

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 J. Mereinda Fisher, individually, and as)
 Member of Fisher and Reid, LLC)
)
 Plaintiff,)
)
 vs.)
)
 Cynthia J. Glenn, individually, and as)
 Member of Fisher and Reid, LLC, and)
 Carolina Birth Center, LLC d/b/a Carolina)
 Water Birth)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 C.A. No.: 2022-CP-23-01799

ORDER

RECEIVED
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SC Court of Appeals

THESE MATTERS CAME before the Court on October 10, 2024 at a regularly scheduled term of Non-Jury Motions upon the Plaintiff’s Motion to Strike pursuant to Rule 12(f), *SCRPC*; Motion to Dismiss Defendants’ Counterclaims pursuant to Rule 12(b)(6), *SCRPC*; Plaintiff’s Motion to Compel Discovery; Plaintiff’s Motion to Amend its Complaint pursuant to Rule 15, *SCRPC*; and, Defendant’s Motion filed September 16, 2024, which the Defendant characterizes as a motion for a special appearance to challenge jurisdiction, dispute of the Lis Pendens filed under file number 2024LP2300640, and, demand for expungement (hereinafter “Defendants’ Motions”).

Present at the hearing were the Plaintiff, J. Mereinda Fisher, and attorney for the Plaintiffs, Daniel R. Hughes. A woman also appeared who identified herself as Cynthia Jane Glenn¹. After considering the arguments made at the hearing and the pleadings, this Court grants Plaintiff’s Motion to Dismiss the Defendant’s Counterclaims; Plaintiff’s Motion to Strike Defendants’

¹ Defendant’s pleadings identify her name as Cynthia-Jane: Glenn or Cynthia-J: Glenn.

Counterclaims; Plaintiffs' Motion to Compel Defendants' discovery responses; and, Plaintiffs' Motion to Amend its Complaint. The Court further denies Defendants' Motion(s) filed September 16, 2024. The Court makes the following findings of fact and conclusions of law:

NOTICE TO DEFENDANTS

At the outset of the hearing a woman appeared who stated that she was not the named Defendant, Cynthia J. Glenn, but rather that her name was Cynthia Jane Glenn. She stated that she was present to make a "special appearance" and did state that she "may" be the Defendant. She further stated that she was a non-citizen and did not have a driver's license or a birth certificate. This woman voluntarily appeared before the Court and has submitted voluminous filings to the Court upon receipt of notices from the Court. The Court has reviewed the Plaintiffs' notice of hearing to the Defendants and finds it to be proper. The Court is satisfied that proper notice of the hearing was provided to the named Defendants. After the Court's determination that the hearing would proceed, the woman identifying herself as Cynthia Jane Glenn voluntarily left the courtroom and the Court proceeded to hear arguments from Plaintiffs' counsel in her absence. The Court finds that the Defendant waived her right to present arguments and evidence opposing Plaintiff's motions and to present her own arguments in support of Defendants' Motion(s). In regards to the Defendants' challenge to the Court's jurisdiction, the Court further finds that the Defendants' reply to the Plaintiff's Complaint filed June 2, 2023 did not object to personal jurisdiction over the Defendants, and therefore, those arguments have been waived. *See* Rule 12(h), *SCRCP*. The Court finds that it has personal jurisdiction over the Defendants and subject matter jurisdiction to hear this case.

I. **PLAINTIFF'S MOTION TO DISMISS**
STANDARD OF REVIEW

In deciding a motion to dismiss pursuant to 12(b)(6), *SCRCP*, the trial court should consider only the allegations set forth on the face of the plaintiff's complaint. *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995). A 12(b)(6) motion should not be granted if "facts alleged and inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case." *Id.* The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief. *Toussaint v. Ham*, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987). Further, the complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action. *Id.*

This action arises out of a joint venture between Plaintiff and Glenn to establish a birth center known as Carolina Birth Center. Plaintiff filed a lawsuit alleging breach of fiduciary duty, breach of contract, negligent misrepresentation, and a derivative action based upon the improper exclusion of Plaintiff from property owned by Fisher and Reid, LLC, a company in which both Plaintiff and Defendant Glenn are equal members. Defendant Glenn, a *pro se* litigant, filed counterclaims on June 2, 2023 on behalf of all Defendants, including Carolina Birth Center, LLC.

