

Defamation Claims by Officials

NFHS Legal Meeting
Indianapolis, Indiana

April 20, 2017

Jerome Singleton, Commission of SCHSL
J. Michael Montgomery, Legal Counsel



Are Officials “Defamation-Proof”?



Are Officials “Defamation-Proof”?



Are Officials “Defamation-Proof”?

 **[PRINT]** ESPN.com: NBA

[\[Print without images\]](#)



Monday, March 14, 2011
Updated: March 15, 6:30 PM ET

Bill Spooner sues AP writer over tweet

Associated Press

MINNEAPOLIS -- An NBA referee has sued The Associated Press and one of its sports writers over a Twitter message suggesting he intentionally made a bad call to make up for a previous bad call that went against the [Minnesota Timberwolves](#).

In a federal lawsuit filed Monday in Minneapolis, veteran NBA referee William Spooner claimed AP sports writer Jon Krawczynski defamed him in the Twitter message, sent while he was covering the Jan. 24 Rockets-Timberwolves game.

In the second period, Spooner called a foul against a Timberwolves player. According to Spooner's lawsuit, Wolves coach Kurt Rambis argued the call and Spooner told him he would review it at halftime.

Rambis said that was fine, but asked how he was supposed to get the points back, according to the lawsuit.

Spoooner says in the lawsuit that he didn't respond to Rambis. But Krawczynski, seated courtside, posted a tweet that said, "Ref Bill Spooner told Rambis he'd 'get it back' after a bad call. Then he made an even worse call on Rockets. That's NBA officiating folks."

The Rockets went on to win the game 129-125.

Spoooner claims the Twitter message led to a disciplinary investigation by the NBA and that his professional reputation has been hurt.

Spoooner has asked the court for damages of more than \$75,000 plus a court order to remove the statement from Krawczynski's Internet postings.

AP attorney Dave Tomlin said, "We believe all the facts we reported in our coverage of that game, in all media, were accurate."

Tim Frank, the NBA's senior vice president for basketball communications, said the league investigated the tweet and "found it to be without substance, and informed Mr. Spooner that we considered the matter closed."

Frank said the NBA also advised Spooner's attorney that the league didn't think suing a journalist for posting a tweet it deemed incorrect would be productive.

A hearing date has not been set.

Case of Wilfred Knox

J. LEWIS CROMER
& ASSOCIATES L.L.C.
ATTORNEYS AND COUNSELORS AT LAW
J. LEWIS CROMER
JULIUS W. BARR, IV • J. PAUL PORTER
ASHLEY C. STORY • RYAN K. HICKS • SHANNON M. POLYI

December 10, 2015

Via email and Certified Mail/Return Receipt Requested Receipt No. 7013 2250 0002 3732 0285

PERSONAL AND CONFIDENTIAL
LEGAL COMMUNICATION
Dee Christopher
President, South Carolina High School League
255 Munn Road
Fort Mill, South Carolina 29715

Re: Wilfred Knox

Dear Mr. Christopher,

The undersigned attorney represents Wilfred Knox who, up to the spring of this year, had been an outstanding high school official for your organization, officiating numerous high school football games and serving on the chain crew in the state championship. More recently, he has acted as head official in the sport of lacrosse. Sadly, last spring he was the subject of several false and defamatory emails and accusations including charges of incompetence and negligence in the carrying out of his duties. These arose from one or two instances at Fort Mill High School as well as another high school game where he was threatened physically by a fan and parent of someone on the team. He was totally undeserving of these actions and the primary complainant, the head lacrosse coach for Fort Mill High School, was not even present during the most prominent episode related to him. It was certainly an accepted fact that he was an authority in this sport having made a grade of ninety-seven (97) in the qualifying test and having introduced many young people and adults to the rules and regulations of lacrosse as a new sport in South Carolina high schools. His direct supervisor, Richard O'Keefe, terminated him from further participation in lacrosse games upon the direction of the board. Because of the stigma attached to that action, our client found it impossible to continue to deal with high school coaches and peers in the football area.

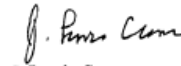
Athletics have been the hallmark of his life and he has obtained many citations and awards for his outstanding participation, particularly as an official at the high school level. His reputation has been severely damaged by what has occurred and he has suffered intense and recurring emotional distress. It has been very much like a divorce from a heretofore happy marriage.

It is his intention to seek damages against the league as well as the schools and persons responsible for these improper and unwarranted actions. He has strong support for both his own

reputation and his version of the events that occurred which are at issue. The League has not seen fit to investigate the same to the extent required.

If you wish to resolve this matter short of litigation, please have your legal representative contact me at the earliest possible time. Otherwise, be prepared for the action which will follow.

Sincerely,



J. Lewis Cromer

MT

Main issue from SCHSL standpoint was knowledge of lacrosse rules

Case of Wilfred Knox

From: Nessie Harris [mailto:nharris@schsl.org]
Sent: Monday, January 04, 2016 4:50 PM
To: Michael Montgomery
Subject: Fwd: concerns about officials

Michael, wasn't sure if you received this letter from Emily Tobin who is the coach at Fort Mill.

Sent from my iPhone

Begin forwarded message:

From: "Tobin, Emily" <tobine@winthrop.edu>
Date: March 30, 2015 at 1:15:44 PM EDT
To: <djokeefe16@sc.rr.com>
Cc: <kobakb@fort-mill.k12.sc.us>
Subject: concerns about officials

Dennis,

Here is a list of all issues with Wilfred Knox.

