

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Alexis Carberry indiv. and/or Angel
Advocates 4 Special Education, LLC,

Plaintiff,

vs.

Amy Maziarz,

Defendant.

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

Civil Action No.: 2025-CP-46-02210

PROPOSED ORDER OF DISMISSAL

This matter comes before the Court on Defendant Dr. Amy Maziarz's Motion to Dismiss Plaintiff's Complaint pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure (SCRPC) and Plaintiff's corresponding Motion to Amend Complaint filed September 12, 2025, as well as Plaintiff's Motion to Strike, Continue, and Disqualify Counsel filed September 9, 2025. A hearing was held on September 18, 2025, before Judge Daniel Coble. Meredith L. Seibert, Esquire of Duff Freeman Seibert, LLC, appeared on behalf of Dr. Amy Maziarz. Plaintiff Ms. Alexis Carberry appeared *pro se*. After reviewing the pleadings, including the parties' motions and memoranda and Plaintiff's proposed amended complaint, the arguments of the parties, and relevant case law, the Court hereby denies Plaintiff's motions and grants Defendant Maziarz' Motion to Dismiss with prejudice:

I. INTRODUCTION

On June 3, 2025, Alexis Carberry, individually and on behalf of Angel Advocates 4 Special Education ("Plaintiff"), filed a Complaint with the Court against Dr. Maziarz ("Defendant" or "Dr. Maziarz") with a purported cause of action for defamation. Dr. Maziarz serves as the Senior Executive Director of Special Services at Fort Mill School District. As shared in Plaintiff's filings and during the hearing, Plaintiff is the parent of students who were previously enrolled in

Fort Mill School District, previously pursued administrative hearings and federal appeals of IDEA and other claims in her personal capacity, and subsequently began operating as a for-profit special education advocate. The original Complaint cited a cause of action for defamation.

Attorneys for the Defendant filed a Notice of Appearance and an Acceptance of Service on July 8, 2025. On August 7, 2025, Defendant responded with a Motion to Dismiss pursuant to Rule 12(b)(6), SCRCP, which motion was served on Plaintiff via regular U.S. mail. A copy of that Motion to Dismiss was filed with the Court on August 8, 2025.

On September 9, 2025, Plaintiff filed a Motion to Strike, Continue, and Disqualify Counsel in response to Defendant's Motion to Dismiss. Thereafter, on September 12, 2025, Plaintiff filed a Motion to Amend Complaint, which included an Affidavit and Proposed Amended Complaint.

On September 18, 2025, Judge Daniel Coble presiding, heard arguments from the parties on all pending motions. Defense counsel's Memoranda of Law in support the Defendant's Motion to Dismiss and in opposition to Plaintiff's Motions to Strike, Continue, Disqualify Counsel was introduced during the hearing, but submission of the documents was refused during the hearing, with instruction given to Defense counsel to file the memoranda with the Court.

II. DECISION

This order serves as the formal order to the Court's September 25, 2025 Form 4 Order granting Defendant's Motion to Dismiss; and denying Plaintiff's Motion to Strike, Continue, Disqualify Counsel and Motion to Amend Complaint.

A. Plaintiff's Motion to Strike, Continue, and Disqualify Counsel

As an initial matter, Plaintiff objected to Defendant's Motion to Dismiss on several grounds, as outlined in Plaintiff's Motion to Strike, Continue, and Disqualify Counsel. However, Plaintiff failed to provide any substantive rationale or legal support that warrants the granting of

this motion. Although a continuance was requested, apparently based on dissatisfaction with the method (U.S. mail) used to notify Plaintiff of the hearing, that notice was timely provided and Plaintiff was present, available, and prepared to argue her motions. Further, despite Plaintiff's conclusions otherwise, the Court finds that the Defendant's Motion to Dismiss was signed, served, and filed on Plaintiff in a timely and procedurally correct manner, in accordance with Court rules, including Rules 11 and 12, SCRCP. Lastly, as it relates to the request to remove Defendant's legal counsel, Plaintiff presented no valid reasoning in support of the request, including any reasonable evidence of a conflict of interest on the part of counsel. Plaintiff's Motion to Strike, Continue, or Disqualify Counsel is without merit.

