

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Janet L. Frisco,

Plaintiff,

v.

Futeral and Nelson, LLC,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2024-CP-10-04891

**ORDER GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

RECEIVED

Feb 13 2026

SC Court of Appeals

This matter came before the Court by way of Defendant Futeral and Nelson's Motion for Summary Judgment. The Court finds that Defendant's motion for summary judgment should be GRANTED and this case dismissed based upon the following.

FINDINGS OF FACT AND PROCEDURAL HISTORY

This is a retaliatory lawsuit brought by pro se plaintiff Janet Frisco ("Plaintiff") against an opposing law firm, Futeral & Nelson, LLC ("Defendant"), who filed a lawsuit against her on behalf of its client, Pet Helpers, Inc. ("Pet Helpers"), a local pet shelter. The underlying lawsuit is filed as Case Number 2021-CP-10-02682, dated June 09, 2021, and captioned *Pet Helpers, Inc. v. Janet Frisco* ("the Underlying Lawsuit").

The Underlying Lawsuit arose after Plaintiff falsely and repeatedly asserted as a matter of fact that Defendant's client, Pet Helpers, staged the adoption of a dog and then secretly killed it. Plaintiff voluntarily gave up her dog, "Toby," for adoption to Pet Helpers in 2021. Pet Helpers is a 'no kill' / 'no euthanasia' shelter that rehomes pets in the Charleston area. Pet Helpers renamed the dog to "Slim Jim," and he was legally adopted shortly thereafter. Pet Helpers then posted a picture of his adoption on social media.

Plaintiff then began harassing Pet Helpers online and at their local store, threatening to bring “God’s Army” to Pet Helpers’ place of business to get the dog back. She further threatened to “light up the internet” with false claims about Pet Helpers’ treatment of the dog. As a result of Plaintiff’s threats, Pet Helpers contacted the City of Charleston Police Department, and the Police Department advised it to keep its facility doors locked for a day.

Plaintiff also engaged in an extensive smear campaign, including publishing numerous social media posts and videos, protesting in front of Pet Helpers, and claiming as a matter of fact in various forums that (1) Pet Helpers killed the dog Plaintiff put up for adoption; (2) Pet Helpers euthanized animals in the shelter; (3) Pet Helpers is cruel to animals; and (4) Pet Helpers staged the dog’s adoption. These statements were found to be defamatory in the Underlying Lawsuit, as affirmed by the Court of Appeals. Pet Helpers, through its attorney, Stephan Futeral with Defendant Futeral & Nelson, filed a lawsuit seeking damages for slander/libel as well as a permanent restraining order. A protracted legal battle ensued which resulted in Pet Helpers obtaining a permanent restraining order, multiple awards of sanctions, Plaintiff being placed in jail for civil contempt of court for violating the restraining orders,¹ and the Court finding Plaintiff liable to Pet Helpers for libel, slander *per se*, and malicious prosecution. The permanent restraining order prevents Plaintiff from making disparaging statements against Pet Helpers and its legal counsel regarding the litigation and the dog.

After being found as a matter of law to have defamed Pet Helpers, Plaintiff initiated this lawsuit in retaliation against Pet Helpers’ attorney’s law firm for statements allegedly made and actions allegedly taken within the course of a judicial proceeding and pursuant to Defendant’s

¹ Plaintiff was held in contempt for violating the injunction and restraining orders more than eighty times and sentenced to thirty days in jail purgeable upon payment of sanctions. Plaintiff spent four days in jail.

performance of its professional activities on behalf of and with the knowledge of its client. After Defendant filed its Motion for Summary Judgment, Plaintiff petitioned the South Carolina Supreme Court for a writ of certiorari to review the Court of Appeals' decision, which the Supreme Court denied on December 16, 2025.

