STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF GREENVILLE	)	**THE THIRTEENTH JUDICIAL CIRCUIT**
Kathryn Corbett Hallman and Mark Kevin Hart, as Co-Personal Representative of the Estate of Emanuel Addison Hart,	)	**Civil Action No.: 2024CP2304370**
Plaintiffs,	)	
v.	)	**ORDER GRANTING SUMMARY JUDGMENT TO 7-ELEVEN, INC.**
7-Eleven, Inc., Greer Bowling Corporation, d/b/a Peach Bowl Lanes,	)	
Defendants.	)	

On July 30, 2025, this matter came before the Court for a hearing on Defendant 7-Eleven, Inc.'s Motion for Summary Judgment. Mark Tinsley, Esq. appeared for the Plaintiffs and Ryan C. Holt, Esq. appeared for the Defendant. Based on the Court's review of the file, submissions by the parties, deposition excerpts, the case law, and oral arguments, the Court GRANTS the Defendant's motion.

FINDINGS OF FACT

This case arises out of a car accident that occurred on the early morning of August 14, 2021. A car driven by Emmanuel Addison Hart, containing four friends and acquaintances as passengers, clipped the back of another vehicle (causing minor property damage) and careened into a field. Dep. Billings 8:12-17; 76:11-18. The passengers survived with varying, non-life threatening injuries. Dep. Billings 13:20—14:13. Hart was killed.

Hart possessed two fake driver's licenses, a photograph of which was reviewed by the Court. He was known to use a fake ID. Dep. Lewis 34:20-24. In the early morning hours of

August 14, 2021, Hart and a friend drove to a 7-Eleven store[1] where he presented identification[2] and purchased packaged alcohol. Dep. Lewis 52:2-11. He returned to his home where friends were waiting. Dep. Lewis 62:13-24. He provided the alcohol to his friends, none of whom were age 21. Hart also consumed alcohol himself. He then invited his friends for a drive while under the influence of alcohol. Dep. Billings 62:8-24. He also significantly exceeded the speed limit at more than 100 miles per hour, while loud music was playing in the car. *Id.*, 67:5-15. Hart was told multiple times to slow down but he pressed on. *Id.*, 66:19-22. Then, he struck the other vehicle and crashed in a field. *Id.*, 66:22-23.

SUMMARY JUDGMENT STANDARD

The purpose of summary judgment is to expedite the 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 proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *USAA Property and Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 653, 661 S.E.2d 791, 796 (2008). In determining whether summary judgment is appropriate, the evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party. *Baughman v. American Telephone and Telegraph Company*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). However, when "plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted." *Clegg*, at 653-654, 377 S.E.2d at 653 (*quoting Ellis v. Davidson*, 358 S.C. 509, 518, 595 S.E.2d 817, 822 (Ct. App. 2004), overruled on other grounds).

[1] While 7-Eleven is a convenience store/gas station and not a "dram shop" as the term was traditionally understood, this case is generally one of "dram shop liability" as the phrase has come to be used.
[2] Plaintiff admits that Hart used a fake ID, alleging that 7-Eleven's negligence included "allowing Hart to use and accepting a means of identification that was fake and/or obviously not his own." Am. Compl. ¶17.

CONCLUSIONS OF LAW

I. The Plaintiffs' first party dram shop case is not recognized in South Carolina.

In South Carolina, an adult patron cannot maintain an action against the seller of alcohol for injuries sustained as a result of his own intoxication.

A. The Estate of Emmanuel Hart cannot recover for injuries to Hart as a result of his own intoxication.

The Estate contends that "Hart drank the alcohol he purchased from 7-Eleven and became intoxicated and/or increased his level of intoxication." Am. Compl. ¶19. The Estate further contends that he died as a result of this service of alcohol. Am. Compl. ¶25. This is therefore a *first party* dram shop case, which is not a recognized cause of action in South Carolina. Here follows a survey of the law in this area.

