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INDEX OF WITNESSES

(Court Reporter's Note: There was no direct or cross examination of any witnesses.)

INDEX OF EXHIBITS

(Court Reporter's Note: No exhibits were marked or received into evidence.)

1 (The following proceedings are reported on
2 September 15, 2015.)

3 THE COURT: This is Clarence Jenkins versus
4 South Carolina Workforce; is that correct?

5 MR. JENKINS: Yes, Your Honor.

6 MR. MATTHEWS: Yes, sir, Your Honor.

7 THE COURT: I have four motions here. It
8 looks like -- yes, sir.

9 MR. MATTHEWS: Your Honor, I was just
10 anticipating this, but our motion to dismiss was filed
11 first.

12 MR. JENKINS: Your Honor, I object to that
13 motion because --

14 THE COURT: All right. That's good enough.
15 Go ahead, Mr. Matthews.

16 MR. MATTHEWS: Yes, sir.

17 THE COURT: Let me just try to sort this out.
18 There is a motion to dismiss.

19 MR. MATTHEWS: Yes, sir.

20 THE COURT: That was filed June 23, 2015.
21 Then there is a motion to compel the defendants to
22 answer the complaint filed on July 27th. There is a
23 motion to quash the dismissal on July 2nd. Then there
24 is a motion to leave and motion to amend the complaint
25 in August.

1 We have got three motions from Mr. Jenkins and
2 a motion to dismiss from the Department. It looks like
3 Mr. Jenkins has also filed a memorandum of law in
4 opposition, again, to the request for dismissal.

5 Is that pretty much what we have got here for
6 today?

7 MR. JENKINS: Yes, sir, Your Honor.

8 MR. MATTHEWS: Yes, sir.

9 THE COURT: Okay. Well, there is another
10 memorandum, a memorandum of law, in August. That's what
11 you are calling it.

12 So let's look at the dismissal, and then I
13 will hear from Mr. Jenkins as to why he thinks that is
14 not the thing to do.

15 MR. JENKINS: Yes, Your Honor.

16 THE COURT: I would be glad to hear from you,
17 Mr. Matthews.

18 MR. MATTHEWS: Thank you, Your Honor. All of
19 these motions began with the complaint. Mr. Jenkins is
20 proceeding pro se. He has filed a claim apparently
21 against three departmental entities: Department of
22 Employment Workforce, the Budget and Control Board,
23 which is now the Department of Administration, and the
24 Office of the South Carolina Governor.

25 COURT REPORTER: Judge, I'm sorry.

1 I'm having a little bit of trouble hearing
2 you, Mr. Matthews, and you are talking down.

3 MR. MATTHEWS: I will take care of that.

4 COURT REPORTER: Thank you so much. And
5 excuse me.

6 MR. MATTHEWS: The complaint, as filed by
7 Mr. Jenkins, would be or the caption would be the
8 Department of Employment Workforce, which I will call
9 DEW; the Budget and Control Board, which is now the
10 Department of Administration, but for ease of reference,
11 I will just call the Board; and the Office of the South
12 Carolina Governor, which for ease of reference, I will
13 call the Governor's Office.

14 There are three separate causes of action
15 alleged in the complaint. One is for defamation. The
16 other is for abuse of process. The last is a cause of
17 action that references the two-year Statute of
18 Limitations for defamation claims or the third section
19 is simply a reference to the statute on the Statute of
20 Limitations.

21 With regard to the defamation claim, as we
22 read the four corners of the complaint, it appears that
23 even if we do at this point accept his allegations as
24 true, he has pled himself away from defending [sic] the
25 entities because he has pled that the person who did the

1 thing of which he complains, which is placing a bar from
2 applying-designation on his applications, is someone
3 named Ms. Sorenson.

4 He indicates in his complaint that she did so
5 maliciously and outside the scope of her duty. If
6 that's the case, then the acceptance of pleadings as
7 true, the entities are not proper parties under the Tort
8 Claims Act.

9 The statutory provisions there are Subsection
10 60-17 which talks about, of course, if a State employee
11 does this thing, then the Department, as entities, are
12 not proper parties.

13 It's the same thing under 15-78, Section 70.
14 When an employee does something which offends
15 Mr. Jenkins and he thereby complains, the proper party
16 there is the individual, not the Department.

