

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT
Case No. 2016-CP-18-1706

Molly Morphew,

Plaintiff,

vs.

Stephen Dudek, Doreen Cross, David
Collins, Allison Williams, First Federal,
Michael Scarafile, Susan Nicholson,
Carolina One Real Estate, Carrie Boyer,
Woody Law Firm,

Defendants.

AMENDED¹ ORDER

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SC Court of Appeals

FILED - RECORD
2017 FEB 13 PM 2:21
CLERK OF COURT
DORCHESTER COUNTY

Presiding Judge:

Date of Hearing:

Plaintiff's Counsel:

Defendant Dudek & Cross's Counsel:

Defendant Williams and First Federal's Counsel:

Defendant Woody Law Firm & Carrie Boyer's Counsel:

Defendant Scarafile, Nicholson, Collins,

& Carolina One's Counsel:

Court Reporter:

Hon. Deadra L. Jefferson

November 7, 2016

Molly Morphew, *Pro Se*

Steve Smith, Esq.

Jordan Crapps, Esq.

Claude PreVoust, Esq.

Steve Smith, Esq.

Karen Andersen

This Matter came before the Court on Defendants Allison Williams ("Williams") and First Federal, properly named South State Bank f/k/a SCBT, successor in interest to First Federal Bank's ("First Federal") (collectively, the "Defendants") Motion to Dismiss, filed September 26, 2016. Present at the hearing was the Plaintiff Molly Morphew, representing herself *pro se*.² Additionally present were Jordan Crapps, Esq., counsel for Defendant Williams and First Federal, Steve Smith, Esq., representing Defendants Dudek and Cross as well as Defendants Scarafile, Collins,

¹ Amended to correct scrivener's error concerning the omission of the Fourteenth Cause of Action plead against Defendant Allison Williams.

² Ms. Morphew was accompanied by a next of friend to assist her throughout the proceeding but who did not speak on the record.

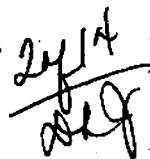
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Nicholson, and Carolina One, and Claude PreVoust, Esq., representing Defendants Woody Law Firm and Carrie Boyer. For the reasons stated herein, Defendants Williams and First Federal's motion is granted in part and denied in part.

FINDINGS OF FACT

This case revolves around Plaintiff's attempt to purchase a property located in Summerville, South Carolina. Co-defendants Dudek and Cross (the "Buyers") entered into a contract for the purchase of the property with the sellers of the property (the "Sellers"). (Complaint, ¶ 26). Subsequently, Plaintiff also entered into a contract with the Sellers for the purchase of the property. (Complaint, ¶ 46). Because of the competing contracts, litigation ensued between the Buyers, Sellers, and Plaintiff. (Complaint, ¶ 48-55). In the previous litigation, Plaintiff filed a complaint on January 31, 2013, alleging that the Buyers had breached their contract with Sellers by failing to submit proof of financing within the prescribed time period (the "January 2013 Complaint").³ (Complaint, ¶ 5, and Plaintiff's Brief in Opposition to Dudek and Cross' Notice of Motion and Motion to Dismiss and Motion and Motion for Sanctions, Attachment 2). The Bank was the contingent financing institution for the Buyers and the loan file was handled by Williams, a loan officer for the Bank. (Complaint, ¶ 30-37). The January 2013 Complaint asked the court to find that the Buyers' contract was thus breached and requested that Plaintiff's contract with Sellers be specifically performed. (Complaint, ¶ 55). The prior litigation resulted in an opinion issued by the Master in Equity granting Buyers' contract priority over the Plaintiff's contract. (Complaint, ¶64).

³ The underlying suit bears Case Nos. 2013-CP-18-00183 and 2013-CP-18-00074. On September 18, 2013, the above cases were consolidated under Case No. 2013-CP-18-00183. Thereafter, on December 30, 2013, by Consent Order, the matter was referred to the Master in Equity. The Master in Equity ruled in favor of Defendants Dudek and Cross, and Plaintiff and the Sellers appealed the decision. (Complaint, ¶¶ 64-65). The South Carolina Court of Appeals affirmed the decision in Opinion Number, 2017-UP-019, dated January 11, 2016.