- Instituted several water breaks during game is inappropriate use of power and can change an emigre game. We are coaches for a reason and should be trusted to take care of our players.
- Imaginary outbound line as a turnover not even on the end line and would call a turnovers. His reasoning was there was a net behind the line. Which is typical for lacrosse so balls do not go to far away. This should only impact play after the player has crossed the out of bounds line.
- He was calling warding as defensive foul (if defender is running along side offense with one hand that was the call) clarified that is offensive and then called detaining when offense could still move forward
- Called a made up call, butt push? Box out
- Called body balls, which are no longer a rule if it is not to advantage
- red card for three minutes?? Instead of two
- Gave a coach red card did not make her leave stadium

- "girls lacrosse is a non contact sport any time contact is made that can be called as a foul"
- turning to a coach on the sideline and saying telling someone how to coach players
- "start worrying about coaching and stop worrying about the rules"
- "his field, his game" at our stadium
- Had to tell him when our own team was off side repeatedly and he still ignored us
- asked clarifying question when passing by and completely ignored
- when a call was made and coach asked for what the call was completely ignored And blatantly rude to all coaching staff
- kept saying random words very loud before all draws and weirdly cheering after goals. Made girls uncomfortable
- didn't know how to set up a throw
- told girls they could not move around the draw circle
- Ignored hanging hash for 8 meter shots
- placed and displaced girls on 8 meter shot (should fasted route out of 8 meter)
- excessive yellow cards, did not let the girls play, literally a push was called for every single contact made
- used all time outs and half time to explain rules. Called time out with refs Knox walked away from me and then continually disregarded all my comments.

I made a comment to Dwayne that I was concerned about receiving a card but was having a hard time remaining reserved. He said I am not the lead and cannot disagree with any of his whistles. Dwayne needs to be with an experienced and knowledgeable official and should never be paired with Knox again. In fact I don't think Knox is a good fit for this sport or league.

If this person is the standard for a lead official we have a problem selecting officials in this area. The blatant disrespect I felt as a coach and a woman from Knox makes me question the integrity of the league.

Please let me know if you need any more information I would be happy to help.

Emily

- Our investigation revealed documented complaints from member schools
- Efforts by SCHSL staff and Lacrosse Officials Association supervisor to address concerns
- Mr. Knox was not responsive

Case of Wilfred Knox

From: bradpardee@hotmail.com
To: NHarris@schsl.org
Sent: Wednesday, March 11, 2015 4:28:34 PM
Subject: Poor officiating

To whom it may concern,

My name is Brad Pardee. My daughter plays defense for Chapin High School JV Lacrosse team. I just wanted to file a personal complaint against an official, Mr.Knox. He singled out my daughter, Jade Pardee last night during their match against Dutch Fork. He was trying to get her to argue back with him on several occasions and was calling unnecessary calls that every fan knew was wrong. He purposely tried to antagonize our team and throwing out yellow cards. Just because our team is obviously a dominating force on the field doesnt mean they deserve to be dragged down by this unsportsmanlike attitude. I personally ask that you look into this and handle it as you see fit.

Thank you,
Brad Pardee
Chapin Lacrosse Parent
803-463-5123
Sent from my T-Mobile 4G LTE device

Nessie,

Here are the video clips from the Fort Mill JL Mann girls lacrosse game last spring. I am attaching all the clips for the entire game. The first one is where the red card takes place, the major foul that went uncalled which caused it happens around 3:55 in the video

<https://www.youtube.com/watch?v=LFR11yRe8Ew> Part 5

Here are the other parts of the game if you need them.....

https://www.youtube.com/watch?v=O18sHN_MfOg Part 1

<https://www.youtube.com/watch?v=g9bG19K9k1E> Part 2

<https://www.youtube.com/watch?v=lq1mfluWIVY> Part 3

<https://www.youtube.com/watch?v=sDEx8BtzAM8> Part 4

<https://www.youtube.com/watch?v=CSZBubJRGKk> Part 6

I can not find the letter I sent to you explaining what happened but I have asked Tucker and am hoping he has it on file!

I will send it to you if I can find it.

Let me know if you need anything else from me.

Thanks, Kristy

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Case of Wilfred Knox

----- Original message -----

From: Nessie Harris

Date: 03/29/2015 8:21 PM (GMT-05:00)

To: ""

Subject: Re: Poor officiating

Who will be the two lead officials? If Wilford doesn't know the rules, I don't want him to be lead official. That's the complaints that I have gotten.

Sent from my iPhone

> On Mar 27, 2015, at 4:18 PM, <djokeefe16@sc.rr.com> <djokeefe16@sc.rr.com> wrote:
>

> I spent two hours on the phone with Emily Tobin, the Fort Mill coach, this morning and dealt with issues by the same official. She is sending me a tape and putting her complaints in writing so I can address them with Wilford Knox. He will not be assigned anymore Fort Mill games. Emily will call me after each game and evaluate my officials. I have asked most of the coaches to call me instead of you to keep you from being so busy. However, I will keep you informed. Two lead officials are working the Fort Mill-Chapin game in two weeks. I am obviously going to the wrong games. I went to SV last night and no cards, no issues, no disagreements. Ronnie Matthews once told me where there is smoke, there is fire. No many complaints against one official is a bad sign. Thanks!

