

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Weldon Boyd,

C/A#: 2025-CP-26-08617

Plaintiff,

**DEFENDANT MARK TINSLEY'S
MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS**

vs.

Mark B. Tinsley,

Defendant.

Defendant Mark Tinsley, by and through his undersigned counsel, respectfully submits this memorandum of law in support of his motion to dismiss Plaintiff Weldon Boyd's Complaint pursuant to Rule 12(b)(6) and Rule 12(b)(8), SCRCPP, S.C. Code Ann. § 15-53-70 et. seq., the doctrine of ripeness and justiciability, and other grounds. For the reasons set forth herein, Plaintiff's Complaint seeking declaratory judgment relief should be dismissed.

PRELIMINARY STATEMENT

Incredibly, Plaintiff filed this ill-advised Complaint seeking equitable relief¹, including but not limited to a declaratory judgment, finding, and determining "that [Tinsley] has intentionally engaged in conduct prejudicial to the interests of justice by manufacturing, disseminating and

¹ Plaintiff goes to great lengths to "waive" any claim to legal relief and limit the relief to the equitable side of the court. However, at the same time the Complaint improperly demands a jury trial in the caption. Plaintiff is not entitled to a jury trial on matters in equity. See, e.g., S.C. Const. art. 1, § 14 (preserving inviolate the right to trial by jury); *Collier v. Green*, 244 S.C. 367, 373, 137 S.E.2d 277, 281 (1964) ("the constitutional declaration that 'the right of jury trial shall remain inviolate' does not apply to cases within the equitable jurisdiction of the Court") *Verenes v. Alvanos*, 387 S.C. 11, 16, 690 S.E.2d 771, 773 (2010) ("there is no right to trial by jury for equitable actions"). This is another demonstration of how poorly drafted and ill-conceived the Complaint in this matter is.

perpetuating a false narrative through manipulative use of media outlets which has permanently harmed [Plaintiff's] ability to obtain a fair trial in the courts of this state in any related civil or criminal matter.” (Compl., p. 1). A mere cursory review of the Complaint demonstrates the absurdity of Plaintiff's sensationalized and mischaracterized factual allegations, of which there are too many. However, beyond the petty and ridiculous averments in the Complaint, Plaintiff's core argument appears to be that Tinsley's advocacy for his own clients, including the pursuit of justice regarding the shooting through legal means and publicity efforts, has perverted the pursuit of justice. Yet, Plaintiff fails to provide, nor can he, any sound legal theory to support his self-serving allegations. Rather, it is categorically apparent that Plaintiff's Complaint is not only sour grapes, it is an attempt at an end around the wrongful death lawsuit filed by Tinsley on behalf of the Estate of Scott Spivey and any hypothetical criminal charges that may be filed against Plaintiff.

Plaintiff not only takes issue with Tinsley's advocacy for justice and the lawful means by which he does so, Plaintiff also apparently believes that the Horry County Police Department, members of the South Carolina General Assembly, and the Attorney General's Office are complicit in this manufactured scheme to publicize and manipulate the facts and investigation of the shooting. In light of such flagrant and baseless allegations of misconduct yet such nebulous claims for relief, it is indeed worth asking who is really motivated by their own “personal purposes of establishing and/or increase [their] celebrity status.” (Compl., p. 1).

Moreover, since the filing of Tinsley's Motion to Dismiss, the frivolous nature of Plaintiff's Complaint has only increased, as Plaintiff participated in, *and lost*, an immunity hearing in the underlying wrongful death lawsuit, thereby placing the final nail in the coffin of this absurd legal circus disguised as a lawsuit.

FACTUAL AND PROCEDURAL BACKGROUND

COURTESY OF AN ANONYMOUS FOIA
AROUND AND FIRED OUT SPONSOR

Plaintiff filed this frivolous and unserious Complaint against attorney Tinsley on November 3, 2025, seeking

- A. Declaratory judgment that Tinsley manufactured, disseminated, and perpetuated a false narrative through manipulative use of media outlets (referred to herein as “Tinsley’s media firestorm”), and that Tinsley did so intentionally and solely for personal publicity and promotion, thereby resulting in foreseeable, permanent prejudicial harm to Boyd.
- B. Declaratory judgment that Tinsley has intentionally and wrongfully prejudiced the course of justice and such that Boyd cannot receive a fair adjudication in the courts of this state in any related matter.
- C. An award against Tinsley for costs incurred by Boyd in pursuing the relief sought herein.

