

VIRGINIA

IN THE CIRCUIT COURT FOR THE COUNTY OF HANOVER

M. H. McKENNEY,

Plaintiff,

RECEIVED and/or FILED

JUL 06 2015

v.

Case No.: CL15-1442

CLERK'S OFFICE
HANOVER CIRCUIT COURT

NATHAN COX

Defendant.

DEFENDANT'S FIRST SPECIAL PLEA IN BAR – STATUTE OF LIMITATIONS

COMES NOW, Defendant Nathan Cox (the "Defendant"), by Counsel and sets forth the following as his special plea in bar to the Complaint filed by M. H. McKenney (the "Plaintiff") and in support thereof states as follows:

INTRODUCTION

(1) This suit is nothing more than a bad-faith, baseless attempt by State Trooper McKenney to hide behind her private persona and silence Nathan Cox - to retaliate against him for his First Amendment protected political activity - by issuing him a million dollar ticket.¹

(2) State Trooper McKenney filed suit in small claims court on March 13, 2014. That suit was dismissed, appealed, and then non-suited. By the time State Trooper McKenney filed her March 13, 2014 suit, the statute of limitations for any statement complained of had long since run. **Complaint ¶¶ 4-9.** The Complaint, State Trooper McKenney expressly claims that "[t]his

¹ On May 26, 2012, after pulling over the Defendant, State Trooper McKenney discussed her plans with her fellow troopers for targeting and retaliating against the Defendant by going to his home, across the road from hers, and ticketing him once every 24 hours. In text messages to her fellow troopers Trooper McKenney states: "[Nathan Cox] lives on the other side of 360 from me so you can bet that I will have no problem stopping him again if he doesn't correct it....every 24 hours he can get a ticket for it". **Exhibit 1.**

case was previously non-suited and is being re-filed within six months of the prior non-suit.”

Complaint ¶ 18; Exhibits 2 - 5.

(3) Trooper McKenney is bound by her complaint and therefore since there was no surviving cause of action at the time Trooper McKenney commenced her complaint in small claims court, there can be no surviving cause of action here, and this case must be dismissed.

CLEARLY ESTABLISHED LAW

(4) A plea in bar asserts a single issue (in this case, the truth or substantial truth of any actionable statements), which, if proved, creates a bar to a plaintiff's recovery. The party asserting a plea in bar bears the burden of proof on the issue presented. **The issue raised by a plea in bar may be submitted to the circuit court for a decision based on a discrete body of facts identified by the parties through their pleadings**, or developed through the presentation of evidence supporting or opposing the plea. If the facts underlying the plea in bar are contested, a party may demand that a jury decide the factual issues raised by the plea. Conversely, if the facts are disputed and no demand for a jury is made, the whole matter of law and fact may be decided by the court. Hawthorne v. VanMarter, 279 Va. 566, 577-578 (2010).

(5) It is clearly established law that the statute of limitations for a Defamation or a Defamation *Per Se* action is one year from the moment the statements are published. Va. Code §8.01-247.1.

(6) It is clearly established law that this statute of limitations may be extended by the non-suit provisions of Va. Code §§ 8.01-380 and 8.01-229(E)(3) if and only if the refiled suit arose out of the same cause of action as the suit non-suited. McKinney v. Virginia Surgical Associates, P.C., 284 Va. 455, 460 (2012).

(7) It is clearly established law that for a cause of action to be identical, it must “arise out of the same set of operative facts which, under the substantive law, gives rise to a “right of action”. Roller v. Basic Constr. Co., 238 Va. 321, 327 (1989); Virginia Surgical Associates, P.C., 284 Va. at 460.

(8) It is clearly established law that if a filed action does not arise out of the same set of operative facts as a non-suited action, then the tolling provisions of Va. Code §§ 8.01- 299(E)(3) and 8.01-380 do not apply and the original statute of limitations controls. Virginia Surgical Associates, P.C., 284 Va. at 460.

(9) It is clearly established law that the *Ad Damnum* clause of a law suit constitutes operative fact, by virtue of its function of informing a jury of the amount of damages that the Plaintiff suffered. See, Spear v. Metropolitan Washington Airports Authority, et. al., 78 Va. Cir. 456, 458-59 (Louden County 2009).

