ELECTRONICALLY FILED - 2025 Dec 01 11:06 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4004103

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	CASE NO.: 2023-CP-40-04103
LYLE & JESSICA MONROE,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	**ORDER**
	)	
COOGLER CONSTRUCTION, INC.,	)	
	)	
Defendant.	)	
	)	
	)	

RECEIVED
Sep 28 2026
SC Court of Appeals

THIS MATTER CAME before the Court following a trial dated October 6, 2025 and October 7, 2025. E Wade Mullins, Esq. appeared on behalf of Defendant Coogler Construction, Inc. ("Defendant" or "Coogler"). Rolf Baghdady, Esq. appeared on behalf of Plaintiffs Lyle and Jessica Monroe ("Plaintiffs") or ("Monroes").

BACKGROUND

This case arises from certain damage that was caused to the Plaintiffs' driveway as a result of one of Coogler's drivers erroneously driving one of its trucks onto the driveway. The Plaintiffs' neighbor, Teresa Martin, was developing a previously undeveloped lot adjacent to the Plaintiffs' property for a residence and ordered 8 loads of gravel from Coogler. The gravel was to be used for the construction of the drive into Ms. Martin's property. Ms. Martin instructed Coogler to dump the gravel at a spot at the end of a gravel road where her property and the Plaintiffs' property are joined in a very tight area. Two of Coogler's trucks arrived, and while the drivers were working towards positioning the trucks to dump the gravel, a third truck arrived and drove onto the Plaintiffs' driveway in error and damaged the front part of the Plaintiffs' driveway. The driver was

ELECTRONICALLY FILED - 2025 Dec 01 11:06 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4004103

instructed by one of the other drivers to move off the driveway, and the driver caused rutting in the grass immediately adjacent to the Plaintiffs' driveway attempting to move.

This lawsuit is based on the proposed scope of repair, which is contested between Plaintiffs and Defendant. The Plaintiffs' driveway was constructed of approximately 1.5 inches of asphalt laid directly onto dirt with no base layer. Subsequent to the incident, Coogler investigated and attempted to engage in communication regarding repair. Coogler requested an opportunity to roll the driveway to flatten the damaged area and let it dry out in order to determine the best approach to complete the repairs. Communications broke down when Plaintiffs disputed Coogler's approach to the repair. Subsequently, Plaintiffs presented Coogler with a repair estimate for $11,000 that included removing the damaged section of the driveway and installing a stone base and 2 to 3 inches of asphalt. Coogler contended that this proposed repair reflected a significant betterment to Plaintiffs' property. No resolution being made, the case proceeded to trial.

WHEREAS, after the close of Plaintiffs' case-in-chief, Defendant made a motion for directed verdict on punitive damages. The Court granted directed verdict and found there was not sufficient evidence to support the finding of punitive damages.

WHEREAS, after the close of Plaintiffs' case-in-chief, Defendant made a motion for directed verdict on actual damages. The Court denied directed verdict and found there was sufficient evidence for the question of actual damages to go to the jury.

WHEREAS, the jury returned a verdict denying trespass. The jury was unable to reach a verdict on actual damages for negligence. The Court declared a mistrial as to negligence damages.

WHEREAS, Defendant filed a post-trial motion requesting preservation of the directed verdict on punitive damages. Defendant also requested a judgment notwithstanding the verdict on actual damages, requesting the Court find the Plaintiffs failed to present evidence as to damages.

ELECTRONICALLY FILED - 2025 Dec 01 11:06 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4004103

The Plaintiffs filed a post-trial motion requesting sanctions for alleged failure to disclose discovery timely.

It is ORDERED, ADJUGED, AND DECREED, that Defendant's Motion for a Preservation of Directed Verdict on Punitive Damages is granted. A trial court's decision on directed verdict for punitive damages remains the law of the case where a mistrial is declared as to actual damages. *Westbrook v. Hutchison,* 190 S.C. 414, 419, 3 S.E.2d 207, 209 (1939)("It was the law of the case until reversed and the order not having been reversed and the appeal therefrom having been abandoned, it became the law of the case. It was *res judicata* as to the issue of punitive damages, and we need not pursue the question further"). Rule 50, SCRCP states "[t]he order of a court granting a motion for a directed verdict is effective without any assent of the jury." Since the question of punitive damages did not reach the jury, the order dismissing punitive damages is preserved as law of the case. The Plaintiffs failed to provide any evidence that Defendant acted in a reckless, willful, or wanton manner sufficient to warrant an award of punitive damages. The conduct at issue stems from a mere communication failure, rather than intentional conduct. In fact, during Plaintiffs' presentation of the case, there was testimony stating that the drivers were "doing the best" they could given the circumstances. This shows that the drivers cared about what they were doing and attempted to use due care. There is no evidence that the Defendant's company acted in a way that was reckless, willful, or wanton. The directed verdict dismissing punitive damages is preserved and remains the law of the case.

It is ORDERED, ADJUGED, AND DECREED, that Defendant's Motion for Judgment Notwithstanding the Verdict is denied. After the close of Plaintiffs' case-in-chief, Defendant moved for a directed verdict on actual damages. Defendant claimed there was insufficient evidence to support a conclusion of actual damages in any amount other than $5,000. The Court denied this

ELECTRONICALLY FILED - 2025 Dec 01 11:06 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4004103

motion. Defendant moved for judgment notwithstanding the verdict in its post-trial motion. The Court finds the question of actual damages is a question that should go to the jury.

