THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Appellate Case No.: 2015-002379
Unpublished Opinion No. 2015-UP-403 (S.C. App. filed Aug. 12, 2015);
rehearing denied (filed October 23, 2015)

Angela Parsons, Petitioner,

v.

Jane Smith, QHG of South Carolina d/b/a
Carolinas Hospital System, and
Carolinas Hospital System, Defendants,

Of whom, QHG of South Carolina d/b/a
Carolinas Hospital System, and
Carolinas Hospital System are the Respondents.

RESPONDENTS' RETURN TO THE PETITION FOR WRIT OF CERTIORARI

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TABLE OF CONTENTS

QUESTIONS PRESENTED

1. Did the Court of Appeals correctly hold that the evidence and allegations of Parsons's claim for wrongful termination in violation of public policy do not demonstrate any clear mandate of public policy that was violated in this case?

2. Did the Court of Appeals correctly hold that the Hospital did not owe Parsons a duty to supervise Smith's scheduling and did not have a duty to investigate Parsons's claims against Smith?

I. STATEMENT OF THE CASE

This case involves an at-will employee, Appellant Angela Parsons ("Appellant" or "Parsons"), who was terminated from her employment as a nurse by QHG of South Carolina d/b/a Carolinas Hospital System and Carolinas Hospital System ("Respondents" or the "Hospital"). Ms. Parsons worked as a "PRN" nurse for the Hospital since 1997. (R. p. 83, lines 16-21.) As a PRN nurse, Ms. Parsons worked when she was needed by the Hospital. (R. p. 84, lines 6-8.) If the Hospital did not need Ms. Parsons, they did not have to contact her to give her hours to work. (R. p. 84, lines 16-18.)

When Ms. Parsons was hired at The Women's Center, the Director of The Women's Center was Pam Turner. (R. p. 85, lines 8-10.) Ms. Parsons admits that Ms. Turner was not required to give hours to Ms. Parsons to work as a PRN nurse. (R. p. 85, lines 16-19.) Tonya Manos was the Director of The Women's Center after Ms. Turner. (R. p. 85, lines 20-22.) Ms. Parsons admits that Ms. Manos was similarly not required to give hours to Ms. Parsons to work as a PRN nurse. (R. p. 85, line 23-p. 86, line 1.) The PRN relationship was reciprocal in that any time Ms. Parsons was asked to work a shift, she was free to decline. (R. p. 86, lines 2-9.) Ms. Parsons was also free to have her name removed from the list of PRN nurses at the Hospital. (R. p. 86, lines 10-14.) The Hospital could not force Ms. Parsons to either work a particular shift at the Hospital, or to keep her name on the list of PRN nurses at the Hospital. (R. p. 86, lines 15-22.)

The Hospital had a policy stating that PRN nurses were expected to work a minimum of twelve (12) hours for every four (4) week schedule. (See R. p. 128, lines 11-17; p. 129, lines 7-11; pp. 130-131) If a PRN nurse did not work the required number of hours for three (3) months she would be removed from PRN status. (R. p. 2.)

Defendant Jane Smith began working as a nurse at the Hospital in approximately 1984. (See R. p. 137, line 19-p. 138, line 4.) Ms. Smith eventually became the Director of The Women's Center. (R. p. 140, lines 3-5.) The job duties of the Director of The Women's Center include overseeing the operations of labor and delivery, the operating room for women's services, the nursery and special care, maintenance of the building, supplies, staffing, policies, standards of care, scheduling, and making sure best practices are followed. (R. p. 86, line 23-p. 87, line 10; p. 140, line 9-p. 141, line 1.)

As part of scheduling, the Director of The Women's Center was also responsible for calling off nurses, or sending nurses home if there was a low patient census. (R. p. 142, line 15-p. 143, line 2.) Full-time nurses have priority to get the hours necessary to work a full-time schedule. (R. p. 88, lines 14-18.) The next priority is for part-time nurses to get the number of hours commensurate with their part-time status. (R. p. 89, lines 1-5.)

