

Exhibit 2



Marybeth Mullaney <marybeth@mullaneylaw.net>

Re: Subpoena to SLED // Berg v. Bryant et al

1 message

Nosizi Ralephata <nralephata@grsm.com>

Thu, Jan 15, 2026 at 2:58 PM

To: Marybeth Mullaney <marybeth@mullaneylaw.net>, Rene Dukes <rdukes@saxtonstump.com>, Matthew Gallo <mgallo@grsm.com>, Robert Merting <robert@kimandlahey.com>, Bennett Kesler <bennett@mullaneylaw.net>, Mary Grace Maybank <MaryGrace@wyndhamlaw.com>, "William L. Duda" <bill.duda@ogletree.com>, Jay Jones <jjones@gwblawfirm.com>, Elizabeth Morrison <Elizabeth@whelanmellen.com>, Will Blount <wblount@grsm.com>, "Sarah M. Gable" <sarah.gable@ogletreedekins.com>, Joel Milliken <jmilliken@grsm.com>, Gina Horseman <ghorseman@gwblawfirm.com>, Michelle Adams <maadams@grsm.com>, Dina Wentzell <dwentzell@gwblawfirm.com>, Martina Cattles <mcattles@gwblawfirm.com>, Robert Wyndham <Robert@wyndhamlaw.com>, "D. Craig Brown" <craigbrown@craigbrownlawfirm.com>, Emma Baguer <ebaguer@saxtonstump.com>, Zeld Kiser <zkiser@grsm.com>

Marybeth, please don't make up statements that I did not make at the December 30 hearing (or any other time). If you are not sure what I said, get the transcript first before attributing false statements to me – just like you make up the SCRP as you go to suit your own agenda - now that we have confirmed you intentionally filed a lawsuit accusing Patrick of criminal conduct you and Ali have no knowledge of.

After Nancy Mace accused me at the hearing of lying about possession of Patrick's phone I stated on the record two facts: (1) we do not have the phone (S22) that Bryant used in or around November 2023; and (2) SLED took possession of Bryant's phone on or about February 29, 2025. That latter phone was an S23 phone. Those are facts and the attached Search Warrant confirms those facts. Maybe Mace is confusing me with her own documented recent antics which indicate everything she doesn't like is fake news or falsified reports, and she can't tell the difference between fake and real anymore, regardless, **we do not have Patrick's S22 or S 23 phones in our possession. That's not fake news, nor is this an AI or falsified email.**

I never represented that SLED took possession of Bryant's S22 phone from November 2023. I would never have made that representation because Mace stole the original S22 phone from Bryant's house/safe and Bryant has not possessed it since late-2023. **In fact, your own production confirms this.** You might want to look at what you are producing. See attached messages in which **Mace confirms in June that she got a PI to download files off Bryant's phone, put them on a computer, and downloaded them to a new phone.** From everything we have seen so far, the logical conclusion is Mace destroyed Bryant's S22 phone because she had extracted everything she needed from it and she knew a forensic expert would be able to tell that she and her PI had accessed and extracted data from his phone.

This brings us to the subpoena on SLED. Please revise your cover letter to remove misrepresentations as to what I allegedly stated on the record. Also, we are glad that you finally are doing something for Ali Berg and are now trying to get some real verifiable information, not manufactured data and emails. On that note, we served a subpoena on SLED asking for broader categories of documents to really get to the bottom of everything, and Judge Hocker agreed at the December 30 Hearing: we must start with exactly what happened to Ali Berg on October 25-26, 2018. Do you object to that subpoena? You should join in it. **But serving a single request for a receipt of the S22 phone is misleading as Bryant never provided it to SLED and I never represented that either.**

When you finally decide who your real client is, let us know if you want to work collaboratively to get everything from SLED and get to the truth and give Ali the closure she deserves.

ELECTRONICALLY FILED - 2026 Feb 10 3:16 PM - CHARLESTON - COMMON PLEAS - CASE#2025CP1002671

Thanks.

