STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
JANE DOE,	)	CASE NO. 2010-CP-10-7699
	)	
PLAINTIFF,	)	
	)	
vs.	)	**ORDER**
	)	
CHARLES SMITH, CHARLESTON COUNTY SCHOOL DISTRICT AND JAMES ISLAND HIGH SCHOOL,	)	
	)	
DEFENDANTS.	)	

This matter came before this Court on July 23, 2012, upon the motion of the Defendants, Charleston County School District and James Island High School for Summary Judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. Attorney Aaron Edwards was present on behalf of the Plaintiff, attorney Brian Quisenberry was present for James Island High School and the Charleston County School District, and attorney Robin Jackson was present for Charles Smith. This Order addresses only the Motion filed by Defendants James Island High School and Charleston County School District.

The Court has considered the motions, memoranda, and supporting exhibits submitted from the parties. The Court advised counsel for all parties that it would consider any additional submissions following the hearing. The Court has reviewed all additional submissions and the matter is now ripe for resolution. After considering the record and the parties' submission and arguments, the Court hereby GRANTS the Motion for Summary Judgment by Defendants Charleston County School District and James Island High School.

I. FACTS.

Plaintiff's lawsuit is based on events from the 1988-1989 school year. Plaintiff alleges that her former teacher and softball coach, Defendant Charles Smith, sexually assaulted her during the 1988-1989 school year, when she was a freshman at James Island High School (hereafter "High School"). In the 1988-1989 school year, the High School was part of the Charleston County School District (hereafter "District") and did not exist as a separate legal entity.[1]

Plaintiff identifies five alleged instances of sexual assault, which include allegations that Smith fondled her genitals and forced her to perform oral sex on him.[2] Plaintiff identified three instances where Smith allegedly brushed or touched her inappropriately in his classroom.[3] Plaintiff alleges the other two instances occurred off school grounds when Smith took her home from softball practice.[4] Plaintiff cannot identify when the alleged instances occurred or in what order they occurred.[5] Plaintiff alleges the assaults took place at some point between the beginning of the school year in September 1988 and February 12, 1989, when Plaintiff alleges she attempted to commit suicide by taking Vivarin caffeine pills.[6] Plaintiff has identified no further incidents of sexual assault after February 12, 1989.[7]

Plaintiff did not tell anyone about the alleged sexual assaults until 2007.[8] Plaintiff did not report the alleged instances to anyone at the School and did not tell any friends or parents.[9] Plaintiff's mother had no suspicions of Smith prior to 2007.[10] Plaintiff's mother knew Smith

[1] Bohnstengel Depo. p. 53-55.
[2] Plaintiffs Depo. Vol I, p. 88 -101.
[3] Plaintiffs Depo. Vol I, p. 88, 95-97, 100.
[4] Plaintiff's Depo. Vol I. p. 91, 101.
[5] Plaintiff's Depo. Vol I p. 95.
[6] Plaintiff's Depo. Vol I p. 96, 110.
[7] Plaintiff's Depo. Vol I p. 96.
[8] Plaintiff Depo. Vol II p. 35.
[9] Plaintiff Depo. Vol II p. 35.
[10] Moore Depo., p. 107.

gave Plaintiff rides home from softball practice and did not have a problem with it.[11] Plaintiff's mother did not complain to anyone at the School about Smith.[12] During the 1988-1989 school year, it was not uncommon for coaches to give rides to students after practice and it did not violate school policy.[13] There are no former students, teachers, employees or any other witnesses that testified they suspected Smith of sexual misconduct or acting inappropriate towards students.

Plaintiff testified that she has no evidence to show that the District and High School should have known about the alleged danger presented by Smith prior to the alleged sexual assaults.[14] The District hired Smith as a teacher in 1975.[15] At all times in issue Smith held full certification credentials from the South Carolina Department of Education.[16] Prior to the alleged instances at issue, Smith received a score of satisfactory or higher on all of his teacher evaluations, and Smith received no reports of misconduct or reprimands.[17]

