THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Appellate Case No. 2025-001314

M. Edward Wilson, Jr., M.D., **Plaintiff/Respondent,**

v.

Marquee Limo Co., LLC and Paul Brown, **Defendants,**

of which Marquee Limo Co., LLC, is the Appellant.

RESPONDENT'S MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION

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I. Introduction

Appellant filed this Notice of Appeal on July 1, 2025 — 98 days after the Trial Court entered an Order denying Appellant's only timely post-trial motion. Therefore, pursuant to Rule 203(b)(1), SCACR and other law, Respondent respectfully asks this Court to **DISMISS** this appeal for lack of subject matter jurisdiction, as the time for filing the notice of appeal expired.

Respondent also asks this Court to stay his time for responding to Appellant's initial brief pending resolution of this Motion. Rule 240(b), SCACR.

II. Background

A. Trial

This matter arises from a verdict awarding Respondent M. Edward Wilson, Jr., M.D. (Dr. Wilson) actual damages for injuries he suffered when an SUV owned by Appellant Marquee Limo Co. struck him in a crosswalk in downtown Charleston.[1] Dr. Wilson settled with Marquee's liability insurance carrier pre-suit, then sought to recover from his underinsured carrier Progressive Northern Insurance Co. Unable to come to terms with Progressive, Dr. Wilson filed suit in the Charleston County Court of Common Pleas in July 2022.[2]

---

[1] Defendant Paul Brown was dismissed by stipulation of the parties. [Ex. 3 March 25 Order n. 1]

[2] Counsel for Progressive defended the matter pursuant to S.C. Code Ann. § 38-77-160. Therefore, Progressive is the real party in interest.

The case was tried March 17 through March 19, 2025, before the Hon. Judge Deadra L. Jefferson. The jury awarded Dr. Wilson $3,350,000.00 in actual damages. [Ex. 1, Verdict Form].

B. Post-Trial Motions Required Immediately After Verdict

The Trial Court required post-trial motions after the jury was discharged and made this clear to Appellant. [Ex. 2, Trial Transcript, p. 374, lines 17-25 - p. 375, line 1; Ex. 5 Order June 5 p. 2 n. 3]. Appellant moved for judgment notwithstanding the verdict (JNOV) pursuant to Rule 50, SCRCP. [*Id.* p. 375, lines 7-14]. On March 25, 2025, the Trial Court entered an Order denying Appellant's JNOV motion. [Ex. 3, March 25 Order].

Appellant did not file a Rule 59(e) motion to alter or amend that Order, nor did it notice an appeal within the required 30-day window. Rule 203(b)(1), SCACR.

C. Appellant's Second Post-Trial Motion Untimely

On March 28, in violation of the Trial Court's deadline for post-trial motions, Appellant filed a new post-trial motion seeking a new trial. [Ex. 4, Motion for a New Trial filed March 28]. For the first time Appellant argued the Trial Court improperly instructed the jury on speculative damages. It also asked the Court to act as the "13th juror", arguing the evidence did not justify the large verdict. [*Id*. at pp. 2-3].

On June 5, 2025, the Trial Court denied Appellant's new Motion for a New Trial as untimely, holding:

> Here, the Court required post-trial motions promptly after the verdict and the jury was discharged…To allow counsel to disregard the Court's ruling would be an open invitation to ignore the dictates of the rules and the Court.
>
> Given the Court's clear discretion and its requirement that post-trial motions be made immediately after the verdict and discharge of the jury, the Defense Motion for New Trial is not timely and is without merit and is therefore Denied.

[Ex. 5, p. 3 June 5 Order Denying Motion for a New Trial].

D. Notice of Appeal

On July 1, 2025, Appellant noticed its appeal, not of the March 25th Order, but of the June 5th Order and "from the verdict in Defendant/Respondent's favor of March 17, 2025."[3] On Jan. 5, 2026, Appellant filed its initial brief.

As to the March 25th Order denying JNOV, Appellant does not appeal it, cite it, nor even include it in the designation of matter.

The appeal focuses only on the merits of Appellant's untimely second Motion for a New Trial. Appellant does not appeal the Trial Court's holding that the second motion was untimely.

---

[3] The verdict was in **Plaintiff**/Respondent's favor.

III. Argument

A. Untimely Appeal Means No Subject Matter Jurisdiction

A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. Rule 203(b)(1), SCACR. It is well-established that the failure of a party to serve a notice of appeal within 30 days "divests this court of subject matter jurisdiction and results in dismissal of the appeal." *USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 651, 661 S.E.2d 791, 795 (2008) (internal citations omitted). "The requirement of service of the notice of appeal is jurisdictional, *i.e.,* if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice." *Id.*, *quoting Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004). The Supreme Court recently reaffirmed its holdings in *Elam* in *Swing v. Swing*, 445 S.C. 340, 352, 914 S.E.2d 158, 165 (2025).

As the Supreme Court reiterated, "[t]he word 'timely' in Rules 203(b)(1) and 59(f) applies to other post-trial motions in which the timing deadline requires when the motion must be 'made.'" *Swing*, 445 S.C. at 347, 914 S.E.2d at 162, n. 2.

While the Supreme Court has recognized the need to avoid setting time "traps" for earnest but unwitting litigants, it also has historically emphasized the

importance of limiting the time for appeal. "Allowing subsequent motions to repeatedly toll the filing period for a notice of appeal would encourage frivolous motions and undermine a fundamental canon of our legal system, to promote the finality of judgments." *Swing*, 445 S.C. at 345, 914 S.E.2d at 161, *quoting Glinka v. Maytag Corp.*, 90 F.3d 72, 74 (2d Cir. 1996). *Cf. Elam*, 361 S.C. at 25, 602 S.E.2d at 780 ("[C]ivil procedure and appellate rules should not be...interpreted to create a trap for the unwary lawyer...."), *and Elam*, 361 S.C. at 23, 602 S.E.2d at 779-80 (2004) ("Issues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court.").

B. Time For Appeal Expired April 25, 2025

Here, there is no "trap" for an earnest but unwitting litigant. The Trial Court has broad discretion to set deadlines for post-trial motions. Post-trial motions such as JNOV or 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." Rules 50(e) and 59(b), SCRCP. (Emphasis added).

The timeline is clear:

- **March 19:** Verdict for Plaintiff/Respondent. Jury discharged. Trial Court requires all post-trial motions **at this time**. Appellant moves for JNOV.
- **March 25**: Trial Court enters written Order denying motion for JNOV. No Rule 59(e) motion to alter/amend or notice of appeal from this Order.
- **March 28**: Appellant files new post-trial motion, this time seeking a new trial.

- **June 5**: Trial Court enters Order denying motion for new trial as "untimely" because it was filed after the deadline for post-trial motions.

- **July 1**: Appellant notices appeal of "verdict" and Order denying untimely March 28 post-trial motion.

In accordance with the Trial Court's clear instructions at the conclusion of trial, Appellant's only timely post-trial motion was for JNOV. [Ex. 2, Trial Transcript, p. 374, lines 17-25 - p. 375, line 1; Ex. 5, Order June 5 p. 2 n. 3].

After the Trial Court denied JNOV in its written Order of March 25, Appellant chose not to file a Rule 59(e) motion to alter or amend the Order. Nor did Appellant appeal the Order within 30 days as Rule 203(b)(1), SCACR, requires.

Instead, Appellant chose to file a second motion in violation of the Trial Court's ruling that all post-trial motions be made immediately after the jury was discharged. [Ex. 2, Trial Transcript pp. 374, lines 17-25 — 375, line 1]. Not surprisingly, the Trial Court issued an Order dismissing that second motion for a new trial as "untimely" and held that "[t]o allow counsel to disregard the Court's ruling would be an open invitation to ignore the dictates of the rules and the Court." [Ex. 5, June 5 Order, p. 3].

The Trial Court did not address the merits of the second motion, and Appellant did not file a Rule 59(e) motion asking it to do so.

Critically, Appellant has not raised as error the Trial Court's holding that the second motion was untimely. Therefore, as a matter of law, that Order is not subject to appeal.

