

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)
Heather Crespo)
)
Plaintiff)
)
vs)
)
Rhett Riviere, Josee Riviere, Chase)
Enterprises, LLC, and R.C. Riviere)
Properties, LLC)
)
Defendant)
_____)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

2022 CP 02 2323
2022 CP 02 2324

**Order Regarding Motions for Judgment
Notwithstanding the Verdict, New Trial,
Remittitur, and Reduction of Damages in
Accordance with the South Carolina
Unfair Trade Practices and
Constructive Fraud
As to Rhett Riviere, Chase Enterprises,
LLC, and R.C. Riviere Properties**

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)
Gabriel Crespo)
)
Plaintiff)
)
vs)
)
Rhett Riviere, Josee Riviere, Chase)
Enterprises, LLC, and R.C. Riviere)
Properties, LLC)
)
Defendant)
_____)

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SC Court of Appeals

This litigation was tried in Aiken County on September 16, 2024. Following the trial, defendants Rhett Riviere, Chase Enterprises, LLC, and R.C. Riviere Properties moved for new trial remittitur, judgment notwithstanding the verdict, reduction of punitive damages as the result of passion, caprice, and/or conjecture and pursuant to the statutory cap, and election of remedies between negligence and negligence per se. Due to plaintiff's efforts to enforce the judgement, defendants also moved to stay enforcement and to quash subpoenas issued in relation to efforts to identify assets and protect assets. Defendant Josee Riviere's motions are addressed in a separate order. After due deliberation, review of statutes and case law, and consideration of the arguments of counsel, I hereby find and order as follows:

I. Case History and Facts

This factual basis of this litigation involves the taking, editing, retention, and potential sharing of videos of plaintiffs while they rented a residence from defendants for three months in 2001. Plaintiffs were unaware of the videotaping until a separate law enforcement investigation revealed a computer file bearing their names saved on defendant Rhett Riviere's computer equipment. Plaintiffs became aware of the recordings in 2022. The videos show plaintiffs engaging in sexual acts in the bedroom and bathroom of the rental property in Aiken County, South Carolina.

The evidence presented at trial showed that defendants regularly rented property in Aiken, South Carolina, to other members of the polo and equine community who visited the area. Defendant Rhett Riviere, individually or by and through the LLCs he owned and/or managed, rented property on a boat on the coast of South Carolina and other homes in Aiken. Cameras were located in the bedrooms and bathrooms of these abodes. The videos shown to the jury were limited to the videos of the plaintiffs, videos showing defendant Rhett Riviere adjusting video equipment, and a few additional videos of other subjects whose faces were blurred for identity protection. Nudity was included in the videos. Sexual acts were the subject of the videos of the plaintiffs.

Non-party witnesses testified that the evidence showed videos had been transferred from device to device, that the defendant Rhett Riviere had a drop box cloud or internet account available to him and that at least two videos of the plaintiffs had been compiled from a VHS style recording into a digital file. There was testimony that the properties searched by law enforcement were listed on rental websites at one time. Rhett Riviere was called as a witness but pled protections pursuant to the Fifth Amendment of the United States Constitution due to the still pending criminal charges of three counts of voyeurism.

As to damages, plaintiffs testified they paid a rental fee for the cottage, each have sought counseling services since discovery of the video tapes, and plaintiff Heather Crespo visited the emergency room following her deposition in this litigation for treatment for a potential heart attack. Heather Crespo had a total cost of \$1,920.00 for her counseling sessions, as testified to at trial by her counselor and included in admitted exhibits. Gabriel Crespo had a total cost of \$125.00 for therapy as testified to at trial by his counselor and included in admitted exhibits. Gabriel Crespo testified that the rental for the cottage was \$2,400.00. Gabriel Crespo is a well-known polo player, having a successful career since its outset in 2001.

