

COUNTY OF HORRY

FOR THE FIFTEENTH JUDICIAL CIRCUIT

Weldon Boyd,

C/A#: 2025-CP-26-08617

Plaintiff,

ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS

vs.

Mark B. Tinsley,

Defendant.

RECEIVED**Jul 30 2026****SC Court of Appeals**

This matter comes before the Court on Defendant Mark Tinsley's Motion to Dismiss. A hearing regarding the Motion took place on June 10, 2026. Attorney Desa Ballard appeared on behalf of Plaintiff and attorney John T. Lay, Jr. appeared on behalf of Tinsley. After reviewing the motion and memoranda submitted by the parties, Defendant's Motion to Dismiss is granted.

BACKGROUND AND PLEADINGS

Plaintiff filed this Complaint seeking equitable relief, including but not limited to a declaratory judgment, finding and determining "that [Tinsley] has intentionally engaged in conduct prejudicial to the interests of justice by manufacturing, disseminating and perpetuating a false narrative through manipulative use of media outlets which has permanently harmed [Plaintiff's] ability to obtain a fair trial in the courts of this state in any related civil or criminal matter." (Compl., p. 1). In his Complaint, Plaintiff alleges that "[o]n information and belief, Tinsley wants to be a celebrity and spends time and energy promoting his public profile." (Compl. ¶ 4). Plaintiff also claims "Tinsley is not sued in his representative capacity as a lawyer, but solely as an individual having acted for his own personal benefit and interests, not as a tactical action in litigation and not in furtherance of the interests of any client." (Compl. ¶ 5).

Paragraphs 8 through 34 of the Complaint contain Plaintiff's recitation of the highly publicized road rage incident, and subsequent investigation, involving Plaintiff and Scott Spivey, which ultimately led to the fatal shooting of Spivey by Plaintiff. Plaintiff also criticizes the Spivey family for retaining Tinsley, who filed the wrongful death lawsuit on June 3, 2024, "[n]otwithstanding the clear evidence that Spivey had caused his own demise as well as significant undisputed evidence of Spivey's aggression and his unilateral creation of the deadly situation that led to his death." (Compl. ¶ 37).

Plaintiff uses a large portion of his Complaint to enumerate ways Tinsley acted to "further increase his public profile" through acts of "self-aggrandizement" and "self-promotion," while "creat[ing] a knowingly false yet sensational narrative[.]" regarding the shooting and investigation. (Compl. ¶ 38). Plaintiff contends that "as a direct and proximate result of the intentional acts of Tinsley in publicizing private matters for his own personal aggrandizement and pursuit of establishing celebrity for himself, a media and social media firestorm erupted." (Compl. ¶ 40). Plaintiff further alleges that Tinsley "co-opted" the "public's appetite for rooting out perceived public corruption" for his own personal purposes in seeking celebrity status for himself. (Compl. ¶ 41). Plaintiff complains that the firestorm has been maintained by Tinsley through selective release to media of non-public information. (*See* Compl. ¶¶ 42-43). Notably, Plaintiff does not claim that the information was confidential or that its release was improper.

Plaintiff contends that Tinsley directly and indirectly pressured public officials to manipulate the facts of the case, "lobbying for law enforcement to reopen its investigation of Boyd[.]" (Compl. ¶ 49). Plaintiff states that "Tinsley manipulated and prompted others (including his client) to participate in the media firestorm solely for purposes of enhancing Tinsley's own

public profile and feeding his ego, not to advance his client's interests or for any other legitimate reason.” (Compl. ¶ 50).

The “examples of Tinsley’s specific wrongful acts” are outlined in Paragraphs 54 through 76 of the Plaintiff’s Complaint. Plaintiff claims that his ability to receive a fair trial in the courts of South Carolina has been permanently harmed and asks this Court to “fashion an equitable remedy for Tinsley’s wrongs.” (Compl. ¶¶ 77-78).

