

STATE OF SOUTH CAROLINA  
COUNTY OF HAMPTON

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT

RENEE S. BEACH, PHILLIP BEACH,  
ROBIN BEACH, SAVANNAH TUTEN,  
and SETH TUTEN,

Plaintiffs,

v.

GREGORY M. PARKER, GREGORY  
M. PARKER, INC. d/b/a PARKER'S  
CORPORATION, BLAKE GRECO,  
JASON D'CRUZ, VICKY WARD,  
MAX FRATODDI, HENRY ROSADO,  
And PRIVATE INVESTIGATION  
SERVICES GROUP, LLC,

Defendants.

C/A No. 2021-CP-02-00889

**MOTION TO DISMISS BY DEFENDANTS  
GREGORY M. PARKER AND GREGORY M.  
PARKER, INC. d/b/a PARKER'S  
CORPORATION**

Pursuant to Rule 12(b)(6), SCRPC, Defendants Gregory M. Parker and Gregory M. Parker, Inc. d/b/a Parker's Corporation (hereinafter the "Parker Defendants"), by and through their undersigned attorneys, respectfully move the Court for an order dismissing Plaintiffs' Complaint for failure to state facts sufficient to constitute a cause of action.

**I. Background**

In their Complaint, Plaintiffs Renee S. Beach, Phillip Beach, Robin Beach, Savannah Tuten, and Seth Tuten (collectively "Plaintiffs") assert two causes of action, civil conspiracy and outrage/intentional infliction of emotional distress, against Gregory M. Parker, Gregory M. Parker, Inc. d/b/a Parker's Corporation ("Parker's"), Blake Greco, Jason D'Cruz, Vicky Ward, Max Fratoddi, Henry Rosado, and Private Investigations Services Group, LLC (collectively "Defendants"). These claims purport to arise from a series of events (as set forth chronologically below) that are alleged to have occurred as part of a pending wrongful death action, *Renee S.*

*Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker et al.*, C/A No. 2019-CP-25-00111 (the “Civil Action”).

1. On September 10, 2020, a mediation was conducted in the Civil Action as required by the South Carolina Alternative Dispute Resolution (“SCADR”).

2. Prior to the mediation (specific date unknown), Plaintiff Renee Beach produced a presentation video to be used at the mediation.

3. On July 7, 2020, Plaintiffs’ counsel emailed a dropbox link for the mediation video to Parker’s defense counsel in the Civil Action. Plaintiffs’ counsel indicated that he was producing the video “pursuant to the mediation rules and as part of the confidential mediation process.”

4. On July 26, 2020, FitsNews published an article written by Mandy Matney which set forth information that was exclusively contained within Plaintiffs’ mediation video. Specifically, she included a direct quote from Renee Beach that was taken verbatim from the video, complete with ellipses where Ms. Beach paused on the video.

5. On October 27, 2020, FitsNews published another article, also written by Ms. Matney, which again contained a quote from Ms. Beach from the mediation video.

6. On November 12, 2020, Parker’s filed a motion in the Civil Action seeking an order allowing it to use the video to support pending motions on the ground that Plaintiffs had waived any right to confidentiality by disseminating the video to at least one third party.

7. On November 24, 2021, Defendant Vicky Ward, who had been making a documentary about the Murdaugh murders, published a trailer for her documentary that Plaintiffs allege contains six different sections from the mediation video. (Compl. ¶9).

8. On November 30, 2021, Plaintiffs filed a Motion for a Rule to Show Cause (“RTSC”) in the Civil Action against Parker’s and its representatives alleging that they had

disclosed the mediation video in violation of Rule 8(a), SCADR, and that Ms. Ward had told Plaintiffs' counsel that she had purchased the mediation video from "Parker and his law firm." Plaintiffs also alleged that Ms. Ward had used photographs of Mallory Beach's body that had only been produced to the parties in the Civil Action by law enforcement – implying, without any explanation or factual support, that Parker's was responsible. Plaintiffs requested that the Court find Parker's and its representatives in contempt and impose sanctions.

