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SC Court of Appeals

**IN THE STATE OF SOUTH CAROLINA
COURT OF APPEALS**

APPELLATE CASE NO.: 2025-002179

**CRISTA LINARES GRAINGER, as
Personal Representative of the Estate of
Sebastian Linares Grainger,**

Appellant,

v.

**UBER TECHNOLOGIES, INC., RAISER
LLC, and JESSE MCNEAL**

Defendants,

**of which UBER TECHNOLOGIES, INC.
and RASIER, LLC are**

Respondents.

Appeal from Charleston County Court of Common Pleas, Honorable Thomas. J. Rode, Presiding
Civil Action Case No.: 2020-CP-10-01553

FINAL APPELLANT'S BRIEF

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STATEMENT OF ISSUES ON APPEAL

I. Did the Circuit Court erroneously find that a reasonable person would not foresee the circumstances surrounding Appellant's death as a natural probable consequence of Uber's failure to investigate rider feedback of driver marijuana use?

STATEMENT OF THE CASE

This is an appeal from the Circuit Court's grant of summary judgment to the Defendants Uber Technologies, Inc. and Raiser, LLC ("Uber") on Plaintiff's claim for wrongful death.

Sebastian Grainger tragically died on April 4, 2017, after consuming heroin provided by Jesse McNeal ("McNeal"), a driver Sebastian met while using the Uber app for a ride. Plaintiff, Crista Linares Grainger, as Personal Representative of the Estate of Sebastian Linares Grainger, brought this suit against Uber and McNeal, alleging wrongful death, negligent hiring and supervision. (ROA. 013-020).

Before discovery was completed, on October 29, 2024, Uber filed a motion for summary judgment on the grounds that Plaintiff cannot establish liability against Uber under any individual theory of negligence. (ROA. 057-058). During discovery, it was revealed that Uber had received reports on several occasions from other riders that McNeal's car smelled like marijuana, but Uber failed to investigate (ROA. 401). A hearing on Defendant's Motion was held August 26, 2025. The Court entered its Order granting Defendant's Motion for Summary Judgement on September 22, 2025, erroneously finding that the connection between Uber's failure to investigate

reports of marijuana use and Sebastian's death is too attenuated and thus, as a matter of law, Uber's actions are not the proximate cause of Sebastian's death. (ROA. 008).

STATEMENT OF FACTS

This is a tragic story of a customer that had the misfortune of meeting an Uber driver who was not only addicted to drugs, but who also took advantage of his employment with Uber to sell drugs to Uber's customers.

On March 21, 2017, Sebastian Grainger (Decedent), a Citadel Graduate and member of the National Guard who had just applied for officer candidate school (ROA. 115), requested a ride through his Uber App. Jesse McNeal (McNeal) was the Uber driver that picked up Sebastian for the ride he requested. During the ride, McNeal offered Sebastian cocaine and they exchanged phone numbers. McNeal provided Sebastian with more cocaine on another occasion and on April 4, McNeal supplied the Decedent with heroin. Unfortunately, the heroin was laced with fentanyl, which caused Sebastian's death.

In his sentencing statement, McNeal admitted that he was addicted to drugs. In an attempt to minimize his sentence, McNeal submitted to the Court that "at 31, his only drug conviction was possession of marijuana" (ROA. 225). Despite this, Uber takes the position that they had no responsibility to make sure its drivers do not use drugs or have drug convictions.

Uber prides itself in offering safe rides. It even advertises that “it will set the strictest safety standards possible and then work hard to improve them every day” and that it offers the “safest rides on the road.” Uber’s website states that **“Safety is fundamental to Uber. Our technology enables us to focus on rider safety before, during, and after every trip to help make millions of rides safer every day. Safety is our number one priority.”** (ROA. 257). Uber’s claims that the safety of its passengers is a priority is not just misleading to the public it is preposterous. Uber delegates the vetting of its drivers to a low-cost background check company, Chekr. Chekr’s system fails to discover information that would disqualify drivers from eligibility to provide ride services on platforms such as Uber; in some cases, Chekr fails to produce information which would disqualify someone from having a drivers’ license. Chekr is not used by most companies in the United States. (ROA. 258). Despite its purported safety measures, Uber ignored warnings about Chekr outsourcing the court reviews to third parties, even when these third parties warned Chekr that the reviews were incomplete and inaccurate. (ROA. 259). In keeping with its pattern of ignoring information relevant to the safety of its customers, Uber ignored the fact that even Chekr found information rendering Mr. McNeal a **Habitual Offender.** (ROA. 292-293).

