

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHESTER )  
 )  
Jai Anne Bullin as Guardian and )  
Conservator for Lillian Anne Brown )  
Rayfield (as incapacitated person). )  
 )  
Plaintiff. )  
 )  
vs. )  
 )  
Merri Rowe Thomas. )  
 )  
Defendant. )  
 )  
\_\_\_\_\_)  
 )  
Merri Rowe Thomas, )  
 )  
Third-Party Plaintiff, )  
 )  
vs. )  
 )  
Jai Anne Bullin, )  
 )  
Third-Party Defendant. )  
 )  
\_\_\_\_\_)

IN THE COURT OF COMMON PLEAS  
SIXTH JUDICIAL CIRCUIT  
CASE NUMBER: 2023-CP-12-00170

**ORDER**

**RECEIVED**  
**May 23 2025**  
**SC Court of Appeals**

**ORDER DENYING PLAINTIFF’S MOTION  
TO AMEND OR ALTER JUDGMENT**

This matter came before this Court on March 19, 2025, upon the *Motion to Amend or Alter Judgment* filed on March 3, 2025, by the Plaintiff, Jai Anne Bullin as Guardian and Conservator for Lillian Anne Brown Rayfield (as incapacitated person) (“Plaintiff”).

At the hearing of Plaintiff’s *Motion to Amend or Alter Judgment* (“Motion”), Plaintiff and her counsel, Thomas B. Roper, Esq., were present. The Defendant, Merri Rowe Thomas (“Defendant”), and her counsel, Chan M. Ahn, Esq., were also present at the hearing.

Prior to said hearing, counsel for Defendant filed a memorandum of law in opposition to Plaintiff's Motion<sup>1</sup>, to which Plaintiff did not respond in writing. The memorandum of law submitted by counsel for Defendant was based on extensive and in-depth legal research and analyses.

At the hearing, the merits of Plaintiff's Motion were hotly debated by the Parties' counsel.

Upon careful consideration of the procedural history of this case, along with the Parties' filings and oral arguments, and upon careful review of the applicable law in South Carolina, the Court finds as follows:

#### FACTS/PROCEDURAL HISTORY

This action was originally filed on September 7, 2017. In this action, Plaintiff alleges, *inter alia*, that Defendant, who is Plaintiff's own biological sister, engaged in such tortious conduct as exertion of undue influence over the Parties' biological mother to procure a quitclaim deed for certain tract of land located in Chester County, South Carolina.

On February 14, 2022, this case was called for trial after being placed upon this Court's Jury Roster for eleven (11) months or so. Prior to the trial and pursuant to this Court's instructions, Defendant timely filed and served multiple pretrial documents, including *Defendant's Pretrial Brief*, *Defendant's Motion in Limine*, *Defendant's Potential Trial Exhibits*, and *Defendant's Proposed Jury Instructions*. Additionally, Defendant served multiple requests for trial testimony and subpoenas upon several witnesses in preparation for the scheduled trial.

On the first day of the scheduled trial, Plaintiff did not appear in court. A lengthy discussion, *in camera*, about Plaintiff's absence in Court ensued. During this discussion, counsel

---

<sup>1</sup> *Defendant and Third-Party Plaintiff Merri Rowe Thomas's Reply in Opposition to Plaintiff's Motion to Alter or Amend Judgment* was filed with the Court on March 18, 2025.

for Plaintiff offered an explanation that Plaintiff's absence resulted from the Parties' mother's alleged injury and sudden illness of her two (2) caregivers. However, no evidence showing said injury or illness—such as medical records, physician letters, and Affidavits—was submitted.

Based upon Plaintiff's unexpected absence unsupported by documentary evidence, counsel for Defendant announced Defendant's intent to pursue an involuntary dismissal/non-suit, pursuant to Rule 41(b), SCRCP. Subsequently, counsel for the Parties explored at length the possibility of striking the case from any docket, pursuant to Rule 40(j), SCRCP, under certain conditions.

On February 15, 2022, the Court entered an *Order/Dismissal Rule 40J*<sup>2</sup>.

On March 31, 2023, upon Plaintiff's motion, the Court entered a *Form 4 Order* restoring this action under Rule 40(j), SCRCP.

On April 26, 2023, Defendant timely filed her *Answer* to Plaintiff's *Second Amended Complaint*, along with her Counterclaims against Plaintiff and Third-Party Claims against Third-Party Defendant Jai Anne Bullin ("Third-Party Defendant").

