

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2013 CP-18-1195

MACMILLAN WIRELESS DIAGNOSTICS, INC. - ~~UNITED COPY~~

HYPOWER INC

2015 AUG -4 AM 9:59

W. H. ENGLISH ELECTRICAL CONTRACTORS, INC.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: P. Brandt Shelbourne <i>Christy Shelbourne</i> CLERK OF COURT DORCHESTER COUNTY	Attorney for: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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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

RECEIVED

AUG 17 2015
SC Court of Appeals

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)
MacMillan Wireless Diagnostics, Inc.	Hypower, Inc.	\$3,234.71 prejudgment interest
MacMillan Wireless Diagnostics, Inc.	Hypower, Inc.	\$18,350 Actual damages \$36,700.00 Punitive Damages
		\$

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
SCRPC Form 4C (03/2013)

2112
Judge Code

7-27-2015
D

EXHIBIT
A

For Clerk of Court Office Use Only

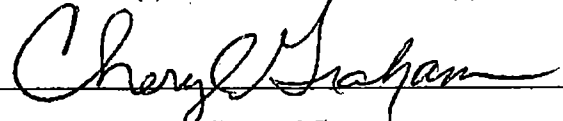
This judgment was entered on 8/4/2015, and a copy mailed first class or placed in the appropriate attorney's box on 8/4/2015, to attorneys of record or to parties (when appearing pro se) as follows:

Peter Brandt Shelbourne 131 E. Richardson Ave.
Summerville, SC 29483

Thomas Bacot Pritchard 129 Broad St. Charleston, SC
29401

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Cheryl Graham - Clerk of Court

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.

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)
MACMILLAN WIRELESS DIAGNOSTICS, INC.,)
Plaintiff,)
vs.)
HYPOWER, INC. and W. H. ENGLISH)
ELECTRICAL CONTRACTORS, INC.,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
CASE NO: 2013-CP-18-1195

**ORDER FOR PREJUDGMENT
INTEREST**

FILED
AUG -14 AM 9:58
CLERK OF COURTY
DORCHESTER COUNTY

This matter comes before me on the issue of Prejudgment interest in the matter of "MacMillan Wireless Diagnostics, Inc. vs. Hypower Inc. and W.H. English Electrical Contractors, Inc." The jury returned a verdict on April 14, 2015 for the Plaintiff on the issues of Breach of Contract and Negligent Misrepresentation. The jury awarded Eighteen Thousand Three Hundred and Fifty and No/100 (\$18,350.00) Dollars in Actual Damages on Plaintiff's Breach of Contract claim, and on Plaintiff's claim for Negligent Misrepresentation awarded Thirty-six Thousand Seven Hundred and No/100 (\$36,700.00) Dollars in punitive damages.

South Carolina law permits prejudgment interest on obligations to pay money from the time when, either by agreement of the parties or operation of law, the payment is demandable and if the sum is certain or capable of being reduced to certainty. Smith-Hunter, 365 S.C. at 128, 616 S.E.2d at 421 (citing Babb v. Rothrock, 310 S.C. 350, 426 S.E.2d 789 (1993)). "[P]rejudgment interest is allowed on a claim of liquidated damages; i.e., the sum is certain or capable of being reduced to certainty based on a mathematical calculation previously agreed to by the parties . . . [t]he fact that the amount due is disputed by the opposing party does not render the claim unliquidated for the purposes of an award of prejudgment interest." Butler Contracting, Inc. v. Court Street, LLC, 369 S.C. 121, 133, 631 S.E.2d 252, 258-59 (2006). Thus, "[t]he proper test for determining whether prejudgment interest may be awarded is whether or not the measure of recovery, not necessarily the amount of damages, is fixed by conditions existing at the time the claim arose." Smith-Hunter, 365 S.C. at 128, 616 S.E.2d at 421.

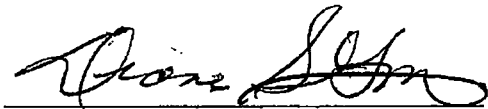
In this case, the Actual Damages of \$18,350.00 was the amount of the outstanding, unpaid invoices Plaintiff contended it was owed. Defendant did not contest the amount of the damages, only

whether it was obligated to pay the Plaintiff. Plaintiff signed a Release of Lien on January 17, 2013 based on the representation that Defendant would tender the Eighteen Thousand Three Hundred and Fifty and No/100 (\$18,350.00) Dollars. Prejudgment interest should run from this period as it is apparent that Plaintiff and Defendant agreed at this date that that was the amount owed.

Per the Order of the Chief Justice of the South Carolina Supreme Court, dated January 2, 2015, interest shall be at the rate of 7.5% for a total amount of Prejudgment interest of Three Thousand Two Hundred and Thirty-four and 71/100 (\$3,234.71) Dollars. This amount represents One Thousand Three Hundred and Seventy-six and 35/100 (\$1,376.35) Dollars for January 17, 2013 through January 16, 2014, One Thousand Four Hundred and Seventy-nine and 47/100 (\$1,479.47) Dollars for January, 17, 2014 through January 16, 2015, and Three Hundred Seventy-nine and 09/100 (\$379.09) for the Eighty-seven (87) days between January 17, 2015 and the trial date of April 14, 2015. This sum shall be added to the Actual Damages award of Eighteen Thousand Three Hundred and Fifty and No/100 (\$18,350.00) Dollars for a total Actual Damages award of Twenty-one Thousand Five Hundred and Eighty-four and 81/100 (\$21,584.81) Dollars, in addition to the Punitive Damages award.

And it is so

ORDERED!



Diane S. Goodstein
Judge for the First Judicial Circuit

7-21, 2015
St. George, South Carolina