

Appendix A

FILED: December 20, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUITNo. 18-1903, D.M. Bandara v. Dan Mann
3:16-cv-03212-TLW

NOTICE OF JUDGMENT

Judgment was entered on this date in accordance with Fed. R. App. P. 36. Please be advised of the following time periods:

PETITION FOR WRIT OF CERTIORARI: To be timely, a petition for certiorari must be filed in the United States Supreme Court within 90 days of this court's entry of judgment. The time does not run from issuance of the mandate. If a petition for panel or en banc rehearing is timely filed, the time runs from denial of that petition. Review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only for compelling reasons. (www.supremecourt.gov)

VOUCHERS FOR PAYMENT OF APPOINTED OR ASSIGNED COUNSEL: Vouchers must be submitted within 60 days of entry of judgment or denial of rehearing, whichever is later. If counsel files a petition for certiorari, the 60-day period runs from filing the certiorari petition. (Loc. R. 46(d)). If payment is being made from CJA funds, counsel should submit the CJA 20 or CJA 30 Voucher through the CJA eVoucher system. In cases not covered by the Criminal Justice Act, counsel should submit the Assigned Counsel Voucher to the clerk's office for payment from the Attorney Admission Fund. An Assigned Counsel Voucher will be sent to counsel shortly after entry of judgment. Forms and instructions are also available on the court's web site, www.ca4.uscourts.gov, or from the clerk's office.

BILL OF COSTS: A party to whom costs are allowable, who desires taxation of costs, shall file a Bill of Costs within 14 calendar days of entry of judgment. (FRAP 39, Loc. R. 39(b)).

PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC

BANC: A petition for rehearing must be filed within 14 calendar days after entry of judgment, except that in civil cases in which the United States or its officer or agency is a party, the petition must be filed within 45 days after entry of judgment. A petition for rehearing en banc must be filed within the same time limits and in the same document as the petition for rehearing and must be clearly identified in the title. The only grounds for an extension of time to file a petition for rehearing are the death or serious illness of counsel or a family member (or of a party or family member in pro se cases) or an extraordinary circumstance wholly beyond the control of counsel or a party proceeding without counsel.

Each case number to which the petition applies must be listed on the petition and included in the docket entry to identify the cases to which the petition applies. A timely filed petition for rehearing or petition for rehearing en banc stays the mandate and tolls the running of time for filing a petition for writ of certiorari. In consolidated criminal appeals, the filing of a petition for rehearing does not stay the mandate as to co-defendants not joining in the petition for rehearing. In consolidated civil appeals arising from the same civil action, the court's mandate will issue at the same time in all appeals.

A petition for rehearing must contain an introduction stating that, in counsel's judgment, one or more of the following situations exist: (1) a material factual or legal matter was overlooked; (2) a change in the law occurred after submission of the case and was overlooked; (3) the opinion conflicts with a decision of the U.S. Supreme Court, this court, or another court of appeals, and the conflict was not addressed; or (4) the case involves one or more questions of exceptional importance. A petition for rehearing, with or without a petition for rehearing en banc, may not exceed 3900 words if prepared by computer and may not exceed 15 pages if handwritten or prepared on a typewriter. Copies are not required unless requested by the court. (FRAP 35 & 40, Loc. R. 40(c)).

MANDATE: In original proceedings before this court, there is no mandate. Unless the court shortens or extends the time, in all other cases, the mandate issues 7 days after the expiration of the time for filing a petition for rehearing. A timely petition for rehearing, petition for rehearing en banc, or motion to stay the mandate will stay issuance of the mandate. If the petition or motion is denied, the mandate will issue 7 days later. A motion to stay the mandate will ordinarily be denied, unless the motion presents a substantial question or otherwise sets forth good or probable cause for a stay. (FRAP 41, Loc. R. 41).

U.S. COURT OF APPEAL FOR THE FOURTH CIRCUIT BILL OF COSTS FORM
(Civil Cases)

Directions: Under FRAP 39(a), the costs of appeal in a civil action are generally taxed against appellant if a judgment is affirmed or the appeal is dismissed. Costs are generally taxed against appellee if a judgment is reversed. If a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed as the court orders. A party who wants costs taxed must, within 14 days after entry of judgment, file an itemized and verified bill of costs, as follows:

- Itemize any fee paid for docketing the appeal. The fee for docketing a case in the court of appeals is \$500 (effective 12/1/2013). The \$5 fee for filing a notice of appeal is recoverable as a cost in the district court.
- Itemize the costs (not to exceed \$.15 per page) for copying the necessary number of formal briefs and appendices. (Effective 10/1/2015, the court requires 1 copy when filed; 3 more copies when tentatively calendared; 0 copies for service unless brief/appendix is sealed.). The court bases the cost award on the page count of the electronic brief/appendix. Costs for briefs filed under an informal briefing order are not recoverable.
- Cite the statutory authority for an award of costs if costs are sought for or against the United States. See 28 U.S.C. § 2412 (limiting costs to civil actions); 28 U.S.C. § 1915(f)(1) (prohibiting award of costs against the United States in cases proceeding without prepayment of fees).

