

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2012- CP-10-4503

William J. Foster

BOA, NA, and Robin Robinson

FILED
 2014 MAR -3 PM 4:25
 JUDICIAL ADMINISTRATION
 CLERK OF COURT

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff	<input checked="" 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

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: This case came before the Court on Plaintiff Foster's Motion for Separate Trials of Defendant Bank of America and Defendant Robinson and Plaintiff's Motion for Damages Hearing as to Defendant Robinson Only - Defendant Robinson having previously been found in default. Defendant Robinson's Counsel made a motion to continue the hearing, which was denied. Defendant Bank of America and Plaintiff Foster consented to Plaintiff's Motion for Separate Trials with the stipulation that no joint and several liability was provided for in a judgment against Defendant Robinson. The Court hereby GRANTS the Motion for Separate Trials of Defendant Bank of America and Defendant Robinson. The Court also hereby awards Plaintiff Foster damages in the amount of Two Million Two Hundred Eighty-Five Thousand Eight Hundred Eleven and 00/100 (\$2,285,811.00) Dollars against Defendant Robinson only. The principle of joint and several liability shall not apply.

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)
William J. Foster	Robin Robinson (only)	\$2,285,811.00
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

Swope, Esquire. The Plaintiff presented the only three (3) witnesses in the trial, as follows:

- (1) Employability Expert- Jean R. Hutchinson, M.Ed., C.R.C., C.V.E.;
- (2) Forensic Accounting Expert- Alys Anne P. Dennis, C.P.A., C.V.A; and
- (3) Forensic Accounting Expert- Don Hollerbach, C.P.A., A.B.V., C.F.F., C.F.E., F.C.P.A., C.V.A.

All three of these expert witnesses were qualified, without objection from counsel for Defendant Robinson, as experts in the fields listed above, and their opinions, analysis and conclusions have been considered by this Court in reaching its decision.

Mrs. Hutchinson, employability expert, whose expertise was not challenged by Defendant Robinson, having interviewed the Plaintiff, reviewed relevant portions of the Plaintiffs financial information/documentation, compared such information with corresponding State and Federal resources for accuracy, and applied her expertise and analysis to the facts of the case, opines as follows:

1. At the time that the Plaintiff was employed by Defendant Robin Robinson, the Plaintiff earned approximately \$98,000.00 to \$102,000.00 per year;
2. When the Plaintiff was terminated by Defendant Robin Robinson, he was out of work for approximately six (6) months after which he took a position in Jacksonville, NC, necessitating a move to that city;
3. The Plaintiffs salary in this new position is approximately \$40,000.00 per year;
4. With the Plaintiffs past work experience and considering the job market in the Charleston area, he would be appropriate for work in the following areas and at the following wage rates:
 - a. Restaurant / Bar Manager \$47,900
 - b. Meeting / Event Planner \$33,800
 - c. Sales Manager \$37,400
 - d. Marketing Manager \$51,100

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e. Advertising / Promotions Manager \$43,300; and

5. In considering all of the aforementioned information, the Plaintiff has and continues to experience a very significant loss of earning capacity and future earning potential when comparing both his current salary and the wages rates for positions in the Charleston area for which he would qualify with his previous salary when employed by Defendant Robinson.

Mrs. Dennis and Mr. Hollerbach, both forensic accounting experts with the firm of Baldwin & Associates, LLC, whose expertise were not challenged by Defendant Robinson, having interviewed the Plaintiff; reviewed relevant portions of the Plaintiff's financial information / documentation; compared such information with corresponding IRS documents for accuracy; and applied their expertise and analysis to the facts of the case, opine as follows:

1. The net historical economic loss totals approximately \$291,506 in this case and is measured by the totaling the following items, and then discounting them by the Plaintiffs total income earned over the same measurement period:

- a. Salary and ATM income for 777 days;²
- b. FICA and medicare employment contributions for 777 days;
- c. Annual FUTA employer contributions for 2011 and 2012;
- d. Employer Medical and Dental Insurance Contributions for 777 days; and
- e. Automobile provided by employer for 777 days.

