

RECEIVED

Jun 19 2026

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., RASIER
LLC and JESSE MCBEAL**

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 REPLY BRIEF

s/ Oana D. Johnson
Oana D. Johnson, Esq.
South Carolina Bar No.: 100373
ROSEN HAGOOD, L
40 Calhoun Street, Ste. 450
Charleston, SC 29401
Telephone: 843-266-8109
ojohnson@rosenhagood.com

Michelle N. Endemann, Esq.
South Carolina Bar #79894
CLARKSON, WALSH, & COULTER, P.A.
497 St. Andrews Boulevard
Charleston, SC 29407

T:843-936-5043

michelle.endemann@clarksonwalsh.com

Attorneys for Plaintiff

Robert E. Sumner, IV, Esq.

South Carolina Bar No.: 71728

BUTLER SNOW, LLP

25 Calhoun Street, Ste. 250

Charleston, SC 29401

Telephone: 843-277-3705

robert.sumner@butlersnow.com

Michael R. Huston, Esq.

Admitted *Pro Hac Vice*

PERKINS COIE, LLP

2525 East Camelback Road, Ste. 500

Phoenix, AZ 85016

Telephone: 202-434-1630

MHuston@perkinscoie.com

Nicholas S. Crown, Esq.

Admitted *Pro Hac Vice*

PERKINS COIE, LLP

700 Thirteenth Street, N.W., Ste. 800

Washington, DC 20005

Telephone: 202-434-1664

NCrown@perkinscoie.com

Jordan M. Buckwald, Esq.

Admitted *Pro Hac Vice*

PERKINS COIE, LLP

2525 East Camelback Road, Ste. 500

Phoenix, AZ 85016

Telephone: 602-351-8000

JBuckwald@perkinscoie.com

Attorneys for Respondents

TABLE OF CONTENTS

	PAGE
Arguments.....	1
Conclusion.....	6

TABLE OF AUTHORITIES

PAGE

Cases

<i>Bishop v. S.C. Dep't of Mental Health</i> , 331 S.C. 79, 502 S.E.2d (1998)	5
<i>Doe v. ATC, Inc.</i> , 367 S.C. 199, 205, 624 S.E.2d 447 (Ct. App. 2005)	2, 3
<i>Hoard ex rel. Hoard v. Roper Hosp., Inc.</i> , 387 S.C. 539, 548, 694 S.E.2d (2010)	4
<i>Stockman v. Marlowe</i> , 271 S.C. 334, 337, 247 S.E.2d (1978)	5

Statutes

S.C. Code Ann. § 58-23-1650	4
-----------------------------------	---

Other Authorities

Ben Carroll 30(b)(6) Uber Technologies 3 25 25	1, 2, 3
--	---------

Appellant Christa Linares Grainger, as Personal Representative for the Estate of Sebastian Linares Grainger (“Appellant”) respectfully submit this Reply Brief in support of her appeal in this matter.

ARGUMENTS

THE LOWER COURT ERRED IN GRANTING SUMMARY JUDGMENT IN FAVOR OF DEFENDANTS ON PLAINTIFF’S NEGLIGENCE CLAIM

Respondents’ arguments are that (1) the record is devoid of any evidence from which a fact finder could infer that Uber’s knowledge of McNeal’s past drug use while using the app could cause harm to a passenger and (2) the record does not establish the required nexus between the prior act and the ultimate harm. These are ultimately one argument that fails because not only is there sufficient evidence to establish proximate cause, but Defendants’ own 30(b)(6) designee testified that Defendants had knowledge of McNeal’s misconduct in the past and that the misconduct would have made McNeal ineligible to access the app. But for McNeal’s access to the app, Sebastain Grainger and Jesse McNeal would never have met in an Uber ride, and the fatal drug transaction would never have occurred. Further, despite having a specific policy to investigate all allegations of drug use by Uber drivers while using the app, Respondents admittedly breached their own policies by failing to investigate McNeal after rider complaints of the vehicle smelling of marijuana. Therefore, he remained an active user of the app.

Here, Respondents’ 30(b)(6) designee admitted there were complaints by customers that McNeal either smelled like marijuana or smoked marijuana while using the app to complete Uber rides.

Ben Carroll 30(b)(6) Uber Technologies 3 25 25, (ROA. 391)

104

6 Q. Okay. Were there any complaints about
7 Mr. McNeal smoking marijuana or smelling like
8 marijuana --

9 MR. JONES: Object to the form.
10 Q. -- that you're aware of?
11 A. Yes.

Ben Carroll 30(b)(6) Uber Technologies 3 25 25, (ROA. 401)
141

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.

Ben Carroll 30(b)(6) Uber Technologies 3 25 25, (ROA. 401)

142

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.

Respondents rely on *Doe v. ATC, Inc.*, 367 S.C. 199, 205, 624 S.E.2d 447, 450 (Ct. App. 2005) in support of both arguments advanced. Their reliance is misplaced. In *Doe*, the driver of a Medicaid bus repeatedly touched one of the passenger's legs and made comments of an inappropriate nature. Doe's mother sued the driver's employer for negligent retention because there had been a report by another employee that the driver tried to kiss her. However, the first employee refused to file a formal complaint. In fact, she asked the supervisor to whom she reported the incident not to disclose the incident. The supervisor nevertheless spoke with the driver and cautioned him. The lower court found that given the unwillingness to file a formal complaint, and the complete absence of evidence of other similar conduct by the driver, it was a reasonable decision not to fire the driver after the first incident and directed verdict should be granted. *Id.* at

208. The court of appeals upheld the decision reasoning that “We have canvassed the record and conclude that ATC's decision not to fire Murray following the incident with Moss was reasonable as a matter of law” *Id.* at 205.

