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Facts and Evidence

Plaintiff Richard Smith is the sole remaining Plaintiff in this case. In his deposition, Plaintiff Richard Smith testified that he is seeking \$150,000,000.00 in this case based upon a claim that he is responsible for the CUICAR Composites Center, that is should be named after him, and that he is entitled to grant money that Defendant Dr. Srikanth Pilla secured for Clemson University's research. Mr. Smith previously played football for Clemson University and NFL Europe, among other organizations. After his football career ended, Mr. Smith had a successful career as a music artist and subsequent producer in Europe. He performed under the name RasMaTaz, He was also in the groups E-Rotic, S.E.X. Appeal, and Magic Affair. He was the producer for the girl group Four Colourz.

While in Germany, his now wife introduced him to Ferdinand Hendimyer, the CEO of Roding in Germany. Roding manufactures automobiles out of carbon fiber. Mr. Smith subsequently reached an agreement with Mr. Hendimyer to open a North American headquarters of Roding in hopes of ultimately building a manufacturing facility in the United States. Mr. Smith rented a small office space at CUICAR.

On the CUICAR campus, Mr. Smith entered into several contracts to perform engineering services for CUICAR on Deep Orange projects, which involve designing vehicles. The engineering services were actually performed by engineers in Germany on behalf of Roding North

America. Roding North America was fully paid for the work performed on behalf of the company. A separate small contract was also performed.

On February 3, 2014, questions were asked about whether Roding would be interested in sponsoring a research project independent of Deep Orange or participating in one of the Deep Orange Projects. These discussions are what lead to Roding participating in the projects mentioned above.

Separate from the Deep Orange projects, other discussions were being held. A “Roding Need Statement” was circulated. That Need Statement reflects that Roding was focused on the development and manufacturing of lightweight structures made of carbon fiber reinforced plastic (CFRP). Proposed areas of collaboration with CU-ICAR toward research & innovation targeted:

- Vacuum infusion – existing Roding Technology
- Light RTM (LRTM) – existing Roding Technology
- Carbon Surface Bonding – adhesive/resin industry 3rd party partner opportunity

(Dow).

The Need Statement lists Roding’s Target Objective as: “Utilizing an existing business relationship, Richard Smith (Roding) along with Stacy Fields (Dow Chemical), have jointly approached CU-ICAR about the possibility of establishing a Center for Composites Research & Innovation relative to the automobile/transportation industry sectors.” Targets were listed as: CFRP market innovation and R&D for joining dissimilar materials, scalable manufacturing, workforce training and education.”

CU-ICAR’s Fit/Scope was Component, Fabrication, Joining & Testing. The Need Statement states, “This research area focuses on component level fabrication of composites, distinct and hybrid materials joining and component assembly. The work encompasses

development on engineered methods for component fabrication; innovative joining methods as well as optimization of existing methodologies including mechanical adhesive, welding, etc; modeling and simulation of joining and assembly test methods; and testing of joining characteristics including wear, peel, joint strength, etc.”

At a later date, Richard Smith was advised by Roding GmbH that the company was splitting and that no one would be funding his North American operation any longer. He was advised that engineering services could be provided to him as needed. Richard Smith was hoping to secure federal grants to start a manufacturing facility in Bamberg. However, the date he was evicted from the CUICAR campus, he knew his ties to the industry were severed and that the manufacturing facility would never become a reality.

Richard Smith and Roding subsequently provided feedback on a proposed presentation to be made by Defendant Dr. Srikanth Pilla. Further, Mr. Smith attended the conference where the presentation was made to many industry partners and potential partners.

Dr. Pilla subsequently solicited bids from equipment manufacturers to supply the Composites Center with the requisite equipment. Krauss Maffei and Engel provided competing quotes. Ultimately, the decision was made to go with the Krauss Maffei bid because it was more financially competitive and provided other critical benefits.

Mr. Smith was working with people at Krauss Maffei. Unbeknownst to Dr. Pilla at the time, Mr. Smith had made a secret business arrangement with Krauss Maffei whereby he received a commission in the amount of approximately \$100,000.00 as part of Krauss Maffei’s sale of an RTM press to Clemson. Dr. Pilla only learned of this arrangement by reading Mr. Smith’s deposition transcript.

