IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

The Estate of Latoya Nicole Valentine, by and through Debra Grate, Personal Representative and Debra Grate, in her individual capacity, Plaintiffs, vs. The State of South Carolina; the Office of the Governor; Henry D. McMaster; Nimrata "Nikki" Haley; Joshua Baker; Christian Soura; the South Carolina Department of Health and Human Services; the South Carolina Department of Disabilities and Special Needs; the Pickens County Disabilities and Special Needs Board; Mary Poole; Patrick Maley; Lois Park Mole; Susan Beck; Beverly Buscemi; Stanley Butkus; Kathi Lacy; William Barfield; Thomas Waring; Robert Kerr; William Danielson; Elaine Thena; John Owens; and Diane Anderson; Defendants.	C/A No. 3:18-00895-JFA **ORDER TO SHOW CAUSE**

The Court hereby orders Plaintiff's counsel, Patricia Harrison of the Patricia Logan Harrison Law Office, and William Bouton of the Mitchell Law Firm, LLC (collectively "Counsel"), to show cause as to why they should not be sanctioned for their actions in this litigation. As set forth below, this Court has reason to believe that Counsel has violated

several ethical provisions by unnecessarily initiating this lawsuit against 23 separate defendants and pursuing what appears to be, in part, baseless claims.

I. FACTUAL AND PROCEDURAL HISTORY

The factual background of those events giving rise to this action are more thoroughly explained in this Court's order adjudicating the parties' motions for summary judgment. (ECF No. 273). The facts relevant to this order are outlined below.

This suit was brought by Counsel on behalf of Plaintiff Debra Grate ("Grate"), in her capacity as Personal Representative for the Estate of Latoya Nicole Valentine ("Valentine"), who died on September 21, 2017; and by Debra Grate, in her individual capacity as the sister and caregiver of Valentine and as a taxpayer. Grate is Valentine's biological half-sister.

Valentine, having an IQ of 36, was an intellectually and mentally disabled adult who qualified for and received Medicaid benefits. Valentine had these disabilities since birth and has been described as having the mental equivalency of a toddler. In February 2005, Valentine was placed in a community training home known as Jewell Home CTH II which is operated by Pickens County Disability and Special Needs Board ("PCDSNB"). There, Valentine received daily living assistance with toileting, bathing and dressing, as well as eating and medications. It is here at Jewell Home that Plaintiff's allegations of abuse began.

Plaintiff alleges that Valentine suffered multiple episodes of abuse spanning several years while at Jewell Home. Specifically, Plaintiff alleges Valentine was burned on her

chest with a cigarette in April 2016;[1] forced to walk around a track with bruised/injured feet in 2015–2016; subjected to human bites; subjected to medication errors; chemically restrained; and assaulted directly by Jewell House Manager Diane Anderson on March 31, 2017.

Plaintiff alleges that the March 31, 2017 assault included Anderson twisting Valentine's arm behind her back and dragging Valentine by her hair into a Jewell Home bathroom after she refused to shower. Once in the bathroom, Plaintiff alleges that Anderson slapped Valentine in the face and then left another Jewell Home employee to bathe her. Anderson was later fired after that employee reported this incident to law enforcement.

After the incident wherein Anderson allegedly slapped Valentine, Grate was informed of the alleged assault and expressed her desire to take Valentine back into her home permanently. Grate communicated this request to PCDSNB on April 12, 2017 and Valentine was released to Grate on April 13, 2017. Several months later, while in Grate's home, Valentine fell in the shower and was taken to the hospital via ambulance. She died shortly thereafter on September 21, 2017.

The manner of death listed on Valentine's death certificate is "natural" and the cause of death is listed as "Probable Acute Myocardial Infarction." (ECF No. 164-5). The coroner's report states that "it was possible she struck her head on the toilet when she collapsed" but concluded that a "traumatic event did not contribute to this death." (ECF No. 198-4, p. 2). This report further clarified that Valentine's treating physician noted that

[1] Defendants disputed that the mark on Valentine's chest was a cigarette burn and medical records label it as an "excoriation."

"the left ventricle of her heart was enlarged; [the physician] could see a clot in the ventricle suggesting this was a chronic issue." *Id.* No autopsy was performed. However, throughout litigation, Counsel contended Valentine actually lost consciousness while in the shower due to hyponatremia (a medical condition causing low sodium levels) and fell hitting her head on a toilet. Counsel avers this head trauma caused Valentine's death. Valentine suffered from hyponatremia while at Jewell Home, but Grate alleges she was never informed of this condition prior to taking Valentine into her home. Accordingly, Counsel sought to hold defendants liable for Valentine's death in addition to the episodes of abuse described above.

Although Plaintiff repeatedly asserted this hyponatremia theory as Valentine's cause of death, Counsel presented no evidence to support such a theory. Counsel identified no expert or medical records to support these claims. Defendants on the other hand, identified Valentine's treating physician and the coroner (ECF No. 124) who authored the death certificate to show that Valentine's actual cause of death was "cardiac arrhythmia with sudden death probable coronary thrombus." (ECF No. 198-4, p. 3). Additionally, the emergency room and EMS records do not show any type of head injury[2], let alone one contributing to her death.

Plaintiff Grate testified in her deposition that she had no evidence of the cause of Valentine's death prior to filing this lawsuit and later receiving the coroner's report shown

[2] Although one emergency room record states that Valentine's family reported "she fell and hit her head on the toilet," no head injuries were listed in that report. (ECF No. 224-17, p. 1). That report lists Valentine's diagnosis as "cardiac arrest." *Id.*

to her by Counsel. Given the absolute absence of evidence to support Plaintiff's contention that Valentine's death was caused by a low sodium condition and head trauma, the Court found that there was no genuine issue as to the cause of Valentine's death. (ECF No. 273, p. 6).

Based partly on the above allegations[3], Plaintiff's Second Amended Complaint ("SAC") asserted four causes of action against twenty-three defendants. The four causes of action included: (1) violation of the ADA and § 504 of the Rehabilitation Act; (2) violation of 42 U.S.C. § 1983; (3) violation of 42 U.S.C. § 1985; and (4) RICO violations. Plaintiff's initial complaint (ECF No. 1) named 12 defendants and the amended complaint named 23 defendants (ECF No. 15).