Plaintiff’s action seeks:

- A. Declaratory judgment that Tinsley manufactured, disseminated, and perpetuated a false narrative through manipulative use of media outlets (referred to herein as “Tinsley’s media firestorm”), and that Tinsley did so intentionally and solely for personal publicity and promotion, thereby resulting in foreseeable, permanent prejudicial harm to Boyd.
- B. Declaratory judgment that Tinsley has intentionally and wrongfully prejudiced the course of justice and such that Boyd cannot receive a fair adjudication in the courts of this state in any related matter.
- C. An award against Tinsley for costs incurred by Boyd in pursuing the relief sought herein.

(Compl., p. 2).

This Court takes judicial notice of the fact that despite Plaintiff’s adamant allegations that he acted in self-defense, a trial court of this state recently issued an order in the wrongful death suit denying his motion to dismiss and embedded request for immunity under S.C. Code Ann. §§ 16-11-410 to -450 (2015), the Protection of Persons and Property Act (“the PPPA”), which provides immunity from criminal prosecution or civil action to a person who is found to be justified in using deadly force. *See Foley v. Boyd*, Civil Action No. 2024-CP-26-03798 (Order entered March 11, 2026 denying immunity for Defendant Charles Weldon Boyd); *see also Stanley Smith & Sons, Inc. v. Dumas*, 315 S.C. 30, 33, 431 S.E.2d 595, 596 (Ct. App. 1993) (the Court of Appeals

examined and took judicial notice of the contents of the appellate record in another, unrelated case). In its March 11, 2026 Order, the Court stated:

Even the version of events described by Boyd and Williams, without considering their lack of credibility, establishes some level of fault on their part in bringing about the confrontation with Spivey which led to Spivey's death. Boyd (and Williams) had numerous chances to remove themselves after their initial contact with Spivey, who was clearly trying to get away from the Defendants, but they chose to continue to engage Spivey even to the point of abandoning their intent to proceed to Boyd's farm in Loris.

Despite Plaintiff's objections,¹ this Court is clearly empowered to take judicial notice of the March 11, 2026 Order and the immunity hearing in the wrongful death lawsuit. A Court may take judicial notice of matters of public record, including the content of court records, when conducting a 12(b)(6) analysis. *See Doe v. Bishop of Charleston*, 407 S.C. 128, 134 n. 2, 754 S.E.2d 494, 497 n. 2 (2014) (recognizing that circuit court may take judicial notice when ruling on 12(b)(6) motion without converting it into one for summary judgment); Rule 201(b), SCRE (court may judicially notice fact that is "not subject to reasonable dispute" because it is "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned"). *See also Sec'y of State For Defence v. Trimble Navigation Ltd.*, 484 F.3d 700, 705 (4th Cir. 2007) ("In reviewing the dismissal of a complaint under Rule 12(b)(6), we may properly take judicial notice of matters of public record."); *Colonial Penn Ins. Co. v. Coil*, 887 F.2d 1236, 1239 (4th Cir. 1989) (noting that the "most frequent use of judicial notice . . . is in noticing the content of court records" (citation and internal quotation marks omitted)).

¹ Plaintiff filed a motion to strike Tinsley's reference to the Order, which was denied by this Court. This Court also denied Plaintiff's motion to reconsider its denial of the motion to strike.

ANALYSIS

“It is generally held that the jurisdiction to render a declaratory judgment is discretionary, and should be exercised with great care, and with due regard to all the circumstances of the case.” *Loadholt v. S.C. State Budget & Control Bd., Div. of Gen. Servs., Ins. Rsrv. Fund*, 339 S.C. 165, 168–69, 528 S.E.2d 670, 672 (Ct. App. 2000) (quoting *Southern Ry. Co. v. Order of Ry. Conductors of America*, 210 S.C. 121, 134, 41 S.E.2d 774, 779 (1947)). While it is recognized that a court is generally empowered in its sound discretion to issue a declaratory judgment, such discretion must be exercised in accordance with legal principles. See *Williams Furniture Corp. v. Southern Coatings and Chemical Co.*, 216 S.C. 1, 8, 56 S.E.2d 576, 579 (1949) (stating trial court “wisely exercised” discretion in holding complaint not sufficient to warrant declaratory relief). “[T]hough Rule 57 of the South Carolina Rules of Civil Procedure governs declaratory judgment actions, and expressly provides: ‘[t]he existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate,’ a court should not exercise such power lightly.” *Smith v. S.C. Ret. Sys.*, 336 S.C. 505, 527, 520 S.E.2d 339, 351 (Ct. App. 1999) (citing *MUSC v. Taylor*, 294 S.C. 99, 362 S.E.2d 881 (Ct. App. 1987)) (emphasis added).

