

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CIVIL ACTION NO: 2024-CP-40-03730

Shirley Castillo and Charles Cooper

Plaintiffs,

v.

Canterbury Park at Lake Carolina Association,
Inc., a/k/a Lake Carolina Masters Association,
Inc., and Richland County,

Defendants.

ORDER

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Jul 29 2026

SC Court of Appeals

This matter comes before the Court upon Defendant Canterbury Park at Lake Carolina Association, Inc., a/k/a Lake Carolina Masters Association, Inc.'s ("Canterbury") Motion for Summary Judgment. A hearing was held on April 13, 2026. Appearing on behalf of the Plaintiffs was Morgan Drapeau, Esquire. Appearing on behalf of Defendant Canterbury was John Grantland, Esquire. After reviewing the pleadings, submissions including legal memorandum, and hearing the able arguments of counsel, the Court grants Defendant Canterbury's Motion for Summary Judgment.

The undisputed facts demonstrate that the sidewalk is owned, maintained, and controlled by Richland County and that Canterbury Park has no legal duty related to the sidewalk. Plaintiffs cannot sustain their burden of proving a breach of a duty of care by Canterbury. Additionally, Canterbury had no notice of any defect prior to Plaintiff's fall. Therefore, Canterbury is entitled to summary judgment.

FACTS

The Court notes that the following facts are not in dispute. On or about March 20, 2024, Plaintiff Shirley Castillo was walking on a sidewalk located in the Canterbury Park subdivision

of Lake Carolina. While walking on the public sidewalk, Plaintiff Shirley tripped over an area of uneven concrete and fell. Plaintiff's husband later reported the incident to their HOA, Canterbury, and was informed that the sidewalks were owned by Richland County. The Castillos then contacted Richland County, and the sidewalk was subsequently repaired by the Richland County Department of Public Works. (S. Castillo Dep. 42:1-18 & Moloney Dep. 19:1-4).

Richland County agrees that it owns and maintains the sidewalk at issue in this case. (Moloney Dep. 23:12-18). While Canterbury owns and maintains a common wooded area near sidewalk and road, it simply cuts the grass and trims shrubs. Canterbury does not do any maintenance to the paved areas because those areas are owned and maintained by Richland County.

Plaintiff Shirley Castillo subsequently filed a lawsuit against Canterbury Park at Lake Carolina Association, Inc., a/k/a, Lake Carolina Masters Association, Inc., and Richland County, in the South Carolina Court of Common Pleas, County of Richland, on January 19, 2024. Plaintiff alleges negligence against both Defendants.

STANDARD OF REVIEW

Summary judgment is appropriate when “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 the moving party is entitled to judgment as a matter of law.” Rule 56(c), South Carolina Rules of Procedure. “The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” *Austin v. Beaufort County Sheriff's Office*, 377 S.C. 31, 34, 659 S.E.2d 122, 123 (2008). “In determining whether a genuine question of fact exists, the court must view all inferences which can be reasonably drawn from the evidence in the light most favorable to the nonmoving party.” *Bishop v. South Carolina*

Dep't of Mental Health, 331 S.C. 79, 502 S.E.2d 78 (1998). Additionally, to resist a motion for summary judgment, the nonmoving party “must do more than simply show that there is some metaphysical doubt as to the material facts, but must come forward with specific facts showing that there is a genuine issue for trial.” *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991) (internal quotations deleted) (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87, 106 S.Ct. 1348, 1356 (1986)). Finally, “Rule 56(e) specifically prohibits the nonmoving party from resting upon the mere allegations or denials of its pleadings.” *SSI Medical Services, Inc. v. Cox*, 301 S.C. 493, 392 S.E.2d 789 (1990). “[I]t is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine. *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023). Further, “the court must determine that a genuine issue of material fact exists for each essential element of the plaintiff’s claim,” and “must determine whether the plaintiff has established a prima facie case as to each element of a claim” when ruling on a summary judgment motion. *Hansson v. Scalise Builders of South Carolina*, 374 S.C. 352, 358, 650 S.E.2d 68, 71 (2007).

ANALYSIS

After considering the facts of this case in a light most favorable to the Plaintiff, this Court finds there is no genuine issue of material fact, and that the Canterbury is entitled to judgment as a matter of law. I find that Canterbury did not breach any duty since it did not own, maintain, or control the sidewalk. I also find that Canterbury did not undertake any voluntary duty as to the paved sidewalk and Canterbury did not create the condition alleged to have caused Plaintiff’s fall.

To prevail on a negligence claim, a plaintiff must establish three essential elements: (1) a duty of care owed by the defendant to the plaintiff; (2) a breach of that duty by a negligent act or

omission; and (3) damage proximately caused by a breach of duty. *Estate of Cantrell v. Green*, 302 S.C. 557, 397 S.E.2d 777, 779 (Ct. App. 1990). If the plaintiff fails to prove any one of these elements, the action will fail. *Id.* “If there is no duty, the defendant is entitled to judgment as a matter of law.” *Huggins v. Citibank, N.A.*, 355 S.C. 329, 585 S.E.2d 275 (2003).

a. **Richland County owns, maintains, and controls the sidewalk.**

Under South Carolina Law, liability for the upkeep of public sidewalks lies with the counties or cities that own them unless there has been a voluntary assumption of care for the sidewalk. Under South Carolina Code:

The city or town council of any city or town of over one thousand inhabitants shall keep in good repair all the streets, ways and bridges within the limits of the city or town and for such purpose it is invested with all the powers, rights and privileges within the limits of such city or town that are given to the governing bodies of the several counties of this State as to the public roads.