The only appealable Order was the March 25 denial of Appellant's initial post-trial motion for JNOV. Because the 30-day window to appeal that Order expired April 25, 2025, this Court lacks subject matter jurisdiction.

IV. Conclusion

When it comes to appeals and this Court's subject matter jurisdiction, timing deadlines matter. Pursuant to Rule 203(b)(1), SCACR and for the reasons set forth above, this Court has no subject matter jurisdiction. The appeal should be DISMISSED.

Respondent also asks this Court to stay the time for filing his reply to Appellant's initial brief, pending resolution of this motion. Rule 240(b), SCACR.

Respectfully submitted,
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List of Exhibits

Exhibit 1: Verdict Form

Exhibit 2: Trial Transcript pp. 374-376

Exhibit 3: Trial Court's March 25 Order denying JNOV

Exhibit 4: Appellant's March 28 Motion for a New Trial

Exhibit 5: Trial Court's June 5 Order denying Motion for a New Trial as untimely

Exhibit 1
March 19, 2025
Verdict Form

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON M. Edward Wilson, Jr., MD Plaintiff, vs. Marquee Limo Co., LLC, Defendant.	IN THE COURT OF COMMON PLEAS OF THE NINTH JUDICIAL CIRCUIT Case No. 2022-CP-10-02743 **VERDICT**

1. ___We, the jury, unanimously find for the Plaintiff in the amount of $ 3,350,000 (dollars) actual damages.

Please sign and date.

Foreperson

March 19, 2025

Please notify Bailiff(s) when you have completed your deliberations.

Exhibit 2
Trial Transcript
pp. 374-376

sense impression of how they can do things just a little bit better or just to get your perspective. You're welcome to discuss the case if you would like.

By the same token, you do not have to discuss the case. Is someone should exceed your comfort level, please, contact the clerk's office so that we can take the appropriate action to protect your privacy.

Hopefully, y'all have a wonderful rest of the week. You're excused with the Court's profound thanks. I'll turn you over to the hands of the bailiffs. The clerk will be down shortly with your work excuses.

(WHEREUPON, the jury exits the courtroom at 4:02 p.m.)

THE COURT: Are there any posttrial motions from the Plaintiff?

MR. ALLISON: No, Your Honor.

THE COURT: Any posttrial motions for the Defense?

MR. CRUDUP: Your Honor, the Defense would ask for 10 days.

THE COURT: I don't do that. I'm not going to remember this in ten days and I'm not going to get a transcript and read it. I'm going to be on to something else. I've got trials every week after this. I'm not going to remember it. I find that there's no time like the present for your benefit and really, quite selfishly, for mine.

So if you would like to make your motion, I'd like to

hear it so I can go ahead and rule on it. And if you want to appeal it, go ahead and you won't be held up for another -- you know, it's an electronic record, so they're going to have to send it to court administration and have somebody else transcribe it. That could take another who knows how long.

MR. CRUDUP: At this time, the Defendant would move a judgment notwithstanding the verdict. The verdict, which was $3,350,000, I believe -- the Defense does not believe the Plaintiff's evidence justifies that. The verdict doesn't seem to be tied to anything in particular. So for those reasons, Your Honor, and for all the other objections we made, we would ask for a judgment notwithstanding the verdict.

THE COURT: Would the Plaintiff like to respond?

MR. ALLISON: Yes, Your Honor, I would. First of all, in regards to whether or not there is any particular rhyme or reason to the verdict, the verdict form asked for actual damages as a whole. It did not break out between economic and noneconomic damages. We presented evidence that would show that Dr. Wilson's likely lost future wages would exceed $3,200,000. We, also, presented evidence from which the jury could determine that his actual non-economic damages exceeded $3,350,000.

So between those two categories of damages, economic

and non-economic, there was sufficient evidence presented to this jury for them to make a reasonable determination that Dr. Wilson's actual damages, economic and non-economic, was $3,350,000. And I, also, heard no objections to the verdict form or to any of the evidence of which they made their decision.

THE COURT: Would you like to respond, Mr. Crudup?

MR. CRUDUP: No, Your Honor.

THE COURT: Is the Defendant entitled to any level of setoff from anything? I wasn't sure and I meant to ask that earlier.

