

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

KRISTIE MANTOOTH,

Plaintiff(s)

vs.

MATTHEW CUTULLE and CLEMSON UNIV.,

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2018-CP - 10- 6079

Submitted By: Daniel J. Farnsworth, Jr.

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NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

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

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|---|
| Contracts
<input type="checkbox"/> Constructions (100)
<input type="checkbox"/> Debt Collection (110)
<input type="checkbox"/> General (130)
<input type="checkbox"/> Breach of Contract (140)
<input type="checkbox"/> Fraud/Bad Faith (150)
<input type="checkbox"/> Failure to Deliver/
Warranty (160)
<input type="checkbox"/> Employment Discrim (170)

<input type="checkbox"/> Employment (180)
<input type="checkbox"/> Other (199) _____ | Torts - Professional Malpractice
<input type="checkbox"/> Dental Malpractice (200)
<input type="checkbox"/> Legal Malpractice (210)
<input type="checkbox"/> Medical Malpractice (220)
Previous Notice of Intent Case #
20 ____ -NI- ____ - ____
<input type="checkbox"/> Notice/ File Med Mal (230)
<input checked="" type="checkbox"/> Other (299) _____ | Torts - Personal Injury
<input type="checkbox"/> Conversion (310)
<input type="checkbox"/> Motor Vehicle Accident (320)
<input type="checkbox"/> Premises Liability (330)
<input type="checkbox"/> Products Liability (340)
<input type="checkbox"/> Personal Injury (350)
<input type="checkbox"/> Wrongful Death (360)
<input type="checkbox"/> Assault/Battery (370)
<input type="checkbox"/> Slander/Libel (380)

<input type="checkbox"/> Other (399) _____ | Real Property
<input type="checkbox"/> Claim & Delivery (400)
<input type="checkbox"/> Condemnation (410)
<input type="checkbox"/> Foreclosure (420)
<input type="checkbox"/> Mechanic's Lien (430)
<input type="checkbox"/> Partition (440)
<input type="checkbox"/> Possession (450)
<input type="checkbox"/> Building Code Violation (460)

<input type="checkbox"/> Other (499) _____ |
| Inmate Petitions
<input type="checkbox"/> PCR (500)
<input type="checkbox"/> Mandamus (520)
<input type="checkbox"/> Habeas Corpus (530)
<input type="checkbox"/> Other (599)
_____ | Administrative Law/Relief
<input type="checkbox"/> Reinstate Drv. License (800)
<input type="checkbox"/> Judicial Review (810)
<input type="checkbox"/> Relief (820)
<input type="checkbox"/> Permanent Injunction (830)
<input type="checkbox"/> Forfeiture-Petition (840)
<input type="checkbox"/> Forfeiture—Consent Order (850)
<input type="checkbox"/> Other (899)
_____ | Judgments/Settlements
<input type="checkbox"/> Death Settlement (700)
<input type="checkbox"/> Foreign Judgment (710)
<input type="checkbox"/> Magistrate's Judgment (720)
<input type="checkbox"/> Minor Settlement (730)
<input type="checkbox"/> Transcript Judgment (740)
<input type="checkbox"/> Lis Pendens (750)
<input type="checkbox"/> Transfer of Structured
Settlement Payment Rights
Application (760)
<input type="checkbox"/> Confession of Judgment (770)
<input type="checkbox"/> Petition for Workers
Compensation Settlement
Approval (780)
<input type="checkbox"/> Incapacitated Adult Settlement
(790)

<input type="checkbox"/> Other (799) _____ | Appeals
<input type="checkbox"/> Arbitration (900)
<input type="checkbox"/> Magistrate-Civil (910)
<input type="checkbox"/> Magistrate-Criminal (920)
<input type="checkbox"/> Municipal (930)
<input type="checkbox"/> Probate Court (940)
<input type="checkbox"/> SCDOT (950)
<input type="checkbox"/> Worker's Comp (960)
<input type="checkbox"/> Zoning Board (970)
<input type="checkbox"/> Public Service Comm. (990)
<input type="checkbox"/> Employment Security Comm (991)

