

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG  
Caitlyn Langham,  
  
Plaintiff,  
  
vs.  
  
Officer Russell Porter, City of Spartanburg  
Police Department and Wal-Mart Stores, Inc.,  
  
Defendants.

COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

Civil Action No. 2016-CP-42-1280

**ORDER GRANTING DEFENDANT  
WAL-MART'S PARTIAL  
MOTION TO DISMISS**  
**RECEIVED**

MAY 03 2017

**SC Court of Appeals**

This matter came before the Court on August 25, 2016, upon Defendant Wal-Mart Stores, Inc.'s (hereinafter, "Wal-Mart") Motion to Dismiss pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure as to Plaintiff's causes of action against Wal-Mart for false imprisonment, defamation, and violations of 42 U.S.C. § 1983. Randi Lynn Roberts appeared on behalf of Walmart and Donald L. Smith appeared on behalf of Plaintiff<sup>1</sup>. Having duly considered the written submissions and oral arguments presented by the parties, this Court grants Defendant Wal-Mart's Motion for the reasons set forth in this Order.

**NATURE OF THE CASE**

Plaintiff filed her Complaint instituting the present action on April 8, 2016, alleging a cause of action against Wal-Mart for malicious prosecution. *See* Pl.'s Compl. at ¶¶ 63-67. Additionally, Plaintiff asserts that Wal-Mart is vicariously liable under the doctrine of *respondeat superior* for the alleged acts and omissions of Defendant Porter, against whom Plaintiff alleges causes of action for violations of 42 U.S.C. § 1983, false imprisonment, defamation, and assault and battery. Wal-Mart did not move to dismiss Plaintiff's causes of action against it for assault and battery, through the theory of *respondeat superior*, and malicious prosecution.

<sup>1</sup> Counsel for Defendants Officer Russell Porter and City of Spartanburg, Police Department was also present.

### STANDARD OF REVIEW

“Under Rule 12(b)(6), SCRPC, a defendant may move to dismiss based on a failure to state facts sufficient to constitute a cause of action.” *Doe v. Marion*, 361 S.C. 463, 468, 605 S.E.2d 556, 559 (Ct. App. 2004) (citing *Flateau v. Harrelson*, 355 S.C. 197, 201, 584 S.E.2d 413, 415 (Ct. App. 2003)). “A trial judge in the civil setting may dismiss a claim when the defendant demonstrates the plaintiff has failed to state facts sufficient to constitute a cause of action in the pleadings filed with the court.” *Id.* at 469, 605 S.E.2d at 559 (citing *Williams v. Condon*, 347 S.C. 227, 553 S.E.2d 496 (Ct. App. 2001)). Alternatively, a motion to dismiss under Rule 12(b)(6), SCRPC, cannot be sustained “if the facts alleged and inferences reasonably deducible therefrom would entitle the plaintiff to relief on any theory of the case.” *Overcash v. S.C. Elec. & Gas Co.*, 364 S.C. 569, 572, 614 S.E.2d 619, 620 (2005). Upon thorough review of the facts alleged in Plaintiff’s Complaint and the inferences reasonably deducible therefrom, the Court finds that Wal-Mart meets the requisite standard for the dismissal of several causes of action in this matter.

### LAW/ANALYSIS

Plaintiff’s claims for false imprisonment and defamation are governed by section § 15-3-550 of the South Carolina Code, which required Plaintiff to file those causes of action within two (2) years of the date of the alleged incident. Plaintiff’s Complaint alleges the incident occurred on December 24, 2013. *See* Pl.’s Compl. at ¶ 8. Thus, the applicable two-year statute of limitations expired on December 24, 2015. As Plaintiff did not file her Complaint until April 8, 2016, approximately three and one-half (3.5) months after the controlling deadline passed, her causes of action for false imprisonment and defamation do not state facts sufficient to constitute a cause of action, are untimely, and are hereby dismissed with prejudice pursuant to Rule 12(b)(6), SCRPC.

Additionally, to the extent Plaintiff asserts claims against Wal-Mart under 42 U.S.C. §

1983, those claims also fail as a matter of law. 42 U.S.C. § 1983 provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

The Supreme Court of the United States previously held that local governing bodies, such as a city municipality, are liable under § 1983 for constitutional violations arising from the government's implementation of policy or custom. *Monell v. Dep't of Soc. Serv. of City of N.Y.*, 436 U.S. 658 (1978). However, 42 U.S.C. § 1983 “cannot be easily read to impose liability vicariously on governing bodies solely on the basis of the existence of an employer-employee relationship with a tortfeasor.” *Monell*, 436 U.S. 658, 691 (1978); *see also Bd. of the Cnty. Comm'rs v. Brown*, 520 U.S. 397, 416 (1997). In the instant matter, Wal-Mart is not a municipality or other governing body. Wal-Mart is a private corporate entity and, thus, 42 U.S.C. § 1983 cannot be read to give rise to a cause of action against Wal-Mart, whether through the theory of *respondeat superior* or otherwise.

### CONCLUSION

Based upon the foregoing, Plaintiff's claims for false imprisonment, defamation, and violations of 42 U.S.C. § 1983 fail as a matter of law. Therefore, this Honorable Court hereby dismisses her claims for false imprisonment and defamation as untimely and barred by the applicable statute of limitations, as well as dismisses any claims against Wal-Mart purportedly arising under 42 U.S.C. § 1983, as said statute does not provide for a cause of action against a private entity. Therefore, the present action will proceed as it pertains to Wal-Mart only upon Plaintiff's causes of action for assault and battery, through the theory of *respondeat superior*, and

malicious prosecution<sup>2</sup>.

ACCORDINGLY, it is hereby ORDERED, ADJUDGED and DECREED that Defendant Wal-Mart's Motion is GRANTED as to Plaintiff's causes of action for false imprisonment, defamation, and violations of 42 U.S.C. § 1983.

\_\_\_\_\_, 2016  
Gaffney, South Carolina

\_\_\_\_\_  
The Honorable R. Keith Kelly

<sup>2</sup> Nothing in this Order shall be interpreted as an admission by Wal-Mart or ruling by this Court as to the ultimate viability of Plaintiff's remaining causes of action.



Spartanburg Common Pleas

**Case Caption:** Caitlyn Langham VS Russell Porter , defendant, et al  
**Case Number:** 2016CP4201280  
**Type:** Order/Dismissal

It is so Ordered.

s/ R. Keith Kelly - 2165

Electronically signed on 2016-11-15 13:45:09 page 5 of 5

**RECEIVED**

MAY 03 2017

SC Court of Appeals