> Dennis

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Case of Wilfred Knox



J.L. Mann High School
160 Fairforest Way
Greenville, South Carolina 29607
Phone 864-355-6300 • FAX 864-355-6329
Academy of Science, Mathematics, and Technology

To Whom It May Concern,

I am writing this letter to share with the High School League my side of last night's events during the JL Mann versus Fort Mill girls' lacrosse game. Before the game had started, my book keeper informed me that the officials told him before the game that they do not read the rule book, since it is too thick and contains too much information. As the first half progressed, there were issues with setting up plays, so I helped the officials: for example, the officials were setting up indirect play from the 8 with my player behind, versus setting up at the 12 with my player in front, a situation that shows a lack of familiarity with the rules on the part of our officials. Throughout the first half, the lead official was constantly talking to the players, saying "watch the push" or "watch the head." It is my opinion that he needed to just make the call instead of trying to coach the players. At the very end of the first half there was a defensive call made 0.2 seconds before the scoreboard horn went off and the officials just set up the play without setting the clock and let Fort Mill shoot and score. At half time I went to talk to the officials about the last play of the first half and the trail official explained in sensible manner that they kept the time on the field. During that time the Fort Mill coach and I tried to explain to the lead official that body to body contact is ok while playing defense, as long as the defender is not pushing or holding the offensive player. Both of us spent the entire 10 minutes trying to explain the rules that govern that situation, and at that point, the lead official said that he was going to just make the calls and not give any players preventative warnings for the rest of the game.

As we started the second half, the first defensive play made by JL Mann was called a push because the defender made body to body contact with the offensive player, which resulted in a goal. The second play of the second half, the Fort Mill defensive player was called for a push because she made body to body contact with the JL Mann player. Following that call, I tried to have a conversation with the lead official about the pushing calls and he gave me a yellow card, despite the fact that I was supporting the Fort Mill defenders defensive actions during that previous play. The officials then proceeded to set the play up incorrectly again by awarding JL Mann the ball.

As the second half went on there was a call made across the field on a Fort Mill defender. The lead official asked the Fort Mill coach to speak to her player. The coach replied that she would not speak to her player because she thought she was playing great defense. In reply, the official took an official time out, called both coaches over and proceeded to talk sternly to the Fort Mill coach about the reckless play of her player. He informed us after this 5 minute meeting that if either coach spoke to him again he was going to give us a yellow card and toss us from the game.

With close to 4 minutes remaining in the game, one of my players had the ball and was attacking the goal between the 8 and the 12 when a Fort Mill player clearly checked her towards her head. The lead official was in a position to see the play and made a no call. I thought that the safety of my players was more important than not voicing my opinion. Knowing there was a possibility that I would be given a second yellow card, I said "you have been calling the pushing all night, how can you not call an obvious

Mission Statement

The mission of J. L. Mann High School is to provide each student with the opportunity to become lifelong learners by nurturing students' individuality, guiding students' learning, and challenging students to think critically through the shared involvement of teachers, administrators, parents, and community member.

- Our investigation revealed documented complaints from member schools
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check to the head." The trail official stopped the clock and the lead official gave me a yellow card and asked me to leave the field. I said "my pleasure." I asked Fort Mill if there was an administrator present and proceeded off the field. I asked the Fort Mill parents if there was an administrator and they sent me to the press box.

I was informed after the game that the official made my player serve a 3 minute yellow card, instead of a 2 minute penalty, which was not the correct call in this situation.

It was clear from the start of the game the officials were not knowledgeable about the game rules or procedures for setting up fouls. They forced both teams to change the way the game is played. The Fort Mill coach and I talked during the game numerous times and were very frustrated with the officials. It was a shame that two well coached teams with knowledge of the game and play the game with integrity were not able to play that way last night because the officials changed the game to their standards.

Sincerely,

Kristy Schumacher

J. L. Mann High School Girls Lacrosse Coach

Case of Wilfred Knox

- One issue in the claim – relationship between Officials Association and SCHSL
- May cut both ways – privilege and imputed liability
- Role of Dennis O’Keefe as assignor/supervisor

ARTICLE X - OFFICIALS' ASSOCIATIONS

Section 1 Organization

- A. The League has the authority to organize and institute officials' associations for the sports in which its members participate.
- B. These organizations will furnish schools with certified officials for their games.
- C. All officials in any varsity football, basketball, baseball, softball, wrestling, volleyball, competitive cheer, lacrosse and soccer contests must be certified by the office of the Commissioner.

Section 2 Fees

- A. Officials' fees shall be set at the February meeting of the Executive Committee
- B. Fees to be charged each official for membership shall be designated by the Executive Committee.
- C. Officials' associations must submit their proposals on fees to the Commissioner by December 1 of each year. If no proposal is submitted, the Executive Committee will retain the fee structure in place.

ARTICLE XI – AMENDMENTS

- Section 1. Proposed amendments to the Bylaws and Rules must be submitted to the Commissioner by the principal or superintendent of a member school prior to January 1.
- Section 2. The Commissioner shall submit the proposed amendments to the State Executive Committee prior to January 15. The Executive Committee will publish the proposed amendments in the January Bulletin of the League with its recommendations on each proposal.
- Section 3. The Legislative Assembly, by majority vote, may edit any amendment or resolution submitted for legislative action.
- Section 4. A two-thirds majority shall be required for adoption of a proposed amendment to the bylaws.
- Section 5. The President, in case of a tie vote, shall cast the deciding ballot.
- Section 6. A delegate must be present at the Legislative Assembly in order to vote.

ARTICLE XII - DEFINITIONS

Section 1 Semesters Defined

A. FIRST SEMESTER:

1. The first semester begins when classes convene on the first day of the semester and ends when classes are dismissed on the last day of the semester.
2. A semester is half a school year.

B. SECOND SEMESTER:

The second semester begins when classes convene on the first day of second semester. Second semester ends when classes are dismissed on the last day of the semester.