Plaintiff filed her complaint in this action on November 20, 2007. Plaintiff's Second Amended Complaint alleges three causes of action against the District and High School: (1) breach of fiduciary duty, (2) outrage (intentional infliction of emotional distress), and, (3) gross negligence.[18] Defendants argue that Plaintiff's claims all fail against the District and the High School because Plaintiff did not timely file her complaint within the applicable statute of limitations. Defendants further argue that each of Plaintiff's claims against the District and High

[11] Moore Depo., p. 111.
[12] Moore Depo., p. 111.
[13] Shaddrix Depo. p. 53; Dilligard Depo. p. 50; Shealy Depo. p. 55. Bohnstengel Depo. p. 98-100. Plaintiff submits current 2012 policies and attempts to apply those to the allegations from the 1988-89 school year. The policies Plaintiff cites are irrelevant to the present case because none were issued earlier than 2005. See, Current Policies; Bohnstengel Depo. p. 98-100.
[14] Plaintiff's Depo. Vol II, p. 49-50.
[15] Smith's Personnel file.
[16] Smith's Personnel file.
[17] Smith's Personnel file.

School also fail substantively as a matter of law. For the reasons set forth below, the Court agrees and GRANTS the Motion for Summary Judgment by the District and High School.

II. STANDARD OF REVIEW.

"The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." *George v. Fabri*, 345 S.C. 440, 452, 548, S. E. 2d 868, 874 (2001). "A motion for summary judgment shall be granted "if the pleadings, depositions, answers to interrogatories, and admission on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Id.* (quoting Rule 56(c), SCRCP) *accord Trivelas v. South Carolina Dep't of Transportation*, 348 S.C. 125, 130, 558 S.E. 2nd 271, 273 (Ct. App. 2001); *Wells v. City of Lynchburg*, 331 S.C. 296, 301, 501 S.E. 2d 746, 749 (Ct. App. 1998); *see also Tupper v. Dorchester County*, 326 S.C. 318, 325, 487 S.E. 2d 187,191 (1997). Summary judgment is appropriate when "there is no genuine issue as to any material fact and...the moving party is entitled to judgment as a matter of law." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322, 106 S. Ct 2548 (1986), and "where the record taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is no "genuine issue for trial." *Matsushita Electrical Industrial Co., Ltd. V. Zenith Radio Corp.*, 475 U.S. 574 106 S. Ct. 1348, 1356 (1986).

III. FINDINGS AND CONCLUSIONS OF LAW.

A. Statute of Limitations.

Defendants argue that all of Plaintiff's causes of action fail as a matter of law against the District and High School because Plaintiff did not timely file her complaint within the three-year statute of limitations set forth in the SC Code Ann. § 15-3-530 (5). Defendants further argue that Plaintiff's allegation of repressed memory fails to save her claims because she presented no

[18] Plaintiff's Second Amended Complaint.

"objectively verifiable" evidence of the alleged abuse, and the expert testimony she submitted did not identify the specific date when Plaintiff allegedly recovered her memories. *See, Moriarty v. Garden Sanctuary Church of God*, 334 S.C. 150, 511 S.E. 2d 699 (Ct. App. 1999). Based on the reasoning and authorities cited in this Court's Order granting Defendant Smith's Motion for Summary Judgment, the Court agrees and finds that the same reasoning and authorities, which are incorporated by reference herein, apply equally to Plaintiff's claims asserted against the District and High School.

B. Fiduciary Duty.

Plaintiff's first cause of action asserts that the District and High School owed a fiduciary duty to Plaintiff when she attended the High School during the 1988-89 school year and breached that duty by failing to prevent Smith's alleged abuse. The Court disagrees. Under South Carolina law, the District and High School do not have a fiduciary relationship with their students. In *Doe v. Greenville County Sch. Dist.*, 375 S.C. 63, 72, 651 S.E.2d 305, 309-310 (2007), the South Carolina Supreme Court upheld a trial court's decision dismissing a cause of action for breach of fiduciary duty against a school district. The Court held that the plaintiffs "have not alleged any facts under which this Court could find another duty owed by the School District other than the duty of supervision as outlined by the Tort Claims Act." *Id.* The Court held that the plaintiff was limited to a recovery under a negligent supervision claim. *Id.*

Likewise in *Hendricks v. Clemson Univ.*, 353 S.C. 449, 459, 578 S.E.2d 711, 715-16 (2003), the South Carolina Supreme Court "decline[d] to recognize the relationship between [a school] advisor and student as a fiduciary one." The *Hendricks* Court held that the state "has reserved imposition of fiduciary duties to legal or business settings, often in which one person entrusts money to another, such as with lawyers, brokers, corporate directors, and corporate

promoters." *Id.* Plaintiff's fiduciary duty claim against the District and High School therefore fails as a matter of law.

