

# **Order Writing Tips**

## **Handout Materials**

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*S.C. Court of Appeals*

# HYPOTHETICAL

## *Snow v. Bolton*

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	Civil Action No. 2016-CP-00-00000
	)	
Jon Snow,	)	
	)	
Plaintiff,	)	
v.	)	ORDER
	)	
Ramsay Bolton,	)	
	)	
Defendant.	)	
_____	)	

This is a declaratory judgment action between Jon Snow (Plaintiff) and Ramsay Bolton (Defendant) regarding the ownership of a property located at 1 Winterfell in The North, Westeros (Winterfell). The Honorable Tywin Lannister referred this matter by a September 1, 2016 order of reference. At the hearing on October 1, 2016, Kit Harington represented Plaintiff, and Iwan Rheon represented Defendant.

### **Case Summary**

On August 1, 2016, Plaintiff filed a complaint against Defendant, seeking an order declaring him the legal owner of Winterfell. Plaintiff claimed Defendant wrongfully possessed Winterfell in early 2016 and that Plaintiff was the rightful owner. (Complaint 1-12.) Defendant answered the complaint, denying the allegations. (Answer pp. 3-7.) At the October 1, 2016 hearing, Plaintiff presented the testimony of Sansa Stark, former owner of Winterfell, and Petyr Baelish, an expert in property ownership manipulation. Defendant presented the testimony of

Walda Frey, owner of lands adjacent to Winterfell, and Melisandre, an expert in property ownership by divine right.

The only issue before the court is whether Plaintiff is the legal owner of Winterfell.

### **Factual Analysis**

On January 8, 2014, Eddard Stark—then the rightful owner of Winterfell—was declared insane and died. (Exh. 9.) Pursuant to his last will and testament, after Eddard "lost his head" and passed away, Eddard's son Rob Stark became the legal owner of Winterfell. (Exh. 2; Deposition of Cersei Lannister p 7.) On February 3, 2015, Rob and his wife died at their wedding. (Exh. 6.) Rob failed to execute a last will and testament. (Deposition of Walda Frey p 10.) By order of the People of the North, Sansa became the legal owner of Winterfell on February 28, 2015. (Ex. 1). However, when Sansa attempted to enforce her claim, Defendant intercepted her, unlawfully married her, and abused her. (Exhs. 11-20.) Sansa subsequently escaped Defendant and sent a raven to Plaintiff, who at the time lived at 7 Raven, Castle Black, Westeros, notifying him of her troubles. (Hearing Tr. pp 32-37.)

Sansa believed she could not gain the people's support of her claim to Winterfell, so she contracted with Plaintiff and gave him her alleged fee simple ownership interest in Winterfell. (Exh. 2; Deposition of Sansa p 8.) Plaintiff visited Winterfell on April 30, accompanied by Sansa and Baelish. (Affidavit of Baelish pp 6-7.) Plaintiff testified that after a brief meeting between him and Defendant, Defendant failed to understand Plaintiff's claim to Winterfell and Defendant refused to grasp the importance of Baelish's support. (Hearing Tr. pp 90-94.) Ultimately, Plaintiff felt "trapped" in the discussion, while Defendant believed his argument was as straight as an arrow. (Hearing Tr. pp 42, 75-76.) However, with Baelish's support, Plaintiff kicked Defendant out of Winterfell and "treated him like a dog." (Hearing Tr. pp 67-88.)

Defendant, though handcuffed in that predicament, still claimed ownership to Winterfell. (Deposition of Sansa p 12.) Soon thereafter, Plaintiff filed his complaint.

