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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Greenville County
Circuit Court

Letitia H. Verdin, Circuit Court Judge

Appellate Case No. 2023-000440

Kevin Dwayne Chavis, ...Appellant**,**

v.

Vansy Saensane and Ra Cha, Inc., D/B/A Bangkok Tokyo Restaurant A/K/A Bangkok Thai Restaurant, ...Respondents.

BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

1. **Whether the Circuit Court should have denied the Motion for Summary Judgment because Chavis provided sufficient evidence to create a genuine issue of material fact.**
2. **Whether the Circuit Court erred in granting summary judgment by erroneously determining that Respondents had no statutory duties to Appellant to protect against the foreseeable injuries under the Alcohol and Alcoholic Beverages Licensing statutes.**
3. **Whether the Circuit Court erred in granting summary judgment by erroneously determining the Alcohol and Alcoholic Beverages Licensing statutes could not apply to Respondent's agent or employee overserving themselves to the point of intoxication on the premises.**

STATEMENT OF THE CASE

This action arises out of a motor vehicle wreck. Vansy Saensane consumed alcoholic beverages to the point of extreme intoxication at her place of work, Ra Cha, Inc., D/B/A Bangkok Tokyo Restaurant, before leaving in her vehicle and colliding with Appellant Kevin Chavis. The wreck caused serious injuries to Kevin Chavis.

Appellant filed suit against Vansy Saensane on January 13, 2020. Appellant filed an amended complaint on February 10, 2021 naming Bangkok Tokyo, LLC as a defendant. Pursuant to motion, Appellant amended his suit a second and final time on May 4, 2022 to name the appropriate corporate entity, Respondent Ra Cha, Inc., D/B/A Bangkok Tokyo Restaurant A/K/A Bangkok Thai Restaurant, as the employer of Vansy Saensane. (Second Amended Complaint, R. p. 21). Appellant sought recovery under the theories of, *inter alia*, Dram Shop liability; negligent retention and hiring; negligence as to Respondent Ra Cha, Inc.; negligence as to Respondent Saensane; and vicarious liability. (R. p. 19; R. p. 41). Respondent Ra Cha filed its Answer on May 19, 2022, arguing, *inter alia*, it owed no duty to the Appellant. (Answer to Second Amended Compl. ¶ 18, R. p. 34).

Respondent filed a Motion for Summary Judgment on October 18, 2022, seeking to have all claims against Respondent dismissed for failure to present a genuine issue of material fact. (R. p. 37). In particular, the motion prayed for Respondent to be dismissed as a party on the grounds that:

1. Respondent did not employ Saensane;
2. Respondent did not serve alcohol to Saensane on September 26, 2019;
3. Respondent cannot be vicariously liable for Saensane; and,
4. Respondent owed no duty to the Appellant as a third-party.

(R. p. 37; R. p. 55). The court heard the motion on January 27, 2023, and after having heard arguments of counsel and reviewing the submitted memoranda of counsel, the court granted the motion for summary judgment and dismissed all claims made by Appellant against Ra Cha, Inc. (Form 4 Order, R. p. 1; Order, R. p. 4).

Appellant filed a Motion to Reconsider, Alter, or Amend Judgment on February 20, 2023, seeking reinstatement of Appellant's causes of action against Respondent by challenging the Form 4 and Order under Rules 59 and 60, SCRCP. (Motion to Reconsider, R. p. 107). The grounds for the motion were, *inter alia*, the Appellant had pled specific facts sufficient to identify a genuine issue of material fact on whether Respondent served Saensane alcohol, Respondent should have reasonably foreseen the injuries to Appellant, Respondent employed Saensane, and whether Respondent was therefore the proximate cause of Appellant's injuries. (R. p. 120). The trial court denied Appellant's Motion to Reconsider and issued an Order and Form 4CE on March 7, 2023. (Form 4 Order, R. p. 16).

This appeal followed.

STATEMENT OF THE FACTS

On September 27, 2019, at 12:56 a.m., Appellant Chavis was driving Southbound on North Pleasantburg Drive in Greenville, South Carolina, when Saensane, who was driving on the wrong side of the road, drove into Appellant, resulting in a head-on collision. (R. p. 22; R. pp. 55-56). Appellant suffered extensive injuries as a result of Respondent's and Saensane's actions. (R. p. 22).

The Respondent is a South Carolina corporation with its principal place of business located in Greenville County at 599 Haywood Road. (R. p. 55; R. p. 21; R. p. 144, lines 10-17). Respondent operates a restaurant that sells food, beer, and wine. (R. p. 55; R. p. 152, lines 12-21). Respondent

applied for, and obtained, an On-Premises Beer & Wine Permit (PBW) from the State of South Carolina, which authorizes the permit holder to sell and serve beer and wine on-premises. (R. p. 150, lines 1-24). Saensane considered herself an employee. (R. p. 152, line 24 – p. 153, line 6).

Saensane also considered herself a shareholder as she held a minority interest in Ra Cha, Inc., in common with her fiancée, Chai, as Joint Tenants with Rights of Survivorship. (Order, R. p. 4; R. p. 146, line 19 – p. 147, line 2; R. p. 148, lines 1-21; R. p. 148, line 25). Respondent Saensane and her fiancée acquired a fifty percent (50%) interest in Bangkok in August of 2017 in exchange for Respondent Saensane's labor and sweat equity in the restaurant. (R. p. 144, lines 10-14; R. p. 146, lines 19-24; R. p. 147, lines 15-19). There is no evidence of any consideration paid for these corporate shares except Saensane's testimony that her fiancée "paid to buy in. [She] worked there as a (sic) employee." (R. p. 147, lines 15-19). The only other shareholder is the majority shareholder, Pouna Allison Wannarat. (R. p. 145, lines 4-18).

Vansy Saensane worked at Respondent Ra Cha, Inc., D/B/A/ Bangkok Thai beginning in 2017 and continuing through 2019. (R. p. 143, lines 13-17; R. p. 156, lines 4-24). Saensane was compensated in various ways during the time she worked at Ra Cha, Inc., with her initial compensation being a fixed Three Thousand Dollars per month. (R. p. 153, lines 2-13). Compensation was not predicated upon the shares owned by the shareholders as Saensane's salary was reduced over time while her fiancée received no compensation for his shares. (R. p. 154, lines 8-17). Respondent paid Saensane less according to the amount of time she worked. (R. p. 153, lines 2-4). Saensane testified "[she] get[s] paid by monthly and it[] depend[s] on how the restaurant make[s] money." (R. p. 153, lines 2-6).