<input type="checkbox"/> Other (999)
_____ |
| Special/Complex /Other
<input type="checkbox"/> Environmental (600)
<input type="checkbox"/> Automobile Arb. (610)
<input type="checkbox"/> Medical (620)
<input type="checkbox"/> Other (699) _____
<input type="checkbox"/> Sexual Predator (510)
<input type="checkbox"/> Permanent Restraining Order (680)
<input type="checkbox"/> Interpleader (690) | <input type="checkbox"/> Pharmaceuticals (630)
<input type="checkbox"/> Unfair Trade Practices (640)
<input type="checkbox"/> Out-of State Depositions (650)
<input type="checkbox"/> Motion to Quash Subpoena in
an Out-of-County Action (660)
<input type="checkbox"/> Pre-Suit Discovery (670) | | |

Submitting Party Signature: *Daniel J. Farnsworth, Jr.*

Date: December 27, 2018

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

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

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

Pursuant to the ADR Rules, you are required to take the following action(s):

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

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

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
)
) NINTH JUDICIAL CIRCUIT

KRISTIE MANTOOTH,

Case No.: 2018-CP-10- 6079

PLAINTIFF,
vs.

SUMMONS

MATTHEW CUTULLE
And CLEMSON UNIVERSITY,
DEFENDANTS.

FILED
2018 DEC 27 PM 3:24
CLERK OF COURT

TO: THE ABOVE NAMED DEFENDANTS

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this matter, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber at his office, 211 Pettigru Street, Greenville, South Carolina, 29601, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

Daniel J. Farnsworth, Jr.
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Dan@FarnsworthLawOffices.com
Attorney for the Plaintiff

December 21, 2018
Greenville, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

KRISTIE MANTOOTH,)
)
PLAINTIFF,)
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)
vs.)
)
MATTHEW CUTULLE)
And CLEMSON UNIVERSITY,)
)
DEFENDANTS.)
_____)

Case No.: 2018-CP-10-

6079
RECEIVED
CLERK OF COURT
NINTH JUDICIAL CIRCUIT
CHARLESTON, SC
DEC 27 PM 3:24
2018

COMPLAINT
(Jury Trial Demanded)

NOW COMES The Plaintiff, Kristie Mantooth, (hereinafter referred to as “Plaintiff”), complaining of the Defendants, Matthew Cutulle and Clemson University (hereinafter referred to as “Defendants”) would respectfully show unto this Honorable Court as follows:

1. The Plaintiff is a citizen and resident of the County of Bradley, State of Tennessee.
2. The Defendant Matthew Cutulle, upon information and belief, is a citizen and resident of the County of Charleston, State of South Carolina.
3. The Defendant Clemson University is an undergraduate and graduate university operating throughout the State of South Carolina.
4. All of the events giving rise to this Complaint took place on Clemson University Coastal Research and Education Center premises in Charleston County, South Carolina.

5. Venue is proper in this Court pursuant to §15-7-30 of the South Carolina Code of Laws, as Amended.

FACTUAL BACKGROUND

6. The Plaintiff realleges and incorporates by reference all prior allegations as fully as if set forth in their entirety in this paragraph.

7. The Plaintiff was a student enrolled at Clemson University from February of 2017 until her withdrawal in August of 2017.

8. Upon information and belief, Defendant Matthew Cutulle is employed as a assistant professor at Clemson University's Coastal Research and Education Center in Charleston, South Carolina.

9. In October of 2016, Plaintiff moved to Charleston, South Carolina from Chattanooga, Tennessee to begin research before starting her PhD program of study at Clemson University in the Spring of 2017. Plaintiff lived in a Clemson University student housing unit.

