

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)
)
Shannon Shaw)
)
)
Plaintiff,)
)
v.)
)
Amazon.com Inc.; Amazon.com LLC;)
Amazon.com Services, Inc.; Amazon)
Logistics, Inc.; MJV Logistics, LLC; and)
Kevin Anthony Blekicki,)
)
Defendants.)

IN THE COURT OF GENERAL SESSIONS
FOR THE FIRST JUDICIAL CIRCUIT

CASE NO: 2021-CP-18-02173

**ORDER DENYING DEFENDANTS'
MOTION TO RECONSIDER
DENIAL OF TEN DAYS TO FILE
POST-TRIAL MOTIONS AND
DENYING DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME**

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SC Court of Appeals

The Court hereby denies Amazon Defendants’ Motion to Reconsider Order Denying Request for Ten Days to File Post-Trial Motions. The Court also denies the Amazon Defendants’ corresponding Motion for Enlargement of Time Pursuant to Rules 6, 50(b), and 59(b), SCRCP. Because the parties submitted briefs setting forth their substantive arguments, the Court finds a hearing is unnecessary and decides the motion without one. *See* Rule 50(e), SCRCP (providing that a JNOV “motion may in the discretion of the court be determined on briefs filed by the parties without oral argument”); Rule 59(f), SCRCP (providing that a motion for new trial “may in the discretion of the court be determined on briefs filed by the parties without oral argument”).

This case was tried during the week of December 4, 2023. The jury delivered its verdict for Plaintiff on December 7, 2023. After the verdict was published on the record, the trial judge inquired whether any party had anything further to add. Mr. Yarborough, for the Plaintiff, and Mr. Ervin and Mr. Stephenson, for Defendants, all answered "No." The trial judge thereafter sent the jury the jury room and again asked if either party had anything further to add. Again, those same attorneys answered "No." The trial judge then left the bench to release the jurors and thank them

for their service. Upon returning to the courtroom, the trial judge learned that counsel for Defendants had already left.

At no point that day did Defendants submit post-trial motions or request ten days to do so. Defendants waited until the following day, December 8, to request ten days to file post-trial motions for judgment notwithstanding the verdict and new trial. In the Order entered on December 12, 2023, the Court denied Defendants' request. On December 18, Defendants filed a Motion to Reconsider as well as a Motion to Enlarge the time to request the ten days.

The Amazon Defendants claim that in denying their request for ten days because it was untimely, the "Court's negative implication was that but for its perception that there was an untimely request as a matter of law, Amazon's request for the ten days would have been granted." Motion to Reconsider at 6. The Court now clarifies that no decision on the merits is to be inferred by any party, since those issues were not timely placed before this Court.

Based on the Court's pre-trial and mid-trial rulings on evidence and other matters, as well as the manner in which the trial flowed over the course of four days, it was and remains the Court's opinion that, regardless for whom the jury decided, all parties should have been prepared to promptly submit any post-trial motions after the jury delivered its verdict and was discharged. While the jury's verdict was notable in the amount awarded to the Plaintiff, the issues in this case were not unusual or particularly complicated. The exchange of lengthy written motions and briefs was unnecessary for the Court to rule on any post-trial motions, or to grant an immediate request for a ten-day extension. However, the Defendants waived those motions by failing to raise them that day once the verdict was rendered. Consequently, in the Court's discretion, the Court denied and reaffirms the denial of the Amazon Defendants' request for additional time to submit post-trial motions. See Rule 50(e), SCRCP (giving the court "discretion" to grant the losing party up to

ten days to file a motion for JNOV); Rule 59(b), SCRCP (giving the court “discretion” to grant the losing party up to ten days to file a motion for new trial).

Furthermore, it is questionable whether the Court even had the authority to grant the relief the Amazon Defendants sought. See Rule 6(b), SCRCP (giving the trial court “discretion” to enlarge time but providing “[t]he time for taking any action under Rules 50(b), 52(b), 59, and 60(b) **may not be extended** except to the extent and under the conditions stated in them” (emphasis added)); cf. Overland, Inc. v. Nance, 423 S.C. 253, 255–56, 815 S.E.2d 431, 432 (2018) (holding the trial court does not have any power to grant the moving party an extension of time in which to file a Rule 59 motion). Although Overland involved a Rule 59(e) motion, no part of Rule 59, including Rule 59(b), has any “conditions stated” that would allow an extension. Rule 50 likewise contains no such “conditions.”

Separately, as an independent basis for denying Defendants’ request, the Court stands by its ruling that the request was untimely. The Court interprets Rules 50(e) and 59(b), SCRCP, as requiring the losing party to either submit post-trial motions or request ten days to do so *promptly* after the jury is discharged. As the Amazon Defendants cite in their motion, “prompt” means to take “immediate action” and “promptly” means “very quickly or immediately.” Motion to Reconsider at 5 (citing Prompt, Black’s Law Dictionary (11th ed. 2019) and Merriam-Webster). Black’s Law Dictionary defines “immediate” as “occurring without delay.” Immediate, Black’s Law Dictionary (11th ed. 2019). Merriam-Webster defines “immediate” as “occurring, acting, or accomplished without loss or interval of time.”¹ The Amazon Defendants did not act without “loss or interval of time,” and therefore they did not act promptly as required.

¹ <https://www.merriam-webster.com/dictionary/immediate?src=search-dict-box>.

In Boone v. Goodwin, the Supreme Court agreed with the appellant that “counsel must move for a new trial promptly after the return of the verdict, or request ten days within which to make the motion.” 314 S.C. 374, 375, 444 S.E.2d 524, 525 (1994) (citing the Reporter’s Note to the 1986 amendment to Rule 59, which provides: “In jury trials, post-trial motions are made promptly at the end of the trial, **or at that time** the court, upon motion, may grant an additional ten days to make them.”) (emphasis added). In Boone, the Supreme Court found a motion filed two days after the jury verdict was untimely under Rule 59(b). The Supreme Court noted Rule 50(e) provides the same language in regard to a motion for JNOV, indicating the Court would apply the identical language in Rule 50(e) in the same manner to a motion for JNOV. Boone, 314 S.C. at 375 n.1, 444 S.E.2d at 525 n.1.

In Ex Parte Travelers Home and Marine Insurance Company v. Stringfellow, the Court of Appeals elaborated on the urgency imposed by Rule 59(b) upon the losing party when the trial ends. 427 S.C. 238, 242, 830 S.E.2d 718, 720 (Ct. App. 2019). The Court observed that “[t]he drafters [of the rule] understood it was the end of the trial that started the clock.” Id. (citing the Reporter’s Note to the 1986 amendment to Rule 59(b)). “This understanding was informed by what practicing lawyers know: **once the verdict is in, the bell has rung, and the reflex rises in losing counsel to move for a new trial**....” Id. (emphasis added).

For all of the separate, independent reasons set forth herein, the Amazon Defendants’ request for ten days, as well as its motion to reconsider and motion to enlarge time, are DENIED.

IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE FOLLOWS



Dorchester Common Pleas

Case Caption: Shannon Shaw VS Amazon.Com Inc , defendant, et al

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Type: Order/Other

So Ordered

s/ Maite Murphy 2166