(10) It is clearly established law that if the *Ad Damnum* of a non-suited action contains a different *Ad Damnum* as the refiled suit, then the two suits do not arise out of the same set of operative facts and the tolling provisions of the statute of limitations found in Va. Code §§ 8.01- 299(E)(3) and 8.01-380 are inapplicable and the original statute of limitations applies. See, Virginia Surgical Associates, P.C., 284 Va. at 460; Spear, 78 Va. Cir. at 458-59.

(11) It is clearly established law that for a Public Official and a Public Figure, limited purpose or otherwise, to succeed in a defamation action, they must prove by clear and convincing evidence that the Defendant acted with actual malice, that is that the Defendant published the statement with “knowledge that it was false or with reckless disregard for whether it was false or not.” New York Times v. Sullivan, 376 U.S. 254, 279-80 (1964); Gertz v. Robert Welch, Inc., 418 U.S. 323, 350 (1974); The Gazette, Inc. v. Harris, 229 Va. 1, 10 (1985). This

burden reflects “our profound national commitment to the principal that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.”

New York Times, 376 U.S. at 270 (emphasis added).

(12) It is clearly established law that only statements of fact, capable of being proven true or false, can support a cause of action for Defamation, and such statements must be substantially false; that is a Plaintiff cannot rely on slight inaccuracies to support a claim for Defamation. Saleeby v. Free Press, Inc., 197 Va. 761, 763 (1956).

(13) It is clearly established law that a defamatory statement is made under a “qualified privilege” when it is a “communication[] between persons on a subject in which the persons have an interest or duty.” Cashion v. Smith, 286 Va. 327, 338 (2013).

(14) It is clearly established law that in order to overcome a qualified privilege, the Plaintiff must show that the Defendant published the statement with common-law malice, that is (1) made with knowledge they were false or reckless disregard for their truth, or (2) communicated to third parties who have no duty or interest in the subject matter, or (3) motivated by personal ill will or spite, or (5) not made in good faith. Cashion, 286, Va. at 339. And this common-law malice must be independent of the occasion on which a communication was made. Harris, 229 Va. at 18.

(15) It is clearly established law that “whether a communication is privileged is a question of law.” Cashion, 286, Va. at 339.

FACTS

(16) The Plaintiff’s complaint alleges multiple defamatory statements that the Plaintiff alleges were published on May 27, 2012; August 31, 2012; March 26, 2014; March 30, 2014;

April 17, 2014; May 8, 2014; and March 28, 2015. **Plaintiff's Complaint ¶¶ 4, 6 - 9, 11, 13 - 15.**

(17) The Plaintiff admits that “[t]his case was previously [filed in Hanover County General District Court, with default Judgment entered against the Defendant, a with a motion to re-hear denied, appealed to the Hanover County Circuit Court] and non-suited [in the Hanover County Circuit Court] and is being re-filed within six months of the prior non-suit” without having been amended in any way. **Plaintiff's Complaint ¶18; Exhibits 2 - 5.**

(18) The Previous Case was filed on March 14, 2014, in the Hanover County General District Court – Small Claims Division.²

(19) Therefore, by the Plaintiff's own admission, the statute of limitations for the May 27 and August 31, 2102 published defamatory statements had already expired before the Plaintiff filed her initial suit in Hanover County General District Court and thus cannot be saved by the tolling language of Va. Code Va. Code §§ 8.01-380 and 8.01-229(E)(3). Therefore, any claims arising out of the May 27th and August 31, 2012 publications must be stricken with prejudice as the statute of limitations on the have long since expired.