10. Plaintiff and Defendant Matthew Cutulle first met on or about October 18, 2016, when Plaintiff was asked by a senior staff member to give the Defendant a ride from a field research site to the main campus. As a courtesy, and because it was a request by a university professor she may be studying under, Plaintiff exchanged phone numbers with Defendant.

11. Plaintiff began receiving unwanted gifts and unsolicited invitations from the Defendant. Defendant stopped by her work area each day. Defendant's interest in the Plaintiff was unreciprocated.

12. The night of December 22, 2016, the Defendant Matthew Cutulle convinced the Plaintiff Kristie Mantooth to let him to stop by her student-housing unit (or apartment) to say goodbye before she left Charleston for winter break.

13. Plaintiff was hesitant about allowing Defendant to visit, but he convinced her it would be brief. Once there, Defendant would not leave, even after her repeated suggestions.

14. The Plaintiff felt uneasy and increasingly uncomfortable by the Defendant's refusal to leave. She reluctantly agreed to take a walk around the property with him hoping he'd leave soon after.

15. After the walk, Defendant insisted on returning back inside of her student apartment. He insisted that he was cold and needed to warm up. Defendant was an uninvited guest, but at this point, Plaintiff feared his reaction if she was too blunt with him. Defendant was persistent and intimidating to Plaintiff, as he had talked about playing rugby in college and was larger and much stronger than Plaintiff. Plaintiff was frightened by Defendant.

16. Once inside her apartment, Defendant asked Plaintiff to sit on the couch and then to lie down. She felt powerless and afraid because of the situation. After she sat on the couch, Defendant began to make unwanted sexual advances towards the Plaintiff.

17. Without the consent of the Plaintiff, the Defendant abruptly began forcing his hand inside her pants. After trying to pull his hand from her pants, and Defendant resisting removing his hand, Plaintiff twisted off the sofa and ran away to her bedroom.

18. Defendant, after Plaintiff remained hidden in her bedroom for some time, eventually left her apartment. Plaintiff ran from her bedroom and promptly locked the door behind him.

19. Following the assault on December 22, 2016, Defendant continued to send Plaintiff unwanted text messages and leave her gifts for months. Defendant visited her office almost daily and tried to meet up with Plaintiff. Plaintiff resorted to covering the windows in her work space, after she caught Defendant repeatedly standing outside staring at her.

20. Defendant's actions caused Plaintiff serious emotional disturbance, physical injury and mental anguish. On February 27, 2017, a Clemson clinic doctor diagnosed Plaintiff with anxiety and stress related ailments. Plaintiff was prescribed anti-anxiety medications and recommended she undergo psychiatric therapy.

21. On or about March of 2017, Plaintiff reached out to the Clemson administration for help. Plaintiff discussed her concerns about Defendant's stalking her and his unwanted advances. Plaintiff also reached out to Clemson counselor Dr. Gainor for advice and support, but she ultimately did not receive any help that she sought.

22. On or about March 23, 2017, Defendant confronted Plaintiff with his deep feelings for her. He tried to convince Plaintiff to be in a romantic relationship with him and accept a gift. Plaintiff firmly refused.

23. On or about April 6, 2017, Plaintiff informed the Clemson University Associate Dean Fleming about the continued stalking by the Defendant and the unwanted advances. He requested a list of the issues, which Plaintiff provided him, but no follow-up on was done by University administrators.

24. When seeking help from Defendant Clemson University's staff, Plaintiff was left without help, assistance or support. Clemson counselor Dr. Gainor told plaintiff that resources are limited for students needing help on satellite campuses. Clemson University counselors and staff members did not provide the help she needed when she confided in them that she was living in fear because of this employee of the university.

25. Defendant Matthew Cutulle continued to stalk, intimidate, and harass Plaintiff daily. He would go by her office each day. He would stare into her windows. He would appear at common areas adjacent to her work and study space, when there were similar areas near his workspace on the opposite side of campus.

