

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
Nexstar Media Group, Inc., successor	)	
in interest to Media General, Inc.,	)	
d/b/a WSPA and WYCW,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	ORDER DENYING MOTION
Davis Roofing Group, LLC and	)	TO RECONSIDER
Mark Mahoney,	)	2014-CP-42-02841
	)	
Defendants.	)	
_____	)	

This matter came before me for hearing on June 29, 2017 on the Motion to Reconsider filed by the Defendant Davis Roofing Group, LLC (“Davis Roofing”). This Court had issued its order for judgment in this action, filed April 4, 2017 granting judgment to Plaintiff against Davis Roofing for a total of \$39,705.00. Davis Roofing filed its Motion to Reconsider on April 13, 2017 requesting the Court to reconsider the aforesaid Order for Judgment. Davis Roofing’s Motion to Reconsider referenced only Rules 59 and 60(b), SCRCP, the existence of meritorious defenses, and that adverse parties would not be prejudiced thereby. At the hearing on this Motion, Davis Roofing based its argument on Rule 36, SCRCP, seeking this Court’s reconsideration regarding its denial to grant a determination that the Requests for Admission sent to the Defendant Mark Mahoney (“Mahoney”) should be deemed admitted for his failure to deny the same. Davis Roofing argued that the Requests for Admission were admitted upon the failure of Mahoney to deny the same, and that it was up to the other parties to make a motion to withdraw the admission pursuant to Rule 36(b). Davis Roofing asserts that no such motion was made and therefore the Requests were admitted.

Counsel for Plaintiff and counsel for Mahoney objected to Davis Roofing's argument on Rule 36 on the basis that the Motion to Reconsider failed to give them adequate notice of the grounds or basis for the Motion. They further argued that the issue had been argued at trial and was properly ruled upon by the Court. Specifically, counsel argued that a question exists as to whether Mahoney ever received the Requests for Admission. At trial, Mahoney denied having ever received the Requests for Admission. Mahoney was acting *pro se* at the time the Requests for Admission were sent. Mahoney retained counsel shortly thereafter, but no follow up correspondence was ever sent to Mahoney or his counsel seeking responses to the Requests for Admission or otherwise prompting for a response. Further, no Motion to Compel was ever made or filed. Davis Roofing filed a Motion for Summary Judgment immediately before trial and based its Motion on Mahoney's failure to respond to the Requests for Admission. It is important to note that copies of the Requests for Admission were not provided to Plaintiff's counsel, nor to Mahoney's counsel, until immediately before trial. At trial, both Plaintiff's counsel and Mahoney's counsel opposed and argued against a determination that the Requests for Admission be deemed admitted. Counsel argues that this opposition at trial is equivalent to a motion seeking the withdrawal of any alleged admission. Considering all of these circumstances, including Mahoney's uncontroverted statement that he never received the Requests for Admission, and the lack of any prejudice to Davis Roofing, the Court found that the Requests for Admission should not be deemed admitted for purposes of trial.

After considering the arguments of counsel at the hearing before me, I find that Davis Roofing's Motion should be denied for the reasons set forth hereinabove. This Court had considered all of the issues regarding the Requests for Admission sent to Mahoney and properly ruled that those requests should not be deemed admitted for purposes of trial. No parties

suffered prejudice as a result of that decision. Accordingly, I find that the Order for Judgment, filed April 4, 2017, correctly determined this action, and the Motion to Reconsider filed by Davis Roofing is hereby denied.

IT IS SO ORDERED.

[SIGNATURE ON ORDER TO FOLLOW]



Spartanburg Common Pleas

**Case Caption:** Media General Inc Db a , plaintiff, et al VS Davis Roofing Group Llc  
, defendant, et al  
**Case Number:** 2014CP4202841  
**Type:** Order/Other

It is So Ordered

s/Judge Gordon G Cooper-3065

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