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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CIVIL ACTION NO.: 2011-CP-10-8011

ASSISTIVE TECHNOLOGY MEDICAL)
EQUIPMENT SERVICES, LLC,)

Plaintiff,)

v.)

PHILLIP DECLEMENTE,)

Defendant.)

ORDER OF JUDGMENT

RECEIVED

MAR 14 2018

SC Court of Appeals

Presiding Judge:	Hon. Deadra L. Jefferson
Counsel for Plaintiff:	James Smith, Esq.
Counsel for Defendant:	Cameron Marshall, Esq.
Date of Hearing:	November 1, 2016 January 5, 2017
Court Reporter:	Joyce Rueger

FILED
2017 DEC 21 AM 9:55
JULIE A. BRIDGEMAN
CLERK OF COURT

This matter came before this Court on November 1, 2016 and January 5, 2017 for a hearing on Plaintiff's Motion to Set Damages as to the Defendant Phillip DeClemente, filed September 19, 2016.¹ Plaintiff was represented by James Smith, Esquire at both hearings. Defendant DeClemente was represented by Cameron Marshall, Esquire, at both hearings.² The Court gave both parties ample opportunity to make a full presentation of the damages in this case at the scheduled hearings. The Court also disposed of all outstanding motions during these proceedings. Defendant DeClemente nevertheless filed a supplemental, contested Motion to Consider Evidence of Damages, Adopt Proposed Order, and Reconvene Damages Hearing on January 24, 2017.³ In this

¹ The November 1, 2016 hearing was a full damages hearing on the merits of the case. The January 5, 2017 hearing was held to accommodate Defendant's request to supplement the record with the additional testimony of the Defendant Phillip DeClemente.

² Defendant DeClemente was the only remaining Defendant at the time of the hearings.

³ Plaintiff filed a Memorandum in Opposition to Plaintiff's Motion to Consider Evidence of Damages, Adopt

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motion, Defendant asked the Court to re-open the record and consider the expert testimony of a certified public accountant recently procured by him. This Court granted Defendant's motion in part, allowing Defendant DeClemente to obtain the testimony of his expert witness via Order dated and filed July 27, 2017. The deposition of Defendant's expert, Ronald H. Burkett, was subsequently taken on September 14, 2017.⁴ The deposition of Ronald H. Burkett was provided to the Court on October 11, 2017. Subsequently the Court held a conference call with counsel on October 17, 2017. As a result, the parties advised the Court that no additional testimony would be necessary and consented to the Court ruling on this matter with benefit of the deposition and no further hearings in this matter. Having provided both parties with significant time in which to present evidence on damages, the Court now makes the following findings of fact and conclusions of law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter commenced with the filing of the Summons and Complaint on October 31, 2011 wherein Plaintiff set forth nine (9) causes of action against the following defendants: Hood & Selander, CPAS, LLC; Donna C. Cash as Personal Representative of the Estate of Dorothy Connelly; W.E. Applegate, III, as Personal Representative of the Estate of James B. Connelly; Kimberly Cuce; and Phillip DeClemente. In the Complaint, Plaintiff alleges that Assistive Technology Medical Services, LLC ("ATMES") entered into a stock purchase and assignment agreement with the Defendant Dorothy A. Connelly (the Seller) and Defendant DeClemente (the Assignor) on November 7, 2008 for the purchase of common stock of Abacare Home Medical, Inc. See Compl. ¶ 10. The purchase price paid by ATMES for the stock at closing was Eight Hundred Nine Thousand, Five Hundred and No/100 dollars (\$809,500.00)! Id. ¶ 10. Plaintiff

Proposed Order, and Reconvene Damages hearing on February 9, 2017.

⁴ This Court issued its Order on July 27, 2017 requiring the parties to schedule the deposition of Defendant's expert on or before August 31, 2017.

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contends that the Defendants were aware that Abacare "significantly understated" its sales tax to the South Carolina Department of Revenue, but failed to disclose the sales tax liability owed by Abacare prior to its purchase by ATMES. *Id.* ¶¶ 19-20. As a result, ATMES alleges that it overpaid for the Abacare stock. *Id.* ¶ 52. Plaintiff further contends that subsequent to the execution of the Stock Purchase and Assignment Agreement, Defendant James B. Connelly agreed to a plan for repayment of the unpaid sales taxes owed by Abacare to the South Carolina Department of Revenue, but failed to do so. *Id.* ¶¶ 28-29.