26. Plaintiff was confronted by Defendant outside of her student-housing unit because she had been ignoring his text messages. After the unpleasant conversation, she found a dead female cardinal on her doorstep, she believes was left by the Defendant to intimidate her. Plaintiff's nickname was Red Bird.

27. Clemson University's Lead Investigator Priscilla Harrison did not provide Plaintiff with useful guidance. She discouraged Plaintiff from getting legal advice and seeking police involvement.

28. Defendant Clemson University's staff members retaliated when Plaintiff finally resorted to filing a complaint in August of 2017.

29. All Defendants herein named caused some part of the Plaintiff's ongoing injuries.

30. Clemson University administrators and staff condoned, ratified and downplayed the actions of Mr. Cutulle.

31. Defendants violated policies and procedures that were intended to protect the health and well being of Clemson University students, and those violations continue to contribute to the Plaintiff's ongoing injuries.

32. The Defendants are liable for multiple and distinct acts and omissions.

33. The Plaintiff is therefore informed and believes she is entitled to judgment against the Defendants for full actual and punitive damages, the acts and omissions of Defendants being a proximate cause of her substantial, serious and ongoing injuries.

FIRST CAUSE OF ACTION

(Assault and Battery)

34. The Plaintiff reiterates and realleges the prior allegations in this Complaint as if repeated herein verbatim.

35. The Defendant Matthew Cutulle's actions were conducted without the consent of the Plaintiff.

36. As Defendant Matthew was an assistant professor at the University, the University is vicariously liable for his conduct, acts and omissions.

37. The Defendant's conduct placed the Plaintiff in apprehension and fear of harm.

38. The Defendant Matthew Cutulle willfully and intentionally touched the Plaintiff in a harmful and offensive way, and refused to withdraw his aggressive actions when Plaintiff pleaded with him to do so.

39. The Defendants' actions left the Plaintiff to live in continuous fear. She was burdened tremendously with anxiety and stress. Due to these traumatic events,

Plaintiff left graduate school to escape this continued trauma and now suffers from Post-Traumatic Stress Disorder and continues treatment for her emotional injuries.

40. As a direct and proximate result of being placed in apprehension of being harmed and assaulted again, the Plaintiff suffered physical, mental and emotional distress, forcing her to abandon her course of graduate studies and seek recovery for the damage inflicted by Defendant.

SECOND CAUSE OF ACTION

(Negligence, Gross Negligence, and Recklessness)

41. The Plaintiff reiterates and realleges the prior allegations in this Complaint as if repeated herein verbatim.

42. At all times, Defendant Clemson University administrators and staff, and Defendant Cutulle had a duty to exercise due care to ensure their students' well being was protected.

43. University staff, administrators, professors and employees had a duty to exercise the degree of knowledge, skill, and care that is required of and that is ordinarily possessed and exercised by those in the education and safe development of their students.

44. As Defendant Matthew was an assistant professor at the University, the University is vicariously liable for his conduct, acts and omissions.

45. Breaches of such duties constitute negligence, recklessness and gross negligence.

46. The Defendants breached their duties in the following particulars:

- a. By failing to protect Plaintiff from a disturbing and predatory employee;

- b. By refusing to meaningfully address Plaintiff's complaints and pleas for help, which exacerbated an already bad and injurious situation;
- c. By failing to ensure that University employees and others complied with all applicable policies and procedures designed to protect their students.
- d. By failing to exercise even slight care to address Plaintiff's fears, her reports of abusive behavior and Defendant Cutulle's repeated disturbing conduct;
- e. By failing to provide reasonable protection and preventative measures;
- f. By authorizing, condoning, and downplaying Defendant Matthew Cutulle's conduct toward the Plaintiff;
- g. By normalizing Defendant Matthew Cutulle's behavior as an assistant professor at Clemson University and Plaintiff's injuries resulting from this.
- h. By hiring employees who were unfit for the positions they held;
- i. By retaliating against the Plaintiff when she reported the trauma she endured, including suggestions that she find some place else to study;
- i. By failing to properly investigate the Plaintiffs' complaints of harassment, stalking and assault by a university professor;

