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Jan 13 2025

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. D. Morgan, Jr. Circuit Court Judge
(Common Pleas Case No. 2020-CP-23-05229)

Appellate Case No. 2024-001849

Boyce Street, LLC,

Appellant,

v.

David Smith Company, LLC,

Respondent.

Petition for Rehearing

Devon M. Puriefoy
TRULUCK THOMASON LLC
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TABLE OF AUTHORITIES

Cases

Ex parte Travelers Home & Marine Ins. Co., 427 S.C. 238, 242, 830 S.E.2d 718, 720 (Ct. App. 2019).....1

Rules

R. 59, SCRCP.....1

Appellant Boyce St. LLC respectfully petitions this Court for rehearing pursuant to R. 221, SCACR.

ARGUMENT

I. Appellant's Motion for New Trial was Timely and Resulted in no Prejudice to Respondent.

Simply put, Appellant does not disagree to Respondent's citation to Ex parte Travelers Home & Marine Ins. Co., 427 S.C. 238, 242, 830 S.E.2d 718, 720 (Ct. App. 2019). Appellant would, however – acknowledging the factual distinction between the instant matter and the facts set forth in Ex parte Travelers Home & Marine Ins. – point to the Court's holding that “the purpose of the rule [Rule 59] is to promote finality of judgments by requiring parties to move for a new trial promptly after they learn of an adverse verdict.” *Ex parte Travelers Home & Marine Ins. Co.*, 427 S.C. 238, 242, 830 S.E.2d 718, 720 (Ct. App. 2019). “The motion for a new trial shall be made promptly after the jury is discharged, or in the discretion of the court not later than 10 days thereafter.” R. 59(b). Appellant filed its Rule 59 motion within the (10) days permitted under the rule and Respondent has not identified any cognizable prejudice it would suffer if it had to defend this appeal on the merits.

Appellant would argue, respectfully, that this Court's Opinion failed to

address the lack of prejudice Respondent would suffer despite Appellant filing its motion within the ten (10) days permitted under the rule.

II.

Conclusion

This Court should grant Panel rehearing and vacate or reverse the judgment below.

Dated this 13th day of January 2025.

Respectfully submitted,

s/Devon M. Puriefoy
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(#102097)

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PROOF OF SERVICE

I, the undersigned, served a copy of the **Petition for Rehearing** to the following counsel at their email addresses of record this 13th day of January, 2025 to the following:

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