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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Courtney Clyburn-Pope, Circuit Court Judge
Maite Murphy, Circuit Court Judge

Appellate Case No. 2025-001435

Karen Fine.....Respondent,

v.

Herman Brown Hamrick,.....Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT CORRECTLY GRANT FINE'S MOTION TO DEEM ADMITTED, TO COMPEL AND FOR ATTORNEY'S FEES?
2. DID THE TRIAL COURT CORRECTLY GRANT FINE'S MOTION FOR SUMMARY JUDGMENT?

STATEMENT OF THE CASE

On July 11, 2024, Respondent/Plaintiff Karen Fine ("Fine") filed this action against Appellant/Defendant Herman Brown Hamrick ("Hamrick") seeking actual damages in the amount of \$23,538.63 and punitive damages in the amount of \$50,000.00. [R. pp. 15-16].

On August 8, 2024, Fine served Hamrick with her Interrogatories [R. pp. 20-22], Requests for Admission [R. pp. 26-27] and Requests for Production [R. pp. 23-25]. On August 16, 2024, Hamrick served Fine with his Interrogatories [R. pp. 28-30] and Requests for Production [R. pp. 31-33], thereby consenting to his participation in written discovery. On August 22, 2024, Fine answered Hamrick's Interrogatories [R. pp. 81-85] and Requests for Production [R. pp. 87-90]. However, Hamrick never answered Fine's written discovery requests.

On September 24, 2024, a three-member arbitration panel heard the matter and rendered a decision in favor of Fine for the amount of \$19,266.90. [R. pp. 1-3]. On October 14, 2024, Hamrick appealed the arbitrators' decision to the Court of Common Pleas [R. pp. 117-119].

On November 24, 2024, Fine filed her Motion to Deem Admitted [R. pp. 45-46] and her Motion to Compel. [R. pp. 34-44]. In response, Hamrick undertook no action to provide the requested information.

On March 17, 2025, Fine filed her Memorandum in Support of her Motion to Deem Admitted [R. pp. 70-92] and her Memorandum in Support of its Motion to Compel. [R. pp. 47-69]. On March 19, 2025, Fine filed her Affidavit of Attorney's Fees and Costs (Plaintiff's Amended #1).

On April 1, 2025, the trial court granted Fine's Motion to Deem Admitted, Motion to Compel, and request for attorney's fees and costs. [R. pp. 2-4].

Also on April 1, 2025, Fine filed its Motion for Summary Judgment [R. p. 93]. On April 3, 2025, Fine filed its Memorandum in Support of its Motion for Summary Judgment. [R. pp. 94-102]. Again, Hamrick undertook no action to provide the requested information.

On September 23, 2025, the trial court granted summary judgment in favor of Fine for \$23,538.63 in actual damages, \$50,000.00 in punitive damages, \$1,06674 in attorney's fees, and post judgment interest. [R. pp. 8-11]. This order references two exhibits which were not filed along with the order. [R. pp. 8-11].

On October 13, 2025, the trial court granted summary judgment in favor of Fine as set forth above with a denial [R. pp. 12-14], which ostensibly was the court's attempt to address the September 23, 2025 Order which omitted the exhibits.

On November 19, 2025 at the request of the trial court's law clerk, Fine submitted another proposed order to the trial court which omits references to exhibits altogether. [R. pp. 15-18]. This proposed order remains unsigned and in the trial court's cue.

STANDARD OF REVIEW

I. Discovery

Discovery rulings below will not be disturbed on appeal absent a clear showing of an abuse of discretion. Evening Post Pub. Co. v. Berkeley Cnty. Sch. Dist., 392 S.C. 76, 708 S.E.2d 745 (2011); Bayle v. S.C. Dept. of Transp., 344 S.C. 115, 542 S.E.2d 736 (Ct. App. 2001).

II. Pre-trial Motions

As a general rule, appellate courts are bound by the lower court's factual findings made during preliminary motions where there is conflicting evidence or where the findings are supported by the evidence and are not clearly erroneous or controlled by an error of law. City of Chester v. Addison, 277 S.C. 179, 284 S.E.2d 579 (1981).

III. Sanctions (Awarding Attorney's Fees under Rule 11)

The imposition of sanctions will not be disturbed on appeal unless the decision is controlled by an error of law or is based on unsupported factual conclusions.

Southeastern Site Prep, LLC v. Atl. Coast Builders, 394 S.C. 97, 713 S.E.2d 650 (Ct. App. 2011).

