

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

6 SHELLY COURT, LLC,)

Plaintiff,)

-vs-)

OCEAN CLUB VILLAS)
HORIZONTAL PROPERTY)
REGIME I, OCEAN CLUB)
VILLAS REGIME I OWNERS)
ASSOC., AND HIGHSMITH)
CONSTRUCTION CO., INC.,)

Defendants.)

OCEAN CLUB VILLAS)
HORIZONTAL PROPERTY)
REGIME I, OCEAN CLUB)
VILLAS REGIME I OWNERS)
ASSOC.,)

Third-Party)
Plaintiffs,)

-vs-)

HIGHSMITH CONSTRUCTION,)

Third-Party)
Defendant.)

HIGHSMITH CONSTRUCTION,)

Fourth-Party)
Plaintiff,)

-vs-)

SAVANNAH ANALYTICAL AND)
CONSULTING SERVICE, INC.,)
AND SERVICE MASTER OF)
BEAUFORTCOUNTY, INC.,)

Fourth-Party)
Defendants.)

IN THE COURT OF COMMON PLEAS)
THE FOURTEENTH JUDICIAL CIRCUIT)

CIVIL ACTION NO.: 2010-CP-07-4906)

RECEIVED

JUL 22 2016

SC Court of Appeals

ORDER DENYING PLAINTIFF'S MOTION FOR)
NEW TRIAL)

2016 JUN 26 PM 2:30
CLERK OF COURT

This case was tried before a Beaufort County jury during the week of April 25, 2016. The jury returned a defense verdict on April 29, 2016. The Plaintiff filed its Motion for a New Trial with the Beaufort County Clerk of Court on May 9, 2016.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Plaintiff moves for a new trial pursuant to SCRCP Rules 59(d) and 59(e). The Plaintiff contends that its motion is timely based upon SCRCP Rule 59(b), which provides that a party must move for a new trial promptly after the discharge of the jury, or in the discretion of the Court not later than 10 days thereafter. S. C. R. Civ. P. 59(b). In support of its contention of timeliness, the Plaintiff relies on Buxton v. Thompson Dental Co., which held that if a party failed to timely move for a new trial promptly after discharge of the jury, the trial court could hear the motion if it were made within the ten day period. Buxton v. Thompson Dental Co., 307 S.C. 523, 415 S.E.2d 844 (Ct. App. 1992). This Court finds that Buxton was overruled on this very issue by Boone v. Goodwin, which held that "a party must make a motion for a new trial promptly after the jury is discharged or request ten days within which to make the motion." Boone v. Goodwin, 314 S.C. 374, 376, 444 S.E.2d 524, 525 (1994).

In this case, the Plaintiff failed to move for a new trial promptly after the jury was discharged or request ten days to make such a motion; therefore, this Court finds that Plaintiff's motion is not timely. The Plaintiff's Motion for a New Trial is hereby denied.

AND IT IS SO ORDERED.

June 20, 2016
St. George, South Carolina

Maité Murphy
The Honorable Maité Murphy
Presiding Judge