

STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD

IN THE COURT OF COMMON PLEAS
FOURTH JUDICIAL CIRCUIT
C.A. NO.: 2015-CP-13-118

RECEIVED

Caroll Freeman and Brooke Freeman

2016 AUG 18 PM 4 03

Plaintiffs,
vs.

FAYE L. SELLERS,
CLERK OF COURT,
CHESTERFIELD COUNTY, S.C.

ORDER
(SUMMARY JUDGEMENT)

SEP 12 2016
SC Court of Appeals

South Carolina Department
of Transportation and County of
Chesterfield, South Carolina

Defendant.

A True Copy, Attest
Faye L. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

This matter is before me on Defendant South Carolina Department of Transportation motion for summary judgement along with Defendant Chesterfield County's motion for summary judgement. Defendants motions for summary judgement were heard on May 23, 2016 with counsel for all parties present. This case arises out of an automobile accident that occurred April 18, 2014 in Chesterfield County, South Carolina. On that day, Plaintiff Caroll Freeman was traveling down Crowley Road, at or near the intersection of Crowley Road and Issac Road, when his vehicle veered off the side of the road down an embankment, and over a ditch. It is undisputed that Chesterfield County is responsible for the upkeep and maintenance of Issac Road and Defendant SCDOT is responsible for the upkeep and maintenance of Crowley Road. Plaintiff alleges in his complaint that no stop sign or other device was present at the intersection of Crowley Road and there was no guardrail in place to stop Plaintiff's vehicle from going into the ditch.

STANDARD OF REVIEW

Summary judgment is proper when "there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law." Rule 56(c) SCRPC. "In

determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party.” Robinson v Estate of Harris, 388 S.C. 630, 638, 698 S.E.2d 222, 226 (2010) (internal quotation marks omitted). To withstand a motion for summary judgment in cases applying a preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence showing a question of material fact exists. Froneberger v. Kirkland Dale Smith, et al., 406 S.C. 37, 748 S.E.2d 625 (S.C. App, 2013).

CONCLUSIONS OF LAW

AS TO DEFENDANT CHESTERFIELD COUNTY

Plaintiffs have asserted causes of action for negligence against Defendant Chesterfield County. The Court hereby grants Defendant Chesterfield County’s motion for summary judgement as it relates to Plaintiffs’ complaint based on evidence presented and arguments made at the hearing.

AS TO DEFENDANT SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

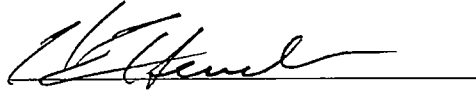
Plaintiffs have likewise asserted causes of action for negligence against Defendant South Carolina Department of Transportation. The Court hereby denies Defendant South Carolina Department of Transportation’s motion for summary judgement as it relates to Plaintiffs’ complaint based on evidence presented and arguments made at the hearing.

IT IS THEREFORE ORDERED that Defendant Chesterfield County’s motion for summary judgment is GRANTED as to the claims and these causes of action are dismissed with prejudice.



IT IS FURTHER ORDERED that Defendant SCDOT's motion for summary judgment is DENIED as to all claims.

IT IS SO ORDERED.



Hon. Roger E. Henderson

Fourth Judicial Circuit

Chesterfield, South Carolina

August 10, 2016