Any objections to the bill of costs must be filed within 14 days of service of the bill of costs. Costs are paid directly to the prevailing party or counsel, not to the clerk's office.

Case Number & Caption: _____

Prevailing Party Requesting Taxation of Costs: _____

Appellate Docketing Fee (prevailing appellants):		Amount Requested: _____			Amount Allowed: _____	
Document	No. of Pages	No. of Copies		Page Cost (<\$.15)	Total Cost	
	Requested	Allowed (court use only)	Requested	Allowed (court use only)	Requested	Allowed (court use only)
TOTAL BILL OF COSTS:					\$0.00	\$0.00

1. If copying was done commercially, I have attached itemized bills. If copying was done in-house, I certify that my standard billing amount is not less than \$.15 per copy or, if less, I have reduced the amount charged to the lesser rate.
2. If costs are sought for or against the United States, I further certify that 28 U.S.C. § 2412 permits an award of costs.
3. I declare under penalty of perjury that these costs are true and correct and were necessarily incurred in this action.

Signature: _____ Date: _____

Certificate of Service

I certify that on this date I served this document as follows:

Signature: _____ Date: _____

FILED: December 20, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1903
(3:16-cv-03212-TLW)

DR. D.M. INDIKA BANDARA

Plaintiff - Appellant

v.

DAN MANN, Richland-Lexington Airport District Commission Members, AAE Director; JAMES A. COMPTON, Richland-Lexington Airport District Commission Members (Chairman); CAROL FOWLER, Richland-Lexington Airport District Commission Members; F. XAVIER STARKES, Esq, Richland-Lexington Airport District Commission Members; WILLIAM DUKES, a/k/a Bill, Richland-Lexington Airport District Commission Members; JERROD F. HOWARD, Richland-Lexington Airport District Commission Members; RICHARD MCINTYRE, Richland-Lexington Airport District Commission Members; DAN P. BELL, Richland-Lexington Airport District Commission Members; HAZEL L. BENNETT, Richland-Lexington Airport District Commission Members; D. J. CARSON, Richland-Lexington Airport District Commission Members; DAVID N. JORDAN, Richland-Lexington Airport District Commission Members; JAMES L. WHITMIRE, Richland-Lexington Airport District Commission Members; DUANE COOPER, Richland-Lexington Airport District Commission Members; LYNNE DOUGLAS, Richland-Lexington Airport District Commission Members

Defendants – Appellees

JUDGMENT

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

Appendix B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Dr. D.M. Indika Bandara,)
v.)
Plaintiff,)
)
Dan Mann, *Richland-Lexington Airport*)
District Commission Members, AAE Director;)
James A. Compton, *Richland-Lexington*)
Airport District Commission Members)
(Chairman); Carol Fowler, Richland-Lexington)
Airport District Commission Members; F.)
Xavier Starkes, *Esq., Richland-Lexington*)
Airport District Commission Members;)
William Dukes, *Richland-Lexington Airport*)
District Commission Members also known as)
Bill; Jerrod F. Howard, *Richland-Lexington*)
Airport District Commission Members;)
Richard McIntyre, *Richland-Lexington Airport*)
District Commission Members; Dan P. Bell,)
Richland-Lexington Airport District)
Commission Members; Hazel L. Bennett,)
Richland-Lexington Airport District)
Commission Members; D.J. Carson, Richland-)
Lexington Airport District Commission)
Members; David N. Jordan, Richland-)
Lexington Airport District Commission)
Members; James L. Whitmire, Richland-)
Lexington Airport District Commission)
Members; Duane Cooper, Richland-Lexington)
Airport District Commission Members; Lynne)
Douglas, *Richland-Lexington Airport District*)
Commission Members,)
)
Defendants.)
)
REPORT AND RECOMMENDATION

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The plaintiff, Dr. D.M. Indika Bandara, a self-represented litigant, filed this action, which, liberally construed, appears to raise claims pursuant to 42 U.S.C. § 1983 against the defendants. (ECF No. 38.) This matter is before the court pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.) for a Report and Recommendation on the defendants' motion for summary judgment. (ECF No. 94.) Pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the court advised Plaintiff of the summary judgment and dismissal procedures and the possible consequences if she failed to respond adequately to the defendants' motion. (ECF No. 95.) Plaintiff filed a response in opposition to the motion and a cross-motion for summary judgment (ECF No. 108), to which the defendants responded (ECF No. 113). Having reviewed the record presented and the applicable law, the court finds the defendants' motion for summary judgment should be granted and Bandara's motion should be denied.

