

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 JOSEPH A. BARILOTTI,)
)
 Plaintiff,)
)
 v.)
)
 OCEAN COURSE GOLF CLUB, LLC,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 Case No.: 2011-CP-10-9543

**ORDER DENYING PLAINTIFF'S
 MOTION FOR A NEW TRIAL**

RECEIVED
 AUG 9 2013
 BY: JULIE J. CLARK, CLERK
 DISTRICT COURT
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THIS MATTER CAME BEFORE THE COURT on Plaintiff's Motion for a New Trial and to Alter or Amend the Order Granting Defendant's Motion for a Directed Verdict Pursuant to Rules 52(b), 59(a), and 59(e) of the South Carolina Rules of Civil Procedure dated June 11, 2013. At the close of Plaintiff's case, Defendant moved for a Directed Verdict which this Court granted on June 4, 2013, and dismissed Plaintiff's case.

This case resulted from Plaintiff's slip and fall on the property of Defendant Ocean Course Golf Club located on Kiawah Island, South Carolina. Plaintiff's accident occurred on the fourth hole of the golf course while playing golf the morning of October 31, 2010. Plaintiff slipped while walking across a wooden bridge and injured his leg. Plaintiff filed a cause of action against Defendant, which was heard before this Court beginning on June 3, 2013. Defendant made a timely motion for a Directed Verdict which this Court granted. Plaintiff's Motion for a New Trial and to Alter or Amend was subsequently filed.

When a motion for directed verdict is made, a trial court must "view the evidence and the inferences which reasonably can be drawn therefrom in the light most favorable to the party

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opposing the motion.” *Smith v. Wal-Mart Stores, Inc.*, 314 S.C. 248, 250, 442 S.E.2d 606, 607 (1994). In South Carolina, a plaintiff may only overcome a motion for directed verdict in a slip and fall case by “presenting evidence from which a reasonable inference can be drawn that the [property owner] was responsible for creating the hazard which caused the fall or had actual or constructive knowledge of the existence of the hazard.” *Id.*

Plaintiff argues the Court failed to take into consideration that sand was present on the bridge and Plaintiff’s allegations that the sand was tracked there by the use of golf carts by Defendant’s employees. Plaintiff alleges the Defendant constructed the course’s cart paths using sand, which resulted in the presence of sand on the bridge. Plaintiff further argues the presence of sand created a dangerous condition. Defendant maintains the law requires the course grounds be kept in a reasonably safe condition. Defendant claims this does not necessitate the removal of sand from bridges and walkways located on the Course which is situated on a beach. Testimony was presented that Defendant’s employees blow debris off bridges and walkways daily, but that sand is not considered debris. Witnesses testified it is not feasible to keep the bridges free of sand, dew and shells due to the location of the course and the naturally occurring sand. Furthermore, at trial Plaintiff testified he knew he had sand on his feet when he crossed the bridge. This Court finds no evidence was presented by Plaintiff that would support a finding that the presence of sand on the bridge created a dangerous condition.

Plaintiff maintains the Court erred in failing to take into account safety measures that Plaintiff claimed were reasonable and feasible. Plaintiff states a rubber mat on the bridge would be a reasonable safety measure and Defendant’s failure to utilize a mat subjects the course to liability. Plaintiff also contends the Court erred by failing to consider the bridge was not constructed with a non-slip surface. There was no evidence put forth that Defendant should be

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required to construct the bridges located on its course with non-slip surfaces or use a rubber mat, nor did evidence show failing to do so creates a dangerous condition that would subject Defendant to liability. In addition, witnesses testified the golf carts traversing the bridge would deteriorate or fray the mat, potentially creating a hazard. This Court finds no reasonable inference can be drawn that Plaintiff's injuries were the result of any act of negligence by the Defendant.

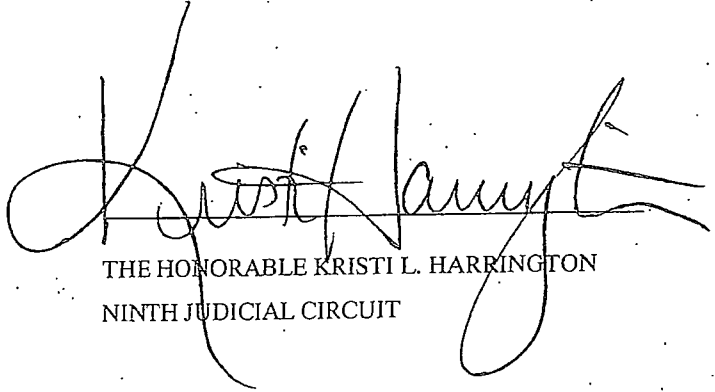
Plaintiff alleges that the Court failed to consider Defendant's testimony that the bridge may become slippery when wet and that Defendant failed to warn Plaintiff of the slippery condition of the bridge. Defendant contends it had no duty to warn Plaintiff of the morning dew because the dew was a naturally occurring event. Additionally, Defendant argues the dew was an open and obvious condition which any reasonable person could appreciate. Plaintiff testified during trial the wet condition was obvious and that sand and dew are natural conditions. Plaintiff also admitted to traversing six bridges prior to crossing the bridge in question and all the bridges were wet. Moreover, testimony given at trial showed Plaintiff's caddies, Steve Cipolla and Nate Ross, consistently warn golfers that the bridges can become slippery when dew is present.

Upon review of Plaintiff's Motion and the case record, this Court finds no reasonable inference that Plaintiff's accident was a result of Defendant's negligence. Thus, Plaintiff's Motion for a New Trial and to Alter or Amend the Order Granting Defendant's Motion for a Directed Verdict is respectfully DENIED.

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THEREFORE, IT IS HEREBY ORDERED that Plaintiff's Motion for a New Trial is
DENIED.

IT IS SO ORDERED.



THE HONORABLE KRISTI L. HARRINGTON
NINTH JUDICIAL CIRCUIT

August 9, 2013
Charleston, South Carolina

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011- CP-10-9543

Joseph Barilotti

Ocean Course Golf Club LLC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

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
- 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: Defendant's Motion for Directed Verdict is heard by the Court and is granted. This case is Ordered Dismissed with Prejudice.

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk

FILED
2013 JUN -5 AM 9:17
JULIE J. ARMSTRONG
CLERK OF COURT

RECEIVED
AUG 29 2013

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

[Handwritten Signature]
Circuit Court Judge

2151

Judge Code

Date

6/4/13

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011- CP-10-9543

Joseph Barilotti

Ocean Course Golf Club, LLC,

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or
	<input type="checkbox"/> Self-Represented Litigant

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FILED
 2013 JUN 19 PM 12:39
 THE J. ARMSTRONG
 CLERK OF COURT

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IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: This matter came before the Court on Plaintiff's Motion for a New Trial and to Alter/Amend the Order Granting Defendant's Motion for a Directed Verdict Pursuant to Rules 52(b), 59(a), 59(e), SCRPC. Plaintiff's Motion is hereby DENIED, see attached Order.

ORDER INFORMATION

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Additional Information for the Clerk.: _____

INFORMATION FOR THE JUDGMENT INDEX		
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[Signature]

 Circuit Court Judge

2151
Judge Code

8/9/13
Date

