

Kerry Paul,

Plaintiff,

vs.

Cheryl Stanton, et al.,

Defendant

CIVIL ACTION COVERSHEET

2014-CP-05-  
2014CP400 0271

(Please Print)

Submitted By: Nancy Bloodgood, Esquire  
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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts**
  - Constructions (100)
  - Debt Collection (110)
  - Employment (120)
  - General (130)
  - Breach of Contract (140)
  - Other (199)
- Torts - Professional Malpractice**
  - Dental Malpractice (200)
  - Legal Malpractice (210)
  - Medical Malpractice (220)
  - Previous Notice of Intent Case # 20\_\_-CP-\_\_\_\_-
  - Notice/ File Med Mal (230)
  - Other (299)
- Torts - Personal Injury**
  - Assault/Slander/Libel (300)
  - Conversion (310)
  - Motor Vehicle Accident (320)
  - Premises Liability (330)
  - Products Liability (340)
  - Personal Injury (350)
  - Wrongful Death (360)
  - Other (399)
- Real Property**
  - Claim & Delivery (400)
  - Condemnation (410)
  - Foreclosure (420)
  - Mechanic's Lien (430)
  - Partition (440)
  - Possession (450)
  - Building Code Violation (460)
  - Other (499)

- Inmate Petitions**
  - PCR (500)
  - Mandamus (520)
  - Habeas Corpus (530)
  - Other (599)
- Administrative Law/Relief**
  - Reinstate Drv. License (800)
  - Judicial Review (810)
  - Relief (820)
  - Permanent Injunction (830)
  - Forfeiture-Petition (840)
  - Forfeiture-Consent Order (850)
  - Other (899)
- Judgments/Settlements**
  - Death Settlement (700)
  - Foreign Judgment (710)
  - Magistrate's Judgment (720)
  - Minor Settlement (730)
  - Transcript of Judgment (740)
  - Lis Pendens (750)
  - Transfer of Structured Settlement Payment Rights Application (760)
  - Confession of Judgment (770)
  - Petition for Workers Compensation Settlement Approval (780)
  - Other (799)
- Appeals**
  - Arbitration (900)
  - Magistrate-Civil (910)
  - Magistrate-Criminal (920)
  - Municipal (930)
  - Probate Court (940)
  - SCDOT (950)
  - Worker's Comp (960)
  - Zoning Board (970)
  - Public Service Commission (990)
  - Employment Security Commission (991)
  - Other (999)
- Special/Complex /Other**
  - Environmental (600)
  - Automobile Arb. (610)
  - Medical (620)
  - Other (699)
  - Sexual Predator (510)
  - Pharmaceuticals (630)
  - Unfair Trade Practices (640)
  - Foreign Subpoenas (650)
  - Motion to Quash Subpoena in Out-of-County Action (660)

Submitting Party Signature:

*Nancy Bloodgood*

Date:

1-15-14

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

JEANE H. WOODRUFF & S.S.  
2014 JAN 15 PM 1:38  
RICHLAND COUNTY FILED

**FOR MANDATED ADR COUNTIES ONLY**

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

**You are required to take the following action(s):**

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210<sup>th</sup> day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Requests for temporary relief;
  - c. Appeals
  - d. Post Conviction relief matters;
  - e. Contempt of Court proceedings;
  - f. Forfeiture proceedings brought by governmental entities;
  - g. Mortgage foreclosures; and
  - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS FOR  
) THE FIFTH JUDICIAL CIRCUIT  
)

Kerry Paul,  
  
Plaintiff,

) Case No.: 2014-CP-05- \_\_\_\_\_  
)

vs.

**SUMMONS**

) Cheryl Stanton in her individual capacity,  
) and the South Carolina Department of  
) Employment and Workforce,  
)  
) Defendants.  
)

RICHLAND COUNTY  
FILED  
2014 JAN 15 PM 1:38  
JEANETTE W. MCGRIDE  
C.C.P. & C.S.

TO THE DEFENDANT ABOVE NAMED:

You are hereby summoned and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the Complaint to the subscriber at **Foster Law Firm, LLC 895 Island Park Drive, Suite 202, Charleston, South Carolina, 29492**, within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer the Complaint within that time, the Plaintiff will apply to the Court for the relief demanded in the Complaint and a judgment by default will be rendered against you.

FOSTER LAW FIRM, L.L.C.

*Nancy Bloodgood*

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*Attorneys for Plaintiff*

Charleston, South Carolina

Date: 1-15-14

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS FOR  
) THE FIFTH JUDICIAL CIRCUIT  
)

Kerry Paul,  
Plaintiff,

) Case No.: 2014-CP-05- \_\_\_\_\_  
)

vs.

