

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	C/A NO.: 2025-CP-10-03124
Alexis Berg,)	
)	
Plaintiff,)	
)	
vs.)	
)	
Patrick Bryant, John Osborne, Eric)	
Bowman, Pommer Group, LLC,)	
Assignment Desk Works, LLC and)	
GLT2, LLC,)	
)	
Defendants.	)	AMENDED
	)	THIRD-PARTY DEFENDANT NANCY
Patrick Bryant,	)	RUTH MACE'S MEMORANDUM IN
	)	OPPOSITION TO THIRD-PARTY
Third-Party Plaintiff,	)	PLAINTIFF PATRICK BRYANT'S
	)	MOTION FOR TEMPORARY
vs.	)	RESTRAINING ORDER AND
	)	MOTION TO VACATE OR
Nancy Ruth Mace, Melissa Britton,	)	MODIFY GAG ORDER AND
and Alexis Berg,	)	RENEWED MOTION FOR IN
	)	CAMERA REVIEW
<u>Third-Party Defendants.</u>)	

This memorandum is respectfully submitted on behalf of Third-Party Defendant, the Honorable Nancy Ruth Mace (“Congresswoman Mace”), a sitting United States Congresswoman and candidate for Governor of South Carolina, in opposition to Third-Party Plaintiff Patrick Bryant's Motion for Temporary Restraining Order and in response to the Court's *sua sponte* Gag Order dated November 26, 2025 and which was extended on December 18, 2025.

The Gag Order broadly prohibits all parties, their representatives, and counsel from making any public comment about any aspect of this case, effectively silencing Congresswoman Mace's ability to communicate with her constituents and the public on matters of significant public concern, including her legislative efforts to address issues raised by this litigation. In addition, the Order was issued without specific factual findings or

procedural safeguards. As drafted, the Order is a violation not only of Congresswoman Mace's fundamental rights to freedom of speech and due process but also, because the Congresswoman is a federal legislator, the protections afforded her by the Speech or Debate Clause of the United States Constitution.

Similarly, Bryant's Motion for Temporary Restraining Order seeks to enjoin Congresswoman Mace from disseminating information and materials that relate to allegations of serious criminal conduct, matters that are indisputably of public interest and concern to her constituents. The Motion fails for multiple reasons, starting with the fact that it is barred by the doctrine of laches due to Bryant's two-year delay in seeking such relief. Moreover, the Motion does not meet the stringent legal standards given the extraordinary relief that it seeks, which if granted, would improperly impose an unconstitutional prior restraint on protected political speech and would violate the Speech or Debate Clause.

For these reasons, Congresswoman Mace respectfully requests that the Court (i) vacate or substantially modify its November 26, 2025 Gag Order to ensure compliance with all applicable constitutional protections and procedural due process and (ii) deny Bryant's Motion for Temporary Restraining Order. The Court should also deny Bryant's Renewed Motion for In Camera Review, which seeks extraordinary judicial intervention where adequate discovery mechanisms exist.

FACTUAL BACKGROUND

Plaintiff Alexis Berg filed suit alleging that she was sexually assaulted on or about October 26, 2018, at a social gathering in Charleston County, South Carolina, with Defendant Patrick Bryant and others implicated in the incident. Central to Plaintiff's claims is an alleged video of the assault, which has been referred to publicly as the "rape tape." Plaintiff has admitted in discovery that she has never seen the alleged video and does not possess it, though she has acknowledged possession of certain screenshots. Plaintiff was unconscious

during both the alleged assault and its filming and thus would have no contemporaneous knowledge of either. Notably, it is Bryant and Bryant alone who possess this video, and he should be required to provide it to the Court for in-camera review. The video is corroborated by a witness, by security camera screenshots, by a contemporaneous diary entry and Congresswoman Mace's account of viewing the video on Bryant's phone after he gave her access to his device.

Third-Party Defendant Congresswoman Mace, discovered this video and other materials on Bryant's cell phone on or about November 5, 2023 when Bryant granted her express permission to access his phone during a meeting arranged by Congresswoman Mace with two of her pastors. Congresswoman Mace recorded the pastoral meeting in its entirety. In his own words, and in front of men of God, Bryant granted Congresswoman Mace permission to access his phone. When asked repeatedly if she had permission and could access his phone during the pastoral meeting, Bryant stated, "Sure. Absolutely!" In the church parking lot, immediately following the pastoral meeting, Bryant added Congresswoman Mace's thumbprint to his phone, so she could access it at any time.

That night, Congresswoman Mace discovered images depicting potential criminal misconduct. Within hours of this discovery, Congresswoman Mace contacted law enforcement. She subsequently participated in a formal, in-person interview with the Capitol Police, the U.S. Attorney ("U.S.A."), the Federal Bureau of Investigation ("FBI"), and the South Carolina Law Enforcement Division ("SLED") in December 2023.

