STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	
)	
ASSIGNMENT DESK WORKS, LLC,)	
)	PLAINTIFF'S MEMORANDUM IN
Plaintiff,)	OPPOSITION TO DEFENDANT'S
vs.)	MOTION TO COMPEL FORENSIC
)	INSPECTION OF PATRICK BRYANT'S
ALEXIS BERG,)	SAMSUNG GALAXY S22
)	SMARTPHONE
Defendant.)	
)	CASE NO: 2025-CP-10-2671

Assignment Desk Works, LLC (Plaintiff), hereby responds to Alexis Berg's (Defendant) Motion to Compel Forensic Inspection of Patrick Bryant's Samsun Galaxy S22 Smartphone (Motion) filed February 10, 2026. For the reasons set forth below, Plaintiff asks that this Honorable Court deny the motion and impose sanctions against Defendant.

BRIEF FACTUAL AND PROCEDURAL BACKGROUND

This case arises from Alexis Berg's (Defendant) violation of the terms of a Settlement Agreement and Release (Agreement) resolving prior litigation in the case of *Cockman et al. v Assignment Desk Works, et al.,* Civil Action No. 2:19-cv-3082-BHH. [Amended Compl. pp. 2-3.] Plaintiff initiated this action on May 7, 2025, and personally served Defendant on May 14, 2025. Thereafter, Plaintiff filed its Amended Complaint on September 25, 2025. Defendant filed her Answer and Counterclaims on October 29, 2025.

In her First Set of Requests for Production, Defendant asks that Plaintiff "[p]lease produce Bryant's Android S22 for inspection." [RFP p. 2.] Plaintiff objected to this Request on the ground that the request sought documents that are irrelevant to (1) whether Defendant's disparaging statements were defamatory and (2) the determination of whether Defendant's statements are true. *Id.* Plaintiff also objected to this request because it is overly broad, intrudes in non-party Patrick

Bryant's private data, and is posed solely to harass and embarrass Bryant. *Id.* Plaintiff filed a Motion for Protective from Discovery the same day it served its responses to Defendant's First Set of Requests for Production. [January 30, 2026, Motion for Protection from Discovery.] That Motion is still pending, and Plaintiff reaffirms its position that it should be protected from Discovery abuses in this case, including from Defendant's request that Plaintiff should produce non-party Patrick Bryant's phone for an inspection.

Even though Plaintiff's January 30, 2026, Motion for Protection from Discovery was still pending, Defendant filed the instant Motion on February 10, 2026. In this Motion, Defendant seeks an Order from this Court compelling Plaintiff to produce the cell phone of non-party Patrick Bryant for inspection. For the reasons set forth below, the Motion is improper under Rule 34, SCRC[, and should be denied. Furthermore, because the Motion was filed in violation of Rule 11, SCRCP, Plaintiff asks that this court impose sanctions, including an award of reasonable attorneys' fees.

GENERAL OBJECTION

Berg's Motion is patently ridiculous and procedurally improper. Berg's Motion is based on mischaracterizations of facts and seeks to hold Patrick Bryant ("Bryant") responsible for the wrongful actions of Nancy Mace ("Mace") in the theft of his phone. Moreover, it is procedurally improper in that Bryant is not a party to this case. To the extent Berg believes Bryant possesses the S22 (he does not), her recourse is to seek it directly from Bryant in the case she filed against him individually or obtain it via a subpoena from Mace. For these and other grounds set forth more fully below, Berg's Motion should be denied.

