

Roberta Moore
PLAINTIFF(S)

Rebecca Giesler
DEFENDANT(S)

RECEIVED

APR 26 2024

30 Court of Appeals

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Motion for Summary Judgment GRANTED.

Attorney for Defendant shall prepare a more formal order within 10 days consistent with her arguments and pleadings.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 03/05/2024 .

Roberta Moore for Roberta Moore
Rebecca Giesler for Rebecca Giesler
Rebecca Giesler for Rebecca Giesler
Roberta Moore for Roberta Moore

NAMES OF TRADITIONAL FILERS SERVED BY MAIL



Lancaster Common Pleas

Case Caption: Roberta Moore VS Rebecca Giesler

Case Number: 2023CP2900493

Type: Order/Electronic Form 4

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

Electronically signed on 2024-03-05 11:42:41 page 3 of 3

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, "[i]f 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

Electronically signed on 2024-03-26 11:19:35 page 4 of 4

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.)

RECEIVED

APR 26 2024

SC Court of Appeals

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, 2nd 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

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), SCRCF.

STATE OF SOUTH CAROLINA
COUNTY OF Lancaster
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2023CP2900493

Roberta Moore
PLAINTIFF(S)

Rebecca Giesler
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

After further review and deliberation, the court GRANTS Defendant's motion to dismiss for the following causes of action: violation of the South Carolina Unfair Trade Practices Act (SCUTPA), invasion of privacy, negligence, gross negligence, intentional infliction of emotional distress, and negligent infliction of emotional distress.

The Court respectfully DENIES Defendants motion to dismiss as to the causes of action for breach of contract and breach of contract accompanied by a fraudulent act. As such, the case shall go forward on these causes of action at this time.

Attorney Cloud shall prepare and submit a more formal order for the Court within 10 days using language consistent with her legal arguments and memoranda.

Plaintiff is further encouraged to retain an attorney to represent her interests. It is so ordered.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 07/25/2023 .

Roberta Moore for Roberta Moore
 Rebecca Giesler for Rebecca Giesler
 Rebecca Giesler for Rebecca Giesler
 Roberta Moore for Roberta Moore

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

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), SCRCF.



Lancaster Common Pleas

Case Caption: Roberta Moore VS Rebecca Giesler
Case Number: 2023CP2900493
Type: Order/Electronic Form 4

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

Electronically signed on 2023-07-25 14:40:21 page 3 of 3

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

IN THE COURT OF APPEALS
JUDICIAL CIRCUIT

Roberta Moore)

CERTIFICATE OF SERVICE

Appellant / Plaintiff,)

vs.)

Rebecca Geisler)

Case No: 2023CP2900493

Defendant.)

I certify that on this date, I served a copy of Request For Appeal to Defendant by mailing a copy to the Defendant's Attorney Of Record, Jennifer M. Cloud, Esq in this action, dated April 2, 2024, on April 2, 2024 by

- Delivering it to him/her personally;
- Mailing it to him/her, at his/her last known address, by depositing it in the U.S.

Mail, in an envelope with sufficient postage affixed, addressed as follows:

- Delivering it by commercial delivery service in accordance with Rule 4(d)(9), SCRCP, addressed as follows:

or,

Other:

By depositing a copy of it in the United States Mail, postage prepaid, on April 2nd, 2024, by depositing the same in the custody of the United States Postal Service, overnight mail, with sufficient postage affixed to the following:

Rebecca Giesler
c/o Jennifer M. Cloud, Esq
Cloud Law Firm
1467 Ebenezer Road

Rock Hill, SC 29732

(See Rule 5(b)(1), SCRCP)

4/2/24
Date

Robin Lee Hoox
Signature

SCCA 255 (05/2013)

Scheduled Delivery by

WEDNESDAY

3 April
2024 ⓘ

by
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ⓘ

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STATE OF SOUTH CAROLINA FILED)
OFFICE OF)
COUNTY OF RICHLAND CLERK OF COURT)

IN THE COURT OF APPEALS
JUDICIAL CIRCUIT

2024 APR -9 A 11:124

CASE No.: 2023-CP-29-00493

Roberta Moore,

CLERK OF COURT
Appellant (Plaintiff))
CANCASTER, SC)

vs.