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This litigation arises out of the same set of facts and circumstances. Plaintiff brings suit against Defendants for monetary damages due to the real estate transaction described above and for alleged perjury and discovery issues occurring during the previous litigation. The Defendants were not a party to the prior suit but were served with a subpoena for documents and Williams testified at the trial of the matter. The Defendants' role in the underlying real estate transaction and the Defendants' role in the prior litigation underlies Plaintiff's entire complaint.

A hearing was held on this Motion to Dismiss on November 7, 2016. Upon consideration of the Motion, Defendants' Memorandum in Support of their Motion to Dismiss, Plaintiff's Memorandum in Opposition to the Motion to Dismiss, and the arguments heard during the hearing, this Court concludes that the Motion should be granted, in part, and denied, in part, as to the Defendants.

STANDARD OF REVIEW

Pursuant to SCRPC Rule 8(a), "[a] pleading which sets forth a cause of action . . . shall contain . . . a short and plain statement of the facts showing that the pleader is entitled to relief. . . ." See South Carolina Nat'l Bank v. Joyner, 289 S.C. 382, 346 S.E.2d 329 (Ct. App. 1986) ("[T]he principal purpose of pleadings is to inform the pleader's adversary of legal and factual positions which he will be required to meet on trial."). Rule 8(a), "requires a litigant to plead the ultimate facts which will be proved at trial." Clark v. Clark, 293 S.C. 415, 416, 361 S.E.2d 328, 328 (1987); see Stroud v. Riddle, 260 S.C. 99, 194 S.E.2d 235 (1973); Watts v. Metro Sec. Agency, 346 S.C. 235, 240, 550 S.E.2d 869, 871 (Ct. App. 2001) ("Ultimate facts fall somewhere between the verbosity of evidentiary facts and the sparsity of 'legal conclusions.'"). Conclusory allegations in a complaint are insufficient to survive a judgment on the pleadings. Jones v. Gilstrap, 288 S.C. 525, 528, 343 S.E.2d 646, 648 (Ct. App. 1986).

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Under Rule 12(b)(6), SCRPC, a defendant may move to dismiss a complaint based upon "failure to state sufficient facts to constitute a cause of action." Jarrell v. Petoseed Co., Inc., 331 S.C. 207, 500 S.E.2d 793, 794 (Ct. App. 1998); O'Laughlin v. Windham, 330 S.C. 379, 498 S.E.2d 689, 691 (Ct. App. 1998). A trial judge 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. Williams v. Condon, 347 S.C. 227, 553 S.E.2d 496 (Ct. App. 2001). Generally, when reviewing a motion to dismiss, the trial court must base its ruling solely on the allegations contained in the complaint. See Holy Loch Distributors, Inc. v. Hitchcock, 332 S.C. 247, 503 S.E.2d 787, 790 (Ct. App. 1998); Jarrell v. Petoseed Co., Inc., 331 S.C. 207, 500 S.E.2d 793, 794 (Ct. App. 1998); O'Laughlin v. Windham, 330 S.C. 379, 498 S.E.2d 689, 691 (Ct. App. 1998).

"The ruling on a Rule 12(b)(6) motion to dismiss must be based solely upon the allegations set forth on the face of the complaint." Stiles v. Onorato, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995). However, when a party has explicitly relied upon documents to form the underlying basis for one or more of its causes of action, the Court can consider those documents in deciding a motion to dismiss without converting that motion into a motion for summary judgment. Brazell v. Windsor, 384 S.C. 512, 516, 682 S.E.2d 824, 826 (2009). A motion to dismiss should be sustained if facts alleged and reasonable inferences derived therefrom would not entitle the plaintiff to any relief on any theory of the case. Stiles at 300, 457 S.E.2d at 603.

