

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 PATRICIA DOLLER,)
)
 Plaintiff)
)
 vs.)
)
 LOHR PLUMBING, INC.,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 Civil Action No. 2012-CP-07-1439

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 DEC 23 2015
 SC Court of Appeals

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 COURT OF COMMON PLEAS
 BEAUFORT COUNTY
 12/23/2015 10:00 AM

ORDER GRANTING NEW TRIAL ABSOLUTE ON LIABILITY AND DAMAGES

This matter is before the Court upon Plaintiff's Post-Trial Motions filed with the Clerk of Court on September 9, 2015, wherein she seeks relief from the jury verdict in favor of the Defendant rendered on September 3, 2015 and filed of record on September 3, 2015. More specifically, Plaintiff seeks judgment notwithstanding the verdict, a new trial under the Thirteenth Juror Doctrine, or a new trial absolute. The specific grounds for the Motion are set forth in Plaintiffs' Motion filed of record and arguments of her counsel. The Defendant's counsel has also ably stated and argued its position in opposition thereto. After carefully considering all matters of record, together with the applicable law, it is the opinion of this Court that a new trial is warranted under the Thirteenth Juror Doctrine.

Although the Court finds that JNOV may lie, this Court denies that motion and the motion for a new trial absolute because the motion for a new trial under the Thirteenth Juror Doctrine is granted.

The law is clear that a trial court, pursuant to the Thirteenth Juror Doctrine, may grant a new trial absolute when the evidence does not justify the verdict but cannot grant a new trial nisi or new trial absolute when the verdict is merely inadequate or unduly liberal. Neither can the Trial Court grant a new trial when the jury deliberations may appear suspicious, the quality or correctness of the jury verdict is questionable, or when there is concern with what the jury may have based its decision upon (*Scroggins v. McClellion*, 321 S.C. 264, 468 S.E.2d 12 (Ct. App. 1996); *Youmans v. S.C. Dept. of Transportation*, 380 S.C. 263, 670 S.E.2d 1 (Ct. App. 2009)). In other words, the trial court must only concern itself with whether the evidence justifies the verdict and cannot second guess the jury's actions or motives for its verdict.

It is also established law that the trial court is not required to set forth the specific reasons for its decision or explain them in any way and its Order granting or denying a new trial upon the facts will not be disturbed unless its decision is wholly unsupported by evidence or the conclusion reached is controlled by an error of law (*Trivelas v. S.C. Dept. of Transportation*, 357 S.C. 545, 593 S.E.2d 504 (Ct. App. 2005); *Folkens v. Hunt*, 300 S.C. 251, 254, 387 S.E.2d 265, 267

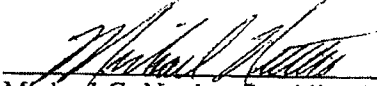
(1990)). This Court recognizes and appreciates this responsibility and that its discretion must be exercised with fairness and impartiality, *Worrell v. S.C. Power Co.*, 186 S.C. 306, 313-14, 195 S.E. 638, 641 (1938), and has carefully considered the evidence and the law in reaching its decision. In this case, the evidence does not justify the verdict.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED as follows:

1. Plaintiff's Motion for a New Trial Absolute on Liability and Damages is granted under the Thirteenth Juror Doctrine.
2. Plaintiff's other motions are denied.
3. The case shall be immediately restored to the active trial roster of the Court of Common Pleas for Beaufort County, South Carolina.

AND IT IS SO ORDERED.

11-22-, 2015



Michael G. Nettles, Presiding Judge
Court of Common Pleas, Beaufort County,