROLINA DEPARTMENT OF)
 PUBLIC SAFETY)
Defendants.)

THE PLAINTIFF COMPLAINING OF THE DEFENDANTS ALLEGES:

1. Plaintiff is a citizen and resident of Bamberg County, State of South Carolina.
2. Orangeburg County is a political subdivision of the State of South Carolina and is responsible for inspecting, maintaining and repairing right-of-ways and ditches in Orangeburg County, South Carolina and/or for properly reporting and/or responding to problems and complaints concerning the roads, right-of-ways and ditches in Orangeburg County, South Carolina, and is subject to this lawsuit pursuant to §15-78-10 et. seq. of the South Carolina Code of Laws (1976).
3. South Carolina Department of Public Safety is an agency of the state of South Carolina and is responsible for inspecting and maintaining the safety of the roads, right-of-ways and ditches in Orangeburg County, South Carolina and/or for reporting and/or responding to problems and complaints concerning the safety of roads, right-of-ways and ditches in Orangeburg County, South Carolina, and is subject to this lawsuit pursuant to §15-78-10 et. seq. of the South Carolina Code of Laws (1976).

ATTEST: TRUE CO.

CLERK OF COURT
 ORANGEBURG COUNTY, SC

4. At all times herein mentioned, Defendants were acting either individually or through their agents, servants and/or employees who were acting within the course and scope of their employment.
5. On or about January 8, 2010, Plaintiff was traveling in Orangeburg County on the section of road known as Savannah Highway (U.S. Highway 321). Suddenly and without warning, the vehicle he was operating struck a dead tree that had fallen and covered the highway upon which he was traveling, causing him to be injured.
6. Defendants, individually, and by and through their servants, employees and/or agents, as applicable, knew or should have known that this tree was dead and decayed, or that it had fallen and was blocking the roadway, and that it constituted a dangerous and hazardous condition but failed to take action to remedy the situation, or Defendants were informed of the dangerous condition of the tree or that the tree had fallen, but failed to report that information appropriately or act appropriately with said information.
7. Plaintiff's injuries were due to and proximately caused by the negligent, reckless and willful conduct of the Defendants, individually or in combination with each other, by and through their agents, servants and employees in the following particulars, to wit:
 - (a) In failing to inspect, repair and/or maintain its rights of way on U.S. Highway 321, a/k/a Savannah Highway in a reasonably safe manner or condition;
 - (b) In failing to inspect its right of way along U.S. Highway 321, a/k/a Savannah Highway to find and remove trees which were obviously decayed and which were reasonably likely to fall, creating a potential danger to the motoring public, including plaintiff;
 - (c) In creating, maintaining or allowing a hazardous, dangerous and unsafe condition to exist;
 - (d) In failing to warn the public of the dangerous condition in the area where the dead tree fell upon the highway;

- (e) In failing to take proper precautions to insure that the roadway was reasonably safe;
- (f) In failing to receive and properly communicate and report the condition of the tree or that the tree had fallen to allow for the condition to be corrected;
- (g) In such other particulars as the evidence may establish.

8. By reason and in consequence of the aforesaid negligent, reckless and willful conduct of the Defendants, either to the exclusion of each other or in combination with each other, the Plaintiff:

- a. suffered serious personal injuries for which he incurred past and future medical bills;
- b. has suffered past, present, and future physical pain, suffering, and mental anguish;
- c. has suffered a past, present and future loss in the enjoyment of life;
- d. has suffered other damages as allowable by law.

Wherefore, having fully complained of these Defendants, Plaintiff prays this Court enter judgment for actual damages, and punitive damages, as allowable by law, in an amount to be determined by the trier of fact, plus the costs and disbursements of this action.

WILSON, LUGINBILL & KIRKLAND, LLC


J. CHRISTOPHER WILSON
DANIEL W. LUGINBILL
P.O. BOX 1150
BAMBERG, SC 29003
(803) 245-7799 Telephone
(803) 245-0037 Fax
ATTORNEY FOR PLAINTIFF

1/6, 2012
Bamberg, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS

William Breland,

Plaintiff,

v.

Orangeburg County and South Carolina
Department of Public Safety,

Defendant(s).

STIPULATION OF DIMISSAL

CASE NO.: 2012-CP-38-0005

Counsel for the Plaintiff and Defendants hereby stipulate to dismissal of the above
entitled action with prejudice.

June 6, 2012

Bamberg, SC

By: 

Daniel W. Luginbill
PO Box 1150
Bamberg, SC 29003
(803)245-7799
ATTORNEY FOR PLAINTIFF

June 6, 2012

Bamberg, SC

By: 

Richard B. Ness
PO Box 909
Bamberg, SC 29003
(803)245-5178
ATTORNEY FOR DEFENDANTS

ATTEST: TRUE COPY

Wingja B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

Signatures, initials, and personal information (i.e. address, phone, social security number)
were redacted by House Legislative Oversight Committee staff.

2012 JUN 11 PM 4:34
CLERK OF COURT
ORANGEBURG, SC

2012-10-18 14:08:56

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

October 17, 2012

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T84450
Date of Occurrence: January 8, 2010
Claimant: Breland, William
Date Closed: October 17, 2012

Dear Mr. Ganjehsani:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	374.27

If you should have any questions, please contact us.

Sincerely,

Barry Rice
Litigation Consultant

/wbr

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

JESSE DANIEL BROWN

Plaintiff,

versus

Case No: 9:14-2336-RMG-WWD

Amended

COMPLAINT

SUING ALL Defendants
in their Individual
Capacity

Hannah R. Wimberly, a/k/a Hannah
Wimberly, a/k/a Wimberly, sued in
her Individual capacity while acting
under the color of State law; and
J. Conely, a/k/a Conely, sued in
his Individual capacity while acting
under the color of State law; and
W.P. Murphy, sued in his Individual
capacity while acting under the color
of State law,
Defendants.

RECEIVED CLERK'S OFFICE
2014 JUL 14 A 9 42
DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON, SC

FACT

Federal Rules of Civil Procedures allows for a Plaintiff to amend the complaint, to make corrections etc. to the case before the complaint is served on the defendants. Therefore at this time thru Federal Rules of Civil Procedures, I, JESSE DANIEL BROWN, amend the Complaint, so that the Record will show that ~~this~~ this amended complaint, I amend: Hannah R. Wimberly, a/k/a Hannah Wimberly, a/k/a Wimberly, sued in her Individual capacity while acting under the color of State law. I also amend that: J. Conely, a/k/a Conely, sued in his individual

CASE No.: 9:14-2336-RMG-WWD

capacity while acting under color of state law. I also amend that W.P. Murphy, sued in his Individual Capacity while acting under color of state law.

Let the Record reflect that I absolutely am not suing any of the Defendants in their representative capacity, and the wording and phrase "Representative" should be removed from out of the caption of this case.

The Record Shall show that all defendants named in this case are being sued in their Individual Capacity while acting under color of State law, for all violations they committed against I, JESSE DANIEL BROWN, that is explained and being sued for in the written write-up of the original complaint.

Let the Record show that the caption of this amended complaint is amended to the caption of the original complaint, is the correct caption that shows the correct capacity, that all defendants named in the original complaint and amended complaint are being sued in.

Submitted under penalty of perjury to be true, exact and correct, I, JESSE DANIEL BROWN, do swear.

JESSE DANIEL BROWN

7-9-2014

Dated

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

2015 AUG -3 P 3:02

Jesse Daniel Brown,

Plaintiff,

vs.

Hannah R. Wimberly, a/k/a Hannah
Wimberly a/k/a Wimberly, sued in her
individual capacity while acting under
color of state law; and J. Conley a/k/a
Conley, sued in his individual capacity
while acting under color of state law,

Defendants.

No. 9:14-cv-2336-RMG

ORDER

This *pro se* action comes before the Court on the Report and Recommendation (“R & R”) of the Magistrate Judge (Dkt. No. 39), recommending that the Court grant Defendants’ motion for summary judgment on Plaintiff’s federal claims on the ground of qualified immunity, decline supplemental jurisdiction over any potential state claims pursuant to 28 U.S.C. § 1367(c), and dismiss this action. (Dkt. No. 39). The parties were advised of their right to file written objections to the R & R within 14 days of service of the R & R, and a failure to timely file written objections could result in limited review by the District Court and a waiver of the right to appeal the judgment of the District Court. (*Id.* at 13). No written objections were filed to the R & R.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may “accept, reject, or

modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court is charged with making a de novo determination of those portions of the R & R or specified proposed findings or recommendations to which objection is made. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting 28 U.S.C. § 636(b)(1)); accord Fed. R. Civ. P. 72(b).

However, as to portions of the R & R to which no objection is made, this Court “must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee note). Additionally, the Court need not give any explanation for adopting the R & R in the absence of specific objections by the parties. See *Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983) (“Absent objection, we do not believe that any explanation need be given for adopting the report.”).

The Court has reviewed the R & R, the record evidence and the applicable law. The Court finds that the Magistrate Judge ably summarized the factual and legal issues in this matter and correctly concluded that Defendants are entitled to summary judgment as a matter of law on Plaintiff’s federal claims on qualified immunity grounds. Therefore, the Court **ADOPTS** the R & R of the Magistrate Judge as the order of the Court, **GRANTS** Defendants’ motion for summary judgment (Dkt. No. 33), **DISMISSES** Plaintiff’s federal claims with prejudice, and **DECLINES** to exercise supplemental jurisdiction over any potential state law claims pursuant to 28 U.S.C. § 1367(c). This action is, therefore, dismissed.

9:14-cv-02336-RMG Date Filed 08/03/15 Entry Number Page 3 of 3

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Judge

August 3, 2015
Charleston, South Carolina

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

RECEIVED

OCT 26 2015

SCDPS
Office of General Counsel

October 22, 2015

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T77808
Date of Occurrence: October 15, 2012
Claimant: Brown, Jesse
Date Closed: October 22, 2015

Dear WARREN GANJEHSANI:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	5,811.00

If you should have any questions, please contact us.

Sincerely,

Deanna C. Davis
Litigation Consultant

/dcd

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)
CHRISTOPHER LINDELLE BROWN,)
Plaintiff,)
vs.)
SOUTH CAROLINA DEPARTMENT)
OF PUBLIC SAFETY,)
Defendant.)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

CASE NO: 2016-CP-38-00694

COMPLAINT
Jury Trial Requested

FILED FOR RECORD
WINIFRED B. CLARK
2016 MAY 26 A 11:49
CLERK OF COURT
ORANGEBURG, SC

Plaintiffs, complaining of Defendant, allege and say:

PARTIES

1. Plaintiff is and was at all times mentioned herein a citizen and resident of Dorchester County, South Carolina.
2. Defendant is a South Carolina government entity.

JURISDICTION and VENUE

3. Under S.C. Code Ann. § 15-7-100, venue for this action is proper in Orangeburg County, South Carolina. This action is against Defendant who works in conjunction with Dorchester County government and law enforcement agencies of Dorchester County, and, as such, are likely seen by potential jurors of Dorchester County either as inherently vested with credibility or as a potential threat to the jurors should the jurors find against the Defendant. Accordingly, there is reason to believe that a fair and impartial trial cannot be had in Dorchester County. Further, Orangeburg County is an adjacent county to Dorchester County, and the convenience of witnesses and ends of justice would be promoted by the trial of this action outside of Dorchester County.

ATTEST: TRUE COPY

Page 1 of 5

Signatures, initials, and personal information (i.e. address, phone, social security number) were redacted by House Legislative Oversight Committee staff.

CLERK OF COURT
ORANGEBURG COUNTY, SOUTH CAROLINA

4. The Court has subject-matter jurisdiction over the claims in this lawsuit, personal jurisdiction over Defendant and venue is proper in this circuit.

FACTS

5. On or about April 8, 2015, at approximately 11:30 p.m., Plaintiff was the operator of a 1999 Ford Ranger bearing South Carolina license plate number IZC 458.

6. At the time and place aforementioned, Plaintiff was traveling along or about Stonehenge Road when, suddenly and without any warning, driver John Doe approached Plaintiff head-on, causing Plaintiff to swerve off of the roadway, crashing into a nearby mobile home, and thereby causing a collision and injuring Plaintiff and Plaintiff's passenger. Driver John Doe then fled the scene.

7. Despite Plaintiff's injury, SCDPS tried to administer field sobriety tests and a Datamaster blood alcohol concentration test.

8. Plaintiff registered a 0.04 blood alcohol content.

9. Despite the fact that Plaintiff's blood alcohol content was well within the legal limit, Defendant charged Plaintiff with DUAC and arrested him anyway, causing him to spend 2 nights in jail.

FOR A FIRST CAUSE OF ACTION (False Arrest)

10. Plaintiff incorporates all allegations of paragraphs above into this cause of action as if set forth verbatim.

11. On April 8, 2015, at approximately 11:30 p.m. at the location described above, Plaintiff was arrested by the above named defendant.

12. In committing the acts complained of herein, Defendant acted under color of state law by falsely arresting Plaintiff with no basis in fact or law to do so. In violating Plaintiff's right to be

free from false arrest, the defendant's violated the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

13. The arrest was caused by Defendant, their agents, servants, and/or employees, without any warrant or other legal process and without authority of the law and without any reasonable grounds, or cause to believe that Plaintiff was guilty of such crimes, or that Defendant had just cause to arrest Plaintiff.

14. Plaintiff was wholly innocent of any crime and did not contribute in any way or manner to his arrest by Defendant, their agents, servants and/or employees and was forced to submit to the arrest, imprisonment and confinement entirely against his will.

15. Defendant, their agents, servants and/or employees, as set forth above, intended to arrest and confine Plaintiff; Plaintiff was conscious of the arrest and confinement; Plaintiff did not consent to the arrest; and the arrest and his subsequent confinement was not otherwise privileged.

16. The actions of Defendant were knowing, willful, wanton, and intended to be and were the result of actual malice.

17. By reason of the above-described false arrest and detention of Plaintiff, he was subjected to great indignity, humiliation, pain and great distress of mind and body and Plaintiff has been otherwise damaged.

18. Further, Plaintiff suffered physical injury and damage to his entire body; particularly to his broken foot, which resulted in extreme physical pain and suffering during the duration of his false imprisonment, and continuing for an extended period of time afterward.

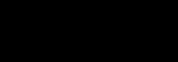
FOR A SECOND CAUSE OF ACTION
(Malicious Prosecution)

19. Plaintiff incorporates all allegations of paragraphs above into this cause of action as if set forth verbatim.
20. Heretofore and on April 8, 2015 at approximately 11:30 p.m., the defendant maliciously and without probable cause instituted criminal proceedings against the plaintiff which charged Plaintiff with having committed the crime of driving under the influence.
21. As a result of the institution of these proceedings, Plaintiff was arrested and was taken to jail, imprisoned, and then was held in bail to answer to the charges at a hearing.
22. Defendant instigated and procured this prosecution of Plaintiff falsely, maliciously, with intent to injure Plaintiff's reputation in the community and with full knowledge that the charge was without any reasonable or probable cause whatsoever.
23. The actions of defendant in unlawfully and maliciously causing the arrest and prosecution of Plaintiff constitute a violation of the Civil Rights Act, 42 U.S.C. § 1983, in that Defendant, acting under color of state law, deprived Plaintiff of his rights to freedom from unlawful arrest, liberty and property, which are guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.
24. Defendant has a policy to prosecute traffic tickets "as written" even in the face of exculpatory evidence.
25. Defendant's policy to never reduce or dismiss charges, even when exculpatory facts and law are presented to Defendant, resulted in Plaintiff having to defend against Defendant's malicious prosecution.

WHEREFORE, Plaintiff requests that judgment be entered against Defendant on all causes of action and that Plaintiff be awarded: actual damages; punitive damages; a trial by jury as to all causes of action properly triable; the costs of this action; and such other and further relief as the Court may deem just and proper.

May 17, 2016
Charleston, South Carolina

BOLES LAW FIRM, LLC



Daniel C. Boles
Attorney for Plaintiff
S. C. Bar # 79135
23 Broad Street
Post Office Box 381
Charleston, SC 29402
843.576.5775 *office*
800.878.5443 *fax*
dan@boleslawfirmllc.com

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	
Maria S. Calef,	)	Civil Action No.: 2013-CP-40-6814
)	
Plaintiff,)	
)	
vs.	)	A M E N D E D
	)	C O M P L A I N T
	)	(Jury Trial Demanded)
South Carolina Department of)	
Public Safety,)	
)	
Defendants.)	
)	

Plaintiff, complaining of the defendant herein, would respectfully show this court as follows:

1. Plaintiff is a citizen and resident of Richland County, South Carolina.
2. Defendant South Carolina Department of Public Safety is now and at all times material to this complaint a law enforcement agency organized under the laws of this state with offices located in Columbia, South Carolina, in the county of Richland.
3. This court has jurisdiction over the acts and delicts complained of, and venue is proper in this court.
4. Plaintiff alleges that on November 16th, 2011, she was exercising her right to peaceably assemble at the South Carolina State House.
5. Plaintiff alleges that Lt. Corporal T. Sox, acting on behalf of the Department as its agent, placed the plaintiff under arrest, for "unauthorized use of State House grounds." The plaintiff was then taken to jail, and incarcerated there until she was able to secure her release on bond.

6. Plaintiff alleges that the defendant department, acting through Lt. Corporal Davis, was without probable cause to arrest and incarcerate the plaintiff, against the plaintiff's will and without justification. Plaintiff further alleges that the actions of the department and the officer in arresting and restraining the plaintiff were intentional and unlawful.

**FOR A FIRST CAUSE OF ACTION
(Gross Negligence-Tort Claims Act)**

7. Plaintiff alleges that at all times material to this complaint the officers effecting her arrest were engaged in the regular course of employment and within the scope of their employment for the Department of Public Safety, and as a consequence, the Department is liable for the actions of its officers and agents.

9. Plaintiff alleges that the actions of the defendant, though its officers and agents, were reckless and grossly negligent. Plaintiff further alleges that the defendant, through its officers and agents, violated her right to free expression and peaceable assembly secured by Article I, Section 2 of the Constitution of the state of South Carolina, constituting negligence *per se*.

10. Plaintiff alleges that as a direct and proximate result of the defendant's recklessness and gross negligence, the plaintiff has suffered damages.

**FOR A SECOND CAUSE OF ACTION
(False Arrest and False Imprisonment)**

11. The defendant's agents and servants without probable cause falsely arrested and illegally imprisoned Mrs. Calef.

12. As a result of the false arrest and illegal imprisonment, the plaintiff suffered the damages described above.

**FOR A THIRD CAUSE OF ACTION
(Malicious Prosecution)**

18. The defendant Department of Public Safety, through its agents, instituted criminal proceedings against the plaintiff, at its instance.

19. The criminal charges were terminated in favor of the plaintiff.

20. The defendant, through its agents, had malice in instituting the proceedings, and lacked probable cause to pursue the charges.

WHEREFORE, plaintiff prays for actual damages and costs, to be assessed by a trial by jury, together with such other and further relief as this court deems just and equitable.

JOHN D. (JAY) ELLIOTT
Attorney for the Plaintiff
1122 Lady Street - Fifth Floor
Post Office Box 607
Columbia, South Carolina 29202
Phone: (803) 252-9236
Fax: (803) 799-2079
E-Mail: jayel@mindspring.com

DAVID A. FEDOR
1122 Lady Street - Fifth Floor
P.O. Box 1176
Columbia, South Carolina 29202
Phone: (803) 799-2088
Fax: (803) 799.2079

By: 
JOHN D. ELLIOTT

Columbia, South Carolina

November 16th, 2013

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Maria S. Calef,

Plaintiff,

vs.

South Carolina Department of
Public Safety,

Defendants.

Civil Action No.: 2013-CP-40-6814

STIPULATION OF DISMISSAL

RICHLAND COUNTY
FILED
APR 14 PM 1:01
JANETTE W. MCBRIDE
C.C.P. & S.

It appearing that Plaintiff filed a complaint against The Defendant, South Carolina Department of Public Safety, and that Defendant, South Carolina Department of Public Safety, has filed an Answer thereto, with no counterclaims as to any other parties; and

It appearing that after the conclusion of settlement negotiations conducted by the parties, and the settlement of the action between the parties, the Plaintiff now desires to dismiss the action against Defendant South Carolina Public Safety with prejudice.

THEREFORE, it is hereby stipulated that the above action now pending against Defendant, South Carolina Department of Public safety, be and hereby is, Dismissed With Prejudice, pursuant to the provisions of Rule 41(a)(1)(B), SCRCF.


[Signature page follows]

We Consent:


John D. (Jay) Elliott
1122 Lady Street - Fifth Floor
Post Office Box 607
Columbia, SC 29202
Telephone: (803) 252-9236
Facsimile: (803) 799-2079

jayel@mindspring.com

ATTORNEY FOR PLAINTIFF


Michael S. Pauley
mpauley@lidelaw.com
LIDE AND PAULEY, LLC
5179 Sunset Blvd.
Post Office Box 2189
Lexington, South Carolina 29072
Telephone: (803) 808-1799
Facsimile: (803) 808-1887

ATTORNEY FOR DEFENDANT,
SOUTH CAROLINA DEPARTMENT
OF PUBLIC SAFETY

2014-06-03 12:22:32

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

June 3, 2014

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T80481
Date of Occurrence: November 16, 2011
Claimant: Occupy Columbia, et al.
Date Closed: June 3, 2014

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$ 12,000.00
Expenses Paid: \$ 109,015.77

If you should have any questions, please contact us.

Sincerely,

Nelson C. Chandler
District Claims Manager

/ncc

STATE OF SOUTH CAROLINA]

COUNTY OF HORRY]

Eileen Callahan as Personal
Representative of the Estate of
Stephanie Nicole Callahan,

Plaintiff,

vs.

Robert W. Batchelor both
individually and in his official
capacity, South Carolina
Department of Safety, South
Carolina Highway Patrol, and
The State of South Carolina,

Defendants.]

IN THE COURT OF COMMON PLEAS

CASE NO.: 2015 - CP- 26 - 8490

COMPLAINT

(Wrongful Death, Survival Action
Malfeasance
and South Carolina Tort Claims Act)

JURY TRIAL DEMANDED

2015 DEC -1 PM 11:24
CLERK OF COURT

Plaintiff above named complaining of the Defendants above named, all of the individual Defendants above are being sued individually as well as in their respective official capacities, and their successors in office, respectfully shows unto this Honorable Court and alleges:

1. The Plaintiff, Eileen Callahan, is the biological mother of the decedent and was qualified and formally appointed by the Horry County Probate Court as Personal Representative of the Estate of Stephanie Nicole Callahan, deceased, who last resided in Horry County, South Carolina.

2. The Defendants South Carolina Department of Public Safety, South Carolina Highway Patrol [hereinafter "SCHP"] and the State of South Carolina are upon information and belief, governmental agencies or political subdivisions of the

State of South Carolina and are subject to the protection, liability and jurisdiction imposed by S.C. Code Ann § 15-78-40(1976) and other pertinent portions of S.C. Code Ann. § 15-78-40, et. Seq. currently referred to as the South Carolina Tort Claims Act; and the injury and death of Plaintiff's decedent as hereinafter described occurred in Horry County, South Carolina.

3. Defendant Robert W. Batchelor is a citizen and resident of Horry County, South Carolina. Defendant Batchelor was a police officer with the South Carolina Department of Public Safety and was assigned to the South Carolina Highway Patrol in Horry County, South Carolina. In doing the acts described below, Defendant Batchelor [hereinafter "Defendant Batchelor"] was acting in his official capacity as a police officer.

4. This Honorable Court has jurisdiction over the parties hereto, as well as the subject matter of this action, and Horry County, South Carolina, is the proper venue for this action.

5. This action is brought by Plaintiff Eileen Callahan as Personal Representative of the Estate of Stephanie Nicole Callahan, deceased, whose estate is being administered through the Office of the Probate Court for Horry County, South Carolina, under file number 2015-ES-26-01418.

6. This action is further brought for the benefit of the deceased's biological children, namely Jason Allen Callahan and Mariyah Lynn Callahan, as statutory beneficiaries of the Estate of Stephanie Nicole Callahan, deceased, under South Carolina Code Ann. § 15-78-170 et. seq. (1976) for the decedent's wrongful death and conscious pain and suffering.

7. Plaintiff's decedent eventually expired from her injuries, leaving her biological children, whose benefit this action is brought, without a mother, caretaker, provider, protector, educator as well as all other duties required of their mother. Stephanie Nicole Callahan's injuries and death caused by the Defendants' actions, inaction and omissions as alleged herein deprived her children of her love, care and consortium, and caused them to suffer pecuniary loss, funeral expenses, mental shock and suffering, wounded feelings, grief and sorrow, loss of companionship, and deprived them of the use and comfort of the Plaintiff's decedent's society, the loss of her experience, knowledge and judgment in managing the affairs of herself and her beneficiaries, in addition, the loss of her ability to earn money for the support, maintenance, care and protection of her children, all to their injury and actual damage as the trial jury may deem just and proper.

8. The decedent was not negligent in the cause of her injuries or death nor did any alleged negligence on her part cause or contribute to her injury and death.

9. Heretofore, to wit: On or about February 19, 2015 at approximately 2:30a.m., the Plaintiff's Decedent, Stephanie Nicole Callahan, [hereinafter "Stephanie Callahan"] was traveling east on SEC 842 in Loris, South Carolina, when her vehicle left the roadway and struck a ditch and tree. Following the collision, Stephanie Callahan was disoriented and seeking shelter due to the extreme cold conditions, wandered to a nearby shelter. Stephanie Callahan expired due to hypothermia in the outdoor hunting shelter near the scene of the collision.

10. Defendants' responded to the report of Plaintiff's decedent's vehicle wrecked along SEC 842 in Loris, South Carolina. Defendants failed to investigate the

scene and locate Plaintiff's decedent. The Defendants made false and misleading reports that Defendants had attempted to reasonably investigate the wreck scene and the whereabouts of the vehicle's driver and owner.

FOR A FIRST CAUSE OF ACTION AS TO DEFENDANT BATCHELOR
(Wrongful Death, Survival Action and Malfeasance)

11. Plaintiff repeats and re-alleges all of the above allegations as if fully set forth herein verbatim.

12. After responding to the incident at issue, Defendant Batchelor did not follow the proper protocol regarding abandoned vehicles.

13. Stephanie Callahan's death and damages aforesaid were due directly to and proximately caused by negligence, gross negligence, careless and reckless acts of commission and/or omission on the part of Defendant Batchelor as herein below stated, in one or more of the following particulars, to wit:

- a. Defendant Batchelor failed to E-mail the collision report and the abandoned vehicle report to the first sergeant.
- b. Defendant Batchelor failed to follow proper protocol and adhere to the Towing Abandoned Vehicle procedures by not attempting to locate and notify the owner and/or family members at the residence of the abandoned vehicle that was involved in a collision.
- c. Defendant Batchelor failed to notify local law enforcement of the situation.

14. Defendant Batchelor was also untruthful when he told another officer that he had gone to the residence of the vehicle's owner involved in a collision which led to inaccurate information disseminated to the Plaintiff, decedent's family, and media.

15. Such inaccurate information did postpone and delay the search and rescue efforts and caused the decedent to endure extreme cold weather conditions and suffer with pain and agony until her death.

16. As a direct and proximate result of Defendant Batchelor's untruthfulness and failure to follow proper protocol, Plaintiff was not informed of decedent's vehicle being involved in a crash and subsequently towed and was unable to perform a search for her that may have saved her life.

FOR A SECOND CAUSE OF ACTION AS TO DEFENDANT SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY AND THE STATE OF SOUTH CAROLINA
(Wrongful Death, Survival Action, Malfeasance and South Carolina Tort Claims Act)

17. Plaintiff repeats and re-alleges all of the above allegations as if fully set forth herein verbatim.

18. The decedent's death and damages aforesaid were due directly to and proximately caused by the negligence, gross negligence, careless and reckless acts of commission and/or omission on the part of Defendant South Carolina Department of Public Safety and The State of South Carolina as herein below stated in one or more of the following particulars, to wit:

- (a) In failing to properly and adequately supervise its employees.

- (b) In breaching the public trust.
- (c) In failing to exercise that degree of care which a reasonable and prudent person, entity, government agency or political subdivision would have exercised under the same circumstances.
- (d) Any or all of which were the direct and proximate cause of the damages suffered by the Plaintiff's decedent herein, said acts being in violation of the laws of the State of South Carolina, applicable case law, codes and ordinances.

19. Defendants South Carolina Department of Public Safety and the State of South Carolina knew or should have know that their employee, Defendant Batchelor, rarely adhered to the procedure regarding towing abandoned vehicles

20. That by reason of the aforesaid negligent, grossly negligent, careless and reckless acts of commission and/or omission on the part of the Defendants as aforesaid, Plaintiff's decedent incurred injuries, pain and suffering and death and incurred actual damages and is entitled to such punitive damages as the trial jury may deem just and proper.

FOR A THIRD CAUSE OF ACTION AS TO DEFENDANT SOUTH CAROLINA
HIGHWAY PATROL
(Wrongful Death, Survival Action, Malfeasance and South Carolina Tort Claims Act)

21. Plaintiff repeats and re-alleges all of the above allegations as if fully set forth herein verbatim.

22. The decedent's death and damages aforesaid were due directly to and proximately caused by the negligence, gross negligence, careless and reckless acts of

commission and/or omission on the part of SCHP as herein below stated in one or more of the following particulars, to wit:

- (a) In failing to properly and adequately supervise its employees.
- (b) In breaching the public trust.
- (c) In failing to exercise that degree of care which a reasonable and prudent person, entity, government agency or political subdivision would have exercised under the same circumstances.
- (d) Any or all of which were the direct and proximate cause of the damages suffered by the Plaintiff's decedent herein, said acts being in violation of the laws of the State of South Carolina, applicable case law, codes and ordinances.

23. Defendants SCHP knew or should have know that their employee, Defendant Batchelor, rarely adhered to the procedure regarding towing abandoned vehicles.

That by reason of the aforesaid negligent, grossly negligent, careless and reckless acts of commission and/or omission on the part of the Defendants as aforesaid, Plaintiff's decedent incurred injuries, pain and suffering and death and incurred actual damages and is entitled to such punitive damages as the trial jury may deem just and proper.

WHEREFORE PLAINTIFF PRAYS:

1. For judgment against Defendant Batchelor in a sum sufficient to adequately compensate the beneficiaries for the wrongful death and survivorship of Stephanie Nicole Callahan, deceased, and to adequately compensate Plaintiff

- for further actual and punitive damages as the trial jury may deem just and proper;
2. For judgment against Defendants South Carolina Department of Safety in a sum sufficient to adequately compensate the beneficiaries for the wrongful death and survivorship of Stephanie Nicole Callahan, deceased, and to adequately compensate Plaintiff for further actual and punitive damages as the trial jury may deem just and proper;
 3. For judgment against Defendants South Carolina Highway Patrol in a sum sufficient to adequately compensate the beneficiaries for the wrongful death and survivorship of Stephanie Nicole Callahan, deceased, and to adequately compensate Plaintiff for further actual and punitive damages as the trial jury may deem just and proper;
 4. For judgment against Defendant State of South Carolina in a sum sufficient to adequately compensate the beneficiaries for the wrongful death and survivorship of Stephanie Nicole Callahan, deceased, and to adequately compensate Plaintiff for further actual and punitive damages as the trial jury may deem just and proper;
 5. For the costs and disbursements of this action; and
 6. For such other and further relief as this Honorable Court may deem just and proper.

Signature Page to Follow

RESPECTFULLY SUBMITTED,

By:

[REDACTED]

Jeffrey E. Johnson
Attorney at Law, L.L.C.
1409 Second Avenue
P.O. Drawer 1829
Conway, S.C. 29528
Phone: (843) 488-5333
FAX: (843) 488-4290

November 30 2015
Conway, South Carolina

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
Pro Se Non-Prisoner Complaint Form

RECEIVED, CLERKS OFFICE
2013 MAR 5 PM 12 16
US DISTRICT CT COLA, SC

[Enter the full name of the plaintiff in this action]

RICHARD A. CAPELL

Civil Action No.

(to be assigned by Clerk)

v.

[Enter the full name of each defendant in this action. If possible, please list only one defendant per line.]

C. LEE CARTER III

TROOPER JENKINS

DEPUTY ALDERAGE YORK COUNTY

TROOPER ?, SCDPS
YORK COUNTY

DEPUTY ?, YORK COUNTY

DEPUTY ?, YORK COUNTY

If allowed by statute, do you wish to have a trial by jury? Yes ☒ No ☐

[If any answer requires additional space, please use additional paper and attach hereto.]

I. PREVIOUS LAWSUITS

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☐ No ☒

B. If your answer to A is Yes, describe the lawsuit in the space below. [If more than one lawsuit, describe on another sheet of paper using the same outline.]

1. Parties to this previous lawsuit:

Plaintiff: _____

Defendant(s): _____

2. Court: _____

(If federal court, name the district; if state court, name the county)

3. Docket Number: _____

4. Name(s) of Judge(s) to whom case was assigned: _____

5. Status of Case: _____
(For example, was the case dismissed? Settled? Appealed? Still Pending?)

6. Date lawsuit was filed: _____

7. Date of disposition (if concluded): _____

C. Do you have any other lawsuit(s) pending in the federal court in South Carolina?

Yes _____ No _____

II. PARTIES

In Item A below, place your name and address in the space provided. [If additional plaintiffs, do the same on another sheet of paper.]

A. Name of Plaintiff: RICHARD A. CAPELL

Address: _____

In Item B below, place the full name of the defendant, and his/her/its address, in the space provided. Use Item C for additional defendants, if any.

B. Name of Defendant: C. LEE CARTER III ET. AL.

Address: SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY

C. Additional Defendants (provide the same information for each defendant as listed in Item B above):

2 TROOPERS

3 YORK COUNTY DEPUTYS

III. STATEMENT OF CLAIM

State here, as briefly as possible, the facts of your case. Describe how each defendant is involved.

42-U.S.C. 1441 SECTION 1983, SECTION 1985 (*) SECTION 1986

Include also the name(s) of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets of paper if necessary.

42 - USC SECTION 1983

42. USC SECTION 1985 (3)

42 - USC SECTION 1986

SEE ATTACHED

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

IV. RELIEF.


State briefly and exactly what you want this court to do for you.

MAXIMUM ALLOWED BY LAW

ENFORCE THE LAWS

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 5 day of MARCH, 2013.


Signature of Plaintiff



"The Positive Difference"

City of Columbia Police Department

*Randy Scott
Chief of Police*

OFFICE OF INTERNAL AFFAIRS

July 25, 2012

Mr. Richard Capell
[REDACTED]

Re: Officer Complaint.

Mr. Capell,

This letter is to inform you that your complaints have been thoroughly investigated and concluded. The complaint against the Officers has been ruled: Not sustained - (The allegation is supported by sufficient evidence to indicate that the allegation is true.) and Exonerated - (The incident occurred but was lawful and proper.)

As always, the Columbia Police Department strives to investigate all complaints in a fair and impartial manner with no regards to race, religion, gender, or ethnic origin.

Sincerely,

[REDACTED]
Martin J. Folding, Investigator
Columbia Police Department
Internal Affairs Unit
#1 Justice Square
Columbia, S.C. 29201
803-545-3583

YCSO / SC DPS DEFENDANTS NOT FULL LIST
AS I DO NOT KNOW ALL OF THEM.

NO ARREST MADE. NO 56-56560 SC CODE OF LAW

SUBPENIA DIRECTOR LEROY SMITH SC DPS

(WHY ARE HIS OFFICERS NOT PROPERLY TRAINED
IN THE ADA TITLE II OR THE PETS ACT OF
2006?)
WHO IS HIS ADA COORDINATOR? SUBPENIA THEIR ADA COORDINATOR

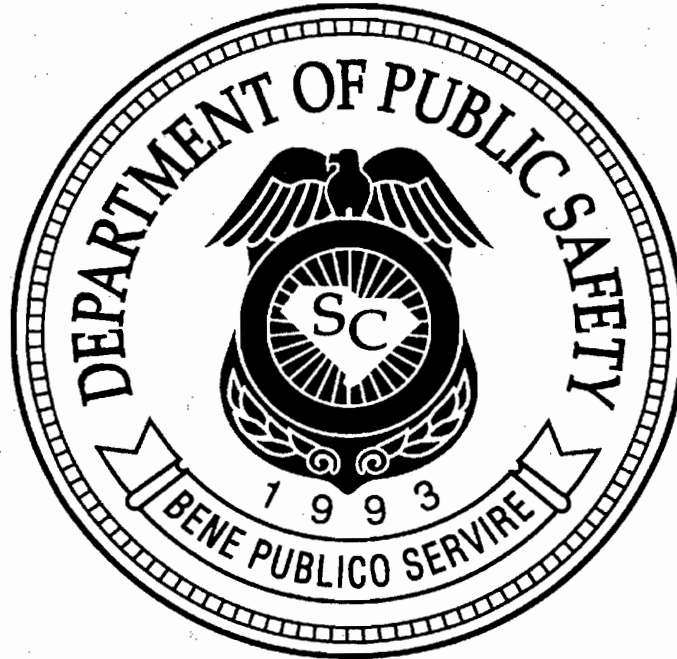
I NEVER CLAIMED TO BE A LAW ENFORCEMENT
OFFICER

SC CODE OF LAW STATES YOU MUST IDENTIFY YOURSELF AS
A LAW ENFORCEMENT OFFICER AND THEN COMMIT AN OFFICIAL
ACT THAT A LAW ENFORCEMENT OFFICER WOULD COMMIT. I NEVER
STATED I WAS A LAW ENFORCEMENT OFFICER AND ^{Z.A.C.} ~~THE~~ INFORMED
THEM I WAS EMS - RESCUE SQUAD MEMBER.

SC CODE OF LAW GIVES EMS AUTHORITY TO DECLARE AN
EMERGENCY SCENE AND WHEN THE DEFENDANT USED
HIS VEHICLE AS A WEAPON AGAINST ME TO FORCE ME
ALMOST INTO THE CABLE DEVIDER BY ROCKING HIS
VEHICLE BACK AND FORTH WHILE AT THE SAME TIME
MOVING ME OUT OF THE #1 LANE ALMOST INTO THE CABLES
I THEN ACTIVATED MY LIGHTS AND SIREN TO WARN OTHER
VEHICLES AROUND US OF A POTENTIAL TRAFFIC ROAD RAGE
INCIDENT OR MEDICAL INCIDENT. I AM NOT A FIREFIGHTER
AND NEVER HAVE BEEN BOUKWIGHT IS NOT EVEN A MEMBER OF
THE BLRS HE MAY BE WITH BLFD BUT NEVER BLRS THE CAR
A 1994 CHEVY CAPRICE BOUKWIGHT MENTIONS CAME FROM
A BAIL BOND BOUKWIGHT HUNTER IN NORTH CAROLINA. AS OF
1976 ALL LAW ENFORCEMENT VEHICLES MUST DISPLAY AND/OR USE A
BLUE FLASHING LIGHTS OR BOTH. BLUE LIGHTS NONE ARE ON ANY
VEHICLE

Signatures, initials, or other identifying information that contains a social security number were redacted by House Legislative Oversight Committee staff.

R.A. Guel



**OFFICE
OF
PROFESSIONAL RESPONSIBILITY**

OPR FILE #PR-2104-12-0030

Investigator C. Lee Carter III

SLANDER / HEARSAY

NO ARREST NO CHARGES NOW THIS IS A PUBLIC

DOCUMENT BASED ON C. LEE CARTER III

IMAGINATION

Signatures, initials and personal information (i.e. address, phone, social security number) were redacted by House Legislative Oversight Committee staff.



South Carolina Department of Public Safety

Office of Professional Responsibility

INVESTIGATIVE REPORT

OPR File #PR-2104-12-0030

SUBJECT: Trp. D. W. Jenkins, South Carolina Highway Patrol

COMPLAINANT: Richard Capell

INVESTIGATOR: Investigator C. Lee Carter III

ALLEGATION(S): Trooper Jenkins violated Capell's rights as a disabled person by asking about a disability during an April 12, 2012, incident.

INVESTIGATIVE PREDICATE

On April 12, 2012, Richard Capell was on I-77 in Richland County when he became involved in what could be described as a road rage incident with . At that time Capell was a volunteer with the Batesburg-Leesville rescue squad (BLRS) and his personally owned Chevrolet HHR was equipped with flashing red lights, siren and a DMV issued rescue license tag. While following Capell called the SCHP to report alleged reckless driving. Capell said he was trying to stop and wanted an officer to charge him. There were no troopers available and Capell followed from Richland County to York County near the North Carolina state line. This ended when both vehicles were stopped by a Deputy with the York County Sheriff's Office (YCSO). Due to his statewide jurisdiction, the YCSO asked Trp. D. W. Jenkins for assistance. As indicated on his video, Trooper Jenkins conducted a thorough field interview and Capell later objected to an alleged inquiry about his disability. Capell contacted the Protection and Advocacy Agency (PAA) in Columbia and complained about Trooper Jenkins' alleged actions. The PAA then forwarded Capell's concerns to the South Carolina Department of Public Safety's (SCDPS) Office of General Counsel (OGC). During contact with a member of the OGC staff, a PAA representative stated she was trying to disassociate herself from Capell. This information was forwarded to the Office of Professional Responsibility (OPR) on May 16, 2012 and a case was opened on May 31, 2012. (Exhibits 1, 2, 3 & 13)



South Carolina Department of Public Safety

Office of Professional Responsibility

INVESTIGATION

This investigation consisted of Investigator C. Lee Carter III reviewing videos, audio recordings and e-mails. He also interviewed Trooper Jenkins, Trp. J. E. Ferrell, Sgt. L. C. Plyler, F/Sgt. D. K. Fouty, F/Sgt. G. T. Levine and . Capell was not contacted by the OPR regarding this matter due in part to his penchant for filing complaints against government and private entities. Capell believes his rights as a disabled person were violated when Trooper Jenkins allegedly made inquiries about it and it is unknown what further action he may take. Another factor for not interviewing Capell was due to the possibility he violated state law by impersonating a police officer. He acknowledged trying to stop even though he is not a certified police officer and had no authority to do so. The SCHP did not charge Capell with any violations. A copy of this report will be forwarded to the State Law Enforcement Division (SLED) for a criminal investigation. On August 17, 2012, a letter from Director Leroy Smith was sent to SLED Chief Mark A. Keel requesting a criminal investigation into the allegations of impersonating a law enforcement officer.

The aforementioned videos and documents revealed the following:

Information obtained by the OPR indicated Capell claims to be disabled and is often accompanied by his personally owned dog he says is a service dog. Capell claims to suffer from Post Traumatic Stress Disorder (PTSD) and the dog aids him in this disability. During his interaction with Trooper Jenkins, Capell claimed Jenkins violated his rights by asking about his disability and this was the purpose of his complaint to the PAA.

The OPR obtained copies of e-mails Capell sent to numerous individuals including some within the SCHP. In these e-mails Capell wrote about his efforts to ensure the rights of the disabled are not violated. Some of these contained references to his encounter with Trooper Jenkins. Capell attached links to his homemade videos as well as links to news articles or legal documentation pertaining to the disabled. Capell also posted videos on www.youtube.com to include one where he used a camera attached to his dog's collar to surreptitiously video record his conversation with a Richland County Sheriff's Office (RCSO) Investigator. Another video showed Capell's confrontational encounter with several FBI employees in Columbia. Capell wanted to file a complaint with the FBI in Columbia about an issue involving a disabled person in Colorado. Capell had no direct involvement in this incident. (Exhibit 7)

Capell's disputes and complaints against other agencies are beyond the scope of this OPR investigation. It was for these reasons the OPR did not contact the other agencies. The purpose



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of this report is to address the allegations against Trooper Jenkins and to document Capell's impersonation of a police officer. (Exhibits 1, 2, 3 & 7)

Capell's vehicle was equipped with red lights, siren and a mounted radar unit. By Capell's own admission and as evident on the audio recordings, the red lights and siren were activated when he tried to stop. In addition to the DMV issued rescue tag, the vehicle also displayed a customized tag on the front indicating it was an "emergency quick response vehicle." There was no indication Capell was armed during this incident. In addition to wearing a BLRS jacket, Capell had a badge commemorating the September 11, terrorist attacks, a SC Police Officer Retirement System membership card and a membership card for the "South Carolina Highway Emergency Local Patrol." The Secretary of State's Office website indicates Capell is the registered agent and filed the application with that agency in 1991. A search of "South Carolina Highway Emergency Local Patrol" on www.bing.com and www.google.com leads to multiple links to the SCHP. (Exhibits 1, 2, 3 & 7)

The recordings of the telephone conversations reflected Capell called the SCHP to report alleged reckless driving. Capell claimed nearly ran him off the road and refused to stop for his red lights. Capell identified himself as an EMT and said he was driving a "quick response vehicle." Capell later stated refused to yield for him and his radar indicated was traveling 80 mph. The siren in Capell's vehicle could be heard and he acknowledged trying to stop. Capell asked for a trooper to stop so he could be charged with Reckless Driving. Capell was transferred to F/Sgt. D. K. Fouty (SCHP-Richland) but the call was apparently dropped and was not recorded in its entirety. However, the recording did capture First Sergeant Fouty telling the dispatcher he told Capell he did not have the authority to stop a vehicle and to turn off his emergency equipment. (Exhibit 2)

A review of Trooper Jenkins' video indicated he arrived at the scene after the YCSO stopped Capell and. The video showed Trooper Jenkins asking Capell about his encounter with and then updating his supervisor, Sgt. L. C. Plyler, via telephone. Capell admitted using his radar to obtain speed and to changing lanes in front of to slow him down. Capell said he bought the radar on E-Bay but was not certified to operate it. Capell told Trooper Jenkins he uses it to slow down vehicles approaching wreck scenes. Capell acknowledged he was not a police officer and had no right to stop a vehicle.

In what appeared to be an attempt to justify his actions, Capell claimed F/Sgt. G. T. Levine (SCHP-Lexington) earlier told him if he could get a reckless driver to stop to go ahead and detain them until the police got there. First Sergeant Levine's denial of this allegation is addressed later in this report. When Trooper Jenkins pressed Capell for clarification on his actions, Capell stated he did not try to stop until he intentionally tried to run him off the



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road. Capell later withdrew the claim of it being intentional and stated it could have been accidental. Trooper Jenkins made some comments about what [redacted] could have done that was so wrong to justify Capell following him [approximately 80 miles] all the way from Columbia to York County. The audio portion captured Capell stating he was only trying to get stopped. He discussed the telephone conversation where First Sergeant Fouty told him he could not stop a vehicle and to turn off the emergency equipment and he complied. However, Capell acknowledged following [redacted] for about 10 miles with his red lights and siren activated.

When Trooper Jenkins asked Capell what was in his vehicle he replied emergency medical equipment and his service dog. When Trooper Jenkins asked what kind of service dog, Capell stated it was his "PTSD" dog. Capell then went into a protracted discussion about prior EMS training and how he worked until becoming disabled. Trooper Jenkins responded to this by asking how Capell became disabled. Without hesitation, Capell told Trooper Jenkins he was misdiagnosed with tuberculosis but was later diagnosed with "hot tub lung." Trooper Jenkins then asked what this was and Capell again went into great detail by telling him it was a disease normally contracted through heated water.

Capell told Trooper Jenkins he formerly owned a vehicle that was used in the 2001 Chevrolet Hot Rod Power Tour. Capell claimed this vehicle had blue lights "and everything" and he was not breaking the law then. Capell replied "I'm sorry" when Trooper Jenkins retorted he broke the law that day. Peripheral internet research located photographic images of a 1990's Chevrolet Impala/Caprice fitting the description Capell gave. The vehicle had a traditional police black and white paint scheme and had an older style blue light bar on the roof. Capell's name was not mentioned on the website but there were several indicators it was the vehicle he mentioned. The owner was from Columbia, SC and one photograph showed an ambulance from the town of Batesburg-Leesville. Several witnesses discussed Capell's keen interest in Sugar Gliders, a small animal resembling a flying squirrel. An image of a Sugar Glider was also on the site. DMV records do not indicate Capell still owns this vehicle. (Exhibit 3)

A review of Dep. Philip Aldridge's (YCSO) video showed him stopping [redacted] and Capell prior to Trooper Jenkins' arrival. Deputy Aldridge's body mike was either not activated or malfunctioned thereby resulting in the exterior conversations not being recorded. However, the interior microphone was activated and it captured Deputy Aldridge discussing the situation with his supervisor and First Sergeant Fouty via telephone. Deputy Aldridge expressed concern at the numerous "red flags" about Capell impersonating a police officer. (Exhibit 3)



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INTERVIEW OF COMPLAINANT

Richard Capell, Complainant

As mentioned earlier in this report, Capell was not contacted by the OPR regarding this matter.

INTERVIEW OF WITNESS

David Bouknight, Firefighter, Batesburg-Leesville Fire Department, Witness

On July 11, 2012, Investigator Carter interviewed David Bouknight of the Batesburg-Leesville Fire Department (BLFD). The interview was conducted at the BLFD located at 244 West Columbia Avenue in Batesburg, SC. The following is a synopsis of Bouknight's comments and contains paraphrasing:

A photograph of Capell taken at the scene of the stop showed him wearing a windbreaker with the BLRS logo on the back. The purpose of the meeting with Bouknight was to determine if Capell was affiliated with the BLRS or just wearing their jacket. Bouknight confirmed Capell was a former member of the BLRS but his association was terminated after the traffic stop. Bouknight stated he knew Capell and heard about him being stopped. Bouknight recalled a police department asking the Batesburg Leesville Police Department (BLPD) about Capell and the BLRS. A BLPD dispatcher called Bouknight and told him Capell was stopped and the police wanted to know if he was with the BLRS. Bouknight could not reach one of the BLRS directors but advised the dispatcher to contact Dr. Robert Williamson, the squad's chaplain. Bouknight suggested Investigator Carter contact Dr. Williamson for additional information.

Bouknight also discussed his prior encounter with Capell when he (Bouknight) was an officer with the Springdale Police Department. Bouknight stopped Capell for a traffic violation while Capell was driving a former Irmo Police Department vehicle. Bouknight was familiar with Irmo's color scheme and saw where the police decals had been removed. The vehicle had a light bar and Bouknight asked Capell to activate it and determined they were red. (Exhibit 4)



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Dr. Robert Williamson, Chaplain, Batesburg-Leesville Rescue Squad, Witness

On July 11, 2012, Investigator Carter interviewed Dr. Robert Williamson, the chaplain for the BLRS. The interview took place at the Edgefield Baptist Association located at 985 Highway 25 North in Edgefield, SC. The following is a synopsis of Dr. Williamson's comments and contains paraphrasing:

Dr. Williamson said Capell was a long time member of the BLRS but his association was terminated after the traffic stop. Dr. Williamson stated Capell was not acting on behalf of the rescue squad and his actions put them in a bad light. Investigator Carter was advised that rescue squad members must be trained in the proper use of emergency equipment prior to using their personal vehicle as an emergency vehicle. (Exhibit 5)

F/Sgt. D. K. Fouty, SCHP, Witness

On July 13, 2012, Investigator Carter interviewed F/Sgt. D. K. Fouty and a memorandum was prepared to document his account. The interview was conducted at the Richland Patrol Office located at 1400 Shop Road in Columbia, SC. The following is a synopsis of his account and contains paraphrasing:

According to First Sergeant Fouty, the TCC transferred Capell to him and they spoke via telephone. This transfer occurred as Capell was following with his red lights and siren activated. First Sergeant Fouty's knowledge of this incident consisted only of what was discussed during their telephone conversation. After determining Capell was trying to stop First Sergeant Fouty told Capell he had no authority to do this and to turn off the emergency equipment. Capell then claimed First Sergeant Levine told him he could do what was necessary to stop a reckless driver. During a subsequent conversation, First Sergeant Levine told First Sergeant Fouty he never told Capell he could stop a vehicle. (Exhibit 6)

F/Sgt. G. T. Levine, SCHP, Witness

On July 16, 2012, Investigator Carter obtained a sworn affidavit from F/Sgt. G. T. Levine. The interview was conducted at the Lexington Patrol Office located at 111 Maiden Lane in Lexington, SC. The following is a synopsis of his affidavit and contains paraphrasing:

First Sergeant Levine said First Sergeant Fouty called and told him about Capell trying to stop a vehicle and Capell's claim he authorized it. Earlier in his career, First Sergeant Levine worked in Richland County and has known Capell for approximately 20 years. First Sergeant Levine stated that at no time did he ever tell Capell he could stop a vehicle. (Exhibit 7)



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Sgt. L. C. Plyler, SCHP, Witness

On July 23, 2012, Investigator Carter obtained a sworn affidavit from Sgt. L. C. Plyler. He earlier prepared a written statement after the incident and this was also used in providing his account. The interview was conducted at the York County scale house located on I-77 in Fort Mill, SC. The following is a synopsis of his affidavit and statement and contains paraphrasing:

Sergeant Plyler stated he did not go to the scene and all he knew about the incident came from his telephone conversations with Trooper Jenkins. Sergeant Plyler later spoke with Capell via telephone and he accused Trooper Jenkins of violating his rights by asking about his disability. Capell wanted Trooper Jenkins to be trained in disability laws and to not ask questions. According to Sergeant Plyler, Capell told him First Sergeant Levine said he could stop and detain a reckless driver until the police arrived. During a subsequent telephone conversation, First Sergeant Levine told Sergeant Plyler he never said this. (Exhibit 8)

Trp. J. E. Ferrell, SCHP, Witness

On August 7, 2012, Investigator Carter obtained a sworn affidavit from Trp. J. E. Ferrell. The interview was conducted at the Troop 4 Headquarters located at 1232 J. A. Cochran Bypass in Chester, SC. The following is a synopsis of his affidavit and contains paraphrasing:

Trooper Ferrell said he was on routine patrol and stopped to offer assistance after noticing the police vehicles on the side of I-77. Upon exiting his patrol vehicle, Trooper Ferrell saw Capell's vehicle and recalled the flashing red lights. He soon learned Capell had tried to stop but had already left the scene. Although Trooper Jenkins did most of the talking, Trooper Ferrell made some inquiries about Capell's flashing red lights and determined none were blue. (Exhibit 9)

Witness

On July 23, 2012, Investigator Carter obtained a sworn affidavit from . The interview was conducted at . The following is a synopsis of his affidavit and statement and contains paraphrasing:

was traveling with his wife, on I-77 in Richland County when they saw the flashing red lights on Capell's vehicle. knew that unlike the red lights used in New York, the police in South Carolina use blue lights. knew he did not have to stop for red lights but he did stop for



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the YCSO Deputy. did not remember seeing a trooper at the scene. said Capell was trying to stop him and was impersonating a police officer. He was concerned about Capell's intentions and believes he should be stopped before he does something more serious. (Exhibit 10)

Witness

On July 23, 2012, Investigator Carter obtained a sworn affidavit from The interview was conducted at The following is a synopsis of her affidavit and statement and contains paraphrasing:

stated she told her husband to stop after seeing Capell's vehicle behind them with the red lights flashing. Like is from New York where the police use red lights. However, unlike her husband, at that time she thought they had to stop for the flashing red lights. stated Capell should be stopped before "something serious happens." (Exhibit 11)

INTERVIEW OF SUBJECT

Trp. D. W. Jenkins, SCHP, Subject

On July 23, 2012, Investigator Carter obtained a sworn affidavit from Trp. D. W. Jenkins. He earlier prepared a written statement and this was also used in providing his account. The interview was conducted at the York County scale house located on I-77 in Fort Mill, SC. The following is a synopsis of his affidavit and statement and contains paraphrasing:

According to Trooper Jenkins, Capell told him he tried to stop near Columbia and followed him until the YCSO stopped them. Trooper Jenkins never spoke with During the interaction with Capell, Trooper Jenkins noticed a badge hanging out of Capell's pants pocket and the dull [gold] color made Jenkins think it was a SLED badge. Trooper Jenkins later found out the badge commemorated the September 11, 2001, terrorist attacks. Trooper Jenkins also noticed other items Capell wore that gave the impression he was a police officer. Capell was wearing BDU pants, boots, a boonie style hat and a BLRS jacket. As evident on the video, Trooper Jenkins asked Capell to provide his account. When Trooper Jenkins asked Capell about his dog and its purpose Capell stated it was his PTSD dog. Trooper Jenkins was advised by the YCSO that Capell told them he was disabled. Trooper Jenkins said Capell did not say what his disability was so he asked what caused him to become disabled. According to Trooper Jenkins, Capell then "went on and on and on" and had no problem talking about it. Trooper Jenkins did



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not want to know all of this information and he did not recall Capell ever saying exactly what the disability was. Trooper Jenkins explained that he asked questions to ascertain what transpired so he could make an arrest if instructed by a supervisor. Trooper Jenkins never received this order and left the scene moments later. (Exhibit 12)



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CONCLUSION

On April 12, 2012, Richard Capell and [REDACTED] were involved in a road rage incident on I-77 in Richland County. At that time Capell was a volunteer with the BLRS and his vehicle was equipped with red lights, a siren and a mounted radar unit. Capell's association with the BLRS was terminated after his encounter with [REDACTED]. While on I-77, Capell noticed [REDACTED] allegedly driving recklessly and called the SCHP to report it. Capell followed [REDACTED] all the way to York County until a YCSO Deputy stopped both vehicles. As indicated on the video and audio recordings, Capell admitted using his radar to gauge [REDACTED] speed, getting in front of [REDACTED] to slow him down and trying to stop him. Capell stated [REDACTED] did not yield for his emergency vehicle and his siren could be heard in the background. [REDACTED] in with the [REDACTED], knew the police in South Carolina use blue lights and he did not have to stop for Capell's red lights. [REDACTED] wife, [REDACTED] was with her husband at the time and she corroborated his account. [REDACTED] is also from New York but unlike her husband, she thought they had to stop for Capell's flashing red lights like those used by the police in New York. This report documented allegations Capell impersonated a police officer and a copy will be forwarded to SLED for a criminal investigation into these actions. On August 17, 2012, a letter from Director Leroy Smith was sent to SLED Chief Mark A. Keel requesting a criminal investigation into the allegations of impersonating a law enforcement officer.

Concerning Trooper Jenkins' actions, the YCSO called him due to his statewide jurisdiction. The encounter between Capell and [REDACTED] began in Richland County and the YCSO had no jurisdiction there. Upon his arrival, Trooper Jenkins conducted a thorough field interview and gathered information in preparation of making an arrest if instructed to do so by a supervisor. Trooper Jenkins never received this order and Capell was released without being charged. As evident on the video and in his affidavit, Trooper Jenkins said Capell told him he was disabled and he (Jenkins) asked what caused it. Trooper Jenkins did not ask Capell for details about his disability but Capell provided them anyway. Without hesitation and with full detail, Capell voluntarily described his disability and what caused it. Information contained in this report does not provide any evidence to support the allegation Trooper Jenkins violated policy or violated Capell's rights as a disabled person by asking about his disability.

CLASSIFICATION

Allegation: Trooper Jenkins violated Capell's rights by inquiring about his disability during an April 12, 2012, traffic stop - **UNFOUNDED**.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Richard A. Capell,)	
)	
Plaintiff,)	
	)	C/A No.: 3:13-cv-586-TLW
vs.)	
)	
C. Lee Carter, III; South Carolina)	
Department of Public Safety; York County)	
Sheriff's Department; TFC D.W. Jenkins;)	
And York County Deputy Aldridge,)	
)	
Defendants.)	
)	

ORDER

Plaintiff Richard A. Capell ("Plaintiff"), proceeding *pro se* and *in forma pauperis*, filed this suit pursuant to Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq. ("ADA"), and 42 U.S.C. §§ 1983, 1985, and 1986. (Doc. #24). The Defendants, C. Lee Carter, III, South Carolina Department of Public Safety, York County Sheriff's Department, TFC D.W. Jenkins, and York County Deputy Aldridge ("Defendants"), filed a motion to dismiss on July 22, 2013. (Doc. #34). The matter now comes before this Court for review of the Report and Recommendation ("the Report") filed on September 25, 2013, by Magistrate Judge Shiva V. Hodges, (Doc. #46), to whom this case was previously assigned. In the Report, the Magistrate Judge recommends granting the Defendants' motion to dismiss. (Doc. #46). Plaintiff filed objections to the Report on October 15, 2013. (Doc. #49). The Court has reviewed the objections. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of

those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the objections. After careful review of the Report and objections thereto, the Court hereby **ACCEPTS** the Report. (Doc. #46). The Plaintiff's objections are **OVERRULED**. (Doc. #49). The Plaintiff's case is hereby **DISMISSED**.

IT IS SO ORDERED.

s/Terry L. Wooten
Chief United States District Judge

January 16, 2014
Columbia, South Carolina

2015-06-24 14:15:05

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



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MARCIA ADAMS
EXECUTIVE DIRECTOR

June 22, 2015

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T93934
Date of Occurrence: April 12, 2012
Claimant: Capell, Richard
Date Closed: June 22, 2015

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	4,926.14

If you should have any questions, please contact us.

Sincerely,

Nelson C. Chandler
District Claims Manager

/ncc

PS: Defense motion to dismiss was approved and affirmed. An appeal was filed but also denied. Action concluded.

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Dennis Clardy and Brad Clardy,)

Plaintiffs,)

vs.)

Justin G. Gambrell, South Carolina Highway)
Patrol, Micheal Kastner, Terrance Bowers,)
and Greenville County Sheriff's Office,)

Defendants.)

IN THE COURT OF COMMON PLEAS

COMPLAINTC.A. No.: 2013-CP-23-3452**(Jury Trial Demanded)**FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSHER
2013 JUN 21 P 4:14

Plaintiffs, Dennis Clardy and Brad Clardy, complaining of Defendants, Justin G. Gambrell, South Carolina Highway Patrol, Micheal Kastner, Terrance Bowers, and Greenville County Sheriff's Office, respectfully allege and show unto the Court that:

1. Plaintiff, Dennis Clardy, is a citizen and resident of Greenville County, South Carolina.
2. Plaintiff, Brad Clardy, is a citizen and resident of Greenville County, South Carolina.
3. Upon information and belief, Defendant, Justin G. Gambrell ("Gambrell"), is a citizen and resident of Anderson County, South Carolina.
4. Defendant South Carolina Highway Patrol ("SC Highway Patrol") is an agency of the State of South Carolina within the meaning of and subject to the South Carolina Tort Claims Act.
5. Upon information and belief, Defendant, Micheal Kastner ("Kastner"), is a citizen and resident of Greenville County, South Carolina, and was at all times relevant herein, a Master Deputy employed with Defendant Greenville County Sheriff's Office.

6. Upon information and belief, Defendant, Terrance Bowers ("Bowers"), is a citizen and resident of Greenville County, South Carolina, and was at all times relevant herein, a Deputy employed with Defendant Greenville County Sheriff's Office.

7. Defendant Greenville County Sheriff's Office ("Sheriff's Office") is an agency of the State of South Carolina within the meaning of and subject to the South Carolina Tort Claims Act.

8. The incident that gives rise to this litigation occurred in Greenville County, South Carolina.

9. At all times relevant herein, Defendant Gambrell was employed by the South Carolina Highway Patrol.

10. Upon information and belief, at all times relevant herein, Defendants Kastner and Bowers were acting as official representatives of Defendant Sheriff's Office.

11. This action is brought, in part, pursuant to S.C. Code Ann. §§ 15-78-10 to 15-78-190 to recover damages for personal injuries sustained by Plaintiffs.

12. Venue and jurisdiction are proper in this Court.

FACTUAL ALLEGATIONS

13. On June 24, 2011, Plaintiffs were at home and asleep at their residence located at 45 Piedmont Highway in Piedmont, South Carolina, when Defendant Gambrell, who was at that time a South Carolina Highway Patrolman, suddenly and without warning discharged a firearm and shot into Plaintiffs' home at least four times from a vehicle driven by Defendant Bowers as they drove by the outside of Plaintiffs' home. Upon information and belief, Defendant had just left a bar and was highly intoxicated at the time of the shooting.

14. Upon information and belief, prior to the shooting, Defendant Gambrell was at a bar, drinking alcoholic beverages, with Defendants Kastner and Bowers.

15. Upon information and belief, Defendants Kastner and Bowers knew or should have known Defendant Gambrell was irate and in an agitated and extremely intoxicated state.

16. Upon information and belief, Defendant Bowers took Defendant Gambrell's car keys so he could drive Defendant Gambrell home while Defendant Kastner followed in another vehicle.

17. Upon information and belief, prior to and while driving Defendant Gambrell home, Defendant Bowers knew or should have known Defendant Gambrell was intoxicated and in an unstable mental state, that he was in possession of a firearm, and that he posed a potential threat and danger to himself and others, including, but not limited to, Plaintiffs.

18. Upon information and belief, Defendant Bowers saw Defendant Gambrell in possession of a firearm while in the car, but failed to take any immediate action to prevent Defendant Gambrell from firing at Plaintiffs' home from the vehicle.

**FOR A FIRST CAUSE OF ACTION
(Negligence / Gross Negligence as to Defendant Gambrell)**

19. Plaintiffs reiterate and reallege the above paragraphs consistent with this cause of action as if fully restated verbatim herein.

20. As a result of this incident, Plaintiffs have suffered injuries and damages, including, but not limited to, severe psychological injuries, emotional suffering and mental anguish.

21. This incident and Plaintiffs' resulting injuries and damages were the direct and proximate result of Defendant Gambrell's negligent, grossly negligent, willful, wanton, reckless and careless conduct in one or more of the following particulars, to wit:

- a. In the unlawful discharge of a firearm;
- b. In carrying his weapon while intoxicated;
- c. In firing his weapon while intoxicated, from a moving vehicle and/or in the vicinity of Plaintiffs' residence;
- d. In firing his weapon into Plaintiffs' residence;
- e. In failing to exercise proper care in handling a firearm;
- f. In acting in such a manner as to indicate a willful and wanton disregard for the safety of persons or property;
- g. In failing to take reasonable precautions to ensure Plaintiffs' safety; and
- h. In failing to use even the slightest degree of care and caution which a reasonable person would have used under the circumstances then and there existing.

All of which are contrary to the common and statutory laws of the State of South Carolina, the rules and regulations of the South Carolina Highway Patrol, and the South Carolina Tort Claims Act.

22. Plaintiffs are informed and believe they are entitled to judgment against Defendant Gambrell for actual and punitive damages.

FOR A SECOND CAUSE OF ACTION
(Negligence / Gross Negligence as to Defendants Kastner and Bowers)

23. Plaintiffs reiterate and reallege the above paragraphs consistent with this cause of action as if fully restated verbatim herein.

24. As a result of this incident, Plaintiffs have suffered injuries and damages, including, but not limited to, severe psychological injuries, emotional suffering and mental anguish.

25. This incident and Plaintiffs' resulting injuries and damages were the direct and proximate result, in part, of the negligent, grossly negligent, willful, wanton, reckless and

careless conduct by Defendants Kastner and Bowers in one or more of the following particulars,
to wit:

- a. In allowing the unlawful discharge of a firearm while Defendant Gambrell was in their control, custody and/or under their responsibility or supervision;
- b. In allowing Defendant Gambrell to carry or have access to his weapon(s) while intoxicated;
- c. In allowing or otherwise failing to prevent Defendant Gambrell from firing his weapon into Plaintiffs' residence;
- d. In failing to properly supervise Defendant Gambrell after undertaking efforts to escort him home;
- e. In failing to take appropriate action, steps or precautions to ensure Plaintiffs' safety;
- f. In failing to take reasonable precautions after being on notice of Defendant Gambrell's state of mind, condition and his disregard for his or other people's safety;
- g. In failing to act in accordance to policies and procedures of the Sheriff's Office to protect the public from violence or threats of violence;
- h. In acting in such a manner as to indicate a willful and wanton disregard for the safety of persons or property; and
- i. In failing to use even the slightest degree of care and caution which a reasonable person would have used under the circumstances then and there existing.

All of which are contrary to the common and statutory laws of the State of South Carolina, the rules and regulations of the Greenville County Sheriff's Department, and the South Carolina Tort Claims Act.

26. Upon information and belief, Defendants Kastner and Bowers were acting as representatives and employees of Defendant Sheriff's Office so that Defendant Sheriff's Office is vicariously liability for their tortious conduct.

27. Plaintiffs are informed and believe they are entitled to judgment against Defendants Kastner and Bowers for actual and punitive damages and/or judgment against Defendant Sheriff's Office for actual damages.

**FOR A THIRD CAUSE OF ACTION
(Negligence / Gross Negligence as to Defendants SC Highway Patrol and Sheriff's Office)**

28. Plaintiffs reiterate and reallege the above paragraphs consistent with this cause of action as if fully restated verbatim herein.

29. As a result of this incident, Plaintiffs have suffered injuries and damages, including, but not limited to, severe psychological injuries, emotional suffering and mental anguish.

30. This incident and Plaintiffs' resulting injuries and damages were the direct and proximate result, in part, of the negligent, grossly negligent, willful, wanton, reckless and careless conduct by Defendants SC Highway Patrol and Sheriff's Office in one or more of the following particulars, to wit:

- a. In failing to properly supervise their respective officers, specifically, Defendants Gambrell, Kastner and Bowers;
- b. In failing to properly train their respective officers, specifically, Defendants Gambrell, Kastner and Bowers;
- c. In allowing the unlawful discharge of a firearm while Defendant Gambrell was in their control, custody and/or under their responsibility or supervision;
- d. In failing to enact or enforce policies to prevent someone in Defendant Gambrell's condition, once on notice of such condition, to carry or have access to dangerous weapons;
- e. In failing to take appropriate action, steps or precautions to ensure Plaintiffs' safety;

- f. In failing to take reasonable precautions after being on notice of Defendant Gambrell's state of mind, condition and his disregard for his or other people's safety; and
- g. In failing to use even the slightest degree of care and caution which a reasonable person would have used under the circumstances then and there existing.

All of which are contrary to the common and statutory laws of the State of South Carolina, the rules and regulations of the Greenville County Sheriff's Department, and the South Carolina Tort Claims Act.

31. Plaintiffs are informed and believe they are entitled to judgment against Defendants SC Highway Patrol and Sheriff's Office for actual damages.

**FOR A FOURTH CAUSE OF ACTION
(Assault as to Defendant Gambrell)**

32. Plaintiffs reiterate and reallege the above paragraphs consistent with this cause of action as if fully restated verbatim herein.

33. Defendant Gambrell's conduct constitutes an assault against Plaintiffs as he knew, or should have known with reasonable certainty, that such actions would result in fear by Plaintiffs.

34. As a direct and proximate result of Defendant Gambrell's negligence and/or intentional actions aforementioned, Plaintiffs have suffered emotional distress, have incurred medical expenses, and, upon information and belief, will incur future medical expenses. Plaintiffs also anticipate ongoing distress and mental anguish related to this incident.

35. Plaintiffs are informed and believe they are entitled to judgment against Defendant Gambrell for actual and punitive damages.

**FOR A FIFTH CAUSE OF ACTION
(Battery as to Defendant Gambrell)**

36. Plaintiffs reiterate and reallege the above paragraphs consistent with this cause of action as if fully restated verbatim herein.

37. By striking Plaintiffs' home while occupied by Plaintiffs with bullets fired from his firearm, Defendant Gambrell inflicted and caused a forcible contact on Plaintiffs.

38. The contact to Plaintiffs and their home was harmful and offensive, and was done without Plaintiffs' consent.

39. Upon information and belief, Defendant Gambrell intended to commit some harmful or offensive touching or contact, or, alternatively, intended to cause apprehension of such touching or contact.

40. Due to the battery upon Plaintiffs by Defendant Gambrell, Plaintiffs seek actual and punitive damages in an amount to be determined at trial

**FOR A SIXTH CAUSE OF ACTION
(Trespass as to Defendant Gambrell)**

41. Plaintiffs reiterate and reallege the above paragraphs consistent with this cause of action as if fully restated verbatim herein.

42. Plaintiffs were in legal possession of the property and home where the incident occurred.

43. By striking Plaintiffs' home while occupied by Plaintiffs with bullets fired from his firearm, Defendant Gambrell's actions constitute a voluntary entry by him on Plaintiffs' property.

44. Defendant Gambrell acted voluntarily and knew or should have known the result that would follow from his act.

45. Defendant Gambrell fired upon Plaintiffs' property without Plaintiffs' permission.

46. Due to the trespass upon Plaintiffs' property by Defendant Gambrell, Plaintiffs seek actual and punitive damages in an amount to be determined at trial

**FOR A SEVENTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress/Outrage as to Defendant Gambrell)**

47. Plaintiffs reiterate and reallege the above paragraphs consistent with this cause of action as if fully restated verbatim herein.

48. Defendant Gambrell intentionally and/or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from his conduct.

49. Defendant Gambrell's conduct in striking Plaintiffs' home while occupied by Plaintiffs with bullets fired from his firearm was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious, and utterly intolerable in a civilized community.

50. Defendant Gambrell's actions caused Plaintiffs' emotional distress.

51. Plaintiffs' emotional distress was severe so that no reasonable man could be expected to endure it.

52. Due to Defendant Gambrell's tortuous conduct, Plaintiffs seek actual and punitive damages in an amount to be determined at trial

WHEREFORE, Plaintiffs, Dennis Clardy and Brad Clardy, pray for judgment against Defendants, Justin G. Gambrell, South Carolina Highway Patrol, Micheal Kastner, Terrance Bowers, and Greenville County Sheriff's Office, for actual and punitive damages in a sum to be determined by the jury, for attorneys' fees, for the costs of this action, and for such other and further relief as this Court shall deem just and proper.

(Signature on Following Page)

Greenville, SC

June 21, 2013


Monty D. Desai (SC Bar #73967)
monty@thecarolinalawgroup.com
J. Matthew Whitehead (SC Bar #73803)
matt@thecarolinalawgroup.com
THE CAROLINA LAW GROUP, LLC
P.O. Box 5192 (29606)
910 E. Washington Street (29601)
Greenville, SC
(864) 312-4444
(864) 312-4447 (fax)

Attorneys for Plaintiffs

FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 STATE OF SOUTH CAROLINA WICKENS SIMERIN THE COURT OF COMMON PLEAS
 COUNTY OF GREENVILLE OCT 16 PM 4 34 CIVIL ACTION NO.: 2013-CP-23-3452

Dennis Clardy and Brad Clardy,

Plaintiffs,

vs.


Justin G. Gambrell, South Carolina
 Highway Patrol, Michael Kastner,
 Terrance Bowers, and Greenville
 County Sheriff's Office,

Defendants.

**STIPULATION OF DISMISSAL WITH
 PREJUDICE AS TO DEFENDANT
 SOUTH CAROLINA HIGHWAY PATROL**

COME NOW the Plaintiffs, Dennis Clardy and Brad Clardy, by and through their undersigned attorney, and Defendant South Carolina Department of Public Safety, misidentified in this lawsuit as South Carolina Highway Patrol, by and through its undersigned attorney, and pursuant to the South Carolina Rules of Civil Procedure, Rule 41(a)(1), file this Stipulation of Dismissal with Prejudice as to all causes of action brought in this action against this Defendant.

WE SO STIPULATE:


 J. Matthew Whitehead
 Monty D. Desai
 Attorneys for Plaintiff


 A. Todd Darwin
 Attorney for Defendant

2014-12-01 12:15:21

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

November 21, 2014

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T76874
Date of Occurrence: June 23, 2011
Claimant: Clardy, Brad, et al.
Date Closed: November 21, 2014

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 11,770.71

If you should have any questions, please contact us.

Sincerely,

Nancy Stevenson
Litigation Consultant

/ns

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Bobby Collins,

Plaintiff,

-versus-

South Carolina Department of Public Safety
and Leroy Smith, in his individual capacity.

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No. : 2013-CP-40-

COMPLAINT
(Jury Trial Demanded)

RICHLAND COUNTY
FILED
2013 FEB 28 PM 2:50
JEANETTE V. MCENDE
C.C.P. & C.S.

The Plaintiff, complaining of the Defendants, respectfully alleges as follows:

1. The Plaintiff, Bobby Collins, is an African-American male and citizen and resident of the Fairfield County, South Carolina, and was at all times mentioned herein the Chief of the Office of Professional Responsibility for the South Carolina State Department of Public Safety, a position he had held for approximately seven (7) months. The Plaintiff held a similar position of authority in the State of Florida, where he had worked successfully with law enforcement training for more than two decades. He was recruited to come here by the Defendant Leroy Smith and was appointed by Governor Haley to take the position of Director of the Defendant South Carolina Department of Public Safety.

2. The Defendant, South Carolina Department of Public Safety (hereinafter "Department"), is an agency of the State of South Carolina with its principal place of business in Richland County, South Carolina, where it maintains and operates its municipal offices and services. This agency has the responsibility for law enforcement functions of the State of South Carolina, including the training and supervision of highway patrol officers.

3. The Defendant, Leroy Smith (hereinafter "Smith"), is a citizen and resident of the Richland County, South Carolina, and at all times mentioned herein the Director of the Florida

Department of Highway Safety and Motor Vehicles before being called to South Carolina to be the Director of the Department of Public Safety. Prior he had worked on several projects with Plaintiff.

4. The Plaintiff has an extensive career in law enforcement spanning many years and has maintained an excellent work record. Plaintiff also served as the Supervisor with the Office of Inspector General, the agency responsible for conducting internal affairs on Florida highway patrol officers. He previously worked with Defendant Smith in various law enforcement areas of responsibility.

5. In May of 2012, Plaintiff moved to South Carolina from Florida to take his position with SCDPS at the request and upon his selection by the Defendant Smith for a position paying Plaintiff a substantial increase over his Florida salary.

6. During the first six months of his new job and establishing a permanent home here, he accomplished several significant objectives for the Department and drew praise from other leaders within the Department.

7. Soon after beginning employment with SCDPS, Plaintiff observed a negative trend of patrol officers making improper traffic stops and arrests, failing to follow established and taught procedures, and using improper and rejected methods of law enforcement-including racial profiling. Plaintiff was also aware that South Carolina law enforcement had experienced a negative reputation in the public's perception in the area. Plaintiff spoke out against such conduct and assisted with agency training established and being employed by the Department which was aimed to prevent such behavior in the future.

8. Plaintiff was responsible for handling internal affairs matters involving the highway patrol, including internal investigations of police activity regarding violation of law and

procedure by officers or situations in which an officer used deadly force.

9. In the early morning hours of January 10, 2013, Plaintiff was off-duty and driving his personal vehicle on Broad River Road searching for a Wal-Mart store to purchase toiletries. He was required to stop his vehicle because an officer in a patrol car following him pulled him over. The officer identified himself as Trooper Groubert with the South Carolina Highway Patrol, a division of SCDPS. Trooper Groubert stated that he had pulled Plaintiff over because he witnessed Plaintiff's vehicle cross the center line of the highway.

10. Plaintiff explained to the officer he had accidentally crossed into an empty lane to the left of the center line as he put the cap on a container of orange juice, but that he had not been drinking alcohol nor has ever consumed alcohol. Despite the complete absence of signs of insobriety, smell of alcohol, or evidence of reckless driving, Trooper Groubert, nevertheless, directed Plaintiff to exit the vehicle and began to administer a sobriety test.

11. Plaintiff was shocked and surprised at the improper actions being taken by Groubert and the trooper's failure to follow procedure, especially since the Plaintiff was experienced in training and advising troopers on how to carry out their functions. Nonetheless, Plaintiff was compliant with Trooper Groubert throughout the stop and never failed to follow the Trooper's instructions. Plaintiff raised concerns that the patrolman's actions were inappropriate and that Trooper Groubert was not trained to administer some of the tests he was attempting to perform and was performing them improperly.

12. Without probable cause or valid reason, Trooper Groubert handcuffed the Plaintiff and placed him under arrest. The Trooper also failed to properly read the Miranda rights to the Plaintiff as required under such circumstances. Despite repeated requests from the Plaintiff for the handcuffs to be removed or loosened, Trooper Groubert refused and continued to

treat the Plaintiff as a serious violator and threat to security.

13. Plaintiff repeatedly requested that the officer have a supervisor come to the scene and assess the situation. After much delay, a corporal and another patrol officer arrived on the scene. Plaintiff was subjected to further sobriety tests, all of which he passed, despite the acknowledgment from the other officers that they did not believe the Plaintiff had been drinking.

14. While at the scene, Trooper Groubert did not ask Plaintiff to be given a breathalyzer, however, at the conclusion of the traffic stop, Plaintiff voluntarily offered to have his blood and urine tested for the presence of alcoholic beverages and drugs respectively.

15. Upon notifying Defendant Leroy Smith, Plaintiff's supervisor, about Plaintiff's intentions to take the tests, the Defendant Smith initially asked if the Plaintiff might be willing to submit to an intoxilyzer breath test, to which the Plaintiff agreed. Smith then informed the Plaintiff to disregard the breath test and continue with his original plans.

16. Defendant Smith even assisted Plaintiff with listing a hospital for the urinalysis and blood tests due to Plaintiff's unfamiliarity with the area. Defendant Smith also informed the Plaintiff that Major Moore would meet him at the hospital where the tests would be administered. Moore was present while the Plaintiff requested the hospital staff to take the required samples. Plaintiff was finally released after a lengthy period of time without receiving any citation or charge. His handcuffs were subsequently removed.

17. The very next day on January 10, 2013, Defendant Smith terminated Plaintiff for alleged improper conduct/conduct unbecoming a state employee in relation to the previous night's event. Smith refused to identify the specific conduct complained of or the specific reason for terminating the Plaintiff.

**FOR A FIRST CAUSE OF ACTION
AGAINST THE DEFENDANT DEPARTMENT
(Negligence and Gross Negligence)**

18. The plaintiff realleges paragraphs 1 through 17 aforesaid.

19. Trooper Groubert, acting within the course and scope of his duties with the Defendant Department failed to use due care in conducting of the Plaintiff's vehicle stop and his treatment of the Plaintiff thereafter, as demonstrated by the following:

a. In stopping the Plaintiff's vehicle on January 10, 2012, without any probable cause.

b. In improperly administering sobriety tests on the Plaintiff and making false assumptions in regard thereto.

c. In using excessive force and restraints in the course of the events described.

d. In failing to charge the Plaintiff with driving left of centerline or immediately releasing him without a charge when he discovered no evidence of any other offense committed by the Plaintiff.

e. In goading and provoking the Plaintiff by curt and rude remarks and treatment, demeaning and callous responses to Plaintiff's pleas and suggestions, particularly after he determined that the Plaintiff was not guilty of any serious traffic offense.

20. All of the above are in violation of standards taught by the Department to its patrolmen, and known to the Defendant's agent Groubert, who himself had been charged with misconduct and even terminated previously for misconduct as a trooper with the Department. The above actions were obviously negligent, reckless, malicious and mean spirited.

21. The Defendant Smith was also negligent, grossly negligent, willful, and wanton by failing to carry out a meaningful investigation of the events described herein and further by placing unreasonable reliance and belief upon the actions of Groubert, particularly when he knew or should have known of Groubert's prior misconduct and propensity to violate departmental regulations.

22. The Defendant Smith was also negligent, in trying to advance his own career by attempting to make an example of the Plaintiff when the circumstances failed to justify the same and it was done in the absence of due care.

23. The Defendant Department was further negligent and grossly negligent in the termination of Plaintiff, wherein Smith failed or refused to conduct a proper investigation or to include lesser or less harsh disciplinary actions. Smith knew or should have known that there was not a valid basis for termination and that he was responsible for conducting a proper and thorough investigation prior to taking corrective action, which he failed to do.

24. As a direct and proximate result of the negligence, gross negligence, mean spirited and reckless conduct set forth, Plaintiff has sustained the loss of his job, loss of earning capacity, embarrassment, humiliation, and mental anguish, all of which will continue into the future.

**FOR A SECOND CAUSE OF ACTION AGAINST THE
DEFENDANT DEPARTMENT AND THE DEFENDANT
SMITH IN HIS INDIVIDUAL CAPACITY
(Defamation)**

25. The plaintiff realleges paragraphs 1 through 24 aforesaid.

26. When terminating Plaintiff, Smith informed Plaintiff that his termination was based upon alleged conduct unbecoming a state employee in relation to the traffic stop, a claim upon which Smith gave no supporting documentation or explanatory details. Plaintiff's

termination immediately after the traffic stop for alleged suspicion of DUI created defamatory inferences that Plaintiff had committed the serious violation or Plaintiff acted in a manner so egregious in his conduct toward the officers that he was deserving of termination of employment from his important state position.

27. Although false and known to be false, Smith and the Department published and re-published this allegation both into the Department and to members of the community at large with a reckless disregard for the truth and common knowledge of its falsity.

28. Such false publications through words and actions are defamatory *per se* alleging that Plaintiff is unfit for his profession and may be guilty of a crime.

29. As a direct and proximate result of the defamatory statements and actions by Smith and the Department, Plaintiff has sustained a loss of reputation, loss of his job and professional career, loss of earning capacity, embarrassment, humiliation, and mental anguish, all of which will continue into the future for the rest of his life. Plaintiff is further entitled to punitive damages against the Defendant Smith for his intentional malicious conduct.

**FOR A THIRD CAUSE OF ACTION AGAINST
THE DEFENDANT DEPARTMENT
(False Arrest)**

30. The Plaintiff realleges paragraphs 1 through 29 aforesaid.

31. The Plaintiff would show that Trooper Groubert restrained him unduly and unnecessarily, the restraint of the Plaintiff was intentional, mean spirited, unlawful, unnecessary, and unreasonable and based on the foregoing facts. The plaintiff would show that Trooper Groubert was acting in the scope of his employment as a highway patrolman of the Defendant Department and that the arrest in question violated state law and department standards.

32. As a direct and proximate result of the foregoing, the plaintiff has lost his job with the Defendant Department, and his career as a law enforcement officer, sustained a loss of earning capacity, retirement, and other benefits, mental and emotional distress, embarrassment and humiliation all to great damage in an appropriate amount to be determined by a jury. Plaintiff has also sustained the loss of his future earnings in the State of Florida, his retirement benefits in that system and relocation costs for his move to South Carolina and his necessary move back to Florida after the events in question.

**FOR A FOURTH CAUSE OF ACTION
(Wrongful Discharge in Violation of Public Policy)**

33. The plaintiff realleges paragraphs 1 through 32 aforesaid.

34. To punish and discharge a valued and proven employee for personal, pretextual, and retaliatory purposes violates the public policy of the State of South Carolina. The actions of the Defendant Department by and through Defendant Smith violate a clear mandate of public policy, law, and conduct. Plaintiff was terminated for making complaints against Trooper Groubert for his improper conduct and violation of procedure during the traffic stop. The Plaintiff complained about the stop and the administration of a field sobriety test which Trooper Groubert was not certified to administer, lacked any reasonable basis for administering, and was totally misinterpreted. Moreover, Plaintiff complained about being arrested and handcuffed without cause or provocation.

35. Defendant Smith terminated Plaintiff in retaliation for making these complaints in an effort to scapegoat the Plaintiff and avoid negative public attention upon the Department. The Defendant furthermore terminated the Plaintiff in order to create a more favorable public perception of himself.

36. As a direct and proximate result of the foregoing actions Plaintiff has lost his job with the Defendant Department, has sustained a loss of earning capacity, retirement and other benefits, and suffered mental and emotional distress all to great damage in an appropriate amount to be determined by a jury.

WHEREFORE, the Plaintiff prays for judgment against the Defendant Department in an appropriate amount of actual and compensatory damages to be determined by a jury as well as an appropriate award of actual and punitive damages against the Defendant Smith in his individual capacity for his malicious and unlawful conduct as well as for the costs of this action.

J. LEWIS CROMER & ASSOCIATES, LLC

BY: 

J. Lewis Cromer (#1470)
 Julius W. Babb, IV (#77216)
 1522 Lady Street (29201)
 Post Office Box 11675
 Columbia, South Carolina 29211
 Phone 803-799-9530
 Fax 803-799-9533

Attorneys for Plaintiff

February 28, 2013
 Columbia, SC

COPY

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
Bobby Collins,)
Plaintiff,)
v.)
South Carolina Department of Public)
Safety and Leroy Smith in his individual)
capacity,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

C/A No.: 2013-CP-40-01256

STIPULATION OF DISMISSAL
WITH PREJUDICE

RICHLAND COUNTY
FILED
2013 SEP -5 AM 11:38
JEANETTE W. McBRIDE
C.C.P. & G.S.

NOW COME Plaintiff Bobby Collins and Defendants South Carolina Department of Public Safety and Leroy Smith in his individual capacity, all through counsel, and stipulate to the dismissal of all claims and defenses asserted by these parties against and among each other in the above-referenced action with prejudice. All parties so stipulate pursuant to Rule 41(a)(1), S.C.R.Civ.P. Each of these parties will bear his own fees and costs in this action.


Dated this the 5 day of September, 2013


FOR THE PLAINTIFF
BOBBY COLLINS

FOR THE DEFENDANTS SOUTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY AND LEROY
SMITH IN HIS INDIVIDUAL CAPACITY

J. LEWIS CROMER & ASSOCIATES, LLC

RICHARDSON PLOWDEN & ROBINSON, P.A.


Julius W. Babb, IV
PO Box 11675
Columbia, South Carolina 29211
803-799-9530
Facsimile: 803-799-9533
E-Mail: lewiscromer@jlewiscromerlaw.com


Eugene H. Matthews
PO Drawer 7788
Columbia, South Carolina 29202
803-771-4400
Facsimile: 803-779-0016
E-mail: gmatthews@RichardsonPlowden.com

2014-04-02 12:13:51

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

April 1, 2014

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T93402
Date of Occurrence: January 10, 2013
Claimant: Collins, Bobby
Date Closed: April 1, 2014

Dear Warren Ganjehsani:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$ 20,000.00
Expenses Paid: \$ 3,287.64

If you should have any questions, please contact us.

Sincerely,

Teresa Camp
Litigation Consultant

/tc

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
C. A. NO. **2014-CP-42-596**

ASHLEY CLAYTON CROOKS,

Plaintiff,

vs.

SOUTH CAROLINA DEPARTMENT OF
TRANSPORTATION and SOUTH
CAROLINA DEPARTMENT OF PUBLIC
SAFETY,

Defendants.

**COMPLAINT
(Jury Trial Demanded)**

The Plaintiff, upon information and belief, complains of the Defendants as follows:

1. Plaintiff is a citizen and resident of the State of South Carolina in the County of Greenwood.
2. Defendant South Carolina Department of Transportation (hereinafter "Defendant SCDOT") is an agency of the State of South Carolina, and is subject to suit pursuant to the South Carolina Tort Claims Act; that it is an agency of the State charged with the maintenance of the section of Interstate 26 ("I-26") complained of hereinafter.
3. Defendant South Carolina Department of Public Safety (hereinafter "Defendant SCDPS") is an agency of the State of South Carolina, and is subject to suit pursuant to the South Carolina Tort Claims Act; that it is an agency of the State charged with the maintenance of the section of Interstate 26 ("I-26") complained of hereinafter.
4. On February 20, 2012, Plaintiff was driving in Spartanburg County on I-26 in a easterly direction when Lakeyetta T. Sullivan, who was traveling in the opposite direction, lost

control on the icy roadway and breached the cable barrier and came into Plaintiff's lane of travel and struck his vehicle head on.

5. On that same date, the stretch of I-26 on which Plaintiff and Lakayetta T. Sullivan were traveling had not been salted or otherwise properly prepared for safe travel of vehicles, making the roadway unreasonably dangerous in inclement weather.

6. Also on that same date, there existed defects in the cable barrier system of that portion of I-26 which allowed cars to breach the cable barrier system and intrude upon travel in the opposite direction, causing the roadway to be unreasonably dangerous in inclement weather.

7. At all times relevant hereto, Defendants SCDOT and SCDPS knew or should have known of the defective and dangerous conditions on the roadway and that said conditions posed significant and unreasonable risks of danger to the public traveling on I-26.

8. In the violent collision between Plaintiff and Lakeyetta T. Sullivan, Plaintiff was seriously injured. Upon the date of filing this Complaint, Plaintiff has still not fully recovered from the injuries sustained in this accident.

FOR A FIRST CAUSE OF ACTION: NEGLIGENCE

9. Plaintiff incorporates all preceding paragraphs.

10. The injuries and damages of the Plaintiff were proximately caused by Defendants SCDOT and SCDPS, through their agents, servants and/or employees, who were negligent, grossly negligent, reckless, wilful and wanton in one of or more of the following particulars, combining and concurring, as follows::

(a) In creating an unreasonably dangerous condition through failure to prepare and maintain the road for safe travel given the conditions and creating and maintaining a defective cable barrier system;

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2014 FEB 19 PM 2:13
M. HOPE BLAGGLEY

- (b) In failing to correct the dangerous condition of the roadway after having notice of same and an opportunity to do so;
- (c) In failing to give proper warning to the Plaintiff and others of the dangerous and hazardous conditions;
- (d) In failing to properly supervise maintenance of the roadway and cable barrier system;
- (e) In constructing the cable barrier system that does not conform to accepted professional standards and specifications;
- (f) In supervising the construction of the cable barrier system that does not conform to accepted professional standards and specifications;
- (g) In creating the defect and/or dangerous condition on the roadway;
- (h) In failing to hire adequate personnel to inspect and discover the dangerous condition of the roadway;
- (i) In failing to correct the dangerous condition of the roadway after they had actual notice of its existence;
- (j) In failing to correct the dangerous condition which had existed for a sufficient length of time that they should have known of its existence;
- (k) In failing to have established plans, procedures and criteria for correcting the dangerous conditions that existed;
- (l) In failing to adequately and carefully consider and weigh all appropriate factors as part of its decision making process; and
- (m) In other particulars to be developed in discovery.

11. That as a direct and proximate result of the aforesaid acts of the Defendants, combining and concurring, the Plaintiff has suffered grave and severe injuries and damages.

12. As a direct and proximate result of Defendants' acts and omissions, Plaintiff has suffered injuries and damages as described above, and is informed and believes that he is entitled to a judgment against Defendants for actual and punitive damages in an amount to be determined by the trier of fact.

WHEREFORE, Plaintiff prays for judgment against Defendants for compensatory and punitive damages under the law, for attorneys' fees and costs in amounts to be determined by the trier of fact, and for any additional relief that this Court deems just and proper.

Respectfully submitted,


Ashley C. Crooks
Pro Se Plaintiff

Greenwood, South Carolina
February 19, 2014

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IN FINEST COURT
2014 FEB 19 PM 12:13
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
C.A. No. 2014-CP-42-00596

Ashley Clay Crooks,

Plaintiff,

v.

South Carolina Department of
Transportation, South Carolina Department
Of Public Safety, Elderlee, Inc. and
Bagwell Fence Company, Inc.

Defendants.


**CONSENT ORDER TO DISMISS
PURSUANT TO RULE 40(j)**

This matter is before the Court upon motion by Plaintiff's counsel, with consent of Defendants' counsel, for an Order dismissing the case from the docket pursuant to Rule 40(j) of the South Carolina Rules of Civil Procedure. These stipulations are made with the understanding and agreement that this matter must be restored within one year of the date of this Order in accordance with Rule 40(j).

WHEREAS, the Court finds that the parties' agreement is reasonable and should be adopted as an order of the Court;

IT IS, THEREFORE, ORDERED that this action is hereby struck from the active trial docket pursuant to Rule 40(j) of the South Carolina Rules of Civil Procedure subject to the conditions set forth above.

AND IT IS SO ORDERED.


The Honorable R. Keith Kelly
Chief Administrative Judge
Seventh Judicial Circuit

Spartanburg, South Carolina
July 20, 2015

CLERK OF COURT
SPARTANBURG COUNTY
2015 JUL 20 PM 3:24
M. HOPE BLANCHLEY

Secured

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

RECEIVED

APR 12 2016

SCDPS
Office of General Counsel

April 8, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T20634
Date of Occurrence: May 20, 2012
Claimant: Crooks, Ashley Clayton
Date Closed: April 8, 2016

Dear WARREN:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	7,118.14

If you should have any questions, please contact us.

Sincerely,

Jacqueline M. Patterson
Litigation Consultant

/jmp

PS: CASE DISMISSED.

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

HARLEY DAVID CROSBY)

Plaintiffs,)

vs.)

SOUTH CAROLINA DEPARTMENT OF
PUBLIC SAFETY, SOUTH CAROLINA
HIGHWAY PATROL, JAMES C. FILYAW)Defendant.)
_____)IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NUMBER: 2015-CP-08 409COMPLAINT
JURY TRIAL DEMANDEDFILED
2015 FEB 12 PM 3:27
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

NOW COMES THE PLAINTIFF, who, by way of Complaint, state as follows:

AS TO PARTIES AND JURISDICTION

- 1 The Plaintiff is a citizen and resident of the County of Berkeley, State of South Carolina.
- 2 The Defendants, South Carolina Department of Public Safety and the South Carolina Highway Patrol (hereinafter referred to collectively as "Defendants") are governmental entities within the meaning of the South Carolina Tort Claims Act, which as part of its governmental functions, operates a state run law enforcement agency in Charleston county, State of South Carolina.

These Defendants are an "agency" as defined by S.C. § 15-78-30(a) and a governmental entity as defined by § 15-78-30(d).
- 3 The Defendant Captain Filyaw is, upon information and belief, a resident and citizen of the County of Ridgeville, State of South Carolina. (He is hereinafter referred to individually as "Filyaw").

4 The Defendant Captain James Filyaw, at all times relevant hereto, was an employee of the South Carolina Highway Patrol acting within his scope of employment with the South Carolina Highway Patrol, a division of the South Carolina Department of Public Safety, and therefore, pursuant to the provisions of the South Carolina Tort Claims Act, his acts are attributable to the employers, the Defendants herein.

5 Under the doctrine of *respondeat superior*, master-servant and principal-agent, the Defendants are liable for the torts of their employees in the same manner and to the same extent as a private individual under like circumstances.

This Complaint concerns an assault and battery which took place on 2.21.13 at Troop Six Headquarters situate 8740 North Park Boulevard, North Charleston, SC. It is alleged that at that location and on that date, Defendant Filyaw did, without provocation, physically assault and batter the Plaintiff.

6 This Honorable Court has jurisdiction over both the parties and subject matter of this litigation.

AS TO BACKGROUND FACTS

7 The Plaintiff herein reiterates all allegations contained in this Pleading as if fully set forth verbatim herein.

8 On or about 11.24.12, the Plaintiff was involved in a motor vehicle accident which was investigated by the South Carolina Highway Patrol.

9 The Plaintiff did not believe the accident was properly investigated by the South Carolina Highway Patrol. He went to Troop Six Headquarters to request the investigation be reviewed for accuracy.

10 Upon information and belief, the review of the accident investigation and report was assigned to Defendant Filyaw.

11 On or about February 20, 2013, Defendant Filyaw called the Plaintiff to set a meeting for the two of them to discuss the accident and subsequent investigation. This meeting was set by Filyaw for February 21, 2013 at Troop Six Headquarters.

- 12 The Plaintiff did present to Troop Six Headquarters to meet with Defendant Filyaw.
- 13 During the meeting involving Plaintiff and Defendant Filyaw, a meeting held within the office of Defendant Filyaw, the Defendant Filyaw did commit the following acts:
 - 1 Refused to shake the Plaintiff's hand at the onset of the meeting;
 - 2 Directed the Plaintiff to sit in the far corner of the room;
 - 3 Did treat the Plaintiff with a high level of verbal aggressiveness;
 - 4 Did call the Plaintiff a liar in a raised and aggravated tone of voice;
 - 5 Did threaten and intimidate the Plaintiff in an attempt to compel the Plaintiff to withdraw his complaint about the accident report aforementioned;
 - 6 Did physically and with much force and violence, strike the Plaintiff in the chest;
 - 7 Did physically and with much force and violence, threaten to again strike the Plaintiff;
- 14 The Defendant Filyaw was prevented from further harming the Plaintiff by a Sgt. Brown who intervened and pushed the Defendant Filyaw away from the Plaintiff.
- 15 The Plaintiff, after the assault and battery, did then attempt to leave the building. He was escorted by Defendant Filyaw and Sgt. Brown.
- 16 The Plaintiff was ushered to a stairwell by the Defendants. During egress and while going down those stairs, the Defendant Filyaw did punch or strike the Plaintiff in his neck/back area, causing the Plaintiff to slip, trip down several stairs and in the course, injure his back. As the Plaintiff continued towards the exit door, the Defendant Filyaw did again strike the Plaintiff in the neck/back area with his fist.
- 17 The Plaintiff left the building without further altercation.
- 18 At all times relevant to the actions described above, the Plaintiff was in fear of his life; in fear that the Defendant Filyaw would in fact, use lethal and deadly force against him.

- 19 After the assault and battery described afore, the Plaintiff filed a formal Complaint with the Defendants. The investigation of the Complaint by the Defendants and others, was cursory, miss-managed and incomplete.

FOR A FIRST CAUSE OF ACTION

- 20 All allegations contained in this Complaint are realleged herein.
- 21 The Defendants and its employees failed to use the requisite care during the course and scope of their duties and responsibilities as a law enforcement agency of the State of South Carolina.
- 22 At the time and place mentioned above, the Defendants were negligent, reckless, willful and wanton in one or more of the following particulars:
- (a) failure to use reasonable care while investigating a citizen complaint;
 - (b) failure to exercise reasonable restraint during the investigation of a citizen complaint;
 - (c) failure to use that degree of care and caution which an ordinarily prudent person or agency would have exercised under the same or similar circumstances;
 - (d) by assaulting the Plaintiff;
 - (e) by battering the Plaintiff;
 - (f) by otherwise acting negligently, grossly negligently, willfully and wantonly.

any or all of which, were the direct and proximate cause of the injuries and damages suffered by the Plaintiff herein, said acts being in violation of the Statutory Laws of the State of South Carolina and the United States of America.

- 23 As a direct and proximate result of the Defendant's negligence, recklessness, willfulness, and wantonness as aforesaid, the Plaintiff was injured and suffered damages, including, but not limited to the following:
- (a) physical injury and mental anguish;
 - (b) medical expenses and medication costs;
 - (c) pain and suffering;
 - (d) partial loss of enjoyment of life;
- 24 The Plaintiff is informed and believes he is entitled to judgment against the

Defendants, for actual and punitive damages, for the costs of this action, and for such other and further relief as this Court may deem just and proper.

FOR A SECOND CAUSE OF ACTION

- 25 The Plaintiff herein reiterates all allegations contained in this Pleading as if fully set forth verbatim herein.
- 26 The Defendants actions were extreme and outrageous to the point that those actions exceed all reasonable bounds of decency.
- 27 The Plaintiff has suffered and continues to suffer in a way no reasonable person can be expected to endure.
- 28 The Plaintiff is informed and believes that he is entitled to judgment against the Defendants, for actual and punitive damages, for the costs of this action, and for such other and further relief as this Court may deem just and proper.

FOR A THIRD CAUSE OF ACTION

- 29 The Plaintiff herein reiterates all allegations contained in this Pleading as if fully set forth verbatim herein.
- 30 The Defendant Filyaw did threaten and then use excessive and unreasonable force against the Plaintiff, such actions constituting an assault and battery.
- 31 The Plaintiff is informed and believes he is entitled to judgment against the Defendants, for actual and punitive damages, for the costs of this action, and for such other and further relief as this Court may deem just and proper.

FOR A FOURTH CAUSE OF ACTION

- 32 The Plaintiff herein reiterates all allegations contained in this Pleading as if fully set forth verbatim herein.
- 33 Defendant Filyaw violated the Plaintiff's constitutional rights in violation of the Fourth Amendment of the United States Constitution by wrongfully using excessive and unnecessary force and further in violation of the South Carolina Constitution.

- 34 The Plaintiffs is informed and believes that he is entitled to judgment against the Defendants, for actual and punitive damages, for the costs of this action, and for such other and further relief as this Court may deem just and proper.

WHEREFORE, as set forth herein above, the Plaintiffs pray:

- (a) Judgment be entered against the Defendants, jointly and severally, for actual and punitive damages in such fair, just and reasonable amount as may be determined by the Jury in this case.
- (b) That the costs and expenses of this action be awarded to the Plaintiffs;
- (c) For Attorney's fees as allowed by law;
- (d) For such other and further relief as this Court may deem just, equitable, and proper.

DeLUCA and MAUCHER, L.L.P.



Jay S. Masty
P.O. Box 9, 102 Marilyn Street
Goose Creek, South Carolina 29445
(843) 572-1711 Telephone
(843) 572-1285 Facsimile
Attorney for Plaintiff

February 9, 2015
at Charleston, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) FIRST JUDICIAL CIRCUIT
CASE NO.: 2012-CP-10- 2023

Jerome Curry,)
)

Plaintiff,)
)

versus)
)

COMPLAINT

Trooper N. J. Reeder,)
S. C. Highway Patrol, an agency of the)
State of South Carolina Department of)
Public Safety,)
)

Defendants.)
)

(JURY TRIAL DEMANDED)

FILED
2012 MAR 23 AM 8:16
JULIE J. ARMSTRONG
CLERK OF COURT

TO: THE DEFENDANTS ABOVE NAMED:

1. The plaintiff, Jerome Curry, is a citizen and resident of the State of South Carolina, County of Dorchester. The Defendants' April 25, 2010, wrongful arrest of the plaintiff occurred in Dorchester County, South Carolina.

2. The defendant, Trooper N. J. Reeder, is a citizen and resident of the State of South Carolina, and the South Carolina Highway Patrol is a state agency organized and existing pursuant to state law (§ 1-30-90, S. C. Code, Ann.) under the auspices of the South Carolina Department of Public Safety. At all times alleged herein, the plaintiff believes that the defendant, Trooper Reeder, was operating during and in the course and scope of his duties as a commissioned law enforcement officer for the State of South Carolina's Highway Patrol.

3. The allegations herein arise under a claim for violation of civil rights under color of state and federal law and therefore raise a federal question under Title 42, § 1983. Because the acts complained of herein occurred in coastal South Carolina, and the South Carolina

Highway Patrol is a state agency deemed a citizen of every county, the venue of this action is properly within the Charleston Court of Common Pleas.

4. The Honorable Court has jurisdiction of the parties hereto and the subject matter of this lawsuit.

JURISDICTION AND VENUE

5. This Court has jurisdiction over these matters based upon Amendments V and XIV of the United States Constitution, Article I, §§ 3 and 10 of the South Carolina Constitution, and upon the authority granted to this Court under Title 42 §§ 1983, (civil action for deprivation of rights), and 42 § 1988 (applications for attorney's fees), and § 15-77-300, et. seq. (attorney's fees).

6. Venue is proper in this Court, as all of the defendants either reside or maintain agents and employees in Charleston and Dorchester Counties, and all of the acts referred to herein occur in Dorchester County, South Carolina.

FACTS

7. On or about April 25, 2010, the plaintiff was driving his 2007 Toyota automobile from his employment to his home. As he traveled west on U. S. Highway 78, near the entrance to his subdivision, the defendant, Trooper N. J. Reeder, acting in a during the course and scope of his employment with the State of South Carolina Highway Patrol, activated his blue lights and directed the plaintiff to stop his vehicle.

8. Prior to the stop and arrest, the defendant, Trooper Reeder, activated his video recording device, and the plaintiff incorporates a digital copy of that surveillance, interrogation, field sobriety examination, and arrest to this complaint as Exhibit 1.

9. After interrogating the plaintiff and administering “field sobriety tests,” the defendant, N. J. Reeder, placed the plaintiff under arrest for Driving Under the Influence and transported the plaintiff to the Dorchester County jail. (These field sobriety tests are captured on the defendants’ video surveillance equipment, and a digital copy incorporated as Exhibit 1 will be supplied to opposing counsel.)

10. After placing the plaintiff under arrest and transporting him to the Dorchester County jail, the defendant, Reeder, requested that the plaintiff participate in a “breathalyzer” test, which measures the amount of alcohol in a suspect’s bloodstream as a function of chemical by-products measured in alveolar air. The plaintiff agreed to take the test, and the test measured 0.00% blood alcohol content.

11. Notwithstanding the test results confirming the plaintiff was not under the influence of alcohol, the defendant, Trooper Reeder, continued to hold the plaintiff under arrest and formerly charged him with Driving Under the Influence. Trooper Reeder requested that the plaintiff participate in a urinalysis examination at a hospital, and the plaintiff agreed. Trooper Reeder then transported the plaintiff to a local medical facility that administered a chemical urinalysis, which confirmed that the plaintiff was free from the influence of either alcohol or drugs.

12. The plaintiff remained in custody at the Dorchester County jail from April 25, 2010, until approximately 11:00 a.m. the following day, at which time a bond judge released him under a personal recognizance bond. At the time of his release from custody in Summerville, South Carolina, the plaintiff was approximately 8 miles from his home and had no information as to where Trooper Reeder ordered the plaintiff’s truck towed.

13. At the time of his release under a condition of bond, the plaintiff requested assistance from the Highway Patrol and various Dorchester County law enforcement officials as to the location of his motor vehicle, but Trooper Reeder refused to inform the plaintiff of the location of the vehicle, and the other law enforcement personnel present either refused or were unable to inform the plaintiff of the location to which Trooper Reeder towed his vehicle. Even though Trooper Reeder directed the towing operation, he never informed the plaintiff nor left any information with the Dorchester County Sheriff's Department as to where the vehicle was towed.

Trooper Reeder also confiscated all of the plaintiff's money, which he did not return for almost three months.

14. The plaintiff arrived home at approximately 3:00 p.m., approximately 14 hours after his arrest and spent approximately two hours attempting to locate his vehicle. Ultimately, the plaintiff located his vehicle in Ridgeville, South Carolina at a towing facility that required the plaintiff to pay \$225.00 as a condition of retrieving his car.

15. Following his arrest, the plaintiff retained counsel to assist him in the defense of the criminal charge of "Driving Under the Influence." On April 26, 2010, plaintiff's counsel served a request for discovery for the State's evidence against the plaintiff.

16. On September 28, 2010, plaintiff's counsel filed a Motion to Dismiss with the Dorchester County Magistrate's Court for dismissal of the criminal charge of Driving Under the Influence on the ground that the State failed to respond to the plaintiff's April 26th discovery requests.

17. On December 7, 2010, the Dorchester Magistrate's Court set the plaintiff's motion to dismiss, and plaintiff's counsel appeared. At the conclusion of the docket, the presiding judge informed counsel that Trooper Reeder continued the case. The following day,

plaintiff's counsel received a letter informing him of this fact. Thereafter, on January 6, 2011, the Dorchester County Magistrate's Court rescheduled the motion to dismiss, and Trooper Reeder appeared and dismissed the criminal case on his own motion for lack of evidence.

**FOR A FIRST CAUSE OF ACTION
(Violation of Civil Rights)**

18. The plaintiff repeats the above allegations as if set forth here verbatim.

19. The defendant, N. J. Reeder, acting as a commissioned law enforcement officer during and in the course and scope of his duties as an employee of the defendants, Highway Patrol and South Carolina, did unlawfully use the threat of deadly force to impede, interrogate, arrest, and incarcerate the plaintiff without just cause.

20. The actions of the defendant, Reeder, were the result of a racial animus for the defendant.

21. As may be seen by reference to the surveillance and interrogation of the plaintiff as recorded by the defendants' video recording, there was no basis in fact or in law to institute the stop in the first place, and no evidence gathered during the stop to justify the continued arrest and incarceration of the plaintiff.

22. Even assuming the defendant, Reeder, had probable cause to suspect the plaintiff of committing a traffic offense or other crime, the defendant's animus for the plaintiff continued after the Breathalyzer test revealed no presence of alcohol. Instead of releasing the plaintiff, the defendant transported the plaintiff to a hospital, required him to attend a bond hearing, refused to assist the plaintiff in locating the plaintiff's motor vehicle even though Trooper Reeder knew the location of the vehicle, confiscated all of the plaintiff's cash on hand, and then finally, in an effort to wear the plaintiff down, conducted the legal prosecution of the plaintiff's case in an unethical and unprofessional manner.

23. In acting as both prosecutor and prosecuting witness, Trooper Reeder had a duty to the plaintiff to see to it that substantial justice was done, and despite the duty as a prosecutor, the defendant, Reeder, misused his authority as a South Carolina Highway Patrol Officer and as a prosecutor by continuing to prosecute a case in which the evidence of innocence was overwhelming.

24. The defendants' actions violated the plaintiff's substantive and procedural due process and violated his equal protection rights as those rights are guaranteed by the United States Supreme Court in Amendments V and XIV.

**FOR A SECOND CAUSE OF ACTION
(Denial of Equal Protection)**

25. The plaintiff repeats the above allegations as if set forth here verbatim.

26. The United States Constitution, Amendment XIV, prohibits governmental discrimination of its citizens and permits challenges of denial of equal protection on an individual basis on the so called "class of one." The Vth Amendment to the United States Constitution permits challenges to governments for violations of due process.

27. The State of South Carolina through its agencies and sub agencies allowed Trooper Reeder to exercise unlawful powers of arrest and prosecution.

28. The efforts of the State of South Carolina through its agency and sub agency and the prosecuting Officer acting in a during the course and scope of his employment as a Commissioned law enforcement officer unfairly discriminates against minority persons, such as the plaintiff herein, to discriminate unfairly against citizens

29. The disparate treatment of its citizens is a denial of equal protection of the laws as forbidden by the XIV Amendment to the United States Constitution.

30. As a direct and proximate result of the defendants' animus for the plaintiff, the defendants unlawfully deprived the plaintiff of his liberty, confiscated his property, and conducted a criminal prosecution without any basis in fact or law.

FOR A THIRD CAUSE OF ACTION
(Procedural Due Process)

31. The plaintiff repeats the above paragraphs as if set forth here verbatim.

32. The actions taken by the State of South Carolina through its agencies and as practiced by the arresting and prosecuting Trooper were taken in violation of the procedural due process rights guaranteed by the United States Constitution and the comparable provisions of the South Carolina Constitution, and the South Carolina Code provisions, to wit:

- a. Detaining the plaintiff without cause;
- b. Arresting the plaintiff without cause;
- c. Requiring the plaintiff to attend a bond hearing as a condition of his release;
- d. Towing the plaintiff's motor vehicle and refusing to disclose the location of it;
- e. Confiscating the plaintiff's money and refusing to return it;
- f. Refusing to turn over exculpatory evidence;
- g. Prosecuting a case in which there exists no evidence to justify the continued prosecution;

All of which, combining and concurring are violations of the Constitution of the United States of America.

FOR A FOURTH CAUSE OF ACTION
(Substantive Due Process)

33. The plaintiff repeats the above paragraphs as if set forth here verbatim.

34. The defendants' decision to prosecute a case in which there was no evidence to support either the initial stop or the subsequent arrest and prosecution violated the plaintiff's substantive due process rights in several particulars, to wit:

- a. the reason for the initial stop was and is a sham, without basis in law or fact;
- b. the arrest and subsequent prosecution was driven by racial animus and motivated by an intent to misuse prosecutorial powers to harass and intimidate a citizen;
- c. the manner of towing and secreting the plaintiff's motor vehicle was motivated by racial animus;
- d. the refusal to accept or consider scientific tests that exonerated the plaintiff was based on racial animus for the plaintiff;

All of which, combining and concurring, violates plaintiff's substantive due process rights as the arrest, confinement, conversion of personal property, and prosecution constitutes an invalid exercise of the defendants' police powers and an abuse of power under the color of law.

FOR A FIFTH CAUSE OF ACTION

False Arrest

35. The plaintiff repeats the above allegations as if set forth here verbatim.

36. The defendants restrained the plaintiff against his will, and the defendants' restraint of the plaintiff was intentional.

37. The defendants' arrest of the plaintiff was not supported by any basis in fact or law and was motivated by an improper racial animus.

38. That as a direct and proximate cause of the defendants' wrongful arrest, the plaintiff was incarcerated for 14 hours, had to attend a bond hearing to secure his release, lost the

use of his automobile for three days while he attempted to locate where it was, and had to retain counsel to defend against a frivolous criminal charge

FOR A SIXTH CAUSE OF ACTION

Conversion

39. The plaintiff repeats the above allegations as if set forth here verbatim.

40. The defendants exercised an unlawful control over the plaintiff's property and improperly prevented the plaintiff from using his own property without the plaintiff's permission.

FOR A SIXTH CAUSE OF ACTION

Negligent Hiring and Supervision

41. The plaintiff repeats the above allegations as if set forth here verbatim.

42. The defendants, State of South Carolina, Department of Public Safety failed to hire, train, or supervise properly its employee, Trooper Reeder.

43. As a direct and proximate cause of the State's failure to train or supervise its employee, the plaintiff suffered a violation of his civil rights, a false arrest and conversion of his personal property.

DAMAGES

44. As a direct and proximate result of the defendants' actions, the plaintiff was incarcerated for 14 hours, without the use of his motive vehicle for 3 days, incurred unnecessary attorney's fees in the prosecution of his action, and suffered mental anguish.

45. The plaintiff is entitled to an award of attorney's fees as provided for in Title 42, § 1988, U.S.C.A. and § 15-77-300, S. C. Code, for the prosecution of this action.

46. The defendants' actions were willful, reckless and either grossly negligent and/or intentional, and as a direct and proximate result of the defendants' intentional and tortuous

interference with the plaintiff's civil rights contractual relationships, the plaintiff sustained damages and is entitled to recover from the defendant's compensatory damages in an amount to be determined by a jury as the trier of fact at trial.

47. The state agency acted without substantial justification in unlawfully seizing the plaintiff's person and property and incarcerating him without probable cause, and there is no reason why an award of attorney's fees in this action would be unjust.

WHEREFORE, the plaintiff prays that this Court issue its Order:

-
- a. entering judgment for the plaintiff against the defendants, both jointly and severally, in such amount as found by the trier of fact as to be the amount of the plaintiff's actual, incidental, consequential and punitive damages, in an amount to be proven before a jury at the trial of this case, for its violation of plaintiff's civil rights, due process and other rights arising under the United States and South Carolina Constitutions;
 - b. entering an amount as to be determined by the Court as a reasonable sum as attorney's fees for the prosecution of this action;
 - c. entering judgment enjoining the defendants both temporarily and permanently for arresting and prosecuting the citizens of the State of South Carolina for Driving Under the Influence in the absence of any corroborating scientific evidence or other reasonable evidence.
 - d. taxing the defendants with the costs of this action, including, but not limited to an award of a reasonable attorney's fees as provided for in Title 42, § 1988 U.S.C.A. and §15-77-300, S. C. Code, ann.;
 - e. requiring all issues of fact be tried by a jury; and

f. granting such other relief as this Court deems just and proper.

BELK, COBB, INFINGER & GOLDSTEIN, P.A.