Plaintiff's First Amended Complaint consisted of 525 paragraphs spanning 82 pages. Upon attempting to adjudicate motions to dismiss the amended complaint, the Court noted that its "task has been made extremely difficult by reason of the fact that the Amended Complaint contains enormous amounts of information that is inappropriate in a traditional federal court complaint." (ECF No. 40, p. 2). Additionally, it was nearly impossible to discern which causes of action were asserted against which specific defendants. Accordingly, the Court ordered Counsel to file a second amended complaint

[3] As discussed in depth in this Court's prior orders (ECF No. 273), Counsel also asserted various wide-ranging allegations of conspiracy and mismanagement of funds meant for Medicaid recipients. However, all of these claims were dismissed as Counsel either failed to present evidence of such conduct or failed to show a causal connection to the damages suffered by Valentine or Grate.

limited to 35 pages in length and comporting with the Federal Rules of Civil Procedure. Within that order, the Court stated:

> Finally, plaintiff's counsel is respectfully reminded of the ethical obligations of licensed attorneys in South Carolina. Some of the previous allegations against some of the defendants suggest intentional and illegal conduct carried out as part of a plan to intentionally injure the plaintiff's decedent in this case. For this reason, in drafting the second amended complaint, counsel should carefully consider whether such allegations are warranted under the facts and circumstances presented in this controversy.

(ECF No. 40, p. 3).

Thereafter, on December 3, 2018, Counsel filed a "Notice of Withdrawal of State Law Claims"[4] stating that Plaintiff had filed a lawsuit in the Pickens County Court of Common Pleas on November 30, 2018, and that Plaintiff did not intend to litigate the state law claims in this action.[5] (ECF No. 41). On December 26, 2018, Plaintiff then filed the SAC. (ECF No. 42). In response, defendants filed seven separate motions to dismiss. One motion to dismiss for insufficient service of process was denied and the remaining motions were each granted in part and denied in part. (ECF No. 80). Defendants the State of South

[4] Counsel stated: "Plaintiffs hereby notify the Court that they do not intend to include the state law claims for violation of the Tort Claims Act and state law conspiracy in the second amended complaint, which will now be litigated in the state court." (ECF No. 41, p. 1–2).

[5] Plaintiffs then filed a civil action in the Pickens County Court of Common Pleas on November 30, 2018. That 94-page, 563 paragraph complaint still included all the above-named Defendants in this action with the addition of the Defendants Kerr & Company and Sam Waldrep. In addition to the state law claims, that complaint filed in Pickens County (ECF No. 1 in case 8:19-cv-00198-JFA *Valentine et al v. State of South Carolina, et al*) *still* contained the federal questions of law claims for the alleged violation of the ADA and § 504. This parallel case (19-198) was then removed from Pickens County to this Court on January 23, 2019. Thereafter, on March 14, 2019, this Court ordered case 19-198 be remanded to state court after Plaintiff agreed to voluntarily dismiss the federal claims in that action. (ECF No. 24 in case 19-198).

Carolina and Mary Poole were then dismissed as duplicative parties after filing a supplemental motion to dismiss. (ECF No. 104).

Thereafter, discovery ensued, and the Court was called upon to adjudicate several highly contested discovery disputes. (ECF Nos. 134, 135, 143, 157 & 189). Chief amongst these disputes was Counsel's attempt to depose the current and former Governor of South Carolina despite having done very little in the way of conducting any other discovery.

In adjudicating one such set of disputes, the Court noted:

> To be sure, it is very possible that these Plaintiffs have a meritorious (and relatively straightforward) case involving the care, treatment, and provision of services to Valentine. Moreover, the claims within the SAC contain serious allegations that, if proven, warrant some type of relief. However, Plaintiff's counsel's continued pattern of inundating the court with voluminous filings and "evidence" of wide-ranging agency actions that have no implication whatsoever on an individual plaintiff's claims do nothing to help obtain the justice sought.

(ECF No. 153, p 15).

Additionally, the Court initially allowed Counsel to take limited depositions of the current and former Governors of South Carolina. (ECF No. 187). However, the Court later granted the Governors' requests for protection from Counsel's discovery efforts. (ECF No. 196). Within that order, the Court noted that:

> The operative complaint named 24 separate defendants including 18 individuals. Of those defendants, Plaintiff's counsel served written interrogatories and requests for production on only one party, Pickens County DSN Board. However, those written discovery requests were served not in the instant federal litigation, but in a parallel state court action. Of these defendants, Plaintiff's counsel deposed only one, William Barfield, within this federal action. Defendant Diane Anderson was deposed within the parallel state court action. Plaintiffs failed to depose any other defendants. Plaintiffs even failed to depose Defendants Thomas Waring, Robert Kerr, and Christian Soura after this Court specifically held that Plaintiffs could

> proceed with their depositions subject to certain limitations and extended the discovery deadline to accommodate these depositions. (ECF Nos. 153 & 167).

(ECF No. 196, p. 9-10).

Accordingly, this Court concluded that:

> Thus, Plaintiff's targeted attempts to seek information only in the form of depositions from the State's highest-ranking officials speaks volumes about Plaintiff's counsels' true intentions. It appears that Plaintiff's counsel is once again attempting to carry out what another Judge in this district has referred to as Plaintiff's counsel's "crusade" against the South Carolina disability and Medicaid system. This blatant failure to seek information from those defendants within much closer proximity to the actual damages alleged here, (i.e. those damages sustained by Valentine and Grate) indicates that Plaintiff's counsel's endeavors can only be characterized as attempts to annoy, embarrass, or harass the Governors.

(ECF No. 196, p. 10-11).

The Court also noted that "as outlined by the Court in this case and similar cases, Plaintiff's counsel has again lost sight of the claims specific to her individual plaintiffs and has foregone the most efficient and plausible avenues of relief in search of a higher form of recompense." (ECF No. 196, p. 17).

The Court also emphasized that:

> If true, [Plaintiff's] potentially meritorious claims seem straight forward and should not take years of endeavoring to prove. Nor would they require deposing the highest level of the State's executive branch when the individuals and organizations directly responsible for Valentine's care have also been named as defendants. However, Plaintiff's counsel has chosen not to focus on these specific claims and turns instead to her repeated attempts to shed light on alleged financial scandals plaguing the office of the Governor which likely have no bearing on her client's claims.

(ECF No. 196, p. 17).

