

RECEIVED

Nov 14 2022

SC Court of Appeals

Exhibit “E”

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

RENEE S. BEACH, as Personal
Representative of the Estate of MALLORY
BEACH.,

Plaintiff,

v.

GREGORY M. PARKER, INC. d/b/a
PARKER'S CORPORATION, RICHARD
ALEXANDER MURDAUGH, RICHARD
ALEXANDER MURDAUGH, JR., JOHN
MARVIN MURDAUGH, as P.R. OF THE
Estate of MARGARET KENNEDY
BRANSTETTER MURDAUGH, and
RANDOLPH MURDAUGH, IV, as P.R. of
the Estate of PAUL TERRY MURDAUGH,

Defendants.

IN THE COURT OF COMMON PLEAS

14th JUDICIAL CIRCUIT

Civil Action No. 2019-CP-25-00111

**DEFENDANT GREGORY M. PARKER,
INC. d/b/a PARKER'S CORPORATION'S
MEMORANDUM IN OPPOSITION TO
PLAINTIFF'S MOTION FOR
RECONSIDERATION**

Defendant Gregory M. Parker, Inc., d/b/a Parker's Corporation (hereinafter referred to as "Parker's") hereby requests the Court to uphold its Order Granting Parker's Motion to Sever and deny Plaintiff's Motion for Reconsideration. The Order granting Parker's Motion to Sever was sound, within the appropriate and justified discretion of the Court, and necessary to prevent delay, embarrassment, additional expense, and prejudice to Parker's in its effort to have a fair and expeditious trial.

INTRODUCTION

On September 13, 2022, the Court issued a measured and well-considered Order granting Parker's Motion to Sever. Notably, this Order was issued after giving all parties, including the Estate of Mallory Beach, the opportunity to be heard, both in briefing and with respect to lengthy

oral arguments at the Lancaster County, South Carolina Courthouse on September 1, 2022.¹ Additionally, and whether or not they had standing to do so, counsel for the other “boaters” (Morgan Doughty, Miley Altman, Connor Cook, and Anthony Cook) noticeably did not file *amicus* briefs in opposition to Parker’s Motion to Sever.²

Mark Tinsley, Esq., counsel for the Beach Estate, filed Plaintiff’s Memorandum in Opposition to Motion to Sever on August 30, 2022, with the first two sentences clearly penned for the media rather than for this Court.³ As expected, the very next day, on August 31, 2022, FitsNews published those first two sentences prior to this Honorable Court’s hearing set for September 1, 2022.⁴

Plaintiff’s Motion for Reconsideration filed on September 12, 2022 provides absolutely no legal basis for the Court to reconsider its Order Granting Parker’s Motion to Sever. Aside from the trial date getting moved, nothing else has changed since this Court’s determination on this issue. Defendant Alex Murdaugh’s trial date on charges of multiple murders is still unknown and appears to be on track for a lengthy and drawn-out battle before his criminal trial takes place. The legal matters and the actions of the Murdaugh Defendants continue to be front and center in the media. The prejudice that existed at the time this Court ordered the severance still exists to this day and will continue to be ever-present for the foreseeable future. Therefore, and for the reasons stated below, the Court should deny Plaintiff’s Motion for Reconsideration.

¹ Counsel for each of the Murdaugh Defendants did not file any brief concerning Parker’s Motion to Sever, and, during the September 1, 2022 hearing in Lancaster County, they specifically stated on the record that they took no position.

² *Motion for Court to Accept Amicus Curiae Brief in Support of Plaintiff Beach’s Motion to Reconsider Order to Sever*, filed on September 19, 2022 by Joseph M. McCulloch, Esq., counsel for Connor Cook (one of the “boaters”).

³ “In this motion to sever, Greg Parker incredulously continues to demonstrate his callous indifference to the suffering of the Beach family, this time by attempting to burden them with two trials in which they will be forced to endure and relive the horrific events of their daughter’s death and the unbearable recounting of the week-long search for her body. No family should have to deal with such despicable acts in seeking justice for their daughter.” *Plaintiff’s Memorandum in Opposition to Motion to Sever*, filed on August 30, 2022 by Mark Tinsley, Esq.