BY: 

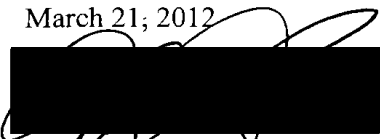
Thomas R. Goldstein, Esq.
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P.O. Box 71121
North Charleston, SC 29415-1121
(843) 554-4291; (843) 554-5566 (fax)
tgoldstein@cobbblaw.net

Charleston, SC
March 21, 2012

VERIFICATION

I am the plaintiff above named, and as such, I am familiar with all of the facts as alleged in this complaint. I have read the complaint and verify that the facts as set forth herein are true and correct to the best of my knowledge. I have relied on advice of counsel regarding proper causes of action.

March 21, 2012


Jerome Gurry

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jerome Curry

Plaintiffs,
vs.

Trooper N.J. Reeder, S.C. Highway Patrol, and
agency of the State of South Carolina
Department of Public Safety

Defendants

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2012-CP-10-2023

STIPULATION OF DISMISSAL
WITH PREJUDICE

FILED
2013 MAR -7 PM 2:05
JULIE J. ARMSTRONG
CLERK OF COURT
BY *[Signature]*

IT APPEARING that the Plaintiff, Jerome Curry, and Defendants, Trooper N.J. Reeder, S.C. Highway Patrol, and agency of the State of South Carolina Department of Public Safety, have settled all issues in dispute between them in the case at bar.

NOW THEREFORE, Plaintiff, Jerome Curry, and Defendants, Trooper N.J. Reeder, S.C. Highway Patrol, and agency of the State of South Carolina Department of Public Safety, by and through their undersigned counsel, hereby stipulate to the dismissal of this action, with prejudice pursuant to Rule 41(a)(1)(B), SCRCP, including all claims and counter-claims which were asserted or could have been asserted.

I SO CONSENT:



Thomas Goldstein, Esquire
Belk, Cobb, Infinger & Goldstein, P.A.
P. O. Box 71121
Charleston, SC 29415-1121
Attorney for Plaintiff

I SO CONSENT:



J. J. Anderson
Lisa A. Reynolds
Anderson Reynolds & Stephens, LLC
PO Box 87
Charleston, SC 29402
Attorney for Defendants

*** CLAIM DATA SHEET ***
*** SETTLED/CLSD-LOSS & EXP ***
REQUESTED BY: PARRIS
06/24/2016

IRF-1081

POLICY: T112670010
CLAIM: 75907
OCCURRENCE: 63732
CLAIM AGENT: DENNIS T. ELLEDGE
POLICY DATES: 07/01/2009-07/01/2010
DATE REPORTED: 04/25/2011
DATE OF LOSS: 04/25/2010
DATE CLOSED: 05/20/2013

INSURED:
SC DEPARTMENT OF
PUBLIC SAFETY
POST OFFICE BOX 1993
BLYTHEWOOD SC 29016
CONTACT: WARREN GANJEHSANI
TELEPHONE: (803)896-7965

DESCRIPTION OF CLAIM: -ALLEGES FALES ARREST W/O D.P. & EQ.PROT.
CAUSE OF CLAIM: -LAW ENFORCEMENT - CIVIL RIGHTS
COVERAGE: -1,000,000
OCCURRENCE LOCATION -DORCHESTER
TYPE EMPLOYEE: -LAW ENFORCEMENT
TYPE OF LOSS: -PERSONAL INJURY
ADDITIONAL FORMS ATTACHED: -01 03 37

ADJUSTER: 50107
FRONTIER ADJUSTERS OF CHARLESTON
PO BOX 61613
CHARLESTON, SC 29419
TELEPHONE: (843)797-8774 charlestonsc@frontieradjusters.com

***** R E S E R V E S *****

CLAIMANT: 01 SETTLED/CLSD-LOSS & EXP
CURRY, JEROME
ATTORNEY #: 02142
TAX ID:
BELK, COBB, INFINGER & GOLDSTEIN, PA
P.O. BOX 71121
CHARLESTON, SC 29415-1121
TELEPHONE: (843)554-4291

COVERAGE: PERSONAL INJURY				MMSEA: TPOC - RESP NO			
EFF DATE	AMOUNT	LOSS	EXPENSE	LOSS	EXPENSE	PAYMENTS	PAYMENTS
MM/DD/YY	CHG	RESERVES	RESERVES	PAYMENTS	PAYMENTS		
05/20/13	X	-45,920.90	.00	.00	5,000.00		4,810.10

***** D E F E N D A N T S *****

DEFENDANT: 01 CLOSED
SC DEPARTMENT OF
PUBLIC SAFETY
POST OFFICE BOX 1993
BLYTHEWOOD SC 29016
ATTORNEY #: 01807
TAX ID:
ANDERSON REYNOLDS & STEPHENS
PO BOX 87
CHARLESTON, SC 29402
TELEPHONE: (843)723-0185
EMAIL: janderson@arlawsc.com

CIVIL ACTION CODE: 12-CP-10-02023
DATE SUMMONS SERVED: 03/28/2012
EXTENSION REQUESTED: NO
CLM# 01 CURRY, JEROME

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Biafra Monique Curtis, Pro Se

Plaintiff,

-versus-

South Carolina Department of Public Safety,
Warren Ganjehsani, Mike Oliver, Leroy Smith,
Kenneth Phelps, Anthony Grice, William Taylor,
Nicklous King, Willie McCauley, Jr., Ada Schmidt,
Aaron Canzater and Cherie Young, individually
and in their official capacities, et al.

Defendants

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No: _____

**COMPLAINT
(JURY TRIAL DEMANDED)**

RICHLAND COUNTY
FILED
2015 AUG 24 AM 11:28
JEANETTE V. MORRIS
C.C.P. & G.S.

And herenow comes the Plaintiff, complaining of the Defendants, respectfully alleges the following:

1. The Plaintiff, Biafra Monique Curtis, is an African - American female and citizen and resident of Beaufort County, South Carolina and was at the time of these occurrences a top producing salesperson for Hargray Communications in Bluffton South Carolina. The Plaintiff has had an extensive career in sales spanning many years and maintained an excellent work record receiving numerous nominations, awards and recognitions as top revenue generator throughout the entire company, number one in core sales, nominations and many other accolades with plans of retiring from this occupation at the age of 65 years old. Prior to September 27, 2012, she was healthy, happy, and excited about life. She was a single parent with a very healthy, active relationship with her child. She had a very successful career in which she was ranked Top Producer in the company while receiving many nominations for "Most Valuable Player" and awards for my performance as "Top Revenue Generator" for 1st

Quarter of 2012 as well “#1 in Core Sales” throughout the entire Company of over 200 employees with yearly gross earnings in excess of \$50,000 per year with an excellent benefit package for herself and child, which included health insurance, dental insurance, vision insurance, and life insurance. She is now disabled, has lost her career, and because of her deteriorated health condition, lost out on the remaining months of an active relationship with her child, which can never be recovered. Her bills became delinquent, her credit was destroyed and she nearly lost her home to foreclosure.

2. The Defendant, South Carolina Department of Public Safety, (hereinafter “Department”), is an agency of the State of South Carolina with its principal place of business in Richland County, South Carolina, where it maintains and operates its municipal offices and services. This agency has the responsibility for law enforcement functions of the state of South Carolina, including the training and supervision of Highway Patrol officers.

3. The Defendant, Warren Ganjeheh, (hereinafter “Ganjeheh”) is a citizen and resident of the Lexington County, South Carolina area, and at all times mentioned herein is the General Counsel for the State of South Carolina Department of Public Safety thereby representing the South Carolina Highway Patrol.

4. The Defendant, Mike Oliver, (hereinafter “Oliver”) is a citizen and resident of the Richland County, South Carolina area, and at all times mentioned herein is a Commander of the South Carolina Highway Patrol thereby an employee of the State of South Carolina Department of Public Safety being under the supervision of Mark Keel.

5. The Defendant, Leroy Smith, (hereinafter “Smith”), is a citizen and resident of the Richland County, South Carolina area, and at all times mentioned herein is the Director of the South Carolina Department of Public Safety. The Defendant, has had an extensive career in law

enforcement serving as the director of the Florida Department of Highway Safety and Motor Vehicles prior to becoming be the director of the South Carolina Department of Public Safety.

6. The Defendant, Kenneth Phelps, (hereinafter “Phelps”), is a citizen and resident of the Lexington County, South Carolina area, and at all times mentioned herein is a Trooper with Troop Seven (7) of the South Carolina Highway Patrol thereby an employee of the State of South Carolina Department of Public Safety being under the supervision of Smith.

7. The Defendant, Anthony Grice, (hereinafter “Grice”) is a citizen and resident of the Clarendon County, South Carolina area, and at all times mentioned herein is the Captain of Troop Seven (7) of the South Carolina Highway Patrol thereby an employee of the State of South Carolina Department of Public Safety being under the supervision of Smith.

8. The Defendant, William Taylor, (hereinafter “Taylor”) is a citizen and resident of the Calhoun County, South Carolina area, and at all times mentioned herein is a Trooper with Troop Seven (7) of the South Carolina Highway Patrol thereby an employee of the State of South Carolina Department of Public Safety being under the supervision of Smith.

9. The Defendant, Nicklous King, (hereinafter “King”), is a citizen and resident of the Clarendon County, South Carolina area, and at all times mentioned herein is a Trooper with Troop Seven (7) of the South Carolina Highway Patrol thereby an employee of the State of South Carolina Department of Public Safety being under the supervision of Smith.

10. The Defendant, South Carolina Highway Patrol Trooper Willie McCauley Jr, (hereinafter “McCauley, Jr.”), is a citizen and resident of the Orangeburg, South Carolina area, and at all times mentioned herein is a Trooper with Troop Seven (7) of the South Carolina Highway Patrol thereby an employee of the State of South Carolina Department of Public Safety being under the supervision of Smith.

11. The Defendant, Cherie Young (hereinafter “Young”) is a citizen and resident of the Lancaster County, South Carolina area, and at all times mentioned herein is a Telecommunications Operator with the South Carolina Highway Patrol thereby an employee of the State of South Carolina Department of Public Safety being under the supervision of Smith. Young was awarded Telecommunications Operator of the Year in 2009 and it was stated that she excels in her knowledge of the Computer Aided Dispatch (CAD). Young’s CAD, NCIC, Fatality entries are complete and packed with information to ensure compliance with Policies and Procedures put forth by the Department of Public Safety.

12. The Defendant, Aaron Canzater (hereinafter “Canzater”) is a citizen and resident of the Richland County, South Carolina area, and at all times mentioned herein is a Telecommunications Operator with the South Carolina Highway Patrol thereby an employee of the State of South Carolina Department of Public Safety being under the supervision of Smith.

13. The Defendant, Ada Schmidt (hereinafter “Schmidt”) is a citizen and resident of the Richland County, South Carolina area, and at all times mentioned herein is a Freedom of Information Officer (FOIA) with the South Carolina Highway Patrol thereby an employee of the State of South Carolina Department of Public Safety being under the supervision of Smith.

14. On September 27, 2012, at approximately 2:30pm, on South Carolina Interstate I-26 and traveling Westbound, the Plaintiff was involved in an automobile accident that she did not cause or contribute to, but sustained multiple injuries as a result of. According to the Plaintiff, she was traveling in the far left lane when the tractor trailer that was in the right lane next to her suddenly and without notice came into her lane, completely overtaking the lane, causing her to lose control of her vehicle, run off the road into the median at which time she lost

further control of her vehicle as the back of it spun around and traveled back across two lanes of highway, dropping down approximately five (5) feet into a ditch and only coming to a stop after hitting an embankment.

15. There were three (3) people stopped at the scene, one of which being the driver of the truck that actually ran the Plaintiff off the road (hereinafter “Anonymous”). The second (2nd) person being a gentleman we have identified as Bobby Hudson (hereinafter “Hudson”) and the third (3rd) gentleman later to be discovered as Carl Culpepper (hereinafter “Culpepper”).

16. The Plaintiff states that when her vehicle came to rest, Culpepper was the first person that she saw running towards her vehicle holding a badge up in the air. The Plaintiff began to get out of the car and met Culpepper a few steps away from the vehicle. She asked if he saw that truck run her off the road. Culpepper said yes and proceeded to ask the Plaintiff if she was ok. She told him that her neck hurt but everything else was ok while checking herself for cuts or abrasions. The Plaintiff retrieved her cell phone from the vehicle and then the driver of the truck that caused the accident appeared along with another truck driver whom we know as Hudson. Anonymous and Culpepper assisted the Plaintiff away from the vehicle over to a shady area to sit down on the ground with Hudson following. The Plaintiff then attempted to call a friend to inform her of the accident, but was not able to communicate effectively. She handed her phone to Hudson who spoke to Stacey Olden (hereinafter “Olden”) and provided the facts of accident and the location of the closest hospital that the Plaintiff would likely be taken to. Hudson revealed a tag # that he was able to retrieve from the car that came on to the highway and stated that he would give it to the officer. Soon thereafter, a first responder fire truck arrived. It was later discovered that this fire truck was dispatched from Jamison Fire Department to secure the scene until other emergency personnel arrived. The Plaintiff states that while waiting

for the ambulance and police to arrive, this truck driver, Anonymous, stated in front of all who were present that he overtook her lane to avoid hitting a car that pulled out in front of him. The Plaintiff told Anonymous that she never, at any time, saw a car. She then states that Culpepper took the names of everyone at the scene on a small pad and she assumed he was a police officer who saw everything and that is why he had a badge and collected the information.

17. The Plaintiff was transported to Orangeburg Regional Hospital by ambulance and had CT scans and X-rays. Shortly thereafter, Stacey L. Olden (hereinafter "Olden"), arrived at the hospital. Later, South Carolina Trooper, Willie McCauley, Jr. arrived at the hospital and asked Plaintiff to tell him what happened. She gave him a statement (same as items 14,15 and 16 above). He told her that the witnesses at the scene told him that a car that came on to the highway, came across all lanes of traffic onto the highway, ran her off the road and then drove away. The Plaintiff disputed this information with him just briefly and he abruptly left the hospital room and returned a few minutes later, gave her an FR-10 form and left. The Plaintiff was released later that day after being treated for whiplash and inflammation in her neck, back and shoulders. With a quickly deteriorating condition, immediately following, the Plaintiff had several spinal procedures to no positive result before undergoing a major spine surgery, a dissection and fusion at the C 5-6 level. She then had intense physical and occupational therapy 4 (four) days per week for 6 (six) months to strengthen and learn to use the left side of her body (arm and leg), which included the necessity of a walker before she was able to adapt to walking alone with a cane that she still has use for.

18. There are a total of 5 (five) witnesses who testify that the Plaintiff's statement of facts of the accident are accurate. The 1st (first) being Bobby Hudson (hereinafter "Hudson"), the only witness who is listed on all 4 (four) of the accident reports. The 2nd (second) witness,

Carl Culpepper, hereinafter (“Culpepper”), the 3rd (third), James Lamb (hereinafter “Lamb”). Lamb is a witness who is not reported by any of the other witnesses as being seen present at the same, but was located from the 911 call log. Lamb states that he spent some time talking to the Plaintiff at the scene and heard the driver of the truck that caused the accident identify himself as the driver and state that he could not help the accident. The 4th (fourth) witness, Erin Tyler, (hereinafter referred to as “Tyler”), was a passerby who saw the entire accident was not able to stop at the scene, but immediately called in to 911 to report what she saw. The fifth (5th) witness, Stacey Olden (hereinafter “Olden”) was at the hospital when McCauley arrived and witnessed was reported to the Trooper at the time the Plaintiff gave her statement to him. Olden asserts by sworn affidavit that she did indeed speak to Hudson who informed her of the details of the accident and told her that the Plaintiff would be taken to Orangeburg Regional Hospital. She also states that the Plaintiff did indeed tell McCauley, Jr. the exact details of items 14,15 and 16 above.

19. The Plaintiff states that a little over one (1) week after the accident, she contacted McCauley to request the accident report, names and contact information for the three men that were at the scene along with their statements. McCauley stated that he did not have the information of two of the men because he discredited them as witnesses and discarded their statements and contact information. He stated that the only credible witness would be listed on the accident report which could take up to thirty (30) days to be prepared. The plaintiff was in shock and extremely outraged when the trooper gave her descriptions of the men whom he discredited. The Plaintiff asked for the tag # of the car that Hudson had at the scene and McCauley Jr. stated it didn’t come back registered to any vehicle so he discarded it as well. After restating to him several times that one of those gentlemen was driving the truck which caused the

accident, the trooper stated that he would attempt to locate the information. After spending the next three (3) weeks waiting for McCauley Jr. to “track down” the contact information for the driver of the truck and the tag # of the car, the Plaintiff contacted McCauley Jr.’s Sergeant Nicklous King to present her complaint against McCauley Jr. and to request assistance. King said he would look into it by speaking with McCauley Jr. and reviewing video camera footage. After receiving no return call for two (2) weeks, the Plaintiff called and left a message for King. He later called her back with an rude and unprofessional attitude, stating that he spoke to McCauley Jr and he did not have additional information on the truck driver or the tag #. King stated that McCauley, Jr. informed him that when he arrived, he did not have his video camera on so there is no video footage available. The Plaintiff learned that current video dash cam policy stipulates that officers operating a patrol vehicle equipped with an in-car video recording system activate the in-car system, including the audio portion, as soon as the blue lights and/or siren begin to flash. Once activated, the system is to remain on as long as the officer interacts with the individual(s). In all cases involving enforcement activities, once the audio and video recording has begun it is not to be stopped, paused, turned off or otherwise interfered with at any time until the enforcement event is concluded. When a trooper turns on blue lights the video recording system activates automatically. The trooper does; however, have to turn on his lapel microphone once he exits the vehicle. To promote a department culture where inappropriate actions are not tolerated, the director of the Department openly voiced his positions on a number of issues such as lying and providing misleading information, and has indicated that those taking such actions will be dismissed. The Department has had a sensitivity training program in place for nearly fifteen (15) years. All troopers receive it when they first join the patrol, and it is part of the department's annual in-service training. All trooper trainees receive

this training while undergoing patrol training, and all troopers, from the colonel on down, undergo refresher courses every year during in-service training. As the plaintiff understands the policy, the goal has been to treat all motorists in a uniform manner which does not condone troopers not following departmental policies and procedures and the purpose of the camera is to catch the truth; it's there to show what really happened. All of the defendants in this complaint had knowledge that this imperative policy had been violated, yet they participated in a "code of silence" and attempted to downplay the violation which created the climate for conspiracy to conceal the acts and omissions of all defendants. Each of them collectively and individually had a duty to report the actions of McCauley Jr. to the Office of Professional Responsibility. They each had a duty to report the inactions of other officers to the Office of Professional Responsibility as well. As a result of these behaviors, each and every officer and participant should be disciplined for their willful failure to supervise and are individually and officially guilty of corruption and bare the liability each of the occurrences that they had knowledge of.

20. McCauley also told King that when he arrived, all truck drivers identified themselves as only witnesses and stated that a blue car was the cause of the accident and that this blue car drove away. He stated that he only used one of the witness, Hudson, accounts of what happened in the accident report because he seemed most credible and Hudson even supplied the tag # of the blue car that drove away but after running the tag#, it did not come back as valid, so he discarded it. The Plaintiff and King went back and forth about the relevancy of this information and the Plaintiff explained to him that the accident report was wrong and that further witness statements were needed to correct these inaccuracies. She told him how imperative it was that he located the driver of the truck. He then told the Plaintiff that even if they did locate the identity of the truck driver, he could

use the defense of the sudden emergency doctrine as a defense. The Plaintiff then realized that she would get no further assistance from him because it seemed like he, just as McCauley Jr. had played judge and jury and came to their conclusions already. She stated to King that she was emotionally distraught by the fact that both of these officers of the law, who have a sworn duty to protect the rights of citizens, were defending the man whom had negatively changed her life forever, without considering that in doing so, she was denied any/all right of equal protection under the law. Because of the actions of McCauley, she has no way to pursue and recourse against the at fault party. She also told him that in her opinion, the matter became a criminal incident the moment she gave her statement to McCauley because the driver of the truck had a duty to report that he was involved in the accident and failed to do so. The Plaintiff again stated that she never, at any time saw a blue car. It was only the truck that caused the accident and asked for the name and contact information of King's supervisor. King then agreed to investigate more to see if there was information that he could obtain. The Plaintiff suggested that he collect written statements from the witnesses who called in to 911. King agreed and then contacted Tyler and Culpepper, and they gave him an account of what happened. After verifying these facts, he agreed to amend the accident report to reflect that it was in fact the truck that caused the accident, but this cannot be done until McCauley Jr. returns from leave in a week or so. The report was still amended incorrectly.

21. The Plaintiff spent the next few months having information collected regarding additional witnesses from CAD call logs and 911 recordings. After the multiple failures and refusals to conduct a thorough investigation by McCauley and King, the Plaintiff had her own investigation conducted. She provided this information to the King who stated that he

interviewed the witnesses, but still failed to obtain any written statements from any of them. The accident report was revised three (3) times and the final report still resulting in the omission of key information. The fourth (4th) and final report does not include the name, contact information of the at fault truck driver and his statement. It does not show that he remained at the scene and spoke with McCauley Jr. It also neglects to mention that a tag# of the car was provided to McCauley by Hudson at the scene and finally, the accident report does not contain any statements from witnesses. A true and accurate accident report was supposed to be made available to the Plaintiff within thirty (30) days by the Department of Public Safety/Motor Vehicles. Please note that to date, a true and accurate accident report has not been produced. All of the defendants in this complaint had knowledge that these imperative policies had been violated, yet they participated in a “code of silence” and attempted to downplay the violations. This created the climate for conspiracy to conceal the acts and omissions of McCauley. Each of the Defendants collectively and individually had a duty to report the actions and inactions of each other to the Office of Professional Responsibility. As a result of these behaviors, each and every officer and participant should be disciplined for their willful failure to supervise and are individually and officially guilty of corruption and bare the liability each of the occurrences that they had knowledge of. The Plaintiff alleges that each of the defendants have Violated their Oath of Office, Violated her Civil Rights, Co-conspired to conceal the acts and omissions of McCauley, Dereliction of Duty for not reporting to the Office of Professional Responsibility, Violating the North American Charter of Rights and Freedoms policy on Equal Protection Under the Law, Crimes of Moral Turpitude for having vast, detailed knowledge of direct policy violations resulting in negligence and harm to an individual. While remaining silent and electing to intentional ignore the Plaintiffs complaints which caused

emotional distress. The Defendant's conduct was intentional and malicious and done for the purpose of causing Plaintiff to suffer humiliation, mental anguish, and emotional and physical distress. As a proximate result of defendant's discarding information, their acts and omissions specifically violate constitutionally protected rights as well as statutes and policy and procedure of the Department and thereby are liable for the consequences of breach of duty and should make restitution to the Plaintiff. The actions and inactions of the Defendants, their repeated refusals, failures and denials and the consequences proximately caused by it, as hereinabove alleged, plaintiff suffered severe humiliation, mental anguish, and emotional and physical distress, and has been injured in mind and body as follows: Major Depression, Anxiety, Cervical Disc Disorder, Annular tears in her lumbar and will need a lifetime of care and therapy and prays for \$11,148.000 in damages.

22. The Plaintiff states that quite a bit of time passed while she was recovering from surgery, going through therapy and did not have time to dedicate to pursuing this as naturally her health was her primary concern. During this time, she was able to have some research done into federal and state laws as well as DPS and SC Highway Patrol rules, regulations and requirements with a focal point of specific statutes regarding policy and procedure. After reaching no resolution with McCauley, Jr. and King, the Plaintiff requested a meeting with their direct supervisors Lieutenant William Taylor and Captain Anthony K. Grice. On July 9th, 2013, The Plaintiff attended a meeting at the Troop Seven (7) building McCauley Jr., King, Taylor and Grice. Despite her obvious disability, all of the Defendants showed insensitivity and attempted to intimidate her by taking her down some dark, concrete stairs which presented a discomfort for her to navigate. They led her into an underground room where she sat at a table with McCauley Jr., King, Taylor and Grice while

she explained in great detail her concerns with the way that the accident was investigated. Again, she provided a summary of the accident, a timeline of events showing all of the steps that she went through and expressed how stressful the ordeal was. The Plaintiff presented four (4) amended accident reports and CAD call Reports to support the accuracy of her facts. She shared her deteriorating health conditions, loss of her job and the mounting medical costs that she had. She literally showed awards that she had received at the job that she lost and would have retired from, a bundle of medical bills with just one which she specifically placed in Grice's hand, alone being \$88,000. She spoke of how she is in pain every day of her life and will most likely be forever. The Plaintiff states that she made the statement that "we would not be sitting here if this trooper (McCauley) would not have played judge and jury on the side of the road and simply done what his training, policy and procedures required." She went on to say "If the trooper (McCauley) had his video camera activated, if he would not have discredited the "alleged witness" who we now know is the driver of the truck that caused the accident, if he would not have discarded this man's name, contact information, statement and if he would have not discarded the tag# which was provided to him at the scene and even then, if he would have upgraded the status of the accident once the Plaintiff gave her statement which then became a victim reporting a crime to an officer. In this meeting, McCauley admitted that he discarded the name, contact information and statement of the truck driver. He stated that he deemed him non-credible because he kept changing his story. He also admitted that he discarded the tag # that was provided to him at the scene by Hudson. McCauley states that he called it in and it did not come back registered to any vehicle so he discarded it. The Plaintiff stated that her tag# was EGY 865, however, the tag# which is entered in the CAD log shows a tag# of "G"GY 865

for the second vehicle. At some point between McCauley, Young (dispatcher) and Arcanzer (call taker), falsified information was input into the system. It is not clear specifically who input the false information, but all three of them knew or should have known that it was false information. After the Plaintiff showed the CAD Call dispatch records to Grice, he became frustrated and sent McCauley to make copies of the documents that the Plaintiff provided. The Plaintiff also pointed out that it took thirty-nine minutes for McCauley to arrive at the scene. Grice then instructed Taylor to re-conduct the investigation, re-interview witnesses to address McCauley's mistakes. The Plaintiff requested written statements and have not received this to date. The Plaintiff also requested to be provided with an accurate accident report after it has been corrected and this has not been done to date. The Plaintiff requested the correct car tag number that was provided to Trooper McCauley be located or tracked in the system in which he states that he called it in and to date, have not received this. In addition, the Plaintiff also requested that efforts be made to discover the identity of the truck driver, to date, the Plaintiff has received NONE of this information. In this meeting, the Plaintiff specifically provided Lt. Grice with two tag#'s of "persons of interest" that with a photo, possibly the Plaintiff, and/or one of the other witnesses or even Trooper McCauley could identify him, to date, the Plaintiff has not received any of this. The Plaintiff received a request from Taylor to provide him with the calls in to 911 and SChP dispatch reports of the accident. On September 19, 2013 she provided the information, however, once again, felt that this information would have and should have been more easily obtained and accessed directly by SChP. She also requested written statements to be collected from all witnesses including McCauley and King. The Plaintiff states that throughout the next six (6) months, she had multiple conversations

with Taylor who continued to assure her that he was still investigating. However, no results were ever produced.

23. On January 21, 2014, the Plaintiff sent an email request to FOIA asking for specific information about the policy and procedure requirements for troopers assigned to investigate traffic accidents. This request was responded to by Ada Schmidt (hereinafter "Schmidt") who stated that she is not the proper person to answer the questions, but instead of forwarding this request to the Office of Professional Responsibility or to her immediate supervisor, she gave the Plaintiff instructions on contacting the supervisor of the same troop that the plaintiff inquired about the wrong doing of. Hence begins the Plaintiffs suspicion of a conspiracy to conceal these incidents. A few days later, on January 25, 2014, the Plaintiff emailed Taylor to request a general status update and to request the production of written statements/affidavits of the witnesses. This email was not responded to. The Plaintiff states that she received a call from Taylor on February 13, 2014 informing her that he and Grice have concluded their investigation and no results were found. The plaintiff immediately followed up by email, dated February 13, 2014, with both gentlemen to thank them for their efforts and to inquire as to what reprimands would be made to the trooper. She received a return email from Grice indicating that personnel matters are not disclosed outside of the agency. He also assured her that matters that should be corrected with any of his employees are addressed as needed. After being informed that the investigation had been concluded, the Plaintiff sent an email to FOIA (Freedom of Information Act) to inquire if there is an updated accident report. Schmidt, again, directed the Plaintiff back to contacting the supervisor of the same troop that the plaintiff inquired

about the wrong doing of and never answered or responded to the request regarding an final accident report.

24. On September 27, 2014, the Plaintiff sent a final notice of her intent to file a lawsuit along with supporting documents to Governor Nikki Haley, South Carolina Attorney General Alan Wilson, South Carolina Department of Public Safety Director Leroy Smith and South Carolina Highway Patrol Commander Mike Oliver. She received a call from Marty Roberson (hereinafter "Roberson") with Adair Horne, the insurance company that represents the South Carolina Insurance Reserve Fund. He informed her that he was assigned to investigate and settle her complaint. After providing all information to him, Roberson allegedly completed his investigation and later informed her that he found no liability on the part of the officer because McCauley stated that he did not throw away any evidence. According to Roberson, he not able to contact Hudson, the witness who is listed on all four (4) accident reports. She also received a letter stating Roberson's decision from Warren Ganjehsani (hereinafter "Ganjehsani"), General Counsel for the South Carolina Department of Public Safety informing the Plaintiff of the same. To this day, they have failed and refused to address the part of the complaints regarding acts and omissions the troopers superiors.

25. On March 6, 2015, the Plaintiff sent an email to FOIA Officer, Schmidt, to request under the FOIA, any and all accident reports. She also sent an email to Grice, Taylor and Roberson requesting by order of the FOIA, ALL interviews, questionnaires and reports collected in their investigation. On or around March 9, 2015, she received a copy of her email request to Grice along with a copy of the same accident report, dated February 6, 2013, as well as copies of two (2) memorandums addressed to Grice from Taylor and King

which detailed the results of their conclusions regarding the accident. There is varying information in the affidavits prepared by Taylor and King. Taylor's affidavit is closer to the truth but still omits the specific, detailed knowledge that he has which is that McCauley admitted in the July 9, 2013 meeting that he did not have his video camera activated, "discarded" the tag# of the "blue sedan" and that he discarded the contact information along with the statement of the responsible truck driver. Sgt. Nick King's varying affidavit confirms in sentence number seven where, that Trooper McCauley did, in fact, talk to the "self proclaimed witness" whom was later confirmed to be the actual truck driver. This package also omits the written statements of Erin Tyler and Bobby Hudson, yet Hudson's name was used on all four (4) accident reports. In fact, neither of these affidavits EVEN mention Mr. Hudson, though King states that he spoke with ALL witnesses. His affidavit also omits any and all mention knowledge of the tag# which was provided to McCauley as well as the name, contact information and statement of the responsible party being "discredited and discarded" by the trooper under his command. He does acknowledge that McCauley did not have his video camera activated. King also fails to state why he didn't have the Plaintiff to look at the photo as well to attempt to identify the driver.

26. At the end of April, 2015, the Plaintiff sent a summary of events along with supporting documentation to South Carolina Law Enforcement Division (hereinafter "SLED") with a request that they investigate her complaints, but received a reply acknowledging receipt of her information, explaining that they only investigate matters of criminal misconduct by government agencies, corporations or individuals only after a review by a Solicitor, the Attorney General's Office, or at the request of the law enforcement agency of jurisdiction. It further informed her that SLED will not conduct an investigation

into this matter. And finally, it suggested that she contact the Department of Public Safety Office of Professional Responsibility. This letter was signed by John T. Bishop, Captain of Investigative Services.

27. At the end of May, 2015, the Plaintiff sent a letter along with supporting documentation to the Department of Public Safety Office of Professional Responsibility and then spoke with Chief K.D. Phelps who was shocked to learn that there were four (4) accident reports and that neither of them were accurate or complete even though she was supposed to receive a true and accurate report within 30 days of the accident. He was also in awe of that fact that the trooper, McCauley Jr., did not have his video camera on while investigating an accident. Within a week of reviewing this package, the Plaintiff received a letter from Chief Phelps acknowledging receipt of the information and assuring her that the department would conduct a thorough inquiry into her complaint and will take appropriate action and notify her when the inquiry is completed. Then, five (5) days later, she received a letter from Warren Ganjehsani, General Counsel for the South Carolina Department of Public Safety informing her that she was attempting to reengage the Department on the same allegations that were the basis of her claim against the agency in 2014. He informed her that the Department deems the matter closed and will not be commenting further. Finally, he advised her to contact Marty Roberson, the insurance agent with the SC Insurance Reserve Fund if she has information that IRF should consider in revisiting her claim. After recovering from the emotional distress of being assured that the matter would be investigated and then informed that it wouldn't, the Plaintiff felt that it doesn't seem to matter that she included two additional, written, notarized statements and from one of the witnesses that Marty Roberson supposedly couldn't locate. In light of the fact that Phelps

was unaware of this incident prior to the Plaintiff contacting him, it is clear that no one within the Department had informed him of the Plaintiff's complaints.

28. The Plaintiff sent a final FOIA request for any/all accident reports on March 6, 2015 and never received a true and accurate accident report. The Plaintiff sent a FOIA request on July 7, 2015 for any/all Policy and Procedure Manuals which have yet to be received. In closing, the Plaintiff has exhausted all levels of procedure and provided her complaint with supporting documentation to the following members of command: Willie McCauley Jr., Nicklous King, William Taylor, Anthony Grice, Kenneth Phelps, Leroy Smith, Mike Oliver and Warren Ganjehsani. She has endured severe emotional distress, will forever live with a pain plagued body, irreparable financial anguish and prays for relief from the willfully negligent parties who had a sworn duty to protect her. She is seeking restitution for all. As a proximate result of said conduct, Plaintiff has suffered and continues to suffer bodily injury, extreme mental distress, humiliation and anguish, and other emotional and physical injuries, as well as economic losses, all to her damage in amounts to be proven at trial. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively, with the wrongful intention of injuring Plaintiff from an improper and evil motive, amounting to malice, and in conscious disregard of Plaintiff's rights. Plaintiff thus is entitled to recover punitive damages from Defendants in amounts to be proven at trial.

**FOR A FIRST CAUSE OF ACTION
AGAINST THE DEFENDANT DEPARTMENT
(Negligence, Gross Negligence)**

29. The plaintiff alleges paragraphs 1 through 28 aforesaid

30. 42 U.S. Code § 14141 - Unlawful conduct. It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

31. Plaintiff is informed, believes and thereon alleges that, at all times mentioned, each of the defendants sued herein was the agent and employee of each of the remaining defendants and was at all times acting within the purpose and scope of such agency and employment. All facts showing relationship of parties giving rise to defendant's duty to exercise due care towards plaintiff and equal protection under the law.

32. Plaintiff alleges Defendant(s), did willfully participate by having knowledge of acts and omission to act and failure to supervise fellow agents which constitutes a breach of duty and failure to protect which resulted in negligent, grossly negligent, willful and wanton acts by failing to carry out meaningful investigation of the events described herein and further by placing unreasonable reliance and belief on the acts of it's agents, particularly when he knew or should have known of the blatant violations of departmental regulations. Defendants, and each of them, unlawfully and intentionally and/or negligently denied Plaintiff adequate medical care, by refusing to allow her to seek financial remedy after a serious accident, during which she

sustained physical trauma and bodily injury. Defendants' actions and/or failures to act caused Plaintiff severe distress and subjected her to extreme emotional trauma. Plaintiff was unaware of her rights, emotionally traumatized, and unable to seek appropriate remedies, including the filing of a lawsuit during such time. As alleged herein, Defendants used denials of liability and intimidation to hold Plaintiff in financial oppression and captivity.

33. Negligent Infliction of Emotional Distress by the Defendants, and each of them, engaged in outrageous conduct towards Plaintiff, with the intention to cause or with reckless disregard for the probability of causing Plaintiff to suffer severe emotional distress. To the extent that said outrageous conduct was perpetrated by certain Defendants, the remaining Defendants adopted and ratified said conduct with a wanton and reckless disregard of the deleterious consequences to Plaintiff. As a proximate result of said conduct, Plaintiff has suffered and continues to suffer extreme mental distress, humiliation, anguish, and emotional and physical injuries, as well as economic losses, all to her damage in amounts to be proven at trial. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice and in conscious disregard of Plaintiff's rights, entitling Plaintiff to recover punitive damages in amounts to be proven at trial.

34. Negligent Supervision that the Plaintiff is informed and believes and on that basis alleges that, when engaging in the wrongful conduct alleged herein, Defendants were acting as agents of each other. Each Defendant knew or reasonably should have known that the other Defendants were engaging in the wrongful conduct alleged herein, and that

this conduct would directly and proximately result in injury to Plaintiff. Each Defendant knew or reasonably should have known that the other Defendants were in violation of legal requirements as alleged herein and each Defendant had the authority to supervise, prohibit, control, and/or regulate the other Defendants so as to prevent these acts and omissions from occurring. Each Defendant knew or reasonably should have known that unless they intervened to protect Plaintiff and properly to supervise, prohibit, control, and/or regulate the conduct of the other Defendants, those Defendants would perceive their acts and omissions as being ratified and condoned. Each Defendant failed to exercise due care by failing to supervise, prohibit, control, or regulate the remaining Defendants and/or by failing to protect Plaintiff. As a direct and proximate result of Defendants' acts and omissions, Plaintiff has suffered and continued to suffer injuries entitling her to damages in an amount to be determined at trial.

35. Negligence Per Se that the Plaintiff is among the class of persons that the Policy and Procedure Manual and the Instructions for South Carolina Traffic Collision Report Manuals were designed to protect and for whose protection the foregoing statutes and regulations were adopted. Plaintiff's injuries are of the type that the foregoing statutes and regulations are intended to prevent. Defendants' violations of the foregoing statutes and regulations constituted negligence per se and created a presumption of negligence. As a direct and proximate result of Defendants' acts and omissions as alleged in this Complaint, Plaintiff has suffered and continues to suffer economic damages, in an amount, nature, and degree to be proven at trial. Defendants' conduct as described in this Complaint was malicious, fraudulent, and/or

oppressive, and done with a conscious disregard for the rights of the Plaintiff and for the deleterious consequences of the Defendants' actions. Each Defendant authorized, condoned, and/or ratified the unlawful conduct of all the other Defendants named in this action and of their agents and employees.

**FOR A SECOND CAUSE OF ACTION
AGAINST ALL DEFENDANTS
(Violation of Oath of Office)**

36. The Plaintiff realleges paragraphs 1-35 aforesaid.

37. Plaintiff alleges Violation of Oath of Office. Members of the General Assembly, and all officers, before they enter upon the duties of their respective offices, and all members of the bar, before they enter upon the practice of their profession, shall take and subscribe an oath.

a. Plaintiff has no record or evidence that Oaths of office are not required by all public officials, judges, law enforcement personnel, administrators, and many other persons who have voluntarily submitted themselves into the duties of said offices/positions and are given monetary and other benefits for such commitment. According to Article VI, Clause 3, of the Constitution, "All executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation to support this Constitution..."

b. Plaintiff hereby makes explicit NOTICE and DECLARATION of one specific Right granted to Plaintiff by way of the Constitution of the United States; that being,

the right to demand all judicial, executive, and legislative officers and agents of the United States government and all sub-corporate governmental entities give their required Oath to protect and defend my unalienable rights, given to me by my Creator; that it be duly recorded and made available to all who may from time to time be, questioned by corporate entities, or, accused of any infamous crime against society.

**FOR A THIRD CAUSE OF ACTION
AGAINST ALL DEFENDANTS
(Violation of Civil Rights)**

38. The Plaintiff realleges paragraphs 1 through 37 aforesaid

39. Plaintiff alleges Violation of Civil Rights. The Plaintiff brings this civil action for deprivation of rights under Title 28 USC 42 Section 1981, Section 1983. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

1. Deprivation of Due Process- Plaintiff has no record or evidence that without warning or even the hint of warning that the case would be considered or determined on the side of the highway by Trooper Willie McCauley, Jr. [a decision was entered] "This is not the fair hearing essential to due process. It is condemnation without trial", as per; Ohio Bell Telephone Co. v. Public Utilities Commission, 301 U.S. 292 (1937).

2. Uncapped emotional distress damages are recoverable under the post-Civil War Civil Rights Acts, 42 U.S.C. " 1981 and 1983. Patterson v. McLean Credit Union, 491 U.S. 164, 182 n. 4 (1989) (Section 1981); Hafer v. Melo, 502 U.S. 21, 31 (1991) (Section 1983).

3. The 1991 Civil Rights Act permits emotional distress damages in cases brought under Title VII, the Americans with Disabilities Act, 42 U.S.C. '12117(a), and the Rehabilitation Act of 1973, 29 U.S.C. '794(a)(1). See, generally, 42 U.S.C. ' 1981A (1991). These damages are capped based on the size of the employer. 42 U.S.C. ' 1981A(b)(3).

(a) Right of recovery

(1) Civil rights. In an action brought by a complaining party under section 706 or 717 of the Civil Rights Act of 1964 [42 U.S.C. 2000e-5, 2000e-16] against a respondent who engaged in unlawful intentional discrimination (not an employment practice that is unlawful because of its disparate impact) prohibited under section 703, 704, or 717 of the Act [42 U.S.C. 2000e-2, 2000e-3, 2000e-16], and provided that the complaining party cannot recover under section 1981 of this title, the complaining party may recover

compensatory and punitive damages as allowed in subsection (b) of this section, in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

(2) Disability in an action brought by a complaining party under the powers, remedies, and procedures set forth in section 706 or 717 of the Civil Rights Act of 1964 [42 U.S.C. 2000e-5, 2000e-16] (as provided in section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a)), and section 794a(a)(1) of title 29, respectively) against a respondent who engaged in unlawful intentional discrimination (not an employment practice that is unlawful because of its disparate impact) under section 791 of title 29 and the regulations implementing section 791 of title 29, or who violated the requirements of section 791 of title 29 or the regulations implementing section 791 of title 29 concerning the provision of a reasonable accommodation, or section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112), or committed a violation of section 102(b)(5) of the Act, against an individual, the complaining party may recover compensatory and punitive damages as allowed in subsection (b) of this section, in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

(3) Reasonable accommodation and good faith effort In cases where a discriminatory practice involves the provision of a reasonable accommodation pursuant to section 102(b)(5) of the Americans with

Disabilities Act of 1990 [42 U.S.C. 12112(b)(5)] or regulations implementing section 791 of title 29.

(4) Despite their superior knowledge and special information, Defendants, and each of them, actively concealed from Plaintiff that she was entitled to legal protections under the law. Defendants actively concealed these known, material facts with the intent to induce Plaintiff to accept her medical and financial status, and for the purpose of preventing Plaintiff from asserting her rights in any legal forum available to her. Because of the Defendants' position of superior access to relevant knowledge and information about Plaintiff's rights, Plaintiff justifiably relied upon Defendants' false representations to her detriment.

(5) Consequently, the Plaintiff is entitled to exemplary and punitive damages in an amount to be proven at trial. Defendants caused Plaintiff to be constantly apprehensive that she would be subjected to intentional invasion of her right to be free from offensive and harmful physical contact. As a proximate result of said conduct, Plaintiff has suffered and continues to suffer extreme mental distress, humiliation, anguish and emotional and physical injuries and economic losses, all to her damage in amounts to be proven at trial. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively with the wrongful intention of injuring Plaintiff from an improper and evil motive amounting to malice and in

conscious disregard of Plaintiff's rights. Plaintiff thus is entitled to recover punitive damages from Defendants in amounts to be proven at trial.

**FOR A FOURTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS
(Conspiracy to Conceal Acts and Omissions)**

40. The Plaintiff realleges paragraphs 1 through 39 aforesaid

41. "[T]he essential elements of a [42 U.S.C.] § 1985 claim are:

(1) a conspiracy;

(2) to deprive plaintiff of equal protection or equal privileges and immunities;

(3) an act in furtherance of the conspiracy; and

(4) an injury or deprivation resulting therefrom." *Tilton v. Richardson*, 6 F.3d 683, 686 (10th Cir. 1993).

42. The Plaintiff alleges the Defendants participated in a conspiracy to defeat enforcement of the laws. The liability of the supervisors referred to in this case is distinguishable from cases alleging vicarious liability on the part of a supervisor. Rather, there were two sets of duties involved. First, the trooper, as the pursuing officer, had a "duty to protect, reasonably investigate and record those findings." Second, the supervisors Under the Doctrine of Acquiescence as well as the Maxim in Law which states that "silence

shows consent" 6 Barb. [N.Y.] 2B, Qui non negat, fatetur and "He who does not deny, agrees," (Trayner, Maxim 503)

a. 42 U.S. Code § 1985 - Conspiracy to interfere with civil rights

(1) Preventing officer from performing duties. If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with

intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.(R.S. § 1980.)

b. 42 U.S.C. 1986 - Neglect to prevent

(1) Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding \$5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued. (R.S. § 1981.)

(2) All of the Defendants are alleged to be co-conspirators with each other, in that each agreed to participate and participated in the furtherance of the objective of a civil wrongs as alleged in this Complaint. Plaintiff is informed and believes and thereupon alleges that each Defendant entered into a conspiracy and agreement with the other Defendants and/or subsequently joined said conspiracy and ratified the prior acts and conduct of the Defendants who had previously entered into said conspiracy. Plaintiff is currently unaware of when each Defendant joined said conspiracy and, upon

information and belief, alleges that all Defendants have knowingly, maliciously, and willfully entered into said conspiracy, which continues until this day. The purposes of this ongoing conspiracy include, but are not limited to, the wrongs alleged herein. All Defendants' acts and failures to act as alleged herein were perpetrated in furtherance of the ongoing conspiracy.

There are other co-conspirators not named as Defendants in this Complaint, who may be called as witnesses pursuant to South Carolina Rules of Civil Procedure.

(3) Plaintiff is informed and believes and thereupon alleges that at all times material herein, each Defendant was completely dominated and controlled by his or her co-Defendants, each was the agent, representative, and alter ego of the others, and all aided and abetted the wrongful acts of the others.

Whenever and wherever this complaint refers to any act by a Defendant or Defendants, such allegations and references shall also be deemed to mean the acts and failures to act of each Defendant acting individually, jointly, and/or severally.

(4) Plaintiff is informed and believes and on that basis alleges that at all material times, each of the Defendants has acted as an employer and/or a joint employer within the meaning of 29 U.S.C. § 203(d), and Plaintiff is informed and believes and thereupon alleges that at all times material herein, each of the Defendants was the agent, employee and/or joint venturer of, or working in concert with, co-Defendants and was acting within the course and scope of such agency,

employment, and/or joint venture or concerted activity. To the extent that said conduct and omissions were perpetrated by certain Defendants, Plaintiff is informed and believes and thereupon alleges that the remaining Defendant and/or Defendants confirmed and ratified said conduct and omissions.

(5) Whenever and wherever reference is made in this complaint to any act by a Defendant and/or Defendants, such allegations and references shall also be deemed to mean the acts and failures to act of each Defendant acting individually, jointly, and/or severally. Whenever and wherever reference is made to individuals who are not named as Defendants in this complaint but are or were employees/agents of Defendants, or any of them, such references shall be deemed to mean that such individuals at all relevant times acted on behalf of Defendants within the scope of their employment.

c. 42 U.S. Code § 1988 –

(1) Proceedings in vindication of civil rights applicability of statutory and common law. The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of titles 13, 24, and 70 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions

necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.

- a. Attorney's fees in any action or proceeding to enforce a provision of Public Law 92-318 [20 U.S.C. 1681 et seq.], the Religious Freedom Restoration Act of 1993 [42 U.S.C. 2000bb et seq.], the Religious Land Use and Institutionalized Persons Act of 2000 [42 U.S.C. 2000cc et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], or section 13981 of this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity such officer shall not be held liable for any costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction sections 1981, 1981a, 1982, 1983, 1985, and 1986 of this title,

- b. Expert fees

In awarding an attorney's fee under subsection (b) of this section in any action or proceeding to enforce a provision of section 1981 or 1981a of this title,

**FOR A FIFTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS
(Dereliction of Duty)**

43. The Plaintiff realleges paragraphs 1-42 aforesaid.
44. The Plaintiff alleges that the Defendants "Could have known and should have known".

1. All duly sworn "officials", public "servants", and others who allow violations to be executed and continue without objection "could have known and should have known" according to common logic, general understanding, and competency certifications by legislative authorities. Note this early use of the established doctrine, "could have known and should have known", ruled in the case of *Lashley v. Koerber*, California, 1945. In this 1945 case, the appellant court held a physician liable because he could have known and should have known. It was summarized that a physician could be expected to exercise a "... reasonable degree of skill and learning and care ordinarily exercised by other doctors of good standing in the community".

2. Considered was the doctrine of *res ipsa loquitur* (the thing speaks for itself), where the plaintiff does not cause the problem, and the Defendant(s) is assumed guilty if Defendant(s) knowingly allowed or caused the harm to happen, or was negligent in preventing that harm when Defendant(s) should have and could have prevented it. This precedent implies and applies to all people licensed by the public to be trusted by that public to perform in a capacity demanded of their profession and licensed to be rated as "competent". This precedent, then, reaches

out to all professionals licensed by the public. Furthermore, those licenses are for the protection of that public. All professional people, bankers, real estate agents, car salesmen and certainly all government workers (politicians, Congress Persons), especially those elected to offices of trust and power, are affected by that court ruling, which must be considered a precedent of the land. All elected officials, certainly, could have known and should have known, or they must suffer the consequences of incompetency and dereliction of duty. As a direct and proximate result of Defendants' conduct as alleged in this Complaint, Plaintiff has lost wages and other benefits in amounts to be proven at trial. Further, the unlawful conduct of Defendants, and each of them, as alleged in this Complaint, was and continues to be malicious, fraudulent, despicable, and/or oppressive in that Defendants, and each of them, acted with full knowledge of the consequences to the Plaintiff as alleged in this Complaint, with the intent to violate the statutory and other rights of the Plaintiff, and/or with a willful, conscious, wanton, and reckless disregard for the Plaintiff's rights and for the deleterious consequences and cruel and unjust hardship resulting to Plaintiff.

**FOR A SIXTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS
(Crimes of Moral Turpitude)**

45. The Plaintiff realleges paragraphs 1-44 aforesaid
46. Violation of Crimes of Moral Turpitude which a legal concept in the United States and some other countries that refers to "conduct that is considered contrary to community standards of justice, honesty or good morals." The concept of "moral turpitude"

might escape precise definition, but it has been described as an "act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man." Plaintiff has no record or evidence that for more than a century the central meaning of procedural due process has not been clear, as per; "Parties whose rights are to be affected are entitled to be heard; " Baldwin v. Hale, 1 Wall. 223, 233. See Windsor v. McVeigh, 93 U.S. 274 ; Hovey v. Elliott, 167 U.S. 409 ; Grannis v. Ordean, 234 U.S. 385 . It is equally fundamental that the right to notice and an opportunity to be heard "must be granted at a meaningful time and in a meaningful manner." Armstrong v. Manzo, 380 U.S. 545, 552 Failure to Protect from Harm-6th Amendment (Failure to protect victim /witness) Plaintiff has no record or evidence that any Court has authority to do that which is clearly unlawful, as per; "The United States is forbidden by the fundamental law to take either life, liberty, or property without due process of law, and its courts are included in this prohibition." Bass v. Hoagland, 172 F.2d 205, 209 (1949); DelVecchio v. Illinois Dept. of Corrections, 8 F.3d 509, 514 (7th Cir. 1993). SC TITLE 23 Ch. 6 DPS Article 1 Sec. 23-6-30

1. As a direct and proximate result of these actions, Plaintiff has sustained damages, including extreme mental suffering, humiliation, emotional distress, physical injuries and economic losses, entitling her to damages in an amount to be proven at trial.

2. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively with the wrongful intention of injuring Plaintiff from an improper and evil motive amounting to malice, and in conscious disregard of

Plaintiff's rights. Plaintiff is thus entitled to recover punitive damages from Defendants in amounts to be proven at trial. Each of the Defendants and their agents intentionally and/or negligently made multiple representations of material fact in telling Plaintiff that they were not liable. These representations were in fact false. The truth was that the Individual Defendant, McCauley, acting within the course and scope of his duties with the Defendant Department failed to use due care in conducting his accident investigation and demonstrated erroneous and false assumption and presumption by discrediting the alleged witnesses and his statement when it turned out that this "alleged witness" was indeed the party who caused the Plaintiff's accident. By the act of discarding the contact information and statement of this alleged witness when it turned out that this "alleged witness" was indeed the party who caused the Plaintiff's accident. By falsifying information in official documents by inputting wrong tag #in CAD (Computer Aided Dispatch), by refusing to properly investigate (refused to contact witnesses), by preparing erroneous documents (four (4) accident reports), by intentional neglect of duty (failure to upgrade status after the victim reported a crime to him at the hospital, i.e. Plaintiff's statement and by attempting to conspire to conceal acts and omissions. When remaining Defendants became knowledgeable of his actions, they made the representations that they were false and/or had no reasonable ground for believing that the representations were true. Defendants made the representations with the intent to defraud and induce Plaintiff to simply go away. Each of the Defendants has had and continues to have both the means of obtaining and actual possession of superior knowledge and special information with regard to the facts relevant to a determination of Plaintiff's rights as a citizen. The superior knowledge and special information possessed by Defendants includes, but is not

limited to, knowledge of legal requirements for policy, procedure and liability by law. As a result of Defendants' position to obtain superior knowledge and their actual possession of such knowledge, each Defendant has gained an unconscionable advantage over Plaintiff, who was ignorant of facts relevant to her recoverable damages and rights and who was not in a position to become informed about such facts.

**FOR A SEVENTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS
(Violation of SC Department of Public Safety Policy and Procedure)**

47. The Plaintiff realleges paragraphs 1-46 aforesaid

48. Disciplinary Action Policy Purpose

1. All employees of the Department of Public Safety are expected to conduct themselves in accordance with applicable laws, regulations, Agency Policies and generally acceptable work behaviors. Employees in supervisory positions will set an example by their conduct, attitude and work habits. This policy is created to ensure that disciplinary actions imposed by the Agency for unacceptable conduct are imposed in a consistent and fair manner and generally follow a progressive disciplinary plan. However, because it can be difficult to be all-inclusive or to assign a degree of severity to various offenses, the appropriate discipline will be determined after the particular circumstances of the case have been carefully considered. For these reasons, all supervisors will consult the Agency's Office of Human Resources prior to imposing any discipline or attempting to resolve any disciplinary matter. Employees should not construe any recommended actions contained herein to be a definitive course of action that the Agency will strictly

follow when administering discipline. The Agency reserves the right to impose any type of disciplinary action for any offense as deems appropriate, including dismissal from employment for a first offense.

2. Guidelines for Progressive Disciplinary Action

a. Destruction, Alteration or Falsification of Records (Level II Reprimand to Dismissal)

3. Interference with Other Employee's Work/ Co-conspiracy to conceal acts and omissions (Level II Reprimand)

4. Mishandling of Agency Funds or Documents- Spoilation of Evidence, Failure to Preserve Evidence (Level II Reprimand to Dismissal)

5. Willful Violation of Rules, Regulations or Policy (Level II Reprimand to Suspension)

6. Negligence in Following Rules, Regulation or Policies (Level I Reprimand to Level II Reprimand)

7. Negligent Authorized Operation of a State Vehicle Resulting in an Accident/Personal Injury (Level I Reprimand to Dismissal)

8. Refusal to Cooperate with Administrative Investigations (Written Reprimand to Dismissal)

9. Improper Conduct (Level I Reprimand to Dismissal)

10. Negligence in the Performance of Duty (Level I Reprimand to Dismissal)


11. Failure to Provide Accurate, Truthful and Complete Information (Level I Reprimand to Suspension)

12. Gross Negligence- Refusal to Properly Investigate and Refusal to acknowledge victims report as a crime
13. Conduct Non-becoming of an Officer-
14. Negligent Infliction of Emotional Distress- Refusal to acknowledge victims report as a crime
15. Failure to supervise McCauley, King, Taylor, Grice and Smith

**FOR AN EIGHTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS
(Systematic Neglect of Duty)**

49. The Plaintiff alleges paragraphs 1 through 48 aforesaid
50. The Plaintiff alleges that the trooper and the supervisors at the Department of Public Safety FAILED to perform their respective duties and there was an "absence of care that is necessary under the circumstances". The supervisors at the Department had an independent duty to monitor the acts of the troopers and take any actions deemed appropriate as reprimands and reporting the Troopers acts and omissions to the Office of Professional Responsibility. This duty is based on both the Department's own internal policy and on general standards of conduct recognized by law enforcement agencies, primarily the latter. These failures left an ongoing victimization of the Plaintiff which existed since the accident and will continue in the future do to severe emotional harm, serious economic harm including and not limited to major lifestyle changes do to medical bills loss of income.

1. All of the above are in violation of standards taught by the Department to its patrolmen, and known to the Defendant(s). The above actions were obviously negligent, reckless and malicious which led to everlasting lifetime injury which will require lifelong medical care and therapy.
2. All Defendants, and each of them, knew or reasonably should have known that the conduct described herein would and did proximately result in physical and emotional distress to Plaintiff. At all relevant times, all Defendants, and each of them, had the power, ability, authority, and duty to stop engaging in the conduct described herein and/or to intervene to prevent or prohibit said conduct. Despite said knowledge, power, and duty, Defendants negligently failed to act so as to stop engaging in the conduct described herein and/or to prevent or prohibit such conduct or otherwise protect Plaintiff. To the extent that said negligent conduct was perpetrated by certain Defendants, the remaining Defendants confirmed and ratified said conduct with the knowledge that Plaintiff's emotional and physical distress would thereby increase, and with a wanton and reckless disregard for the deleterious consequences to Plaintiff. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered and continues to suffer serious emotional distress, humiliation, anguish, emotional and physical injuries, as well as economic losses, all to her damage in amounts to be proven at trial.

By 
 biafra-monique; Curtis

Date



8-24-15

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays judgment against defendant as follows:

- a. For general damages for severe emotional distress and mental suffering.
- b. For medical, injury related expenses as well as future care in according to proof to be provided at trial;
- c. For lost wages in the sum of which to be provided at trial;
- d. For property damage in the sum of which to be provided at trial.
- e. For costs of suit herein incurred, proof of which to be provided at trial;
- f. For punitive damages in an amount to be determined by the finder of fact;
- g. For such other and further relief as the court may deem just and proper.

WHEREFORE, Plaintiff respectfully prays that this Court enters judgment against Defendants, and each of them.

DATE  8-24-15
By 
biafra-monique; Curtis

RICHLAND COUNTY
 FILED
 2015 AUG 24 AM 11:29
 JEANNETTE M. ADRIE
 C.C.P. & G.S.

JURY TRIAL DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

DATE  8-24-15
By 
biafra-monique; curtis

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: **2015CP4005172**

Biafra Monique Curtis

South Carolina Department Of Public Safety

PLAINTIFF(S)

Warren Ganjehsani

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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

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 judgment is entered should be provided to the clerk. Note: Title abstractors and researchers should refer to the official record for the correct information.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

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

Biafra Monique Curtis

Alison Dennis Hood

Biafra Monique Curtis

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court

SCANNED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND) IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Biafra Monique Curtis, Pro Se,)
v.) Case Number: 2015-CP-40-05172

South Carolina Department of Public)
Safety, Warren Ganjebsani, Mike)
Oliver, Leroy Smith, Kenneth) ORDER
Phelps, Anthony Grice, William)
Taylor, Nicklous King, Willie)
McCauley, Jr., Ada Schmidt, Aaron)
Canzater and Cherie Young,)
Individually and in their official)
Capacities,)

RICHLAND COUNTY
FILED
2016 MAY 20 AM 9:18
JEANETTE W. McBRIDE
C.C.P. & C.S.

Plaintiff filed this action in Richland County on August 24, 2015. Defendants filed their notice of removal to federal court on September 18, 2015. The initial Complaint stated several causes of action under 42 USC §1983, as well as various state law causes of action. The March 31, 2016 Order of Judge Mary Geiger Lewis dismissed all federal causes of action, including portions of the First cause of action (to the extent it relied on 42 USC §14141), and the Third cause of action (civil rights violations) and the Fourth cause of action (federal conspiracy) in their entirety. The case was then remanded to the Richland County Court of Common Pleas. The named defendants were heard on the balance of the motion to dismiss, pursuant to Rule 12(b)(6), on May 18, 2016 in Richland County Courtroom 2-E at 9:30 a.m. All Defendants moved for dismissal of the remaining state court causes of action on the following grounds:

1. The action is barred, as to all state law causes of action, by the applicable statute of limitations, set forth in S. C. Code §15-78-100;

SCANNED

2. The individual defendants, as state employees, cannot be sued for the state law causes of action, pursuant to S. C. Code §15-78-70; and

3. Any duties of the defendants are public duties, and the plaintiff has no private right of action against defendants for Violation of Oath of Office, Dereliction of Duty of Elected Official, Crimes of Moral Turpitude, Violation of Department Handbook, or Systematic Neglect of Duties.

FINDINGS OF FACT:

This action arises from an automobile accident that occurred on September 27, 2012. Plaintiff alleges she was the victim of an accident on Interstate 26 in South Carolina, having been forced off the road by an unknown driver in a vehicle collision. Plaintiff alleges the failure of the South Carolina Highway Patrol, a division of the South Carolina Department of Public Safety, to properly investigate the wreck deprived her of her opportunity to sue the alleged at fault driver for her injuries. Plaintiff named each individual involved in processing the accident, maintaining records related to the accident, and all officers who responded to her requests for information as defendants in this matter. Defendants deny all allegations of wrongdoing, but assert that no private right of action arises even if the allegations were true. Defendants further assert the statute of limitations and the South Carolina Tort Claims Act bars the state law causes of action.

APPLICABLE STANDARD OF REVIEW:

"A ruling on a motion to dismiss pursuant to Rule 12(b)(6) must be based solely on the factual allegations set forth in the complaint, and the court must

SCANNED

consider all well-pled allegations as true." *Fabian v. Lindsay*, 410 S.C. 475, 481, 765 S.E.2d 132, 136 (2014).

CONCLUSIONS OF LAW:

These Defendants are entitled to dismissal of plaintiff's state law causes of action, including the First Cause of Action (which includes Negligent Infliction of Emotional Distress, Negligent Supervision, and Negligence Per Se), Fifth cause of action (Dereliction of Duty), Sixth Cause of action (Crimes of Moral Turpitude), Seventh Cause of action (Violation of Policy), and Eighth Cause of action (Systemic Neglect of Duty) pursuant to S. C. Code of Laws, §15-78-100, as no verified claim was made within one year of the September 27, 2012, incident date alleged in the Complaint, pursuant to S.C. Code §15-78-80, and this action was not filed until August 24, 2015, more than two years after the date of the September 27, 2012, accident upon which Plaintiff's case is based. For this reason, even if the allegations are otherwise actionable, blanket dismissal of all state law causes of action is appropriate.

The individual Defendants are further entitled to dismissal from the First, Fifth, Seventh and Eighth Causes of Action, as they were all acting within the course and scope of their employment at all times alleged by Plaintiff. The South Carolina Tort Claims Act, S.C. Code §15-78-10, et seq., "is the exclusive and sole remedy for any tort committed by an employee of a governmental entity while acting within the scope of the employee's official duty." S.C. Code §15-78-200. Pursuant to S.C. Code §15-78-70, the individual government employees cannot be sued for causes of action related to conduct in the scope of their duty. The allegations described in the

SCANNED

First Cause of Action regard activity exclusively within the scope of employment of all individual defendants, and for this reason dismissal of the individual defendants from these state law causes of action is appropriate.

These Defendants are further entitled to dismissal of the plaintiff's Second (Violation of Oath of Office), Fifth Cause of Action (Dereliction of Duty of Elected Official), Sixth Cause of Action (Crimes of Moral Turpitude), Seventh causes of action (Violation of Department Handbook), and the Eighth Cause of action (Systematic Neglect of Duties), as these causes of action provide no private right of action upon which Plaintiff is entitled to seek relief. See also *Trask v Beaufort County*, 392 S.C. 560, 709 S.E.2d 536 (Ct. App. 2011); See also §23-6-30, §23-6-40, and §23-6-140, S.C. Code of Laws.

"The Public Duty Rule insulates public officials, employees, and governmental entities from liability for the negligent performance of their official duties by negating the existence of a duty toward the plaintiff." *Arthurs v. Aiken County*, 346 S.C. 97, 104, 551 S.E.2d 579 (2001). "The Public Duty Rule holds that public officials are generally not liable to individuals for their negligence in discharging public duties because the duty is owed to the public at large rather than to anyone individually." *Wells v. City of Lynchburg*, 331 S.C. 296, 306, 501 S.E.2d 746 (Ct. App. 1998). "Statutes which create or define the duties of a public office create no duty of care towards individual members of the general public." *Arthurs v. Aiken County*, 346 S.C. at 105-6 (2001). "Thus, where the duty is owed to the public in general, the official is not liable to an individual who may have been "incidentally injured" by the failure to perform the duty." *Wells v. City of Lynchburg*, 331 S.C. 296,

SCANNED

307, 501 S.E.2d 746 (Ct. App. 1998), quoting *Parker v. Brown*, 195 S.C. 35, 10 S.E.2d 625 (1940); See also *Steinke v. S.C. Dep't of Labor, Licensing, & Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999).


In this case, the essential purpose of the cited oaths, regulations, statutes, handbooks, and guidelines is not to preserve civil actions on behalf of the public. See *Rayfield v. South Carolina Department of Corrections*, 297 S.C. 95, 374 S.E.2d 910 (Ct.App.1988), cert. denied, 298 S.C. 204, 379 S.E.2d 133 (1989). Therefore, these Defendants owed no particular duty to Plaintiff, and any alleged violation is not actionable.

WHEREFORE, Plaintiff's cause of action is untimely, improperly alleged against individual governmental employees acting well within the course and scope of their employment, and premised on concepts that do not give rise to individual causes of action. These defendants are entitled to dismissal of this action, in its entirety, under §15-78-100 and §15-78-80, S.C. Code of Laws, and pursuant to the Public Duty Rule.

THEREFORE, IT IS ORDERED, Plaintiff's causes of action are hereby dismissed in their entirety, under SCRCP 12(b)(6), as the Complaint fails to state a claim upon which relief can be granted. This action is hereby dismissed, with prejudice.

AND IT IS SO ORDERED!

Clemens, S.C.
May 16, 2016


 The Honorable L. Casey Manning
 Fifth Judicial Circuit

SCANNED

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

JASHAUN DECK,

Plaintiff,

vs.

SOUTH CAROLINA DEPARTMENT OF
PUBLIC SAFETY, SOUTH CAROLINA
DEPARTMENT OF TRANSPORTATION
and JOEY STEWART,

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

AMENDED COMPLAINT

(JURY TRIAL REQUESTED)

2015-CP-23-412

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSINER
2015 JUN 29 PM 4 53

The Plaintiff above named, complaining of the above-named Defendants, would respectfully show unto this Honorable Court as follows:

The Plaintiff above named, complaining of the above-named Defendants, would respectfully show unto this Honorable Court as follows:

1. That upon information and belief, that the Defendant, South Carolina Department of Public Safety is an agency organized and existing under the laws of State South Carolina and subject to the provisions of the South Carolina Code of Laws; inclusive of but not limited to S.C. Tort Claims Act. Further, that upon information and belief, the Defendant Joey Stewart is a

Upon information and belief, the Defendant, Joey Stewart is a citizen and resident of the County of Greenville, State of South Carolina and at certain times complained of hereafter was an agent /employee of the Defendant South Carolina Department of Public Safety. Further, that the Defendant, South Carolina Department of Transportation is an entity within the aforesaid Defendant organized and existing under the Laws of State of South Carolina and subject to the provisions of the South Carolina of Laws, inclusive of but not limited to S.C. Tort Claims Act.

3. This action is brought pursuant to South Carolina Code Section 15-51-10 for the benefit of the statutory beneficiaries of the Decedent and South Carolina Code Section 15-78-1, of the South

exceeded the capabilities of the vehicle and the driver;

- q. In failing to terminate a high speed pursuit when the suspect's identity was established and there was no need for immediate apprehension;
 - r. In failing to communicate all relevant information regarding the high speed pursuit to dispatcher and supervisor;
 - s. In failing to follow internal directives of the Defendant SCDPS;
 - t. In failing to pursue other options with respect to issuing a citation the Plaintiff driver;
 - u. In failing to protect the life and property of Plaintiff;
 - v. In engaging in a high speed police pursuit with actual malice to the lives of innocent third parties, including Plaintiff;
 - w. In failing to avoid the unnecessary risk of harm or injury to Plaintiff, in violation of the internal directives of the SCDPS;
 - x. In failing to terminate the high speed pursuit involving Defendant Stewart when it became apparent that the suspect was endangering the lives of innocent third parties;
 - y. In failing to terminate the high speed pursuit when it became apparent that the suspect would not stop;
 - z. In failing to train employees to drive with due regard for the safety of innocent third parties, in violation of S.C. Code Ann. § 56-5-760;
 - aa. In failing to properly train its employees in the manner to properly apprehend suspects fleeing in automobiles;
 - bb. In failing to provide safe and adequate guidelines in the conduct of high speed chases;
 - cc. In failing to devise, implement policy and properly train its employees in the manner of conducting a high speed motor vehicle chase.
 - dd. In negligently hiring, training, and supervising Defendant Stewart;
 - ee. In negligently hiring, training, and supervising Defendant Stewart; and
 - ff. By other such further acts demonstrated at trial.
7. During all times material to the claims herein, Defendant SCDPS's and Stewart acts and omissions

Carolina Tort Claims Act.

FACTUAL BACKGROUND

4. That on or about the 28th day of June, 2013, the Plaintiff's was a passenger in a motor vehicle that was traveling east on SC-124 Highway near , Old Easley Bridge and Page Drive. On said date, the Defendant, SCDPS and Joey Stewart, did jointly and severally, enter into an **unlawful and extremely dangerous high speed chase** of this vehicle throughout residential city and county limits of Greenville, South Carolina and beyond its boundaries. The pursuit and its mode of conduct resulted in a terrible collision which caused injuries to the Plaintiff.

FIRST CAUSE OF ACTION **(NEGLIGENCE and GROSS NEGLIGENCE AS TO DEFENDANT SCDPS and STEWART)**

5. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 4 as fully as if repeated herein.
6. The Defendant SCDPS is liable for the negligent acts and omissions of its employee/servant Defendant Stewart who was, then there, acting under the course and scope of his employment relationship with the SCDPS.
7. The Defendant SCDPS is liable for the negligent acts and omissions of other unknown employees/servants who were, then there, acting under the course and scope of their employment with SCDPS.
8. The aforesaid collision and the resulting injuries were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness, and wantonness of the Defendants SCDPS and Stewart in the following particulars, to-wit:
 - a. In failing to train employees appropriately regarding the following during high speed pursuits: physical limitation, driver limitations, maximum speed limitations,

communication responsibilities, supervisory responsibilities, and termination;

- b. In failing to develop appropriate policies and procedures regarding high speed pursuits;
- c. In failing to supervise the high speed pursuit involving Defendant Miller;
- d. In failing to evaluate appropriately whether the need for immediate apprehension justified continued pursuit;
- e. In failing to terminate a police pursuit when knowing the suspect did not commit a serious crime;
- f. In failing to terminate a high speed police pursuit when all relevant information had not been communicated by the initiating officer;
- g. In failing to terminate a police pursuit when knowing that there was no necessity of immediate apprehension;
- h. In failing to terminate a police pursuit when the necessity of immediate apprehension did not outweigh the level of danger created by the pursuit;
- i. In failing to terminate a high speed pursuit which was excessive for the circumstances then and there prevailing;
- j. In failing to terminate a high speed pursuit on a roadway limited by curves and hills, absence of meaningful shoulders, intersections and entrances, and the absence of passing lanes.
- k. In failing to terminate a high speed pursuit which exceeded the "safe" range of speed as defined by the internal directives of the SCDPS.
- l. In failing to terminate a high speed pursuit when it became apparent that the suspect was endangering the lives of innocent third parties;
- m. In failing to terminate a high speed pursuit when it became apparent that the suspect would not stop;
- n. In failing to terminate a high speed pursuit when the clear and unreasonable danger to other users of the highway created by the pursuit outweighed the necessity for immediate apprehension.
- o. In failing to terminate a high speed pursuit when speeds dangerously exceeded the normal flow of traffic;
- p. In failing to terminate a high speed pursuit when it required dangerous maneuvering which

amounted to gross negligence, recklessness, and a willful and wanton disregard for the safety and well being of the Plaintiff's. The reckless, willful and wanton acts of Defendant, SCDPS included, but are not limited to those set forth in Paragraph 8.

8. As a direct and proximate result of the willful and wanton acts, as well as the gross negligence of the Plaintiff sustained severe injuries.

9. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendant herein, Plaintiff suffered.

SECOND CAUSE OF ACTION
(NEGLIGENCE- AS TO DEFENDANT, STEWART more particularly)

10. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 9 fully as if repeated herein.

11. The aforesaid collision and the resulting injuries were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness, and wantonness of Defendant, Stewart, in the following particulars, to-wit:

- a. In engaging in a police pursuit for speeding;
- b. In engaging in a police pursuit when knowing the suspect did not commit a serious crime;
- c. In engaging in a police pursuit when knowing that there was no necessity of immediate apprehension;
- d. In engaging in a police pursuit when the necessity of immediate apprehension did not outweigh the level of danger created by the pursuit;
- e. In engaging in a high speed pursuit which was excessive for the circumstances then and there prevailing;
- f. In engaging in a high speed pursuit on a roadway limited by curves and hills, absence of meaningful shoulders, intersections and entrances, and the absence of passing lanes;
- g. In engaging in a high speed pursuit which exceeded the "safe" range of speed as defined by the internal directives of SCDPS;

- h. In failing to terminate a high speed pursuit when it became apparent that the suspect was endangering the lives of innocent third parties;
 - i. In failing to terminate a high speed pursuit when it became apparent that the suspect would not stop;
 - j. In failing to terminate a high speed pursuit when the clear and unreasonable danger to other users of the highway created by the pursuit outweighed the necessity for immediate apprehension;
 - k. In failing to terminate a high speed pursuit when speeds dangerously exceeded the normal flow of traffic;
 - l. In failing to terminate a high speed pursuit when it required dangerous maneuvering which exceeded the capabilities of the vehicle and the driver;
 - m. In failing to terminate a high speed pursuit when the suspect's identity was obtainable and there was no need for immediate apprehension;
 - n. In failing to communicate all relevant information regarding the high speed pursuit to dispatcher and supervisor;
 - o. In failing to follow internal directives of the Defendant SCDPS;
 - p. In failing to pursue other options with respect to arresting or apprehending a traffic violator;
 - q. In failing to protect the life and property of Plaintiff;
 - r. In engaging in a high speed police pursuit with actual malice to the lives of innocent third parties, including Plaintiff Decedent;
 - s. In failing to avoid the unnecessary risk of harm or injury to Plaintiffs, in violation of the internal directives of SCDPS;
 - t. In failing to assert control over the situation;
 - u. In failing to exercise supervisory discretion and order specific units into or out of the pursuit; and
 - v. By other such further acts to be demonstrated at trial.
12. The Defendant SCDPS is liable for the negligent acts and omissions of its employee/servant

endangering the lives of innocent third parties;

- i. In failing to terminate a high speed pursuit when it became apparent that the suspect would not stop;
- j. In failing to terminate a high speed pursuit when the clear and unreasonable danger to other users of the highway created by the pursuit outweighed the necessity for immediate apprehension;
- k. In failing to terminate a high speed pursuit when speeds dangerously exceeded the normal flow of traffic;
- l. In failing to terminate a high speed pursuit when it required dangerous maneuvering which exceeded the capabilities of the vehicle and the driver;
- m. In failing to terminate a high speed pursuit when the suspect's identity was obtainable and there was no need for immediate apprehension;
- n. In failing to communicate all relevant information regarding the high speed pursuit to dispatcher and supervisor;
- o. In failing to follow internal directives of the Defendant SCDPS;
- p. In failing to pursue other options with respect to arresting or apprehending a traffic violator;
- q. In failing to protect the life and property of Plaintiff;
- r. In engaging in a high speed police pursuit with actual malice to the lives of innocent third parties, including Plaintiff Decedent;
- s. In failing to avoid the unnecessary risk of harm or injury to Plaintiffs, in violation of the internal directives of SCDPS;
- t. In failing to assert control over the situation;
- u. In failing to exercise supervisory discretion and order specific units into or out of the pursuit; and
- v. By other such further acts to be demonstrated at trial.

12. The Defendant SCDPS is liable for the negligent acts and omissions of its employee/servant Defendant Stewart who was, then there, acting under the course and scope of his employment

relationship with the SCDPS.

13. The Defendant SCDPS is liable for the negligent acts and omissions of its employee/servant Defendant Stewart who was, then there, acting under the course and scope of his employment relationship with SCDPS.

14. The Defendant SCDPS is liable for the negligent acts and omissions of other unknown employees/servants who were, then there, acting under the course and scope of their employment with SCDPS.

15. All of which acts are in direct violation of the statutory and common laws of the State of South Carolina as well as the S.C. Tort Claims Act.

16. The acts and/or omissions of Defendant Stewart as described above were negligent, grossly negligent, willful, wanton, and reckless.

17. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness, and wantonness of the Defendants, Plaintiff suffered.

THIRD CAUSE OF ACTION
(NEGLIGENCE/GROSS NEGLIGENCE AS TO DEFENDANT SCDOT)

18. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 17 as fully as if repeated herein.

19. The aforesaid collision and the resulting injuries were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness, and wantonness of the Defendant, SCDOT, in the following particulars, to-wit:

- a. In failing to adequately post notice of deficiencies and unsafe condition of the bridge to the public after SCDOT knew or should have known of said deficiencies;
- b. In failing to warn of restrictions and deteriorated rail conditions of page bridge.

- c. In not conducting routine inspections after structural deficiencies were noted and timely correcting and repairing noted deficiencies;
- d. In the design and maintenance of the Page Street bridge and constructed railing that was inadequate to withstand reasonable and foreseeable impact.

20. Notwithstanding these duties, the Defendant SCDOT did breach its duty to the Plaintiffs by negligently, willfully and wantonly performing the acts and omissions set forth herein.

21. As a direct and proximate result of the willful and wanton acts, as well as the gross negligence, recklessness, willfulness and wantonness of the Defendants herein, Plaintiff sustained severe injuries and damages.

DAMAGES

22. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 21 as fully as if repeated herein.

23. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants herein, the Plaintiff's suffered numerous painful, severe, and grievous injuries to his body.

24. As a direct and proximate result of the negligent acts and omissions complained of herein, the Plaintiff's suffered damages in excess of \$5,000,000.00.

PUNITIVE DAMAGES

25. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 24 as fully as if repeated herein.

26. The acts and/or omissions of the Defendants, as stated above, were willful, wanton, and/or in reckless disregard for the safety, well-being of Plaintiffs.


27. As a direct and proximate cause of the acts and omissions of the Plaintiff, suffered damages of

emotional and physical suffering.

28. The conduct of the Defendants as set forth above justifies an award of punitive damages for each and every claim of the Plaintiff as set forth herein.

WHEREFORE, the Plaintiff, demands a Jury Trial on all legal issues and claims against the Defendants, South Carolina Department of Public Safety, South Carolina Department of Transportation and Joey Stewart for actual, compensatory and punitive damages to be determined by the Courts, to fully compensate Plaintiff for his injuries and damages, for the cost of this action and for such other and further relief as the Court may deem just and proper.

Respectfully Requested,


By: **KARL B. ALLEN, ESQUIRE**
KARL B. ALLEN LAW FIRM, LLC
ATTORNEY FOR PLAINTIFF
108 LAVINIA AVENUE
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE: (864) 235-9049

June 26, 2015
Greenville, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

SARA M. DELGADO, as Personal)
 Representative of the ESTATES OF)
 ELIZABETH LOIS GAUSE and RODNEY)
 LUMSFORD GAUSE; PATRICK REIN, as)
 Guardian ad Litem for ISABELLA ROSE)
 GAUSE-REIN; and, PEGGY LOWMAN)
 GAUSE,)

Plaintiffs,)

-versus-)

ILIA DIMITROV POPOV; SOUTH)
 CAROLINA DEPARTMENT OF)
 TRANSPORTATION a/k/a SCDOT; and,)
 SOUTH CAROLINA DEPARTMENT OF)
 PUBLIC SAFETY a/k/a SCDPS,)

Defendants.)

COURT OF COMMON PLEAS FOR
 THE NINTH JUDICIAL CIRCUIT
 CASE NO: 2011-CP-10- **8448**

COMPLAINT
 (Jury Trial Demanded)

2011 NOV 14 PM 3:04
 JULIE J. AMSTRONG
 CLERK OF COURT
 LED

Plaintiffs complaining of the acts and/or omissions of Defendants Ilia Dimitrov Popov, the South Carolina Department of Transportation and the South Carolina Department of Public Safety allege and state as follows:

NATURE OF THIS ACTION

1. This action arises from an automobile collision that occurred on May 6, 2011 in Charleston County on US-17 approximately 0.2 miles from the Colleton County border. The occupants of the vehicle included the driver, Rodney Lumsford Gause, deceased, age fifty-eight, and passengers Peggy Lowman Gause, age fifty-nine, Elizabeth Lois Gause, deceased, age twenty-one, and Isabella Rose Gause-Rein, age three (collectively, "the Gause family"). Rodney and Peggy Gause are the natural parents of Elizabeth and the

grandparents of Isabella. Elizabeth was Isabella's natural mother. On the morning of May 6, 2011, the Gause family left their hometown of Ocala, Florida to attend the May 7, 2011 graduation of Citadel cadet Patrick Rein. Patrick Rein was Elizabeth's fiancé and Isabella's natural father. Elizabeth and Patrick were to be wed on May 29, 2011. At approximately 2:46 p.m., Defendant Ilia Dimitrov Popov was traveling southbound on the sixty mph undivided four-lane portion of US-17 when his pickup truck and trailer crossed over the approximately three foot wide unbarriered median striking the Gause family's vehicle in a head-on collision. Rodney Gause was pronounced dead at the scene and Elizabeth passed away on Saturday, May 7, 2011. Peggy Gause was in a coma for several weeks at MUSC before being transported to a rehabilitation facility in Brooksville, Florida, where she remains today. Isabella was hospitalized at MUSC for several weeks where she underwent surgery to repair her C-1 and C-2 vertebrae. She continues to receive rehabilitation services as an outpatient in Ocala, Florida. Plaintiff Sara M. Delgado, as Personal Representative of the Estates of Elizabeth Lois Gause and Rodney Lumsford Gause, brings a wrongful death and survival action on behalf of the beneficiaries of Elizabeth and Rodney Gause. Patrick Rein, as Guardian ad Litem for minor Plaintiff Isabella Rose Gause-Rein, seeks damages for injuries sustained by Isabella as a result of the collision. Plaintiff Peggy Lowman Gause seeks damages for injuries sustained as a result of the collision.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff Sara M. Delgado, by Order of the Probate Court of Marion County, State of Florida, is the duly appointed Personal Representative of the Estates of Elizabeth Lois

Gause and Rodney Lumsford Gause. She is a citizen and resident of Marion County, State of Florida, and is the daughter of Rodney Lumsford Gause and the sister of Elizabeth Lois Gause.

3. Pursuant to South Carolina Code of Laws (1976), as amended, §§ 62-4-204 and 62-4-205, Plaintiff Sara M. Delgado is in the process of attaining ancillary appointment by filing certified copies of her appointment with the Probate Court of Charleston County, South Carolina.

4. Plaintiff Peggy Lowman Gause is a citizen and resident of Marion County, State of Florida.

5. Plaintiff Isabella Rose Gause-Rein is a minor under the age of fourteen and resides in Marion County, State of Florida.

6. Patrick Rein resides in Charleston County, South Carolina and is informed and believes that he is the appropriate person to be appointed Guardian ad Litem for his minor daughter pursuant to Rule 17 of the South Carolina Rules of Civil Procedure. A Petition for such appointment is being filed herewith.

7. Upon information and belief, Defendant Ilia Dimitrov Popov is a resident of Colleton County, State of South Carolina.

8. Defendant South Carolina Department of Transportation (hereafter, "SCDOT"), is a governmental agency existing under the laws of the State of South Carolina. Defendant SCDOT is an "agency" within the meaning of the South Carolina State Torts Claim Act, South Carolina Code of Laws (1976), as amended, § 15-78-10, *et seq.*, which Act applies to said Defendant.

9. Defendant South Carolina Department of Public Safety (hereafter, “SCDPS”), is a governmental agency existing under the laws of the State of South Carolina. Defendant SCDOT is an “agency” within the meaning of the South Carolina State Torts Claim Act, South Carolina Code of Laws (1976), as amended, § 15-78-10, *et seq.*, which Act applies to said Defendant.

10. This Court has jurisdiction over all parties.

11. This Court has jurisdiction over the subject matter of this action pursuant to § 15-78-10(b) of the South Carolina Code of Laws (1976), as amended.

12. Venue is proper in Charleston County pursuant to § 15-78-10(b) South Carolina Code of Laws (1976), as amended.

GENERAL FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

13. On May 6, 2011 the Gause family was traveling from Ocala, Florida to Charleston, South Carolina to attend the graduation of Citadel Cadet Patrick Rein.

14. At approximately 2:47 p.m., the Gause family was traveling in the Northbound Lanes of US-17 in Charleston County roughly 0.2 miles from the Colleton County line (“the Edisto River”).

15. Along this particular stretch, US-17 is a four-lane undivided highway with a posted speed limit of sixty miles per hour.

16. The median is three feet wide and is delineated by two solid yellow barrier lines adjacent to both the northbound and southbound lanes of travel, for a total of four solid yellow barrier lines. There are no guardrails or barriers separating the southbound and northbound lanes of travel along this stretch of US-17.

17. On the date and time aforementioned, Defendant Ilia Popov was the owner and operator of a Ford truck bearing South Carolina license tag number P358130 and was traveling in the southbound lanes of US-17 towards Colleton County. Defendant Popov was towing a trailer.

18. Approximately 0.2 miles prior to crossing the Edisto and entering Colleton County, Defendant Ilia Popov crossed the centerline of US-17, thereby entering the northbound lanes of US-17.

19. Upon entering the northbound lanes of US-17, Defendant Ilia Popov's trailer contacted a 2004 Toyota SUV. This contact sent the Toyota across the centerline of US-17 and into the southbound guardrail.

20. Defendant Ilia Popov's truck continued into the northbound lanes of travel of US-17 and struck the Gause family's 2010 Honda in a head-on collision.

21. Rodney Lumsford Gause, the driver of the Gause family vehicle, was pronounced dead at the scene of the accident as a result of the injuries inflicted by the wreck.

22. Elizabeth Lois Gause passed away on May 7, 2011 as a result of the injuries inflicted by the wreck.

23. Plaintiff Peggy Lowman Gause was transported to MUSC where she was in a coma for several weeks before being transported to a rehabilitation center in Brooksville, Florida, where she remains today.

24. Plaintiff Isabella Rose Gause-Rein spent several weeks at MUSC where she underwent surgery to repair her fractured vertebrae. She continues to receive physical therapy and rehabilitation as an outpatient in Ocala, Florida.

WRONGFUL DEATH ACTION
South Carolina Code of Laws § 15-51-10 *et. seq.*

25. Plaintiffs re-allege and incorporate herein by reference each and every allegation and statement contained in the prior paragraphs.

26. Plaintiff Sara M. Delgado, as Personal Representative of the Estates of Elizabeth Lois Gause and Rodney Lumsford Gause, brings a wrongful death action pursuant to the South Carolina Wrongful Death Act, South Carolina Code of Laws § 15-51-10, *et seq.* (1976, as amended), on behalf of and for the benefit of the statutory beneficiaries of Elizabeth Lois Gause and Rodney Lumsford Gause.

27. Elizabeth Lois Gause's statutory beneficiary is her daughter Isabella Rose Gause-Rein.

28. Rodney Lumsford Gause's statutory beneficiaries include his wife Peggy Lowman Gause and daughter Sara M. Delgado.

29. As a direct and proximate result of the negligent, grossly negligent, careless, reckless, willful, wanton and heedless conduct of Defendants, as set forth in Counts I, II and III of the section of Complaint entitled "Grounds of Liability", the statutory beneficiaries of Elizabeth Lois Gause and Rodney Lumsford Gause have suffered serious injuries for which Defendants are liable; such damages are more particularly set forth in the section of the Complaint entitled "Damages."

SURVIVAL ACTION
South Carolina Code of Laws § 15-5-90

30. Plaintiffs re-allege and incorporate herein by reference each and every allegation and statement contained in the prior paragraphs.

31. Plaintiff Sara M. Delgado, as Personal Representative of the Estates of Elizabeth Lois Gause and Rodney Lumsford Gause brings a survival action pursuant to South Carolina Code of Laws § 15-5-90, (1976, as amended), on behalf of the Estates of Elizabeth Lois Gause and Rodney Lumsford Gause.

32. As a direct and proximate result of the negligent, grossly negligent, careless, reckless, willful, wanton and heedless conduct of Defendants, as set forth in Counts I, II and III of the section of the Complaint entitled "Grounds of Liability," Elizabeth and Rodney Gause suffered injuries to their person including, but not limited to, severe pain and discomfort; shock and terror; and, mental and emotional distress and anguish in the time before their deaths.

33. Elizabeth and Rodney Gause's claims for damages survive their deaths and inure to the benefit of their Estates.

34. As a direct and proximate result of the negligent, grossly negligent, careless, reckless, willful, wanton and heedless conduct of Defendants, as set forth *infra*, the Estates of Elizabeth and Rodney Gause have become liable for substantial sums of money for medical services and have become liable for large sums of money for funeral and other related services.

GROUND'S OF LIABILITY

COUNT I

NEGLIGENCE, GROSS NEGLIGENCE, RECKLESSNESS – DEFENDANT POPOV

35. Plaintiffs re-allege and incorporate herein by reference each and every allegation and statement contained in the prior paragraphs.

36. Defendant Ilia Popov had a duty to drive safely and to obey all traffic laws.

37. Defendant Ilia Popov was negligent, grossly negligent, careless, reckless, willful, wanton and heedless in one or more or all of the following particulars whether singularly, concurrently, or in combination, to wit:

- a. In failing to use the degree of care and caution that a reasonably prudent person would have used under the circumstances then and there prevailing;
- b. In failing to keep his vehicle under proper control;
- c. In driving too fast for the conditions then and their prevailing;
- d. In violating section 56-5-2920 of the Code of Laws of South Carolina, as amended, in that the Defendant drove his vehicle in a reckless manner as to indicate either a willful or wanton disregard for the safety of others;
- e. In violating section 56-5-5130 of the Code of Laws of South Carolina, as amended, in that the Defendant's vehicle and trailer were not in proper working order, the operation of which endangered the rights and safety of the driving public; and,
- f. In such other and further particulars as the evidence may show.

38. As a direct and proximate result of the negligent, grossly negligent, careless, reckless, willful, wanton and heedless conduct of Defendant Ilia Popov, Plaintiffs have suffered serious injuries and damages for which this Defendant is liable; such damages are more particularly set forth in the section of the Complaint entitled "Damages."

COUNT II
NEGLIGENCE, GROSS NEGLIGENCE, RECKLESSNESS – DEFENDANT SCDOT

39. Plaintiffs re-allege and incorporate herein by reference each and every allegation and statement contained in the prior paragraphs.

40. Defendant SCDOT has the exclusive authority to regulate the traffic and travel along US-17, subject to the laws of the State of South Carolina.

41. Defendant SCDOT had a duty to maintain US-17, including the portion of US-17 where the Gause family wreck occurred, in a reasonably safe condition for the passage of the public.

42. Defendant SCDOT was negligent, grossly negligent, careless, reckless, willful, wanton and heedless in that it inadequately maintained the above-stated portion of US-17 in one or more of the following particulars whether singularly, concurrently, or in combination, to wit:

- a. In deviating from uniform and accepted standards for median design;
- b. In failing to take corrective measures to widen the median;
- b. In failing to erect a guardrail or median barrier to minimize or prevent median crossovers;
- c. In failing to erect signage to adequately warn motorists of the inadequate and defective median;
- d. In erecting signage that permitted and authorized an unsafe level of speed;
- e. In deviating from uniform and accepted standards for traffic control signals;
- f. In failing to implement a program to review and revise existing design plans to identify and correct defective highway designs and signage; and,
- g. In such other and further particulars as the evidence may show.

43. Prior to May 6, 2011, Defendant SCDOT and its employees, officers and agents, through normal and regular highway maintenance projects along the above-stated portion of US-17, knew or should have known of the defective condition of US-17 at the site of the incident.

44. Prior to May 6, 2011, Defendant SCDOT and its employees, officers and agents had actual knowledge of the defective condition of US-17 at the site of the incident.

45. The defective condition of US-17 existed for so long a period of time prior to the incident described above that it should have been corrected by Defendant SCDOT in the exercise of reasonable care and diligence.

46. Despite having actual and/or constructive notice of the defective condition of the above-stated portion of US-17, Defendant SCDOT failed to take any reasonable steps to remedy such defective condition.

47. As a direct and proximate result of the negligent, grossly negligent, careless, reckless, willful, wanton and heedless conduct of Defendant SCDOT, Plaintiffs have suffered serious injuries and damages for which this Defendant is liable; such damages are more particularly set forth in the section of the Complaint entitled "Damages."

COUNT III
NEGLIGENCE, GROSS NEGLIGENCE, RECKLESSNESS – DEFENDANT SCDPS

48. Plaintiffs re-allege and incorporate herein by reference each and every allegation and statement contained in the prior paragraphs.

49. A frequent and severe crash type is the median-crossing crash, where a vehicle departs its traveled way to the left, traverses the separation between the highway's directional lanes, and collides with a vehicle traveling in the opposite direction.

50. The primary measure for preventing median-crossing crashed is through the use of median barriers.

51. The South Carolina Department of Public Safety is charged with the duty of collecting accident statistics and identifying accident prone areas.

52. Defendant SCDPS had actual knowledge that the stretch of US-17 that was the site of the Gause accident was prone to median crossing crashes through several highly publicized median-crossovers on and along the same stretch of US-17.

53. Defendant SCDPS had constructive knowledge that the aforementioned stretch of US-17 was defectively designed.

54. Despite having actual and/or constructive notice of the defective condition of the above-stated portion of US-17, Defendant SCDPS failed to communicate this risk to Defendant SCDOT.

55. Defendant SCDPS was negligent, grossly negligent, careless, reckless, willful, wanton and heedless in that it inadequately collected accident data and inadequately identified accident prone areas in one or more of the following particulars whether singularly, concurrently, or in combination, to wit:

- a. In failing to collect accident data pertaining to median-crossing crashes;
- b. In promulgating South Carolina Traffic Collision Report Forms that fail to list median-crossover as a factor in any collision;
- c. In failing to perform any studies on median-crossing crashes; and,
- d. In failing to identify those areas, including the area of US-17 which was the site of the Gause accident, as areas that are prone to median-crossing crashes.

56. As a direct and proximate result of the negligent, grossly negligent, careless, reckless, willful, wanton and heedless conduct of Defendant SCDOT, Plaintiffs have suffered serious injuries and damages for which this Defendant is liable; such damages are more particularly set forth in the section of the Complaint entitled "Damages."

DAMAGES

57. Plaintiffs re-allege and incorporate herein by reference each and every allegation and statement contained in the prior paragraphs.

58. As a direct and proximate result of the of the negligent, grossly negligent, careless, reckless, willful, wanton and heedless conduct of Defendants, decedents Elizabeth Lois Gause and Rodney Lumsford Gause suffered injuries to their person including, but not limited to, severe pain and discomfort; shock and terror; and, mental and emotional distress and anguish in the time before their deaths. Elizabeth and Rodney Gause's claims for damages survive their deaths and inure to the benefit of their Estates.

59. As a direct and proximate result of the of the negligent, grossly negligent, careless, reckless, willful, wanton and heedless conduct of Defendants, the statutory beneficiary of Elizabeth Lois Gause has suffered damages in the form of pecuniary loss; mental shock and suffering; wounded feelings; grief and sorrow; loss of companionship and deprivation of the use and comfort of her society, including her experience, knowledge and judgment in managing the affairs of herself and her beneficiary; loss of her ability to earn money for the support, education, maintenance, care and protection of her daughter Isabella; funeral and burial expenses; and, estate administration expenses.

60. As a direct and proximate result of the negligent, grossly negligent, careless, reckless, willful, wanton and heedless conduct of Defendants, the statutory beneficiaries of Rodney Lumsford Gause have suffered damages in the form of pecuniary loss; mental shock and suffering; wounded feelings; grief and sorrow; loss of companionship and deprivation of the use and comfort of his society, including his experience, knowledge

and judgment in managing the affairs of himself and his beneficiaries; loss of his ability to earn money for the support, maintenance, care and protection of his beneficiaries; funeral and burial expenses; and, estate administration expenses.

61. As a direct and proximate result of the negligence and gross negligence of the Defendants, Plaintiffs Peggy Lowman Gause and Isabella Rose Gause-Rein have incurred the following damages:

- a. Expenses for past, present, and future medical care and treatment;
- b. Serious injuries, some of which are permanent;
- c. Continuous physical pain and suffering, mental anguish, emotional upset, fear, anger and frustration;
- d. Permanent disfigurement;
- e. Permanent diminished capacity to enjoy life;

62. Plaintiffs are further entitled to exemplary or punitive damages against Defendant Ilia Popov as a result of the conscious indifference exhibited by those acts of Defendant Popov which were reckless, willful and wanton in nature.

WHEREFORE, Plaintiffs pray for judgment against the Defendants as follows:


- A. For actual damages according to proof;
- B. For compensatory damages as permitted by law;
- C. For statutory damages as permitted by law;
- D. For punitive damages against Defendant Ilia Popov as determined by the trier of fact;
- E. For all Costs of Court; and,
- F. For such other relief as this Honorable Court may deem just and equitable.

JURY TRIAL DEMANDED

Trial by jury is demanded as to all issues set forth herein to the extent permitted
by law.

Respectfully submitted,

DELL & BRIGHAM


John C. Bell, Jr.
South Carolina Bar No. 1427314237
Andrew P. Copenhaver
South Carolina Bar No. 78263
Post Office Box 1547
Augusta, Georgia 30903-1547
(706) 722-2014

November 9, 2011
Augusta, Georgia

COUNSEL FOR PLAINTIFFS

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SARA M. DELGADO, as Personal
Representative of the ESTATES OF
ELIZABETH LOIS GAUSE and
RODNEY LUMSFORD GAUSE,
PATRICK REIN, as Guardian ad Litem
for ISABELLA ROSE GAUSE-REIN, and
PEGGY LOWMAN GAUSE,

Plaintiffs,

v.

ILIA DIMITROV POPOV, SOUTH
CAROLINA DEPARTMENT OF
TRANSPORTATION a/k/a SCDOT and
SOUTH CAROLINA DEPARTMENT OF
PUBLIC SAFETY a/k/a SCDPS,

Defendants.

COURT OF COMMON PLEAS
THE NINTH JUDICIAL CIRCUIT
CASE NO.: ~~2011 CP 10 8448~~

2014-CP-10-7742

FILED
JULIE J. ARISTARQUE
CLERK OF COURT
2016 JAN 15 AM 11:11

**CONSENT ORDER DISMISSING
SOUTH CAROLINA DEPARTMENT
OF PUBLIC SAFETY AND SOUTH
CAROLINA DEPARTMENT OF
TRANSPORTATION ONLY**

IT APPEARING that the Plaintiffs and Defendants South Carolina Department of Transportation and South Carolina Department of Public Safety, have resolved all issues in dispute between them in the case at bar.

IT IS THEREFORE ORDERED that Defendants South Carolina Department of Transportation and South Carolina Department of Public Safety are hereby DISMISSED as party defendants with prejudice.

This case shall continue as to all other claims and all other parties.

SO ORDERED, this the 11th day of January, 2016.

Judge, Court of Common Pleas
Charleston County, South Carolina
Ninth Judicial Circuit

I SO CONSENT:

[REDACTED]

John C. Bell, Jr., Esquire
Bell & Brigham
P.O. Box 1547
Augusta, GA 30903-1547
Counsel for Plaintiffs

Dated: Dec. 30, 2015

I SO CONSENT:

[REDACTED]

Lisa A. Reynolds, Esquire
Anderson Reynolds & Stephens, LLC
PO Box 87
Charleston, SC 29402
Counsel for South Carolina Department of
Transportation and the South Carolina Department
Of Public Safety

Dated: Jan. 5, 2016

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

February 17, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T93577
Date of Occurrence: May 7, 2011
Claimant: Gause, Elizabeth Lois (Wrg) Dalgado, Sara (As PR
Date Closed: February 17, 2016


Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 2,596.32

If you should have any questions, please contact us.

Sincerely,


Dennis T. Elledge
Manager, Tort Claims Department

/dte

RECEIVED
FEB 19 2016
SCDPS
Office of General Counsel

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Lataya Dickie,

Plaintiff,

v.

South Carolina Department of Public Safety,
and Tellis Green, in his individual capacity,

Defendants.

IN THE COURT OF COMMON PLEAS
IN THE FIFTH JUDICIAL CIRCUIT
CASE NO. 2014-CP-40- 7907

COMPLAINT
(Jury Trial Demanded)

Plaintiff, complaining of Defendants herein, would respectfully allege as follows:

1. Lataya Dickie ("Plaintiff") is an African American female who was recently employed with the South Carolina Department of Public Safety ("SCPDS") until her unlawful termination in January of 2014. Plaintiff resides in Orangeburg, South Carolina but while employed with Defendant worked at its various offices throughout the state of South Carolina.
2. Defendant SCDPS is a state agency of South Carolina, with its headquarters located in Richland County, South Carolina and various offices located throughout the state.
3. Defendant Tellis Green ("Green") is, upon information and belief, currently employed with SCPDS and resides in Dorchester County.
4. Plaintiff appropriately filed charges asserting violations of Title VII of the 1991 Civil Rights Act with the South Carolina Human Affairs Commission and the Equal Employment Opportunity Commission ("EEOC") and has received her Notice of Right to Sue.
5. In 2008, Plaintiff became employed with SCDPS and worked her way through the ranks to become a Senior Officer for the State Transport Police Division at the time of her

unlawful termination. At that time, Plaintiff's de facto supervisor was Green, who is male. Green and Plaintiff reported to a Colonel, who is also male.

6. As a Senior Officer, Plaintiff was charged with handling transport violations and escorting large trucks, among other daily tasks.

7. Prior to January 2013, Plaintiff began experiencing harassment from Green in the form of verbal abuse and major workplace hostility. His actions were so egregious that other employees took note of his outbursts towards Plaintiff, which were conducted in front of Green's subordinates and Plaintiff's peers, including derogatory remarks to Plaintiff about her job performance and capabilities. Upon information and belief, before targeting Plaintiff, Green treated other female subordinates in the same manner. He did not treat male employees in such a way.

8. Because Green's behavior continued to occur, causing Plaintiff much stress and undue hardship in completing her daily tasks, Plaintiff complained to their direct supervisor outlining Green's negative treatment towards Plaintiff because of her gender. No action was taken; thus, Plaintiff was forced to file a formal complaint against Green through SCDPS's Office of Professional Responsibility ("OPR").

9. After OPR received Plaintiff's formal complaint against Green for harassment based upon her gender, Plaintiff and Green's supervisor intervened by conducting a meeting with Green, Plaintiff, and another male supervisor. Plaintiff reiterated her concerns verbally during this meeting in early 2013 and asked for a transfer of supervisors. Her request was denied.

10. Subsequently and within weeks, Green issued Plaintiff a written disciplinary form for pretextual reasons in retaliation for her complaint. Plaintiff's workplace environment was

fraught with tension by Green, and she constantly walked on eggshells to avoid his disciplinary wrath and harassment.

11. As a prime example of relentless discipline and harassment by Green, Plaintiff was involved in a state transport oversize vehicle escort in April of 2013, for which she was ultimately scrutinized for performing.

12. Upon information and belief, there are no SCDPS policies regarding the escort services, how they are to be arranged, how meals and tips are permitted, and how employees who perform escorts, like Plaintiff, are to be paid. Prior to conducting her April 2013 escort, Plaintiff and other employees experienced issues receiving valid payment from the drivers. As a result, Plaintiff personally incurred a bank fine because a check payment was not honored due to the driver writing a bad check. Because of the payment issues Plaintiff and others experienced in the past, Plaintiff was in the habit of cashing her checks at various truck stops, which guaranteed payment even on bad checks; however, the tradeoff was that Plaintiff paid a small service fee.

13. At the conclusion of Plaintiff's escort services involving a tractor trailer truck in April 2013, Plaintiff and her colleagues reported to the driver to collect their earnings. The driver was able to pay some employees¹ through one check and another employee with multiple checks. Plaintiff was obligated to take multiple checks. Because Plaintiff would pay service fees to guarantee her payment and avoid personal banking fines, Plaintiff would also lose money on the transactional fees of cashing multiple checks; as a result, the driver volunteered to pay for Plaintiff's transactional fee.

¹ Upon information and belief, and as a result of cashing the individual checks at their personal banks, the single checks bounced, and the employees were penalized and did not collect payment on the escort services.

14. Shortly after the escort, Plaintiff was placed under investigation by Green and her other male supervisors for allegedly violating SCDPS policy as it related to taking additional money to cash the driver's checks. Upon information and belief, Plaintiff's male colleagues have accepted meals and tips from drivers for oversize escort services but were never placed under investigation or disciplined for the same.

15. This investigation lasted for several months. During that time, Plaintiff could no longer assist with escorts, but she still worked under Green.

16. Thereafter, on or around June 14, 2013, Plaintiff was again charged by Green and her male supervisors with disciplinary action and placed under investigation stemming from an event that transpired at a weigh station with Green during June. During that time, Plaintiff was working on her violations from a position outside of the weigh station at another supervisor's instruction. Yet, Green cornered Plaintiff and directed her to return to the weigh station to issue violations because Green could physically be present in the same building with Plaintiff.

17. Plaintiff followed Green's command and returned to the weigh station and simultaneously asked the other supervisor for directive in moving her location. He instructed her that she was appropriately taking down violations outside of the weigh station. Green became furious that Plaintiff asked for more instruction from the other supervisor.

18. Following this chain of events and because Plaintiff was incurring harassment and disparagement from Green on a daily basis because of her gender, Plaintiff, on or around June 14, 2013, printed some EEOC paperwork to file a Charge of Discrimination. She placed the paperwork on her work desk in the weigh station. When she attempted to leave the weigh station to take her lunch break, Green accosted her at her desk, tried to grab Plaintiff's paperwork, including her EEOC papers, assaulted Plaintiff, and tried to block her exit from the building.

19. As a result of this incident, another investigation ensued because of Green's actions and harassment of Plaintiff. In October of 2013, Plaintiff inquired into the status of her April and June investigations and was informed that her April investigation was completed and that no action would be taken; however, in January of 2014, over six months after the June 2013 incident involving Green, Plaintiff was notified that she was being terminated for engaging in conduct unbecoming of a state employee as it related to the April 2013 escort and improper conduct involving Green in June of 2013. Upon information and belief, Green was not disciplined.

20. Less than six months after Plaintiff made her complaints internally, she was retaliated against, placed under investigation, issued written discipline, forced to continue to suffer harassment at Green's hands, and ultimately terminated for pretextual reasons.

FOR A FIRST CAUSE OF ACTION
AGAINST THE DEFENDANT SOUTH CAROLINA DEPARTMENT OF PUBLIC
SAFETY
(Defamation of Character)

21. Plaintiff realleges the paragraphs above as if set forth herein verbatim, where not inconsistent herewith.

22. Plaintiff is a private figure.

23. Plaintiff was slandered by oral and written statements as well as by actions of Defendant SCDPS.

24. These statements and actions made against Plaintiff were made by agents and servants of Defendant SCDPS acting in the course and scope of their employment under the circumstances alleged above.

25. These statements and actions are false.

26. These statements and actions, including false accusations that Plaintiff was incapable of performing her job and violated SCDPS policies, injured Plaintiff and have defamed Plaintiff in her trade, business, or profession.

27. By the false statements and actions made against Plaintiff by agents and servants of Defendant SCDPS acting in the course and scope of their employment, Defendant SCDPS defamed Plaintiff, and the defamation was published to Plaintiff's colleagues, friends, and possibly others.

28. The false statements and actions were not privileged, as there was no duty to furnish the information to the recipients, and they circulated to persons other than Plaintiff and her superiors and injured her professional reputation.

29. The statements and actions made by the agents and servants of Defendant SCDPS acting within the course and scope of their employment, together with the actions that Defendant SCDPS took, including the actions which proximately caused Plaintiff's termination, are defamatory *per se*.

30. That such statements and actions were false, known to be false and given with reckless disregard for the truth, were maliciously made and have proximately caused Plaintiff's severe and continuing damages including the loss of her job, loss of income, loss of earning capacity, and future income and benefits. Further, Plaintiff has sustained embarrassment, humiliation, damage to her reputation, emotional distress and pain and suffering which will continue into the future.

FOR A SECOND CAUSE OF ACTION
AGAINST SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
(Race Discrimination in Violation of Title VII)

31. Plaintiff realleges the paragraphs above as if set forth herein verbatim, where not inconsistent herewith.

32. The actions taken by the Defendant SCDPS, as described herein, violate Plaintiff's rights under Title VII of the 1991 Civil Rights Act and amendments thereto.

33. The Defendant SCDPS unlawfully targeted Plaintiff to have her disciplined, charged with alleged employee violations, and ultimately to have Plaintiff terminated from her position because she is a female.

34. The actions taken against Plaintiff by the Defendant SCDPS were disproportionate and unfair when compared to actions taken against male, similarly situated employees because Plaintiff was the subjected to biased disciplinary action and ultimately terminated; Plaintiff's gender was the proximate cause of her treatment and termination by Defendant SCDPS's agents and employees, acting within the course and scope of their duties, which violated the Civil Rights Act of 1964, for which the Defendant SCDPS is liable.

35. As a direct and proximate result of the violations of her civil rights under Title VII by the Defendant SCDPS, Plaintiff suffered the loss of her job and sustained permanent impairment of her earning capacity. Plaintiff is entitled to an award of actual damages for the acts of the Defendant through its agents and employees, for reasonable attorneys' fees, and costs of this action.

FOR A THIRD CAUSE OF ACTION
AGAINST THE DEFENDANT SOUTH CAROLINA DEPARTMENT OF PUBLIC
SAFETY
(Retaliation in Violation of Title VII)

36. Plaintiff realleges the paragraphs above as if set forth herein verbatim, where not inconsistent herewith.

37. Once Plaintiff made internal complaints of her disparate treatment, she was retaliated against for the same by virtue of receiving unwarranted disciplinary actions that ultimately led to her termination.

38. Green and others, agents and employees of Defendant SCDPS, who took such retaliatory action against Plaintiff knew of Plaintiff's complaints to Defendant before taking such action against Plaintiff.

39. The actions taken against Plaintiff by the Defendant SCDPS were taken as a result of Plaintiff's protected complaints and were the proximate cause of her treatment and removal by Defendant SCDPS's agents and employees, acting within the course and scope of their duties, which violated Title VII of the Civil Rights Act of 1991, for which the Defendant SCDPS is liable.

40. As a direct and proximate result of the violations of her civil rights under Title VII by the Defendant SCDPS, Plaintiff suffered the loss of her job and sustained permanent impairment of her earning capacity. Plaintiff is entitled to an award of actual damages for the acts of the Defendant SCDPS through its agents and employees, for reasonable attorneys' fees, and costs of this action.

FOR A FOURTH CAUSE OF ACTION
AGAINST THE DEFENDANT TELLIS GREEN
(Assault)

41. Plaintiff realleges the paragraphs above as if set forth herein verbatim, where not inconsistent herewith.

42. Green assaulted Plaintiff in June of 2013 when he accosted her at her desk, attempted to take papers from Plaintiff's physical possession, placed in hands directly in front of Plaintiff's face, and physically prevented Plaintiff from leaving her work station.

43. During this exchange, Plaintiff reasonably feared that Green would physically harm Plaintiff because he was within inches of Plaintiff's face, was angry, and would not let her leave her desk.

44. Additionally, Green's conduct was so severe that an onlooker at the weigh station shouted out, warning Green not to hit Plaintiff.

45. As a direct and proximate result of Green's unlawful actions, Plaintiff suffered emotional distress and pain and suffering. Plaintiff is entitled to an award of actual punitive damages for the malicious and intentional acts of the Defendant Green, for reasonable attorneys' fees, and costs of this action.

WHEREFORE, Plaintiff prays for judgment against the Defendant SCDPS herein for actual damages in an amount to be determined by a jury as well as an award of actual and punitive damages of the willful, intentional and malicious treatment given to her by Defendant Green. Plaintiff also prays for attorneys' fees, where applicable, for costs of this action, and any such other and further relief as this Court may deem just and proper from both Defendants.

[Signature Block on Following Page]

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

BY: 

J. Lewis Cromer (#1470)
Ashley C. Story (#100578)
Ryan K. Hicks (#100941)
1418 Laurel Street, Suite A (29201)
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Fax 803-799-9533

Attorneys for Plaintiff

December 18, 2014
Columbia, South Carolina

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Lataya Dickie,

Plaintiff,

vs.

South Carolina Department of Public Safety
and Tellis Green, in his individual capacity,

Defendants.

Case No.: 3:15-cv-00009-MBS-SVH

**JOINT STIPULATION OF
DISMISSAL WITH PREJUDICE**

PURSUANT TO RULE 41(a)(1), FRCP, and by and through their respective undersigned counsel, Plaintiff Lataya Dickie and Defendants South Carolina Department of Public Safety and Tellis Green hereby stipulate to dismiss all causes of action against Defendants with prejudice. The parties will bear their respective costs and fees.

PLAINTIFF SO STIPULATES:

BY: s/ Ashley C. Story
J. Lewis Cromer (#362)
Ashley C. Story (#11505)
J. Lewis Cromer & Associates, LLC
P.O. Box 11675
Columbia, SC 29211
(803) 799-9530 - Tel
(803) 799-9533 - Fax
Attorneys for Plaintiff

DEFENDANTS SO STIPULATES:

BY: s/Eugene H. Matthews
Eugene H. Matthews (#7141)
Richardson Plowden & Robinson, PA
P.O. Drawer 7788
Columbia, SC 29202
(803) 771-4400 - Tel
(803) 779-0016 - Fax
Attorneys for Defendants

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

June 21, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T97228
Date of Occurrence: January 15, 2014
Claimant: Dickie, Lataya
Date Closed: January 11, 2016

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	5,000.00
Expenses Paid:	\$	7,637.41

If you should have any questions, please contact us.

Sincerely,

Dennis T. Elledge
Manager, Tort Claims Department

/dte

COPY

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

ARTHUR DILL,

Plaintiff,

v.

RICKY LAMAR CHURCH and SOUTH
CAROLINA DEPARTMENT OF
PUBLIC SAFETY,

Defendants.

FILED IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

2014 FEB 25 10 25 AM No.: 2014-CP-32-_____

SETH A. GARRIC
CLERK OF COURT**COMPLAINT**

(Jury Trial Demanded)

2014CP3200694

Plaintiff Arthur Dill (hereinafter referred to as "Plaintiff"), by and through his undersigned counsel and pursuant to the South Carolina Rules of Civil Procedure hereby alleges as follows:

PARTIES AND JURISDICTION

1. That the Plaintiff is a citizen and resident of Lexington County, South Carolina.
2. That upon information and belief, Defendant Ricky Lamar Church (hereinafter referred to as "Church") is a citizen and resident of Lexington County, South Carolina.
3. That upon information and belief, Defendant South Carolina Department of Public Safety (hereinafter referred to as "SCDPS") is a governmental agency organized and existing under the laws of the State of South Carolina, as defined in § 15-78-10 et seq. of the Code of Laws of South Carolina (1985), as annotated. Defendant SCDPS maintains its principal place of business at 10311 Wilson Boulevard, Blythewood, South Carolina 29016. As an agency of the State, SCDPS is subject to the jurisdiction of this Court.

4. At all times mentioned herein, Defendant Church was an employee of the South Carolina Department of Public Safety. At all relevant times thereafter, Defendant Church was acting individually and as an employee for the South Carolina Department of Public Safety.

5. The Honorable Court has jurisdiction of the claims and parties and venue is appropriate in Lexington County, South Carolina, pursuant to §§ 15-7-30 and 15-78-100(b) because the most substantial part of the acts giving rise to this action occurred in Lexington County.

FACTS

6. That at all relevant times hereinafter mentioned, Defendant Church was the operator of a 2008 Ford car bearing the license tag number HP4002 and owned by the State of South Carolina.

7. That at all relevant times hereinafter mentioned, Plaintiff was the operator of a 2001 Mitsubishi Eclipse, owned by Dill's Used Cars.

8. That on or about August 16, 2013, at approximately 11:00 P.M., Plaintiff was driving home from a Christian singles dance and was heading South on US 1, in Lexington County, in the above-described vehicle.

9. Defendant Church, an employee of Defendant SCDPS, was driving an automobile owned by or assigned to Defendant SCDPS and was traveling North on US 1.

10. Defendant Church suddenly crossed the centerline of US 1 and crossed over into Plaintiff's lane of travel and struck Plaintiff's automobile with the driver's side of Defendant's vehicle.

11. That as a direct and proximate result of the collision, Plaintiff suffered and continues to suffer serious and severe physical and mental injuries, great pain and suffering, loss

of enjoyment of life, and impairment of health and bodily efficiency. The Plaintiff is informed and believes that the injuries sustained as a result of the collision are of a serious and permanent nature, which have caused impairments for which he continues to receive medical treatment.

FOR A FIRST CAUSE OF ACTION
(Negligence)

12. That each and every allegation set forth above in this Complaint is re-alleged and incorporated herein by reference.

13. That the Defendants were negligent, grossly negligent, reckless, and acted in willful and wanton disregard of and in breach of duty to the Plaintiff in one or more of the following particulars, to wit:

- a) In failing to maintain a proper lookout;
- b) In failing to keep the defendant's vehicle under proper control;
- c) In failing to take any evasive action, by any means, to keep from striking the Plaintiff's vehicle;
- d) In turning improperly;
- e) In failing to properly observe the road and traffic conditions;
- f) In failing to drive the defendant's automobile left of the centerline;
- g) In operating said motor vehicle with complete disregard for the right and safety of others, including that of the Plaintiff; and
- h) In failing to use the degree of care and caution that a reasonably prudent person would have used under the existing circumstances.

