

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2015 CP-10-2616

PATRICIA DANYEAL EMORY,

GRACE HOSPITALITY, LLC, JHM ENTERPRISES, INC.,

AND JHM HOTELS, LLC D/B/A CHARLESTON MARRIOTT  
 DEFENDANT(S)

PLAINTIFF(S)

FILED  
 2016 MAY -3 PM 2:40  
 JULIE HARRINGTON  
 CLERK OF COURT

Submitted by: BRIAN C. DUFFY, SPECIAL REFEREE	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <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

RECEIVED  
 JUN 20 2016  
 SC Court of Appeals

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 : Total Judgment amount of \$1,578,129.61 to be applied jointly and severally among the 3 defendants

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)
PATRICIA DANYEAL EMORY	GRACE HOSPITALITY, LLC	\$1,578,129.61
	JHM ENTERPRISES, INC.	\$1,578,129.61
	JHM HOTELS, LLC D/B/A CHARLESTON MARRIOTT	\$1,578,129.61
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.



STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS  
) FOR THE NINTH JUDICIAL CIRCUIT  
) CASE NO.: 2015-CP-10-2616

**RECEIVED**

JUN 20 2016

SC Court of Appeals

Patricia Danyea Emory,  
Plaintiff,

vs.

Grace Hospitality, LLC, JHM Enterprises,  
Inc., and JHM Hotels, LLC d/b/a  
Charleston Marriott,  
Defendants.

**ORDER OF DEFAULT JUDGMENT  
AGAINST DEFENDANTS GRACE  
HOSPITALITY, LLC, JHM ENTERPRISES,  
INC., AND JHM HOTELS, LLC d/b/a  
CHARLESTON MARRIOTT**

2016 MAY -3 PM 2:40  
JULIE J. ARMSTRONG  
CLERK OF COURT

**FILED**

**HEARING DATE:** April 28, 2016  
**PRESIDING JUDGE:** Brian C. Duffy, Esquire, Special Referee  
**PLAINTIFF'S ATTORNEYS:** David B. Yarborough, Jr., Esquire  
David B. Lail, Esquire  
**DEFENDANTS' ATTORNEY:** Reynolds H. Blankenship, Jr., Esquire

THIS MATTER comes before me on referral by the Charleston County Clerk of Court following an Entry of Default Against Defendants Grace Hospitality, LLC, JHM Enterprises, Inc., and JHM Hotels, LLC d/b/a Charleston Marriott and Order of Referral to Special Referee which was filed on September 24, 2015. Defendants' Motion to Set Aside and Vacate Entry of Default and Vacate Order of Referral to Special Referee was denied on March 21, 2016 after oral argument by the above-named counsel for Plaintiff and Defendants. Pursuant to Rule 55(b)(2) of the South Carolina Rules of Civil Procedure, a damages hearing was held on April 28, 2016 at 10:00 a.m.

Plaintiff was present and represented by David B. Yarborough, Jr., Esquire and David B. Lail, Esquire of Yarborough Applegate LLC. Reynolds H. Blankenship, Jr., Esquire of Walker & Reibold, LLC, was also present as counsel for Defendants. Testimony was taken, evidence has

been received, and having considered the entire record of this case, I make the following Findings of Fact and Conclusions of Law as required by Rule 52, SCRPC. Any Finding of Fact which is more appropriately denominated as a Conclusion of Law shall be treated as such, and vice-versa.

Testimony was heard from Plaintiff Patricia Daniel Emory, Marshall A. White, MD, and Tricia M. Yount, CPA, MAFF. Extensive testimony as to the Plaintiff's damages, the permanency of her injuries, the nature of her medical treatment, the need and desire for future medical treatment, and the present value of future medical care costs was provided.

### **FINDINGS OF FACT**

1. I FIND that each of the above sentences in this Order are incorporated herein by reference as if they were reproduced verbatim, and that each are deemed to be findings of fact by this Court.

2. I FIND that the parties hereto and the subject matter hereof are within the jurisdiction of this Court.

3. I FIND that this damages hearing was properly noticed and served upon Defendants and that it satisfies the requirements of Rule 55(b)(2), SCRPC.

