

STATE OF SOUTH CAROLINA )  
LANCASTER COUNTY )

IN THE COURT OF COMMON PLEAS  
SIXTH JUDICIAL CIRCUIT

CASE NO.: 2023-CP-29-00493

ROBERTA MOORE, )  
                  *Plaintiff,* )  
                                  ) )  
v. )  
                                  ) )  
REBECCA GIESLER, )  
                  *Defendant.* )

**ORDER GRANTING SUMMARY  
JUDGMENT IN FAVOR OF DEFENDANT**

THIS CAUSE came on to be heard and was heard by the Honorable Judge Gibbons presiding over the Court of Common Pleas for Lancaster County on February 12, 2024, upon Defendant Rebecca Giesler's Motion for Summary Judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure (SCRCP). Present at the hearing was Roberta Moore, *pro se*, and counsel for the Defendant, Jennifer M. Cloud. After reviewing the pleadings, motion, memorandum, and all other evidence of record, along with considering the arguments of both the Plaintiff and Defendant's counsel, the Court makes and enters the following:

FINDINGS OF FACT

1. The Plaintiff initiated this action April 24, 2023, by filing a Complaint against the Defendant. The Defendant filed an Answer and Counterclaim on May 7, 2023. Thereafter, on June 8, 2023, the Plaintiff filed an Amended Complaint against the Defendant alleging eight causes of action, and the Defendant filed her Amended Answer and Counterclaim on June 19, 2023.
2. On June 19, 2023, the Defendant filed a Motion to Dismiss under SCRCP 12(b)(6). The parties appeared before the Honorable Judge Gibbons on July 24, 2023, and the Motion to Dismiss was taken under advisement. On July 25, 2023, Judge Gibbons partially granted the Defendant's Motion to Dismiss by dismissing the following causes of action from the Plaintiff's Complaint: violation of the South Carolina Unfair Trade Practices Act; invasion of privacy; negligence; gross negligence; intentional infliction of emotional distress; and negligent infliction of emotional distress. Judge Gibbons denied the Defendant's Motion as to the two causes of action of breach of contract and breach of contract accompanied by a fraudulent act, and those causes of action were to move forward.
3. On September 26, 2023, the Defendant deposited with the United States Postal Service, the Defendant's First Set of Interrogatories; Request for Admissions; and Request for Production of Documents. The Defendant's First Set of Interrogatories; Request for Admissions; and Request for Production of Documents was delivered to the Plaintiff on September 29, 2023.
4. The Plaintiff failed to respond to the Defendant's Request for Admissions within thirty (30) days of receipt. To date, the Plaintiff has not responded to Defendant's Request for Admissions.
5. The Defendant filed a Motion for Summary Judgment on November 15, 2023, and said motion was calendared for February 20, 2024. Upon the Court's own motion, this cause was rescheduled for February 12, 2024.
6. Based upon the Plaintiff's failure to timely respond or object to the Defendant's Request for Admissions, all requests for admissions are deemed admitted.

7. The Plaintiff failed to raise a viable defense as to why the requests were not answered within the thirty-day deadline.

8. Pursuant to the arguments presented in open court, and the evidence submitted, the Defendant showed unto this Court, with clear and convincing evidence, that, based upon the admissions being deemed admitted, no genuine issue of material fact remains as to the Plaintiff's causes of action, and as to the Defendant's First Counterclaim, and summary judgment is appropriate in favor of the Defendant.

9. The Plaintiff did not show unto this Court that any genuine issue of material fact remained for her causes of action.

#### CONCLUSIONS OF LAW

1. This Court has jurisdiction over the parties and subject matter, and this matter is properly before the Court.

2. Rule 56 of the South Carolina Rules of Civil Procedure (SCRCP) provides that a party may move, with or without supporting affidavits, for summary judgment in her favor as to all or part of a claim. SCRCP 56(a).

3. The trial court must grant the motion "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. SCRCP 56(c).

4. "When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in a light more favorable to the non-moving party." *Hunsson v. Scalise Builders of S.C.*, 374 S.C. 352, 355, 650 S.E.2d 68, 70 (2007). However, "[o]nce the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings[,] [but] must come forward with specific facts showing there is a genuine issue for trial." *Regions Bank v. Schmauch*, 354 S.C. 648, 660, 582 S.E.2d 432, 438 (Ct. App. 2003).

5. When reasonable minds cannot differ on plain, palpable, and indisputable facts, summary judgment must be granted. *Singleton v. Sherer*, 377 S.C. 185, 659 S.E.2d 196 (Ct. App. 2008).