STANDARD OF CARE

Under Rule 56, SCRPC, a court must grant a moving party summary judgment if there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law. *See* Rule 56(c), SCRPC. A party opposing a motion for summary judgment may not rely upon mere allegations but must set forth specific facts showing that there is a genuine issue for trial. *See* Rule 56(e), SCRPC. Additionally, "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. 466, 477, 744 S.E.2d 161, 166 (2013)).

CONCLUSIONS OF LAW

1. The Court finds that Plaintiff's claims are barred by the judicial proceedings privilege.

South Carolina has long recognized the common law rule protecting statements offered in the course of judicial proceedings from liability in defamation cases such as this one. *Crowell v. Herring*, 301 S.C. 424, 429, 392 S.E.2d 464, 466-67 (Ct. App. 2001) (citing *Vausse v. Lee*, 1 Hill 197, 2, 351 S.C. 16 Am. Dec. 168 (1833)). Courts have recognized that "South Carolina law is clear that all statements relevant to a matter at issue in a judicial proceeding are entitled to absolute immunity." *Belton v. West Marine, Inc.*, 0:16-3347-TLW-SVH, 2017 U.S. Dist. LEXIS 57455 at 3 (D.S.C. 2017) (emphasis added). Moreover, when an immunity is deemed absolute, it provides

absolute immunity from suit, rather than a mere defense of liability. *Id.* at 5 (quoting *Mitchell v. Forsyth*, 472 U.S. 511, 526, 105 S. Ct. 2806, 86 L. Ed. 2d 411 (1985)); *see also Hainer v. Am. Med. Intern.*, 328 S.C. 128, 135, 492 S.E.2d 103, 106 (1997) (“[w]hen a communication is absolutely privileged, no action lies for its publication, no matter what the circumstances under which it is published”). Likewise, this privilege extends to statements made in pleadings. *Pond Place Partners, Inc. v. Poole*, 351 S.C. 1, 23, 567 S.E.2d 881, 893 (Ct. App. 2002) (citing *McKesson & Robbins v. Newsome*, 206 S.C. 269, 33 S.E.2d 585 (1945)). Furthermore, because the privilege is absolute, it protects even statements made with malice. *See Id.* (quoting *Lone v. Brown*, 199 N.J. Super. 420, 489 A.2d 1192, 1195 (N.J. Super Ct. App. Div. 1985)).

The judicial proceedings privilege plainly bars liability for statements made in a complaint. *Crowell* at 429, 392 S.E.2d at 466-67 (Ct. App. 2001) (citing *Vausse v. Lee*, 1 Hill 197, 2, 351 S.C. 16 Am. Dec. 168 (1833) (“[t]he common law rule protecting statements of judges, parties and witnesses offered in the course of judicial proceedings from a cause of action in defamation is well recognized in this jurisdiction[.]”) (emphasis added)); *Pond Place Partners* at 24, 567 S.E.2d at 893 (“[d]efamatory matter contained in pleadings filed according to law in a court having jurisdiction, if relevant and pertinent to the issues in the case, is absolutely privileged; and it is immaterial that the allegations are false and malicious and are made under a cover and pretense of a wrongful or groundless suit[.]”) (emphasis added)).

Here, the Court finds that Plaintiff’s Amended Complaint is seeking damages in retaliation against Defendant for filing the complaint in the Underlying Lawsuit on behalf of its client. *See e.g.* Am. Compl. ¶ 14 (“Defendant filed a complaint on behalf of Pet Helpers...which is in itself slander and libel[.]”); Am. Compl. ¶ 17 (“Defendant filed a complaint on behalf of Pet Helpers...in order to aid and abet [Pet Helpers’] fraud of staging an adoption[.]”). The Court finds that there is

no evidence to support the Plaintiff's libel and slander claims against Defendant. Because these statements are absolutely privileged, the court finds that the Defendant is entitled to judgment as a matter of law as to Plaintiff's "libel and slander" cause of action.

