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SC Court of Appeals

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The State of South Carolina
COURT OF APPEALS

APPEAL FROM Greenville County

CASE NO: 2015CP-2307324

Benjamin L. Anderson, Appellant

V

Barksdale Medical Center
Dr Rebecca F. Barksdale

INITIAL BRIEF OF THE APPELLANT

OUT OF TOWN
Address

Benjamin L. Anderson
3452 Whieldon Drive
Perris, CA 92571

Appellant Pro Se

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STATEMENT OF Genuine Issues

Genuine issue of material fact exists as to whether or not a reasonable professional person would be upset, in mental anguish after discovering and reviewing his medical records the damaging false statements by Dr. Barksdale.

Genuine issue of material fact exists as to whether or not Dr. Barksdale deliberately did not want to inform the Appellant of the damaging statements imbedded in his medical records because of the fabrications.

Genuine issue of material fact exists as to whether or not these statements, written damages his reputation or business profession, and is libel.

Genuine issue of material fact exists as to whether or not the Appellant can move forward with obtaining his Respiratory Care Practitioners license with a diagnosis of delusional and paranoia pursuant his S.C. application.

STATEMENT OF Genuine Issues Cont.

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Genuine issue of material fact exists as to whether or not Dr Barksdale's actions and concealment is reason for Appellant's emotional distress and personal injury.

Genuine issue of material fact exists where Appellant relied on Dr Barksdale's integrity and trust not to falsify his medical records is fraud and detrimental reliance.

STATEMENT OF THE CASE

The Plaintiff/Appellant, Benjamin L. Anderson, an inactive Registered Respiratory Therapist visited his Primary Care Physician from time to time for health care issues.

Dr. Rebecca F. Barksdale was his primary care physician in Greenville. The Appellant trusted her medical ethics in receiving his care from her. Around June 3, 2014, the Appellant discovered imbedded into his medical records outrageous written statements which caused him perplexing grief, disappointment as well as emotional distress. A letter was written to Dr. Barksdale regarding these false statements.

Dr. Barksdale never replied to my letter. On December 14, 2015, The Appellant filed his complaint to seek justice and vindicate his rights, pro se, under South Carolina's Personal Injury Tort law. The Defendants filed a motion to dismiss Appellant's claims under SCRPC 12(b)(6). Motion to dismiss was granted. The Appellant appeals that motion. Appellant filed his affidavit along with a second affidavit. The defendants did not file any countervailing affidavit.

ARGUMENT

Plaintiff's opposition to motion to dismiss complaint pursuant 5CRCP 12(b)(6) adequately pleads his three causes of action, Plaintiff's claims are justifiable. Appellant's facts as alleged in the complaint must be taken as true. The court must accept all material allegations in favor of the complaining party.

MEMORANDUM OF LAW

"Generally, in considering a 12(b)(6) motion, the trial court must base its ruling solely upon allegations set forth on the face of the complaint." Williams v. Condon, 347 S.C. 227, 233, 553, S.E.2d 496, 500 (Ct. App. 2001) ✓
FOC Lawshe Ltd. P'ship 352 S.C. @ 413, 74, ✓
S.E. 2d @ 230, McCormick v. England, 328 ✓
S.C. 627, 494 S.E. 2d 431 (Ct. App. 1997)

"The question to be considered is whether, in the light most favorable to the plaintiff, the pleadings articulate any valid claim for relief." ("concluding that motion to dismiss cannot be sustained if facts alleged in complaint and inferences reasonably deductible therefrom would entitle plaintiff to relief on any theory of the case.")

Toussaint v. Ham, 229 S.C. 415, 357 S.E. 2d 9 (1987)

1 ARGUMENT CONTINUED

2 Dye v. Gainey, 320 S.C. 65, 463 S.E.2d 97 (S.C. App 1995)

3 "The cause of action should not be struck merely
4 because the Court doubts the Plaintiff will
5 prevail in the action."

6 Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d

7 245, 247 (2007) "In considering a motion to
8 dismiss a complaint based a failure to state
9 facts sufficient to constitute a cause of

10 action, the trial court must base its ruling
11 solely on allegations set forth in the complaint."

12 MEMORANDUM OF LAW Libel

13 Libel is actionable per se if it involves written
14 or printed words which tend to degrade a person,
15 that is to reduce his character or reputation
16 in the estimation of his friends or

17 acquaintances, or the public, OR to disgrace him,
18 OR to render him odious, contemptible, or
19 ridiculous". Lesene v. Willingham, 83 F.Supp

20 918, 921 (E.D.S.C 1949) In the instant

21 case Dr Baeksdale's staff input her
22 notes and statements into their computer
23 system, which allows them to see the
24 written disparaging statements.

CONCLUSION

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The Appellant, Benjamin L. Anderson
request an impartial review of his record.
The Appellant Relief Sought is trial by jury
and or settlement of his claims.
Defendants have no response to this appeal.

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951-420-1298
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SC Court of Appeals

THE SOUTH CAROLINA COURT OF APPEALS
COLUMBIA, SOUTH CAROLINA

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Benjamin L. Anderson)	CASE NO: TRIAL COURT
Appellant)	COURT OF COMMON PLEAS
)	GREENVILLE
VS)	
)	2015CP- 2307324
Barksdale Medical Center)	Certificate of Service
Dr. Rebecca F. Barksdale)	By Mail
Defendant/Respondent)	
_____)	

I, the undersigned am over the age of eighteen years, not a party to this lawsuit on September 13, 2016. I served prepaid postage to opposing counsel in the United States mail at Moreno Valley, CA the following documents: Initial Brief of The Appellant

Copy (s) To: Roe Cassidy Coates & Price PA
PO Box 10529 Greenville, SC 29603


Crispus Anderson