THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Paul Burch, Circuit Court Judge

Case Number: 2017-CP-40-05538
Appellate Case No: 2018-002026

Latoria Cooks.. Appellant

v.

Pearlz Vista, Inc., d/b/a
Pearlz Oyster Bar, Carolina
Ale House Operating Company
LLC, d/b/a Carolina Ale House
and Art Bar, Inc.. Respondent

INITIAL BRIEF OF APPELLANT

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TABLE OF CONTENTS

Table of Authorities ii

Statement of Issues on Appeal 1

Statement of Case 1

Statement of the Facts 5

Arguments

I. The Court erred in granting Defendant's Motion for Summary Judgement Based on the evidence submitted and Relief upon by Plaintiff, or the Court erred in applying the incorrect standard to the evidence submitted 7

II. The Court erred in granting Summary Judgment when the Plaintiff had not had A full and fair opportunity to complete discovery 11

Conclusion 13

TABLE OF AUTHORITIES

Cases

Pallares c. Seinar, 407 S.C.359, 365, 756 S.E. 2d 128, 131 (2004)……………………………………4

Spence v. Wingate, 395 S.C.148, 156, 716 S.E.2d 920, 925 (2011)…………………………………4

Brown v. Sojourner (In re: Estate of Brown) 424 S.C.589, 818 S.E.2 d 770 (S.C. App.,2018)...4

Koester v. Carolina Rental Ctr., 313 S.C. 490, 493, 443 S.E. 2d 392,394 (1994)………………4

Rogers v. Norfolk Southern Corp., 356 S.C. 85, 92, 588 S.E. 2d 87, 90 (2003)…………………4,8

Crinkley v. Holiday Inns, 844 F.2d 156, 160 (4th Cir. 1988)…………………………………………4,8

Hancock v. Mid-South Management Co., Inc., 673 S.E.2d 801, 381 S.C. 326 (S.C.,2009)……………………………………………………………………………………………5,8,9

Spencer v. Miller, 259 S.C. 453, 192 S.E. 2d 863 (1972)……………………………………………5

Gilmore v. Ivey, 290 S.C. 53, 348 S.E.2d 180 (Ct. App. 1986)………………………………………5

Folkens v. Hunt, 290 S.C. 194, 348 S.E. 2d 839 (Ct. App. 1986)……………………………………5

Ton Jenkins Realty, Inc., v. Hilton, 278 S.C. 624, 300 S.E. 2d 594 (1983)…………………………5

Butts v. AVX Corp., 292 S.C. 256, 355 S.E.2d 876 (S.C App., 1987)…………………………………5

Abrams v. Wright, 262 S.C. 141, 202 S.E.2d 859 (1974)………………………………………………5

Knight v. Austin, 396 S.C. 518, 722 S.E. 2d 802 (2012)………………………………………………9

Fleming v. Rose, 350 S.C. 488, 567 S.E. 2d 857 (20020………………………………………………9

Gamble v. Price, 289 S.C. 538, 347 S.E. 2d 131 (Ct. App. 1986)……………………………………10

Norland v. Washington General Hospital, 461 F.2d 694, 697 (8th Cir. 1972)……………………10

Baughman v. American Tel. and Tel.Co., 306 S.C. 101, 410 S.E. 2d 537 (S.C., 1990)………13

Watson v. Southern Ry. Co., 420 F.Supp. 483, 486 (D.S. C. 1975)…………………………………13

Holloman v. McAllister, 289 S.C. 183, 186, 345 S.E. 2d 728, 729 (1986)…………………………13

First Chicago Int't v. United Exchange Co., 836 F.2d 1375 (D.C. Cir. 1988)………………13

Gary Plastic Packaging Corp. v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 756 F.2d, 230 (2d Cir. 1985)..13

Tyler v. City of Enterprise, 521 So. 2d 951 (Ala. 1988)..13

Gangadean v. Leumi Fin. Corp., 13 Ariz. App. 534, 478 P.2d. 532 (1970)...................13

Commercial Bank of Kendall v. Heiman, 322 So. 2d 564 (Fla. Dist.Ct. App. 1975)..........13

Board of Education v. Van Buren & Firestone, Architects, Inc., 165 W.Va 140..............13