6. Rule 36(a) of the South Carolina Rules of Civil Procedure allows a party to serve upon another party a written request for the admission of the truth of certain matters, including those "that relate to statements or opinions of fact or of the application of law to fact." SCRCP Rule 36(a).

7. Rule 36(a) further provides that the matter is deemed admitted unless the party serves an answer or objection within 30 days, or within 45 days if the request for admission is served with the summons and complaint. SCRCP Rule 36(a).

8. South Carolina courts have consistently adhered to the rule that the "failure to respond to requests for admissions renders any matters listed in the request conclusively admitted for trial, regardless of whether the admission concerns a matter responded to in a party's pleadings." *Scott v. Greenville Housing Authority*, 355 S.C. 639, 646 579 S.E.2d 15, 155-56 (Ct. App. 2003) (reversing the lower court which allowed defendant to withdraw its admissions). Further, "[if] the language of

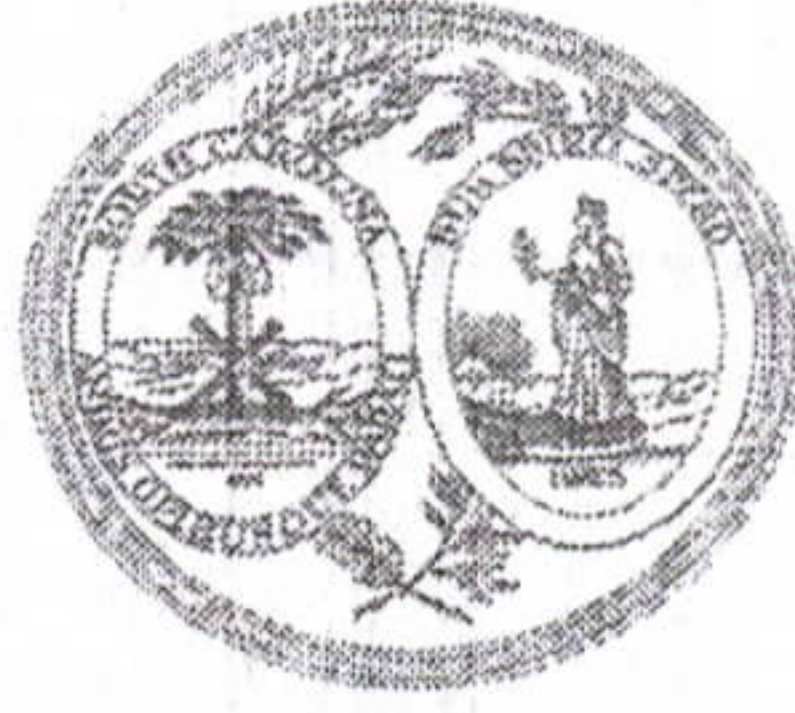
the request for admission specifically goes to an issue in the pleading, the admission resulting from the parties' failure to respond to the request may override the pleadings." *Id.* at 650, 157.

**IT IS NOW, THEREFORE, ORDERED, ADJUDGED, and DECREED, as follows:**

1. That the Defendant's Motion for Summary Judgment be **GRANTED**, and the Plaintiff's Complaint is disposed in full;
2. That as to the Defendant's First Counterclaim, the Defendant's Motion for Summary Judgment be **GRANTED**;
3. That this Judgment does not adjudicate the issue of damages under any of the Defendant's Counterclaims; and
4. That the Defendant's cost in this action be taxed against the Plaintiff.

**IT IS SO ORDERED.**

*[Honorable Presiding Judge's Signature to Appear on Following Page]*



Lancaster Common Pleas

**Case Caption:** Roberta Moore VS Rebecca Giesler

**Case Number:** 2023CP2900493

**Type:** Order/Summary Judgment

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

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**CERTIFICATE OF SERVICE**

I, Jennifer Cloud, do hereby certify that a true and accurate copy of **ORDER GRANTING SUMMARY JUDGMENT** was served upon the Plaintiff on March 26, 2024, by depositing the same in the custody of the United Postal Service, 2<sup>nd</sup> Day Air, with sufficient postage affixed to the following:

Roberta Moore  
3194 Pine Bluff Way  
Fort Mill, SC 29707

**THE CLOUD LAW FIRM, LLC**

*/s/ Jennifer M. Cloud*

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Jennifer M. Cloud, Esq.

*Attorney for Defendant*

March 26, 2024  
Rock Hill, South Carolina

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

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