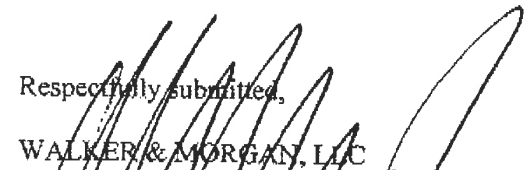

14. That as a direct and proximate result of the Defendant's aforementioned ~~negligence, gross negligence, recklessness, willfulness, and wantonness,~~ Plaintiff suffered serious and severe injuries which have caused and will continue to cause Plaintiff to incur

significant medical expenses, past, present and future and to endure much physical pain, suffering, mental anguish, emotional distress and impairment of health and bodily efficiency.

WHEREFORE, Plaintiffs pray for judgment against Defendant in a sum sufficient to adequately compensate for actual damages, for such punitive damages as a jury may reasonably award, for the costs of this action and for such other and further relief as this Court may deem just and proper.

Respectfully submitted,

WALKER & MORGAN, LLC



William P. Walker, Jr., Esquire
135 East Main Street (29072)
Post Office Box 949
Lexington, South Carolina 29071
T: (803) 359-6194
F: (803) 957-4584
BW@walkermorgan.com

Lexington, South Carolina
February 25, 2014

FILED

COPY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON) IN THE COURT OF COMMON PLEAS

Arthur Dill,

Plaintiff,

v.

Ricky Lamar Church and South Carolina)
 Department of Public Safety,)
)
 Defendants.)

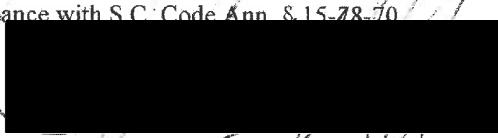
Civil Action No. 2014-CP-32-00694

CONSENT ORDER OF DISMISSAL

This matter comes before the Court upon Defendants' Motion for Summary Judgment, asserting Defendant Ricky Lamar Church is not a proper Defendant. Plaintiff filed this civil action against the South Carolina Department of Public Safety and its employee, Highway Patrol Trooper Ricky Lamar Church, following an automobile collision occurring on August 16, 2013. The Plaintiff alleged that Defendant Church was possibly acting outside the course and scope of his employment. However, now that discovery is over, the Plaintiff agrees that Defendant Church was acting in the course and scope of his employment at the time of this accident, and therefore, agrees to dismiss Defendant Ricky Lamar Church, with prejudice.

IT IS THEREFORE ORDERED that Defendant Ricky Lamar Church is dismissed from this action with prejudice, in accordance with S.C. Code Ann. § 15-78-70.

IT IS SO ORDERED.


 The Honorable J. Mark Hayes, II
 Presiding Judge, Eleventh Judicial Circuit

Lexington, South Carolina

5/12, 2015

FILED

2015 MAY 12 P 0:17

BETH A. CARRIG
CLERK OF COURT
LEXINGTON, SC

CONSENT ORDER OF DISMISSAL
Civil Action No. 2014-CP-32-00694
Page Two

WE CONSENT:

[REDACTED]

William P. Walker, Jr., Esquire
Walker & Morgan, LLC
135 East Main Street (29072)
Post Office Box 949
Lexington, South Carolina 29071

Counsel for Plaintiff

May 12, 2015

WE SO MOVE:

[REDACTED]

James M. Davis, Jr., Esquire
Todd R. Flippin, Esquire
Davidson & Lindemann, P.A.
1611 Devonshire Drive, 2nd Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568

Counsel for Defendants

May 12, 2015

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

2012-CP-23-1083

James Loftin

Plaintiff,

VS.

South Carolina Department of Public
Safety, and Trooper T.J. Genco,
Defendants.

COMPLAINT

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
JAN 31 2013

2012 FEB 13 P 2:13

Comes Now the Plaintiffs Complaint against the South Carolina Department of

Public Safety and State Trooper T.J. Genco, The Plaintiff states he resides at 4302
Edwards

Road, Apt 4-CTaylors, South Carolina 293687, Phone (864) 706-2598 in Greenville
County South Carolina.

1. The Plaintiff states on February 04, 2012 in Greenville County next to GSP
airport on Hiway 14 one mile before I-85, The plaintiff, Plaintiffs daughter-in-law
(Shemika

Porter) and her sister (Tonya Jackson) and Plaintiffs grandson (Ricky Porter III) who is 5
years old. The plaintiff is white male and other 3 persons in the car are black. The plaintiff
was taking his grandson to church basket ball game at church.

2. The plaintiff states that Trooper Genco had car in middle road stopped and just
turn

his blue lights out when the plaintiff went by the Trooper Genco. The Trooper Genco
went by the plaintiffs car and looked over at the plaintiff and then Trooper Genco got
behind plaintiff pull him over, Trooper Genco said he pull the plaintiff over because of
the cover over the plaintiffs lic. plate It was only clear cover over tag, tag was clear.

Page
1 of 5

3. The plaintiff states the Trooper Genco ask the Tonya Jackson in the back seat to open her door, then he said to open the other back door where the plaintiffs grandson was sitting in car seat. Trooper Genco claims seat was wrong and all, and Trooper Genco started reaching around the car seat that 5 year old child was in. Trooper Genco touch the child on the leg, back, and butt, also moved the child around in the seat and was touching the child to as a child molester would do a child. Trooper Genco had no rights touching the child in any form or matter . The touching was act of molesting a child.

4. The plaintiff states he was pulled over by Trooper Genco because he was with two black females in his car and black child. Trooper Genco thought drugs was in the car because the plaintiffs car was searched by Trooper Genco by Trooper opening all doors looking in the car, and excuse to touch the plaintiffs grandson.. The ONLY reason the plaintiff was pull over because of his differant races people in car.

5. The plaintiff states the reason Trooper Genco stoped him because of black and people in the car. This was a stop that violated the plaintiffs consitution rights to the color of the persons skin.

6. The plaintiff states only reason Trooper Genco seached the car was so he could touch the minor child and be around the child. This is what the Troopers actions look like. Plaintiff states the child was crying out loud when the Trooper Genco was touching the child and child never stop crying after that.

7. The plaintiff could not say thing to the Trooper for his actions because Plaintiff felt the Trooper could and would arrest the plaintiff for some reason other as to anything the Trooper had all power over the Plaintiff and persons in his

car at that time.

8. The plaintiff states the South Carolina Department of Public Safety also known as the South Carolina Highway Patrol has not properly train its Troopers as to Trooper Genco. There has been Troopers charged with child porn on their computers, assaulting each other over their wives, Troopers holding off Police Officers in his home, Troopers arrested for DUI, The South Carolina Public Safety Has had so many Troopers arrested for crimes. This shows that all troopers are not trained, and being supervised properly.

9. The plaintiff states that Department of Public Safety also known as Highway Patrol has

fail to suspend Trooper Genco because the plaintiff filed complaint with Trooper Genco captains and headquarters in Columbia, South Carolina. The Patrol has fail to protect children from Trooper Genco for anyone who touch child for any reasons has problem.

10. The plaintiff ask that this Court Order investigation into all Troopers and the South Carolina Department of Public Safety because too many troopers committing crimes against people. That this court order the Department of Justice to look into the plaintiff's civil rights being violated as well as the public.

11. The plaintiff ask this court to order the State Grand Jury to look into Trooper Genco

and South Carolina Department of Public Safety. This court can clearly see the Troopers in South Carolina is committing too many crimes.

12. The Plaintiff ask this court to order Trooper Genco from coming around the plaintiff and other family members, and plaintiff's grandson.

13. The plaintiff ask this court to order arrest, or warrant for Trooper Genco for his conduct, and touching of the child in which it was crime.

Page
3 of 5

13.. The plaintiff ask that this court order the defendants, Trooper Genco and South Carolina Department of Public Safety also known as Hiway Patrol to pay the Plaintiff the sun of (\$500.000) five Hundred thousand dollars each, and pay the persons and plaintiffs grandson the same

14. The plaintiff states that defendants violated his consitution rights and his grandson and daughter-in-law and her sister. The South Carolina Public safety has fail to protect them from allowing Trooper Genco to patrol the hiways of South Carolina.

15. The Plaintiff states that the Seat belt law and child seat laws are unconsitution and do not save lives. The seat belts laws are just way for State of South Carolina to make money and people die in car accidents with seat belts on and child seats. The State of South Carolina and Troopers have no right to ticket anyone without seat belt. It is like motorcycle helment law, You should have right to wear seat belt are not its you consitution right. as to helment for motorcycle.

THEREFORE; The plaintiff ask this Honorable Court to not stand for this kind of mockery


to stand and that the defendants are not above the Law. That investigation into defendants and warrant for Trooper Genco and let jury deside if he is guilty are not, and award the plaintiff his complaint, and any other relief this court deems as just. This court rule that seat belt and child seats are unconsitution and you have right to wear seat belt are not as to South Carolina motorcyle helment law. Plaintiff be granted the sum of (500,00(Five Hundred thousand dollars from both defendants for there actions for pain, embrassment, humulation, and emotional stress.

FUTHERMORE; The plaintiff had his seat belt on and took seat belt off when the Trooper Genco stopped the plaintiff. The minor child was proper fasten in the seat belt

and child was in seat belt as well as child seat and was in there as by State Law.

The Trooper Genco just ticket the plaintiff because of the plaintiffs color and females in the car color as black and white. Trooper also ticket the child seat so he would have excuse to touch the child and be around the child. The traffic stop was not legal and violated the plaintiffs rights to search, and all.

Page
5 of 5


James Loftin
4302 Edwards Road, Apt. 4-C
Taylors, South Carolina 29687
Phone (864) 706-2598

13th day February 20 12:
02-13-2012

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

James Loftin,

Plaintiff,

v.

South Carolina Department of Public Safety and
Trooper T.J. Genco,


Defendants.)

Civil Action Number: 12-CP-23-1083

ORDER OF DISMISSAL

THIS MATTER COMES BEFORE THIS COURT pursuant to Defendants' Motion to Dismiss, dated March 26, 2013. A hearing was held before this Court on April 8, 2013 in the Greenville County Courthouse. Joel S. Hughes appeared on behalf of the Defendants. The Pro Se Plaintiff failed to appear. After hearing argument from the Defendants, this Court finds the Plaintiff has failed to prosecute his claim. Specifically, the record before this Court evidences two separate occasions on which the Plaintiff failed to attend a properly noticed deposition, which required Defendants' counsel to travel out of town to Greenville, SC. The Plaintiff's actions heretodate, or lack thereof, evidence his abandonment of this claim. As such, this Court hereby GRANTS the Defendants' Motion to Dismiss and dismisses this case with prejudice.

AND IT IS SO ORDERED.


 The Honorable Edward W. Miller
 Circuit Judge for the Greenville Court
 of Common Pleas

Greenville, South Carolina

April 3, 2013

2013-08-01 12:17:12

NIKKI R. HEALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

July 30, 2013

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T82649
Date of Occurrence: February 4, 2012
Claimant: Loftin, James
Date Closed: July 30, 2013

Dear Warren Ganjeshani:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 9,407.75

If you should have any questions, please contact us.

Sincerely,

Teresa Camp
Senior Claims Representative

/tc

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Bennett Kirk Long
[Enter the full name of the plaintiff in this action]

Civil Action No. 3:13-cv-02879-GRA-PJG
(to be assigned by Clerk)

v.
South Carolina Highway Patrol;
Officer Adam Scott Warren;
Officer Jeremy M. Piskens

COMPLAINT
State Prisoner

Excessive Force
Attempted Murder
Conspiracy

Enter above the full name of defendant(s) in this action

I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise related to your imprisonment? Yes _____ No ✓
- B. If your answer to A is Yes, describe the lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.

1. Parties to this previous lawsuit:

Plaintiff: N/A

Defendant(s): _____

2. Court: N/A
(If federal court, name the district; if state court, name the county)

3. Docket Number: N/A

4. Name(s) of Judge(s) to whom case was assigned: N/A

5. Disposition: N/A
(For example, was the case dismissed? Appealed? Pending?)

6. Approximate date of filing lawsuit: N/A

7. Approximate date of disposition: N/A

Complaint - State Prisoner
Revised October 3, 2007

II. PLACE OF PRESENT CONFINEMENT

- A. Name of Prison/Jail/Institution: Manning Corr. Inst.
- B. What are the issues that you are attempting to litigate in the above-captioned case? Excessive Force
Attempted Murder, Conspiracy
- C. (1) Is there a prisoner grievance procedure in this institution? Yes ☒ No ☐
- (2) Did you file a grievance concerning the claims you are raising in this matter? Yes ☐ No ☒
- When _____ Grievance Number (if available) _____
- D. Have you received a final agency/departmental/institutional answer or determination concerning this matter (i.e., your grievance)? Yes ☐ No ☒
- E. When was the final agency/departmental/institutional answer or determination received by you? NA
- If possible, please attach a copy of your grievance and a copy of the highest level decision concerning your grievance that you have received.*
- F. If there is no prison grievance procedures in this institution, did you complain to prison, jail, or institutional authorities? Yes ☐ No ☒
- G. If your answer is YES:
1. What steps did you take? N/A
2. What was the result? N/A

III. PARTIES

In Item A below, place your name, inmate number, and address in the space provided. Do the same for additional plaintiffs, if any.

- A. Name of Plaintiff: Bennett Kirk Long Inmate No.: 267047
- Address: Manning Corr. Inst.

In Item B below, place the full name of the defendant, his official position, and place of employment in the space provided. Use Item C for additional defendants, if any.

- B. Name of Defendant: South Carolina Highway Patrol Position: Officer(s)
- Place of Employment: South Carolina Highway Patrol Columbia (Broad River Rd)

- C. Additional Defendants (provide the same information for each defendant as listed in Item B above):

Adam Scott Warren (Officer)

Jeremy M. Pickens (Officer)

IV. STATEMENT OF CLAIM

State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach an extra sheet if necessary.

On December 15, 2011 the Defendants Officers Adam Scott Warren and Jeremy M. Pickens did in fact Attempt To Murder The Plaintiff (Bennett Kirk Long) by using Excessive Force while trying to Arrest the Plaintiff. They did this by shooting into Plaintiff's Vehicle multiple times. At which time the Plaintiff's Vehicle was stopped and in park with the ignition turned off. Several Officers surrounded my Vehicle yelling for me to show my hands, one of those Officers busted my Passengers Side Window with a Black Jack ~~or~~ flashlight at that same time I raised my hands and the Defendants started shooting into the Windshield of my Vehicle. One of them shot 10 times Unloading his weapon, the other shot 4 times. I was unarmed and helpless in the Vehicle, so when the shooting stopped I cranked the Vehicle and slowly backed away then turned around and took off again. At that time I was Very Scared in fear for my life plus I was hit twice Once in my left shoulder and once in my left middle finger. One of the Defendants said he started shooting because the Truck Lurched Forward, and the other Defendant said he started shooting because the Vehicle turned towards him as it was moving in Reverse. The Vehicle never Lurched Forward and it only moved in Reverse after the shooting stopped. So the Videos does not match the Sworn Statements made by Defendants. Which means the Defendants Conspired to cover up the truth in this case which is: The Defendants tried to Murder the Plaintiff who at the time of the shooting (10:46pm) was

Complaint - State Prisoner
Revised October 3, 2007

IV. STATEMENT OF CLAIM - continued.

trying to surrender. Also there was 4 Highway Patrol Vehicles involved in this incident but Highway Patrol only produced Video from 2 of those Vehicles. The missing Videos should/would show that the Plaintiff was in fact trying to surrender at the exact same time Defendants started shooting. Because of the Shooting The Plaintiff's left shoulder (Humerous Bone) was shattered by a bullet and Plaintiff's left middle finger knuckle at fingertip was also shattered by a bullet. Those injuries caused by those bullets caused the Plaintiff to have ~~Re~~ Re-Constructive Surgery on both wounds which leaves the Plaintiff scarred for life and Plaintiff has limited mobility in his Shoulder and Finger. My Doctor and Hospital bills are in the High Thousands and these bills have ruined my credit. These Defendants should be held Responsible for (all) injuries that those 14 bullets cause. Each one of those Bullets fired by Defendants could have Killed the Plaintiff. Also the Defendants should have to Pay (all) Medical Bills past and future caused by those Bullets. End Of Statement!

Sincerely,

P.S. The incident described above happened when I avoided a License Check and Highway Patrol chased me. I never thought they would shoot me for Failure To Stop, but I was wrong. I never meant for none of this to happen! And I never tried to hurt anybody especiall not an Officer

V. RELIEF

State briefly and exactly what you want the court to do for you.

The Plaintiff wants the Defendants to be formally charged for the crimes they committed. Also the Plaintiff wants the Defendants fired from their jobs so they can NEVER shoot another individual and claim it was in the line of duty. Also the Plaintiff wants the Defendants to pay (ALL) Doctor and Hospital Bills past and future that comes from the injuries caused by the shooting. The Plaintiff also wants \$300,000.00 from each of the Defendants or the maximum the Court will allow. The Plaintiff also wants protection from the Defendants ordered by the Court. Also the Plaintiff ask the court to Re-instate Plaintiff's Privilege to Drive in South Carolina. The Plaintiff ask the Court to show the Defendants and all Officers that they must not act as Judge Jury and Executioner by Granting Relief sought by the Plaintiff who is a Victim in this case. Since the shooting I been diagnosed with Post Traumatic Stress Disorder and have to take Mental Medication for life. The Defendants Should have to pay for those Medications for the rest of my life.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 18th day of November, 2013.



Signature of Plaintiff

UNITED STATES DISTRICT COURT

for the

District of South Carolina

Bennett K. Long,

Plaintiff

v.

South Carolina Highway Patrol; Officer Jeremy

Pickens; and Officer Adam Warren,

Defendants

Civil Action No. 3:13-cv-02879-RMG

JUDGMENT IN A CIVIL ACTION

The court has ordered that (*check one*):

☐ the plaintiff (*name*) _____ recover from the defendant (*name*) _____ the amount of _____ dollars (\$___), which includes prejudgment interest at the rate of ____ %, plus post-judgment interest at the rate of ____ %, along with costs.

☒ summary judgment is entered in favor of the defendants, South Carolina Highway Patrol, Officer Jeremy Pickens, and Officer Adam Warren, as to the claims against those defendants in their official capacities and as to the conspiracy claim. The plaintiff, Bennett K. Long, shall take nothing of the defendants, South Carolina Highway Patrol, Officer Jeremy Pickens, and Officer Adam Warren, and this action is dismissed with prejudice as to those claims.

☒ summary judgment is entered in favor of the defendants, Officer Jeremy Pickens and Officer Adam Warren, as to the excessive force claim. The plaintiff, Bennett K. Long, shall take nothing of the defendants, Officer Jeremy Pickens and Officer Adam Warren, and this action is dismissed without prejudice as to those claims.

☒ the plaintiff, Bennett K. Long, take nothing of the defendants, South Carolina Highway Patrol, Officer Jeremy Pickens, and Officer Adam Warren, as to the state law claims and this action is dismissed without prejudice as to those claims.

This action was (*check one*):

☐ tried by a jury, the Honorable _____ presiding, and the jury has rendered a verdict.

☒ decided by the Court, the Honorable Richard M. Gergel, United States District Judge, presiding. The Court having adopted the Report and Recommendation set forth by the Honorable Paige J. Gossett, United States Magistrate Judge, granted the defendants' motion for summary judgment and dismissed the state law claims sua sponte.

Date: December 12, 2014

ROBIN L. BLUME, CLERK OF COURT

s/G. Mills

Signature of Clerk or Deputy Clerk

2012-08-30 14:30:50

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

August 29, 2012

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T82919/01/BI/closing Ltr
Date of Occurrence: December 15, 2011
Claimant: Long, Bennett K
Date Closed: August 29, 2012

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 4,282.26

If you should have any questions, please contact us.

Sincerely,

Tony Chapman
Senior Claims Representative

/tc

cc: Randi Runkles

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF YORK	)	IN THE SIXTEENTH JUDICIAL CIRCUIT
)	
Rebecca Lopez,	)	Civil Action No.: 2015-CP-46- 1535
)	
Plaintiff,)	
)	
vs.	)	COMPLAINT
	)	(Jury Trial Request)
Joseph Nakuzhikatt Joseph,	)	(Automobile Tort Claim)
Stephen Brad Kerr, York County)	
Sheriff's Department and the)	
South Carolina Department)	
of Public Safety, Jointly and)	
Severally,)	
)	
Defendants.)	

FILED-RECEIVED
 2015 MAY 20 AM 11:40
 CLERK OF COURT
 YORK COUNTY, SC

TO: THE ABOVE-NAMED DEFENDANTS AND DEFENDANTS' ATTORNEYS:

The Plaintiff, complaining of the acts and omissions of the Defendants, jointly and severally, says as follows:

1. Plaintiff Rebecca Lopez is a citizen and resident of York County, South Carolina.
2. Upon information and belief, Defendant Joseph Nakuzhikatt Joseph is a citizen and resident of Mecklenburg County, North Carolina.
3. Upon information and belief, Defendant Stephen Brad Kerr is a citizen and resident of York County, South Carolina and at the time of the events giving rise to this Complaint, he was an employee of the York County Sheriff's Department and/or the South Carolina Department of Public Safety.
4. Defendants York County Sheriff's Department and/or South Carolina Department of Public Safety is a governmental entity and an agency organized and existing under the laws of

the State of South Carolina and within the meaning of the South Carolina Tort Claims Act.

5. This honorable Court has jurisdiction over the parties herein and of the hereof complained subject matter.

6. On December 26, 2013, Plaintiff Rebecca Lopez was a passenger in a 2008 Ford, South Carolina license plate HP4107, owned by the York County Sheriff Department and/or South Carolina Department of Public Safety and was being driven by York County Sheriff Department Deputy Stephen Brad Kerr, with the owner's express permission, and was traveling West on US/SC 460; Upon information and belief Defendant Joseph Nakuzhikatt Joseph was operating a 2011 Toyota South Carolina license plate ZZ15974 and was travelling East on US/SC 460.

7. On December 26, 2013 Defendant Stephen Brad Kerr disregarded a traffic signal while using a cellular phone, failed to yield to the right of way, and caused a collision with the vehicle in which Defendant Joseph Nakuzhikatt Joseph was driving.

8. Or, in the alternative, on December 26, 2013 Defendant Joseph Nakuzhikatt Joseph disregarded a traffic signal, failed to yield the right of way, and caused a collision with the vehicle in which Plaintiff Rebecca Lopez was a passenger.

9. That at all times mentioned in this Complaint, Defendant Stephen Brad Kerr was the agent, employee, and/or servant of Defendants York County Sheriff's Department and the South Carolina Department of Public Safety and that all acts herein complained were performed and done by Defendant Stephen Brad Kerr in the course and scope of his agency, authority, and/or employment with the express and/or implied authority of Defendants York County Sheriff's Department and the South Carolina Department of Public Safety pursuant to the

doctrine of respondeat superior.

10. Plaintiff Rebecca Lopez is informed and believes that each of the Defendants, individually and by and through their servants, agents, and/or employees were negligent, careless, and reckless in causing the above mentioned accident.

11. That as a result of the December 26, 2013 collision, Plaintiff Rebecca Lopez suffered significant physical injuries including but not limited to her neck, back, right shoulder, right hip, right knee, right elbow, and head/headaches;

12. In operating a motor vehicle on the public roadways, Defendants had a duty to use reasonable and due care in the operation of said vehicle.

13. Defendants further had a duty to comply with all applicable traffic laws.

FOR A FIRST CAUSE OF ACTION

(Negligence and Negligence Per Se as to Stephen Kerr, the South Carolina Department of Public Safety and the York County Sheriff's Department)

14. That each and every allegation contained in paragraphs one (1) through thirteen (13) of this Complaint are re-alleged as if set forth here fully in its entirety.

15. Upon information and belief, Defendants Stephen Brad Kerr, York County Sheriff's Department and/or South Carolina Department of Public Safety, jointly and severally, by their acts and/or omissions, were negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars, to wit:

- a. In then and there failing to yield to the right of way in violation of South Carolina Code of Laws §56-5-2320 and §56-5-950;
- b. In then and there failing to keep a proper lookout;
- c. In then and there failing to maintain proper control over the above-mentioned

motor vehicle;

- d. In then and there failing to take advantage of any last clear chance to avoid causing a collision with Defendant Joseph Nakuzhikatt Joseph, when this Defendant saw or should have seen said vehicle;
- e. In then and there failing to properly observe the road and traffic conditions;
- f. In then and there failing to exercise that degree of care which a reasonable and prudent person would have exercised under the same or similar circumstances;
- g. In then and there operating a motor vehicle with a reckless disregard for the rights and safety of others, and especially the rights and safety of Plaintiff Rebecca Lopez;
- h. In then and there failing to warn of danger with Defendant's horn in violation of S.C. Code Ann. §56-5-3830 and §56-5-4960;
- i. In then and there using a cellular phone or smart phone while operating a motor vehicle; and
- j. And, such other and further particulars as the evidence at trial may show.

All of which were the direct and proximate cause of the injuries of Rebecca Lopez, which constituted negligence, carelessness, recklessness, wantonness and/or gross negligence by Defendants Stephen Brad Kerr, York County Sheriff's Department and/or South Carolina Department of Public Safety, jointly and severally.

16. Defendants, in the above mentioned particulars, breached their duty of due care, causing great bodily injury to Plaintiff Rebecca Lopez.

FOR A SECOND CAUSE OF ACTION
(Negligence and Negligence Per Se as to Joseph Nakuzhikatt Joseph)

17. That each and every allegation contained in paragraphs one (1) through sixteen (16) of this Complaint are re-alleged as if set forth here fully in its entirety.

18. That Defendant Joseph Nakuzhikatt Joseph by his acts and/or omissions, was negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars, to wit:

- a. In then and there failing to yield to the right of way in violation of South Carolina Code of Laws § 56-5-950;
- b. In then and there failing to keep a proper lookout;
- c. In then and there failing to maintain proper control over the above-mentioned motor vehicle;
- d. In then and there failing to take advantage of any last clear chance to avoid causing a collision with Defendant Stephen Brad Kerr, when this Defendant saw or should have seen said vehicle;
- e. In then and there failing to properly observe the road and traffic conditions;
- f. In then and there failing to exercise that degree of care which a reasonable and prudent person would have exercised under the same or similar circumstances;
- g. In then and there operating a motor vehicle with a reckless disregard for the rights and safety of others, and especially the rights and safety of Plaintiff Rebecca Lopez;
- h. In then and there failing to warn of danger with Defendant's horn in violation of S.C. Code Ann. §56-5-3830 and §56-5-4960; and

i. And, such other and further particulars as the evidence at trial may show.

All of which were the direct and proximate cause of the injuries of Rebecca Lopez, which constituted negligence, carelessness, recklessness, wantonness and/or gross negligence by Defendant Joseph Nakuzhikatt Joseph.

19. Defendants, in the above mentioned particulars, breached their duty of due care, causing great bodily injury to Plaintiff Rebecca Lopez.

20. That as the direct and proximate result of the aforementioned negligent, grossly negligent, careless, reckless, willful and wanton acts or omissions of the Defendants, jointly and severally, which combined, contributed and joined to create the circumstances then and there existing, Plaintiff Rebecca Lopez was injured. Accordingly, Rebecca Lopez:

- a. Was severely, seriously, and painfully injured;
- b. Suffered extreme and painful injuries including but not limited to her neck, back, right shoulder, right hip, right knee, right elbow, and head/headaches;;
- c. Was subjected to the administration of strong and potent drugs and medications;
- d. Was subjected to a lengthy period of rehabilitation which is ongoing;
- e. Was subjected to extreme pain, mental anguish, suffering and discomfort over a long period of time, said condition to be permanent;
- f. Has incurred substantial medical and doctor bills and will continue to incur bills for future medical treatment related to this motor vehicle accident; and
- g. For such other and further particulars as the evidence at trial may show.

WHEREFORE, Plaintiff Rebecca Lopez respectfully prays for judgment against the Defendants, jointly and severally, for such sum of actual damages, special damages,

consequential damages, and punitive damages that a trier of fact may find, for the costs of this action, and for such other relief as the Court may deem just and proper.

Respectfully submitted,

A black rectangular box redacting the signature of the attorney.

Tyler Bathrick (S.C. Bar #74944)
Attorney for Plaintiffs
Stewart Law Offices, L.L.C.
Post Office Box 670
Rock Hill, South Carolina 29731
Telephone: (803) 328-5600
Facsimile: (803) 328-5876
beau@stewartlawoffices.net

May 12, 2015

STATE OF SOUTH CAROLINA)

COUNTY OF Greenwood)Brandon Malone))

TELEPHONE)

SC Department of ^{VS.} Public Safety)

DEFENDANT(S))

Post Office Box 1993)

STREET ADDRESS)

Blythwood, SC 29016)

CITY, STATE ZIP)

803 896 7920)

TELEPHONE)

CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

COMPLAINT

I, Brandon Malone, the plaintiff in this civil action do make the following claims:

1. I believe the defendant, SCOPS, is a resident of _____ County, and resides at _____ which is within Judge _____'s magisterial jurisdiction or this Complaint is properly filed in Greenwood County.

2. I make this complaint on the following:

I was in the custody of the Highway Patrol when I recieved the medical treatment and bills that are listed in the civil case.

(Attached supplement if necessary.)

3. I believe, because of the above information, that I am entitled to and do request a judgment for \$6476.85 and/or other relief as below requested:

including any costs resulting in this action.

I state under penalty of perjury that the above is correct and truthful, except those based on my information and belief.

Dated: Oct 10 2012
Signature of Plaintiff (or his attorney)

SCCA/701 (Amended 05/08)

STATE OF SOUTH CAROLINA)

COUNTY OF Greenwood)Brandon Malone)

PLAINTIFF(S))

VS.)

South Carolina Department of Public Safety)
(SCDPS) DEFENDANT(S))

CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

AFFIDAVIT AND ITEMIZATION
OF ACCOUNTS

Plaintiff, Brandon Malone, personally appearing before me, who, being duly sworn, states that he is the plaintiff in this action, and that the itemization of accounts which follows is true and correct.

He further states that no part of the sum included in the itemization below has been paid or satisfied in any fashion, and is today due and owed to him.

ITEMIZATION OF ACCOUNTS

<u>Self Regional Healthcare</u>	\$ <u>5652.85</u>
<u>Greenwood County EMS</u>	\$ <u>511.00</u>
<u>Upper Savannah Radiological Associates</u>	\$ <u>150.00</u>
<u>ER Physicians bill</u>	\$ <u>583.00</u>
<u>Filing charges</u>	\$ <u>80.00</u>
TOTAL	\$ <u>6976.85</u>

(Copies of bills, papers or other proof of any of the above accounts should be attached to this document.)

Sworn to and Subscribed before me)

this 10 day of Oct, 2012)

Magistrate or Notary Public for South Carolina)

My Commission expires)

11/16/2020)

PLAINTIFF (or his attorney)

SCCA/716 (Amended 05/2008)

Greenwood County EMS

P.O. Box 863
 Lewisville NC 27023-0863
 (800) 814-5339
 www.emsbilling.info

INVOICE

Patient Name: BRANDON M MALONE **Run Number:** 11-75784
Date of Transport: 02/06/2011
Notice Date: October 25, 2011 **From:** 528 EDGEFIELD ST, GREENWOOD,
Due Date: Upon Receipt SC 29646
To: SELF REGIONAL HEALTHCARE

BRANDON M MALONE

Description	Qty.	Price	Contractual	
			Allowance	Amount
A0429 BLS Emerg Transport - GWCE	1	500.00	0.00	500.00
A0425 BLS Mileage - GWCE	1	11.00	0.00	11.00

PLEASE PAY THIS AMOUNT: \$511.00

The balance listed above is 30 days past due. Unless you have additional insurance, you are responsible for the balance. You can make a credit card payment or provide additional insurance information by visiting our secure website at www.emsbilling.info or by completing the reverse side of this statement. Thank you for your prompt attention to this matter.

DETACH LOWER PORTION AND RETURN STUB WITH YOUR PAYMENT. THANK YOU.



Greenwood County EMS
 P.O. Box 863
 Lewisville NC 27023-0863

ADDRESS SERVICE REQUESTED

October 25, 2011

11-75784-4 650466899



BRANDON M MALONE

PATIENT NAME			AMOUNT DUE
BRANDON M MALONE			\$511.00
RUN NUMBER	DATE OF SERVICE	STATEMENT DATE	AMOUNT ENCLOSED
11-75784	02/06/2011	10/25/2011	\$

WE ACCEPT



PLEASE SEE REVERSE SIDE FOR DETAILS

PLEASE MAKE CHECKS PAYABLE TO:

GREENWOOD COUNTY EMS

P.O. Box 863
 Lewisville NC 27023-0863



Federal Tax ID: 57-6000358
 Incident Number: 110206-7879

Signatures, initials, and personal information (i.e. address, phone, social security number)
 were redacted by House Legislative Oversight Committee staff.

0015

Upper Savannah Radiological Associates, PA
PO Box 338
Greenwood SC 29648-0338

CHECK CREDIT CARD USING FOR PAYMENT AND FILL OUT BELOW.		
<input type="checkbox"/> MasterCard	<input type="checkbox"/> VISA	<input type="checkbox"/> DISCOVER
<input type="checkbox"/> AMERICAN EXPRESS		
CARD NUMBER		3 DIGIT CODE
NAME ON CARD (PLEASE PRINT)		EXP. DATE
SIGNATURE		AMOUNT
STATEMENT DATE 11/23/2011	ACCOUNT # 28630	PAY THIS AMOUNT \$150.00

Office Phone: 864/889-9605
Fax: 864/330-1084

Amount Remitted: _____



01218

Brandon M Malone 28630

Upper Savannah Radiological Associates, PA
PO Box 338
Greenwood SC 29648-0338

DEXIOSC3-0293379-0000000-2224728-001-000020-#005678-0015

PLEASE RETURN TOP PORTION WITH PAYMENT

THIS IS YOUR FINAL NOTICE!

This is our final effort to have you pay your past due account. Your account with Upper Savannah Radiological Associates, PA may be turned over to our collection agency and/or the credit bureau or a suit filed in small claims court unless we receive payment within the next 15 days.

Please understand that not bringing your account up to date could adversely affect your credit rating.

Respond to this collection notice today.

FINAL NOTICE!

Upper Savannah Radiological Associates, PA
PO Box 338
Greenwood SC 29648-0338

Office Phone: 864/889-9605
Fax: 864/330-1084
Office Hours: 9:00am - 4:00pm

Patient Name: BRANDON M MALONE
Account #: 28630
Amount Due: \$150.00

DEXIOSC3-0293379-0000000-2224728-001-000020-#005678-0015

DM-RCP-SP 0015

Signatures, initials, and personal information (i.e. address, phone, social security number) were redacted by House Legislative Oversight Committee staff.

TO THIS INFORMATION MAILER. THANK YOU.

888 634-5211
TAX ID570331865

ACCOUNT NO. 103700020-01

STATEMENT DATE 06/15/11

BRANDON M MALONE

INSURANCE: VETERANS ADMINISTRATION
POLICY ID: 250759842
BIRTHDATE: 10/12/86

DATE	PATIENT	DESCRIPTION	ICD9	AMOUNT
02/06/11	BRANDON	99285 COMPREHENSIVE EXAM	30981	545.00
	ATN DR: GRAHAM, RICHARD, M.D.	REF DR: GRAHAM, RICHARD, M.D.		
02/06/11	BRANDON	99053 SERV BETWEEN 10PM-8AM	30981	38.00
	ATN DR: GRAHAM, RICHARD, M.D.	REF DR: GRAHAM, RICHARD, M.D.		
02/06/11	BRANDON	00002 DISCHARGE	30981	.00
	ATN DR: GRAHAM, RICHARD, M.D.	REF DR: GRAHAM, RICHARD, M.D.		
02/06/11	BRANDON	00004 LABS	30981	.00
	ATN DR: GRAHAM, RICHARD, M.D.	REF DR: GRAHAM, RICHARD, M.D.		
02/06/11	BRANDON	00005 X-RAY	30981	.00
	ATN DR: GRAHAM, RICHARD, M.D.	REF DR: GRAHAM, RICHARD, M.D.		

STATE OF SOUTH CAROLINA	)	IN THE MAGISTRATE'S COURT
)	
COUNTY OF GREENWOOD)	
BRANDON MITCHELL MALONE,	)	C.A. No. 2012CV2410103069
)	
Plaintiff,)	
)	
vs.)	
)	
S.C. DEPARTMENT OF PUBLIC SAFETY,)	
)	
Defendant.)	

ORDER OF DISMISSAL

This matter came before the court pursuant to a motion ("Motion") filed October 22, 2012, by the South Carolina Department of Public Safety ("SCDPS" or "Defendant") seeking dismissal of this case on various grounds.

A hearing was held before the undersigned at 2 p.m. on November 6, 2012, in the Greenwood County Magistrate's Court. Warren V. Ganjehsani, General Counsel for SCDPS, appeared on Defendant's behalf. Plaintiff Brandon M. Malone ("Plaintiff") appeared *pro se*.

After consideration of Defendant's Motion and the arguments presented at the hearing, I find and conclude as follows:

1. Plaintiff initiated the present suit on October 10, 2012, by filing a complaint ("Complaint") in which he sought to recover sums owed to third-party healthcare providers as a result of medical treatment he received shortly after being arrested by SCDPS for driving under the influence of alcohol.

2. Thereafter, SCDPS timely moved for dismissal of the Complaint pursuant to Rules 12(b)(1), 12(b)(3), and 12(b)(6) of the South Carolina Rules of Civil Procedure for failure

received
 12/7/12

to state a claim upon which relief may be granted and failure to comply with S. C. Code Ann. § 15-78-100.

3. The Complaint does not allege the existence of a contract purportedly giving rise to an obligation by SCDPS to cover the cost of Plaintiff's medical treatment under the circumstances. Therefore, I find that the Complaint avers that Defendant owed Plaintiff a duty in this regard and that Defendant's refusal to pay his medical expenses breached such duty.

4. Insofar as the Complaint seeks to recover sums against SCDPS based on a non-contractual duty allegedly owed to Plaintiff, I find that the Complaint sounds in tort and falls within the purview of the South Carolina Tort Claims Act ("Tort Claims Act"). Flateau v. Harrelson, 355 S.C. 197, 204, 584 S.E.2d 413, 416 (Ct. App. 2003) (acknowledging that the Tort Claims Act "governs all tort claims against governmental entities" and provides "the exclusive civil remedy available in an action against a governmental entity or its employees").

5. A complaint containing allegations under the Tort Claims Act must be filed in the circuit court. S. C. Code Ann. § 15-78-100(b) (providing that "[j]urisdiction for any action brought under this chapter is in the circuit court").

6. Plaintiff's *pro se* status does not relieve him of the obligation to follow the requirements for filing this action in the appropriate court. Goodson v. American Bankers Ins. Co. of Florida, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct. App. 1988) (observing that "the court will not hold a layman to any lesser standard than is applied to an attorney").

7. It follows that the Greenwood County Magistrate's Court lacks jurisdiction over this matter and Plaintiff's Complaint must be dismissed accordingly. Rule 12(b)(1), SCRPC.

IT IS THEREFORE ORDERED THAT:

- (1) the Defendant's Motion to Dismiss is hereby GRANTED, and
- (2) this action is DISMISSED.

AND IT IS SO ORDERED.



Walter R. Martin
Magistrate Judge, Greenwood County

December 7th, 2012

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. TOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

May 25, 2012

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T79156
Date of Occurrence: February 6, 2011
Claimant: Malone, Brandon Mitchell
Date Closed: May 25, 2012

Dear Mr. Ganjehsani:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	1,255.32

If you should have any questions, please contact us.

Sincerely,

Nancy Stevenson
Senior Claims Representative

/ns

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

DANIEL J. MARTIN)

Plaintiffs,)

v.)

SOUTH CAROLINA DEPARTMENT OF)
TRANSPORTATION, SOUTH CAROLINA)
DEPARTMENT OF PUBLIC SAFETY,)
TOWN OF BLUFFTON, BEAUFORT)
COUNTY)

Defendants.)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO.: 2012-CP-07-____**COMPLAINT**
(JURY TRIAL REQUESTED)2012 DEC 17 PM 3:39
CLERK OF COURT
BEAUFORT COUNTY, S.C.**TO: THE ABOVE-NAMED DEFENDANTS:**

COMES NOW, the Plaintiff, DANIEL J. MARTIN, complaining of the negligent and/or reckless acts and/or omissions of the Defendants, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, TOWN OF BLUFFTON, and BEAUFORT COUNTY and allege as follows:

PARTIES AND JURISDICTION

1. That the Parties hereto, the subject matter hereof, and all matters and things hereinafter alleged are within the jurisdiction of this Honorable Court.

2. That the Plaintiff, DANIEL J. MARTIN, is now and was at all times material hereto a citizen and resident of Beaufort County, South Carolina.

3. That upon information and belief, the Defendant, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, is a governmental entity as defined by the S.C. Code of Laws, 1976, as amended, and as such, does business on a regular basis within the State of South Carolina and more particularly within the County of Beaufort. The action against the

Defendant is brought pursuant to the Code of Laws of South Carolina, Sections 15-78-10, 15-78-20, 15-78-4, 15-78-60, 1976, as amended and the South Carolina Tort Claims Act.

4. That upon information and belief, the Defendant, SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, is a governmental entity as defined by the S.C. Code of Laws, 1976, as amended, and as such, does business on a regular basis within the State of South Carolina and more particularly within the County of Beaufort. The action against the Defendant is brought pursuant to the Code of Laws of South Carolina, Sections 15-78-10, 15-78-20, 15-78-4, 15-78-60, 1976, as amended and the South Carolina Tort Claims Act.

5. That upon information and belief, Defendant TOWN OF BLUFFTON is a municipal organization organized under the laws of the State of South Carolina.

6. That upon information and belief, Defendant BEAUFORT COUNTY is a municipal corporation organized under the laws of the State of South Carolina.

FIRST CAUSE OF ACTION
(Negligence, Gross Negligence and Recklessness)

7. That, upon information and belief, on or about December 17, 2010, at approximately 6:46 A.M., the Plaintiff, DANIEL J. MARTIN, was driving a 2005 Chevrolet Pickup, South Carolina license plate number EIQ125, westbound on S.C. Highway 170 in or near the Town of Bluffton, in Beaufort County, South Carolina.

8. That, upon information and belief, prior to December 17, 2010, there existed defects in the roadway of S.C. Highway 170 at the location where the Plaintiff's wreck occurred, in or near the Town of Bluffton, in Beaufort County, South Carolina.

9. That the Defendants, each of them, knew or should have known of the hazardous condition of the roadway and shoulder of the westbound lane of S.C. Highway 170 in or near the Town of Bluffton, in Beaufort County, South Carolina through regular and proper inspections of

the roadway and thorough investigations of incidents and complaints on the roadway prior to that date.

10. That, upon information and belief, the Plaintiff, DANIEL J. MARTIN was traveling west on S.C. Highway 170 and had suddenly and without warning approached uneven pavement in the negligently constructed and maintained road, and unexpectedly left the highway causing loss of control. The Plaintiff's vehicle veered off the road to the right of the white side line approximately three (3) to four (4) inches, wherein Plaintiff encountered an approximately eight (8) inch drop off. Plaintiff attempted to maintain control of his vehicle, but was unable to do so due to his vehicle bottoming out on the dangerous and hazardous drop off. Plaintiff attempted to steer back onto the roadway and maintain control of his vehicle, but was unable to do so due to the drop off detrimentally affecting his ability to control his vehicle, and shot across the road, impacting another vehicle before Plaintiff's vehicle slid down an embankment and rolled, causing injuries to the Plaintiff.

11. That, upon information and belief, at the point where the Plaintiff's vehicle left the roadway, there was a drop off approximately three (3) to four (4) from the white side line that was approximately five (5) to ten (10) inches deep, said drop off being a proximate cause of the Plaintiff's accident and subsequent injuries.

12. That, at said time and place, each of the Defendants were jointly and severally responsible for the inspection, paving, construction, marking, repair, and maintenance of S.C. Highway 170 at the location of this accident.

13. That such an accident as suffered by the Plaintiff was reasonably foreseeable by each Defendant in one or more of the following ways: 1) The size, location, and nature of the drop off; 2) The expectancy that drivers will occasionally drive outside the lines and off the roadway;

3) Prior motor vehicle accidents at the site of Plaintiff's accident; 4) Prior roadway inspections; and 5) for any other reasons not specifically listed herein.

14. That, upon information and belief, Defendants, each of them, were acting in a willful, wanton, reckless, negligent, and grossly negligent manner with wanton disregard for the life and safety of those persons such as the Plaintiff whose safety Defendants contracted and undertook to protect.

15. That, at all times mentioned herein, the Defendants, all of them, owed duties to the Plaintiff, DANIEL J. MARTIN, as more particularly set forth herein, including, but not limited to, a duty to maintain, inspect, identify defects, mark defects, and warn drivers upon the roadway of hazards and dangers; that the Defendants, all of them, breached these duties by reason of the acts and/or omissions leading to the incident described herein; and that, as a proximate cause of these breaches, the Plaintiff, DANIEL J. MARTIN, suffered injuries and damages as set forth more particularly herein.

16. That the personal injuries suffered by the Plaintiff, DANIEL J. MARTIN, were due to, caused by, and were the direct and proximate result of the negligence, carelessness, recklessness, wantonness, and/or heedlessness of the Defendants, all of them, in one, more, or all of the following particulars, to wit:

As to the Defendants, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, TOWN OF BLUFFTON, and BEAUFORT COUNTY:

- (a) In breaching its duties to members of the public to maintain a reasonably safe roadway;
- (b) In allowing an abrupt and dangerous shoulder drop-off to exist;
- (c) In failing to provide necessary and adequate markings delineating the edge of the highway from the shoulder;

- (d) In failing to provide necessary and adequate signage to alert drivers of the presence and location of the hazardous condition created by the sudden and abrupt drop-off and low shoulder;
- (e) In failing to provide any lighting or markings to assist drivers in delineating the traveled portion of the highway and lanes from the shoulder when the shoulder is dangerously low;
- (f) In failing to otherwise provide an adequate positive guidance system consisting of traffic signing, lighting, highway marking, traffic barricades or signals to alert and alert drivers to the dangerous low shoulders and to guide drivers away from an abrupt and hazardous shoulder drop-off;
- (g) In failing to keep the roadway properly maintained so that it could be navigated safely, including but not limited to maintain the low shoulders at or near the height of the corresponding roadway pavement;
- (h) In failing to inspect the area on a regular basis to discover hazardous conditions;
- (i) In failing to discover the hazardous low shoulders which existed on that portion of the roadway;
- (j) In failing to exercise due care in the inspection, maintenance, and repair of that portion of the roadway;
- (k) In failing to anticipate that low shoulders develop over a period of time and need routine maintenance and repair;
- (l) In allowing and creating a roadway where an abrupt and hazardous low shoulder exists;
- (m) In failing to correct the hazardous and dangerous conditions in the roadway and shoulder when the Defendants had notice of and the opportunity to correct the low shoulders existing at the time of this accident;
- (n) In repaving the roadway in a tiered or double-decked format which substantially increased the height of the roadway versus the height of the shoulder, without adequately building up the shoulder of the roadway to compensate for the increased height;
- (o) In failing to design a process for repaving the roadway, which would not necessitate a raising of the roadway above the then existing shoulder of the road;
- (p) In failing to properly construct S.C. Highway 170 to prevent the existence of unreasonably dangerous conditions, including a hazardous low shoulder;

- (q) In failing to use the safety engineering means that were available to be used for the safety of foreseeable highway travelers, including the Plaintiff;
- (r) In failing to ensure that any contracted highway maintenance company undertook to ensure that no unreasonably dangerous conditions existed for the protection of foreseeable highway travelers, including the Plaintiff, when the Defendants knew or should have known that grievous bodily injury or death was likely to result if the Defendants failed to provide ongoing and proper inspection, maintenance, and repair of S.C. Highway 170;
- (s) In failing to employ the safety measures available to them and in allowing such condition to exist and engaging in the reckless and wanton course of not providing a roadway free of any unreasonably dangerous conditions, for the safety of foreseeable highway travelers, including the Plaintiff;
- (t) In failing to utilize accepted professional standards appropriate to resolve the hazardous condition existing at the time of this accident;
- (u) In failing to maintain a roadway and shoulder of the road that conforms to acceptable professional standards and specifications;
- (v) In failing to hire adequate personnel to inspect and discover the dangerous condition of the roadway;
- (w) In failing to correct and react to the actual and/or constructive notice of the dangerous condition which had existed for a sufficient length of time so that Defendants knew or should have known of its existence;
- (x) In failing to install flashing barricades or place warning signs to make members of the traveling public aware of the dangerous condition on the roadway;
- (y) In failing to properly maintain the roadway in an adequate manner as to prevent hazards to the members of the public traveling thereon;
- (z) In failing to provide ongoing maintenance and repair of S.C. Highway 170; and
- (aa) In all other ways being negligent.

17. That, by reason of the negligence, carelessness, recklessness, willfulness, wantonness, and/or heedlessness of the Defendants, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, TOWN OF BLUFFTON, and BEAUFORT COUNTY, as set forth herein, and as a direct and proximate

result thereof, the Plaintiff, DANIEL J. MARTIN, suffered severe and permanent physical, mental, and emotional injuries and other damages in the following particulars, to wit:

As to the Plaintiff, DANIEL J. MARTIN

- (a) Upon impact, the Plaintiff, DANIEL J. MARTIN, sustained serious and permanent injuries to his whole body, including, but not limited to, his head, neck, back, hips, arms and knees;
- (b) Because of his injuries and as a result of dangerous and hazardous condition on the roadway, including but not limited to the low shoulder, which constitutes the proximate cause of the circumstances leading to his violent motor vehicle collision, the Plaintiff, DANIEL J. MARTIN, has undergone expensive treatment programs, including participating in therapy and exercise programs;
- (c) Because of his injuries and as a result of dangerous and hazardous condition on the roadway, including but not limited to the low shoulder, which constitutes the proximate cause of the circumstances leading to his violent motor vehicle collision, the Plaintiff, DANIEL J. MARTIN, has suffered other injuries related to the compromised condition of his body due to the collision, such injuries she would not have suffered but for the collision;
- (d) As a result of dangerous and hazardous condition on the roadway, including but not limited to the low shoulder, which constitutes the proximate cause of the circumstances leading to his violent motor vehicle, the Plaintiff, DANIEL J. MARTIN, suffers, has suffered, and likely will continue to suffer severe and chronic pain, physical injury, and severe discomfort in his head, neck, back, hips, arms and knees;
- (e) Because of his injuries and as a result of dangerous and hazardous condition on the roadway, including but not limited to the low shoulder, which constitutes the proximate cause of the circumstances leading to his violent motor vehicle collision, the Plaintiff, DANIEL J. MARTIN, has suffered and continues to suffer from severe emotional distress;
- (f) The ability of the Plaintiff, DANIEL J. MARTIN, to participate in work and recreational activities has been substantially limited and severely impaired and will most probably be substantially limited and impaired in the future;
- (g) As a result of his injuries, the Plaintiff, DANIEL J. MARTIN, has suffered and experienced, and will most probably continue to suffer and experience, other permanent physical impairments and disabilities;
- (h) Because of the physical and mental impairments and disabilities he has suffered, the Plaintiff, DANIEL J. MARTIN, has suffered and experienced, and will most

probably continue to suffer and experience, an impairment of his enjoyment of living;

- (i) As a result of his injuries, the Plaintiff, DANIEL J. MARTIN, has incurred substantial medical expenses, and he will most probably continue to incur substantial expenses for medical care and treatment in the future;
- (j) As a result of his injuries, the Plaintiff, DANIEL J. MARTIN, has suffered and experienced, and will most probably continue to suffer and experience, substantial economic losses, including, but not limited to, lost wages, as a result of his injuries;
- (k) The Plaintiff, DANIEL J. MARTIN, has been injured in other ways, all to his substantial detriment; and
- (l) The Plaintiff, DANIEL J. MARTIN, has sustained actual and punitive damages in an amount in excess of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS, together with costs and disbursements of this action and other damages this court deems just and proper.

FOR A SECOND CAUSE OF ACTION
(Strict Liability)

18. That the Plaintiff, DANIEL J. MARTIN, repeats, realleges, and incorporates herein as part of this Second Cause of Action against the Defendants, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, TOWN OF BLUFFTON, and BEAUFORT COUNTY, Paragraphs One (1) through Seventeen (17) of the Plaintiff's Complaint and further allege as follows.

19. That at said time and place the Defendants, each of them, were strictly liable to the members of the public, including the Plaintiff, to maintain a reasonably safe roadway and to repair or remove any unreasonably dangerous conditions on the roadway.

20. That as a result of the failure of the Defendant to properly inspect, maintain, and repair the roadway in a reasonably safe manner, the Plaintiff sustained multiple physical injuries.

21. That the acts and omissions of the Defendants, resulting in the Plaintiff's injuries,

were foreseeable by the Defendants based on their extensive firsthand knowledge of the applicable standards and regulations regarding road construction and maintenance of roadways, including S.C. Highway 170.

22. That the Plaintiff's injuries would not have occurred but for the Defendants' failure to perform the duties for which they were strictly liable to perform.

23. That the Defendants, each of them, breached their strict liability duty of care to the Plaintiff, and were the direct and proximate result of the following negligent, grossly negligent, reckless, wanton, and willful misconduct, acts, and omissions, in one, more, or all of the following particulars, to wit:

As to the Defendants, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, TOWN OF BLUFFTON, and BEAUFORT COUNTY:

- (a) In breaching its duties to members of the public to maintain a reasonably safe roadway;
- (b) In allowing an abrupt and dangerous shoulder drop-off to exist;
- (c) In failing to provide necessary and adequate markings delineating the edge of the highway from the shoulder;
- (d) In failing to provide necessary and adequate signage to alert drivers of the presence and location of the hazardous condition created by the sudden and abrupt drop-off and low shoulder;
- (e) In failing to provide any lighting or markings to assist drivers in delineating the traveled portion of the highway and lanes from the shoulder when the shoulder is dangerously low;
- (f) In failing to otherwise provide an adequate positive guidance system consisting of traffic signing, lighting, highway marking, traffic barricades or signals to alert and alert drivers to the dangerous low shoulders and to guide drivers away from an abrupt and hazardous shoulder drop-off;
- (g) In failing to keep the roadway properly maintained so that it could be navigated safely, including but not limited to maintain the low shoulders at or near the

height of the corresponding roadway pavement;

- (h) In failing to inspect the area on a regular basis to discover hazardous conditions;
- (i) In failing to discover the hazardous low shoulders which existed on that portion of the roadway;
- (j) In failing to exercise due care in the inspection, maintenance, and repair of that portion of the roadway;
- (k) In failing to anticipate that low shoulders develop over a period of time and need routine maintenance and repair;
- (l) In allowing and creating a roadway where an abrupt and hazardous low shoulder exists;
- (m) In failing to correct the hazardous and dangerous conditions in the roadway and shoulder when the Defendants had notice of and the opportunity to correct the low shoulders existing at the time of this accident;
- (n) In repaving the roadway in a tiered or double-decked format which substantially increased the height of the roadway versus the height of the shoulder, without adequately building up the shoulder of the roadway to compensate for the increased height;
- (o) In failing to design a process for repaving the roadway, which would not necessitate a raising of the roadway above the then existing shoulder of the road;
- (p) In failing to properly construct S.C. Highway 170 to prevent the existence of unreasonably dangerous conditions, including a hazardous low shoulder;
- (q) In failing to use the safety engineering means that were available to be used for the safety of foreseeable highway travelers, including the Plaintiff;
- (r) In failing to ensure that any contracted highway maintenance company undertook to ensure that no unreasonably dangerous conditions existed for the protection of foreseeable highway travelers, including the Plaintiff, when the Defendants knew or should have known that grievous bodily injury or death was likely to result if the Defendants failed to provide ongoing and proper inspection, maintenance, and repair of S.C. Highway 170;
- (s) In failing to employ the safety measures available to them and in allowing such condition to exist and engaging in the reckless and wanton course of not providing a roadway free of any unreasonably dangerous conditions, for the safety of foreseeable highway travelers, including the Plaintiff;

- (t) In failing to utilize accepted professional standards appropriate to resolve the hazardous condition existing at the time of this accident;
- (u) In failing to maintain a roadway and shoulder of the road that conforms to acceptable professional standards and specifications;
- (v) In failing to hire adequate personnel to inspect and discover the dangerous condition of the roadway;
- (w) In failing to correct and react to the actual and/or constructive notice of the dangerous condition which had existed for a sufficient length of time so that Defendants knew or should have known of its existence;
- (x) In failing to install flashing barricades or place warning signs to make members of the traveling public aware of the dangerous condition on the roadway;
- (y) In failing to properly maintain the roadway in an adequate manner as to prevent hazards to the members of the public traveling thereon;
- (z) In failing to provide ongoing maintenance and repair of S.C. Highway 170; and
- (aa) In all other ways being negligent.

24. That as a direct and proximate result of the Defendants' collective failure to perform the duties for which they were strictly liable to perform, the Plaintiff, DANIEL J. MARTIN, sustained multiple physical injuries as described more particularly above.

WHEREFORE, the Plaintiff, DANIEL J. MARTIN, demands judgment against the Defendants, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, TOWN OF BLUFFTON, and BEAUFORT COUNTY, in an amount in excess of ONE HUNDRED THOUSAND (\$100,000.00) AND/NO DOLLARS as to the First and Second Causes of Action, such amount to include, but not be limited to, actual damages and an appropriate amount of punitive damages and costs as the Court and jury should deem fit and proper. The Plaintiffs also request a trial by jury.

SVALINA LAW FIRM, P.A.

BY: 

SAMUEL L. SVALINA

SAMUEL S. SVALINA

2 Westbury Park Way

Suite 201

Bluffton, South Carolina 29910

(843) 837-7800 Phone

(843) 815-6931 Fax

ATTORNEY FOR THE PLAINTIFFS

Bluffton, South Carolina
December 17, 2012

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2012CP0704196

Daniel J Martin

South Carolina
Department Of
Transportation
Town Of Bluffton

South Carolina
Department Of Public
Safety
Beaufort County

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

Stipulation of Dismissal (with prejudice-all claims, counterclaims, cross-claims & or third party claims)

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

CPFORM4Cm
SCCA SCRPC Form 4C (Revised 3/2013)

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on **5th day of June, 2015**, and a copy mailed first class or placed in the appropriate attorney's box on **8th day of June, 2015**, to attorneys of record or to parties (when appearing pro se) as follows:

Lee Deer Cope, Esq.
PO Box 457
Hampton, SC 29924-0457

John Paul Detrick, Esq.
PO Box 457
Hampton, SC 29924-0457

Samuel S. Syalina, Esq.
2 Westbury Park Way, Suite 201
Bluffton, SC 29910

Christy L Scott, Esq.
PO Box 1515

Walterboro, SC 29488

C. Scott Graber, Esq.
605 Carteret Street
Beaufort, SC 29902

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Trena Patterson/staff

Court Reporter

Jerri Ann Roseneau - 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.

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

RECEIVED

AUG 19 2015

SCDPS
Office of General Counsel

August 18, 2015

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T91671
Date of Occurrence: December 17, 2010
Claimant: Martin, Daniel
Date Closed: August 18, 2015

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 48,973.94

If you should have any questions, please contact us.

Sincerely,

Jacqueline M. Patterson
Litigation Consultant

/jmp

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

Kathryn M. Masincupp,

Plaintiff,

vs.

John Doe; Pineland Farm, LLC;
Blackbottom Farm, Inc.; Michael Todd
Smith; South Carolina Forestry
Commission, South Carolina Department
of Transportation; and South Carolina
Department of Public Safety,

Defendants.

IN THE COURT OF COMMON PLEAS

Case No.: 2013-CP-_____

COMPLAINT

(Jury Trial Requested)
CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE

5/28/13

CLERK OF COURT
CLARENDON COUNTY, SC

BEULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC
2013 MAY 28 PM 2:37

The Plaintiff alleges the following:

1. That she is a resident of the County of Clarendon, the State of South Carolina.
2. The Defendant John Dow is a fictitious name for an unknown motorist who, upon information and belief, was driving a motor vehicle at the time of the occurrence herein.
3. The Defendants, Pineland Farm, LLC (hereinafter "PF") and Blackbottom Farm, Inc. (hereinafter "BF"), upon information and belief, are the owners of certain property in Clarendon County, State of South Carolina and were conducting a burn.
4. The Defendant, Michael Todd Smith, hereinafter (Smith"), upon information and belief, is a resident of the State of South Carolina.
5. The Defendant, South Carolina Forestry Commission (hereinafter "SCFC"),

is a governmental entity responsible for administering Smoke Management Guidelines. SCFC is organized and exists under the laws of South Carolina and is therefore subject to the general personal jurisdiction of this Court.

6. The Defendant, South Carolina Department of Transportation (hereinafter SCDOT"), is a governmental entity and exists under the laws of South Carolina and is subject to the personal jurisdiction of this Court. SCDOT is responsible for the design, construction and maintenance of signs on the roadways of South Carolina.
7. The Defendant, South Carolina Department of Public Safety (hereinafter SCDPS), is a governmental entity and exists under the laws of South Carolina and is subject to the personal jurisdiction of this Court. SCDPS is responsible for enforcing and maintaining safety on the roadways of South Carolina.
8. The negligent acts, omissions and liability of all Defendants includes their agents, principals, employees and /or servants, both directly and vicariously, pursuant to principals of corporate liability, apparent authority, agency, ostensible agency and/or respondeat superior.
9. That all of the above-named Defendants are jointly and severally liable as to all damages alleged herein since their negligent, grossly negligent, reckless and wanton acts and omissions, singularly or in combination, were a direct and proximate cause of the Plaintiff's damages, injuries and losses.

VENUE

10. Venue is appropriate in Clarendon County since the accident which is the subject of this action occurred in Clarendon County and the alleged tortuous

actions of the Defendants occurred in Clarendon County.

FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

11. Prior to March 15, 2012, the Defendants, PF and/or BF had applied for and received a permit or permission for a prescribed burn, # 12FB03671, near Highway 15 in Clarendon County. A controlled burn is where an entity burns of trees, shrubbery or some form of debris under strict supervision and control.
12. The permit supposedly allowed PF and/or BF to conduct a controlled burn along 100 acres of property which, upon information and belief, is owned by PF and/or BF.
13. The permit had been requested through SCFC which granted the request for the controlled burn permit.
14. The Defendants PF and/or BF did burn certain acreage resulting in smoke standing on the highway creating a dangerous and hazardous condition for the operators of vehicles and travelers on Highway 15.
15. The dangerous condition was such that the Defendants PF and/or BF knew or should have known that a dangerous condition existed on the roadway in South Carolina and their acts and omissions caused such dangerous conditions.
16. The Defendant SCFC, did not manage, oversee, warn, place signs or cause signs to be placed and took no action to warn motorists of a dangerous condition on the highway resulting in this accident and causing injury to the Plaintiff.
17. Upon Information and belief, on March 15, 2012, SCFC was the agency in

South Carolina charged with the responsibility of issuing permits and performing inspections and investigations into permits from companies requesting permission to do controlled burns of natural resources such as tress and brush in a given area.

18. Upon information and belief, sometime prior to March 15, 2012, SCFC received a request from a company in the County of Williamsburg, State of South Carolina, by the name of Smith in the County of Clarendon, State of South Carolina to do a controlled burn of 300 tons of timber and/or brush.
19. SCFC had a duty and obligation to inspect and investigate the request and either grant or deny the request for a controlled burn of natural resources.
20. SCFC failed to do a proper inspection and/or investigation of the request and did not discover some of the very dangerous ramifications of this potential controlled burn.
21. A controlled burn is not supposed to create a hazardous situation on public thoroughfares in the State of South Carolina.
22. This supposed controlled burn by PF and/or BF created an extremely hazardous situation since the smoke from the burn settled on a public thoroughfare in Clarendon County.
23. This smoke created a hazard to members of the traveling public and the Defendants SCDPS and SCDOT were supposed to warn people of this hazard or help control this hazard and it appears they did nothing to warn of this hazard or control this hazard.
24. That, on or about, March 15, 2012, John Doe was operating a vehicle in a northerly direction on, or near Highway 15 in Clarendon County.

25. At the same time and traveling in the same direction as John Doe on Highway 15 in Clarendon County, the Plaintiff was operating a 2006 Pontiac sedan.
26. The Plaintiff unexpectedly encountered settling smoke on Highway 15 in Clarendon County and slowed down her vehicle in a safe manner.
27. Upon information and belief, John Doe, whose vehicle was three vehicles ahead of Plaintiff, also encountered the smoke on the highway while traveling ahead of Plaintiff and stopped the vehicle on the roadway in an unsafe manner.
28. The Plaintiff's vehicle collided with a vehicle driven by Keoaka Walker, whose vehicle collided with a vehicle driven by Jason Osteen, whose vehicle collided with a vehicle driven by John Doe with enough force and violence to cause the Plaintiff severe injuries.
29. Along with the unlawful actions of John Doe and as a result of the hazard created by PF, BF and SCFC, and the hazard which was not warned about or controlled by SCDPS or SCDOT, the Plaintiff was involved in a severe motor collision.
30. The vehicular collision caused the severe injuries of the Plaintiff and resulted due to the negligence, carelessness, recklessness and gross negligence of all parties.

FOR A FIRST CAUSE OF ACTION
NEGLIGENCE AND GROSS NEGLIGENCE

31. The Plaintiff repeats and re-alleges paragraphs 1-34 as if set forth herein verbatim, and would further allege:

VICARIOUS LIABILITY OF JOHN DOE

32. The Plaintiff is informed and does believe that Defendant John Doe owed a duty to the Plaintiff to operate the Defendants' vehicle safely on March 15, 2012, including maintaining proper safety standards prior to the vehicle entering the highway on March 15, 2012.
33. On March 15, 2012, the Defendant John Doe was negligent, careless, reckless, wanton, and grossly negligent in the following particulars, which contributed to the severe injuries suffered by the Plaintiff:
- a. Driving a motor vehicle in such a manner as to indicate a willful, wanton, reckless, grossly negligent disregard for the safety of others, in violation of S.C. Code Ann. 56-5-2920;
 - b. Failing to maintain a proper lookout;
 - c. Failing to take evasive action;
 - d. Failing to use the degree of care and caution that a reasonable person would have used under the circumstances then and there prevailing;
 - e. Failing to keep the motor vehicle he was operating under control;
 - f. In such other and further particulars as the evidence at trial may show.

SCFC

34. The Plaintiff is informed and does believe that the Defendant SCFC owed a duty to all motorists on the highway in South carolina, including the Plaintiff; to properly investigate, grant and deny permits to do controlled burns for requesting entities in all counties in South Carolina, including the permits for

PF,BF and Smith in Clarendon County.

35. On March 15, 2012, the Defendant SCFC was negligent, careless, reckless, wanton, and grossly negligent in the following particulars, which contributed to the death of the Decedent:

- a. Failing to properly supervise the persons doing an investigation or inspection of the permit request by Smith to do a controlled burn in Clarendon County
- b. Failing to conduct a proper inspection of the permit to ascertain the rationale and determine safety standards of the request by Smith to do a controlled burn in Clarendon County;
- c. Failing to conduct a proper investigation of the permit to ascertain the rationale and determine safety standards of the request by Smith to do a controlled burn in Clarendon County.
- d. Failing to timely notice that the controlled burn by Smith/PF/BF was not proceeding as planned and either detouring traffic away from the self created safety hazard or warning motorists properly of the safety hazard;
- e. Failing to timely enact or enforce proper safety procedures for a controlled burn in Clarendon County in March, 2012;
- f. Failing to protect Motorists on the highway from a hazard created in part by SCFC;
- g. Failing to notice or act in a timely manner to a hazard created in part by SCFC's own actions;
- h. Failing to properly train all persons in the chain of command who

could supervise employees or do a proper inspection or investigation of the permit request by Smith to do a controlled burn in Clarendon County in March, 2012.

SCDPS and SCDOT

36. The Plaintiff is informed and does believe that the Defendant SCDPS and SCDOT owed a duty to all motorists on the highway in South Carolina, including the Plaintiff, to properly facilitate safe travel on the highways of South Carolina.
37. On March 15, 2012, the Defendants SCDPS and SCDOT were negligent, careless, reckless, wanton, and grossly negligent in the following particulars, which contributed to the injuries of the Plaintiff:
 - a. In failing to warn those traveling on Highway 15 that dangerous conditions on the roadway existed at the time of the accident herein;
 - b. In failing to correct the problems that existed on Highway 15, although the SCDOT and the SCDPS knew or should have known of the dangerous condition of the roadway;
 - c. In failing to properly train and supervise their employees so that they would be aware of when to advise of any such hazardous conditions;
 - d. In failing to properly maintain Highway 15 and failing to maintain safety on Highway 15.
 - e. In failing to properly patrol the intersection of Highway 15;
 - f. In failing to warn of the smoke in the roadway prior to the time of the accident;
 - g. In failing to keep the roadway in a reasonable safe condition for public

travel;

- h. In failing to use that degree of care that a reasonably prudent entity would have exhibited under the same or similar circumstances.

MICHAEL TODD SMITH; PINELAND FARM, LLC AND
BLACKBOTTOM FARM, INC.

38. The Plaintiff is informed and does believe that the Defendants Smith, PF and BF owed a duty to all motorists on the highway in South Carolina, including the Plaintiff, to properly facilitate a safe controlled burn so as to prevent standing smoke on the highway adjacent to the controlled burn.

39. On March 15, 2012, the Defendants Smith, PF and BF were negligent, careless, reckless, wanton, and grossly negligent in the following particulars, which contributed to the death of the Decedent:

- a. In failing to adequately prepare for the prescribed burn;
- b. In failing to supervise said burn;
- c. In failing to supervise its agents, servants and employees;
- d. In failing to notify proper authorities regarding the smoke settling on the highway when they knew or should have known of the dangerous condition;
- e. In failing to have in place an adequate safety program for the safety and protection of the motoring public and public at large.
- f. In failing to monitor said burn;
- g. In failing to act as a reasonable and prudent person under the circumstances;
- h. In failing to abide by the ordinances, regulations and laws in

existence;

- i. In failing to return to the site of the fire to check it; and
- j. In failing to pay attention to the weather conditions and other conditions so as to prevent an immediate hazard.

WHEREFORE, the Plaintiff prays for Judgment against the non-governmental Defendants for actual and punitive damages in an amount to be determined by the jury at the trial in this action and judgment against the governmental Defendants for actual and consequential damages in an amount to be determined by the jury at the trial in this action, for the costs and disbursements of this action and for such other and further relief as this Court deems just and proper.

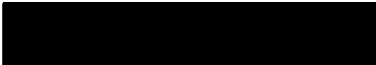
McGOWAN, HOOD & FELDER, LLC


Patrick M. Killen
Attorney for Plaintiff
28 North Main Street
Sumter, SC 29150
(803) 774-5026
(803) 774-5028 Fax
pkillen@mcgowanhood.com

Sumter, South Carolina
Date: 5/17/13


STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CLARENDON	)	C/A NO. 2013-CP-14-222
Kathryn M. Masincupp,)	
)	
Plaintiff,)	
)	
vs.	)	STIPULATION OF DISMISSAL
)	
John Doe, Pineland Farm, LLC;)	
Blackbottom Farm, Inc.; Michael Todd)	
Smith; South Carolina Forestry Commission;)	
South Carolina Department of)	
Transportation; and South Carolina)	
Department of Public Safety,)	
)	
Defendants.)	

IT IS HEREBY STIPULATED AND AGREED, by and between the parties and their respective counsel, that the above-captioned action is voluntarily dismissed, with prejudice, against the Defendant South Carolina Department of Public Safety, pursuant to the Federal Rules of Civil Procedure 41(a)(1). All parties agree also to be responsible for their own costs and attorney's fees.


 Patrick M. Killen, Esq.
 McGowan, Hood & Felder
 28 N. Main Street
 Sumter, SC 29150
 Attorney for the Plaintiff


 J. Scott Kozacki, Esq.
 Willcox, Buyck & Williams, PA
 248 West Evans Street
 Florence, SC 29501
 Attorney for the SC Department of
 Public Safety

July 2, 2015
 South Carolina

CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE
 DATE 7/13/15

 CLERK OF COURT
 CLARENDON COUNTY, SC

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

June 22, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T98111
Date of Occurrence: March 15, 2012
Claimant: Masincupp, Kathryn, et al.
Date Closed: December 8, 2015

Also, Hawkins, Glendon

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 63,735.73

If you should have any questions, please contact us.

Sincerely,

Dennis T. Elledge
Manager, Tort Claims Department

/dte

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
)	
Curtis Allen Matthews,	)	CIVIL ACTION No.: 2014-CP-40
)	
Plaintiff,)	
)	
vs.)	
)	
South Carolina Law Enforcement Division,	)	COMPLAINT
and South Carolina Department of Public	)	(Jury Trial Demanded)
Safety,)	
)	
Defendants.)	
)	

RICHLAND COUNTY
 FILED
 2014 MAY -5 PM 3:30
 CLANETTE W. MCBRIDE
 C.O.P. & G.S.

COMES NOW the Plaintiff, Curtis Allen Matthews, complaining of the Defendants, South Carolina Law Enforcement Division and South Carolina Department of Public Safety, who would respectfully allege and show unto this Honorable Court:

1. Plaintiff Curtis Allen Matthews is a citizen and resident of Florence County, South Carolina.
2. Defendant South Carolina Law Enforcement Division is a duly constituted law enforcement agency providing law enforcement services in the State of South Carolina.
3. Defendant South Carolina Department of Public Safety is a duly constituted law enforcement agency providing law enforcement services in the State of South Carolina.
4. This Court is the proper jurisdiction and venue for this matter because the most substantial acts and omissions giving rise to the causes of action occurred in Richland County, South Carolina.

FACTS

5. On or about May 4, 2013, the Plaintiff attended the Kenny Chesney music concert with his family and friends at the Williams-Brice Stadium located in Richland County.

6. When the concert was over, Plaintiff, his wife, and several friends were attempting to leave when an unknown pedestrian violently struck the rear of his vehicle while sitting in traffic. Plaintiff exited the vehicle in an effort to assess the situation and inspect for damage to the vehicle.

7. While Plaintiff was inspecting his vehicle, two unknown individuals wearing camouflage clothing approached the Plaintiff within inches of his face shouting "get in the fucking car." When the Plaintiff attempted to explain that an unknown pedestrian had struck the vehicle, the two unknown individuals wearing camouflage clothing attacked Plaintiff, dragged him across a lane of traffic, and proceeded to slam Plaintiff's body into the sidewalk, and then continued to strike him.

8. While the two unknown individuals wearing camouflage were attacking the Plaintiff on the sidewalk, a uniform police officer approached and tasered the Plaintiff.

9. The two unknown individuals wearing camouflage were later identified as South Carolina Law Enforcement Division SWAT team members, Special Agent Stevie Sligh and Special Agent Neal Nelson.

10. The uniform police officer that subjected the Plaintiff with the taser weapon was later identified as South Carolina Highway Patrol Officer Jack Tompkins.

11. Defendants handcuffed and placed Plaintiff under arrest claiming that he committed disorderly conduct in violation of S.C. Code Ann. § 16-17-530 and resisted a lawful arrest in violation of S.C. Code Ann. § 16-9-320(A).

12. Plaintiff was transported to the Alvin Glenn Detention Center in Richland County, South Carolina for booking and confinement.

13. Plaintiff was wrongfully detained against his liberties for a day before he was released on bond.

14. At the preliminary hearing held on June 7, 2013, the Magistrate Court found that Plaintiff did not resist an arrest as a matter of law because Defendants lacked any probable cause to arrest Plaintiff for disorderly conduct.

15. The charge against Plaintiff for resisting arrest in violation of S.C. Code Ann. § 16-9-320(A) was dismissed for lack of probable cause.

16. The charge against Plaintiff for disorderly conduct in violation S.C. Code Ann. § 16-17-530 was dismissed based on the Magistrate Court's ruling and under circumstances for a reasonable person to believe that are consistent or implicit with the Plaintiff's innocence.

17. Plaintiff did not use fighting words or act in a threatening manner towards the Defendants.

18. Defendants provided false and materially misleading statements about the arrest of the Plaintiff in the incident report, arrest warrant, and other documents in an effort to manufacture probable cause as grounds to support the unlawful arrest of the Plaintiff.

19. Defendants failed to act as properly trained police officers and failed to exercise a higher degree of restraint than the average citizen by dealing with Plaintiff in a belligerent and excessive manner.

20. As a result of this arrest, Plaintiff has suffered and will continue to suffer actual damages, including but not limited to, serious personal injuries to his body, stigmatism and injury of reputation and character, lost wages, loss of enjoyment of life, wrongful imprisonment and confinement, deprivation of liberties, mental and emotional distress, depression, worry and anxiety, and attorney's fees and costs.

FOR A FIRST CAUSE OF ACTION
(False Arrest / False Imprisonment)

21. Plaintiff incorporates by reference all allegations set forth in the preceding paragraphs as if fully stated herein.

22. Defendants deprived Plaintiff of his personal liberties and freedoms without lawful justification through an unjustified arrest and subsequent imprisonment.

23. Defendants lacked probable cause to arrest Plaintiff.

24. Defendants intentionally and unlawfully restrained and imprisoned Plaintiff in retaliation and violation of his established legal rights.

25. As a direct and proximate result of these actions, Plaintiff is entitled to recover actual, consequential, special, and incidental damages against the Defendants.

FOR A SECOND CAUSE OF ACTION
(Malicious Prosecution)

26. Plaintiff incorporates by reference all allegations set forth in the preceding paragraphs as if fully stated herein.

27. Defendants maliciously instituted and continued criminal proceedings against Plaintiff.

28. The criminal proceedings were instituted and continued by the Defendants.

29. The criminal proceedings were terminated in Plaintiff's favor and under circumstances for a reasonable person to believe that are consistent or implicit with his innocence.

30. Defendants actions in arresting and prosecuting the Plaintiff was malicious.

31. Defendants lacked probable cause for Plaintiff's arrest.

32. As a direct and proximate result of these actions, Plaintiff is entitled to recover actual, consequential, special, and incidental damages against the Defendants.

FOR A THIRD CAUSE OF ACTION
(Assault and Battery)

33. Plaintiff incorporates by reference all allegations set forth in the preceding paragraphs as if fully stated herein.

34. Defendants inflicted offensive and forcible contact on the Plaintiff by wrongfully touching and restraining him without probable cause or consent in conducting an unlawful arrest.


35. Defendants inflicted offensive and forcible contact on the Plaintiff by applying unreasonable and excessive force through acts of grabbing, striking, beating, and tasing him in their efforts to unlawfully detain and arrest Plaintiff.

36. As a direct and proximate result of Defendants' actions, Plaintiff sustained serious and painful personal and emotional injuries, along with other damages inflicted upon him.

WHEREFORE, Plaintiff is informed and believes that he is entitled to judgment against the Defendants as sought herein, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

By:


 Robert F. Goings, Esq.
 Goings Law Firm, LLC
 914 Richland Street, Suite A-101
 Post Office Box 436 (29202)
 Columbia, South Carolina 29201
 Email: rgoings@goingslawfirm.com
 Phone: (803) 350-9230
 Fax: (877) 789-6340
Attorneys for Plaintiff

Columbia, South Carolina
 May 5, 2014

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

) C/A No.: 2014-CP-40-2868

Curtis Allen Matthews,

Plaintiff,

) STIPULATION OF DISMISSAL

v.


) (With Prejudice)

South Carolina Law Enforcement
Division, and South Carolina
Department of Public Safety,

Defendants.

The above-entitled named parties, by and through their undersigned attorneys, stipulate that the above-entitled action is hereby dismissed with prejudice as it pertains to the above-captioned Defendants pursuant to the terms of Rule 41(a)(1)(B) of the South Carolina Rules of Civil Procedure.

I CONSENT:


 Robert F. Goings, Esquire
 Counsel for Plaintiff

I CONSENT:


 Robert D. Garfield, Esquire
 Counsel for Defendants
November 10, 2015

Columbia, South Carolina

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

May 21, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T25729
Date of Occurrence: May 4, 2013
Claimant: Matthews, Curtis Allen
Date Closed: May 21, 2016

Dear WARREN:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 23,209.36

If you should have any questions, please contact us.

Sincerely,

Jacqueline M. Patterson
Litigation Consultant

/jmp

RECEIVED
MAY 24 2016
SCDPS
Office of General Counsel

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Jack R. Maxwell, Jr.

Plaintiff

v.

South Carolina Department of Public
Safety, Orangeburg County Sheriff's
Office and Officer Crystal Quinones
and Officer David Smith

Defendants.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

CIVIL ACTION NO.: 2013-CP-38-_____

COMPLAINT

(JURY TRIAL DEMANDED)

FILED FOR RECORD
WINNIE B. LEE
CLERK OF COURT
ORANGEBURG, SC
2013 MAY 24 PM 3:45

Plaintiff complaining of Defendant herein would respectfully show unto this Court, upon information and belief, that:

1. The Plaintiff is a citizen and resident of the State of South Carolina, County of Orangeburg.
2. The Defendant, Crystal Quinones, is an employee, officer, and agent of the Orangeburg County Sheriff's Department.
3. The Defendant, David Smith, is an employee, officer, and agent of the South Carolina Department of Public Safety.
4. The Defendant, South Carolina Department of Public Safety (hereinafter referred to as "SCDPS"), is an agency conducting law enforcement under the laws of the State of South Carolina, doing business in the County of Orangeburg, and at all times relevant herein, acted by and through its agents, officers, and employees for the purposes of carrying on its business as a law enforcement agency and therefore, it is liable for the negligent acts and omissions of its

agents, officers and employees under the theories of non-delegable duty and *respondeat superior*, and the South Carolina Tort Claims Act.

5. The Defendant, Orangeburg County Sheriff's Office (hereinafter referred to as "OCSO"), is an agency conducting law enforcement under the laws of the State of South Carolina, doing business in the County of Orangeburg, and at all times relevant herein, acted by and through its agents, officers, and employees for the purposes of carrying on its business as a law enforcement agency and therefore, it is liable for the negligent acts and omissions of its agents, officers and employees under the theories of non-delegable duty and *respondeat superior*, and the South Carolina Tort Claims Act.

6. This action is brought pursuant to the South Carolina Torts Claims Act, S.C. Code Ann., 15-78-1-, et seq.

7. On March 7, 2012 Officer Smith of the OCSD made a traffic stop on the motor vehicle operated by the Plaintiff.

8. Officer Smith charged the Plaintiff solely on the basis of Violation of the Mandatory Use of a Seatbelt, S.C. Code Ann., 56-5-6520.

9. Officer Quinones then arrested Plaintiff in a public location and placed Plaintiff in handcuffs, and transported him to the Orangeburg County Detention Center where he was incarcerated.

10. The Plaintiff previously had a bench warrant issued against him by the SC Family Court.

11. The Plaintiff's aforementioned bench warrant was lifted by Judge Jones on January 4, 2011.

12. Officer Quinones served the invalid bench warrant on the Plaintiff on March 7, 2012.

FOR A FIRST CAUSE OF ACTION
(Negligence by OCSO and SCDPS)

13. Plaintiff incorporates the above allegations as if fully and completely repeated verbatim herein.

14. Defendants OCSO and SCDPS, owed Plaintiff a duty to exercise reasonable and diligent care in accurately and frequently maintaining records in the State of South Carolina.

15. Defendants OCSO SCDPS, by and through the actions of its employees and officers, was negligent, grossly negligent, willful and wanton in the following particulars, including but not limited to;

- a. in failing to exercise even slight care to verify that the Plaintiff's bench warrant was valid, still existed and had not been lifted; and,
- b. in failing to design, implement and/or enforce policies and procedures to protect the Plaintiff against wrongful arrest; and
- c. in failing to properly train and supervise their respective employees in the proper and reasonable methods for executing arrest warrants; and,
- d. in failing to exercise the degree of care which a reasonable and prudent law enforcement agency would have exercised under the same or similar circumstances.

16. As a direct and proximate result of the aforementioned acts of Defendants, OCSO and SCDPS, Plaintiff has suffered physical injuries, embarrassment, humiliation, damage to his

personal and professional reputation, and a loss of his freedom of movement, all to his detriment, and in an amount to be determined by the trier of fact.

FOR A SECOND CAUSE OF ACTION
(Defamation as to all Defendants)

17. Plaintiff incorporates the above allegations as if fully and completely repeated verbatim herein.

18. Defendants, through their agents, servants, and/or employees who were acting within the scope and course of said agency, service and/or employment, falsely arrested Plaintiff for an invalid bench warrant, S.C. Code Ann., 56-1-460 resulting in his incarceration, in reckless disregard of the rights of the Plaintiff, said arrest occurring in full view of other bank customers.

19. The actions of arresting Plaintiff amount to a statement that Plaintiff is a criminal, and the arresting officer announced charge to Plaintiff on the scene.

20. Defendant Officer Quinones transported Plaintiff to the Orangeburg County Detention Center, where upon information and belief, employees of OCSO announced that Plaintiff was being arrested for a bench warrant, when in fact bench warrant against the Plaintiff was lifted on or about January 5, 2011.

21. The statements were defamatory per se;

22. Defendants published these statements to others;

23. The statements by Defendant were defamatory, malicious, non-privileged and false.

24. These statements were published negligently, recklessly and with a reckless disregard for whether they would injure Plaintiff's reputation.

25. As a direct and proximate result of the above acts, the Plaintiff's reputation has been damaged in that he has been shunned and avoided due to his incarceration and Plaintiff has suffered extreme emotional distress, nervousness, anxiety and other damages described above.

FOR A THIRD CAUSE OF ACTION
(False Imprisonment as to all Defendants)

26. Plaintiff incorporates the above allegations as if fully and completely repeated verbatim herein.

27. The actions of the Defendants combined and concurred to cause Plaintiff to have been arrested and restrained.

28. The Defendants acted intentionally in their actions in arresting and restraining Plaintiff.

29. The Defendants were without any lawful authority to restrain Plaintiff.

30. As a direct and proximate result of Defendants falsely imprisoning the Plaintiff, he has suffered physical injuries, embarrassment, humiliation, damage to his personal and professional reputation, and a loss of his freedom of movement, all to his detriment, and in an amount to be determined by the trier of fact.

WHEREFORE, the Plaintiff prays for judgment against the Defendant for actual damages in an amount to be determined by the triers of fact, for the costs of this action, and for such other and further relief as this Court may deem just and proper.

WILSON, LUGINBILL & KIRKLAND, LLC

By: 

Kent C. Kirkland
 K. Clint Kirkland, Jr.
 Post Office Box 1150
 Bamberg, South Carolina 29003
 (803)245-7799
 Attorneys for Plaintiff

May 14, 2013
 Bamberg, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

Jack R. Maxwell, Jr.,)

Plaintiff,)

v.)

South Carolina Department of Public Safety,)
and Orangeburg County Sheriff's Office,)

Defendants.)

IN THE COURT OF COMMON PLEAS

STIPULATION OF DISMISSAL

Civil Action 2013-CP-38-592

FILED FOR RECORD
2014 AUG 20 PM 12:17
CLERK OF COURT
ORANGEBURG

It appearing that the above entitled action has been resolved by and between the plaintiff and the Orangeburg County Sheriff's Office, and the parties agree the action should be dismissed; and,


It appearing that the parties further agree this action should be dismissed outright as against the South Carolina Department of Public Safety,

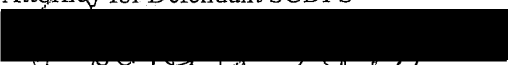
Now, by stipulation of the undersigned counsel, it is hereby

AGREED that this action shall be and is dismissed with prejudice, in its entirety, as to all defendants.

WE SO STIPULATE:


Kent C. Kirkland Jr.


Joel S. Hughes/William H. Davidson, II
Attorney for Defendant SCDPS


Norma A. T. Jett

Attorney for Defendant Orangeburg County Sheriff's Office

ATTEST: TRUE COPY
CLERK OF COURT
ORANGEBURG COUNTY, SC

2015-01-28 14:05:28

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

January 27, 2015

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T97037
Date of Occurrence: May 7, 2012
Claimant: Maxwell, Jack R. (Jr.)
Date Closed: January 27, 2015

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	4,037.05

If you should have any questions, please contact us.

Sincerely,

Jacqueline M. Patterson
Litigation Consultant

/jmp

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF KERSHAW	)	CASE NO.: 2012-CP-28-1168
CHRISTIAN L. MCBEE, and RENEE C.)	
HUGHES, as Personal Representative for)	
the ESTATE OF MORGAN L. HUGHES,)	
)	
Plaintiffs,	)	THIRD AMENDED COMPLAINT
)	
v.	)	<u>Jury Trial Demanded</u>
)	
SOUTH CAROLINA DEPARTMENT OF)	
TRANSPORTATION, KERSHAW)	
COUNTY SHERIFF'S OFFICE,)	
KERSHAW COUNTY and SOUTH)	
CAROLINA DEPARTMENT OF)	
PUBLIC SAFETY,)	
)	
Defendants.)	

The Plaintiffs, complaining of the Defendants, hereby submit this Third Amended Complaint and allege as follows:

PARTIES, JURISDICTION, AND VENUE

1. The Plaintiff, CHRISTIAN L. MCBEE, is a citizen and resident of the County of Horry, State of South Carolina.
2. At all times relevant herein, MORGAN L. HUGHES, deceased, was a citizen and resident of the County of Horry, State of South Carolina.
3. The Plaintiff, RENEE C. HUGHES, is the mother of MORGAN HUGHES and the duly appointed and acting Personal Representative of the ESTATE OF MORGAN L. HUGHES.
4. Defendant SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION is an agency of the State of South Carolina and is subject to suit pursuant to the South Carolina Tort

Claims Act, S.C. Code Ann. § 15-78-10, *et seq.*

5. Defendant KERSHAW COUNTY SHERIFF'S OFFICE is an agency of the State of South Carolina and is subject to suit pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.*
6. Defendant KERSHAW COUNTY is an agency of the State of South Carolina and is subject to suit pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.*
7. Defendant SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY is an agency of the State of South Carolina and is subject to suit pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.*
8. All acts complained of herein occurred in the County of Kershaw, State of South Carolina.
9. The parties hereto, subject matter hereof, and all matters hereinafter alleged are within the jurisdiction of this Court, and this Court is the proper venue for this action pursuant to S.C. Code Ann. §§ 15-7-30(D)(1) & 15-78-100(b).

FACTUAL BACKGROUND

10. On or around October 28, 2012 at approximately 8:00 p.m., local law enforcement agencies and emergency personnel were engaged in the recovery of the bodies of two individuals who had been found in a submerged car in a pond located in the median of Interstate 20 East in Kershaw County near Exit 96 (hereinafter the "recovery area").
11. Upon information and belief, at some point prior to or during this recovery effort, Defendants KERSHAW COUNTY and KERSHAW COUNTY SHERIFF'S OFFICE (hereinafter "KCSO") contacted Defendant SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION (hereinafter "SCDOT") to assist KERSHAW COUNTY and KCSO

in setting up a traffic control zone near the recovery area, which included posting flashing signs in the surrounding eastbound and westbound lanes of I-20 to warn oncoming vehicle traffic of the incident.

11. Shortly thereafter, South Carolina Highway Patrol officers employed by Defendant SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY (hereinafter "SCDPS") arrived at the scene to assist the other law enforcement/emergency agencies with the recovery effort.
12. Defendants KERSHAW COUNTY, KCSO, SCDPS, and SCDOT set up a traffic control zone near Exit 96 next to the recovery area, and upon information and belief Defendants KCFS, KCSO, SCDPS and/or SCDOT either failed to post the flashing warning signs, or Defendants KERSHAW COUNTY, KCSO, SCDPS and/or SCDOT placed the flashing warning signs in such close proximity to the recovery area that oncoming vehicle traffic had little warning of the impending obstruction in the eastbound and westbound lanes of I-20 near Exit 96.
13. Around that same time, CHRISTIAN MCBEE and her college roommate, MORGAN HUGHES, were passengers in a 2005 Suzuki sedan traveling west on I-20 near Exit 98, approximately two miles from the recovery scene.
14. Around that same time, a 2006 Mercedes SUV was traveling in the same direction on I-20 at a distance behind the Suzuki.
15. Suddenly and without warning, the Mercedes SUV slammed into the rear-end of the Suzuki causing the Suzuki to travel off the left shoulder of the highway, overturn, and strike the cable barrier in the median of the highway.
16. The force of the impact caused severe physical injury and trauma to MORGAN HUGHES,

which subsequently resulted in her death. The force of the impact also caused severe physical injury and trauma to CHRISTIAN MCBEE, who was subsequently airlifted to Palmetto Richland Hospital where she remained in a coma for two weeks.

FOR A FIRST CAUSE OF ACTION
(Negligence/Gross Negligence/Recklessness as to Defendants SCDOT, KCSO, KERSHAW COUNTY, and/or SCDPS)

17. Plaintiff incorporates herein by reference all of the allegations contained in the preceding paragraphs.
18. The Defendants had a duty to keep the highway in a reasonably safe condition to enable CHRISTIAN MCBEE and other travelers to avoid injury.
19. The Defendants breached the aforementioned duty and were negligent, grossly negligent, careless, reckless, willful and/or wanton in one or more of the following particulars with each sufficient to support the relief sought:
 - a. By failing to post proper signs and other devices to warn motorists traveling along I-20 near the recovery area of the presence of a dangerous condition;
 - b. By posting flashing warning signs in such close proximity to the recovery area that oncoming vehicle traffic had little warning of the impending obstruction in the eastbound and westbound lanes of I-20 near Exit 96;
 - c. In creating an unreasonably dangerous condition by making a conscious choice, after considering the alternatives, to post flashing warning signs in an inappropriate location on the highway;
 - d. In creating an unreasonably dangerous condition in posting flashing warning signs in an inappropriate location in the highway in violation of the requirements of

governing authorities;

- e. Upon information and belief, in failing to correct the dangerous condition of the location of the warning signs after having actual or constructive notice of same and an opportunity to do so;
 - f. By failing to properly monitor traffic build up, particularly in the westbound lane, and to provide advanced warning of a hazardous condition on a major highway;
 - g. By failing to adhere to established state regulations/guidelines regarding incident command protocol during emergency traffic conditions;
 - h. By failing to adhere to established state regulations/guidelines regarding the set up of a temporary traffic control zone on a major highway; and
 - i. In such other particulars that may be shown in the trial of this matter.
20. As a direct and proximate result of the aforementioned acts and/or omissions of the Defendants, Plaintiff CHRISTIAN MCBEE suffered traumatic brain injury, bruised lungs, and other physical injury and was in a coma for two weeks; and in addition has suffered from other damages and injuries, including but not limited to, immeasurable physical and mental shock and suffering; wounded feelings; grief and sorrow; and continuing medical treatment and physical therapy. Therefore, the Plaintiff CHRISTIAN MCBEE is informed and believes she is entitled to a judgment against the Defendants, jointly and severally, for all actual, consequential and compensatory damages, in an amount to be determined by the trier of the fact, and punitive damages in an amount sufficient to deter such similar conduct in the future.

FOR A SECOND CAUSE OF ACTION
(Wrongful Death as to Defendants SCDOT, KCSO, KERSHAW COUNTY, and SCDPS)

21. Plaintiff incorporates herein by reference all of the allegations contained in the preceding paragraphs.
22. This cause of action is brought by Plaintiff RENEE C. HUGHES, as Personal Representative of the Estate of MORGAN L. HUGHES pursuant to the South Carolina Wrongful Death Statute, section 15-51-10, *et seq.*
23. The Defendants had a duty to the decedent, MORGAN HUGHES, and other travelers, to keep the highway in a reasonably safe condition to avoid injury.
24. The Defendants breached the aforementioned duty and were negligent, grossly negligent, careless, reckless, willful and/or wanton in one or more of the following particulars with each sufficient to support the relief sought:
 - a. By failing to post proper signs and other devices to warn motorists traveling along I-20 near the recovery area of the presence of a dangerous condition;
 - b. By posting flashing warning signs in such close proximity to the recovery area that oncoming vehicle traffic had little warning of the impending obstruction in the eastbound and westbound lanes of I-20 near Exit 96;
 - c. In creating an unreasonably dangerous condition by making a conscious choice, after considering the alternatives, to post flashing warning signs in an inappropriate location on the highway;
 - d. In creating an unreasonably dangerous condition in posting flashing warning signs in an inappropriate location in the highway in violation of the requirements of governing authorities;
 - e. Upon information and belief, in failing to correct the dangerous condition of the

location of the warning signs after having actual or constructive notice of same and an opportunity to do so;

- f. By failing to properly monitor traffic build up, particularly in the westbound lane, and to provide advanced warning of a hazardous condition on a major highway;
 - g. By failing to adhere to established state guidelines/regulations regarding incident command protocol during emergency traffic conditions;
 - h. By failing to adhere to established state guidelines/regulations regarding the set up of a temporary traffic control zone on a major highway; and
 - i. In such other particulars that may be shown in the trial of this matter.
25. As a direct and proximate result of the aforementioned acts and/or omissions of the Defendants, MORGAN HUGHES suffered severe and grave physical injuries from which she subsequently died. Therefore, Plaintiff RENEE C. HUGHES, as personal representative of the estate of the decedent, is informed and believes the beneficiaries of MORGAN HUGHES are entitled to a judgment against the Defendants, jointly and severally, for the decedent's wrongful death for all actual, consequential and compensatory damages, in an amount to be determined by the trier of the fact, and punitive damages in an amount sufficient to deter such similar conduct in the future.

FOR A THIRD CAUSE OF ACTION

(Survival Action as to Defendants SCDOT, KCSO, KERSHAW COUNTY, and SCDPS)

- 26. Plaintiff incorporates herein by reference all of the allegations contained in the preceding paragraphs.
- 27. This cause of action is brought by Plaintiff RENEE C. HUGHES, as Personal Representative

of the Estate of MORGAN L. HUGHES pursuant to the South Carolina Survival Statute, section 15-51-10, *et seq.*

28. The Defendants had a duty to the decedent, MORGAN HUGHES, and other travelers, to keep the highway in a reasonably safe condition to avoid injury.
29. The Defendants breached the aforementioned duty and were negligent, grossly negligent, careless, reckless, willful and/or wanton in one or more of the following particulars with each sufficient to support the relief sought:
 - a. By failing to post proper signs and other devices to warn motorists traveling along I-20 near the recovery area of the presence of a dangerous condition;
 - b. By posting flashing warning signs in such close proximity to the recovery area that oncoming vehicle traffic had little warning of the impending obstruction in the eastbound and westbound lanes of I-20 near Exit 96;
 - c. In creating an unreasonably dangerous condition by making a conscious choice, after considering the alternatives, to post flashing warning signs in an inappropriate location on the highway;
 - d. In creating an unreasonably dangerous condition in posting flashing warning signs in an inappropriate location in the highway in violation of the requirements of governing authorities;
 - e. Upon information and belief, in failing to correct the dangerous condition of the location of the warning signs after having actual or constructive notice of same and an opportunity to do so;
 - f. By failing to properly monitor traffic build up, particularly in the westbound lane, and

to provide advanced warning of a hazardous condition on a major highway;

- g. By failing to adhere to established state guidelines/regulations regarding incident command protocol during emergency traffic conditions;
- h. By failing to adhere to established state guidelines/regulations regarding the set up of a temporary traffic control zone on a major highway; and
- i. In such other particulars that may be shown in the trial of this matter.

30. As a direct and proximate result of the aforementioned acts and/or omissions of the Defendants, MORGAN HUGHES experienced severe pain and suffering, mental anguish including but not limited to anticipation of death, and her estate has incurred expenses, including but not limited to funeral expenses. Therefore, the Plaintiff RENEE C. HUGHES, as personal representative of the estate of the decedent, is informed and believes she is entitled to a judgment against the Defendants, jointly and severally, for this survival action for all actual, consequential and compensatory damages, in an amount to be determined by the trier of the fact, and punitive damages in an amount sufficient to deter such similar conduct in the future.

WHEREFORE the Plaintiffs pray the Court grant judgment in their favor against the Defendants, jointly and severally, for actual and punitive damages, for attorneys fees, and prejudgment interest, if appropriate, and for such other relief as the court deems just, prudent and proper.

LOFTON & LOFTON, P.C.

BY: 

LIONEL S. LOFTON
WILLIAM H. WARRING, III
225 Seven Farms Drive, Suite 109
Charleston, SC 29492
(843) 722-6319 o
(843) 722-6372 f
lofton@loftonandlofton.com

Charleston, South Carolina
August 31, 2014

STATE OF SOUTH CAROLINA)

COUNTY OF KERSHAW)

IN THE COURT OF COMMON PLEAS

Civil Action No. 12-CP-28-1168

Christian L. McBee and Renee C.
Hughes, as Personal Representative for
the Estate of Morgan L. Hughes,

Plaintiffs,

v.

South Carolina Department of
Transportation, Kershaw County Sheriff's
Office, Kershaw County and South
Carolina Department of Public Safety,


Defendants.

STIPULATION OF DISMISSAL

FILED FOR RECORD
2015 DEC 22 PM 1:35
CLERK OF COURT
KERSHAW COUNTY, S.C.

The Plaintiffs, **Christian L. McBee and Renee C. Hughes, as Personal Representative for the Estate of Morgan L. Hughes**, and the Defendants, **South Carolina Department of Transportation, Kershaw County Sheriff's Office, Kershaw County and South Carolina Department of Public Safety**, by and through their undersigned attorneys, stipulate that the above-entitled action is hereby dismissed with prejudice pursuant to the terms of Rule 41(a)(1)(B) of the South Carolina Rules of Civil Procedure.

WE SO STIPULATE:



William H. Waring, III, Esquire
Lofton & Lofton, P.C.
225 Seven Farms Drive, Suite 109
Charleston, South Carolina 29492

ATTORNEYS FOR THE PLAINTIFFS

Date:

12/16/15

WE SO STIPULATE:


William H. Davidson, II, Esquire
Michael B. Wren, Esquire
Davidson & Lindemann, P.A.
Post Office Box 8568
Columbia, South Carolina 29202-8568

ATTORNEYS FOR DEFENDANT
SOUTH CAROLINA DEPARTMENT
OF PUBLIC SAFETY

Date:

12/16/15

Copy of Original on File in this
Court
Clerk of Court Kershaw County

DLSCN 28/12/15

Stipulation of Dismissal
Civil Action No. 12-CP-28-1168
Page 2

WE SO STIPULATE:

[REDACTED]

Michael H. Montgomery, Esquire
Montgomery Willard, LLC
1002 Calhoun Street (29201)
Post Office Box 11886
Columbia, South Carolina 29211-1186

ATTORNEYS FOR DEFENDANT
SOUTH CAROLINA DEPARTMENT
OF TRANSPORTATION

Date: 12/16/2015

WE SO STIPULATE:

[REDACTED]

H. Thomas Morgan, Jr., Esquire
DuBose-Robinson, P.C.
Post Office Drawer 39
Camden, South Carolina 29021-0039

ATTORNEYS FOR DEFENDANTS
KERSHAW COUNTY SHERIFF'S
OFFICE AND KERSHAW COUNTY

Date: 12/16/2015

DLSCN 28/12/15

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

January 8, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T77851
Date of Occurrence: October 28, 2012
Claimant: McBee, Christian, et al.
Date Closed: January 8, 2016

Dear WARREN:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$ 250,000.00
Expenses Paid: \$ 27,862.31

If you should have any questions, please contact us.

Sincerely,

Jacqueline M. Patterson
Litigation Consultant

/jmp

RECEIVED

JAN 12 2016

SCDPS
Office of General Counsel

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
)	
	)	CASE NO.: 2012-CP-40-04518
GREGORY MIDDLETON)	
Plaintiff,)	
)	
versus	)	SECOND AMENDED COMPLAINT
	)	(Jury Trial Demanded)
)	
STATE OF SOUTH CAROLINA,)	
SOUTH CAROLINA STATE LAW)	
ENFORCEMENT DIVISION, SOUTH)	
CAROLINA HIGHWAY PATROL,)	
SOUTH CAROLINA ATTORNEY)	
GENERAL'S OFFICE, BEAUFORT)	
COUNTY SHERIFF'S OFFICE,)	
BEAUFORT COUNTY, CITY OF)	
WALTERBORO, WALTERBORO)	
POLICE DEPARTMENT, COLLETON)	
COUNTY SHERIFF'S OFFICE,)	
COLLETON COUNTY, RICHLAND)	
COUNTY)	
)	
)	
Defendants)	
)	

The Plaintiff, by and through his undersigned attorney, respectfully alleges the following against the Defendants:

Preface

This complaint alleges the state common law tort claims of false arrest, malicious prosecution, assault, battery, gross negligence, abuse of process, conspiracy, and defamation, pursuant to the South Carolina Tort Claims Act, against the State of South Carolina (SC), South Carolina State Law Enforcement Division (SLED), South Carolina Highway Patrol (SCHP), South Carolina Attorney General's Office (AG), Beaufort County Sheriff's Office (BCSO), Beaufort

County (Beaufort), City of Walterboro (Walterboro), Walterboro Police Department (WPD), Colleton County Sheriff's Office (CCSO), Colleton County (Colleton), and Richland County (Richland) based on the acts and omissions of the Defendants in the course of their investigation and prosecution of the Plaintiff, Mr. Middleton, for the above charges.

Parties

1. The Plaintiff, Gregory Middleton, is a resident of Walterboro, South Carolina.
2. The Defendant, the State of South Carolina, is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70.
3. The Defendant, South Carolina Law Enforcement Division, is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70.
4. The Defendant, South Carolina Highway Patrol, is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70.
5. The Defendant, South Carolina State Attorney General's Office, is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70 for its investigative role in the charges against Mr. Middleton.
6. The Defendant, Beaufort County Sheriff's Office, is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70.
7. The Defendant, Beaufort County, is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70.
8. The Defendant, City of Walterboro, is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70.
9. The Defendant, Walterboro Police Department, is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70.

10. The Defendant, Colleton County Sheriff's Office, is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70.
11. The Defendant, Colleton County, is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70.
12. The Defendant, Richland County, is the appropriate party defendant pursuant to S.C. Code Ann § 15-78-70.

Jurisdiction

13. The incidents that give rise to this action occurred in various counties including Colleton County and Richland County, South Carolina.

Statement of Facts

14. On November 9, 2009, three persons were killed and others injured as a result of a shooting incident on McDaniel Street in Walterboro, SC.
15. Various law enforcement agencies investigated the shootings.
16. These investigating agencies included South Carolina Law Enforcement Division (SLED), Walterboro Police Department (WPD), Colleton County Sheriff's Office (CCSO), the South Carolina Highway Patrol (SCHP), the Beaufort County Sheriff's Office (BCSO), the Office of the Attorney General (AG), and the Fourteenth Circuit Solicitor's Office (Solicitor).
17. Jomar Albeyalde is an agent with the Defendant SLED.
18. Agent Albeyalde investigated the Plaintiff.
19. Shaun Harley is an agent with the Defendant SLED.
20. Agent Harley investigated the Plaintiff.
21. Charles Ghent is an agent with the Defendant SLED.

22. Agent Ghent investigated the Plaintiff.
23. David Williams is an agent with the Defendant SLED.
24. Agent Williams investigated the Plaintiff.
25. David Leslie is an agent with the Defendant SLED.
26. Agent Leslie investigated the Plaintiff.
27. Mansey Cuttino is an agent with the Defendant SLED.
28. Agent Cuttino investigated the Plaintiff.
29. Alex Underwood is an agent with the Defendant SLED.
30. Agent Underwood investigated the Plaintiff.
31. Mark Berube is an agent with the Defendant SLED.
32. Agent Berube investigated the Plaintiff.
33. Ryan Neill is an agent with the Defendant SLED.
34. Agent Neill investigated the Plaintiff.
35. Unknown officer employed by the Defendant SCHP (Officer SCHP) investigated the Plaintiff.
36. Chris Wilson is an officer with the Defendant BCSO.
37. Chris Wilson investigated the Plaintiff.
38. Chief Rhodes is the chief of the Defendant WPD.
39. Chief Rhodes investigated the Plaintiff.
40. Angela Stallings was an officer with the Defendant WPD.
41. Officer Stallings investigated the Plaintiff.
42. Allen Inabinett is an officer with the Defendant WPD.
43. Officer Inabinett investigated the Plaintiff.

44. Unknown officer employed by the Defendant CCSO (Officer CCSO) investigated the Plaintiff.
45. Unknown employee of the 14th Circuit Solicitor's Office (Solicitor's employee) investigated the Plaintiff.
46. The Solicitor's unknown employee's role in the case served an investigative function.
47. The investigative actions of the Defendants SLED, WPD, CCSO, BCSO as well as the Solicitor are documented in Agent Albeyalde's investigative memo dated January 25, 2010 (January 25, 2010 Albeyalde investigative memo).
48. This January 25, 2010 Albeyalde investigative memo expressly references the participation of the Defendants SLED, WPD, CCSO, BCSO as well as the Solicitor in the portion entitled "Synopsis of Investigation."
49. This January 25, 2010 Albeyalde investigative memo concealed the existence of exculpatory evidence.
50. This January 25, 2010 Albeyalde investigative memo promoted the knowing use of false testimony.
51. This January 25, 2010 Albeyalde investigative memo pressured the executive branch into prosecuting the Plaintiff.
52. These investigative findings and techniques were approved and adopted by SLED Chief Reginald Lloyd.
53. Lloyd's approval and adoption of this investigation is demonstrated by his signature appearing at the top of this document.
54. These investigative findings and techniques were approved and adopted by SC Attorney General Henry McMaster.

55. McMaster's approval and adoption of this investigation is demonstrated by his signature appearing at the top of this document.
56. This action by McMaster served an investigative function.
57. The signatures of Lloyd and McMaster were placed on this document prior to the convening of the State Wide Grand Jury.
58. These signatures were given prior to any court proceedings related to the Plaintiff.
59. These signatures were given unrelated to any core prosecutorial function related to the Plaintiff.
60. The investigative actions of the Defendants SLED, AG, CCSO, WPD, BCSO are also documented in the January 7, 2010 Voluntary Statement of Tyesha Coaxum, the January 15, 2010 SLED Memoranda of Interview, the four (4) October 11, 2010 SLED Memoranda of Interview compiled by Agent Albeyalde, the December 20, 2010 SLED Memoranda of Interview, the December 21, 2010 14th Circuit Solicitor's letter signed by Angela Stallings, the February 5, 2011 SLED Memoranda of Interview, the March 21, 2011 SLED Memoranda of Interview, and the four (4) undated SLED Memoranda of Interview compiled by Agent Ghent.
61. The Defendant SCHP's investigative involvement is referenced in the January 30, 2010 "News Release" issued by the Office of Attorney General Henry McMaster.
62. This investigation included witness interviews.
63. One person interviewed was Tyesha Coaxum.
64. At least one of her interviews was conducted by the Defendants no later than January 7, 2010.
65. Coaxum identified the Plaintiff as the driver of one of the two cars she saw perpetrate the

deadly assault.

66. Coaxum indicated her observation of the Plaintiff occurred at the "Ghetto BP."
67. After Coaxum provided law enforcement agents from the various investigating agencies this statement, Coaxum was interviewed by members of the Office of the Attorney General.
68. These interviews took place in both Colleton County and Richland County.
69. Only Coaxum implicated the Plaintiff.
70. The Defendants prepared and presented Coaxum's testimony to the State Wide Grand Jury.
71. Based upon Coaxum's statement, the Plaintiff was indicted for three counts of Murder, one count of Criminal Conspiracy, four counts of Assault and Battery with Intent to Kill, and one count of Possession of a Weapon During the Commission of a Violent Crime.
72. The Plaintiff was arrested on June 30, 2010, and was subsequently held in both the Richland County and Beaufort County detention centers.
73. The accusations underlying the Plaintiff's arrest and prosecution were published by the Defendants' court documents and subsequently republished in various media outlets.
74. The Defendant AG issued a June 30, 2010 statement concerning the Plaintiff in a News Release entitled "Twenty Indicted By State Grand Jury In Criminal Gang Case."
75. The Defendants SLED, AG, and WPD issued a July 1, 2010 statement concerning the Plaintiff in an article entitled "Surprise raids target gangs."
76. The Defendants AG, SLED, WPD, and Walterboro issued a July 5, 2010 statement concerning the Plaintiff in a news article entitled "2 more Walterboro gang suspects taken into custody."

77. The Defendants WPD and Walterboro issued a statement concerning the Plaintiff in a press release entitled "Twenty Charged for Criminal Activity in Colleton County."
78. The Defendants Walterboro and WPD issued a February 9, 2012 statement concerning the Plaintiff in an article entitled "Walterboro's small town crackdown gets results."
79. The Plaintiff was denied bond.
80. This bond hearing occurred without the assistance of counsel.
81. The Plaintiff was denied a post-arrest, due process hearing by a neutral judge even though he was held without bond.
82. The Plaintiff hired private counsel.
83. On January 28, 2011, the Plaintiff obtained his release on bond.
84. This bond required that the Plaintiff post money with the clerk and pay for electronic monitoring.
85. This bond required the Plaintiff to remain on house arrest.
86. Plaintiff's counsel received from the Defendants a surveillance video from the "Ghetto BP" parking lot containing footage of the night in question.
87. This video contains footage from various security cameras.
88. These cameras captured all of the points of ingress and egress into the parking lot of the "Ghetto BP" on the night in question.
89. This footage directly contradicts Coaxum's statement wherein she identifies the Plaintiff as a perpetrator of the shootings.
90. In fact, the videos do not even show the vehicle Coaxum claimed the Plaintiff was driving.
91. The State of South Carolina dismissed the charges against the Plaintiff.

92. This dismissal followed the release of the surveillance video from the "Ghetto BP" to the Plaintiff's criminal defense attorney.
93. The Defendants possessed this exculpatory information well before the Plaintiff was ever indicted or arrested.
94. Coaxum's testimony was false.
95. The State knew that Ms. Coaxum's testimony was false prior to presenting her testimony to the State Wide Grand Jury.
96. The acts of the Defendants caused the Plaintiff to lose his job.
97. The acts of the Defendants caused the Plaintiff to suffer lost wages.
98. While in pre-trial detention, the Plaintiff lost the companionship of his wife and child and other friends and family.
99. The Plaintiff was unable to reap the rewards which come from parenting a young baby with Spina Bifida.
100. As a result of the Defendant's actions, Mr. Middleton suffered damages including but not limited to attorney's fees, lost wages, loss of future earnings, loss of consortium, anxiety, mental suffering, embarrassment, humiliation, disgrace, and shame.

Legal Theories of Recovery

FOR A FIRST CAUSE OF ACTION

(As to all Defendants except Richland County)

MALICIOUS PROSECUTION PURSUANT TO THE SCTCA

101. The allegations, set forth above, are repeated as if included herein.
102. The actions of the Defendants caused the Plaintiff to be indicted, arrested, and prosecuted.

103. This prosecution was instituted and continued by and at the insistence of the Defendants.
104. Probable cause did not exist to arrest and prosecute the Plaintiff.
105. An inference of malice arises from this lack of probable cause.
106. The charges were terminated in the Plaintiff's favor.
107. This termination was based upon the merits of the case.
108. The Plaintiff suffered damages as a result of these acts and omissions including, but not limited to economic damage, anxiety, mental suffering, embarrassment, and humiliation.

FOR A SECOND CAUSE OF ACTION
(As to all Defendants except Richland County)
ABUSE OF PROCESS PURSUANT TO THE SCTCA

109. The allegations, set forth above, are repeated as if included herein.
110. The acts or omissions of the Defendants, in recklessly exercising their powers, and presenting and using false testimony, were not proper in the course of the investigation, indictment, arrest and prosecution of Plaintiff.
111. The Defendants presented the testimony of Coaxum with reckless and grossly negligent disregard to the truth.
112. The Defendants committed such reckless presentation in an effort to gain political support for a candidate for political office.
113. The Defendants presented false testimony in a manner reckless as to the impact upon the Plaintiff.
114. This reckless disregard creates an inference that the Defendants' conduct was committed in furtherance of an ulterior purpose.
115. The Plaintiff suffered damages as a result of these acts and omissions including, but not limited to economic damages, anxiety, mental suffering, embarrassment, and humiliation.

FOR A THIRD CAUSE OF ACTION
(As to all Defendants except Richland County)
FALSE ARREST PURSUANT TO THE SCTCA

- 116. The allegations set forth above are repeated as if included herein.
- 117. The Defendants arrested and prosecuted the Plaintiff for the charges of Criminal Conspiracy, Murder, Assault and Battery with Intent to Kill, and Possession of a Weapon During the Commission of a Violent Crime without probable cause or lawful authority.
- 118. The actions of the Defendants caused the restraint of the plaintiff.
- 119. Such restraint was intentional.
- 120. Such restraint was unlawful.
- 121. These acts caused the Plaintiff to suffer damages including, but not limited to, economic damages, physical and mental suffering, anxiety, humiliation, disgrace and shame.

FOR A FOURTH CAUSE OF ACTION
(As to all Defendants)
ASSAULT PURSUANT TO THE SCTCA

- 122. The allegations set forth above are repeated as if included herein.
- 123. The Defendants, in causing the arrest of the Plaintiff, placed the Plaintiff in reasonable fear of an unlawful touching.
- 124. These acts caused the Plaintiff to suffer damages including, but not limited to, economic damages, physical and mental suffering, anxiety, humiliation, disgrace and shame.

FOR A FIFTH CAUSE OF ACTION
(As to all Defendants)
BATTERY PURSUANT TO THE SCTCA

- 125. The allegations set forth above are repeated as if included herein.
- 126. By arresting and incarcerating the Plaintiff, the Defendants unlawfully touched the

Plaintiff.

127. These acts caused the Plaintiff to suffer damages including, but not limited to, economic damages, physical and mental suffering, anxiety, humiliation, disgrace and shame.

FOR A SIXTH CAUSE OF ACTION

(As to all Defendants except Richland County)

GROSS NEGLIGENCE/RECKLESSNESS PURSUANT TO THE SCTCA

128. The allegations set forth above are repeated as if included herein.
129. The Defendants owed Mr. Middleton a duty to properly train, supervise, and discipline employees regarding proper investigative techniques and use of false testimony.
130. The Defendants neglected this duty in a grossly negligent and reckless manner.
131. These acts caused the Plaintiff to suffer damages including, but not limited to, economic damages, physical and mental suffering, anxiety, humiliation, disgrace and shame.

FOR A SEVENTH CAUSE OF ACTION

(As to all Defendants except Richland County)

CONSPIRACY PURSUANT TO THE SCTCA

132. The allegations set forth above are repeated as if included herein.
133. Individual employees of the Defendants and others unnamed, worked in conjunction with each other to arrest, detain, and prosecute the Plaintiff.
134. Through their actions, the Defendants were, at a minimum, reckless and grossly negligent as to the impact and injury such conduct would cause to the Plaintiff.
135. These acts caused the Plaintiff to suffer damages including, but not limited to, economic damages, physical and mental suffering, anxiety, humiliation, disgrace and shame.