Furthermore, “[t]he Uniform Declaratory Judgment[s] Act ... ‘does not require the court to give a purely advisory opinion[,] which the parties might, so to speak, put on ice to be used if and when occasion might arise’ ... ‘or license litigants to fish in judicial ponds for legal advice.’ ” *Richards v. Spicer*, 445 S.C. 514, 521-22, 915 S.E.2d 486, 490 (2025) (quoting *Tourism Expenditure Review Comm. v. City of Myrtle Beach*, 403 S.C. 76, 81-82, 742 S.E.2d 371, 374 (2013) (alterations in original) (internal quotation marks omitted) (quoting *City of Columbia v. Sanders*, 231 S.C. 61, 68, 97 S.E.2d 210, 213 (1957))); see *Power v. McNair*, 255 S.C. 150, 154, 177 S.E.2d 551, 553 (1970) (holding a judicial determination that would not affect the parties’

legal rights, “would be only advisory and, therefore, beyond the intended purpose and scope of a declaratory judgment”); *id.* (stating this Court “simply refuse[s] to enter the field of advisory opinions”). “The test of sufficiency of [a declaratory judgment] complaint is not whether it shows that the plaintiff is entitled to a declaration of rights in accordance with his theory, *but whether he is entitled to a declaration of rights at all.*” *Id.* (emphasis added) (quoting *Dantzler v. Callison*, 227 S.C. 317, 321-22, 88 S.E.2d 64, 66 (1955) (quoting *Foster v. Foster*, 226 S.C. 130, 132, 83 S.E.2d 752, 753 (1954))); *see Graham v. State Farm Mut. Auto. Ins. Co.*, 319 S.C. 69, 71, 459 S.E.2d 844, 845 (1995) (“To state a cause of action under the Declaratory Judgment Act, a party must demonstrate a justiciable controversy.”); *id.* (“A justiciable controversy exists when a concrete issue is present, there is a definite assertion of legal rights and a positive legal duty which is denied by the adverse party.”); *Seabrook v. Knox*, 369 S.C. 191, 197, 631 S.E.2d 907, 910 (2006) (“If there is no actual controversy, this Court will not decide moot or academic questions.”).

For the reasons set forth below, the Court refuses to exercise its discretion in this instance and as such, Tinsley’s Motion to Dismiss is GRANTED.

A. This Matter is Not Ripe.

This matter is dismissed because it is not ripe. Before a court may render a declaratory judgment, an actual, justiciable controversy must exist. A justiciable controversy is a real and substantial controversy which is ripe and appropriate for judicial determination, as distinguished from a contingent, hypothetical or abstract dispute. *See Orr v. Clyburn*, 277 S.C. 536, 290 S.E.2d 804 (1982); *Carolina All. for Fair Emp. v. S.C. Dep’t of Lab., Licensing, & Regul.*, 337 S.C. 476, 488, 523 S.E.2d 795, 801 (Ct. App. 1999). Here, this Court takes judicial notice of the fact that the wrongful death suit has not yet been tried. The Court takes judicial notice of the fact that in the wrongful death suit, Plaintiff filed a motion for immunity pursuant to stand your ground under

the PPPA, and a four-day trial occurred and was livestreamed, after which the presiding judge denied Plaintiff's request for immunity under the Act. Additionally, to the Court's knowledge, no criminal charges have been filed against Plaintiff *to date* (and charges may never be filed). There is no pending criminal matter, and certainly no criminal or civil jury trials or adjudication. No Court of Common Pleas or General Sessions has yet faced, or been asked to face, the issue of whether an impartial jury may be seated in any matter involving Plaintiff.