PRELIMINARY STATEMENT

In November 2023, Mace illegally accessed Bryant's S22 cellphone. Based on discovery exchanged in the *Berg v. Bryant* matter, it is undisputed that Mace stole Bryant's S22 and then

turned it over to a private investigator she hired to download tens of thousands of files from Bryant's phone. Mace confirmed in an e-mail exchange with the parties and Judge Hocker that she stole "at least **11,160 files** of alleged evidence from Bryant's phone including: **8,390 JPEG images, 791 MP4 videos, 502 PNG images, 136 PDFs, 55 Quicktime video files, 195 text files, and dozens of other document types including Google Documents, spreadsheets, and Microsoft Office files.**

Now, to add insult to injury, Berg seeks to use Mace's theft of the S22 against Bryant. While Berg has undoubtedly misrepresented known facts to seek an order compelling Bryant to produce a phone that was previously stolen from him (see additional argument below), worse, she seeks a spoliation inference against him. Unfortunately for Berg, her attempt to gain discovery for her use in the *Berg v. Bryant* matter must fail because she seeks to take these actions against Bryant in this case where he is not even a party, but *not* in the case she brought against him individually. Such transparent gamesmanship and manipulation, bending, and breaking of the procedural rules should not be permitted

Furthermore, from Mace's own disclosure to the court and otherwise, she provided Berg with *all* the content from Bryant's S22 and what should be crystal clear from the filing of this Motion is that: she had no evidence that her statements to Erin Gunther were true and the time she made them; and that *none* of the more than 11,000 files provided to Berg "to assist" her with her case proves the veracity of her statements regarding ADW or Bryant. Accordingly, Berg's Motion must be denied.

LEGAL STANDARD

Rule 34, SCRCP, says that "[a]ny **party** may serve on any other **party** a request (1) to produce and permit the party making the request … to inspect and copy, any designated documents, or electronically stored information" (emphasis added). "Rule 34 applies only to production from

parties and was amended specifically to provide that production from non-parties is governed only by Rule 45." Rule 34, SCRCP, Note to 1993 Amendment. Because Defendant's request asks Plaintiff for inspection of a non-party's phone, the request is improper, and Defendant's Motion must fail.

ARGUMENT

Berg's Motion contains the following assertions of (alleged) fact: (1) Bryant was served with a preservation letter on November 13, 2023, requiring him to preserve "all evidence, including the images she saw on his S22." (Motion p. 2), (2) Bryant is responsible for either destroying or losing the S22 (Motion p. 3), and (3) if Mace stole the S22 phone "she presumably would have turned it over to SLED along with screenshots and other evidence she provided in December 2023." (Motion p. 5.) Unfortunately for Berg's Motion, each of those statements is demonstrably false.

First, Berg's characterization of the November 13, 2023, preservation letter is incorrect. The preservation letter did not require Bryant to preserve "all evidence," and it certainly did not require Bryant to preserve evidence pertaining to Berg. Instead, the preservation letter from Mace is specifically limited to Mace[1]. The only recording specified in the preservation letter is "…your illegal recordings ***of Ms. Mace***…" (Berg's Ex. 1 p. 2) (emphasis added). The letter clearly states that the issuing attorneys "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." (Ex. 1 at p. 1.) Elsewhere, the letter provides that "this demand included the preservation and retention of all

[1]Mace herself in responding to Requests for Admission stated that "Mace denies that the preservation letter related to "photographs" discovered on Bryant's cell phone. The preservation letter, titled "surreptitious recordings of Nancy Mace," related exclusively to unauthorized audio and video recordings made by Bryant without her knowledge or authorization in violation of S.C. Code Ann. § 16-17-470." (*December 22, 2025 Responses* to RFA's at #6.)

documents, records, files, and data relating in any way to: Yourself or ***Ms. Mace***" and demands the preservation of "relevant ESI in any way relating to my client's claim." (Id, and at p. 3.) The preservation letter closes by threatening "dire financial consequences you face as a result of your nonconsensual recordings ***of Ms. Mace***." (Id at p. 5.) Nowhere in the preservation letter are references made to Berg or any women other than Ms. Mace. Accordingly, Berg's claim that the preservation letter placed a duty on Bryant to preserve evidence of Berg's claim, as opposed to Ms. Mace's, is false.

