

77447

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2012-CP-02-02382

RECEIVED

OCT 01 2015

SC Court of Appeals

Prescott & Sons Construction, LLC Respondent,

v.

Larry Rogers and Michelle Rogers Appellants.

MOTION TO AMEND NOTICE OF APPEAL

This motion is filed pursuant to Rule 240 of the South Carolina Appellate Court Rules. This litigation concerns competing claims for breach of contract arising out of a residential construction contract. The case was tried to a jury, which issued a verdict in favor of Respondent. Following the trial, Appellants filed a Motion for New Trial and a Motion for JNOV. Both motions were denied by separate orders of the trial court. Appellants' trial counsel filed a Notice of Appeal, after which Appellants retained the undersigned to represent them on appeal.

There have been various issues that have arisen in this appeal thus far, most prominently the loss of the post-trial motion transcripts by Judge Early's court reporter. The undersigned has been informed by Monica Amick-Cassidy of the South Carolina Court

of Appeals' Clerk's Office that the deadline to file Appellants' Initial Brief has been held in abeyance and that I should receive written notice of a new Initial briefing deadline soon, pending the issuance of an Order by this Court.

While preparing Appellants' Initial Brief, the undersigned discovered a clerical error in the Notice of Appeal filed by trial counsel. While the Notice of Appeal references Appellants' Motion for JNOV, the Order denying that motion was apparently inadvertently omitted from the Notice of Appeal. For the reasons discussed below, Appellants respectfully request that this Court allow them to file an Amended Notice of Appeal that includes that Order.

The Notice of Appeal in this case makes clear that Appellants are challenging the jury verdict and the trial judge's Orders on Appellants' post-trial motions. *See* Notice of Appeal ¶¶ 3, 4. Of course, the appeal of final judgment in a case necessarily includes all decisions affecting that judgment. Therefore, amendment may not be necessary to perfect this appeal and challenge the trial court's ruling on the Motion for JNOV. Indeed, the Notice of Appeal logically implies an appeal encompassing the verdict and all post-trial orders. Appellants merely wish to amend the Notice of Appeal to conform the initiating documents to that scope.

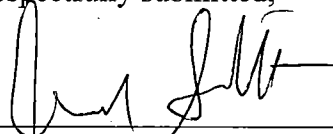
In *Moody v. Dickinson*, the South Carolina Supreme Court found no error in granting leave to amend a Notice of Appeal when there is a clerical error that does not mislead or prejudice the opposing party and does not lead to a delay in litigation. 54 S.C. 526, 32 S.E.563 (1899). In *Conner v. City of Forest Acres*, the Supreme Court of South Carolina discussed the permissible scope of this rule. 348 S.C. 454, 560 S.E.2d 606 (2002). Construing the rule allowing amendments liberally, the Court essentially again adopts a

prejudice standard in resolving motions to amend. *See id.* at 462, 560 S.E.2d at 610 (“Indeed, the rule of *Moody* compels us under these facts to find Rowe and Langley were misled into believing they were not part of this appeal by the almost five-month delay in amending the Notice, and therefore, they clearly were prejudiced by the amendment.”).

Under the facts of this case, there is clearly no prejudice that would result from allowing Appellants to amend their Notice of Appeal by attaching a copy of the Order Denying the Motion for JNOV. The Notice of Appeal itself makes clear that Appellants are appealing the jury verdict and post-trial motions, and the inclusion of the Order Denying Motion for JNOV will not surprise or prejudice Respondent as the briefing process has only recently commenced. Moreover, Appellants are not interposing this motion for the purposes of delay, for Appellants will not be seeking an extension to file their Initial Brief past the due date in this Court’s forthcoming Order.¹

September 30, 2015

Respectfully submitted,



M. David Scott #68667
Jordan, Rauton, & Scott, LLC
146 East Main Street
Lexington, SC
(803)-785-7878
(803)-785-7880 (facsimile)
dscott@jrslawsc.com

Attorney for Appellants

¹ Based on discussions with the Clerk of Court’s Office, it is my understanding that this date would be no earlier than October 14, 2015.