) **COMPLAINT**  
) **(JURY TRIAL REQUESTED)**  
)

) Cheryl Stanton in her individual capacity,  
) and the South Carolina Department of  
) Employment and Workforce,  
)  
) Defendants.  
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JENNIFER M. McBRIDE  
C.C.P. & C.S.  
RICHLAND COUNTY  
FILED

The Plaintiff, complaining of the Defendants, alleges as follows:

**JURISDICTION AND VENUE**

1. Plaintiff is a citizen and resident of the County of Lexington, State of South Carolina and is employed in Richland County.
2. Defendant Cheryl Stanton is the Director of The South Carolina Department of Employment and Workforce and a member of Governor Nikki R. Haley's Cabinet. As a Cabinet member, Defendant Stanton is employed by and reports to Governor Nikki R. Haley.
3. Defendant Stanton is a resident of Richland County.
4. The South Carolina Department of Employment and Workforce (hereafter "DEW") is an agency of the State of South Carolina doing business and maintaining offices in Richland County, South Carolina.
5. All pertinent actions alleged in this Complaint took place in Richland County.
6. Jurisdiction and venue are proper in this Court.

## FACTS

7. Plaintiff is employed by The South Carolina Department of Employment and Workforce (hereafter "DEW".)

8. Plaintiff is currently the Human Resources Director of DEW although she was placed on involuntary unpaid leave by Defendant Stanton on December 19, 2013.

9. Between December 2012 and July 2013, Plaintiff served as DEW's Interim Chief of Staff. Between May 2013 and September 2013, Plaintiff served as DEW's Interim Assistant Executive Director – Employment Services. In September 2013, Plaintiff returned to a Human Resources Director II position at the Agency.

10. Plaintiff moved to South Carolina and started working for the State's Budget & Control Board in November 2003 as a band 5 employee.

11. The entire time Plaintiff has been a state employee, her performance evaluations have always been "exceeds" or "substantially exceeds" and she has received repeated promotions and bonuses.

12. When the Office of Regulatory Staff was created in 2004, Plaintiff was tasked by the Budget & Control Board with creating its Human Resource (HR) Department.

13. Plaintiff did an excellent job creating the HR Department and was then asked to become the HR Manager for the Office of Regulatory Staff, which she did.

14. In 2007, the Budget & Control Board asked Plaintiff to return as its Assistant HR Director which was a band 7 position.

15. In 2010, while Plaintiff was working at the Budget & Control Board, a new State human resources/payroll system was launched and Plaintiff became the lead person for the HR payroll piece of that new system. Plaintiff contributed significantly to this new system's highly

successful implementation.

16. In 2010, Plaintiff was asked to help a troubled Agency- DEW. Plaintiff agreed to work as a band 8 HR Director II at DEW.

17. Less than seven (7) years after Plaintiff became a State employee, she moved from a \$36,000 a year job to a \$78,000 job and had been promoted three (3) band levels.

18. Plaintiff has been certified as a Professional in Human Resources since 2006 and a Certified Public Manager since 2008.

19. As Human Resources Director at DEW, Plaintiff is routinely required to work evenings and weekends and frequently carries work home with her on a USB stick.

20. Some employees at DEW, including Plaintiff, are authorized to use USB sticks to work at locations outside of their offices as long as they maintain the confidentiality of any personal employee data, referred to as personally identifiable information (hereafter "PII") in the same manner as they do at work.

21. The only computer where Plaintiff used her USB stick was DEW's computers and her home computer. The last time Plaintiff used her personal USB stick in her home computer was in September of 2013.

22. As a Human Resources Director II, Plaintiff's job responsibilities include directing the delivery of benefit programs including health care insurance, retirement systems, disability insurance, group life insurance, deferred compensation and other tax sheltered annuities. These duties require her to access and maintain the confidentiality of personal identifying information (PII) on a daily basis.

23. For over a decade, Plaintiff has accessed PII at work and at authorized locations outside of her office, maintaining the confidentiality of all PII with no allegations that she ever

accessed or used PII data in a negligent or incorrect manner.

24. Additionally, Plaintiff is responsible for directing and overseeing the training of employees at DEW. Training personnel at DEW have to put power points on USB sticks for training and have used USB sticks for years.

25. Upon information and belief, no employee at DEW who is authorized to use USB sticks has ever been disciplined for using USB sticks.

26. Defendant Cheryl Stanton assumed the position of new Director of DEW at the end of June of 2013.

27. Prior to this job, Defendant Stanton was an attorney in New York.

28. The Governor is allowed to choose the Directors of Agencies in her Cabinet but there is a process and rules that the Governor is supposed to follow.

29. Specifically, the Governor is supposed to choose from at least three (3) applicants who have been vetted by appointed Legislative committees.

30. Plaintiff was told the Governor wanted to hire Defendant Stanton because Stanton was a friend of Catherine Templeton's.

31. Plaintiff was told the Governor had already made the decision to hire Defendant Stanton but the Governor had to make it seem like she was following the rules, so Plaintiff was needed to be one of the three (3) applicants to be interviewed.

32. Plaintiff was told she would not be hired and that she was expected to remain as an employee at DEW after the hiring of Defendant Stanton was completed.

33. Another high level employee at DEW was also asked to apply for the DEW Director position and he was also told beforehand that he would not be hired.

34. This is not the first time the Governor has dictated the actions of staff members in

her Cabinet Agencies.

35. When the Legislature had serious concerns about how public funds at DEW had been spent, the Governor's office staff trained DEW employees, including Plaintiff, on how to evade the Legislators' questions and provide as little information as possible to them when the employees were asked questions.

36. Shortly after Defendant Stanton took over as Director of DEW, there was a meeting in Asheville, North Carolina.

37. Plaintiff and Ms. Stanton drove together to Asheville. They met the rest of the team at the hotel and all went to dinner that night. The next morning at 6:30 a.m., Plaintiff went to Defendant Stanton's room to retrieve a laptop that she had loaned Defendant Stanton the night before. During all of time Plaintiff was with Defendant Stanton, Defendant Stanton made no remarks to her at all about needing to have a "plan" for the meeting in Asheville.

38. While in Asheville, Defendant Stanton and Plaintiff discussed and agreed that Plaintiff would not assume and manage the audit function at DEW as Ms. Stanton had been considering; they agreed that the Chief Financial Officer (CFO) should perform that function as Plaintiff already had many work responsibilities.

39. The next morning, when they were all back in Columbia, Defendant Stanton, in the presence of the Assistant HR Director, asked the CFO to continue handling the audit function, and he agreed that he would do so.

40. Then, within a matter of hours, Defendant Stanton announced to the staff that Plaintiff would start managing the audit function with help from the CFO. Plaintiff was understandably surprised and confused by Defendant Stanton's contradictory statements.



41. Two days later, Defendant Stanton called Plaintiff into her office and began yelling at her in a very loud and angry manner. Defendant Stanton was very upset and told Plaintiff that she thought Plaintiff had “disrespected her” and that she would not tolerate it.

42. Plaintiff expressed her surprise and confusion, and asked what she had done. Defendant Stanton told Plaintiff that Plaintiff she had not given her enough time before the meeting in Ashville to explain the “plan” she had for the meeting to Plaintiff; that Plaintiff she had left a meeting two days earlier “too abruptly”; that Plaintiff appeared upset when Defendant Stanton had announced Plaintiff would take over the audit function; and that Plaintiff had been late to an afternoon meeting a few days earlier.

43. Plaintiff explained she was not upset, she was just confused and caught off guard when Defendant Stanton stated she was taking over the audit function as that was the opposite of what she understood. Plaintiff also explained that she was late for one meeting because there had been an employee in her office crying due to her husband being hospitalized and near death and the employee needed FMLA questions answered.

44. Plaintiff told Defendant Stanton that she was confused by her anger and Defendant Stanton continued to repeat angrily that she would not be “disrespected.”

45. Plaintiff thought Defendant Stanton’s behavior was so strange that she went to check on Defendant Stanton that afternoon to see if she was ok.

46. Two weeks later, on August 7, 2013, Defendant Stanton called Plaintiff to her office again. This time, Defendant Stanton informed Plaintiff that she wanted her to leave DEW.

47. Defendant Stanton told Plaintiff that even though she had done an exceptional job for the Agency, it was confusing to the staff because Plaintiff was perceived as the informal leader of the organization.

48. Defendant Stanton stated it was unfair to the staff and to Plaintiff as they needed to view Defendant Stanton as the leader, not Plaintiff.

49. Defendant Stanton told Plaintiff to contact the Governor's Chief of Staff, Ted Pitts, because he had agreed he would place Plaintiff somewhere else in the Governor's Cabinet.

50. Plaintiff contacted Ted Pitts later that day. Ted Pitts was unaware of why Plaintiff was calling; he was polite but he told Plaintiff he had not agreed to find her another position.

51. The next day, Defendant Stanton, Mr. Pitts and Plaintiff met at the Statehouse. During that conversation, it was agreed Plaintiff would return to her Human Resources Director role at DEW.

52. Mr. Pitts agreed that he would be a reference if Plaintiff wanted to find other employment.

53. Two (2) weeks later, Ted Pitts wrote an email to Trey Walker (USC Legislative Liaison) on Plaintiff's behalf stating: a) he had worked closely with Plaintiff; b) that Plaintiff had stepped up and helped the Agency in multiple roles while it was going through a transition; c) Plaintiff did a great job; and d) Plaintiff had been one of the leaders in righting the Agency as it dealt with tough budget and reorganization initiatives.

54. On August 12<sup>th</sup>, Plaintiff started moving her office from one location to another one within DEW's HR department in the same building (The Robert E. David building). This move had been planned since March 2013, before Defendant Stanton was hired, due to restructuring and space needs within the Agency.