⁴ ‘*Murdaugh Murders’ Boat Crash Lawsuit: Mediation Hearing ‘Fails Spectacularly,*’ FitsNews, August 31, 2022.

STANDARD OF REVIEW

A trial court's decision on a motion to alter or amend a judgment or order, typically termed a "motion to reconsider" or "motion for reconsideration" pursuant to Rule 59, SCRCPP, is determined based upon the sound discretion of the court. Rule 59, SCRCPP; *Pollard v. County of Florence*, 314 S.C. 397, 444 S.E.2d 534 (Ct. App. 1994). The standard of review with respect to a trial court's decision on a motion for reconsideration is an "abuse of discretion" standard. *Id.* at 402, 444 S.E.2d 534, 536. In fact, such deference is given to the trial court that it is not reversible error even if the trial court does not allow the moving party to fully brief the issues or conduct a hearing on the motion. *Id.* at 401, 444 S.E.2d 534, 536 ("Finally, we find no merit in Pollard's assertion that the circuit court committed reversible error in denying her motion to alter or amend the judgment under Rule 59(e) SCRCPP, without first conducting a hearing or allowing her to 'fully brief' the issues raised in her motion.").

Furthermore, Plaintiff's Motion for Reconsideration states that the Motion itself is based on Rule 59(e), SCRCPP. South Carolina case law is clear that a Rule 59(e) motion to alter or amend does not allow a party to present to the Court an issue the party could have raised prior to a Court's judgment, but failed to do. *Gartside v. Gartside*, 383 S.C. 35 (Ct. App. 2009). Additionally, a party's disagreement with a court's decision, order, or ruling does not warrant a Rule 59(e) motion. *Sams v. Heritage Transp., Inc.*, 2013 WL 4441940 at *1 (D.S.C. August 15, 2013) ("party's mere disagreement with the court's ruling does not warrant a Rule 59(e) motion, and such a motion should not be used to rehash arguments previously presented or to submit evidence which should have been previously submitted."). Thus, Plaintiff's Motion for Reconsideration before this Court should not allow Plaintiff to raise new arguments before it, including, for instance, the multiple pages devoted to the issue of collateral estoppel.

As the Court noted in its Order Granting Parker's Motion to Sever, the issue of whether to grant a party's motion to bifurcate and order separate trials under Rule 42(b) "is addressed to the sound discretion of the trial court." *Senter v. Piggly Wiggly Carolina Co., Inc.*, 341 S.C. 74, 77, 533 S.E. 2d 575, 577 (2000). A trial court's decision to order separate trials is discretionary and may not be disturbed on appeal unless the trial court abused its discretion. *Id.*

Under Rule 20(b), "The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delays or prejudice." *Rule 20(b), SCRCP*. The court has broad discretion to order separate trials to prevent delay, embarrassment, expense, or prejudice. *Id.*

DISCUSSION

At the outset, nothing in the Court's Order Granting Parker's Motion to Sever curbs, diminishes, or compromises any substantive right of the Plaintiff, who has selected the defendants and remains the "master of her complaint." Plaintiff has settled with some defendants, dismissed some defendants, added new defendants, and continues on against the current defendants and/or their Estates – Alex Murdaugh, Maggie Murdaugh, Buster Murdaugh, Paul Murdaugh, and Parker's. Plaintiff has received a substantial amount of money (almost \$2,000,000.00) and has not been deprived of her right to trial against the remaining Defendants. In those trials, Plaintiff is entitled to recover in full as the jury sees fit, as provided by law. Importantly, the Court's ruling to sever Parker's does not disrupt any of these substantive rights and does not abrogate the rule and application of joint and several liability as suggested by Plaintiff. Furthermore, nothing precludes Plaintiff from seeking punitive damages against the Murdaugh Defendants to ensure Plaintiff is appropriately compensated for the alleged gross negligence, recklessness, and willful conduct of the Murdaugh Defendants should a jury so find.

