

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

FORM 4

JUDGMENT IN A CIVIL CASE

Jones G Herring

PLAINTIFF(S)

Gilbert S Bagnell  
 Bagnell and Eason LLC  
 DEFENDANT(S)

CASE NUMBER: 2011CP4001998

**RECEIVED**

APR 14 2016

SC Court of Appeals

Submitted by: \_\_\_\_\_ Attorney for :  Plaintiff  Defendant  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.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Dismissal);  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 \_\_\_\_\_

FILED  
 RICHLAND COUNTY  
 MAR 16 AM 9:08  
 JEANETTE W. ABRIDE  
 C.P.S. &

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 PUBLIC 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
		\$
		\$
		\$

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 \_\_\_\_\_

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this 16 March 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Douglas Neal Truslow

Richard R. Gleissner

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter \_\_\_\_\_

Clerk of Court Jeanette W. Abride

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Jones G. Herring,

Plaintiff,

vs.

Gilbert S. Bagnell and  
Bagnell & Eason, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

CASE NO. 2011-CP-40-01998

ORDER

RECEIVED

APR 14 2016  
SC Court of Appeals

JEANETTE W. MCBRIDE  
C.C.P. & G.S.

2016 MAR 16 AM 9:08

RICHLAND COUNTY  
FILED


This matter comes before the Court on Defendants' Motion to Reconsider, Alter, Amend, and/or Clarify judgment pursuant to Rule 52(b), SCRCPP, and Rule 59(e), SCRCPP. This matter came before the Court on August 26, 2015, as a damages hearing on Plaintiff's claims against Defendants. On February 1, 2016, the Court awarded damages in favor of Plaintiff in the amount of \$11,147.99 in actual damages and \$100,000.00 in punitive damages. Defendants filed this motion on February 15, 2016.

After careful consideration of the motion made, memoranda submitted, and the record in this case, this Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or facts not appropriately considered. Accordingly, this Court hereby **DENIES** Defendants' Motion to Reconsider, Alter, Amend, and/or Clarify judgment in this matter. Pursuant to Rule 59(f), the Court is of the opinion that oral argument is not necessary.

Although the Court denies Defendants' Motion, the Court takes this additional opportunity to respond to arguments Defendants made in their Rule 52, SCRCPP, and Rule 59, SCRCPP, Motion. In their Motion, Defendants argue that the Court, in its February 1, 2016, Order "conflate[d] the Defendants' admission of liability with what evidence is necessary to show the proximately related damages." Defendants' Motion at 1. Defendants argue that through their default they admitted only their negligence in allowing Plaintiff's statute of limitations to expire on his underlying causes of action against Citi—they did not admit that

Plaintiff's damages were compensable. Defendants then cite several cases<sup>1</sup> in support of their contention that "adequate evidence [must be] presented establishing the harm to Plaintiff caused by Citi would have been recovered 'but for' the negligence of Defendant." Defendants' Motion at 2. The cases cited by Defendants, however, all involved defendant attorneys who did not default on the claims brought against them. Those cases, therefore, are not dispositive on the issues presented in the instant matter. In this case, Plaintiff, in his complaint, alleged, among other things, that Defendants were negligent in not bringing a cause of action within the requisite statute of limitations, and because of Defendants' negligence, Plaintiff lost his ability to successfully bring a claim against Citi. Since Defendants defaulted on Plaintiff's claims against them, they admitted the veracity and underlying success of Plaintiff's claims against Citi. Accordingly, Defendants have conceded that "but for" their negligence, Plaintiff "most probably" would have been successful on his underlying claims against Citi. As such, the only issue before the Court was the amount of damages caused by Defendants' failure to bring an action against Citi on behalf of Plaintiff.

**AND IT IS SO ORDERED.**

  
ALISON RENEE LEE  
Presiding Judge

Columbia, South Carolina  
March 14, 2016

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<sup>1</sup> Defendants cite the following cases: *Hall v. Fedor*, 349 S.C. 169, 561 S.E.2d 654 (Ct. App. 2002); *Brown v. Theos*, 345 S.C. 626, 550 S.E.2d 304 (2001); *Summer v. Carpenter*, 328 S.C. 36, 492 S.E.2d 55 (1997); *Manning v. Quinn*, 294 S.C. 383, 365 S.E.2d 24 (1988); *Floyd v. Kosko*, 285 S.C. 390, 329 S.E.2d 459 (Ct. App. 1985).