NOSI RALEPHATA | Partner

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From: Marybeth Mullaney <marybeth@mullaneylaw.net>

Sent: Thursday, January 15, 2026 10:47 AM

To: Rene Dukes <rdukes@saxtonstump.com>; Matthew Gallo <mgallo@grsm.com>; Robert Merting <robert@kimandlahey.com>; Nosizi Ralephata <nralephata@grsm.com>; Marybeth Mullaney <marybeth@mullaneylaw.net>; Mary Grace Maybank <MaryGrace@wyndhamlaw.com>; William L. Duda <bill.duda@ogletree.com>; Jay Jones <jjones@gwblawfirm.com>; Zeldia Kiser <zkiser@grsm.com>; Elizabeth Morrison <Elizabeth@whelanmellen.com>; Will Blount <wblount@grsm.com>; Sarah M. Gable <sarah.gable@ogletreedeadkins.com>; Joel Milliken <jmilliken@grsm.com>; Gina Horseman <ghorseman@gwblawfirm.com>; Michelle Adams <maadams@grsm.com>; Dina Wentzell <dwentzell@gwblawfirm.com>; Martina Cattles <mcattles@gwblawfirm.com>; Robert Wyndham <Robert@wyndhamlaw.com>; D. Craig Brown <craigbrown@craigbrownlawfirm.com>; Bennett Kesler <bennett@mullaneylaw.net>; Emma Baguer <ebaguer@saxtonstump.com>

Subject: Subpoena to SLED

Dear All,

Pursuant to SCRPC Rule 45(a)(4), please find attached a copy of a subpoena that will be served on SLED. As required by Rule 45(a)(4), a copy of the subpoena must be served on each party in the manner prescribed for service of pleadings before it is served on the person to whom it is directed. This email serves as notice of my compliance with this requirement.

Kind Regards,
Marybeth



MARYBETH MULLANEY

ATTORNEY AT LAW

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marybeth@mullaneylaw.net

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GORDON REES SCULLY MANSUKHANI, LLP
YOUR 50 STATE LAW FIRM™
www.grsm.com

3 attachments



MaceBergTexts360.jpg
662K

 **Search Warrant 2.18.25.pdf**
576K

 **Search Warrant Return 2.19.25.pdf**
41K



South Carolina

STATE LAW ENFORCEMENT DIVISION

Henry D. McMaster, Governor

Mark A. Keel, Chief

P.O. Box 21398
Columbia, South Carolina
29221-1398

WWW.SLED.SC.GOV

(803) 737-9000

February 5, 2026

Via Email To: marybeth@mullaneylaw.net

Marybeth Mullaney, Esquire
4900 O'Hear Avenue
Suites 100 & 200
North Charleston, SC 29405

Re: Berg v. Bryant et al.
Case No.: 2025-CP-10-03124

Dear Attorney Mullaney:

I sincerely appreciate the extension of time you granted SLED in this matter. However, pursuant to Rule 45 of the South Carolina Rules of Civil Procedure, please allow this correspondence to serve as SLED's formal objection to your subpoena in which you are seeking all law enforcement records *during* the ongoing investigation. As I have previously stated in this matter, SLED's position is that SLED's investigative file is comprised entirely of sensitive law enforcement records, not otherwise available by state and federal law, that were compiled in the process of detecting and investigating crime, the premature disclosure of which would absolutely harm SLED and its prospective law enforcement action in this matter; including SLED's ongoing and active criminal investigation, any forthcoming prosecution that may be determined warranted by the appropriate prosecutor, and the constitutional guarantees to *all involved* and associated therewith. As such, SLED hereby objects to the production of any materials in this ongoing criminal investigation *at this time*. See, Rule 26(b), SCRPC; Rule 45(d)(1), SCRPC; Rule 45(d)(3), SCRPC. That said, without confirming or denying the existence of any evidence in this matter and solely in the interest of judicial economy, I would note that a motion to compel SLED to produce a property receipt regarding SLED's receipt of an S22 Android phone would be futile.

Finally, as I previously noted, SLED will produce non-privileged and responsive materials in this matter *at the appropriate time*. However, a production during SLED's ongoing investigation is not the appropriate or allowable time and SLED hereby respectfully opposes such. SLED additionally hereby reserves all privileges and immunities applicable to the documents or information sought and all other arguments applicable to this matter.

With kind regards, I am
Sincerely,

Adam L. Whitsett
SLED General Counsel

**STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON**

**IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT**

ASSIGNMENT DESK WORKS,

CASE NO. 2025-CP-10-2671

Plaintiff,

vs.

ALEXIS BERG,

Defendant.