PROCEDURAL BACKGROUND

Plaintiff Molly Morpew filed this lawsuit in the Dorchester County Court of Common Pleas on August 24, 2016. Plaintiff's sixty four (64) page Complaint purports to allege a total of eighteen (18) causes of action.

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Plaintiff's causes of action against William and First Federal are as follows: **First Cause of Action** – Fraud, Extrinsic Fraud, Fraud on the Court; **Second Cause of Action** – Perjury; **Fifth Cause of Action** – Violation of the Federal Rules of Civil Procedure Rules 26, 37, and Sanctions, South Carolina Rules of Professional Conduct Rule 8.4(c) and Rules Regulating the South Carolina Bar; **Seventh Cause of Action** – Bad Faith and Unfair Dealings and/or Accompanied by Fraudulent Action; Conspiracy to Defraud; **Tenth Cause of Action**; Breach of Fiduciary Duty/Breach of Assumed Duty; Duty of Care; Duty of Full Disclosure; Duty to Act Fairly; and Duty of Good Faith and Fair Dealing; Tortious Conduct; **Twelfth Cause of Action** – Fraud; **Thirteenth Cause of Action** – Declaratory Judgment that No Contract Exists; **Fourteenth Cause of Action** – Forgery/falsifying documents with intent to defraud another; SC Rules of Professional Conduct Rule 1.2(d)); **Fifteenth Cause of Action** – Violation of Federal Rules and Regulations of Banking Rules and Regulations (FDIC); **Sixteenth Cause of Action** – Obstruction of Justice and South Carolina Rules of Professional Conduct Rule 1.4(a)(4) and 3.4(a)(d); **Seventeenth Cause of Action** – Intentional Infliction of Emotional Distress; and **Eighteenth Cause of Action** – Tortious Interference with Existing Contractual Relations.

CONCLUSIONS OF LAW

A. Defendants' Motion to Dismiss Plaintiff's First Cause of Action – Fraud, Extrinsic Fraud, and Fraud on the Courts is heard and denied.

For the purpose of a 12(b)(6) motion for failure of the pleadings to state facts sufficient to constitute a cause of action, “the [sole] question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief.” Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247-248 (2007). If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then dismissal is improper. Id. “The complaint

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should not be dismissed merely because the court doubts the plaintiff will prevail in the action.”

Id.

Viewing the facts in a light most favorable to the Plaintiff, this Court finds that dismissal of Plaintiff's First Cause of Action – Fraud would be improper. Accordingly, Defendants Williams and First Federal's Motion to Dismiss Plaintiff's First Cause of Action is heard and denied.

B. Defendants' Motion to Dismiss Plaintiff's Second Cause of Action – Perjury and Sixteenth Cause of Action – Obstruction of Justice and Violations of the South Carolina Rules of Professional Conduct, Rule 1.4(a)(4) and Rules 3.4(a)(d) is heard and granted.

Plaintiff's Second Cause of Action is a claim of perjury against all Defendants. South Carolina Code Ann. § 16-9-10 provides, in relevant part,

(A)(1) It is unlawful to give false, misleading, or incomplete testimony under oath in any court of record, judicial, administrative, or regulatory proceeding in this State.

(2) It is unlawful for a person to willfully give false, misleading, or incomplete information on a document, record, report, or form required by the laws of this State.

Perjury is a criminal felony punishable with a fine and up to five years imprisonment. See Collins v. Doe, 343 S.C. 119, 124, 539 S.E.2d 62, 64 (Ct. App. 2000), rev'd on other grounds, 352 S.C. 462, 574 S.E.2d 739 (2002). Accordingly, perjury is a criminal charge – not a civil cause of action.

Obstruction of justice is a common law criminal offense. Specifically, “it is an offense to do any act which prevents, obstructs, impedes, or hinders the administration of justice.” State v. Cogdell, 273 S.C. 563, 567, 257 S.E.2d 748, 750 (1979). It is a criminal charge and not a basis for civil liability.