The timing of Congresswoman Mace's formal in-person interview to law enforcement on December 13-15, 2023, was affected by extraordinary circumstances beyond her control including: (a) physical recovery from Bryant's physical assault, which left visible injuries, including a permanent scar; (b) acute Post-Traumatic Stress Disorder triggered by the disturbing images and videos she discovered on Bryant's phone; (c) intensive therapy and

mental health counseling necessitated by viewing recordings depicting sexual assault and voyeurism; (d) profound mental anguish upon discovering what appeared to be child sexual abuse material; (e) the trauma identifying multiple victims recorded on Bryant's device, several of whom she knew personally; (f) her legislative schedule, which required her presence in Washington, D.C. for congressional votes and official duties; (g) the urgent need to secure housing for herself and her minor children after Bryant refused to permit her to remain in their jointly-owned home, leaving her and her minor children effectively homeless; and, (h) surgery for a tumor and the subsequent recovery period. Notwithstanding these extraordinary circumstances, Congresswoman Mace took immediate steps to understand the reporting process, privately consulting with local law enforcement, SLED, the U.S.A., the FBI and the Office of General Counsel for the U.S. House of Representatives, the Capitol Police, and legal counsel in the hours and days following her discovery to determine what federal and state laws may have been violated and to understand the appropriate reporting procedures for each jurisdiction.

On February 10, 2025, SLED spokesperson Rene Wunderlich publicly confirmed: "SLED has conducted multiple interviews, served multiple search warrants, and has a well-documented case file." The SLED investigation remains ongoing as of the date of this filing.

Since February 2025, and to her personal and professional detriment, Congresswoman Mace has courageously spoken about the materials she uncovered on Bryant's phone out of grave concern for her constituents. She has advocated for victims of sexual assault and introduced legislation aimed at protecting women and children. Congresswoman Mace is deeply alarmed about possible communicable diseases and the inability of DHEC to notify potential victims; She is gravely concerned about constituents who could be filmed without their knowledge or consent; she is troubled by the idea that tourist renting a short term rental known to record women without their knowledge or consent could also be filmed; she's

profoundly alarmed about minor children being recorded by Bryant and one of his business partners due to the images she personally discovered and witnesses and potential victims who have since come forward since her brave House Speech on February 10, 2025.

In direct response to what Congresswoman Mace experienced personally and also discovered, she has drafted more than a dozen pieces of federal legislation aimed at protecting women and children from sexual exploitation demonstrating the connection between this matter and her legislative duties. Congresswoman Mace views her service in Congress not as a political position but as a sacred duty to protect her constituents. When she discovered evidence of crimes against women and possibly children on Bryant's devices, she understood that her obligation extended beyond herself, to the other victims, to potential future victims, and to the women and children of South Carolina she is sworn to serve. Two weeks ago, through her federal office, and because of her public advocacy, Congresswoman Mace identified two more potential victims, one of whom identified the location of a second potential hidden camera.

In direct response to what Congresswoman Mace discovered, she has introduced the following federal legislation, which includes, but is not limited to: The Sue VOYEURS Act which creates a civil right of action for victims of voyeurism; the Stop VOYEURS Act which expands the very narrow criminal prohibition against video voyeurism at the federal level; H.R. 7567 which addresses deep fakes; the Violence Against Women by Illegal Aliens Act which would deport sex offenders, pedophiles and murderers here illegally; the Safe Shelters Act which prohibits sex offenders from entering or using the services of emergency shelters; the Rape Shield Enhancement Act to protect the privacy of rape victims; the Stop the Invasion of Women's Spaces Act which defunds any entity who allows an individual to use a single-sex facility that does not correspond to their biological sex; the Protecting Women's Private Spaces Act which prohibits people from using single-sex facilities on federal property

other than those corresponding to their biological sex; the Prison Rape Prevention Act which requires inmates to be housed based on their biological sex; the VANISH Act which addresses revenge porn; H.R. 8180 which increases the civil penalty for revenge porn in Violence Against Women Act from \$150k to \$500k; and, H.Res. 1579 which prohibits Members, officers, and employees of the U.S. House from using single-sex facilities other than those corresponding to their biological sex. This legislative record demonstrates that Congresswoman Mace's statements about the underlying events are inseparable from her official duties as a federal legislator.

Bryant filed a Third-Party Complaint against Mace, and Melissa Britton, on or about November 6, 2025, and an Amended Third-Party Complaint against the same on or about December 9, 2025, alleging claims including defamation, intentional infliction of emotional distress, conversion, invasion of privacy, civil conspiracy, and aiding and abetting criminal conduct. He asserts that Congresswoman Mace unlawfully accessed his phone, extracted private data, and has threatened to release materials publicly. Congresswoman Mace vehemently denies these allegations. Her phone access was authorized by Bryant personally and her subsequent actions were motivated by legitimate concerns about potential criminal conduct.

