

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Jessica Ann Salvini, Circuit Court Judge

Common Pleas No. 2022-CP-40-05610

Daisy Crump, Appellant,

v.

Glenfield Capital, LLC d/b/a Glen 1441, LLC; Colliers International South Carolina Inc.; tk Elevator Corporation; and Sizemore, Inc., Respondents.

Appellate Case No. 2024-001569

RECORD ON APPEAL

ADAM SINCLAIR RUFFIN
SC Bar No. 101350
adam@ruffinappeals.com
Ruffin Law Firm
1320 Main Street, Suite 300
Columbia, SC 29201
(803) 470-4529

SHAQUANA CUTTINO
SC Bar No. 104370
scheduling@cuttinolaw.law
The Cuttino Law Firm
1511 Greg Street
Columbia, SC 29201
(803) 542-7455

Attorneys for Daisy Crump

JOSHUA D. SHAW
SC Bar No. 77835
jshaw@hedrickgardner.com
PAUL E. ALLEN, JR.
SC Bar No. 104062
pallen@hedrickgardner.com
Hedrick Gardner Kincheloe & Garofalo
1230 Main Street, Suite 325
Columbia, SC 29201
(803) 727-1221

Attorneys for Colliers International

MARK S. BARROW
SC Bar No. 7821
msb@swblaw.com
MARY C. ELDRIDGE
SC Bar No. 102698
mce@swblaw.com
Sweeny Wingate & Barrow

RECEIVED

May 14 2025

SC Court of Appeals

1515 Lady Street
Columbia, SC 29210
(803) 256-2233

Attorneys for Glenfield Capital, LLC

EVERETT A. KENDALL, II
SC Bar No. 8450
rkendall@murphygrantland.com
JD ELLIOTT
SC Bar No. 104124
jdelliott@murphygrantland.com
Murphy & Grantland
PO Box 6648
Columbia, SC 29260
(803) 782-4100

Attorneys for tk Elevator Corporation

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FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP4005610

Daisy Crump
PLAINTIFF(S)

Sizemore Inc
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:

Plaintiff's motion for reconsideration is denied. The Court has considered the case law cited by the Plaintiff and finds that Plaintiff has not proved damages in this case. According to relevant case law and facts of this case, Plaintiff must show that (1) plaintiff suffered emotional distress in addition to physical injuries or (2) Plaintiff's emotional trauma proximately caused bodily injury. Plaintiff has not provided evidence to support that she suffered physical injuries – the treating physician testified that there were no signs of physical injury the day after the incident and Plaintiff testified that she suffered no physical injuries. Therefore, the Court denies Plaintiff's motion for reconsideration.

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 08/19/2024 .

Sizemore Inc

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), SCRCP.



Richland Common Pleas

Case Caption: Daisy Crump vs Glenfield Capital Llc , defendant, et al

Case Number: 2022CP4005610

Type: Order/Electronic Form 4

So Ordered

Jessica A. Salvini

Electronically signed on 2024-08-19 09:20:07 page 3 of 3

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2022-CP-40-05610

COUNTY OF RICHLAND

Daisy Crump,

Plaintiff,

vs.

**ORDER GRANTING DEFENDANTS
GLENFIELD CAPITAL, LLC D/B/A GLEN
1441, LLC, COLLIERS INTERNATIONAL
SOUTH CAROLINA, INC., AND TK
ELEVATOR CORPORATION'S JOINT
MOTION FOR SUMMARY JUDGMENT**Glenfield Capital, LLC d/b/a Glen 1441, LLC;
Colliers International South Carolina, Inc.; tk
Elevator Corporation; and Sizemore, Inc.,

Defendants.

This matter comes before me upon joint motion by Defendants Glenfield Capital, LLC d/b/a Glen 1441, LLC ("Glenfield"), Colliers International South Carolina, Inc. ("Colliers"), and tk Elevator Corporation ("tk Elevator") for Summary Judgment on all claims alleged by Plaintiff Daisy Crump. This Court held a hearing on the motion on July 24, 2024. Shaquana Cuttino and Nicholas Spetsas appeared for the Plaintiffs, Grace G. Brown appeared for Glenfield, W. Bryant Neal appeared for Colliers, and JD Elliott appeared for tk Elevator. After reviewing the record, including the deposition testimony of the Plaintiff and Plaintiff's treating physician; reviewing the Affidavit filed by Plaintiff's counsel; reviewing the memoranda of law filed by all parties; and hearing the able arguments of counsel, for the reasons set forth below, the joint motion for summary judgment of Defendants Glenfield, Colliers, and tk Elevator is hereby granted.

FACTS

On November 4, 2019, the Plaintiff was working as an “outbound” LPN at Absolute Total Care in Columbia, SC. The Plaintiff worked on the 11th floor of the building located at 1441 Main Street. Between 4:30 and 5:00 p.m. on the day of the incident, the Plaintiff had left work, gone down the elevator, and walked out of the building to her car. When she got to her car, the Plaintiff realized she had forgotten her phone and returned to the building to get it.

The Plaintiff walked back into the lobby of the building and went to get on one of the elevators to take her up to the 11th floor. The Plaintiff stated she did not have to press a button to summon the elevator because there were people that had just come down in the elevator before she got on. The Plaintiff entered the elevator and pushed the button for the 11th floor. The doors began to close but stopped about 8 inches apart. The elevator did not move on its own, and the doors did not open. The Plaintiff was stuck in the elevator.

The Plaintiff pressed the door-open and door-close buttons, but the doors did not respond. The Plaintiff testified that she believed the motor was running and that the cables holding the elevator could break at any second. The Plaintiff testified that she was scared the elevator would crash and that she would go down with it.

The building’s property manager also came to check on the Plaintiff, and the property manager told her that an engineer was on his way to fix the elevator. When the engineer got the doors to open, the Plaintiff exited the elevator.

The Plaintiff testified that she had no physical injury as a result of the incident. The Plaintiff testified that the incident has caused her emotional distress. The day after the incident, the Plaintiff visited her primary care physician, Dr. Martha Parker-Hester. Dr. Parker-Hester testified that the Plaintiff did not have any physical injuries when she treated the Plaintiff on November 5, 2019. In

an Affidavit filed with the Court, the Plaintiff's counselor stated that the Plaintiff began hyperventilating, sweating, and trembling when she saw an elevator.

STANDARD OF REVIEW

Summary judgment is appropriate when the movant demonstrates that the material facts of the case are undisputed, and the moving party is entitled to judgment as a matter of law. *Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991); Rule 56(c), SCRCP. If the moving party meets its initial burden of showing an absence of evidentiary support for the nonmoving party's case, the nonmoving party cannot simply rest on mere allegations or denials contained in the pleadings. *Singleton v. Sherer*, 377 S.C. 185, 197–98, 659 S.E.2d 196, 203 (Ct. App. 2008). Instead, the nonmoving party must come forward with specific evidentiary support showing there is a genuine dispute for trial. *Rife v. Hitachi Const. Mach. Co.*, 363 S.C. 209, 213, 609 S.E.2d 565, 568 (Ct. App. 2005); *see also Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023) (holding that the “‘mere scintilla’ standard does not apply under Rule 56(c); rather, the proper standard is the ‘genuine issue of material fact’ standard set forth in the text of the Rule.”). “The plain language of Rule 56(c), SCRCP, mandates the entry of summary judgment, after adequate time for discovery against a party who fails to make a showing sufficient to establish the existence of an element essential to the party's case and on which that party will bear the burden of proof at trial.” *Gauld v. O'Shaughnessy Realty Co.*, 380 S.C. 548, 559, 671 S.E.2d 79, 85 (Ct. App. 2008).

LAW/ANALYSIS

The Court finds the Plaintiff was not physically injured in this case and therefore, cannot establish actionable damages under negligence.

To recover damages in a negligence action, the plaintiff must establish (1) a duty of care owed that was (2) breached by a negligent act or omission and (3) damages that proximately resulted from the

breach. *Shaw v. City of Charleston*, 351 S.C. 32, 40, 567 S.E.2d 530, 534 (Ct. App. 2002). Under South Carolina law, the damages element of a cause of action for negligence requires a plaintiff to establish either physical injury or property damage. *Babb v. Lee County Landfill SC, LLC*, 405 S.C. 129, 153, 747 S.E.2d 468, 481 (2013). “Damages for emotional or mental suffering are typically not recoverable, unless there is some physical manifestation of the emotional distress.” *Id.*

The South Carolina Court of Appeals determined that South Carolina recognizes negligent infliction of emotional distress in three contexts: (1) when a plaintiff observes a defendant’s negligence cause the death or serious injury of a relative; (2) when a plaintiff suffers emotional distress in addition to physical injuries; and (3) when emotional trauma proximately causes bodily injury. *K.S. by and through Seeger v. Richland School District Two*, 2022 WL 2966388 (Ct. App 2022) (citing (1) *Kinard v. Augusta Sash & Door Co.*, 286 S.C. 579, 336 S.E.2d 465 (1985); (2) *Boan v. Blackwell*, 343 S.C. 498, 541 S.E.2d 242 (2001); and (3) *Padgett v. Colonial Wholesale Distrib. Co.*, 232 S.C. 593, 103 S.E.2d 265 (1958)).

Here, the Plaintiff was not a bystander and did not have a physical injury, so the three contexts established by *Kinard*, *Boan*, and *Padgett* and collectively discussed in *Seeger* do not provide a method of recovery for Plaintiff. The incident occurred to the Plaintiff, so the first context, the bystander context, established by *Kinard* does not apply. The second and third contexts, established by *Boan* and *Padgett*, respectively, require a physical injury that either caused the emotional distress or was borne from the emotional distress, but the Plaintiff and the Plaintiff’s treating physician have testified that the Plaintiff did not suffer a physical injury at all. The Plaintiff’s allegations of hyperventilating, sweating, and trembling do not constitute a physical injury as defined in *Seeger* and the prevailing authorities referenced therein. Therefore, Plaintiff

cannot succeed on her claims against Glenfield, Colliers, and tk Elevator under the second or third contexts.

In conclusion, the Court finds the Plaintiff was not physically injured in this case and therefore, cannot establish actionable damages under negligence. Without evidence of physical injury, there is no genuine issue of material fact. The Court grants summary judgment on this ground as to all Defendants. Therefore, it is

ORDERED, ADJUDGED, and DECREED that Glenfield Capital, LLC d/b/a Glen 1441, LLC, Colliers International South Carolina, Inc., and tk Elevator Corporation's Joint Motion for Summary Judgement is hereby **GRANTED**.

IT IS SO ORDERED.

The Honorable Jessica Ann Salvini
Presiding Judge, Fifth Judicial Circuit

Columbia, South Carolina
August 8, 2024



Richland Common Pleas

Case Caption: Daisy Crump vs Glenfield Capital Llc , defendant, et al

Case Number: 2022CP4005610

Type: Order/Summary Judgment

So Ordered

Jessica A. Salvini

Electronically signed on 2024-08-09 10:54:32 page 6 of 6

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP4005610

Daisy Crump
PLAINTIFF(S)

Glenfield Capital Llc et al
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), SCRCPP; ☐ Rule 41(a), SCRCPP (Vol. Nonsuit); ☐ Rule 43(k), SCRCPP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRCPP; ☐ 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:

Statement of Judgment appears on the following page.

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 07/24/2024 .

Sizemore Inc

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), SCRCP.

Defendants' joint motion for summary judgment was before the Court on July 24, 2024. Shaquana Monique Cuttino appeared on behalf of Plaintiff; Grace G. Brown appeared on behalf of Defendant Glenfield Capital, LLC d/b/a Glen 1441, LLC; William Bryant Beal appeared on behalf of Defendant Colliers International South Carolina, Inc.; and J.D. Elliot appeared on behalf of Defendant TK Elevator Corporation. The Court grants this motion in part and denies this motion in part.

Defendants argued that Plaintiff is not entitled to recovery because she does not have a physical injury to accompany her emotional distress and therefore, cannot satisfy the damages element for a negligence cause of action. Under South Carolina law, the damages element of a cause of action for negligence requires a plaintiff to establish either physical injury or property damages. *Babb v. Lee County Landfill SC, LLC*, 405 S.C. 129, 153, 747 S.E.2d 468, 481 (2013). "Damages for emotional or mental suffering are typically not recoverable, unless there is some physical manifestation of the emotional distress." *Id.* The South Carolina Court of Appeals determined that South Carolina recognizes negligent infliction of emotional distress in three contexts: (1) when a plaintiff observes a defendant's negligence cause the death or serious injury of a relative; (2) when a plaintiff suffers emotional distress in addition to physical injuries; and (3) when emotional trauma proximately causes bodily injury. *K.S. by and through Seeger v. Richland School District Two*, 2022 WL 2966388 (Ct. App 2022). The Court finds the Plaintiff was not physically injured in this case and therefore, cannot establish actionable damages under negligence. Without evidence of physical injury, there is no genuine issue of material fact. The Court grants summary judgment on this ground as to all Defendants. Defendant TK Elevator's counsel shall draft a formal order within twenty (20) days.

In addition, Defendant Glenfield Capital argued it did not owe Plaintiff a duty to maintain the elevator because Defendant Glenfield Capital does not maintain control or possession of the building; rather, Defendant Colliers International does. The Court denies the motion for summary judgment on this ground as there is a genuine issue of material fact with respect to this issue.

Therefore, the Court grants summary judgment in part and denies summary judgment in part as set forth hereinabove.

IT IS SO ORDERED.



Richland Common Pleas

Case Caption: Daisy Crump vs Glenfield Capital Llc , defendant, et al

Case Number: 2022CP4005610

Type: Order/Electronic Form 4

So Ordered

Jessica A. Salvini

Electronically signed on 2024-07-24 16:14:04 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
	)	
Daisy Crump,	)	CIVIL ACTION NO.
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	SUMMONS
	)	(JURY TRIAL DEMANDED)
Glenfield Capital, LLC d/b/a Glen 1441	)	
LLC; Colliers International South	)	
Carolina, Inc.; TK Elevator Corporation;	)	
and Sizemore, Inc.,	)	
	)	
	)	
Defendants.	)	

TO : THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint upon the subscribers, Spetsas Buist PLLC, 225 E. Robinson St., Suite 542, Orlando, FL 32801, and Cuttino Law, 5115 Forest Drive, Suite G1, Columbia, SC 29206, within thirty (30) days after service hereof, exclusive of the day of such service. If you fail to answer the Complaint or otherwise appear and defend within the aforesaid time, the Plaintiff in this action will apply to the Court for the relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Complaint.

SPETSAS BUIST PLLC LAW
/s/ Charles Buist, Esq.
Charles Buist, Esq.
SC Bar No.: 103102
225 E. Robinson Street, Suite 542
Orlando, FL 32801 Columbia,

CUTTINO LAW LLC
/s/ Shaquana Cuttino Esq.
Shaquana Cuttino Esq.
SC Bar No.: 104370
5115 Forest Drive, Suite G1
Columbia, SC 29206

Telephone: (321) 352-7687
Facsimile: (407) 237-0096
Charles@SpetsasBuist.com
Attorney for Plaintiff, Daisy Crump

Telephone: (833) CUTT-LAW
Facsimile: (803) 818-2389
thecuttinlawfirm@gmail.com
Attorney for Plaintiff, Daisy Crump

October 26, 2022

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Daisy Crump,

Case No. _____

Plaintiff,

vs.

**COMPLAINT
(Jury Trial Demanded)**

Glenfield Capital, LLC d/b/a Glen 1441
LLC; Colliers International South
Carolina, Inc.; TK Elevator Corporation;
and Sizemore, Inc.,

Defendants.

COMES NOW Plaintiff, Daisy Crump (“Plaintiff”), who alleges as follows:

Parties, Jurisdiction, and Venue

1. Plaintiff is a citizen and resident of Richland County, South Carolina.
2. Upon information and belief, Glenfield Capital, LLC d/b/a Glen 1441 LLC (“Defendant Glenfield”) is a Foreign Limited Liability Company.
3. Upon information and belief, Colliers International South Carolina, Inc. (“Defendant Colliers”) is a South Carolina Corporation that is licensed to and doing business in Richland County, South Carolina.
4. Upon information and belief, TK Elevator Corp. (“Defendant TK”) is a Foreign Corporation that is licensed to and doing business in Richland County, South Carolina.
5. Upon information and belief, Sizemore, Inc. (“Defendant Sizemore”) is a Foreign Corporation that is licensed to and doing business in Richland County, South Carolina.

6. At all times material hereto, Defendant Glenfield owned and operated the commercial building called “1441 Main” located at 1441 Main Street, Columbia, Richland County, South Carolina 29201.

7. At all times material hereto, Defendant Colliers was hired to provide property management services to 1441 Main.

8. At all times material hereto, Defendant TK manufactured, installed, and/or maintained the elevators in 1441 Main.

9. At all times material hereto, Defendant Sizemore was hired to provide security services to the customers, patrons, and invitees of 1441 Main.

10. Venue is appropriate because the incident that gives rise to this Complaint occurred in Columbia, Richland County, South Carolina.

Allegations Common to All Counts

11. On November 4, 2019, Plaintiff was a business invitee of 1441 Main.

12. Upon entering into one of the elevators located in the lobby of 1441 Main, Plaintiff pressed the button for the 11th floor of the building.

13. The door of the elevator failed to completely close, and the elevator motor began making a loud noise.

14. Despite the elevator motor running, the elevator stuck in place and failed to move.

15. Eventually, an agent and/or employee of Defendant Sizemore heard Plaintiff’s cries for help and informed her, through the crack of the elevator door, that he would go get an agent and/or employee of Defendant Colliers.

16. Both the representatives, agents, and/or employees of Defendants Sizemore, Colliers, and Glenfield refused to call emergency services to help Plaintiff get out of the subject elevator.

17. As a result of the negligent maintenance of the subject elevator and the actions and inactions of Defendant Sizemore's, Defendant Colliers' and Defendant Glenfield's representatives, agents, and/or employees, Plaintiff suffered physical, mental, and emotional damages.

For a First Cause of Action Against Defendant Glenfield
(Negligence / Gross Negligence / Recklessness)

Plaintiff restates and realleges Paragraph 1 through 17, as if fully set forth herein.

18. At all times material hereto, Plaintiff was a business invitee at 1441 Main and was on Defendant Glenfield's property with the express and/or implied permission of Defendant Glenfield and for the purpose of benefiting Defendant Glenfield.

19. Defendant Glenfield had a duty to exercise reasonable care for Plaintiff's safety, including duties to maintain the premises, which includes the subject elevator, in a reasonably safe condition and to warn of latent or hidden dangers that that Defendant Glenfield knew of or should have known of.

20. Defendant Glenfield owed Plaintiff a duty of care to discover risks and dangerous conditions and to take precautions to either eliminate those unreasonable risks or properly warn of those risks and to not create such risks.

21. Further, Defendant Glenfield had a duty to not willfully, wantonly, recklessly, intentionally, and unlawfully expose Plaintiff to danger.

22. The injuries and damages Plaintiff incurred were directly and proximately caused by Defendant Glenfield's careless, negligent, grossly negligent, willful, wanton, reckless, intentional, and unlawful acts in one or more of the following ways:

- a. By failing to maintain the elevator in a reasonably safe condition;
- b. By failing to ensure safe operation, proper maintenance, and inspection of the elevator and correct code deficiencies of the subject elevator;
- c. By failing to timely repair the elevator;
- d. By failing to adequately repair the elevator;
- e. By failing to timely instruct an elevator repair company that the subject elevator required repair;
- f. By failing to warn of the danger posed by the elevator;
- g. By failing to act as required by law;
- h. By failing to implement preventative measures, procedures, and/or policies designed to eliminate or reduce such dangerous conditions and the hazards posed therefrom;
- i. By refusing to call 911 or emergency services to help Plaintiff escape from the elevator during an emergency situation; and
- j. By instructing its employees, representatives, and/or agents not to call 911 or emergency services during an emergency situation.

23. As a direct and proximate result of the negligence, gross negligence, willful, wanton, reckless, intentional, and unlawful acts of Defendant Glenfield, Plaintiff suffered bodily, emotional, and mental injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and

nursing care and treatment, emotional trauma and distress, loss of earnings, and loss of ability to earn money. These losses are either permanent or continuing, and Plaintiff will suffer losses in the future.

WHEREFORE, Plaintiff prays for judgment against Defendant Glenfield for actual and punitive damages in an appropriate amount to be determined at trial, the costs of this action, and for such other and further relief as the Court may deem just and proper.

For a Second Cause of Action Against Defendant Colliers
(Negligence / Gross Negligence / Recklessness)

Plaintiff restates and realleges Paragraph 1 through 17, as if fully set forth herein.

24. At all times material hereto, Plaintiff was a business invitee at 1441 Main.

25. Defendant Colliers, as the property management company of 1441 Main, had a duty to exercise reasonable care for Plaintiff's safety, including duties to maintain the premises, which includes the subject elevator, in a reasonably safe condition and to warn of latent or hidden dangers that Defendant Glenfield knew of or should have known of.

26. Defendant Colliers owed Plaintiff a duty of care to discover risks and dangerous conditions and to take precautions to either eliminate those unreasonable risks or properly warn of those risks and to not create such risks.

27. Further, Defendant Colliers had a duty to not willfully, wantonly, recklessly, intentionally, and unlawfully expose Plaintiff to danger.

28. The injuries and damages incurred by Plaintiff were directly and proximately caused by Defendant Collier's careless, negligent, grossly negligent, willful, wanton, reckless, intentional, and unlawful acts, in one or more of the following ways:

1. By failing to maintain the elevator in a reasonably safe condition;

2. By failing to ensure safe operation, proper maintenance, and inspection of the elevator and correct code deficiencies of the subject elevator;
3. By failing to timely repair the elevator;
4. By failing to adequately repair the elevator;
5. By failing to timely instruct an elevator repair company that the subject elevator required repair;
6. By failing to warn of the danger posed by the elevator;
7. By failing to act as required by law;
8. By failing to implement preventative measures, procedures, and/or policies designed to eliminate or reduce such dangerous conditions and the hazards posed therefrom;
9. By refusing to call 911 or emergency services to help Plaintiff escape from the elevator during an emergency situation; and
10. By instructing its employees, representatives, and/or agents not to call 911 or emergency services during an emergency situation.

29. As a direct and proximate result of the negligence, gross negligence, willful, wanton, reckless, intentional, and unlawful acts of Defendant Colliers, Plaintiff suffered bodily, emotional, and mental injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, emotional trauma and distress, loss of earnings, and loss of ability to earn money. These losses are either permanent or continuing, and Plaintiff will suffer losses in the future.

WHEREFORE, Plaintiff prays for judgment against Defendant Colliers for actual and punitive damages in an appropriate amount to be determined at trial, the costs of this action, and for such other and further relief as the Court may deem just and proper.

For a Third Cause of Action Against Defendant TK
(Negligence)

Plaintiff restates and realleges Paragraph 1 through 17, as if fully set forth herein.

30. On November 4, 2019, Plaintiff used an elevator on the premises of 1441 Main that was open to its guests, tenants, and invitees and, thus, was reasonably expected by the owners/operators of 1441 Main to be used by Plaintiff.

31. Upon information and belief, Defendant Glenfield and/or Defendant Collier, the owners and/or operators of 1441 Main, contracted the maintenance of the subject elevator to Defendant TK.

32. Upon information and belief, Defendant TK's contract to maintain the elevator was in full force and effect at all times material to this Complaint.

33. Defendant TK, thus, owed a duty to Plaintiff to provide a reasonably safe elevator to Plaintiff and other guests, tenants, and invitees of 1441 Main Street by maintaining the subject elevator in a reasonably safe condition.

34. Defendant TK breached its duty to Plaintiff by, instead, failing to properly maintain the elevator such that it was not in a reasonably safe condition, mechanically failed, and permanently injured Plaintiff.

35. Defendant TK knew or should have known that the subject elevator was not maintained in a reasonably safe condition.

36. Defendant TK's breach of its duty to Plaintiff was the direct and proximate cause of Plaintiff's injuries, which were reasonably foreseeable to Defendant TK.

37. As a direct and proximate result of the negligence of Defendant TK, Plaintiff suffered bodily, emotional, and mental injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, emotional trauma and distress, loss of earnings, and loss of ability to earn money. These losses are either permanent or continuing, and Plaintiff will suffer losses in the future.

WHEREFORE, Plaintiff prays for judgment against Defendant TK for actual damages in an appropriate amount to be determined at trial, the costs of this action, and for such other and further relief as the Court may deem just and proper.

For a Fourth Cause of Action Against Defendant Sizemore
(Negligence / Gross Negligence / Recklessness)

Plaintiff restates and realleges Paragraphs 1 through 17, as if fully set forth herein.

38. Upon information and belief, Defendant Sizemore contracted to undertake a duty to perform security services at 1441 Main.

39. Upon information and belief, Defendant Sizemore either knew, or in the exercise of reasonable care, should have known that the subject elevator was dangerous and/or defective, creating a dangerous and hazardous condition to individuals, customers, and invitees for the purposes of ingress and egress into 1441 Main.

40. At all times material hereto, Defendant Sizemore, a security company performing services for 1441 Main, owed individuals, including Plaintiff, a duty to protect, warn, inspect, and/or notify of hazardous conditions located on the property.