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

PRESCOTT AND SONS)
CONSTRUCTION, LLC)

Plaintiff(s),)

v.)

LARRY ROGERS AND)
MICHELLE ROGERS,)

Defendant(s).)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Civil Action No. 2012-CP-02-02382

VERDICT

~~12/21/15~~
L. J. [Signature] 1
C.C.P. & S.
Shannon [Signature] 315
Deputy Clerk

✓ We find for the Plaintiff, PRESCOTT AND SONS CONSTRUCTION, LLC in the
amount of \$ 18,166.03 damages

_____ We find for the Defendants', LARRY ROGERS AND MICHELLE ROGERS in the
amount of \$ _____ actual damages

-OR-

_____ We find that the contract was not breached by either the Plaintiff or the Defendant
and therefore no damages are awarded.

WE UNANIMOUSLY AGREE.

[Signature]
Foreperson

January 21, 2015

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

IN THE COURT OF COMMONS PLEAS
FOR THE SECOND JUDICIAL CIRCUIT

PRESCOTT & SONS CONSTRUCTION,)
LLC,)

CASE No.: 2012-CP-02-2382

RECEIVED

Plaintiffs,

OCT 01 2015

-vs-

ORDER DENYING DEFENDANT'S
MOTION FOR NEW TRIAL

LARRY ROGERS AND MICHELLE
ROGERS,)

Defendants.

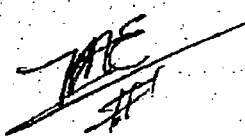
WHEREAS Defendant's motion for a New Trial was made after judgment for Plaintiff was entered on January 21, 2015, for the case captioned above, and came before this court on March 16, 2015 wherein arguments were made on behalf of the Defendants by James Ervin, Esquire, and on behalf of Plaintiff by Lir Derieg, Esquire. Upon examination of the evidence and upon application of South Carolina Jurisprudence, and for reasons set forth below, the court denies Defendant's motion for new trial.

ISSUE


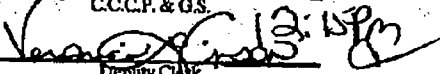
Defendants contend the jury verdict rendered in favor of Plaintiff in the amount of \$18,166.03 was confused, is not absolutely clear what was intended and contrary to the weight of the evidence.

DISCUSSION

A trial judge has the power to grant a new trial. However, this power may be exercised only when the verdict "is shockingly disproportionate to the injuries suffered and thus indicates that passion, caprice, prejudice, or other considerations not reflected by the evidence affected the amount awarded." *Becker v. Wal-Mart Stores, Inc.*, 339 S.C. 629, 635, 529 S.E.2d 758, 761



FILED 5-18-15


Linda Jordan
C.C.P. & G.S.

Deputy Clerk

(2000). A jury's determination of damages is entitled to "substantial deference." *Todd v. Joyner*, 385 S.C. 509, 517, 685 S.E.2d 613, 618 (Cl. App. 2008). *aff'd*, 385 S.C. 421, 685 S.E.2d 595 (2009). The decision to grant or deny a "new trial motion rests within the discretion of the circuit court," *Brinkley v. S.C. Dep't of Corrs.*, 386 S.C. 182, 185, 687 S.E.2d 54, 56 (Ct. App. 2009).

If the trial court determines that the verdict is "merely excessive," the court has the power to reduce the verdict by granting a new trial nisi remittitur. "A motion for a new trial nisi remittitur asks the trial court to reduce the verdict because the verdict is merely excessive." *James v. Horace Mann Ins. Co.*, 371 S.C. 187, 193, 638 S.E.2d 667, 670 (2006). Even as to a new trial nisi remittitur, the trial judge's discretion is broad. "The denial of a motion for a new trial nisi is within the trial court's discretion and will not be reversed on appeal absent an abuse of discretion." *Id.*; see also *Bailey v. Peacock*, 318 S.C. 13, 14, 455 S.E.2d 690, 691 (1995) ("If an award is merely inadequate or unduly liberal, the trial judge alone has the discretion to grant a new trial nisi additur.").