(20) In the alternative to paragraph 19, above, to the extent that this Court determines that the March 14, 2014 suit included a viable cause of action for the May 27 and August 31, 2012 publications, this suit, filed on June 16, 2015 contains claims for allegedly defamatory statements published on March 26, 2014; March 30, 2014; April 17, 2014; May 8, 2014; and March 28, 2015, and increases the *ad damnum* from \$5,000.00 to \$1,350,000.00. By virtue of these new facts and publications and *ad damnum*, the suit filed on June 6, 2015 does not and

² This case was subsequently dismissed when the Plaintiff neglected to show for the hearing. The plaintiff filed a motion to re-open the case, which the court denied. Then the Plaintiff subsequently appealed the case to the Circuit Court and there took the non-suit.

cannot arise out of the same set of operative facts as the one filed on March 14, 2014. Therefore the tolling provisions of Va. Code §§ 8.01-380 and 8.01-229(E)(3) do not apply to the May 27 and August 31, 2014 statements, the statute of limitations of for the allegedly defamatory statements published on May 27 and August 31, 2012 has expired, and any cause of action arising out of these statements must be stricken with prejudice.

(21) The initial suit, filed on March 19, 2014, was filed before any cause of action had arisen for the allegedly defamatory statements published on March 26, March 30, April 17, and May 8, 2014, and the suit was not amended to include them before it was non-suited. Therefore the initial suit does not and cannot toll the statute of limitations for these publications.

(22) This suit was filed on June 16, 2015, over a year after the March 26, April 17, and May 8, 2014 publications. Therefore, any action arising out of the March 26, April 17, and May 8, 2014 publications are barred as their statute of limitations have expired. Therefore any cause of action arising out of the March 26, April 17, and May 8, 2014 publications must be stricken with prejudice.

(23) In the alternative to 22, above, to the extent that this court determines that the March 14, 2014 suit included a viable cause of action for the allegedly defamatory statements published on March 26, March 30, April 17, and May 8, 2014, this suit, filed on June 16, 2015 contains claims for allegedly defamatory statements published on March 28, 2015, and increases the *ad damnum* from \$5,000.00 to \$1,350,000.00. By virtue of these new facts and publications and *ad damnum*, the suit filed on June 6, 2015 does not and cannot arise out of the same set of operative facts as the one filed on March 14, 2014. Therefore the tolling provisions of Va. Code §§ 8.01-380 and 8.01-229(E)(3) do not apply to the March 26, March 30, April 17, and May 8, 2014 statements, the statute of limitations of for the allegedly defamatory statements published

on March 26, April 17, and May 8, 2014 have expired, and any cause of action arising out of these statements must be stricken with prejudice.

(24) Therefore, the statute of limitations for all statements made before March 28, 2015 expired prior to filing suit and any claims arising therefrom should be stricken with prejudice. **Exhibit 6.**

(25) The March 28, 2015 statement, that the Plaintiff "pretty much assaulted" the defendant is incapable of defamation. It is a pure statement of opinion of the defendant, incapable of being proven true or false, and therefore any alleged cause of action arising therefrom must be stricken with prejudice.

(26) In the alternative to 25, above, the statement that the Defendant "pretty much assaulted" the Plaintiff is not substantially false and therefore cannot support a cause of action for Defamation and therefore any claim arising out of the March 28, 2015 statement must be stricken with prejudice.

(27) Plaintiff's claims for defamation are also barred because the statements identified in the complaint as allegedly defamatory relate to a public figure, or limited purpose public figure, and the statements are limited in scope to the Defendant's service as a Virginia State Trooper. This requires the Plaintiff to prove actual malice regarding the defamatory statements and the Plaintiff is unable to do so as matter of law.

(28) Additionally, the statements were made under a qualified privilege. Specifically, the statements were good faith communications regarding the subject matter in which the Defendant, and the Citizens of Hanover County, the Commonwealth of Virginia, and the United States of America have a substantial interest – the limits and application of power of law enforcement officers in the United States. There is an ongoing national dialogue between the

citizens, the legislature, the courts, and law enforcement involving the scope of permissible law enforcement actions, the propriety of the laws that we, the citizens are asking them to enforce, and the ability of the citizens to hold law enforcement officials accountable for their actions. As a concerned citizen, a political activist, and the founder of a watch-dog group dedicated to discussing issues of police brutality in all forms, the Defendant had an interest and duty to communicate his concerns to the public regarding the Plaintiff's actions during the traffic stop and to seek greater accountability for police as well as call attention to the issues surrounding the laws we, as citizens are asking the law enforcement to enforce as well as issues with the tactics that law enforcement is deploying to enforce these laws. The Plaintiff, therefore, must prove either by actual malice or common-law malice by clear and convincing evidence to overcome this qualified privilege, and Plaintiff cannot prove such malice as a matter of law.

