VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ALBEMARLE

VIOLET SEABOLT,

Plaintiff,

v. Case No. CL09000969-00

COUNTY OF ALBEMARLE,

Defendant.

FINAL ORDER

This cause came this 27th day of August, 2010 to be heard upon Defendant's Special Plea of Sovereign Immunity, Demurrer, Demurrer to Gross Negligence and Plea of the Statute of Limitations, the parties appearing by counsel and was argued; and

The Court took the matter under advisement for consideration; and

The matter came back before the Court on September 2, 2010 and the Court delivered its rulings:

(a) Defendant's Plea of the Statute of Limitations is denied; and

(b) Defendant's Demurrer to Gross Negligence is granted; and

Thereafter, this matter came on the 20th day of December, 2010 upon Defendant's Notice of Hearing to enter a final Order and Plaintiff's Motion to Include Original Papers and Exhibits Filed or Lodged in the Clerk's Office as Part of the Record on Appeal, the parties appearing by counsel, and was argued.

Upon consideration of the argument of Plaintiff regarding the Motion to Include and Defendant's opposition thereto, the court finds that the only reference to prior proceedings herein was of a recitation of procedural history and, it appearing proper to do so, Plaintiff's Motion to Include, etc. is hereby denied.

SCANNED

Thereafter, Defendant requested the Court rule on its Demurrer asserting Plaintiff's failure to allege compliance with Virginia Code §15.2-1248 in her Complaint and Defendant's Special Plea of Sovereign Immunity and, upon consideration of said request, the Court declined to rule on said Demurrer and Special Plea of Sovereign Immunity.

Accordingly, it is hereby ORDERED that this matter be, and hereby is, dismissed by granting of the Demurrer to Gross Negligence.

The Clerk is directed to mail a copy of this Order to counsel endorsing same.

1-20-11
Date

ENTER: _____
JUDGE

We ask for this as to Defendant's Demurrer to Gross Negligence and object to this Order for the denial of Defendant's plea of the statute of limitations and declination of ruling on the Defendant's Demurrer and Special Plea of Sovereign Immunity:

_____

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Counsel for Defendant

Seen and objected to: as stated in pleadings and memorandum of damages.

James B. Feinman, Esquire
James B. Feinman & Associates
P.O. Box 697
Lynchburg, VA 24505
Counsel for Plaintiff

ASSIGNMENTS OF ERROR

1. **THE TRIAL COURT ERRED IN DISMISSING VIOLET SEABOLT'S CASE BASED ON THE COUNTY'S DEMURRER TO GROSS NEGLIGENCE. (SEE FINAL ORDER DATED JANUARY 20, 2011 AT PAGES 1-2).**

2. **THE TRIAL COURT ERRED IN ESTABLISHING A *PER SE* RULE THAT A PLAINTIFF WHO PLEADS THAT A PREMISES LIABILITY HAZARD WAS NOT OPEN AND OBVIOUS CANNOT ESTABLISH GROSS NEGLIGENCE AGAINST A COUNTY. (SEE TRANSCRIPT OF PROCEEDINGS ON SEPTEMBER 2, 2010 AT PAGES 7-8).**