

neighborhood service corporation, and its individual board members (collectively, “Emerald Ridge”),² violated certain provisions of the Federal Trade Commission Act³ and the Delaware General Corporation Law.⁴ On April 19, 2004, Emerald Ridge filed a motion to dismiss the complaint on the ground that the Superior Court lacked jurisdiction over McCollum’s claims. On June 16, 2004, a hearing on the motion was held in the Superior Court and the judge issued an oral ruling from the bench.

(3) While the record contains no transcript of the hearing or the Superior Court’s oral ruling, Emerald Ridge represents, and McCollum does not dispute, that the Superior Court dismissed McCollum’s claims for lack of jurisdiction, with the exception of what the Superior Court deemed to be a potential defamation claim. It also appears that the Superior Court afforded McCollum additional time to amend her complaint to set forth the defamation claim with particularity.

(4) On June 28, 2004, McCollum filed a lawsuit in the United States District Court for the District of Delaware alleging some of the same claims asserted in her Superior Court and Court of Chancery complaints. On July 29, 2004, the Court of Chancery issued its decision denying McCollum’s

² It appears that, at all times relevant, McCollum herself was a member of the board.

³ 15 U.S.C. §§ 45-58.

⁴ Del. Code Ann. tit. 8, § 219(a) and (b). McCollum also filed a related lawsuit in the Court of Chancery requesting indemnification for costs she had incurred in filing her legal actions.

indemnification claim. On the same date, McCollum wrote a letter to the Superior Court judge stating that she would not be filing an amended complaint in the Superior Court and would instead be filing a motion to remove her case to the United States District Court.

(5) McCollum filed a motion for removal in the United States District Court on August 11, 2004. On the same date, she filed a motion to dismiss in the Superior Court. In the motion, McCollum stated that she would not be amending her complaint to state her defamation claim with particularity and requested that the claim be dismissed. In accordance with McCollum's request, the Superior Court dismissed the claim with prejudice on August 19, 2004.

(6) In this appeal, McCollum claims that the Superior Court committed error and abused its discretion when it dismissed her claims for lack of jurisdiction under the Federal Trade Commission Act and the Delaware General Corporation Law. She also claims that the Superior Court's dismissal of her defamation claim was premature because it is not clear that her claims will be heard in the federal court.⁵

⁵ It appears that the District Court dismissed McCollum's claims and the matter is now on appeal to the United States Court of Appeals for the Third Circuit. In her reply brief, McCollum appears to argue that, should the Court of Appeals affirm the ruling of the District Court, she should be allowed to return to the Superior Court to prosecute her claims.

(7) The Rules of this Court direct all parties to order a transcript and to include in their appendix those portions of the record that are relevant to any claims on appeal. In this case, McCollum, as the appellant, had the burden of producing “such portions of the . . . transcript as are necessary to give this Court a fair and accurate account of the context in which the claim of error occurred” and “a transcript of all evidence relevant to the challenged finding or conclusion.”⁶ The failure of McCollum to include in the record a transcript of the Superior Court’s oral ruling dismissing her federal and corporate claims for lack of jurisdiction precludes appellate review of her argument that the Superior Court erred by dismissing those claims.⁷

(8) McCollum’s second argument fares no better. McCollum herself sought dismissal of her potential defamation claim in the Superior Court. She cannot now complain that the Superior Court took the action she requested merely because the federal court may refuse to hear her claims.

⁶ *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987); Supr. Ct. R. 9(e) (ii) and 14(e).

⁷ It does not appear that McCollum’s arguments have substantive merit in any case.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice