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**SC Court of Appeals**

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**SC Court of Appeals**

ELECTRONICALLY FILED - 2023 Mar 16 4:37 PM - HORRY - COMMON PLEAS - CASE#2019CP2606550

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

Honorable William H. Seals, Jr., Circuit Court Judge

Case No. 2019-CP-26-06550

Marshall Griffin, ..... Respondent,

v.

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

**NOTICE OF APPEAL**

Tony Giovino, Carter Tackett, Richard Aquino, Bill West, and Shoreham Towers Homeowners Association appeal from the Judgment dated February 3, 2023 and Order of the Honorable William H. Seals, Jr. dated March 9, 2023. The Appellants received written notice of the Judgment on February 3, 2023, and Appellants timely filed their Motion for Judgment Notwithstanding the Verdict, Motion for New Trial Nisi Remittitur, Motion for New Trial Absolute, and Motion for New Trial, which the Court denied by Order dated March 9, 2023. Appellants received written notice of the Order on March 9, 2023. On March 13, 2023, the Court entered an Amended Order Denying Defendants' Motion and Supplemental Motion for Judgment Notwithstanding the Verdict, New Trial Nisi Remittitur, New Trial Absolute, and New Trial, and Appellants received written notice of that Order on March 13, 2023. Copies of the Judgment and Orders are attached to this Notice of Appeal.

**BURR & FORMAN LLP**

/s/Henrietta U. Golding  
Henrietta U. Golding, SC Bar #2173  
Taylor K. Voegel, SC Bar #104770  
2411 Oak Street, Suite 206 (29577)  
Post Office Box 336  
Myrtle Beach, SC 29578-0336  
Phone: (843) 444-1107  
hgolding@burr.com  
tvoegel@burr.com

*Attorneys for Appellants Tony Giovino,  
Carter Tackett, Richard Aquino, Bill West,  
and Shoreham Towers Homeowners  
Association*

Myrtle Beach, South Carolina  
March 16, 2023

**OTHER COUNSEL OF RECORD**

John M. Grantland  
MURPHY & GRANTLAND, P.A.  
P.O. Box 6648  
Columbia, SC 29260  
Phone: (803) 782-4100

Thomas C. Brittain  
Brittain Law Firm, P.A.  
4614 Oleander Drive  
Myrtle Beach, SC 29577  
Phone: (843) 449-8562

*Attorneys for Respondent Marshall Griffin*

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**SC Court of Appeals**

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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

Honorable William H. Seals, Jr., Circuit Court Judge

Appellate Case No. 2023-\_\_\_\_\_

Case No. 2019-CP-26-06550

Marshall Griffin, ..... Respondent,

v.

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

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Marshall Griffin via email communication and by depositing a copy of it in the United States mail, postage prepaid, on March 16, 2023, addressed to his attorneys of record as follows:

John M. Grantland  
Post Office Box 6648  
Columbia, South Carolina 29260  
Email: [jgrantland@murphygrantland.com](mailto:jgrantland@murphygrantland.com)

Thomas C. Brittain  
4614 Oleander Drive  
Myrtle Beach, South Carolina 29577  
Email: [tommyb@brittainlawfirm.com](mailto:tommyb@brittainlawfirm.com)

  
Carole Koerner

**Koerner, Carole**

---

**From:** Koerner, Carole  
**Sent:** Thursday, March 16, 2023 3:33 PM  
**To:** 'John M. Grantland'; tommyb@brittainlawfirm.com  
**Cc:** Golding, Henrietta; Voegel, Taylor; Renee Dillon; miranda@brittainlawfirm.com  
**Subject:** Marshall Griffin v. Shoreham Towers HOA, Tony Giovino, Bill West, Carter Tackett and Richard Aquino; CA: 2019-CP-26-06550  
**Attachments:** March 16, 2023 Ltr. Attorney Grantland and Brittain.pdf; Notice of Appeal.pdf; Proof of Service (2).pdf

Gentlemen,

Marshall Griffin v. Shoreham Towers, HOA, et al.

Attached is a letter dated March 16, 2023 and attached for service in the above matter, please find the Appellants' Notice of Appeal and Proof of Service that will be electronically filed with the South Carolina Court of Appeals today.

Kind regards,

Carole Koerner

**Koerner, Carole**

---

**From:** Koerner, Carole  
**Sent:** Thursday, March 16, 2023 3:33 PM  
**To:** 'John M. Grantland'; tommyb@brittainlawfirm.com  
**Cc:** Golding, Henrietta; Voegel, Taylor; Renee Dillon; miranda@brittainlawfirm.com  
**Subject:** Marshall Griffin v. Shoreham Towers HOA, Tony Giovino, Bill West, Carter Tackett and Richard Aquino; CA: 2019-CP-26-06550  
**Attachments:** March 16, 2023 Ltr. Attorney Grantland and Brittain.pdf; Notice of Appeal.pdf; Proof of Service (2).pdf

Gentlemen,

Marshall Griffin v. Shoreham Towers, HOA, et al.

Attached is a letter dated March 16, 2023 and attached for service in the above matter, please find the Appellants' Notice of Appeal and Proof of Service that will be electronically filed with the South Carolina Court of Appeals today.

Kind regards,

Carole Koerner

**BURR & FORMAN** LLP  
*results matter*

Taylor Voegel  
tvoegel@burr.com  
Direct Dial (843) 443-3007

**RECEIVED**  
**Mar 16 2023**  
SC Court of Appeals

Founders Center  
2411 Oak Street  
Suite 116  
Myrtle Beach, SC 29577

Mailing Address  
Post Office Box 306  
Myrtle Beach, SC 29578

Office (843) 444-1107  
Fax (843) 444-4209

BURR.C

March 16, 2023

**VIA U.S. MAIL**  
**VIA EMAIL: CTAPPFILINGS@SCCOURTS.ORG**

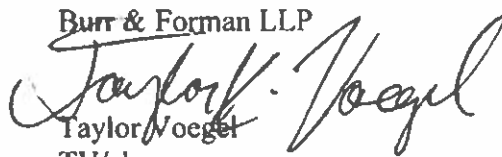
Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**Re: Marshall Griffin v. Shoreham Towers Homeowners Association, Tony Giovino, Bill West, Carter Tackett, and Richard Aquino; Civil Action No.: 2019-CP-26-06550**

Dear Ms. Kitchings:

Please find attached for filing in your office, the Notice of Appeal and Proof of Service in the above referenced case. Also attached is a photocopy of our firm check for the filing fee of \$250.00, the original is being mailed to you today, along with the original letter and original Proof of Service. Should you have any questions or concerns, please do not hesitate to contact me. Thank you for your assistance in this matter.

Very truly yours,

Burr & Forman LLP  
  
Taylor Voegel  
TV/ck

Attachments

cc: John Grantland, Esq. (Via Email and U.S. Mail)  
Thomas C. Brittain, Esq. (Via Email and U.S. Mail)  
Clients (Via Email only)

ELECTRONICALLY FILED - 2023 MAR 16 3:27 PM - Horry - COMMON PLEAS - CASE#2019CP2606550

FORM 4

STATE OF SOUTH CAROLINA  
 COUNTY OF HORRY  
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2019CP2606550

ELECTRONICALLY FILED - 2023 Mar 16 4:37 PM - HORRY - COMMON PLEAS - CASE#2019CP2606550  
 ELECTRONICALLY FILED - 2023 Feb 07 4:19 PM - HORRY - COMMON PLEAS - CASE#2019CP2606550

Marshall Griffin	Tony Giovino Bill West Carter Tackett Richard Aquino	Shoreham Towers Homeowners Association
<b>PLAINTIFF(S)</b>	<b>DEFENDANT(S)</b>	
Submitted by: Clerk of Court	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant	

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  
 Rule 43(k), SCRPC (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order; (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

We, the jury, unanimously find that the Rooftop Terrace, the planters, and elevator lobby on the 10th floor at Shoreham Towers are part of the Rooftop Penthouse dwelling and "not a common element".  
 We, the jury, unanimously find in favor of the Plaintiff against the Defendant Shoreham Towers Homeowners Association in the amount of \$20,000.00 actual damages and \$200,000.00 punitive damages as to Defendants Tony Giovino, Carter Tackett, Richard Aquino and Bill West. After a review of the punitive damages pursuant to Gamble the punitive damages are reduced to \$160,000.00 and shall be divided as stated below.  
 Defendant Tony Giovino's name shall properly reflect in the record as Tony Giovino, de novo.

This order  ends  does not end the case.  
 Additional Information for the Clerk: \_\_\_\_\_

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Marshall Griffin	Shoreham Towers Homeowners Association	\$20,000.00
Marshall Griffin	Tony Giovino	\$17,600.00 (11%)
Marshall Griffin	Bill West	\$17,600.00 (11%)
Marshall Griffin	Carter Tackett	\$17,600.00 (11%)
Marshall Griffin	Richard Aquino	\$107,200.00 (67%)

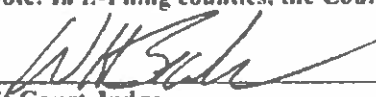
**RECEIVED**  
**Mar 16 2023**  
 SC Court of Appeals

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ELECTRONICALLY FILED - 2023 Feb 07 4:19 PM - Horry - COMMON PLEAS - CASE#2019CP2606550

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

  
Circuit Court Judge

2157  
Judge Code

2/7/2023  
Date

**For Clerk of Court Office Use Only**

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

John Martin Grantland PO Box 6648 Columbia, SC 29260  
Thomas Casey Brittain 4614 Oleander Dr. Myrtle Beach, SC 29577

Henrietta U. Golding PO Box 336 Myrtle Beach, SC 29578

\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

\_\_\_\_\_  
Court Reporter - Natalie Dahl

\_\_\_\_\_  
Renee N. Elvis - Clerk of Court

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS  
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.

