

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF RICHLAND) THE FIFTH JUDICIAL CIRCUIT

Richard A. Finan) Civil Action No.: 2016CP4007109
)
)

Plaintiff,)
)

v.)

Vista Wings, LLC dba Wild Wing)
Cafe - Columbia)
)

Defendant.)

ORDER DENYING PLAINTIFF'S
MOTION TO AMEND

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SC Court of Appeals

This matter comes before the Court on Plaintiff's Motion to Amend his Complaint as to various levels of Defendant Vista Wings, LLC dba Wild Wing Café's ("Defendant") parent corporations pursuant to Rule 15, South Carolina Rules of Civil Procedure. Oral arguments were heard on September 6, 2018 in Richland County. For the reasons set forth below, Plaintiff's Motion is denied.

FACTS BEARING UPON THE MOTION

Plaintiff has brought various negligence causes of action against Defendant arising from an alleged assault and battery that occurred on Defendant's premises on June 5, 2015. Plaintiff filed his Complaint on December 1, 2016. The trial of this case has been continued several times and is now on the October 8, 2018 trial roster.

LEGAL STANDARD

"[A] party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires and does not prejudice any other party." Rule 15(a), SCRCF. A motion to amend the pleadings is within the discretion of the Court. See, e.g., *Tanner v. Florence County Treasurer*, 336 S.C. 552, 558-59, 521 S.E.2d 153,

156 (1999). The prejudice that Rule 15 envisions is a lack of notice that the new issue is to be tried and a lack of opportunity to refute it. *Id.*

ANALYSIS

Plaintiff argues that, through discovery, he has identified additional parties that may be liable to Plaintiff. Namely, Plaintiff seeks to add four levels of Defendant's parent corporations. Defendant argues that the proper party has been named and that it would be prejudiced by adding parties approximately one month prior to the trial date. Defendant also argues that the addition of parent corporations unnecessarily complicates what it sees as a simple negligence action. Finally, Defendant argues that the amendment would be futile as the three year statute of limitations has run and merely filing a Motion to Amend with a proposed Amended Complaint does not satisfy the filing requirement envisioned by Rule 3, SCRCF.

The Court agrees with Defendant that Plaintiff's proposed amendment adds unnecessary complication one month prior to the trial date. As a result, Defendant would be prejudiced if the Court were to grant Plaintiff's amendment. It is not necessary for the Court to rule on Defendant's argument regarding whether the statute of limitations is tolled by a Rule 15, SCRCF, Motion to Amend at this time.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Amend is **DENIED**.

Paul M. Burch

_____, 2018



Richland Common Pleas

Case Caption: Richard A Finan vs Vista Wings LLC , defendant, et al
Case Number: 2016CP4007109
Type: Order/Amend

So Ordered

s/Paul M. Burch, Judge #2048