In later denying Plaintiff's motion to reconsider this order, the Court stated that:

> Plaintiffs also aver that the court's finding of improper motives is not supported by the record or applicable law. Not so. The record on this point is clear. Plaintiff's counsel conducted virtually no discovery in relation to the 23 defendants in this action other than deposing William Barfield and attempting to depose the Governors. Plaintiff's counsel failed to timely act on objections to the subpoena *duces tecum* discussed above. Plaintiff's counsel failed to adequately respond to Defendant Joshua Baker and nonparty Mary Poole's motions for protective order. Plaintiff's counsel failed to depose Defendants Thomas Waring, Robert Kerr, and Christian Soura even after this court specifically held that Plaintiffs could proceed with their depositions and extended the discovery deadline to accommodate these depositions. (ECF Nos. 153 & 167). Plaintiff's brief references the 10-deposition limitation contained within the Federal Rules of Civil Procedure as if they were procedurally hindered from conducting full discovery yet failed to depose more than one individual. Instead, Plaintiff's counsel fixated their efforts on attempts to depose the Governors who they openly admit have no personal knowledge of the individual Plaintiffs themselves or the specific damages alleged. The record clearly supports the conclusion that Plaintiff's counsels' fixation on deposing the Governors, while virtually ignoring all other defendants, indicates that these discovery efforts were properly characterized as attempts to annoy, harass, or embarrass.

(ECF No. 229, p. 6–7).

Thereafter, each party, including Plaintiff, filed a motion for summary judgment. Ultimately, the Court denied Plaintiff's motion and dismissed all Defendants except for Diane Anderson. (ECF No. 273). Shortly thereafter, the remainder of this action settled at mediation. (ECF No. 274).

The resolution reached at mediation included a settlement of all claims in both the federal and state court actions. Although numerous Defendants had been dismissed prior to mediation in both actions, all Defendants joined in the settlement agreement in exchange for a dismissal of all claims and Plaintiff's waiver of the right to appeal any orders, including dismissals, previously entered in either action. The Court then transferred this

matter to Pickens County Circuit Court pursuant to S.C. Code Ann § 15-51-42(D)[6] solely for approval of the petition for settlement. (ECF No. 277). The state court approved the settlement by way of order dated December 16, 2021. (ECF No. 287).

II. LEGAL STANDARD

The grounds and standards for imposing sanctions vary depending on the source of the court's authority. *See Chambers v. NASCO, Inc*., 501 U.S. 32, 45 (1991) (contrasting reasonableness standard applicable under Rule 11 to more stringent standard applicable to sanctions imposed under court's inherent power).

A. Rule 11

Rule 11 of the Federal Rules of Civil Procedure states that:

> By presenting to the court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:
>
> > **(1)** it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
> > **(2)** the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;
> > **(3)** the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
> > **(4)** the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

[6] This statute allows a federal district court to "issue an order transferring the case to state court for consideration of the proposed settlement" in cases involving wrongful death or survival actions. S.C. Code Ann. § 15-51-42(D). Given that the mediated agreement resolved claims in both courts, judicial economy was served by requiring a single joint settlement approval process.

Fed. R. Civ. P. 11(b).

> If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation.

Fed. R. Civ. P. 11(c)(1).

On its own, a court may order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b). Fed. R. Civ. P. 11 (c)(3). However, a court must not impose monetary sanctions under Rule 11 "on its own, unless it issued the show-cause order under Rule 11(c)(3) before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned." Fed. R. Civ. P. 11(c)(5).

B. Inherent Authority of the Court

A district court has inherent power to impose sanctions for a broad range of improper litigation conduct. *See Chambers*, 501 U.S. at 42–50; *Strang v. Bd of Trustees*, 55 F.3d 943, 955 (4th Cir. 1995) ("The case law is well established that district courts have the inherent power to sanction parties for certain bad faith conduct, even where there is no particular procedural rule that affirmatively invests the court with the power to sanction."). Of relevance here, a court may rely on its inherent power to sanction a party that "acted in bad faith, vexatiously, wantonly or for oppressive reasons." *Chambers*, 501 U.S. at 45, However, "[b]ecause of their very potency, inherent powers must be exercised with restraint and discretion." *Id.*

A court's inherent power to sanction exists independent of and is not displaced by any statutory fee-shifting provisions or procedural rules. *Chambers*, 501 U.S. at 45–46, (noting there is "no basis for holding that the sanctioning scheme of [28 U.S.C. § 1927] and the rules displaces the inherent power to impose sanctions for the bad-faith conduct described above."); *id.* at 47–48 (noting commentary to Rule 11 confirms the rule "build[s] upon and expand[s]" the court's equitable power to award expenses including attorneys' fees and does not repeal or modify court's inherent authority); *id.* at 50 (concluding "nothing in the other sanctioning mechanisms or prior cases interpreting them ... warrants a conclusion that a federal court may not, as a matter of law, resort to its inherent power to impose attorney's fees as a sanction for bad faith conduct"). Nonetheless:

> [W]hen there is bad-faith conduct in the course of litigation that could be adequately sanctioned under the Rules, the court ordinarily should rely on the Rules rather than the inherent power. But if in the informed discretion of the court, neither the statute nor the Rules are up to the task, the court may safely rely on its inherent power.

Id. at 50.

Any award of attorneys' fees and expenses under a court's inherent authority must be limited to fees and expenses incurred "solely because of" the sanctionable conduct. *See Goodyear Tire & Rubber Co. v. Haeger*, — U.S. —, 137 S. Ct. 1178, 197 L.Ed.2d 585 (2017) ("a federal court's inherent authority to sanction a litigant for bad-faith conduct by ordering it to pay the other side's legal fees ... is limited to the fees the innocent party incurred solely because of the misconduct—or put another way, to the fees that party would not have incurred but for the bad faith."). A "district court has broad discretion to

calculate fee awards under th[is] standard[,]" but may not award "fees beyond those resulting from the litigation misconduct." *id.*, 137 S. Ct. at 1184.

C. 28 U.S.C. § 1927

28 U.S.C. § 1927 states that "[a]ny attorney . . . who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct."

"Section 1927 addresses a narrower field of conduct than that which may be addressed under the court's inherent authority because § 1927 permits sanctions only for bad-faith conduct that wrongfully multiplies proceedings." *Six v. Generations Fed. Credit Union*, 891 F.3d 508, 520 (4th Cir. 2018). An award of costs, expenses, and attorney's fees pursuant to § 1927 is compensatory in nature—not punitive." *Id.*

Section 1927 "is indifferent to the equities of a dispute and to the values advanced by the substantive law." *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 762, (1980). Instead, § 1927 focuses on the conduct of the litigation, and "is concerned only with limiting the abuse of court processes." *Id.*

III. ANALYSIS

Here, Counsel has flouted the rules and directives of this Court throughout the pendency of this litigation. This list of violations includes, but is not limited to:

1. Naming duplicative and unnecessary parties in the operative complaint such as the State of South Carolina and Mary Poole. *See generally* (ECF No. 104).