Other Legal Authorities: Statutes and Rules

SCRCP Rule 56 (c)..4,5,9

S.C. Circuit Rule 44(c) 5

S.C. R. CIV.P. 56(c) 5

10A Wright v. Miller, Federal Practice and Procedure Section 2741, p. 543 (1983).............13

6 Moore's Federal Practice p. 56.02, p. 56-39 (2d ed. 199)..13

STATEMENT OF ISSUES ON APPEAL

1. DID THE COURT ERR IN GRANTING DEFENDANTS MOTION FOR SUMMARY JUDGEMENT BASED ON THE EVIDENCE SUBMITTED AND RELIED UPON BY PLAINTIFF, OR DID THE COURT ERR IN APPLYING THE INCORRECT STANDARD TO THE EVIDENCE SUBMITTED?
2. DID THE COURT ERR IN GRANTING SUMMARY JUDGMENT WHEN THE PLAINTIFF HAD NOT HAD A FULL AND FAIR OPPORTUNITY TO COMPLETE DISCOVERY?

STATEMENT OF THE CASE

This case involves an automobile accident that occurred on September 13, 2014. Defendant while driving in an intoxicated condition collided with the vehicle driven by Plaintiff on Interstate 20 in Lexington County.

Initially Plaintiff brought a claim against Defendant's liability carrier and her own UIM carrier. The liability claim was settled for policy limits and thereafter Plaintiff brought a claim against her carrier for underinsured motorist benefits (UIM). Because the UIM Carrier would not pay their limits of coverage, Plaintiff brought a lawsuit on August 29, 2016 entitled Latoria Cooks v. Emily Brown, 2016-CP-40-05226. (Complaint Cooks v. Brown). The only Defendant in this action was Emily Brown. The only other counsel of record was James Brogdon (Answer Cooks v. Brown) who represented Plaintiff's UIM Carrier. In an effort to promote settlement in an otherwise stalled case, Plaintiff took Defendant's deposition on June 19, 2017, three months before the present action was filed.

In the original automobile accident case, the exact location where Defendant had been drinking on the evening of the wreck was not an important fact and was not explored at length by Plaintiff's counsel in the deposition of Ms. Brown. The issue was

touched upon, but not explored, and Plaintiff's counsel had no way of knowing that future counsel for other Defendants would insist that counsel for Plaintiff rely upon the information gleaned in that deposition exclusively.

After taking the deposition of Defendant, the parties to that action settled the case. Plaintiff filed the present action seeking recovery under a Dram Shop theory of liability on September 13, 2017. (Complaint, 2017-CP-40-5538). The wreck case was dismissed.

All parties were served with the complaint and filed Answers. (Answers of Defendants Art Bar; Carolina Ale House and Pearlz). The following discovery was undertaken by the parties:

Defendant Pearlz: On October 27, 2017, Defendant Pearlz served discovery requests upon Plaintiff; Plaintiff responded to discovery requests on December 5, 2017. On January 24, 2018, Defendant Pearlz served Plaintiff with supplemental discovery requests; Plaintiff responded to the supplemental discovery requests on January 27, 2018. Likewise, on January 23, 2018, Plaintiff served discovery requests upon Defendant Pearlz; Defendant Pearlz responded to Plaintiff's discovery requests on March 14, 2018. Plaintiff served Defendant Pearlz with supplemental discovery requests on July 24, 2018 but subsequent to the granting of a Summary Judgment Motion, Pearlz never responded to the supplemental discovery requests made by Plaintiff.

Defendant Carolina Ale House: Plaintiff served Defendant Carolina Ale House with discovery requests on January 24, 2018; Defendant responded to same on April 2, 2018. Subsequently, on April 10, 2018, Defendant Carolina Ale House served Requests to Admit to Plaintiff; Plaintiff responded to same on May 8, 2018. Amended Responses were demanded by both Carolina Ale House and Art Bar to the Requests to Admit and

provided on July 12, 2018 to all parties. Plaintiff served Defendant Carolina Ale House with supplemental discovery requests on July 24, 2018, but as with Defendant Pearlz, these supplemental discovery requests were not answered following the Summary Motion Judgment.

Art Bar: On January 17, 2018, Defendant Art Bar served Plaintiff with discovery requests; Plaintiff responded to the discovery requests on January 26, 2018. Likewise, on January 23, 2018, Plaintiff served Defendant Art Bar with discovery requests; Defendant Art Bar responded to the discovery requests on February 28, 2018. On April 13, 2018, Defendant Art Bar served Request to Admit to Plaintiff; Plaintiff responded to Request to Admit on May 9, 2018 and amended those responses on July 12, 2018 as required by the Court. Plaintiff served supplemental discovery requests upon Defendant Art Bar on July 24, 2018; Defendant responded to the supplemental discovery requests on August 21, 2018.

On the date of the Hearing before the Lower Court there was discovery responses due from two of the three Defendants. Defendants filed their joint Motion for Summary Judgment on June 15, 2018 (Motion for Summary Judgment/Exhibits). Plaintiff's counsel had been working on scheduling the deposition of Ms. Brown for some time with all attorneys involved. The Deposition Notice was mailed on July 23, 2018, scheduling the deposition to occur on September 5, 2018. (Deposition Notice of Emily Brown). Defendants filed a Motion for Protective Order in an effort to prevent Plaintiff from taking the deposition of Emily Brown. (Defendants Motion for Protective Order). The hearing for Summary Judgment and for a Protective order took place on this same day of September 5, 2018. The Court dismissed the case by Granting Defendant's motion for

summary judgment and declared Defendants motion for Protective Order moot. Plaintiff filed her motion for reconsideration and to alter and amend the judgment on September 15, 2018. (Plaintiff's Motion to Alter Amend and for Reconsideration) Plaintiff's motion for reconsideration and to alter and amend the judgment was denied without a hearing by order of the court dated October 17, 2018. (Order Denying motion to Alter and Amend and for Reconsideration). This appeal follows.

STANDARD OF REVIEW

A motion for summary judgment shall be granted "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 and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP. "In determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences that may be drawn therefrom in the light most favorable to the party opposing summary judgment." *Pallares v. Seinar*, 407 S.C. 359, 365, 756 S.E.2d 128, 131 (2014). "An appellate court applies the same standard used by the trial court under Rule 56(c) when reviewing the grant of a motion for summary judgment." *Spence v. Wingate*, 395 S.C. 148, 156, 716 S.E.2d 920, 925 (2011). "Because summary judgment is a drastic remedy, it should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial." *Id.; Brown v. Sojourner (In re Estate of Brown), 424 S.C. 589, 818 S.E.2d 770 (S.C. App., 2018).*

Summary judgment is appropriate where there is no genuine issue of material fact and it is clear the moving party is entitled to a judgment as a matter of law. Rule 56(c), SCRCP. In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party. *Koester v. Carolina Rental Ctr.,* 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994). The rule followed in the federal court system provides that "a `mere scintilla of evidence' is not sufficient to withstand the challenge." *Rogers v. Norfolk Southern Corp.,* 356 S.C. 85, 92, 588 S.E.2d 87, 90 (2003), quoting *Crinkley v. Holiday Inns,* 844 F.2d 156, 160 (4th Cir. 1988). Our Supreme Court recognizes that the court of appeals has been somewhat inconsistent on whether a mere scintilla of evidence will overcome a motion for summary judgment. The Supreme Court, however, has consistently held that where the federal standard applies or where a heightened burden of proof is required, there must be more than a scintilla of evidence in order to defeat a

motion for summary judgment. Our Supreme Court has held that 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 in order to withstand a motion for summary judgment. However, in cases requiring a heightened burden of proof or in cases applying federal law, we hold that the non-moving party must submit more than a mere scintilla of evidence to withstand a motion for summary judgment. *Hancock v. Mid-South Management Co., Inc.*, 673 S.E.2d 801, 381 S.C. 326 (S.C., 2009).

Rule 56(c) of the South Carolina Rules of Civil Procedure states that summary judgment must be granted if there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. *Spencer v. Miller*, 259 S.C. 453, 192 S.E.2d 863 (1972); *Gilmore v. Ivey*, 290 S.C. 53, 348 S.E.2d 180 (Ct.App.1986). In addition, it must be shown that further inquiry into the facts is not needed to clarify the application of law. *Folkens v. Hunt*, 290 S.C. 194, 348 S.E.2d 839 (Ct.App.1986). On a motion for summary judgment, the court must construe all ambiguities, conclusions, and inferences arising in and from the evidence most strongly against the moving party. *Tom Jenkins Realty, Inc. v. Hilton*, 278 S.C. 624, 300 S.E.2d 594 (1983). *Butts v. AVX Corp.*, 292 S.C. 256, 355 S.E.2d 876 (S.C. App., 1987)

Under South Carolina Circuit Court Rule 44(c), as under the new rule [see S.C.R.CIV.P. 56(c)], summary judgment may be rendered only when 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 and that the moving party is entitled to a judgment as a matter of law. Spencer v. Miller, 259 S.C. 453, 192 S.E.2d 863 (1972). Additionally, it must be shown that further inquiry into the facts of the case is not desirable to clarify the application of the law. *Abrams v. Wright*, 262 S.C. 141, 202 S.E.2d 859 (1974). In ruling upon a motion for summary judgment, the hearing judge must construe all ambiguities, conclusions, and inferences arising in and from the evidence most strongly against the moving [290 S.C. 197] party. *Tom Jenkins Realty, Inc. v. Hilton*, 278 S.C. 624, 300 S.E.2d 594 (1983). *Folkens v. Hunt*, 290 S.C. 194, 348 S.E.2d 839 (Ct.App.1986)

STATEMENT OF FACTS

On September 12, 2014, Emily Brown was working as a paralegal with the Law firm of Nexsen Pruet. She went out with friends that evening (Brown Depo p.14, L 6-10). She and her friends had gone out to a bar in the Columbia Vista area. (Brown Dep. P.15,

L 2-5). When asked who she was with and where they went, she became very evasive (Depo Brown P. 15, L 5-24).

While out with friends that evening, she was drinking alcohol (Brown Depo P. 16, L 3-5). She will not say what bars she went to, but she will admit they were in the Columbia Vista (Brown Depo P. 16, L 14-15). Her reluctance to disclose is show by the fact that she says she does not remember the names of any of the "friends" she was out with that night (Brown Depo P. 17, L 7-9). However, she knows that she is no longer friends with any of the people she was out with (Brown Depo P.17, L 10-7). Ms. Brown most likely purchased her own alcohol on that evening (Brown Depo P. 19, L 21-22). She normally paid by debit card or credit card (Brown Depo P.19, L. 23-25). Her debit and credit cards were with Wells Fargo (Brown Depo P.20, L.6-10).

Although Ms. Brown professes to "not remember" what bars she was at on that evening, she amazingly recalls that after leaving the bars in the Vista, she dropped one of her male friends off and then headed towards her mother's home (Brown Depo, P. 21, L. 22, L.14). Further, showing the inconsistency with her recollection of where she had been is a fairly detailed description of her actions leading up to the accident (Brown Depo P.22, L4- P.23, L1). The wreck actually occurred on September 13, 2017 at 3:30 a.m. (Brown Depo. P.20, L.15-16). After the collision, she submitted to certain field sobriety tests by the Officer (Brown Depo. P 24, L.14-24). Ms. Brown was advised by the Officer at the Hospital that she was under arrest for DUI (Brown Depo. P. 24, L.25- P. 25, L.2). At the Hospital, Ms. Brown consented to a blood test at the Officer's request (Brown Depo.P.25, L. 7-9) (South Carolina Traffic Collision Report). Ms. Brown's blood test

revealed that she had a Blood Alcohol Concentration of .16 (Brown Depo. P.25, L.20-P.26, L.5) (South Carolina Law Enforcement Division Forensic Lab Report).

When quested a second time about the bars she was drinking at prior to the accident, Ms. Brown states "I can tell you the one we would often go to" (Brown Depo. P.26, L.6-9). Thereafter, she identifies the Defendants "Art Bar, Pearlz and Ale House" (Brown Depo. P. 26, L. 12). While she states that she cannot be sure, she admits that she most likely was drinking alcohol at Art Bar, Pearlz and Ale House on the evening of the accident (Brown Depo. P. 26, L. 9-14). She further stated that the last place she normally was drinking was Art Bar (Brown Depo. P. 26, L. 16-21). Ms. Brown admitted that she was charges with Driving Under the Influence (Brown Depo. P. 26, L.22-25). She pled guilty to driving with an unlawful alcohol concentration (Brown Depo. P. 27, L. 1-3).

Although, this was Ms. Brown's first conviction under DUI/DUAC, it was her second arrest for driving under the influence. (Brown Depo. P. 27, L. 10-15). Her first arrest for DUI was reduced to reckless driving (Brown Depo. P. 27, L. 15-18). According to Ms. Brown, this accident had a profound effect upon her life and caused her to stop drinking alcohol completely (Brown Depo. P. 30, L. 12-18).