4. I FIND that, based on the testimony of Plaintiff and Marshall A. White, MD, and the medical bills of Plaintiff, she sustained the following injuries and damages:

- a. Plaintiff was injured on May 6, 2013 when she fell on stairs at the Charleston Marriott;
- b. Plaintiff suffered injuries to her shoulder and back;
- c. Plaintiff underwent diagnostic testing;
- d. Plaintiff underwent two surgeries;
- e. Plaintiff underwent multiple injections;
- f. Plaintiff underwent physical therapy;
- g. Plaintiff has required medications due to her injuries;

- h. Plaintiff continues to suffer pain due to her injuries; and
- i. Plaintiff continues to suffer from reduced functionality and range of motion in her shoulder.

5. I FIND that, based on the testimony and medical bill summary entered into evidence, Plaintiff incurred **\$107,435.44** in medical expenses due to Defendants' actions as shown below:

<b>PROVIDER</b>	<b>AMOUNT</b>
MUSC	\$1,908.00
MUSC Physicians	\$373.00
Carolina Orthopaedics & Sports Medicine	\$310.00
Perry Orthopedics & Sports Medicine (Dr. Marcus P. Cook)	\$9,909.50
Novant Health -Mecklenburg Radiology	\$1,947.00
Select PT	\$21,941.01
Carolina Neurosurgery & Spine	\$9,706.00
Novant Health-Charlotte Orthopedic Hospital (Dr. Marcus Peter Cook)	\$48,860.13
Novant Health-Presbyterian Medical Center	\$7,382.80
Novant Health-Total Spine Specialists (Dr. Stephanie J. Plummer)	\$1,248.00
Elite Spine Center	\$1,335.00
Gaston Medical Spa @ GMG	\$295.00
Caromont Neurosurgery	\$1,920.00
Dr. Neal Taub	\$300.00
<b>TOTAL</b>	<b>\$107,435.44</b>

6. I FIND that, based upon the testimony of Marshall A. White, MD and evidence admitted at the hearing, Plaintiff will, for the rest of her life, require and benefit from future medical care due to the actions of Defendants to include:

- a. Medications;
- b. Non-Interventional Treatment;
- c. Interventional Therapy;
- d. Diagnostic Testing; and
- e. Physician's Office Visits.

7. I FIND that, based upon the testimony of Tricia M. Yount, CPA, MAFF and Marshall A. White, MD, and evidence admitted at the hearing, the present value of future care needed by Plaintiff due to the actions of Defendants is \$664,671.00.

8. I FIND that, based upon the testimony of Plaintiff and other evidence admitted at the hearing, Plaintiff was unable to work for a period of 69 weeks, her wages per week were \$811.93, and she lost wages in the amount of \$56,023.17 due to the actions of Defendants.

9. I FIND that Plaintiff filed the Complaint to seek redress for personal injuries she suffered as a result of Defendants' actions.

10. I FIND that, as a result of the Entry of Default, Plaintiff is entitled to recover actual damages prayed for in the Complaint to compensate her fully for all losses and damages, past, present, and future.

11. I FIND that Plaintiff has proven by a preponderance of evidence that she is entitled to damages for her personal injuries and medical expenses, past, present, and future, connected to the actions of Defendants.

12. I FIND that both the past medical treatment and medical bills were reasonable and necessary based on the injuries sustained by Plaintiff.

13. I FIND that the future damages and expenses related to the cost of future medical care are reasonably certain to occur and are supported by the testimony and evidence admitted at the hearing and have been proven by a preponderance of the evidence.

14. I FIND that Plaintiff would benefit from future medical care.

15. I FIND that Plaintiff has proven by a preponderance of evidence that she is entitled to recover for permanent injuries and impairment to her shoulder and back, past and future pain and suffering, past and future loss of enjoyment of life, and mental suffering due to the negligence of

Defendants in default, and that Plaintiff has offered testimony and presented evidence in support of same.

### CONCLUSIONS OF LAW

1. “[B]y suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff’s allegations and have conceded liability.” Austin v. Specialty Transp. Servs., Inc., 358 S.C. 298, 319 (Ct. App. 2004) (quoting Roche v. Young Bros., 332 S.C. 75, 81 (1998)). Therefore, because Defendants have been entered into default, all of Plaintiff’s factual allegations in the Complaint relating to their liability as well as all causes of action directed at Defendants in default must be taken as true. Additionally, it appears that by a preponderance of the evidence, Defendants in default proximately caused the injuries and damages to Plaintiff set forth above.

