

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

TANIZIA WILLIAMS

CIVIL ACTION

VERSUS

NO: 18-2793

**SUPERIOR HOSPITALITY
STAFFING INC. ET AL.**

SECTION: "H"(1)

ORDER AND REASONS

Before the Court is Defendants SHS Group, Superior Hospitality Staffing, Inc. and SHS Management Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction and Insufficiency of Process and Motion to Quash (Doc. 24).

Plaintiff Tanzania Williams's First Amended Complaint brings claims against Defendants Shane Milliet, Superior Hospitality Staffing; Superior Hospitality Systems, Inc.; SHS Management, Inc.; Superior Hospitality Management Systems, Inc.; and SHS Group. Plaintiff effected service on Defendants SHS Group, Superior Hospitality Staffing, and SHS Management, Inc. ("Movants") through Defendant Shane Milliet. Movants now seek dismissal of the claims against them for lack of personal jurisdiction and insufficient service of process, arguing that they are not distinct legal entities

that can be sued and that Shane Milliet is not the proper party to accept service on their behalf. Plaintiff responds acknowledging that Movants are not incorporated entities but argues that they have been sued as names under which Shane Milliet does business.

The capacity of an entity to be sued is determined by the law of the state in which the district court is held.¹ Article 736 of the Louisiana Code of Civil Procedure provides that “a person who does business under a trade name is the proper defendant in an action to enforce an obligation created by or arising out of the doing of such business.” “Louisiana courts have held that a trade name has no separate existence apart from the individual doing business under that trade name. Moreover, a trade name is not a separate entity capable of being sued.”²

Accordingly, the law is clear that the proper defendant in an action against a trade name is the person who does business under that name. A trade name cannot be sued as a separate entity. Accordingly, Shane Milliet is the proper defendant for claims against the business names under which he operates, namely, SHS Group, Superior Hospitality Staffing, Inc. and SHS Management, Inc. These trade names cannot be made separate defendants.

Accordingly;

IT IS ORDERED that Defendants’ Motion to Dismiss is **GRANTED**. Plaintiff’s claims against the trade names SHS Group, Superior Hospitality Staffing, Inc. & SHS Management, Inc. are **DISMISSED WITH PREJUDICE**.

¹ Fed. R. Civ. P. 17(b).

² Louisiana Acorn Fair Hous. v. Quarter House, 952 F. Supp. 352, 355 (E.D. La. 1997); D’Aquin v. Starwood, No. CV 16-12798, 2016 WL 6436561, at *3 (E.D. La. Oct. 31, 2016).

IT IS FURTHER ORDERED that oral argument on this Motion is **CANCELED.**

New Orleans, Louisiana this 25th day of March, 2019.

A handwritten signature in black ink, appearing to read "Jane Triche Milazzo", written over a horizontal line.

JANE TRICHE MILAZZO
UNITED STATES DISTRICT JUDGE