41. Further, Defendant Sizemore had a duty to render aid to individuals, including Plaintiff, in emergency situations, to contact emergency services and/or 911 when an emergency

occurred at 1441 Main, and to not willfully, wantonly, recklessly, intentionally, and unlawfully expose individuals, including Plaintiff, to danger.

42. The injuries and damages incurred by Plaintiff were directly and proximately caused by Defendant Sizemore's careless, negligent, grossly negligent, willful, wanton, reckless, intentional, and unlawful acts, in one or more of the following ways:

- a. By failing to warn employees, guests, and/or invitees of 1441 Main, including Plaintiff, of the dangerous and hazardous condition of the subject elevator;
- b. By failing to render aid to Plaintiff during an emergency situation;
- c. By refusing to render aid to Plaintiff during an emergency situation;
- d. By failing to contact emergency services, such as 911, for Plaintiff;
- e. By refusing to contact emergency services, such as 911, for Plaintiff;
- f. By failing to implement preventative measures, procedures, and/or policies designed to eliminate or reduce such dangerous conditions and the hazards posed therefrom;
- g. By failing to have adequate policies and procedures in place to respond to emergencies at 1441 Main; and
- h. By instructing its employees, representatives, and/or agents not to call 911 or emergency services for elevator malfunctions, even when an individual is entrapped in the malfunctioning elevator.

43. As a direct and proximate result of the negligence, gross negligence, willful, wanton, reckless, intentional, and unlawful acts of Defendant Sizemore, Plaintiff suffered bodily, emotional, and mental injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and

nursing care and treatment, loss of earnings, and loss of ability to earn money. These losses are either permanent or continuing, and Plaintiff will suffer losses in the future.

WHEREFORE, Plaintiff prays for judgment against Defendant Sizemore for actual and punitive damages in an appropriate amount to be determined at trial, the costs of this action, and for such other and further relief as the Court may deem just and proper.

Respectfully Submitted this ____ day of October, 2022.

SPETSAS BUIST PLLC

/s/ Charles Buist, Esq. _____
Charles Buist, Esq.
SC Bar No.:
225 E. Robinson Street, Suite 542
Orlando, FL 32801
Telephone: (321) 352-7687
Facsimile: (407) 237-0096
Charles@SpetsasBuist.com
Attorney for Plaintiff

CUTTINO LAW LLC

/s/ Shaquana Cuttino, Esq. _____
Shaquana Cuttino, Esq.
SC Bar No.: 104370
5115 Forest Drive, Suite G1
Columbia, SC 29206
Telephone: (833) CUTT-LAW
Facsimile: (803) 818-2389
thecuttinolawfirm@gmail.com
Attorney for Plaintiff

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) THE FIFTH JUDICIAL CIRCUIT

Daisy Crump) Civil Action No.: 2022CP4005610
))
))
Plaintiff,))
))
v.))
))
Glenfield Capital, LLC d/b/a Glen) GLENFIELD CAPITAL, LLC D/B/A GLEN
1441 LLC; Colliers International) 1441 LLC'S ANSWER TO PLAINTIFF'S
South Carolina, Inc.; TK Elevator) COMPLAINT
Corporation; and Sizemore, Inc.))
))
Defendants.)

COMES NOW, the Defendant, incorrectly named above, Glenfield Capital, LLC d/b/a Glen 1441 LLC, by and through its undersigned attorneys, answering the Complaint of the Plaintiff, would allege and show unto the Court:

FOR A FIRST DEFENSE

1. Each and every allegation of the Plaintiff's Complaint not specifically admitted herein is denied.
2. Defendant lacks sufficient knowledge and information to form a belief as to the allegations of paragraph 1 and therefore denies the same.
3. Defendant admits so much of paragraph 2 which alleges that Defendant Glenfield Capital is an LLC with its principal incorporated in, and with its principal place of business in a state other than South Carolina.
4. Defendant lacks sufficient knowledge and information to form a belief as to the allegations of paragraphs 3, 4, 5, and thereby denies the same.

5. Defendant lacks sufficient knowledge and information to form a belief as to the allegations of paragraph 6 and thereby denies the same.

6. Defendant admits, upon information and belief, the allegations of paragraphs 7, 8, and 9.

7. Defendant lacks sufficient knowledge and information to form a belief as to the allegations of paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18, and thereby deny the same.

8. Defendant Glenfield will show that its duties are prescribed by and in accordance with the laws of the state of South Carolina, and to the extent the allegations of paragraph 19 are inconsistent therewith, hereby denies the same.

9. Defendant Glenfield will show that its duties are prescribed by and in accordance with the laws of the state of South Carolina, and to the extent the allegations of paragraph 20 are inconsistent therewith, hereby denies the same.

10. Defendant Glenfield will show that its duties are prescribed by and in accordance with the laws of the state of South Carolina, and to the extent the allegations of paragraph 21 are inconsistent therewith, hereby denies the same.

11. Defendant denies allegations of paragraph 22, 23, and demands strict proof thereof.

12. Defendant lacks sufficient knowledge and information to form a belief as to the allegations of paragraphs 24, 25, 26, 27, 28, and 29 and thereby denies the same.

13. Defendant lacks sufficient knowledge and information to form a belief as to the allegations of paragraphs 30, 31, 32, 33, 34, 35, 36, and 37 and thereby denies same.

14. Lack sufficient knowledge and information to form a belief as to the allegations of paragraphs 38, 39, 40, 41, 42, 43, and thereby deny the same.

FOR A SECOND DEFENSE

(Rule 12(b)(6), SCRPC)

15. The allegations of the preceding paragraphs, not inconsistent herewith, are realleged as if set forth herein verbatim.

16. Defendant would show that Plaintiff's Complaint, whether in whole or in part, fails to state facts sufficient to constitute a cause of action(s) and therefore must be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE

(Improper Venue)

17. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

18. Defendant pleads the defense of improper venue in the County of Richland, State of South Carolina.

FOR A FOURTH DEFENSE

(Comparative Negligence)

19. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

20. The Defendant would show that such injuries or losses that Plaintiffs sustained, if any, were due to and caused by the sole negligence, gross negligence, willfulness, wantonness, carelessness and recklessness of the Plaintiffs, combining, concurring and contributing with the negligence, if any, on the part of these Defendant, to such a degree that Plaintiff's recovery is barred by the doctrine of comparative negligence in South Carolina.

FOR A FIFTH DEFENSE

(Intervening or Superseding Negligence)

21. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

22. The Defendant would show that such injuries or losses that Plaintiffs sustained, if any, as alleged in Plaintiff's Complaint, were not due to or caused by any negligence on the part of the Defendant but were rather due to and caused by the contributing, concurring, intervening or superseding fault, breach of warranty or act or omission of a third party, over which these Defendant had no control.

FOR A SIXTH DEFENSE

(Waiver and Estoppel)

23. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

24. The Defendant would show that Plaintiff's Complaint is barred by the doctrine of waiver and estoppel.

FOR A SEVENTH DEFENSE

(Unavoidable Accident)

25. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

26. The Defendant would show that such injuries or losses that the Plaintiffs sustained, if any, as alleged in Plaintiff's Complaint, were not due to or caused by the negligence on the part of the Defendant but was rather due to and caused by an unavoidable accident, thereby barring any claim whatsoever.

FOR AN EIGHTH DEFENSE**(Assumption of the Risk)**

27. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

28. The Defendant would show that the Plaintiffs knew of the probable risk of injury or harm resulting from Plaintiff's actions, and therefore, the Defendant would plead the doctrine of assumption of the risk as a complete bar to this action.

FOR A NINTH DEFENSE**(Punitive Damages)**

29. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

30. The Defendant alleges that the Plaintiff's claim for punitive damages violates both the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that the jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of any meaningful standard and is inconsistent with due process guarantees.

31. The Defendant allege that the Plaintiff's claim for punitive damages violates the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Section 3 of the South Carolina Constitution because, even if it could be argued the standard governing the imposition of punitive damages exists, the standard would be void due to vagueness.

32. The Defendant allege that the Plaintiff's claim for punitive damages violates the equal protection clause of the Fourteenth Amendment to the United States Constitution and

Article I, Section 3 of the South Carolina Constitution in that the amount of punitive damages is based upon the wealth of these Defendants.

33. The Defendant allege that the Plaintiff's claim of punitive damages violates the doctrine of separation of powers and Article I, Section 3 of the South Carolina Constitution because punitive damages are a creation of the Judicial Branch of government which invades the province of the Legislative Branch of government.

34. Defendant would show, upon information and belief, that the Plaintiff's claim for punitive Damages violates the Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments to the Constitution of the United States of America in that it violates the double jeopardy clause in that Defendants could be subjected to multiple awards of punitive damages for the same set of facts; the self-incrimination clause is being violated because Defendants can be compelled to give testimony against itself in a penalty situation such as punitive damages; the assessment of punitive damages by a burden of proof less than beyond a reasonable doubt is violative of the Sixth and Fourteenth Amendments in that punitive damages are a fine or penalty and are, therefore, quasi-criminal in nature; Plaintiff's claim for punitive damages violates Defendants' right to access the courts as guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of punitive damages chills these Defendants' exercise of that right; the Plaintiff's claim for punitive damages violates the Eighth Amendment's guarantee that excessive fines shall not be imposed; the Plaintiff's claim for punitive damages violates both the due process and equal protection clauses of the Fourteenth Amendment in that the standard for awarding either punitive damages is unduly vague and, therefore, violates both procedural and substantive due process safeguards; therefore, the Plaintiff's claim for punitive damages should be dismissed.

35. Defendants plead all applicable statutory caps on punitive damages, including but not limited to the caps described in S.C. Code Ann. § 15-32-530, *et seq.*, as amended.

WHEREFORE, having fully answered, the Defendants pray that the Plaintiff's Complaint be dismissed with costs, for attorney's fees and such other and further relief this Court deems just and proper.

The Defendant demands a jury trial.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

s/Mark S. Barrow

Mark S. Barrow, SC Bar No. 7821

Grace G. Brown, SC Bar No. 105156

Sweeny, Wingate & Barrow, P.A.

Post Office Box 12129

Columbia, SC 29211

(803) 256-2233

**ATTORNEYS FOR DEFENDANT
GLENFIELD CAPITAL, LLC D/B/A GLEN
1441 LLC**

Columbia, South Carolina

December 8, 2022

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CIVIL ACTION NO: 2022-CP-40-05610

Daisy Crump,

Plaintiff,

v.

Glenfield Capital, LLC d/b/a Glen 1441, LLC;
Colliers International South Carolina, Inc.; tk
Elevator Corporation; and Sizemore, Inc.,

Defendant.

**TK ELEVATOR CORPORATION'S ANSWER
TO PLAINTIFF'S COMPLAINT**

**TO: SHAQUANA CUTTINO, ESQUIRE AND CHARLES BUIST, ESQUIRE,
ATTORNEYS FOR PLAINTIFF, AND TO THE PLAINTIFF ABOVE NAMED:**

COMES NOW the Defendant tk Elevator Corporation, by and through its undersigned attorneys, answering the Complaint of the Plaintiff, would allege and show unto the Court:

1. Defendant is without sufficient information to form a belief as to the allegations of Paragraphs 1 through 3, and therefore denies the same.
2. Paragraph 4 is admitted.
3. Defendant is without sufficient information to form a belief as to the allegations of Paragraph 5, and therefore denies the same.
4. Paragraph 6 is admitted upon information and belief.
5. Paragraph 7 is admitted upon information and belief.
6. Defendant admits so much of Paragraph 8 as alleges that it had a contract to provide maintenance services to the owner that was in effect on November 4, 2019. The remaining allegations of Paragraph 8 are denied.

7. Defendant is without sufficient information to form a belief as to the allegations of Paragraph 9, and therefore denies the same.
8. Answering Paragraph 10, tk Elevator admits the venue is proper in Richland County.
9. Defendant is without sufficient information to form a belief as to the allegations of Paragraphs 11 through 17, and therefore denies the same.
10. Upon information and belief, the allegations of Paragraphs 18 through 29 are not directed to this Defendant and require no response therefrom. To the extent that any of the factual allegations contained herein may be construed against this Defendant, the same are denied.
11. Defendant is without sufficient information to form a belief as to the allegations of Paragraph 30, and therefore denies the same.
12. Answering Paragraph 31, Defendant tk Elevator admits that it had a contract with FSP 1441 Main Street, LLC to provide elevator maintenance services that was in effect on November 4, 2019.
13. Answering Paragraph 32, Defendant tk Elevator admits that it had a contract for the maintenance of the elevators at 1441 Main that was in effect on November 4, 2019. The remaining allegations of Paragraph 32 are denied.
14. Paragraph 33 states a legal conclusion that requires no response.
15. Paragraphs 34 through 37 are denied.
16. Upon information and belief, the allegations of Paragraphs 38 through 43 are not directed at this Defendant and require no response therefrom. To the extent that any of the factual allegations contained therein may be construed against this Defendant, same are denied.

FOR A FIRST DEFENSE**(Statute of Limitations)**

17. The Defendant would show that the Plaintiff's claim against the Defendant is barred by the applicable Statute of Limitations.

FOR A SECOND DEFENSE**(Failure to State a Claim)**

18. Plaintiffs have failed to state facts sufficient to constitute a cause of action against tk Elevator Corporation, and pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, the Plaintiffs' claims should be dismissed.

FOR A THIRD DEFENSE**(Punitive Damages)**

19. Plaintiff's claim for punitive damages violates both the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the South Carolina Constitution to the extent that such punishment is in the jury's unfettered power to award in any amount it chooses such a penal action, based on a preponderance of the evidence is inconsistent with due process guarantees. An Award of Punitive damages that exceeds the penalty imposed by the government for a similar action is a violation of due process.

The Plaintiff's claim for punitive damages violates the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Section 3 of the South Carolina Constitution because, even if it could be argued the standard governing the imposition of such a quasi-criminal penalty exists, the standard would be void due to vagueness. A criminal statute that was similarly vague would be unconstitutional on its face.

Plaintiff's claim for punitive damages violates the equal protection clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that the amount of punitive damages is based upon the wealth of the Defendant. Considering what the net worth of Defendant is, moreover, a breach of due process, in that it allows the jury to base its punishment on Defendant's actions to make money in other states, which the United States Supreme Court has declared, in *State Farm v. Campbell*, 538 U.S. 408 (2003), to be contrary to the constitution.

Plaintiff's claim of punitive damages violates the doctrine of separation of powers and Article I, Section 3 of the South Carolina Constitution because punitive damages are a creation of the Judicial Branch of government which invades the province of the Legislative Branch of government.

Defendant would show, upon information and belief, that the Plaintiff's claim for punitive damages violates the Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments to the Constitution of the United States of America in that it violates the double jeopardy clause in that Defendant could be subjected to multiple awards of punitive damages for the same set of facts; the self-incrimination clause is violated because Defendant can be compelled to give testimony against itself in a quasi-criminal situation, the assessment of punitive damages by a burden of proof less than beyond-a-reasonable-doubt is violative of the Sixth and Fourteenth Amendments in that punitive damages are a fine or penalty and are, therefore, quasi-criminal in nature; Plaintiff's claim for punitive damages violates Defendant's right to access the courts as guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of punitive damages chills this Defendant's exercise of that right; the Plaintiff's claim for punitive damages violates the Eighth

Amendment's guarantee that excessive fines shall not be imposed; the Plaintiff's claim for punitive damages violates both the due process and equal protection clauses of the Fourteenth Amendment in that the standard for awarding either punitive damages is unduly vague and, therefore, violates both procedural and substantive due process safeguards; therefore, the Plaintiff's claim for punitive damages should be dismissed.

FOR A FOURTH DEFENSE

(Statutory Defense)

20. Defendant hereby asserts that any award of punitive damages should be capped pursuant to **S.C. Code § 15-32-530**.

FOR A FIFTH DEFENSE

(Superseding and Negligence of Others)

21. Whatever damages, if any, that may have been sustained by the Plaintiffs in this action, which tk Elevator Corporation expressly denies, were the result of, were due solely to, caused solely by, or were the direct and proximate result of the intervening, superseding, and unforeseeable negligence of others, over whom tk Elevator Corporation had no control, so as to bar Plaintiffs' claims against tk Elevator Corporation.

WHEREFORE, having fully answered, the Defendant prays that the Plaintiff's Complaint be dismissed, with costs including reasonable attorneys' fees, and for such other and further relief as may be just and proper.

The Defendant demands a jury trial.

{Signature page following}

MURPHY & GRANTLAND, P.A.

s/ Everett A. Kendall, II
Everett A. Kendall II, Esquire
S.C. Bar No. 8450
P.O. Box 6648
Columbia, SC 29260
Phone: 803-782-4100
Fax: 803-782-4140

*Attorneys for Defendant tk Elevator
Corporation*

Columbia, South Carolina
December 20, 2022

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
DAISY CRUMP,	)	Civil Action No. 2022CP4005610
	)	
Plaintiff,	)	
	)	
vs.	)	ANSWER
	)	(Jury Trial Demanded)
GLENFIELD CAPITAL, LLC D/B/A	)	
GLEN 1441 LLC; COLLIERS	)	
INTERNATIONAL SOUTH CAROLINA,	)	
INC.; TK ELEVATOR CORPORATION;	)	
AND SIZEMORE, INC.,	)	
	)	
Defendants.	)	

Defendant, Colliers International South Carolina, Inc. (hereinafter "Defendant"), hereby answers the Complaint and respectfully asserts the following:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint not specifically admitted is denied.

FOR A SECOND DEFENSE

2. Defendant would respectfully show each and every cause of action set forth in the Complaint fails to state a claim upon which relief can be granted and, therefore, the Complaint should be dismissed.

FOR A THIRD DEFENSE

3. Defendant denies the allegations contained in paragraphs 1 and 2 based upon a lack of information.
4. Defendant admits the allegations contained in paragraph 3 upon information and belief.

5. Defendant denies the allegations contained in paragraphs 4 and 5 based upon a lack of information.

6. Defendant admits the allegations contained in paragraph 6 upon information and belief.

7. Defendant objects to the allegations contained in paragraph 7 to the extent the same asserts legal conclusions. Subject to said objection, Defendant admits the same upon information and belief.

8. Defendant admits the allegations contained in paragraphs 8 and 9 upon information and belief.

9. Defendant objects to the allegations contained in paragraph 10 as the same solely asserts legal conclusions that do not require a response. Subject to said objection, Defendant is not currently contesting jurisdiction and/or venue but reserves the right to do so as discovery progresses.

10. Defendant objects to the allegations contained in paragraph 11 as the same asserts legal conclusions that do not require a response. Subject to said objection, Defendant denies the allegations based upon a lack of information.

11. Defendant denies the allegations contained in paragraphs 12 through 17 based upon a lack of information.

12. The allegations contained in paragraphs 18 through 23 (including the unnumbered sentence prior to paragraph 18 and the misplaced Wherefore Clause after paragraph 23) do not relate to Defendant and, therefore, no response is required. To the extent a response is required, Defendant denies the allegations.

13. In response to the unnumbered sentence prior to paragraph 24, Defendant realleges and reasserts the previous defenses and paragraphs as if fully stated herein verbatim.

14. Defendant objects to the allegations contained in paragraphs 24 through 27 as they solely assert legal conclusions that do not require a response. To the extent a response is required, Defendant moves to strike.

15. Defendant denies the allegations contained in paragraphs 28 and 29, including any and all subparts, and demands strict proof thereof.

16. To the extent necessary, Defendant denies the unnumbered Wherefore Clause following paragraph 29.

17. The allegations contained in paragraphs 30 through 43 (including all unnumbered statements and wherefore clauses) do not relate to Defendant and, therefore, no response is required. To the extent a response is required, those paragraphs (including all unnumbered statements and wherefore clauses) are denied.

FOR A FOURTH DEFENSE

18. Defendant alleges the condition on Defendant's premises Plaintiff alleges caused her injury (if it exists) was either open and obvious to Plaintiff at the time of the injury or was otherwise known to Plaintiff at the time of her injury. Furthermore, any danger created by said condition, which Defendant expressly denies, was not of a nature that should have been anticipated by Defendant. Therefore, Plaintiff is barred from recovery in this action against Defendant or, in the alternative, should have any award reduced by her comparative negligence.

FOR A FIFTH DEFENSE

19. Defendant alleges all of the risks and dangers, if any, existing at the time and place of Plaintiff's alleged accident and injury were open, obvious, apparent, and were either

known by the Plaintiff or should have been known by the Plaintiff. Furthermore, Plaintiff was perfectly competent to judge the appropriateness of the circumstances and conditions alleged to be existing at the time and place of the alleged accident and, therefore, by her actions, Plaintiff freely and voluntarily exposed himself to the alleged danger, thereby assuming the risk of being injured in the manner alleged in the Complaint. Therefore, Defendant is not liable to Plaintiff for any sum whatsoever, or, in the alternative, Defendant is entitled to reduce any award by Plaintiff's comparative negligence.

FOR A SIXTH DEFENSE

20. Defendant pleads the law and doctrine of comparative negligence and alleges the negligence and recklessness of Plaintiff were greater than the negligence, if any, which might be established against Defendant and, therefore, Plaintiff is barred from any recovery in this action. Defendant further alleges any injury and damage sustained by Plaintiff was due to and caused by the negligence and/or wilfulness of Plaintiff combining, concurring, and contributing with the negligence and/or wilfulness, if any, on the part of Defendant and, therefore, any amount of recovery awarded to Plaintiff for the injuries and damages alleged in the Complaint shall be reduced by the Court by the percentage of negligence and/or wilfulness attributed to Plaintiff.

FOR A SEVENTH DEFENSE

21. Defendant alleges any injury and damage sustained by Plaintiff were due to and caused by the sole negligence and/or wilfulness of Plaintiff and, therefore, Defendant is not liable to Plaintiff for any sum whatsoever.

FOR AN EIGHTH DEFENSE

22. Defendant alleges, upon information and belief, that any injury and damage sustained by Plaintiff were due to and caused by the sole and negligent acts or omissions of some

other person or persons other than Defendant over whom Defendant neither had nor exercised any authority or control, and, therefore, Defendant is not liable to Plaintiff for any sum whatsoever.

FOR A NINTH DEFENSE

23. Defendant would show that any injuries or damages sustained by Plaintiff that Plaintiff alleges was caused by an act or omission of this Defendant was either caused by an intervening efficient act, omission or event, or could not be avoided.

FOR A TENTH DEFENSE

24. Defendant would respectfully show that the applicable statute of limitations bars Plaintiff from recovery in this action.

FOR AN ELEVENTH DEFENSE

25. Plaintiff has failed to mitigate her damages and has incurred damages that were unnecessary or unreasonable in amount. Plaintiff is, therefore, barred in whole or part from recovery in this case.

FOR A TWELFTH DEFENSE

(S.C. Code Ann. § 15-32-530 - Statutory Cap on Punitive Damages)

26. Defendant affirmatively pleads the statutory cap on punitive damages as set forth in S.C. Code Ann. § 15-32-530 (Supp. 2019) (as amended) as a defense in this matter.

FOR A THIRTEENTH DEFENSE

27. The Defendant would show the claim for punitive damages cannot be had because any award of punitive damages would violate the Defendant's equal protection and due process rights as guaranteed by the United States and South Carolina Constitutions.

FOR A FOURTEENTH DEFENSE

28. Defendant would show the claim of Plaintiff for punitive damages cannot be had because any award of punitive damages under South Carolina law without bifurcation of the trial so that any punitive damage issues are tried only after and if liability on the merits of this action has been found will violate Defendant's due process rights guaranteed by the United States Constitution and the South Carolina Constitution, and would violate the common law and public policy of the State of South Carolina.

29. Defendant would show the claim of Plaintiff for punitive damages cannot be had because an award of punitive damages under South Carolina law without being subject to a predetermined limit on the amount of punitive damages that a jury might impose would violate Defendant's due process rights guaranteed by United States Constitution and the South Carolina Constitution, and would violate the common law of the State of South Carolina.

30. Defendant alleges the claim of Plaintiff for punitive damages cannot be had because an award of punitive damages under South Carolina law by a jury that is not:

- (a) Provided with sufficiently clear standards for determining the appropriateness of a punitive damage award or the size of such award;
- (b) Provided with adequate instructions as to the limits of punitive damage awards as determined by the principles underlying such an award;
- (c) Instructed that awarding punitive damages on individually discriminatory characteristics of Defendant is improper;
- (d) Instructed to consider punitive damages under a standard for determining the amount that is neither vague, arbitrary, nor capricious and that defines

with reasonable clarity the actions of Defendant upon which an award of punitive damages may be based; and

- (e) Subjected to judicial review at both the trial and appellate court level under objective standards for determining appropriateness and reasonableness;

would violate Defendant's equal protection and due process rights as guaranteed by the United States Constitution and the South Carolina Constitution and would also violate the laws of the State of South Carolina.

BIFURCATION REQUESTED – S.C. CODE ANN. § 15-32-520

31. Pursuant to S.C. Code Ann§ 15-32-520, the Defendants hereby request trial bifurcation on the issues of actual damages and punitive damages.