- j. With respect to Defendant Matthew Cutulle, he was reckless, willful, negligent and grossly negligent by continuing stalking Plaintiff, and extending her unwanted attention, and making inappropriate sexual advances toward the Plaintiff. Ultimately coercing her to allow him into her apartment and forcing his hand into her pants without her consent;
- k. And as to both Defendants, in such other and further particulars as the evidence at trial will show; any or all of which were the direct and proximate cause of the injuries and damages suffered by the Plaintiff herein, said acts being in violation of the statutory laws of the State of South Carolina, common law of our State, and the dictates of ordinary respect and prudence.

47. That as a direct and proximate result of the aforementioned acts of negligence, recklessness, willfulness, wantonness, and gross negligence on the part of Defendants, the Plaintiff has sustained injuries, trauma, mental anguish, apprehension, and anxiety, which continue today.

48. The Plaintiff continues to suffer from both mental and emotional damage from the actions of both Defendants. These injuries have necessitated her withdrawing from her course of graduate studies, suffering a disturbing interruption of her life, ongoing counseling and therapy, and robbing her of her sense of security and safety.

THIRD CAUSE OF ACTION

(Negligent Hiring, Supervision, and Retention)

49. The Plaintiff reiterates and realleges the prior allegations in this Complaint as if repeated herein verbatim.

50. The Defendant Clemson University had a duty to hire persons fit for employment, to investigate backgrounds of its potential employees, and to require appropriate education, experience, training, and other qualifications for those it hires.

51. The Defendant Clemson University had a duty to adequately supervise competent and fit employees, discover those that posed dangers to the welfare of its students, and to terminate unfit employees.

52. The Defendant Clemson University breached its duties to adequately supervise, hire, and retain employees and acted in a negligent and grossly negligent and reckless manner in some or all of the following particulars:

- a. In failing to ensure that employees complied with policies set to protect the welfare of its students;
- b. In failing to ensure that employees fairly granted the Plaintiff and Defendant Matthew Cutulle equal rights, accommodations, and opportunities during the investigation and hearing process;
- c. In failing to ensure that employees properly and meaningfully responded to the Plaintiff's reports of harassment, retaliation, and fear for her safety;
- d. In failing to provide proper training and education to employees regarding harassment, stalking and sexual assault;

- e. In failing to conduct routine check-ups, training and monitoring of its employees, particularly those in positions of power with opportunity to potentially abuse and have improper contact with students;
- f. In failing to ensure that employees complied with employment policies and procedures;
- g. In failing to adequately investigate the conduct of the employees toward the Plaintiff, once complaints were made;
- h. In failing to require sufficient education and training of potential employees;
- i. In failing to properly screen applicants, perform appropriate background checks, check references, and perform sufficient and formal interviews of potential employees; and
- j. In other such particulars as the evidence may show.

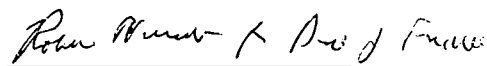
53. As a direct and proximate result of the negligent, grossly negligent, willful and reckless acts and omissions of the Defendants, the Plaintiff suffered, and continues to suffer, injuries and damages, including those set forth above.

54. By reason of the foregoing, the Plaintiff is entitled to judgment against the Defendant for actual and punitive damages, all of which were proximately caused by the acts and omissions of the Defendants, in an amount as may be determined by the trier of fact.

WHEREFORE, Plaintiffs pray for judgment against the Defendants for full actual and punitive damages in the amount to be determined by a jury, for costs and disbursements of this action, and for such other and further relief as this Honorable Court deems proper.

The Plaintiff demands a trial by jury.

Respectfully submitted,



Daniel J. Farnsworth, Jr.

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Greenville, South Carolina
December 21, 2018