Plaintiff filed a motion to dismiss Defendants' counterclaims pursuant to Rule 12(b)(6), *SCRCP*. The Court has carefully reviewed the Counterclaims numbered 1 through 13 set forth on pp. 4-6 of the Defendants' Reply to the Plaintiffs' Complaint. The counterclaims read more like affirmative defenses to the Complaint as opposed to causes of action that would give rise to any relief. Therefore, even viewing the counterclaims in the light most favorable to the Defendant, none of the counterclaims plead sufficient facts to constitute a cause of action under South Carolina law.

Accordingly, this Court grants Plaintiffs' motion to dismiss Defendants' counterclaims pursuant to Rule 12(b)(6), *SCRCP*.

II. PLAINTIFF'S MOTION TO STRIKE

In *Renaissance Enter. v. Summit Teleservices*, 334 SC 649, 515 S.E.2d 257 (1999), the Court held that a non-lawyer cannot represent a corporation in South Carolina circuit and appellate courts. Defendant, Carolina Birth Center, LLC, is a corporate entity, and therefore, the Answer/Reply, including all affirmative defenses and all Counterclaims filed by Cynthia J. Glenn on behalf of Carolina Birth Center, LLC are defective and must be struck pursuant to Rule 12(f), *SCRCP*. Specifically, the Court finds that the counterclaims referenced above relate to defenses or claims Carolina Birth Center, LLC has as it relates to the operation of the joint venture under Carolina Birth Center, LLC, and therefore, in addition to being dismissed pursuant to Rule 12(b)(6), said counterclaims must also be struck pursuant to Rule 12(f), *SCRCP*.

III. PLAINTIFF'S MOTION TO COMPEL

Plaintiff filed her initial Complaint against the Defendants on April 6, 2022. After lengthy settlement discussions, Plaintiff served Plaintiff's First Set of Interrogatories and First Requests for Production upon Defendants on February 6, 2024, a copy of which was attached to the Plaintiff's Motion as **Exhibit "B."** Defendants have failed to provide responses to Plaintiff's discovery requests.

Therefore, Defendants have thirty (30) days from the date of this Order to file responses to the Plaintiff's First Set of Interrogatories and First Requests for Production. If Defendants fail to comply with this Order regarding discovery, Plaintiff shall have the right to file a motion for contempt and to seek sanctions against the Defendants.

IV. PLAINTIFF'S MOTION TO AMEND

Plaintiff filed a motion to amend her Complaint pursuant to Rule 15, *SCRCP* to add a cause of action for judicial dissolution of Fisher and Reid, LLC. It appears that the amendment would not prejudice any party to this action and that no unreasonable delay would result therefrom. Therefore, Defendant's motion to amend its Complaint is granted.

IV. DEFENDANTS' MOTION(S)

Before the Court were motion(s) filed by the Defendants, which Defendants refer to as a motion for a special appearance to challenge jurisdiction, dispute of the Lis Pendens filed under file number 2024LP2300640, and, demand for expungement. At the outset of the hearing, a woman appearing before the Court who identified herself as Cynthia Jane Glenn said she was challenging jurisdiction because she was not the same Cynthia J. Glenn identified in the case. Having found that the named Defendants received proper notice for this hearing, the Court proceeded with the hearing at which point the woman appearing before the Court voluntarily left the courtroom and chose not to pursue her motions. Therefore, said motions are dismissed for failure to prosecute.

Based upon the foregoing, IT IS HEREBY ORDERED, ADJUGED, and DECREED as follows:

1. That the Defendants' Counterclaims against the Plaintiff be dismissed *with prejudice*.
2. That the Answer, Defenses and Counterclaims submitted Cynthia J. Glenn on behalf of Carolina Birth Center, LLC are stricken from the record.
3. That the Defendants shall respond to the Plaintiff's discovery requests within thirty (30) days of the date of this Order.
4. That Plaintiff's Motion to Amend the Complaint is granted and that the Plaintiff is

allowed to file its Summons and Amended Complaint upon the filing of this Order and that the same may be served upon the Defendant by regular first class mail as allowed by the *South Carolina Rules of Civil Procedure*.

5. That the Defendants' motions are hereby denied.

IT IS SO ORDERED.

JUDGE'S SIGNATURE PAGE TO FOLLOW



Greenville Common Pleas

Case Caption: J Mereinda Fisher , plaintiff, et al vs. Cynthia J Glenn , defendant, et al
Case Number: 2022CP2301799
Type: Order/Other

So Ordered

s/Alex Kinlaw, Jr., #2763

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