Case of Wilfred Knox

■ Text messages by Dennis O'Keefe

2/24 3:42 Wilfred...clear your mailbox...I can't leave you a message (from me)
3/13 12:28 Call Knox (from Knox)
04/07 9:22 Your phones cannot take messages. Call Danny now. We have a game for you Thursday!
(from me)
04/08 12:01 Wilfred, you have looked at your game tomorrow at Ridge View. Accept or decline it! Thx!
(from me)
04/08 9:15pm Wilfred. Game is tomorrow.... accept your game or call us and we will accept for you...I
am getting frustrated now. (from me)
(covered the game with 2 non-lead officials-Wilfred was my only lead official-he worked a previously
assigned game at Clover the next night, but I found out from Dwayne Smalls a fellow official over the
weekend he had been working security at the Monday after the Masters)
04/10 12:17pm Wilfred. Just heard you had Monday after the Masters in Myrtle Beach. That's okay. But
you didn't close out or return my messages. Have a good game at Clover tonight! (from me)
After informing Mr. Knox of all the complaints against, I tried to set up a meeting with him, me, and you.
5/20 2:33 pm Is Tuesday at 10AM okay? Yes or no? I need to let Nessie know! (from me)
5/20 4:17pm Mr. Dennis Later during next week holiday we come back in town wed anytime is good
thanks a lot it's worrying me (from Knox verbatim)
5/20 6:00 I will schedule it later (from me)
5/20 6:01 Thanks for all your support (from Knox)
The DF coach dropped by 2 \$41 checks for a DF JV forfeit at Clover. I gave James Crowell his check at the
next football meeting. As it turns out, Knox dropped out of football and never showed up at another
meeting. It should be noted that I had him scheduled for a 7 on 7 passing camp at Blythewood for the
4th straight year before I was informed he had switched to SCISA)
5/26 5:43 Your \$41 is sitting at my house. You can come by my house tomorrow at 2322 Terrace Way
and pick it up. Call first to be sure Im home. Thx! (from me)
5/28 6:52 Still have your money. I will bring it to Monday's football meeting. (from me)
5/28 9:31pm That's no problem (from Knox)
6/2 12:39pm Wilfred. No show last night. I still have your money. Will be there Thursday (at the fb
meeting). I want you to call Nessie Harris at 798-0120 and set up a meeting time. Then let me know. You
are not as flexible as I am. Thx!
6/2 12:41pm Don't pay your fb dues. We have a 7 on 7 this year. (from me)
6/2 1:02pm Thank you I'll be there out of town right now but be meeting thur thanks!
(from Knox)
6/3 1:03pm Thanks for looking out (from Knox)
6/3 1:36pm Do you have any dates (referring to 7 on 7) (from Knox)(last communication from him)
6/3 1:53pm In July. No dates. (from me)
6/8 11:18am Let me know if you are coming to the meeting tonight. If you confirm I will be there. I have
your \$41 and am tired of carrying it around! (from me)
6/15 4:16pm Wont be there this week. (from me)
7/2 4:50 I will mail your \$41 money order to you. Let me know by text that u received it. Let Danny
Caulder know whether you can work Pop Warner or not. Praying that your family situation improves!
(from me)

7/20 3:49 I mailed your Clover money order to you to your Hopkins address a week ago. Did you get it?
Thx! (from me)
7/31 10:42 am I understand you are doing SCISA fb this year. That is your business. However, I asked you
nicely to let me know that you received that money order. You couldn't take 30 seconds out to let me
know you got the money. So I/m telling you I really don't care whether you got it anymore. I'm done
with you. You are dropped from lacrosse effective immediately. Enjoy your SCISA career!

No further communications occurred.

Case of Wilfred Knox

- SCHSL sent letter responding to initial correspondence
- Knox's attorney sent a final letter threatening litigation ... but also conceding some points
- Takeaways

SOWELL S G GRAY

MICHAEL MONTGOMERY
Direct Dial 803 231.7833
Direct Fax 803 231.7890
Email mmontgomery@sowellgray.com

January 28, 2016

J. Lewis Cromer, Esquire
Cromer & Mabry
Post Office Box 11675
Columbia, South Carolina 29211

RE: Wilfred Knox

Dear Lewis:

We hope this letter finds you doing well. We have had the chance to investigate the claims in your letter dated December 10, 2015, regarding Wilfred Knox, and we appreciate your patience. After meeting with South Carolina High School League officials, we respectfully disagree with several points alleged in your letter. A summary of our findings is below.

There were numerous complaints received by the South Carolina High School League following games officiated by Mr. Knox on March 10, 2015 (Dutch Fork v. Chapin JV girls lacrosse) and March 18, 2015 (JL Mann v. Fort Mill girls lacrosse). Several complaints came from parents and several complaints came from various coaches, who also included video from the games. The biggest concern involved reports that Mr. Knox did not have sufficient working knowledge of the rules of lacrosse, which was a huge problem given that he was working as a lead official.

After these complaints were received by the League, Assistant Commissioner Nessie Harris first spoke with Mr. Knox and then attempted to schedule a meeting with Mr. Knox and his supervisor, Dennis O'Keefe, to make sure that familiarity with the rules of lacrosse would not be a problem going forward. Nonetheless, Mr. Knox was still assigned games in early April. However, Mr. Knox failed to accept or reject a game that was assigned to him on April 9th, which resulted in the League having to find a last-minute replacement. Mr. O'Keefe continued to try and schedule the meeting with Assistant Commissioner Harris and Mr. Knox to discuss the complaints received against Mr. Knox, but Mr. Knox was unable to coordinate his schedule. Mr. O'Keefe also tried to arrange a time to give Mr. Knox a game check for a JV forfeit. On May 26, 2015, Mr. O'Keefe let Mr. Knox know about the check and offered to bring it to a football officials' meeting. Mr. Knox

never came to any of the football officials' meetings in late May or June, and he never responded to Mr. O'Keefe's attempts to get the game check to him. Ultimately, Mr. O'Keefe became frustrated with the non-responsiveness from Mr. Knox, particularly when Mr. O'Keefe was trying to get a game check to Mr. Knox. Mr. O'Keefe also learned that Mr. Knox had voluntarily decided to only officiate SCISA football games, and Mr. Knox did not personally inform Mr. O'Keefe of his decision, even as Mr. O'Keefe was trying to schedule Mr. Knox in July for 7-on-7 football tournaments. As a result of the lack of a response and lack of effort by Mr. Knox to meet with Assistant Commissioner Harris, Mr. O'Keefe informed Mr. Knox in late July 2015 that he would no longer assign him lacrosse assignments.