As discussed in more detail below, there are only two (2) potential outcomes in a severed trial, and neither deprive Plaintiff of any substantial right. One is a scenario in which a jury finds Parker's liable, and the second is a scenario in which a jury determines that Parker's exercised its due diligence and is not liable.

I. Scenario # 1: Parker's Found Liable in Trial # 1.

In further explication of the foregoing, there are two scenarios that follow from the Court's Order to Sever. In the *first scenario*, the jury will answer two questions: "Was Parker's negligent? If so, was Parker's negligence the proximate cause of Mallory Beach's death?" If these questions are answered in the affirmative, as Plaintiff's counsel believes to be the case, the jury will determine fair and reasonable compensatory damages. In the event of a verdict, Plaintiff will recover in full against Parker's, which Plaintiff admits. There is no prejudice to the Beach Estate in this scenario. Quite simply, the Beach Estate is made whole by recovery, after any applicable set off, of the entire verdict against Parker's. Justice is advanced by a prompt trial in early January 2023 in a case that has been bogged down for years and hampered by the many legal (criminal and civil) issues involving the Murdaugh Defendants.

Importantly, the Beach Estate's rights to compensatory damages are governed by clear South Carolina law. Plaintiff's Motion for Reconsideration, in essence, confuses compensatory damages with punitive damages. Compensatory damages are based on clear law that guides jurors to a just and proper determination of damages that will compensate the Beach Estate fairly and adequately. Once liability is determined, compensatory damages do not turn on a defendant's conduct or likeability.

While not stated directly in the Motion for Reconsideration, the subtext of the argument is clear: Plaintiff's counsel would like to try the case against Parker's with the Murdaugh Defendants present at trial as codefendants in an attempt to increase a verdict against Parker's by

inflaming the jury against the Murdaugh Defendants. Essentially, the goal is to use the circus surrounding the Murdaugh Defendants and the ongoing and growing criminal matters to confuse a jury into giving a very high verdict, which would really include punitive-like damages, and then hand over that verdict to Parker's to pay. As the Court is fully aware and pursuant to S.C. Code Ann. § 15-32-520(G), punitive damages are personal to the party against whom they are granted and not subject to joint and several liability.

Plaintiff's Motion for Reconsideration illustrates this point exactly. Plaintiff clearly knows that Parker's, tethered to the Murdaugh Defendants, increases the chances of inflaming a jury by the Murdaugh Defendants' conduct and, thereby, increasing the likelihood of a higher verdict. This clear purpose only underscores and supports why the Court exercised its sound discretion and ruled that Parker's would undoubtedly be prejudiced by being tethered to the Murdaugh Defendants.

A. Prejudice to Parker's by being tethered to the Murdaugh Defendants.

Let's call it for what it is: Plaintiff's counsel *needs* Parker's to remain tethered to the Murdaugh Defendants to get a jury inflamed against them, so that Parker's would be required to pay multiple millions, perhaps, for the alleged negligence, gross negligence, and recklessness of the Murdaugh Defendants. Absent the Murdaugh Defendants, Plaintiff's counsel will have a difficult time proving his case against Parker's, because Parker's is not negligent in this case.⁵

Indeed, sworn testimony by the SLED agents who investigated this confirm that Parker's did not violate any laws. SLED supervisor Lt. David Leslie's August 24, 2022 deposition testimony corroborates the October 20, 2020 deposition testimony of SLED agent Chandler Horney, who primarily investigated whether Parker's complied with the law in terms of the sale

⁵ Answer of Gregory M. Parker, Inc. d/b/a Parker's Corporation to Plaintiff's Third Amended Complaint, filed on March 9, 2022.

of alcohol to Paul Murdaugh on February 23, 2019. She testified as follows:

- Q: And alcohol enforcement, *what do you do on your day-to-day activities?*
 A: *I'm responsible for three counties. I have Beaufort, Jasper, and Hampton County. And I'm responsible for all of the licensed locations in those areas.* The areas that are licensed by the Department of Revenue. *I make sure they are complying with the alcohol laws.* I make sure that places that don't have licenses aren't illegally selling. *I make sure places aren't selling to underage negligently. Yep.*

