Exhibit A

STATE OF SOUTH CAROLINA COUNTY OF ORANGEBURG OWL LABS INC., Plaintiff, v. ORANGEBURG COUNTY SCHOOL DISTRICT, Defendant.	)	IN THE COURT OF COMMON PLEAS FOR THE FIRST JUDICIAL CIRCUIT Case No. 2024-CP-38-00640 **ORDER**

This matter is before the Court on Defendant's Motion for Summary Judgment. A hearing on this case was held on March 13, 2025. At the hearing, Plaintiff was represented by Lyndey Bryant, and Defendant was represented by Allen Smith.

FINDINGS OF FACT

Plaintiff initiated this action on September 23, 2022, as civil action no. 2022-CP-38-01363.1 In their Complaint, Plaintiff asserts that $358,391.25 remains outstanding on a purchase order that, in 2020, Defendant bound itself to pay due to obtaining 875 Meeting Owl Pro devices ("Owl Devices") from Plaintiff.

Plaintiff claims that Defendant is liable for the $358,391.25 purchase order balance, prejudgment interest, costs, and attorneys' fees, for breaching the purchase order's terms. Alternatively, Plaintiff alleges that Defendant is liable for the $358,391.25 purchase order balance, plus interest in equity, under theories of unjust enrichment, quantum meruit, and quasi contract. Finally, Plaintiff asserts a claim for negligence and a claim for negligent supervision and retention,

[1] The case was stricken from the active docket pursuant to Rule 40(j), S.C. R. Civ. P., and immediately restored as civil action no. 2024-CP-38-00640, on May 9, 2024.

alleging that Defendant failed to supervise one or more employees and failed to train its employees and enforce its policies regarding procurement, which resulted in Plaintiff's damages.

On November 11, 2024, Defendant filed a Motion for Summary Judgment, seeking dismissal of all of Plaintiff's claims. Defendant contends it contracted with and paid Level 8 Communications ("Level 8"), a fraudulent third-party vendor, not Plaintiff, and was unaware that Plaintiff was the true vendor. Additionally, Defendant asserts that the district employee who facilitated the purchase of the Owl Devices misrepresented his identity and otherwise assumed a false identity to commit fraud against both Plaintiff and Defendant. In opposition, Plaintiff argues that Defendant's personnel were aware, or should have been aware, of Plaintiff's involvement in the purchase of the Owl Devices and that Plaintiff reasonably relied on the district employee's representations and authority. It is undisputed that the district employee was employed by Defendant as its Media Communications Specialist at the time the Owl Devices were purchased.

LEGAL STANDARD

"Summary judgment is a drastic remedy, which should be cautiously invoked so that no person will be improperly deprived of a trial of the disputed factual issues." *Doe ex rel. Doe v. Batson*, 345 S.C. 316, 321, 548 S.E.2d 854, 857 (2001); *see also BPS, Inc. v. Worthy*, 362 S.C. 319, 326, 608 S.E.2d 155, 159 (Ct. App. 2005). Summary judgment is only appropriate if the pleadings and other supporting documents "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.

To determine whether a triable issue of fact exists, record evidence, and all inferences which can be reasonably drawn from said evidence, must be viewed in the light most favorable to the nonmoving party. *See Hancock v. Mid-South Mgmt. Co.*, 381 S.C 326, 329-330, 673 S.E.2d 801, 802 (2009). "If triable issues exist, those issues must go to the jury." *BPS, Inc.*, 362 S.C. at

325, 608 S.E.2d at 158 (citations omitted). Summary judgment is inappropriate "where further inquiry into the facts of the case is desirable to clarify the application of law." *Lord v. D & J Enterprises, Inc.*, 407 S.C. 544, 553, 757 S.E.2d 695, 699 (2014) (citation omitted). An inference that is not reasonable or an issue of fact that is not genuine are insufficient for summary judgment. *See Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023).

