

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP2102395

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Anthony Fischetti As Executor Concetta Fischetti	Estate Of Concetta Fischetti	Seatruck Inc Carlos L Ceballos	Kc Freight
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RECEIVED

JUL 23 2014

PLAINTIFF(S)

DEFENDANT Court of Appeals

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
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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. See Page 2 for additional information.
- 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: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

2014 JUL 18 AM 12:58
 FILED
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

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:

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		CERTIFIED: A TRUE COPY
		<i>Concetta Fischetti</i>
		CLERK OF COURT C.P. & G.S. FLORENCE COUNTY, S.C.

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

7/17/2014

Date

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JUL 18 2014

For Clerk of Court Office Use Only

This judgment was entered on **July 16, 2014**, and a copy mailed first class or placed in the appropriate attorney's box on **July 17, 2014**, to attorneys of record or to parties (when appearing pro se) as follows:

William Hugh McAngus Jr. 1510 Calhoun St. Columbia,
SC 29201

James Eric Cavanaugh P.O. 12129 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Connie Reel-Shearin

Court Reporter

Connie Reel-Shearin - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Anthony Fischetti, as the Executor of the
Estate of Concetta Fischetti,

Plaintiff,

vs.

SeaTruck, Inc., KC Freight, LLC, and
Carlos L. Ceballos,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2013-CP-21-2395

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT
AS TO CERTAIN AFFIRMATIVE
DEFENSES**

2014 JUL 16 PM 3:32
CONNIE REEL-SHEARIN
CLERK OF COURT
FLORENCE COUNTY, S.C.

FILED

In this wrongful death and survival action arising out of a motor vehicle collision involving a passenger vehicle and a tractor-trailer, this matter comes before the Court on Plaintiff's Motion for Summary Judgment as to Certain Affirmative Defenses.

A hearing was held on June 16, 2014. All parties submitted memorandums of law. The Plaintiff was represented by W. Hugh McAngus, Jr., and the Defendants were represented by J. Eric Cavanaugh.

After hearing the arguments of counsel and reviewing the memorandums and evidence submitted by the parties, the Court rules as follows:

1. Plaintiff's Motion for Summary Judgment regarding Defendants' Third Defense, Comparative Negligence, is denied.
2. Plaintiff's Motion for Summary Judgment regarding Defendants' Fourth Defense, Sudden Emergency, is denied.

CERTIFIED: A TRUE COPY

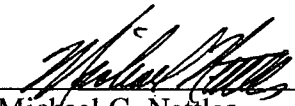
Connie Reel Shearin

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

3. Plaintiff's Motion for Summary Judgment regarding Defendants' Fifth Defense, Assumption of Risk, is granted.
4. Plaintiff's Motion for Summary Judgment regarding Defendants' Sixth Defense, Unavoidable Accident, is granted.
5. Plaintiff's Motion for Summary Judgment regarding Defendants' Eighth Defense, Improper Venue, is granted.
6. Plaintiff's Motion for Summary Judgment regarding Defendants' Ninth Defense, Waiver of Estoppel, is held in abeyance until further order of this Court.
7. Plaintiff's Motion for Summary Judgment regarding Defendants' Tenth Defense, Statute of Limitations, is granted.
8. Plaintiff's Motion for Summary Judgment regarding Defendants' Eleventh Defense, Spoliation, is granted, but the Defendants may seek a spoliation jury instruction at the trial of this case if applicable and proper.

WHEREFORE, Plaintiff's Motion for Summary Judgment as to Certain Affirmative Defenses is hereby DENIED in part and GRANTED in part as stated above.

IT IS SO ORDERED.


 Michael G. Nettles
 Circuit Court Judge
 Twelfth Judicial Circuit

Florence, South Carolina

June, 2014

July 16, 2014
 2014

2014 JUL 16 PM 3:32
 CONNIE REEL-SHEARIN
 C.C.P. & G.S.
 FLORENCE COUNTY, SC

FILED

CERTIFIED: A TRUE COPY

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 FLORENCE COUNTY, S.C.