If a nurse that is scheduled to work, has to be called off because of a low patient census, the PRN nurses are called off first. (R. p. 89, lines 6-9.) After PRN nurses, part-time nurses are called off, and then full-time nurses. (R. p. 89, lines 10-15.) The hierarchy for getting hours is full-time nurses at the top, then part-time nurses, then PRN nurses. (R. p. 89, lines 16-18.) PRN nurses have the lowest priority for being scheduled to work. (R. p. 89, lines 23-25.) The Chief Nursing Officer ("CNO") of the Hospital, Costa Cockfield, expects all schedule changes to go through the Director. (R. p. 134, lines 8-12.)

In approximately the beginning of August 2012, Jane Smith received a call from a person in the payroll department at the Hospital informing her that Ms. Parsons, along

with several other personnel, had not worked the necessary hours to maintain their status. In the case of Ms. Parsons, she had not worked the necessary hours to maintain her PRN status. (R. p. 144, line 23-p. 145, line 11.) Ms. Smith spoke with the Human Resources Department ("HR"), which gave Ms. Smith a Personnel Action Form for Ms. Parsons' termination from the PRN list. (R. p. 146, lines 1-8; pp. 147-148.) In the "Comments" section of the Personnel Action Form Jane Smith wrote, "PRN - termination does not meet hours worked and failure to accept assignment of cross-training to PP." (R. p. 149, lines 5-9.) Ms. Smith signed the Personnel Action Form and dated it August 5, 2011, as that was the date she wrote the above information. (R. p. 148, lines 8-19.) Later, HR had Ms. Smith sign a letter to Ms. Parsons informing her of her termination due to her inability to fulfill PRN requirements. (R. p. 150, line 5-p. 152, line 3; p. 152.) Ms. Smith did not prepare or send the letter. (R. p. 153, lines 13-23.)

In the meantime, Ms. Parsons had complained to the Hospital Compliance and Privacy Officer, Harold ("Hal") Hunter, about Ms. Smith. (See R. p. 160, lines 14-15; p. 161, lines 8-24.) Because this was an HR issue, Mr. Hunter directed Ms. Parsons to the HR Director, Tammy Dickerson. (R. p. 161, line 25-p. 162, line 3.) Ms. Parsons did not feel comfortable talking with Ms. Dickerson, so Mr. Hunter directed her to the Chief Nursing Officer ("CNO"), Costa Cockfield. (R. p. 162, lines 5-10.) As the CNO, Costa Cockfield was Ms. Smith's supervisor. Mr. Hunter also sent an email to CNO Cockfield asking her to meet with Ms. Parsons. (R. p. 162, lines 7-10.)

Ms. Parsons met with CNO Cockfield on August 30, 2012. (R. p. 90, lines 24-25.) The purpose of this meeting was to make CNO Cockfield aware of her complaints regarding Jane Smith. (R. p. 90, lines 1-2; p. 91, lines 24-25.) Ms. Parsons knows CNO

Cockfield to be a person of high integrity who is respected as the CNO. (R. p. 92, lines 8-16.)

Ms. Parsons met with CNO Cockfield for forty-five (45) minutes to one (1) hour. (R. p. 93, line 25-p. 94, line 1.) She was allowed to tell CNO Cockfield anything she wanted, and provide CNO Cockfield with any documents she wanted Ms. Cockfield to consider. (R. p. 94, lines 2-8; p. 96, lines 3-16.) CNO Cockfield gave Ms. Parsons a full and fair opportunity to inform her of anything she wanted CNO Cockfield to know about the situation with Ms. Smith. (R. p. 94, lines 9-12.) Ms. Parsons has no complaints about her meeting with CNO Cockfield. (R. p. 94, lines 13-15.)

CNO Cockfield determined that based on the nature of the meeting, Ms. Parsons complaints qualified as a grievance. She had Ms. Parsons complete a grievance form. (R. p. 95, lines 18-23; pp. 154-157.) After hearing everything Ms. Parsons had to say, CNO Cockfield subsequently upheld the termination of Ms. Parsons. (R. pp. 154-157.)

