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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS

THE HONORABLE PERRY H. GRAVELY, CIRCUIT COURT JUDGE

Appellate Case No. 2025-00366
Circuit Court Case No. 2022-CP-23-04055

Stacey Grist as Agent under a Power of Attorney for Stanford W. Grist and as Trustee of the Second Amended Trust of Stanford W. Grist living Trust dated December 5, 2005, Stanford Grist Veterinary Services, LLC, Chestnut Ridge Farm, LLC, and Hilly Street, LLC,... Appellants,

v.

Priscilla Mickie Grist, Caroline York Grist Lyon, Leyland H. Lyon, Jr., Jennifer Browning, Browning Geriatrics Consulting, LLC, Tracy Parson, Kiki’s Kare, LLC d/b/a Comfort Keepers, Erin Couchell Individually and as a member of Kiki’s Kare, Chris Couchell Individually and as a member of Kiki’s Kare, LLC, and Kerry Burnett McCreary, Defendants

Of which Jennifer Browning, Browning Geriatrics Consulting, LLC, Tracy Parsons, Kiki’s Kare d/b/a Comfort Keepers, Erin Couchell Individually and as a member of Kiki’s Kare, Chris Couchell Individually and as a member of Kiki’s Kare, LLC are the, Respondents.

**INITIAL BRIEF OF RESPONDENTS KIKI’S KARE D/B/A COMFORT KEEPERS,
ERIN COUCHELL INDIVIDUALLY AND AS A MEMBER OF KIKI’S KARE AND
CHRIS COUCHELL INDIVIDUALLY AND AS A MEMBER OF KIKI’S KARE, LLC**

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September 4, 2025

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STATEMENT OF THE ISSUES ON APPEAL

1. It was proper for the Circuit Court to Grant Comfort Keepers' Motion for Summary Judgment.
2. Was All Necessary Discovery was Completed; therefore, Comfort Keepers' Motion for Summary Judgment was Ripe.

STATEMENT OF THE CASE

This appeal arises from the granting of summary judgment in favor of three different Respondents, Jennifer Browning and Browning Geriatrics Consulting, LLC (hereinafter "Browning"); Tracy Parsons (hereinafter "Parsons"); and Kiki's Kare d/b/a Comfort Keepers, Erin Couchell Individually and as a member of Kiki's Kare, and Chris Couchell Individually and as a member of Kiki's Kare, LLC (hereinafter "Comfort Keepers"). The underlying case stems from Stacey Grist bringing an action in Greenville County Circuit Court against Browning, Parsons, Comfort Keepers, as well as other parties¹ concerning the care and treatment of her father Dr. Stanford W. Grist.

There have been several iterations of this lawsuit filed in Greenville County Court of Common Pleas, Greenville County Probate Court, and United States District Court, Greenville Division.² It is part of a long-running and expansive litigation campaign initiated by Stacey Grist stemming from the probate court's appointment of a guardian and guardian *ad litem* for Dr. Grist in connection with a July 2020 determination that Dr. Grist was incapacitated.

¹ Priscilla Mickie Grist, Carolina York Grist Lyon, Leyland H. Lyon, Jr., and Kerry Burnett McCreary were the other Defendants in the State Court Action, but are not part of this appeal.

² Comfort Keepers asks that the Court take judicial notice of facts regarding the court proceedings. Rule 201, SCRE. (See **Exhibit 1**, Chart of Cases) "A court can take judicial notice of its own records, files [,] and proceedings for all proper purposes including facts established in its records." *Freeman v. McBee*, 290 S.C. 490, 313 S.E.2d 325 (Ct. App. 1984.) "It is not error for a judge to take judicial notice of what was stated in [a] former opinion in [a] prior action of the same case. "*Id.*

The instant appeal surrounds the granting of summary judgment to Browning, Parsons, and Comfort Keepers as to all causes of action.³

FACTUAL HISTORY

This case has a long and tortured history, and several iterations of this case have been filed in the Greenville County Court of Common Pleas and Greenville County Probate Court. Dr. Stanford W. Grist was a prominent veterinarian in Greenville and formed a trust for his wife and children. Years later, Dr. Grist developed dementia and his competency was contested. A dispute grew between family member as to who was Dr. Grist's Power of Attorney, as well as the issue of the competency of Dr. Grist. Litigation ensued where the Probate Judge appointed a Temporary Guardian and Guardian Ad Litem.