Each plaintiff gave detailed, emotional testimony as to the trauma caused by the acts of defendants. At trial, there was evidence and argument as to the "unknown" location of videos, the number of videos, the amount of copies and whether they were shared to a broader community. Plaintiffs each testified as to the reputational and emotional harm. Heather Crespo testified that her move from Aiken, South Carolina, was at least in part due to the damage from the discovery of the videos and the knowledge in the community that she and her former husband

were videotaped. The testimony amounted to the acknowledgment of the gossip fodder presented to the community by the criminal investigation and discovery of their videos.¹

Rhett Riviere was questioned by plaintiffs as to the acts of filming and savings recording, the intent of these acts, the sharing of videos, the storage of videos, the location and amount of assets held by him and/or the defendant corporations, the length of time he engaged in this behavior, and the formation and holdings of the corporations. Defendant Rhett Riviere pled his Fifth Amendment protections throughout his questioning. No other officers or agents for the corporations testified.

The jury found for the plaintiffs and against the defendants Rhett Riviere, Chase Enterprises, LLC, of South Carolina, and R.C. Riviere Properties, LLC, on several causes of action.² The jury awarded damages pursuant to each cause and totaled the damages as cumulative for a total award against Rhett Riviere of \$22,000,000, against Chase Enterprises, LLC of South Carolina of \$2,000,000, and R.C. Riviere Properties, LLC of \$2,000,000. At defendants' election, punitive damages were presented in a separate hearing immediately following the liability phase. The entire trial process encompassed two weeks.

Plaintiffs' causes of action were negligence, negligence per se based upon a broker/realtor statutory protection of SC Code § 40-57-20 (1976, as amended), invasion of privacy, intentional infliction of emotional distress, constructive fraud, and the statutory protections of SC Unfair Trade Practices Act, SC Code § 39-5-10, et seq (1976, as amended).

In the post-trial motions, defendants assert the verdict, particularly the verdict form, led to double recovery and confusion by the jury. The verdict form provided for a finding for or against each party as to each cause of action and a determination of damages as to each, if any. The form also allowed the jury to total all damages awarded to each plaintiff. No request for specific polling or further inquiry into the jury was made at the time of trial.

Additionally, defendants move for judgment notwithstanding the verdict based upon the same grounds as their directed verdict motion. First, they request a verdict on the claims of the negligence and negligence per se due the lack of physical injury or property damage proven by the plaintiffs. As to negligence per se, defendants argue that the statute in question was for general protection of the public and did not create a protected class of persons that plaintiffs belong to. Defendants argued plaintiffs failed to prove a negligent misrepresentation upon which a constructive fraud claim can rest and that the damages were not appropriately measured by the jury.

¹ At the time of the cottage rental and taking of the videos, Gabriel Crespo and Heather Crespo were newly married. Since that time, the couple has divorced. They brought separate, individual actions against identical defendants.

² The actions of Heather Crespo, 2022-CP-02-2323, and Gabriel Crespo, 2022-CP-02-2324, were consolidated prior to trial. Josee Riviere was also named as a defendant. Her motions are ruled upon by a separate order as the jury found against Josee Riviere pursuant to one cause of action, SC Unfair Trade Practices Act. The jury found against the remaining defendants for all applicable causes of action. Any reference to defendants in this order does not include defendant Josee Riviere.

II. Judgment Notwithstanding the Verdict is Denied

Defendant's moved for judgment notwithstanding the verdict based upon lack of actual damages or injury, lack of sufficient evidence for each cause of action and the inappropriateness of the realtor statute as the basis of a negligence per se action.

A motion notwithstanding the verdict is a renewal of the motion for directed verdict. Wright v. Craft, 372 S.C. 1, 20, 640 S.E.2d 486, 496 (Ct.App.2006). The trial court may grant a motion for judgment notwithstanding the verdict only if "no reasonable jury could have reached the challenged verdict." Jamison v. Hilton, 413 S.C. 133, 775 S.E.2d 58 (Ct. App. 2015) (quoting Gastineau v. Murphy, 331 S.C. 565, 568, 503 S.E.2d 712, 713 (1998)). In deciding a motion for judgment notwithstanding the verdict, a trial court does not have the authority to decide issues of credibility or conflicts in the evidence or testimony. Welch v. Epstein, 342 S.C. 279, 300, 536 S.E.2d 408, 419 (Ct.App.2000).