(Deposition of agent Horney, 11:10-20)

- Q: *And what about Parker's? Did you issue a citation for Parker's 55 for what you observed on the video?*
 A: *No.*
 Q: *All right. And what about the cashier or the customer service representative? Was she issued – the Parker's CSR issued a citation?*
 A: *No.*
 Q: *Why not?*
 A: *Similar to the situation at Luther's. She – he asked for the ID. He scanned it. It returned as a valid, over the age of 21 identification. Again she did her due diligence.*

(Deposition of agent Horney, 43:21-44:9)

At least one of the other “boaters” fully understands the difficulty proving Parker’s negligence untethered to the Murdaugh Defendants. As such, he is inserting himself into this litigation despite not being a party to *this action* by filing an *amicus* brief in an attempt to persuade the Court to reverse its ruling severing Parker’s from the Murdaugh Defendants.⁶

Parker’s stands by its position⁷ that “‘prevent[ing] prejudice’ and ‘avoid[ing] prejudice’...cannot be afforded to Parker’s in this case while the Murdaugh Defendants remain

⁶ *Motion for Court to Accept Amicus Curiae Brief in Support of Plaintiff Beach’s Motion to Reconsider Order to Sever*, filed on September 19, 2022 by Joseph M. McCulloch, Esq., counsel for Connor Cook (one of the “boaters”). The *amicus* brief otherwise adds nothing to the discussion, parroting Plaintiff’s arguments in “me, too” fashion, incorrectly opining on the purpose and operation of joint and several liability law in South Carolina and attaching a Wall Street Journal article that accents Mr. Tinsley’s personalization of this litigation as to a non-party, Greg Parker.

⁷ *Defendant Gregory M. Parker, Inc. d/b/a Parker’s Corporation’s Motion to Sever*, filed on August 19, 2022.

tethered to Parker's as Co-Defendants at trial. Beyond the national media sharing its view on every development in this story, the Murdaugh Defendants, individually and/or in concert, are being accused of intentional misconduct, tampering with the investigation of the very boat crash involved in this action, and other criminal acts, including murder, theft, fraud, and extortion. The jury pool in Hampton County will be inherently aware of the Murdaugh name and the media frenzy that surrounds it; no jury can be empaneled that will understand a delineation between the Murdaugh Defendants and Parker's if both are abutted to each other in the case caption and at trial."⁸

In support of the above, the self-described "news outlet" FitsNews published an article one week ago on September 13, 2022 regarding "the 'notoriety' of the Murdaugh family and the unprecedented publicity they have attracted to the wrongful death case," noting:

"It has been unprecedented," Murdaugh's lead criminal attorney Dick Harpootlian said during a recent court hearing on the *civil* case. "It continues to be unprecedented."⁹

FitsNews described the Murdaughs when discussing the "other defendants" in the boat crash case other than Parker's in its September 9, 2022 article, as follows:

"The other defendants in the boat crash case? Multiple members of the Murdaugh family – which has achieved international infamy due to the maze of alleged criminality revolving around its influential members, who have occupied positions of power in the Palmetto Lowcountry for over a century."¹⁰

In short, Parker's being tethered to the Murdaugh Defendants as codefendants in one trial highly prejudices Parker's and does not afford it a fair trial, as the Court has so noted.¹¹

⁸ *Id.*

⁹ *'Murdaugh Murders' Saga: Key Ruling In Boat Crash Lawsuit Likely Headed For Appeal*, FitsNews, September 13, 2022.

¹⁰ *'Murdaugh Murders' Saga: First Wrongful Death Case Now Scheduled For January*, FitsNews, September 9, 2022.

¹¹ *Order Granting Parker's Motion to Sever*, signed by the Honorable Daniel DeWitt Hall on September 13, 2022.

