THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

Case No. 2012-CP-40-07273
Appellate Case No. 2014-000961

City of Columbia.....Respondent,

v.

Betty J. Keitt.....Appellant.

INITIAL BRIEF OF APPELLANT

J. LEWIS CROMER & ASSOCIATES, L.L.C.
J. Lewis Cromer (#1470)
Julius W. Babb, IV (#77216)
1522 Lady Street
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Fax 803-799-9533
Attorneys for Appellant

TABLE OF CONTENTS

TABLE OFAUTHORITIES

CASES

STATUTES

RULES

STATEMENT OF ISSUES ON APPEAL

I. Did the Court below err in finding that Keitt had an existing remedy under the South Carolina Whistleblower statute, S.C. Code Ann. § 8-27-10 *et seq.*?

II. Did the Court below err in granting the City of Columbia's Motion for Summary Judgment by finding that a wrongful termination in violation of public policy claim is not available to an at-will employee where the employee has a statutory remedy?

STATEMENT OF THE CASE

On October 29, 2012, Appellant Betty J. Keitt ("Keitt") brought this action alleging wrongful termination in violation of public policy against the Respondent City of Columbia ("the City"). The City filed its Motion to Dismiss on November 21, 2012 asserting two grounds for dismissal: for failure to state a claim upon which relief can be granted for the wrongful termination in violation of public policy cause of action and for dismissal of the claim for punitive damages. The matter came before the Honorable Alison Renee Lee for oral arguments on January 29, 2013. After memorandums were filed by both parties and oral arguments were heard, the Motion to Dismiss was partially denied and partially granted on April 3, 2013. (Order, dated April 3, 2013). The City's Motion to Dismiss Keitt's wrongful termination cause of action was denied. The City's Motion to Dismiss Keitt's claim for punitive damages was granted.

On July 17, 2013, the City filed its Motion for Summary Judgment, and the parties subsequently filed their memoranda related to the motion. (Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment, dated August 29, 2013). The City's Motion for Summary Judgment was heard before the Honorable Alison Renee Lee on September 5, 2013. (Transcript of Record, dated September 5, 2013). After the submission of briefs by both parties and oral arguments were heard, the Order granting the City's Motion for Summary Judgment was filed on January 3, 2014. (Order, dated January 3, 2014). Keitt received written

notice of the Order on January 16, 2014. On January 27, 2014, Keitt filed her Motion for Reconsideration under Rule 59(e), SCRCP. (Plaintiff's Motion for Reconsideration). On March 27, 2014, the Honorable Alison Renee Lee entered an Order denying Keitt's Motion for Reconsideration, and Plaintiff then filed a timely Notice of Appeal. (Order, dated March 27, 2014). In support of this appeal, Appellant relies upon the authorities and arguments set forth herein, as well as the authorities and arguments set forth by Appellant in her earlier memorandum, motion for reconsideration and hearing transcript. Accordingly, this Court should reverse Judge Lee's Order granting the City's Motion for Summary Judgment.

STATEMENT OF THE FACTS

Keitt asserted a wrongful termination in violation of public policy claim against the City stemming from her termination from her position as a Violations Clerk in the City's Municipal Court. (Compl. ¶ 1). Keitt's supervisor for approximately six (6) years was the Chief Administrative Judge of the Municipal Court, Judge Dana Davis Turner ("Judge Turner").

Judge Turner instructed Keitt to change the disposition of cases as announced in court to dispositions with harsher penalties on defendants than those previously ordered in Court. (Compl. ¶¶ 3-4). Keitt reported concerns involving Judge Turner's actions to Human Resources ("HR"). (April 4, 2013 Order; and Compl. ¶ 6). Keitt's complaints were not resolved. (Id.).

After multiple instances of Judge Turner altering the sentence and/or fine of defendants, Keitt filed a written complaint and accompanying documents with the Commission of Judicial Conduct's Office of Disciplinary Counsel ("ODC") in August 2011. (Compl. ¶ 6). Keitt cooperated with the ODC investigation.

