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SC Court of Appeals

STATEMENT OF ISSUES ON APPEAL

1. DID THE CIRCUIT COURT ERR IN GRANTING RESPONDENT’S MOTION TO SUBSTITUE 2CE, LLC AS THE REAL PARTY IN INTEREST, IN PLACE OF CHICK-FIL-A, INC., AND CLAIRE ECKERT, AND ADMENDING THE PLEADING ACCORDINGLY.....3

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STATEMENT OF THE CASE

This negligence action arises out of a rear end motor vehicle collision between a Chick-Fil-A delivery employee, Respondent Sasha N. Gray (vehicle driver), while driving a Chick-Fil-A franchised owned red and white image/logo 2019 Honda vehicle in the Chick-Fil-A restaurant parking lot. Gray struck Appellant who was legally and properly parked at the Chick-Fil-A franchised restaurant located at 7424 Garners Ferry Road, Columbia, South Carolina on June 17, 2022. See Complaint, January 3, 2023. Appellant called Columbia Police (CPD) who responded to the accident. CPD issued an incident report finding Sasha N. Gray at fault for the collision, (**Exhibit A**). Appellant received property damage to his vehicle and medical treatment for his personal injury. As a result of the personal injury Appellant received from the vehicle collision, Appellant had to disenroll from Midlands Technical College where he was studying for a career to become a registered nurse. CPD incident report (**Exhibit A**) identified Respondent, Claire H. Eckert, as the registered owner of the Chick-Fil-A vehicle. Respondent in interrogators admitted that Arche Insurance Company (**Exhibit B**) insured the vehicle and the same company insures Chick-Fil-a Restaurant located at 7424 Garners Ferry Road, Columbia, South Carolina on June 17, 2022. A Motion Hearing was heard on this case, via WEBEX, June 27, 2023. As a result of the Motion Hearing, the Court later issued three (3) Orders. Court Orders of August 11, 2023 (2:19 PM), August 11, 2023, (2:53 PM), and August 11, 2023 (2:54 PM).

HISTORY

The South Carolina Circuit Courts has a computer system that is available to the general public that allows monitoring of cases and pending action. However; the general public, including Appellant, are restricted from having access to electronic activity such as filings by Attorneys. If

Appellant is not notified of an electronic filing, as required by SCRCF, by opposing council, he is placed at a disadvantage in the judicial process, which as in my case. As evident in the electronic filing form provided to an attorney at electronic filing (**Exhibit C**). "The following people have not been served electronically by the Court. Therefore, they must be served by traditional means.

ARGUMENT

1. *DID THE CIRCUIT COURT ERR IN GRANTING RESPONDENT'S MOTION TO SUBSTITUTE 2CE, LLC AS THE REAL PARTY IN INTEREST, IN PLACE OF CHICK-FIL-A, INC., AND CLAIRE ECKERT, AND ADMENDING THE PLEADING ACCORDINGLY.*

The Court err in Granting Respondent Motions to Substitute 2CE, LLC to replace Respondents Claire H. Eckert and Chick-Fil-A Inc. in this case. Respondent consistently failed or decline to provide Appellant complete discovery through interrogatories and production of documents stating the respondent, Claire H. Eckert is not a real party of interest; therefore, Respondent is not subject to discovery. Motion Hearing of June 17, 2022, before the Court, Ms. Brudvig stated that Claire H. Eckert is an employee of the organization (Transcript, p.5). It is of information and belief that Claire H. Eckert on June 17, 2022, date of accident, owned a fleet (multiple Chick-Fil-A delivery vehicles) of vehicles in her name and has since disposed of them. The Court err in denying or considering Appellant motions to compel documents and things and answers to interrogatories as well as denying this him access and due process to the law under the due process Claus of the Fourteenth Amendment of the United States Constitution, at the same time removing Claire H. and Chick-Fil-A Inc. as Respondents prior without Appellant having the opportunity for complete and proper discovery.