A series of emails on July 6, 2016 demonstrate that CUICAR was still considering competing bids for equipment suppliers and that Dr. Pilla had questions regarding items contained in Krauss Maffei's quote. On July 7, 2016, Plaintiff Richard Smith sent an email to Dr. Pilla and others reconfirming the commitment of Krauss Maffei, Alpex, Roding Technology and Forward Engineering to CUICAR indicating they were committed to a virtual or physical presence at the new composite center. On July 12, 2016, a Coinvestment letter was sent by Krauss Maffei Corporation to CUICAR indicating that Krauss Maffei, along with select business partners Alpex and Roding Technologies N.A./Forward Engineering, were proposing to invest \$650,000.00 in alleged co-investment value toward the establishment of the Clemson Composites Center. This investment was through proposed discounts on the sale of equipment and services. As stated above, Krauss Maffei was ultimately awarded the bid.

Importantly, the \$62 million in funding Dr. Pilla has secured is for projects that do not in any way use the RTM press. The RTM press (for which Mr. Smith was apparently paid a commission) is the primary basis of Mr. Smith's lawsuit. In addition, none of Clemson's industry partners, whether on the CUICAR campus or not, have been directly paid any of the funding Dr. Pilla secured for Clemson. There were no contracts entered into and no promises made to share grants or funding. None of the other people and/or companies involved in the initial presentations pertaining to the Composites Center or its subsequent construction have made claims like Richard Smith has made and none of them expected to profit from grants made to Clemson through Dr. Pilla's efforts. The only funds paid out were paid pertaining to the design and construction of the Composites Center and for the equipment installed in the Center and services provided pursuant to agreed upon contracts. Mr. Smith acknowledged he and/or Roding did not have any contracts

with Clemson pertaining to the construction of the Composites Center or the equipment installed therein.

Once Dr. Pilla moved forward with the Composites Center, Richard Smith had no meaningful involvement. Mr. Smith did email Dr. Pilla from time to time asking about the status of the Composites Center, both before and after he left the CUICAR campus. Dr. Pilla now realizes that Mr. Smith was indirectly inquiring about the status of the delivery of the RTM press so that he could reach out to Krauss Maffei to ensure he was paid his negotiated commission.

Mr. Smith testified that all contracts he entered into on behalf of Roding with Clemson were fully performed by Roding and fully paid by Clemson. Mr. Smith was evicted from CUICAR's campus for failure to pay rent and failure to secure the proper insurance in April of 2017. The applicable statute of limitations clearly started that day for any challenges to the eviction. In addition, any challenges to actions which occurred between Mr. Smith and anyone on the CUICAR campus would have accrued on or before that day, because there were no interactions after that date.

Mr. Smith testified that once he was evicted from the CUICAR campus, he knew he would have no more business interactions with Clemson or the partners on that campus. Further, Mr. Smith's emails make it abundantly clear that he knew the Composites Center was going forward. These emails contradict his deposition testimony where he claims he did not know the Composites Center was being built until he read a news article about it in 2020. In addition, the fact that Mr. Smith is vaguely inquiring about the status of the Composites Center demonstrates his lack of involvement and understanding of the status of the Composites Center. Further, this lack of knowledge demonstrates Mr. Smith's lack of involvement in the process going forward, further undercutting his claim that he is entitled to \$150,000,000.00.

Mr. Smith's actions through the date of reading the 2020 news article demonstrate that he also did not believe he had any claim pertaining to the Composites Center.

While Richard Smith was undeniably a talented football player and musician, his shortcomings in this endeavor are summed up succinctly in then CUICAR's Executive Director Frederic Cartwright's May 29, 2015 email discussing Dr. Pilla's proposal for a Center to compete with other similar centers: "We should put Roding, KM [Krauss Maffei] and other industry partners on the hook for defining what they would like to see in SC....Richard [Smith] is notorious for generating "excitement" but bringing little to the table in capability or \$\$\$. Roding is by far our worst tenant on campus when it comes to paying rent and constantly trying to negotiate their way out of having to do so!! This said – some version of a Composite Center in CMI makes sense. It has always planned to be part of our 10,000 sq ft of floor space." This email actually demonstrates that Clemson was seeking financial contributions and other support from Roding and Mr. Smith, and not proposing any financial compensation to them.

In his deposition, Mr. Smith admitted that as of November 22, 2016, he was no longer under any contract to perform services to Clemson. He was asked to leave the CUICAR campus in April of 2017. Mr. Smith had plans to create a consortium with other companies on the CUICAR campus, with plans to manufacture products in Bamberg and sell them through the consortium. The consortium never came to fruition. He never built his manufacturing facility. He knew once he was no longer part of CUICAR, his plans were over. Mr. Smith testified that if he had remained part of the CUICAR campus, it would have made his company more valuable to market to others to obtain funding. He also believes his name would have been in articles rather than Dr. Pilla's name. This testimony demonstrates that Mr. Smith was fully aware that his statute of limitations

started in April of 2017 for any claims he wanted to make against anyone connected with Clemson, CUICAR, or the Composite Center.

