

**EXHIBIT A**  
**ORDER GRANTING THE JOINT MOTION FOR**  
**SUMMARY JUDGMENT OF DEFENDANTS**  
**CERES ENVIRONMENTAL SERVICES, INC. AND**  
**BEAUFORT COUNTY**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

IN THE COURT OF COMMON PLEAS  
FOR THE FOURTEENTH JUDICIAL CIRCUIT  
CASE NO.: 2017-CP-07-1739

Mark Shaffer, as Personal Representative )  
of the Estate of Susan Shaffer, Deceased, )  
 )  
Plaintiff, )

**ORDER**

vs. )

**Granting the Joint Motion for  
Summary Judgment of Defendants  
Ceres Environmental Services, Inc.  
and Beaufort County**

Ryan Colter Stoltz; DEH Disaster )  
Recovery, LLC; Spencer A. Olson )  
Trucking, LLC; Ceres Environmental )  
Services, Inc.; Beaufort County, a )  
political subdivision of the State of South )  
Carolina; Matt T. Dotson; Tim Tod )  
Dotson; Brandi Dotson; Dotson & Son )  
Logging, Inc.; Buyers Products Company; )  
TruckPro, LLC; ST Sales, LLC; and Tetra )  
Tech, Inc., )  
Defendants. )

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**SC Court of Appeals**

This matter is before the Court upon the Joint Motion for Summary Judgment by Defendants Beaufort County, a political subdivision of the State of South Carolina (“Beaufort County”), and Ceres Environmental Services, Inc. (“Ceres”). This motion was heard on January 7, 2022 at the Beaufort County Courthouse. Because there exists no genuine issue of material fact pursuant to Rule 56, SCRCP, and based upon the following findings of fact and conclusions of law, this motion is hereby granted.

**FINDINGS OF FACT**

1. Areas of Beaufort County were affected by Hurricane Matthew in October of 2016. Beaufort County engaged Ceres to provide post-hurricane debris removal services. In turn, Ceres engaged Spencer A. Olson Trucking (“Olson”), and Olson engaged DEH Disaster Recovery, LLC

(“DEH”), both of whom performed hauling services in the clean-up effort. The Defendant Ryan Colter Stoltz (“Stoltz”) was a truck driver employed by DEH at all times relevant hereto.

2. On May 3, 2017, the decedent Susan Shaffer died when a trailer used in the debris clean-up effort collided with her vehicle on Highway 21 in Beaufort County. That trailer was operated by DEH in this project, and the truck pulling that trailer before the collision was driven by Stoltz.

3. Plaintiff Mark Shaffer is the Personal Representative of the Estate of Susan Shaffer, and he commenced the above-captioned matter alleging various causes of action against the Defendants, including vicarious liability claims against Ceres and Beaufort County relating to the acts and/or omissions of Olson, DEH, and Stoltz in connection with the death of Ms. Shaffer.

4. On December 28, 2020, this Court approved a settlement agreement between Plaintiff and Defendants Olson, DEH, and Stoltz, in which those Defendants collectively paid to the Plaintiff the sum of \$1,150,000 in exchange for a full and final release of Plaintiff’s claims against them.

5. Consistent with that approved settlement agreement, on March 5, 2021, Plaintiff filed its Third Amended Summons and Complaint in this matter, which eliminated any claims against the Olson, DEH, and Stoltz. That pleading also eliminated all claims for vicarious liability that were previously asserted against Ceres and Beaufort County.

6. In the Third Amended Complaint, Plaintiff alleged that the Ceres and Beaufort County were negligent based on a number of alleged acts and omissions including, but not limited to, the failure to properly inspect the truck and trailer that were involved in the collision with Ms. Shaffer.

7. Ceres and Beaufort County filed this Motion on September 24, 2021, arguing that the elimination of the vicarious liability claims against them was, in effect, a dismissal with prejudice on the merits of those claims. Ceres and Beaufort County pointed out that, because the collision occurred on May 3, 2017, the statute of limitations had expired by the time of the Third Amended

Complaint on March 5, 2021.

8. In response to Ceres and Beaufort County's Motion, Plaintiff contends that the Third Amended Complaint alleges "independent torts" against Ceres and Beaufort County relating to the death of Ms. Shaffer. On January 5, 2022, Ceres and Beaufort County filed their Memorandum in Support of their motion and supporting exhibits, all of which demonstrated to this Court that the Plaintiff's amended negligence claim was not, in fact, independent of the acts and omissions of Olson, DEH, and Stoltz.

9. On January 6, 2022, Plaintiff filed a Memorandum stating only that "[t]he Plaintiff hereby submits the following Exhibits in opposition to the Motions for Summary Judgment filed by the Defendants Ceres Environmental Services, Inc., Tetra Tech, and Buyers Products Company." Plaintiff attached some 24 deposition transcripts and exhibits to its Memorandum, but Plaintiff failed to show how those exhibits established that the amended negligence claim was independent of the acts and omissions of Olson, DEH, and Stoltz.