1. *Lydia v. Horton*, 355 S.C. 36, 583 S.E.2d 750 (2003)

A helpful summary of the history of first party dram shop claims in South Carolina is provided by the Supreme Court of South Carolina in *Lydia v. Horton*, 355 S.C. 36, 583 S.E.2d 750 (2003). While *Lydia* was a negligent entrustment case rather than a dram shop case, the Court engaged in an analysis of dram shop claims because "[t]he public policy considerations which govern our decision as to whether to allow civil suits based on negligent entrustment grow out of South Carolina's regulation of the sale of alcohol." *Id.* at 41. As the Court in *Lydia* explains:

> At common law in American courts, a tavern owner could not be held civilly liable for injuries caused by an over served, intoxicated patron. With the repeal of dram shop laws in all but 18 states, the majority of states did not impose liability upon tavern owners. In the 1950s, several state supreme courts began to develop a theory of tavern owner civil liability based on violations of state criminal statutes forbidding the serving of alcohol to intoxicated patrons.

> By 1987, 41 states had some form of tavern liability. South Carolina's General Assembly did not enact a dram shop law, but in 1985, the South Carolina Court of Appeals held that a bar owner's violation of the criminal statute forbidding service to intoxicated persons could support a civil suit against the bar for injuries caused by the intoxicated patron. *Christiansen v. Campbell,* 285 S.C. 164, 328 S.E.2d 351 (Ct.App.1985). In *Christiansen,* the plaintiff was struck by an automobile as he stepped off the curb in front of a bar where he had consumed a number of beers. The bar owner had continued to serve Christiansen after he became intoxicated. Christiansen sued the automobile driver and the bar owner. The Court of Appeals held that Christiansen had a private right of action against the bar owner based on the violation of a penal statute. The Court of Appeals found that the statute existed both to protect the public and to protect intoxicated persons. *Id.*
>
> **In *Tobias v. Sports Club, Inc.,* 332 S.C. 90, 504 S.E.2d 318 (1998), this Court expressly overruled *Christiansen* holding that we would not permit an intoxicated adult to bring a first party cause of action against a tavern proprietor predicated on a violation of the dram shop statutes.** This Court stated, "public policy is not served by allowing the intoxicated adult patron to maintain a suit for injuries which result from his own conduct." *Id.* at 90, 504 S.E.2d at 320. Our Court noted that its decision did not preclude a third party from bringing a cause of action under the statutes. *Id.* at 90, 504 S.E.2d at 319.
> . . . .

Lydia, 355 S.C. at 41–42 (footnotes omitted) (emphasis added). While the Supreme Court's explanation in *Lydia* thus settles the issue, a direct analysis of the landmark *Tobias* case that *Lydia* was interpreting is also appropriate.

2. *Tobias v. Sports Club, Inc.* 323 S.C. 345, 474 S.E.2d 450 (Ct. App. 1996)

In *Tobias v. Sports Club, Inc.*, 323 S.C. 345, 474 S.E.2d 450 (Ct. App. 1996), *aff'd as modified*, 332 S.C. 90, 504 S.E.2d 318 (1998), the South Carolina Court of Appeals reviewed a case involving claims brought against a hotel by a patron alleging he was injured in a car accident caused by his own intoxication after allegedly being overserved liquor at the hotel's bar. *See id.* at 347. The Court began its analysis by noting that while "[a]t common law, a tavern owner had no liability for serving alcohol to an intoxicated person who later injured himself or others," "[m]any jurisdictions … departed from this common law view" and enacted "dram shop

acts" that create civil liability for establishments in certain situations. *Id.* at 348. "In states where dram shop legislation has not been enacted," the Court explained, "some courts have imposed liability on vendors of alcoholic beverages using principles of negligence, often basing a private cause of action on the violation of beverage control statutes." *Id.* at 349. Under the Court of Appeals' prior *Christiansen* decision, "South Carolina is among those jurisdictions that have recognized a civil cause of action based upon the violation of a penal statute." *Id.* at 350.

