

IN THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

R. Knox McMahon, Circuit Court Judge

Case No. 2013-CP-38-00992
2013-CP-38-00994

Appellate Case No. 2016-001807

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FEB 28 2017

SC Court of Appeals

Denetra Glover.....Respondent,

v.

William Shervon Stack and Shervon Latrese Simpson, ...Defendants,

Of whom

Shervon Latrese Simpson.....Appellant.

AND

Shirley Davis.....Respondent,

v.

William Shervon Stack and Shervon Latrese Simpson.....Defendants,

Of Whom Shervon Latrese Simpson.....Appellant.

RECORD ON APPEAL

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INDEX

Order of August 2, 2016 Denying Motion for Entry of Satisfaction of Judgment (Case No. 2013-CP-38-00992).....	1
Order of August 2, 2016 Denying Motion for Entry of Satisfaction of Judgment (Case No. 2013-CP-38-00994).....	7
Order of July 9, 2014 (Case No. 2013-CP-38-00992).....	13
Order of July 9, 2014 (Case No. 2013-CP-00994).....	16
Order of October 31, 2013 (Case No. 2013-CP-38-00992).....	19
Order of October 31, 2013 (Case No. 2013-CP-00994).....	20
Complaint (Case No. 2013-CP-38-00992).....	21
Complaint (Case No. 2013-CP-38-00994).....	26
Plaintiff's Motion and Order for Reference (Case No. 2013-CP-38-00992).....	31
Plaintiff's Motion and Order for Reference (Case No. 2013-CP-38-00994).....	32
Stipulation for Dismissal of Defendant Stack with Prejudice (Case No. 2013-CP-38-00992).....	33
Stipulation of Dismissal of Defendant Stack with Prejudice (Case No. 2013-CP-38-00994).....	34
Motion for Entry of Satisfaction of Judgment (Case no. 2013-CP-38-00992).....	35
Memorandum for Entry of Satisfaction of Judgment (Case No. 2013-CP-38-0992).....	41
Motion for Entry of Satisfaction of Judgment (Case No. 2013-CP-00994).....	52
Memorandum in Support of Motion for Entry of Satisfaction of Judgment (Case No. 2013-CP-00994).....	58
Memorandum in Opposition to Motion for Entry of Satisfaction of Judgment (Case No. 2013-CP-38-00992).....	71
Memorandum in Opposition to Motion for Entry of Satisfaction of Judgment (Case No. 2013-CP-38-00994).....	83
Transcript, June 29, 2016 Hearing on Motions for Entry of Satisfaction of Judgment.....	93
December 17, 2014 Release of all claims as to Defendant Stack Only (Davis).....	114

December 17, 2014 Release of all claims as to Defendant Stack Only (Glover).....	115
Plaintiff's Exhibit 1 from Default Damages Hearing.....	116
Plaintiff's Exhibit 2, from Default Damages Hearing.....	117
Plaintiff's Exhibit 3 from Default Damages Hearing.....	119

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Shirley Davis,

Plaintiff,

vs.

William Shermon Stack and
Shervon Latreese Simpson,

Defendants.

IN THE COURT OF COMMON PLEAS

Case No.: 2013-CP-38-00992

**ORDER DENYING MOTION FOR
ENTRY OF SATISFACTION OF
JUDGMENT**

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CLERK OF COURT
ORANGEBURG, SC

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This matter came before the Court upon Defendant Shervon Latreese Simpson's motion for entry of satisfaction of judgment. Present before the Court were David Marshall on behalf of Plaintiff Shirley Davis, and Wesley Sawyer on behalf of Defendant Shervon Latreese Simpson. After hearing oral argument from counsel and reviewing the parties' written submissions, the Court finds that the default judgment entered against Defendant Simpson has not been fully satisfied, and therefore denies Simpson's motion for entry of satisfaction of judgment.

FACTUAL & PROCEDURAL BACKGROUND

The following facts and procedural history are not disputed by the parties. This civil action was filed as a result of an automobile accident that occurred in Orangeburg County on March 10, 2012 between vehicles driven by the Defendants. Plaintiff Shirley Davis ("Davis") was a passenger in a vehicle driven by Defendant Shervon Latreese Simpson ("Simpson") when a collision occurred with another vehicle being driven by Defendant William Shermon Stack ("Stack"). Davis was injured in the accident, and filed suit against the Defendants on or about September 4, 2013. While Stack filed an Answer to Plaintiff's Complaint, Simpson went into default.

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Winnifia B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

A damages hearing regarding Simpson's default was held on May 21, 2014, and the Special Referee for Orangeburg County, James B. Jackson, Jr., made two conclusions of law: (1) that Simpson was in default and liable for damages sustained by Plaintiff, and (2) that the Plaintiff was entitled to judgement against Simpson in the amount of \$18,000.00. It was therefore ordered for the Plaintiff to have a judgment "against the Defendant, Shervon Latreese Simpson" in the amount of \$18,000.00.

After the default judgment was entered as to Defendant Simpson, the case continued as to Defendant Stack. Ultimately, Plaintiff settled with Stack for a sum of \$11,000.00 and granted a release as to Defendant Stack only on or about December 17, 2014.

Plaintiff subsequently attempted to collect on the \$18,000.00 default judgment from Simpson's insurer. On December 31, 2015, counsel for Simpson mailed a check in the amount of \$7,000.00, purportedly for satisfaction of the default judgment. Plaintiff accepted the check as partial satisfaction of the default judgment, but maintained that an additional \$11,000.00 was due from Simpson in order to satisfy the \$18,000.00 default judgment. On April 7, 2016, Simpson filed the instant motion for entry of satisfaction of judgment. Plaintiff opposed the motion, claiming that an additional \$11,000.00 is due from Simpson and/or her insurer in order to fully and finally satisfy the default judgment entered as a result of Simpson's default.

DISCUSSION

The Court finds that Simpson is responsible for satisfying the entire \$18,000.00 default judgment entered against her, and is not entitled to a set off or credit for the subsequent \$11,000.00 settlement paid by Stack. By its terms, the default judgment states that Plaintiff was entitled to judgment *against Simpson* in the amount of \$18,000.00, and judgment was so entered "against the Defendant, Shervon Latreese Simpson." No judgment was entered as to Defendant

Stack. It was not a joint judgment. It was not a final judgment determining the total amount of damages sustained by Plaintiff as a result of the accident, or an allocation of liability among the two defendants. It was simply a default judgment as to one defendant determining that defendant's liability and the amount of damages caused by that defendant's negligence. Accordingly, the Court finds that Simpson is responsible for satisfying the entirety of the judgment, without regard to Plaintiff's later settlement with Stack. Such result does not lead to a double recovery or windfall for Plaintiff.

As the basis for her motion, Simpson argues that because Plaintiff ultimately reached a settlement with Stack, Simpson is entitled to a set off for the amount of the later settlement pursuant to S.C. Code § 15-38-50. Simpson's argument is premised upon the notion that the default judgment entered against her determined the entirety of damages sustained by Plaintiff as a result of the accident. The Court finds that Simpson's argument fails, and that the default judgment against Simpson did not make any determination as to the total amount of damages sustained by Plaintiff in the accident, but rather determined the amount of damages incurred by Plaintiff as a result of Simpson's negligence, for which Simpson alone is liable.¹

Simpson's argument and reliance on S.C. Code § 15-38-50 is misplaced under these circumstances. Contrary to Simpson's argument, Simpson was responsible for satisfying the entire default judgment amount as soon as it was entered against her. Simpson does not get the benefit of a later settlement by a co-defendant to set off her obligation of full satisfaction of the judgment against her. Such result would reward defendants, like Simpson, who intentionally delay satisfying judgments in hopes that their obligation to pay will be reduced or eliminated

¹ Had the default judgment entered as to Simpson made a final determination of the entirety of Plaintiff's damages caused by the motor vehicle accident, or an adjudication of the entire case, then Simpson's argument may have merit. However, because the default judgment by its terms was limited to determining the liability of Simpson – as opposed to the total damages of Plaintiff – Simpson's argument is misplaced.

altogether by a subsequent settlement of other answering parties. The law does not provide for or intend such an inequitable result, and Simpson has not presented any case law supporting her claim that a defaulting defendant is entitled to a set off from a default judgment against her in the amount of a co-defendant's subsequent settlement.

Under the usual circumstances, one defendant's settlement occurs before there is a verdict against another defendant, and S.C. Code § 15-38-50 provides the second defendant with a set off from the verdict or judgment in the amount of the first defendant's settlement. That is because the statute states that the first defendant's settlement "reduces the claim" against the other defendants. Indeed, that is the factual scenario presented in all cases cited and relied upon by Simpson. See *Ellis v. Oliver*, 335 S.C. 106, 515 S.E.2d 258 (Ct. App. 1999); *Smith v. Widener*, 397 S.C. 468, 724 S.E.2d 188 (Ct. App. 2012); *Polston v. Eli Lilly and Co.*, 2010 WL 2926159 (D.S.C. July 23, 2010); *Welch v. Epstein*, 342 S.C. 279, 536 S.E.2d 408 (Ct. App. 2000). Because all of these cases involve the factual scenario of using an earlier settlement to set off or reduce a later jury verdict, unlike the factual scenario of this case, these cases do not support Plaintiff's argument.

If Simpson's argument was correct (that the default judgment determined the entirety of Plaintiff's damages arising from the accident), then Plaintiff would never have been able to recover more than \$18,000.00 as a result of the accident or obtain a jury verdict as to the other, non-defaulting defendant. The Court finds that such result would be contrary to South Carolina law and the notions of our justice system because it would it would foreclose every plaintiff's ability to obtain a jury verdict as to damages if a default judgment is entered as to one of multiple defendants before trial, and would also deprive the non-defaulting defendant from his or her right

to a jury trial on the issue of damages.² Indeed, after the default judgment was entered, the case continued toward trial as to Defendant Stack, with factual jury issues as to Stack's liability and the total amount of Plaintiff's damages. This does not mean Plaintiff would obtain double recovery; rather, it simply means all of Plaintiff's claims would be adjudicated, with specific determinations of liability as to all defendants.³

By its terms, S.C. Code § 15-38-50 provides for the reduction of "the claim" against other tortfeasors whose liability have yet to be determined. The statute does not state that one party's settlement will reduce a prior judgment against another party. The very language of § 15-38-50(1) presupposes that there is still an unresolved claim against another tortfeasor at the time of settlement, for which liability is not discharged, but is reduced by the amount of the settlement. Indeed, that is the precise factual scenario in all cases relied upon by Simpson. However, in this case, there were no additional, outstanding tortfeasors at the time of Plaintiff's settlement with Stack, because the claim against Simpson was previously adjudicated via the default judgment. As such, the claim against the defaulting tortfeasor (Simpson) was previously finalized and adjudicated, and not subject to set off from a later settlement with Stack.

The law cited by Simpson is distinguishable from the facts of this case and does not support the relief she requests. Indeed, Simpson cites no law supporting her claim that a

² It is well established that the purpose of default judgments is to make determinations as to the liability of defendants that do not make timely appearance in cases. Default judgments do not make determinations as to the total amount of damages sustained by a plaintiff when other defendants have made appearances and are entitled to a jury trial on such issue, and the Special Referee in this case did not do so in his order entering default judgment against Simpson. Such result would deprive the plaintiff, and the answering defendant(s), of their constitutional right to seek a jury verdict as to the amount of damages. No law provides such outcome.

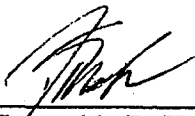
³ If Simpson had satisfied the entire \$18,000 judgment, then S.C Code § 15-38-50 would arguably provide any non-settling defendants with an \$18,000 set-off from any subsequent verdict or judgment, thereby ensuring no double recovery. But at the time the default judgment was entered, there was no prior settlement to reduce the claim against Simpson, or Simpson's obligation for full satisfaction, and Simpson does not get to benefit from Plaintiff's subsequent decision to settle her claim against Stack instead of obtaining a verdict and/or judgment. For instance, if Plaintiff obtained a judgment against Stack instead of settling with him, then Simpson would surely have no claim of set off. The fact that the claim against Stack resolved by settlement makes it no different.

defaulting defendant is entitled to reduction of a damages award against her based upon a subsequent settlement by a co-defendant. This is because Simpson was liable for the entire \$18,000.00 judgment the day it was entered, and remains responsible for satisfying the full judgment today. Because Simpson admittedly has only satisfied \$7,000.00 of the default judgment, the Court denies her motion for entry of satisfaction of judgment. The Court finds that Simpson is liable for satisfying the remaining balance of the judgment, in addition to post-judgment interest as allowed by statute.

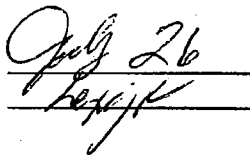
CONCLUSION

For the foregoing reasons, Defendant Simpson's motion for entry of satisfaction of judgment is DENIED.

IT IS SO ORDERED.



The Honorable R. Knox McMahon
Presiding Judge, First Judicial Circuit


_____, 2012/6
_____, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Denetra Glover,

Plaintiff,

vs.

William Shermon Stack and
Shervon Latreese Simpson,

Defendants.

IN THE COURT OF COMMON PLEAS

Case No.: 2013-CP-38-00994

**ORDER DENYING MOTION FOR
ENTRY OF SATISFACTION OF
JUDGMENT**

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ORANGEBURG, SC
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Winniford Clark

This matter came before the Court upon Defendant Shervon Latreese Simpson's motion for entry of satisfaction of judgment. Present before the Court were David Marshall on behalf of Plaintiff Denetra Glover, and Wesley Sawyer on behalf of Defendant Shervon Latreese Simpson. After hearing oral argument from counsel and reviewing the parties' written submissions, the Court finds that the default judgment entered against Defendant Simpson has not been fully satisfied, and therefore denies Simpson's motion for entry of satisfaction of judgment.

FACTUAL & PROCEDURAL BACKGROUND

The following facts and procedural history are not disputed by the parties. This civil action was filed as a result of an automobile accident that occurred in Orangeburg County on March 10, 2012 between vehicles driven by the Defendants. Plaintiff Denetra Glover ("Glover") was the front seat passenger in a vehicle driven by Defendant Shervon Latreese Simpson ("Simpson") when a collision occurred with another vehicle being driven by Defendant William Shermon Stack ("Stack"). Glover was injured in the accident, and filed suit against the Defendants on or about September 4, 2013. While Stack filed an Answer to Plaintiff's Complaint, Simpson went into default.

ATTEST: TRUE COPY

Winniford B. Clark

CLERK OF COURT
ORANGEBURG COUNTY, SC

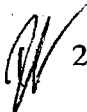
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After the default judgment was entered as to Defendant Simpson, the case continued as to Defendant Stack. Ultimately, Plaintiff settled with Stack for a sum of \$12,000.00 and granted a release as to Defendant Stack only on or about December 17, 2014.

Plaintiff subsequently attempted to collect on the \$18,000.00 default judgment from Simpson's insurer. On December 31, 2015, counsel for Simpson mailed a check in the amount of \$6,000.00, purportedly for satisfaction of the default judgment. Plaintiff accepted the check as partial satisfaction of the default judgment, but maintained that an additional \$12,000.00 was due from Simpson in order to satisfy the \$18,000.00 default judgment. On April 7, 2016, Simpson filed the instant motion for entry of satisfaction of judgment. Plaintiff opposed the motion, claiming that an additional \$12,000.00 is due from Simpson and/or her insurer in order to fully and finally satisfy the default judgment entered as a result of Simpson's default.

DISCUSSION

The Court finds that Simpson is responsible for satisfying the entire \$18,000.00 default judgment entered against her, and is not entitled to a set off or credit for the subsequent \$12,000.00 settlement paid by Stack. By its terms, the default judgment states that Plaintiff was entitled to judgment *against Simpson* in the amount of \$18,000.00, and judgment was so entered "against the Defendant, Shervon Latreese Simpson." No judgment was entered as to Defendant

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As the basis for her motion, Simpson argues that because Plaintiff ultimately reached a settlement with Stack, Simpson is entitled to a set off for the amount of the later settlement pursuant to S.C. Code § 15-38-50. Simpson's argument is premised upon the notion that the default judgment entered against her determined the entirety of damages sustained by Plaintiff as a result of the accident. The Court finds that Simpson's argument fails, and that the default judgment against Simpson did not make any determination as to the total amount of damages sustained by Plaintiff in the accident, but rather determined the amount of damages incurred by Plaintiff as a result of Simpson's negligence, for which Simpson alone is liable.¹

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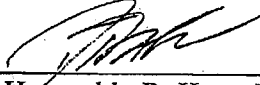
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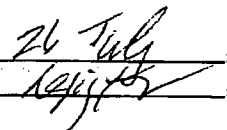
CONCLUSION

For the foregoing reasons, Defendant Simpson's motion for entry of satisfaction of judgment is DENIED.

IT IS SO ORDERED.



The Honorable R. Knox McMahon
Presiding Judge, First Judicial Circuit



26 July 2016
1246/12, South Carolina

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG)

CASE NO.: 2013-CP-38-00992

Shirley Davis,)

Plaintiff,)

ORDER

William Shermon Stack and)
Shervon Latreese Simpson)

Defendants.)
_____)

This matter comes before the Court on a Plaintiff's Motion for damages hearing.

The Defendant Shervon Latreese Simpson (hereinafter "Simpson") was served the Summons and Complaint on September 5, 2013, and failed to answer in a timely manner. An Affidavit of Default was filed on October 9, 2013, and an Order of Default was signed on October 31, 2013 and filed November 7, 2013. The matter was then referred to James B. Jackson, Jr. acting as Special Referee by The Honorable Edgar W. Dickson dated February 7, 2012.

A damages hearing was held before me on May 21, 2014, which was attended by the Plaintiff and her attorney, Shane M. Burroughs. The Defendant Simpson was not present nor was she represented by counsel. Defendant Simpson was notified of said damages hearing via United States Postal Service First Class Mail from Shane M. Burroughs, attorney for the plaintiff mailed on May 16, 2014.

I find that all pleadings have been properly filed and served so the final hearing before this court was proper in this matter.

Based on the testimony and evidence presented at the hearing, I make the following findings of fact:

1. That on March 10, 2012, in Richland County, South Carolina, Defendant, William Shermon Stack failed to yield the right-of-way, striking the Plaintiff with his vehicle.

2. That Defendant William Shermon Stack was charged with said accident as evidenced by the accident report (Exhibit #1).

13
[Signature]

3. Defendant, Shervon Latreese Simpson lost control of the vehicle and failed to apply the brakes or take evasive action.

3. On September 4, 2013, Plaintiff filed a Summons and Complaint (Exhibit #2) against Defendants and perfected service on upon Defendant Simpson on September 5, 2013. (Exhibit #3).

6. On October 9, 2013, an Affidavit of Default (Exhibit #4) was filed against the Defendant Simpson.

7. On October 31, 2013, an Order of Default was signed by The Honorable Edgar W. Dickson, Presiding Judge for First Judicial Circuit, Orangeburg County, and filed with the Orangeburg County Clerk of Court (Exhibit #5).

8. On October 31, 2013, an Order OF Reference was signed by The Honorable Edgar W. Dickson, Presiding Judge for First Judicial Circuit, Orangeburg County, and filed with the Orangeburg County Clerk of Court (Exhibit #6).

9. On May 16, 2013, Shane M. Burroughs, attorney for Plaintiff, mailed correspondence to Defendant via United States Postal Service First Class Mail informing her of the May 21, 2014, damages hearing (Exhibit #7).

10. That as a result of being struck by the Defendant while Plaintiff was a passenger, the Defendant's negligence, carelessness and recklessness, has caused Plaintiff to suffer damages.

11. That Plaintiff was transported to The Regional Medical Center, Orangeburg, South Carolina, was treated and released and advised to follow-up with her personal physician. That Plaintiff has incurred medicals as evidenced by the Summary of Medical Bills and Summary of Medical Records (Exhibit #s 8 and 9).

12. That Plaintiff who continues to suffer pain daily from the wreck, has a life expectancy of 46.75 years according to Section 19-1-150 of the South Carolina Statutory Code (Exhibit #10); I find her condition is permanent.

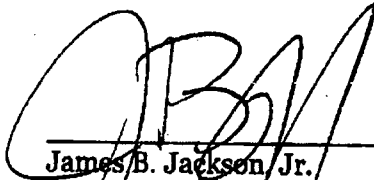
Based upon the above findings of fact, I make the following conclusions of law:

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- a. I find that Defendant is in default and is liable for the damages suffered by Plaintiff.
- b. I conclude, therefore, that the Plaintiff is entitled to judgment against the Defendant in the amount of Eighteen Thousand and 00/100 Dollars (\$18,000.00) for the reasons set forth herein.

IT IS THEREFORE ORDERED that the Plaintiff have judgment against the Defendant, Shervon Latreese Simpson in the amount of Eighteen Thousand and 00/100 Dollars (\$18,000.00) for the reasons set forth herein and that the Clerk of Court for Orangeburg County shall mark this judgment appropriately in his records.