55. At 9:30 am, Plaintiff was called into Defendant Stanton's office and told she was not to move her office until Defendant Stanton gave her permission.

56. That same week, Defendant Stanton called Plaintiff and another employee, the

PR Director, to her office. Again, she was very angry at Plaintiff. Previously, Plaintiff had advised the PR Director not to contact a former employee who was spreading gossip about the PR Director, but the PR Director had nevertheless contacted the former employee against Plaintiff's advice.

57. Defendant Stanton falsely accused Plaintiff of spreading gossip and encouraging the PR Director to contact the former employee. After this meeting, the PR Director received no counseling or warning and was returned to her position by Defendant Stanton but not surprisingly, Defendant Stanton sent Plaintiff home immediately and told her not to return until the next week.

58. It was about this time that the Governor's Chief of Staff Ted Pitts told Plaintiff that there was a "personal conflict" between Defendant Stanton and Plaintiff after Plaintiff had called him to ask for advice regarding Defendant Stanton's animosity towards her.

59. Next, Defendant Stanton required Plaintiff to request in writing to Defendant Stanton or her Chief of Staff Darrel Scott, and also to receive advance authorization from one of them, if Plaintiff wanted to communicate verbally, by email or in writing with anyone on the DEW Executive Leadership team, with any 6<sup>th</sup> floor staff in the Robert E. David Building, or with any employee visiting any 6<sup>th</sup> floor office.

60. Defendant Stanton also refused to inform anyone on the DEW Executive Leadership team or any 6<sup>th</sup> floor staff members that they were no longer permitted to communicate with Plaintiff; this action was evidently intended by Defendant Stanton to be a "secret" prohibition imposed on Plaintiff.

61. On September 4, 2013, Defendant Stanton moved Plaintiff across the street into the Harper Building and kept in place her secret prohibition against Plaintiff speaking to anyone.

62. Plaintiff's office in the Harper Building was in the corner surrounded by a copier and two conference rooms. There were no other employees near Plaintiff.

63. The next week, Defendant Stanton formally removed Plaintiff from the Executive Leadership Committee and no longer allowed her to attend the weekly meetings Plaintiff had been attending since July of 2010.

64. Defendant Stanton then removed Plaintiff's name from the list of management employees at DEW.

65. On September 25<sup>th</sup>, Defendant Stanton told Plaintiff that she could only communicate with certain HR employees via e-mail and she could only talk to HR employees during training.

66. On October 29<sup>th</sup>, there was a large group meeting in the Harper Building Auditorium on the 3<sup>rd</sup> floor.

67. Employees of DEW were in the auditorium and the UI Director and Assistant UI Director asked Plaintiff when they saw her if they could come to Plaintiff's office.

68. Plaintiff spoke to them briefly, no more than five (5) minutes. The topic was Halloween and what each of their families was doing for Halloween. They also discussed a Mexican restaurant one of them had eaten at the night before. Nothing regarding work was discussed.

69. On October 31<sup>st</sup>, Defendant Stanton presented Plaintiff with a written reprimand for speaking to these two employees. When Plaintiff tried to explain what the conversation was about, Defendant Stanton angrily told Plaintiff to "stop playing games."

70. Plaintiff explained to Defendant Stanton that she had not been able to stop the employees from talking to her because Defendant Stanton had explicitly prohibited her from

telling anyone about the secret prohibition against talking to employees that applied to her.

71. Defendant Stanton then forbade Plaintiff from entering or being in the Robert E. David Building completely.

72. On November 5<sup>th</sup>, Defendant Stanton told Plaintiff that Plaintiff had agreed to a December 31<sup>st</sup> deadline to find a different job.

73. Plaintiff told Defendant Stanton she had never agreed to a December 31<sup>st</sup> deadline to find a job.

74. On December 11, 2013, Defendant Stanton sent Plaintiff an e-mail insinuating Plaintiff had violated DEW's Acceptable Use Policy regarding electronic data and instructed Plaintiff to obtain two (2) USB sticks she had previously purchased for the training department and give them to Adam Twitty, IT Security at DEW.

75. Plaintiff retrieved the two (2) USB sticks from the Training Department and took them to her office. Plaintiff then phoned Adam Twitty and left him a voicemail. Plaintiff also emailed Defendant Stanton, Neil Adcox, Adam Twitty and Koa Morgan informing them that she had retrieved the two (2) USB sticks and that she had not used them.

76. DEW's Acceptable Use Policy addresses the use of portable devices, not the procurement of them. Plaintiff had routinely over the years procured USB sticks for her staff who are trained and authorized to use USB sticks in accordance with DEW's Acceptable Use Policy.

77. At the end of the day on December 11<sup>th</sup>, Adam Twitty had still not contacted Plaintiff to make arrangements to retrieve the USB sticks in her office so Plaintiff e-mailed the above parties again stating that Adam Twitty had not been in contact with her and that the two (2) USB sticks were on her desk.

