

**FORM 1**  
**NOTICE OF APPEAL IN A CIVIL CASE**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY  
Court of Common Pleas

J. MARK HAYES II, Circuit Court Judge

Case No. 2014-CP-110052

Dolgencorp, LLC, et al., of  
whom Cherokee County and  
Blacksburg Police Department.

Respondents,

v.

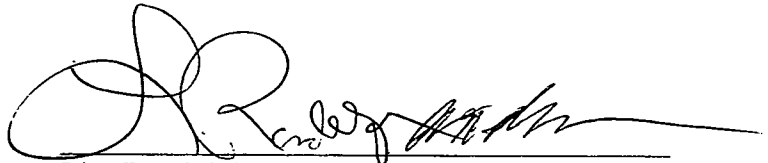
Lisa Randolph and George Randolph,

Appellants.

NOTICE OF APPEAL

Lisa Randolph and George Randolph appeal the order of the Honorable J. Mark Hayes, II, dated April 2, 2014. Appellants received non-final written notice of judgment on April 7, 2014, with the formal written order to follow.

Sincerely,



Lisa Randolph and George Randolph  
203 W Carolina St  
Blacksburg, SC 29702  
(864) 425-2771  
Pro Se for Appellant

April 18, 2014

**RECEIVED**

MAY 16 2014

**SC Court of Appeals**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHEROKEE )  
 )  
 LISA RANDOLPH and GEORGE )  
 RANDOLPH, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 DOLGENCORP, LLC, d/b/a DOLLAR )  
 GENERAL STORE # 76751, a/k/a )  
 DOLLAR GENERAL, and CHEROKEE )  
 COUNTY, and BLACKSBURG POLICE )  
 DEPARTMENT, )  
 )  
 Defendants. )  
 )

IN THE COURT OF COMMON PLEAS

**ORDER GRANTING MOTION TO  
 DISMISS OF DEFENDANTS  
 CHEROKEE COUNTY AND  
 BLACKSBURG POLICE  
 DEPARTMENT**

C.A. No. 2014-CP-110052

This matter came before the Court on motions to dismiss of Defendants Cherokee County and the Blacksburg Police Department. A hearing was held before this Court on March 31, 2014. Plaintiffs appeared pro se at the hearing.<sup>1</sup> Stephanie H. Burton appeared on behalf of Defendants.

In their Complaint, Plaintiffs allege that on December 7, 2013, Plaintiff Lisa Randolph purchased three bags of cat litter from the Dollar General store located at 500 West Cherokee Street, Blacksburg, South Carolina. (Complaint ¶ 13). When paying for the cat litter, Plaintiff Lisa Randolph alleges that she noticed a discrepancy between the price charged at the register and the price advertised on the shelf. The register displayed a price of \$9.35 per bag of cat litter while the shelf advertised a price of \$8.95 per bag. (Complaint ¶ 14).

<sup>1</sup> The Court acknowledges and appreciates the respectful demeanor presented by the plaintiffs. Nevertheless, the plaintiffs were encouraged during the hearing to seek proper legal advice. This Court continues to encourage the plaintiffs to obtain advice from legal counsel.

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MAY 16 2014

**SC Court of Appeals**

Plaintiffs further allege that Plaintiff Lisa Randolph confronted the Dollar General cashier and the store manager about the price discrepancy and requested that the register price be changed to reflect the advertised price on the shelf but that the store manager refused to alter the price. (Complaint ¶ 16). Plaintiff Lisa Randolph thereafter called 911 to report the allegedly unlawful conduct of Dollar General. (Complaint ¶ 25). The Dollar General manager also called 911 seeking to remove Plaintiff from the store. (Complaint ¶ 36).

Plaintiffs allege that an officer with the Blacksburg Police Department was dispatched to the Dollar General Store and, after talking with the store manager and Plaintiff Lisa Randolph, asked Lisa Randolph to leave the store and placed Plaintiff on trespass notice. (Complaint ¶ 16). Plaintiffs claim that they subsequently obtained a copy of the police report which listed the store manager as the complainant, instead of Lisa Randolph. (Complaint ¶¶ 94, 97). Throughout their Complaint, Plaintiffs generally allege that the police officer accepted the representations of the Dollar General Store Manager instead of those of Lisa Randolph. (*See, e.g.*, Complaint ¶¶ 43-47).

On March 31, 2014, the Defendants moved the Court to dismiss Plaintiff's claims pursuant to Rules 12(b)(5) and 12(b)(6) of the South Carolina Rules of Civil Procedure.