Saensane did "pretty much everything" at Ra Cha, Inc., along with Allison. (R. p. 149, lines 11-17). Saensane interviewed employees, "[cooked] and, you know, [did] pretty much

everything." (R. p. 149, lines 12-20). This included food preparation, cooking, and waitressing. (R. p. 149, lines 21-22; R. p. 160, line 1 – p. 161, line 17). Saensane usually arrived around 10:00 a.m. before the restaurant opened at 11:00 a.m. and worked through the lunch hour. (R. p. 159, lines 6-25). Saensane and Allison were the only two full-time staff working in the kitchen. (R. p. 160, lines 7-16).

After lunch service finished at 2:30 p.m., Saensane continued working to prepare for dinner service or would nap at the restaurant. (R. p. 161, line 23 – p. 162, line 22). Saensane's workday generally continued past the end of dinner service at 9:00 p.m. and she would be the last to leave the restaurant. (R. p. 163, line 20 – p. 165, line 2). Saensane's regular duties at the end of the day included paperwork, counting money, preparing for the next day's food service, and any final cleanup. (R. p. 172, lines 13-20; p. 191, line 19 – p. 192, line 13). Saensane estimated she would generally leave between 10:00 p.m. and 11:00 p.m., sometimes even later depending upon what the restaurant required for the following day, testifying her departure was "not often after 11:00." (R. p. 164, line 13 - p. 165, line 2). Saensane testified she remained at the restaurant until the preparations for the following business day were complete. (R. p. 163, line 22 – p. 165, line 6). Respondent Saensane testified that she drank wine while completing these last employment obligations before leaving: "I just drink by myself and do the paperwork. That's – I remember." (R. p. 168, line 25 - p. 169, line 2).

On September 26, 2019, Respondent Saensane had worked at the restaurant for both the lunch and dinner shifts. (R. p. 162, line 15 - p. 163, line 1). Normally, the business would close at 9:00 p.m., but Saensane could not recall what time the restaurant closed on September 26, 2019. (R. p. 163, line 20 - p. 164, line 3; p. 165, lines 1-20). Saensane "blanked out" after getting in the car after leaving that night. (R. p. 190, line 24 - p. 191, line 11). Saensane could not recall if it was

even "likely" she left before 11:00 p.m. that evening. (R. p. 192, lines 14-17). Saensane would not have eaten before drinking the wine as she either ate at home or did not eat dinner. (R. p. 194, lines 11-16).

Saensane testified she recalled having consumed alcohol while working at the restaurant on September 26, 2019, before she departed. (R. p. 166, lines 3-11). Saensane is unable to remember the number of drinks she served herself that evening. (R. p. 166, lines 15-20; p. 194, lines 4-10). Saensane did not know how many ounces each of Respondent's wine glasses contained. (R. p. 188, line 20 - p. 189, line 4). Saensane testified she would consume "whatever we have in there that [is] open." (R. p. 166, line 14). Saensane "testified that she drank wine from the restaurant . . . and served herself." (Memorandum in Supp., R. p. 56). Saensane testified she would serve herself glasses of wine from the bottles of wine the Respondent had purchased as a PBW permit holder. (R. p. 167, lines 5-7). Saensane testified she was served glasses of wine by Respondent who had purchased those pursuant to its PBW permit. (R. p. 167, lines 12-23; p. 170, line 21 - p. 171, line 2).

Saensane testified the majority shareholder, Allison Wannarat, worked with her on September 26, 2019. (R. p. 169, lines 3-7). Allison instructed Saensane when she started working at the restaurant as Saensane had little training. (R. p. 186, lines 18-23).

Saensane further testified Allison had witnessed Saensane receive glasses of wine from Respondent's stock of open wine (that had been sold to customers) while she did paperwork. (R. p. 169, lines 18-25). Allison did not attempt to stop or prohibit Saensane's pattern of consuming Respondent's wine stock while Saensane completed duties related to her employment. (R. p. 170, lines 1-4). Allison left the restaurant before Saensane on September 26, 2019, leaving Respondent unable to satisfy the duties and responsibilities owed to the general public pursuant to the Alcohol

and Alcoholic Beverages Licensing statutes. S.C. Code 61-4-10, *et seq*. (hereinafter, the "ABL statutes"). (R. p. 169, lines 3-7).

On September 26, 2019, numerous bottles of wine were purchased by the glass by customers of Respondent such that open bottles would have been readily available to Saensane unless Respondent took care. During her consumption of alcohol on Respondent's premises, Saensane testified she did not have to pay for the glasses. (R. p. 170, lines 5-20). Saensane confirmed Respondent did not record, inventory, or monitor the service of glasses of wine to Saensane as she drank and completed the paperwork. (R. p. 170, lines 15-20). After Respondent provided an unknown and unrecorded number of free glasses of wine to Saensane on September 26, 2019, Respondent allowed Saensane to depart the restaurant. (R. p. 172, lines 4-8).

Saensane left the restaurant after having consumed these beverages but could not recall where she went prior to the collision at 12:56 a.m. (R. p. 172, lines 4-8; p. 172, line 24 – p. 173, line 5). Saensane testified to her custom of not going out as "[she] do[es not] really go places that much. I just work, come home. That's it. That's all I remember." (R. p. 176, lines 2-5). There was no testimony disputing Saensane's assertion she did not go anywhere between leaving Respondent's premises and the motor vehicle collision site just down the road from Bangkok Tokyo. (R. p. 178, lines 1-14).

