

Crystal Faye Clark

Housing Authority of The City of Columbia

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <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.
- 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 _____

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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) State order for judgment by the Court.

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ORDER INFORMATION

MAR 25 2016

SC Court of Appeals

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

INFORMATION FOR THE PUBLIC 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
		\$
		\$
		\$

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 2118 Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 27 day of Oct, 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Johnny E. Watson, Sr.
ATTORNEY(S) FOR THE PLAINTIFF(S)

Kenneth A. Davis
Kristina Jones Catoe
ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Janette W. Yarbrough

SCANNED

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 Crystal Faye Clark,)
)
 Plaintiff,)
)
 vs.)
)
 Housing Authority of)
 The City of Columbia,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 FIFTH JUDICIAL CIRCUIT

CASE NO. 2014-CP-40-07011

ORDER RECEIVED
 2015 OCT 26
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 SC Court of Appeals

This matter came before the Court on October 13, 2015, for a hearing on Defendant Housing Authority of The City of Columbia's ("Housing Authority") Motion for Summary Judgment. Present at the hearing were Johnny E. Watson, Sr., Esquire, counsel for Plaintiff, and Kenneth A. Davis, Esquire, and Kristina Jones Catoe, Esquire, counsel for Defendants. After considering the law, the arguments of counsel, and all matters submitted, Defendant's Motion for Summary Judgment is **GRANTED**.

FACTUAL AND PROCEDURAL BACKGROUND

On November 6, 2014, Plaintiff Crystal Faye Clark ("Clark") filed the instant cause of action alleging that she suffered injuries by falling down a staircase that Housing Authority failed to properly maintain. Specifically, Clark maintains that she slipped on a damaged rubbery mat as she was descending a flight of stairs in an apartment complex she was renting from Housing Authority. On July 9, 2015, Housing Authority filed this Motion pursuant to Rule 56, SCRPC, arguing that there is no *genuine* issue of material fact, and thus, it is entitled to judgment as a matter of law. Specifically, Housing Authority argues that Clark failed to provide notice to Housing Authority that the staircase allegedly causing Clark to fall was damaged.

LEGAL STANDARD

Summary judgment is appropriate if "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." Rule 56(c), SCRPC. "Under Rule 56(c), SCRPC, the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact." *Trivelas v. S.C. Dep't of Transp.*, 348 S.C. 125, 130, 558 S.E.2d

and
 #1

271, 273 (Ct. App. 2001). “In order to withstand a motion for summary judgment in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence.” *Turner v. Milliman*, 392 S.C. 116, 122, 708 S.E.2d 766, 769 (2011). In determining whether a triable issue of material fact exists, the Court must construe all facts and inferences in the light most favorable to the non-moving party. *Wogan v. Kunze*, 379 S.C. 581, 585, 666 S.E.2d 901, 903 (2008). “In ruling upon a motion for summary judgment, the court . . . may decide whether an issue of fact is genuine or feigned.” 25 S.C. Jur. Rules of Civil Procedure Judgment § 56.2 (2015). A plaintiff seeking damages suffered because of a dangerous or defective condition on a defendant’s property must demonstrate that the defendant had “actual or constructive knowledge of a dangerous condition and failed to remedy it.” *See Nelson v. Piggly Wiggly Cent., Inc.*, 390 S.C. 382, 389, 701 S.E.2d 776, 780 (Ct. App. 2010).

DISCUSSION

Housing Authority contends that Clark failed to provide notice to it concerning the allegedly defective staircase. Housing Authority asserts that it maintains detailed maintenance logs and that there were no phone calls from Clark concerning the staircase, except one phone call concerning some unrelated loose steps that Housing Authority subsequently fixed and the phone call Clark made when she suffered her alleged injury. Clark contends that she made three or four maintenance calls concerning the allegedly defective staircase. When asked, however, to provide information concerning those phone calls, Clark was unable to provide any evidence of the time or date of the calls, or any evidence concerning with whom she may have spoken. “It is not sufficient that [a party] create an inference which is not reasonable or an issue of fact that is not genuine. The judge is not required to single out some one morsel of evidence and attach to it great significance when patently the evidence is introduced solely in a vain attempt to create an issue of fact that is not genuine.” *Priest v. Brown*, 302 S.C. 405, 408–09, 396 S.E.2d 638, 639–40 (Ct. App. 1990). Moreover, unsupported assertions, including those made within depositions, will not suffice to create a genuine issue of material fact. *See Jackson v. Bermuda Sands, Inc.*, 383 S.C. 11, 18, 677 S.E.2d 612, 616 (Ct. App. 2009).


Clark’s mere assertion that she contacted Housing Authority, and thus, provided notice concerning the staircase’s alleged condition, is not sufficient to create a genuine issue of material

fact. *See Singleton v. Sherer*, 377 S.C. 185, 197, 659 S.E.2d 196, 203 (Ct. App. 2008) (a party may not rely upon mere allegations to defeat a motion for summary judgment).

ORDER

For the reasons stated above, it is therefore **ORDERED** that Defendant's Motion for Summary Judgment is **GRANTED**.

AND IT IS SO ORDERED.



ALISON RENEE LEE
Presiding Judge

Columbia, South Carolina
October 22, 2015

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LAW OFFICE OF JOHNNY E. WATSON
ATTORNEY AND COUNSELOR AT LAW

MAR 25 2016

SC Court of Appeals

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RE: Crystal Faye Clark v. Housing
Authority of Columbia; # 2016-000491

COMMENTS: Attached is the order
that was missing from the
initial filing.

Johnny Watson

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