

STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF COMMON PLEAS  
COUNTY OF HORRY

**RECEIVED**

BRIDGETT FOWLER,  
Plaintiff,

OCT 11 2019

Civil Action No. 2018-CP-26-06173

SC Court of Appeals

v.

FEDEX GROUND PACKAGE SYSTEM,  
INC. AND JAMES K. ARD D/B/A JMK  
LOGISTICS CORPORATION,

**ORDER GRANTING DEFENDANTS'  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

Defendants.

This motion was heard by me on September 11, 2019 in Horry County. Dominic Starr, Esquire appeared and argued the motion on behalf of the Defendants. Tyler Turner, Esquire appeared and argued in opposition on behalf of the Plaintiff.

**FACTS/PROCEDURAL BACKGROUND**

Plaintiff filed this lawsuit against Defendants for damages arising out of two separate incidents involving an independently contracted delivery driver for Federal Express at Plaintiff's home. The Complaint alleges that in January, 2018 the delivery driver struck Plaintiff's car causing damage. The Complaint also alleges that in March, 2018 the same delivery driver ran over and killed Plaintiff's dog while driving down Plaintiff's driveway. Plaintiff's Complaint alleges negligence, gross negligence, willful, wanton, and reckless conduct against the Defendants. In addition to seeking recovery for the property damage to Plaintiff's vehicle, Plaintiff's Complaint alleges damages for mental anguish, emotional distress and anxiety related to the death of her dog. Defendants filed Answers denying liability.

On August 1, 2019 Defendants filed this Motion for Partial Summary Judgment asserting that Plaintiff's request for damages related to mental anguish, emotional distress and anxiety must be dismissed as a matter of law. For the reasons set forth below, Defendants' Motion is GRANTED.

### **CONCLUSIONS OF LAW**

I conclude that the law in South Carolina provides that dogs and other pets are considered personal property. In South Carolina, a plaintiff cannot recover emotional or other non-economic damages for the loss of personal property.

Since our Supreme Court's decision in *State v. Langford*, 55 S.C. 322, 33 S.E. 370 (S.C. 1899), pets have been deemed as personal property under the law. It is long established in South Carolina that a plaintiff's right to recover damages for personal property are limited to the market value of that property. See, e.g. South Carolina Damages § II.4.B.

The parties agree that there is no published South Carolina Supreme Court or Appellate Court decision that directly addresses the limitation of damages available to a plaintiff for the loss of a pet. That said, both parties referenced the unpublished decision of *Bales v. Judelsohn*, 2005 S.C. App. Unpub. LEXIS 527 (Ct. App. 2005). The Court recognizes that this unpublished decision does not have precedential value. This Court finds the case, however, is instructive to the case at hand. In *Bales*, the Court of Appeals reduced a jury verdict that was awarded to the plaintiff for actual damages that exceeded the veterinary bills associated with plaintiff's pet's injury. In doing so, the Court of Appeals held, "South Carolina law does not support a cause of action for emotional distress for injury to one's pet." *Id.*

In addition to the current status of case law in South Carolina, both parties agree that there is no statutory provision created by our legislature that allows for recovery of non-

economic damages for the death or injury of a pet. Until either our legislature or our Supreme Court expressly recognizes the right of a pet owner to seek non-economic damages for the death or injury of a pet, this Court must rule as a matter of law that Plaintiff in the present case cannot seek damages for emotional distress, mental anguish, or anxiety at trial.

**CONCLUSION**

For the reasons set forth above, Defendants' Motion for Partial Summary Judgment as to Plaintiff's claims for damages related to mental anguish, emotional distress and anxiety is hereby GRANTED.

IT IS SO ORDERED.

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The Honorable Benjamin H. Culbertson  
Fifteenth Judicial Circuit



Horry Common Pleas

**Case Caption:** Bridgett Fowler VS FedEx Ground Package System Inc , defendant,  
et al  
**Case Number:** 2018CP2606173  
**Type:** Order/Summary Judgment

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148