On November 26, 2025, the Court issued a *sua sponte* Gag Order prohibiting all parties, their agents, representatives, and attorneys from making or publishing any comment about any aspect of the case, commenting about any party or attorney, or publishing or sharing any materials related to the case. The Gag Order was initially limited to three weeks but, on December 18, 2025, was extended by the Court until it rules on Bryant's Motion for TRO/Injunction. Bryant filed his Motion for Temporary Restraining Order, approximately two years after Congresswoman Mace viewed images on his phone and reported its contents to law enforcement authorities.

SUMMARY OF ARGUMENT

The Court should vacate or substantially modify the Gag Order and deny Bryant's Motion for Temporary Restraining Order for the following reasons:

First, as currently drafted, the Gag Order constitutes an unconstitutional prior restraint on speech that violates the First Amendment. The Order was issued without the specific factual findings required by South Carolina law, is overly broad and not narrowly tailored to serve any legitimate government interest, fails to leave open alternative avenues of communication, and was issued without proper procedural safeguards. These constitutional deficiencies are particularly problematic for Congresswoman Mace, who, as an elected official, has a duty and responsibility to communicate with her constituents about matters of public concern.

Second, as currently drafted, the Gag Order violates the Speech or Debate Clause of the U.S. Constitution because it prevents Congresswoman Mace from performing core legislative functions. Congresswoman Mace has drafted and introduced more than a dozen bills in direct response to the underlying events of this case. Discussion, explanation, and advocacy for the necessity and adoption of this legislation are protected legislative act. The Speech or Debate Clause protects communications that are integral to the legislative process, including discussions about how personal experiences inform legislative acts. A state court cannot gag a federal legislator on matters directly connected to pending federal legislation. Additionally, the Westfall Act may provide immunity for actions taken within the scope of her official duties.

Third, Bryant's Motion for Temporary Restraining Order should be denied because he has failed to establish the requirements for such extraordinary relief under South Carolina law. Bryant has not demonstrated immediate, irreparable harm, his two-year delay in seeking relief undermines any claim of urgency. He is unlikely to succeed on the merits given the fact

that Bryant gave Congresswoman Mace express permission to access his phone, wherein she recorded the conversation giving her permission. Bryant has adequate remedies at law through his existing claims for monetary damages. Moreover, the requested TRO would constitute an impermissible prior restraint on speech protected by the First Amendment.

Fourth, Bryant's Motion is barred by the doctrine of laches. His unreasonable two-year delay in seeking injunctive relief, during which Congresswoman Mace has built her political campaign and public persona around advocacy for victims of sexual assault, has materially prejudiced her. Equity should refuse to enforce Bryant's rights through the extraordinary remedy of a temporary restraining order under these circumstances.

Fifth, Bryant's Motion is barred by the doctrine of unclean hands. A court in this circuit has already sanctioned Bryant for litigation abuse in a related proceeding targeting Congresswoman Mace. A party who has been found to have abused the judicial process should not be allowed to seek equity's aid.

Finally, Bryant's Renewed Motion for In Camera Review should also be denied. The materials Bryant seeks are in law enforcement's custody after Congresswoman Mace turned them over to SLED in December 2023. Furthermore, Bryant possesses the very materials he asks this Court to protect in an in-camera review. Bryant needs no judicial intervention to secure what is already in his possession. Bryant is not seeking to recover something he lost, he is seeking to silence his accusers and victims. Bryant has not demonstrated entitlement to extraordinary judicial review of materials held by a third party, and adequate discovery mechanisms exist through which he may pursue these materials through proper channels.

ARGUMENT

I. THE GAG ORDER VIOLATES THE FIRST AMENDMENT AS AN UNCONSTITUTIONAL PRIOR RESTRAINT ON SPEECH

A. Legal Framework for Analyzing Prior Restraints on Speech

The First Amendment to the United States Constitution and Article I, Section 2 of the South Carolina Constitution prohibit laws that abridge the freedom of speech. S.C. Const. Ann. Art. I, § 2; U.S. Const. amend. I. While the right to freedom of speech is not absolute, any restriction on this fundamental right must satisfy strict constitutional requirements.

Courts have recognized that prior restraints on speech—restrictions imposed before speech occurs are particularly disfavored under the First Amendment. *Neb. Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976). Prior restraints bear "a heavy presumption against [their] constitutional validity." *N.Y. Times Co. v. United States*, 403 U.S. 713, 714 (1971). The Gag Order at issue directly enjoins the parties, including Congresswoman Mace, from speaking on matters of public concern, and matters of public concern for her constituents and her legislation, and therefore constitutes a prior restraint on speech.

