

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

Joseph M. Plaxco,  
Plaintiff,  
v.

Paul Hulse, Cherie Durand, Kimberly  
Thomason, Devon Puriefoy, Desa  
Ballard, Mayra Michalski, Luis  
Michalski, John & Jane Does 1-14,  
Defendants.

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT

**C.A. No. 2024-CP-23-03329**

**ORDER AND FINAL JUDGMENT**

This matter is before this Court as one of the damages hearings heard during the week of January 12, 2026. The hearing for Plaintiff Joseph M. Plaxco commenced on January 14, 2026. Based on the record and evidence presented, the Court makes the following findings of fact and conclusions of law:

**I. STATEMENT OF FACTS**

As Defendants Paul Hulse, Cherie Durand, Kimberly Thomason, Devon Puriefoy, Desa Ballard, Mayra Michalski, and Luis Michalski (collectively "Defendants") failed to timely file an Answer to the Amended Complaint, the facts as alleged in the Amended Complaint and restated below are admitted.

On May 17, 2024, Defendants transmitted a letter to at least Mr. Joseph Plaxco, Jennifer Browning, Browning Geriatrics, Tracy Parsons, Trey Suggs, Frank Plaxco, William Fore, Bon Secours Health System, Inc., St. Francis Physician Services, Inc., Tyler O'Shield, Carrie Woodall, and R. O'Neil Rabon ("Defamatory Letter"). Defendants accused Mr. Plaxco and the other recipients of the letter of participating in a scheme to defraud Defendants' clients in violation of the Racketeer Influenced and Corrupt

Organizations Act, 18 U.S.C. § 1962, et. seq. (“RICO”). Defendants accused Mr. Plaxco of engaging in a “Sham Probate Enterprise” consisting of a “pattern of racketeering activity.” Defendants also accused Mr. Plaxco of engaging in “multiple, repeated, and continuous” acts of mail fraud, wire fraud, and extortion as well as violations of South Carolina common law. Defendants alleged Mr. Plaxco committed these crimes through “comprehensive, multiple and inter-related schemes to deceive and defraud” which they asserted can generally be understood as Mr. Plaxco “knowingly self-dealing while committing fraud in the creation or administration of probated estates, settlements, trust agreements and property transactions while ignoring conflicts of interest and committing extortion. . .” Further, Defendants stated Mr. Plaxco’s “use of the court system to advance the racketeering scheme is particularly egregious” because “it victimized the entire judicial system, impacts the administration of justice across the board and undermines the integrity of the legal process for everyone.”

Strikingly, the Defamatory Letter widely published by Defendants also announced that the Defendants were “aware of the serious nature of the charges and the impact they may have upon [the recipients] business operations[.]”

Mr. Plaxco commenced this lawsuit against Defendants for libel, libel *per se*, abuse of process, intentional infliction of emotional distress/outrage, intentional interference with prospective contracts/business relations, civil conspiracy, and a declaratory judgment. Defendants’ liability for these claims is established as a result of the entry of default against them.

## II. PROCEDURAL HISTORY

On May 17, 2024, Defendants transmitted the Defamatory Letter, accusing Mr. Plaxco of committing various federal crimes as well as violations of South Carolina law. On May 29, 2024, Mr. Plaxco filed a Summons and Complaint against Defendants in the Greenville County Court of Common Pleas for South Carolina. Thereafter, on July 22, 2024, Mr. Plaxco filed an Amended Complaint against Defendants asserting claims for libel, libel *per se*, abuse of process, intentional infliction of emotional distress/outrage, intentional interference with prospective contracts/business relations, civil conspiracy, and a declaratory judgment. Defendants were duly served and timely filed motions to dismiss pursuant to Rule 12 of the South Carolina Rules of Civil Procedure (“SCRCP”). On October 3, 2024, Judge Salvini issued Form 4 Orders denying Defendants’ respective motions to dismiss. On October 14, 2024, Defendants filed a Motion to Alter or Amend Judgment under Rule 59(e), SCRCP. On October 29, 2024, Judge Salvini issued an Initial Order regarding Defendants’ Motion to Alter or Amend Judgment under Rule 59(e), SCRCP, which established that the motion would be decided on written submissions and set the deadlines for the same. Defendants’ Answers to Mr. Plaxco’s Amended Complaint were due on October 18, 2024. However, Defendants did not file their Answers until November 12, 2024.

