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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Vernon F. Dunbar, Circuit Court Judge

Case No. 2025-002444

Ava Sykes,.....Appellant,

v.

Greenville County, City of Greenville, and Prisma Health, Defendants,
of which Greenville County is the.....Respondent.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
	)	C.A. No. 2024-CP-23-04497
COUNTY OF GREENVILLE	)	
	)	
Ava Sykes,	)	
	)	
Plaintiff,	)	ORDER GRANTING
	)	DEFENDANT CITY OF GREENVILLE
vs.	)	MOTION FOR SUMMARY JUDGMENT
	)	
Greenville County, City of Greenville,	)	
and Prisma Health	)	
	)	
	)	
Defendants.	)	
_____	)	

This matter came before me on September 24, 2025. Appearing on behalf of the Plaintiff was Sulaiman Ahmad. V. Clark Price appeared on behalf of Defendant City of Greenville; Zoe R. Hendrickson appeared on behalf of Defendant Prisma Health; and John Patrick “Jack” Riordan appeared on behalf of Defendant Greenville County.

Defendant City of Greenville has moved for summary judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. This is one of several motions heard in this matter at that time. This Order pertains only to the Motion for Summary Judgment filed by The City of Greenville. For the reasons stated hereafter, the Court grants the City’s motion.

The Plaintiff Ava Sykes suffered injuries on October 17, 2023 as the result of a bicycle accident that occurred on the Swamp Rabbit Trail. This is an approximately 17-mile trail which runs through parts of the City of Greenville and Greenville County. The Plaintiff alleges in her Complaint that the City of Greenville, as well as other defendants, was responsible for maintaining the trail but failed to repair or adequately repair a defect in the trail. The Plaintiff alleges that she was unable to see the defect on the trail until it was too late to avoid it, and fell, sustaining injuries.

The City of Greenville answered the Complaint and denied liability. Thereafter, the City of Greenville filed its motion for summary judgment.

The City argues that it was not responsible for the area of the Swamp Rabbit Trail where the Plaintiff was allegedly injured. The City contends that the accident was not in the City, but instead was near the northernmost end of the Green Line of the trail north of Travelers Rest, South Carolina. For the purposes of the motion, the City relies on the affidavits of Ty Houck and Steward Lawrence, which were submitted to the Court in support of Co-Defendant Greenville County's Motion for Summary Judgment. The witnesses Houck and Lawrence are, respectively, managers of Greenways, Natural and Historic Resources for Greenville County Parks, Recreation, & Tourism, and Risk Safety & Workers Compensation for Greenville County. The sworn testimony of these witnesses as set forth in those affidavits states in pertinent part that Greenville County, not the City of Greenville, owns and maintains the section of the trail where the Plaintiff's bicycle accident occurred. Further, the sworn testimony of these witnesses is that the City of Greenville (as well as Prisma Health) did not maintain any ownership interest or responsibility as to the portion of the trail where the accident occurred.

The Plaintiff has presented no evidence to refute the sworn testimony of Houck and Lawrence. Summary Judgment is appropriate when it is clear there are no genuine issues of material fact and that the moving party is entitled to judgement as a matter of law. *City of Columbia v. A. C.L. U*, 323 S.C.384, 386, 475 S.E.2d 47, 748 (1996). When a motion for summary judgment is made and supported by affidavit, an adverse party may not rest upon the mere allegations or denials of her pleading, but her response, by affidavits or as otherwise provided in the rule, must set forth specific facts showing there is a genuine issue for trial. If she does not, summary judgment, if appropriate, shall be entered against her. Rule 56 (e), SCRPC.

Based on the filings and arguments of counsel, I find that Defendant City of Greenville has established that it does not own nor have responsibility for maintaining the area of the trail where the Plaintiff was injured. Accordingly, I find that Defendant City of Greenville is entitled to Summary Judgment.

AND IT IS SO ORDERED.

The Honorable Vernon Dunbar

Judge, 13th Circuit Court of Common Pleas

September 24, 2025

Greenville, South Carolina



Greenville Common Pleas

Case Caption: Ava Sykes vs. Greenville County , defendant, et al

Case Number: 2024CP2304497

Type: Order/Summary Judgment

So Ordered

Vernon F. Dunbar

Electronically signed on 2025-09-25 12:00:15 page 4 of 4

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Ava Sykes,

Plaintiff,

vs.

Greenville County, City of Greenville, and
Prisma Health,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2024-CP-23-04497

**Order Granting Defendant Prisma
Health's Motion for Summary Judgment**

This case came before the Court on September 24, 2025, on Defendant Prisma Health's Motion for Summary Judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. After careful consideration of arguments of counsel and submissions to the Court, it is the opinion of this Court that the Defendant's Motion for Summary Judgment should be granted.

Summary judgment is appropriate when it is clear there is no genuine issue of material fact, and the conclusions and inferences to be drawn from the facts are undisputed. Kitchen Planners, LLC v. Friedman, 440 S.C. 456, 892 S.E.2d 297 (2023) (clarifying that the "mere scintilla" standard is not the correct standard for a decision under Rule 56, SCRCP). "It is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine." Id. at 463-64 (quoting Town of Hollywood v. Floyd, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013)). A party opposing a motion for summary judgment may not rest on the mere allegations or denials of his pleadings but must set forth or point to specific facts showing that there is a genuine issue of material fact. George v. Empire Fire & Marine Ins. Co., 344 S.C. 582, 593, 545 S.E.2d 500 (2001). "Mere allegations, denied by the other party, are not evidence. Arguments of counsel are also not evidence." Bowers v. Bowers, 304 S.C. 65, 68, 403 S.E.2d 127, 129 (Ct. App. 1991). Summary Judgment should be decided based on the facts in the record at the time of the motion.

Defendant presented the argument that Plaintiff failed to introduce any evidence into the record that Prisma Health had any responsibility for maintaining the Swamp Rabbit Trail in a reasonably safe condition. Further, it referenced Defendant Greenville County's sworn affidavits of Ty Houck and Steward Lawrence (filed in support of Greenville County's Motion for Summary Judgment), which specifically state that Greenville County owns and maintains the section of the Swamp Rabbit Trail where the alleged bicycle accident occurred. Additionally, said affidavits proclaimed that sole liability, if it existed, would rest with Greenville County.

Here, Plaintiff has failed to demonstrate by any admissible evidence that Prisma Health owned, maintained, controlled, or had any responsibility otherwise for the Swamp Rabbit Trail.

WHEREFORE, for the reasons stated herein,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant's Motion for Summary Judgment is granted with prejudice.

IT IS SO ORDERED.

[Judicial Signature Page Following]



Greenville Common Pleas

Case Caption: Ava Sykes vs. Greenville County , defendant, et al

Case Number: 2024CP2304497

Type: Order/Summary Judgment

So Ordered

Vernon F. Dunbar

Electronically signed on 2025-09-26 15:41:11 page 3 of 3

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Greenville
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2304497

Ava Sykes
PLAINTIFF(S)

Greenville County
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This matter came before the Court on September 24, 2025, upon a Motion for Summary Judgment by, Greenville County, Defendant. Upon a review by this Court of the filings in this case, the South Carolina Tort Claims Act, and the South Carolina Recreational Use Statute, this Court finds:

- 1) Greenville County, Defendant, Motion for Summary Judgment is granted.
- 2) The law imposes no duty upon Defendant with regard to injuries sustained by Plaintiff in the absence notice of the defective condition. Also, no evidence that Defendant failed to correct the alleged defective asphalt within a reasonable time, assuming notice was given. Affidavits of Ty Houck and Steward Lawrence unequivocally state there was no constructive and actual notice provided. SC Code Ann. §15-78-60(9-10)(2025).
- 3) In the alternative, claim is barred by S.C. Code Ann. §23-3-30 & 60 (2025). There is no evidence of gross negligence upon review of photos and affidavits.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☒ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/30/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

Mr. Riordan, please prepare and order consistent with this decision within fifteen (15) days.

It Is So Ordered.



Greenville Common Pleas

Case Caption: Ava Sykes vs. Greenville County , defendant, et al

Case Number: 2024CP2304497

Type: Order/Electronic Form 4

So Ordered

Vernon F. Dunbar

Electronically signed on 2025-09-30 11:55:53 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	Civil Action No.: 2024-CP-23-04497
Ava Sykes	)	
	)	
	)	
	)	
	)	
Plaintiff,	)	
vs.	)	
	)	ORDER GRANTING DEFENDANT
Greenville County, City of Greenville, and	)	GREENVILLE COUNTY'S MOTION FOR
Prisma Health	)	SUMMARY JUDGMENT
	)	
Defendants.	)	
	)	

This matter came before the Court on September 24, 2025, on motions for summary judgment filed by all Defendants. The hearing was attended by able counsel for all parties. Plaintiff's claims relate to her unfortunate October 17, 2023, bicycle accident on the Swamp Rabbit Trail in Greenville County. In its motion, Greenville County acknowledged no possible liability by co-defendants, while claiming that the specific, reconciled, and complimentary protections provided by the South Carolina Tort Claims Act ("SCTCA") § 15-78-10 *et. seq. S.C. Code of Laws* and the South Carolina Recreational Use Statute ("SCRUS") §27-3-10, *et seq S.C. Code of Laws* compelled the additional grant of its motion in this unique instance. Separate orders granting summary judgment to co-defendants have already been executed and filed. Upon further review and careful consideration of the respective and competing filings, the arguments of all counsel, and in light of the affidavits of Ty Houck and Lawrence Steward, it is agreed there is no genuine issue of material fact regarding the necessary notice of a defect or condition causing a loss, the failure to correct any alleged defective condition within a reasonable time (assuming the required notice was given) and, alternatively and/or additionally, no genuine issue of material fact regarding the required "knowledge" or gross negligence by Greenville County. Accordingly, and for all of the reasons stated hereafter, the Court grants Greenville County's motion for summary judgment.

LAW

“Summary judgment is appropriate when it is clear that there are no genuine issues of material fact, and the moving party is entitled to judgment as a matter of law.” *City of Columbia v. A.C.L.U.*, 475 S.E.2d 747, 748, 323 S.C. 384, 386 (1996) citing *CSNB v Landlord*, 443 SE2d 549 (1994). In ruling on a motion for summary judgment, the evidence and the inferences that can be drawn therefrom should be viewed in the light most favorable to the nonmoving party. *Cafe Assocs. v. Gerngross*, 406 S.E.2d 162, 164, 305 S.C. 6, 9, (1991) citing *Tom Jenkins Realty, Inc. v. Hilton*, 300 SE2d 594 (1983).

“The purpose of summary judgment is to obviate delay where there is no material issue of fact involved.” *Manley v Manley*, 335 S.E.2d 312, 314 (Ct. App. 1987), citing *Hammond v Scott*, 232 S.E.2d 336 (1977). “[T]he mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment. The requirement is that there be no *genuine* issue of *material* fact.” *Scott v Harris*, 550 US 372 at 380 (2007), quoting *Matsushita Elec. Industrial Co. v. Zenith Radio Corp.*, 475 US 574, 586-7 (1986) and *Anderson v. Liberty Lobby, Inc.*, 477 US 242, 247-8 (1986). “[T]he “mere scintilla” standard is not the correct standard for decision under Rule 56(c). . . . [A] party opposing summary judgment “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.’” *Kitchen Planners, LLC v. Friedman Op. No. 28173* (S.C. Sup. Ct. filed August 23, 2023) (quoting *Baughman v AT&T*, 410 SE2d 537 at 545 (1991) and *Matsushita, Id.* at 586-7).

"Under Rule 56(c), the party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact." *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). "With respect to an issue upon which the nonmoving party bears the burden of proof, this initial responsibility `may be discharged by "showing" — that is, pointing out to the [trial] court — that there is an absence of evidence to support

the nonmoving party's case.'" *Id.* (alteration in original) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 325, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986)). "The moving party need not `support its motion with affidavits or other similar materials negating the opponent's claim.'" *Id.* (quoting *Celotex*, 477 U.S. at 323, 106 S.Ct. 2548); see also *Richardson v. State-Record Co.*, 330 S.C. 562, 499 S.E.2d 822 (Ct.App.1998). Once the moving party carries its initial burden, the opposing party must come forward with specific facts that show there is a genuine issue of fact remaining for trial. *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545.

Sides v. Greenville Hosp. System, 362 S.C. 250, 255; 607 S.E.2d 362 (Ct. App. 2004).

"[I]t is ultimately the nonmovant's burden to persuade [the court] that there is indeed a dispute of material fact. It must provide more than a scintilla of evidence—and not merely conclusory allegations or speculation—upon which a jury could properly find in its favor." *CoreTel Va., LLC v. Verizon Va., LLC*, 752 F.3d 364, 370 (4th Cir. 2014) (citations omitted). "[W]here the record taken as a whole could not lead a rational trier of fact to find for the non-moving party, disposition by summary judgment is appropriate." *Teamsters Joint Council No. 83 v. Centra, Inc.*, 947 F.2d 115, 119 (4th Cir. 1991).

I. South Carolina Tort Claims Act/Exception to Waiver of Immunity

The SCTCA is the exclusive civil remedy available for any tort committed by a governmental entity, its employees, or agents; the provisions of the SCTCA must be liberally construed in favor of limiting the liability of the State and/or governmental entity. See §15-78-20(b) and (f), and §15-78-200, S.C. Code of Laws. Governmental entities are only liable for torts in the same manner and to the same extent as a private individual under like circumstances, subject to the limitations upon liability and damages, and exemptions from liability and damages, contained herein.

Designated exceptions to the SCTCA waiver of immunity within §15-78-60, S.C. Code of Laws, include: (16) maintenance, security, or supervision of any public property, intended or permitted to be used as a park, playground, or open area for recreational purposes, unless the defect or condition causing a loss is not corrected by the particular governmental entity responsible for

maintenance, security, or supervision within a reasonable time after actual notice of the defect or condition. §15-78-60(16), *S.C. Code of Laws*.

II. South Carolina Recreational Use Statute

The SCRUS declares that its purpose "is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes." The SCRUS therefore provides that a landowner who opens his property to the public for recreational uses without charge owes the public no duty of care to keep the premises safe or to warn of dangerous conditions on the property. *See S.C. Code Ann. § 27-3-30*. Furthermore, a landowner who permits the public to use his property in such a manner does not thereby extend any assurance that the premises are safe or confer the legal status of an invitee or licensee upon those who enter his property. *See S.C. Code Ann. § 27-3-40*. The SCRUS does not, however, limit the landowner's liability for a grossly negligent, willful, or malicious failure to guard or warn against a dangerous condition. *See S.C. Code Ann. § 27-3-60*.

Kimsey v. City of Myrtle Beach, 109 F.3d 194, 195-196 (4th Cir. 1997)(additionally confirming that the SCRUS applies to state governmental entities). *See also Chrisley v. United States*, 620 F. Supp. 285(D. S.C. 1985) (*Aff'd* 791 F.2d 165 (4th 1986)).

III. Gross Negligence

Gross negligence has been defined as "the failure to exercise even slight care." *See Clark v. SC Dept. of Public Safety*, 608 S.E.2d 573, 362 S.C. 377 (2005) and §15-78-60, *SC Code*. As the Supreme Court has explained, the conduct required to demonstrate gross negligence requires a consciousness of wrongdoing. *Rogers v Florence Printing Co.*, 106 SE2d 258, 264 (1958). "Gross negligence" is the intentional, conscious failure to do something which one ought to do or the doing of something one ought not to do." *Brooks v Northwood Little League*, 489 S.E.2d 647, 651 (Ct. App. 1997)(citing *Clyburn v. Sumter County School District*, 451 S.E.2d 885, 887 (1994) and *Rakestraw v. SCDHPT*, 473 S.E.2d 890 (Ct. App. 1996)).

FINDINGS

The Swamp Rabbit Trail (“SRT”) is undoubtedly land available to the public for recreational purposes and/or “public property” permitted to be used as a park and/or open area for recreational purposes, including bike riding, without charge. Plaintiff’s injurious bicycle accident occurred on October 17, 2023, near the northernmost end of the SRT, an area solely “owned,” maintained and/or under the control of Greenville County. Greenville County is therefore entitled to all provisions of the SCTCA and SCRUS, subject to any exceptions therein. Andrew Blackstock was riding alongside Plaintiff when she fell and he reported the same to Ty Houck weeks later, soon thereafter confirming to Houck that provided photographs captured the location.¹ As noted by Houck and Lawrence, the observed area contained a root bulge of less than two inches, the responsive remediation of which was confirmed by Blackstock.² Given the claims herein and per the SCTCA, the law imposes no duty upon Greenville County with regard to injuries sustained by Plaintiff in the absence of notice of the defect or condition causing loss. As previously noted, the SCTCA is to be liberally construed to limit the liability of governmental entities such as Greenville County. Moreover, a specific exception to the SCTCA waiver of governmental immunity exists in a situation such as this with regard to the maintenance, security or supervision of any public property permitted to be used for recreational purposes “unless the defect or condition causing a loss is not corrected by the particular governmental entity responsible . . . within a reasonable time after actual notice of the defect or condition.”³ *See also, Strother v. Lexington County Recreation*, 504 S.E.2d 117 (1998). The Houck and Lawrence affidavits definitively “show” that the required evidence of actual notice, through direct evidence or inferred from factual circumstances, is absent

¹ Houck Affidavit and Exhibits A, B and C

² Houck and Lawrence Affidavits and Exhibits

³ §15-78-60(16) S.C. Code of Laws

in support of Plaintiff's claims. No specific, material fact was responsively put forth giving rise to a genuine issue of material fact regarding any actual notice to Greenville County of any alleged defect or condition in the area of Plaintiff's accident before October 17, 2023. Likewise, no responsive genuine issue of material fact was put forth that Greenville County: failed to correct the defect or condition causing loss within a reasonable time following the sole actual notice shown; acted with consciousness of wrongdoing; or failed to exercise at least slight care, evidencing gross negligence. Despite the responsive assertions otherwise, Plaintiff's verified complaint, just as in her cited case of *Dawkins v Fields*, 354 S.C. 58, 580 S.E.2d 433 (2003), fails to meet the requirements of Rule 56(e);⁴ contains an abundance of conclusory allegations, notably with regard to allegations of notice to Greenville County; and is "simply not an appropriate substitute for an affidavit." *Id.* at 68. Accordingly, the record taken as a whole could not lead a rational trier of fact to find for Plaintiff in this unique instance per the statutory provisions and requirements of the SCTCA.

Alternatively, Plaintiff's claim similarly fails given those additional protections earlier referenced and herein provided to Greenville County per the SCRUS. For the same bases previously noted, and in light of the affidavits and exhibits, including photos, no genuine issue of material fact exists with regard to evidence of any grossly negligent, willful or malicious failure to guard or warn against any dangerous condition, use, structure or activity.⁵ The record being devoid of any evidence of an intentional, knowing, conscious failure by Greenville County, including the exercise of at least slight care, the SCRUS grants immunity to Greenville County in this instance and bars and/or precludes all of Plaintiff's claims just as in *Kimsey* and *Brooks*, *supra*.

⁴ "[A]n adverse party may not rest upon the mere allegations . . . of [her] pleadings, but . . . must set forth specific facts showing that there is a genuine issue for trial." *Rule 56(e), SCRPC*

⁵ §27-3-60, S.C. Code of Laws

Finally, while it is recognized that summary judgment is a drastic remedy and must not be granted until the opposing party has had a full and fair opportunity to complete discovery, the non-moving party must nonetheless demonstrate “the likelihood that further discovery will uncover additional relevant evidence and that the party is “not merely engaged in a ‘fishing expedition.’” *Dawkins, supra at 69, citing Baughman, supra at 112 and 544.* Given the competing filings, including the provided affidavits and exhibits establishing the lack of actual notice, this is the admittedly rare, unusual, though nonetheless fair, instance wherein additional discovery can serve no useful purpose given the unique protections provided by the SCTCA and the SCRUS. The base rule of civil procedure recognizes just such a result when mandating that the rules “shall be construed to secure the just, speedy, and inexpensive determination of every action.” *Rule 1, SCRCP.*

WHEREFORE, for all of the foregoing,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Greenville County’s Motion for Summary Judgment is GRANTED.

IT IS SO ORDERED.

The Honorable Vernon F. Dunbar
Thirteenth Judicial Circuit

October __, 2025
Greenville, South Carolina



Greenville Common Pleas

Case Caption: Ava Sykes vs. Greenville County , defendant, et al

Case Number: 2024CP2304497

Type: Order/Summary Judgment

So Ordered

Vernon F. Dunbar

Electronically signed on 2025-10-27 15:14:40 page 8 of 8

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Greenville
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2304497

Ava Sykes
PLAINTIFF(S)

Greenville County
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

See page 2 attached below.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☒ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/24/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

This matter is before this Court upon Plaintiff's two separate Motions to Reconsider.

Pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure (SCRCP), the first Motion to Reconsider was timely filed with the Court on October 10, 2025, after this Court's Instructional Order was issued on September 30, 2025.

Additionally, pursuant to Rule 59(e) of the SCRCP, the Plaintiff's second Motion to Reconsider was timely filed with the Court on November 4, 2025 after the issuance of this Court's Formal Order on October 28, 2025.

After careful consideration of the arguments, filings of Counsel and review of the evidence and record in this matter, this Court respectfully denies both of Plaintiff's Motion to Reconsider filed on October 10, 2025 and November 4, 2025.

It is so ordered.



Greenville Common Pleas

Case Caption: Ava Sykes vs. Greenville County , defendant, et al

Case Number: 2024CP2304497

Type: Order/Electronic Form 4

So Ordered

Vernon F. Dunbar

Electronically signed on 2025-11-24 15:02:36 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	CASE NO. 2024-CP-23-
Ava Sykes,	)	
	)	SUMMONS
Plaintiff,	)	
	)	
vs.	)	
	)	
Greenville County, City of Greenville, and	)	
Prisma Health,	)	
	)	
Defendants.	)	

TO THE DEFENDANTS NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your answer to the said complaint on the subscriber at his office, 1225 South Church Street, Greenville, South Carolina, 29605, within thirty (30) days after service thereof exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted,

Hawkins & Jedziniak, LLC

s/ Joshua T. Hawkins

Joshua T. Hawkins, S.C. Bar #78470

Helena L. Jedziniak, S.C. Bar #100825

Ethan L. Jedziniak, S.C. Bar #105785

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Attorneys for Plaintiff

July 23, 2024
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	CASE NO. 2024-CP-23-
Ava Sykes,	)	
	)	
Plaintiff,	)	COMPLAINT
	)	(Jury Trial Requested)
vs.	)	
	)	
Greenville County, City of Greenville, and	)	
Prisma Health	)	
	)	
Defendants.	)	

COMES NOW, the plaintiff, by and through her undersigned counsel, alleging and complaining of the defendants as follows:

PARTIES, JURISDICTION, AND VENUE

1. Ava Sykes is a citizen and resident of Greenville County, South Carolina.
2. Greenville County (“the County”) is a political subdivision of the State of South Carolina.
3. The City of Greenville (“the City”) is a municipality located within Greenville County, South Carolina.
4. Prisma Health is a conglomerate that owns health care facilities and does business in many states, including South Carolina.
5. The events giving rise to this action transpired in Greenville County, South Carolina.
6. Jurisdiction and venue are proper for the foregoing reasons.

FACTUAL BACKGROUND

7. The plaintiff incorporates the foregoing paragraphs as if repeated here, verbatim.
8. In 1999, Greenville County Council created the Greenville County Economic Development Corporation to purchase the roadbed of the defunct Greenville & Northern Railway. After several plans for the roadbed were proposed and denied, the Greenville Health System

contributed \$1 million of a \$2.7 million project to build the Swamp Rabbit Trail.

9. By 2012, nearly 1,000 people per day were using the trail. That number is presumably much higher today. Prisma Health's name and involvement is displayed throughout the trail, and Prisma Health benefits from its funding and maintenance of the trail by advertising to the vast number of cyclists and walkers who use the trail daily.
10. During 2023, the defendants began doing work on the trail in order to maximize profits, promote use of the trail, and attract patrons such as the plaintiff. In doing so, the defendants undertook several duties to patrons, including duties to perform upgrades and improvements in a reasonable and safe manner, to complete such projects within a reasonable time, to warn patrons of the dangers and hazards created by destruction and work to the area at issues, and such other duties as are described below.
11. As a result of the defendants' targeting of patrons like the plaintiff, the plaintiff used the trail and relied upon the defendants to fulfill their respective duties. The plaintiff was reasonable in assuming the trail would be reasonably fit for use that and it would not contain unreasonable hazards and dangers.
12. By October 2023, the defendants had completed the above-described work but had failed to completely repair the areas of the trail accessible to patrons and/or had completed their work in a grossly negligent manner.
13. Despite their duty to perform work in a reasonable and timely fashion, the defendants allowed a large, dangerous hole to exist on the trail after they repaired other areas around hole. The defendants had constructive notice of the hole because the condition existed long enough for them to discover and to repair it through reasonable care, and in fact repairs were made to areas around the danger. The defendants also had actual notice of the hole because they created the

danger with a faulty design that failed and/or fixed the areas around the hole without repairing the entire problem. Signs of recent work in the area in question would lead patrons like the plaintiff to believe any problems were remedied and that travel along the area was safe. By choosing not to repair the entire area and/or completing repairs and upgrades in a grossly negligent way, the defendants left an area that remained dangerous.

14. Because asphalt has a dark color and changes in depth of asphalt are also dark in color, failure to repair areas of asphalt poses an especially dangerous risk to patrons. That danger is greater with respect to cyclists, who move at a higher rate of speed than walkers and who have less time to observe hidden dangers, such as those concealed in the darkness of unrepaired asphalt.
15. On October 17, 2023, the plaintiff was riding her bicycle on the Swamp Rabbit Trail when she came upon a large dangerous hole that the defendants had failed to repair and/or had inadequately repaired. Because of the location of the hole and the dark color of the asphalt, the plaintiff was unable to see the dangerous condition until it was too late for her to avoid it. The plaintiff hit the hole. She flew off of the bicycle, hitting her head on the ground and landing on her left elbow.
16. Immediately following the collision, the plaintiff sought medical treatment at Prisma Health North Greenville Hospital, where she was diagnosed with multiple abrasions, multiple contusions, chest trauma, and a broken elbow. Medical personnel splinted the plaintiff's arm and referred her to an orthopedist for prompt follow-up.
17. The following day, the plaintiff received a telephone call from medical personnel informing her that she needed immediate surgery to correct an olecranon fracture in her left arm. On October 19, 2023, the plaintiff underwent the necessary surgery, which required the insertion of a plate and five screws.

18. As a result of the collision, the plaintiff has sustained significant and likely permanent injuries, from which she continues to suffer. The plaintiff requires additional medical treatment for her injuries, including at least one additional surgical procedure on her elbow.
19. The plaintiff reported the dangerous condition that caused her significant injuries to Greenville County employee Ty Houck. Rather than assisting the plaintiff with obtaining an incident report, Houck began publicly disseminating information about the plaintiff's injury and informed multiple third parties that the plaintiff intended to sue Greenville County, even though the plaintiff had no intention at that time of filing suit and had never informed Houck that she planned to file suit.
20. As a result of Houck's dissemination of inaccurate and untrue information, the plaintiff was banned from cycling by the owner of a property that she frequently visited and lost a sponsorship with a wheel manufacturer.
21. Eventually, Hank Long with Superior Insurance Services called the plaintiff and interrogated her about her injuries. At no time did Long or any other Superior Insurance Services' representative ever inform the plaintiff that she had the right to have an advocate with her during the conversation. Upon information and belief, Long and Superior Insurance Services were making efforts to unfairly generate a self-serving record and avoid acknowledgement of responsibility.
22. Long called the plaintiff the following day and told her that Superior Insurance Services was denying her claim, telling her, "I'm not trying to be a smartass, Ava, but holes are holes." The plaintiff requested the recording that Long made with her statement, but Long refused to give it to the plaintiff.
23. The plaintiff has since learned that, prior to her collision, two other people had hit the

unreasonably dangerous condition that caused her injuries and that one of those individuals was seriously injured by the condition. These prior collisions show that the defendants had actual and/or constructive notice that the condition that caused the plaintiff's injuries was dangerous and, despite having such notice, failed to make the condition safe for cyclists.

24. After the plaintiff was injured, the defendants finally repaired the dangerous condition that caused multiple people to be injured.
25. Upon information and belief, the plaintiff's recovery as to Prisma Health is not limited by the Tort Claims Act and punitive damages may be recovered as to Prisma Health.
26. Upon information and belief, Prisma Health's actions were motivated by the unreasonable pursuit of financial gain.
27. Upon information and belief, the liability of the City and the County are governed by the Tort Claims Act and resulted from several different occurrences of gross negligence.
28. The plaintiff is therefore informed and believes that she is entitled to judgment against the defendants.

FOR A FIRST CAUSE OF ACTION

**(Gross Negligence/Recklessness and Gross Negligence/Recklessness *Per Se*
as to City and the County)**

29. The plaintiff incorporates the foregoing paragraphs as if repeated here, verbatim.
30. At all times described herein, Defendant Greenville County and Defendant the City of Greenville each owed certain duties to the plaintiff, including but not limited to:
 - a. a duty to discover and repair dangers through routine maintenance;
 - b. a duty to provide sufficient funding for repairs and upgrades;
 - c. a duty to warn patrons of dangers, including dangers created by repairs and/or maintenance;
 - d. a duty to report dangers to appropriate persons;

- e. a duty to close off dangerous areas;
- f. statutory duties created by the Tort Claims Act and other statutes;
- g. duties created by ordinances giving rise to *per se* liability; and
- h. such other duties as will be shown through discovery and at trial.

31. Defendant Greenville County and Defendant the City of Greenville each breached one or more duties to the plaintiff and was therefore grossly negligent in one or more of the following ways:

- a. in failure to repair dangers;
- b. in leaving repairs unfinished;
- c. in ignoring known dangers;
- d. in failing to warn patrons such as the plaintiff of dangerous conditions;
- e. in encouraging patrons to use the trail with knowledge of dangers such as those described herein;
- f. in ignoring statutes, ordinances, and other guidelines that govern conditions of the path at issue and repairs/upgrades thereon; and
- g. in other ways as will be shown through discovery and at trial.

32. As a direct and proximate result of the grossly negligent and reckless acts and omissions of Defendant Greenville County and Defendant the City of Greenville, the plaintiff has sustained damages, including those set forth above and some or all of the following:

- a. physical injuries;
- b. past medical bills and expenses;
- c. future medical bills and expenses;
- d. pain and suffering;
- e. emotional, mental, and psychological damages;

- f. embarrassment;
- g. loss of enjoyment of life;
- h. scarring and permanent disfigurement;
- i. loss of income;
- j. loss of the ability to cycle for pleasure or competitively for a time; and
- k. such other damages as will be shown through discovery and at trial.

33. As a direct and proximate result of the grossly negligent and reckless acts and omissions of Defendant Greenville County and Defendant the City of Greenville, the plaintiff has incurred and will continue to incur substantial future expenses related to medical care that would not be required but for the defendants' wrongful conduct.

34. The plaintiff is therefore informed and believes that she is entitled to judgment against Defendant Greenville County and the City of Greenville for actual damages stemming from each separate occurrence of gross negligence which proximately caused her injuries.

FOR A SECOND CAUSE OF ACTION
(Negligence and Gross Negligence/Recklessness as to Prisma Health)

35. The plaintiff incorporates the foregoing paragraphs as if repeated here, verbatim.

36. At all times described herein, Defendant Prisma Health owed certain duties to the plaintiff, including but not limited to:

- a. a duty to discover and repair dangers through routine maintenance;
- b. a duty to put patrons' safety over its pursuit of financial gain;
- c. a duty to hire qualified persons to perform work;
- d. a duty to provide sufficient funding for repairs and upgrades;
- e. a duty to warn patrons of dangers, including dangers created by repairs and/or maintenance;

- f. a duty to report dangers to appropriate persons;
- g. a duty to close off dangerous areas;
- h. statutory duties;
- i. duties created by ordinances giving rise to *per se* liability; and
- j. such other duties as will be shown through discovery and at trial.

37. Defendant Prisma Health breached one or more duties to the plaintiff and was therefore negligent and/or grossly negligent/reckless in one or more of the following ways:

- a. in failing to repair dangers;
- b. in pursuing financial gain through advertising while ignoring known dangers to patrons;
- c. in leaving repairs unfinished;
- d. in ignoring known dangers;
- e. in failing to warn patrons such as the plaintiff of dangerous conditions;
- f. in encouraging patrons to use the trail with knowledge of dangers such as those described herein;
- g. in ignoring statutes, ordinances, and other guidelines that govern conditions of the path at issue and repairs/upgrades thereon; and
- h. in other ways as will be shown through discovery and at trial.

38. As a direct and proximate result of the negligent and/or grossly negligent/reckless acts and omissions of Defendant Prisma Health, the plaintiff has sustained damages, including those set forth above and some or all of the following:

- a. physical injuries;
- b. past medical bills and expenses;

- c. future medical bills and expenses;
- d. pain and suffering;
- e. emotional, mental, and psychological damages;
- f. embarrassment;
- g. loss of enjoyment of life;
- h. scarring and permanent disfigurement;
- i. loss of income;
- j. loss of the ability to cycle for pleasure or competitively for a time; and
- k. such other damages as will be shown through discovery and at trial.

39. As a direct and proximate result of the grossly negligent and reckless acts and omissions of Defendant Prisma Health, the plaintiff has incurred and will continue to incur substantial future expenses related to medical care that would not be required but for the defendants' wrongful conduct.

40. The plaintiff is therefore informed and believes that she is entitled to judgment against Defendant Prisma Health for actual damages and punitive damages.

FOR A THIRD CAUSE OF ACTION
(Negligent Hiring, Supervision, and Retention as to all defendants)

41. The plaintiff incorporates the foregoing paragraphs as if repeated here, verbatim.

42. In addition to its vicarious liability for its employees' negligence and gross negligence/recklessness, each defendant is directly liable for negligent hiring, supervision, and retention of unqualified employees who the defendants should have known were unqualified and/or would cause injury.

43. Each defendant had a duty to hire competent and fit employees; to perform background checks; to require appropriate education, experience, and other qualifications; to implement

appropriate policies and procedures for subsidiaries; to properly supervise employees; and to terminate unfit employees.

44. Each defendant breached its duties to adequately hire, supervise, and retain employees in a negligent and/or grossly negligent/reckless manner in some or all of the following particulars:

- a. in failing to ensure that employees complied with policies and procedures regarding incidents such as those described herein;
- b. in failing to perform background checks and properly screen potential employees;
- c. in failing to reprimand or terminate the employment of employees after learning of various acts of dereliction, incompetence, and other acts perpetrated by employees prior to the events described herein;
- d. in condoning employees' various acts of dereliction of duty and incompetence;
- e. in failing to warn the plaintiff and others of employees' dangerous propensities toward others and inability to adequately and safely perform tasks;
- f. in failing to investigate the conduct of employees toward the plaintiff and/or conduct that affected the plaintiff;
- g. in failing to properly instruct and supervise the involved employees and others; and,
- h. in other such particulars as the evidence may show.

45. As a direct and proximate result of the negligent and grossly negligent/reckless acts and omissions of each defendant, the plaintiff has sustained injuries, including those set forth above and some or all of the following:

- a. physical injuries;
- b. past medical bills and expenses;
- c. future medical bills and expenses;

- d. pain and suffering;
- e. emotional, mental, and psychological damages;
- f. embarrassment;
- g. loss of enjoyment of life;
- h. scarring and permanent disfigurement;
- i. loss of income;
- j. loss of the ability to cycle for pleasure or competitively for a time; and
- k. such other damages as will be shown through discovery and at trial.

46. The plaintiff is therefore informed and believes that she is entitled to judgment against the defendants.

WHEREFORE, the plaintiff requests the following;

- a. a jury trial and judgment against the defendants;
- b. actual damages for each occurrence all relief available under the Tort Claims Act as to the government defendants;
- c. actual damages, statutory damages, punitive damages, and all relief available at common and statutory law as to Defendant Prisma Health; and
- d. such other relief the Court deems just and equitable.

Respectfully submitted,

Hawkins & Jedziniak, LLC

s/ Joshua T. Hawkins

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Greenville, South Carolina

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Attorneys for Plaintiff

Pursuant to Rule 38 *SCRCP*, Plaintiff demands a trial by jury on all issues triable to a jury.

s/ Joshua T. Hawkins
Joshua T. Hawkins

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
	)	C.A. No.: 2024-CP-23-04497
	)	
Ava Sykes	)	
	)	
Plaintiff,	)	
vs.	)	ANSWER OF DEFENDANT GREENVILLE
	)	COUNTY TO PLAINTIFF'S COMPLAINT
	)	
Greenville County,	)	(JURY TRIAL DEMANDED)
City of Greenville, and	)	
Prisma Health	)	
Defendants.	)	
	)	

Defendant Greenville County ("Greenville"), answering the Complaint of the Plaintiff herein, would respectfully show unto this Honorable Court as follows:

- Any allegation not specifically addressed is denied.

FOR A FIRST DEFENSE
(Motion to Dismiss and/or for Judgment)

- Greenville moves for and/or preserves the right to move for dismissal and/or judgment, per Rules 12(b)(6), 12(c) and/or 56, SCRCF given that, even in the light most favorable to Plaintiff, her allegations fail to set forth facts sufficient to constitute a cause of action on her pleadings and/or Greenville maintains immunity from suit per provisions of the South Carolina Tort Claims Act ("TCA") §15-78-10, et. seq. and the Recreational Use Statute ("RUS") §27-3-10, et. seq. given that there is no evidence but that the situs of her complained incident, the Swamp Rabbit Trail, constitutes Land of Recreational Purpose upon which Plaintiff was recreationally active, for which Greenville owed no duty of care; moreover, Greenville and/or its agents were not grossly negligent, willful or malicious in any manner and had no notice, actual

or constructive, regarding any allegedly defect or condition complained of by Plaintiff as the cause of her action and/or injury(ies).

FOR A SECOND DEFENSE

3. Upon information and belief, Greenville admits the allegations contained in Paragraph 1 of Plaintiff's Complaint.

4. Greenville admits the allegations contained in Paragraphs 2, 5 and 6 of Plaintiff's Complaint, with Greenville being afforded all defenses and protections afforded under the South Carolina Tort Claims Act ("TCA") §15-78-10, et. seq. and the Recreational Use Statute ("RUS") §27-3-10, et. seq.

5. The allegations of Paragraphs 3 and 4 are addressed to Defendants other than Greenville and require no response; nonetheless, Greenville is without information sufficient to form a belief as to how the other two Defendants are proper parties given the understood physical location of incident that is the subject of Plaintiff's Complaint.

6. Paragraphs 7, 29, 35 and 41 of Plaintiff's Complaint are reincorporation paragraphs requiring no response. To the extent a response is required, Greenville denies any allegation regarding negligence, gross negligence or liability as to Greenville.

7. With regard to the allegations contained in Paragraphs 8, 9, 10 and 11 of Plaintiff's Complaint, Greenville generally admits that during and before the referenced time frames, plans were proposed to develop what became the Swamp Rabbit Trail ("Trail"), including the obtainment of former railbed and the development of it, greenway along the Reedy River and other sections of land, including parks, to connect Travels Rest with the City of Greenville. GHS contributed marketing funds starting in 2007, paid out over ten years in the amount of \$1 million. The Trail opened in 2009, allowing admission-free access, use, benefit and enjoyment to voluntary

users and/or “patrons” as a recreational area per the RUS.

8. Greenville denies the allegations contained in Paragraph 12 of Plaintiff’s Complaint, while acknowledging ongoing expansion and improvement of the Trail for the admission-free access, use, benefit and enjoyment to voluntary users and/or “patrons” as a recreational area per the RUS

9. Greenville denies the allegations contained in Paragraphs 13 and 14 of Plaintiff’s Complaint and/or denies that any assertions support any alleged liability by Greenville.

10. Greenville denies the allegations contained in Paragraph 15 as described, while acknowledging receipt of a report from a rider accompanying Plaintiff that Plaintiff had “hit a large bump in the trail that was pushed up by tree roots” while approaching the northernmost end of the Trail, falling from her bike and injuring her elbow. Nonetheless, Greenville denies that the approximate two-inch bump observed in that area thereafter (a photo of which was provided to and confirmed by the accompanying rider) was large, dangerous, hidden, concealed, reported to, complained about or created by Greenville, which had no notice, constructive or otherwise of said tree root bump.

11. Upon information and belief, Greenville admits the allegations in Paragraphs 16, 17, and 18 of Plaintiff’s Complaint regarding the alleged injuries caused by her fall from the bike, but deny any alleged liability for the same.

12. With regard to the allegations contained in Paragraphs 19 and 20 of Plaintiff’s Complaint, Greenville admits that employee Ty Houck, a personal acquaintance of both Plaintiff and her accompanying rider, initially received a call from the accompanying rider reporting the incident, for which there was an appropriate response by Houck and/or Greenville. Greenville denies the remainder of the allegations contained therein and/or is without information sufficient to form a belief as to the remainder of Plaintiff’s allegations therein.

13. With regard to the allegations contained in Paragraph 21 of Plaintiff's Complaint, upon information and belief Greenville admits that Hank Long with Superior Insurance Services called the plaintiff to fully receive any and all information Plaintiff (having initiated the claim he was obliged to investigate) wished to share with him.

14. While Greenville is without information sufficient to form a belief as to truth of the allegations contained in Paragraph 22 of Plaintiff's Complaint, upon information and belief Hank Long denies the quote attributed to him while admittedly denying Plaintiff's claim per one or more of the reasons and/or defenses asserted herein.

15. Greenville is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of Plaintiff's Complaint but does specifically deny any report or notice of the same to Greenville and demands strict proof thereof.

16. With regard to the allegations contained in Paragraph 24 of Plaintiff's Complaint, Greenville denies any knowledge regarding other/multiple persons being injured by the observed bump, deny that such bump was necessarily dangerous, but nonetheless admit, following the report and notice provided regarding Plaintiff's incident, that appropriate measures were undertaken by Greenville alone in response.

17. The allegations contained in Paragraphs 25, 26 and 27 of Plaintiff's Complaint (similar to the allegations of Paragraphs 3 and 4) are addressed to Defendants other than Greenville and require no response; nonetheless, Greenville is without information sufficient to form a belief as to how the other two Defendants are proper parties given the understood physical location of incident that is the subject of Plaintiff's Complaint.

18. Greenville denies the allegations contained in Paragraph 28 of Plaintiff's Complaint.

19. Greenville denies the allegations contained in Paragraphs 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46 and the WHEREFORE clause of Plaintiff's Complaint.

FOR A THIRD DEFENSE

20. Defendant adopts and realleges each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

21. Greenville asserts all rights and defenses under §15-78-60; including but not limited to subsections, 1, 2, 3, 4, 5, 8, 15, 16, 20, 25 and 26 of the South Carolina Code of Laws therefore the Plaintiff's Complaint should be dismissed.

FOR A FOURTH DEFENSE

22. Any injuries and damages sustained by the Plaintiff as set forth in her Complaint may have been due to and caused by the sole negligence, recklessness, willfulness, and wantonness of the Plaintiff, including her assumption of risk, in one or more of the following particulars:

- a. In failing to maintain a proper lookout with regard to the conditions then and there present;
- b. In failing to properly observe the conditions then and there present;
- c. In failing to appropriately reduce her speed given the conditions then and there present;
- d. In failing to properly secure herself upon her bike given the conditions then and there present;
- e. In failing to appropriately reduce the speed she was traveling given the conditions then and there present;
- f. In failing to properly maintain her bike;
- g. In knowingly and voluntarily assuming the risk of riding where, when and how she did given the conditions then and there present;
- h. In failing to maintain proper control of and placement upon her bike;

- i. In traveling too fast for the conditions then and there present;
- j. In such other particulars as may be revealed through discovery and/or shown by the evidence at trial.

FOR A FIFTH DEFENSE

23. Defendant adopts and realleges each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

24. Such injuries and damages as were allegedly sustained by Plaintiff at the time and place alleged in the Complaint, if any, may have been due to and directly and proximately caused by the negligence, recklessness, willfulness, and wantonness of Plaintiff, including assumption of the risk, in one or more of the particulars set forth herein, which allegations are realleged and incorporated by reference, such that Plaintiffs' alleged injuries and damages are a proximate cause thereof and without which the same would not have occurred; therefore the contributory and comparative negligence of the Plaintiff acts as a complete bar and defense to this action.

FOR A SIXTH DEFENSE

25. Defendant adopts and realleges each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

26. The claims of Plaintiff may be barred or partially barred by virtue of Plaintiff's failure to mitigate her alleged damages.

FOR A SEVENTH DEFENSE

27. Defendant adopts and realleges each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

28. All risks and dangers, if any, connected with the accident referred to in the Complaint and the use of the area where the Plaintiff allegedly fell were open, obvious and apparent and were

known to or should have been as known or apparent to Plaintiff as to any agent of Defendants, with the Plaintiff competent to judge the safety and risk of the place she chose to utilize in the manner that she did; therefore, any assertion of negligence and/or any damages awarded to Plaintiff should be proportionately reduced by the amount of the Plaintiff's own fault and negligence in accordance with the Comparative Negligence Law of the State of South Carolina, including her assumption of risk.

FOR AN EIGHTH DEFENSE

29. Defendants adopt and reallege each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

30. Given the acknowledged use of the subject area by Plaintiff for recreational purposes, Greenville is immune from liability under the subject circumstances, especially given the lack of any notice, actual or otherwise, regarding any alleged defect or condition.

FOR A NINTH DEFENSE

31. Defendant adopts and reallege each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

32. All risks and dangers, if any, connected with the accident referred to in the Complaint and the use of the area where the Plaintiffs allegedly fell, were open, obvious, natural and potentially apparent and if so, were observable, known to or could have been as known or apparent to Plaintiff as any agent of Defendant(s), with the Plaintiff competent to judge the safety and risk of the area she chose to utilized for recreational activity in the manner she did; therefore, the assumption of the risk on the part of the Plaintiff acts as a complete bar to the action.

FOR A TENTH DEFENSE

33. Defendant adopts and realleges each and every allegation set forth above, and not

inconsistent herewith, as if fully repeated herein.

34. Punitive damages are unconstitutional per the fifth (5th), eighth (8th) and fourteenth (14th) amendments of the United States Constitution and some of the provisions of the South Carolina Constitution and fully barred as to Greenville per §15-78-120 of the TCA.

FOR AN ELEVENTH DEFENSE

35. Defendant adopts and realleges each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

36. Greenville asserts all rights and defenses under §15-78-10, et. seq. of the South Carolina Code of Laws, including §§15-78-30; 50; 60, 70, 100, 110, 120, 200 and any other defense, immunity or protection not otherwise asserted; therefore, Plaintiff's Complaint should be dismissed and/or any alleged damage appropriately limited.

FOR A TWELFTH DEFENSE

37. Defendant adopts and realleges each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

38. Greenville asserts any other right, immunity or defense under the §15-38-15, et. seq. of the South Carolina Code of Laws, including but not limited to the limitation of liability for Defendants responsible for less than fifty per cent of total fault; apportionment of damages; etc.

FOR A THIRTEENTH DFEENSE

39. Some or all of the damages/claims alleged by the Plaintiff may have been proximately caused by the unforeseeable actions (or inactions) of independent third-parties, such that Greenville cannot be held responsible.

FOR A FOURTEENTH DFEENSE

40. Defendant adopts and realleges each and every allegation set forth above, and not

inconsistent herewith, as if fully repeated herein.

41. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action as to Greenville and/or the recitations of her pleadings are such that Greenville is entitled to judgment and/or dismissal per Rules 12(b)(6), 12(c) and/or 56, SCRCP.

FOR A FIFTEENTH DFEENSE

42. Defendant adopts and realleges each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein

43. Greenville asserts each and every immunity and/or defense afforded by the Recreational Use Statute ("RUS") §27-3-10, et. seq. of the S.C. Code of Laws.

44. Given that there is no evidence but that the situs of her complained incident, the Swamp Rabbit Trail, constitutes Land of Recreational Purpose upon which Plaintiff was recreationally active, Greenville owed no duty of care to plaintiff; moreover, Greenville and/or its agents were not grossly negligent, willful or malicious in any manner and had no notice, actual or constructive, regarding any allegedly defect or condition complained of by Plaintiff as the cause of her action and/or injury; accordingly Greenville is entitled to judgment and/or dismissal per Rules 12(b)(6), 12(c) and/or 56, SCRCP.

FOR A SIXTEENTH DFEENSE

45. Defendant adopts and realleges each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

46. Greenville asserts the Public Duty Rule as a complete defense to the allegations of Plaintiff, for which, given the circumstances and allegations of Plaintiff, Greenville owed no actionable duty of care and for which judgment and/or dismissal per Rules 12(b)(6), 12(c) and/or 56, SCRCP is appropriate.

WHEREFORE, Defendant Greenville County, having answered the Complaint of the Plaintiff herein, respectfully requests that the Court dismiss the Plaintiff's Complaint as to it (and all), for costs in this action, and for such other and further relief as the Court may deem just and proper.

s/John Patrick "Jack" Riordan
John Patrick "Jack" Riordan (SC Bar # 65284)
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**ATTORNEYS FOR DEFENDANT
GREENVILLE COUNTY**

Greenville, South Carolina
November 27, 2024

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
	)	C.A. No.: 2024-CP-23-04497
	)	
Ava Sykes	)	
	)	
Plaintiff,	)	
vs.	)	MOTION FOR SUMMARY JUDGMENT
	)	BY GREENVILLE COUNTY
	)	
Greenville County,	)	
City of Greenville, and	)	
Prisma Health	)	
Defendants.	)	

TO: THE PLAINTIFF AVA SYKES AND HER ATTORNEYS:

YOU WILL PLEASE TAKE NOTICE that Defendant Greenville County hereby moves the Court, pursuant to Rule 56 of the *South Carolina Rules of Civil Procedure* (“SCRCP”), for an Order granting summary judgment in its favor as to all of Plaintiff’s claims. In support of this motion, Greenville County will show that there are no genuine issues of material fact and Plaintiff’s claims related to her October 17, 2023, bicycle accident on the Swamp Rabbit Trail fail as a matter of law. Even assuming in the light most favorable to Plaintiff that some defect or condition causing her loss existed, per the affidavits submitted in support, no actual notice of the same was provided or existed as to Greenville County beforehand. Accordingly, given that the provisions of the South Carolina Tort Claims Act (“TCA”)¹ must be liberally construed in favor of limiting the liability of the State and/or governmental entity² and a clear and unambiguous exception to the waiver of immunity exists in this instance, Greenville County is entitled to summary judgment as a matter of law.

¹ §15-78-10, *et. seq.* S.C. Code

² §15-78-20(f) and §15-78-200, S.C. Code

As noted in the affidavits (and likely capable of judicial notice), the Swamp Rabbit Trail is public property permitted to be used as a park and/or open area for recreational purposes, including bike riding, without charge. Given the claims herein and per the TCA, Greenville County is immune from liability “unless the defect or condition causing a loss is not corrected by the particular governmental entity responsible . . . within a reasonable time after actual notice of the defect or condition.”³ Unsurprisingly, no such notice existed UNTIL the complaint of Plaintiff.

Though unnecessary, Greenville County’s motion likely finds additional support from the protections afforded by the Recreational Use Statute given that no evidence exists of any grossly negligent, willful or malicious failure to guard or warn against any dangerous condition, use, structure or activity.⁴ Likewise, were any form of defense negligence existent, Plaintiff’s comparative negligence, including assumption of the risk, should be found to exceed it as a matter of law.

While it is anticipated that Plaintiff will request the ability to undertake additional discovery prior to the award of the requested judgment, the provided affidavits establish the admittedly rare and/or unusual instance wherein additional discovery can serve no useful purpose. Plaintiff is incapable of demonstrating “the likelihood that further discovery will uncover additional relevant evidence” of the required actual notice and will amount to a mere “fishing expedition.” *Schmidt v Courtney*, 357 S.C. 310, 322, 592 S.E.2d 326 (Ct. App. 2003) citing *Dawkins v Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003). The base rule of civil procedure mandates that the rules “shall be construed to secure the just, speedy, and inexpensive determination of every action.” Rule 1, *SCRCP*. Absent the required proof of an essential element

³ §15-78-60(16)

⁴ §27-3-10, *et. seq.*

to create a genuine issue of material fact per *Celotex v Catrett*, 477 U.S. 317 (1986), summary judgment is appropriate.⁵

The motion of Greenville County may find support from the pleadings, affidavit(s), memoranda in support, photographic exhibits, answers to interrogatories, requests to admit and/or depositions that may be hereafter submitted for consideration.

Respectfully submitted,

s/John Patrick “Jack” Riordan

John Patrick “Jack” Riordan (SC Bar # 65284)
Charles F. Turner, Jr. (SC Bar # 64996)
WILLSON JONES CARTER & BAXLEY, P.A.
325 Rocky Slope Road, Suite 201
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cfturner@wjcblaw.com
Attorneys For Defendant Greenville County

Greenville, South Carolina
May 28, 2025

⁵ As noted in the affidavits and per the present allegations, dismissal of the co-defendants is independently appropriate via summary judgment grants.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	Civil Action No.: 2024-CP-23-04497
Ava Sykes,	)	
	)	
	)	
Plaintiff,	)	
vs.	)	MEMORADUM IN SUPPORT OF
	)	DEFENDANT GREENVILLE COUNTY'S
Greenville County, City of Greenville, and	)	MOTION FOR SUMMARY JUDGMENT
Prisma Health,	)	
	)	
Defendants.	)	

This matter concerns Plaintiff's October 17, 2023, bicycle accident on the Swamp Rabbit Trail. Defendant Greenville County ("Greenville County") submits this memorandum in support of its motion for summary judgment and comprehensive affidavits given that the specific, reconciled and complimentary protections provided by the South Carolina Recreational Use Statute ("SCRUS") §27-3-10, *et. seq. S.C. Code of Laws* and the South Carolina Tort Claims Act ("SCTCA") § 15-78-10 *et seq S.C. Code of Laws* show that there are no genuine issues of material fact and Plaintiff's claims fail as a matter of law.

LAW

"Summary judgment is appropriate when it is clear that there are no genuine issues of material fact, and the moving party is entitled to judgment as a matter of law." *City of Columbia v. A.C.L.U.*, 475 S.E.2d 747, 748, 323 S.C. 384, 386 (1996) *citing CSNB v Landlord*, 443 SE2d 549 (1994). In ruling on a motion for summary judgment, the evidence and the inferences that can be drawn therefrom should be viewed in the light most favorable to the nonmoving party. *Cafe Assocs. v. Gerngross*, 406 S.E.2d 162, 164, 305 S.C. 6, 9, (1991) *citing Tom Jenkins Realty, Inc. v. Hilton*, 300 SE2d 594 (1983).

“The purpose of summary judgment is to obviate delay where there is no material issue of fact involved.” *Manley v Manley*, 335 S.E.2d 312, 314 (Ct. App. 1987), citing *Hammond v Scott*, 232 S.E.2d 336 (1977). “The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” *Rule 56*. . . . “[T]he mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment. The requirement is that there be no *genuine* issue of *material* fact.” *Scott v Harris*, 550 US 372 at 380 (2007), quoting *Matsushita Elec. Industrial Co. v. Zenith Radio Corp.*, 475 US 574, 586-7 (1986) and *Anderson v. Liberty Lobby, Inc.*, 477 US 242, 247-8 (1986). “[T]he “mere scintilla” standard is not the correct standard for decision under Rule 56(c). . . . [A] party opposing summary judgment “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*.’” *Kitchen Planners, LLC v. Friedman Op. No. 28173* (S.C. Sup. Ct. filed August 23, 2023) (quoting *Baughman v AT&T*, 410 SE2d 537 at 545 (1991) and *Matsushita, Id.* at 586-7).

"Under *Rule 56(c)*, the party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact." *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). "With respect to an issue upon which the nonmoving party bears the burden of proof, this initial responsibility `may be discharged by "showing" — that is, pointing out to the [trial] court — that there is an absence of evidence to support the nonmoving party's case.'" *Id.* (alteration in original) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 325, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986)). "The moving party need not `support its motion with affidavits or other similar materials negating the opponent's claim.'" *Id.* (quoting *Celotex*, 477 U.S. at 323, 106 S.Ct. 2548); see also *Richardson v. State-Record Co.*, 330 S.C. 562, 499 S.E.2d 822 (Ct.App.1998). Once the moving party carries its initial burden, the opposing party must come forward with specific facts that show there is a genuine issue of fact remaining for trial. *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545.

Sides v. Greenville Hosp. System, 362 S.C. 250, 255; 607 S.E.2d 362 (Ct. App. 2004).

"[I]t is ultimately the nonmovant's burden to persuade [the court] that there is indeed a dispute of material fact. It must provide more than a scintilla of evidence—and not merely conclusory allegations or speculation—upon which a jury could properly find in its favor." *CoreTel Va., LLC v. Verizon Va., LLC*, 752 F.3d 364, 370 (4th Cir. 2014) (citations omitted). "[W]here the record taken as a whole could not lead a rational trier of fact to find for the non-moving party, disposition by summary judgment is appropriate." *Teamsters Joint Council No. 83 v. Centra, Inc.*, 947 F.2d 115, 119 (4th Cir. 1991).

I. South Carolina Recreational Use Statute

The SCRUS declares that its purpose "is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes." . The SCRUS therefore provides **that a landowner who opens his property to the public for recreational uses without charge owes the public no duty of care to keep the premises safe or to warn of dangerous conditions on the property.** *See S.C. Code Ann. § 27-3-30.* Furthermore, **a landowner who permits the public to use his property in such a manner does not thereby extend any assurance that the premises are safe or confer the legal status of an invitee or licensee upon those who enter his property.** *See S.C. Code Ann. § 27-3-40.* The SCRUS does not, however, limit the landowner's liability for a grossly negligent, willful, or malicious failure to guard or warn against a dangerous condition. *See S.C. Code Ann. § 27-3-60.*

Kimsey v. City of Myrtle Beach, 109 F.3d 194, 195-196 (4th Cir. 1997)¹(emphasis added)

See also Chrisley v. United States, 620 F. Supp. 285(D. S.C. 1985) (*Aff'd* 791 F.2d 165 (4th 1986))

II. South Carolina Tort Claims Act/Exceptions to Waiver of Immunity

The SCTCA is the exclusive civil remedy available for any tort committed by a governmental entity, its employees or agents; the provisions of the SCTCA must be liberally construed in favor of limiting the liability of the State and/or governmental entity. *See §15-78-*

¹ *Kimsey* additionally confirms that the SCRUS applies to state governmental entities.

20(b) and (f), and §15-78-200, S.C. Code of Laws. Moreover, governmental entities are only liable for torts in the same manner and to the same extent as a private individual under like circumstances, subject to the limitations upon liability and damages, and exemptions from liability and damages, contained herein.

Designated exceptions to SCTCA waiver of immunity within §15-78-60, S.C. Code of Laws, include: (4) adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies; (5) the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee; (16) maintenance, security, or supervision of any public property, intended or permitted to be used as a park, playground, or open area for recreational purposes, unless the defect or condition causing a loss is not corrected by the particular governmental entity responsible for maintenance, security, or supervision within a reasonable time after actual notice of the defect or condition;. *Id.*

III. Gross Negligence

While not conceding any waiver of immunity or that a breach of any duty could be found, if liability on behalf of Greenville County could be asserted, such must be proven by evidence of gross negligence, i.e., the failure to exercise even slight care. *See Clark v. SC Dept. of Public Safety*, 608 S.E.2d 573, 362 S.C. 377 (2005) and §15-78-60, SC Code. As the Supreme Court has explained, the conduct required to demonstrate gross negligence requires a consciousness of wrongdoing. *Rogers v Florence Printing Co.*, 106 SE2d 258, 264 (1958). “Gross negligence” is the intentional, conscious failure to do something which one ought to do or the doing of something one ought not to do.” *Brooks v Northwood Little League*, 489 S.E.2d 647, 651 (Ct.

App. 1997)(citing Clyburn v. Sumter County School District, 451 S.E.2d 885, 887 (1994) and Rakestraw v. SCDHPT, 473 S.E.2d 890 (Ct. App. 1996)).

IV. Open and Obvious Condition

Whatever the condition of the paved trail, such was not hidden; therefore no notice or warning was required. *See Chrisley v. United States, 620 F. Supp. 285(D. S.C. 1985).*² As in *Chrisley*, to hold that a failure to post a signage warning bikers in this instance (apparently to the effect that they must maintain a proper lookout, reduce their speed and/or exercise control over their bicycle commensurate with the conditions continually then and there present) would constitute grossly negligent, willful or malicious conduct is contrary to common sense. *Id at 292.*

ARGUMENT

While Defendant Greenville recognizes that summary judgment is a drastic remedy and should be cautiously invoked, application of the SCRUS ensures this is one of the ‘rare’ instances where the evidence, established through the previously filed affidavits/exhibits and viewed in the light most favorable to Plaintiff, is devoid of genuine issues of material fact, compelling judgment as a matter of law.

As maintained in the provided affidavits of Ty Houck and Steward Lawrence, Greenville County is the “owner” of that portion of “land” on the Swamp Rabbit Trail, used by Plaintiff in this instance without charge for the “recreational purpose” of bicycling.³ Accordingly, there was no duty of care owed to Plaintiff to keep the premises safe for entry or use or to give any warning of any condition, use or activity. Moreover, while it is maintained that the specified area did not even contain a “dangerous condition” there can be no genuine issue of material fact to support

² *Chrisley* references several cases in noting no duty to warn of conditions which are not hidden. *Id. at 290.*

³ Bicycling is at least a summer and/or winter sport and those defined terms within the RUS invite “judicial expansion where the plain meaning of the statute would not be distorted.” *Brooks v Northwood Little League, 489 S.E.2d 647, 651 (Ct. App. 1997).*

the required finding that Greenville County failed to exercise at least slight care or was willful or malicious with regard to the non-hidden condition of the extensively paved surfacing of this recreational use greenway (exceeding at least 17 miles long at the time and 8 to 12 feet in width) or in warning of any dangerous condition, use, structure or activity. As in *Kimsey* and *Brooks*, *supra*, the SCRUS grants immunity in this instance and bars and/or precludes all of Plaintiff's claims.

Alternatively, Greenville County is additionally exempt from any waiver of immunity given the absolute lack of actual notice regarding the alleged defect or condition causing loss. No prior complaint was made by anyone prior to October 17, 2023. Even upon notice of the Plaintiff incident, the specified and observed conditions merely reflected normal wear/tear/bulging of asphalt from tree/root structures that occur adjacent to and/or beneath this and any similar recreational use trail, road and/or greenway. *See Affidavits, with Exhibits*. There is simply no direct evidence or factual circumstances of actual notice as required for the waiver of immunity. Moreover, given Plaintiff's actual notice of a condition allegedly causing a loss, Greenville County reasonably addressed and/or corrected the "condition." *See Strother v. Lexington County Recreation*, 504 S.E.2d 117 (1998) and *Richardson v City of Columbia*, 532 S.E.2d 10 (Ct. App. 2000).⁴ *See also Souza v St. Tammany Parish*, 93 So.3d 745(La. App. 2012.)⁵

⁴ The SCRUS and the SCTCA were found to be "easily reconciled," to be construed thereafter in such a way that both remain functional. *Richardson, supra* citing *Porter v SCPSC*, 489 S.E.2d 467, 469 fn.3(1997)(Where two statutes can be reconciled and are susceptible of a construction which will render both operative without doing violence to either it is the duty of the court to so construe them. Here, there is no conflict between the statutes and, accordingly, they may be harmonized).

⁵ Even multiple work orders addressing water issues prior to Plaintiff bike accident under allegedly similar condition deemed insufficient to evince knowledge of unreasonably dangerous condition on day of incident or willful/malicious failure to warn when providing immunity under a similar recreational use statute.

Though Plaintiff maintains further discovery should be allowed prior to the grant of summary judgment, the provided affidavits establish the admittedly rare and/or unusual instance wherein additional discovery can serve no useful purpose. Plaintiff is incapable of demonstrating “the likelihood that further discovery will uncover additional relevant evidence” of the required actual notice and will amount to a mere “fishing expedition.” *Schmidt v Courtney*, 357 S.C. 310, 322, 592 S.E.2d 326 (Ct. App. 2003) citing *Dawkins v Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003). The base rule of civil procedure mandates that the rules “shall be construed to secure the just, speedy, and inexpensive determination of every action.” *Rule 1, SCRPC*.

CONCLUSION

For all of the foregoing, Defendant Greenville County prays that this Court grant Summary Judgment in its favor pursuant to *Rule 56, SCRPC*, the SCRUS and the SCTCA.

Respectfully submitted,

s/John Patrick “Jack” Riordan

John Patrick “Jack” Riordan (SC Bar # 65284)

Charles F. Turner, Jr. (SC Bar # 64996)

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(864) 373-7055 (Fax)

jpriordan@wjcblaw.com

cfturner@wjcblaw.com

Attorneys For Defendant Greenville County

September 19, 2025
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
	)	C.A. No.: 2024-CP-23-04497
	)	
Ava Sykes	)	
	)	
Plaintiff,	)	
vs.	)	AFFIDAVIT OF TY HOUCK
	)	
	)	
Greenville County,	)	
City of Greenville, and	)	
Prisma Health	)	
Defendants.	)	

PERSONALLY APPEARED BEFORE ME, Ty Houck, who, being sworn as competent to testify to the matters herein per his personal knowledge, states the following:

1. I am over the age of eighteen and, as Manager of Greenways, Natural and Historic Resources for Greenville County Parks, Recreation & Tourism, am competent and authorized to provide this testimony on behalf of Greenville County.
2. The Swamp Rabbit Trail ("SRT") was specifically created for free (without charge), public, recreational purposes and use, with no deviation since its opening.
3. Prior to October 17, 2023, there was no report to Greenville County of any dangerous or "defective" condition in the area of Plaintiff's accident and Greenville County had no notice (constructive, actual or otherwise) of any dangerous defect, condition or structure that had caused or contributed to an alleged loss or injury in that area.
4. Greenville County "owns" and maintains the section of the SRT where Plaintiff's reported bicycle accident occurred (near the northernmost end of the Green Line of the SRT, north of Travelers Rest) on October 17, 2023.
5. Andrew Blackstock, who was apparently present at the time of Plaintiff's fall, contacted me directly regarding the same approximately two weeks following the fall and confirmed the alleged area of the incident (See Exhibit A, text confirmation from Andrew and Exhibit B, subsequent account of incident from Andrew).
6. Even upon notice of her fall and the location, the observed conditions, a root bulge of less than two inches (See Exhibit C, enlargement of initially texted/confirmed photo and photo of measured height using a level), reflected normal wear/tear/bulging of asphalt

from tree/root structures that occur adjacent to and/or beneath the SRT pavement and any similar recreational use trail, road and/or greenway.

7. Despite no inherently dangerous or defective condition, Greenville County did conduct subsequent remedial measures, including the use of a portable asphalt heater (Exhibit D, actual heater and Exhibit E, exemplar model opened for use) following Plaintiff's reported fall as a reasonably responsive "correction" of any alleged defect or condition allegedly causing a loss after actual notice. (See Exhibit F – after adequate heating, a sledge hammer was used to impact the surface and reduce the height of the bump with the area now darker after heating and impaction of surface – no "large dangerous hole" ever existed as alleged in Plaintiff's Complaint).
8. If any liability could exist with regard to such an accident as alleged by Plaintiff, including within her Complaint (which is denied in this instance and these alleged circumstances) such would solely exist as to Greenville County (no involvement or liability could logically extend to the City of Greenville or Prisma Health, neither of which maintain any ownership interest or responsibility with relation to Plaintiff's accident as described or its location).

This affidavit is made upon my personal knowledge and sets forth facts that I believe would be admissible at trial. I declare under penalty of perjury that the foregoing is true and correct.

Further affiant sayeth not.

THIS THE 23rd DAY OF May, 2025.

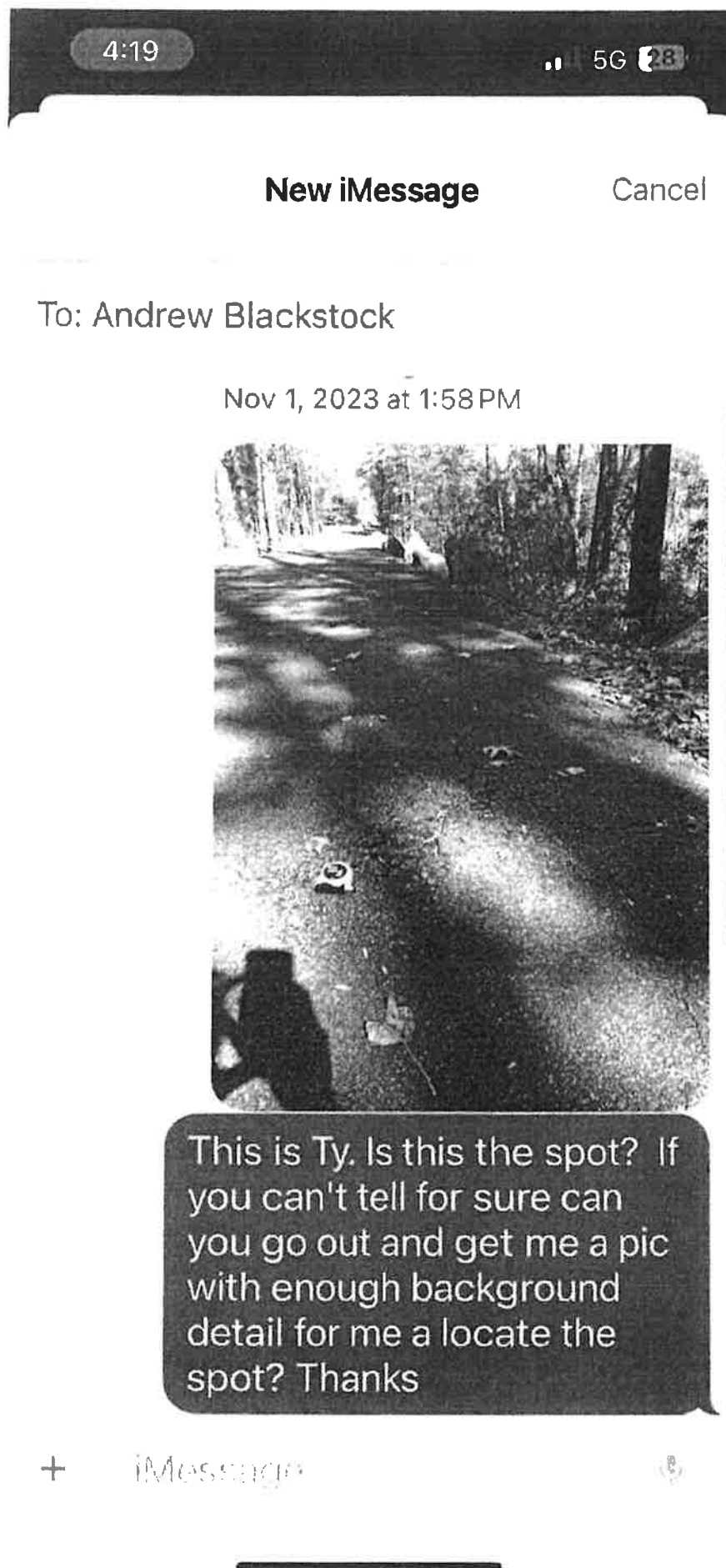
Ty Houck

GREENVILLE COUNTY
STATE OF SOUTH CAROLINA


Notary Public

My commission expires: August 30, 2034

EXHIBIT A







New iMessage

Cancel

To: Andrew Blackstock

I get working on fixing it.
And will be in touch with
your girlfriend about filing
and incident report.

Thanks

Nov 10, 2023 at 11:49 AM

Hey man, I need you to write
an account of Ava's accident
as you observed it. If you
can try to cover the what,
where, when, how and any
other details. Then email
that to me at
thouck@greenvillecounty.org. Thanks.

Delivered



Ok can do



iMessage



EXHIBIT B

Lawrence, Steward

From: andrew blackstock <andrew@rocket-revolution.com>
Sent: Monday, November 13, 2023 4:20 PM
To: Houck, Ty
Subject: Ava Sykes Incident Report

CAUTION: This email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Good afternoon Ty,

This is Andrew Blackstock. I was riding with and directly beside Ava Sykes on 10/17/2023 when she sustained a life altering crash on the swamp rabbit. We were riding north on the very last (for now) section of the swamp rabbit trail. We were riding together and she was on my right side. She hit a large bump in the trail that was pushed up by tree roots. This bump is located around 50-100 yards before the current end of trail sign on Tate road. You sent me a photo of the bump and as of today 11/13 that bump has been repaired. The bump caused her hands to slip off her bars unexpectedly and send her over the front end of her bike and onto the pavement. We immediately knew her elbow was badly damaged and I called Ben Renkema to come pick us up. He knows the area and had a vehicle large enough to get both of us and our bikes. The crash happened around 5:30 pm and we immediately took Ava to the Prisma Health ER in TR. During that crash Ava's cycling kit, helmet, and bike all took significant damage. Thank you so much for helping us with this!

Andrew Blackstock
864-254-8044

EXHIBIT C

GCPRT Photos Ava Sykes fall location



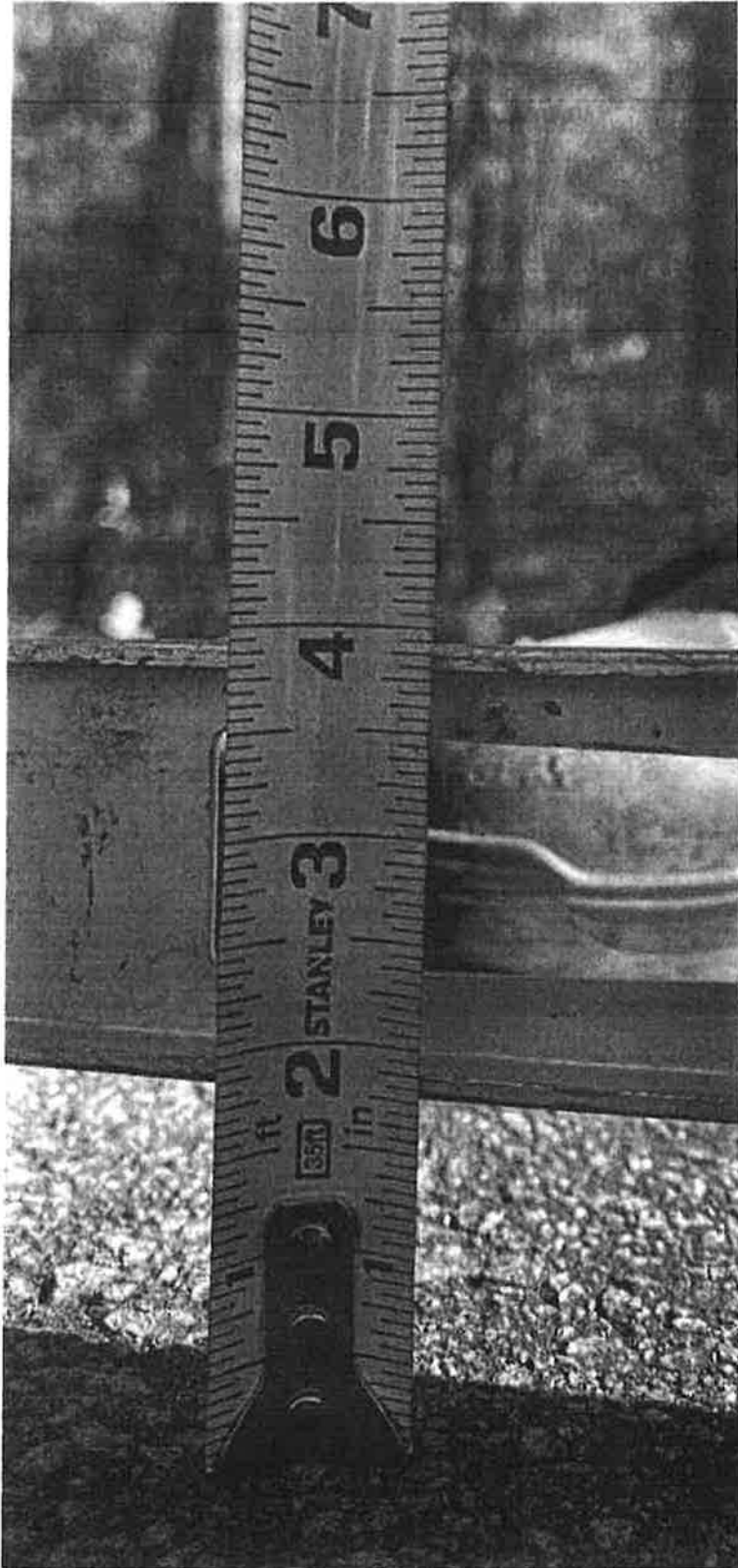


EXHIBIT D

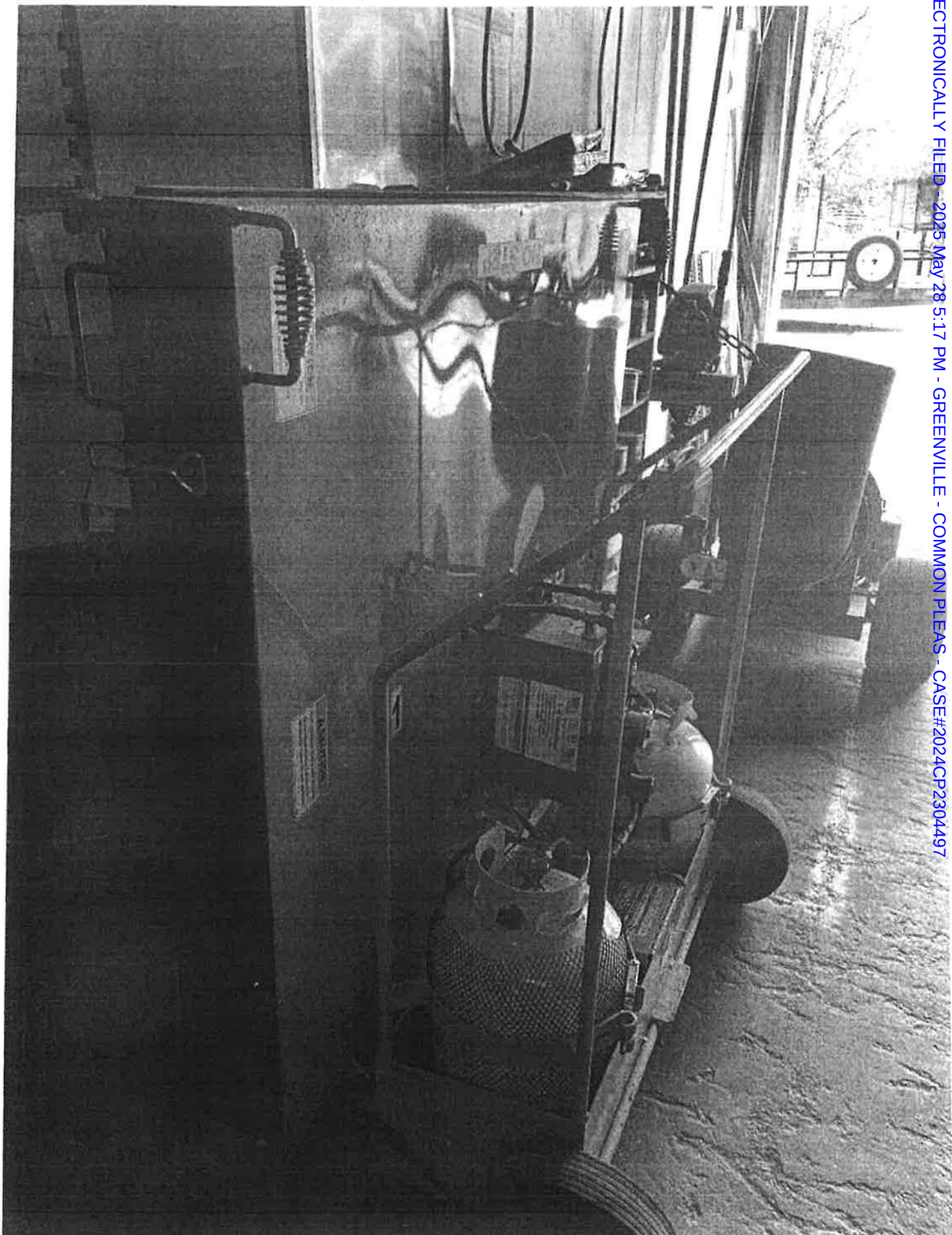


EXHIBIT E

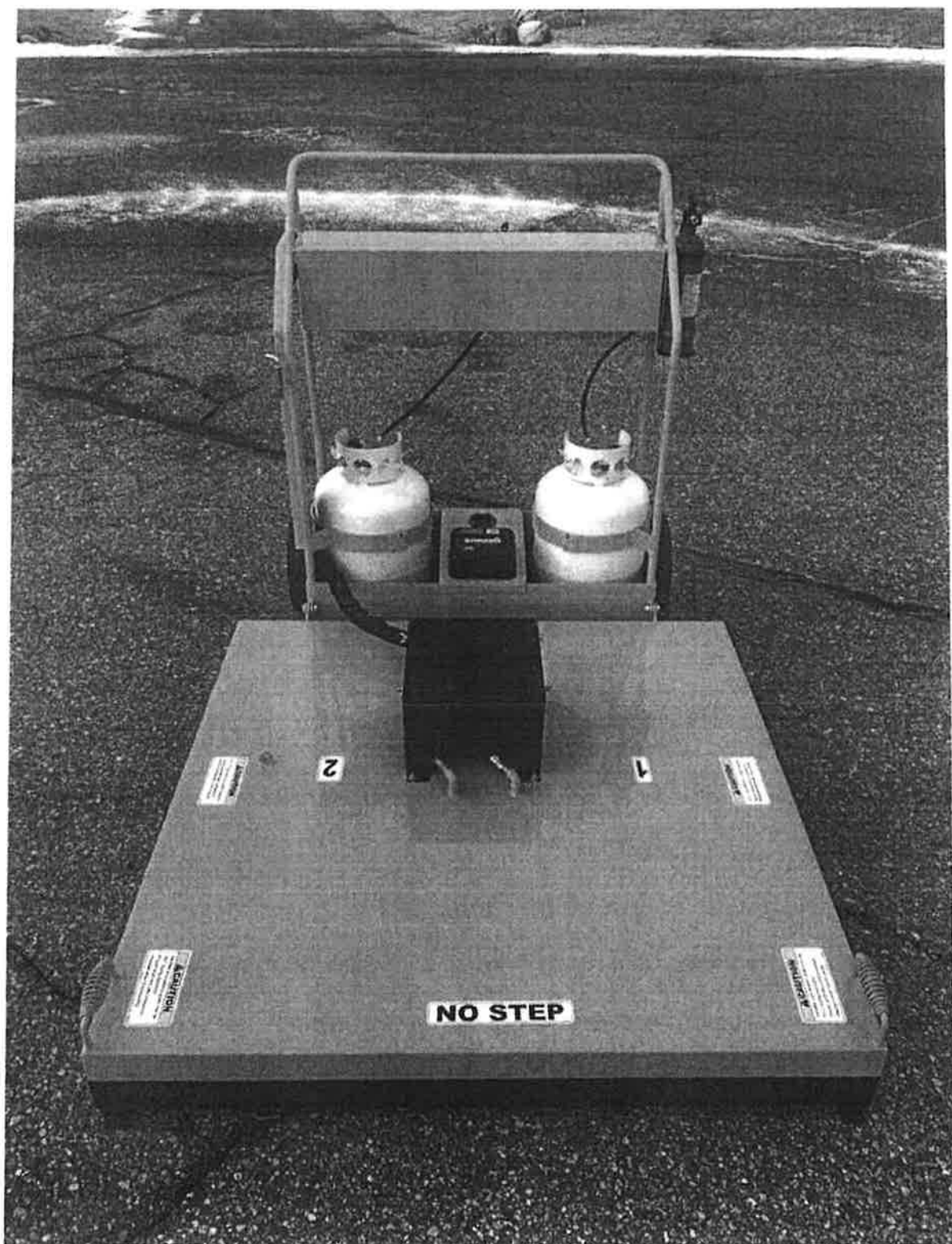


EXHIBIT F



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
	)	C.A. No.: 2024-CP-23-04497
	)	
Ava Sykes	)	
	)	
Plaintiff,	)	
vs.	)	AFFIDAVIT OF STEWARD LAWRENCE
	)	
	)	
Greenville County,	)	
City of Greenville, and	)	
Prisma Health	)	
Defendants.	)	

PERSONALLY APPEARED BEFORE ME, Steward Lawrence, who, being sworn as competent to testify to the matters herein per his personal knowledge, states the following:

1. I am over the age of eighteen and, as the Risk, Safety & Workers' Compensation Manager of Greenville County, am competent and authorized to provide this testimony on behalf of Greenville County.
2. The Swamp Rabbit Trail ("SRT") was specifically created for free (without charge), public, recreational purposes and use; there has been no deviation since the opening, with such measures specifically intended to ensure the needed protections of the South Carolina Tort Claims Act exceptions to the waiver of immunity and the South Carolina Recreational Use statute.
3. Prior to October 17, 2023, there was no report to Greenville County of any dangerous or "defective" condition in the area of Plaintiff's accident and Greenville County had no notice (constructive, actual or otherwise) of any dangerous defect, condition or structure that had caused or contributed to an alleged loss or injury in that area.
4. Greenville County "owns" and maintains the section of the SRT where Plaintiff's reported bicycle accident occurred (near the northernmost end of the Green Line of the SRT, north of Travelers Rest) on October 17, 2023.
5. Even upon notice of her fall (with the area being confirmed by the alleged witness, Andrew Blackstock, to Ty Houck per Ty's affidavit and exhibits), the observed conditions, a root bulge of less than 2 inches, reflected normal wear/tear/bulging of asphalt from tree/root structures that occur adjacent to and/or beneath the SRT pavement and any similar recreational use trail, road and/or greenway.