South Carolina courts apply a four-prong test to evaluate government regulations challenged under the First Amendment. A regulation will be valid only if it: (1) is within the constitutional power of the government; (2) furthers an important or substantial government interest; (3) the governmental interest is unrelated to the suppression of free expression; and (4) the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest. *City of Beaufort v. Baker*, 315 S.C.146, 432 S.E.2d 470 (1993). *U.S. v. O'brien*, 396 U.S. 367 (1968).

B. The Gag Order Lacks the Specific Factual Findings Required by South Carolina Law

South Carolina courts have consistently required that any decision to restrict public access to court proceedings or to limit the speech of parties must be supported by specific factual findings. The South Carolina Supreme Court has "strictly applied this constitutional requirement that courts be open to the public and the press" and has held that "the decision of a judge to close any proceeding must be supported by findings which explain the balancing of

interests and the need for closure of the proceeding." *Ex parte Island Packet*, 308 S.C. 198, 417 S.E.2d 575 (1992).

In *Ex parte Columbia Newspapers, Inc.*, the court vacated an order closing a transfer hearing because the family court judge "erred in failing to make specific findings that closure was necessary to protect the rights of the juveniles charged with murder." 286 S.C. 116, 333 S.E.2d 337 (1985). The court held that a "conclusory statement that opening the proceedings to the public would have an adverse effect upon the chances of rehabilitation of the juveniles is not a sufficient finding." *Id.*

Here, the Court issued the Gag Order without a motion from any party and without making specific factual findings beyond a general statement about ensuring fair proceedings. This conclusory statement is insufficient to justify such a broad restriction on speech. The Court failed to explain why less restrictive alternatives would not adequately protect the integrity of the judicial process or to balance the competing interests at stake. The procedural posture of this case compounds the constitutional deficiency. On December 18, 2025, the Court extended the Gag Order indefinitely "until there is a ruling on Bryant's Motion for TRO/Injunction." This creates an untenable situation: Congresswoman Mace is silenced pending resolution of the very motion she is opposing. She cannot publicly advocate against the restrictions on her speech while those restrictions remain in force. This procedural arrangement effectively prejudices the merits by imposing the requested relief before the motion is decided, placing the constitutional burden on the wrong party. It is Bryant who should bear the heavy burden of justifying a prior restraint, not Congresswoman Mace who must argue for her First Amendment rights while gagged.

C. The Gag Order Is Overbroad and Not Narrowly Tailored

The Gag Order prohibits all parties, their agents, representatives, and attorneys from "making or publishing any comment about any aspect of this case" via any form of

communication. This sweeping prohibition is not narrowly tailored to serve any legitimate government interest.

Under South Carolina law, a regulation that "sweeps broadly without any interest-related purpose for that sweep" burdens substantially more speech than necessary to accomplish its purpose. *Video Gaming Consultants, Inc., v. South Carolina Dept. of Rev.*, 342 S.C. 34, 535 S.E.2d 642 (2000). The Gag Order here prohibits all speech about "any aspect" of the case, rather than focusing on specific categories of harmful disclosures that might actually threaten the fairness of the proceedings.

When evaluating restrictions on access to information, courts consider numerous factors including: the public interest in the proceeding; the private or public status of the litigants; whether release would enhance the public's understanding of an important event; and whether a particular decision will sustain or offend the fundamental interests of public access. *Ex parte The Greenville News*, 326 S.C. 1, 482 S.E.2d 556 (1997). The Gag Order as written fails to consider these factors. The public has a significant interest in this case, particularly given that it involves a sitting U.S. Congresswoman, a candidate for Governor, and the protection of the public from criminal conduct.

D. The Gag Order Fails to Leave Open Alternative Avenues of Communication

Content-neutral restrictions on speech must "allow for adequate alternative avenues of communication." *Greenville Bistro, LLC v. Greenville Cnty*, 435 S.C. 146, 866 S.E.2d 562 (2021). The Gag Order prohibits "making or publishing any comment about any aspect of this case" via any form of communication. This absolute prohibition leaves no alternative avenues for Congresswoman Mace to communicate to her constituents about how the events of this case informed her Congressional priorities, legislation and advocacy to protect her constituents from further potential criminal acts.

This is particularly problematic given Congresswoman Mace's position as a public official and candidate for Governor. The First Amendment recognizes that debate on public issues and about policymakers "should be uninhibited, robust, and wide-open." *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964); *Cruce v. Berkeley Cnty. Sch. Dist.*, 442 S.C. 1, 22, 896 S.E.2d 50, 61 (2024). The Gag Order prevents Congresswoman Mace from communicating with her constituents or others about a matter of public concern, which strikes at the heart of the First Amendment's protection of political speech.

