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August 16, 2024

VIA U.S. MAIL AND EMAIL

Hon. Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211
ctappfilings@sccourts.org

Re: Rock vs. Dog Daze of Charleston, LLC, et al.
Case No. 2022-CP-10-5585
Notice of Appeal

Dear Clerk of Court Kitchings,

Enclosed for filing in the above-referenced matter please find:

1. Notice of Appeal;
2. Order Denying Plaintiff's Motion for Reconsideration;
3. Order Granting Defendants' Motion for Partial Summary Judgment; and
4. This firm's check in the amount of \$250.00.

Thank you for your assistance, and please do not hesitate to contact me should you have any questions.

Regards,

Elliotte Quinn
equinn@steinberglawfirm.com
843-720-2800

FEQ/mbc

Cc: (via e-filing)

The Honorable Julie Armstrong
Charleston County Clerk of Court

(via U.S. mail and e-mail)

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and Charlie Freeman*

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
George M. McFaddin, Jr., Circuit Court Judge

Case No. 2022-CP-10-5585

Sarah Rock, Appellant,

v.

Dog Daze of Charleston, LLC
and Charlie Freeman, Respondents.

NOTICE OF APPEAL

Appellant Sarah Rock appeals the May 28, 2024 Order Granting Defendants' Motion for Partial Summary Judgment and the July 19, 2024 Order Denying Plaintiff's Motion for Reconsideration. Appellant received written notice of the denial of her Motion for Reconsideration, made pursuant to Rule 59 of the South Carolina Rules of Civil Procedure, on July 19, 2024. The orders are attached hereto.

August 16, 2024

s/Elliotte Quinn
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
George M. McFaddin, Jr., Circuit Court Judge

Case No. 2022-CP-10-5585

Sarah Rock,

Appellant,

v.

Dog Daze of Charleston, LLC
and Charlie Freeman,

Respondents.

PROOF OF SERVICE

I certify that I served the Notice of Appeal on the parties by depositing a copy of it in the United States Mail, postage prepaid, and by e-mail on August 16, 2024, addressed to the Respondents' attorneys of record as follows:

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August 15, 2024

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Attorneys for Appellants

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	Docket No.: 2022-CP-10-5585
)	
SARAH ROCK,)	
)	
Plaintiff,)	ORDER DENYING PLAINTIFF'S
)	MOTION FOR RECONSIDERATION
v.)	
)	
DOG DAZE OF CHARLESTON, LLC)	
AND CHARLIE FREEMAN,)	
)	
Defendants.)	
_____)	

For the reasons stated below and as part of the order on the summary judgment motion filed May 28, 2024, the Court respectfully denies Plaintiff's motion for reconsideration. The earlier Order granted Defendants partial summary judgment against Plaintiff's claims for emotional distress and pain and suffering. Paragraphs 45, 57, and 70 of Plaintiff's Complaint claimed under each of the three causes of action asserted that "Rock is entitled to an award for her grief, anxiety, and emotional pain and distress damages." Complaint, ¶¶ 45, 57, 70. Paragraph 70 also included a claim for "post-traumatic stress." Complaint, ¶ 70. Plaintiff's claims for damages associated with emotional distress and pain and suffering were most recently decided in the Fowler v. Fedex Ground Package Sys., 2023 WL 234557 (S.C. Ct. App. 2023) decision, which maintained the status quo, and the other case law discussed at the April 16, 2024 hearing and as part of this Order and the earlier Order.

Unfortunately for Plaintiff, South Carolina law does not support a cause of action for emotional distress for injury to one's pet. The Fowler decision cited prior cases that held (a) a dog constituted property or a chattel (State v. Langford, 55 S.C. 322, 326, 33 S.E. 370, 371-72 (1899)); and (b) the general rule is that the measure of damages for injury to personal property is the difference between the market value of the property immediately before and its value immediately after the injury (Duke

Power Co. v. Thornton, 303 S.C. 454, 457, 401 S.E.2d 195, 196 (Ct. App. 1991). See “A Short Leash: Measuring Damages for Tortious Injury to Companion Animals,” South Carolina Lawyer, Vol. 33, Issue 3, Page 22 (November 2021).