ARGUMENT

I. THE COURT ERRED IN GRANTING DEFENDANTS MOTION FOR SUMMARY JUDGEMENT BASED ON THE EVIDENCE SUBMITTED AND RELIED UPON BY PLAINTIFF, OR THE COURT ERRED IN APPLYING THE INCORRECT STANDARD TO THE EVIDENCE SUBMITTED.

The Court erred in granting Defendants motion for Summary Judgement based on the evidence submitted and relied upon by plaintiff, or the Court applied the incorrect

standard to the evidence submitted. The standard to be applied is whether the Plaintiff showed a "scintilla" of evidence to sustain her claim. In Hancock v. Mid-South Management Co., Inc., 673 S.E.2d 801, 381 S.C. 326 (S.C., 2009) our Supreme Court clarified the proper standard to be applied in a motion for Summary Judgment:

> We first address Respondent's argument that Petitioner must present more than a mere scintilla of evidence to withstand a motion for summary judgment. The rule followed in the federal court system provides that "a 'mere scintilla of evidence' is not sufficient to withstand the challenge." Rogers v. Norfolk Southern Corp., 356 S.C. 85, 92, 588 S.E.2d 87, 90 (2003), quoting Crinkley v. Holiday Inns, 844 F.2d 156, 160 (4th Cir. 1988). We recognize that the court of appeals has been somewhat inconsistent on whether a mere scintilla of evidence will overcome a motion for summary judgment. This Court, however, has consistently held that where the federal standard applies or where a heightened burden of proof is required, there must be more than a scintilla of evidence in order to defeat a motion for summary judgment. Accordingly, we hold that 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 in order to withstand a motion for summary judgment.
>
> Hancock v. Mid-South Management Co., Inc., 673 S.E.2d 801, 381 S.C. 326 (S.C., 2009)

Here the evidence shows that Ms. Brown went out to several bars with friends until almost 3:30 a.m. (Depo of Brown P. 14, L. 1 – P. 15, L 24). She had taken someone home and was headed to her mother's house. (Depo of Brown p. 14, L. 1-3). After the accident she had a Blood Alcohol Concentration (BAC) of .16 (Depo of Brown P. 25, L. 15-24). After being questioned and repeatedly denying that she remembered where she had been out drinking, she admitted that she "most likely" would have been drinking at Art Bar, Pearlz and Ale House that evening and early morning .(Depo of Brown P. 26, L. 13-15). She also testified that Art Bar was open until 3:00 a.m. and that was "normally" where she went last. (Depo of Brown P. 26, L. 16-21). There is no evidence whatsoever that she consumed alcohol at any place other than Ale House, Pearlz and Art Bar prior to the accident.

The fact that the record clearly reflects that Ms. Brown is a reluctant witness who may be feigning memory loss. (Depo of Brown P. 6, L. 9-11, P. 9, L. 1-6). She has testified that she was most likely at Ale House, Pearlz and Art Bar prior to being in the accident at 3:30a.m. After the accident she was taken into custody and her blood test indicated that she had a BAC of .16, twice the amount established as the presumptive amount necessary to be considered intoxicated. Clearly the inferences here, which must all be decided in Plaintiff's favor would lead one to conclude that the defendant's in this action served Ms. Brown alcohol when she would have been in an intoxicated condition.

"Summary judgment is appropriate when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law." Knight v. Austin, 396 S.C. 518, 722 S.E.2d 802 (2012); Rule 56(c), SCRCP. In making this determination, the court must view the evidence and draw all reasonable inferences in a light most favorable to the non-moving party. Fleming v. Rose, 350 S.C. 488, 567 S.E.2d 857 (2002). "[I]n cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment." Hancock v. Mid-South Mgmt. Co., 381 S.C. 326, 673 S.E.2d 801 (2009). "However, in cases requiring a heightened burden of proof . . . the non-moving party must submit more than a mere scintilla of evidence to withstand a motion for summary judgment." Id.