Second, Berg's speculative assertion that Bryant either currently possesses or destroyed the S22 is not supported by any evidence. As an initial matter, Berg's drastic conclusion that Bryant "personally examined" the S22 in mid-December, which she draws from Bryant's Third-Party Complaint, is not supported by the language of Bryant's Complaint. Nowhere in Paragraph 27 of the Third-Party Complaint, or elsewhere, does Bryant state that he possessed the S22 in mid-December. Mace and Berg previously texted about Mace having taken Bryant's S22 phone and providing it to a private investigator. (See Text PLTF 000826 attached as **Exhibit A**.) Mace specifically told Berg "bc I had a PI download files off his phone and put on a new similar phone and download; maybe that's what you're seeing?"

Moreover, as evidenced by the text exchange, Berg and Mace are in possession of thousands of files belonging to Bryant that could only be in their possession had they Bryant's phone. Specifically, Mace claims to have "11,160 files" including "8,390 JPEG images, 791 MP4 videos, 502 PNG images, 136 PDFs, 55 Quicktime video files, 195 text files, and dozens of other document types including Google Documents, spreadsheets, and Microsoft Office files." See *February 5, 2026 E-Mail from Nancy Mace* attached as **Exhibit B**.) Berg previously produced years' worth of text messages from Bryant received from Mace's Google Drive which were

obtained off of Bryant's S22 – and are now the subject of Mace's ridiculous attempt to claw back "her information." Notably, Berg obtained from Mace all of Bryant's text messages spanning 2020 through 2022. Plainly, the S22 is not in Bryant's possession, and to the extent it was lost or destroyed, the culprit was Mace.

Finally, Berg's claim that Mace must not have stolen the S22 because, had she done so, SLED would be in possession of it is plainly belied by the record. Mace clearly took the S22 and handed it over to a private investigator. Her reasons for refusing to provide it to SLED are unclear and not yet known to ADW. Was it to avoid alerting law enforcement to the fact that she stole the phone? Was she afraid law enforcement would be able to detect other illegal things she did to access the phone? Only Mace can answer these questions. But Berg's citation to the SLED letter and speculative claims regarding Bryant's lack of possession of the phone are meaningless in the face of Mace's theft. Bryant duly provided his S23 phone to SLED when it was requested (see Berg's Exhibit 2.) Accordingly, Berg's Motion must be denied for the simple reasons that (1) Bryant is not in possession of the S22, and (2) his lack of possession is due to no fault of his own.

In addition to the above, Berg's Motion is procedurally defective. She is seeking an order compelling a non-party[2] to produce a device that is not in his possession. To the extent she is under the false belief that Bryant does possess the S22, her proper course of action would be to issue a request for Bryant to produce it in her other case that she filed against Bryant individually. Berg's attempt to fight this motion against ADW is puzzling and appears to be yet another attempt to muddy the issues between these cases[3]. For this reason alone, Berg's Motion should be denied.

---

[2] Although the Court did determine that the Agreement obtained between Berg and ADW in the wage payment action was broad enough to cover Bryant, that does not alter Bryant's status in this case as anything but a third party.

[3] This is but another entry in a long series of disruptive, procedural missteps. Berg's counsel has repeatedly copied only some parties on communications and discovery responses required to go to all parties, and notably previously served a subpoena directly on ADW employee Erin Gunther in

Lastly, even if the Court found the evidence sufficient that Bryant was responsible for losing the S22 (it is not), the cases cited by Berg in her Motion as support for the drastic remedies sought against ADW do not support Berg's request for relief. Of the South Carolina cases cited by Berg, only *Kershaw County Bd. Of Educ. v. United States Gypsum Co*., 302 S.C. 390, 396 S.E.2d 369 (1990) (removal of asbestos in violation of an order requiring that Gypsum and other asbestos defendants be notified prior to removal of asbestos from the schools at issue) and *QZO, Inc. v. Moye*r, 358 S.C. 246, 594 S.E.2d 541 (Ct. App. 2004) (destruction of a laptop subject to a temporary restraining order) pertain to the destruction of potential evidence prior to the subject suit. However, both cases are distinguishable as they **involved conduct violating a then existing court order.** Here, there was no order requiring Bryant[4] to retain the S22 that he could have potentially violated and thus subjected himself (much less ADW) to sanctions under Rule 37. Accordingly, Berg has no support for *any* sanctions on ADW.