STANDARD OF REVIEW

"When reviewing a grant of summary judgment, appellate courts apply the same standard applied by the trial court pursuant to Rule 56(c), SCRCP." *Knight v. Austin*, 396 S.C. 518, 521, 722 S.E.2d 802, 804 (2012) (citing *Turner v. Milliman*, 392 S.C. 116, 121-22, 708 S.E.2d 766, 769 (2011)). "On appeal from summary judgment, the reviewing court must consider the facts and inferences in the light most favorable to the nonmoving party." *Cantrell v. Green*, 302 S.C. 557, 559, 397 S.E.2d 777, 778 (Ct. App. 1990) (citing *Cowburn v. Leventis*, 366 S.C. 20, 30, 619 S.E.2d 437, 443 (Ct. App. 2005)); *Hancock v. Mid-South Mgmt. Co.*, 381 S.C. 326, 330, 673 S.E.2d 801, 802 (2009) (citing *Koester v. Carolina Rental Ctr.*, 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994)); *see also*, *Spencer v. Miller*, 259 S.C. 453, 456, 192 S.E.2d 863, 864 (1972) (internal citations omitted) ("The underlying facts must be viewed in the light most favorable to the party opposing the motion."). All inferences and ambiguities must be construed against the movant and in favor of the non-moving party. *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962); *see also*, *Cowburn v. Leventis*, 366 S.C. 20, 30, 619 S.E.2d 437, 443 (Ct. App. 2005).

Summary judgment is appropriate if there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Hancock v. Mid-South Mgmt. Co.*, 381 S.C. 326, 329, 673 S.E.2d 801, 802 (2009) (citing Rule 56(c), SCRCP). The moving party must clearly establish the absence of a triable issue of fact through the record. *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). A court shall grant summary judgment if the non-moving party fails to establish the existence of an element essential to the party's case upon which the party will bear the burden of proof at trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986) (citing Fed. R. Civ. P. 56, of which Rule 56, SCRCP is similar). *See also*, *Kitchen*

Planners, LLC, v. Samuel E. Friedman, et al., Op. No. 28173, (S.C. Sup. Ct. filed Aug. 23, 2023) (Howard Adv. Sh. No. 33 at 11).

Summary judgment is inappropriate when "further inquiry into the facts of the case is desirable to clarify the application of the law." *USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 653, 661 S.E.2d 791, 796 (2008) (citing *Middleborough Horizontal Prop. Regime Council of Co-Owners v. Montedison S.p.A.*, 320 S.C. 470, 479, 465 S.E.2d 765, 771 (Ct. App. 1995)). "Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied." *Clegg*, 377 S.C. at 653, 661 S.E.2d at 796 (citing *Nelson v. Charleston Cnty. Parks & Rec. Comm'n*, 362 S.C. 1, 5, 605 S.E.2d 744, 746 (Ct. App. 2004)).

"[T]he proper standard is the 'genuine issue of material fact' . . . 'it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.'" *Kitchen Planners, LLC*, (quoting *Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013)). "In the language of the Rule, the nonmoving party must come forward with 'specific facts showing that there is a genuine issue for trial.'" *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). The non-moving party need only provide "any evidence from which a jury could reasonably conclude" an essential element of the underlying claim. *Vereen v. Liberty Life Ins. Co.*, 306 S.C. 423, 432, 412 S.E.2d 425, 431 (Ct. App. 1991). Even if the evidence is "weak" or "susceptible of more than one reasonable inference," summary judgment is inappropriate. *Id.*

ARGUMENT

The granting of summary judgment violated the principles of Rule 56(c) when the trial court ignored the substantial evidence demonstrating Respondent's employment of Saensane; Respondent's service of alcohol to Saensane at the restaurant; and Respondent's knowledge of Saensane's historical consumption of alcohol while on the job. The trial court further erred by finding Respondent owed no duty under the alcohol beverage licensing statutes to Appellant, the violation of these penal statutes being the proximate cause of Appellant's injuries.

There exist triable issues of material fact that the jury was denied from considering because the trial court ignored this evidence and misapplied the law when granting summary judgment in favor of Respondent.

I. The trial court erred in granting the Motion for Summary Judgment because there are genuine issues of material fact in dispute for the jury to consider and decide.

Summary judgment under Rule 56(c), SCRCP, required Appellant to present specific facts showing there is a genuine issue for trial. *Strickland v. Madden*, 323 S.C. 63, 68, 448 S.E.2d 581, 584 (Ct. App. 1994). As the Supreme Court articulated in *Kitchen Planners, LLC*, to clarify the appropriate standard under Rule 56(c), the non-moving party may sufficiently defend against summary judgment by creating an inference that is reasonable or raising an issue of fact that is genuine. (Howard Adv. Sh. No. 33 at 16) (citing *Town of Hollywood*, 403 S.C. at 477, 744 S.E.2d at 166)). Appellant presented ample evidence of disputed facts concerning whether Saensane was an employee or agent of Respondent to warrant the jury's determination as factfinder.

First, Appellant need not prove Saensane was a statutory employee of Respondent for dram shop liability to exist because the statutory scheme for Alcohol and Beverage Licensing in South

Carolina does not require this heightened standard. S.C. Code Ann. § 61-4-580(A)(2) (Supp. 2021) ("No holder of a permit authorizing the sale of beer or wine **or a servant, agent, or employee of the permittee** may knowingly commit any of the following acts upon the licensed premises covered by the holder's permit . . . sell beer or wine to an intoxicated person.") (emphasis added). Even Saensane considered herself an employee of Respondent: "I worked there as a[n] employee." (R. p. 147, lines 15-19). "Q: Are you, are you an employee of Bangkok Tokyo? A: Yes, sir." (R. p. 152, line 24 - p. 153, line 6). The trial court erred by finding Saensane "was not sold or served wine by any employee" of Respondent because this went against the weight of the evidence. (Order, R. p. 7).

Appellant brought private causes of action arising from the violation of state criminal alcohol control statutes under Titles 12 and 61 of the South Carolina Code of Laws.[1] South Carolina does not have a dram shop statute, but litigants may still bring civil cases against the permit-holder for criminal violations of the alcohol beverage licensing statutory scheme established by the Legislature. *Hartfield v. Getaway Lounge & Grill, Inc.*, 388 S.C. 407, 417, 697 S.E.2d 558, 563 (2010) (citing *See Tobias v. Sports Club, Inc.*, 332 S.C. 90, 92, 504 S.E.2d 318, 319 (1998) ("Because South Carolina does not have a Dram Shop Act, our civil remedy arises out of criminal statutes.")). South Carolina law therefore allows for a third-party to bring a private cause of action against a restaurant or other alcoholic beverage permit holder who violates the

[1] As a matter of orientation, the statutory violations are not derived directly from "The Alcoholic Beverage Control Act," which regulates liquors and spirits, but rather are supplemented by the ABC Act. S.C. Code Ann. § 61-6-10 (2021), *et seq.*

"alcoholic beverage control statutes and regulations . . . ." *Marcum v. Bowden*, 372 S.C. 452, 459, 643 S.E.2d 85, 89 (2007).