### **Findings of Fact**

1. This court has jurisdiction over this matter by the agreement of the parties involved. (Hearing Tr. pp 1-3.)
2. This court finds the People of the North granted Sansa ownership of Winterfell in fee simple. (Hearing Tr. pp 301-02.)
3. This court finds Sansa granted her entire interest in Winterfell to Plaintiff. (Hearing Tr. pp 67-69.)
4. This court finds Plaintiff attempted to reconcile matters with Defendant. (Hearing Tr. p 5.)
5. This court finds Defendant refused to participate in any meaningful conversation with Plaintiff regarding claims to Winterfell. (Hearing Tr. pp 201-09.)
6. This court finds Melisandre not to be credible, given that she previously supported two other individuals' claim to the entirety of Westeros. (Exhs. 7-8.)
7. Based upon Frey's drunken state at trial and his bias toward Sansa and Plaintiff, this court finds Frey not to be credible. (Hearing Tr. pp 201-09.)
8. Because of affidavits from every family in the North explaining their respect for Plaintiff, this court finds Plaintiff to be credible. (Exhs. 11-302.)
9. This court makes no credibility finding regarding Baelish because this court finds it difficult to believe or not believe his statements.
10. Though this court believes Sansa is naïve, it finds her to be credible.
11. Defendant is a murderous, hateful being. (Exhs. 1-302.)

## Conclusions of Law

Based upon the above findings of fact, this court concludes as follows:

1. This is an action at law. *See Judy v. Martin*, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009) ("Declaratory judgment actions are neither legal nor equitable and, therefore, the standard of review depends on the nature of the underlying issues."); *Query v. Burgess*, 371 S.C. 407, 410, 639 S.E.2d 455, 456 (Ct. App. 2006) (Whe[n] . . . the main purpose of the complaint concerns the determination of title to real property, it is an action at law.").
2. Sansa was the rightful owner of Winterfell in February 2015. *See Clegane v. Clegane*, 123 S.C. 456, 457, 123 S.E.2d 456, 458 (2012) ("When a property owner dies without a will, the people in the community—by a majority—may issue an order granting ownership of the property to another individual.").
2. The burden of proving property ownership rested with Plaintiff. *See In re R.R. Martin*, 987 S.C. 654, 655-56, 321 S.E.2d 753, 755 (Ct. App. 2010).
3. By Sansa's land grant, Plaintiff became the legal owner of Winterfell. *See Code of the Seven Gods* § 6.80(c) (Supp. 2009) (permitting one to transfer property ownership to another by a raven delivery of a transfer scroll, provided wax seals the scroll).
4. Although Westeros permits transfers of property by force, this permission is not available to someone as sick as Defendant. *See* § 6.08(c) ("One so inclined to mutilate his friends, kill his family, and abuse his wife, is not entitled to real property ownership.").

**ORDERED, ADJUDGED, and DECREED** that

1. Plaintiff's request for declaratory judgment is granted,
2. Plaintiff is the legal owner of Winterfell, and
3. Defendant holds no legal interest in Winterfell.

**IT IS SO ORDERED.**

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Honorable Tyrion Lannister  
Hand of the Master-in-Equity

October 5, 2016  
Richland County, South Carolina

# BREVITY EXAMPLES

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"Held, that in determining whether an act or omission which constitutes a permitting of a thing caused the damage which subsequently resulted, what is involved is the selection from the events preceding the damage of the events which are, for the purposes of the law, to be seen as in the relevant sense causally responsible for it." *Petrou v. Hatzigeorgiou*, New South Wales Court of Appeal, Australian Tort Reports 68, 559 (1991).

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"And in the outset we may as well be frank enough to confess, and, indeed, in view of the seriousness of the consequences which upon fuller reflection we find would inevitably result to municipalities in the matter of street improvements from the conclusion reached and announced in the former opinion, we are pleased to declare that the arguments upon rehearing have convinced us that the decision upon the ultimate question involved here formerly rendered by this court, even if not faulty in its reasoning from the premises announced or wholly erroneous in conclusions as to some of the questions incidentally arising and necessarily legitimate subjects of discussion in the decision of the main proposition, is, at any rate, one which may, under the peculiar circumstances of this case, the more justly and at the same time, upon reasons of equal cogency, be superseded by a conclusion whose effect cannot be to disturb the integrity of the long and well-established system for the improvement of streets in the incorporated cities and towns of California not governed by freeholders' charters." *Chase v. Kalber*, 153 P. 397, 398 (Cal. Dist. Ct. App. 1915).