Moreover, the Fourth Circuit case cited by Berg, *Hawkins v. College of Charleston*, 2013 WL 6050324 (not reported) (D.S.C. November 15, 2013) involved the destruction of evidence (social media records) where there was no dispute over the party responsible for the destruction. Thus, even if sanctions for pre-litigation and pre-order conduct is permissible under South Carolina law, there is no support for Berg's effort to impose sanctions where another party (Mace) is responsible for the destruction of the evidence. At best, Berg can only show a factual dispute as to the party responsible for the destruction of the evidence. As a result, Berg's motion is as legally

---

an improper attempt to bypass both ADW and its counsel.

[4] In fact, Melisa Britton concealed (alleged) evidence of the assault and filming of the assault of Berg for 7-years! It was not until Britton and Mace conspired to defame and disparage Bryant, Bowman and Osborne in February 2025 (Mace's speech) and filed suit in June 2025 that these purported claims came to light. Bryant stopped using his S22 phone, and simultaneously Mace converted his phone at the end of 2023 – more than 15 months prior to notice of any threatened claim. These facts do not support sanctions against Bryant.

baseless as it is factually baseless.

REQUEST FOR APPROPRIATE SANCTIONS

Under Rule 11, SCRCP, an attorney's signature constitutes a certificate that she has read the motion; that to the best of her knowledge, information, and belief, there is good ground to support the motion; and that the motion is not interposed for delay.

In this instance, defense counsel has either ignored or misunderstood the parameters of Rule 34, SCRCP. A quick review of Rule 34 would have reminded learned defense counsel that requests for production are to be directed at parties, not witnesses, and that it is improper under our Rules to ask a party to produce the phone of a non-party. Defense counsel has attempted to use a discovery tool that is designed to request records inspections from parties to compel inspection of a cell phone that does not belong to Plaintiff. Furthermore, her grounds in support of her Motion are not good, nor are they reasonably doubtful; they are baseless, incomplete, and irrelevant. It strains belief to think that counsel for Defendant read this motion before filing it. If she did, there is little room to doubt that the Motion was filed merely to cause delay.

Indeed, Defendant's Motion is a thinly veiled attempt to harass non-party Patrick Bryant after attempts to do so in other, unrelated litigation has failed. Defendant admits as much in Exhibit Three to her Motion, in which counsel for Mr. Bryant in another case explains to defense counsel that Mr. Bryant is *not* in possession of *the very same phone* Defendant now seeks through the instant Motion. By including this email correspondence, Defense counsel admits that she failed in a previous attempt to obtain the phone and is now taking another bite at the apple. This improper motion could have been easily avoided, but instead it has caused delay and incurred time and expense to respond.

CONCLUSION

For the forgoing reasons, Alexis Berg's Motion to Compel ADW to produce Bryant's S22 for forensic examination must be denied and ADW should be awarded the appropriate sanctions to defend this frivolous Motion