On July 20, 2020, Comfort Keepers was selected as the 24-7 caregiver by the Court Appointed Guardian Ad Litem for Dr. Stanford Grist, when Browning contacted Christopher Couchell, principal of Comfort Keepers, and asked Couchell if Comfort Keepers would be willing to provide 24-7 around the clock care for Dr. Grist. Comfort Keepers began providing care for Dr. Grist on September 8, 2020, and provided care to Dr. Grist until June 28, 2022, when Dr. Grist was admitted to the hospital with dementia related issues. On August 8, 2022, when Dr. Grist was being released from the hospital, it was recommended by Browning and Parsons for Christopher Couchell and Comfort Keepers have two caregivers for Dr. Grist 24-7. Mr. Couchell told Browning and Parsons he did not know if Comfort Keepers had that capacity.

There is no question that Stacey Grist is no stranger and apparently is in favor of vexatious litigation. (*See Stacey Grist v. Jennifer Browning, et al.*, 2022-GC-23-0014) and *Stacey Grist v.*

³ There is a South Carolina Unfair Trades Practices Act claim left against Comfort Keepers. However, it has been stayed by the Circuit Court until the instant appeal is resolved.

Jennifer Browning, et al., C.A. No.: 6:24-cv-03853-BHH). On May 17, 2024, Stacey Grist through her counsel, sent letters to Christopher Couchell and sixteen others falsely asserting that Mr. Couchell and others participated in a racketeering scheme to defraud Stacey Grist and Dr. Grist's Estate.⁴ Around May 24, 2024, five South Carolina lawyers and one South Carolina Judge filed five separate lawsuits against Paul Hulsey, Cherie Durand, Kimberly Thomason, Devon Puriefoy, Desa Ballard, Stacey Grist and others, alleging libel and libel *per se* causes action, stemming from the publication of the May 17, 2024, letter. *See Rabon v. Hulsey*, 2024-CP-23-03236, *Suggs v. Hulsey*, 2024-CP-23-03258, *Jennings v. Hulsey*, 2024-CP-23-03271, *Plaxco v. Hulsey*, 2024-CP-23-03329, and *Browning v. Hulsey*, 2024-CP-23-03740.

PROCEDURAL HISTORY

On August 1, 2022, Grist filed a Summons and Complaint in this matter against Comfort Keepers, Chris Couchell, and Erin Couchell, as well as other defendants in the Greenville County Court of Common Pleas. See Compl. On August 15, 2022, Grist filed an Amended Summons and Complaint adding two additional causes of action, Negligent Hiring and Violation of Power of Attorney Act against all Defendants. See Amended Compl. On January 24, 2024, Grist filed a Second Amended Summons and Complaint adding two additional causes of action, Negligence/Gross Negligence, and Disinheritance. See Second Amended Compl.

On May 22, 2024, Comfort Keepers and The Couchells filed a Motion to Sever several causes of action, which The Honorable G.D. Morgan Granted on August 9, 2024. See Motion to Sever and Judge G.D. Morgan's Form 4 Order Granting Motion to Sever.

⁴ Comfort Keepers will happily provide a copy of this letter to the court in camera, but since this letter has spurred five different libel suits, are hesitant to include it in a public filing.