VERDICT FORM

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Mar 16 2023

SC Court of Appeals

Please answer each of the following questions. Each answer must be the unanimous decision of the jury.

**WE THE JURY unanimously find the following:**

1. Do you find that the Rooftop Penthouse Terrace, the planters, and the elevator lobby on the 10<sup>th</sup> floor at Shoreham Towers are a "common element" and not part of the Rooftop Penthouse?

Yes \_\_\_\_\_

No  \_\_\_\_\_

*[Continue to the next page.]*

2. Do you find that the Rooftop Penthouse Terrace, the planters, and elevator lobby on the 10<sup>th</sup> floor at Shoreham Towers are part of the Rooftop Penthouse dwelling and “not a common element”?

Yes  \_\_\_\_\_

No \_\_\_\_\_

3. Do you find for the Plaintiff Marshall Griffin against the Defendant Shoreham Towers Homeowners Association?

Yes  \_\_\_\_\_

No \_\_\_\_\_

4. Do you find the Defendant Richard Aquino acted willfully or wantonly?

Yes  \_\_\_\_\_

No \_\_\_\_\_

5. In regard to the civil conspiracy claim, do you find for the Plaintiff Marshall Griffin against the Defendant Richard Aquino?

Yes  \_\_\_\_\_

No \_\_\_\_\_

*[Continue to the next page.]*

6. Do you find the Defendant Bill West acted willfully or wantonly?

Yes  \_\_\_\_\_

No \_\_\_\_\_

7. In regard to the civil conspiracy claim, do you find for the Plaintiff Marshall Griffin against the Defendant Bill West?

Yes  \_\_\_\_\_

No \_\_\_\_\_

8. Do you find the Defendant Tony Giovino acted willfully or wantonly?

Yes  \_\_\_\_\_

No \_\_\_\_\_

9. In regard to the civil conspiracy claim, do you find for the Plaintiff Marshall Griffin against the Defendant Tony Giovino?

Yes  \_\_\_\_\_

No \_\_\_\_\_

10. Do you find the Defendant Carter Tackett acted willfully or wantonly?

Yes  \_\_\_\_\_

No \_\_\_\_\_

11. In regard to the civil conspiracy claim, do you find for the Plaintiff Marshall Griffin against the Defendant Carter Tackett?

Yes  \_\_\_\_\_

No \_\_\_\_\_

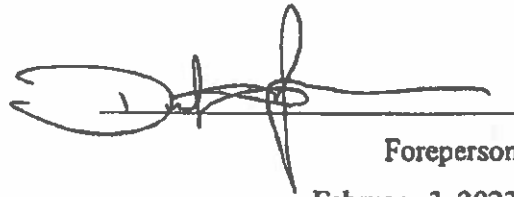
12. We find for the Plaintiff Marshall Griffin actual damages in the amount of

\$ 20,000.00 . <sup>00</sup>

13. We find for the Plaintiff Marshall Griffin punitive damages in the amount of

\$ 200,000.00 .

*Now, you are done. Please sign the verdict form and notify the bailiff.*



Foreperson

February 3, 2023

Conway, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS  
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.

VERDICT FORM

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SC Court of Appeals


**Fault Apportionment Verdict Form**

Considering the punitive damage amount that caused the Plaintiff's injuries as 100%, what percentage of those damages are attributable to the Defendant Shoreham Towers Homeowners Association and what percentage is attributable to the individual Defendants: Richard Aquino, Bill West, Tony Giovino, and Carter Tackett? [The percentage must add up to 100%.]

Defendant Shoreham Towers Homeowners Association:	<u>0</u>	%
Defendant Richard Aquino:	<u>67</u>	%
Defendant Bill West:	<u>11</u>	%
Defendant Tony Giovino:	<u>11</u>	%
Defendant Carter Tackett:	<u>11</u>	%

**TOTAL: 100%**

*Please let the bailiff know when you have completed this form and sign the document.*

  
Foreperson  
February 3, 2023  
Conway, South Carolina

## Certificate of Electronic Notification

### Recipients

**Henrietta Golding** - Notification transmitted on 02-07-2023 04:19:59 PM.

**John Grantland** - Notification transmitted on 02-07-2023 04:19:57 PM.

**Thomas Brittain** - Notification transmitted on 02-07-2023 04:19:59 PM.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2019CP2606550

Official File Stamp: 02-07-2023 04:19:43 PM

Court: CIRCUIT COURT  
Common Pleas

Horry

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

Document(s) Submitted: Order/Jury Verdict Order/Jury Verdict

Filed by or on behalf of: Bridgett Williamson

This notice was automatically generated by the Court's auto-notification system.