It became known to Judge Turner that Keitt was cooperating with the ODC investigation. Judge Turner questioned Keitt as to where she got the documentation that was sent to ODC. (Compl. ¶ 8). On October 31, 2011, Judge Turner called Tim Burford to her office. (Id.). After

Mr. Burford returned from Judge Turner's office, Judge Turner called Keitt to her office to confront Keitt about an e-mail in reference to Mr. Burford and the ODC investigation. (Id.). Subsequently, Judge Turner retaliated against Keitt by causing Keitt to leave the building no later than 6:30 P.M., holding Keitt to a higher standard than other Violation Clerks, denying Keitt opportunities for training, photographing Keitt's work station, and not answering or responding to Keitt's phone calls. (April 4, 2013 Order; and Compl. ¶¶ 10-11).

In a Notice of Final Disposition dated December 13, 2011, ODC notified Keitt that the matter with Judge Turner was concluded on December 6, 2011. (Compl. ¶ 12). The Notice stated Keitt's complaint was not dismissed, but the disposition was confidential under the provisions of the Rules for Judicial Disciplinary Enforcement. (Id.)

Keitt was then further retaliated against by Judge Turner and held to different and higher standards than other Violation Clerks. (Compl. ¶¶ 9-11, 14-18). Keitt again complained to HR about Judge Turner. (April 4, 2013 Order; and Compl. ¶¶ 19). On June 11, 2012, Keitt emailed her concerns and complaints to each City Council member and Mayor Stephen K. Benjamin. (Id.). On or about June 27, 2012, Keitt was threatened by Judge Turner, who said she had authority to terminate Keitt and for Keitt to no longer contact council members. (Compl. ¶ 20). Thereafter, on July 3, 2012, Keitt was terminated for pretextual reasons for failure to follow supervisory directives and insubordination. (Compl. ¶ 21). Keitt filed a grievance in accordance with the City's Employee Grievance policy. (Compl. ¶ 22). In a letter dated July 26, 2012, Keitt received notice from Employee Grievance Committee Chairman, Aubrey D. Jenkins, of a grievance hearing scheduled for August 2, 2012. The letter was hand-delivered by Mr. Jenkins on July 27, 2012. On August 2, 2012, the City's Employee Grievance Committee met to consider

Keitt's grievance. Keitt was notified on or about August 13, 2012, that the City's Grievance Committee voted to uphold her termination. (Compl. ¶ 22).

ARGUMENT

I. THE COURT BELOW ERRED IN FINDING THAT KEITT HAD AN EXISTING REMEDY UNDER THE SOUTH CAROLINA WHISTLEBLOWER STATUTE, S.C. CODE ANN. § 8-27-10 *ET SEQ.*

A. In The Order Dated April 3, 2013, Judge Lee Found That The Whistleblower Statute Does Not Provide An Avenue Of Relief.

The Court below erred in finding that Keitt has an existing remedy under the South Carolina Whistleblower statute ("Whistleblower statute"), S.C. Code Ann. § 8-27-10 *et seq.* This same argument was first brought in the Defendant's Motion to Dismiss and Keitt responded in Plaintiff's Memorandum in Opposition to Defendant's Motion to Dismiss. The Honorable Judge Lee found that the Whistleblower statute does not provide an avenue of relief by way of an Order dated April 3, 2013. (April 3, 2013 Order, pp. 3-4). In the April 3, 2013 Judge Lee stated:

> Plaintiff filed a grievance through the Defendant's employee grievance policy and thus exhausted her administrative remedies. However, her grievance resulted in a finding upholding her termination. **Therefore, the Whistleblower statute does not appear to apply.**
>
> Further, it is unclear whether Plaintiff satisfied all the other requirements of the Whistleblower statute. To bring suit under the Whistleblower statute, an employee must make a report in writing within 60 days of the alleged wrongdoing to an appropriate authority. S.C. Code Ann. § 8-27-10(4). An appropriate authority includes the public body that employs the reporting employee or the governmental body having jurisdiction over "professional conducts or ethics..." S.C. Code Ann. § 8-27-10(3). If the written report is not made to the employing public body, "the employing public body must be notified as soon as practicable by the entity that received the report." *Id.* The facts do not demonstrate whether Plaintiff fulfilled these requirements and thus the Whistleblower statute may not apply.