This timeline is important because it directly contradicts some of the assertions in your letter. First, Mr. Knox decided to officiate SCISA football games well before he was ever dropped from lacrosse. Secondly, Mr. Knox continued to officiate lacrosse games in April 2015, even after the complaints were made against him by fans and coaches. The only thing he needed to do to remain in good standing with the League was meet with Assistant Commissioner Harris to discuss the concerns about unfamiliarity with the rules. Mr. Knox failed to schedule that meeting despite numerous attempts to do so, and combined with his non-responsiveness on other issues, i.e. accepting assignments, coordinating receipt of his check, failing to attend officials' meetings, etc., he was told that he would not be able to officiate lacrosse. Although it may not be relevant, let me also clarify that Mr. O'Keefe's decision to remove him from lacrosse was not done "upon the direction of the board." Likewise, it cannot be accurate that the "stigma" attached to removal from lacrosse resulted in Mr. Knox moving to SCISA football, because he had already made that decision before being informed by Mr. O'Keefe in late July about lacrosse.

Finally, I have confirmed with the League that Mr. Knox is eligible to return and officiate lacrosse games, provided he meets the conditions that were previously requested of him. In fact, he was included on an email dated December 8, 2015, from Mr. O'Keefe to various officials informing them of how to register for the upcoming season. The only additional condition for Mr. Knox is to meet with Assistant Commissioner Harris to discuss the previously raised issues regarding his knowledge of the rules, which was the same thing requested of him last spring.

For these reasons, we see little merit to any potential claims by Mr. Knox. From the League's perspective, a number of complaints were received about his lack of knowledge of the rules of lacrosse, and the League tried to schedule a meeting with him to discuss these issues, even while continuing to assign him contests. When Mr. Knox failed to respond to the League's efforts to


Case of Wilfred Knox

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- Takeaways

meet with him, along with an emerging pattern of general non-responsiveness, the League dropped him from lacrosse in late July 2015. Again, this was after he had missed a number of football officials' meetings and after he publicly expressed his intent to move over to SCISA for football. Moreover, the League invited him to come back this spring for lacrosse, but Mr. Knox never responded to the email. All in all, our investigation has revealed no wrongdoing by the League.

If you have additional information you wish for us to consider or would like to discuss further, please do not hesitate to contact me. With warmest regards, I remain

Very truly yours,



J. Michael Montgomery

JMM:cnm

cc: Mr. Jerome Singleton (via e-mail)
Commissioner

J. LEWIS CROMER
& ASSOCIATES L.L.C.
ATTORNEYS AND COUNSELLORS AT LAW

J. LEWIS CROMER
J. PAUL PORTER
RYAN K. HICKS • SHANNON M. POLVI • ASHLEY C. STORY
CHELSEA R. REKARD

FEB - 8 2016

BY: 5346/15

February 3, 2016

via USPS and e-mail

Michael Montgomery
1310 Gadsden Street
PO Box 11449
Columbia, South Carolina 29211

Dear Michael,

Thank you for your letter of January 28. I have had occasion to review it and go over its contents with my client.

Perhaps your clients did not understand the full import of our claim.

My client made it known long before the issues arose involving lacrosse that he was no longer going to referee high school football games but would work exclusively with SCISA which, as I understand, has nothing to do with the high school athletic league.

Our complaints directly relate to the defamatory and false communications between the high school coach, the league's representative, and others which perpetuated and published not only to one another but to the community as well that our client was unfit for his position, totally ignorant of the rules of lacrosse and should not be tolerated as an official. These matters were defamatory per se and have hurt our client tremendously. Never in all of his history of athletics has he been faced with this type of allegations and the worst part of it is that some of these communications were in writing.

Our client was never asked to meet with the league's representative and Mr. O'Keefe apparently has not been forthcoming with you about his conversations. It is going to be extremely difficult from this point forward for Mr. Knox to officiate any athletic events with the South Carolina High School League and it is more than likely that a lawsuit will be brought.

Please be guided accordingly.

Sincerely,



J. Lewis Cromer

Aminah Richburg v. Williams and SCHSL

- Dispute between basketball official and her local director
- Claims of defamation and negligence on behalf of the SCHSL by failing to intervene on her behalf
- E-mail communications at issue

Aminah Richburg v. Williams and SCHSL

Information for Official

ericowms@charter.net

"richburga@bellsouth.net" <richburga@bellsouth.net>

"skip@schsl.org" <skip@schsl.org>, "ericowms@charter.net" <ericowms@charter.net>, "albanister77@gmail.com" <albanister77@gmail.com>, "audrey.cox94@yahoo.com" <audrey.cox94@yahoo.com>, "proump1@netzero.net" <proump1@netzero.net>, "Ddpaulos@bellsouth.net" <Ddpaulos@bellsouth.net>, "hullingerge@yahoo.com" <hullingerge@yahoo.com>, "JMeekins@greenvillecounty.org" <JMeekins@greenvillecounty.org>, "ken@kenpelanda.com" <ken@kenpelanda.com>, "MRREF12@CHARTER.NET" <MRREF12@CHARTER.NET>, "mailforsl@bellsouth.net" <mailforsl@bellsouth.net>

Friday February 5 2016 11:49:34AM

Attachments

Print

Aminah,

On Tuesday Feb 2, I called you and left a message asking you to call me. On Wednesday Feb 3, I left the same message as well as a text. After you subsequently called me back I mentioned to you that the games I scheduled for you to work Thursday, Feb. 4 at Furman's Intramural Program were indeed still on, and I informed you that someone at your last game at Beck Middle School on Feb. 2 had told me that you were officiating with "jogging/workout" type pants that were very tight. If you remember, last year during the JV tournament I asked you to wear your official's pants instead of those "jogging" pants whenever you're representing District One and you said you would. When I asked you was that report accurate from Monday you replied, "I don't wear jogging pants. Is that all?" I then asked you if it was problematic for you with me asking that question and your response was, "I don't wear jogging pants. I'm at work. Is that all?" I then stated that we talk again soon.