78. Plaintiff was sick on December 12, 2013 and was out all day. On Friday, December 13, 2013, Plaintiff went to a meeting at Midlands Tech Airport campus. When Plaintiff returned to DEW in the afternoon, she realized the two (2) USB sticks were missing from her desk and her locked office. Plaintiff's office always remains locked; she carries the key to the door with her ID badge on a lanyard and it is set to lock automatically when Plaintiff closes the door.

79. Plaintiff e-mailed Defendant Stanton, Koa Morgan and Neil Adcox stating that the two (2) USB sticks were no longer on her desk and that she assumed Defendant Stanton had retrieved them while she was out. Plaintiff asked Defendant Stanton to confirm she had the two (2) USB sticks but Plaintiff never received a response from Defendant Stanton.

80. That same day, on December 13, 2013, the Governor's Chief of Staff called Plaintiff and told her that Defendant Stanton could terminate her employment if Plaintiff "got in her way of running the Agency" so Plaintiff knew that she no longer had the support of the Governor's office.

81. On December 19<sup>th</sup>, Ms. Stanton suspended Plaintiff without pay and without any explanation.

82. Defendant Stanton's animosity towards Plaintiff is well known to Governor Haley, the Governor's Chief of Staff, and all of the senior leadership at DEW.

83. Defendant Stanton's personal animosity towards Plaintiff was known or should have been known to SLED agents when they obtained a search warrant against Plaintiff on December 20, 2013 at the direction of Defendant Stanton.

84. Defendant Stanton was acting with a personal vendetta against Plaintiff, with malice, and outside the scope of her authority when she contacted SLED and requested that

SLED obtain a search warrant to search Plaintiff's home and car.

85. The search warrant was irregular on its face and was not supported by any probable cause.

86. Upon information and belief, the Governor's office advised SLED it agreed with Defendant Stanton's request for a search warrant prior to the time SLED procured the irregular search warrant and SLED. The Governor's office knew or should have known the search warrant was not supported by probable cause and that Defendant Stanton had obtained it to threaten and intimidate Plaintiff.

87. SLED, knowing it had no probable cause that Plaintiff had committed any ethical violation, knowing Defendant Stanton had no evidence Plaintiff had done anything other than use her USB at work as she had routinely done and as many other DEW employees had routinely done for many years, nevertheless procured an irregular search warrant for Plaintiff's home and car.

88. SLED should have required Defendant Stanton to have probable cause for a search warrant as it is obliged to do so under law but SLED failed to do so. Instead, upon information and belief, SLED procured a search warrant based on who was requesting it, not based on probable cause.

89. Defendant Stanton intentionally misled SLED, alleging that Plaintiff had personal identifying information (PII) about DEW employees in her possession that Plaintiff was not authorized to have (which even had it been true, would not be a crime) and told SLED that Plaintiff had breached the confidentiality of PII data.

90. Defendant Stanton's false and reckless statements to SLED regarding alleged missing PII data were intended to harm Plaintiff.

91. Although Plaintiff was, and always had been, in full compliance with DEW's Acceptable Use Policy regarding technology access, Defendant Stanton falsely alleged and published to lower level employees and employees outside of DEW after she convinced SLED to obtain a search warrant for Plaintiff's home and car that Plaintiff had "stolen" PII.

92. DEW's Acceptable Use Policy permits users to access the computer systems from remote locations and to use portable devices (including USB sticks) as long as the Acceptable Use Policy is adhered to during such use.

93. Plaintiff adhered to DEW's Acceptable Use Policy by obtaining the approval and permission of DEW's IT Director in early August to place her templates and work product on a USB stick so she could use them at her next job position and not have to recreate the many employment related documents Plaintiff had developed and frequently used.

94. When Plaintiff downloaded her templates and work product in August 2013 on her USB stick with the express permission of IT so she could use it in a future Human Resources position with the State, Plaintiff's USB stick did not harm the network nor put a virus on her laptop or the network.

95. Plaintiff's use of her USB stick at work and at her home or at other locations was expressly permitted by DEW's IT staff and required due to the nature of her HR work.

96. The templates and work product Plaintiff placed on the USB stick likely contained PII data, but Plaintiff maintained that PII data in the same secure manner she did her computer data, and in full compliance with DEW's Acceptable Use Policy.

97. Plaintiff routinely placed work information and files on her USB drive and if there was a significant amount of PII data on the drive it was inadvertent on Plaintiff's part and likely due to what was in various files.



98. If and when there came a time for Plaintiff to use the templates and work product that were on her USB stick at another state agency, Plaintiff would have ensured no PII was compromised, in the same manner as she had handled confidential PII for a decade.

99. Defendant Stanton acted outside the scope of her authority as Director when she fabricated Plaintiff's alleged theft or misuse of PII data.