IT IS SO ORDERED.



James B. Jackson, Jr.
Special Referee for Orangeburg County

Date: July 9, 2014
Orangeburg, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Denetra Glover,

Plaintiff,

vs.

William Shermon Stack and
Shervon Latreese Simpson

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-38-00994

ORDER

This matter comes before the Court on a Plaintiff's Motion for damages hearing.

The Defendant Shervon Latreese Simpson (hereinafter "Simpson") was served the Summons and Complaint on September 5, 2013, and failed to answer in a timely manner. An Affidavit of Default was filed on October 9, 2013, and an Order of Default was signed on October 31, 2013 and filed November 7, 2013. The matter was then referred to James B. Jackson, Jr. acting as Special Referee by The Honorable Edgar W. Dickson dated February 7, 2012.

A damages hearing was held before me on May 21, 2014, which was attended by the Plaintiff and her attorney, Shane M. Burroughs. The Defendant Simpson was not present nor was she represented by counsel. Defendant Simpson was notified of said damages hearing via United States Postal Service First Class Mail from Shane M. Burroughs, attorney for the plaintiff mailed on May 16, 2014.

I find that all pleadings have been properly filed and served so the final hearing before this court was proper in this matter.

Based on the testimony and evidence presented at the hearing, I make the following findings of fact:

1. That on March 10, 2012, in Richland County, South Carolina, Defendant, William Shermon Stack failed to yield the right-of-way, striking the Plaintiff with his vehicle.

2. That Defendant William Shermon Stack was charged with said accident as evidenced by the accident report (Exhibit #1).

3. Defendant, Shervon Latreese Simpson lost control of the vehicle and failed to apply the brakes or take evasive action.

3. On September 4, 2013, Plaintiff filed a Summons and Complaint (Exhibit #2) against Defendants and perfected service on upon Defendant Simpson on September 5, 2013. (Exhibit #3).

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9. On May 16, 2013, Shane M. Burroughs, attorney for Plaintiff, mailed correspondence to Defendant via United States Postal Service First Class Mail informing her of the May 21, 2014, damages hearing (Exhibit #7).

10. That as a result of being struck by the Defendant while Plaintiff was a passenger, the Defendant's negligence, carelessness and recklessness, has caused Plaintiff to suffer damages.

11. That Plaintiff was transported to The Regional Medical Center, Orangeburg, South Carolina, was treated and released and advised to follow-up with her personal physician. That Plaintiff has incurred medicals as evidenced by the Summary of Medical Bills and Summary of Medical Records (Exhibit #s 8 and 9).

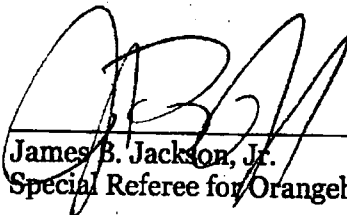
12. That Plaintiff who continues to suffer pain daily from the wreck, has a life expectancy of 46.75 years according to Section 19-1-150 of the South Carolina Statutory Code (Exhibit #10); I find her condition is permanent.

Based upon the above findings of fact, I make the following conclusions of law:

- a. I find that Defendant is in default and is liable for the damages suffered by Plaintiff.
- b. I conclude, therefore, that the Plaintiff is entitled to judgment against the Defendant in the amount of Eighteen Thousand and 00/100 Dollars (\$18,000.00) for the reasons set forth herein.

IT IS THEREFORE ORDERED that the Plaintiff have judgment against the Defendant, Shervon Latreese Simpson in the amount of Eighteen Thousand and 00/100 Dollars (\$18,000.00) for the reasons set forth herein and that the Clerk of Court for Orangeburg County shall mark this judgment appropriately in his records.

IT IS SO ORDERED.


James B. Jackson, Jr.
Special Referee for Orangeburg County

Date: July ?, 2014
Orangeburg, South Carolina

Defendants.

ORDER OF DEFAULT

5-11-57

Presiding Circuit Court Judge, Egerton W. Jackson

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Denetra Glover,

Plaintiff,

William Shermon Stack and
Shervon Latreese Simpson

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-38-00994

ORDER OF DEFAULT

2013 OCT -7 11:55

UPON READING AND CONSIDERING the attached Affidavit of Default and Affidavit of Personal Service upon the Defendant, Shervon Latreese Simpson, and, it appearing unto the Court from the record that the said Defendant, Shervon Latreese Simpson, was served with the certified Summons and Complaint on September 5, 2013, more than thirty (30) days ago, and, it further appearing that the said Defendant, Shervon Latreese Simpson, has not answered the Complaint, appeared or otherwise pled since that date; and, it further appearing from Shervon Latreese Simpson, was not, at the time of service, nor is she now, a member of the Armed Services;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED and DECREED that the Defendant, SHERVON LATREESE SIMPSON, be, and is hereby adjudged in default.

AND IT IS SO ORDERED at Orangeburg County, South Carolina, on the 31st day of October, 2013.



Presiding Circuit Court Judge, Edgar W. Dickson

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG)

CASE NO.: 2013-CP-38-992

Shirley Davis,

Plaintiff,

vs.

William Shermon Stack and
Shervon Latreese Simpson

Defendants.

COMPLAINT
(Jury Trial Demanded)

FILED FOR RECORD
WITH CLERK
CLERK OF COURT
ORANGEBURG, SC

2013 SEP -4 PM 9:42

Now comes the Plaintiff complaining of the Defendants who would allege and state as follows:

1. That the Plaintiff Denetra Glover (hereinafter "Plaintiff") is a citizen and resident of Orangeburg County, State of South Carolina.
2. The Defendant William Shermon Stack (hereinafter "Defendant Stack") is a citizen and resident of Richland County, State of South Carolina.
3. The Defendant Shervon Latreese Simpson (hereinafter "Defendant Simpson") is a citizen and resident of Orangeburg County, State of South Carolina.
4. That on or about March 10, 2012, the Plaintiff was a restrained, front-seat passenger in a vehicle traveling westbound on US-176 being driven by Defendant Simpson. Defendant Stack made a left-hand turn onto the ramp of I-20, causing a t-bone collision with the vehicle in which Plaintiff was a passenger.

CLERK OF COURT
ORANGEBURG, SC

FOR A FIRST CAUSE OF ACTION
AS TO DEFENDANT, WILLIAM SHERMON STACK

5. That each and every allegation of Paragraphs 1 through 4 above is hereby realleged and reiterated as if fully set out herein.

6. That as a result of Defendant Stack's negligence, recklessness, carelessness, willfulness, wantonness, and gross negligence in the operation of his vehicle, the Plaintiff received serious and permanent injuries causing the Plaintiff to be under the care of a doctor, to incur medical expenses, to experience severe excruciating pain, that the Plaintiff has suffered serious and permanent injuries which have and will in the future cause her to endure great physical pain, suffering, mental anguish, emotional distress, and ultimately cause the Plaintiff to incur future medical bills and lead to her loss wages.

7. That Defendant Stack was negligent, careless, reckless, grossly negligent, willful and wanton at the time and place above mentioned in the following particulars, to wit:

- a) In failing to yield the right of way to the Plaintiff;
- b) In driving too fast for conditions;
- c) In failing to maintain a proper lookout;
- d) In failing to apply his brakes if he had any;
In failing to keep proper control of his vehicle;
- e) In failing to take evasive action to avoid colliding with the Plaintiff;
- f) In operating his vehicle in utter disregard for the safety of others on the highway, including the Plaintiff;

- g) In failing to exercise the degree of care that a reasonably prudent person would have exercised under the same or similar circumstances; and
- h) In such other and further particulars that the evidence in trial may show;

All of which combined and concurred as a direct and proximate cause of the injuries and damages sustained by Plaintiff herein, said acts being in violation of the statutes and laws of the State of South Carolina.

8. That as a direct and proximate cause of the aforementioned negligence, of the Defendant, the Plaintiff was injured in the following particulars; she was caused to suffer personal injuries, she has been forced to incur doctor and medical bills, he has been forced much mental anguish and physical pain, he has been caused to lose enjoyment of life and that her injuries are permanent in nature and pursuant to Section 19-1-150 of the Code of Laws of the State of South Carolina, she will continue to incur damages into the future all to the Plaintiff's damages in an amount to be determined by the trier of fact.

FOR A FIRST CAUSE OF ACTION
AS TO DEFENDANT, SHERVON LATREESE SIMPSON

9. That each and every allegation of Paragraphs 1 through 8 above is hereby realleged and reiterated as if fully set out herein.

10. That as a result of Defendant Simpson's negligence, recklessness, carelessness, willfulness, wantonness, and gross negligence in the operation of her vehicle, the Plaintiff received serious and permanent injuries causing the Plaintiff to be under the care of a doctor, to incur medical expenses, to experience severe excruciating

pain, that the Plaintiff has suffered serious and permanent injuries which have and will in the future cause her to endure great physical pain, suffering, mental anguish, emotional distress, and ultimately cause the Plaintiff to incur future medical bills and lead to her loss wages.

11. That Defendant Simpson was negligent, careless, reckless, grossly negligent, willful and wanton at the time and place above mentioned in the following particulars, to wit:

- a) In operating her vehicle in utter disregard for the safety for her passengers, of others on the highway, including the Plaintiff;
- b) In failing to maintain a proper lookout;
- c) In failing to apply her brakes if she had any;
- d) In failing to keep proper control of her vehicle;
- e) In failing to take evasive action to avoid colliding with Defendant Stack;
- f) In failing to exercise the degree of care that a reasonably prudent person would have exercised under the same or similar circumstances; and
- g) In such other and further particulars that the evidence in trial may show;

All of which combined and concurred as a direct and proximate cause of the injuries and damages sustained by Plaintiff herein, said acts being in violation of the statutes and laws of the State of South Carolina.

12. That as a direct and proximate cause of the aforementioned negligence, of the Defendant, the Plaintiff was injured in the following particulars; she was caused to

suffer personal injuries, she has been forced to incur doctor and medical bills, he has been forced much mental anguish and physical pain, he has been caused to lose enjoyment of life and that her injuries are permanent in nature and pursuant to Section 19-1-150 of the Code of Laws of the State of South Carolina, she will continue to incur damages into the future all to the Plaintiff's damages in an amount to be determined by the trier of fact.

WHEREFORE, the Plaintiff prays for judgment against Defendants William Shermon Stack and Shervon Latreese Simpson for actual damages and for punitive damages as may be determined by the trier of fact, the cost of this action and for such other and further relief as this Court may deem just and proper.

LANIER & BURROUGHS, LLC

Shane M. Burroughs, Esquire
Post Office Drawer 2789
250 Gibson Street
Orangeburg, South Carolina 29116
(803)268-9800

August 30, 2013

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Denetra Glover,

Plaintiff,

vs.

William Shermon Stack and
Shervon Latreese Simpson

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-38-994

COMPLAINT
(Jury Trial Demanded)

FILED
CLERK OF COURT
ORANGEBURG COUNTY
SOUTH CAROLINA

2013 SEP -4 PM 3:46

Now comes the Plaintiff complaining of the Defendants who would allege and state as follows:

1. That the Plaintiff Denetra Glover (hereinafter "Plaintiff") is a citizen and resident of Orangeburg County, State of South Carolina.
2. The Defendant Shervon Latreese Simpson (hereinafter "Defendant Simpson") is a citizen and resident of Orangeburg County, State of South Carolina.
3. The Defendant William Shermon Stack (hereinafter "Defendant Stack") is a citizen and resident of Richland County, State of South Carolina.
4. That on or about March 10, 2012, the Plaintiff was a restrained, front-seat passenger in a vehicle traveling westbound on US-176 being driven by Defendant Simpson. Defendant Stack made a left-hand turn onto the ramp of I-20, causing a t-bone collision with the vehicle in which Plaintiff was a passenger.

CLERK OF COURT
ORANGEBURG COUNTY

FOR A FIRST CAUSE OF ACTION
AS TO DEFENDANT, WILLIAM SHERMON STACK

5. That each and every allegation of Paragraphs 1 through 4 above is hereby realleged and reiterated as if fully set out herein.

6. That as a result of Defendant Stack's negligence, recklessness, carelessness, willfulness, wantonness, and gross negligence in the operation of his vehicle, the Plaintiff received serious and permanent injuries causing the Plaintiff to be under the care of a doctor, to incur medical expenses, to experience severe excruciating pain, that the Plaintiff has suffered serious and permanent injuries which have and will in the future cause her to endure great physical pain, suffering, mental anguish, emotional distress, and ultimately cause the Plaintiff to incur future medical bills and lead to her loss wages.

7. That Defendant Stack was negligent, careless, reckless, grossly negligent, willful and wanton at the time and place above mentioned in the following particulars, to wit:

- a) In failing to yield the right of way to the Plaintiff;
- b) In driving too fast for conditions;
- c) In failing to maintain a proper lookout;
- d) In failing to apply his brakes if he had any;
In failing to keep proper control of his vehicle;
- e) In failing to take evasive action to avoid colliding with the Plaintiff;
- f) In operating his vehicle in utter disregard for the safety of others on the highway, including the Plaintiff;

- g) In failing to exercise the degree of care that a reasonably prudent person would have exercised under the same or similar circumstances; and
- h) In such other and further particulars that the evidence in trial may show;

All of which combined and concurred as a direct and proximate cause of the injuries and damages sustained by Plaintiff herein, said acts being in violation of the statutes and laws of the State of South Carolina.

8. That as a direct and proximate cause of the aforementioned negligence, of the Defendant, the Plaintiff was injured in the following particulars; she was caused to suffer personal injuries, she has been forced to incur doctor and medical bills, he has been forced much mental anguish and physical pain, he has been caused to lose enjoyment of life and that her injuries are permanent in nature and pursuant to Section 19-1-150 of the Code of Laws of the State of South Carolina, she will continue to incur damages into the future all to the Plaintiff's damages in an amount to be determined by the trier of fact.

FOR A FIRST CAUSE OF ACTION
AS TO DEFENDANT, SHERVON LATREESE SIMPSON

9. That each and every allegation of Paragraphs 1 through 8 above is hereby realleged and reiterated as if fully set out herein.

10. That as a result of Defendant Simpson's negligence, recklessness, carelessness, willfulness, wantonness, and gross negligence in the operation of her vehicle, the Plaintiff received serious and permanent injuries causing the Plaintiff to be

under the care of a doctor, to incur medical expenses, to experience severe excruciating pain, that the Plaintiff has suffered serious and permanent injuries which have and will in the future cause her to endure great physical pain, suffering, mental anguish, emotional distress, and ultimately cause the Plaintiff to incur future medical bills and lead to her loss wages.

11. That Defendant Simpson was negligent, careless, reckless, grossly negligent, willful and wanton at the time and place above mentioned in the following particulars, to wit:

- a) In operating her vehicle in utter disregard for the safety for her passengers, of others on the highway, including the Plaintiff;
- b) In failing to maintain a proper lookout;
- c) In failing to apply her brakes if she had any;
- d) In failing to keep proper control of her vehicle;
- e) In failing to take evasive action to avoid colliding with Defendant Stack;
- f) In failing to exercise the degree of care that a reasonably prudent person would have exercised under the same or similar circumstances; and
- g) In such other and further particulars that the evidence in trial may show;

All of which combined and concurred as a direct and proximate cause of the injuries and damages sustained by Plaintiff herein, said acts being in violation of the statutes and laws of the State of South Carolina.

12. That as a direct and proximate cause of the aforementioned negligence, of the Defendant, the Plaintiff was injured in the following particulars; she was caused to suffer personal injuries, she has been forced to incur doctor and medical bills, he has been forced much mental anguish and physical pain, he has been caused to lose enjoyment of life and that her injuries are permanent in nature and pursuant to Section 19-1-150 of the Code of Laws of the State of South Carolina, she will continue to incur damages into the future all to the Plaintiff's damages in an amount to be determined by the trier of fact.

WHEREFORE, the Plaintiff prays for judgment against Defendants William Shermon Stack and Shervon Latreese Simpson for actual damages and for punitive damages as may be determined by the trier of fact, the cost of this action and for such other and further relief as this Court may deem just and proper.

LANIER & BURROUGHS, LLC

Shane M. Burroughs, Esquire
Post Office Drawer 2789
250 Gibson Street
Orangeburg, South Carolina 29116
(803)268-9800

August 30, 2013

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

Shirley Davis,)

Plaintiff,)

William Shermon Stack and)
Shervon Latreese Simpson)

Defendants.)
_____)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-38-00992

PLAINTIFF'S MOTION AND ORDER
FOR REFERENCE

2013 NOV -7 10:11:55

IT APPEARING, pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, that the above entitled action is a proper matter to refer to the Master In Equity for Orangeburg County, by order of a Circuit Court Judge of the Clerk of Court, with authority to enter a final judgment in the case;

NOW, upon the Motion of attorney for the Plaintiff; it is

ORDERED that the above entitled action be, and the same hereby is, referred to James B. Jackson, Master in Equity for Orangeburg County, to make findings of fact and conclusions of law; dispose of any and all issues and enter a final judgment in the case.

Any appeal from the decision of the Master In Equity shall be directly to the South Carolina Supreme Court or Court of Appeals.

Orangeburg, South Carolina
October 31, 2013



Presiding Judge/Clerk of Court

Edgar W. Dickson

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

Denetra Glover,)

Plaintiff,)

William Shermon Stack and
Shervon Latreese Simpson)

Defendants.)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-38-00994

PLAINTIFF'S MOTION AND ORDER
FOR REFERENCE

2013 NOV -7 11:55

IT APPEARING, pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, that the above entitled action is a proper matter to refer to the Master In Equity for Orangeburg County, by order of a Circuit Court Judge of the Clerk of Court, with authority to enter a final judgment in the case;

NOW, upon the Motion of attorney for the Plaintiff; it is

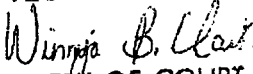
ORDERED that the above entitled action be, and the same hereby is, referred to James B. Jackson, Master in Equity for Orangeburg County, to make findings of fact and conclusions of law; dispose of any and all issues and enter a final judgment in the case.

Any appeal from the decision of the Master In Equity shall be directly to the South Carolina Supreme Court or Court of Appeals.

Orangeburg, South Carolina
October 31, 2013



Presiding Judge/Clerk of Court
Edgar W. Dickson

ATTEST: TRUE CO.

CLERK OF COURT
ORANGEBURG COUNTY

) IN THE COURT OF COMMON PLEAS

) Civil Action No.: 2013-CP-38-00992

)

)

)

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FILED FOR RECORD
WINNIE A. B. CLARK
CLERK OF COURT
ORANGEBURG, SC

33

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Demetra Glover,

Plaintiff,

v.

William Shermon Stack and
Shervon Latreese Simpson,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2013-CP-38-00994

STIPULATION FOR DISMISSAL
OF DEFENDANT STACK
WITH PREJUDICE

FILED FOR RECORD
WINNIE B. CLARK
CLERK OF COURT
ORANGEBURG, SC

2015 JAN -2 PM 12:14

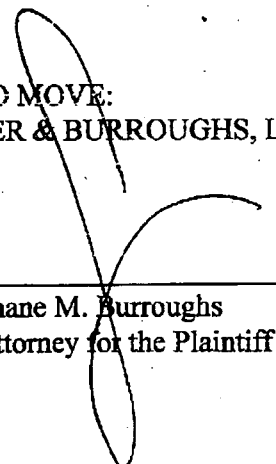
The Plaintiff in the above-entitled action now desires to dismiss the action against Defendant William Shermon Stack pursuant to Rule 41, SCRCP, with prejudice, to which Defendant Stack stipulates; therefore,

On motion of Shane M. Burroughs, attorney for Plaintiff, by and with the consent of A. Shane Massey, attorney for Defendant Stack, it is

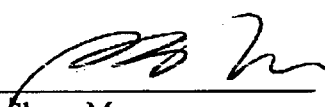
AGREED that the above-entitled action against Defendant Stack be dismissed with prejudice and forever ended.

AND IT IS SO STIPULATED this 29 day of Dec, 2014, in Aiken, South Carolina.

WE SO MOVE:
LANIER & BURROUGHS, LLC

By: 
Shane M. Burroughs
Attorney for the Plaintiff

WE SO CONSENT:
NANCE, McCANTS & MASSEY

By: 
A. Shane Massey
Attorney for Defendant Stack

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Shirley Davis,
Plaintiff

v.