BACKGROUND

The following facts are either undisputed, or are taken in the light most favorable to the non-moving party, to the extent they find support in the record. Bandara, a local independent taxicab driver who is also an immigrant, alleges that effective October 1, 2016 the defendants implemented new regulations at the Columbia Metropolitan Airport. Bandara alleges that these new regulations target independent owner-operated taxicab businesses (*i.e.*, those drivers not employed by a "big" taxicab company). Bandara further alleges that most of these owner-drivers are immigrants and that these regulations will put them out of business.

The primary regulation challenged by Bandara requires the taxicab companies to employ drivers that are allowed to transport airport fares to all areas of Fort Jackson. As of January 1, 2016, Fort Jackson would not permit a taxicab driver onto Fort Jackson unless he or she had been given

permission. However, drivers that did not possess the requisite permission could still drop off passengers outside the gate. At the time Bandara filed her Complaint, only drivers from the three big taxicab companies in the area (Checker Yellow, Original Blue Ribbon, and Capitol City Cab) had drivers with the requisite authorizations, and therefore, only drivers from those companies were authorized to service the airport.¹

Bandara also appears to challenge other new regulations by the airport that increased fees, required a 24-hour dispatch service, and required a non-residential address. Bandara appears to claim that these regulations also target owner-operated taxicab drivers.

Bandara argues that as a result of these regulations, independent taxicab drivers, including herself, will be forced to join or work for one of the three big taxicab companies, which she alleges will cause additional financial strain. Bandara requests the court to order defendants to permit the small, immigrant-operated taxi companies to provide services to the Columbia Metropolitan Airport; to rescind the new rules, regulations, and fee requirements; to award Bandara \$175,000 in damages; and to remove Defendant Mann from his position.

DISCUSSION

A. Summary Judgment Standard

Summary judgment is appropriate only if the moving party “shows that there is no genuine dispute as to any material fact and the [moving party] is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). A party may support or refute that a material fact is not disputed by “citing to particular parts of materials in the record” or by “showing that the materials cited do not establish

¹ It is undisputed that, since that time, Bandara has received the requisite permission from Fort Jackson and has received a license/permit to operate her taxicab at the airport.

the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.” Fed. R. Civ. P. 56(c)(1). Rule 56 mandates entry of summary judgment “against a party who fails to make a showing sufficient to establish the existence of an element essential to that party’s case.” Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986).

In deciding whether there is a genuine issue of material fact, the evidence of the non-moving party is to be believed and all justifiable inferences must be drawn in favor of the non-moving party. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986). However, “[o]nly disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted.” Id. at 248.

The moving party has the burden of proving that summary judgment is appropriate. Once the moving party makes this showing, however, the opposing party may not rest upon mere allegations or denials, but rather must, by affidavits or other means permitted by the Rule, set forth specific facts showing that there is a genuine issue for trial. See Fed. R. Civ. P. 56(c), (e); Celotex Corp., 477 U.S. at 322. Further, while the federal court is charged with liberally construing a complaint filed by a *pro se* litigant to allow the development of a potentially meritorious case, see, e.g., Cruz v. Beto, 405 U.S. 319 (1972), the requirement of liberal construction does not mean that the court can ignore a clear failure in the pleadings to allege facts which set forth a federal claim, nor can the court assume the existence of a genuine issue of material fact where none exists. Weller v. Dep’t of Soc. Servs., 901 F.2d 387 (4th Cir. 1990).

B. The Parties' Motions for Summary Judgment

Bandara's motion for summary judgment indicates that her § 1983 claim is based on allegations that the defendants violated the Fourteenth Amendment's Equal Protection Clause. The Equal Protection Clause of the Fourteenth Amendment provides that “[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. [¶] “To succeed on an equal protection claim, a plaintiff must first demonstrate that he has been treated differently from others with whom he is similarly situated and that the unequal treatment was the result of intentional or purposeful discrimination.” King v. Rubenstein, 825 F.3d 206, 220 (4th Cir. 2016) (quoting Morrison v. Garraghty, 239 F.3d 648, 654 (4th Cir. 2001)); see also City of Cuyahoga Falls, Ohio v. Buckeye Cmty. Hope Found., 538 U.S. 188, 194 (2003) (“We have made clear that ‘[p]roof of racially discriminatory intent or purpose is required’ to show a violation of the Equal Protection Clause.”) (citations omitted); Furnace v. Sullivan, 705 F.3d 1021, 1030 (9th Cir. 2013) (“To state a claim under 42 U.S.C. § 1983 for a violation of the Equal Protection Clause of the Fourteenth Amendment[,] a plaintiff must show that the defendants acted with an intent or purpose to discriminate against the plaintiff based upon membership in a protected class.”) (citation omitted). “[E]ven when a facially neutral [regulation] has a ‘racially disproportionate impact,’ a discriminatory animus must nevertheless be proved to establish an equal protection violation.” Sylvia Development Corp. v. Calvert Cty., Md., 48 F.3d 810 (4th Cir. 1995) (citing Washington v. Davis, 426 U.S. 229, 239 (1976)); see also Washington, 426 U.S. at 239 (“[O]ur cases have not embraced the proposition that a law or other official act, without regard to whether it reflects a racially discriminatory purpose, is unconstitutional solely because it has a racially disproportionate impact.”); Reynolds v. Barrett,

