

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF ORANGEBURG)	CIVIL ACTION NO.: 2021-CP-38-00254
)	
REBECCA ARMSTRONG, AS)	
PERSONAL REPRESENTATIVE OF)	
THE ESTATE OF JAMES HYATT,)	
)	
)	Order on Reconsideration
v.)	
)	
CEDAR COMMUNITIES AT SANTEE,)	RECEIVED
LLC D/B/A MAGNOLIAS OF SANTEE)	Aug 31 2022
AND CEDAR COMMUNITIES REALTY)	SC Court of Appeals
HOLDING AT SANTEE, LLC,)	
)	

A hearing was held on June 15, 2022 regarding motions to reconsider filed by both parties concerning this Court’s Order awarding damages to the Plaintiff. Appearing on behalf of Defendants was S. Chase Parker of Lewis, Brisbois, Bisgaard & Smith LLP. Appearing on behalf of Plaintiff Rebecca Armstrong as Personal Representative of the Estate of James Hyatt was Lee D. Cope of Parker Law Group, LLP.

The damages hearing took place on March 16, 2022, by way of the Court’s April 27, 2021 Order of Default and Reference and pursuant to this Court’s Order of October 13, 2021 denying Defendants Cedar Communities at Santee, LLC d/b/a Magnolias of Santee and Cedar Communities Realty Holding at Santee, LLC’s Motion to Set Aside Default. The Order awarding damages was filed on June 6, 2022.

Defendants seek to alter or amend the damages Order for two reasons. First, it argues the Court failed to exercise its discretion in denying Defendant’s motion to set aside default. At the hearing on this matter, counsel for the defendant offered two cases as its support for this relief: *USAA v. Pickens*, 434 S.C. 60, 862 S.E.2d 442 (2021) and *Brown v. Odom*, 425 S.C. 420, 823

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S.E.2d 183 (S.C. Ct. App. 2018). The Court can find no support in either case for the relief sought. In *USAA v. Pickens*, there appears to be no connection between the issues raised by the defendant and the holding (or dicta) in the text of the case. In *Brown v. Odom*, there is a clear distinction between that holding and the procedural history before the Court. There, the Court of Appeals found that an issue that had been raised in a post-trial motion had not been ruled on by the family court until the final order of a divorce decree. Thus, the post-trial motion was timely. Here, the relief that the defendant seeks, altering or amending this Court's finding that good cause did not exist to set aside the default, was ruled on by this Court in its November 17, 2021 Order denying the defendant's motion to set aside default. The time to seek to reconsider, amend or alter that order has long since passed. *See* Rule 59(e), SCRPC ("A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order.").

The second issue that the defendants raise relates to the testimony offered at the damages hearing. Defendants argue that the Court made "unreasonable" inferences from purported expert testimony and unauthenticated hearsay to support the award made. The admission of evidence is a matter within the sound discretion of the trial court. *Gamble v. International Paper Realty Corp.*, 323 S.C. 367, 474 S.E.2d 438 (1996); *Stevens v. Allen*, 336 S.C. 439, 520 S.E.2d 625 (Ct.App.1999). The court's ruling will not be reversed on appeal absent an abuse of that discretion or the commission of a legal error resulting in prejudice to the appellant. *Recco Tape and Label Co. v. Barfield*, 312 S.C. 214, 439 S.E.2d 838 (1994); *Krepps by Krepps v. Ausen*, 324 S.C. 597, 479 S.E.2d 290 (Ct.App.1996).

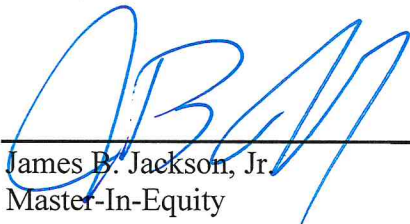
This argument also fails. As an initial matter, the defendant did not object to any of the testimony that was offered. The failure to make an objection at the time evidence is offered constitutes a waiver of the right to object. *Cogdill v. Watson*, 289 S.C. 531, 347 S.E.2d 126

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(Ct.App.1986) (citing *McCreight v. MacDougall*, 248 S.C. 222, 149 S.E.2d 621 (1966)). The Defendant also raises an issue regarding the sufficiency of the evidence. Brown vs. Allstate Ins. Co. 344 S.C. 21 (S.C. 2001). This Court finds that the evidence presented at the trial is certainly sufficient to justify the award of actual and punitive damages.

Both parties object to the amount of damages awarded by this Court. The Plaintiff argues they are too low and the Defendant argues they are too high. The Court has reconsidered the award of damages. Based on testimony and evidence presented at trial and the reasonable inferences therefrom, I find the Court should award \$500,000.00 for survival damages, \$500,000.00 for wrongful death damages and \$100,000.00 for punitive damages.

IT IS SO ORDERED



James B. Jackson, Jr.
Master-In-Equity

July 20, 2022
Orangeburg, South Carolina

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