Id. (emphasis added). There has been no additional evidence presented that would alter this legal decision, yet the circuit court issued an Order on January 3, 2014 with the opposite holding. The previous order should be the law of the case and summary judgment should be denied.

B. Keitt Did Not Have An Available Remedy Under The Whistleblower Statute Because The Previous Grievance Proceedings Did Not Result In A Finding That Keitt Would Not Have Been Disciplined But For the Reporting of Wrongdoing.

Keitt does not have an available remedy under the Whistleblower statute. The Whistleblower statute states, "No action may be brought under this chapter unless (1) the employee has exhausted all available grievance or other administrative remedies; and (2) any previous proceedings have resulted in a finding that the employee would not have been disciplined but for the reporting of alleged wrongdoing." S.C. Code Ann. § 8-27-30(A). Keitt grieved her termination in accordance with the City's Employee Grievance policy. (Compl. ¶ 22). On August 2, 2012, the City's Employee Grievance Committee met to consider Keitt's grievance. Keitt was notified on or about August 13, 2012, that the City's Grievance Committee voted to uphold her termination. (Compl. ¶ 22). Thus, Keitt exhausted her administrative remedies through the grievance process; however, the termination was upheld.

> Plaintiff alleges that her termination was in retaliation for making reports of unethical and unlawful conduct to the City's Human Resources Department and to the Office of Disciplinary Council. (Complaint ¶¶ 6, 7, 21 and 25). The exclusive statutory remedy for adverse employment action resulting from reports of public wrongdoing or malfeasance is through the South Carolina Whistleblower's Act. See S.C. Code Ann. § 8-27-10 et seq. Plaintiff elected not to pursue any relief under this statute. Plaintiff asserts that even if she had asserted it, the Whistleblower Act would not have provided her relief because she did not meet its requirements. However, regardless of whether a cause of action arising under the statute would have been successful, Plaintiff's failure to invoke the Act prevents her from maintaining a common law claim for wrongful discharge.

January 3, 2014 Order, p. 4. The Court finding that "regardless of whether a cause of action arising under the statute would have been successful, Plaintiff's failure to invoke the Act prevents her from maintaining a common law claim for wrongful discharge" is in error. *Id.* This finding is in error as it would be impossible to successfully invoke the Whistleblower statute since at least one of the two statutorily-required elements is not satisfied here.

For example, the second requirement of the Whistleblower statute clearly states, **"[n]o action may be brought under this chapter unless**... any previous proceedings have resulted in a finding that the employee would not have been disciplined but for the reporting of alleged wrongdoing." S.C. Code Ann. § 8-27-30(A) (emphasis added). The grievance upheld Keitt's termination, thus the previous proceeding did not result in a finding that Keitt would not have been disciplined but for reporting the alleged wrongdoing of Judge Turner. Therefore, looking on the face of the facts, Plaintiff could not have alleged a claim under the Whistleblower statute.

II. THE COURT BELOW ERRED IN GRANTING THE CITY OF COLUMBIA'S MOTION FOR SUMMARY JUDGMENT BY FINDING THAT APPELLANT'S WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY CLAIM IS NOT AVAILABLE TO AN AT-WILL EMPLOYEE WITH A STATUTORY REMEDY.

A. The City of Columbia Wrongfully Discharged Keitt In Violation of Public Policy.

Wrongful termination in violation of a clear mandate of public policy is an exception to the at-will employment doctrine in South Carolina. *Ludwick v. This Minute of Carolina, Inc.*, 287 S.C. 219, 337 S.E.2d 213 (1985). "The *Ludwick* public policy exception is designed to serve two important policy goals: (1) the vindication of the state's interest by prohibiting termination in violation of the clear mandate of public policy; and (2) the protection of at-will employees who are often without a remedy when terminated in violation of public policy." *Stiles v. American Gen. Life Ins. Co.*, 335 S.C. 222, 228,516 S.E.2d 449, 452 (1999). Courts

have proceeded cautiously with the public policy exception so as to keep it a narrow exception to the general rule of at-will employment.