17 As regards to the abuse of process claim, our
18 arguments are rather simple. Abuse of process requires,
19 as one of its element, a willful act and abuse of
20 process that is not proper in the regular conduct of the
21 proceedings. That requires some abuse of process.

22 In his complaint he complains of many things,
23 but none of them are abuses of process. For that reason
24 he has simply brought a cause of action that's improper.
25 He may have complained of other things regarding these

1 defendants, but abuse of process can't be one of them
2 simply because they have not abused the process as that
3 is defined in that cause of action.

4 I will answer any questions that you may have,
5 sir.

6 THE COURT: What statutes did you reference?

7 MR. MATTHEWS: The statutes I cited were 15-70
8 and 60, subsection 17, and 15-78, subsection 70 as
9 regards to the State employee acting outside the scope
10 of duty or in this case for defamation, malice would be
11 required.

12 In regard to -- again, we look to his own
13 complaint as we must at this stage. And in the
14 complaint he, of course, describes Ms. Sorenson as
15 acting as -- paragraphs 37, 38, and 35 -- committing
16 intentional acts by manipulating computer functions
17 performed with malice towards the plaintiff.

18 Again, paragraph 39 describes that
19 Ms. Sorenson has performed such an egregious act on her
20 own without permission, that such an act is criminal.
21 In paragraphs 58 and 59 he alleges that she did so
22 outside the scope of her employment and with malicious
23 intent. As a matter of law, he cannot sue the
24 departments that are at issue.

25 I believe, by correction, that the only

1 defendants that have been served are the entities.
2 There are no individual plaintiffs named in the caption.
3 Although there are some named in the causes of action,
4 to our knowledge none have been served.

5 THE COURT: All right. Mr. Jenkins.

6 MR. JENKINS: Yes, Your Honor. I am here
7 today just basically trying to correct a wrong that was
8 done by the Department of Employment Workforce, South
9 Carolina Budget and Control Board, and the Office of
10 South Carolina Governor.

11 THE COURT: Tell me what they did wrong.

12 MR. JENKINS: What had happened, I was
13 applying for a State position because I have a
14 Bachelor's degree in marketing. I have done the type of
15 work at South Carolina DEW that they do as far as
16 program rep.

17 As a matter of fact, the last position that I
18 held, I was WIA assistant director before. I worked for
19 a college through a program where we did the same job as
20 anybody would do in the Columbia office or Orangeburg
21 office.

22 We assist applicants with job searchment, job
23 placement, resume writing, interviewing skills. We also
24 sign them up for the WIA program as well, and we did
25 12-months follow up with that person.

1 THE COURT: Who were you working for?

2 MR. JENKINS: I was working for Voorhees
3 College. The program was called the Voorhees One-stop
4 Career Center.

5 THE COURT: Okay.

6 MR. JENKINS: And that's the name that all --
7 the former DEW agency was pretty much named a one-stop
8 career center.

9 What had happened, I was applying for State
10 positions. I kept getting rejection letters after
11 rejection letter. Sometimes I would get five within
12 about ten minutes. It kept going on, and I would call
13 DEW to ask them --

14 THE COURT: Where did you apply?

15 MR. JENKINS: I applied online through the
16 State Job Corps. So I was keeping track of my jobs that
17 I would apply for. And at one time I got 14 letters. I
18 got 14 rejection e-mails in the same day, probably
19 within 50 minutes or an hour's time.

20 So I continued to call and try to get the
21 answers. They were lying to me the whole time to be
22 honest with you. I couldn't get a straight answer
23 whatsoever.

24 So what happened, I continued to apply for
25 jobs. As a matter of fact, the senior HR personnel at

1 DEW was called Kerry Paul. She called my house. She
2 said, "You have no need to contact DEW any further. We
3 have no interest in hiring you."

4 She said that a letter would be coming stating
5 that. I said, "Ma'am, I can't believe you are calling
6 my house telling me this." I said, "I don't believe
7 that is legal employment practices."

8 So after she hung up, I went to go see her
9 e-mail. She had done blocked my e-mail account from
10 contacting her by e-mail. Then three days later a
11 letter came to my house stating just as what she said,
12 where they kind of had dressed it up; but it was pretty
13 much the same facts that she presented.

