

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014CP4005663

Rene Hale Shelley

South Carolina Highway Patrol

RECEIVED

Michael Mann Lindler

PLAINTIFF(S)

DEFENDANT(S)

OCT 24 2016

Submitted by: _____

Attorney for: Plaintiff Defendant or Self-Represented Litigant

SC Court of Appeals

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. 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 _____

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 : _____

RICHLAND COUNTY
FILED
2016 SEP 23 PM 2:30
JEANETTE W. MCBRIDE
CLERK, P. G. S.

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
		\$
		\$
		\$

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 14 day of Sept, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Lauren Victoria Knight
Andrew William Kunz

C. Carter Elliott Jr.

William H. Davidson II

Joel Steve Hughes

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Jeanette W. McBride

SCANNED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Rene Hale Shelley, Individually and as)
Personal Representative of the Estate of)
Michael Mann Lindler)

Plaintiff,)

vs.)

South Carolina Highway Patrol)

Defendant.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO. 2014-CP-40-05663

ORDER AMENDING JUDGMENT
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OCT 24 2016

SC Court of Appeals

RICHLAND COUNTY
FILED
2016 SEP 23 PM 2:16
JEANETTE M. HARRIS
C.C.P. & G.S.

This matter comes before the Court on Plaintiff's, Rene Shelley, individually and as personal representative of the Estate of Michael Lindler, ("Plaintiff") Motion to Reconsider, in the Alternative, Alter or Amend Judgment pursuant to Rule 59(e), SCRCP. This matter came before the Court as a jury trial on March 14 – 18, 2016. By Order dated July 19, 2016, this Court granted a Motion for Directed Verdict on behalf of Defendant, South Carolina Highway Patrol, ("Defendant"), finding that certain sections of the Tort Claims Act barred Plaintiff's claims. Plaintiff filed the Motion to Reconsider on August 2, 2016. It was not served on the Court as required by Rule 59, SCRCP.

Plaintiff states two arguments were raised during trial by Plaintiff's counsel that the Court failed to address in the Order, and as a result, the omissions justify reconsideration. First, Plaintiff states the Order omitted arguments regarding Defendant's liability under the "voluntary undertaking" doctrine. Plaintiff cites the ruling in *Russell v. Columbia*, 305 S.C. 86, 406 S.E.2d 338 (1991) to support its argument. However, this Court ruled at the hearing that *Russell* did not control the present case since it was prior to the enactment of the S.C. Tort Claims Act, codified at S.C. Code Ann. § 15-78-10 et seq., and none of the immunities provided for in the Tort Claims Act were considered by the Supreme Court in *Russell*.

Second, Plaintiff states that the arguments relating to Defendant's duty of care based on the exceptions to the "public duty" rule were omitted from the Order. During the trial, Plaintiff cited *Edwards v. Lexington County Sheriff's Dept.*, 386 S.C. 285, 688 S.E.2d 125 (2010) to support its argument that Defendant's officer, by his conduct, created a special relationship with Plaintiff,

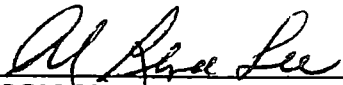
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which is one of five exceptions to the "public duty" rule. This Court ruled that the issues relating to the duty of the Defendant was a jury question; however, Plaintiff's claims were barred by the immunities under the Tort Claims Act. These issues were specifically raised and ruled upon during the trial as reflected in the transcript of the hearing on Defendant's motion for a directed verdict.

Accordingly, after careful consideration of the motion made 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. Plaintiff's Motion to Reconsider is **DENIED**; however, Plaintiff's Motion to Alter or Amend Judgment is **GRANTED** to include Plaintiff's additional arguments and this Court's ruling on those respective arguments as stated in the Transcript of Record. Pursuant to Rule 59(f), SCRPC, the Court is of the opinion that oral argument is not necessary.

AND IT IS SO ORDERED.



ALISON RENÉE LEE
Presiding Judge

September 23, 2016
Columbia, South Carolina

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