2. The Court finds that Plaintiff's claims are barred by the *Gaar* attorney immunity doctrine.

South Carolina law is clear that attorneys are immune from liability to third persons arising from the performance of their professional activities on behalf of and with the knowledge of their clients. *Gaar v. N. Myrtle Beach Realty Co.*, 287 S.C. 525, 528, 339 S.E.2d, 887, 889 (Ct. App. 1986); *see also Stiles v. Onorato*, 318 S.C. 297, 457 S.E.2d 601 (1995) (likewise holding that attorneys are immune from liability for actions taken in their professional capacity). Accordingly, attorneys can only be liable in their professional capacity to their client or those in privity with their client, for injuries alleged to have arisen out of performing their professional activities. *Gaar* at 529, 339 S.E.2d at 889.

Moreover, even if attorneys initiate civil proceedings on their client's behalf without probable cause, they still are not liable if they act "primarily for the purpose of aiding [their] client in obtaining a proper adjudication of the client's claim." *Id.* (citing Restatement (Second) of Torts, Section 674 comment d (1975)). This rule protects the crucial public policy consideration that "[a]ttorneys must be free to act and advise their clients without constant fear of harassment from lawsuits." *Id.* (citing *Peck v. Chouteau*, 91 Mo. 138, 3 S.W. 577 (1887)).

Here, the Court finds that there is no genuine issue of material fact that Defendant's actions were taken for the purpose of obtaining a proper adjudication of its client's claims. This finding is bolstered by both the Court's findings in the Underlying Lawsuit, which was subsequently affirmed by the Court of Appeals. Both courts found that there was no genuine issue of material

fact that Plaintiff made defamatory statements about Pet Helpers. This Court therefore finds that Plaintiff's claims fit squarely within the category that *Gaar* doctrine addresses, and therefore the Defendant is immune from liability on these grounds.

For these reasons, the Court finds there is no genuine issue of material fact that Defendant's actions arose out of its professional activities and for the purpose of obtaining a proper adjudication of its client's claims. Therefore, the court finds that Defendant is immune from liability as a matter of law.

3. The Court finds that Plaintiff is collaterally estopped from relitigating whether she made false statements regarding Pet Helpers as a matter of law.

“Under South Carolina law, ‘collateral estoppel, also known as issue preclusion, prevents a party from relitigating an issue that was decided in a previous action, regardless of whether the claims in the first and subsequent lawsuits are the same.’” *Kunst v. Loree*, 404 S.C. 649, 653, 746 S.E.2d 360, 362 (Ct. App. 2013) (quoting *Carolina Renewal, Inc. v. S.C. Dep’t of Transp.*, 385 S.C. 550, 554, 684 S.E.2d 779, 782 (Ct. App. 2009) (internal alterations omitted)). In order for a party to be collaterally estopped from relitigating an issue from a prior lawsuit, the issue must be: “(1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment.” *Id.* (quoting *Carolina Renewal, Inc.* at 554, 684 S.E.2d at 782).

Here, the Circuit Court in the Underlying Lawsuit directly determined that Plaintiff defamed Defendant's client as a matter of law, which was necessary to support the prior judgment as to the libel and slander claim. In affirming the Circuit Court's order from the Underlying Lawsuit, the Court of Appeals held that “when viewed in the light most favorable to Frisco, there was no genuine issue of material fact that Frisco committed libel per se or slander per se with

malice[]”). To the extent Plaintiff seeks to use this lawsuit to relitigate whether she made defamatory statements as a matter of law against Defendant’s client, the Court finds that Plaintiff is collaterally estopped from doing so.

4. The court finds that Plaintiff’s second cause of action is improper, which appears to be a motion pursuant to Rule 60(b)(3), SCRPC, and nonetheless is barred by the one-year time limitation contained in the Rule.

