

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

John S. Stritzinger,

Plaintiff,

v.

Katherine Wright, Vernon Wright, Wright
Family Foundation, Hannah Stritzinger,
James Stritzinger, Lucy Stritzinger,
Christopher Grant, and Lora Livingston,

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No. 2018CP4006292

ORDER OF DISMISSAL

The Complaint in this action, which was filed by the *pro se* plaintiff on December 3, 2018, seeks a review of financial determinations made by a court in the State of Texas in 2012, apparently with respect to child support and the physical and mental well-being of Plaintiff's children. Each of the children is named as a defendant in this action, as is "Lora Livingston the Chief Judge of Travis County Texas." Plaintiff claims there are two causes of action – child abuse and breach of settlement agreement.

VOLUNTARY DISMISSAL

A mandatory, *ex parte*¹ status conference was held in this matter on July 26, 2019, in order to allow Plaintiff the opportunity to clarify the issues raised in the Complaint. Despite having received written notice of the same, Plaintiff failed to appear. However, Plaintiff's court-appointed guardian and conservator – his brother James R. Stritzinger, Jr. ("Guardian") – appeared on Plaintiff's behalf.² During the status conference, the Court inquired about

¹ None of the defendants was notified by the Court (but none has entered an appearance either).

² See Letter of Appt., Order Appt. Guardian, Fiduciary Letter, and Order Appt. Conservator, *In the Matter of John S. Stritzinger*, 2018-ES-40-00052 (copies of which are attached hereto).



Guardian's knowledge of this action and his intentions to pursue this case. After a brief discussion with the Court, Guardian expressed his desire to voluntarily dismiss this action on behalf of Plaintiff.³

Based on Guardian's representations, the Court finds that dismissal of this action is appropriate pursuant to Rule 41(a)(1), SCRCP.

SUBSTANTIVE AND PROCEDURAL GROUNDS FOR DISMISSAL

In addition, there are several substantive and procedural defects which warrant dismissal of this action.

As a threshold matter, this Court lacks jurisdiction to review determinations made by any court in the State of Texas. *See* S.C. CONST. art. V, § 11; *see also* S.C. CODE ANN. §§14-5-310 to -450 (1976, as amended). Therefore, this action must be dismissed pursuant to Rules 12(b)(1) and 12(b)(3), SCRCP.

Next, it appears from the Complaint that all acts or omissions giving rise to Plaintiff's allegations occurred within the State of Texas and that all defendants are residents of the State of Texas. Further, it appears that Plaintiff has failed to comply with Rules 4 and 5 of the South Carolina Rules of Civil Procedure. Although he has filed several documents entitled "Certificate of Service," which purport to be proof of service of process on Defendants, he has not filed any document which complies with the requirements of Rules 4(g), 4(h), 5(d) and 5(e), SCRCP. Additionally, the service described by Plaintiff does not appear to comply with Rules 4(d), 4(e) and 4(f), SCRCP. Therefore, this action must be dismissed pursuant to Rules 12(b)(2) and 12(b)(5), SCRCP.

³ Guardian similarly filed a written "Rule 41 Voluntary Dismissal with Prejudice" in civil action number 2018-CP-40-06294, *John S. Stritzinger v. Bank of America Corporation, et al.*



In addition, the Summons filed by Plaintiff on December 3, 2018, lists only a single defendant's name – Katherine Wright. Therefore, this action must be dismissed as to all other defendants pursuant to Rule 12(b)(4), SCRCF.


Next, "child abuse" is not a recognized cause of action in the South Carolina Court of Common Pleas. Further, the single-page Complaint is vague and fails to comply with Rule 8(a), SCRCF. Therefore, this action must be dismissed pursuant to Rule 12(b)(6), SCRCF.

Finally, despite Plaintiff having filed a Motion and Affidavit to Proceed *In Forma Pauperis* on December 3, 2018, said motion was never granted; and Plaintiff has not paid the required filing fee to this Court. Therefore, the Court finds that this action was not properly commenced and must be dismissed pursuant to Rule 41(a)(2), SCRCF.

IT IS, THEREFORE, ORDERED that this action be dismissed pursuant to Rule 12(b)(1), 12(b)(2), 12(b)(3), 12(b)(4), 12(b)(5), 12(b)(6), 41(a)(1) and 41(a)(2) of the South Carolina Rules of Civil Procedure.

IT IS FURTHER ORDERED that guardian and conservator James R. Stritzinger, Jr. may, at his option, determine that Plaintiff John S. Stritzinger, should be barred from filing new civil actions without his written consent by notifying the Richland County Clerk of Court of such prohibition in writing via a signed, notarized affidavit.

AND IT IS SO ORDERED.



Jocelyn Newman
Chief Judge for Administrative Purposes

July 29, 2019
Columbia, South Carolina.