ABL Licensing is an exhaustive statutory scheme deeming the Department of Revenue for the State of South Carolina "the sole and exclusive authority empowered to regulate the operation of all locations authorized to sell beer, wine . . . authorized to establish conditions or restrictions which the department considers necessary . . . **and occupies the entire field of beer, wine, and liquor regulation** . . . ." S.C. Code Ann. § 61-2-80 (2009) (emphasis added). No individual may sell beer or wine without a valid license. S.C. Code Ann. § 61-4-150 (1996).

South Carolina operates under a three-tier licensing structure with retail restaurants, such as Respondent, categorized as "Tier Three" retail establishments. S.C. Code Ann. § 61-4-735 (1996). "[Retail] dealers' licenses . . . authorize the licensees to purchase alcoholic liquors from wholesalers . . . and to store, keep, possess, and sell alcoholic liquors at retail for consumption in compliance with the provisions of the ABC Act and regulations not in conflict herewith." S.C. Code Ann. § 61-6-100(3) (1996).

The exact interplay between the ABL scheme and the private cause of actions implied therein is a question of statutory construction. The court must effectuate the intent of the General Assembly by identifying the purpose of the statute, the class of people it is designed to protect, and the probable adverse consequences should the statute be violated. *Daley v. Ward*, 303 S.C. 81, 84, 399 S.E.2d 13, 14-15 (Ct. App. 1990).

In *Daley*, the Court of Appeals determined a private cause of action was implied pursuant to statute. 303 S.C. at 83-84, 399 S.E.2d at 14 (citing S.C. Code Ann. § 61-9-410 (1990)). The determination of application of the ABL Licensing statutes proceeded with an initial determination concerning whether the plaintiff was one of the class of people the statute was designed to protect.

Daley, 303 S.C. at 84, 399 S.E.2d at 14 (citing *Christiansen v. Campbell*, 285 S.C. 164, 328 S.E.2d 351 (Ct. App. 1985)). Like Appellant, the plaintiff in *Daley* was injured as a result of an accident with an intoxicated motorist and she sued, arguing the prohibition of serving an intoxicated individual was designed to safeguard third parties like herself. 303 S.C. at 84, 399 S.E.2d at 14. The court agreed and found S.C. Code § 61-9-410(2) provided for a cause of action to someone injured "by the actions of an intoxicated person served in violation of the statute." *Id*. at 84, 399 S.E.2d at 14. The court noted an injured third-party could evidence how the alleged violator "were confronted with such information from the person's appearance or otherwise, as would lead a prudent man to believe that the person was intoxicated." *Id.* at 86, 399 S.E.2d at 15.

Here, Appellant has offered uncontroverted evidence that Respondent sold wine to customers and that the leftover wine Saensane consumed at the restaurant before she left in her car. It was error to remove the question from the jury as to whether Respondent negligently served Saensane. *Daley*, 303 S.C. at 87, 399 S.E.2d at 16 (noting the prejudice to Daley when removing the factual determination from the jury as to whether the bar overserved a patron).

The Supreme Court found within the penal statutes "limited liability upon commercial hosts . . . to extend liability to third persons, and upon public policy concerns to deny recovery to the intoxicated adult patron." *Marcum,* 372 S.C. at 459, 643 S.E.2d at 88. For example, the Supreme Court held a duty of care exists for social hosts "for service to underage guests" based upon the common law and not the ABC Act even though those statutes impose criminal penalties. *Id.* at 459, 643 S.E.2d at 89. Conversely, in *Marcum*, the two ABC Statutes applicable to service of alcohol to a minor were designed to "protect only the person under 21 who consumes the alcohol, not the general public." *Id.* at 460-61, 643 S.E.2d at 89 (considering S.C. Code Ann. §§ 61-4-90 and 61-6-4070 as to the imposition of social host liability).

This has resulted in different levels of liability depending upon whether the server of alcohol is a social or commercial host; however, there is no dispute Respondent is a commercial host. S.C. Code § 12-21-1010(2) (2010) ("The word 'retailer' means any person who sells or distributes any quantity of beer or wine to a consumer."); *cf.* 27 C.F.R. 6.11.

Our courts have imposed separate and heightened duties upon commercial vendors derived from the ABL Licensing statutes whereby the commercial vendor "may be liable to the [minor] purchaser, and to third parties harmed by the [minor]'s consumption of the alcohol." *Marcum*, 372 S.C. at 459, 643 S.E.2d at 88 (citing *Whitlaw v. Kroger Co.*, 306 S.C. 51, 52, 410 S.E.2d 251, 252 (1991) ("We hold that these sections give rise to civil liability only where the violation is used to establish negligence per se, and where the violation is the proximate cause of the minor's injury.")). In 2010, the South Carolina Supreme Court again reaffirmed the doctrine of private causes of action derived from the alcohol control statutes in *Hartfield.* 388 S.C. at 417, 697 S.E.2d at 563.

The *Hartfield* case arose in a similar manner to the instant case: an individual went to multiple bars, drove his vehicle afterwards, crossed the center line of the road, and collided head-on with another car. *Id*. at 410, 697 S.E.2d at 559-60. The evidence introduced at trial established a genuine question of material fact as to whether "the jury could have easily concluded he was just as intoxicated at the time he was served his last beer at the [bar]." *Id*. at 416, 697 S.E.2d at 562-63 (quoting *Daley*, 303 S.C. at 84-85, 399 S.E.2d at 15). In *Hartfield*, the jury award for the injured third-party was upheld as there "was sufficient evidence for a jury question." *Id*. at 416, 697 S.E.2d at 562-63.

Appellant presented sufficient evidence that Respondent sold and served alcohol to patrons; that Respondent permitted its employee, Saensane, to share in the consumption of that

alcohol; and that Respondent was aware Saensane left in an intoxicated state. The court should reverse the grant of summary judgment and remand for further proceedings.

