

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:17-CV-27-D

SUSAN DEVERNA,)
)
 Plaintiff,)
)
 v.)
)
 RITE AID OF NORTH CAROLINA, INC.,)
 RITE AID HDQTRS, CORP., JIN LEE,)
 ECKERD CORPORATION d/b/a RITE AID,)
)
 Defendants.)

ORDER

On March 2, 2017, defendants Rite Aid of North Carolina, Inc., and Rite Aid Hdqtrs. Corp. (collectively “defendants”) moved to dismiss plaintiff Susan Deverna’s intentional infliction of emotional distress (“IIED”) claim [D.E. 7]. See Fed. R. Civ. P. 12(b)(6). On March 30, 2017, Deverna voluntarily dismissed her IIED claim against defendants and limited that claim to defendant Jin Lee (“Lee”) individually [D.E. 20].

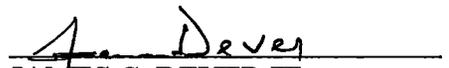
On April 18, 2017, Lee moved to dismiss Deverna’s IIED claim [D.E. 21]. See Fed. R. Civ. P. 12(b)(6). On May 4, 2017, Deverna responded in opposition [D.E. 25]. On May 9, 2017, Lee replied [D.E. 26].

The court has reviewed Deverna’s IIED claim under the governing standard. See Fed. R. Civ. P. 12(b)(6); Ashcroft v. Iqbal, 556 U.S. 662, 677–78 (2009); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555–63, 570 (2007); Coleman v. Md. Ct. of Appeals, 626 F.3d 187, 190 (4th Cir. 2010), aff’d, 566 U.S. 30 (2012); Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc., 591 F.3d 250, 255 (4th Cir. 2009); Giarratano v. Johnson, 521 F.3d 298, 302 (4th Cir. 2008).

Deverna's IIED claim against Lee fails to state a claim upon which relief can be granted. Compare Compl. [D.E. 1] ¶¶ 56–60, with Bratcher v. Phar. Prod. Dev., Inc., 545 F. Supp. 2d 533, 544–45 (E.D.N.C. 2008); Efird v. Riley, 342 F. Supp. 2d 413, 426–27 (M.D.N.C. 2004); Thomas v. N. Telecom, Inc., 157 F. Supp. 2d 627, 634–36 (M.D.N.C. 2000); see also Waddle v. Sparks, 331 N.C. 73, 82, 414 S.E.2d 22, 27 (1992); Dickens v. Puryear, 302 N.C. 437, 452–53, 276 S.E.2d 325, 335 (1981); Hogan v. Forsyth Country Club Co., 79 N.C. App. 483, 490, 340 S.E.2d 116, 121 (1986).

In sum, the court DISMISSES as moot defendants' motion to dismiss [D.E. 7] and GRANTS Lee's motion to dismiss [D.E. 21]. Plaintiff's IIED claim is DISMISSED for failure to state a claim on which relief can be granted.

SO ORDERED. This 2 day of August 2017.



JAMES C. DEVER III
Chief United States District Judge