Turning to the case at bar Defendants state the Jury verdict is contrary to the weight of the evidence. *Daniels v. Bernard*, 270 S.C. 51, 240 S.E.2d 518 (1978). They claim the amount of \$18,166.03 could only have been reached if the jury included the balance of builder's fee, which they deem was expressly and specifically unavailable to Plaintiff by the terms of the contract. Additionally they claim the only other damages asserted were unpaid invoices in an amount no larger than \$5,089.82. Defendants move for a new trial asserting error in the amount of the verdict and for the verdict being excessive by clear and convincing evidence presented at trial.

On the contrary it appears the evidence presented to the jury includes the signed contract stating the Defendants would pay Plaintiff \$25,000.00 in addition to costs of materials and labor. Therefore the award is not excessive given the jury could have awarded more and is therefore upheld. The Defendants motion for a new trial is DENIED.

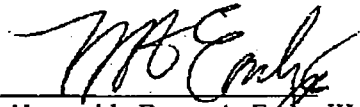
A handwritten signature in black ink, appearing to be "JAC" with a date "10/2" written below it.

CONCLUSION

NOWHEREFORE, after hearing arguments and reviewing evidence by both parties, and after applying applicable South Carolina jurisprudence, it is the Order of this Court that Defendant's motion for a new trial is DENIED and the jury verdict for Plaintiff is confirmed.

Aiken, SC

May 12, 2015



The Honorable Doyet A. Early, III
Circuit Court Judge for the
Second Judicial Circuit October

FORM 4

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

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2012CP0202382

Prescott And Sons Construction Llc	Larry Rogers Michelle Rogers
---------------------------------------	---------------------------------

PLAINTIFF(S)

DEFENDANT(S)

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

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)

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.

Circuit Court Judge	Judge Code	Date
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For Clerk of Court Office Use Only

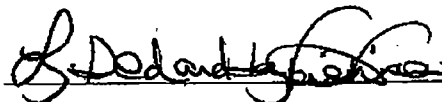
This judgment was entered on **May 18, 2015**, and a copy mailed first class or placed in the appropriate attorney's box on **May 18, 2015**, to attorneys of record or to parties (when appearing pro se) as follows:

Lir Patrick Derieg 1924 Barnwell St Columbia, SC 29201

James McLeod Ervin PO Box 6276 Columbia, SC 29260-6276

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Liz Godard - 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 AIKEN
Prescott and Sons Construction, LLC,

Plaintiff,

v.

Larry Rogers and Michelle Rogers

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT

Case No. 2012-CP-02-2382

**ORDER DENYING DEFENDANTS'
MOTION FOR JUDGMENT
NOTWITHSTANDING THE VERDICT**

WHEREAS Defendants' motion for a judgment notwithstanding the jury verdict for the Plaintiff, entered on January 21, 2015, for the case captioned above, was filed on February 2, 2015 and came before this Court on March 16, 2015. Arguments were made on behalf of the Defendants by James Ervin, Esq., and on behalf of the Plaintiff by Lir Patrick Drieg, Esq.

NOWHEREFOR, after hearing arguments by both Parties, it is the Order of this Court that Defendants' motion for a judgment notwithstanding the verdict is hereby DENIED.

AND IT IS SO ORDERED.



The Honorable Doyet A. Ealty, III
Chief Administrative Judge, 2nd Judicial Circuit

March 23^d, 2015
Aiken, South Carolina

FILED

3.24.15

Lir Patrick Drieg
Esq.
Christa Knorr 900
Deputy Clerk

FORM 4

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

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2012CP0202382

Prescott And Sons Construction Lic	Larry Rogers Michelle Rogers
---------------------------------------	---------------------------------

PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <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.
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 Rule 43(k), SCRCP (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRCP; 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:

ORDER INFORMATION

This order ends does not end the case.