100. The search warrant Defendant Stanton induced SLED agents to obtain does not allege Plaintiff violated DEW's Acceptable Use Policy.

101. The search warrant is irregular on its face as it is issued pursuant to S.C. Code § 16-15-405, a criminal statute addressing second degree sexual exploitation of a minor. Further, this search warrant alleges Plaintiff violated the State Ethics Act, not that she stole PII or compromised the security of PII. Specifically, the irregular search warrant states that it is issued based on S. C. Code § 8-13-725 which is a statute that prohibits a public employee from using confidential information gained in the course of her job to affect an economic interest held by her or a member of her immediate family.

102. An Affidavit submitted by a SLED agent in support of the search warrant does not mention Plaintiff using confidential information for financial gain; it does not state what or whose economic interest has been affected; and it does not state how an economic interest has been affected, when or how.

103. Upon information and belief, Defendant Stanton does not contend, and never has contended, that Plaintiff used PII data to benefit her or her family financially. Rather, Defendant Stanton has falsely stated to employees and other persons outside DEW, including SLED, that Plaintiff has "stolen" PII data.

104. Upon information and belief, Plaintiff was intentionally set up by Defendant Stanton

when Defendant Stanton provided false information regarding the confidentiality of PII data in Plaintiff's possession to both SLED and the Governor.

105. Upon information and belief, SLED and the Governor knew or should have known the information being provided to them by Defendant Stanton about Plaintiff was false as they were aware of Defendant Stanton's animosity towards Plaintiff..

106. Based on Defendant Stanton's repeated actions of fabricating issues to complain about regarding Plaintiff and coupled with the Governor's Chief of Staff's apparent change of heart regarding helping Plaintiff obtain other employment, Plaintiff was suspicious that Defendant Stanton was going to use the fact that two (2) USB sticks were taken from her locked office against her to terminate her employment.

107. Later, Plaintiff learned that Defendant Stanton did in fact allege Plaintiff downloaded PII data on these two (2) USB sticks without permission and that the download on December 18, 2013 triggered new software security DEW was using.

108. Plaintiff did not have the two (2) USB sticks in her possession on December 18, 2013 so she could not have downloaded anything on December 18, 2013 to trigger software security as Defendant Stanton falsely reported to the Governor's Chief of Staff.

109. The Governor's Chief of Staff subsequently told Plaintiff on January 3, 2014 that the Agency determined PII information was downloaded onto Plaintiff's USB sticks on November 20, 2013. Assuming the security software picked up an unauthorized PII download on November 20, 2013, the IT Security team evidently thought nothing of it at the time as it failed to report the matter to Plaintiff or to anyone.

110. Even if Plaintiff downloaded PII data on November 20, 2013 to her USB stick, she was authorized to do so and had she been shown the PII data she allegedly downloaded she

likely could have explained why she needed the information downloaded or how she was using it, what files were downloaded, as well as how she was protecting the PII data's confidentiality.

111. Plaintiff was, and remains, completely unaware that she downloaded any PII data on November 20, 2013 but may have inadvertently done so.

112. Plaintiff did not access or utilize any PII data from DEW's IT network at her home as her home computer was broken after September 2013.

113. Defendant Stanton and the Governor knew, or should have known, based on Plaintiff's excellent performance record that Plaintiff routinely downloads PII data as she is required to do so to perform her job, that Plaintiff is authorized to download PII data, that Plaintiff has been authorized to work with PII data for many years and has to in order to handle benefits information for employees, and that Plaintiff has always acted in full compliance with DEW's Acceptable Use Policy.

114. After Defendant Stanton did not respond to Plaintiff's email asking for confirmation that Defendant Stanton had taken the two (2) USB sticks out of Plaintiff's locked office, Plaintiff deleted all of the information on her USB stick, including her templates and the work product she had put on her USB stick in August of 2013, and then Plaintiff destroyed the USB stick entirely not only to ensure that none of the PII information on the USB stick was ever compromised, but mostly importantly to protect herself from additional false allegations by Defendant Stanton.

115. By destroying the USB stick, Plaintiff was strictly adhering to DEW's Acceptable Use Policy and ensuring to the best of her ability that there would be no unauthorized use of agency data or PII. Further, destroying the PII data on her USB stick is exactly the same thing Plaintiff does when she shreds printed PII data from her computer at work or shreds handwritten PII data that she has accessed and used.

116. Shredding and properly disposing of confidential PII data is something Plaintiff does repeatedly almost every day as part of her job and until Defendant Stanton, as part of her personal vendetta against Plaintiff, decided to make it an issue, Plaintiff's actions regarding PII data have been a non-issue. In short, there is absolutely no evidence that Plaintiff has ever acted in any manner other than to maintain the confidentiality of all PII data she accesses.

