

STATE OF SOUTH CAROLINA
COUNTY OF HORRY,

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO: 2017-CP-26-08184

Jane Doe,
Plaintiff,

**ORDER GRANTING
SUMMARY JUDGMENT**

vs.

Crazy Horse Saloon and Restaurant, Inc.
d/b/a Thee New Dollhouse and Dog Leg
Right, LLC

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Defendants.

SC Court of Appeals

This matter came before the court on April 3, 2019. The Plaintiff was represented by William J. Luse, Esquire and the Defendants were represented by William H. Monckton, VI, Esquire. The Defendants are moving for Summary Judgment on all of Plaintiff's causes of action

FACTS

The plaintiff was a cocktail waitress at Thee Dollhouse located in Atlantic Beach, South Carolina. She was not an entertainer or a dancer. The Plaintiff's complaint alleges that she was secretly filmed and video recorded while changing in the "cocktail waitress" dressing room and that these images were shared on the internet. The pertinent part of the Plaintiff's complaint alleges that:

- 13. When the Plaintiff worked at the Dollhouse she would enter the establishment in her personal clothing and then change into the mandatory "cocktail waitress" outfit and/or uniform inside of a dressing room specifically for the cocktail wait staff at the direction of the Defendants.**

14. The exotic dancers and/or strippers had a separate and distinct dressing room from the Plaintiff and the other cocktail wait staff.

16. At all times during the Plaintiff's employment with the Defendants she was told that the dressing room for the "cocktail waitresses" was private.

17. At all times during the Plaintiff's employment with the Defendants she believed and was told by the Defendants that when she changed into her cocktail outfit that it would be in the privacy of the "cocktail waitress" dressing room and that under no circumstances would the Plaintiff or other "cocktail waitresses" be filmed, be on a camera, or be recorded while changing into or out of their "cocktail waitress" outfit(s).

(Exhibit A) At the time of the plaintiff's employment there was a live stream feed on the mainstage dance floor that would only show the dancers and digitally filtered out anyone around the stage. There was also a live feed in one of the entertainer/dancers dressing room area. At no time was there any recording device in or outside of the "cocktail waitress" dressing room. The plaintiff has alleged in her complaint that she was filmed in the cocktail waitress private dressing room. In her deposition the Plaintiff alleges she may have also been filmed in the entertainer/dancer dressing room. Her complaint alleges three causes of action to address this issue: Negligence, Invasion of Privacy and Intentional Infliction of Emotional Distress.

The Plaintiff's case is that she was filmed or video recorded changing into her cocktail waitress outfit in the cocktail waitress dressing room as evidenced by her complaint. The Plaintiff deposed Martin James McNamee who is the one that installed the live stream cameras in the club.

Q. Okay to your knowledge, were any recording devices or live feeds ever installed in the what I'm going to call the cocktail waitress dressing room?

A. No. There was never to my knowledge, there was never any cameras or recording devices in that area

Q. Okay. Anything in hallway or whatever is between the two?

A. No. Never in that hall way. P.39 Line 6-16 (Exhibit B)

Mr. McNamee also describes the other cameras in the club in detail in that the Plaintiff could not have appeared on them if she was changing in the "cocktail waitress" dressing room.

Q. And that camera on the main stage, would there be any way a cocktail waitress could appear on that camera, walking around, serving drinks?

A. She could not.

Q. Can you explain, why not?

A. Because we've only got the stage area. Anything else was – had a digital, like mask, covering it.

Q. So—so if I'm sitting at the stage, watching a dancer, would the digital camera be able to pick me up?

A. It would not.

Q. All right. And in order to be on the stage—in order to be on that camera, you would have to be on stage; is that correct?

A. On the stage or leaning over—you know, past—you know—leaning over, extending yourself onto the stage. You know—you know, you're standing to the side, but if you extend yourself over.

Q. But that would be the only way you could see me?

A. Correct

Q. Okay. Now, in the dressing room—and let's go to the cocktail waitress dressing room. The dressing room off to the left, once you go up the stairs, was there any camera ever positioned in that dressing room?

A. There was not.

Q. Did that dressing room have mirrors where a girl could put on her makeup, and get dressed?

A. It did.

Q. Now, was there ever a camera directed at that door, from the outside, from the hallways?

A. No, there was not.

Q. The two cameras you described for Mr. Luse, if those cameras rotated at 360 Degree Angle, could they have, in any way, picked up the doorway to the cocktail waitress dressing room?

A. It could not.

Q. Is that—how—can you explain why they couldn't have done that?

A. Because there's – you'd have to turn two hallways—two or three hallways to depending on which camera you're talking about you know, there was—we had a couple of 90 degree turns, in the hallways. P. 57 Line 17 through P. 59 Line 20 (Exhibit C)

The Plaintiff was asked about the cameras at Thee Dollhouse in her deposition and whether or not she had any evidence that she appeared on them

Q. Has anybody ever told you that they saw you on any camera from the Dollhouse?

A. No

Q. Do you know or have any information that you did appear on any camera from the Dollhouse?

A. No. P. 21 Line 15-21 (Exhibit D)

The Plaintiff was later asked in her deposition if she had any evidence regarding her appearing on a video.

Q. Okay, I understand, Now, do you have any evidence or any witness that can provide testimony that you actually appeared on one of these cameras?

A. No. May I elaborate?

Q. Sure

A. No, I do not have evidence of that. P. 24 Line21 through P. 25 Line2 (Exhibit E)

STANDARD

Rule 56(c), SCRPC, “provides the Circuit Court shall grant summary judgment if there is no genuine issue as to any material fact and . . . the moving party is entitled to judgment as a matter of law.” Stoneledge at Lake Keowee Owners’ Ass’n v. Builders FirstSource-Southeast Grp., 413 S.C. 630, 634, 776 S.E.2d 434, 436 (Ct. App. 2015). While the evidence and inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party, “it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.” *Id.* at 635, 776 S.E.2d at 436. Rule 56 (c) of the South Carolina Rules of Civil Procedure requires that summary judgment be granted “if the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show that there is no genuine issue as any material fact and that the moving party is entitled to judgment as a matter of law.” S.C.R. Civ. P. 56(c). “In determining whether a

genuine question of fact exists, the court must view the evidence and all inferences which can reasonably be drawn from the evidence in the light most favorable to the nonmoving party.” Faile v. S.C. Department of Juvenile Justice, 350 S.C. 315, 323-324 (2202). Once the moving party has made and supported its motion, the responding party “must set forth specific facts showing that there is a genuine issue for trial.” S.C.R. Civ. P. 56(e).

After reviewing all of the memorandums, complaint and depositions submitted at the hearing I make the following findings of fact:

1. There were cameras that live streamed a feed in Thee Dollhouse entertainer dressing room.
2. That the Plaintiff is only assuming that she appeared on the live stream.
3. That the Plaintiff has no evidence that she actually appeared on any videos or live stream.

THEREFORE, Summary Judgment is Granted in favor of the Defendants.

IT IS SO ORDERED!

Date: _____

The Honorable Benjamin H. Culbertson
Resident Judge Fifteenth Judicial Circuit



Horry Common Pleas

Case Caption: Jane Doe VS Crazy Horse Saloon And Restaurant Inc , defendant, et al
Case Number: 2017CP2608184
Type: Order/Summary Judgment

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

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