WHEREFORE, the Defendant respectfully requests that the Court dismiss the all claims against him in this Complaint with prejudice and award the Defendant his fees, costs, and such further relief as the Court deems just.

**Respectfully Submitted,
Nathan R. Cox**

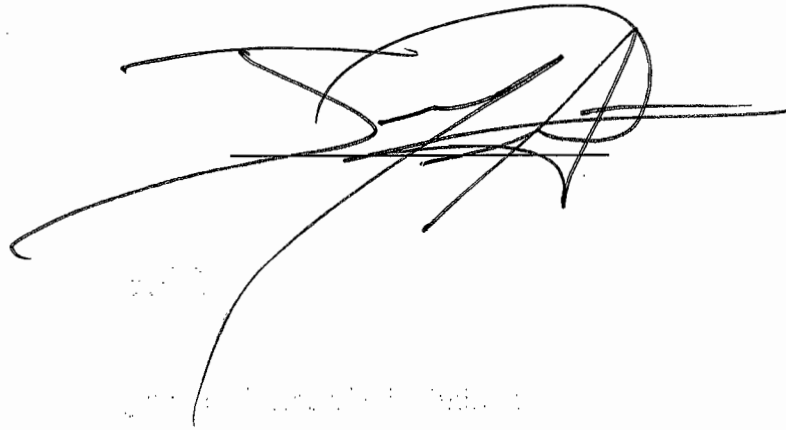
By Counsel

Thomas H. Roberts, Esq., VSB 26014
tom.roberts@robertslaw.org
Jonathan M. Arthur, Esq., VSB 86323
j.arthur@robertslaw.org
Andrew T. Bodoh, Esq. VSB 80143
andrew.bodoh@robertslaw.org
Thomas H. Roberts & Associates, P.C.
105 S 1st Street
Richmond, Virginia 23219
(804) 783-2000/(804) 783-2105 fax
Counsel for Defendant

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered via facsimile to counsel for Plaintiff, this 1 day of July, 2015, to:

D. Hayden Fisher, Esq.
Fisher Law
P.O. Box 7321
Richmond, Virginia 23221-0321
804-335-1270
804-482-2725 (facsimile)
Counsel for Plaintiff

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

msgs08192012.txt

JUST LEARNING THE AREA

<<<0052612162231540 7075 05770
05/26/12 16:22:31 From: 1906 To: 540

SHOULD HAVE BEEN A QUICK STOP

<<<00526121626151906 6413 02991
05/26/12 16:26:15 From: 1750 To: 1906

I HEAR YA

<<<00526121631251906 6413 02992
05/26/12 16:31:25 From: 881 To: 1906

ANYTIME WE GOT U !!

<<<00526121632311906 6413 02993
05/26/12 16:32:31 From: 881 To: 1906

NEED TO LET THE JUDGE KNOW ABOUT THAT GUY

<<<0052612163527881 6455 08145
05/26/12 16:35:27 From: 1906 To: 881

YEAH I AM GONNA GIVE ALL DETAILS AND HE LIVES ON THE OTHER SIDE OF 360
FROM ME
SO YOU CAN BET THAT I WILL HAVE NO
PROBLEM STOPPING HIM AGAIN IF HE DOESN'T CORRECT IT...EVERY 24 HOURS
HE CAN GET
A TICKET FOR IT.

<<<00526121637391723 7453 03688
05/26/12 16:37:39 From: 881 To: 1906 1723 1477

YOU GO GIRL

That is the last text message before 1906 signs off at 16:45:07

<<<I052612164507MA337 00848
HOFF #1906 HOFF

WARRANT IN DEBT — SMALL CLAIMS DIVISION ORIGINAL
Commonwealth of Virginia VA. CODE § 16.1-79; 16.1-122.3

Received and Filed:
MAR. 19 2014
HANOVER GENERAL DISTRICT COURT

RETURN DATA 131666 CASE NO.