(Compl., p. 2).

In his Complaint, Plaintiff incredibly states “[o]n information and belief, Tinsley wants to be a celebrity and spends time and energy promoting his public profile.” (Compl. ¶ 4). Plaintiff then claims “Tinsley is not sued in his representative capacity as a lawyer, but solely as an individual having acted for his own personal benefit and interests, not as a tactical action in litigation and not in furtherance of the interests of any client.” (Compl. ¶ 5).

Next, Paragraphs 8 through 34 of the Complaint are a one-sided recitation of the highly publicized road rage incident, and subsequent investigation, involving Plaintiff and Scott Spivey, which ultimately led to the fatal shooting of Spivey by Plaintiff. Then, Plaintiff seemingly admonishes the Spivey family for hiring legal counsel several days after Spivey’s death. (See Compl. ¶ 36). Plaintiff also criticizes the Spivey family for retaining Tinsley, who filed the wrongful death lawsuit on June 3, 2024, “[n]otwithstanding the clear evidence that Spivey had caused his own demise as well as significant undisputed evidence of Spivey’s aggression and his unilateral creation of the deadly situation that led to his death.” (Compl. ¶ 37).

Thereafter, Plaintiff uses a large portion of his Complaint to enumerate all the ways Tinsley acted to “further increase his public profile” through acts of “self-aggrandizement” and “self-promotion,” while “create[ing] a knowingly false yet sensational narrative[.]” (Compl. ¶ 38). Plaintiff contends that “as a direct and proximate result of the intentional acts of Tinsley in publicizing private matters for his own personal aggrandizement and pursuit of establishing celebrity for himself, a media and social media firestorm erupted.” (Compl. ¶ 40). Plaintiff scornfully alleges that Tinsley “co-opted” the “public’s appetite for rooting out perceived public corruption” for his own personal purposes in seeking celebrity status for himself. (Compl. ¶ 41). Plaintiff complains that the firestorm has been maintained by Tinsley through selective release to media of non-public information. (See Compl. ¶¶ 42-43). Notably, Plaintiff does not (and cannot) claim that the information was confidential or that its release was improper. Rather, Plaintiff relies on smoke and mirrors, feigning outrage that a lawyer advocating for his client will publicly advocate for justice with information known to him.

Plaintiff contends that Tinsley directly and indirectly pressured public officials to manipulate the facts of the case, “lobbying for law enforcement to reopen its investigation of Boyd[.]” (Compl. ¶ 49). Plaintiff sanctimoniously states that “Tinsley manipulated and prompted others (including his client) to participate in the media firestorm solely for purposes of enhancing Tinsley’s own public profile and feeding his ego, not to advance his client’s interests or for any other legitimate reason.” (Compl. ¶ 50).

Plaintiff goes so far as to imply, with a straight face, that Tinsley’s statements that the civil lawsuit was not brought to obtain compensation for his client demonstrate Tinsley’s motivation for self-aggrandizement, as opposed to more reasonable conclusion that the lawsuit is about justice, as no amount of money can compensate a family for the loss of a loved one.

The “examples of Tinsley’s specific wrongful acts” are outlined in Paragraphs 54 through 76. The undersigned will not waste the Court’s time enumerating each purported “wrongful act,” but suffice to say, Plaintiff equates every public comment on the wrongful death case or the incident in question, and even Tinsley’s existence in a public space without comment, as self-promotion and a “perver[sion] [of] the course of justice which has caused harm to Boyd.” (Compl. ¶ 77). Plaintiff claims that his ability to receive a fair trial in the courts of South Carolina has been permanently harmed and asks this Court to “fashion an equitable remedy for Tinsley’s wrongs.” (Compl. ¶¶ 77-78).