Appellant contents Clair H Eckert and Chick-Fil-A are proper Respondent in this case and

Discovery is applicable to both Respondents. Appellant motion Denial was premature. Baugham v. AT&T, 306 S.C. 101, 410 S.E.2d 537 (1991). The Court held that grant of partial summary judgment was premature in that Appellant had demonstrated a likelihood that further discovery would uncover additional evidence, Rule 34(c), SCRPC. Wofford v. Ethyl Corp., 316 S.C. 75: Supreme Court, 447 S.E.2d 187 (1994). “This rule does not preclude an independent action against a person not a party for production of documents and things... Rule 34(c), SCRPC, a person not a party may be compelled to produce a document or things or submit to an inspection... This Rule does not preclude an independent action against a person not a party for production for production of Document and things and permission to enter upon land.

DID THE CIRCUIT COURT ERR BY DENYING APPELLANT’S MOTIONS TO COMPEL PRODUCTION OF DICUMENTS AND THINGS, MOTIONS TO COMPEL RESPONDENTS TO PROVIDE COMPLETE ANSWERS TO INTERROGRATORIES AND OTHER OUTSIDE AGENCIES.

Pursuant to Rules 26 and 33 of the SCRPC, Appellant requested video surveillance recording of the collision that occurred June 17, 2023 in the Chick-Fil-A restaurant parking lot. Respondent attorneys failed to provide discovery evidence, citing Claire H. Eckert is to the real party of interest and that the requested discovery evidence was overly burdensome and costly. The Circuit Court err in denying Appellant proper request for discovery thus, causing Appellant irreparable harm by not allowing him due process of the law and equal opportunity in the discovery process. Samply v. Mitchell, 329 S.C. 105, 495 S.E. 2d 213 (1991). “At the trial, over Plaintiff’s objection, the Trial Court allowed the video into evidence but refuse to allow the investigator to interpret it. After receiving an unfavorable verdict, Plaintiff filed a motion for new trail, which the trial Court denied.

On appeal, the Court reversed. The Court held that the video was discoverable under SCRE 1001(2) under photographs. Discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action ... it is not grounds for objection the material sought will be inadmissible at trial.” Claire H. Eckert is the registered owner of the 2019 Honda, Chick-fil-A, imaged/logo vehicle that Sasha N. Gray, employee (Transcript, p, 4) was driving on June 17, 2022 (**Exhibit A**). Claire H. Eckert admits the 2019 Honda vehicle is insured by Arch insurance Company (**Exhibit A**) and (**Exhibit B**), the same company that insures the Chick-Fil-A restaurant of the vehicle collision. At the same time, Respondent Attorney stated the 2019 Chick-Fil-A image/logo Honda is insured by CO-OP PG, Inc. (**Exhibit D**) (Transcript, p. 5) and by another insurance company in Defendant’s Responses to Plaintiff’s Request for Production of Documents (Exhibit F). Appellant has been provided three different insurance companies and policy numbers for the same 2019 Chick-Fil-A Honda vehicle. Ms. Toni Mitchell, Chick-Fil-A Human Resource Officer, statement of insurance company and number (**Exhibit E**). **Additional policy number (Exhibit F)**. The Circuit err in not allowing Appellant complete Discovery and denying his motion.

2. *Did RESPONDENT ATTORNEYS FAILED TO PROVIDE APPELLANT COPIES OF THREE (3) PROPOSED ORDERS THAT WERE FILED WITH THE COURT AS REQUIRED BY SCRPC, AND DID RESPONDENT PLACE APPELLANT AT A DISADVANTAGE WHEN THE ORDERS WERE DECIDED AND ISSUED BY THE COURT ON AUGUST 11, 2023 (2:19 PM), AUGUST 11, 2023, (2:53 PM), AND AUGUST 11, 2023 (2:54 PM).*

COURT ORDER OF AUGUST 11, 2023, 2:54 PM

Motion Hearing of June 27, 2023. Judge Murphy required Appellant to provide Affidavits in response to Affidavits of Claire H. Eckert and Christopher M. Eckert (**Exhibit, G**) that would be used to support his position that Claire H. Eckert is proper Defendant in the case (transcript, p. 26).