The case sub judice is inapposite to *Doe*. Here, Uber failed to investigate the prior rider complaints of marijuana use by McNeal, unlike in *Doe* where the employer followed its procedure and investigated the claim. Further, in *Doe* the employer concluded that, under its policies, there was no evidence to support firing its driver after the first instance of alleged misconduct. Here, Uber admitted that the use of marijuana would disqualify McNeal from using the app, barring him from driving for Uber.

Ben Carroll 30(b)(6) Uber Technologies 3 25 25, (ROA. 400-401)

140

21 Q. Is it fair to say that a driver that is
22 under the influence of drugs and/or alcohol would
23 be disqualified from driving, using the Uber app?

24 MR. JONES: Object to the form.

25 A. Yeah. I think I mentioned this earlier.

141

1 If we receive feedback that someone's under the
2 influence, they would lose access to the
3 platform.

4 Q. You also testified earlier that there
5 were complaints of Mr. McNeal's car smelling like
6 marijuana, correct?

7 A. There was one complaint where weed was
8 specifically called out, yes.

9 Q. Okay. What was -- what did Uber do in
10 response to that complaint?

11 A. I don't know.

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.

Therefore, Uber has conceded that, had it followed its own policies and investigated the rider complaints of McNeal's drug use., McNeal would not have been able to conduct Uber rides using the app. They have essentially conceded the causal connection and conceded their negligence in retaining McNeal as an Uber driver. Certainly, there is sufficient evidence to allow a jury to decide the question.

Respondents' reliance on *Hoard ex rel. Hoard v. Roper Hosp., Inc.*, 387 S.C. 539, 548, 694 S.E.2d 1, 5 (2010) too is also misplaced. In *Hoard*, the plaintiff argued that questions of fact regarding the element of proximate cause existed. In making this argument, they contended it was possible that plaintiff's neonatology physician gave false testimony and did not actually know the applicable standard of care. The court held that one may not avoid summary judgment by asserting that a jury may disbelieve uncontradicted evidence. *Id.* at 549. Here, the only uncontradicted evidence is Uber's admission that it was its procedure to investigate reports of drug use, that reports of drug use would render a driver ineligible to use the app, and that it did not investigate these reports. Again, Uber has conceded that had they followed their own policies and procedures, McNeal would not have been driving for Uber and would not have met Sebastian Grainger during an Uber ride or offered him drugs.

What Respondents try to avoid is explaining how they can get around the statutory duty created by S.C. Code Ann. § 58-23-1650 (F)(4), which prohibits Uber from allowing a driver who is under the influence of drugs or alcohol to use the app. Respondents focus on the second prong of this provision, which does not require drug testing of a driver. By Uber's logic, the statute simply acts as an excuse for not investigating claims of drug use, even though Uber admits that drivers under the influence of drug and alcohol are immediately terminated pursuant to its own internal policies.

Respondents contend that “Plaintiff ’s but-for theory proves too much: under Plaintiff ’s logic, any TNC would be the proximate cause of any harm inflicted by any driver who ever received a negative rider review, no matter how attenuated the connection—factually or temporally—between the review and the harm. South Carolina does not recognize such limitless liability” (Respondent’s Brief at 20). Respondents misread Appellant’s argument. The issue is not that McNeal had negative reviews, but that he had negative reviews that violated the South Carolina statutory requirements and its own policies, and, had Uber investigated the negative reviews, McNeal would have lost his eligibility to drive for Uber two years before this tragedy.

Moreover, Respondents conflate the intervening acts of a third party, which breaks the causal connection, with contributory negligence. Respondents’ reliance on *Bishop v. S.C. Dep’t of Mental Health*, 331 S.C. 79, 502 S.E.2d 78 (1998) is also misplaced. In *Bishop*, the issue was the intervening negligence of the grandmother in allowing the mother who she knew made threats against the granddaughter to spend time with the granddaughter. Here, there is no intervening third party. Sure, the Respondents can argue contributory negligence *at trial to a jury*, but it is well settled that “contributory negligence shall not bar recovery in any action by any person or legal representative to recover damages for negligence resulting in death or in injury to person or property, if such contributory negligence was equal to or less than the negligence which must be established in order to recover from the party against whom recovery is sought.” *Stockman v. Marlowe*, 271 S.C. 334, 337, 247 S.E.2d 340, 341 (1978). The legislature obviously intended that the jury evaluate the culpability of each party as compared to that of the other, barring the plaintiff from recovery only if his fault is greater than that of the defendant. *Id.* at 338.

CONCLUSION

The lower court's Order Granting Summary Judgment in this case deprived Plaintiff of the opportunity to have a jury decide whether Uber's actions were the proximate cause of Sebastian's tragic death, despite undisputed evidence to support the casual connection as well as a concession by Uber that it negligently retained McNeal in violation of its own policies. Appellant respectfully requests that the lower court's order be reversed and the case remanded for a jury trial.

Respectfully submitted,

s/ Oana D. Johnson
Oana D. Johnson, Esq.
South Carolina Bar No.: 100373
ROSEN HAGOOD, L
40 Calhoun Street, Ste. 450
Charleston, SC 29401
Telephone: 843-266-8109
ojohnson@rosenhagood.com

Michelle N. Endemann, Esq.
South Carolina Bar #79894
CLARKSON, WALSH, & COULTER, P.A.
497 St. Andrews Boulevard
Charleston, SC 29407
T:843-936-5043
michelle.endemann@clarksonwalsh.com

This 19th day of June 2026
Charleston, South Carolina

Attorneys for Plaintiff