take it,

685 F.3d 193, 201 (2d Cir. 2012) (“[E]qual protection claims under § 1983 cannot be based solely on the disparate impact of a facially neutral policy.”).

In support of her claim, Bandara appears to argue that the defendants’ new regulations disparately impacted owners, operators, and drivers from small taxicab companies, most of whom are immigrants. However, Bandara also points out that taxicab drivers, including immigrant drivers, who worked for one of the big three taxiçab companies but did not possess the requisite authorizations to transport fares to all areas of Fort Jackson were nonetheless permitted to service the airport by virtue of working for one of the big three companies. Bandara argues that several immigrant small business owners were financially forced to leave their businesses and begin working for one of the big companies so that they could continue to service the airport. Bandara also appears to challenge the reasons offered by the defendants for implementing the regulations. For example, she purportedly offers evidence showing that, contrary to a letter issued by the defendants, the three big taxicab companies did not have ninety-six drivers authorized to access all of Fort Jackson.

Even assuming Bandara can support her arguments, the arguments on their face reveal that as a result of the regulations immigrant taxicab drivers continued to service the airport, and at most demonstrate that at the time the regulations went into effect they effectively precluded *any* small business taxicab company from servicing the airport. But Bandara offers no authority suggesting that being an independent taxicab driver is a protected class under the Fourteenth Amendment.

Moreover, although Bandara attempts to show that the defendants’ proffered reasons for implementing the Fort Jackson requirement are untrue or unsupported, Bandara has failed to forecast any evidence from which a reasonable jury could find that the defendants acted with or were

motivated by discriminatory intent toward immigrants or that the regulations she challenges were based on her national origin.²]

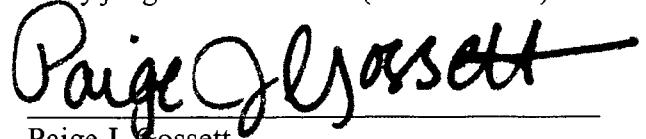
Additionally, Bandara challenges other regulations implemented by the defendants, such as fee increases, maximum fares to certain locations, a non-residential business address requirement, and dress code requirements. However, Bandara has similarly failed to offer any evidence suggesting that any of these regulations were motivated by discriminatory intent toward the national origin of the taxicab drivers.

To the extent that Bandara's Amended Complaint may be construed to allege any other constitutional violations or causes of action, the court finds that Bandara has failed to plead sufficient facts to state a plausible claim. See Ashcroft v. Iqbal, 556 U.S. 662, 667-68 (2009).

² Bandara's motion for summary judgment mentions Title VI of the Civil Rights Act of 1964. To the extent that Bandara's Amended Complaint may be construed as raising such a claim, it would similarly fail. See 42 U.S.C. § 2000d ("No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."); Thompson v. U.S. Dep't of Hous. & Urban Dev., 348 F. Supp. 2d 398, 452 (D. Md. 2005) ("Under Fourth Circuit case precedent, a state actor's conduct violates Title VI only where this conduct constitutes purposeful discrimination in violation of the Equal Protection guarantees of the U.S. Constitution.") (citing Peters v. Jenney, 327 F.3d 307, 315 (4th Cir. 2003)); see also Alexander v. Sandoval, 532 U.S. 275, 281 (2001) (indicating that there is no private right of action under Title VI for disparate impact discrimination).

RECOMMENDATION

Accordingly, the court recommends that the defendants' motion for summary judgment be granted (ECF No. 94) and Bandara's motion for summary judgment be denied (ECF No. 108).



Paige J. Gossett

UNITED STATES MAGISTRATE JUDGE

March 6, 2018
Columbia, South Carolina

The parties' attention is directed to the important notice on the next page.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Dr. D.M. Indika Bandara,

Plaintiff,

v.