WHEREFORE, having fully answered, Defendant prays that the Complaint be dismissed, for the costs of defending this action, and for such other relief as the Court and jury deem just and proper.

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/Michael Trask

HEATH M. STEWART, III (SC Bar No. 74190)

heath.stewart@mgclaw.com

MICHAEL TRASK (SC Bar No. 103120)

michael.trask@mgclaw.com

Post Office Box 12519

1320 Main Street, 10th Floor (29201)

Columbia, South Carolina 29211

Telephone: (803) 779-2300

Facsimile: (803) 748-0526

ATTORNEYS FOR DEFENDANT COLLIERS
INTERNATIONAL SOUTH CAROLINA, INC.

December 21, 2022
Columbia, South Carolina

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CIVIL ACTION NO: 2022-CP-40-05610

Daisy Crump,

Plaintiff,

v.

Glenfield Capital, LLC d/b/a Glen 1441, LLC;
Colliers International South Carolina, Inc.; tk
Elevator Corporation; and Sizemore, Inc.,

Defendant.

**DEFENDANTS GLENFIELD CAPITAL, LLC
D/B/A GLEN 1441, LLC, COLLIERS
INTERNATIONAL SOUTH CAROLINA,
INC., AND TK ELEVATOR
CORPORATION'S JOINT MOTION FOR
SUMMARY JUDGMENT**

**TO: SHAQUANA CUTTINO, ESQUIRE AND CHARLES BUIST, ESQUIRE,
ATTORNEYS FOR PLAINTIFF, AND TO THE PLAINTIFF ABOVE NAMED:**

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Defendants Glenfield Capital, LLC d/b/a Glen 1441, LLC, Colliers International South Carolina, Inc., and tk Elevator Corporation, will move on the 10th day after service hereof, or as soon thereafter as counsel may be heard, for an Order of Summary Judgment in the above-captioned case. This motion is based on the grounds that there is no genuine issue of material fact and on the grounds that Defendants Glenfield Capital, LLC d/b/a Glen 1441, LLC, Colliers International South Carolina, Inc., and tk Elevator Corporation are entitled to judgment as a matter of law.

South Carolina currently recognizes negligent infliction of emotional distress in three contexts: 1) when a plaintiff observes a defendant's negligence cause the death or serious injury of a relative; 2) when a plaintiff suffers emotional distress in addition to physical injuries; and 3) when emotional trauma proximately causes bodily injury. Here, the Plaintiff did not witness the death or serious injury of a relative, and she did not suffer any physical or bodily injury, so Defendants Glenfield Capital, LLC d/b/a Glen 1441, LLC, Colliers International South Carolina,

Inc., and tk Elevator Corporation move for Summary Judgment on the grounds that the Plaintiff cannot establish any actionable damages. Therefore, the Plaintiff's negligence cause of action against Defendants Glenfield Capital, LLC d/b/a Glen 1441, LLC, Colliers International South Carolina, Inc., and tk Elevator Corporation should be dismissed.

Defendants Glenfield Capital, LLC d/b/a Glen 1441, LLC, Colliers International South Carolina, Inc., and tk Elevator Corporation base this motion on the pleadings and discovery conducted in this case, the deposition testimony already conducted in this case, and any other matters that may be presented at or prior to the hearing on this motion. In addition, Defendants Glenfield Capital, LLC d/b/a Glen 1441, LLC, Colliers International South Carolina, Inc., and tk Elevator Corporation will supplement this Motion with a Memorandum of Law, which will be filed prior to the hearing on this motion.

s/ Everett A. Kendall, II

Everett A. Kendall II (SC Bar No.: 8450)

P.O. Box 6648

Columbia, SC 29260

Phone: 803-782-4100

Attorneys for Defendant tk Elevator Corporation

s/ Joshua D. Shaw

Joshua D. Shaw (SC Bar No.: 68274)

W. Bryant Neal (SC Bar No.: 105823)

Hedrick Gardner Kincheloe & Garofalo LLP

1230 Main Street, Suite 325

Columbia, SC 29201

Phone: 803-727-1200

Attorneys for Colliers International South Carolina, Inc.

s/ Michael D. Crump

Michael D. Crump (SC Bar No.: 105737)

Sweeny, Wingate & Barrow, P.A.

1515 Lady Street

Columbia, SC 29201

Phone: 803-256-2233

Attorneys for Glen 1441, LLC and Glenfield Capital, LLC

Columbia, South Carolina

November 22, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	THE FIFTH JUDICIAL CIRCUIT
	)	
Daisy Crump	)	Civil Action No.: 2022CP4005610
	)	
	)	
Plaintiff,	)	
	)	
v.	)	MEMORANDUM OF LAW IN SUPPORT OF
	)	GLENFIELD CAPITAL, LLC d/b/a GLEN
Glenfield Capital, LLC d/b/a Glen	)	1441 LLC'S MOTION FOR SUMMARY
1441 LLC; Colliers International	)	JUDGMENT
South Carolina, Inc.; TK Elevator	)	
Corporation; and Sizemore, Inc.	)	
	)	
Defendant.	)	

COMES NOW Defendant Glenfield Capital, LLC d/b/a Glen 1441 LLC ("Glenfield"), by and through their undersigned counsel, to hereby submit its Memorandum in Support of Defendants' Joint Motion for Summary Judgment, filed on November 22, 2023. The Motion is made according to Rule 56, SCRCp, and is based on deposition testimony and additional evidence that shows Plaintiff has failed to prove one or more essential elements of her negligence cause of action. Specifically, Plaintiff has failed to prove that Glenfield breached any legal duty owed to Plaintiff and that she sustained any physical injury as a result therefrom, and Glenfield is therefore entitled to judgment as a matter of law.

FACTUAL BACKGROUND

On November 4, 2019, Plaintiff entered the elevator in the building 1441 Main located at 1441 Main Street, Columbia, SC, 29201, where she was working at the time. Compl. ¶ 12. 1441 Main is owned by Glenfield, managed by Defendant Colliers International South Carolina, Inc. ("Colliers"), and its elevators are serviced by TK Elevator Corporation ("TK"). Compl. ¶¶ 6-8. Upon entering the elevator, Plaintiff pressed a button to take her to the eleventh floor of the

building. Compl. ¶ 12. The doors began to close, but did not shut all the way, and suddenly Plaintiff began hearing a loud, motor-like noise coming from above in the elevator shaft. Compl. ¶ 13. At that point, several employees of the building came to the elevator door and attempted to help Plaintiff out of the elevator. Crump Depo. 24:18-25:11. After several attempts to fully open the door to let Plaintiff out, one of the property manager's employees contacted TK, who sent an elevator engineer to the site to assess the situation. *Id.* at 27:3-8. Within an hour, the engineer arrived and entered the elevator shaft to fix the problem. *Id.* at 28:1. Twenty to thirty minutes after the engineer's arrival, Plaintiff was able to exit the elevator without suffering any physical injuries, though she testified that throughout her time in the elevator, she was scared the cables holding the elevator would break and she would crash to the basement. *Id.* at 45:13-25; 92:7-16; 25:15-18.

After Plaintiff exited the elevator, a member of the fire department took her blood pressure and determined that she should go to the emergency room due to her high blood pressure. *Id.* at 29:4-12. Plaintiff refused, claiming she did not want to ride in an ambulance to the hospital. *Id.* at 29:13-19. Ultimately her blood pressure returned to normal levels, and she returned home without seeking any medical treatment the day of the incident. *Id.* at 30:6-12. She did schedule an appointment to see her Primary Care Physician the next day, who prescribed her with Xanax to manage symptoms of anxiety she was feeling in the aftermath of the incident. Crump Depo. 52:18-53:4; Hester Depo. 8:9-12. Both Plaintiff and her Primary Care Physician acknowledge that Plaintiff did not suffer any physical injuries as a result of the episode on November 4, 2019, only mental effects associated with anxiety. Crump Depo. 45:13-25; Hester Depo. 7:22-25. Plaintiff alleges that the medicine she was prescribed did not sufficiently mitigate her symptoms, prompting her to seek treatment from various psychological professionals. Crump

Depo. 53:17-21; 59:7-18. Plaintiff last saw a medical professional for care related to this incident in October 2022. *Id.* at 65:9-13. Plaintiff also did not return to work, although she admits this is not because of advice given by any medical professional. *Id.* at 66:8-67:9. Plaintiff seeks damages for mental, emotional, and physical pain, as well as lost wages. Compl. ¶¶ 23, 29, 37.

STANDARD OF REVIEW

Summary judgment should be granted if “the pleadings, depositions, answers to interrogatories, and admissions 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.” Rule 56(c), SCRCP. “[I]f it is clear that no genuine issue of material fact exists, that inquiry into the facts is not desirable to clarify the application of the law, and that movant is entitled to judgment as a matter of law.” *Standard Fire Co. v. Marine Contracting and Towing Co.*, 301 S.C. 418, 422, 392 S.E.2d 460, 462 (1990). “Summary judgment is appropriate in those cases in which plain, palpable and indisputable facts exist on which reasonable minds cannot differ.” *Main v. Corely*, 281 S.C. 525, 526, 316 S.E.2d 406, 407 (1984) (citing *Williams v. Chesterfield Lumber Company*, 267 S.C. 607, 230 S.E.2d 447 (1976)).

“[T]he party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact.” *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986)). “Once the moving party carries its initial burden, the opposing party must do more than rest upon the mere allegations or denials of his pleadings, but must, by affidavit or otherwise, set forth specific facts to show that there is a genuine issue for trial.” *Lord v. D&J Enterprises, Inc.*, 407 S.C. 544, 553, 757 S.E.2d 695, 699 (2014) (citing *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545).

ARGUMENT

I. Defendant Glenfield did not owe a duty to Plaintiff.

To recover damages in a negligence action, the plaintiff must establish (1) a duty of care owed that was (2) breached by a negligent act or omission and (3) damages that proximately resulted from the breach. *Shaw v. City of Charleston*, 351 S.C. 32, 40, 567 S.E.2d 530, 534 (Ct. App. 2002). A landowner has a general duty to warn others of “latent hazardous conditions on his land” only if the owner has “superior knowledge of conditions on the premises within his control.” *Byerly v. Connor*, 307 S.C. 441, 443, 415 S.E.2d 796, 798 (1992) (citing *Dunbar v. Charleston & W.C. Ry. Co.*, 211 S.C. 209, 44 S.E.2d 314 (1947)). “One who controls the use of property has a duty of care not to harm others by its use. Conversely, one who has no control owes no duty.” *Charleston Electrical Services, Inc. v. Rahall*, 427 S.C. 317, 323, 831 S.E.2d 122, 125 (Ct. App. 2019) (quoting *Miller v. City of Camden*, 329 S.C. 310, 314, 494 S.E.2d 813, 815 (1997)); see also *Skinner v. South Carolina Dept. of Transp.*, 383 S.C. 520, 681 S.E.2d 871 (2009) (holding that SC DOT did not owe a duty to highway travelers for a highway shoulder that it neither possessed nor controlled); *Nesbitt v. Lewis*, 335 S.C. 441, 517 S.E.2d 11 (Ct. App. 1999) (holding that a woman who owned a minority share of her mother’s house was not responsible for injuries incurred by a young girl who was attacked by her mother’s dogs).

Plaintiff alleges Glenfield owed her a duty to maintain the elevator in a reasonably safe condition or to warn her of any unreasonable risks on the premises of the building. Compl. ¶¶ 19-20. However, Glenfield does not maintain control or possession of the building; rather, Colliers does. In the service contract between Glenfield and Colliers dated June 6, 2017, Colliers agrees to perform numerous functions for the building, including obtaining and enforcing leases, instituting legal actions, making repairs or alterations, making contracts or utilities and other

services, advertising, inspecting, creating budgets, and providing accounting services for the building, which would include providing elevator repair and maintenance. Colliers Contract ¶¶ 1, 3. Though Glenfield maintains its status as the owner of the building, it has ceded all control of operations and maintenance of the building to Colliers per the two parties' agreement. Because Glenfield does not maintain possession or control of 1441 Main, it has no duty to warn patrons of the buildings of the dangers within or repair any defects that are present in the building. Accordingly, the condition of the elevator on the day of the incident was no responsibility of Glenfield's. Thus, Plaintiff has failed to prove an essential element of her negligence claim-- that Glenfield owed a duty to her—and is entitled to judgment as a matter of law regarding the same.

II. Plaintiff is not entitled to recovery on the basis of emotional damages.

In the alternative, Plaintiff has failed to meet another essential element of her negligence claim; that is, that she suffered a physical harm. Glenfield echoes the arguments of its co-defendants, TK Elevators and Colliers, on this point. South Carolina Courts have recognized claims for negligent infliction of emotional distress in three specific contexts only. The first recognized cause of action is when a plaintiff observes a defendant's negligence and said negligence causes the serious injury or death of a close relative that results in physical symptoms of emotional distress. *Kinard v. Augusta Sash & Door Co.*, 286 S.C. 579, 582, 336 S.E.2d 465, 467 (1985); *see also Doe v. Greenville County School District*, 375 S.C. 63, 67-68, 651 S.E.2d 305, 307 (2007); *Stewart v. State Farm Mut. Auto. Ins. Co.*, 341 S.C. 143, 154, 533 S.E.2d 597, 603 (Ct. App. 2000). The second is when a plaintiff suffers emotional distress in addition to a physical injury. *See Boan v. Blackwell*, 343 S.C. 498, 502, 541 S.E.2d 242, 244 (2001). The last is when a plaintiff suffers emotional trauma that proximately causes a physical injury. *See Padgett v. Colonial Wholesale Distrib. Co.*, 232 S.C. 593, 608, 103 S.E.2d 265, 272 (1958); *see*

also K.S. by and through *Seeger v. Richland School District Two*, 2022 WL 2966388 (Ct. App 2022).

Here, Plaintiff is seeking damages related to her own injuries, rather than someone else's, so she is not entitled to recover damages on a "bystander" emotional distress theory. Further, she and her primary care physician, Dr. Martha Parker Hester, both acknowledge that the incident did not cause her any physical injuries. Hester Depo. 7:11-8:6; Crump Depo. 45:13-25. Though Dr. Hester admitted that Plaintiff may have been affected emotionally by this alleged incident, she also opined that Plaintiff sustained no physical injury because of it. Plaintiff has provided no additional testimony or documentary evidence that tends to show Plaintiff suffered a physical injury and, as a result, has failed to prove damages, an essential element to a negligence cause of action. Therefore, Glenfield is entitled to summary judgment.

CONCLUSION

Based on the foregoing, Glenfield respectfully requests that this Court grant its Motion for Summary Judgment as to all of Plaintiff's claims and grant any further relief as justice may require.

Signature Page to Follow

Respectfully submitted,

SWEENY, WINGATE & BARROW, P.A.

s/ Grace G. Brown

Mark S. Barrow, SC Bar No. 7821

Grace G. Brown, SC Bar No. 105154

Sweeny, Wingate & Barrow, P.A.

Post Office Box 12129

Columbia, SC 29211

(803) 256-2233

ATTORNEYS FOR DEFENDANT

GLENFIELD CAPITAL, LLC d/b/a

GLEN 1441 LLC

Columbia, South Carolina

July 19, 2024

EXHIBIT 1

1 of the incident?

2 A. November 4, 2019.

3 Q. Okay. Why don't you explain to me what
4 happened?

5 A. I left the 11th floor. I went down to my
6 car. When I got to my car, I realized that I left my
7 phone on my desk. I turned back around. I locked my
8 car and went back into the building to go get my
9 phone. I got into the elevator. I pressed the 11th
10 floor button. The door came partially closed. It
11 was not closed all the way and it was not open all
12 the way. So when I -- when I realized what was
13 happening, by that time a security guard came right
14 up and he said -- because I was looking -- I don't
15 know. I wasn't paying attention. But when I looked
16 up, then I saw the door like this. (Witness
17 indicates.)

18 He was standing there and he said, "Okay.
19 I'm going to help you get out of here." I said,
20 "Okay." So he pulled the doors and nothing happened.
21 So at first I didn't think, you know, that it was
22 going to last long. So I said, "Okay." I said,
23 "Well, you need to call somebody." He said -- he
24 said, "Yeah." He said, "Let me call somebody." So
25 he -- he walked away and he came back and he's still

1 pulling on the door, but it didn't budge.

2 So finally a lady came up. I don't know
3 who she was. And she asked me was I okay. I said,
4 "Yes. Would you please get me out of here?" So she
5 was on the phone talking to someone and then he was
6 telling her -- giving her instructions to give me.
7 And she was telling me to push the open door button
8 and I pushed it and nothing happened. She said, "Now
9 push the close button." I pushed and nothing
10 happened. So she was still talking to whomever she
11 was talking to.

12 So this time -- and the whole time there
13 was this motor running and it was just running, whoo,
14 whoo, whoo, whoo. And I said, "Please, get me out of
15 here." Because I was thinking in my mind that with
16 this motor running and nothing happening, that the
17 cable could break and I could drop to the basement
18 and that would be the end of me. So she was still
19 talking to me. So finally she's telling me -- asking
20 me was I okay. I said, "Okay. I'm all right. Just
21 get me out of here."

22 So by this time some of my co-workers came
23 up to see what was going on. And one girl asked me,
24 "Ms. Daisy, what do you need?" I said, "I need my
25 phone off my desk." So she went upstairs in another

1 running. I said, "I can't hardly hear you." So she
2 said, "It's best that we text." I said, "Okay."

3 So I got a phone call during this time --
4 and the property manager came. They told me that's
5 who he was. I didn't know. But he came and he was
6 telling me that we're calling the engineer. He's on
7 his way. I said, "Okay." So my co-workers was still
8 standing out there.

9 So I got a phone call and I didn't
10 recognize the number, so I didn't answer it. So my
11 youngest daughter texted me. She said -- no. She
12 left me a message. She said, "Mommy, this is the --
13 this is 911. Answer the call." So after I heard the
14 message, then a call -- another call came from that
15 same number and I answered it. And the dispatcher
16 was asking me questions. She could not hear me and I
17 couldn't hear her because of the motor running. It
18 was steady running. And I'm thinking, oh, this thing
19 is going to snap any minute and I'm dead. I'm going
20 to die today. I still have nightmares from that
21 noise. I hear it and it wakes me up at night.

22 Anyway, I was sitting there on the floor.
23 So finally I guess it was about an hour or so later
24 -- I was in there over an hour. So finally somebody
25 came and the property manager, and I don't know his

1 name, he said, "Well, the engineer is here." So
2 whoever he was, he was -- he act like I disturbed him
3 from something very important because he didn't have
4 a very good attitude. He didn't say anything to me.
5 He was talking to them. And when I knew anything,
6 that man had gotten up on top of that elevator and
7 started shaking it. He didn't tell me he was going
8 to do it. He didn't say nothing. He just started
9 shaking. I said, "Oh, my God. I'm dead now, I
10 know." And I'm thinking, oh, my God. This thing is
11 going to pop. He's shaking the elevator and nobody
12 is telling me anything. If he had warned me, I would
13 have expected it. But he didn't warn me. He didn't
14 say anything.

15 So he was telling -- giving the property
16 manager instructions. Whatever he was telling him to
17 do, I don't know what he was saying because all I was
18 focusing on was I'm going to die. I'm going to die
19 today and he must be going with me because he on top
20 of it. So finally whatever he told that property
21 manager to do, the door came open. The young lady
22 that went and got my phone, she jumped me and grabbed
23 my purse and my shoes and the security guard came in
24 and grabbed my hands. And when he pulled me, I was
25 outside of the elevator in his arms. I mean, it was

1 distracted. Are you a member of a church in
2 Columbia?

3 A. I am.

4 Q. Which church?

5 A. Glory Church International and Two Notch
6 Road.

7 Q. Are there any other clubs or organizations
8 that you're a member of in Richland County?

9 A. No.

10 Q. Was there any sort of, like, a nurse's
11 association local that you were part of?

12 A. No.

13 Q. At any time did you -- you said you sat
14 down. Did you sit down in a controlled way or did
15 you fall down in the elevator?

16 A. I kind of slid down.

17 Q. But it was under your own --

18 A. Yeah. I didn't fall.

19 Q. And you weren't injured when you sat down?

20 A. No.

21 Q. Were you injured when you got off?

22 A. Not physically.

23 Q. And that was what I was trying to ask you.
24 Did you hurt your body?

25 A. No.

1 MR. KENDALL: I tell you what, why
2 don't you follow the rules and object to the form and
3 leave the rest of the coaching out. Let me ask you
4 the question again. And if she can't answer it, you
5 can object at trial.

6 BY MR. KENDALL:

7 Q. From the time that somebody said to you,
8 "Engineer is here" until the time you walked out,
9 what is your best estimate of how long that period of
10 time was?

11 MR. SPETSAS: Form. You can answer
12 if you can.

13 THE WITNESS: Twenty, 30 minutes.

14 BY MR. KENDALL:

15 Q. Twenty to 30 minutes?

16 A. I'm not sure, but that's my best estimate.

17 Q. Okay. And did you see the person through
18 the gap in the door?

19 A. I saw the back of a man that they said was
20 the engineer. And the next thing I knew, someone
21 was -- he was on top of the elevator shaking it,
22 telling the property manager what to do, and I knew I
23 was dead then. I just thought I was dead.

24 Q. But he was going with you?

25 A. Excuse me?

1 like he just jerked me. I was sinking to the floor.
2 He grabbed me. He said, "Come on. You got to stand
3 up. Stand up." I was so weak and nervous.

4 So by this -- as soon as I got out of the
5 elevator, when I looked up, the fire department came
6 through the doors and they had all of this equipment.
7 They were trying to do blood pressure and stuff on me
8 and they had me sitting there. They got me to sit
9 down and he was doing my blood pressure and he
10 said -- he said, "Your blood pressure is 200 over
11 100." He said, "We need to take you to the emergency
12 room."

13 I said, "Sir, I understand. But I've been
14 cooped up in that little box for over an hour and I
15 cannot get into an ambulance or nothing right now."
16 I said, "Because I just can't do it. I can't even
17 see myself into an ambulance right now." I said,
18 "Unless you're going to walk me to the emergency
19 room, I can't go."

20 As soon as they did all that, then my
21 son-in-love came in door. He said, "Mom, are you
22 okay?" He said, "You all right?" So he said, "Pam
23 is on the way," which is my daughter. He said she's
24 on the way. So he said, "What happened?" So I began
25 to tell him what happened. He said, "Look, just --

1 just sit here until Pam gets here and then we're
2 going to decide what we're going to do."

3 I didn't see the property manager or that
4 little lady anymore. By this time, my co-workers was
5 still there with me. He said -- the fireman said,
6 "We're going to check your pressure in about 15
7 minutes. If it's going down, then we can let you go
8 home. But if it's not," he said, "you've got to go."
9 So it started coming down to like -- it was 200 over
10 100. So it came down to something like 168 or
11 something like that over -- the bottom number was
12 almost normal. But that's what happened.

13 Q. Okay. Thank you. It was very detailed.
14 I appreciate it. I do have some additional questions
15 I want to ask you. So this happened, you said, at
16 about a quarter to 5:00?

17 A. Yes.

18 Q. So you had been at work all day?

19 A. Yes.

20 Q. You normally work until 5:00. Had you got
21 off early that day?

22 A. I did.

23 Q. Any particular reason?

24 A. I was finished with my calls and I left.

25 Q. When you came downstairs from -- to go to

1 ten years?

2 A. Yes.

3 Q. Okay. Did you have -- did you already
4 have an appointment with Dr. Hester or did you have
5 to make an appointment?

6 A. I made an appointment. I had to make one.

7 Q. Okay. And you were able to get in there
8 that morning?

9 A. No, that evening.

10 Q. That evening?

11 A. Yes.

12 Q. Tell me about what you went there to get
13 help with.

14 A. I didn't sleep at all that night -- the
15 night after this incident. I was a nervous wreck the
16 next morning. My husband said, "You need to go see a
17 doctor to help you sleep." So at least go -- and
18 then my pressure shot back up that next morning. So
19 he said -- he insisted that I go see somebody. So I
20 called her and and I talked to the triage nurse and
21 she made an appointment for me to come in that
22 evening.

23 Q. Okay. When you went in, did you see
24 Dr. Hester?

25 A. I did.

1 Q. Okay. Did she prescribe anything for you?

2 A. She prescribed -- I think she prescribed
3 some Xanax for me to try to relax, you know, get --
4 kind of get myself together.

5 Q. Had you ever taken Xanax before?

6 A. It's been so long ago. It's been years
7 ago I took some Xanax.

8 Q. It was not regularly --

9 A. No.

10 Q. -- prescribed to you?

11 A. Just once. Yeah.

12 Q. Just remember to let me finish the
13 question.

14 A. I'm so sorry.

15 Q. That's okay. And did the Xanax help you
16 to relax and sleep?

17 A. It put me to sleep, but then that motor
18 noise kept -- in my head, woke me up. So I did
19 not -- I didn't relax. I couldn't relax. I was up
20 most of the night. Even the night after I was up
21 with the Xanax.

22 Q. What were the -- what were the symptoms or
23 the problems that you explained to her that you were
24 having when you went to see her on November 5th?

