

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

CHARINE K. RUSSELL,

Plaintiff,

v.

EVERETTE CARL HARRIS,
Individually, D/B/A, and A/K/A,
BEACON OF HOPE, CHRISTOPHER
EARLY LEARNING CENTER, and
C&C LOW-INCOME HOUSING,

Defendant.

C.A. No. N26C-01-066 CLS

Date Submitted: June 16, 2026
Date Decided: September 30, 2026

Upon Defendant's Motion to Dismiss Counts IV, V, VI, and VII. GRANTED.

MEMORANDUM OPINION

Charine K. Russell, *Pro Se Plaintiff*.

David C. Zerbato, Esquire, of MORTON, VALIHURA & ZERBATO, LLC, *Attorney for Defendant*.

SCOTT, J.

Before the Court is Defendant Everette Carl Harris's ("Mr. Harris") Motion to Dismiss Counts IV ("Retaliation/Whistleblower Violation"), V ("Defamation"), VI ("Civil Conspiracy"), and VII ("Alter-Ego/Piercing the Corporate Veil") under Superior Court Civil Rule 12(b)(6) for failure to state a claim for which relief can be granted.¹ For the following reasons, Mr. Harris's Partial Motion to Dismiss is GRANTED without prejudice.

FACTUAL AND PROCEDURAL BACKGROUND

This case arises from a dispute between Plaintiff Charine K. Russell ("Ms. Russell") and Mr. Harris over their failed non-profit collaborations.² Ms. Russell alleges Mr. Harris breached the parties' contract (Count I), was unjustly enriched by that breach (Count II), and converted her personal property (Count III). Plaintiff alleges she provided "professional services, labor, marketing, and commercial furnishings"³ to Defendant's businesses in exchange for space in one of his business properties, and that when the parties' relationship broke down, Mr. Harris denied her access to her possessions.⁴ Ms. Russell claims Mr. Harris conducted his businesses dishonestly,⁵ and her reports to authorities about his alleged wrongdoing motivated

¹ See generally Def.s' Mot. To Dismiss, D.I. .

² The facts are drawn from the allegations in the Complaint. See generally Complaint, D.I. 1 (Compl.).

³ Compl. ¶ 7.

⁴ Compl. ¶¶ 11-12.

⁵ Compl. ¶ 6.

Defendant to retaliate against her by defaming her and locking her out of the property of which she was in rightful possession.⁶

Plaintiff filed the instant Complaint on January 7, 2026. On February 12, 2026, Defendant answered *pro se*. Mr. Harris's present counsel entered his appearance on March 30, 2026, and submitted a second answer on April 21, 2026. The Court issued a Trial Scheduling Order on May 21, 2026. Defendant filed the instant motion on June 9, 2026, which Plaintiff answered on June 16, 2026. While Plaintiff's Answer contains allegations and exhibits not included in the Complaint, this decision is based solely on Plaintiff's Complaint.

STANDARD OF REVIEW

Upon a motion to dismiss under Superior Court Civil Rule 12(b)(6), the Court (i) accepts all well-pled factual allegations as true, (ii) accepts even vague allegations as well-pled if they give the opposing party notice of the claim, (iii) draws all reasonable inferences in favor of the non-moving party, and (iv) only dismisses a case where the plaintiff would not be entitled to recover under any reasonably conceivable set of circumstances.⁷ The Court does not, however, accept "conclusory allegations that lack specific supporting factual allegations."⁸ But "it is appropriate

⁶ Compl. ¶¶ 10-13.

⁷ *ET Aggregator, LLC v. PFJE AssetCo Holdings LLC*, 2023 WL 8535181, at *6 (Del. Super. Dec. 8, 2023); *see also World Energy Ventures, LLC v. Northwind Gulf Coast LLC*, 2015 WL 6772638, at *6 (Del. Super. Nov. 2, 2015).

⁸ *ET Aggregator, LLC*, 2023 WL 8535181, at *6 (quoting *Ramunno v. Crawley*, 705 A.2d 1029, 1034 (Del. 1998)).

. . . to give the pleader the benefit of all reasonable inferences that can be drawn from the pleading.”⁹ Generally, when considering a Rule 12(b)(6) motion to dismiss, the Court “may not consider matters outside the complaint”¹⁰ unless the documents “are integral to or incorporated by reference in the complaint[.]”¹¹

DISCUSSION

I. Count IV: Plaintiff Does Not Plead Facts Sufficient to Establish that She and Defendant Had an Employer-Employee Relationship Subject to the Delaware Whistleblowers’ Protection Act or to Satisfy the Elements of a DWPA Claim.

Though she does not cite the statute, by describing Count IV as “Retaliation/Whistleblower Violation”¹² Ms. Russell implies that Mr. Harris’s actions violated Title 19, Chapter 17 of the Delaware Code, the Delaware Whistleblowers’ Protection Act (“DWPA”).¹³ The DWPA protects employees who report their employers’ offenses as defined under the statute and who are then subject to retaliation by their employers. Here, Plaintiff does not allege facts sufficient to support a claim that Mr. Harris and Ms. Russell had an employer-employee relationship subject to the DWPA. If Plaintiff was not Defendant’s employee, the DWPA does not apply. Plaintiff cannot be a whistleblower under the

⁹ *TrueBlue Inc. v. Leeds Equity Partners IV, LP*, 2015 WL 5968726, at *2 (Del. Super. Sept. 25, 2015) (internal quotation marks omitted).