The fact that Ms. Bown testified that Defendants establishments were "most likely" where she had consumed alcohol is sufficient to establish liability on the defendants. Similarly, when an expert in a professional negligence case testifies he is

required to express his opinion to a "most probably" or "most likely" standard. When an expert testifies that a fact "most likely" occurred his testimony is considered sufficient. "In determining whether particular evidence meets this test it is not necessary that the expert actually use the words "most probably."" Gamble v. Price, 289 S.C. 538, 347 S.E.2d 131 (Ct.App.1986). It is sufficient that the testimony is such "as to judicially impress that the opinion ... represents his professional judgment as to the most likely one among the possible causes...." Norland v. Washington General Hospital, 461 F.2d 694, 697 (8th Cir.1972).

Further, it would appear from comments made by the Court that the Court disagrees with the current law as it exists in this state and prefers to use a different standard. That colloquy is as follows:

MR. CARRIGG: Your honor, you are denying the motion - - you're granting the motion for summary Judgment?

THE COURT: That way you don't have to worry about a protective order. You can appeal it. It's going to boil down to that scintilla rule, which I sat on the Supreme Court in Justice Toal's place.

I had my say over there a couple of years ago and I told them I thought the Federal Rule should have been adopted, but we're stuck with the scintilla rule.

(Transcript of Record, P. 20, L. 8-14)

Although the Court may have intended to use the scintilla of evidence rule and simply misapplied the rule; it could appear to the client/party, untrained in the nuances of the law, that the Court was intentionally disregarding the law and imposing a stricter standard

to their case. Regardless the Courts comments certainly raise an issue as to which standard was applied in this case. (Transcript of Record P. 20, L. 8-14).

II. THE COURT ERRED IN GRANTING SUMMARY JUDGMENT WHEN THE PLAINTIFF HAD NOT HAD A FULL AND FAIR OPPORTUNITY TO COMPLETE DISCOVERY.

The Court erred in granting summary judgment when the plaintiff had not had a full and fair opportunity to complete discovery. Aside from the fact that there was significant discovery outstanding, the essential exercise required to allow plaintiff a "full and fair' opportunity to complete discovery was pending due to Defendant Art Bar's objection to plaintiff taking the deposition of Ms. Brown. (Transcript p. 14, L. 9-22). Plaintiff noticed the deposition of Ms. Brown on July 23, 2018 (Plaintiff began scheduling the deposition around July 15th however it took until July 23rd to confirm a date with all opposing attorneys). (Deposition Notice of Brown). On July 23, 2018 defendant Art Bar filed a motion for a protective order to prevent plaintiff from taking the deposition of Ms. Brown.(Defendants Motion for Protective Order). It requires a tortured interpretation of the term 'full and fair opportunity" to conclude that plaintiff had been given a full and fair opportunity to complete discovery when the defendant Art Bar had prevented plaintiff form taking the most necessary and essential deposition in any dram shop case. Further, defendant's motion for a protective order was wholly without merit and filed for the sole purpose of delaying plaintiff from being able to acquire the exact evidence she needed to defeat defendant's motion for summary judgment.

Further, defendant's assertion that because Ms. Brown previously testified in the prior action (wreck case) that she didn't remember where she had been that evening

should not foreclose plaintiff from seeking additional testimony and evidence from her. In that deposition she testified that she normally paid with a debit or credit card at a bar. (Depo of Brown P. 19, L. 12 – P. 20, L. 5). Based upon that information plaintiff served Ms. Brown with a subpoena along with her deposition notice requiring her to bring all debit and credit card statements for the three month period surrounding the wreck. That information would likely refresh her recollection as to where she had been that evening and approximately how much she had consumed, or may have provided plaintiff with proof of the amount spent for alcohol at each of the defendant's establishment.

Plaintiff is not seeking an opportunity to go on a fishing expedition however it is likely that even if due to some mental abnormality Ms. Brown now cannot truthfully remember where she had been drinking that evening she may have shortly after the accident provided that information to another person. Specifically Ms. Brown was represented for her DUI charge and most probably would have related to her attorney where she had been that evening. Since I am sure that she would not wish to impede plaintiff from finding out the truth she may very well consent to a limited waiver of the attorney-client privilege so that plaintiff could obtain that information from her criminal attorney. However, defendant has prevented plaintiff from obtaining that waiver by preventing her from taking Ms. Browns deposition. (Plaintiff's counsel had contacted Ms. Brown; however, she preferred that her deposition be taken as opposed to discussing the case with counsel).

