



The South Carolina Court of Appeals

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January 26, 2015

The Honorable Melanie Huggins-Ward
PO Box 677
Conway SC 29528-0677

REMITTITUR

Re: James H. Bailey, Jr. v. Development Systems
Lower Court Case No. 2011CP2607558
Appellate Case No. 2013-001062

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Audra McCall Byrd, Esquire
George E. Graham, Esquire

R. Wayne Byrd, Esquire
The Honorable John C. Hayes, III

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

James H. Bailey, Jr., Respondent,

v.

Development Systems International, LLC, David W.
Auterson, John R. Curtis, Dianne N. LaRose, James P.
LaRose, Robert C. MacConnell, and Sandra M. Morckel,
Defendants,

Of Whom David W. Auterson, John R. Curtis, Dianne N.
LaRose, James P. LaRose, Robert C. MacConnell, and
Sandra M. Morckel are the Appellants.

Appellate Case No. 2013-001062

Appeal From Horry County
John C. Hayes, III, Circuit Court Judge

Unpublished Opinion No. 2015-UP-008
Submitted November 1, 2014 – Filed January 7, 2015

AFFIRMED

George E. Graham, of McIver & Graham, PA, of
Conway, for Appellants.

R. Wayne Byrd and Audra McCall Byrd, both of Turner
Padgett Graham & Laney, PA, of Myrtle Beach, for
Respondent.

PER CURIAM: Appellants appeal the circuit court's award of damages to Respondent James H. Bailey following the entry of a default judgment against Appellants. Appellants argue the circuit court erred in (1) not requiring Bailey to present evidence of a fixed method by which he calculated his losses; (2) not determining the liability of Development Systems International, LLC, and its responsibility for damages or apportioning damages among the Appellants; (3) not using the operating agreement as a basis for awarding damages; and (4) relying solely on Bailey's testimony to determine the amount of damages. We affirm pursuant to Rule 220(b), SCACR, and the following authorities: *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the [circuit court] to be preserved for appellate review."); *Doe v. S.B.M.*, 327 S.C. 352, 356-57, 488 S.E.2d 878, 881 (Ct. App. 1997) (finding an appellant's arguments challenging an award of damages were not preserved when the appellant failed to object to any issues regarding damages at the damages hearing); *Herron v. Century BMW*, 395 S.C. 461, 466, 719 S.E.2d 640, 642 (2011) (stating an "issue must be sufficiently clear to bring into focus the precise nature of the alleged error so that it can be reasonably understood by the [circuit court]"); *Doe*, 327 S.C. at 356, 488 S.E.2d at 881 ("Matters not argued to or ruled on by the [circuit] court are not preserved for review."); *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) ("A party *must* file [a Rule 59(e), SCRCPL] motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review."); *Hancock v. Wal-Mart Stores, Inc.*, 355 S.C. 168, 171, 584 S.E.2d 398, 399 (Ct. App. 2003) (concluding an issue not addressed in the circuit court's final order on summary judgment was not preserved for appellate review when the appellant did not file a motion under Rule 59(e) seeking a ruling on the issue).

AFFIRMED.¹

HUFF, SHORT, and KONDUROS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.