

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Jennifer McCoy, Circuit Court Judge

Case No. 2023-CP-10-01923

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SC Court of Appeals

JEFFREY CEPIN,..... Plaintiff,

v.

SAMET CORPORATION; METROMONT CORPORATION n/k/a METROMONT, LLC,
.....Defendants.

**INITIAL BRIEF OF RESPONDENT METROMONT CORPORATION N/K/A
METROMONT, LLC**

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STATEMENT OF THE CASE

This appeal arises out of the proper grant of summary judgment by the Circuit Court, in front of the Honorable Jennifer B. McCoy, on January 14, 2026.¹ Despite the age of the case, the Appellant, appearing pro se, failed to conduct any written discovery, identify any expert witnesses in support of any issue alleged in the case, and failed to take any depositions before the Circuit Court heard Respondent Metromont Corporation n/k/a Metromont, LLC's (hereinafter referred to as "Respondent") Motion for Summary Judgment on September 2, 2025. As explained more thoroughly below, the Circuit Court properly weighed the evidence and arguments on September 2, 2025, and correctly decided summary judgment was appropriate. The Court should uphold that decision and reject Appellant's arguments.

This civil action arises out of an incident that occurred on May 1, 2020, while Appellant was working as a welder on a construction site. The Appellant has alleged a crane at the construction site was moving a "double tee" beam while Respondent was performing welding work. The beam fell, snagged lines attached to the Respondent's harness, and, allegedly, pulled Plaintiff down three-stories. The Respondent filed this action on April 20, 2023, against Respondent and Respondent Samet Corporation asserting negligence causes of action.² Contrary to Appellant's assertion to the Circuit Court on September 2, 2025, Appellant did not assert any allegations related to any products liability theory against Respondent. Respondent filed a timely Answer on denying all allegations asserted against them on April 26, 2024.

¹ The Circuit Court filed a Form 4 Order on December 9, 2025, and requested the Undersigned Counsel to submit a formal Order for review and execution. The formal Order was executed and filed by Judge McCoy on January 14, 2026.

² It is worth noting the Appellant was represented by Counsel when the lawsuit was first filed. Appellant proceeded pro se after his Counsel withdrew from representation. The withdraw of counsel was approved by the Circuit Court after a hearing on August 27, 2024.

Respondent was the only individual deposed in this action.³ The Plaintiff testified that he suffered a traumatic brain injury, which impacted his memory of the incident. (Ex. A., 25:10-24). The Plaintiff testified that he had no recollection of: (1) when the accident occurred; (2) how the accident occurred; or (3) any information related to the subject incident. (Ex. A., 26:25-28:23). The Plaintiff also confirmed he did not retain any expert witnesses or investigators. (Ex. A., 28:24-29:13). When asked specifically what Defendant did wrong in terms of this incident, Plaintiff simply responded “product liability.” (Ex. A., 39:14-17). Plaintiff then attempted to argue the precast concrete was manufactured improperly without any explanation as to why it was manufactured improperly. (Ex. A, 39:17-42:8). The Plaintiff further confirmed he did not retain an engineer to test or inspect the concrete paneling. (Ex. A, 39:17-42:8).

Respondent filed a Motion for Summary Judgment on May 5, 2025. The Court heard and decided the Motion for Summary Judgment on September 2, 2025. The Court issued a Form 4 Order on December 9, 2025, granting Respondent’s Motion for Summary Judgment and requesting Respondent to submit a formal order. The formal Order was executed by the Honorable Jennifer B. McCoy on January 14, 2026. Appellant failed to file a Motion for Reconsideration and instead filed a Notice of Appeal on December 17, 2025.

STANDARD OF REVIEW

“Appellate courts apply the same standard of review applied by the trial court to review the grant of summary judgment pursuant to Rule 56(c) of the South Carolina Rules of Civil Procedure.” *Williams v. Jeffcoat*, 444 S.C. 224, 233, 906 S.E.2d 588, 593 (2024). “[J]udgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and

³ Appellant was deposed twice in this action. During the first deposition, Appellant refused to answer basic background questions. Following a Motion to Compel, the Court ordered Appellant to sit for his deposition and answer all questions posed to him. The second deposition occurred on May 2, 2025.

admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” 56(c), SCRPC. Moreover, “the “mere scintilla” standard does not apply under Rule 56(c).” *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023). In opposing a Motion for Summary Judgment, “it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.” *Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013).

ARGUMENT

Throughout the discovery portion of this case, Appellant was clear that his sole cause of action against Respondent was a manufacturing defect related to the precast concrete structures produced and delivered to the construction site by Respondent.⁴ Appellant failed to take any depositions or perform any inspections during discovery. Perhaps more importantly, Appellant failed to identify any expert witnesses to opine on the alleged manufacturing defect and/or design defect advanced by Appellant during his deposition. This conscious decision to proceed without an expert witness is fatal to Appellant’s claim against Respondent and is why this Court should uphold the Circuit Court’s granting of Respondent’s Motion for Summary Judgment.

I. The Circuit Court Properly Granted the Motion for Summary Judgment because Plaintiff failed to establish a genuine issue of material fact demonstrating Respondent owed Plaintiff a legal duty.

At the Motion for Summary Judgment Hearing, Appellant agreed on the record that he did not retain and identify an expert witness to opine on: (1) Appellant’s design of the precast

⁴ While this theory of liability was not expressly pled by Appellant in his Complaint, Appellant testified at his deposition that he was only asserting a products liability negligence cause of action against Respondent related to the manufacturing of the precast concrete structures delivered to the subject construction site.

concrete structures at the construction site; or (2) whether the precast concrete structures at the construction site on the date of the incident were defectively manufactured.