On October 28, 2024, counsel for Mr. Plaxco filed an affidavit requesting the Court enter default against the Defendants under Rule 55, SCRCP. On November 4, 2024, Defendants filed a Petition to the Chief Justice of the South Carolina Supreme Court seeking the recusal of Judge Salvini. On November 12, 2024, Mr. Plaxco filed a motion for default judgment pursuant to Rule 55(b) and requested a damages hearing. On November 18, 2024, the Defendants filed their Objection and Motion to Set Aside Entry

of Default. On November 27, 2024, the Court denied Defendants' Motion to Alter or Amend Judgment under Rule 59(e). On December 27, 2024, Defendants filed an appeal of Judge Salvini's order with an amended appeal following on December 30, 2024. The South Carolina Court of Appeals dismissed the appeal on January 6, 2025. On January 16, 2025, Defendants filed a Motion to Reinstate the Appeal which was subsequently denied on April 17, 2025. On February 11, 2025, Defendants filed a Supplemental Petition to the Chief Justice of the South Carolina Supreme Court. Finally, on February 13, 2025, the Chief Justice issued an Order assigning this matter and the other related matters (*Rabon v. Hulsey*, Case No: 2024CP2303236; *Jennings v. Hulsey*, Case No.: 2024CP2303271; *Suggs v. Hulsey*, Case No.: 2024CP2303258; *Browning v. Hulsey*, Case No.: 2024CP2303730) to the undersigned for further handling.

On April 4, 2025, this Court issued a Form 4 Order granting Plaintiffs' Motion for Entry of Default and denying Defendants' Motion to Set Aside the Entry of Default with a more fulsome written Order following on April 17, 2025. On April 28, 2025, Defendants filed a Motion for Reconsideration and to Alter or Amend this Order. On July 10, 2025, Defendants filed a Motion for Judgment on the Pleadings or in the Alternative for a Stay. On July 30, 2025, Defendants filed a Motion to Bifurcate these proceedings.

Finally, on December 8, 2025, this Court scheduled the damages hearing to begin the week of January 12, 2026, and to hear all outstanding motions on Monday, January 12, 2026.

### **III. EVIDENCE PRESENTED**

Mr. Plaxco presented evidence of his damages through testimonial and physical evidence. Beginning with the testimonial evidence, Mr. Plaxco presented the following

three witnesses: Lee Nanney (“Mr. Nanney”), Chuck Marchbanks (“Mr. Marchbanks”), and Mr. Plaxco, himself.

Mr. Nanney is a licensed attorney who formerly practiced law in Greenville County before choosing to engage in other business pursuits. He has been a friend and colleague of Mr. Plaxco for more than five (5) years and participated in the same recovery program with Mr. Plaxco on a near daily basis. He testified how he and Mr. Plaxco developed a close personal friendship outside of their recovery program, seeing each other and otherwise communicating frequently. Mr. Nanney testified as to Mr. Plaxco’s significant growth, both personally and professionally, following his decision to enter recovery, and how these false accusations impacted that trajectory. Mr. Nanney testified regarding how false accusations contained in the Defamatory Letter deeply affected, and consumed, Mr. Plaxco, harming Mr. Plaxco’s personal and professional life.

