

RE: *Jefferson Davis Jr vs. Nate Leupp, et al.*

C.A. NO. 2019-CP-23-06579

Notice of Appeal Exhibits

EXHIBIT A

Order of Dismissal
(Filed June 29, 2020)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
Case No.: 2019-cp-23-06576

Jefferson Davis, Jr.,)
)
Plaintiff,)

ORDER OF DISMISSAL

vs.)

Nate Leupp, Automatic, Inc., Facebook,)
Inc., John Does 1-40)
)
Defendants.)

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SC Court of Appeals

This matter came before the Court on a Motion to Dismiss and Motion for Protection from Discovery filed by Defendant Nate Leupp. Also before the Court are Motions to Quash filed by a John Doe and a second Motion to Quash filed by an Anonymous Party. A hearing on these motions was held on June 16, 2020 before the Honorable Alex Kinlaw, Jr. Plaintiff Jefferson Davis appeared *pro se*. Nate Leupp was represented by Attorney Geoffrey Chambers. The John Doe party and Anonymous party were represented by attorney Robert Childs, III and attorney Mills Ariail, Jr. respectively.

Background:

Plaintiff Jefferson Davis brought a nearly identical action in Richland County under case number 2018-cp-40-2425. In the Richland County action Plaintiff filed suit against Ellen Weaver and 40 John Does for defamation, defamation by innuendo, invasion of privacy, negligence, intentional infliction of emotional distress, tortious interference with contractual relations, unfair trade practices, piercing the corporate veil and civil conspiracy.

On October 30, 2018 Judge DeAndrea Benjamin ordered Plaintiff to amend his Richland County Complaint to include the identity of John Doe Defendants. Plaintiff identified Nate Leupp and approximately 32 others as additional defendants.

The Richland County Civil Action allegations included defaming Plaintiff by stating he lost his law license and in other ways, creating a defamatory website and actively participating in furthering a large scale civil conspiracy against Plaintiff stemming from Plaintiff's involvement with school choice and a scholarship program.

Defendant Leupp and numerous other defendants were dismissed from the Richland County Civil Action by Order of Judge Doyet Early on February 19, 2019. The dismissal in Judge Early's Order was granted for failure to serve defendants within 15 days of Judge Benjamin's October 30, 2019 Order. Plaintiff contends that the Order did not require service within 15 days and has kept the Richland County action against Defendant Leupp ongoing through appeal.

The present action was filed in Greenville County on November 12, 2019 naming Nate Leupp, Automatic, Inc. Facebook, Inc. and 40 John Does as defendants. This action plows the same ground of alleging a large conspiracy against the Plaintiff related to his actions and beliefs in school choice and special needs scholarships. It also alleges Defendant Leupp created the defamatory website and charges Defendants with falsely stating that Plaintiff has lost his license to practice law. The causes of action in this case are identical to the nine causes of action in Richland County Case number 2018-cp-40-2425.

Rule 12(b)8 SCRPC:

Avoidance of "duplicative litigation" as the underlying principle of Rule 12(b)(8) *State ex rel. Wilson v. Condon*, 410 S.C. 331, 333, 764 S.E.2d 247, 248 (2014) "In South Carolina, dismissal under Rule 12(b)(8) may be proper when there is (1) another action pending, (2) between the same parties, (3) for the same claim." *Capital City Ins. Co. v. BP Staff, Inc.*, 382 S.C. 92, 105, 674 S.E.2d 524, 531.

Mr. Davis has already named Defendant Leupp in a Richland County Lawsuit that plows the same ground. In Richland County Civil Action Number 2018-CP-40-02425 and in the present civil action pending in Greenville County, Plaintiff Davis alleges Mr. Leupp created a website to defame him, alleges defendant Leupp has created similar defamatory websites, alleges defendants defamed him by stating he lost his law license and in other ways, alleges Plaintiff was

defamed by innuendo, alleges invasion of privacy, alleges negligence in not checking truthfulness of statements, alleges infliction of emotional distress, alleges tortious interference with contractual relations, alleges unfair trade practices, veil piercing and alleges Defendant Leupp was a part of a larger statewide conspiracy against Plaintiff Davis related to Plaintiff Davis' school choice political positions.

In this Greenville County civil action Plaintiff Davis adds additional details and allegations specific to Mr. Leupp that fall under the same facts, circumstances, causes of action and continuance of the civil conspiracy already alleged in the Richland County Civil Action.

Richland County Civil Action 2018-cp-2425 and Greenville County Civil Action 2019-cp-23-6576 stem from the same set of facts and circumstances and involve the same claims against Defendant Leupp.

It Is Therefore Ordered:

This Court finds the Richland County Civil Action and this present Civil Action to be duplicative litigation of the same dispute. Dismissal with prejudice pursuant to Rule 12(b)(8) SCRPC is proper. This dismissal with prejudice does not prevent Plaintiff Davis from pursuing his claims in Richland County Case number 2018-cp-40-2425 should Plaintiff prevail in his Appeal of dismissal in the Richland County case. There are Motions pending before this Court to quash or protect from Plaintiff Davis' discovery requests. The underlying discovery requests are no longer viable and discovery related Motions are rendered moot by the dismissal of this Civil Action.

IT IS SO ORDERED

Alex Kinlaw, Jr.
Circuit Court Judge

This _____ day of June 2020.

Greenville, South Carolina,



Greenville Common Pleas

Case Caption: Jefferson Davis Jr vs. Nate Leupp , defendant, et al
Case Number: 2019CP2306576
Type: Order/Dismissal

So Ordered

s/Alex Kinlaw, Jr., #2763