2. Attempting to intimidate individual defendants into waiving their immunities or other dispositive arguments based on Counsel's threat of high fees and damages awards. Specifically, Counsel argued:

> Any objection by the individual capacity Defendants to Plaintiff's official capacity claims would place them at greater risk of having to pay any recovery awarded by the court or the jury, including legal fees and costs, from their own funds. The Court should inquire of counsel whether all Defendants named in their individual capacities have been advised of the risks of the position they are taking in this motion.

(ECF No. 61, p. 26)

> As to Defendants' argument that the Eleventh Amendment prohibits official capacity claims, the individual Defendants should be careful about what they request, and the individual Defendants should all be served and make a knowing waiver of the possibility that any legal fees, costs and monetary recovery awarded may come from their own pockets if certain official capacity claims were to be dismissed by Defendants' motion. See *Doe v. Kidd III,* where legal fees and costs in excess of $700,000 were awarded to the plaintiff, and the decision on remand, where the district court awarded an additional $1,312,681.41 in fees and costs. *Doe v. Kidd*, 2018 U.S. Dist. LEXIS 25532 (S.C.D.C. 2018).

(ECF No. 54, p. 32-33).

3. Characterizing interrogatories as a deposition via questions contrary to court order. (ECF No. 196, p. 5) ("However, despite the directives to Plaintiffs in the Court's order to serve only interrogatories, Plaintiffs attempted to characterize their questions as depositions on written questions to be answered without the assistance of counsel.").

4. Missing deadlines and requesting extensions without justification. (ECF No. 187, p. 4) ("The court would note that Plaintiffs requested an extension within their

response to Defendants' separate motion to stay certain deadlines in the scheduling order. This request came 28 days after Baker filed his responses and 14 days after Plaintiffs briefing became due. Plaintiffs offered no excuse justifying such a delay.") (internal citations omitted).

5. Failing to identify specific defendants in the first paragraph of each cause of action in the SAC as ordered. *See* (ECF No. 40, p. 3) ("As to each cause of action asserted, the plaintiff shall make it plain in the first paragraph the specific defendants against whom that cause of action is asserted."); *but see* (ECF No. 42, ¶ 72).
6. Drafting a nearly incomprehensible complaint in violation of Federal Rule of Civil Procedure 8. S*ee generally* (ECF No. 40) (describing deficiencies in Plaintiff's amended complaint).
7. Repeatedly failing to adequately state supporting grounds within vexatious motions to reconsider. (ECF No. 229, p. 3) ("Within the motion, Plaintiffs failed to cite the appropriate standard for any relief sought or specifically identify the proper grounds which would justify an order altering or amending a prior decision."); (ECF No. 271, p. 3) ("As she has done in the past, Plaintiff's motion fails to cite the appropriate standard for any relief sought or specifically identify the proper grounds which would justify an order altering or amending a prior decision.").
8. Using a subpoena *duces tecum* to request written discovery despite the expiration of the discovery deadline and a clear directive from the Court that no further discovery would be allowed. (ECF No. 196, p. 16) ("Thus, Plaintiff's subpoenas *duces tecum*

are quashed as an untimely effort to side-step the normal discovery process which has expired.")

9. Repeatedly attaching hundreds of pages of irrelevant documents to numerous filings. (ECF No. 273, p. 19) ("Plaintiff has additionally filed hundreds of pages of added exhibits, a large portion of which are irrelevant, yet fails to cite to specific pages or portions of such exhibits within her briefing. The Plaintiff's reiterative and superfluously elongated pleadings are inefficient and onerous."); (ECF No. 271, p. 4)("Despite attaching 138 pages of 'new evidence,' Plaintiff fails to cite to any specific page or portion thereof or otherwise explain how this document has any sort of relation to Valentine or Grate."); (ECF No. 153, p. 15) ("In response to Defendants Haley and McMaster's motion, Plaintiffs supplied over 700 pages of exhibits including numerous news articles, Governor McMaster's weekly schedule and various other filings, all without explaining how, if at all, the exhibits show any relation between these Defendants' actions and Plaintiff's specific claims."); (ECF No. 153, p. 16) ("In response to DDSN's motion for a protective order, Plaintiffs filed over 800 pages of exhibits, most of which inexplicably stem from an unrelated criminal case concerning fraudulent diversion of funds intended for children with autism.").

10. Using the discovery process to harass the former and sitting Governor in a lawsuit where they have no personal knowledge of the Plaintiff or the damages alleged. (ECF No. 196, p. 11) ("These actions can only be described as repeated attempts to harass.").

11. Making severe allegations within a Civil RICO claim with no support. (ECF No. 273, p. 56) ("Quite simply, Plaintiff made severe allegations, including obstruction of justice and witness tampering, of vague conduct purportedly undertaken by various defendants. After that, however, Plaintiff failed to substantiate these allegations.").

12. Asserting arguments untethered to law, facts, logic, or reality. Specifically, Counsel glibly asserted that it did not matter which Defendants were ultimately liable to Plaintiff because they shared an insurer. (ECF No. 225, p. 5 n.2) ("Because the South Carolina Insurance Reserve Fund would pay any award against the agencies, it matters not which agencies were in violation of the ADA and the Rehabilitation Act.").

13. Recounting settlement negotiations within public filings despite the confidential nature of such discussions. (ECF No. 266, p. 3) ("[The Insurance Reserve Fund] maintains total control over the settlement of claims in this lawsuit, and has refused to consider offers of settlement with any one party without plaintiffs providing a global release of all of the State's claims.").

14. Continuously asserting unproven bad acts as a basis for Plaintiff's claims without addressing the causative link between those acts and damages sustained by Valentine or Grate. Specifically:

> The Court would note that it has previously addressed the lack of causation with Plaintiff during this litigation. (ECF No. 153, p. 14) ("This concern is intensified by Plaintiff's continued failure to allege a causal connection between their individual specific injuries and the actions of the various high-ranking government officials and agencies

> named in this action."); (ECF No. 166, p. 4) ("Plaintiffs continuously reassert that agencies 'used funds allocated for services not authorized by the Medicaid program' but fail to show how, or whether, that alleged misuse of funds ever affected Valentine or Grate. The court referenced this failure to allege a causal connection in the Order and Plaintiff's argument here is simply a rehashing of their original position."); (ECF No. 196, p. 14) ("[T]his Court, as it has expressly stated several times in this litigation, continues to have concerns regarding the casual connection between Plaintiff's alleged damages and the tenuous allegations against the Governors.").