William Shermon Stack and Shervon Latreese
Simpson,
X Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.
2013-CP-38-00992

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney:
Shane M. Burroughs, Esquire Bar No.
Address:
Lanier & Burroughs, LLC
PO Drawer 2789
Orangeburg, SC 29116
phone: 803-268-9800 fax:
e-mail: other:

Defendant Shervon Latreese Simpson's Attorney:
Wesley B. Sawyer, Esquire Bar No.
Address:
Murphy & Grantland, PA
PO Box 4468
Columbia, SC 29260
phone: 803-782-4100
e-mail: other:

☒ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I and III**)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)
☐ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)

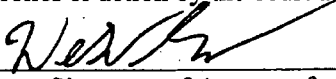
SECTION I: Hearing Information

Nature of Motion: Motion for Entry of Satisfaction of Judgment
Estimated Time Needed: Court Reporter Needed: 30 min

SECTION II: Motion/Order Type

☒ Written motion attached
Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for X Defendant

April 7, 2016
Date submitted

SECTION III: Motion Fee

X PAID - AMOUNT: 25.00

- ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION

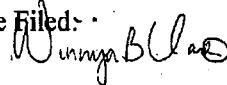
- ☐ Motion Fee to be paid upon filing of the attached order.
☐ Other:

JUDGE

CODE: **ATTEST: TRUE COPY**

CLERK'S VERIFICATION

Collected by: _____

Date Filed: 

☐ MOTION FEE COLLECTED: _____

CLERK OF COURT
ORANGEBURG COUNTY, SC

☐ CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Shirley Davis,

Plaintiff,

v.

William Shermon Stack and Shervon Latreese
Simpson,

Defendant.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2013-CP-38-00992

**MOTION FOR ENTRY OF SATISFACTION
OF JUDGMENT**

FILED FOR RECORD
JAN 11 P 2 41
CLERK OF COURT
ORANGEBURG COUNTY, SC

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorneys for the Defendant, Shervon Latreese Simpson, will move before the presiding judge of the Orangeburg County Court of Common Pleas at the Orangeburg County Courthouse at 10:00 a.m. on the tenth (10th) day after service hereof, or as soon thereafter as counsel may conveniently be heard, for an entry of satisfaction of judgment.

Plaintiff Davis filed a lawsuit against Defendants William Shermon Stack and Shervon Latreese Simpson on September 4, 2013. Plaintiff obtained a default against Shervon Latreese Simpson signed on October 31, 2013. The matter was referred to James B. Jackson, Jr. acting as Special Referee by the Honorable Edgar W. Dickson on February 7, 2012. The damages hearing was held on May 21, 2014 and the special referee found damages totaling \$18,000 and entered a judgment against Defendant Simpson.

Over a year later, Plaintiff mailed a copy of the default order to Simpson's purported liability insurer, First Acceptance Insurance Company, Inc., requesting payment of the judgment. However, after the entry of the Special Referee's Order, Plaintiff settled her claim against William Shervon Stack in exchange for a payment of \$11,000. That settlement was entered into on

ATTEST: TRUE COPY
W. W. W. W.
CLERK OF COURT
ORANGEBURG COUNTY, SC

September 4, 2014 and a copy of the settlement agreement is attached hereto as Exhibit A. The accident alleged in the Complaint is a single individual collision. Therefore, there are no separate damages between the two actions and Plaintiff's total damages pursuant to the entry of default judgment is \$18,000. Therefore, by the settlement, Plaintiff recovered \$11,000 of her \$18,000 in damages.

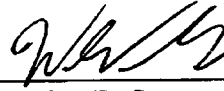
South Carolina Code § 15-38-50 requires that the settlement reduces the amount of the outstanding judgment on a dollar for dollar basis. Therefore, the remaining amount of the judgment is \$6,000. See Lsellis v. Oliver, 335 S.C. 106, 515 S.E.2d 258 (Ct. App. 1999) ("Section 15-38-50 grants the Court no discretion in determining the equities involved and applying a set off once a release has been executed in good faith between Plaintiff and one of several joint tortfeasors."). Therefore, pursuant to South Carolina Code and the governing case law, the judgment was reduced to \$6,000 as a result of the settlement.

On December 31, 2015, Defendant tendered the \$7,000 balance of the judgment to Plaintiff unconditionally and requested execution of a Satisfaction of Judgment. The settlement draft was never returned and yet the Satisfaction of Judgment was never executed. Therefore, Defendant respectfully moves for entry of the Satisfaction of Judgment upon the Court's records.

This Motion is made pursuant to Rule 60(b) of the South Carolina Rules of Civil Procedure and will be supplemented and supported by such affidavits, depositions, discovery responses, memoranda of law, and such other documents as appropriate.

[SIGNATURE ON FOLLOWING PAGE]

MURPHY & GRANTLAND, P.A.



Wesley B. Sawyer, Esquire

P.O. Box 6648

Columbia, South Carolina 29260

(803) 782-4100

Attorneys for Defendant Shervon Latreese Simpson

Columbia, South Carolina

April 7, 2016

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2013-CP-38-00992

Shirley Davis,

Plaintiff,

v.

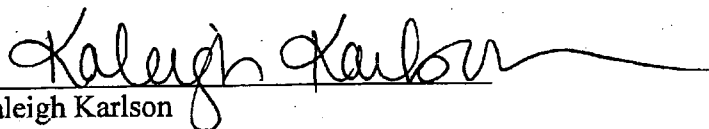
William Shermon Stack and Shervon Latreese
Simpson,

Defendant.

CERTIFICATE OF SERVICE

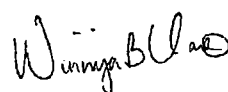
I, the undersigned employee of the law offices of Murphy & Grantland, P.A., Attorneys for Defendant Shervon Latreese Simpson do hereby certify that on **April 7, 2016**, I have served a copy of the foregoing **Motion for Entry of Satisfaction of Judgment** in connection with the above-referenced case placing same in the U.S. mail, postage paid to:

Shane M. Burroughs, Esquire
Lanier & Burroughs, LLC
P.O. Drawer 2789
250 Gibson Street
Orangeburg, SC 29116


Kaleigh Karlson

Columbia, South Carolina

ATTEST: TRUE COPY


CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2013-CP-38-00992

Shirley Davis,

Plaintiff,

v.

William Shermon Stack and Shervon Latreese
Simpson,

Defendant.

**MEMORANDUM IN SUPPORT OF MOTION
FOR ENTRY OF SATISFACTION OF
JUDGMENT**

Defendant Shervon Latreese Simpson, by and through her undersigned counsel, submits this Memorandum of Law in support of the Motion for Entry of Satisfaction of Judgment:

SUMMARY

After an automobile accident, Plaintiff obtained a personal injury judgment of \$18,000 against Defendant Simpson. Afterwards, she recovered \$11,000 of her damages from the driver of the other vehicle involved in the collision. Therefore, she recovered \$11,000 of her \$18,000 in damages. Upon notice of the judgment, Defendant's insurer tendered the balance of the judgment – \$7,000 – to Plaintiff. Because Plaintiff recovered the entirety of her damages as determined by the default judgment, Plaintiff requested that she execute a Satisfaction of Judgment. Plaintiff refused, and this motion followed.

FACTS

Plaintiff Davis filed a lawsuit against Defendants William Shermon Stack and Shervon Latreese Simpson on September 4, 2013. Plaintiff obtained a default against Shervon Latreese Simpson signed on October 31, 2013. The matter was referred to James B. Jackson, Jr. acting as Special Referee by the Honorable Edgar W. Dickson on February 7, 2012. The damages hearing

was held on May 21, 2014 and the special referee found damages totaling \$18,000 and entered a judgment against Defendant Simpson.

Over a year later, Plaintiff mailed a copy of the default order to Simpson's purported liability insurer, First Acceptance Insurance Company, Inc., requesting payment of the judgment. However, after the entry of the Special Referee's Order, Plaintiff settled her claim against William Shervon Stack in exchange for a payment of \$11,000. That settlement was entered into on September 4, 2014 and a copy of the settlement agreement is attached hereto as Exhibit A.

The accident alleged in the Complaint is a single individual collision. Therefore, there are no separate damages between the two defendants, and Plaintiff's total damages pursuant to the entry of default judgment is \$18,000. Therefore, by the settlement, Plaintiff recovered \$11,000 of her \$18,000 in damages.

On December 31, 2015, Defendant tendered the \$7,000 balance of the judgment to Plaintiff unconditionally and requested execution of a Satisfaction of Judgment. The settlement draft was never returned and yet the Satisfaction of Judgment was never executed. Therefore, Defendant respectfully moves for entry of the Satisfaction of Judgment upon the Court's records.

ARGUMENT

By refusing to execute the Satisfaction of Judgment after recovering the full amount of her damages as determined by the Special Referee, Plaintiff seeks a double recovery. The Special Referee determined that her damages totaled \$18,000. However, by demanding the full \$18,000 from Defendant Simpson after already recovering \$11,000 from Defendant Stack, Plaintiff hopes to recover \$29,000 for her \$18,000 in damages.

I. South Carolina prohibits a double recovery for a single harm.

“The rule prohibiting a double recovery for the same injury on multiple claims for relief applies in cases involving multiple defendants, at least if all defendants commit the same act or technically different acts that cause a single injury.” 22 Am. Jur. 2d Damages § 33 (2016) (emphasis added). “If the damage is the indivisible consequence of the acts of two joint tortfeasors, there is no legal basis for the assessment of compensatory damages separately against the two defendants.” *Id.* The rule boils down to one simple point: Although “a plaintiff is permitted to seek damages from multiple defendants . . . the plaintiff ultimately cannot recover twice for the same wrong and may recover only one satisfaction for the losses.” *Id.*

South Carolina applies this rule both by statute and case law. Under principles of equity, courts have traditionally used setoff, which “prevents an injured person from obtaining a double recovery for the damage he sustained, for it is almost universally held that there can be only one satisfaction for an injury or wrong.” *Riley v. Ford Motor co.*, 414 S.C. 185, 195, 777 S.E.2d 824, 830 (2015). “In 1988, these equitable principles were codified as part of the South Carolina Contribution Among Tortfeasors Act, S.C. Code Ann. §§ 15-38-10 to -70.” *Id.*

South Carolina Code § 15-38-50 requires that the settlement reduces the amount of the outstanding judgment on a dollar for dollar basis:

When a release or a covenant not to sue or not to enforce judgment is given to one of two or more persons liable in tort for the same injury or the same wrongful death:

- (1) it does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms so provide, but it reduces the claim against the others to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, whichever is greater . . .

S.C. Code Ann. § 15-38-50 (emphasis added). By statutorily imposing a dollar-for-dollar reduction for any amounts paid in settlement by any tortfeasor, the General Assembly codified the rule that a plaintiff cannot receive a double recovery for a single harm.

There is no dispute that the injuries in this case constitute a single harm. The Complaint alleges a single automobile collision with a single impact. (Compl. ¶ 4). Therefore, Plaintiff cannot seek more than a single recovery of her damages, and the Special Referee could not award separate damages against Simpson. Because Plaintiff has recovered \$11,000 of her total damages, Simpson is only responsible for paying the remaining \$7,000.

II. The setoff occurs as a matter of law, and the Court has no discretion in determining the equities involved.

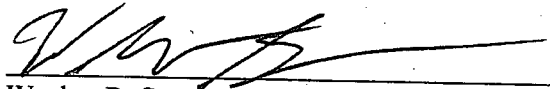
Plaintiff recovered \$11,000 from Defendant Stack. As a result, Section 15-38-50 operates to reduce her outstanding judgment from \$18,000 to \$7,000. As the Court of Appeals held in *Ellis v. Oliver*, 335 S.C. 106, 113, 515 S.E.2d 258, 272 (Ct. App. 1999), application of the credit is statutorily mandated: “Section 15-38-50 grants the Court **no discretion** in determining the equities involved and applying a set off once a release has been executed in good faith between Plaintiff and one of several joint tortfeasors.” (emphasis added). Put simply, the statute acts to control this Court’s analysis: “We hold that in the absence of a claim of bad faith, the function of the trial court is limited to applying the settlement credit pursuant to § 15-38-50.” *Id.*¹ Therefore, pursuant to South Carolina Code and the governing case law, the judgment must be reduced to \$7,000 as a result of the settlement with Defendant Stack. Because Defendant’s carrier has already mailed the \$7,000 payment to Plaintiff, the judgment should be marked as satisfied.

¹ The principles set forth in *Ellis* have been reiterated in multiple cases. See *Smith v. Widener*, 397 S.C. 468, 472 724 S.E.2d 188, 190 (Ct. App. 2012) (“When the settlement is for the same injury, the nonsettling defendant’s right to a setoff arises by operation of law.”); *Polston v. Eli Lilly and Co.*, 2010 WL 2926159 (D.S.C. July 23, 2010) (noting that the setoff applies to a judgment); *Welch v. Epstein*, 342 S.C. 279, 536 S.E.2d 408 (Ct. App. 2000).

CONCLUSION

For the above-stated reasons, Defendant's motion should be granted and a satisfaction of judgment entered. The Special Referee determined Plaintiff's damages to be \$18,000. Plaintiff recovered \$11,000 from Defendant Stack. Therefore, both under the common law and by operation of § 15-38-50, the balance of the judgment is automatically reduced. Because Defendant has already tendered \$7,000 to Plaintiff, Plaintiff has recovered all of her legal damages and the judgment is satisfied as a matter of law.

MURPHY & GRANTLAND, P.A.



Wesley B. Sawyer, Esquire

P.O. Box 6648

Columbia, South Carolina 29260

(803) 782-4100

Attorneys for Defendant Shervon Latreese Simpson

Columbia, South Carolina
June 27, 2016

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS

MEDIATION
SETTLEMENT AGREEMENT

Shirley Davis,

Plaintiff,

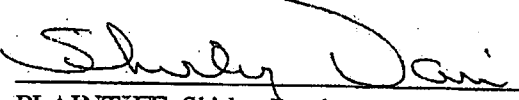
vs.

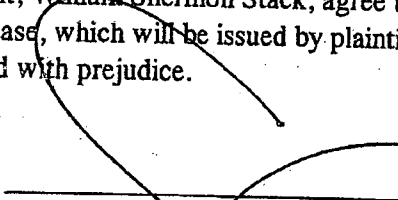
William Shermon Stack and Shervon
Latreese Simpson,

Defendants.

Civil Action No.: 2013-CP-38-992

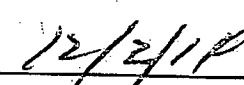
The plaintiff, Shirley Davis, and the defendant, William Shermon Stack, agree to settle the above lawsuit for \$11,000.00 in exchange for a Release, which will be issued by plaintiff, and the case against William Shermon Stack and will be dismissed with prejudice.

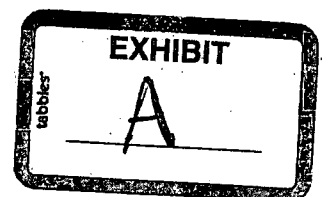

PLAINTIFF, Shirley Davis


ATTORNEY FOR THE PLAINTIFF
Shane M. Burroughs, Esq.


ATTORNEY FOR THE DEFENDANT,
William Shermon Stack
A. Shane Massey, Esq.


Richard B. Ness, Mediator


Date



anette
see a re-
ceives a dup-
1. To verify a dup-
dated, present is
delivered. Mail receipt is
provided. Mail receipt is
which provides
see specified by name, or
sent.



MURPHY & GRANTLAND, P.A.

Wesley B. Sawyer
Direct dial 803-454-1233
wsawyer@murphygrantland.com

December 31, 2015

Shane M. Burroughs, Esquire
Lanier & Burroughs, LLC
P.O. Drawer 2789
250 Gibson Street
Orangeburg, SC 29116

Re: Shirley Davis vs. William Shermon Stack and Shervon Latreese Simpson
Civil Action No.: 2013-cp-38-00992
Claim No.: 391201348
Date of Loss: 03-10-12
Our File No.: 2100-0494

Dear Shane:

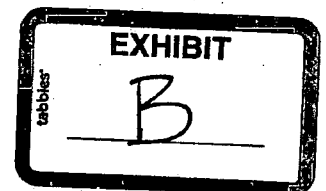
Enclosed please find a check for your client, Shirley Davis in the amount of \$6,000.00 as full and final satisfaction of the judgement entered on July 9, 2014 by Special Referee James Jackson. As we have discussed, the amount of the judgment entered was \$18,000.00. On or about December 4, 2014, Glover settled with the co-Defendant William Shermon Stack for \$11,000.00. Therefore, Glover has recovered \$11,000 out of her \$18,000 in damages. Pursuant to South Carolina Code Section 15-38-50, that settlement reduces the amount of the judgment against my client by the amount of \$12,000. Therefore, the remaining amount of the judgment is \$6,000. See Lsellis v. Oliver, 335 S.C. 106, 515 S.E.2d 268 (Ct. App. 1999) ("Section 15-38-50 grants the Court no discretion in determining the equities involved in applying a set-off once a release has been executed in good faith between a Plaintiff and one of several joint tortfeasors."). Notably, this settlement was reached after the default judgment and therefore it is impossible that the Special Referee would have considered the amount of the settlement in determining the amount of damages at the default hearing.

I have enclosed a satisfaction of judgment for your client's execution and signature. If you and your client are unable to execute the satisfaction of judgment, please let me know and I will file an appropriate motion with the court.

With warm personal regards, I am

Sincerely yours,

Wesley B. Sawyer



Telephone 803-782-4100 • Facsimile 803-782-4140
4406-B Forest Drive, Columbia, South Carolina 29206 • Post Office Box 6648, Columbia, South Carolina 29260

J. R. Murphy John M. Grantland Ron B. Diegel* Brent M. Boyd E. Ray Moore, III Anthony W. Livoti Adam J. Neil Jeff C. Kull Peter E. Farr
Alice P. Adams Tim J. Newton Chris A. Majure J. Ryan Oates Wesley B. Sawyer Jason P. Luther Elliott B. Daniels Hannah D. Stetson Rogers E. Harrell, III
*Member-American Board of Trial Advocates

WBS/kak
Enclosures

Acceptance Insurance Company, Inc.

Date: 11/30/2015

615990

Claims Account

P.O. Box 23410 Nashville, TN 37202

Pay

TO

The Order

OF

SHIRLEY DAVIS AND LAW OFFICES OF LANIER & BURROUGHS

Pay: Seven Thousand and ***** 00/100 Dirs *****

\$ 7,000.00

SATISFACTION OF JUDGMENT - BI

Claim No: 0391201348 Inc No:

Pol No: ABSC 000000176

Acc Date: 3/10/12

Loss Payment: XX Expense

Co No: 28

Dual Signatures Required for amounts greater than \$100,000.00

FirstBank
Lexington, TN 38351

Kyle Bodagle

DOCUMENT INCLUDES A HIDDEN WORD. DO NOT CASH IF THE WORD VOID IS VISIBLE. DOCUMENT ALSO CONTAINS HEAT-SENSITIVE INK. TOUCH HERE -- RED IMAGE DISAPPEARS WITH HEAT.

Date: 11/30/2015

ABSC 000000176

SATISFACTION OF JUDGMENT - BI

615990

Send Claims Correspondence to:

0391201348

28

First Acceptance Services, Inc.

P.O. Box 23410

713 BI 004 DAVIS, SHIRLEY

Nashville, Tn. 37202

7,000.00 988

1-800-779-2103

MURPHY & GRANTLAND

.00

WESLEY SAWYER

PO BOX 6648

COLUMBIA SC 29260-6648

.00



Date: 11/30/2015

ABSC 000000176

SATISFACTION OF JUDGMENT - BI

615990

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0391201348

28

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7,000.00 988

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713 BI 004 DAVIS, SHIRLEY

Nashville, Tn. 37202

1-800-779-2103

.00

MURPHY & GRANTLAND

.00

WESLEY SAWYER

PO BOX 6648

COLUMBIA SC 29260-6648

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Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)

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☐ Return Receipt (electronic) \$1.45

☐ Certified Mail Restricted Delivery \$1.40

☐ Adult Signature Required \$1.40

☐ Adult Signature Restricted Delivery \$1.40

Postage \$0.00

Total Postage and Fees

Electronic Return Receipt Requested

Postmark
Here

December 31, 2015

Wesley B. Sawyer
Direct dial 803-454-1233
wsawyer@murphygrantland.com

Send To
Shane M. Burroughs, Esquire
Lanier & Burroughs, LLC
PO Drawer 2789
250 Gibson Street
Orangeburg, SC 29116

PS Form 3800, April 2015

See Reverse for Instructions

Re: Shirley Davis vs. William Shermon Stack and Shervon Latreese Simpson

Civil Action No.: 2013-cp-38-00992

Claim No.: 391201348

Date of Loss: 03-10-12

Our File No.: 2100-0494

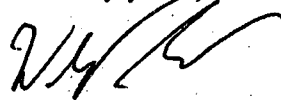
Dear Shane:

Enclosed please find a check for your client, Shirley Davis in the amount of \$6,000.00 as full and final satisfaction of the judgement entered on July 9, 2014 by Special Referee James Jackson. As we have discussed, the amount of the judgment entered was \$18,000.00. On or about December 4, 2014, Glover settled with the co-Defendant William Shermon Stack for \$11,000.00. Therefore, Glover has recovered \$11,000 out of her \$18,000 in damages. Pursuant to South Carolina Code Section 15-38-50, that settlement reduces the amount of the judgment against my client by the amount of \$12,000. Therefore, the remaining amount of the judgment is \$6,000. See Lsellis v. Oliver, 335 S.C. 106, 515 S.E.2d 268 (Ct. App. 1999) ("Section 15-38-50 grants the Court no discretion in determining the equities involved in applying a set-off once a release has been executed in good faith between a Plaintiff and one of several joint tortfeasors."). Notably, this settlement was reached after the default judgment and therefore it is impossible that the Special Referee would have considered the amount of the settlement in determining the amount of damages at the default hearing.