Additional information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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Circuit Court Judge

Judge Code

3/24/2015

Date

For Clerk of Court Office Use Only

This judgment was entered on 3-24-15, and a copy mailed first class or placed in the appropriate attorney's box on 3-24-15, to attorneys of record or to parties (when appearing pro se) as follows:

Lir Patrick Derieg 1924 Barnwell St Columbia, SC 29201

James McLeod Ervin PO Box 6276 Columbia, SC 29260-6276

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Clerk

Court Reporter

Liz Godard - 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.

FILED 29 April 2015

Cher Hadard
J.C.P. & G.S.
April Biacco

9:45am

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Prescott and Sons Construction, LLC,

Plaintiff,

v.

Larry Rogers and Michelle Rogers

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL
CIRCUIT

Case No. 2012-CP-02-2382

ORDER GRANTING PLAINTIFF'S
MOTION FOR ATTORNEY'S FEES
AND COSTS

WHEREAS Plaintiff's motion for attorney's fees and costs was made after a judgment for Plaintiff was entered on January 21, 2015, for the case captioned above, and came before this Court on March 16, 2015, arguments were made on behalf of the Defendants by James Ervin, Esq., and on behalf of the Plaintiff by Lir Patrick Derieg, Esq. Upon an examination of the evidence and an application of South Carolina jurisprudence, and for the reasons set forth below, the court awards Plaintiff an award of attorney's fees in the amount of \$10,469.13.

ISSUE

Defendants contend that because Plaintiff failed to introduce evidence to the jury of attorney's fees and costs, Plaintiff has waived the right to receive such fees and costs, and therefore that this court should deny Plaintiff's motion. This court disagrees.

DISCUSSION

The general rule in the State of South Carolina is that attorney's fees are not recoverable unless authorized by contract or by statute. *Baron Data Sys., Inc. v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (1989); *Hegler v. Gulf Ins. Co.*, 270 S.C. 548, 243 S.E.2d 443 (1978); *Collins v. Collins*, 239 S.C. 170, 122 S.E.2d 1 (1961). When there is a contract, the award of attorney's fees is left to the discretion of the trial judge and will not be disturbed unless an abuse of discretion is shown. *Baron, supra*.

There is no dispute of fact that the contract (herein after "Contract") which

JAE
EF

governed this Breach of Contract case provided, in Paragraph 17, that attorney's fees be awarded to the prevailing Party in the event that either Party is held to have breached the Contract. Nor is there a dispute that Defendants were held to have breached the Contract. This dispute, rather, centers on whether Plaintiff waived the recovery of attorney's fees by making a post-trial motion for such fees, rather than present evidence of attorney's fees to the jury during the trial phase of this case.

An examination of South Carolina case law reveals a South Carolina Supreme Court decision directly on point with the issue presented, specifically, *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 427 S.E.2d 492 (1993). In *Blumberg*, Blumberg and Nealco executed a lease, in September 1987, which provided for attorney's fees if Nealco failed to comply with its terms. In August 1988, Blumberg filed a complaint seeking monetary damages for past and future rent and an award attorney's fees. The trial court awarded Blumberg past due rent and reasonable attorney's fees. Nealco appealed, among other things, the award of the attorney's fee. *Id* at 660.

"The Court of Appeals reversed and remanded for reconsideration both the award of damages and attorneys' fees. Nealco moved for a rehearing on the issue of remanding the award of attorney's fees claiming that Blumberg had failed to establish any attorney's fees and should not be permitted to "reopen" the record and introduce evidence on remand. The Court of Appeals modified its holding and reversed the award of attorney's fees and remanded for reconsideration only the award of damages. Blumberg then appealed the Court of Appeals' failure to remand the issue of attorney's fees." *Id*.

The Court went on to discuss that when an award of attorney's fees is requested and such request is supported by contract or by statute, the trial court should make specific findings of fact on the record for each of the six of the *Collins* factors. *Id*. Ultimately, the Court modified the holding of the Court of Appeals and remanded the issue of attorney's fees to the trial court to make specific findings of fact in regards to the *Collins* factors. *Id* at 661.