McKenney, M. H.
P. O. Box 3033
Mechanicsville, VA 23116

DEFENDANT(S) (LAST NAME, FIRST NAME, MIDDLE INITIAL)
DEFENDANT(S) (LAST NAME, FIRST NAME, MIDDLE INITIAL)
COX, Nathan Reid
7985 Kenmore Drive
Mechanicsville, VA 23111

PO
812

TO ANY AUTHORIZED OFFICER: You are hereby commanded to summon the Defendant(s) to appear before this Court at the above address in DISTRICT COURT to answer the Plaintiff(s)' civil claim (see below)

6-23-14 9:30 AM
5/28/13
DATE ISSUED
Clerk *E. Edwards*
DEPUTY CLERK [] MAGISTRATE

CLAIM: Plaintiff(s) claim that Defendant(s) owe Plaintiff(s) a debt in the sum of

\$ 5,000.00 net of any credits, with interest at _____% from _____ DATE FROM WHICH IS DUE _____ until paid.

\$ _____ COSTS with the basis of this claim being _____

[] Open Account [] Contract [] Note [X] Other (EXPLAIN) _____

HOMESTEAD EXEMPTION WAIVED? [] YES [] NO [] cannot be demanded

Defamation
May 28, 2013 *M.H. McKenney*
DATE [X] PLAINTIFF [] PLAINTIFF'S EMPLOYEE

CASE DISPOSITION

[] JUDGMENT that the Plaintiff(s) recover against [] named Defendant(s) []

\$ _____ net of any credits, with interest at _____% from _____ DATE FROM WHICH IS DUE _____ until paid.

\$ _____ COSTS

HOMESTEAD EXEMPTION WAIVED? [] YES [] NO [] CANNOT BE DEMANDED

[] JUDGMENT FOR [] NAMED DEFENDANT(S)
[] NON-SUIT *Dismissed*
Defendant(s) Present? [] YES [] NO

[] Indemnifying bond of \$ _____ [] secured [] unsecured required for lost instrument (Va. Code § 8.01-32)

6/23/14
DATE

Amelia
JUDGE

ORIGINAL

NEXT HEARING DATE AND TIME
6-23-2014 9:30 AM
Basement CR

01383053

HANOVER SHERRIFF'S OFFICE

2014 MAR 19 8:05
JUDGMENT PAID OR SATISFIED PURSUANT TO ATTACHED NOTICE OF SATISFACTION
DATE
CLERK

WARRANT IN DEBT — SMALL CLAIMS DIVISION

TO DEFENDANT: You are not required to appear however, if you fail to appear, judgment may be entered against you. By law, this case must be tried on the return date above unless all parties agree upon a different date for trial. Other continuances shall be granted by the court only for good cause shown.

Grounds of Defense ORDERED DUE

DISABILITY ACCOMMODATIONS for loss of hearing, vision, mobility, etc., contact the court ahead of time.

MOTION TO REOPEN (CRIMINAL/TRAFFIC)/MOTION TO REHEAR (CIVIL)
 MOTION FOR NEW TRIAL (CIVIL)
 Commonwealth of Virginia VA. CODE §§ 16.1-133.1; 8.01-322; 16.1-97.1

HANOVER
 CITY OR COUNTY
 7515 Library Drive, Hanover, VA 23069
 STREET ADDRESS OF COURT

I, the undersigned,
 move to reopen the case numbered 13001666 under Va. Code § 16.1-133.1
 in which I was found guilty of General District Court Small Claims Juvenile & Domestic Relations District Court
 sixty days or less since the date of conviction on VA 23069
 move for a rehearing of the civil case numbered 13001666 under Va. Code § 8.01-322. I was
 served by publication and it has been two years or less since the judgment, decree or order and one year or less
 since I was served with a copy of the judgment, decree or order
 move for a new trial in the civil case numbered 13001666 under Va. Code § 16.1-97.1. It has
 been thirty days or less since the date of judgment in this case.

