

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

A TRUE COPY
JAN 29 2016
Richard S. Lively
CLERK OF COURT

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Michael David Hollingsworth and Tritelby
Hollingsworth,

Case # 2014-cp-04-1815

Plaintiffs,

**Order on Motion for New
Trial**

v.

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Rhonda Phillips and Brian Phillips,

Defendants

SC Court of Appeals

2016 JAN 29 AM 9 41
COMMON PLEAS AND
GENERAL SESSIONS

FILED-CLERK'S OFFICE
ANDERSON SC

Hearing Date:	October 22, 2015
Judge:	R. Scott Sprouse
Plaintiff's Attorney:	<i>Pro se</i>
Defendant's Attorney:	David F. Stoddard
Court Reporter:	Vivian H. Cross

This matter came before me pursuant to Defendants' Motion for a New Trial and to amend Judgment. After a hearing in the matter, the court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Plaintiff commenced suit against Rhonda Phillips and Brian Phillips by filing and serving a Summons and Complaint. The Complaint alleged breach of contract or fraud and also alleged that the defendants engaged in harassing conduct.¹
2. A jury trial was held September 9, 2015.²

¹ The Plaintiff filed the Complaint *pro se*. The allegations in the Complaint are somewhat vague as to what cause of action(s) is/are alleged. Nonetheless, the case proceeded to trial with no motion having been made for clarification, or to dismiss for failure to state a cause of action.

² All litigants proceeded to trial *pro se*. Defendants motion that is decided herein was filed by counsel who did not participate in the trial.

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3. The evidence presented at trial alleged the existence of a contract between Plaintiffs and Defendant Rhonda Phillips. No evidence was presented that Defendant Brian Phillips was a party to the contract. Evidence was presented that Brian Phillips engaged in harassing behavior toward Plaintiffs. ³
4. To the extent the Complaint alleged a separate cause of action based on Plaintiffs' allegations of harassing behavior, this cause of action was not submitted to the jury, although no written order was issued regarding this ruling.
5. The Jury returned a verdict for the Plaintiff in the amount of \$11,000.00.
6. On September 9, 2015, the court issued a judgment for the Plaintiffs against both Defendants in the amount of \$11,000.00 which was filed of record September 10, 2015.
7. On September 18, 2015, the Defendants filed a Motion for New Trial and to Amend Judgment. Plaintiff's Motion for New trial was made pursuant to Rule 59(a) alleging that the judgment was against the fair preponderance of the evidence. Defendants' Motion to Amend Judgment was made pursuant to Rule 60, alleging that Judgment was entered against Brian Phillips as a result of clerical error.
8. The court finds that grounds for a new trial do not exist. The Defendants' Motion enumerates six particulars by which the verdict was not supported by a fair preponderance of the evidence. ^{the} The court finds that the six enumerated ways the Defendants allege ^{that} the verdict is not supported raise issues which were disputed by evidence presented on both sides that were properly within the province of the jury, and this court does not find that this verdict was contrary to a fair preponderance of the evidence.

³ Some allegations in the complaint are made against "Defendants" and some against "Defendant". Where allegations are made against the Defendant (singular) the allegations do not specify which Defendant.



9. The court finds that the only evidence presented against Defendant Brian Phillips was evidence of harassing behavior, and no cause of action based on this evidence was presented to the jury. The court finds that the judgement entered against Brian Phillips is a result of clerical error, that Brian Phillips was included in this judgment simply because he was included in the case caption.

CONCLUSIONS OF LAW

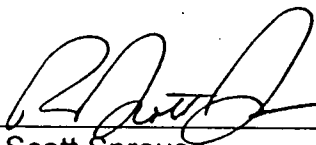
- 10. The Plaintiff timely filed a Motions pursuant to Rules 59 and 60 for a new trial and to amend the judgment.
- 11. The Defendant has shown grounds to amend the judgement as set out above.
- 12. The Defendant has not shown grounds for a new trial.

WHEREFOTRE IT IS ORDERED THAT:

- A. The Defendant's Motion for a New Trial is Denied.
- B. The Defendant's Motion to Amend the Judgment is granted. The Judgment issued in the above captioned case dated September 9, 2015 and filed September 10, 2015 is hereby amended to reflect that there is no Judgment entered against Brian Phillips and the Clerk of Court is ordered to correct the Judgement Rolls accordingly.

IT IS SO ORDERED

Jawon
December 26, ²⁰¹⁴ 2015


R. Scott Sprouse
Presiding judge
The Court of Common Pleas
Tenth Judicial circuit

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