Ms. Parsons then met with the Hospital's Chief Executive Officer ("CEO"), James O'Loughlin, regarding her grievance and termination. (R. p. 96, lines 17-19.) At this meeting Ms. Parsons had the opportunity to tell CEO O'Loughlin everything she wanted to tell him about the situation with Ms. Smith, and her termination. (R. p. 97, line 21-p. 98, line 16.) Similar to CNO Cockfield, Ms. Parsons considers CEO O'Loughlin to be a fair, honest person with a high degree of integrity. (R. p. 98, lines 17-25.) Also similar to CNO Cockfield, CEO O'Loughlin upheld the decision to terminate Ms. Parsons. (R. p. 99, lines 17-19; p. 100.)

Although Ms. Parsons disagreed with the decisions by CNO Cockfield and CEO O'Loughlin, she did not disagree with how they handled the situation. (R. p. 101, lines

15-19.) She also does not have a complaint about Compliance Officer Hal Hunter referring her to CNO Cockfield. (R. p. 101, lines 20-25.)

During Ms. Parsons employment at the Hospital she signed several documents acknowledging receipt of the Hospital's Employee Handbook ("Handbook"). (R. pp. 102-104.) The acknowledgments state that all employees are at-will who may quit at any time for any reason, and who may be terminated at any time for any reason with or without cause. (R. p. 104.)

Ms. Parsons admits having signed each of these acknowledgments. (R. p. 105, lines 3-22; p. 106, line 21-p. 107, line 4; p. 108, lines 10-18.) She admits that the Hospital can rescind, modify, or deviate from any of their policies and procedures. (R. p. 109, line 3-p. 110, line 9; p. 111, line 4-p. 112, line 4.) She admits that either she or the Hospital could terminate the employment relationship at any time with or without reason. (R. p. 113, lines 10-20; p. 114, line 11-p. 115, line 2.) Ms. Parsons admits that she did not have an employment contract with the Hospital. (R. p. 116, lines 4-17; p. 117, lines 2-5; p. 118, lines 10-12.) Perhaps most importantly, Ms. Parsons specifically admits that since she signed the first of these acknowledgements in 2006, she did not have any promises or assurances regarding her employment at the Hospital. (R. p. 119, line 19-p. 120, line 2.) She also agreed that the Hospital did not have to give her hours to work as a PRN nurse:

> Q: Similarly, if the Hospital just decided we are not going to give Angela Parsons PRN hours anymore and terminate her because she is not working hours, the Hospital can do that, correct?
>
> A: Correct.

(R. p. 120, lines 3-7.)

In spite of this admission, Ms. Parsons is of the belief that she was wrongfully terminated because her termination was not based on Hospital policy, which requires PRN nurses to work a certain number of hours. (R. p. 121, lines 11-18; p. 122, lines 20-21.)

After her termination, Ms. Parsons filed a Complaint on November 13, 2012, followed by an Amended Complaint ("Complaint") on February 12, 2013. (R. pp. 9-30.) Ms. Parsons raised three causes of action: (1) tortious interference with employment relationship (against Defendant Jane Smith); (2) wrongful termination (against all defendants); and (3) negligent training, retention, and supervision (against QHG of South Carolina d/b/a Carolinas Hospital System and Carolinas Hospital System). (R. pp. 9-30.) Defendants filed a Motion to Dismiss Plaintiff's Complaint in its entirety. The trial court granted Defendants' Motion to Dismiss as to Plaintiff's first cause of action, but denied the Motion as to the remaining causes of action, stating that they should be examined during discovery. (R. pp. 1-2.)

At the conclusion of all discovery, Jane Smith and the Hospital filed a Motion for Summary Judgment as to Parsons' two (2) remaining causes of action. After a hearing, the court granted Defendants' Motion for Summary Judgment specifically holding that:

> (1) Parsons' claim of wrongful termination failed because she was an at-will employee and the public policy exception did not apply; and
>
> (2) Parsons' claim that she was terminated as a result of negligent training, retention, and supervision failed because Parsons was an at-will employee to whom the Hospital did not owe a duty.

(R. pp. 3-8.)

On August 12, 2015, the Court of Appeals affirmed the judgment of the trial Court holding that:

> (1) Regarding Parsons's claim for wrongful termination in violation of public policy, we find the evidence viewed in the light most favorable to Parsons does not support the claim because Parsons has not enunciated, and the allegations do not demonstrate, any clear mandate of public policy that was violated in this case; and
>
> (2) Regarding Parsons's claim for negligent supervision and failure to investigate Smith, we find the trial court correctly determined the Hospital owed Parsons no duty to supervise Smith's scheduling and no duty to investigate Parsons's claims against Smith.