C. Intentional Infliction of Emotional Distress (Outrage).

Plaintiff's second cause of action against the District and High School is for outrage. The Court finds that the District and High School are entitled to Summary Judgment as to Plaintiff's outrage claim because the South Carolina Tort Claims Act ("SCTCA") does not waive sovereign immunity for claims of intentional infliction of emotional distress. The SCTCA excludes "the intentional infliction of emotional harm" from the definition of "loss" for which a governmental entity may be liable. *See* S.C. Code Ann. § 15-78-30(f) (defining "loss" as "bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish and any other element of actual damages recoverable in actions for negligence, ***but does not include the intentional infliction of emotional harm.***")(emphasis added). See also, *Newman v. S.C. Dep't of Empl. & Workforce*, 2010 WL 4791932 (D.S.C. 2010) (holding that "the Department, as a state agency, has sovereign immunity with regard to this tort claim"); *Harkness v. City of Anderson*, 2005 WL 2777574 (D.S.C. 2005) (holding that "the SCTCA does not waive sovereign immunity for [an outrage] claim"). Furthermore, the SCTCA excludes liability for "employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude." S.C. Code Ann. § 15-78-60(17). Plaintiff's outrage claim against the District and High School therefore fails as a matter of law.

D. Gross Negligence.

Plaintiff's third cause of action in her Second Amended Complaint asserts that the District and High School were grossly negligent in their supervision of Smith and in failing to

prevent his alleged sexual assaults.[19] In *Degenhart v. Knights of Columbus*, 309 S.C. 114, 420 S.E.2d 495 (1992), the South Carolina Supreme Court set out an employer's duty to supervise employees acting outside the scope of their employment:

> Under certain circumstances, an employer is under a duty to exercise reasonable care to control an employee acting outside the scope of his employment. An employer may be liable for negligent supervision if the employee intentionally harms another when he:
>
> (i) is upon the premises in possession of the [employer] or upon which the [employee] is privileged to enter only as his [employee], or (ii) is using a chattel of [the employer],
>
> **and** ... [the employer]
>
> (i) knows or has reason to know that he has the ability to control his [employee], **and**
>
> (ii) ***knows or should know of the necessity and opportunity for exercising such control.***

Degenhart v. Knights of Columbus, 309 S.C. at 116-17 (emphasis added), citing, Restatement (Second) of Torts § 317 (1965). *See also*, *Moore v. Berkeley County School District*, 326 S.C. 584, 486 S.E.2d 9 (1997) (applying the test for negligent supervision from *Degenhart* to the plaintiff's claim for gross negligence arising out of a teacher's alleged sexual assault of a student).

In *Brockington v. Pee Dee Mental Health Center*, 315 S.C. 214, 433 S.E. 2d 16 (1993), the plaintiff asserted a negligence claim based on similar allegations of sexual abuse against the employer of the alleged abuser for failing to prevent the abuse. The plaintiff alleged he was repeatedly sexually assaulted by defendant's employee while he was a mental health client at the Defendant's medical center. The Court of Appeals reversed the verdict in favor of the plaintiff and held the negligence claim failed as a matter of law because he could not establish the

[19] Plaintiff's Second Amended Complaint, ¶ 33-37.

employer knew or should have known of the necessity to exercise control of the employee:

> Our focus here is upon the last element [of the Supreme Court's test]. Did the defendants know or should they have known of the necessity to exercise control over Davis? When viewed in the light most favorable to [the plaintiff], the evidence and its reasonable inferences do not support the finding, implicit in the jury's verdict, that the defendants knew or should have known of this necessity.
>
> [The plaintiff] presented no evidence that the defendants had any knowledge whatever that Davis had sexually assaulted [the plaintiff]. Moreover, nothing that the defendants gathered from Davis, co-workers at the Hartsville office, or elsewhere about either Davis' personal history or his work activities alerted the defendants that Davis would engage in predatory homosexual activity or other inappropriate sexual conduct with clients and with [the plaintiff] in particular.

