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Aug 08 2025

SC Court of Appeals

Karlen K. Senn
ATTORNEY AT LAW

(803) 626-9158 DIRECT
KARLEN@OSHEALAW.COM

August 8, 2025

VIA EMAIL

V. Claire Allen
Chief Deputy Clerk
The South Carolina Court of Appeals
P.O. Box 11629

Re: *Troyce Mack, Appellant, v. Gregory Parker, As Special Administrator of the Estate of David Joseph Rudd, and Delta Plumbing, LLC, Respondents*
Case No. 2025-001564
Our File No. 5026.0034

Dear Ms. Allen,

This letter is to notify the Court that Appellant received the transcript from the court reporter on July 21, 2025. Appellant has enclosed the email from the court reporter attaching the transcript of the proceeding. The Notice of Appeal was filed August 6, 2025, attached is the letter from SC Court of Appeals based on the correspondence from Appellant court, it is my calculation that Appellant's Initial Brief and Designation of Matter will be due on September 6, 2025. Please contact my office if I have calculated the date incorrectly.

With kind regards, I am

Sincerely,

Karlen K. Senn

/jma
Enclosures (as noted)
cc all counsel of record

O'Shea Law Firm, LLC

Locations: 1120 Folly Road, Charleston, SC 29412 | 1821 Hampton Street, Columbia, SC, 29201
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From: **Kiker, Abigail** <akiker@sccourts.org>
Date: Mon, Jul 21, 2025 at 11:31 AM
Subject: Re: Transcript request acceptance letter
To: Melissa Morris <melissa@oshealaw.com>

Good morning, I have completed the transcript requested, and I have attached it here as well as an updated invoice letter and a simple invoice. Since it is a very large file, I had some difficulty uploading it, so if you have any problems with it please let me know and I can look at other options to send it.

Thank you.

Abby Kiker, Stenographer
South Carolina Official Court Reporter II (Dorchester County)

The message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is privileged, confidential or otherwise exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message. If you have received this message in error, please contact me immediately and delete all copies of this message.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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August 08, 2025

Ms. Karlen Kay Senn, Esquire
1821 Hampton Street
Columbia SC 29201

Mr. Bradley Davis Hewett, Esquire
2010 Gadsden Street
Columbia SC 29201

Re: Troyce Mack v. Gregory Parker
Appellate Case No. 2025-001564

Dear Counsel:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals.



Melissa Morris <melissa@oshealaw.com>

Troyce Mack v. Gregory Parker

1 message

Heid, Emily <eheid@sccourts.org>

Fri, Aug 8, 2025 at 11:38 AM

To: "lrd@lylesfirm.com" <lrd@lylesfirm.com>, "trevorcangelosi@gmail.com" <trevorcangelosi@gmail.com>, "karlen@oshealaw.com" <karlen@oshealaw.com>, "brad@hdlawsc.com" <brad@hdlawsc.com>

Cc: "adb@lylesfirm.com" <adb@lylesfirm.com>, "melissa@oshealaw.com" <melissa@oshealaw.com>, "michelle@hdlawsc.com" <michelle@hdlawsc.com>

Good Morning,

Attached please find correspondence from the Court of Appeals.

Any parties not included in this email will receive the attached correspondence via US Mail.

Do not respond to this email. Send all correspondence to ctappfilings@sccourts.org.*Emily Heid*

Appeals Specialist I

South Carolina Court of Appeals

1220 Senate Street

Columbia, SC 29201

Ph: (803) 734-1890

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

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 **Mack v. Parker - Initial Letter.pdf**

204K

The order can be found at [www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02](http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02). Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

This is to advise that the title in the above matter has been changed to read as follows:

**Troyce Mack, Appellant,**

**v.**

**Gregory Parker, As Special Administrator of the Estate of David Joseph Rudd, and Delta Plumbing, LLC, Respondents.**

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

  
CLERK

cc: Lonnie Ray Doles, Jr., Esquire  
Trevor A. Cangelosi, Esquire

**RECEIVED**

**Aug 06 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable Marlon Kimpson, Circuit Court Judge

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Case No.: 2019-CP-40-02129

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Troyce Mack .....Appellant,

v.

Gregory Parker as Special Administrator for the Estate of David Joseph Rudd, and Delta  
Plumbing, LLC

.....Respondent.