In a JNOV motion, the court is not concerned with the weight of the evidence but with the existence of evidence upon which a reasonable juror could base his or her decision. Curcio v. Caterpillar, Inc., 255 S.C. 316, 585 S.E.2d 272 (2003). The judgment may be altered if no reasonable jury could reach the same result. Id. A jury's determination of damages must be given substantive deference with a motion for JNOV granted only if the evidence clearly shows the award was the result of passion, caprice, partiality, corruption, or other improper motive. Vinson v. Hartley, 324 S.C. 389, 477 S.E.2d 715 (1996) (citing Cock-n-Bull Steakhouse v. General Insurance, 466 S.E.2d 727 (1996)). See also Rush v. Blanchard, 310 S.C. 375, 426 S.E.2d 802 (1993) (trial judge is familiar with the evidentiary atmosphere and has discretion in determining reasonableness of jury's award in light of that atmosphere). As with a directed verdict motion, the analysis for a judgment notwithstanding the verdict is viewed in the light most favorable to the non-moving party. Jolly v. General Electric, 435 S.C. 607, 869 S.E.2d 819 (2021). The court must have a compelling reason to invade the jury's decision making as to damages. Todd v. Joyner, 385 S.C. 509, 685 S.E.2d 613 (Ct. App. 2008) (*aff'd as to other grounds appealed* 385 S.C. 421, 685 S.E.2d 421 (2009)).

Evidence of Damages

Based upon the testimony and evidence presented, the court finds that there is evidence of property damage and other injury to plaintiffs. Plaintiffs have certainly endured extreme emotional turmoil as evidenced by their testimony. The fact that the emotional turmoil is the overwhelming damage does not negate the evidence of physical injury accompanying the emotional shock and anguish.³ Each plaintiff presented evidence of counseling fees and sought treatment. The plaintiffs presented evidence of the \$2,400.00 rental fee charged by defendants.

Further, the plaintiffs testified as to the ongoing nature of the acts. The unknown locations of the videos, the unknown viewings without consent, the different dates of the actual

³ The court is not considering a separate injury for specific misappropriation of image or likeness beyond what was presented to the jury at trial.

capture of the videos and then the injury caused in the discovery of the videos. This type of ongoing injury certainly results in a greater compensatory amount if a jury finds there is an injury at all.

Negligence Per Se Based upon Realtor Protection Statute

Plaintiffs brought an action for negligence per se alleging that S.C. §40-57-20 regarding duties of real estate brokers, sales persons and property managers creates a standard and duty that was breached by defendants. Defendants point out that South Carolina has not applied this statute to short term rental activities such as those engaged in by defendants. Section 40-57-20 requires a property manager, realtor or real estate broker to have a valid license from the Real Estate Commission. Section 40-57-10 explains that the Real Estate Commission regulates the industry to protect the public when engaging in real estate transactions.

The evidence as presented at trial showed that Rhett Riviere formed limited liability corporations as a way of manages his estate and rented property regularly. At least one of the realtors who testified explained that she referred potential renters to defendant Riviere and he handled all of his rentals himself, including drafting any rental agreements. Nothing in the statute addresses whether rentals must be of a certain duration to trigger the statutory protection. Without such limitation, the court finds no reason this statute would not apply to these rentals. The statute itself indicates it is for the protection of the public.

The case law in South Carolina establishes a private cause of action for negligence per se due to a statutory violation when the statute creates such a cause or the legislative intent of the statute is to protect a specific class of persons. Doe v. Marion, 373 S.C. 390, 645 S.E.2d 245 (2007). General protection of the public does not create a private cause of action. Id. However, as discussed at length by our Supreme Court in Denson v. National Casualty Company, 429 S.C. 142, 886 S.E.2d 228 (2023), the inquiry as to a private cause of action created by the statute arises when there is no common law duty owed to the plaintiffs. In this case, there is a common law duty created from the special relationship of the parties as landlord and tenant. The statutory violation may be evidence of the breach of that common law duty and negligence per se.

Plaintiffs allege defendant did not receive licensing as a real estate broker or property manager in violation of S.C. Code §40-57-20 which reads:

It is unlawful for an individual to act as a real estate broker, real estate associate, or real estate property manager or to advertise or provide services as such with an active, valid license issued by the [South Carolina Real Estate Commission].