CONCLUSIONS OF LAW

I. Quantum Meruit/ Unjust Enrichment

Quantum meruit, an equitable doctrine, allows recovery under a quasi-contract theory for unjust enrichment. *See Stevens & Wilkinson of S.C., Inc. v. City of Columbia*, 409 S.C. 568, 583, 762 S.E.2d 696, 703 (2014). A quantum meruit claim requires the claimant to prove the following: (1) a benefit conferred upon the defendant by the plaintiff; (2) realization of that benefit by the defendant; and (3) retention by the defendant of the benefit under conditions that make it unjust for him to retain it without paying its value. *See id.* at 583, 762 S.E.2d at 704.

Record evidence is clear that Plaintiff conferred a benefit to Defendant when Plaintiff shipped the 875 Owl Devices to Defendant. Defendant is also using the Owl Devices to date. Defendant's assertion that they paid a fraudulent third-party vendor and that the district employee stole the funds used to pay for the Owl Devices does not negate that a material issue of fact exists as to whether Defendant's retention of the Owl Devices without paying Plaintiff the value of said devices is unjust under the circumstances.

In arguing that Summary Judgment should be granted, Defendant cited to *Cruz v. City of Columbia*, 443 S.C. 201, 208, 904 S.E.2d 451, 455 (2024), where the Supreme Court of South Carolina held that firefighters could not rely on verbal or written statements from city employees regarding their future healthcare benefits to support a promissory estoppel claim against the city

of Columbia because there was no evidence that the city employees had authority to bind the city on such matters. *See id.* at 205, 904 S.E.2d at 455. *Cruz,* however, is distinguishable because the firefighters knew the state employees didn't have authority to grant no cost health insurance for life. *See id.* at 207, 904 S.E.2d at 454. Here, Plaintiff did not know of the district employee's inherent lack of authority as asserted by Defendant.

Therefore, genuine issues of material fact issues for a jury to consider, and summary judgment on the Quantum Meruit claim is denied.

II. Breach of Contract

A breach of contract claim requires the claimant to prove the existence of the contract, its breach, and the damages caused by such breach. *See S. Glass & Plastics Co. v. Kemper*, 399 S.C. 483, 491, 732 S.E.2d 205, 209 (Ct. App. 2012). When a contract's existence is questioned and the evidence either conflicts or gives rise to more than one inference, the contract's existence becomes a question of fact for the jury. *See Sherman v. W & B Enters., Inc.*, 357 S.C. 243, 250, 592 S.E.2d 307, 310 (Ct. App. 2003)

An agency is a fiduciary relationship created when a principal manifests assent to the agent that the agent act on the principal's behalf, including the execution of contract, and subject to the principal control. *See Froneberger v. Smith*, 406 S.C. 37, 49, 748 S.E.2d 625, 631 (Ct. App. 2013). The existence of an agency is generally a question of fact, and if there are any facts tending to prove an agency relationship exists, then the question of an agency is one for the jury, and summary judgment is inappropriate. *See id.* at 49-50, 748 S.E.2d at 631.

Here, a genuine issue of material fact exists as to the existence and terms of Defendant's contract with Plaintiff for Defendant to purchase the Owl Devices. While Defendant contends that

it contracted with Level 8 to purchase the Owl Devices, Plaintiff's quantum meruit claim is based on the grounds that a quasi-contract exists between Plaintiff and Defendant.

Additionally, there are genuine issues of material fact as to whether Defendant authorized or ratified the district employee's conduct and whether Plaintiff reasonably relied on the district employee's authority to purchase the Owl Devices on behalf of Defendant. Record evidence contains various negotiations between Defendant's employees, including some from the district employee, prior to Defendant's final payment to Level 8, and when Defendant received the Owl Devices, Defendant had direct contact with Plaintiff regarding the setup of the Owl Devices.

Therefore, genuine issues of material fact issues for a jury to consider, and summary judgment on the Breach of Contract claim is denied.