FOR AN EIGHTH CAUSE OF ACTION
(As to all Defendants except Richland County)
DEFAMATION PURSUANT TO THE SCTCA

136. The allegations set forth above are repeated as if included herein.
137. The Defendants published statements accusing the Plaintiff of criminal acts.
138. These allegations impeached the honesty, integrity, virtue, and reputation of the Plaintiff;
thereby exposing him to contempt, public hatred, and ridicule.
139. These allegations were false.
140. Malice is implied from the false nature of these allegations.
141. These acts caused the Plaintiff to suffer damages including, but not limited to, presumed
damages, economic damages, physical and mental suffering, anxiety, humiliation,
disgrace and shame.

Prayer for Relief

Wherefore, having fully set forth the grounds of his complaint, the Plaintiff asks this Court
to award damages and such other relief as this Court deems just and proper.

Respectfully Submitted By:



James A. Brown, Jr.

2/19, 2013
Beaufort, SC

Law Offices of Jim Brown, P.A.
1600 Burnside Street, Suite 100
P.O. Box 592
Beaufort, SC 29901-0592
(843) 470-0003

Attorney for the Plaintiff

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

GREGORY MIDDLETON)

Plaintiff,)

versus)

STATE OF SOUTH CAROLINA,)
 SOUTH CAROLINA STATE LAW)
 ENFORCEMENT DIVISION, SOUTH)
 CAROLINA HIGHWAY PATROL,)
 SOUTH CAROLINA ATTORNEY)
 GENERAL'S OFFICE, BEAUFORT)
 COUNTY SHERIFF'S OFFICE,)
 BEAUFORT COUNTY, CITY OF)
 WALTERBORO, WALTERBORO)
 POLICE DEPARTMENT,)
 COLLETON COUNTY SHERIFF'S)
 OFFICE, COLLETON COUNTY,)
 RICHLAND COUNTY)

Defendants)

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

CASE NO.: 2012-CP-40-4518

STIPULATION OF DISMISSAL

2013 SEP 27 AM 10:03
 JEANETTE J. MCBRIDE
 C.C.P.S. & G.S.

RICHLAND COUNTY
 FILED


PURSUANT TO SCRCP RULE 41(a)(1)(B) and with the consent of all parties to this

action, the above captioned matter is dismissed as to the Defendants South Carolina Highway Patrol, Beaufort County Sheriff's Office, Beaufort County, and Richland County. The consent of the parties is noted by the signatures of counsel below.

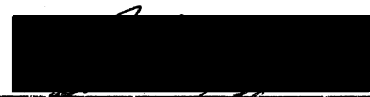
THEREFORE, all claims which have been or could be brought against Defendants South Carolina Highway Patrol, Beaufort County Sheriff's Office, Beaufort County, and Richland County are hereby dismissed with prejudice.

Stipulation of Dismissal - Gregory Middleton v State of SC, et al. - page 2


WE SO CONSENT:


 James A. Brown, Jr.
 Attorney for Plaintiff


9/16, 2013
Beaufort, SC


 Justin T. Bagwell
 Attorney for Defendant,
 State of South Carolina/South
 Carolina Law Enforcement Division


SEPTEMBER 26, 2013
COLUMBIA, SC


 Justin T. Bagwell
 Attorney for Defendant,
 State of South Carolina/South
 Carolina Highway Patrol (more
 properly known as South Carolina
 Department of Public Safety)

SEPTEMBER 26, 2013
COLUMBIA, SC



 Justin T. Bagwell
 Attorney for Defendant,
 State of South Carolina/South
 Carolina Attorney General's Office

SEPTEMBER 26, 2013
COLUMBIA, SC



 Justin T. Bagwell
 Attorney for Defendant,
 Richland County

SEPTEMBER 26, 2013
COLUMBIA, SC


Stipulation of Dismissal - Gregory Middleton v State of SC, et al. - page 3


 Mary Lohr
 Attorney for Defendant,
 Beaufort County Sheriff's Office


Sept. 16, 2013
Beaufort, SC


 Mary Lohr
 Attorney for Defendant,
 Beaufort County


Sept. 16, 2013
Beaufort, SC


 Timothy A. Domin
 Attorney for Defendant,
 City of Walterboro


Sept. 16, 2013
Beaufort, SC


 Timothy A. Domin
 Attorney for Defendant,
 Walterboro Police Department

_____, 2013
 _____, SC


 Christy L. Scott
 Attorney for Defendant,
 Colleton County Sheriff's Office

Sept 18, 2013 *CS*
Colleton, SC


 Christy L. Scott
 Attorney for Defendant,
 Colleton County

Sept 18, 2013 *CS*
Colleton, SC

2014-02-03 10:33:28

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. TOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

January 31, 2014

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T89797
Date of Occurrence: November 9, 2009
Claimant: Middleton, Gregory
Date Closed: January 31, 2014

Dear Insured:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	3,062.62

If you should have any questions, please contact us.

Sincerely,

Hattie A. Taylor
Litigation Consultant

/hat

cc: Re: CA# 2012-CP-40-4518

PS: Defendant SC Highway Patrol was dismissed from the lawsuit.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON	)	C/A NO.: 2014-CP-15-275
Clyde Moore,)	
)	
Plaintiff,)	
	)	AMENDED COMPLAINT
v.	)	(Negligence)
	)	(Jury Trial Demanded)
William H. Stephens, Jr., and)	
South Carolina Department of Public Safety,)	
)	
Defendants.)	

TO: DEFENDANTS AND DEFENDANTS' ATTORNEY:

Plaintiff complains of Defendants as follows:

1. Plaintiff is a citizen and resident of the State of South Carolina.
2. Defendant William H. Stephens, Jr. (hereinafter "Defendant Stephens") is a citizen and resident of Colleton County, South Carolina.
3. Defendant South Carolina Department of Public Safety (hereinafter "Defendant SCDPS") is a governmental entity subject to said pursuant to the SCTCA.
4. At all times pertinent to this Complaint, Russell James Burgess was an employee of Defendant SCDPS acting within the course and scope of his employment.
5. On March 21, 2013, Plaintiff was a passenger in a vehicle being operated by Defendant Stephens at the intersection of Dorchester Road and Purcell Drive in North Charleston, South Carolina.
6. At the same time, Russell James Burgess (hereinafter "Officer Burgess") was operating Defendant SCDPS's vehicle traveling east on Dorchester Road in Charleston County, South Carolina, and was headed towards the intersection with Purcell Drive.
7. The two vehicles entered the intersection, which is controlled by a traffic light, at the same time.

2015 MAR 19 PM 12:54
 PATRICIA C. GRANT
 COLLETON COUNTY
 COMMON PLEAS

8. Defendant Stephens was proceeding straight through the intersection while Officer Burgess was attempting to make a left turn onto Purcell Drive, thereby entering into Defendant Stephens' lane of travel. As a result, the two vehicles collided, and Plaintiff was injured.

9. One or both of the Defendants, individually or in combination with each other caused this wreck.

10. As a direct and proximate result of Defendants' negligence in causing the above described collision, Plaintiff has suffered damages including, but not limited to, bodily injury, permanent bodily injury, lost wages, medical expenses, pain and suffering, and loss of the enjoyment of his life.

11. Defendants were negligent, negligent per se, willful, wanton, reckless, and grossly negligent in the following particulars:

- a. In failing to stop for a red light;
- b. In failing to keep a proper lookout;
- c. In failing to keep their vehicle under proper control;
- d. In failing to properly and lawfully operate their vehicles on the roadways of the State of South Carolina in accordance with the common and statutory laws of the same;
- e. In operating their motor vehicles with a reckless disregard for the rights and safety of others, especially the rights and safety of the Plaintiff;
- f. In failing to exercise that degree of care and caution which a reasonable and prudent person would have exercised under the same or similar conditions;
- g. In operating their motor vehicles at a rate of speed that was too fast for the conditions;
- h. In striking the vehicle in which Plaintiff was traveling in;
- i. In failing to properly maintain their vehicles;
- j. In failing to yield the right-of-way;
- k. In making an improper turn;

- l. In failing to properly apply their brakes; and
- m. In such other particulars as may be proven at trial.

12. Defendant SCDPS was further negligent, grossly negligent, and negligent per se in the following particulars:

- a. In hiring an officer without the skill, knowledge, training, and/or experience to properly and safely operate a state owned vehicle on the roadways;
- b. In failing to properly train Officer Burgess to operate the state owned vehicle that was involved in this wreck;
- c. In failing to properly supervise Officer Burgess so as to ensure that he could and would safely operate the state owned vehicle on the roadways;
- d. In negligently entrusting the state owned vehicle to the care, control, custody, and use of Officer Burgess without adequately checking his qualifications to operate this vehicle;
- e. In negligently entrusting the vehicle to the care, control, custody, and use of Officer Burgess without adequately supervising him to ensure that he safely drove and operated the vehicle;
- f. In failing to exercise the degree of care and caution that a reasonable and prudent entity would have exercised under the same or similar circumstances; and
- g. In such other particulars that may be discovered and/or shown in the discovery process and/or trial of this case.

13. As a direct and proximate result of Defendants' negligent, negligent per se, willful, wanton, reckless and grossly negligent actions described above, Plaintiff has suffered severe injuries and damages, including punitive damages, for which Defendants are liable.

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

{Signature Page to Follow}

PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P.A.
123 Walter Street
Post Office Box 1164
Walterboro, SC 29488
(843) 549-9544

BY: 

GRAHAM E. HOLMES

Attorneys for Plaintiff

March 16, 2015
Walterboro, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

Clyde Moore,

Plaintiff,

vs.

William Henry Stephens, Jr. and South
Carolina Department of Public Safety,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. NO.: 2014-CP-15-00275

**STIPULATION OF DISMISSAL
WITH PREJUDICE**

It appearing that the claims and causes of action of the Plaintiff Moore against the Defendants have been settled by way of compromise, and that the Plaintiff Moore hereby desires to dismiss the claims and causes of action against the Defendants under Rule 41(a)(1)(B) of the South Carolina Rules of Civil Procedure. The parties agree to bear their own Attorney's fees and costs.

Therefore, the claims brought by Plaintiff Moore in the above-captioned action are dismissed, pursuant to Rule 41(a)(1)(B) of the South Carolina Rules of Civil Procedure, with prejudice and are hereby res judicata.

[signature block on following page]

2016 DEC 17 AM 11:40
PATRICIA C. GRANT
COLLETON COUNTY
COMMON PLEAS

WE SO MOVE.

[REDACTED]

Bert G. Utsey, III, Esquire
Grahame E. Holmes, Esquire
Peters, Murdaugh, Parker, Eltzroth &
Detrick, P.A.
123 Walter Street
Post Office Box 1164
Walterboro, SC 29488
Attorney for the Plaintiff

[Signature] 9, 2015

[REDACTED]

Kelley S. Cannon, Esquire
James P. Sullivan, Esquire
Howser, Newman & Besley, LLC
215 East Bay Street, Suite 303
Charleston, SC 29401
Phone: (843) 216-6940
Fax: (843) 216-6942
Attorneys for the Defendant Stephens

December 14, 2015

Peter Gunnar Nistad, Esquire
Blake A. McKie, Esquire
McAngus, Goudelock & Courie, LLC
735 Johnnie Dodds Boulevard, Suite 200
Mt. Pleasant, SC 29465
Attorneys for Defendant South Carolina Department of Public Safety

_____, 2015


WE SO MOVE.

Bert G. Utsey, III, Esquire
Grahame E. Holmes, Esquire
Peters, Murdaugh, Parker, Eltzroth &
Detrick, P.A.
123 Walter Street
Post Office Box 1164
Walterboro, SC 29488
Attorney for the Plaintiff

Kelley S. Cannon, Esquire
James P. Sullivan, Esquire
Howser, Newman & Besley, LLC
215 East Bay Street, Suite 303
Charleston, SC 29401
Phone: (843) 216-6940
Fax: (843) 216-6942
Attorneys for the Defendant Stephens

_____, 2015

_____, 2015



Peter Gunnar Nistad, Esquire
Blake A. McKie, Esquire
McAngus, Goudelock & Courie, LLC
735 Johnnie Dodds Boulevard, Suite 200
Mt. Pleasant, SC 29465
Attorneys for Defendant South Carolina Department of Public Safety

December 7, 2015

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
)	
Robert G. Wilson,	)	CASE NO.: 2014-CP-10- <u>2416</u>
)	
Plaintiff,	)	COMPLAINT
	)	(JURY TRIAL REQUESTED)
vs.)	
)	
William Henry Stephens, Jr.,)	
Russell J. Burgess, and South)	
Carolina Department of)	
Transportation,)	
)	
Defendants.)	

FILED
2014 APR 11 PM 4:06
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

The Plaintiff, upon information and belief, respectfully alleges and will show the following:

1. Plaintiff is a resident of the County of Colleton, State of South Carolina;
2. Defendant William Henry Stephens, Jr. (hereinafter, also, "Defendant Stephens") is a citizen and resident of the County of Colleton, State of South Carolina;
3. Defendant Russell J. Burgess (hereinafter, also, "Defendant Burgess") is a citizen and resident of the County of Berkeley, State of South Carolina;
4. Defendant South Carolina Department of Transportation (hereinafter, also, "Defendant SCDOT"), is a corporation organized and existing under the laws of one of the States of the United States and maintains agents and servants in the State of South Carolina for the purpose of carrying on its business;
5. At all times pertinent to this Complaint, Defendant Burgess was engaged in work activity as an agent, servant, and/or employee of Defendant SCDOT, was acting within the

course and scope of his employment, and was acting in the furtherance of Defendant SCDOT's business;

6. Defendants are properly named herein;

7. Venue is proper pursuant to S.C. Code Ann. § 15-7-20 (2) and §15-7-30(C)(2);

8. At approximately 8:30 p.m. on March 21, 2013, Plaintiff was a back-seat passenger in a 1996 Ford SUV bearing South Carolina license plate IGF635 that was owned by Samantha Jean Cook and that was being driven by Defendant William Henry Stephens, Jr. The vehicle was traveling West on Dorchester Road in Charleston County, South Carolina, and was headed towards the intersection with Purscell Drive;

9. At the same place and time, Defendant Russell James Burgess was driving a 2007 Ford bearing South Carolina license plate STP 1532 that was owned by his employer, the South Carolina Department of Transportation. Defendant Burgess was driving East on Dorchester Road in Charleston County, South Carolina, and was headed towards the intersection with Purscell Drive;

10. The two vehicles, which were traveling towards each other, both entered the intersection, which is controlled by a traffic light, at the same time;

11. Defendant Stephens was proceeding straight through the intersection while Defendant Burgess was attempting to make a left turn on Purscell Drive, thereby entering into Defendant Stephens' lane of travel. As a result, the two vehicles collided, and Plaintiff was injured;

12. One or both of the Defendants, individually or in combination with each other, caused this wreck;

FOR A FIRST CAUSE OF ACTION
(Defendant William Henry Stephens, Jr.'s Negligence)

13. Plaintiff re-alleges and reiterates all of the allegations contained in Paragraphs one (1) through twelve (12) as if repeated verbatim herein;

14. Defendant Stephens either disregarded the red light at the above-referenced intersection, thereby violating S.C. Code Ann. §56-5-950, constituting negligence *per se* or entered the intersection on a yellow light when such movement could not have been made with reasonable safety, thereby violating S.C. Code Ann. §56-5-2150(a), constituting negligence *per se*.

15. As a result of Defendant Stephens' acts and/or omissions, Plaintiff suffered physical harm and injury to his neck, shoulders, arms and other body parts, which have caused and will in the future cause him to undergo physical pain and suffering, mental anguish, emotional distress, permanent injury, and permanent impairment of health and bodily efficiency. Furthermore, Plaintiff's injuries have caused and will in the future cause him to have to spend money for medical services and have caused and will in the future cause the him to lose money in the nature of wages or earnings;

16. Defendant Stephens owed Plaintiff and others on the public roadways a duty of care;

17. Defendant Stephens, violated his duty of care and was careless, negligent, grossly negligent, reckless, willful, and/or wanton at the time and place above mentioned in the following particulars:

- a) In failing to maintain a proper lookout;
- b) In failing to slow as he approached the intersection so that he could stop for the red light;
- c) In operating the vehicle at a speed that exceeded the posted speed limit;

- d) In failing to stop for the red light or entering the intersection at a time when such movement could not be made safely;
- e) In entering the intersection with vehicles approaching so close as to constitute an immediate hazard;
- f) In failing to yield the right of way to oncoming traffic;
- g) In failing to apply his brakes in time to avoid colliding with the vehicle being driven by Defendant Burgess;
- h) In failing to sound his horn;
- i) In failing to take apply his brakes and to, otherwise, take evasive action so as to not collide with the vehicle being driven by Defendant Burgess;
- j) In driving his vehicle in utter disregard of the rights and safety of Plaintiff and others lawfully using the public highway at the time and place aforesaid; and
- k) In such other particulars as the evidence at trial may show.

FOR A SECOND CAUSE OF ACTION
(Defendant Russell J. Burgess' Negligence)

18. Plaintiff re-alleges and reiterates all of the allegations contained in Paragraphs one (1) through seventeen (17) as if repeated verbatim herein;

19. Defendant Burgess either disregarded the red light at the above-referenced intersection, thereby violating S.C. Code Ann. §56-5-950, constituting negligence *per se* or entered the intersection on a yellow light when such movement could not have been made with reasonable safety, thereby violating S.C. Code Ann. §56-5-2150(a), constituting negligence *per se*. In either event, he, thereafter, failed to yield the right of way to Defendant Stephens as he proceeded to make his left turn, in violation of S.C. Code Ann., Section 56-5-2310(a), constituting *negligence per se*;

20. By entering the intersection and attempting a left turn at this particular time and as the vehicle driven by Defendant Stephens approached, Defendant Burges violated traffic laws of this state and endangered others on the roadway, including Plaintiff;

21. In attempting his turn, Defendant Burgess failed to yield the right of way to Defendant Stephens, who was approaching from the opposite direction, constituting an immediate hazard in violation of S.C. Code Ann. §56-5-2320, constituting negligence *per se*;

22. As a result of Defendant Burgess' acts and/or omissions, either independently or in combination with the acts and omissions of Defendants Burgess and SCDOT, Plaintiff suffered physical harm and injury to his neck, shoulders, arms, and to other body parts, which have caused and will in the future cause him to undergo physical pain and suffering, mental anguish, emotional distress, permanent injury, and permanent impairment of health and bodily efficiency. Furthermore, Plaintiff's injuries have caused and will in the future cause him to have to spend money for medical services and have caused and will in the future cause the him to lose money in the nature of wages or earnings;

23. Defendant Burgess owed Plaintiff and others on the public roadways of this state a duty of care;

24. Defendant Burgess, while acting as agent, servant, and/or employee of Defendant SCDOT, violated his duty of care and was careless, negligent, grossly negligent, reckless, willful, and/or wanton at the time and place above mentioned in the following particulars:

- a) In failing to maintain a proper lookout;
- b) In failing to slow his vehicle as he approached the intersection so that he would have been able to stop for the red light;
- c) In entering the intersection with vehicles approaching so close as to constitute an immediate hazard;

- d) In failing to yield the right of way to oncoming traffic;
- e) In failing to stop for the red light;
- f) In failing to apply his brakes and to, otherwise, take evasive action in time to avoid colliding with the vehicle being driven by Defendant Stephens;
- g) In failing to sound his horn;
- h) In driving his vehicle in utter disregard of the rights and safety of Plaintiff and others lawfully using the public highway at the time and place aforesaid;
- i) In such other particulars as the evidence at trial may show.

FOR A THIRD CAUSE OF ACTION
(Defendant South Carolina Department of Transportation)

25. Plaintiff re-alleges and reiterates all of the allegations contained in Paragraphs one (1) through twenty-four (24) as if repeated verbatim herein;

26. Defendant SCDOT is responsible for the careless, negligent, grossly negligent, reckless, willful, and/or wanton acts and/or omissions of Defendant Burgess;

27. Defendant SCDOT was careless, negligent, grossly negligent, reckless, willful, and/or wanton in hiring, retaining, training, and supervising Defendant Burgess;

28. As a result of Defendant SCDOT's acts and/or omissions, in combination with either or both of the other Defendants, Plaintiff suffered physical harm and injury to his neck, shoulders, arms, and to other body parts, which have caused and will in the future cause him to undergo physical pain and suffering, mental anguish, emotional distress, permanent injury, and permanent impairment of health and bodily efficiency. Furthermore, the wreck and Plaintiff's injuries have caused and will in the future cause the Plaintiff to have to spend money for medical services and have caused and will in the future cause the Plaintiff to lose money in the nature of wages or earnings;

29. Defendant SCDOT owed Plaintiff and others on the public roadways a duty of care;

30. Defendant SCDOT violated that duty of care and was careless, negligent, grossly negligent, reckless, and/or willful acts and/or omissions in the following particulars:

- a) In hiring an officer without the skill, knowledge, training, and/or experience to properly and safely operate a state owned vehicle on the roadways;
- b) In failing to properly train Defendant Burgess to operate the state owned vehicle that was involved in this wreck;
- c) In failing to properly supervise Defendant Burgess so as to ensure that he could and would safely operate the state owned vehicle on the roadways;
- d) In negligently entrusting the state owned vehicle to the care, control, custody, and use of Defendant Burgess without adequately checking his qualifications to operate this vehicle;
- e) In negligently entrusting the vehicle to the care, control, custody, and use of Defendant Burgess without adequately supervising him to ensure that he safely drove and operated the vehicle;
- g) In failing to exercise the degree of care and caution that a reasonable and prudent entity would have exercised under the same or similar circumstances; and
- h) In such other particulars that may be discovered and/or shown in the discovery process and/or trial of this case.


All of the above were the direct and proximate cause of the injuries and damages suffered by Plaintiff, said acts being in violation of the Statutory and Common Laws of the State of South Carolina.

32. As a direct and proximate result of the aforementioned careless, negligent, grossly negligent, reckless, willful, and/or wanton acts and/or omissions of these Defendants, either independently or in combination with each other, Plaintiff is informed and believes that he is entitled to judgment in this matter in a sum to be determined by a jury.

WHEREFORE, Plaintiff prays for judgment against these Defendants for Actual damages, for Punitive damages in an appropriate amount, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

McWHIRTER, BELLINGER & ASSOCIATES, P.A.

By:


L. Lisa McPherson (SC Bar#7932)
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Attorney for the Plaintiffs

Lexington, South Carolina
April 7, 2014

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Robert G. Wilson,

Plaintiff,

vs.

William Henry Stephens, Jr. and South
Carolina Department of Public Safety,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. NO.: 2014-CP-10-2416

**STIPULATION OF DISMISSAL
WITH PREJUDICE**


FILED
JUL 12 AM 3:39
CLERK OF COURT
J. ARMSTRONG


It appearing that the claims and causes of action of the Plaintiff Wilson against the Defendants have been settled by way of compromise, and that the Plaintiff Wilson hereby desires to dismiss the claims and causes of action against the Defendants under Rule 41(a)(1)(B) of the South Carolina Rules of Civil Procedure. The parties agree to bear their own Attorney's fees and costs.

Therefore, the claims brought by Plaintiff Wilson in the above-captioned action are dismissed, pursuant to Rule 41(a)(1)(B) of the South Carolina Rules of Civil Procedure, with prejudice and are hereby res judicata.

[signature block on following page]


WE SO MOVE.


L. Lisa McPherson, Esquire
McWhirter Bellinger & Associates, PA
119 East Main Street
Lexington, South Carolina 29072
Phone: 877-529-3476
Attorney for the Plaintiff



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Phone: (843) 216-6940
Fax: (843) 216-6942
Attorneys for the Defendant Stephens

_____, 2015

Nov 9, 2015


Peter Gunnar Nistad, Esquire
Blake A. McKie, Esquire
McAngus, Goudelock & Courie, LLC
735 Johnnie Dodds Boulevard, Suite 200
Mt. Pleasant, SC 29465
Attorneys for Defendant South Carolina Department of Public Safety

10 / 12, 2015


Trevor A. Cangelosi, Esq.
Clawson & Staubes, LLC
126 Seven Farms Dr., Suite 200
Charleston, SC 29492
Attorney for the Potential UIM Carrier

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

ROBERT G. WILSON,
Plaintiff,

Civil Action No. 2014-CP-10-2416

vs.

STIPULATION OF DISMISSAL
WITH PREJUDICE

WILLIAM HENRY STEPHENS, JR. AND
SOUTH CAROLINA DEPARTMENT OF
PUBLIC SAFETY,

Defendants.

2015 SEP 21 PM 12:20

FILED

BY
JULIE J. ARMS-STRONG
CLERK OF COURT

Pursuant to Rule 41(a) of the *South Carolina Rules of Civil Procedure*, Defendant, South Carolina Department of Public Safety, in the above-captioned case, by and through the undersigned counsel, hereby dismisses this case with prejudice. Plaintiff and Co-Defendant William Henry Stephens, Jr., hereby consent to this dismissal with prejudice. The parties agree to bear their own respective costs.

[SIGNATURES ON FOLLOWING PAGES]

WE SO STIPULATE:

MCWHIRTER, BELLINGER &
ASSOCIATES, PA - LEXINGTON

[REDACTED]

L. Lisa McPherson
119 East Main Street
Lexington, South Carolina 29072
(803) 943-2111
ATTORNEY FOR PLAINTIFF

Date: 8/19/15

WE SO STIPULATE:

MELISSA W. GAY, LLC




Melisa W. Gay, Esquire
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(843) 856-0580
ATTORNEY FOR WILLIAM HENRY
STEPHENS, JR.

Date: 8/5/15

WE CONSENT:

McANGUS, GOUDELOCK & COURIE,
L.L.C.



Peter Gunnar Nistad
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Mt. Pleasant, South Carolina 29465
(843) 576-2900

ATTORNEYS FOR PLAINTIFF

Date: 9/14/15

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

KENDRICK MOTON,

Plaintiff,

vs.

SOUTH CAROLINA DEPARTMENT OF
PUBLIC SAFETY, SOUTH CAROLINA
DEPARTMENT OF TRANSPORTATION
and JOEY STEWART,

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

AMENDED COMPLAINT

(JURY TRIAL REQUESTED)

2015-CP-23-4126

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. BROCKENSHIER
2015 JUN 29 PM 4 52

The Plaintiff above named, complaining of the above-named Defendants, would respectfully show unto this Honorable Court as follows:

1. That upon information and belief, that the Defendant, South Carolina Department of Public Safety is an agency organized and existing under the laws of State South Carolina and subject to the provisions of the South Carolina Code of Laws; inclusive of but not limited to S.C. Tort Claims Act. Further, that upon information and belief, the Defendant Joey Stewart is a
Upon information and belief, the Defendant, Joey Stewart is a citizen and resident of the County of Greenville, State of South Carolina and at certain times complained of hereafter was an agent /employee of the Defendant South Carolina Department of Public Safety. Further, that the Defendant, South Carolina Department of Transportation is an entity within the aforesaid Defendant organized and existing under the Laws of State of South Carolina and subject to the provisions of the South Carolina of Laws, inclusive of but not limited to S.C. Tort Claims Act.
3. This action is brought pursuant to South Carolina Code Section 15-51-10 for the benefit of the statutory beneficiaries of the Decedent and South Carolina Code Section 15-78-1, of the South Carolina Tort Claims Act.

FACTUAL BACKGROUND

4. That on or about the 28th day of **June, 2013**, the Plaintiff's was a passenger in a motor vehicle that was traveling east on SC-124 Highway near , Old Easley Bridge and Page Drive. On said date, the Defendant, SCDPS and Joey Stewart, did jointly and severally, enter into an **unlawful and extremely dangerous high speed chase** of this vehicle throughout residential city and county limits of Greenville, South Carolina and beyond its boundaries. The pursuit and its mode of conduct resulted in a terrible collision which caused injuries to the Plaintiff.

FIRST CAUSE OF ACTION **(NEGLIGENCE and GROSS NEGLIGENCE AS TO DEFENDANT SCDPS and STEWART)**

5. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 4 as fully as if repeated herein.
6. The Defendant SCDPS is liable for the negligent acts and omissions of its employee/servant Defendant Stewart who was, then there, acting under the course and scope of his employment relationship with the SCDPS.
7. The Defendant SCDPS is liable for the negligent acts and omissions of other unknown employees/servants who were, then there, acting under the course and scope of their employment with SCDPS.
8. The aforesaid collision and the resulting injuries were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness, and wantonness of the Defendants SCDPS and Stewart in the following particulars, to-wit:
 - a. In failing to train employees appropriately regarding the following during high speed pursuits: physical limitation, driver limitations, maximum speed limitations, communication responsibilities, supervisory responsibilities, and termination;
 - b. In failing to develop appropriate policies and procedures regarding high speed pursuits;

- c. In failing to supervise the high speed pursuit involving Defendant Miller;
- d. In failing to evaluate appropriately whether the need for immediate apprehension justified continued pursuit;
- e. In failing to terminate a police pursuit when knowing the suspect did not commit a serious crime;
- f. In failing to terminate a high speed police pursuit when all relevant information had not been communicated by the initiating officer;
- g. In failing to terminate a police pursuit when knowing that there was no necessity of immediate apprehension;
- h. In failing to terminate a police pursuit when the necessity of immediate apprehension did not outweigh the level of danger created by the pursuit;
- i. In failing to terminate a high speed pursuit which was excessive for the circumstances then and there prevailing;
- j. In failing to terminate a high speed pursuit on a roadway limited by curves and hills, absence of meaningful shoulders, intersections and entrances, and the absence of passing lanes.
- k. In failing to terminate a high speed pursuit which exceeded the "safe" range of speed as defined by the internal directives of the SCDPS.
- l. In failing to terminate a high speed pursuit when it became apparent that the suspect was endangering the lives of innocent third parties;
- m. In failing to terminate a high speed pursuit when it became apparent that the suspect would not stop;
- n. In failing to terminate a high speed pursuit when the clear and unreasonable danger to other users of the highway created by the pursuit outweighed the necessity for immediate apprehension.
- o. In failing to terminate a high speed pursuit when speeds dangerously exceeded the normal flow of traffic;
- p. In failing to terminate a high speed pursuit when it required dangerous maneuvering which exceeded the capabilities of the vehicle and the driver;
- q. In failing to terminate a high speed pursuit when the suspect's identity was established and

there was no need for immediate apprehension;

- r. In failing to communicate all relevant information regarding the high speed pursuit to dispatcher and supervisor;
- s. In failing to follow internal directives of the Defendant SCDPS;
- t. In failing to pursue other options with respect to issuing a citation the Plaintiff driver;
- u. In failing to protect the life and property of Plaintiff;
- v. In engaging in a high speed police pursuit with actual malice to the lives of innocent third parties, including Plaintiff;
- w. In failing to avoid the unnecessary risk of harm or injury to Plaintiff, in violation of the internal directives of the SCDPS;
- x. In failing to terminate the high speed pursuit involving Defendant Stewart when it became apparent that the suspect was endangering the lives of innocent third parties;
- y. In failing to terminate the high speed pursuit when it became apparent that the suspect would not stop;
- z. In failing to train employees to drive with due regard for the safety of innocent third parties, in violation of S.C. Code Ann. § 56-5-760;
- aa. In failing to properly train its employees in the manner to properly apprehend suspects fleeing in automobiles;
- bb. In failing to provide safe and adequate guidelines in the conduct of high speed chases;
- cc. In failing to devise, implement policy and properly train its employees in the manner of conducting a high speed motor vehicle chase.
- dd. In negligently hiring, training, and supervising Defendant Stewart;
- ee. In negligently hiring, training, and supervising Defendant Stewart; and
- ff. By other such further acts demonstrated at trial.

7. During all times material to the claims herein, Defendant SCDPS's and Stewart acts and omissions amounted to gross negligence, recklessness, and a willful and wanton disregard for the safety and well being of the Plaintiff's. The reckless, willful and wanton acts of Defendant, SCDPS included, but are not limited to

those set forth in Paragraph 8.

8. As a direct and proximate result of the willful and wanton acts, as well as the gross negligence of the Plaintiff sustained severe injuries.

9. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendant herein, Plaintiff suffered.

SECOND CAUSE OF ACTION
(NEGLIGENCE- AS TO DEFENDANT, STEWART more particularly)

10. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 9 fully as if repeated herein.

11. The aforesaid collision and the resulting injuries were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness, and wantonness of Defendant, Stewart, in the following particulars, to-wit:

- a. In engaging in a police pursuit for speeding;
- b. In engaging in a police pursuit when knowing the suspect did not commit a serious crime;
- c. In engaging in a police pursuit when knowing that there was no necessity of immediate apprehension;
- d. In engaging in a police pursuit when the necessity of immediate apprehension did not outweigh the level of danger created by the pursuit;
- e. In engaging in a high speed pursuit which was excessive for the circumstances then and there prevailing;
- f. In engaging in a high speed pursuit on a roadway limited by curves and hills, absence of meaningful shoulders, intersections and entrances, and the absence of passing lanes;
- g. In engaging in a high speed pursuit which exceeded the "safe" range of speed as defined by the internal directives of SCDPS;
- h. In failing to terminate a high speed pursuit when it became apparent that the suspect was endangering the lives of innocent third parties;

- i. In failing to terminate a high speed pursuit when it became apparent that the suspect would not stop;
- j. In failing to terminate a high speed pursuit when the clear and unreasonable danger to other users of the highway created by the pursuit outweighed the necessity for immediate apprehension;
- k. In failing to terminate a high speed pursuit when speeds dangerously exceeded the normal flow of traffic;
- l. In failing to terminate a high speed pursuit when it required dangerous maneuvering which exceeded the capabilities of the vehicle and the driver;
- m. In failing to terminate a high speed pursuit when the suspect's identity was obtainable and there was no need for immediate apprehension;
- n. In failing to communicate all relevant information regarding the high speed pursuit to dispatcher and supervisor;
- o. In failing to follow internal directives of the Defendant SCDPS;
- p. In failing to pursue other options with respect to arresting or apprehending a traffic violator;
- q. In failing to protect the life and property of Plaintiff;
- r. In engaging in a high speed police pursuit with actual malice to the lives of innocent third parties, including Plaintiff Decedent;
- s. In failing to avoid the unnecessary risk of harm or injury to Plaintiffs, in violation of the internal directives of SCDPS;
- t. In failing to assert control over the situation;
- u. In failing to exercise supervisory discretion and order specific units into or out of the pursuit; and
- v. By other such further acts to be demonstrated at trial.

12. The Defendant SCDPS is liable for the negligent acts and omissions of its employee/servant Defendant Stewart who was, then there, acting under the course and scope of his employment relationship with the SCDPS.

13. The Defendant SCDPS is liable for the negligent acts and omissions of its employee/servant Defendant Stewart who was, then there, acting under the course and scope of his employment relationship with SCDPS.

14. The Defendant SCDPS is liable for the negligent acts and omissions of other unknown employees/servants who were, then there, acting under the course and scope of their employment with SCDPS.

15. All of which acts are in direct violation of the statutory and common laws of the State of South Carolina as well as the S.C. Tort Claims Act.

16. The acts and/or omissions of Defendant Stewart as described above were negligent, grossly negligent, willful, wanton, and reckless.

17. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness, and wantonness of the Defendants, Plaintiff suffered.

THIRD CAUSE OF ACTION
(NEGLIGENCE/GROSS NEGLIGENCE AS TO DEFENDANT SCDOT)

18. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 17 as fully as if repeated herein.

19. The aforesaid collision and the resulting injuries were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness, and wantonness of the Defendant, SCDOT, in the following particulars, to-wit:

- a. In failing to adequately post notice of deficiencies and unsafe condition of the bridge to the public after SCDOT knew or should have known of said deficiencies;
- b. In failing to warn of restrictions and deteriorated rail conditions of page bridge.
- c. In not conducting routine inspections after structural deficiencies were noted and timely

correcting and repairing noted deficiencies;

- d. In the design and maintenance of the Page Street bridge and constructed railing that was inadequate to withstand reasonable and foreseeable impact.

20. Notwithstanding these duties, the Defendant SCDOT did breach its duty to the Plaintiffs by negligently, willfully and wantonly performing the acts and omissions set forth herein.

21. As a direct and proximate result of the willful and wanton acts, as well as the gross negligence, recklessness, willfulness and wantonness of the Defendants herein, Plaintiff sustained severe injuries and damages.

DAMAGES

22. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 21 as fully as if repeated herein.

23. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants herein, the Plaintiff's suffered numerous painful, severe, and grievous injuries to his body.

24. As a direct and proximate result of the negligent acts and omissions complained of herein, the Plaintiff's suffered damages in excess of \$5,000,000.00.

PUNITIVE DAMAGES

25. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 24 as fully as if repeated herein.

26. The acts and/or omissions of the Defendants, as stated above, were willful, wanton, and/or in reckless disregard for the safety, well-being of Plaintiffs.

27. As a direct and proximate cause of the acts and omissions of the Plaintiff, suffered damages of emotional and physical suffering.

28. The conduct of the Defendants as set forth above justifies an award of punitive damages for each and every claim of the Plaintiff as set forth herein.

WHEREFORE, the Plaintiff, demands a Jury Trial on all legal issues and claims against the Defendants, South Carolina Department of Public Safety, South Carolina Department of Transportation and Joey Stewart for actual, compensatory and punitive damages to be determined by the Courts, to fully compensate Plaintiff for his injuries and damages, for the cost of this action and for such other and further relief as the Court may deem just and proper.

Respectfully Requested,



By: **KARL B. ALLEN, ESQUIRE**
KARL B. ALLEN LAW FIRM, LLC
ATTORNEY FOR PLAINTIFF
108 LAVINIA AVENUE
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE: (864) 235-9049

June 26, 2015
Greenville, South Carolina

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF BERKELEY)

CIVIL ACTION NO.: 2015-CP-08-972

Vitoria N. Myers,

Plaintiff,

v.

South Carolina Department of Public
Safety,

Defendant.

COMPLAINT
(Jury Trial Requested)MAURICE P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

2015 APR 17 PM 2:35

FILED

The Plaintiff alleges:

1. She is a citizen and resident of the County of Berkeley, State of South Carolina.
2. The Defendant is a governmental agency subject to suit pursuant to the South

Carolina Tort Claims Act.

3. That on, or about, May 10, 2013, Ms. Myers was traveling in an easterly direction on US Highway 176 preparing to make a left turn onto McLaurin Avenue in Berkeley County. At the same time, Paul V. Yacobozzi, while in the course and scope of his employment with the Defendant, South Carolina Department of Public Safety, was operating his vehicle at a high rate of speed in an easterly direction on US Highway 176. Officer Yacobozzi was traveling in the oncoming lane of traffic, passing several vehicles, and began approaching the intersection of US Highway 176 and McLaurin Avenue at the same time Ms. Myers had her left turn signal on and was attempting to make a left turn onto McLaurin Avenue. Officer Yacobozzi attempted to unlawfully pass the Plaintiff as she was turning left and his vehicle collided with the driver's side of Ms. Myers' vehicle. Ms. Myers suffered injuries as hereinafter set forth.

4. That as a result of the aforementioned accident, Ms. Myers was injured and has suffered and continues to suffer physical pain, humiliation, mental anguish, and has and may in the future expend monies for medical care and treatment.

5. That the Defendant owed Ms. Myers a duty to ensure that their employees properly controlled and maintained their vehicles to ensure that their vehicles were operated in a reasonable and prudent manner so as not to damage and injure the motoring public.

6. That at the time of the accident described above, Paul Yacobozzi, was driving a vehicle owned by the Defendant. Paul Yacobozzi is a highway patrol officer employed with the South Carolina Department of Public Safety, and if he was operating the vehicle in the course and scope of his employment then the South Carolina Department of Public Safety is liable to Ms. Myers for the negligence of its employee.

7. That the injuries and damages as hereinafter set forth were due to and proximately caused by the negligent and reckless conduct of the Defendant in the following particulars, to-wit:

- a) In traveling at a high rate of speed;
- b) In failing to keep a proper lookout;
- c) In failing to apply its brakes;
- d) In failing to yield the right-of-way;
- f) In failing to take appropriate action to avoid the collision;
- g) In violating applicable traffic laws;
- h) In failing to act as a reasonably prudent motor vehicle operator would have acted under the same or similar circumstances;

- i) In failing to have appropriate guidelines for responding to calls, or if having said guidelines, in failing to instruct its employees and/or enforce its guidelines and/or in the deputy's failure to adhere to said guidelines; and
- j) In such other particulars as the evidence may establish.

8. That by reason and in consequence of the aforesaid negligence, carelessness, recklessness, wilfulness, wantonness and grossly negligent conduct of the Defendant, the Plaintiff sustained serious injuries to her body; that the above injuries were of such a nature as to require her to expend monies for hospitalization, doctor's care and other medical necessities; that the Plaintiff suffered extensive damage to her vehicle; that at all times since the happening of the accident the Plaintiff has suffered and will continue to suffer great pain, humiliation and mental anguish.

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

Kevin Richey
GEORGE SINK LAW, P.A.
P.O. Box 63506
North Charleston, SC 29419
843-569-1700

- AND -

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

BY: 

Austin H. Crosby
P.O. Box 457
Hampton, SC 29924
(803) 943-2111

ATTORNEYS FOR PLAINTIFF

April 16th, 2015

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

Catherine B. Newkirk,)

Plaintiff,)

v.)

James B. Enzor, individually and as an
employee and agent of the South Carolina
Department of Public Safety; South
Carolina Department of Public Safety,)

Defendants.)

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT
CASE NO.: 2013-CP-21-1077**COMPLAINT**
(Jury Trial Demanded)2013 SEP 24 PM 12:59
CLERK OF COURT
COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT
FLORENCE COUNTY, S.C.

Comes now the Plaintiff, Catherine B. Newkirk, and files this Complaint for damages against the Defendants named above, showing the court as follows:

PARTIES

1. Plaintiff, Catherine B. Newkirk, hereinafter "Plaintiff" or "Newkirk", is, and was at all times relevant herein a resident of Duplin County, North Carolina.
2. Upon information and belief, Defendant, James B. Enzor, hereinafter "Enzor", is and at all times relevant herein was a resident of Florence County, South Carolina and at all times relevant to this action Defendant Enzor was a duly appointed and acting officer of the South Carolina Highway Patrol employed by the Defendant, South Carolina Department of Public Safety. As such, Defendant was a duly appointed agent authorized to enforce the laws of the State of South Carolina, and was so acting under the color of the law of South Carolina at all times relevant herein.
3. Defendant, South Carolina Department of Public Safety, hereinafter "Department of Public Safety" is, and was at all times relevant an agency of the State of South Carolina.

CERTIFIED: A TRUE COPY

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter based on Article V of the South Carolina Constitution and S.C. Code Ann. § 15-77-50.

5. Venue is appropriate in Florence, South Carolina as a substantial portion of the conduct alleged herein took place in Florence County, South Carolina.

6. On or about October 14, 2012, the Plaintiff was the driver of a 2009 black Cadillac Escalade traveling on a public highway known as Interstate 95 headed north with her husband, Jerome Newkirk, at or near the City of Florence, South Carolina at Mile Marker 171.

7. As Plaintiff traveled in the northbound lane of I-95, she travelled through a construction zone area and was in a line of three or four other vehicles all travelling at the same rate of speed when she noticed that she was being followed by a South Carolina Highway Patrol automobile with his blue lights activated.

8. In response to the patrol vehicle's blue lights, the Plaintiff pulled over to the safety lane of I-95.

9. Defendant Enzor approached the Plaintiff's vehicle on the passenger's side, and requested the Plaintiff's driver license and registration information. Defendant Enzor returned to his vehicle and then shortly thereafter returned to the Plaintiff's vehicle and advised her that she was traveling at 77 mph in a 55 mph zone and that he was going to ticket her for speeding. Plaintiff stated to Defendant Enzor after being handed the ticket that she felt she was the subject of discrimination whereupon Defendant Enzor snatched the ticket from the Plaintiff and commanded that she exit the vehicle.

10. The Plaintiff complied with the officer's command and exited the vehicle but as the Plaintiff approached the rear of her vehicle, Defendant Enzor began pointing his finger and shouting at the Plaintiff in a loud, abusive, and discourteous manner. He grabbed the Plaintiff then advised her that she was under arrest and proceeded to manhandle her, placing her in handcuffs.

11. As this confrontation between the Plaintiff and Defendant Enzor was occurring, the Plaintiff's husband exited the vehicle, and walked to the rear of the vehicle to inquire about the events taking place. The Plaintiff's husband stated to Defendant Enzor that his actions were not necessary.

12. Defendant Enzor commanded the Plaintiff's husband to return to the vehicle and advised that he was under arrest also.

13. During the course of the arrest, the Plaintiff fell to the ground as a result of Defendant's Enzor's physical manhandling of the Plaintiff, causing her further injuries to her body.

14. Defendant Enzor used excessive force and conducted an unlawful arrest of Plaintiff, both actions in violation of 42 U.S.C. § 1983. Defendant Enzor engaged in an improper and unlawful course of conduct with respect to his unlawful arrest of Plaintiff and his use of brutal and excessive force in the detention and arrest of the Plaintiff. As a result, Plaintiff's civil rights have been violated and she has suffered significant physical injuries and damages, including, but not limited to, severe bruising to her arms, wrist, shoulder, and hip, tremendous pain, mental anguish, emotional distress, humiliation, loss of wages, substantial medical and other expenses, and she has been prevented from transacting her usual business.

15. Following initial reports of Defendant Enzor's conduct, the S.C. Department of Public Safety conducted an internal investigation of the traffic stop and arrest of the Plaintiff and found that Defendant Enzor's conduct warranted discipline including a demotion in rank.

FOR A FIRST CAUSE OF ACTION
(Violation of 42 U.S.C.A. § 1983 as to Defendant James B. Enzor)

16. Plaintiff re-alleges paragraphs 1-15 as if restated herein verbatim.

17. The above described actions subjected Plaintiff to a deprivation of rights and privileges secured to the Plaintiff by the Constitution and laws of the United States, including the right to be free from unlawful arrest and the use of excessive force under the 4th, 5th, and 14th Amendments to the United States Constitution.

18. The use of excessive force against the Plaintiff and Plaintiff's unlawful arrest were made under the color of authority of Defendant Enzor as a law enforcement officer for the South Carolina Highway Patrol and an employee of the Department of Public Safety.

19. As a direct and proximate result of the above mentioned unconstitutional acts of Defendant Enzor, Plaintiff's civil rights were violated and she has suffered significant physical injuries and damages, including, but not limited to, severe bruising to her arms, wrist, shoulder, and hip, swelling, tremendous pain, mental anguish, emotional distress, humiliation, substantial medical and other expenses, lost wages, and she has been prevented from transacting her usual business.

20. Plaintiff is entitled to compensatory damages, attorney's fees, and costs in an amount to be determined by the trier of fact and punitive damages in an amount sufficient to deter similar conduct by this Defendant and others.

FOR A SECOND CAUSE OF ACTION
(Assault as to Defendant South Carolina Department of Public Safety)

21. Plaintiff re-alleges paragraphs 1-20 as if restated herein verbatim.
22. By and through Defendant Enzor's threat of use of excessive force and the detention and/or arrest of Plaintiff, Plaintiff was placed in reasonable fear of bodily harm.
23. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor, as Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.
24. As a direct and proximate result of Defendant Enzor's threatening conduct, Plaintiff has been injured and suffered damages.
25. Plaintiff is entitled to compensatory damages from Defendant Department of Public Safety in an amount to be determined by the trier of fact..

FOR A THIRD CAUSE OF ACTION
(Battery as to Defendant South Carolina Department of Public Safety)

26. Plaintiff re-alleges paragraph 1-25 as if restated herein verbatim.
27. By and through Defendant Enzor's infliction of unreasonable, unlawful, unauthorized, and excessive violence on the person of the Plaintiff, Plaintiff has been battered.
28. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor, as Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.
29. As a direct and proximate result of Defendant Enzor's battery of the Plaintiff, Plaintiff's civil rights were violated, and she has suffered significant physical injuries and damages, including, but not limited to, severe bruising to her arms, wrist, shoulders, and hip, swelling,

tremendous pain, mental anguish, emotional distress, humiliation, substantial medical and other expenses, loss of wages, and has been prevented from transacting her usual business.

30. Plaintiff is entitled to compensatory damages from Defendant Department of Public Safety in an amount to be determined by the trier of fact.

FOR A FOURTH CAUSE OF ACTION
(Negligence/Gross Negligence/Recklessness
as to Defendant South Carolina Department of Public Safety)

31. Plaintiff re-alleges paragraphs 1-30 as if stated herein verbatim.

32. Defendant Enzor owed a duty of reasonable care to Plaintiff and was negligent, grossly negligent, reckless, willful, and or wanton in his conduct herein referenced and said Defendant breached his duty of care owed to Plaintiff by his unlawful arrest and use of brutal and excessive force against Plaintiff.

33. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor, as Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.

34. As a direct and proximate cause of the negligent, grossly negligent, reckless, willful, and/or wanton acts and/or omissions of Defendant Enzor, as set forth above, Plaintiff's civil rights were violated, and she has suffered significant physical injuries and damages, including, but not limited to, severe bruising to her arms, wrist, shoulders, and hip, swelling, tremendous pain, mental anguish, emotional distress, humiliation, substantial medical and other expenses, lost wages, and she has been prevented from transacting her usual business.

35. Plaintiff is entitled to compensatory damages from Defendant Department of Public Safety in an amount to be determined by the trier of fact.

FOR A FIFTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress/Outrage
as to Defendant South Carolina Department of Public Safety)

36. Plaintiff re-alleges paragraphs 1-35 as if stated herein verbatim.
37. By and through the conduct alleged above, Defendant intentionally and/or recklessly inflicted severe emotional distress on the Plaintiff or was certain or substantially certain that such distress would result from his conduct.
38. Defendant Enzor's conduct was so extreme and outrageous that it exceeds all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community.
39. The actions of Defendant Enzor caused the Plaintiff emotional distress and the emotional distress suffered by the Plaintiff was so severe that no reasonable person could be expected to endure it.
40. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor, as Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.
41. As a direct and proximate result of the outrageous conduct of the Defendant, Plaintiff's civil rights were violated, and she has suffered significant physical injuries and damages, including but not limited to, severe bruising to her wrist, arms, shoulder, and hip, swelling, tremendous pain, mental anguish, emotional distress, humiliation, substantial medical and other expenses, lost wages, and she has been prevented from transacting her usual business.
42. Plaintiff is entitled to a judgment Defendant Department of Public Safety for compensatory damages in an amount to be determined by the trier of fact.

FOR A SIXTH CAUSE OF ACTION
(Malicious Prosecution as to Defendant South Carolina Department of Public Safety)

43. Plaintiff re-alleges paragraphs 1-42 as if restated herein verbatim.
44. Defendant Enzor maliciously instituted and continued criminal proceedings against the Plaintiff without probable cause.
45. The criminal proceedings were terminated in Plaintiff's favor and under circumstances consistent or implicit with her innocence.
46. Defendant was malicious in instituting and continuing such criminal proceedings against Plaintiff.
47. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor, as Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.
48. As a direct and proximate result of the malicious prosecution of the Plaintiff by Defendant Enzor, Plaintiff's civil rights were violated, and she has suffered significant physical injuries and damages, including, but not limited to, severe bruising to her wrist, arms, shoulders, and hip, swelling, tremendous pain, mental anguish, emotional distress, humiliation substantial medical and other expenses, lost wages, and she has prevented from transacting her usual business.
49. Plaintiff is entitled to a judgment against Defendant Department of Public Safety for compensatory damages in an amount to be determined by the trier of fact.

FOR A SEVENTH CAUSE OF ACTION
(False Imprisonment as to Defendant South Carolina Department of Public Safety)

50. Plaintiff re-alleges paragraphs 1-49 as if restated herein verbatim.

51. Based on an unlawful arrest, Plaintiff was restrained and detained by Defendant and deprived of her personal liberty, all without probable cause.

52. Defendant Enzor continued to unlawfully restrain and detain Plaintiff by failing to properly remit arrest information and bond paperwork to the Florence County Detention Center in a timely manner, thus delaying Plaintiff's release from imprisonment.

53. This restraint was intentional and unlawful.

54. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor, as Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.

55. As a direct and proximate result of Defendant Enzor's action, Plaintiff's civil rights were violated and she has suffered significant physical injuries and damages, including, but not limited to, severe bruising to her arms, wrist, shoulders, and hip, swelling, tremendous pain, mental anguish, emotional distress, humiliation, substantial medical and other expenses, and she has lost wages and she has been prevented from transacting her usual business.

56. Plaintiff is entitled to a judgment against Defendant Department of Public Safety for compensatory damages in an amount to be determined by a jury.

FOR AN EIGHTH CAUSE OF ACTION
(Negligent Supervision/Training
as to Defendant South Carolina Department of Public Safety)

57. Plaintiff re-alleges paragraphs 1-56 as if restated herein verbatim.

58. As an agency of the State of South Carolina and Defendant Enzor's employer, Defendant, Department of Public Safety has a duty of care to Plaintiff and the general public to adequately

and sufficiently train and supervise its law enforcement employees in the proper and constitutional methods of law enforcement.

59. At all times relevant herein, Defendant Enzor acted in his capacity as a South Carolina Highway Patrolman, under the control of Defendant, Department of Public Safety, and was using the property of Defendant, Department of Public Safety, in his use of excessive force against and unlawful arrest of Plaintiff.

60. As Defendant Enzor's employer, Department of Public Safety, had the ability to control Enzor's conduct and knew or should have known of the necessity and opportunity for exercising control over Enzor's conduct.

61. Defendant, Department of Public Safety, either: 1) knew or should have known of the unfitness of its agent or employee, Defendant Enzor, and yet employed him or continued to employ him, failed to adequately train and/or supervise him regarding the proper and constitutional methods of law enforcement, and/or used his services without proper instruction with a reckless disregard of the rights of the plaintiff; 2) authorized the wrongful conduct of Defendant Enzor; or 3) ratified the wrongful conduct of Defendant Enzor; and said wrongful acts of Defendant Enzor were calculated to and did benefit the Defendant, Department of Public Safety.

62. As a direct and proximate cause of the above mentioned carelessness and/or negligence of Defendant, Department of Public Safety, Plaintiff's civil rights were violated, and she has suffered significant physical injuries and damages, including, but not limited to, severe bruising to her arms, wrist, shoulders, and hip, swelling, tremendous pain, mental anguish, emotional distress, humiliation, substantial medical and other expenses, and she has lost wages and she has been prevented from transacting her usual business.

63. Plaintiff is entitled to a judgment against Defendant Department of Public Safety for compensatory damages in an amount to be determined by a jury.

WHEREFORE, The Plaintiff prays for actual, compensatory, punitive damages against the Defendants for the acts and omissions alleged herein, for judgment against the Defendants, for attorney's fees, costs, and interest where allowed by law, and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,



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Florence, South Carolina

April 23 2013

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

Jerome C. Newkirk, Sr.,)

Plaintiff,)

v.)

James B. Enzor, individually and as an)
employee and agent of the South Carolina)
Department of Public Safety; South Carolina)
Department of Public Safety,)

Defendants.)

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT
CASE NO.: 2013-CP-21-1076**COMPLAINT**
(Jury Trial Demanded)FILED
2013 APR 24 PM 12:53
CLERK OF COURT
SOUTH CAROLINA
FLORENCE COUNTY, SC

Comes now the Plaintiff, Jerome C. Newkirk, Sr., and files this Complaint for damages against the Defendants named above, showing the court as follows:

PARTIES

1. Plaintiff, Jerome C. Newkirk, Sr., hereinafter "Plaintiff" or "Newkirk", is, and was at all times relevant herein a resident of Duplin County, North Carolina.
2. Upon information and belief, Defendant, James B. Enzor, hereinafter "Enzor", is and at all times relevant herein was a resident of Florence County, South Carolina. At all times relevant to this action, Defendant Enzor was a duly appointed and acting officer of the South Carolina Highway Patrol employed by the Defendant, South Carolina Department of Public Safety. As such, Defendant was a duly appointed agent authorized to enforce the laws of the State of South Carolina, and was so acting under the color of the law of South Carolina at all times relevant herein.

CERTIFIED
[REDACTED]
COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

3. Defendant, South Carolina Department of Public Safety, hereinafter “Department of Public Safety” is an agency of the State of South Carolina within the meaning of the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-30.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter based on Article V of the South Carolina Constitution and S.C. Code Ann. § 15-77-50.

5. Venue is appropriate in Florence, South Carolina as a substantial portion of the conduct alleged herein took place in Florence County, South Carolina.

6. On or about October 14, 2012, the Plaintiff was a passenger in a 2009 black Cadillac Escalade driven by his wife, Catherine B. Newkirk, traveling north on a public highway known as Interstate 95 at or near the City of Florence, South Carolina.

7. As Plaintiff and his wife traveled in the northbound lane of I-95, they travelled through a construction zone area and were in a line of three or four other vehicles all travelling at the same rate of speed when they noticed that they were being followed by a South Carolina Highway Patrol automobile with its blue lights activated.

8. In response to the patrol vehicle’s blue lights, the Plaintiff’s wife pulled over to the safety lane of I-95.

9. Defendant Enzor approached the Plaintiff’s vehicle on the passenger’s side, and requested the Plaintiff’s wife’s driver license and registration information. Defendant Enzor returned to his vehicle and then shortly thereafter returned to the Plaintiff’s vehicle and advised his wife that she was traveling at 77 mph in a 55 mph zone and that he was going to ticket her for speeding. After being handed the ticket, Plaintiff’s wife stated to Defendant Enzor that she felt

she was the subject of discrimination whereupon Defendant Enzor snatched the ticket from the Plaintiff's wife and commanded that she exit the vehicle.

10. The Plaintiff's wife complied with the officer's command and exited the vehicle but as the Plaintiff approached the rear of the vehicle, Defendant Enzor began pointing his finger and shouting at the Plaintiff's wife in a loud, abusive, and discourteous manner. He grabbed the Plaintiff's wife then advised her that she was under arrest and proceeded to manhandle her, placing her in handcuffs.

11. As this confrontation between the Plaintiff's wife and Defendant Enzor was occurring, the Plaintiff exited the vehicle, and walked to the rear of the vehicle to inquire about the events taking place. The Plaintiff stated to Defendant Enzor that his actions were not necessary.

12. Defendant Enzor commanded the Plaintiff to return to the vehicle and advised that he was under arrest also.

13. Plaintiff complied with Trooper Enzor's commands and returned to his vehicle. Plaintiff was then placed under arrest.

14. Defendant Enzor conducted an unlawful arrest of the Plaintiff, in violation of 42 U.S.C.A. § 1983. As a result, Plaintiff has suffered injuries and damages, including, but not limited to, medical and other expenses, mental anguish, emotional distress, humiliation, deprivation of his freedom, and attorney's fees.

15. Following initial reports of Defendant Enzor's conduct, the S.C. Department of Public Safety conducted an internal investigation of the traffic stop and arrest of the Plaintiff. The internal investigation found that the arrest of Plaintiff was unlawful. Accordingly, Defendant Enzor was disciplined by receiving a demotion in rank.

FOR A FIRST CAUSE OF ACTION
(Violation of 42 U.S.C.A. § 1983 as to Defendant James B. Enzor)

16. Plaintiff re-alleges paragraphs 1-15 as if restated herein verbatim.
17. The above described actions subjected Plaintiff to a deprivation of rights and privileges secured to the Plaintiff by the Constitution and laws of the United States, including the right to be free from unlawful arrest under the 4th, 5th, and 14th Amendments.
18. Plaintiff's arrest was made under the color of law as Defendant Enzor was acting pursuant to his duties as a law enforcement officer for the South Carolina Highway Patrol and an employee and agent of the South Carolina Department of Public Safety.
19. As a direct and proximate result of the above mentioned unconstitutional acts of Defendant Enzor, Plaintiff's civil rights were violated and he has suffered physical injuries and damages, including, but not limited to, medical and other expenses, mental anguish, emotional distress, humiliation, deprivation of his freedom, and attorney's fees.
20. Plaintiff is entitled to compensatory damages, attorney's fees, and cost in an amount to be determined by the trier of fact and punitive damages in an amount sufficient to deter similar conduct by this Defendant and others.

FOR A SECOND CAUSE OF ACTION
(Negligence/Gross Negligence/Recklessness as to Defendant South Carolina Department of Public Safety)

21. Plaintiff re-alleges paragraphs 1-20 as if stated herein verbatim.
22. Defendant Enzor owed a duty of reasonable care to Plaintiff and was negligent, grossly negligent, reckless, willful, and or wanton in the discharge of his duties.

23. During and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety, Defendant Enzor breached the applicable duty of care by his unlawful arrest of the Plaintiff.

24. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor.

25. As a direct and proximate cause of the negligent, grossly negligent, reckless, willful, and/or wanton acts and/or omissions of Defendant Enzor, as set forth above, Plaintiff's civil rights were violated. Plaintiff has also suffered physical injuries and damages, including, but not limited to, medical and other expenses, mental anguish, emotional distress, humiliation, deprivation of his freedom, and attorney's fees.

26. Plaintiff is entitled to a judgment against Defendant South Carolina Department of Public Safety for compensatory damages in an amount to be determined by a jury.

FOR A THIRD CAUSE OF ACTION
(Intentional Infliction of Emotional Distress/Outrage
as to Defendant South Carolina Department of Public Safety)

27. Plaintiff re-alleges paragraphs 1-26 as if stated herein verbatim.

28. By and through the conduct alleged above, Defendant Enzor intentionally and/or recklessly inflicted severe emotional distress on the Plaintiff or was certain or substantially certain that such distress would result from his conduct.

29. Defendant Enzor's conduct was so extreme and outrageous that it exceeds all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community.

30. The actions of Defendant Enzor caused the Plaintiff emotional distress and the emotional distress suffered by the Plaintiff was so severe that no reasonable person could be expected to endure it.

31. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor, as Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.

32. As a direct and proximate result of the outrageous conduct of the Defendant, Plaintiff's civil rights were violated. Plaintiff has suffered physical injuries and damages, including but not limited to, medical and other expenses, mental anguish, emotional distress, humiliation, deprivation of freedom, and attorney's fees.

33. Plaintiff is entitled to a judgment against Defendant South Carolina Department of Public Safety for compensatory damages in an amount to be determined by a jury.

FOR A FOURTH CAUSE OF ACTION
(Malicious Prosecution as to Defendant South Carolina Department of Public)

34. Plaintiff re-alleges paragraphs 1-33 as if restated herein verbatim.

35. Defendant Enzor maliciously instituted and continued criminal proceedings against the Plaintiff without probable cause.

36. The criminal proceedings were terminated in Plaintiff's favor and under circumstances consistent or implicit with his innocence.

37. Defendant was malicious in instituting and continuing such criminal proceedings against Plaintiff.

38. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor, as

Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.

39. As a direct and proximate result of the malicious prosecution of the Plaintiff by Defendant Enzor, Plaintiff's civil rights were violated, and he has suffered physical injuries and damages, including, but not limited to, mental anguish, emotional distress, humiliation, medical and other expenses, deprivation of freedom and attorney's fees.

40. Plaintiff is entitled to a judgment against Defendant South Carolina Department of Public Safety for compensatory damages in an amount to be determined by a jury.

FOR A FIFTH CAUSE OF ACTION
(False Imprisonment as to Defendant South Carolina Department of Public Safety)

41. Plaintiff re-alleges paragraphs 1-40 as if restated herein verbatim.

42. Based on an unlawful arrest, Plaintiff was restrained and detained by Defendant and deprived of his personal liberty, all without probable cause.

43. Defendant Enzor continued to unlawfully restrain and detain Plaintiff by failing to properly remit arrest information and bond paperwork to the Florence County Detention Center in a timely manner, thus delaying Plaintiff's release from imprisonment.

44. This restraint was intentional and unlawful.

45. Defendant South Carolina Department of Public Safety is vicariously liable pursuant to the doctrine of respondeat superior for the conduct of its employee or agent, Defendant Enzor, as Defendant Enzor's conduct was committed during and in the course and scope of his employment and official duties with Defendant South Carolina Department of Public Safety.

46. As a direct and proximate result of Defendant Enzor's action, Plaintiff's civil rights were violated and he has suffered physical injuries and damages, including, but not limited to, mental

anguish, emotional distress, humiliation, medical and other expenses, deprivation of freedom, and attorney's fees.

47. Plaintiff is entitled to a judgment against Defendant South Carolina Department of Public Safety for compensatory damages in an amount to be determined by the trier of fact.

FOR A SIXTH CAUSE OF ACTION
(Negligent Supervision/Training as to Defendant S.C. Department of Public Safety)

48. Plaintiff re-alleges paragraphs 1-47 as if restated herein verbatim.

49. As an agency of the State of South Carolina and Defendant Enzor's employer, Defendant, Department of Public Safety has a duty of care to Plaintiff and the general public to adequately and sufficiently train and supervise its law enforcement employees in the proper and constitutional methods of law enforcement.

50. At all times relevant herein, Defendant Enzor acted in his capacity as a South Carolina Highway Patrolman, under the control of Defendant, Department of Public Safety, and was using the property of Defendant, Department of Public Safety, in his unlawful arrest of Plaintiff.

51. As Defendant Enzor's employer, Department of Public Safety, had the ability to control Enzor's conduct and knew or should have known of the necessity and opportunity for exercising control over Enzor's conduct.

52. Defendant, Department of Public Safety, either: 1) knew or should have known of the unfitness of its agent or employee, Defendant Enzor, and yet employed him or continued to employ him, failed to adequately train or supervise him regarding the proper and constitutional methods of law enforcement and/or used his services without proper instruction with a reckless disregard of the rights of the Plaintiff; 2) authorized the wrongful conduct of Defendant Enzor; or 3) ratified the wrongful conduct of Defendant Enzor; and said wrongful acts of Defendant Enzor were calculated to and did benefit the Defendant, Department of Public Safety.

53. As a direct and proximate cause of the above mentioned carelessness and/or negligence of Defendant, Department of Public Safety, Plaintiff's civil rights have been violated, and he has suffered significant physical injuries and damages, including, but not limited to, mental anguish, emotional distress, humiliation, substantial medical and other expenses, deprivation of freedom, and attorney's fees.

54. Plaintiff is entitled to a judgment against Defendant Department of Public Safety for compensatory damages in an amount to be determined by a jury.

WHEREFORE, The Plaintiff prays for actual, compensatory, punitive damages against the Defendants for the acts and omissions alleged herein, for judgment against the Defendants, for attorney's fees, costs, and interest where allowed by law, and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,



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Florence, South Carolina

April 23 2013

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Occupy Columbia; Walid Hakim;
Melissa Harmon; Bradley Powell;
Timothy Liszewski; David Bland;
Ashley Blewer, and David Arroyo,

Plaintiffs,

v.

Nikki Haley, Governor of South
Carolina; State of South Carolina;
Leroy Smith, Director of the South
Carolina Public Safety; Zachery Wise,
Chief of Police of the South Carolina
Bureau of Protective Services; Nikki
Haley, Chairwoman of the South
Carolina Budget and Control Board;
Harvey S. Peeler, Jr., Chairman of the
South Carolina State House
Committee; M. Richbourg Roberson,
Division of General Services; Sterling
L. Morrison, Division of General
Services; Curtis Loftis, State
Treasurer; Richard Eckstrom,
Comptroller General; Hugh
Leatherman, Chairman, Senate
Finance Committee; Brian White,
Chairman, House Ways and Means
Committee; James Carr; Joe Hodge;
Andrew Schmidt; and Marvin Harris,
III,

Defendants.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

C/A No.: 2011-CP-40- 8059

COMPLAINT
(Jury Trial Demanded)

2011 NOV 23 AM 10:42
JES. EMM. P. L. FOR
C.C.C.

Occupy Columbia, Walid Hakim, Bradley Powell, Melissa Harmon, Timothy
Liszewski, David Bland, Ashley Blewer, and David Arroyo complain of Defendants
and assert the following:

I. Introduction.

1. Plaintiffs have filed this lawsuit to enjoin Governor Nikki Haley, the State of South Carolina, the South Carolina Bureau of Protective Services, the South Carolina Budget and Control Board, the South Carolina State House Committee, the Division of General Services, and the individually named Defendants from violating Plaintiffs' fundamental rights to Free Speech and Assembly as guaranteed by Article I, § 1, 2, and 3 of the South Carolina Constitution and Amendment I of the United States Constitution and Plaintiffs' fundamental right to be free from unlawful seizure as guaranteed by Article I, § 10 of the South Carolina Constitution and Amendment IV of the United States Constitution.

2. The Defendants unlawfully interfered with Plaintiffs' fundamental rights to freedom of speech, assembly, and association, and to petition the government guaranteed to them by the South Carolina Constitution and the United States Constitution. Plaintiffs are members of Occupy Columbia, an association in fact of individuals, who have gathered to protest and seek redress of their grievances from the government. As their protest, Occupy Columbia protesters had for four weeks occupied the grounds of the South Carolina State House.

3. South Carolina has historically had a legislative branch with more authority than the executive branch.

4. The seat of power and influence is located within the walls of the South Carolina State House and held by the South Carolina Legislature and those who provide them money, favors, gifts, and contributions.

5. The South Carolina State House is a uniquely appropriate venue for the Occupy Columbia Protest, as it is a traditional public forum for protest in our state. This was true during the Civil Rights Era, the outcry against the Indo-China War and the draft in the late 1960s and early 1970s, and the Confederate Flag controversy at the State House. The South Carolina Constitution declares that “[a]ll political power is vested in and derived from the people only, therefore, they have the right at all times to modify their form of government.” S.C. Const., art. I, § 1,

6. As the name “Occupy Columbia” makes clear, the occupation of the State House grounds is not just integral to the protesters’ expression of their grievances; it is their protest. The individually named Plaintiffs and other participants in Occupy Columbia intend to continue their occupation of the State House grounds. Through this action, Plaintiffs seek a temporary restraining order and, after a hearing, a preliminary injunction to prevent the continued unlawful governmental interference with their constitutional rights to do so.

II. Parties and Jurisdiction.

7. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

8. Occupy Columbia is an association in fact of individuals who have gathered to protest and to petition the government to bring awareness to the concerns about the United States' political process and economic policy through the peaceful, symbolic, 24-hour occupation of the South Carolina State House grounds. Occupy Columbia participants came together at the State House grounds after two organizational meetings and began physically occupying the State House grounds on October 15, 2011. Occupy Columbia participants peacefully occupied State House grounds until nineteen protesters, including Plaintiffs, were unlawfully arrested by the South Carolina Bureau of Protective Services on November 16, 2011. Occupy Columbia protesters reoccupied the State House grounds on the evening of November 21, 2011.

9. The location, the State House grounds, is integral to the expression of the Occupy Columbia message of a possibility of a more democratic, just, and economically egalitarian society.

10. Plaintiffs Walid Hakim, Bradley Powell, Melissa Harmon, Timothy Liszewski, David Bland, Ashley Blewer, and David Arroyo are citizens and residents of either Richland or Lexington Counties here in the State of South Carolina and these Plaintiffs are participants in Occupy Columbia.

11. Each of the below listed Defendants are hailed into Court in their official capacity, for purposes of injunctive relief, and in their individual capacity, as Plaintiffs later intend to amend their complaint and seek damages pursuant to 42 U.S.C. § 1983.

12. Nikki Haley is the Governor of South Carolina and she issued the illegal and unconstitutional directive to forcibly remove Plaintiffs from their peaceful protest in violation of the Plaintiffs' fundamental constitutional rights. Exhibit 1 and 6.

13. Harvey S. Peeler, Jr. is the Chairman of the South Carolina State House Committee and he asked Governor Haley to remove Plaintiffs in violation of their fundamental constitutional rights so that the "Governor's Carol Lighting" of the State Christmas Tree would be more pleasant without protesters present. Exhibit 2.

14. Leroy Smith is the Director of the South Carolina Public Safety and Zachery Wise is the Chief of Police of the South Carolina Bureau of Protective Services. Chief Wise executed and instructed his officers to execute this unlawful and unconstitutional directive to forcibly remove Plaintiffs from their peaceful protest. James Carr, Joe Hodge, Andrew Schmidt, and Marvin Harris, III are police officers with the South Carolina Bureau of Protective Services and were charged with the execution of the unlawful directive from the Governor.

15. The South Carolina Budget and Control Board "owns" the State House grounds through its Division of General Services. Governor Haley, Curtis Loftis, State Treasurer, Richard Eckstrom, Comptroller General, Hugh Leatherman, Chairman, Senate Finance Committee, and Brian White, Chairman, House Ways and Means Committee are all members of the South Carolina Budget and Control Board and are responsible for the State House grounds as administered through the

Division of General Services. M. Richbourg Roberson is the director of the Division of General Services, and Sterling L. Morrison is the Assistant Director of Facilities Management at the Division of General Services. The Division of General Services of the South Carolina Budget and Control Board and the above listed officers are required by the South Carolina Code to promulgate regulations for the use of State House grounds in accordance with the Administrative Procedures Act, S.C. Code § 1-23-110. S.C. Code Ann. § 10-1-30.

16. This Court has subject matter jurisdiction pursuant to S.C. Const. art. V, § 11, S.C. Code Ann. § 15-78-100(b), and 42 U.S.C. § 1983.

17. The Court also has personal jurisdiction over all parties and venue is proper in Richland County.

III. Chronology of Events.

18. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

19. The Occupy Movement is a people-powered movement that began with Occupy Wall Street in Liberty Square in Manhattan's Financial District in New York City on September 17, 2011. It has spread to more than 100 major cities and hundreds of additional communities in the United States, and to more than 1,500 cities globally. The movement aims to expose how the wealthiest 1% of people are writing the rules of an unfair global economy. The Occupy protesters have come out to protest and to petition the government for more economic equality.

20. A core purpose of the Occupy Movement is to bring awareness to the government and citizens of concerns about the United States' and South Carolina's political process and economic policy through symbolic, around-the-clock, peaceful protests, or "occupations."

21. In solidarity with the original Occupy Wall Street occupation, Occupy protests in states and cities across the United States use the same "Occupy" identifier.

22. The Occupy protests in the major cities across the United States also use the same slogan, "We are the 99%," which refers to the difference in the United States between the wealthiest 1% and the rest of the population.

23. The Occupy movement employs a direct democracy with the aim of equalizing the power of individual voices. This direct democracy is not only functional, but is itself symbolic of the more just society and egalitarian economic policies for which the Occupy movement stands. Occupy protesters utilize a "people's assembly" or "general assembly," modeled after the "people's assembly" used by Occupy Wall Street to facilitate collective decision making in an open, participatory, and non-binding manner.

24. The Occupy protesters' 24-hour-per-day/7 days-per-week actual, physical occupation of a portion of the city in which they are located is a core component of the message of the Occupy movement. They express their message through the actual, physical occupation of public places where money, influence, and power are exchanged among the wealthy and privileged and to the exclusion of

the 99% of the rest of South Carolina. The physical occupation and physical presence is a key component of the protesters' actual "occupation" of the State House grounds and, therefore, a key component of the Occupy protesters' political statement and petitioning conduct. It expresses the Occupy protesters' statement of the 99% taking back the state government and hope for a more just and equal society in a way that other forms of protest could not express in statements and petitioning conduct.

25. Occupy protesters have established similar occupations, and even tent cities, across the country, from the Occupy Wall Street site in New York City to Occupy Oakland on the west coast. The physical occupations thus also identifies the protests in each city as part of a larger national, and even global movement in a way that other methods of protests could not.

26. The reason why the Occupy protests are so controversial and uncomfortable for governmental officials to endure is that it is the most persuasive form of peaceful, nonviolent protest.

IV. Occupy Columbia.

27. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

28. Twenty citizens came together at Finley Park on October 2, 2011 to meet and discuss the feasibility of organizing an Occupy Wall Street-style protest in Columbia, South Carolina in solidarity with the Occupy Wall Street protest.

29. An informational meeting was held on October 9, 2011 at Finley Park.

Exhibit 4.

30. Finally, on October 15, 2011 the Occupy Columbia protesters began occupying the State House grounds to begin an ongoing "occupation" protest in that location on that evening. Exhibit 4.

31. Although protesters marched, made speeches, held signs, chanted and engaged in other forms of protests that day, the Occupy Columbia kick-off was the beginning of an actual, physical occupation of the State House grounds. In the days that followed, Occupy Columbia protesters occupied the State House grounds in an organized manner and began protesting around-the-clock at the site.

32. Occupy Columbia is now an established occupation located on the State House grounds. Like the other Occupy protests in other locations across the country, literal occupation of the State House grounds 24 hours a day is a core component of the Occupy Columbia movement and a key message that the Occupy Columbia protesters seek to communicate to the government and to the world. "Around the clock" is not merely a symbol, but functions as an exemplar to the community demonstrating the protesters' vision of a more just and equal society. Physically occupying the State House grounds, including sleeping overnight on the grounds, is the only effective manner in which Occupy Columbia members can express their message of taking back our state to create a more just, economically egalitarian society.

33. The State House grounds occupation expresses the Occupy Columbia protesters' statement of the 99% taking back the State of South Carolina and of hope for a more just society and more egalitarian economic policies in a way that other forms of protest could not express with mere statements and petitioning conduct. It also clearly identifies Occupy Columbia as part of the larger Occupy movement in a manner that other forms of protest could not accomplish. Occupy Columbia describes itself as the "beginning of an ongoing discussion about reforming Wall Street and removing special interests from government."

34. Marching, making speeches, holding up signs, or other forms of protests cannot alone communicate the message of taking back the State of South Carolina, and demonstrating the possibility of a more just and equal society, in the manner that Occupy Columbia's "around-the-clock" protest communicates.

35. The occupation also symbolizes a permanent occupation, and this is central to the Occupy Columbia message that challenges corporations' permanent occupation of the government through money, influence, gifts, and favors.

36. The State House grounds location is also fundamental to the Occupy Columbia message. Locating the Occupy Columbia occupation on the State House grounds communicates a message about the economic policies of this country that could not be communicated as effectively in any other location.

37. There is no alternative location in which Occupy Columbia members can effectively communicate their message or petition the government. The only designated camping areas in Richland County are located at Sesquicentennial State

Park or Dreher Island State Park, which are remote from the State House grounds and anything else, such as other people who can hear the message. To require Occupy Columbia protesters to locate their occupation to Sesquicentennial State Park or Dreher Island State Park would effectively silence the movement by putting Occupy Columbia protesters in isolation and minimizing the potential audience for their political speech and petitioning conduct.

38. Occupy Columbia is universally recognized as a peaceful protest. There has been no violence and no threat of violence by the Occupy Columbia participants. The Occupy Columbia protest has caused no disruption to the rest of the State of South Carolina. Despite Governor Haley's claims that Plaintiffs have caused damage to the State House grounds and her additional claims that Plaintiffs' conduct warranted arrest, Plaintiffs have conducted themselves peacefully and within the rules of decency. Plaintiffs assert that what Governor Haley objects to is Plaintiffs' message and she would not have evicted Plaintiffs if she were aligned with Plaintiffs.

39. Consistent with the Occupy movement, Occupy Columbia utilizes the slogan, "We are the 99%" as part of its political message and petitioning activity to signify the difference in the United States between the wealthiest 1% and the rest of the population.

40. Occupy Columbia utilizes a direct democracy with the aim of equalizing the power of individual voices. This direct democracy is not only functional, but is itself symbolic of the more just society and more egalitarian

economic policies for which the Occupy movement stands. Similar to the Occupy Wall Street "people's assembly," Occupy Columbia utilizes a "general assembly" to facilitate collective decision making in an open, participatory and non-binding manner.

41. General Assembly is an open forum held at 10 a.m. and 7:00 p.m. every day. Occupy Columbia welcomes anyone to participate in general assembly to include occupiers and passersby.

V. The South Carolina Constitution.

42. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

43. The South Carolina Constitution declares that "all political power is vested in and derived from the people only, therefore they have the right at all times to modify their form of government." S.C. Const., Art. I §1. Occupy Columbia is acting on these vested individual rights: to modify our government at any time.

44. Governor Haley, the South Carolina Budget and Control Board, The South Carolina Bureau of Protective Services, and the Division of General Services have failed to promulgate regulations as required by S.C. Code Ann. § 10-1-30 in strict accordance with the Administrative Procedures Act. S.C. Code Ann. § 10-1-110.

45. Neither the Budget and Control Board nor the Division of General Services have followed any of the public information provisions dealing with the

publication and codification of regulations and other documents pursuant to S.C. Code Ann. § 1-23-20 – 100, 140.

46. No emergency regulation has been filed with the Legislative Council pursuant to S.C. Code Ann. § 1-23-130(A).

47. When Plaintiffs have inquired as to the permitting requirements, Plaintiffs were given a handout by Defendant Division of General Services and told they would not receive a permit if they applied.

48. Upon information and belief, no application for a permit is available on any public source such as the internet or at the front counter of the Division of General Services.

VI. Occupy Columbia's Continued, Peaceful Occupation of the State House Grounds.

49. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

50. Occupy Columbia has peacefully and continuously occupied the State House grounds from October 15, 2011 until they were forcibly seized, arrested, and removed since November 16, 2011. The occupation was intact twenty-four hours a day since the establishment and was only interrupted due to the arrests. The twenty-four hour occupation resumed on November 21, 2011.

51. Neither Governor Haley nor any governmental authority attempted to impose permitting requirements or to enforce other rules against the Occupy

Columbia occupiers in any respect for over thirty days. The only time Plaintiffs' protest was questioned and policies with alleged force of law were enforced was when Governor Haley and Senator Peeler wished to remove Plaintiffs for the establishment of a religious celebration.

52. The Occupy Columbia participants have been cooperative, have respected the State House grounds, and have aided in cleanup efforts.

53. The occupation itself is very clean and organized, and the occupation poses no structural problems. The sidewalks and walking areas are free of clutter, and the occupiers use the public rest room at the State House or a portable bathroom.

54. Occupy Columbia takes care of itself. It has a medical committee to monitor the health and welfare of protesters. It has a food service committee to ensure that the service of food is clean, hygienic, and safe. There is a security committee to establish a watch to ensure that protesters are safe during the night.

55. The Occupy Columbia protesters have continued to be vigilant about health and safety issues and have continued to protest peacefully through the occupation.

VII. November 16, 2011 Arrests.

56. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

57. On November 16, after thirty-one days of allowing Plaintiffs to occupy the State House grounds twenty-four hours a day, Senator Harvey Peeler sent a letter to Governor Haley, imploring her to remove Occupy Columbia so that the "Governor's Carol Lighting" of the State Christmas Tree would be more pleasant without protesters present. Exhibit 2.

58. Governor Haley responded by issuing a letter and holding a press conference claiming that Plaintiffs had caused damage to the State House grounds, been arrested, and not followed the rules. Exhibit 1 and 6. Governor Haley set a curfew to 6:00 p.m. and nineteen occupy protesters were arrested later that evening and removed to the Alvin S. Glenn Detention Center. The arrested Plaintiffs were released on personal recognizance bonds during the early morning hours of November 17, 2011.

VIII. FOR A FIRST CAUSE OF ACTION Injunctive Relief (State Constitutional Claims)

59. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

60. Defendants have violated Plaintiffs fundamental rights provided by the South Carolina Constitution under Article I, §§ 1, 2, 3, and 10. Defendants silenced Plaintiffs by arresting Plaintiffs after thirty days of occupation under illegally contrived policies while Plaintiffs were involved in protest and exercising their fundamental constitutional right to free speech. To make matters worse,

Plaintiffs were illegally evicted by Defendants and their speech was silenced so that Defendants could establish a religious event.

61. Defendants' violated Plaintiffs' right to assemble, right to free speech, right to be free from unlawful seizure, and right to engage in the modification of their form of government. S.C. Const. art. I, §§ 1, 2, 3, and 10.

62. Defendants actions demonstrate deliberate indifference to the fundamental rights of Plaintiffs and protesters whose views are not in agreement with Defendants. Plaintiffs were damaged by Defendants actions when their speech was silenced, their ability to assemble was prevented, their persons were seized, and their right to participate in the modification of our government was denied in violation of the South Carolina Constitution.

63. Plaintiffs seek injunctive relief requiring Defendants to refrain from unlawfully arresting Plaintiffs or expelling Plaintiffs from the State House grounds during the occupation as long as they are engaged in lawful conduct. Plaintiffs seek prospective relief under Articles I, § 1, 2, 3, and 10 of the South Carolina Constitution and ask the Court to award attorneys fees and costs.

IX. FOR A SECOND CAUSE OF ACTION Injunctive Relief (Federal Constitutional Claims)

64. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

65. Defendants Nikki Haley, Governor of South Carolina, State of South Carolina, Leroy Smith, Director of the South Carolina Public Safety, Zachery Wise,

Chief of Police of the South Carolina Bureau of Protective Services, Nikki Haley, Chairwoman, South Carolina Budget and Control Board, Harvey S. Peeler, Jr., Chairman of the South Carolina State House Committee, M. Richbourg Roberson, Division of General Services, Sterling L. Morrison, Division of General Services, Curtis Loftis, State Treasurer, Richard Eckstrom, Comptroller General, Hugh Leatherman, Chairman, Senate Finance Committee, Brian White, Chairman, House Ways and Means Committee, James Carr, Joe Hodge, Andrew Schmidt, and Marvin Harris, III are persons acting under color of law proximately causing the deprivation of Plaintiffs' fundamental rights.

66. Defendants have violated Plaintiffs fundamental rights provided by the United States Constitution under Amendment I and Amendment IV. Defendants silenced Plaintiffs by arresting Plaintiffs after thirty days of occupation under illegally contrived policies while Plaintiffs were involved in protest and exercising their fundamental constitutional right to free speech. To make matters worse, Plaintiffs were illegally evicted by Defendants and their speech was silenced so that Defendants could establish a religious event.

67. Defendants violated Plaintiffs' right to assemble, right to free speech, and right to be free from unlawful seizure. U.S. Const. Amend. I and IV.

68. Defendants' actions demonstrate deliberate indifference to the fundamental rights of Plaintiffs and protesters whose views are not in agreement with Defendants. Plaintiffs were damaged by Defendants actions when their speech

was silenced, their ability to assemble was prevented, and their persons were seized in violation of the United States Constitution.

69. Plaintiffs seek injunctive relief requiring Defendants to refrain from unlawfully arresting Plaintiffs or expelling Plaintiffs from the State House grounds during the occupation as long as they are engaged in lawful conduct. Plaintiffs seek prospective relief under 42 U.S.C. § 1983 and Amendments I and IV of the United States Constitution and ask the Court to award attorneys fees and costs.

X. FOR A THIRD CAUSE OF ACTION Injunctive Relief (Common Law and State Tort Claims)

70. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

71. Defendant South Carolina by and through its officers, elected officials, employees, and agents falsely imprisoned Plaintiffs when Plaintiffs were engaged in lawful protest and exercising fundamental constitutional rights.


72. Defendants James Carr, Joe Hodge, Andrew Schmidt, and Marvin Harris, III restrained Plaintiffs; the restraint was intentional; and the restraint was unlawful.

73. Plaintiffs seek injunctive relief requiring Defendants to refrain from unlawfully arresting Plaintiffs or expelling Plaintiffs from the State House grounds during the occupation as long as they are engaged in lawful conduct and to refrain from falsely imprisoning Plaintiffs as long as they are participating in constitutionally protected speech, assembly, and processes.


WHEREFORE, the Plaintiffs pray for the following:

- A) A jury trial;
- B) Injunctive relief pursuant to 42 U.S.C. § 1983 against Defendants to refrain from unlawfully arresting Plaintiffs or expelling Plaintiffs from the State House grounds during the occupation as long as they are engaged in lawful conduct;
- C) Injunctive relief pursuant to the South Carolina Constitution against Defendants to refrain from unlawfully arresting Plaintiffs or expelling Plaintiffs from the State House grounds during the occupation as long as they are engaged in lawful conduct;
- D) Injunctive relief pursuant to our common law against Defendants to refrain from unlawfully arresting Plaintiffs or expelling Plaintiffs from the State House grounds during the occupation as long as they are engaged in lawful conduct the successful prosecution of any of the above civil rights actions;
- E) Attorneys fees and costs; and
- F) Any other relief the Court may consider to be just and proper.

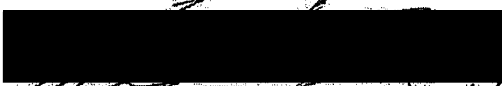
Respectfully submitted,




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ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina
November 22, 2011

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CASE NO. 11-CP-40-_____

VERIFICATION

I, Melissa Harmon, being duly sworn, do hereby depose and say as follows:

1. I am a Plaintiff in the above-captioned action.
2. I have read the foregoing Complaint, and Motion for Temporary Restraining

Order and Injunction. The factual allegations thereof are true and correct based on my personal knowledge or information and belief.

FURTHER AFFIANT SAYETH NOT.

Melissa Harmon

SWORN to before me this

22 day of November, 2011.

(L.S.)

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires JULY 8, 2011

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Occupy Columbia; Walid Hakim; Melissa
Harmon; Bradley Powell; Timothy
Liszewski; David Bland; Ashley Blewer;
David Arroyo; Gadson Bennett; Joshua
Anderson; Sebastian Pena; Justine Woods;
Johanna Caple; John Rutledge, and L. Shaw
Mitchell,

Plaintiffs,

v.

Nikki Haley, Governor of South Carolina;
Leroy Smith, Director of the South Carolina
Public Safety; Zackary Wise, Chief of Police
of the South Carolina Bureau of Protective
Services; James Carr; Joe Hodge; Andrew
Schmidt; and Marvin Harris, III,

Defendants.

Civil Action No. 3:11-cv-3253-CMC

STIPULATION OF DISMISSAL

Pursuant to Rule 41 of the Federal Rules of Civil Procedure, Plaintiffs, with Defendants' consent, hereby stipulate to the dismissal with prejudice of their claims against Defendants.

SIGNATURE PAGE ATTACHED

Respectfully submitted,

WOMBLE CARLYLE SANDRIDGE
& RICE, LLP

By: /s/ M. Todd Carroll
Federal Bar No. 9742
Kevin A. Hall
Federal Bar No. 5375
1727 Hampton Street
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(803) 454-6504

Attorneys for Governor Nikki R. Haley

LIDE AND PAULEY, LLC

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Attorneys for Defendants Smith, Wise,
Carr, Hodge, Schmidt, and Harris

April 4, 2014

HARRISON & RADEKER, P.A.

By: /s/ Andrew S. Radeker
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THE SCHNEE LAW FIRM

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THE CAMDEN LAW FIRM

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Attorneys for the Plaintiffs

2014-06-03 12:22:32

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

June 3, 2014

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T80481
Date of Occurrence: November 16, 2011
Claimant: Occupy Columbia, et al.
Date Closed: June 3, 2014

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$ 12,000.00
Expenses Paid: \$ 109,015.77

If you should have any questions, please contact us.

Sincerely,

Nelson C. Chandler
District Claims Manager

/ncc

STATE OF SOUTH CAROLINA,

COUNTY OF GREENVILLE

BILLY LEWIS OWENS,

Plaintiff,

v.

GREENVILLE COUNTY SHERIFF
 DEPARTMENT, GREENVILLE COUNTY,
 SOUTH CAROLINA DEPARTMENT OF
 MOTOR VEHICLES AKA THE STATE OF
 SOUTH CAROLINA, SOUTH CAROLINA
 HIGHWAY PATROL

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2015-CP-23- 01538

**COMPLAINT
 (JURY TRIAL DEMANDED)**

FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL E. WICKENSINER
 2015 PMR 2 PM 3 36

COMES NOW, Plaintiff, Billy Lewis Owens, and undersigned Attorney

Fletcher N. Smith, Jr., alleges:

INTRODUCTION

1. That the Plaintiff is a resident of City of Greenville, State of South Carolina residing at 3 Patton Rd. Unit No. 1, City of Greenville, State of South Carolina.
2. That said Defendants, Greenville County, Greenville County Sheriff Department, South Carolina Department of Motor Vehicles aka The State of South Carolina, and South Carolina Highway Patrol is a government entity organized under the laws of the State of South Carolina and was conducting business in the State of South Carolina at all times pertinent hereto.

3. Defendant, Greenville County operates at 301 University Ridge, City of Greenville, State of South Carolina.
4. Defendant, South Carolina Department of Motor Vehicles operates at 1630 Shop Road, City of Columbia, State of South Carolina.
5. That Defendant, The Greenville County Sheriff's Office is a law enforcement precinct organized and existing under the laws of the State of South Carolina located at 4 McGee Street, City of Greenville, County of Greenville, State of South Carolina.
6. That Defendant, South Carolina Highway Patrol a law enforcement precinct organized and existing under the laws of the State of South Carolina located at 10311 Wilson Blvd., City of Blythewood, State of South Carolina.
7. That this action is brought under the South Carolina Tort Claims Act.

STATEMENT OF FACTS

8. That the Plaintiff realleges each and every foregoing allegation and paragraph as if restated fully.
9. That on or about February 10, 2012 the Defendants, falsely arrested Plaintiff pertaining to allegations of Driving under the influence, 1st offense.
10. That Defendants, charged the Plaintiff with Driving under the Influence and leaving the scene involving an unattended vehicle.
11. That the Defendant's willful act, ie the use of its arrest power was not proper in the regular course of proceedings.

12. That Defendant, South Department of Motor Vehicles aka The State of South Carolina will not transfer Plaintiff license from the State of Georgia to the State of South Carolina due to these allegations and false fines.
13. That on or about said date of arrest February 10, 2012, Plaintiff was not the driver of the vehicle, but was the passenger in the vehicle.
14. That on or about April 8, 2013 the charge was *nol prossed* due to the false allegations.

COUNT I
MALICIOUS PROSECUTION

15. That the Plaintiff realleges each and every foregoing allegation and paragraph in introduction and statement of facts as if restated fully.
16. That the Defendants instituted or continued an original judicial proceeding of a criminal nature against the Plaintiff.
17. That termination of such a proceeding was in favor of the Plaintiff.
18. That the Defendant's agents and servants were malicious in causing the proceedings to be instituted against the Plaintiff.
19. That there was a lack of probable cause for the arrest.
20. That the Plaintiff sustained damage to his reputation and inability to transfer driver's license to the State of South Carolina from State of Georgia.
21. That the Defendant caused the Plaintiff to be placed in jail.
22. That the Defendant's restraint of the Plaintiff was intentional.
23. That the restraint was not lawful.

COUNT II
DEFAMATION OF CHARACTER

24. That the Plaintiff realleges each and every foregoing allegation and paragraph as if restated fully.
25. That the Defendant published the defamatory statements with actual or implied malice.
26. That the statements were false.
27. That the message conveyed by Defendant concerned the Plaintiff.
28. That the Plaintiff was damaged.

COUNT III
NEGLIGENCE AND GROSS NEGLIGENCE

29. That the Plaintiff realleges each and every foregoing allegation and paragraph as if restated fully.
30. That the Defendant failed to properly train its officers and failed to properly define the crimes that were being pressed against the Plaintiff.
31. That as a direct and proximate result of the Defendant's gross negligence, the Plaintiff suffered damages.

WHEREFORE, Plaintiff seeks compensatory damages against the said Defendants under both state and federal law, for a declaratory judgment that 62-252 is unconstitutional, for attorney's fees and for the costs of this action:

1. To declare the ordinance unconstitutional under the Fourth and Fourteenth Amendments to the United States Constitution and Article 1 of the South Carolina Constitution as being void for vagueness and a violation of the First Amendment.

2. Reimburse Plaintiff for any costs associated with the defense of himself in a criminal prosecution.
3. Award damages to Plaintiff to compensate him for both out-of-pocket expenses and emotional distress caused by defendants' unlawful acts.
4. Award Plaintiff's costs and attorney's fees for his lawsuit under 42 U.S.C. § 1988.
5. Award punitive damages. These should reflect both the Defendant was on notice due to the prior case and that the Defendant is engaging in a pattern and practice of continuing defiance and multiple cases.

Respectfully submitted,



FLETCHER N. SMITH, JR., ESQ.
Attorney at Law
P.O. Box 10496, F.S. (29603)
112 WAKEFIELD STREET
Greenville, SC 29601
(864) 232-6541
(864) 232-6756-FAX

GREENVILLE, South Carolina
Dated: February 25, 2015

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
FILED-CLERK OF COURT
GREENVILLE CIVIL ACTION No. 2015-CP-23-01538
PAUL B. WICKENSIMER

2016 FEB 25 PM 3 53

Billy Lewis Owens,

Plaintiff,

vs.

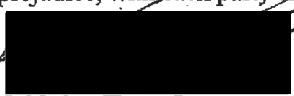
Greenville County Sheriff Department,
Greenville County, South Carolina
Department of Motor Vehicles AKA The
State of South Carolina, South Carolina
Highway Patrol,


Defendants.

**STIPULATION OF DISMISSAL
WITH PREJUDICE**

The parties wish to end this legal dispute.

NOW, THEREFORE, pursuant to Rule 41 of the South Carolina Rules of Civil Procedure,
the Parties hereby stipulate that Plaintiff's claims against all Defendants be dismissed with
prejudice, with each party to bear their own costs.


Fletcher N. Smith, Jr.
Attorneys for Plaintiff


Anne R. Culbreath
Attorney for Defendants

February 20, 2016
Greenville, SC

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

May 4, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T04039
Date of Occurrence: February 10, 2012
Claimant: Owens, Billy Lewis
Date Closed: May 4, 2016

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	5,000.00
Expenses Paid:	\$	5,790.90

If you should have any questions, please contact us.

Sincerely,

[Redacted Signature]

Kelly Bryant
Litigation Consultant

/kb

RECEIVED
MAY 06 2016
SCDPS
Office of General Counsel

STATE OF SOUTH CAROLINA)
COUNTY OF MARION)
Randy D. Page,)
Plaintiff,)
vs.)
South Carolina Department of Public Safety,)
Defendant.)

IN THE COURT OF COMMON PLEAS
CASE NO.:

2012-CP-33-107

COMPLAINT
(Non-Jury)

FILED
BOOK _____ PAGE _____
2012 FEB 23 P 1:52
MARION COUNTY SC
CLERK OF COURT

The Plaintiff complaining of the Defendant would respectfully show unto the Court that:

1. Plaintiff is a resident and citizen of the County of Dillon, State of South Carolina.
2. Defendant South Carolina Department of Public Safety (hereinafter “Department”) is an “agency” within the meaning of the South Carolina Tort Claims Act (S.C. Code Ann. § 15-78-10, et seq.).
3. James Thas Hicks, upon information and belief, is a resident and citizen of the County of Marion, State of South Carolina and is an employee of the South Carolina Department of Public Safety.
4. This court has jurisdiction over the parties and the subject matter.
5. On or about October 20, 2011, the Plaintiff was traveling southbound in his vehicle, in the left hand lane of Interstate 95, in or near Oak Grove, South Carolina.
6. At the same time, in or near Oak Grove, South Carolina, James Hicks was driving Defendant Department’s vehicle southbound on Interstate 95 in the right hand lane, adjacent the Plaintiff.
7. James Hicks, without proper care and driving too fast for conditions, lost control

of Defendant Department's vehicle and sideswiped the Plaintiff's vehicle, striking it with great force.

8. James Hicks was negligent, careless, reckless, willful, and wanton in one or more of the following particulars, to wit:

- (a) In failing to keep a proper lookout;
- (b) In failing to keep Defendant Department's vehicle under proper control;
- (c) In failing to apply brakes in order to avoid a collision;
- (d) In failing to use his horn to warn;
- (e) In driving too fast for conditions;
- (f) In failing to exercise that degree of due care that a reasonably prudent person would have employed under the circumstances;
- (g) In violating those statutes and ordinances in such cases made and provided; and
- (h) In other particulars as will be shown at trial.

Any or all of which are in violation of the laws and ordinances in such a case.

9. Defendant Department was negligent, careless, reckless, willful, and wanton in one or more of the following particulars, to wit:

- (a) In failing to properly supervise James Hicks's use of its vehicle;
- (b) In allowing James Hicks to use its vehicle when it knew or should have known that James Hicks was an unsafe and/or unskilled driver;
- (c) For the negligence, carelessness, recklessness, willfulness, and wantonness of James Hicks, pursuant to the doctrine of respondeat superior; and
- (d) In other particulars as will be shown at trial.

Any and all of which are in violation of the laws and ordinances in such cases.

10. As a direct and proximate result of the Defendant's negligent, careless, reckless, willful, and wanton conduct, Plaintiff's vehicle was damaged. Plaintiff was also without the use of his vehicle for a period of time, and his vehicle has depreciated in value.

WHEREFORE, Plaintiff prays for judgment against the Defendant in a sum sufficient to adequately compensate him for his actual damages, for the costs of this action, and for such other and further relief as this Court may deem proper.

McDONALD, McKENZIE, RUBIN,
MILLER AND LYBRAND, L.L.P.

BY:

JOHN F. McKENZIE
ATTORNEY FOR THE PLAINTIFF
1704 Main Street
Post Office Box 58
Columbia, South Carolina 29202
(803) 252-0500

Columbia, South Carolina

February 20, 2012

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF MARION	)	CASE NO.: 2012-CP-33-107
Randy D. Page,)	
Plaintiff,	)	NOTICE OF DISMISSAL
v.)	
South Carolina Department of Public Safety,)	
Defendant.)	

MARION COUNTY SC
CLERK OF COURT

2012 MAR 16 A 11:11

BOOK _____ PAGE _____

FILED

Pursuant to Rule 41(a)(1)(A) the South Carolina Rules of Civil Procedure, the Plaintiff hereby dismisses the above referenced case. This is being done before service by the Defendant of an answer or motion for summary judgment.

McDONALD, McKENZIE, RUBIN,
MILLER AND LYBRAND, L.L.P.

BY: 

JOHN F. McKENZIE
ATTORNEY FOR THE PLAINTIFF
1704 Main Street
Post Office Box 58
Columbia, South Carolina 29202
(803) 252-0500

Columbia, South Carolina

March 15, 2012

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS	
)		
COUNTY OF PICKENS)		
)		
Judith H. Parham, as Personal	)	C.A. No. 2014-CP-	<u>39-1145</u>
Representative of the Estate of David)		
Michael Parham, deceased,)		
	)	COMPLAINT	
)		
Plaintiff,	)	(WRONGFUL DEATH & SURVIVAL)	
)		
vs	)	(Jury Trial Requested)	
)		
South Carolina Department of)		
Transportation (SCDOT) and South)		
Carolina Department of Public Safety)		
(SCDPS),)		
)		
Defendant(s).)		

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

2014 SEP 12 PM 12 02

The Plaintiff, complaining of the acts of the Defendants above named, will respectfully show unto the Court as follows:

FOR A FIRST CAUSE OF ACTION
WRONGFUL DEATH

I.

The Plaintiff, Judith H. Parham, is Personal Representative of the Estate of her husband, David Michael Parham, as will appear more fully by the records of the Probate Court for the County of Pickens, State of South Carolina under Estate No.: 2012-ES-39-00561. The Plaintiff, Judith H. Parham, is a citizen and resident of the County of Anderson, State of South Carolina.

II.

Upon information and belief, the Defendant, South Carolina Department of Transportation, (hereinafter referred to as "Defendant SCDOT"), is and was a governmental entity of the State of South Carolina, and this action is brought against

Defendant SCDOT pursuant to the South Carolina Tort Claims Act, S.C. Code of Laws (1976), as amended, Section 15-78-10, et seq.

III.

The Defendant SCDOT is charged with building and maintaining roads and bridges and administering mass transit services in the State of South Carolina. At all times herein mentioned, Defendant SCDOT's function and purpose was the systematic planning, construction, maintenance and operation of the state highway system and the development of a statewide mass transit system that is consistent with the needs and desires of the public. The Defendant SCDOT has a duty and responsibility to provide adequate, safe, and efficient transportation services for the movement of people and goods.

IV.

At all times herein mentioned, the Defendant SCDOT acted by and through its servants, agents and employees. The Defendant SCDOT is and was responsible for the acts, delicts and/or omissions of its servants, agents and employees, who acted within the scope of their employment.

V.

Upon information and belief, the Defendant, South Carolina Department of Public Safety, (hereinafter referred to as "Defendant SCDPS"), is and was a governmental entity of the State of South Carolina, and this action is brought against Defendant SCDPS pursuant to the South Carolina Tort Claims Act, S.C. Code of Laws (1976), as amended, Section 15-78-10, et seq.

VI.

The Defendant SCDPS is charged with ensuring the safety of South Carolina citizens and visitors. At all times herein mentioned, Defendant SCDPS was charged with enforcing the traffic, motor vehicle and motor carrier laws and administering highway safety. At all times herein mentioned, the Defendant SCDPS acted by and through its servants, agents and employees. The Defendant SCDPS is and was

responsible for the acts, delicts and/or omissions of its servants, agents and employees, who acted within the scope of their employment.

VII.

Upon information and belief, on or about September 13, 2012, a local business concern placed a flagman on SC 183 whose job was to stop traffic, as other vehicles entered and exited a construction zone. As time passed, traffic began to back up. At 10:40 a.m., the Plaintiff's Deceased, David Michael Parham, traveled north on SC HWY 183 at 33 mph in a 45 mph zone.

VIII.

As the Plaintiff's Deceased, David Michael Parham, traveled well within the posted speed limit, he came upon the stopped traffic without proper warning. He had little time to react. He was able to swerve shortly before impact, pulling his vehicle to the right. This resulted in the Plaintiff's Deceased's vehicle striking the right rear corner of a dump truck, which was at 0 mph.

IX.

Upon impact, the Plaintiff's Deceased, David Michael Parham, suffered bilateral severe rib fractures, with multiple fractures of the sternum, posterior right ventricular rupture with pericardial rupture, and left sided lung hilar laceration, including blunt force trauma of the head, neck and extremities. Evidence of medical intervention included attempts to place EKG leads times four. The cause of death was right ventricular rupture secondary to blunt force trauma of the chest.

X.

As a direct and proximate result of the acts, delicts and/or omissions on the part of the Defendants as outlined hereinabove, the Plaintiff's Deceased came to his untimely death. As a direct and proximate result thereof, the statutory beneficiaries have suffered grief and sorrow and are expected to suffer such grief and sorrow in the future. They have been deprived of his love, care, comfort, and society and shall be so deprived in the future. They have suffered and will continue to suffer economic loss; including but not limited to, lost wages. They have incurred funeral and other related

expenses. All of these injuries and damages inure to the statutory beneficiaries.

XI.

This action is brought pursuant to Section 15-51-10 of the Code of Laws of South Carolina, more commonly called *The Wrongful Death Act*, and is brought for the benefit for the statutory beneficiaries of the estate of David Michael Parham. The statutory beneficiaries are: his wife Judith H. Parham and their children: Jennifer Parham Campbell and Autumn Parham Callison .

XII.

The negligent acts and omissions of the aforementioned Defendants combined and concurred to cause the Plaintiff's Deceased's untimely death.

XIII.

At the time of the accident described above, the Defendants were negligent, careless, reckless, grossly negligent, willful and wanton in one or more of the following particulars to wit:

- A. In failing to ensure the roadways were clear of congestion;
- B. In failing to ensure proper signage;
- C. In failing to post proper warnings;
- D. In failing to control traffic;
- E. In failing to properly design, maintain and plan that stretch of highway; and
- F. In failing to keep the highway safe.

FOR A SECOND CAUSE OF ACTION

LOSS OF CONSORTIUM

XIV.

The allegations contained in Paragraphs 1-13 are incorporated herein by reference.

XV.

The Plaintiff, Judith H. Parham and the Plaintiff's Deceased, David Michael Parham, were husband and wife.

XVI.

As a direct and proximate result of the negligent, grossly negligent, reckless, willful and wanton conducts of Defendants South Carolina Department of Transportation (SCDOT) and South Carolina Department of Public Safety (SCDPS), Plaintiff Judith H. Parham has lost the society, companionship, services and affection from Plaintiff's Deceased David Michael Parham. Plaintiff Judith H. Parham is accordingly entitled to recover damages from Defendants South Carolina Department of Transportation (SCDOT) and South Carolina Department of Public Safety (SCDPS) based upon her loss of society, companionship, services and affection in the amount to be proven at trial.

FOR A THIRD CAUSE OF ACTION
SURVIVAL

XVII.

The Plaintiff reiterates each and every allegation in the First and Second Causes of Action as if repeated herein.

XVIII.

As a direct and proximate result of the acts, delicts and/or omissions on the part of the Defendants as outlined herein above, the decedent came to his untimely death on or about September 13, 2012.

XIX.

As a direct and proximate result of the acts, delicts and/or omissions on the part of the Defendants as set forth herein above, the decedent suffered pain, suffering and anguish from the moment of the negligent acts until the time of his death, and his estate incurred medical and other related expenses. This action is, therefore, brought pursuant to Section 15-5-90 of the Code of Laws of South Carolina, more commonly called *The Survival Act*, and is therefore, brought for the benefit of the Estate of David Michael Parham.

WHEREFORE, having fully set forth her Complaint above, the Plaintiff prays for judgment against the Defendants:

- A. For a verdict against all Defendants on *The Wrongful Death Act* for actual damages;
- B. For a verdict against all Defendants except governmental entities on *The Wrongful Death Act* for actual and punitive damages;
- C. For a separate verdict against all Defendants on *The Survival Act* for actual damages;
- D. For the costs of this action; and
- E. For such other and further relief as this Court may deem just and proper.

PARHAM SMITH & ARCHENHOLD, LLC

[REDACTED]

S. Blakely Smith, #14140
Mackenzie G. "Brooke" Archenhold, #70517
P.O. Box 2800
Greenville, SC 29602
864/242-9008

Attorneys for the Plaintiff

Dated: SEPTEMBER 11, 2014
Greenville, South Carolina

JURY REQUEST

The Plaintiffs hereby respectfully request a trial by jury.



S. Blakely Smith, #14140

2014 SEP 12 PM 12 02
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS) THIRTEENTH JUDICIAL CIRCUIT

Judith H. Parham, as Personal) C.A. No. 2014-CP-39-01145
Representative of the Estate of)
David Michael Parham, Deceased,)

Plaintiff,)

vs.)

South Carolina Department of)
Transportation (SCDOT) and South)
Carolina Department of Public)
Safety (SCDPS),)

Defendants.)

South Carolina Department of)
Transportation (SCDOT),)

Third-Party Plaintiff,)

vs.)

Duke Energy Carolinas, LLC,)

Third-Party Defendant.)
_____)

**CONSENT ORDER
PURSUANT TO RULE 40(j)**

2015 JUN 3 PM 2 50
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

Pursuant to Rule 40(j) S.C.R.C.P., the parties have agreed to strike the above referenced action from the docket, and have further agreed that if the case is restored within one (1) year, the Statute of Limitations shall be tolled during the time the case is stricken.

NOW, THEREFORE, on the Motion of Steven Blakely Smith, and Mackenzie G. Archenhold, attorneys for the Plaintiff, and with the agreement and consent of attorneys Russell Harter, Amy Snyder, and Rebecca Laffitte for the Defendants, it is Ordered that

this action is hereby stricken from the docket with leave to restore within one (1) year of the date stricken pursuant to Rule 40(j).

IT IS SO ORDERED.



Judicial Circuit Court Judge

Date: May 30, 2015.
 , South Carolina

Pickens


I SO MOVE:

PARHAM SMITH & ARCHENHOLD, LLC


S. Blakely Smith, #14140
Mackenzie G. "Brooke" Archenhold, #70517
P.O. Box 2800
Greenville, SC 29602
864/242-9008

Attorneys for the Plaintiff

CONSENTED TO:


JUDITH H. PARHAM AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF
DAVID MICHAEL PARHAM, DECEASED

2015 JUN 3 PM 2 50
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

C.A. No.: 2014-CP-39-01145
CONSENT ORDER
PURSUANT TO RULE 40(j)

I CONSENT:

[REDACTED]

Russell Harter, Esq.
Chapman Harter & Harter
14 Lavinia Avenue
Greenville, SC 29601

Attorney for South Carolina Department of Public Safety

2015 JUN 3 PM 2 50
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

C.A. No.: 2014-CP-39-01145
CONSENT ORDER
PURSUANT TO RULE 40(j)

I CONSENT:

[REDACTED]

Amy Snyder, Esq.
Clarkson Walsh Terrell & Coulter
PO Box 6728
Greenville, SC 29606

Attorney for South Carolina Department of Transportation

2015 JUN 3 PM 2 50
CLERK OF COURT
PIKE COUNTY
SOUTH CAROLINA

C.A. No.: 2014-CP-39-01145
CONSENT ORDER
PURSUANT TO RULE 40(j)

I CONSENT:



Rebecca Laffitte, Esq.
J. Michael Montgomery, Esq.
Alex E. Davis, Esq.
Sowell Gray Stepp & Laffitte, LLC
1310 Gadsden Street
PO Box 11449
Columbia, SC 29211

Attorney for Duke Energy Carolinas, LLC,

2015 JUN 3 PM 2 50
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

FILED
OFFICE OF CLERK
OF COURT
2012 JUL 10 PM 2:32

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

MADHUBEN PATEL,

Plaintiff,

vs.

SOUTH CAROLINA DEPARTMENT
OF PUBLIC SAFETY and
BHARATBHAI PATEL,

Defendants.

CLERK OF COURT
LANCASTER, SC

AMENDED COMPLAINT

Case No.: 2012-CP-29275

The Plaintiff, complaining of the Defendants, would show unto this Honorable Court as follows:

1. The Plaintiff Madhuben Patel is a citizen and resident of the State of South Carolina, County of Lancaster.
2. The Defendant South Carolina Department of Public Safety is, based upon information and belief, a South Carolina agency charged with, in part, the enforcement of South Carolina law through and oversees the South Carolina Highway Patrol.
3. The South Carolina Highway Patrol has a barracks located in Lancaster County.
4. The Defendant employs Eugene Kennington who is, upon information and belief, a citizen and resident of the State of South Carolina, County of Lancaster.
5. Eugene Kennington is, upon information and belief, an employee of the South Carolina Highway Patrol, a division of the South Carolina Department of Public Safety.

6. The Defendant Bharatbhai Patel is a citizen and resident of the State of South Carolina, County of Lancaster.

FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

7. That on or about August 25, 2010, Plaintiff Madhuben Patel was a passenger in a motor vehicle operated by Bharatbhai Patel in Lancaster County at the intersection of US Highway 521 and East North Corner Road.
8. That on or about August 25, 2010, Trooper Eugene Kennington was acting in his official capacity as a State Highway Patrol Trooper and was operating a Highway Patrol cruiser on US Highway 521.
9. That on or about August 25, 2010, Trooper Kennington, in the course of his employment, was responding to a non-emergency call when he was travelling at an excessive, reckless and unwarranted rate of speed.
10. Trooper Kennington was travelling well in excess of the posted speed limit and was operating his state trooper cruiser without illuminating his emergency lights or activating his siren or any emergency sounds.
11. That Bharatbhai Patel, driver of the vehicle in which Plaintiff Madhuben Patel was a passenger, entered US Highway 521 in Lancaster County at its intersection with East North Corners Road.
12. That Bharatbhai Patel failed to observe, failed to see and failed to yield the right of way to the vehicle of Trooper Kennington, producing a crash between the two automobiles.
13. At this time and place, Trooper Kennington, in his capacity as agent and employee for the South Carolina Department of Public Safety, was operating his vehicle upon

the highway at an excessive rate of speed, in a reckless manner, and in violation of the standards and protocols of the South Carolina Department of Public Safety under the circumstances there existing.

14. As the result of the joint negligence of Trooper Kennington, as agent and employee of the South Carolina Department of Public Safety, and Bharatbhai Patel a traumatic and violent collision occurred between the two automobiles resulting in injury and death to the occupants of the Patel vehicle and severe and permanent injuries to this Plaintiff.
15. The collision of the vehicles resulted in Plaintiff Madhuben Patel suffering bodily harm and incurring personal injuries to include permanent physical injury, psychological injury and economic injury.

CAUSES OF ACTION

16. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.
17. The Defendants the South Carolina Department of Public Safety, through its agent and employee Eugene Kennington, and Bharatbhai Patel were negligent, willful, wanton, careless, reckless and/or grossly negligent in one or more of the following particulars:
 - a. Each Defendant failed to yield the right-of-way;
 - b. Each Defendant failed to maintain a safe and proper lookout;
 - c. Each Defendant failed to keep the vehicle he was operating under safe and proper control;


- d. Each Defendant failed to obey the traffic laws of the State of South Carolina;
 - e. Each Defendant failed to observe the road and traffic conditions;
 - f. Eugene Kennington, as agent and employee of the South Carolina Department of Public Safety, failed to illuminate emergency lights when responding to a call for assistance and while traveling at an excessive rate of speed;
 - g. Each Defendant drove their vehicle upon the highway while physically unable to do so safely, thereby placing others at risk;
 - h. Each Defendant failed to adhere to state protocols developed to protect the safety and health of the citizens of South Carolina, so as to constitute negligence;
 - i. Each Defendant violated state laws enacted to protect the safety and health of the motoring public, so as to constitute negligence per se; and/or
 - j. Each Defendant failed to use that degree of care and causation that a reasonably prudent person would have used under the circumstances then and there existing.
18. As a direct and proximate result of one or more of the acts and/or omissions of the Defendants as aforesaid, the Plaintiff has suffered losses and will continue to suffer losses including but not limited to:
- a. Personal injury;
 - b. Pain and suffering;
 - c. Mental anguish;

- d. Loss of enjoyment of life;
- e. Medical expenses, past and future;
- f. Permanent impairment;
- g. Loss of consortium; and
- h. Mental injury to include, but not be limited to, post-traumatic stress disorder.

The Plaintiff is entitled to recover an amount of actual and punitive damages to be determined by a jury.

WHEREFORE, the Plaintiff prays that she be granted judgment against the Defendants for actual and punitive damages in an amount to be determined by the jury for the costs of this action and for such other and further relief as this Court shall deem just and proper.

This the 9th day of July, 2012.



W. James Chandler
Attorney for Plaintiff

OF COUNSEL:
LAW OFFICES OF W. JAMES CHANDLER P.L.L.C.
Post Office Box 34097
Charlotte, NC 28234
(704) 376-6552

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)
BHARATBHAI PATEL,)
Plaintiff,)
vs.)
SOUTH CAROLINA)
DEPARTMENT OF PUBLIC)
SAFETY)
Defendant.)