Our Courts take a very restrictive view on allowing summary judgment when the plaintiff has legitimate reasons that he has been unable to obtain the evidence necessary to prove her case. This is especially true when, as here, one of the defendants has actually

prevented plaintiff from obtaining the information. In Baughman v. American Tel. and Tel. Co., 306 S.C. 101, 410 S.E.2d 537 (S.C., 1990) the Supreme Court stated:

> Since it is a drastic remedy, summary judgment "should be cautiously invoked so that no person will be improperly deprived of a trial of the disputed factual issues." Watson v. Southern Ry. Co., 420 F.Supp. 483, 486 (D.S.C.1975); see also Holloman v. McAllister, 289 S.C. 183, 186, 345 S.E.2d 728, 729 (1986) ("an extreme remedy to be cautiously invoked"). This means, among other things, that summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery. 10A Wright & Miller, Federal Practice and Procedure § 2741, p. 543 (1983); 6 Moore's Federal Practice p 56.02, p. 56-39 (2d ed. 1990); see, e.g., First Chicago Int'l v. United Exchange Co., 836 F.2d 1375 (D.C.Cir.1988); Gary Plastic Packaging Corp. v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 756 F.2d 230 (2d Cir.1985); Tyler v. City of Enterprise, 521 So.2d 951 (Ala.1988); Gangadean v. Leumi Fin. Corp., 13 Ariz.App. 534, 478 P.2d 532 (1970); Commercial Bank of Kendall v. Heiman, 322 So.2d 564 (Fla.Dist.Ct.App.1975); Board of Education v. Van Buren & Firestone, Architects, Inc., 165 W.Va. 140.

Baughman v. American Tel. and Tel. Co., 306 S.C. 101, 410 S.E.2d 537 (S.C., 1990).

CONCLUSION

In conclusion, the ruling of the lower court granting defendants motion for summary judgment should be reversed based upon the grounds that first, plaintiff has submitted sufficient evidence to defeat defendant's motion for summary judgment when the "scintilla of evidence" rule is properly applied to the facts of this case; and, secondly that summary judgment is inappropriate where, as here, plaintiff has not had a full and fair opportunity to complete discovery.

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April 27, 2019
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Court of Common Pleas

The Honorable Paul Burch, Circuit Court Judge

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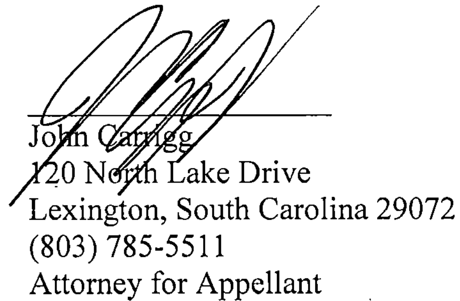
and Art Bar, Inc..Respondent

PROOF OF SERVICE

I certify that I have served the the Initial Brief and Designation of Matter to be Included in the Record on Appeal on the above-listed Respondent by depositing a copy of it in the United States Mail, postage prepaid, on April 30, 2019, addressed to Respondents' attorneys of record as detailed below.

April 30, 2019



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MAY 01 2019
SC Court of Appeals

April 30, 2019

The Honorable Jenny A. Kitchings, Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Latoria Cooks v. Pearlz Vistia, Inc., d/b/a Pealz Oyster Bar, et al
Civil Action No.: 2017-CP-40-05538
Appellate Case No: 2018-002026

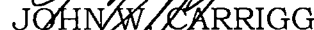
Dear Ms. Kitchings:

Enclosed for filing, please find the original and two (2) copies of the Appellant's Initial Brief and Designation of Matter to be Included in the Record on Appeal. Please file the original and return the clocked copies to my office. By copy of this letter, I am serving a copy of Appellant's Initial Brief and Designation of Matter to be Included in the Record on Appeal upon the Respondents and enclosed a Proof of Service and copy of same.

Thank you for your assistance in this matter.

With highest regards, I remain

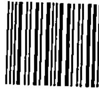
Very truly yours,



JOHN W. CARRIGG

JWC/adr
Enclosure(s)

cc: Roopal S. Ruparelia, Keegan B. Miller, Susan P. Spruill, counsel for Pearlz Vista, Inc., d/b/a Pearlz Oyster Bar
cc: John P. Riordan, counsel for Carolina Ale Operating House, LLC, d/b/a Carolina Ale House
cc: Joseph M. McCulloch, counsel for Art Bar, Inc.



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