

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	
)	Civil Action No. 2025-CP-10-2671
ASSIGNMENT DESK WORKS, LLC,)	
)	PLAINTIFF’S RESPONSE TO
PLAINTIFF)	PROPOSED INTERVENOR’S
)	MOTION FOR EMERGENCY
v.)	TEMPORARY RESTRAINING ORDER
)	
ALEXIS BERG,)	
)	
DEFENDANT)	
)	

NOW COMES Assignment Desk Works, LLC (Plaintiff), responding to the Honorable Representative Nancy R. Mace’s (Proposed Intervenor) Emergency Motion to Intervene, Motion to Dismiss, and for Sanctions Against All Parties (Motion), filed January 27, 2026, and asking this Honorable Cour to dismiss the Motion and impose sanctions against the Proposed Intervenor for the reasons set forth below.

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.

Plaintiff’s First Set of Interrogatories to Defendant and First Set of Request for Production to Defendant (First Set of Discovery Requests) were served on May 21, 2025. Defendant responded to this First Set of Discovery Requests on November 13, 2025, with supplemental responses provided on November 26 and December 10, 2025, and January 7 and January 16, 2026.

Proposed Intervenor states in the verification to her Motion that she voluntarily shared information with defense counsel and other alleged victims of non-party Patrick Bryant. [Proposed Intervenor’s emergency TRO, p. 6.] She also says that defense counsel “improperly obtained” the subject materials. *Id.* p. 2. She now seeks an emergency Temporary Restraining Order (TRO) in this case on the grounds that defense counsel has improperly obtained and disclosed unidentified, allegedly privileged materials and that Plaintiff’s discovery requests seek additional privileged materials. Proposed Intervenor has not provided a privilege log or other description of the nature of the documents, communications, or materials to which she objects. Rather, she has provided a vague list of materials that “*may include, but are not limited to*” (emphasis added)

- Nonconsensual photographs and/or video taken by Mr. Bryant with a hidden camera and without [Proposed Intervenor’s] knowledge or consent;
- Private video diaries containing deeply personal content from [Proposed Intervenor];
- Confidential medical information regarding [Proposed Intervenor’s] PTSD and physical symptoms;
- Text message communications between [Proposed Intervenor] and other victims; and
- Materials provided to SLED in furtherance of the ongoing criminal investigation.

[Proposed Intervenor’s Motion for emergency TRO, p. 2.]

Legal Standard

For a preliminary injunction to be granted, the movant must establish that (1) she would suffer irreparable harm if the injunction is not granted; (2) she will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law. *Scratch Golf Co. v. Dunes West Residential Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 907 (2004).

An injunction is a drastic remedy. *Id.* “The granting of temporary injunctive relief is within the sound discretion of the trial court and will not be overturned absent an abuse of that

discretion.” *Zabinski v. Bright Acres Associates*, 346 S.C. 580, 601, 553 S.E.2d 110, 121. “An abuse of discretion occurs where the trial court is controlled by an error of law or where the trial court’s order is based on factual conclusions without evidentiary support.” *Id.* The sole purpose of a temporary injunction is to preserve the status quo and thus avoid irreparable injury to a party pending litigation. *Id.*

Argument

Proposed Intervenor fails to support her motion for a temporary injunction both legally and factually. Legally, Proposed Intervenor misstates the standard for a temporary injunction, fails to support her allegation that the materials she seeks to restrain are protected by any privilege, and fails to show that she has an adequate remedy at law. Factually, she fails to identify with specificity the documents or other materials to which she objects with sufficient specificity as to allow the parties to contest her claims or even remedy the alleged improper production. The Court should deny her request.

I. Proposed Intervenor’s Motion fails because she misstates the standard for a Temporary Injunction

Proposed Intervenor states, erroneously, that “[a] temporary restraining order is appropriate where the Proposed Intervenor demonstrates (1) a likelihood of success on the merits (2) irreparable harm absent injunctive relief; (3) the threatened injury to the movant outweighs the potential harm to the opposing party; and (4) the injunction will not disserve the public interest.” [Proposed Intervenor’s Motion for emergency TRO, p. 2.] She cites *Scratch Golf Co.* to support this standard—the same case the Plaintiff cites in its legal standard above.