I have enclosed a satisfaction of judgment for your client's execution and signature. If you and your client are unable to execute the satisfaction of judgment, please let me know and I will file an appropriate motion with the court.

With warm personal regards, I am

Sincerely yours,



Wesley B. Sawyer

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Alice P. Adams Tim J. Newton Chris A. Majure J. Ryan Oates Wesley B. Sawyer Jason P. Luther Elliott B. Daniels Hannah D. Stetson Rogers E. Harrell, III
*Member-American Board of Trial Advocates

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2013-CP-38-00992

Shirley Davis,

Plaintiff,

v.

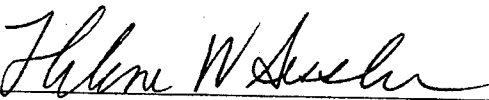
William Shermon Stack and Shervon Latreese
Simpson,

Defendant.

CERTIFICATE OF SERVICE

I, the undersigned employee of the law offices of Murphy & Grantland, P.A., Attorneys for Defendant Shervon Latreese Simpson do hereby certify that on **June 27, 2016**, I have served a copy of the foregoing **Memorandum in Support of Motion for Entry of Satisfaction of Judgment** in connection with the above-referenced case placing same in the U.S. mail, postage paid to:

Shane M. Burroughs, Esquire
Lanier & Burroughs, LLC
P.O. Drawer 2789
250 Gibson Street
Orangeburg, SC 29116



Helene W. Sessler

Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Denetra Glover,
Plaintiff

v.

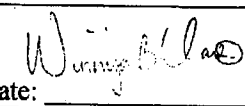
William Shermon Stack and Shervon Latreese
Simpson,
X Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.
2013-CP-38-00994

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

FILED FOR RECORD
WILLIAM CLARK
2016 APR 11 AM 11:38
CLERK OF COURT
ORANGEBURG, SC

Plaintiff's Attorney: Shane M. Burroughs, Esquire Bar No. Address: Lanier & Burroughs, LLC PO Drawer 2789 Orangeburg, SC 29116 phone: 803-268-9800 fax: e-mail: other:	Defendant Shervon Latreese Simpson's Attorney: Wesley B. Sawyer, Esquire Bar No. Address: Murphy & Grantland, PA PO Box 4468 Columbia, SC 29260 phone: 803-782-4100 e-mail: other:
X MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: Motion for Entry of Satisfaction of Judgment Estimated Time Needed: Court Reporter Needed: 30 min	
SECTION II: Motion/Order Type X Written motion attached Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. Signature of Attorney for X Defendant April 7, 2016 Date submitted	
SECTION III: Motion Fee X PAID - AMOUNT: 25.00 ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: ☐ Other:	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	ATTEST: TRUE COPY JUDGE CODE: Date: 
CLERK'S VERIFICATION Collected by: _____ ☐ MOTION FEE COLLECTED: _____ CLERK OF COURT ORANGEBURG COUNTY, SC	

☐ CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Denetra Glover,

Plaintiff,

v.

William Shermon Stack and Shervon Latreese
Simpson,

Defendant.

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2013-CP-38-00994

**MOTION FOR ENTRY OF SATISFACTION
OF JUDGMENT**

FILED FOR RECORD
JANIFA B. CLARK
APR 11 A 11:38
CLERK OF COURT
ORANGEBURG, SC

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorneys for the Defendant, Shervon Latreese Simpson, will move before the presiding judge of the Orangeburg County Court of Common Pleas at the Orangeburg County Courthouse at 10:00 a.m. on the tenth (10th) day after service hereof, or as soon thereafter as counsel may conveniently be heard, for an entry of satisfaction of judgment.

Plaintiff Glover filed a lawsuit against Defendants William Shermon Stack and Shervon Latreese Simpson on September 5, 2013. Plaintiff obtained a default against Shervon Latreese Simpson signed on October 31, 2013. The matter was referred to James B. Jackson, Jr. acting as Special Referee by the Honorable Edgar W. Dickson on February 7, 2012. The damages hearing was held on May 21, 2014 and the special referee found damages totaling \$18,000 and entered a judgment against Defendant Simpson.

Over a year later, Plaintiff mailed a copy of the default order to Simpson's purported liability insurer, First Acceptance Insurance Company, Inc., requesting payment of the judgment. However, after the entry of the Special Referee's Order, Plaintiff ~~settled her claim~~ ^{ATTEST: TRUE COPY} against William Shervon Stack in exchange for a payment of \$12,000. That settlement was entered into on

CLERK OF COURT
ORANGEBURG COUNTY, SC

September 4, 2014 and a copy of the settlement agreement is attached hereto as Exhibit A. The accident alleged in the Complaint is a single individual collision. Therefore, there are no separate damages between the two actions and Plaintiff's total damages pursuant to the entry of default judgment is \$18,000. Therefore, by the settlement, Plaintiff recovered \$12,000 of her \$18,000 in damages.

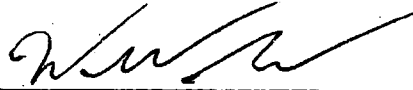
South Carolina Code § 15-38-50 requires that the settlement reduces the amount of the outstanding judgment on a dollar for dollar basis. Therefore, the remaining amount of the judgment is \$6,000. See Lsellis v. Oliver, 335 S.C. 106, 515 S.E.2d 258 (Ct. App. 1999) ("Section 15-38-50 grants the Court no discretion in determining the equities involved and applying a set off once a release has been executed in good faith between Plaintiff and one of several joint tortfeasors."). Therefore, pursuant to South Carolina Code and the governing case law, the judgment was reduced to \$6,000 as a result of the settlement.

On December 31, 2015, Defendant tendered the \$6,000 balance of the judgment to Plaintiff unconditionally and requested execution of a Satisfaction of Judgment. The settlement draft was never returned and yet the Satisfaction of Judgment was never executed. Therefore, Defendant respectfully moves for entry of the Satisfaction of Judgment upon the Court's records.

This Motion is made pursuant to Rule 60(b) of the South Carolina Rules of Civil Procedure and will be supplemented and supported by such affidavits, depositions, discovery responses, memoranda of law, and such other documents as appropriate.

[SIGNATURE ON FOLLOWING PAGE]

MURPHY & GRANTLAND, P.A.



Wesley B. Sawyer, Esquire

P.O. Box 6648

Columbia, South Carolina 29260

(803) 782-4100

Attorneys for Defendant Shervon Latreese Simpson

Columbia, South Carolina

April 7, 2016

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Denetra Glover,

Plaintiff,

v.

William Shermon Stack and Shervon Latreese
Simpson,

Defendant.

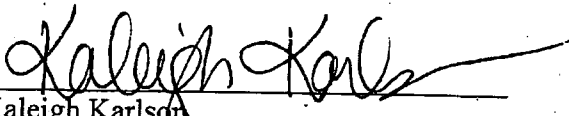
IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2013-CP-38-00994

CERTIFICATE OF SERVICE

FILED FOR RECORD
WINNIE B. CLARK
006 APR 11 A 11:30
CLERK OF COURT
ORANGEBURG, SC

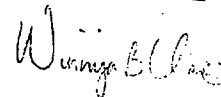
I, the undersigned employee of the law offices of Murphy & Grantland, P.A., Attorneys
for Defendant Shervon Latreese Simpson do hereby certify that on **April 7, 2016**, I have served a
copy of the foregoing **Motion for Entry of Satisfaction of Judgment** in connection with the
above-referenced case placing same in the U.S. mail, postage paid to:

Shane M. Burroughs, Esquire
Lanier & Burroughs, LLC
P.O. Drawer 2789
250 Gibson Street
Orangeburg, SC 29116


Kaleigh Karlson

Columbia, South Carolina

ATTEST: TRUE COPY



CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2013-CP-38-00994

Denetra Glover,

Plaintiff,

v.

William Shermon Stack and Shervon Latreese
Simpson,

Defendant.

**MEMORANDUM IN SUPPORT OF MOTION
FOR ENTRY OF SATISFACTION OF
JUDGMENT**

Defendant Shervon Latreese Simpson, by and through her undersigned counsel, submits this Memorandum of Law in support of the Motion for Entry of Satisfaction of Judgment:

SUMMARY

After an automobile accident, Plaintiff obtained a personal injury judgment of \$18,000 against Defendant Simpson. Afterwards, she recovered \$12,000 of her damages from the driver of the other vehicle involved in the collision. Therefore, she recovered \$21,000 of her \$18,000 in damages. Upon notice of the judgment, Defendant's insurer tendered the balance of the judgment – \$6,000 – to Plaintiff. Because Plaintiff recovered the entirety of her damages as determined by the default judgment, Plaintiff requested that she execute a Satisfaction of Judgment. Plaintiff refused, and this motion followed.

FACTS

Plaintiff Glover filed a lawsuit against Defendants William Shermon Stack and Shervon Latreese Simpson on September 4, 2013. Plaintiff obtained a default against Shervon Latreese Simpson signed on October 31, 2013. The matter was referred to James B. Jackson, Jr. acting as Special Referee by the Honorable Edgar W. Dickson on February 7, 2012. The damages hearing

was held on May 21, 2014 and the special referee found damages totaling \$18,000 and entered a judgment against Defendant Simpson.

Over a year later, Plaintiff mailed a copy of the default order to Simpson's purported liability insurer, First Acceptance Insurance Company, Inc., requesting payment of the judgment. However, after the entry of the Special Referee's Order, Plaintiff settled her claim against William Shervon Stack in exchange for a payment of \$12,000. That settlement was entered into on September 4, 2014 and a copy of the settlement agreement is attached hereto as Exhibit A.

The accident alleged in the Complaint is a single individual collision. Therefore, there are no separate damages between the two defendants, and Plaintiff's total damages pursuant to the entry of default judgment is \$18,000. Therefore, by the settlement, Plaintiff recovered \$12,000 of her \$18,000 in damages.

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ARGUMENT

By refusing to execute the Satisfaction of Judgment after recovering the full amount of her damages as determined by the Special Referee, Plaintiff seeks a double recovery. The Special Referee determined that her damages totaled \$18,000. However, by demanding the full \$18,000 from Defendant Simpson after already recovering \$12,000 from Defendant Stack, Plaintiff hopes to recover \$30,000 for her \$18,000 in damages.

I. South Carolina prohibits a double recovery for a single harm.

“The rule prohibiting a double recovery for the same injury on multiple claims for relief applies in cases involving multiple defendants, at least if all defendants commit the same act or technically different acts that cause a single injury.” 22 Am. Jur. 2d Damages § 33 (2016) (emphasis added). “If the damage is the indivisible consequence of the acts of two joint tortfeasors, there is no legal basis for the assessment of compensatory damages separately against the two defendants.” *Id.* The rule boils down to one simple point: Although “a plaintiff is permitted to seek damages from multiple defendants . . . the plaintiff ultimately cannot recover twice for the same wrong and may recover only one satisfaction for the losses.” *Id.*

South Carolina applies this rule both by statute and case law. Under principles of equity, courts have traditionally used setoff, which “prevents an injured person from obtaining a double recovery for the damage he sustained, for it is almost universally held that there can be only one satisfaction for an injury or wrong.” *Riley v. Ford Motor co.*, 414 S.C. 185, 195, 777 S.E.2d 824, 830 (2015). “In 1988, these equitable principles were codified as part of the South Carolina Contribution Among Tortfeasors Act, S.C. Code Ann. §§ 15-38-10 to -70.” *Id.*

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When a release or a covenant not to sue or not to enforce judgment is given to one of two or more persons liable in tort for the same injury or the same wrongful death:

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S.C. Code Ann. § 15-38-50 (emphasis added). By statutorily imposing a dollar-for-dollar reduction for any amounts paid in settlement by any tortfeasor, the General Assembly codified the rule that a plaintiff cannot receive a double recovery for a single harm.

There is no dispute that the injuries in this case constitute a single harm. The Complaint alleges a single automobile collision with a single impact. (Compl. ¶ 4). Therefore, Plaintiff cannot seek more than a single recovery of her damages, and the Special Referee could not award separate damages against Simpson. Because Plaintiff has recovered \$12,000 of her total damages, Simpson is only responsible for paying the remaining \$6,000.

II. The setoff occurs as a matter of law, and the Court has no discretion in determining the equities involved.

Plaintiff recovered \$12,000 from Defendant Stack. As a result, Section 15-38-50 operates to reduce her outstanding judgment from \$18,000 to \$6,000. As the Court of Appeals held in *Ellis v. Oliver*, 335 S.C. 106, 113, 515 S.E.2d 258, 272 (Ct. App. 1999), application of the credit is statutorily mandated: “Section 15-38-50 grants the Court **no discretion** in determining the equities involved and applying a set off once a release has been executed in good faith between Plaintiff and one of several joint tortfeasors.” (emphasis added). Put simply, the statute acts to control this Court’s analysis: “We hold that in the absence of a claim of bad faith, the function of the trial court is limited to applying the settlement credit pursuant to § 15-38-50.” *Id.*¹ Therefore, pursuant to South Carolina Code and the governing case law, the judgment must be reduced to \$6,000 as a result of the settlement with Defendant Stack. Because Defendant’s carrier has already mailed the \$6,000 payment to Plaintiff, the judgment should be marked as satisfied.

¹ The principles set forth in *Ellis* have been reiterated in multiple cases. See *Smith v. Widener*, 397 S.C. 468, 472 724 S.E.2d 188, 190 (Ct. App. 2012) (“When the settlement is for the same injury, the nonsettling defendant’s right to a setoff arises by operation of law.”); *Polston v. Eli Lilly and Co.*, 2010 WL 2926159 (D.S.C. July 23, 2010) (noting that the setoff applies to a judgment); *Welch v. Epstein*, 342 S.C. 279, 536 S.E.2d 408 (Ct. App. 2000).

CONCLUSION

For the above-stated reasons, Defendant's motion should be granted and a satisfaction of judgment entered. The Special Referee determined Plaintiff's damages to be \$18,000. Plaintiff recovered \$12,000 from Defendant Stack. Therefore, both under the common law and by operation of § 15-38-50, the balance of the judgment is automatically reduced. Because Defendant has already tendered \$6,000 to Plaintiff, Plaintiff has recovered all of her legal damages and the judgment is satisfied as a matter of law.

MURPHY & GRANTLAND, P.A.



Wesley B. Sawyer, Esquire

P.O. Box 6648

Columbia, South Carolina 29260

(803) 782-4100

Attorneys for Defendant Shervon Latreese Simpson

Columbia, South Carolina
June 27, 2016

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS

MEDIATION
SETTLEMENT AGREEMENT

Demetra Glover,

Plaintiff,

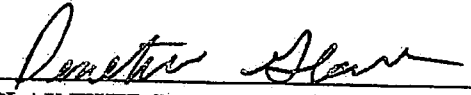
vs.

William Shermon Stack and Shervon
Latreese Simpson,

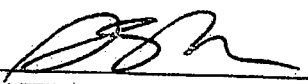
Defendants.

Civil Action No.: 2013-CP-38-994

The plaintiff, Demetra Glover, and the defendant, William Shermon Stack, agree to settle the above lawsuit for \$12,000.00 in exchange for a Release, which will be issued by plaintiff, and the case against William Shermon Stack will be dismissed with prejudice.

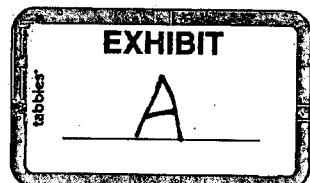

PLAINTIFF, Demetra Glover


ATTORNEY FOR THE PLAINTIFF
Shane M. Burroughs, Esq.


ATTORNEY FOR THE DEFENDANT,
William Shermon Stack
A. Shane Massey, Esq.


Richard B. Ness, Mediator

12/2/14
Date



December 31, 2015

Shane M. Burroughs, Esquire
Lanier & Burroughs, LLC
P.O. Drawer 2789
250 Gibson Street
Orangeburg, SC 29116

Re: Denetra Glover vs. William Shermon Stack and Shervon Latreese Simpson
Civil Action No.: 2013-cp-38-00994
Claim No.: 391201348
Date of Loss: 03-10-12
Our File No.: 2100-0494

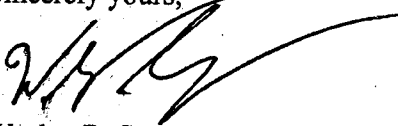
Dear Shane:

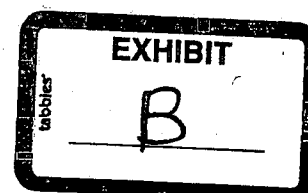
Enclosed please find a check for your client, Dentetra Glover in the amount of \$6,000.00 as full and final satisfaction of the judgement entered on July 9, 2014 by Special Referee James Jackson. As we have discussed, the amount of the judgment entered was \$18,000.00. On or about December 4, 2014, Glover settled with the co-Defendant William Shermon Stack for \$12,000.00. Therefore, Glover has recovered \$12,000 out of her \$18,000 in damages. Pursuant to South Carolina Code Section 15-38-50, that settlement reduces the amount of the judgment against my client by the amount of \$12,000. Therefore, the remaining amount of the judgment is \$6,000. See Lsellis v. Oliver, 335 S.C. 106, 515 S.E.2d 268 (Ct. App. 1999) ("Section 15-38-50 grants the Court no discretion in determining the equities involved in applying a set-off once a release has been executed in good faith between a Plaintiff and one of several joint tortfeasors."). Notably, this settlement was reached after the default judgment and therefore it is impossible that the Special Referee would have considered the amount of the settlement in determining the amount of damages at the default hearing.

I have enclosed a satisfaction of judgment for your client's execution and signature. If you and your client are unable to execute the satisfaction of judgment, please let me know and I will file an appropriate motion with the court.

With warm personal regards, I am

Sincerely yours,


Wesley B. Sawyer



Telephone 803-782-4100 • Facsimile 803-782-4140
4406-B Forest Drive, Columbia, South Carolina 29206 • Post Office Box 6648, Columbia, South Carolina 29260

J. R. Murphy John M. Grantland Ron B. Diegel* Brent M. Boyd E. Ray Moore, III Anthony W. Livoti Adam J. Neil Jeff C. Kull Peter E. Farr
Alice P. Adams Tim J. Newton Chris A. Majure J. Ryan Oates Wesley B. Sawyer Jason P. Luther Elliott B. Daniels Hannah D. Stetson Rogers E. Harrell, III
*Member-American Board of Trial Advocates

WBS/kak
Enclosures

Acceptance Insurance Company, Inc.

Date: 11/30/2015

615989

Claims Account

P.O. Box 23440 Nashville, TN 37202

Pay

TO

The Order

OF

DENETRA GLOVER AND LAW OFFICES OF LANIER & BURROUGHS

Pay: Six Thousand and ***** 00/100 Dirs *****

\$ 6,000.00

SATISFACTION OF JUDGMENT - BI

Claim No: 0391201348 Int No:

Pol No: ABSC 000000176

Acc Date: 3/10/12

Loss Payment: XX Expense

Co No: 28

FirstBank
Lexington, TN 38351

Dual Signatures Required for amounts greater than \$100,000.00

Helo Bodayle

DOCUMENT INCLUDES A HIDDEN WORD. DO NOT CASH IF THE WORD VOID IS VISIBLE. DOCUMENT ALSO CONTAINS HEAT SENSITIVE INK. TOUCH HERE - RED IMAGE DISAPPEARS WITH HEAT.

Date: 11/30/2015

ABSC 000000176

SATISFACTION OF JUDGMENT - BI

615989

Send Claims Correspondence to:

0391201348

28

First Acceptance Services, Inc.

P.O. Box 23410

Nashville, Tn. 37202

1-800-779-2103

713 BI 003 GLOVER, DENETRA

6,000.00 988

MURPHY & GRANTLAND

WESLEY SAWYER

PO BOX 6648

COLUMBIA SC 29260-6648

.00

.00



Date: 11/30/2015

ABSC 000000176

SATISFACTION OF JUDGMENT - BI

615989

Send Claims Correspondence to:

0391201348

28

First Acceptance Services, Inc.