(ECF No. 273, p. 9).

15. Attempting to "incorporate by reference arguments that were to be made in the future which prohibited certain defendants from being able to timely assert a complete reply." (ECF No. 273, p. 19).

Although the list of offenses is extensive, the purpose of this Order to Show Cause is to focus on two specific areas of concern. First, it appears as though Plaintiff's theory that Valentine's death resulted from a hyponatremia-induced episode lacks any foundation and seems completely concocted by Counsel. Secondly, Counsels' decision to not only name 23 separate Defendants but then to relentlessly pursue litigation against them for nearly three years appears unreasonably superfluous and vexatious.

A. Unsupported Claims

Plaintiff's initial complaint makes the following allegations:

> 118. In September 2017, Valentine went to take a shower and she lost consciousness, as she had done at the group home in 2016, falling in the bathtub and hitting her head.
>
> 119. Valentine was taken by ambulance to the emergency room where she died.

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154. Defendants failed to appraise Grate of Valentine's medical condition and medical treatment which prevented her from obtaining the treatment needed at home.

155. Valentine also suffered physical injuries, permanent disfigurement, a decline in her functional capacity and injuries which contributed to her death.

(ECF No. 1).

Plaintiff's First Amended Complaint stated:

168. In September, 2017, Valentine lost consciousness, as she had done at Jewel, and she fell in the shower at Grate's home, hitting her head.

169. Valentine was transported by ambulance to the hospital, where she died.

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345. Valentine suffered permanent disfigurement, a decline in her functional capacity and injuries which contributed to her death as a result of the neglect, negligent supervision, negligent training and gross neglect of Defendants.

346. As a direct and proximate result of the wrongful and outrageous actions of Defendants, Valentine and Grate both endured physical pain and suffering.

347. Defendants negligently failed to inform Grate of Valentine's medical condition existing at the time of her discharge and history of medical treatment for that condition, thereby preventing Valentine from obtaining the medical treatment she needed at home.

348. Defendants failed to provide personal attendant care and nursing services that Valentine was entitled to receive when she was discharged from PCDSNB after being assaulted by Anderson.

349. Had Defendants provided these services, Valentine's injuries which caused her death could have been prevented.

(ECF No. 15).

Plaintiff's Second Amended Complaint stated:

36. Valentine's family was never informed about Valentine being diagnosed with or treated for hyponatremia, a condition that can cause rapid brain swelling, resulting in a coma and death, or her history of passing out and falling in the congregate programs operated by Defendants.

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55. Had Defendants provided nursing and personal care services at home, and kept Grate informed about Valentine's medical conditions, Grate would have known that Valentine was at risk of falling when her sodium level dropped and her death could have been prevented.

56. In September, 2017, Valentine lost consciousness, as she had done at the group home (unbeknownst to Grate), and she fell in the shower at Grate's home, hitting her head.

57. Valentine was transported by ambulance to the hospital, where she died, but Grate did not learn of the condition which caused Valentine's sodium levels to drop until after her death.

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100. The degree of reprehensibility of the defendant's misconduct is high because the Governors, and Defendants from DDSN, DHHS, and PCDSNB knowingly allowed funds allocated by the General Assembly to be used for purposes not authorized by the state budget, nor authorized by the DDSN Commission, nor made known to the public, while failing to provide the supports and funding needed to provide services Valentine needed to prevent her death.

111. There is an affirmative causal link between the supervisory Defendants' actions and inaction and the constitutional injuries Plaintiffs suffered, including the violation of their rights under the Fourteenth Amendment to liberty and freedom from abuse, neglect and exploitation and the death of Valentine which could have been prevented.

(ECF No. 42). [7]

[7] Although Counsel may argue that the SAC contained no explicit claim for wrongful death as such an action had been transferred to the state court, there is no doubt that Plaintiff's allegations, and Counsels' continued arguments throughout litigation, averred that Valentine's death was the result of defendant's actions in this lawsuit.

Patricia Harrison signed each of these complaints with William Bouton's signature block appearing directly below Harrison's. By signing each of these complaints, Harrison certified that to the best of her knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, these factual contentions had evidentiary support or would likely have evidentiary support after further investigation or discovery. Fed. R. Civ. P. 11.

However, on June 16, 2020, Plaintiff Grate testified that she had no knowledge of Valentine's cause of death and only saw evidence thereof after this case had been filed. Specifically, Grate stated in her deposition that:

> Q. And her cause of death was listed as a heart attack; is that right?
> A. I don't remember. I really don't.
> Q. An autopsy was not performed, was it?
> A. No, I didn't want that.
> Q. In the original complaint filed in this case, in the state complaint, paragraph 275, it says, and the complaint is where you filed this lawsuit, okay?
> A. Uh-huh.
> Q. Do you know that?
> A. Yeah.
> Q. It says that "In September 2017, Valentine lost consciousness, fell in the shower and hit her head." That's not what happened, is it?
> A. When she fell?
> Q. Yes.
> A. I think Nikki – I mean, I think Shonda is the one that told that's what happened, because I wasn't in there.
> Q. Okay.
> A. So, my daughter is the one that gave that, told that's what happened.
> Q. Do you know if there was any evidence from the doctors or the coroner that she had struck her head?
> A. I don't know.
> Q. Do you know that the coroner stated that she died a natural death?

A. Do I know that?
Q. Yes.
A. After I read it on something that I got, some kind of papers I got, I read that.
Q. That she had died of a heart attack, and it was a natural death, correct?
A. I just read that, too.

***

Q. Oh, thank you. I believe you read the coroner's report that I obtained in this case. I'm sure that's been produced to you. You said you read something where it indicated your sister died of a heart attack or the medical term for a ---
A. Yeah.
Q. --- heart attack? Before that, did you have any idea what your sister actually died from?
A. No, I didn't.
Q. Okay. With regard to the sodium level and Mr. Woodington was asking you about the sodium levels dropping and her passing out, it was originally alleged that as a result of her sodium level dropping, she passed out in the shower, struck her head and died from a traumatic head injury. Do you have any information about that?
A. None other than what I had on the papers from my attorneys.

(ECF No. 224-23, p. 46–47; 72–73).

