

of emotional distress. Against defendants Dr. Alexander Chapman and Brooke Chapman, Plaintiff brings claims for defamation per se, constructive fraud, malicious prosecution, abuse of process, false imprisonment, intentional infliction of emotional distress and civil conspiracy. Against defendant Earl Simmons, Plaintiff brings claims for defamation per se, constructive fraud, malicious prosecution, intentional infliction of emotional distress, gross negligence, negligence, and negligent misrepresentation. Against defendants Doug Schmieding and Jennings & Cook, P.A., Plaintiff brings claims for gross negligence, negligence, and negligent misrepresentation.

Standard of Review

Summary judgment is appropriate where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Rule 56(c) SCRPC. The non-moving party must present a scintilla of evidence to withstand a motion for summary judgment. *Hancock v. Mid-South Co., Inc.*, 381 S.C. 326, 673 S.E.2d 801 (2009).

Discussion

Douglas Schmieding and Jennings Cook & Co.

As to Defendants Douglas Schmieding and Jennings Cook & Co., summary judgment is GRANTED on all claims brought against them by the Plaintiff. As to the negligence and gross negligence claims, the evidence shows that Schmieding believed the letter he prepared would only be used internally by Chapman Dental, and there is not testimony put forth to show otherwise. Thus, any duty owed by Schmieding and Jennings & Cook was owed to Chapman Dental and not to the Plaintiff. *Doe v. Marion*, 373 S.C. 390, 645 S.E.2d 245 (2007). Additionally, even if there was a duty, there is no evidence that these defendants breached any duty. As to negligent misrepresentation, there is no evidence in the record of any false representation made to the Plaintiff by these Defendants, nor is there any evidence these Defendants had a pecuniary interest in making any statements, that the Plaintiff justifiably relied on any statements, or that the Plaintiff suffered a pecuniary loss as a result of any reliance. *AMA Management Corp. v. Strasburg*, 309 S.C. 213, 420 S.E.2d 868 (Ct. App. 1992).

Dr. Alexander Chapman

As to Dr. Alexander Chapman, summary judgment is GRANTED as to Plaintiff's claims for constructive fraud, abuse of process, and intentional infliction of emotional distress. As to constructive fraud, Plaintiff has not produced a scintilla of evidence that she relied on any representation made by Dr. Chapman to her detriment. *King v. Oxford*, 282 S.C. 307, 318 S.E.2d 125 (Ct. App. 1984). As to abuse of process, there is not a scintilla of admissible evidence of an ulterior motive by Dr. Chapman in bringing the criminal charges against the Plaintiff. *Argoe v. Three Rivers Behavioral Ctr. & Psychiatric Solutions*, 388 S.C. 394, 697 S.E.2d 551 (2010). As to intentional infliction of emotional distress, the evidence in the record does not show that Dr. Chapman's actions were so extreme and outrageous as to exceed all possible bounds of decency and were utterly intolerable in a civilized community and that any emotional distress suffered by the Plaintiff was so severe that no reasonable person could be expected to endure it. *Folkens v. Hunt*, 290 S.C. 194, 348 SE.2d 839 (Ct. App. 1986); *Todd v. S.C. Farm Bureau*, 283 S.C. 155, 321 S.E.2d 602 (Ct. App. 1984), *rev'd on other grounds* 287 S.C. 190, 336 S.E.2d 472 (1985).

Summary judgement is DENIED against Dr. Chapman as to Plaintiff's claims for defamation, malicious prosecution, false imprisonment and civil conspiracy. As to defamation, there is a scintilla of evidence that Dr. Chapman made at least one defamatory statement about the Plaintiff because he told another employee of Chapman Dental that the Plaintiff was fired because she stole money. *Fleming v. Rose*, 350 S.C. 488, 567 S.E.2d 857 (2002). As to malicious prosecution, there is a scintilla of evidence that there was a lack of probable cause in instituting the judicial proceedings because there is evidence that Greenville County Sheriff's Office did not conduct an independent investigation, but merely relied on statements made by the Chapmans in deciding to arrest and charge the Plaintiff with breach of trust. *Law v. S.C. Dep't of Corr.*, 368 S.C. 424, 629 S.E.2d 642 (2006). As to false imprisonment, there is a scintilla of evidence that the Plaintiff's arrest was unlawful because it was based merely on representations made by Dr. Chapman and Brooke Chapman to GCSO. *Huffman v. Sunshine Recycling, LLC*, 417 S.C. 514, 790 S.E.2d 401 (Ct. App. 2016); *McBride v. Sch. Dist. Of Greenville Cty.*, 389 S.C. 546, 698 S.E.2d 845 (Ct. App. 2010). As to

civil conspiracy, there is at least a scintilla of evidence that Dr. Chapman and Brooke Chapman combined to provide law enforcement with false information in an overt act which proximately resulted in damages to the Plaintiff when she was arrested. *Paradis v. Charleston Cty. Sch. Dist.*, 433 S.C. 562, 861 S.E.2d 774 (2021).

Chapman Dental, P.A.

As to Chapman Dental, P.A., summary judgment is GRANTED as to Plaintiff's claims for constructive fraud for the same reasons outlined above as to Dr. Chapman. Summary judgment is DENIED as to Plaintiff's claims for malicious prosecution and false imprisonment claims for the reasons outlined above as to Dr. Chapman.

Brooke Chapman

As to Brooke Chapman, summary judgment is GRANTED as to Plaintiff's claims for constructive fraud, abuse of process, and intentional infliction of emotional distress for the same reasons outlined above as to Dr. Chapman and Chapman Dental. Summary judgment is also GRANTED as to Plaintiff's claim for defamation because there is no evidence in the record of any statement made about the Plaintiff by this Defendant. Summary judgment is DENIED as to Plaintiff's malicious prosecution, false imprisonment and civil conspiracy claims for the same reasons outlined above as to Chapman Dental and Dr. Chapman.

Earl Simmons

As to Earl Simmons, summary judgment is GRANTED as to Plaintiff's claims for defamation, constructive fraud and intentional infliction of emotional distress for the same reasons outlined above as to Brooke Chapman. Summary judgment is also GRANTED as to Plaintiff's claims for malicious prosecution and negligent misrepresentation. As to malicious prosecution, there is not a scintilla of admissible evidence that he instigated the judicial proceedings against the Plaintiff. *Law*, 368 S.C. at 424. As to negligent misrepresentation, there is no evidence of a false representation made by this Defendant to the Plaintiff, nor is there any evidence these Defendants had a pecuniary interest in making any statements, that the Plaintiff justifiably relied on any statements, or that the Plaintiff suffered a pecuniary loss as a result of any reliance. *AMA Management Corp.*, 309 S.C. at 213. Summary judgment is DENIED as to Plaintiff's negligence

claim since there is a scintilla of evidence that this Defendant owed Plaintiff a duty to ensure his financial calculations were accurate because there is evidence he undertook the duty of preparing these financial statements, and his negligence created the risk that Plaintiff would be arrested. *Doe*, 373 S.C. at 390.

IT IS SO ORDERED.

G.D. Morgan, Jr.
Circuit Court Judge

_____, 2022
Greenville, South Carolina



Greenville Common Pleas

Case Caption: Samantha Katchick vs. Marshall Alexander Chapman , defendant, et al

Case Number: 2019CP2301522

Type: Order/Summary Judgment

So Ordered

G.D. Morgan Jr.