9. On December 3, 2021, Plaintiffs filed the instant action.

10. On December 7, 2021, prior to any service of the instant action on the Parker Defendants, Parker's filed its response to Plaintiffs' RTSC motion and raised several defenses, including that the RTSC was without any evidentiary basis and was not supported by an affidavit, that Parker's did not make the alleged disclosures, that Plaintiffs had waived any claim of confidentiality by disseminating the mediation video (or at least some of its contents), and that there was no evidence Defendants had disclosed the photographs, which had been produced by several sources in discovery. Parker's also pointed out that Ms. Ward had made statements to a local news outlet through her attorney denying that she had ever bought anything.

11. Plaintiffs withdrew the RTSC motion in the Civil Action immediately after Parker's filed its response, and despite Parker's attempts to have a hearing on the matter, Plaintiffs' counsel was permitted to voluntarily withdraw the RTSC motion. However, due to an apparent oversight, the Order granting Plaintiffs' request to withdraw its RTSC motion was not filed for public record until February 18, 2022.

## **II. Allegations of Present Complaint**

In the instant Complaint, Plaintiffs allege that the Defendants created fake social media posts to harass and emotionally harm Plaintiffs. (Compl. ¶13). Specifically, Plaintiffs allege that Parker, Greco, and D’Cruz hired Max Fratoddi, Henry Rosado, and Private Investigations Services Groups, LLC, to launch a social media campaign, misappropriate Plaintiffs’ private property, and invade Plaintiffs’ privacy and misappropriate their images – all in an effort to diminish Plaintiffs’ resolve in prosecuting Parker’s in the Civil Action. *Id.* In furtherance of this alleged conspiracy, Plaintiffs allege that Defendants arranged and participated in the production of the mediation video and provided photographs of Mallory Beach to Vicky Ward. *Id.* Plaintiffs allege that, as a result of the civil conspiracy, they “have suffered extreme emotional and mental distress, worry and anxiety,” their “images [were] stolen for profit of others,” and “their privacy [was] invaded.” *Id.* ¶20. Plaintiffs allege that these same actions resulted in the intentional infliction of emotional distress causing them “extreme emotional distress, nervousness, worry, anxiety, hysteria, physical sickness, loss of sleep, loss of enjoyment of life, and depression.” *Id.* ¶24.

### III. Applicable Law

Under Rule 12(b)(6), SCRCPP, a defendant may move to dismiss based on a failure to state facts sufficient to constitute a cause of action. *Baird v. Charleston Cty.*, 333 S.C. 519, 527, 11 S.E.2d 69, 73 (1999). Generally, in considering a 12(b)(6) motion, the trial court must base its ruling solely upon allegations set forth on the face of the complaint. *Id.* If the facts and inferences drawn from the facts alleged in the complaint would entitle the plaintiff to relief on any theory, then the grant of a motion to dismiss for failure to state a claim is improper. *Id.* In deciding whether the trial court properly granted the motion to dismiss, this Court must consider whether the complaint, viewed in the light most favorable to the plaintiff, states any valid claim for relief. *See Gentry v. Yonce*, 337 S.C. 1, 522 S.E.2d 137 (1999). However, “on a Rule 12(b)(6) motion, the

court is required to presume all well pled *facts*, not propositions of law, to be true.” *HHHunt Corp. v. Town of Lexington*, 389 S.C. 623, 699 S.E.2d 699, 705 (Ct. App. 2010) (emphasis in original). *See also Red Oaks Lands, Inc. v. Lane*, 268 S.C. 631, 235 S.E.2d 718 (1977) (holding that “legal conclusions are not well-pleaded and are not facts sufficient to constitute a cause of action.”).

A motion to dismiss is appropriate where a claim is based on mere conclusory allegations that are unsupported by particularized allegations of facts. *Skywaves I Corp. v. Branch Banking & Trust Co.*, 423 S.C. 432, 455 n.9, 814 S.E.2d 643, 656 n.9 (Ct. App. 2018); *see also, Jones v. Gilstrap*, 288 S.C. 525, 528, 343 S.E.2d 646, 648 (Ct. App. 1986) (providing that even under the liberal pleading standard, a mere conclusory allegation, unsupported by particularized allegations of fact, is insufficient).