Several defendants aptly expressed this Court's concerns within their motion for summary judgment by arguing that:

> These allegations would lead the reader to believe that Plaintiff's counsel were aware of evidence showing that the cause of Valentine's death was a low sodium level, which caused her to fall, with death coming from a head injury sustained during the fall. In fact, however, the coroner's report contradicts both assertions. According to that report, of which Plaintiff's counsel should have been aware prior to filing this action, Valentine died from a chronic heart condition that led to cardiac arrhythmia and probable coronary thrombus. [] The report further indicated that it was no more than "possible" that she struck her head on the toilet when she collapsed. At the family's request, there was no autopsy. Plaintiffs have not identified an expert witness of any kind.

(ECF No. 204-1, p. 7).

In response to DDSN's motion for summary judgment, Counsel argued that "DDSN's arguments regarding Valentine's cause of death are not supported by any statement from a physician. The hospital records show that Valentine fell and hit her head, she had no pulse when EMS arrived and no MRI or radiological tests were done in the 45 minutes or so after she arrived at the hospital before being declared dead." (ECF No. 227, p. 6-7).

However, emergency room notes state:

Chief Complaint
Patient presents with
- Cardiac Arrest
  She was in the bathroom and family heard her fall.

This patient is brought to the emergency department by EMS with sudden cardiac arrest. This patient had a witnessed arrest at home in front of family members. The patient was getting out of the shower and was being assisted by a family member when she had a collapse with apparent seizure activity. Seizure activity was brief and the patient remained unresponsive. EMS was summoned and they found the patient in complete cardiac arrest. The patient does have history of autism and seizure disorder. Paramedics began CPR and attempted to obtain an airway and IV access. Intraosseous access was obtained after peripheral IV failed. Multiple attempts were made at intubation but were unsuccessful due to the patient's unusual oral pharyngeal anatomy. In route the patient has remained asystolic with CPR in progress.

(ECF No. 224-17).

Therefore, the record is devoid of any evidence tending to show that Valentine's death was caused by any sort of head trauma.

As stated above, when adjudicating the slew of summary judgment motions, this Court determined that:

> Although Plaintiff has asserted this hyponatremia theory as Valentine's cause of death, she has presented no evidence to support such a theory. Plaintiff has identified no expert or medical records to support this theory. Defendants on the other hand, have identified Valentine's treating physician and the coroner who authored the death certificate to show that Valentine's actual cause of death was "cardiac arrhythmia with sudden death

> probable coronary thrombus." (ECF No. 198-4, p. 3). Additionally, the emergency room and EMS records do not show any type of head injury, let alone one contributing to her death.
>
> Grate testified in her deposition that she had no evidence of the cause of Valentine's death prior to filing this lawsuit and later receiving the coroner's report shown to her by her attorney. Given the absolute absence of evidence to support Plaintiff's contention that Valentine's death was caused by a low sodium condition and head trauma, the Court finds that there is no genuine issue as to the cause of Valentine's death. Further, the Court finds for purposes of these motions—and all remaining stages of this litigation—that Valentine's death was caused by "cardiac arrhythmia with sudden death probable coronary thrombus," —the condition stated on her death certificate.

(ECF No. 273, p. 6).

Instead of acknowledging the fact the Plaintiff had presented no evidence showing that Valentine's death was in any way related to hyponatremia, Counsel argued within a motion to reconsider that:

> The Court likewise erred in failing to consider evidence that Valentine lost consciousness due to a condition about which Defendants had an obligation to inform Grate, as she had done many times, losing consciousness at the group home. Emergency room records document that Valentine was in the hospital for just fifteen minutes before being declared dead. The record is void of any testing that would affirm the conclusion that she died of a "probable coronary thrombosis" and Defendants failed to provide any sworn testimony as to her cause of death.

(ECF No. 258, p. 3).

From the evidence presented in the action, the Court can only surmise that Counsel theorized that Valentine's death was somehow related to her prior diagnosis of hyponatremia when drafting the various complaints. However, Counsel then failed to perform any reasonable inquiry into the cause of Valentine's death—such as reviewing the death certificate or coroner's report—prior to filing the complaints or otherwise attempted

to verify this unsupported hypothesis in discovery. To this Court's knowledge, Counsel conducted no written discovery and deposed only one individual in this federal action. It appears that none of Counsels' limited discovery efforts were aimed at determining the true cause of death. Grate herself admitted to having no knowledge of Valentine's cause of death until seeing papers, specifically a coroner's report, showing that Valentine died of a heart attack.

It appears that Counsel only became aware of these reports after receiving copies of discovery performed by Defendants in this action. Throughout the course of this litigation, Counsel undertook no efforts to verify these serious allegations or otherwise obtain information to support such a claim. Instead, Counsel attempted to point to a lack of evidence presented by Defendants as to Valentine's cause of death when confronted with a dispositive motion. It strains credulity to argue that the party with the burden of proof can somehow carry that burden by pointing to a lack of evidence raised by the defending parties—especially when actually confronted with evidence disproving Plaintiff's claims.[8]

[8] Indeed, the Supreme Court in *Lujan v. Nat'l Wildlife Fed'n,* 497 U.S. 871, 885 (1990) reiterated this point by stating that,

> *Celotex* made clear that Rule 56 does not require the moving party to *negate* the elements of the nonmoving party's case; to the contrary, "regardless of whether the moving party accompanies its summary judgment motion with affidavits, the motion may, and should, be granted so long as whatever is before the district court demonstrates that the standard for the entry of summary judgment, as set forth in Rule 56(c), is satisfied."
>
> (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986)).

A review of the emergency room records, coroner's report, and death certificate all indicate that Valentine's cause of death was not a traumatic head injury, let alone one caused by low sodium levels. Even the most cursory of preliminary investigations or simple discovery requests would have shown this to be the case. By asserting such serious allegations within the complaints and pursing such a theory past summary judgment, Counsel has violated Rule 11's mandate that "the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery." Because Grate had no knowledge as to Valentine's cause of death, Counsel had an obligation to the Court and opposing parties to seek some type of good faith basis upon which to ground their allegations that Valentine's death was linked to her hyponatremia. The record before the Court is devoid of any such good-faith basis.

Because of the serious nature and consequences of such allegations, Counsel is now called upon to justify their decisions to (1) make these allegations within the complaints without performing a preliminary inquiry; (2) pursue absolutely no fact or expert based discovery to support such claims; and (3) continue to push a baseless theory after opposing parties had exposed a lack of foundation. It is one thing to allege facts upon information and belief that Counsel has a good-faith belief will be borne out by discovery. It is another thing entirely for Counsel to make allegations with no factual support provided by their client or the records available and then continue to argue such a position while doing nothing to prove it.