The specific question before the Court of Appeals in *Tobias* was whether to allow a defendant in a dram shop action to assert the defenses of contributory negligence and assumption of the risk. *Id.* at 346. In evaluating this issue, the Court reviewed the public policy considerations at play because "[s]ince this cause of action was judicially created in South Carolina, we have no statutory guidance on the class of persons who may recover or on the availability of defenses." *Id.* at 351. Because this was a *first party* dram shop action brought under *Christiansen*, the Court began its public policy analysis by noting that "[i]n many states where such a cause of action is statutorily authorized, the dram shop act or cases interpreting it have specifically precluded the intoxicated person from that class of plaintiffs who may bring suit," and that "[i]n addition, many courts in jurisdictions with penal statutes, including most of those relied upon by the Court in *Christiansen,* have precluded first party recovery." *Id.* (footnotes omitted).

Describing other jurisdictions allowing dram shop defendants to raise the defenses of contributory or comparative negligence and assumption of the risk, the Court noted that "[t]hese courts have held that voluntary intoxication is a self-indulgent act and a person who voluntarily consumes alcohol to the point of intoxication is at the very least partially responsible for his injuries." *Id.* at 354 (citation omitted).

The South Carolina Court of Appeals concluded its analysis by stating that "a rule which allows an intoxicated individual to hold a tavern owner liable without regard to his own actions in continuing to consume alcohol promotes irresponsibility and rewards drunk driving," and that "[g]iven a choice between a rule that fosters individual responsibility and one that forsakes personal accountability, we opt for personal agency over dependency and embrace individual autonomy over paternalism." *Id.* at 356 (citation and quotation omitted).

3. *Tobias v. Sports Club, Inc.*, 332 S.C. 90, 504 S.E.2d 318 (1998)

The plaintiff in *Tobias* appealed the Court of Appeals' decision to the Supreme Court, which granted certiorari "to consider the Court of Appeals' decision holding that the defenses of contributory negligence and assumption of the risk were available in a negligence suit brought by the intoxicated adult patron against the tavern owner who served him." *Tobias v. Sports Club, Inc.*, 332 S.C. 90, 91, 504 S.E.2d 318, 319 (1998). Reviewing the analysis of the Court of Appeals, the Supreme Court agreed with its opinion but went a step farther, holding that "[w]e now join the majority of jurisdictions that have addressed this issue, and hold that South Carolina does not recognize a 'first party' cause of action against the tavern owner by an intoxicated adult predicated on an alleged violation of S.C. Code Ann. §§ 61–5–30 and/or 61–9–410 (1990)." *Id.* at 91. The Supreme Court thus "overrule[d] *Christiansen v. Campbell*... and its progeny to the extent they recognize a first party action, but explicitly retain the right of injured third parties to maintain a negligence suit against the tavern owner based on a violation of these statutes." *Id.* at 92. It accordingly affirmed the opinion of the Court of Appeals in *Tobias* as modified. *Id.*

In overruling *Christiansen*'s creation of a first party cause of action against a dram shop, the Supreme Court reviewed the *Christiansen* opinion and agreed with *Christiansen*'s finding that the "purpose [of statutes preventing the knowing sale of alcohol to an intoxicated person] is

to promote public safety, and to prevent an already intoxicated person from becoming even more intoxicated, and thus an even greater risk to the public at large, when he leaves the establishment," but it disagreed with *Christiansen*'s finding that "another of the statutory purposes was to protect the intoxicated person from their own incompetence and helplessness." *Id.* at 92 (citation omitted). Disagreeing with this second conclusion of *Christiansen*, the Supreme Court thus found intoxicated adult patrons to be outside the class of persons the statutes were designed to protect, and "h[e]ld that public policy is not served by allowing the intoxicated adult patron to maintain a suit for injuries which result from his own conduct." *Id.* at 92.