2. Finding that the essential elements of Plaintiff’s claim for negligent conduct has been established as to Defendants in default, the amount of damages to fairly compensate Plaintiff for the injuries she suffered is now addressed. As set forth above, the evidence shows that Plaintiff was injured as a result of Defendants’ conduct. As such, Plaintiff’s permanent injuries, the attendant pain and suffering, and Plaintiff’s incurring medical expenses for past and future treatment all result from Defendants’ negligence.

3. “The purpose of actual or compensatory damages is to compensate a party for injuries suffered or losses sustained. The goal is to restore the injured party, as nearly as possible through the payment of money, to the same position her or she was in before the wrongful injury occurred.” Clark v. Cantrell, 339 S.C. 369, 378 (2000).

4. The South Carolina Supreme Court has held as follows regarding future damages: “an injured party may also recover for such future damages as it is reasonably certain will of necessity result from the injury received. The principal underlying compensation for future damages is that

only one action can be brought, and, therefore, only one recovery had. It is proper to include in the estimate of future damages compensation for pain and suffering which will with reasonable certainty result.” Boan v. Blackwell, 343 S.C. 498, 500 (2001).

5. Plaintiff incurred past medical expenses totaling \$107,435.44.

6. Plaintiff incurred lost wages totaling \$56,023.17.

7. The present value of Plaintiff’s future medical expenses is \$664,671.00.

8. Plaintiff is also entitled to damages for “loss of enjoyment of life” and “pain and suffering.” See Boan v. Blackwell, 343 S.C. 498, 499 (2001). These are two separately compensable elements of damages. See, id. “Pain and suffering compensates the plaintiff for the physical discomfort and the emotional response to the sensation of pain caused by the injury itself.” Id. at 501-502. Damages for loss of enjoyment of life, “compensate for the limitations, resulting from the defendant’s negligence, on the injured person’s ability to participate in and derive pleasure from the normal activity of daily life, or for the individual’s ability to pursue his talents, recreational interests, hobbies, or avocations.” Id. at 502. Recovery for mental suffering is also recoverable. Holtzscheiter v. Thompson Newspapers, Inc., 332 S.C. 502, 506 S.E.2d 497 (1998). There is no definite standard by which to compensate a Plaintiff for loss of enjoyment of life, pain and suffering, and mental suffering. Damages must be awarded that are just and reasonable in light of the testimony and evidence presented.

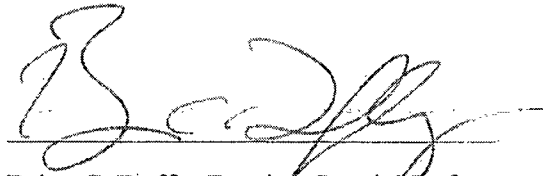
9. Given the foregoing, a preponderance of the evidence has established that the injuries and damages sustained by the Plaintiff were a direct and proximate result of the negligence of

Defendants in Default and that the amounts reasonably required to fairly and justly compensate the Plaintiffs for actual and noneconomic damages are as follows:

Past Medical Expenses	\$ 107,435.44
Future Medical Expenses	\$ 664,671.00
Past Lost Wages	\$ 56,023.17
Past and Future Pain and Suffering, Loss of Enjoyment of Life, and Mental Anguish	\$ 750,000.00
<b>TOTAL</b>	<b>\$ 1,578,129.61</b>

**IT IS ORDERED, ADJUDGED and DECREED** that Plaintiff should be, and is hereby awarded judgment against Defendants, jointly and severally, in the amount of **\$1,578,129.61**.

**IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Clerk of Court shall enter judgment in the foregoing amount against Defendants in the Judgment Rolls of Charleston County, South Carolina. **AND IT IS SO ORDERED.**



Brian C. Duffy, Esquire, Special Referee  
Ninth Judicial Circuit

DATE: May 3, 2016  
Charleston, South Carolina

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
CLERK, C.P., GS & FC  
By: Anouela Rigney  
DEPUTY CLERK