III. Negligence and Negligent Supervision and Retention Claims

To recover under a negligence claim, the claimant must prove the following: (1) defendant owes a duty of care to the plaintiff, (2) defendant breached the duty by a negligent act or omission, (3) defendant's breach was the actual and proximate cause of the plaintiff's injury, and (4) plaintiff suffered an injury or damages. *See Andrade v. Johnson*, 356 S.C. 238, 245, 588 S.E.2d 588, 592 (2003).

Generally, a legal duty "may be created by statute, a contractual relationship, status, property interest, or some other special circumstance." *Johnson v. Jackson*, 401 S.C. 152, 160, 735 S.E.2d 664, 668 (Ct. App. 2012). However, a breach of a duty must arise independently of a contract provision in order to support a negligence action. *See Koontz v. Thomas*, 333 S.C. 702, 711, 511 S.E.2d 407, 412 (Ct. App. 1999) ("A breach of a duty which arises under the provisions of a contract between the parties must be redressed under contract, and a tort action will not lie"). It is only when the duty arises independently of the contract, such as from a special relationship

between the parties, that an action for negligence can be supported. *See Carroll v. Isle of Palms Pest Control, Inc.*, 441 S.C. 1, 12, 892 S.E.2d 161, 167 (Ct. App. 2023).

While Plaintiff alleges that Defendant failed to supervise or otherwise train their employees on how to approach the procurement of the Owl devices, Plaintiff's basis for asserting that Defendant owed any duties to Plaintiff solely arise from the claim that Plaintiff and Defendant entered into a contract. In fact, the only relationship between Plaintiff and Defendant arises from there being a contract for Defendant to purchase the Owl Devices from Plaintiff.

Due to the lack of a duty arising independently from a purported contract between the parties, Plaintiff's negligence claims cannot be supported under the circumstances and summary judgment must be granted on the two negligence claims.

IV. Plaintiff's Claim for Attorneys' Fees

Under the "American Rule," the parties to a lawsuit generally bear the responsibility of paying their own attorneys' fees, and such fees cannot be recovered unless authorized by contract or statute. *See Historic Charleston Holdings, LLC v. Mallon*, 381 S.C. 417, 436, 673 S.E.2d 448, 458 (2009), *citing, Jackson v. Speed*, 326 S.C. 289, 307, 486 S.E.2d 750, 760 (1997).

Here, there is no contract or statute that would permit the recovery of attorneys' fees, and therefore, Plaintiff is barred from such recovery.

While Plaintiff asserts that it can recover attorney's fees on the breach of contract claim based on a provision in a service contract received by the Plaintiff, the service contract was provided after the transaction at issue in this case and does concern recovery for attorney's fees regarding Plaintiff's delivery of the Owl Devices to Defendant.

Furthermore, the South Carolina Tort Claims Act explicitly limits recovery of attorneys' fees only as a sanction against opposing counsel for filing baseless pleadings or other papers. *See*

S.C. Code Ann. § 15-78-120(c); *see also Knoke v. S.C. Dep't of Parks, Recreation & Tourism*, 324 S.C. 136, 144, 478 S.E.2d 256, 260 (1996).

Because there is no contract or statute that would permit the recovery of attorneys' fees for Plaintiff, Plaintiff is barred from such recovery.

CONCLUSION

Upon consideration of the arguments by counsel, a review of the record, and a viewing of the evidence in the light most favorable to Plaintiff, I find summary judgment is DENIED for the Quantum Meruit claim and the Breach of Contract claim. However, summary judgment is GRANTED for the negligence claim, the negligent supervision and retention claim, and Plaintiff's request for attorney's fees.

IT IS SO ORDERED.

The Honorable Charles McCutchen

(*Signature Page to Follow*)

Orangeburg Common Pleas

Case Caption: Owl Labs, Inc. VS Orangeburg County School District

Case Number: 2024CP3800640

Type: Order/Other

IT IS SO ORDERED

Charles J. McCutchen