MR. CRUDUP: Yes, Your Honor, there was $1.5 million in liability.

THE COURT: So y'all are entitled to setoff of 1.5?

MR. CRUDUP: That's correct, Your Honor.

THE COURT: I would assume then, I need to include that on the verdict form -- I mean, on the -- it needs to be reflected in a Form 4 in the entry of judgment?

MR. CRUDUP: Yes, I believe so.

I assume you have no objection and do not contest the amount of setoff?

MR. ALLISON: No, Your Honor, not at all.

THE COURT: In considering a motion for judgment notwithstanding the verdict, the Court must employ the same standard as it would have on directed verdict. That means

Exhibit 3
March 25, 2025
Order Denying JNOV

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE 9th JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	
)	CASE NO.: 2022-CP-10-02743
M. Edward Wilson Jr.,)	
)	
)	**ORDER**
Plaintiffs,)	
v)	
)	
Marquee Limo Co., LLC,)	
)	
Defendant.)	
)	

Presiding Judge:	Hon. Deadra L. Jefferson
Plaintiff's Attorney:	Ellis I. Kahn, Esq. Wes B. Allison, Esq.
Defendant's Attorney:	Jeffrey M. Crudup, Esq. Renate Hohman, Esq.
Date of Hearing:	March 17-19, 2025
Court Reporter:	Maria-Emanuel Klein

This Personal Injury case came before the Court for a jury trial on March 17-March 19, 2025.Representing the Plaintiff was Ellis I. Kahn, Esq. and Wes B. Allison, Esq. Representing the Defendants was Jeffrey M. Crudup, Esq. and Renate Hohman, Esq. All issues have been tried and a verdict rendered in favor of the Plaintiff in the amount of Three Million Three Hundred Fifty and 00/100 ($3,350,000.00) Dollars in Actual Damages. The Defendant is entitled to a setoff of One Million Five Hundred and 00/100 ($1,500,000.00) Dollars. Judgment is entered in favor of the Plaintiff against the Defendant Marquee Limo Co., LLC[1] in the amount of One Million Eight Hundred Fifty and 00/100 ($1,850,000) Dollars.[2]

The Court required post-trial motions. The Defendant made a motion pursuant to Rule 50(b), SCRCP for JNOV.

The South Carolina Supreme Court has ruled, "[i]n deciding motions for a directed verdict or judgment notwithstanding the verdict, the trial judge must consider the evidence in the light most favorable to the nonmoving party. If only one reasonable inference can

[1] The Defendant Paul Brown was dismissed as a party by stipulation.

[2] The Plaintiff withdrew his request for punitive damages at the close of his case.

be drawn from the evidence, the motion must be granted." Brady Dev. Co, Inc. v. Town of Hilton Head Island, S.C. 73 (1993). See Sorin Equipment v. The Firm, 323 S.C. 359 474 S.E.2d 819 (Ct. App. 1996). "The jury's verdict must be upheld if there is any evidence to sustain the factual findings implicit in the verdict." see also Garrison v. Target, 429 S.C. 324 838 S.E.2d 18 (Ct. App. 2020). "A Motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict." The Winthrop Univ. Trustees for the State v. Pickens Roofing & Sheet Metals, Inc., 418 S.C. 142, 161, 791 S.E.2d 152, 162 (Ct. App. 2016), reh'g denied (Oct. 21, 2016).

The Court finds that the evidence presented, in the light most favorable to the nonmoving party was susceptible of more than one inference and the grant JNOV is not supported by the record. Moreover, there is more than ample evidence to sustain the factual findings implicit within the jury's verdict. The Court further finds that there is no support that no reasonable jury could have reached the challenged verdict. Moreover, the Court finds that the verdict was not actuated by passion, caprice or prejudice. The jury gave careful deliberation to the issues before it and deliberated for three (3) hours. The Motion was heard and the Court also made contemporaneous findings of fact and conclusions of law for the record which are incorporated in this Order as if stated verbatim.

Based on the foregoing; Defendant's Motion for Judgment Notwithstanding the Verdict is heard and respectfully DENIED.

