

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Dennis M. Gallipeau,

Plaintiff,

vs.

Carnaby Square Horizontal Property Regime;
Stephanie Carol Trotter; D. Ryan McCabe;
McCabe, Trotter, Gambrell & Beverly, P.C.;
Rogers Townsend & Thomas, PC; McCabe,
Trotter & Beverly, P.C.; and John and Jane
Doe(s),

Defendants.

IN THE COURT OF COMMON PLEAS
2015-CP-40-02011

**ORDER DISMISSING
CASE AGAINST ATTORNEYS
AND THEIR LAW FIRMS**

2015 SEP 30 PM 12:22

RIGHT AND CENTER
FILED

CLERK OF COURT
C.C.P. # 08

This is a suit by a homeowner claiming his homeowners' association and its attorneys and their law firms wrongfully placed liens on his unit and wrongfully brought a foreclosure suit against him.

All Defendants moved to dismiss the case based on the Plaintiff's failure to state facts sufficient to constitute a cause of action and based on attorney immunity. The matter was heard before the undersigned on August 11, 2015. The Plaintiff appeared *pro se*. Jonathan G. Roquemore, Esq. appeared for Carnaby Square Horizontal Property Regime. Robert P. Wood, Esq. appeared for Stephanie Carol Trotter, Esq., D. Ryan McCabe, Esq., and Rogers Townsend & Thomas, PC. Attorney Trotter appeared for McCabe, Trotter, Gambrell & Beverly, P.C. and for McCabe, Trotter & Beverly, P.C. The Court will refer to Attorney Trotter, Attorney McCabe, and the law firms collectively as the "Attorneys."

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SCANNED

At the outset of the hearing, the Plaintiff moved to dismiss his causes of action for abuse of process, violation of the South Carolina Unfair Trade Practices Act, and fraud. Without objection, those claims are dismissed with prejudice as to all parties.

As to the remaining claims, the Plaintiff alleges that he owns a condominium at 1920 Ashford Lane in Richland County, South Carolina. He alleges that on December 19, 2007, January 8, 2009, February 10, 2010, and January 6, 2012, the Defendants worked in conjunction with each other to cloud the title to his condominium by filing notices of lien, to deny him his homestead exemption, and otherwise to harm him. He also alleges that on August 10, 2011, Attorneys Trotter and McCabe prepared and shortly thereafter filed a lis pendens on his condominium and then filed a foreclosure suit against him. He alleges that the notices and the lis pendens put a cloud on the title to his condominium land and basically slandered this title. He also claims that when the Defendants served him by publication in the Columbia Star on November 25, December 2, and December 9, 2011, this conduct was so extreme and outrageous as to exceed all bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community. He alleges the service by publication embarrassed him and caused him to suffer severe emotional distress. He conceded at the hearing that he learned about this service by publication in January 2015.

One of the many bases for the Attorneys' motion to dismiss is attorney immunity. Under that concept, an attorney is generally immune from liability to a non-client for actions taken in the representation of a client.

[A]n attorney is immune from liability to third persons arising from the performance of his professional activities as an attorney on behalf of and with the knowledge of his client. Accordingly, an attorney who acts in good faith with the authority of his client is not liable to a third party . . .

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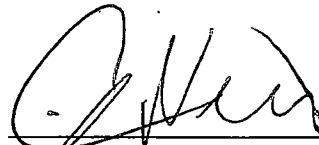
Gaar v. North Myrtle Beach Realty Co., 287 S.C. 525, 528, 339 S.E.2d 887, 889 (Ct. App. 1986).

Furthermore, pleadings (including lis pendenses and, by extension, notices of lien) are absolutely privileged. *Pond Place Partners, Inc. v. Poole*, 351 S.C. 1, 22-25, 567 S.E.2d 881, 892-93 (Ct. App. 2002). Similarly, the publication of a summons in a newspaper pursuant to a court order allowing service by publication is privileged as well.

Because the actions allegedly taken by the Attorneys were absolutely privileged, the Attorneys are hereby dismissed from this lawsuit.

The Court needs not reach the other grounds raised by the Attorneys in support of their motions to dismiss.

AND IT IS SO ORDERED.



Clifton Newman
Circuit Court Judge

Columbia, South Carolina

~~August~~ __, 2015

Sept 21

CASE NUMBER: 2015CP4002011

Dennis M Gallipeau

Carnaby Square Horizontal Property Regime

John Doe

DEFENDANT(S)

PLAINTIFF(S)

OCT 16 2015

Submitted by:

SC Court of Appeals

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): Affirmed; Reversed; Remanded; Other _____

2015 OCT 16 11 51 AM 917

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this 1 October 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Dennis M Gallipeau

Stephanie Carol Trotter
Jonathan Gamble Roquemore

Robert P. Wood

Dennis M Gallipeau

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

Jeanette W. ...