The real estate commission is created to protect the public in real estate transaction. S.C. Code §40-57-10. Chapter 57 of Title 40 gives an extensive listing of the requirements of licensed brokers, associates, and managers. Many of the provision deal with fair dealing, disclosures of relationships, and account management that are not applicable to the claims in this case. Several provisions relate to the requirement of periodic criminal background checks and review of trustworthiness and fair dealing by the commission in renewal of a license. 40-57-115, 40-57-135 (listing duties of property managers and supervised licensees 40-57-340 (conditions

of license renewal and criminal background checks required every three years)), 40-57-350 (defining broker duties to client and agency, including honesty and fair dealing), and 40-57-510 (property manager licensing includes a criminal background check and investigation). Article 7 of Chapter 57 in Title 40 details complaints and redress for violations of the chapter.

These code sections exempt owners of property offering services as long as the ownership interest and the owner are identical. Defendants have not raised ownership as a defense to any claim.

Although mere licensing does not give rise to a private cause of action, the statutory scheme outlined for the renewal of licenses, the review of grievances, the potential disciplinary action, and the requirements for supervision of licensees by others in the profession detail the protections statutorily afforded to buyers, sellers, and renters in the South Carolina real estate market. As renters, plaintiffs lie in the class to be protected by these code sections which begin with the requirement for licensing of the persons selling and/or leasing real property that is not held by them as identical owners of the property.

Trial evidence was presented that defendant owned the property in different entities and assisted in the renting of property he did not own prior to his mother's death. This is evidence of a violation of the statutory requirements of licensing with the ultimate goal of protecting the renters. We do not know what would have occurred if the real estate commission had investigated defendant Riviere as required in a licensed environment. We do not know what complaints would have been made if the defendant had been required to renew his license.

Intentional Infliction of Emotional Distress

Defendants moved for JNOV on the cause of Intentional Infliction of Emotional Distress, stating that the evidence did not support extreme or severe emotional distress. The court notes that both plaintiffs were very emotional during their testimony. Gabriel Crespo cried continuously. When questioned about the possibility of a John Doe filing, he staunchly defended his decision to confront Mr. Riviere directly. Heather Crespo, who is now employed in the medical field, detailed how she suspected she had a heart attack due to her extreme stress following her deposition testimony. Although that was due to the litigation process, her questioning in deposition was a product of the acts by defendants and result of recounting of the harm imposed by defendant's acts. As argued by the plaintiffs, the plaintiffs will never have full confidence of where their images are, who may watch them, and if they will ever be presented in a more public fashion. For these reasons, the court denies this motion and finds more than sufficient basis for the tort of intentional infliction of emotional distress upon which the jury awarded its verdict.

Verdict Form and Double Recovery/Confusion

The verdict form allowed for allocation of the verdict amounts by cause of action and also asked the jury to indicate the total amount of damages. The court agrees with defendants that the measure of damages for negligence and negligence per se are identical. However, the court disagrees that the verdict given is double recovery requiring an election of remedies.

It is clear the jury intended for a total amount of damages against the defendants to be \$11,000,000.00 against Rhett Riviere, \$500,000.00 as to Josee Riviere, \$1,000,000.00 as to Chase Enterprises, LLC, and \$1,000,000 as to R.C. Riviere Properties, LLC. Whatever confusion may have been present regarding damages for negligence and negligence per se, the intent of the total award is clear and does not require an election between the two. The court agrees with plaintiff that any further inquiry would have been appropriate at the time of the award and should not be disturbed now.

The total award was added at the request of defense counsel and this amount shows what the jury intended as the full damages. This court will not invade the province of the jury to abrogate that intent, a reasonable jury could have reached the challenged verdict. Gastineau v. Murphy, 331 S.C. 565, 503 S.E.2d 712 (1998) (finding the timeline of facts shown by the evidence did not support the whistleblower retaliation claim and award of damages therefrom). The total award, as given by the jury for negligence, negligence per se and the remaining tort actions, stands.⁴

III. Damages for SCUFTP and Constructive Fraud Must be Limited

The jury found each of the four defendants liable under the Unfair Trade Practices Act, S.C. Code §§ 39-5-10 to -160. Each defendant was found liable for \$500,000 for a total of \$2,000,000.