Even though your responses were short, terse and rude I was going to let the matter rest for another day; until after a few minutes you sent me a lengthy text which follows, and I quote: " Please discontinue the harrassing communications. Previous District One leaders presented a higher level of professionalism which made officiating enjoyable unfortunately the present leadership standards have declined. I will communicate your monopoly status with assigning games with various organizations and how it manipulates the District One organization and your leadership position to the SCHL. If I do not respond to a text or call, I am unavailable. I confirmed my availability for Thursday earlier. If you have games for me in the future I welcome any professional communication you send. If I do not receive any game assignments

I will communicate my disdain to the SCHL".

I communicated your text and above information to Skip Lax, and I received requested information from Bob Wnukowski and Kevin Brown. From our records you are marked of by two schools and by ten (10) officials and literally every one of them are higher rated either sub-Varsity officials are officials at the Varsity level who still work JV games. Many of them have indicated to me your unwillingness to accept constructive criticism, advice, instruction or any information given by them that you may deem unnecessary. Additionally, before the season I required officials working other SCHSL sports (such as Volleyball that you work) to attend four (4) of our regularly (non required) scheduled meetings which began at 6 pm and ended at 8 pm. You were present at the first meeting from beginning to end; a Sept . 21 meeting you arrived at 7:35 pm; an Oct. 19 meeting you arrived at 7:05; and a Nov. 2 meeting you arrived at 6:50 pm. Therefore your meeting attendance equates to about 2 1/2 meetings. In addition, you were absent from our required Mechanics meeting and required Mid-season meeting which would bring your absent total to roughly eight (8) out of eleven (11) meetings.

Upon realizing these facts I contemplated removing you from your JV tournament assignment Saturday (Feb. 6) afternoon. But I will leave your schedule as is, and you will not be considered for any future assignments until your status as a District 1 member is reviewed by the Board of Directors, which brings me to the final issue if you will. Without repeating again word for word your comments concerning "professionalism", "declining standards", etc. it is obvious that you feel your membership is not being served adequately by the "present leadership". I and we certainly don't want any member to be so uncomfortable in our District, therefore a transfer to another District that best suites you may be in order. As a matter of fact, I will facilitate the communication to any District in South Carolina that you choose if that is the route that you deem favorable.

Regards,

E.A."Rico"Williams
Director, District 1
SC Basketball Officials Association
(864 430-9884
Ericowms@charter.net

Aminah Richburg v. Williams and SCHSL

Zimbra

skip@schsl.org

Re: Information for Official

From : aminah richburg <richburga@bellsouth.net> Thu, Feb 11, 2016 01:36 PM
Subject : Re: Information for Official
To : Skip Lax <skip@schsl.org>
Reply To : aminah richburg <richburga@bellsouth.net>

I do not believe my concerns are a district matter and I will hire an attorney to seek relief for my pain and suffering on this matter and communicate the lack of support I am receiving from leadership at the SCHL.
Aminah Richburg

On Wednesday, February 10, 2016 9:44 AM, Skip Lax <skip@schsl.org> wrote:

Aminah, We do not share with any officials blocks by schools or their peers. Your concerns are a local matter to be handled at your district level.- Sincerely,Skip

From: "aminah richburg" <richburga@bellsouth.net>
To: skip@schsl.org
Sent: Tuesday, February 9, 2016 4:43:15 PM
Subject: Fw: Information for Official

Mr. Lax, I am forwarding this email message sent by Rico Williams which I believe is highly inappropriate for a District One Director. Mr. Williams did not initiate the call because of a High School League Game, he called to confirm games assigned at Furman University through his business. I confirmed the assigned games through a text message initiated by Mr. Williams the previous week. When I returned Mr. Williams phone call, he stated that the games were still on and I responded ok about the games, then Mr. Williams communicated that someone at my previous game told him I had on sweat pants, then he asked if I wore sweat pants and I told him, "I do not wear sweat pants. Is that all? Then Mr. Williams asked the question, if I had a problem discussing my sweat pants and I repeated, " I do not wear sweat pants, is that all, because I am at work and I need to get off the phone. Mr. Williams responded fine and the conversation ended. Unfortunately the details of our conversation changed with Mr. Williams interpretation in the email he sent to you and several others. I communicated my concerns with a text message to Mr. Williams later because he harassed me and I was obligated to let him know. I now feel that I am being harassed, embarrassed and bullied by Mr. Williams and the email communication he has sent to various individuals proves his lack of professionalism. My meeting attendance has never been a problem with prior leadership or with the current leadership until now. It is true that I attended three meetings this year, I planned to make the fourth meeting, unfortunately, Mr. Williams changed the meeting date and I had a conflict. I met all requirements to officiate basketball games for the SCHL by attending all required meetings. Mr. Williams has shared a lot a damaging information that I did not know concerning my colleagues that have communicated that they did not want to work with me and blocked schools. I know that I blocked CCEs and Hillcrest Middle School myself due to personal reasons. If there were any schools that blocked my assignment other than the schools I blocked, I was scheduled that the same schools this year along with some of the same officials. I would like to know the officials that blocked me, it would help me in the future if those same officials officiate other sports. Mr. Williams has his circle of supporters that he has put in leadership positions and many of those individuals character are similar to his. I am an educated professional and sometimes my demeanor may clash with individuals whose behavior is unprofessional and uncouth. Mr. Williams has no legitimate reason to discuss or set parameters towards my participation with the SCHL or District One Board with my continued participation as a basketball official. Furthermore, I would like Mr. Williams to present a detailed list of arrival times for all District One officials for all meetings. I have done nothing out of character. I would like a written apology from Mr. Williams for his lack of professionalism and the pain and suffering he has caused me.