Finally, this Court can take judicial notice of the fact that despite Plaintiff’s one-sided recitation and adamant position that he acted in self-defense, a trial court of this state recently issued an order in the wrongful death suit denying his motion to dismiss and embedded request for immunity under the Protection of Persons and Property Act, which provides immunity from criminal prosecution or civil action to a person who is found to be justified in using deadly force. *See Foley v. Boyd*, Civil Action No. 2024-CP-26-03798 (Order entered March 11, 2026 denying immunity for Defendant Charles Weldon Boyd); *see also Stanley Smith & Sons, Inc. v. Dumas*, 315 S.C. 30, 33, 431 S.E.2d 595, 596 (Ct. App. 1993) (the Court of Appeals examined and took judicial notice of the contents of the appellate record in another, unrelated case). Thus, Plaintiff’s claim that “Tinsley is not interested in the actual facts and is instead intent on increasing his own public profile for his personal purposes by perpetuating a more salacious story than the truth reveals,” while nebulous and frivolous, now can also be considered stale. (Compl. ¶ 45). Indeed, the Court in its March 11, 2026 Order stated:

Even the version of events described by Boyd and Williams, without considering their lack of credibility, establishes some level of fault on their part in bringing about the confrontation with Spivey which led to Spivey’s death. Boyd (and Williams) had numerous chances to remove themselves after their initial contact

with Spivey, who was clearly trying to get away from the Defendants, but they chose to continue to engage Spivey even to the point of abandoning their intent to proceed to Boyd's farm in Loris.

(Ex. A, p. 18).² It is noteworthy that the immunity hearing was conducted without a jury and was decided solely by a judge, obligated under the Judicial Canons to be independent, fair and competent.³

ARGUMENT

To call this action manipulative, forum shopping, and sour grapes is an understatement. But not only is the Complaint all of these things, it is legally defective for numerous reasons as well and must be dismissed. While it is recognized that a court is generally empowered in its sound discretion to issue a declaratory judgment, such discretion must be exercised in accordance with legal principles. See *William Furniture Corp. v. Southern Coatings and Chemical Co.*, 216 S.C. 1, 8, 56 S.E.2d 576, 579 (1949).

However, "[t]he Uniform Declaratory Judgment[s] Act ... 'does not require the court to give a purely advisory opinion[,] which the parties might, so to speak, put on ice to be used if and when occasion might arise' ... 'or license litigants to fish in judicial ponds for legal advice.' " *Richards v. Spicer*, 445 S.C. 514, 521-22, 915 S.E.2d 486, 490 (2025) (quoting *Tourism Expenditure Review Comm. v. City of Myrtle Beach*, 403 S.C. 76, 81-82, 742 S.E.2d 371, 374 (2013) (alterations in original) (internal quotation marks omitted) (quoting *City of Columbia v. Sanders*, 231 S.C. 61, 68, 97 S.E.2d 210, 213 (1957))); see *Power v. McNair*, 255 S.C. 150, 154,

² Boyd spends nearly six (6) pages making his case as to why he is innocent or otherwise absolved of any wrongdoing.

³ Tinsley anticipates that Plaintiff will merely add Judge Griffith to his growing list of conspirators, all working together, not to ensure that justice prevails, but to strip him of his Constitutional rights after he shot and killed Scott Spivey. As our Supreme Court recently stated, "[a] bit dog barks." *Tibbs v. Charter Consolidated, Ltd.*; ESAB Corporation, Op. No. 28337, p. 17, 2026 WL 1477371, at *9 (S.C. S. Ct. May 27, 2026).

177 S.E.2d 551, 553 (1970) (holding a judicial determination that would not affect the parties' legal rights, "would be only advisory and, therefore, beyond the intended purpose and scope of a declaratory judgment"); *id.* (stating this Court "simply refuse[s] to enter the field of advisory opinions"). "The test of sufficiency of [a declaratory judgment] complaint is not whether it shows that the plaintiff is entitled to a declaration of rights in accordance with his theory, *but whether he is entitled to a declaration of rights at all.*" *Id.* (emphasis added) (quoting *Dantzler v. Callison*, 227 S.C. 317, 321-22, 88 S.E.2d 64, 66 (1955) (quoting *Foster v. Foster*, 226 S.C. 130, 132, 83 S.E.2d 752, 753 (1954)); see *Graham v. State Farm Mut. Auto. Ins. Co.*, 319 S.C. 69, 71, 459 S.E.2d 844, 845 (1995) ("To state a cause of action under the Declaratory Judgment Act, a party must demonstrate a justiciable controversy."); *id.* ("A justiciable controversy exists when a concrete issue is present, there is a definite assertion of legal rights and a positive legal duty which is denied by the adverse party."); *Seabrook v. Knox*, 369 S.C. 191, 197, 631 S.E.2d 907, 910 (2006) ("If there is no actual controversy, this Court will not decide moot or academic questions.").