Any person who suffers from an unfair or deceptive act may bring an action to recover for actual damages. S.C. Code § 39-5-140(a). If the court finds that the unfair or deceptive method was willful or knowing, the court shall award three times the actual damages sustained and may provide such other relief as it deems necessary or proper. *Id.* § 140(a). Upon this finding, the court shall also award reasonable attorney's fees and costs. *Id.* Accordingly, the damages shall be reduced to the amount the Crespo's loss in accordance with the act, then trebled. Defense counsel has requested a separate hearing as to the reasonableness of requested attorney's fees. This action is distinguishable from the negligence and negligence per se actions because of the restricted amounts and the nature of the damages.

The court must construe the statute in the ordinary and plain meaning. State v. Morgan, 352 S.C. 359, 574 S.E.2d 203 (Ct. App. 2002). SC §39-5-140 provides that the claimant but have suffered an "ascertainable loss of money or property" due to the deception or unfair method, act or practice. Viewing the language of the SCUFTP and the progeny of cases pursuant to this act, the court finds that damages pursuant to that act are limited to the amount of the rental

⁴ Plaintiffs also argue that each tort does not have identical timelines and therefore may explain the differing amounts in the jury's awards. Furthermore, plaintiffs argue the intentional infliction is a continual harm from the date of discovery as the ultimate locations of the videos are unknown unless or until the defendant provides proof of such location. Plaintiffs allege there are multiple wrongs in the same set of facts as proven to the jury. This court is not guessing at the intent of the jury on either argument but relying upon the total as the jury found liability on each and every cause of action.

check; \$2,400.00 jointly. The specialized verdict form does allow us to determine that the jury did not follow the correct measure of damages in this cause of action.

Defense argues that even this finding is improper as no evidence was presented to indicate the value of a rental that does not have secret video recording devices in the bathroom that are pointed at the shower and in the bedroom directed on to the bed for night viewing. The court finds the jury had sufficient information to determine if there was any value to such a rental for the purposes of the SCUFTP. Two realtors testified in this trial, and it is of such common knowledge that living quarters do not normally have cameras to record private intimacies and nudity. The court finds a sufficient basis for the value of the rental.

In light of the evidence presented at trial and based upon the verdict of the jury, the court finds that defendants' violation of the SCUFTP is willful pursuant to the statute. S.C. § 39-5-140(d) defines a willful violation as one which the offender knew or should have known was a violation. As the jury found that defendants violated the statute with a deceptive or unfair practice, this court finds that defendants should have known of this deception. The trial testimony was that the camera was placed at or near a door to a room referred to as defendant Rhett Riviere's office. All evidence was that Rhett Riviere had full access to the property and managed the rentals. He was seen on video adjusting the cameras at other rental locations. There is no evidence of any other responsible person for the corporate entities.

Therefore, judgment shall be reduced to \$12,960.00, being three times, or treble, the \$2,400.00 rental cost and counseling fees as to Heather Crespo and \$7,575.00 as to Gabriel Crespo. Defendants' liability as to the damages is joint and several with Josee Riviere. Judgment of record shall not be altered until a separate hearing regarding the attorney's fees and costs is held and ruled upon.

Constructive Fraud

Similarly, a constructive fraud claim is limited to the difference in valuation of the product or item as bargained for. Sparrow v. Toyota of Florence, Inc., 302 S.C. 418, 422, 396 S.E.2d 645, 647 (Ct. App. 1990). The jury found Rhett Riviere liable for constructive fraud, with damages of \$500,000. This court struggles with the measure of damages in this context. Defendants continue to argue that plaintiffs failed to prove a negligent misrepresentation. The crux of this case is the fact that defendant did not disclose the cameras, the videos, or the use of videos across many devices and potentially platforms. What is the value of a rental without videos that may have been released to the broader internet community (presumably \$2,400.00) versus the value of a rental that does subject you to potential disclosure of sexual videos for the remainder of your life? The court finds it is reasonable for a jury to find that value is \$0.00 without specialized comparable evidence or testimony. If such testimony is required, the court points to the testimony of the other realtors who stated that it is not typical for a rental to have cameras such as these.

