

ELECTRONICALLY FILED - 2020 Jul 13 3:42 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1005613

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)
 Elizabeth McCrabb)
)
 Plaintiff,)
)
 vs.)
)
 Christine Baxter;)
)
 Defendant.)

COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT
 CASE NO: 2019-CP-10-05613

ORDER GRANTING PARTIAL
 SUMMARY JUDGMENT ON THE
 ISSUE OF LIABILITY

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SC Court of Appeals

INTRODUCTION

In this motor vehicle negligence action arising out of an October 27, 2017 collision, Plaintiff's Motion for Partial Summary Judgment on the Issue of Liability came before the Court. The parties each had an opportunity to fully brief this matter and agreed that the matter should be ruled upon by the Court without a hearing.

FACTUAL BACKGROUND

Plaintiff Elizabeth McCrabb alleges that Defendant Christine Baxter failed to keep a lookout for vehicles ahead of her and failed to yield for a stop light and the traffic stopped at that light. Plaintiff alleges she and Defendant were traveling in the same direction on St. Andrews Blvd. in Charleston, South Carolina. She also alleges Defendant's vehicle was behind Plaintiff's. Plaintiff then alleges that while she was stopped at a red light at Sycamore Drive and St. Andrews Blvd., Defendant crashed her car into the back of Plaintiff's car. The deposition testimony of Defendant coupled with the collision report and photographs of vehicle damage demonstrate Defendant crashed her car into the back of Plaintiff's car.

STANDARD OF REVIEW

The rules of civil procedure “shall be construed to secure the just, speedy, and inexpensive determination of every action.” S.C. R. Civ. P. 1. “The judgment sought should be rendered forthwith 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.” S.C. R. Civ. P. 56(c). The evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party. Epstein v. Brown, 363 S.C. 372, 375, 610 S.E.2d 816, 817 (2005) (citing Dawkins v. Fields, 354 S.C. 58, 115, 580 S.E.2d 433, 545 (2003)). “The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). “When plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.” Hackworth v. Greenville County, 371 S.C. 99, 102, 637 S.E.2d 320, 322 (Ct. App. 2006) (citing Hedgepath v. American Tel. & Tel. Co., 348 S.C. 340, 355, 559 S.E.2d 327, 336 (Ct. App. 2001)). “Summary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner.” Guinan v. Tenet Healthsystems of Hilton Head, 383 S.C. 48, 53, 677 S.E.2d 32, 35 (Ct. App. 2009) (quoting Davis v. McLeon Reg'l Med. Center, 367 S.C. 242, 250, 626 S.E.2d 1, 5) (2006)).

DISCUSSION

Summary Judgment must be granted in this case, because Defendant has failed to show any issue of material fact on the question of liability in this motor vehicle collision. Under South Carolina law, negligence is “the failure to use due care which is that degree of care a person of ordinary prudence and reason would exercise under the same circumstances.” Hart v. Doe, 198

S.E.2d 526 (S.C. 1973). Negligence “embodies the principle that the Plaintiff should not be called to suffer a harm to his or her person or property which is foreseeable, and which can be avoided by the defendant’s exercise of reasonable care.” Snow v. City of Columbia, 409 S.E.2d 797, 803 (S.C Ct. App. 1991). Plaintiff alleges several negligent actions or failures by Defendant in her Complaint. Under S.C. Code § 56-5-1930, “The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.” S.C. Code Ann. § 56-5-1930. Additionally, a motorist must use ordinary care in keeping a proper lookout for other vehicles when approaching an intersection. Brown v. Howell, 284 S.C. 605, 327 S.E.2d 659 (1985).

There is no genuine dispute regarding the facts about how the collision took place. The police records submitted by Plaintiff show Defendant crashed into the back of Plaintiff’s car. The photographs demonstrate the damage to Plaintiff’s and Defendant’s respective vehicles. It is clear from the photos offered by Plaintiff, Defendant crashed into the back of Plaintiff’s vehicle. Finally, Plaintiff offered multiple portions of Defendant’s deposition wherein she admits fault in the collision. Plaintiff’s counsel asked Defendant, “Do you believe that you are a hundred percent at fault in the collision with Ms. McCrabb?” Under oath, Defendant answered in the affirmative, “Yes.” Additionally, Plaintiff’s counsel asked Defendant, “Do you believe that you are responsible for the injuries that were caused to Mrs. McCrabb by that collision?” Defendant agreed, “Um yes. Admit.” Defendant offered no evidence to contradict the issue of liability. Because Defendant admits sole fault in the collision with Plaintiff, the Court finds there is no genuine issue of material fact as to that question.

CONCLUSION

WHEREFORE, for the reasons stated above, Plaintiff's Motion for Partial Summary Judgment on the Issue of Liability is GRANTED. The Court finds, as a matter of law, Defendant is solely liable for the injuries proximately caused and which Plaintiff may prove at the trial of this case. The Court finds there is no comparative fault by the Plaintiff in this action.

BE IT SO ORDERED!

This _____ day of July, 2020.

The Honorable Bentley Price
Presiding Judge, Common Pleas
Ninth Circuit, Charleston County

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Charleston Common Pleas

Case Caption: Elizabeth Mccrabb VS Christine Baxter

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IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

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