14 So I continued to apply for State jobs. It
15 just so happened that I got an e-mail from Sharlayne
16 Bellamy at South Carolina Judicial Center for a job
17 at --

18 THE COURT: South Carolina what?

19 MR. JENKINS: Judicial Center.

20 THE COURT: Judicial Center?

21 MR. JENKINS: Yes, sir, that I had applied
22 for. She said, "Well, we can no longer consider your
23 application because we have received notification that
24 you have been barred from applying."

25 I was sitting there in shock, and I responded

1 back to her. I said, "What notification? Who did such
2 a thing?" She responded back and she said I contacted
3 the Governor's Office for the State of South Carolina.
4 I have not done so.

5 She sent me an actual link of how the screen
6 printout looks. When my name comes up, it has, "This
7 candidate has been marked and barred from applying for
8 State positions."

9 So then there was an additional e-mail where
10 many people -- she contacted the Budget and Control
11 Board asking them, "How did this happen? Because
12 Mr. Jenkins was kind of surprised, and he was very angry
13 with me."

14 The Budget and Control Board, a person named
15 Terra Ellerby -- I got all this information in these
16 folders here -- Terra Ellerby sent notification to her
17 senior staff asking for information.

18 So there were many people at the Budget and
19 Control Board. There were many people at South Carolina
20 DEW. There were many people at the Office of the
21 Governor who knew this had happened because I had
22 contacted the Governor's Office requesting assistance.

23 I got e-mails where I contacted her office.
24 One of the reasons why South Carolina DEW and the Budget
25 and Control Board, the only reason why they are here

1 today is because they got caught.

2 So that's the only reason why they have owned
3 up to it. If they would have never gotten caught, they
4 would have never owned up to it today. That's why they
5 are here.

6 So when you look at the law -- and the reason
7 why they intended to blackball me and did not notify me
8 because during that same week, I had applied for other
9 jobs with the State of South Carolina, even at DEW; and
10 DEW didn't send me notification saying that they
11 received this error. This was an error for application.

12 I had applied for at least seven other jobs
13 with the State of South Carolina. The Judicial Center
14 was the only one that contacted me with notification.
15 DEW did not. The Budget and Control Board did not.

16 But yet they all -- I sent them notification
17 of what had happened, and everybody said, "Oh, it was a
18 system problem." That's what DEW said, right? But then
19 the Budget and Control Board said that DEW made a change
20 in their system intentionally.

21 So you've got two agencies, both of them
22 saying something that is totally different. DEW says it
23 was a system error. The Budget and Control Board said
24 that DEW did it and know they did it.

25 So when you look at the laws that governs the

1 State of South Carolina, as far as the defamation
2 process, my character has been slandered. It has been
3 slandered because I have been unable to attain State
4 employment.

5 It's not because I did anything wrong, not
6 because I'm unfit, it's all because an employee,
7 Adrienne Sorenson, did something, marked me as a
8 candidate being barred.

9 It was within the scope of her position
10 because she was on the job when she did it. She may
11 have been a midlevel employee. She may have acted or
12 manipulated on the system, but I'm pretty sure she had
13 her supervisor's approval.

14 Because I have other documentation in the
15 folder as well that everything that Adrienne Sorenson
16 did, it referred me back to Kerry Paul, who was her
17 director at the time. So there's many documentation.

18 As far as the defamation, I have been for two
19 years defending a lawsuit against someone for slander,
20 marked for barred from applying took place in July of
21 2013. I filed my complaint here in Richland County on
22 May 21, 2015.

23 So that's within the two years time period.
24 So that qualifies that. When you think about the reason
25 why my complaint is civil and not criminal because

1 Adrienne Sorenson, the State of South Carolina, was
2 notified.

3 I contact the Office of Inspector General. I
4 contacted the South Carolina Attorney General's Office.
5 I filed it with this documentation, and not one of those
6 agencies sought to make charges against Ms. Sorenson or
7 to held her accountable.

8 I want it made that relationship to show that
9 what she did according to the rules in the State of
10 South Carolina, it was criminal, but I'm not trying to
11 criminalize Adrienne Sorenson here today.

