

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2016 CP-40-02350

GLEND A R. COURAM

SHERWOOD TIDWELL

RECEIVED

PLAINTIFF(S)

DEFENDANT(S)

OCT 23 2017

Submitted by: NEWMAN, J

Attorney for Plaintiff of Appellant

Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
GLEND A R. COURAM	SHERWOOD TIDWELL	\$527.77
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Jocelyne Newman
Circuit Court Judge

2757
Judge Code

October 4, 2017
Date

For Clerk of Court Office Use Only

This judgment was entered on the 9 day of Oct, 2017 and a copy mailed first class or placed in the appropriate attorney's box on this 9 October 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Glenda Couram

Jescelyn Tillman Spitz

Glenda Couram

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Jeanette W. McBride

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

v.

Sherwood Tidwell,

Defendant.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No. 2016-CP-40-02350

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JUDGMENT AND

ORDER DENYING PLAINTIFF'S RULE 59(E)
MOTION, GRANTING DEFENDANT'S COSTS

RICHLAND COUNTY
FILED

This matter comes before the Court on "Plaintiff's Motion Pursuant to Rule 59 Requesting Additur or in the Alternative a New Trial on Damages," which was filed on July 26, 2017; and Defendant's request for costs, made on July 6, 2017. For the reasons set forth below, Plaintiff's motion is DENIED, and Defendant's request is GRANTED.

BACKGROUND

This is a personal injury action in which Defendant's vehicle collided with Plaintiff's vehicle on Interstate 20 in Richland County on September 18, 2015. Plaintiff, appearing *pro se*, filed her Complaint on April 12, 2016, alleging negligence on the part of Defendant. Although Defendant, in his Answer, denied liability, summary judgment was ultimately granted in favor of Plaintiff on that issue.

On February 16, 2017, Defendant filed an Offer of Judgment pursuant to Rule 68 of the South Carolina Rules of Civil Procedure in which he offered the sum of twenty thousand dollars (\$20,000) to Plaintiff in full compromise and settlement of her claims. Plaintiff rejected Defendant's offer, so a jury trial commenced on June 15, 2017.

On June 16, the jury returned a unanimous verdict in favor of Plaintiff in the amount of one thousand dollars (\$1,000). Plaintiff then filed her motion in which she requests the entry of

"judgment notwithstanding the verdict..., [a] new trial or additur." Defendant opposed Plaintiff's motion and also filed a statement of costs in connection with his Offer of Judgment.¹

Plaintiff contends that the jury's verdict "is against the overwhelming weight of the evidence" and that the jury's award is "wholly inadequate for the evidence and testimony put forth." She also argues that she has received medical treatment since the conclusion of the trial and that "she can no longer afford her medication." Plaintiff also contends that the Court made errors in the admission and exclusion of evidence, that certain important language was omitted from the Court's charge on the law, and that the Court erred in granting Defendant's motion for a directed verdict as to the issue of punitive damages.

CONCLUSIONS OF LAW

The Court disagrees with Plaintiff's arguments and finds no basis, in law or in fact, to grant the recovery requested by Plaintiff.

I. New Trial Absolute

"Under the 'thirteenth juror' doctrine, a trial judge may grant a new trial absolute when he finds the evidence does not justify the verdict." *Vinson v. Hartley*, 324 S.C. 389, 402, 477 S.E.2d 715, 722 (Ct. App. 1996). "This ruling has also been termed a granting of a new trial upon the facts." *Id.* (citing *Gastineau v. Murphy*, 323 S.C. 168, 181, 473 S.E.2d 819, 827 (Ct.App.1996)). However, a new trial absolute should be granted "...if the amount of the verdict is grossly inadequate or excessive so as to shock the conscience of the court and clearly indicates the figure reached was the result of passion, caprice, prejudice, partiality, corruption or some other improper motives." *Id.* at 404, 477 S.E.2d at 723 (citations omitted). None of those