II. Respondent violated its statutory duties and responsibilities to third parties injured as a result of the service of alcohol to Saensane.

Appellant articulated specific statutory violations the Respondent engaged in to establish negligence *per se* under the ABL Licensing statutes; however, the full scope of statutory and regulatory violations is premature due to the ongoing discovery and litigation at the time of summary judgment proceedings. The trial court identified S.C. Code Ann. § 61-4-580(2) as "[t]he most commonly cited statute in South Carolina dram shop actions," and determined it was inapplicable because Saensane was not an employee or a customer of Respondent on September 26, 2019. (Order, R. p. 7). The trial court did not address S.C. Code Ann. § 61-5-30 as it was repealed in 1997. (Order, R. p. 8).[2]

The trial court erred by interpreting S.C. Code Ann. § 61-4-580(2) as only applicable when an employee sells a glass of beer or wine to a separate and distinct customer. (Order, R. p. 8). This is inapposite with the case law and public policy history of South Carolina because the purpose, at least in part, of the penal statutes is to deter the dangers of drunk driving and safeguard the public's morals and health under the State's police powers. *Christiansen v. Campbell*, 285 S.C. 164, 167-68, 328 S.E.2d 351, 354 (Ct. App. 1985) *cert. denied*, June 27, 1985 (noting an essential purpose of S.C. Code § 61-9-410 is to promote public safety). This public policy has been set forth by the Supreme Court *since the 1840s* when a slaveholder's recovery against a merchant for the service

[2] Appellant believes this reference was adduced from the *Christiansen* cite in the Memorandum in Opposition, p. 9.

of alcohol to an enslaved person was affirmed. *Harrison v. Berkley*, 32 S.C.L. (1 Strob.) 525, 547 (1847) (noting a jury question existed as to whether a merchant violating a statute was the proximate cause of the slave's death). The *Harrison* court noted the merchant's liability arose from the negligence to forestall the "mischievous purpose" of the intoxicated individual and in the financial advantage inuring to the merchant by "ministering to the purpose" through the sale of his goods to the slave. *Harrison*, 32 S.C.L. at 551 ("The defendant cannot complain that an agent, which his own act naturally brought into operation, has occurred to produce the result.") Cited in *Christiansen v. Campbell*, 285 S.C. 164, 328 S.E.2d 351 (Ct. App. 1985), overruled on other grounds *Tobias v. Sports Club, Inc.*, 332 S.C. 90, 504 S.E.2d 318 (1998).

"The defendants hold a license from the State of South Carolina for the on premises sale and consumption of alcohol. As a licensee, their premises are subject to regulation by the State." *Norton v. Opening Break*, 313 S.C. 508, 510, 443 S.E.2d 406, 407 (Ct. App. 1994). "A permit or a license is a personal privilege granted by the State . . ." S.C. Code Regs. § 7-200.1(H). The application for a beer and wine permit under this regulation require the applicant to "describe with particularity the specific areas **upon which the licensee shall store, sell and/or serve liquor, beer or wine**." S.C. Code Regs. § 7-200.1(B) (emphasis added). The approved licensee "undertakes the privileges and responsibilities associated with that license." S.C. Code Regs. § 7-202. Therefore, a permit holder may still violate the ABL Statutes without a sale in the traditional sense of the exchange of monies for drinks.

These restrictions on sales "are not all inclusive" and also "concerns . . . **the sale and delivery of beer or wine**." S.C. Code Regs. § 7-701 (emphasis added). *See also*, S.C. Code Regs. § 7-702.1 ("Any delivery or removal of beer or wine between these restrictive hours shall be prima facie evidence that a sale was made."). The trial court erred by finding "[t]here [wa]s no evidence

of any transaction or sale of any alcohol by [Respondent]" to Saensane because this went against the weight of the evidence. (Order, p.4). Saensane testified she poured glasses of wine from Respondent's stock of wine purchased pursuant to the PBW permit issued by the State on September 26, 2019. Saensane testified she did not record the glasses of wine she drank from the open bottles thereby depriving the State of South Carolina and the county of the taxable revenues of the sale of the glasses of wine. The ABL Licensing statutes obligate the permit holder to safeguard their stock of alcoholic beverages beyond a sale in the traditional sense of monies exchanged; this is evidence of the Legislature's intent behind the statutory schema and discloses argument dram shop liability only exists when a customer pays for a drink.

A permit holder, such as Respondent, is not authorized to obtain a license for providing to customers free or gratis provision of beer or wine: "No person who holds a biennial permit to sell beer or wine for on-premises consumption may advertise, sell, or dispense these beverages for free." S.C. Code § 61-4-160. "The prohibition against dispensing the beverages for free does not apply to dispensing to a customer on an individual basis . . ." *Id*. This is a criminal statute. S.C. Code § 61-4-160 ("A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or imprisoned not less than three months, in the discretion of the court.") As in *Norton*, the licensee may not foster violations of the ABL Licensing statutes on their licensed premises.

In *Norton* the Court was faced with the question of whether a customer of a bar was liable for allowing their premises to be utilized by minors to consume their own alcohol. *Norton*, 313 S.C. at 510, 443 S.E.2d at 407-08. The court noted specifically that "[t]he defendants provided a 'safe haven' for underaged drinkers to engage in illegal drinking, but they did not themselves furnish the alcohol." *Norton*, 313 S.C. at 510, 443 S.E.2d at 408. The court reversed, finding the

ABL licensee subjected their premises to regulation by the State upon licensure to sell beer and wine. *Norton*, 313 S.C. at 510, 443 S.E.2d at 407. In particular, *Opening Break* failed to comply with 23 S.C. Code Ann. Regs. § 7-31 (Supp. 1993) in "allowing a person under twenty one years of age to possess or consume alcoholic liquors in or on the licensed premises," which constituted negligence *per se*. *Norton*, 313 S.C. at 512-13, 443 S.E.2d at 408-09. Violation of a statute or of a regulation is identical as "[r]egulations authorized by the Legislature have the force of law." *Norton*, 313 S.C. at 512, 443 S.E.2d at 408 (citing *Tant v. Dan River, Inc.*, 289 S.C. 325, 345 S.E.2d 495 (1986)).