B. Unreasonable Multiplication of Litigation

Next, the Court turns to Counsels' unnecessary multiplication of litigation. As stated several times throughout litigation, Plaintiff's claims center on the conditions endured and direct abuse suffered while at Jewell Home. Accordingly, Counsels' decision to name not only Valentine's alleged abuser and the organization directly responsible for the conditions at Jewell Home, but to then name numerous defendants, including agencies and agency heads, up to and including the current Governor of South Carolina, is bewildering to say the least.

Initially, the Court dismissed Mary Poole and the State of South Carolina pursuant to their respective motions to dismiss. (ECF No. 104). In that Order, the Court noted that their presence in this action was duplicative given the numerous state agencies also named in the SAC.[9] Counsel effectively conceded this position by failing to file a memorandum in opposition or otherwise respond. (ECF No. 104, p. 4). Accordingly, it appears Counsel lacked a good faith basis for certifying that claims against these two defendants were warranted by existing law. Fed. R. Civ. P. 11(b)(2).

Apart from the claims of direct abuse against Valentine, Counsel also asserted various wide-ranging allegations against numerous high-ranking state officials. However, Counsel did nothing to then substantiate these claims. The Court addressed this lack of evidence generally throughout litigation and directly in adjudicating the various summary judgment motions. Specifically, the Court noted:

[9] Mary Poole was named only in her official capacity and therefore claims against her were tantamount to claims against her agency.

> Simply put, Plaintiff has presented no evidence of an enterprise or that Thena and Owens were employed by or associated with an enterprise carrying out a pattern of racketeering activity. Plaintiff fails to address the RICO argument in her response and has thus failed to present a genuine issue of material fact. Thus, all RICO claims as to these defendants must be dismissed.

(ECF No. 273, p. 45).

> Plaintiff's responses make clear that they have no evidence of any relevant actions taken by Baker or Soura and Plaintiff failed to conduct any discovery in this action which would substantiate these claims. Quite simply, Plaintiff made severe allegations, including obstruction of justice and witness tampering, of vague conduct purportedly undertaken by various defendants. After that, however, Plaintiff failed to substantiate these allegations and instead relied on unsupported assertions arising out of a failure to properly spend funds allocated by the General Assembly. Despite this, Plaintiff asks the Court to let her proceed with litigation without ever attempting to argue a causal connection exists between prior funding problems and Valentine's injuries. The Court declines such an invitation.

(ECF No. 273, p. 57).

"This Court agrees that Plaintiff has utterly failed to connect any of the above defendants to any injuries actually suffered by Valentine or alleged by Grate." (ECF No. 273, p. 61). In reaching this conclusion, the Court stated that "[t]hese defendants also noted in their Reply that 'Defendants Kathi Lacy and Susan Beck, who have been Defendants in this case for almost three years, are not even mentioned by name [in Plaintiff's Response]'. (ECF No. 235, p. 6)." (ECF No. 273, p. 61, n. 35).

> Plaintiff's allegations center on the alleged diversion of funding approved by the South Carolina General Assembly for impermissible purposes. This diversion allegedly resulted in a loss of Medicaid matching funds from the federal government.
>
> As this Court has stressed throughout this litigation, Plaintiff has offered absolutely no evidence to suggest that, even if there was a conspiracy

> to divert funds, any of those alleged actions had any sort of causal link to any injuries alleged here.

(ECF No. 273, p. 66).

In summation, Counsel named 23 separate defendants. Of these, 18 were individuals. However, only one, Diane Anderson, had direct contact with Valentine. Two defendants, Mary Poole and the State of South Carolina, were dismissed as duplicative at the motion to dismiss stage. Twenty more were dismissed at the motion for summary judgment stage. Only two, Diane Anderson and William Barfield, were deposed by Counsel. Counsel failed to serve written discovery on any of the defendants in this federal action. Several of these defendants, specifically Kathi Lacy and Susan Beck, went unaddressed in response to their motions for summary judgment. Other defendants, such as Baker and Soura, were accused of criminal violations such as witness tampering yet confronted with absolutely no evidence of such allegations.

Moreover, Counsel achieved a considerable settlement on behalf of her client with Anderson remaining as the lone defendant in this federal action. (ECF No. 278). Accordingly, it appears as though Counsel only needed to name one, or possibly a handful, of potentially liable parties to achieve relief on behalf of their client. Instead, Counsel unduly prolonged the relief sought by their client by naming over 20 defendants and failing to pursue discovery or otherwise garner evidence sufficient to keep most of Plaintiff's claims alive. This action seems to be the very definition of a case that has been unreasonably and vexatiously multiplied. *See* 28 U.S.C. § 1927.

Here again, Counsels' conduct in naming nearly two dozen defendants appears to be an attempt to engage in yet another crusade against the South Carolina disability and Medicaid system. *Timpson by & through Timpson v. McMaster*, 437 F. Supp. 3d 469, 472 (D.S.C. 2020) ("Plaintiffs' counsel in this case have sought to wage a ground war against the South Carolina disability and Medicaid system. In the process of this crusade, Plaintiffs' counsel have neglected to focus on what is important: [the Plaintiff]."). [10]

Counsels' discovery efforts, or lack thereof, underscore the Court's concerns regarding unnecessary multiplication. In this action, Counsel only deposed Diane Anderson (albeit in the parallel state court action) and William Barfield. Additionally, Counsel made targeted attempts to depose the current and former Governor of South Carolina. Although this Court gave Counsel leave and extensions of time to depose several other defendants, Counsel felt no need to pursue such basic discovery. Moreover, no attempts at written discovery were ever made. As held in this Court's prior orders, these targeted attempts can only be seen as acts meant to embarrass, harass, or annoy. The fact that nearly 20 other defendants were named, yet never addressed during the course of discovery indicates that Counsel lacked a good-faith basis for asserting and maintaining

[10] Patricia Harrison served as plaintiff's counsel in *Timpson*. Despite admonitions from Judge Donald C. Coggins, Jr., Harrison's improper conduct in that action has been largely duplicated here. *Timpson by & through Timpson v. McMaster*, 437 F. Supp. 3d 469, 472 (D.S.C. 2020)("Within the tens of thousands of pages of filings on the docket lies a potentially meritorious (and relatively straightforward) case involving the care, treatment, and provision of services to Johnny Timpson. However, that is not the case Plaintiffs' counsel intended to present to the jury. Instead, Plaintiffs' counsel sought to personally attack various state officials and government programs, interrogate the then-United Nations' Ambassador about her social life, and subpoena the sitting Governor of the State of South Carolina to a trial about which he had *no personal knowledge*.").

claims against them. This is especially true considering that Grate herself was only familiar with Anderson and John Owens.[11] Again, it is one thing to name a defendant Counsel believes in good faith may be liable to Plaintiff and then pursue discovery to support such a belief. It is another thing entirely to name 23 defendants (of which 18 are individuals) and then pursue almost no discovery to prove the very serious claims brought against them.