Angela Parsons, Appellant v. Jane Smith, QHG of South Carolina d/b/a Carolinas Hospital System, and Carolinas Hospital System, Defendants, of whom, QHG of South Carolina d/b/a Carolinas Hospital System, and Carolinas Hospital System are the Respondents, Op. No. 2015-UP-403, Appellate Case No. 2014-001636 (S.C. Ct. App. Filed August 12, 2015).

The Claimant filed a Petition for Rehearing in the Court of Appeals. The Court issued its Order Denying Petition for Rehearing on October 23, 2015. Angela Parsons, Appellant v. Jane Smith, QHG of South Carolina d/b/a Carolinas Hospital System, and Carolinas Hospital System, Defendants, of whom, QHG of South Carolina d/b/a Carolinas Hospital System, and Carolinas Hospital System are the Respondents, Appellate Case No. 2014-001636 (S.C. Ct. App. Filed October 23, 2015). The Claimant subsequently filed a Petition for Writ of Certiorari. This response by the Respondents

follows.

III. ARGUMENT & CITATION OF AUTHORITY

A. STANDARD OF REVIEW

Certiorari to review a final decision of the Court of Appeals is governed by South Carolina Appellate Court Rule 242. The granting of a Writ of Certiorari is not a matter of right, but is within the Supreme Court's sole discretion, and is granted only where there are "special and important reasons." SCACR 242(b). The special reasons considered for review are novel questions of law; dissent in the decision of the Court of Appeals; conflict between the decision of the Court of Appeals and the Supreme Court; substantial constitutional issues; or a federal question exists and the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court. Id.

B. THE COURT OF APPEALS CORRECTLY HELD THAT THE EVIDENCE AND ALLEGATIONS OF PARSONS' CLAIM FOR WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY DOES NOT DEMONSTRATE ANY CLEAR MANDATE OF PUBLIC POLICY THAT WAS VIOLATED IN THIS CASE.

The Court of Appeals correctly upheld the trial court's decision that the public policy exception under the at-will employment doctrine does not apply to Ms. Parsons' wrongful termination claim. The employment at-will doctrine has long been recognized in South Carolina. Barron v. Labor Finders of S.C., 393 S.C. 609, 614, 713 S.E.2d 634, 636-67 (2011); Prescott v. Farmers Telephone Cooperative, Inc., 335 S.C. 330, 334, 516 S.E.2d 923, 925 (1999). At-will employment may be terminated by the employer, or employee, at any time, for any reason, or for no reason. Prescott, 335 S.C. at 334, 516 S.E.2d at 925; Culler v. Blue Ridge Elec. Coop., Inc., 309 S.C. 243, 245, 422 S.E.2d 91, 92 (1992) (doctrine of employment at-will in its pure form allows an employer to

discharge an employee for a good reason, no reason, or a bad reason without incurring liability).

As determined by the trial court, the public policy exception only applies in cases where either: (1) the employer requires the employee to violate the law, Ludwick v. This Minute of Carolina, Inc., 287 S.C. 219, 224-25, 337 S.E.2d 213, 215-16 (1985) (employer advised employee that she would be fired if she obeyed a subpoena); (2) the reason for the termination itself is in violation of criminal law, Culler, 309 S.C. 243, 422 S.E.2d 91 (terminated employee for refusing to contribute to a political action fund in violation of S.C. Code Ann. § 16-17-560); or (3) when a court determines there was a violation of public policy, Barron, 393 S.C. at 617, 713 S.E.2d at 638.

Ms. Parsons attempts to abrogate the long recognized doctrine of employment at-will in South Carolina. To allow an at-will employee to bring a wrongful termination claim would take away the critically needed flexibility in the marketplace, and would reduce incentives for economic development. See Grant v. Mount Vernon Mills. Inc., 370 S.C. 138, 146, 634 S.E.2d 15, 19 (Ct. App. 2006) ("The at-will employment doctrine is essentially an economic incentive that provides critically needed flexibility in the marketplace.").