If there ever was a time to refuse a declaratory judgment action, this is it. "[T]hough Rule 57 of the South Carolina Rules of Civil Procedure governs declaratory judgment actions, and expressly provides: '[t]he existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate,' *a court should not exercise such power lightly.*" *Smith v. S.C. Ret. Sys.*, 336 S.C. 505, 527, 520 S.E.2d 339, 351 (Ct. App. 1999) (citing *MUSC v. Taylor*, 294 S.C. 99, 362 S.E.2d 881 (Ct.App.1987)) (emphasis added).

Plaintiff's Complaint fails for multiple reasons, each of which is discussed in detail below.

A. Plaintiff's Complaint Seeks to Circumvent Existing Litigation.

Boyd seeks a declaratory judgment that “Tinsley has intentionally and wrongfully frustrated the interests of justice such that Boyd cannot receive a fair adjudication in the courts of this state in any related matter[.]” (Compl. ¶ 89(B)).

A declaratory judgment action is not a substitute for a new trial or an appeal, nor can it operate to supersede former adjudications or proceedings already pending. *See Moore v. Black*, 220 Neb. 122, 127, 368 N.W.2d 488, 492 (1985). A “court may refuse to render declaratory judgment where the remedy is invoked to try issues or determine the validity of defenses in pending cases.” *Wessinger v. Rauch*, 288 S.C. 157, 160, 341 S.E.2d 643, 644 (Ct. App. 1986).

Despite the misleading pleading and pursuit of a wholly improper defendant, Plaintiff is using this declaratory judgment action against Tinsley, who has at all times relevant represented the Estate of Scott Spivey and the Spivey Family, to circumvent the existing civil litigation against him pending in this very venue. Indeed, Plaintiff could transform this improper action into a proper legal motion⁴ in the *pending* and *active* wrongful death lawsuit and any hypothetical criminal action. This Court can take judicial notice of the damning fact that Boyd has failed to do so. Nor has he made any effort whatsoever beyond this wholly improper and unfounded lawsuit to put the issue of a fair trial before a court or tribunal.⁵ Rather, Boyd filed this frivolous Hail Mary in an attempt to bypass the very lawsuit that may go to trial and any potential criminal charges that

⁴ Of course, Tinsley and the undersigned categorically dispute the validity and merits of any such motion, but procedurally accept that Plaintiff could make such in the pending wrongful death lawsuit.

⁵ Ironically, Boyd’s action against Tinsley has only brought more attention and scrutiny to him. Indeed, one must wonder if this lawsuit is nothing more than a “manufactured crisis,” purposefully filed to create the very problem of which he now complains.

may or may not be filed against him—perhaps the very definition of “frustrating the interests of justice.”⁶

Plaintiff and his undersigned counsel cannot egregiously and improperly sue a litigant’s attorney to gain some perceived advance “declaration” regarding his rights in another pending suit and avoid the drastic but appropriate effects of Rule 12(b), as it is well settled that “[o]ur courts favor substance or function over style or form.” *Paschal v. Price*, No. 06-CP-02-350, 2006 WL 6321317 (S.C. Com. Pl. Nov. 27, 2006) (citing *In re Ferguson*, 313 S.C. 120, 124, 437 S. E.2d 72, 74 (1993) (rejecting hyper technical arguments regarding jurisdiction which were “an attempt to argue “form over substance.”)); see also *Regions Bank v. Wingard Props., Inc.*, 394 S.C. 241, 253, 715 S.E.2d 348, 354 (Ct. App. 2011) (“The notion ‘equity looks to substance rather than form’ evolved out of judicial regard for that which ought to be done.”).