12 I am trying to bring a civil complaint against
13 all those who was involved, and that includes the South
14 Carolina Department of Employment Workforce, South
15 Carolina Budget and Control Board, and the Office of
16 South Carolina Governor.

17 Now, when you think about South Carolina Code
18 of Law 1-13-30, Section (M), which says a covered entity
19 means an employer, employment agency, labor
20 organization, or joint management committee. All those
21 fall in that category.

22 When you go down to Section 1-13-80 it says:
23 (A) It is an unlawful employment practice for the
24 employer to fail or refuse to hire, bar, discharge from
25 employment or otherwise discriminate against an

1 individual with respect to the individual's compensation
2 based on race, religion, color, sex, age, national
3 origin, or disability.

4 Section 2 of that same law, 1-13-80: To
5 limit, segregate, or classify employees or applicants
6 for employment in a way which would deprive or tend to
7 deprive an individual of employment opportunities or
8 otherwise adversely affect the individual's status as an
9 employee because of the individual's race, color,
10 religion, sex, age, national origin, or disability.

11 That is exactly what happened to me. I was
12 classified and therefore by being classified, it took
13 away in effect my employment opportunity. That's what
14 they have done. They have completely destroyed my
15 character.

16 Furthermore, when this all happened, I had a
17 written documentation that shows where the Budget and
18 Control Board had gotten up a list of all agencies that
19 I applied for and sent them notification asking them to
20 ignore the bar from applying. It's too late then. I am
21 damaged goods.

22 I am damaged goods. My character has been
23 damaged. I have always been told, a good name is more
24 than money because a good name carries you places where
25 other people and money can't do sometimes. In this case

1 my name has been destroyed, and those who knew about it
2 need to be held accountable.

3 Let me go a little bit further. Section
4 15-3-550 refers to slander, two years. An action for
5 libel, slander, or false imprisonment; and (2) an action
6 upon a statute for a forfeiture. Within two years you
7 can apply a slander libel lawsuit.

8 There is something else I would like to make
9 mention of as well if I could. Section 1-13-30, letter
10 (f): An employment agency means any person regularly
11 undertaking to procure employees for an employer or to
12 procure for employees opportunities to work for an
13 employer and includes an agent of such a person.

14 That's what DEW did. That's what their job
15 was. Their job was to assist me with job opportunity.
16 And by you marking me as barred from applying then there
17 is not a chance in hell -- no disrespect -- that I would
18 get a job.

19 If the State of South Carolina saw me okay to
20 work for them, there ain't no way that they would have
21 referred me out to private employees. Because you can't
22 have your cake and ice cream.

23 You can't say I can't work there and then say
24 I'm good on another end. That is not going happen. We
25 don't live in that society. We don't have a very

1 forgiving spirit.

2 Another argument I would like to make, this is
3 a declaration of policy. It says the General Assembly
4 declare the practice of discriminating against any
5 individual because of race, religion, color, sex, age,
6 national origin, or disability is a matter of State
7 concern and declares that discrimination is unlawful and
8 in conflict with the ideals of South Carolina and the
9 nation, as this discrimination interferes with
10 opportunities of the individual to receive employment
11 and to develop according to the individual's own ability
12 and is degrading to human dignity.

13 That's what happened to me because I would be
14 unable to attain employment. I've had to live on the
15 sympathy of family members. I applied for food stamps.
16 As a matter of fact, I am still getting food stamps
17 because of the way the system has barred me.

18 That's why I said I am damaged goods, not
19 because I did anything at DEW, not because I violated
20 anybody, not because I'm harassing. All I wanted was an
21 opportunity to work.

22 And DEW, somehow or another, they saw me and
23 treated me that way; and I can't think of why because I
24 don't even know any of those people there. I have done
25 nothing to them.

1 As a matter of fact, they went to the point of
2 making a false accusation that I was harassing them.
3 Well yet, not one agency has made them prove that
4 accusation.

5 I have asked them: Show me the records where
6 I have harassed you. I have not made threats to you. I
7 have not called you at home. I have not asked you for
8 your home address or your phone number. I have not made
9 threats toward your spouse or your children.

10 But that's what they accused me of. They
11 went so far as they bring me a letter that they were
12 fixing to call the local law enforcement to file charges
13 on me. This is a charge of harassment on your record.
14 That would have been a mark on me that I would have
15 forever.