Congresswoman Mace is currently a candidate for Governor of South Carolina in an election which is only a matter of months away. The Gag Order not only deprives Congresswoman Mace's constituents, but it deprives South Carolina voters of information directly relevant to their electoral decision-making. The First Amendment protections are at their zenith when political speech and electoral accountability are at stake.

E. Constituent Communications are Protected by the First Amendment

The breadth of the Gag Order, as written, creates First Amendment issues for Congresswoman Mace communicating with her constituents. Congresswoman Mace's Public statements are not collateral to her legislative duties, they are part of her legislative responsibilities. The Constitution vests Congress with both lawmaking and informing functions. When Congresswoman Mace explains to the public why she has introduced legislation protecting victims of sexual exploitation, she is performing a core congressional role. The materials she discovered are not merely evidence in a civil lawsuit or criminal investigation, they are the factual predicate for pending federal legislation. Silencing her about those materials silences her about her own legislation and violates her First Amendment Rights.

II. THE GAG ORDER, AS WRITTEN, VIOLATES THE SPEECH OR DEBATE CLAUSE OF THE U.S. CONSTITUTION

A. The Speech or Debate Clause Protects Legislative Acts

The Speech or Debate Clause of the U.S. Constitution provides that members of Congress "for any Speech or Debate in either House, . . . shall not be questioned in any other Place." U.S. Const. art. I, § 6, cl. 1.

The heart of the Speech or Debate Clause is speech or debate in either House of Congress. *Gravel v. United States*, 408 U.S. 606, 625 (1972). However, courts have consistently extended the scope of the protection afforded to include matters that are "an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House." *Id.* at 625; *see also Lockaby v. City of Simpsonville*, 440 S.C. 156, 168, 889 S.E.2d 826, 833 (Ct. App. 2023) (discussing the scope of legislative immunity).

B. The Gag Order Impermissibly Restricts Congresswoman Mace's Protected Legislative Acts

The Gag Order broadly prohibits "making or publishing any comment about any aspect of this case" without any exception for constitutionally protected legislative activities, such as speech on the House Floor and at Committee hearings. Such speech is absolutely protected by the Clause. The Gag Order's sweeping prohibition on such speech directly impairs Congresswoman Mace's ability to discuss legislation she has drafted, introduced and advocated for in response to discovering the potential criminal conduct and witnessing firsthand the lack of rights and protections afforded to victims of such conduct.

The direct connection between facts in the underlying litigation and Congresswoman Mace's legislative agenda brings statements related to the litigation within the sphere of protected legislative activity. When Congresswoman Mace discusses how her experience in

this matter informed her legislative initiatives, she is engaging in communication that is integral to the deliberative and communicative process of legislating. Preventing her from making these connections impairs her ability to explain the purpose and advocate for the necessity of her proposed legislation to her congressional colleagues, but also to her constituents, and the public.

Additionally, as a member of the House Oversight Committee, Congresswoman Mace has oversight responsibilities that may intersect with the matters at issue in this case. Congressional oversight functions are also protected legislative acts. The Court should not assume that a state court gag order can restrict a Member of Congress's ability to perform constitutionally assigned duties.

Congresswoman Mace has drafted more than a dozen pieces of legislation in direct response to what she discovered, including, but not limited to the STOP Voyeurs Act and the SUE Voyeurs Act. These are not abstract policy proposals, they are concrete legislative responses to specific conduct she discovered. Her ability to advocate for these bills requires explaining the underlying acts and information that prompted them.

C. The Westfall Act May Provide Additional Protection

The Federal Employees Liability Reform and Tort Compensation Act of 1988, commonly known as the Westfall Act, provides federal employees with immunity from common law tort claims brought against them in their personal capacity for acts performed within the scope of their employment. 28 U.S.C. § 2679. Several of Congresswoman Mace's actions could potentially be considered within the scope of her employment as a Congresswoman, including investigating potential criminal conduct related to her legislative work on protecting victims and turning over evidence to law enforcement as a public official's duty to report potential criminal activity. *See Stewart v. State Crop Pest Comm'n*, 307 S.C. 133, 137, 414 S.E.2d 137, 139 (1992) (discussing the Westfall Act's protections).