25 A. I told her what happened with the elevator

1 Q. Okay. Has there ever been a time when
2 you've had to go to the emergency room associated
3 with anything out of this accident?

4 A. Let's say that there were times when I
5 should have gone to the emergency room, but did not
6 go.

7 Q. What I'm trying to understand is where
8 you've received care because of the events that
9 occurred in November of 2014 -- 2019?

10 A. In February of 2020, I went to see
11 Dr. Kevin Krebs, a psychologist -- psychiatrist.

12 Q. And who recommended Dr. Krebs to you?

13 A. Let me back up. Before that --

14 Q. That would be great. Let's start from
15 November.

16 A. I went to see a young lady at She's
17 Counseling and she said that I needed to see someone
18 other than her.

19 Q. Who sent you to She's Counseling?

20 A. I came to her through my attorney.

21 Q. And do you remember the counselor or
22 therapist or whatever that you spoke to?

23 A. I can't remember her name. It escapes me
24 right now.

25 Q. Do you remember how many visits you had

1 counseling?

2 A. No, we're not. That doesn't mean that
3 we're not going through things, but we're not.

4 Q. Other than during -- since November of
5 2019, has there been any events in your life, the
6 loss of a child, the loss of a parent, something like
7 that that's occurred?

8 A. No.

9 Q. And so the last time -- if I've followed
10 the notes that you gave me, the last time you saw a
11 counselor or psychiatrist was in October of '22,
12 correct?

13 A. Yes.

14 Q. Otherwise, you touch base with
15 Dr. Hester --

16 A. Yes.

17 Q. -- occasionally?

18 A. Yes.

19 Q. Are there any plans for future
20 medications?

21 A. Such as? I mean --

22 Q. Has she referred you to go --

23 A. No.

24 Q. -- into a program or do anything like
25 that?

1 A. Huh-uh. No.

2 Q. Okay. Remind me, at the time of this
3 incident, what was your age in 2019?

4 A. I was 69.

5 Q. Okay. Did you have a projection on how
6 long you intended to work?

7 A. As long as I could.

8 Q. And why haven't you continued to work?

9 A. That's something Dr. Tonkin and I talked
10 about a lot. There were times when I would begin to
11 do something on a computer or my iPad or whatever, I
12 could not focus. Just I'd be sitting and instead of
13 doing what I intended to do, I end up staring at a
14 wall or just staring because I could not focus. It's
15 hard sometimes now for me to focus. I would love to
16 do something. I mean, if it's just working from
17 home, I would love to. But I can't focus. It's hard
18 for me to stay focus and what I -- what I have to do.
19 So most of the time I go into my happy place, which
20 is a recliner looking out the window. That's my
21 happy place. My safe place. I put it like that. I
22 don't have to worry about elevators. I don't have to
23 worry about being in a closed room or claustrophobic.
24 I am in my safe place and that's unusual for me.

25 Q. Do you -- have you been evaluated by a

EXHIBIT 2

1 Q. Okay. So she exhibited lots of the signs
2 of anxiety?

3 A. That's right.

4 Q. But no physical injury?

5 A. Right. And reported insomnia on top of
6 that since that.

7 Q. Okay. And then did she describe -- and
8 did you prescribe anything for her?

9 A. I did.

10 Q. What did you prescribe?

11 A. A short-term anxiolytic and then something
12 to sleep.

13 Q. And was there ever a time when she came
14 back to you and said, "You know, I was physically
15 injured in this elevator. Would you look at me?"

16 A. Not physically.

17 Q. Did you continue to treat her for anxiety
18 or refer her out?

19 A. I did.

20 Q. Or both?

21 A. I think she was seen on -- that was the
22 5th. She was seen on the 11th, November 11, with
23 worsening symptoms of more anxiety and insomnia.
24 Then we talked more about a counselor, referring to
25 a counselor for psychological support. And then she

1 happened in the elevator did she describe for you
2 whether she had fallen or not fallen or anything of
3 that nature?

4 A. I do not recall that.

5 Q. And did you record anything like that in
6 your notes?

7 A. I did not.

8 Q. But what you did record is that she said
9 she was stuck for several hours?

10 A. That's right.

11 Q. And did she describe for you any physical
12 injury as a result of being stuck in the elevator?

13 A. From what I recall and what I documented,
14 it was more emotional stress --

15 Q. Okay. If she had --

16 A. -- than physical. No physical bruises, no
17 physical -- obvious physical harm.

18 Q. And even though she had done -- she told
19 you it was anxiety, you did a physical. Did you do
20 a physical check on her?

21 A. Absolutely.

22 Q. And did you find any physical injuries?

23 A. No physical evidence, but obviously she
24 was emotionally shaken and appeared anxious and had
25 pressured speech and all that.

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2022-CP-40-05610

COUNTY OF RICHLAND

Daisy Crump,

Plaintiff,

vs.

**DEFENDANT TK ELEVATOR
CORPORATION'S MEMORANDUM
IN SUPPORT OF ITS JOINT MOTION
FOR SUMMARY JUDGMENT**Glenfield Capital, LCC d/b/a Glen 1441, LLC;
Colliers International South Carolina, Inc.; tk
Elevator Corporation; and Sizemore, Inc.,

Defendants.

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Defendant tk Elevator Corporation ("Defendant tk Elevator"), submits this Memorandum of Law in Support of the Defendant Glenfield Capital, LCC d/b/a Glen 1441, LLC, Colliers International South Carolina, Inc., and tk Elevator Corporation's Joint Motion for Summary Judgment in the above-captioned case. In this negligence action, the Plaintiff was not physically injured and therefore, cannot establish actionable damages under negligence. Without evidence of physical injury, there is no genuine issue of material fact, and Defendant tk Elevator is entitled to judgment as a matter of law.

FACTS

On November 4, 2019, the Plaintiff was working as an "outbound" LPN at Absolute Total Care in Columbia, SC. (Exhibit A: Daisy Crump Deposition at 16). The Plaintiff worked on the 11th floor of the building located at 1441 Main Street. (D. Crump Dep. at 19). Between 4:30 and 5:00 p.m. on the day of the incident, the Plaintiff had left work, gone down the elevator,

and walked out of the building to her car. (D. Crump Dep. at 24, 30). When she got to her car, the Plaintiff realized she had forgotten her phone and returned to the building to get it. (D. Crump Dep. at 24).

The Plaintiff walked back into the lobby of the building and went to get on one of the elevators to take her up to the 11th floor. (D. Crump Dep. at 24). The Plaintiff stated she did not have to press a button to summon the elevator because there were people that had just come down in the elevator before she got on. (D. Crump Dep. at 33). The Plaintiff entered the elevator and pushed the button for the 11th floor. (D. Crump Dep. at 24). The doors began to close but stopped about 8 inches apart. (D. Crump Dep. at 35). The elevator did not move on its own, and the doors did not open. (D. Crump Dep. at 24, 37). The Plaintiff was stuck in the elevator. (D. Crump Dep. at 24).

The Plaintiff pressed the door-open and door-close buttons, but the doors did not respond. (D. Crump Dep. at 25). The Plaintiff testified that she believed the motor was running and that the cables holding the elevator could break at any second. (D. Crump Dep. at 25). The Plaintiff testified that she was scared the elevator would crash and that she would go down with it. (D. Crump Dep. at 25).

The building's property manager also came to check on the Plaintiff, and the property manager told her that an engineer was on his way to fix the elevator. (D. Crump Dep. at 27). When the engineer got the doors to open, the Plaintiff exited the elevator. (D. Crump Dep. at 29).

The Plaintiff testified that she had no physical injury as a result of the incident. (D. Crump Dep. at 45). The Plaintiff testified that the incident has caused her emotional distress. (D. Crump Dep. at 57).

The day after the incident, the Plaintiff visited her primary care physician, Dr. Martha Parker Hester. (D. Crump Dep. at 51). Dr. Parker-Hester testified that the Plaintiff did not have any physical injuries when she treated the Plaintiff on November 5, 2019. (Exhibit B: Dr. Martha Parker-Hester Deposition at 6-8).

STANDARD OF REVIEW

Summary judgment is appropriate when the movant demonstrates that the material facts of the case are undisputed, and the moving party is entitled to judgment as a matter of law. *Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991); Rule 56(c), SCRCF. If the moving party meets its initial burden of showing an absence of evidentiary support for the nonmoving party's case, the nonmoving party cannot simply rest on mere allegations or denials contained in the pleadings. *Singleton v. Sherer*, 377 S.C. 185, 197–98, 659 S.E.2d 196, 203 (Ct. App. 2008). Instead, the nonmoving party must come forward with specific evidentiary support showing there is a genuine dispute for trial. *Rife v. Hitachi Const. Mach. Co.*, 363 S.C. 209, 213, 609 S.E.2d 565, 568 (Ct. App. 2005). "The plain language of Rule 56(c), SCRCF, mandates the entry of summary judgment, after adequate time for discovery against a party who fails to make a showing sufficient to establish the existence of an element essential to the party's case and on which that party will bear the burden of proof at trial." *Gauld v. O'Shaughnessy Realty Co.*, 380 S.C. 548, 559, 671 S.E.2d 79, 85 (Ct. App. 2008).

ARGUMENT

- I. The Plaintiff does not have a physical injury to accompany her emotional distress; therefore, she cannot maintain a negligent infliction of emotional distress cause of action against Defendant tk Elevator.**

To recover damages in a negligence action, the plaintiff must establish (1) a duty of care owed that was (2) breached by a negligent act or omission and (3) damages that proximately resulted from the

breach. *Shaw v. City of Charleston*, 351 S.C. 32, 40, 567 S.E.2d 530, 534 (Ct. App. 2002). Under South Carolina law, the damages element of a cause of action for negligence requires a plaintiff to establish either physical injury or property damage. *Babb v. Lee County Landfill SC, LLC*, 405 S.C. 129, 153, 747 S.E.2d 468, 481 (2013). “Damages for emotional or mental suffering are typically not recoverable, unless there is some physical manifestation of the emotional distress.” *Id.*

In *Dooley v. Richland Memorial Hospital*, the South Carolina Supreme Court held that the plaintiffs did not meet their burden for the damages element of negligence when the plaintiffs experienced emotional distress after the hospital misidentified a patient and falsely told the plaintiffs their son had been severely injured. *Dooley v. Richland Memorial Hospital*, 283 S.C. 372, 375, 322 S.E.2d 669, 671 (1984). In *Dooley*, the plaintiffs testified that they were upset and nervous after receiving false information that their son had been injured in a serious car accident. *Id.* The Plaintiffs took medicine to calm their nerves but did not experience any physical manifestations of their emotional distress. *Id.* The Court in *Dooley* held that the plaintiffs “failed to show any objective evidence of physical injury upon which to rest a claim for damages for emotional injury[.]” *Id.*

This issue was recently addressed in Richland County. In *Seeger*, the Court of Appeals affirmed Judge Jocelyn Newman’s circuit court order directing a verdict in favor of the Defendant in a case where the Plaintiff had an emotional injury but no physical injury. *See K.S. by and through Seeger v. Richland School District Two*, 2022 WL 2966388 (Ct. App 2022). In this case, a teacher grabbed a student by the arm after the student dropped his/her food tray. *Id.* The teacher reportedly said, “I will give you something to cry for.” *Id.* In addition, it was determined that the teacher had

directed harsh language at the student in the past. *Id.* At trial, Judge Newman granted the Defendant's Motion for Directed Verdict because the Plaintiff had purely emotional damages. *Id.*

The Court of Appeals determined that South Carolina recognizes negligent infliction of emotional distress in three contexts: 1) when a plaintiff observes a defendant's negligence cause the death or serious injury of a relative; 2) when a plaintiff suffers emotional distress in addition to physical injuries; and 3) when emotional trauma proximately causes bodily injury. *Id.* For the first context, the Court of Appeals determined that the bystander context did not apply. For the second context, the Court held that even though the Plaintiff testified that his arm hurt after he was grabbed by the teacher, there was no testimony of a physical injury such as fingernail scratches or cuts. *Id.* Since there was no physical evidence, the second context did not apply. For the third context, the Court held that a mental breakdown that leads to physical injury could support a cause of action but only if the defendant's conduct must be exceedingly bad such that severe emotional distress would be expected to follow in a reasonable person.

Here, the Plaintiff was not a bystander and did not have a physical injury, so the three contexts do not apply. The incident occurred to the Plaintiff, so the first bystander context does not apply. The second and third contexts require a physical injury that either caused the emotional distress or was borne from the emotional distress, but the Plaintiff and the Plaintiff's treating physician have testified that the Plaintiff did not suffer a physical injury at all.

CONCLUSION

The Court should grant Defendant tk Elevator's Motion for Summary Judgment because the Plaintiff did not experience any physical injury; therefore, she cannot recover for her emotional injury under a negligence cause of action. Therefore, there is no genuine issue of material fact, and Defendant tk Elevator is entitled to judgment as a matter of law.

MURPHY & GRANTLAND, P.A.

s/ JD Elliott

Everett A. Kendall, II, SC Bar No. 8450

JD Elliott, SC Bar No. 104124

Post Office Box 6648

Columbia, South Carolina 29260

(803) 782-4100

Email: jdelliot@murphygrantland.com

***Attorneys for Defendant tk Elevator
Corporation***

Columbia, South Carolina
July 19, 2024

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1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

2 COUNTY OF RICHLAND

3

4 DAISY CRUMP,

5 Plaintiff,

6 vs.

CASE NO. 2022-CP-40-05610

7 GLENFIELD CAPITAL, LLC d/b/a

GLEN 1441, LLC; COLLIERS

8 INTERNATIONAL SOUTH CAROLINA,

INC.; TK ELEVATOR CORPORATION;

9 and SIZEMORE, INC.,

10 Defendants.

11

12 VIRTUAL ZOOM

13 DEPONENT: DAISY CRUMP

14 DATE: July 7, 2023

15 TIME: 10:04 a.m.

16 LOCATION: Sweeny Wingate & Barrow

1515 Lady Street

17 Columbia, SC

18 TAKEN BY: Counsel for the Defendant

19 REPORTED BY: KIMBERLY T. POWER, CR

20

21

22

23

24

25

1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR THE PLAINTIFF

3 CUTTINO LAW FIRM, LLC

4 BY: SHAQUANA CUTTINO, ESQUIRE

5115 Forest Drive

Columbia, SC 29206

thecuttinolawfirm@gmail.com

6 SPETSAS BUIST, PLLC

7 BY: NICHOLAS SPETSAS, ESQUIRE

225 East Robinson Street

Orlando, FL 32801

8 (VIA ZOOM)

9
10 ATTORNEYS FOR THE DEFENDANT

11 TK ELEVATOR CORPORATION:

12 MURPHY & GRANTLAND, P.A.

13 BY: EVERETT A. KENDALL, II, ESQUIRE

J.D. ELLIOTT, ESQUIRE (VIA ZOOM)

14 4406-B Forest Drive

15 Columbia, SC 29206

16 rkendall@murphygrantland.com

17 ATTORNEYS FOR THE DEFENDANT

18 GLENFIELD CAPITAL, LLC d/b/a

19 GLEN 1441, LLC:

20 SWEENEY WINGATE & BARROW, P.A.

21 BY: GRACE C. BROWN, ESQUIRE

22 1515 Lady Street

23 Columbia, SC 29201

24 ggb@swblaw.com

25 (Appearances continued on page 3.)

1 APPEARANCES OF COUNSEL:
2 (Continued)

3
4 ATTORNEYS FOR THE DEFENDANT
5 COLLIERS INTERNATIONAL SOUTH CAROLINA,
6 INC.:

7 HEDRICK GARDNER KINCHELOE GAROFALO^
8 BY: W. BRYANT NEAL, ESQUIRE
9 1230 Main Street
10 Columbia, SC 29201
11 bneal@hedrickgardner.com
12
13
14
15
16
17
18
19
20

21 (INDEX AT END OF TRANSCRIPT)
22
23
24
25

1 A. It's been so long ago. I'm not sure. I
2 had a radical hysterectomy in 1991.

3 Q. Okay. So it was in conjunction with that?

4 A. Yeah.

5 Q. Was it a just a short-term disability?

6 A. Yes.

7 Q. All right. Have you ever been declared
8 totally and permanently disabled?

9 A. No.

10 Q. Have you ever received long-term
11 disability benefits?

12 A. No.

13 Q. And so this resume ended in 2017. Take me
14 from March of 2017 to present. Tell me about your
15 work history.

16 A. As I said, November 4th -- November 5th of
17 2018, I was -- I became employed at Absolute Total
18 Care on 1441 Main Street. And from then until
19 November 4th of 2019, I was working as an outbound
20 LPN nurse.

21 Q. Now, between March of 2017 when you last
22 worked at Pruitt and November of 2018, during that 18
23 months or so, what did you do?

24 A. After I left Pruitt, I wasn't -- I was not
25 working. I was home. I was kind of like a newlywed.

1 Q. Okay.

2 A. It used to be Wachovia, but it's now Wells
3 Fargo.

4 Q. That's right. Thank you. I've been in
5 Columbia too long.

6 A. Okay.

7 Q. And what floor was your office on?

8 A. The 11th floor.

9 Q. Who was your direct supervisor?

10 A. Beth Schumpert. S-C-H-U-M-P-E-R-T.

11 Q. Is she an RN?

12 A. Yes.

13 Q. And was she your supervisor for the
14 year -- the whole year that you worked there?

15 A. No. Annette Brown was one supervisor and
16 another lady, Victoria. Her name escapes me right
17 now. But she left the company, so Beth became my
18 supervisor.

19 Q. What was your typical work schedule?

20 A. From 8:00 to 5:00.

21 Q. Monday through Friday?

22 A. Yes.

23 Q. You reported to 1441 Main, 11th floor
24 every day for work?

25 A. Yes.

1 of the incident?

2 A. November 4, 2019.

3 Q. Okay. Why don't you explain to me what
4 happened?

5 A. I left the 11th floor. I went down to my
6 car. When I got to my car, I realized that I left my
7 phone on my desk. I turned back around. I locked my
8 car and went back into the building to go get my
9 phone. I got into the elevator. I pressed the 11th
10 floor button. The door came partially closed. It
11 was not closed all the way and it was not open all
12 the way. So when I -- when I realized what was
13 happening, by that time a security guard came right
14 up and he said -- because I was looking -- I don't
15 know. I wasn't paying attention. But when I looked
16 up, then I saw the door like this. (Witness
17 indicates.)

18 He was standing there and he said, "Okay.
19 I'm going to help you get out of here." I said,
20 "Okay." So he pulled the doors and nothing happened.
21 So at first I didn't think, you know, that it was
22 going to last long. So I said, "Okay." I said,
23 "Well, you need to call somebody." He said -- he
24 said, "Yeah." He said, "Let me call somebody." So
25 he -- he walked away and he came back and he's still

1 pulling on the door, but it didn't budge.

2 So finally a lady came up. I don't know
3 who she was. And she asked me was I okay. I said,
4 "Yes. Would you please get me out of here?" So she
5 was on the phone talking to someone and then he was
6 telling her -- giving her instructions to give me.
7 And she was telling me to push the open door button
8 and I pushed it and nothing happened. She said, "Now
9 push the close button." I pushed and nothing
10 happened. So she was still talking to whomever she
11 was talking to.

12 So this time -- and the whole time there
13 was this motor running and it was just running, whoo,
14 whoo, whoo, whoo. And I said, "Please, get me out of
15 here." Because I was thinking in my mind that with
16 this motor running and nothing happening, that the
17 cable could break and I could drop to the basement
18 and that would be the end of me. So she was still
19 talking to me. So finally she's telling me -- asking
20 me was I okay. I said, "Okay. I'm all right. Just
21 get me out of here."

22 So by this time some of my co-workers came
23 up to see what was going on. And one girl asked me,
24 "Ms. Daisy, what do you need?" I said, "I need my
25 phone off my desk." So she went upstairs in another

1 running. I said, "I can't hardly hear you." So she
2 said, "It's best that we text." I said, "Okay."

3 So I got a phone call during this time --
4 and the property manager came. They told me that's
5 who he was. I didn't know. But he came and he was
6 telling me that we're calling the engineer. He's on
7 his way. I said, "Okay." So my co-workers was still
8 standing out there.

9 So I got a phone call and I didn't
10 recognize the number, so I didn't answer it. So my
11 youngest daughter texted me. She said -- no. She
12 left me a message. She said, "Mommy, this is the --
13 this is 911. Answer the call." So after I heard the
14 message, then a call -- another call came from that
15 same number and I answered it. And the dispatcher
16 was asking me questions. She could not hear me and I
17 couldn't hear her because of the motor running. It
18 was steady running. And I'm thinking, oh, this thing
19 is going to snap any minute and I'm dead. I'm going
20 to die today. I still have nightmares from that
21 noise. I hear it and it wakes me up at night.

22 Anyway, I was sitting there on the floor.
23 So finally I guess it was about an hour or so later
24 -- I was in there over an hour. So finally somebody
25 came and the property manager, and I don't know his

1 like he just jerked me. I was sinking to the floor.
2 He grabbed me. He said, "Come on. You got to stand
3 up. Stand up." I was so weak and nervous.

4 So by this -- as soon as I got out of the
5 elevator, when I looked up, the fire department came
6 through the doors and they had all of this equipment.
7 They were trying to do blood pressure and stuff on me
8 and they had me sitting there. They got me to sit
9 down and he was doing my blood pressure and he
10 said -- he said, "Your blood pressure is 200 over
11 100." He said, "We need to take you to the emergency
12 room."

13 I said, "Sir, I understand. But I've been
14 cooped up in that little box for over an hour and I
15 cannot get into an ambulance or nothing right now."
16 I said, "Because I just can't do it. I can't even
17 see myself into an ambulance right now." I said,
18 "Unless you're going to walk me to the emergency
19 room, I can't go."

20 As soon as they did all that, then my
21 son-in-love came in door. He said, "Mom, are you
22 okay?" He said, "You all right?" So he said, "Pam
23 is on the way," which is my daughter. He said she's
24 on the way. So he said, "What happened?" So I began
25 to tell him what happened. He said, "Look, just --

1 just sit here until Pam gets here and then we're
2 going to decide what we're going to do."

3 I didn't see the property manager or that
4 little lady anymore. By this time, my co-workers was
5 still there with me. He said -- the fireman said,
6 "We're going to check your pressure in about 15
7 minutes. If it's going down, then we can let you go
8 home. But if it's not," he said, "you've got to go."
9 So it started coming down to like -- it was 200 over
10 100. So it came down to something like 168 or
11 something like that over -- the bottom number was
12 almost normal. But that's what happened.

13 Q. Okay. Thank you. It was very detailed.
14 I appreciate it. I do have some additional questions
15 I want to ask you. So this happened, you said, at
16 about a quarter to 5:00?

17 A. Yes.

18 Q. So you had been at work all day?

19 A. Yes.

20 Q. You normally work until 5:00. Had you got
21 off early that day?

22 A. I did.

23 Q. Any particular reason?

24 A. I was finished with my calls and I left.

25 Q. When you came downstairs from -- to go to

1 A. I don't remember.

2 Q. Okay. But in the year or so that you had
3 worked there, you feel comfortable you had ridden
4 this elevator?

5 A. Yes.

6 Q. And you had never encountered a problem
7 with it?

8 A. No, I hadn't.

9 Q. So ordinarily when you would get -- when
10 you would use this elevator, you could press a button
11 in the hall and the door would open -- I mean, you
12 would press the button in the hall and it would light
13 up?

14 A. Yeah.

15 Q. Did you -- did you do that at 4:45
16 November 4th? Did you summon the elevator?

17 A. Someone was getting off of the elevator
18 and I got on.

19 Q. Okay. So you had not had to push a button
20 on this occasion to get the elevator to respond?

21 A. No.

22 Q. But you did -- when you walked into the
23 elevator, you did push a button?

24 A. I pushed 11.

25 Q. When you were there waiting for an

1 pressed 11?

2 A. Yes.

3 Q. Okay. And the next thing that happened
4 was what? The doors began to close?

5 A. They began to close, but --

6 Q. Do these elevator doors close to the
7 middle or to one side or the other?

8 A. To the middle.

9 Q. And tell me how close together they got.

10 MR. SPETSAS: Form.

11 BY MR. KENDALL:

12 Q. You can show me with your hands.

13 A. I can say this. It wasn't wide enough for
14 me to get out of, I put it like that, because I
15 tried.

16 Q. Can you just show me with your hands?

17 A. Something like this. (Witness indicates.)

18 Q. Okay. So maybe eight inches?

19 A. Something like that. Yeah.

20 Q. Just to create a frame of reference, when
21 you held your hands up and if you were to compare it
22 to the piece of paper that's in front of you, was it
23 about as wide as that piece of paper is or was it
24 narrower or bigger? Do you remember?

25 A. I wasn't focusing on the size. All I know

1 is it was not opening up wide enough for me to get
2 out of.

3 Q. Okay. And I accept that. I just was
4 wondering if you could describe for me what the width
5 was. And other than -- and just using the paper as a
6 visual reference for us, was it about as wide as the
7 paper is long?

8 A. Yeah.

9 Q. And so that was Exhibit 1 that we looked
10 at. So thank you. That helps me. Did the doors
11 ever get -- did they come closer together and then
12 pull back or did they -- or do you know?

13 A. They just stopped.

14 Q. Just stopped. Did you hear anything
15 before they stopped?

16 A. The motor.

17 Q. Did you hear any noise or anything unusual
18 before they stopped?

19 A. No, no.

20 Q. Was there ever a time when there was a --
21 the lights flickered in the elevator or went off?

22 A. No.

23 Q. And when the -- was there ever -- was
24 there ever a time when the elevator moved?

25 A. When the mister jumped on it.

1 distracted. Are you a member of a church in
2 Columbia?

3 A. I am.

4 Q. Which church?

5 A. Glory Church International and Two Notch
6 Road.

7 Q. Are there any other clubs or organizations
8 that you're a member of in Richland County?

9 A. No.

10 Q. Was there any sort of, like, a nurse's
11 association local that you were part of?

12 A. No.

13 Q. At any time did you -- you said you sat
14 down. Did you sit down in a controlled way or did
15 you fall down in the elevator?

16 A. I kind of slid down.

17 Q. But it was under your own --

18 A. Yeah. I didn't fall.

19 Q. And you weren't injured when you sat down?

20 A. No.

21 Q. Were you injured when you got off?

22 A. Not physically.

23 Q. And that was what I was trying to ask you.
24 Did you hurt your body?

25 A. No.

1 actually somebody -- you can see her boot, but you
2 can't see her between Charlene and Dashell. Do you
3 know whose boot that might be?

4 A. No. It could be Felicia. I'm not sure.
5 I don't know.

6 Q. All right. Thank you. I don't have any
7 pictures beyond that. Thank you. We'll take a quick
8 break right now.

9 (Off the record.)

10 BY MR. KENDALL:

11 Q. When is the first time you sought any
12 medical -- I don't want to call it treatment, but you
13 saw a medical professional. It might not have been a
14 doctor. That's what I was trying to say.

15 A. The day after.

16 Q. The day after. And who did you go see?

17 A. Dr. Martha Parker Hester.

18 Q. Was she your primary care physician?

19 A. Yes.

20 Q. How long have you been seeing Dr. Hester?

21 A. Since I think about 2017 -- no, before
22 then. I think I've been seeing her now about maybe
23 almost ten years.

24 Q. Okay. I had seen a reference to
25 something, I think, in 2013. So that would be about

1 Q. And other than Xanax, has she prescribed
2 anything else to you for the anxiety?

3 A. I don't remember anything else.

4 Q. Did she have to change your hypertension
5 medications after the accident -- after the incident
6 in the elevator?

7 A. No.

8 Q. Is anxiety and all of the related things
9 to the anxiety, the sleepiness and the appetite and
10 all that, is that the thing that happened to you as a
11 result of the accident or is there anything else?

12 A. Yes. Because I've never been on anxiety
13 medication, I mean, like, every day.

14 Q. Understood. But other than the anxiety,
15 is there anything else that was a result -- in your
16 life that's occurred to you as a result of the
17 injury? And, like I said, I know that means that
18 you're -- I understand you're afraid of elevators,
19 correct?

20 A. Uh-huh.

21 Q. Yes?

22 A. Yes. I'm sorry.

23 Q. That's okay. And you have the -- do you
24 still have a loss of -- a lack of appetite?

25 A. At times.

Page 1

1 State of South Carolina) Court of Common Pleas
2)
3 County of Richland) No.: 2022-CP-40-05610
4 Daisy Crump,)
5)
6 Plaintiff,)
7) Deposition of
8 vs.) MARTHA PARKER-HESTER, M.D
9) October 25, 2023
10 Glenfield Capital, LLC)
11 d/b/a Glen 1441, LLC;)
12 Colliers International)
13 South Carolina, Inc.; TK)
14 Elevator Corporation; and)
15 Sizemore, Inc.,)
16)
17 Defendants.)
18 _____)
19)
20)
21)
22)
23)
24)
25)

Deposition on oral examination of MARTHA
PARKER-HESTER, M.D., reported by Brad H. Thomas,
Professional Reporter and Notary Public in and for
the State of South Carolina; said deposition taken
pursuant to agreement and in accordance with the
South Carolina Rules of Civil Procedure, at the
Offices of Prisma Health, 5900 Garners Ferry Road,
Columbia, South Carolina, on October 25, 2023, at
the hour of 5:00 p.m.

Appearances

Representing the Plaintiff:

SHAQUANA M. CUTTINO, ESQUIRE (Not Present)
The Cuttino Law Firm, LLC
5115 Forest Drive, Unit G1
Columbia, South Carolina 29206
thecuttinolawfirm@gmail.com

Representing the Defendant Glenfield Capital, LLC
d/b/a Glen 1441, LLC:

GRACE G. BROWN, ESQUIRE

-and-

MICHAEL D. CRUMP, ESQUIRE
Sweeny, Wingate & Barrow, P.A.
1515 Lady Street
P.O. Box 12129
Columbia, South Carolina 29211
ggb@swblaw.com

Representing the Defendant TK Elevator Corporation:

EVERETT A. KENDALL, II, ESQUIRE

-and-

J.D. ELLIOTT, ESQUIRE
Murphy & Grantland, PA
4406-B Forest Drive
P.O. Box 6648
Columbia, South Carolina 29206
rkendall@murphygrantland.com

Representing the Defendant Colliers International
South Carolina, Inc.:

W. BRYANT NEAL, ESQUIRE
Hedrick, Gardner, Kincheloe & Garofalo, LLP
1230 Main Street, Suite 325
Columbia, South Carolina 29201
bneal@hedrickgardner.com

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(Deposition of MARTHA PARKER-HESTER, M.D.)

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* * * * *

EXHIBIT INDEX

Exhibits:	Marked at Page
Exhibit 1 Bates PHFM 0173-0177	6

* * * * *

1 you. Would that be helpful?

2 A. Sure.

3 Q. Okay. And once you've confirmed that that
4 is the record from that day, I'll let the court
5 reporter mark it.

6 A. Yeah.

7 (Exhibit No. 1 was marked for
8 identification.)

9 BY MR. KENDALL:

10 Q. On November 5 did she indicate to you how
11 long she had been experiencing anxiety?

12 A. I think for the past three days.

13 Q. And is that important for you to capture
14 correctly what she's told you when she talks about
15 how long she's experienced something like that?

16 A. Obviously you want to establish whether a
17 patient has acute or chronic.

18 Q. Right.

19 A. And obviously that's an acute episode.

20 Q. Okay. But it had been multiple days?

21 A. That's right.

22 Q. So she made clear to you it was multiple
23 days?

24 A. That's right.

25 Q. Okay. And when she explained what

1 happened in the elevator did she describe for you
2 whether she had fallen or not fallen or anything of
3 that nature?

4 A. I do not recall that.

5 Q. And did you record anything like that in
6 your notes?

7 A. I did not.

8 Q. But what you did record is that she said
9 she was stuck for several hours?

10 A. That's right.

11 Q. And did she describe for you any physical
12 injury as a result of being stuck in the elevator?

13 A. From what I recall and what I documented,
14 it was more emotional stress --

15 Q. Okay. If she had --

16 A. -- than physical. No physical bruises, no
17 physical -- obvious physical harm.

18 Q. And even though she had done -- she told
19 you it was anxiety, you did a physical. Did you do
20 a physical check on her?

21 A. Absolutely.

22 Q. And did you find any physical injuries?

23 A. No physical evidence, but obviously she
24 was emotionally shaken and appeared anxious and had
25 pressured speech and all that.

1 Q. Okay. So she exhibited lots of the signs
2 of anxiety?

3 A. That's right.

4 Q. But no physical injury?

5 A. Right. And reported insomnia on top of
6 that since that.

7 Q. Okay. And then did she describe -- and
8 did you prescribe anything for her?

9 A. I did.

10 Q. What did you prescribe?

11 A. A short-term anxiolytic and then something
12 to sleep.

13 Q. And was there ever a time when she came
14 back to you and said, "You know, I was physically
15 injured in this elevator. Would you look at me?"

16 A. Not physically.

17 Q. Did you continue to treat her for anxiety
18 or refer her out?

19 A. I did.

20 Q. Or both?

21 A. I think she was seen on -- that was the
22 5th. She was seen on the 11th, November 11, with
23 worsening symptoms of more anxiety and insomnia.
24 Then we talked more about a counselor, referring to
25 a counselor for psychological support. And then she

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
Civil Action No. 2022-CP-40-05610

DAISY CRUMP,

Plaintiff,

v.

**GLENFIELD CAPITAL, LLC D/B/A
 GLEN 1441 LLC; COLLIERS
 INTERNATIONAL SOUTH CAROLINA,
 INC.; TK ELEVATOR CORPORATION;
 AND SIZEMORE, INC.,**

Defendants.

**DEFENDANT COLLIERS
 INTERNATIONAL SOUTH CAROLINA,
 INC.'S MEMORANDUM IN SUPPORT
 OF GLENFIELD CAPITAL, LLC D/B/A
 GLEN 1441, LLC; COLLIERS
 INTERNATIONAL SOUTH CAROLINA,
 INC.; AND TK ELEVATOR
 CORPORATION'S JOINT MOTION
 FOR SUMMARY JUDGMENT**

Defendant Colliers International South Carolina, Inc. ("Colliers") submits this Memorandum in Support of Glenfield Capital, LLC d/b/a Glen 1441, LLC ("Glenfield"); Colliers; and tk Elevator Corporation's ("TKE") (collectively, "Moving Defendants") Joint Motion for Summary Judgment, pursuant to Rule 56(c) of the *South Carolina Rules of Civil Procedure*.

Case Summary

Daisy Crump ("Plaintiff") filed a Complaint against the Moving Defendants asserting one cause of action sounding in negligence, stemming from an incident where she became trapped in an elevator (the "Incident"). Plaintiff has improperly asserted a negligence cause of action against each of the Moving Defendants because she did not sustain a physical injury as a result of the Incident; no genuine issue of material fact exists as to whether Plaintiff sustained any physical injuries as a result of the Incident; and she cannot recover for purely emotional damages, pursuant to currently recognized South Carolina law. Therefore, summary judgment should be granted in favor of the Moving Defendants as a matter of law.

Statement of Facts

On November 4, 2019, Plaintiff became trapped in an elevator within a building that is located at 1441 Main Street, Columbia, South Carolina 29201 (the “Property”). (*See* Compl. ¶¶ 11-16.) Despite the elevator motor making a noise, “the elevator stuck in place and failed to move.” (*See id.* ¶¶ 13-14.) While Plaintiff was trapped in the elevator, the doors of the elevator were not completely closed, and individuals were able to speak with Plaintiff through the crack in the elevator doors. (*See id.* ¶¶ 13, 15; Ex. A, Crump Dep. 83:25-84:16) Inside the elevator, Plaintiff kept thinking “that the cable could break and [she] could drop to the basement and that would be the end of [her].” (Crump Dep. 25:15-18.) Plaintiff eventually began to think that the cable could snap at any minute. (*See id.* 27:18-19.) Plaintiff also began feeling nervous and weak, and she sat down in the elevator. (*See id.* 26:12-18.) When Plaintiff sat down, she “kind of slid down” under her own power; “[she] didn’t fall.” (*Id.* 45:13-18.) Additionally, Plaintiff did not become physically injured when she sat down. (*Id.* 45:19-20.)

An elevator engineer was dispatched and arrived at the Property to work on the elevator while Plaintiff remained inside of it. (*See id.* 28:1.) While the elevator engineer was working to release Plaintiff, she became frightened by noises and very slight movement of the elevator, and she continued to think that the elevator was going to fall. (*See id.* 28:8-12.) The elevator engineer was able to open the elevator doors, and Plaintiff was able to exit the elevator. (*See id.* 22:25.)

Plaintiff admits that when she got off the elevator she was “***not physically***” injured, and she ***did not hurt her body***. (*See id.* 45:21-25.) However, because of the Incident, Plaintiff now feels “claustrophobic” and “terrified” whenever she is around an elevator. (*Id.* 6:23-7:4.) When Plaintiff exited the elevator, the fire department was on scene. (*See id.* 29:4-6.) The fire department requested to take Plaintiff to the emergency room, but she denied the firefighters’ request and did

not go to the emergency room. (*See id.* 29:11-19.) The firefighters noted that Plaintiff's blood pressure was high, but her blood pressure returned to normal soon after Plaintiff was released from the elevator. (*See id.* 46:3-16.) Plaintiff has a history of high blood pressure. (*See id.* 46:1-2.)

Although she refused medical treatment on the day of the Incident, Plaintiff sought medical treatment the next day. (*See id.* 51:15.) Plaintiff visited Dr. Martha Parker-Hester, on November 5, 2019, who is Plaintiff's primary care physician. (*See id.* 51:16-19.) On November 5, 2019, Plaintiff presented with the **chief complaint of insomnia and anxiety** from the Incident. (Ex. B, Parker-Hester Dep. 5:8-11.) During her visit with Dr. Parker-Hester, Plaintiff told Dr. Parker-Hester she was experiencing anxiety for the prior three days; meaning, her anxiety began before the Incident occurred. (*See id.* 6:10-24.)

Dr. Parker-Hester documented that Plaintiff had emotional stress and **no physical bruises nor physical harm**. (*See id.* 7:11-17.) Still, Dr. Parker-Hester performed a physical examination of Plaintiff and found **no physical injury**; rather, Plaintiff was only "emotionally shaken and appeared anxious." (*Id.* 7:18-25, 8:4-5.) At no point since the Incident has Plaintiff presented to Dr. Parker-Hester with any physical injuries resulting from the Incident. (*See id.* 8:13-16.) Plaintiff returned to Dr. Parker-Hester on November 11, 2019, but she had symptoms of only anxiety and insomnia. (*See id.* 8:21-23.) Plaintiff returned to Dr. Parker-Hester's office again on December 5, 2019, and she reported only anxiety issues. (*See id.* 9:2-4.) Plaintiff next saw Dr. Parker-Hester on April 5, 2020, for gout-related issues, but Dr. Parker-Hester determined that Plaintiff's gout-related issues were pre-existing and not related to the Incident. (*See id.* 10:2-4.) Plaintiff was diagnosed with gout around 2017. (*See Crump Dep.* 55:9-11.)

Ultimately, Plaintiff asserted a cause of action sounding in negligence against the Moving Defendants despite the fact that (a) Plaintiff admits that she was not physically injured when she

exited the elevator; (b) Plaintiff did not report any physical injuries to Dr. Parker-Hester; (c) Dr. Parker-Hester found no proof of physical injury to Plaintiff; and (d) Plaintiff has not otherwise proven that she sustained any physical injuries because of the Incident. (See Crump Dep. 45:21-25; Parker-Hester Dep. 7:18-25, 8:4-5.)

Procedural Standard

Rule 56(c) of the *South Carolina Rules of Civil Procedure* provides that a motion for summary judgment shall be granted, and the moving party be entitled to judgment as a matter of law, “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact.” Rule 56(c), SCRPC. The Supreme Court of South Carolina recently clarified that the “‘mere scintilla’ standard does not apply under Rule 56(c); rather, the proper standard is the ‘genuine issue of material fact’ standard set forth in the text of the Rule.” *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023). “[I]t is not sufficient for a party to create an inference that is not reasonable or an issue that is not genuine.” *Id.* at 463-64, 892 S.E.2d at 301 (quoting *Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013)). “When a plaintiff is faced with a defendant's motion for summary judgment that is supported by evidence, the plaintiff must show the court the existence of a genuine issue of fact.” *Dyer v. Moss*, 284 S.C. 208, 211, 325 S.E.2d 69, 70 (Ct. App. 1985). A “plaintiff cannot defeat the defendant’s motion by relying upon the mere allegations of [the] complaint but must disclose the facts [they] intend[] to rely on by affidavit or other proof.” *Id.*

Argument

I. The Moving Defendants are Entitled to Judgment as A Matter of Law Because the Incident Resulted in No Physical Injury to Plaintiff and, Therefore, Plaintiff Cannot Satisfy the Damages Element of a Negligence Cause of Action.

Summary judgment should be granted in favor of the Moving Defendants because Plaintiff did not sustain a physical injury as a result of the Incident. South Carolina courts very narrowly recognize claims for emotional distress. A plaintiff in South Carolina may only recover for emotional distress caused by negligence under three scenarios.

First, South Carolina permits plaintiffs to recover for emotional distress when a plaintiff observes a defendant's negligence cause the serious injury or death of a relative. *See Kinard v. Augusta Sash & Door Co.*, 286 S.C. 579, 582-83, 336 S.E.2d 465, 467 (1985) (adopting the test utilized in *Dillon v. Legg*, 68 Cal.2d 728, 69 Cal.Rptr. 72, 441 P.2d 912 (1968)). In the instant action, Plaintiff did not observe a third person become injured. Therefore, Plaintiff's claims fall outside the scope of the "bystander scenario," and Plaintiff cannot recover for emotional injuries through the *Dillon* test that was adopted by the Supreme Court of South Carolina in *Kinard*.

Second, a plaintiff may recover for emotional distress when they suffer emotional distress in addition to physical injury. *See Boan v. Blackwell*, 343 S.C. 498, 502, 541 S.E.2d 242, 244 (2001). Here, Plaintiff has suffered no physical injury as a result of the Incident. Plaintiff admitted in her deposition that she suffered no physical injury because of the Incident, Dr. Parker-Hester found no proof of physical injury to Plaintiff the day after the Incident occurred, Dr. Parker-Hester continues to find no proof of physical injury, and Plaintiff has not otherwise provided any proof of physical injury that stems from the Incident. Hence, Plaintiff cannot succeed on her negligence claims on the premise that she suffered emotional distress in addition to a physical injury.

Finally, a plaintiff may recover for emotional distress when emotional trauma proximately causes physical injury. *See Padgett v. Colonial Wholesale Distrib. Co.*, 232 S.C. 593, 608, 103

S.E.2d 265, 272 (1958). In this case, Plaintiff's emotional distress and trauma have not caused Plaintiff any physical injury. While Plaintiff and Dr. Parker-Hester testified that Plaintiff has been emotionally impacted because of the Incident, Plaintiff has developed no physical injury due to any emotional injuries. Plaintiff's own primary physician has opined that Plaintiff sustained no physical injury because of the Incident, and Plaintiff has provided no other testimony, reports, or otherwise that tends to show Plaintiff suffered a physical injury. Thus, Plaintiff cannot recover against the Moving Defendants under this third and final avenue.

Since Plaintiff has no proof of physical injury, she cannot succeed on her negligence cause of action against each of the Moving Defendants because Plaintiff will be unable to prove the "damages" element of negligence. *See Shaw v. City of Charleston*, 351 S.C 32, 40, 567 S.E.2d 530, 534 (Ct. App. 2002) (listing the elements of negligence as "(1) a duty owed by defendant to plaintiff; (2) breach of that duty by a negligent act or omission; and (3) damages proximately resulting from the breach."); *see also Dooley v. Richland Mem'l Hosp.*, 283 S.C. 372, 375, 322 S.E.2d 669, 671 (1984) (stating that the plaintiffs "failed to show any objective evidence of physical injury upon which to rest a claim for *damages* for emotional injury[.]" (emphasis added)).

The pleadings, depositions, and all discovery on file do not display that Plaintiff observed a third person become injured, suffered a physical injury because of the Incident, or developed a physical injury as a result of any emotional injuries sustained in the Incident. Permitting Plaintiff to proceed with her negligence cause of action as to each Moving Defendant, with no physical injury, "will open the door to a flood of litigation and expose the courts to fraudulent claims." *Kinard*, 286 S.C. at 581, 336 S.E.2d at 466. "It is the duty of the courts to weed out" such claims. *See id.*

Plaintiff may not simply rely upon the allegations of her Complaint that she sustained a physical injury, and the deposition testimony and discovery exchanged between the parties in this matter does not reflect that Plaintiff has any physical injuries associated with the Incident or any physical injuries stemming from emotional injuries. Consequently, Plaintiff cannot succeed on her sole cause of action against each of the Moving Defendants.

Conclusion

Accordingly, Colliers respectfully requests this Honorable Court grant the Moving Defendants' Joint Motion for Summary Judgment because South Carolina law does not permit Plaintiff to succeed on her cause of action against each of the Moving Defendants without a physical injury, which has not and cannot be proven by Plaintiff.

HEDRICK GARDNER KINCHELOE & GAROFALO LLP

By: s/W. Bryant Neal
 Joshua D. Shaw (SC Bar No.: 68274)
 W. Bryant Neal (SC Bar No.: 105823)
 Hedrick Gardner Kincheloe & Garofalo LLP
 1230 Main Street, Suite 325
 Columbia, SC 29201
 jshaw@hedrickgardner.com
 bneal@hedrickgardner.com
 Phone: 803-727-1200
 Fax: 803-727-1259

*ATTORNEYS FOR COLLIERS INTERNATIONAL
 SOUTH CAROLINA, INC.*

July 19, 2024
 Columbia, SC

EXHIBIT A

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF RICHLAND

DAISY CRUMP,

Plaintiff,

vs.

CASE NO. 2022-CP-40-05610

GLENFIELD CAPITAL, LLC d/b/a

GLEN 1441, LLC; COLLIERS

INTERNATIONAL SOUTH CAROLINA,

INC.; TK ELEVATOR CORPORATION;

and SIZEMORE, INC.,

Defendants.

VIRTUAL ZOOM

DEPONENT: DAISY CRUMP

DATE: July 7, 2023

TIME: 10:04 a.m.

LOCATION: Sweeny Wingate & Barrow

1515 Lady Street

Columbia, SC

TAKEN BY: Counsel for the Defendant

REPORTED BY: KIMBERLY T. POWER, CR

1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR THE PLAINTIFF

3 CUTTINO LAW FIRM, LLC

BY: SHAQUANA CUTTINO, ESQUIRE

4 5115 Forest Drive

Columbia, SC 29206

5 thecuttinolawfirm@gmail.com

6 SPETSAS BUIST, PLLC

BY: NICHOLAS SPETSAS, ESQUIRE

7 225 East Robinson Street

Orlando, FL 32801

8 (VIA ZOOM)

9
10 ATTORNEYS FOR THE DEFENDANT

TK ELEVATOR CORPORATION:

11 MURPHY & GRANTLAND, P.A.

12 BY: EVERETT A. KENDALL, II, ESQUIRE

J.D. ELLIOTT, ESQUIRE (VIA ZOOM)

13 4406-B Forest Drive

Columbia, SC 29206

14 rkendall@murphygrantland.com

15
16 ATTORNEYS FOR THE DEFENDANT

GLENFIELD CAPITAL, LLC d/b/a

17 GLEN 1441, LLC:

18 SWEENEY WINGATE & BARROW, P.A.

BY: GRACE C. BROWN, ESQUIRE

19 1515 Lady Street

Columbia, SC 29201

20 ggb@swblaw.com

21
22 (Appearances continued on page 3.)

1 APPEARANCES OF COUNSEL:
(Continued)

2
3 ATTORNEYS FOR THE DEFENDANT
4 COLLIERS INTERNATIONAL SOUTH CAROLINA,
INC.:

5 HEDRICK GARDNER KINCHELOE GAROFALO^
6 BY: W. BRYANT NEAL, ESQUIRE
1230 Main Street
7 Columbia, SC 29201
bneal@hedrickgardner.com

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21 (INDEX AT END OF TRANSCRIPT)
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1 DAISY CRUMP,
2 being first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. KENDALL:

5 Q. Can you state your full name for us this
6 morning?

7 A. Daisy B. Crump.

8 Q. Ms. Crump, my name is Rett Kendall. I
9 represent TK Elevator and I'm going to be asking you
10 some questions today. This is a deposition. I'm
11 sure that you've talked with your attorneys, but I
12 have to give you some instructions that the rules
13 require me to give you. During the course of our
14 deposition this morning, and that means during the
15 time while you're under oath, if you have any
16 questions about what I have asked you or if you have
17 any questions about our procedure, you should ask me
18 those questions. At other times during the course of
19 the deposition, other lawyers may ask you questions.

20 A. I've got a glare.

21 Q. That's fine. Are you good?

22 A. Good.

23 Q. At other times in the deposition other
24 lawyers may ask you a question and, again, at that
25 time ask them for clarification or assistance. What

1 forward with the deposition this morning? Are you
2 feeling good?

3 A. I'm okay.

4 Q. Any medications that would prevent you
5 from having good memory or the ability to explain
6 yourself?

7 A. No.

8 Q. All right. Great. Now we were originally
9 going to take this deposition at my office over on
10 Forest Drive.

11 A. Okay.

12 Q. But we were asked to move it to another
13 location. Are you aware of that?

14 A. My lawyer explained that to me.

15 Q. Okay. Did you ask to have this deposition
16 moved to a one-story building?

17 A. I don't think I specifically asked. But I
18 stated to her that when I go into a building with an
19 elevator, I don't function well. So I guess she took
20 the lead and found some place.

21 Q. Okay. When you say you don't function
22 well, tell me what that means.

23 A. I'm terrified. I feel claustrophobic. I
24 feel like things are -- I don't know. It's just like
25 I'm closed in.

1 Q. And that's simply because there is an
2 elevator in the building, whether or not you have to
3 ride the elevator; is that right?

4 A. Yeah.

5 Q. Okay. And has that condition been very
6 consistent over the last four years or is that -- has
7 it changed over time?

8 A. It's been very consistent. I've even
9 canceled doctor's appointments because of the
10 elevator. It's been very consistent.

11 Q. All right. We're going to be asking you
12 questions today about the events that occurred in
13 November of 2019, and so I'm going to be wanting to
14 get your story. But let me get some background about
15 yourself.

16 A. Okay.

17 Q. Tell me, what is your date of birth?

18 A. March 20, 1950.

19 Q. All right. And I'm going to ask the court
20 reporter not to record your social security number
21 except the last four numbers, but will you give me
22 your social security number?

23 A. XXX-XX-7903.

24 Q. Thank you. Are you married?

25 A. Yes.

1 Q. So describe for me if I came in from Main
2 Street --

3 A. When you walk --

4 Q. Let me --

5 A. Okay. I'm sorry.

6 Q. No. That's okay. Let me finish the
7 question before you start to answer so that we don't
8 talk over each other.

9 A. Okay. Sorry.

10 Q. So my question to you was: Describe for
11 me when you come in from Main Street where the
12 elevators are and how they're positioned.

13 A. When you come in from Main Street, the
14 bank is over on the right. You go to the left and
15 the elevators are over there on the left.

16 Q. Okay. And how many elevators are there?

17 A. I think it was, like, maybe two to three
18 on one side and two to three on the other side. Two
19 or three. I'm not sure. I can't remember.

20 Q. So somewhere between four and six
21 elevators?

22 A. Yeah.

23 Q. And they face each other?

24 A. Yes.

25 Q. I'm going to call that the elevator lobby.

1 pulling on the door, but it didn't budge.

2 So finally a lady came up. I don't know
3 who she was. And she asked me was I okay. I said,
4 "Yes. Would you please get me out of here?" So she
5 was on the phone talking to someone and then he was
6 telling her -- giving her instructions to give me.
7 And she was telling me to push the open door button
8 and I pushed it and nothing happened. She said, "Now
9 push the close button." I pushed and nothing
10 happened. So she was still talking to whomever she
11 was talking to.

12 So this time -- and the whole time there
13 was this motor running and it was just running, whoo,
14 whoo, whoo, whoo. And I said, "Please, get me out of
15 here." Because I was thinking in my mind that with
16 this motor running and nothing happening, that the
17 cable could break and I could drop to the basement
18 and that would be the end of me. So she was still
19 talking to me. So finally she's telling me -- asking
20 me was I okay. I said, "Okay. I'm all right. Just
21 get me out of here."

22 So by this time some of my co-workers came
23 up to see what was going on. And one girl asked me,
24 "Ms. Daisy, what do you need?" I said, "I need my
25 phone off my desk." So she went upstairs in another

1 elevator and got my phone and she came back and she
2 gave it to me. So this time it was like after 5:00.
3 I got in there, I think it was about a quarter to
4 5:00. So it was after 5:00. I had been in there
5 about 30 minutes.

6 So they're still talking to somebody on
7 the phone. So this motor is still running and I'm
8 thinking, okay, I need to let my family know where I
9 am. So I called my husband and I told him what was
10 going on. He could hardly hear me because of the
11 noise. The motor was running. So I was talking
12 loud. By this time, I'm getting nervous. So he
13 said, "Daisy, don't panic."

14 So the security guard was standing there.
15 He said, "You okay?" I said, "I am getting weak."
16 He said, "Sit down on the floor." I said, "If I sit
17 here," I said, "I might not be able to get up." He
18 said, "I'll get you up." So I sat down on the floor.

19 My children and I have a group text thing.
20 So I texted them to tell them that I was trapped in
21 the elevator. So they were all concerned. "Well, is
22 anyone coming? Did they call the fire department?"
23 I couldn't answer them because I didn't know. So
24 finally my oldest daughter called me. She said,
25 "What is that noise?" I said that the motor is still

1 running. I said, "I can't hardly hear you." So she
2 said, "It's best that we text." I said, "Okay."

3 So I got a phone call during this time --
4 and the property manager came. They told me that's
5 who he was. I didn't know. But he came and he was
6 telling me that we're calling the engineer. He's on
7 his way. I said, "Okay." So my co-workers was still
8 standing out there.

9 So I got a phone call and I didn't
10 recognize the number, so I didn't answer it. So my
11 youngest daughter texted me. She said -- no. She
12 left me a message. She said, "Mommy, this is the --
13 this is 911. Answer the call." So after I heard the
14 message, then a call -- another call came from that
15 same number and I answered it. And the dispatcher
16 was asking me questions. She could not hear me and I
17 couldn't hear her because of the motor running. It
18 was steady running. And I'm thinking, oh, this thing
19 is going to snap any minute and I'm dead. I'm going
20 to die today. I still have nightmares from that
21 noise. I hear it and it wakes me up at night.

22 Anyway, I was sitting there on the floor.
23 So finally I guess it was about an hour or so later
24 -- I was in there over an hour. So finally somebody
25 came and the property manager, and I don't know his

1 name, he said, "Well, the engineer is here." So
2 whoever he was, he was -- he act like I disturbed him
3 from something very important because he didn't have
4 a very good attitude. He didn't say anything to me.
5 He was talking to them. And when I knew anything,
6 that man had gotten up on top of that elevator and
7 started shaking it. He didn't tell me he was going
8 to do it. He didn't say nothing. He just started
9 shaking. I said, "Oh, my God. I'm dead now, I
10 know." And I'm thinking, oh, my God. This thing is
11 going to pop. He's shaking the elevator and nobody
12 is telling me anything. If he had warned me, I would
13 have expected it. But he didn't warn me. He didn't
14 say anything.

15 So he was telling -- giving the property
16 manager instructions. Whatever he was telling him to
17 do, I don't know what he was saying because all I was
18 focusing on was I'm going to die. I'm going to die
19 today and he must be going with me because he on top
20 of it. So finally whatever he told that property
21 manager to do, the door came open. The young lady
22 that went and got my phone, she jumped me and grabbed
23 my purse and my shoes and the security guard came in
24 and grabbed my hands. And when he pulled me, I was
25 outside of the elevator in his arms. I mean, it was

1 like he just jerked me. I was sinking to the floor.
2 He grabbed me. He said, "Come on. You got to stand
3 up. Stand up." I was so weak and nervous.

4 So by this -- as soon as I got out of the
5 elevator, when I looked up, the fire department came
6 through the doors and they had all of this equipment.
7 They were trying to do blood pressure and stuff on me
8 and they had me sitting there. They got me to sit
9 down and he was doing my blood pressure and he
10 said -- he said, "Your blood pressure is 200 over
11 100." He said, "We need to take you to the emergency
12 room."

13 I said, "Sir, I understand. But I've been
14 cooped up in that little box for over an hour and I
15 cannot get into an ambulance or nothing right now."
16 I said, "Because I just can't do it. I can't even
17 see myself into an ambulance right now." I said,
18 "Unless you're going to walk me to the emergency
19 room, I can't go."

20 As soon as they did all that, then my
21 son-in-love came in door. He said, "Mom, are you
22 okay?" He said, "You all right?" So he said, "Pam
23 is on the way," which is my daughter. He said she's
24 on the way. So he said, "What happened?" So I began
25 to tell him what happened. He said, "Look, just --

1 distracted. Are you a member of a church in
2 Columbia?

3 A. I am.

4 Q. Which church?

5 A. Glory Church International and Two Notch
6 Road.

7 Q. Are there any other clubs or organizations
8 that you're a member of in Richland County?

9 A. No.

10 Q. Was there any sort of, like, a nurse's
11 association local that you were part of?

12 A. No.

13 Q. At any time did you -- you said you sat
14 down. Did you sit down in a controlled way or did
15 you fall down in the elevator?

16 A. I kind of slid down.

17 Q. But it was under your own --

18 A. Yeah. I didn't fall.

19 Q. And you weren't injured when you sat down?

20 A. No.

21 Q. Were you injured when you got off?

22 A. Not physically.

23 Q. And that was what I was trying to ask you.
24 Did you hurt your body?

25 A. No.

1 Q. And you have high blood pressure?

2 A. I do.

3 Q. Did it get back to where it normally is?

4 A. Yes.

5 Q. How long -- you mentioned it was high at
6 that moment when you first got off. But after that,
7 how long did it take when you got to normal -- to
8 your normal?

9 A. When I checked my pressure, it was after
10 10:00 that night by the time I got home and got
11 settled and everything. It was after 10:00, maybe
12 11:00. I'm not certain. But -- wait a minute. I
13 think I've got that -- it came down to normal after I
14 got home and got settled and got into my own
15 surroundings, I think I can say, and just being there
16 with my husband. It made a difference.

17 Q. I understand. I have -- we're going to
18 take a break in just a minute, but I want to put --
19 just kind of close out this line of questions. I've
20 got some pictures that were part of -- that were
21 still shots from some video that was produced by one
22 of the defendants in this case and I want to show you
23 these and then we'll be able to take a break. Again,
24 I'll share them with the lawyers. If y'all need to
25 consult, of course, feel free to do that.

1 actually somebody -- you can see her boot, but you
2 can't see her between Charlene and Dashell. Do you
3 know whose boot that might be?

4 A. No. It could be Felicia. I'm not sure.
5 I don't know.

6 Q. All right. Thank you. I don't have any
7 pictures beyond that. Thank you. We'll take a quick
8 break right now.

9 (Off the record.)

10 BY MR. KENDALL:

11 Q. When is the first time you sought any
12 medical -- I don't want to call it treatment, but you
13 saw a medical professional. It might not have been a
14 doctor. That's what I was trying to say.

15 A. The day after.

16 Q. The day after. And who did you go see?

17 A. Dr. Martha Parker Hester.

18 Q. Was she your primary care physician?

19 A. Yes.

20 Q. How long have you been seeing Dr. Hester?

21 A. Since I think about 2017 -- no, before
22 then. I think I've been seeing her now about maybe
23 almost ten years.

24 Q. Okay. I had seen a reference to
25 something, I think, in 2013. So that would be about

1 A. She does. She does. She prescribes the
2 medication for me when I need it.

3 Q. Okay. Does she treat you for other things
4 also?

5 A. Yes.

6 Q. What are the other medical conditions that
7 Dr. Hester treats you for?

8 A. Gout, for one thing. High blood pressure.

9 Q. How long has gout been an issue?

10 A. I think I was diagnosed with gout in 2017.
11 Something like that.

12 Q. Okay. All right. What else besides gout?

13 A. High blood pressure.

14 Q. How long has that been an issue?

15 A. Ever since when I went to her, it was an
16 issue.

17 Q. What else?

18 A. Whatever -- whatever -- whatever is going
19 on with me. I have my Medicare checkups every six
20 months or year. She's my primary, so whatever I
21 need. Whatever is going on with me, then I consult
22 her.

23 Q. And that would include -- can you think --
24 other than the chronic things like gout and
25 hypertension, is there anything else -- any other

1 MS. BROWN: All right. I think
2 that's all I have for you. If anybody else has any
3 questions, go right ahead.

4 EXAMINATION

5 BY MR. NEAL:

6 Q. My name is Bryant Neal and I just have a
7 few questions for you to follow up. The attorneys in
8 the room have covered a lot of ground. I'm going to
9 reference what has been marked Exhibit 2, which is
10 the video screenshots that have been provided. Could
11 you flip to the last page of that for me? Are you on
12 the page that has the time stamp of 17:16:155?

13 A. Yes.

14 Q. I just want to use this as a reference to
15 make sure we're talking about the same people. I
16 first want to talk about the conversation you had
17 with the lady in the brown hair standing next to the
18 security guard. Do you see that lady?

19 A. I do.

20 Q. Did you speak with this lady?

21 A. I don't remember. I was asking them to
22 get me out of there.

23 Q. Did they have any conversation with you?

24 A. No.

25 Q. They did not speak to you at all?

1 A. I mean, they were asking me was I okay,
2 you know. But just a whole conversation, no.

3 Huh-uh. No.

4 Q. But she asked you if you were okay?

5 A. Yes. All of them did.

6 Q. They all asked you that in the picture?

7 A. I don't know what they were doing there.
8 They looked like they were looking at whatever the
9 security guard was doing. I don't know what they
10 were doing.

11 Q. Maybe not this exact screenshot, but at
12 some point?

13 A. Yes, they would ask me that. Yeah.

14 Q. Did they ask you anything else?

15 A. Did I want something to drink. I told
16 them no, get me out of there.

17 Q. Is the phone you brought with you to this
18 deposition today the same phone that you had in
19 November of 2019?

20 A. No.

21 Q. Does that phone contain text messages from
22 the date of the incident?

23 A. No.

24 Q. Does it contain pictures from the date of
25 the incident?

1 it would cost them \$10,000 to fix it.

2 Q. Do you know the name of the property
3 manager that she spoke to?

4 A. I don't know who that man -- the man that
5 said he was the property manager. I don't know his
6 name.

7 Q. Do you know if it was a male or female?

8 A. It was a man. That's who he said he was.
9 He said, "I'm the property manager." That's all he
10 said.

11 Q. Do you know who the property management
12 company is?

13 A. No.

14 MR. NEAL: That's all for me.

15 MR. KENDALL: I don't have any more.

16 MS. BROWN: Nothing further.

17 MR. KENDALL: Thank you very much.

18 (The witness, after having been
19 advised of her right to read and sign this
20 transcript, waives that right.)

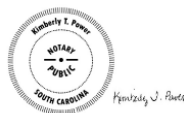
21 (The deposition concluded at 12:10 p.m.)
22
23
24
25

CERTIFICATE OF REPORTER

I, Kimberly T. Power, Court Reporter
and Notary Public for the State of South Carolina at
Large, do hereby certify that the foregoing
transcript is a true, accurate, and complete record.

I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

Witness my hand, I have hereunto
affixed by official seal this 3rd day of August,
2023, at Lexington, Lexington County, South Carolina.



Kimberly T. Power, Court Reporter
My Commission Expires: 4/24/2025

EXHIBIT B

1 State of South Carolina) Court of Common Pleas
2 County of Richland) No.: 2022-CP-40-05610
3
4 Daisy Crump,)
5 Plaintiff,)
6 vs.) Deposition of
7 Glenfield Capital, LLC) MARTHA PARKER-HESTER, M.D
8 d/b/a Glen 1441, LLC;)
9 Colliers International)
10 South Carolina, Inc.; TK)
11 Elevator Corporation; and)
12 Sizemore, Inc.,)
13 Defendants.)
14 _____)

15 Deposition on oral examination of MARTHA
16 PARKER-HESTER, M.D., reported by Brad H. Thomas,
17 Professional Reporter and Notary Public in and for
18 the State of South Carolina; said deposition taken
19 pursuant to agreement and in accordance with the
20 South Carolina Rules of Civil Procedure, at the
21 Offices of Prisma Health, 5900 Garners Ferry Road,
22 Columbia, South Carolina, on October 25, 2023, at
23 the hour of 5:00 p.m.
24
25

Appearances

Representing the Plaintiff:

SHAQUANA M. CUTTINO, ESQUIRE (Not Present)
The Cuttino Law Firm, LLC
5115 Forest Drive, Unit G1
Columbia, South Carolina 29206
thecuttinolawfirm@gmail.com

Representing the Defendant Glenfield Capital, LLC
d/b/a Glen 1441, LLC:

GRACE G. BROWN, ESQUIRE

-and-

MICHAEL D. CRUMP, ESQUIRE
Sweeny, Wingate & Barrow, P.A.
1515 Lady Street
P.O. Box 12129
Columbia, South Carolina 29211
ggb@swblaw.com

Representing the Defendant TK Elevator Corporation:

EVERETT A. KENDALL, II, ESQUIRE

-and-

J.D. ELLIOTT, ESQUIRE
Murphy & Grantland, PA
4406-B Forest Drive
P.O. Box 6648
Columbia, South Carolina 29206
rkendall@murphygrantland.com

Representing the Defendant Colliers International
South Carolina, Inc.:

W. BRYANT NEAL, ESQUIRE
Hedrick, Gardner, Kincheloe & Garofalo, LLP
1230 Main Street, Suite 325
Columbia, South Carolina 29201
bneal@hedrickgardner.com

CONTENTS

(Deposition of MARTHA PARKER-HESTER, M.D.)

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* * * * *

EXHIBIT INDEX

Exhibits:	Marked at Page
Exhibit 1 Bates PHFM 0173-0177	6

* * * * *

1 This deposition is taken in
2 accordance with the South Carolina Rules of Civil
3 Procedure.

4 It is agreed and stipulated by the
5 Deponent and respective counsel that the reading and
6 signing of the deposition by the Deponent is
7 expressly waived.

8 WHEREUPON:

9 MARTHA PARKER-HESTER, M.D., being
10 duly sworn and cautioned to speak the truth, the
11 whole truth and nothing but the truth, testifies as
12 follows:

13 EXAMINATION

14 BY MR. KENDALL:

15 Q. Will you state your full name for the
16 record, please?

17 A. Martha Parker-Hester.

18 Q. Dr. Hester, my name is Rett Kendall. I
19 represent TK Elevator Company. We're here today to
20 talk about a patient of yours, Ms. Daisy Crump. Are
21 you familiar with Ms. Crump?

22 A. I am.

23 Q. Have you had a chance to review her file
24 or at least have access to your notes?

25 A. I do.

1 Q. We're here today to talk about an incident
2 that brought her to your office on November 5, 2019.
3 And had you treated her prior to November 5, 2019?

4 A. I had.

5 Q. About how long had she been a patient of
6 yours?

7 A. Since 2014.

8 Q. And when she presented to you on November
9 5, 2019, what was her chief complaint?

10 A. Insomnia, anxiety from an incident she
11 described as she was stuck in an elevator.

12 Q. Did she give you any details about the
13 experience in the elevator?

14 A. She said that she was -- had been in an
15 elevator and that it stopped or malfunctioned or
16 stopped. And so she was, quote, trapped in the
17 elevator for several hours.

18 Q. Okay.

19 A. And then I think that was several days
20 before she presented to me. Insomnia and anxiety
21 kind of kicked up. And then she wanted to discuss
22 options about what to do.

23 Q. Okay. Now, I have actually printed that
24 day from your chart. If this would be helpful about
25 some of the specifics, I'd be glad to show it to

1 you. Would that be helpful?

2 A. Sure.

3 Q. Okay. And once you've confirmed that that
4 is the record from that day, I'll let the court
5 reporter mark it.

6 A. Yeah.

7 (Exhibit No. 1 was marked for
8 identification.)

9 BY MR. KENDALL:

10 Q. On November 5 did she indicate to you how
11 long she had been experiencing anxiety?

12 A. I think for the past three days.

13 Q. And is that important for you to capture
14 correctly what she's told you when she talks about
15 how long she's experienced something like that?

16 A. Obviously you want to establish whether a
17 patient has acute or chronic.

18 Q. Right.

19 A. And obviously that's an acute episode.

20 Q. Okay. But it had been multiple days?

21 A. That's right.

22 Q. So she made clear to you it was multiple
23 days?

24 A. That's right.

25 Q. Okay. And when she explained what

1 happened in the elevator did she describe for you
2 whether she had fallen or not fallen or anything of
3 that nature?

4 A. I do not recall that.

5 Q. And did you record anything like that in
6 your notes?

7 A. I did not.

8 Q. But what you did record is that she said
9 she was stuck for several hours?

10 A. That's right.

11 Q. And did she describe for you any physical
12 injury as a result of being stuck in the elevator?

13 A. From what I recall and what I documented,
14 it was more emotional stress --

15 Q. Okay. If she had --

16 A. -- than physical. No physical bruises, no
17 physical -- obvious physical harm.

18 Q. And even though she had done -- she told
19 you it was anxiety, you did a physical. Did you do
20 a physical check on her?

21 A. Absolutely.

22 Q. And did you find any physical injuries?

23 A. No physical evidence, but obviously she
24 was emotionally shaken and appeared anxious and had
25 pressured speech and all that.

1 Q. Okay. So she exhibited lots of the signs
2 of anxiety?

3 A. That's right.

4 Q. But no physical injury?

5 A. Right. And reported insomnia on top of
6 that since that.

7 Q. Okay. And then did she describe -- and
8 did you prescribe anything for her?

9 A. I did.

10 Q. What did you prescribe?

11 A. A short-term anxiolytic and then something
12 to sleep.

13 Q. And was there ever a time when she came
14 back to you and said, "You know, I was physically
15 injured in this elevator. Would you look at me?"

16 A. Not physically.

17 Q. Did you continue to treat her for anxiety
18 or refer her out?

19 A. I did.

20 Q. Or both?

21 A. I think she was seen on -- that was the
22 5th. She was seen on the 11th, November 11, with
23 worsening symptoms of more anxiety and insomnia.
24 Then we talked more about a counselor, referring to
25 a counselor for psychological support. And then she

1 was seen again on December 5, 2019.

2 Q. Okay. And were those the only times you
3 saw her for anxiety?

4 A. It was.

5 Q. But you've continued to treat her as a
6 patient?

7 A. I have.

8 Q. And for other various ailments that she
9 has?

10 A. That's right.

11 Q. And have you -- are you aware now of what
12 her -- whether she continues to suffer from anxiety
13 or not?

14 A. I think the last appointment was -- I
15 mean, it's been over a year.

16 Q. Okay. Since you've seen her at all?

17 A. Yeah.

18 Q. Okay. But your records were really -- you
19 had three encounters where you addressed the anxiety
20 with her, but otherwise you were seeing her for
21 other things?

22 A. That's right. The next time I saw her
23 after the 5th of December 2019 with those symptoms
24 was April 20 with a different complaint.

25 Q. Okay. Related to hypertension and gout?

1 A. Yeah.

2 Q. Okay. And the gout was certainly not
3 related to this, it was pre-existing?

4 A. Right.

5 Q. Okay. All right. And just real quickly,
6 would you run through your educational background?

7 A. Yeah. Finished college at USC. Went to
8 medical school at University of South Carolina
9 School of Medicine. Went to residency at Richland
10 Memorial. Finished family practice residency in '97
11 and have been in practice since then.

12 Q. And where do you practice?

13 A. South Hampton Family Practice.

14 Q. And that's where you've seen Ms. Crump?

15 A. Yes.

16 MR. KENDALL: Thank you. These folks
17 may have some questions.

18 EXAMINATION

19 BY MS. BROWN:

20 Q. Hi, Dr. Hester. My name is Grace Brown.
21 I represent Glenfield Capital in this lawsuit. Just
22 a couple questions for you.

23 After you treated Ms. Crump, I think you
24 said it's been over a year now, but at any point did
25 you refer her to a counselor?

1 A. Uh-huh.

2 Q. Who did you refer her to?

3 A. We were -- I think it was back in -- on
4 the December 5 that we talked more intensely about
5 referring her to a counselor and we were trying to
6 set her up with First Pres Counseling Center.

7 Q. Did you ever refer her to a psychiatrist
8 or psychologist?

9 A. Well, we talked about that if we weren't
10 making progress with the counseling center.

11 Q. Okay. Did you have anyone specific in
12 mind for that?

13 A. Huh-uh.

14 Q. Is that a no?

15 A. No.

16 Q. Do you personally, other than in medical
17 school, have a background in psychology, psychiatry,
18 or counseling?

19 A. I do not.

20 MS. BROWN: That's all I have for
21 you.

22 MR. NEAL: No questions for me.

23 (Whereupon, the taking of the
24 deposition was concluded at 5:07 p.m.)
25

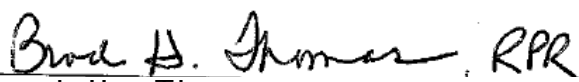
Certificate of Reporter

I, Brad H. Thomas, Professional Reporter and Notary Public in and for the State of South Carolina, do hereby certify that I reported the deposition of MARTHA PARKER-HESTER, M.D. on the 25th day of October, 2023, that the witness was first duly sworn by me, and that the foregoing 11 pages constitute a true and correct transcription of the said deposition.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties connected with this action, nor am I financially interested in said cause.

I further certify that the original of said transcript shall be hereafter sealed and delivered to EVERETT A. KENDALL, II, ESQUIRE, Murphy & Grantland, PA, 4406-B Forest Drive, P.O. Box 6648, Columbia, South Carolina 29206. This sealed original transcript shall be retained by the above party, who shall be responsible for filing same with Court prior to trial or any hearing which might result in a final order on any issue.

In witness whereof I set my hand and seal this 30th day of November, 2023.


Brad H. Thomas
and Notary Public for the
State of South Carolina

My Commission
expires 12/19/27

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	CIVIL ACTION NO.: 2022-CP-40-05610
DAISY CRUMP,	)	
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REPLY MEMORANDUM
	)	IN OPPOSITION OF DEFENDANT'S
GLENFIELD CAPITAL LLC, /D/B/A	)	JOINT MOTION FOR SUMMARY
GLENN 1441 LLC; COLLIERS	)	JUDGMENT
INTERNATIONAL SOUTH CAROLINA	)	
INC; TK ELEVATOR CORPORATION,	)	
AND SIZEMORE, INC	)	
Defendants.	)	
_____	)	

Plaintiff Daisy Crump submits this Reply Memorandum in Opposition of Glenfield Capital, LLC d/b/a Glenn 1441, LLCA ("Glenfield"); Colliers International South Carolina, INC; and TK ELEVATOR CORPORATION's Joint Motion for Summary Judgement.