As an initial matter, Plaintiff's claim fails because there is no independent civil cause of action for perjury. Moreover, this purported perjury claim contains no specific allegations directed at

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Defendants Allison Williams and First Federal Bank. Plaintiff's obstruction of justice claim likewise fails because it is not a civil cause of action. Therefore, Plaintiff's claims for perjury and obstruction of justice are dismissed.

Further, the claims by Plaintiff of Defendants' violation of the South Carolina Rules of Professional Conduct are also without merit. First, it is well established that violation of the Rules of Professional Conduct does not give rise to a cause of action against a lawyer. S.C. Rules of Professional Conduct R. 407, cmt. 7 (2013). The Rules "are not designed to be a basis for civil liability." S.C. Rules of Professional Conduct R. 407, cmt. 7 (2013). Instead, they are designed to provide guidance to lawyers and provide a structure for regulating attorney conduct. See also Spence v. Wingate, 395 SC. 148, 161, 716 S.E.2d 920, 927 (2011) ("A review of the Scope of Rule 407, SCACR clearly indicates that the rules are intended for guidance and disciplinary purposes, not to form the basis for civil litigation"). Therefore, there is no civil cause of action for a violation of the Rules of Professional Conduct and Plaintiff's claims grounded on such violations are dismissed.

C. Defendants' Motion to Dismiss Plaintiff's Fifth Cause of Action – Violation of the Federal Rules of Civil Procedure Rules 26, 37, and Sanctions, South Carolina Rules of Professional Conduct Rule 8.4(c) and Rules Regulating the South Carolina Bar is heard and granted.

In Plaintiff's Fifth Cause of Action, she alleges that Defendants Collins and Scarafie violated the Federal Rules of Civil Procedure (FRCP) Rule 26 (Duty to Disclose) and Rule 37 (Failure to Make Disclosures or to Cooperate in Discovery) as well as violations of South Carolina Rules of Professional Conduct, Rule 8.4(c) (lawyer misconduct by committing a criminal act involving moral turpitude).

Plaintiff's claims for violations of the Federal Rules of Civil Procedure and the South Carolina Rules of Professional Conduct fail for several reasons. First, it is well established that a violation

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of the Rules of Professional Conduct does not give rise to a cause of action against a lawyer. S.C. Rules of Professional Conduct R. 407, cmt. 7 (2013). The Rules "are not designed to be a basis for civil liability." S.C. Rules of Professional Conduct R. 407, cmt. 7 (2013). Instead, they are designed to provide guidance to lawyers and provide a structure for regulating attorney conduct. See also Spence v. Wingate, 395 S.C. 148, 161, 716 S.E.2d 920, 927 (2011) ("A review of the Scope of Rule 407, SCACR clearly indicates that the rules are intended for guidance and disciplinary purposes, not to form the basis for civil litigation."). Therefore, there is no civil cause of action for a violation of the Rules of Professional Conduct and Plaintiff's claims grounded on such violations are dismissed.

Finally, the Plaintiff has failed to state a claim for Violations of the Federal Rules of Civil Procedure which is not a recognized or cognizable claim for relief in South Carolina. In South Carolina Courts, the South Carolina Rules of Civil Procedure govern. "These rules govern the procedure in all South Carolina courts in all suits of a civil nature whether cognizable as cases at law or in equity." SCRCP 1. As such, even if Plaintiff pled a violation of the South Carolina Rules of Civil Procedure her claim would still fail because a violation of the rules is not a recognized or cognizable claim for relief in South Carolina. Accordingly, Defendants' Motion to Dismiss the Plaintiff's Fifth Cause of Action is granted.

D. Defendants' Motion to Dismiss Plaintiff's Seventh Cause of Action – Bad Faith and Unfair Dealings and/or Accompanied by Fraudulent Action; Conspiracy to Defraud is heard and denied.

For the purpose of a 12(b)(6) motion for failure of the pleadings to state facts sufficient to constitute a cause of action, "the [sole] question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief." Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247-248 (2007). If the facts alleged

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and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then dismissal is improper. Id. "The complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action."

Id.

