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SC Court of Appeals

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	NINTH JUDICIAL CIRCUIT
	)	
SHAUNISE NELSON,	)	CASE NO. 2025-CP-08-01090
	)	
Plaintiff,	)	
	)	
vs.	)	<b>ORDER GRANTING DEFENDANT</b>
	)	<b>HOOK &amp; BOOK RECOVERY SC,</b>
	)	<b>LLC’S MOTION FOR SUMMARY</b>
ALLY FINANCIAL, INC., HERBIE’S	)	<b>JUDGMENT</b>
TOWING SERVICE, and HOOK &	)	
BOOK RECOVERY SC, LLC,	)	
	)	
Defendants.	)	

This matter came before the Court on December 16, 2025, on Defendant Hook & Book Recovery SC, LLC’s (“Hook & Book”) Motion for Summary Judgment. After careful consideration of court filings, arguments of counsel, and the applicable law, the Court grants Hook & Book’s Motion for Summary Judgment on all causes of action asserted by Plaintiff Shaunise Nelson (“Plaintiff”). In light of the Court’s rulings on the claims addressed below, Plaintiff’s claim for a declaratory judgment is denied as moot.

**FACTUAL BACKGROUND**

On or about June 12, 2020, Plaintiff executed a Retail Installment Sales Contract (the “Sales Contract”) with Marietta Luxury Motors (“Seller”) whereby Plaintiff purchased a 2017 Mercedes-Benz C300, VIN No.: WDDDF4KB3HR252918 (the “Subject Vehicle”).<sup>1</sup> Pursuant to the Sales Contract, the Seller assigned its rights and interest therein to Ally Financial, Inc., which

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<sup>1</sup> Hook & Book is not a party to the Sales Contract and was not involved in the purchase, sale, or financing of the Subject Vehicle. These facts are derived from Defendant Ally Bank’s Motion for Summary Judgment and Exhibits that further support the Court’s specific findings of fact regarding each party’s rights and remedies pursuant to the terms of the Sales Contract. This Court likewise granted Ally Bank’s motion for summary judgment as well. To the extent necessary, that Order is incorporated by reference with this Order.

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thereafter assigned its rights and interests under the Sales Contract to Defendant Ally Bank (“Ally”).

Plaintiff failed to pay the requisite monthly payments pursuant to the Sales Contract for October and November of 2024, placing her in default on the terms of the Sales Contract. *See n. 1.* Plaintiff thereafter failed to cure the overdue balance owed for the Subject Vehicle and pursuant to terms of the Sales Contract.

On April 1, 2025, Ally, by extension of a third-party, issued to Hook & Book an order to repossess the Subject Vehicle. That same day, Hook & Book towed and repossessed the Subject Vehicle on Ally’s behalf while Plaintiff was at the gym. *See* Plt.’s Am. Compl. at ¶¶ 7-9. It is uncontested that the Plaintiff was not present when the repossession occurred. *Id.*

#### **STANDARD OF REVIEW**

Summary judgment is appropriate where “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 judgment as a matter of law.” Rule 56, SCRCP. “In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party.” Koester v. Carolina Rental Ctr., Inc., 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994). However, “[i]t is not sufficient [to defeat a motion for summary judgment] that one create an inference which is not reasonable or an issue of fact that is not genuine.” Shuler v. Tuomey Reg’l Med. Ctr., 313 S.C. 225, 227, 437 S.E.2d 128, 130 (Ct. App. 1993). “In order to resist a motion for summary judgment, the non-moving party must come forward with specific facts showing genuine issues necessitating trial.” NationsBank v. Scott Farm, 320 S.C. 299, 303, 565 S.E.2d 98, 100 (Ct. App. 1995).

In Kitchen Planners, LLC v. Friedman, the Supreme Court of South Carolina clarified the standard for summary judgment and held that “the ‘mere scintilla’ standard does not apply under [SCRC] 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). If Plaintiff fails to establish a genuine issue of material fact, then the Defendant is entitled to summary judgment as a matter of law. Id. at 464, 892 S.E.2d at 302.