6. Despite no inherently dangerous or defective condition, Greenville County did conduct subsequent remedial measures to reduce the height of the bump following Plaintiff's reported fall as a reasonably responsive "correction" of any alleged defect or condition allegedly causing a loss after actual notice. No "large dangerous hole" ever existed as alleged in Plaintiff's Complaint.
7. If any liability could exist with regard to such an accident as alleged by Plaintiff, including within her Complaint (which is denied in this instance and alleged circumstances) such would solely exist as to Greenville County (no involvement or liability could logically extend to the City of Greenville or Prisma Health, neither of which maintain any ownership interest or responsibility with relation to Plaintiff's accident as described or its location).

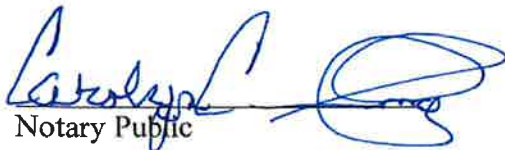
This affidavit is made upon my personal knowledge and sets forth facts that I believe would be admissible at trial. I declare under penalty of perjury that the foregoing is true and correct.

Further affiant sayeth not.

THIS THE 28th DAY OF May, 2025.


Steward Lawrence

GREENVILLE COUNTY
STATE OF SOUTH CAROLINA


Notary Public

My commission expires: August 30, 2034

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	CASE NO. 2024-CP-23-04497
Ava Sykes,	)	
	)	
Plaintiff,	)	MEMORANDUM IN OPPOSITION
	)	TO DEFENDANT GREENVILLE
vs.	)	COUNTY'S MOTION FOR
	)	SUMMARY JUDGMENT
Greenville County, City of Greenville, and	)	
Prisma Health,	)	
	)	
Defendants.	)	

TO: DEFENDANT, GREENVILLE COUNTY, BY AND THROUGH THEIR ATTORNEY OF RECORD, JOHN PATRICK RIORDAN, ESQ.

This Memorandum opposes Defendant Greenville County's ("Defendant") Motion for Summary Judgment, which seeks to dismiss Ava Sykes' ("Plaintiff") claims arising from her October 17, 2023, bicycle accident on the Swamp Rabbit Trail. Defendant argues that it is immune from liability under the South Carolina Tort Claims Act ("SCTCA") and the South Carolina Recreational Use Statute ("RUS"). However, the Plaintiff has presented sufficient evidence to create genuine issues of material fact regarding the Defendant's gross negligence, actual or constructive notice of the dangerous condition, and the applicability of statutory immunity.

Additionally, the Motion for Summary Judgment filed by Defendant is premature because discovery remains incomplete. Specifically, the Plaintiff has noticed a deposition for a Rule 30(b)(6) representative of Greenville County, which is critical to uncovering evidence relevant to the claims and defenses in this case. This deposition, originally scheduled for July 29, 2025, was postponed due to injuries sustained by Defense counsel in a motor vehicle collision. As a result,

the Plaintiff has not had a full and fair opportunity to complete discovery, and summary judgment should not be granted at this stage.

STANDARD OF REVIEW

Summary judgment cannot be granted where there is more than one reasonable inference from the evidence existing at the time the motion is heard. *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 461 (2023), citing *Vaughan v. Town of Lyman*, 370 S.C. 436, 448, 635 S.E.2d 631, 638 (2006). In determining whether any triable issue of fact exists, as will preclude summary judgment, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in light most favorable to the nonmoving party. *Strother v. Lexington County Recreation Comm'n*, 332 S.C. 54, 61, 504 S.E.2d 117, 121 (1998); *Pye v. Aycock*, 325 S.C. 426, 431, 480 S.E.2d 455, 467 (Ct. App. 1997). In ruling on a summary judgment motion, the Court should consider the pleadings, depositions, interrogatory answers, admissions, and affidavits in determining whether there is a genuine issue of fact for trial. *Thomas v. Waters*, 315 S.C. 524, 625, 445 S.E.2d 659, 661 (Ct. App. 1994).

“Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law.” *Lanham v. Blue Cross & Blue Shield of South Carolina, Inc.*, 349 S.C. 356, 361-62, 563 S.E.2d 331, 333 (2002). Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is a disagreement concerning the conclusion to be drawn from those facts. *Moriarty v. Garden Sanctuary Church of God*, 341 S.C. 320, 534 S.E.2d 672 (2000); *Ellis v. Davidson*, 358 S.C. 509, 595 S.E.2d 817 (Ct. App. 2004).

“Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied.” *Montgomery v. CSX*

Transp., Inc., 376 S.C. 37, 656 S.E.2d 624, 628 (Ct. App. 1994), cert. granted, decision aff'd, 319 S.C. 79, 459 S.E.2d 850 (1995). See also SCRCP 56(c), *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (“All ambiguities, conclusions, and inferences arising from the evidence must be construed most **strongly** against the moving party” (emphasis added)); *Hall v. Fedor*, 349 S.C. 169, 173, 561 S.E.2d 654, 656 (Ct. App. 2002); *Young v. South Carolina Dep’t of Corr.*, 333 S.C. 714, 511 S.E.2d 413 (Ct. App. 1999)). “Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied.” *Id.* at 173-74, 561 S.E.2d at 656.

The South Carolina Supreme Court has held that the evidence submitted to rebut a summary judgment motion may be either direct or circumstantial:

Evidence can be divided into two basic categories: direct and circumstantial. Direct evidence is evidence based on actual knowledge and proves a fact without inference or presumption. Direct evidence immediately establishes the main fact to be proved ... Circumstantial evidence immediately establishes collateral facts from which the main fact may be inferred and is typically characterized by inference or presumption.

State v. Salisbury, 343 S.C. 520, 524 n.1 (2001) (internal citations omitted).

Circumstantial evidence alone is sufficient to withstand summary judgment. *Gastineau v. Murphy*, 323 S.C. 168, 473 S.E.2d 819 (Ct. App. 1996), *rev’d on other grounds*, 331 S.C. 565, 503 S.E.2d 712 (1998) (“In totality, the Court comes to the inescapable conclusion that there is sufficient circumstantial evidence in the record to create a factual issue.”). Our Supreme Court has held that it is reversible error to direct a verdict in favor of the defendant when sufficient circumstantial evidence existed to justify sending the case to the jury. *Anderson v. Augusta Chronicle*, 619 S.E.2d 428, 365 S.C. 589 (2005).

Finally, *Dawkins v. Fields* provides that a verified complaint is equivalent to an affidavit for summary judgment purposes, provided that it satisfies the requirements of Rule 56(e). *Id.*, 354 S.C. 58, 580 S.E.2d 433 (2003). See also Exhibit A.

ARGUMENT

1. Summary Judgment must not be granted until discovery is completed.

The deposition of Defendant's Rule 30(b)(6) representative is critical to addressing material facts in dispute, including the Defendant's knowledge of the dangerous condition on the Swamp Rabbit Trail and its efforts to address prior incidents. The deposition is likely to uncover evidence relevant to the Defendant's notice of the condition, its maintenance practices, and whether its actions constituted gross negligence.

The delay in conducting the 30(b)(6) deposition was caused by injuries sustained by Defense counsel in a motor vehicle collision. This unforeseen circumstance was entirely beyond the Plaintiff's control. The Plaintiff has acted diligently in pursuing discovery and should not be penalized for delays caused by circumstances outside her control.

2. Defendant is not entitled to immunity under the South Carolina Tort Claims Act.

The SCTCA provides that governmental entities are immune from liability unless the defect or condition causing the loss is not corrected within a reasonable time after actual or constructive notice. However, exceptions to the waiver that contain the gross negligence standard apply to this case. *Repko v. County of Georgetown*, 818 S.E.2d 743 (2018) ("When an exception that contains the gross negligence standard applies to a case, the gross negligence standard is read into any of the other applicable exceptions."); *Chakrabarti v. City of Orangeburg* 403 S.C. 308, 319, 743 S.E.2d 109, 115 (Ct. App. 2013) see also, *Steinke v. S.C. Dep't of Lab., Licensing & Regul.*, 336 S.C. 373, 395, 520 S.E.2d 142, 153 (1999) ("when a governmental entity asserts various exceptions

to the waiver of immunity, is to read exceptions that do not contain the gross negligence standard in light of exceptions that do contain the standard.”). Failure to read the exceptions in this manner would render other portions of the TCA a nullity, which is contrary to the legislative intent of the Act. *Steinke*, 336 S.C. at 398, 520 S.E.2d at 155.

The Defendant argues that it lacked notice of the dangerous condition prior to the Plaintiff’s accident. However, the Plaintiff has presented evidence to the contrary.

The Plaintiff alleges that two other individuals were injured by the same dangerous condition prior to her accident, demonstrating that the Defendant had actual or constructive notice of the defect. (Comp. ¶ 23).

The SCTCA does not shield governmental entities from liability for gross negligence. The Plaintiff has alleged and provided evidence that the Defendant’s failure to repair the trail adequately, despite prior incidents and visible signs of disrepair, constitutes gross negligence.

3. The South Carolina Recreational Use Statute does not bar the Plaintiff’s claims.

The South Carolina RUS limits liability for landowners who open their property for recreational use without charge, except in cases of gross negligence, willful, or malicious conduct. In *Cole v. S.C. Elec. & Gas, Inc.*, the South Carolina Supreme Court explained, “The purpose of the RUS as stated in the statute is to encourage owners of land to make land and water areas available to the public for recreation purposes. § 27-3-10. Under the RUS a landowner’s liability is limited to gross negligence, which is defined as the failure to exercise slight care.” *Id.*, 362 S.C. 445, 455, 608 S.E.2d 859 (2005). The Plaintiff has presented sufficient evidence to create a genuine issue of material fact regarding whether the Defendant’s conduct meets this standard.

The Plaintiff alleges that the Defendant failed to repair the trail adequately, ignored known dangers, and encouraged public use of the trail despite its unsafe condition. These actions, if

proven, constitute gross negligence or recklessness, which would negate immunity under the South Carolina RUS.

The RUS does not protect landowners who fail to warn against known dangerous conditions. The Plaintiff alleges that the Defendant failed to provide adequate warnings about the dangerous condition of the trail, despite having notice of prior incidents.

4. The Open and Obvious Doctrine does not preclude recovery.

The Defendant argues that the condition of the trail was open and obvious, negating any duty to warn or repair. However, the South Carolina Supreme Court has established that “an owner is liable for injuries to an invitee, despite an open and obvious defect, if the owner should anticipate that the invitee will nevertheless encounter the condition, or that the invitee is likely to be distracted.” *Fountain v. Fred'S, Inc.*, 436 S.C. 40, 51, 871 S.E.2d 166 (2022). The Plaintiff alleges that the dark color of the asphalt and the location of the defect made it difficult to see, particularly for cyclists traveling at higher speeds. Additionally, the Affidavit provided by Steward Lawrence clearly establishes the condition of the trail as being “normal wear/tear/bulging” (Steward Lawrence Aff. ¶ 5). If this is normal wear and tear, then Defendant was clearly on notice of a condition in which invitees would nevertheless encounter. These facts create a genuine issue of material fact regarding the applicability of the open and obvious doctrine.

5. Comparative Negligence and Assumption of Risk are questions for the jury.

The Defendant argues that the Plaintiff’s comparative negligence or assumption of risk precludes recovery. However, these are factual questions that must be resolved by the jury. *Creighton v. Coligny Plaza Ltd. Pshp.*, 334 S.C. 96, 113, 512 S.E.2d 510 (1998). The Plaintiff has presented evidence that she reasonably relied on the Defendant to maintain the trail in a safe condition and could not have anticipated the dangerous defect.

CONCLUSION

For the foregoing reasons, the Plaintiff respectfully requests that the Court deny Defendant's Motion for Summary Judgment. Genuine issues of material fact exist regarding the Defendant's gross negligence, notice of the dangerous condition, and the applicability of statutory immunity. These issues must be resolved by a jury.

Respectfully submitted,

HAWKINS & JEDZINIAK, LLC



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Attorneys for Plaintiff

Greenville, South Carolina
September 23, 2025

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	CASE NO. 2024-CP-23-04497
Ava Sykes,	)	
Plaintiff,	)	PLAINTIFF'S MOTION TO
vs.	)	RECONSIDER
Greenville County,	)	
Defendants.	)	

Plaintiff Ava Sykes, by and through her undersigned counsel, moves this Court pursuant to Rule 59(e), SCRCPP, to reconsider and vacate its September 30, 2025, Order granting Defendant Greenville County's Motion for Summary Judgment.

This Motion to Reconsider is based on the grounds that the Motion for Summary Judgment was granted prematurely, as Plaintiff was not afforded the opportunity to conduct complete discovery, specifically the deposition of Defendant's Rule 30(b)(6) representative, which was delayed due to circumstances beyond Plaintiff's control.

STANDARD OF REVIEW

"[S]ince 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." *Baird v. Charleston Cty.*, 333 S.C. 519, 529, 511 S.E.2d 69, 74 (1999). "[S]ummary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery." *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991).

In Baughman, we ruled summary judgment premature because (1) plaintiffs demonstrated a likelihood that further discovery would uncover additional relevant evidence, and (2) plaintiffs were not dilatory in seeking discovery. Although three

years had elapsed between filing the action and summary judgment, the delay could not fairly be attributed solely to plaintiffs' inaction, and the delay was tempered by the complexity of the case.

John Doe v. Batson, 345 S.C. 316, 322, 548 S.E.2d 854 (2001).

ARGUMENT

Plaintiff was unable to depose Defendant's Rule 30(b)(6) representative, a critical component of discovery necessary to address material facts in dispute. The deposition was postponed at the request of Defendant's counsel due to injuries that he sustained in a scooter collision. Plaintiff acted diligently in rescheduling the deposition but was unable to complete it before the Court ruled on Defendant's motion for summary judgment.

Rule 56 of the South Carolina Rules of Civil Procedure provides that summary judgment is appropriate only when there is no genuine issue of material fact. However, when discovery is incomplete, summary judgment is premature, as further inquiry into the facts is necessary to clarify the application of the law. Rule 56, SCRPC.

Plaintiff has presented evidence suggesting that Defendant had actual or constructive notice of the dangerous condition on the Swamp Rabbit Trail. Specifically, Plaintiff alleges that prior incidents involving the same defect occurred, which would have provided Defendant with notice of the condition. The deposition of Defendant's Rule 30(b)(6) representative is likely to uncover additional evidence regarding Defendant's knowledge of the defect, its maintenance practices, and whether its actions constituted gross negligence.

Rule 59 of the South Carolina Rules of Civil Procedure allows for the reconsideration of judgments to ensure that justice is served. In this case, denying Plaintiff the opportunity to complete discovery would result in substantial prejudice, as Plaintiff has not had a full and fair opportunity to develop the factual record necessary to oppose summary judgment.

CONCLUSION

Plaintiff files this current Motion in compliance with the 10-day requirement for seeking reconsideration. Plaintiff further notes that defense counsel was to file a proposed order within 15 days of the September 30, 2025, Order; should such an order be filed, Plaintiff reserves the right to file a second motion to reconsider as needed.

WHEREFORE, Plaintiff respectfully requests that this Court reconsider its Order granting summary judgment in favor of Defendant Greenville County and allow Plaintiff to complete discovery, including the deposition of Defendant's Rule 30(b)(6) representative, before ruling on the motion for summary judgment.

Respectfully submitted,

HAWKINS & JEDZINIAK, LLC



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Greenville, South Carolina
October 10, 2025

Attorneys for Plaintiff

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	CASE NO. 2024-CP-23-04497
	)	
Ava Sykes,	)	
	)	AFFIDAVIT OF SULAIMAN
Plaintiff,	)	AHMAD, ESQ.
	)	
vs.	)	
	)	
Greenville County, City of Greenville, and	)	
Prisma Health,	)	
	)	
Defendants.	)	

I, Sulaiman Shah Ahmad, Esq., being duly sworn, do swear and affirm as follows:

I am an attorney licensed to practice law in the State of South Carolina and am counsel of record for the Plaintiff, Ava Sykes, in the matter captioned above.

This affidavit is submitted in support of Plaintiff's Motion to Reconsider the Court's September 30, 2025, Order granting summary judgment in favor of Defendant Greenville County. The Order granting summary judgment was entered prematurely, as Plaintiff could not complete discovery, specifically the deposition of Greenville County's Rule 30(b)(6) representative.

On July 18, 2025, Plaintiff served a Notice of Deposition of Greenville County's 30(b)(6) Representative requiring attendance at the offices of Hawkins & Jedziniak, LLC on July 29, 2025. This deposition was necessary to obtain testimony regarding Greenville County's maintenance responsibilities and notice of hazardous conditions along the Swamp Rabbit Trail – central issues in this case that are directly relevant to Plaintiff's claims of negligence and gross negligence. Additionally, it was the Plaintiff's intent to inquire as to previous instances where individuals were hurt on the trail, that Greenville County had notice of.

On July 25, 2025, defense counsel's office notified all counsel via email that Mr. Jack Riordan, counsel for Greenville County, had been involved in an "accident" and was scheduled for surgery on July 30, 2025. Defense counsel requested that the July 29, 2025 deposition be withdrawn due to these circumstances.

Plaintiff's counsel accommodated this request and did not proceed with the deposition, acting in good faith and with professional courtesy. Plaintiff immediately communicated willingness to reschedule the deposition once defense counsel was medically able to participate.

I further state that this affidavit was intended to be filed contemporaneously with Plaintiff's original Motion to Reconsider. However, due to an inadvertent oversight, it was not submitted at that time. I am now filing this affidavit and respectfully request that it be considered as part of Plaintiff's Motion to Reconsider.

At the time the Court ruled on Greenville County's Motion for Summary Judgment, Plaintiff had not yet had the opportunity to take the Rule 30(b)(6) deposition. This was due to circumstances entirely beyond Plaintiff's control, specifically defense counsel's medical emergency and subsequent scheduling delays.

Affiant further sayeth not,



Sulaiman Ahmad, S.C. Bar #106665

SWORN to before me this

14th DAY of October 2025.



Notary Public for South Carolina

My Commission Expires: 6-1-2031



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
	)	C.A. No.: 2024-CP-23-04497
	)	
Ava Sykes	)	
	)	
Plaintiff,	)	
vs.	)	DEFENDANT GREENVILLE COUNTY'S
	)	MEMORANDUM IN RESPONSE AND
	)	OPPOSITION TO PLAINTIFF'S MOTION TO
Greenville County,	)	RECONSIDER
	)	
Defendant.	)	
	)	
	)	

TO: THE PLAINTIFF AVA SYKES AND HER ATTORNEYS:

COMES NOW Defendant Greenville County ("Defendant") responding to and in opposition of Plaintiff's Motion to Reconsider the grant of summary judgment to Defendant.

Defendant has acknowledged throughout that the grant of summary judgment is a rarity and should be cautiously invoked but has maintained such is wholly appropriate in this unique instance, despite Plaintiff's appropriate and non-dilatory efforts to notice a 30(b)(6) deposition.

As largely discussed at the hearing, Defendant was aware of no basis for some of the conclusory allegations of Plaintiff's verified Complaint, dispelled by the "showing" within the affidavits of Ty Houck and Steward Lawrence that Defendant was provided no notice whatsoever regarding any allegedly dangerous defect or condition causing injury prior to Plaintiff's accident (which would include the actual notice as required herein).