2. The future economic loss totals approximately \$1,994,304, and is determined based on the following considerations:

- a. The economic benefit of the position held prior to the measurement date of the event which in this case was November 19, 2013;
- b. The economic benefit of the replacement position going forward from the measurement date which is November 19, 2013;

² The time period of 777 days represents the time from the termination of his employment by Defendant Robinson, October 4, 2011, until the date of this Rule 55(b) damages hearing on November 19, 2013.

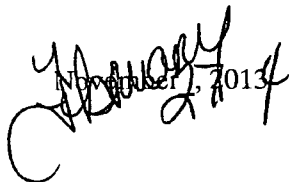
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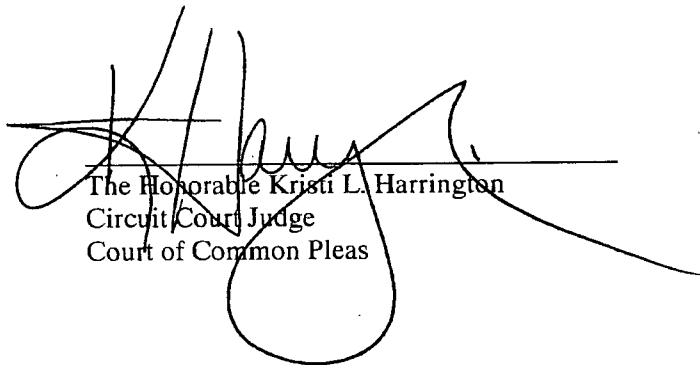
- c. An estimated growth rate of earnings over time - in this case we used an average growth rate of approximately 3% based on the average historical Consumer Price Index (U) for the period of 1983-2012 which was approximately 2.96%;
- d. The amount of time to close the deficit in economic earnings pre and post event measure at the measurement date;
- e. Determine the calculation end date which in this case is estimated to be Social Security Retirement age at age 67; and
- f. Determine the present value in today's dollars of an invested amount which when paid out over time would serve to reduce the yearly calculated deficit using an estimated rate of return on those dollars.³

3. The total economic value of the financial loss, reduced to present value, suffered by the Plaintiff as a result of the termination of his employment by the Defendant Robin Robinson is \$2,285,811.

Having considered all of the expert testimony elicited at trial, both by direct and cross examination, as well as the submissions by parties, this Court hereby enters judgment for the Plaintiff against defaulting Defendant Robinson, pursuant to Rule 55(b), in the amount of \$ 2,285,811⁰⁰

IT IS SO ORDERED.


November 2, 2013


The Honorable Kristi L. Harrington
Circuit Court Judge
Court of Common Pleas

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³ A conservative approach, using the U.S. Government investments as measured by U.S. Treasury stripped securities are associated with each year in the analysis.

William J. Foster

Bank of America, N.A. etc et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
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 2014 APR 20 PM 12:22
 CLERK OF COURT
 ARNOLD STRONG

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IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: **Defendant Robin Robinson's Motion to Reconsider/Motion to Set Aside Default Judgment, filed March 18, 2014, is respectfully denied.**

ORDER INFORMATION

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

INFORMATION FOR THE JUDGMENT INDEX		
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N/A		\$
		\$
		\$
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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.


Circuit Court Judge

2151
Judge Code

4/25/14
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:

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.

- 2. Last date for Plaintiff(s) to provide updated and/or final expert reports and estimates: September 20, 2013**
- 3. Last date for Defendants to name expert witnesses: November 10, 2013**
- 4. Last date for Third-Party Defendants to name expert witnesses: December 10, 2013**
- 5. Mediation, involving all parties in both, shall occur on or before: April 1, 2014**

Upon request of a party, the discovery order deadline may be extended if there has been no final disposition or resolution of the pending appeal in the HAYDEN JEFFORDS matter when the discovery deadline expires.