IN THE COURT OF COMMON PLEAS

AMENDED COMPLAINT

C.A. No.: 2011-CP-29-1340

(Jury Trial Demanded)

FILED
OFFICE OF CLERK
CP COURT
JUL 1 2016
7:41 AM
CP 30 A 10-45

The Plaintiff, complaining of the Defendant, would show unto this Honorable Court as follows:

1. The Plaintiff Bharatbhai Patel is a citizen and resident of the State of South Carolina, County of Lancaster.
2. The Defendant, the South Carolina Department of Public Safety is, based upon information and belief, a South Carolina agency charged with, in part, the enforcement of South Carolina law through and oversees the South Carolina Highway Patrol;
3. The South Carolina Highway Patrol has a barracks located in Lancaster County;
4. The Defendant employs Eugene Kennington who is, upon information and belief, a citizen and resident of the State of South Carolina, County of Lancaster.
5. The defendant Eugene Kennington is, upon information and belief, an employee of the South Carolina Highway Patrol a division of the South Carolina Department of Public Safety.

FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

6. That on or about August 25, 2010, Plaintiff Bharatbhai Patel was operating a motor vehicle in Lancaster County with his 4 passengers to include his mother, wife, and two friends at the intersection of US Highway 521 and East North Corner Road.
7. That on or about August 25, 2010, Eugene Kennington was acting in his official capacity as a State Highway Patrol Trooper, was operating a Highway Patrol cruiser on US Highway 521.
8. That on or about August 25, 2010, Trooper Kennington, in the course of his employment, was responding to a call when he was travelling at an excessive, reckless, and unwarranted rate of speed when responding to said emergency call.
9. Trooper Kennington was travelling well in excess of the posted speed limit and was operating his State Trooper cruiser without illuminating his emergency lights or activating his siren or any emergency sounds.
10. Plaintiff Patel approached the intersection of US Highway 521, stopped at the posted stop sign on East North Corners Road, checked both ways and began to proceed across US Highway 521.
11. Based upon the reckless rate of speed of Trooper Kennington and the lack of any emergency lights or siren, Mr. Patel was unable to see Trooper Kennington's fast approaching vehicle.
12. Mr. Patel proceeded across the intersection and at that point Patel became aware of the reckless vehicle approaching which based upon the high rate of speed, left Patel without sufficient time to avoid the accident.

13. The actions of Trooper Kennington caused a traumatic and violent collision with the Patel vehicle such that it injured all passengers, ejected one from the vehicle, killed another and severely and permanently injured Plaintiff Patel.

14. The collision of the vehicles resulted in the Plaintiff Patel suffering bodily harm and incurring personal injuries to include permanent physical injury, psychological injury and economic injury.

CAUSES OF ACTION

15. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

16. The Defendant was negligent, willful, wanton, careless, reckless, and grossly negligent in the following particulars, to wit:

- a) In failing to yield the right-of-way;
- b) In failing to maintain a proper lookout;
- c) In failing to keep the vehicle under proper control;
- d) In failing to obey the traffic laws of the State of South Carolina;
- e) In failing to observe the road and traffic conditions;
- f) In failing to illuminate emergency lights when responding to an emergency call and while traveling and excessive rate of speed;
- g) In driving while physically unable to do so safely without putting others at risk;
- h) In violating state laws enacted to protect the safety and health of the motoring public, so as to constitute negligence per se; and

- i) In failing to use that degree of care and caution that a reasonable, prudent person would have used under the circumstances then and there prevailing.

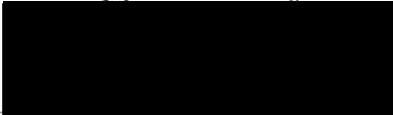
17. As a direct and proximate result of one or more of the acts and/or omissions of the Defendant as aforesaid, the Plaintiff has suffered losses and will continue to suffer losses including but not limited to:


- a) Personal injury;
- b) Pain and suffering;
- c) Mental anguish;
- d) Loss of enjoyment of life;
- e) Medical expenses, past and future;
- f) Permanent impairment;
- g) Economic loss in the form of wage loss;
- h) Loss of consortium; and
- i) Mental injury to include, but not limited to, post traumatic stress disorder.

The Plaintiff is entitled to recover an amount of actual and punitive damages to be determined by a jury.

WHEREFORE, the Plaintiff prays that they be granted judgment against the Defendants for actual and punitive damages in an amount to be determined by the jury, for the costs of this action, and for any such other and further relief as this Court shall deem just and proper.

(signatures to follow)


Ryan S. Montgomery (S.C. Bar No. 72890)
Black, Black & Montgomery, LLC
9 Washington Park
Greenville, SC 29601
(864) 242-3991
Attorney for Plaintiff


Vincent A. Sheheen (S.C. Bar No. 11552)
Savage, Royall & Sheheen, LLP
P.O. Drawer 10
Camden, SC 29020
(803) 432-4391
Attorney for the Plaintiff

Greenville, SC
September 29, 2011

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LANCASTER) **COVENANT NOT TO EXECUTE**

This Covenant Not to Execute is made as of this 13 day of April 2011, by Madhuben Patel in favor of South Carolina Department of Public Safety and Eugene Kennington and each of their current and former agents, servants, employees, and the heirs, successors and assigns of each of the foregoing.

WHEREAS, on August 25, 2010, a motor vehicle accident occurred in Lancaster County between a vehicle operated by an employee of the South Carolina Department of Public Safety and an automobile occupied by Madhuben Patel.

WHEREAS, Madhuben Patel claims bodily damages as a proximate result of the August 25, 2010 accident.

WHEREAS, South Carolina Department of Public Safety and/or Eugene Kennington, and each of their current and former agents, servants, employees, and the heirs, successors and assigns of each of the foregoing, wish to buy their peace from the claim made by Madhuben Patel and the potential of litigation.

WHEREAS, the claim made by Madhuben Patel against South Carolina Department of Public Safety and/or Eugene Kennington, arising out of the August 25, 2010 accident is governed by the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, et seq.

WHEREAS, Madhuben Patel contends that the injuries and damages claimed exceed the amount of the monetary cap as set forth in the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, et seq., and therefore, they seek to recover any additional injuries and damages from any underinsured motorist insurance that may exist.

NOW, THEREFORE, Madhuben Patel for and in consideration of Fifty Thousand and no/100 (\$50,000.00) Dollars, to her in hand paid by South Carolina Department of Public Safety, and/or Eugene Kennington, the receipt and adequacy of which is hereby acknowledged, do hereby covenant, promise and agree as follows:

1. That the undersigned does hereby promise and covenant for themselves and their executors, administrators, successors, and assigns not to execute against the South Carolina Department of Public Safety and Eugene Kennington, the South Carolina Insurance Reserve Fund, their heirs, executors, administrators, legal representatives, successors, assigns, and each of the current or former agents, servants, employees and their heirs, successors and assigns, on any judgment as may be obtained by the undersigned, their successors, beneficiaries, and/or assigns, on account of any claim, suit, demand, or cause of action arising from or by reason of any known and unknown, foreseen and unforeseen injuries, lost wages, medical expenses, mental anguish, pain and suffering, and any other damages of any kind to us and the consequences

thereof resulting and to result from any matter or thing which has happened, developed or occurred before the signing of this Covenant, and particularly, because of an accident on or about August 25, 2010 when Madhuben Patel was involved in a vehicular accident with Eugene Kennington, an employee of the South Carolina Department of Public Safety on SC Highway 521 in Lancaster County, South Carolina.

2. That furthermore, the undersigned does further covenant and promise that if they should attain judgment against the South Carolina Department of Public Safety and/or Eugene Kennington, their heirs, executors, administrators, legal representatives, successors, assigns, and each of the current or former agents, servants, employees and their heirs, successors and assigns, that, upon a final determination of whether any underinsured motorist benefits will be paid, they or their attorney will cause the judgment to be marked and entered as satisfied.

3. That should the undersigned or their attorney refuse to mark and enter any judgment obtained against South Carolina Department of Public Safety and/or Eugene Kennington their heirs, executors, administrators, legal representatives, successors, assigns, and each of the current or former agents, servants, employees and their heirs, successors and assigns, as satisfied, as provided hereinabove, the undersigned and their attorney do hereby authorize the Clerk of Court for the county in which any action is pending, to mark and enter the judgment as satisfied upon receiving a copy of this agreement from counsel for the South Carolina Department of Public Safety and/or Eugene Kennington their heirs, executors, administrators, legal representatives, successors, assigns, and each of the current or former agents, servants, employees and their heirs, successors and assigns.

4. That the undersigned agrees that the payment made by the South Carolina Department of Public Safety and/or Eugene Kennington, is in compromise of a disputed claim and that the payment made is not to be construed as an admission of liability on the part of the the South Carolina Department of Public Safety and/or Eugene Kennington or of any other person hereby benefitting from this Covenant.

5. That the undersigned does hereby declare and represent that she understands that the injuries sustained by her may be permanent and progressive, and that recovery therefrom is uncertain and indefinite, and that all of the injuries, damages and losses may not now be fully known to her, and may be more numerous or more serious than she now expects and in making this Covenant, it is understood and agreed that she rely wholly upon her own judgment of the future development, progress, and result of the said injuries, known or unknown, and that she has not been influenced to any extent whatsoever in making this Covenant by any representations or statements regarding the said injuries, damages or the legal liability therefore, or regarding any other matters made by the party or parties who are hereby released, or by any person or persons representing such party or parties, or by any physician or surgeon employed by such party or parties. That the undersigned hereby declare and represent that no promise or inducement or agreement not herein expressed has been made to her and that this Covenant contains the entire agreement between the parties hereto, and the terms of this Covenant are contractual and not merely a recital and that the South Carolina Department of Public Safety and/or Eugene Kennington their heirs, executors, administrators, legal representatives, successors, assigns, and

each of the current or former agents, servants, employees and their heirs, successors and assigns, have made no representations as to the possibility of the undersigned securing any monies from any underinsured motorist carrier.

6. The undersigned further covenant and agree that this Covenant shall apply to all known, unknown, anticipated, and unanticipated injuries and damages resulting from the accident that is the subject of this action.

7. That the undersigned and her attorney further agree to pay, negotiate, settle or litigate the payment of related, known and reasonable liens, including but not limited to health care providers to include health insurance liens, whether created by statute or otherwise.

8. Madhuben Patel, although Medicare eligible, declares and expressly warrants that she is not suffering from end stage renal failure or amyotrophic lateral sclerosis; has not received Social Security benefits for 24 months or longer; and has not applied for Social Security benefits, and/or has not been denied Social Security disability benefits and appealing the denial. Relying on these representations, no Medicare Set Aside Allocation ("MSA") is being established. In the event that any of the above information provided by Madhuben Patel is false or in any way incorrect, Madhuben Patel shall be solely liable for any and all actions, cause of actions, penalties, claims, costs, services, compensation or the like resulting from these inaccuracies. Madhuben Patel acknowledge that Medicare may require Madhuben Patel to exhaust the entire settlement proceeds on Medicare covered expenses should he become Medicare eligible within thirty (30) months. Madhuben specifically waives any claims for damages against the South Carolina Department of Public Safety and Eugene Kennington, including a private cause of action provided in the MSP, 42 U.S.C. 1395(b)(3)(A), should Medicare deny coverage for any reason, including the failure to establish a set aside allocation to protect Medicare's interest. Madhuben Patel upon advice of counsel, and in accord with this release, agrees that any and all applicable medical and other liens related to this litigation are to be paid out of the settlement proceeds, and that Medicare and any other liens related to this litigation are to be paid out of the settlement proceeds, and that Medicare and any other lien claims are the sole responsibility of Madhuben Patel with nothing further to be sought from the South Carolina Department of Public Safety and Eugene Kennington. In the event that this information is false or in any way incorrect, Madhuben Patel expressly warrants and agrees that said liens will be her sole responsibility and will be paid from these settlement proceeds with nothing further to be sought from the South Carolina Department of Public Safety and Eugene Kennington.

9. That the undersigned further agree to hold harmless the South Carolina Department of Public Safety and Eugene Kennington their heirs, executors, administrators, legal representatives, successors, assigns, and each of the current or former agents, servants, employees and their heirs, successors and assigns, from any claims for medical expenses and/or liens, attorney's fees or liens, or any other expenses or liens arising as a result of this accident.

10. This Covenant contains the entire agreement between the parties hereto and the terms of this Covenant are contractual and not a mere recital. Madhuben Patel, state that she has

reviewed the contents of this Covenant with her attorney, W. James Chandler, Esquire, and understands the contents thereof. She further states that she has read carefully the foregoing Covenant and know the contents thereof and has signed the same as my own free will and acts.

IN WITNESS WHEREOF, I have hereunto set my hand(s) and seal(s) this 13 day of April 2011.

WITNESSETH:


Madhuben Patel  (SEAL)

I HEREBY CERTIFY that the above Covenant was read by Madhuben Patel and the legal effects have been explained to them by me, their attorney, and that they did freely and voluntarily execute same with full knowledge of the contents and the effects thereof.

I FURTHER CERTIFY that any and all liens or subrogation rights which might be applicable to this settlement shall be satisfied by me and that the net proceeds from this settlement, after attorney fees and costs, shall be held in trust until all liens have been satisfied.


Attorney for Madhuben Patel

April 13, 2011

JUN-03-2013 09:31 AM 7043448555 3/3
JUN/03/2013/MON 09:37 AM Templeton & Raynor

FAX No. 7043448555

P. 003/003

SOUTH CAROLINA
LANCASTER COUNTY

IN THE COURT OF COMMON PLEAS
11-CP-29-1340

BHARABHAI PATEL,

Plaintiff,

vs.

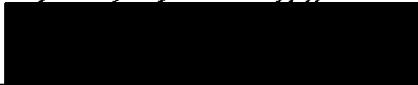
STIPULATION OF DISMISSAL
WITH PREJUDICE

SOUTH CAROLINA DEPARTMENT OF
PUBLIC SAFETY,

Defendant.

NOW COMES the Plaintiff in the above-entitled action, pursuant to Rule 41 of the South Carolina Rules of Civil Procedure and hereby gives notice of the dismissal, with prejudice, of all claims in this action.

THIS THE 17 DAY OF May, 2013.


Ryan S. Montgomery
Attorney for Bharatbhai Patel
ATTORNEY AT LAW
108 Mills Avenue
Greenville, SC 29605
Work: 864-373-7333, Fax: 864-373-7334
Ryan@RyanMontgomeryLaw.com

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

RECORDED
2015 MAR 20 PM 2:33

IN THE COMMON PLEAS COURT OF THE
THIRD JUDICIAL CIRCUIT

2015-CP- 43 -

725

Ruth Pearson,

Plaintiff,

v.

South Carolina Department of Transportation
(SCDOT) and South Carolina Department of
Public Safety (SCDPS),

Defendants.

JAMES D. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

COMPLAINT

JURY TRIAL DEMANDED

The Plaintiff, complaining of the acts of the Defendants above named, will respectfully show unto the court as follows:

I.

The Plaintiff, Ruth Pearson (herein after referred to as "Ms. Pearson"), is a citizen and resident of the County of Sumter, State of South Carolina.

II.

Upon information and belief, the Defendant, South Carolina Department of Transportation (herein after referred to as "Defendant SCDOT"), is and was a governmental entity of the State of South Carolina, and this action is brought against Defendant SCDOT pursuant to the South Carolina Tort Claim Act, S.C. Code of Laws (1976), as amended, Section 15-78-10, et seq.

III.

The Defendant SCDOT is charged with building and maintaining roads and bridges and administering mass transit services in the State of South Carolina. At all times herein mentioned, Defendant SCDOT's function and purpose was the systematic planning, construction,

maintenance and operation of the state highway system and the development of a statewide mass transit system that is consistent with the needs and desires of the public. The Defendant SCDOT has a duty and responsibility to provide adequate, safe, and efficient transportation services for the movement of people and goods.

IV.

At all times herein mentioned, the Defendant SCDOT acted by and through its servants, agents and employees. The Defendant SCDOT is and was responsible for the acts, delicts and/or omissions of its servants, agents and employees, who acted within the scope of their employment.

V.

Upon information and belief, the Defendant, South Carolina Department of Public Safety, (herein after referred to as "Defendant SCDPS"), is and was a governmental entity of the State of South Carolina, and this action is brought against Defendant SCDPS pursuant to the South Carolina Tort Claims Act, S.C. Code of Laws (1976), as amended, Section 15-78-10, et seq.

VI.

The Defendant SCDPS is charged with ensuring the safety of South Carolina citizens and visitors. At all times herein mentioned, Defendant SCDPS was charged with enforcing the traffic, motor vehicle and motor carrier laws and administering highway safety. At all times herein mentioned, the Defendant SCDPS acted by and through its servants, agents and employees. The Defendant SCDPS is and was responsible for the acts, delicts and/or omissions of its servants, agents and employees, who acted within the scope of their employment.

VII.

The incident at issue occurred in Sumter County, South Carolina. Ms. Pearson would allege that venue is proper in this Court under §15-7-20 of the South Carolina Code of Laws.

VIII.

Ms. Pearson was in an automobile collision with another driver at the intersection of Highway 15 and Bell Road in Sumter County on October 3, 2014. Upon information and belief, Ms. Pearson was traveling North in her 2003 Buick on Hwy 15 toward Bishopville, South Carolina. Ms. Pearson passed Whites Mill Road and entered the intersection of Highway 15 and Bell Road. As Ms. Pearson entered the intersection another driver in a 2005 Acura was heading south on Highway 15 and crossed the center line to enter the intersection. The 2005 Acura collided with Ms. Pearson's automobile on the passenger side of both cars. Ms. Pearson was assigned no fault in the accident.

The intersection where the collision occurred was not marked with any warning signs, yield signs, or any signage whatsoever to warn drivers of the meeting of two roads or the necessity for one driver to yield the right of way. Drivers entering the above mentioned intersection had no warning that there was a dangerous condition as a result of the way in which the two roads intersected.

Upon information and belief, sometime during the month of January 2015 signs were posted at the entrance to the intersection described herein. These signs are yellow with a picture of the way in which the two roads intersect represented in black. The signs are located on Highway 15 just prior to the site of the motor vehicle accident described herein. Upon information and belief the signs were placed by Defendants after the motor vehicle accident described herein.

Upon information and belief, other automobile accidents have occurred at the intersection described herein prior to Ms. Pearson's accident.

Ms. Pearson suffered severe injuries including an open right ankle fracture, left wrist fracture and multiple rib fractures. She was in the hospital for approximately five days and was then transferred to long term care as a result of her injuries for approximately four months.

IX.

As a direct and proximate result of the acts, delicts and/or omissions on the part of the Defendants as outlined hereinabove, the Ms. Pearson endured pain and suffering, injuries, costs and will continue to suffer the same in the future.

X.

The negligent acts and omissions of the aforementioned Defendants combined and concurred to cause Ms. Pearson's injuries.

XI.

At the time of the accident described above, the Defendants were negligent, careless, reckless, grossly negligent, willful and wanton in one or more of the following particulars to wit:

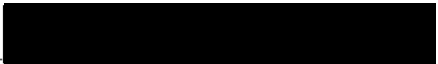
- A. In failing to ensure proper signage;
- B. In failing to post proper warnings;
- C. In failing to control traffic;
- D. In failing to properly design, maintain and plan the roads and intersection; and
- E. In failing to keep the roads and highways safe.

WHEREFORE, having fully set forth her Complaint above, the Plaintiff prays for judgment against the Defendants:

- A. For a verdict against all Defendants for Negligence;

- B. For a verdict against all Defendants for gross negligence;
- C. For a verdict against all Defendants for actual and punitive damages;
- D. For the costs of this action; and
- E. For such other and further relief as this Court may deem just and proper.

Respectfully Submitted,



Jamie DeMint S.C. Bar No.: 74062
DEMINT HOWE, P.A.
505 Pettigru Street
Greenville, South Carolina 29601
(864) 214-0161 Telephone
(864) 214-0152 Fax
jdemint@deminthowe.com
Attorney for the Plaintiff

March 17, 2015
Greenville, South Carolina

JURY TRIAL DEMAND

Pursuant to Rule 38(b) of the South Carolina Rules of Civil Procedure, the Plaintiff, by her undersigned attorneys, demands a jury trial on all issues set forth in this cause.



Jamie R. DeMint, S.C. Bar No.: 74062
Attorney for the Plaintiff

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
SAMUEL PERALES-VIELMA,)
Plaintiff,)
vs.)
DURHAM SCHOOL SERVICES, LP,)
BERNICE LEVINE, CHARLESTON)
COUNTY SCHOOL DISTRICT,)
SOUTH CAROLINA DEPARTMENT OF)
EDUCATION AND SOUTH CAROLINA)
STATE TRANSPORT POLICE,)
Defendants.)

IN THE COURT OF COMMON PLEAS

CASE NO: 2015-CP-10-3175

COMPLAINT
(Jury - Auto - Negligence)

FILED
2015 JUN -3 PM 4:21
JULIE J. ARMSTRONG
CLERK OF COURT

The Plaintiff alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff, Samuel Perales-Vielma (hereinafter Perales), is a resident and citizen of the State of South Carolina.
2. Defendant Durham School Services, LP ("Durham") is a corporation, upon information and belief, incorporated in the State of Delaware with a principle office located at Rourke Street, North Charleston, SC 29405.
3. Durham is a registered foreign corporation in the State of South Carolina doing business in Charleston County, South Carolina and is liable for the acts and omissions of its agents and employees acting within the scope of their employment.
4. Upon information and belief, Bernice Levine ("Levine") is a citizen and resident of Charleston, South Carolina and was the operator of the school bus as hereinafter set forth.
5. South Carolina State Transport Police ("Transport Police") is a governmental agency

established, created and existing under and by virtue of the laws of the State of South Carolina and performs inspections on school buses and transportation services in Charleston, South Carolina.

6. Charleston County School District (“CCSD”) is a governmental agency of the State of South Carolina established, created and existing under and by virtue of the laws of the State of South Carolina with the responsibility of providing and maintaining school buses and transportation services in Charleston, South Carolina.

7. South Carolina Department of Education (“SCDE”) is a governmental agency of the State of South Carolina, established, created and existing under and by virtue of the laws of the State of South Carolina, with the responsibility of providing and maintaining school buses and transportation services in Charleston, South Carolina.

8. The court has jurisdiction over the parties and subject matter of this case.

9. A substantial part of the alleged acts or omission giving rise to this cause of action occurred in Charleston County, South Carolina

FACTS

10. Upon information and belief, Durham owns, operates and maintains buses used for transportation of CCSD and/or SCDE students.

11. The CCSD and/or SCDE provides and maintains school buses and transportation services in Charleston, South Carolina including the bus which caused injury and damages to Plaintiff as set forth herein below.

12. Transport Police performed inspections on school buses and transportation services in Charleston, South Carolina including on the bus that caused injury and damages to the Plaintiff as set forth herein below.

13. Durham and/or CCSD hires, trains, and supervises the drivers of all Durham buses including Defendant Levine.

14. On or about June 6, 2013 at approximately 12:40 PM, Plaintiff was the operator of a 1994 jeep and was stopped at a red light behind a vehicle on Dorchester Road in North Charleston, South Carolina.

15. On the date, time and place aforesaid the Defendant Levine was an agent, servant and/or employee of Defendant CCSD and/or Durham and was acting within the course and scope of her employment with the Defendant CCSD and/or Durham at all times mentioned herein; to the extent that the Defendant Levine was not within the course and scope of employment by a South Carolina governmental agency she is named as a Defendant herein.

16. On the date, time and place aforesaid, Defendant Durham was the owner of 2001 Thomas Bus operated by Defendant Levine proceeding on Dorchester Road in an easterly direction when by and through the negligence, gross negligence, carelessness, recklessness, willfulness and wantonness of the Defendants jointly, severally or in the alternative, Defendant Durham's bus struck the automobile operated by the Plaintiff, as a result of which Plaintiff sustained injuries and damages as hereinafter set forth.

17. That the negligence, carelessness, recklessness, willfulness, wantonness, and gross negligence of the Defendants, jointly, severally or in the alternative, consisted, among other things of the following:

- a. In failing to and omitting to stop, slacken the speed or change the lane of travel of the vehicle when the Defendants knew or by the exercise of reasonable care should have known that by continuing to proceed, the Defendant's vehicle would cause the vehicle directly in front of it to strike Plaintiff's automobile;

- b. In failing to take proper precautions to avoid allowing Defendant's vehicle to strike and collide with the Plaintiff's automobile;
- c. In operating the aforementioned vehicle at a high and excessive speed under the circumstances;
- d. In following too closely for conditions;
- e. In failing to have and keep the aforementioned vehicle under proper and reasonable control;
- f. In failing to keep a proper lookout ahead;
- g. In allowing the aforementioned commercial motor vehicle to be operated by an operator not qualified to operate the said commercial motor vehicle;
- h. In failing to supervise the personnel who committed the acts described in this Complaint and others and that Defendants had knowledge that said personnel was likely to commit and/or did commit wrongful conduct but failed to remediate the situation;
- i. In operating and allowing the operation of the said 2001 Thomas Bus with the brakes in an unreasonably dangerous condition;
- j. In failing to properly inspect, repair and maintain the brakes of the 2001 Thomas Bus;
- k. In failing to warn the public of the dangerous condition;
- l. In failing to see or observe things which a reasonable person should see;
- m. In failing to maintain reasonable vigilance and anticipate others' use of the roadway;
- n. In failing to appropriately apply brakes or otherwise proceed with caution;
- o. In failing to sound the horn;
- p. In driving the bus in a careless and heedless fashion on the roadway so as to endanger other persons or property;
- q. In failing to use the degree of care and skill required by a driver under the same or similar circumstances;

- r. In failing to maintain and in operating the bus in violation of laws;
- s. In failing to exercise that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances and in such other and further ways as discovery may reveal.

18. That the negligence, gross negligence, carelessness, recklessness, willfulness, and wantonness of the Defendants, jointly, severally or in the alternative, cause the aforementioned occurrence and the resulting injuries to the Plaintiff.


19. That by reason of and in consequence of the aforesaid negligence, gross negligence, carelessness, recklessness, willfulness and wantonness of the Defendants, jointly, severally, or in the alternative, and as a direct and proximate result thereof Defendants' vehicle struck the automobile operated by Plaintiff when the Defendants' Thomas Bus failed to stop resulting in injuries to Plaintiff in and about his entire body, including injuries to his neck, back, legs, buttocks, and groin, requiring treatment at hospitals, medical care and other medical treatment by reason of which Plaintiff has been caused to expend monies for doctors and other medical expenses, and will be caused to expend monies for such care in the future; he has suffered and continues to suffer pain and mental anguish; he has been prevented from engaging in normal activities and he has lost wages and gains he otherwise would have made, he has been deprived of the enjoyment of persons in like circumstance and has been otherwise damaged, all to his damage.

WHEREFORE, Plaintiff prays for judgment against the Defendants, jointly, severally, or in the alternative, in such sums as will fully, fairly and justly compensate him and for such punitive damages as the jury may find, together with the costs of this action.

Caroline West
Law Offices of Gedney M. Howe, III, P.A.
P.O. Box 1034
Charleston, SC 29402
(843) 722-8048

Cristin Uricchio
Uricchio Law Firm
147 Wappoo Creek Drive, Ste. 205
Charleston, SC 29412
(843) 795-9300

BY:


Attorneys for Plaintiff

6/3, 2015

STATE OF SOUTH CAROLINA)	
)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
		FIFTH CIRCUIT
KELTON PERRY,	)	Civil Action No.: _____
Plaintiff,)	
)	
vs.)	
	)	COMPLAINT
	)	(JURY TRIAL DEMANDED)
SOUTH CAROLINA DEPT. OF PUBLIC)	
SAFETY,)	
Defendant/s.)	
_____)	

Plaintiff, Kelton Perry, by and through his undersigned attorney, hereby avers the following:

PARTIES AND JURISDICTION

1. Plaintiff Kelton Perry, (herein "Perry" or "Plaintiff") is a resident of Aiken County and citizen of the State of South Carolina.
2. Upon information and belief, Defendant South Carolina Department of Public Safety (through its State Trooper Division) is a State agency formed and existing through and pursuant to the laws of the State of South Carolina.
3. Defendant/s is/are subject to the jurisdiction of the Court. Venue and jurisdiction in this matter are properly before this Court, as this action arises under the S.C. Tort Claims Act, including, but not limited to, the provisions of S.C. Code Ann § 15-78-40 (Supp. 1996), § 15-78-50 (Supp. 1996), § 15-78-100 (Supp. 1996), § 15-17-30 (Supp. 1996).

FACTS

4. On or about October 29, 2014, Plaintiff, Kelton Perry, was traveling in his motor vehicle on St. Andrews Road. Plaintiff's car was struck by another vehicle driven by a woman at the intersection of Piney Grove and St Andrews. The vehicle striking Plaintiff's had failed to yield the right of way and witnesses to the impact viewed the accident and testified to the fault of the other driver.

5. Plaintiff and possibly others, called 911. Within approximately 20 to 30 minutes, a State Trooper ("Trooper" and/or "Milbourne") arrived. The Trooper spoke to the witnesses and viewed the vehicles and approached the two drivers including Plaintiff. The Trooper and the woman spoke for an extended period of time. The Plaintiff informed the Trooper of the facts from his perspective. The Trooper asked for Plaintiff's license and registration. The Trooper then went to his vehicle (patrol car) and back to the other driver. They engaged in a lengthy discussion.
6. The Trooper approached Plaintiff and asked if he would accept payment from her without a "write-up" of the incident or for him to write it up as a collision. The Trooper made this/these statements in such a manner suggesting he (Trooper) wanted Plaintiff to chose the former; allow her to pay him absent a collision report.
7. Because he was concerned about his own insurance as well as payment and had little knowledge of the process, Plaintiff asked the Trooper to write the incident up as a collision. The Trooper changed his tone to a harsh and menacing voice. The officer stated again, this time in a commanding manner, that he could write up the collision or they could exchange information and he informed him she had a good job. Plaintiff, although concerned by the countenance of the Trooper, again stated he would like a collision report written up.
8. The Trooper became more hostile to Plaintiff. The Trooper spoke with the woman on at least two more occasions and continued to asked again for Plaintiff to accept her word she would pay out of pocket. Plaintiff asked that incident be written up as a collision. The Trooper became more frustrated and hostile to Plaintiff.
9. Finally, the Trooper came to the Plaintiff and ordered him to put his hands behind his back for handcuffs. Plaintiff asked "why" - what was going on. The Trooper immediately indicated he (Plaintiff) was resisting and began to use force and Plaintiff stated immediately "no he was not resisting" and was led to the patrol car. Plaintiff did ask, as politely as possible, what he was being arrested for, and finally the Trooper stated

he (Plaintiff) was driving under suspension. Plaintiff stated clearly to the Patrolman that he was not suspended. The patrol car had a video screen and the Trooper stated that the screen showed he (Plaintiff) was suspended. Plaintiff requested that Trooper show him where the records stated his license was suspended. The Trooper "scrolled" the computer but never showed the data he was apparently relying on.

10. Plaintiff was left in the car handcuffed for a significant period of time. Then Plaintiff was taken to jail. Plaintiff spent the night in jail and was released only at 6 pm the following day. Plaintiff was required to post a bond and lost one day of work.
11. Plaintiff came to Court and the Trooper would not review his paperwork showing that his license had not been suspended. Other officers at Court finally reviewed the paperwork demonstrating that the licenses had not been and was not currently suspended and dismissed the case.

FOR A FIRST CAUSE OF ACTION
(NEGLIGENCE)

12. Plaintiff repeats and incorporates by reference each and every allegation contained in the preceding paragraphs into this First Cause of Action as if fully repeated verbatim herein.

13. Defendant, has special knowledge and training in law enforcement and DMV records. Defendant acted absent reasonable care and in a malicious manner and/or deceptive manor in determining Plaintiff's license was suspended when the records indicate it was not. Defendant further, after being asked to show the suspension by Plaintiff failed to take any reasonable diligence to determine if the license was in fact suspended.

14. Defendant/s are charged with a duty of protecting Plaintiff's civil rights and are strictly prohibited from violating same.

15. Defendant/s owed a duty of care to Plaintiff to proceed and handle Plaintiff, as a citizen

who was the victim of a vehicle collision with reasonable care and focused absent reasonable care and affirmatively to punish Plaintiff for not agreeing to handle the collision between the parties.

16. Defendants, by and through their actions and omissions, breached their duty to the Plaintiff through the negligent, grossly negligent, and/or willful, wanton, and reckless conduct in various particulars including, but not limited to some or all of the following:

1. Failing to review the records regarding Plaintiff's license.
 2. Affirmatively taking steps to arrest Plaintiff, absent legal or probable cause due to his rightful decision as to how to handle the collision.
 3. By intentionally, recklessly, wantonly and negligently handcuffing Plaintiff and holding Plaintiff absent probable cause.
 4. By failing to act as a reasonable law enforcement officer would in dealing with and answering a call initiated by Plaintiff, a citizen and resident of the State with a valid and discernable legal issue.
 5. By failing to respond and affirmative review records after Plaintiff's statements that his license was not suspended.
 6. By taking no action to refrain from abusing, assaulting, battering, and otherwise violating Plaintiff's civil rights;
 7. In such other matters as may be shown during the litigation of trial of this matter.
17. As a direct and proximate result of Defendants' negligent and/or grossly negligent acts alleged herein, Plaintiff incurred loss of liberty, mental and emotional suffering, fright, anguish, shock, nervousness, anxiety, embarrassment, pain, and suffering.

18. The injuries and damages suffered by Plaintiff, as set forth in greater detail herein, were directly and proximately caused by Defendants' negligent and/or grossly negligent acts. As a result, Plaintiff is entitled to damages from Defendant/s in an amount to be determined by the trier of fact.

FOR A SECOND OF ACTION
(FALSE IMPRISONMENT)

19. Plaintiff repeats and incorporates by reference each and every allegation contained in the preceding paragraphs into this Second Cause of Action as if fully repeated verbatim herein.

20. The Plaintiff was restrained / imprisoned through direct and affirmative actions of the Defendant/s.

21. Such affirmative actions by Defendant/s, restraining and/or resulting in the restraint and imprisonment of the Plaintiff were intentional and such restraint, absent probable cause, was unlawful.

22. Such resulting restraint and imprisonment directly and proximately caused Plaintiff damages. Plaintiff is entitled to judgment against Defendant for the above causes of action for actual, consequential, incidental, punitive and other damages to be determined by a jury.

FOR A THIRD CAUSE OF ACTION
(MALICIOUS PROSECUTION)

23. Plaintiff repeats and incorporates by reference each and every allegation contained in the preceding paragraphs into this Second Cause of Action as if fully repeated verbatim herein.

24. The Defendant (personally - or through agents) instituted and then continued original criminal judicial proceedings against Plaintiff initially and continued such after knowledge or knowledge which should have been gained, that Plaintiff had not violated such alleged criminal act.

25. The proceedings terminated in Plaintiff's favor.

26. Defendant (though its agent) had legal malice in instituting such proceedings and lacked probable cause to institute such proceedings.

27. As a direct and proximate result of the above, Plaintiff suffered actual damages and injury.

WHEREFORE, Plaintiff requests that this Court:

A. Award Plaintiff actual damages including actual damages and pain and suffering, and all other appropriate and legally appropriate relevant damages;

B. Award Plaintiff the costs of this action and such other and further legal and equitable relief as this Court may deem just and proper.

Attorney for Plaintiff

August 5, 2015

Attorney for Plaintiff

By: 
J. Charles Ormond, Jr.

Holler Garner Corbett Ormond Plante & Dunn
1777 Bull Street
Columbia, SC 29201
(803) 765-2968 dir. 933-9000

STATE OF SOUTH CAROLINA)	
)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH CIRCUIT
KELTON PERRY,	)	Civil Action No.: _____
Plaintiff,)	
)	
vs.)	
	)	(OFFER OF JUDGMENT)
SOUTH CAROLINA DEPT. OF PUBLIC)	
SAFETY,)	
Defendant/s.)	
_____)	

Pursuant to Rule 68 of the South Carolina Rules of Civil Procedure, Plaintiff (offeror) in this matter, Kelton Perry, offers to take judgment in his favor in the sum of \$5,000.00 in full satisfaction of all claims as set forth in Plaintiff's Summons and Complaint, as may have been amended prior to this offer or served with this offer, against Defendant/s as captioned and set forth above, inclusive of costs and attorney's fees, served with

Defendant/s have twenty (20) days to accept such offer by filing an acceptance with the Court within that time period. If an acceptance is not made within the time period provided under Rule 68, such offer shall be considered rejected. Rejection of such offer by Defendant initiates interest at 8% (or statutory interest) on any judgment obtained by Plaintiff if the "offeror" (Plaintiff) obtains a judgment in an amount at least as favorable as the rejected offer.

Attorney/s for Plaintiff:
Respectfully Submitted,

J. Charles Ormond, Jr.

Holler, Garner, Corbett, Ormond Plante & Dunn
1777 Bull Street Suite
Columbia, SC 29201
(803) 765-2968 fx 252-8290

August 6, 2015

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Retha Peirce,

Plaintiff,

vs.

Lcpl. B. J. Hucks and Sgt. Strickland

Defendants.

Civil Action No.

COMPLAINT
(jury trial requested)

The Plaintiff, complaining of the Defendants herein would respectfully show unto this Honorable Court:

JURISDICTION

1. This Action arises under the First and Fourth Amendments to the Constitution of the United States of America, 42 USC §1983, 1985, 1986 and the Laws and Constitution of the state of South Carolina.
2. Subject matter is conferred upon this court by 28 US C §1331 and § 1343.
Plaintiff invokes the pendant jurisdiction of this court over all state causes of action.

PARTIES

- 3 The Plaintiff is a citizen of the United States of America and a resident of the County of Horry, State of South Carolina.
- 4 That the defendants are, upon information and belief, citizens and residents of the County of Florence State Of South Carolina. That defendants were at all relevant times herein acting under the color and pretext of their authority as officers of the S.C. Highway Patrol. That the defendants were acting under the color and pretense of

the laws of the State of South Carolina. Defendants were acting in their individual as well as official capacities.

FACTUAL ALLEGATIONS

5. That heretofore, Plaintiff was elected by the citizens of the town of Atlantic Beach as their mayor, pursuant to an election ordered by the South Carolina Supreme Court.
6. That Plaintiff has been the subject of ongoing persecution from her political opposition ever since.
7. That on or about the ninth day of November, 2009, Plaintiff was sleeping in her automobile in a parking lot in Marion, S.C. when the Defendant Strickland began watching her without explanation. He then awoke her and accused her of reckless driving, without having witnessed her driving or having observed her awake. He then called Defendant Hicks to investigate. That Defendant Hicks initially checked Plaintiff's paperwork and was satisfied. Defendant Strickland then called Defendant Hicks over and started telling him who the Plaintiff was. That Defendant Strickland apparently ordered Defendant Hicks to give the Plaintiff a sobriety test, which he proceeded to do without cause. The Plaintiff demonstrated her sobriety, nonetheless Defendants arrested her, depriving her of her liberty and freedom of movement.
8. That thereafter, the Defendants under threat required Plaintiff to perform sobriety tests, without any evidence the Plaintiff had either been driving or suffered any

impairment from any alcohol or drug. Plaintiff demonstrated her sobriety, but was nevertheless arrested.

9. That the Defendant Hicks advised Plaintiff, he was aware she was the Mayor of Atlantic Beach and because of this he was giving her extraordinary treatment even though he had not witnessed her driving and she showed no sign of impairment.
10. That the Defendants advised Plaintiff they had a suspicion, hearsay information, although they did not know the source of the hearsay that Plaintiff had previously been driving erratically.
11. That thereafter Defendant took Plaintiff in his patrol car conversing with her, so that Defendant was well aware of her sobriety and rationality.
12. That subsequently Defendants required Plaintiff, without cause, to submit to a breath analysis test.
13. That the test showed not a trace of alcohol was in Plaintiff's system, still Defendants retained her in custody.
14. That the Defendants despite Plaintiff's evident sobriety required her to submit to a drug test.
15. That the drug test showed no trace of drugs in Plaintiff's system, but Defendants still continued to prosecute the Plaintiff for other purposes, including interfering with her office.
16. That the Defendant Hicks wrote Plaintiff a ticket for driving under the influence. The charge was dismissed for lack of any evidence of any driving or of any impairment.

FOR A FIRST CAUSE OF ACTION
(Violation of Fourth Amendment Prosecution)

(42 USC § 1983)

- 17 Plaintiff herein repeats and reiterates each and every allegation contained in the preceding paragraphs as though set forth herein verbatim.
18. That the Defendants did imprison and prosecute the Plaintiff maliciously and without probable cause.
19. That the aforementioned acts, conduct, omissions, policies and practices by the Defendant did cause the restriction of the Plaintiff's liberty and freedom of movement. Such was done without legal justification or probable cause, in violation of her rights under the Fourth and Fourteenth Amendments to the U.S. Constitution to be free from seizure and prosecution of her person without probable cause.

FOR A SECOND CAUSE OF ACTION

(Malicious Prosecution)

26. Plaintiff herein repeats and reiterates each and every allegation contained in the preceding paragraphs as though set forth herein verbatim.
27. That Defendants did without probable cause; cause Plaintiff to be prosecuted for the offenses aforestated. The charge of, driving under the influence, was disposed of in Plaintiff's favor in or about April, 2012.
28. As a direct result and consequence of the aforestated actions of the Defendants, the Plaintiff has incurred legal expenses, costs and fees, has suffered injury to her reputation and has experienced emotional distress and outrage.

FOR A THIRD CAUSE OF ACTION

(Abuse of Process)

29. Plaintiff herein repeats and reiterates each and every allegation contained in the preceding paragraphs as though set forth herein verbatim.
30. That Defendants did cause process to be issued and pursued against Plaintiff for the offense aforestated and not for the purposes intended but for ulterior purposes, including notoriety, coercing Plaintiff to not criticize the government, and discrediting and interfering with Plaintiff as a public official.
31. As a direct result and consequence of the aforestated actions of the Defendants, the Plaintiff has incurred legal expenses, costs and fees, has suffered injury to his reputation and has experienced emotional distress and outrage.

FOR A FOURTH CAUSE OF ACTION
(Defamation)

32. Plaintiff herein repeats and reiterates each and every allegation contained in the preceding paragraphs as though set forth herein verbatim.
33. That the Defendants caused to be published to numerous third parties on television and internet and other media outlets statements that, Plaintiff was guilty of these false criminal charges.
34. That this publication was false.
35. As a direct result and consequence of the aforestated actions of the Defendant, the Plaintiff has suffered damage to her reputation and standing, she has been injured in her relationships, both business and personal, she suffered special damages, including not being able to effectively exercise her office.

FOR A FIFTH CAUSE OF ACTION
(Civil Conspiracy)

36. Plaintiff herein repeats and reiterates the allegations heretofore alleged as though set forth herein verbatim.
37. That the defendants acting together and with others conspired to injure the plaintiff by committing unlawful acts and/or by committing lawful acts by unlawful means.
38. That acts were taken in furtherance of the conspiracy.
39. That as a result of the conspiracy and the acts taken in furtherance thereof Plaintiff suffered special damages, was terrorized, underwent extreme emotional distress and has suffered as heretofore set forth.

FOR A SIXTH CAUSE OF ACTION
(Violation of First Amendment Rights)
(Freedom of Speech and Right to Protest)

19. Plaintiff herein repeats and reiterates each and every allegation contained in the preceding paragraphs as those set forth herein verbatim.

20. Defendants did violate the Plaintiff's Rights under the First and 14th Amendments to the United States Constitution in that the Defendants did punish the plaintiff because of her protest against the governmental actions of others and her speech.

21. That as a direct result and consequence of the Defendants' violation of the Plaintiff's civil rights, the Plaintiff was deprived of her liberty and freedom of movement, she was inhibited from exercising her freedom of speech, she further suffered extreme emotional distress and anguish, public humiliation and embarrassment, damage to her reputation and standing in the community, and diminution of her citizenship.

WHEREFORE, Plaintiff prays for judgment against the Defendants for her actual and punitive damages, for the cost of this action including attorney's fees, and for such other and further relief as this Court may deem just and equitable.

By: s/ Wm. Gary White, III
Wm. Gary White, III.
Attorneys for the Plaintiff
2009 Lincoln Street
Columbia, South Carolina 29201
(803)767-3953

Columbia, South Carolina

July 1, 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Retha Peirce,	)	C/A NO. 4:13-CV-1817-BHH
)	
Plaintiff,)	
)	
vs.	)	STIPULATION OF DISMISSAL
)	
Lcpl. B. J. Hucks and)	
Sgt. Strickland,)	
)	
Defendants.)	
_____)	

IT IS HEREBY STIPULATED AND AGREED, by and between the parties and their respective counsel, that the above-captioned action is voluntarily dismissed, with prejudice, against the Defendants, pursuant to the Federal Rules of Civil Procedure 41(a)(1)(A)(ii). All parties agree to be responsible for their own costs and attorney's fees.

WILLCOX, BUYCK & WILLIAMS, P.A.

By: s/ J. Scott Kozacki
J. Scott Kozacki
Fed Id. No. 5456
PO Box 1909
Florence, SC 29503-1909
(843) 662-3258 Telephone
(843) 662-1342 Fax
Email: skozacki@WillcoxLaw.com
ATTORNEY FOR DEFENDANTS

By: s/ Wm. Gary White, III
Wm. Gary White, III
2009 Lincoln Street
Columbia, SC 29201
(803) 767-3953 Telephone
ATTORNEY FOR PLAINTIFF

July 16, 2014

2014-10-24 12:18:54

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

October 23, 2014

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T99377
Date of Occurrence: November 9, 2009
Claimant: Peirce, Retha
Date Closed: October 23, 2014

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$ 10,000.00
Expenses Paid:	\$ 36,940.63

If you should have any questions, please contact us.

Sincerely,

Nelson C. Chandler
District Claims Manager

/ncc

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SECOND JUDICIAL CIRCUIT
COUNTY OF AIKEN)	
John Lee Pittman,	)	Civil Action No.: ²⁰¹⁴ 2013 -CP-02- <u>01804</u>
)	
Plaintiff,)	
)	
vs.)	
)	
South Carolina Department of Public Safety)	
and Aiken County, South Carolina, both)	
Political Subdivisions amenable to Suit)	
under the South Carolina Tort Claims Act,)	
and Southern Health Partners, Inc., a)	
Delaware corporation,)	
)	
Defendants.)	

**COPY
ORIGINAL FILED**

AUG 11 2014

**AIKEN COUNTY
CLERK OF COURT**

8:30

**COMPLAINT
(Jury Trial Demanded)**

Plaintiff, complaining of Defendant herein, would respectfully allege the following:

PARTIES

1. Plaintiff John Lee Pittman, is a citizen and resident of Kershaw County, South Carolina, and has been for a period of more than One (1) Year prior to the commencement of this action.

2. On information and belief, Defendant South Carolina Department of Public Safety ("Defendant DPS") is a political subdivision of the State of South Carolina within the meaning of the *South Carolina Tort Claims Act*, §15-78-60(25), *Code of Laws of South Carolina, 1976* (as amended). Defendant has its principal offices located in Richland County at 10311 Wilson Boulevard, Blythewood, SC, 29016, and is subject to the provisions of the *Tort Claims Act*, specifically *Code* §15-78-10 to §15-78-190.

3. On information and belief, Defendant Aiken County ("Defendant Aiken") is a political subdivision of the State of South Carolina within the meaning of the *South Carolina Tort Claims Act*, §15-78-60(25), *Code of Laws of South Carolina, 1976* (as amended). Defendant has its principal offices located at 1930 University Parkway, Aiken, South Carolina,

29801, and is subject to the provisions of the *Tort Claims Act*, specifically *Code* §15-78-10 to §15-78-190.

4. On information and belief, Defendant Southern Health Partners, Inc., (“Defendant Southern Health”) is a Delaware corporation, authorized to do business in South Carolina on July 1, 1997. Defendant Southern Health provides health care services at the Aiken County Detention Center in Aiken County, South Carolina, pursuant to a *Health Services Agreement* with Defendant Aiken dated July 10, 2013.

JURISDICTION AND VENUE

5. At all times relevant herein, all of the events and allegations set forth hereinafter occurred in Aiken County, South Carolina.

6. The Second Circuit Court of Common Pleas in Aiken County has subject matter jurisdiction over the claims raised in this *Complaint* by virtue of the express statutory provisions of the *South Carolina Tort Claims Act* and the general law of Torts of the State of South Carolina.

7. The Second Circuit Court of Common Pleas in Aiken County has *in personam* jurisdiction of this matter by virtue of the location of Defendant Aiken in this County, and by virtue of the operation of Defendant Southern Health’s business in this County, and by virtue of the exercise of law enforcement of Defendant DPS in this County. Further, this Court is the proper venue for this action because the claims herein arose in Aiken County.

FACTS COMMON TO ALL CAUSES OF ACTION

8. The Plaintiff, at all times relevant hereto, was employed by Heartland Premium Storage Solutions as a Territory Manager. Plaintiff’s duties included providing service to Lowe’s customers in South Carolina and Georgia.

9. On March 10, 2014, Plaintiff was returning home after a job assignment in Atlanta, Georgia. At approximately 5:00 p.m. (EST), Plaintiff was driving Eastbound on I-20 in Aiken County when he suffered an Acute Ischemic Cerebral Infarct (commonly known as a “stroke”), which caused Plaintiff to be unable to control his vehicle. Defendant DPS received at least one telephone call from a person also travelling East on I-20 reporting an unsafe driver in a white pickup truck.

10. On information and belief, Defendant DPS, through its Highway Patrol (“SCHP”) division, dispatched SCHP Lance Corporal Jeff L. Fortner to respond to the citizen call. At approximately 5:30 p.m. (EST), Plaintiff pulled off onto the shoulder of I-20 in response to flashing blue lights. Plaintiff was questioned by L/Cpl. Fortner at the side of the road. L/Cpl. Fortner did not smell alcohol on Plaintiff’s person and assumed that Plaintiff was impaired by medication, asking Plaintiff several times “what kind of pills you on?” Plaintiff was virtually incoherent, providing a number of nonsensical answers to the Trooper’s questions, even giving an obviously incorrect name for his wife. L/Cpl. Fortner also observed and stated that: (1) Plaintiff’s pupils were “...really, really, really small...I mean, really constricted”; (2) that “...one side of your [Plaintiff’s] face is drawing up some”; (3) that he heard Plaintiff state that “...the right side of my body is taking over” and then asked Plaintiff “...what caused your right side to take over?”; and, (4) told Plaintiff upon arriving at the Aiken County Detention Center (“jail”): “we’re here at Aiken. I’ll get you in here and get you somewhere to lay [sic] down for a little bit...That’s what you need to do, man. I don’t know what’s going on but that’s what you need to do.” Despite MER (“Medical Emergency Recognition”) training, L/Cpl. Fortner never considered nor recognized that Plaintiff was suffering a medical emergency and did not request EMS/9-1-1 assistance, being more concerned with memorializing the event by taking a “selfie” photograph of himself with Plaintiff after placing Plaintiff in the patrol car. L/Cpl. Fortner charged Plaintiff with DUI 1st Offense and transported Plaintiff to the Aiken jail.

12. On information and belief, at the jail, Plaintiff came under the care of Ms. Nacole Shanetra Harris, an employee of Defendant Southern Health. Ms. Harris is a Licensed Practical Nurse with LPN License number P38597 issued in 2006 by the South Carolina Board of Nursing under the auspices of the South Carolina Department of Labor, Licensing and Regulation. Despite her medical training, Defendant Southern Health’s employee did not evaluate Plaintiff to determine reasons for his incoherence. As a result, Defendant Southern Health’s employee failed to recognize the obvious signs of an Acute Ischemic Cerebral Infarct; failed to provide triage or any medical care to Plaintiff (especially the early stroke treatment recommended by the American Heart Association and the American Stroke Association); and failed to request competent medical assistance to perform a physical and neurological evaluation of Plaintiff to diagnose his stroke. Instead, Defendant Southern Health’s employee simply had Plaintiff lie down in the jail’s “drunk tank” until the bond hearing the next day.

13. As a result of the stroke, Plaintiff has become temporarily disabled; has not been able to work since the date of the stroke; will suffer the effects of the stroke much longer than if he had been given early stroke treatment; and will probably not recover to the extent he may have if he had timely received the well-known stroke protocol for mitigation of stroke effects.

FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANT DPS

(Negligence)

Plaintiff incorporates by reference the allegations contained in paragraphs 1-13, inclusive, and re-alleges same as if fully set forth herein.

14. Defendant DPS, through its employees, owed a duty of care to the Plaintiff to reasonably provide for his medical care in a situation where its SCHP employee clearly knew or should have known that Plaintiff was not acting normally and may have been suffering from a medical condition.

15. Defendant DPS breached its duty of care to Plaintiff, proximately causing injury to Plaintiff by denying him access to medical care.

16. As a proximate result of the Defendant DPS's negligence, the Plaintiff suffered significantly worse effects of the stroke.

17. Plaintiff is informed and believes that Defendant DPS's actions constitute Negligence under South Carolina law for which Plaintiff is entitled to an award of actual damages in an amount to be determined by the trier of fact.

FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANT AIKEN

(Negligence)

Plaintiff incorporates by reference the allegations contained in paragraphs 1-17, inclusive, and re-alleges same as if fully set forth herein.

18. Defendant Aiken is responsible for the operation of the Aiken County Detention Center and is required to provide medical care to persons involuntarily placed in that facility.

19. Defendant Aiken owed a duty of care to the Plaintiff to reasonably provide for his medical care.

20. Defendant Aiken failed to supervise the medical personnel at the Aiken County Detention Center, which resulted in the denial of necessary medical care to Plaintiff.

21. Defendant Aiken breached its duty of care to Plaintiff, proximately causing injury to Plaintiff by denying him access to medical care.

22. As a proximate result of the Defendant Aiken's negligence, the Plaintiff suffered significantly worse effects of the stroke.

23. Plaintiff is informed and believes that Defendant Aiken's actions constitute Negligence under South Carolina law for which Plaintiff is entitled to an award of actual damages in an amount to be determined by the trier of fact.

FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANT SOUTHERN HEALTH
(Gross Negligence)

Plaintiff incorporates by reference the allegations contained in paragraphs 1-23, inclusive, and re-alleges same as if fully set forth herein.

24. Defendant Southern Health contractually assumed the responsibility for the medical care to be provided at the Aiken County Detention Center and is required to provide medical care to persons involuntarily placed in that facility.

25. Defendant Southern Health owed a duty of care to the Plaintiff to observe and abide by standard medical practices and provide necessary medical care to Plaintiff.

26. Defendant Southern Health, through its employee, intentionally and consciously failed to abide by standard medical practices and exercise even a slight degree of care to Plaintiff. Defendant Southern Health, through its employee, was so indifferent to the consequences of her conduct as not to give slight care to what she was doing.

27. Defendant Southern Health breached its duty of care to Plaintiff, proximately causing injury to Plaintiff by denying him access to medical care.

28. Plaintiff is informed and believes that Defendant Southern Health's employee was reckless, willful and wanton in failing to properly care for Plaintiff's stroke, thereby exacerbating the effects of the stroke.

29. Plaintiff is informed and believes that Defendant Southern Health, through its employees, was Grossly Negligent under South Carolina law, including *respondeat superior*, for which Plaintiff is entitled to an award of actual and punitive damages in an amount to be determined by the trier of fact.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment against all three (3) Defendants on all causes of action and an award of actual and punitive damages in an amount to be determined by the trier of fact. Plaintiff further prays for an award of all costs incurred in prosecuting this

action in an amount that the Courts deems appropriate. Plaintiff further prays for such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all causes of action.


 David E. Belding (SC Bar No. 00623)
 Post Office Box 11964
 Columbia, SC 29211-1964
 (803) 665-3161
 (866) 220-6352 – fax
dar820@sc.rr.com – email
 ATTORNEY FOR PLAINTIFF

Columbia, South Carolina

August 6, 2014


VERIFICATION

PERSONALLY APPEARED before me RHONDA PITTMAN, who being first duly sworn, deposes and says:

"I, Rhonda Pittman, am the Wife of John Lee Pittman, the injured Plaintiff herein, who is currently acting under disability from the effects of an Acute Ischemic Cerebral Infarct. I have read the attached *Complaint* and hereby verify that the facts stated therein are true of my own knowledge, except as to those matters alleged on information and belief and, as to those, I believe them to be true."


 Rhonda Pittman

SWORN TO AND SUBSCRIBED before me
 this 6th day of Aug, 2014, at Columbia, SC.


 _____ (L.S.)
 Notary Public for South Carolina
 My Commission Expires: _____

My Commission Expires February 20, 2019

STATE OF SOUTH CAROLINA
In the matter of Arbitration between

BEFORE THE ARBITRATION PANEL OF
RICHLAND COUNTY

Case number 2016-CP-40-

South Carolina Department of Public Safety
Claimant(s)

CLAIM FOR PROPERTY DAMAGE

vs.

Adrienne Muriel Burton,
Defendant(s)

The Claimant(s), complaining of the Defendant(s) hereby files a claim for property damages arising out of a motor vehicle collision and requests that the matter be submitted to arbitration, and a fee:

1. The Claimant(s) resides in Richland County.
2. The Defendant(s) resides in Greenville County.
3. The collision occurred in Greenville County.
4. The collision occurred on December 14, 2015 at 7:05 a.m.
5. As a result of said collision, due to the negligent and reckless acts of the Defendant(s), the Claimant(s) have suffered property damage in the amount of \$1,019.20.

WHEREFORE, Claimant(s) requests that this claim be arbitrated and that property damages be awarded in the amount of \$1,019.20.

Attorney for Claimant



Marcus K. Gore
Assistant General Counsel
S.C. Department of Public Safety
Post Office Box 1993
Blythewood, SC 29016
(803) 896-7965
MarcusGore@scdps.gov

date: 18 May 2016

SCCA/201(3/2005)

STATE OF SOUTH CAROLINA

In the matter of Arbitration between

South Carolina Department of Public Safety

Claimant(s)

vs.

Jamie Felder,

Defendant(s)

BEFORE THE ARBITRATION PANEL OF
RICHLAND COUNTYCase number 2016-CP-40-01527


CLAIM FOR PROPERTY DAMAGE

The Claimant(s), complaining of the Defendant(s) hereby files a claim for property damages arising out of a motor vehicle collision and requests that the matter be submitted to arbitration, and allege:

1. The Claimant(s) resides in Richland County.
2. The Defendant(s) resides in Orangeburg County.
3. The collision occurred in Calhoun County.
4. The collision occurred on December 31, 2014 at 2:49 p.m.
5. As a result of said collision, due to the negligent and reckless acts of the Defendant(s), the Claimant(s) have suffered property damage in the amount of \$1,747.17.

WHEREFORE, Claimant(s) requests that this claim be arbitrated and that property damages be awarded in the amount of \$1,747.17.

Attorney for Claimant:



Marcus K. Gore
Assistant General Counsel
S.C. Department of Public Safety
Post Office Box 1993
Blythewood, SC 29016
(803) 896-7965
MarcusGore@scdps.gov

date: 3 March 2016

THIS FORM SHALL BE ARBITRATED BY A PANEL OF THREE (3) ARBITRATORS TO BE APPOINTED BY THE CLERK OF COURT UNLESS WITHIN TEN(10) DAYS FROM THE FILING OF A RESPONSE BY THE DEFENDANT(S), THE CLAIMANT(S) AND

SCCA/201(3/2005)

Signatures, initials, and personal information (i.e. address, phone, social security number) were redacted by House Legislative Oversight Committee staff.

STATE OF SOUTH CAROLINA)

In the matter of Arbitration between)

South Carolina Department of Public Safety)

Claimant(s))

vs.)

Scott Delano Morrison, Jr.,)

Defendant(s))

BEFORE THE ARBITRATION PANEL OF
RICHLAND COUNTYCase number ²⁰¹⁵~~2014~~ CP-40-00073

CLAIM FOR PROPERTY DAMAGE

RICHLAND COUNTY
 2015 JAN -6 AM 10:32
 JENNIFER W. GORDON
 C.C.P. & S.

The Claimant(s), complaining of the Defendant(s) hereby files a claim for property damages arising out of a motor vehicle collision and requests that the matter be submitted to arbitration, and allege:

1. The Claimant(s) resides in Richland County.
2. The Defendant(s) resides in Darlington County.
3. The collision occurred in Marlboro County.
4. The collision occurred on August 15, 2014 at 10:30 am.
5. As a result of said collision, due to the negligent and reckless acts of the Defendant(s), the Claimant(s) have suffered property damage in the amount of \$4,504.01, actual and punitive.

WHEREFORE, Claimant(s) requests that this claim be arbitrated and that property damages be awarded in the amount of \$4,504.01, actual and punitive.

Attorney for Claimant:



Marcus K. Gore
 Assistant General Counsel
 S.C. Department of Public Safety
 Post Office Box 1993
 Blythewood, SC 29016
 (803) 896-7965
 MarcusGore@scdps.gov

date: January 5, 2014

THIS FORM SHALL BE ARBITRATED BY A PANEL OF THREE (3) ARBITRATORS TO BE APPOINTED BY THE CLERK OF COURT UNLESS WITHIN TEN(10) DAYS FROM THE FILING OF A RESPONSE BY THE DEFENDANT(S), THE CLAIMANT(S) AND DEFENDANT(S) SHALL AGREE, IN WRITING, TO HAVE SUCH CLAIM HEARD BY A SINGLE ARBITRATOR. A FORM OF AGREEMENT IS AVAILABLE IN THE CLERK'S OFFICE.

SCCA/201(3/2005)

Signatures, initials, and personal information (i.e. address, phone, social security number) were redacted by House Legislative Oversight Committee staff.

STATE OF SOUTH CAROLINA

BEFORE THE ARBITRATION PANEL OF
RICHLAND COUNTY

In the Matter of Arbitration between

CIVIL ACTION NO: 2015-CP-40-00073

South Carolina Department of Public Safety,

Plaintiff,


v.

STIPULATION OF DISMISSAL

Scott Delano Morrison, Jr.,

Defendant.


The above-referenced matter having been settled by the parties, the undersigned as attorneys for the parties herein, hereby stipulate that the Complaint be dismissed **with prejudice**.



Marcus K. Gore, Esquire
Assistant General Counsel
S.C. Department of Public Safety
P.O. Box 1993
Blythewood, SC 29016
Phone: 803-896-7965

Attorney for Plaintiff

April 7, 2015



Jason P. Luther, Esquire
Murphy & Grantland, P.A.
4406-B Forest Drive
P.O. Box 6648 (29260)
Columbia, SC 29206
Phone: (803) 782-4100

Attorney for Defendant

April 13, 2015

RICHLAND COUNTY
FILED
2015 APR 14 AM 11:40
JANET L. JOHNSON
CLERK OF COURT
S.C.P. & S.S.

STATE OF SOUTH CAROLINA

In the matter of Arbitration between

South Carolina Department of Public Safety

Claimant(s)

vs.

Adlina Slater

Defendant(s)

BEFORE THE ARBITRATION PANEL OF
RICHLAND COUNTYCase number 2014-CP-40-2746


CLAIM FOR PROPERTY DAMAGE

The Claimant(s), complaining of the Defendant(s) hereby files a claim for property damages arising out of a motor vehicle collision and requests that the matter be submitted to arbitration, and alleges:

1. The Claimant(s) resides in Richland County.
2. The Defendant(s) resides in Lee County.
3. The collision occurred in Florence County.
4. The collision occurred on August 27, 2012 at 7:16 am.
5. As a result of said collision, due to the negligent and reckless acts of the Defendant(s), the Claimant(s) have suffered property damage in the amount of \$6,673.44, actual and punitive.

WHEREFORE, Claimant(s) requests that this claim be arbitrated and that property damages be awarded in the amount of \$6,673.44, actual and punitive.

Attorney for Claimant:



 Marcus K. Gore
 Assistant General Counsel
 S.C. Department of Public Safety
 Post Office Box 1993
 Blythewood, SC 29016
 (803) 896-7965
 MarcusGore@scdps.gov

date: April 24, 2014

THIS FORM SHALL BE ARBITRATED BY A PANEL OF THREE (3) ARBITRATORS TO BE APPOINTED BY THE CLERK OF COURT UNLESS WITHIN TEN(10) DAYS FROM THE FILING OF A RESPONSE BY THE DEFENDANT(S), THE CLAIMANT(S) AND DEFENDANT(S) SHALL AGREE, IN WRITING, TO HAVE SUCH CLAIM HEARD BY A SINGLE ARBITRATOR. A FORM OF AGREEMENT IS AVAILABLE IN THE CLERK'S OFFICE.

SCCA/201(3/2005)

Signatures, initials, and personal information (i.e. address, phone, social security number) were redacted by House Legislative Oversight Committee staff.

STATE OF SOUTH CAROLINA)
)
 In the matter of Arbitration between)
)
)
 South Carolina Department of Public Safety)
)
 Claimant,)
)
 Adlina Slater,)
)
 Defendant.)

BEFORE THE ARBITRATION PANEL
 OF RICHLAND COUNTY

Case Number 2014-CP-40-2746

VOLUNTARY DISMISSAL
WITHOUT PREJUDICE

RICHLAND COUNTY
 FILED
 2014 MAY 22 AM 10:26
 JENNIFER W. MCERIDE
 C.P. & G.S.

Pursuant to Rule 41, SCRCP, the undersigned attorney for the Claimant, South Carolina Department of Public Safety, hereby voluntarily dismisses the above matter in its entirety, without prejudice.

The Clerk of Court of Common Pleas for Richland County, South Carolina is hereby requested to enter this dismissal in the records of the Court.

Respectfully submitted,



Marcus K. Gore
 Assistant General Counsel
 S. C. Department of Public Safety
 Post Office Box 1993
 Blythewood, South Carolina 29016
 Telephone: (803) 896-7965
 Email: MarcusGore@scdps.gov

Blythewood, SC

Date: 19 May 2014

STATE OF SOUTH CAROLINA)

In the matter of Arbitration between)

South Carolina Department of Public Safety)

Claimant(s))

vs.)

William Henry Stephens, Jr.)

Defendant(s))

BEFORE THE ARBITRATION PANEL OF

2014CP4000430

Case number _____-CP-_____

CLAIM FOR PROPERTY DAMAGE

The Claimant(s), complaining of the Defendant(s) hereby files a claim for property damages arising out of a motor vehicle collision and requests that the matter be submitted to arbitration, and allege:

1. The Claimant(s) resides in Richland County.

2. The Defendant(s) resides in Colleton County.


3. The collision occurred in Charleston County.

4. The collision occurred on March 21, 2013 at 8:20 pm.

5. As a result of said collision, due to the negligent and reckless acts of the Defendant(s), the Claimant(s) have suffered property damage in the amount of \$12,769.49, actual and punitive.

WHEREFORE, Claimant(s) requests that this claim be arbitrated and that property damages be awarded in the amount of \$12,769.49, actual and punitive.

Attorney for Claimant:



 Marcus K. Gore
 Assistant General Counsel
 S C Department of Public Safety
 Post Office Box 1993
 Blythewood, SC 29016
 (803) 896-7965
 MarcusGore@scdps.gov

date: December 16, 2013

THIS FORM SHALL BE ARBITRATED BY A PANEL OF THREE (3) ARBITRATORS TO BE APPOINTED BY THE CLERK OF COURT UNLESS WITHIN TEN (10) DAYS FROM THE FILING OF A RESPONSE BY THE DEFENDANT(S), THE CLAIMANT(S) AND DEFENDANT(S) SHALL AGREE, IN WRITING, TO HAVE SUCH CLAIM HEARD BY A SINGLE ARBITRATOR. A FORM OF AGREEMENT IS AVAILABLE IN THE CLERK'S OFFICE.

SCCA/201(3/2005)

STATE OF SOUTH CAROLINA)
)
 In the Matter of Arbitration between)
)
)
 South Carolina Department of Public)
 Safety,)
)
 Claimant)
)
 vs.)
)
)
 William Henry Stephens, Jr.)
)
 Defendant.)
 _____)

BEFORE THE ARBITRATION PANEL OF
 RICHLAND COUNTY

Case Number: 2014-CP-40-00430


**STIPULATION OF DISMISSAL
 WITH PREJUDICE**

2014 JUL 21 AM 10:43
 JEANETTE W. BRIDGES
 C.C.P. & C.
 RICHLAND COUNTY
 FILED


The claims and causes of actions in the above-captioned action have been settled by way of compromise, and the Plaintiff hereby desires to dismiss the claims and causes of action against the Defendant under Rule 41(a)(1)(B) of the South Carolina Rules of Civil Procedure.

Therefore, the above-captioned action is dismissed, pursuant to Rule 41(a)(1)(B) of the South Carolina Rules of Civil Procedure, with prejudice.

WE SO MOVE.



 Marcus K. Gore, Esquire
 Assistant General Counsel
 S.C. Department of Public Safety
 P.O. Box 1993
 Blythewood, South Carolina 29016
 Phone: (803) 896-7965
Attorney for the Plaintiff



 Kelley S. Cannon, Esquire
 Rick Pierce, Esquire
 Jeffrey I. Silverberg, Esquire
 Howser, Newman & Besley, LLC
 Post Office Box 12009
 Columbia, South Carolina 29211
 Phone: (803) 758-6000
Attorneys for the Defendant

July 18, 2014

July 15, 2014

STATE OF SOUTH CAROLINA) FILED) IN THE COURT OF COMMON PLEAS
 COUNTY OF MCCORMICK) GWENDOLYN D. CHILES)
 2015 OCT 28 P 1:13) CIVIL ACTION NO.: 2015-CP-35- 137
 Daryl Rutland)
 Plaintiff)
 v.)
 South Carolina Department of Public Safety)
 and Brandon Bolt)
 Defendants.)

COMPLAINT
(Jury Trial Requested)

The Plaintiff alleges:

1. He is a citizen and resident of the State of South Carolina, County of Greenville.
2. That, upon information and belief, the Defendant South Carolina Department of Public Safety (SCDPS) is a government agency organized and operating under the laws of the state of South Carolina and its principal place of business is in Richland County, South Carolina.
3. That, upon information and belief, Brandon Bolt (hereinafter Officer Bolt) worked as a Highway Patrolman for SCDPS at the time of the herein mentioned incident.
4. That at all times relevant hereto, Officer Bolt was acting as an agent, servant, or employee of the SCDPS, and was acting within the course and scope of his employment.
5. That on or about April 9, 2014 Plaintiff was stopped by Officer Bolt in McCormick County and charged with driving under the influence (DUI).
6. That while the Plaintiff was in the custody of Officer Bolt, he was administered a field sobriety test which he passed.
7. Despite passing the field sobriety test, Officer Bolt arrested him and took him to Edgefield County Detention Center.
8. While Plaintiff was in the custody of the Defendants, he was administered a

breathalyzer test and the results indicated a blood alcohol content of .00.

9. Plaintiff was instructed to take a second (2nd) blood alcohol analysis test and the results indicated a blood alcohol content of .00.

10. That Officer Bolt proceeded to imprison the Plaintiff overnight.

11. The injuries and damages to the Plaintiff were due to and proximately caused by the neglect and reckless conduct of the Defendants in the following particulars.

FOR A FIRST CAUSE OF ACTION
AS TO ALL DEFENDANTS
 (False Imprisonment)

12. That each and every allegation contained in this Complaint which is not inconsistent with this cause of action is hereby incorporated by reference as if repeated verbatim herein.

13. That the Defendants physically, intentionally, and unlawfully restrained and detained the Plaintiff against his will causing the Plaintiff to suffer damages as will be more fully set out herein.

FOR A SECOND CAUSE OF ACTION
AS TO ALL DEFENDANTS
 (Negligence)

14. That the Defendants were negligent, willful, reckless, wanton, and/or intentional in the following particulars, to wit:

- (a) In failing to administer the minimum standard of service as the reasonable public could expect;
- (b) In failing to act in accordance to the procedures of a routine stop under the same or similar circumstances;
- (c) In failing to properly train its officers;
- (d) In failing to follow proper policies and procedures in dealing with suspicious acts;

- (e) In failing to release the Plaintiff from jail after determining he was not under the influence of alcohol;
- (f) In failing to follow proper policies and procedures in dealing with individuals who have been detained for suspicion of driving under the influence; and
- (g) Any other particulars as established by the evidence in the case.

15. That as a direct and proximate result of the aforementioned conduct of the Defendants, the Plaintiff was forced to suffer mental anguish; he was forced to suffer embarrassment, humiliation, and emotional distress; he was forced to suffer loss of liberty and convenience; and he was caused to lose enjoyment of his life.

WHEREFORE, the Plaintiff prays for judgment against the Defendants in a sum sufficient to adequately compensate for actual damages, for such punitive damages as a jury may reasonably award, for the costs of this action and for such other and further relief as this Court may deem just and proper.

MOLONY LAW, LLC
 Kevin N. Molony
 237 Barnwell Ave. NW
 Aiken, SC 29801

-and-

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

BY: 

Austin H. Crosby
 P.O. Box 457
 Hampton, SC 29924
 (803) 943-2111

ATTORNEYS FOR PLAINTIFF

October 23, 2015
 Hampton, South Carolina

3:16-cv-01104-TLW Date Filed 04/08/16 Entry Number 1-1 Page 123 of 130

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Richard Shawn Salter,

Plaintiff,

v.

South Carolina Department of Public Safety,

Defendant.

IN THE COURT OF COMMON PLEAS
IN THE FIFTH JUDICIAL CIRCUIT
CASE NO. 2015-CP-40-5677

AMENDED COMPLAINT
(Jury Trial Demanded)

2016 APR -5 PM 2:47

Plaintiff, complaining of Defendant herein, would respectfully allege as follows:

1. Richard Shawn Salter ("Plaintiff") is a white male¹ who was recently employed with the South Carolina Department of Public Safety ("SCPDS") until his unlawful termination in August of 2014. Plaintiff resides in Ware Shoals, South Carolina but while employed with Defendant worked at its various offices throughout the State of South Carolina.
2. Defendant SCDPS is a state agency of South Carolina, with its headquarters located in Richland County, South Carolina and various offices located throughout the state.
3. Leroy Smith ("Director Smith") is the current Director of SCDPS and, upon information and belief, resides in South Carolina. Smith is African American.
4. Michael Oliver ("Colonel Oliver") is, upon information and belief, currently employed with SCDPS and resides in South Carolina.
5. Kenneth Phelps ("Chief Phelps") is, upon information and belief, currently employed with SCDPS and resides in South Carolina. Phelps is African American.

¹ Plaintiff appropriately filed charges asserting violations of Title VII of the 1991 Civil Rights Act with the South Carolina Human Affairs Commission and received his Notice of Right to Sue.

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6. Sam Montgomery ("Montgomery") is, upon information and belief, a resident of South Carolina and was formerly engaged as a football player in the National Football League ("NFL"). Montgomery is African American.

7. Sherri Jacobelli ("Jacobelli") is, upon information and belief, a current employee of Defendant SCDPS and is charged with the responsibility of making public statements on behalf of SCDPS; Jacobelli resides in South Carolina and worked for SCDPS during the time of the events giving rise to this lawsuit.

8. In 2000, Plaintiff became employed with SCDPS and worked his way through the ranks to become a Lance Corporal at the time of his unlawful termination. At that time, Plaintiff's supervisor was Colonel Oliver. Colonel Oliver and Plaintiff reported to Director Smith, who is a black male.

9. As a Lance Corporal, Plaintiff was charged with monitoring motorists and the roadways, issuing traffic tickets, making arrests, and other various duties and tasks as assigned. SCDPS has a practice of issuing directives to its employees, including Plaintiff, via written notification that is posted either online or in the local offices across the state. Employees, including Plaintiff, would sign-off on having received these written directives.

10. Plaintiff was widely known throughout SCDPS for issuing tickets and making arrests for any person, despite race, profession, or reputation in the state. Plaintiff even cited fellow officers on occasion when he witnessed them violating traffic laws.

11. In 2012, Plaintiff attended a state-wide meeting where Colonel Oliver made a presentation. During that presentation, Colonel Oliver told the employees that he did not want them to arrest violators who were stopped for speeding twenty-five miles over the speed limit. However, South Carolina law gives law enforcement officers like Plaintiff the discretion to make

arrests for the same violation, Colonel Oliver never issued any written directive to the employees regarding this matter. Around the same time, an Order was published from the SC Supreme Court, permitting law enforcement personnel to make arrests for speeding in excess of 25 miles per hour.

12. On June 25, 2014, in the early hours of the morning, Plaintiff was on patrol in or around Clinton, South Carolina. Other officers were on patrol in his area. As Plaintiff was monitoring the highway, he noticed a black Dodge Challenger speeding through other cars on the highway.

13. Using his sophisticated radar technology, Plaintiff clocked the speed of the Dodge Challenger at a rate of speed that was in excess of twenty-five miles over the speed limit. As a result, Plaintiff pursued the Dodge Challenger, turned on his blue lights, and attempted to stop the vehicle.

14. Once the driver pulled over, Plaintiff gave him directives to shut-off the car and place his hands where he could see them. The driver complied, and Plaintiff approached the car and asked the driver, "military?" The driver responded, "no, NFL." Plaintiff then informed the driver he was under arrest for speeding in excess of twenty-five miles over the speed limit.

15. Plaintiff later learned, hours after making the arrest, that the driver he arrested and took to jail was an NFL football player named Montgomery from Greenwood, SC. It was through discussions with his superiors that he learned of this information. Plaintiff also later learned that Montgomery and Chief Phelps had personal ties, due to their hometown origins.

16. Later in the day on June 25, 2014, Plaintiff was notified that he was suspended from duty. Simultaneously, the media picked up the arrest, reported the same, and, upon information and belief, Iacobelli made the statement that although Montgomery's arrest was

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lawful, Plaintiff acted unprofessionally. This statement was made to the media by Iacobelli within four (4) days of the arrest and prior to any investigation into the matter; her statement about Plaintiff's alleged actions was widely disseminated to the public at large. Plaintiff did not receive any notification of an investigation until a letter was sent to him on June 30, 2014, by Chief Phelps, a black male in charge of internal investigation who allegedly conducted a thorough and impartial² review of Montgomery's arrest.

17. Upon information and belief, Montgomery never made any complaints to SCDPS about Plaintiff's manner and his arrest of Montgomery; however, it is understood that Chief Phelps and Montgomery knew one another and that Chief Phelps had a motive — his acquaintance with Montgomery — to act against Plaintiff.

18. Plaintiff cooperated in the investigation but was ultimately terminated for "conduct unbecoming" on August 22, 2014. During the investigation, SCDPS officials cherry-picked citations issued by Plaintiff to African American citizens in an attempt to illustrate that Plaintiff did not fairly issue citations. Plaintiff subsequently complained that he was being targeted because of his race.

19. Director Smith backdated Plaintiff's termination paperwork to June 26, 2014, and included the arrest incident and two prior incidents of discipline³, which were several years old for which Plaintiff had already suffered a reprimand.

² Again, Chief Phelps and Montgomery were known to be acquaintances at the least; thus, Chief Phelps should have recused himself from the investigation.

³ Plaintiff was disciplined in April 2012 by Captain Mark Gosnell ("Captain") for posting an opinion to his private Facebook page. Captain Gosnell did not reprimand Plaintiff until months after the post occurred and based his reprimand off of an anonymous tip. This same discipline issue followed Plaintiff until the date he was terminated, although the reprimand occurred at least one year prior and had nothing to do with the incident leading to Plaintiff's termination.

3:16-cv-01104-TLW Date Filed 04/08/16 Entry Number 1-1 Page 127 of 130

20. Plaintiff is personally aware of African American SCDPS patrol officers who engaged in misconduct that were not treated in the same manner as Plaintiff.

21. Since his termination, Plaintiff has applied for numerous law enforcement jobs across South Carolina but has not been hired because of the statement from SCDPS that was made public about his handling of the Montgomery arrest.

FOR A FIRST CAUSE OF ACTION
AGAINST SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
(Race Discrimination in Violation of Title VII)

22. Plaintiff realleges the paragraphs above as if set forth herein verbatim, where not inconsistent herewith.

23. The actions taken by the Defendant SCDPS, as described herein, violate Plaintiff's rights under Title VII of the 1991 Civil Rights Act and amendments thereto.

24. The Defendant SCDPS unlawfully targeted Plaintiff to have him disciplined, charged with misconduct, and placed on unpaid administrative leave from his position because he is white.

25. The actions taken against Plaintiff by the Defendant SCDPS were disproportionate and unfair when compared to actions taken against African American, similarly situated employees because Plaintiff was subjected to biased disciplinary action; Plaintiff's race was the proximate cause of his treatment by Defendant SCDPS's agents and employees, acting within the course and scope of their duties, which violated the Civil Rights Act of 1964, for which the Defendant SCDPS is liable.

26. As a direct and proximate result of the violations of his civil rights under Title VII by the Defendant SCDPS, Plaintiff suffered loss of pay and sustained permanent impairment of his earning capacity. Plaintiff is entitled to an award of actual damages for the acts of the

3:16-cv-01104-TLW Date Filed 04/08/16 Entry Number 1-1 Page 128 of 130

Defendant through its agents and employees, for reasonable attorneys' fees, and costs of this action.

FOR A SECOND CAUSE OF ACTION
AGAINST SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
 (Retaliation in Violation of Title VII)

27. Plaintiff realleges the paragraphs above as if set forth herein verbatim, where not inconsistent herewith.

28. The actions taken by the Defendant SCDPS, as described herein, violate Plaintiff's rights under Title VII of the 1991 Civil Rights Act and amendments thereto.

29. The Defendant SCDPS unlawfully targeted Plaintiff to have him terminated from his position because Plaintiff complained that he was being singled out because of his race.

30. The actions taken against Plaintiff by the Defendant SCDPS were unlawful because Plaintiff was terminated after making a valid report of race discrimination by Defendant SCDPS's agents and employees, acting within the course and scope of their duties, which violated the Civil Rights Act of 1964, for which the Defendant SCDPS is liable.

31. As a direct and proximate result of the violations of his civil rights under Title VII by the Defendant SCDPS, Plaintiff suffered loss of his job and sustained permanent impairment of his earning capacity. Plaintiff is entitled to an award of actual damages for the acts of the Defendant through its agents and employees, for reasonable attorneys' fees, and costs of this action.

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WHEREFORE, Plaintiff prays for judgment against the Defendant SCDPS herein for actual damages in an amount to be determined by a jury and for back pay, front pay, and the loss of his benefits. Plaintiff further prays for any such other and further relief as this Court may deem just and proper from the Defendant.

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

BY: [REDACTED]

J. Lewis Cromer (#1470)
Ryan K. Hicks (#100941)
1418 Laurel Street, Suite A (29201)
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Fax 803-799-9533

[REDACTED]
JOHN A. O'LEARY
O'Leary Associates, P.A.
714 Calhoun Street
Columbia, South Carolina 29201
(803) 779-5556

Attorneys for Plaintiff

March 31, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF ALLENDALE)	
	)	CASE NO.: 2013-CP-03-_____
JOHNNIE LEE SANDERS,)	
)	
Plaintiff,	)	COMPLAINT
	)	(Jury Trial Demanded)
vs.)	
)	
SOUTH CAROLINA DEPARTMENT OF)	
PUBLIC SAFETY A/K/A SOUTH)	
CAROLINA HIGHWAY PATROL,)	
AND M. D. ALLEN,)	
)	
Defendants.)	
_____)	

Now comes the Plaintiff complaining of the Defendant who would allege and state as follows:

1. That the Plaintiff is a citizen and resident of the State of South Carolina, County of Allendale.
2. That the Defendant South Carolina Department of Public Safety a/k/a South Carolina Highway Patrol (hereinafter "SCHP") is a political subdivision or public entity of the State of South Carolina as defined in Section 15-78-10 *et. seq.* Of the Code of Laws of South Carolina. (1985), as amended.
3. All acts and events described herein occurred in the County of Allendale, State of South Carolina.
4. That all times pertinent, Defendant, M. D. Allen (hereinafter "Allen"), mentioned below were acting within the course and scope of their employment making the Defendant SCHP liable for the Officer's actions under the Doctrine of "*Respondeat Superior*."
5. That on or about February 3, 2011, the Plaintiff was operating his vehicle in

Allendale County, South Carolina in a peaceful lawful manner when the Defendants commenced a traffic stop on the Plaintiff and ultimately arrested and incarcerated the Plaintiff.

6. That the charges against the Plaintiff were ultimately dismissed, upon information and belief for lack of probable cause.

7. At no time relevant herein did Plaintiff violate any laws or commit any crime and Defendant had no just cause or reasonable suspicion to stop Plaintiff arrested and detained him.

FOR A FIRST CAUSE OF ACTION
(False Arrest & Imprisonment)

8. The allegations contained above are re-alleged and restated herein verbatim.

9. That the Defendants restrained and confined the Plaintiff in an unreasonable manner and for an unreasonable length of time; said restraint was intentional, unlawful, and deprived Plaintiff of his liberty.

10. That this restraint was unlawful and thus, lacking probable cause at the time of the arrest.

11. That as a direct and proximate result of Defendants' actions, Plaintiff suffered a false arrest, incurred legal expenses, suffered emotional trauma, mental anguish and loss of his freedom and liberty as well as loss of employment opportunity.

FOR A SECOND CAUSE OF ACTION
(Gross Negligence)

12. The allegations contained above are re-alleged and restated herein verbatim.

13. The Defendants owed Plaintiff a duty to use reasonable care in hiring, training, and supervising its employees.

14. That the Defendants were grossly negligent and reckless in failing to properly hire, train, and supervise its employees; in failing to properly inform its officers of the meaning

of the law; in failing to instruct its officers of the proper method of stopping and arresting an individual; in failing to instruct its officers on the circumstances that must be present prior to stopping, questioning, charging and/or arresting citizens; in detaining Plaintiff without just or probable cause in plain view of other bystanders.

15. As a direct and proximate result of Defendants' gross negligence and recklessness, Plaintiff suffered physical injuries, mental anguish, emotional trauma, nervousness, worry, embarrassment, humiliation and damage to his reputation and standing in the community, loss of employment opportunities, and other damages as set forth above.

FOR A THIRD CAUSE OF ACTION
(Malicious Prosecution)

16. The allegations contained above are re-alleged and restated herein verbatim.

17. That the Defendants instituted and continued criminal proceedings against the Plaintiff.

18. That instead of dismissing the groundless charges, the Defendants continued the prosecution of the Plaintiff.

19. That the proceedings for the charges were dismissed/altered or changed in the Plaintiff's favor.

20. That the charges lacked probable cause and the Defendants pursued and continued the original charges with malice.

21. That the presumed charges resulted in injury or damage to the Plaintiff due to the fact that the Plaintiff was unlawfully incarcerated, incurred towing/storage fees, fees to reinstate his driver's license, and had to hire an attorney to defend in the actions.

22. That the charges were extinguished in the Plaintiff's favor.

23. That specifically the Plaintiff has suffered mental pain and suffering, fright, nervousness, indignity, humiliation, embarrassment, and injury to his reputation and person.

24. That the Plaintiff has suffered further damages in the form of damage and discomfort to the Plaintiff's health, loss of time, deprivation of society of his family, attorneys' fees and costs.

25. That as a result the Plaintiff has suffered damages both actual, special, and punitive and is entitled to an award of both actual and punitive damages.

FOR A THIRD CAUSE OF ACTION
(Abuse of Process)

26. The allegations contained above are re-alleged and restated herein verbatim.

27. That the Defendants used the criminal process in a wilful manner which was not proper by initiating false charges, failing to timely dismiss them.


28. That the pursuit of the criminal proceedings against the Plaintiff was not done in good faith and the Defendants possessed an ulterior purpose in carrying out the proceedings.

29. That as a result the Plaintiff has suffered damages both actual and punitive and are entitled to a judgment for actual and punitive damages against the Defendants.

WHEREFORE, Plaintiff prays for judgment against Defendants for actual and consequential damages against Defendants, for the costs of this action, and for such other and further relief as this Court may deem just and proper.

LANIER & BURROUGHS, LLC

Date: 2-2-13

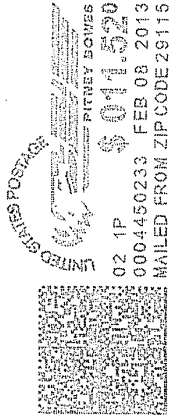

Charles J. McCutchen, Esquire
ATTORNEY FOR THE PLAINTIFF
Post Office Drawer 2789
250 Gibson Street
Orangeburg, SC 29116

LAW OFFICES
 LANIER & BURROUGHS, LLC
 250 GIBSON STREET
 POST OFFICE DRAWER 2789
 ORANGEBURG, SOUTH CAROLINA 29116

CERTIFIED MAIL



7009 3410 0002 0447 8777



CERTIFIED MAIL / RESTRICTED DELIVERY
 RETURN RECEIPT REQUESTED
 Article Number: 70093410000204478777

Office of General Counsel

Attn: Paralegal

South Carolina Department of Public Safety

Post Office Box 1993

Blythewood, South Carolina 29016

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ALLENDALE) CIVIL ACTION NO: 2013-CP-03-00021

JOHNNIE LEE SANDERS,
Plaintiff,

vs.

SOUTH CAROLINA DEPARTMENT
OF PUBLIC SAFETY a/k/a SOUTH
CAROLINA HIGHWAY PATROL, and
M.D. ALLEN,
Defendants.

STIPULATION OF DISMISSAL

FILED FOR RECORD
2014 SEP -5 PM 10:38
CLERK OF COURT
ALLENDALE COUNTY, S.C.

The above entitled action was instituted by the Plaintiff against the Defendants, above named, for damages sustained by the Plaintiff.

The referenced matter having been settled between the parties, the undersigned attorneys do hereby stipulate that this matter be dismissed as to the Defendants with prejudice, and forever ended, with each party bearing its own costs of this action.

WE MOVE:

HOWELL GIBSON & HUGHES, P.A.

Mary Bass Lohr
Attorney for Defendants

Beaufort, South Carolina

9/2, 2014.

WE CONSENT:

LANIER AND BURROUGHS, LLC

Charles J. McCutchen
Attorney for Plaintiff

2015-01-16 12:08:34

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

January 16, 2015

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T92873
Date of Occurrence: February 3, 2011
Claimant: Sanders, Johnnie Lee
Date Closed: January 16, 2015

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$ 20,000.00
Expenses Paid: \$ 9,253.70

If you should have any questions, please contact us.

Sincerely,

Jacqueline M. Patterson
Litigation Consultant

/jmp

Federal Law, which rights provide for injunctive and other relief for illegal discrimination in employment.

PROCEDURAL REQUIREMENTS

5. On February 12, 2015, the Plaintiff filed charge of Discrimination 436-2015-00616 with the Greenville EEOC office alleging Discrimination based on Race and Sex.
6. Charge 436-2015-00616 set forth
 - I. "That I began my employment with the Department of Public Safety on September 18, 2007. That I was considered an exemplary patrol officer. During my employment I received several awards. I was due to receive an award just days after my termination but due to my termination I was not able to receive the award.
 - II. That I was terminated from my employment on December 12, 2014 for pretextual reasons. The Employer contended that I committed acts unbecoming a State Employee. The acts that the Employer alleges that I engaged in took place on my own personal time and my personal cell phone. The act alleged to instigate my termination was an inappropriate picture texted to a non-state employee on my personal time from my home on my personal cell phone.
 - III. That I have been treated differently than an African American male who committed worse acts on Department of Public Safety time and on Department of Public Safety computers. The African American Male was suspended for five days and not terminated. The African American male had previous discipline.

- IV. That I have also been treated differently than a female employee who committed worse acts of publishing a nude picture of herself to Facebook. The female employee was only verbally warned and has suffered no discipline.
- V. That I have been discriminated against on the basis of my race (Caucasian) and my sex (male) in violation of State of South Carolina and Federal Laws to include but not limited to the South Carolina Human Affairs laws and Title VII.”
- 7. The South Carolina Human Affairs Commission issued a right to sue to the Plaintiff on February 16, 2016.
- 8. The EEOC issued a right to sue to the Plaintiff on March 28, 2016.
- 9. That the Right to sue set forth that the Plaintiff had the right to file a federal or state court action within 90 days of the receipt of the notice.
- 10. That the Right to sue was received by the Plaintiff’s Attorney, Bonnie Travaglio Hunt, on February 15, 2016.
- 11. That not more than 90 days have passed since the Plaintiff’s Attorney received the Right to Sue.

FACTS

- 12. That the Plaintiff is a Caucasian Male.
- 13. That the Plaintiff was employed with the South Carolina Department of Public Safety as a patrol officer from September 14, 2007 to December 12, 2014.
- 14. That during the Plaintiff’s employment the Plaintiff was considered an exemplary patrol officer.

15. That the Plaintiff did not receive any discipline during his employment with the Defendant.
16. That the Plaintiff received policies and procedures from the Defendant.
17. That the policies and procedures set forth the requirements of the Plaintiff's position and the purposes of the policies regarding the Plaintiff's employment.
18. That the Disciplinary policy specifically set forth that the purpose of Disciplinary procedure was to correct or punish inappropriate work behavior. The policy also set forth that when discipline an individual one must consider the severity of the misconduct and the employee's employment record.
19. In February of 2014 the Plaintiff's supervisor was changed from Mike Hodge to Kevin Elia.
20. On February 15, 2014, the Plaintiff conducted a traffic stop on a citizen of Horry County.
21. That the Plaintiff spent less than a minute at the stop.
22. That the Plaintiff was at another stop 12 minutes later several miles down the road.
23. That pursuant to policy the Plaintiff deactivated his in car camera at the conclusion of the traffic stop. The Plaintiff also turned off his body mic.
24. Based on the discretion permitted highway patrol officers the Plaintiff did not issue a ticket to E. Johnson.
25. That E. Johnson obtained the Plaintiff's personal cell phone number from a third party.
26. May 3, 2014 the husband of E. Johnson discovered the text messages to and from his wife to the Plaintiff.

27. That any and all interactions with the Plaintiff occurred on the Plaintiff's personal time.
28. That the husband reports the information to his father.
29. That the father makes a complaint to the South Department of Public Safety.
30. On May 8, 2014, the Plaintiff was notified that there was an Office of Professional Responsibility investigation. "The office of Professional Responsibility has received a complaint alleging improper conduct against you."
31. That E. Johnson failed and refused to participate in the investigation by the Office of Professional Responsibility.
32. The Defendant violated the Plaintiff's rights to privacy when it made all the information regarding the Office of Professional Responsibility investigation public information by publishing the information to third parties.
33. The Defendant terminated the Plaintiff on December 12, 2014 for violations of the South Carolina Department of Public Safety policy for Improper Conduct/Conduct Unbecoming a State Employee.
34. That other employees have been treated more favorably than the Plaintiff.
35. That an African American individual who conducted an affair with another individual was suspended for conduct unbecoming but was not terminated.
36. That a female patrol officer was not disciplined for posting nude pictures of herself online.
37. Both individuals violated the policies and procedures of the Defendant when it failed to terminate the individuals for committing the same or worse acts than the Plaintiff.

38. That the Defendant through its employees treated the Plaintiff differently based on his race and sex.
39. That the Defendant negligently supervised its employees and failed to protect the Plaintiff.
40. That the Defendant took adverse employment action against the Plaintiff by:
 - (a) Subjecting the Plaintiff to an investigation;
 - (b) Subjected the Plaintiff to differential treatment; and
 - (c) Terminating his employment.
41. That the Defendant wrongfully terminated the Plaintiff in violation of 42 U.S.C. 2000e and 42 U.S.C. 1981a. The Defendant discriminated against the Plaintiff in violation of Federal and State law. The Defendant terminated the Plaintiff because of his race, his racial complaints, sex, complaints regarding hostile work environment and disability discrimination.
42. That, as a direct and proximate result of the Defendant unlawful, intentional, discriminatory actions, and omissions, the Plaintiff:
 - a) Suffered lost wages and benefits;
 - b) Suffered future lost wages and benefits;
 - c) Suffered severe emotional distress;
 - d) Incurred attorney's fees and costs of pursuing this action.
43. That the Plaintiff is entitled to an award of actual damages, compensatory damages, consequential damages, punitive damages, attorney's fees, costs, and other damages such as this Honorable Court deems appropriate and just.

44. That the injuries that the Plaintiff suffered were foreseeable by the Defendant prior to and at the time that they were inflicted.
45. That the Defendant is the direct and proximate cause of damage to the Plaintiff.

FOR A FIRST CAUSE OF ACTION
RACE AND SEX DISCRIMINATION
42 U.S.C. 2000e et seq. TITLE VII OF THE CIVIL RIGHTS ACT OF 1964,
as amended;
AND VIOLATIONS OF 42 U.S.C. 1981(a) et seq.

46. Paragraphs one (1) through forty-five (45) are hereby incorporated verbatim.
47. The Plaintiff is a member of a protected class.
48. That the Defendant is an “employer” as defined by the South Carolina Law, Federal Law, 42 U.S.C. 2000, Title VII and 42 U.S.C. 1981..
49. That the Plaintiff was subjected to disparate treatment based on his race and sex.
50. That the Plaintiff was treated differently because he is a Caucasian Male. The Defendant treated African Americans and Female more favorably.
51. That the Defendant failed to discipline an African American employee for worse acts than those committed by the Plaintiff. That the Defendant failed and refused to discipline a Female employee for committing worse acts than the Plaintiff. That these individuals were treated more favorably because of their race and sex in violation of the law and the policies and procedures of the Defendant.
52. The reasons provided for the discrimination inflicted upon the Plaintiff were pretextual.
53. That the Defendant wrongfully terminated the Plaintiff’s employment in violation of 42 U.S.C. 2000e and 42 U.S.C. 1981a.

54. That, as a direct and proximate result of the Defendant's unlawful, intentional, discriminatory actions, and omissions, the Plaintiff:

- (a) Suffered lost wages and benefits;
- (b) Suffered future lost wages and benefits;
- (c) Suffered severe emotional distress;
- (d) Incurred attorney's fees and costs of pursuing this action.

55. That the Plaintiff is entitled to an award of actual damages, compensatory damages, consequential damages, punitive damages, attorney's fees, costs, and other damages such as this Honorable Court deems appropriate and just.

PRAYER FOR DAMAGES

WHEREFORE, the Plaintiff prays for an award of damages against the Defendants in the amount of:

- A. Actual damages;
- B. Consequential damages;
- C. Compensatory damages;
- D. Punitive damages;
- E. Attorney's fees;
- F. Costs of this action;
- G. All damages available pursuant to 42 U.S.C. 2000 and 42 U.S.C. 1981a, et seq.;
- H. All damages available pursuant to the Americans with Disabilities Act;
- I. Other damages such as this Honorable Court deems appropriate and just.

Respectfully Submitted,

A large black rectangular redaction box covering the signature of Bonnie Travaglio Hunt.

Bonnie Travaglio Hunt
Federal Bar No.: 7670
Attorney for the Plaintiff
Post Office Box 1845
Goose Creek, SC 29445
(843)553-8709
bthunt@huntlawllc.com

Date: April 25, 2016

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Rene Hale Shelley, Individually and as Personal
 Representative of the Estate of Michael Mann
 Lindler,

Plaintiffs,

vs.

South Carolina Highway Patrol

*Defendants.***FILED**

2014 JUL 11 P 2:18

DETHA CARRIGGS
 CLERK OF COURT
 LEXINGTON SC

THE COURT OF COMMON PLEAS
 ELEVENTH JUDICIAL CIRCUIT

2014-CP-

COMPLAINT*(Jury Trial Requested)***2014CP3202557**

The Plaintiff above-named, complaining of the Defendants herein, would
 respectfully show unto this Honorable Court and allege as follows:

PARTIES

1. The Plaintiff, Rene Hale Shelley, is a citizen and resident of the County of Lexington, State of South Carolina. Additionally, Rene Hale Shelley is the duly appointed Personal Representative of the Estate of her natural son Michael Mann Lindler, having been so appointed by the Lexington County Probate Court on 24th day of September 2013, under Case No. 2013ES3200125-2.

2. Defendant, South Carolina Highway Patrol, is a governmental agency and/or political subdivision of the State of South Carolina, existing under the laws of the State of South Carolina (as defined by Section 15-78-10 of the Code of Laws of South Carolina) and has facilities located in the County of Lexington, State of South Carolina. At all times hereinafter mentioned in this Complaint, Defendant South Carolina County Highway Patrol carried on its business by and through its agents, servants, and/or employees to include L/Cpl. T. Blackwelder.

Additionally, during the time period set out in the Complaint, these employees were operating within the scope of their officially assigned and/or compensated duties.

FACTS

3. On the afternoon of December 17, 2012, nineteen (19) year old Michael Lindler and a friend were driving on US Interstate 20, west bound near the 80 mile marker, when the decedent's truck broke down in the middle of the road. During this time, this area of Interstate 20 was considered a construction zone. The Plaintiff is informed and believes that the decedent had just picked up his sick friend from the Lexington Medical Center prior to experiencing difficulty with his truck.

4. At approximately 5:00pm, South Carolina Highway Trooper L/Cpl. T. Blackwelder was dispatched to assist the Decedent in getting his vehicle off the road. The Plaintiff is informed and believes that the Decedent was outside of his vehicle when Blackwelder first arrived. At all times during the Decedent's interaction with Blackwelder, he was significantly intoxicated and clearly impaired. As such, the decedent exhibited visibly impaired behavior to include slurred speech, difficulty standing, difficulty walking, and speaking incoherently. Additionally, it was obvious that the decedent's friend was in no condition to drive the vehicle.

5. After Blackwelder assisted the decedent in getting his vehicle off the roadway, he asked the Decedent for his license and registration, as well as whether he was under the influence of any drugs or alcohol. At this time, the decedent did not have his registration or proof of insurance which are violations of South Carolina law. While the Decedent denied being under the influence of any drugs or alcohol, he did admit to taking flu medications.

6. Based on the above, the Plaintiff is informed and believes that it should have been obvious that the decedent was a danger to himself and others. Therefore, the decedent should have been taken to the closest hospital or at a minimum to the police department until a responsible party could pick him up. Instead, Blackwelder proceeded to conduct a field sobriety test (alphabet test) on the Decedent that resulted in an unsatisfactory performance. As a result, Blackwelder continued to question the Decedent's sobriety, specifically noticing that the decedent could not stand on his own. Blackwelder told the decedent that he did not think he would pass a drug test if given one. Incredibly, Blackwelder did not conduct any further field sobriety/drug tests at this time. It was crystal clear that the decedent was a threat to injure himself or others. Therefore, EMS should have been called to the scene or Blackwelder should have taken the decedent directly to the hospital. At a minimum, Blackwelder should have stayed with the decedent until such time that a responsible party picked him up. Based on the above, it was grossly negligent for Blackwelder to not ensure that EMS was called and that the decedent was taken to the nearest hospital.

7. The Plaintiff is informed and believes that the decedent was under the control, custody, and care of the SC Highway Patrol by and through L/Cpl. Blackwelder as soon as Blackwelder chose to perform a field sobriety test on the Decedent (considering the Decedent would have been arrested had he refused the test or attempted to flee the scene). As such, Blackwelder owed a special duty to the teenaged decedent while in his custody to prevent him from injuring himself or others. Therefore, the gross failure of Blackwelder to perform more than one sobriety field test on the noticeably intoxicated (high) decedent was a gross deviation from the acceptable standard of police conduct. Additionally, the failure of Blackwelder to recognize that the decedent needed immediate and emergent medical attention and to transfer

him to the nearest medical facility was a gross deviation from the acceptable standard of care. At a minimum, Blackwelder's failure to take the visibly impaired decedent to the nearest police station until he sobered up, or was picked up by a responsible party, was a gross deviation from the acceptable standard of police conduct.

8. Before leaving the noticeably impaired decedent and his friend on the shoulder of a busy highway (under construction), Blackwelder warned the decedent multiple times to quit wandering into the roadway. Eventually, Blackwelder instructed the impaired decedent to let his friend drive them home without confirming the friend's own sobriety or ability to drive. Considering the decedent's overall physical condition and the fact that he was wandering in and out of the roadway, it was a gross deviation in the acceptable standard of police conduct to simply drive away from the scene.

9. Thereafter, Blackwelder knowingly, consciously, and deliberately left a visibly impaired (high) teenager standing on the side of a highway without securing any aide or assistance. This was a gross deviation from the acceptable standard of police conduct. The Plaintiff is informed and believes that minutes later the decedent wandered into the road and was killed by an oncoming vehicle.

10. At approximately 6:09 pm, SC Highway patrol investigating Officer S. M. Groubert was dispatched to the scene of the accident. Upon arrival, Columbia Firefighters and Richland County EMS were giving the decedent CPR and preparing to transfer him to Palmetto Health Richland. The decedent's death certificate lists his presumed time of death at approximately 6:38 pm, and his toxicology results were positive for extremely high amounts of Methadone and Xanax. At the scene of the accident, Blackwelder expressed guilt for leaving the

teenage decedent on the side of the road knowing the intoxicated state that he was in (as confirmed by video footage).

11. As a direct result of the incident, an investigation was performed by the SC Highway Patrol. The investigation resulted in the production of numerous written reports that included a statement describing the field sobriety test conducted by Blackwelder on the obviously impaired decedent as, "to his satisfaction." This report is completely at odds with the video footage that depicts Blackwelder telling the decedent that he didn't believe he could not pass a drug test if given one; that he could barely stand up straight; and that he needed to let his friend drive them home because of his impaired condition. At no point did Blackwelder attempt to escort the decedent and his friend to a safe location to be picked up by a responsible party to include but not limited to a medical facility (hospital), detention center, or police station. The fact that Blackwelder repeatedly questioned the decedent's sobriety confirms that he knowingly, consciously, and deliberately left the teenager on the side of the road impaired enough to walk into the street and be killed.

12. The Plaintiff is informed and believes that her son's death was foreseeable and that he was in a class of persons to whom Defendant Blackwelder owed a special and/or specific duty to protect. As a direct result of these violations, the decedent was tragically killed. Consequently, the Plaintiff has endured substantial psychological trauma, mental anguish, mental distress, apprehension, anxiety, emotional injury, psychological injury, pain and suffering, and loss of enjoyment of life. Furthermore, the Plaintiff is informed and believes that the decedent consciously suffered both mentally and physically prior to his death.

FOR A FIRST CAUSE OF ACTION AGAINST THE DEFENDANT
(GROSS NEGLIGENCE-SURVIVAL)

13. Plaintiff reiterates each and every allegation stated hereinabove as if repeated verbatim herein.

14. The above set forth incidents and the Plaintiffs' resulting injuries were proximately caused by the negligent, grossly negligent, reckless, willful, and wanton acts of Defendant SC Highway Patrol, by and through their agents, servants, and/or employee L/Cpl. Blackwelder in one, more, or all of the following particulars:

- (a) In consciously failing to have appropriate policies regarding hiring, training, supervision, and monitoring of their employees;
- (b) If such policies do exist, in consciously failing to implement such policies;
- (c) In consciously failing to take reasonable steps/actions which would have prevented the accident in question;
- (d) In consciously failing to follow applicable Federal, State and local policies and procedures;
- (e) In consciously failing to protect the decedent;
- (f) In consciously failing to recognize an open and obvious, dangerous situation. And then, failing to take such actions as to prevent the foreseeable harm;
- (g) In consciously failing to train, monitor, and/or supervise its employees (to include L/Cpl. Blackwelder);
- (h) In consciously failing to recognize the fact that L./Cpl. Blackwelder did not have the proper training to conduct routine traffic stops involving broken down vehicles;
- (i) In consciously failing to train, monitor and/or supervise its employees to include L./Cpl. Blackwelder with regard to an open and obvious dangerous situation;

- (k) In consciously consciously failing to train, monitor and/or supervise its employees (to include L./Cpl. Blackwelder) with regard to when to initiate an arrest;
- (l) In consciously failing to conduct a proper search of a person and/or vehicle once that person is in their custody and control;
- (m) In consciously failing to conduct a proper search of a vehicle once they have probable cause to believe a crime or violation of the law has been committed;
- (n) In consciously consciously failing to train, supervise or monitor its officers to prevent the release of intoxicated drivers;
- (o) In consciously consciously failing to train, supervise or monitor its officers to recognize dangerous situations;
- (p) In consciously engaging in a pattern and practice of failing to train its officers/employees;
- (q) In consciously failing to take the appropriate action after seeing and/or recognizing that a crime or violation of the law has been committed;
- (r) In consciously failing to arrest the decedent;
- (s) In consciously failing to request or obtain information from the witness(es) in order to take into custody, arrest or prosecute the obviously impaired subject;
- (t) In consciously failing to conduct a proper field sobriety test on the decedent;
- (u) In consciously failing to take the appropriate action to safeguard the decedent;
- v) In consciously failing to place the decedent into protective custody;
- w) In consciously failing to recognize the decedent was in need of immediate and emergent care;

- x) In consciously failing to train, monitor and/or supervise its employees (to include L./Cpl. Blackwelder) with regard to when to initiate an arrest;
- y) In consciously failing to recognize the fact that L./Cpl. Blackwelder did not have the proper training to conduct routine traffic stops involving impaired/intoxicated drivers;
- z) In consciously failing to train, monitor and/or supervise its employees (to include L./Cpl. Blackwelder) to recognize immediate and emergent medical situations that requires EMS assistance;
- aa) In consciously failing to train, monitor and/or supervise its employees (to include L./Cpl. Blackwelder) to recognize immediate and emergent medical situations that requires a direct transport to the hospital;
- bb) In consciously failing to train, monitor and/or supervise its employees (to include L./Cpl. Blackwelder) when to transfer an impaired driver to a secure location until proper aide and assistance arrives (to include but not limited to the subject's house, police station or hospital).
- cc) In consciously failing to train, monitor and/or supervise its employees (to include L./Cpl. Blackwelder) on how to respond to drivers without proof of insurance (to include placing drivers in custody);
- dd) In consciously failing to train, monitor and/or supervise its employees (to include L./Cpl. Blackwelder) on how to respond to drivers without proof of registration in their possession (to include placing drivers in custody);
- ee) In consciously failing to question the passenger driver about her own sobriety when there was probable cause to believe the driver was impaired.
- ff) In consciously failing to search the vehicle in question;
- gg) In consciously failing to search the impaired driver upon probable cause to do so;
- hh) In consciously failing to search the passenger driver upon probable cause to do so.

- ii) In consciously failing to protect the decedent from harm;
- jj) In consciously failing to take reasonable steps/actions which would have prevented the decedent's suffering and death;

15. As a direct and proximate result of the aforementioned acts on behalf of the Defendants, the decedent unjustifiably and consciously suffered (both mentally and physically) and later died. Further, as a direct result the Plaintiff has suffered ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES.

FOR A SECOND CAUSE OF ACTION
(WRONGFUL DEATH)

16. The Plaintiffs reiterates each and every previous allegation as if repeated verbatim herein.

17. This wrongful death action is brought pursuant to the provisions of §15-51-10 et seq., of the Code of Laws of South Carolina (1976, as amended), on behalf of Rene Shelley and the heirs of the Estate of Michael Mann Lindler.

18. As a direct and proximate cause of the grossly negligent acts, omissions, willful and wanton conduct of the Defendants as described above, the deceased's heirs have been damaged and suffered as follows:

- a) Extreme mental shock and suffering;
- b) Extreme wounded feelings;
- c) Tremendous grief and sorrow;
- d) Loss of a son and relative;
- e) Deprivation of the use and comfort of the decedent's society, experience, knowledge and judgment.

19. As a direct and proximate result of the aforementioned acts on behalf of the Defendants, the decedent unjustifiably suffered and died, and further, the Plaintiff has suffered ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES.

20. WHEREFORE, the Plaintiff prays judgment against the Defendants, both jointly and severally for ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES, together with the costs of this action, and for such other and further relief as this Court may deem fit, just, and proper.



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July 2, 2014
Georgetown, South Carolina

Attorneys for the Plaintiff

FORM 4

JUDGMENT IN A CIVIL CASE

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

CASE NO. 14 CP- 40-5663Rene Hale ShelleySouth Carolina Highway Patrol

PLAINTIFF(S)

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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Directed verdict for Defendant based upon SC Code Ann. §15-78-60(4) & (6).

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

ORDER INFORMATION

Defendant to provide supplemental order within 20 days in electronic Word format. Plaintiff has 10 days to reply.

INFORMATION FOR THE PUBLIC INDEX

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

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

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

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

SCRPC Form 4C (10/2011) Signatures, initials, and personal information (i.e. address, phone, social security number) were redacted by House Legislative Oversight Committee staff.

Page 1 of 2

SCANNED

[REDACTED]
Circuit Court Judge

Judge Code

3/18/2016
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 Mar, 20 16 to attorneys of record or to parties (when appearing pro se) as follows:

[REDACTED]
[REDACTED]

ATTORNEY(S) FOR THE PLAINTIFF(S)

[REDACTED]
[REDACTED]

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT [REDACTED]
[REDACTED]

Court Reporter:

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Rene Hale Shelley, Individually and as)	
Personal Representative of the Estate of	)	C/A No: 3:15-cv-04989-JFA
Michael Mann Lindler,)	
)	
<i>Plaintiff,</i>	)	<u>COMPLAINT</u>
vs.	)	(42 U.S.C. § 1983)
	)	(Jury Trial Demanded)
Travis T. Blackwelder)	
)	
<i>Defendant.</i>)	
)	

Plaintiff named herein, complaining of the above named Defendant, would respectfully show unto this Honorable Court and allege as follows:

JURISDICTION

1. This is an action for money damages and other appropriate relief for violation of the Plaintiff Decedent's civil rights under color of state law and for personal injuries inflicted upon the Plaintiff Decedent.

2. These actions arise under the Fourteenth Amendment to the United States Constitution and the Civil Rights Act of 1871, 42 U.S.C.A. §§ 1983, et seq. as amended, South Carolina Code §23-13-10 and under the common law, the statutory law, and the Constitution of the State of South Carolina, against the Defendant.

3. This Court has jurisdiction over all parties and all causes of action.

PARTIES

4. The Plaintiff, Rene Hale Shelley, is a citizen and resident of the County of Lexington, State of South Carolina. Additionally, Rene Hale Shelley is the duly appointed

Personal Representative of the Estate of her natural son Michael Mann Lindler (hereinafter “Decedent”), having been so appointed by the Lexington County Probate Court on 24th day of September 2013, under Case No. 2013ES3200125-2.

5. This suit is filed on behalf of the heirs of Michael Mann Lindler.

6. The South Carolina Highway Patrol is a governmental agency/entity existing under the laws of the State of South Carolina. At all times hereinafter mentioned in this lawsuit, South Carolina Highway Patrol carried on its business by and through its agents, servants and/or employees to include Defendant Travis T. Blackwelder. The South Carolina Highway Patrol is the highway patrol agency for South Carolina, which has jurisdiction anywhere in the state except for federal or military installations. The Highway Patrol is the largest division of the South Carolina Department of Public Safety and its headquarters is located in Blythewood, South Carolina (Richland County).

7. Upon information and belief, Defendant Travis T. Blackwelder (hereinafter “Defendant Blackwelder”) is a citizen and resident of Aiken County, South Carolina. At all times relevant hereto, Defendant Blackwelder was a law enforcement trooper (ranked Lance Corporal) of the South Carolina Highway Patrol employed to perform duties in counties including Richland County, South Carolina. At all relevant times hereinafter mentioned, this Defendant was acting individually as an employee of South Carolina Highway Patrol and/or South Carolina Department of Public Safety. For purposes of claims asserted under 42 U.S.C. § 1983, this Defendant is being sued in his individual capacity, under the color of law and pursuant to his authority as a law enforcement trooper.

8. The allegations set forth in this Complaint occurred in Richland County; therefore, venue is proper in this District.

FACTS

9. At approximately 5:00pm on December 17, 2012, the Decedent was nineteen (19) years old when he and his friend broke down in the middle of US Interstate 20, west bound near mile marker 81 in Richland County.

10. At this time, this area of Interstate 20 was considered a construction zone for a road-widening project. As such, there was no emergency lane for disabled vehicles. Further, it was raining, wet on the roads, and beginning to get dark. The Plaintiff is informed and believes that the Decedent had just picked up his sick friend from Lexington Medical Center prior to running out of gas and breaking down on the highway.

11. At approximately 5:00pm, Defendant Blackwelder (South Carolina Trooper) was dispatched to assist the Decedent in getting his vehicle (Chevrolet truck) off the highway. Defendant Blackwelder's interaction with the Decedent is recorded by his vehicle's dashcam and the audio recorder on or around his belt.

12. When Defender Blackwelder first arrives to the scene, the Decedent was outside of his vehicle and another civilian was attempting to assist him off the roadway. When Defendant Blackwelder approached the civilian (parked behind the Decedent's vehicle) a conversation ensued that immediately triggered Defendant Blackwelder to question whether the Decedent was drunk. The civilian's response is inaudible. Defendant Blackwelder then approached the Decedent as the civilian left the scene.

13. When Defendant Blackwelder first approached the Decedent under the hood of his truck, he asked him what happened to the vehicle. The Decedent told Defendant Blackwelder that him and his friend (located in the passenger seat) were trying to get home from the hospital when they suddenly broke down in the middle of the road. In fact, the Decedent and

had been driving around aimlessly for hours trying to get his friend home- only 18 miles away from the hospital. This was a clear sign that the Decedent's judgment was impaired and would have been known to Defendant Blackwelder had he asked the Decedent if he was lost or how long they had been driving that day. Nevertheless, based on the Decedent's inability to stand still, Defendant Blackwelder asked him why he was stumbling and whether or not he was under the influence of any drugs or alcohol- which the Decedent denied.

14. Thereafter, Defendant Blackwelder instructs the Decedent to attempt to start his car and steer it onto the shoulder of the highway. The Decedent is seen stumbling to his front door before climbing in the front seat and steering his vehicle off the roadway.

15. Thereafter, Defendant Blackwelder asked the Decedent for his license and registration. The Decedent responded he did not have his registration or proof of insurance, which are violations of South Carolina law. Further, when questioned about the validity of his license, the Decedent divulged to Defendant Blackwelder that he had just been to court that morning on a shoplifting charge for which he received PTI. Further, while running the Decedent's license, Defendant Blackwelder had to scream at the Decedent to get out of the roadway twice. It was obvious at this time, that the Decedent was substantially impaired and completely oblivious to the dangerous environment surrounding him (as a result of the degree of his impairment).

16. After running the Decedent's driver's license and plate, Defendant Blackwelder approached the Decedent and immediately asked him to say his alphabet. By this time, it is obvious that Defendant Blackwelder suspected the Decedent to be impaired so much that he felt it necessary to conduct a field sobriety test. Thereafter, Defendant Blackwelder questioned the Decedent as to what "pills" he was on, which the Decedent having taken. Clearly, Defendant

Blackwelder was not convinced that the Decedent was not impaired (despite his ability to say the alphabet) as Defendant Blackwelder continued to accuse the Decedent of being under the influence of pills (drugs). Further, at this time the Decedent told Defendant Blackwelder that his behavior was a result of him being tired and recovering from the flu for which he was taking thera-flu. Further, the Decedent admitted to Defendant Blackwelder that he had been using weed and Xanax prior to this day but was not on any at the time. Given this information, Defendant Blackwelder asked the Decedent *if* he were to search his vehicle or person whether he would find any drugs or alcohol- which the decedent denied. Again, despite Defendant Blackwelder's obvious suspicions that the Decedent was impaired (based on his inability to stand up straight) he deliberately failed to perform any further tests to determine the degree of the Decedent's impairment.