On June 26, 2023, Plaintiff and Third-Party Defendant filed their responses to Defendant's Counterclaims and Third-Party Claims.

Following these responses, neither Plaintiff nor Third-Party Defendant took any action regarding this action for over twenty (20) months<sup>3</sup>. In fact, both Plaintiff and Third-Party Defendant did absolutely nothing in connection with this action.

---

<sup>2</sup> This Order was partially amended on June 8, 2022.

<sup>3</sup> The Court record clearly shows that nothing was filed by either Plaintiff or Third-Party Defendant from June 27, 2023, through March 2, 2025. During this period, neither Plaintiff nor Third-Party Defendant engaged in discovery, settlement discussion, or any correspondence with Defendant or her counsel in connection with this action. At the hearing, the Civil Coordinator for the Chester County Clerk of Court informed the Court that multiple correspondence to Plaintiff's counsel for Plaintiff's action and/or status report failed to produce any response.

On February 21, 2025, the Court issued a *Form 4 Order* dismissing this case in its entirety for “[f]ailure to prosecute.”

On March 3, 2025, Plaintiff filed the Motion, challenging the validity of the Court’s decision to dismiss this case.

#### STANDARD OF REVIEW

Whether an action should be dismissed for failure to prosecute is left to the discretion of the trial court judge, and his decision will not be disturbed, except upon a clear showing of an abuse of discretion. *Small v. Mungo*, 254, S.C. 438, 442, 175 S.E.2d 802,804 (1970).

#### LAW/ANALYSIS

“The plaintiff has the burden of prosecuting her action, and the trial court may properly dismiss an action for plaintiff’s unreasonable neglect in proceeding with her cause.” *Don Shevey & Spires, Inc. v. Am. Motors Realty Corp.*, 279 S.C. 58, 60, 301 S.E.2d 757, 758 (1983). “This authority is necessary if the courts are to control and efficiently manage an ever-expanding docket.” *Id.* As the Supreme Court of South Carolina has emphasized, “[this Court’s] decision [to dismiss a case for failure to prosecute] will not be disturbed except upon a clear showing of an abuse of such discretion.” *Small, supra*, 254, S.C. at 442, 175 S.E.2d at 804 (emphasis added).

Here, the Motion relies on two (2) affidavits executed by Plaintiff’s attorney<sup>4</sup> and his Administrative Assistant. However, these affidavits fail to show that the Court abused its discretion in dismissing this case. They merely reference the *Notice of ADR* issued by this Court on or around November 29, 2023, without even attempting to explain how it tends to show that

---

<sup>4</sup> Notably, the affidavit of Plaintiff’s attorney (*Affidavit of Tomas B. Roper*) filed along with the Motion is not properly executed, lacking the affiant’s signature or a Notary Public’s verification. Based on such deficiency, Defendant’s counsel argued that this “affidavit” should be disregarded.

this Court abused its discretion. They are devoid of any facts relevant to any cogent argument regarding this Court's error or abuse of discretion. Neither the Motion nor the accompanying affidavits cite any legal authorities under which the Court's decision may be challenged. Because the Motion is devoid of any facts or law forming the basis for a challenge to the Court's prior ruling, it cannot show that the Court abused its discretion. Absent a clear showing of the Court's abuse of discretion, this Court's decision cannot and will not be disturbed. *See Small, supra*, 254, S.C. at 442, 175 S.E.2d at 804. Therefore, there is nothing to amend or alter.

Furthermore, the Motion is technically defective in that the Movant failed to comply with Rule 59(g), SCRPC, which provides that "[a] party filing a written motion under [Rule 59, SCRPC] shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion."

Based on the foregoing facts, procedural history, and legal authorities in South Carolina and upon careful consideration of the Parties' filings and oral arguments, the Court finds that the Motion is wholly without merit. Accordingly, the Motion must be **DENIED** in its entirety.

#### CONCLUSION

For the foregoing reasons, Plaintiff's *Motion to Amend or Alter Judgment* is hereby **DENIED**.

**IT IS SO ORDERED.**

**[ELECTRONIC SIGNATURE PAGE TO FOLLOW]**

Drafted and submitted by:

**AHN LAW FIRM, LLC**

/s/ Chan M. Ahn

Chan M. Ahn (SC Bar #102173)

chan@ahnlawfirmllc.com

54 Marina Road

Suite 105

Lake Wylie, SC 29710

Telephone: (803) 810-4373

***COUNSEL FOR DEFENDANT/  
THIRD-PARTY PLAINTIFF***