As a general rule, courts will not entertain an action for declaratory judgment if there is pending at the time the action is commenced, another action between the same parties in which the same issues presented in the action for declaratory judgment can be adjudicated.⁷ *State ex rel. Edmisten v. Tucker*, 312 N.C. 326, 323 S.E.2d 294 (1984). *Cf. Williams Furniture Corp. v. Southern Coatings & Chemical Co.*, 216 S.C. 1, 56 S.E.2d 576 (1949) (court may refuse to render declaratory judgment where the remedy is invoked to try issues or determine the validity of defenses in pending cases). Further, “Rule 12(b)(8) also reflects a broader principle of judicial administration” and a “[c]ourt has the inherent power to manage its docket in the most efficient

⁶ Tinsley reserves all rights to file any appropriate causes of action against Boyd and/or his counsel, including but not limited to abuse of process, malicious prosecution, defamation, and an action or motion under the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10 as well as for sanctions for a violation of Rule 11, SCRCF.

⁷ While Tinsley is not a party to the wrongful death lawsuit, the principle is persuasive given the allegations and Trojan Horse requested relief.

manner, to avoid duplicative litigation, eliminate extra costs and prevent harassment of litigants.” *Unisys Corp. v. S.C. Budget and Control Bd., et al.*, No. 98-CP-40-3945, 2000 WL 35456881 (S.C. Com. Pl. Feb. 10, 2000) (noting that the cases pending in two forums were “so interrelated” that “the ends of justice” were served by dismissal pursuant to Rule 12(b)(8), and finding that the subsequent declaratory judgment action was “intended to avoid” the remedy available in the other forum).

Analyzing Plaintiff’s Complaint through the proper lens, to permit such an action to go forward would be “a classic example of a tail wagging a dog.” *Wessinger*, 288 S.C. at 160, 341 S.E.2d at 644. This is not the purpose of a declaratory judgment suit and as such, this case should be dismissed pursuant to Rules 12(b)(6) and 12(b)(8), SCRCp.

B. Plaintiff Has the Ability to Seek an Adequate Remedy at Law in the Appropriate Case.

Moreover, the equitable relief sought by Plaintiff is not available, and certainly not in this circumventing manner, when there is an adequate remedy at law. *EllisDon Const., Inc. v. Clemson Univ.*, 391 S.C. 552, 555, 707 S.E.2d 399, 401 (2011) (holding that “equity is only available when a party is without an adequate remedy at law”); *see also Carolina Attractions, Inc. v. Courtney*, 287 S.C. 140, 146, 337 S.E.2d 244, 247 (Ct.App.1985) (“[E]quity will not impose an equitable lien where there is an adequate remedy at law.”); *see also Milliken & Co. v. Morin*, 386 S.C. 1, 8, 685 S.E.2d 828, 832 (Ct. App. 2009) (“An ‘adequate’ remedy at law is one which is as certain, practical, complete and efficient to attain the ends of justice and its administration as the remedy in equity.” (internal quotations omitted)). Declaratory relief will ordinarily be refused where another remedy will be more effective or appropriate under the circumstances. *Garris v. Governing Bd. of S.C. Reinsurance Facility*, 319 S.C. 388, 390, 461 S.E.2d 819, 821 (1995) (citing *Bank of Augusta v. Satcher Motor Co., Inc.*, 249 S.C. 53, 152 S.E.2d 676 (1967)).

As is a theme throughout Plaintiff's sensationalized Complaint which lacks any substance, Plaintiff ignores well-established law in an effort to manufacture a self-serving ruling for some future purpose. Our law simply does not allow this and the Complaint should be dismissed because Plaintiff has an adequate remedy in the wrongful death suit. *See Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 545, 627 S.E.2d 687, 689–90 (2006) (reversing grant of injunction in circuit court where right to appeal arbitrator's award provides an adequate remedy at law, a protection of their rights, and an opportunity to repair any prejudice caused by the alleged improper selection of the neutral arbitrator).

Similarly, declaratory relief should not be used "to try a controversy by piecemeal or to try particular issues without settling the entire controversy" or when "the remedy is invoked merely to try issues or determine the validity of defenses in pending cases." *Williams Furniture Corp. v. Southern Coatings & Chemical Co.*, 216 S.C. 1, 7, 56 S.E.2d 576, 578 (1949). Plaintiff's cherry-picked action seeks to use this inappropriate declaratory judgment action to try and obtain a favorable "ruling"; yet, this very argument, as ridiculous and unfounded as it is, could be asserted through motions practice (which has not been done to date) in the pending wrongful death lawsuit, as discussed above, *supra*. Thus, this action should be dismissed as a matter of law as an improper declaratory judgment action pursuant to Rule 12(b)(6), SCRCP, and S.C. Code Ann. § 15-53-70 et. seq.