B. Defendant's Motion to Dismiss and Plaintiff's Corresponding Motion to Amend

A Rule 12(b)(6) motion to dismiss should be granted when the pleadings, construed in the light most favorable to the non-moving party, fail to allege sufficient facts to state a cause of action. Rule 12(b)(6), SCRCP; *Haskell Co. v. Morgan*, 274 S.C. 261, 262 S.E.2d 737 (1980). "Generally, in considering a 12(b)(6) motion, the trial court must base its ruling solely upon allegations set forth on the face of the complaint." *Doe v. Marion*, 361 S.C. 463, 469, 605 S.E.2d 556, 559 (Ct.App.2004), aff'd 645 S.E.2d 245, 2007 WL 1321978; accord *Stiles v. Onorato*, 318 S.C. 297, 457 S.E.2d 601 (1995); see also *Brown v. Leverette*, 291 S.C. 364, 353 S.E.2d 697 (1987) (noting trial court must dispose of a motion for failure to state a cause of action based solely upon the allegations set forth on face of complaint); *Williams*, 347 S.C. at 233, 553 S.E.2d at 499 (finding trial court's ruling on 12(b)(6) motion must be bottomed and premised solely upon allegations set forth by plaintiff). "A motion under Rule 12(b)(6) . . . admits the well pleaded facts in the complaint, but it does not admit the inferences drawn by the plaintiff from such facts, nor does it admit conclusions of law." *Carolina Winds Owners' Ass'n v. Joe Harden Builder, Inc.*, 297 S.C.

74, 374 S.E.2d 897, 899 (Ct. App. 1988). An allegation of a mere legal conclusion is insufficient to state a cause of action. *Jones v. Gilstrap*, 288 S.C. 525, 343 S.E.2d 646 (1986).

Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action upon which relief may be granted. Plaintiff's Complaint purports to bring a cause of action for defamation. However, to state a claim for defamation under South Carolina law, a plaintiff must allege facts supporting: 1) a false and defamatory statement concerning another; 2) an unprivileged publication to a third party; 3) fault on the part of the publisher; and 4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. *Holtzscheiter v. Thomson Newspapers, Inc.*, 332 S.C. 502, 506 S.E.2d 497 (1998).

In support of that cause of action, Plaintiff states only that "the defendant has made False Statements as Fact with passive aggressive malice," which statement "was communicated to someone other than the person defamed." The Complaint further states that "defendant is at fault for publishing the false statement, which can be negligence, recklessness, or intent." The Complaint concludes that the defendant "has continuously spoken and written false statements about the plaintiff, with malice, in an attempt to destroy her personal and business name, Angel Advocates 4 Special Education LLC." Plaintiff also includes a general statement alleging a loss of earning capacity and pain and suffering.

Plaintiff's Complaint is devoid of any factual support or allegation and relies solely on broad conclusion and legal statements, without providing any facts in support of the required elements. Plaintiff asserts that Rule the language of Rule 9(h), SCRCP, insulates her from routine pleading requirement if defamation is the cause of action under scrutiny. Pursuant to Rule 9(h), Plaintiff does not have to plead specific circumstances showing how the defamation applies to

Plaintiff, but it does not relieve her of the obligation to provide some facts concerning what was said, to whom, and when.

As it relates to first element, a false and defamatory statement concerning another, Plaintiff's filing fails to supply the most basic facts concerning what was said - that is, what is the false and defamatory statement(s) at issue. Here, the Complaint states only that "defendant has made False Statements as Fact with passive aggressive malice." That is not sufficient. See *McNeil v. SC Dept. of Corrections*, 404 S.C. 186, 743 S.E.2d 843 (Ct. App. 2013)(Upholding motion to dismiss where Plaintiff "did not set forth with any specificity what the alleged false statements were.") As it relates to the second and third elements, unprivileged publication to a third party and fault on the part of the publisher, Plaintiff has included no allegations or conclusions that the unidentified statement was unprivileged, and again failed to include any factual allegations in support of to whom the statement was made (other than it was published to someone other than Plaintiff) and grounds for fault on the part of the publisher. See *McNeil v. SC Dept. of Corrections*, 404 S.C. 186, 743 S.E.2d 843 (Ct. App. 2013)(Upholding motion to dismiss where Plaintiff did not allege the statements at issues were unprivileged and did not assert to whom the alleged statements were made.