Brockington, 315 S.C. at 217-18.[20]

Likewise, in a case factually similar to the present case, *Moore v. Berkeley County School District*, 326 S.C. 584, 486 S.E.2d 9 (1997), the Court of Appeals held the plaintiff's claim for gross negligence against the school district failed as a matter of law in part because the plaintiff could not establish the District knew or should have known about the teacher's alleged sexual proclivity prior to the incidents of abuse. The plaintiff in *Moore* was a fifteen year-old- middle school student who alleged his teacher sexually assaulted him while tutoring him at her home. The *Moore* Court applied *Degenhart* negligent supervision test to the plaintiff's gross negligence claim and held "there is no evidence in this case that the District had notice of improper sexual contact between [the employee] and any other students prior to the incident involving [the plaintiff]." *Id.* at 591. The *Moore* Court held the district had no prior notice as a matter of law even though other teachers at the school testified that they observed "inappropriate" behavior,

[20] *Compare, Doe v. Greenville Hosp. System*, 323 S.C. 33 (1994) (affirming a verdict in favor of the plaintiff because the record established that the employer had prior notice of a prior incident of alleged sexual abuse by the employee at issue, which established a reasonable inference that the employer knew or should have known of the necessity of controlling the employee while acting outside the scope).

including a student in the teacher's classroom with the door locked and the lights off, the teacher receiving classroom massages from students, and holding students hands in class. *Id.* The Court held that these instances were insufficient because they were not reported to administration, and even if they had been, it would not have put the District on notice that the teacher would have sexual intercourse with a student. *Id.*

The Supreme Court requires actual or constructive notice of the alleged danger presented by the employee because employers are not insurers against all harm on their premises. Under South Carolina law, the duty to act is not imposed without actual or constructive notice of the alleged danger. *Rogers v. S.C. Dept. of Mental Health*, 320 S.C. 253, 464 S.E.2d 330 (1995) (holding duty to act does not arise until the defendant has notice of a specific threat to others); *Estate of Cantrell v. Green*, 302 S.C. 557, 560-61, 397 S.E.2d 777 (holding no duty to act without prior notice of the danger). *See also, Brockington*, 315 S.C. at 217-18.

In the present case, when viewed in the light most favorable to Plaintiff, the evidence and its reasonable inferences do not support the finding that the District and High School knew or should have known of the alleged danger presented by Smith. Plaintiff did not tell anyone about the alleged sexual assaults until 2007.[21] Plaintiff did not report the alleged instances to anyone at the school and did not tell any friends or parents.[22] There are no former students, teachers, employees or any other witnesses that testified they suspected Smith of sexual misconduct or any inappropriate actions towards students. The allegation that Smith gave Plaintiff rides home after softball practice did not put the District on notice of any danger presented by Smith. During the

[21] Plaintiff Depo. Vol II p. 35.
[22] Plaintiff Depo. Vol II p. 35.

1988-1989 school year, it was not uncommon for coaches to give rides to students after practice and it did not violate any school policy.[23]

At all times in issue Smith held full certification credentials from the South Carolina Department of Education.[24] Smith received a score of satisfactory or higher on all of his teacher evaluations, and Smith received no reports of misconduct or reprimands whatsoever prior to the alleged instances.[25]

Plaintiff testified she has no evidence to show that the District or High School should have known about the alleged danger presented by Smith prior to the alleged sexual assaults.

> Q. Do you have any information or knowledge that the school district had any information about Mr. Smith that should have put them on notice prior to these incidents?
>
> A. Prior to 1989?
>
> Q. Uh-huh.
>
> **A. Not at this time.**
>
> Q. You don't know of any school district official or teacher official or anyone, that had any knowledge prior to these instances that should have put them on notice?
>
> A. Prior to 1989?
>
> Q. (indicating).
>
> **A. Not at this time.**[26]

In response to the Defendants' Summary Judgment Motion, Plaintiff attempts to shift her burden of proof to Defendants. Plaintiff states that if Defendants rely on the affirmative defense

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[23] Shaddrix Depo. p. 53. Dilligard Depo. p. 50. Shealy Depo. p. 55. The policy regarding transportation of students in private vehicles was not issued until 2005. See, Current Policies; Bohnstengel Depo. p. 98-100.