REQUEST FOR APPEAL

Rebecca Giesler,

Appellee (Defendant).

PLEASE TAKE NOTICE that Plaintiff and Appellant, Roberta Moore, hereby respectfully requests an appeal from the order granting Summary Judgment granted by Judge Brian Gibbons on March 5, 2024 with final paperwork being filed on March 26, 2024 by Defendant.

RATIONALE FOR REQUEST

1. Appeal requested based on the Defendant's failure to file Formal Order within the specified 10-day deadline ordered by Judge Brian Gibbons in notice granting summary judgment on March 5th, 2024.

2. Appeal requested based on Defendant's request for discovery was for items that were already a matter of public record on the public index (and/or) authored (and/or) signed by the Defendant. Defendant abused the discovery process by making unnecessary requests for materials that she already had in possession and by asking questions and for materials that had no relevance to the case. The Defendant's request for discovery was unreasonably cumulative and duplicative and placed more unwarranted burden on the Plaintiff and should not have been allowed. *Greymound Corp. v. Sup Ct (Clay)* 56 C2d at 384-385. Answers and materials requested had already been given in previous responses in prior documents served upon Defendant.

(According to CCP 2019.030, the court shall restrict the frequency of extent of use of a particular discovery method if it determines that

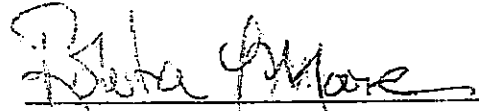
· the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome or less expensive.

· the selected method of discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy and the importance of the issues at stake in the litigation.

3. Appeal requested based on Defendant's request for summary judgment omitted contract addendum that was in dispute which is already a part of the public record and a relevant part of the case as indicated previously by Judge Brian Gibbons issuing an order continuing that portion of the case previously.

4. Appeal requested based on Defendant's request for summary judgment should not have been granted based on the material evidence given to show that a criminal act of extortion was in question that is a part of public record and Judge Brian Gibbons issuing an order continuing that portion of the case previously.

Respectfully Submitted,



Roberta Moore
3194 Pine Bluff Way
Indian Land, South Carolina 29707
RLMoore413@gmail.com (Email)
803-524-1842 (Telephone)
APPELLANT, PLAINTIFF, PRO SE

Indian Land, South Carolina

April 2nd, 2024

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Brian M. Gibbons, #2168 Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore, Appellant,

v.

Rebecca Giesler, Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Rebecca Giesler by depositing a copy of it in the United States Priority Mail, postage prepaid, on April 9th, 2024, addressed to her attorney of record, Jennifer M. Cloud, 1467 Ebenezer Road, Rock Hill, South Carolina 29732.

April 26, 2024



Roberta Moore
3194 Pine Bluff Way
Indian Land, South Carolina 29732
(803) 524-1842
Attorney for Appellant



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LANCASTER, SC 29720-2135
(800)275-8777

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Flat Rate			
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Up to \$100.00 included			
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Tracking #:			
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Return Receipt®			\$3.65
Tracking #:			
9590 9... 3393 3156 5494 17			
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Grand Total:			\$18.20
Cash			\$20.00
Change			-\$1.80

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Clerk: 5

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1. Article Addressed to:
Jennifer Cloud Esq
Attorney at Law
Rebecca Giesler
Pilot Executive Road
Rock Hill SC 29732

2. Article Number (Transfer from service label)
9 0710 5270 1543 4324 16

9590 9402 83993 3156 5494 17

PS Form 3811, July 2020 PSN 7530-02-000-9053

3. Service Type:
 Adult Signature
 Adult Signature Restricted Delivery
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 Certified Mail Restricted Delivery
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 Collect on Delivery Restricted Delivery
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 Signature Confirmation Restricted Delivery

4. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

A. Signature
[Signature]

B. Received By (Printed Name)
Jennifer Cloud

C. Date of Delivery
4/10/24

D. Addressed:
 Agent
 Addressee

COMPLETE THIS SECTION ON DELIVERY

Domestic Return Receipt