**The following people were served electronically:**

Thomas Casey Brittain for Marshall Griffin

Henrietta U. Golding for Tony Giovino et al

John Martin Grantland for Marshall Griffin

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

Case Party Info Protected

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Mar 16 2023

SC Court of Appeals

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ELECTRONICALLY FILED - 2023 Mar 09 10:43 AM - 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 14, 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 Seals  
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/Other

IT IS SO ORDERED

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

Electronically signed on 2023-03-09 09:27:43 page 4 of 4

ELECTRONICALLY FILED - 2023 Mar 16 4:37 PM - HORRY - COMMON PLEAS - CASE#2019CP2606550  
ELECTRONICALLY FILED - 2023 Mar 09 10:43 AM - HORRY - COMMON PLEAS - CASE#2019CP2606550

## Certificate of Electronic Notification

### Recipients

**Henrietta Golding** - Notification transmitted on 03-09-2023 10:44:03 AM.

**John Grantland** - Notification transmitted on 03-09-2023 10:44:03 AM.

**Thomas Brittain** - Notification transmitted on 03-09-2023 10:44:03 AM.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2019CP2606550

Official File Stamp: 03-09-2023 10:43:56 AM

Court: CIRCUIT COURT

Common Pleas

Horry

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

Document(s) Submitted:

Order/Denying Order Notwithstanding/Verdict  
New Trial NISI New Trial Absolute And New Trial  
Order/Other

Filed by or on behalf of: William H. Seals

This notice was automatically generated by the Court's auto-notification system.

The following people were served electronically:

Thomas Casey Brittain for Marshall Griffin

Henrietta U. Golding for Tony Giovino et al

John Martin Grantland for Marshall Griffin

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Case Party Info Protected

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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

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The Honorable William Seals  
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

Electronically signed on 2023-03-13 14 14 25 page 4 of 4

ELECTRONICALLY FILED - 2023 Mar 16 4:37 PM - HORRY - COMMON PLEAS - CASE#2019CP2606550  
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## Certificate of Electronic Notification

### Recipients

**Henrietta Golding** - Notification transmitted on 03-13-2023 04:44:14 PM.

**John Grantland** - Notification transmitted on 03-13-2023 04:44:13 PM.

**Thomas Brittain** - Notification transmitted on 03-13-2023 04:44:13 PM.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2019CP2606550

Official File Stamp: 03-13-2023 04:44:04 PM

Court: CIRCUIT COURT

Common Pleas

Horry

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

Document(s) Submitted: Order/Amend

Filed by or on behalf of: William H. Seals

This notice was automatically generated by the Court's auto-notification system.

**The following people were served electronically:**

Thomas Casey Brittain for Marshall Griffin

Henrietta U. Golding for Tony Giovino et al

John Martin Grantland for Marshall Griffin

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

Case Party Info Protected

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**Taylor Voegel** - Notification transmitted on 03-16-2023 04:37:24 PM.

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NOTICE OF ELECTRONIC FILING [NEF]

-

**A filing has been submitted to the court RE:** 2019CP2606550

**Official File Stamp:** 03-16-2023 04:37:08 PM

**Court:** CIRCUIT COURT

Common Pleas

Horry

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

**Document(s) Submitted:** Appeal/Notice of Appeal to Court of Appeals

- Exhibit/Filing of Exhibits
- Exhibit/Filing of Exhibits
- Exhibit/Filing of Exhibits

**Filed by or on behalf of:** Henrietta U. Golding

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-

**The following people were served electronically:**

Thomas Casey Brittain for Marshall Griffin  
Henrietta U. Golding for Tony Giovino et al  
Taylor Kay Voegel for Tony Giovino et al  
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Mar 21 2023

SC Court of Appeals

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March 21, 2023

**VIA EMAIL: CTAPPFILINGS@SCCOURTS.ORG**

Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211


**Re: Marshall Griffin v. Shoreham Towers Homeowners Association, Tony Giovino, Bill West, Carter Tackett, and Richard Aquino; Appellate Case No.: 2023-000451**

Dear Ms. Kitchings:

Pursuant to Rule 203(d)(1)(B), SCACR, attached is the Notice of Appeal filed on March 16, 2023 with the Court of Common Pleas, Fifteenth Judicial Circuit, County of Horry.

Very truly yours,

Burr & Forman LLP

  
Taylor Voegel  
TV/ck

Attachments

cc: John Grantland, Esq. (Via Email)  
Thomas C. Brittain, Esq. (Via Email)  
Clients (Via Email)