Affidavits were filed with the Richland County Court and were hand delivered to Dorchester County Court (Judge Murphy) along with hard copies of all pending Motions as requested within the appropriate time frame (transcript, p. 23) to be considered before rendering a decision on the pending issues. Judge Murphy told Bennett not to prepare any proposed orders and if she needed a Proposed Order, her law clerk would contact him (transcript, p. 23) and that she would monitor the Proposed Orders for correctness (transcript, p. 25-26). Ms. Brudvig electronically filed a Proposed Order/substitution of Parties on July 6, 2023 (**Exhibit, H**), without providing a copy or notification to Bennett as required by SCRPC. It is of belief that Judge Murphy did not consider Appellant's Affidavits and nothing in the Order to suggest that Appellant's evidence was considered. Ms. Brudvig Proposed Order and Judge Murphy are Identical (**Exhibit, I**). Appellant was only notified of the order and its contents after August 11, 2023.

COURT ORDER OF AUGUST 11, 2023, 2:19 PM

Motion Hearing of June 27, 2023. Appellant had several Motions before the Court. They were Plaintiff's Motions for Amended and Supplemental Pleadings, Plaintiff's First Request to amend Motion for Supplemental Proceedings, and Motions to Compel. Appellant stated to Judge Murphy that he wanted to amend his Complaint but needed to complete discovery. Judge Murphy told Appellant to complete discovery and then amend his Complaint (Transcript, p. 21-23). Plaintiff's Motion to Compel is believed to have had discoverable evidence that would have supported the Motion to amend Complaint. On June 30, 2023, Respondent's Attorney, Ms. Brudvig, in her own self-interest, authored and filed a Proposed Order/Compel to Deny Plaintiff's Motion for Amended and Supplemental Pleadings, Plaintiff's First Request to amend Motion for Supplemental Proceedings, and Motions to Compel in which she did not author or originate

(Exhibit, J). Yet, Judge Murphy told Appellant during the Motion Hearing that if he needed a Proposed Order that she would contact him (transcript, p. 23). All avenues for Appellant to conduct discovery pursuant to Rules 17, 26, 33, and 45 of the SCRPC had been blocked Denied by the Court. At this point, Appellant in effect had his due process under the law and equal protection under the Fourteenth Amendment to the United States Constitution terminated as he did not have an opportunity to further develop and process his claimed. With the Motion Hearing on June 27, 2023 and the Propose Order/Compel electronically filed June 30, 2023 **(Exhibit, K)**, Judge Murphy err in not allowing Appellant to submit Proposed Order to support his case in this matter. It is of belief that Judge Murphy did not consider Appellant's Motions and nothing in the Order to suggest that Appellant's evidence was considered. Respondent Proposed Order and Judge Murphy Order are Identical **(Exhibit, L)**. Appellant was only notified of the order and its contents after August 11, 2023.

(CORRECTION TO COURT ORDER OF AUGUST 11, 2023, 2:53 PM)

COURT ORDER OF AUGUEST 11, 2023, 2:53 PM

Motion Hearing of June 27, 2023. Judge Murphy required Appellant me to provide Affidavits in response to Affidavits of Claire H. Eckert and Christopher M. Eckert **(Exhibit, H)** and would be used to support my position that Claire H. Eckert is the proper Defendant the case (transcript, p. 26). Affidavits were filed with the Richland County Court and were hand delivered to Dorchester County Court (Judge Murphy) alone with hard copies of all pending Motions as requested within the appropriate time frame (transcript, p. 23) to be considered before rendering a decision on the pending issues. Judge Murphy told Appellant not to prepare any proposed orders and if she needed a Proposed Order, her law clerk would contact him and request a Proposed Order (transcript, p. 23)

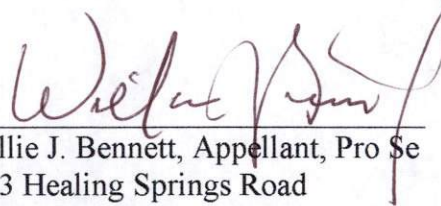
and that she would monitor the Defendants' Proposed Orders for correctness (transcript, p. 25-26).

It is of belief that Judge did not consider Appellant's Affidavits (Exhibit D) and nothing in the Order to suggest that Bennett's evidence was considered.

CONCLUSION

For the reasons stated, the Court should:

1. Reverse and remand the judgments of the circuit court.
2. Allow Appellant to conduct Discovery within the scope of SCRCF.
3. And all else that is deem proper at the Court discretion



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