Plaintiff’s second cause of action purports to be for “Abuse of Civil Process/Extrinsic Fraud Pursuant to Rule 60 (b)(3) SCRPC.” To the extent this purported cause of action is a motion for relief under Rule 60(b)(3) in a separate matter, the court finds that the motion is plainly time-barred, as Rule 60(b)(3) makes clear that a motion pursuant to it cannot be made more than one year after the Court entered an order.²

To the extent Plaintiff’s second cause of action can be read as a claim for abuse of process, there is likewise no genuine issue of material fact that Defendant did not file this lawsuit on behalf of its client with any ulterior motive or take any improper actions in the proceeding. *See Pallares v. Seinar*, 407 S.C. 359, 370-71, 756 S.E.2d 128, 133 (2014) (citing *Argoe v. Three Rivers Behavioral Ctr. & Psychiatric Solutions*, 388 S.C. 294, 697 S.E.2d 551 (2010) (explaining the essential elements of an abuse of process claim)). The Circuit Court in the Underlying Lawsuit, affirmed by the Court of Appeals, determined there was no genuine issue of material fact as to Pet Helpers’ claims, and there is no evidence that Defendant had any improper motive in filing the Underlying Lawsuit or in attaining a successful outcome for its client.

² Judge Price’s order is dated May 5, 2022. Plaintiff filed her Complaint on September 24, 2024 and her Amended Complaint on September 24, 2025.

Accordingly, the Court finds there is no genuine issue of material fact as to Plaintiff's second cause of action, and Defendant is entitled to judgment as a matter of law.

5. The Court finds no additional discovery could salvage Plaintiff's claims, which are plainly barred by South Carolina law.

A party opposing summary judgment must demonstrate to the Court "the likelihood that further discovery will uncover additional relevant evidence and that the party is 'not merely engaged in a 'fishing expedition.'" *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003) (quoting *Baughman v. Am. Tel. and Tel. Co.*, 306 S.C. 101, 112, 410 S.E.2d 537, 544 (1991)). Here, the Court finds that Plaintiff is unable to demonstrate that any additional discovery could salvage her claims and remove the protection from liability of the various privileges and immunities discussed above, each of which are independently dispositive. Because Defendant is immune from liability and the alleged actions were privileged as a matter of law, no additional discovery could conjure up an issue of fact in this case.

Furthermore, the Court finds that nearly all conceivable discovery that Plaintiff could seek concerning Defendant's representation of its client Pet Helpers is protected from discovery by the attorney-client privilege and/or work product doctrine. *See generally Tobacoville USA, Inc. v. McMaster*, 387 S.C. 287, 692 S.E.2d 526 (2010). Because Defendant cannot waive the privilege on behalf of its client, and it because it is bound by a duty of confidentiality to its client by Rule 1.6, SCRPC, discovery in this matter regarding the alleged issues raised in Plaintiff's Amended Complaint is impractical. Therefore, the Court finds that no additional discovery could salvage Plaintiffs' Amended Complaint and that Plaintiff's claims as a whole are frivolous and further barred as a matter of law.

IT IS THEREFORE ORDERED that the Plaintiff's claims are dismissed as a matter of law with prejudice.

IT IS FURTHER ORDERED that Plaintiff's claims are barred by the judicial proceedings privilege.

IT IS FURTHER ORDERED that Plaintiff's claims are barred by the *Gaar* attorney immunity doctrine.

IT IS FURTHER ORDERED that Plaintiff is collaterally estopped from relitigating whether she made false statements regarding Pet Helpers as a matter of law.

IT IS FURTHER ORDERED that the Plaintiff's cause of action labeled "Abuse of Civil Process/Extrinsic Fraud Pursuant to Rule 60(b)(3), SCRC" is improper and barred by the one-year statute of limitations.

AND IT IS SO ORDERED!

The Honorable Jennifer B. McCoy
Charleston County Court of Common Pleas

Date _____



Charleston Common Pleas

Case Caption: Janet L Frisco VS Futeral and Nelson Llc
Case Number: 2024CP1004891
Type: Order/Summary Judgment

So Ordered

s/Jennifer B. McCoy #2764

Electronically signed on 2026-02-11 10:05:57 page 10 of 10