On September 9, 2024 Comfort Keepers and The Couchells filed a Motion for Summary Judgment, asking the Greenville County Court of Common Pleas to dismiss the remaining causes of action against Comfort Keepers and The Couchells as there was no issue of material fact. See Comfort Keepers and the Couchells Motion for Summary Judgment and Memorandum in Support. The Motion for Summary Judgment was heard by The Honorable Perry Gravely heard on October 16, 2024. Judge Gravely granted Comfort Keepers and The Couchells Summary Judgment on January 6, 2025. See Order Granting Comfort Keepers and The Couchells’ Motion for Summary Judgment. On January 13, 2025, Comfort Keepers and The Couchells’ filed a Motion for Reconsideration seeking clarification of Judge Gravely’s Order as it pertained to Judge Morgan’s Order granting Comfort Keepers and The Couchell’s Motion to Sever. See Comfort Keepers and The Couchells Motion for Reconsideration. On January 29, 2025, Judge Gravely filed a Form 4 Order addressing the issues as it pertains to his Order Granting Summary Judgment and Judge Morgan’s Order granting Comfort Keepers’ and The Couchells’ Motion to Sever. See Judge Gravely’s Order on the issues Comfort Keepers and The Couchells sought clarification. Appellant’s subsequent Motion to Alter and Amend was denied. See Order Denying Motion to Alter and Amend. This appeal followed by filing of a notice of appeal on February 27, 2025.

STANDARD OF REVIEW

Appellate courts review a trial court’s granting of summary judgment de novo. David v. McLeod Reg’l Med. Ctr., 367 S.C. 242, 247, 626 S.E.2d 1, 3 (2006). (“When reviewing an order granting summary judgment, the appellate court applies the same standard as the trial court.”) Summary judgment is appropriate where “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), SCRPC.

Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial.

Regions Bank v. Schmauch, 354 S.C. 648, 660, 582 S.E.2d 432, 438 (Ct. App. 2003).

A fact is “material,” for summary judgment purposes, if it might affect the outcome of the suit under the governing law. See Hupp v. Cook, 931 F.3d 307 (4th Cir. 2019) (interpreting Federal Rules of Civil Procedure equivalent of Rule 56, SCRCF); see also Salmonsens v. CGD, Inc., 377 S.C. 442, 661 S.E.2d 81 (2008) (noting that interpretations of the Federal Rules of Civil Procedure are instructive in interpreting their South Carolina counterparts); S.C. Tax Com'n v. Union Cty. Treasurer, 295 S.C. 257, 368 S.E.2d 72 (Ct. App. 1988) (the same).

The plain language of Rule 56(c), SCRCF, mandates the entry of summary judgment 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. See Bray v. Marathon Corp., 347 S.C. 189, 533 S.E.2d 477 (Ct. App. 2001). “[W]hen plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.” Moore v. Barony House Restaurant, LLC, 382 S.C. 35, 40, 674 S.E.2d 500, 503 (Ct. App. 2009)

In Kitchen Planners, LLC v. Friedman, the Supreme Court of South Carolina handed down an opinion, clarifying the applicable standard for motions for summary judgment under Rule 56, SCRCF. The Court rejected the “mere scintilla” standard and restored Rule 56(c)'s plainly stated standard “requiring the party opposing the motion show a ‘reasonable inference’ to be drawn from the evidence.” Kitchen Planners, LLC v. Friedman, 440 S.C. 456, 460, 892 S.E.2d 297, 300 (2023).

Ultimately, The Supreme Court of South Carolina opined,

We now clarify 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. As we stated in Town of Hollywood v. Floyd, “it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.” 403 S.C. at 477, 744 S.E.2d at 166. To the extent what we said in Hancock is inconsistent with our decision today, Hancock is overruled.

Id. at 461 and 301.

This Court reviews whether the Circuit Court erred in finding additional discovery unnecessary for summary judgment under an abuse of discretion standard. See Robertson v. First Union Nat’l Bank, 350 S.C. 339, 347, 565 S.E.2d 309, 343 (Ct. App. 2002) (finding “no abuse of discretion in the trial court’s finding that discovery was complete for the purposes of summary judgment”.); Bayle v. S.C. Dep’t of Trans., 344 S.C. 115, 128, 542 S.E.2d 736, 742 (Ct. App. 2001) (“The rulings of a trial judge in matters involving discovery will not be disturbed on appeal absent a clear showing of an abuse of discretion.”).

