

STATE OF NORTH CAROLINA
GASTON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
23 CVS 2375

CHARLIE MOSLEY a/k/a PRISHA
MOSLEY a/k/a ABIGAIL MOSLEY,

Plaintiff,

v.

ERIC T. EMERSON, MD; PIEDMONT
PLASTIC SURGERY AND
DERMATOLOGY, P.A.; BRIE KLEIN-
FOWLER; FAMILY SOLUTIONS, PLLC;
SHANA GORDON; TREE OF LIFE
COUNSELING, PLLC; MARTHA
FAIRBANKS PERRY, MD; and MOSES
CONE MEDICAL SERVICES, INC.,

Defendants.

**ORDER ON DEFENDANTS'
MOTIONS TO DISMISS**

THIS CAUSE came on for hearing on April 26, 2024 in Mecklenburg County Superior Court pursuant to the parties' Consent Scheduling Order, upon (1) *Defendants Martha Fairbanks Perry, MD and Moses Cone Medical Services, Inc.'s Motions to Dismiss Plaintiff's Complaint*, (2) *Defendant Family Solutions, PLLC's Motions to Dismiss Plaintiff's Complaint*, (3) *Defendant Eric T. Emerson, MD's Motions to Dismiss Plaintiff's Complaint*, (4) *Defendant Piedmont Plastic Surgery and Dermatology, P.A.'s Motions to Dismiss Plaintiff's Complaint*, (5) *Defendant Brie Klein-Fowler's Motions to Dismiss Plaintiff's Complaint*, and (6) *Defendants Shana Gordon and Tree of Life Counseling, PLLC's Motions to Dismiss Plaintiff's Complaint* pursuant to N.C. Gen. Stat. § 1A-1, Rule 12(b)(6). The Court having considered said motions, having reviewed the pleadings and briefs submitted by counsel, and having heard the arguments of both parties, has determined as a matter of law that the allegations of Plaintiff's Complaint, treated as true, fail to state a claim upon which relief can be granted as to some claims. As to other claims, the Court has

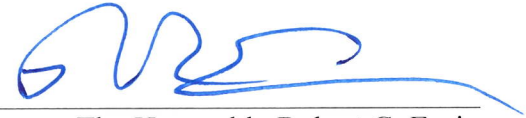
determined as a matter of law that the allegations of Plaintiff's Complaint, treated as true, are sufficient to state a claim upon which relief may be granted.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the above Motions to Dismiss are GRANTED in part and DENIED in part as follows:

1. Count One – All Defendants' Motions to Dismiss as to Count One - Fraud are hereby DENIED.
2. Count Two – All Defendants' Motions to Dismiss as to Count Two – Facilitating Fraud are hereby DENIED.
3. Count Three – All Defendants' Motions to Dismiss as to Count Three – Breach of Fiduciary Duty Rising to the Level of Constructive Fraud are hereby GRANTED.
4. Count Four – All Defendants' Motions to Dismiss as to Count Four – Civil Conspiracy are hereby DENIED.
5. Count Five – All Defendants' Motions to Dismiss as to Count Five – Medical Malpractice are hereby GRANTED.
6. Count Six – All Defendants' Motions to Dismiss as to Count Six – Negligent Infliction of Emotional Distress are hereby GRANTED.
7. Count Seven – Defendants Brie Klein-Fowler, Family Solutions, PLLC, Shana Gordon, and Tree of Life Counseling, PLLC's Motions to Dismiss as to Count Seven – Unfair and Deceptive Trade Practices are hereby GRANTED.

8. Defendant Moses Cone Medical Services, Inc.'s Motion to Dismiss it as a named entity is hereby DENIED.

SO ORDERED, this the 7th day of May, 2024.



The Honorable Robert C. Ervin
Presiding Judge