Mr. Smith testified that he did not know the Composites Center would go forward after he left the CUICAR campus. However, his own emails sent after he left the CUICAR campus following up on the status of the delivery of the RTM press for which he was receiving a commission contradict his testimony and demonstrate he clearly knew the Center was going forward. Mr. Smith's November 28, 2018 email to Dr. Pilla specifically references projects he would like to discuss to be done parallel to the Center, and also asks how the KM (Krauss Maffei) deal is going (the deal he is secretly going to receive a commission on). Mr. Smith testified about going back and forth for three to four years to get his commission. However, he also claimed that he did not know the Center was going forward. The Center is where the equipment through the "KM deal" was being placed.

There is no evidence that Richard Smith (or Roding for that matter) is owed anything from Dr. Pilla or Clemson. In addition, his claims are clearly time-barred. As a result, summary judgment must be granted.

Summary Judgment Standard

Pursuant to Rule 56(c) of the South Carolina Rules of Civil Procedure, summary judgment should be granted when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with 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." Gauld v. O'Shaughnessy Realty Co., 380 S.C. 548, 557, 671 S.E.2d 79, 84 (Ct.App.2008). "The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder." Gauld at 558, 671 S.E.2d at 85. "The plain language of Rule 56(c), SCRCPP, mandates the entry of summary judgment, after

adequate time for discovery against a party who fails to make a showing sufficient to establish the existence of an element essential to the party's case and on which that party will bear the burden of proof at trial.” Id. A party cannot rely upon mere allegations to overcome a motion for summary judgment. Instead, a party must present admissible evidence which establishes that questions of material fact exist. Strickland v. Madden, 323 S.C. 63, 68, 448 S.E.2d 581, 584 (Ct.App.1994). As set forth in the Kitchen Planners, LLC case, the proper standard is the “genuine issue of material fact” standard set forth in the text of the Rule. It is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.” Kitchen Planners, LLC v. Friedman, 440 S.C. 456, 463–64, 892 S.E.2d 297, 301 (2023); quoting Town of Hollywood v. Floyd, 403 S.C. at 477, 744 S.E.2d at 166.

Discussion

In his pleadings, the Plaintiff claims that he is seeking damages for intentional fraud, racial discrimination/violation of civil rights, theft of intellectual properties, and false advertising. In his pleadings, he claims he was seeking restitution and compensatory damages in the amount of \$75,000,000.00. In his deposition, he increased that figure to \$150,000,000.00. Taking the evidence in the light most favorable to the Plaintiff, he cannot establish the requisite elements of any cause of action in this case. Further, his claims are barred by the applicable statute of limitations.

Statute of Limitations

Plaintiff's Complaint was filed on June 30, 2022. On the face of his Complaint, the Plaintiff alleges that his lawsuit is based on events that transpired between 2012 and 2016. This case is barred by the applicable statute of limitations. Pursuant to S.C. Code Ann. §15-78-110, the Plaintiff

had two years after the date of loss was or should have been discovered within which to bring his action.

In addition to failing to timely file his Complaint within the applicable statute of limitations, Plaintiff failed to timely serve “Clemson University International Automotive Research” within the applicable statute of limitations and/or 120 days after filing his Complaint. In fact, “Clemson University International Automotive Research” has never been served with the Complaint. Further, “Clemson University International Automotive Research” is a non-existent entity. Further, the Plaintiff has failed to allege, because he cannot allege, that he exhausted administrative remedies before attempting to assert alleged discrimination as a basis for a cause of action.

The Plaintiff submitted a document titled “Answering of Defendants motion to dismiss and for Appropriate Relief” at the hearing on our Motion to Dismiss. In that document, the Plaintiff acknowledges he and his company were evicted from the CUICAR campus in 2017. This document also acknowledges and admits Plaintiff’s shortcomings regarding process and service of process. Thus, Plaintiff’s own admissions support dismissal of this case. In addition, the emails referenced above clearly demonstrate that Mr. Smith knew the Composites Center was going forward in 2017 and 2018 and the start date for the statute of limitations in this case is based upon that knowledge. All of Mr. Smith’s claims are based upon events that transpired while he was on the CUICAR campus through early 2017 and/or are based upon the date he was evicted from that campus in April of 2017. As a result, all of his claims are barred, whether by a 2-year statute of limitations or a 3-year statute of limitations.