¹ Despite the Court's requests, both verbally and in writing, that Plaintiff submit a copy of her motion directly to judge's chambers – and despite the rule requiring the same (*see* Rule 59(g), SCRCP) – Plaintiff failed to comply. The Court was unaware that Plaintiff filed any post-trial motion until receiving Defendant's opposition to that motion by letter dated September 13, 2017.

circumstances are present here. Instead, it appears that the jury found that Plaintiff lacked credibility in her contention that she sustained severe injuries and "substantial damage" in a low-speed, three-car collision in which neither of the other drivers suffered any injury whatsoever. "The jury's determination of damages, however, is entitled to substantial deference." *Proctor v. Dep't. of Health & Env'tl. Control*, 386 S.C. 279, 321, 628 S.E.2d 496, 519 (Ct. App. 2006) (citation omitted). Therefore, Plaintiff's motion for a new trial absolute is denied.

II. New Trial *Nisi Additur*

Even if the amount of the verdict is not grossly inadequate. "A new trial *nisi additur* may be ordered when the verdict is merely insufficient based on the evidence." *Waring v. Johnson*, 341 S.C. 248, 257, 533 S.E.2d 906, 911 (Ct. App. 2000) (citation omitted). "The import of a new trial *nisi additur* is a suggestion on the part of the judge of a settlement figure." *Id.* (citation omitted). "The consideration of a motion for a new trial *nisi additur* requires the court to consider the adequacy of the verdict in light of the evidence presented." *Id.* (citation omitted).

In this case, there is no evidence in the record from which this Court could determine that the verdict rendered by the jury is inadequate. Rather, based on the evidence, testimony, and credibility of the witnesses, the Court finds that the jury's award was appropriate. Therefore, Plaintiff's motion for a new trial *nisi additur* is denied.

III. Defendant's Costs

On February 16, 2017, Defendant filed an Offer of Judgment pursuant to Rule 68 of the South Carolina Rules of Civil Procedure, in which Plaintiff was offered twenty thousand dollars (\$20,000) to settle and resolve Plaintiff's claims. Plaintiff rejected this offer. Subsequent to that rejection, Defendant incurred costs totaling four hundred twenty-one dollars and eighty-two cents (\$421.82) related to the defense of this action. The jury trial in this action began on June

15, 2017. On June 16, the jury rendered a verdict in favor of Plaintiff in the amount of one thousand dollars (\$1,000) – an amount far less than was offered by Defendant.

Rule 68 of the South Carolina Rules of Civil Procedure provides: "If an offer of judgment is not accepted and the offeror obtains a verdict or determination at least as favorable as the rejected offer, the offeror *shall* recover from the offeree: (1) any administrative, filing, or other court costs from the date of the offer until the entry of judgment..." Rule 68(b), SCRPC. Additionally, "if the offeror is a defendant, [the offeror is entitled to] reduction from the judgment or award of eight percent interest computed on the amount of the verdict or award from the date of the offer to the entry of the judgment." *Id.*

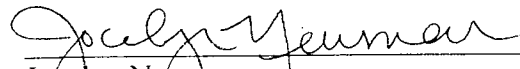
Based on the foregoing, the jury's verdict must be reduced by four hundred twenty-one dollars and eighty-two cents (\$421.82) and further reduced by eight percent interest on the one thousand dollar (\$1,000) award, calculated from February 16, 2017 to today, October 4, 2017, totaling fifty dollars and forty-one cents (\$50.41).

IT IS THEREFORE ORDERED that "Plaintiff's Motion Pursuant to Rule 59 Requesting Additur or in the Alternative a New Trial on Damages" is DENIED.

IT IS FURTHER ORDERED that Defendant's request for costs is GRANTED.

IT IS FURTHER ORDERED that judgment be entered in favor of Plaintiff Glenda R. Couram against Defendant Sherwood Tidwell in the amount of five hundred twenty-seven dollars and seventy-seven cents (\$527.77).

AND IT IS SO ORDERED.



Jocelyn Newman
Circuit Court Judge

October 4, 2017
Columbia, South Carolina.