Ms. Parsons alleges in her Petition for Writ of Certiorari that there should be a public policy exception to the employment at-will doctrine for supervisor fraud and manipulation when that fraud can result in termination. (Pet. for Writ of Cert. 3-4.) Ms. Parsons argued that a director should not be allowed, as a matter of public policy, to engage in "fraudulent misrepresentations" causing termination. (Pet. for Writ of Cert. 3-4.) However, Ms. Parsons claims regarding Jane Smith's actions, even if they are

arguably duplicitous, do not constitute fraud because her actions were not material misrepresentations upon which Ms. Parsons' relied to her detriment. Angela Parsons, Appellant v. Jane Smith, QHG of South Carolina d/b/a Carolinas Hospital System, and Carolinas Hospital System, Defendants, of whom, QHG of South Carolina d/b/a Carolinas Hospital System, and Carolinas Hospital System are the Respondents, Op. No. 2015-UP-403, Appellate Case No. 2014-001636 (S.C. Ct. App. Filed August 12, 2015). Further, Ms. Parsons has not clearly articulated a public policy violation in the way her employment was terminated. Id.

The only time the public policy exception applies for wrongful, retaliatory termination is when there has been a violation of a "clear mandate of public policy." Ludwick, 287 S.C. at 224-25, 337 S.E.2d at 215-16. In the present case, there is no interpretation of the facts that would constitute a discharge in violation of a "clear mandate of public policy." Ms. Parsons simply states she should have been given PRN hours to work, despite her admission that the Hospital did not have to give her PRN hours to work. (R. p. 121, lines 11-18; p. 122, lines 20-21.) Ms. Parsons was not asked to violate the law. She was not asked to choose between keeping her job, and obeying the law. Ms. Parsons fails to point to any public policy, much less a "clear mandate of public policy," that was violated by her termination. HR decisions, such as terminating Ms. Parsons as an employee, and overruling her grievance, after she had a full and fair opportunity to have her grievance heard, do not violate public policy.

Moreover, even if a brand new public policy exception to the employment at-will doctrine is created for when supervisors allegedly engage in fraudulent acts to cause an at-will employee's termination, the Court of Appeals correctly held that Ms. Parsons still

fails to set forth any evidence that Jane Smith committed fraud, or that Parsons' termination was based on fraud. "[H]er actions were not material misrepresentations upon which Parsons' relied to her detriment." Angela Parsons, Appellant v. Jane Smith, QHG of South Carolina d/b/a Carolinas Hospital System, and Carolinas Hospital System, Defendants, of whom, QHG of South Carolina d/b/a Carolinas Hospital System, and Carolinas Hospital System are the Respondents, Op. No. 2015-UP-403, Appellate Case No. 2014-001636, at *2 (S.C. Ct. App. Filed August 12, 2015).

To prevail on a cause of action for fraud, a plaintiff must prove the following elements: (1) a representation; (2) its falsity; (3) its materiality; (4) either knowledge of its falsity or a reckless disregard of its truth or falsity; (5) intent that the representation be acted upon; (6) the hearer's ignorance of its falsity; (7) the hearer's reliance on its truth; (8) the hearer's right to rely thereon; and (9) the hearer's consequent and proximate injury. Allegro, Inc. v. Scully, 409 S.C. 392, 417, 762 S.E.2d 54, 68 (Ct. App. 2014) (quoting Moseley v. All Things Possible, Inc., 388 S.C. 31, 35–36, 694 S.E.2d 43, 45 (Ct. App. 2010)).

In the present case, Ms. Parsons misuses the word or concept of "fraud." Ms. Parsons' argument is that Jane Smith arranged the schedule so that Ms. Parsons would not be able to work sufficient hours as a PRN nurse. (Pet. for Writ of Cert. 3-4.) Such actions, even if true, are not fraud.

Fraud first requires a material representation that is false. There is no evidence, and there is not even an allegation, that Jane Smith made any representation to Ms. Parsons regarding PRN hours, much less a representation that was false and material. Ms. Parsons admitted that the Hospital was not required to give her PRN hours. (R. p.

121, lines 11-18; p. 122, lines 20-21.) Therefore, there could not have been a false representation regarding Ms. Parsons getting PRN hours.