Plaintiff's Complaint was filed July 23, 2024. Following eventual service upon Defendant, they timely Answered on November 27, 2024, pointedly asserting applicability and protections of the South Carolina Tort Claims Act ("SCTCA") and South Carolina Recreational Use Statute ("SCRUS"), denying any form of notice, and reminding that the original allegation was that

Plaintiff had hit a bump in the trail pushed up by tree roots (not an allegedly large hole, which was and is denied to have existed). Discovery seeking a basis for the conclusory allegations was served by Defendant on January 15, 2025, with Plaintiff responding by February 17, 2025. No witnesses were identified as having prior incidents on the trail and no information was provided to detail evidence that notice of an alleged defect or condition that contributed to Plaintiff's incident was provided to Defendant beforehand, as required.¹ Additional discovery was exchanged between Plaintiff and the other co-defendants, with no additional information. Undocumented discussions were had regarding these issues with Plaintiff's counsel, along with the advisement that a summary judgment motion would likely be necessitated in this instance.

Plaintiff did provide a 30(b)(6) topic list by April 23, 2025, with various depositions being discussed thereafter. Defendant's Summary Judgement Motion, with affidavits, was filed on May 28, 2025, with the hearing scheduled the following day, originally set for July 31, 2025. Similar motions by both co-defendants were eventually filed thereafter, largely based upon the Defendant affidavits.

While ongoing discussions did continue with regard to a potential 30(b)(6) deposition, it was voiced by defense counsel, again recognizing the unique circumstances of the case and the applicability of the SCTCA and SCRUS, that an objection and/or motion for protective order would likely be necessitated in this instance. Both phone discussions and a follow-up email (See Exhibit A attached) were had by July 16, 2025, attempting to ensure understanding of the position taken by Defendant, but with the assurance of corroborating the non-dilatory efforts by Plaintiff, whether notice was actually provided or not. Plaintiff did choose two days later to serve notice to seek a 30(b)(6) deposition on July 30, 2025 (the day before the initial hearing date). Thereafter, defense counsel did have an unfortunate "vehicle accident" on July 22, 2025, with Plaintiff's

¹ While Defendant will supplement with copies of discovery responses (both as to Defendant and others) if deemed necessary, no genuine issue of material fact was put forth by the hearing.

counsel graciously withdrawing the notice given the injury suffered, the necessity of surgery and the agreed postponement of all events in the interim (avoiding the necessity of the intended protective filing, for which ample time remained).

Even upon the rescheduling of the hearing for September 24, 2025, the same positions were maintained. Though scheduling discussions resumed, the possible dates extended into early November, acknowledging (as was done at the hearing) no dilatory effort by Plaintiff.

Defendant maintains that this remains the admittedly rare, unusual, though nonetheless fair, instance wherein additional discovery can serve no useful purpose given the unique protections provided by the SCTCA and the SCRUS, the affidavits provided and as recognized by *Rule 1, SCRCF*. Accordingly, Defendant urges denial of Plaintiff's motion to reconsider.

Respectfully submitted,

s/John Patrick "Jack" Riordan

John Patrick "Jack" Riordan (SC Bar # 65284)
Charles F. Turner, Jr. (SC Bar # 64996)
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Attorneys For Defendant Greenville County

Greenville, South Carolina
October 15, 2025

EXHIBIT A

Jack Riordan

From: Jack Riordan
Sent: Wednesday, July 16, 2025 3:32 PM
To: Josh Hawkins
Subject: RE: Sykes v. Greenville County, et al G9270: Sykes v. City of Greenville and Prisma

Josh, per our talk I understand you wish to go ahead and notice the 30b6 depo, with the knowledge that we will likely thereafter move for protection through the upcoming 7/31 hearings. Either way, my intent to call was to ensure you I would protect you on at least the attempt to seek this discovery prior to the hearing (knowing that will be at least an argument you put forth) whether you formally did so or had evidence via this email of our "agreement"/understanding - thanks, Jack

-----Original Message-----

From: Julie E. West <jewest@wjcblaw.com>
Sent: Wednesday, July 16, 2025 2:58 PM
To: Jack Riordan <jpriordan@wjcblaw.com>
Subject: FW: Sykes v. Greenville County, et al G9270: Sykes v. City of Greenville and Prisma

See below from Candie Edwards in Josh Hawkins' office.

From: Paralegal <Paralegal@hjlsc.com>
Sent: Wednesday, July 16, 2025 2:10 PM
To: Julie E. West <jewest@wjcblaw.com>
Subject: RE: Sykes v. Greenville County, et al G9270: Sykes v. City of Greenville and Prisma

Hi Julie! I wanted to follow up on dates for the depositions below.

Candie Edwards

Hawkins & Jedziniak, LLC

Paralegal

Office: 864-275-8142 | Fax: 864-752-0911

Email: candie@hjlsc.com <mailto:candie@hjlsc.com>

1225 South Church Street | Greenville, SC 29605

www.hawkinsandjedziniak.com <http://www.hawkinsandjedziniak.com/>

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	CASE NO. 2024-CP-23-04497
Ava Sykes,	)	
	)	
Plaintiff,	)	PLAINTIFF'S MOTION TO
	)	RECONSIDER
vs.	)	
	)	
Greenville County,	)	
	)	
Defendant.	)	
	)	
	)	

Plaintiff Ava Sykes, by and through her undersigned counsel, moves this Court pursuant to Rule 59(e), *SCRCP*, to reconsider and vacate its formal order entered on October 28, 2025. This Motion to Reconsider is based on the grounds that the Motion for Summary Judgment was granted prematurely, as Plaintiff was not afforded the opportunity to conduct complete discovery, specifically the deposition of Defendant's Rule 30(b)(6) representative, which was delayed due to defense counsel's unforeseen medical emergency.

STANDARD OF REVIEW

"[S]ince 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." *Baird v. Charleston Cty.*, 333 S.C. 519, 529, 511 S.E.2d 69, 74 (1999). "[S]ummary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery." *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991).

In *Baughman*, we ruled summary judgment premature because (1) plaintiffs demonstrated a likelihood that further discovery would uncover additional relevant evidence, and (2) plaintiffs were not dilatory in seeking discovery. Although three years had elapsed between filing the action and summary judgment, the delay could

not fairly be attributed solely to plaintiffs' inaction, and the delay was tempered by the complexity of the case.

John Doe v. Batson, 345 S.C. 316, 322, 548 S.E.2d 854 (2001).

The Supreme Court of South Carolina also held that: "Rule 30(b)(6) depositions are often vital to any litigation involving companies, the government, or other organizations. The whole idea behind Rule 30(b)(6) is to allow a party the opportunity to discover relevant facts about an organization by questioning the organization's designated representative under oath." *Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 650, 916 S.E.2d 320 (2025).

ARGUMENT

1. Summary Judgment was prematurely granted as Plaintiff was unable to conduct her 30(b)(6) deposition.

Rule 56 of the South Carolina Rules of Civil Procedure provides that summary judgment is appropriate only when there is no genuine issue of material facts. However, when discovery is incomplete, summary judgment is premature, as further inquiry into the facts is necessary to clarify the application of the law. Rule 56, *SCRCP*.

In this case, discovery was incomplete when summary judgment was granted. Plaintiff was unable to take the deposition of Defendant's Rule 30(b)(6) representative, a critical component of discovery necessary to address material facts in dispute. *Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 650, 916 S.E.2d 320 (2025). The deposition was postponed at the request of Defendant's counsel due to injuries that he sustained in a scooter collision. Plaintiff acted diligently in rescheduling the deposition but was unable to complete it before the Court ruled on Defendant's motion for summary judgment. The 30(b)(6) deposition was essential to develop evidence regarding: (1) the County's notice (actual or constructive) of defects on the Swamp Rabbit Trail;

(2) the County's inspection and maintenance practices; and (3) whether any grossly negligent or willful disregard for safety occurred.

Further, Plaintiff has presented evidence suggesting that Defendant had actual or constructive notice of the dangerous condition on the Swamp Rabbit Trail. Specifically, Plaintiff alleges that prior incidents involving the same defect occurred, which would have provided Defendant with notice of the condition. The deposition of Defendant's Rule 30(b)(6) representative is likely to uncover additional evidence regarding Defendant's knowledge of the defect, its maintenance practices, and whether its actions constituted gross negligence.

2. Plaintiff acted in good faith by providing an extension to defense counsel.

Under *Baughman* and *Batson*, a litigant should not be deprived of discovery or trial due to events outside her control, especially when that discovery could reasonably lead to relevant facts opposing summary judgment. The record demonstrates that Plaintiff's counsel noticed the deposition promptly and accommodated defense counsel's emergency in good faith. Defense counsel's own memorandum concedes that Plaintiff's efforts were appropriate and non-dilatory.

3. Manifest injustice and substantial prejudice will result if the Order stands.

Rule 59 of the South Carolina Rules of Civil Procedure allows for the reconsideration of judgments to ensure that justice is served. In this case, denying Plaintiff the opportunity to complete discovery would result in substantial prejudice, as Plaintiff has not had a full and fair opportunity to develop the factual record necessary to oppose Defendant's motion for summary judgment. The October 28, 2025, Order rested on affidavits that the Plaintiff has not yet been able to test through deposition. Denying reconsideration would result in manifest injustice, as the Plaintiff's case would be dismissed before she could complete discovery. The 30(b)(6) testimony

is reasonably calculated to uncover whether Greenville County had prior notice of the hazard or engaged in negligent maintenance.

CONCLUSION

Plaintiff files this current Motion in compliance with the 10-day requirement for seeking reconsideration. Plaintiff respectfully requests that this Court reconsider its Order granting summary judgment in favor of Defendant Greenville County and allow Plaintiff to complete discovery, including the deposition of Defendant's Rule 30(b)(6) representative, before ruling on the motion for summary judgment.

Respectfully submitted,

HAWKINS & JEDZINIAK, LLC

s/ Sulaiman Ahmad

Joshua T. Hawkins. S.C. Bar #78470

Helena L. Jedziniak, S.C. Bar #100825

Sulaiman Ahmad, S.C. Bar #106665

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Attorneys for Plaintiff

Greenville, South Carolina

November 4, 2025

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
	)	C.A. No.: 2024-CP-23-04497
	)	
Ava Sykes	)	
	)	
Plaintiff,	)	
vs.	)	DEFENDANT GREENVILLE COUNTY'S
	)	MEMORANDUM IN RESPONSE AND
	)	OPPOSITION TO PLAINTIFF'S MOTION TO
Greenville County,	)	RECONSIDER THE FORMAL ORDER
	)	GRANTING SUMMARY JUDGMENT
Defendant.	)	
	)	
	)	

TO: THE PLAINTIFF AVA SYKES AND HER ATTORNEYS:

COMES NOW Defendant Greenville County ("Defendant") responding to and in opposition of Plaintiff's Motion to Reconsider the formal Order filed October 28, 2025, granting summary judgment to Defendant.

Defendant has acknowledged throughout that the grant of summary judgment is a rarity and should be cautiously invoked but has maintained such is wholly appropriate in this unique instance, despite Plaintiff's appropriate and non-dilatory efforts to notice a 30(b)(6) deposition.

As largely discussed at the hearing, Defendant was aware of no basis for some of the conclusory allegations of Plaintiff's verified Complaint, dispelled by the "showing" within the affidavits of Ty Houck and Steward Lawrence that Defendant was provided no notice whatsoever regarding any allegedly dangerous defect or condition causing injury prior to Plaintiff's accident (which would include the actual notice as required herein).

Plaintiff's Complaint was filed July 23, 2024. Following eventual service upon Defendant, they timely Answered on November 27, 2024, pointedly asserting applicability and protections of the South Carolina Tort Claims Act ("SCTCA") and South Carolina Recreational Use Statute

(“SCRUS”), denying any form of notice, and reminding that the original allegation was that Plaintiff had hit a bump in the trail pushed up by tree roots (not an allegedly large hole, which was and is denied to have existed). Discovery seeking a basis for the conclusory allegations was served by Defendant on January 15, 2025, with Plaintiff responding by February 17, 2025. No witnesses were identified as having prior incidents on the trail and no information was provided to detail evidence that notice of an alleged defect or condition that contributed to Plaintiff’s incident was provided to Defendant beforehand, as required.¹ Additional discovery was exchanged between Plaintiff and the other co-defendants, with no additional information. Undocumented discussions were had regarding these issues with Plaintiff’s counsel, along with the advisement that a summary judgment motion would likely be necessitated in this instance.

Plaintiff did provide a 30(b)(6) topic list by April 23, 2025, with various depositions being discussed thereafter. Defendant’s Summary Judgement Motion, with affidavits, was filed on May 28, 2025, with the hearing scheduled the following day, originally set for July 31, 2025. Similar motions by both co-defendants were eventually filed thereafter, largely based upon the Defendant affidavits.

While ongoing discussions did continue with regard to a potential 30(b)(6) deposition, it was voiced by defense counsel, again recognizing the unique circumstances of the case and the applicability of the SCTCA and SCRUS, that an objection and/or motion for protective order would likely be necessitated in this instance. Both phone discussions and a follow-up email (See Exhibit A attached) were had by July 16, 2025, attempting to ensure understanding of the position taken by Defendant, but with the assurance of corroborating the non-dilatory efforts by Plaintiff, whether notice was actually provided or not. Plaintiff did choose two days later to serve notice to seek a 30(b)(6) deposition on July 30, 2025 (the day before the initial hearing date). Thereafter,

¹ While Defendant will supplement with copies of discovery responses (both as to Defendant and others) if deemed necessary, no genuine issue of material fact was put forth by the hearing.

defense counsel did have an unfortunate “vehicle accident” on July 22, 2025, with Plaintiff’s counsel graciously withdrawing the notice given the injury suffered, the necessity of surgery and the agreed postponement of all events in the interim (avoiding the necessity of the intended protective filing, for which ample time remained).

Even upon the rescheduling of the hearing for September 24, 2025, the same positions were maintained. Though scheduling discussions resumed, the possible dates extended into early November, acknowledging (as was done at the hearing) no dilatory effort by Plaintiff.

In contrast to the essential refusal to provide any discovery response adopted by the subject defendant in *Welch*² (an asbestos case providing none of the SCTCA or SCRUS protections), the Defendant affidavits, with exhibits, provided “full, complete, and non-evasive [showings] regarding the relevant subject matter.” *Welch at 651*. Despite continued attempts to assert otherwise per base allegations of the Complaint, no specific, material fact was responsively put forth giving rise to a genuine issue of material fact regarding any actual notice of an alleged defect or condition or of any grossly negligent, willful or malicious failure to guard or warn against any dangerous condition, use, structure or activity prior to Plaintiff’s accident.

Defendant maintains that this remains the admittedly rare, unusual, though nonetheless fair, instance wherein additional discovery can serve no useful purpose given the unique protections provided by the SCTCA and the SCRUS, the affidavits provided and as recognized by *Rule 1, SCRCP*. Accordingly, Defendant urges denial of Plaintiff’s motion to reconsider the formal Order granting summary judgment.

² *Welch v Advance Auto Parts, Inc.*, 445 S.C. 640, 916 S.E.2d 320 (2025)

Respectfully submitted,

s/John Patrick “Jack” Riordan

John Patrick “Jack” Riordan (SC Bar # 65284)

Charles F. Turner, Jr. (SC Bar # 64996)

WILLSON JONES CARTER & BAXLEY, P.A.

325 Rocky Slope Road, Suite 201

Greenville, SC 29607

(864) 672-3721 (Phone)

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jpriordan@wjcblaw.com

cfturner@wjcblaw.com

Attorneys For Defendant Greenville County

Greenville, South Carolina

November 5, 2025

Paralegal

From: Jack Riordan <jpriordan@wjcblaw.com>
Sent: Thursday, July 17, 2025 12:46 PM
To: Josh Hawkins; Paralegal; Helena Jedziniak; Sulaiman Ahmad
Subject: RE: Sykes v. Greenville County, et al G9270: Sykes v. City of Greenville and Prisma

Follow Up Flag: Follow up
Flag Status: Flagged

Agreed - good look on other matter we discussed -best wishes, Jack

-----Original Message-----

From: Josh Hawkins <josh@hjlsc.com>
Sent: Thursday, July 17, 2025 12:23 PM
To: Jack Riordan <jpriordan@wjcblaw.com>; Paralegal <Paralegal@hjlsc.com>; Helena Jedziniak <Helena@hjlsc.com>; Sulaiman Ahmad <ahmad@hjlsc.com>
Subject: Re: Sykes v. Greenville County, et al G9270: Sykes v. City of Greenville and Prisma

Thanks, Jack.

Yes, in our effort to set forth evidence supporting our case and demonstrate the notice at issue, we need to get this depo. we will send you the notice, and I understand that you may file a motion to quash.

Sincerely,

On 7/16/25, 3:32 PM, "Jack Riordan" <jpriordan@wjcblaw.com <mailto:jpriordan@wjcblaw.com>> wrote:

Josh, per our talk I understand you wish to go ahead and notice the 30b6 depo, with the knowledge that we will likely thereafter move for protection through the upcoming 7/31 hearings. Either way, my intent to call was to ensure you I would protect you on at least the attempt to seek this discovery prior to the hearing (knowing that will be at least an argument you put forth) whether you formally did so or had evidence via this email of our "agreement"/understanding - thanks, Jack

-----Original Message-----

From: Julie E. West <jewest@wjcblaw.com <mailto:jewest@wjcblaw.com>>
Sent: Wednesday, July 16, 2025 2:58 PM
To: Jack Riordan <jpriordan@wjcblaw.com <mailto:jpriordan@wjcblaw.com>>
Subject: FW: Sykes v. Greenville County, et al G9270: Sykes v. City of Greenville and Prisma

See below from Candie Edwards in Josh Hawkins' office.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	CASE NO. 2024-CP-23-04497
	)	
Ava Sykes,	)	
	)	
Plaintiff,	)	PLAINTIFF'S DEPOSITION
	)	NOTICE FOR A RULE 30(B)(6)
vs.	)	REPRESENTATIVE OF
	)	GREENVILLE COUNTY
Greenville County, City of Greenville, and	)	
Prisma Health,	)	
	)	
Defendants.	)	
_____	)	

To: Rule 30(B)(6) Representative of Greenville County, by and through Attorney John Patrick Riordan:

YOU WILL PLEASE TAKE NOTICE that in accordance with the applicable Rules of Civil Procedure, the plaintiff, by and through his undersigned counsel, will take the deposition of one or more designated representatives of **a designated representative of Greenville County**, upon oral examination before a person authorization to administer oaths on **July 29, 2025, beginning at 10:00 a.m., to be held at, Hawkins & Jedziniak, LLC., located at 1225 South Church Street, Greenville, SC 29615.**

Pursuant to SCRCP 30(b)(6), a representative for Greenville County must be presented to testify about the following topics:

1. Greenville County's responsibilities in maintaining, repairing, and managing the Swamp Rabbit Trail.
2. The roles Greenville County plays versus other governmental entities (e.g., City of Greenville) and private partners (e.g., Prisma Health) in the trail's operation and promotional activities.

3. Greenville County’s coordination with public-private initiatives such as the Greenville County Economic Development Corporation, and the involvement of entities like Prisma Health in funding and advertising the trail.
4. How financial contributions and advertising objectives may have influenced management decisions.
5. The decision-making process behind initiating work on the trail in 2023, including the stated goals to increase patronage, maximize profits, and enhance the trail’s appeal.
6. Comparison of planned versus actual work performed, highlighting any deviations from accepted standards for safety and quality.
7. The timeline and implementation details of upgrades and repairs.
8. Specific questions regarding why some areas were left incompletely repaired—in particular, the dangerous hole later identified in the complaint.
9. The established inspection protocols (frequency, scope, and responsible personnel) for ensuring the trail’s safety.
10. How Greenville County performs risk assessments or safety evaluations on the Swamp Rabbit Trail, including documented procedures and criteria used.
11. The processes in place to repair known hazards, what constitutes “timely” and “complete” repair, and how decisions are made when repairs are partially conducted.
12. Criteria for when and how to warn trail users via signage, barriers, or public notifications about ongoing repairs or potential hazards.
13. How and when Greenville County became aware of hazardous conditions on the trail—including the period before and after October 2023.

14. Detailed examination of internal records, inspection logs, and any reports of hazardous conditions (including any previous incidents similar to the one involving the plaintiff).
15. The chain of command and protocols when a hazardous condition is reported.
16. Documentation and follow-up procedures, including how reports are logged and transformed into repair actions.
17. How contractors and subcontractors are selected to perform work on the trail, including due diligence in verifying their qualifications.
18. The oversight mechanisms Greenville County employs to monitor contractors' work, adherence to safety standards, and quality control of repairs.
19. The contents of contracts regarding the obligations to complete repairs that fully mitigate hazards.
20. How Greenville County responds if a contractor leaves work incomplete or performs repairs in a negligent manner.
21. Detailed questions regarding the discovery of the dangerous hole encountered by Ava Sykes on October 17, 2023.
22. An explanation for why work around the area was conducted while the hazardous defect remained uncorrected, including any design or implementation flaws.
23. Whether Greenville County had both constructive notice (through prior observations or risk assessments) and actual notice (via direct reports such as the one reported by Ty Houck) of the dangerous condition.
24. Examination of the process followed after the discovery of the hole, and why it was not repaired concurrently with nearby repairs.