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**NOTICE OF APPEAL**

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Pursuant to Rule 203 of the South Carolina Appellate Court Rules, Plaintiff Troyce Mack, (“Appellant”) hereby appeals the orders and decisions rendered during the trial of this matter, held from March 10, 2025 – March 13, 2025. Judgment on the jury verdict was entered by the Court on March 13, 2025. The Court’s Order denying post trial motions was entered on July 7, 2025. Appellant appeals the following:

1. Order granting Respondent’s pre-trial motion to allow evidence of Appellant’s traffic citation.
2. Decision by the Court to allow evidence of Appellant’s traffic citation and conviction, and to charge the jury regarding the Appellant’s traffic citation and conviction.
3. Decision by the Court allowing evidence from Respondents’ expert that was withheld by counsel for Respondents until the day it was shown to the jury.
4. Decision by the Court excluding character evidence and impeachment evidence of Meghan Stevens, a witness that testified at trial on behalf of Respondents.
5. Decision by the Court to deny a new trial after the Jury refused to award damages for pain and suffering and permanent disfigurement.

Respectfully Submitted,

By: s/Karlen K. Senn  
Karlen K. Senn  
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Bradley D. Hewett  
brad@hdlawsc.com  
S.C. Bar No. 77924  
Hewett & Diamaduros  
2010 Gadsden Street  
Columbia, SC 29201  
803-999-4372

Attorneys for Appellant

August 6, 2025

Other Counsel of Record:

Lonnie Doles  
Lyles & Associates, LLC  
1037 Chuck Dawley Blvd, Ste G-100  
Mount Pleasant, SC 29474  
843-577-7730  
lrd@lylesfirm.com

Attorneys for Respondent

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**Aug 06 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable Marlon Kimpson, Circuit Court Judge

Case No.: 2019-CP-40-02129

Appellate Case No.:

Troyce Mack .....Appellant,

v.

Gregory Parker as Special Administrator for the Estate of David Joseph Rudd, and Delta  
Plumbing, LLC

.....Respondent.

---

PROOF OF SERVICE

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The undersigned, attorneys in this matter for the Appellant, certifies that we have this 6<sup>th</sup> day of August 2025, served copies of the Notice of Appeal upon counsel of record for the Respondent by causing them to be deposited in the United States mail, first class postage paid addressed to Lonnie Ray. Doyles, Jr., Esq. Canegelosi & Associates Law Firm, LLC, 1037 Chuck Dawley Blvd, Suite G-100, Mt. Pleasant, SC 29464.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Troyce Mack,

Plaintiff,

vs.

Gregory Parker, As Special  
Administrator of the Estate of David  
Joseph Rudd and Delta Plumbing,  
LLC,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2019-CP-40-02129

ORDER ON POSTTRIAL MOTIONS

**RECEIVED**

**Aug 06 2025**

**SC Court of Appeals**

This matter was tried before a jury in Richland County beginning March 10, 2025 and ending March 13, 2025. The Plaintiff, Troyce Mack (Mack or Plaintiff), alleged that the deceased Defendant David Rudd (hereinafter Rudd or Defendant), negligently caused an automobile accident which resulted in injury.<sup>1</sup> Plaintiff also alleged that Defendant Rudd was an employee of Defendant Delta Plumbing and that Delta Plumbing was liable based on a theory of respondent superior. At the conclusion of the evidence, the jury returned a verdict finding Plaintiff and Defendant Rudd each 50% negligent for the accident and returned a total damages award of \$16,545.34.<sup>2</sup> The jury did not find that Rudd was acting within the scope of employment for Delta Plumbing and thus did not find Delta Plumbing to be liable in the matter. The Court allowed the parties ten (10) days to submit posttrial motions. The Plaintiff timely filed a Motion for New Trial Absolution and Motion for New Trial on March 21, 2025. Defendant

<sup>1</sup> As indicated by the caption, Gregory Parker served as the Special Administrator of the Estate of David Joseph Rudd was represented by Gregory Parker. Mr. Rudd was deposed prior to his death and portions of his videotaped deposition were shown to the jury.

<sup>2</sup> This amount represents damages for medical expenses of \$9,220.54, lost wages of \$5,584.80 and damages of \$1,740.00 for "loss of lifestyle."

Respectfully Submitted,

By: s/Karlen K. Senn  
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Attorneys for Appellant

August 6, 2025

Other Counsel of Record:

Lonnie Doles  
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lrd@lylesfirm.com

Attorneys for Respondent

Rudd filed a reply on March 25, 2025. The Court convened a hearing on June 2, 2025 at which time counsel for both parties appeared.

I. **Plaintiff's Motion for New Trial Absolute Based on Inadequacy of Damage Award**

Plaintiff argues that the jury's award of damages in this case was so inadequate that he should be allowed a new trial under the standard that the court "must grant a new trial absolute if the amount of the verdict is grossly inadequate or excessive so as to shock the conscience of the court and clearly indicates the figure reached was the result of passion, caprice, prejudice, partiality, corruption or some other improper motives." See *Howard v. Roberson*, 376 S.C. 143, 154, 654 S.E.2d 877, 883 (Ct. App. 2007). Plaintiff points to the evidence that he had a broken clavicle and some disfigurement as a result of the accident, as well as pain and suffering from his injuries. Using a verdict form that required an itemization of damages, the jury awarded Plaintiff zero dollars for these elements of his claim. Plaintiff asserts that his evidence of these damages was "uncontroverted and unopposed."