Because there is no evidence of a false, material representation by Jane Smith, Ms. Parsons cannot, and has not, presented any evidence that she relied on such a representation, had a right to rely on such representation, and that she suffered an injury because of such reliance. The complete absence of evidence of the basic elements of fraud, causes Ms. Parsons' entire argument that her termination was based on fraud, and was therefore in violation of public policy, to collapse like a house of cards. Thus, the Court of Appeals correctly held that there was no clearly articulated public policy violation in the way Parsons' employment was terminated.[1]

Lastly, Parsons argues that she was terminated after she raised questions as to how Ms. Smith was able to return to work after allegedly committing HIPAA violations. (Pet. for Writ of Cert. 4.) Her Petition for Writ of Certiorari implies that she was terminated in retaliation for reporting her concerns about this. Parsons argument is not that the Hospital obstructed justice by allowing Ms. Smith to return to work, but rather that Parsons was terminated for questioning Jane Smith as to why she was allowed to return to work after an alleged violation.

In a similar case, this Court held that there is no public policy exception to the at-will employment doctrine for reporting suspected crime. Taghivand v. Rite Aid Corp., 411 S.C. 240, 245, 768 S.E.2d 385, 388 (2015). In Taghivand, an employee was terminated in retaliation for reporting suspected criminal activity to law enforcement. Id.

[1] Further, Petitioner cited case law in her Petition for Writ of Certiorari stating that novel issues regarding whether public policy exceptions apply should not ordinarily be decided in ruling on a 12(b)(6) Motion to Dismiss. (Pet. for Writ of Cert. 4.) However, this issue was not determined on a 12(b)(6) Motion to Dismiss, but a Motion for Summary Judgment after discovery had ended in this case.

This Court stated that "while this state applauds citizen participation in the criminal justice system..." the question here was "whether this interest mandates an exception to the at-will employment doctrine." Id. at 247, 768 S.E.2d at 389. This Court noted that "Absent a more clear and articulable definition of policy from the General Assembly regarding those who report suspected crimes, we refuse to broaden the exception to the at-will employment doctrine today." Id. at 248, 768 S.E.2d at 389.

In the present case, Ms. Parsons is alleging that she was taken off the schedule, and terminated because she questioned Ms. Smith about her being allowed to return to work after allegedly violating HIPAA. This certainly does not even rise to the level of reporting suspected crime. Thus, we agree with the Court of Appeals that no clearly articulate public policy violation exists here, and further, that this Court should not broaden the exception to the at-will employment doctrine.

C. THE COURT OF APPEALS CORRECTLY HELD THAT THE HOSPITAL DID NOT OWE A DUTY TO PARSONS TO SUPERVISE SMITH'S SCHEDULING AND DID NOT OWE A DUTY TO INVESTIGATE PARSONS' CLAIMS AGAINST SMITH.

The Court of Appeals correctly upheld the trial court's determination that the Hospital did not owe a duty to Parsons to supervise Smith's scheduling, and did not owe a duty to investigate Parsons's claims against Smith. Without a duty, a defendant in a negligence action is entitled to judgment as a matter of law. Steinke v. S. Carolina Dep't of Labor, Licensing & Regulation, 336 S.C. 373, 387, 520 S.E.2d 142, 149 (1999).

In several cases, courts have recognized that employers do not owe a duty to at-will employees when it comes to their termination. There is no duty to investigate allegations, conduct a proper investigation, or give the plaintiff an opportunity to clear up any misunderstandings. Gause v. Doe, 317 S.C. 39, 451 S.E.2d 408, 409 (Ct. App.

1994); Anthony, 909 F. Supp. 2d at 474. Similarly, the Carolinas Hospital System did not owe a duty to Ms. Parsons to investigate the conduct of Ms. Smith, or reevaluate any facts.