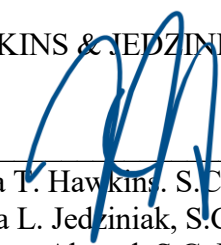
25. All internal communications (emails, memos, meeting minutes) concerning the trail's repair projects, inspections, and particularly the dangerous condition.
26. The content and context of internal discussions that may indicate awareness of the hazard, deliberations on repair priorities, or decisions regarding signage and public notifications.
27. How reports (such as the one made by the plaintiff to Ty Houck) were handled, including any subsequent internal investigations or formal incident reports.
28. Existing policies regarding warnings to patrons about hazards created by maintenance works.
29. How signage or physical barriers were utilized (or not) around the dangerous area, and any internal discussion regarding the need for such warnings.
30. The decision process for closing off or cordoning dangerous sections of the trail and whether alternative routes or additional warnings were considered.
31. Documentation or reports of previous hazards or similar accidents on the Swamp Rabbit Trail, including any prior collisions and injuries.
32. How prior incidents were used—or not used—to drive subsequent improvements and inform repair schedules.
33. An exploration of whether Greenville County maintains a historical log of hazards, repairs, and public complaints regarding trail safety, thereby influencing current priorities.
34. How budgets for the trail's maintenance are determined, including the allocation of public funds versus private investments.
35. Consideration of whether financial or promotional objectives, such as increasing patronage and advertising opportunities for Prisma Health, may have influenced the quality and scope of repairs.

36. The balancing act between maintaining aesthetic or promotional features on the trail and ensuring rigorous public safety standards are met.
37. The specific statutory and regulatory duties owed to trail users under the Tort Claims Act and other relevant ordinances.
38. How internal policies and repair protocols align with these statutory duties—including the duty to warn, repair, and close off dangerous areas.
39. Evidence that Greenville County’s maintenance and repair practices were in accordance with legal mandates, including any internal audits or external compliance reviews.
40. The procedures for hiring and supervising employees responsible for public infrastructure maintenance, including background checks and qualification criteria.
41. Policies aimed at preventing negligence through proper training, regular performance evaluations, and disciplinary measures.
42. Specific questions regarding the handling of employees implicated in this case—such as Ty Houck—and how his actions were monitored and reviewed by supervisory personnel.
43. Details about any direct or follow-up communications between Greenville County representatives and Ava Sykes after her accident.
44. An outline of Greenville County’s protocol for dealing with public accident reports, including how and when the plaintiff’s report was escalated internally.
45. Examination of any public statements or information disseminated by Greenville County employees regarding the incident, especially those that might have impacted the plaintiff’s reputation or subsequent ability to pursue recreational activities (e.g., cycling).
46. How Greenville County collaborated with City of Greenville and Prisma Health concerning the management, maintenance, and repair of the trail.

47. Communication protocols and joint decision-making processes when work is undertaken that affects the safety and public use of the trail.
48. Clarification of which entity has primary oversight on trail safety issues and how responsibilities are shared, especially in terms of incident reporting and correction measures.
49. A detailed account of when and how the dangerous condition was eventually remedied after the plaintiff's injury.
50. Policy or procedural changes implemented after the incident to prevent recurrence of similar hazards.
51. Any added training, changes in contractor requirements, or improvements in safety oversight that have been instituted as a result of lessons learned from the incident.
52. How Greenville County retains and secures documents related to trail maintenance, repair projects, internal communications, and risk assessments.
53. Protocols for producing such records in response to subpoenas or FOIA requests.
54. Criteria that might be used to withhold certain documentation as privileged or for trial preparation, and how those decisions are justified internally.
55. Overview of the insurance policies that cover public infrastructure risks, including details on coverage limits and claims handling procedures following an incident.
56. Any internal guidance or documented communications dealing with third-party insurance representatives following incidents on the trail.
57. How Greenville County ensured that communications with insurance representatives did not impinge on the rights of injured patrons.

58. How the organizational culture and internal decision-making structures affect maintenance priorities, including risk assessment and repair scheduling.
59. Discussion of any pressures (such as financial or promotional objectives) that may have influenced decisions regarding safety measures.
60. Measures that are or were in place to hold employees and supervisors accountable in the event of negligence or failure of duty regarding public safety.

HAWKINS & JEDZINIAK, LLC



Joshua T. Hawkins, S.C. Bar #78470
Helena L. Jedziniak, S.C. Bar #100825
Sulaiman Ahmad, S.C. Bar #106665
1225 South Church Street
Greenville, South Carolina 29605
(864) 275-8142 (telephone)
(864) 752-0911 (facsimile)
josh@hjlsc.com
helena@hjlsc.com
ahmad@hjlsc.com
Attorneys for Plaintiff

Greenville, SC
July 18, 2025

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF GREENVILLE

Ava Sykes,

Plaintiff

v.

SUBPOENA IN A CIVIL CASE

Greenville County, City of Greenville, and
Prisma Health,

Case Number: 2024-CP-23-04497

Defendants

Pending in Greenville County

TO: A Rule 30(b)(6) Representative of Greenville County, by and through attorney John Patrick Riordan:

☐ YOU ARE COMMANDED to appear in the above-named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

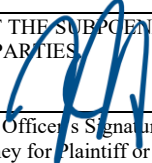
PLACE OF DEPOSITION Hawkins & Jedziniak 1225 South Church Street Greenville, SC 29615	DATE AND TIME: July 29, at 10:00 a.m.
---	---

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

PLACE:	DATE AND TIME
--------	---------------

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

 Attorney/Issuing Officer's Signature Indicate if Attorney for Plaintiff or Defendant: Attorney for Plaintiff Attorney's Address and Telephone Number : Hawkins & Jedziniak, LLC 1225 South Church Street Greenville, South Carolina 29605 (864) 275-8142	July 18, 2025 Date	Joshua T. Hawkins Print Name
---	-----------------------	---------------------------------

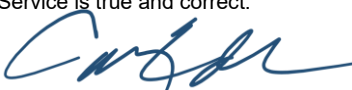
PROOF OF SERVICE

SERVED	DATE: July 18, 2025	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☐ NO AMOUNT \$
	PLACE: email: jpriordan@wjcblaw.com>; 325 Rocky Slope Rd., Suite 201 Greenville, South Carolina 29607 phone: 864.527.3299	
SERVED ON: John Patrick Riordan		MANNER OF SERVICE: Electronic Mail
SERVED BY: Candie Edwards		TITLE: Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on July 18, 2025



SIGNATURE OF SERVER

ADDRESS OF SERVER

1225 South Church Street
Greenville, SC 29605

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	CASE NO. 2024-CP-23-04497
	)	
Ava Sykes,	)	
	)	CERTIFICATE OF SERVICE
Plaintiff,	)	
	)	
vs.	)	
	)	
Greenville County, City of Greenville, and	)	
Prisma Health,	)	
	)	
Defendants.	)	

I, the undersigned, do affirm that I served/mailed a copy of **Plaintiff's Deposition Notice for a Rule 30(b)(6) Representative of Greenville County**, to the parties below, via electronic mail, on this date, July 18, 2025:

jriordan@wjcblaw.com
John Patrick (Jack) Riordan
Willson Jones Carter & Baxley, P.A.
325 Rocky Slope Road, Suite 201
Greenville, SC 29607

HAWKINS & JEDZINIAK, LLC



Candie Edwards
Senior Paralegal

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Vernon F. Dunbar, Circuit Court Judge

Case No. 2024-CP-23-04497

Ava Sykes..... Appellant,

v.

Greenville County.....Respondent.

NOTICE OF APPEAL

Ava Sykes appeals the Orders of the Honorable Vernon F. Dunbar, dated September 30, 2025, and November 24, 2025, granting the defendant's Motion for Summary Judgment in this case. A Motion to Reconsider was filed on November 4, 2025. The Appellant received electronic notice of the entry of Judge Dunbar's order denying the motion to reconsider on November 24, 2025, and files this appeal within 30 days of that date.

Respectfully Submitted,

s/ Joshua T. Hawkins

Joshua T. Hawkins, S.C. Bar #78470

Helena L. Jedziniak, S.C. Bar #100825

1225 South Church Street

Greenville, SC 29605

(864) 275-8142 (telephone)

(864) 752-0911 (facsimile)

josh@hjllesc.com

helena@hjllesc.com

Attorneys for the Appellant

December 3, 2025

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Vernon F. Dunbar, Circuit Court Judge

Case No. 2024-CP-23-04497

Ava Sykes..... Appellant,

v.

Greenville County.....Respondent.

PROOF OF SERVICE

I certify that I have served a copy of the Appellant's Notice of Appeal, electronically to the Court of Appeals, and to the following attorneys of record for the Respondents to the following electronic addresses, on this date December 3, 2025.

John Patrick "Jack" Riordan
Charles F. Turner, Jr.
Willson Jones Carter & Baxley, P.A.
325 Rocky Slope Road, Suite 201
Greenville, SC
(864)672-3721
jpriordan@wjcblaw.com
cfturner@wjcblaw.com
Attorneys for Respondent

Signature page follows

Greenville, South Carolina
December 3, 2025

s/Joshua T. Hawkins

Joshua T. Hawkins, SC Bar #78470

Helena Jedziniak, SC Bar #100825

Hawkins & Jedziniak, LLC

1225 South Church Street

Greenville, South Carolina 29605

(864) 275-8142

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helena@hjllesc.com

Attorneys for Appellant

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE CIRCUIT COURT
C.A. NO.: 2024-CP-23-4497

AVA SYKES

PETITIONER,

vs.

GREENVILLE COUNTY

RESPONDENT,

H E A R I N G
BEFORE THE HONORABLE VERNON F. DUNBAR

DATE: SEPTEMBER 24, 2025
LOCATION: SOUTH CAROLINA CIRCUIT COURT 13
TRANSCRIBED BY: KRISTEN PRIMM

LEGAL EAGLE
Post Office Box 5682
Greenville, South Carolina 29606
864-467-1373
depos@legaleagleinc.com

APPEARANCES:

SULAIMAN SHAH AHMAD, ESQUIRE
HAWKINS & JEDZINIAK
1225 SOUTH CHURCH STREET
GREENVILLE, SOUTH CAROLINA 29605

ATTORNEY FOR THE PETITIONER

JOHN PATRICK RIORDAN, ESQUIRE
WILLSON JONES CARTER & BAXLEY, P.A.
325 ROCKY SLOPE ROAD SUITE 201
GREENVILLE, SOUTH CAROLINA 29607

ATTORNEY FOR THE RESPONDENT

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EXHIBITS

(NONE MARKED)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

P R O C E E D I N G S

THE COURT: This is case number 2024-CP-23-4497, *Ava Sykes vs. Greenville County et al.* There are several motions to be heard this morning.

THE COURT: All right. Counsel, I've looked at the motions, and of course I left everything on my desk. But as I recall, there's a motion for summary judgment filed by the city, the county, as well as Prisma Health. It's my understanding that the county owned that portion of the Swamp Rabbit Trail, not the city, not Prisma.

There was a bicycle accident, pothole. I read the complaint. So how do you wish to proceed? Seems like the county is probably the big stakeholder, as I see it. But you all are going to educate me on this recreational aspect of it, I suspect, that may ---

MR. RIORDAN: I think everyone agreed I would speak first. It was going to be the first thing I covered, was that fact, Your Honor, if you wish me to proceed. And quite frankly, we've all talked beforehand.

I know there's been, since I put out those affidavits that exist in this case, with the last portion stating just exactly what you stated that, you know, owners, I guess, under the recreational use statute, I think all these things are leased and/or owned, and so really doesn't make a

1 difference in that regard.

2 But again, at least if everyone agrees that area is
3 where it is that we put in our exhibits, identified by the
4 alleged witness that was there when it happened, then these
5 parties have nothing to do with it. And again, I think it's
6 appropriate that be -- they asked us to go further, and I
7 said, look, our affidavit speaks for itself.

8 We go to the hearing, and if you got anything else to
9 put up, then now's your time to do it, so at least I'll put
10 it in that regard. And again, so you want me to proceed with
11 all, Your Honor? You're comfortable with me proceeding, I
12 guess, on the basis that I came here ---

13 THE COURT: Yeah, that'd be fine.

14 MR. RIORDAN: And so with that, again, we are here for
15 summary judgment. And I know it's a drastic provision and
16 procedure to allow, but just as it is with these two
17 shouldn't be in here, we think in this scenario, this rare
18 circumstance where we have, really, two statutes we can
19 choose from that we think provide it, especially where we are
20 today, where we still don't have what I maintain in this
21 case, with affidavits put forth.

22 And I guess, as best we have yesterday, a verified
23 complaint in opposition that it still falls short, that the
24 county also, in this scenario, Swamp Rabbit Trail,
25 recreational use, that there should be a summary judgment

1 awarded as well, and that's going to get you unfortunate
2 accident. It hits close to home. This type of accident,
3 both my wife and I have had similar vehicle accidents.

4 I did not mean to misrepresent that I was in a motor
5 vehicle accident. I told Sulaiman. I told Josh way back, I
6 said, look -- I was kind of embarrassed by it. I've been in
7 that vehicle accident. Let's leave it at that. Maybe we'll
8 talk someday.

9 I actually -- again, had nothing to do with anything,
10 but I still don't want anyone thinking that was misleading
11 anyone. On a scooter I ride from my house to my pool, wiped
12 out, broke my wrist, and I told him, I said, I saw that
13 previously, Ms. Anna Sykes had an incident where she fell on
14 a bike and broke her wrist.

15 My wife got a dog jump out in front of her, again, not
16 on the Swamp Rabbit Trail. Fell and broke her collarbone.
17 Ironically, the same trauma surgeon who I had never heard of
18 before he operated on my wife, and then just couple weeks
19 later, I'm getting this case. I was like, well, I guess he's
20 the guy that does the bike racks.

21 He's really making good money in bike Greenville, but
22 again, we're here. And I'm proud to be here on behalf of the
23 County. I access the Swamp Rabbit Trail. I don't know if
24 Your Honor does. I think I put in one of the pieces that
25 it's very likely at least a local judge could almost take

1 judicial notice that this is a -- this qualifies.

2 It checks every box under recreational purpose. It's
3 made for that purpose. We put in our affidavit that's part
4 of the reason we did this. Just like many places around this
5 country have done this type of thing, getting old railroad
6 beds, getting easements, putting it together to have this
7 recreational area, free of charge, for recreational purposes,
8 and that's what we have here.

9 And some of these cases, I cite them. I can't throw it
10 out right here as I speak to you, though I could if I had to,
11 from my notes, but it speaks to that. Hey, it's not going to
12 touch on every recreational purpose, but it speaks, I think,
13 in either this case, summer or winter sports, and I don't
14 even think it's being doubted that bicycling is a
15 recreational purpose.

16 And it really doesn't matter if there were some other
17 thing, well, I'm pro. I'm out there training. This is for
18 my work. Again, I didn't know what was going to come up in
19 an affidavit as to try to defeat that. I don't think it
20 would matter. The recreational use statute perfectly aligns
21 with this case.

22 And we've got cases going back, recreational use
23 statute. Again, you don't know about some of these things
24 until you get into them. 1962 since we had it, it's been
25 shown that, hey, even though it says owner and speaks as if

1 it might just be, you know, rural land by private ownership,
2 no, that says owner.

3 In this case, certainly applies to urban areas,
4 recreational purposes. And that's what all the case law
5 that's developed shows. This is very similar to that,
6 although, surprisingly, just don't have any on these
7 greenways yet. But again, I think both the recreational use
8 statute is applicable.

9 From the time of my original motion, which I filed back
10 in May, I see until now that we're here in September, kind of
11 digging through more of the cases. I kind of switched it
12 around. I do think both apply. I think the other one I was
13 looking at more at the 15-78-60 exception to immunity that we
14 have not -- exception to the waiver of immunity, that we
15 haven't waived it.

16 I think that's applicable as well. So you've got either
17 one. I kind of -- Chuck -- and I mentioned Chuck, he and I
18 kind of spoke about this too, and said, look, recreational
19 use seems more applicable here, because that's really what
20 this purpose is. That's what Mr. Steward Lawrence, who's the
21 risk manager for the county, he even says that.

22 This is part of the reason we did this. We're relying
23 on these protections. And again, to try to -- I know it's
24 unusual. He's asking, here they're asking, I guess, at the
25 base of this, hey, keep it alive.

1 Let us do some more discovery. But I don't think we
2 have to get to that point. And again, I think it's the rare
3 circumstance where it's appropriate in this case, because
4 what it comes down to, when we check all those boxes, what
5 we've got is, you still got to prove under the -- it's clear.
6 And I think it's the Strother (phonetic) maybe that really
7 spoke to -- that they made a mistake.

8 I don't know if it's intentional or not, in their brief
9 saying, hey, they had noticed constructive or otherwise.
10 Well, that's not it. We've already definitively noticed that
11 the Tort Claims Act, which, again, must be liberally
12 construed to limit liability, this provision, speaking to
13 this type of scenario where you've got lands for public use,
14 it's only with actual notice -- only actual notice of a
15 defect or condition that causes loss.

16 And so those are the real keys. To keep this alive at
17 this point, it's going to have to be, hey, was there a defect
18 that you had actual notice for? Was there a condition that
19 caused loss that you had actual notice for? Those are the
20 only two things really that should keep this alive for any
21 purpose, discovery or otherwise, and we've done our best to
22 show we've put the affidavits up.

23 I mean, this case was filed in July of last year, so
24 we're 14 months in. Discovery was served in January. I
25 mean, we're at least eight months in from discovery. The

1 best they've got is, again, this version from yesterday that,
2 hey, I'm going to verify my complaint, and therefore they
3 speak to this Dawkins case that says, hey, we determine a
4 verify complaint can be sufficient and equivalent to an
5 affidavit, except that it can only be that if it meets the
6 56(e) qualifications, that it's got to be on personal
7 knowledge, that it's got to be admissible in court, and we
8 just don't have that.

9 The best we have here in her complaint -- and I've got
10 an extra copy. Would you like me to hand a copy up to you?
11 I think I've got multiple copies here. You have a copy?

12 THE COURT: I mean, I have it on screen here.

13 MR. RIORDAN: Okay. All right. Let me -- I mean, the
14 best they've got is the allegation that she says, paragraph
15 23, I mean, she basically goes through the whole ordeal of
16 the accident, et cetera. And this is the filing again, is
17 July of last year.

18 Plaintiff has since learned that, prior to her
19 collision, two other people had hit the unreasonable,
20 dangerous condition that caused her injuries, one of those
21 individuals seriously injured by the conditions. These prior
22 collisions show Defendants had actual and/or constructive
23 notice. Well, and again, that's not necessarily so.

24 I mean, it just cannot be. The bigger point is, we're
25 sitting here all this time later. Discovery has been served.

1 We asked for witnesses. There's no witness that's listed by
2 anybody that suggests that they were in some prior accident.
3 There were -- and that's why at least two of the counsel -- I
4 can't remember if Prisma -- Did Prisma also send discovery?
5 I can't remember if Prisma went so far as discovery.

6 I know that the City of Greenville did. But again,
7 there's been no evidence of it. And particularly in
8 discovery, we asked, again, give us any and all information
9 you had that we had some prior notice either of these
10 injuries or a collision or injury of any sort on the Swamp
11 Rabbit Trail in that area, and there's nothing.

12 And again, that's why it's so important. You know,
13 these cases speak to the fact, again -- it's the words mean
14 something. It does mean something on the Tort Claims Act.
15 Knowledge. It has to be actual notice.

16 And these two gentlemen, the gentleman that would know
17 and did know, that's part of what was so important about the
18 the affidavit, in the in the various exhibits, and I think
19 you've got the color copies, is it just so happened in this
20 case that Ty Houck, who's the director of the greenways --
21 he's basically the head of the parks and recreation and
22 tourism for Greenville County.

23 He's the head of the Swamp Rabbit Trail. He happens to
24 know both these people. He rides too. He actually knows
25 Andrew, who is the witness who claimed his boyfriend of

1 Plaintiff in this case, who says he's riding there, he
2 actually calls Ty up directly and tells him, hey, Anna, got
3 in a wreck.

4 It's a couple weeks afterwards, quite frankly, and
5 described where it is. Well, they go out there. They go out
6 there and look around. And the only thing they can see in
7 that area that he says, hey, it's about 150 up right where
8 the rocks are finishing, whatever it is.

9 I don't want to misrepresent any of the comments there,
10 because we don't have recorded comments. But what we have is
11 we go out to the scene, we take a picture of a general area
12 that might have at least a little bit of raising and cracked
13 pavement, which, again, is not unusual for 17-plus miles of a
14 Swamp Rabbit Trail that's 8 to 12 feet wide.

15 4 And they take a picture and send it to him, hey, is this
16 the area? And he says, yeah, that's it. And that's why we
17 proceed thereafter and measure it and look at it. And it's
18 like, well, you know, we've got some roots that are bulging
19 up. That's kind of what happens over time with the trees.
20 That's what makes this whole trail so beautiful.

21 It's cut right through the old railroad tracks, and
22 you've got trees and everything else that makes it so
23 beautiful, because it's a greenway, and they go out there and
24 look at it and they say, well, I mean, again, it's less than
25 two inches.

1 We don't even think that is evidence of a defect or a
2 dangerous condition. Nonetheless, under the Tort Claims act,
3 it says or a condition allegedly causing a loss, we still
4 address it anyway. We go out there, and that's why I sent
5 you this heater, because I'd never heard of it.

6 They bring out a heater out there, and it heats up the
7 area, and they beat it with a sledgehammer. So you've got
8 the after picture, and I don't know if Josh, or just
9 whomever, said, oh, here, here's the area, here's this thing.
10 It looks like somebody filled in a hole.

