

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

JBCM HOLDINGS, d/b/a GOODFELLAS
CABARET, CHEETAH CHARLESTON
GENTLEMEN'S CLUB & GENERATION X
CABARET

Plaintiff,

v.

CAROLINA COIN AMUSEMENT, LLC
AND RONALD J. DAVIS,

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2021-CP-10-03905

ORDER GRANTING DEFENDANTS'
12(b)(6) MOTION TO DISMISS

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APR 26 2022

SC Court of Appeals

This Honorable Court held a hearing on March 21, 2022, on Defendants Carolina Coin Amusement, LLC and Ronald J. Davis' (Defendants) 12(b)(6) Motion to Dismiss Plaintiffs, JBCM Holdings, d/b/a Goodfellas Cabaret, Cheetah Charleston Gentlemen's Club & Generation X Cabaret's (Plaintiffs) Summons and Complaint. Present on behalf of the Defendants was Attorney Edward L. Phipps and on behalf of the Plaintiffs was Attorney Jarrel L. Wigger.

Plaintiffs filed this action against Defendants on August 24, 2021, alleging Breach of Contract, Fraud in the Inducement, and Conversion stemming from an alleged agreement from 2015. On January 11, 2022, Defendants filed this Motion to Dismiss for Plaintiffs' failure to meet the requirements of S.C. Code § 32-3-10 (Statute of Frauds) and S.C. Code § 15-3-530 (Statute of Limitations).

Defendants argued at the hearing on March 21, 2022, that Plaintiffs' contractual arguments fail as a matter of law as S.C. Code § 32-3-10 (Statute of Frauds), which bars recovery for any agreement not in writing that cannot be performed within one year from the making thereof. The Plaintiffs argued extrinsic terms of the alleged agreement. However, these terms were not pled in their complaint, nor was a written contract reflecting the agreement produced/filed that would allow this Court to let Plaintiffs to survive a Motion to Dismiss under S.C. Code § 32-3-10 (Statute of Frauds).

Moreover, Defendants argued that the Plaintiffs are barred by the three (3) year Statute of Limitations, S.C. Code § 15-3-530. The Plaintiffs Complaint alleges an agreement was formed in 2015 between them and is the only date referenced twice in the Complaint. The Law requires a complaint to be filed within three (3) years of the date the material breach was learned, which was argued at the hearing by Plaintiffs' counsel but absent from the Complaint. The clear language of the Complaint would have required the Plaintiffs to file this action by 2018. The Plaintiffs conceded that their Complaint failed comply with the requirements of S.C. Code § 15-3-530 (Statue of Limitations). As such the Plaintiffs requested the Court grant them leave to amend their Complaint under S.C. Rule of Civil Procedure 15(C). However, the Court denies this request as the law is clear and must only consider the Complaint. "When considering a Motion to Dismiss, the Court must only consider the Complaint, with no extraneous documents or information coming before the court." (See Plaintiff's Memorandum in Opposition to Defendant Ronald J. Davis's Motion to Dismiss, ¶ 6).

WHEREFORE, the Court, having considered arguments from both parties on the Motion of the Defendants to dismiss the claims of this action pursuant to SCRPC 12(b)(6), finds:

1. Plaintiffs' claims fail to meet the requirements of S.C. Code § 32-3-10;
2. Plaintiffs' claims fail to meet the requirements of S.C. Code § 15-3-530.

And the Defendants' Motion to Dismiss is **GRANTED**.

AND IT SO ORDERED!

Honorable Judge Clifton Newman

_____, 2022
Charleston, South Carolina



Charleston Common Pleas

Case Caption: Jbcm Holdings , plaintiff, et al VS Carolina Coin Amusement Llc ,
defendant, et al
Case Number: 2021CP1003905
Type: Order/Dismissal

So Ordered

s/ Clifton B. Newman, 2127