The Court declines to award a new trial based on the asserted ground for relief. Mr. Mack testified about the accident and his injuries in a thorough direct examination. The jury evaluated his testimony and reviewed the evidence introduced in support of his claim, to include a picture of the disfigurement to the clavicle area of his body. His wife also testified about Mr. Mack's injuries. Contrary to Plaintiff's assertions, however, there was evidence which challenged Plaintiff's damages. The defense conducted an extensive cross examination and elicited testimony from Plaintiff and his wife that Plaintiff's medical treatment was relatively limited, he recovered from his injuries quickly and, despite any lingering pain, Plaintiff was able to travel to New York relatively soon after the accident for a family trip. Moreover, the testimony established that Plaintiff has been able to resume many of the recreational activities engaged in prior to the accident. Finally, Plaintiff offered no testimony from any medical personnel regarding his injuries.

In *Chapman v. Upstate RV and Marine*, 364 S.C. 82, 610 S.E.2d 852 (Ct. App. 2005), the South Carolina Court of Appeals acknowledged the rule of law on new trials cited by Plaintiff but cautioned that "substantial deference should be given to a jury's determination of damages." This Court believes that the jury carefully evaluated the evidence before it and arrived at a

verdict that it believed was fair and just.<sup>3</sup> The Court will not invade the jury's province by granting a new trial because of the amount of the damage award.<sup>4</sup>

II. **Plaintiff's Motion for New Trial Based on Errors of Law.**

(a) **SC Code Ann. 56-5-6160**

Plaintiff argues that allowing the jury to hear that Plaintiff had been given a traffic ticket for "driving too fast for conditions" as a result of the accident and that he was subsequently convicted of this offense was an error of law that warrants a new trial. S.C. Code Ann. 56-5-6160 provides that "[n]o evidence of conviction of any person for any violation of this chapter shall be admissible in any court in any civil action." Nevertheless, in *Addyman v. Specialties of Greenville, Inc.*, 273 S.C. 342, 347, 257 S.E.2d 149, 151 (1979), where the Plaintiff was denied the ability to cross-examine a non-party driver of the at-fault vehicle about his traffic offense, our Supreme Court stated the following:

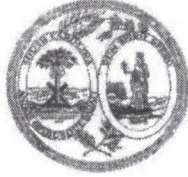
Appellant's exceptions specify error only in the lower court's refusal to allow introduction of the driver's plea to impeach his earlier testimony and do not contend for its admission as substantive evidence. In our view the literal language of s 56-5-6160 does not bar the use of this evidence to impeach the credibility of a witness, whether or not such witness is a party to the action.

Here, in a pretrial ruling on Plaintiff's Motion in Limine concerning Plaintiff's traffic offense, the Court excluded evidence of Plaintiff's traffic offense except for impeachment purposes. During trial, the Defendant raised the traffic conviction on cross examination for impeachment purposes and not as substantive evidence. Subsequently, during its deliberations, the jury asked to be reminded of the traffic conviction and the jury was brought into the courtroom for this purpose. At another session prompted by a subsequent question from the jury, the Court instructed the jury, at Plaintiff's request, that it was not to consider the traffic offense for any purpose other than its impact on Plaintiff's credibility. Given that Plaintiff's traffic

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<sup>3</sup> The jury was attentive throughout the presentation of evidence, arguments of counsel and jury instructions from the Court. The Court believes the jury fulfilled its responsibility to carefully weigh all of the evidence. There is simply no evidence that the jury was motivated by improper motive as suggested by Plaintiff or that it was confused in any way.

<sup>4</sup> Furthermore, the Court declines to order a new trial based on the Thirteenth Juror Doctrine. See *S.C. Highway Dep't v. Townsend*, 263 S.C. 253, 285, 217 S.E.2d 778, 781 (1975).



Richland Common Pleas

**Case Caption:** Troyce Mack vs John Doe , defendant, et al  
**Case Number:** 2019CP4002129  
**Type:** Order/Other

IT IS SO ORDERED.

s/Milton G. Kimpson 2783

conviction was used only for the purpose of impeachment, the Court declines to grant a new trial on this ground.

(b) Expert witness testimony.