Counsels' decision to completely ignore several defendants, such as Lacy and Beck, while virtually harassing the Governors with targeted discovery attempts shows that these proceedings were unreasonably and vexatiously multiplied. Counsel has a duty to this Court and opposing parties to initiate and pursue claims in good faith. Counsels' continued litigation over the course of three years without a proper basis cannot stand unchecked. Therefore, Counsel is ordered to show cause as to why they should not be required to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct. 28 U.S.C. § 1927.

In addition to naming numerous unnecessary defendants, Counsel has also unnecessarily multiplied this litigation with pleadings and motions that fail to comport with the federal rules or otherwise serve no purpose.

Specifically, the First Amended Complaint consisted of 525 paragraphs spanning 82 pages. Despite the length of this pleading, it was nearly impossible to tell which causes of action were asserted against which specific Defendants. Consequently, Counsel was ordered to file a Second Amended Complaint which comported with the Federal Rules of

[11] Grate was even unaware that Henry McMaster was the current Governor of South Carolina. (ECF No. 224-23, p. 56).

Civil Procedure and that clearly identified the specific defendant against whom each cause of action was asserted within the first paragraph of each action. This of course led to another round of motions to dismiss from the Defendants.

Additionally, Counsel asserted at least one wholly superfluous motion to reconsider.[12] In response to the Court's order ruling on the various motions for summary judgment, Counsel filed a motion to reconsider (ECF No. 258) that was "procedurally improper, substantively lacking" and "wholly superfluous on its face." (ECF No. 271, p. 3). The motion was ultimately dismissed, but not before Defendants were forced to file a litany of responses in opposition. (ECF Nos. 263, 264, 265, 267 & 268). Counsel supported this baseless motion by asserting that it was filed "as a courtesy to the Court and in an effort to avoid the cost to all parties of a remand." (ECF No. 270, p. 1). This alleged "courtesy" to the Court is no justification for unnecessary and vexatious filings.

In addition to the above, Counsel has flooded the Court and opposing parties with thousands of pages of irrelevant materials and exhibits throughout litigation. (ECF No. 273, p. 19) ("Plaintiff has additionally filed hundreds of pages of added exhibits, a large portion of which are irrelevant, yet fails to cite to specific pages or portions of such exhibits within her briefing. The Plaintiff's reiterative and superfluously elongated pleadings are inefficient and onerous."); (ECF No. 271, p. 4)("Despite attaching 138 pages of 'new evidence,' Plaintiff fails to cite to any specific page or portion thereof or otherwise explain

[12] Within the order adjudicating this motion, the Court noted the recurring nature of this problem by stating that "[a]s she has done in the past, Plaintiff's motion fails to cite the appropriate standard for any relief sought or specifically identify the proper grounds which would justify an order altering or amending a prior decision." (ECF No. 271, p. 3).

how this document has any sort of relation to Valentine or Grate."); (ECF No. 153, p. 15)("In response to Defendants Haley and McMaster's motion, Plaintiffs supplied over 700 pages of exhibits including numerous news articles, Governor McMaster's weekly schedule and various other filings, all without explaining how, if at all, the exhibits show any relation between these Defendants' actions and Plaintiff's specific claims."); (ECF No. 153, p. 16)("In response to DDSN's motion for a protective order, Plaintiffs filed over 800 pages of exhibits, most of which inexplicably stem from an unrelated criminal case concerning fraudulent diversion of funds intended for children with autism.").

The Court was forced to waste scarce judicial time and resources poring over these documents searching for some semblance of relevance as Counsel often failed to cite to these exhibits, reference a specific page or portion of large exhibits, or otherwise explain their relevance. The time and taxpayer money wasted by the Court and defense counsel reviewing these documents is likely immeasurable.

Moreover, Counsels' choice to split the causes of action in this lawsuit led to additional unnecessary litigation. Shortly after being ordered to file a SAC, Counsel chose to withdraw all state law claims and pursue those in the Pickens County Court of Common Pleas. (ECF No. 41). Although Counsel did file a SAC with this Court in which the state law claims for violation of the Tort Claims Act and state law conspiracy were omitted, the 94-page complaint filed in state court (C/A No. 2018-CP-39-01274), contained duplicate federal law causes of action. *See* C/A No. 8:19-cv-0198-JFA (D.S.C. Jan. 21, 2019), (ECF No. 1-1, p. 76).

Thereafter, the Defendants removed the parallel state court action to the federal court, creating duplicate federal lawsuits. After a litany of pre-answer motions were filed, this Court held a status conference in which Counsel agreed to withdraw the federal claims in that duplicative action and further consented to a remand to state court. 19-198, (ECF No. 24). That duplication of claims previously asserted in this case unnecessarily multiplied not only the proceedings in state court, but in the federal court as well. Although the Court does not necessarily take issue with Counsels' choice to assert state law causes of action in state court and proceed on parallel tracks, the Court does take issue with Counsels' choice to include federal law causes of action within the state court which were already pending in this federal action.

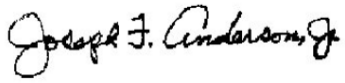
All of Counsels' actions above lead the Court to conclude that this litigation has been unreasonably multiplied in a vexatious manner. Accordingly, Counsel is ordered to show cause as to why they should not be sanctioned pursuant to Rule 11, the inherent authority of the Court, and 28 U.S.C. § 1927.

IV. CONCLUSION

Based on the above, Counsel is ordered to show cause as to why they should not be sanctioned pursuant to Rule 11, the inherent authority of this Court, or 28 U.S.C. § 1927, within 14 days of the date of this order. Within 14 days of Counsels' response, the attorneys for all Defendants are requested to respond with any additional matters they feel warrant this Court's consideration—either in favor of or against an award of sanctions against Counsel. Additionally, Defendants' attorneys are requested to provide an itemized accounting, supported by attorney affidavits, of the fees and costs incurred as a result of

the vexatious conduct outlined above. Counsel will thereafter have 14 days to respond to any new matters brought out in defense counsels' filings.

IT IS SO ORDERED.



December 17, 2021
Columbia, South Carolina

Joseph F. Anderson, Jr.
United States District Judge