S.C. Code Ann. § 5-27-120. The South Carolina Code defines a “sidewalk” as a portion of a street. S.C. Code Ann. § 56-5-480. Sidewalks are generally maintained by the government entity that owns them. *Vaughan v. Town of Lyman*, 370 S.C. 436, 635 S.E.2d 631 (2006); citing *Russell v. City of Columbia*, 305 S.C. 86, 89, 406 S.E.2d 338, 339 (1991) (“While there is generally no duty to act under the common law, a duty to use due care may arise where an act is voluntarily undertaken.”)

The Court finds *Epps v. United States* to be factually similar and the analysis to be persuasive. 862 F. Supp. 1460 (D.S.C. 1994). In *Epps*, The District Court granted summary judgment in favor of a post office after a pedestrian fell on the public sidewalk outside the building, holding that the post office had no duty to maintain the sidewalk. *Id.* In that case the pedestrian argued that because the public sidewalk was outside of the post office, the post office had a duty to inspect and make the sidewalk safe. *Id.* The Court found that under South Carolina law, a public sidewalk is owned and maintained by the appropriate government entity and

pedestrians have the right to assume that public sidewalks are reasonably safe for public use. *Id.* at 1464-1465. Since there is no affirmative duty to act and the post office did not create a dangerous condition or voluntarily assume the duty of maintaining the sidewalk, the post office had no duty to keep the sidewalk in a safe condition. *Id.* at 1467.

In the present case, Richland County agrees that the County owned the sidewalk and that it was responsible for maintaining it. As further evidence of this ownership and control, Richland County, not Canterbury, repaired the sidewalk. Canterbury owns the common wooded area abutting the sidewalk and road, but Canterbury has never made repairs to the road or sidewalk and simply cuts the grass and shrubs near the sidewalk and road. Like the post office in *Epps*, Canterbury did not create a dangerous condition and never assumed any voluntary duty to maintain the paved areas owned by Richland County. The Court has reviewed the entirety of Canterbury's 30(b)(6) representative Mike Dhunjishah's deposition found no testimony that suggests Canterbury ever undertook any duty as to paved areas such as the sidewalk or road. Since Richland County controls the sidewalk, it has the sole duty to maintain the sidewalk in a safe condition.

b. Canterbury had no notice of the alleged condition.

Even if Canterbury had some duty to maintain the sidewalk, the Court finds that Plaintiff has presented no evidence that Canterbury had actual or constructive notice of the settlement of the sidewalk before she tripped.

To recover damages for injuries caused by a dangerous or defective condition on a defendant's premises, a plaintiff 'must show either (1) that the injury was caused by a specific act of the respondent which created the dangerous condition; or (2) that the respondent had actual or constructive knowledge of the dangerous condition and failed to remedy it.

LeFont v. City of Myrtle Beach, 430 S.C. 534, 846 S.E.2d 355 (2020). As previously shown, Canterbury did not create the alleged defect. Plaintiff was likely a licensee on the

sidewalk, thus Canterbury had only a duty to warn of “foreseeable unreasonable risks.” *Id.* (“When a licensee enters onto the property of another, the primary benefit is to the licensee, not the property owner.”) According to the Complaint, the defect is described as latent, and one cannot have constructive notice of a latent defect. A latent defect is defined as a defect that “reasonably careful inspection will not reveal.” *Callander v. Charleston Doughnut Corp.*, 305 S.C. 123, 406 S.E.2d 361 (1991). As previously stated, Canterbury did not have the duty to inspect; therefore, it could not have had constructive notice on the settlement. *Strother v. Lexington Couty Recreation Commission*, 332 S.C. 54, 504 S.E.2d 117 (1998) (“Instead, under our case law, this type of implied actual notice is classified as constructive notice because of the duty to inquire.”).

Plaintiff presents no evidence suggesting actual knowledge or notice of the sidewalk settlement until after the accident was reported by Mr. Castillo. Actual notice is either “communicated by direct information” or “consists of knowledge of facts so informing that a reasonably cautious person would be led by them to the ultimate fact...” *Strother v. Lexington Cnty. Rec. Com’n.*, 332 S.C. 54, 504 S.E.2d 117 (1998). The facts indicate Canterbury became aware *after* the incident; therefore, it can be reasonably concluded that Canterbury did not have actual or constructive notice of the sidewalk defect.

CONCLUSION

For the reasons stated above, this Court grants Defendant Canterbury’s Motion for Summary Judgment. In addition, the Plaintiffs’ claims are dismissed with prejudice.

IT IS SO ORDERED.

ELECTRONIC SIGNATURE OF JUDGE GRAVELY TO FOLLOW.



Richland Common Pleas

Case Caption: Shirley Castillo , plaintiff, et al vs Canterbury Park At Lake Carolina Association Inc , defendant, et al
Case Number: 2024CP4003730
Type: Order/Summary Judgment

So Ordered

s/ Honorable Perry H. Gravely, #2755