117. On December 19, 2013, had Defendant Stanton, SLED or anyone at the Governor's office followed standard management practice and talked to Plaintiff prior to requiring SLED to obtain an irregular search warrant with no probable cause to support a search of Plaintiff's home and car, Plaintiff could have easily explained to them that she had effectively and properly deleted all of the PII data on her USB stick and then crushed it in order to protect herself from Defendant Stanton's personal vendetta against her.

118. However, Plaintiff was suddenly put on leave without pay on December 19, 2013 and provided no information for the reason for the suspension.

119. Plaintiff did not become aware that as she had suspected, the false allegation by Defendant Stanton of missing PII data was the reason for her suspension until four (4) SLED agents arrived at her home when her children were present on December 20, 2013 to search for Plaintiff's USB stick.

120. Plaintiff immediately called the Governor's Chief of Staff to find out what was going on and he refused to accept and/or return her phone call.

121. When SLED found nothing at Plaintiff's home, then Plaintiff, at the request of the Governor's legal counsel, prepared an Affidavit for SLED and for the Governor confirming she had always safeguarded all PII data on her USB stick, that no PII was or had ever been compromised, and that no PII data would ever be compromised as Plaintiff had personally

destroyed her USB stick.

122. Plaintiff also met with SLED and the Governor's legal counsel and presented the Affidavit to them personally though it was clear during the meeting that the Governor endorsed Defendant Stanton's actions and was supportive of Defendant Stanton's wrongful actions.

123. In fact, after the meeting, the Governor's office provided Plaintiff's Affidavit to Defendant Stanton for her to review and then Defendant Stanton, in an attempt to justify the false and derogatory statements she had made to SLED and the Governor's office about Plaintiff, continued to harass Plaintiff by demanding Plaintiff produce her destroyed USB stick and explain in detail how she destroyed it.

124. Plaintiff fully cooperated with DEW, SLED and all of the Governor's office's requests in an attempt to prove she had done nothing wrong and that Defendant Stanton's allegation was false and only intended to harm her.

125. Besides providing an Affidavit and the destroyed USB stick, Plaintiff further cooperated by taking two polygraph tests.

126. The SLED agent who conducted the polygraph exams told Plaintiff that he could not "clear her" and the polygraph exams resulted in a "no opinion."

127. Upon information and belief, it appears the Governor's office supplied SLED the questions for the second polygraph because one of the questions asked was if Plaintiff had any documents or files in her possession that could harm or embarrass DEW or the Governor.

128. Even though Plaintiff has been fully cooperative and there is no evidence of any missing PII data, DEW is sending DEW employees letters indicating their PII data may have been compromised.

129. Upon information and belief this action is being taken to cover up Defendant

Stanton's wrongful actions against Plaintiff and make it appear that Defendant Stanton's wrongful actions against Plaintiff were justified.

130. Defendant Stanton's and the Governor's office's actions clearly indicate that though they know no confidential PII data was ever compromised by Plaintiff, they intend to continue to threaten, intimidate and scare Plaintiff so Defendant Stanton's lies about Plaintiff and her lies to SLED do not become known.

**FIRST CAUSE OF ACTION**  
**(DEFAMATION AGAINST DEFENDANT STANTON IN HER INDIVIDUAL  
CAPACITY AND DEW)**

131. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

132. Defendant Stanton, acting outside the scope of her employment, intentionally and recklessly made, and continues to make, false and defamatory statements about Plaintiff to DEW employees and another non-Cabinet Agency Executive Director and Chief of Staff, among others.

133. Specifically, Defendant Stanton published false statements inferring that Plaintiff stole, misused, did not confidentially maintain PII data, and/or used such confidential information for financial gain, which statements are false.

134. Defendant DEW has defamed Plaintiff through its reckless acts and by innuendo by suddenly suspending Plaintiff before talking to her or performing any investigation and hurriedly obtaining a search warrant that was not based on any probable cause.

135. These Defendants knew that their statements and actions were without basis in fact and their statements and actions were made in anger and done with the intent of furthering Defendant Stanton's personal vendetta against Plaintiff and ruining Plaintiff's professional

reputation and career.

136. These Defendants' false statements and actions exceeded the scope of any privilege and were published to persons outside DEW and to lower level employees who had no involvement in this matter or supervisory authority over Plaintiff. Specifically, persons to whom these defamatory statements were made, and actions made known to, include a Public Information Specialist, band 5; a Benefits Counselor II, band 5; an Instructor/Training Coordinator II, band 5; an Administrative Manager II, band 8 (responsible for facilities management, postal, public safety); Program Manager II/ band 8 (manages operations of Unemployment Insurance Division and has no connection to former employee data); an Accounting Fiscal Manager III/ band 9 (Oversees budget, procurement and finance); a Director of Research and Planning/band 7 (Legislative Liaison); an Information Resources Consultant/band 6 (oversees desk top support); a Research and Planning Administrator/band 6 (data person for unemployment insurance); and Program Coordinator I & II's /bands 5 & 6 (staff working within the Unemployment Insurance Division.)