I am making this motion based on the following reasons:
See Attached letter dated 6-23-2014

DATE OF MOTION 6-24-2014
 APPLICANT'S SIGNATURE M.H. McKenney
 PRINT NAME OF APPLICANT M.H. McKenney
 TITLE OF APPLICANT

NOTICE OF HEARING
 TO: _____ RESPONDENT
 A hearing will be held in this Court on _____ DATE AND TIME
 on this motion.
 DATE _____ [] CLERK [] DEPUTY CLERK

It is hereby ORDERED that the motion is granted denied dismissed.
 DATE 6/24/14
 FORM DC-58 FRONT 10/11 (A12185 12/11)
[Signature]

HEARING DATE _____ CASE NO. 13001666
 MOTION TO REOPEN (CRIMINAL/TRAFFIC)
 MOTION TO REHEAR (CIVIL)
 MOTION FOR NEW TRIAL (CIVIL)

Criminal/Traffic
 Commonwealth of Virginia
 v./In re

DEFENDANT
 Civil M. H. MCKENNEY
 PLAINTIFF(S)
PO Box 3033
Mechanicsville VA 23116

v./In re
 NATHAN REID COX
 DEFENDANT(S)
7985 Kenmore Drive
Mechanicsville VA 23111

Service on Respondent type required:
 Personal Service only
 Personal or Substituted Service only
 Mailed on 6-24-2014
 DATE

CW14 601660-00

NOTICE OF APPEAL - CIVIL

Commonwealth of Virginia VA. CODE §§ 16.1-106, 16.1-107, 16.1-113, 16.1-298

General District Court - *Smith CLAM S*
 Juvenile and Domestic Relations District Court

City or County: Henrico
Date of FORMAL ORDER: June 23, 2014

I, the undersigned, note my appeal of the judgment of this court to the circuit court of this city or county.

My appeal is scheduled to be called for trial setting of trial date on September 16, 2014 2pm in the circuit court, which is located at 7507 Liberty Drive Hanover, Virginia 22069

DATE AND TIME OF APPEARANCE: September 16, 2014 2pm TELEPHONE NUMBER: 804-365-6150

STREET ADDRESS OF CIRCUIT COURT: 7507 Liberty Drive Hanover, Virginia 22069

I understand that I must contact the circuit court clerk's office for instructions for setting the trial date. I understand that within 30 days, or 10 days in unlawful detainer cases, of the entry of judgment, I must deliver to the Clerk of this Court: 92.49
a. \$ 92.49 for circuit court writ tax, costs, and fees for service of process, if applicable.
and
b. \$ 92.49 appeal bond with sufficient surety approved by the Judge or Clerk of this Court, cash deposit, bank check, or by draft from the escrow account of my attorney. The appeal bond must be written to indemnify the party in whose favor a judgment was rendered in this Court in the event that such party is awarded a judgment on appeal in circuit court.

or
c. An order by the court finding that I am indigent for the purpose of appeal pursuant to Virginia Code § 16.1-107. I also understand that I must pay the writ tax and costs if applicable and post the appeal bond within 30 days, or 10 days in unlawful detainer cases, of the entry of judgment for the appeal in my case to be complete ("perfected"), and that my failure to do so within the 30 day period, or 10 day period in unlawful detainer cases, will result in the loss of my appeal rights. I further understand that the order or judgment which I am appealing remains in full force and effect if it involves a protective order, continuing programs pursuant to Virginia Code § 16.1-298.1 or other proceedings specified by law, until changed or annulled by the circuit court.

DATE APPEAL NOTED: 7-1-2014 APPELLANT: [Signature] PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT

by [Signature] ATTORNEY FOR APPELLANT
NOTICE: Promptly communicate with the clerk of the circuit court of this jurisdiction concerning the subpoenaing of witnesses and, in an appeal of a final civil judgment, any need for interpreters, and if you wish to request a jury trial. Failure to appear in the circuit court at the designated date and time may result in the dismissal of your appeal.

WITHDRAWAL OF APPEAL: If this appeal is withdrawn within ten (10) days after entry of the judgment or order when no appeal bond or costs are required to perfect the appeal, or before being "perfected" by posting required appeal bond or paying required costs, additional costs will be taxed against you. After ten (10) days or after the appeal is "perfected" by posting the required appeal bond or paying required costs, in accordance with § 16.1-106.1, any withdrawal of the appeal must occur in Circuit Court. Upon withdrawal of the appeal in Circuit Court, additional costs will be incurred and any cash bond posted to perfect the appeal may be disbursed.