17. Defendant Blackwelder testified (during his deposition) that once he administered the field sobriety test (asked the Decedent to say his alphabet), the Decedent was not free to leave the scene. Therefore, at that time, Defendant Blackwelder restricted the Decedent from acting on his own behalf which legally established a "special relationship" between the two of them and an affirmative duty for Defendant Blackwelder to protect the Decedent from harm inflicted by third parties (e.g. foreseeably being struck by a motorist due to his impairment). This constituted a substantive due process right of the Decedent that Defendant Blackwelder clearly recognized the moment he began to administer the field sobriety test as a South Carolina law enforcement Trooper.

18. Further, during the above line of questioning, Defendant Blackwelder was informed that the mother of the Decedent's friend was trying to find her way to the lost couple to bring them gasoline. This would allegedly fix the Decedent's vehicle and allow him and his

friend to drive home. However, the Decedent's friend had absolutely no idea where they were and had to ask Defendant Blackwelder for directions. In response, Defendant Blackwelder merely told the friend what mile marker they were near. At no point did Defendant Blackwelder get on the phone and personally speak with the friend's mother to ensure that she knew where to locate the couple in order to safely transport them off the highway.

19. Additionally, before leaving the scene, Defendant Blackwelder boldly told the Decedent that he did not believe he would pass a drug test if given one, that he could barely stand up, and that he could not even stand on one leg. Based on these obvious indicators of impairment, Defendant Blackwelder instructed the Decedent not to drive home and to let his friend drive after they received gas. Defendant Blackwelder asked the Decedent whether the friend had a driver's license and his response, although unclear, appears to be a "no." However, had Defendant Blackwelder simply asked the friend for her license he would have learned that she did not have one (confirmed by later investigation).

20. After speaking with the Decedent, Defendant Blackwelder consciously and deliberately left the scene creating a danger to the Decedent as he was left impaired on the side of the busy highway (without an emergency lane), on a rainy night, with no help on the way (confirmed by later investigation the mother had no clue where the couple was). The friend's mother was unable to understand from speaking with her daughter where the couple was located and never received instructions by Defendant Blackwelder who was dispatched purposely to assist the Decedent with his disabled vehicle. Therefore, Defendant Blackwelder left the scene without securing a safe transport for the Decedent off the highway.

21. As a direct result of this danger created by Defendant Blackwelder by consciously and deliberately leaving the scene before help arrived (or before ensuring the Decedent received

safe transportation off the highway), the Decedent was struck by oncoming traffic after wandering into the road. Based on the Decedent's postmortem toxicology results, he was under the influence of large amounts of Methadone and Xanax, justifying Defendant Blackwelder's obvious suspicion that the Decedent was on drugs when he was under his control and not free to leave the scene (as referenced above). We know Defendant Blackwelder believed the Decedent was impaired as he forbade him from driving home and told him bluntly that he did not think he would pass a drug test if given one.

22. The Plaintiff is informed and believes that her son's death was foreseeable and that he was in a class of persons to whom Defendant Blackwelder owed a special and/or specific duty to protect. Further, the Plaintiff believes Defendant Blackwelder knew exactly when he owed this special/specific duty to the Decedent and that he clearly recognized the Decedent's right to protection from foreseeable harm inflicted by third parties (when he began to administer a field sobriety test on the Decedent).

23. As a direct result of Defendant Blackwelder's decision to leave the scene (affirmative act) before securing a safe transport for the Decedent off the roadway, Defendant Blackwelder created a state created danger and increased risk for the Decedent to be inflicted by harm from a third party (foreseeably wandering into the roadway impaired and getting fatally struck by a motorist). Defendant Blackwelder knew the Decedent was impaired enough that he instructed him not to drive home, yet he decided to leave the scene before ensuring the Decedent's safe exit off the roadway.

24. As a result of Defendant Blackwelder's actions, the Plaintiff has endured substantial psychological trauma, mental anguish, mental distress, apprehension, anxiety, emotional injury, psychological injury, pain and suffering, and loss of enjoyment of life.

Furthermore, the Plaintiff is informed and believes that the Decedent consciously suffered both mentally and physically prior to his death.

FOR A FIRST CAUSE OF ACTION
Fourteenth Amendment
Substantive Due Process-Special Relationship
(Survival)

25. Each and every allegation of fact contained in the above stated paragraphs are re-alleged herein, as if re-stated verbatim.

26. The Defendant was acting under the color or pretense of State law, customs, practices, usage, and/or policy at all times mentioned herein as South Carolina Trooper and had certain duties imposed upon him with regard to Michael Mann Lindler. Additionally, during the time period in question, the Defendant was well aware of the Decedent's constitutional rights.

27. The Defendant was consciously and deliberately indifferent to the Decedent in the following particulars:

- (a) in consciously failing to protect the Decedent from harm inflicted by third parties motorists on the highway during the time period in question;
- (b) by deliberately leaving the scene before ensuring a safe transport for the Decedent off the highway which placed the Decedent at an increased risk and/or foreseeable danger of being inflicted by harm of third parties;
- (c) by consciously failing to protect the Decedent during a time when he was not free to leave the scene and thus owed a special, affirmative duty to be protected from third party harm;
- (d) by consciously failing to perform proper and adequate sobriety tests to determine the degree of the Decedent's obviously known and/or suspected impairment;

- (e) by consciously failing to secure safe transportation for the Decedent off the highway;
- (f) by consciously failing to ensure the Decedent was driven home by a sober, licensed driver;
- (g) by consciously failing to question the passenger of the Decedent's vehicle to aid in determining the extent of the Decedent's impairment and/or her own impairment (if any);
- (h) by consciously depriving the Decedent of his right to substantive due process during a time that the Defendant clearly recognized the existence of this right;
- (i) by consciously failing to perform adequate field sobriety test known to the Defendant;
- (j) by consciously depriving the Decedent of life by abandoning him in a state of substantial impairment;

28. As a direct and proximate result of the Defendants' acts of willful, malicious, conscious and deliberate indifference, the Decedent suffered deprivations of his rights secured by the Fourteenth Amendment to the United States Constitution. Additionally, as a direct result of the above, the Decedent suffered needlessly and ultimately died.

29. As a result, the Decedent suffered conscious pain, mental and physical suffering, indignity, and loss of his aforementioned federal rights. The Plaintiff has suffered the loss of the life of the Decedent, loss of his love and support, mental anguish, emotions distress, undue grief, and will likely suffer from the effects of the Defendant's actions now and in the future, and

Plaintiff demands ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES from the Defendants.

FOR A SECOND CAUSE OF ACTION
Fourteenth Amendment
Substantive Due Process-Special Relationship
(Wrongful Death)

30. Each and every allegation of fact contained in the above stated paragraphs are re-alleged herein, as if re-stated verbatim.

31. The Defendant was acting under the color or pretense of State law, customs, practices, usage, and/or policy at all times mentioned herein as South Carolina Trooper and had certain duties imposed upon him with regard to Michael Mann Lindler. Additionally, during the time period in question, the Defendant was well aware of the Decedent's constitutional rights.

32. The Defendant was consciously and deliberately indifferent to the Decedent in the following particulars:

- (a) in consciously failing to protect the Decedent from harm inflicted by third parties motorists on the highway during the time period in question;
- (b) by deliberately leaving the scene before ensuring a safe transport for the Decedent off the highway which placed the Decedent at an increased risk and/or foreseeable danger of being inflicted by harm of third parties;
- (c) by consciously failing to protect the Decedent during a time when he was not free to leave the scene and thus owed a special, affirmative duty to be protected from third party harm;

- (d) by consciously failing to perform proper and adequate sobriety tests to determine the degree of the Decedent's obviously known and/or suspected impairment;
- (e) by consciously failing to secure safe transportation for the Decedent off the highway;
- (f) by consciously failing to ensure the Decedent was driven home by a sober, licensed driver;
- (g) by consciously failing to question the passenger of the Decedent's vehicle to aid in determining the extent of the Decedent's impairment and/or her own impairment (if any);
- (h) by consciously depriving the Decedent of his right to substantive due process during a time that the Defendant clearly recognized the existence of this right;
- (i) by consciously failing to perform adequate field sobriety test known to the Defendant;
- (j) by consciously depriving the Decedent of life by abandoning him in a state of substantial impairment;

As a direct and proximate result of the Defendant's acts of willful, malicious, conscious and deliberate indifference the Decedent suffered deprivations of his rights secured by the Fourteenth Amendment to the United States Constitution.

33. The Defendant wrongfully caused the death of Michael Mann Lindler by his acts and omissions as described above.

34. As a direct and proximate result of the omissions, willful and wanton conduct of the Defendant, the Plaintiff has been damaged and suffered as follows:

- (a) mental anguish and distress
- (b) extreme mental shock and suffering;
- (c) loss of enjoyment of life
- (d) loss of financial economic support and contribution of the deceased;
- (e) extreme mental shock and suffering;
- (f) extreme wounded feelings;
- (g) tremendous grief and sorrow;
- (h) loss of friendship and companionship; and
- (i) deprivation of the use and comfort of the deceased's society, knowledge and judgment and experience.

35. The Plaintiff is informed and believe that the Estate of Michael Mann Lindler is entitled to ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES against the Defendant, pursuant to the violation of her Federal Civil Rights 42 USC 1983 – Wrongful Death.

36. As a result, the Decedent suffered conscious pain, suffering, indignity, and loss of his aforementioned federal rights. The Plaintiff has suffered the loss of the life of the Decedent, loss of his love and support, mental anguish, emotional distress, undue grief, and will likely

suffer from the effects of the Defendants' actions now and in the future, and Plaintiff demands ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES from the Defendants.

FOR A THIRD CAUSE OF ACTION
Fourteenth Amendment
Substantive Due Process-State Created Danger
(Survival)

37. Each and every allegation of fact contained in the above stated paragraphs are re-alleged herein, as if re-stated verbatim.

38. The Defendant was acting under the color or pretense of State law, customs, practices, usage, and/or policy at all times mentioned herein as South Carolina Trooper and had certain duties imposed upon him with regard to Michael Mann Lindler. Additionally, during the time period in question, the Defendant was well aware of the Decedent's constitutional rights.

39. The Defendant was consciously and deliberately indifferent to the Decedent in the following particulars:

- (a) in consciously failing to protect the Decedent from harm inflicted by third parties motorists on the highway during the time period in question;
- (b) by deliberately leaving the scene before ensuring a safe transport for the Decedent off the highway which placed the Decedent at an increased risk and/or foreseeable danger of being inflicted by harm of third parties;
- (c) by consciously failing to protect the Decedent during a time when he was not free to leave the scene and thus owed a special, affirmative duty to be protected from third party harm;

- (d) by consciously failing to perform proper and adequate sobriety tests to determine the degree of the Decedent's obviously known and/or suspected impairment;
- (e) by consciously failing to secure safe transportation for the Decedent off the highway;
- (f) by consciously failing to ensure the Decedent was driven home by a sober, licensed driver;
- (g) by consciously failing to question the passenger of the Decedent's vehicle to aid in determining the extent of the Decedent's impairment and/or her own impairment (if any);
- (h) by consciously depriving the Decedent of his right to substantive due process during a time that the Defendant clearly recognized the existence of this right;
- (i) by consciously failing to perform adequate field sobriety test known to the Defendant;
- (j) by consciously depriving the Decedent of life by abandoning him in a state of substantial impairment;

40. As a direct and proximate result of the Defendants' acts of willful, malicious, conscious and deliberate indifference, the Decedent suffered deprivations of his rights secured by the Fourteenth Amendment to the United States Constitution. Additionally, as a direct result of the above, the Decedent suffered needlessly and ultimately died.

41. As a result, the Decedent suffered conscious pain, mental and physical suffering, indignity, and loss of his aforementioned federal rights. The Plaintiff has suffered the loss of the

life of the Decedent, loss of his love and support, mental anguish, emotions distress, undue grief, and will likely suffer from the effects of the Defendant's actions now and in the future, and Plaintiff demands ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES from the Defendants.

FOR A FOURTH CAUSE OF ACTION
Fourteenth Amendment
Substantive Due Process-State Created Danger
(Wrongful Death)

42. Each and every allegation of fact contained in the above stated paragraphs are re-alleged herein, as if re-stated verbatim.

43. The Defendant was acting under the color or pretense of State law, customs, practices, usage, and/or policy at all times mentioned herein as South Carolina Trooper and had certain duties imposed upon him with regard to Michael Mann Lindler. Additionally, during the time period in question, the Defendant was well aware of the Decedent's constitutional rights.

44. The Defendant was consciously and deliberately indifferent to the Decedent in the following particulars:

- (a) in consciously failing to protect the Decedent from harm inflicted by third parties motorists on the highway during the time period in question;
- (b) by deliberately leaving the scene before ensuring a safe transport for the Decedent off the highway which placed the Decedent at an increased risk and/or foreseeable danger of being inflicted by harm of third parties;
- (c) by consciously failing to protect the Decedent during a time when he was not free to leave the scene and thus owed a special, affirmative duty to be protected from third party harm;

- (d) by consciously failing to perform proper and adequate sobriety tests to determine the degree of the Decedent's obviously known and/or suspected impairment;
- (e) by consciously failing to secure safe transportation for the Decedent off the highway;
- (f) by consciously failing to ensure the Decedent was driven home by a sober, licensed driver;
- (g) by consciously failing to question the passenger of the Decedent's vehicle to aid in determining the extent of the Decedent's impairment and/or her own impairment (if any);
- (h) by consciously depriving the Decedent of his right to substantive due process during a time that the Defendant clearly recognized the existence of this right;
- (i) by consciously failing to perform adequate field sobriety test known to the Defendant;
- (j) by consciously depriving the Decedent of life by abandoning him in a state of substantial impairment;

As a direct and proximate result of the Defendant's acts of willful, malicious, conscious and deliberate indifference the Decedent suffered deprivations of his rights secured by the Fourteenth Amendment to the United States Constitution.

45. The Defendant wrongfully caused the death of Michael Mann Lindler by his acts and omissions as described above.

46. As a direct and proximate result of the omissions, willful and wanton conduct of the Defendant, the Plaintiff has been damaged and suffered as follows:

- (a) mental anguish and distress
- (b) extreme mental shock and suffering;
- (c) loss of enjoyment of life
- (d) loss of financial economic support and contribution of the deceased;
- (e) extreme mental shock and suffering;
- (f) extreme wounded feelings;
- (g) tremendous grief and sorrow;
- (h) loss of friendship and companionship; and
- (i) deprivation of the use and comfort of the deceased's society, knowledge and judgment and experience.

47. The Plaintiff is informed and believe that the Estate of Michael Mann Lindler is entitled to ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES against the Defendant, pursuant to the violation of her Federal Civil Rights 42 USC 1983 – Wrongful Death.

48. As a result, the Decedent suffered conscious pain, suffering, indignity, and loss of his aforementioned federal rights. The Plaintiff has suffered the loss of the life of the Decedent, loss of his love and support, mental anguish, emotional distress, undue grief, and will likely

suffer from the effects of the Defendants' actions now and in the future, and Plaintiff demands ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES from the Defendants.

s/ Lauren V. Knight

Lauren V. Knight
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December 17, 2015
Georgetown, South Carolina

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

RECEIVED
USDC CLERK, COLUMBIA, SC
2013 NOV -5 PM 12:18

JOVAN CORNELIUS SIMON
[Enter the full name of the plaintiff in this action]

Civil Action No. 9:13-CV-3025-RMG-BM
(to be assigned by Clerk)

COMPLAINT
State Prisoner

v.

L/Cpl Kevin Paige, SCHP et al
Trooper Bucky Geddings, SCHP et al
L/Cpl Mark Jennings, SCHP et al
Agent H. Eric Cohoon, ATF et al

Enter above the full name of defendant(s) in this action

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I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise related to your imprisonment? Yes _____ No ✓
- B. If your answer to A is Yes, describe the lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.

1. Parties to this previous lawsuit:

Plaintiff: _____

Defendant(s): _____

2. Court: _____
(If federal court, name the district; if state court, name the county)

3. Docket Number: _____

4. Name(s) of Judge(s) to whom case was assigned: _____

5. Disposition: _____
(For example, was the case dismissed? Appealed? Pending?)

6. Approximate date of filing lawsuit: _____

7. Approximate date of disposition: _____

Complaint - State Prisoner
Revised October 3, 2007

II. PLACE OF PRESENT CONFINEMENT

- A. Name of Prison/Jail/Institution: Dillon County Detention Center
- B. What are the issues that you are attempting to litigate in the above-captioned case? Reckless Endangerment, Negligence, Negligent Indifference, Pain and Suffering, Injury, etc., and more.
- C. (1) Is there a prisoner grievance procedure in this institution? Yes ☒ No ☐
 (2) Did you file a grievance concerning the claims you are raising in this matter? Yes ☐ No ☒
 When _____ Grievance Number (if available) _____
- D. Have you received a final agency/departmental/institutional answer or determination concerning this matter (i.e., your grievance)? Yes ☐ No ☒
- E. When was the final agency/departmental/institutional answer or determination received by you? _____
If possible, please attach a copy of your grievance and a copy of the highest level decision concerning your grievance that you have received.
- F. If there is no prison grievance procedures in this institution, did you complain to prison, jail, or institutional authorities? Yes ☒ No ☐
- G. If your answer is YES:
- What steps did you take? I complained to authorities, filed medical requests
 - What was the result? Transferred Custody, ibuprofen, motrin, pain relieving gel.

III. PARTIES

In Item A below, place your name, inmate number, and address in the space provided. Do the same for additional plaintiffs, if any.

A. Name of Plaintiff: JOVAN CORNELIUS SIMON Inmate No.: 25282-171
 Address: [REDACTED]

In Item B below, place the full name of the defendant, his official position, and place of employment in the space provided. Use Item C for additional defendants, if any.

B. Name of Defendant: L/Cpl Kevin Paige et al Position: L/Cpl, Trooper
 Place of Employment: South Carolina Highway Patrol

C. Additional Defendants (provide the same information for each defendant as listed in Item B above):

Bucky Geddings, Trooper, South Carolina Highway Patrol
Mark Jennings, L/Cpl-Trooper, South Carolina Highway Patrol
H. Eric Cohoon, Special Agent, Charleston Field Office, U.S. DOJ, ATF

IV. STATEMENT OF CLAIM

State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach an extra sheet if necessary.

1. On 5/9/2013, I was arrested by Trooper Bucky Geddings with the South Carolina Highway Patrol, who was assisted by L/Cpl Mark Jennings and L/Cpl Kevin Paige also with SChP. Trooper Geddings requested Trooper Paige to transport me to the Horry County Detention Center. Troopers Geddings and Jennings observed my being placed in the front seat of Trooper Paige's cruiser with my hands still cuffed behind my back. I requested to use my inhaler which Trooper Paige conveyed to Trooper Geddings who denied my request. While we were en route to the jail, Trooper Paige was texting back and forth on his cell phone while he was driving. By the time we arrived at the jail, I had fallen asleep and my head was hanging limply. As Trooper Paige was driving up the driveway of the facility, he collided with a metal pole. The collision caused a "whipping" motion of my hanging head and neck, simultaneously awakening, startling, and stunning me, leaving me in a state of bewilderment. As I looked around, Trooper Paige who had his cell phone in his hand, quickly reversed the car away from the metal pole he had crashed into and commenced to driving into the "sally port" with no regard for my well-being. Within seconds, we were parked at the intake entrance and Trooper Paige hurriedly got me out of his cruiser. He then transferred me into jail staff custody, staying only long enough to tell them to strip-search me. As I was going through the intake procedure, a member of the jail staff asked me what I was "on" and said that I seemed

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Revised October 3, 2007

IV. STATEMENT OF CLAIM - continued.

"disoriented". I explained that I was just in a collision just outside and that my neck was hurting. Corporal Jones of the J. Reuben Long Detention Center staff went to view the video of my arrival as other staff proceeded with the strip-search and intake procedure. It was only after Trooper Paige had already left when Corporal Jones returned and confirmed that he had witnessed the collision on video that they gave any merit to my claim. I was then informed that I "should've said something before the trooper left" and they wouldn't have accepted me until I was "medically cleared". I was then seen by the jail's medical staff to whom I continued to complain of my neck injury and pain. The nurse gave me ibuprofen for the pain and as I was sitting in her office, I noticed a yellow "sticky note" attached to my paperwork with the name State Trooper Causey and the number 843-365-5004. After I was finished with intake, I was placed in a holding cell where the ibuprofen was doing very little for my pain which made it difficult for me to rest. I informed the staff that my neck persisted to hurt. They told me that if my neck was still hurting in the morning, to make a medical request. I was later taken down the hall to the "detox" unit as if I was "on" something. When I got there, I asked the unit officer for a medical request form and he informed me that it had to be done electronically on the kiosk that I would get a chance to use the next day. I had trouble resting all that night due to my neck injury.

2. The next morning on 5/10/2013 at breakfast time,

IV. STATEMENT OF CLAIM - continued

my neck was still hurting. Shortly after breakfast, I was called to the front of the jail to be transferred into federal custody-never getting the opportunity to use the kiosk machine. I was taken to a holding cell up front where I complained of my neck pain.

After a while, Agent H. Eric Cohoon with the Bureau of Alcohol, Tobacco, Firearms, and Explosives arrived and took custody of me. Agent Cohoon transported me to the McMillan Federal Building in Florence, SC where I continued to make complaints about my neck. A white female U.S. Marshal wearing glasses who works at the McMillan Federal Building stated that "We're not going to be able to take him if he's complaining about injuries". Moments later, a bald white male U.S. Marshal working at the McMillan Federal Building came out screaming and cursing at me about how there's "nothing wrong" with me and that I wasn't going to "get any money out of the government". At this point, I was in tears trying to explain what had happened to me the day before to the agents and marshals. Agent Cohoon and another agent who accompanied him then made jokes saying "Let's take him to Dillon County, they'll take real good care of him there"; and laughed. Then I was placed in a holding cell. A while

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II. STATEMENT OF CLAIM - continued

later, I was taken out of the holding cell into a room where I went through an intake-like process conducted by the same female marshal with glasses who greeted us upon arrival and another white female. Again I complained to these two females of my neck injury and pain. They told me to tell the staff at the jail when I get there and they would get me some medical attention. Later, I was transported by Agent Cohoon to the Florence County Detention Center in Effingham, SC. Upon my arrival there, I made jail staff aware of my neck injury and pain and of asthmatic wheezing that I was also suffering from. A short time later, I was seen by the jail's medical staff who could hear my wheezing and immediately gave me a breathing treatment. After the breathing treatment, the medical staff gave me Motrin 800 for my neck pain and told me if it still hurt over the weekend to fill out a medical request and they would see me again. Over the weekend, 5/11/2013-5/12/2013, my neck continued to hurt so I filled out a medical request form on 5/12/2013. I was seen by medical staff again on 5/13/2013. I informed them that my asthma was better, but my neck pain persisted. I was again given Motrin 800 and a two-week

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IV. STATEMENT OF CLAIM - continued

supply of pain-relieving gel. The pain in my my neck persisted. When I ran out of pain-relieving gel, I filled out more medical request forms - on 6/1/2013 and 6/3/2013. I was seen by medical staff again on 6/4/2013 and given another week's supply of pain-relieving gel. On 6/10/2013, I filled out another medical request form. I was seen by medical staff again on 6/11/2013 and they informed me that they were no longer giving out pain-relieving gel and that I would have to order it from the jail commissary. My funds were limited and for months I had to work out deals with other inmates for pain medication and pain-relieving gel from the commissary. On 8/8/2013, I was transferred to Dillon County Detention Center - incidental or coincidental to Agent Cohoon's joke made on 5/10/2013 at the McMillan Federal Building; a joke I finally figured out as there are no medical request forms available to inmates at Dillon County Detention Center and medical care is scarce. On 11/1/2013, during a suppression hearing at the McMillan Federal Building, I was able to view the dashcam video from Trooper Paige's Cruiser of my 5/9/2013 trip to Horry County Detention Center in which Trooper Paige can be seen and heard texting while driving! My neck injury still troubles me occasionally.

5 of 5

V. RELIEF

State briefly and exactly what you want the court to do for you.

I move for the Court to grant relief as follows:

\$100,000 for pain and suffering,
\$100,000 for possible future proper medical attention and treatment,
\$50,000 punitive award from each defendant,

and any such other and further relief as the Court deems just and proper.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 2nd day of November, 2013

Signature of Plaintiff

Complaint - State Prisoner
Revised October 3, 2007

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

RECEIVED
U.S. DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

2015 MAR 13 P 1:35

Jovan Cornelius Simon, # 25282-171,

Plaintiff,

vs.

L/CPL Kevin Paige, SCHP; Trooper Bucky
Geddings, SCHP; L/Cpl Mark Jennings, SCHP; and
Agent H. Eric Cohoon, ATF;

Defendants.

C/A No.: 9:13-3025-RMG

ORDER

This matter is before the Court on the Report and Recommendation ("R & R") of the Magistrate Judge, (Dkt. No. 97), recommending that the Court grant Defendants' motions for summary judgment (Dkt. Nos. 84, 90) as to Plaintiff's federal claims and decline jurisdiction over Plaintiff's state claims. For the reasons set forth below, the Court agrees with and ADOPTS the R & R as an order of this Court. Accordingly, Defendants' motions are GRANTED as to Plaintiff's federal claims, and this case is DISMISSED.

I. Background¹

Plaintiff alleges in his verified Complaint that after Defendant Geddings arrested him, Defendant Page improperly placed Plaintiff in the front seat of Page's cruiser with his hands cuffed behind his back while Defendants Geddings and Jennings looked on; that while transporting Plaintiff, Defendant Page ran into a metal pole and Plaintiff hurt his neck; and that the remaining Defendants were indifferent to his neck pain. The Magistrate Judge recommended granting summary judgment on Plaintiff's federal claims because Plaintiff has failed to put

¹ The facts are laid out in detail in the R & R adopted by the Court. (Dkt. No. 97 at 3-10). Therefore, the Court does not recount them again here but only provides a summary.

forward evidence that he suffered a serious injury or that Defendants knew of and disregarded an excessive risk to Plaintiff's health or safety. (Dkt. No. 97). Plaintiff has filed objections to the R & R. (Dkt. No. 99).

II. Legal Standard

A. Report & Recommendation

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court is charged with making a de novo determination of those portions of the R & R or specified proposed findings or recommendations to which objection is made. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting 28 U.S.C. § 636(b)(1)); accord Fed. R. Civ. P. 72(b).

B. Summary Judgment

Summary judgment is appropriate “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). Only material facts—those “that might affect the outcome of the suit under the governing law”—will preclude the entry of summary judgment. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute about a material fact is genuine, “if the evidence is such that a reasonable jury could return a verdict for the non-moving party.” *Id.* Thus, “[t]he mere existence of a scintilla of evidence in support of the plaintiff's position will be insufficient.” *Id.* at 252.

At the summary judgment stage, the court must “construe the evidence, and all reasonable inferences that may be drawn from such evidence, in the light most favorable to the nonmoving party.” *Dash v. Mayweather*, 731 F.3d 303, 310 (4th Cir. 2013). However, “the nonmoving party must rely on more than conclusory allegations, mere speculation, the building of one inference upon another, or the mere existence of a scintilla of evidence.” *Id.* at 311.

III. Discussion

Because Plaintiff is a pretrial detainee, the Fourteenth Amendment, rather than the Eighth Amendment, governs his claim. *Ervin v. Mangum*, 127 F.3d 1099 (4th Cir. 1997). However, the same deliberate indifference standard applies. *Id.*

A. Failure to Protect Claim

To establish a claim for failure to protect, a plaintiff must show: (1) serious or significant physical or emotional injury and (2) that officials exhibited deliberate indifference to plaintiff’s health or safety. *De’Lonta v. Angelone*, 330 F.3d 630, 634 (4th Cir. 2003). To be deliberately indifferent, a prison official must “know of and disregard an objectively serious ... risk of harm.” *Id.* A showing of mere negligence does not qualify as deliberate indifference. *Bacchus v. Scarborough*, 466 F. App’x 269, 271 (4th Cir. 2012).

Here, Plaintiff alleged that Defendants Geddings, Jennings and Page were deliberately indifferent to his safety because Defendant Page placed him in the front seat of his cruiser with his hands cuffed behind his back in violation of South Carolina Department of Public Safety (SCDPS) policy. (Dkt. No. 1 at 3; Dkt. No. 28). However, Plaintiff lacks personal knowledge of SCDPS policy, and Defendants have submitted the applicable SCDPS policy, which shows Defendant Page transported Plaintiff exactly how he was supposed to pursuant to that policy. (Dkt. No. 84-2). Plaintiff, forced to concede this point, speculates in his objections to the R & R

that “the policy may have been violated in other aspects.” (Dkt. No. 99 at 4-5). Such speculation is insufficient to survive summary judgment. Plaintiff has put forward no evidence that Defendants knew of an objectively serious risk of harm to Plaintiff from the manner in which it was transported. Therefore, summary judgment is appropriate.

B. Medical Indifference Claim

Plaintiff must put forward evidence that Defendants were deliberately indifferent to a serious medical need. *E.g., Estelle v. Gamble*, 429 U.S. 97, 104 (1976). A serious medical need is “one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor’s attention.” *Iko v. Shreve*, 535 F.3d 225, 241 (4th Cir. 2008). The deliberate indifference prong is met where an officer “knows of and disregards the risk posed by the serious medical needs of the inmate.” *Id.*

Plaintiff has failed to put forward evidence that any of the defendants were deliberately indifferent to a serious medical need. Plaintiff is correct that his verified complaint is competent evidence and can defeat summary judgment where it creates an issue of fact. (*See* Dkt. No. 99 at 3-4). However, Plaintiff’s allegations, taken as true, do not show any deliberate indifference. Taken in the view most favorable to Plaintiff, Plaintiff told Defendants that his “neck was hurting,” Plaintiff was then seen by a nurse at both the Horry County Detention Center and at the Florence County Detention Center, and, in both instances, Plaintiff was given ibuprofen and told he would be seen again if his neck continued to hurt. (Dkt. No. 1 at 4, 6). Each time Plaintiff submitted a medical request form, he was seen by medical personnel. (*Id.* at 6-7). Similarly, when staff heard Plaintiff’s wheezing, they “immediately gave me a breathing treatment.” (*Id.* at 6). Plaintiff has simply failed to present any evidence of deliberate indifference. Therefore, summary judgment is appropriate.

C. Rule 56(d)

In his objections, Plaintiff also asks for additional time for discovery under Rule 56(d). (Dkt. No. 99 at 2-3). However, “[n]on-movants must generally file an affidavit or declaration before they can succeed on a 56(d) motion, or if not, non-movants must put the district court on notice as to which specific facts are yet to be discovered.” *McCray v. Maryland Dep’t of Transp., Maryland Transit Admin.*, 741 F.3d 480, 484 (4th Cir. 2014). Plaintiff has not explained what facts he could discover with additional time. Therefore, his motion must fail.

Furthermore, “nonmovants do not qualify for Rule 56(d) protection where they had the opportunity to discover evidence but chose not to.” *Id.* Plaintiff states that he submitted pleadings to the court requesting discovery. (Dkt. No. 99 at 2-3). However, the record reveals that he filed a motion to compel *after* the close of discovery. (Dkt. No. 87); *see also* Local Rule 26.04, D.S.C. This case was filed in November of 2013. (Dkt. No. 1). However, it appears Plaintiff never requested discovery until over a year later on December 1, 2014. (Dkt. No. 87, 89). Rule 56(d) relief is not warranted under these circumstances, where Plaintiff did not seek any discovery until after the discovery deadline. Therefore, his motion must fail for this reason as well.

IV. Conclusion

For the reasons stated above, the Court **ADOPTS** the R & R (Dkt. No. 97) in full. Accordingly, Defendants’ motions for summary judgment (Dkt. Nos. 84, 90) are **GRANTED** as to Plaintiff’s federal claims, the Court declines jurisdiction over Plaintiff’s state law claims under 28 U.S.C. § 1367(c)(3), and this case is **DISMISSED**.

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9:13-cv-03025-RMG Date Filed 03/13/15 Entry Number 100 Page 6 of 6

AND IT IS SO ORDERED.



Richard M. Gergel
United States District Court Judge

March 13, 2015
Charleston, South Carolina

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

December 31, 2015

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T05584
Date of Occurrence: May 9, 2013
Claimant: Simon, Jovan Cornelius Dillon County Detention Ce
Date Closed: December 31, 2015

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 4,081.25

If you should have any questions, please contact us.

Sincerely,

[Redacted Signature]

Nancy Stevenson
Manager, Intermediate Claims Unit

/ns

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SCDPS
Office of General Counsel

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CASE: 2012-CP-07- 04068

Lakesha Singleton and
Derrick T. Young, Individually
and as Personal Representatives of the
Estate of DERRICK JUSTIN TERRELL
YOUNG, Minor, Decedent,

Plaintiffs,

vs.

COMPLAINT
Jury Trial Requested

Michael J. Landry, Jr.;
Wilfredo Rivera, Sr.;
Suzanne Rivera;
South Carolina Department of
Transportation;
South Carolina Department of Public
Safety;
County of Beaufort;
South Carolina Electric & Gas Company;

Defendants.

2012 DEC -3 PM 1:02
CLERK OF COURT
BEAUFORT COUNTY, S.C.

The Plaintiffs, Lakesha Singleton and Derrick T. Young, Individually and as Personal Representatives of the Estate of DERRICK JUSTIN TERRELL YOUNG, Minor, Decedent, complaining of the acts and/or omissions of the Defendants, Michael J. Landry, Jr., Wilfredo Rivera, Sr., Suzanne Rivera, South Carolina Department of Transportation, South Carolina Department of Public Safety, County of Beaufort, South Carolina Electric & Gas Company, jointly and severally, would respectfully show unto this Court as follows:

1. The Parties hereto, the subject matter hereof and all matters and things hereinafter alleged are within the jurisdiction of this Court.
2. The Plaintiff, Lakesha Singleton, biological mother of the minor decedent, DERRICK

JUSTIN TERRELL YOUNG is now and was at all times mentioned in this complaint, the resident of Beaufort County, South Carolina.

3. The Plaintiff, Derrick T. Young, biological father of the minor decedent, DERRICK JUSTIN TERRELL YOUNG is now and was at all times mentioned in this complaint, the resident of Richland County, South Carolina.

4. The Plaintiffs, Lakesha Singleton and Derrick T. Young, have been duly appointed by The Probate Court as Personal Representatives in the matter of the Estate of Derrick Justin Terrell Young, Case Number 2011ES0700106.

5. Based upon information and belief, the Defendant, Michael J. Landry, Jr., is now and was at all times mentioned in this complaint, the residents of Beaufort County, South Carolina.

6. based upon information and belief, the Defendants, Wilfredo Rivera, Sr., Suzanne Rivera, are now and were at all times mentioned in this complaint, the residents of Beaufort County, South Carolina.

7. Based upon information and belief, the Defendant, South Carolina Department of Transportation, is a governmental entity or state agency organized and existing in accordance with the laws of the State of South Carolina, conducts business, employs individuals, and owns and/or maintains property in the County of Beaufort, South Carolina. At all times relevant hereto, the acts were committed or omissions were made on the property owned, maintained and/or controlled by or otherwise under jurisdiction of the South Carolina Department of Transportation, located in the County of Beaufort, South Carolina. At all times relevant thereto, the acts were committed or omissions were made by and through South Carolina Department of Transportation's agents, employees, and/or representatives, all of whom were acting within the course and scope of their employment and/or apparent or ostensible agency.

8. Based upon information and belief, the Defendant, South Carolina Department of Public

Safety, is a governmental entity or state agency organized and existing in accordance with the laws of the State of South Carolina, conducts business, employs individuals, and owns and/or maintains property in the County of Beaufort, South Carolina. At all times relevant hereto, the acts were committed or omissions were made in the area under the control and jurisdiction of the South Carolina Department of Public Safety, located in the County of Beaufort, South Carolina. At all times relevant thereto, the acts were committed or omissions were made by and through South Carolina Department of Public Safety's agents, employees, and/or representatives, all of whom were acting within the course and scope of their employment and/or apparent or ostensible agency.

9. Based upon information and belief, the Defendant, County of Beaufort, is a governmental entity organized and existing in accordance with the laws of the State of South Carolina, conducts business, employs individuals, and owns and/or maintains property in the County of Beaufort, South Carolina. At all times relevant hereto, the acts were committed or omissions were made in the area under the control and jurisdiction of the County of Beaufort, South Carolina. At all times relevant thereto, the acts were committed or omissions were made by and through County of Beaufort's agents, employees, and/or representatives, all of whom were acting within the course and scope of their employment and/or apparent or ostensible agency.

10. Based upon information and belief, the Defendant, South Carolina Electric & Gas Company, is a corporation organized and existing in accordance with the laws of the State of South Carolina, conducts business, employs individuals, and owns and/or maintains property in the County of Beaufort, South Carolina. At all times relevant hereto, the acts were committed or omissions were made in the area under the control and jurisdiction of the South Carolina Electric & Gas Company. At all times relevant thereto, the acts were committed or omissions were made by and through South Carolina Electric & Gas Company's agents, employees, and/or representatives, all of whom were acting within the course

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and scope of their employment and/or apparent or ostensible agency.

11. On December 9, 2010, at approximately 6:30 pm, fifteen-year-old minor, DERRICK JUSTIN TERRELL YOUNG, was walking north from the nearby Battery Creek High School toward his home on Pine Grove Road (SC State Road S7-263 or Secondary 263), Beaufort County, South Carolina.

12. On December 9, 2010, at approximately 6:30 pm, the Defendant, Michael J. Landry, Jr., was driving north on Pine Grove Road, a 2003 Ford truck F-150 (South Carolina License Plate: BXK-952) owned by the Defendants, Wilfredo Rivera, Sr. and Suzanne Rivera, and suddenly violently struck DERRICK JUSTIN TERRELL YOUNG.

13. From the impact, fifteen-year old DERRICK suffered serious bodily injuries and damages, as are hereinafter more particularly set forth, including but not limited to, blunt head trauma, closed head injury, cerebral edema/subarachnoid hemorrhage, pulmonary contusion, hypoxic-ischemic encephalopathy resulting in DERRICK'S death on December 11, 2010.

14. On December 9, 2010 posted speed limit on Pine Grove Road (SC State Road S7-263 or Secondary 263) was 35 miles per hour.

15. Fatal injuries and damages suffered by minor, fifteen-year-old pedestrian DERRICK JUSTIN TERRELL YOUNG, and damages to the Plaintiffs, DERRICK'S surviving mother and father, were directly and proximately result of the negligence, carelessness, recklessness, wantonness and heedlessness of the Defendants, Michael J. Landry, Jr., Wilfredo Rivera, Sr., Suzanne Rivera, South Carolina Department of Transportation, South Carolina Department of Public Safety, County of Beaufort, South Carolina Electric & Gas Company, jointly and severally, by and through any actual and/or apparent or ostensible agency, in one or more of the following particulars, to-wit:

As to the Defendant Driver Michael J. Landry, Jr.

15.1 In failing to stop or cease movement of a 2003 Ford truck F150 because it was required for safety

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of children, particularly minor DERRICK JUSTIN TERRELL YOUNG in residential area on Pine Grove Road;

15.2 In failing to drive safely and to guard the lives of persons who share the road with him, particularly, minor DERRICK JUSTIN TERRELL YOUNG;

15.3 In violently crashing into the minor DERRICK JUSTIN TERRELL YOUNG, causing him serious injuries resulting in DERRICK'S death;

15.4 In driving too fast for conditions existing at that time;

15.5 In not complying with safety speed rule that motorist does not have the right to travel at the top speed limit under any and all conditions;

15.6 In not complying with safety speed rule to never drive at a speed faster than is safe for conditions;

15.7 In failing to drive at a speed safe for conditions;

15.8 In failing to comply with safety speed rule to drive at a lower driving speed at night when the conditions are dark no lights;

15.9 In failing to drive at a safety speed that allowed him to come to a complete stop, if necessary, within the distance shown by his truck's headlights;

15.10 In failing to exercise different skills and extra care for safe driving when it is dark no lights;

15.11 In failing to be on the lookout continuously for pedestrians, children, particularly minor DERRICK JUSTIN TERRELL YOUNG;

15.12 In failing to keep the 2003 Ford truck F150 under proper control that a reasonably prudent person would have kept under the same or similar circumstances;

15.13 In driving the 2003 Ford truck F150 in a careless and reckless manner so as to indicate a conscious, reckless disregard for the rights and safety of others; specifically, for minor pedestrian DERRICK JUSTIN TERREL YOUNG;

15.14 In failing to keep a proper lookout for the pedestrians, children in residential area on Pine Grove Road that a reasonably prudent person would have kept under the same or similar circumstances;

15.15 In failing to use the degree of caution that a reasonably prudent person would have used under the same or similar circumstances;

15.16 In failing to use headlights and be equipped with headlights and/or adequate headlights, particularly in driving with missing right headlights;

15.17 In failing to use brakes and be equipped with brakes and/or adequate brakes;

15.18 In failing to foresee the likelihood of injury to others by operating the 2003 Ford truck F150 in a dangerous manner;

15.19 In failing to exercise ordinary or even slight care in the operation of the 2003 Ford truck F150;

15.20 In violating traffic and other laws, rules and regulations;

15.21 In any other such manner that the Plaintiffs may become aware through discovery;

As to Wilfredo Rivera, Sr. and Suzanne Rivera the owners of the 2003 Ford truck F150:

15.22 In carelessly and recklessly entrusting their 2003 Ford truck F150, a potentially dangerous instrumentality, to driver Landry, when they knew or in the exercise of ordinary or even slight care should have known, that such person would be irresponsible and/or incapable of safely operating their truck;

15.23 In failing to properly inform, instruct, warn and/or supervise the user of their truck, particularly driver Landry, regarding the safe and prudent operation of their truck under conditions dark no lights;

15.24 In failing to properly equip their truck with headlights and/or adequate headlights, particularly entrusting their truck to be driven with missing right headlights;

15.25 In failing to properly inform, instruct, warn and/or supervise the user of their truck, particularly driver Landry, regarding driving at a safety speed that would allow him to come to a complete stop, if necessary, within the distance shown by the truck's headlights;

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15.26 In failing to properly inform, instruct, warn and/or supervise the user of their truck, particularly driver Landry, not to violently crash into the minor pedestrian;

15.27 In failing to properly inform, instruct, warn and/or supervise the user of his truck, particularly driver Landry, not to drive too fast for conditions;

15.28 In failing to equip their truck with brakes and/or adequate brakes;

15.29 In failing to properly inform, instruct, warn and/or supervise the user of their truck, driver Landry, regarding complying with safety speed rule to never drive at a speed faster than is safe for conditions and that motorist does not have the right to drive at the top speed under any and all conditions;

15.30 In failing to properly inform, instruct, warn and/or supervise the user of their truck, driver Landry, regarding driving at a speed safe for conditions;

15.31 In failing to properly inform, instruct, warn and/or supervise the user of their truck, driver Landry, regarding complying with safety speed rule to drive at a lower driving speed under conditions dark no lights;

15.32 In failing to properly inform, instruct, warn and/or supervise the user of their truck, driver Landry, to drive at a safety speed that would allow him to come to a complete stop, if necessary, within the distance shown by their truck's headlights;

15.33 In failing to properly inform, instruct, warn and/or supervise Landry to exercise different skills and extra care for safe driving when it is dark no lights;

15.34 In expressly or impliedly allowing their 2003 Ford truck F150 to be used by the driver Landry, when they knew or in the exercise of ordinary or even slight care should have known, that such person was likely to be careless, reckless, wanton and heedless in the operation of their truck;

15.35 In relinquishing control of their 2003 Ford truck F150 to driver Landry, when they knew or in the exercise of ordinary and/or slight care they should have known, that such person would operate their truck in an unsafe and dangerous manner;

15.36 In failing to foresee the likelihood of injury to others by entrusting the use of their truck to driver Landry, when they knew or in the exercise of ordinary and/or slight care they should have known, that such person would operate their truck in an unsafe and dangerous manner;

15.37 In failing to exercise ordinary or even slight care in the control and/or supervision of the use or operation of their 2003 Ford F150 truck;

15.38 In violating traffic and other laws, rules and regulations;

15.39 In any other such manner that the Plaintiffs may become aware through discovery;

As to the Defendant South Carolina Department of Transportation (SCDOT):

15.40 In posting 35 mph speed limit sign in residential/urban area on Pine Grove Road particularly in the area where this crash occurred where pedestrians and children often cross;

15.41 In failing to post safety speed limit of 30 mph or less than 30 mph in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.42 In failing to post diamond-shaped or other traffic sign in residential/urban area on Pine Grove Road particularly in the area where this crash occurred, where pedestrians and children often cross;

15.43 In failing to post pentagon-shaped or other traffic sign in residential/urban area on Pine Grove Road particularly in the area where this crash occurred, that children may be crossing the road going to and from school;

15.44 In failing to have marked crossing(s) for pedestrians in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.45 In failing to post pedestrian, children, school warning sign(s) in residential/urban area on Pine Grove Road particularly in the area where this crash occurred, that pedestrians, children and bicyclists are in the area;

15.46 In failing to post speed limit sign of 30 mph or less because of the existence of significant number

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of residences and mail boxes on Pine Grove Road particularly in the area where this crash occurred;

15.47 In failing to post speed limit sign of 30 mph or less on Pine Grove Road under conditions dark no lights in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.48 In failing to post speed limit sign of 30 mph or less in residential/urban area on Pine Grove Road where this crash occurred because of the proximity of Battery Creek High School and children walking to and from school;

15.49 In failing to post speed limit sign of 30 mph or less in residential/urban area on Pine Grove Road particularly in the area where this crash occurred where pedestrians and children often cross;

15.50 In failing to post speed limit sign of 30 mph or less in residential/urban area on Pine Grove Road particularly in the area where this crash occurred under conditions of children going to and from school;

15.51 In failing to post speed limit sign of 30 mph or less in residential/urban area on Pine Grove Road particularly in the area where this crash occurred under conditions dark no lights;

15.52 In failing to post speed limit sign of 30 mph or less in residential/urban area on Pine Grove Road particularly in the area where this crash occurred under the circumstances existing before the crash occurred;

15.53 In failing to post pedestrian and/or school warning sign(s) in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.54 In failing to designate Pine Grove Road in the area where this crash occurred as residence or urban district;

15.55 In failing to have roadway or pedestrian lighting in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.56 In failing to initiate with South Carolina Electric and Gas Company request for installation of lighting in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

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15.57 In failing to comply with illumination requirement established by the American Association of State Highway and Transportation Officials (AASHTO);

15.58 In failing to comply with the recommendations set forth in the Federal Highway Administration's (FHWA) Manual on Uniform Traffic Control Devices For Streets and Highways (MUTCD);

15.59 In failing to comply with AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities;

15.60 In violating or not complying with traffic and other laws, rules, regulations, standards, guidelines, ordinances, codes regarding roadway speeds, signs, roadway crossings, roadway lighting in residential/urban and school area;

15.61 In any other such manner that the Plaintiffs may become aware through discovery;

As to the Defendant South Carolina Department of Public Safety:

15.61 In failing to inform and report to South Carolina Department of Transportation (SCDOT) unsafe conditions in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.62 In failing to inform and report to SCDOT to post lower than 35 mph speed limit sign in residential/urban area on Pine Grove Road particularly in the area where this crash occurred where pedestrians and children often cross;

15.63 In failing to inform and report to SCDOT to post safety speed limit of 30 mph or less than 30 mph in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.64 In failing to inform and report to SCDOT to post diamond-shaped or other traffic sign in residential/urban area on Pine Grove Road particularly in the area where this crash occurred, where pedestrians and children often cross;

15.65 In failing to inform and report to SCDOT to post in residential/urban area on Pine Grove Road particularly in the area where this crash occurred, traffic signs that children may be crossing the road going

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to and from school;

15.66 In failing to inform and report to SCDOT to have marked crossing(s) for pedestrians in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.67 In failing to inform and report to SCDOT to post pedestrian, children and school warning sign(s) in residential/urban area on Pine Grove Road particularly in the area where this crash occurred, that pedestrians, children and bicyclists are in the area;

15.68 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less because of the existence of significant number of residences and mail boxes on Pine Grove Road particularly in the area where this crash occurred;

15.69 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less under conditions dark no lights in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.70 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less in residential/urban on Pine Grove Road particularly where this crash occurred the proximity of Battery Creek High School and children walking to and from school;

15.71 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less in residential/urban area on Pine Grove Road particularly in the area where this crash occurred where pedestrians and children often cross;

15.72 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less in residential/urban area on Pine Grove Road particularly in the area where this crash occurred under conditions of children going to and from school;

15.73 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less under conditions dark no lights in residential/urban area on Pine Grove Road particularly in the area where this

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crash occurred;

15.74 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less in residential/urban area on Pine Grove Road particularly in the area where this crash occurred under the circumstances existing before the crash occurred;

15.75 In failing to inform and report to SCDOT to designate the area where this crash occurred on Pine Grove Road as residence or urban district;

15.76 In failing to continually inform and report to SCDOT all fatalities and injuries to pedestrians, children and bicyclists in residential/urban area on Pine Grove Road;

15.77 In failing to continually inform and report to SCDOT unsafe conditions in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.78 In failing to properly investigate the subject crash with fatality on December 9, 2010;

15.79 In violating or not complying with traffic and other laws, rules, regulations, standards, guidelines, ordinances, codes regarding roadway speeds, signs, roadway crossings, roadway lighting in residential/urban and school area;

15.80 In any other such manner that the Plaintiffs may become aware through discovery;

As to the Defendant County of Beaufort:

15.81 In failing to inform and report to South Carolina Department of Transportation (SCDOT) unsafe conditions in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.82 In failing to inform and report to SCDOT to post 30 mph or less speed limit sign in residential/urban area on Pine Grove Road particularly in the area where this crash occurred where pedestrians and children often cross;

15.83 In failing to inform and report to SCDOT to post speed limit of 30 mph or less in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

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15.84 In failing to inform and report to SCDOT to post diamond-shaped pedestrian, children, school warning in residential/urban area on Pine Grove Road particularly in the area where this crash occurred, where pedestrians and children often cross;

15.85 In failing to inform and report to SCDOT to post in residential/urban area on Pine Grove Road particularly in the area where this crash occurred, traffic signs that children may be crossing the road going to and from school;

15.86 In failing to inform and report to SCDOT to have marked crossing(s) for pedestrians in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.87 In failing to inform and report to SCDOT to post sign(s) that pedestrians, children and bicyclists are on Pine Grove Road in the area where this crash occurred;

15.88 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less because of the existence of significant number of residences and mail boxes on Pine Grove Road in the area where this crash occurred;

15.89 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less under conditions dark no lights in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.90 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less in residential/urban the proximity of Battery Creek High School and children walking to and from school;

15.91 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.92 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less in residential/urban area on Pine Grove Road particularly in the area where this crash occurred before, during and after school hours;

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15.93 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less under conditions dark no lights in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.94 In failing to inform and report to SCDOT to post speed limit sign of 30 mph or less in residential/urban area on Pine Grove Road particularly in the area where this crash occurred under the circumstances existing before the crash occurred;

15.95 In failing to inform and report to SCDOT to designate the area where this crash occurred on Pine Grove Road as residence or urban district;

15.96 In failing to determine based on an engineering and traffic investigation that speed limit in residential/urban area on Pine Grove Road particularly in the area where this crash occurred should be 30 mph or less;

15.97 In failing to continually inform and report to SCDOT unsafe conditions in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.98 In failing to have lighting in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.99 In failing to comply with roadway lighting in residential/urban area;

15.100 In failing to comply with illumination requirement established by the American Association of State Highway and Transportation Officials (AASHTO);

15.101 In failing to comply with the recommendations set forth in the Federal Highway Administration's (FHWA) Manual on Uniform Traffic Control Devices For Streets and Highways (MUTCD);

15.102 In failing to initiate with South Carolina Electric and Gas request for installation of lighting in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.103 In failing to comply with Beaufort County policies regulating lighting standards and roadway design;

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15.104 In failing to properly investigate the subject crash with fatality on December 9, 2010;

15.105 In violating or not complying with traffic and other laws, rules, regulations, standards, guidelines, ordinances, codes regarding roadway speeds, signs, roadway crossings, roadway lighting in residential/urban and school area;

15.106 In any other such manner that the Plaintiffs may become aware through discovery;

As to the Defendant South Carolina Electric & Gas Company:

15.107 In failing to inform and report to South Carolina Department of Transportation (SCDOT) and County of Beaufort unsafe conditions regarding lack of lighting in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.108 In failing to comply with roadway lighting in residential/urban area;

15.109 In failing to install and have lighting adequate for pedestrians, children and bicyclists in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.110 In failing to inform and report to SCDOT and County of Beaufort that the conditions in residential area on Pine Grove Road particularly in the area where this crash occurred are dark no lights;

15.111 In failing to install adequate lighting considering the proximity of Battery Creek High School and children walking to and from school;

15.112 In failing to inform and report to SCDOT and County of Beaufort to designate the area where this crash occurred on Pine Grove Road as residence or urban district;

15.113 In failing to determine based on an engineering and traffic investigation that adequate lighting is needed in residential area on Pine Grove Road particularly in the area where this crash occurred;

15.114 In failing to continually inform and report to SCDOT and County of Beaufort unsafe conditions regarding lack of lighting in residential area on Pine Grove Road particularly in the area where this crash occurred;

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15.115 In failing to make formal request to the County of Beaufort about installing lighting in residential/urban area on Pine Grove Road particularly in the area where this crash occurred;

15.116 In failing to comply with illumination requirement established by the American Association of State Highway and Transportation Officials (AASHTO);

15.117 In violating or not complying with traffic and other laws, rules, regulations, standards, guidelines, ordinances, codes regarding roadway lighting in residential/urban and school area;

15.118 In any other such manner that the Plaintiffs may become aware through discovery.

16. By reason of the acts and omissions, negligence, carelessness, recklessness, wantonness and heedlessness of the Defendants, Michael J. Landry, Jr., Wilfredo Rivera, Sr., Suzanne Rivera, South Carolina Department of Transportation, South Carolina Department of Public Safety, County of Beaufort, South Carolina Electric & Gas Company, jointly and severally, by and through any agency, ostensible agency, as set forth in Paragraph 15 (fifteen) and all of its subparagraphs, and as a direct and proximate result thereof, the Plaintiffs, individually and as Personal Representatives of the Estate of Minor DERRICK JUSTIN TERRELL YOUNG, sustained severe injuries and damages in the following particulars:

16.1 Minor, fifteen-year old DERRICK suffered severe traumatic bodily injuries and damages, including but not limited to, blunt head trauma, closed head injury, cerebral edema/subarachnoid hemorrhage, pulmonary contusion, hypoxic-ischemic encephalopathy resulting in DERRICK'S death on December 11, 2010;

16.2 Prior to death DERRICK sustained severe traumatic injuries, pain, suffering for 48 hours after the crash;

16.3 As a result of the sustained injuries, DERRICK was transported to medical facilities and was treated for blunt head trauma, closed head injury, cerebral edema/subarachnoid hemorrhage, pulmonary contusion, hypoxic-ischemic encephalopathy, underwent physical examinations, operations,

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diagnostic tests and procedures;

16.4 The Plaintiffs have incurred substantial medical, hospital and other expenses for minor DERRICK'S medical, hospital and other treatment resulting from the injuries suffered;

16.5 The Plaintiffs have incurred substantial expenses for DERRICK'S funeral;

16.6 As a result of traumatic death of their minor son DERRICK, the Plaintiffs have experienced and endured grief, pain, suffering, mental, emotional distress, anguish and will continue to experience and endure grief, pain, suffering, mental, emotional distress, anguish for the rest of their lives;

16.7 As a result of losing their minor son the Plaintiffs have experienced and endured grief, pain, suffering, mental, emotional distress, anguish and will continue to experience and endure grief, pain, suffering, mental, emotional distress, anguish for their permanent loss;

16.8 The Plaintiffs have suffered and will continue to suffer loss including but not limited to their son's life, companionship, love, joy, support as a result of their minor son's death;

16.9 The Plaintiffs, individually and as personal representatives of DERRICK'S Estate, have been injured and damaged in other ways, all to their and DERRICK'S detriment, in an amount to be determined by a jury, together with an appropriate amount of punitive damages and costs and disbursements of this action.

WHEREFORE, the Plaintiffs, Lakesha Singleton and Derrick T. Young, Individually and as Personal Representatives of the Estate of DERRICK JUSTIN TERRELL YOUNG, pray for judgment against the Defendants, Michael J. Landry, Jr., Wilfredo Rivera, Sr., Suzanne Rivera, South Carolina Department of Transportation, South Carolina Department of Public Safety, County of Beaufort, South Carolina Electric & Gas Company, jointly and severally, as follows:

1. The Plaintiffs, Lakesha Singleton and Derrick T. Young, Individually and as Personal Representatives of the Estate of DERRICK JUSTIN TERRELL YOUNG, pray for judgment against the

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Defendants, jointly and severally, in the amount of actual and punitive damages to be determined by the jury due to the negligence and recklessness of the Defendants;

2. The Plaintiffs pray that the costs, expenses and disbursements of this action be borne by the Defendants; and


3. The Plaintiffs pray for pre and post judgment interest; and

4. For such further relief to which the Plaintiffs are entitled and as this Court may deem just and proper.

DAVIDOVIC LAW FIRM


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cheryldoe@embargo.com

December 3, 2012
Beaufort, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT) CIVIL ACTION NO: 2012-CP-07-04068

LAKESHA SINGLETON and
DERRICK T. YOUNG, Individually
and as Personal Representatives of
the Estate of DERRICK JUSTIN
TERRELL YOUNG, Minor, Decedent

Plaintiffs,

vs.

MICHAEL J. LANDRY, JR.;
WILFREDO RIVERA, SR.;
SUZANNE RIVERA;
SOUTH CAROLINA DEPARTMENT
OF TRANSPORTATION;
SOUTH CAROLINA DEPARTMENT
OF PUBLIC SAFETY;
COUNTY OF BEAUFORT;
SOUTH CAROLINA ELECTRIC &
GAS COMPANY;

Defendants.

ORDER

2013 APR 17 PM 3:22
CLERK OF COURT
DEAUFORT COUNTY, S.C.

THIS MATTER CAME BEFORE ME on March 11, 2013 for hearing on the following Motions:

1. Motion to Dismiss of Defendant South Carolina Electric & Gas Company ("SCE&G"), filed January 3, 2013;
2. Motion to Dismiss of Defendant South Carolina of Public Safety ("SCDPS"), filed January 16, 2013;
3. Motion to Dismiss of Defendant County of Beaufort, filed January 16, 2013;
4. Motion to Dismiss of Defendant South Carolina Department of Transportation ("SCDOT"), filed January 16, 2013;

5. Motion to Strike Plaintiffs' Claim For Punitive Damages of Defendant South Carolina Department of Public Safety, filed January 16, 2013;
6. Motion to Strike Plaintiffs' Claim For Punitive Damages of Defendant County of Beaufort, filed January 16, 2013; and
7. Motion to Strike Plaintiffs' Claim For Punitive Damages of Defendant South Carolina Department of Transportation, filed January 16, 2013.

The following counsel were present for the hearings on said Motions:

1. John A. Massalon for Defendant SCE&G;
2. David S. Black for Defendants SCDPS, Beaufort County, and SCDOT;
3. Dragana Davidovic for Plaintiff Lakesha Singleton, individually and as Personal Representative of the Estate of Derrick Justin Terrell Young;
4. Cheryl Doe for Plaintiff Derrick T. Young, individually and as Personal Representative of the Estate of Derrick Justin Terrell Young; and
5. Brittany Boykin for John L. "Jay" McDonald, Jr. as counsel for Defendants Michael Landry, Jr., Wilfredo Rivera, Sr., and Suzanne Rivera.

Also in attendance was Mr. Brian Baumgardner of SCE&G.

With regards to the three (3) Motions listed above which sought to strike Plaintiffs' claim for punitive damages as against the three governmental Defendants, the Court was advised by counsel for Defendants SCDPS, Beaufort County and SCDOT that said Motions were moot, as counsel for said Defendants and counsel for Plaintiffs had recently entered into a Stipulation with respect to each of those Motions, which Stipulations strike the punitive damages claim as against each of the governmental Defendants. The three (3) Stipulations which resolved said Motions were filed on March 11, 2013.

The first Motion argued was the Motion to Dismiss filed by Defendant SCE&G based upon SCRCP Rule 12(b)(6) on the grounds that Plaintiffs' claims against SCE&G fail as a matter of law because SCE&G owed no duty to Plaintiffs, as had been alleged. Counsel for Defendant SCE&G offered arguments in that regard, and asserted that Plaintiffs' counsel had failed to properly allege and/or demonstrate that there was any affirmative duty of SCE&G to provide and/or maintain lighting along a rural secondary road such as Pine Grove Road in the Burton community. Counsel for SCE&G further argued that it had not been specifically alleged or demonstrated by Plaintiffs' counsel that there was any such common law duty, contractual duty, or statutory duty.

Counsel for Plaintiffs, Dragana Davidovic, argued that lighting is the joint responsibility of all three governmental Defendants and of SCE&G, as she alleges that there is no lighting without SCE&G's involvement. Plaintiffs' counsel further argued that Defendant SCE&G's Motion is premature in that discovery on the issue is needed because there is "too much overlap" regarding the lighting issue. In support of her argument against Defendant SCE&G's Motion to Dismiss, Plaintiffs' counsel made reference to an email from SCE&G employee John Ferrari dated November 10, 2011, a copy of which was furnished to the Court by Plaintiffs' counsel. Plaintiffs counsel also emphasized that the subject portion of Pine Grove Road is dark, as there are no lights along the roadway. In support of that argument, Plaintiffs' counsel also provided the Affidavit of Mr. David Singleton, dated March 6, 2013.

Having reviewed the relevant pleadings, Motion, and documentation provided by Plaintiffs' counsel in opposition to said Motion to Dismiss and after hearing oral arguments on the issues, I remain unconvinced that there is any affirmative duty under the common law, under contract, or pursuant to statute that would require Defendant SCE&G to provide and/or maintain lighting along a State secondary road such as Pine Grove Road. Accordingly, it is hereby **ORDERED, ADJUGED AND DECREED** that Defendant SCE&G's Motion to Dismiss pursuant to SCRCR Rule 12(b)(6) is hereby **GRANTED**, with such dismissal being "without prejudice" so that Defendant SCE&G could be rejoined in this action if, through the course of discovery, some common law, contractual, and/or statutory basis is discovered which would support the claim of an affirmative duty to provide such lighting.

IT IS SO ORDERED.

The next Motions argued were those to dismiss by Defendant SCDPS and Defendant Beaufort County. Prior to argument on those Motions, counsel for Defendant SCDOT, David S. Black, advised the Court that he was withdrawing the Motion to Dismiss of Defendant SCDOT at this time, without prejudice, as Plaintiffs' Complaint had set forth allegations which assert, or attempt to assert, deficiencies with respect to certain issues which would fall solely within the design and/or maintenance responsibilities of SCDOT. Plaintiffs' allegations include alleged deficiencies regarding the posted speed limit; signage regarding the possible presence of pedestrians and/or children (or alleged need and/or lack

thereof); crossings/crosswalks/sidewalks (or the alleged need and/or lack thereof); and street lighting (or the alleged need and/or lack thereof). As is asserted in the Answer of Defendant SCDOT, counsel for Defendant SCDOT specifically denies liability on the part of SCDOT with respect to those issues but concedes that the Motion would be premature at this time, as Plaintiffs would be entitled to conduct discovery with respect to those allegations. Accordingly, the Motion to Dismiss of Defendant SCDOT did not require my consideration at this time, as it is withdrawn without prejudice.

With respect to the Motion to Dismiss of Defendant SCDPS and the Motion to Dismiss of Defendant Beaufort County, Affidavits of a representative of each of the three governmental Defendants was submitted to the Court. Since matters outside of the pleadings are being considered with respect to those two Motions, they are thus converted to summary judgment motions. Specifically, in support of the Motions, defense counsel submitted the Affidavits of Mr. Wendell Mulligan (SCDOT Resident Maintenance Engineer); Phil Riley (Director of the SCDPS Office of Highway Safety and Justice Programs); and Mr. Malcolm Edwin Bellamy, Jr. (Director of Beaufort County Public Works). The Affidavits assert that the Plaintiffs' allegations with regards to deficiencies involving speed limit, signage, crossings/crosswalks fall within the design and/or maintenance responsibilities of SCDOT, and not with Beaufort County, nor with SCDPS, nor with any other State entity or department.

With respect to Plaintiffs' allegations regarding street lighting, or lack thereof, Defendants SCDPS and Beaufort County assert that there is no

affirmative duty under common law, under contract, or pursuant to statute, for them to provide street lighting along State secondary roads such as Pine Grove Road, where the subject accident occurred.

In response to said arguments, Plaintiffs' counsel requested additional time in which to provide a response and/or information in opposition to said Motions and/or Affidavits. Given the timing of the Affidavits having been provided to Plaintiffs' counsel prior to the Motions hearing, I granted Plaintiffs' counsel three additional weeks in which to submit information and/or documentation in opposition to said Motions and/or Affidavits.

With respect to whether or not there might be any contractual arrangements or agreements among any of the governmental Defendants and Defendant SCE&G, counsel for Defendants SCDPS, Beaufort County, and SCDOT was asked to provide, in writing, confirmation of whether any such contractual arrangements exist with respect to Pine Grove Road. Counsel for Defendants has provided such confirmation via email correspondence, and has been requested to obtain such written confirmation by sworn Affidavit(s) as well.

In opposition to the Affidavits of Wendell Mulligan and of Malcolm Edwin Bellamy, Jr., Plaintiffs' counsel now reiterates that the response to a FOIA request from Plaintiffs' counsel dated November 3, 2011 which was dated November 9, 2011 by John M. Boozer, P.E., State Traffic Operations Engineer for SCDOT (a copy of which response was provided to the Court at the hearing on March 11, 2013 and which was resubmitted to the Court via email

correspondence from Plaintiffs' counsel dated April 1, 2013) requires that Beaufort County should remain as a Defendant in this case.

Having reviewed the relevant pleadings, Motions, and other documentation provided both in support of, and in opposition to, said Motions, and after hearing oral arguments on the issues, I also remain unconvinced that there is any affirmative duty under the common law, under contract, or pursuant to statute that would require Defendant SCDPS or Defendant Beaufort County to provide and/or maintain street lighting along a State secondary road such as Pine Grove Road, where the subject accident occurred. Accordingly, it is hereby **ORDERED, ADJUGED AND DECREED** that Defendant SCDPS's Motion to Dismiss and Defendant Beaufort County's Motion to Dismiss are also **GRANTED**, with such dismissals being "without prejudice" so that Defendant SCDPS and/or Defendant Beaufort County could be rejoined in this action if, through the course of discovery, some common law, contractual, and/or statutory basis is discovered which would support the claim of an affirmative duty to provide such street lighting.

IT IS SO ORDERED.

By: 

Marvin H. Dukes, III
Beaufort County Master in Equity and
Special Circuit Judge

Beaufort, South Carolina

April 16, 2013

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

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HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

May 16, 2013

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T80686
Date of Occurrence: December 9, 2010
Claimant: Young, Derrick (Decedent Wrg) Singleton, Lakesha
Date Closed: May 16, 2013

Dear Mr. Ganjehsani:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	.00
Expenses Paid:	\$	1,111.22

If you should have any questions, please contact us.

Sincerely,

Barry Rice
Litigation Consultant

/wbr

STATE OF SOUTH CAROLINA)

COUNTY OF SUMTER)

Gloria Skinner as Personal Representative of)
the Estate of Jerome Dennis,)

Plaintiff,)

vs.)

South Carolina Department of)
Transportation, South Carolina Department)
of Public Safety, and Sumter County,)

Defendants.)

IN THE COURT OF COMMON PLEAS)
FOR THE THIRD JUDICIAL CIRCUIT)
CIVIL ACTION NO. 2013-CP-43-1023)**COMPLAINT**
(JURY TRIAL DEMANDED)

NOW COMES THE PLAINTIFF, above-named, complaining of the Defendants, above-named, who alleges and shows unto this Honorable Court as follows:

JURISDICTIONAL STATEMENT

1. That the Plaintiff brings this action in her capacity as the Personal Representative of the Estate Jerome Antonio Dennis. The Decedent Jerome Dennis was a citizen and resident of Sumter County, State of South Carolina. The Plaintiff, Gloria Skinner, is the duly appointed Personal Representative of Jerome Dennis' Estate, is a resident of Sumter County, State of South Carolina and has authority to bring this wrongful death action on behalf of Mr. Dennis's beneficiaries under the South Carolina Wrongful Death Act, S.C. Code § 15-51-10 *et seq.* and to bring this survival action on behalf of Mr. Dennis's Estate under S.C. Code § 15-5-90.

2. The Defendants, upon information and belief, are authorized regulatory departments of the State of South Carolina charged with construction, maintenance, and/or repair of the public roads of this State.

3. The collision that is the subject of this action occurred in the County of Sumter, State of South Carolina, on May 14, 2012.

4. This Court has jurisdiction over the parties and the subject matter of this action.

FACTUAL BACKGROUND

5. On May 14, 2012, at approximately 9:30 am, Mr. Dennis was traveling westbound on Highway 76/378 in the slow lane.

6. It was raining that morning and Mr. Dennis entered a portion of the roadway where standing rain water had pooled across the road.

7. When Mr. Dennis encountered an accumulation of standing rain water, his vehicle suddenly went out of control causing it to leave the roadway and strike a tree.

8. As a result, Mr. Dennis was seriously injured and died.

FOR A FIRST CAUSE OF ACTION
(Negligence/Gross Negligence)

9. Plaintiff hereby incorporates the allegations of the foregoing Paragraphs as if fully restated herein.

10. Defendants, either by their own employees or through the use of subcontractors, designed, constructed, maintained, and/or operated the roadway at issue.

11. Defendants owe the general public, including Plaintiff's deceased, a duty to exercise reasonable care in the construction and maintenance of public roadways.

12. The Defendants, their agents, servants, employees, and/or subcontractors were negligent, negligent *per se*, grossly negligent, careless, reckless, willful, and wanton in failing to design, construct, maintain, and/or operate the roadway in a careful, diligent, and workmanlike manner, thereby breaching the above-referenced duty by, but not limited to, the following particulars:

- a. In failing to maintain a safe roadway for vehicles;
- b. In failing to design, construct, and maintain the roadway so that it would effectively drain away water;
- c. In failing to inspect the roadway to ensure that excess accumulations of water do not develop;
- d. In failing to maintain the turf shoulders and drainage ditches on each side of the roadway, causing rainwater to flow onto the road;
- e. In failing to construct and maintain a proper cross slope for the roadway;
- f. In operating a roadway with a reckless disregard for the right and safety of the others, and especially the rights and safety of the Plaintiff;
- g. In failing to exercise that degree of care and caution that a reasonable and prudent person would have exercised under the same or similar conditions.

13. As a direct and proximate result of the Defendants' negligence and carelessness described above, decedent was seriously injured. The injuries so inflicted on the decedent resulted in his death on May 14, 2012.

14. Plaintiff, due to recent investigations, has determined that the excess accumulation of standing water on the roadway that does not effectively drain away, together with a lack of maintenance and inspection to prevent the excess accumulation of water in the area of Highway 76/378 where the accident occurred, affected the vehicle's traction and ability to maintain stability while traversing the road during heavy rain and wet conditions, which was proximately caused by the Defendants, their agents, servants, employees, and/or subcontractors.

15. As the direct and proximate result of the foregoing and the death of the deceased, Rhykeem Young, Jordan Dennis, Demetrius Dennis, and Antonio Dennis, sons of the decedent, respectively, have been deprived of a kind and loving parent and of his care, comfort, love, protection, advice, society, physical assistance, and financial support.

16. The breach of duty, violations, and deviations from industry standards on the part of the Defendants constitute gross negligence, entitling Plaintiff to an award of all actual, consequential, and punitive damages.

FOR A SECOND CAUSE OF ACTION
(Strict Products Liability)

17. Plaintiff hereby incorporates the allegations of the foregoing Paragraphs as if fully restated herein.

18. At all times mentioned in this Complaint, the roadway and its component parts were defective as to design, manufacture, warnings, maintenance, and operation, causing the roadway and its component parts to be in a defective condition that made it dangerous and unsafe for its intended uses.

19. As a direct and proximate result of the dangerous and defective condition of the roadway as described above, decedent was seriously injured and met his untimely death on May 14, 2012, while using the roadway in the manner for which it was intended.

FOR A THIRD CAUSE OF ACTION
(Wrongful Death)

20. Plaintiff hereby incorporates the allegations of the foregoing Paragraphs as if fully restated herein.

21. That as a direct and proximate result of the aforesaid negligent, reckless, willful, wanton, and grossly negligent acts of the Defendants, combining and concurring, the Plaintiff's decedent met his untimely death; and that the decedent's beneficiaries are entitled to all damages allowed by law in cases of wrongful death occurring in the State of South Carolina, including the loss of value of his life.

22. Plaintiff Gloria Skinner, as Personal Representative, and sons of decedent, namely Rhykeem Young, Jordan Dennis, Demetrius Dennis, and Antonio Dennis, demand judgment against the Defendants in an amount to be determined by the trier of fact, plus interest and costs.

FOR AND AS A FOURTH CAUSE OF ACTION
(Survival Action)

23. Plaintiff hereby incorporates the allegations of the foregoing Paragraphs as if fully restated herein.

24. That Plaintiff's decedent was seated in the driver's seat; that he was slammed in and about the interior fittings of the automobile, experiencing grave and severe injuries ultimately leading to his death; that he did experience grave pain and suffering; all to his injury and damage in an amount of actual and punitive damages to be determined at the trial of this case.

WHEREFORE, the Plaintiff demands judgment against the Defendants, jointly and severally, for actual and punitive damages, for the costs of this action, for prejudgment interest and post-judgment interest according to law, and for such other and further relief that this Court deems just, equitable, and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

Signature page to follow

YARBOROUGH APPLGATE LLC

291 East Bay Street, Floor 2
Charleston, South Carolina 29401
843-972-0150 office
843-277-6691 fax



William E. Applegate IV, Esquire
David B. Lail, Esquire

and

MOORE LAW FIRM

Dwight Moore, Esquire
26 North Main Street
Sumter, South Carolina 29150

ATTORNEYS FOR THE PLAINTIFF

6-11, 2013
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE THIRD JUDICIAL CIRCUIT
COUNTY OF SUMTER	)	CIVIL ACTION NO. 2013CP4301023
Gloria Skinner as Personal)	
Representative of the Estate of Jerome)	
Dennis,)	
)	
Plaintiff,)	
)	
v.	)	ORDER GRANTING SUMMARY
	)	JUDGMENT TO SOUTH CAROLINA
South Carolina Department of	)	DEPARTMENT OF PUBLIC SAFETY
Transportation and South Carolina)	
Department of Public Safety)	
)	
Defendants.)	

This matter came before me as Presiding Judge for the Third Judicial Circuit on February 9, 2016 upon Motion for Summary Judgment filed by defendant South Carolina Department of Public Safety (SCDPS). Present were David B. Lail, attorney for Plaintiff, and Brown W. Johnson and Joseph P. McLean, attorneys for SCDPS. After consideration of the Motion of SCDPS, including the supporting Affidavits of Phillip Riley and Emily Thomas, plaintiff's Memorandum in Opposition, and after hearing arguments of counsel the Motion is hereby GRANTED for the reasons set forth below.

FACTS

On May 14, 2012, Jerome Dennis was traveling westbound on Highway 76/378 in Sumter County just east of the Wateree River bridge in heavy rain. His car hydroplaned and went off the road hitting trees in the median resulting in fatal injuries. This action has been filed by the Personal Representative of the Estate of Jerome Dennis for wrongful death and survival. Defendants are South Carolina Department of Transportation

(SCDOT) and SCDPS.¹ The Complaint in this accident alleges negligence against SCDOT and SCDPS for failing to maintain, inspect, and/or operate the highway in a careful manner allowing an excess accumulation of standing water which caused the decedent to lose control of his automobile.

SCDPS has moved for summary judgment and argues that it does not have a duty to maintain, inspect, and/or operate the highways in this state.

STANDARD OF REVIEW

Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Bishop v. South Carolina Dep't of Mental Health*, 331 S.C. 79, 502 S.E.2d 78 (1998). In determining whether a genuine question of fact exists, the court must view the evidence and all inferences which can be reasonably drawn from the evidence in the light most favorable to the nonmoving party. *Id.*

Since defendant denies it owed plaintiff a duty, the burden is on the plaintiff to establish a duty of care owed to him. *Rayfield v. South Carolina Department of Corrections*, 297, S.C. 95, 374 S.E.2d 910, 916 (1998).

Determination of the existence of a duty of care is a matter of law for the court. *Araujo v Southern Bell Tel. & Tel. Co.*, 291 S.C. 54, 351 S.E. 2d 908 (Ct. App. 1986).

¹ Sumter County was initially named as a defendant but was voluntarily dismissed by Plaintiff.

DISCUSSION

S.C. Code Ann. §23-6-10 *et seq.* sets forth certain statutory duties of SCDPS. It provides that SCDPS is charged with carrying out highway safety programs, driver training, and traffic and motor law enforcement. As part of its statutory duties, SCDPS investigates reported traffic accidents and creates TR-310 accident reports. The accident reports are required to report road conditions (for example, a wet road) and whether that condition caused or contributed a traffic accident.

S.C. Code Ann. §56-5-1350 requires SCDPS to tabulate the accident data in the TR-310 accident reports and publish annual statistical information concerning the number and circumstances of reported traffic accidents in South Carolina. That information is transmitted monthly as raw data to SCDOT, which admits it has a duty to maintain, operate, and inspect the highways in South Carolina and that it relies on the data from SCDPS in doing so.

Federal law imposes similar requirements on SCDPS. 23 USC §402(a) requires all states to have a highway safety program with the goal of reducing traffic accident-related deaths, injuries, and property damage. As part of this, SCDPS investigates accidents, determines their probable cause, and keep records of its findings. That information is reported annually to the National Highway Traffic Safety Administration (NHTSA).

Plaintiff argues that SCDPS's statutory duties as outlined above make SCDPS "directly involved" in maintenance, operation, and inspection of the highways in South Carolina and imposes on SCDPS a duty to keep them an a reasonably safe condition for the

motoring public. The court disagrees. The duties of SCDPS in relation to highway conditions as defined by both state statutes and federal law relate only to traffic accident investigation and compilation of road conditions in raw form. SCDPS does no analysis of the reported data. SCDPS plays no role in how SCDOT uses this data. SCDPS does not identify any trends in the data or potential problem areas. SCDPS does not identify any roadway defects or hazards that might require attention by SCDOT. To the extent that the data may show trends or potential problem areas, that data is presented to SCDOT for a determination regarding its use. SCDPS offers no solutions and, in fact, even if it identified a problem area SCDPS does not have the power to correct any identified problem. *See*, Affidavit of Emily Thomas. That is exclusively the function, role, and duty of SCDOT, which it admits. Plaintiff even concedes in her Memorandum in Opposition that SCDOT has the responsibility of analyzing and using the data compiled by SCDPS to determine which South Carolina roads are dangerous and in need of repair.

The Court finds that there is not a sufficient nexus between collection and reporting of accident data and its use by SCDOT to maintain the highways so as to impose a duty on SCDPS to maintain the highways. SCDPS does use that data internally to assist in its law enforcement and public education efforts, and while that data is shared with SCDOT, SCDPS plays no role in how the data is used or highway maintenance by SCDOT.

SCDPS does “inspect” the highways for defects which may cause or contribute to an accidents and it reports that information to SCDOT. Again, however, SCDPS offers no

solutions and, in fact, even if an inspection identified a problem area SCDPS does not have the power to correct any identified problem. *See*, Affidavit of Emily Thomas.

Summary judgment is hereby granted to SCDPS.

GEORGE C. JAMES, JR.
Presiding Judge, Third Judicial Circuit

Sumter, South Carolina

February ____, 2016

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

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HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

April 21, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T97802
Date of Occurrence: May 14, 2012
Claimant: Dennis, Jerome (Wrg) Skinner, Gloria (As Per Rep
Date Closed: April 21, 2016

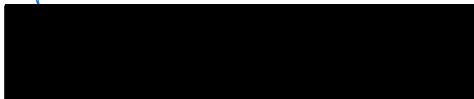
Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 22,970.24

If you should have any questions, please contact us.

Sincerely,



Kelly Bryant
Litigation Consultant

/kb

RECEIVED
APR 25 2016
SCDPS
Office of General Counsel

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DILLON)

IN THE COMMON PLEAS COURT OF THE
 FOURTH JUDICIAL CIRCUIT
 CASE NO.: 2012-CP-17- **182**

JENNA STACY)
)
 Plaintiff,)
 -vs-)
)
 THE SOUTH CAROLINA)
 HIGHWAY PATROL)
)
 Defendant.)

COMPLAINT

(Jury Trial)

FILED
 GWEN T. HYATT
 2012 MAY -2 AM 9:07
 CLERK OF COURT
 DILLON COUNTY

The Plaintiff would respectfully allege and show:

1. The Plaintiff is a resident and citizen of Winchester, State of Virginia.
2. The Defendant The South Carolina Highway Patrol is a governmental Entity or political subdivision of South Carolina and subject to being sued for the acts and omissions described below pursuant to the South Carolina Tort Claims Act, South Carolina Code Section 15-78-10, et. seq., and is an agency of the State of South Carolina as defined by South Carolina Code Section 15-78-30(a).
3. That on or about June 28, 2010 the Plaintiff was a passenger in a vehicle driven by William Thomas Hartley. The Defendant, The South Carolina Highway Patrol, attempted a lane change to turn around a speeding violator. The Defendant changed lanes improperly and struck the vehicle in which the Plaintiff was a passenger in the right rear.
4. On the date aforesaid, both vehicles were traveling East on SC 38 in or near the town of Latta, South Carolina.
5. That venue and jurisdiction of both parties and ~~subject matter~~ of this action are properly before this Court, as this action arises under the common law of the State of South Carolina and, including but not limited to S.C. Code Ann. Sections 15-78-40, 15-78-50,

15-78-60, and 15-78-100.

6. That at all times mentioned herein, employees of the Defendant were acting as agents, servants, and/or employees of the Defendant.

7. That all acts complained of herein were performed by The South Carolina Highway Patrol through their agents, servants, or employees, whose actions or inactions were performed in the course and scope of their employment.

8. At all times stated herein, Defendant was legally responsible for the actions and inactions of their agents, servants, or employees.

9. That this action is brought pursuant to the authority vested in the Plaintiff pursuant to Section 15-5-90 of the South Carolina Code of Laws (1976).

10. That the Defendant through its agents, servants, and employees; did act negligently, willfully, wantonly, and grossly negligently in the following particulars:

- a. in failing to maintain proper control over their vehicles;
- b. in failing to take evasive action in order to avoid the collision;
- c. in failing to keep a proper lookout;
- d. in driving their vehicles in a reckless manner which was in willful and wanton disregard for the safety of this plaintiff, all in violation of Section 56-5-2920 of the Code of laws of the State of South Carolina (1976, as amended);
- e. in traveling too fast for the conditions then and there prevailing;
- f. in not having due regard to the actual and potential hazards then existing as required by section 56-5-1520 (a) of the Code of Laws of the State of South Carolina (1976, as amended);
- g. in failing to apply their brakes if in fact they had any brakes at all, all in violation of section 56-5-4850 of the Code of Laws of the State of South Carolina (1976, as amended);

- h. in failing to stop and look before executing a turn, in violation of section 56-5-2330 of the Code of Laws of the State of South Carolina (1976, as amended);
- i. in violating any of the traffic law of the State of South Carolina at the time of the action;
- j. in any other particulars as the evidence may show;
- k. in violating any of the other statutory or Common Laws of the State of South Carolina.

11. That as a direct and proximate result of the Defendant's action, Jenna Stacy, the Plaintiff was seriously and painfully injured.

12. That Plaintiff is informed and believes that the Plaintiff is entitled to judgment against the Defendant for the injuries and damages suffered by the Plaintiff.

WHEREFORE, Plaintiff prays for judgment against the Defendant in this matter for actual damages, plus punitive damages to be assessed by a competent jury, for costs, and any other relief that this Court deem just and proper.

Respectfully submitted this April 25, 2012.

David J. Mason
Attorney for the Plaintiff

Garden City, South Carolina
April 25, 2012

LAW OFFICE OF DAVID J. MASON
671 JAMESTOWNE DRIVE, STE. 206-G
GARDENCITY, SC. 29576
(843) 651.7200 and 651.7250 (FAX)

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOR THE 10TH JUDICIAL CIRCUIT

COUNTY OF ANDERSON)

Stephen Keith Stringer,)

Case No.: 2012-CP-04- 1197

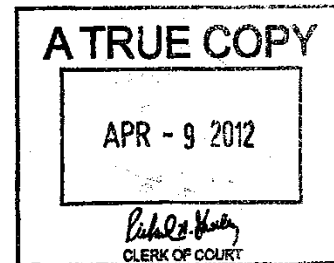
Plaintiffs,)

(Jury Trial Requested)

vs.)

COMPLAINTSteven G. Kesling and the South
Carolina Highway Patrol and other John
Doe actors,)

Defendants.)



The Plaintiff, complaining of the Defendants herein, would respectfully show unto
this Honorable Court as follows:

JURISDICTION AND PARTIES

- 1) Plaintiff is a citizen and resident of Anderson County, South Carolina;
- 2) Defendant South Carolina Highway Patrol (hereinafter collectively referred to as "Defendant SCHP") is a subdivision of the State of South Carolina and a governmental entity, organized and existing pursuant to the laws of the State of South Carolina, operating throughout the state, including within the boundaries of Anderson County, South Carolina;
- 3) Upon information and belief, Defendant Steven Kesling (hereinafter referred to as "Defendant Kesling") was, on the dates at issue, an employee of Defendant SCHP and was performing services for Defendant SCHP and acting within Defendant SCHP's control as a law enforcement officer on the dates at issue;

- 4) Defendants John Doe Actors were employees of Defendant SCHP on the dates at issue, were performing services for Defendant SCHP, and/or were acting within Defendant SCHP's control on the date in question as police officers.
- 5) Upon information and belief, all of the Defendants are citizens and residents of the State of South Carolina. The acts complained of, or a majority thereof, occurred in Anderson County, South Carolina;
- 6) Defendants Kesling and John Doe Actors are each individually, jointly and severally liable for their individual, intentional *ultra vires* tortious acts which constitute fraud and/or actual malice pursuant to South Carolina common law. Further, Defendant SCHP is liable for the negligent, grossly negligent and tortious acts committed on its behalf by its agents and servants, under the common law theory of "respondeat superior". Finally, Defendant SCHP is liable for its own negligent, grossly negligent and tortious acts for failing to properly train and/or supervise the individual defendants;

BACKGROUND/FACTS

- 7) Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein;
- 8) On or about April 10, 2010, around 7:00 a.m. Plaintiff and his uncle were traveling on Firetower Road toward Plaintiff's home at 1816 Firetower Road when the vehicle had a disabling electrical failure. Plaintiff was a passenger in the vehicle and was not the driver of the vehicle. Plaintiff decided to stay with the vehicle while his uncle went to get assistance. Plaintiff had consumed alcohol, was very

tired and curled up in the back seat of the disabled vehicle to rest until his uncle returned.

- 9) Before Plaintiff's uncle returned to with assistance, Defendant Kesling noticed the vehicle and approached it around 7:21 a.m. Despite the fact that Plaintiff was asleep in the back seat, Defendant Kesling ordered Plaintiff out of the vehicle. Once Defendant Kesling ran Plaintiff's drivers' license, he began asserting that Plaintiff had been driving under the influence.
- 10) At 7:45, Plaintiff's uncle returned, but Defendant Kesling had already determined to arrest Plaintiff and refused to believe that Plaintiff was not driving the vehicle, though he had no evidence to the contrary. Defendant Kesling took Plaintiff into custody and subjected him to a Datamaster test. During the Datamaster process, Plaintiff repeatedly asserted he was not drinking and driving. He further asserted that his uncle was driving and the vehicle (a 1971 International Scout) ceased working due to an electrical failure. At one point, Plaintiff even said he would submit to a sample, but Defendant Kesling had already determined that Plaintiff refused the test and was preparing the Datamaster test as a refusal. Defendant Kesling proceeded to incarcerate Plaintiff, where he remained for four (4) days. Thereafter, Plaintiff's license was suspended for six (6) months, despite the fact that the Defendants dropped the charges of DUI against Plaintiff.
- 11) The prosecutor *nolle prossed* the erroneous charges on January 1, 2011. On or about May 3, 2011, legal representatives on Plaintiff's behalf requested copies of the in-car dash video from Defendant Kesling's vehicle on April 10, 2010. Those

representatives were denied the video and Defendant SCHP asserted the same had been destroyed "in accordance with policy." After Plaintiff's representatives then requested and received a copy of policy 300.06, they requested the Video Chain of Custody Form, Disposal Form, and any "Uniform Administrative Report" that may have been generated relating to the incident involving Plaintiff. To date, Defendant SCHP has failed and refused to produce said documents.

FOR FIRST CLAIM
(MALICIOUS PROSECUTION AGAINST ALL DEFENDANTS)

- 12) Plaintiffs reallege all prior paragraphs of this complaint as if fully reinstated herein;
- 13) Defendant Kesling, individually and on behalf of the Defendant SCHP acted with malice by intentionally creating false allegations and by prosecuting claims against Plaintiff for malicious and retaliatory purposes, despite the fact that Plaintiff had committed no wrongdoing;
- 14) Defendant John Doe Actors acted intentionally and with malice by destroying evidence contrary to Defendant SCHP policy;
- 15) As a result, Plaintiff suffered mental pain, humiliation, embarrassment, insults, loss of reputation, and loss of time from work during the pendency of these malicious charges;
- 16) The charges were eventually "nolle prossed" by the Defendants against Plaintiff;

- 17) Accordingly, Plaintiff is informed and believes that as a result of the foregoing wrongful acts by Defendant Kesling and John Doe Actors, Plaintiff is entitled to actual, special, and punitive damages as determined by the triers of facts;

FOR A SECOND CLAIM

(FALSE IMPRISONMENT AGAINST ALL DEFENDANTS SCHP AND KESLING)

- 18) Plaintiffs reallege all prior paragraphs of this complaint as if fully reinstated herein;
- 19) Defendants SCHP and Kesling deprived Plaintiff of his liberty without lawful justification;
- 20) Defendants' restraint of Plaintiff was intentional, and unlawful and with actual malice by Defendant Kesling;
- 21) Accordingly, Plaintiff is entitled to actual and compensatory damages as to be shown to the triers of fact;
- 22) Further, Defendants actions were reckless, willful, and wanton and as a result of the conscious indifference or lack of concern for the rights of Plaintiff.
- Accordingly, Defendant Kesling should be forced to pay an amount for punitive damages to deter him from future similar acts;

FOR A THIRD CLAIM

(GROSS NEGLIGENCE/GROSSLY NEGLIGENT ACTS BY ALL DEFENDANTS)

- 23) Plaintiff realleges all prior allegations as if fully restated herein;
- 24) Defendant SCHP had a duty of care to Plaintiff and other citizens of this State to use due care when training their employees and requiring their employees to adhere to their own policies and procedures. The individual Defendants

(Defendants Kesling and John Doe Actors) have a duty of due care to effect only lawful arrests and to maintain material evidence to allow citizens whose rights have been violated to have appropriate redress for wrongdoing by an abuse of power;

- 25) Defendants negligently and gross negligently breached these duties of care and, as a proximate result, Plaintiff suffered damages relating therefrom. Accordingly, Plaintiff are entitled to all damages naturally flowing from said breaches, including actual, compensatory and punitive damages as may be deemed appropriate by the triers of fact;


FOR A FOURTH CLAIM
(FREEDOM OF INFORMATION ACT)

- 26) Plaintiff realleges all prior allegations as if fully restated herein;
- 27) Defendants' actions in destroying evidence and then refusing to produce said documents as required documents pursuant to SCHP policy 300.06 constitute intentional and willful violations of the Freedom of Information Act.
- 28) Accordingly, Plaintiff is entitled to declaratory Judgment and injunctive relief to enforce the provisions of S.C. Code Ann §30-4-10, et seq.
- 29) Furthermore, pursuant to §30-4-100, the court may order equitable relief as it considers appropriate, and a violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists.
- 30) Accordingly, Plaintiff assert his entitlement to declaratory, injunctive and/or equitable relief for the Defendants' violation of S.C. Code Ann §30-4-10, et seq.,

and, further, upon prevailing seeks reasonable attorney fees and other costs of litigation. As provided in S.C. Code Ann. §30-4-100.

WHEREFORE, having fully stated his claims against Defendants, the Plaintiff respectfully pray the triers of fact award them the following:

- 1.) Actual and compensatory damages, as permitted under the law of the State of South Carolina;
- 2.) Punitive damages as permitted under the law of the State of South Carolina to deter the individual Defendants (Defendants' Kesling and John Doe Actors) from future similar acts;
- 3.) Declaratory, injunctive and/or equitable relief pursuant to S.C. Code Ann §30-4-10, et seq.;
- 4.) Attorneys' fees and litigation costs pursuant to S.C. Code Ann. §30-4-100; and
- 5.) Such other and further relief as this Court and a jury of Plaintiff's peers deem just and proper.


Candy M. Kern-Fuller, Esq. #11392
UPSTATE LAW GROUP, LLC
200 East Main Street
Easley, South Carolina 29640
864-855-3114
864-855-3446 (Facsimile)

ATTORNEYS FOR PLAINTIFFS

Date: 4/9/2012

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF ANDERSON)

TENTH JUDICIAL CIRCUIT

C.A. No.: 2012-CP-04-1197

Stephen Keith Stringer,)

Plaintiff,)

STIPULATION OF DISMISSAL

vs.)

Steven G. Kesling and the South)

Carolina Highway Patrol and other)

John Doe actors,)

Defendants.)

Pursuant to Rule 41(a)(1)(B) and the parties settlement agreement entered into this date, Plaintiff Stephen Keith Stringer, by and through her undersigned counsel, hereby dismisses her Complaint with prejudice and Defendant Steven G. Kesling and the South Carolina Highway Patrol, and other John Doe actors, through their undersigned counsel, hereby consent. Each party shall be responsible for their own costs and attorneys' fees.


 Candy M. Kern Fuller, Esq.

SC Bar No. 11392

200 E. Main Street

Easley, SC 29642

(864) 855-3114

(864) 855-3446 (facsimile)

Attorney for Plaintiff

April 10, 2014

 J. Victor McDade, Esq.

SC Bar No. 3768

PO Box 2125

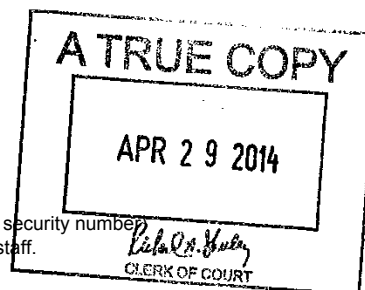
Anderson, SC 29622

(864) 224-7111

Attorney for Defendant

April 18, 2014

Signatures, initials, and personal information (i.e. address, phone, social security number) were redacted by House Legislative Oversight Committee staff.



2014-08-15 10:10:18

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

August 14, 2014

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T84662
Date of Occurrence: April 10, 2010
Claimant: Stringer, Stephen Keith
Date Closed: August 14, 2014

Dear Insured:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	2,500.00
Expenses Paid:	\$	5,677.86

If you should have any questions, please contact us.

Sincerely,

Hattie A. Taylor
Litigation Consultant

/hat

cc: Re: 2012-CP-04-1197

PS: Parties agreed to settle this matter for \$2500.00.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL DISTRICT
COUNTY OF HORRY	)	FILE NO.: 2012-CP-26- <u>5181</u>
Melissa Thompson,)	
)	
Plaintiff,)	
)	
Vs.	)	<u>COMPLAINT</u>
	)	<u>AUTO/PEDESTRIAN COLLISION</u>
South Carolina Department of	)	<u>JURY TRIAL REQUESTED</u>
Public Safety,)	
)	
Defendant.)	
)	

The Plaintiff, complaining of the Defendant herein, would respectfully
allege and show unto the Court:

1. That the Plaintiff is a citizen and resident of Horry County, South Carolina.
2. That Defendant, South Carolina Department of Public Safety, is an agency of the State of South Carolina, established, created and existing under and by virtue of the laws of the State of South Carolina.
3. That as to Defendant, South Carolina Department of Public Safety, this action is being brought pursuant to South Carolina Code §15-78-10 et.seq., also known as the South Carolina Tort Claims Act.
4. That on or about July 6, 2010, at approximately 7:45 a.m., Plaintiff, Melissa Thompson, was a pedestrian along Enoch Road/Highway 591 near the

City of Conway, South Carolina, rendering aid and assistance to the occupants of disabled vehicles.

5. That the injuries sustained by Plaintiff were the direct and proximate cause of the negligence, carelessness, recklessness, willfulness and wantonness of Defendant, South Carolina Department of Public Safety, in any one or more of the following particulars:

6. That on July 6, 2010, and for some time prior thereto, Defendant, South Carolina Department of Public Safety, was charged by law with the duty of operating and maintaining and keeping Enoch Road/Highway 591, in safe condition for the use by the public, to carry out highway and other related safety programs, to enforce traffic, motor vehicle and other related laws, to disseminate information and material so as to continually improve highway safety, and to warn motorists of dangerous and/or hazardous conditions existing on the highway, and the aforesaid highway was under the control of Defendant, South Carolina Department of Public Safety.

7. That prior to July 6, 201, the Defendant, South Carolina Department of Public Safety, was notified that a burning underground/brush fire was causing a hazardous and dangerous condition at or near Enoch Road/Highway 591 by depositing large amounts of smoke on and around the roadway, and undertook a

duty to warn motorists of the dangerous and/or hazardous conditions on Enoch Road/Highway 591 created by the smoke.

8. That the negligence, carelessness, recklessness, willfulness and wantonness of Defendant, South Carolina Department of Public Safety, it's agents, servants and employees, no warning signals, signs, devices, personnel or any other mechanisms were place on Enoch Road/Highway 591, to warn drivers of the dangerous condition, contributing to multiple vehicle collisions in which Plaintiff was involved.

9. That the negligence, carelessness, recklessness, willfulness and wantonness of Defendant, South Carolina Department of Public Safety, it's agents, servants and employees caused the aforementioned occurrence which among other things, consisted of the following:

- a. In failing to check for and eliminate dangerous condition of the Highway when the Defendant knew, or should have known, the condition constituted a hazardous and dangerous condition for those using the nearby highways;
- b. In failing to maintain the aforesaid highway in a reasonably safe condition for the use of persons thereon;
- c. In mismanaging the aforesaid highway which was under its control;
- d. In failing to give proper and adequate signals and warnings of the dangerous condition, when the Defendant knew, or should have known, that the same was necessary;

- e. In failing to correct the dangerous condition of the highway within a reasonable time after the Defendant knew, or should have known, of the dangerous condition then and there existing;
- f. In failing to implement a safety action plan to warn or re-route drivers using Enoch Road/Highway 591 when Defendant knew, or should have known, of the dangerous condition then and there existing;
- g. In failing to exercise that degree of care which a reasonably prudent person would have exercised under the same or similar conditions then and there prevailing.

10. That as a direct and proximate result of one or more of the aforesaid acts of negligence, recklessness, willfulness, and wantonness of the Defendant, the Plaintiff has suffered severe and painful injuries, including, but not limited to, severe pain and suffering, laceration of right ankle and back of head, right foot pain, neck pain, muscle spasms, surgery for scalp lesion, limitation of movement, mental anguish and the loss of enjoyment of life, together with hospital bills, doctor bills, and other medical bills incurred for the care and treatment of said injuries. Further, Plaintiff has incurred lost wages as a result of being unable to work due to injuries sustained in the within collision.

11. That Plaintiff is informed and believes that she is entitled to actual damages against the Defendants in an amount deemed just and proper by the Court and jury.

WHEREFORE, Plaintiff prays:

- A. For judgment against the Defendants for actual damages in an amount deemed just and proper by the Court and jury;
- B. For the costs incurred in connection with this action; and
- C. For such other and further relief as this Court may deem just and proper.

RANKIN & RANKIN, P.A.

BY: 

Luke A. Rankin
Attorney for Plaintiff
201 Beaty Street
P. O. Box 851
Conway, SC 29528-0851
TEL: (843) 248-2405
FAX: (843) 248-2415

DATE: July 3, 2012

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS

Melissa Thompson

FILED
HORRY COUNTY14 OCT 10 PM 3:38
MELANIE J. UGGINS-WARD
CLERK OF COURTJUDGMENT IN A CIVIL CASE
CASE NUMBER 2012CP2605181Department Of Public
Safety South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Clerk of Court

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: Case Settled
- ☐ **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:Case settled per Attorney Luke Rankin. The terms of settlement were not placed on record.
(see attached email)

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

CPFORM4Cm
SCCA SCRCP Form 4C (Revised 3/2013)

Entered in South Carolina Public Access File
 Attorney: Luke Rankin
 Date: 10/14/2014
 Filed in: Horry County
 Clerk: Melanie J. Uggins-Ward
 I hereby certify that this is a true and correct copy of the original.
 Signature: _____ Date: _____

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


Circuit Court Judge

2152

Judge Code

Date

10-7-14

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:

Luke A. Rankin PO Box 919 Conway, SC 29528-0919

Jerome Scott Kozacki PO Box 1909 Florence, SC 29503

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Melanie Huggins-Ward - 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.

2014-11-04 12:23:02

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STAFF TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

November 4, 2014

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T66756
Date of Occurrence: July 6, 2010
Claimant: Lovern, David, et al.
Date Closed: November 4, 2014

Dear MR. GANJEHSANI:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$ 55,000.00
Expenses Paid: \$ 37,695.21

If you should have any questions, please contact us.

Sincerely,

Barry Rice
Litigation Consultant

/wbr

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

CORCEDIA L. THURMAN, as the Special
Administrator of the Estate of Josiah M. Terry,

Plaintiff,

vs.

SOUTH CAROLINA DEPARTMENT OF
PUBLIC SAFETY, SOUTH CAROLINA
DEPARTMENT OF TRANSPORTATION
and JOEY STEWART,

Defendants.

IN THE COMMON PLEAS COURT
THIRTEENTH JUDICIAL CIRCUITENTERED COMPUTER
AMENDED COMPLAINT

(JURY TRIAL REQUESTED)

2015-CP-23-04128

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. BROCKENSHIMER
2015 JUN 29 PM 4 52

The Plaintiff above named, complaining of the above-named Defendants, would respectfully show unto this Honorable Court as follows:

1. That the Plaintiff is the duly appointed Special Administrator of the Estate of Josiah M. Terry.
2. That upon information and belief, that the Defendant, South Carolina Department of Public Safety is an agency organized and existing under the laws of State South Carolina and subject to the provisions of the South Carolina Code of Laws; inclusive of but not limited to S.C. Tort Claims Act. Further, that upon information and belief, the Defendant Joey Stewart is a citizen and resident of the County of Greenville, State of South Carolina and at certain times complained of hereafter was an agent /employee of the Defendant South Carolina Department of Public Safety. Further, that the Defendant, South Carolina Department of Transportation is an entity within the aforesaid Defendant organized and existing under the Laws of State of South Carolina and subject to the provisions of the South Carolina of Laws, inclusive of but not limited to S.C. Tort Claims Act.
3. This action is brought pursuant to South Carolina Code Section 15-51-10 for the benefit of the statutory beneficiaries of the Decedent and South Carolina Code Section 15-78-1, of the South Carolina Tort Claims Act.

Carolina Tort Claims Act.

FACTUAL BACKGROUND

4. That on or about the 28th day of June, 2013, the Plaintiff's Decedent was lawfully operating a motor vehicle that was traveling east on SC-124 Highway near , Old Easley Bridge and Page Drive. On said date , the Defendant, SCDPS and Joey Stewart, did jointly and severally, enter into an **unlawful and extremely dangerous high speed chase** of this vehicle throughout residential city and county limits of Greenville, South Carolina and beyond its boundaries. The pursuit and its mode of conduct resulted in a terrible collision which caused fatal injuries to the Plaintiff.

FIRST CAUSE OF ACTION **(NEGLIGENCE and GROSS NEGLIGENCE AS TO DEFENDANT SCDPS and STEWART)**

5. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 4 as fully as if repeated herein.
6. The Defendant SCDPS is liable for the negligent acts and omissions of its employee/servant Defendant Stewart who was, then there, acting under the course and scope of his employment relationship with the SCDPS.
7. The Defendant SCDPS is liable for the negligent acts and omissions of other unknown employees/servants who were, then there, acting under the course and scope of their employment with SCDPS.
8. The aforesaid collision and the resulting injuries were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness, and wantonness of the Defendants SCDPS and Stewart in the following particulars, to-wit:
 - a. In failing to train employees appropriately regarding the following during high speed pursuits: physical limitation, driver limitations, maximum speed limitations, communication responsibilities, supervisory responsibilities, and termination;
 - b. In failing to develop appropriate policies and procedures regarding high speed pursuits;

Signatures, initials, and personal information (i.e. address, phone, social security number)
were redacted by House Legislative Oversight Committee staff.

- c. In failing to supervise the high speed pursuit involving Defendant Miller;
- d. In failing to evaluate appropriately whether the need for immediate apprehension justified continued pursuit;
- e. In failing to terminate a police pursuit when knowing the suspect did not commit a serious crime;
- f. In failing to terminate a high speed police pursuit when all relevant information had not been communicated by the initiating officer;
- g. In failing to terminate a police pursuit when knowing that there was no necessity of immediate apprehension;
- h. In failing to terminate a police pursuit when the necessity of immediate apprehension did not outweigh the level of danger created by the pursuit;
- i. In failing to terminate a high speed pursuit which was excessive for the circumstances then and there prevailing;
- j. In failing to terminate a high speed pursuit on a roadway limited by curves and hills, absence of meaningful shoulders, intersections and entrances, and the absence of passing lanes.
- k. In failing to terminate a high speed pursuit which exceeded the "safe" range of speed as defined by the internal directives of the SCDPS.
- l. In failing to terminate a high speed pursuit when it became apparent that the suspect was endangering the lives of innocent third parties;
- m. In failing to terminate a high speed pursuit when it became apparent that the suspect would not stop;
- n. In failing to terminate a high speed pursuit when the clear and unreasonable danger to other users of the highway created by the pursuit outweighed the necessity for immediate apprehension.
- o. In failing to terminate a high speed pursuit when speeds dangerously exceeded the normal flow of traffic;
- p. In failing to terminate a high speed pursuit when it required dangerous maneuvering which exceeded the capabilities of the vehicle and the driver;
- q. In failing to terminate a high speed pursuit when the suspect's identity was established and there was no need for immediate apprehension;
- r. In failing to communicate all relevant information regarding the high speed pursuit to

Signatures, initials, and personal information (i.e. address, phone, social security number)
were redacted by House Legislative Oversight Committee staff.

dispatcher and supervisor;

- s. In failing to follow internal directives of the Defendant SCDPS;
- t. In failing to pursue other options with respect to issuing a citation the Plaintiff driver;
- u. In failing to protect the life and property of Josiah Terry;
- v. In engaging in a high speed police pursuit with actual malice to the lives of innocent third parties, including Josiah Terry;
- w. In failing to avoid the unnecessary risk of harm or injury to Josiah Terry, in violation of the internal directives of the SCDPS;
- x. In failing to terminate the high speed pursuit involving Defendant Stewart when it became apparent that the suspect was endangering the lives of innocent third parties;
- y. In failing to terminate the high speed pursuit when it became apparent that the suspect would not stop;
- z. In failing to train employees to drive with due regard for the safety of innocent third parties, in violation of S.C. Code Ann. § 56-5-760;
- aa. In failing to properly train its employees in the manner to properly apprehend suspects fleeing in automobiles;
- bb. In failing to provide safe and adequate guidelines in the conduct of high speed chases;
- cc. In failing to devise, implement policy and properly train its employees in the manner of conducting a high speed motor vehicle chase.
- dd. In negligently hiring, training, and supervising Defendant Stewart;
- ee. In negligently hiring, training, and supervising Defendant Stewart; and
- ff. By other such further acts demonstrated at trial.

7. During all times material to the claims herein, Defendant SCDPS's and Stewart acts and omissions amounted to gross negligence, recklessness, and a willful and wanton disregard for the safety and well being of the Plaintiff's Decedent. The reckless, willful and wanton acts of Defendant, SCDPS included, but are not limited to those set forth in Paragraph 9.

8. As a direct and proximate result of the willful and wanton acts, as well as the gross negligence of the Plaintiff Decedent, sustained severe injuries and which caused his death.

9. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendant herein, Plaintiff Decedent suffered and died.

SECOND CAUSE OF ACTION
(NEGLIGENCE- AS TO DEFENDANT, STEWART more particularly)

10. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 9 fully as if repeated herein.

11. The aforesaid collision and the resulting injuries were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness, and wantonness of Defendant, Stewart, in the following particulars, to-wit:

- a. In engaging in a police pursuit for speeding;
- b. In engaging in a police pursuit when knowing the suspect did not commit a serious crime;
- c. In engaging in a police pursuit when knowing that there was no necessity of immediate apprehension;
- d. In engaging in a police pursuit when the necessity of immediate apprehension did not outweigh the level of danger created by the pursuit;
- e. In engaging in a high speed pursuit which was excessive for the circumstances then and there prevailing;
- f. In engaging in a high speed pursuit on a roadway limited by curves and hills, absence of meaningful shoulders, intersections and entrances, and the absence of passing lanes;
- g. In engaging in a high speed pursuit which exceeded the "safe" range of speed as defined by the internal directives of SCDPS;
- h. In failing to terminate a high speed pursuit when it became apparent that the suspect was endangering the lives of innocent third parties;
- i. In failing to terminate a high speed pursuit when it became apparent that the suspect would not stop;
- j. In failing to terminate a high speed pursuit when the clear and unreasonable danger to other users of the highway created by the pursuit outweighed the necessity for immediate apprehension;
- k. In failing to terminate a high speed pursuit when speeds dangerously exceeded the normal flow of traffic;

Signatures, initials, and personal information (i.e. address, phone, social security number) were redacted by House Legislative Oversight Committee staff.

- l. In failing to terminate a high speed pursuit when it required dangerous maneuvering which exceeded the capabilities of the vehicle and the driver;
- m. In failing to terminate a high speed pursuit when the suspect's identity was obtainable and there was no need for immediate apprehension;
- n. In failing to communicate all relevant information regarding the high speed pursuit to dispatcher and supervisor;
- o. In failing to follow internal directives of the Defendant SCDPS;
- p. In failing to pursue other options with respect to arresting or apprehending a traffic violator;
- q. In failing to protect the life and property of Plaintiff decedent;
- r. In engaging in a high speed police pursuit with actual malice to the lives of innocent third parties, including Plaintiff Decedent;
- s. In failing to avoid the unnecessary risk of harm or injury to Plaintiffs Decedent, in violation of the internal directives of SCDPS;
- t. In failing to assert control over the situation;
- u. In failing to exercise supervisory discretion and order specific units into or out of the pursuit; and
- v. By other such further acts to be demonstrated at trial.

12. The Defendant SCDPS is liable for the negligent acts and omissions of its employee/servant Defendant Stewart who was, then there, acting under the course and scope of his employment relationship with the SCDPS.

13. The Defendant SCDPS is liable for the negligent acts and omissions of its employee/servant Defendant Stewart who was, then there, acting under the course and scope of his employment relationship with SCDPS.

14. The Defendant SCDPS is liable for the negligent acts and omissions of other unknown employees/servants who were, then there, acting under the course and scope of their employment with SCDPS.

15. All of which acts are in direct violation of the statutory and common laws of the State of South Carolina as well as the S.C. Tort Claims Act.
16. The acts and/or omissions of Defendant Stewart as described above were negligent, grossly negligent, willful, wanton, and reckless.
17. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness, and wantonness of the Decedents names, Plaintiffs decedent, Josiah Terry suffered and died.

THIRD CAUSE OF ACTION
(NEGLIGENCE/GROSS NEGLIGENCE AS TO DEFENDANT SCDOT)

18. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 17 as fully as if repeated herein.
19. The aforesaid collision and the resulting injuries were the direct and proximate result of, were due to and occasioned by, the negligence, gross negligence, recklessness, willfulness, and wantonness of the Defendant, SCDOT, in the following particulars, to-wit:
 - a. In failing to adequately post notice of deficiencies and unsafe condition of the bridge to the public after SCDOT knew or should have known of said deficiencies;
 - b. In failing to warn of restrictions and deteriorated rail conditions of page bridge.
 - c. In not conducting routine inspections after structural deficiencies were noted and timely correcting and repairing noted deficiencies;
 - d. In the design and maintenance of the Page Street bridge and constructed railing that was inadequate to withstand reasonable and foreseeable impact.
20. Notwithstanding these duties, the Defendant SCDOT did breach its duty to the Plaintiffs by negligently, willfully and wantonly performing the acts and omissions set forth herein.
21. As a direct and proximate result of the willful and wanton acts, as well as the gross negligence, recklessness, willfulness and wantonness of the Defendant, Josiah Terry herein, sustained severe injuries and damages which caused his death.

DAMAGES

22. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 21 as fully as if repeated herein.
23. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants herein, the Plaintiff's suffered numerous painful, severe, and grievous injuries to his body which caused his death.
24. As a direct and proximate result of the negligent acts and omissions complained of herein, the Plaintiff's suffered damages in excess of \$5,000,000.00.

PUNITIVE DAMAGES

25. The Plaintiff re-alleges and incorporates herein all of the relevant and consistent allegations in Paragraphs 1 through 24 as fully as if repeated herein.
26. The acts and/or omissions of the Defendants, as stated above, were willful, wanton, and/or in reckless disregard for the safety, well-being, and life of Josiah Terry.
27. As a direct and proximate cause of the acts and omissions of the Defendants, Josiah Terry, suffered damages of emotional and physical suffering prior to his death.
28. The conduct of the Defendants as set forth above justifies an award of punitive damages for each and every claim of the Plaintiff as set forth herein.
29. As a direct and proximate result of the Defendants negligence, gross negligence, willful and wanton and recklessness of the Defendants as specified above, the following damages were sustained;
- a. The Decedent was killed;
 - b. Funeral Expenses were incurred;
 - c. Loss of Life;
 - d. Emotional Mental Shock and Suffering;
 - e. Wounded Feelings;

- f. Grief and Sorrow;
- g. Loss of Decedent's society, use and earnings.

WHEREFORE, the Plaintiff, demands a Jury Trial on all legal issues and claims against the Defendants, South Carolina Department of Public Safety, South Carolina Department of Transportation and Joey Stewart for actual, compensatory and punitive damages to be determined by the Courts, to fully compensate Plaintiff for his injuries and damages, for the cost of this action and for such other and further relief as the Court may deem just and proper.

Respectfully Requested.

By: KARL B. ALLEN, ESQUIRE
KARL B. ALLEN LAW FIRM, LLC
ATTORNEY FOR PLAINTIFF
108 LAVINIA AVENUE
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE: (864) 235-9049

June 26, 2015
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF MARION

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT
2012-CP-33-661

Wesley Graham Tindall as Personal
Representative of the Estate of
Kevin Tindall,

PLAINTIFF,

vs.

Marion County Sheriff's Department,
The State of South Carolina and the
South Carolina Highway Patrol,

DEFENDANTS.

AMENDED COMPLAINT
(Jury Trial Requested)

MARION COUNTY SC
SHERIFF R. RHODES
CLERK OF COURT

2013 SEP - 3 P 4:31

BOOK PAGE

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The Plaintiff would allege and show unto this Honorable Court as follows:

PARTIES

1. Wesley Graham Tindall has been appointed Personal Representative of the Estate of Kevin Tindall (Marion County Probate Case 2012-ES-33-178). Prior to his death, Kevin Tindall was a resident and citizen of Marion County, South Carolina.
2. The Marion County Sheriff's Department is a political subdivision operating and existing under the laws of the State of South Carolina.
3. The South Carolina Highway Patrol is a governmental agency operating under the laws of the State of South Carolina.
4. The incident which is the subject herein occurred in Marion County, South Carolina.

FACTS

5. On or about March 15, 2012 the Plaintiff was in a vehicle on private property.
6. The Marion County Sheriff's Department arrived at the Plaintiff's home and accused him of driving under the influence, which the Plaintiff denied.
7. The Marion County Sheriff's Department indicated that they could not arrest the Plaintiff on private property. They indicated that the Highway Patrol could arrest the Plaintiff on private property.
8. The Marion County Sheriff's Department called the South Carolina Highway Patrol to come to the Plaintiff's home.
9. No one from the Marion County Sheriff's Department or the South Carolina Highway Patrol ever saw the Plaintiff driving a motor vehicle.
10. The Plaintiff's mother came outside and told the Defendants that the Plaintiff had not been driving.
11. No customary field sobriety tests were performed on the Plaintiff prior to his arrest.
12. The South Carolina Highway Patrol, with the knowledge and consent of the Marion County Sheriff's Department, arrested the Plaintiff on his private property for Driving Under the Influence (ticket no. F-437060), Open Container (ticket no. F-437062), ABC Violation (F-437061) and No Proof of Insurance (F-4370633).
13. The Plaintiff was taken to jail and his license was suspended.
14. The State proceeded against the Plaintiff and initially refused to dismiss the charges.

15. The case was called to trial in May 2012.
16. All the charges were dismissed against the Plaintiff on the day of trial.
17. Upon information and belief, the charges were dismissed because the Defendant's recognized that the applicable statutes did not apply to persons on private property who had not been driving.
18. Upon information and belief, applying the statutes to persons on private property is unconstitutional.

AS A FIRST CAUSE OF ACTION
(Negligence)

19. The Defendants had a duty not to arrest the Plaintiff without probable cause.
20. The Defendant's breached this duty in one or more of the following ways:
 - a) By arresting the Plaintiff without justification,
 - b) By arresting the Plaintiff without probable cause and/or arresting the Plaintiff based upon hearsay,
 - c) In distributing inaccurate information between agencies,
 - d) In failing to do a proper investigation,
 - e) In failing to prepare the proper paperwork, or in the event of proper paperwork, in failing to give the Plaintiff documentation or reports regarding probable cause to arrest,
 - f) Any other particular as evidence at trial may show.
21. As a result of the negligence of the Defendants the Plaintiff was arrested and suffered physical and severe emotional injury, and loss of liberty while out on bond.


