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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Courtney Clyburn Pope
Circuit Court Judge

Appellate Case No. 2025-000808
Circuit Court Case No. 2023-CP-10-02263

Jeronimo Hernandez Jimenez.....Appellant,

v.

Rolando Medrano.....Respondent.

FINAL REPLY BRIEF OF APPELLANT

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September 18, 2026

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ARGUMENTS

In reply, Appellant would submit that throughout his brief, Respondent conflates the Defendant in the present case, with an employer LLC in a prior workers' compensation claim brought by Appellant. To be clear, the Defendant in the present case was not the employer of Appellant. As an LLC, the employer in the Appellant's workers' compensation claim is a separate legal entity, and the Respondent has no employment relationship with the Appellant at any time relevant to his workers' compensation claim or this action, such that neither the exclusive remedy nor election of remedies applies. While Respondent is, or was, a member of the employer LLC, this does not confer any protection from tort liability under the law.

Contrary to Respondent's assertions in his brief, should this Court determine that Respondent is subject to the protection under the Workers' Compensation Act, the facts of this case meet the narrow "dual persona" exception outlined in the parties' briefs, and more importantly, there are genuine issues of material fact, such that the circuit court erred in granting Respondent summary judgment in this matter. Respondent points to our Supreme Court's adoption of the "dual persona" doctrine in *Mendenall* in support, specifically that the doctrine "is a narrow exception, applicable only where the second set of obligations that forms the basis of the tort suit is entirely independent of the defendant's obligations as an employer." *Mendenall v. Anderson Hardwood Floors, LLC*, 401 S.C. 558, 563, 738 S.E.2d 251, 253 (2013). The Supreme Court has since held that because its holding in *Mendenall* "instructs us to look to see if there are separate obligations created by the [company] that can form the basis of the dual[]persona suit . . . our supreme court calls for close scrutiny of the facts when applying the dual persona doctrine." *Baxter v. Pilgrim's Pride Corporation*, 443 S.C. 463, 467 905 S.E.2d 136, 139 (Ct. App. 2024) (quoting *Mendenall*)

(internal quotations omitted). In the present case, the Respondent is a separate legal person that should be afforded no protection from tort suit under the Act, but assuming *arguendo* that he is afforded that shield, the Respondent established a “dual persona” under the facts when he took affirmative steps to avoid liability for the employer LLC under the Act. Respondent, a member of the employer LLC, attempted to conceal the nature of Appellant’s injury when he failed to call emergency medical services for Appellant after Appellant suffered an obvious back injury, and this was further evidenced by his attempt to commit insurance fraud by inducing a third party to claim that Appellant was working for this third party at the time of his accident. Respondent’s responsibilities as a would-be “good Samaritan,” or perhaps in this case, a self-interested, irresponsible Samaritan, have no bearing on any relationship that he had with the employer LLC’s tree-trimming business, and ultimately caused an additional and separate injury to Petitioner.

The delay of treatment and additional injury caused by Respondent’s malfeasance also did not naturally flow from the original injury, and the injury Respondent caused cannot be said to be merely incidental to his workplace injury. Unlike the examples provided by Respondent in the *Whitfield v. Daniel Const. Co.*, 226 S.C. 37, 83 S.E.2d. 460 (1954), and *Tims v. J.D. Kitts Constr.*, 393 S.C. 496, 713 S.E.2d 340 (Ct. App. 2011), wherein the claimants were injured incidentally in the course of medical treatment or as a result of providing medical treatment, the Respondent negligently injured Appellant while physically intervening with medical treatment, and intervening in the causal chain between the initial workplace injury and the result of Appellant’s paraplegia, rather than engaging in a good faith attempt to provide medical treatment. Moreover, Respondent removed himself from any employment relationship with the Appellant, when taking on separate duties as a bystander to an accident, which he performed in a grossly negligent manner and in an attempt to evade responsibility by the employer LLC.

Despite Respondent's attempt to characterize Appellant's paraplegia as stemming only from the fall, which is based solely upon deposition testimony, the only medical evidence regarding the Appellant's claim supports a separate, distinct injury. Shailesh Patel, M.D., one of Appellant's physicians, determined that Respondent's grossly negligent conduct caused Appellant's complete paraplegia, whereas the injury caused by the fall caused only incomplete paraplegia. This presents a quintessential issue of fact that defeats Respondent's Motion for Summary Judgment and that was not examined, or at least not addressed, by the circuit court as required under *Mendenall*. Accordingly, the Appellant would respectfully submit that the circuit court erred in granting Respondent Summary Judgment and the order of that court should be reversed.

RESPECTFULLY SUBMITTED,

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