C. This Matter Should be Dismissed Because it is Not Ripe.

This matter should be dismissed because it is not ripe. Before a court may render a declaratory judgment, an actual, justiciable controversy must exist. A justiciable controversy is a real and substantial controversy which is ripe and appropriate for judicial determination, as distinguished from a contingent, hypothetical or abstract dispute. *See Orr v. Clyburn*, 277 S.C.

536, 290 S.E.2d 804 (1982); *Carolina All. for Fair Emp. v. S.C. Dep't of Lab., Licensing, & Regul.*, 337 S.C. 476, 488, 523 S.E.2d 795, 801 (Ct. App. 1999). Here, this Court can take judicial notice of the fact that the wrongful death suit has not yet been tried. The Court can further take judicial notice of the fact that in the wrongful death suit, Plaintiff filed a motion for immunity pursuant to stand your ground, and a four-day mini trial occurred and was livestreamed, after which the presiding judge swiftly denied Plaintiff's request for immunity. Additionally, as Plaintiff's own Complaint alleges, no criminal charges have been filed against Plaintiff *to date* (and charges may never be filed). There is no pending criminal matter, and certainly no criminal or civil jury trials or adjudication.

Our courts do not author or entertain suits that seek advisory opinions. *See, e.g., Power v. McNair*, 255 S.C. 150, 154–55, 177 S.E.2d 551, 553 (1970) (“Under these circumstances, an adjudication of the present question would settle no legal rights of the parties. It would be only advisory and, therefore, beyond the intended purpose and scope of a declaratory judgment. We simply refuse to enter the field of advisory opinions.”); *City of Columbia v. Sanders*, 231 S.C. 61, 68, 97 S.E.2d 210, 213 (1957) (“The Uniform Declaratory Judgment Act, Title 10, Chapter 24 of the 1952 Code ‘does not require the court to give a purely advisory opinion which the parties might, so to speak, put on ice to be used if and when occasion might arise . . . or license litigants to fish in judicial ponds for legal advice.’” (internal citations and quotations omitted)).

Thus, Plaintiff's declaratory judgment action is based upon a hypothetical or abstract dispute and seeks an advisory opinion to theoretically immunize himself from liability or prosecution post hoc, such that dismissal is warranted.

The undersigned would be remiss if it did not note that Boyd is not simply court hopping, which is in and of itself disfavored. He is attempting to also circumvent the rigorous requirements

and high burden necessary to demonstrate that he cannot receive a fair trial *in the wrongful death suit*. While the undersigned does not wish to do Boyd's work for him, we must note that South Carolina courts have consistently applied restrictive standards for venue change motions based on fair trial claims. The South Carolina Supreme Court's decision in *State v. Manning* established the controlling precedent, holding that "the moving party bears the burden of showing actual juror prejudice as a result of such publicity." *State v. Manning*, 329 S.C. 1, 8, 495 S.E.2d 191, 194 (1997). Indeed, "mere exposure to pretrial publicity does not automatically disqualify a prospective juror" and cited *State v. Tucker* for the proposition that "the relevant question is not whether the community remembered the case, but whether the jurors . . . had such fixed opinions that they could not judge impartially the guilt of the defendant." *Id.* at 7-10, 495 S.E.2d at 194-95 (reversing grant of motion for venue change where evidence consisted only of "opinions and conclusions that the State and appellant could not receive a fair trial in Dillon County because most people in Dillon County knew about the case"). Unfounded conclusory statements crying inability to receive a fair trial are woefully insufficient—rather, specific evidence of actual bias that would prevent fair jury selection must be presented in the *jury trial at issue*. See also *State v. Evins*, 373 S.C. 404, 413, 645 S.E.2d 904, 908 (2007) ("it is the defendant's burden to demonstrate actual juror prejudice as a result of such publicity"); *State v. Parker*, 381 S.C. 68, 99, 671 S.E.2d 619, 635 (Ct. App. 2008) (noting "the presumption of prejudice from pretrial publicity is rarely applicable" and "confined to those instances where the petitioner can demonstrate an 'extreme situation' of inflammatory pretrial publicity that literally saturated the community in which his trial was held").⁸

⁸ As this Court and Boyd's counsel is undoubtedly aware, there are also procedural requirements for venue change motions.