# CLARITY EXAMPLES

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“To adopt Petitioner's argument that it should be allowed to rely upon information not given, which was not asked for, would result in bad policy and negatively affect the ability of the Comptroller's Office to answer any taxability question because of a fear that possible questions which could be raised by someone like Petitioner, but aren't, will not be answered, and result in claims like the one before us today.” *The 1993 Legaldegoon Awards*, 4 Scribes J. Legal Writing 107, 114 (1993).

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"The (adj.) party successfully (verb) the store[']s safe with the assistance of two employees . . . . [A]fter being (adv.) (verb) by the trial court, Appellant was (verb) by the (noun) of the trial court's (noun) by erroneously listening to trial counsel's (adj.) advi[c]e when Appellant (verb) Appellant's rightful (plural noun) and 'free will' unknowingly. . . . Respondent having a malicious intent to prosecute with the useage [sic] of motivated witnesses and misstatements of material facts know that the case suffered (adj.) (plural noun)."

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“Clearly it is unconscionable to allow MERS, Respondent’s assignor, to obtain a security in interest in Appellant’s residence with complying with the required disclosures dictated by the South Carolina Consumer Protection Code. Since Respondent is not a holder in due course, Respondent took the mortgage subject to all claims and defenses that Appellant had or may have against MERS. Thus a genuine issue of material fact exists as to whether or not Respondent and MERS violated the South Carolina Consumer Protection Code which claims may be asserted against Respondent as there are issues of fact as to whether Respondent is a holder in due course.” *From a final brief in our court of appeals.*

# HYPOTHETICAL

## *Luann v. Ramona-Coaster*

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STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	Civil Action No. 2016-CP-00-00000
	)	
Countess Luann,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
The Ramona-coaster,	)	
	)	
Defendant.	)	
	)	

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This matter came before the Court on February 1, 2017, at a hearing on The Ramona-coaster's (Defendant's) motion for summary judgment after Countess Luann (Plaintiff) filed a complaint alleging Defendant made defamatory statements about her<sup>1</sup>. Present at the hearing were Lisa Gunvalson, counsel for Plaintiff and Viki Vanderpump, counsel for Defendant. After considering the record, argument of counsel, memoranda, and submission made, Defendant's motion for summary judgment is **GRANTED**.

### **Procedural Background**

On November 12, 2016, Plaintiff filed a complaint against Defendant seeking monetary damages. Plaintiff's complaint alleges Defendant defamed her, when a text message to other women implied she was having plastic surgery. On November 20, 2016, Defendant moved for summary judgment, arguing the text message was not false, nor was it defamatory.

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<sup>1</sup> The parties in this order are entirely fictitious and any resemblances to cast members of a popular reality television show are inadvertent.