#### IV. Discussion

Plaintiffs raise two causes of action: a civil conspiracy claim and an intentional infliction of emotional distress claim. As discussed below, Plaintiffs have failed to sufficiently state either of these claims. Accordingly, the Parker Defendants are entitled to dismissal as a matter of law.

##### A. Plaintiffs have failed to sufficiently allege a conspiracy claim.

Plaintiffs have failed to sufficiently allege a civil conspiracy claim. (Compl. ¶¶18-21). To plead a conspiracy claim, a plaintiff must establish the following elements: “(1) the combination or agreement of two or more persons, (2) to commit an unlawful act or a lawful act by unlawful means, (3) together with the commission of an overt act in furtherance of the agreement, and (4) damages proximately resulting to the plaintiff.” *Paradis v. Charleston Cty. Sch. Dist.*, 433 S.C. 562, 574, 861 S.E.2d 774, 780 (2021) (overruling *Todd v. S.C. Farm Bureau Mut. Ins. Co.*, 276 S.C. 284, 292, 278 S.E.2d 607, 611 (1981) and returning to the traditional elements of civil

conspiracy by deleting special damages as an element). Merely restating claims asserted elsewhere in the complaint is not sufficient. *Id.* at 566, 861 S.E.2d at 776.

Additionally, the Court in *Paradis* specifically re-affirmed that “[s]ince civil conspiracy is an intentional tort, an intent to harm, which has also been discussed in our conspiracy law, remains an inherent part of the analysis.” *Id.* at 574, 861 E.E.2d at 780 n.9 (citing 16 Am. Jur. 2d Conspiracy § 53 (2020) (“civil conspiracy is an intentional tort requiring a specific intent to accomplish the contemplated wrong.”)). Some evidence that the alleged conspirators “acted with malice towards” the plaintiff is required. *See Waldrep Bros. Beauty Supply, Inc. v. Wynn Beauty Supply Co., Inc.*, 992 F.2d 59, 63 (4th Cir. 1993) (applying South Carolina law). Where alleged conspirators acted out of a general desire to make a profit rather than to harm the plaintiff, a claim for civil conspiracy cannot lie. *Bivens v. Watkins*, 313 S.C. 228, 235, 437 S.E.2d 132, 136 (S.C. Ct. App. 1993). *See also First Union Nat’l Bank of S.C. v. Soden*, 333 S.C. 554, 575, 511 S.E.2d 372, 383 (Ct. App. 1998) (holding that conspiracy claim failed when it was only supported by mere speculation about motives and not establishment of overt acts pursuant to a common design); *Ellis v. Davidson*, 358 S.C. 509, 527, 595 S.E.2d 817, 826 (Ct. App. 2004) (holding that plaintiff’s civil conspiracy claim failed as a matter of law where plaintiff was able to show that defendant undertook alleged act but not that that he undertook the act for the purpose of injuring Plaintiffs).

In their Complaint, Plaintiffs fail to allege specific facts that would support that there was a combination or agreement between Defendants to specifically injure Plaintiffs. There are no factual allegations, only conjecture and speculation, that any of the Defendants conspired with anyone for the primary purpose of harming the Beach family.<sup>1</sup>

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<sup>1</sup> “In a civil conspiracy claim, injury to the plaintiff need not be the only purpose behind the tortfeasor’s conduct; many conspiracies will be at least partly motivated by the tortfeasor’s desire to protect or benefit the tortfeasor’s own lot.” *Benedict College v. Nat’l Credit Sys., Inc.*, 735

Plaintiffs allege that the Defendants, excluding Ward, conspired to engage in “actions through surreptitious activities, the abuse of process and violations of the SCADR with the intent to harm the Plaintiffs and inflict extreme emotional distress upon them.” *Id.* ¶19. Further, Plaintiffs allege that, in furtherance of this common plan, “Defendants have made false statements, violated the SCADR, stolen or helped to steal private confidential property with no right to do so, avoided or attempted to avoid the discovery of these illegal activities by filing false documents, and other things that have yet to be discovered, without any reasonable basis to do so.” *Id.* And that as a result, “Plaintiffs have suffered extreme emotional and mental distress, worry and anxiety, they have had their images stolen for profit of others, they have had their privacy invaded, and other damages to be determined as the trial of this matter.” *Id.* ¶20. Plaintiffs also allege that Defendants acted “in an effort to inflict severe emotional distress upon the Plaintiffs to diminish their resolve to prosecute Parker’s for contributing to causing the death of Mallory Beach in the Civil Action.” *Id.* ¶13.