Respectfully Submitted,

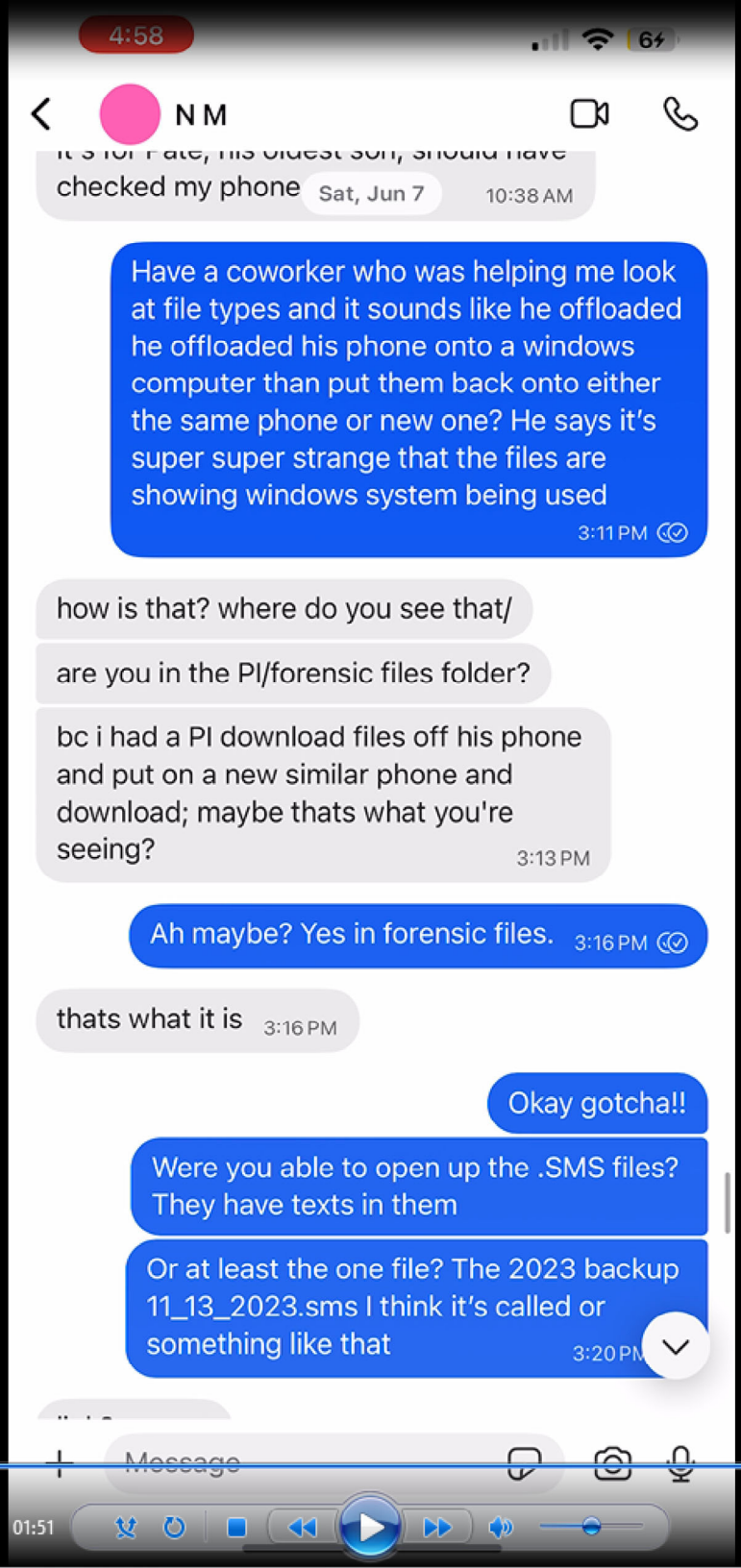
SAXTON & STUMP, LLC

By: s/ Rene Stuhr Dukes

Rene Stuhr Dukes, Esq.
151 Meeting Street, Suite 400
Charleston, SC 29401
rdukes@saxtonstump.com

Attorney for Plaintiff

March 4, 2026
Charleston, South Carolina



Rene Dukes

From: Nancy Mace <nancy@nancymace.org>
Sent: Thursday, February 5, 2026 12:56 PM
To: Hocker, Donald B.
Cc: Rene Dukes; Marybeth Mullaney; Bennett Kesler; Emma Baguer
Subject: Re: ADW v. Berg - Emergency Motion Requesting Expedited Hearing

Dear Honorable Hocker,

I write to bring to this Court's immediate attention to newly discovered evidence that dramatically expands the known scope of Ms. Mullaney's unauthorized acquisition of my privileged materials. This evidence is directly relevant to my pending motions. I will be filing a supplemental brief with Your Honorable Court soon.