As the Supreme Court further expounded the public policy basis for its decision,

> Imposing liability on a tavern owner for continuing to serve an intoxicated person who later injures others serves public policy by imposing upon the tavern owner a duty to use judgment and discretion. We do not believe that the owner will exercise this judgment and discretion less prudently if he risks a law suit only when the intoxicated person injures others. The decision to refuse to serve alcoholic beverages, beer or wine to an intoxicated patron will be unaffected by our decision today. In overruling *Christiansen,* we join other jurisdictions that have refused to allow intoxicated persons to maintain a first party action against a tavern owner based on alleged violations of statutes imposing criminal penalties for the sale of alcoholic beverages to an intoxicated adult.

Id. at 92–93 (collecting cases).

B. The Court's preclusion of first party claims bars this lawsuit by the Plaintiffs.

There is no factual question as to Emmanuel Hart's age. His father testified that Emmanuel was nineteen years of age when he passed away. Dep. Mark Hart 12:1-6. The only question is a legal one, i.e. whether Emmanuel Hart was an adult at the time of his death as understood by the case law. References in state law to "minor" mean eighteen years of age, with the exception of "laws relating to the sale of alcoholic beverages." S.C. Code Ann. 15-1-320(a). However, the issue before this Court is not whether Hart was too young to consume or buy

alcohol—that he was (S.C. CODE ANN. 61-4-580(A)(1))—but whether he or his estate could bring suit for injuries resulting from doing so.

As explained in the legal survey of Section I.A., *supra*, the repeated policy considerations for barring first party recovery were related to personal responsibility.[3] A person of 19 years, such as Emmanuel Hart, is "deemed sui juris and endowed with full legal rights and responsibilities." S.C. CONST. Art. XVII, § 14. Again, although the Constitution goes on to permit the General Assembly to restrict the *sale* of alcohol to a 19-year-old, there is no suggestion that he is incapable of exercising personal responsibility. He would himself be subject to prosecution for crimes, liability for torts, and selective service. He would have the right to vote, the privilege of operating a motor vehicle, and the right to enter into contracts.

The question is not whether Emmanuel Hart had the right to buy or consume alcohol, but whether he was of sufficient age to maturely decide whether to purchase alcohol illegally, consume it illegally, and drive under its influence illegally. Our criminal code answers in the affirmative:

> (A) It is unlawful for a person under the age of twenty-one to purchase, attempt to purchase, consume, or knowingly possess beer.... A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than two hundred dollars or must be imprisoned for not more than thirty days, or both.

S.C. Code Ann. 63-19-2440(A). Had he lived, Emmanuel Hart could have been prosecuted for his consumption of alcohol. Therefore, the law recognizes him as capable of taking responsibility for his decisions. And the same policy reasons that bar a 21-year-old from filing a first party dram shop case inform why a 19-year-old should not be permitted to file a first party dram shop case. This Court follows the Court of Appeals in its view that "a rule which allows an intoxicated

[3] See *Tobias*, 323 S.C. at 356 (Ct. App. 1996) ("Given a choice between a rule that fosters individual responsibility and one that forsakes personal accountability, we opt for personal agency over dependency and embrace individual autonomy over paternalism." (citation omitted)).

individual to hold a tavern owner liable without regard to his own actions in continuing to consume alcohol promotes irresponsibility and rewards drunk driving." *Tobias*, 323 S.C. at 356 (Ct. App. 1996). Such a rule would be no less counterintuitive in the case of a 19-year-old.

C. First party causes of action by minors do not exist in South Carolina.

Although *Tobias*' explicit preclusion of first party actions by adults is sufficient to bar the Estate's claims against the Defendant, grounds for summary judgment exist even if Hart must be considered a "minor" for purposes of bringing a dram shop action. The fact that the Supreme Court has left "for another day the issue whether [South Carolina] will recognize a first party action brought by a minor"[4] means that no such cause of action has been recognized. Though it may *one day* be recognized or considered by the Supreme Court, that day has not yet come.