III. Summary Judgment

Summary judgment is appropriate when it is clear that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. King v. Am. Gen. Fin., Inc., 386 S.C. 82, 687 S.E.2d 321 (2009). When plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. Ellis v. Davidson, 358 S.C. 509, 595 S.E.2d 817 (Ct. App. 2004). The mere fact that a case involves a novel issue [of statutory construction] does not

render summary judgment in appropriate. Med. Univ. of S.C. v. Arnaud, 360 S.C. 615, 602 S.E.2d 747 (2004).

ARGUMENTS

I. THE CIRCUIT COURT CORRECTLY GRANTED FINE’S MOTION TO DEEM ADMITTED, TO COMPEL AND FOR ATTORNEY’S FEES.

In response to Fine’s Summons and Claim for Property Damage [R. pp. 15-16] under the Arbitration of Property Damage Liability Claims Act (“the Act”), the Circuit Court appointed a three-member panel to arbitrate the matter in accordance with S.C. Code §38-77-710. Under the Act, the taking of depositions is allowed. S.C. Code §38-77-710. Also under the Act, the Circuit Court has the authority to enforce the production of records. S.C. Code §38-77-750(a). Nothing in the Act prohibits the exchange of written discovery requests, particularly when the parties agree to serve each other with them. [R. pp. 20-33].

Hamrick’s appeal of the arbitration panel’s Order/Decision [R. 1-3] to the Court of Common Pleas in accordance with S.C. Code §38-77-770 allows that Court to try the case *de novo*. A trial *de novo* is one in which there is a new trial of the whole case. Blizzard v. Miller, 306 S.C. 373, 412 S.E.2d 406 (1991). However, the Act does not go so far as to nullify the parties’ written discovery requests to each other. The Act itself is unambiguous. The legislature did not intend to nullify discovery in the event of an appeal to the Court of Common Pleas. Information learned from a deposition taken before arbitration cannot be unlearned by an appeal post arbitration. Further, a pre-arbitration deposition and its associated transcript cannot be undone after the arbitration, because the testimony has been taken and the transcript has been produced. Likewise, Defendant’s appeal cannot make Claimant’s Requests for Admission magically

disappear. Before the arbitration, it was the parties' desire to engage in written discovery as shown by the parties serving each other with written discovery requests. Nothing in the Act operates to nullify the parties' decision to engage in written discovery with each other.

II. THE CIRCUIT COURT CORRECTLY GRANTED FINE'S MOTION FOR SUMMARY JUDGMENT.

Summary judgment is appropriate if the pleadings, depositions, interrogatory answers, admissions, and 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), SCRPC; Law v. S.C. Dept. of Corrections, 368 S.C. 424, 434, 629 S.E.2d 642, 648 (2006). In determining whether any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most reasonable to the non-moving party. Id. at 648. A party opposing a properly supported motion for summary judgment may not rest on the allegations or denials of his pleading but must set forth or point to specific facts showing there is a genuine issue of material fact. The existence of a mere scintilla of evidence in support of the non-moving party's position is not sufficient to overcome a motion for summary judgment. Thomas v. Waters, 315 S.C. 524, 445 S.E.2d 659 (Ct. App. 1994) citing Dickert v. Metropolitan Life Ins. Co., 306 S.C. 311, 313, 411 S.E.2d 672, 673 (Ct. App. 1991).

A. All of Fine's Causes of Action are proven by the Order to Deem Admitted.

South Carolina has long had the discovery rule that failure to respond to requests for admissions renders any matter listed in the request conclusively admitted. Scott v. Greenville Housing Authority, 353 S.C. 639, 579 S.E.2d 151 (2003). *Plaintiff's 1st Requests for Admission to Defendant* [R. pp. 26-27] were

tailored to prove all of Fine's causes of action and damages. Hamrick's decision not to answer them was ill advised. The trial court was within its discretion to grant Fine's Motion to Deem Admitted [R. pp. 2-4].

Later, the trial court's *Order Granting Summary Judgment to Plaintiff* determined all of Fine's causes of action in favor of Fine, and it determined the amount of Fine's damages [R. pp. 8-11].

B. Hamrick failed to produce *any* facts showing a genuine issue of material fact.

At the outset of the case, the parties elected to serve each other with written discovery requests, which included Fine's Requests for Admission [R. pp. 26-27]. Hamrick elected not to deny any of these requests. Further, Hamrick elected not to respond at all. Fine's Memorandum in Support of Summary Judgment [R. pp. 94-102] sufficiently sets forth that there is no genuine issue of material fact as to Fine's causes of action.

CONCLUSION

For the reasons stated above, this Court should affirm the judgment of the trial court.

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