

STATE OF SOUTH CAROLINA )

COUNTY OF ORANGEBURG )

RALPH C. WILLIAMS, SR., and LINDA WILLIAMS, )

Plaintiff, )

vs. )

PATRICIA A. JOHNSON, JOSETTE PEPPERS, and UNIHEALTH POST-ACUTE CARE - )  
ORANGEBURG, LLC. )

Defendants. )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

CASE NO.: 2012-CP-38-845

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MOTION AND ORDER INFORMATION FORM AND COVERSHEET

SC Court of Appeals

Plaintiff's Attorney: Robert P. Foster, SC Bar No. 2093 Address: 601 E. McBee Ave., Suite 104 Greenville, SC 29602 Phone: 864.242.6200 Fax: 864.233.0290 E-mail: RFoster@fosterfoster.com	Defendant's Attorney: Jason E. Bring, GA Bar No. 100275 Address: 171 17th Street NW, Suite 2100 Atlanta, Georgia 30363-1031 Phone: 404.873.8162 Fax: 404.873.8163 E-mail: jason.bring@agg.com
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: YES/NO	
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$ 25.00 <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> 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: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED -- AMOUNT DUE: \$ _____	

STATE OF SOUTH CAROLINA  
COUNTY OF ORANGEBURG

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Ralph C. Williams Sr., and Linda Williams

APR 18 2017

Plaintiffs,

CLERK OF COURT  
ORANGEBURG, SC

SC Court of Appeals

vs.

**ORDER DENYING PLAINTIFFS'  
MOTIONS TO RECONSIDER AND  
TO ALTER OR AMEND THE JUDGMENT**

Patricia Johnson, Josette Peppers, and  
Unihealth Post-Acute Care-Orangeburg,  
LLC,

Defendants.

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MAY 23 7:11

This matter came before the court on Plaintiffs' Motions to Reconsider and to Amend or Alter the Judgment of this court, acting as the thirteenth juror, ordering that the entire verdict from the initial trial be discarded and the case be retried.

The trial judge, sitting as the thirteenth juror charged with the duty of seeing that justice is done, has the authority to grant new trials when he is convinced that a new trial is necessitated on the basis of the facts of the case. Graham v. Whitaker, 282 S.C. 393, 401 (1984). Under the thirteenth juror doctrine, the trial court may grant a new trial if it finds that the verdict is unsupported by the evidence. Folkens v. Hunt, 300 S.C. 251, 254 (1990). "This ruling has also been termed granting a new trial upon the facts[.]" and, basically, the court, "as the thirteenth juror[,] 'hangs' the jury." Id. The court is not required to give reasons for this outcome and, similarly, "because the result of the 'thirteenth juror' vote by the [court] is a new trial rather than an adjustment to the verdict, no purpose would be served by requiring the trial [court] to make factual findings." Id. When acting as the thirteenth juror, the trial court "possess[es] veto power to the Nth degree" and is presumed to appreciate and exercise its discretion with fairness and impartiality. Worrell v. S.C. Power Co., 186 S.C. 306, 31314 (1938).

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After due deliberation and review of the case law and motions of counsel, this court finds that there is nothing warranting reconsideration, and, therefore, Plaintiffs' motions are denied. Upon further reflection of the trial and the evidence presented to the jury, the court finds that the evidence did not justify the verdict. This court is concerned that the jury improperly handled the issue of the Defendant nurse's immunity under South Carolina's Omnibus Adult Protection Act. See S.C. Code Ann. §§ 43-35-25(A) & (G). The facts of the case and the interests of justice persuade the court, sitting as the thirteenth juror, that a new trial is warranted.

THEREFORE, for the reasons stated above, Plaintiffs' Motions to Reconsider and to Amend or Alter the Judgment of this court should be, and hereby are, DENIED.

AND IT IS SO ORDERED.



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Edgar W. Dickson  
Presiding Judge, First Judicial Circuit

*March*  
February 10, 2017  
Orangeburg, South Carolina

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