P.O. Box 23410

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1-800-779-2103

713 BI 003 GLOVER, DENETRA

6,000.00 988

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MURPHY & GRANTLAND

WESLEY SAWYER

PO BOX 6648

COLUMBIA SC 29260-6648

.00

CERTIFIED MAIL® RECEIPT	
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Extra Services & Fees (check box, add fee as appropriate)	Electronic Return Receipt Requested
Return Receipt (hardcopy) \$	
Return Receipt (electronic) \$1.45	
Certified Mail Restricted Delivery \$	
Adult Signature Required \$1.40	
Adult Signature Restricted Delivery \$	
Postage and Fees \$0.00	
Postmark Here	
Sent To: Shane M. Burroughs, Esquire Lanier & Burroughs, LLC PO Drawer 2789 PO Box No. 250 Gibson Street State, Zip+4 Orangeburg, SC 29116	
Form 3800, April 2015 See Reverse for Instructions	

Wesley B. Sawyer
Direct dial 803-454-1233
wsawyer@murphygrantland.com

December 31, 2015

Re: Denetra Glover vs. William Shermon Stack and Shervon Latreese Simpson
Civil Action No.: 2013-cp-38-00994
Claim No.: 391201348
Date of Loss: 03-10-12
Our File No.: 2100-0494

Dear Shane:

Enclosed please find a check for your client, Dentetra Glover in the amount of \$6,000.00 as full and final satisfaction of the judgement entered on July 9, 2014 by Special Referee James Jackson. As we have discussed, the amount of the judgment entered was \$18,000.00. On or about December 4, 2014, Glover settled with the co-Defendant William Shermon Stack for \$12,000.00. Therefore, Glover has recovered \$12,000 out of her \$18,000 in damages. Pursuant to South Carolina Code Section 15-38-50, that settlement reduces the amount of the judgment against my client by the amount of \$12,000. Therefore, the remaining amount of the judgment is \$6,000. See Lsellis v. Oliver, 335 S.C. 106, 515 S.E.2d 268 (Ct. App. 1999) ("Section 15-38-50 grants the Court no discretion in determining the equities involved in applying a set-off once a release has been executed in good faith between a Plaintiff and one of several joint tortfeasors."). Notably, this settlement was reached after the default judgment and therefore it is impossible that the Special Referee would have considered the amount of the settlement in determining the amount of damages at the default hearing.

I have enclosed a satisfaction of judgment for your client's execution and signature. If you and your client are unable to execute the satisfaction of judgment, please let me know and I will file an appropriate motion with the court.

With warm personal regards, I am

Sincerely yours,


Wesley B. Sawyer

Telephone 803-782-4100 • Facsimile 803-782-4140
4406-B Forest Drive, Columbia, South Carolina 29206 • Post Office Box 6648, Columbia, South Carolina 29260

J. R. Murphy John M. Grantland Ron B. Diegel* Brent M. Boyd E. Ray Moore, III Anthony W. Livoti Adam J. Neil Jeff C. Kull Peter E. Farr
Alice P. Adams Tim J. Newton Chris A. Majure J. Ryan Oates Wesley B. Sawyer Jason P. Luther Elliott B. Daniels Hannah D. Stetson Rogers E. Harrell, III
*Member-American Board of Trial Advocates

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Denetra Glover,

Plaintiff,

v.

William Shermon Stack and Shervon Latreese
Simpson,

Defendant.

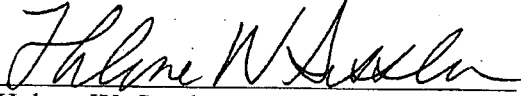
IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2013-CP-38-00994

CERTIFICATE OF SERVICE

I, the undersigned employee of the law offices of Murphy & Grantland, P.A., Attorneys for Defendant Shervon Latreese Simpson do hereby certify that on **June 27, 2016**, I have served a copy of the foregoing **Memorandum in Support of Motion for Entry of Satisfaction of Judgment** in connection with the above-referenced case placing same in the U.S. mail, postage paid to:

Shane M. Burroughs, Esquire
Lanier & Burroughs, LLC
P.O. Drawer 2789
250 Gibson Street
Orangeburg, SC 29116


Helene W. Sessler

Columbia, South Carolina

LAW OFFICES
LANIER & BURROUGHS, LLC
250 GIBSON STREET
POST OFFICE DRAWER 2789
ORANGEBURG, SOUTH CAROLINA 29116
www.landblawfirm.com

LEWIS C. LANIER
SHANE M. BURROUGHS
CHARLES J. MCCUTCHEN
JUSTIN T. BAMBERG

TELEPHONE:
(803) 268-9800

June 28, 2016

FAX: (803) 531-3465

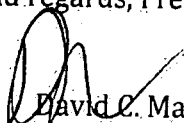
Wesley B. Sawyer
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260

Re: Shirley Davis vs. William Shermon Stack and Shervon Latreese Simpson
Case No.: 2013-CP-38-00992

Dear Wesley:

Enclosed please find Plaintiff's Memorandum in Opposition to Motion for Entry of Satisfaction of Judgment in the above referenced matter for service upon you.

With kind regards, I remain truly yours,


David C. Marshall

DCM/ad
Enclosure

CERTIFICATE OF SERVICE

I hereby certify that this 28 day of June 2016 a copy of **PLAINTIFF'S MEMORANDUM IN OPPOSITION TO MOTION FOR ENTRY OF SATISFACTION OF JUDGMENT** has been served upon other counsel of record, by mailing same, postage prepaid in the United States Mail, addressed to the following:

Wesley B. Sawyer
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260

**ATTORNEYS FOR DEFENDANT
SHERVON L. SIMPSON**

Danielle Johnson

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Shirley Davis,

Plaintiff,

vs.

William Shermon Stack and
Shervon Latreese Simpson,

Defendants.

) IN THE COURT OF COMMON PLEAS
)
)

) Case No.: 2013-CP-38-00992
)
)

)
) **PLAINTIFF'S MEMORANDUM IN**
) **OPPOSITION TO MOTION FOR**
) **ENTRY OF SATISFACTION OF**
) **JUDGMENT**
)
)
)

Plaintiff Shirley Davis hereby submits this memorandum in opposition to Defendant Shervon Latreese Simpson's motion for entry of satisfaction of judgment. For the reasons set forth herein, Defendant's motion should be denied.

FACTUAL & PROCEDURAL BACKGROUND

This civil action was filed as a result of an automobile accident that occurred in Orangeburg County on March 10, 2012 between vehicles driven by the Defendants. Plaintiff Shirley Davis ("Davis") was a passenger in a vehicle driven by Defendant Shervon Latreese Simpson ("Simpson") when a collision occurred with another vehicle being driven by Defendant William Shermon Stack ("Stack"). Davis was injured in the accident, and filed suit against the Defendants on or about September 4, 2013. While Stack filed an Answer to Plaintiff's Complaint, Simpson went into default.

A damages hearing regarding Simpson's default was held on May 21, 2014, and the Special Referee for Orangeburg County, James B. Jackson, Jr., made two conclusions of law: (1) that Simpson was in default and liable for damages sustained by Plaintiff and (2) that the Plaintiff was entitled to judgement against Simpson in the amount of \$18,000.00. See Order,

attached hereto as **Exhibit A**. It was therefore ordered for the Plaintiff to have a judgment "against the Defendant, Shervon Latreese Simpson" in the amount of \$18,000.00. *Id.*

After the default judgment was entered as to Defendant Simpson, the case continued as to Defendant Stack. Ultimately, Plaintiff settled with Stack for a sum of \$11,000.00 and granted a release *as to Defendant Stack only* on or about December 17, 2014.

Throughout 2015, Plaintiff attempted to collect on the \$18,000.00 default judgment from Simpson's insurer. On December 31, 2015, counsel for Simpson mailed a check in the amount of \$7,000.00, purportedly for satisfaction of the default judgment. Plaintiff accepted the check as partial satisfaction of the default judgment, but maintained that an additional \$11,000.00 was due from Simpson in order to satisfy the \$18,000.00 default judgment. On April 7, 2016, Simpson filed the instant motion for entry of satisfaction of judgment. Plaintiff opposes this motion and submits that an additional \$11,000.00 is due from Simpson and/or her insurer in order to fully and finally satisfy the default judgment entered as a result of Simpson's default.

ARGUMENT

Simpson is responsible for satisfying the entire \$18,000.00 default judgment and is not entitled to a set off or credit for the subsequent \$11,000.00 settlement paid by Stack. The default judgment plainly states that Plaintiff was entitled to judgment *against Simpson* in the amount of \$18,000.00, and judgment was so entered "against the Defendant, Shervon Latreese Simpson." No judgment was entered as to Defendant Stack. It was not a joint judgment. It was not a final judgment determining the total amount of damages sustained by Plaintiff as a result of the accident, or an allocation of liability among the two defendants.¹ It was simply a default judgment as to one defendant determining *that defendant's liability* and the amount of damages.

¹ Nevertheless, Simpson's argument is premised upon the false idea that the default judgment determined the entirety of damages sustained by Plaintiff.

caused by that defendant's negligence. Accordingly, Simpson is responsible for satisfying the entirety of the judgment, without regard to Plaintiff's later settlement with Stack. Such result does not lead to a "double recovery" for Plaintiff.

Simpson incorrectly argues that because Plaintiff ultimately reached a settlement with Stack, Simpson is entitled to a set off for the amount of Stack's settlement. Had the default judgment entered as to Simpson made a final determination of the entirety of Plaintiff's damages caused by the motor vehicle accident, or an adjudication of the entire case, as Simpson would have this Court believe, then Plaintiff's argument may have merit. However, because the default judgment by its terms was limited to determining *the liability of Simpson* – as opposed to the total damages of Plaintiff – Simpson's argument is inaccurate, unfounded, and disingenuous.

If Simpson's argument was correct, then Plaintiff would never have been able to recover more than \$18,000.00 as a result of the accident or obtain a jury verdict as to the other defendant. Of course this is not true, because the case continued toward trial as to Defendant Stack, with factual jury issues as to Stack's liability and the total amount of Plaintiff's damages. This does not mean Plaintiff would obtain double recovery; rather, it simply means all of Plaintiff's claims would be adjudicated, essentially apportioning liability among the defendants. Indeed, if the court were to accept Plaintiff's argument, then it would foreclose every plaintiff's ability to obtain a jury verdict as to damages if a default judgment is entered as to one of multiple defendants before trial. Such result is nonsensical and does not reflect the substantive or procedural law of South Carolina. The purpose of default judgments is to make determinations as to the liability of defendants that do not make timely appearance in cases. Default judgments do not make determinations as to the total amount of damages sustained by a plaintiff when other defendants have made appearances and are entitled to a jury trial on such issue, and the Special

Referee in this case did not do so in his order. Such result would deprive the plaintiff, and the answering defendant(s), of their constitutional right to seek a jury verdict as to the amount of damages. Indeed, no law provides such outcome.

Plaintiff's argument and reliance on S.C. Code § 15-38-50 is misplaced under these circumstances. Contrary to Simpson's argument, Simpson was responsible for satisfying the entire judgment amount as soon as it was entered. Simpson does not get the benefit of a later settlement by a co-defendant to set off her obligation of full satisfaction of the judgment against her. Such result would reward defendants, like Simpson, who intentionally delay satisfying judgments in hopes that their obligation to pay will be reduced or eliminated altogether by a subsequent settlement of other answering parties. The law does not intend such an inequitable result.

Under the usual circumstances, one defendant's settlement occurs *before* there is a verdict against another defendant, and S.C. Code § 15-38-50 provides the second defendant with a set off from the verdict or judgment in the amount of the first defendant's settlement. That is because the statute states that the first defendant's settlement "reduces the claim" against the other defendants. Indeed, that is the factual scenario presented in the *Ellis* case cited and relied upon by Simpson – the plaintiff settled a lawsuit against Defendant A and proceeded to trial against Defendant B, obtaining a verdict that the court, by operation of the statute, reduced by the amount of the previous settlement with Defendant A. *Ellis v. Oliver*, 335 S.C. 106, 515 S.E.2d 258 (Ct. App. 1999). That is not what happened in this case, thus rendering *Ellis* unsupportive of Plaintiff's argument.²

² Likewise, all cases cited in Simpson's memorandum are like *Ellis*, where a prior settlement was used to set off or reduce a later jury verdict, unlike the situation presented in this case.

By its terms, S.C. Code § 15-38-50 provides for the reduction of "the claim" against other tortfeasors whose liability have yet to be determined. The statute does *not* state that one party's settlement will reduce a prior *judgment* against another party. The very language of § 15-38-50(1) presupposes that there is still an unresolved claim against another tortfeasor at the time of settlement, for which liability is not discharged, but which is reduced by the amount of the settlement. In this case, there were no additional, outstanding tortfeasors at the time of Plaintiff's settlement with Stack, because the claim against Simpson was previously adjudicated via the default judgment. As such, the claim against the defaulting tortfeasor (Simpson) was previously finalized and not subject to set off from a later settlement with Stack.

The law cited by Simpson is distinguishable from the facts of this case and does not support the relief she requests. Indeed, Simpson cites no law supporting her claim that a defaulting defendant is entitled to reduction of a damages award against her based upon a subsequent settlement by a co-defendant. This is because Simpson was liable for the entire \$18,000.00 judgment the day it was entered, and remains responsible for satisfying the full judgment today. Because Simpson admittedly has only satisfied \$7,000.00 of the default judgment, her motion for entry of satisfaction of judgment should be denied and she should be ordered to satisfy the remaining balance of the judgment, in addition to post-judgment interest as allowed by statute.

CONCLUSION

For the reasons set forth herein, the Court should deny Simpson's motion for entry of satisfaction of judgment.

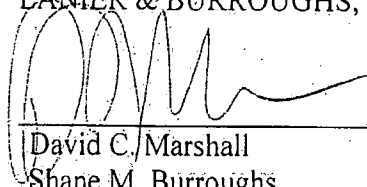
[SIGNATURE PAGE FOLLOWS]

ATTEST: TRUE COPY
CLERK OF COURT
ORANGEBURG COUNTY, SC

June 28, 2016

LANIER & BURROUGHS, LLC

By:



David C. Marshall
Shane M. Burroughs
250 Gibson Street (29115)
P.O. Drawer 2789
Orangeburg, SC 29116
Phone: (803) 268-9800
Fax: (803) 531-3465

ATTORNEYS FOR PLAINTIFF

**SHIRLEY DAVIS VS. WILLIAM SHERMON STACK AND SHERVON
LATREESE SIMPSON
CASE NO.: 2013-CP-38-00992**

EXHIBIT "A"

ORDER

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

Shirley Davis,)

Plaintiff,)

William Shermon Stack and)
Shervon Latreese Simpson)

Defendants.)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-38-00992

ORDER

This matter comes before the Court on a Plaintiff's Motion for damages hearing.

The Defendant Shervon Latreese Simpson (hereinafter "Simpson") was served the Summons and Complaint on September 5, 2013, and failed to answer in a timely manner. An Affidavit of Default was filed on October 9, 2013, and an Order of Default was signed on October 31, 2013 and filed November 7, 2013. The matter was then referred to James B. Jackson, Jr. acting as Special Referee by The Honorable Edgar W. Dickson dated February 7, 2012.

A damages hearing was held before me on May 21, 2014, which was attended by the Plaintiff and her attorney, Shane M. Burroughs. The Defendant Simpson was not present nor was she represented by counsel. Defendant Simpson was notified of said damages hearing via United States Postal Service First Class Mail from Shane M. Burroughs, attorney for the plaintiff mailed on May 16, 2014.

I find that all pleadings have been properly filed and served so the final hearing before this court was proper in this matter.

Based on the testimony and evidence presented at the hearing, I make the following findings of fact:

1. That on March 10, 2012, in Richland County, South Carolina, Defendant, William Shermon Stack failed to yield the right-of-way, striking the Plaintiff with his vehicle.
2. That Defendant William Shermon Stack was charged with said accident as evidenced by the accident report (Exhibit #1).

ATTEST: TRUE COPY
CLERK OF COURT
ORANGEBURG COUNTY, SC

78

3. Defendant, Shervon Latreese Simpson lost control of the vehicle and failed to apply the brakes or take evasive action.
3. On September 4, 2013, Plaintiff filed a Summons and Complaint (Exhibit #2) against Defendants and perfected service on upon Defendant Simpson on September 5, 2013. (Exhibit #3).
6. On October 9, 2013, an Affidavit of Default (Exhibit #4) was filed against the Defendant Simpson.
7. On October 31, 2013, an Order of Default was signed by The Honorable Edgar W. Dickson, Presiding Judge for First Judicial Circuit, Orangeburg County, and filed with the Orangeburg County Clerk of Court (Exhibit #5).
8. On October 31, 2013, an Order OF Reference was signed by The Honorable Edgar W. Dickson, Presiding Judge for First Judicial Circuit, Orangeburg County, and filed with the Orangeburg County Clerk of Court (Exhibit #6).
9. On May 16, 2013, Shane M. Burroughs, attorney for Plaintiff, mailed correspondence to Defendant via United States Postal Service First Class Mail informing her of the May 21, 2014, damages hearing (Exhibit #7).
10. That as a result of being struck by the Defendant while Plaintiff was a passenger, the Defendant's negligence, carelessness and recklessness, has caused Plaintiff to suffer damages.
11. That Plaintiff was transported to The Regional Medical Center, Orangeburg, South Carolina, was treated and released and advised to follow-up with her personal physician. That Plaintiff has incurred medicals as evidenced by the Summary of Medical Bills and Summary of Medical Records (Exhibit #s 8 and 9).
12. That Plaintiff who continues to suffer pain daily from the wreck, has a life expectancy of 46.75 years according to Section 19-1-150 of the South Carolina Statutory Code (Exhibit #10); I find her condition is permanent.

Based upon the above findings of fact, I make the following conclusions of law:

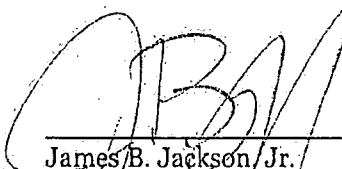
GBM #2
79

a. I find that Defendant is in default and is liable for the damages suffered by Plaintiff:

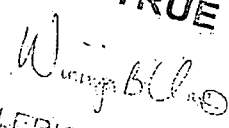
b. I conclude, therefore, that the Plaintiff is entitled to judgment against the Defendant in the amount of Eighteen Thousand and 00/100 Dollars (\$18,000.00) for the reasons set forth herein.

IT IS THEREFORE ORDERED that the Plaintiff have judgment against the Defendant, Shervon Latreese Simpson in the amount of Eighteen Thousand and 00/100 Dollars (\$18,000.00) for the reasons set forth herein and that the Clerk of Court for Orangeburg County shall mark this judgment appropriately in his records.

IT IS SO ORDERED.


James B. Jackson Jr.
Special Referee for Orangeburg County

Date: July 9, 2014
Orangeburg, South Carolina

ATTEST: TRUE COPY

CLERK OF COURT
ORANGEBURG COUNTY, SC

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80

LAW OFFICES
LANIER & BURROUGHS, LLC
250 GIBSON STREET
POST OFFICE DRAWER 2789
ORANGEBURG, SOUTH CAROLINA 29116
www.landblawfirm.com

LEWIS C. LANIER
SHANE M. BURROUGHS
CHARLES J. MCCUTCHEN
JUSTIN T. BAMBERG

TELEPHONE:
(803) 268-9800

June 28, 2016

FAX: (803) 531-3465

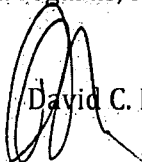
Wesley B. Sawyer
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260

Re: Denetra Glover vs. William Shermon Stack and Shervon Latreese Simpson
Case No.: 2013-CP-38-00994

Dear Wesley:

Enclosed please find Plaintiff's Memorandum in Opposition to Motion for Entry of Satisfaction of Judgment in the above referenced matter for service upon you.

With kind regards, I remain truly yours,


David C. Marshall

DCM/ad
Enclosure

CERTIFICATE OF SERVICE

I hereby certify that this 28 day of June 2016 a copy of PLAINTIFF'S
**MEMORANDUM IN OPPOSITION TO MOTION FOR ENTRY OF SATISFACTION OF
JUDGMENT** has been served upon other counsel of record, by mailing same, postage prepaid in
the United States Mail, addressed to the following:

Wesley B. Sawyer
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260

**ATTORNEYS FOR DEFENDANT
SHERVON L. SIMPSON**

Danielle Johnson

IN THE COURT OF COMMON PLEAS

Case No.: 2013-CP-38-00994

**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO MOTION FOR
ENTRY OF SATISFACTION OF
JUDGMENT**

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ENTRY OF SATISFACTION OF
JUDGMENT**

position to Defendant
For the reasons set

1. *Explain the importance of the following factors in the development of a country's economy:*
 (a) *Human resources*
 (b) *Capital resources*
 (c) *Technology*
 (d) *Infrastructure*
 (e) *Government policy*
 (f) *International trade*
 (g) *Investment*
 (h) *Education*
 (i) *Healthcare*
 (j) *Environment*
 (k) *Democracy*
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TEST: TRUE
damages sustained by Plaintiff.

attached hereto as **Exhibit A**. It was therefore ordered for the Plaintiff to have a judgment “against the Defendant, Shervon Latreese Simpson” in the amount of \$18,000.00. *Id.*

After the default judgment was entered as to Defendant Simpson, the case continued as to Defendant Stack. Ultimately, Plaintiff settled with Stack for a sum of \$12,000.00 and granted a release *as to Defendant Stack only* on or about December 17, 2014.