**DEFENDANT ALEXIS BERG'S MOTION TO COMPEL FORENSIC INSPECTION OF
PATRICK BRYANT'S SAMSUNG GALAXY S22 SMARTPHONE**

Defendant Alexis Berg ("Ms. Berg" or "Plaintiff"), by and through undersigned counsel, respectfully moves this Court pursuant to Rules 26 and 34 of the South Carolina Rules of Civil Procedure to compel Plaintiff Assignment Desk Works LLC's ("ADW") owner Patrick Bryant ("Bryant") to produce his Samsung Galaxy S22 smartphone ("S22 Phone") for forensic inspection and analysis. Bryant was served with a spoliation letter on November 13, 2023, putting him on notice that litigation was reasonably foreseeable and imposing upon him a duty to preserve the S22 Phone and all evidence contained therein. (Exhibit 1 Spoliation Letter) In the event Bryant cannot produce the S22 Phone, Ms. Berg requests the Court hold a hearing requiring Bryant to testify under oath or produce sworn statements explaining what happened to the phone and the circumstances of its destruction so the Court can determine the appropriate sanctions.

If Bryant intentionally destroyed the S22 Phone and then filed this lawsuit against Ms. Berg, he has committed spoliation in its most indefensible form. Eliminating the very evidence that would vindicate her defense and then weaponizing that destruction by initiating litigation to punish, intimidate, and financially burden her for speaking truthfully about his criminal conduct

she can no longer prove because he destroyed the proof. Such deliberate and calculated abuse of the judicial process demands the most severe sanctions this Court can impose.

Ms. Berg asks this Court to order Mr. Bryant to produce the S22 Phone for inspection. In the event Mr. Bryant destroyed the phone, she requests the Court to compel Bryant to disclose when, where, and how the destruction occurred so she can seek appropriate remedies and sanctions, up to and including dismissal of this case and attorney's fees. In support of this Motion, Ms. Berg states as follows:

BACKGROUND

Patrick Bryant, through his company Assignment Desk Works (ADW), brought a breach-of-contract claim against Ms. Berg, alleging that she violated a settlement agreement in an unrelated wage case by disparaging Bryant. In early November of 2023, Mr. Bryant's fiancée, Congresswoman Nancy Mace ("Mace"), discovered pictures of Ms. Berg unconscious in a state of undress as well as a video of Ms. Berg being sexually assaulted on Bryant's S22. Mace took screenshots of some of the images with her phone. Ms. Mace, through her attorney, sent Mr. Bryant a preservation letter on November 13, 2023, putting him on notice of future litigation and instructing him to preserve all evidence, including the images she saw on his S22. (Exhibit 1)

In December of 2023, Mace reported what she uncovered on Bryant's phone to law enforcement, and SLED initiated an investigation of Bryant for assault, voyeurism, and harassment. Ms. Berg is a sexual assault victim and cooperating witness in the SLED investigation. ADW claims Ms. Berg disparaged Bryant by telling a former co-worker about the assault and pending investigation.

Ms. Berg maintains that she made truthful statements about a matter of public safety, her speech was protected and the images on Bryant's S22 will demonstrate that Bryant took pictures and filmed her without her knowledge or consent. Ms. Berg alleges that ADW's lawsuit is a meritless Strategic Lawsuit Against Public Participation (SLAPP) designed to intimidate, silence, and burden her with legal costs. Ms. Berg contends that Mr. Bryant used his company to file this SLAPP lawsuit after she reported the assault to law enforcement, weaponizing the court system to punish her for speaking truthfully and to discourage her continued cooperation with the criminal investigation and dissuade her from pursuing a civil action against him.

On May 29, 2025, Ms. Berg filed a lawsuit against Bryant, ADW, Bryant's company GLT2, her alleged assailants John Osborne and Eric Bowman ("Bowman"), and Pommer Group, the entity that owns the home where the assault allegedly occurred. (*Berg v. Bryant et al.*, 2025-CP-10-03124). Ms. Berg brought claims for Wrongful Intrusion into Private Affairs, Battery, Intentional Infliction of Emotional Distress, Premise Liability, Defamation, Abuse of Process, Negligence Per Se, Negligence, Gross Negligence, and Conspiracy. On November 6, 2025, Bryant filed a Third-Party Complaint against Ms. Mace, Ms. Berg, and Melissa Britton, Bowman's wife. On December 9, 2025, Bryant filed an Amended Third-Party Complaint against the same parties alleging Defamation, Conversion, Tortious Interference with Contract, Intentional Infliction of Emotional Distress, Civil Conspiracy, and Aiding and Abetting Criminal Conduct. Bryant attached the spoliation letter he received from Mace's counsel on November 13, 2023, putting him on notice of litigation and instructing him to preserve evidence. (Exhibit 1)

Bryant's own pleadings contain irreconcilable contradictions regarding possession of his phone that warrant an order compelling him to either produce the device or provide a sworn explanation of its current location and condition. In his Third-Party Complaint, Bryant states:

26. *On or about the morning of November 13, 2023, Bryant woke to find Mace actively searching through the Phone while he was asleep and without his permission.*

27. *Bryant immediately retrieved his Phone from Mace and subsequently reviewed it. Upon doing so, Bryant discovered that Mace had accessed a secure area of the Phone that required additional access. He was unaware she had hacked the Phone or removed data. Later **in mid- December 2023** Bryant became concerned she had hacked the Phone and discovered she had downloaded an application called "Mr. Fone" on the morning of the break-up, which was November 13, 2023.*

According to these pleadings, Bryant possessed the phone in mid-December after he received the spoliation letter from Mace's counsel on or about November 13, 2023. But in his Motion for a Temporary Restraining order filed November 17, 2025, Bryant alleges that "Mace has refused to return the phone or Bryant's data and threatens to release it to the public."

During a hearing on December 30, 2025, Ms. Berg's counsel inquired about the location of Bryant's S22 Phone. Counsel for Bryant, Nosizi Ralephata, responded in a manner that Ms. Berg's counsel understood to indicate that SLED possessed the phone. However, in a January 15, 2026 email, Ms. Ralephata informed Berg's counsel that she did not make that representation and revealed a critical fact: Bryant never turned over the S22 Phone to SLED. (Exhibit. 2, Jan. 15, 2026 email from Ralephata to Mullaney). According to Ms. Ralephata, the device SLED seized from Bryant pursuant to a search warrant was not the S22 at all, but rather a different phone, a Samsung Galaxy S23. *Id.* This admission suggests that Bryant may have destroyed the S22 after receiving the November 13, 2023, preservation letter and subsequently purchased the S23 to conceal evidence from law enforcement and Ms. Berg. Ms. Ralephata's explanation for the missing S22 only creates further contradictions. She claimed that "Mace stole the original S22 phone from Bryant's house/safe and Bryant has not possessed it since late-2023." *Id.* Yet Bryant's own Third-Party Complaint alleges that in "mid-December 2023" he personally examined the S22 and

discovered the Mr. Fone application on it. (Amended Third-Party Complaint ¶27). These competing narratives are irreconcilable: Bryant cannot simultaneously claim he examined the phone in mid-December 2023 and that he has not possessed it since late-2023.

Ms. Berg's Counsel served SLED with a subpoena asking for the property receipt for Bryant's S22 so she could ascertain the phone's whereabouts. SLED objected to producing any materials from its ongoing criminal investigation stating the investigative file consists of sensitive law enforcement records protected under state and federal law. Premature disclosure would harm the active investigation and any potential prosecution. However, SLED also stated, "any motion to compel production of a property receipt for an S22 Android phone would be futile." (Exhibit 3, February 5, 2026, SLED letter) Thus solidifying that SLED does not possess the phone.

Bryant's contradictions regarding possession of the phone become even more untenable when considered alongside his own admission that Mace turned over evidence to law enforcement. In his Motion for Temporary Restraining Order, Bryant explicitly states that Mace "even turned over the alleged criminal 'evidence' to SLED in December 2023" (TRO Motion, p.2, p.5). Yet in his Third-Party Complaint, Bryant claims that in "mid-December 2023" he personally examined his phone and "discovered she had downloaded an application called 'Mr. Fone' on the morning of the break-up" (Am Compl ¶27). Furthermore, Bryant's narrative fails basic logic: if Mace actually stole his S22 as he alleges, she presumably would have turned it over to SLED along with the screenshots and other evidence she provided in December 2023. Yet SLED does not possess the S22. The only phone SLED obtained was the S23 that Bryant himself provided pursuant to a search warrant in February 2025, more than two years after the alleged theft and more than a year after he received the preservation letter.

The only logical explanation for these irreconcilable contradictions is that Bryant has destroyed the phone and is now fabricating inconsistent narratives to explain its absence. This pattern of contradictory statements regarding such a critical piece of evidence, the very device that would definitively establish or refute the claims in this litigation demonstrates bad faith and supports a finding of spoliation. The Court should compel immediate production of the phone or require Bryant to provide a verified, detailed accounting of the phone's chain of custody from November 13, 2023, to present, including any contact with SLED, the phone's ultimate disposition, and the date he purchased the S23 and began using it..