The Plaintiff next argues that it was improper for the Court to allow Defendant's expert accident reconstructionist to use a corrected computer-aided design (CAD) as a demonstrative during his testimony when the corrected version of the CAD had not been disclosed to Plaintiff but a few minutes prior to the witness's testimony. The Plaintiff objected to the expert's use of this corrected demonstrative but the Court overruled the objection and gave Plaintiff a short period of time to review the demonstrative before testimony was allowed to proceed. As pointed out by the Defendant, however, the expert witness referenced this CAD during his testimony only for the amount of footage between the 45-mph traffic control sign and the accident site and he did not rely upon the CAD to establish the point of impact or the resting places of vehicles after impact. The witness relied much more heavily on a police video, which was consented to by both parties, to show the jury the basis of his calculations. Moreover, any errors in the original demonstrative were actually identified by Plaintiff in a pretrial deposition so the corrected version should not have been a surprise to the Plaintiff. Finally in this regard, the expert was subject to a thorough cross-examination exposing these issues and other perceived deficiencies in his testimony. Given the circumstances, the Court stands by its decision to allow use of the corrected CAD and does not believe the late disclosure of this demonstrative unduly prejudiced the Plaintiff.

**BASED ON THE FOREGOING**, the Plaintiff's Motion for New Trial Absolution and Motion for New Trial are DENIED.

AND IT IS SO ORDERED.

\_\_\_\_\_  
Honorable Milton G. Kimpson

\_\_\_\_\_, 2025

Columbia, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Troyce Mack,

Plaintiff,

vs.

Gregory Parker, As Special Administrator of  
the Estate of David Joseph Rudd, and Delta  
Plumbing, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

CIVIL ACTION NO.: 2019-CP-40-02129

**VERDICT FORM**

1. Was Defendant Rudd negligent?  
 : YES – Go to Question 2  
\_\_\_\_\_ : NO – Stop deliberations
2. Was Defendant Rudd's negligence a proximate cause of the Plaintiff's injuries?  
 : YES – Go to Question 3  
\_\_\_\_\_ : NO – Stop deliberations
3. Was the plaintiff negligent?  
 : YES – Go to Question 4  
\_\_\_\_\_ : NO – Go to Question 6
4. Was the Plaintiff's negligence a proximate cause of the Plaintiff's injuries?  
 : YES – Go to Question 5  
\_\_\_\_\_ : NO – Go to Question 6
5. Was the Plaintiff's negligence greater than fifty percent?  
\_\_\_\_\_ : YES – Stop deliberations  
 : NO – Go to Question 6
6. Was Defendant Rudd within the course and scope of his employment or agency for Defendant Delta Plumbing, LLC at the time of the collision?  
\_\_\_\_\_ : YES – Go to Question 7  
 : NO – Go to Question 10
7. Was Defendant Rudd an employee of Defendant Delta Plumbing, LLC?  
\_\_\_\_\_ : YES – Go to Question 9  
\_\_\_\_\_ : NO – Go to Question 8

RICHLAND COUNTY  
FILED  
2025 MAR 14 AM 9:00  
JEANETTE W. McBRIDE  
Clerk, S.C. J.C.P.

8. Was Defendant Delta Plumbing, LLC negligent in their hiring or supervision of Defendant Rudd relating to the collision?

\_\_\_\_\_ : YES – Go to Question 9

\_\_\_\_\_ : NO – Go to Question 10

9. Using the combined negligence that proximately caused the Plaintiff's injuries as one hundred percent (100%), what percentage of that negligence is attributable to the Plaintiff and what percentage is attributable to the Defendants? [The percentage must add up to 100%. If the Answer to Number 3 is NO, the amount for Plaintiff will be 0%.]

Plaintiff \_\_\_\_\_ %

Defendant Rudd \_\_\_\_\_ %

Defendant Delta Plumbing \_\_\_\_\_ %

Total \_\_\_\_\_ %

10. Using the combined negligence that proximately caused the Plaintiff's injuries as one hundred percent (100%), what percentage of that negligence is attributable to the Plaintiff and what percentage is attributable to the Defendant? [The percentage must add up to 100%. If the Answer to Number 3 is NO, the amount for Plaintiff will be 0%.]

Plaintiff 50 %

Defendant Rudd 50 %

Total 100 %

11. Please state the amount of damages, if any, sustained by the Plaintiff

Medical Expenses: \$ 9,220.54

Pain and Suffering: \$ 0

Loss of Enjoyment of Life: \$ 0

Alteration of Lifestyle: \$ 1,740.00

Lost Wages: \$ 5,584.80

Permanent Disfigurement: \$ 0

Mental Anguish: \$ 0

Total Damages: \$ 16,545.34

12. Did the Defendants act in a grossly negligent, willful, wanton, or reckless manner, by clear and convincing evidence?

: YES – Go to Question 13

: NO – Stop Deliberations

13. The amount of punitive damages that are appropriate and that have been proven by the greater weight of the evidence are:

\_\_\_\_\_

I certify that these are the unanimous decisions of the jury.

\_\_\_\_\_  
Jury Foreperson

March 13, 2025