

the employment relationship at any time with or without reason. Parsons admits that she did not have an employment contract or any promises or assurances regarding her employment at the Hospital, and that she could terminate the employment relationship with the Hospital at any time with or without reason. Parsons admits the Hospital did not guarantee her any employment hours as a PRN nurse and she acknowledges that the Hospital could terminate the employment relationship if she did not work the requisite minimum hours in a three-month period.

In August of 2011, Parsons was terminated for failing to meet the required hours for employment as a PRN nurse. In 2012, Parsons filed suit in this court claiming (1) tortious interference with Employment Relationship (against Defendant Jane Smith), (2) Wrongful Termination (against all Defendants), and (3) Negligent Training, Retention and Supervision (against Defendants QHG of South Carolina d/b/a Carolinas Hospital System and Carolina Hospital System). Subsequently, Defendants filed a Motion to Dismiss Plaintiff's Complaint in its entirety. This Court granted Defendants' Motion to Dismiss as to Plaintiff's first cause of action but denied Defendants' Motion as to the remaining causes of action.

Defendants' filed the instant Motion on April 21, 2014. This Court held a hearing on June 17, 2014, during which all parties were present and represented by counsel.

STANDARD OF REVIEW AND ANALYSIS

Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, and 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 judgment as a matter of law. Turner v. Milliman, 392 S.C. 116, 121–22, 708 S.E.2d 766, 769 (2011); see also Rule 56(c) SCRPC. In determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences that may be drawn therefrom in the light most

favorable to the non-moving party. Brockback v. Best Capital Corp., 341 S.C. 372, 534 S.E.2d 688 (2000); McLaughlin v. Williams, 379 S.C. 451, 455–56, 665 S.E.2d 667, 670 (Ct. App. 2008).

A. Plaintiff's Claim Of Wrongful Termination Fails Because She Was An At-Will Employee And The Public Policy Exception Does Not Apply.

In South Carolina, employment at-will is presumed absent the creation of a specific contract of employment. Barron v. Labor Finders of S.C., 393 S.C. 609, 614, 713 S.E.2d 634, 636–37 (2011) (citing Mathis v. Brown & Brown of S.C., Inc., 389 S.C. 229, 310, 698 S.E.2d 773, 778 (2010)). An at-will employee may be terminated at any time for any reason or for no reason, with or without cause. Mathis, 389 S.C. at 310, 698 S.E.2d at 778. Nevertheless, Parsons advances her claim for Wrongful Termination under the “public policy exception” to the at-will employment doctrine.

The public policy exception applies in cases where either: (1) the employer requires the employee to violate the law, Ludwick, *supra*, (2) the reason for the employee’s termination itself is a violation of criminal law, Culler v. Blue Ridge Elec. Co-op., Inc., 309 S.C. 243, 422 S.E.2d 91 (1992) (employee was terminated after he refuse to contribute to a political action fund, and his termination violated S.C. Code Ann. § 16–17–560), or (3) when the court determines there was a violation of a public policy. Barron, 393 S.C. at 617, 713 S.E.2d at 638. Under the “public policy exception” an at-will employee has a cause of action in tort for wrongful termination where there is a retaliatory termination of the at-will employee in violation of a clear mandate of public policy. Ludwick v. This Minute of Carolina, Inc., 287 S.C. 219, 337 S.E.2d 213 (1985). The determination of what constitutes public policy is a question of law for the courts to decide. Barron, 393 S.C. at 617, 713 S.E.2d at 638.

In the present case, the Hospital fired Parsons because she failed to meet the minimum number of hours required to maintain PRN status with the Hospital. Parsons admits that she failed to work the requisite number of hours. Parsons contends, however, that her termination was wrongful because Smith and the Hospital did not adequately provide her with the opportunity to meet this obligation. In support of her claim, Parsons alleges that Smith engaged in employer fraud by deliberately scheduling Parsons in a way that she would not be able to work any hours. Parsons maintains that Smith's actions were the direct result of a conversation in which Parsons questioned Smith's hiring due to an incident "around 2006 or 2007" in which she believes Smith committed a HIPAA violation.

Upon listening to oral arguments advanced by each party, and after careful review of the Motion, memorandums and exhibits in support and opposition to the Motion, viewing all the evidence and all reasonable inferences that may be drawn therefrom in a light most favorable to the non-moving party, this Court finds that Parsons has not established her claim as a matter of law.