> In *Miller v. Fairfield Communities, Inc.*, 299 S.C. 23, 382 S.E.2d 16 (Ct. App. 1989) *cert. denied* 302 S.C. 518, 397 S.E. 2d 377 (1990), the Court of Appeals interpreted *Ludwick* to apply only to those situations where the employee must choose between a possible jail sentence or being fired. *Ludwick,* however, is not so limited. The "public policy" exception in *Ludwick* extends to "violation of a clear mandate of public policy." *Culler v. Blue Ridge Elec. Coop.*, 309 S.C. 243, 245, 422 S.E.2d 91, 92 (1992) (citing *Id.*).

In *Culler*, the Supreme Court of South Carolina affirmed the trial court's entry of judgment in favor of the employer in the employee's wrongful discharge action under the public policy exception to the doctrine of employment at will, but clearly opened a window for wrongful termination claims when the facts coalesce to a violation of public policy. *Id.*

"While the public policy exception applies to situations where an employer requires an employee to violate the law or the reason for the termination itself is a violation of criminal law, the public policy exception is not limited to these situations." *Barron v. Labor Finders of S.C.*, 393 S.C. 609, 614-615,713 S.E.2d 634, 637 (2011) (citing *Garner v. Morrison Knudsen Corp.*, 318 S.C. 223, 456 S.E.2d 907 (1995); *Keiger v. Citgo*, 326 S.C. 369, 482 S.E.2d 792 (Ct. App. 1997). In *Garner* and *Keiger*, the Court in both cases found the particular facts were novel issues that should not be decided in ruling on a 12(b)(6) motion to dismiss without further developing the facts of the case. *Id.* (citing *Garner*, 318 S.C. at 227, 456 S.E.2d at 910 n.3 (appeal from a grant of a 12(b)(6), SCRCP, motion to dismiss); *Keiger*, 326 S.C. at 373, 482 S.E.2d at 794 (same)). Thus, the Court in both cases reversed the dismissal of the employees' action against their employers. "Both cases make clear, however, that an at-will employee may

have a cause of action for wrongful termination even if the discharge itself did not violate criminal law or the employer did not require the employee to violate the law." *Id.*

A strong regard for the facts before the Court is crucial when considering the applicability of the public policy exception. The employee in *Ludwick* was forced to choose between disobeying a subpoena or losing his job. *Ludwick*, 287 S.C. 219, 337 S.E.2d 213. In *Culler*, the employee alleged he was fired because he refused to join an organization which gives money to campaigns of politicians who support cooperative utilities. *Culler*, 309 S.C. at 244-245, 422 S.E.2d at 91-92. The employee in *Garner* worked at a nuclear plant and after testifying voluntarily regarding radioactive contamination and working conditions, the employee was discharged. *Garner*, 318 S.C. at 224,456 S.E.2d at 908. In *Keiger*, the employee, a waitress paid an hourly wage, was discharged after the employee threatened to invoke her rights under the Payment of Wages Act when the employer reduced the hourly wage. *Keiger*, 326 S.C. at 371, 482 S.E.2d at 793. The employee in *Barron* was terminated the day after notifying her employer that it had not paid her the full amount of commissions she had earned. *Barron,* 393 S.C. at 612-613,713 S.E.2d at 636.

Here, Judge Turner instructed Keitt to change the disposition of cases to dispositions with harsher penalties on defendants than those previously ordered in Court. (Compl. ¶¶ 3-4). Keitt reported concerns involving Judge Turner's actions to HR, yet Keitt's complaints were not resolved. (April 4, 2013 Order). After multiple instances of Judge Turner altering the sentence and/or fine of defendants, Keitt filed a written complaint and accompanying documents with the ODC. Subsequently, Judge Turner retaliated against Keitt by causing Keitt to leave the building no later than 6:30 P.M., holding Keitt to a higher standard than other Violation Clerks, denying

Keitt opportunities for training, photographing Keitt's work station, and not answering or responding to Keitt's phone calls. (April 4, 2013 Order).

