

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT  
CIVIL ACTION NO.: 2015-CP-26-6802

Gary R. Urquhart, )  
 )  
Plaintiff, )

vs. )

Brenda Spadoni Bethune, )  
 )  
Defendant. )

ORDER DISMISSING COMPLAINT

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HORRY COUNTY  
SC Court of Appeals

This matter came before the Court on Defendant's Motion and supporting Memorandum, to Dismiss the Complaint pursuant to Rules 12(b)(6), 12(b)(8), and 12(b)(2) of the South Carolina Rules of Civil Procedure. The motion hearing was held on January 7, 2016 and appearing on behalf of the Plaintiff was William E. Hopkins, Jr. and appearing for the Defendant was Henrietta U. Golding. At the hearing, Plaintiff's counsel submitted his Memorandum in Opposition to the Motion; therefore, this Court permitted Defendant's counsel an additional time to review and respond with a Supplemental Memoranda which was presented.

Having reviewed the Complaint, the respective Memoranda submitted by the Parties, and the Parties oral arguments, it is the opinion of this Court that this Court does not have subject matter jurisdiction and therefore the Complaint is dismissed.

As alleged in the Complaint, Plaintiff and Defendant were married on February 19, 2000, separated August 28, 2013, entered into a property Settlement Agreement on July 30, 2014, and on September 9, 2014 a Final Divorce Order was issued. The Final Divorce Order incorporated the property Settlement Agreement. According to the Complaint, the property subject to this action is marital property.

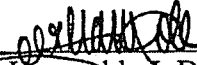
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On September 24, 2015, Plaintiff filed a Motion in Family Court to modify the Divorce Order. In his Motion, Plaintiff alleges that the Defendant forged his name on a Deed to the marital property. Several days later, the Plaintiff commenced this civil action in Circuit Court and the allegations in his Complaint contain the same exact allegations as pending in the Family Court action. The Defendant moved to dismiss the action in Circuit Court and in a Motion to Dismiss, she asserted three, independent grounds, but this Court need not address any other ground other than it lacks subject matter jurisdiction. The relationship between the Parties is dispositive because the "family court has exclusive jurisdiction . . . to hear and determine actions for divorce a vinculo matrimonii, separate support and maintenance, legal separation, and in other marital litigation between the parties, *and for settlement of all legal and equitable rights of the parties in the actions in and to the real and personal property of the marriage...*" S.C. Code Ann. § 63-3-530(A) (emphasis added). The fact that the ex-husband Plaintiff is suing his ex-wife over marital property places this action squarely within the exclusive jurisdiction of the Family Court.

At the hearing, Plaintiff's counsel presented to the Court the case of Brown vs. Butler, 347 S.C. 259, 261 (Ct. App. 2001) as being dispositive of the issue that the Court has jurisdiction. However, Plaintiff's reliance on this case is misplaced because Brown differs in several critical and dispositive respects. First, the parties in Brown were strangers; they were not married to each other, had never been. In other words, the Plaintiff and Defendant in Brown did not get a divorce; therefore, Plaintiff's reliance on the statement in Brown that there was no merit to an argument that the Family Court has sole jurisdiction, is not applicable. In this action, Plaintiff and Defendant were married and did get a divorce and in cases of divorce, the exclusive jurisdiction to a portion of marital property lies with the Family Court. S.C. Code Ann. §63-3-530(A). Since this Court

does not have subject matter jurisdiction of the controversy between the Parties, it is not necessary for this Court to address the other grounds asserted by the Defendant for dismissal.

THEREFORE, IT IS ORDERED ADJUDGED AND DECREED that the above entitled action is dismissed.

  
\_\_\_\_\_  
The Honorable J. Derham Cole  
Presiding Judge

Dated: 5/10/10  
Spartanburg, South Carolina

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**CERTIFICATE OF SERVICE**


I, Carole Koerner, an employee of McNair Law Firm, P.A., certify the following documents were served via United States Mail, with sufficient first class postage, and/or by Electronic Mail, to the Counsel of Record, and/or Pro Se Parties, on this the 22<sup>nd</sup> day of February 22, 2016, as follows:

**Documents:**

1. Order Dismissing Complaint; and
2. Certificate of Service.

**Addressee(s):**

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