In its discussion, the Blumberg Court specifically addressed the question of whether an award of attorney's fees was waived by Blumberg offering no proof of

attorney's fees at trial. The Court specifically disagreed with Nealco, and held that a waiver of attorney's fees did not occur when evidence as to attorney's fees was presented to the trial judge, at the conclusion of the trial, rather than to the jury during trial. *Id* at 660.

Turning to the case at Bar, Plaintiff, like in *Blumberg*, waited until after the jury awarded a judgment in its favor to move for an award of attorney's fees. At the hearing on March 16, 2015, Plaintiff offered evidence to this court to document the fees requested. Given the precedent set forth in *Blumberg*, this court finds that Plaintiff did not waive its right for an award of attorney's fees by offering evidence at a post-trial motion instead of at trial, and that this court must make specific findings as to each *Collins* factor.

There are six factors to consider in determining an award of attorney's fees: 1) nature, extent, and difficulty of the legal services rendered; 2) time and labor devoted to the case; 3) professional standing of counsel; 4) contingency of compensation; 5) fee customarily charged in the locality for similar services; and 6) beneficial results obtained. *Collins, supra*.

In applying the *Collins* factors to this case and the evidence presented to the court by Plaintiff, this court finds that:

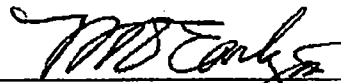
1. The nature, extent, and difficulty of the legal services rendered in this case are reasonably related to the amount of the attorney's fee requested;
2. The time and labor devoted to this case are reasonably related to the amount of the attorney's fee requested;
3. Plaintiff's counsel of record and Defendants' counsel of record are both in good professional standing, and this case was ably handled on both sides;
4. The attorney's fee requested was not contingent upon the outcome of this case. Plaintiff incurred its attorney's fee regardless of the outcome at mediation or at trial;

5. The fees charged, and now requested, are in accordance with fees customarily charged in this locality for similar services. In fact, Defendants' attorney's fee, as presented to the court by Defendants' counsel, was actually greater than the Plaintiff's attorney's fee; and
6. Beneficial results were clearly obtained on Plaintiff's behalf in the form of a jury verdict in favor of Plaintiff.

CONCLUSION

NOWHEREFORE, after hearing arguments and receiving evidence by both Parties, and after applying the six factors set forth in *Collins*, it is the Order of this court that Plaintiff's motion for attorney fees and costs is hereby **GRANTED** in the amount of \$10,469.13.

AND IT IS SO ORDERED.



The Honorable Doyet A. Early, III
Chief Administrative Judge, 2nd Judicial Circuit

April 7, 2015
Aiken, South Carolina

FORM 4

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

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2012CP0202382

Prescott And Sons
 Construction Llc

Larry Rogers

Michelle Rogers

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
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Circuit Court Judge

Judge Code

4/29/2015

Date

For Clerk of Court Office Use Only

This judgment was entered on 29 April, 2015, and a copy mailed first class or placed in the appropriate attorney's box on 29 April, 2015, to attorneys of record or to parties (when appearing pro se) as follows:

Lir Patrick Derieg 1924 Barnwell St Columbia, SC 29201

James McLeod Ervin PO Box 6276 Columbia, SC 29260-6276

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Api Bracco/DC
Liz Godard - 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.

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Prescott & Sons Construction, LLC,)
)
Respondent,)

Civil Action No. 2012-CP-02-02382
Appellate Case No. 2015-001115

vs.)

CERTIFICATE OF SERVICE

Larry & Michelle Rodgers,)
)
Appellants.)
_____)

I, the undersigned employee of Jordan, Rauton & Scott, LLC law firm, hereby certify that the following document has been served upon the following individual(s) by depositing same in the United States Postal Service with the proper amount of first-class postage duly affixed:

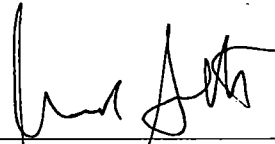
DISCOVERY: Motion to Amend Notice of Appeal

SERVED ON: Lir Patrick Derieg
1924 Barnwell Street
Columbia, South Carolina 29201
Attorney for Respondent

RECEIVED

OCT 01 2015

SC Court of Appeals



M. David Scott

October 1, 2015