Keitt was then further retaliated against by Judge Turner and held to different and higher standards than other Violation Clerks. (Compl. ¶¶ 9-11, 14-18). Keitt again complained to HR about Judge Turner. (April 4, 2013 Order). On June 11, 2012, Keitt emailed her concerns and complaints to each City Council member and Mayor Stephen K. Benjamin. (Id.). Thereafter, on July 3, 2012, Keitt was terminated for pretextual reasons for failure to follow supervisory directives and insubordination. (Compl. ¶ 21). These facts clearly indicate that after reporting Judge Turner's prohibited actions to HR to no avail and then to ODC, Judge Turner retaliated against Keitt and ultimately fired Keitt. Thus, Keitt's discharge is wrongful and falls within the narrow public policy exception. The Court would not need to create a new avenue for the public policy exception as Keitt's facts align with the public policy exception discussed in *Ludwick, Culler, Garner, Keiger,* and *Barron.*

B. Keitt Did Not Have A Statutory Remedy Under Title VII, the ADEA or § 1983.

Keitt has no other available means of recourse. A claim for wrongful termination in violation of public policy should "provide a remedy for a clear violation of public policy where no other reasonable means of redress exist." *Stiles,* 335 S.C. at 228, 516 S.E.2d at 452. This limitation on public policy claims should not be interpreted to require a plaintiff to bring claims that her counsel has determined to be invalid or even frivolous. The circuit court further erred by disregarding the reasonableness argument set forth in *Stiles* by asserting that it is merely a non-binding statement made in a concurring opinion. Regardless of the precedential value of the statement, Appellant urges this Court to find that reasonableness is a factor and should not be

disregarded when analyzing alternative remedies such as those discussed in this appeal. Therefore, the alternative remedies that the City suggests are not reasonable means of redress.

Keitt filed Charges of Discrimination with the South Carolina Human Affairs Commission ("SCHAC") and the Equal Employment Opportunity Commission ("EEOC") alleging discrimination and retaliation in violation South Carolina Human Affairs Law, the United States Age Discrimination in Employment Act of 1967, and Title VII of the United States Civil Rights Act of 1964. The City apparently bases its assertion that Keitt had available remedies on the fact that Keitt filed Charges of Discrimination with the SCHAC and the EEOC.[1] However, Keitt's Charges were filed early in this matter, prior to any lawsuit and were based on Keitt's belief at that time that such unlawful reasons may have been one of the reasons she was terminated. The SCHAC conducted an investigation and subsequently issued a Dismissal and Notice of Right to Sue finding no cause as to the violations; and the SCHAC findings were adopted by the EEOC. (SCHAC Dismissal and Notice of Right to Sue; and EEOC Notice).

Each of the aforementioned laws provide harmed plaintiffs with legal remedies; however, a plaintiff must have the facts to support tortious allegations. The statutes provide civil remedies, but a plaintiff is foreclosed from access to such remedies if the prescribed evidentiary burdens and *prima facie* case requirements are not satisfied. There are insufficient facts here to support a

[1] The City's Motion and Memorandum for Summary Judgment should be denied for failure to raise the alleged defenses of alternate available remedies under the State Human Affairs Act, Title VII, and §1983 pursuant to Rule 12(g), SCRCP. Rule 12(g), SCRCP, states that "If a party makes a motion under this rule but omits therefrom any defense or objection then available to him which this rule permits to be raised by motion, he shall not thereafter make a motion based on the defense or objection so omitted." The Affidavit of Pamela Benjamin and Plaintiff's Admissions do not provide any new or additional information available to the City that was otherwise unavailable at the time the motion to dismiss was filed. The City's motion, while purporting to be under Rule 56, SCRCP, essentially is a 12(b)(6) motion in disguise. The City's failure to raise these defenses in the previous motion should prevent Defendant from now asserting them in a subsequent motion.

race discrimination claim or age discrimination as the facts clearly reveal that Judge Turner retaliated and fired Keitt because of her reports to HR and ODC, not because of her age or race.