On September 26, 2019, Appellant provided evidence that Saensane drank wine from the stock of alcoholic beverages maintained by Respondent, a Tier Three retailer. Appellant produced evidence that Respondent gave these drinks to Saensane for free or as a form of employment compensation.

As to whether S.C. Code Ann. § 61-4-580(2) requires a sale or two distinct individuals, the trial court erred by narrowly reading the statute such that the legislative intent to safeguard the general public from the dangers of unfettered access to alcohol is subsumed in its entirety. "In South Carolina, the primary rule of statutory construction is to give statutes their plain and ordinary meaning where the statute's language is unambiguous." *Brooks v. Northwood Little League*, 327 S.C. 400, 489 S.E.2d 647 (Ct. App. 1997). As a threshold matter, the text of the statute states: "No holder of a permit authorizing the sale of beer or wine or a servant, agent, or employee of the permittee may . . . sell beer or wine to an intoxicated person." S.C. Code Ann. § 61-4-580(A)(2). This appears to be facially straightforward; however, the Legislature has long evinced a public policy far broader than the trial court's reading of the statute to hold liable the PBW licensee when an agent or employee violates the ABL Licensing statutes.

The General Assembly states the public policy and legislative intent behind the ABL Licensing is tailored, *inter alia*, to protect the collection of state taxes; strictly regulate alcoholic liquors to protect the safety and morals of this State and its residents; and avoid problems associated with indiscriminate price cutting. H.R. 4729, 2018 Gen. Assemb., 122nd Sess. (S.C. 2018). A formal sale is not required for violation of the ABL Licensing statutes, and an agent of the licensee may violate the ABL Licensing statutes even though the agent is also a shareholder.

By ignoring the Legislature's clear instruction to consider not just the licensee as a potential statutory violator but also the licensee's **agents, servants, and/or employees**, the trial court misapplied the law and would provide a blueprint for future licensees to escape liability. S.C. Code § 61-4-580(A)(2). As in *Vereen*, the Appellant bears the burden of production and persuasion in order to demonstrate vicarious liability from the agent's acts to that of the principal—the Respondent. *Vereen*, 306 S.C. at 427, 412 S.E.2d at 428. "A party asserting agency as a basis of liability must prove the existence of the agency, and the agency must be clearly established by the facts." *McCall v. Finley*, 294 S.C. 1, 6, 362 S.E.2d 26, 29 (Ct. App. 1987) (citing *Paramount Fund, Inc., v. Cusaac*, 282 S.C. 497, 319 S.E.2d 354 (Ct. App. 1984)). Actual agency is determined by whether the "'purported principal has the right to control the conduct of [the] alleged agent.'" *McCall v. Finley*, 294 S.C. at 6, 362 S.E.2d at 29 (citing *Fernander v. Thigpen*, 278 S.C. 140, 144, 293 S.E.2d 424, 426 (1982)). "To establish apparent agency, a party must prove that the purported principal has represented another to his agent by either affirmative conduct or conscious and voluntary inaction." *McCall*, 294 S.C. at 7, 362 S.E.2d at 30 (citing *Watkins v. Mobil Oil Corp.*, 291 S.C. 62, 352 S.E.2d 284 (Ct. App. 1986)).

Saensane identified herself as an employee of Respondent. Saensane communicated her apparent authority to prospective employees she interviewed. Saensane acted in comportment with

that authority by providing free and unfettered access to the licensee's store of alcohol. Respondent, through its majority shareholder, Allison Wannarat, was conscious of Saensane's unfettered drinking on the job and engaged in voluntary inaction to forestall the eventual harm from this service of alcohol to an employee. Saensane's status as an employee is a genuine issue of material fact, which the court erred by removing from the jury's consideration.

As an agent and a shareholder of Respondent, Saensane's actions are attributable to the principal. "Generally agency may be implied or inferred and may be circumstantially proved by the conduct of the purported agent exhibiting a pretense of authority with the knowledge of the alleged principal." *Fernander v. Thigpen*, 278 S.C. 140, 143, 293 S.E.2d 424, 426 (1982) (citing *Fochtman v. Clanton's Auto Auction Sales*, 233 S.C. 581, 106 S.E.2d 272 (1958). *But see*, *McAllister v. Graham*, 287 S.C. 455, 458, 339 S.E.2d 154, 156 (Ct. App. 1986) (holding agency liability is applicable when the question of agency has a connection with the damages alleged). *Fernander* and *McAllister* both sought to hold the principal liable for the acts of an agent. The *McAllister* court did not find vicarious liability existed because the "accident happened . . . entirely unrelated to [plaintiff's] knowledge of whether [the agent] had authority to drive . . ." *McAllister*, 287 S.C. at 458, 339 S.E.2d at 156.

In *McAllister*, an employee, while driving a company truck, struck and injured the plaintiff, who brought suit under vicarious liability. *Id*. at 456, 339 S.E.2d at 155. The principal was not held liable in *McAllister* for their agent's actions because the employee was "on a lark" and getting doughnuts. *Id*. at 458, 339 S.E.2d at 156 ("An employer is not liable for its employee's negligent acts where the employee is not performing the employer's business, but rather engaged in the employee's private, personal business.") (citing *Gathers v. Harris Teeter Supermarket, Inc.*, 282 S.C. 220, 317 S.E.2d 748 (Ct. App. 1984)). *See also*, *Chambers of S.C., Inc. v. Entrepreneur, Inc.*,

292 S.C. 97, 100, 354 S.E.2d 921, 923 (Ct. App. 1987) (reversing directed verdict for company as jury question existed as to vicarious liability). Appellant produced direct and circumstantial evidence of Saensane's actions and duties being related entirely to the scope and course of her employment at Respondent's business.

In a similar vein to the instant case, the *Fernander* court reversed the trial court because direct evidence existed on the issue of an agency relationship such that a jury question existed. 278 S.C. at 144, 293 S.E.2d at 427. In particular, the *Fernander* court pointed to a manager's testimony of who they thought their employer was to illustrate the direct evidence supporting reversal. As in *Fernander*, Appellant presented substantial evidence of an agency relationship between Saensane and Respondent such that the jury was improvidently denied consideration of this question of material fact. On September 26, 2019, Saensane only engaged herself in the tasks and duties of her employer while she served herself substantial amounts of alcohol. The cost of the wine Saensane consumed does not extinguish Respondent's statutory duties.