B. Murdaugh Family – funds and ability to pay a judgment.

In terms of his apparent concern for the Beach family’s ability to recover funds for the boat crash, Plaintiff’s counsel apparently already settled in the sum of \$1,700,000 with previous defendants in this case,¹² despite doing so without this Court’s approval and in spite of its “exclusive jurisdiction to hear and dispose of th[is] case.”¹³ Moreover, as the Court is aware, the Receivership ordered to seize and manage the funds and assets of the Murdaugh Defendants has recently provided its Third Status Report to the Court, listing the assets recovered “and permit[ting] that money to be aggregated in the Receivership for the possible benefit of Alex Murdaugh’s victims and creditors as determined by the Court.”¹⁴ The Receivership listed assets including, but not limited to:

- A.) \$1,200,000 settlement with Palmetto State Bank;¹⁵
- B.) \$359,921.87 for the sale of the Murdaughs’ Edisto Beach House;¹⁶
- C.) \$500,000 for sales of the Murdaughs’ Berkeley County Properties;¹⁷
- D.) Murdaughs’ ownership of “at least seven islands in and around Beaufort County”,¹⁸ and
- E.) \$3,900,000 for probable sale of the Murdaughs’ “Moselle” property.¹⁹

¹² *Defendant John Marvin Murdaugh, As P.R. of the Estate of Margaret Kennedy Branstetter Murdaugh’s Answer to Plaintiff’s Third Amended Complaint*, filed on July 7, 2022.

¹³ *Order* signed on April 24, 2019 by the Honorable and Chief Justice Donald W. Beatty.

¹⁴ *Co-Receivers’ Third Status Report to the Court*, filed on September 1, 2022.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

The above values – assets of the Murdaugh Defendants subject to a judgment in this case under the authority of the Court – total more than \$5,900,000 *without adding the value of the “seven islands”* mentioned above. Adding the \$1,700,000 of Plaintiff’s settlement funds from other parties, these values add up to over \$7,600,000 *without the “seven islands” and without other applicable insurance proceeds known to cover the Murdaugh Defendants.*

When Mr. Tinsley is quoted in FitsNews stating that “If Hall doesn’t reverse course based on the case not going to trial in October (later moved to January) I will move to reconsider and appeal...A trial only against Parker’s will ensure that the Murdaughs never have to pay anything in actual damages for Mallory’s death”²⁰ – it is simply not true. Plaintiff has significant sources available to recover punitive damages against the Murdaugh Defendants, but any limitation in those resources is not a basis to reconsider and reverse the Court’s Order allowing severance.

II. Scenario # 2: Parker’s Found *Not* Liable in Trial # 1.

In the *second scenario*, if a jury returns a verdict for Parker’s, Plaintiff’s case against Parker’s is over. In this scenario, the Plaintiff would have undergone a full and fair trial on the merits of its claims against Parker’s, and a jury would have decided there was no liability based on the facts and evidence then and there presented. Under the law in South Carolina, there is no prejudice to a South Carolina plaintiff who loses a case based on the law and the evidence. And, in this scenario, Plaintiff would be free to pursue its claims against the Murdaugh Defendants.

Neither the first nor second scenarios contemplated above would violate Plaintiff’s Seventh Amendment rights. In fact, Plaintiff retains her rights to a jury trial against all defendants it named in the case, unless they have settled or were dismissed. Plaintiff’s counsel is correct that Plaintiff gets “one bite at the apple” with respect to *compensatory damages in the event of a Plaintiff verdict against Parker’s in the first trial.* If so, the death of Mallory Beach should have

²⁰ *‘Murdaugh Murders’ Saga: First Wrongful Death Case Now Scheduled For January*, FitsNews, September 9, 2022.

the same value regardless of which Defendant is found liable. However, in the event of a verdict for Parker's in the first trial, Plaintiff will get "another bite at the apple" in terms of seeking a verdict on compensatory damages. Severing Parker's does nothing whatsoever to abrogate these rights.