AUGUMENT

I. It was Proper for The Circuit Court to Grant Comfort Keepers’ Motion for Summary Judgment.

Appellant’s convoluted argument as to why Comfort Keepers should not have been granted summary judgment is flawed on many levels. It appears Appellant has issue with the Circuit Court reasoning of why a rouge employee of Comfort Keepers does not impute negligence to Comfort Keepers. The Circuit Court did not focus on whether the conduct of Kerry McCreary was negligent, it focused on whether the conduct of McCreary was foreseeable to her employer Comfort Keepers, which is the appropriate test as to determine whether McCreary’s conduct should be imputed to Comfort Keepers. Judge Gravely’s well-reasoned January 6, 2025 Order Granting Comfort Keepers Summary Judgment explains this succinctly. “It is not sufficient for a

party to create an inference that is not reasonable or an issue of fact that is not genuine.” Town of Hollywood v. Floyd, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013).

One example Appellant tried to advance at the trial court level as to her negligence claims against Comfort Keepers and Couchells was that Comfort Keepers and Couchells overprescribed medications. Appellant failed to submit any evidence that Comfort Keepers, Couchells or their agents, employees, over prescribed medications to *any* client, much less to Dr. Grist. Chris Couchell testified in his deposition and an affidavit submitted in support of his Motion for Summary Judgment that Comfort Keepers is not a physician, hospital, or pharmacy. See Couchell Dep. 25-32 and Affidavit of Chris Couchell. Appellant presented no evidence in support of her allegations of over prescribing medications. “A party opposing a properly supported motion for summary judgment may not rest on the mere allegations or denials of the pleading, but must set forth or point to specific facts showing there is an issue of material fact. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986).

Appellant has alleged that Comfort Keepers, as employer of Kerri McCreary, was negligent, grossly negligent, negligent in hiring, negligent in training, and negligent in supervising Dr. Grist. For the reasons set forth below, the Circuit Court was well reasoned and rational in explaining while Comfort Keepers is not liable for Kerri McCreary’s conduct.

The record clearly reflects Comfort Keepers was alerted to a possible allegation of sexual abuse performed by Kerri McCreary on Dr. Grist on or about May 25, 2021. See Comfort Keepers case notes pg. 19 and Affidavit of Chris Couchell. According to the record, Tracy Parsons advised Comfort Keepers that Stacey Grist had reported that her father told her that he had a sexual encounter with Kerri McCreary. See Comfort Keepers case notes pg. 19. The same day, Comfort

Keepers immediately removed McCreary from Dr. Grist's shift and started an investigation. See Comfort Keepers case notes pg. 19.

On May 27, 2021, Kerri McCreary was brought into Comfort Keepers office for questioning about Stacey Grist's allegation of a sexual encounter. See Comfort Keepers case notes pg. 19. Three Comfort Keepers employees were present at the meeting. See Comfort Keepers case notes pg. 19. At this meeting, McCreary described the various instances of inappropriate conduct involving her and Dr. Grist. See Comfort Keepers case notes pg. 19. There is no evidence that Comfort Keepers had any knowledge of McCreary's conduct prior to her admission on May 27, 2021. The same day Comfort Keepers fired her and reported the incident to DHEC and the Greenville County Sherriff's Office. See Comfort Keepers Case Notes pgs. 19 and 21 and Affidavit of Chris Couchell.

The Circuit Court properly found that Appellant failed to provide any evidence that Comfort Keepers or the Couchells were negligent, grossly negligent, negligent in hiring, negligent in training, or were negligent in supervising Kerry McCreary. See Order Granting Comfort Keepers Motion for Summary Judgment. The Circuit Court's rationale in coming to the conclusion it did was looking at the procedures Comfort Keepers followed pre-employment before making the decision to hire Kerri McCreary. Comfort Keepers: 1) Required Kerri McCreary to fill out an application. 2) Contacted her previous employers to conduct a background check; and 3) Verified her references. The Circuit Court determined this method of verifying McCreary's past was a perfectly acceptable hiring criteria. While McCreary's actions after being hired was not desirable for Comfort Keepers, or any other employer, it does not subject Comfort Keepers or The Couchells to any civil liability under the law.