AS A SECOND CAUSE OF ACTION
(Negligent Supervision, Training)

22. The Defendants did not properly train and supervise the employees regarding the rights of persons on private property and probable cause to arrest.
23. The arresting officer stated that the roadway right of way extends 25 feet from the roadway. He also stated that a portion of the Plaintiff's private property belongs to the state (in car video 19:05 minutes).
24. The Defendants had a duty to properly train their employees on when and where to arrest people who were believed to be driving under the influence.
25. The Defendants did not have the proper procedures and policies in place to prevent improper arrests on private property.
26. As a result of the negligent supervision and/or training, the Plaintiff was arrested.

AS A THIRD CAUSE OF ACTION
(False Arrest)

27. The Plaintiff was on private property at the time of his arrest.
28. The Plaintiff had not been driving prior to the Defendant's arriving at his home. An eyewitness told law enforcement that the Plaintiff had not been driving.
29. The Defendant's did not witness the Plaintiff drive a motor vehicle.
30. The Plaintiff was not on a highway or street immediately prior to his arrest.
31. There was no basis to arrest the Plaintiff.
32. The Plaintiff was handcuffed and transported to the Marion County Detention Center and issued four (4) tickets .

this Court deems just and proper.



Marcus Woodson
Attorney for the Plaintiff
Post Office Box 1657
Marion, SC 29571
(843)423-1977 telephone

Marion, South Carolina
August 30, 2013

STATE OF SOUTH CAROLINA)
COUNTY OF MARION)

Wesley Graham Tindall as PR)
Of the Estate of Kevin Tindall,)
Plaintiff,)

v.)

Marion County Sheriff's Department,)
The State of South Carolina and the)
South Carolina Highway Patrol,)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2012-CP-33-661

STIPULATION OF DISMISSAL

MARION COUNTY SC
SHERIFF R. RHODES
CLERK OF COURT

2014 AUG 15 P 1:47

BOOK PAGE

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The above-referenced matter having been settled between the parties, the undersigned, as attorneys for the parties herein, hereby stipulate that the same be dismissed with prejudice and forever ended.

I SO MOVE:

[REDACTED]

Marcus Woodson
P. O. Box 1657
Marion, SC 29571
(843) 423-1977

ATTORNEY FOR PLAINTIFF

I SO MOVE:

Lee, Erter, Wilson, Holler & Smith, LLC

[REDACTED]

G. Murrell Smith, Jr.
126 North Main Street
P. O. Box 580
Sumter, SC 29151
(803) 778-2471

ATTORNEY FOR MARION COUNTY
SHERIFF'S DEPARTMENT AND
SOUTH CAROLINA HIGHWAY
PATROL (IMPROPERLY NAMED
DEFENDANTS)

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BOOK PAGE

[REDACTED]

STATE OF SOUTH CAROLINA)
COUNTY OF MARION)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2012-CP-33-661

Wesley Graham Tindall as PR)
Of the Estate of Kevin Tindall,)
Plaintiff,)

v.)

Marion County Sheriff's Department,)
The State of South Carolina and the)
South Carolina Highway Patrol,)

CERTIFICATE OF SERVICE

FILED
BOOK _____ PAGE _____
2014 AUG 15 P 1:47
MARION COUNTY SC
SHERIFF R. RHODES

I, the undersigned employee of the law firm of Lee, Erter, Wilson, Holler & Smith, LLC,
do hereby certify that I have this day served the below listed document, by personally depositing
the same in the United States Post Office, postage prepaid, addressed to the following counsel of
record:

DOCUMENT: Stipulation of Dismissal
COUNSEL: Marcus Woodson, Esquire
P. O. Box 1657
Marion, SC 29571



Kathy E. Aldrich

Sumter, SC

August 11, 2014

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CLERK OF COURT, MARION COUNTY
SOUTH CAROLINA

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

June 22, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T88616
Date of Occurrence: December 21, 2011
Claimant: Tindall, Kevin Haselden
Date Closed: December 18, 2014


Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid:	\$	2,250.00
Expenses Paid:	\$	4,336.86

If you should have any questions, please contact us.

Sincerely,


Dennis T. Elledge
Manager, Tort Claims Department

/dte

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

Keoaka Walker,

Plaintiff,

vs.

John Doe, Kathryn Masincupp, Jason
 Osteen, Pineland Farm, L.L.C.,
 Blackbottom Farm, Inc., Michael Todd
 Smith, South Carolina Forestry
 Commission, South Carolina Department
 of Transportation, and South Carolina
 Department of Public Safety,

Defendants,

IN THE COURT OF COMMON PLEAS

THIRD JUDICIAL CIRCUIT

Civil Action No.: 2013-CP-14-064

AMENDED COMPLAINT
 (Jury Trial Demanded)

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 OF ORIGINAL FILED IN THIS OFFICE
 DATE 11/12/13
Beulah A. Roberts
 CLERK OF COURT
 CLARENDON COUNTY, SC

BEULAH A. ROBERTS
 CLERK OF COURT
 CLARENDON COUNTY, SC
 2013 NOV 12 AM 11:45

The plaintiff, complaining of the defendants, respectfully alleges unto this Honorable Court the following:

JURISDICTION

1. The plaintiff is a citizen and resident of Sumter County, South Carolina and at the time of the occurrence herein, was the driver of a 2006 Toyota.
2. Upon information and belief, the defendant Kathryn Masincupp is a citizen and resident of Clarendon County, South Carolina, and at the time of the occurrence was the driver of a 2006 Pontiac.
3. Upon information and belief, the defendant Jason Osteen is a citizen and resident of Sumter County, South Carolina and at the time of the occurrence was the driver of a 2011 GMC pickup truck.
4. The defendant John Doe is a fictitious name for an unknown motorist who, upon information and belief, was driving a motor vehicle at the time of the occurrence herein.

5. The defendants, Pineland Farm, L.L.C. (hereinafter called "PF") and Blackbottom Farm, Inc. (hereinafter called "BF"), upon information and belief, are the owners of certain property located in Clarendon County, State of South Carolina and were conducting a burn at the time and place alleged hereinafter.

6. The defendant, South Carolina Forestry Commission (hereinafter called "SCFC"), is a governmental entity or agency of the State of South Carolina and is responsible for administering Smoke Management Guidelines. SCFC is organized and exists under the laws of South Carolina and is therefore subject to the general personal jurisdiction of this Court.

7. The defendant, South Carolina Department of Transportation (hereinafter called "SCDOT"), is a governmental entity or agency of the State of South Carolina and exists under the laws of South Carolina and is subject to the personal jurisdiction of this Court. SCDOT is responsible for the design, construction and maintenance of signs on the roadways of South Carolina.

8. The defendant, South Carolina Department of Public Safety (hereinafter called "SCDPS"), is a governmental entity or agency of the State of South Carolina and exists under the laws of South Carolina and is subject to the personal jurisdiction of this Court. SCDPS is responsible for enforcing and maintain safety on the roadways of South Carolina.

9. The negligent acts, omissions and liability of all the defendants include their agents, principals, employees and/or servants, both directly and vicariously, pursuant to principals of corporate liability, apparent authority, agency, ostensible agency and/or respondeat superior.

10. Prior to March 15, 2012, the defendants PF and/or BF had applied for and received a permit or permission for a prescribed burn, # 12FB03671, near Highway U.S. 15 in

the City of Manning, Clarendon County, South Carolina. A controlled burn is where an entity burns trees, shrubbery or some form of debris under strict supervision and control.

11. The permit purportedly allowed PF and/or BF to conduct a controlled burn along 100 acres of property which, upon information and belief, is owned by PF and/or BF.

12. The permit had been requested through SCFC, which granted the request for the controlled burn permit.

13. The defendants PF and/or BF did burn certain acreage that resulted in smoke standing on the highway during the morning hours of March 15, 2012 on and near U.S. Highway 15, in the City of Manning, Clarendon County, South Carolina. Said smoke created a dangerous and hazardous condition for the operators and passengers of motor vehicles traveling on the roadway.

14. The dangerous condition was such that the defendants PF and/or BF knew or reasonably should have known that a dangerous condition existed on the roadway in South Carolina, and their acts and omissions caused such dangerous conditions.

15. The defendant SCFC did not manage, oversee, warn, place signs, cause signs to be placed, or take any action to warn motorists of a dangerous condition on the highway resulting in this accident and causing injury to the plaintiff.

16. Upon information and belief, on March 15, 2012, SCFC was the agency in South Carolina charged with the responsibility of issuing permits and performing inspections and investigations into permits from companies requesting permission to do controlled burns of natural resources such as trees and brush in a given area.

17. Upon information and belief, sometime prior to March 15, 2012, SCFC received a request from a company in Williamsburg County, South Carolina by the name of Smith in

Clarendon County, South Carolina to do a controlled burned of 300 tons of timber and/or brush.

18. SCFC had a duty and obligation to inspect and investigate the request, and either grant or deny the request for a controlled burn of natural resources.

19. SCFC failed to do a proper inspection and/or investigation of the request and did not discover some of the very dangerous ramifications of this potential controlled burn.

20. A controlled burn is not supposed to create a hazardous situation on public thoroughfare in Clarendon County, South Carolina.

21. This supposed controlled burn by PF and/or BF created an extremely hazardous situation because the smoke from the burn settled on a public thoroughfare in Clarendon County, South Carolina.

22. This smoke created a hazard to members of the traveling public and the defendants SCDPS and SCDOT had a duty to warn the public of this hazard, or to assist in controlling this hazard. The defendant SCDPS and SCDOT failed or refused to take any action, or failed to take reasonable action, to warn the public of this hazard or control this hazard.

FOR A CAUSE OF ACTION
(Negligence)

23. The plaintiff re-alleges paragraphs one (1) through twenty-two (22) as if set forth herein verbatim, and would further allege:

24. On or about March 14, 2012 at approximately 8:45 a.m., smoke that resulted from the burning of certain acreage by the defendants PF and/or BF as alleged herein above was standing on or near U.S. Highway 15 in or near the City of Manning, Clarendon County, South Carolina. At the same time, the parties (plaintiff, John Doe, Kathryn Masincupp, and Jason Osteen) were traveling north on U.S. Highway 15 in the city, county and state aforesaid. The John Doe vehicle was the first in line, the Osteen vehicle was the second in line behind Doe, the

plaintiff's vehicle was third in line behind Osteen, and the Masincupp vehicle was fourth in line behind the plaintiff. The John Doe vehicle stopped suddenly in the roadway. The defendant Osteen suddenly and without warning, slammed on brakes, which caused the plaintiff to strike the Osteen vehicle in the rear. Immediately following that impact, the Masincupp vehicle then struck plaintiff in the rear.

25. The unlawful actions of defendants John Doe, Kathryn Masincupp, and Jason Osteen combined with the hazardous conditions created by defendants PF, BF and SCFC, and further combined with the failure on the part of defendants SCDPS and/or SCDOT to warn the plaintiff and/or control the hazardous conditions, all of which caused the injuries and damages sustained by the plaintiff as alleged herein.

26. As a direct and proximate result, the plaintiff was violently thrown about inside of her vehicle and was rendered bruised, sore, lame and disabled.

27. As a further result, the plaintiff has endured great physical pain to various parts of her body, which has and will in all reasonable probability in the future cause her to continue to suffer pain, to incur hospital and related medical expenses, and to suffer a loss in her wages.

28. The defendant John Doe owed a duty of care to the plaintiff and negligently, recklessly, willfully and wantonly breached that duty in one or more of the following particulars:

- (a) Failing to maintain a proper lookout of traffic and road conditions;
- (b) Driving too fast for conditions;
- (c) Failing to give reasonable indication of an emergency situation, if one existed;
- (d) Failing to warn other motorists of existing hazardous conditions, if any existed;
- (e) And in failing to move his or her vehicle from the roadway.

29. The defendants Osteen and Masincupp also owed a duty of care to the plaintiff

and negligently, recklessly, willfully and wantonly breached that duty in one or more of the following particulars:

- (a) Failing to maintain a proper lookout of traffic and road conditions;
- (b) Failing to maintain control of their vehicles;
- (c) Failing to adequately apply their brakes, if any they had;
- (d) Following too closely;
- (e) Driving too fast for conditions;
- (f) And in failing to take any action to avoid the collision;

30. The defendant SCFC also owed a duty of care to the plaintiff and negligently, recklessly, willfully and wantonly breached that duty in one or more of the following particulars:

- (a) Failing to properly supervise the person or persons conducting an investigation or inspection of the permit request by Smith to do a controlled burn in Clarendon County;
- (b) Failing to conduct a proper inspection of the permit to ascertain the rationale and determine safety standards of the request by Smith to do a controlled burn in Clarendon County;
- (c) Failing to conduct a proper investigation of the permit to ascertain the rationale and determine safety standards of the request by Smith to do a controlled burn in Clarendon County;
- (d) Failing to timely notice that the controlled burn by Smith/PF/Bf was not proceeding as planned or desired; and either failing to detour traffic away from the self-created safety hazard or failing to properly warn motorists of the safety hazard;
- (e) Failing to timely enact or enforce proper safety procedures for a controlled burn in Clarendon County in March, 2012;
- (f) Failing to protect motorists on the highway from a hazard created in part by SCFC;
- (g) Failing to notice or act in a timely manner to a hazard created in part by SCFC's own actions;

- (h) And in failing to properly train all persons in the chain of command who could supervise employees or do a proper inspection or investigation of the permit requested by Smith to do a controlled burn in Clarendon County in March, 2012.

31. The defendants SCDPS and SCDOT owed a duty of care to the plaintiff and negligently, recklessly, willfully and wantonly breached that duty in one or more of the following particulars:

- (a) Failing to warn those motorists traveling on U.S. Highway 15 that dangerous conditions on the roadway existed at the time of the incident alleged herein;
- (b) Failing to correct the problems that existed on U.S. Highway 15, although employees or agents of SCDOT and the SCDPS knew or reasonably should have known of the dangerous condition of the roadway;
- (c) Failing to properly train and supervise their agents or employees so that they would be aware of when to advise of any such hazardous conditions;
- (d) Failing to properly maintain U.S. Highway 15 and failing to maintain safety on U.S. Highway 15.
- (e) Failing to properly patrol the intersection of U.S. Highway 15;
- (f) Failing to warn of the smoke in the roadway prior to the time of the incident alleged herein;
- (g) Failing to keep the roadway in a reasonable safe condition for public travel;
- (h) Failing to use that degree of care that a reasonably prudent entity would have exhibited under the same or similar circumstances.

32. The defendants Michael Todd Smith, Pineland Farm, L.L.C., and Blackbottom Farm, Inc. owed a duty of care to the plaintiff and negligently, recklessly, willfully and wantonly breached that duty in one or more of the following particulars:

- (a) Failing to adequately prepare for the prescribed burn;
- (b) Failing to supervise said burn;
- (c) Failing to supervise its agents, servants and employees;
- (d) Failing to notify proper authorities regarding the smoke settling on the highway

when they knew or reasonably should have known of the dangerous condition;

- (e) Failing to have in place an adequate safety program for the safety and protection of the motoring public and public at large;
- (f) Failing to monitor said burn;
- (g) Failing to act as a reasonable and prudent person under the circumstances;
- (h) Failing to abide by the ordinances, regulations and laws in existence;
- (i) Failing to return to the site of the fire to check it; and
- (j) And in failing to pay attention to the weather and other conditions so as to prevent an immediate hazard.

33. Solely by reason of negligence, carelessness and recklessness of the defendants, individually and collectively, the plaintiff has suffered severe and disabling injuries to her person, has incurred medical expenses, and has suffered a loss in her wages.

34. The plaintiff would further show that the defendants' acts and omissions were of such a careless and reckless nature as to entitle her to an award of punitive damages, as appropriate.

WHEREFORE, the plaintiff prays for judgment against the defendants, jointly and severally, for actual and punitive damages in the amount sufficient to compensate her for her injuries and losses and for such other and further relief as the Court deems just and proper.

LAW OFFICES OF RONNIE A. SABB, L.L.C



Ronnie A. Sabb
 Kimberly V. Barr
 Post Office Box 88
 Kingstree, SC 29556
 (843) 355-5349
 Attorneys for the Plaintiff

October 18, 2013

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)
Keoka Walker,)
Plaintiff,)
vs.)
John Doe; Kathryn Massincupp; Jason)
Osteen; Pineland Farm, LLC; Blackbottom)
Farm, Inc.; Michael Todd Smith; South)
Carolina Forestry Commission, South)
Carolina Department of Transportation;)
And South Carolina Department of)
Public Safety,)
Defendants.)

IN THE COURT OF COMMON PLEAS

Case No: 2013-CP-14-064

**CONSENT ORDER GRANTING
SUMMARY JUDGMENT AND
DISMISSAL**


BEULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC
2015 NOV 13 PM 1 59

This matter comes before the court upon the previously filed motions as follows:

1. Defendant Jason Osteen's Motion for Summary Judgment;
2. Defendant South Carolina Forestry Commission's Motion for Summary Judgment;
3. Defendant South Carolina Department of Transportation's Motion to Dismiss; and
4. Defendant South Carolina Department of Public Safety's Motion for Summary Judgment.

Each of these motions are now pending. By and with the consent of the Plaintiff, each of these motions is hereby GRANTED. As such, Defendants Jason Osteen, Defendant South Carolina Forestry Commission, Defendant South Carolina Department of Transportation Defendant South Carolina Department of Public Safety are dismissed from this case, with prejudice. Each of these parties shall bear their own respective costs and attorneys' fees.

IT IS SO ORDERED.


The Honorable George C. James, Jr.
Chief Administrative Judge

11/12, 2015
Sumter, South Carolina

Page 1 of 2

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 11/13/15
Beulah G. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

Walker v. John Doe, et al.
Case No: 2013-CP-14-00064
Consent Order Granting Summary Judgment

[REDACTED]

RONNIE SABB, ESQ.
Attorney for the Plaintiff

[REDACTED]

ROBERT T. KING, ESQ.
Attorney for Jason Osteen

[REDACTED]

LISA A. REYNOLDS, ESQ.
Attorney for S.C. Dept. of Transportation

[REDACTED]

D. MALLOY MCEACHIN, JR., ESQ.
Attorney for S.C. Forestry Commission

[REDACTED]

J. SCOTT KOZACKI, ESQ.
Attorney for S.C. Dept. of Public Safety

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

June 22, 2016

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T98111
Date of Occurrence: March 15, 2012
Claimant: Masincupp, Kathryn, et al.
Date Closed: December 8, 2015

Also, Hawkins, Glendon

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 63,735.73

If you should have any questions, please contact us.

Sincerely,

Dennis T. Elledge
Manager, Tort Claims Department

/dte

STATE OF SOUTH CAROLINA		A TRUE COPY JUL 15 2015 <i>Robert G. Harty</i> CLERK OF COURT
COUNTY OF ANDERSON		
Brian G. Walker, Plaintiff, -vs- South Carolina Department of Public Safety, Josh Black, in his official capacity and individual capacity, A.S. Warren, in his official capacity and individual capacity, Defendants.		IN THE COURT OF COMMON PLEAS COMPLAINT C/A No.: 2015-CP-04- <u>01683</u> (JURY TRIAL DEMANDED)

COMES NOW, the Plaintiff, Brian G. Walker, and presents this Complaint for Damages and alleges as follows:

1.

Brian G. Walker is an adult citizen and resident of Anderson County, State of South Carolina of the United States.

2.

Upon information and belief, Defendant Josh Black was at all times pertinent hereto a law enforcement officer employed by The South Carolina Department of Public Safety and acting under color of state law for purposes of 42 U.S.C. §1983.

3.

Upon information and belief, Defendant A.S. Warren was at all times pertinent hereto a law enforcement officer employed by The South Carolina Department of Public Safety and acting under color of state law for purposes 42 U.S.C. §1983.

4.

The Defendant, The South Carolina Department of Public Safety, is a political subdivision within the meaning of the South Carolina Tort Claims Act and operates throughout the state, including but not limited to the County of Anderson.

5.

This action is brought pursuant to South Carolina Code Annotated §15-78-10 to 15-78-190 (cum. supp. 1993) and South Carolina common law to recover damages for property damage and for personal injuries sustained by the Plaintiff. Additionally, this case is brought by virtue of 42 U.S.C. §1983.

6.

This Court has jurisdiction over the conduct of the Defendants and venue is properly found with this Court where the actions about which Plaintiff complains took place in the County of Anderson, State of South Carolina.

STATEMENT OF FACTS

7.

The Plaintiff hereby restates and incorporates by reference the allegations of the above paragraphs as though set forth in full herein to the extent they are not inconsistent herewith.

8.

On or about October 7, 2013 at approximately 12:00 p.m., Brian G. Walker, while driving his Cadillac southbound on the Abbeville Highway, Highway 28, was involved in a serious automobile accident involving a tractor trailer in which all the air bags in his vehicle deployed. Mr. Walker was awake and alert at the accident scene, even walking around the vehicle and attempting to get paperwork from the vehicle. Mr. Walker initially refused to be transported to the Emergency

Room, but was convinced by Medshore staff to go and get evaluated. EMS staff had extensive conversation with Mr. Walker at the accident scene. Mr. Walker was taken from the accident scene by Medshore Ambulance Service and transported to Anmed Health Emergency Room for further treatment. Medshore personnel did not indicate any use of ETOH, or alcohol, in relation to Mr. Walker's automobile accident.

9.

At the approximate date, place, and time listed above, Mr. Walker was treated for his injuries incurred in the accident. Medshore Anmed Emergency Room staff performed x-rays of lumbar spine and forearm as well as a CT scan of the lumbar spine. Mr. Walker was also given a shot of Morphine for the pain. Mr. Walker was subsequently diagnosed with a fractured lumbar spine. Mr. Walker had previously diagnosed conditions including Diabetes Mellitus, Graves' disease, chronic back pain, and hypertension, all were noted by EMS and subsequently verified by hospital staff at the time of treatment.

11.

Mr. Walker reported to Anmed Emergency Room staff that he believed he had fallen asleep at the wheel stating that he was tired after driving to a doctor's appointment at the VA Clinic in Augusta, Georgia earlier that morning. A Nurse note reports that "individuals on accident scene smelled alcohol and pt's breath". However, interestingly, no EMS or hospital staff noted the smell of alcohol or ETOH in any of their reports as normally would be noted if EMS or hospital staff suspected alcohol use was present.

12.

Trooper Warren arrived at the hospital at the instruction and direction of his supervisor Josh Black. Corporal Black wrongly and without any probable cause believed Mr. Walker was driving

under the influence. Trooper Warren talked to Mr. Walker and noted his “eyes to be blood shot with a glassy like appearance to them.” Interestingly, he did not note that smelled alcohol from Mr. Walker. Instead, he allegedly asked an anonymous unnamed nurse if she had smelled any odor of alcohol coming from his person. His report indicates “[s]he said yes...”. Mr. Walker told Trooper Warren that he did not drink and that he would be willing to provide both urine and blood samples. Trooper Warren issued Mr. Walker a ticket driving under the influence. Trooper Warren issued the ticket wrongfully and without probable cause.

13.

Corporal Josh Black transported Mr. Walker to the Anderson County Detention Center after the staff at Anmed determined he could be discharged from the injuries suffered in the automobile accident.

14.

Mr. Walker wrongfully and without any probable cause whatsoever was forced to spend the night in the Anderson County Detention Center, with multiple fractures to his back, in severe pain, and without his diabetes medication until his bond hearing could be held the next morning.

15.

Mr. Walker was in fact not driving under the influence of alcohol or drugs at the time of the accident as the SLED toxicology results clearly show Mr. Walker’s test were negative for all alcohol and drugs.

FOR A FIRST CAUSE OF ACTION
(False Imprisonment)

16.

The Plaintiff hereby restates and incorporates by reference the allegations of the above paragraphs as though set forth in full herein to the extent they are not inconsistent herewith.

17.

On October 7, 2013, the Defendants willfully, wantonly, and with reckless disregard for Plaintiff's rights restrained him as plead herein.

18.

The Defendants' intentionally restrained Mr. Walker and deprived him of his liberty without legal justification.

19.

Defendants' restraint of the Plaintiff was unlawful.

20.

As a direct and proximate cause of the Defendants' actions, Mr. Walker has suffered damages, including humiliation, embarrassment, and mental anguish, in an amount to be proven at trial.

21.

The acts of the Defendants' pleaded herein were done willfully, wantonly, and with reckless indifference to Mr. Walker's rights and liberties. Mr. Walker is therefore entitled to recover punitive damages in an amount to be determined at trial.

FOR A SECOND CAUSE OF ACTION
(Deprivation of Rights by Troopers Black and Warren-42 U.S.C. § 1983)

22.

The Plaintiff hereby restates and incorporates by reference the allegations of the above paragraphs as though set forth in full herein to the extent they are not inconsistent herewith.

23.

At all relevant times to this action, Defendant Troopers Black and Warren were acting in the performance of their official duties as troopers for the South Carolina Highway Patrol and therefore acting under the color of state law.

24.

Defendants' wilful and wanton actions constituted and resulted in the deprivation of Mr. Walker's rights, privileges and immunities to be free from unreasonable seizure and force as guaranteed by the law and the Constitution of the United States, via the Fourth and Fourteenth Amendments, and the law and Constitution of the State of South Carolina.

25.

As a direct and proximate cause of Defendants' actions, Mr. Walker has suffered humiliation, embarrassment, and mental anguish and is entitled to damages in an amount to be determined at trial of the case.

FOR A THIRD CAUSE OF ACTION

(Deprivation of Rights by South Carolina Department of Public Safety-42 U.S.C. § 1983)

26.

The Plaintiff hereby restates and incorporates by reference the allegations of the above paragraphs as though set forth in full herein to the extent they are not inconsistent herewith.

27.

At all relevant times to this action, Defendant Troopers Black and Warren were acting in the performance of their official duties as troopers for the South Carolina Highway Patrol and therefore acting under the color of state law.

28.

The Defendant South Carolina Department of Public Safety, by their official policies and customs, deprived Mr. Walker of his rights, privileges, and immunities under the Fourth and Fourteenth Amendments the Constitution of the United States by:

- a. Establishing policies which violated the Constitutional Rights of Mr. Walker;
- b. Inadequately training and supervising their agents and employees, including without limitation Troopers Black and Warren, in a manner which violated the Constitutional Rights of Plaintiff;
- c. Establishing or permitting the establishment of customs and norms of behavior within the Department, including behavior of Troopers Black and Warren, which violated the Constitutional Rights of Plaintiff;

29.

As a direct and proximate result of the aforementioned deprivation of Constitutional Rights, privileges and immunities by the Defendant Department of Public Safety, the Plaintiff herein has suffered humiliation, embarrassment, and mental anguish and is entitled to damages in a sum to be determined at the trial of this case.

WHEREFORE, Plaintiff prays that this Honorable Court award the following relief:

1. Award the Plaintiff compensatory damages set forth above;
 2. Award the Plaintiff punitive damages under applicable law;
 3. Award Judgment against the Defendants, jointly and severally, in an amount determined by the trier of fact in this case to include actual and punitive damages,
-
- reasonable attorneys fees, together with costs of this action; and
2. Any such further relief that it deems just and proper.

PLAINTIFF HEREBY DEMANDS A JURY TRIAL

Respectfully submitted,

KRAUSE, MOORHEAD AND DRAISEN, PA



Steven B. LeFevre (Bar #72822)
207 East Calhoun Street
Anderson, South Carolina 29621
(864) 225-4000
Attorney for the Plaintiff

Dated: June 1, 2015
Anderson, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTERFIELD) IN THE COURT OF COMMON PLEAS
) FOURTH JUDICIAL CIRCUIT
) CIVIL ACTION NO: 2012-CP-13-006681

DANIEL WATSON, as Personal)
 Representative of the Estate of DAVID)
 W. WATSON, deceased,)

Plaintiff,)

vs.)

ROBERT A. ADAMS in his individual)
 capacity as an officer with the)
 Chesterfield Police Department; ERIC)
 HEWITT in his individual capacity as)
 Chief of the Chesterfield Police)
 Department; LESLIE DAVIS in his)
 individual capacity as a Lance Corporal)
 with the South Carolina Highway Patrol;)
 CHESTERFIELD POLICE)
 DEPARTMENT and SOUTH)
 CAROLINA DEPARTMENT OF)
 PUBLIC SAFETY;)

Defendants.)

COMPLAINT
 (WRONGFUL DEATH)
 JURY TRIAL DEMANDED

2012 NOV 2 AM 11 20
 FAYE L. STULTZ
 CLERK OF COURT
 CHESTERFIELD COUNTY, SC
 4716 Hwy 140
 Chesterfield, SC 29512
 803.781.1111

Comes now the Plaintiff Daniel Watson, as personal representative of the Estate of David Watson, hereinafter "WATSON," complaining of the Defendants and allege the following:

PARTIES AND JURISDICTION

1. That Plaintiff WATSON at all times relevant to this complaint was a resident of Cheraw, Chesterfield County, South Carolina.
2. The Defendant Robert A. Adams, hereinafter ADAMS, was at all times herein an officer with the CHESTERFIELD POLICE DEPARTMENT, acting under color of state law in the course and scope of his employment as a law enforcement officer. Defendant

ADAMS is sued, in the alternative, individually under state law if his conduct is found to have been outside the course and scope of his employment.

3. That Defendant Eric Hewitt, hereinafter HEWITT, was at all times herein the Chief of the CHESTERFIELD POLICE DEPARTMENT, acting under color of state law in the course and scope of his employment as a law enforcement officer. Defendant HEWITT is sued, in the alternative, individually under state law if his conduct is found to have been outside the course and scope of his employment.
4. The Defendant Leslie Davis, hereinafter DAVIS, was at all times herein an officer with the SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, acting under color of state law in the course and scope of his employment as a law enforcement officer. Defendant DAVIS is sued, in the alternative, individually under state law if his conduct is found to have been outside the course and scope of his employment.
5. That Defendant CHESTERFIELD POLICE DEPARTMENT, hereinafter "CPD" is the appropriate party defendant as a state agency for the acts and omissions of its agents/employees in the course and scope of their employment and/or official duties pursuant to the South Carolina Tort Claims Act. Defendant CPD is sued for compensatory damages only.
6. That Defendant SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, hereinafter "SCDPS", is the appropriate party defendant as a state agency for the acts and omissions of its agents/employees in the course and scope of their employment and/or official duties pursuant to the South Carolina Tort Claims Act. Defendant SCDPS is sued for compensatory damages only.
7. The Plaintiff brings their state claims against Defendants CPD and SCDPS pursuant to

the South Carolina Tort Claims Act S.C. Code Ann. §15-78-10 et seq. and §15-5-90 et seq. In the alternative, if the conduct of ADAMS, HEWITT and DAVIS is found to have been outside the course and scope of their employment and/or official duties, the Plaintiff is asserting state law causes of action against those Defendants in their individual capacities.

8. That Plaintiff brings all causes of action brought in this complaint pursuant to South Carolina Code § 15-51-10, Civil Action for Wrongful Act Causing Death. Plaintiff brings this action on behalf of the Estate and the beneficiaries of the Estate of DAVID W. WATSON, deceased.

FACTUAL ALLEGATIONS

9. On or about June 2, 2012, at approximately 10:30 p.m., WATSON was sitting in his parked work car in the Bojangles' parking lot located at 1202 West Boulevard, Chesterfield, South Carolina, for the purposes of using the free Wi-Fi available at Bojangles.
10. At approximately 10:49 p.m., Chesterfield E-911 Dispatch received a telephone call from Defendant DAVIS. In that call, after asking where Defendant ADAMS is, Defendant DAVIS informs 911 dispatch that his grandmother, who he claims is sitting in Bojangles, has just called him to report that a white car with tinted windows has come up and parked, no one can see in to the car and that they want someone to come check it out.
11. At approximately 10:51 p.m., 911 Dispatch contacted Defendant ADAMS and relayed information concerning the call described in paragraph ten (10) above.
12. Subsequent to the events described above, Defendant ADAMS responded towards the Bojangles. Defendant ADAMS passed a "white vehicle matching the description"

turning east on to Main Street. Defendant ADAMS turned his vehicle around to pursue this vehicle. As Defendant ADAMS came up behind the vehicle, the vehicle slowed, engaged the right-turn signal, and executed a right-turn in to a private drive at 911 W. Main Street.

13. The vehicle described in paragraph twelve (12) was WATSON's vehicle and he was returning to his residence. Defendant ADAMS followed the vehicle, proceeding to park behind WATSON in his yard.
14. Defendant ADAMS reported that he "noticed it was David Watson an investigator with Cheraw PD" upon WATSON opening his car door to exit the vehicle. Defendant ADAMS reported that WATSON "grabbed the door for support and was very unsteady on his feet." Defendant ADAMS reported WATSON closing the door to his car. Defendant ADAMS reported that he "noticed that Watson had slurred speech and there was an odor of alcohol coming from the vehicle as well as from his person." Defendant ADAMS reported that WATSON "admitted that he had been drinking earlier that day."
15. Subsequent to the events described in paragraph fourteen (14), Defendant ADAMS continues to report that "Trooper Davis from SCHP had pulled in behind RO for assistance and began to walk up during the time of Watson exiting the vehicle." Defendant ADAMS reported that he turned his attention away from WATSON to respond to a telephone call from Defendant HEWITT and that when his attention returned, WATSON was entering his residence. Defendant ADAMS reported that WATSON locked his door and would not respond or unlock the door.
16. Subsequent to the events described above, Defendant ADAMS requested Defendant HEWITT to come and assist. Defendant ADAMS reported that a search warrant was

prepared and that he took said warrant to Judge Davis' residence to have it signed. Defendant ADAMS reported that upon returning to the WATSON's residence, Defendant HEWITT and Cheraw Chief of Police Keith Thomas "had talked Watson into coming out." Defendant ADAMS reported entering WATSON's residence, advising WATSON that he was under arrest for "Driving Under the Influence of Alcohol," placing WATSON in handcuffs and leading WATSON out to the patrol car. Defendant ADAMS reported offering WATSON field sobriety tests, with WATSON refusing, before placing WATSON in the patrol car.

17. Subsequent to the events described above, Defendant ADAMS transported WATSON to the county jail, where WATSON was booked for a charge of DUI.
18. Subsequent to the events described above, WATSON requested an administration hearing to challenge the State's suspension of his driver's license that resulted from the DUI charge described above. That administrative hearing took place on August 14, 2012, before Administrative Hearing Officer Phil Addington. Defendant ADAMS appeared at that administrative hearing on behalf of the State.
19. At the administrative hearing described in paragraph eighteen (18), Defendant ADAMS was duly sworn by the hearing officer and asked if there was any testimony he wished to enter in to the record. Defendant ADAMS proceeded to read his incident report (see Exhibit A) verbatim, as his sworn testimony. During Defendant ADAMS "testimony," when he got past the point of his incident report describing Defendant DAVIS walking up, WATSON's counsel interjected. WATSON's counsel explained that up until the point Defendant ADAMS made the stop was the only relevant testimony required since WATSON was solely challenging the probable cause for the traffic stop at that time.

WATSON's counsel waived on the record the right to challenge any other issue for the purposes of the administrative hearing. Defendant ADAMS was offered the opportunity to rest his testimony at that time, but informed the hearing officer that he wished to continue reading his report in as testimony. Defendant ADAMS so proceeded, reading his entire report in to the record as his sworn testimony.

20. After concluding the verbatim reading of his report as sworn testimony, Defendant ADAMS next offered in to evidence testimony based off of the Chesterfield E-911 CAD Report. Defendant ADAMS provided sworn testimony concerning that report testifying that:

They called me, which is 7-3, said there was suspicious vehicle. White car, four door, with tinted windows, in the parking lot with the lights off, going around in circles, forward, backward. And at this time, it's not wrote on the CAD report, but -- Bojangles is closing, at this time of night. There was a few older people in there eating and getting ready to leave -- plus the women that worked there. So they felt threatened by someone in the parking lot they didn't know. This car that he was driving, is not a marked police car. Uh -- tinted windows -- uh -- regular South Carolina license tag. Nobody knew who it was at that time.

While I was responding, the car matching the description that they gave me was pulling out the back of the parking lot on to Main Street. So I pulled in behind it. This is only a quarter mile, approximately, from his residence, so we did not have much of a time. By the time I speeded up to catch up to him, he's turning in the driveway, so I hit the blue lights and pull in behind him.

Uh -- this is not a typical DUI stop, where you watch the fella for two miles swerving and weaving. We had no time for that. We were strictly responding on a suspicious vehicle call. Which we get several of and we respond to everyone of them in the same manner. (See *Exhibit A*, transcript of Administrative Hearing held before Hearing Officer Phillip T. Addington, August 14, 2012, P. 8, L. 20 -- P. 9, L. 20.)

21. Subsequent to the testimony described above, Defendant ADAMS sought to enter in to

the record a copy of a written statement produced by Defendant DAVIS. WATSON's counsel objected to said statement on the basis of it being hearsay and the hearing officer did not allow the statement in.

22. The written statement described above is a written statement WATSON is informed and believes was produced and signed by Defendant DAVIS. That statement is on South Carolina Department of Public Safety/S.C. Highway Patrol letterhead.
23. Upon the events described above, Defendant ADAMS rested his case and WATSON's counsel began cross-examination of Defendant ADAMS. During cross-examination, Defendant ADAMS made the following admissions on the record:
 - a. That part of the training he had received at the Academy was how to create reports;
 - b. That reports have to be accurate;
 - c. That reports have to be truthful;
 - d. That reports have to be complete;
 - e. That the report he has just read in to evidence was accurate and truthful;
 - f. That he observed no bad driving by WATSON;
 - g. That WATSON's driving in no way indicated impairment;
 - h. That WATSON's only "crime" was "being a suspicious vehicle in the parking lot," and that "no where" in the law does it say it is a crime to be a suspicious vehicle;
 - i. That the call in the case did not allege any criminal activity, although Defendant ADAMS testified that the call alleged "people were scared";
 - j. Defendant ADAMS testified that WATSON was not "parked" in the

parking lot, rather “he was riding around in circles, and pulling forward and backwards with his lights off in a suspicious manner”;

- k. That he stopped WATSON based entirely on the call;
- l. That he knew who WATSON was, but that he did not know who was in the white car until they started pulling in to WATSON’s residence;
- m. That he called Defendant HEWITT as WATSON was pulling in to his residence.

(See *Exhibit A*, P. 10 – 16.)

- 24. Subsequent to WATSON’s counsel resting his cross-examination of Defendant ADAMS, Defendant ADAMS offered closing remarks wherein he stated that any suspicious car call in to Chesterfield would lead to that car being stopped. Defendant ADAMS testified that even if he thinks he knows who is in the car, he would stop the car, ID the person and find out what they were doing. Defendant ADAMS stated this “is our standard practice and that’s the way it will be done from now on.” Defendant ADAMS further stated this applied to any suspicious car call for vehicles at businesses or on private property. (See *Exhibit A*, P. 18, L. 9 – 12.)
- 25. Defendant ADAMS asked to make remarks after WATSON’s counsel offered his closing argument. The hearing officer allowed him to do so. In those remarks, Defendant ADAMS claimed WATSON’s counsel was:

...lumping the DUI in with the stop. The stop was just for ID. And in the state of South Carolina, we as police officers have the right to stop anybody on the street for an ID or ID anybody who is in a suspicious manner. Then when the smell of alcohol come from the vehicle it changed to a DUI stop. (See *Exhibit A*, P. 21, L. 5 – 10.)

26. Subsequent to the events described above, the State of South Carolina rescinded the suspension of WATSON's driver's license via an order issued August 15, 2012. In that order, the hearing officer concluded as a matter of law that the State had not met its burden to sustain the suspension. Specifically, the hearing officer found that the testimony of Defendant ADAMS was that WATSON "was stopped only for being a suspicious vehicle." The hearing officer noted that there was no testimony concerning any identification of the car other than it being white. The hearing officer specifically noted that it was unclear from the evidence the State presented whether or not WATSON's vehicle was the subject of the telephone call. The hearing officer also noted that other than the allegations that the call had originated from someone inside the Bojangles, the person alleged to have made the call was anonymous. The hearing officer specifically found that because Defendant ADAMS did not know who had placed the call and could not therefore verify the reliability of the caller, Defendant ADAMS was required to corroborate the information before there was reasonable suspicion to justify the vehicle stop. The hearing officer found no such testimony of corroboration and therefore no probable cause to arrest WATSON for driving under the influence.
27. WATSON was terminated from his job as an investigator with the Cheraw Police Department within 24-hours of his arrest.
28. Subsequent to the events described above, WATSON continued to investigate his case and prepare his defense. In the course of that investigation and preparation, WATSON obtained the 911 dispatch calls. Those calls document the following:
- a. The "anonymous" telephone call that was placed to 911 reporting the alleged suspicious white vehicle was actually placed by Defendant DAVIS. The

transcript of that call reads as follows:

911 Operator: Emergency services.
 DAVIS: Hey. This is Leslie.
 911 Operator: Hey.
 DAVIS: Uh – where’s Robby.
 911 Operator: I don’t know. Why?
 DAVIS: My grandmother just called me.
 She’s sitting in Bojangles. There’s a
 white car, with tinted windows,
 come up and just parking outside.
 Nobody can see in it and they just
 want somebody to come by and
 check it out.
 911 Operator: It’s parked outside?
 DAVIS: Yeah in the gravel parking lot -- it’s
 just been backing up around an
 eighteen wheeler out there.
 911 Operator: A white car?
 DAVIS: It’s a white Ford something, little
 four door car with tinted windows.
 911 Operator: She working or she just in there?
 DAVIS: She’s in there and they just can’t
 figure out what they’re doing.
 911 Operator: Okay. What’s her name -- Or I’ll
 just put it under yours.
 DAVIS: Okay.
 911 Operator: Okay. I’ll send him around there.

(See *Exhibit B*, transcript of Dispatch Emergency Services
 telephone call of June 2, 2012 at 22:47:55.)

- b. Subsequent to the call described in paragraph above, the 911 operator called

Defendant ADAMS. The transcript of that call reads as follows:

ADAMS: Hello?
 911 Operator: Hey.
 ADAMS: Hey.
 911 Operator: Leslie Davis just called me and said
 that his Grandma’s in Bojangles.
 And there’s a white car, four door
 car, with tinted windows, that’s out
 there in the gravel parking lot part.
 He said it keeps backing up and

going forward and backing up and going forward, been out there for a long time they don't know what its doing. They want someone to go out there and check it.

ADAMS: Okay.

911 Operator: Okay.

ADAMS: And Leslie called?

911 Operator: Yeah, his grandma called him. She's in -- she's in there, but she called him.

ADAMS: Okay.

911 Operator: Okay.

ADAMS: Allright

911 Operator: Uh-huh.

(See *Exhibit C*, transcript of Dispatch Emergency Services telephone call of June 2, 2012 at 22:49:51.)

29. Upon learning that the actual call to 911 had originated from Defendant DAVIS, WATSON issued a subpoena decus tecum requesting, among other items, the phone records for Defendant DAVIS' mobile phone, as well as the name, address and telephone number for Defendant DAVIS' grandmother mentioned in the 911 call. That subpoena was served on or about June 28, 2012.
30. Subsequent to the events described in paragraph twenty-nine (29), Defendant DAVIS provided a response to the subpoena described above. Noticeably absent from that response, was any of the information sought concerning the identity of Defendant DAVIS' grandmother. Due to the absence of any response on that subject, WATSON investigated further the alleged telephone call Defendant DAVIS received from his grandmother. That investigation revealed the following:
 - a. Prior to Defendant DAVIS' call to 911 and the phone calls immediately following, Defendant DAVIS's phone records show only calls between Defendant

DAVIS and:

- i. Defendant ADAMS, for 4 minutes at 10:42 pm;
- ii. Defendant HEWITT, for 1 minute at 10:45 pm;
- iii. Chesterfield Dispatch, for 2 minutes at 10:47 pm
(WATSON is informed and believes this call to be Defendant DAVIS' call to 911);
- iv. Defendant HEWITT, for 5 minutes at 10:49 pm;
- v. Defendant HEWITT, for 1 minute at 11:03 pm.
- vi. Cheraw Police Department, for 3 minutes at 11:04 pm.

31. Upon seeing that the calls immediately preceding Defendant DAVIS' call to 911 were with Defendant ADAMS and Defendant HEWITT, WATSON further investigated Defendant DAVIS' claim to having received a telephone call from his "grandmother." The results of that investigation revealed that both Defendant DAVIS' paternal and maternal grandmothers appear to be deceased. WATSON bases this allegation upon the following:

- a. An online engagement announcement for Defendant DAVIS and his wife from the Progressive Journal, dated May 9, 2011 at 4:18 pm, which describes Defendant DAVIS as "the grandson of the late Mr. and Mrs. James Davis of Chesterfield, and the late Mr. and Mrs. Robert Sutton of Ruby" (See *Exhibit D*);
- b. An online obituary from The Cheraw Chronicle, memorializing the September 3, 2009 death of Margie Gullede Sutton and listing "Leslie Davis of Chesterfield, S.C." as a surviving grandchild (See *Exhibit E*);

- c. An online obituary from The Cheraw Chronicle, memorializing the October 8, 2008 death of Esther Jones Davis and listing “Leslie Davis of Chesterfield” as a surviving grandchild (See *Exhibit F*).
32. As part of his investigation, WATSON discovered that on the night of July 2, 2012, Defendant HEWITT contacted WATSON’s estranged wife, Mary Florence Watson. Defendant HEWITT apparently contacted her asking her to contact WATSON and attempt to get him to exit his house. Mary Florence contacted WATSON by telephone and he said he would not come out of his residence. She relayed that information back to Defendant HEWITT who informed her that if WATSON would not come out, they would have to go in. Mary Florence informed Defendant HEWITT that she had a key to the residence and asked Defendant HEWITT to please not break down the doors, expressing concern for the effect that action would have on WATSON.
 33. Subsequent to the telephone conversation described in paragraph thirty-two (32), Defendant HEWITT came to Mary Florence Watson’s residence and obtained the key to WATSON’s residence. Defendant HEWITT returned said key later that same evening.
 34. On or about August 29, 2012, WATSON committed suicide. In doing so, WATSON left correspondence expressing his last wishes and explaining that he was taking his life due to the loss of his career and his wife. Specifically, WATSON noted “I loved being a Detective but I know I will never be one again.”
 35. The criminal charges against WATSON were *nolle prossed* on or about September 19, 2012.

FOR A FIRST CAUSE OF ACTION
Against Defendant CPD

36. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
37. The Defendant CPD is vicariously liable for the acts and omissions of Defendants ADAMS and HEWITT acting within the course and scope of their employment.
38. That as a direct and proximate result of the Defendant CPD's willful, wanton and grossly negligent acts and omissions, the Plaintiff is informed and believes that the Plaintiff's decedent suffered mental, emotional and physical harm, special damages, proximately caused by:
 - a. The acts and omissions of Defendant CPD, by show of force and physically detaining the Plaintiff without reasonable suspicion to seize him violated the Plaintiff's fourth amendment rights;
 - b. The acts and omissions of Defendant CPD, in executing an unlawful stop against the Plaintiff and in subsequently arresting WATSON based off of that unlawful stop without probable cause violated WATSON's fourth amendment rights to be free from unreasonable seizures;
 - c. The acts and omissions of Defendant CPD of intentionally restraining WATSON's movement without lawful authority constituting the tort of false imprisonment;
 - d. The acts and omissions of Defendant CPD of intentionally stopping WATSON unlawfully without probable cause and for subsequently arresting WATSON without probable cause constitute the tort of false arrest;
 - e. The acts and omissions of Defendant CPD in conspiring with others for

the purposes of injuring WATSON. For the purposes of this cause of action, “others” is meant to include, but not be limited to Defendant SCDPS, Defendant ADAMS, Defendant HEWITT and Defendant DAVIS;

- f. The acts and omissions of Defendant CPD, as described in paragraphs ten (10) through thirty-five (35), of maliciously prosecuting WATSON by instituting criminal proceedings against WATSON despite knowing they lacked probable cause for the initial traffic stop and subsequent search warrant and arrest; and
 - g. The acts and omissions of Defendant CPD, as described in paragraphs ten (10) through thirty-five (35), of abusing process by instituting criminal and administrative proceedings against WATSON despite knowing they lacked probable cause for the initial traffic stop and subsequent search warrant and arrest.
39. That the Plaintiff is informed and believes that the acts and omissions described above constitute wrongful conduct and/or violations of federal and state law.
 40. That the Plaintiff's intestate, David W. Watson, came to his untimely death as a consequence of the alleged wrongful conduct documented above. Specifically, but not limited to that conducted listed in paragraph thirty-eight (38).
 41. That Defendant CPD's negligence and/or recklessness, willfulness and wantonness, in one or more of the alleged incidents of wrongful conduct as described above, was the proximate cause of the death of the Plaintiff's intestate.

42. As a direct and proximate result of the aforesaid acts and omissions of the Defendant CPD, the Plaintiff's decedent suffered substantial mental, emotional and physical injuries, conscious pain and suffering, financial earning loss, employment benefit loss, death and funeral expenses.
43. That as a result of the Plaintiff's decedent's death, the beneficiaries have suffered pecuniary loss, mental shock, suffering, extreme emotional anguish, wounded feelings, grief and sorrow, the loss of care, comfort, companionship, and society of the decedent, as well as the loss of his services and support. In addition, the decedent's beneficiaries have suffered economic loss in the form of funeral expenses on behalf of the decedent.

FOR A SECOND CAUSE OF ACTION
Against Defendant SCDPS

44. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
45. The Defendant SCDPS is vicariously liable for the acts and omissions of Defendants ADAMS and HEWITT acting within the course and scope of their employment.
46. That as a direct and proximate result of the Defendant SCDPS's willful, wanton and grossly negligent acts and omissions, the Plaintiff is informed and believes that the Plaintiff's decedent suffered mental, emotional and physical harm, special damages, proximately caused by:
 - a. The acts and omissions of Defendant SCDPS, by show of force and physically detaining the Plaintiff without reasonable suspicion to seize him violated the Plaintiff's fourth amendment rights;
 - b. The acts and omissions of Defendant SCDPS, in executing an unlawful

- stop against the Plaintiff and in subsequently arresting WATSON based off of that unlawful stop without probable cause violated WATSON's fourth amendment rights to be free from unreasonable seizures;
- c. The acts and omissions of Defendant SCDPS of intentionally restraining WATSON's movement without lawful authority constituting the tort of false imprisonment;
 - d. The acts and omissions of Defendant SCDPS of intentionally stopping WATSON unlawfully without probable cause and for subsequently arresting WATSON without probable cause constitute the tort of false arrest;
 - e. The acts and omissions of Defendant SCDPS in conspiring with others for the purposes of injuring WATSON. For the purposes of this cause of action, "others" is meant to include, but not be limited to Defendant CPD, Defendant ADAMS, Defendant HEWITT and Defendant DAVIS;
 - f. The acts and omissions of Defendant SCDPS, as described in paragraphs ten (10) through thirty-five (35), of maliciously prosecuting WATSON by instituting criminal proceedings against WATSON despite knowing they lacked probable cause for the initial traffic stop and subsequent search warrant and arrest; and
 - g. The acts and omissions of Defendant SCDPS, as described in paragraphs ten (10) through thirty-five (35), of abusing process by instituting criminal and administrative proceedings against WATSON despite knowing they lacked probable cause for the initial traffic stop and

subsequent search warrant and arrest.

47. That the Plaintiff is informed and believes that the acts and omissions described above constitute wrongful conduct and/or violations of federal and state law.
48. That the Plaintiff's intestate, David W. Watson, came to his untimely death as a consequence of the alleged wrongful conduct documented above. Specifically, but not limited to that conducted listed in paragraph forty-six (46).
49. That Defendant SCDPS's negligence and/or recklessness, willfulness and wantonness, in one or more of the alleged incidents of wrongful conduct as described above, was the proximate cause of the death of the Plaintiff's intestate.
50. As a direct and proximate result of the aforesaid acts and omissions of the Defendant SCDPS, the Plaintiff's decedent suffered substantial mental, emotional and physical injuries, conscious pain and suffering, financial earning loss, employment benefit loss, death and funeral expenses.
51. That as a result of the Plaintiff's decedent's death, the beneficiaries have suffered pecuniary loss, mental shock, suffering, extreme emotional anguish, wounded feelings, grief and sorrow, the loss of care, comfort, companionship, and society of the decedent, as well as the loss of his services and support. In addition, the decedent's beneficiaries have suffered economic loss in the form of funeral expenses on behalf of the decedent.

FOR A THIRD CAUSE OF ACTION
Against Defendant ADAMS (In the Alternative)

52. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

53. In the alternative, if Defendant ADAMS is found to have acted outside the course and scope of his employment, the Plaintiff asserts the following:
54. That as a direct and proximate result of the Defendant ADAMS' willful, wanton and grossly negligent acts and omissions, the Plaintiff is informed and believes that the Plaintiff's decedent suffered mental, emotional and physical harm, special damages, proximately caused by:
 - a. The acts and omissions of Defendant ADAMS, by show of force and physically detaining the Plaintiff without reasonable suspicion to seize him violated the Plaintiff's fourth amendment rights;
 - b. The acts and omissions of Defendant ADAMS, in executing an unlawful stop against the Plaintiff and in subsequently arresting WATSON based off of that unlawful stop without probable cause violated WATSON's fourth amendment rights to be free from unreasonable seizures;
 - c. The acts and omissions of Defendant ADAMS of intentionally restraining WATSON's movement without lawful authority constituting the tort of false imprisonment;
 - d. The acts and omissions of Defendant ADAMS of intentionally stopping WATSON unlawfully without probable cause constitute the tort of false arrest;
 - e. The acts and omissions of Defendant ADAMS in conspiring with others for the purposes of injuring WATSON. For the purposes of this cause of action, "others" is meant to include, but not be limited to Defendant CPD, Defendant SCDPS, Defendant HEWITT and Defendant DAVIS;

- f. The acts and omissions of Defendant ADAMS, as described in paragraphs ten (10) through thirty-five (35), of maliciously prosecuting WATSON by instituting criminal proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search warrant and arrest; and
 - g. The acts and omissions of Defendant ADAMS, as described in paragraphs ten (10) through thirty-five (35), of abusing process by instituting criminal and administrative proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search warrant and arrest.
55. That the Plaintiff is informed and believes that the acts and omissions described above constitute wrongful conduct and/or violations of federal and state law.
 56. That the Plaintiff's intestate, David W. Watson, came to his untimely death as a consequence of the alleged wrongful conduct documented above. Specifically, but not limited to that conducted listed in paragraph fifty-four (54).
 57. That Defendant ADAMS' negligence and/or recklessness, willfulness and wantonness, in one or more of the alleged incidents of wrongful conduct as described above, was the proximate cause of the death of the Plaintiff's intestate.
 58. As a direct and proximate result of the aforesaid acts and omissions of the Defendant ADAMS, the Plaintiff's decedent suffered substantial mental, emotional and physical injuries, conscious pain and suffering, financial earning loss, employment benefit loss, death and funeral expenses.

59. That as a result of the Plaintiff's decedent's death, the beneficiaries have suffered pecuniary loss, mental shock, suffering, extreme emotional anguish, wounded feelings, grief and sorrow, the loss of care, comfort, companionship, and society of the decedent, as well as the loss of his services and support. In addition, the decedent's beneficiaries have suffered economic loss in the form of funeral expenses on behalf of the decedent.

FOR A FOURTH CAUSE OF ACTION
Against Defendant HEWITT (In the Alternative)

60. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
61. In the alternative, if Defendant HEWITT is found to have acted outside the course and scope of his employment, the Plaintiff asserts the following:
62. That as a direct and proximate result of the Defendant HEWITT's willful, wanton and grossly negligent acts and omissions, the Plaintiff is informed and believes that the Plaintiff's decedent suffered mental, emotional and physical harm, special damages, proximately caused by:
- a. The acts and omissions of Defendant HEWITT, by show of force and physically detaining the Plaintiff without reasonable suspicion to seize him violated the Plaintiff's fourth amendment rights;
 - b. The acts and omissions of Defendant HEWITT, in executing an unlawful stop against the Plaintiff and in subsequently arresting WATSON based off of that unlawful stop without probable cause violated WATSON's fourth amendment rights to be free from unreasonable seizures;
 - c. The acts and omissions of Defendant HEWITT of intentionally

- restraining WATSON's movement without lawful authority constituting the tort of false imprisonment;
- d. The acts and omissions of Defendant HEWITT of intentionally stopping WATSON unlawfully without probable cause constitute the tort of false arrest;
 - e. The acts and omissions of Defendant HEWITT in conspiring with others for the purposes of injuring WATSON. For the purposes of this cause of action, "others" is meant to include, but not be limited to Defendant CPD, Defendant SCDPS, Defendant ADAMS and Defendant DAVIS;
 - f. The acts and omissions of Defendant HEWITT, as described in paragraphs ten (10) through thirty-five (35), of maliciously prosecuting WATSON by instituting criminal proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search warrant and arrest; and
 - g. The acts and omissions of Defendant HEWITT, as described in paragraphs ten (10) through thirty-five (35), of abusing process by instituting criminal and administrative proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search warrant and arrest.
63. That the Plaintiff is informed and believes that the acts and omissions described above constitute wrongful conduct and/or violations of federal and state law.

64. That the Plaintiff's intestate, David W. Watson, came to his untimely death as a consequence of the alleged wrongful conduct documented above. Specifically, but not limited to that conducted listed in paragraph sixty-two (62).
65. That Defendant HEWITT's negligence and/or recklessness, willfulness and wantonness, in one or more of the alleged incidents of wrongful conduct as described above, was the proximate cause of the death of the Plaintiff's intestate.
66. As a direct and proximate result of the aforesaid acts and omissions of the Defendant HEWITT, the Plaintiff's decedent suffered substantial mental, emotional and physical injuries, conscious pain and suffering, financial earning loss, employment benefit loss, death and funeral expenses.
67. That as a result of the Plaintiff's decedent's death, the beneficiaries have suffered pecuniary loss, mental shock, suffering, extreme emotional anguish, wounded feelings, grief and sorrow, the loss of care, comfort, companionship, and society of the decedent, as well as the loss of his services and support. In addition, the decedent's beneficiaries have suffered economic loss in the form of funeral expenses on behalf of the decedent.

FOR A FIFTH CAUSE OF ACTION
Against Defendant DAVIS (In the Alternative)

68. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
69. In the alternative, if Defendant DAVIS is found to have acted outside the course and scope of his employment, the Plaintiff asserts the following:
70. That as a direct and proximate result of the Defendant DAVIS' willful, wanton and grossly negligent acts and omissions, the Plaintiff is informed and believes that the

Plaintiff's decedent suffered mental, emotional and physical harm, special damages, proximately caused by:

- a. The acts and omissions of Defendant DAVIS, by show of force and physically detaining the Plaintiff without reasonable suspicion to seize him violated the Plaintiff's fourth amendment rights;
- b. The acts and omissions of Defendant DAVIS, in executing an unlawful stop against the Plaintiff and in subsequently arresting WATSON based off of that unlawful stop without probable cause violated WATSON's fourth amendment rights to be free from unreasonable seizures;
- c. The acts and omissions of Defendant DAVIS of intentionally restraining WATSON's movement without lawful authority constituting the tort of false imprisonment;
- d. The acts and omissions of Defendant DAVIS of intentionally stopping WATSON unlawfully without probable cause constitute the tort of false arrest;
- e. The acts and omissions of Defendant DAVIS in conspiring with others for the purposes of injuring WATSON. For the purposes of this cause of action, "others" is meant to include, but not be limited to Defendant CPD, Defendant SCDPS, Defendant ADAMS and Defendant HEWITT;
- f. The acts and omissions of Defendant DAVIS, as described in paragraphs ten (10) through thirty-five (35), of maliciously prosecuting WATSON by instituting criminal proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search

warrant and arrest; and

- g. The acts and omissions of Defendant DAVIS, as described in paragraphs ten (10) through thirty-five (35), of abusing process by instituting criminal and administrative proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search warrant and arrest.


71. That the Plaintiff is informed and believes that the acts and omissions described above constitute wrongful conduct and/or violations of federal and state law.
72. That the Plaintiff's intestate, David W. Watson, came to his untimely death as a consequence of the alleged wrongful conduct documented above. Specifically, but not limited to that conducted listed in paragraph seventy-one (71).
73. That Defendant DAVIS' negligence and/or recklessness, willfulness and wantonness, in one or more of the alleged incidents of wrongful conduct as described above, was the proximate cause of the death of the Plaintiff's intestate.
74. As a direct and proximate result of the aforesaid acts and omissions of the Defendant DAVIS, the Plaintiff's decedent suffered substantial mental, emotional and physical injuries, conscious pain and suffering, financial earning loss, employment benefit loss, death and funeral expenses.
75. That as a result of the Plaintiff's decedent's death, the beneficiaries have suffered pecuniary loss, mental shock, suffering, extreme emotional anguish, wounded feelings, grief and sorrow, the loss of care, comfort, companionship, and society of the decedent, as well as the loss of his services and support. In addition, the decedent's beneficiaries have suffered economic loss in the form of funeral expenses on behalf of the decedent.

DAMAGES

76. That as to Defendants CPD and SCDPS, the Plaintiff is informed and believes that they are entitled to actual and consequential damages, damages pursuant to S. C. Code § 15-51-40 and such other relief as the Court deems just and proper.
77. That as to Defendants ADAMS, HEWITT and DAVIS, the Plaintiff is informed and believes that they are entitled to actual, consequential and punitive damages, damages pursuant to S. C. Code § 15-51-40 and such other relief as the Court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE having fully set forth the grounds of their complaint Plaintiff asks this court to award compensatory and punitive damages in an appropriate amount, attorney fees and costs pursuant to 42 U.S.C. §1988, and such other relief as this court deems just and proper.


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November 2, 2012

Exhibit A

STATE OF SOUTH CAROLINA
OFFICE OF MOTOR VEHICLE HEARINGS

Chesterfield Police Department and South Carolina Department of Motor Vehicles,)
Docket No. 12-OMVH-01-3161-CC)
DL# 007228412)
Petitioner,)
vs.)
David Warren Watson,)
Respondent.)

Transcript of Record of Hearing held before
Hearing Officer Phillip T. Addington on August 14, 2012 at
Kershaw County Court House, 1121 Broad Street, Grand Jury
Room, Camden, South Carolina. Hearing scheduled to begin
at 9:00 A.M.

Transcript prepared by Laura W. Little, Notary
Public in and for the State of South Carolina.

APPEARANCES OF COUNSEL:

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LAURA W. LITTLE
LAURA LITTLE REPORTING SERVICE
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1 ADMINISTRATIVE HEARING OFFICER ADDINGTON ("ARO"):
2 My name is Phil Addington, and I've been appointed by
3 the South Carolina Administrative Law Court to preside
4 at this contested case. The entire proceedings are
5 being tape recorded for Departmental reference and are a
6 matter of public record. I turn you now to the issues
7 that are mandated by statute. Are there any issues
8 being contested or stipulated to?
9 MR. JOYNER: Yes. No. Your Honor, the issues that
10 we're going to contest is his probable cause to make the
11 stop.
12 HEARING OFFICER: If you'd stand for me please,
13 sir. Give for me your full name, your work address and
14 your position as it's related to this matter?
15 CORPORAL ADAMS: Robert Allen Adams, Corporal with
16 the Chesterfield Police Department. I'm the arresting
17 officer for Mr. Watson's DUI.
18 HEARING OFFICER: And also the Datamaster operator,
19 am I correct?
20 CORPORAL ADAMS: Okay.
21 HEARING OFFICER: Okay. If you'll raise your right
22 hand for me? Do you solemnly swear the testimony you're
23 about to give in this matter will be the truth, the
24 whole truth and nothing but the truth?
25 CORPORAL ADAMS: Yes, sir.

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1 HEARING OFFICER: Okay. You may be seated. All
2 issues have been contested here today and y'all can just
3 remain seated. Do you have testimony that you'd like to
4 enter here today pertaining to those contested issues?
5 CORPORAL ADAMS: The main purpose of his contesting
6 it is the probable cause for the stop. If I may, I'll
7 read my Incident Report which covers this, and then I
8 have a, a CAD Report from Chesterfield County 9-1-1
9 Service where they dispatched me to the area for a
10 suspicious vehicle and that was the probable cause for
11 the stop, but I'll just read my report. "RO," which is
12 me, the officer, "received a call from dispatch
13 regarding a suspicious vehicle in the Bojangles parking
14 lot. The vehicle was described as a white car and had
15 tinted windows. The vehicle was running and had its
16 lights off and backing up in circles, pulling up
17 parallel with the building in the truck section of the
18 parking lot. RO was in the neighborhood on the north
19 side of town doing property checks. RO responded from
20 Curtis Road onto Tammy Street. While on Tammy Street,
21 RO noticed a white vehicle matching the description
22 leaving the Bojangles parking lot turning east on Main
23 Street. RO stopped at the stop sign at Tammy Street and
24 then proceeded east on Main. RO intended to perform a
25 traffic stop to ID the vehicle and the driver. I would just say up to the point where

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Signatures, initials, and personal information (i.e. address, phone, social security number)

were redacted by House Legislative Oversight Committee staff
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1 subject was in the parking lot at this time of night.
2 As RO got close to subject's vehicle, it slowed and give
3 a turn signal to turn right into the driveway at 911
4 West Main. RO turned on the blue lights, followed the
5 vehicle into the rear of the house. RO exited the
6 patrol vehicle, approached the white car. The driver
7 opened the door, exited and RO noticed it was David
8 Watson, investigator with Cheraw Police Department. RO
9 then noticed that Watson was wearing shorts, t-shirt and
10 no shoes on. RO watched as he got out of the vehicle.
11 He grabbed the door for support and was very unsteady on
12 his feet. Watson closed the door of his vehicle which
13 was an unmarked Cheraw Police Department vehicle.
14 Watson then leaned back on the vehicle while RO talked
15 to him. RO noticed Watson had slurred speech and there
16 was an odor of alcohol coming from his vehicle, as well
17 as his person. Watson admitted that he had been
18 drinking earlier that day and suggested that officers
19 'do not do this.' Trooper Davis from the South Carolina
20 Highway Patrol had pulled in behind RO for assistance
21 and began to walk up during the time of Watson exiting
22 the vehicle. RO told Watson to wait at the vehicle for
23 a moment. Mr. Watson---
24 MR. JOYNER: Judge, if I could, I'm, I'm sorry to

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1 he made the stop is the only thing we're going to
2 contest. I mean, I don't necessarily think we need to
3 waste the---

4 CORPORAL DAVIS: Okay.

5 MR. JOYNER: ---Court's time with the (inaudible)
6 details.

7 CORPORAL DAVIS: I can, I can stop there.

8 HEARING OFFICER: Okay.

9 CORPORAL DAVIS: That covers the reason for the
10 stop.

11 HEARING OFFICER: Okay. But all other issues are
12 being contested also, other than the probable cause. Up
13 to that point, you're okay?

14 MR. JOYNER: Judge, I can waive those issues. I, I
15 -- the probable cause is, is certainly strong enough.

16 HEARING OFFICER: So the second and third issues
17 would be stipulated to?

18 MR. JOYNER: That's right.

19 HEARING OFFICER: Okay. And the first issue is
20 contested.

21 MR. JOYNER: Okay.

22 HEARING OFFICER: And you're basically up to this
23 point no more testimony needs to be entered in as to
24 what occurred?

25 MR. JOYNER: Yeah. I mean, Your Honor, if he, if
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1 he need -- not, not on the other issues, Judge. My only
2 issue, I will, I will, I will waive my right to
3 challenge all issues but the probable cause.

4 HEARING OFFICER: Okay. Except for the issue
5 number one?

6 MR. JOYNER: But his, his, his stopping and
7 arresting Mr. Watson.

8 HEARING OFFICER: Okay. Okay. If, if he wants to
9 go forward, I, I'll, I'll -- it's entirely up to you as
10 to -- this is your testimony that you--

11 CORPORAL ADAMS: Yeah.

12 HEARING OFFICER: ---want to enter in, and I
13 certainly don't want to stop you from entering in what
14 you deem necessary or what you want to so.

15 CORPORAL ADAMS: Well, the, the rest of this will
16 be brought out at trial, so if all he's contesting is
17 probable cause, we can go with just that part.

18 HEARING OFFICER: As long as you are okay with what
19 you have entered in at this point---

20 CORPORAL ADAMS: Uh-huh.

21 HEARING OFFICER: ---and y'all agree then that the
22 testimony -- or you agree that the testimony you've
23 entered is sufficient?

24 CORPORAL ADAMS: Well, just let me finish reading
25 that.

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1 HEARING OFFICER: Okay. Yeah.

2 CORPORAL ADAMS: That way we'll be covered.

3 HEARING OFFICER: Okay.

4 CORPORAL ADAMS: Let me see (inaudible), yes.

5 "Watson followed RO toward the patrol vehicle. Watson
6 had a wide and erratic step which inferred that he was
7 impaired. RO then turned off the blue lights for the
8 purpose of giving a field sobriety. RO instructed
9 Watson to stand at the rear of his car. RO turned to
10 respond to Chief Hewitt on the telephone. When RO
11 looked back, Watson was going into the house. RO ran to
12 the door calling his name. When RO got to the storm
13 door, Watson was closing the wooden door and locked it.
14 Watson would not respond and would not unlock the door.
15 RO had requested that the Chief come and assist. When
16 Chief Hewitt arrived, he also tried to talk to Watson.
17 Lieutenant Lisenby prepared a search warrant. RO went
18 to Judge Davis' residence to get it approved and signed.
19 Upon return, Chief Hewitt and Keith Thomas from the
20 Cheraw Police Department had talked Watson into coming
21 out. RO went into the kitchen where Chief Hewitt and
22 Watson were. RO told Watson to place his hands behind
23 his back, he was under arrest for driving under the
24 influence of alcohol. RO placed the cuffs on Watson,
25 led him to the patrol vehicle, and personal information (i.e. address, phone, social security number)

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1 advised Watson of his Miranda rights. Offered him a
2 field sobriety test which he refused prior to placing
3 him in the vehicle. RO then looked inside of Watson's
4 vehicle for any open containers. There were no open
5 containers, but a prominent odor of alcohol in the
6 vehicle. There was a duty weapon laying in the front
7 seat along with two laptop computers. Keith Thomas of
8 Cheraw Police Department took possession of the vehicle
9 and the duty weapon. RO transported Watson to the
10 county jail and charged him with DUI. Upon arrival at
11 the jail, RO placed Watson in the Datamaster room for
12 examination. RO removed the cuffs and started the
13 video. RO advised Watson of his Miranda rights again.
14 Watson then responded that he understood them. Watson
15 refused to sign any paperwork involved with the arrest
16 and RO then asked him if he would give a breath sample,
17 which Watson refused to submit. RO printed out a
18 "refusal", filled out the suspension form, confiscated
19 Watson's driver's license and Watson was turned over to
20 the jail personnel." And the CAD Report from
21 Chesterfield County 9-1-1, they called me which is 7/3.
22 Said there was a suspicious vehicle, white car,
23 four-door with tinted windows in the parking lot with
24 the lights off going around in circles, forward,
25 at this time, it's not wrote on the CAD

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1 report, but Bojangles is closing at this time of night.
 2 There was a few older people in there eating and getting
 3 ready to leave, plus the women that worked there. So
 4 they felt threatened by someone in the parking lot they
 5 didn't know. This car that he was driving is not a
 6 marked police car. Tinted windows, a regular South
 7 Carolina license tag. Nobody knew who it was at that
 8 time. But while I was responding, the car matching the
 9 description that they gave me was pulling out the back
 10 of the parking lot onto Main Street, so I pulled in
 11 behind it. This is only a quarter-mile approximately
 12 from his residence, so we did not have much of a time.
 13 By the time I speeded up to catch up to him, he's
 14 turning in the driveway, so I hit the blue lights and
 15 pull in behind him. This is not a typical DUI stop
 16 where you watch the fella for two miles swerving and
 17 weaving. We had no time for that. We were strictly
 18 responding on a suspicious vehicle call which we get
 19 several of and we respond to every one of them in the
 20 same manner." And that covers that. I do have a
 21 letter, a statement by Trooper Hewitt.

22 MR. JOYNER: Your Honor,---

23 CORPORAL DAVIS: Trooper Leslie Davis.

24 MR. JOYNER: I object. He, he -- that's hearsay.

25 That's (inaudible).

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1 CORPORAL DAVIS: Well, he was on the scene.
 2 MR. JOYNER: That is hearsay what you're offering.
 3 That is not allowed into evidence. I, I mean, of
 4 course, it's legitimate. Forgive me, Judge. I'm sorry.
 5 CORPORAL DAVIS: Yeah.
 6 HEARING OFFICER: He, he's not here to---
 7 CORPORAL DAVIS: Yeah. Okay. Well, we'll save
 8 that for trial.
 9 HEARING OFFICER: ---for cross-examination.
 10 CORPORAL ADAMS: He'll be at the trial and we can
 11 save that till then.
 12 HEARING OFFICER: Does that complete your?
 13 CORPORAL ADAMS: Yes, sir.
 14 HEARING OFFICER: Cross-examination.
 15 MR. JOYNER: Yes, sir.
 16 CROSS EXAMINATION BY MR. JOYNER:
 17 Q. All right. And your name is Robert Adams?
 18 A. Yes, sir.
 19 Q. You work for Chesterfield Police Department?
 20 A. Yes, sir.
 21 Q. You arrested Mr. Watson on June 30th or, excuse me,
 22 June 3rd, 2012?
 23 A. Yes, sir.
 24 Q. You pulled him over at 11:20 p.m.?
 25 A. Yes, sir.

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1 Q. He refused to give a sample at 1:26 a.m.?
 2 A. Yes, sir.
 3 Q. You charged him with DUI?
 4 A. Yes, sir.
 5 Q. Do you have a video of his driving?
 6 A. Yes, sir, a quarter-mile.
 7 Q. You have a video of him in the BAC room also?
 8 A. Yes, sir.
 9 Q. Mr. Adams, you attended the Police Academy, did you
 10 not?
 11 A. Yes, sir.
 12 Q. And part of your training is about how to create
 13 police reports?
 14 A. Yes, sir.
 15 Q. Your report has to be accurate?
 16 A. Yes, sir.
 17 Q. It's got to be truthful?
 18 A. Yes, sir.
 19 Q. It has to be complete?
 20 A. Yes, sir.
 21 Q. So the police report that you just read into
 22 evidence is both accurate and truthful?
 23 A. Yes, sir.
 24 Q. So you stopped Mr. Watson and your only purpose in
 25 doing so was to

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1 lot?
 2 A. Yes, sir.
 3 Q. And it's your allegation today that you had
 4 probable cause to stop Mr. Watson?
 5 A. Yes, sir.
 6 Q. You had probable cause, but you didn't see any bad
 7 driving at all?
 8 A. No, sir. I was only behind him a quarter-mile. I
 9 was catching up.
 10 Q. You did not see any bad driving at all?
 11 A. No, sir.
 12 Q. And you didn't see any bad driving because he
 13 maintained his lane the whole time?
 14 A. Yes, sir.
 15 Q. You didn't see any bad driving because he had his
 16 headlights on?
 17 A. Yes, sir.
 18 Q. You didn't see any bad driving because he did obey
 19 the speed limit?
 20 A. Well---
 21 Q. You didn't see any bad driving---
 22 A. I, I couldn't -- I didn't clock him, but he didn't
 23 appear to be doing very much over the speed limit,
 24 if any.
 25 Q. You didn't see any bad driving because he did

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were redacted by House Legislative Oversight Committee staff

1 properly use his turn signal to turn into his
2 driveway?
3 A. Yes, sir.
4 Q. So for the record, you would say that Mr. Watson's
5 driving in no way indicates an impairment?
6 A. Not by the driving, no, sir.
7 Q. So his driving was perfect?
8 A. I wouldn't say perfect.
9 Q. What was wrong with it?
10 A. He did drift in the lane, which most people do.
11 Q. Okay. That's fine.
12 A. But he did not cross the line.
13 MR. JOYNER: Judge, we'll play that video for you.
14 Q. So he committed absolutely no crime?
15 A. No. Other than being a suspicious vehicle in the
16 parking lot.
17 Q. Where in the law does it say that it's a crime to
18 be a suspicious vehicle?
19 A. Nowhere.
20 Q. Okay. The call in this case did not allege any
21 criminal activity whatsoever, did it?
22 A. No, sir. Just that people were scared.
23 Q. It did not allege any criminal activity?
24 A. No, sir.
25 Q. Is it legal -- you will admit now that it is legal

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1 to drive a white car?
2 A. Yes, sir.
3 Q. And it is legal to be in Bojangles parking lot?
4 A. Technically, not after closing. They have a sign
5 up out there that the parking lot is under the
6 jurisdiction of the town police and nobody is
7 supposed to be in it after closing.
8 Q. So it is your allegation today to this Judge that
9 it is illegal to park in the Bojangles public
10 parking lot?
11 A. He wasn't parked. He was riding around in circles
12 and pulling forward and backwards with the lights
13 off in a suspicious manner, and to get back to
14 the--
15 Q. Excuse me. Excuse me. I ask the questions.
16 A. Okay.
17 Q. I'm examining you right now. Again, for the
18 record, the call did not allege any criminal
19 activity whatsoever?
20 A. No, sir.
21 Q. And you stopped Mr. Watson based entirely on this
22 call?
23 A. Yes, sir.
24 Q. Before you made the stop, one year or two year,
25 however many, you knew who Mr. Watson was?

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1 A. Yes, sir.
2 Q. And you knew he was a law enforcement officer?
3 A. Yes, sir.
4 Q. You knew he was an investigator?
5 A. Yes, sir.
6 Q. And you knew he was driving the car before you
7 pulled him over?
8 A. No, sir. I didn't know who was in the white car
9 till we started to turn in his parking -- in his
10 yard or driveway. That's when I realized who it
11 was because like you said, there are a lot of white
12 cars on the road.
13 Q. Excuse me. I'm sorry. Please let me answer the --
14 ask the questions and you can answer them. You are
15 today under oath saying that you did not know he
16 was driving that car before you turned your blue
17 lights on?
18 A. I had no way of knowing who was driving it.
19 Q. You are saying today under oath that you didn't
20 call Chief Hewitt and discuss with him what you
21 would do about David Watson in that car?
22 A. If it was him. I did not know who was in the car.
23 I did not know for sure it was his car.
24 Q. Yes or -- yes or no, did you -- you called Chief
25 Hewitt and told him that it was David Watson in the

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1 car before you pulled it over? You're under oath.
2 This is being recorded and we can subpoena the
3 phone records.
4 A. As we were coming down the road and I got close
5 enough to see and he put on his turn signal, I was
6 calling Chief Hewitt, yes, sir.
7 Q. Okay. Okay. So my question is this then, since
8 you did know that it was Chief Hewitt, (sic) you
9 know, why in your incident report does it say you
10 pulled him over for the purposes to identify who
11 the driver was? Why does it say that you noticed
12 that it was David Watson, an investigator for
13 Cheraw Police Department when he got out? Don't
14 answer. You admit that's what you say?
15 A. Yes, sir.
16 Q. Okay.
17 MR. JOYNER: Judge, I don't, I don't, I don't have
18 no more questions.
19 HEARING OFFICER: All evidence, all testimony has
20 been completed at this time, Officer? No new evidence
21 or testimony?
22 CORPORAL ADAMS: I have one piece of evidence, if I
23 can, that was just given to me yesterday. I would --
24 the reason I think that Mr. Watson--
25 MR. JOYNER: No, I, I object. That's hearsay.

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were redacted by House Legislative Oversight Committee Staff

CORPORAL ADAMS: I think that Mr. Watson should not have his license, because he's a danger to himself and society, since this is not the first time stuff like this has happened.

HEARING OFFICER: I've noted your objection, but I don't know what he---

CORPORAL ADAMS: This is a Facebook posting that Mr. Watson put on Facebook Monday, and I got this copy last night. It said, "Tomorrow I get to see the sorry, redneck, lying Chesterfield police officer on the stand."

MR. JOYNER: I don't think that has anything to do with it.

CORPORAL ADAMS: Okay. Well, as far as---

HEARING OFFICER: It's completely irrelevant.

CORPORAL ADAMS: This shows that---

HEARING OFFICER: As far as to what the issue here has---

CORPORAL ADAMS: Uh-huh.

HEARING OFFICER: ---I, I don't think that would have any bearing on, on anything in there. Nothing else to add to the record here today?

CORPORAL ADAMS: No, sir.

HEARING OFFICER: Okay. You have a closing?

CORPORAL ADAMS: Well, in Chesterfield, we have had

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several, several car break-ins. It's been all around the state and all around the county. We have had break-ins in people's storage sheds, backyards. Any suspicious car called in in the Chesterfield town will be investigated under these same instances. We will stop the car and we will find out. Even if I think I know who's in the car, I'm not going to put it down till I stop them, ID them, find out what they were doing there. That is our standard practice and that's the way it'll be done from now on. If a suspicious car is called in for any business in town or any personal yard or driveway, it will be investigated the same way.

HEARING OFFICER: Closing?

MR. JOYNER: Yes. Judge, if that is standard practice, then it has been standard practice to violate the Fourth Amendment rights of every person they stop. I have created a case law brief for Your Honor which details both the United States Supreme Court cases and the South Carolina.

MR. JOYNER: Judge, I---

HEARING OFFICER: Let him look.

MR. JOYNER: Oh, sure, sure. And both the South Carolina Supreme Court juris prudance based on this. Judge, number one, he had absolutely no probable cause.

He admitted that there was flawless driving. He

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admitted that, that there was absolutely no bad driving. He used his turn signal. He didn't speed. He maintained his lane. Everything was perfect with the driving and, Judge, under the circumstances, he doesn't even have a reasonable suspicion to pull him over. It is a complete and total Constitutional violation to have somebody call, an anonymous caller, and say, well, somebody is in a white car and it's suspicious, that doesn't give you the right to violate their Fourth Amendment rights and pull them over. I mean that is just -- the United States Supreme Court in Florida v. JL, which I have outlined in this case, has specifically said and in the facts of that case, Judge, they had an anonymous call of a person that there was actually an alleged illegal activity. They said there will be a black man in a plaid shirt at the bus stop and he's going to be concealing a gun illegally and in that case, the U.S. Supreme Court said that is an insufficient tip based on the fact that there is not enough information and there is no probable cause and in our case, Judge, it's even worse, because they didn't even allege an illegal activity. Every single thing he did is not even indicative of a crime, and he admitted himself that not -- that's not a crime. Judge, I'd like to just say

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this is directly from Florida v. JL, the United States Supreme Court case, it requires that a tip be reliable in its assertion of illegality, not just in its tendency to identify a determinate person. It's very easy for me to say here sits Mr. Adams. Now, does he have a weapon of mass destruction in his gun holster? I don't -- I, I mean, who knows. Who knows, he might have some kind of nerve gas, I don't know, but it's easy to identify here. It's the, it's the key thing is that there is absolutely no illegality, period, and he admits it and yet, we're still here today fighting for something that he admits he has no evidence of. And, Judge, for that reason, they 100 percent completely violated his Fourth Amendment rights and I would very respectfully request that you would dismiss this case, Judge, and find just that they violated his rights and that they did have -- did not have probable cause or a reasonable suspicion to stop Mr. Watson in the first place, and I thank you so much for your time today.

CORPORAL ADAMS: Judge, can I say one other thing?

MR. JOYNER: He's already -- you've already presented your closing.

HEARING OFFICER: I'm going to allow him to go ahead and do it. I don't know what he wants to say.

MR. JOYNER: Sure.

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1 HEARING OFFICER: It might be irrelevant or.

2 MR. JOYNER: Sure, Judge.

3 CORPORAL ADAMS: Well, I, I'm not a lawyer. I
4 don't know their terms. I don't know their procedures
5 and -- but he's lumping the DUI in with the stop. The
6 stop was just for ID and in the State of South Carolina,
7 we as police officers have the right to ask anybody on
8 the street for an ID or ID anybody that's in a
9 suspicious manner. Then, when the smell alcohol come
10 from the vehicle, it changed to a DUI stop.

11 MR. JOYNER: Okay.

12 HEARING OFFICER: We'll review the evidence and
13 testimony presented and recorded during this hearing.
14 The case is now closed. Did you, did you have a
15 rebuttal to what he just stated?

16 MR. JOYNER: Judge, you know that's a completely
17 untrue statement, so I don't even need to discuss what
18 he just said.

19 HEARING OFFICER: Okay. The case is now closed.

Exhibit B

STATE OF SOUTH CAROLINA }
COUNTY OF CHESTERFIELD }

Transcript of Record of Dispatch Emergency
Services Telephone Call of June 2, 2012, at 22:47:55.

Transcript prepared by Laura W. Little, Notary
Public in and for the State of South Carolina.

LAURA W. LITTLE
LAURA LITTLE REPORTING SERVICE
POST OFFICE BOX 710
DARLINGTON, SOUTH CAROLINA 29540
843-393-6466

1 9-1-1 OPERATOR: Emergency Services.
2 MR. DAVIS: Hey, This is Leslie.
3 9-1-1 OPERATOR: Hey.
4 MR. DAVIS: Where's Robby?
5 9-1-1 OPERATOR: I don't know, why?
6 MR. DAVIS: My grandmother just called me.
7 She's sitting in Bojangles. There's a white car
8 with tinted windows come up and just parking
9 outside. Nobody can see in it and they just want
10 somebody to come by and check it out.
11 9-1-1 OPERATOR: It's parked outside?
12 MR. DAVIS: Yeah. In the gravel parking lot.
13 They just been backing up---
14 9-1-1 OPERATOR: Uh-huh.
15 MR. DAVIS: ---around a 18-wheeler out there.
16 9-1-1 OPERATOR: A white car?
17 MR. DAVIS: It's a white Ford something. A
18 little four-door car with tinted windows.
19 9-1-1 OPERATOR: Okay. She's working or she's
20 just in there?
21 MR. DAVIS: She's in there and they just can't
22 figure out what they're doing.
23 9-1-1 OPERATOR: Okay. What's her name, Baby?
24 Or I'll just put it---
25 MR. DAVIS: Janet.

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1 9-1-1 OPERATOR: I'll just put it under yours.
2 MR. DAVIS: Okay.
3 9-1-1 OPERATOR: Okay. I'll send him around
4 there.
5 MR. DAVIS: Okay.
6 9-1-1 OPERATOR: All right. Bye.

Signatures, initials, and personal information (i.e. address, phone, social security number)
were redacted by House Legislative Oversight Committee staff.

Laura Little Reporting Service
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Exhibit C

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTERFIELD)

Transcript of Record of Dispatch Emergency
 Services Telephone Call of June 2, 2012, at 22:49:51.
 Transcript prepared by Laura W. Little, Notary
 Public in and for the State of South Carolina.

LAURA W. LITTLE
 LAURA LITTLE REPORTING SERVICE
 POST OFFICE BOX 710
 DARLINGTON, SOUTH CAROLINA 29540
 843-393-6466

1 OFFICER ADAMS: Hello?
 2 9-1-1 OPERATOR: Hey.
 3 OFFICER ADAMS: Hey.
 4 9-1-1 OPERATOR: Leslie Davis just called me
 5 and said --
 6 OFFICER ADAMS: Uh-huh.
 7 9-1-1 OPERATOR: -- that his grandma is in
 8 Bojangles --
 9 OFFICER ADAMS: Uh-huh.
 10 9-1-1 OPERATOR: -- and there's a white car, a
 11 four-door car with tinted windows that's out there
 12 in the gravel parking lot part --
 13 OFFICER ADAMS: Uh-huh.
 14 9-1-1 OPERATOR: -- and he said it keeps
 15 backing up and going forward and backing up and
 16 going forward and been out there for a long time,
 17 and they don't know what it's doing. They want --
 18 want somebody to go out there and check it.
 19 OFFICER ADAMS: Okay.
 20 9-1-1 OPERATOR: Okay.
 21 OFFICER ADAMS: And Leslie called?
 22 9-1-1 OPERATOR: Yeah, his grandma called him.
 23 She's in, she's in there, but she called him.
 24 OFFICER ADAMS: Okay.
 25 9-1-1 OPERATOR: Okay.

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 843-393-6466

1 OFFICER ADAMS: All right. Thank you.
 2 9-1-1 OPERATOR: Uh-huh.

Signatures, initials, and personal information (i.e. address, phone, social security number)
 were redacted by House Legislative Oversight Committee staff.

Exhibit D

Progressive Journal

Thurman / Davis Engagement

Monday, May 9, 2011 at 4:18 pm

Rev. and Mrs. James Ronald Thurman of Ruby, announce the engagement of their daughter, Cassie Christine Thurman to Leslie Neil Davis of Chesterfield. Leslie is the son of Kenny and Joni Davis, also of Chesterfield.

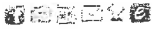
The bride-elect is the granddaughter of Mr. and Mrs. Jule Smith, of Cheraw, and Mildred G. Thurman of Ruby, the late Knox Thurman and the late Neil Moore Thurman. She is a 2003 graduate of Chesterfield high School and a 2007 Winthrop University graduate with a degree in Elementary Education. She is employed by Chesterfield County School District.

The groom-elect is the grandson of the late Mr. and Mrs. James Davis of Chesterfield, and the late Mr. and Mrs. Robert Sutton of Ruby. He is a 2001 graduate of Chesterfield High School and a 2006 graduate of the South Carolina Criminal Justice Academy. He is employed as a State Trooper by the South Carolina Highway Patrol.

A wedding is planned for July 2011 at Ruby Baptist Church.



Exhibit E


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Mrs. Margie Gulledge Sutton

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Sutton

Ruby, S.C.- Mrs. Margie Gulledge Sutton, age 86, died Thursday, Sept. 3, 2009 at her home.

A graveside service was held at 3 p.m., Saturday, Sept. 5, 2009 at Ruby Cemetery.

Visitation was held from 5 p.m. – 7 p.m. on Friday, Sept. 4, 2009 at Miller-Rivers-Caulder Funeral Home.

Mrs. Sutton was born October 1, 1922 in Ruby, SC a daughter of the late Elisha Andrew "Bub" and Rosa Comelia Rivers Gulledge. She was a graduate of Ruby High School and a retired seamstress with Puritan Manufacturing Company. Mrs. Sutton was a member of Ruby Baptist Church. She was a wonderful seamstress, an avid gardener, and enjoyed cooking. Margie was known for her delicious pecan pies and sausage biscuits. In addition to her parents, Margie was preceded in death by

her husband Robert Wilson "Rob" Sutton, three brothers; Leon, Ross, and Wilson Gulledge, and by five sisters: Mary Allen, Sallie Mae, Florence, Gladys, and Annie Lee Gulledge.

Surviving are two daughters: Denise S. Vick and Joni (Kenny) Davis of Chesterfield, S.C., five grandchildren, Kristen (Joel) McLain of Blacksburg, SC, Jason Vick of Lexington, S.C., Michael (Ivy) Davis of Mt. Pleasant, S.C., Leslie Davis of Chesterfield, S.C., and Heath Davis of Myrtle Beach, S.C., and three great grandchildren, Ethan, Emma, and Ella McLain.

Also a number of Nieces and Nephews and her special cat "Adam."

Memorials may be made to Hospice of Chesterfield County, P.O. Box 293, Chesterfield, SC 29709 or Ruby Baptist Church "Music Fund" P.O. Box 5, Ruby, S.C. 29741.

Miller-Rivers-Caulder Funeral Home of Chesterfield, S.C. (www.mrcfuneralhome.com) is serving the Sutton family.

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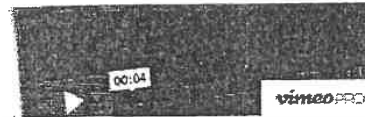
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Exhibit F

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Esther Jones Davis

PATRICK – Esther Jones Davis died on Oct. 8, 2008.

Visitation was held at the funeral home Oct. 9, 6-8 p.m.

Born Feb. 10, 1932 Mrs. Davis was the daughter of the late Paul and Nezzie Boatwright Jones. She retired from Crown Cork and Seal and was a lifelong member of Lower Macedonia Baptist Church and the Senior Circle of Chesterfield County.

The widow of the late James (Jay) M. Davis, Mrs. Davis is survived by her sons, Jimmy (Ada Gardner) Davis of Chesterfield; Kenny (Joni Sutton) Davis of Chesterfield; Freddie Davis (Susan Sartor), of Cheraw, and Rusty (Martha Sessions) Davis of Timmonsville, SC.

She was preceded in death by a son, Michael Davis.

She had five grandchildren, Michael Davis of Charleston, Leslie Davis of Chesterfield, Heath Davis of Myrtle Beach, Emily Davis of Jefferson, and James Davis of Cheraw; four step-grandchildren, Larry Purvis of Chesterfield, Andrew Purvis of Chesterfield, Bo (Terra Johnson) Rouse of Florence, Dustin Rouse of Surfside Beach; and three great-grandchildren, Josh Purvis of Chesterfield, Brennyyn and Johnson Rouse of Florence; and other relatives and friends.

Mrs. Davis is survived by siblings Sam Jones of Chesterfield, SC, Henley Jones of Cheraw, and Margaret Jones Hess of Charlotte, NC. Preceding her in death were two brothers, William Jones and Lloyd Jones, and a sister, Ruth Jones Davis Rivers.

Memorials may be made to Hospice of Chesterfield County, P.O. Box 293, Chesterfield, SC 29709. E-condolences may be sent to the family via the funeral home's website at www.mrcfuneralhome.com

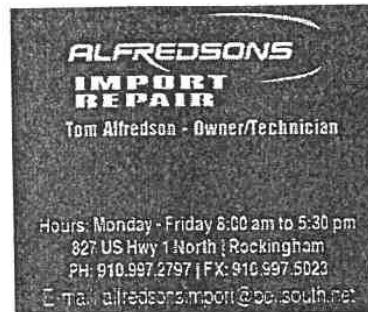
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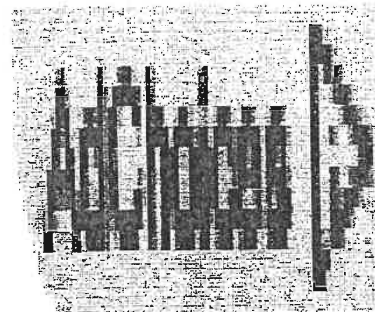


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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOURTH JUDICIAL CIRCUIT
 COUNTY OF CHESTERFIELD) CIVIL ACTION NO: 2012-CP-13- 000682

DANIEL WATSON, as Personal
 Representative of the Estate of DAVID
 W. WATSON, deceased,

Plaintiff,

vs.

ROBERT A. ADAMS in his individual
 capacity as an officer with the
 Chesterfield Police Department; ERIC
 HEWITT in his individual capacity as
 Chief of the Chesterfield Police
 Department; LESLIE DAVIS in his
 individual capacity as a Lance Corporal
 with the South Carolina Highway Patrol;
 CHESTERFIELD POLICE
 DEPARTMENT and SOUTH
 CAROLINA DEPARTMENT OF
 PUBLIC SAFETY;

Defendants.

COMPLAINT
 (Jury Trial Demanded)

2012 NOV 2 AM 11 37
 FAYE L. GELLES
 CLERK OF COURT
 CHESTERFIELD COUNTY, S.C.

A True Copy Attest
 of the Court of Appeals
 of the State of South Carolina
 Clerk of Court
 Chesterfield County, S.C.

Comes now the Plaintiff Daniel Watson, as personal representative of the Estate of David Watson, hereinafter "WATSON," complaining of the Defendants and allege the following:

PARTIES AND JURISDICTION

1. That Plaintiff WATSON at all times relevant to this complaint was a resident of Cheraw, Chesterfield County, South Carolina.
2. The Defendant Robert A. Adams, hereinafter ADAMS, was at all times herein an officer with the CHESTERFIELD POLICE DEPARTMENT, acting under color of state law in the course and scope of his employment as a law enforcement officer. Defendant

ADAMS is sued in his individual capacity under federal law for compensatory and punitive damages and, in the alternative, individually under state law if his conduct is found to have been outside the course and scope of his employment.

3. That Defendant Eric Hewitt, hereinafter HEWITT, was at all times herein the Chief of the CHESTERFIELD POLICE DEPARTMENT, acting under color of state law in the course and scope of his employment as a law enforcement officer. Defendant HEWITT is sued in his individual capacity under federal law for compensatory and punitive damages and, in the alternative, individually under state law if his conduct is found to have been outside the course and scope of his employment.
4. The Defendant Leslie Davis, hereinafter DAVIS, was at all times herein an officer with the SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, acting under color of state law in the course and scope of his employment as a law enforcement officer. Defendant DAVIS is sued in his individual capacity under federal law for compensatory and punitive damages and, in the alternative, individually under state law if his conduct is found to have been outside the course and scope of his employment.
5. That Defendant CHESTERFIELD POLICE DEPARTMENT, hereinafter "CPD" is the appropriate party defendant as a state agency for the acts and omissions of its agents/employees in the course and scope of their employment and/or official duties pursuant to the South Carolina Tort Claims Act. Defendant CPD is sued for compensatory damages only.
6. That Defendant SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, hereinafter "SCDPS", is the appropriate party defendant as a state agency for the acts and omissions of its agents/employees in the course and scope of their employment and/or

official duties pursuant to the South Carolina Tort Claims Act. Defendant SCDPS is sued for compensatory damages only.

7. The Plaintiff brings their state claims against Defendants CPD and SCDPS pursuant to the South Carolina Tort Claims Act S.C. Code Ann. §15-78-10 et seq. and §15-5-90 et seq. The Plaintiff further invokes this court's concurrent jurisdiction to hear claims against Defendants ADAMS, HEWITT and DAVIS arising under the United States Constitution and federal statutes. Specifically 42 U.S.C. § 1983, 1988, the Fourth and Fourteenth Amendments to the United States Constitution. In the alternative, if the conduct of Defendants ADAMS, HEWITT and DAVIS is found to have been outside the course and scope of their employment and/or official duties, the Plaintiff is asserting state law causes of action against those Defendants in their individual capacities.
8. That Plaintiff brings all causes of action brought in this complaint pursuant to South Carolina Code § 15-5-90, Survival of Right of Action. Plaintiff is informed and believes that all the causes of action alleged in this complaint survive to the Plaintiff as Personal Representative of the Estate of DAVID W. WATSON, deceased.

FACTUAL ALLEGATIONS

9. On or about June 2, 2012, at approximately 10:30 p.m., WATSON was sitting in his parked work car in the Bojangles' parking lot located at 1202 West Boulevard, Chesterfield, South Carolina, for the purposes of using the free Wi-Fi available at Bojangles.
10. At approximately 10:49 p.m., Chesterfield E-911 Dispatch received a telephone call from Defendant DAVIS. In that call, after asking where Defendant ADAMS is, Defendant DAVIS informs 911 dispatch that his grandmother, who he claims is sitting in Bojangles,

has just called him to report that a white car with tinted windows has come up and parked, no one can see in to the car and that they want someone to come check it out.

11. At approximately 10:51 p.m., 911 Dispatch contacted Defendant ADAMS and relayed information concerning the call described in paragraph ten (10) above.
12. Subsequent to the events described above, Defendant ADAMS responded towards the Bojangles. Defendant ADAMS passed a “white vehicle matching the description” turning east on to Main Street. Defendant ADAMS turned his vehicle around to pursue this vehicle. As Defendant ADAMS came up behind the vehicle, the vehicle slowed, engaged the right-turn signal, and executed a right-turn in to a private drive at 911 W. Main Street.
13. The vehicle described in paragraph twelve (12) was WATSON’s vehicle and he was returning to his residence. Defendant ADAMS followed the vehicle, proceeding to park behind WATSON in his yard.
14. Defendant ADAMS reported that he “noticed it was David Watson an investigator with Cheraw PD” upon WATSON opening his car door to exit the vehicle. Defendant ADAMS reported that WATSON “grabbed the door for support and was very unsteady on his feet.” Defendant ADAMS reported WATSON closing the door to his car. Defendant ADAMS reported that he “noticed that Watson had slurred speech and there was an odor of alcohol coming from the vehicle as well as from his person.” Defendant ADAMS reported that WATSON “admitted that he had been drinking earlier that day.”
15. Subsequent to the events described in paragraph fourteen (14), Defendant ADAMS continues to report that “Trooper Davis from SCHP had pulled in behind RO for assistance and began to walk up during the time of Watson exiting the vehicle.”

Defendant ADAMS reported that he turned his attention away from WATSON to respond to a telephone call from Defendant HEWITT and that when his attention returned, WATSON was entering his residence. Defendant ADAMS reported that WATSON locked his door and would not respond or unlock the door.

16. Subsequent to the events described above, Defendant ADAMS requested Defendant HEWITT to come and assist. Defendant ADAMS reported that a search warrant was prepared and that he took said warrant to Judge Davis' residence to have it signed. Defendant ADAMS reported that upon returning to the WATSON's residence, Defendant HEWITT and Cheraw Chief of Police Keith Thomas "had talked Watson into coming out." Defendant ADAMS reported entering WATSON's residence, advising WATSON that he was under arrest for "Driving Under the Influence of Alcohol," placing WATSON in handcuffs and leading WATSON out to the patrol car.
17. Subsequent to the events described above, Defendant ADAMS transported WATSON to the county jail, where WATSON was booked for a charge of DUI.
18. Subsequent to the events described above, WATSON requested an administration hearing to challenge the State's suspension of his driver's license that resulted from the DUI charge described above. That administrative hearing took place on August 14, 2012, before Administrative Hearing Officer Phillip T. Addington. Defendant ADAMS appeared at that administrative hearing on behalf of the State.
19. At the administrative hearing described in paragraph eighteen (18), Defendant ADAMS was duly sworn by the hearing officer and asked if there was any testimony he wished to enter in to the record. Defendant ADAMS proceeded to read his incident report verbatim, as his sworn testimony. During Defendant ADAMS "testimony," when he got

past the point of his incident report describing Defendant DAVIS walking up, WATSON's counsel interjected. WATSON's counsel explained that up until the point Defendant ADAMS made the stop was the only relevant testimony required since WATSON was solely challenging the probable cause for the traffic stop at that time. WATSON's counsel waived on the record the right to challenge any other issue for the purposes of the administrative hearing. Defendant ADAMS was offered the opportunity to rest his testimony at that time, but informed the hearing officer that he wished to continue reading his report in as testimony. Defendant ADAMS so proceeded, reading his entire report in to the record as his sworn testimony.

20. After concluding the verbatim reading of his report as sworn testimony, Defendant ADAMS next offered in to evidence testimony based off of the Chesterfield E-911 CAD Report. Defendant ADAMS provided sworn testimony concerning that report testifying that:

They called me, which is 7-3, said there was suspicious vehicle. White car, four door, with tinted windows, in the parking lot with the lights off, going around in circles, forward, backward. And at this time, it's not wrote on the CAD report, but -- Bojangles is closing, at this time of night. There was a few older people in there eating and getting ready to leave -- plus the women that worked there. So they felt threatened by someone in the parking lot they didn't know. This car that he was driving, is not a marked police car. Uh -- tinted windows -- uh -- regular South Carolina license tag. Nobody knew who it was at that time.

While I was responding, the car matching the description that they gave me was pulling out the back of the parking lot on to Main Street. So I pulled in behind it. This is only a quarter mile, approximately, from his residence, so we did not have much of a time. By the time I speeded up to catch up to him, he's turning in the driveway, so I hit the blue lights and pull in behind him.

Uh -- this is not a typical DUI stop, where you watch the fella for two miles swerving and weaving. We had no time for that. We

were strictly responding on a suspicious vehicle call. Which we get several of and we respond to everyone of them in the same manner. (See *Exhibit A*, transcript of Administrative Hearing held before Hearing Officer Phillip T. Addington, August 14, 2012, P. 8, L. 20 – P. 9, L. 20.)

21. Subsequent to the testimony described above, Defendant ADAMS sought to enter in to the record a copy of a written statement produced by Defendant DAVIS. WATSON's counsel objected to said statement on the basis of it being hearsay and the hearing officer did not allow the statement in.
22. The statement described above is a written statement WATSON is informed and believes was produced and signed by Defendant DAVIS. That statement is on South Carolina Department of Public Safety/S.C. Highway Patrol letterhead.
23. Upon the events described above, Defendant ADAMS rested his case and WATSON's counsel began cross-examination of Defendant ADAMS. During cross-examination, Defendant ADAMS made the following admissions on the record:
 - a. That part of the training he had received at the Academy was how to create reports;
 - b. That reports have to be accurate;
 - c. That reports have to be truthful;
 - d. That reports have to be complete;
 - e. That the report he has just read in to evidence was accurate and truthful;
 - f. That he observed no bad driving by WATSON;
 - g. That WATSON's driving in no way indicated impairment;
 - h. That WATSON's only "crime" was "being a suspicious vehicle in the parking lot," and that "no where" in the law does it say it is a crime to be a

suspicious vehicle;

- i. That the call in the case did not allege any criminal activity, although Defendant ADAMS testified that the call alleged “people were scared”;
- j. Defendant ADAMS testified that WATSON was not “parked” in the parking lot, rather “he was riding around in circles, and pulling forward and backwards with his lights off in a suspicious manner”;
- k. That he stopped WATSON based entirely on the call;
- l. That he knew who WATSON was, but that he did not know who was in the white car until they started pulling in to WATSON’s residence;
- m. That he called Defendant HEWITT as WATSON was pulling in to his residence.

(See *Exhibit A*, P. 10 – 16.)

- 24. Subsequent to WATSON’s counsel resting his cross-examination of Defendant ADAMS, Defendant ADAMS offered closing remarks wherein he stated that any suspicious car call in to Chesterfield would lead to that car being stopped. Defendant ADAMS testified that even if he thinks he knows who is in the car, he would stop the car, ID the person and find out what they were doing. Defendant ADAMS stated this “is our standard practice and that’s the way it will be done from now on.” Defendant ADAMS further stated this applied to any suspicious car call for vehicles at businesses or on private property. (See *Exhibit A*, transcript of Administrative Hearing held before Hearing Officer Phillip T. Addington, August 14, 2012, P. 18, L. 9 – 12.)
- 25. Defendant ADAMS asked to make remarks after WATSON’s counsel offered his closing argument. The hearing officer allowed him to do so. In those remarks, Defendant

ADAMS claimed WATSON's counsel was:

...lumping the DUI in with the stop. The stop was just for ID. And in the state of South Carolina, we as police officers have the right to stop anybody on the street for an ID or ID anybody who is in a suspicious manner. Then when the smell of alcohol come from the vehicle it changed to a DUI stop. (See *Exhibit A*, P. 21, L. 5 – 10.)

26. Subsequent to the events described above, the State of South Carolina rescinded the suspension of WATSON's driver's license via an order issued August 15, 2012. In that order, the hearing officer concluded as a matter of law that the State had not met its burden to sustain the suspension. Specifically, the hearing officer found that the testimony of Defendant ADAMS was that WATSON "was stopped only for being a suspicious vehicle." The hearing officer noted that there was no testimony concerning any identification of the car other than it being white. The hearing officer specifically noted that it was unclear from the evidence the State presented whether or not WATSON's vehicle was the subject of the telephone call. The hearing officer also noted that other than the allegations that the call had originated from someone inside the Bojangles, the person alleged to have made the call was anonymous. The hearing officer specifically found that because Defendant ADAMS did not know who had placed the call and could not therefore verify the reliability of the caller, Defendant ADAMS was required to corroborate the information before there was reasonable suspicion to justify the vehicle stop. The hearing officer found no such testimony of corroboration and therefore no probable cause to arrest WATSON for driving under the influence.
27. WATSON was terminated from his job as an investigator with the Cheraw Police Department within 24-hours of his arrest.
28. Subsequent to the events described above, WATSON continued to investigate his case

and prepare his defense. In the course of that investigation and preparation, WATSON obtained the 911 dispatch calls. Those calls document the following:

- a. The “anonymous” telephone call that was placed to 911 reporting the alleged suspicious white vehicle was actually placed by Defendant DAVIS. The transcript of that call reads as follows:

911 Operator:	Emergency services.
DAVIS:	Hey. This is Leslie.
911 Operator:	Hey.
DAVIS:	Uh – where’s Robby.
911 Operator:	I don’t know. Why?
DAVIS:	My grandmother just called me. She’s sitting in Bojangles. There’s a white car, with tinted windows, come up and just parking outside. Nobody can see in it and they just want somebody to come by and check it out.
911 Operator:	It’s parked outside?
DAVIS:	Yeah in the gravel parking lot -- it’s just been backing up around an eighteen wheeler out there.
911 Operator:	A white car?
DAVIS:	It’s a white Ford something, little four door car with tinted windows.
911 Operator:	She working or she just in there?
DAVIS:	She’s in there and they just can’t figure out what they’re doing.
911 Operator:	Okay. What’s her name -- Or I’ll just put it under yours.
DAVIS:	Okay.
911 Operator:	Okay. I’ll send him around there.

(See *Exhibit B*, transcript of Dispatch Emergency Services telephone call of June 2, 2012 at 22:47:55.)

- b. Subsequent to the call described above, the 911 operator called Defendant ADAMS. The transcript of that call reads as follows:

ADAMS:	Hello?
911 Operator:	Hey.

ADAMS: Hey.
 911 Operator: Leslie Davis just called me and said that his Grandma's in Bojangles. And there's a white car, four door car, with tinted windows, that's out there in the gravel parking lot part. He said it keeps backing up and going forward and backing up and going forward, been out there for a long time they don't know what its doing. They want someone to go out there and check it.

ADAMS: Okay.
 911 Operator: Okay.
 ADAMS: And Leslie called?
 911 Operator: Yeah, his grandma called him. She's in -- she's in there, but she called him.

ADAMS: Okay.
 911 Operator: Okay.
 ADAMS: Allright
 911 Operator: Uh-huh.

(See *Exhibit C*, transcript of Dispatch Emergency Services telephone call of June 2, 2012 at 22:49:51.)

29. Upon learning that the actual call to 911 had originated from Defendant DAVIS, WATSON issued a subpoena decus tecum requesting, among other items, the phone records for Defendant DAVIS' mobile phone, as well as the name, address and telephone number for Defendant DAVIS' grandmother mentioned in the 911 call. That subpoena was served on or about June 28, 2012.
30. Subsequent to the events described in paragraph twenty-nine (29), Defendant DAVIS provided a response to the subpoena described above. Noticeably absent from that response, was any of the information sought concerning the identity of Defendant DAVIS' grandmother. Due to the absence of any response on that subject, WATSON investigated further the alleged telephone call Defendant DAVIS received from his

grandmother. That investigation revealed the following:

a. Prior to Defendant DAVIS' call to 911 and the phone calls immediately following, Defendant DAVIS's phone records show only calls between Defendant DAVIS and:

- i. Defendant ADAMS, for 4 minutes at 10:42 pm;
- ii. Defendant HEWITT, for 1 minute at 10:45 pm;
- iii. Chesterfield Dispatch, for 2 minutes at 10:47 pm
(WATSON is informed and believes this call to be Defendant DAVIS' call to 911);
- iv. Defendant HEWITT, for 5 minutes at 10:49 pm;
- v. Defendant HEWITT, for 1 minute at 11:03 pm.
- vi. Cheraw Police Department, for 3 minutes at 11:04 pm.

31. Upon seeing that the calls immediately preceding Defendant DAVIS' call to 911 were with Defendant ADAMS and Defendant HEWITT, WATSON further investigated Defendant DAVIS' claim to having received a telephone call from his "grandmother." The results of that investigation revealed that both Defendant DAVIS' paternal and maternal grandmothers appear to be deceased. WATSON bases this allegation upon the following:

- a. An online engagement announcement for Defendant DAVIS and his wife from the Progressive Journal, dated May 9, 2011 at 4:18 pm, which describes Defendant DAVIS as "the grandson of the late Mr. and Mrs. James Davis of Chesterfield, and the late Mr. and Mrs. Robert Sutton of Ruby" (See *Exhibit D*);

- b. An online obituary from The Cheraw Chronicle, memorializing the September 3, 2009 death of Margie Gullede Sutton and listing “Leslie Davis of Chesterfield, S.C.” as a surviving grandchild (See *Exhibit E*);
 - c. An online obituary from The Cheraw Chronicle, memorializing the October 8, 2008 death of Esther Jones Davis and listing “Leslie Davis of Chesterfield” as a surviving grandchild (See *Exhibit F*).
- 32. As part of his investigation, WATSON discovered that on the night of July 2, 2012, Defendant HEWITT contacted WATSON’s estranged wife, Mary Florence Watson. Defendant HEWITT apparently contacted her asking her to contact WATSON and attempt to get him to exit his house. Mary Florence contacted WATSON by telephone and he said he would not come out of his residence. She relayed that information back to Defendant HEWITT who informed her that if WATSON would not come out, they would have to go in. Mary Florence informed Defendant HEWITT that she had a key to the residence and asked Defendant HEWITT to please not break down the doors, expressing concern for the effect that action would have on WATSON.
- 33. Subsequent to the telephone conversation described in paragraph thirty-two (32), Defendant HEWITT came to Mary Florence Watson’s residence and obtained the key to WATSON’s residence. Defendant HEWITT returned said key later that same evening.
- 34. On or about August 29, 2012, WATSON committed suicide. In doing so, WATSON left correspondence expressing his last wishes and explaining that he was taking his life due to the loss of his career and his wife. Specifically, WATSON noted “I loved being a Detective but I know I will never be one again.”
- 35. The criminal charges against WATSON were *nolle prossed* on or about September 19,

2012.

FOR A FIRST CAUSE OF ACTION

§1983 Fourth Amendment claim against Defendant ADAMS individually for
seizing WATSON without reasonable suspicion

36. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
37. The acts and omissions of Defendant ADAMS, by show of force and physically detaining the Plaintiff without reasonable suspicion to seize him violated the Plaintiff's fourth amendment rights. As a direct and proximate cause result of this illegal detention, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A SECOND CAUSE OF ACTION

§1983 Fourth Amendment claim against Defendant ADAMS individually
for arresting WATSON without probable cause

38. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
39. The acts and omissions of Defendant ADAMS, in executing an unlawful stop against the Plaintiff and in subsequently arresting WATSON based off of that unlawful stop without probable cause violated WATSON's fourth amendment rights to be free from unreasonable seizures. As a direct and proximate cause result of the unreasonable seizure, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A THIRD CAUSE OF ACTION

§1983 Fourth Amendment claim against Defendant HEWITT individually for
seizing WATSON without reasonable suspicion

40. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
41. The acts and omissions of Defendant HEWITT, by show of force and physically detaining WATSON without reasonable suspicion to seize him violated WATSON's fourth amendment rights. As a direct and proximate cause result of this illegal detention, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A FOURTH CAUSE OF ACTION

§1983 Fourth Amendment claim against Defendant HEWITT individually
for arresting WATSON without probable cause

42. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
43. The acts and omissions of Defendant HEWITT, in executing an unlawful stop against the Plaintiff and in subsequently arresting WATSON based off of that unlawful stop without probable cause violated WATSON's fourth amendment rights to be free from unreasonable seizures. As a direct and proximate cause result of the unreasonable seizure, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A FIFTH CAUSE OF ACTION

§1983 Fourth Amendment claim against Defendant DAVIS individually for
seizing WATSON without reasonable suspicion

44. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
45. The acts and omissions of Defendant DAVIS, by show of force and physically detaining the Plaintiff without reasonable suspicion to seize him violated the Plaintiff's fourth

amendment rights. As a direct and proximate cause result of this illegal detention the WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A SIXTH CAUSE OF ACTION

§1983 Fourth Amendment claim against Defendant DAVIS individually
for arresting WATSON without probable cause

46. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
47. The acts and omissions of Defendant DAVIS, in executing an unlawful stop against the Plaintiff and in subsequently arresting WATSON based off of that unlawful stop without probable cause violated WATSON's fourth amendment rights to be free from unreasonable seizures. As a direct and proximate cause result of the unreasonable seizure, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A SEVENTH CAUSE OF ACTION

Common law claim of false imprisonment under the SCTCA against Defendant CPD for the
unlawful seizure of WATSON

48. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
49. Defendant CPD is vicariously liable for the acts and omissions of Defendants ADAMS and HEWITT acting within the course and scope of their employment. Defendant CPD, through Defendant ADAMS and HEWITT's actions, intentionally restrained WATSON's movement without lawful authority constituting the tort of false imprisonment. As a direct and proximate cause result of this illegal detention, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR AN EIGHTH CAUSE OF ACTION

Common law claim of false arrest under the SCTCA against Defendant CPD for
WATSON's arrest without probable cause

50. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
51. Defendant CPD is vicariously liable for the acts and omissions of Defendants ADAMS and HEWITT acting within the course and scope of their employment. The acts and omissions of Defendant CPD, through Defendant ADAMS and Defendant HEWITT, of intentionally stopping WATSON unlawfully without probable cause and for subsequently arresting WATSON without probable cause constitute the tort of false arrest. As a direct and proximate cause result of these illegal arrests, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A NINTH CAUSE OF ACTION

Common law claim of Civil Conspiracy under the SCTCA against Defendant CPD

52. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
53. Defendant CPD combined with others for the purposes of injuring WATSON. For the purposes of this cause of action, "others" is meant to include, but not be limited to Defendant SCDPS, Defendant DAVIS, Defendant ADAMS and Defendant HEWITT.
54. Defendant CPD conspired with others to injure WATSON through their actions and or failures to act as described in paragraphs ten (10) through thirty-five (35) above.
55. That as a direct and proximate result of Defendant CPD's acts and omissions to conspire against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A TENTH CAUSE OF ACTION

Common law claim of Malicious Prosecution under the SCTCA against Defendant CPD

56. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
57. Defendant CPD by its acts and/or omissions described in paragraphs ten (10) through thirty-five (35), instituted criminal proceedings against WATSON.
58. The proceedings described in paragraph thirty-five (35) were terminated in WATSON's favor.
59. Defendant CPD instituted the criminal proceedings against WATSON despite knowing they lacked probable cause for the initial traffic stop and subsequent search warrant and arrest. By doing so, Defendant CPD implicitly acted with malice in instituting the proceedings against WATSON.
60. That as a direct and proximate result of Defendant CPD's acts and omissions in bringing about a malicious prosecution against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR AN ELEVENTH CAUSE OF ACTION

Common law claim of Abuse of Process under the SCTCA against Defendant CPD

61. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
62. Defendant CPD by its acts and/or omissions described in paragraphs ten (10) through thirty-five (35), instituted criminal and administrative proceedings against WATSON.
63. Defendant CPD instituted the criminal and administrative proceedings against WATSON despite knowing they lacked probable cause for the initial traffic stop and subsequent search warrant and arrest. By doing so, Defendant CPD implicitly acted with an ulterior

purpose in instituting the proceedings against WATSON. These proceedings include but are not limited to the process of obtaining a search warrant; subsequently using said warrant in effecting the arrest without probable cause and seizing without reasonable suspicion of WATSON; pursuing both criminal prosecution and administrative penalties against WATSON for charges they knew and/or should have known were not based off of probable cause and/or reasonable suspicion.