The cases cited by the City are distinguishable from the case at hand. In *Epps v. Clarendon Cty.*, 304 S.C. 424, 405 S.E.2d 386 (1991), the South Carolina Supreme Court declined to extend the *Ludwick* exception to a situation where the employee had an existing remedy under 42 U.S.C. § 1983 for a discharge which allegedly violated rights other than the right to the employment itself. *Epps*, 304 S.C. at 426, 405 S.E.2d at 387. In *Dockins v. Ingles Mkts.,*306 S.C. 496, 413 S.E.2d 18 (1992), the South Carolina Supreme Court found that the plaintiff had a valid claim under the Fair Labor Standards Act and remanded the action to the trial court with instructions to grant leave to allow the plaintiff to amend his complaint. *Dockins*, 306 S.C. at 498, 413 S.E.2d 18. These cases are distinguishable as Keitt does not allege facts to support other available remedies, nor are such facts in evidence before this Court. Keitt's Complaint does not allege that Keitt was terminated for racial reasons in violation of Title VII or § 1983, or age reasons in violation of the ADEA, nor does it allege the requirements and *prima facie* elements for a claim under the Whistleblower statute. The City has failed to establish that there were facts supporting another remedy available to Keitt such that the public policy discharge claim should be dismissed. The Affidavit of Pamela Benjamin and Keitt's Admissions that are proffered by the City do not establish that the alleged alternative remedies are actually available and viable remedies.

In support of their argument that Keitt's claim is barred by the availability of statutory remedies, the City cited the Report and Recommendation of the Honorable Magistrate Judge Paige J. Gossett in *Newman v. S.C. Dep't of Emp't and Workforce*, 2010 WL 4791932 (D.S.C.

September 22, 2010), *adopted by* 2010 WL 4666360 (D.S.C. November 18, 2010).[2] The causes of action alleged in Newman's Complaint and the facts of the case differ from the case at hand. Newman asserted claims of race discrimination and hostile work environment in violation of 41 U.S.C. § 1981, retaliation in violation of Title VII of the Civil Rights Act of 1964, as amended, 42. U.S.C. § 2000e *et seq.* and South Carolina law, intentional infliction of emotional distress, and wrongful discharge. *Newman*, 2010 WL 4791932. Judge Gossett found that all of Newman's claims failed as a matter of law and recommended the wrongful discharge cause of action be dismissed due to the availability of statutory remedies. *Id.*

Judge Gossett and the City both cite to *Lawson v. S.C. Dep't of Corrections*, 340 S.C. 346, 532 S.E.2d 259 (2000) in support of dismissing a wrongful discharge claim due to the availability of statutory remedies where the employee alleged not only a cause of action for wrongful discharge, but also other causes of action for which the employee in good faith asserted he had a statutory remedy. In *Lawson*, the South Carolina Supreme Court held that since the employee alleged a wrongful discharge only on the ground of his whistleblowing, he is limited to his remedy under the Whistleblower Act. *Lawson*, 340 S.C. at 350, 532 S.E.2d at 261 (citing *Dockins v. Ingles Markets, Inc.*, 306 S.C. 496, 413 S.E.2d 18 (1992)). The present case is distinguishable, wherein Keitt has only brought one cause of action for wrongful discharge in violation for public policy. Keitt did not allege other causes of action discussed by the City because she did not meet the evidentiary burdens for the requisite elements of the discrimination and whistleblowing claims.

---

[2] Appellant objects to the use of unpublished opinions by Respondent herein under Rule 268(d)(ii), SCACR. In addition to being unpublished, several of the cited opinions are from the federal district court.