137. After Plaintiff was placed on unpaid involuntary leave, Defendant Stanton told lower level employees at DEW and senior staff at other agencies multiple times that Plaintiff is a thief and she was being uncooperative.

138. Defendant Stanton also told DEW employees after December 19, 2013 they are not allowed to speak to Plaintiff and that she will fire them if they speak to Plaintiff.

139. Defendant Stanton told one DEW manager that he better not talk to Plaintiff and then threatened him by telling him that because he's the only person in his family that works, he would not want to hurt his family, inferring termination.

140. Plaintiff received a call recently about a birthday party her daughter had been

invited to from the birthday child's parent. The parent asked Plaintiff not to attend the birthday party with her daughter because it would jeopardize her job. Plaintiff's daughter is 4 and the party was at Chucky Cheese.

141. Many of these Defendants' false statements and actions were made well after Plaintiff told DEW and SLED under oath that no PII had ever been compromised, which information was provided to Defendant Stanton.

142. These Defendants' statements and actions infer Plaintiff is unfit for her profession and/or is a liar and constitute slander *per se*.

143. These Defendants' statements and actions are intended to brand Plaintiff as a trouble maker and infer she is incapable of performing her job. These false statements and actions have already seriously injured Plaintiff's reputation as a state employee.

144. The publication and re-publication of these false statements and actions by these Defendants have caused Plaintiff to suffer general damages and special damages including pain and mental anguish, and damage to her reputation. Additionally, Plaintiff seeks punitive damages against Defendant Stanton for statements made and actions done in her individual capacity.

**SECOND CAUSE OF ACTION**  
**(ABUSE OF PROCESS AGAINST DEFENDANT STANTON IN HER**  
**INDIVIDUAL CAPACITY AND DEW)**

145. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

146. Defendant Stanton, acting outside the scope of her employment, intentionally and recklessly obtained a search warrant through SLED that was irregular on its face and was issued without probable cause for the ulterior purpose of forcing the termination of Plaintiff's employment.



147. These Defendants, and upon information and belief, misled the Governor and encouraged SLED to procure an irregular search warrant.

148. These Defendants knew or should have known that the existence of probable cause is a necessary legal requirement before a search warrant can be issued and that there was no probable cause to support her allegation that Plaintiff was using PII for her personal gain. In fact, the SLED agent's Affidavit in support of the search warrant does not even mention financial gain.

149. The search warrant also does not allege Plaintiff violated DEW's Acceptable Use Policy or that Plaintiff took any PII without permission, or that Plaintiff had used it, or that Plaintiff had not maintained the confidentiality of the PII data on her USB stick.

150. The search of Plaintiff's home by four (4) SLED agents with her children present based on a search warrant that was without probable cause violated Plaintiff's right under the South Carolina Constitution to be free from unreasonable searches and, therefore, violated her constitutional rights.

151. Obtaining a search warrant to make it appear Plaintiff had done something wrong and to make Defendant Stanton appear good, was these Defendants' paramount reason for contacting SLED.

152. Plaintiff has been injured by these Defendants' intentional acts performed with malice towards Plaintiff and Plaintiff is entitled to compensable damages, punitive damages against Defendant Stanton in her individual capacity, attorney fees and costs.

**THIRD CAUSE OF ACTION**  
**(VIOLATION OF S.C. CODE § 1-11-490 AGAINST DEW)**

153. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

154. This statute requires agencies to report breaches of PII data only if there was, or is reasonably believed to have been, information acquired by an unauthorized person.

155. Plaintiff was authorized to access and use PII data as part of her job.

156. Defendant Stanton never asked Plaintiff if she had any unauthorized PII data, if she was using unauthorized data, or if Plaintiff had distribute any PII data before she placed Plaintiff on an involuntary unpaid leave and contacted SLED.

157. Based on Plaintiff's Affidavit and polygraphs, Defendant DEW has no reasonable belief that any PII data has been acquired by any unauthorized person.

158. Per this statute, a breach does not include encrypted data or data rendered unusable.

159. Plaintiff rendered the data on her USB stick unusable when she became aware of Defendant Stanton's allegations against her.

160. The good faith acquisition of PII by an employee for agency purposes is not a breach of security if the information is not used or subject to further unauthorized disclosure.

161. Defendant DEW has violated this statute.

162. Per Section (G) of this statute, as a resident of the State injured by DEW's intentional misuse and violations of this statute, Plaintiff is entitled to damages, injunctive relief, and attorney fees and costs.

Wherefore, Plaintiff respectfully requests this Court grant Plaintiff the damages requested herein, as well as such other relief the Court deems appropriate, including costs and attorney fees.

FOSTER LAW FIRM, L.L.C.

*Nancy Bloodgood*

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Date: 1-15-14