Plaintiff's Complaint includes no factual support for at least three of the elements of defamation against plaintiff individually or on behalf of her business and instead depends solely on broad conclusions with no real factual support. Conclusory allegations, including those that constitute a legal conclusion, are insufficient to state a cause of action as needed to survive a 12(b)(6) dismissal. *Jones v. Gilstrap*, 288 S.C. 525, 343 S.E.2d 646 (1986); see also *Russell v. City of Columbia*, 301 S.C. 117, 390 S.E.2d 463 (Ct. App. 1989) ("The court must take well pleaded factual allegations as true. However, allegations which are conclusory rather than factual

should be disregarded.”) Therefore, Plaintiff’s Complaint fails to state a claim for defamation upon which relief can be granted as a matter of law.

However, this Court also acknowledges that “when a trial court finds that a complaint fails ‘to state facts sufficient to constitutes a cause of action’ under Rule 12(b)(6), the court should give the plaintiff an opportunity to amend the complaint pursuant to Rule 15(a) before filing the final order of dismissal” except in those cases where “amendment would be clearly futile.” See *Skydive Myrtle Beach, Inc. v. Horry Cnty*, 426 S.C. 175, 182, 826 S.E.2d 585, 589 (2019) A dismissal and/or corresponding denial of a motion to amend on the grounds of futility should not occur “without seeing what the amendment would look like.” *Id.* at 183, 826 S.E.2d at 589 In this case, upon receipt of Defendant’s Motion to Dismiss, Plaintiff filed a Motion to Amend her Complaint, providing a copy of the proposed amended complaint for review and consideration by the Court to be heard in conjunction with and response to Defendant’s Motion to Dismiss. However, the proposed amendment put forth by Plaintiff fails to allege sufficient facts to support any viable cause of action, rendering amendment futile.

Plaintiff’s proposed Amended Complaint, which incorporates an affidavit completed by Plaintiff, attempts to state a claim for the causes of action of defamation, as well as criminal and/or civil conspiracy. Notwithstanding those changes and modifications, Plaintiff still failed to make changes that include factual allegations to support a cause of action upon which relief may be granted as a matter of law. As it relates to the attempted defamation claim, Plaintiff’s proposed Amended Complaint fails to cure clear deficiencies, including but not limited to providing any factual allegations to establish, at minimum, the first and third elements of defamation. Despite the opportunity to show how she would remedy the deficiencies identified by Defendant’s Motion to Dismiss, Plaintiff’s proposed Amended Complaint still fails to set forth with any specificity

what the alleged false and defamatory statements were and grounds for fault on the part of the publisher.

To the extent that Plaintiff attempted to include a new cause of action for civil conspiracy in the proposed Amended Complaint, amendment to include that cause of action is also futile. Plaintiff's proposed Amended Complaint fails to state a claim for civil conspiracy upon which relief may be granted as a matter of law. Again, while providing conclusory statements in an attempt to mimic elements of the cause of action, the proposed Amended Complaint lacks factual allegations in support of those conclusions. Of note, Plaintiff's proposed Amended Complaint lacks factual allegations of an overt act in furtherance of a conspiracy that is separate and independent from the alleged defamation, justifying dismissal. See *Paradis v. Charleston Cnty Sch. Dist.*, 433 S.C. 562, 861 S.E.2d 774 (2021)).

Having considered the pleadings, Defendant's Motion to Dismiss, Plaintiff's Motion to Amend and proposed Amended Complaint, the parties' memoranda, the arguments of the parties, and relevant case law, Plaintiff's Motion To Strike, Continue, and Disqualify Counsel and Plaintiff's Motion to Amend **ARE** therefore **DENIED** and Defendant's Motion to Dismiss Plaintiff's Complaint **IS** therefore **GRANTED**. Dismissal with prejudice is appropriate under Rule 12(b)(6), SCRCP.

AND IT IS SO ORDERED.

Judge Daniel Coble, Sixteenth Judicial Circuit

_____, South Carolina
Date: _____, 2025



York Common Pleas

Case Caption: Alexis Carberry VS Amy Maziarz

Case Number: 2025CP4602210

Type: Order/Dismissal

So Ordered

s/ Daniel Coble, 2774