

Mar 16 2023

SC Court of Appeals

ELECTRONICALLY FILED - 2023 Mar 13 4:44 PM - HORRY - COMMON PLEAS - CASE#2019CP2606550

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

CIVIL ACTION NO: 2019-CP-26-06550

Marshall Griffin,

Plaintiff,

v.

Tony Giovino, Carter Tackett, Richard Aquino, Bill West, and Shoreham Towers Homeowners Association,

Defendants.

ORDER DENYING DEFENDANTS' MOTION AND SUPPLEMENTAL MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT, NEW TRIAL NISI REMITTITUR, NEW TRIAL ABSOLUTE, AND NEW TRIAL

This case was tried in Horry County the week of January 30, 2023. The Jury returned a verdict for the Plaintiff in the amount of \$20,000 in actual damages and \$200,000 in punitive damages. This Court reduced the punitive award to \$160,000 after carefully considering the evidence pursuant to *Gamble, Gamble v. Stevenson*, 305 S.C. 104, 406 S.E.2d 350 (1991). The Defendants subsequently filed a Motion for Judgment Notwithstanding the Verdict, New Trial Nisi Remittitur, New Trial Absolute, and New Trial on February 13, 2023. The Defendants filed a supplemental motion on February 13, 2023. Plaintiff, through his counsel, John Grantland, filed a Response in Opposition on February 27, 2023. The Defendants then filed a Reply to Plaintiff's Response on February 28, 2023.

"A motion for judgment notwithstanding the verdict may be granted only if no reasonable jury could have reached the challenged verdict." *Welch v. Epstein*, 342 S.C. 279, 300, 536 S.E.2d 408, 419 (Ct. App. 2000). "The decision to grant or deny a motion for a new trial rests within the sound discretion of the trial court, and the trial court's decision will not be disturbed absent an abuse of discretion." *Fields v. J. Haynes Waters Builders, Inc.*, 376 S.C. 545, 569, 658 S.E.2d 80, 93 (2008). "Under the 'thirteenth juror' doctrine, a trial judge may grant a new trial absolute when he finds the evidence does not justify the verdict. This ruling has also been termed a

granting of a new trial upon the facts.” *Vinson v. Hartley*, 324 S.C. 389, 402, 477 S.E.2d 715, 722 (Ct. App. 1996) (emphasis added). “Under the thirteenth juror doctrine, a trial court may grant a new trial if the judge determines the jury’s verdict is contrary to the fair preponderance of the evidence.” *Burke v. AnMed Health*, 393 S.C. 48, 55, 710 S.E.2d 84, 88 (Ct. App. 2011) (citation omitted). “If the amount of the verdict is *grossly* inadequate or excessive so as to be the result of passion, caprice, prejudice, or some other influence outside the evidence, the trial judge must grant a new trial absolute.” *O’Neal v. Bowles*, 314 S.C. 525, 527, 431 S.E.2d 555, 556 (1993) (emphasis in original). “Alternatively, the trial court may grant a new trial nisi additur or remittitur when it finds the verdict is merely inadequate or excessive.” *Howard v. Roberson*, 376 S.C. 143, 154, 654 S.E.2d 877, 883 (Ct. App. 2007). “The granting of a motion for new trial nisi additur or remittitur rests within the sound discretion of the trial court, but substantial deference must be afforded to the jury’s determination of damages.” *Id.* at 155, 654 S.E.2d at 883. “Compelling reasons must be given to justify invading the jury’s province in this manner.” *Id.*

After reviewing the record, the arguments of counsel, and the relevant case law, this Court holds that the evidence could support a verdict for the Plaintiff. Therefore, the motion for judgment notwithstanding the verdict is DENIED. Additionally, it does not appear to this Court that the verdict is either contrary to the evidence or that the damages are excessive. Accordingly, the motions for a new trial, new trial absolute, and new trial nisi remittitur are DENIED as well.

IT IS THEREFORE ORDERED that Defendants’ Motion is **DENIED**.

IT IS SO ORDERED.

JUDGE’S ELECTRONIC SIGNATURE TO FOLLOW

The Honorable William Scals
Chief Administrative Judge
Horry County

Marion, South Carolina

Date: _____



Horry Common Pleas

Case Caption: Marshall Griffin VS Tony Giovino , defendant, et al

Case Number: 2019CP2606550

Type: Order/Amend

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

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Common Pleas

Horry

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Document(s) Submitted: Order/Amend

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Thomas Casey Brittain for Marshall Griffin

Henrietta U. Golding for Tony Giovino et al

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