Furthermore, assuming it obtains a verdict against Parker's in the first trial and recovers compensatory damages, the Plaintiff *may still* seek a second trial against the Murdaugh Defendants and seek *punitive* damages. Trying the first case against Parker's does nothing to prevent the Plaintiff from seeking a large verdict in a second trial against the Murdaugh Defendants based on "angry" or "inflammatory" factors that may (or may not) apply to the Murdaugh Defendants, which would be unique to them anyway. As noted above, it appears the Receivership has worked well to recover sizable assets and protect future potential creditors, such as the Plaintiff, for this very purpose.

In arguing that the Court's Order Granting Parker's Motion to Sever abrogates joint and several liability, Plaintiff is simply misapplying and/or misunderstanding the law. Joint and several liability is a vehicle by which a plaintiff is ensured a full recovery by allowing a right of recovery against any defendant found negligent. If Parker's is found negligent, Plaintiff will be able to collect in full. There is no prejudice to these collection rights in severing the Defendants and conducting separate trials.

III. No risk of inconsistent verdicts.

Plaintiff's argument that a second trial inevitably portends an inconsistent verdict is also incorrect. The first jury will simply determine whether Parker's was negligent and whether such negligence was a proximate cause of Mallory Beach's death. This determination has nothing to do with the Plaintiff's claims and rights against the Murdaugh Defendants, particularly in South Carolina where the law is clear that there can be more than one proximate cause of an accident.

Gibson v. Gross, 280 S.C. 194, 311 S.E.2d 736 (Ct. App. 1983).

As noted above, the jury in the first [severed] trial against Parker's would be asked to decide whether it was negligent and whether its negligence was the proximate cause of Mallory Beach's death. This question would *not* be asked in the second trial against the Murdaugh Defendants, so a risk of inconsistent verdicts could not occur. Moreover, the jury in the first trial involving Parker's would *not* be asked to decide, for example, whether Paul Murdaugh or Connor Cook operated the boat at the time of the crash. Such factual considerations will not be on a verdict form. A verdict for or against Parker's on the issue of liability in the first trial *would not and could not be inconsistent* with the liability question as to the Murdaugh Defendants in a second trial. They are separate Defendants with separate questions of liability. Put simply, Plaintiff's claims and allegations of negligence against Parker's is distinct and separate from those against the Murdaugh Defendants.

IV. Cases cited by Plaintiff in its Motion for Reconsideration do not apply.

The cases cited by Plaintiff in her Motion for Reconsideration simply do not apply. Such cases involve actions in federal court, actions in other jurisdictions, actions pursuant to the Federal Tort Claims Act, actions not on point, or snippets of federal trial handbooks, Restatements of Torts, or Black's Law Dictionary. None of these cited cases or other treatises impacts the instant issues before the Court. The only case arguably relevant is *Smith v. Tiffany*, 419 S.C. 548, 799 S.E.2d 479 (2017), which basically determined that previously-settling defendants should not be added to a verdict form at trial, which Parker's does not argue here under the application of South Carolina law.

V. Parker's is not asserting claims against the Murdaugh Defendants.

Plaintiff argues in her Motion for Reconsideration that "Rule 20(b) does not apply because defendants are asserting claims against each other." Parker's is not making a claim against any

Codefendant. Parker's right to defend itself by presenting evidence of relevant facts in support of its proximate cause defense, for example, does not amount to a "claim." Indeed, if this were true, the Court would not have entered its Order severing the Murdaugh Defendants away from Parker's.

