

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Amy Davidson, Appellant,

v.

City of Beaufort, Branch Banking & Trust of South
Carolina, Collins Engineering, Inc., Brantley
Construction Company, Inc., and Tidal Wave 23, LLC,
Defendants,

Of whom Branch Banking & Trust of South Carolina and
City of Beaufort are Respondents.

Phillip Davidson, Appellant,

v.

City of Beaufort, Branch Banking & Trust of South
Carolina, Collins Engineering, Inc., Brantley
Construction Company, Inc., and Tidal Wave 23, LLC,
Defendants,

Of whom Branch Banking & Trust of South Carolina and
City of Beaufort are Respondents.

Appellate Case No. 2010-163346

Appeal From Beaufort County
Carmen T. Mullen, Circuit Court Judge

Unpublished Opinion No. 2013-UP-059

Heard December 10, 2012 – Filed January 30, 2013

AFFIRMED

H. Fred Kuhn, Jr., of Moss Kuhn & Fleming, PA, of Beaufort, for Appellants Amy and Philip Davidson.

Edward K. Pritchard, III, of Pritchard & Elliott, LLC, of Charleston, for Respondent Branch Banking and Trust of South Carolina; William B. Harvey, III, of Harvey & Battey, PA, and Mary Bass Lohr and William Thomas Young, III, of Howell Gibson & Hughes, PA, all of Beaufort, for Respondent City of Beaufort.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the trial court erred in granting summary judgment prior to the completion of discovery: *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003) (holding the nonmoving party must show a likelihood that further discovery will uncover additional relevant evidence); *Gauld v. O'Shaughnessy Realty Co.*, 380 S.C. 548, 559, 671 S.E.2d 79, 85 (Ct. App. 2008) (holding a failure of proof on an essential element of the case renders all other facts immaterial).
2. As to whether the trial court erred in granting summary judgment to BB&T: *Estate of Adair v. L-J, Inc.*, 372 S.C. 154, 160, 641 S.E.2d 63, 66 (Ct. App. 2007) (indicating a landowner owes no duty to a trespasser except the duty not to do him willful or wanton injury).
3. As to whether the trial court erred in granting summary judgment to the City of Beaufort: *Miller v. City of Camden*, 329 S.C. 310, 314, 494 S.E.2d 813, 815 (1997) ("One who controls the use of property has a duty of care not to harm others by its use. Conversely, one who has no control owes no duty." (citations omitted)); *Gauld*, 380 S.C. at 559, 671 S.E.2d at 85 ("A complete failure of proof concerning an essential element of the non-moving party's case necessarily renders all other facts immaterial." (citation and internal quotation marks omitted)).

AFFIRMED.

SHORT, KONDUROS, and LOCKEMY, JJ., concur.