Viewing the facts in the light most favorable to the Plaintiff, this Court finds that dismissal of Plaintiff's Seventh Cause of Action – Bad Faith and Unfair Dealings and/or Accompanied by Fraudulent Action; Conspiracy to Defraud would be improper. Accordingly, Defendants Williams and First Federal's Motion to Dismiss the Seventh Cause of Action of Plaintiff's Complaint is heard and denied.

E. Defendants' Motion to Dismiss Plaintiff's Tenth Cause of Action; Breach of Fiduciary Duty/Breach of Assumed Duty; Duty of Care; Duty of Full Disclosure; Duty to Act Fairly; and Duty of Good Faith and Fair Dealing; Tortious Conduct is heard and granted.

The Restatement Second of Torts recognizes that one "who commits a breach of his duty as a fiduciary is guilty of tortious conduct to the person for whom he should act." Restatement 2nd Torts § 874 cmt. (C) (1979). South Carolina cases have considered breaches of fiduciary duty as the basis for contractual and tort actions. See e.g., Corley v. Ott, 326 S.C. 89, 485 S.E.2d 91 (1997)(dissolution of partnership based on breach of fiduciary duty); Jacobson v. Yaschik, 249 S.C. 577, 155 S.E.2d 601 (1967)(holding an accounting in equity could be had in tort case where the complaint charged fraud involving a fiduciary and trust relationship); Designer Showrooms, Inc. v. Kelley, 304 S.C. 478, 405 S.E.2d 417 (Ct. App. 1991)(finding constructive fraud arising out of breach of fiduciary duty); Anthony v. Padmar, Inc., 320 S.C. 436, 465 S.E.2d 745 (Ct. App. 1995) (breach of fiduciary duty and breach of partnership contract as basis of rescission of sale of partnership assets); Lofis v. Eck, 288 S.C. 154, 341 S.E.2d 641 (Ct. App. 1986)(construing complaint to allege breach of fiduciary duty to affirm setting aside deed).

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"A confidential or fiduciary relationship exists when one imposes a special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of the one imposing the confidence." Island Car Wash, Inc. v. Norris, 292 S.C. 595, 599, 358 S.E.2d 150, 152 (Ct. App. 1987). A relationship must be more than casual to equal a fiduciary relationship. Steele v. Victory Sav. Bank, 295 S.C. 290, 368 S.E.2d 91 (Ct. App. 1988). "Courts of equity have carefully refrained from defining the particular instances of fiduciary relationship in such a manner that other and perhaps new cases might be excluded and have refused to set any bounds to the circumstances out of which a fiduciary relationship may spring." Island Car Wash, Inc., 292 S.C. at 599, 358 S.E.2d at 152; see Burwell v. South Carolina Nat'l Bank, 288 S.C. 34, 41, 340 S.E.2d 786, 790 (1986) ("As a general rule, mere respect for another's judgment or trust in his character is usually not sufficient to establish such a [fiduciary] relationship. The facts and circumstances must indicate that one reposing the trust has foundation for his belief that the one giving advice or presenting arguments is acting not in his own behalf, but in the interests of the other party.").

In the present case, the Plaintiff was not a party to the loan concerning Defendant First Federal, the contingent financing institution for the Buyers Dudek and Cross, and Defendant Williams, the loan officer for the First Federal. As the Plaintiff was not a party to that transaction, there could be no duty owed to her and no fiduciary relationship created between First Federal, its agents or employees and the Plaintiff. As such, the Plaintiff's Tenth Cause of Action fails and Defendants' Motion to Dismiss as to Plaintiff's Tenth Cause of Action is granted.

F. Defendants' Motion to Dismiss Plaintiff's Twelfth Cause of Action – Fraud; Untrue Assertion of Fact (or Equivalent); Assertion Made with Knowledge of Falsity and Intent to Deceive) is heard and granted.

The Twelfth Cause of Action plead by Plaintiff asserts that, through testimony and discovery,

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the Defendants Williams and First Federal deceived both the Plaintiff and the Court by making untrue assertions. As such, the Plaintiff pleads a claim of perjury rather than fraud. Accordingly, Defendants' Motion to Dismiss Plaintiff's Twelfth Cause of Action is heard and granted.