One of the problematic issues in the case is defendant Riviere's invocation of the Fifth Amendment. This court does not intend to criticize or punish Mr. Riviere for availing himself of that right. Neither can the court reward or further protect him when he does avail himself of that right. He must be responsible for weighing the consequences of that decision. One of the

consequences is that he did not answer questions directly, and the jury may make a negative inference as to his invocation of the Fifth Amendment in this court. Griffith v. Griffith, 332 S.C. 630, 641, 506 S.E.2d 526, 531-32 (Ct. App. 1998).

His answers may have assisted the jury in reaching a different conclusion. As things stand, the court finds that there was evidence upon which a jury could find a negligent misrepresentation in either the rental process and/or in the twenty years after this rental as to the existence and status of the recordings. The court must rely upon the jury to do its duty as the finder of fact.

As to damages, the court agrees that the measure of damages is the valuation of what was bargained for versus what was received pursuant to the fraudulent activity which is \$2,400.00. That portion of the verdict is reduced to \$2,400.00, as well, jointly and severally.

IV. Evidence Against Corporate Defendants

The court has considered the scant evidence regarding the corporate defendants. Most of the evidence provided at trial was presented through the testimony of defendant Rhett Riviere who pled 5th Amendment protections to each and every question. That line of questioning included questions about formation of the corporations, purpose of the corporations, and potential assets of the corporations.

Defendants appear to discount this testimony because it was given pursuant to an adverse witness, cross-examination. The court understands that defendant Rhett Riviere, individually and in his role for the corporations, would have liked to answer some questions and not others. The invocation of the 5th Amendment protection is his individual right. Invocation of that right has collateral consequences for him and the corporations as he was the officer and/or manager for those entities. Several witnesses testified regarding Rhett Riviere's multiple corporate entities for his business dealings. This motion is denied as evidence was presented to this jury.

V. Thirteenth Juror Doctrine

This court commends the jury in its deliberations and taking their role seriously. Given the analysis above and based upon the role of the jury, the court denies the requested Nisi Remittitur. This court will not invade the jury's role pursuant to the Thirteenth Juror Doctrine. As stated multiple times in trial, the court cannot change the conduct and its egregious nature. Given that conduct, the verdict is not excessive.

VI. Amended Verdict

The total verdict for each plaintiff was \$11,000,000.00 against Rhett Riviere, \$1,000,000.00 against Chase Enterprises LLC, and \$1,000,000.00 against R.C. Riviere Properties, LLC. Given the repeated conduct of defendants, the nature of the acts, and the potential for ongoing or future dissemination of the images, the court does not find these amounts to be excessive such to warrant further reduction other than the reduction required

pursuant to the SC Unfair Trade Practices Act and the appropriate measure of damages for constructive fraud.

The jury awarded each plaintiff \$500,000.00 against each defendant for Unfair Trade Practices violations. This verdict shall be amended to \$7,200.00 against each defendant, jointly and severally. The jury awarded \$500,000.00 against Rhett Riviere to each plaintiff. This verdict is amended to \$2,400.00 to the plaintiffs jointly.

The amount of reasonable attorney's fees and litigation costs pursuant to SCUTPA shall be determined by separate hearing. As this will affect the total judgment, judgment shall not be revised or amended in the records until the attorney's fees and costs hearing is held.

VII. Punitive Damages

Defendants also ask to reduce the punitive damages award to \$500,000.00 pursuant to SC § 15-32-510, et seq (1976). For the year 2024, this amount is adjusted for inflation to \$699,761.00. Punitive damages were heard in a bifurcated trial process pursuant to the defendants' election. The jury awarded punitive damages against defendant Rhett Riviere in the total amount of \$4,000,000.00, against Chase Enterprises, LLC, in the total amount of \$500,000.00 and against R.C. Riviere Properties, LLC, in the total amount of \$500,000.00 for each plaintiff. The total amounts of compensatory damages were \$11,000,000.00 against Rhett Riviere, \$1,000,000.00 against Chase Enterprises, LLC, and \$1,000,000.00 against R.C. Riviere Properties, LLC. As in the liability phase, the verdict form broke down the causes of action and defendants and asked the jury to determine a total amount of punitive damages owed by each defendant.