A declaratory judgment action is a remedy, not a stand alone tort. It serves to remedy some controversy, not preempt one. Our courts do not author or entertain suits that seek advisory opinions. *See, e.g., Power v. McNair*, 255 S.C. 150, 154–55, 177 S.E.2d 551, 553 (1970) (“Under these circumstances, an adjudication of the present question would settle no legal rights of the parties. It would be only advisory and, therefore, beyond the intended purpose and scope of a declaratory judgment. We simply refuse to enter the field of advisory opinions.”); *City of Columbia v. Sanders*, 231 S.C. 61, 68, 97 S.E.2d 210, 213 (1957) (“The Uniform Declaratory Judgment Act, Title 10, Chapter 24 of the 1952 Code ‘does not require the court to give a purely advisory opinion which the parties might, so to speak, put on ice to be used if and when occasion might arise . . . or license litigants to fish in judicial ponds for legal advice.’” (internal citations and quotations omitted)).

Thus, Plaintiff's declaratory judgment action is based upon a hypothetical or abstract dispute and seeks an advisory opinion to theoretically immunize himself from liability or prosecution post hoc. There is no case or controversy to remedy and this Court will not issue an advisory opinion or use the remedy of declaratory judgment to create one. As such, this matter is dismissed.

B. Plaintiff Has the Ability to Seek an Adequate Remedy at Law in the Appropriate Case.

Moreover, the equitable relief sought by Plaintiff is not available when there is an adequate remedy at law. *EllisDon Const., Inc. v. Clemson Univ.*, 391 S.C. 552, 555, 707 S.E.2d 399, 401 (2011) (holding that “equity is only available when a party is without an adequate remedy at law”); *see also Carolina Attractions, Inc. v. Courtney*, 287 S.C. 140, 146, 337 S.E.2d 244, 247 (Ct.App.1985) (“[E]quity will not impose an equitable lien where there is an adequate remedy at law.”); *see also Milliken & Co. v. Morin*, 386 S.C. 1, 8, 685 S.E.2d 828, 832 (Ct. App. 2009) (“An ‘adequate’ remedy at law is one which is as certain, practical, complete and efficient to attain the ends of justice and its administration as the remedy in equity.” (internal quotations omitted)). Declaratory relief will ordinarily be refused where another remedy will be more effective or appropriate under the circumstances. *Garris v. Governing Bd. of S.C. Reinsurance Facility*, 319 S.C. 388, 390, 461 S.E.2d 819, 821 (1995) (citing *Bank of Augusta v. Satcher Motor Co., Inc.*, 249 S.C. 53, 152 S.E.2d 676 (1967)).

Though Plaintiff wishes to ignore it despite referencing it in his Complaint, this Court takes judicial notice of the wrongful death lawsuit pending in Horry County. Plaintiff can pursue the appropriate motions practice in the wrongful death lawsuit to appropriately deal with his concern about his ability to receive a fair trial. Declaratory relief should not be used “to try a controversy by piecemeal or to try particular issues without settling the entire controversy” or when “the remedy is invoked merely to try issues or determine the validity of defenses in pending cases.” *Williams Furniture Corp. v. Southern Coatings & Chemical Co.*, 216 S.C. 1, 7, 56 S.E.2d 576, 578 (1949).

The Court finds that Plaintiff’s Complaint seeks declaratory relief aimed at obtaining a favorable ruling; however, the Court declines to issue a ruling that would improperly constrain the

wrongful death action or be used for purposes beyond this proceeding. Our law simply does not allow this and the Complaint is dismissed on this separate ground pursuant to Rule 12(b)(6), SCRCP, and S.C. Code Ann. § 15-53-70 et. seq. *See Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 545, 627 S.E.2d 687, 689–90 (2006) (reversing grant of injunction in circuit court where right to appeal arbitrator’s award provides an adequate remedy at law, a protection of their rights, and an opportunity to repair any prejudice caused by the alleged improper selection of the neutral arbitrator).