Dan Mann, *Richland-Lexington Airport District Commission Members, AAE Director*; James A. Compton, *Richland-Lexington Airport Commission Members (Chairman)*; Carol Fowler, *Richland-Lexington Airport District Commission Members*; F. Xavier Starkes, Esq., *Richland-Lexington Airport District Commission Members*; William Dukes, *Richland-Lexington Airport District Commission Members also known as Bill*, Jerrod F. Howard, *Richland-Lexington Airport District Commission Members*; Richard McIntyre, *Richland-Lexington Airport District Commission Members*; Dan P. Bell, *Richland-Lexington Airport District Commission Members*; Hazel L. Bennett, *Richland-Lexington Airport District Commission Members*; D.J. Carson, *Richland-Lexington Airport District Commission Members*; David N. Jordan, *Richland-Lexington Airport District Commission Members*; James L. Whitmire, *Richland-Lexington Airport District Commission Members*; Duane Cooper, *Richland-Lexington Airport District Commission Members*; Lynne Douglas, *Richland-Lexington Airport District Commission Members*,

Defendants.

Civil Action No. 3:16-3212-TLW

ORDER

Plaintiff Dr. D.M. Indika Bandara, proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 on September 23, 2016. ECF No. 1. On November 29, 2017, Defendants filed a

motion for summary judgment. ECF No. 94. Plaintiff filed a response in opposition to the motion and a cross-motion for summary judgment, ECF No. 108, to which Defendants responded, ECF No. 113.

This matter now comes before the Court for review of the Report and Recommendation (“Report”) filed by United States Magistrate Judge Paige J. Gossett, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.). ECF No. 116. In the Report, the Magistrate Judge recommends that Defendants’ motion for summary judgment, ECF No. 94, be granted, and Plaintiff’s motion for summary judgment, ECF No. 108, be denied. ECF No. 116. On April 4, 2018, Plaintiff filed objections to the Report. ECF No. 122. Defendants filed a reply on April 18, 2018. ECF No. 123. This matter is now ripe for disposition.

In reviewing the Report, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified finding or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusion of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court’s review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge’s findings or recommendations.

Wallace v. Hous. Auth. of City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court closely reviewed *de novo* the Report, Plaintiff’s objections to the Report, the other related filings, the relevant law, and the record in this case. The Report notes that Plaintiff offered no authority suggesting that being an independent taxi driver is

a protected class under the Fourteenth Amendment. The Report also notes that Plaintiff did not show any evidence from which a reasonable jury could conclude that Defendants acted with or were motivated by discriminatory intent toward immigrants or that the regulations Plaintiff challenges were based on her national origin. The Court notes that Plaintiff's objections do not change the conclusion reached by the Magistrate Judge that Defendants' motion for summary judgment should be granted.

Accordingly, it is hereby **ORDERED** that Plaintiff's objections, ECF No. 122, are **OVERRULED**, and the Report, ECF No. 116, is **ACCEPTED**. For the reasons articulated by the Magistrate Judge, Defendants' motion for summary judgment, ECF No. 94, is **GRANTED** and Plaintiff's motion for summary judgment, ECF No. 108, is **DENIED**.

IT IS SO ORDERED.

s/Terry L. Wooten

Terry L. Wooten

Chief United States District Judge

June 5, 2018
Columbia, South Carolina

Appendix C



COLUMBIA METROPOLITAN AIRPORT
DEPARTMENT OF PUBLIC SAFETY

Memorandum

To: All Taxi Operators at CAE
From: Randy Blackmon, Director of Public Safety
Date: 12/10/2015
Re: Maximum Fare to Ft. Jackson and McCrady Training Center

Effective **January 01, 2016**, all fares originating at the Columbia Metropolitan Airport with a destination to Ft. Jackson or McCrady Training Center will be charged a maximum fare of **\$32** to Ft. Jackson or **\$49** to McCrady Training Center.

Failure to comply with these rates will constitute a violation and operators will be subject to suspension of privileges to operate at CAE.



COLUMBIA METROPOLITAN AIRPORT
DEPARTMENT OF PUBLIC SAFETY

Memorandum

To: All Taxi Operators at CAE
From: Randy Blackmon, Director of Public Safety
Date: June 1, 2016
Re: Fort Jackson Fares

All taxi company drivers who are not permitted to enter Ft. Jackson must advise customers before they enter their taxi of their restriction to enter the installation. It is unethical and deceitful to knowingly transport unwary passengers to a Ft. Jackson Gate or other locations instead of a specific Ft. Jackson location. Drivers who commit this act will be subject to immediate suspension of their privilege to operate a Ground Transportation Vehicle at the Columbia Metropolitan Airport.