64. That as a direct and proximate result of Defendant CPD's acts and omissions in bringing about an Abuse of Process against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A TWELFTH CAUSE OF ACTION

Common law claim of false imprisonment under the SCTCA against the Defendant SCDPS for the unlawful seizure of WATSON

65. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
66. Defendant SCDPS is vicariously liable for the acts of Defendant DAVIS acting within the course and scope of his employment. Defendant SCDPS, through Defendant DAVIS's actions, intentionally restrained WATSON's movement without lawful authority constituting the tort of false imprisonment. As a direct and proximate cause result of this illegal detention, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A THIRTEENTH CAUSE OF ACTION

Common law claim of false arrest under the SCTCA against Defendant SCDPS for WATSON's arrest without probable cause

67. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

68. Defendant SCDPS is vicariously liable for the acts of Defendant DAVIS acting within the course and scope of his employment. The acts and omissions of Defendant SCDPS, through Defendant DAVIS, of intentionally stopping WATSON unlawfully without probable cause and for subsequently arresting WATSON without probable cause constitute the tort of false arrest. As a direct and proximate cause result of these illegal arrests, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A FOURTEENTH CAUSE OF ACTION

Common law claim of Civil Conspiracy under the SCTCA against Defendant SCDPS

69. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
70. Defendant SCDPS combined with others for the purposes of injuring WATSON. For the purposes of this cause of action, "others" is meant to include, but not be limited to Defendant CPD, Defendant ADAMS, Defendant HEWITT and Defendant DAVIS.
71. Defendant SCDPS conspired with others to injure WATSON through their actions and or failures to act as described in paragraphs ten (10) through thirty-five (35) above.
72. That as a direct and proximate result of Defendant SCDPS's acts and omissions to conspire against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A FIFTEENTH CAUSE OF ACTION

Common law claim of Malicious Prosecution under the SCTCA against Defendant SCDPS

73. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

74. Defendant SCDPS, by its acts and/or omissions described in paragraphs ten (10) through thirty-five (35), instituted criminal proceedings against WATSON by or at the instance of Defendant SCDPS.
75. The proceedings described in paragraph thirty-five (35) were terminated in WATSON's favor.
76. Defendant SCDPS instituted the criminal proceedings against WATSON despite knowing they lacked probable cause for the initial traffic stop and subsequent search warrant and arrest. By doing so, Defendant SCDPS implicitly acted with malice in instituting the proceedings against WATSON.
77. That as a direct and proximate result of Defendant SCDPS's acts and omissions in bringing about a malicious prosecution against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A SIXTEENTH CAUSE OF ACTION

Common law claim of Abuse of Process under the SCTCA against Defendant SCDPS

78. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
79. Defendant SCDPS by its acts and/or omissions described in paragraphs ten (10) through thirty-five (35), instituted criminal and administrative proceedings against WATSON by or at the instance of Defendant SCDPS. Part of those proceedings was obtaining a search warrant for an illegal and unlawful search of WATSON's residence.
80. Defendant SCDPS instituted the criminal proceedings against WATSON despite knowing they lacked probable cause for the initial traffic stop and subsequent search warrant and arrest. By doing so, Defendant SCDPS implicitly acted with an ulterior purpose in instituting the proceedings against WATSON. Specifically, in bringing about

the process of obtaining a search warrant; subsequently using said warrant in effecting an arrest without probable cause and seizing without reasonable suspicion of WATSON; pursuing both criminal prosecution and administrative penalties against WATSON for charges they knew and/or should have known were based off of no probable cause and/or reasonable suspicion.

81. That as a direct and proximate result of Defendant SDCPS's acts and omissions in bringing about an Abuse of Process against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A SEVENTEENTH CAUSE OF ACTION

Common law claim of false imprisonment against Defendant ADAMS for the unlawful seizure of WATSON (In the Alternative)

82. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
83. In the alternative that Defendant ADAMS is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
84. Defendant ADAMS intentionally restrained WATSON's movement without lawful authority constituting the tort of false imprisonment. As a direct and proximate cause result of this illegal detention, WATSON suffered emotional and physical harm, as well as other damages as set out below.

FOR AN EIGHTEENTH CAUSE OF ACTION

Common law claim of false arrest against Defendant ADAMS for WATSON's arrest without probable cause (In the Alternative)

85. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

86. In the alternative that Defendant ADAMS is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
87. That the acts and omissions of Defendant ADAMS in intentionally stopping WATSON unlawfully without probable cause and for subsequently arresting WATSON without probable cause constitute the tort of false arrest. As a direct and proximate cause result of these illegal arrests, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A NINETEENTH CAUSE OF ACTION

Common law claim of Civil Conspiracy against the Defendant ADAMS (In the Alternative)

88. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
89. In the alternative that Defendant ADAMS is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
90. Defendant ADAMS combined with others for the purposes of injuring WATSON. For the purposes of this cause of action, "others" is meant to include, but not be limited to Defendant CPD, Defendant SCDPS, Defendant HEWITT and Defendant DAVIS.
91. Defendant ADAMS conspired with others to injure WATSON through their actions and or failures to act as described in paragraphs ten (10) through thirty-five (35) above.
92. That as a direct and proximate result of the Defendant ADAMS' acts and omissions to conspire against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A TWENTIETH CAUSE OF ACTION

Common law claim of Malicious Prosecution against Defendant ADAMS (In the Alternative)

93. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
94. In the alternative that Defendant ADAMS is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
95. Defendant ADAMS by his acts and/or omissions described in paragraphs ten (10) through thirty-five (35), instituted criminal proceedings against WATSON.
96. The proceedings described in paragraph thirty-five (35) were terminated in WATSON's favor.
97. Defendant ADAMS instituted the criminal proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search warrant and arrest. By doing so, Defendant ADAMS implicitly acted with malice in instituting the proceedings against WATSON.
98. That as a direct and proximate result of Defendant ADAMS' acts and omissions in bringing about a malicious prosecution against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A TWENTY-FIRST CAUSE OF ACTION

Common law claim of Abuse of Process against Defendant ADAMS (In the Alternative)

99. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

100. In the alternative that Defendant ADAMS is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following.
101. Defendant ADAMS by his acts and/or omissions described in paragraphs ten (10) through thirty-five (35), instituted criminal and administrative proceedings against WATSON.
102. Defendant ADAMS instituted the criminal and administrative proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search warrant and arrest. By doing so, Defendant ADAMS implicitly acted with an ulterior purpose in instituting the proceedings against WATSON. Specifically, in bringing about the process of obtaining a search warrant; subsequently using said warrant in effecting an arrest without probable cause and seizing without reasonable suspicion of WATSON; pursuing both criminal prosecution and administrative penalties against WATSON for charges they knew and/or should have known were based off of no probable cause and/or reasonable suspicion.
103. That as a direct and proximate result of Defendant ADAMS' acts and omissions in bringing about an Abuse of Process against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A TWENTY-SECOND CAUSE OF ACTION

Common law claim of false imprisonment against Defendant HEWITT for the unlawful seizure of WATSON (In the Alternative)

104. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

105. In the alternative that Defendant HEWITT is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
106. Defendant HEWITT intentionally restrained WATSON's movement without lawful authority constituting the tort of false imprisonment. As a direct and proximate cause result of this illegal detention, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A TWENTY-THIRD CAUSE OF ACTION

Common law claim of false arrest against Defendant HEWITT for WATSON's arrest
without probable cause (In the Alternative)

107. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
108. In the alternative that Defendant HEWITT is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
109. The acts and omissions of Defendant HEWITT in intentionally stopping WATSON unlawfully without probable cause and for subsequently arresting WATSON without probable cause constitute the tort of false arrest. As a direct and proximate cause result of these illegal arrests, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A TWENTY-FOURTH CAUSE OF ACTION

Common law claim of Civil Conspiracy against the Defendant HEWITT (In the
Alternative)

110. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

111. In the alternative that Defendant HEWITT is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
112. Defendant HEWITT combined with others for the purposes of injuring WATSON. For the purposes of this cause of action, "others" is meant to include, but not be limited to Defendant CPD, Defendant SCDPS, Defendant ADAMS and Defendant DAVIS.
113. Defendant HEWITT conspired with others to injure WATSON through their actions and or failures to act as described in paragraphs ten (10) through thirty-five (35) above.
114. That as a direct and proximate result of the Defendant HEWITT'S acts and omissions to conspire against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A TWENTY-FIFTH CAUSE OF ACTION

Common law claim of Malicious Prosecution against Defendant HEWITT (In the Alternative)

115. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
116. In the alternative that Defendant HEWITT is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
117. Defendant by his acts and/or omissions described in paragraphs ten (10) through thirty-five (35), instituted criminal proceedings against WATSON.
118. The proceedings described in paragraph thirty-five (35) were terminated in WATSON's favor.
119. Defendant HEWITT instituted the criminal proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search

warrant and arrest. By doing so, Defendant HEWITT implicitly acted with malice in instituting the proceedings against WATSON.

120. That as a direct and proximate result of Defendant HEWITT's acts and omissions in bringing about a malicious prosecution against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A TWENTY-SIXTH CAUSE OF ACTION

Common law claim of Abuse of Process against Defendant HEWITT (In the Alternative)

121. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
122. In the alternative that Defendant HEWITT is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
123. Defendant HEWITT by his acts and/or omissions described in paragraphs ten (10) through thirty-five (35), instituted criminal and administrative proceedings against WATSON.
124. Defendant HEWITT instituted the criminal and administrative proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search warrant and arrest. By doing so, Defendant HEWITT implicitly acted with an ulterior purpose in instituting the proceedings against WATSON. Specifically, in bringing about the process of obtaining a search warrant; subsequently using said warrant in effecting an arrest without probable cause and seizing without reasonable suspicion of WATSON; pursuing both criminal prosecution and administrative penalties against WATSON for charges they knew and/or should have known were based off of no probable cause and/or reasonable suspicion.

125. That as a direct and proximate result of Defendant HEWITT's acts and omissions in bringing about an Abuse of Process against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A TWENTY-SEVENTH CAUSE OF ACTION

Common law claim of false imprisonment against Defendant DAVIS for the unlawful seizure of
WATSON (In the Alternative)

126. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
127. In the alternative that Defendant DAVIS is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
128. In the alternative that Defendant DAVIS is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following.
129. Defendant DAVIS intentionally restrained WATSON's movement without lawful authority constituting the tort of false imprisonment. As a direct and proximate cause result of this illegal detention, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A TWENTY-EIGHTH CAUSE OF ACTION

Common law claim of false arrest against Defendant DAVIS for WATSON's arrest
without probable cause (In the Alternative)

130. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
131. In the alternative that Defendant DAVIS is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:

132. The acts and omissions of Defendant DAVIS in intentionally stopping WATSON unlawfully without probable cause and for subsequently arresting WATSON without probable cause constitute the tort of false arrest. As a direct and proximate cause result of these illegal arrests, WATSON suffered mental, emotional and physical harm, as well as other damages as set out below.

FOR A TWENTY-NINTH CAUSE OF ACTION
Common law claim of Civil Conspiracy against the Defendant DAVIS (In the Alternative)

133. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
134. In the alternative that Defendant DAVIS is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
135. Defendant DAVIS combined with others for the purposes of injuring WATSON. For the purposes of this cause of action, "others" is meant to include, but not be limited to Defendant CPD, Defendant SCDPS, Defendant HEWITT and Defendant ADAMS.
136. Defendant DAVIS conspired with others to injure WATSON through their actions and or failures to act as described in paragraphs ten (10) through thirty-five (35) above.
137. That as a direct and proximate result of the Defendant DAVIS' acts and omissions to conspire against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A THIRTIETH CAUSE OF ACTION
Common law claim of Malicious Prosecution against Defendant DAVIS (In the Alternative)

138. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

139. In the alternative that Defendant DAVIS is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following:
140. Defendant DAVIS by his acts and/or omissions described in paragraphs ten (10) through thirty-five (35), instituted criminal proceedings against WATSON.
141. The proceedings described in paragraph thirty-five (35) were terminated in WATSON's favor.
142. Defendant DAVIS instituted the criminal proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search warrant and arrest. By doing so, Defendant DAVIS implicitly acted with malice in instituting the proceedings against WATSON.
143. That as a direct and proximate result of Defendant DAVIS' acts and omissions in bringing about a malicious prosecution against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

FOR A THIRTY-FIRST CAUSE OF ACTION

Common law claim of Abuse of Process against Defendant DAVIS (In the Alternative)

144. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
145. In the alternative that Defendant DAVIS is found to have acted outside the course and scope of his employment and/or outside the protection and privilege of the South Carolina Tort Claims Act, the Plaintiff asserts the following.
146. Defendant DAVIS by his acts and/or omissions described in paragraphs ten (10) through thirty-five (35), instituted criminal and administrative proceedings against WATSON.

147. Defendant DAVIS instituted the criminal and administrative proceedings against WATSON despite knowing he lacked probable cause for the initial traffic stop and subsequent search warrant and arrest. By doing so, Defendant DAVIS implicitly acted with an ulterior purpose in instituting the proceedings against WATSON. Specifically, in bringing about the process of obtaining a search warrant; subsequently using said warrant in effecting an arrest without probable cause and seizing without reasonable suspicion of WATSON; pursuing both criminal prosecution and administrative penalties against WATSON for charges they knew and/or should have known were based off of no probable cause and/or reasonable suspicion.

148. That as a direct and proximate result of Defendant DAVIS' acts and omissions in bringing about an Abuse of Process against WATSON, WATSON suffered mental, emotional and physical harm, special damages, as well as other damages as set out below.

DAMAGES

149. That as to Defendants CPD and SCDPS, the Plaintiff is informed and believes that they are entitled to actual and consequential damages and such other relief as the Court deems just and proper.

150. That as to Defendants ADAMS, HEWITT and DAVIS, the Plaintiff is informed and believes that they are entitled to actual, consequential and punitive damages, attorney's fees and costs pursuant to 42 U.S.C. §1988, and such other relief as this court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE having fully set forth the grounds of their complaint Plaintiff asks this court to award compensatory and punitive damages in an appropriate amount, attorney fees and costs pursuant to 42 U.S.C. §1988, and such other relief as this court deems just and proper.



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November 2, 2012

Exhibit A

STATE OF SOUTH CAROLINA
OFFICE OF MOTOR VEHICLE HEARINGS

Chesterfield Police Department and South Carolina Department of Motor Vehicles,) Docket No. 12-OMVH-01-3161-CC
DL# 007228412
Petitioner,)
vs.)
David Warren Watson,)
Respondent.)

Transcript of Record of Hearing held before
Hearing Officer Phillip T. Addington on August 14, 2012 at
Kershaw County Court House, 1121 Broad Street, Grand Jury
Room, Camden, South Carolina. Hearing scheduled to begin
at 9:00 A.M.

Transcript prepared by Laura W. Little, Notary
Public in and for the State of South Carolina.

APPEARANCES OF COUNSEL:

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ADMINISTRATIVE HEARING OFFICER ADDINGTON("ABO"):

My name is Phil Addington, and I've been appointed by
the South Carolina Administrative Law Court to preside
at this contested case. The entire proceedings are
being tape recorded for Departmental reference and are a
matter of public record. I turn you now to the issues
that are mandated by statute. Are there any issues
being contested or stipulated to?

MR. JOYNER: Yes. No. Your Honor, the issues that
we're going to contest is his probable cause to make the
stop.

HEARING OFFICER: If you'd stand for me please,
sir. Give for me your full name, your work address and
your position as it's related to this matter?

CORPORAL ADAMS: Robert Allen Adams, Corporal with
the Chesterfield Police Department. I'm the arresting
officer for Mr. Watson's DUI.

HEARING OFFICER: And also the Datamaster operator,
am I correct?

CORPORAL ADAMS: Okay.

HEARING OFFICER: Okay. If you'll raise your right
hand for me? Do you solemnly swear the testimony you're
about to give in this matter will be the truth, the
whole truth and nothing but the truth?

CORPORAL ADAMS: Yes, sir.

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HEARING OFFICER: Okay. You may be seated. All
issues have been contested here today and y'all can just
remain seated. Do you have testimony that you'd like to
enter here today pertaining to those contested issues?

CORPORAL ADAMS: The main purpose of his contesting
it is the probable cause for the stop. If I may, I'll
read my Incident Report which covers this, and then I
have a, a CAD Report from Chesterfield County 9-1-1
Service where they dispatched me to the area for a
suspicious vehicle, and that was the probable cause for
the stop, but I'll just read my report. "RO," which is
me, the officer, "received a call from dispatch
regarding a suspicious vehicle in the Bojangles parking
lot. The vehicle was described as a white car and had
tinted windows. The vehicle was running and had its
lights off and backing up in circles, pulling up
parallel with the building in the truck section of the
parking lot. RO was in the neighborhood on the north
side of town doing property checks. RO responded from
Curtis Road onto Tammy Street. While on Tammy Street,
RO noticed a white vehicle matching the description
leaving the Bojangles parking lot turning east on Main
Street. RO stopped at the stop sign at Tammy Street and
then proceeded east on Main. RO intended to perform a
traffic stop to ID the subject and inquire why the

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subject was in the parking lot at this time of night.
As RO got close to subject's vehicle, it slowed and gave
a turn signal to turn right into the driveway at 911
West Main. RO turned on the blue lights, followed the
vehicle into the rear of the house. RO exited the
patrol vehicle, approached the white car. The driver
opened the door, exited and RO noticed it was David
Watson, investigator with Cheraw Police Department. RO
then noticed that Watson was wearing shorts, t-shirt and
no shoes on. RO watched as he got out of the vehicle.
He grabbed the door for support and was very unsteady on
his feet. Watson closed the door of his vehicle which
was an unmarked Cheraw Police Department vehicle.
Watson then leaned back on the vehicle while RO talked
to him. RO noticed Watson had slurred speech and there
was an odor of alcohol coming from his vehicle, as well
as his person. Watson admitted that he had been
drinking earlier that day and suggested that officers
'do not do this.' Trooper Davis from the South Carolina
Highway Patrol had pulled in behind RO for assistance
and began to walk up during the time of Watson exiting
the vehicle. RO told Watson to wait at the vehicle for
a moment. Mr. Watson---

MR. JOYNER: Judge, if I could, I'm, I'm sorry to
interrupt you. I would just say up to the point where

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were redacted by House Legislative Oversight Committee staff

1 he made the stop is the only thing we're going to
2 contest. I mean, I don't necessarily think we need to
3 waste the---

4 CORPORAL DAVIS: Okay.

5 MR. JOYNER: ---Court's time with the (inaudible)
6 details.

7 CORPORAL DAVIS: I can, I can stop there.

8 HEARING OFFICER: Okay.

9 CORPORAL DAVIS: That covers the reason for the
10 stop.

11 HEARING OFFICER: Okay. But all other issues are
12 being contested also, other than the probable cause. Up
13 to that point, you're okay?

14 MR. JOYNER: Judge, I can waive those issues. I, I
15 -- the probable cause is, is certainly strong enough.

16 HEARING OFFICER: So the second and third issues
17 would be stipulated to?

18 MR. JOYNER: That's right.

19 HEARING OFFICER: Okay. And the first issue is
20 contested.

21 MR. JOYNER: Okay.

22 HEARING OFFICER: And you're basically up to this
23 point no more testimony needs to be entered in as to
24 what occurred?

25 MR. JOYNER: Yeah. I mean, Your Honor, if he, if
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1 he need -- not, not on the other issues, Judge. My only
2 issue, I will, I will, I will waive my right to
3 challenge all issues but the probable cause.

4 HEARING OFFICER: Okay. Except for the issue
5 number one?

6 MR. JOYNER: But his, his, his stopping and
7 arresting Mr. Watson.

8 HEARING OFFICER: Okay. Okay. If, if he wants to
9 go forward, I, I'll, I'll -- it's entirely up to you as
10 to -- this is your testimony that you---

11 CORPORAL ADAMS: Yeah.

12 HEARING OFFICER: ---want to enter in, and I
13 certainly don't want to stop you from entering in what
14 you deem necessary or what you want to so.

15 CORPORAL ADAMS: Well, the, the rest of this will
16 be brought out at trial, so if all he's contesting is
17 probable cause, we can go with just that part.

18 HEARING OFFICER: As long as you are okay with what
19 you have entered in at this point---

20 CORPORAL ADAMS: Uh-huh.

21 HEARING OFFICER: ---and y'all agree then that the
22 testimony -- or you agree that the testimony you've
23 entered is sufficient?

24 CORPORAL ADAMS: Well, just let me finish reading
25 that.

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1 HEARING OFFICER: Okay. Yeah.

2 CORPORAL ADAMS: That way we'll be covered.

3 HEARING OFFICER: Okay.

4 CORPORAL ADAMS: Let me see (inaudible), yes.

5 "Watson followed RO toward the patrol vehicle. Watson
6 had a wide and erratic step which inferred that he was
7 impaired. RO then turned off the blue lights for the
8 purpose of giving a field sobriety. RO instructed
9 Watson to stand at the rear of his car. RO turned to
10 respond to Chief Hewitt on the telephone. When RO
11 looked back, Watson was going into the house. RO ran to
12 the door calling his name. When RO got to the storm
13 door, Watson was closing the wooden door and locked it.
14 Watson would not respond and would not unlock the door.
15 RO had requested that the Chief come and assist. When
16 Chief Hewitt arrived, he also tried to talk to Watson.
17 Lieutenant Lisenby prepared a search warrant. RO went
18 to Judge Davis' residence to get it approved and signed.
19 Upon return, Chief Hewitt and Keith Thomas from the
20 Cheraw Police Department had talked Watson into coming
21 out. RO went into the kitchen where Chief Hewitt and
22 Watson were. RO told Watson to place his hands behind
23 his back, he was under arrest for driving under the
24 influence of alcohol. RO placed the cuffs on Watson,
25 led him to the patrol car without further incident. RO

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1 'advised Watson of his Miranda rights. Offered him a
2 field sobriety test which he refused prior to placing
3 him in the vehicle. RO then looked inside of Watson's
4 vehicle for any open containers. There were no open
5 containers, but a prominent odor of alcohol in the
6 vehicle. There was a duty weapon laying in the front
7 seat along with two laptop computers. Keith Thomas of
8 Cheraw Police Department took possession of the vehicle
9 and the duty weapon. RO transported Watson to the
10 county jail and charged him with DUI. Upon arrival at
11 the jail, RO placed Watson in the Datamaster room for
12 examination. RO removed the cuffs and started the
13 video. RO advised Watson of his Miranda rights again.
14 Watson then responded that he understood them. Watson
15 refused to sign any paperwork involved with the arrest
16 and RO then asked him if he would give a breath sample,
17 which Watson refused to submit. RO printed out a
18 "refusal", filled out the suspension form, confiscated
19 Watson's driver's license and Watson was turned over to
20 the jail personnel.* And the CAD Report from
21 Chesterfield County 9-1-1, they called me which is 7/3.
22 Said there was a suspicious vehicle, white car,
23 four-door with tinted windows in the parking lot with
24 the lights off going around in circles, forward,
25 backward and at this time, it's not wrote on the CAD

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report, but Bojangles is closing at this time of night. There was a few older people in there eating and getting ready to leave, plus the women that worked there. So they felt threatened by someone in the parking lot they didn't know. This car that he was driving is not a marked police car. Tinted windows, a regular South Carolina license tag. Nobody knew who it was at that time. But while I was responding, the car matching the description that they gave me was pulling out the back of the parking lot onto Main Street, so I pulled in behind it. This is only a quarter-mile approximately from his residence, so we did not have much of a time. By the time I speeded up to catch up to him, he's turning in the driveway, so I hit the blue lights and pull in behind him. This is not a typical DUI stop where you watch the fella for two miles swerving and weaving. We had no time for that. We were strictly responding on a suspicious vehicle call which we get several of and we respond to every one of them in the same manner." And that covers that. I do have a letter, a statement by Trooper Hewitt.

MR. JOYNER: Your Honor,---

CORPORAL DAVIS: Trooper Leslie Davis.

MR. JOYNER: I object. He, he -- that's hearsay.

That's (inaudible).

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CORPORAL DAVIS: Well, he was on the scene.

MR. JOYNER: That is hearsay what you're offering.

That is not allowed into evidence. I, I mean, of course, it's legitimate. Forgive me, Judge. I'm sorry.

CORPORAL DAVIS: Yeah.

HEARING OFFICER: He, he's not here to---

CORPORAL DAVIS: Yeah. Okay. Well, we'll save that for trial.

HEARING OFFICER: ---for cross-examination.

CORPORAL ADAMS: He'll be at the trial and we can save that till then.

HEARING OFFICER: Does that complete your?

CORPORAL ADAMS: Yes, sir.

HEARING OFFICER: Cross-examination.

MR. JOYNER: Yes, sir.

CROSS EXAMINATION BY MR. JOYNER:

Q. All right. And your name is Robert Adams?

A. Yes, sir.

Q. You work for Chesterfield Police Department?

A. Yes, sir.

Q. You arrested Mr. Watson on June 30th or, excuse me, June 3rd, 2012?

A. Yes, sir.

Q. You pulled him over at 11:20 p.m.?

A. Yes, sir.

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Q. He refused to give a sample at 1:26 a.m.?

A. Yes, sir.

Q. You charged him with DUI?

A. Yes, sir.

Q. Do you have a video of his driving?

A. Yes, sir, a quarter-mile.

Q. You have a video of him in the BAC room also?

A. Yes, sir.

Q. Mr. Adams, you attended the Police Academy, did you not?

A. Yes, sir.

Q. And part of your training is about how to create police reports?

A. Yes, sir.

Q. Your report has to be accurate?

A. Yes, sir.

Q. It's got to be truthful?

A. Yes, sir.

Q. It has to be complete?

A. Yes, sir.

Q. So the police report that you just read into evidence is both accurate and truthful?

A. Yes, sir.

Q. So you stopped Mr. Watson and your only purpose in doing so was to inquire why he was in the parking

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lot?

A. Yes, sir.

Q. And it's your allegation today that you had probable cause to stop Mr. Watson?

A. Yes, sir.

Q. You had probable cause, but you didn't see any bad driving at all?

A. No, sir. I was only behind him a quarter-mile. I was catching up.

Q. You did not see any bad driving at all?

A. No, sir.

Q. And you didn't see any bad driving because he maintained his lane the whole time?

A. Yes, sir.

Q. You didn't see any bad driving because he had his headlights on?

A. Yes, sir.

Q. You didn't see any bad driving because he did obey the speed limit?

A. Well---

Q. You didn't see any bad driving---

A. I, I couldn't -- I didn't clock him, but he didn't appear to be doing very much over the speed limit,

if any.

Q. You didn't see any bad driving because he did

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were redacted by House Legislative Oversight Committee Staff.

1 properly use his turn signal to turn into his
2 driveway?
3 A. Yes, sir.
4 Q. So for the record, you would say that Mr. Watson's
5 driving in no way indicates an impairment?
6 A. Not by the driving, no, sir.
7 Q. So his driving was perfect?
8 A. I wouldn't say perfect.
9 Q. What was wrong with it?
10 A. He did drift in the lane, which most people do.
11 Q. Okay. That's fine.
12 A. But he did not cross the line.
13 MR. JOYNER: Judge, we'll play that video for you.
14 Q. So he committed absolutely no crime?
15 A. No. Other than being a suspicious vehicle in the
16 parking lot.
17 Q. Where in the law does it say that it's a crime to
18 be a suspicious vehicle?
19 A. Nowhere.
20 Q. Okay. The call in this case did not allege any
21 criminal activity whatsoever, did it?
22 A. No, sir. Just that people were scared.
23 Q. It did not allege any criminal activity?
24 A. No, sir.
25 Q. Is it legal -- you will admit now that it is legal

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1 to drive a white car?
2 A. Yes, sir.
3 Q. And it is legal to be in Bojangles parking lot?
4 A. Technically, not after closing. They have a sign
5 up out there that the parking lot is under the
6 jurisdiction of the town police and nobody is
7 supposed to be in it after closing.
8 Q. So it is your allegation today to this Judge that
9 it is illegal to park in the Bojangles public
10 parking lot?
11 A. He wasn't parked. He was riding around in circles
12 and pulling forward and backwards with the lights
13 off in a suspicious manner, and to get back to
14 the---
15 Q. Excuse me. Excuse me. I ask the questions.
16 A. Okay.
17 Q. I'm examining you right now. Again, for the
18 record, the call did not allege any criminal
19 activity whatsoever?
20 A. No, sir.
21 Q. And you stopped Mr. Watson based entirely on this
22 call?
23 A. Yes, sir.
24 Q. Before you made the stop, one year or two year,
25 however many, you knew who Mr. Watson was?

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1 A. Yes, sir.
2 Q. And you knew he was a law enforcement officer?
3 A. Yes, sir.
4 Q. You knew he was an investigator?
5 A. Yes, sir.
6 Q. And you knew he was driving the car before you
7 pulled him over?
8 A. No, sir. I didn't know who was in the white car
9 till we started to turn in his parking -- in his
10 yard or driveway. That's when I realized who it
11 was because like you said, there are a lot of white
12 cars on the road.
13 Q. Excuse me. I'm sorry. Please let me answer the --
14 ask the questions and you can answer them. You are
15 today under oath saying that you did not know he
16 was driving that car before you turned your blue
17 lights on?
18 A. I had no way of knowing who was driving it.
19 Q. You are saying today under oath that you didn't
20 call Chief Hewitt and discuss with him what you
21 would do about David Watson in that car?
22 A. If it was him. I did not know who was in the car.
23 I did not know for sure it was his car.
24 Q. Yes or -- yes or no, did you -- you called Chief
25 Hewitt and told him that it was David Watson in the

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1 car before you pulled it over? You're under oath.
2 This is being recorded and we can subpoena the
3 phone records.
4 A. As we were coming down the road and I got close
5 enough to see and he put on his turn signal, I was
6 calling Chief Hewitt, yes, sir.
7 Q. Okay. Okay. So my question is this then, since
8 you did know that it was Chief Hewitt, (sic) you
9 know, why in your incident report does it say you
10 pulled him over for the purposes to identify who
11 the driver was? Why does it say that you noticed
12 that it was David Watson, an investigator for
13 Cheraw Police Department when he got out? Don't
14 answer. You admit that's what you say?
15 A. Yes, sir.
16 Q. Okay.
17 MR. JOYNER: Judge, I don't, I don't, I don't have
18 no more questions.
19 HEARING OFFICER: All evidence, all testimony has
20 been completed at this time, Officer? No new evidence
21 or testimony?
22 CORPORAL ADAMS: I have one piece of evidence, if I
23 can, that was just given to me yesterday. I would --
24 the reason I think that Mr. Watson---
25 MR. JOYNER: No, I, I object. That's hearsay.

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CORPORAL ADAMS: I think that Mr. Watson should not have his license, because he's a danger to himself and society, since this is not the first time stuff like this has happened.

HEARING OFFICER: I've noted your objection, but I don't know what he---

CORPORAL ADAMS: This is a Facebook posting that Mr. Watson put on Facebook Monday, and I got this copy last night. It said, "Tomorrow I get to see the sorry, redneck, lying Chesterfield police officer on the stand."

MR. JOYNER: I don't think that has anything to do with it.

CORPORAL ADAMS: Okay. Well, as far as---

HEARING OFFICER: It's completely irrelevant.

CORPORAL ADAMS: This shows that---

HEARING OFFICER: As far as to what the issue here has---

CORPORAL ADAMS: Uh-huh.

HEARING OFFICER: ---I, I don't think that would have any bearing on, on anything in there. Nothing else to add to the record here today?

CORPORAL ADAMS: No, sir.

HEARING OFFICER: Okay. You have a closing?

CORPORAL ADAMS: Well, in Chesterfield, we have had

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several, several car break-ins. It's been all around the state and all around the county. We have had break-ins in people's storage sheds, backyards. Any suspicious car called in in the Chesterfield town will be investigated under these same instances. We will stop the car and we will find out. Even if I think I know who's in the car, I'm not going to put it down till I stop them, ID them, find out what they were doing there. That is our standard practice and that's the way it'll be done from now on. If a suspicious car is called in for any business in town or any personal yard or driveway, it will be investigated the same way.

HEARING OFFICER: Closing?

MR. JOYNER: Yes. Judge, if that is standard practice, then it has been standard practice to violate the Fourth Amendment rights of every person they stop. I have created a case law brief for Your Honor which details both the United States Supreme Court cases and the South Carolina.

MR. JOYNER: Judge, I---

HEARING OFFICER: Let him look.

MR. JOYNER: Oh, sure, sure. And both the South Carolina Supreme Court juris prudence based on this. Judge, number one, he had absolutely no probable cause.

He admitted that there was flawless driving. He

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admitted that, that there was absolutely no bad driving. He used his turn signal. He didn't speed. He maintained his lane. Everything was perfect with the driving and, Judge, under the circumstances, he doesn't even have a reasonable suspicion to pull him over. It is a complete and total Constitutional violation to have somebody call, an anonymous caller, and say, well, somebody is in a white car and it's suspicious, that doesn't give you the right to violate their Fourth Amendment rights and pull them over. I mean that is just -- the United States Supreme Court in Florida v. JL, which I have outlined in this case, has specifically said and in the facts of that case, Judge, they had an anonymous call of a person that there was actually an alleged illegal activity. They said there will be a black man in a plaid shirt at the bus stop and he's going to be concealing a gun illegally and in that case, the U.S. Supreme Court said that is an insufficient tip based on the fact that there is not enough information and there is no probable cause and in our case, Judge, it's even worse, because they didn't even allege an illegal activity. Every single thing he did is not even indicative of a crime, and he admitted himself that not

-- that's not a crime. Judge, I'd like to just say

reasonable suspicion it requires, and of course, the

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this is directly from Florida v. JL, the United States Supreme Court case, it requires that a tip be reliable in its assertion of illegality, not just in its tendency to identify a determinate person. It's very easy for me to say here sits Mr. Adams. Now, does he have a weapon of mass destruction in his gun holster? I don't -- I, I mean, who knows. Who knows, he might have some kind of nerve gas, I don't know, but it's easy to identify here. It's the, it's the key thing is that there is absolutely no illegality, period, and he admits it and yet, we're still here today fighting for something that he admits he has no evidence of. And, Judge, for that reason, they 100 percent completely violated his Fourth Amendment rights and I would very respectfully request that you would dismiss this case, Judge, and find just that they violated his rights and that they did have -- did not have probable cause or a reasonable suspicion to stop Mr. Watson in the first place, and I thank you so much for your time today.

CORPORAL ADAMS: Judge, can I say one other thing?

MR. JOYNER: He's already -- you've already presented your closing.

HEARING OFFICER: I'm going to allow him to go

ahead and do it. I don't know what he wants to say.

MR. JOYNER: Sure.

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1 HEARING OFFICER: It might be irrelevant or.

2 MR. JOYNER: Sure, Judge.

3 CORPORAL ADAMS: Well, I, I'm not a lawyer. I
4 don't know their terms. I don't know their procedures
5 and -- but he's lumping the DUI in with the stop. The
6 stop was just for ID and in the State of South Carolina,
7 we as police officers have the right to ask anybody on
8 the street for an ID or ID anybody that's in a
9 suspicious manner. Then, when the smell alcohol come
10 from the vehicle, it changed to a DUI stop.

11 MR. JOYNER: Okay.

12 HEARING OFFICER: We'll review the evidence and
13 testimony presented and recorded during this hearing.
14 The case is now closed. Did you, did you have a
15 rebuttal to what he just stated?

16 MR. JOYNER: Judge, you know that's a completely
17 untrue statement, so I don't even need to discuss what
18 he just said.

19 HEARING OFFICER: Okay. The case is now closed.

Exhibit B

STATE OF SOUTH CAROLINA }
COUNTY OF CHESTERFIELD }

Transcript of Record of Dispatch Emergency
Services Telephone Call of June 2, 2012, at 22:47:55.
Transcript prepared by Laura W. Little, Notary
Public in and for the State of South Carolina.

LAURA W. LITTLE
LAURA LITTLE REPORTING SERVICE
POST OFFICE BOX 710
DARLINGTON, SOUTH CAROLINA 29540
843-393-6466

Dispatch Emergency Services Call Multi-Page™ June 2, 2012

Page 2

1 9-1-1 OPERATOR: Emergency Services.
2 MR. DAVIS: Hey, This is Leslie.
3 9-1-1 OPERATOR: Hey.
4 MR. DAVIS: Where's Robby?
5 9-1-1 OPERATOR: I don't know, why?
6 MR. DAVIS: My grandmother just called me.
7 She's sitting in Bojangles. There's a white car
8 with tinted windows come up and just parking
9 outside. Nobody can see in it and they just want
10 somebody to come by and check it out.
11 9-1-1 OPERATOR: It's parked outside?
12 MR. DAVIS: Yeah. In the gravel parking lot.
13 They just been backing up---
14 9-1-1 OPERATOR: Uh-huh.
15 MR. DAVIS: ---around a 18-wheeler out there.
16 9-1-1 OPERATOR: A white car?
17 MR. DAVIS: It's a white Ford something. A
18 little four-door car with tinted windows.
19 9-1-1 OPERATOR: Okay. She's working or she's
20 just in there?
21 MR. DAVIS: She's in there and they just can't
22 figure out what they're doing.
23 9-1-1 OPERATOR: Okay. What's her name, Baby?
24 Or I'll just put it---
25 MR. DAVIS: Janet.

Laura Little Reporting Service
843-393-6466

Dispatch Emergency Services Call Multi-Page™ June 2, 2012

Page 3

1 9-1-1 OPERATOR: I'll just put it under yours.
2 MR. DAVIS: Okay.
3 9-1-1 OPERATOR: Okay. I'll send him around
4 there.
5 MR. DAVIS: Okay.
6 9-1-1 OPERATOR: All right. Bye.

Signatures, initials, and personal information (i.e. address, phone, social security number)
were redacted by House Legislative Oversight Committee staff.

Laura Little Reporting Service
843-393-6466

Exhibit C

STATE OF SOUTH CAROLINA)
COUNTY OF CHESTERFIELD)

Transcript of Record of Dispatch Emergency
Services Telephone Call of June 2, 2012, at 22:49:51.

Transcript prepared by Laura W. Little, Notary
Public in and for the State of South Carolina.

LAURA W. LITTLE
LAURA LITTLE REPORTING SERVICE
POST OFFICE BOX 710
DARLINGTON, SOUTH CAROLINA 29540
843-393-6466

1 OFFICER ADAMS: Hello?

2 9-1-1 OPERATOR: Hey.

3 OFFICER ADAMS: Hey.

4 9-1-1 OPERATOR: Leslie Davis just called me

5 and said --

6 OFFICER ADAMS: Uh-huh.

7 9-1-1 OPERATOR: -- that his grandma is in

8 Bojangles --

9 OFFICER ADAMS: Uh-huh.

10 9-1-1 OPERATOR: -- and there's a white car, a

11 four-door car with tinted windows that's out there

12 in the gravel parking lot part --

13 OFFICER ADAMS: Uh-huh.

14 9-1-1 OPERATOR: -- and he said it keeps

15 backing up and going forward and backing up and

16 going forward and been out there for a long time,

17 and they don't know what it's doing. They want --

18 want somebody to go out there and check it.

19 OFFICER ADAMS: Okay.

20 9-1-1 OPERATOR: Okay.

21 OFFICER ADAMS: And Leslie called?

22 9-1-1 OPERATOR: Yeah, his grandma called him.

23 She's in, she's in there, but she called him.

24 OFFICER ADAMS: Okay.

25 9-1-1 OPERATOR: Okay.

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1 OFFICER ADAMS: All right. Thank you.

2 9-1-1 OPERATOR: Uh-huh.

Signatures, initials, and personal information (i.e. address, phone, social security number)
were redacted by House Legislative Oversight Committee staff.

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Exhibit D

Progressive Journal

Thurman / Davis Engagement

Monday, May 9, 2011 at 4:18 pm

Rev. and Mrs. James Ronald Thurman of Ruby, announce the engagement of their daughter, Cassie Christine Thurman to Leslie Neil Davis of Chesterfield. Leslie is the son of Kenny and Joni Davis, also of Chesterfield.

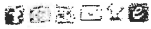
The bride-elect is the granddaughter of Mr. and Mrs. Jule Smith, of Cheraw, and Mildred G. Thurman of Ruby, the late Knox Thurman and the late Neil Moore Thurman. She is a 2003 graduate of Chesterfield high School and a 2007 Winthrop University graduate with a degree in Elementary Education. She is employed by Chesterfield County School District.

The groom-elect is the grandson of the late Mr. and Mrs. James Davis of Chesterfield, and the late Mr. and Mrs. Robert Sutton of Ruby. He is a 2001 graduate of Chesterfield High School and a 2006 graduate of the South Carolina Criminal Justice Academy. He is employed as a State Trooper by the South Carolina Highway Patrol.

A wedding is planned for July 2011 at Ruby Baptist Church.



Exhibit E


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Sutton

Ruby, S.C.- Mrs. Margie Gulledge Sutton, age 86, died Thursday, Sept. 3, 2009 at her home.

A graveside service was held at 3 p.m., Saturday, Sept. 5, 2009 at Ruby Cemetery.

Visitation was held from 5 p.m. -- 7 p.m. on Friday, Sept. 4, 2009 at Miller-Rivers-Caulder Funeral Home.

Mrs. Sutton was born October 1, 1922 in Ruby, SC a daughter of the late Elisha Andrew "Bub" and Rosa Cornelia Rivers Gulledge. She was a graduate of Ruby High School and a retired seamstress with Puritan Manufacturing Company. Mrs. Sutton was a member of Ruby Baptist Church. She was a wonderful seamstress, an avid gardener, and enjoyed cooking. Margie was known for her delicious pecan pies and sausage biscuits. In addition to her parents, Margie was preceded in death by

her husband Robert Wilson "Rob" Sutton, three brothers; Leon, Ross, and Wilson Gulledge, and by five sisters: Mary Allen, Sallie Mae, Florence, Gladys, and Annie Lee Gulledge.

Surviving are two daughters: Denise S. Vick and Joni (Kenny) Davis of Chesterfield, S.C., five grandchildren, Kristen (Joel) McLain of Blacksburg, SC, Jason Vick of Lexington, S.C., Michael (Ivy) Davis of Mt. Pleasant, S.C., Leslie Davis of Chesterfield, S.C., and Heath Davis of Myrtle Beach, S.C., and three great grandchildren, Ethan, Emma, and Ella McLain.

Also a number of Nieces and Nephews and her special cat "Adam."

Memorials may be made to Hospice of Chesterfield County, P.O. Box 293, Chesterfield, SC 29709 or Ruby Baptist Church "Music Fund" P.O. Box 5, Ruby, S.C. 29741.

Miller-Rivers-Caulder Funeral Home of Chesterfield, S.C. (www.mrcfuneralhome.com) is serving the Sutton family.

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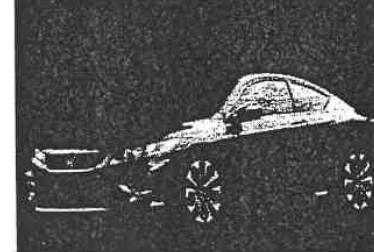
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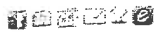
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Esther Jones Davis

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PATRICK – Esther Jones Davis died on Oct. 8, 2008.

Funeral services were at 4 p.m. Oct. 10, at Miller-Rivers-Caulder Funeral Home Chapel. Burial followed in Lower Macedonia Memorial Gardens.

Visitation was held at the funeral home Oct. 9, 6-8 p.m.

Born Feb. 10, 1932 Mrs. Davis was the daughter of the late Paul and Nezzie Boatwright Jones. She retired from Crown Cork and Seal and was a lifelong member of Lower Macedonia Baptist Church and the Senior Circle of Chesterfield County.

The widow of the late James (Jay) M. Davis, Mrs. Davis is survived by her sons, Jimmy (Ada Gardner) Davis of Chesterfield; Kenny (Joni Sutton) Davis of Chesterfield; Freddie Davis (Susan Sartor), of Cheraw, and Rusty (Martha Sessions) Davis of Timmonsville, SC.

She was preceded in death by a son, Michael Davis.

She had five grandchildren, Michael Davis of Charleston, Leslie Davis of Chesterfield, Heath Davis of Myrtle Beach, Emily Davis of Jefferson, and James Davis of Cheraw, four step-grandchildren, Larry Purvis of Chesterfield, Andrew Purvis of Chesterfield, Bo (Terra Johnson) Rouse of Florence, Dustin Rouse of Surfside Beach; and three great-grandchildren, Josh Purvis of Chesterfield, Brenny and Johnson Rouse of Florence; and other relatives and friends.

Mrs. Davis is survived by siblings Sam Jones of Chesterfield, SC, Henley Jones of Cheraw, and Margaret Jones Hess of Charlotte, NC. Preceding her in death were two brothers, William Jones and Lloyd Jones, and a sister, Ruth Jones Davis Rivers.

Memorials may be made to Hospice of Chesterfield County, P.O. Box 293, Chesterfield, SC 29709. E-condolences may be sent to the family via the funeral home's website at www.mrcfuneralhome.com

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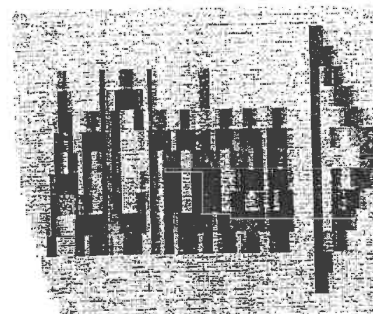
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UNITED STATES DISTRICT COURT

for the

District of South Carolina

Daniel Watson, as Personal Representative of the
Estate of David W. Watson, deceased,

Plaintiff

v.

Civil Action No. 4:12-CV-3436-BHH

Robert A. Adams, in his individual capacity as a)
police officer with the Town of Chesterfield; Eric)
Hewett, in the his individual capacity as Chief of)
Police for the Town of Chesterfield; Leslie Davis, in)
his individual capacity as Lance Corporal with the)
South Carolina Highway Patrol; Town of)
Chesterfield; and South Carolina Department of)
Public Safety,

Defendants

SUMMARY JUDGMENT IN A CIVIL ACTION

The court has ordered that *(check one)*:

☐ the plaintiff *(name)* _____ recover from the defendant *(name)* _____ the amount of _____ dollars (\$___), which includes prejudgment interest at the rate of ____ %, plus postjudgment interest at the rate of ____ %, along with costs.

☐ the plaintiff recover nothing, the action be dismissed on the merits, and the defendant *(name)* _____ recover costs from the plaintiff *(name)* _____.

☒ other: Summary Judgment is entered in favor of the Defendants Robert A. Adams, in his individual capacity as a police officer with the Town of Chesterfield; Eric Hewett, in the his individual capacity as Chief of Police for the Town of Chesterfield; Leslie Davis, in his individual capacity as Lance Corporal with the South Carolina Highway Patrol; Town of Chesterfield; and South Carolina Department of Public Safety; and this case is closed.

This action was *(check one)*:

☐ tried by a jury, the Honorable _____ presiding, and the jury has rendered a verdict.

☐ tried by the Honorable _____ presiding, without a jury and the above decision was reached.

☒ decided by the Honorable Bruce Howe Hendricks, United States District Judge, who granted Defendants' motions for summary judgment.

Date: March 31, 2015

Robin L. Blume
CLERK OF COURT

s/ Penelope W. Roulston

Signature of Clerk or Deputy Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-1706

DANIEL WATSON, as Personal Representative of the Estate of
David W Watson, deceased,

Plaintiff - Appellant,

v.

ROBERT A ADAMS, in his individual capacity as a police
officer with the Town of Chesterfield; ERIC HEWETT, in his
individual capacity as Chief of Police for the Town of
Chesterfield; LESLIE DAVIS, in his individual capacity as
Lance Corporal with the South Carolina Highway Patrol; SOUTH
CAROLINA DEPARTMENT OF PUBLIC SAFETY; CHESTERFIELD, TOWN OF,

Defendants - Appellees,

and

CHESTERFIELD POLICE DEPARTMENT,

Defendant.

Appeal from the United States District Court for the District of
South Carolina, at Florence. Bruce H. Hendricks, District
Judge. (4:12-cv-03436-BHH)

Submitted: March 18, 2016

Decided: March 25, 2016

Before WILKINSON, MOTZ, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Patrick J. McLaughlin, WUKELA LAW FIRM, Florence, South Carolina, Franklin B. Joyner, Jr., JOYNER LAW FIRM, Cheraw, South Carolina, for Appellant. Andrew F. Lindemann, DAVIDSON & LINDEMANN, P.A., Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniel Watson ("Watson"), as personal representative of the estate of David Watson ("David"), filed separate wrongful death and survival actions against Robert Adams; Eric Hewitt; Leslie Davis; the South Carolina Department of Public Safety; and the Town of Chesterfield, South Carolina (collectively, "Defendants"). Both cases arose from the same core of operative facts and allegations related to Defendants' Fourth Amendment violations and state law torts against David, which Watson contends prompted David's suicide. These cases were consolidated in the district court pursuant to the parties' consent motion, on the ground that they involved the same parties and subject matter. In response to Defendants' identical motions in the two actions, the district court granted summary judgment only in the wrongful death action.

Watson now seeks to appeal the district court's order denying his motion to alter or amend that judgment. Because we are obliged to inquire sua sponte into matters of our own appellate jurisdiction, see Feldman v. Law Enf't Assocs. Corp., 752 F.3d 339, 346 (4th Cir. 2014), we directed the parties to provide supplemental briefing addressing whether this appeal is interlocutory. For the reasons that follow, we dismiss the appeal.

We may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2012), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2012); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-47 (1949). "In the ordinary course a final decision is one that ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." Ray Haluch Gravel Co. v. Cent. Pension Fund, 134 S. Ct. 773, 779 (2014) (internal quotation marks omitted).

Although the district court has entered judgment in Watson's wrongful death action, it has not yet issued a final order in the survival action with which it is consolidated. In Eggers v. Clinchfield Coal Co., 11 F.3d 35 (4th Cir. 1993), we adopted a case-by-case approach to determining whether a judgment entered in one of several consolidated cases is final and appealable, relying on concepts of finality encompassed in 28 U.S.C. § 1291. Id. at 39. We recognized that the determination must be made by seeking guidance from several factors, including "whether a case has been consolidated for all purposes, such as for discovery and trial, and whether the decision on one claim may affect the rights of the parties regarding the other claim." Id.

While Watson argues that the appeal is appropriate for certification under Fed. R. Civ. P. 54(b) and Braswell Shipyards, Inc. v. Beazer E., Inc., 2 F.3d 1331 (4th Cir. 1993), Watson did not seek, and the district court did not grant, certification for an interlocutory appeal under Rule 54(b) or 28 U.S.C. § 1292(b). Nevertheless, Eggers acknowledged that considerations underlying Rule 54(b) certification may be relevant to the finality inquiry presented here. See 11 F.3d at 39 n.5.

We have reviewed the parties' arguments in view of Eggers and Braswell Shipyards and conclude that the appeal is interlocutory. Watson's wrongful death and survival actions were consolidated in the district court for all purposes. The issues presented in the parties' original briefs – both related to proximate causation and to the underlying Fourth Amendment issues – are intertwined with those issues still pending before the district court in the survival action. Additionally, while a retrial of the survival action ultimately could be required if the causation issue raised in this appeal was wrongly decided, we find that judicial economy weighs more strongly in favor of postponing judicial review.

Accordingly, we dismiss for lack of jurisdiction. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
James G. Watson,)
Plaintiff,)
vs.)
South Carolina Department of)
Public Safety,)
Defendant.)

IN THE COURT OF COMMON PLEAS

CASE NO. 2013-CP-

2013-CP-42-4495

**COMPLAINT
(JURY TRIAL DEMANDED)**

1. Plaintiff is a resident of Spartanburg County and, at all times relevant hereto, was employed by Defendant in Spartanburg County.

2. Defendant is a political subdivision and/or state agency of the State of South Carolina and conducts activities and business as in Spartanburg County.

3. A substantial part of the events or omissions giving rise to the claim occurred in Spartanburg County. Venue is proper in this Court.

4. At all relevant times herein, Plaintiff was an active reservist in the United States Marines. Such service required him to be absent from work to perform his military duties. Plaintiff is bringing claims under 38 U.S.C. sections 4301 et seq. (U.S.E.R.R.A) Thus, this Court has jurisdiction.

5. Plaintiff began working for Defendant in August 1994 as a Trooper until January 2013 when he was forced to retire due to discrimination and recent denials of promotions that were all related to his military service. Plaintiff had a civilian job as the term is defined under USERRA and was thus an employee and qualified for protection under USERRA.

6. Defendant was an employer and subject to obligations under USERRA.

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7. Defendant made it clear early on that it was not pleased with Plaintiff's absences that were due to his military obligations. In fact, in late 2001 after Sept. 11, Sgt. Jeff Williams stated to Plaintiff, "make up your mind if you're going to do this or the military."

8. Also, during an informal meeting in March of 2009 just prior to Plaintiff being activated, Sgt. John J. Kessler stated to Plaintiff, "I need someone who is going to be here."

9. During his eighteen years of employment, Plaintiff was told on several occasions that the Patrol was waiting on him to retire from the military. Plaintiff service in the armed forces caused Plaintiff to be passed over for promotions.

10. The actual reasons given by Defendant for its actions are pretextual to cover up for the fact that it is acting in violation of the laws.

11. For years during Plaintiff's employment he was denied the ability to train other officers (Field Training Officer). The reason given to him was that he, "stayed gone too much". Around 2008 when Plaintiff was finally allowed to train a new trooper, that trooper went on to be regarded as one of the best Troopers in the upstate.

12. In 2010 upon Plaintiff's return from active duty, he was reassigned to a new crew that had no Corporal and told to, "straighten them out." Throughout his employment, Plaintiff was "hand-picked" to undertake supervisory and/or leadership roles without ever receiving promotion. Plaintiff acted as the de facto Corporal from June 2010-February 2011 when another lesser qualified and experienced person was promoted to fill that position.

13. During his 18 years with the South Carolina Highway Patrol, Plaintiff received many awards. He was Trooper of the Year, nominated for Solicitor's Award for Excellence and was a member of the Honor Guard, Advanced Civil Emergency Response Team (ACERT), Field Training Officer (FTOP) and Instructor Qualified. Plaintiff also completed the US Marine Corps

Command and Staff College and has over 22 years as a United States Marine Corps Commissioned Officer where he earned several distinguished military awards including the Navy Commendation Medal, the Navy Unit Commendation Ribbon, two Combat Action Ribbons, National Defense Service Medal and the Iraqi Campaign Medal along with many other awards for his service.

14. Between the years 2000-2010 Plaintiff applied for several promotions with the South Carolina Department of Public Safety and each time was denied. Specifically, between the years 2010 and 2012, Plaintiff applied for five promotions with the South Carolina Department of Public Safety. However, in at least four of the five applications for promotions, less qualified, less-experienced, less professionally trained and less educated, non-military persons received the positions; Plaintiff was not selected for promotion in at least four of the five times he applied for such promotions due to his service in the Marine Reserves.

15. During the years 2006-2010, at the same time Plaintiff was being denied promotions with Defendant, Plaintiff was screened by the United States Marine Corps during a National Screening Board and found to be qualified to command a unit the same size and scope as the entire SC Highway Patrol.

16. Due to the discriminatory actions and denials by Defendant for many years, Plaintiff was constructively discharged.

17. All the above referenced discrimination and subsequent denials of benefits are denials of "employment benefits," as defined by the USERRA, and Plaintiff's military status was a "motivating factor" in the decisions to deny these benefits of employment.

18. Defendant has shown a consistent pattern of discrimination; Defendant has treated Plaintiff unlawfully and unfairly as a result of his status and services in the Uniformed Services.

19. Defendant denied promotions and other benefits and entitlements.
20. Defendant's conduct was knowing, willful, wanton, deliberate, and/or with the intent to harm. Defendant was aware of Plaintiff's military status and aware of his USERRA rights.
21. As a result of Defendant's discriminatory actions, Plaintiff has lost back and future wages, back and future benefits and retirement.
22. Plaintiff is entitled to reinstatement, an award of compensatory damages, liquidated damages and attorneys fees.

WHEREFORE, Plaintiff respectfully requests a trial by jury on his claims and that he be granted the following relief:

- (a). an award of lost wages, front and back pay, and lost benefits of all kinds—which resulted from the denials for promotion and constructive discharge;
- (b). liquidated damages;
- (d). actual damages, compensatory damages and punitive damages;
- (e). pre-judgment and post judgment interest;
- (f). attorneys fees and costs; and
- (g). all other and further relief as the Court deems necessary and proper, including, but not limited to, punitive damages.

Respectfully submitted,
Law Office of W. Andrew Arnold, P.C.

W. Andrew Arnold, Esq.
S.C. Bar No. 065311
712 E. Washington St.
Greenville, SC 29601
864.242.4800

October 31, 2013

COPY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)	
James G. Watson,	)	C/A No.: 2013-CP-42-04495
)	
Plaintiff,)	
	)	STIPULATION OF DISMISSAL
v.	)	WITH PREJUDICE
)	
South Carolina Department of Public)	
Safety,)	
)	
Defendant.)	

NOW COME Plaintiff James G. Watson and Defendant South Carolina Department of Public Safety, all through counsel, and stipulate to the dismissal of all claims and defenses asserted by these parties against and among each other in the above-referenced action with prejudice. All parties so stipulate pursuant to Rule 41(a)(1), SCRCF. Each of these parties will bear their own fees and costs in this action.

Dated this the 30th day of October, 2014.

WE SO STIPULATE:

W. Andrew Arnold
 LAW OFFICE OF W. ANDREW ARNOLD, PC
 712 E. Washington Street
 Greenville, South Carolina 29601
 T: 864-242-4800
 F: 864-242-4885
 Email: aarnold@aallawfirm.com

COUNSEL FOR PLAINTIFF

WE SO STIPULATE:

Eugene H. Matthews
 RICHARDSON PLOWDEN & ROBINSON, PA
 PO Drawer 7788
 Columbia, South Carolina 29202
 T: 803-771-4400
 F: 803-779-0016
 Email: gmatthews@RichardsonPlowden.com

COUNSEL FOR DEFENDANT

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2014 NOV -3 PM 2:26
 M. HPE BLACKLEY

Richardson Plowden & Robinson, P.A.

P.O. Drawer 7788
 Columbia, South Carolina 29202
 (803) 771-4400
 Federal ID #57-0954474
 January 7, 2014

Billed through 12/31/2013

Invoice# 007671 - 00003 - 149033 EHM

Warren Ganjehsani
 SC Department of Public Safety
 10311 Wilson Boulevard
 Blythewood, SC 29016

James G Watson v. South Carolina Department of Public Safety
 Claim #
 Civil Action # 2013-CP-42-04495
 Our file# 007671 -00003

Matter Summary

Total professional fees	\$420.00
Total expenses incurred	\$6.58
Total of new charges billed	\$426.58
<i>Total balance now due</i>	<i>\$426.58</i>

For Professional Services Rendered

11/20/2013 EHM	Review of USERRA complaint	0.40 hrs
12/10/2013 EHM	Review of documents and USERRA cases re: Watson claims; drafted Answer and Affirmative defenses	2.40 hrs
Total fees for this matter		\$420.00

Expenses Incurred

12/12/2013	E101 Duplication of Documents	\$4.20
12/31/2013	E108 Postage	\$2.38
Total expenses for this matter		\$6.58

Billing Summary

Matthews, Eugene H.	2.80	150.00 /hr	\$420.00
Total fees for all Timekeepers			\$420.00
Total expenses			\$6.58
Total of new charges for this invoice			\$426.58

Richardson Plowden & Robinson, P.A.

P.O. Drawer 7788
 Columbia, South Carolina 29202
 (803) 771-4400
 Federal ID #57-0954474
 June 5, 2014

Billed through 05/31/2014

Invoice# 007671 - 00003 - 152569 EHM

Warren Ganjehsani
 SC Department of Public Safety
 10311 Wilson Boulevard
 Blythewood, SC 29016

James G Watson v. South Carolina Department of Public Safety
 Claim #
 Civil Action # 2013-CP-42-04495
 Our file# 007671 -00003

Matter Summary

Total professional fees	\$150.00
Total of new charges billed	\$150.00
<i>Total balance now due</i>	<i>\$150.00</i>

For Professional Services Rendered

05/07/2014 EHM	Correspondence with opposing counsel re: confidentiality order and amendment of complaint	0.30 hrs
05/14/2014 EHM	Drafted confidentiality agreement	0.70 hrs
Total fees for this matter		<u>\$150.00</u>

Expenses Incurred**Billing Summary**

Matthews, Eugene H.	1.00	150.00 /hr	\$150.00
Total fees for all Timekeepers			<u>\$150.00</u>
Total expenses			\$0.00

<i>Total of new charges for this invoice</i>	<u>\$150.00</u>
---	------------------------

* Prepaid cash remaining balance is \$0.00
 ** Trust account remaining balance is \$0.00

Richardson Plowden & Robinson, P.A.

P.O. Drawer 7788
 Columbia, South Carolina 29202
 (803) 771-4400
 Federal ID #57-0954474
 July 9, 2014
 Billed through 06/30/2014

Invoice# 007671 - 00003 - 153594 EHM

Warren Ganjehsani
 SC Department of Public Safety
 10311 Wilson Boulevard
 Blythewood, SC 29016

James G Watson v. South Carolina Department of Public Safety
 Claim #
 Civil Action # 2013-CP-42-04495
 Our file# 007671 -00003

Matter Summary

Total professional fees	\$165.00
Total of new charges billed	\$165.00
Plus net balance forward	\$150.00
<i>Total balance now due</i>	<u><u>\$315.00</u></u>

For Professional Services Rendered

06/09/2014 EHM	Teleconferences with opposing counsel and client re proposed settlement of case	0.70 hrs
06/23/2014 EHM	Teleconferences with client and opposing counsel re: proposed settlement of claim	0.40 hrs
Total fees for this matter		<u>\$165.00</u>

Expenses Incurred**Billing Summary**

Matthews, Eugene H.	1.10	150.00 /hr	\$165.00
Total fees for all Timekeepers			<u>\$165.00</u>
Total expenses			\$0.00
Total of new charges for this invoice			<u><u>\$165.00</u></u>

* Prepaid cash remaining balance is \$0.00

Signatures, initials, and personal information (i.e. address, phone, social security number)
 were redacted by House Legislative Oversight Committee staff.

Richardson Plowden & Robinson, P.A.

P.O. Drawer 7788
 Columbia, South Carolina 29202
 (803) 771-4400
 Federal ID #57-0954474
 August 15, 2014
 Billed through 07/31/2014

Invoice# 007671 - 00003 - 154641 EHM

Warren Ganjehsani
 SC Department of Public Safety
 PO Box 1993
 Blythewood, SC 29016

James G Watson v. South Carolina Department of Public Safety
 Claim #
 Civil Action # 2013-CP-42-04495
 Our file# 007671 -00003

Matter Summary

Total professional fees	\$105.00
Total of new charges billed	\$105.00
<i>Total balance now due</i>	<i>\$105.00</i>

For Professional Services Rendered

07/10/2014 EHM	Drafted settlement agreement	0.70 hrs
	Total fees for this matter	\$105.00

Expenses Incurred**Billing Summary**

Matthews, Eugene H.	0.70	150.00 /hr	\$105.00
			\$105.00
Total fees for all Timekeepers			\$105.00
Total expenses			\$0.00
Total of new charges for this invoice			\$105.00

* Prepaid cash remaining balance is \$0.00
 ** Trust account remaining balance is \$0.00

202CV101500-1709

Case No:

Filed:

Served:

Default:

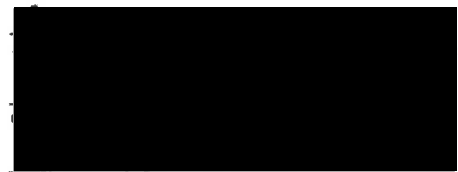
Hearing:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON4045 BRIDGE VIEW DRIVE
PO BOX 70235
NORTH CHARLESTON, SC 29405

IN THE SMALL CLAIMS COURT

JACK L WILSON
PlaintiffOFFICER BRIDGET WYANT
Defendant

Phone



Phone

COMPLAINT

I, the plaintiff in this civil action, make the following claim against the defendant:

- 1.) I believe that the defendant is a resident of Charleston County.
- 2.) Check a, b, or c to indicate type of suit and supply documents required.
 - a. () This is a suit on a note; Two (2) copies of note attached. Defendant has defaulted in payment of said note with balance of \$ _____ now due and payable.
 - b. () This is a suit on account; Two (2) copies of statement attached. Sign as affiant swearing to statement and have your signature notarized.

SWORN and subscribed before me this
_____ day of _____, 20____NOTARY PUBLIC, State of South Carolina
My Commission Expires: _____Attached to this complaint is a statement of
account which I swear to be true and correct,
with no part of the balance having been paid._____
Affiant's Signature (Plaintiff)

- c. (☒) OTHER. This is a claim based on the following facts: (Describe Complaint)
(attach supplement if necessary)

Falsifying Court Documents
Gross Negligence

FILED IN CHARLESTON COUNTY

MAY 30 2012

SMALL CLAIMS COURT

- 3.) I believe because of the above information, that I am entitled to, and request a judgment for
\$ 7,500 and/or other relief:

(List any costs resulting from this action (Example: court costs, legal fees, interest))

I STATE UNDER PENALTY OF PERJURY THAT THE ABOVE IS CORRECT AND TRUTHFUL.

5/30/2012
Date

C32-5270

STATE OF SOUTH CAROLINA	)	IN THE MAGISTRATE'S COURT
)	
COUNTY OF CHARLESTON)	
Jack K. Wilson,	)	C/A No. 2012CV1011500709
)	
Plaintiff,	)	ORDER OF DISMISSAL
)	
Versus	)	FILED IN CHARLESTON COUNTY
)	
Bridgett Wyatt (Officer),	)	AUG 30 2012
)	
Defendant.	)	SMALL CLAIMS COURT

This matter is before the Court upon a Motion to Dismiss made by Defendant Bridgett Wyatt (Officer), (hereinafter "the Defendant"), pursuant to Rule 2 of the South Carolina Rules of Magistrates Court and Rule 12 of the South Carolina Rules of Civil Procedure. The Court heard arguments on this Motion on August 15, 2012. Based upon the arguments of counsel, the parties' submissions, and the applicable law, the Court hereby grants the Defendant's Motion to Dismiss.

STATEMENT OF FACTS

On May 30, 2012 the Plaintiff filed a Summons and Complaint, C/A No. 2012-CV-1011500709 in the Magistrate's Court for Charleston County which named Trooper Bridget Wyant as a Defendant. Trooper Wyant is a member of the South Carolina Highway Patrol, a division of the South Carolina Department of Public Safety. In his Complaint, the Plaintiff alleges that Officer Wyant falsified court documents in a grossly negligent manner. Complaint P. 3. The Complaint sets forth allegations against an employee of a state agency acting within the scope of her official duties and thus is subject to the requirements set forth in the South Carolina Tort Claims Act (S.C. Ann. § 15-78-10 *et seq.*).

STANDARD

Pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, a trial judge may dismiss a claim when the defendant demonstrates the plaintiff's "failure to state facts sufficient to constitute a cause of action" in the pleadings filed with the Court. FOC Lawshe Ltd. P'ship v. Int'l Paper Co., 352 S.C. 408, 412, 574 S.E.2d 228, 230 (Ct. App. 2002). An allegation of wrongdoing against a state entity is governed by the South Carolina Tort Claims Act¹. In this case, the Plaintiff alleges Trooper Wyant falsified court documents in a grossly negligent manner. Pursuant to the Tort Claims Act², the Plaintiff cannot name Trooper Wyant individually, but must substitute the South Carolina Department of Public Safety as the proper defendant.

Further, the Plaintiff may only initiate his case by filing a Complaint in the circuit court of the county in which the act or omission was alleged to have occurred³. As the Plaintiff filed this claim in the Magistrate's Court of Charleston County instead of the Circuit Court of Charleston County, he has failed to comply with the conditions precedent to filing suit as set forth in South Carolina Torts Claims Act.

Based on the provisions of South Carolina Torts Claims Act – the Act which constitutes the exclusive remedy for any tort committed by an employee of a governmental entity – the Court grants the Defendant's Motion to Dismiss.


¹ See S.C. Ann. § 15-78-70(a) ("This chapter constitutes the exclusive remedy for any tort committed by an employee of a governmental entity...").

² See S.C. Ann. § 15-78-70(c) ("...In the event that the employee is individually named, the agency or political subdivision for which the employee was acting must be substituted as the party defendant...").

³ S.C. Code § 15-78-100 (b) ("Jurisdiction for any action brought under this chapter is in the circuit court and brought in the county in which the act or omission occurred.").

IT IS SO ORDERED.

August 20, 2012
Charleston, South Carolina
J:\docs\1.162\Order of Dismissal.doc


Judge James A. Turner
Presiding Judge, Charleston County
Magistrate Court



NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

MARCIA ADAMS
EXECUTIVE DIRECTOR

September 17, 2012

WARREN GANJEHSANI
SC Department of
Public Safety
Post Office Box 1993
Blythewood SC 29016

RE: IRF Claim Number: T85453
Date of Occurrence: July 1, 2010
Claimant: Wilson, Jack
Date Closed: September 17, 2012

Dear Warren:

We have concluded the above claim. For your records, total payments were as follows:

Losses Paid: \$.00
Expenses Paid: \$ 2,159.95

If you should have any questions, please contact us.

Sincerely,

Jacqueline M. Patterson
Senior Claims Representative

/jmp

PS: Case Dismissed.

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

Charles R. Wood,)

Plaintiff,)

-vs-)

Matthew Daniel Ocasio and South Carolina)
Department of Public Safety,)
Defendants.)IN THE COURT OF COMMON PLEAS
CASE NO.: 2016-CP-38-00642/COMPLAINTFILED FOR RECORD
WINNIE B. CLARK
2016 JUN -1 P 10:13
CLERK OF COURT
ORANGEBURG, SC

Now comes Plaintiff complaining of Defendants who would allege and state as follows:

1. Plaintiff is a citizen and resident of Orangeburg County, State of South Carolina.
2. Upon information and belief, Defendant Matthew Daniel Ocasio is a citizen and resident of Chesterfield County, State of South Carolina. Upon information and belief, at the time of the accident, Defendant Ocasio was an employee of Defendant South Carolina Department of Public Safety, acting within his employment with said Defendant, and driving a vehicle owned by said Defendant.
3. Defendant South Carolina Department of Public Safety (Defendant SCDPS), is a political subdivision and this action is brought pursuant to the South Carolina Torts Claim Act, section 15-78-10 *et seq.* of the 1976 South Carolina Code of Laws, as amended.
4. Defendant SCDPS operates within Orangeburg County, South Carolina.
5. On or about December 18, 2014, Plaintiff was stopped on his motorcycle, awaiting a green light on Highway 601 near St. Matthews Road in Orangeburg County, South Carolina, when Defendant Ocasio, driving distracted as well as too close and too fast for conditions, slammed into Plaintiff, rear-ending him, causing him to take the full force of the impact

Winnifred Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

and throwing him onto the ground.

6. As a result of Defendants' negligence, recklessness, carelessness, willfulness, wantonness, and gross negligence, Plaintiff received serious and permanent injuries causing the Plaintiff to be under the care of a doctor, to incur medical expenses, to experience severe excruciating pain, and to be unable to work and therefore caused to lose wages and profit.
7. Furthermore, as a result of Defendants' negligence, recklessness, carelessness, willfulness, wantonness, and gross negligence, Plaintiff has suffered serious and permanent injuries which have and will in the future cause him to endure great physical pain, suffering, mental anguish, emotional distress, and ultimately cause Plaintiff to incur future medical bills and wage loss.

FOR A FIRST CAUSE OF ACTION
(Negligence/ Gross Negligence/ Negligence Per Se)

8. Plaintiff re-alleges and reiterates the allegations set forth in the previous paragraphs.
9. At the time and place mentioned above, Defendant Ocasio was negligent, careless, reckless, grossly negligent, willful and wanton at the time and place above-mentioned in the following particulars, to wit:
 - a. In failing to maintain a proper lookout;
 - b. In traveling too fast for conditions;
 - c. In failing to take evasive action to avoid colliding with Plaintiff;
 - d. In driving distracted;
 - e. In operating his vehicle in utter disregard for the safety of others on the highway, including Plaintiff;
 - f. In failing to keep proper control of his vehicle;
 - g. In failing to yield the right of way to Plaintiff;

- h. In failing to exercise the degree of care that a reasonably prudent person would have exercised under the same or similar circumstances; and
 - i. In such other and further particulars that the evidence in trial may show;
10. Said actions and/or inactions by Defendant Ocasio were in violation of the statutes and laws of the State of South Carolina including but not limited to S.C. Code Ann. §§ 56-5-440, 600, and 1930.
 11. Defendant Ocasio's conduct was a direct and proximate cause of the injuries and damages sustained by Plaintiff to include, but not limited to severe and permanent injuries to his back, neck and other parts of his body.
 12. Plaintiff's injuries were of such a nature so as to require him to expend monies, undergo hospitalization, and receive additional medical attention and to require medical necessities.
 13. Furthermore, Plaintiff has suffered and will continue to suffer great pain, suffering, humiliation, loss of enjoyment of life, mental anguish, emotional distress, and ultimately cause Plaintiff to incur future medical bills and wage loss.
 14. Plaintiff is informed and believes that he is entitled to actual damages from Defendant Ocasio in an amount which would adequately compensate him for his injuries and damages, as well as reasonable punitive damages as may be determined by the trier in fact.
 15. To the extent Defendant Ocasio is found to have been within the scope of his employment with Defendant SCDPS and Defendant SCDPS is vicariously liable for Defendant Ocasio's conduct, Plaintiff is informed and believes that he is entitled to actual damages from Defendant SCDPS in an amount which would adequately compensate him for his injuries and damages.

FOR A SECOND CAUSE OF ACTION
(Grossly Negligent Hiring, Training, Supervision as to Defendant SCDPS)

16. Plaintiff re-alleges and reiterates the allegations set forth in the previous paragraphs as if set out herein verbatim.
17. Defendant Ocasio is an employee of Defendant SCDPS.
18. Defendant SCDPS has the ability to control Defendant Ocasio.
19. Defendant Ocasio was acting in his capacity as an employee of Defendant SCDPS when the alleged event occurred, leading to Plaintiff's injuries.
20. Defendant SCDPS owed Plaintiff a duty of slight care and were grossly negligent and breached their duty of care by:
 - a. Failing to exercise reasonable care in the hiring of Defendant Ocasio to operate Defendant SCDPS' vehicles to transport students to and from school and school related activities;
 - b. Failing to exercise reasonable care in the supervision of Defendant Ocasio in the operation of its vehicles;
 - c. Failing to exercise reasonable care in the retention of Defendant Ocasio to operate its vehicles; and
 - d. On such other and further particulars as the evidence may show.
21. The breach of this duty by Defendant SCDPS was a proximate cause of the injuries sustained by Plaintiff.
22. As a direct and proximate cause of the breaches complained herein, Plaintiff has suffered and will continue to suffer great pain, suffering, humiliation, loss of enjoyment of life, mental anguish, emotional distress, and ultimately cause Plaintiff to incur future medical bills and wage loss.

WHEREFORE, Plaintiff prays for judgment against Defendants for actual damages and for punitive damages as may be determined by the trier of fact, the cost of this action and for such other and further relief as this Court may deem just and proper.



David R. Williams
Virginia W. Williams
WILLIAMS & WILLIAMS
1281 Russell Street
Post Office Box 1084
Orangeburg, S.C. 29116-1084
Phone: (803) 534-5218
Facsimile: (803) 928-5190
williamsdr@williamsattys.com
williamsvw@williamsattys.com
ATTORNEYS FOR PLAINTIFF

May 26, 2016

Orangeburg, South Carolina

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

MARCUS D. WRIGHT,
PLAINTIFF

v.

SC HIGHWAY PATROL ET AL
OFFICER B. J. SAWYER ET AL
OFFICER (2) UNKNOWN ET AL
Individually And In Their Official
Capacities
DEFENDANTS

AMENDED COMPLAINT

CIVIL ACTION NO. _____
4:15-CV-2442-RBH-KDW

FILED
2015 JUN 24 AM 10:36
U.S. DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

I. JURISDICTION & VENUE

1. THIS IS A CIVIL ACTION AUTHORIZED BY 42 U.S.C. SECTION 1983 TO REDRESS THE DEPRIVATION, UNDER COLOR OF STATE LAW, OF RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED STATES. THE COURT HAS JURISDICTION UNDER 28 U.S.C. SECTION 1331 AND 1343 (a)(3). PLAINTIFF WRIGHT SEEKS DECLARATORY RELIEF PURSUANT TO 28 U.S.C. SECTION 2201 AND 2202.

2. THE DISTRICT OF SOUTH CAROLINA IS AN APPROPRIATE VENUE UNDER 28 U.S.C. SECTION 1391 (b)(2) BECAUSE IT IS WHERE THE EVENTS GIVING RISE TO THIS CLAIM OCCURRED.

II. PLAINTIFF

3. PLAINTIFF MARCUS D. WRIGHT IS AT ALL TIMES MENTIONED HEREIN A PRISONER OF THE STATE OF SOUTH CAROLINA IN THE CUSTODY OF THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS. HE IS CURRENTLY CONFINED IN BROAD RIVER CORRECTIONAL INSTITUTION, IN COLUMBIA, SOUTH CAROLINA.

LEGAL MAIL

PAGE 1 OF 7

III. DEFENDANTS

4. DEFENDANT SC HIGHWAY PATROL IS THE EMPLOYER, LEGALLY RESPONSIBLE FOR THE TRAINING AND/OR DAY TO DAY OPERATIONS OF SOUTH CAROLINA HIGHWAY PATROL OFFICERS, AND FOR THE WELFARE OF CITIZENS ON SOUTH CAROLINA HIGHWAYS.
5. DEFENDANT OFFICER B. J. SAWYER IS A SC HIGHWAY PATROL OFFICER OF THE SC HIGHWAY PATROL WHO, AT ALL TIMES MENTIONED IN THIS COMPLAINT, HELD THE RANK OF A TROOPER ASSIGNED TO THE SC HIGHWAY PATROL.
6. DEFENDANT OFFICER 2 UNKNOWN IS A SC HIGHWAY PATROL OFFICER OF THE SC HIGHWAY PATROL WHO, AT ALL TIMES MENTIONED IN THIS COMPLAINT, HELD THE RANK OF A TROOPER ASSIGNED TO THE SC HIGHWAY PATROL.
7. EACH DEFENDANT IS SUED INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY, AT ALL TIMES MENTIONED IN THIS COMPLAINT EACH DEFENDANT ACTED UNDER THE COLOR OF STATE LAW.

FACTS

8. AT ALL TIMES RELEVANT TO THIS CASE, PLAINTIFF MARCUS D. WRIGHT OWNED AND RESIDED AT 3635 KATES BAY RD., WHICH IS LOCATED IN CONWAY, S.C. (HORRY COUNTY)
9. ON MARCH 30, 2013 MARCUS WAS PARKED IN HIS YARD, WHEN HE OBSERVED DEFENDANTS OFFICER B. J. SAWYER AND OFFICER (2) UNKNOWN DRIVE BY HIS HOME, THEN MAKE A U-TURN PULLING INTO HIS YARD.
10. OFFICER B. J. SAWYER AND OFFICER (2) UNKNOWN THEN ACTIVATED THEIR BLUE LIGHTS.
11. MARCUS THEN EXITED HIS VEHICLE, WHICH WAS A 2007 FERRARI F 430 AND WAS CONFRONTED BY OFFICER B. J. SAWYER AND OFFICER (2) UNKNOWN

PAGE 2 OF 7

LEGAL MAIL

12. OFFICER B.J. SAWYER AND OFFICER (2) UNKNOWN THEN ASKED MARCUS FOR HIS LICENSE, STATING THAT MARCUS HAD BEEN OBSERVED RECKLESS DRIVING IN A AREA UNKNOWN AND AT WHAT EVER SPEED ALSO UNKNOWN.
13. OFFICER (2) UNKNOWN THEN FURTHER STATED THAT IF MARCUS COMPLIED THAT HE WOULD BE ISSUED A WARNING. IMMEDIATELY UPON OBSERVATION AND BELIEF MARCUS FELT AS IF HE WAS BEING RACIALLY PROFILED.
14. MARCUS THEN INFORMED OFFICER (2) UNKNOWN AND OFFICER B.J. SAWYER THAT THEY WERE ON PRIVATE PROPERTY UNDER HOME SURVAILANCE AND TO PLEASE EXIT THE PREMISES.
15. OFFICER (2) UNKNOWN THEN FORCEIBLY GRABED MARCUS AND TOLD HIM THAT HE WAS BEING PLACED UNDER ARREST FOR RECKLESS DRIVING. MARCUS WAS THEN PLACED IN THE ~~THE~~ PATROL CAR OF OFFICER B.J. SAWYER. MARCUS WIFE WAS ALSO PLACED IN HAND CUFFS BECAUSE ONE OFFICER LIFTED TO THE OTHER STATING THAT SHE HAD JUMPED ON HIS BACK.
16. OFFICER B.J. SAWYER AND OFFICER (2) UNKNOWN THEN BEGAN SEARCHING MARCUS VEHICLE, YARD AND ANYTHING THAT THEY COULD GET INTO AT 3635 KATES Bay RD. WITHOUT HIS CONSENT.
17. AFTER OFFICER B.J. SAWYER AND OFFICER (2) UNKNOWN COMPLETED THEIR SEARCHES, WHICH TURNED UP NOTHING ILLEGAL. MARCUS WAS THEN TRANSPORTED TO J. RUEBEN LONG DETENTION CENTER BY OFFICER B.J. SAWYER AND OFFICER (2) UNKNOWN.
18. NOW AT THE J. RUEBEN LONG DETENTION CENTER, OFFICER B.J. SAWYER AND OFFICER (2) UNKNOWN ABANDONED THERE ORIGINAL CHARGES OF RECKLESS DRIVING WHICH THEY HAD PREVIOUSLY ARRESTED MARCUS FOR IN HIS YARD, AND NOW WAS TRYING TO GIVE MARCUS A BREATHLIZER.
19. MARCUS THEN COMPLIED TO BE TESTED, BUT OFFICER B.J. SAWYER AND OFFICER (2) UNKNOWN STATED THAT MARCUS WAS NOT BEING COMPLIANT, AND THEN BOOKED MARCUS UNDER D.O.I. AND D.O.S WITHOUT EVER ARRESTING MARCUS FOR D.O.I. OR D.O.S OR EVER FIELD TESTING HIM.

LEGAL MAIL

PAGE 3 OF 7

4:15-cv-02442-RBH-KDW Date Filed 06/24/15 Entry Number 8 Page 4 of 6

20. MARCUS THEN ASKED OFFICER B.J. SAWYER AND OFFICER (2) UNKNOWN HOW COULD THIS BE? HOW COULD YOU COME UNTO ONE'S PROPERTY, AND ARREST HIM FOR RECKLESS DRIVING, BUT YET FABRICATE AND BOOK HIM UNDER TWO ENTIRELY DIFFERENT CHARGES? OFFICER (2) UNKNOWN THEN STATED SINCE RECKLESS DRIVING WON'T STICK, THESE TWO WILL, THE D.U.I. & D.U.S.

IV. EXHAUSTION OF LEGAL REMEDIES

21. PLAINTIFF MARCUS D. WRIGHT WAS RELEASED FROM CONFINEMENT ON 4-9-13 AND REQUESTED A JURY TRIAL. SEE EXHIBITS A, B
22. PLAINTIFF MARCUS D. WRIGHT CHARGES OF D.U.I. & D.U.S. WERE DISMISSED ON 6-21-13. SEE EXHIBIT C
23. PLAINTIFF MARCUS D. WRIGHT WAS THEN NOTIFIED OF DISMISSED CHARGES ON 12-4-13, ALSO EXHIBIT C

V. LEGAL CLAIMS

24. PLAINTIFF REALLEGE AND INCORPORATE BY REFERENCE PARAGRAPHS 1-23.
25. DEFENDANT'S B.J. SAWYER & OFFICER (2) UNKNOWN MADE AN ILLEGAL STOP AND FALSE ARREST DUE TO PROBABLE CAUSE FOR INITIAL STOP & ARREST BEING RECKLESS DRIVING, BUT DEFENDANT'S B.J. SAWYER & OFFICER (2) UNKNOWN NEVER CHARGED OR BOOKED PLAINTIFF WITH RECKLESS DRIVING. DEFENDANTS B.J. SAWYER & OFFICER (2) UNKNOWN ACTIONS VIOLATED PLAINTIFF MARCUS D. WRIGHT RIGHTS UNDER THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND CAUSED PLAINTIFF MARCUS D. WRIGHT, PAIN, SUFFERING, AND EMOTIONAL DISTRESS.
26. DEFENDANT'S B.J. SAWYER & OFFICER (2) UNKNOWN ACTIONS BY COMING UNTO PLAINTIFFS MARCUS D. WRIGHT PRIVATE PROPERTY AND SEARCHING AND SEIZING PLAINTIFF WITHOUT PROBABLE CAUSE OR WARRANT VIOLATED PLAINTIFF MARCUS D. WRIGHT RIGHTS UNDER THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND CAUSED PLAINTIFF MARCUS D. WRIGHT, PAIN, SUFFERING, AND EMOTIONAL DISTRESS.

PAGE 4 OF 7

LEGAL MAIL

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27. DEFENDANT'S B.J. SAWYER & OFFICER (2) UNKNOWN ACTIONS BY SEARCHING PLAINTIFF MARCUS D. WRIGHT PROPERTY AND VEHICLES WITHOUT CONSENT OR WARRANT VIOLATED PLAINTIFF'S FOURTH AMENDMENT RIGHTS TO THE UNITED STATES CONSTITUTION AND CAUSED PLAINTIFF MARCUS D. WRIGHT PAIN, SUFFERING AND EMOTIONAL DISTRESS.
28. DEFENDANT'S B.J. SAWYER & OFFICER (2) UNKNOWN ACTIONS BY SEARCHING AND STEALING PLAINTIFF MARCUS D. WRIGHT AT 3635 KATIE'S BAY R.D THEN TAKING HIM TO J. RUEBEN LONG DETENTION CENTER AGAINST PLAINTIFF WILL WITHOUT PROBABLE CAUSE OR WARRANT VIOLATED PLAINTIFF MARCUS D. WRIGHT RIGHTS UNDER THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND CAUSED PLAINTIFF MARCUS D. WRIGHT PAIN, SUFFERING AND EMOTIONAL DISTRESS.
29. DEFENDANT'S B.J. SAWYER & OFFICER (2) UNKNOWN ACTIONS BY BOOKING PLAINTIFF MARCUS D. WRIGHT UNDER D.U.I AND D.U.S WITHOUT EVER FIELD TESTING PLAINTIFF FOR PROBABLE CAUSE RESULTED IN A SECOND FALSE ARREST WHICH VIOLATED PLAINTIFF MARCUS D. WRIGHT RIGHTS UNDER THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND CAUSED PLAINTIFF MARCUS D. WRIGHT PAIN, SUFFERING AND EMOTIONAL DISTRESS.
30. DEFENDANT S.C HIGHWAY PATROL FAILURE TO EMPLOY ANY PROPERLY TRAINED ^{AND IS RESPONSIBLE FOR} B.J. SAWYER AND OFFICER (2) UNKNOWN ACTIONS IS ALSO VIOLATING PLAINTIFF MARCUS D. WRIGHT RIGHTS UNDER THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND CAUSED PLAINTIFF MARCUS D. WRIGHT PAIN, SUFFERING AND EMOTIONAL DISTRESS.
31. PLAINTIFF MARCUS D. WRIGHT HAS NO PAIN, ADEQUATE OR COMPLETE REMEDY AT LAW TO REDRESS THE WRONGS DESCRIBED HEREIN. PLAINTIFF HAS BEEN IRREPARABLY INJURED BY THE CONDUCT OF THE DEFENDANTS UNLESS THIS COURT GRANTS THE DECLARATORY JUDGEMENT IN WHICH PLAINTIFF SEEKS.

PAGE 5 OF 7

LEGAL MAIL

VI. PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF RESPECTFULLY PRAY THAT THIS COURT ENTER JUDGMENT:

(1) GRANTING PLAINTIFF MARCUS D. WRIGHT A DECLARATION THAT THE ACTS AND OMISSIONS DESCRIBED HEREIN VIOLATE HIS RIGHTS UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES

(2) GRANTING PLAINTIFF MARCUS D. WRIGHT COMPENSATORY DAMAGES IN THE AMOUNT OF \$250,000 AGAINST EACH DEFENDANT, JOINTLY AND SEVERALLY.

(3) PLAINTIFF ALSO SEEKS PUNITIVE DAMAGES IN THE AMOUNT OF \$250,000. PLAINTIFF MARCUS D. WRIGHT SEEKS THESE DAMAGES AGAINST EACH DEFENDANT, JOINTLY AND SEVERALLY.

(4) PLAINTIFF ALSO SEEKS A JURY TRIAL ON ALL ISSUES TRIABLE BY JURY.

(5) PLAINTIFF ALSO SEEK RECOVERY OF ALL COST IN THIS SUIT

(6) ANY ADDITIONAL RELIEF THIS COURT DEEMS JUST, PROPER, AND EQUITABLE.

DATE: JUNE 18, 2015

RESPECTFULLY SUBMITTED,
MARCUS D. WRIGHT #289646



PAGE 6 OF 7

LEGAL MAIL

EXHIBITS B

Form 41a
Rev. 5/10

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA VERSUS

FIRST NAME: Marcell MIDDLE NAME: William LAST NAME: Wright

VEH. LIC. NO. SC 799 3526 CYES 8 NO. 1

STATE SC MAKE OF VEH. DA YEAR 2011 CDM. VEH. DA HAZ. MAT. DA OTHER DA

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT CJC STREET AND NO. 1811 3rd Avenue

DATE OF TRIAL 7/9/15 TIME OF TRIAL 2:00 p.m. CITY Clemson STATE SC ZIP CODE 29574

VIOLATION - COURT APPEARANCE REQUIRED YES/NO 1 VIOLATION SECTION NO. 56-B-46.0

OWNER OF VEHICLE Restigia Lermy DATE OF ARREST 3/30/13

ADDRESS OF OWNER College Park - GA DATE OF VIOLATION 3/30/13

DATE DEPOSITED JAL NAME OF ARRESTING OFFICER B. J. Suggs RANK PO

ALL TIMES SHOWN ON THIS SUMMONS ARE IN MILITARY TIME

PRESENT THIS SUMMONS TO THE TRIAL COURT SHOWN ABOVE

Be sure you understand from the arresting officer the exact time and before whom you are to appear. IF THIS TICKET IS WRITTEN FOR A TRAFFIC VIOLATION AND YOU FORFEIT BAIL, PLEAD GUILTY OR NOLO CONTENDERE, OR ARE CONVICTED AFTER A TRIAL, THIS VIOLATION WILL BE PLACED AGAINST YOUR DRIVING RECORD, OR FORWARDED TO YOUR HOME STATE. FAILURE TO COMPLY WITH THE TERMS OF THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR DRIVERS LICENSE BY YOUR HOME STATE. YOU ARE REQUIRED BY LAW TO APPEAR IN COURT FOR CERTAIN OFFENSES.

DOCKET NO.

NAME	NUMBER	TRIP	DATE	TIME	WEATHER
<u>409</u>	<u>5</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>

TIME OF VIOLATION 2:00 p.m. DATE OF VIOLATION 3/30/13

VIOLATION SECTION NO. 56-B-46.0

1 U P I S O HAZ. NO. 29

1 2 3 4 5

MILES 2 CITY Clemson STATE SC ZIP CODE 29574

Lat 33 46 45.41 Long 79 06 37.15

OFFENSE CODE 96 RAIL LEVEL 1

SEE IMPORTANT INFORMATION ON THE REVERSE SIDE OF THIS TICKET

VIOLATOR'S COPY

G 221824

Dmy (over)

4:15-cv-02442-RBH-KDW Date Filed 06/24/15 Entry Number 8-3 Page 1 of 1

EXHIBITS C

**Horry County
CENTRAL JURY
COURT**



**1201 Third Avenue
Conway, SC 29526**

Fax (843) 915-6065

Phone (843) 915-5065

DATE: DECEMBER 4, 2013

MARCUS WRIGHT #289646

WARRANT # G221823HP, G221824HP

VIOLATION: DUI, DUS

☐ PLEA TO 2 POINT VIOLATION ACCEPTED

☐ PLACED ON JURY TRIAL DOCKET

☒ OTHER: BOTH CASES DISMISSED JUNE 21, 2013

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THIS OFFICE.

RESPECTFULLY, *A*

ANGELA JORDAN
CENTRAL JURY COURT

2013-12-04 10:00:00
JURY TRIAL DOCKET

4:15-cv-02442-RBH-KDW Date Filed 06/24/15 Entry Number 8-4 Page 1 of 3

EXHIBITS
Central Jury Court

CASE HISTORY FOR CASE G221824HP

The State of South Carolina VS Marcus Dwain Wright

FILED DATE: 4/11/2013

CASE TYPE: TR

STATUS: Disposed

JUDGE: Livingston, Margie Bellamy

ARRESTING AGENCY: S C Highway Patrol

CASE PARTIES:

Defendant Wright, Marcus Dwain

Officer Sawyer, J

Bond Entity Beach Bonding Company / Priscilla Spivey
3683 Hwy 701 N, Conway, SC 29526

CASE HISTORY FOR CASE G221824HP

Wright, Marcus Dwain

Age: 32

DOB: [REDACTED]

DL#: [REDACTED]

SSN: [REDACTED]

Conway, SC 29526

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0624 DUS / Driving under suspension, license not suspended for DUI - 1st offense	3/30/2013	Nolle Prosequi	6/21/2013

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: DUS / Driving under suspension, license not suspended for DUI - 1st of				
Fine to General Fund	\$0.00	\$0.00	\$0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
DUS Pullout \$100	0.00	0.00	0.00	999
Law Enforcement Funding Surcharge \$	0.00	0.00	0.00	999
SC Criminal Justice Academy Training	0.00	0.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Total:	\$0.00	\$0.00	\$0.00	

DATE	TIME	EVENT DESCRIPTION
3/30/2013	9:00 AM	Court event: Bond Hearing
4/9/2013	2:00 PM	Court event: Criminal/Traffic Court
4/11/2013	10:05 AM	Filing recorded: Jury Trial Requested
	12:00 AM	Court event: Criminal/Traffic Court
3/30/2013	12:00 AM	Bond 6 was set in the amount of 0 by Harrelson, Monte Lewis
4/9/2013	12:00 AM	C26CLONG recorded the following Case Note: JURY TRIAL REQUESTED

Print Date: 12/03/2013
 Print Time: 4:51:14PM
 Requested By: C26AJORDAN

CaseHistory.rpt V6.1

Page 1 of 1

4:15-cv-02442-RBH-KDW Date Filed 06/24/15 Entry Number 8-4 Page 2 of 3

EXHIBITS
Central Jury Court**CASE HISTORY FOR CASE G221823HP**

The State of South Carolina VS Marcus Dwain Wright

FILED DATE: 4/11/2013

CASE TYPE: TR

STATUS: Disposed

JUDGE: Livingston, Margie Bellamy

ARRESTING AGENCY: S C Highway Patrol

CASE PARTIES:

Defendant Wright, Marcus Dwain

Officer Sawyer, J

Bond Entity Beach Bonding Company / Priscilla Spivey
3683 Hwy 701 N, Conway, SC 29526**CASE HISTORY FOR CASE G221823HP****Wright, Marcus Dwain**

Age: 32

DOB: [REDACTED]

DL#: [REDACTED]

SSN: [REDACTED]

Conway, SC 29526

CHARGE		VIOL. DATE	DISPOSITION	DISP. DATE
2980	DUI / Driving under the influence, .08, 1st offense	3/30/2013	Nolle Prosequi	6/21/2013

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: DUI / Driving under the influence, .08, 1st offense				
Fine to General Fund	\$0.00	\$0.00	\$0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / \$2	0.00	0.00	0.00	999
DUI Breath Test \$25	0.00	0.00	0.00	999
DUI Payout \$100	0.00	0.00	0.00	999
DUI Surcharge \$12	0.00	0.00	0.00	999
Law Enforcement Funding Surcharge \$	0.00	0.00	0.00	999
SC Criminal Justice Academy Training	0.00	0.00	0.00	999
Spinal Cord Injury Research DUI \$100	0.00	0.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Total:	\$0.00	\$0.00	\$0.00	

DATE	TIME	EVENT DESCRIPTION
3/30/2013	9:00 AM	Court event: Bond Hearing
4/9/2013	2:00 PM	Court event: Criminal/Traffic Court

Print Date: 12/03/2013
Print Time: 4:51:26PM
Requested By: C26AJORDAN

CaseHistory.rpt V6.1

Page 1 of 2

4:15-cv-02442-RBH-KDW Date Filed 06/24/15 Entry Number 8-4 Page 3 of 3

*EXHIBITS***CASE HISTORY FOR CASE G221823HP**

4/11/2013	10:04 AM	Filing recorded: Jury Trial Requested
	12:00 AM	Court event: Criminal/Traffic Court
3/30/2013	12:00 AM	Bond 5 was set in the amount of 0 by Harrelson, Monte Lewis
4/9/2013	12:00 AM	C26CLONG recorded the following Case Note: JURY TRIAL REQUESTED

Print Date: 12/03/2013
Print Time: 4:51:28PM
Requested By: C26AJORDAN

CaseHistory.rpt V6.1

Page 2 of 2

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VERIFICATION

I HAVE READ THE FOREGOING COMPLAINT AND HEREBY VERIFY THAT THE MATTERS ALLEGED THEREIN ARE TRUE, EXCEPT AS TO MATTERS ALLEGED ON "OBSERVATION" AND "BELIEF"; AND, AS TO THOSE, I BELIEVE THEM TO BE TRUE. I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED AT COLUMBIA, S.C. ON JUNE 18, 2015


MARCUS D. WRIGHT

PAGE 7 OF 7

LEGAL MAIL

4:15-cv-02442-RBH-KDW Date Filed 06/24/15 Entry Number 8-6 Page 1 of 11

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINARECEIVED
USDC CLERK, FLORENCE, SC
2015 JUN 18 AM 11:38~~MARCUS DWAN WRIGHT~~
(Enter the full name of the plaintiff in this action)
MARCUS DWAN WRIGHT
PLAINTIFFCivil Action No. _____
(to be assigned by Clerk)COMPLAINT
State PrisonerRECEIVED
USDC CLERK, COLUMBIA, SC
2015 JUN 17 PM 1:35v.
SC HIGHWAY PATROL ET AL
OFFICER B. J. SAWYER ET AL DEFENDANTS
OFFICER 2 UNKNOWN ET AL
INDEMNIFY AND IN TORT
OFFICIAL CAPALITIES
(Enter above the full name of defendant(s) in this action)

I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise related to your imprisonment? Yes _____ No ☒
- B. If your answer to A is Yes, describe the lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.

1. Parties to this previous lawsuit:

Plaintiff: N/A

Defendant(s): N/A

2. Court: N/A
(If federal court, name the district; if state court, name the county)

3. Docket Number: N/A

4. Name(s) of Judge(s) to whom case was assigned: N/A

5. Disposition: N/A
(For example, was the case dismissed? Appended? Pending?)

6. Approximate date of filing lawsuit: N/A

7. Approximate date of disposition: N/A

Complaint - State Prisoner
Revised May 9, 2013

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II. PLACE OF PRESENT CONFINEMENT

- A. Name of Prison/Jail/Institution: BROAD RIVER CORRECTIONAL INSTITUTION
- B. What are the issues that you are attempting to litigate in the above-captioned case? FOURTH AMENDMENT STOP VIOLATION (ILLEGAL SEARCH AND SEIZURES) UNLAWFUL ARREST
- C. (1) Is there a prisoner grievance procedure in this institution? Yes _____ No ✓
- (2) Did you file a grievance concerning the claims you are raising in this matter? Yes _____ No ✓
- When N/A Grievance Number (if available) N/A
- D. Have you received a final agency/departamental/institutional answer or determination concerning this matter (i.e., your grievance)? Yes _____ No ✓
- E. When was the final agency/departamental/institutional answer or determination received by you? N/A
- If possible, please attach a copy of your grievance and a copy of the highest level decision concerning your grievance that you have received.*
- F. If there is no prison grievance procedures in this institution, did you complain to prison, jail, or institutional authorities? Yes _____ No ✓
- G. If your answer is YES:
1. What steps did you take? N/A
2. What was the result? N/A

III. PARTIES

In Item A below, place your name, inmate number, and address in the space provided. Do the same for additional plaintiffs, if any.

- A. Name of Plaintiff: MARCUS D. WRIGHT Inmate No.: 289646
- Address: [REDACTED]

In Item B below, place the full name of the defendant, his official position, and place of employment in the space provided. Use Item C for additional defendants, if any.

- B. Name of Defendant: SC HIGHWAY PATROL ET AL Position: TROOPER
- Place of Employment: 4195 Hwy 701 NORTH, CONWAY, S.C 29526
- C. Additional Defendants (provide the same information for each defendant as listed in Item B above):
- OFFICER B.J. JAWYER ET AL
- OFFICER 2 UNKNOWN ET AL

Complaint - State Prisoner
Revised May 9, 2013

IV. STATEMENT OF CLAIM

State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach an extra sheet if necessary.

ON MARCH 30, 2013... I ALONG WITH MY WIFE WERE IN OUR YARD, WAITING ON OUR PRIVACY FENCE TO OPEN. ONCE IT FULLY OPENED WE DROVE IN TO OUR BACK YARD, WHICH IS PRIVATE PROPERTY. NOW WHILE WE WERE PULLING INTO OUR BACK YARD, TWO SC HIGHWAY PATROL OFFICERS, (1) B. J SAWYER AND OFFICER (2) UNKNOWN DROVE THRU OUR PRIVACY FENCE, ACTIVATED THERE BLUE LIGHTS AND THEN ATTEMPTED TO INITIATE A TRAFFIC STOP ON PRIVATE PROPERTY FOR REASONS UNKNOWN. ME AND MY WIFE THEN EXITED THE VEHICLE WHICH WAS A 2007 FERRARI F430, AND ASKED THE OFFICERS WHAT IS THE PROBLEM... POINTED OUT THAT THEY WERE ON PRIVATE PROPERTY AND WERE VIDEO SURVEILLANCE DUE TO OUR HOME HAVING CAMERA'S. THE OFFICERS STATED THAT WE WERE CLOCKED DOING SOME UNKNOWN SPEED IN A AREA THAT WE NEVER WERE. I THEN ASKED THEM TO EXIT OUR YARD. I WAS THEN CUFFED AND THROWN INTO THE PATROL CAR AND TOLD THAT I WAS BEING ARRESTED FOR RECKLESS DRIVING. MY WIFE WAS THEN CUFFED BECAUSE ONE STATE TROOPER LIED TO THE OTHER SAYING THAT SHE JUMPED ON HIS BACK. MIND YOU ALL IS ON TAPE, WHICH WILL BE SHOWN IN COURT AS AN EXHIBIT. I WAS THEN TAKEN TO JAIL FOR WHAT OFFICERS TOLD ME AT THAT TIME WAS RECKLESS DRIVING. OFFICER B. J SAWYER AND OFFICER (2) UNKNOWN TOOK ME TO JAIL, THEY THEN CHANGED THERE CHARGES TO D.U.I. I AND D.U.I.S. I HAD NEVER BEEN GIVEN A FIELD SOBRIETY TEST, NOR WERE THEY THE CHARGES THAT THE OFFICERS ORIGINALLY STOPPED ME IN MY YARD FOR, OR INITIALLY ARRESTED ME FOR IN MY YARD. NOW DURING THIS WHOLE INCIDENT I WAS

Complaint - State Prisoner
Revised May 9, 2013

IV. STATEMENT OF CLAIM - continued.

IN SUCH DISARRAY THAT I DIDNT EVEN NOTICE THAT THE OFFICERS
 NOW ACCOMPANIED BY MANY MORE WERE AND HAD BEEN SEARCHING
 MY CAR, MY YARD AND ANYTHING THAT THEY COULD GET INTO, ALL
 WITHIN THE CURTLEGE OF OUR PRIVACY FENCE, ON PRIVATE
 PROPERTY ~~WITHOUT A~~ ^{WITHOUT A} WARRANT! ONLY UPON REVIEW OF OUR HOME
 SURVILLANCE SYSTEM DID I GET A FULL VIEW OF WHAT HAD
 OCCURED. BUT ALSO OF THE MAGNITUDE OF IT. NOW THIS ARREST
 HAPPENED ON 3-30-13 AT 4:37 AM AT MY HOME ADDRESS OF 3635
 KATES BAY HWY, WHICH IS IN THE CONWAY SECTION OF HARRY
 COUNTY.

CLAIM (1) IS AN UNLAWFUL STOP AND ARREST ON PRIVATE PROPERTY

CLAIM (2) IS FOURTH AMENDMENT VIOLATION

REQUESTED JURY TRIAL 4-9-13
 CHARGES DISMISSED 6-21-13

SEE EXHIBIT

HOME
 VIDEO OF INCIDENT

V. RELIEF

State briefly and exactly what you want the court to do for you.

- (1) THAT ALL INDIVIDUALS NAMED IN THIS COMPLAINT AND UNKNOWN BE SUED TO THE OFFICIAL AND PERSONAL CAPACITY. FOR THE AMOUNT OF \$250,000 (TWO HUNDRED FIFTY THOUSAND) EACH. THAT THE SC HIGHWAY PATROL BE HELD ACCOUNTABLE FOR THESE ACTIONS.
- (2) THAT ALL GUILTY PERSONELL INVOLVED THAT VIOLATED MY CIVIL RIGHTS BE HELD ACCOUNTABLE FOR THESE ACTIONS AND OR ACTIONS NOT TAKEN.
- (3) THAT THIS HONORABLE COURT (ORDER) THE SC HIGHWAY PATROL AND ALL GUILTY PERSONELL TO PAY THE AMOUNT LISTED ABOVE ONCE ANY AND ALL ALLEGATIONS ARE PROVEN IN COURT MADE BY THE PLAINTIFF MARCUS D. WRIGHT.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 3RD day of MARCH, 2015


Signature of Plaintiff

EXHIBITS

**Horry County
CENTRAL JURY
COURT**

Phone (843) 915-5065



**1201 Third Avenue
Conway, SC 29526**

Fax (843) 915-6065

DATE: DECEMBER 4, 2013

MARCUS WRIGHT #289646

WARRANT # G221823HP, G221824HP

VIOLATION: DUI, DUS

☐ PLEA TO 2 POINT VIOLATION ACCEPTED

☐ PLACED ON JURY TRIAL DOCKET

☒ OTHER: BOTH CASES DISMISSED JUNE 21, 2013

2013 DEC -4 AM 10:59
CIVIL / CRIMINAL

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THIS OFFICE.

RESPECTFULLY,

[Redacted Signature]

ANGELA JORDAN
CENTRAL JURY COURT

4:15-cv-02442-RBH-KDW Date Filed 06/24/15 Entry Number 86 Page 7 of 11

EXHIBITS**Central Jury Court****CASE HISTORY FOR CASE G221824HP**

The State of South Carolina VS Marcus Dwain Wright

FILED DATE: 4/11/2013

CASE TYPE: TR

STATUS: Disposed

JUDGE: Livingston, Margie Bellamy

ARRESTING AGENCY: S C Highway Patrol

CASE PARTIES:

Defendant: Wright, Marcus Dwain

Officer: Sawyer, J

Bond Entity: Beach Bonding Company / Priscilla Spivey
3683 Hwy 701 N, Conway, SC 29526**CASE HISTORY FOR CASE G221824HP**

Wright, Marcus Dwain

Age: 32

DOB: [REDACTED]

DL#: [REDACTED]

SSN: [REDACTED]

Conway, SC 29526

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0624 DUS / Driving under suspension, license not suspended for DUI - 1st offense	3/30/2013	Nolle Prosequi	6/21/2013

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: DUS / Driving under suspension, license not suspended for DUI - 1st of				
Fine to General Fund	\$0.00	\$0.00	\$0.00	999
Victim Services Asm 36.0013% / 5.783	0.00	0.00	0.00	999
DUS Pullout \$100	0.00	0.00	0.00	999
Law Enforcement Funding Surcharge \$	0.00	0.00	0.00	999
SC Criminal Justice Academy Training	0.00	0.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Total:	\$0.00	\$0.00	\$0.00	

DATE	TIME	EVENT DESCRIPTION
3/30/2013	9:00 AM	Court event: Bond Hearing
4/9/2013	2:00 PM	Court event: Criminal/Traffic Court
4/11/2013	10:05 AM	Filing recorded: Jury Trial Requested
	12:00 AM	Court event: Criminal/Traffic Court
3/30/2013	12:00 AM	Bond 6 was set in the amount of 0 by Harrelson, Monte Lewis
4/9/2013	12:00 AM	C26CLONG recorded the following Case Note: JURY TRIAL REQUESTED

Print Date: 12/03/2013
 Print Time: 4:51:14PM
 Requested By: C26AJORDAN

CaseHistory.rpt V6.1

Page 1 of 1

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EXHIBITS
Central Jury Court**CASE HISTORY FOR CASE G221823HP**

The State of South Carolina VS Marcus Dwain Wright

FILED DATE: 4/11/2013

CASE TYPE: TR

STATUS: Disposed

JUDGE: Livingston, Margie Bellamy

ARRESTING AGENCY: S C Highway Patrol

CASE PARTIES:

Defendant Wright, Marcus Dwain

Officer Sawyer, J

Bond Entity Beach Bonding Company / Priscilla Spivey
3683 Hwy 701 N, Conway, SC 29526**CASE HISTORY FOR CASE G221823HP**

Wright, Marcus Dwain

Age: 32

DOB: [REDACTED]

DL#: [REDACTED]

SSN: [REDACTED]

Conway, SC 29526

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
2980 DUI / Driving under the influence, .08, 1st offense	3/30/2013	Nolle Prosequi	6/21/2013

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: DUI / Driving under the influence, .08, 1st offense				
Fine to General Fund	\$0.00	\$0.00	\$0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / \$2	0.00	0.00	0.00	999
DUI Breath Test \$25	0.00	0.00	0.00	999
DUI Pullout \$100	0.00	0.00	0.00	999
DUI Surcharge \$12	0.00	0.00	0.00	999
Law Enforcement Funding Surcharge \$	0.00	0.00	0.00	999
SC Criminal Justice Academy Training	0.00	0.00	0.00	999
Spinal Cord Injury Research DUI \$100	0.00	0.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Total:	\$0.00	\$0.00	\$0.00	

DATE	TIME	EVENT DESCRIPTION
3/30/2013	9:00 AM	Court event: Bond Hearing
4/9/2013	2:00 PM	Court event: Criminal/Traffic Court

Print Date: 12/03/2013
 Print Time: 4:51:26PM
 Requested By: C26AJORDAN

CaseHistory.rpt V6.1

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4:15-cv-02442-RBH-KDW Date Filed 06/24/15 Entry Number 8-6 Page 9 of 11

EXHIBITS**CASE HISTORY FOR CASE G221823HP**

4/11/2013	10:04 AM	Filing recorded: Jury Trial Requested
	12:00 AM	Court event: Criminal/Traffic Court
3/30/2013	12:00 AM	Bond 5 was set in the amount of 0 by Harrelson, Monte Lewis
4/9/2013	12:00 AM	C26CLONG recorded the following Case Note: JURY TRIAL REQUESTED

Print Date: 12/03/2013
Print Time: 4:51:26PM
Requested By: C26AJORDAN

CaseHistory.rpt V6.1

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[illegible]

EXHIBIT 5

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SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA VERSUS

FIRST NAME Malcolm LAST NAME Wright
LICENSE NAME [REDACTED]

STATE LICENSED DRIVER'S LICENSE NO. 2993504 COL. 1 OR LIG. CLASSES D
VIA LIT. NO. 2993504 STATE SC DATE 06/24/15 COUNTY York CITY York ZIP CODE 29574
VIOLATION 2A-5211 6A-5211 6A-5211 6A-5211 6A-5211 6A-5211 6A-5211 6A-5211 6A-5211 6A-5211
YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT CTC STREET AND NO. 1201 S. 9th Avenue

DATE OF TRIAL 4/9/2015 TIME OF TRIAL 2:00 PM STATE SC ZIP CODE 29574
VIOLATION 2A-5211 6A-5211 6A-5211 6A-5211 6A-5211 6A-5211 6A-5211 6A-5211 6A-5211 6A-5211
VIOLATION SECTION NO. 56-6-410

CHARGE OF VIOLATION Driving While Intoxicated
ADDRESS OF OWNER 11111 Park - 6A
DATE OF ARREST 3/15/13
DATE OF VIOLATION 3/13/13

NAME OF ARRESTING OFFICER J. J. Smith COUNTY York BADGE 109
VEHICLE JAIL TRUCK 5

DOCKET NO. 221824

ALL TIMES SHOWN ON THIS SUMMONS ARE IN MILITARY TIME
PRESENT THIS SUMMONS TO THE TRIAL COURT SHOWN ABOVE

Be sure you understand from the arresting officer the exact time and before whom you are to appear. IF THIS TICKET IS WRITTEN FOR A TRAFFIC VIOLATION AND YOU FORFEIT BAIL, PLEAD GUILTY OR NOLO CONTENDERE, OR ARE CONVICTED AFTER A TRIAL, THIS VIOLATION WILL BE PLACED AGAINST YOUR DRIVING RECORD, OR FORWARDED TO YOUR HOME STATE. FAILURE TO COMPLY WITH THE TERMS OF THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR DRIVER'S LICENSE BY YOUR HOME STATE. YOU ARE REQUIRED BY LAW TO APPEAR IN COURT FOR CERTAIN OFFENSES.

SEE IMPORTANT INFORMATION ON THE REVERSE SIDE OF THIS TICKET

VIOLATOR'S COPY

Malcolm Wright

EXHIBITS

Appendix "A" - Fees on Open Cases Paid Through June 29, 2016

Lawsuit Caption	Case Number	Fees
Bauman, Peter v. SCDPS, et al.	2014-CP-04-2309	\$3,305.19
Bowser, Sam v. SCDPS, L. Smith, K. Phelps, and Z. Wise	3:15-cv-04836-MGL-SVH	\$2,546.02
Breaker, Margin v. SCHP, et al.	2016-CP-38-160	\$0
Brown, Christopher v. SCDPS	2016-CP-38-694	\$0
Callahan, Eileen v. Batchelor, SCDPS, SCHP, et al.	2015-CP-26-8490	\$11,739.11
Crosby, Harley David v. SCDPS, SCHP, and Filyaw	2:15-cv-01455-RMG	\$33,487.16
Curtis, Biafra v. SCDPS, et al.	2015-CP-40-5172	\$1,832.90
Deck, Jashaun v. SCDPS, Joey Stewart, et al.	2015-CP-23-4126	\$6,985.59
Moton, Kendrick v. SCDPS, Joey Stewart, et al.	2015-CP-23-4127	
Thurman, Corcedia v. SCDPS, Joey Stewart, et al.	2015-CP-23-4128	
Drawdy, Porter v. SCDPS, et al.	2014-CP-15-981	\$9,031.48
Easterling, Edward v. SCHP and SCDPS	2016-CP-38-349	\$0
Enzor, James v. SCDPS and L. Smith	4:15-cv-02593- RMG-KDW	\$4,357.39
Flores, Celina v. SCDPS	2016-CP-10-0855	\$0
Fulmer, John v. SCDPS, et al.	2015-CP-23-06820	\$0
Gabe, Latasha and Gabe, Jakera v. SCDPS	2016-CP-15-361	\$0
Hunter, Philip v. SCDPS	3:16-cv-00524-MBS-SVH	\$1,744.63
Jackson, Danny Wayne v. J.B. King, in his individual capacity and as a Lance Corporal with SCHP, SCDPS, et al.	4:15-cv-02082-RBH-TER	\$11,725.14
Kennedy, Kimberly Ann v. SCHP, et al.	2016-CP-16-0275	\$0
Lopez, Rebecca v. S.B. Kerr, SCDPS, et. al	2015-CP-46-1535	\$9,728.15
Myers, Vitoria v. SCDPS	2015-CP-09-972	\$7,550.55
Newkirk, Catherine B. vs. James B. Enzor, individually and as an Employee and agent of SCDPS, and SCDPS Newkirk, Sr., Jerome vs. James B. Enzor, individually and as an employee and agent of SCDPS, and SCDPS	4:13-cv-01634-RBH-KDW 4:13-cv-01635-RBH-KDW	\$179,282.30
Parham, Judith v. SCDPS, et al.	2014-CP-39-1145	\$1,108.00
Pearson, Ruth v. SCDPS, et al.	2015-CP-43-725	\$0
Perales-Vielma, Samuel v. SCSTP, et al.	2015-CP-10-3175	\$3,435.90
Perry, Kelton v. SCDPS	2015-CP-40-4746	\$3,259.67
Pittman, John Lee v. SCDPS, et al.	2016-CP-02-507	\$3,464.00
Rutland, Daryl v. SCDPS and B. Bolt	2015-CP-35-0137	\$6,473.95

Salter, Richard v. SCDPS, L. Smith, M. Oliver, K. Phelps, et al.	2015-CP-40-5677	\$2,005.24
Sarvis, Douglas v. SCDPS, et al.	4:16-cv-01873-RBH-KDW	\$0
Shelley, Rene v. Blackwelder	3:15-04989-JFA	\$121,797.70
Walker, Brian G. v. SCDPS, Black, and Warren	2015-CP-04-1683	\$5,151.17
Watson, Daniel as PR of Estate of David W. Watson, deceased, vs. Leslie Davis in his individual capacity as a Lance Corporal with the SCHP, SCDPS, et al.	4:12-3436-RBH 4:12-3437-RBH	\$177,693.70
Wood, Charles v. Ocasio and SCDPS	2016-CP-38-692	\$0
Wright, Marcus v. SCHP, Sawyer, et al.	4:15-CV-02442-RBH-KDW	\$2,576.37