[24] Smith's Personnel file.

[25] Smith's Personnel file.

of gross negligence under the Tort Claims Act Defendants have the burden to show evidence of slight care.[27] Plaintiff's argument fails because Defendants' summary judgment motion is not based on the affirmative defense of gross negligence. Defendants' motion is based on Plaintiff's failure to produce evidence to establish even general negligence against the District and High School.

Under South Carolina law, Plaintiff has the burden of submitting evidence supporting her claim. "In order to resist a defendant's motion for summary judgment, the plaintiff, as the party with the burden of proof at trial, must present the fact of breach [of the duty of care] in dispute." *Estate of Cantrell v. Green*, 302 S.C. 557, 560-61 (Ct. App. 1990) (affirming summary judgment to defendant on the plaintiff's negligence claim because the plaintiff could not show a breach of the duty of care without evidence that the defendant knew or should have known of the dangerous condition causing the plaintiff's injury).

In support of her claim, Plaintiff cites no cases where a school employee caused the student's alleged injury. Rather, Plaintiff cites to cases where a student injures another student. *See, Doe v. Orangeburg County School District*, 329 S.C. 221, 222, 495 S.E.2d 230 (Ct. App. 1997) (student sexually assaulted by a sixteen-year-old male special education student); *Woodell v. Marion School District One*, 307 S.C. 297, 298, 414 S.E.2d 794 (Ct. App. 1992) (student assaulted by another student); *Duncan v. Hampton County School District*, 335 S.C. 535, 541, 517 S.E.2d 449 (Ct. App. 1999) (mentally disabled student sexually assaulted by other students

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[26] Plaintiff's Depo., Vol II p. 49-50.

[27] S.C.Code Ann. § 15-78-60(25) (Supp.1996) "A governmental entity is not liable for a loss resulting from "responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, ... except where the responsibility or duty is exercised in a grossly negligent manner." S.C.Code Ann. § 15-78-60(25) (Supp.1996). "Gross negligence means the failure to exercise a slight degree of care. Gross negligence involves an intentional, conscious failure to do something which it is incumbent upon one to do or the intentional doing of a thing one ought not to do. The term is relative

in her class). These cases all arise out of the school's alleged failure to prevent a student from injuring another student and are distinguishable from the present case.

By contrast, the present case alleges that the District and High School failed to prevent an employee from harming Plaintiff. Therefore, *Degenhart, Moore* and *Brockington* are controlling. Indeed, in *Moore* the Court of Appeals analyzed a similar gross negligence claim against a school district under the Supreme Court's negligent supervision test set out in *Degenhart*. *Moore*, 326 S.C. at 591. The *Moore* court held that it was "bound to follow the precedent of *Brockington* and *Doe*" which both applied the *Degenhart* negligent supervision test against public entities, stating that "as in those cases, the crux of [the plaintiff's] case is the sexual conduct of an employee of a public entity." *Moore*, 326 S.C. at 591, *citing*, *Doe v. Greenville Hosp. System*, 323 S.C. 33, 448 S.E.2d 564 (1994), and *Brockington*, 315 S.C. at 217-18.

Here Plaintiff concedes she has no evidence to show that the District or High School should have known about the alleged danger presented by Smith prior to the alleged sexual assaults.[28] Plaintiff's claim therefore fails to meet the test set out in *Degenhart, Moore* and *Brockington*.

Plaintiff alternatively asserts that her claim should survive because the District and High School did not have sufficient policies regarding training and prevention of sexual misconduct at the time of Smith's alleged sexual assaults. The Court disagrees. In *Brockington v. Pee Dee Mental Health Center*, 315 S.C. at 218, the Court of Appeals held there was no duty to adopt or enforce certain rules against employees acting outside the scope of their employment. The plaintiff in *Brockington* alleged his negligence claim should survive because the employer owed

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and means the absence of care that is necessary under the circumstances." *Moore v. Berkeley County School District*, 326 S.C. 584, 486 S.E.2d 9 (1997).

him a duty to supervise its employees under the employer's internal rules and directives. *Id.* The Court rejected the plaintiff's claim and held an employer can only be held liable for failing to enforce its rules and policies with respect to actions within the scope of employment. *Id.* The Court held "we conclude the defendants possessed no duty arising out of the internal directives to protect [the plaintiff] from unreasonable risks resulting from his relationship with [the employee] in [his] individual capacity." *Id.* (emphasis added). *See also, Ellis v. Niles*, 324 S.C. 223, 227, 479 S.E.2d 47 (1996) ("Whether the law recognizes a particular duty is an issue of law to be determined by the court. If there is no duty, then the defendant in a negligence action is entitled to a directed verdict.").