_____

Hon. Deadra L. Jefferson
Presiding Judge
Ninth Circuit Court

_____,2025
Charleston, South Carolina

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022 **CP-**10-02743

M. Edward Wilson Jr
PLAINTIFF(S)

Marquee Limo Co., LLC
DEFENDANT(S)

Submitted by:	**Attorney for :** ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☒ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	**Judgment Against (List name(s) below)**	**Judgment Amount To be Enrolled (List amount(s) below)**
M. Edward Wilson Jr	Marquee Limo Co., LLC	$1,850,000
		$
		$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest

or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge	**Judge Code**	**Date**

For Clerk of Court Office Use Only

This judgment was entered on the day of , 20 and a copy mailed first class or placed in the appropriate attorney's box on this day of , 20 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)	**ATTORNEY(S) FOR THE DEFENDANT(S)**
	CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Charleston Common Pleas

Case Caption: M Edward Wilson Jr VS Paul Brown , defendant, et al

Case Number: 2022CP1002743

Type: Order/Judgment and Form 4

IT IS SO ORDERED.

s/D.L. Jefferson Ninth Judicial Circuit Judge 2128

Exhibit 4
March 28, 2025
Appellant's Motion for New Trial

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2022-CP-10-02743
	)	
M. Edward Wilson, Jr., M.D.,	)	
	)	
Plaintiff,	)	
vs.	)	**MOTION FOR A NEW TRIAL**
	)	
Marquee Limo Co., LLC and Paul Brown,	)	
	)	
Defendants.	)	
	)	
	)	

PLEASE TAKE NOTICE that Defendants, Marquee Limo Co., LLC and Paul Brown (hereinafter "Defendants"), by and through their undersigned attorney, moves this Court for a New Trial pursuant to Rule 59 of the South Carolian Rules of Civil Procedure.

Defendants move on the grounds that this Court improperly instructed the jury on speculative damages and the requirements that damages be ascertainable with a reasonable degree of certainty.

Plaintiff brought a lawsuit against Defendants for a motor vehicle accident that occurred on April 12, 2021. As a result of the accident, Plaintiff alleged he incurred $85,186.01 in medical bills. Plaintiff also presented a loss of earning capacity report produced by Dr. Wood. Dr. Wood's opinions are based on Plaintiff's claim his career was shortened by ten years and that he will retire on December 31, 2025. Further, Dr. Wood's included costs related to the care of Plaintiff's disabled son. Ultimately, Dr. Wood's opinion is that Plaintiff had $3,311,649.00 in loss of earning capacity and child care.

This matter was tried to a jury verdict between March 17, 2025, and March 19, 2025. The jury found Defendants liable to Plaintiff for $3,350,000.00. At the time of trial, Plaintiff was 70

years old. He presented no expert evidence supporting his position that he was likely to continue working as a pediatric ophthalmologist until he was at least 80. If Plaintiff's damages were taken as presented, he had incurred $3,396,835.01 in past and future economic damages. This exceeded the award before the inclusion of any non-economic damages.

Plaintiff cannot recover damages that are conjectural or speculative. *See Smith v. Wells*, 258 S.C. 316, 188 S.E.2d 470 (1972) (only such future or prospective damages may be recovered as the evidence renders it reasonably certain will of necessity result from the alleged injury) and *Ford v. A.A.A. Hwy. Express, Inc.*, 204 S.C. 433, 29 S.E.2d 760 (1944)(future or prospective damages must be confined to such as evidence renders it reasonably certain will result from original injury).

The majority of Plaintiff's damages hinge upon his allegedly shortened career. He claimed debilitating injuries that will force him to retire on December 31, 2025. If the Jury accepts this claim, then Plaintiff's award should have been higher. On the other hand, if the jury did not believe Plaintiff's injuries were severe enough to shorten his career, the economic damages presented in Dr. Wood's report are not supported, and Plaintiff's award should be substantially lower. Therefore, the only logical conclusion must be that the jury's award was based on speculation and not reasonably ascertainable damages.