Plaintiff has thoroughly reviewed *Scratch Golf Co.*, its progeny, and other injunctive relief case law and cannot find a case that includes elements (3) and (4), above. The literature confirms that the three elements cited in Plaintiff’s legal standard above are the elements that apply to this

Motion. Proposed Intervenor has every right to represent herself *pro se*, but she is not excused from the same standards as apply to members of the bar who represent clients in court. *See* Rule 11, S.C. R. Civ. P. Proposed Intervenor has failed to establish the proper legal framework for her motion, and on this basis her motion fails and should be denied. Even if the Court were to construe the Proposed Intervenor’s motion under the proper standard, however, the motion should still be dismissed because Proposed Intervenor cannot satisfy the elements of a temporary injunction.

II. Proposed Intervenor’s Motion fails because she cannot establish that any privilege applies to the materials

“The determination of whether or not a communication is privileged and confidential is a matter for the trial judge to decide after a preliminary inquiry into all the facts and circumstances.” *Tobacoville USA, Inc. v. McMaster*, 387 S.C. 287, 292, 692 S.E.2d 526, 529 (2010). Proposed Intervenor argues that she is likely to succeed on the merits of her Motion because “[t]he materials fall squarely within South Carolina’s established privileged doctrines, and their unauthorized disclosure violates Rule 26(b)(5)(B) and longstanding ethical obligations.” [Proposed Intervenor’s Motion for emergency TRO, p. 3.] She does not cite any specific ethics rule, but to the extent that she is invoking the Rules of Professional Conduct, S.C. App. Ct. R. 407, this is not the proper venue for such a claim.

To the extent Proposed Intervenor asks the Court to order the parties to return, sequester, or destroy materials pursuant to Rule 26(b)(5)(B), it is impossible to know *what* material she is referring to because she has failed to provide sufficient information to enable other parties to enable other parties to evaluate the applicability of the claimed privilege or protection. *See* note to 1996 amendment, Rule 26(b)(5)(B), S.C. R. Civ. P. Even if we take the cursory information provided in the Motion, however, none of the privileges that Proposed Intervenor claims apply to the materials in this case.

i. Plaintiff cannot establish that any materials subject to discovery in this case are protected by the attorney-client privilege

An attorney-client privilege exists

(1) Where legal advice of any kind is sought (2) from a professional legal adviser in his capacity as such, (3) the communications relating to that purpose (4) made in confidence (5) by the client, (6) are at his instance permanently protected (7) from disclosure by himself or by the legal adviser, (8) except the protection be waived.

Tobacoville USA, Inc., 387 S.C. at 293, 692 S.E.2d at 529. Proposed Intervenor’s Motion contradicts itself as to whether an attorney-client relationship existed between herself and defense counsel. As a result, she cannot establish that any materials in defense counsel’s position are protected by the attorney-client privilege.

Proposed intervenor states that she “shared confidential information with her attorneys, including [defense counsel.]” [Proposed Intervenor’s emergency TRO, p. 2.] She also says that she shared information “with attorneys in connection with potential legal representation and for a SLED investigation.” *Id.* p. 3. And she says in her verification that she “shared confidential and privileged information with attorneys, including [defense counsel], in connection with potential legal representation and a proposed class action lawsuit against Mr. Bryant as well as for potential future litigation.” *Id.* p. 6.¹ Because Marybeth Mullaney, defense counsel in this case, never had a lawyer-client relationship with Proposed Intervenor, the documents she produced to her are not protected by the attorney-client privilege.

Proposed Intervenor also admits that she waived any attorney-client privilege that may have attached to these documents when she shared them with third parties. Proposed Intervenor

¹ Interestingly, in nearly the same breath that she says she shared confidential information with Ms. Mullany, Proposed Intervenor also says that Ms. Mullaney “improperly obtained” the materials at issue. [Proposed Intervenor’s emergency TRO, p. 2.]

says she shared these confidential materials “with her attorneys, including [defense counsel] and with other victims who share a common legal interest[.]” As will be discussed in more detail in subpart iii. below, the doctrine of common legal interest is extremely narrow and is not applicable to this case. By sharing the subject materials with third-party other alleged victims, Proposed Intervenor has waived any attorney-client privilege that attached to the documents she shared with defense counsel.

ii. The materials listed in the Motion were clearly not prepared in anticipation of litigation

“The attorney work product doctrine protects from discovery documents prepared in anticipation of litigation[.]” *Tobacoville*, 387 S.C. at 294, 692 S.E.2d at 530. “[I]n determining whether a document has been prepared ‘in anticipation of litigation,’ most courts look to whether or not the document was prepared because of the prospect of litigation.” *Id.*