## Findings of Fact

On August 4, 2016, Bethany Radziwill sent a text message to Defendant, Carol Frankel, and Dorinda Potstirrer, asking if they planned to attend a party at her home a few days later. (Deposition of Bethany Radziwill, p 4). Defendant responded to Radziwill's text, confirming she would be at the party and stating Plaintiff might not be in attendance because she was "having some work done." (Exh. 2; Deposition of Carol Frankel). Dorinda Potstirrer then took a screen shot<sup>2</sup> of the text message conversation, and sent it to Plaintiff with a text message that said "Singer Stinger's really spreading your business around town! What are you having done? Face lift? I hope this isn't just to impress Tom." (Exh. 3; Deposition of Dorinda Potstirrer, p 7). Plaintiff responded to Potstirrer's text denying any plans for plastic surgery and speculating this was merely a rumor Defendant created "because she's jealous of [her] engagement to Tom!" (Exh. 3; Deposition of Dorinda Potstirrer, p 8). Plaintiff confronted Defendant at Radziwill's party about the text message, even though Frankel warned Defendant this was "neither the time nor the place for such a discussion." (Deposition of Carol Frankel, p 5). Defendant told Plaintiff she never said she was having plastic surgery, and meant Plaintiff might miss the party because she is having "work done" on her house in the Hamptons. (Deposition of Defendant, p. 18). A loud argument ensued, during which Plaintiff accused Defendant of deliberately misleading the others on the text message, and threatened litigation. (Deposition of Dorinda Potstirrer, p 10). Defendant responded that she knows Plaintiff has had plastic surgery in the past, and should consider it again because she is starting to look old. (Deposition of Plaintiff, p

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<sup>2</sup> A "screen shot" is a photograph of a conversation that the user can store in her phone and send in another conversation.

22). Radziwill then asked Plaintiff and Defendant to leave the party because they were being disruptive.<sup>3</sup> (Deposition of Bethany Radziwill, p 14).

### **Standard of Review**

"The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." *D.R. Horton, Inc. v. Wescott Land Co.*, 398 S.C. 528, 541, 730 S.E.2d 340, 347 (Ct. App. 2012). Summary judgment is appropriate if "there is no genuine issue as to any material fact." Rule 56(C), SCRPC. "In determining whether any triable issues of fact exist, the evidence and all reasonable inference therefrom must be viewed in the light most favorable to the non-moving party." *D.R. Horton*, 398 S.C. at 541, 730 S.E.2d at 347.

### **Law/Analysis**

The tort of defamation permits a plaintiff to recover for injury to her reputation caused by the defendant's communication to others of a false message about plaintiff. *McBride v. Sch. Dist. of Greenville Cty.*, 389 S.C. 546, 559, 698 S.E.2d 845, 852 (Ct. App. 2010). To prevail on a defamation claim, the plaintiff must show by a preponderance of the evidence, that there was "(1) a false and defamatory statement by the defendant concerning the plaintiff; (2) an unprivileged communication; (3) fault on the defendant's part in publishing the statement; and (4) either actionability of the statement irrespective of special harm or the existence of special harm to the plaintiff caused by the publication." *Parrish v. Allison*, 376 S.C. 308, 320, 656 S.E.2d 382, 389 (Ct. App. 2007).

"A communication is defamatory if it tends to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating with him." *Id.*

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<sup>3</sup> Producers of the television show *The Real Housewives of [REDACTED NAME]* required the Plaintiff and Defendant to stay at the party for two more hours and repeat the phrasing of the argument, as the camera crew was busy filming another cast member at the time of the initial confrontation.

at 321, 656 S.E.2d at 389. "If the defamatory meaning of a message or statement is obvious on the face of the statement, the statement is defamatory *per se*." *Id.* "If the defamatory meaning is not clear unless the hearer knows the facts or circumstances not contained in the statement itself, then the statement is defamatory *per quod*." *Id.*

The truth of an alleged defamatory statement "is a complete defense to an action based on defamation and evidence establishing a statement is substantially true is a sufficient defense." *Haulbrooks v. Overton*, 295 S.C. 380, 383, 368 S.E.2d 676, 679 (Ct. App. 1988). If a defamatory statement is true or substantially true, the defamation claim must fail. *Ross v. Columbia Newspapers, Inc.*, 266 S.C. 75, 80, 221 S.E.2d 770, 772 (1976). However, if a word is susceptible of two meanings, "[t]he resolution of conflicting meanings is reserved for the jury." *Parrish*, at 323, 656 S.E.2d at 390.