Not only did Uber fail to vet its drivers properly, but it failed to supervise its drivers, and it failed to investigate reports of drug use (ROA. 240-241, 254, 268,

271, 278-279, 285-288, 362, 401, 414), which is in direct violation of the South Carolina Transportation Network Companies Act (TNC).

Uber's 30(b)(6) representative, Ben Carroll testified that there was "one complaint where weed was specifically called out" in McNeal's file (ROA. 401). This was the first time Uber disclosed such a fact, despite specific requests for production of McNeal's driver ratings. Upon learning of such complaint, Plaintiff demanded copies of all McNeal's ratings. On July 22, 2025, Uber finally produced McNeal's ratings, which, not surprisingly revealed more than one marijuana use complaint. The records revealed that Uber had ample knowledge of McNeal's drug use while using the Uber app (ROA. 404, 406-408). In an interval of five months, Uber received nine complaints about McNeal's car smelling like smoke, some specifically mentioning marijuana smoke, and some making it clear they were not referring to cigarette smoke:

1. On 10/18/15 an Uber Rider commented the following: "The car was smoky. my wife had to use her inhaler after getting out."
2. On 10/18/15 another Uber Rider commented the following: "His car smelled like weed."
3. On 8/8/15 car an Uber Rider commented the following: "The car smelled of smoke. Don't ride in it if you're dressed for a nice dinner."
4. On 6/14/15 an Uber Rider commented the following: "This was a smoky car."
5. On 6/5/15 an Uber Rider commented the following: "The car reeked of smoke. Gotta change that ASAP."
6. On 5/29/15 an Uber Rider commented the following: "Car had a smoke smell."
7. On 5/29/15 another Uber Rider commented the following: "Car had a little bit of a smoke smell."

8. On 5/23/15 an Uber Rider commented the following: "Car smelled of cigarettes and smoke."
9. On 5/9/15 an Uber Rider commented the following: "Car smelled of smoke and not cigarette."

Mr. Carroll testified that if Uber receives feedback that someone is driving under the influence, in violation of South Carolina law, Uber is **obligated** to remove that driver's access to the app **immediately**.

Ben Carroll 30(b)(6) Uber Technologies (ROA. 389)

- 12 Q. If -- so customer support makes the
- 13 determination of whether a driver's access to the
- 14 app should be revoked or not based on complaints?
- 15 MR. JONES: Object to the form.
- 16 A. I wouldn't say based on complaints, but
- 17 if we receive feedback, for example, that
- 18 someone's driving under the influence, **that's in**
- 19 **violation of South Carolina law around who can**
- 20 **access our platform, and we would have to remove**
- 21 **that person's access to the platform immediately.**

However, despite reports of marijuana use in his vehicle, Uber failed to investigate the reports, and it allowed a driver who it knew was violating South Carolina law to continue driving for two more years.

Uber's representative, Ben Carroll testified (ROA. 401):

- 7 Q. So Uber -- you -- is it your testimony
- 8 today that Uber does not know whether it
- 9 investigated the incident of Mr. McNeal's car
- 10 smelling like marijuana?
- 11 MR. JONES: Object to the form.

12 A. I haven't seen any kind of
13 communications related to that. I've only seen
14 the feedback that the rider left for Mr. McNeal
15 himself saying that the car smelled like weed.

(ROA. 401)

12 Q. Okay. Would being under the influence
13 of marijuana disqualify Mr. McNeal from using the
14 app?

15 MR. JONES: Object to the form.

16 A. Operating a vehicle under the influence
17 of marijuana would disqualify anyone in
18 South Carolina from using the app.

Clearly, had Uber followed its own procedures and complied with the South Carolina law, Sebastian would never have connected with McNeal through the Uber app. This is supported by the un rebutted expert opinion contained in the supplemental report, where Plaintiff's expert, Joe Rubino, opined that Mr. McNeal should have been off the road two years before he met Grainger.