16 That's unfair to me. That's why I was asking
17 that their request to have dismissal would be another
18 black mark on me because they are not worthy of being
19 dismissed because what they did was awful. It was
20 shameful in the State of South Carolina to do that to
21 your own citizens.

22 So I am just asking for a opportunity to prove
23 my case and let it be heard. I am trying to right a
24 wrong. When I filed the complaint to the United States
25 Department of EEOC, they referred me to South Carolina

1 Human Affairs.

2 Sharon Dorn, an investigator at the Human
3 Affairs, she determined through her investigation based
4 on who she contacted at the Budget and Control Board,
5 barred from applying is an intentional act.

6 It was not a system error. It was not
7 something that just happened. It was intentionally
8 applied. And when you look -- and the reason why you
9 know how it was intentionally applied, when they made a
10 mark in the system to be barred from applying for jobs
11 in the State of South Carolina, it's upwards of 2018.
12 That's five years, five and a half years.

13 That is intentional. That is not a system
14 error. I am asking this Court: Please do not allow
15 South Carolina DEW and South Carolina Budget and Control
16 Board, and the Office of the Governor to get away with
17 this. I have a right to clear my name. I need to clear
18 my name. I need justice. That's all I have to say at
19 this stage. Thank you, Your Honor.

20 THE COURT: Mr. Matthews.

21 MR. MATTHEWS: Thank you, Your Honor. Well,
22 it's certainly true that Mr. Jenkins is not beneath
23 justice and neither are the defendants. The statutes to
24 which he is referring 1, Section 13 have to do with the
25 State Human Affairs law.

1 If Mr. Jenkins wished to sue any of these
2 defendants under that law, he presumably had that
3 opportunity. When the State Human Affairs Commission
4 concludes an investigation, it actually sends out to the
5 complainant a notice of right to sue, which is a
6 jurisdictional requirement to come before this Court.

7 I have looked at his complaint and see no
8 claim under the State Human Affairs law. No notice was
9 amended to the complaint. So I really don't know
10 whether he is correct or not; but presuming he is, he is
11 estopped from bringing that claim. Presumably the
12 statute has run.

13 For all the passion and grievance -- and I am
14 sure he does feel aggrieved as many plaintiffs do -- the
15 fact of the matter is that doesn't deprive the
16 defendants in this case from the defenses that our law
17 provides.

18 That include the defenses under the State Tort
19 Claims Act which we properly pled. There is certainly
20 nothing that prevents this Court from dismissing this
21 case because we think against the defendants who have
22 been served, he simply has not stated a claim.

23 I know Mr. Jenkins feels passionate about what
24 has been done, but that doesn't deprive and that doesn't
25 permit him to sue these entities for issues that fall

1 under the pleadings in his own complaint that forbid him
2 to do.

3 THE COURT: All right. Anything else,
4 Mr. Jenkins?

5 MR. JENKINS: Yes, sir.

6 THE COURT: All right.

7 MR. JENKINS: 41-27-20, a declaration of State
8 policy. I am just going to list it for the Court.
9 Economic insecurity due to unemployment is a serious
10 menace to health, morals, and welfare of the people of
11 this State.

12 By South Carolina Department of Employment
13 Workforce, their primary job is to help job applicants
14 become employed, find suitable employment. And by them
15 being that agency and by them going to the point where
16 they barred me from applying for jobs I was well
17 qualified for, they have went against the best policy
18 that the State Assembly of South Carolina has made and
19 has on the books.

20 They violated that policy. They did not be
21 the agency to be in the business of helping somebody,
22 and they barred me from attaining employment. According
23 to this policy, I have become a menace to society. It
24 affects my welfare and my morals, which that is a fact.
25 That is definitely a fact.

1 One more thing. The Human Affairs Commission,
2 Your Honor, when I tell you my back has been against the
3 wall, been against a giant, I have been fighting a
4 giant; and I'm not afraid of the giant.

5 The South Carolina Human Affairs, with all the
6 information that they had, they didn't have the backbone
7 to declare a decision in my favor. With all the
8 information that they had, they had an article in the
9 paper where the former Director, Mr. Abraham Turner, who
10 stated that during this time as the director, most of
11 the employment I have in the form of training is the
12 type of work that they did at DEW.