VI. Collateral Estoppel does not apply to bar Plaintiff's claims.

Plaintiff, in her Motion for Reconsideration, mentions briefly that perhaps severing Parker's from the Murdaugh Defendants might prevent Plaintiff from relitigating the issues of negligence in a subsequent trial. "Under South Carolina law, '[c]ollateral estoppel, also known as issue preclusion, prevents a party from relitigating an issue that was decided in a previous action, regardless of whether the claims in the first and subsequent lawsuits are the same.'" *Kunst v. Loree*, 404 S.C. 649, 653, 746 S.E.2d 360, 362 (Ct. App. 2014). However, collateral estoppel would not apply here, since the alleged issue of liability involving Parker's (i.e., whether Parker's was negligent in the sale of alcohol to Paul Murdaugh) is *not* the issue of liability being alleged against the Murdaugh Defendants. Plaintiff, therefore, would not be precluded or prejudiced in its pursuit of its claims against the Murdaugh Defendants. Moreover, Plaintiff, in her initial Memorandum in Opposition to Parker's Motion to Sever, noted as follows: "If separate trials are ordered, there will be no collateral estoppel effect from the first trial and no findings will be binding on the other defendants in a later trial. As such, there is no judicial economy promoted by separate trials." (*See* p. 7 of Plaintiff's Memorandum in Opposition). Amazingly, now Plaintiff argues for the first time the exact opposite – that collateral estoppel would apply. Put simply, Plaintiff is rehashing or creating new arguments which is inappropriate under Rule 59(e).

CONCLUSION

The basis for the Court's sound discretion to order separate trials is found in the South Carolina Rules of Civil Procedure, as noted by the Court. Although Plaintiff has the right to sue

the defendants she believes should be sued, the Rules provide that, subsequent to the pleadings stage, “[t]he court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delays or prejudice.” *Rule 20(b), SCRPC*.

In this case, and as noted by Parker’s extensively and by the Court in its Order Granting Parker’s Motion to Sever, the extreme likelihood of prejudice to Parker’s in the face of (and media regarding) the Murdaugh Defendants exists, and as quoted by the media itself, is “*unprecedented*.” As the Court noted in its September 13, 2022 Order, “...if there was ever a case in which a Court may exercise its sound discretion to order separate trials *to prevent delays or prejudice*, this is it.”²¹ And indeed, in her latest motion, Plaintiff does not argue otherwise.

The term “prejudice” as utilized in the eyes of the law, particularly in reference to trial and evidence, means “to suggest a decision on an improper basis.” *State v. Gray*, 408 S.C. 601, 616, 759 S.E.2d 160, 168 (Ct. App. 2014). Case law in South Carolina is replete with such a definition. The primary question is not whether “joint and several liability” applies if separate trials are ordered, but whether the Court exercised sound discretion to rule that Parker’s will likely undergo an unfair trial while tethered to the Murdaugh Defendants. If Parker’s is not severed from the Murdaugh Defendants as currently ordered, a joint trial is the best example of the very definition of prejudice – to allow a jury “to suggest a decision on an improper basis.” *Id.* Under the unprecedented circumstances of this extraordinary case, the Court’s decision to sever is most sound.

Therefore, based on the above, the Court should deny Plaintiff’s Motion for Reconsideration of the Court’s September 13, 2022 Order Granting Parker’s Motion to Sever.

²¹ *Order Granting Parker’s Motion to Sever*, signed by the Honorable Daniel DeWitt Hall on September 13, 2022.

Respectfully submitted,

s/David L. Williford

David L. Williford, Esq. (S.C. Bar # 73129)
Mitchell D. Appleby, Esq. (S.C. Bar # 103600)
Huff, Powell & Bailey, LLC
15 South Main Street, Suite 602
Greenville, SC 29601
(864) 400-5949
dwilliford@huffpowellbailey.com
mappleby@huffpowellbailey.com

and

Pankaj “PK” Shere, Esq. (*Pro Hac Vice*)
Huff, Powell & Bailey, LLC
3737 Glenwood Drive, Suite 370
Raleigh, NC 27612
(984) 238-2380
pkshere@huffpowellbailey.com

and

Sharonda B. Barnes, Esq. (*Pro Hac Vice*)
Huff, Powell & Bailey, LLC
999 Peachtree Street, Suite 950
Atlanta, GA 30309
(404) 892-4022
sbarnes@huffpowellbailey.com

and

G. Murrell Smith, Jr., Esq.
Smith | Robinson
P.O. Box 580
Sumter, SC 29151-0580
(803) 778-2471
murrell@smithrobinsonlaw.com

*Attorneys for Gregory M. Parker, Inc. d/b/a
Parker’s Corporation*

September 22, 2022
Greenville, South Carolina