ARGUMENT

Standard of Review

Because this is an appeal from the grant of summary judgment, it is governed by Rule 56(c) of the South Carolina Rules of Civil Procedure. *In re Estate of Hover*, 407 S.C. 194, 202, 754 S.E.2d 875, 879 (2014). "An appellate court reviews the granting of summary judgment under the same standard applied by the trial court pursuant to Rule 56, SCRCF." *Id. citing Brockbank v. Best Capital Corp.*, 341 S.C. 372, 379, 534 S.E.2d 688, 692 (2000). Summary judgment is only 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. *Pittman v. Grand Strand Entm't, Inc.*, 363 S.C. 531, 611 S.E.2d 922 (2005). In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Medical Univ. of South Carolina v. Arnaud*, 360 S.C. 615, 602 S.E.2d 747 (2004); *BPS, Inc. v. Worthy*, 362 S.C. 319, 608 S.E.2d 155 (Ct. App.2005). On appeal from an order granting summary judgment, the appellate court will review all ambiguities, conclusions, and inferences arising in and from the evidence in a light most favorable to the non-moving party. *Willis v. Wu*, 362 S.C. 146, 607 S.E.2d 63 (2004); *Schmidt v. Courtney*, 357 S.C. 310, 592 S.E.2d 326 (Ct.App.2003) (stating that all ambiguities, conclusions, and inferences arising from the evidence must be construed most strongly against the moving party). Because it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. *Miller v. Blumenthal Mills, Inc.*, 365 S.C. 204, 219–20, 616 S.E.2d 722, 729–30 (Ct. App. 2005) *citing* *Helena Chem. Co. v. Allianz Underwriters Ins. Co.*, 357 S.C. 631, 594 S.E.2d 455 (2004) and *Hawkins v. City of Greenville*, 358 S.C. 280, 594 S.E.2d 557 (Ct. App.2004).

- I. The lower court erroneously concluded that Uber's failure to investigate reports of drug use is not the proximate cause of Appellant's decedent.**

The question of proximate cause ordinarily is one of fact for the jury, and it may be resolved either by direct or circumstantial evidence. *Madison ex rel. Bryant v. Babcock Ctr., Inc.*, 371 S.C. 123, 147, 638 S.E.2d 650, 662 (2006)

In South Carolina, proximate cause requires proof of two distinct elements: causation in fact and legal cause, with foreseeability serving as the touchstone of the legal cause analysis. “Proximate cause requires proof of both causation in fact and legal cause.” *Bishop v. S.C. Dep't of Mental Health*, 331 S.C. 79, 88, 502 S.E.2d 78, 83 (1998) (citing *Oliver v. S.C. Dep't of Highways and Pub. Transp.*, 309 S.C. 313, 316, 422 S.E.2d 128, 130 (1992)); *Rush v. Blanchard*, 310 S.C. 375, 379, 426 S.E.2d 802, 804 (1993); *Thomas Sand Co. v. Colonial Pipeline Co.*, 349 S.C. 402, 408, 563 S.E.2d 109, 112 (Ct.App.2002). Causation in fact is proved by establishing the plaintiff's injury would not have occurred “but for” the defendant's action. *Bishop*, 331 S.C. at 88, 502 S.E.2d at 83 (citing *Oliver*, 309 S.C. at 316, 422 S.E.2d at 130; *Koester v. Carolina Rental Ctr., Inc.*, 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994)); *Rush*, 310 S.C. at 379, 426 S.E.2d at 804; *Thomas Sand Co.*, 349 S.C. at 408–409, 563 S.E.2d at 112. “Legal cause is proved by establishing foreseeability.” *Bishop*, 331 S.C. at 88, 502 S.E.2d at 83 (citing *279 *Koester*, 313 S.C. at 493, 443 S.E.2d at 394); *Oliver*, 309 S.C. at 316, 422 S.E.2d at 131; *Small v. Pioneer Mach., Inc.*, 329 S.C. 448, 463, 494 S.E.2d 835, 842 (Ct.App.1997).

“[L]egal cause is ordinarily a question of fact for the jury.” *Oliver*, 309 S.C. at 317, 422 S.E.2d at 131; *Hughes*, 269 S.C. at 399, 237 S.E.2d at 757 (stating it is generally for the jury to say whether defendant's action was a concurring, proximate cause of the plaintiff's injuries); *Thomas Sand Co.*, 349 S.C. at 409, 563 S.E.2d at 113; *Small*, 329 S.C. at 464, 494 S.E.2d at 843 (“Ordinarily, the question of proximate cause is one of fact for the jury and the trial judge's sole function regarding the issue is to inquire whether particular conclusions are the only reasonable inferences that can be drawn from the evidence.”). “In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon.” Rule 52(a), SCRPC. “Once referred, the master or special referee shall exercise all power and authority which a circuit judge sitting without a jury would have in a similar matter.” Rule 53(c), SCRPC. “Only when the evidence is susceptible to only one inference does it become a matter of law for the court.” *Oliver*, 309 S.C. at 317, 422 S.E.2d at 131; *Thomas Sand Co.*, 349 S.C. at 409, 563 S.E.2d at 113.