Finally, during closing arguments, Plaintiff's counsel objected to Defendant's counsel referring to the annual net income of Defendant Marquee. This evidence was already in the record without objection as it was elicited from Defendant Marquee's representative. However, during the objection, Plaintiff's counsel argued Defendant Marquee's ability to pay was not relevant as Plaintiff has dismissed his claims for punitive damages. The objection was sustained.

This objection was improperly sustained for two reasons. First, this argument was based upon evidence already in the record. For the entirety of the trial, Plaintiff's counsel sought punitive damages and examined Defendants and witnesses on issues related only to punitive damages. In fact, at least one witness was proffered almost solely on the issue of punitive damage despite liability being admitted. As such, Defendant had the right to address these allegations even if Plaintiff chose to drop his claim for punitive damages just before closing arguments. Second, Defendant's annual net income was already evidence in the record. As such, Defendant was free to reference that evidence. Importantly, as argued at the time of the objection, this information was *not* being offered to address an ability to pay. Instead, it was being offered as a real life foundation upon which the jury might reasonably reach a fair verdict. This was no different than Plaintiff suggesting a *per diem* amount of damages based on Defendant's rates of service – something Plaintiff's counsel did both in opening and closing arguments. Both methods are tied to Defendant's monetary income, but neither were offered to suggest Defendant's ability to pay was a consideration for the jury. As such, this objection was improperly sustained.

Based on the foregoing facts, Defendants request a new trial absolute because under the "thirteenth juror" doctrine, the evidence does not justify the jury's verdict. The trial judge has the thirteenth juror authority to see that justice is done in every case. *Rock Smith Chevrolet, Inc. v. Smith*, 309 S.C. 91, 419 S.E.2d 841 (Ct. App. 1992). Under that doctrine, a trial judge may grant a new trial absolute when he finds the evidence does not justify the jury's verdict. This ruling has also been termed as granting a new trial upon the facts. *See Gastoneau v. Murphy*, 323 S.C. 168, 473 S.E.2d 819 (Ct. App. 1996).

This 28th day of March, 2025.

Respectively Submitted,

CLARKSON, WALSH, & COULTER, P.A.,

s/ Jeffrey Crudup
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Counsel for Progressive Northern Insurance Company as UIM carrier pursuant to S.C. Code § 38-77-160

Exhibit 5
June 5, 2025
Order Denying Motion for New Trial

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE 9th JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2022-CP-10-02743
M. Edward Wilson Jr.,	)	
	)	
	)	**ORDER ON DEFENDANT'S**
Plaintiffs,	)	**MOTION FOR NEW TRIAL**
v	)	
	)	
Marquee Limo Co., LLC,	)	
	)	
Defendant.	)	
	)	

Presiding Judge:	Hon. Deadra L. Jefferson
Plaintiff's Attorney:	Ellis I. Kahn, Esq. Wes B. Allison, Esq.
Defendant's Attorney:	Jeffrey M. Crudup, Esq. Renate Hohman, Esq.
Date of Hearing:	March 17-19, 2025
Court Reporter:	Maria Klein, DCRP

THIS MATTER comes before the Court on Defendant's Motion for New Trial, filed with the Charleston County Clerk of Court on March 28, 2025, it was received by the Court on March 28, 2025. A jury trial was held from March 17, 2025 until March 19, 2025 at which time a verdict was rendered in favor of the Plaintiff in the amount of Three Million Three Hundred Fifty and 00/100 ($3,350,000.00) Dollars in Actual Damages. The Defendant was entitled to a setoff of One Million Five Hundred and 00/100 ($1,500,000.00) Dollars. Judgment is entered in favor of the Plaintiff against the Defendant Marquee Limo Co., LLC[1] in the amount of One Million Eight Hundred Fifty and 00/100 ($1,850,000) Dollars.[2] Representing the Plaintiff at trial was Ellis I. Kahn, Esq. and Wes B. Allison, Esq. Representing the Defendants was Jeffrey M. Crudup, Esq. and Renate Hohman, Esq.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plaintiff brought a lawsuit against Defendants for a motor vehicle pedestrian accident that occurred on April 12, 2021. Plaintiff was injured when a Ford Expedition owned and operated by the

[1] The parties, by stipulation, dismissed Defendant Paul Brown as a party on March 17, 2025 at the close of the Plaintiff's case. .

