

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )  
Atlantic Pools of Hilton Head, Inc., )  
Plaintiff(s), )  
vs. )  
Plantation Pool Services, LLC, et al., )  
Defendant(s). )

IN THE COURT OF COMMON PLEAS  
CASE NO: 2015-CP-07-03038

AMENDED ORDER

**RECEIVED**  
DEC 19 2022  
SC Court of Appeals

This Order is to amend the Order filed December 8<sup>th</sup>, 2022, that refers to a Motion for Reconsideration. The motion that was heard was a Motion for Continuance not a Motion for Reconsideration.

This came before me December 8<sup>th</sup>, 2022, for a WebEx hearing on Plaintiff's Motion for Consideration, filed December 7<sup>th</sup>, 2022. Otto Ferrene, Esq. participated for the Plaintiff and Jim Berl, Esq. participated for the Defendants. This Court had previously heard a Motion for Substitution which resulted in a deposition date for Mr. Middleton of December 14<sup>th</sup>, 2022, and a scheduled trial date of December 19-20, 2022.

It is undisputed that the Plaintiff, Mr. Middleton, who resides in Mexico, suffers from severe orthopedic problems which render him incapable of normal travel. For this reason, the trial in this case has been repeatedly delayed with the hope that Mr. Middleton would be able to appear. After seven (7) years, Mr. Middleton must make himself available or the trial will proceed without him. I see nothing in the current record which would prevent Mr. Middleton from being deposed by video and appearing by video for this trial. Specifically, it does not appear that there is evidence in this record that Mr. Middleton is incompetent or lacks the mental capacity to appear by video in this matter. Every effort will be made to ensure that his video appearance will not cause him pain or undermine his treatment and recovery.

I therefore respectfully deny the motion.

**IT IS SO ORDERED:**

\_\_\_\_\_  
Honorable Marvin H. Dukes, III  
Master in Equity and Special Circuit Court  
Judge for Beaufort County

December \_\_\_\_, 2022  
Beaufort, South Carolina



Beaufort Common Pleas

**Case Caption:** Atlantic Pools Of Hilton Head Inc , plaintiff, et al VS Plantation Pool Services Llc , defendant, et al  
**Case Number:** 2015CP0703038  
**Type:** Order/Amend

So Ordered:

s/Marvin H. Dukes III #3069