FORM DC-474 (REVISED 10/08)

CASE NO.	13001666
NOTICE OF APPEAL	
PLAINTIFF/PETITIONER NAME (LAST, FIRST, MIDDLE)	McKenney, M. H.
P. O. Box	3039
Mechanicsville, VA	23116
v.	
DEFENDANT/RESPONDENT NAME (LAST, FIRST, MIDDLE)	Cox, Nathan Reid
7985 Kenmore Drive	
Mechanicsville, VA	23111
JUDGMENT DATE:	June 23, 2014
PLAINTIFF/PETITIONER'S ATTORNEY	[] Same as on Attached
DEFENDANT/RESPONDENT'S ATTORNEY	[] Same as on Attached
RECEIVED AND FILED JUL 08 2014 CLERK OF CIRCUIT COURT HANOVER COUNTY	
WITHDRAWAL	
I, the undersigned, withdraw my appeal in this case	
DATE	
APPELLANT	
BY	ATTORNEY FOR APPELLANT

VIRGINIA:
IN THE CIRCUIT COURT FOR THE COUNTY OF HANOVER

M. H. MCKENNEY, Plaintiff,

v. Case Number: CL14-1660

NATHAN REID COX, Defendant.

ORDER OF NON-SUIT

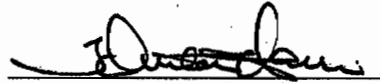
ON THIS DATE came the plaintiff, M. H. MCKENNEY ("Plaintiff"), by counsel, and moved this Court pursuant to Virginia Code §8.01-380 for a voluntary non-suit of this action without prejudice.

AND it appearing that the plaintiff has not taken a previous non-suit on this cause of action and no counterclaim, cross-claim, or third-party claim is pending, and that Defendant NATHAN REID COX, by counsel, consents to Plaintiff's Motion to Non-Suit without prejudice, Plaintiff's motion is GRANTED and it is hereby

ORDERED, ADJUDGED and DECREED that this matter is NON-SUITED WITHOUT PREJUDICE; and it is further

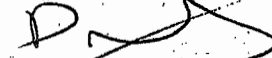
ORDERED, ADJUDGED and DECREED that this matter be stricken from the docket and placed among the ended causes.

ENTERED this 16th day of December, 2014



Judge

I Ask For This:



D. Hayden Fisher, Esquire
FISHER CLARKE, PLLC
P. O. Box 7321

Richmond, Virginia 23220
(804) 335-1270
(804) 482-2725 (facsimile)
hfisher@fisherclarke.com

SEEN AND AGREED:



Stephen C. Lewis, Esquire
STEPHEN C. LEWIS, PC
9025 Forest Hill Avenue
First Floor
Richmond, Virginia 23235
(804) 303-2375
(804) 288-2375 (facsimile)
stephen@slewislaw.com

A COPY TESTE
FRANK D. HARGROVE, JR. CLERK
HANOVER CIRCUIT COURT
By Karen L. Jacobs
DEPUTY CLERK

Defendant's
Exhibit 1

5/26/2012 – Detention ¶1

5/27/2012 ¶4 Video and comments

¶6 “revised video

¶7 “Explaining Yesterday’s Traffic Stop”

8/31/2012

¶8 Web Article

¶9 YouTube

“State Trooper McKenney Dashboard Camera
(Memorial Day Weekend Traffic Stop”

SOL 2013

3/14/2014

\$5,000

Small claims suit

3/26/2014 ¶10 – Web Article

“violated my rights”

“knew it wasn’t a gun”

¶11 Antonello Interview

3/30/2014 ¶12 Wasmund Interview

¶13 Broze Interview

6/23/2014

Suit dismissed

6/30/2014

Motion to Rehear Denied

4/17/2014

¶14 Matthews and Cacaphony
Interview

7/1/2014

Appeal to Circuit

5/8/2014

¶15 Kokesh Interview

12/16/2014

Nonsuit

1 Year SOL

SOL 5/8/2015

6/16/2015

Present Suit

\$1,350,000

4/28/2015

¶16 YouTube

“Nathan Cox Q & A”

“pretty much assaulted” him.

Exhibit 6