Mr. Marchbanks, of Marchbanks Law Firm, LLC, is an established attorney who has practiced law in the State of South Carolina for nearly twenty (20) years. Mr. Marchbanks represents plaintiffs in civil, family, criminal, and probate matters, and, in a number of instances, on the opposing side of Mr. Plaxco. Mr. Marchbanks testified regarding his knowledge of Mr. Plaxco and Mr. Plaxco’s reputation within the legal community, including his personal experiences with Mr. Plaxco which evidenced Mr. Plaxco’s trustworthiness and integrity. Mr. Marchbanks further testified to the critical importance of a lawyer’s reputation, including the impact reputational harm can have on a lawyer’s career, ability to attract and retain clients, and working relationships with other attorneys. He testified that he heard about the letter from a third party not named in the Defamatory Letter. He also testified based on his personal knowledge that the

accusations against Mr. Plaxco and others named in the Defamatory Letter were the “buzz” of the Greenville Bar. Mr. Marchbanks testified regarding the devastating effects that such accusations would have on the reputation of a lawyer.

Finally, Mr. Plaxco testified regarding his educational background and legal career. Mr. Plaxco is a sole practitioner at Joseph M. Plaxco, LLC, where his practice focuses on estate litigation, probate administration, estate planning, guardianships and conservatorships, and real property litigation. He testified that his firm does not advertise and receives most of its work via referrals, appointments, and repeat clients. Mr. Plaxco testified as to the professional recognition he has received within the legal community.

Mr. Plaxco testified concerning his role in the Michalski matter ostensibly referenced in the Letter. Mr. Plaxco also testified regarding the Defamatory Letter, the falsity of the accusations contained therein, and the impact of the Letter on him personally, to include the impact on his health and recovery. He further testified concerning the impact of the Defamatory Letter on him professionally. He also testified regarding media publications associated with the Defamatory Letter, including an article published by an international newspaper, the Epoch Times.

Lastly, Mr. Plaxco testified regarding the damages he has incurred as a result of the Defamatory Letter and this litigation. He testified that his damages include economic losses consisting of lost billable time and a decrease in revenue from lost referrals and cases from other attorneys. As to the lost cases, he testified that he was not able to accept certain types of cases, such as contested guardianship/conservatorship matters and receivership appointments, because of the false allegations spread by Defendants and to reduce the risk of exacerbating the reputational harm caused by the same, as well as to

protect potential clients from harm associated with the Defendants targeting him and other probate practitioners. He testified that, based on conservative estimates, his economic damages total approximately \$132,471.00. Mr. Plaxco is also seeking \$5,000,000 in noneconomic damages, which are those that the law presumes for an accusation of the commission of a felony in written correspondence.

This Court also considered the following exhibits which were entered as evidence in the case: (1) Michalski Defamatory Letter; (2) Affidavit of Records Custodian for Piedmont Psychiatric Services; (3) Medical Records for Mr. Plaxco from Piedmont Psychiatric Services dated June 5, 2024; (4) Medical Records for Mr. Plaxco from Piedmont Psychiatric Services dated July 8, 2024; (5) Medical Records for Mr. Plaxco from Piedmont Psychiatric Services dated August 20, 2024; (6) Epoch Times Article dated February 24, 2025; (7) Echo Media Profile on the Epoch Times; (8) Itemization of Known Economic Damages; and (9) Deposition Testimony of Desa Ballard, Kim Thomason, Devon Puriefoy, and Cherie Durand, and the exhibits marked or used therein.

#### **IV. LEGAL AUTHORITY**

“It is well settled that by suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff’s allegations and to have conceded liability.” *Roche v. Young Bros., Inc., of Florence*, 332 S.C. 75, 81, 504 S.E.2d 311, 314 (1998). “In a default case, the plaintiff must prove by competent evidence the amount of his damages, and such proof must be by a preponderance of the evidence.” *Jackson v. Midlands Human Res. Ctr.*, 296 S.C. 526, 529, 374 S.E.2d 505, 506 (Ct. App. 1988). However, in an action for libel per se, common law malice and general damages are presumed. *Erickson v. Jones Street Publishers, LLC*, 368 S.C. 444, 629 S.E.2d 653, 664 (2006); see also *Kunst*