### **LEGAL ANALYSIS**

In the Amended Complaint, filed on April 3, 2025, Plaintiff asserted causes of action against Hook & Book for: (1) Wrongful Repossession under S.C. Code and UCC Provisions; (2) Conversion; and (3) Negligent Infliction of Emotional Distress. Each cause of action is addressed in turn with specific findings of fact that support granting summary judgment.

Pursuant to S.C. Code Ann. § 36-6-609(a)(2), a secured party may take possession of the collateral without judicial process, if it proceeds without breach of the peace. Here, the Court finds that Hook & Book did not commit a breach of the peace because Plaintiff was not present at the site of the repossession when it occurred on April 1, 2025. *See* Plt.’s Am. Compl. at ¶¶ 7-9; *see also* Jordan v. Citizens and Southern Nat. Bank of South Carolina, 278 S.C. 449, 452, 298 S.E.2d 213, 214 (1982) (affirming summary judgment and holding that “the breach of the peace as contemplated by the statute and our cases refers to conduct at or near and/or incident to the seizure of the property”).

Conversion is “the unauthorized assumption and exercise of the rights of ownership over goods or personal chattels belonging to another, to the alteration of their condition or the exclusion of the rights of the owner.” Mullis v. Trident Emergency Physicians, 352 S.C. 503, 507, 570 S.E.2d 549, 550 (Ct. App. 2002). Because she was in default on the terms of the Sales Contract and failed

to cure the default, Plaintiff had no present right to possession of the subject vehicle when it was repossessed by Hook & Book on behalf of Ally Bank. The Court finds that Hook & Book did not commit an act of conversion when it repossessed the Subject Vehicle with lawful authorization for the very reasons set forth in this Court's Order granting Ally Bank's Motion for Summary Judgment.

"The cause of action for the negligent infliction of emotional distress is limited to the bystander context." *K.S. by and through Seeger v. Richland School District Two*, 445 S.C. 111, 119, 912 S.E.2d 240, 244 (2025). To succeed on a claim for negligent infliction of emotional distress, a Plaintiff must prove the following elements: (1) the negligence of the defendant must cause death or serious physical injury to another; (2) the plaintiff bystander must be in close proximity to the accident; (3) the plaintiff and victim must be closely related; (4) the plaintiff must contemporaneously perceive the accident; and (5) the emotional distress must both manifest itself by physical symptoms capable of objective diagnosis and be established by expert testimony. *See Kinard v. Augusta Sash & Door Co.*, 286 S.C. 579, 582-83, 336 S.E.2d 465, 467 (1985). As stated regarding the breach of peace issue, Plaintiff was not a bystander to the act of repossession by Hook & Book. Further, no death or physical injury occurred here. The Court finds that Plaintiff's claim for negligent infliction of emotional distress must fail as a matter of law.

### **CONCLUSION**

After careful consideration of the pleadings and other documents filed with this Court, memoranda submitted by the parties, and oral arguments of counsel, this Court finds no genuine issues of material fact regarding Hook & Book's lawful and authorized repossession of Plaintiff's Subject Vehicle and whether it breached the peace during that act of repossession. Applying the

above case law to the findings of fact herein, summary judgment is hereby granted to Defendant Hook & Book Recovery SC, LLC.<sup>2</sup>

IT IS, THEREFORE, ORDERED that Defendant Hook & Book Recovery SC, LLC's Motion for Summary Judgment is GRANTED as to all causes of action asserted against it by Plaintiff, with all parties bearing their own fees and costs.

s/\_\_\_\_\_  
Hon. Thomas J. Rode  
Presiding Judge  
Ninth Judicial Circuit

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<sup>2</sup> Although the caption references Herbie's Towing Service, the record establishes Hook & Book is the entity which towed and stored the Subject Vehicle. Further, while this Court is cognizant of the latitude often granted to a *pro se* plaintiff, the Court may not hold a *pro se* litigant to a standard which differs from that applied to attorneys. See Hill v. Dotts, 345 S.C. 304, 310, 547 S.E.2d 894, 897 (Ct. App. 2001).



Berkeley Common Pleas

**Case Caption:** Shaunise A Nelson VS Ally Financial Inc. , defendant, et al

**Case Number:** 2025CP0801090

**Type:** Order/Summary Judgment

So Ordered

s/ T.J. Rode (#2792)