Neither the courts of this State nor the General Assembly require a formal sale for the provisions of the ABL Licensing statutes to apply as there are specific allowances and prohibitions for permittees to "sell beer or wine . . . for free." S.C. Code Ann. § 61-4-160 ("No person who holds a biennial permit to sell beer or wine for on-premises consumption may advertise, sell, or dispense these beverages for free . . . The prohibition against dispensing the beverages for free does not apply to dispensing to a customer on an individual basis . . . .").[3] The General Assembly

[3] ". . . A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or imprisoned not less than three months, in the discretion of the court." S.C. Code Ann. § 61-4-80.

remains clear that free service of wine still creates a customer of the bar pursuant to Title 61, chapter 4.

Part of this reason is the tax scheme underlying the licensure of alcoholic beverages whereby the General Assembly requires levied taxes for the sale of any alcoholic beverage. S.C. Code Ann. § 61-4-20 ("It is unlawful for a person to sell or permit to be sold beer, ale, porter, wine, malt, or other beverage authorized to be sold under this chapter on which the tax levied has not been paid. A person having charge of the sale of one of these beverages who sells or permits it to be sold in violation of the provisions of this section is guilty of a misdemeanor . . ."). Under Title 12, the tax owed by Respondent for the gratuitous provision of wine to Saensane should have been taxed at a rate of "six cents for each eight ounces or fractional quantity thereof." S.C. Code Ann. § 12-21-1030. Specifically, Title 12 mandates calculation of the taxable amount owed and due as the regular price paid. "Whenever the retail or selling price is referred to in this chapter as the basis for computing a tax, it is intended to mean the ordinary, customary or usual price paid by the consumer." S.C. Code Ann. § 12-21-170. Respondent's obligations and duties as a licensee under Title 61 are not excused simply because Saensane did not directly pay for the drinks nor is the public policy of this state served by allowing Respondent to escape responsibility for its negligence *per se*.

The statutory scheme further supports this principle of legislative intent as does the long history of dram shop liability in South Carolina:

> No holder of a permit may "permit any act, the commission of which tends to create a public nuisance or which constitutes a crime under the laws of [South Carolina]." S.C. Code Ann. § 61-4-580(A)(5). No holder of a permit may "sell, offer for sale, or possess any beverage or alcoholic liquors the sale or possession of which is prohibited on the licensed premises under the law of [South Carolina]."

S.C. Code Ann. § 61-4-580(A)(6).

> "It is unlawful for a person who purchases beer or wine while on licensed premises to give the beer or wine to a person to whom beer or wine cannot lawfully be sold on the premises. A person who violates this section, upon conviction . . ."

S.C. Code Ann. § 61-4-80.

> "The unlawful sale, barter, exchange, storage or keeping in possession in this State of spirituous, malt, vinous, fermented, brewed (whether lager or rice beer) or other liquors or beverages or a compound or mixture thereof which contains alcohol and is used as a beverage is hereby declared a common nuisance."

S.C. Code Ann. § 61-8-10.

Here, Appellant presented sufficient evidence Saensane consumed wine from Respondent's open stock of already sold wine on September 26, 2019, to the point of severe intoxication. This evidence established a jury question as to whether a reasonable person would know Saensane was intoxicated and whether Respondent allowed Saensane to leave the premises in a severely intoxicated state.

Appellant provided evidence articulating a reasonable and genuine issue of fact for the jury to consider. The evidence did not require speculation to determine the existence of these genuine issues of material facts foundational to Appellant's causes of action: "After the restaurant closed on September 26, 2019, **while doing paperwork/accounting, Defendant Saensane drank wine and served herself.**" (Order, R. p. 4) (emphasis added). As Dr. Eagerton testified to in his affidavit, "Saensane's BAC level at 12:56 a.m., . . . would have been 0.273 g/100 mL." (Affidavit Eagerton, R. p. 53).

"Defendant Saensane has no recollection of where she was between the hours of 10:00 PM and 12:46 AM the next morning." (Order. R. p. 5). No evidence was introduced indicating Saensane left Defendant Ra Cha at 10:00 PM on the night in question requiring the trial court to infer and speculate about Saensane's activities prior to the accident. "Defendant Saensane likely

left the restaurant for the night around 10:00 PM on September 26, 2019." (Order, R. p. 5). As the Supreme Court noted in *Kitchen Planners, LLC,* the trial court's speculation is insufficient when Appellant has presented a "meaningful factual basis on which a factfinder could determine," if Respondent violated the Dram Shop statutes of South Carolina through the overserving of its employee, Saensane. *Kitchen Planners, LLC,* at 17.

Appellant presented evidence Saensane was near the restaurant when she turned right onto North Pleasantburg Drive and drove into Appellant's car. (R. p. 176, line 2 – p. 177, line 25). Appellant presented evidence Saensane often worked late into the night after the restaurant closed at 9:00 p.m. Appellant presented uncontroverted evidence Saensane left work after 11:00 p.m. on occasion; Appellant presented uncontroverted evidence Saensane crashed into Appellant just two miles from the restaurant. (R. p. 172, line 24 – p. 173, line 5).

This court should reverse the grant of summary judgment and remand the matter for further proceedings.

III. The trial court erred in granting summary judgment because Appellant presented sufficient evidence his injuries were foreseeable in that Respondent had reason to know that overserving alcohol would probably result in injury of this kind.

The gravamen of this case are the unique duties and responsibilities required of the licensee, whose premises upon application become subject to the regulation of the State by operation of law. In South Carolina, a restaurant holding a permit to sell beer and wine is liable to an injured third party for overserving an intoxicated individual as a derogation of the alcohol and beverage control laws.

