

available evidence at the time of the filing of the affidavit.” *See* S.C. Code Ann. § 15-36-100(C)(1). The statute expressly applies to actions for professional negligence against attorneys. *See id.* § 15-36-100(G)(2). “[I]f an affidavit is not filed . . . and the defendant against whom the affidavit should have been filed alleges, by motion to dismiss . . . that the plaintiff has failed to file the requisite affidavit, the complaint is subject to dismissal for failure to state a claim.” *See id.* § 15-36-100(C)(1).

3. While Plaintiffs’ Complaint attempts to circumvent Section 15-36-100 by stating their causes of action are not founded on legal malpractice, the causes of action asserted against Defendants are based upon the allegation that Defendants negligently represented Plaintiffs, as Plaintiffs’ counsel in their respective cases. *See e.g.*, Compl. at ¶¶ 33-35, 47-49, 59-60, 63-68, 75-76. As a result, under S.C. Code § 15-36-100, Plaintiffs were required to file an expert affidavit with their Complaint and their failure to do so requires the dismissal of their Complaint by this Court. *See* S.C. Code § 15-36-100(C)(1).

4. Plaintiffs’ Complaint also fails to allege any facts supporting that any actions or inactions by Defendants caused Plaintiffs damage. *See Williams v. Condon*, 347 S.C. 227, 553 S.E.2d 496 (Ct. App. 2001). Rule 12(b)(6), SCRCF, permits a defendant to move for dismissal for a plaintiff’s “failure to state facts sufficient to constitute a cause of action.” South Carolina Rules of Civil Procedure, Rule 8(a), requires a pleading to contain “a short and plain statement of facts showing that the pleader is entitled to relief.” Mere conclusory allegations, unsupported by any particularized allegations of fact, however, are insufficient to constitute a cause of action. *Jones v. Gilstrap*, 288 S.C. 525, 528, 343 S.E.2d 646, 648 (Ct. App. 1986). Here, the Complaint falls short of Rule 8, SCRCF, and only asserts generalizations and conclusory allegations against Defendants,

without any alleging what Defendants did (or did not do) that caused Plaintiffs' alleged injuries. As such, Plaintiffs' Complaint against Defendants is dismissed on this additional ground.

5. This Court previously entered a *Sua Sponte* Order for Sanctions and Gatekeeper Order, dated and entered November 20, 2024 (the "Gatekeeper Order"), which required Plaintiff Kevin Rubink's filings to be screened by this Court to ensure that the pleadings complied with the Gatekeeper Order as well as the South Carolina Civil Rules of Procedure. Specifically, the Gatekeeper Order was entered to ensure that any such filings by Plaintiff Kevin Rubink were not duplicative of a pending case and/or disposed case, and to verify that any such filing not be used in an abusive manner.

6. The Complaint is duplicative of pleadings against Defendants previously filed by Plaintiff Kevin Rubink, including:

- a. Case No. 2023CV4010302410 filed in the Richland County Magistrate's Court (Central Court) by Plaintiff Kevin Rubink against Defendants Shealey Law Firm, LLC and Luke Shealey, which was dismissed without prejudice by the Magistrate's Court (No. 1 in the Gatekeeping Order).
- b. Case No. 2023CV4010302413 filed in the Richland County Magistrate's Court (Central Court) by Plaintiff Kevin Rubink against Defendants Shealey Law Firm, LLC and Luke Shealey, which was dismissed without prejudice by the Magistrate's Court (No. 2 in the Gatekeeping Order).
- c. Case No. 2024-CP-40-05446 filed in this Court by Plaintiff Kevin Rubink against Defendants, which was dismissed with prejudice by this Court via Order entered December 10, 2025.
- d. Case No. 2024-CP-40-06691 filed in this Court by Plaintiff Kevin Rubink against Defendant Shealey Law Firm, LLC, which was dismissed with prejudice by this Court via Order entered December 10, 2025.
- e. Claim No. 2025FEB09 filed with the Resolution of Fee Disputes Board of the South Carolina Bar.

7. The Complaint is also duplicative of Plaintiff Brandi Barnett's Complaint filed with the Resolution of Fee Disputes Board of the South Carolina Bar, Claim No. 2025JAN08.

8. As a result of the foregoing, Plaintiffs' Complaint is dismissed in its entirety with prejudice against Defendants.

9. Moreover, Defendants have made a requisite showing that Plaintiffs' Complaint and subsequent filings are frivolous and unduly burdensome under the Frivolous Civil Proceeding Sanctions Act (hereinafter "the Act"), S.C. Code § 15-36-10.

10. The Act allows the Court to impose sanctions for the initiation and prosecution of meritless civil actions.

11. Section 15-36-10(C)(1) of the Act, provides, in pertinent part, that after a case has been dismissed, upon request of the prevailing party, the Court shall proceed to determine the claim was frivolous.

12. An attorney, party, or *pro se* litigant shall be sanctioned for a frivolous claim or defense if the Court finds the attorney, party, or *pro se* litigant failed to comply with one of the following conditions:

(a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or

(c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

See S.C. Code § 15-36-10(C)(1).

13. In particular, Plaintiffs violated the Act by virtue of their baseless attempt to couch what was, in all events, meritless legal malpractice cases, as a far-reaching conspiracy and fraud claim, amongst other various claims. Plaintiffs never pled sufficient facts to support any of their claims filed over the last three (3) years. No reasonable attorney would have brought in good faith, the claims Plaintiffs asserted in their lengthy pleadings, including the Complaint, as their claims were clearly not warranted and were meant to harass the Defendants. No reasonable attorney would have pressed such claims without factual allegations to support said claims.

14. Plaintiffs' tactics have been dilatory, vexatious, that is, brought without sufficient grounds, oppressive and unreasonable. Their conduct clearly warrants sanctions.

15. Section 15-36-10(G) sets forth the sanctions allowable under the Act, including (1) reasonable costs and attorney's fees; (2) a reasonable fine to the Court; or (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith. *See* S.C. Code § 15-36-10(G)(1)-(3). "The determination of whether attorney's fees should be awarded under the Frivolous Proceedings Act is treated as one in equity." *Hanahan v. Simpson*, 326 S.C. 140, 156, 485 S.E.2d 903, 912 (1997). Overall, I find that Plaintiffs should be sanctioned under the Act.

16. Furthermore, throughout this matter, and in their other cases, Plaintiff Rubink has evidenced a pattern of abusing the legal process in bringing frivolous proceedings and the potential remains for them to continue that practice unless severe sanctions are levied. As a result, pursuant to S.C. Code § 15-36-10(G)(3), I enjoin the Plaintiff Rubink from filing any other suit on his own behalf. If Plaintiff Rubink desires to file a suit for a claim of his own after this Court's Form 4 Order entered in this case on February 6, 2026, they must have the pleadings signed by an attorney licensed in South Carolina certifying that the filing complies with Rule 11, SCRPC. If the pleading

does not comply with this Court's directive, the Richland County Clerk of the Court is instructed to reject any filings from Plaintiff.

AND IT IS SO ORDERED.

[Electronic Signature Page Follows]



Richland Common Pleas

Case Caption: Brandi Barnett , plaintiff, et al vs Luke Shealey , defendant, et al

Case Number: 2025CP4006986

Type: Order/Dismissal

So Ordered

s/ Daniel Coble, 2774