

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

TONIA S. RANKIN AND MATTHEW)
ROBERT RANKIN,)

Civil Action No. 2019-CP-23-02554

Plaintiffs,)

ORDER

vs.)

DYNAMIC INSPECTION SERVICES,)
LLC., RICHARD H. HOLMES, AUBREE)
M. LEWIS, THE HARO GROUP OF)
KELLER WILLIAMS REALTY, ARROW)
EXTERMINATORS, INC., CHRIS)
SPRINKLE, RONALD K. BARTON, AND)
ALLISON BARTON,)

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Defendants.)
_____)

This matter was before the Court on October 20, 2022 on a Motion for Summary Judgment by Defendants Aubree M. Lewis and The Haro Group of Keller Williams Realty. This case arises out of the purchase of a home by Plaintiffs Tonia and Matthew Rankin (“Plaintiffs”). Subsequent to Plaintiffs’ purchasing of the home, they discovered foundation and water drainage issues. Once they learned that these issues required extensive repair, they filed this action against the following Defendants: (1) sellers of the home, the Bartons; (2) the home inspection company, Dynamic Home Inspection Services, LLC (“Dynamic”) and its inspector, Richard Holmes (“Holmes”); (3) the termite inspection company Arrow Exterminators, Inc. (“Arrow”) and its inspector, Chris Sprinkle (“Sprinkle”); and (4) Aubree Lewis (“Lewis”) and The Haro Group of Keller Williams Realty (“The Haro Group”), the realtor and realty agency Lewis was purportedly working with when she initially met Plaintiffs.

Plaintiffs have asserted numerous causes of action against the various non-realtor Defendants including negligence, gross negligence, fraud, negligent misrepresentation, and breach of the implied covenant of good faith and fair dealing. However, with regard to Lewis and The Haro Group, who are the subjects of this motion, the only claim asserted by the Plaintiffs is a claim of civil conspiracy.

I. STANDARD OF REVIEW

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, summary judgment is appropriate if “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Rule 56(c). SCRPC. “The purpose of summary judgment is to expedite the disposition of cases not requiring the services of a fact finder.” *Matsell v. Crowfield Plantation Cmty. Servs. Ass’n, Inc.*, 393 S.C. 65, 70, 710 S.E.2d 90, 93 (Ct. App. 2011) (citing *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001)).

An adverse party may not rely on the mere allegations in the pleadings to withstand a summary judgment motion but must set forth specific facts showing there is a genuine issue for trial. *Strickland v. Madden*, 323 S.C. 63, 68, 448 S.E.2d 581, 584 (Ct. App. 1994). “However, it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.” *Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013). “[W]hen the evidence is susceptible of only one reasonable interpretation, summary judgment may be granted.” *Brooks v. Northwood Little League, Inc.*, 327 S.C. 400, 403, 489 S.E.2d 647, 648 (Ct. App. 1997).

II. DISCUSSION

A. Plaintiffs have not presented any evidence to support a claim of civil conspiracy against Lewis or The Haro Group

The elements required to establish a claim for civil conspiracy are: (1) the combination of two or more persons; (2) joining for the purpose of injuring a plaintiff; and (3) causing special damages to the plaintiff.” *McMillan v. Oconee Mem’l Hosp., Inc.* 367 S.C. 559, 565, 626 S.E.2d 884, 886 (2006). “[A] conspiracy is actionable only if overt acts pursuant to the common design proximately cause damage to the party bringing the action.” *Future Group II v. Nationsbank*, 324 S.C. 89, 100, 478 S.E.2d 45, 51 (1996).

The Court finds that Plaintiff’s claims against Lewis and the Haro Group fall short of meeting the first two elements. The claims against these Defendants stem from Lewis advising the Plaintiffs that a home and termite inspection should be done and recommending Co-Defendants Dynamic and Arrow for those inspections. Plaintiffs allege that Dynamic and Arrow inadequately inspected the home and either failed to discover the foundation and water drainage issues or purposefully concealed the issues from Plaintiffs. Plaintiffs’ theory of the case appears to be that Lewis, who often recommended Dynamic and Arrow for inspections, either knew or should have known that they would do a poor job in inspecting the home.