Even if there was such a duty to adopt or enforce rules or polices, the District and High School are immune from such a claim in this case under the Tort Claims Act. The SCTCA states in relevant part "The governmental entity is not liable for a loss resulting from. . . ***adoption, enforcement, or compliance*** with any law ***or failure to adopt or enforce*** any law, whether valid or invalid, ***including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies.***" S.C. Code Ann. § 15-78-60(4) (emphasis added).

Plaintiff further responds to Defendants' summary judgment motion by arguing that the District and High School should be liable under a theory of *respondeat superior*.[29] Plaintiff's *respondeat superior* claim fails because Smith's alleged acts of sexual abuse were outside the scope of his employment as a matter of law. The Supreme Court in *Armstrong v. Food Lion, Inc.* set out the test for determining whether an employee acts outside the scope of his employment for purposes of *respondeat superior* liability.

> An act is within the scope of a servants' employment where reasonably necessary to accomplish the purpose of his employment

[28] Plaintiff's Depo., Vol II p. 49-50.
[29] *Respondeat Superior* liability is not alleged in Plaintiff's Second Amended Complaint.

> and in furtherance of the master's business. These general principles govern in determining whether an employer is liable for the acts of his servant. The act of a servant done to effect some independent purpose of his own and not with reference to the service in which he is employed, or while he is acting as his own master for the time being, is not within the scope of his employment so as to render the master liable therefor. Under these circumstances the servant alone is liable for the injuries inflicted. If a servant steps aside from the master's business for some purpose wholly disconnected with his employment, the relation of master and servant is temporarily suspended; this is so no matter how short the time, and the master is not liable for his acts during such time."

Armstrong v. Food Lion, Inc. 371 S.C. 271, 639 S.E.2d 50 (2006) (holding the employee who stabbed the plaintiff during store hours, inside the employer's store, with the employer's knife was acting outside the scope of his employment as a matter of law because there was no evidence the employee was motivated to further the employer's business).

Here, Plaintiff alleges Smith fondled her genitals and forced her to perform oral sex on him. The record contains no evidence Smith's alleged sexual abuse was motivated to further the District or High School's business. Plaintiff also cites no cases holding an employee's sexual abuse could be considered within the scope of employment. Indeed, the South Carolina Supreme Court has held such actions are clearly outside the scope. *Whittle v. Southern Bell Telephone and Telegraph Co.*, 306 S.C. 163, 164-66, 410 S.E.2d 575 (1991) (treating the employee's alleged sexual battery of the plaintiff as committed outside the scope of his employment and affirming summary judgment for the employer). Plaintiff's gross negligence claim therefore fails as a matter of law and the District and High School are entitled to summary judgment.

E. Claims against Defendant James Island High School.

The Plaintiff's claims against the High School also fail for the additional reason that during the 1988-1989 school year, the High School was part of the Charleston County School

District system and did not exist as a separate legal entity.[30] In 2003, James Island Charter High School was formed as a separate entity from Charleston County School District.[31] The High School, however, did not exist separate from the District at the time the alleged incidents giving rise to Plaintiff's claims occurred. Therefore, the High School is entitled to summary judgment on this additional ground as well.

IV. CONCLUSION.

For the reasons stated herein, the Motion for Summary Judgment by Defendants Charleston County School District and James Island High School is GRANTED.

AND IT IS SO ORDERED.

The Honorable ~~W. Jeffery Young~~
W. Jeffrey Young

Sept. 4, 2012.
Sumter, South Carolina.

[30] Bohnstengel Depo. p. 53-55.
[31] Bohnstengel Depo. p. 100.