On or about February 4, 2026, I obtained the Google Drive forensic audit log for my drive titled "Mace - Evidence." This audit log is a system-generated record maintained by Google that captures every access, download, and activity event associated with the drive. The log reveals the following:

Ms. Mullaney executed 11,160 downloads from my Google Drive. Of these, 11,152 downloads occurred on a single day, November 19, 2025. An additional 6 downloads occurred on November 18, 2025, and 2 more on December 16, 2025. Another member of Ms. Mullaney's firm (michael@mullaneylaw.net) executed 2 additional downloads.

The downloaded materials span the entire contents of the drive, including 8,390 JPEG images, 791 MP4 videos, 502 PNG images, 136 PDFs, 55 Quicktime video files, 195 text files, and dozens of other document types including Google Documents, spreadsheets, and Microsoft Office files.

Every single one of these 11,160 files was owned by "Mace - Evidence" - my personal evidence repository assembled for law enforcement and litigation purposes. None of these downloads were authorized. I was never informed, never asked, and never consented.

This newly discovered evidence is significant for several reasons:

First, it establishes the precise scope of Ms. Mullaney's unauthorized acquisition of privileged material. In her January 18, 2026 email to my former counsel, D. Craig Brown, Ms. Mullaney vaguely described having her "paralegal download the contents" of my drive, claiming she did not fully realize "the scope of what it contained." The audit log proves the scope was total. Ms. Mullaney's firm did not selectively download materials relevant to her client's defense - her firm downloaded everything, 11,160 files in a single day, a mass extraction of an entire drive containing my most private and privileged materials.

Second, the timing undermines Ms. Mullaney's claim of good faith. Ms. Mullaney has claimed she was obligated to produce documents in her possession. But the audit log reveals that her firm systematically downloaded the entirety of my drive on November 19, 2025 - months after I shared access for the limited purposes of assisting with the SLED criminal investigation and supporting joint litigation. The indiscriminate nature of the download, every file type, every folder, every document, demonstrates that

this was not a targeted collection of case-relevant materials. It was a wholesale seizure of my private files.

Third, the categories of materials downloaded confirm the invasion of my privileges. These materials are protected by attorney-client privilege, the work product doctrine, the common interest privilege, the law enforcement investigatory privilege, and possibly S.C. Code Ann. § 16-15-332 and other rules of civil procedure and state statute under South Carolina law.

Fourth, additional individuals at Ms. Mullaney's firm accessed the drive. This means the unauthorized dissemination of my privileged materials extends beyond Ms. Mullaney personally to other members of her firm, further compounding the breach.

Additionally, I discovered written confirmation of a previous attorney-client privilege with Ms. Mullaney and will be submitting that for the court.

This new evidence powerfully reinforces each of my pending motions.

I respectfully request that this Court:

1. Accept this supplemental brief I will be providing soon in support of my pending motions;
2. Consider this evidence in ruling on my motions;
3. Order Ms. Mullaney to provide an immediate accounting of which of the 11,160 downloaded files have been disclosed to any third party, including Mr. Bryant, his counsel, ADW, ADW's counsel, or any other person via a privilege log;
4. Grant such other relief as the Court deems just and proper.

I will provide all new information including the Google Drive audit log in my brief and the contradictions and what I believe are misleading or false statements to me and to this Court by Ms. Mullaney. I am prepared to authenticate this evidence at any hearing the Court may schedule.

Respectfully,

CNM
Member of Congress
Pro Se

On Thu, Feb 5, 2026 at 12:12 PM Hocker, Donald B. <dhockerj@sccourts.org> wrote:

> We are not. If a hearing is still desired then we need to make plans to schedule one

From: Rene Dukes <rdukes@saxtonstump.com>
Sent: Thursday, February 5, 2026 11:41 AM
To: Hocker, Donald B. <dhockerj@sccourts.org>; Nancy Mace <nancy@nancymace.org>
Cc: Marybeth Mullaney <marybeth@mullaneylaw.net>; Bennett Kesler <bennett@mullaneylaw.net>; Emma Baguer <ebaguer@saxtonstump.com>
Subject: RE: ADW v. Berg - Emergency Motion Requesting Expedited Hearing