Because Proposed Intervenor has not produced a privilege log, it is uncertain which specific documents she finds objectionable. But even her brief description of the documents fails to show that anything to which she objects was prepared in anticipation of litigation. She describes these documents as nonconsensual photos taken with a hidden camera; private video diaries; medical information; text messages between alleged “victims;” and materials provided to SLED. [Proposed Intervenor’s emergency TRO, p. 2.] These materials may be the *subject* of litigation, but by their very nature, they were not prepared in *anticipation* of litigation. In any event, that protection would be properly sought by counsel for the Defendant, not a third-party witness.

iii. The Common Legal Interest doctrine does not apply to this case

“The common interest doctrine is not a privilege in itself but is instead an exception to the waiver of an existing privilege. The doctrine ‘protects the transmission of data to which the attorney-client privilege or work product doctrine has attached’ when it is shared between parties with a common interest in a legal matter.” *Tobacoville USA, Inc.*, 387 S.C. at 296, 692 S.E.2d at

531. Our Supreme Court adopted the common interest doctrine on very narrow legal grounds in *Tobaccoville, USA, Inc.*

We now adopt the common interest doctrine for the narrow factual scenario where several states are parties to a settlement agreement, the state laws that regulate and enforce that settlement all have the same provisions, the attorneys general of those settling states are involved in coordinating regulation and enforcement, and the settling states have executed a common interest agreement.

Id. This very narrow scenario is not applicable here, where Proposed Intervenor claims the privilege applies to documents that she shared between other alleged victims of sexual assault. Because the common interest doctrine does not protect any documents that Proposed Intervenor shared with other alleged victims, those privileges have been waived. In this case, any documents, materials, or information shared by Proposed Intervenor to Defendant would constitute a waiver of privilege by proposed intervenor.

iv. The fact that some materials may also be in SLED's possession does not mean that they are protected by the law enforcement investigatory privilege

Our courts have held that law enforcement agencies may not withhold information simply because it is contained in a criminal investigative report. *See Newberry Pub. Co., Inc. v. Newberry Cnty. Comm'n on Alcohol and Drug Abuse*, 308 S.C. 352, 417 S.E.2d 870 (1992). If any public record contains both protected and exempted material, the law enforcement agency should separate the exempted materials and make it available. *Id.*

Proposed Intervenor's Motion attempts to stretch SLED's objection to a subpoena pursuant to Rule 45, S.C. R. Civ. P., in the case of *Bryant v. Mace*, 2025-CP-10-3124, to protect any document in SLED's possession that might also be contained in Defendant's document production. This is a separate matter that involves some of the same parties to this litigation. Counsel for

Patrick Bryant, who is a member of Plaintiff, sent a subpoena to SLED asking for a copy of its investigative file on Mr. Bryant. SLED objected on the grounds that there is still an *active* investigation.

Proposed Intervenor attempts to turn an objection by a law enforcement agency into a full-blown privilege, which she cannot do for three reasons. First, despite her status as a politician in the federal government, Proposed Intervenor cannot invoke the law enforcement investigatory privilege; only the relevant law enforcement agency can do that. Here, that is the State Law Enforcement Division. Second, SLED's objection, which is attached as an exhibit to Proposed Intervenor's Motion to Intervene, only protects SLED from being compelled to produce documents subject to a subpoena. It does not shroud every copy of a document in SLED's file with privilege. Finally, our law clearly exempts unprivileged documents from the law enforcement investigatory privilege. *See Newberry Pub. Co., Inc., supra.*

III. Proposed Intervenor's Motion fails because she has an adequate remedy at law

Plaintiff denies that the materials it seeks are privileged, that defense counsel has violated her ethical rules in producing any documents in response to Plaintiff's discovery requests, or that Proposed Intervenor will be harmed by Defendant's production of the documents in response to Plaintiff's discovery requests. However, *if* any of these scenarios are true, Proposed intervenor has adequate remedies at law. Our ethics rules provide methods of deciding whether an attorney has violated her duty of confidentiality. And our tort laws provide avenues of recovery for any individual who is harmed by the publication of false, defamatory, or emotionally distressing information. Proposed Intervenor's claim that she has been "irreparably harmed" is simply not true, and even if these material Plaintiff seeks were to cause her harm, she has an avenue of recovery under our ethics rules and tort law.