13 I am qualified. I worked as -- I started off
14 as a job developer, a resource specialist, WIA
15 coordinator, intake coordinator, WIA case manager. I
16 became the WIA systems director. I was nominated for
17 regional employee of the year at one year because of my
18 work performance.

19 Then they had this thing where individuals
20 come into the office and see how you are doing. One of
21 the comments that was made about me is that all other
22 State employees in the State of South Carolina need to
23 model their work practice after me. That was one of the
24 compliments that I got because I did my job and I did it
25 well.

1 Then, furthermore, to go into that, as far as
2 job skills, each month I produced the highest level of
3 people who become employed because of the time that I
4 spend with them doing applications, working with them to
5 make sure in my job that they were out there so there is
6 enough to go around.

7 Again though, I am not separating Adrienne
8 Sorenson from all the governmental entities. She was
9 their employee. She did her job. What she did, she did
10 at the time she was asked for.

11 And based on all other communications, written
12 communications, where Adrienne Sorenson sent me a
13 rejection letter saying that, "You have been denied from
14 applying for this position," it always went back to
15 Kerry Paul.

16 So by Adrienne Sorenson being a mid-level
17 employee, I do not believe that she did this on her own
18 accord. And if she did, shame on her and shame on her
19 supervisor at DEW for not having to do that, but I don't
20 think she did that.

21 And then there is one other point I want to
22 make. When I actually applied and notified all of them,
23 you know the first time I heard from the Governor's
24 Office?

25 I tried for at least a year and a half, two

1 years, to get to go in to meet with Governor Hailey at
2 her office at my expense of meeting with her where she
3 was going to the county office, not one time.

4 All her staff did was put up roadblocks,
5 roadblocks. She is not available. She is not here.
6 But the one time that I heard from Governor Hailey's
7 office is when I sent her a copy of barred from
8 applying.

9 That's when a representative of her office
10 called me and left me a message about what is it you
11 want to do with me? At that point nothing could be done
12 then.

13 Then, furthermore, in a written communication
14 in these folders right here where barred from applying
15 was notified to them, that's the only time they owned up
16 to it.

17 They never contacted me, Your Honor, not one
18 time. They would have never owned up to it, and I
19 wouldn't be here today if it wasn't for the inadvertent
20 error of Sharlayne Bellamy contacting me and letting me
21 know that you are being barred from this position.

22 Other than that they would still be hiding in
23 the dark, hiding their hand. They would still be lying
24 to me. There is good communication in the folder where
25 senior staff at Budget and Control Board, at DEW, was

1 having conversations about who should we contact here?
2 If we respond, how should we respond?

3 They also wanted to know, have EEOC asked me
4 anything. This is all in the folder. And declare what
5 DEW did and what the Budget and Control Board did and
6 what the Office of South Carolina's Office did is a
7 shame in the State of South Carolina. I should have
8 that right because as I stated here, my name has been
9 attacked and my name has been scorned. So I am suing
10 for that.

11 Section 41-27-240, it talks about employment
12 office. It says: Employment office means a free public
13 employment office operated by this State or other office
14 maintained for the purpose of serving applicants or
15 claimants or maintained as a part of a state-controlled
16 system of public employment offices.

17 That is Section 41-27-240. Here again, when
18 they barred me from applying, they violated that very
19 law that has been established by the General Assembly of
20 South Carolina. That's a violation.

21 The reason why you know South Carolina DEW and
22 South Carolina Budget and Control Board all was aware of
23 this is because Section (B) under that same law states:
24 The department must work in conjunction with the State
25 Budget and Control Board to coordinate its computer

1 system with computer systems of other state agencies so
2 that the department may more efficiently match
3 unemployed persons with available jobs.

4 That was their job, to match people with
5 available jobs. So they had a system working in
6 conjunction with one another to match people to
7 available jobs, but yet on that same system, I was
8 completely destroyed. I was violated by that.

9 Section (B) under 15-78-330 says "Claim" means
10 any written demand against the State of South Carolina
11 or a political subdivision for money only, on account of
12 loss, caused by the tort of any employee of the State or
13 a political subdivision while acting within the scope of
14 his official duty.