Throughout 2015, Plaintiff attempted to collect on the \$18,000.00 default judgment from Simpson’s insurer. On December 31, 2015, counsel for Simpson mailed a check in the amount of \$6,000.00, purportedly for satisfaction of the default judgment. Plaintiff accepted the check as partial satisfaction of the default judgment, but maintained that an additional \$12,000.00 was due from Simpson in order to satisfy the \$18,000.00 default judgment. On April 7, 2016, Simpson filed the instant motion for entry of satisfaction of judgment. Plaintiff opposes this motion and submits that an additional \$12,000.00 is due from Simpson and/or her insurer in order to fully and finally satisfy the default judgment entered as a result of Simpson’s default.

ARGUMENT

Simpson is responsible for satisfying the entire \$18,000.00 default judgment and is not entitled to a set off or credit for the subsequent \$12,000.00 settlement paid by Stack. The default judgment plainly states that Plaintiff was entitled to judgment *against Simpson* in the amount of \$18,000.00, and judgment was so entered “against the Defendant, Shervon Latreese Simpson.” No judgment was entered as to Defendant Stack. It was not a joint judgment. It was not a final judgment determining the total amount of damages sustained by Plaintiff as a result of the accident, or an allocation of liability among the two defendants.¹ It was simply a default judgment as to one defendant determining *that defendant’s liability* and the amount of damages

¹ Nevertheless, Simpson’s argument is premised upon the false idea that the default judgment determined the entirety of damages sustained by Plaintiff.

caused by that defendant's negligence. Accordingly, Simpson is responsible for satisfying the entirety of the judgment, without regard to Plaintiff's later settlement with Stack. Such result does not lead to a "double recovery" for Plaintiff.

Simpson incorrectly argues that because Plaintiff ultimately reached a settlement with Stack, Simpson is entitled to a set off for the amount of Stack's settlement. Had the default judgment entered as to Simpson made a final determination of the entirety of Plaintiff's damages caused by the motor vehicle accident, or an adjudication of the entire case, as Simpson would have this Court believe, then Plaintiff's argument may have merit. However, because the default judgment by its terms was limited to determining *the liability of Simpson* – as opposed to the total damages of Plaintiff – Simpson's argument is inaccurate, unfounded, and disingenuous.

If Simpson's argument was correct, then Plaintiff would never have been able to recover more than \$18,000.00 as a result of the accident or obtain a jury verdict as to the other defendant. Of course this is not true, because the case continued toward trial as to Defendant Stack, with factual jury issues as to Stack's liability and the total amount of Plaintiff's damages. This does not mean Plaintiff would obtain double recovery; rather, it simply means all of Plaintiff's claims would be adjudicated, essentially apportioning liability among the defendants. Indeed, if the Court were to accept Plaintiff's argument, then it would foreclose every plaintiff's ability to obtain a jury verdict as to damages if a default judgment is entered as to one of multiple defendants before trial. Such result is nonsensical and does not reflect the substantive or procedural law of South Carolina. The purpose of default judgments is to make determinations as to the liability of defendants that do not make timely appearance in cases. Default judgments do not make determinations as to the total amount of damages sustained by a plaintiff when other defendants have made appearances and are entitled to a jury trial on such issue, and the Special

Referee in this case did not do so in his order. Such result would deprive the plaintiff, and the answering defendant(s), of their constitutional right to seek a jury verdict as to the amount of damages. Indeed, no law provides such outcome.

Plaintiff's argument and reliance on S.C. Code § 15-38-50 is misplaced under these circumstances. Contrary to Simpson's argument, Simpson was responsible for satisfying the entire judgment amount as soon as it was entered. Simpson does not get the benefit of a later settlement by a co-defendant to set off her obligation of full satisfaction of the judgment against her. Such result would reward defendants, like Simpson, who intentionally delay satisfying judgments in hopes that their obligation to pay will be reduced or eliminated altogether by a subsequent settlement of other answering parties. The law does not intend such an inequitable result.

Under the usual circumstances, one defendant's settlement occurs *before* there is a verdict against another defendant, and S.C. Code § 15-38-50 provides the second defendant with a set off from the verdict or judgment in the amount of the first defendant's settlement. That is because the statute states that the first defendant's settlement "reduces the claim" against the other defendants. Indeed, that is the factual scenario presented in the *Ellis* case cited and relied upon by Simpson – the plaintiff settled a lawsuit against Defendant A and proceeded to trial against Defendant B, obtaining a verdict that the court, by operation of the statute, reduced by the amount of the previous settlement with Defendant A. *Ellis v. Oliver*, 335 S.C. 106, 515 S.E.2d 258 (Ct. App. 1999). That is not what happened in this case, thus rendering *Ellis* unsupportive of Plaintiff's argument.²

² Likewise, all cases cited in Simpson's memorandum are like *Ellis*, where a prior settlement was used to set off or reduce a later jury verdict, unlike the situation presented in this case.

By its terms, S.C. Code § 15-38-50 provides for the reduction of "the claim" against other tortfeasors whose liability have yet to be determined. The statute does *not* state that one party's settlement will reduce a prior *judgment* against another party. The very language of § 15-38-50(1) presupposes that there is still an unresolved claim against another tortfeasor at the time of settlement, for which liability is not discharged, but is reduced by the amount of the settlement. In this case, there were no additional, outstanding tortfeasors at the time of Plaintiff's settlement with Stack, because the claim against Simpson was previously adjudicated via the default judgment. As such, the claim against the defaulting tortfeasor (Simpson) was previously finalized and not subject to set off from a later settlement with Stack.

The law cited by Simpson is distinguishable from the facts of this case and does not support the relief she requests. Indeed, Simpson cites no law supporting her claim that a defaulting defendant is entitled to reduction of a damages award against her based upon a subsequent settlement by a co-defendant. This is because Simpson was liable for the entire \$18,000.00 judgment the day it was entered, and remains responsible for satisfying the full judgment today. Because Simpson admittedly has only satisfied \$6,000.00 of the default judgment, her motion for entry of satisfaction of judgment should be denied and she should be ordered to satisfy the remaining balance of the judgment, in addition to post-judgment interest as allowed by statute.

CONCLUSION

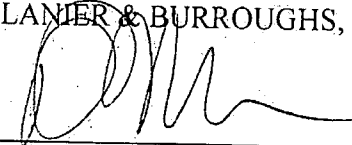
For the reasons set forth herein, the Court should deny Simpson's motion for entry of satisfaction of judgment.

[SIGNATURE PAGE FOLLOWS]

June 28, 2016

LANIER & BURROUGHS, LLC

By:



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Shane M. Burroughs
250 Gibson Street (29115)
P.O. Drawer 2789
Orangeburg, SC 29116
Phone: (803) 268-9800
Fax: (803) 531-3465

ATTORNEYS FOR PLAINTIFF

**DENETRA GLOVER VS. WILLIAM SHERMON STACK
AND SHERVON LATREESE SIMPSON
CASE NO.: 2013-CP-38-00994**

EXHIBIT "A"

ORDER

FILED FOR RECORD
WINNIE B. CLARK
JUL 2013 28 7 23 35
CLERK OF COURT
ORANGEBURG, SC

ATTEST: TRUE COPY

Winnie B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

Denetra Glover,)

Plaintiff,)

vs.)

William Shermon Stack and)
Shervon Latreese Simpson)

Defendants.)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-38-00994

ORDER

This matter comes before the Court on a Plaintiff's Motion for damages hearing.

The Defendant Shervon Latreese Simpson (hereinafter "Simpson") was served the Summons and Complaint on September 5, 2013, and failed to answer in a timely manner. An Affidavit of Default was filed on October 9, 2013, and an Order of Default was signed on October 31, 2013 and filed November 7, 2013. The matter was then referred to James B. Jackson, Jr. acting as Special Referee by The Honorable Edgar W. Dickson dated February 7, 2012.

A damages hearing was held before me on May 21, 2014, which was attended by the Plaintiff and her attorney, Shane M. Burroughs. The Defendant Simpson was not present nor was she represented by counsel. Defendant Simpson was notified of said damages hearing via United States Postal Service First Class Mail from Shane M. Burroughs, attorney for the plaintiff mailed on May 16, 2014.

I find that all pleadings have been properly filed and served so the final hearing before this court was proper in this matter.

Based on the testimony and evidence presented at the hearing, I make the following findings of fact:

1. That on March 10, 2012, in Richland County, South Carolina, Defendant, William Shermon Stack failed to yield the right-of-way, striking the Plaintiff with his vehicle.

QJM #1
90

2. That Defendant William Shermon Stack was charged with said accident as evidenced by the accident report (Exhibit #1).
3. Defendant, Shervon Latreese Simpson lost control of the vehicle and failed to apply the brakes or take evasive action.
3. On September 4, 2013, Plaintiff filed a Summons and Complaint (Exhibit #2) against Defendants and perfected service on upon Defendant Simpson on September 5, 2013. (Exhibit #3).
6. On October 9, 2013, an Affidavit of Default (Exhibit #4) was filed against the Defendant Simpson.
7. On October 31, 2013, an Order of Default was signed by The Honorable Edgar W. Dickson, Presiding Judge for First Judicial Circuit, Orangeburg County, and filed with the Orangeburg County Clerk of Court (Exhibit #5).
8. On October 31, 2013, an Order OF Reference was signed by The Honorable Edgar W. Dickson, Presiding Judge for First Judicial Circuit, Orangeburg County, and filed with the Orangeburg County Clerk of Court (Exhibit #6).
9. On May 16, 2013, Shane M. Burroughs, attorney for Plaintiff, mailed correspondence to Defendant via United States Postal Service First Class Mail informing her of the May 21, 2014, damages hearing (Exhibit #7).
10. That as a result of being struck by the Defendant while Plaintiff was a passenger, the Defendant's negligence, carelessness and recklessness, has caused Plaintiff to suffer damages.
11. That Plaintiff was transported to The Regional Medical Center, Orangeburg, South Carolina, was treated and released and advised to follow-up with her personal physician. That Plaintiff has incurred medicals as evidenced by the Summary of Medical Bills and Summary of Medical Records (Exhibit #s 8 and 9).

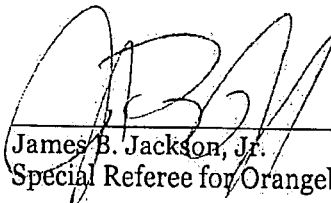
12. That Plaintiff who continues to suffer pain daily from the wreck, has a life expectancy of 46.75 years according to Section 19-1-150 of the South Carolina Statutory Code (Exhibit #10); I find her condition is permanent.

Based upon the above findings of fact, I make the following conclusions of law:

- a. I find that Defendant is in default and is liable for the damages suffered by Plaintiff.
- b. I conclude, therefore, that the Plaintiff is entitled to judgment against the Defendant in the amount of Eighteen Thousand and 00/100 Dollars (\$18,000.00) for the reasons set forth herein.

IT IS THEREFORE ORDERED that the Plaintiff have judgment against the Defendant, Shervon Latreese Simpson in the amount of Eighteen Thousand and 00/100 Dollars (\$18,000.00) for the reasons set forth herein and that the Clerk of Court for Orangeburg County shall mark this judgment appropriately in his records.

IT IS SO ORDERED.


James B. Jackson, Jr.
Special Referee for Orangeburg County

Date: ~~June~~ ^{July} 7, 2014
Orangeburg, South Carolina

1	State of South Carolina	)	In the Court
2	County of Orangeburg	)	Of Common Pleas
3			
4	Docket No. 2013-CS-38-00992		
5			
6	Shirley Davis,	)	
7	Plaintiff,	)	
8	vs.	)	Transcript of Record
9		)	
10	William Shermon Stack and	)	
11	Latreese Simpson,	)	
12	Defendants.	)	
13			
14	Docket No. 2013-CS-38-00994		
15	Denetra Glover,	)	
16	Plaintiff,	)	
17	vs.	)	Transcript of Record
18		)	
19	William Shermon Stack and	)	
20	Latreese Simpson,	)	
21	Defendants.	)	
22	June 29, 2016		
23	Orangeburg, South Carolina		
24			
25			

1 B E F O R E:

2 The Honorable R. Knox McMahon, Judge.

3
4
5 A P P E A R A N C E S:

6 David C. Marshall, Esquire
7 Attorney for the Plaintiff

8 Wesley B. Sawyer, Esquire
9 Attorney for the Defendant

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23
24 Brenda J. Sigwald, Circuit Court Reporter
25 To The Honorable R. Knox McMahon
P.O. Box 206, Jackson, South Carolina 29831

I N D E X

	<u>Page</u>
Motion for Entry of Satisfaction of Judgement.....	3
Certificate of Reporter.....	17
Keyword Index.....	18

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
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(REPORTER'S NOTE: There were no exhibits
entered during this hearing.)

1 MOTION FOR ENTRY OF SATISFACTION OF JUDGEMENT

2 MR. SAWYER: Judge, on ours, if you have one file,
3 I think it's enough to rule because it's --

4 THE COURT: I don't have a file.

5 MR. SAWYER: You don't have either one?

6 THE COURT: I don't have either file.

7 MR. SAWYER: 992 or 994?

8 THE COURT: No, sir.

9 MR. SAWYER: If Your Honor would like, we can move
10 forward if you have one file. The only difference in the
11 other case is the settlement amount was \$1,000 different.
12 But the issue is the same in both --

13 THE COURT: I do have 0992 now.

14 MR. SAWYER: So we can argue with that and that
15 issue will apply to both cases.

16 THE COURT: And that's what I'm going to do right?
17 0992?

18 MR. SAWYER: It was.

19 MR. MARSHALL: Both were on and for some reason one
20 has been removed. At least one of them is still on today's
21 roster.

22 THE COURT: The one on the roster is 0992.

23 MR. SAWYER: Okay.

24 THE COURT: So please come back around Mr. Sawyer.

25 Mr. SAWYER: Judge do you have the Memorandum that

1 we filed? If not, I do have an extra copy for you.

2 THE COURT: I do not.

3 MR. SAWYER: Bring it up to you. Here you go, Your
4 Honor.

5 THE COURT: Thank you. This -- I'm sorry, I
6 apologize, I have -- I do not have 00992. I have a case
7 captioned CACH, LLC versus Sharon E. McCants,
8 13-CP-38-009929. And I've got on the roster
9 13-CP-38-00992, so I do not have the file.

10 MR. SAWYER: Okay, Your Honor.

11 THE COURT: So I am file less.

12 (This case was set aside for a file to be brought
13 to the Court.)

14 THE COURT: All right. Let's see what I have
15 Mr. Marshall and Mr. Sawyer, 2013-C P-38-00992. All right.
16 Mr. Sawyer.

17 MR. SAWYER: Yes, sir, Your Honor. May it please
18 the Court I remember giving you the memorandum, did that
19 stay with you or did it come back to me?

20 THE COURT: Plaintiff's memorandum in opposition.
21 Let's see, where's that memorandum. Memorandum in support
22 of motion for entry of satisfaction of judgment.

23 MR. SAWYER: Yes, sir, Your Honor. That's correct.

24 THE COURT: All right.

25 MR. SAWYER: Your Honor, as Mr. Marshall already

1 described to you, really this is two cases, two motions,
2 but they're the exact same. The records are essentially
3 identical, the only main difference, of course, is the
4 names of the plaintiffs and that one of these parties
5 settled with a co-tortfeasor for 12,000, the other settled
6 for 11,000. This is an automobile accident case, one
7 collision, indivisible injury and, Judge, they sued the
8 drivers of both vehicles, Mr. Stack and Ms. Simpson.
9 Ms. Simpson, who I represent had a default judgment entered
10 against her for \$18,000 in both cases, 18 each.

11 After that default judgment was entered, Judge,
12 Mr. Stack settled for one of the plaintiffs in the amount
13 of \$12,000 and the other plaintiff in the amount of
14 \$11,000. So that means that they've recovered 12 and 11
15 respectively of the \$18,000 default judgment. Mr. Stack
16 was not a default. That case settled in mediation.

17 After that, they notified Ms. Simpson's insurance
18 carrier of the default judgment, sought recovery of the
19 full \$18,000 and the insurance carrier tendered the
20 difference 18,000 minus what they've recovered from the
21 codefendant which was 6,000 for one, 7,000 for the other,
22 Your Honor. And they accepted the money, did not agree to
23 enter a satisfaction of judgment and this motion followed.

24 Simply, Judge, this is a case about avoiding double
25 recovery. The case went into default and went to a special

1 referee and he determined after hearing a default damages
2 hearing that the claimant's total damages were \$18,000.
3 After that they recovered 11000 and 12,000 respectively
4 from the co-tortfeasor, the other defendant, and that means
5 that the balance of their judgment, the balance of their
6 damages, Judge, is 7,000 for one and 6,000 for the other
7 one respectively.

8 And that's the based upon law in South Carolina
9 both under the common law where we had the equitable
10 principal settle and then of course, Judge, after the South
11 Carolina had adopted the Contribution Among Tortfeasors
12 Act, it was brought in by statute in Section 15-38-50, Your
13 Honor.

14 And I'm sure Your Honor's aware of that statute and
15 what it says is, if one or multiple tortfeasor settles with
16 the plaintiff, then the other tortfeasors are not released,
17 but the amount of plaintiff's damages came out of any
18 judgment against the other tortfeasor entered is reduced by
19 a dollar-for-dollar basis based upon that settlement. And
20 the Court of Appeals looked at this issue in the case of
21 Ellis v. Oliver, which we cite in our memorandum. It's 335
22 South Carolina 106, it's a 1999 Court of Appeals case. And
23 in that case, Judge, there was a settlement and then a
24 judgment against another defendant and after the --

25 THE COURT: Default judgment.

1 MR. SAWYER: No, not a default judgment, Judge,
2 just a judgment. And after that case went to trial after
3 the judgment, the defense then raised to settle after
4 everything and the plaintiff said you can't do that, that's
5 an affirmative defense. You can't wait until the last day
6 and do that, you should have presented it earlier. The
7 Court said no, by statute that judgment has to be reduced.
8 The statute says anything you recover from another
9 tortfeasor, entered as indivisible injury, which a car
10 accident with one impact is, then everybody else's injury
11 judgment would be reduced.

12 And the Court says -- Court of Appeals affirmed and
13 said very plainly that the trial court has no discretion --
14 and that's a quote -- no discretion in determining the
15 equities involved and applying settlement, once a release
16 has been executed in good faith between plaintiff and one
17 of several joint tortfeasors. In other words, Judge, you
18 can't get your damages twice. And it makes perfect sense
19 if they were both tried at the same time there's a judgment
20 for 18,000, back before we had apportionment and when we
21 had joint tortfeasors and we had joint several liability,
22 you couldn't get 18,000 from each defendant. The plaintiff
23 could only recover 18,000, the amount of their damages,
24 regardless of how it's spread out amongst the defendants.

25 And that's the issue here, Judge, the Master found

1 the damages to be 18 and if they recover 18 here and 12 in
2 settlement, that's \$30,000 for \$18,000 in damages, Judge.
3 And the law doesn't allow it.

4 THE COURT: I'm not tracking. I'm somehow not
5 tracking, Mr. Sawyer.

6 MR. SAWYER: Yes, sir, Your Honor.

7 THE COURT: The special referee, what did he hear?

8 MR. SAWYER: He --

9 THE COURT: He or she, I should say.

10 MR. SAWYER: He, Judge. And he heard at a default
11 damages hearing as to the plaintiff's damages against
12 Ms. Simpson.

13 THE COURT: All right. And so he never heard
14 anything as to Mr. Stack?

15 MR. SAWYER: Well, he knew that Mr. Stack was in
16 the case, Judge, and in fact the order references --

17 THE COURT: I didn't ask if he knew or not. He may
18 have known by the caption, but he heard a damages hearing
19 and a default judgment as to Simpson.

20 MR. SAWYER: That's correct, Your Honor.

21 THE COURT: Okay.

22 MR. SAWYER: But the issue at default damages
23 hearing because there's no argument for apportionment or
24 allocation or anything else is, what are your damages from
25 the accident. And here with one collision, it's

1 indivisible damages regardless of the number of defendants.
2 And although South Carolina hasn't addressed the issue,
3 Judge, other courts have held that a default judgment can
4 actually act as a cap in any case against any other
5 defendants who are involved. That's our issue here, of
6 course, Judge, because the default is against my client.

7 THE COURT: In criminal court, which I always go
8 back to my roots, crime doesn't pay, but in civil pay -- if
9 you default and your fortunate enough to have a codefendant
10 that settles, it might be to your benefit to sue them.

11 MR. SAWYER: Well, Judge, it's not to your benefit
12 because -- the idea is that the plaintiff didn't get a wind
13 fall or multiple recoveries for one set of damages. So
14 think of it in the context of property damage, Judge.