Specific Claims

Mr. Smith also states he became aware in July of 2020 that Dr. Pilla was promoting himself as the founder of the Clemson Composites Center. However, there is no viable cause of action against Dr. Pilla for him holding himself out as the founder of the Composites Center. Plaintiff's claims for intentional fraud, theft of intellectual properties, and false advertising are all based upon Dr. Pilla holding himself out as the founder and due to the Composites Center being named after him. The deposition testimony summarized above reveals these claims are baseless. In addition, the emails referenced above also demonstrate Mr. Smith's comparative minimal involvement, the lack of any discussions of the Composites Center being named for Mr. Smith, and his lack of any expectation of such.

Separately, the Plaintiff's very limited involvement when compared to Dr. Pilla's involvement, along with the millions of dollars spent on the Composites Center and the voluminous plans, drawings and construction that went into the Composites Center negate the Plaintiff's claims. The architect's Project Manual is 906 pages and demonstrates the extensive design work involved in the Composites Center. There are 50 pages of detailed architectural drawings associated with the Composites Center.

Further, the Plaintiff's testimony summarized above and the Affidavit of Dr. Pilla demonstrate that the Plaintiff has no evidence of fraud, theft of intellectual properties and/or false advertising. It appears that Mr. Smith was involved in a presentation with Krauss Maffei where a layout plan for proposed machinery supplied by someone else was part of the presentation. Making a marketing presentation in hopes to sell machinery that contains a generic room drawing in no way equates to being entitled to have a Composites Center named after you and to be paid from

the research grants awarded to Clemson University for projects to be performed at the Composites Center.

As admitted by Mr. Smith, all contracts Mr. Smith's company had entered into with CUICAR were fulfilled. There were no outstanding contracts. Specifically, there was no contract regarding planning, designing or constructing the Composites Center or performing any work for the Center.

Racial Discrimination/Violation of Civil Rights

Plaintiff's own deposition testimony reveals he has no proof of any racial discrimination or violation of civil rights. Further, even if he had proof, any such alleged discrimination would have occurred when he was on the CUICAR campus prior to April of 2017.

Order

Construing all of the evidence in this case in the light most favorable to Plaintiff, Mr. Smith, there is no genuine issue of material fact and summary judgment must be granted in favor of the Defendants. The evidence summarized above and attached as exhibits to the Defendants' Memorandum in support of the Motion for Summary Judgment clearly demonstrate that the Plaintiff's claims are time-barred. In addition, the evidence clearly demonstrates that Dr. Pilla was tasked with developing a Composites Center on the CUICAR campus, that Mr. Smith fully understood that Dr. Pilla was in charge and that Mr. Smith was part of a group submitting a competing bid to sell equipment for the Center. Mr. Smith did not have any contracts to support his claims and acknowledged that all prior contracts with his company were fulfilled by CUICAR/Clemson. The evidence demonstrates that Mr. Smith knew the Composites Center was going forward at the time and after he left the campus. The evidence also demonstrates that he

monitored the progress to ensure that the Krauss Maffei equipment sale went through so he could follow up on his commission with that company.

There is no evidence to support Mr. Smith's contention that the Composites Center should be named after him or that he should receive portions of the grant money awarded to Clemson/CUICAR. In addition, Mr. Smith admitted that he knew the day he was evicted from the CUICAR campus that he would no longer have any involvement with the Composites Center or with his vision of building a manufacturing facility in South Carolina. As a result, summary judgment must be granted in the Defendants' favor. However, considering that Defendant Pilla filed a timely Answer and Counterclaim in this case, alleging, in part, that pursuant to S.C. Code Ann. §15-36-10(4)(a)(2), Plaintiff filed a frivolous pleading and pursuant to subsection (2) should be sanctioned and required to pay the Defendant's costs and attorney's fees in responding to Plaintiff's action, Defendants' counterclaim survives this Motion for Summary Judgment and the Defendants may continue to pursue the counterclaim.

IT IS THEREFORE ORDERED that the Defendants' Motion for Summary Judgment is HEREBY GRANTED IN ITS ENTIRETY. However, the Defendants' counterclaim SURVIVES and may continue to be pursued by the Defendants.

IT IS SO ORDERED.

The Honorable Patrick Cleburne Fant, III
Presiding Judge

Date: _____
Greenville, South Carolina



Greenville Common Pleas

Case Caption: Richard Smith , plaintiff, et al vs. Srikanth Pilla , defendant, et al

Case Number: 2022CP2303460

Type: Order/Other

So Ordered

Patrick C. Fant, III