

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

13 OCT -9 PM 3:49

Catherine Virginia Cox

JEANETTE ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Plaintiff,

vs.

Kenneth L. Pinckney, Sr. and Stacy Marie St. Pierre,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2012-CP-07-03182

ORDER GRANTING STACY MARIE ST. PIERRE'S MOTION FOR SUMMARY JUDGMENT

This matter came before the Court for a hearing on Defendant Stacy Marie St. Pierre's motion for summary judgment on Monday, September 30, 2013 at the Beaufort County Courthouse. Present at the hearing were Kimberly Smith, Esquire of Moss, Kuhn and Fleming for the Plaintiff and Adam Neil, Esquire of Murphy and Grantland for Defendant St. Pierre. After reviewing the submissions of parties, hearing the arguments of counsel and considering the law of this state, the Court grants St. Pierre's motion for summary judgment.

This action arises out of a motor vehicle accident that occurred on July 11, 2012 when a vehicle operated by Kenneth Pinckney collided with a vehicle operated by Plaintiff Catherine Cox. Stacy Marie St. Pierre owned the vehicle driven by Pinckney and Plaintiff has alleged a cause of action against her for negligent entrustment. There is no evidence in the record that Pinkney was under the influence of any intoxicants at the time of the accident or that St. Pierre had any reason to know that Pinkney had a propensity to drive while intoxicated. Counsel for the plaintiff conceded at the hearing that Plaintiff had no such evidence. In fact, in response to Requests to Admit served upon her by counsel for St. Pierre, Plaintiff only asserts that Pinckney was operating his vehicle without a license or under a suspended license. There is likewise no

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evidence that Pinckney was addicted to intoxicants, that St. Pierre had any knowledge of prior drug use by Pinckney or that Pinckney had a propensity to operate a vehicle while intoxicated.

On several occasions our Supreme Court has instructed that the elements of negligent entrustment are:

(1) knowledge of or knowledge imputable to the owner that the driver was either addicted to intoxicants or had the habit of drinking; (2) the owner knew or had imputable knowledge that the driver was likely to drive while intoxicated; and (3) under these circumstances, the entrustment of a vehicle by the owner to such a driver.

Gadson ex rel. Gadson v. ECO Services of South Carolina, Inc., 374 S.C. 171, 648 S.E.2d 585 (2007) (citing *Jackson v. Price*, 288 S.C. 377, 342 S.E.2d 628 (Ct. App. 1986)).


On two occasions, the Supreme Court has reversed the Court of Appeals, which adopted a broader view of negligent entrustment, which is found in The Restatement (Second) of Torts §§ 308 and 390 (1965). The Restatement's definition of negligent entrustment encompasses not only intoxicated drivers, but drivers who, due to their "youth, inexperience, or otherwise" are likely to use the vehicle in a manner involving unreasonable risk of harm to themselves or others. See *Lydia v. Horton*, 343 S.C. 376, 383-85, 540 S.E.2d 102, 106-07 (Ct. App. 2000), *reversed*, 355 S.C. 36, 583 S.E.2d 750 (2003); *Gadson ex rel. Gadson v. ECO Services of South Carolina, Inc.*, Op. No. 2005-UP-130, n.4 (S.C. Ct. App. Feb. 18, 2005), *reversed*, 374 S.C. 171, 648 S.E.2d 585 (2007). In both cases, the Supreme Court reversed the Court of Appeals and expressly declined to adopt sections 308 and 390. *Lydia*, 355 S.C. at 40, n.2, 583 S.E.2d at 753 ("[W]e decline to adopt the Comment or sections 308 and 390 of the Restatement based on these facts presented."); *Gadson*, 374 S.C. at 177, 648 S.E.2d at 588 ("We decline to adopt sections 308 and 390 of the Restatement based on this set of facts, and we analyze this case under the elements of negligent entrustment set forth in *Jackson*.")

Plaintiff bears the burden of proving each element of her cause of action. The evidence presented was all considered in the light most favorable to the Plaintiff. However, the court was not presented with any evidence that indicating that Pinckney was intoxicated on the night of the accident, that Pinckney was addicted to intoxicants, that St. Pierre knew that Pinckney was addicted to intoxicants, or that St. Pierre knew that Pinckney was likely to drive a vehicle while intoxicated. Because Plaintiff bears the burden at the summary judgment stage of producing some evidence to support these necessary elements and she has failed to do so, St. Pierre is entitled to judgment as a matter of law that she did not negligently entrust the vehicle to Pinckney.

For the foregoing reasons, Defendant St. Pierre's motion for summary judgment is hereby **GRANTED.**

IT IS SO ORDERED.

Oct 4, 2013
Florence, South Carolina


The Hon. D. Craig Brown, Presiding Judge
Fourteenth Judicial Circuit

DCB p. 3013

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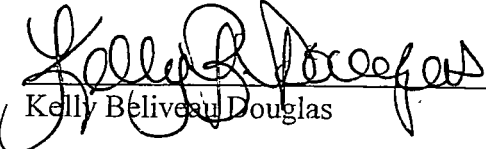
CERTIFICATE OF SERVICE

13 OCT 09 PM 3:49
BEAUFURTO COUNTY, S.C.
CLERK OF COURT

I, the undersigned employee of the law offices of Murphy & Grantland, P.A., Attorneys for Defendant, Stacy Marie St. Pierre, do hereby certify that I have served a copy of the foregoing, Order Granting Stacy Marie St. Pierre's Motion for Summary Judgment, in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

James H. Moss, Esquire
Moss, Kuhn & Fleming, P.A.
Post Office Drawer 507
Beaufort, SC 29901-0507

Columbia, South Carolina
October 7, 2013


Kelly Béliveau Douglas