As the *Lydia* Court explained, at common law, there was no liability for a seller of alcohol to those injured by an intoxicated person. 355 S.C. at 41–42. Later, criminal statutes concerning the sale of alcohol were used by the courts to create a cause of action. *Id.*

> Unlike many states, South Carolina does not have specific dram shop statute. Elsewhere, private rights of action have been recognized where the legislature has explicitly created a cause of action due to public policy concerns; however, a court can also find private rights of action if it determines the statute implies that result. This is the path that has heretofore been followed in South Carolina. For example, in 1990, the court of appeals decided *Daley v. Ward*, wherein an injured motorist had been awarded a verdict in a suit against a bar and its allegedly overserved patron. Although the South Carolina statute proscribing the sale of beer or wine to any person while in an intoxicated condition did not specifically create a private right of action, the court determined the General Assembly had intended to do so.

Denson v. Nat'l Cas. Co., 439 S.C. 142, 156–57, 886 S.E.2d 228, 235–36 (2023), citing Daley v. Ward, 303 S.C. 81, 84, 399 S.E.2d 13, 15 (Ct. App. 1990).

[4] *Tobias*, 332 S.C. at 93 (Sup. Ct. 1998)

The *Tobias* courts did three things:

1. Explicitly recognized a cause of action against taverns by third-parties injured as a result of an intoxicated patron. *Tobias*, 332 S.C. at 93 (Sup. Ct. 1998) ("our alcohol control statutes do … permit a third party action.")

2. Explicitly refused to recognize a cause of action for a first party tavern patron injured by his own intoxication. *Id.* ("our alcohol control statutes do not create a first party cause of action for an intoxicated adult patron ….")

3. Explicitly refused to address the question of whether South Carolina recognizes a first party action for a minor. *Id.* ("We leave for another day the issue whether we will recognize a first party action brought by a minor.")

Therefore, the question is, what effect does *Tobias*' refusal (Number 3, *supra*) have upon this Court? If the Supreme Court has left "for another day" the question of whether it will recognize a minor first party action, it follows that it has not yet recognized such an action. This language is quite different from that used by *Tobias* to preserve the rights of third-parties to make these claims. On one hand, the *Tobias* court "explicitly retain[ed] the right of injured third parties to maintain a negligence suit against the tavern owner based on a violation of these statutes." *Tobias*, at 92 (Sup. Ct. 1998). In the same opinion, it left "for another day" the question of whether it would recognize a minor first action. *Id.*, at 93. This of course means that if Hart was a minor, there is no ground for relief upon which the Plaintiffs can proceed in this matter because it has not yet been recognized.

The Court has considered several cases presented by Plaintiffs' counsel at the motion hearing: *Jamison v. The Pantry, Inc.*, 301 S.C. 443 (Ct. App. 1990); *Norton v. Opening Break of Aiken, Inc.*, 313 S.C. 508 (Ct. App. 1994); *Norton v. Opening Break of Aiken, Inc.*, 319 S.C. 469 (1995); *Marcum v. Bowden*, 372 S.C. 452 (2007); *Whitlaw v. Kroger Co.*, 306 S.C. 51 (1991); and *Steele v. Rogers*, 306 S.C. 546 (Ct. App. 1992). None of these cases, by their language, authority, or timing, are sufficient to override the Supreme Court's leaving for another day the

recognition of a first party minor dram shop action against a commercial seller of alcohol. In not one of these cases was the *purchaser* of alcohol also the *claimant*, as in the case *sub judice*, where Hart was simultaneously the alcohol purchaser and claimant (through his Estate).[5]

Dram shop liability did not exist at common law. *See Lydia*, *supra*. South Carolina has no dram shop statute. *Id.* Therefore, any cause of action must be created by the Supreme Court, which has explicitly left the issue for another day. If there is no cause of action upon which relief can be granted, this Court is constrained to grant summary judgment in this case.

II. The sole reasonable inference from the facts in the record show the negligence of the Plaintiffs' decedent exceeds fifty percent.

Assuming arguendo that Plaintiff has stated a recognized cause of action, the only possible inference that can be made is that the negligence of Emmanuel Hart in causing the accident of August 14, 2021 exceeded fifty percent. Like its predecessor doctrine of contributory negligence[6], the doctrine of comparative negligence is based on the principle that every person has the duty to "exercise ordinary care for his own safety." *Stone v. Barnes*, 248 S.C. 28, 35 (1966); see also *Carroll v. Wilson*, 255 S.C. 536, 542 (1971) ("due care and precaution for his own safety"). The record in this matter shows that Hart's own negligence, indeed his own intentional conduct, was the sole cause of his accident.