*v. Loree*, 424 S.C. 24, 39, 817 S.E.2d 295, 302–03 (Ct. App. 2018) (“When a defamatory statement is actionable per se, the plaintiff need not prove general damages—as these damages are presumed—and the defendant is presumed to have acted with common law malice.”). Such presumed damages include injury to reputation, mental suffering, hurt feelings, and “similar injuries, incapable of definite money valuation.” *Whitaker v. Sherbrook Distrib. Co.*, 189 S.C. 243, 246, 200 S.E. 848, 849 (1939); see also *Capps v. Watts*, 272 S.C. 276, 281, 246 S.E.2d 606, 609 (1978); *Lily v. Belk’s Dept Store*, 178 S.C. 278, 284, 182 S.E. 889, 891 (1935). Damages may extend into the future and may be permanent. See *Abofreka v. Alston Tobacco Co.*, 288 S.C. 122, 126, 341 S.E. 2d 622, 625 (1986).

Under South Carolina law, a defamation plaintiff must demonstrate clear and convincing evidence of actual malice to warrant an award of punitive damages. *Tharp v. Media General, Inc.*, 987 F. Supp. 2d 673 (D.S.C. 2013) citing *Hainer v. Am. Med. Int’l, Inc.*, 328 S.C. 128, 135, 492 S.E.2d 103, 107 n.8 (1997) (“We remind trial judges that in cases in which the issue of punitive damages is submitted to the jury, there must be clear and convincing evidence of actual malice to warrant such an award.”); see also S.C. Code Ann. § 15-33-135; see also *Miller v. City of West Columbia*, 322 S.C. 224, 471 S.E.2d 683 (1996) (award of \$500,000 punitive damages in defamation case); *Kelley v. Wren*, 415 S.C. 379, 782 S.E.2d 406 (Ct. App. 2016) (award of \$250,000 in punitive damages in libel case). In assessing punitive damages, the trial court may properly consider a litigant’s “abusive and obstructionist” litigation tactics. *Hundley ex. rel. Hundley v. Rite Aid of South Carolina, Inc.*, 339 S.C. 285, 316, 529 S.E.2d 45, 62 (Ct. App. 2000).

In a default case, “[t]he trial judge has considerable discretion regarding the amount of damages, both actual or punitive.” *Austin v. Specialty Transp. Servs., Inc.*, 358 S.C. 298, 310, 594 S.E.2d 867, 873 (Ct. App. 2004). Because of this discretion, the “review on appeal is limited to the correction of errors of law.” *Id.* (explaining standard of review does not require Court of Appeals to weigh the evidence, and instead, it must only determine whether there is any evidence to support the damages award).

In determining the award of damages in this case, this Court also relied on the following authority which are analogous defamation cases. In *Sulka v. Hoagland*, Case No. 2017-CP-07-01547, the plaintiff who was serving as the Mayor of Bluffton brought a defamation action against the defendant after the defendant circulated emails to Chamber of Commerce members accusing her of misusing public funds, engaging in criminal conduct, and being unfit for office. A jury returned a verdict for the plaintiff in the amount of \$40,000,000 in actual damages and \$10,000,000 in punitive damages.

Further, in *Kellie and Kayla Bingham v. Medical University of South Carolina*, Case No. 2016-CP-08-013, the plaintiffs brought an action for defamation alleging they were falsely accused of cheating which led to their expulsion. Based on these facts, a jury awarded each plaintiff \$750,000.00.

Similarly, in *Kunst v. Loree*, 424 S.C. 24, 817 S.E.2d 295 (Ct. App. 2018), a jury awarded the plaintiff \$1,000,000.00 in actual damages after the defendant falsely accused the plaintiff of embezzlement, creating false invoices, and other criminal acts that harmed his reputation and business. The South Carolina Court of Appeals affirmed the verdict.

## V. ANALYSIS

This case involves admitted allegations of libel *per se*, Mr. Plaxco was not required to prove general damages. *See also Kunst v. Loree*, 424 S.C. 24, 39, 817 S.E.2d 295, 302–03 (Ct. App. 2018) (“When a defamatory statement is actionable *per se*, the plaintiff need not prove general damages—as these damages are presumed—and the defendant is presumed to have acted with common law malice.”). Thus, Mr. Plaxco’s noneconomic damages are those that the law presumes as a result of Defendants publicly accusing Mr. Plaxco of committing felonies in written correspondence published to third parties. The Court finds that the severe nature of Defendants’ accusations against Mr. Plaxco, and the significant and irreparable damage they caused to Mr. Plaxco’s personal and professional reputation, supports an award of noneconomic damages in the amount of \$5,000,000.00.