Defendant argues the statement was not false, because Plaintiff was renovating her house in the Hamptons, which is what she meant by "having some work done." Because the statement could mean two different things, this defense does not entitle Defendant to a directed verdict. However, Defendant also contends even if the statement was interpreted to mean Plaintiff was having plastic surgery, that is not defamatory. Defendant stated "we've all had some work done here and there! I mean, come on! You don't look like this in your 50's without a little help!" (Deposition of Defendant, p 22). It is undisputed that each participant in the text message conversation containing the alleged defamatory statement has undergone plastic surgery in the past and Defendant considers it to be "just as necessary as getting a haircut or having your teeth cleaned." (Deposition of Defendant, p 31). Therefore, the statement did not "harm the reputation of [Plaintiff] as to lower h[er] in the estimation of the community or to deter third persons from associating with h[er]." In fact, even Plaintiff admitted to having had plastic

surgery years prior to this action but stated she was angry about the text message because "it's just not Ramona's business and it's not a polite thing to share." (Deposition of Plaintiff, p 45). Therefore, even when considering the evidence and reasonable inferences in a light most favorable to Plaintiff, the statement was neither defamatory *per se* nor was it defamatory *per quod*.

**Conclusion**

For the foregoing reasons, the Court finds Defendant is entitled to summary judgment on Plaintiff's defamation claim.

**IT IS THEREFORE ORDERED** that the Motion for Summary Judgment is **GRANTED** and that the pending cause of action against Defendant is hereby dismissed with prejudice.

**IT IS SO ORDERED.**

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Honorable Andy Bravomillionare  
Circuit Court Judge

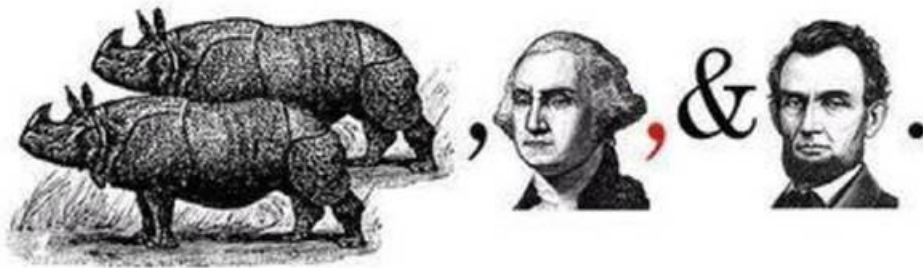
February 3, 2017  
Richland County, South Carolina

# THE OXFORD COMMA

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With the **Oxford Comma**:

We invited the rhinoceri, Washington, and Lincoln.



Without the Oxford Comma:

We invited the rhinoceri, Washington and Lincoln.



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# CITATIONS

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## **Wrong Statute Year**

Our state has enacted the “Childhood Lead Poisoning Prevention and Control Act.” *See* S.C. Code Ann. § 44-53-1310 (1976).

BUT: *See* S.C. Code Ann. § 44-53-1310 (Supp. 2016).

## **No Pincite**

An intimate connection exists between the privilege against self-incrimination and police custodial interrogation. *Miranda v. Arizona*, 384 U.S. 436 (1966).

BUT: *Miranda v. Arizona*, 384 U.S. 436, 458.

## **No Parenthetical**

Plaintiff’s claims were not barred because, although a three-year statute of limitations exists for a trespassing claim, a new statute of limitations begins to run after each invasion of the property. *See* S.C. Code Ann. 15-3-530(3) (2005); *Hedgepath v. Am. Tel. & Tel. Co.*, 348 S.C. 340, 358, 559 S.E.2d 327, 337 (Ct. App. 2001).

BUT: *See* S.C. Code Ann. 15-3-530(3) (2005) (proscribing a three-year statute of limitations for a trespass action); *Hedgepath v. Am. Tel. & Tel. Co.*, 348 S.C. 340, 358, 559 S.E.2d 327, 337 (Ct. App. 2001) (“A new statute of limitations begins to run after each separate invasion of the property.”).