Memorandum

To: All Taxi Operators at CAE
From: Randy Blackmon, Director of Public Safety
Date: August 16, 2016
Re: Taxi Operations

Effective October 1, 2016, taxi companies are required to execute a contract with the Columbia Metropolitan Airport to provide ground transportation services. Quarterly permits and One-Time pickups will no longer be issued to operate on District property. All taxicab companies must maintain a non-residential physical address. Operators are bound by all provisions of the City of Columbia Code of Ordinance, Vehicle for Hire Regulations. They shall be capable of transporting passengers to any location within the Counties of Lexington and Richland to include Fort Jackson.

Document 6



MEMORANDUM

To: On-Demand Taxi Providers

From: Dan Mann, AAE *D.M.*
Executive Director

Date: September 27, 2016

Subject: CAE Taxi Procedures Effective October 1, 2016

We appreciate your service to the Airport the last several years. However, as a result of Fort Jackson rule changes on January 1, 2016 restricting access to their installation, the Commission acted to ensure companies providing on-demand taxi service could do so in all areas of Richland County.

The Commission's decision on August 15, 2016, was not made lightly. Military traffic is 20% of our business and the Airport was made aware of concerns regarding Fort access since their change January 1, 2016.

Checker Yellow, Blue Ribbon and Capital City Cab are the only companies permitted on the Fort and they have 96 drivers authorized. Additionally, all three companies offer 24/7 dispatch and single points of contact for customer service issues.

The Commission attorney was also consulted about the changes scheduled to take place on October 1, 2016. He believes that the Commission has the authority to determine which taxi companies may operate at the Airport. SC Code of Laws Sec. 55-11-340(6) gives the Commission the power to license including the privilege of providing services on such terms and conditions as its discretion may dictate.

While the decision regarding on-demand service will remain in effect, the Commission is willing and eager to enter into agreements with taxi providers that have existing or new contracts with the airlines or other airport tenants. Also, at such a time as any taxi provider obtains clearance to get on the Fort, we will enter into an Agreement with such company to provide service at the Airport.

Again, thank you for your years of service to the Airport.

Appendix D

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Dr. D.M. Indika Bandara,) C/A No.: 3:16-3212-TLW-PJG
vs.)
Plaintiff,)
vs.)
Dan Mann, *Richland-Lexington Airport*)
District Commission Members, AAE Director;)
James A. Compton, *Richland-Lexington*)
Airport District Commission Members)
(Chairman); Carol Fowler, Richland-)
Lexington Airport District Commission)
Members; F. Xavier Starkes, Richland-)
Lexington Airport District Commission)
Members, Esq.; William Dukes, Richland-)
Lexington Airport District Commission)
Members, also known as Bill; Jerrod F.)
Howard, *Richland-Lexington Airport District*)
Commission Members; Richard McIntyre,)
Richland-Lexington Airport District)
Commission Members; Dan P. Bell, Richland-)
Lexington Airport District Commission)
Members; Hazel L. Bennett, Richland-)
Lexington Airport District Commission)
Members; D.J. Carson, Richland-Lexington)
Airport District Commission Members; David)
N. Jordan, *Richland-Lexington Airport District*)
Commission Members; James L. Whitmire,)
Richland-Lexington Airport District)
Commission Members; Duane Cooper,)
Richland-Lexington Airport District)
Commission Members; Lynne Douglas,)
Richland-Lexington Airport District)
Commission Members,)
Defendants.)
DEFENDANTS' RESPONSE TO
PLAINTIFF'S DISCOVERY REQUESTS

The Defendants Dan Mann, *Richland-Lexington Airport District Commission Members,*
AAE Director; James A. Compton, Richland-Lexington Airport District Commission Members
(Chairman); Carol Fowler, Richland-Lexington Airport District Commission Members; F.

Xavier Starkes, *Richland-Lexington Airport District Commission Members, Esq.*; William Dukes, *Richland-Lexington Airport District Commission Members, also known as Bill*; Jerrod F. Howard, *Richland-Lexington Airport District Commission Members*; Richard McIntyre, *Richland-Lexington Airport District Commission Members*; Dan P. Bell, *Richland-Lexington Airport District Commission Members*; Hazel L. Bennett, *Richland-Lexington Airport District Commission Members*; D.J. Carson, *Richland-Lexington Airport District Commission Members*; David N. Jordan, *Richland-Lexington Airport District Commission Members*; James L. Whitmire, *Richland-Lexington Airport District Commission Members*; Duane Cooper, *Richland-Lexington Airport District Commission Members*; Lynne Douglas, *Richland-Lexington Airport District Commission Members* (hereinafter "these Defendants") answer the Plaintiff's Discovery Requests Pursuant to Rule 33 and Rule 34 of the Federal Civil Rules of the United States District Court for the District of South Carolina, as follows and without waiving any objections set forth therein:

Information requested from Richland-Lexington Airport District Commission

1. To provide the telephone records from the AAE director's phone from the first of July 2016 to the 31st of January 2017.