C. Plaintiff’s Complaint Seeks to Circumvent Existing Litigation.

Plaintiff seeks a declaratory judgment that “Tinsley has intentionally and wrongfully frustrated the interests of justice such that Boyd cannot receive a fair adjudication in the courts of this state in any related matter[.]” (Compl. ¶ 89(B)).

A declaratory judgment action is not a substitute for a new trial or an appeal, nor can it operate to supersede former adjudications or proceedings already pending. *See Moore v. Black*, 220 Neb. 122, 127, 368 N.W.2d 488, 492 (1985). A “court may refuse to render declaratory judgment where the remedy is invoked to try issues or determine the validity of defenses in pending cases.” *Wessinger v. Rauch*, 288 S.C. 157, 160, 341 S.E.2d 643, 644 (Ct. App. 1986).

The Court finds that Plaintiff is attempting to use this declaratory judgment action against Tinsley, who has at all times relevant represented the Estate of Scott Spivey and the Spivey Family, to circumvent the existing civil litigation against him pending in this very venue. The Court further notes that Plaintiff may raise these concerns through appropriate motion practice in the pending wrongful death action, and, if applicable, in any related criminal proceeding. The Court takes judicial notice that Plaintiff has not pursued such relief to date, nor otherwise presented the fair-trial issue to a court or tribunal outside of this action. Accordingly, the Court concludes that the

Complaint is not an appropriate vehicle for the relief sought and would, if entertained, risk undermining the orderly adjudication of the pending proceedings.

Plaintiff and his undersigned counsel cannot improperly sue a litigant's attorney to gain some perceived advance "declaration" regarding his rights in another pending suit and avoid the drastic but appropriate effects of Rule 12(b)(6), as it is well settled that "[o]ur courts favor substance or function over style or form." *Paschal v. Price*, No. 06-CP-02-350, 2006 WL 6321317 (S.C. Com. Pl. Nov. 27, 2006) (citing *In re Ferguson*, 313 S.C. 120, 124, 437 S. E.2d 72, 74 (1993) (rejecting hyper technical arguments regarding jurisdiction which were "an attempt to argue "form over substance.")); *see also Regions Bank v. Wingard Props., Inc.*, 394 S.C. 241, 253, 715 S.E.2d 348, 354 (Ct. App. 2011) ("The notion 'equity looks to substance rather than form' evolved out of judicial regard for that which ought to be done.").

As a general rule, courts will not entertain an action for declaratory judgment if there is pending at the time the action is commenced, another action between the same parties in which the same issues presented in the action for declaratory judgment can be adjudicated.² *State ex rel. Edmisten v. Tucker*, 312 N.C. 326, 323 S.E.2d 294 (1984). *Cf. Williams Furniture Corp. v. Southern Coatings & Chemical Co.*, 216 S.C. 1, 56 S.E.2d 576 (1949) (court may refuse to render declaratory judgment where the remedy is invoked to try issues or determine the validity of defenses in pending cases). Further, "Rule 12(b)(8) also reflects a broader principle of judicial administration" and a "[c]ourt has the inherent power to manage its docket in the most efficient manner, to avoid duplicative litigation, eliminate extra costs and prevent harassment of litigants." *Unisys Corp. v. S.C. Budget and Control Bd., et al.*, No. 98-CP-40-3945, 2000 WL 35456881 (S.C.

² While Tinsley is not a party to the wrongful death lawsuit, the principle is persuasive given the allegations and "Trojan Horse" relief requested.

Com. Pl. Feb. 10, 2000) (noting that the cases pending in two forums were “so interrelated” that “the ends of justice” were served by dismissal pursuant to Rule 12(b)(8), and finding that the subsequent declaratory judgment action was “intended to avoid” the remedy available in the other forum).