11 It's not a hole. And that's what these affidavits
12 attest to, and that's why it's important to see the before
13 and after picture, the one with the tape measure there. You
14 can look to the right of it.

15 And if you look closely and match up all the cracks in
16 the pavement, you can see that area just to the right of the
17 tape measure, where the witness to this, you know, accident,
18 at least, he's alleging that's where it is, and that he's
19 there. That's what's being addressed.

20 And again, there's no big hole there. And again, we're
21 here 14 months later, after the filing; eight months later,
22 after discovery served, and we just don't have anything to
23 counteract any of that. So I guess, you know, back to the
24 normal summary judgment and Celetex (phonetic) and everything
25 else, we've put forth the affidavits.

1 Here it is, hey, clearly there's no big hole. We don't
2 even think this is a dangerous defect or condition, and even
3 if it is, we've addressed it. That's all the Tort Claim Act
4 asked us to do. If you get notice of something that's caused
5 an injury, you need to repair it.

6 That's what we did. We're showing the evidence of the
7 time we did that, and these same gentlemen showing that are
8 attesting to the fact no other complaint whatsoever in that
9 area, certainly nothing of an injury. And that's what
10 happened here.

11 Hey, we're going to put in a claim. There's talk in the
12 complaint about that, has nothing to do with anything. But
13 again, that's the process of, hey, if someone wants to make a
14 claim and put a claim down, great, we're going to put this
15 group on notice and investigate it and look into it to defend
16 it in the same way.

17 Thankfully, we haven't had to do that. I mean, it just
18 is so rare. And I get back to, again, the whole thing is,
19 the only thing that should keep this alive at this point is
20 whether they've actually put forth evidence, and it's not a
21 fishing expedition of the notice, and this verified complaint
22 is just, quite frankly, insufficient.

23 I mean, it's a good attempt. I don't think anyone else
24 is out there, and if they are, that's the key thing. Didn't
25 give us notice. Under the recreational use statute, when

1 they speak to this, again, we don't have any duties.

2 We don't have to put any warnings out, except if you
3 were grossly negligent, willful, or malicious in not
4 correcting a dangerous condition, and again, all those
5 things, all those terms, and that's why I cite these cases
6 that we cite a lot of them are in footnotes.

7 I note that, but the cases that are out there speak to
8 that in these type scenarios. You know, gross negligence
9 means a conscious disregard, and that's the whole point.
10 There is nothing here consciously. There's no knowledge
11 whatsoever that we had of any issue that existed out there.
12 And I kind of put it in -- it's not necessarily, you know, it
13 goes to this point only.

14 It's not necessarily that we had a duty, and, hey, we're
15 disclaiming that duty because it's open and obvious. It's
16 just the fact that -- it almost points out the fact, when you
17 talk about the fact, that you haven't warned of a danger.
18 We've got those other cases that I reference, the fact that,
19 hey, it's almost, you know -- it just defies common sense
20 that we would have to do that.

21 We've got 17 miles of trail. If people are out on bikes
22 riding, I mean, it's almost common sense, hey, you need to
23 watch where you're going. Need to keep a proper lookout.
24 Keep your hands on the wheel and be prepared for whatever.
25 Again, I don't know for sure, but everything I've seen from

1 this infers that she is a professional cyclist in some
2 regard.

3 Hey, every cyclist is out there, including myself, who's
4 clipped in. Everyone's falling. You know, everyone's
5 falling. You can break your arm, break your elbow, break
6 your wrist, just from that stop not getting clipped out in
7 time.

8 Again, that cannot be where we are in these cases. And
9 I suggest to you that in this case again, there's been
10 sufficient time. They've had an opportunity. I know they
11 want to take a 30(b)(6) deposition. It's these two
12 gentlemen. And again, my point is, it's more of a fishing
13 expedition.

14 They've already testified under oath. Their affidavits
15 are appropriate. We did not have any notice. Here's the
16 first notice. We acted appropriately under the Tort Claims
17 Act. You know, we think that should be it. Otherwise, it's
18 flipped it on its head.

19 It's almost like strict liability through all discovery
20 to make us, you know, hey, every fallout there, all I have to
21 do is allege someone else, some unnamed person, at some other
22 time, may have made a complaint. Doesn't matter that you
23 didn't know about it yet.

24 I'm going to depose you to find out, you know, why you
25 didn't know about it without even, again, eight months later,

1 no evidence whatsoever of who these people are or that they
2 even made an attempt to let us know anything. And I think
3 that's the big key.

4 I'm probably missing something important, but I think
5 I've got, again, the key thing is the affidavits pointing
6 that out, that we did not have the actual notice that's
7 required under the Tort Claims Act. And really it's the same
8 thing under the under the recreational use statute, that you
9 have to have that knowledge.

10 And we just didn't have it. We think we're protected on
11 both counts. We think with the recreational use statute,
12 going back to 1962, and it being really the piece here to
13 show, hey, you don't have a duty whatsoever, unless there's
14 really something dangerous out there.

15 I mean, after Helene last year, that place -- you know,
16 it sits right next to the Reedy, that place got washed out.
17 There were pieces. I don't know if there were as much the
18 county. There are pieces of this that the city may have,
19 either the City of Greenville or Travelers Rest or whoever.
20 There may be little pieces that others may be responsible
21 for.

22 But again, those are things all you can do is do your
23 best in some of these scenarios. And that's why the
24 recreational use statute is so important. You don't have
25 that duty. We're making no affirmation to you that it's safe

1 or whatever.

2 You know, you're coming out there free of charge.
3 There's no allegation whatsoever. And under all those
4 things, we think it checks all of those boxes for dismissal
5 and a grant of summary judgment in this scenario because they
6 just haven't put forth that other piece.

7 If it's going to be a negligence action that we had a
8 duty, failed the duty, it's got to be, in this case, gross
9 negligence. And they just don't have any evidence of it
10 without the evidence of any actual notice. And it's not
11 constructive, it's actual, you know, and it can be
12 circumstantial.

13 They haven't even put circumstances for it. So again,
14 we think that's it. Again, I may have missed the most
15 important thing, and if so, maybe I'll ask for a final word,
16 but I appreciate it, I think, otherwise.

17 THE COURT: I read your memorandums.

18 MR. RIORDAN: Thank you, Your Honor.

19 THE COURT: I'll hear from the city or the Prisma, if
20 necessary, but I think you all are out.

21 MS. HENDERSON: I'm Zoe Henderson from Prisma Health,
22 and I'm going to do the same.

23 THE COURT: All right. Thank you. All right. Sir,
24 good morning. I'll hear from you.

25 MR. AHMAD: Good morning, Your Honor. Sulaiman Ahmad,

1 on behalf of the Plaintiff, Ava Sykes, Your Honor. Now, Mr.
2 Riordan went at length describing the reasons why motion for
3 summary judgment might be granted, but Your Honor, this
4 motion is very simple.

5 At the end of the day, we haven't conducted 30(b)(6)
6 depositions of Greenville County's representatives. We had
7 scheduled one back on July 29, 2025. Mr. Riordan, you know,
8 I'm glad you didn't get in a vehicle collision or a motor
9 vehicle collision, and it was just a bike or scooter
10 accident. So we were scheduled to have that deposition, and
11 we had to move it.

12 Your Honor, the bottom line here today is that the delay
13 wasn't anything that was on behalf of the Plaintiff. It was
14 defense counsel. And we would just ask the court to allow us
15 to conduct those depositions so that we can further develop
16 the record, and they can feel free to raise their motion for
17 summary judgment later, if they have more information.

18 But the bottom line is, is that they're making arguments
19 without enough facts on the record. And *Dawkins v. Fields*
20 354 SC 58 establishes that a 30(b)(6) deposition, if it
21 hasn't been held, needs to be held before a motion for
22 summary judgment can be granted.

23 And Your Honor, that's also precedent under *Guinan v.*
24 *Tenet Health Systems*, 383 SC 48, so that's just the standard
25 procedural component that we wanted to address with the

1 court. But Your Honor, I also want to address these Tort
2 Claims Act arguments raised by counsel and also the
3 recreational use statute.

4 Now, counsel is completely correct. Once gross
5 negligence is alleged, the Tort Claims Act, except the
6 exceptions, have to be read in with gross negligence, which
7 means that (indiscernible) all apply in this case because we
8 filed that verified complaint, which serves as an affidavit
9 under *Dawkins*.

10 And Your Honor, because we allege gross negligence in
11 the complaint, that is sufficient to uphold the tort claims
12 act exceptions not to apply in this case. And at length, we
13 heard Mr. Riordan talk today about how, oh, well, under
14 paragraph 23, she stated that there were other people who
15 also fell or also were harmed on this trail.

16 Well, Your Honor, they were free to depose Ms. Sykes at
17 any time to question her veracity regarding the allegations
18 made in the complaint, and at this point it serves as an
19 affidavit. And we should be able to do the same with their
20 affidavits for Mr. Ty and I believe Steward, and Your Honor,
21 the Sixth Amendment allows us to cross examine these
22 witnesses under a 30(b)(6) deposition.

23 But further, Your Honor, given that the Tort Claims Act
24 doesn't apply in this case because of that gross negligence
25 application, we further believe that the recreational use

1 statute wouldn't apply either.

2 And in my brief, Your Honor, I mentioned how this
3 statute applies to landowners. It's our belief that they are
4 a governmental entity, so the Tort Claims Act would be
5 something that's more applicable here, but regardless of
6 gross negligence, application applies in that matter.

7 But even here, it also applies, and that's according to
8 *Cole vs. South Carolina Electric and Gas, Incorporated*, Your
9 Honor. The South Carolina Supreme Court clearly stated the
10 purpose of the recreational use statute, as stated in the
11 statute, is to encourage owners of the land to make land and
12 water areas available to the public for recreational
13 purposes.

14 Under the recreational use statute, a landowner's
15 liability is limited to gross negligence, which is defined as
16 a failure to exercise slight care. Your Honor, here, Mr.
17 Riordan, goes back to, I believe, the 1960s in terms of case
18 law, but he seems to have missed this piece of case law,
19 which is from 2005.

20 Now, given that the gross negligence application applies
21 to the recreational use statute, it's the same analysis that
22 you would go under for the South Carolina Tort Claims Act.
23 Both allow for gross negligence to be read in. And both mean
24 that our affidavit or complaint, which alleges gross
25 negligence, allows this case to to present a genuine issue,

1 material fact, that has not been overcome in today's motions
2 hearing.

3 But even further than that, Your Honor, I think that
4 there was a discussion of an actual versus constructive
5 notice issue. And the bottom line here is that the county
6 kind of created the problem. Now you just heard Mr. Riordan
7 talk about, oh, I saw members of the repairmen from the
8 county heat up the area of the trail and hit it with a
9 hammer.

10 Now, that goes to show that they are well aware of these
11 types of problems being on the trail, and they should be
12 actively looking for these problems. And that goes to the
13 fourth point here, which is the open and obvious doctrine
14 simply does not apply, and it does not preclude recovery.
15 Your Honor, in the Steward Lawrence affidavit, he clearly
16 states on paragraph five, that the condition of the trail is
17 being normal wear, tear, and bulging.

18 Okay. If that is true, Your Honor, then the Defendant
19 was clearly on notice of the condition that this is a common
20 problem with the trail, and they have to continually address
21 and make sure that it is safe for people to recreationally
22 use.

23 And so, Your Honor, ultimately, even if defense counsel
24 also mentioned this, which is that even if the conditions
25 were something that a, you know, cyclist who's been around

1 knows about, they should still -- if the owner should
2 anticipate that the invitee, meaning me, a, you know,
3 sophisticated bicyclist, will nevertheless encounter the
4 condition, they have to make sure that that condition is
5 safe.

6 And as we've heard today, okay, so it's expected to run
7 across bumps, and that's given through the repair that
8 they've done in the past, through their remedial measure.
9 Then the entire 17 miles that have been provided by the
10 county for this bike trail needs to be in a condition that is
11 safe for all bicyclists, even if they they should anticipate
12 it.

13 So, Your Honor, it's clear through the case law that
14 I've mentioned in my brief -- I mean that the case law that
15 refers to the open and obvious defect is *Fountain v. Fred's*,
16 and that's from 2022, Your Honor. So all recent case law
17 clearly indicates that we should survive on a motion for
18 summary judgment.

19 Your Honor, there's clear, genuine issues of material
20 fact that remain. We still need to conduct 30(b)(6)
21 depositions, and Your Honor, also I've heard this discussion
22 here today about how a two-inch bulge is not an open and
23 obvious danger.

24 Well, Your Honor, you know, I have a two-inch lip on my
25 cowboy boot here, and I trip on it all the time. And so

1 that's an issue that I'm saying that nobody who's a --
2 whether you're a sophisticated bicyclist or a regular
3 individual, a two-inch margin is enough to cause sufficient
4 damages.

5 It could cause me to fall over, fall down the stairs.
6 And what we have here, if Your Honor can look at some of the
7 pictures. I believe we've attached them with the complaint.
8 If we haven't, we can send it to you. The damages that Ms.
9 Sykes suffered were a broken knee, and she had to go to the
10 hospital, and she suffered grave injuries to her body.

11 THE COURT: It was an elbow fracture.

12 MR. AHMAD: Well, sorry, yes, Your Honor, but that alone
13 goes to show that that there were damages in this case, and
14 to the extent that a bulge could cause that, I don't think it
15 holds any water in today's case, because something as small
16 as, you know, a drop of water can cause a slip and fall for
17 somebody who's elderly, and frankly, the actual Plaintiff
18 rule would apply there.

19 And finally, Your Honor, comparative negligence and
20 assumption of the risk are questions for the jury. So I just
21 don't believe that that, you know, has any weight in today's
22 motions hearing.

23 THE COURT: Let me ask you before you yield your time,
24 do you have any objection to my grant of summary judgment to
25 Prisma and the City of Greenville?

1 MR. AHMAD: Your Honor, our only objection is just that
2 we would ask that the county no longer raise an argument
3 later down the line saying that, you know, it's the city's
4 fault that this wasn't repaired properly.

5 We included these folks in our complaint just to ensure
6 that we've got all the right people. If the city wasn't
7 involved in any matter, we're fine with with granting motion
8 for summary judgment for them.

9 THE COURT: All right. Well, I was going to do a full
10 formal order, but perhaps if you will each prepare a formal
11 order, I'll sign it. It can be short with respect to that.
12 Mr. Riordan, I hear from you in response?

13 MR. RIORDAN: If it please the court. And of course, I
14 did forget a few things. Again, if there's some allegation
15 that the recreational use statute doesn't exist in this case
16 as was just put forth, then, you know, we're really missing
17 something here. I mean, quite frankly, the case law is clear
18 that that's the case.

19 This is absolutely -- I think it checks every box that's
20 there. But I did, of course, forget one other thing, which,
21 again, I just got their memo in opposition. Saw some of this
22 last night with the verified complaint. I should have
23 printed out a copy to you for the of the *Dawkins* case that
24 they rely upon to say, hey, verified complaints is good
25 because, I mean, it's interesting in that case.

1 That speaks to the very things I did at least mention to
2 you, as I meant to that, you know, if it's going to do it,
3 it's got to be under Rule 56, as again, shall be made on
4 personal knowledge. Clearly, it's not.

5 When it says I learned that two other people, clearly,
6 there's nothing -- I mean, it's essentially upon information
7 and belief. I've learned since this accident two people,
8 which again remain unnamed. Personal knowledge, set forth
9 facts would be admissible evidence, competent to testify to
10 the matters therein. This is from their case.

11 Few pleadings will satisfy these requirements, even when
12 verified. It speaks to the fact, reminds us, yeah, we agree.
13 It's a drastic remedy. However, nonetheless, the non-moving
14 party must demonstrate the likelihood that further discovery
15 will uncover additional relevant evidence and that the party
16 is not merely engaged in a fishing expedition.

17 Plaintiff, just as in this case, was in *Dawkins*.
18 Plaintiff relies solely on the pleadings, filed no counter
19 affidavit, makes no factual showing in opposition to a motion
20 for summary judgment. In that case, a lower court is
21 required under Rule 56 to grant summary judgment if under the
22 fact presented by the Defendant, he was entitled to judgment
23 as a matter of law.

24 A court cannot ignore facts unfavorable to that party,
25 and it must determine whether verdict for the opposing party

1 opposing the motion would be reasonably possible under the
2 facts. Again, it's the requirement at this point. All this
3 time has passed.

4 We've asked for it to put something forth that really
5 does survive this, and we do think it's a difficult task in a
6 case such as this. I welcome the gross negligence because
7 you have to under the recreational use statute. It speaks to
8 the only exception that you don't have any of these duties,
9 you don't need to warn them of anything, is if you're grossly
10 negligent and you're willful, malicious, about failing to
11 warn of a dangerous condition.

12 You know, if I'm them, I try to say, well, this is it.
13 I (indiscernible) the dangerous condition. That was the
14 point of the affidavit, to put forth the fact that here we
15 are. We're in charge. We're the people that you wanted to
16 depose. And by the way, Sulaiman wasn't involved.

17 We were in the mandated court roster meeting when I told
18 Josh, I don't know, sometime before I filed my motion, I
19 said, look, I'm going to have to move for summary judgment,
20 you know. Unless you got something else coming in discovery,
21 you know, I'm going to have to move for summary judgment.
22 And thereafter, he at least told me, said, I want to do a
23 30(b)(6).

24 I said, if you need to file a notice, do it. I'm moving
25 for protection. So at the time of my accident, they had

1 filed a notice basically after Josh and I spoke, and he knew
2 I had a motion for protection, and that's why, even now, it
3 is set for a month from today to do it, and we knew coming in
4 that would be the task.

5 Hey, let's at least try to get the judge, but leave it
6 alone. Let's go. But just as it was four months ago, it is
7 now, again, that's the whole point of summary judgment. And
8 those very things that I pointed out, and that is put here in
9 this unique scenario -- I know it's drafted (phonetic), but a
10 unique scenario where we've got these protections under the
11 recreational use statute, they've got to come forth with some
12 fact.

13 That's the point. Some fact that shows there's even a
14 reasonable likelihood they can show that we had knowledge,
15 that we had notice under either statute, and that just
16 failed, and I think it's because they can't, and that's fine.
17 That's no fault of her or her party or her attorneys, or
18 everyone else. I got great respect for them, but it's just
19 where we are in this case, and that's what we speak to.

20 I think in my original motion, that's what I put is, you
21 know, rule number one says just speedy expedition of justice.
22 And we think that's what we have here. We've put it forth
23 again.

24 I don't think the county should have to put forth two of
25 their folks, sit for a deposition for a, you know, half a

1 day, a day, whatever it's going to be, to say the same things
2 they put forth already. That is the true definition, as it's
3 put here, of a fishing expedition. There's simply no notice.
4 We didn't have actual notice of the Tort Claims Act.

5 We don't have the knowledge or even a fact put forth to
6 contest it, to even put up that provision of what they have
7 to do, to show they can do this. We have to meet these
8 elements. They fail to do that.

9 When they failed to check one of those boxes on their
10 burden of proof after we've put forth the affidavits, said
11 we've got to come back with something else. That's what
12 Celetex speaks to, and they haven't done it. And I think
13 more appropriate in this case, I know it's a drastic remedy.
14 I hate she's hurt.

15 I'm hurt. I got a plate and ten screws in my wrist. My
16 wife's got a plate in her collarbone. Accidents happen. I'm
17 sorry. It's even worse. In my opinion, it's not to be smart
18 alec, it's more so the case, though, when you're on the Swamp
19 Rabbit Trail, on a on a true recreational use, doing it
20 recreational use, for free, that sometimes you're just not
21 going to have a case when you can't put forth those needed
22 elements, and we don't have it here.

23 And again, I don't think it's cruel. I don't think it's
24 anything other than that's what has to happen here, in my
25 opinion. And we put that for you respectfully, submit that

1 that is the case.

2 Again, I probably forgot something real important I
3 meant to say, but I'll rely on my briefs and, most
4 importantly, the affidavits that are put forward. Thank you,
5 Your Honor.

6 THE COURT: Yes, sir.

7 MR. AHMAD: Your Honor, briefly?

8 THE COURT: Yes, sir.

9 MR. AHMAD: So Your Honor, counsel just raised the issue
10 of *Dawkins v. Fields* talking about personal knowledge and
11 competency. Again, I don't think there's any question about
12 Ms. Sykes's competency here, and further, personal knowledge
13 is sufficient under paragraph 23 where it's her information
14 or belief.

15 She's relying upon that information or belief. He's
16 free to cross-examine on it, but that is her personal
17 knowledge from what she heard from other people. And
18 finally, Your Honor, it sounds like counsel's trying to have
19 their cake and eat it too.

20 They just talked about talking to Mr. Hawkins about, you
21 know, unless you've got further discovery. Well, we did,
22 Your Honor. We had to move it. We should be allowed to
23 conduct a 30(b)(6) deposition.

24 THE COURT: All right. I need to re-familiarize myself
25 with the *Dawkins* matter and look at the recreational use

1 statute and that'll inform my decision at a later date with
2 respect to Greenville County after matters have been decided.
3 All right. Thank you very much.
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24 (THERE BEING NOTHING FURTHER, THE HEARING CONCLUDED.)

CERTIFICATE OF TRANSCRIBER

I, Kristen Primm, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the circuit court for Greenville County, South Carolina, on the 24th day of September 2025.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 16, 2026



Kristen Primm
Certified Transcriber