"In a comparative negligence case, the trial court should only determine judgment as a matter of law if the sole reasonable inference which may be drawn from the evidence is that the plaintiff's negligence exceeded fifty percent." *Bloom v. Ravorira*, 339 S.C. 417, 422, 529 S.E.2d

[5] The *Marcum* case is concerned with social host liability, which is not at issue here. 372 S.C. 452 (2007).
[6] The doctrine of comparative negligence replaced the harsher rule of contributory negligence by allowing a plaintiff to recover—even if he is contributorily negligent—his actual damages reduced by his proportion of causal contributory negligence, as long as his own contributory negligence does not exceed defendant's negligence. *Brown v. Smalls*, 325 S.C. 547, 559 (Ct. App. 1997); *Hurd v. Williamsburg Cty.*, 353 S.C. 596, 615 (Ct. App. 2003), aff'd, 363 S.C. 421 (2005).

710, 713 (2000) (*citing Creech v. South Carolina Wildlife and Marine Resources Dep't*, 328 S.C. 24, 491 S.E.2d 571 (1997); *Hopson v. Clary*, 321 S.C. 312, 468 S.E.2d 305 (Ct. App. 1996)).

When making a determination as a matter of law whether a plaintiff was more than fifty percent negligent, the evidence must be viewed in a light most favorable to the plaintiff. *Griffin v. Griffin*, 282 S.C. 288, 293, 318 S.E.2d 24, 28 (Ct. App. 1984) (*citing Clawson v. City of Sumter*, 247 S.C. 499, 148 S.E.2d 350 (1966); 57 Am.Jur.2d *Negligence* § 297 at 696 (1971)). However, when the evidence only leads to one possible conclusion, the Court must find as a matter of law the plaintiff's own negligence forecloses him from recovery. *Id.* (*citing Gray v. Barnes*, 244 S.C. 454, 137 S.E.2d 594 (1964); *Green v. Bolen*, 237 S.C. 1, 115, S.E.2d 667 (1960)).

The case need not be sent to the jury in the absence of uncertainty. *Id.* (*citing Rogers v. Atlantic Coast Line R. Co.*, 222 S.C. 66, 71 S.E.2d 585 (1952); 65A C.J.S. *Negligence* § 255(1) at 854 (1966)). A determination that comparative negligence exceeds 50% as a matter of law is appropriate when it is conclusive that "beyond a reasonable inference to the contrary that the danger" was so "obvious, imminent, and threatening that a reasonably prudent person" would not have engaged in that course of action. *Id.* (*quoting Rose v. Missouri District Telegraph Co.*, 328 Mo. 1009, 43 S.W2d 562, 568, 81 A.L.R. 400 (1931)).

In *Bloom v. Ravoira*, Bloom's lawsuit arose from a car-versus-pedestrian collision in downtown Charleston, South Carolina. 339 S.C. 417, 529 S.E.2d 710 (2000). Bloom was struck by Ravoira's car when he (Bloom) stepped out into Meeting Street traffic. *Id.*, 339 S.C. at 419-420, 529 S.E.2d at 711. The trial court found that, even if the defendant was negligent in some respects, no reasonable jury could conclude that defendant was more negligent than the plaintiff in causing the collision, and therefore summary judgment was appropriate. *Id.* at 421, 529

S.E.2d at 412. The Court of Appeals reversed the trial court, but the Supreme Court reinstated the trial court's ruling via published opinion. *Id.* at 419, 529 S.E.2d at 711. In so doing, the Supreme Court set forth several principles related to the doctrine of comparative negligence as a matter of law:

- "Under South Carolina's doctrine of comparative negligence, a plaintiff may only recover damages if his own negligence is not greater than that of the defendant." *Id.* at 422, 529 S.E.2d at 712-713 (citing *Nelson v. Concrete Supply Co.*, 303 S.C. 243, 399 S.E.2d 783 (1991)).
- "Ordinarily, comparison of the plaintiff's negligence with that of the defendant is a question of fact for the jury to decide." *Id.* at 422, 529 S.E.2d at 713 (citing *Creech v. South Carolina Wildlife and Marine Resources Dep't*, 328 S.C. 24, 32, 491 S.E.2d 571, 575 (1997)).
- "In a comparative negligence case, the trial court should only determine judgment as a matter of law if the sole reasonable inference which may be drawn from the evidence is that the plaintiff's negligence exceeded fifty percent." *Id.* (citing *Creech*, *supra*).
- Even though on a motion for summary judgment the facts must be considered in the light most favorable to the non-moving party, "[n]onetheless, a 'court cannot ignore facts unfavorable to that party and it must determine whether a verdict for the party opposing the motion would reasonably be possible under the facts." *Id.* (quoting *Hopson v. Clary*, 321 S.C. 312, 314, 468 S.E.2d 305, 307 (Ct. App. 1996)).
- "Where evidence of the plaintiff's *greater* negligence is overwhelming, evidence of slight negligence on the part of the defendant is simply not enough for a case to go to the jury. *Id.* at 424, 529 S.E.2d at 713.

In *Gosnell v. South Carolina Dept. of Highways and Public Transp.*, the plaintiff in that case brought suit after he ran into the back of a road grader. 282 S.C. 526, 528, 320 S.E.2d 454, 455 (Ct. App. 1984). The plaintiff stated he "did not *recall* observing 'speed reduction' or 'road work' signs warning motorists of the road repair operation" before colliding with the road grader. *Id.* at 529, 320 S.E.2d at 455. However, eyewitnesses and the facts in the record established there were signs and warnings present at the construction site. *Id.* at 529-530, 320 S.E.2d at 455-456. In that case, the Court of Appeals held that the plaintiff not recalling seeing

any warnings of the construction project did not "give rise to a *reasonable* inference" of negligence by the construction company. *Id.* at 533, 320 S.E.2d at 457-458 (emphasis original).

In this case, Plaintiffs' decedent has unequivocally surpassed the threshold for his own actions to reach the level of obvious, imminent and threatening danger. As a matter of law, only one possible conclusion can be drawn from Hart's own actions: that he was so negligent, grossly negligent, careless, reckless, and wanton in his: (1) acquisition of two fake ID's; (2) defrauding the store clerk by presenting his fake ID; (3) purchasing alcohol while under the age of 21; (4) consuming alcohol while under the age of 21; (5) driving while intoxicated; (6) greatly exceeding the speed limit; and (7) striking a vehicle leading to a crash.

The South Carolina Law Enforcement Division recovered not one but two fake driver licenses from the body of Emmanuel Hart after his death. It is undisputed that Hart presented his identification to the 7-Eleven cashier. It is also undisputed that Hart successfully acquired alcohol from 7-Eleven, after presenting his identification. Hart then consumed the alcohol. He drove his vehicle while under the influence of alcohol. He also did so while driving at excessive speeds. *See* S.C. CODE ANN. 56-5-1520(A). And then he crashed his vehicle in violation of the laws of this State.

The facts in this case are clear and provide certainty of only one conclusion—that as a matter of law, Plaintiffs' decedent, through his own actions, was so exceedingly negligent that his own contributions to the accident so far outweigh any alleged negligence, if any, on behalf of the Defendant.

IT IS THEREFORE ORDERED THAT summary judgment is granted on behalf of Defendant 7-Eleven, Inc.

IT IS SO ORDERED.

THE HONORABLE PATRICK C. FANT, III
Presiding Circuit Judge

Greenville, South Carolina
August _____, 2025

Greenville Common Pleas

Case Caption: Kathryn Corbett Hallman , plaintiff, et al vs. 7 Eleven Inc , defendant, et al

Case Number: 2024CP2304370

Type: Order/Other

So Ordered

Patrick C. Fant, III