[2] The Plaintiff withdrew his request for punitive damages at the close of his case.

Defendant, Marquee Limo Co., LLC, struck him in a crosswalk near the Medical University of South Carolina.

Promptly after the verdict and discharge of the jury, the Court required that all post-trial motions be made at that time. The Plaintiff made no post-trial motions. Defendant requested ten (10) days to make post-trial motions. That request was heard and respectfully denied by this Court.[3] The Defense did not object. Defense Counsel then moved for Judgment Notwithstanding the Verdict pursuant to Rule 50, SCRCP. Defense Counsel presented their basis for the motion, and it was denied by this Court. The Court issued its Order denying the Motion for JNOV and entering judgment on March 25, 2025.[4] The Court's instructions to Counsel were clear that it was requiring all post-trial motions be argued in full or the Court would consider them waived.

Defendant moves this Court for a new trial pursuant to Rule 59, SCRCP, on grounds this Court "improperly instructed the jury on speculative damages and the requirements that damages be ascertainable with a reasonable degree of certainty." (Defense Motion pg. 1). The motion asks this Court to act as the "13th juror" because the verdict is not justified by the evidence.[5] However, this Court notes that Defense counsel failed to make a contemporaneous objection preserving the issue now raised. A charge conference was held and no objections were interposed to the Court's instructions. Additionally, no contemporaneous objections were made at the close of the Court's instructions to the jury after the Court's inquiry regarding same. Any contemporaneous objections made were heard and ruled on by the Court, are reflected in the trial transcript, and preserved for appellate review. Creech v. South Carolina

[3] The Court, very clearly, advised Defense Counsel that it was requiring that all post-trial motions be made promptly after the verdict and discharge of the jury. The Court also clearly articulated and provided the basis for the requirement and its preference.

[4] The Court denied the Motion for JNOV on March 19, 2025, and made contemporaneous findings of fact and conclusions of law which were incorporated in the written Order as if stated verbatim.

[5] While this motion is postured as one for a New Trial pursuant to Rule 59, SCRCP, the arguments made simply mirror the arguments made by the Defense in support of its original motion for JNOV.

Wildlife and Marine Resources Dept., 328 S.C. 24, 491 S.E.2d 571 (1997). Post-trial motions are not necessary to preserve issues that have been ruled upon at trial. Bailey v. Segars, 346 S.C. 359, 550 S.E.2d 910 (Ct. App. 2001).

Under Rule 59(b), SCRCP, 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. "In jury trials, post-trial motions are made promptly at the end of the trial, or at the time the court, upon motion, may grant an additional ten days to make them." Boone v. Goodwin, 314 S.C. 374, 444 S.E.2d 524 (1994).

Here, the Court required post-trial motions promptly after the verdict and the jury was discharged. Thereafter, the Defense request for an additional ten (10) days for filing Motions after the verdict was returned was denied. To allow counsel to disregard the Court's ruling would be an open invitation to ignore the dictates of the rules and the Court.

Given the Court's clear discretion and its requirement that post-trial motions be made immediately after the verdict and discharge of the jury, the Defense Motion for New Trial is not timely and is without merit and is therefore Denied.

IT IS SO ORDERED.

_____
Hon. Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

June 4, 2025
Charleston, South Carolina

Charleston Common Pleas

Case Caption: M Edward Wilson Jr VS Paul Brown , defendant, et al

Case Number: 2022CP1002743

Type: Order/Other

IT IS SO ORDERED.

s/D.L. Jefferson Ninth Judicial Circuit Judge 2128

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Appellate Case No. 2025-001314

M. Edward Wilson, Jr., M.D., **Plaintiff/Respondent,**

v.

Marquee Limo Co., LLC and Paul Brown, **Defendants,**

of which Marquee Limo Co., LLC, is the Appellant.

PROOF OF SERVICE

The undersigned attorneys hereby certify that a copy of Respondent's Motion to Dismiss for Lack of Subject Matter Jurisdiction in the above-referenced case has been served on counsel of record by electronic delivery, as set forth below:

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RESPECTFULLY SUBMITTED
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