

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

John E. Harbin,)
)
Plaintiff,)

Civil Action No. 2017-CP-04-02099

vs.)

ORDER

April Blair, Tracy Dunn, HUB)
Enterprises, Inc., Shawn Conway,)
Gallivan White & Boyd, Sam)
Nikopoulos and John Doe,)
)
Defendants.)

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SC Court of Appeals

Gallivan White & Boyd's and Sam Nikopoulos' (collectively "GWB") Motion to Dismiss came before the Court for hearing on February 8, 2018. Donald L. Smith appeared on behalf of Plaintiff. Samuel W. Outten appeared on behalf of GWB. Having heard the arguments and reviewed the submissions of the parties, GWB's Motion to Dismiss Plaintiff's Amended Complaint is hereby granted for the following reasons.

FACTUAL ALLEGATIONS OF THE COMPLAINT

The allegations of Plaintiff's Amended Complaint arise from an underlying dispute that Plaintiff had with April Blair and Tracy Dunn. Plaintiff was shot by Dunn in the leg while he was at Blair's house. GWB represented Blair, who had homeowners coverage through State Farm Insurance Company ("State Farm"), in a suit brought by Plaintiff. Sam Nikopoulos served as an operations assistant and provided courier services at Gallivan White & Boyd at the time of this dispute. At trial, the jury returned a defense verdict for Blair. Plaintiff's Amended Complaint relates to this underlying lawsuit, and states one cause of action for tortious interference with contract.

RULING

GWB was at all times acting as counsel for Blair. Based upon the legal principle announced in *Gaar v. North Myrtle Beach Realty Co., Inc.*, 287 S.C. 525, 399 S.E.2d 887 (Ct. App. 1986), and then affirmed in the cases of *Stiles v. Onorato*, 318 S.C. 297, 457 S.E.2d 601 (1995) and *Argoe v. Three Rivers Behavioral Ctr. & Psychiatric Solutions*, 388 S.C. 394, 697 S.E.2d 551 (2010), a lawyer has no liability to a non-client third party for actions taken in the representation of a client. A review of the allegations of Plaintiff's Amended Complaint confirms that GWB is named as a defendant in this action solely by virtue of their representation of Blair in the underlying lawsuit.

The allegations in Plaintiff's Amended Complaint also fail because a law firm is not responsible pursuant to *respondeat superior* for actions taken by an investigative firm that it hires. The Amended Complaint's only specific allegation against GWB is that Defendant HUB Enterprises, Inc. was retained by the law firm to provide surveillance of Plaintiff and, therefore, it is responsible for the conduct of the investigator pursuant to *respondeat superior*. This allegation is conclusory and Plaintiff did not allege facts sufficient to support this claim. As a general rule, an employer is not vicariously liable for the torts of an independent contractor committed in the performance of contracted work. See *Rock Hill Tel. Co., Inc. v. Globe Commc'ns, Inc.*, 363 S.C. 385, 390, 611 S.E.2d 235, 238 (2005); *Duane v. Presley Constr. Co., Inc.*, 270 S.C. 682, 683, 244 S.E.2d 509, 510 (1978). GWB cannot be held vicariously liable for HUB Enterprises, Inc.'s alleged tortious interference with contract.

Therefore, GWB's Motion to Dismiss is hereby granted, and Plaintiff's Amended Complaint against them is dismissed with prejudice.

IT IS SO ORDERED.

J. Cordell Maddox, Jr.
Presiding Judge, Tenth Judicial Circuit

Anderson, South Carolina

 , 2019



Anderson Common Pleas

Case Caption: John Harbin , plaintiff, et al VS April Blair , defendant, et al
Case Number: 2017CP0402099
Type: Order/Other

So Ordered

s/ J. Cordell Maddox Jr.

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