

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Lonnie Hamilton, III, and Zoe'Lia L.)
Culbreath,)
)
Plaintiffs,)
)
vs.)
)
301 Auto Parts, LLC,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CIVIL CASE NO. 2019-CP-10-06567

ORDER

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JUN 14 2022

SC Court of Appeals

Ady, J.

This matter came before the Court via WebEx on March 28, 2022 on Defendant's motion for summary judgment. The Plaintiffs were represented by Thomas S. Tisdale Jr., Esq. The Defendant was represented by Peter Gunnar Nistad, Esq. After hearing oral arguments, reviewing the filings of both parties, and considering the applicable law, the Court grants Defendant's motion for summary judgment.

Plaintiffs owned a 2013 Kia Optima automobile that required replacement of the original engine due to an oil leak caused by a collision. In June of 2019, Plaintiff Lonnie Hamilton III purchased a replacement engine (hereinafter, "First Engine") from Defendant 301 Auto Parts, LLC. For some unknown reason, the First Engine did not operate after installation. On July 15, 2019, Defendant 301 shipped a replacement engine (hereinafter, "Second Engine") to Plaintiff for installation. The First Engine and Second Engine were installed by the same mechanic, but neither party has been able to produce proof of any certifications, and the parties have been unable to locate the mechanic who installed the engines. These engines were essentially salvage

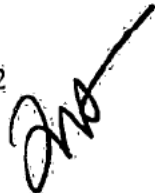
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engines, and Plaintiffs maintains that Defendant only made sure that the engines would crank and never inspected the engines further prior to sale.

On September 10, 2019, the Kia caught fire while being driven by Plaintiff Zoe Lia L. Culbreath. The Fire Department issued a report stating the "Fire appears to be electrical in nature and not suspicious." The Police Department's report was silent as to the cause of fire. Thereafter, Plaintiffs sued Defendant 301 alleging causes of action for (1) negligence and gross negligence, (2) breach of warranty and (3) violation of the South Carolina Unfair Trade Practices Act. Plaintiffs' claims rely on the allegation that the Second Engine sold to them by Defendant 301 was defective and caused the fire.

"Summary judgment is appropriate when there is no genuine issue of material fact such that the moving party must prevail as a matter of law." *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857 (2002) (citing Rule 56(c), SCRPC). Summary judgment is mandated by Rule 56 "against a party who fails to make a showing sufficient to establish the existence of an element essential to the party's case, and on which that party will bear the burden of proof at trial." *Baughman v. AT&T*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 325, 106 S.Ct. 2548, 2554 (1986)). Here, Plaintiff failed to make such a showing.

To recover under a negligence cause of action, a plaintiff must show the defendant's actions caused its damages. *The Winthrop Univ. Trustees for the State v. Pickens Roofing & Sheet Metals, Inc.*, 418 S.C. 142, 161, 791 S.E.2d 152, 162 (Ct. App. 2016). "Proximate cause requires proof of both causation in fact and legal cause." *Madison ex rel. Bryant v. Babcock Ctr., Inc.*, 371 S.C. 123, 146, 638 S.E.2d 650, 662 (2006). "Causation in fact is proved by establishing the injury would not have occurred 'but for' the defendant's negligence. Legal cause is proved by

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establishing foreseeability.” *Id.* at 147, 638 S.E.2d at 662. “Where circumstantial evidence is relied upon to establish liability, the plaintiff must show such circumstances as would justify the inference that his injuries were due to the negligent act of the defendant, and not leave the question to mere conjecture or speculation.” *McQuillen v. Dobbs*, 262 S.C. 386, 392, 204 S.E.2d 732, 735 (1974) (quoting *Chaney v. Burgess*, 246 S.C. 261, 143 S.E.2d 521 (1965)).

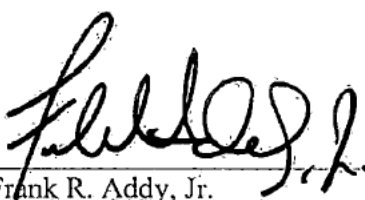
Here, the Plaintiffs have not produced evidence tending to show that the fire would not have occurred but for the fact that the engine was defective. The key issue driving this Court’s decision is the inability of the parties to locate the mechanic who installed the Second Engine. Had the mechanic been located and deposed, and had he testified that he followed all industry standards when installing the Second Engine, the Court would likely conclude that sufficient circumstantial evidence exists to warrant this case proceeding. However, under the facts of this case, negligent installation of the Second Engine is just as likely the cause of the fire as any negligence on the part of Defendant 301. Neither of the reports Plaintiffs produced from the local fire department and police department contain evidence that the fire was caused by a defect specific to the Second Engine. Nor have Plaintiffs provided expert testimony showing that the fire was more likely than not caused by the Second Engine. Defendant 301’s expert concluded that the cause of the fire cannot be determined and noted that parts of the engine were missing upon his inspection. Therefore, other potential causes of the fire exist which are unrelated to the Second Engine, such as defects in the fuel delivery system or an electrical short.

The South Carolina Court of Appeals reached a similar conclusion in *Harris v. Rose’s Stores, Inc.*, 315 S.C. 344, 433 S.E.2d 905 (1993). In that case, the plaintiffs brought an action under a products liability theory against Rose’s based upon the allegation that a fan sold by Rose’s caused a fire. *Id.* In that case, plaintiffs’ expert acknowledged during his deposition “that

there was a possibility the fan caused the fire; however, he also conceded it was equally as likely that other factors may have started the fire.” *Id.* at 907. The Court held the deposition testimony of plaintiff’s expert failed to meet plaintiff’s burden of proof that her injuries were proximately caused by the negligence of Rose’s, as the most the expert could say was that there was a possibility the fan caused the fire. *Id.* In the case before this Court, Plaintiffs have not provided an expert and are relying on an inference that the fire was caused by the Second Engine simply because it had recently been replaced.

This Court finds Plaintiff has failed to provide the necessary direct and circumstantial evidence to establish causation of the fire damages. Therefore, the Court grants Defendant’s motion for summary judgment.

IT IS SO ORDERED.



Frank R. Addy, Jr.
Circuit Court Judge

April 11, 2022
Greenwood, South Carolina