III. BRYANT'S MOTION FOR TEMPORARY RESTRAINING ORDER SHOULD BE DENIED

A. Legal Standard for Temporary Restraining Orders in South Carolina

Under South Carolina law, a temporary restraining order is "a drastic remedy issued by the court in its discretion to prevent irreparable harm suffered by the plaintiff." *Scratch Golf Co. v. Dunes W. Residential Golf Props.*, 361 S.C. 117, 121, 603 S.E.2d 905, 907 (2004). A preliminary injunction should issue only if necessary to preserve the status quo ante, and only upon a showing by the moving party that: (1) without such relief it will suffer irreparable harm; (2) it has a likelihood of success on the merits; and (3) there is no adequate remedy at law. *Poynter Invs. v. Century Builders of Piedmont*, 387 S.C. 583, 586, 694 S.E.2d 15, 17 (2010); *Hook Point, LLC v. Branch Banking & Tr. Co.*, 397 S.C. 507, 512, 725 S.E.2d 681, 684 (2012).

Additionally, the balancing of equities is subsumed within the irreparable harm and inadequate remedy at law components of this test. *Poynter Invs.*, 387 S.C. at 586, 694 S.E.2d at 17. A preliminary injunction "rests within the sound discretion of the trial judge and will not be overturned unless the order is clearly erroneous." *Jennings-Dill, Inc. v. Israel*, 442 S.C. 98, 105, 897 S.E.2d 201, 204 (Ct. App. 2024). As demonstrated below, Bryant fails to establish any of the required elements.

Finally, Bryant seeks a restraining order against Congresswoman Mace while the record will reflect numerous documented instances of his harassment and stalking of her. The equities do not favor granting emergency protection to the party who has engaged in a pattern of harassment and conduct towards the very person he claims to fear.

B. Bryant Cannot Demonstrate Immediate, Irreparable Harm

Bryant's motion for a temporary restraining order comes approximately two years after Mace discovered the subject photos and video on Bryant's phone in November 2023.

This substantial delay directly contradicts any claim of immediate, irreparable harm. Pursuant to Rule 65(b), a temporary restraining order may be issued without notice only where "it clearly appears from specific facts shown by affidavit or by verified complaint that immediate or irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had thereon." Rule 65(b), SCRCP.

Bryant's claim of irreparable harm is further undermined by the discovery record in this case. Plaintiff Alexis Berg, the alleged victim whose interests Bryant now purports to protect, has admitted in her discovery responses that she has never seen the alleged video, does not possess it, and has only a single screenshot in her possession. (See Plaintiff's Responses to Defendant's First Set of Interrogatories and Requests for Production, dated November 16, 2025.) If the plaintiff herself cannot identify or produce the materials Bryant seeks to restrain, his assertion that their imminent release will cause him irreparable harm is speculative at best.

Moreover, Bryant seeks emergency relief to prevent the release of materials that have already been the subject of extensive public discussion for nearly a year. Congresswoman Mace has spoken publicly about these materials since February 2025, and screenshots from the alleged assault were published with Plaintiff Berg's express consent. Bryant cannot now claim urgency to prevent disclosure of information that has been in the public sphere for months.

Bryant's claim of irreparable harm is further undermined by his own conduct. A party who has initiated numerous documented incidents of harassment and stalking cannot credibly claim he will suffer immediate, irreparable injury absent judicial intervention. Some of Bryant's harm toward Mace include multiple incidents of physical assault which she has documented. His actions demonstrate that he does not genuinely fear Congresswoman Mace, instead, he seeks to silence her.

Bryant's claims of reputational harm are precisely the type of injuries that can be adequately compensated through monetary damages in his already-filed claims for defamation, intentional infliction of emotional distress, and invasion of privacy. Furthermore, one of the primary limitations placed on the right of privacy is that it does not prohibit the publication of matter which is of legitimate public or general interest. *Burton v. York Cty. Sheriff's Dep't*, 358 S.C. 339, 346, 594 S.E.2d 888, 892 (Ct. App. 2004); *Meetze v. Associated Press*, 230 S.C. 330, 335, 95 S.E.2d 606, 609 (1956).

C. Bryant Has Not Demonstrated a Likelihood of Success on the Merits

Bryant has not demonstrated a likelihood of success on his conversion claim, as he provides no evidence that Mace "hacked" his phone. Without such evidence, Bryant cannot establish the wrongful taking element necessary for conversion. Moreover, if the materials contain evidence of criminal activity, as Mace claims, she had a legal right to turn them over to law enforcement, which she did in December 2023.

Additionally, as a sitting U.S. Congresswoman and candidate for governor, Mace has a constitutional right to speak on matters of public concern, particularly those involving potential criminal conduct. The First Amendment recognizes that issues of public policy and core government functions, such as law and order, are "so essential to democracy that public debate about them and their policymakers should be unchecked," except where the speech is knowingly false or uttered with reckless disregard of its truth or falsity. *Cruce*, 442 S.C. at 22, 896 S.E.2d at 61.

