

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2015CP4007314

Barbara Chancey

Richland County School District One

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or 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.
- 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 _____

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
		\$
		\$
		\$

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.

Circuit Court Judge _____ Judge Code 2164 Date _____

For Clerk of Court Office Use Only

This judgment was entered on the 2 day of Feb, 2017 and a copy mailed first class or placed in the appropriate attorney's box on this 2 day of Feb, 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Reagan Singletary

Steven Michael Pruitt

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette W. Arvide

RECEIVED

SCANNED
Emailed
2/3/17

JUN 28 2017

SC Court of Appeals

2017 FEB -3 AM 9:01
RICHLAND COUNTY
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
) C/A NO. 2015-CP-40-07314
)
)
)

Barbara Chancey,
Plaintiff,

ORDER

vs.

RECEIVED

Richland School District One,
Defendant.

JUN 28 2017

SC Court of Appeals

2017 FEB -3 AM 9:01
JENNIFER B. BROWN
CLERK
RICHLAND COUNTY

This matter is before me on Defendant's Motion for Summary Judgment. A hearing was held on this matter January 24, 2017, at which time Steven M. Pruitt, Esquire, appeared on behalf of Defendant and Reagan Singletary, Esquire, appeared on behalf of the Plaintiff. For the reasons set forth below, Defendant's Motion is granted and Plaintiff's action is dismissed.

Plaintiff alleges in her Complaint that in May of 2014, she was at Hyatt Park Elementary School for her grandchild's graduation and had to walk down a flight of stairs in order to get to the graduation. Plaintiff alleges that while walking down the stairs, her shoe got caught in a portion of the stairwell covering that was buckling and she fell injuring her leg. Defendant moved for summary judgment arguing that Plaintiff failed to show negligence on the part of Defendant. In order to recover in an action for negligence, Plaintiff "must show: (1) a duty of care owed by the defendant to the plaintiff; (2) a breach of that duty by a negligent act or omission; and (3) damage proximately resulting from the breach." Washington v. Lexington County Jail, 337 S.C. 400, 405, 523 S.E.2d 204, 206 (Ct. App. 1999) (further citation omitted). Defendant does not dispute that Plaintiff was injured, but the Court agrees that Plaintiff fails to show that any action of the Defendant was the proximate cause of this injury.

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As stated above, Plaintiff claims in her Complaint that she fell as a result of a defect in the stairs at Hyatt Park Elementary School. In her deposition, Plaintiff testified as follows:

Question: Tell me what you claim the school district did wrong. Why are you filing a suit in this case?

Plaintiff's Response: I don't understand that.

Question: Oh, I'm sorry. You filed a lawsuit claiming that the school district did something wrong. What exactly are you claiming that they did wrong, the school district, that caused this to happen?

Plaintiff's Response: Well, I didn't do anything wrong.

Question: Okay. Well, what specifically do you claim that they did wrong, the school district? I'm not asking for legal stuff now. I'm just asking, in laymen's terms, what do you claim the school district did wrong? Why did you decide to sue them?

Plaintiff's Response: Because I ended up with a broke leg, but I didn't do anything wrong. I know I was walking down the steps like I normally walk. I haven't fell, oh lord—I've been on too many jobs. Listen, I didn't say the school district did anything wrong, but I know I didn't do anything wrong. I was walking down the stairs, and I fell.

(Plaintiff's deposition, pg. 17, line 17 -- pg. 18, line 12).¹

Plaintiff also testified:

Question: Right, I understand. What exactly caused you to fall that day?

Plaintiff's Response: I don't know what caused me to fall.

(Plaintiff's deposition, pg. 19, lines 2-4).

Plaintiff further testified:

Question: Okay. Do you remember what kind of covering, floor covering, was on the steps?

Plaintiff's Response: Oh lord, no.

¹ Defendant submitted a copy of the Plaintiff's deposition transcript with its Memorandum in Support of its Motion to Dismiss.

Question: That's fine. Are you claiming there was any kind of defect in the steps?