LEGAL STANDARD

Under Rule 26(b) of the South Carolina Rules of Civil Procedure, discovery is permitted for "any nonprivileged matter that is relevant to any party's claim or defense," including electronically stored information such as data on a smartphone. Rule 26(b)(1), SCRPC. Discovery must be "proportional to the needs of the case," considering factors such as the importance of the issues at stake, the amount in controversy, the parties' resources, and the importance of the discovery in resolving the issues. *Id.*

Rule 34(a) specifically authorizes a party to request inspection, copying, testing, or sampling of ESI, including data stored on smartphones, provided the request falls within the scope of Rule 26(b). Rule 34(a), SCRPC. The responding party must comply unless they object, in which case the court may intervene to resolve the dispute. Rule 34(b), SCRPC. Here the S22 contains evidence that is critical to Ms. Berg's defense accordingly the Court should Order Bryant to produce it or explain its whereabouts.

Courts routinely require civil litigants to produce their mobile phones even if the Defendant has a pending criminal matter. In *Richardson v. Taylor*, 2022 S.C. C.P. LEXIS 1039. the court granted the plaintiff's motion to compel the defendant to provide his smartphone for forensic inspection notwithstanding that he had a pending DUI. The *Richardson* court noted, the Fifth Amendment does not prevent discovery in a civil case. Parties to civil litigation have broad discovery rights. The rights of discovery provided by the rules give the trial lawyer the means to prepare for trial, and when they are not afforded these rights prejudice must be presumed. *Samples v. Mitchell*, 329 S.C. 105, 113-114, 495 S.E.2d 213, 215 (Ct. App. 1997) (citing *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987)). Therefore, the Court should grant Ms. Berg's motion and require Bryant to produce his phone or explain under oath why he unable to produce it.

ARGUMENT

1. THE COURT SHOULD COMPEL BRYANT TO PRODUCE THE S22 PHONE OR EXPLAIN ITS ABSENCE UNDER OATH

The spoliation of evidence is the intentional, reckless, or negligent withholding, hiding, altering, fabricating, or destroying of evidence relevant to a current or reasonably anticipated legal proceeding. *Hopper v. Air & Liquid Sys. Corp.* 2019 S.C. C.P. LEXIS 5488 *1. If proven, spoliation may be used to establish that the evidence was unfavorable to the party responsible. Black's Law Dictionary (8th Ed. 2004). *Id.* The theory behind imposing sanctions for spoliation of evidence is that when a party destroys evidence, it is reasonable to infer that the party had "consciousness of guilt" or other motivations to avoid the evidence being heard or introduced to the jury. *Id.*

A party bringing a motion for sanctions based on spoliation bears the burden of establishing three (3) independent elements before the Court may determine which sanction, if any, is

appropriate. These elements are: (1) that the party having control over the evidence had a duty to preserve it at the time it was destroyed; (2) that the evidence was destroyed with a culpable state of mind; and (3) that the destroyed evidence was relevant to the party's claim or defense such that a reasonable trier of fact could find that it would support that claim or defense. *Hawkins v. College of Charleston*, 2013 WL 6050324 (4th Cir. 2013) (citing *Cytec Carbon Fibers, LLC v. Hopkins*, No. 2:11-cv-0217, 2012 WL 6044778 (D.S.C. Oct. 22, 2012)).

Ms. Berg can establish all three elements. First, Bryant had a duty to preserve the S22 Phone when he received the preservation letter on November 13, 2023, putting him on express notice of potential litigation and specifically instructing him to preserve all evidence including the images on his S22. (Exhibit 1) Second, Bryant's culpable state of mind is evidenced by his contradictory pleadings claiming he "immediately retrieved" the phone from Ms. Mace on November 6, 2025, then claiming eleven days later that "Mace has had Bryant's phone for two-plus years" combined with his filing of this lawsuit knowing the phone would be critical to Ms. Berg's defense and his recent claim that Mace has had his phone since November of 2023 notwithstanding he has not made any such claim until now.

Third, the S22 Phone is directly relevant to Ms. Berg's defense because it allegedly contains photographs of Ms. Berg unconscious and undressed and video of her being sexually assaulted the very evidence that would prove she spoke truthfully to her co-worker about Bryant's conduct. The statements ADW claims constitute disparagement are the exact conduct this phone would document. If Bryant destroyed the S22 Phone after receiving the preservation letter and then filed this lawsuit against Ms. Berg for speaking truthfully about the conduct that phone would have proven, such destruction supports a reasonable inference of consciousness of guilt and warrants this Court's imposition of the most severe sanctions available.

