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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, III, Special Circuit Court Judge

Case No. 2011-CP-46-04281

Ingris Janet Calcagno,

Respondent,

v.

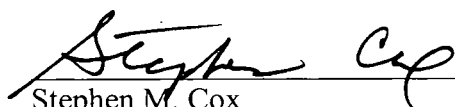
Richard T. Wynn,

Appellant.

AMENDED NOTICE OF APPEAL

Appellant, Richard T. Wynn ("Wynn"), filed his initial Notice of Appeal on October 21, 2013. Wynn hereby amends his Notice of Appeal to cure any deficiencies associated therewith. Wynn appeals the Order of the Honorable S. Jackson Kimball, III dated July 3, 2013 and entered as a judgment on July 3, 2013 (a copy of which is attached to this Notice). Wynn received written notice on September 22, 2013 of issuance of the aforementioned Order and entry of judgment against him.

November 20, 2013



Stephen M. Cox
South Carolina Bar No. 12263
ROBINSON, BRADSHAW & HINSON, P.A.
140 East Main Street, Suite 420
Rock Hill, South Carolina 29731
(803) 325-2900
Attorney For Appellant

Other Counsel of Record:

Robert Reeves

REEVES, AIKEN & HIGHTOWER, LLP

1012 Market Street, Suite 205

Fort Mill, South Carolina 29708

Attorney for Respondent

(803) 548-4444

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

JUDGMENT IN A CIVIL CASE

CASE NO. ²⁰¹¹ 2013 CP-46-04281

INGRIS JANET CALCAGNO

SHEILA RILEY-STAMP, ET AL.

PLAINTIFF(S)

RICHARD T. WYNN, M. D.

DEFENDANT(S)

Submitted by: ROBERT J. REEVES, ESQUIRE	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

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 2013 JUL 3 PM 4:28
 DANIEL G. HAMILTON
 CLERK OF COURT
 YORK COUNTY, SC

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)
INGRIS JANET CALCAGNO	RICHARD T. WYNN	\$33,490.40
		\$
		\$
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.

[Signature]
 Circuit Court Judge

3063
 Judge Code

7/2/13
 Date

For Clerk of Court Office Use Only

This judgment was entered on the 3rd day of July, 2013 and a copy mailed first class or placed in the appropriate attorney's box on this 3rd day of July, 2013 to attorneys of record or to parties (when appearing pro se) as follows:

Robert J. Reeves, Esquire
P. O. Box 1297
Fort Mill, SC 29716

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

CLERK OF COURT

Court Reporter:

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.

Lined area for additional information regarding the decision.

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

Ingris Janet Calcagno,)
)
Plaintiff,)

vs.)

Sheila Riley-Stamp and Sheila's)
Electrolysis Clinic a/k/a Sheila's)
Electrolysis Plus, and Richard T. Wynn,)
M.D.,)
)
Defendant.)

ORDER FOR JUDGMENT

Case No. 2011CP46-04281

2013 AUG 26 AM 10:25

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2013 JUL -3 PM 4:28
DAVID T. HAMILTON
C.C. C.P. & G.S.
YORK COUNTY, S.C.

This matter came before me on April 22, 2013, for a default hearing to determine damages against Defendant Richard T. Wynn, M.D. ("Wynn"). Representing the Plaintiff was Robert J. Reeves. No one appeared on behalf of the Defendant.

Plaintiff's claim for damages arises out of the performance of laser hair removal procedures upon Plaintiff. Plaintiff has sued to collect damages for medical expenses incurred as a result of the procedures. In addition, Plaintiff seeks damages for pain, suffering and scarring. Plaintiff presented testimony and exhibits in support of the claim. Based on the testimony, exhibits, and arguments of counsel, I make the following findings of fact and conclusions of law.

FINDINGS OF FACT

The following are the findings of fact of the court set out in narrative form, which I deem to have been proved by the preponderance of the evidence, or which are deemed admitted by Wynn's failure to answer the Amended Summons and Complaint.

Wynn was duly served with the Amended Summons and Complaint in this action, as evidenced by an affidavit of service. He has made no appearance in the action, and is in default.

Plaintiff went to Defendant Sheila's Electrolysis Clinic ("Clinic") to have body hair removed using laser equipment. She underwent two procedures, which were performed by an employee of the Clinic. She experienced second degree burns and extreme pain from the second procedure, which diminished with time, but lasted for about month. As a result of the procedures, she has some scarring, and her skin is sensitive to light.

Wynn was the physician responsible for the facility where the procedures were performed

mk
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on Plaintiff, but he did not perform them, and was not present at the Clinic when they were performed. Plaintiff testified that a doctor was called during her session at the Clinic, but she cannot positively identify Wynn as that doctor. By virtue of his default, Wynn is deemed to have admitted that the employees of the Clinic who performed the procedures on Plaintiff were his agents and employees, and were acting within the scope of their employment. He also owned the equipment used in the procedures performed on Plaintiff.

Plaintiff has suffered damages proximately caused by the negligence for which Wynn is vicariously liable, and she has incurred substantial additional expenses for treatment as a result of the burns on her legs. Her total expenses are \$3,490.40.

I have generally accepted Plaintiff's proof and made adjustment in the amounts sought in accordance with my view of the evidence. Thus, I find that her damages for pain, suffering, scarring, and potential future medical expenses total \$30,000.

Based on the foregoing, I find that Plaintiff has proved by a preponderance of the evidence actual damages in the amount of \$33,490.40.

CONCLUSIONS OF LAW

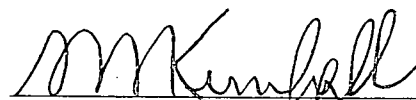
Based on the findings of fact set forth above, I make the following conclusions of law. Wynn is liable, by operation of law, for Plaintiff's injuries, pain, suffering, scarring and future medical expenses. Further, by operation of law, Wynn was the direct and proximate cause of Plaintiff's actual damages. Plaintiff has proved by a preponderance of the evidence that she is entitled to compensation for the damages stated above. Based on the evidence presented, I do not find that Plaintiff is entitled to an award of punitive damages. *See Gamble v. Stevenson*, 305 S.C. 104, 111-112, 406 S.E.2d 350, 354 (1991); *Mitchell, Jr. v. Fortis Ins. Co.*, 385 S.C. 570, 586-587, 686 S.E.2d 176, 184-185 (2009); *see also, Pacific Mutual Life Insurance Company v. Haslip*, 499 U.S. 1, 111 S.Ct. 1032, 113 L.Ed.2d 1 (1991).

ORDER OF THE COURT

Therefore, based on the findings of fact and conclusions of law contained herein, Plaintiff is granted judgment against Defendant Richard T. Wynn, M.D., in the sum of \$33,490.40, actual damages, together with the costs of this action.

AND IT IS SO ORDERED.

June 21, 2013



S. Jackson Kimball
Special Circuit Court Judge
York County

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Richard T. Wynn,

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PROOF OF SERVICE

I hereby certify that I have served the foregoing Amended Notice of Appeal on Respondent, Ingris Janet Calcagno, by depositing a copy of said Notice in the United States Mail, postage prepaid, on November 20, 2013, addressed to Respondent's attorney of record, Robert Reeves, 1012 Market Street, Suite 205, Fort Mill, South Carolina 29708.


Stephen M. Cox