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| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| |) | |
| COUNTY OF CHARLESTON |) | CASE NO: 2023-CP-10-01336 |
| |) | |
| GARRISON KEPLEY, |) | |
| |) | |
| Plaintiffs, |) | PLAINTIFF’S RESPONSE TO |
| |) | DEFENDANT ELLA BAINEY MARCEY’S |
| -vs- |) | MOTION TO STRIKE |
| |) | |
| ELLA BAINE MARCEY, JULIE |) | |
| WHEELER COYNE, REX COYNE, DANA) |) | |
| BRUNSON, ROBERT BRUNSON, |) | |
| KATHLEEN BRUNSON, TIMOTHY |) | |
| SHANE MAHONEY, TIM MAHONEY |) | |
| KATIE MAHONEY, LUCAS SNEED, |) | |
| MATTHEW BROWN, JOHN DOES AND |) | |
| JANES DOES, PARENTS OF ANY OF |) | |
| THE ABOVE-NAMED INDIVIDUALS, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Plaintiff would assert to this Court that the Defendants previously accused Plaintiff of not pleading enough details to support his claims. Now, the Defendants claim the Plaintiff has pled *too much* detail. The Defendants will never be satisfied with the Plaintiff’s Complaint because they do not agree with the Plaintiff’s version of events (even though the evidence shows that the sexual activity was consensual by Defendant Ella Baine Marcey’s own admissions to police). The facts of this lawsuit are very unpleasant and are what many would deem to be salacious. That does not make the facts untrue. **Plaintiff’s counsel attempted to keep the Complaint as clean and concise as possible from the commencement of this action but that was not good enough for some of the defense counsel involved in this case. The defense expressly requested that the Plaintiff plead more detail about the facts.**

The facts are that the Plaintiff was wrongfully accused of rape by a female, Ella Baine Marcey, who was actually the sexual aggressor. She then conspired with other people (the remaining co-defendants) to lure the Plaintiff to a parking lot to assault him instead of contacting

police because she didn't want her then boyfriend, Defendant Dana Brunson, to find out that she had cheated on him. A third-party bystander contacted police during the assault. Police then took the parties in for questioning and at that time, Defendant Ella Baine Marcey admitted that the sexual activity with the Plaintiff was consensual and admitted to the position in which the sex occurred. The details of Plaintiff's Amended Complaint - that Plaintiff was ordered to provide - are coming directly from police reports and written statements given to the police.

The Defendants clearly want to force the Plaintiff to put his name and the word rapist in the same sentence on documents that they know will become a matter of public record. They know this would promote further embarrassment and humiliation for the Plaintiff. Doing so serves no other purpose as they know exactly what defamatory statements Plaintiff was referring to in his original Complaint. Plaintiff wished to avoid doing this and Defendants knew the nature of the allegations yet their counsel feigned that they couldn't possibly defend against the Plaintiff's Complaint without further factual details. Now they act as though they're clutching their pearls about the Plaintiff putting the female's name and the word cowgirl in the same sentence. **Most people would rather have their name associated with cowgirl than sex offender.**

What is not equitable is forcing the Plaintiff to put his name in the same sentence with the word rapist but then not allowing the Plaintiff to explain facts that would indicate that not only was the sex consensual but that Defendant Ella Baine Marcey was actually the one who initiated the contact and was the sexual aggressor during the activity. Position is very relevant in evaluating whether a rape occurred. The fact that the sex occurred in the cowgirl position is a fact revealed by the police reports and statements provided to police in this case. Plaintiff is entitled to plead facts regardless of whether the facts are pleasant. Plaintiff will remind everyone that Plaintiff attempted to avoid pleading such facts in such great detail from the beginning but the Defendants asked for and insisted on this amendment. Defendants demanded that more details be pled. Defendants simply wanted to force the Plaintiff to republish the atrocious and defamatory statements that they knew would cause further harm to his reputation. At the same time, they now wish to put a gag on the Plaintiff from stating what actually happened on the

night that Defendant Ella Baine Marcey climbed on top of him multiple times and initiated consensual sexual activity with the Plaintiff.

It is critical to note that Defendant Ella Baine Marcey filed a case against the Plaintiff and his parents exactly one (1) day after she turned eighteen years old. She filed her lawsuit prior to the commencement of this lawsuit. This lawsuit is a response lawsuit. She initiated all of the litigation surrounding these very unpleasant events for the purpose of seeking monetary compensation and further embarrassing and humiliating the Plaintiff. She also sought to hide her identity in that action. It could not be any more unfair for Defendant Ella Baine Marcey and her co-defendants to be allowed to maliciously seek to cause such continued harm to Plaintiff's reputation and then seek to have this Court prohibit the Plaintiff from publicly declaring the actual facts that are supported by the police reports which would show that Plaintiff was wrongfully accused of a crime by a promiscuous then-teenage girl. Defense counsel is wrongfully making efforts to cause further harm to the Plaintiff's reputation by nitpicking the pleadings and also trying to prevent Plaintiff from revealing the facts that would raise much scrutiny to Defendant Marcey's own actions and promiscuity.

Defendants asked for the Plaintiff to plead more details. The Plaintiff was then ordered by this Court to provide additional factual and descriptive details on the defamation claims. The Plaintiff has plead details that are contained in police reports and statements provided to law enforcement. These details and statements were critical in law enforcement's investigation into the alleged wrongdoings and their decision not to press any criminal charges against the Plaintiff. If the facts of this case are embarrassing to any of the Defendants, that is of their own doing and upon their own requests. Plaintiff requests that this Court either issue an Order denying the Defendant's Motion to Strike or alternatively, issue an Order sealing the record of both this case and concurrently pending Case No. 2021-CP-10-01336 to prevent all parties from having any further scandalous allegations and details of this ordeal shared with the public. Plaintiff further requests that this Court award Plaintiff attorney's fees for being forced to amend his complaint to add additional details and then being forced to respond to this frivolous cry about the

additional details that were provided which are supported by the police reports and statements provided to law enforcement.

Respectfully submitted,

s/Victoria N. Smith
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May 16, 2024
Charleston, South Carolina