“The touchstone of proximate cause in South Carolina is foreseeability.” *Koester*, 313 S.C. at 493, 443 S.E.2d at 394 (citing *Young v. Tide Craft*, 270 S.C. 453, 462, 242 S.E.2d 671, 675 (1978)); *Small*, 329 S.C. at 463, 494 S.E.2d at 842. “Foreseeability is determined by looking to the natural and probable consequences

of the act complained of.” *Id.*; *Bishop*, 331 S.C. at 89, 502 S.E.2d at 83; *Oliver*, 309 S.C. at 316, 422 S.E.2d at 131; *Small*, 329 S.C. at 463, 494 S.E.2d at 842.

“The defendant may be held liable for anything which appears to have been a natural and probable consequence of his [actions].” *Bramlette v. Charter–Medical–Columbia*, 302 S.C. 68, 72, 393 S.E.2d 914, 916 (1990); *Greenville Mem’l Auditorium v. Martin*, 301 S.C. 242, 245, 391 S.E.2d 546, 548 (1990). “A plaintiff therefore proves legal cause by establishing the injury in question occurred as a natural and probable consequence of the defendant's act.” *Small*, 329 S.C. at 463, 494 S.E.2d at 843.

Here, there is no dispute that under the Transportation Network Companies Act (“TNC”), Uber shall not permit access to the app to a driver who “is under the influence of drugs or alcohol. Nothing in this section may be construed to require drug testing by a TNC of a TNC driver.” S.C. Code Ann. § 58-23-1650(F)(4)

Uber admits that it had a duty to remove McNeal’s access to the app once it received information of his drug use while using the app. Uber admits that it has no record of investigating the reports it received about McNeal. Uber cannot dispute that two years after it received reports of conduct that would **immediately** disqualify its driver from using the app, McNeal, with the aid of the Uber app, met Sebastian, provided drugs for Sebastian during the ride and further maintained contact with

Sebastian after the ride, for the purpose of selling drugs, which ultimately led to the catastrophic loss of Sebastian's life.

Whether McNeal sold the drugs while using the Uber app or not is not relevant. It was Uber that facilitated the connection between Sebastian and McNeal and but for Uber's failure to investigate the reports of drug use by McNeal, Sebastian would not have been in contact with McNeal. But for Uber violating its own procedures and South Carolina law, McNeal would not have been able to use the app; thus, that connection, which was facilitated by Uber could have not occurred.

Uber's attempt to use the self-serving testimony of its representative for the proposition that it has no obligation to protect the public, does nothing but create a question of fact as to whether Uber breached its duty of care and whether it failed to follow its own guidelines and comply with the applicable law.

Furthermore, it is not necessary for plaintiff to demonstrate that defendant should have foreseen the particular event which occurred, but, rather, merely that defendant should have foreseen that its negligence would probably cause injury to someone. *Parks v. Characters Night Club*, 345 S.C. 484, 548 S.E.2d 605 (Ct. App. 2001)

The lower court here erroneously held that:

“the causal chain is too attenuated and speculative to present a genuine issue of fact as to Uber's alleged supervision or retention of Defendant McNeal. Plaintiff alleges Uber failed to investigate rider feedback reporting smoke (potentially marijuana smoke) in Defendant McNeal's

vehicle in 2015. However, there is no evidence in the record to support a reasonable inference that such rider feedback makes it reasonably foreseeable to Uber that two years later, Defendant McNeal would have met a passenger, provided his personal phone number, and – undisputedly on his personal time – provided heroin, fentanyl, and painkillers to the Decedent.”

Like in *Parks*, Uber did not have to anticipate the sale of drugs and Sebastian’s death two years after it learned of McNeal’s use of marijuana while driving for Uber, but it merely had to anticipate that allowing McNeal to continue to provide rides while using drugs would probably cause injury to someone.

CONCLUSION

It is undisputed that Sebastian met McNeal through Uber because Uber failed to terminate McNeal’s access to the app after reports of his drug use in his vehicle. It is undisputed that the purpose of the Uber app is to bring rider and driver together (ROA. 250, 371). Therefore, it is undisputed that but for Uber’s failure to follow South Carolina law and its own policies and procedures, McNeal would not have been able to sell the drugs to Sebastian that caused his death. Accordingly, this court should reverse the grant of summary judgment and allow a jury to decide the issues of foreseeability and proximate cause.

Respectfully submitted,

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This 19th day of June 2026
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