When evaluating her claims, Keitt and her counsel[3] determined that the facts do not support a claim under Title VII, the ADEA, § 1983, or the Whistleblower Statute. However, based on the allegations which have been set forth in the Complaint, there is a valid claim for wrongful termination in violation of public policy. The City seems to argue that every cause of action that could be even considered by a plaintiff must be alleged regardless of whether a plaintiff can determine that one or more required elements is absent.[4] Furthermore, the City's position that a claim must be brought just because there was a SCHAC/EEOC investigation resulting in a "no cause" finding is unreasonable. Such an assertion draws into question when Rule 11 would be triggered and such a requirement would force plaintiffs to file frivolous claims that could be in violation of Rule 11 and the South Carolina Frivolous Civil Proceedings Sanctions Act. Rule 11, SCRCP; S.C. Code Ann. § 15-36-10. Rule 11 states, "[t]he written or electronic signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay." Rule 11, SCRCP. If every plaintiff in this state alleged every contemplated cause of action the floodgates of litigation would be opened. The pleadings of every plaintiff would include numerous causes of action that would result in a seemingly never-ending string of motions to dismiss and motions for summary judgment. Furthermore, the assertion of deficient claims would result in undue burden and

[3] Keitt is not waiving the attorney-client privilege, which applies to the actual communications between Keitt and her attorney.

[4] The City's Motion for Summary Judgment stated, "[p]laintiff had available remedies through the State Human Affairs Act, Title VII of the Civil Rights Act of 1991, 42 U.S.C. § 1983 and the South Carolina Whistleblower's Act, S.C. Code Ann. § 8-27-20(A). Plaintiff's failure to invoke these potential statutory remedies precludes her cause of action for common law wrongful termination." [Defendant's Motion and Memorandum in Support of Summary Judgment, p. 2].

excessive costs on both parties and the Court as they would ultimately result in a grant of summary judgment upon a motion by the defendant.

CONCLUSION

For the reasons set forth above, Appellant requests that this Honorable Court reverse the order of the lower court granting Respondent's Motion for Summary Judgment and remand this case for trial.

Respectfully submitted,

J. LEWIS CROMER & ASSOCIATES, L.L.C.

BY: Julius W. Babb

J. Lewis Cromer (#1470)
Julius W. Babb, IV (#77216)
1522 Lady Street
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Fax 803-799-9533

Attorneys for Appellant

October 2, 2014
Columbia, SC

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

Case No. 2012-CP-40-07273
Appellate Case No. 2014-000961

City of Columbia.....Respondent,

v.

Betty J. Keitt.....Appellant.

CERTIFICATE OF SERVICE

I, Julius W. Babb, IV, an attorney of J. Lewis Cromer & Associates, L.L.C., hereby certify that I have served the Appellant's Initial Brief and Designation of Matter to Be Included in the Record on Appeal on the City of Columbia by depositing a copy of it in the United States Mail, postage pre-paid, on October 2, 2014, addressed to the City of Columbia's attorney of record, W. Allen Nickles, III, at the following address:

W. Allen Nickles, III
The Nickles Law Firm
1122 Lady Street, Suite 610
Columbia, South Carolina 29202

Julius W. Babb

Julius W. Babb, IV
1522 Lady Street
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530

October 2, 2014

J. LEWIS CROMER
& ASSOCIATES L.L.C.
ATTORNEYS AND COUNSELORS AT LAW

J. LEWIS CROMER
JULIUS W. BABB, IV • J. PAUL PORTER
ASHLEY C. STORY • RYAN K. HICKS

October 2, 2014

Via Hand Delivery
Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
Filing Desk
1205 Pendleton Street, 1st Floor
Columbia, SC 29201

Re: ***Betty J. Keitt v. City of Columbia***
Case No. 2012-CP-40-07273
Appellate Case No. 2014-000961

Dear Ms. Kitchings:

Please find enclosed the original and two copies of Appellant's Initial Brief, Designation of Matter, and Certificate of Service in connection with the above referenced matter. Please file the originals and return the file stamped copies to us via our courier.

With kind regards, I remain

Sincerely,

Shannon Polvi
Law Clerk

/smp
Enclosures

cc: Al Nickles, Esquire
Betty Keitt