15 THE COURT: But the defendant has failed to respond
16 as he or she should to a lawsuit.

17 MR. SAWYER: That's right. The defendant's handed
18 the amount of damages that the plaintiff owed or their
19 portion of it. The idea is to prevent a windfall, which is
20 what the contribution among tortfeasors act has decided to
21 do is to allow settling defendants to do so, but at the
22 same time not to allow a windfall to any plaintiffs for a
23 double recovery.

24 THE COURT: So windfall to the plaintiff is trumped
25 by default by a co-tortfeasor?

1 MR. SAWYER: Well, Judge, imagine it this way,
2 there's four defaults, four tortfeasors, plaintiff can't
3 recover from all four. They still only have one set of
4 damages. If they have a \$20,000 car, they can't get 80,000
5 because they got four defaults. They only can get 20,000
6 for a \$20,000 car.

7 THE COURT: Well, we're not talking about a \$20,000
8 car, we're talking about damages.

9 MR. SAWYER: Well, Judge, that's right. We're
10 talking about bodily injury damages, but through a hearing
11 without anybody fighting the amount of damages, the special
12 referee said your damages are \$18,000.

13 THE COURT: So no one stepped in at any time to set
14 aside a default or to defend at the damages hearing.

15 MR. SAWYER: That's right. The insurance company
16 didn't worry about a default judgment until a year later
17 whenever plaintiff's counsel notified them.

18 THE COURT: All right. Thank you. Thank you very
19 much, Mr. Sawyer.

20 MR. SAWYER: Thank you, Judge.

21 THE COURT: Mr. Marshall.

22 MR. MARSHALL: May it please the Court, David
23 Marshall on behalf of the plaintiffs. And I think Your
24 Honor's picking up on the critical issue here. And rather
25 than paraphrasing what the default judgment was, I think

1 it's important to look to judge Judge Jackson's order in
2 this case. It is attached to plaintiff's memorandum in
3 opposition to this motion. And I just want to note that
4 for five times in the defendant's memo did it state they
5 adjudicated all the plaintiff's damages in this case and
6 that the cannot be farther from the truth. That default
7 judgment, as Your Honor recognized, only attributed --
8 determined fault, liability as to one defendant, how much
9 that defendant was responsible for paying. It is not a
10 joint judgment, it is not a double recovery, it is not a
11 windfall.

12 Here, Your Honor, Ms. Simpson was liable for
13 satisfying the entire \$18,000 judgment as soon as it was
14 entered against her. That is the amount of liability as to
15 her. Judge Jackson knew that there was another defendant
16 and that that defendant if found -- would be found liable
17 for his portion of the damages. If this was a joint order,
18 the order determining the entire amount of damages, A. It
19 would foreclose the plaintiff's right and the
20 non-defaulting defendant's right to a jury trial.

21 There would be no need to go forward because the
22 maximum amount of recovery is \$18,000 and that's not what
23 the law says. That's not what the default judgment
24 standard is for. It is to adjudicate liability of one
25 defendant who failed to appear. It admits liability and

1 the damages are determined.

2 It is not a determination of the entire liability.
3 I think it's important to look at the terms of the order
4 rather than mischaracterization that it's a -- since it's
5 an auto accident, these are all the damages that she had.
6 That's not what it was. It was determining how much
7 Ms. Simpson the responsible -- how much damages she's
8 responsible for as a result of the accident. There's no
9 determination as to how much liability or damages Mr. Stack
10 is responsible for at all and then that claim proceeded to
11 a trial as the parties have a right to do.

12 And had it gone to trial, there would have been a
13 verdict as to damages and Mr. Stack's liability. But
14 instead, it settled. Section 15-30-50 that's relied upon
15 by the defendant and also the Ellis case and other cases
16 cited in their brief do not provide for a setoff in this
17 instance. Again, the terms of the statute are important
18 rather than the characterization of it. The statute is
19 premised upon the idea that where there is a settlement,
20 the settlement provides a setoff for a later judgment
21 because if there's some claim that is still existing that's
22 to be decided by a verdict or a judgment.

23 And then the prior settlement arises as a matter of
24 law to setoff that later judgment and that's what the facts
25 of every case are. The Ellis case they cite, the district

1 court cases they cite, and Your Honor was correct, there
2 are no cases that's afforded the position that a defaulting
3 defendant gets the benefit of a later settlement from a
4 codefendant. That is not the law of South Carolina. That
5 is not what the statute provides. That is not what is --
6 what should happen in this case. It would be grossly
7 inequitable to allow -- to benefit a defaulting defendant
8 like Ms. Simpson who has sat on her hands for over two
9 years and instead of paying for this judgment, waiting for
10 a codefendant to settle to reduce -- to argue that she gets
11 a reduction in her liability.

12 The statute applies to judgments that encompass
13 entire damages. If there was a jury verdict, as to all the
14 plaintiff's damages or a judgment as to all the plaintiffs
15 damages, then they might be entitled to a setoff, but
16 that's not what the master's order did in this case. There
17 was no determination. And if you accept the defendant's
18 argument then, it would have foreclosed the plaintiff's
19 right to a jury trial as to non-defaulting defendant.

20 We believe that Ms. Simpson is liable for
21 satisfying the entire \$18,000 verdicts or judgments in both
22 cases. They have only paid 11000 -- I'm sorry, 7,000 in
23 one case and 6,000 in another, leaving an outstanding
24 amount of \$23,000. So the motion should be denied. This
25 judgment has not been satisfied. The plaintiff's are still

1 owed in addition to post judgment interest.

2 Thank you, Your Honor.

3 THE COURT: Thank you.

4 Mr. Sawyer?

5 MR. SAWYER: Very briefly, Your Honor. First of
6 all, the key question in a default damages hearing is what
7 are plaintiff's damages. Because liability isn't being
8 challenged. There's no apportionment because the
9 defendant's admitted all the allegations of the complaint,
10 so the only question for the Court in a default damages
11 hearing is what is this plaintiff's damages. And notably
12 judge, this default is what's being held against my client,
13 so that is between my client and Mr. Marshall's clients,
14 the amount of damages in the case are \$18,000. That's
15 binding on us and that's binding on them. If they
16 recovered damages from one accident, one injury, one
17 indivisible injury, then the amount that is still owed is
18 reduced by that judgment.

19 The statute says that, the equitable principle
20 setoff says that and it's all underlying the long standing
21 principle that goes back to the 1800's or earlier that a
22 plaintiff can't make more than one recovery in a tort
23 action for a single injury. And, Judge, that also applies
24 with the restatement of torts, which is Section -- excuse
25 me -- Section 50 a restatement of judgments talks about the

1 amount of loss adjudicated and deals with the issue of both
2 pre-adjudication settlements and post-adjudication
3 payments.

4 And regarding the post adjudication payments says
5 the rule that payment of the loss in whole or in part by
6 one of several obligors reduces the debt judgment for the
7 amount they have obtained from other obligors also applies
8 when the amount of loss has been adjudicated. In other
9 words, before or after the same rule applies.

10 And, Judge, We've given you statutes, we've given
11 you case law, but what plaintiffs have given you is no
12 case, no statute, no principle of law that's recognized in
13 South Carolina or in any other jurisdiction that says that
14 your damages are determined in a default damages hearing or
15 by a jury to be \$18,000, that you can recover more than
16 \$18,000 by suing more than one defendant.

17 Therefore, this motion for satisfaction of judgment
18 should be entered. They've completely satisfied the
19 judgment by both receiving \$18,000 and this case should be
20 over and done with, Judge. Thank you.

21 THE COURT: Thank you. Thank you, Mr. Sawyer.

22 Send me your proposed orders within 15 days,
23 please. Send them to my law clerk at his e-mail address.

24 * * * * * END OF TRANSCRIPT * * * * *
25

1 State of South Carolina)

2 County of Aiken)

Certificate of Reporter

3
4
5
6 I, THE UNDERSIGNED, Brenda J. Sigwald,
7 Official Court Reporter for the Eleventh Judicial Circuit
8 of the State of South Carolina, do hereby certify that I
9 reported the proceedings in the captioned case in the Court
10 of Common Pleas in and for the State of South Carolina on
11 29th day of June, 2016.

12 I FURTHER CERTIFY that the foregoing pages,
13 constitute a true, accurate and complete transcript of said
14 hearing.

15 I FURTHER CERTIFY that I am neither kin, counsel,
16 nor of interest to any party hereto.

17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 seal at Aiken County, this 1st day of October, 2016.

19
20
21
22 *Brenda J. Sigwald*
23 Brenda J. Sigwald,
24 Court Reporter and Notary Public
25 For the State of South Carolina
My commission expires
January 4, 2020

\$	3			
\$1,000 [1] - 4:11	3 [1] - 3:3	10:22, 14:7	caption [1] - 9:18	complaint [1] - 15:9
\$11,000 [1] - 6:14	335 [1] - 7:21	amount [16] - 4:11,	captioned [2] - 5:7,	complete [1] - 17:13
\$12,000 [1] - 6:13		6:12, 6:13, 7:17,	17:9	completely [1] -
\$18,000 [13] - 6:10,	4	8:23, 10:18, 11:11,	car [4] - 8:9, 11:4,	16:18
6:15, 6:19, 7:2, 9:2,	4 [1] - 17:24	12:14, 12:18,	11:6, 11:8	constitute [1] - 17:13
11:12, 12:13,		12:22, 14:24,	Carolina [13] - 1:1,	context [1] - 10:14
12:22, 14:21,	5	15:14, 15:17, 16:1,	1:22, 2:25, 7:8,	contribution [2] -
15:14, 16:15,	50 [1] - 15:25	16:7, 16:8	7:11, 7:22, 10:2,	7:11, 10:20
16:16, 16:19		apologize [1] - 5:6	14:4, 16:13, 17:1,	copy [1] - 5:1
\$20,000 [3] - 11:4,	6	appeals [2] - 7:20,	17:8, 17:10, 17:23	correct [3] - 5:23,
11:6, 11:7		7:22	carrier [2] - 6:18,	9:20, 14:1
\$23,000 [1] - 14:24	7	Appeals [1] - 8:12	6:19	counsel [2] - 11:17,
\$30,000 [1] - 9:2	6,000 [3] - 6:21, 7:6,	appear [1] - 12:25	case [26] - 4:11, 5:6,	17:15
	14:23	applies [4] - 14:12,	5:12, 6:6, 6:16,	County [3] - 1:2,
0		15:23, 16:7, 16:9	6:24, 6:25, 7:20,	17:2, 17:18
0992 [4] - 4:13, 4:17,	8	apply [1] - 4:15	7:22, 7:23, 8:2,	course [3] - 6:3, 7:10,
4:22, 5:6	7,000 [3] - 6:21, 7:6,	applying [1] - 8:15	9:16, 10:4, 12:2,	10:6
	14:22	apportionment [3] -	12:5, 13:15, 13:25,	court [4] - 7:22, 8:13,
1		8:20, 9:23, 15:8	14:6, 14:16, 14:23,	10:7, 14:1
106 [1] - 7:22	9	argue [2] - 4:14,	15:14, 16:11,	COURT [29] - 4:4,
11 [1] - 6:14	80,000 [1] - 11:4	14:10	16:12, 16:19, 17:9	4:6, 4:8, 4:13, 4:16,
11,000 [1] - 6:6		argument [2] - 9:23,	cases [7] - 4:15, 6:1,	4:22, 4:24, 5:2, 5:5,
11000 [2] - 7:3, 14:22	A	14:18	6:10, 13:15, 14:1,	5:11, 5:14, 5:20,,
12 [2] - 6:14, 9:1	accept [1] - 14:17	arises [1] - 13:23	14:2, 14:22	5:24, 7:25, 9:4, 9:7,
12,000 [2] - 6:5, 7:3	accepted [1] - 6:22	aside [2] - 5:12,	Certificate [2] - 3:4,	9:9, 9:13, 9:17,
13-CP-38-00992 [1] -	accident [6] - 6:6,	11:14	17:1	9:21, 10:7, 10:15,
5:9	8:10, 9:25, 13:5,	attached [1] - 12:2	certify [1] - 17:8	10:24, 11:7, 11:13,
13-CP-38-009929 [1]	13:8, 15:16	Attorney [2] - 2:6, 2:8	CERTIFY [2] - 17:12,	11:18, 11:21, 15:3,
- 5:8	accurate [1] - 17:13	attributed [1] - 12:7	17:15	16:21
15 [1] - 16:22	act [3] - 7:12, 10:4,	auto [1] - 13:5	challenged [1] - 15:8	Court [13] - 1:1, 2:24,
15-30-50 [1] - 13:14	10:20	automobile [1] - 6:6	characterization [1] -	5:13, 5:18, 7:20,
15-38-50 [1] - 7:12	action [1] - 15:23	avoiding [1] - 6:24	13:18	8:7, 8:12, 11:22,
17 [1] - 3:4	addition [1] - 15:1	aware [1] - 7:14	Circuit [2] - 2:24,	15:10, 17:7, 17:9,
18 [4] - 3:5, 6:10, 9:1	address [1] - 16:23	B	17:7	17:23
18,000 [4] - 6:20,	addressed [1] - 10:2	balance [2] - 7:5	cite [3] - 7:21, 13:25,	courts [1] - 10:3
8:20, 8:22, 8:23	adjudicate [1] - 12:24	based [2] - 7:8, 7:19	14:1	crime [1] - 10:8
1800's [1] - 15:21	adjudicated [3] -	basis [1] - 7:19	cited [1] - 13:16	criminal [1] - 10:7
1999 [1] - 7:22	12:5, 16:1, 16:8	behalf [1] - 11:23	civil [1] - 10:8	critical [1] - 11:24
1st [1] - 17:18	adjudication [3] -	10:11, 14:3, 14:7	claim [2] - 13:10,	
	16:2, 16:4	between [2] - 8:16,	13:21	D
2	admits [1] - 12:25	15:13	claimant's [1] - 7:2	damage [1] - 10:14
20,000 [1] - 11:5	admitted [1] - 15:9	binding [2] - 15:15	clerk [1] - 16:23	damages [41] - 7:1,
2013-C [1] - 5:15	adopted [1] - 7:11	bodily [1] - 11:10	client [3] - 10:6,	7:2, 7:6, 7:17, 8:18,
2013-CS-38-00992	affirmed [1] - 8:12	Box [1] - 2:25	15:12, 15:13	8:23, 9:1, 9:2, 9:11,
[1] - 1:3	afforded [1] - 14:2	Brenda [3] - 2:24,	clients [1] - 15:13	9:18, 9:22, 9:24,
2013-CS-38-00994	agree [1] - 6:22	17:6, 17:22	co [3] - 6:5, 7:4,	10:1, 10:13, 10:18,
[1] - 1:12	Aiken [2] - 17:2,	brief [1] - 13:16	10:25	11:4, 11:8, 11:10,
2016 [3] - 1:22,	17:18	briefly [1] - 15:5	co-tortfeasor [3] -	11:11, 11:12,
17:11, 17:18	allegations [1] - 15:9	bring [1] - 5:3	6:5, 7:4, 10:25	11:14, 12:5, 12:17,
2020 [1] - 17:24	allocation [1] - 9:24	brought [2] - 5:12,	codefendant [4] -	12:18, 13:1, 13:5,
206 [1] - 2:25	allow [4] - 9:3, 10:21,	7:12	6:21, 10:9, 14:4,	13:7, 13:9, 13:13,
29 [1] - 1:22		C	14:10	14:13, 14:14,
29831 [1] - 2:25		CACH [1] - 5:7	collision [2] - 6:7,	14:15, 15:6, 15:7,
29th [1] - 17:11		cannot [1] - 12:6	9:25	15:10, 15:11,
		cap [1] - 10:4	commission [1] -	15:14, 15:16, 16:14
			17:24	David [2] - 2:6, 11:22
			common [1] - 7:9	Davis [1] - 1:6
			Common [2] - 1:1,	days [1] - 16:22
			17:10	deals [1] - 16:1
			company [1] - 11:15	

debt [1] - 16:6 decided [2] - 10:20, 13:22 default [25] - 6:9, 6:11, 6:15, 6:16, 6:18, 6:25, 7:1, 7:25, 8:1, 9:10, 9:19, 9:22, 10:3, 10:6, 10:9, 10:25, 11:14, 11:16, 11:25, 12:6, 12:23, 15:6, 15:10, 15:12, 16:14 defaulting [4] - 12:20, 14:2, 14:7, 14:19 defaults [2] - 11:2, 11:5 defend [1] - 11:14 Defendant [1] - 2:8 defendant [14] - 7:4, 7:24, 8:22, 10:15, 12:8, 12:9, 12:15, 12:16, 12:25, 13:15, 14:3, 14:7, 14:19, 16:16 defendant's [5] - 10:17, 12:4, 12:20, 14:17, 15:9 Defendants [2] - 1:10, 1:19 defendants [4] - 8:24, 10:1, 10:5, 10:21 defense [2] - 8:3, 8:5 Denetra [1] - 1:15 denied [1] - 14:24 described [1] - 6:1 DESCRIPTION [1] - 3:13 determination [3] - 13:2, 13:9, 14:17 determined [4] - 7:1, 12:8, 13:1, 16:14 determining [3] - 8:14, 12:18, 13:6 difference [3] - 4:10, 6:3, 6:20 different [1] - 4:11 discretion [2] - 8:13, 8:14 district [1] - 13:25 Docket [2] - 1:3, 1:12 dollar [2] - 7:19 dollar-for-dollar [1] - 7:19 done [1] - 16:20 double [3] - 6:24, 10:23, 12:10 drivers [1] - 6:8	during [1] - 3:16 E e-mail [1] - 16:23 either [2] - 4:5, 4:6 Eleventh [1] - 17:7 Ellis [3] - 7:21, 13:15, 13:25 encompass [1] - 14:12 END [1] - 16:24 enter [1] - 6:23 entered [7] - 3:16, 6:9, 6:11, 7:18, 8:9, 12:14, 16:18 entire [5] - 12:13, 12:18, 13:2, 14:13, 14:21 entitled [1] - 14:15 Entry [1] - 3:3 entry [1] - 5:22 ENTRY [1] - 4:1 equitable [2] - 7:9, 15:19 equities [1] - 8:15 Esquire [2] - 2:6, 2:7 essentially [1] - 6:2 exact [1] - 6:2 excuse [1] - 15:24 executed [1] - 8:16 exhibits [1] - 3:15 existing [1] - 13:21 expires [1] - 17:24 extra [1] - 5:1 F fact [1] - 9:16 facts [1] - 13:24 failed [2] - 10:15, 12:25 faith [1] - 8:16 fall [1] - 10:13 fault [1] - 12:8 fighting [1] - 11:11 file [7] - 4:2, 4:4, 4:6, 4:10, 5:9, 5:11, 5:12 filed [1] - 5:1 first [1] - 15:5 five [1] - 12:4 followed [1] - 6:23 FOR [1] - 4:1 foreclose [1] - 12:19 foreclosed [1] - 14:18 foregoing [1] - 17:12 fortunate [1] - 10:9 forward [2] - 4:10,	12:21 four [4] - 11:2, 11:3, 11:5 full [1] - 6:19 FURTHER [2] - 17:12, 17:15 G given [3] - 16:10, 16:11 Glover [1] - 1:15 grossly [1] - 14:6 H hand [1] - 17:17 handed [1] - 10:17 hands [1] - 14:8 hear [1] - 9:7 heard [3] - 9:10, 9:13, 9:18 hearing [12] - 3:16, 7:1, 7:2, 9:11, 9:18, 9:23, 11:10, 11:14, 15:6, 15:11, 16:14, 17:14 held [2] - 10:3, 15:12 hereby [1] - 17:8 hereto [1] - 17:16 hereunto [1] - 17:17 Honor [15] - 4:9, 5:4, 5:10, 5:17, 5:23, 5:25, 6:22, 7:13, 9:6, 9:20, 12:7, 12:12, 14:1, 15:2, 15:5 Honor's [2] - 7:14, 11:24 Honorable [2] - 2:2, 2:24 I idea [3] - 10:12, 10:19, 13:19 identical [1] - 6:3 imagine [1] - 11:1 impact [1] - 8:10 important [3] - 12:1, 13:3, 13:17 IN [1] - 17:17 Index [1] - 3:5 indivisible [4] - 6:7, 8:9, 10:1, 15:17 inequitable [1] - 14:7 injury [7] - 6:7, 8:9, 8:10, 11:10, 15:16, 15:17, 15:23 instance [1] - 13:17	instead [2] - 13:14, 14:9 insurance [3] - 6:17, 6:19, 11:15 interest [2] - 15:1, 17:16 involved [2] - 8:15, 10:5 issue [9] - 4:12, 4:15, 7:20, 8:25, 9:22, 10:2, 10:5, 11:24, 16:1 J Jackson [2] - 2:25, 12:15 Jackson's [1] - 12:1 January [1] - 17:24 joint [5] - 8:17, 8:21, 12:10, 12:17 judge [6] - 4:2, 4:25, 7:10, 12:1, 12:15, 15:12 Judge [23] - 2:2, 6:7, 6:11, 6:24, 7:6, 7:23, 8:1, 8:17, 8:25, 9:2, 9:10, 9:16, 10:3, 10:6, 10:11, 10:14, 11:1, 11:9, 11:20, 12:1, 15:23, 16:10, 16:20 JUDGEMENT [1] - 4:1 Judgement [1] - 3:3 judgment [35] - 5:22, 6:9, 6:11, 6:15, 6:18, 6:23, 7:5, 7:18, 7:24, 7:25, 8:1, 8:2, 8:3, 8:7, 8:11, 8:19, 9:19, 10:3, 11:16, 11:25, 12:7, 12:10, 12:13, 12:23, 13:20, 13:22, 13:24, 14:9, 14:14, 14:25, 15:1, 15:18, 16:6, 16:17, 16:19 judgments [3] - 14:12, 14:21, 15:25 Judicial [1] - 17:7 June [2] - 1:22, 17:11 jurisdiction [1] - 16:13 jury [4] - 12:20, 14:13, 14:19, 16:15 K key [1] - 15:6	Keyword [1] - 3:5 kin [1] - 17:15 known [1] - 9:18 Knox [2] - 2:2, 2:24 L last [1] - 8:5 Latreese [2] - 1:10, 1:19 law [9] - 7:8, 7:9, 9:3, 12:23, 13:24, 14:4, 16:11, 16:12, 16:23 lawsuit [1] - 10:16 least [1] - 4:20 leaving [1] - 14:23 less [1] - 5:11 liability [10] - 8:21, 12:8, 12:14, 12:24, 12:25, 13:2, 13:9, 13:13, 14:11, 15:7 liable [3] - 12:12, 12:16, 14:20 LLC [1] - 5:7 look [2] - 12:1, 13:3 looked [1] - 7:20 loss [3] - 16:1, 16:5, 16:8 M mail [1] - 16:23 main [1] - 6:3 MARSHALL [2] - 4:19, 11:22 marshall [1] - 5:25 Marshall [4] - 2:6, 5:15, 11:21, 11:23 marshall's [1] - 15:13 master [1] - 8:25 master's [1] - 14:16 matter [1] - 13:23 maximum [1] - 12:22 McCants [1] - 5:7 McMahon [2] - 2:2, 2:24 means [2] - 6:14, 7:4 mediation [1] - 6:16 memo [1] - 12:4 Memorandum [1] - 4:25 memorandum [6] - 5:18, 5:20, 5:21, 7:21, 12:2 might [2] - 10:10, 14:15 minus [1] - 6:20 mischaracterization [1] - 13:4 money [1] - 6:22
--	---	---	---	---