RESPONSE: This data is not in our possession.

2. To provide the telephone records from the military reception phone (before entering to the cab line) from the first of July 2016 to the 31st of January 2017.

RESPONSE: This data is not in our possession.

3. To provide the information from the camera in front of the podium from the 23rd of August 2016 to the 31st of January 2017.

RESPONSE: This data is not in our possession. By way of explanation our video footage is stored for 40 days and then is recorded over.

4. To provide the information from the camera in front of the limousine special pick up area (side of the cab line and face to the public road) from the 1st October 2016 to the 1st of January 2017.

RESPONSE: This data is not in our possession. By way of explanation our video footage is stored for 40 days and then is recorded over.

5. To provide the information from the camera in front of the United Airlines and American Airlines terminal from the 1st of October 2016 to the 1st of January 2017.

RESPONSE: This data is not in our possession. By way of explanation our video footage is stored for 40 days and then is recorded over.

6. To provide the records of termination of the small cab company drivers who were terminated from CAE between the first of January 2013 and the first of February 2016, and provide a blank copy of the voluntary form that is supposed to be filled out by small cab company drivers when they have a customer or driver complaint.

RESPONSE: Suspended drivers include:

Elizabeth Amacher
Bryant E. Bloodsaw
Charles E. Brantley, III
Vladimir Bromberg
Claude J. Brown
Ethan Hunt
Vincent S. Laben
Hussain Omar
Rabiah Oweis
Loretta Pogue
Abeba T. Sebhat
Patricia Lee Yoo

Please see Exhibit A for a copy of the form.

7. To provide the special requirements that were added in some years, and required the renewal of taxi contracts with CAE under Mr. Dan Mann's administration.

RESPONSE: Please see Exhibit B.

8. How many meetings were held in CAE with big company owners and/or representatives between first of July 2016 to the 1st of October 2016 (please provide the meeting agendas, date, time and locations)?

RESPONSE: Two meetings were held. No minutes were taken. Please see Exhibit C.

Questions for the Richland -Lexington Airport District Commission

1. Provide a list of checker yellow drivers who started working at the airport between the 23rd of September 2016 without passing the federal background check and without completing the documents that were required to work at airport at that time?

RESPONSE: None.

2. Provide a list of all Checker Yellow, Blue Ribbon and Capitol City drivers who worked at the airport between the 31st of January 2017 and the 23rd of September 2016?

RESPONSE: There were twelve drivers prior to the rule change from Checker Yellow, Blue Ribbon and Capitol City. After October 1, 2016 we no longer kept records for the individual drivers. We contract with Checker Yellow, Blue Ribbon and Capitol City and they do the background checks.

3. Provide a list of Checker Yellow/Blue Ribbon/Capitol City drivers who have an automated installation entry card (DBIDS), and who do not have an automated installation entry card (DBIDS), and worked at CAE between January 1st 2013 and October first 2016? (DBIDs required to enter Fort Jackson Base)?

RESPONSE: There were twelve drivers prior to the rule change from Checker Yellow, Blue Ribbon and Capitol City. After October 1, 2016 we no longer kept records for the individual drivers. We contract with Checker Yellow, Blue Ribbon and Capitol City and they do the background checks.

4. Provide a list of Checker Yellow/Blue Ribbon/Capitol City drivers who have and who do not have an automated installation entry card (DBIDS), and worked at CAE between October 1st 2016 and January 31st 2017 (DBIDs required to enter Fort Jackson Base)?

RESPONSE: The Airport does not have this information.

5. How many pick-ups per day did Checker Yellow/Blue Ribbon and Capitol City drivers make between October 1st and January 31 2017, and, according to the records which used to charge them \$2.00 per pick, at what time did they enter the passenger pick-up area? (Please provide a detailed description that includes the drivers' names, pickups per day, and times of entrance into the passenger pick-up area.)

RESPONSE: The Airport does not have the drivers' names. Please see Exhibit D.

6. How many cab companies signed contracts to pick up customers from airlines with the Richland-Lexington Airport District and paid the airport fee between the 1st of October 2016 and the 31st of December 2016?

RESPONSE: None.

7. How many cab companies signed a contract with United, American, and Delta Airlines between the 1st of January 2014 and the 1st of January 2017?

RESPONSE: Three companies signed contracts including Applejack Taxi, Royal Cab and Anthony's Executive.