Analyzing Plaintiff’s Complaint through the proper lens, to permit such an action to go forward would be “a classic example of a tail wagging a dog.” *Wessinger*, 288 S.C. at 160, 341 S.E.2d at 644. This is not the purpose of a declaratory judgment suit and as such, the Court dismisses this action on this separate ground.³

D. Tinsley, Acting at All times in his Representation, is Immune from Suit and Cannot be Sued in this Manner.

Finally, and perhaps most importantly, this action is improperly brought against Tinsley, who was at all times acting within the scope of his representation and with the knowledge of the Spiveys pursuant to *Hunt v. Mortgage Electronic Registration*, 522 F.Supp.2d 749, 758 (D.S.C. Nov. 20, 2007). It is well-established in South Carolina that “an attorney is immune from liability to third persons arising from the performance of his professional activities as an attorney on behalf

³ Furthermore, the March 11, 2026 Order defeats almost all of Plaintiff’s allegations regarding the supposed false narrative created by Tinsley. Indeed, this Court finds that Plaintiff is collaterally estopped from relitigating the issue of his complete innocence/lack of fault in the death of Scott Spivey based on the March 11 Order in the wrongful death lawsuit. See *Judy v. Judy*, 383 S.C. 1, 7, 677 S.E.2d 213, 217 (Ct. App.2009) (“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.”; see also *Beall v. Doe*, 281 S.C. 363, 369 n. 1, 315 S.E.2d 186, 189–90 n. 1 (Ct. App.1984). (The party asserting collateral estoppel must demonstrate that the issue in the present lawsuit was: (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment.); *Snavely v. AMISUB of S.C., Inc.*, 379 S.C. 386, 398, 665 S.E.2d 222, 228 (Ct. App. 2008) “While the traditional use of collateral estoppel required mutuality of parties to bar relitigation, modern courts recognize the mutuality requirement is not necessary for the application of collateral estoppel where the party against whom estoppel is asserted had a full and fair opportunity to previously litigate the issues.”)

of and with the knowledge of his client.” *Gaar v. N. Myrtle Beach Realty Co.*, 287 S.C. 525, 528, 339 S.E.2d 887, 889 (Ct. App. 1986). This immunity supports our legal system, which requires that “[a]ttorneys . . . be free to act and advise their clients without constant fear of harassment from lawsuits.” *Id.* at 529, 339 S.E.2d at 889; *see also Hager v. McCabe, Trotter & Beverly, PC*, 435 S.C. 740, 747, 869 S.E.2d 886, 889 (Ct. App. 2022) (“Immunity is a function of the fact that an attorney acting within the scope of representation is not acting on his or her own behalf, but on the client’s behalf.”). Indeed, the purpose of the doctrine of attorney immunity is to encourage zealous representation of clients without fear of lawsuits by disgruntled opposing parties. *See Hunt v. Greenville Cnty. S.C.*, No. 608-857-HFF-BHH, 2008 WL 4844756, at *8 (D.S.C. Nov. 7, 2008), *aff’d*, 322 F. App’x 308 (4th Cir. 2009) (citing *Gaar*, *supra*).

Rightfully so, an attorney is not wholly and carte blanche immune from liability simply because he is an attorney. South Carolina, like many jurisdictions, recognizes that “an attorney may be held liable. . . where, in addition to representing his client, he breaches some independent duty to a third person or acts in his own personal interest, *outside the scope of his representation of the client.*” *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995) (rejecting finding that *Gaar* provides absolute immunity to an attorney under any and all circumstances) (emphasis added).

However, this Court finds that Plaintiff’s attempts to categorize Tinsley’s actions as outside of the scope of his representation to survive a motion to dismiss without merit, even under our liberal pleading standards. Boyd and his counsel are undoubtedly aware of this line of case law, as they go to great lengths to throw out words and phrases such as

- “self-promotion” 6 times at Compl. p. 1 and 2, and ¶¶ 38, 39, 45, and 52;
- “self-aggrandizement” 9 times at Compl. p. 2, and ¶¶ 38, 41, 43, 45, 52, and 54;

- “celebrity” 31 times not including his footnote defining celebrity; Compl. p. 1 and 2, and ¶¶ 4, 38-41, 43, 45-47, 51, 52, 54, 57-61, 63-68, 70, and 72-75;
- “Tinsley did so to promote his own celebrity and reputation among the public” (Compl. ¶¶57-68; 70; 72-75).

