

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Richard Brown, Louis C. Mancuso, and) Civil No. 2:07-CV-3852-DCN
Robert J. Brinson, individually and on)
behalf of all persons similarly situated,)
Plaintiffs,)
vs.)
Charles Schwab & Co., Inc.,)
Defendant/)
Third-Party Plaintiff,)
vs.)
Robert B. Pearlman, and Pearlman &)
Pearlman, Attorneys at Law, P.C.,)
Third-Party Defendants.)

)

ORDER

This matter is before the court on third-party defendants' motion to dismiss defendant's/third-party plaintiff's complaint pursuant to Federal Rules of Civil Procedure 8(a), 9(b), and 12(b)(6). Plaintiffs filed a lawsuit against defendant/third-party plaintiff Charles Schwab & Co., Inc. ("Schwab"), alleging that Schwab violated the South Carolina Uniform Securities Act through its dealings with Albert E. Parish ("Parish"). Schwab, in turn, filed a third-party complaint against third-party defendants Robert B. Pearlman and his law firm, asserting the following causes of action: (1) indemnification, (2) contribution, (3) professional malpractice, (4) negligent misrepresentation, (5) deceit, and (6) negligence.

Having thoroughly considered the parties' written and oral submissions in light of the standard set forth in Ashcroft v. Iqbal, 129 S. Ct. 1937 (2009), the court **GRANTS** third-party defendants' motion to dismiss Schwab's professional malpractice claim, without prejudice, as a result of Schwab's failure to contemporaneously file an affidavit of an expert witness with its complaint as required by South Carolina Code of Laws § 15-36-100(B). The court **DENIES** third-party defendants' motion to dismiss as to all remaining claims.

AND IT IS SO ORDERED.



DAVID C. NORTON
CHIEF UNITED STATES DISTRICT JUDGE

November 2, 2010
Charleston, South Carolina