D. Bryant Has an Adequate Remedy at Law

Bryant has already filed claims for defamation, intentional infliction of emotional distress, conversion, invasion of privacy, and civil conspiracy against Mace. These claims, if successful, would provide monetary compensation for any proven harm. The existence of

these alternative remedies demonstrates that Bryant has an adequate remedy at law, which precludes the issuance of a temporary restraining order.

E. The Balance of Equities and Public Interest Favor Mace

The balance of equities in this case strongly favors Mace. As a sitting U.S. Congresswoman and candidate for governor, Mace has a constitutional right to speak on matters of public concern, especially those involving potential criminal conduct. Restricting her speech would infringe upon her constitutional rights and potentially deprive the public of information relevant to their voting decisions.

The public has a strong interest in being informed about potential criminal conduct, particularly when it involves allegations of sexual assault. "At some point, the public interest in obtaining information becomes dominant over the individual's desire for privacy." *Meetze*, 230 S.C. at 335, 95 S.E.2d at 609. Bryant's involvement in a lawsuit alleging sexual assault places him within the category of persons who have become actors in events of public interest. *Burton*, 358 S.C. at 346, 594 S.E.2d at 892.

Moreover, Bryant comes before this court seeking extraordinary equitable relief while his own litigation conduct has already been sanctioned by another court in the circuit. On October 30, 2025, Judge Rode issued a final sanctions Order in *GLT2, LLC v. Jane Doe*, Case No.: 2025-CP-10-00981, Finding that Bryant, through a fictitious company that he created 10 days after Congresswoman Mace's February 10, 2025, floor speech, engaged in unauthorized discovery tactics that violated rules 11 and 27, SCRCP. The court found Bryant's counsel conducted 'secret discovery' designed to be 'undetectable' and ordered sanctions totaling over \$48,000.00. A party who has been sanctioned for abusing court processes should not be rewarded with the extraordinary remedy of a temporary restraining order

IV. BRYANT'S MOTION IS BARRED BY LACHES DUE TO HIS UNREASONABLE DELAY IN SEEKING RELIEF

A. The Doctrine of Laches Under South Carolina Law

Under South Carolina law, laches is an equitable doctrine defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." *Robinson v. Estate of Harris*, 388 S.C. 645, 653, 698 S.E.2d 229, 233 (2010). The doctrine operates as a defense when "a party, knowing his rights, does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position." *King v. James*, 388 S.C. 16, 22, 694 S.E.2d 35, 38 (Ct. App. 2010).

To establish laches, a party must demonstrate three elements: (1) a delay, (2) that was unreasonable under the circumstances, and (3) prejudice. *Strickland v. Strickland*, 375 S.C. 76, 85, 650 S.E.2d 465, 470 (2007). The court is vested with wide discretion in determining what constitutes an unreasonable delay. *Chambers of S.C., Inc. v. Cty. Council*, 315 S.C. 418, 422, 434 S.E.2d 279, 281 (1993).

B. Bryant's Two-Year Delay in Seeking Injunctive Relief

The first element of laches, delay, is clearly established. Bryant admits that Congresswoman Mace obtained the materials from his phone in November 2023, yet he did not file his Motion for Temporary Restraining Order until November 2025, a delay of approximately two years. This substantial period of inaction satisfies the first prong of the laches analysis.

Equity aids the vigilant, not those who sleep on their rights. Bryant watched silently for two years as congresswoman Mace spoke about her trauma, built her public advocacy, and her legislative agenda around these issues. Having allowed her to rely on his inaction, he cannot now claim entitlement to emergency relief. Bryant can't sleep on his rights for two years and then all of a sudden claim urgency.

C. Bryant's Delay Was Unreasonable Under the Circumstances

Bryant knew that Congresswoman Mace possessed the materials from his phone as early as November 2023. He was aware that she turned these materials over to the U.S.A., the FBI, the Capitol Police, and SLED in December 2023. Most significantly, throughout this two-year period, Mace has been publicly discussing the content of these materials as part of her advocacy for victims. Despite these clear and ongoing actions, Bryant inexplicably waited two years before seeking emergency injunctive relief.

South Carolina courts have emphasized that "in order to charge a party with laches in the assertion of an alleged right, the party charged must have had knowledge of the facts upon which the claim is based." *Timms v. Timms*, 290 S.C. 133, 137, 348 S.E.2d 386, 388 (Ct. App. 1986). Bryant indisputably had knowledge of all relevant facts—Mace's possession of the materials, her disclosure to law enforcement, and her public statements about their content—yet he failed to act with reasonable diligence.

D. Congresswoman Mace Has Been Materially Prejudiced by Bryant's Delay

The third element requires prejudice to the party asserting the defense. Prejudice may occur when a party has "incurred expenses or entered into obligations or otherwise detrimentally changed his position." *Mack v. Edens*, 306 S.C. 433, 436, 412 S.E.2d 431, 432 (Ct. App. 1991).