¹⁰ *ET Aggregator, LLC*, 2023 WL 8535181, at *6 (quoting Super. Ct. Civ. R. 12(b)).

¹¹ *Id.* at *6 (quoting *In re Santa Fe Pac. Corp. S’Holder Litig.*, 669 A.2d 59, 70 (Del. 1995)).

¹² Compl. p. 3.

¹³ 19 *Del. C.* § 1701 et seq.

statute, and any tortious acts committed by Mr. Harris against Ms. Russell cannot be remedied under the DWPA.

If Ms. Russell was Mr. Harris's employee, she must plead facts sufficient to satisfy the elements of the DWPA in order to make a claim for retaliation as a whistleblower. This Court has held that:

To state a prima facie claim under the DWPA, a plaintiff must allege facts demonstrating that: (1) she engaged in protected whistleblowing activity; (2) the employer knew of the protected activity; (3) the plaintiff suffered an adverse employment action; and (4) a causal connection exists between the protected activity and the adverse action.¹⁴

Here, Plaintiff alleges Defendant's adopted children were enrolled in one of the daycare facilities he controls, and that one of those children was living unsafely in the attic of his home.¹⁵ Ms. Russell states she reported her concerns about these matters to unidentified authorities and maintains that upon learning of her "reporting and [unspecified] court filings," Mr. Harris locked her out of his property and refused her access to her personal property on his premises.¹⁶ Plaintiff does not assert that Mr. Harris's actions met the standard for violations under the statute, that Ms. Russell's reporting of his actions was protected under the statute, that Ms. Russell

¹⁴ *Sloan v. Delaware State Univ.*, 2026 WL 822761, at *4 (Del. Super. Ct. Mar. 24, 2026) (citing *Rich v. University of Delaware*, 2025 WL 2206986, at *3 (Del. Super. Aug. 4, 2025)).

¹⁵ Compl. ¶ 10.

¹⁶ Compl. ¶¶ 10-11.

suffered an adverse *employment* action, or that a causal connection exists between Ms. Russell’ protected activity and the adverse employment action.

The Court finds Plaintiff has not plead facts sufficient to establish that she and Defendant had an employer-employee relationship subject to the DWPA or to satisfy the elements of a DWPA claim.

II. Count V: Plaintiff Has Not Pled Defamation with Sufficient Particularity.

In her Complaint, plaintiff claims only that Defendant “published false statements accusing Plaintiff of violent behavior.”¹⁷ The Delaware Supreme Court has held that:

To state a claim for defamation under Delaware law, the plaintiff ‘must plead and ultimately prove that: 1) the defendant made a defamatory statement; 2) concerning the plaintiff; 3) the statement was published; and 4) a third party would understand the character of the communication as defamatory.’”¹⁸

Here, Plaintiff does not state what Defendant published or whether a third party would understand the character of the communication to be defamatory. Additionally, Plaintiff does not allege Defendant’s statements were untrue or specify whether they were communicated orally (i.e., that they were slander) or in writing (i.e., that they were libel). Slander and libel are “twin” but not identical torts with

¹⁷ Compl. ¶ 13.

¹⁸ *Page v. Oath Inc.*, 270 A.3d 833, 842 (Del. 2022) (quoting *Doe v. Cahill*, 884 A.2d 451, 463 (Del. 2005)).

different pleading standards.¹⁹ The Court finds Plaintiff has not pled defamation with sufficient particularity to put Defendant on notice of the claim against him.

III. Count VI: Plaintiff Has Not Identified a Co-Conspirator with Whom She Alleges Defendant Engaged in a Civil Conspiracy.

Ms. Russell lists “Civil Conspiracy” among the counts of the Complaint but offers no supporting facts and names no co-conspirators. This Court has held that:

[C]ivil conspiracy is defined in Delaware as the combination of two or more persons or entities either for an unlawful purpose, or for the accomplishment of a lawful purpose by unlawful means, resulting in damage.²⁰

One cannot conspire alone. Absent an identified co-conspirator and allegation of some facts concerning their conspiracy, Defendant does not have notice of the claim against him. The Court finds Plaintiff has not pled civil conspiracy with sufficient particularity.

IV. Count VII: This Court Does Not Have Jurisdiction to Pierce the Corporate Veil.

It is well-settled law in Delaware that an action to pierce the corporate veil may be brought only in the Court of Chancery.²¹ Superior Court does not have jurisdiction to pierce the corporate veil, so Count VII may not be heard in this Court.

¹⁹ *Preston Hollow Capital LLC v. Nuveen LLC*, 216 A.3d 1, 9–10 (Del. Ch. 2019).

²⁰ *Anderson v. Airco, Inc.*, 2004 WL 2827887, at *3 (Del. Super. Ct. Nov. 30, 2004) (citing *Nutt v. A.C. & S. Co., Inc.*, 517 A.2d 690 (Del.Super.Ct.1986)).

²¹ *Sonne v. Sacks*, 314 A.2d 194, 197 (Del. 1973).

CONCLUSION

For the foregoing reasons, Defendant's Partial Motion to Dismiss is **GRANTED** without prejudice.

IT IS SO ORDERED.

/s/ Calvin Scott
Judge Calvin L. Scott, Jr.