

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Appellate Case No. 2015-000359
Case No. 2011-CP-42-3951

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SEP 11 2015

SC Court of Appeals

Dickie Shults,Appellant,

v.

Angela G. Miller,Respondent.

SUPPLEMENTAL RECORD ON APPEAL

Samuel Darryl Harms, III, Esq.
Harms Law Firm, P.A.
33 Market Point Drive
Greenville, SC 29607
(864) 277-0102
Attorney for Appellant

Robert Eric Davis, Esq.
The Ward Law Firm, P.A.
P.O. Box 5663
Spartanburg, SC 29304
(864) 591-2369
Attorney for Respondent

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1 is no prejudice whatsoever because since this Court has
2 heard this motion and ruled on it we've had a mediation in
3 this case. And this case was mediated with the --
4 Mr. Seay's case with the worker's comp claim.

5 And Mr. Shults has received ample settlement, over
6 \$225,000, from the Seay case. So there's no prejudice to
7 that. They reached that settlement on their own. It was
8 not something that was forced on them.

9 They have received what we would consider to be full
10 satisfaction. So there's certainly no prejudice to
11 Mr. Shults. He's recovered. He's recovered what we would
12 say fully.

13 And anything that he's trying to get here would be as
14 a result of a mere technicality, and that would not promote
15 justice and would not be what we would think that the
16 courts of this state would allow or would find would be
17 responsive to the Sundown factors.

18 So, Your Honor, I believe that the Court did
19 adequately and legally apply the Sundown factors. We've
20 met all three prongs of it. We've provided the Court with
21 evidence for all three prongs for it.

22 In addition, since we have last been before Your Honor
23 we have taken the deposition of the plaintiff, Mr. Dickie
24 Shults. And I asked him under oath about the case and the
25 facts of it.

1 We have asked to come in and defend the case. We
2 have. We have proceeded to mediation, depositions, written
3 discovery.

4 And basically it is our position that the time for
5 ending this case is now. There's no further delay. The
6 plaintiff has received full recovery in this case from
7 Mr. Seay, from the underinsured motorist carrier, from the
8 worker's comp carrier. And there's no -- no reason for the
9 case to continue any further against Ms. Miller.

10 THE COURT: Mr. Harms.

11 MR. HARMS: Your Honor, I'll address both the -- well,
12 first on the motion to reconsider setting aside the order
13 of default a couple of things.

14 First, before you get into the 3-prong analysis that's
15 in this Sundown Operating Company's case, which they're
16 cited in our order, you first must make a determination
17 whether or not there was good cause in order to relieve the
18 defendant from default.


19 The three prongs in the Sundown's Operating Company
20 case do not establish good cause. They're simply three
21 factors to consider after good cause is shown.

22 Our argument in this case is that the defendant cannot
23 show good cause, so you never get to the three factors that
24 you get to in your brief and that you can in your order
25 from the Sundown Operating Company case. Again, we are in

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The undersigned hereby certifies that the Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

September 8, 2015


Samuel D. Harms
S.C. Bar No: 13537
Harms Law Firm, P.A.
33 Market Point Drive
Greenville, SC 29607
(864) 277-0102
Attorney for Appellant