On a 12(b)(6) motion, “the court is required to presume all well pled *facts*, not propositions of law, to be true.” *HHHunt Corp. v. Town of Lexington*, 389 S.C. 623, 635, 699 S.E.2d 699, 705 (Ct. App. 2010) (emphasis in original) (citation omitted). A plaintiff “cannot transform an unsupported proposition of law into a statement of fact” to avoid dismissal under Rule 12(b)(6). *Id.* Plaintiff is still bound by the well-pled standards set forth in Rules 8 and 12(b)(6), SCRCP and our case law regarding the same. *See Fabian v. Lindsay*, 410 S.C. 475, 481, 765 S.E.2d 132, 136 (2014) (noting that courts’ review of 12(b)(6) motions considers all “well-pled” allegations as true).

Moreover, the *Stiles* court affirmed the case’s dismissal against a lawyer (there, the claims were civil conspiracy and allegedly filing a frivolous case) because the “complaint ... fail[ed] to set forth sufficient facts to remove [the attorney] from the ambit [of the general rule of immunity].” 318 S.C. at 300, 457 S.E.2d at 602. Germane to the case sub judice, the defendant in *Stiles* alleged, in Paragraph 28 of his third-party complaint, that Bowen was “the plaintiff’s attorney in this action” and realleged prior paragraphs after enumerating his conspiracy claim. The Supreme Court looked at the face of the complaint and held that nowhere in that complaint did the defendant allege in what manner Bowen acted outside his role as the plaintiff’s attorney “nor does he allege that Bowen breached some independent duty owed to” him. Thus, the Supreme Court concluded that “on the face of his complaint, the only reasonable inference is that Bowen was acting at all times in his capacity as [the plaintiff’s] attorney.” *Stiles v. Onorato*, *Id.* at 300, 457 S.E.2d at 603.

On the other hand, the attorney in *Hunt* was alleged to have acted dishonestly, deceitfully, and fraudulently in his representation, which included the knowing procurement and placement of fraudulent ejectment notices. *Hunt v. Greenville County*, No. 608-857-HFF-BHH, 2008 WL 4844756, at *9 (D.S.C. Nov. 7, 2008). Denying the attorney's motion to dismiss, the district court noted that "[t]he fraud and conspiracy alleged by the plaintiff, viewed in a light most favorable to her, appears to roughly rise to the quality of bad faith noted in *Stiles*, which if established, would pierce the shield of immunity normally enjoyed." *Id.* No such allegations, even construing all allegations as true, rise to the quality of bad faith so required by *Stiles* and its progeny to pierce the shield of immunity Tinsley enjoys in his representation of the Spivey family.

"[T]he mere fact that attorneys have 'mixed motives,' such as 'enhancing' their reputation by aggressive representation [of their clients], does not remove their conduct from the scope of the agency [relationship with their clients]." *Heffernan v. Hunter*, 189 F.3d 405, 413 (3d Cir. 1999). While Tinsley denies that he has any motive other than zealously advocating for his client, enhanced reputation and mixed motives are the only "allegations" which Plaintiff claims as a basis for bringing this suit. This cannot stand and this case is dismissed pursuant to *Gaar* and *Stiles*.

CONCLUSION

Having considered the submissions and argument of counsel, the Court grants Defendant Mark Tinsley's Motion to Dismiss. As set forth above, dismissal is warranted because the matter is not ripe, Plaintiff has adequate remedies at law in the appropriate forum, the requested declaratory relief would improperly intrude upon and circumvent pending litigation, and Tinsley is immune from suit for actions taken within the scope of his representation.

For the foregoing reasons, each standing separately, the Court GRANTS Defendant Tinsley's Motion to Dismiss. Therefore, this action is DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

The Honorable B. Alex Hyman
Fifteenth Circuit

Case Caption: Weldon Boyd VS Mark B Tinsley

Case Number: 2025CP2608617

Type: Order/Dismissal

15th Circuit Resident Judge

s/ B. Alex Hyman