2. THE COURT HAS DISCRETION TO DISMISS THIS ACTION IF BRYANT DESTROYED THE S22 PHONE

If the Court finds Bryant intentionally destroyed the S22 Phone, the Court has discretion under Rule 37(b)(2)(C), SCRPC, to impose such sanction it deems just, "including an order dismissing the action or proceeding, or any part thereof." *Barnette v. Adams Bros. Logging, Inc.*, 335 S.C. 588, 593, 586 S.E.2d 572 (2003). The selection of a sanction for discovery violations is within the trial court's discretion and can range up to default or dismissal. *Kershaw County Bd. of Educ. v. United States Gypsum Co.*, 302 S.C. 390, 396 S.E.2d 369 (1990). In determining the appropriateness of a sanction, the Court should consider the precise nature of the discovery, the discovery posture of the case, willfulness, and degree of prejudice. *Griffin Grading & Clearing, Inc. v. Tire Service Equip. Mfg. Co.*, 334 S.C. 193, 199, 511 S.E.2d 716, 719 (Ct. App. 1999). The sanction should be aimed at the specific conduct of the party sanctioned. *Id.* Before invoking the severe remedy of dismissal, the Court must determine that such a sanction is necessary to protect the rules of discovery or when there is evidence of bad faith, misconduct, willful disobedience, or gross indifference to the rights of other litigants. *Orlando v. Boyd*, 320 S.C. 509, 466 S.E.2d 353 (1996); *Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991).

South Carolina courts have upheld dismissal as an appropriate sanction where parties have engaged in willful destruction of evidence or intentional defiance of discovery obligations. In *QZO, Inc. v. Moyer*, 358 S.C. 246, 257-58, 594 S.E.2d 541, 548 (Ct. App. 2004), the Court of Appeals held the trial court properly struck a pleading based on the appellant's intentional defiance of the trial court's order and his willful destruction of evidence. Similarly, in *Davis v. Parkview Apartments*, 409 S.C. 266, 283, 762 S.E.2d 535, 544 (2014), the Supreme Court ruled that dismissal was not unduly harsh in light of the appellants' willful and repeated failure to comply with various orders, which resulted in unnecessary delay and prejudice to the respondents. Courts

have also recognized that unduly lenient sanctions tend to encourage rather than discourage noncompliance with discovery rules. *Downey v. Dixon*, 294 S.C. 42, 362 S.E.2d 317 (Ct. App. 1987).

Here, if Bryant destroyed the S22 Phone after receiving the November 13, 2023, preservation letter and then filed this lawsuit against Ms. Berg knowing she would not have access to the phone to defend herself, such conduct constitutes bad faith, willful misconduct, and gross indifference to Ms. Berg's rights. The intentional destruction of evidence after being put on notice to preserve it, and the severe prejudice to Ms. Berg's ability to defend this action, warrant dismissal of ADW's claims.

CONCLUSION

Accordingly, Ms. Berg requests the Court compel Bryant to produce the S22 Phone for forensic inspection or, in the alternative, hold a hearing requiring Bryant to testify under oath or submit sworn statements explaining what happened to the phone and the circumstances of its destruction or unavailability, and thereafter impose appropriate sanctions

Respectfully submitted,

s/Marybeth Mullaney
Marybeth Mullaney (S.C. Bar #6685)
Mullaney Law
4900 O'Hear Avenue, Suites 100 & 200
North Charleston, SC 29403
(843) 588-5587 Phone
marybeth@mullaneylaw.net

Attorney for Defendant

February 10, 2026
North Charleston, South Carolina

Exhibit 1

URICCHIO, HOWE, KRELL, JACOBSON, TOPOREK, & KEITH, P.A.

ATTORNEYS AT LAW
17th BROAD STREET
CHARLESTON, SC 29401

PAUL N. URICCHIO, JR. (1922-2000)
ARTHUR G. HOWE (1927-2004)
BARRY KRELL
CARL H. JACOBSON
ALAN D. TOPOREK
GREGORY D. KEITH
JONATHAN F. KRELL
JEFF BUNCHER, JR.
J. DEVEAUX STOCKTON
MATTHEW T. REITZ

November 13, 2023

MAILING ADDRESS:
P.O. BOX 399
CHAS., SC 29402-0399

TELEPHONES:
(843) 723-7491
1-800-899-1883
FAX (843) 577-4179

VIA PROCESS SERVER

Brendan P. Bryant
3301 Palm Blvd.
Isle of Palms, SC 29451

Re: Surreptitious Recordings of Nancy Mace

Dear Mr. Bryant,

This firm along with Steve and Kate Schmutz represent Nancy Mace for damages arising from your voyeuristic audio and video recordings of Ms. Mace in violation of S.C Code Ann. Sec. §16-17-470.