10. Upon review and consideration of the Plaintiff's Memorandum, exhibits, and arguments during the hearing of this motion, this Court finds amended negligence claim is not independent of the acts and omissions previously attributed to Olson, DEH, and Stoltz. On this basis, the amended negligence claim is, in effect, the same as the vicarious liability causes of action against Ceres and Beaufort County which Plaintiff previously dismissed.

12. This Court finds as a matter of fact that the Memoranda, Exhibits and arguments presented by Plaintiff fail to establish a genuine issue of material fact as to any distinction between the amended negligence claim and the vicarious liability claims, which were previously dismissed against Ceres and Beaufort County.

## CONCLUSIONS OF LAW

1. In order to establish its cause of action for negligence in the Third Amended Complaint, Plaintiff must prove that Ceres and Beaufort County: (1) owed Plaintiff a duty of care; (2) that they breached that duty of care; and (3) that a breach of that duty of care proximately caused Plaintiff's damage. *See Bishop v. South Carolina Dep't of Mental Health*, 331 S.C. 79, 502 S.E.2d 78 (1998); *Jeffords v. Lesesne*, 343 S.C. 656, 541 S.E.2d 847 (Ct. App. 2000); *Hubbard v. Taylor*, 339 S.C. 582, 529 S.E.2d 549 (Ct. App. 2000).

2. In *Parks v. Characters Night Club*, 345 S.C. 484, 491, 548 S.E.2d 605, 609 (Ct. App. 2001), the South Carolina Court of Appeals stated:

To prove causation, a plaintiff must demonstrate both causation in fact and legal cause. Causation in fact is proved by establishing the plaintiff's injury would not have occurred 'but for' the defendant's negligence. Legal cause turns on the issue of foreseeability. An injury is foreseeable if it is the natural and probable consequence of a breach of duty. Foreseeability is not determined from hindsight, but rather from the defendant's perspective at the time of the alleged breach. It is not necessary for a plaintiff to demonstrate the defendant should have foreseen the particular event which occurred but merely that the defendant should have foreseen his or her negligence would probably cause injury to someone.

*Id.* (citations omitted).

3. "The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 438 (2003). Rule 56(c) of the South Carolina Rules of Civil Procedure provides that a trial court may grant a motion for summary judgment "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."

4. A non-moving party cannot rest on the allegations of the pleadings. Once the moving party establishes the absence of a genuine issue of material fact, the non-moving party must then come

forward with specific facts showing there is a genuine issue for trial. *See Bennett v. Investors Title Ins. Co.*, 370 S.C. 578, 588–89, 635 S.E.2d 649, 654 (Ct. App. 2006).

5. The non-moving party must “do more than simply show that there is some metaphysical doubt as to the material facts.” *Baughman v. American Tel & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). By unanimous opinion in 2015, the South Carolina Supreme Court ruled that “[e]ven though courts are required to view the facts in the light most favorable to the nonmoving party, to survive a motion for summary judgment, ‘it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.’” *Grimsley v. S.C. Law Enforcement Div.*, 415 S.C. 33, 40, 780 S.E.2d 897, 900 (2015) (emphasis added), *citing Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013).

6. “Although summary judgment is a drastic remedy which should be cautiously invoked, where a verdict is not reasonably possible under the facts presented, summary judgment is proper.” *Evans v. Stewart*, 370 S.C. 522, 526, 636 S.E.2d 632, 635 (Ct. App. 2006), *citing Bloom v. Ravoir*, 339 S.C. 417, 425, 529 S.E.2d 710, 714 (2000).

7. The Plaintiff’s Memorandum, Exhibits, and arguments in opposition to this Motion failed to establish a genuine issue of material fact that the death of Ms. Shaffer would not have occurred but for the acts and omissions which Plaintiff now attributes to Ceres and Beaufort County. The Plaintiff failed to establish that those alleged acts and omissions were independent of the acts and omissions which Plaintiff previously attributed to Olson, DEH, and Stoltz. Because Plaintiff dismissed the vicarious liability claims relating to those acts or omissions of Olson, DEH, and Stoltz, Ceres and Beaufort County have no liability for the acts and omissions of Olson, DEH, and Stoltz. Merely restating the negligence cause of action cannot revive the vicarious liability claim in this manner.

Plaintiff has failed to establish the existence of a genuine issues of material regarding the issues discussed above. Rather, a review of the facts viewed in the light most favorable to the Plaintiff indicates that Ceres and Beaufort County are entitled to summary judgment as to Plaintiff's claims pursuant to Rule 56, SCRPC. For the foregoing reasons, it is hereby

ORDERED, that the Joint Motion for Summary Judgment filed by Defendants Ceres Environmental Services, Inc. and Beaufort County on September 24, 2021 be, and it is hereby, granted.

IT IS SO ORDERED.

\_\_\_\_\_  
The Honorable Bentley Price  
Presiding Judge, Fourteenth Judicial Circuit

Beaufort, South Carolina

February \_\_\_\_, 2022



Beaufort Common Pleas

**Case Caption:** Mark Shaffer , plaintiff, et al VS DEH Disaster Relief LLC ,  
defendant, et al  
**Case Number:** 2017CP0701739  
**Type:** Order/Other

IT IS SO ORDERED!

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