G. Defendants' Motion to Dismiss Plaintiff's Thirteenth Cause of Action – Declaratory Judgment that No Contract Exists is barred by res judicata and therefore granted.

Unless extrinsic fraud exists, res judicata can be asserted to bar a collateral attack on a judgment. Aaron v. Mahl, 381 S.C. 381, 593, 674 S.E.2d 482, 486 (2009); Evans v. Gunter, 294 S.C. 525, 529, 366 S.E.2d 44, 46. Specifically, the doctrine of res judicata prevents the re-litigation of issues previously litigated or which might have been litigated in the first action. See Mungo v. Rental Uniform Serv. of Florence, 383 S.C. 270, 284, 678 S.E.2d 825, 832 (Ct. App. 2009) (citing and quoting Estridge v. Joslyn Clark Controls, Inc., 325 S.C. 532, 540, 482 S.E.2d 577, 581 (Ct. App. 1997)).

The doctrine of claim preclusion bars claims that were asserted in the previous suit as well as those that could have been asserted but were not. The following four tests are used by South Carolina courts to determine whether claim preclusion applies: (1) when the identity of the subject matter is the same; (2) when the cases involves the same primary right by plaintiff and primary wrong committed by defendant; (3) when there is the same evidence in both cases; and (4) when claims arise out of the same transaction or occurrence. James F. Flanagan, South Carolina Civil Procedure 671 (3d ed. 2010) (citing cases).

Here, all of the issues raised in Plaintiff's Complaint arose during the course of the underlying suit and were either asserted, or could have been asserted during the previous lawsuit. Accordingly, her claims are barred by the doctrines of res judicata and issue preclusion. Moreover, to the extent that any of the alleged actions by Defendants were newly-discovered evidence uncovered during the course of underlying suit, any claims related to this information should have

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been brought before the trial or appellate court pursuant to Rules 59 and 60(b) of the South Carolina Rules of Civil Procedure. See also Gray v. Bryant, 298 S.C. 285, 286-87, 379 S.E.2d 894, 895 (1989) (noting that Rule 59 and 60(b) should be read together with regard to motions for new trial due to newly-discovered evidence.). Accordingly, because Plaintiff's claims are barred by res judicata and issue preclusion, she has failed to state a claim upon which relief can be granted and Defendants' Motion to Dismiss Plaintiff's Thirteenth Cause of Action is granted.

H. Defendants' Motion to Dismiss Plaintiff's Fourteenth Cause of Action – Forgery/falsifying documents with intent to defraud another; SC Rules of Professional Conduct Rule 1.2(d) is heard and granted.

These two causes of action, for “Forgery/falsifying documents with intent to defraud another; SC Rules of Professional Conduct Rule 1.2(d),” is brought under the South Carolina Rules of Professional Conduct. “A review of the Scope of Rule 407, SCACR [i.e., the Rules of Professional Conduct] clearly indicates that the rules are intended for guidance and disciplinary purposes, not to form the basis for civil litigation.” Spence v. Wingate, 395 S.C. 148, 716 S.E.2d 920 (2011). Plaintiff has unequivocally asserted causes of action under the Rules of Professional Conduct. As such, Defendants' Motion to Dismiss Plaintiff's Fourteenth Cause of Action is granted.

I. Defendants' Motion to Dismiss Plaintiff's Fifteenth Cause of Action – Violation of Federal Rules and Regulations of Banking Rules and Regulations (FDIC) is heard and granted.

Plaintiff's Fifteenth Cause of Action alleges "violations of federal rules and regulations (FDIC)/violation of banking rules and regulations" without stating any specific rules or cites for the Court to use to determine which violations were alleged. Accordingly, Plaintiff's pleadings with regards to her Fifteenth Cause of Action fail to meet the heightened pleading standards imposed by Rule 9(b) of the South Carolina Rules of Civil Procedure and as such are dismissed.