This statute states, "A person commits the crime of voyeurism if, for the purpose of arousing or gratifying sexual desire of any person, he or she knowingly views, photographs, audio records, video records, produces, or creates a digital electronic file, or films another person, without that person's knowledge and consent, while the person is in a place where he or she would have a reasonable expectation of privacy." The statute continues that a person would have a reasonable expectation of privacy "in a place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed, filmed, or videotaped by another.

We are in possession of substantial evidence of numerous such recordings you have made. Based on our investigation, you have violated all elements of this statute which potentially exposes you to civil liability including actual and punitive/exemplary damages.

You should forward this letter to your attorney immediately so that I may discuss the preservation of all documents and Electronically Stored Information (hereafter "ESI") in your

possession, custody and/or control. The ESI and documents constitute evidence against you in a potential civil action and it shall be maintained in its original condition and not be altered, amended, edited, deleted or destroyed.

In the event you do not have an attorney, you are hereby instructed to confirm that you have taken the steps outlined below to preserve ESI and tangible documents potentially relevant to this matter. If you have not undertaken the steps outlined below or have taken other actions, please describe what you have done to preserve potentially relevant evidence.

Considering the disastrous financial consequences you face from your illegal recordings of Ms. Mace, you should seek the advice of your attorney and provide him or her with a copy of this letter and ask him or her to contact me immediately. Should you choose not to consult counsel in this matter, please call me immediately at my office, 843-723-7491, or my mobile phone, 843-270-5847.

PRESERVATION OF MATERIAL

Additionally, this letter is formal notice that you preserve all documents, tangible things, and electronically stored information and files potentially relevant to the issues in the above-referenced matter. As used in this letter the terms "you" refers to you, your family members, all businesses and entities controlled or operated by in which you have any interest, and any predecessors, successors, parents, subsidiaries, division, or affiliates, and its respective officers, directors, agents, attorneys, accountants, employees, partners, or other persons occupying similar positions or performing similar functions.

This demand includes the preservation and retention of all documents, records, files, and data relating in any way to: Yourself or Ms. Mace whether by written or hard copy format or by electronic or digital format of either you or anyone acting on your behalf. You should anticipate that much of the information subject to disclosure or responsive to discovery in this matter is stored on your current and former computer systems, laptops, online repositories, cloud services, electronic or digital apps, hard drives, cameras and cell phones.

ESI should be afforded the broadest possible definition and includes (by way of example and not as an exclusive list) potentially relevant information electronically, digitally, magnetically or optically stored as:

1. Digital communications (e-mail, voicemail, instant messaging, sms messaging, text messaging, messaging apps, etc.);
2. Word processing documents (Word, WordPerfect, Google documents or any other documents and drafts, etc.);
3. Spreadsheets and Tables (Excel, Lotus123, Google spreadsheets or other worksheets, etc.);
4. Accounting Application Data (Quickbooks, Money, Peachtree Data Files);

5. Image and Facsimile Files (.pdf, .tiff, .jpg, .png, .heic, .jpeg, .gif images, etc.);
6. Sound Recordings (.wav and .mp3 files, etc.);
7. Video and Animation (.avi, .mov and .mp4 files, etc.);
8. Databases (Access, Oracle, SQL Server data, SAP);
9. Contact and Relationship Management Data (Outlook and Act!, Google, Google contacts, cell phone contacts, email contacts, contacts in spreadsheets, contacts in electronic or digital apps, etc.);
10. Presentation (Powerpoint, Corel Presentations, Google Presentations);
11. Network Access and Server Activity Logs, hard drive activity logs, other activity logs;
12. Project Management Application Data;
13. Computer Aided Design/Drawing Files; and
14. Back up and Archival Files (.zip and .gho)

ESI resides not only in areas of electronic, magnetic and optical storage media reasonably accessible to you, but also in areas you may deem not reasonably accessible. You are obligated to preserve potentially relevant evidence from all sources of ESI, even if you do not anticipate producing such ESI.

The demand that you preserve both accessible and inaccessible ESI is reasonable and necessary. Please be aware that even ESI that you deem reasonably inaccessible must be preserved in the interim so as not to deprive my client of her right to secure evidence or the Court of its right to adjudicate the issue.