The Circuit Court appropriately analogized Comfort Keepers scenario with the case of Jenkins v. CEC Entertainment Inc., 421 F.Supp.3d 257 (2019). In Jenkins, a Plaintiff, attempted to sue tortfeasor employer CEC Entertainment under a negligent hiring theory, among others. In regards to the negligent hiring theories, the Jenkins court determined, “[W]here an employer knew or should have known that its employment of a specific person created an undue risk of harm to the public, a plaintiff may claim that the employer was itself negligent in hiring, supervising, or training...the employee.” James v. Kelly Trucking Co., 377 S.C. 628, 661 S.E.2d 329, 330 (2008). “Negligence hiring cases ‘generally turn on two fundamental elements – knowledge of the employer and foreseeability of harm to third parties.’” Kase v. Ebert, 392 S.C. 57, 707 S.E.2d 456, 459 (2011). (quoting Doe v. ATC, Inc., 367 S.C. 199, 624 S.E.2d 447, 450 (2005)). The issue of an employer’s knowledge concerning the employer’s awareness that the employment of a specific individual created a risk of harm to the public.” Holcombe v. Helena Chemical Co., 238 F. Supp. 3d 767, 770 (D.S.C. February 23, 2017) (quoting Williams v. Preiss—Wal Pat III, LLC, 17 F. Supp. 3d 528, 538 (D.S.C. 2014). As for foreseeability, while it “is usually an issue of fact, ‘the court should dispose of the matter on a dispositive motion when no reasonable factfinder could find risk foreseeable or the employer’s conduct to have fallen below the acceptable standard. Kase, 707 S.E.2d at 459. The claim of negligent supervision also hinges on foreseeability. “An employer owns a duty of care to a third party when the possible harm resulting to the third party by the employee could have been reasonably anticipated by the employer.” Rickborn v. Liberty Life Ins. Co., 321 S.C. 291, 468 S.E.2d 292, 299 (1996). See Holcombe, 238 F. Supp. 3d at 772 (recognizing that “although some South Carolina cases mention intentional harm as an element of negligent supervision claims, other do not,” and explaining that the “unifying feature of the latter line of cases is that the employee caused the harm while acting within the scope of his employment.”).

As Judge Gravely correctly pointed out, Comfort Keepers did not have the requisite knowledge and lacked the foreseeability requirements as outlined in Jenkins and Kelly Trucking in knowing that McCreary would be involved in a sexual relationship with a client. Furthermore, it is inarguable that McCreary was acting outside the scope of her employment, and her actions cannot bind Comfort Keepers or The Couchells for her conduct. “South Carolina courts have specifically considered whether an employee was acting within the scope of his employment when he commits a sexual assault. In all four cases, South Carolina courts have found that that the sexual advances were outside the scope of employment.”) (citing Frazier v. Bager, 361 S.C. 94, 603 S.E.2d 587 (2004); Doe v. S.C. State Budget & Control Bd., 329 S.C. 214, 494 S.E.2d 469 (Ct. App. 1997); Loadholt v. S.C. State Budget & Control Bd., 339 S.C. 165, 528 S.E.2d 670 (Ct. App. 2000); Padgett v. S.C. Ins. Reserve Fund, 340 S.C. 250, 531 S.E.2d 305 (Ct. App. 2000).

Appellant has not shown any issue of material fact that Comfort Keepers and The Couchells were negligent in handling the employment and termination of McCreary. Furthermore, Appellant’s brief does not indicate one shred of evidence which should make this Court think otherwise. Appellant’s brief contains false and improper innuendos such as “... Respondent Couchell knew just how lucrative a Jennifer Browning/Tracy Parsons appointment could be.” App. Brief at p. 26. Appellant knows first-hand how expensive around the 24-7 around the clock health care is, and also knows Comfort Keepers actually charged Dr. Grist less than it normally charges patients.