The Court finds that this allegation does not rise to the level of civil conspiracy. Plaintiffs have presented no evidence whatsoever that Dynamic and Arrow worked with Lewis or The Haro Group specifically in order to injure Plaintiffs. In fact, Defendants have submitted evidence leading to the opposite conclusion. Dynamic’s inspector, Holmes, testified in his deposition that he barely knew Lewis and wouldn’t know her if she walked in the room. Holmes also testified that neither he nor his company paid Lewis for these referrals and there is no evidence that either Lewis or The Haro Group received any type of compensation or advantage from these referrals. Based on the evidence in front of the Court, it appears that Lewis recommended Dynamic and

Arrow simply because she was familiar with them and had done so previously without issue. It does not appear that Dynamic or Arrow were even significantly aware of these referrals.

After approximately three years of litigation and discovery, the entirety of Plaintiffs' argument that a conspiracy may exist between the Defendants is apparently based on deposition testimony that Lewis hugged the inspector for Dynamic on the day of the inspection. This is not sufficient evidence that they were in on a conspiracy to defraud Plaintiffs. Even if Plaintiffs could show that Lewis had a relationship with these inspectors, Plaintiffs' allegation that Lewis recommended poor inspection companies because she had a friendly relationship with them is not enough to sustain a claim for civil conspiracy.

It is not even clear what benefit Lewis, Dynamic, and Arrow would have received from the purchase of this specific house, especially considering that Dynamic and Arrow would have been paid regardless of whether any problems were found. In fact, considering Lewis may have continued showing Plaintiffs houses and recommending the same inspection companies, there may have been more incentive for Dynamic and Arrow to disclose the alleged problems in the hopes that they would be retained to inspect the next house that was shown to Plaintiffs or, in Arrow's case, to offer additional services to cure or prevent additional issues. Regardless, there is simply no evidence in the record that Lewis or The Haro Group acted in combination with any of the Defendants for the express purpose of injuring Plaintiffs. For this reason, Plaintiffs' civil conspiracy claim must be dismissed.

Defendants also assert that Plaintiffs have failed to assert special damages as part of their civil conspiracy cause of action. Plaintiffs respond that this is no longer the law in South Carolina, citing an unpublished opinion by our Supreme Court. *Paradis v. Charleston Cty. Sch. Dist.*, No. 28030, 2021 S.C. LEXIS 56, at 5 (May 19, 2021). The Court has found that Plaintiffs

have failed to present any evidence consistent with a civil conspiracy under the first two elements and therefore need not reach the issue of whether special damages were pled or required.

B. Lewis did not work at The Haro Group at the time this cause of action arose

Plaintiffs' claims against The Haro Group also appears to be based on the Doctrine of Respondeat Superior. The Doctrine of Respondeat Superior provides that the employer, as the employee's master, is called to answer for the tortious acts of his servant, the employee, when those acts occur in the course and scope of the employee's employment. *Sams v. Arthur*, 135 S.C. 123, 128-31, 133 S.E.2d 205, 207-08 (1926). The Haro Group argues that it is an improper defendant and that this doctrine is inapplicable because Lewis terminated her relationship with the company soon after entering into contracts with Plaintiffs and well before Lewis recommended Dynamic and Arrow. The Court agrees. Lewis was clearly not an employee of The Haro Group at the time of the incident giving rise to the complaint, and Plaintiffs have not presented any evidence to dispute that fact. Therefore, the Haro Group must be dismissed as a Defendant.

III. CONCLUSION

In conclusion, the Court finds that there exist no genuine issues of material fact and that Defendants Lewis and The Haro Group are entitled to judgment as a matter of law regarding Plaintiff's civil conspiracy claims. Therefore, Defendants' Motion for Summary Judgment is GRANTED and Lewis and The Haro Group are DISMISSED as Defendants in this action.

IT IS SO ORDERED

November ____, 2022
Greenville, South Carolina

Letitia H. Verdin
Thirteenth Circuit Court Judge



Greenville Common Pleas

Case Caption: Tonia S Rankin , plaintiff, et al vs. Dynamic Inspection Services LLC
, defendant, et al
Case Number: 2021CP2305789
Type: Order/Summary Judgment

So Ordered

s/Letitia H. Verdin, SC Judge 2162