At best, this claim rests on unsupported allegations that Defendants acted to impact a lawsuit. However, these allegations do not satisfy the requisite allegation for conspiracy that Defendants acted with malice to injure Plaintiffs. *See SouthStar Fin., LLC v. T-Zone Health, Inc.*, No. 2:21-cv-02511-DCN, 2021 WL 5235223, \* 6 (D.S.C. Nov. 10, 2021) (holding that SouthStar has not cited any authority to support its position that an action is unlawful if it is filed in part to exert pressure on a defendant in a lawsuit). Plaintiffs have not sufficiently alleged or provided a factual basis to show that Defendants acted with the requisite malice directed at Plaintiffs. Accordingly, Plaintiffs’ civil conspiracy claim fails.

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S.E.2d 518 (Ct. App. 2012). *To be actionable, however, a conspiracy’s “primary purpose or object” must be “to injure the plaintiff.”* *Id.* (emphasis added).

Moreover, even if Plaintiffs had sufficiently alleged that Defendants acted with malice and intent to injure them, Plaintiffs' conspiracy claim fails because they failed to plead acts in furtherance of the conspiracy that are separate and independent from other wrongful acts alleged in the complaint. *See Todd*, 276 S.C. at 293, 278 S.E.2d at 611 (dismissing plaintiff's civil conspiracy cause of action because it did no more than incorporate the complaint's allegations in the previous causes of action), overruled on other grounds by *Paradis*, 433 S.C. at 613, 861 S.E.2d 774.<sup>2</sup> A civil conspiracy claim must be supported by facts independent of the other causes of action in the complaint; a plaintiff may not simply incorporate allegations that support other causes of action to sustain a cause of action for civil conspiracy. *Cricket Cove Ventures, LLC v. Gilland*, 701 S.E.2d 39, 46 (S.C. 2010) (citing *Todd*, 278 S.E.2d at 611).

Plaintiffs argue that, in furtherance of their common plan, Defendants "have made false statements, violated the SCADR, stolen or helped to steal private confidential property with no right to do so, avoided or attempted to void the discovery of these illegal activities by filing false documents, and other things that have yet to be discovered, without any reasonable basis to do so." (Compl. ¶19). All of these allegations are specifically incorporated by reference into Plaintiffs' claim for intentional infliction of emotional distress. *Id.* ¶22. Plaintiffs cannot avoid pleading separate and independent acts in furtherance of the conspiracy by simply couching a conspiracy claim as an alternative to another cause of action. *See Jinks*, 2021 WL 4711408, \*4. *See also Coker v. Norwich Com. Grp., Inc.*, No. 3:20-cv-03071-MGL, 2021 WL 4037472, at \*5–6 (D.S.C. Sept.

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<sup>2</sup>The South Carolina Supreme Court in *Paradis* only overturned *Todd* as to the special damages element. *See Jinks v. Sea Pines Resort, LLC*, No. 9:21-cv-00138-DCN, 2021 WL 4711408, \*3 (D.S.C. Oct. 8, 2021) (holding that the court is satisfied that *Paradis* did not abolish this requirement); *see also Land v. Barlow*, No. 2:21-cv-1883-RMG, 2021 WL 597950, \*5 (D.S.C. Dec. 17, 2021) (same).



3, 2021) (granting motion to dismiss civil conspiracy claim upon finding that plaintiff “merely reincorporated his previous claims and added conclusory allegations the Individual Defendants were engaged in a civil conspiracy”). Based on the foregoing, Plaintiffs’ claim for civil conspiracy fails.