Aminah Richburg v. Williams and SCHSL

- **Positives** – Pro se plaintiff, Tort Claims Act, Defenses for negligence claims
- **Challenges** – Qualified privilege tension, role of Officials’ Representative on governing body, “discrepancies” in SCHSL and SCBOA by-laws

Aminah Richburg v. Williams and SCHSL

Defamation Defenses

- **Truth** – had to explain Arbiter software
- **Qualified Privilege** – Local SCBOA District Director had common interest in copying Lax and his Board on February 5th e-mail
- “Where the occasion gives rise to a qualified privilege, there is a prima facie presumption to rebut the inference of malice, and the burden is on the plaintiff to show actual malice or that the scope of the privilege has been exceeded.” Swinton Creek Nursery v. Edisto Farm Credit, ACA, 334 S.C. 469, 485, 514 S.E.2d 126, 134 (1999).”
- Local matter versus common interest
- Plaintiff’s initial text message helped

Aminah Richburg v. Williams and SCHSL

Negligence Defenses

Re: Fw: Information for Official
"Joedy Moots" <jmoots@grayca.com>
"aminah richburg" <richburga@bellsouth.net>
Monday February 22 2016 8:21:19AM
Attachments (1)

Print

Ms Richburg,

I have read the corresponding email from your Director, Rico Williams. I have also reviewed your text to Mr. Williams as well. I have always had respect for our states district directors and the high school league office. Being the officials representative the past four years has been very rewarding to me, but has opened my eyes with even more respect and admiration for both the league and directors. In my real line of work, I am a high school principal and have been in administration for over 20 years. In a way, that is what a director is. The officials in their district are their staff and they are responsible for them. Always dress professional with a clean uniform because you are not only representing yourself, but your district and state as well. I am going to say some things that you are probably not going to like, but if you ask anyone about me, I will always be brutally honest.

As far as Mr. Williams, he is one of the most respected officials and directors in the state. I have never known him as being anything but sincere, honest and professional. I have had disagreements with him myself, but in all my dealings with him, he was professional and respectful. In reading the correspondence from him to you, I feel all his responses were merited. It seems you are having trouble with fellow officials and other schools. It looks to me that Mr. Williams has gone the extra mile to help you advance in your officiating career.

As an administrator, if one of my employees talked about me like you did about Mr. Williams, they would be put on leave for insubordination. I have never seen you work so I cannot comment on your officiating ability but I do want to give you some advice. None of us are in this for the money, we are in it for the love of sport and the love of kids. The game is bigger than us and once we are gone, the game will go on. Get along with your peers and administrators. Be an official that everyone wants to work with and have you on their games. There will always be officials and coaches you don't necessarily like, but they should never know it.

I also agree with Mr. Williams that if you are still serious about officiating, you should try another district, especially after your accusations about your director. Be careful not to burn many bridges in your journey through officiating and life, you never know when you will need to cross one to advance or continue growing.

Best of luck in all you do!

Joedy

- Plaintiff claimed Lax and Moots were negligent in allowing Williams to spread a false narrative about her, leading to her “termination”
- We argued no duty to intervene and discretionary immunity under the S.C. Tort Claims Act

Aminah Richburg v. Williams and SCHSL

Negligence Defenses

- Conflicting areas of SCBOA by-laws
- SCHSL was able to explain the difference between discipline and membership

BY-LAWS

Article I THE PRESIDENT

The President shall preside at all meetings of the Association and the Board of Directors. He may vote as a district director. He shall conduct all business on behalf of the association and shall make every effort to further the policy adopted by the association.

Article II THE VICE PRESIDENT

The vice president shall perform the duties of the president in his absence or inability to act.

Article III THE SECRETARY

The secretary shall keep the minutes of all meetings of the Association.

Article III A THE DIRECTOR

The director is a representative of one of the twelve geographical districts. The director has full power of office, i. e., the director may vote, make motions, speak for or against items of agenda, and must be present to cast a vote on behalf of the district. Any district not represented by its duly elected director may be represented by a substitute or supply director appointed by the director. Such appointment shall be in writing, dated and signed by the director. The substitute will have full power of office, i. e., the substitute may vote, make motions, speak for or against items of agenda.

Article IV THE COMMISSIONER OF OFFICIALS

- The Executive Committee of the South Carolina High School League shall appoint the Commissioner of Officials. He shall have charge of all records pertaining to the business of the Association.
- The Commissioner shall receive all applications for membership, which have been approved or disapproved by the director of the district where the applicant resides and the Commissioner shall notify the applicant of the approval or rejection of his application. If the applicant is approved for membership, the Commissioner shall furnish the applicant with a copy of the Constitution, By-Laws, and booking office regulations.
- The Commissioner shall maintain in his office all reports and records of the members of the Association and the record of an official shall be available to such official at such reasonable time as may be agreed upon by the individual and the Commissioner.
- The Commissioner shall keep a record of all game assignments and schedules of member schools and shall, upon request of the athletic director or coach of a school, furnish to such school a list of all officials, together with information, which in the opinion of the Commissioner might be relevant in making an impartial and proper selection of game officials.
- The Commissioner shall furnish each member school a list of the officials.

