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SC Court of Appeals

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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

Beaufort
COUNTY OF ~~JASPER~~ | FOURTEENTH JUDICIAL CIRCUIT

JERRI ANN
BEAUFORT
CLERK

Tony Williams, Plaintiff, v. Lowe's Home Centers, LLC, and Andrew Melling, Defendants.

C.A. No. 2025-CP-07-01666

PLAINTIFF'S AMENDED MOTION TO ALTER OR AMEND JUDGMENT (RULE 59(e))

TO VACATE VOID ORDER BASED ON PROCEDURAL FRAUD,
IRREDEMIABLE CONFLICT, AND MANIFEST ERROR OF LAW

TO THE HONORABLE JOCELYN NEWMAN, PRESIDING JUDGE:

Plaintiff, Tony Williams, Pro Se, respectfully moves this Court pursuant to **Rule 59(e), SCRPC**, to Alter or Amend the Order of Dismissal entered on **December 17, 2025**. This motion is filed to correct manifest errors of law, address a fraud upon the record, and **preserve all issues for appellate review** under the South Carolina Rules of Appellate Procedure.

I. THE ORDER IS VOID UNDER THE RULE 55 PROCEDURAL BAR

The Court's Order grants a Rule 12(b)(6) dismissal to Defendant **Andrew Melling**, despite his status as a **Defaulted Defendant** since September 10, 2025.

- **Controlling Precedent:** Per *Stono River EDC, LLC v. HMB Investments, LLC*, 396 S.C. 330 (2012), a party in default **waives the right to contest the merits** of the complaint.
- **Manifest Error:** The Court lacks the authority to grant a "merits-based" defense to a party who has judicially admitted the facts via Default. The Default is the superseding procedural fact.

II. IRREDEMIABLE CONFLICT: THE 2023 LITIGATION & RULE 1.7

The Court erred by signing an order drafted by Counsel who is ethically barred from representation.

- **The Personal Animosity:** Mr. Melling is a named Defendant in an active, separate litigation filed by Plaintiff (**Case No. 2023-CP-07-01623**).

- **Material Limitation:** Under **Rule 1.7, SCRPC**, Melling's professional judgment is "materially limited" by his personal interest in defending himself against the same Plaintiff in multiple forums. This conflict is non-waivable and explains the "loose game" tactics and extrajudicial intimidation.

III. VICARIOUS LIABILITY AND THE FAILURE OF "ABSOLUTE PRIVILEGE"

The Order erroneously dismisses claims of **Abuse of Process, Defamation, and Intentional Infliction of Emotional Distress (IIED)**.

1. **Respondent Superior:** Defendant Lowe's is vicariously liable for the tortious acts of its agent, Melling. Retaining a defaulted and conflicted attorney constitutes ratification of his conduct.
2. **The Privilege Exception:** Defendants' reliance on "Absolute Privilege" is a manifest error. As held in **Gaar v. North Myrtle Beach Realty Co.**, 287 S.C. 525 (1985), privilege does not protect an attorney from **Abuse of Process**—specifically, the use of legal procedures (like "Proposed Orders") for the ulterior purpose of bypassing a certified default and committing a fraud upon the Court.

IV. REBUTTAL TO FOOTNOTE 2: DUE PROCESS AND MOOTNESS

The Court's finding that Plaintiff's absence was "willful" is an error of fact.

- **Procedural Mootness:** Plaintiff's absence was a necessity to preserve the record that the hearing was moot due to the Court's failure to first resolve the **Motion for Recusal** and **Motion for Disqualification**.
- **Due Process:** Under **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868 (2009), the Court's integrity must be established *before* dispositive rulings are issued.

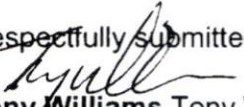
V. JUDICIAL ESTOPPEL AND RECORD SPOILATION

1. **Judicial Estoppel:** Under **Hayne Fed. Credit Union v. Bailey**, 327 S.C. 242 (1997), Melling cannot play "fast and loose" by being "Defaulted" (admitting facts) and "Dismissed" (denying facts) simultaneously.
2. **Spoilation:** Plaintiff objects to the **deletion of the "Proposed Order"** from the Public Index on 12/18/2025, which constitutes an unauthorized alteration of the public record intended to hinder appellate review.

PRAYER FOR RELIEF

Plaintiff respectfully requests that the Court **VACATE** the Order of Dismissal, **STRIKE** Defendant Melling's filings as a nullity, **ENFORCE** the Default, and **COMPEL** production of the **Reservation of Rights (ROR) Letter**.

PRESERVATION OF ERROR: This motion preserves for appeal the Court's failure to apply **Rule 55**, the failure to address **Rule 1.7 conflicts**, and the erroneous application of **Absolute Privilege** to intentional torts.

Respectfully submitted, 12/18/25

Tony Williams Tony Williams, Pro Se

December 18, 2025

STATE OF SOUTH CAROLINA)
COUNTY OF Beaufort)

IN THE COURT OF COMMON PLEAS)
JUDICIAL CIRCUIT)
CASE NO. 2025-CP-07-01666)

Tony Williams)
Plaintiff,)
lowe's Home Centers vs.)
Andrew Melling Defendant.)

2025 DEC 18 PM 4:37
MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Plaintiff's Attorney: <u>145 Fort Sullivan Drive</u> Address: <u>Ridgeland SC 29936</u> Phone: <u>843-262-4488</u> Fax: _____ E-mail: <u>twilliams631@att.net.com</u>	Defendant's Attorney: <u>on Record</u> Address: _____ Phone: _____ Fax: _____ E-mail: _____ Other: _____
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- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information
Nature of Motion: Rule 59(c)
Estimated Time Needed: _____ Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type
 Written motion attached
 Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order.
[Signature]
Signature of Attorney for Plaintiff / Defendant Date submitted 12/18/2025, 20__

SECTION III: Motion Fee
 PAID - AMOUNT: \$ _____
 EXEMPT: (check reason) Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION
 Motion Fee to be paid upon filing of the attached order.
 Other: _____ JUDGE CODE _____
Date: _____, 20__

CLERK'S VERIFICATION
Collected by: _____ Date Filed: _____, 20__
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____