In order to proceed on a theory of negligence *per se*, the Appellant must articulate a duty of care arising from a statute, which was owed to them by the tortfeasor. *Whitlaw v. Kroger Co.*, 306 S.C. 51, 53, 410 S.E.2d 251, 252 (1991). The Appellant must show "that the essential purpose of the statute is to protect from the kind of harm the plaintiff has suffered; and . . . that he is a member of the class of persons the statute is intended to protect." *Id*. (quoting *Rayfield v. South Carolina Dep't of Corrections*, 297 S.C. 95, 103, 374 S.E.2d 910, 914 (Ct. App. 1988), *cert. denied*, 298 S.C. 204, 379 S.E.2d 133 (1989)). Beyond articulating the duty of care, "[t]he plaintiff must prove the violation of the statute was causally linked, both in fact and in law, to the injury." *Steele v. Rogers*, 306 S.C. 546, 549, 413 S.E.2d 329, 331 (Ct. App. 1992) (citations omitted); *Christiansen v. Campbell*, 285 S.C. 164, 328 S.E.2d 351 (Ct. App. 1985), *cert. denied*, June 27, 1985 (the question of proximate cause was for the jury to determine where a licensed retailer sold beer to an intoxicated person in violation of S.C. Code Ann. § 61-9-410); *see also, Jamison v. Pantry, Inc.*, 301 S.C. 443, 448, 392 S.E.2d 474, 477 (Ct. App. 1990).

The natural and probable consequences are easily traceable from allowing an agent of Respondent to violate the ABL licensing statutes through the overservice of Saensane to the conclusion when Saensane drove into Appellant with a BAC of 0.273 g/mL at the time of the collision. *Crolley v. Hutchins*, 300 S.C. 355, 358, 387 S.E.2d 716, 718 (Ct. App. 1989) (noting an attempted suicide was too remote given time and causal relationship to establish proximate causation).

Through the allowance of Saensane's pattern and practice of consuming alcohol on the premises of Respondent's business, the Respondent fostered a "safe haven" for violations of the ABL Licensing statutes. The Appellant produced sufficient evidence of proximate cause of the

breach giving rise to his injuries. *Whitlaw*, 306 S.C. at 54, 410 S.E.2d at 253 ("Proximate cause requires proof of (1) causation in fact and (2) legal cause.").

As to causation in fact, it is undisputed that Saensane was intoxicated at the time of the accident and there was no evidence Saensane consumed alcoholic beverages at any location but for Respondent's premises. Respondent should have foreseen the injuries to Appellant as a result of the safe haven of drinking fostered at Respondent's restaurant. Respondent took no measures to limit, safeguard, or monitor the service of wine to Saensane following Respondent's awareness of Saensane's long-standing proclivity to consume wine after-hours. Respondent should have known the natural and probable consequence of doing nothing to safeguard the sale and service of beer and wine would result in the overservice of a customer. *Crolley*, 300 S.C. at 357, 387 S.E.2d at 717-18 (noting proximate cause requires foreseeability of the natural and probable consequence of the tortfeasor's negligence).

Appellant evidenced the historical nature of Saensane's consumption of alcohol on the premises of Respondent's business and the liability of Respondent who should have known of the probable injuries to third parties. Respondent, through its majority shareholder, knew of Saensane's consistent consumption of alcoholic beverages at the restaurant and acted negligently in failing to forestall the likely injuries to third parties such as Appellant. Questions of material fact exist as to whether Respondent served alcohol to Saensane on September 26, 2019. These are questions for the jury as the evidence is susceptible to, and facially exclaims, disagreement on genuine issues of material fact. *Christiansen*, 285 S.C. at 170, 328 S.E.2d at 355 (citation omitted) (holding that proximate cause is a question for the jury unless no reasonable persons could view the evidence in any different light).

In *Allen*, the plaintiff brought a products liability suit against the manufacturer of a grain auger alleging that the warning was inadequate. *Allen v. Long Mfg. N.C., Inc.*, 332 S.C. 422, 424, 505 S.E.2d 354, 355 (Ct. App. 1998). The trial court granted summary judgment to the manufacturer, finding the warning was adequate as a matter of law because it complied with industry standards. *Id*. at 426, 505 S.E.2d at 356. The plaintiff offered testimony through his expert witness that the warning was insufficient because it failed to specify "what the hazard is, and how to avoid the hazard, and what the consequences are . . ." *Id*. at 429, 505 S.E.2d at 358. The Court of Appeals held that this testimony constituted "sufficient evidence of the warning's inadequacy to create a genuine issue of material fact for the jury" and reversed the lower court's dismissal. *Id*. at 430, 432, 505 S.E.2d at 358, 360.

Appellant produced substantial evidence that on September 26, 2019, Saensane drank wine from the stock of alcoholic beverages Respondent was licensed to sell and serve as a Tier Three retailer. Appellant produced evidence that the alcohol had been sold to customers, and that Respondent expressly permitted Saensane to share in that alcohol. This was easily foreseeable by Respondent, who chose to not safeguard the public from the flagrant violations of the ABL licensing statutes. On September 26, 2019, that customer was Saensane, and the victim was Appellant. The court should reverse the grant of summary judgment and remand this case for further proceedings.

CONCLUSION

The weight of evidence presented to the trial court far exceeds the genuine issue standard set forth by Rule 56(c), SCRCP, and as explained in *Kitchen Planners* such that the trial court erred by removing from the jury's consideration the questions of material fact and whether

Respondent is liable to Appellant for the Respondent's violations of the alcohol and beverage licensing statutes.

For the reasons stated, this Court should reverse the Circuit Court's order granting summary judgment to Respondents and should remand the matter for further proceedings.

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January 4, 2024

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
Letitia H. Verdin, Circuit Court Judge

Appellate Case No. 2023-00044
C/A No. 2021-CP-23-01487

Kevin Dwayne Chavis……..……Appellant,

v.

Vansy Saensane and Ra Cha, Inc. d/b/a
Bangkok Tokyo Restaurant a/k/a
Bangkok Thai Restaurant,

of whom

Ra Cha, Inc. d/b/a Bangkok Tokyo Restaurant
a/k/a Bangkok Thai Restaurant is ……..…..……Respondent.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Brief of Appellant, Kevin Dwayne Chavis, complies with Rule 211(b), SCACR. The undersigned also certifies that this Appellant's Brief complies with the South Carolina Supreme Court's April 16, 2014 Order re: Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.

January 4, 2024

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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Letitia H. Verdin, Circuit Court Judge

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of whom

Ra Cha, Inc. d/b/a Bangkok Tokyo Restaurant
a/k/a Bangkok Thai Restaurant is ……..…..……Respondent.

PROOF OF SERVICE

I certify that on January 4, 2023 I served copies of the **Brief of Appellant** by e-mail and by United States Mail, postage paid, addressed to:

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