“[I]n order to find liability under any products liability theory, the plaintiff must show: (1) he was injured by the product; (2) the injury occurred because the product was in a defective condition, unreasonably dangerous to the user; and (3) that the product at the time of the accident was in essentially the same condition as when it left the hands of the defendant.” *See generally Bragg v. Hi-Ranger, Inc.*, 319 S.C. 531, 539, 462 S.E.2d 321, 326 (Ct. App. 1995). “However, under a negligence theory, the plaintiff bears the additional burden of demonstrating the defendant (seller or manufacturer) failed to exercise due care in some respect . . .” *See generally Bragg*, 319 S.C. at 539.

There is no evidence in the record to demonstrate Respondent owed Appellant a duty of care when the subject incident occurred. The precast concrete structures did not fall onto the Appellant or cut the Appellant’s harness lines causing the incident. Rather a crane operator snagged and cut the Appellant’s harness lines causing him to be thrown multiple stories and into the precast concrete structures. There is no special relationship between Respondent and Appellant that would create a duty, and there is certainly no evidence to establish Appellant owed any legal duty to Respondent while he worked at the construction site. Respondent was also not in control of the construction site. Meaning they had no ability to supervise, control, and/or direct any portion of the construction activities taking place on May 1, 2020. Appellant has also failed to identify any statute, regulation, ordinance or industry standard that creates a legal duty between Respondent and Appellant.

“The plain language of Rule 56(c) mandates the entry of summary judgment . . . against a party who fails to make a showing sufficient to establish the existence of an element essential

to the party's case, and on which that party will bear the burden of proof." *Baughman v. Amer. Tel. & Tel. Co.*, 306 S.C. 101, 116, 410 S.E.2d 537, 545-46 (1991). Appellant made a decision to proceed pro se and without an expert witness to support his allegations against Respondent. Appellant's failure to establish any genuine issue of material fact tending to show Respondent owed Appellant a legal duty. As a result, the Circuit Court properly granted Respondent's Motion for Summary Judgment. This Court should uphold the Circuit Court's Order Granting Summary Judgment.

II. The Circuit Court Properly Granted the Motion for Summary Judgment because Plaintiff failed to establish a genuine issue of material fact demonstrating Respondent breached any duty owed to Plaintiff.

Even assuming Respondent owed Appellant a legal duty, Appellant still failed to establish any genuine issue of material fact: (1) that Respondent breached a duty of care; or (2) that any breach was the proximate cause of the incident. As detailed above, Appellant chose to proceed without any expert witnesses in this action. There are no reports or opinion testimony regarding any alleged issues with Respondent's precast concrete structures at the construction site. While Appellant has flooded this Court and the Circuit Court with various articles and pamphlets regarding concrete precast structures, these were never identified by an appropriate expert witness as controlling, binding, or authoritative on the issue. They all also constitute inadmissible hearsay and opinion testimony under Rules 701, 702, and 801 of the South Carolina Rules of Evidence.

It is unclear from Appellant's deposition testimony, the record for the summary judgment argument, and brief to this Court whether he is asserting Respondent negligently designed the precast concrete structures or if there was a manufacturing defect in the creation of the precast

concrete structures. “In a products liability action based on a negligent design theory, the plaintiff must establish, among other things, that the defendant failed to exercise due care in designing the product.” *See generally 5 Star, Inc. v. Ford Motor Co.*, 408 S.C. 362, 366-67, 759 S.E.2d 139, 142 (2014). “When a manufacturing defect claim is made, a plaintiff alleges that a particular product was defectively manufactured.” *Watson v. Ford Motor Co.*, 389 S.C. 434, 444, 699 S.E.2d 169, 174 (2010).

Appellant has failed to produce any evidence to establish a genuine issue of material fact regarding any alleged breach by Respondent. Appellant does not meet the qualifications, as a welder, to serve as an expert witness regarding the chemical compound creation of concrete or the manufacturing of concrete. Appellant has failed to procure an expert witness to support his allegations against Respondent. “[E]xpert evidence is required where a factual issue must be resolved with scientific, technical, or any other specialized knowledge.” *Watson*, 389 S.C. at 445. Appellant needs an expert for the issues in this case under South Carolina law and has failed to procure one. *Id* at 445. Even ignoring the lack of expert witness in this case, Appellant has failed to establish a feasible alternative design for the precast concrete structures, which is mandatory under South Carolina law. “[T]he requirement of proving a reasonable alternative design in a design defect case is mandatory.” *See generally Holland ex rel. Knox v. Morbark, Inc.*, 407 S.C. 227, 754 S.E.2d 714, 721 (Ct.App.2014).

Appellant’s failure to procure admissible evidence, documentary or from an appropriately qualified expert witness, confirms the essential elements of his negligence cause of action against Respondent fail as a matter of law. (“The plain language of Rule 56(c) mandates the entry of summary judgment . . . against a party who fails to make a showing sufficient to establish the existence of an element essential to the party’s case, and on which that party will

bear the burden of proof.” Baughman, 306 S.C. at 116. The Circuit Court analyzed all of the documents submitted by Appellant at the Summary Judgment Hearing, listened intently to the arguments of all parties, including the Appellant, and rendered the proper decision granting Respondent’s Motion for Summary Judgment. Appellant merely offered conclusory arguments and failed to produce any evidence to support his allegations against Respondent. This Court should uphold that decision.

CONCLUSION

For the reasons stated above, this Court should affirm the judgment of the Circuit Court and should uphold the Circuit Court’s Order Granting Respondent’s Motion for Summary Judgment.

Respectfully submitted,

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September 4, 2026

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