

**STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY**

**IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT**

CASE NO.: 2026-CP-08-00042

THOMAS FORTNER, individually and on
Behalf of all others similarly situated,

Plaintiff,

v.

DANIEL ISLAND GOLF CLUB, LLC,

Defendant

ORDER

Before the Court is Defendant Daniel Island Golf Club, LLC’s Motion to Dismiss under Rule 12(b)(1) and 12(b)(6), SCRCP.

Having reviewed and considered Defendant’s Motion to Dismiss and Plaintiff’s Response in Opposition, and having conducted a hearing and heard argument on the Motion from both Plaintiff and Defendant on March 17, 2026, the Court makes the findings and grants the relief set forth below granting the Motion to Dismiss pursuant to Rule 12(b)(1), SCRCP.

According to Plaintiff Thomas Fortner’s Class Action Complaint, in December 2024, Defendant Daniel Island Golf Club, LLC (“Daniel Island Club”) was the victim of a cyberattack. *See* Compl. ¶ 2. Plaintiff alleges that Daniel Island Club received his personally identifiable information (“PII”) “in connection with the goods/services/employment Representative Plaintiff obtained.” Compl. ¶ 9. Plaintiff alleges that Daniel Island Club failed to properly secure and safeguard his “PII” and that of the putative class that was stored within Daniel Island Club’s network at the time of the Incident. Compl. ¶ 1. Despite the allegations pled in his Class Action Complaint, Plaintiff has failed to plead sufficient facts that would establish that he has suffered an injury-in-fact that is concrete, particularized, and actual or imminent. As a result, Plaintiff does not have standing to bring this lawsuit. Accordingly, Plaintiff’s Class Action Complaint is dismissed for lack of standing pursuant to South Carolina Rule of Civil Procedure 12(b)(1).

“Standing to sue is a fundamental requirement in instituting an action” in South Carolina. *Hawkins v. Hammond*, 875 S.E.2d 60, 63 (S.C. Ct. App. 2022) (citing *Joytime Distribs. & Amusement Co. v. State*, 528 S.E.2d 647, 649 (S.C. 1999)). Constitutional standing under South Carolina law requires that a plaintiff show that she or she has “suffered an injury-in-fact which is a concrete, particularized, and actual or imminent invasion of a legally protected interest,” (2) “a causal connection must exist between the injury and the challenged conduct,” and (3) “it must be likely that a favorable decision will redress the injury.” *Hawkins*, 875 S.E.2d at 64 (citing *Youngblood v. S.C. Dep't of Soc. Servs.*, 741 S.E.2d 515, 518 (S.C. 2013); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)); see also, *Jowers*, 815 S.E.2d at 451. The actual injury in fact cannot be conjectural or hypothetical. *Sea Pines Ass'n for Prot. of Wildlife, Inc. v. S.C. Dep't of Nat. Res.*, 550 S.E.2d 287, 292 (S.C. 2001) (citing *Lujan*, 504 U.S. at 560).

In the absence of South Carolina law, this Court is guided by the recent decision of the United States District Court for the District of South Carolina in *Stuart v. Kyocera AVX Components Corporation*, 769 F. Supp. 3d 476 (D.S.C. 2025). In *Stuart*, the District of South Carolina dismissed the plaintiffs’ complaint for lack of standing, finding that none of the plaintiffs whose PII had been impacted in Kyocera’s data breach alleged that they had experienced misuse of their data and therefore concluded that plaintiffs had not sufficiently alleged a substantial risk of fraud or identity theft that was certainly impending. *Id.* at 487. The district court held that absent misuse, plaintiffs’ allegations pertaining to mitigation costs were “self-imposed harms,” such as “the cost of measures to guard against identity theft, including the costs of [purchasing] credit monitoring services” “cannot confer standing” when the “certainly impending” and “substantial risk” standards are not met.” *Id.* (citing *Beck v. McDonald*, 848 F.3d 262, 276-77 (4th Cir. 2017)). The district court did not credit allegations relating to an alleged diminution in value of PII since the plaintiffs failed to allege any facts explaining how they actually lost value because of the disclosure of their PII. *Id.* at 488. Allegations pertaining to the loss of privacy and emotional distress allegations were also discounted since the plaintiffs failed to allege serious mental or physical injury or humiliation resulting from the alleged intrusion. *Id.* at 488 (quoting *O’Shea v. Lesser*, 416 S.E.2d 629, 633 (S.C. 1992)). Finally, the district court found that benefit of the

bargain allegations were not sufficient to confer standing in light of Fourth Circuit precedent. *Id.* at 490 (citing *Podroykin v. Am. Armed Forces Mut. Aid Association*, 634 F. Supp. 3d 265, 272 (E.D. Va. 2022)).

Plaintiff Fortner’s allegations fail for the same reasons. Plaintiff alleges that he suffered imminent and impending injury arising from “the substantially increased risk of fraud, identity theft and misuse” (Compl. ¶ 16) but does not allege any actual fraud or misuse of his PII. Plaintiff alleges that he spent time verifying the legitimacy of the Incident and exploring credit monitoring options (Compl. ¶ 13) but does not allege facts to demonstrate a certainly impending risk. Plaintiff alleges diminution in value of his PII (Compl. ¶ 13) but does not allege any facts to show how he monetizes his PII and actually lost that value. Plaintiff alleges a loss of privacy and anxiety resulting from that loss (Compl. ¶ 15) but does not allege any serious physical injury or harm. Finally, Plaintiff alleges that he was denied the full benefit of the bargain (Compl. ¶ 103) but fails to allege any value of goods or services that were diminished.

Having fully considered the issue, the Court hereby GRANTS the Defendant Daniel Island Golf Club, LLC’s Motion to Dismiss and dismisses Plaintiff’s Class Action Complaint for lack of standing.

IT IS SO ORDERED.

The Honorable Thomas W. McGee, III

Electronic signature page to follow.



Berkeley Common Pleas

Case Caption: Thomas Fortner, indiv.and on behalf of all others similarly VS Daniel
Island Golf Club, Llc
Case Number: 2026CP0800042
Type: Order/Dismissal

So Ordered

s/ Thomas W. McGee III, Judge Code 2786