Appellant’s discussion concerning subsequent remedial measures to prove liability and their reliance on Reiland v. Southland Equip. Serv., 330 S.C. 617, 500 S.E.2d 145 (Ct. App. 1998) is confusing and misplaced. In Reiland, this Court explained subsequent remedial measures in the context of a repair of a forklift after Reiland was injured in a workplace accident. At issue in the

case was whether it was proper to allow a repair invoice into evidence which showed the forklift was repaired after the accident where Reiland was injured. This scenario is hardly analogous to Comfort Keepers finding about McCreary's sexual relationship with Dr. Grist, calling her into their office, interviewing her, deciding to terminate her and reporting the crime to DHEC and the Greenville County Sherriff Office. Most notably, one situation was criminal and the other one was not.

Another intellectually dishonest and deficient point Appellant states is: "Respondent Comfort Keepers take [sic] the position that the guardianship was not fraudulent because Dr. Grist was in fact incapacitated – despite the record clearly refuting this – yet in the same breath argue that despite a determination that Dr. Grist cannot work or make any decisions on his own behalf, he was capable of electing to engage in sexual activities with a woman decades his junior that was tasked with "caring" for him." App. Brief at 28. These type of statements have been the modius operandi of Appellant since the inception of this litigation. Statements are made not grounded in fact or reality and when called on it, she cannot put forward one shred of evidence showing what she said is accurate. See argument of Comfort Keepers over prescribing medications *supra*. Furthermore, Appellant makes the exact same argument that she accuses Comfort Keepers, albeit, incorrectly of making: "Dr. Grist was deemed incapacitated when he was not, was held against his will, was of sound mind, then all of the sudden when the sexual encounter occurred with McCreary, Dr. Grist was incapacitated, unable to handle his affairs, and was an invalid.

Comfort Keepers takes no position on the guardianship of Dr. Grist. Like Comfort Keepers' position when it was accused of over prescribing medications to Dr. Grist, Comfort Keepers is not a physician, hospital, or pharmacy. Comfort Keepers is also not a probate lawyer, a probate judge or Guardian ad Litem, it is a home health company.

Appellant's flawed logic and disorganized reasoning does not give rise to a genuine issue of material fact as to any purported negligence on behalf of Comfort Keepers. When Appellate states: "When question [sic] about the level of training Defendant McCreary received surrounding "sexual abuse" her response was "...we watched a movie thing..." App. Brief at p. 28. A more accurate and honorable act should have been for Appellant to write McCreary's complete answer so it would not have been taken out of context.

Q: Okay. Do you recall receiving any training specifically as it relates to the seven types of abuse that are listed here? It's physical, sexual, emotional, neglect, abandonment, financial, and self-neglect. Do you recall receiving any sort of training from Comfort Keepers on those seven types of abuse?

A: We did – we watched the movie thing, and then we did the paperwork, the test. I don't know what was on that thing. I remember watching it. I remember doing the paperwork, and I finished it.

Q: Do you recall if there was a certain score you had to get to pass that test?

A: I'm not sure.

Q: Did they tell you what would happen if you failed the test?

A: No.

Q: Did you understand that if you didn't pass the test that you wouldn't be employed by them?

A: I don't remember that.

Q: But you did pass the test?

A: Well, I'm sure.

Q: Well, I'm asking do you recall passing the test?

A: I'm assuming that I did. I don't know. I don't. I didn't do the paperwork. They did the paperwork.

[Depo. of Defendant McCreary p. 29 line 3 – pg. 30 line 1]

Other than deposing McCreary, Appellant has not brought forward, developed, sought, showed, displayed one shred of evidence that Comfort Keepers negligently trained its employees. The record in this matter is completely empty in regards to this issue. South Carolina has not recognized a stand-alone action for negligent training. “Negligent training is merely a specific negligent supervision theory by another name.” See Holcombe v. Helena Chemical Co., 238 F.Supp.3d 767, 772 (D.S.C. 2017) (citing Gainey v. Kingston Plantation, No. 4:06-3373-RHB, 2008 WL 706916, at *7 n.4 (D.S.C. Mar. 14, 2008) (“It does not appear that South Carolina recognizes a claim for negligent training separate and apart from one for negligent supervision.”)). Accordingly, for all of the reasons previously set forth herein above, Appellant’s negligent training claim must be dismissed.