However, rather than pursue these arguments in the proper way, Boyd seeks to disregard established law and procedure in an effort to obtain an advisory Get Out of Jail Free Card, to be waved around after any verdict is rendered. Perhaps most egregious, he has done so via a campaign to degrade and impugn the reputation of Tinsley, a well-respected trial lawyer and advocate in this State. Tinsley speaking to the press in response to public statements by others and in advocacy of his client and justice is not problematic. Tinsley being featured or quoted in articles is also not problematic. What is problematic, and what cannot stand, is this frivolous action against a litigant's attorney as an end-around to any potential civil or criminal liability.⁹

D. Tinsley, Acting at All times in his Representation, is Immune from Suit and Cannot be Sued in this Manner.

Finally, and perhaps most importantly, this action is improperly brought against Tinsley, who was at all times acting within the scope of his representation and with the knowledge of the Spiveys pursuant to *Hunt v. Mortgage Electronic Registration*, 522 F.Supp.2d 749, 758 (D.S.C. Nov. 20, 2007). It is well-established in South Carolina that “an attorney is immune from liability to third persons arising from the performance of his professional activities as an attorney on behalf of and with the knowledge of his client.” *Gaar v. N. Myrtle Beach Realty Co.*, 287 S.C. 525, 528, 339 S.E.2d 887, 889 (Ct. App. 1986). This immunity supports our legal system, which requires that “[a]ttorneys . . . be free to act and advise their clients without constant fear of harassment from lawsuits.” *Id.* at 529, 339 S.E.2d at 889; *see also Hager v. McCabe, Trotter & Beverly, PC*, 435 S.C. 740, 747, 869 S.E.2d 886, 889 (Ct. App. 2022) (“Immunity is a function of the fact that an attorney acting within the scope of representation is not acting on his or her own behalf, but on the

⁹ The Complaint at issue would undoubtedly still be frivolous had Plaintiff made these arguments in the wrongful death suit first. But to choose to do it for the first time in a separate action by way of character assassination of a well-respecting and good-standing member of the South Carolina Bar, is beyond the pale.

client's behalf.”). Indeed, the purpose of the doctrine of attorney immunity is to encourage zealous representation of clients without fear of lawsuits by disgruntled opposing parties. *See Hunt v. Greenville Cnty. S.C.*, No. 608-857-HFF-BHH, 2008 WL 4844756, at *8 (D.S.C. Nov. 7, 2008), *aff'd*, 322 F. App'x 308 (4th Cir. 2009) (citing *Gaar, supra*).

Concededly, an attorney is not wholly and carte blanche immune from liability simply because he is an attorney. South Carolina, like many jurisdictions, recognizes that “an attorney may be held liable. . . where, in addition to representing his client, he breaches some independent duty to a third person or acts in his own personal interest, *outside the scope of his representation of the client.*” *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995) (rejecting finding that *Gaar* provides absolute immunity to an attorney under any and all circumstances) (emphasis added).

Boyd and his counsel are undoubtedly aware of this line of case law, as they go to great lengths to throw out words and phrases and iterations thereof, clinging to unfounded sound bites such as

- “self-promotion” 6 times at Compl. p. 1 and 2, and ¶¶ 38, 39, 45, and 52;
- “self-aggrandizement” 9 times at Compl. p. 2, and ¶¶ 38, 41, 43, 45, 52, and 54;
- “celebrity” 31 times not including his footnote defining celebrity; Compl. p. 1 and 2, and ¶¶ 4, 38-41, 43, 45-47, 51, 52, 54, 57-61, 63-68, 70, and 72-75;
- “Tinsley did so to promote his own celebrity and reputation among the public” (Compl. ¶¶57-68; 70; 72-75).

Yet, Plaintiff is still bound by the well-pled standards set forth in Rules 8 and 12(b)(6), SCRCF and our case law regarding the same. *See Fabian v. Lindsay*, 410 S.C. 475, 481, 765 S.E.2d 132, 136 (2014) (noting that courts’ review of 12(b)(6) motions considers all “well-pled”

allegations as true). Merely saying these words without actual, well-pled allegations will not overcome this Motion.