MOTION [1] - 4:1 Motion [1] - 3:3 motion [5] - 5:22, 6:23, 12:3, 14:24, 16:17 motions [1] - 6:1 move [1] - 4:9 MR [28] - 4:2, 4:5, 4:7, 4:9, 4:14, 4:18, 4:19, 4:23, 5:3, 5:10, 5:17, 5:23, 5:25, 8:1, 9:6, 9:8, 9:10, 9:15, 9:20, 9:22, 10:11, 10:17, 11:1, 11:9, 11:15, 11:20, 11:22, 15:5 multiple [2] - 7:15, 10:13	14:16 orders [1] - 16:22 outstanding [1] - 14:23 owed [3] - 10:18, 15:1, 15:17	15:21, 16:12 proceeded [1] - 13:10 proceedings [1] - 17:9 property [1] - 10:14 proposed [1] - 16:22 provide [1] - 13:16 provides [2] - 13:20, 14:5 Public [1] - 17:23	represent [1] - 6:9 respectively [3] - 6:15, 7:3, 7:7 respond [1] - 10:15 responsible [4] - 12:9, 13:7, 13:8, 13:10 restatement [2] - 15:24, 15:25 result [1] - 13:8 roots [1] - 10:8 roster [3] - 4:21, 4:22, 5:8 rule [3] - 4:3, 16:5, 16:9	13:23, 14:3 settlements [1] - 16:2 settles [2] - 7:15, 10:10 settling [1] - 10:21 several [3] - 8:17, 8:21, 16:6 Sharon [1] - 5:7 Shermon [2] - 1:9, 1:18 Shirley [1] - 1:6 Sigwald [3] - 2:24, 17:6, 17:22 simply [1] - 6:24 Simpson [10] - 1:10, 1:19, 6:8, 6:9, 9:12, 9:19, 12:12, 13:7, 14:8, 14:20 Simpson's [1] - 6:17 single [1] - 15:23 soon [1] - 12:13 sorry [2] - 5:5, 14:22 sought [1] - 6:18 South [13] - 1:1, 1:22, 2:25, 7:8, 7:10, 7:22, 10:2, 14:4, 16:13, 17:1, 17:8, 17:10, 17:23 special [3] - 6:25, 9:7, 11:11 spread [1] - 8:24 Stack [2] - 1:9, 1:18 stack [6] - 6:8, 6:12, 6:15, 9:14, 9:15, 13:9 stack's [1] - 13:13 standard [1] - 12:24 standing [1] - 15:20 state [1] - 12:4 State [5] - 1:1, 17:1, 17:8, 17:10, 17:23 statute [10] - 7:12, 7:14, 8:7, 8:8, 13:17, 13:18, 14:5, 14:12, 15:19, 16:12 statutes [1] - 16:10 stay [1] - 5:19 stepped [1] - 11:13 still [5] - 4:20, 11:3, 13:21, 14:25, 15:17 sue [1] - 10:10 sued [1] - 6:7 suing [1] - 16:16 support [1] - 5:21
N names [1] - 6:4 need [1] - 12:21 never [1] - 9:13 NO [1] - 3:13 non [2] - 12:20, 14:19 non-defaulting [2] - 12:20, 14:19 notably [1] - 15:11 Notary [1] - 17:23 NOTE [1] - 3:15 note [1] - 12:3 notified [2] - 6:17, 11:17 number [1] - 10:1	P P-38-00992 [1] - 5:15 P.O [1] - 2:25 Page [1] - 3:2 PAGE [1] - 3:13 pages [1] - 17:12 paid [1] - 14:22 paraphrasing [1] - 11:25 part [1] - 16:5 partied [1] - 6:4 parties [1] - 13:11 party [1] - 17:16 pay [2] - 10:8 paying [2] - 12:9, 14:9 payment [1] - 16:5 payments [2] - 16:3, 16:4 perfect [1] - 8:18 picking [1] - 11:24 plainly [1] - 8:13 Plaintiff [3] - 1:6, 1:15, 2:6 plaintiff [10] - 6:13, 7:16, 8:4, 8:16, 8:22, 10:12, 10:18, 10:24, 11:2, 15:22 plaintiff's [12] - 5:20, 7:17, 9:11, 11:17, 12:2, 12:5, 12:19, 14:14, 14:18, 14:25, 15:7, 15:11 plaintiffs [6] - 6:4, 6:12, 10:22, 11:23, 14:14, 16:11 Pleas [2] - 1:1, 17:10 portion [2] - 10:19, 12:17 position [1] - 14:2 post [3] - 15:1, 16:2, 16:4 post-adjudication [1] - 16:2 pre [1] - 16:2 pre-adjudication [1] - 16:2 premised [1] - 13:19 presented [1] - 8:6 prevent [1] - 10:19 principal [1] - 7:10 principle [3] - 15:19	Q quote [1] - 8:14	R raised [1] - 8:3 rather [3] - 11:24, 13:4, 13:18 really [1] - 6:1 reason [1] - 4:19 receiving [1] - 16:19 recognized [2] - 12:7, 16:12 Record [2] - 1:8, 1:17 records [1] - 6:2 recover [5] - 8:8, 8:23, 9:1, 11:3, 16:15 recovered [4] - 6:14, 6:20, 7:3, 15:16 recoveries [1] - 10:13 recovery [6] - 6:18, 6:25, 10:23, 12:10, 12:22, 15:22 reduce [1] - 14:10 reduced [4] - 7:18, 8:7, 8:11, 15:18 reduces [1] - 16:6 reduction [1] - 14:11 referee [3] - 7:1, 9:7, 11:12 references [1] - 9:16 regarding [1] - 16:4 regardless [2] - 8:24, 10:1 release [1] - 8:15 released [1] - 7:16 relied [1] - 13:14 remember [1] - 5:18 removed [1] - 4:20 reported [1] - 17:9 Reporter [4] - 2:24, 17:1, 17:7, 17:23 REPORTER'S [1] - 3:15 Reporter..... [1] - 3:4	S sat [1] - 14:8 Satisfaction [1] - 3:3 satisfaction [3] - 5:22, 6:23, 16:17 SATISFACTION [1] - 4:1 satisfied [2] - 14:25, 16:18 satisfying [2] - 12:13, 14:21 Sawyer [8] - 2:7, 4:24, 5:15, 5:16, 9:5, 11:19, 15:4, 16:21 SAWYER [27] - 4:2, 4:5, 4:7, 4:9, 4:14, 4:18, 4:23, 4:25, 5:3, 5:10, 5:17, 5:23, 5:25, 8:1, 9:6, 9:8, 9:10, 9:15, 9:20, 9:22, 10:11, 10:17, 11:1, 11:9, 11:15, 11:20, 15:5 seal [1] - 17:18 section [4] - 7:12, 13:14, 15:24, 15:25 see [2] - 5:14, 5:21 send [2] - 16:22, 16:23 sense [1] - 8:18 set [5] - 5:12, 10:13, 11:3, 11:13, 17:17 setoff [5] - 13:16, 13:20, 13:24, 14:15, 15:20 settle [3] - 7:10, 8:3, 14:10 settled [5] - 6:5, 6:12, 6:16, 13:14 settlement [9] - 4:11, 7:19, 7:23, 8:15, 9:2, 13:19, 13:20,
O obligors [2] - 16:6, 16:7 obtained [1] - 16:7 October [1] - 17:18 OF [3] - 4:1, 16:24 Official [1] - 17:7 Oliver [1] - 7:21 once [1] - 8:15 one [28] - 4:2, 4:5, 4:10, 4:19, 4:20, 4:22, 6:4, 6:6, 6:12, 6:21, 7:6, 7:7, 7:15, 8:10, 8:16, 9:25, 10:13, 11:3, 11:13, 12:8, 12:24, 14:23, 15:16, 15:22, 16:6, 16:16 opposition [2] - 5:20, 12:3 Orangeburg [2] - 1:2, 1:22 order [6] - 9:16, 12:1, 12:17, 12:18, 13:3,	T talks [1] - 15:25 tendered [1] - 6:19			

terms [2] - 13:3, 13:17	W
THE [30] - 4:4, 4:6; 4:8, 4:13, 4:16, 4:22, 4:24, 5:2, 5:5, 5:11, 5:14, 5:20, 5:24, 7:25, 9:4, 9:7, 9:9, 9:13, 9:17, 9:21, 10:7, 10:15, 10:24, 11:7, 11:13, 11:18, 11:21, 15:3, 16:21, 17:6	wait [1] - 8:5
therefore [1] - 16:17	waiting [1] - 14:9
they've [3] - 6:14, 6:20, 16:18	Wesley [1] - 2:7
today's [1] - 4:20	WHEREOF [1] - 17:17
tort [1] - 15:22	whole [1] - 16:5
tortfeasor [6] - 6:5, 7:4, 7:15, 7:18, 8:9, 10:25	William [2] - 1:9, 1:18
tortfeasors [6] - 7:11, 7:16, 8:17, 8:21, 10:20, 11:2	wind [1] - 10:12
torts [1] - 15:24	windfall [4] - 10:19, 10:22, 10:24, 12:11
total [1] - 7:2	WITNESS [1] - 17:17
tracking [2] - 9:4, 9:5	words [2] - 8:17, 16:9
Transcript [2] - 1:8, 1:17	worry [1] - 11:16
TRANSCRIPT [1] - 16:24	Y
transcript [1] - 17:13	year [1] - 11:16
trial [6] - 8:2, 8:13, 12:20, 13:11, 13:12, 14:19	years [1] - 14:9
tried [1] - 8:19	
true [1] - 17:13	
trumped [1] - 10:24	
truth [1] - 12:6	
twice [1] - 8:18	
two [3] - 6:1, 14:8	
U	
under [1] - 7:9	
underlying [1] - 15:20	
UNDERSIGNED [1] - 17:6	
up [2] - 5:3, 11:24	
V	
vehicles [1] - 6:8	
verdict [3] - 13:13, 13:22, 14:13	
verdicts [1] - 14:21	
versus [1] - 5:7	
vs [2] - 1:8, 1:17	

RELEASE OF ALL CLAIMS

Sum SED
as to Defendant Stack Only

FOR AND IN CONSIDERATION of delivery of a draft or check to the undersigned in the sum of Eleven Thousand and 00/100 Dollars (\$11,000.00), the receipt of which is hereby acknowledged, the undersigned, being of lawful age, hereby releases, acquits, and forever discharges William Sherman Stack and Allstate Insurance Company, their agents, servants, and employees, of and from any and all actions, causes of action, claims, demands, damages, costs, loss of consortium, loss of services, expenses, and compensation, on account of, or in any way growing out of, any and all known and unknown personal injuries and property damage resulting or to result from an accident or occurrence on or about March 10, 2012, at or near Columbia, South Carolina.

I hereby declare and represent that the injuries sustained are permanent and progressive and that recovery therefrom is uncertain and indefinite; that I give this release and agreement wholly upon my judgment, belief, and knowledge of the nature, extent, and duration of those injuries; and that in giving this release I have not been influenced to any extent whatever by any representations or statements regarding those injuries, or regarding any other matters, made by the persons, firms, or corporations who are hereby released, or by any person or persons representing him, her, or them, or by any physician or surgeon by him, her, or them employed.

I further understand and agree that this settlement is the compromise of a doubtful and disputed claim, and that the payment is not to be construed as an admission of liability on the part of the party or parties named above, by whom liability is expressly denied.

This release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this release are contractual and not a mere recital, and shall bind the parties hereto, his, her, or their heirs, executors, administrators, or assigns.

I further acknowledge I have carefully read this release and sign it as my free act and deed.

Witness my hand and seal this 17 day of December, 2014.

In the presence of

[Signature]
(Witness #1)
[Signature]
(Witness #2)

Caution! Read before Signing.

[Signature]
Shirley Davis (SEAL)

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Personally appeared before me Shane M. Burroughs (Witness #1) who, on oath, states that he/she saw the within named Shirley Davis sign, seal, execute, and deliver the foregoing Release, and that deponent with Kelley S. Cline (Witness #2) witnessed the execution and delivery of the same.

SWORN to before me this 17 day of December, 2014.

[Signature]
Notary Public for state of SC
My commission expires: 1/10/2022

[Signature]
(Witness #1)

GUB 13. 24

RELEASE OF ALL CLAIMS *as to Defendant Stack Only*

FOR AND IN CONSIDERATION of delivery of a draft or check to the undersigned in the sum of Twelve Thousand and 00/100 Dollars (\$12,000.00), the receipt of which is hereby acknowledged, the undersigned, being of lawful age, hereby releases, acquits, and forever discharges William Sherman Stack and Allstate Insurance Company, their agents, servants, and employees, of and from any and all actions, causes of action, claims, demands, damages, costs, loss of consortium, loss of services, expenses, and compensation, on account of, or in any way growing out of, any and all known and unknown personal injuries and property damage resulting or to result from an accident or occurrence on or about March 10, 2012, at or near Columbia, South Carolina.

I hereby declare and represent that the injuries sustained are permanent and progressive and that recovery therefrom is uncertain and indefinite; that I give this release and agreement wholly upon my judgment, belief, and knowledge of the nature, extent, and duration of those injuries; and that in giving this release I have not been influenced to any extent whatever by any representations or statements regarding those injuries, or regarding any other matters, made by the persons, firms, or corporations who are hereby released, or by any person or persons representing him, her, or them, or by any physician or surgeon by him, her, or them employed.

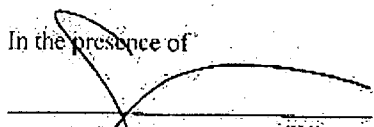
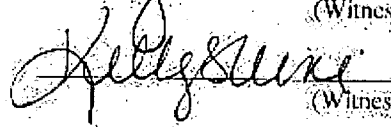
I further understand and agree that this settlement is the compromise of a doubtful and disputed claim, and that the payment is not to be construed as an admission of liability on the part of the party or parties named above, by whom liability is expressly denied.

This release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this release are contractual and not a mere recital, and shall bind the parties hereto, his, her, or their heirs, executors, administrators, or assigns.

I further acknowledge I have carefully read this release and sign it as my free act and deed.

Witness my hand and seal this 17 day of December, 2014.

In the presence of


(Witness #1)

(Witness #2)

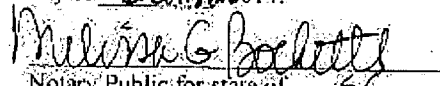
Caution! Read before Signing.

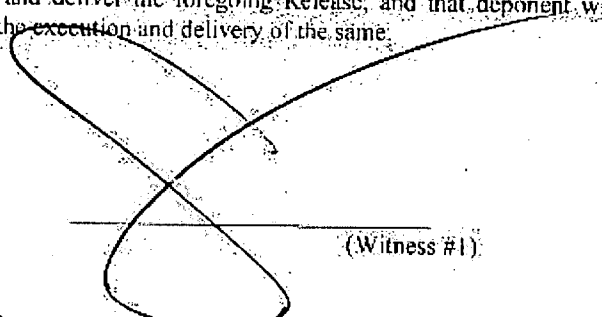

Denitra Glover (SEAL)

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Personally appeared before me Shane M. Burnighan (Witness #1) who, on oath, states that he/she saw the within named Denitra Glover sign, seal, execute, and deliver the foregoing Release, and that deponent with Kelley S. Clape (Witness #2) witnessed the execution and delivery of the same.

SWORN to before me this 17
day of December 2014.


Notary Public for state of SC
My commission expires: 1/10/2022


(Witness #1)

SUMMARY OF MEDICALS - SHIRLEY DAVIS (Client)

Re: —	Shirley Davis v. William Stack
DOA	March 10, 2012

Tab	Medical Institute/Provider Address/Phone/Acct#	Acct. No.	Service Dates	Charges
A.	Palmetto Health Richland Emergency Physician Services PO Box 402150 Atlanta, GA 30384	1207000046	3/10/12	
B.	The Regional Medical Center Emergency Facility Department PO Box 1306 Orangeburg, SC 29116-1306	1000459489	3/10/12 3/19/12	\$1,903.10
C.	The Regional Medical Center Emergency Physician Services PO Box 1245 Orangeburg, SC 29116-1245	31458-01	3/10/12	\$285.00
D.	Gamble Chiropractic 1475 Amelia Street Orangeburg, SC 29115		8/7/12	\$1,260.00
	TOTAL			\$3,448.10



December 29, 2012

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117

SUMMARY OF MEDICALS - DENETRA GLOVER (Client)
DOA: March 10, 2012

Tab	Medical Institute/Provider Address/Phone/Acct#	Acct. No.	Service Dates	Charges
A.	Palmetto Health Richland Emergency Physician Services PO Box 402150 Atlanta, GA 30384	120700041	3/10/12	\$339.00
B.	The Regional Medical Center Emergency Facility Department PO Box 1306 Orangeburg, SC 29116-1306	1000459488	3/10/12	\$1,565.00
C.	Marina Medical Company TRMC- ER Physician Services 18000 Studebaker Road - 4th Floor Cerritos, CA 90703	31457-01	3/10/12	\$285.00
D.	Family Health Center 3310 Magnolia St. Orangeburg, SC 29115-1466 531-6900		3/19/12 \$150 4/4/12 \$155	\$305.00
E.	Gamble Chiropractic 1475 Amella Street Orangeburg, SC 29115	6085	8/2/12 8/7/12 8/9/12 8/23/12	\$1,260.00
	TOTAL			\$3,754.00



IN THE STATE OF SOUTH CAROLINA

In the South Carolina Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

R. Knox McMahon, Circuit Court Judge

Case No. 2013-CP-38-00992
2013-CP-38-00994

Appellate Case No. 2016-001807

RECEIVED
FEB 28 2017
SC Court of Appeals

Denetra Glover.....Respondent,

v.

William Shervon Stack and Shervon Latrese Simpson, ...Defendants,

Of whom

Shervon Latrese Simpson.....Appellant.

AND

Shirley Davis.....Respondent,

v.

William Shermon Stack and Shervon Latreese Simpson.....Defendants,

Of Whom Shervon Latreese Simpson.....Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material. The undersigned also certifies that this Record on appeal complies with the Supreme Court's order of April 15, 2014 on personal identifiers.



Wesley B. Sawyer, Esquire

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Attorney for Appellants

February 28, 2017