- October 15th shall be the cutoff date for accepting any applications, with the exception of transfer-ins.
- The director and the district's local review board shall review all officials who are members of the district and are members of the South Carolina Basketball Officials Association for the first or second year. The director and the review board will be authorized to reject the renewal application of any first or second year official if they feel that it is in the best interest of the Association.
- An official with 3 through 6 years experience and a rating below 75 or an official with 7 years or more and a rating below 85 will be placed on probation for 1 year. If this condition should exist a second time, the official may be dropped from the Association.

Article VIII OFFICIAL'S FEES

Deleted

Article IX GENERAL RULES OF CONDUCT

- No member shall accept any in-state high school engagement unless the Association headquarters in Columbia assigns him. The district director may make assignments to non-member schools, Junior Varsity, B-team and middle schools regular season games.
- Any member who violates the provisions of the constitution and by-laws may be suspended for such length of time, as the board of directors of this Association may deem wise and proper.

Article X DISCIPLINE OF OFFICIALS

Discipline of officials shall be handled through the Commissioner of Officials and the Board of Directors.

Article XI UNIFORMS

- Each official shall have a complete standard uniform, which shall be as follows:
 - Black and white vertically striped v-neck short sleeve knit shirt. Straight leg black trousers without cuffs. (Trousers may be pleated or plain.)
 - Black officials shoes (if low cut shoes are worn, officials must wear black socks). A black shoe with a white trim may be worn if all officials wear them.
 - Black jacket made of wool or nylon, without a hood, and with or without a waistband.
- The SCBOA or any district may, as a memorial, place a patch or band on the shirt sleeve opposite the sleeve with the US flag for a period of up to one year, for each memorial situation.

Article XII OFFICIATING MECHANICS

All members shall conform to the mechanics and procedures prescribed in the officials' manual published by the National Federation of State High School Associations.

Article XIII CANCELLATIONS AND POSTPONEMENTS

Deleted.

Aminah Richburg v. Williams and SCHSL

Negligence Defenses

- Conflicting areas of SCBOA by-laws
- SCHSL was able to explain the difference between discipline and membership

Officials should:

- Maintain a neat appearance, and be friendly but businesslike.
- Know fully the rules and accepted officiating procedures.
- Make decisions promptly, fairly, and without arrogance.
- Be consistent.
- Eliminate showboating in officiating.
- Be on time and start the game on time.
- Refrain from placing hands on players during an athletic contest.
- Work together with other officials. A pre-game conference prior to each game is a must.

POLICY, COACH-OFFICIAL RELATIONSHIP

The League's policy concerning the ethical relationship between coach and official during and immediately following an interscholastic contest is that once officials are assigned they are entitled to the active support of the coaches. Under no circumstances shall a coach attempt to publicly criticize, berate or intimidate an official.

Officials are expected to arrive on time at each game site, neatly dressed in the designated uniform. Officials should be in good physical condition, mentally ready to work the best possible game and fully cognizant of the playing rules. They are expected to hustle and to call each play as they see it without fear or favor, regardless of the score.

Officials are instructed to correct all errors if errors are made provided that they are correctable. Judgment calls on the part of officials are not subject to question or discussion. Officials are instructed to refrain from discussing judgment calls with coaches, players, or spectators.

Coaches and officials are expected to treat each other with courtesy, dignity and respect. Each should treat the other as he expects to be treated. These provisions should be carefully studied and followed.

Officials are advised that they should leave the basketball court as soon as possible following the completion of the game. This may save post-game arguments and protect those concerned from making a statement they might regret later.

REPORTING DISQUALIFICATIONS

League regulations require that officials report all disqualifications (player and coach). The player's number, school and the reason for the disqualification must be reported. It is not necessary to list the jersey color.

DISCIPLINE OF OFFICIALS

Officials associations may set up rules and regulations for the discipline of its members. The legislative assembly of the South Carolina High School League is of the opinion that the final authority of discipline for both schoolmen and athletic game officials must be centralized and that this centralized authority will be the Executive Director of the league. The Executive Director has the authority to discipline the official in one or more of the following manners:

Warning - this is an official notice that an inexcusable, unethical or unsportsmanlike action is a matter of record and must not happen again.

Probation - this is a more severe type of warning. An official on probation may be assigned to regularly scheduled games but he will not be assigned to a play-off game for a conference championship, a play-off game toward the state championship or a tournament of any type.

Suspension - a suspended official may not work an interscholastic athletic contest of any kind for a member of the South Carolina High School League or a school that is a member of another

state associated with the National Federation of State High School Athletic Associations.

Fine - a fine may be levied separately or in addition to a warning, probation or suspension. It will be levied against the official and may range from the fee received for working the game up to a maximum of \$100.00. Any disciplinary action by SCBOA or the Executive Director may be appealed to the Executive Committee of the High School League.

OFFICIALS LIABILITY INSURANCE

Liability insurance is covered under NFOA membership. (Up to one million dollars individual liability protection from suits arising from officiating duties and paying for legal fees as well as any assessments or damage awards.) Medical coverage is available through the national federation office.

Richburg Case Outcome

- Difficult plaintiff and numerous motions
- Nightmare deposition
- Motion for summary judgment argued March 20, 2017
- Judge informed of decision granting summary judgment on all grounds on April 4, 2017

Takeaways

- Pay attention to by-laws that establish officials' organizations
- Reinforce good behavior with local leaders
- Clear understanding of general association concerns versus local concerns