It is ORDERED, ADJUDGED, AND DECREED, that Plaintiffs' Motion for sanctions is denied. Plaintiffs filed a motion in limine to exclude the use of the email between Teresa Martin and Laura Hamilton due to its late production. Defendant explained that the email was produced as soon as it was discovered, and the missing page was produced immediately upon discovery as well. The Court ruled to take up the motion in limine at the time of Ms. Martin's testimony.

The entire thrust of the discovery rules involves full and fair disclosure, "to prevent a trial from becoming a guessing game or one of surprise for either party. *Samples v. Mitchell*, 329 S.C. 105, 113, 495 S.E.2d 213, 217 (Ct. App. 1997)(quoting *State Highway Dep't v. Booker*, 260 S.C. 245, 252, 195 S.E.2d 615, 619 (1973)(quoting *Hodge v. Myers*, 255 S.C. 542, 545, 180 S.E.2d 203, 205 (1971))). Overly lenient sanctions are to be avoided where they result in inadequate protection of discovery. *Samples* 329 S.C. at 114, 495 S.E.2d at 217. Despite Plaintiffs' claim that the email contained "important material facts", the facts were presented in other areas of the trial. The page of the email produced in September states, "Hey there, The driver is at the house to deliver the crushed concrete. She's saying that there is no 57 Nature Creek Trail, but a 51. We need to know the correct address. Please give us a call or the driver will need to go back. Thanks." The email clearly shows that there was miscommunication from the beginning of this process on the property lines and locations for delivery. The later produced page, produced five days before trial began, goes on to state that the driver did not deliver the crushed concrete and will try again the next day. Ms. Martin testified that there was confusion herself as to where the property line was.

ELECTRONICALLY FILED - 2025 Dec 01 11:06 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4004103

The imposition of sanctions is generally entrusted to the sound discretion of the trial court. *Jamison v. Ford Motor Co.*, 373 S.C. 248, 270, 644 S.E.2d 755, 766 (Ct. App. 2007). In determining the appropriateness of a sanction, the court should consider such factors as the precise nature of the discovery and the discovery posture of the case, willfulness, and degree of prejudice. *McNair v. Fairfield County*, 379 S.C. 462, 467, 665 S.E.2d 830, 832-833 (Ct. App. 2008)(quoting *Griffin Grading & Clearing, Inc. v. Tire Serv. Equip. Mfg. Co., Inc.*, 334 S.C. 193, 199, 511 S.E.2d 716, 719 (Ct. App. 1999)). The nature of the discovery is inconsequential as the fact at issue in the undisclosed document was present throughout the case. The Court finds there was no prejudice in the delayed disclosure of the email. The earlier produced portion of the email gave notice to Plaintiffs of the issue of confusion over property lines and locations in the process of delivering the crushed rock. There was also no willfulness, as Defendant disclosed the email upon discovery of its accidental omission. The omissions were discovered due to the late-in-time depositions. The deposition of Teresa Martin took place on September 24, 2025. The entirety of the email exchange was produced on September 25, 2025. During the deposition, it came to light that there may be correspondence between Teresa Martin and Coogler's office that had not been reviewed and produced. Defendant's counsel then undertook an investigation of the Coogler computer system and discovered the email exchange between Teresa Martin and Laura Hamilton. Defendant's counsel produced the subject email immediately upon its discovery. Due to the urgency of producing said email, a page of the email was omitted from production. Upon discovery of the accidental omission, Defendant sent the singular missing page on October 2, 2025.

Further, Defendant did not have an obligation to clarify that the estimates were betterments. The estimates submitted into evidence show a betterment of a base layer. Plaintiffs were aware or should have been aware that their driveway did not have a base course layer, and therefore the

estimates to repair the driveway including a base course were betterments. There is no statute that warrants sanctions against a party for not pointing out a detail in the opposing parties' production. Defendant's pre-trial brief succinctly states "There was no stone base course installed." Plaintiffs produced the Palmetto State Concrete & Masonry invoice to Defendant, which states a separate line item for "hauling in crusher run for our base." Plaintiffs further do not show where in their discovery requests that they asked for an explanation of any betterments. Plaintiffs have failed to show how the betterment of the driveway repairs was undisclosed discovery warranting a sanction.

IT IS THEREFORE ORDERED that Plaintiffs' motion for sanctions based on discovery is **DENIED**; Defendant's motion for preservation of the Directed Verdict on punitive damages is **GRANTED**; and Defendant's motion for judgment notwithstanding the verdict on actual damages is **DENIED**.

AND IT IS SO ORDERED.

_____
Judge Robert E. Hood

November ___, 2025
Columbia, South Carolina

ELECTRONICALLY FILED - 2025 Dec 01 11:06 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4004103

ELECTRONICALLY FILED - 2025 Dec 01 11:06 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4004103

Richland Common Pleas

Case Caption: Lyle Monroe , plaintiff, et al vs Coogler Construction Inc

Case Number: 2023CP4004103

Type: Order/Other

So Ordered

s/ R.E. Hood #2164