15 THE COURT: Mr. Jenkins, I think I understand.

16 MR. JENKINS: Yes, sir.

17 THE COURT: Let me say that these motions in
18 front of me, you've got a motion to compel the
19 defendants to answer the complaint. Do you understand
20 that?

21 MR. JENKINS: Yes, sir.

22 THE COURT: Well, under our civil procedure,
23 they don't have to. A defendant does not have to answer
24 the complaint until they've had -- if they want to file
25 a motion to dismiss, they can have it heard before they

1 file an answer. So I have got to deny your motion.
2 That's what the rules say and the rules provide for
3 that.

4 MR. JENKINS: Okay.

5 THE COURT: So I can't compel them to answer
6 the complaint.

7 MR. JENKINS: Yes, sir.

8 THE COURT: Now, you also ask that I hold them
9 to -- that I deny their motion to dismiss, and I'm going
10 to take that one, and I'm going to think about it.

11 MR. JENKINS: Thank you.

12 THE COURT: And then you filed a motion to
13 quash the dismissal of defendant's request. I cannot
14 grant either under the rules. The other motion that you
15 filed is a motion for leave to amend the complaint.
16 What are you talking about? You want to amend the
17 complaint?

18 MR. JENKINS: Yes, sir. Yes, Your Honor. The
19 reason why I made that motion, one, I became aware that
20 at one time the South Carolina Budget and Control Board
21 used to be the chief operating agency for all other
22 State agencies in the State of South Carolina.

23 But due to a new act that was passed by the
24 General Assembly back in 2014, they have South Carolina
25 Administration. It has become the chief operating

1 agency, and the Budget and Control Board has been
2 separated in subdivisions.

3 THE COURT: Right.

4 MR. JENKINS: So, therefore, I'm not sure
5 whether the Budget and Control Board still has the
6 liability insurance that they had when they were the
7 chief operating agency. That was a point of trying to
8 include and make sure that everybody is included.

9 THE COURT: Well, do you still want to amend
10 your complaint?

11 MR. JENKINS: Yes, sir. The reason why is
12 Adrienne Sorenson, which is named as a party to the
13 complaint as a person that barred my from applying, I
14 misspelled her name. I spelled the last name with an E
15 and it should be with an O. So as long as to make sure
16 the proper party is applied, I asked that --

17 THE COURT: They haven't raised that issue.
18 The defendants haven't said anything about that.

19 MR. JENKINS: Okay.

20 THE COURT: And I don't know that your other
21 reason, because the Budget and Control Board changed its
22 name and probably the function, the function has been
23 resolved in the other departments of the Governor's
24 office.

25 MR. JENKINS: Yes, sir.

1 THE COURT: How about that?

2 MR. JENKINS: Yes, Your Honor.

3 MR. MATTHEWS: Your Honor, with respect we
4 urge you to rule first --

5 THE COURT: I understand that.

6 MR. MATTHEWS: -- on the motion to dismiss.

7 THE COURT: I know. I want you to answer that
8 question.

9 MR. MATTHEWS: Did you need me to answer a
10 question?

11 THE COURT: I just asked you.

12 MR. MATTHEWS: Please, again, Your Honor.

13 THE COURT: I said, how do you respond to his
14 motion to --

15 MR. MATTHEWS: With leave to amend?

16 THE COURT: To amend.

17 MR. MATTHEWS: My first answer is this.
18 Because none of the individual defendants getting
19 served, he is simply wanting to change the name of one
20 of the defendants because they have not made an
21 appearance because they have not --

22 THE COURT: Which one are you talking about?
23 Who has he not served?

24 MR. MATTHEWS: He has not served any of the
25 defendants.

1 THE COURT: You mean he has not served the
2 individual?

3 MR. MATTHEWS: Correct.

4 THE COURT: He hasn't served any of the
5 individual defendants?

6 MR. MATTHEWS: There are no individuals who he
7 has listed in his complaint --

8 THE COURT: Who did he serve?

9 MR. MATTHEWS: To my knowledge he served the
10 Department of Employment Workforce, the Budget and
11 Control Board, and the Office of the Governor.