Defendants now seek to limit the award pursuant to S.C. Code §15-32-530 which provides that punitive damages are limited to the greater of three times the amount of compensatory damages or \$500,000.00 per defendant. The punitive damages award did not exceed this cap.

Furthermore, this statute contains several exceptions to the limitation. Section 15-32-530(B)(2) provides an exception to the limitation if the conduct could subject the defendant to a felony conviction. The conduct defendant Rhett Riviere is currently charged with is a misdemeanor. However, this repeated conduct could subject defendants to enhanced felony charges. Therefore, punitive damages as to Rhett Riviere are exempted based upon Section 15-32-530(b)(2) which limits punitive damages to the greater of no more than four times the amount of compensatory damages to each claimant (\$44,000,000.00 in this litigation) or the sum of two million dollars, without any inflation adjustment increase.

However, all limitations are removed pursuant to S.C. Code §15-32-530(c) if there is an intent to harm at the time of injury, a felony conviction for the same conduct, or acts and omissions committed while in a drunken state with substantial impairment. The jury found for plaintiffs for two intentional torts and awarded punitive damages for those causes of action. Therefore, this court finds that punitive damages are not limited pursuant to subsection c. The jury's punitive award stands.

Finally, the court must analyze the punitive damages in light of Gamble v. Stevenson, 305 S.C. 104, 406 S.E.2d 350 (1991), and BMW of North America, Inc. v. Gore, 517 U.S. 559, 116 S.Ct. 1589, 134 L.Ed.2d 809 (1996). The statutory provisions concerning punitive damages also provide for court review of any awards. These factors include: degree of culpability, duration of conduct, awareness or concealment, existence of similar past conduct, likelihood the award will deter, whether it is reasonably related to the harm, reprehensibility, disparity between actual and potential harm suffered, and the difference between the punitive award and civil penalties in other cases. Unfortunately, cases of this type are becoming more common as it is increasingly easier to record individuals without their knowledge and the storage and dissemination of recordings requires little effort or expense and can be highly lucrative. Rhett Riviere and his corporations have been found liable for unknowingly recording plaintiffs in extremely private situations. The reprehensible nature of this conduct is evident upon seeing the product of the conduct. Clearly, the plaintiffs did not know of the recordings and their testimony eloquently demonstrated the harm from that conduct.

Rhett Riviere was discovered peeping into windows and attempting to look at persons in private situations years before the first video is known to have been taken. His conduct of video recording occurred over decades. There is no evidence that any of the unknown persons recorded in bathrooms and bedrooms of places he rented ever consented to being recorded. The placement of the cameras shows that the cameras were in walls, behind curtains, and placed in corners of interior rooms. They could not be for security purposes. No explanation for the recordings was provided at trial. No theory of explanation was provided at trial. More than one video shows Mr. Riviere adjusting the cameras in a bedroom and a bathroom.

The only argument that could be seen in defendant's favor for reducing the award is whether the award is reasonably related to the harm. Defendants have looked to the limited medical bills and counseling bills to somehow limit the harm. However, the testimony of the plaintiffs explained how this invasion into their private lives affected their present and future, as well as tainted past memories. In this digital world, it is uncertain where these videos reside or if they will ever appear somewhere else.

There is no denying the reprehensible nature of defendants' conduct. As stated by the court in trial, the shocking and unnerving nature of these acts are the core of the litigation. The court cannot shelter the jury from the act that was done and cannot alter it to make it somehow easier to view when the act of invasion is itself the most disconcerting aspect. To see a nude statue purposely displayed in a museum or exhibit is a study of the body. To see a couple undress to shower without any indication of knowledge of an audience is something entirely different. This court finds that defendant's conduct was willful, wanton and in reckless disregard of each plaintiff's rights.

Therefore, this court finds that the punitive damages awards are appropriate under the *Gamble* and *Gore* factors.

IT IS SO ORDERED.

[Signature and Date Page to Follow]
Hon. Martha M. Rivers
Resident Judge, Seat No. 2



Aiken Common Pleas

Case Caption: Heather Crespo VS Rhett Riviere , defendant, et al

Case Number: 2022CP0202323

Type: Order/Form 4

IT IS SO ORDERED.

/s/ Hon. Martha M. Rivers (2788)