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However, even if the Plaintiff stated with particularity the provisions with which she was relying in the FDIC, her claim would still fail. The FDIC does not allow for a private right of action (stating that "[t]his section may not be construed as creating any private right of action"). 12 U.S.C.A. § 1831g. Accordingly, Defendants' Motion to Dismiss Plaintiff's Fifteenth Cause of Action is heard and granted.

J. Defendants' Motion to Dismiss Plaintiff's Seventeenth Cause of Action – Intentional Infliction of Emotional Distress is heard and denied.

For the purpose of a 12(b)(6) motion for failure of the pleadings to state facts sufficient to constitute a cause of action, "the [sole] question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief." Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247-248 (2007). If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then dismissal is improper. Id. "The complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action." Id.

Viewing the facts in the light most favorable to the Plaintiff, this Court finds that dismissal of Plaintiff's Seventeenth Cause of Action – Intentional Infliction of Emotional Distress would be improper. Accordingly, Defendants Motion to Dismiss the Seventeenth Cause of Action of Plaintiff's Complaint is heard and denied.

K. Defendants' Motion to Dismiss Plaintiff's Eighteenth Cause of Action – Tortious Interference with Existing Contractual Relations is heard and denied.

For the purpose of a 12(b)(6) motion for failure of the pleadings to state facts sufficient to constitute a cause of action, "the [sole] question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for

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relief.” Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247-248 (2007). If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then dismissal is improper. Id. “The complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action.” Id.

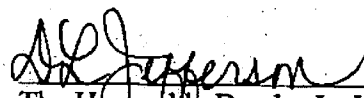
Viewing the facts in the light most favorable to the Plaintiff, this Court finds that dismissal of Plaintiff's Eighteenth Cause of Action – Tortious Interference with Existing Contractual Relations would be improper. Accordingly, Defendants' Motion to Dismiss the Eighteenth Cause of Action of Plaintiff's Complaint is heard and denied.

CONCLUSION

NOW, THEREFORE, IT IS ORDERED that, for the foregoing reasons, Defendants Williams and First Federal's Motion to Dismiss Plaintiff's Complaint is granted in part, and denied in part.

IT IS SO ORDERED.

February 9, 2017
Charleston, South Carolina
At Chambers



The Honorable Deadra L. Jefferson
Presiding Judge
First Judicial Circuit

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FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF DORCHESTER
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2016CP1801706

Molly M. Morphew	2017 FEB 13 PM 2:21 CLEARED DORCHESTER COUNTY	Stephen Dudek David Collins First Federal Susan Nicholson Carrie Boyer	Doreen Cross Allison Williams Michael Scarafie Carolina One Real Estate
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> 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. See Page 2 for additional information.
- 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(g) 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: _____

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 SC Court of Appeals

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 JUDGMENT 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 (List amount(s) below)

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.**
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Deadra L. Jefferson, Circuit Court Judge

2128
 Judge Code

2/13/2017
 Date

For Clerk of Court Office Use Only

This judgment was entered on 2/13/2017, and a copy mailed first class or placed in the appropriate attorney's box on 2/13/2017, to attorneys of record or to parties (when appearing pro se) as follows:

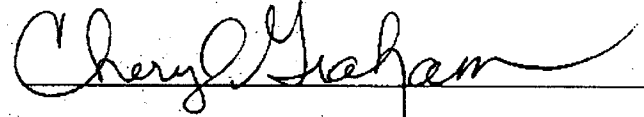
Molly M Morpew 788 E. Butternut Road Summerville, SC
29483

Michael Christopher Scarafilo/Steven L. Smith/ Samuel M
Wheeler/Zachary J Closser PO Box 40578 Charleston, SC
29423-0578
Amy L.B. Hill/Jordan Michael Crapps PO Box 7368
Columbia, SC 29202
Amy Lynn Neuschafer/William Alfred Bryan Jr. 11945
Grandhaven Drive Suite D Murrells Inlet, SC 29576

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter: Karen Andersen



Cheryl Graham - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