As stated in Madden v. Petland Summerville, LLC, 2022 WL 2806408 (D.S.C. 2022), Judge David Norton wrote:

Importantly, in South Carolina, as in many states, “[p]ets are considered personal property. Kirchner v. Kirchner, 2005 WL 7083859, at *4 (S.C. Ct. App. Mar. 23, 2005); Richardson v. Fla. Cent. & P.R. Co., 33 S.E.2d 466 (S.C. 1899)....Accordingly, in cases involving injuries to a pet, “courts have limited the award of damages to a dog’s market value” or the pecuniary loss to the owner for the injuries sustained. Bales v. Judelsohn, 2005 WL 7084365, at *1 (S.C. Ct. App. Aug. 30, 2005) (citing 4 Am. Jur. 2d Animals §§ 6 and 165 (1995)). For example, in Bales, the South Carolina Court of Appeals held that “South Carolina law does not support a cause of action for emotional distress for injury to one’s pet” and further held “that a claim for lost wages resulting from injury to an animal is not actionable because a dog is considered personal property under our law.” 2005 WL 7084365 at *1....Although this approach may seem to take an insensitive—or perhaps overly harsh—view of pet ownership, as one court in this state recently observed, “[u]ntil either [the South Carolina legislature] or [] Supreme Court expressly recognizes the right of a pet owner to seek non-economic damages for the death or injury of a pet, this Court must rule as a matter of law that Plaintiff in the present case cannot seek damages for emotional distress, mental anguish, or anxiety at trial.” Fowler v. Fedex Ground Package Sys., Inc., 2019 WL 9573828, at *1 (S.C. Com. Pl. Sep. 23, 2019). Accordingly, it is clear that plaintiffs cannot state a claim in this action for intentional infliction of emotional distress under South Carolina law, and the court dismisses that claim.”

2022 WL 2806408, at *5 (emphasis added).

Further, the inclusion of the Kinard v. Augusta Sash & Door Co., 286 S.C. 579, 336 S.E.2d 465 (1985) decision in the prior Order confirmed that Plaintiff could not

recover under South Carolina law under these facts for a negligent infliction of emotional distress claim. Plaintiff's first cause of action was for "Negligence/Gross Negligence," and, as stated above, she claimed under that cause of action damages for "grief, anxiety, and emotional pain and distress." Complaint, ¶ 45. The Kinard case established the elements of a negligent infliction of emotional distress claim under South Carolina law, and Plaintiff's claim did not meet those elements. For example, she did not witness the event nor was she biologically related to the victim.

For these reasons, this Court respectfully denies the motion for reconsideration.

IT IS SO ORDERED.

July __, 2024

Judge George M. McFaddin, Jr.

Sumter, South Carolina



Charleston Common Pleas

Case Caption: Sarah Rock VS Dog Daze Of Charleston Llc , defendant, et al

Case Number: 2022CP1005585

Type: Order/Other

So Ordered

S/George M. McFaddin, Jr., #2759

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	Docket No.: 2022-CP-10-5585
)	
SARAH ROCK,)	
)	
Plaintiff,)	
)	
v.)	ORDER GRANTING DEFENDANTS'
)	MOTION FOR PARTIAL SUMMARY
DOG DAZE OF CHARLESTON, LLC)	JUDGMENT
AND CHARLIE FREEMAN,)	
)	
Defendants.)	
)	

This matter came before the Court for a hearing on Defendants' motion for partial summary judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure for the claims for emotional distress and pain and suffering. After review of the various memoranda and documents submitted by the parties, the argument of counsel, and the applicable law, the court grants the motion and grants partial summary judgment regarding Plaintiff's claims for emotional distress and pain and suffering.

The recent decision in Fowler v. Fedex Ground Package Sys., 2023 WL 234557 (S.C. Ct. App. 2023) maintained the status quo. South Carolina law does not support a cause of action for emotional distress for injury to one's pet. The Fowler decision cited prior cases that held (a) a dog constituted property or a chattel (State v. Langford, 55 S.C. 322, 326, 33 S.E. 370, 371-72 (1899); and (b) the general rule is that the measure of damages for injury to personal property is the difference between the market value of the property immediately before and its value immediately after the injury (Duke Power Co. v. Thornton, 303 S.C. 454, 457, 401 S.E.2d 195, 196 (Ct. App. 1991). See "A Short Leash: Measuring Damages for Tortious Injury to Companion Animals," South Carolina Lawyer, Vol. 33, Issue 3, Page 22 (November 2021).

Further, the holding of Kinard v. Augusta Sash & Door Co., 286 S.C. 579, 336 S.E.2d 465 (1985) established the elements of a negligent infliction of emotional

distress claim under South Carolina law. The current claim does not meet those elements. Thusly, this court grants Defendants' motion.

IT IS SO ORDERED.

May __, 2024

Sumter, South Carolina

Judge George M. McFaddin, Jr.



Charleston Common Pleas

Case Caption: Sarah Rock VS Dog Daze Of Charleston Llc , defendant, et al

Case Number: 2022CP1005585

Type: Order/Summary Judgment

So Ordered

S/George M. McFaddin, Jr., #2759

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