Plaintiff's Response: I know I didn't do anything wrong.

Question: Yes, ma'am. But are you claiming there was any specific - -

Plaintiff's Response: I'm not claiming. I said I didn't do anything wrong. All I know is I was walking down the steps.

...

Question: So as we sit here today you can't point to any specific defect or problem with the stairs? As we sit here today?

Plaintiff's Response: No, I can't say that.

(Plaintiff's deposition, pg. 22, line 4-23).

Plaintiff has the burden of proof and must prove the allegations in her Complaint. McKnight v. S.C. Dep't of Corrs., 385 S.C. 380, 390-91, 684 S.E.2d 566, 571 (Ct. App. 2009).

Plaintiff alleges in her Complaint that the floor covering on the stairs was unsafe, but sets forth no evidence to support this claim. As shown above, Plaintiff testified that she could not point to any defect in the stairs and further testified that "I don't know what caused me to fall." Plaintiff fails to set forth any facts to show negligence by Defendant.

Plaintiff submitted a Memorandum in response to Defendant's Motion for Summary Judgment. Plaintiff also submitted an affidavit from Barbara Clark, who was with Plaintiff when the incident occurred, along with her Memorandum and relies primarily on Ms. Clark's affidavit to oppose Defendant's Motion. Ms. Clark stated that she did not investigate the cause of Plaintiff's fall at the time of the incident as she was more concerned about Plaintiff's wellbeing, but recently went back to the scene and reviewed the steps where Plaintiff fell. The parties agreed that this took place in late December 2016. Ms. Clark stated that she observed defects in the steps when she went back to the scene in December of 2016.

Though Ms. Clark stated that she observed defects in the steps when she examined them in December of 2016, she did not state that the steps were in the same condition as when the incident occurred on May 22, 2014, two and one half years earlier. Defendant also submitted the deposition transcript of Ms. Clark. When Ms. Clark was asked in her deposition what caused Plaintiff to fall, she stated she guessed the stairs, but really did not know. (Clark deposition, page 17, line 2-9). She further testified that she could not remember what type of covering was on the steps and that she did not see any defect in the stairs. (Clark deposition, page 19, line 6-10; page 20, line 1-17). Ms. Clark's deposition took place before she submitted her affidavit.

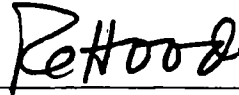
In response to Plaintiff's Memorandum, Defendant submitted the affidavit of Cynthia Priester, the Building Supervisor at Hyatt Park Elementary School. Ms. Priester stated in her affidavit that Plaintiff fell on the stairs leading down to the cafeteria. She stated that the floor covering on the stairs where the Plaintiff fell was replaced in the summer of 2014, after the accident occurred. She stated the stairs are not in the same condition as they were on May 22, 2014, since the flooring was replaced.

The Court finds that Plaintiff has failed to set forth any evidence to show that the steps were in a defective condition or that Defendant was negligent. Both Plaintiff and her witness, Ms. Clark, testified in their depositions that they did not know what caused the Plaintiff to fall and were not aware of any defect in the steps. Clearly, the steps were not in the same condition when Ms. Clark examined them in December of 2016 as the floor covering had been replaced, and her statement that she allegedly observed defects in the steps at that time is not relevant.

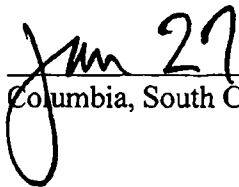
Even taking all facts in a light most favorable to the Plaintiff, she has failed as a matter of law to meet her burden of proof because she has set forth no evidence of negligence by Defendant. Therefore, her action is dismissed as a matter of law.

Based on the above, it is hereby ordered, adjudged, and decreed that Defendant's Motion for Summary Judgment is granted and Plaintiff's action is dismissed with prejudice and forever ended.

IT IS SO ORDERED.



The Honorable Robert E. Hood
Fifth Judicial Circuit

 , 2017
Columbia, South Carolina