The law in South Carolina permits at-will employees to be terminated for any reasons, good or bad, or no reason at all. Parsons admits that she received scheduled work hours during the time in question but argues that her priority level was not high enough to guarantee her work. Parsons' confuses the type of retaliatory terminations contemplated by the case law under the public policy exception. The law does not permit a cause of action of Wrongful Termination simply because an employee has an alleged disagreement with their supervisor. Even assuming the reason for Parsons' termination was a "bad reason," the law in South Carolina permits this action against at-will employees.

This Court finds that Parsons' termination does not rise to the level of a public policy violation, and therefore, this exception to the employment at-will doctrine does not apply. Additionally, summary judgment is granted with respect to Parsons' claim for wrongful termination as against Smith because Smith was acting within the scope of her employment and it was the Hospital, not Smith, who terminated Parsons' employment.

B. Plaintiff's Claim That She Was Terminated As A Result Of Negligent Training, Retention, and Supervision Fails Because Plaintiff Was An At-Will Employee.

In circumstances where the employer knew or should have known that its employment of a specific person created an undue risk of harm to the public, a plaintiff may claim that the employer was itself negligent in hiring, supervising, or training the employee, or that the employer acted negligently in entrusting its employee with a tool that created an unreasonable risk of harm to the public. See Restatement (Second) of Torts § 317 (1965) (Cited with approval in Degenhart v. Knights of Columbus, 309 S.C. 114, 116, 420 S.E.2d 495, 496 (1992)). The present case does not involve a harm to a member of the public, but rather a co-employee. Even assuming this legal theory creates a viable cause of action for an employee, a plaintiff must still establish that the defendant owes a duty of care to the plaintiff. Steinke v. S.C. Dep't of Labor, Licensing and Regulation, 336 S.C. 373, 387, 520 S.E.2d 142, 149 (1999). If there is no duty, then the defendant in a negligence action is entitled to a judgment as a matter of law. Id. at 387, 520 S.E.2d at 149.


In *Gause*, the court recognized that employers do not owe a duty to at-will employees regarding their employment status since they could be terminated at any time, for any reason, or for no reason at all, irrespective of any inadequate investigations, false assumptions, or failures to reevaluate on the part of the employer. Gause v. Doe, 317 S.C. 39, 42, 451 S.E.2d 408, 409 (Cl. App. 1994).

In the present case, Parsons claims the Hospital was negligent and reckless in allowing Smith to engage in the actions that amounted to "wrongful discharge by employer fraud." Parsons admits that she was an at-will employee of the Hospital. However, Parsons failed to present any evidence that imposed a duty upon the Hospital. Because Parsons was an at-will employee, the Hospital did not have a duty to supervise the employee or protect Parsons from the manner or priority in which Smith scheduled her PRN work shifts. The Hospital could terminate Parsons for any reason, good or bad, or no reason at all. As such, the Hospital did not owe her a duty to supervise Smith's alleged acts. Because Parsons' Negligence cause of action fails to establish the first element of negligence as a matter of law, this Court grants summary judgment in favor of the Hospital.

CONCLUSION

For the foregoing reasons, it is **ORDERED** that Defendants' Motion for Summary Judgment is **GRANTED**.

AND IT IS SO ORDERED.



Judge Michael G. Nettles
Twelfth Judicial Circuit

2014 JUN 25 AM 10:40
CONNIE REEL-SHEARIN
CCOP & GS
FLORENCE COUNTY, SC

FILED

On this 25 day of June, 2014
Florence, SC

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

FILED

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2012CP2103016

Angela Parsons

2014 JUN 26 AM 11:59

CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

Jane Smith
Carolinas Hospital
System

Qhg Of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

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:

CERTIFIED: A TRUE COPY
CLERK OF COURT, C.P.C. & G.S.
FLORENCE COUNTY, S.C.
Christie J. ...

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)

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.

6/26/2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on **June 25, 2014**, and a copy mailed first class or placed in the appropriate attorney's box on **June 26, 2014**, to attorneys of record or to parties (when appearing pro se) as follows:

Pheobe Annette Clark PO Box 13057 Florence, SC 29504

Shawn Travis Pinkston 40 Calhoun Street Suite 550
Charleston, SC 29401
Richard N Sheinis 191 Peachtree St Suite 2900 Atlanta, GA
30303

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.