In addition to Mr. Plaxco’s presumed damages, he also sought economic damages for the amount he has suffered as a result of the Defamatory Letter. This Court finds that Mr. Plaxco established his entitlement to an award of economic damages by a preponderance of the evidence. Through multiple witnesses, Mr. Plaxco presented compelling testimony regarding the central importance of a lawyer’s reputation to professional success, the reliance placed on that reputation by courts, clients, and fellow attorneys, and the extraordinary difficulty of repairing reputational harm once inflicted. Further, Mr. Plaxco established his reputation within the legal community as a well-respected attorney held in high regard.

Testimony confirmed that the Defamatory Letter contained serious allegations capable of irreparable harm to his reputation and thus, his career. The Court finds that this harm is concrete and not speculative. Mr. Plaxco presented evidence of specific

matters he was unable to take because of these false allegations and his efforts to mitigate further reputational harm and protect potential clients from harm. Mr. Plaxco testified regarding his conservative estimate of the total dollars lost because of his inability to take on these matters, totaling \$72,471.00. Moreover, as the defamatory statements were in writing and transmitted to multiple recipients without any limitation on third-party access or republication, Mr. Plaxco presented evidence that the harm to his reputation extended beyond the legal community.

Since the transmission of the Defamatory Letter, Mr. Plaxco established that he has suffered lost billable time. Mr. Plaxco testified that he lost billable time responding to the consequences of the Defamatory Letter in the amount of \$60,000.00. Thus, Mr. Plaxco established by a preponderance of the evidence that the known economic harm he has suffered as a result of the Defamatory Letter equates to \$132,471.00.

The last issue for consideration before this Court is the amount of punitive damages that Mr. Plaxco has proven he is entitled to. *See Hainer v. Am. Med. Int'l, Inc.*, 328 S.C. 128, 135, 492 S.E.2d 103, 107 n.8 (1997) (“We remind trial judges that in cases in which the issue of punitive damages is submitted to the jury, there must be clear and convincing evidence of actual malice to warrant such an award.”). Here, the evidence establishes actual malice by clear and convincing evidence. The Defamatory Letter was deliberately transmitted to multiple recipients without regard to third-party access or republication. Though the Defamatory Letter accuses Mr. Plaxco of committing multiple crimes, Mr. Plaxco testified that no Defendant ever contacted him regarding these allegations prior to the publication of the Letter to give him an opportunity to respond to the allegations. Defendants also acknowledge in the Letter that they were aware of the

impact the accusations may have upon the recipients' business operations. That announcement, their intentional choice to transmit the Defamatory Letter to multiple recipients, considered alongside the remarkable testimony from the depositions of the Lawyer Defendants, supports a finding that the Defamatory Letter was sent for an improper and malicious purpose.

Relevant excerpts from the Lawyer Defendants' depositions are attached hereto for reference in **Appendix I**. Their refusal to answer even the most basic questions about the Defamatory Letters, or the grave accusations they chose to publish, was highly improper and reflected a troubling disregard for their obligations as officers of the court. Such conduct impeded Plaintiff's ability to obtain relevant trial evidence for the damages hearings but also demonstrated a level of obstruction and evasiveness that is particularly unacceptable when committed by licensed attorneys who are bound to uphold (not undermine) the rule of law.<sup>1</sup>

The defense averred during cross examination that the Plaintiffs, individually and collectively, could not prove the damages were caused solely by the letters and not the actual lawsuits. The Court takes judicial notice that the RICO cases were dismissed in favor of Mr. Plaxco. Though the Defendants suggest that the federal case dismissal minimizes the harm done to the Plaintiffs, the Court finds this assertion unjustified. Defendants created the harm when they circulated the letters. The harm has continued and has not ebbed notwithstanding the dismissal of the RICO cases in favor Mr. Plaxco.

