

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

NICHOLAS F. WILSON,  
Plaintiff,

vs.

JANET P. GOCHENOUR, et al.,  
Defendants.

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT  
Case No. 2023-CP-26-02475

ORDER DENYING PLAINTIFF'S  
MOTION TO AMEND COMPLAINT

**RECEIVED**

MAR 18 2024

SC Court of Appeals

This matter came before the undersigned on Plaintiff's Motion to Amend the Complaint filed December 6, 2023. The Court conducted a hearing on the motion on February 27, 2023. For the reasons set forth below, the Court denies Plaintiff's Motion to Amend.

#### PROCEDURAL HISTORY

Plaintiff filed his complaint on April 19, 2023. Defendants Sonia M. Raymond and the Raymond Law Firm P.A. (hereafter, the "Lawyers") filed a motion to dismiss the complaint on May 24, 2023. Defendant Janet P. Gochenour, individually and as trustee, filed a motion to dismiss the complaint on June 14, 2023. By Order dated September 8, 2023, the Court, the Honorable Benjamin Culbertson presiding, granted the motions to dismiss, citing the statute of limitations barred the Plaintiff's claims against the Lawyers and Gochenour. Plaintiff filed a motion for reconsideration on September 18, 2023. Judge Culbertson denied the motion for reconsideration by Order dated February 17, 2024.

Plaintiff filed his motion to amend the complaint on December 5, 2023.

## DISCUSSION

In his memorandum in support of his motion to Amend, Plaintiff cites to Judge Culbertson's two orders. Plaintiff asserts that Judge Culbertson's orders are not clear as to whether they dismiss the complaint with prejudice. Plaintiff's Memorandum at 2. Citing *Skydive Myrtle Beach, Inc. v. Horry County*, 426 S.C. 175, 826 S.E.2d 585 (2019), the Plaintiff argues *Judge Culbertson's* orders were unclear and the statute of limitations defense is fact based inquiry.

Plaintiff's memorandum in support of his Rule 59(e) motion incorporated his motion to amend the Complaint and the memorandum in support. See Plaintiff's Supplemental Memorandum in Support filed December 6, 2023 at 4. Plaintiff cited the *Skydive* case in support of his Motion to Reconsider. Motion filed September 18, 2023 at 2. And Plaintiff argued that Judge Culbertson's September 8, 2023 was unclear as to whether the court dismissed the complaint with prejudice. *Id.* at 2. In short, all of the grounds set forth in Plaintiff's Motion to Amend the complaint were argued in support of Plaintiff's Motion to Reconsider. Which Judge Culbertson denied by Order dated February 17, 2024.

Plaintiff requests this Court to essentially ignore or set aside Judge Culbertson's two orders. Plaintiff asks this court to interpret Judge Culbertson's orders as dismissals without prejudice, even though Judge Culbertson himself denied that very relief by Order dated February 17, 2024.

"One Circuit Court Judge does not have the authority to set aside the order of another." *Enoree Baptist Church v. Fletcher*, 287 S.C. 602, 604, 340 S.E.2d 546, 547 (1986). In fact, "one circuit judge has no power to review, revise or reverse the action of another circuit judge." *Ex parte State*, 263 S.C. 363, 368, 210 S.E.2d 600, 602 (1974). "If the prior ruling addresses a substantive point of law, or if nothing of significance has

changed, the second judge should consider the previous judge's ruling to be final." *Rice v. Doe*, Op. no. 28190 (S.C. Sup. Ct. filed Jan. 24, 2024)(Howard Adv. Sh. No. 3 at 19). Plaintiff has not argued different grounds from those argued to Judge Culbertson, and nothing of significance has changed from the facts, law, and circumstances considered by Judge Culbertson. And where the effect of the court's ruling would be to reverse a prior circuit court's order without such change of circumstances, the second judge would be committing "an impermissible act." *Enoree Baptist Church*, 287 S.C. at 604, 340 S.E.2d at 547.

For these reasons, the Court denies Plaintiff's Motion to Amend. To the extent Plaintiff contends Judge Culbertson erroneously ruled, Plaintiff's remedy lies with the appellate courts.

AND IT IS SO ORDERED.

***[Electronic Signature(s) on following page]***



Horry Common Pleas

**Case Caption:** Nicholas.F Wilson VS Janet P Gochenour , defendant, et al  
**Case Number:** 2023CP2602475  
**Type:** Order/Other

H. Steven DeBerry, IV  
Circuit Court Judge 2771