II. All Necessary Discovery was Completed; therefore, Comfort Keepers’ Motion for Summary Judgment was Ripe.

“The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). Summary judgment is a drastic remedy and must not be granted until the opposing party has had a full and fair opportunity to complete discovery. Baughman v. American Tel and Tel Co., 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991). Nonetheless, the nonmoving party must demonstrate the likelihood that further discovery will uncover additional relevant evidence and that the party is “not merely engaged in a ‘fishing expedition’”. Id. at 112, 544. In Dawkins v. Fields, 354 S.C. 58, 71, 580 S.E.2d 433, 439-40 (2003), the South Carolina Supreme Court rejected Dawkins’ argument that summary judgment was premature because they did not have a full and fair opportunity to conduct discovery. “A party claiming summary judgment is premature because they have not been provided a full and fair opportunity to conduct discovery must advance a good

reason why the time was insufficient under the facts of the case, and why further discovery would uncover additional relevant evidence and create a genuine issue of material fact.” *Id.* at 71 and 439-40.

Appellant filed her initial complaint on August 1, 2022. Respondents summary judgment hearings occurred October 16, 2024. *Twenty-six months* elapsed and is more than ample time to conduct discovery. Granted, Appellant and Appellant’s counsel made getting to this issue as complicated as possible, but it was complication caused solely by Appellant, and her counsel, and no one else.

Appellant served a proper Notice of Deposition on Tracy Parsons on February 27, 2024 for the deposition to take place on May 22, 2024. See Notice of Deposition of Tracy Parsons Inexplicably, and inexplicably is too soft of a word, Appellant by and through Appellant’s counsel and attorneys Paul Hulseley and Cherie Durand, wrote letters to various individuals and entities including Tracy Parsons, Jennifer Browning, Comfort Keepers, and Christopher Couchell accusing each and others for violations of the Organized Crime Control Act of 1970. Pub.L.No. 91-452, Title IX, “Racketeer Influenced and Corrupt Organizations Act” (“RICO”) (Codified at 18 U.S.C. §§ 1961-1968) along with common law claims.⁵

Respondent’s counsel filed an Order of Protection, not wanting to subject Parsons to two depositions and Appellant’s counsel filed a Motion to Stay the State Court proceeding. Both Motions appeared before the Honorable G.D. Morgan, Jr. who heard the Motion to Stay the State Court Proceeding. After the Motion to Stay the State Court proceeding, Judge Morgan decided to

⁵ Christopher Couchell and Comfort Keepers were named in three of these RICO cases: Grist v. Jennifer Browning, 6:24-cv-3853-BHH (Motion to Dismiss Granted by the Honorable Bruce H. Hendricks 6/24/25); Michalski v. Fred (Trey) Suggs, III, 6:24-cv-04820-BHH Motion to Dismiss Granted by the Honorable Bruce H. Hendricks 7/31/25); and Miniard v. Jennifer Browning, 6:24-cv-04132-BHH Motion to Dismiss Granted by the Honorable Bruce H. Hendricks 7/30/25). Parsons was a Defendant in Grist and Michalski.

take his ruling under advisement. See August 9, 2024 Order. On September 11, 2024, Judge Morgan denied Appellant's Motion to Stay the State Court proceeding.

Ms. Parsons' deposition was served with a Notice of Deposition on October 9, 2024 by counsel for one of the Respondents. See Second Notice of Deposition of Tracy Parsons. Appellant's counsel never objected to the deposition and appeared at the deposition. All represented parties were able to ask questions if counsel desired, at no time did anyone tell Appellant's counsel that he was not allowed to ask questions, nor was there an record objection one the record of the deposition being conducted Appellant's counsel had the opportunity to ask questions he chose not to. It is improper now for Appellant to state he did not have the opportunity to question Ms. Parsons when every lawyer in the deposition knows that is not the case. In the mind of the undersigned, it would be a manifest injustice for this Court to determine Appellant has not had ample opportunity to conduct discovery.

CONCLUSION

For the foregoing reasons, the Circuit Court's order granting Comfort Keepers and The Couchells motion for summary judgment should be affirmed in all respects.

Respectfully Submitted,

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September 4, 2025