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<sup>1</sup> The Court finds that Defendants' litigation tactics were "abusive and obstructionist." See *Hundley*, 339 S.C. at 316, 529 S.E.2d at 62 (finding that the trial court may properly consider "abusive and obstructionist" litigation tactics on the part of a litigant in assessing punitive damages).

The seriousness of this misconduct was only magnified at the damages hearing, where the Lawyer Defendants continued to posture as though the defamatory accusations might still have merit, despite having previously refused to answer straightforward questions about the very Letters they authored and circulated. Their conduct following publication of the Letters was nearly as egregious as the publication itself and strongly suggests an ongoing unwillingness to accept responsibility or accountability for their behavior.

In light of this pattern of disregard for the truth, for discovery obligations, and for the integrity of judicial proceedings, in evaluating the appropriate measure of punitive damages, the deterrence factor carries particular weight. In this unique set of circumstances, where the actors are lawyers whose conduct exhibits disrespect for the fundamental rule of law, punitive damages are particularly appropriate and necessary to ensure that such behavior is not repeated, either by these Lawyer Defendants or by others. Therefore, this Court finds that Mr. Plaxco has presented clear and convincing evidence of actual malice to warrant a punitive damages award of \$2,000,000.00<sup>2</sup> against the Lawyer Defendants, Devon Puriefoy, Kimberly Thomason, and Desa Ballard.

After thorough review of the testimonial and physical evidence presented in this case, this the amount of \$5,132,471.00 against Defendants Kimberly Thomason, Devon Puriefoy, Desa Ballard, Mayra Michalski, and Luis Michalski.<sup>3</sup> In addition, this Court find

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<sup>2</sup> The Court calculates the award of punitive damages as a percentage of the actual damages. The Court utilized a 40% rate to calculate the award. (40% of \$5,132,471.00 equals 2,052,988.40 and rounding down to \$2,000,000.00)

<sup>3</sup> Prior to his damages hearing, Mr. Plaxco reached a settlement with Cherie Durand and Paul Hulsey/the Estate of Paul Hulsey. Further, Mr. Plaxco never substituted in any additional defendant in place of any of the John or Jane Doe Defendants referenced in the Amended Complaint and, therefore, this Order and Final Judgment shall only be enforceable against Kimberly Thomason, Devon Puriefoy, Desa Ballard, Mayra Michalski, and Luis Michalski.

that the evidence before the Court also supports an award of punitive damages against Defendants Thomason, Puriefoy, and Ballard (“Lawyer Defendants”) in the amount of \$2,000,000.00.

**VI. CONCLUSION**

Due to Defendants’ default, and the evidence presented at the damages hearing, it is hereby ORDERED that Mr. Plaxco have judgment as follows:

- a. Actual damages in the principal amount of **\$5,132,471.00** against Kimberly Thomason, Devon Puriefoy, Desa Ballard, Mayra Michalski, and Luis Michalski, jointly and severally; and
- b. Punitive damages are hereby ordered against Defendant Devon Puriefoy in the amount of **\$666,666.67**.
- c. Punitive damages are hereby ordered against Defendant Kimberly Thomason in the amount of **\$666,666.67**.
- d. Punitive damages are hereby ordered against Defendant Desa Ballard in the amount of **\$666,666.67**.

These amounts shall be subject to post-judgment interest at the rate of eleven and a half (11.50%) per annum.

**IT IS SO ORDERED.**

This \_\_\_ day of \_\_\_\_\_, 2026

\_\_\_\_\_  
Eugene C. Griffith, Jr.  
Presiding Circuit Judge



Greenville Common Pleas

**Case Caption:** Joseph M Plaxco vs. Kimberly Thomason , defendant, et al

**Case Number:** 2024CP2303329

**Type:** Order/Other

It is so ordered

Eugene C. Griffith, Jr. 2154

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