PRESERVATION REQUIRES IMMEDIATE INTERVENTION

You must act immediately to preserve potentially relevant ESI in any way relating to my client's claim. Adequate preservation of ESI requires more than simply refraining from efforts to destroy or dispose of such evidence. You must also intervene to prevent loss due to routine operations and employ proper techniques and protocols suited to protection of ESI. Be advised that sources of ESI are altered and erased by continued use of your computers and other devices. Booting a drive, examining its contents or running any application will irretrievably alter the evidence it contains and may constitute unlawful spoliation of evidence. Consequently, alteration and erasure may result from your failure to act *diligently and responsibly to prevent loss or corruption of ESI.*

Nothing in this demand for preservation for ESI should be understood to diminish your concurrent obligation to preserve documents, tangible things, and other potentially relevant evidence.

SUSPENSION OF ROUTINE DESTRUCTION

You are directed to immediately initiate a litigation hold for potentially relevant ESI, documents and tangible things, and to act diligently and in good faith to secure and audit compliance with such litigation hold. You are further directed to immediately identify and modify or suspend features of your

information systems and devices that, in routine operation, operate to cause the loss of potentially relevant ESI. Examples of such features and operations include:

1. Purging the contents of e-mail repositories by age, capacity or other criteria;
2. Using data or media wiping, disposal, erasure or encryption utilities or devices;
3. Overwriting, erasing, destroying, deleting or discarding back-up media;
4. Re-assigning, re-imaging or disposing of systems, servers, devices and media;
5. Running antivirus or other programs effecting wholesale metadata alteration;
6. Releasing or purging online storage repositories;
7. Using metadata stripper utilities;
8. Disabling server or IM logging; and
9. Executing drive or file defragmentation or compression programs.

GUARD AGAINST DELETION

You should anticipate that your family members, employees, business partners, officers, or others may seek to hide, destroy or alter ESI and act to prevent or guard against such actions. Especially where machines have been used to access the internet or for personal communications, you should anticipate that users may seek to delete or destroy information that they regard as personal, confidential, or embarrassing, and, in doing so, may also delete or destroy potentially relevant ESI. This concern is not one unique to you or your family members, employees, business partners or officers. It is simply an event that occurs with such regularity in electronic discovery efforts that any custodian of ESI and their counsel are obliged to anticipate and guard against its occurrence.

ANCILLARY PRESERVATION

You must preserve the documents and other tangible items that may be required to access, interpret or search potentially relevant ESI including log control sheets, specifications, indices, naming protocols, file lists, network diagrams, flow charts, instruction sheets, data entry forms, abbreviation keys, user ID and password rosters or the like.

You must preserve any passwords, keys, or other authenticators required to access encrypted files or standard CD or DVD optical disk drives if needed to access the encrypted files or run applications, along with installation disks, user manuals, and license keys for applications required to access the ESI.

You must preserve any cabling, drivers and hardware, other than a standard 3.5" floppy disk or standard CD or DVD optical disc drive, if needed to access or interpret medical information on which ESI is stored. This includes tape drivers, bar code readers, Zip drives and other legacy or proprietary devices.

PRESERVATION PROTOCOLS

We are desirous of working with you to agree upon an acceptable protocol for forensically sound preservation and can supply a suitable protocol, if you wish to furnish an inventory of the systems preservation and media to be preserved. If you will promptly disclose the preservation protocol you intend to employ, perhaps we can identify any points of disagreement and resolve them. A successful and compliant ESI preservation effort requires expertise. If you do not currently have such expertise at your disposal, we urge you to engage the services of an expert in electronic evidence and computer forensics.

DO NOT DELAY PRESERVATION

The afore referenced ESI constitutes evidence in a potential civil action and should your failure to preserve potentially relevant evidence result in the corruption, loss, or delay in production of evidence to which we are entitled, such failure would constitute spoliation of evidence, and we will not hesitate to seek sanctions.

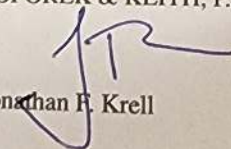
CONFIRMATION OF COMPLIANCE

If you have not undertaken the steps outlined above or have taken other actions, please describe what you have done to preserve potentially relevant evidence.

Once again, considering the dire financial consequences you face as a result of your nonconsensual recordings of Ms. Mace, please forward this correspondence to your attorney. Should you choose not to retain counsel in this matter, please call me immediately at my office, 843-723-7491, or my mobile phone, 843-270-5847 to discuss this matter.

With kindest personal regards,

URICCHIO, HOWE, KRELL, JACOBSON,
TOPOREK & KEITH, P.A.


Jonathan F. Krell

JFK/sms

Cc: Kate Schmutz
Steven J. Schmutz, Esquire