Statement of Facts

At the time Defendant's negligence and gross negligence caused Mrs. Crump to become trapped in their elevator for over an hour, Mrs. Crump was a Sixty-Nine (69) year old married woman working in the Wells Fargo Building located at 1441 Main Street on the eleventh floor for Absolute Total Care as a Licensed Nurse Practitioner. Mrs. Crump had gotten her nursing license in or around the year 1989. Mrs. Crump had clocked out for the day and taken the elevator to the first floor when she realized she'd left her cellular phone at her desk. Mrs. Crump got back on the elevator and pressed the button for the eleventh floor. Mrs. Crump was startled to see a security officer approach the elevator and attempt to pry the elevator doors open. It was then that she realized the doors were not opening and she was trapped.

Defendants did not call the fire department, law enforcement, or EMS for Mrs. Crump, instead they called an engineer. For close to an hour Mrs. Crump did not know how or why she had become trapped, and she felt that at any moment the elevator cable would snap and send her plummeting to her death.

Co- Workers were able to retrieve Mrs. Crump's cellular phone and pass it to her through the narrow opening of the elevator door. Mrs. Crump contacted her children to advise them of the situation and she called her husband. Out of nowhere Mrs. Crump felt someone jumping up and down on the top of the elevator. At the time, Mrs. Crump did not know it was Defendant's engineer. In breach of policy and procedures regarding an engineer's handling of a situation such as this, at no time did the Engineer announce himself or state what strategy he would employ to get her out of the elevator.

Once Mrs. Crump was freed from the elevator, EMS was onsite and noted that her blood pressure was extremely elevated. Mrs. Crump was previously diagnosed with high blood pressure; however, her Primary Care Physician will testify that her hypertension was well maintained and never reached the levels they did on November 4, 2019.

Mrs. Crump suffered both mental and physical injuries from that November 4, 2019, incident. Mrs. Crump was previously diagnosed with gout around 2017 as she recalls it. Mrs. Crump had never had any serious issues with gout and that condition was also well maintained. After the becoming trapped in the elevator Mrs. Crump's toe turned "black." Her Primary Care Physician diagnosed her with having Pseudogout and attributed the flare up to the amount of stress and anxiety Mrs. Crump faced while she was trapped in the elevator and after she was freed. Because Mrs. Crump had physical pre-existing conditions that were aggravated and resulted in physical manifestations, Defendant's Motion for Summary Judgement should be denied.

Mrs. Crump testified in her deposition that while she was trapped in the elevator, she heard a loud motor running that never stopped running. She further testified that the night of the incident and even now she can still hear the motor running while she both awake and asleep. Furthermore Mrs. Crump complained of headaches attributed the loud motor running. (Please See Exhibit). Mrs. Crump also informed her doctor that her foot hurt after being trapped in the elevator. Shortly after reporting this foot pain to her doctor, Mrs. Crump's left toe turned black.

RELEVANT LAW AS TO SUMMARY JUDGMENT

Summary Judgment is appropriate when it is clear that there is no genuine issue of material fact and that the moving party is entitled to judgement as a matter of law. Café' Assocs., Ltd. V. Gerngross, 305 S.C. 6, 406 S.E.2d 162 (1991). It is well settled South Carolina law that "Summary Judgement is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law." Middleborough Horizontal Property Regime Council of Co-Owners v. Montendison, 320 S.C. 470, 465 S.E.2d 765 (Ct. App. 1995).

Additionally, Summary Judgment should not be granted where there is no dispute as to the evidentiary facts if there is a dispute as to the conclusion to be drawn therefrom. MacFarlane v. Manly, 274 S.C. 392 264 S.E.2d 838 (1980).

In South Carolina, both elevator manufacturers and landowners have specific duties regarding personal injuries arising from defective elevators.

Elevator companies have a duty to exercise reasonable care in the design, manufacture, and inspection of their products. This includes testing and inspecting components made by other manufacturers that are incorporated into their products. A manufacturer can be held liable for injuries caused by a defective elevator if it is proven that the manufacturer was aware of the danger and failed to take reasonable steps to correct it. This duty is consistent with the general rule that

manufacturers are liable for negligently failing to ensure the safety of their products. Nelson v. Coleman Co., 249 S.C. 652 (S.C. 1967).

Landowners, including landlords, owe their tenants and invitees a duty of ordinary care to maintain the premises, including elevators, in a reasonably safe condition. This duty includes warning of latent or hidden dangers that the landowner knows or should know about. In the context of elevators, a landowner is not considered a common carrier and thus owes only ordinary care, not the highest degree of care. If a tenant or invitee is injured due to a defective or negligently operated elevator, the landowner can be held liable if there is evidence of negligence. Medlock v. McAlister, 120 S.C. 65 (1922); Fountain v. Fred'S, Inc., 436 S.C. 40 (2022); Sims v. Giles, 343 S.C. 708 (Ct. App. 2001).

Additionally, South Carolina statutes impose specific responsibilities on property owners to maintain elevators in compliance with safety regulations. The owner or occupant of a property must continuously maintain structural or building elements, including elevators, in a safe condition. § 10-5-260. Buildings required to be in compliance; responsibility of owners and occupants. The South Carolina Code also outlines that the limitations on actions for defective conditions do not apply if the person in control of the property knew or should have known about the defect § 15-3-670. Circumstances in which limitations provided by Sections 15-3-640 through 15-3-660 are not available as defense.

In summary, both elevator manufacturers and landowners in South Carolina have duties to ensure the safety of elevators. Manufacturers must ensure their products are safe through proper design, testing, and inspection, while landowners must maintain elevators in a safe condition and warn of any known dangers. Failure to meet these duties can result in liability for personal injuries caused by defective elevators.

ARGUMENT

Turning to the facts of this case Defendant have filed a Joint Motion for Summary Judgement alleging that Plaintiff cannot recover because she suffered no “Physical Injury.” Plaintiff testified to having headaches, foot pain, nightmares, chest pains, elevated blood pressure, and more directly following the incident and even to date. While Defendants claim none of these are physical injuries, Plaintiff’s Counselor has written an affidavit attesting to the physical injury experienced by Plaintiff. In addition, there is scientific evidence that the physical symptoms and manifestations of gout can be triggered by stress. Additionally, Plaintiff now suffers from Panic Attacks and has to take medication to control those panic attacks. There is a scientific difference between panic attacks which has physical implications and anxiety attacks which manifests mostly in the mind. Whether Panic Attacks result from Plaintiff’s elevated heart rate, raised blood pressure, sweating etc. which are all physical manifestations or if Panic attacks are purely emotional should be debated by experts at a trial on the matter and given to the jury to decide.

Plaintiff contends that what she experienced as a direct result of being trapped in the elevator is both mental and physical, therefore, Defendant’s argument must fail, and their Joint Motion for Summary judgment should be denied.

RELEVANT LAW AS TO RECOVERY FOR EMOTIONAL INJURY

Defendants have jointly and incorrectly alleged that without physical injury, Plaintiff cannot recover. Plaintiff did sustain physical injury; however, Plaintiff disagrees that Physical Injury is needed for Plaintiff to recover.

In Mack v. South – Bound R. Co., 52 S.C. 323, 29 S.E. 905 (1898) a young boy was close to being struck by a moving train while attempting to get his mule off of the railroad tracks. The train did not strike the young boy or his mule. A lawsuit was filed against the railroad company

alleging that the boy was “extremely frightened by the incident, he experienced shock to his nervous system, his mind became affected and destroyed, he began to lack reasoning skills, suffered from mental anguish and physical pain that resulted from the terrible shock to his nervous system and the fright he received.” Id. The question the Court was left to answer was whether the railroad company was “liable for injuries sustained in consequence of fright caused by its negligence.” Id. The Court analyzed the issue in detail:

Danger excites alarm. Few people are wholly insensible to the emotion caused by imminent danger, though some are less affected than others. It must also be admitted that a timid or sensitive person may suffer, not only in mind, but also in body, from such a cause. Great emotion may, and sometimes does, produce physical effects. The action of the heart, the circulation of the blood, the temperature of the body, as well as the nerves and appetite, may all be affected. A physical injury may be directly traceable to fright, and so may be caused by it. We cannot say, therefore, that such consequences may not flow proximately from unintentional negligence; and if compensation in damages may be received for a physical injury so caused, it is hard on principle, to say why there should not also be a recovery for the mere mental suffering, when not accompanied by any perceptible physical effects. Id.

The Court found that the child could in fact recover for mental anguish without physical injury, further explaining:

The nerves and nerve centers of the body are a part of the physical system and are not only susceptible of lesion from external causes but are also liable to be weakened and destroyed from causes primarily acting upon the mind. If these nerves, or the entire nervous system are thus affected, there is a physical injury thereby produced; and if the primal cause of this injury is tortious, it is immaterial whether it is direct, as by a blow, or indirect, through some action upon the mind.

In Spaugh v. Atlantic Coast Line R. Co., 158 S.C. 25, 155 S.E. 145 (1930) the Court once again addressed if physical injury had to be present for recovery. In this case a Mrs. Spaugh and her husband traveled from Holly Hill South Carolina to Florence South Carolina. The Spaughs left their invalid mother and infant children at home with a caregiver with the intentions on returning home the same day. Mr. Spaugh learned he had to spend the night in Florence, South Carolina. The

Spaugh's inquired with and was advised by the railroad company that the train for which they were purchasing a ticket for would have Mrs. Spough at home in Holly Hill that same evening. Much to the Spough's dismay and terror, that train did not get Mrs. Spough back to Holly Hill the same evening and would not until the following evening. Mrs. Spough became frightened and stricken with panic and fear at the thought of her infant children and her invalid mother being left alone. Mrs. Spough was eventually able to hitch a ride from a stranger and arrived home "sick and almost a nervous wreck." *Id.* Mrs. Spough brought an action against the railroad company for negligence where she claimed damages for emotional distress. Defendant argued that Mrs. Spough could not recover because she sustained no physical injury. The Court held otherwise:

In order to receive bodily injury, it was not necessary that the Plaintiff should lose a limb or receive a broken limb, or to have wounds inflicted on her body. Having her nervous system injured and being made sick constitutes bodily injury, and for which she should be entitled to receive damages in proportion to such injury provided the proof establishes negligence on part of Defendant's agent in misinforming the Plaintiff or the Plaintiff's husband, acting for her; as to the train schedules between the points in question, and such negligence caused the alleged injury complained of. Id.

In Spough the Court allowed Mrs. Spough's claim for mental distress, with physical manifestation, without any requirement of a physical impact.

CONCLUSION

For each of the reasons herein stated, Defendant's Joint Motion for Summary Judgment should be denied.

Respectfully Submitted
BY:
THE CUTTINO LAW FIRM LLC
/s/ Shaquana Cuttino, Esquire
1511 Gregg Street
Columbia, South Carolina 29201
(803)542-7544 (Office Phone)
(803) 818-2389 (Office Fax)

thecuttinlawfirm@gmail.com
Attorney for Plaintiff

SPETSAS BUIST PLLC
/s/ Nick Spetsas, Esq.
225 E. Robinson Street, Suite 542
Orlando, FL 32801
Telephone: (321) 352-7687
Facsimile: (407) 237-0096
nick@spetsasbuist.com

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	CASE NO.: <u>2022CP4005610</u>
Daisy Crump,	)	
	)	
Plaintiff,	)	
	)	AFFIDAVIT OF SHENNA GANZY
VS.	)	
Glenfield Capital, LLC d/b/a Glen 1441	)	
LLC; Colliers International South Carolina,	)	
Inc.; TK Elevator Corporation;	)	
and Sizemore, Inc.,	)	
	)	
Defendants.	)	
	)	

I, Shenna Ganzy, being first duly sworn, depose and say the following is true based upon personal information or information I believe to be true. I further understand that any intentionally false statements made herein could subject me to charges of perjury or contempt of Court.

I am the CEO of She's Counseling. I am a Licensed Professional Counselor Supervisor, Licensed Addiction Counselor, Holistic Practitioner of Trichology, Board Certified Tele-Mental Health, and Certified Integrative Mental Health Practitioner.

I am writing to provide an understanding of the psychological and physical conditions affecting my client, Mrs. Daisy Crump, who has been diagnosed with Post Traumatic Stress Disorder, Panic Attacks, and who exhibits symptoms of anxiety and panic following a traumatic incident of being trapped in an elevator.

Understanding Panic and Anxiety

Anxiety Attacks:

- **Definition:** Anxiety attacks are periods of excessive worry or fear related to specific situations or events.
- **Symptoms:** Symptoms include muscle tension, restlessness, fatigue, difficulty concentrating, irritability, and sleep disturbances.

- **Duration:** These attacks can last for hours, days, or longer.
- **Triggers:** Typically triggered by stressors or thoughts related to future events or uncertainties.

Panic Attacks:

- **Definition:** Panic attacks are sudden, intense episodes of fear or discomfort, reaching peak intensity within minutes.
- **Symptoms:** Symptoms include palpitations, sweating, trembling, shortness of breath, chest pain, dizziness, chills or hot flashes, numbness or tingling, feelings of unreality or detachment, and fear of losing control or dying.
- **Duration:** These attacks usually last for a short duration, often 5 to 30 minutes, but the aftereffects can linger longer.
- **Triggers:** Can occur unexpectedly without an obvious trigger or can be triggered by specific phobias or situations.

Background: Mrs. Crump's panic disorder began following a traumatic incident where she was trapped in an elevator. This event has significantly impacted her mental health, resulting in frequent and debilitating panic attacks.

Incident Description:

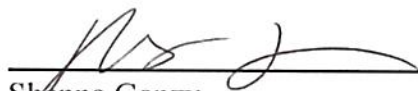
- **Trigger:** Mrs. Crump was stuck in an elevator for an extended period, which served as the initial traumatic trigger for her panic disorder.
- **Panic Attack Characteristics:** Since the incident, Mrs. Crump has experienced sudden and intense panic attacks characterized by symptoms such as shortness of breath, chest pain, dizziness, and an overwhelming fear of dying or losing control.
- **Frequency and Impact:** These attacks have become frequent and severe, significantly affecting Mrs. Crump's daily functioning and quality of life. She now avoids situations resembling traumatic events, such as using elevators, and experiences anticipatory anxiety.

Observation of a Panic Attack:

- **Scenario:** During her first visit to my office, Mrs. Crump displayed visible physical signs of distress at the sight of the elevator outside my door.
 - **Physical s:** She began hyperventilating, sweating profusely, and exhibited visible trembling. Her face turned pale, and she clutched her chest, indicating severe discomfort and pain.
 - **Behavioral:** Mrs. Crump attempted to avoid the elevator, showing agitation and restlessness. She was unable to stand still, pacing or making frantic movements to find an alternate route, which was the stairs.
 - **Verbal Expressions:** Mrs. Crump repeatedly expressed fear, saying things like "I can't go near it" and "I'm terrified." Her speech was rapid and disjointed, reflecting extreme fear and distress.
 - **Aftermath:** Even after moving away from the elevator, Mrs. Crump remained visibly shaken, fatigued, and emotionally distressed,

demonstrating the lingering effects of the episode.

The distinction between anxiety and panic attacks lies in the intensity, duration, and specific symptoms experienced. The observations during Mrs. Crump's first visit, particularly her reaction to the elevator, provide clear evidence of the severe impact and debilitating nature of her panic disorder. This underscores the necessity for appropriate therapeutic interventions and accommodations to support Mrs. Crump's mental health and well-being. Thank you for your understanding and consideration of Mrs. Crump's condition.


 Shenna Ganzy,
 M.A. LPCS LAC HPT BC-TMH CIMHP
 Licensed Professional Counselor Supervisor
 Licensed Addiction Counselor
 Holistic Practitioner of Trichology
 Board Certified Tele-Mental Health
 Certified Integrative Mental Health Practitioner

Sworn and Subscribed Before Me

this 22 day of July, 2024


 Notary Public for the State of South Carolina

My Commission Exp: 06/19/2030

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	CIVIL ACTION NO.: 2022-CP-40-5610
DAISY CRUMP,	)	
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S MOTION
	)	TO RECONSIDER
GLENFIELD CAPITAL LLC, /D/B/A	)	
GLENN 1441 LLC; COLLIERS	)	
INTERNATIONAL SOUTH CAROLINA	)	
INC; TK ELEVATOR CORPORATION,	)	
AND SIZEMORE, INC	)	
Defendants.	)	
	)	

Plaintiff Daisy Crump hereby gives notice and moves this Honorable Court, pursuant to South Carolina Rule of Civil Procedure 59 (e), to reconsider its Order entered on August 9, 2024, granting Defendant's Joint Motion for Summary Judgement. This motion is filed within ten (10) days of receiving the Order.

In *Elam v. The South Dept. of Transp.*, 361 SC 9, 602 SE 2d 772 (2004). The Court held, citing *Arnold v. State*, 309 SC 157, 420 SE 2d 834 (1992), that there is "nothing inherently unfair in allowing a party one final chance to not only call to the Court's attention a possible misapprehension of an earlier argument but also to revisit a previously raised argument." The Court held that it is "inherently unfair to disallow such an opportunity." *Id.*

South Carolina Courts recognize two situations in which a party may consider filing a rule 59 (e) Motion. One such situation is when a party believes the Court has misunderstood, failed to fully consider, or failed to rule on an argument or issue, and the Party wishes for the Court to reconsider or rule on it. *Id.*

In this case, the Court ruled that because Plaintiff suffered no physical injury, there was no disputed issue of material fact. In its ruling, the Court applied an appellate level court case

with no precedential value, KS, by and through Seeger v. Richland School District Two, 2022 WL 2966388 (Ct. App 2022). In this case, a parent of a minor child brought a lawsuit against the child's school after the child was verbally abused and possibly physically assaulted by one of the child's teachers. The appeals Court held that because the child did not suffer any physical injuries, a Summary Judgment in favor of the Defendants was warranted.

Conversely, in that same South Carolina Court of Appeals in the case of Whitehead Vs. Barnwell School District 45, (Ct. App 2020), the Appeals Court reversed a lower court decision granting Defendant's Motion for Summary Judgment in December of 2022. In this case, a four-year-old boy was dropped off at the wrong bus stop. He suffered emotional distress with no physical manifestation of the emotional distress. The child's parents filed a lawsuit on behalf of their minor child and themselves against the school district, alleging emotional distress with physical manifestation. Defendants filed a Motion to dismiss the claim based on Rule 12 (b) (6) SCRCF. After hearing oral arguments on April 1, 2021, and after the Parties submitted proposed orders, the lower Court denied the Defendant's motion to dismiss the minor child's claim. However, it granted the Defendant's motion to dismiss as to the minor child's parents. The child's parents appealed. The Court of Appeals reversed and remanded the case back to the lower Courts. This case was reversed and remanded in December of 2022. The case the Court relied on and cited in its decision in this instant matter was decided by the Court of Appeals in July of 2022. To the extent the Court relies on Appellate Court cases, the Whitehead is the last one decided and should control.

Turning back to this Court's decision to grant Defendant's Joint Motion for Summary Judgment, the Court held that Mrs. Daisy Crump suffered "no physical injury." in doing so, this Court has seemingly ignored the other case the Court cited in its decision, Babb v. Lee County

Landfill SC, LLC, 405 SC 129, 153, 747 SE 2d 468, 481 (2013). “Damages for emotional or physical suffering are typically not recoverable unless there is some physical manifestation of the emotional distress. Id.” Turning to the facts of the instant case, during oral arguments in the Motion hearing, the Plaintiff’s Counsel argued that Mrs. Crump has physical manifestations of the emotional distress she suffered because of the Defendant’s negligence in that she has been diagnosed with Panic Attacks, Anxiety attacks, chest pain, elevated blood pressure, headaches, foot pain, gout flare up, nightmares and more directly related to the elevator incident. In granting Defendant’s Joint Motion for Summary Judgment, the Court has overlooked these listed physical manifestations and has seemingly ignored the long-standing South Carolina Supreme Court decision In Mack v. South–Bound R. Co., 52 SC 323, 29 SE 905 (1898) where the Supreme Court held:

Danger excites alarm. Few people are wholly insensible to the emotion caused by imminent danger, though some are less affected than others. It must also be admitted that a timid or sensitive person may suffer, not only in mind but also in body, from such a cause. Great emotion may, and sometimes does, produce physical effects. The action of the heart, the circulation of the blood, the temperature of the body, as well as the nerves and appetite, may all be affected. A physical injury may be directly traceable to fright and so may be caused by it. We cannot say, therefore, that such consequences may not flow proximately from unintentional negligence, and if compensation in damages may be received for a physical injury so caused, it is hard on principle, to say why there should not also be a recovery for the mere mental suffering, when not accompanied by any perceptible physical effects. Id.

In Mack v. South–Bound R. Co., 52 SC 323, 29 SE 905 (1898), the South Carolina Supreme Court made it clear that great emotion can, in fact, cause or produce physical effects such as different effects in a person’s heart, the blood circulation being affected, the nerves being affected, and even the appetite being affected. It is clear that the South Carolina Supreme Court

found that all of these changes equaled the physical manifestation of emotional distress. Turning to the instant case, Plaintiff suffered from elevated blood pressure, which the Supreme Court discussed in Mack v. South-Bound R. Co., 52 SC 323, 29 SE 905 (1898). The Plaintiff also suffered from changes in her appetite and nerve issues. Mack v. South-Bound R. Co., 52 SC 323, 29 SE 905 (1898) has never been overruled and is still relevant to good law in South Carolina.

In that same case, the South Carolina Supreme Court further held:

The nerves and nerve centers of the body are a part of the physical system and are not only susceptible of lesion from external causes but are also liable to be weakened and destroyed from causes primarily acting upon the mind. If these nerves, or the entire nervous system, are thus affected, there is a physical injury thereby produced, and if the primal cause of this injury is tortious, it is immaterial whether it is direct, as by a blow, or indirect, through some action upon the mind.

It is clear that the South Carolina Supreme Court has decided that effects upon a person's nervous system ARE physical injuries. The Plaintiff presented an affidavit from her counselor stating that she had been diagnosed with PTSD and panic attacks. Defendants are also in possession of medical records from Plaintiff's Psychologist that diagnose her with having panic attacks and anxiety directly related to Plaintiff's emotional distress of being trapped in the elevator. Thus, Plaintiff has met the burden of proving physical manifestation of emotional distress as defined in Babb v. Lee County Landfill SC, LLC, 405 SC 129, 153, 747 SE 2d 468, 481 (2013), and Plaintiff has physical injury as defined by the South Carolina Supreme Court in Mack v. South-Bound R. Co., 52 SC 323, 29 SE 905 (1898).

Even using the appellate case as cited by the Court, this Court has failed to address Plaintiff's physical manifestations in the form of Panic attacks, chest pain, headaches, changes to her appetite, sleep disturbances, foot pain, etc. In granting Defendant's Joint Motion for Summary Judgment, this Court has ruled that changes to a person's nervous system, changes to

their appetite, etc., are NOT physical in nature, which would be in direct contrast with what this State's highest Court has already ruled ARE physical in nature and in fact physical injuries.

In *Spaugh v. Atlantic Coastline R. Co.*, 158 SC 25, 155 SE 145 (1930), this State's highest Court held that physical injury does not require a broken limb or even an injury that the naked eye can see:

In order to receive bodily injury, it was not necessary that the Plaintiff should lose a limb or, receive a broken limb or to have wounds inflicted on her body. Having her nervous system injured and being made sick constitutes bodily injury, and for which she should be entitled to receive damages in proportion to such injury provided the proof establishes negligence on the part of Defendant's agent in misinforming the Plaintiff or the Plaintiff's husband, acting for her, as to the train schedules between the points in question, and such negligence caused the alleged injury complained of. Id.

In granting the Defendant's Motion for Summary Judgement, the Court seemingly undoes the Supreme Court's holding that a person's nervous system is being affected IS a physical injury. In granting the Defendants' Joint Motion for Summary Judgment this Court does an injustice to mental health throughout the State of South Carolina.

Conclusion

The South Carolina Supreme Court has held that Physical injuries are inclusive of those changes to the body's nervous system and other regulatory systems that cannot be seen by the naked eye including issues that manifest through a person's nervous system. Plaintiff has medical documentation from more than one expert that describe issues with her nervous system and have directly related those issues with Plaintiff being trapped in the Defendants' elevator. Plaintiff respectfully motions and moves this Court to reconsider its ruling based on the above- mentioned reasons.

Respectfully Submitted

BY: THE CUTTINO LAW FIRM LLC
/s/ Shaquana Cuttino Esq.
Attorney for Plaintiff
SC Bar No: 104370
1511 Gregg Street Columbia, SC 29201
(803) 542-7455 (Office Number)
(803) 818-2389 (Office Fax)
scheduling@cuttinolaw.law

AND

SPETSAS BUIST PLLC
/s/ Nick Spetsas, Esq.
225 E. Robinson Street, Suite 542
Orlando, Florida 32801
Telephone: (321) 352-7687
Fascimile: (407) 237-0096
nick@spetsasbuist.com

STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
COUNTY OF RICHLAND) CASE NO. 2022-CP-40-05610

July 24, 2024

BEFORE: The Honorable Judge Jessica Ann Salvini

Daisy Crump,
 Plaintiff,

vs.