After reviewing the Complaint, the motions to dismiss, Plaintiffs' responses to the motions, and considering the arguments presented at the hearing, the Court hereby grants the Defendants' Motion to Dismiss pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

### CONCLUSIONS

In their thirty-seven-page Complaint, the Plaintiffs plead a variety of claims against both Cherokee County and the Blacksburg Police Department. All of the claims reflect Plaintiffs'

general theory that Cherokee County and the Blacksburg Police Department failed to hold Dollar General responsible for the price discrepancy of the cat litter.

### **Plaintiffs' claims against Cherokee County**

Plaintiffs do not allege facts specific to Cherokee County other than the fact that Lisa Randolph called 911. In their third cause of action, Plaintiffs claim that Cherokee County denied their rights under the Victim's Bill of Rights. S.C. CONST. art. 1 sect. 24. This claim fails because the Victim's Bill of Rights does not create a private right of action against public entities or public employees. S.C. CONST. art. 1 sect. 24 (B).<sup>2</sup>

Plaintiffs also appear to generally claim that Cherokee County violated their civil rights under the first, fourth, fifth, eighth, ninth, thirteenth, and fourteenth amendments to the United States Constitution, although Plaintiffs do not specify the nature of the constitutional violations. Many of the constitutional amendments identified in the Complaint do not apply here and the Plaintiffs fail to properly plead facts required to assert a claim against a governmental entity under 42 U.S.C. § 1983.

### **Plaintiffs' claims against Blacksburg Police Department**

In their Complaint, Plaintiffs assert a number of claims against the Blacksburg Police Department including: denial and deprivation of victim's rights; abuse of process; libel and slander; official misconduct, abuse of authority and breach of duty; denial of due process; conspiracy to commit larceny; violations of various civil rights; and loss of consortium.

Several of the claims asserted by Plaintiffs do not constitute causes of action recognized under South Carolina law. Beyond this, Plaintiffs fail to plead facts sufficient to state a cause of action against the Blacksburg Police Department.

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<sup>2</sup> "Nothing in this section creates a civil cause of action on behalf of any person against any public employee, public agency, the State, or any agency responsible for the enforcement of rights and provision of services contained in this section."

As discussed above, Plaintiffs' claims relying upon the denial of victim's rights fail because the Victim's Bill of Rights does not create a private right of action against public entities or public employees. S.C. CONST. art. 1 sect. 24 (B).<sup>3</sup>

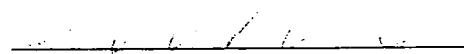
In addition, the South Carolina Tort Claims Act applies to all of Plaintiffs' tort claims against the Blacksburg Police Department and the exceptions to the waiver of sovereign immunity found in South Carolina Code Section 15-78-60 bar Plaintiff's claims here.<sup>4</sup> Furthermore, the Tort Claims Act bars recovery of punitive damages. S.C. Code § 15-78-120.

Finally, to the extent that the Complaint purports to assert constitutional claims, Plaintiffs fail to properly plead facts required to assert a claim against a governmental entity under 42 U.S.C. § 1983.

#### CONCLUSION

The Court hereby grants Defendants Cherokee County and Blacksburg Police Department's Motions to Dismiss pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure. Plaintiff's claims are dismissed without prejudice.

AND IT IS SO ORDERED.

  
\_\_\_\_\_  
J. Mark Hayes  
Judge, Seventh Judicial Circuit

April 29, 2014  
Spartanburg, South Carolina

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<sup>3</sup> "Nothing in this section creates a civil cause of action on behalf of any person against any public employee, public agency, the State, or any agency responsible for the enforcement of rights and provision of services contained in this section."

<sup>4</sup> Applicable exceptions to the waiver of sovereign immunity include: adoption, enforcement or compliance with any law; the exercise of discretion or judgment by the governmental entity or employee; failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee. S.C. Code § 15-78-60 (4), (5).

Lisa Randolph and George Randolph  
203 West Carolina Street  
Blacksburg, South Carolina 29702  
(864)425-2771  
lbrandolph@att.net

May 15, 2014

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Attn: The Honorable V. Claire Allen, Deputy Clerk  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: Dolgencorp v. Lisa Randolph  
Appellate Case No. 2014-000981


Dear Ms. Allen,


Per the deficiencies you so kindly provided as identified in your attached notice (Enclosure 1), please find enclosed the following two (2) documents enclosed as corrective remedy for:

- The notice of appeal was not included in your filings
- A copy of the formal order was not included in your filings

Should further corrective action be needed, please let us know at your convenience and we will act to comply as needed.

Sincerely and Very Truly Yours,

  
Lisa Randolph, Pro Se

  
George Randolph, Pro Se

Enclosure(s):

- 1 - (as)
- 2 - Notice of Appeal (Form 1)
- 3 - Formal Order of the Trial Court

cc:

Stephanie Holmes Burton, Esquire  
Mary Daniel LaFave, Esquire  
Regina Hollins Lewis, Esquire

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MAY 16 2014

**SC Court of Appeals**