IV. Proposed Intervenor has failed to provide the parties or this Court with the evidentiary support necessary to grant a temporary injunction

Our Supreme Court has found that trial courts abuse their discretion in ruling on discovery disputes without an adequate evidentiary basis to support its factual conclusions. In *Stokes-Craven Holding Corp. v. Robinson*, 416 S.C. 517, 787 S.E.2d 485, movant sent respondent requests for production of documents, and respondent objected citing the work-product doctrine. *Id.* at 523, 787 S.E.2d at 488. Movant moved to compel production of documents, which the trial court denied on the grounds that the work product doctrine applied. *Id.* On appeal, our Supreme Court found that the trial court abused its discretion “because there was no evidentiary basis to support its factual conclusions. The court failed to conduct an in-camera hearing to review the requested information and stated in its summary ruling that it had ‘not received a privilege log of these communications.’” *Id.* at 537, 787 S.E.2d at 495-96.

If this Court were to grant Proposed Intervenor’s Motion, it would find itself in the same situation as the *Stokes-Craven* trial court: it would prohibit the production of documents without a sufficient evidentiary basis. Plaintiff argues that the Court should deny Proposed Intervenor’s request for a temporary injunction and let the free flow of discovery continue unabated. However, if the Court is even slightly inclined to consider Proposed Intervenor’s request, it should have all the necessary information at its disposal before it rules. The Court should at the very least require Proposed Intervenor to produce a privilege log so that both the Court and the parties can understand exactly what documents or materials she finds objectionable. Furthermore, the Court should conduct a thorough *in camera* review before making any decisions.

Sanctions

Our civil rules require a party not represented by an attorney to sign her motions. Rule 11, S.C. R. Civ. P. A *pro se* party’s signature constitutes a certificate by her that she has read the

motion; that to the best of her knowledge, information, and belief there is good ground to support it; and that the motion is not interposed for delay. *Id.* If a motion is signed in violation of this rule, the Court may impose upon the *pro se* litigant an appropriate sanction, including an order to pay the other party's reasonable expenses, including a reasonable attorney's fee.

Proposed Intervenor's Motion violates the certifications set out in Rule 11. A quick Google search of *Scratch Golf Co.* would have made it obvious that the legal standard Proposed Intervenor cites on page two of her Motion is plain wrong. Plaintiff does not expect that Proposed Intervenor's *pro se* motions will be as polished as an experienced litigator, but to simply make up a legal standard is inexcusable. Plaintiff's counsel was able to download a copy of the opinion from the sccourts.org website in about thirty seconds, not to mention at least four versions that pop up when you search the case name in Google.

Proposed Intervenor cites *In re Mt. Hawley Ins. Co.* to support her argument that the common interest doctrine applies to her communications, but this case does not even mention the common interest doctrine. Again, a quick search of the sccourts.org website and of the case name in Google would reveal that this case does not support what Proposed Intervenor says it does.

Lastly, as explained above, Proposed Intervenor lacks any basis for her privilege claims. Her Motion is nothing more than a short set of conclusory statements with no legal or factual support. She contradicts her claim of attorney-client privilege, saying both that she gave privileged documents to defense counsel in the context of seeking legal advice and that defense counsel obtained those very same documents by improper means. Neither of these statements are supported by a single detail, so it is impossible to know which is the truth.

Proposed Intervenor may have read her Motion for grammatical errors, but it is apparent that she did not read it for accuracy. She could have easily checked *Scratch Golf Co.* and *In re Mt.*

Hawley Inc. Co. to verify they support what she claims that they do. She cannot argue that there are good grounds for this motion, as none of her privilege claims are developed by the facts or the law, and she even contradicts herself in places. The sum of all of this is that Proposed Intervenor clearly filed her Motion to cause delay. Plaintiff respectfully asks that the Proposed Intervenor be sanctioned for filing this Motion in violation of Rule 11, S.C. R. Civ. P., including an award of Attorney's fees.

Conclusion

Plaintiff respectfully asks that Proposed Intervenor's emergency Motion for a Temporary Restraining Order be denied and that Proposed Intervenor be sanctioned for filing a sloppy, inaccurate, anemic Motion. If, however, the Court is inclined to grant the Motion, or wishes to require the Proposed Intervenor to develop her factual background in more detail, Plaintiff requests the Court require the Proposed Intervenor to submit a privilege log that contains enough detail that the parties may understand exactly what documents or materials Proposed Intervenor asserts are privileged.

s/ Rene Stuhr Dukes

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