Glenfield Capital, LLC, et al,
 Defendants.

APPEARANCES:

 Shaquana Cuttino, Esq.
 Nicholas Spetsas, Esq.
 Charles Buist, Esq.
 Attorney for the Plaintiff

 Mark Barrow, Esq.
 Grace Brown, Esq.
 Joshua Shaw, Esq.
 Bryant Neal, Esq.
 Everett Kendall, Esq.
 J.D. Elliott, Esq.
 Attorney for the Defendants

 Official Court Reporter/Transcriber
 Cynthia D. Weaver

1 (COURT REPORTER'S NOTE: Due to remote platform
2 interruption and audio interference throughout the
3 hearing, those instances are denoted with
4 (inaudible) in the transcript.)

5 P-R-O-C-E-E-D-I-N-G-S

6 THE COURT: Okay, so now I'm ready to move on to
7 the next, I'm just going to take the motions in order, that
8 brings me to Number 4, which would be Daisy Crump versus
9 Glenfield Capital, et al. So that looks like I've got
10 Charles Buist, Shaquana Cuttino, good to see you again this
11 morning from yesterday.

12 MS. CUTTINO: Good morning, Your Honor.

13 THE COURT: And I've got defense counsel, Mark
14 Stephen Barrow, Grace Gardner Brown, Michael Douglas, Crump,
15 Everett Kendall, William Neal, Joshua Shaw. I don't know if
16 I need everybody, but do we have everybody we need to go
17 forward this morning? Waiting on anything? I think we've
18 got everybody, so let me officially called the case then.

19 We're here in the matter of Daisy Crump versus
20 Glenfield Capital LLC doing business as Glenn, 1441, LLC,
21 Colliers International, South Carolina Inc, TK Elevator
22 Corporation and Sizemore, Inc. This is Docket Number
23 2022-CP-40-05610. We are conducting this hearing in my
24 virtual courtroom.

25 I have counsel present and I'm just going to kind

1 of state appearances. Actually, it might be easier because
2 my screen is kind of jumping around, if you would go ahead
3 and state your appearance, plaintiff's counsel, and then
4 defense counsel, who you represent, and then I'm going to be
5 happy to move forward with the motions for summary judgment.

6 MS. CUTTINO: Thank you, Your Honor. Should it
7 please the Court?

8 My name is Shaquana Cuttino -- I am one of
9 attorneys for -- Plaintiff -- Daisy.

10 THE COURT: And, Ms. Cuttino, part of the reason
11 why I'm asking y'all to state your appearance, is you were
12 breaking up just a little bit, so for some reason it just
13 gets a little too rough for me to hear you, I'll just kind
14 of give you a high sign cause that was I got your appearance
15 but it, but you were breaking up just a little bit. Okay,
16 but that's all right. Thank you.

17 MS. CUTTINO: I apologize.

18 THE COURT: No, it's not -- it's just going to be
19 the nature of the beast when it comes to some of these
20 connections. All right. Yes. I'm happy for counsel to
21 continue announcing their appearance of who they represent.

22 MR. SPETSAS: Yes, Your Honor, this is Nick
23 Spetsas also on behalf of the plaintiff, Daisy Crump, as
24 well.

25 THE COURT: All right. Thank you.

1 MR. ELLIOTT: Your Honor, this is J.D. Elliott on
2 behalf of defendant, TK Elevator.

3 MS. BROWN: And Grace Brown on behalf of Glenfield
4 Capital.

5 MR. NEAL: Good morning, Your Honor. My name is
6 Bryant Neal and I'm appearing on behalf of Colliers
7 International, South Carolina, Inc.

8 THE COURT: All right. Wonderful. Thank you all
9 for being here this morning. I know that this matter
10 appears on my court docket for pursuant to a Motion for
11 Summary Judgment. And I understand that, and I've had an
12 opportunity to review, both defendant, TK Elevator
13 Corporation's Memo in Support of a Motion for Summary
14 Judgment. And also defendant, Colliers International South
15 Carolina, Inc.'s Memorandum in Support of the Joint Motion
16 for Summary Judgment. And so I am happy to hear from
17 counsel, who wants to argue those motions?

18 MS. CUTTINO: Yes, ma'am. Your Honor, this is
19 J.D. Elliott I'll go ahead and argue this motion.

20 THE COURT: Thank you. Happy to hear from you.

21 MR. ELLIOTT: As you're aware and Your Honor, if
22 you want me to move ahead on anything, since you've reviewed
23 the memos, please let me know, but I will start at the
24 beginning unless you would like for me to, to go straight to
25 the argument.

1 THE COURT: I'm happy to go straight to the
2 argument because I understand exactly what happened and I
3 was looking at the response but, but let me hear from you,
4 because I'd like to hear some argument and then if I have
5 some additional questions, I'm happy to ask them and have
6 anybody else weigh in.

7 MR. ELLIOTT: Yes, Your Honor. And as we stated
8 in our memo, this is a case where the plaintiff was stuck in
9 an elevator for approximately 50 minutes. The plaintiff
10 has, you know, in, in her deposition, the plaintiff
11 testified she did not have a physical injury. We also --
12 she also testified that the day after, the accident she went
13 to go see her primary care physician. We then proceeded to
14 depose the primary care physician. She testified as well
15 that she did not treat the plaintiff for any kind of
16 physical injury only for an emotional injury.

17 Generally, as you know, under South Carolina law,
18 the plaintiff has to show physical injury or property damage
19 in order to recover in a negligence action. You know,
20 damages for emotional or mental suffering typically are not
21 recoverable unless there is some kind of physical
22 manifestation of the emotional distress.

23 Now, this case was -- an issue very similar to
24 this case was recently addressed in 2022, and the case was
25 cited in my memo, and this is the Seeger versus the Richland

1 County School District 2 case. In 2022, this case was tried
2 here in Richland County or the case was tried in Richland
3 County, and this is a case where a student alleges that a
4 teacher used kind of profane language, also grabbed the
5 student and may have scratched the student as well, but
6 there was no physical evidence of any kind of scratch marks
7 or anything like that.

8 The teacher would repeatedly make fun of the
9 student in class. The teacher would make fun of the student
10 when the student started to cry and would kind of goad some
11 of the other students into making fun of the student. This
12 case was brought to -- was filed and was tried in front of
13 Judge Newman here in Richland County. All of this evidence
14 did come into -- did come into evidence via the testimony of
15 the student. For the student's damages, the student alleged
16 that he suffered from anxiety, depression, angry outbursts,
17 and had trouble sleeping. There was also evidence that the
18 student had seen a number of therapists and a psychologist.
19 And he had taken actual prescription medication.

20 After the close of plaintiff's evidence, the
21 defendants filed a directed verdict motion and Judge Newman
22 granted the directed verdict motion because she stated that,
23 you know, in her ruling she held that the student only had
24 emotional injuries and did not have physical injuries,
25 therefore, he could not maintain the cause of action against

1 Richmond County School District 2.

2 So this case was appealed and the Court of Appeals
3 affirmed Judge Newman's ruling. The Court of Appeals, did
4 some research and basically tried to find -- tried to
5 compile as much research as possible on the issue of
6 negligent infliction of emotional distress and they found
7 three separate contexts.

8 You know, the first context is when a plaintiff
9 sees physical harm or death occurred to a close family
10 relative, which does not apply here in this case.

11 The second is when a physical injury may cause
12 some kind of emotional distress, which also is not present
13 in this case.

14 But the third and final context that they held was
15 that if a physical manifestation evolves out of emotional
16 distress, which I think is, is what the plaintiff is going
17 to argue in this case.

18 The plaintiff did produce an affidavit from a
19 psychologist over the last couple of days, I think on
20 Monday, the affidavit from the psychologist stated that the
21 plaintiff has gone through emotional breakdowns and panic
22 attacks and that the psychologist test, you know, stated in
23 her affidavit that she has seen some kind of physical things
24 such as sweating or shortness of breath during the visits
25 that she's had with the plaintiff.

1 But I -- we would like to argue -- we would like
2 to point the Court back to the Seeger case. The Seeger case
3 in particular really kind of went into the third
4 context into what can happen if a physical injury manifests
5 from a nervous breakdown. And they came up with kind of a
6 bright line rule that I would really like to discuss today,
7 Your Honor.

8 The court, the kind of bright line rule that the
9 court held in the Seeger case was that -- and bear with me,
10 Your Honor, I got to scroll through my outline really
11 quickly.

12 THE COURT: Okay, take your time.

13 MR. ELLIOTT: Okay. Yeah, for the bright line
14 rule, Your Honor, the court's reason that if a plaintiff
15 whose sole damage is a nervous breakdown is going to
16 prevail, the defendant's conduct must be exceedingly bad
17 such that severe emotional distress would be expected to
18 follow in a reasonable person.

19 So in, in reading that rule, I would like to break
20 that down really, into to two elements. You know, first I'd
21 like to talk about the element of the extreme conduct of the
22 defendants. And then the second element I would like to
23 discuss is the damages to a reasonable person.

24 So first in talking about the extreme conduct of
25 the defendants, you know, as, as the Court probably knows it

1 occasionally somebody does get entrapped in an elevator, the
2 person is supposed to call the property manager. The
3 property manager is supposed to call the, you know, a
4 mechanic and get try to get the elevator open or call a
5 mechanic, which is what happened here. There's no evidence
6 that TK Elevator, you know, no evidence of what happened to
7 the elevator here. No experts have been named in this case,
8 and this case was filed in 2022. And is now on a court
9 roster for next month.

10 So there haven't been any experts who have
11 actually opined as to the cause of the elevator breakdown.
12 So there's no evidence of what the severe extreme conduct
13 that TK Elevator did in this case. And the fact of the
14 matter is once the TK Elevator mechanic arrived on site, the
15 TK Elevator mechanic was able to get the door open and the
16 plaintiff was able to walk out.

17 In regards to the severe emotional damage, I would
18 like to point out that the plaintiff was on the first floor
19 of this building. You know, that the elevator was only
20 closed, did not close all the way, but there was still an
21 8-inch gap where the plaintiff could speak with people on
22 the outside of the elevator. And the elevator --

23 THE COURT: Actually, give me -- give me one
24 moment. Give me just a moment, I'm sorry to interrupt you.

25 MR. ELLIOTT: Absolutely.

1 THE COURT: Is my courtroom door locked? I'm
2 sorry, there's a disturbance outside the courtroom that I'm
3 in, and I'm in here by myself, with just my law clerk and my
4 administrative assistant, and they're someone screaming. So
5 just give me one moment to make sure my door is locked.

6 MR. ELLIOTT: Absolutely.

7 THE COURT: Can you just check Emily? Okay.

8 Thank you all, I'm sorry. What they do, since I'm
9 holding this virtually, is they put me in a courtroom and
10 then they do allow attorneys to use the conference rooms
11 that are attached to the courtroom and that was right in one
12 of my conference rooms and I don't have a deputy so I just
13 wanted to make sure my door was locked.

14 Okay, if I can't hear you, I'll let you know, but
15 please continue.

16 MR. ELLIOTT: Thank you, Your Honor. Sorry about
17 that.

18 THE COURT: That's okay.

19 MR. ELLIOTT: And so, you know, and then the
20 elevator didn't actually move until the elevator mechanic,
21 was working on the elevator to get the elevator open. You
22 know, we don't think that this case arises to the bright
23 line rule as established in the Seeger case. You know, I
24 think the Seeger -- the facts of the Seeger case are
25 significantly worse than the facts that we have here in this

1 case and the Court of Appeals did affirm that the actions of
2 the teacher to the student in the Seeger case did not arise
3 to the level for the plaintiff to maintain a negligence --
4 negligent infliction of emotional distress cause of action.

5 And here in this case, our facts are significantly
6 better on behalf of than the Seeger case. You know, based
7 on the fact that we do not believe that the plaintiff has a
8 physical injury, we would ask for the Motion for Summary
9 Judgment to be granted. And even if the Court determines
10 that the breakdown as described in the affidavit produced by
11 the plaintiff does constitute some kind of physical
12 manifestation arising out of the negligent infliction of
13 emotional distress cause of action, you know, we would like
14 to go ahead and it would be our position, Your Honor, that
15 it does not meet the level as outlined in the Seeger case.

16 Thank you.

17 THE COURT: All right. Thank you. I'm happy to
18 hear from Ms. Cuttino or Mr. Spetsas, I hope I said that
19 correctly in response.

20 MS. CUTTINO: Your Honor, should it please the
21 Court?

22 We're asking that the defendant's joint motion for
23 summary judgment be denied. There are definitely -- they're
24 asking for their summary judgment saying there's no genuine
25 dispute as the material fact and there is, Your Honor.

1 They're saying that my, our client suffered no physical
2 injury, we're saying that she did.

3 After the incident in the elevator, Mrs. Crump,
4 who was 66 at the time, complained of chest pains, more than
5 one time and to more than one provider. She complained of
6 foot pain, Your Honor. She complained of nightmares. So we
7 believe that she absolutely did suffer physical injury, but
8 also, Your Honor, we don't believe that it's required under
9 south Carolina law. There's a set of cases where the
10 Supreme Court has found in the State of South Carolina that
11 you can recover for mental distress with a physical
12 manifestation without any physical impact. No broken bones
13 are needed, no bruises are needed, Your Honor.

14 And the first case that I want -- like to talk to
15 you about that says that -- it's Mack versus South-Bound.
16 Your Honor, in that case, a young boy was trying to move his
17 animal off of the railroad tracks. And the railroad -- the
18 train almost hit him. The train did not hit him, though.

19 His parents sued on his behalf for mental anguish
20 and the court had to answer the question whether the
21 railroad company was liable for injury sustained in
22 consequence of fright caused by its negligence. And the
23 court found that the child could, in fact, recover for
24 mental anguish without physical injury. And, Your Honor, I
25 explained what the court -- how the court reasoned in our

1 reply brief, but basically the court said the nerves and the
2 nerve center of the body they're a part of the physical
3 system and if that is affected, then that constitutes a
4 physical injury.

5 So in our case, Mrs. Crump has been diagnosed with
6 PTSD. She's been diagnosed with having panic attacks.
7 She's been diagnosed with having anxiety attacks. In the
8 scientific and medical world they believe that there is a
9 difference between anxiety attacks, which are mostly mental,
10 and panic attacks, which manifests, Your Honor, with
11 physical symptoms such as sweating, such as not being able
12 to breathe. So we believe, you know, she doesn't even need
13 a physical manifestation, but she has them.

14 There's another case Your Honor, in that case, the
15 Supreme Court ruled in that as well, Spot (ph) versus
16 Atlantic Coastline. In that case a married couple traveled
17 from Holly Hill, South Carolina to Florence, South Carolina
18 by train. They were supposed to return home the very same
19 night. The husband had to stay behind. Mom needed to get
20 back to her infant children and her invalid mother, who she
21 left with a caretaker. They inquired with the railroad
22 company about a train, you know, what was going to get her
23 home that night. They told her wrong, Your Honor. She
24 ended up in a town that she knew no one. Just frightening
25 and afraid and a nervous wreck that her invalid mother and

1 the infants were going to be left alone. She brought an
2 action for mental distress with physical manifestation and
3 the court - the defendants appealed and asked for summary
4 judgment. The court denied that request for summary
5 judgment and said that, yes, she could recover without the
6 train hitting her or any physical broken bones or anything.
7 They -- the court ruled that physical manifestation was
8 enough.

9 Mrs. Crump definitely has a number of physical
10 manifestations, Your Honor. Also, in 2003, this court used
11 those two cases, in order for a man to recover, Mr. Brady,
12 in the case of Brady versus Marathon. A man was sitting in
13 his home, Your Honor, and a truck ran into his home. It did
14 not strike him, but it caused him to have severe emotional
15 distress. And in that case, the court also wrote that, yes,
16 and this is the Supreme Court of South Carolina, yes, he
17 could recover for those mental anguishes, Your Honor,
18 without the car ever -- or the truck ever striking him.

19 So we're asking that their motion be dismissed
20 because, one, she did have physical injury. And, two, even
21 if she didn't have it, we believe that she has physical
22 manifestations and we have vetted some experts who will
23 testify to that on the stand. We believe if they're saying
24 that she has no physical injuries and our people are saying
25 that she does, we believe that it's an issue for the experts

1 to duke out at trial and then let the jury decide.

2 THE COURT: All right. Mr. Elliott, brief
3 response. Nope, I can't hear you.

4 MR. ELLIOTT: Yeah, I'm sorry I did that.

5 THE COURT: That's okay.

6 MR. ELLIOTT: I did want to point out that I did
7 review Ms. Cuttino's memo. The two cases that she cited,
8 one's from 1930 and one's from 1898, that are cited in her
9 memo. So these, you know, one is from two centuries ago and
10 one is from, you know, more than nine, you know, 90 years
11 ago at this point.

12 So, you know, we think that the case that's more
13 controlling at this point is the Seeger case, which we cited
14 in our memo. You know, I would like to point out that
15 Ms. Cuttino, you know, even if there is a physical
16 manifestation of injury, there was nothing that was pointed
17 out about the severe misconduct of the defendants in her
18 argument. And so even then we don't that that element of
19 the two I don't think can be met here and therefore our
20 motions still should still be granted based on the holding
21 of the Seeger case.

22 THE COURT: All right. I'd like to go back and
23 take a look at the Seeger case. I've read y'all's memos
24 before we came in today, but let me take a look at that case
25 one more time. I'm going to take this under advisement and

1 then I'll let y'all know that the decision --

2 MS. BROWN: Your Honor, if I may.

3 THE COURT: Sorry.

4 MS. BROWN: Grace Brown on behalf of defendant
5 Glenn Field Capital. We joined in the joint defense motion
6 for summary judgment on damages, but we also filed a motion
7 for summary judgment on separate grounds that I was hoping,
8 Your Honor, would hear as well. We did file our memorandum
9 in support on Friday afternoon if Your Honor would be
10 willing to hear it.

11 THE COURT: I'm happy to hear it. Let me get to
12 it though. Just give me one moment.

13 Ms. Cuttino, did you have something that you
14 wanted to state in response to what Mr. Elliott told me?

15 MS. CUTTINO: I did. I'm sorry, Your Honor. I
16 would just like to point out that those cases have never
17 been overruled and it was cited again by the court in I
18 think it was 2003, Your Honor. Furthermore, we do believe
19 that the defendant's conduct was outrageous. There are
20 steps that you're supposed to follow when you have someone
21 stuck in an elevator. And and she testified to this in her
22 deposition. She was not told that an engineer had arrived,
23 and so all she knew was that somebody was jumping on top of
24 the elevator, Your Honor. What they were supposed to do was
25 to announce that the engine engineer had arrived. He was

1 supposed to let her know step by step what he was doing,
2 Your Honor, that did not happen. Defendants did not call
3 law enforcement or the fire department in this case, Your
4 Honor. They waited over an hour for their engineer to
5 arrive. And so we do believe that the conduct was
6 outrageous. And we believe the jury should be able to hear
7 it and decide that.

8 THE COURT: All right.

9 MR. ELLIOTT: Just real briefly, just real
10 briefly. You know, Miss -- the plaintiff in this case,
11 stated she was not an expert in elevators. There's no --
12 you know, nobody has testified as the policy and procedures
13 of somebody being stuck in an elevator that is qualified to
14 testify as to that topic. So I would just like to point
15 that out for the Court.

16 THE COURT: Okay, thank you. All right.
17 Ms. Brown, happy to hear from you as to your remaining
18 issues and I did not mean to jump over them, but, yes,
19 ma'am.

20 MS. BROWN: That's fine, Your Honor, thank you.

21 Again, I represent Glenfield Capital, who in this
22 case is the owner of 1441 Main, the building where this
23 incident occurred. Quite simply, Your Honor, my client did
24 not owe a duty to Mrs. Crump. Under Byerly versus Connor,
25 which is the controlling well established case on this

1 issue, we did not owe a duty to her at the time of this
2 incident. The applicable rule there is that, you know, a
3 landowner typically has a duty to warn of late -- latent
4 hazardous conditions on the property, but only if the owner
5 has possession and control of the building. That case also
6 establishes that a lease or similar agreement acts as a sale
7 of the property and puts the lessee or tenant in control and
8 possession of the property.

9 Here, defendant, Glenfield Capital, has a real
10 estate, let me see real estate management services agreement
11 with Colliers International to act as their property
12 manager, which provides a number of conditions that Colliers
13 was to perform at the building. One of which is they put
14 them completely in control of all maintenance and repair
15 services, including servicing the elevators that has been
16 attached as an exhibit to our Motion for Summary Judgment,
17 if Your Honor would like to review it.

18 But, just again, quite simply, I would reiterate
19 that my client did not owe a duty to Mrs. Crump on the day
20 of this incident and therefore she has failed to prove an
21 essential element of her negligence claim and my client is
22 entitled to a summary judgment on that point and would
23 respectfully request that the Court grant our most summary
24 judgment. Thank you.

25 THE COURT: All right, thank you. Yes, ma'am.

1 MS. CUTTINO: Your Honor, landowners and
2 landlords, they owe tenants and invitees a duty of ordinary
3 care to maintain the premises and that does include
4 elevators, Your Honor. You know, Glenfield cannot just pass
5 off the duty that they owe to their invitees and their
6 tenants to Colliers, Your Honor. It's just an attempt to
7 punt or pass the duty that was owed.

8 And in Medlock versus McAlister, the court held
9 that a tenant or an invitee, if they're injured due to a
10 defect diligently operated elevator, the landowner could be
11 held liable. And, Your Honor, they're the property owner.
12 And so we believe that these defendants are jointly
13 severally liable for the damages suffered by our client.
14 Also there are specific responsibilities that South Carolina
15 places on owners to maintain the elevators in compliance
16 with safety regulations. And so, you know, they have to
17 make -- they have a duty, Glenfield does, to make sure that
18 their building is in compliance and that includes the
19 elevator, Your Honor.

20 And so we're asking that their motion to be let
21 out of this lawsuit be this to be denied as well, Your
22 Honor.

23 MS. BROWN: If I may briefly, Your Honor?

24 THE COURT: Yes, Ms. Brown, and I'm looking at
25 your memo, but, yes, go ahead.

1 MS. BROWN: Great, thank you. Much like
2 Mr. Elliott told you about in the damages motion for summary
3 judgment argument, Medlock versus McAlister is a 1922 case,
4 Byerly versus Connor, which we argue is the controlling case
5 on this point is a Supreme Court case from 1992, which does
6 detail that contractually a party can pass off a duty to
7 another via a contract, much like we did with Colliers in
8 this real estate management services agreement. And I would
9 just leave that to Your Honor and the controlling law and
10 supporting points on that are contained within our memo.

11 THE COURT: All right. Thank you.

12 MR. NEAL: Good morning, Your Honor, if I may on
13 behalf of Colliers International South Carolina.

14 THE COURT: Yes, sir.

15 MR. NEAL: I'd first like to state on the record
16 that we are fully in support of the motion for summary
17 judgment on the basis the plaintiff sustained no physical
18 injury. In response to Ms. Brown, I would have to
19 respectfully disagree that my client took over the non
20 delible duty and would particularly site to the South
21 Carolina Elevator Code, which is on Title 41, which
22 specifically states in the Statute 4116-115, or 150, excuse
23 me, The general duties of owner, and it cites, Every
24 facility must be maintained by the owner in a safe operating
25 condition in the conformity with the regulations primary by

1 director.

2 So I would respectfully disagree with Ms. Brown
3 that my client took over that duty and their interpretation
4 of the agreement between our two clients.

5 THE COURT: Ms. Brown, do you want to be heard as
6 to that, because that's actually was going to be my next
7 question as to what Mr. Neal's position was going to be?

8 MS. BROWN: Yes, Your Honor. There is an
9 additional agreement, a vertical transportation location
10 service contract between Colliers and TK Elevators that
11 shows that they are actually the ones that took over the
12 duty of all repair and maintenance projects with regards to
13 the elevators at 1441 Main. I'm happy to amend my brief to
14 include that as an exhibit if it would be helpful to the
15 Court.

16 THE COURT: No, I understand y'all's position.
17 Anyone else need to be heard or want to put anything on the
18 record, excuse me?

19 All right, thank you. Let me take a look -- I
20 want to go back and just look at the memos and some of the
21 case law and then I'll be in touch with y'all.

22 MS. BROWN: Thank you, Your Honor.

23 MR. NEAL: Thank you. Your Honor.

24 THE COURT: Thank y'all. You've been very
25 helpful. Thank you.

CERTIFICATE OF TRANSCRIBER

Case Name/Number: Crump vs. Glenfield Capital, LLC, et al,
2022-CP-40-05610

Date of Hearing: July 24, 2024

Court Reporter/Monitor: WebEx

I, Cynthia D. Weaver, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither Counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

December 2, 2024

Cynthia D Weaver

Cynthia D. Weaver
Official Court Reporter/Transcriber
State of South Carolina