**B. Plaintiffs have failed to sufficiently allege an intentional infliction of emotional distress claim.**

Plaintiffs have failed to sufficiently allege an intentional infliction of emotional distress claim. “South Carolina recognizes that ‘one’s willful, malicious conduct proximately causing another’s emotional distress may be actionable’ as intentional infliction of emotional distress or the tort of outrage.” *Williams v. Lancaster Cty. Sch. Dist.*, 369 S.C. 293, 305, 631 S.E.2d 286, 293 (2006) (citing *Ford v. Hutson*, 276 S.C. 157, 161, 276 S.E.2d 776, 778 (1981)). To state a claim of intentional infliction of emotional distress, a plaintiff must show that: (1) the defendant intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from his conduct; (2) the conduct was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community; (3) the actions of defendant caused the plaintiff’s emotional distress; and (4) the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it.” *Id.* (citing *Bergstrom v. Palmetto Health All.*, 358 S.C. 388, 401, 596 S.E.2d 42, 48 (2004)). As the Supreme Court has stressed, South Carolina requires the plaintiff to meet a heightened burden of proof with regards to the “extreme and outrageous” element of the claim and “extreme or severe distress” element of the claim. *Ford*, 276 S.C. at 166.

In the Complaint, Plaintiffs allege that “Defendants created fake media posts in order to harass and emotionally harm the Plaintiffs,” “misappropriate[d] the private property of the Plaintiffs,” and “invaded[d] their privacy and misappropriate[d] their images” “all in an effort to

inflict severe emotional distress upon the Plaintiffs to diminish their resolve to prosecute Parker's for contributing to causing the death of Mallory Beach in the Civil Action." (Compl. ¶13). Plaintiffs allege that "[u]pon information and belief, Parker's counsel of record in the Civil Action shared the confidential mediation video with Defendants Parker, Greco, and D'Cruz." *Id.* ¶6. Further, Plaintiff allege that "[u]pon information and belief, Defendant Ward and others aided and abetted the other Defendants in their civil conspiracy to use their abuse of process and violation of the SCADR to inflict severe emotional distress upon the Plaintiffs and to harass them in a manner so unconscionable it shocks the conscience." *Id.* ¶17.

As noted above, a court is not required to accept as true a legal conclusion couched as a factual allegation. *Papasan*, 478 U.S. at 286. Moreover, Plaintiffs "cannot transform an unsupported proposition of law into a statement of fact by merely stating that that they are informed and believe it to be so." *HHHunt Corp.*, 389 S.C. at 635, 699 S.E.2d at 712. Plaintiffs allegations are merely legal conclusions without any factual allegations to support them.

Plaintiffs do not allege any details as to the "fake media posts." Plaintiffs only allege that the unidentified posts were created to inflict severe emotional distress, a conclusory legal allegation. Without any factual allegations to support that the posts were so extreme and outrageous, Plaintiffs' allegations are insufficient to support a claim for the intentional infliction of emotional distress. *See Hainer v. American Med. Intern, Inc.* 320 S.C. 316 at 324, 465 S.E.2d at 117 (holding that "even if [it] had found [the defendants] liable for abuse of process, their actions did not rise to the level of outrage."). There is simply nothing in the Complaint that could be characterized as extreme and outrageous; as exceeding possible bounds of decency; or which might be regarded as atrocious and utterly intolerable in a civilized community. Even viewing the facts

and inferences alleged in the complaint in the light most favorable to the Plaintiffs, the Complaint fails to state an intentional infliction of emotional distress cause of action.

Further, the South Carolina Court of Appeals has recognized that “[t]he tort of outrage was not designed as a replacement for existing tort actions. Rather, it was conceived as a remedy for tortious conduct where no remedy previously existed.” *Todd*, 283 S.C. at 175, 321 S.E.2d at 613. Plaintiffs are alleging the same facts to support their intentional infliction of emotional distress claim as they alleged to support their conspiracy claim. Accordingly, this claim should be dismissed.

## V. Conclusion

Based on the foregoing, Defendants’ Motion to Dismiss should be granted and Plaintiffs’ claims against Defendants should be dismissed.

Respectfully submitted this the 9<sup>th</sup> day of March, 2022,

s/Deborah B. Barbier

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