8. How many cab companies did Delta, United and American Airlines issue vouchers/checks to from the 1st of October 2016 to the 31st of December 2017 for providing ground transportation to Charlotte Airport?

RESPONSE: Not known.

9. Did the Fort Jackson Authorities request you to have only Checker Yellow, blue Ribbon and Capitol City cab companies and/or deny access for small immigrant cab companies for transportation from CAE to the Fort Jackson base?

RESPONSE: No.

10. Have you ever signed any agreement with Fort Jackson regarding military transportation between the base and CAE?

RESPONSE: None.

Questions for Dan Mann, AAE director

1. When did you order cab drivers to remove trunk fee and credit card processing fee from their fares while following the City of Columbia Ordinance?

RESPONSE: The Airport Rules and Regulations adopted by the Airport in April 2013 included language prohibiting trunk fees and credit card processing fees from fares.

2. When was the USO (Uniform Serviceman Overseas) office brought into CAE and how do they help military traffic to reach their destination?

RESPONSE: The USO was brought into CAE in June 2010. The USO assists military passengers with information.

3. How many times have you had discussions with the Checker Yellow and Capitol City owners or representative inside and outside the CAE airport?

RESPONSE: Between 3 and 7.

4. What is the Drill Sergeant's role in the CAE airport from 3:00 pm until the last flight?

RESPONSE: The Drill Sergeant's role is to greet and gather the new recruits and get them to Fort Jackson.

5. Did you authorize the Capitol City taxi company owner to wait in the taxi parking area, and offer deals to taxi drivers/owner-operators to join his company before the 16th of August?

RESPONSE: No.

6. How many small cab company drivers were terminated from CAE after you resumed duties at CAE as the AAE director?

RESPONSE:

Elizabeth Amacher
Bryant E. Bloodsaw
Charles E. Brantley, III
Vladimir Bromberg
Claude J. Brown
Ethan Hunt
Vincent S. Laben
Hussain Omar
Rabiah Oweis
Loretta Pogue
Abeba T. Sebhat
Patricia Lee Yoo.

7. Did you order taxi drivers to show their trip sheets and tax returns before issuing a new sticker for the next year, after you resumed duties at CAE as the AAE director?

RESPONSE: No.

8. Does the state of South Carolina have a requirement for 24/7 dispatch service and a non-residential address to operate a taxi service?

RESPONSE: Not that we are aware of.

Questions for the secretary of the Richland-Lexington Airport District Commission

1. According to your rules and regulations, all taxi companies follow the city of Columbia ordinance. Is that true?

RESPONSE: Yes.

2. Did the Airport Commission issue a memorandum on December 2015 that ordered taxi companies to charge \$32.00 for a taxi ride to Fort Jackson and \$49.00 for a taxi ride to McGrady Training Center?

RESPONSE: Yes, but they do not fluctuate.

3. Did you tell the media that the Richland-Lexington Airport District Commission signed a contract with the big companies because, they have flat rates and small companies have fluctuating rates?

RESPONSE: No.

4. You mentioned to the media that the Richland-Lexington Airport District is self-sufficient. Did you accept any federal grants as capital contributions?

RESPONSE: We do receive Federal Aviation Administration [FAA] grants.

Questions for the chairman of the Richland-Lexington Airport District Commission

1. When the taxi company owners requested not to have their companies removed from the CAE airport, what was your response at the airport commission meeting in September 2016?

RESPONSE: We had no response.

2. What was your reaction when the Capitol City taxi company representative mentioned that "Fort Jackson does not sign contracts with small cab companies because, they are terrorists" in the Airport Commission meeting that was held on the 19th of September 2016?

RESPONSE: We had no response.

Questions for each commission member including Mr. Dan Mann, Chairman and Secretary

1. What is the highest degree that you have obtained?

RESPONSE: Defendants object to Request No. 1 as not relevant to the subject matter involved and not reasonably calculated to lead to the discovery of admissible evidence.

2. Did you understand how many owner-operators/drivers were going to lose their income before signing the contract with the Checker Yellow, Blue Ribbon, and Capitol City Cab companies?

RESPONSE: The Airport was aware that if you were not a driver for Checker Yellow, Blue Ribbon or Capitol City Cab companies you could not pick up passengers at the Airport. The Airport has no knowledge of lost income.

3. Did Dan Mann force you to vote to sign the contract with the Checker Yellow, Blue Ribbon, Capitol City Cab companies and remove small cab companies from CAE in Mid-August 2016?

RESPONSE: No.

Respectfully submitted,

By:

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ATTORNEYS FOR THE DEFENDANTS

Lexington, South Carolina
_____, 2017

**Additional material
from this filing is
available in the
Clerk's Office.**