Congresswoman Mace has suffered precisely this type of material prejudice. During the two years that Bryant remained silent, Mace has built her political campaign and public persona around her advocacy for victims of sexual assault, including her public statements about the materials she allegedly discovered on Bryant's phone. She has made these issues central to her campaign for governor and her legislative work as a Congresswoman. Granting a TRO at this late stage would unfairly silence Congresswoman Mace on matters that have become fundamental to her public service and political identity.

V. BRYANT'S MOTION IS BARRED BY THE DOCTRINE OF UNCLEAR HANDS

A party seeking equitable relief must come to the court with clean hands. "He who comes into equity must come with clean hands, and he who has done inequity shall not have equity." *Jefferson Standard Life Ins. Co. v. Hydrick*, 143 S.C. 127, 141 S.E. 278 (1928). The unclean hands doctrine bars relief when the party seeking equity has engaged in inequitable conduct related to the subject matter of the litigation.

Bryant's hands are far from clean. On October 30, 2025, Judge Rode issued a final sanctions Order in *GLT2, LLC v. Jane Doe*, Case No.: 2025-CP-10-00981, finding that Bryant, through a fictitious company that he created 10 days after Congresswoman Mace's February 10, 2025, floor speech, engaged in unauthorized discovery tactics that violated rules 11 and 27, SCRPC. The court found Bryant's counsel conducted 'secret discovery' designed to be 'undetectable' and ordered sanctions totaling over \$48,000.00.

Bryant now asks this court for the extraordinary equitable remedy of a temporary restraining order, against the same person he was secretly investigating through improper means. A party who has been sanctioned for abusing judicial processes and related litigation cannot claim entitlement to equity's aid. The doctrine of unclean hands bars his request.

Bryant's inequitable conduct extends beyond litigation abuse. Congresswoman Mace has documented numerous instances of harassment and stalking by Bryant. He cannot credibly seek the court's protection while engaging in the very conduct he purports to fear from others.

VI. BRYANT'S RENEWED MOTION FOR IN CAMERA REVIEW SHOULD BE DENIED

Bryant renews his Motion for In Camera Review of the alleged assault video, arguing that the Court should compel its production and review because Plaintiff Berg admits she has never seen it and does not possess it. This motion should be denied for several reasons.

A. The Materials Are in Law Enforcement Custody

Congresswoman Mace turned over the materials she discovered to the South Carolina Law Enforcement Division (SLED) in December 2023. These materials are now part of an ongoing or potential law enforcement investigation. Congresswoman Mace does not have unfettered authority to produce materials that are in SLED's custody, nor would it be appropriate for her to do so while a potential criminal investigation remains pending. Bryant's proper avenue for obtaining these materials, if they exist, is through appropriate legal process directed at SLED—not through this Court's compulsion of a third-party defendant.

B. The Existence and Content of the Video Remain Disputed

Bryant's motion assumes the existence of a video depicting what he characterizes as his "private sexual activities" with women other than Plaintiff Berg. Congresswoman Mace contends the materials depict evidence of criminal conduct. This fundamental factual dispute cannot be resolved through an in-camera review at this stage of the litigation. The proper mechanism for resolving such disputes is through discovery, with appropriate protective orders if warranted, not through extraordinary judicial intervention.

C. Bryant Has Not Demonstrated Entitlement to This Relief

Bryant offers no legal authority establishing his entitlement to in camera judicial review of materials held by a third party and potentially in law enforcement custody. His motion is premised on the assumption that he has a right to control materials allegedly taken from his phone—the very issue in dispute in this litigation. The Court should not grant extraordinary relief based on Bryant's unproven allegations that Congresswoman Mace unlawfully obtained these materials.

D. Adequate Discovery Mechanisms Exist

The South Carolina Rules of Civil Procedure provide adequate mechanisms for obtaining relevant evidence through discovery. Bryant may serve discovery requests,

subpoena SLED for materials in its possession, or seek appropriate court intervention if discovery disputes arise. In camera review is not a substitute for the ordinary discovery process, particularly where, as here, the materials at issue are the subject of contested claims and may be in the custody of law enforcement.

CONCLUSION

For the foregoing reasons, Third-Party Defendant Nancy Ruth Mace respectfully requests that this Court:

1. Deny Defendant Patrick Bryant's Motion for Temporary Restraining Order in its entirety;
2. Deny Defendant Patrick Bryant's Renewed Motion for In Camera Review;
3. Vacate the Court's *sua sponte* Gag Order or, in the alternative, modify it to narrowly tailor any speech restrictions consistent with the First Amendment and the Speech or Debate Clause, including explicit exemptions for Ms. Mace's legislative and political communications; and,
4. Grant such other and further relief as the Court deems just and proper.

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