Moreover, the *Stiles* court affirmed the case's dismissal against a lawyer (there, the claims were civil conspiracy and allegedly filing a frivolous case) because the "complaint ... fail[ed] to set forth sufficient facts to remove [the attorney] from the ambit [of the general rule of immunity]." 318 S.C. at 300, 457 S.E.2d at 602. Germane to the case sub judice, the defendant in *Stiles* alleged, in Paragraph 28 of his third-party complaint, that Bowen was the plaintiff's attorney in this action and realleged prior paragraphs after enumerating his conspiracy claim. The Supreme Court looked at the face of the complaint and held that nowhere in that complaint did the defendant allege in what manner Bowen acted outside his role as the plaintiff's attorney nor does he allege that Bowen breached some independent duty owed to him. Thus, the Supreme Court concluded that "on the face of his complaint," the only reasonable inference is that Bowen was acting at all times in his capacity as the plaintiff's attorney. *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 603 (1995).

On the other hand, the attorney in *Hunt* was alleged to have acted dishonestly, deceitfully, and fraudulently in his representation, which included the knowing procurement and placement of fraudulent ejectment notices. *Hunt v. Greenville County*, No. 608-857-HFF-BHH, 2008 WL 4844756, at *9 (D.S.C. Nov. 7, 2008). Denying the attorney's motion to dismiss, the district court noted that "[t]he fraud and conspiracy alleged by the plaintiff, viewed in a light most favorable to her, appears to roughly rise to the quality of bad faith noted in *Stiles*, which if established, would pierce the shield of immunity normally enjoyed." *Id.*¹⁰ No such allegations, even construing all

¹⁰ Likewise, in *Starks v. Chuhak & Tecson, P.C.*, No. 17-62366-CIV, 2019 WL 10060337, at *6 (S.D. Fla. Jan. 18, 2019), the Southern District of Florida court examined attorney misconduct in a federal RICO action, wherein attorneys were accused of a complex criminal scheme to defraud

allegations as true, rise to the quality of bad faith so required by *Stiles* and its progeny to pierce the shield of immunity Tinsley enjoys in his representation of the Spivey family.

“[T]he mere fact that attorneys have ‘mixed motives,’ such as ‘enhancing’ their reputation by aggressive representation [of their clients], does not remove their conduct from the scope of the agency [relationship with their clients].” *Heffernan v. Hunter*, 189 F.3d 405, 413 (3d Cir. 1999). While Tinsley denies that he has any motive other than zealously advocating for his client, enhanced reputation and mixed motives are the only “allegations” which Plaintiff cites to for bringing this suit. This cannot stand and Tinsley is entitled to dismissal under *Gaar* and *Stiles*.

CONCLUSION

Plaintiff’s Complaint is legally deficient for all of the reasons discussed above. But more than that, it is a blatantly transparent attempt to obtain some exonerating ruling to avoid accountability for his actions in either the wrongful death lawsuit, any potential criminal charges, or more simply, the eyes of the public. And Plaintiff’s scheme to do so is a frivolous waste of judicial and legal resources, an attack on the integrity of the adversarial system, and a blatant disregard for the judicial system. It should and must be dismissed.

their athlete clients. Rejecting the attorney’s claim of immunity, the court first applauded Heffernan and its progeny of rejecting suits against attorneys based on zealous advocacy, which may also enhance a reputation. Nevertheless, faced with the allegations before it, the *Starks* court stated: “The Court can divine no interest possibly served by immunizing attorneys, as a matter of law, from liability for egregious criminal conduct that could not in any reasonable sense be interpreted as the normal behavior of an overzealous advocate, even an unethical one.” *Id.* at *6.

GALLIVAN, WHITE & BOYD, P.A.

/s/ John T. Lay, Jr.

John T. Lay, Jr. (SC Bar No. 64526)

Jessica W. Laffitte (SC Bar No. 100256)

1201 Main Street, Suite 1200

Columbia, South Carolina 29201

Tel: (803) 779-1833

jlay@gwblawfirm.com

jlaffitte@gwblawfirm.com

Attorneys for Defendant

June 1, 2026

COURTESY OF
LUNASHARK MEDIA

COURTESY OF AN ANONYMOUS FOIA
AROUND AND FIND OUT SPONSOR