12 THE COURT: So he served these defendants?

13 MR. MATTHEWS: Yes, sir.

14 THE COURT: Okay.

15 MR. MATTHEWS: To the extent that you -- well,
16 the Budget and Control Board now is, as you are aware,
17 its functions have been split up between a number of
18 agencies, including the Department of Administration.
19 From his complaint frankly, I don't know who within
20 that, who he is trying to sue; therefore --

21 THE COURT: I think he is trying to sue the
22 Department of Administration.

23 MR. MATTHEWS: Well, if that's the case, Your
24 Honor, then if you are of a mind to grant his motion,
25 then you certainly have the power to do that. My only

1 issue with the entire motion to amend though, ordinarily
2 when there is a motion and you are contemplating whether
3 to grant a motion to amend, there is an actual proposed
4 amended complaint to look at.

5 THE COURT: I know that.

6 MR. MATTHEWS: And none is here. So I don't
7 know exactly what it is.

8 THE COURT: He told you those two things.

9 MR. MATTHEWS: Then my response then is this.
10 It doesn't matter because the complaint still does not
11 state a claim upon which relief can be granted.

12 THE COURT: Okay. That's what I wanted your
13 opinion on. The fact that he spelled somebody's name
14 wrong...

15 MR. MATTHEWS: Is of no...

16 THE COURT: It's not jurisdictional.

17 MR. MATTHEWS: Yes, sir.

18 THE COURT: Do you understand what he's
19 telling me? The complaint that you have is all right in
20 terms of the people that you have named.

21 MR. JENKINS: Yes, sir.

22 THE COURT: And the fact that you spelled
23 somebody's name wrong is not important.

24 MR. JENKINS: Okay.

25 THE COURT: What Mr. Matthews is saying is

1 that even given that fact, that there's nothing wrong
2 with the complaint, it still doesn't give you a cause of
3 action against those three entities. That's his
4 position.

5 MR. JENKINS: Yes, sir.

6 THE COURT: I'm not saying I agree with it.

7 MR. JENKINS: Yes, sir.

8 THE COURT: I'm just saying that's his
9 position.

10 MR. JENKINS: Yes, Your Honor.

11 THE COURT: Okay. I will deny the motion to
12 amend the complaint. At this point in the process, I
13 usually ask the lawyers -- and I'm going to ask you too
14 even if you don't have a lawyer --

15 MR. JENKINS: Yes, sir.

16 THE COURT: -- to send me a proposed order,
17 what you think I ought to rule.

18 MR. JENKINS: Okay.

19 THE COURT: Do you understand?

20 MR. JENKINS: Yes, Your Honor.

21 THE COURT: How long do you need to do that?

22 MR. JENKINS: I would suggest maybe two weeks
23 at the most.

24 THE COURT: Two weeks. That would be fine.

25 MR. JENKINS: Okay. Thank you, your Honor.

1 THE COURT: I know Mr. Matthews doesn't need
2 two weeks because he has got all these secretaries and
3 lawyers and everything else working for him.

4 MR. JENKINS: Yes, Your Honor.

5 THE COURT: But I will give you as much time
6 as you need.

7 MR. JENKINS: Thank you, Your Honor.

8 THE COURT: Do you think two weeks is enough?

9 MR. JENKINS: Let's shoot for three. That way
10 I can be certain. I really do appreciate that.

11 THE COURT: Let me see here. Today is the
12 15th. I'll give you 15 days.

13 MR. JENKINS: Okay.

14 THE COURT: You've got to have in by the end
15 of the month, September 30th; okay?

16 MR. JENKINS: Okay. Thank you, Your Honor.

17 THE COURT: Now, you don't use e-mail, do you?

18 MR. JENKINS: I do, yes, Your Honor.

19 THE COURT: Do you want to send it to me on
20 the e-mail or do you want to send it to me on paper?
21 What is the easiest for you?

22 MR. JENKINS: E-mail.

23 THE COURT: All right. I will give you the
24 e-mail address where you are going to send it.

25 MR. JENKINS: Okay.

1 THE COURT: Here you go. We are adjourned for
2 the day. My clerk has the address for you.

3 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal, in the Civil Court for Richland County, South Carolina, on the 15th day of September, 2015.

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

February 4, 2016

L. Coconut Pantsari

Court Reporter