Ms. Parsons tries to creatively establish a duty by referencing unrelated cases. In support of her theory, Ms. Parsons cites Sabb v. S.C. State Univ., 350 S.C. 416, 567 S.E.2d 231 (2002). (Pet. for Writ of Cert. 5 (citing Sabb, 350 S.C. 416, 567 S.E.2d 231)). In Sabb, this Court determined that the trial court properly denied the directed verdict and judgment notwithstanding the verdict (JNOV) because evidence existed to show that the defendant had possibly breached a duty owed to the plaintiff. Sabb, 350 S.C. at 430, 567 S.E.2d at 238. Ms. Parsons alleges that the circumstances in Sabb are "almost identical" to our present case. (Pet. for Writ of Cert. 5)

However, she failed to note pertinent distinguishing facts and misapplied this Court's holding to this case. Most importantly, in Sabb, this Court never discussed whether a duty was owed to an *at-will* employee. The holding merely stated that an issue existed regarding whether the employer owed a duty of care once they were put on notice of certain hostile actions. Sabb, 350 S.C. at 429, 567 S.E.2d at 237-38. Additionally, the plaintiff's negligence in Sabb arose under the exclusive remedy provision of the Workers' Compensation Act because the employee was alleging *personal* injuries sustained from work-related activities. Id. at 422-423, 567 S.E.2d at 234-235 (personal injuries included escalated blood pressure, anxiety, depression, hypertension). Ms. Parsons' injuries were purely economic, stemming from her termination from employment, and thus do not fall under the Workers' Compensation Act. Because of these key differences, the facts of Sabb are distinguishable, and are not applicable to Ms. Parsons.

Ms. Parsons also cites a Montana Supreme Court case, Crenshaw v. Bozeman Deaconess Hosp., 213 Mont. 488, 693 P.2d 487 (1984), to support her theory that failure to properly investigate employee misconduct may be grounds for a wrongful discharge claim. Crenshaw has no binding effect on this case. Additionally, Ms. Parsons misstates what the court's holding in Crenshaw. Crenshaw was not based on an allegation of wrongful discharge, but rather the duty of "good faith and fair dealing." Id. at 500, 693 P.2d at 493 ("The present case is not a case which involves an allegation of 'wrongful discharge.' The central issue here, is whether there was a breach of duty of good faith and fair dealing.")

Under South Carolina law, "There exists in every contract an implied covenant of good faith and fair dealing." Parker v. Byrd, 309 S.C. 189, 194, 420 S.E.2d 850, 853 (1992) (quoting Tharpe v. G.E. Moore Co., 254 S.C. 196, 201, 174 S.E.2d 397, 399 (1970)). However, Ms. Parsons was not owed a duty of good faith and fair dealing as she was strictly an at-will employee, and did not have an employment contract. She even admits that no such contract existed. Parsons cannot argue that a duty of good faith and fair dealing was owed to her since there was nothing to change her status as an at-will employee.

Further, it is uncontested that Jane Smith had complete discretion in creating the schedule. Because of this discretion, the Appellate Court determined that the Hospital did not have a duty to supervise or investigate the manner in which Smith scheduled her employees. The Appellate Court correctly determined that the Hospital did not have a duty to supervise or investigate the matters in this case as Ms. Parsons cannot show that a duty was owed to her as an at-will employee.

CONCLUSION

In summary, this case is a basic, garden variety, at-will employee termination case. There is not a "special and important reason" for this Court to grant Certiorari. SCACR 242(b). There is not a novel question of law, there was no dissent in the decision of the Court of Appeals, there is no conflict between the decision of the Court of Appeals and the Supreme Court, there are no substantial constitutional issues, and lastly, there is no federal question that exists where the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court. Because none of these reasons exist, this Court should deny the Petition for Writ of Certiorari.

For the reasons stated, the Respondents respectfully request that Petitioner's request for a Writ of Certiorari be denied.

Respectfully submitted,

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December 16, 2015

Certificate of Service

I certify that on this 16 th day of December 2015, a copy of the foregoing Respondents' Return to the Petition for Writ of Certiorari was served on counsel of record by depositing a true and correct copy in the U.S. Mail, with sufficient first class postage, addressed as follows:

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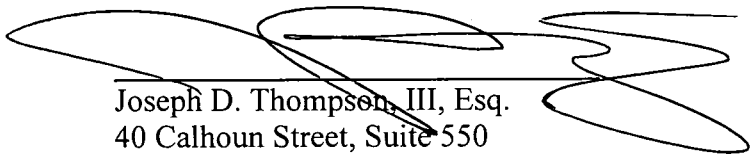

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