This case has been litigated by the above-named parties since the filing of the Complaint in October of 2011. However, as of the date of this Order, Defendant DeClemente is the only active defendant in the case. Defendants W.E. Applegate as Personal Representative of the Estate of James B. Connelly was dismissed from the case on September 28, 2012 by Order of the Honorable Roger M. Young. Defendants Hood & Selander, CPAS, LLC and Donna Cash as Personal Representative of the Estate of Donna Connelly were likewise dismissed from the case by consent Order on November 7, 2016 and November 21, 2016, respectively. Defendant Kimberly Cuce has yet to answer or appear matter despite being properly served with the Summons and Complaint on February 21, 2012. Plaintiff has not sought a formal Entry of Default against Defendant Cuce or otherwise pursued its claims against her as of the date of this Order. Thus, the only remaining claims are those against Defendant DeClemente for fraud, negligence, negligent misrepresentation, promissory estoppel, and civil conspiracy. Accordingly, this Order is on the damages dispute between Plaintiff ATMES and Defendant DeClemente.

The Court finds that Defendant DeClemente was properly served with the Summons and Complaint via certified mail, return receipt requested, and restricted delivery on December 1, 2011. Defendant did not answer or otherwise respond to the Complaint within thirty (30) days of service

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as required by South Carolina Rule of Civil Procedure 12(a). Accordingly, Plaintiff filed an Affidavit of Default with the Charleston County Clerk of Court on March 30, 2012. Plaintiff did not, however, simultaneously obtain an Entry of Default from the Clerk of Court or a Default Judgment from the Circuit Court. On May 14, 2012, Counsel for Defendant DeClemente, Cameron Marshall, Esq., filed a Letter of Representation with the Clerk of Court. On August 10, 2012, Defendant DeClemente filed a Motion for Enlargement of Time in which to File Answer pursuant to Rules 6 and 60(b) of the South Carolina Rules of Civil Procedure. This motion was later amended to include a request for relief from entry of default pursuant to South Carolina Rule of Civil Procedure 55(c). Defendant DeClemente simultaneously filed an Answer, Counterclaim, and Crossclaims. Defendant DeClemente thereafter filed an Amended Answer, Counterclaim, and Crossclaims on August 21, 2012.

On or about September 11, 2012, Plaintiff ATMES filed a Motion for a Damages hearing. Defendant DeClemente responded on October 15, 2012 by filing a counter-Motion for Default against Plaintiff ATMES. In this Motion, Defendant DeClemente argues that ATMES is likewise in default for failing to answer Defendant DeClemente's counterclaims. Both Plaintiff and Defendant's Motions for Default came before the Honorable J.C. Nicholson, Jr. on December 16, 2012. Judge Nicholson also heard Defendant DeClemente's Motion for Enlargement of Time at the December 16, 2012 hearing.

On April 24, 2014, Judge Nicholson issued an Order denying Defendant DeClemente's Motion for Enlargement of Time to Answer on the basis that Defendant did not demonstrate "good cause" for his delay in answering the Complaint as he retained counsel in May of 2012 but did not file his Answer until August of 2012. Judge Nicholson further denied Defendant's request for relief from default judgment pursuant to South Carolina Rule of Civil Procedure 55(c), and placed

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Defendant DeClemente in default for failure to timely file an Answer to Plaintiff's Complaint. Judge Nicholson also struck Defendant DeClemente's Answer, Counterclaims, and Crossclaims from the record, and denied Defendant DeClemente's Motion for Default Judgment against Plaintiff ATMES on the basis that Plaintiff has no obligation to respond to Defendant DeClemente's Counterclaims unless and until Defendant DeClemente is relieved from default and permitted to enter his Answer, Counterclaims, and Crossclaims.

Defendant DeClemente thereafter filed a Motion for Reconsideration of Judge Nicholson's April 24, 2014 Order. Defendant's Motion for Reconsideration was denied by Order dated May 3, 2014. Defendant DeClemente then filed an appeal with the Court of Appeals to challenge Judge Nicholson's ruling on May 30, 2014. The South Carolina Court of Appeals denied Defendant DeClemente's appeal by written order dated November 13, 2014 on the basis that Judge Nicholson's order is not immediately appealable because the "circuit court has not yet made an award of damages."⁵ The Remittitur was also issued on November 13, 2014.

On September 19, 2016, Plaintiff filed a Motion for Hearing on Damages in order to ascertain the judgment amount to be entered against the defaulting defendant, Phillip DeClemente. This matter was subsequently set for a hearing before this Court on November 1, 2016 to determine damages. Plaintiff's counsel, James Smith, Esq. was present at the November 1, 2016 hearing. Defendant DeClemente was not present, but his attorney, Cameron Marshall, was in attendance. At the outset of the hearing, Attorney Marshall raised objections to moving forward with the hearing (1) without his client present and (2) without certain documents that he had requested. He

⁵ This Court notes that the Defendant DeClemente has persistently argued at every hearing in this matter that he should be allowed to argue against the substantive merits of the Plaintiff's causes of action thus negating the default posture of this case. The Court has reinforced that this Court and Judge Nicholson possess concurrent jurisdiction, that this Court has no ability to overturn Judge Nicholson's Order of April 30, 2014, and that any issues raised previously have been preserved for the appropriate appellate review. See, e.g., Enoree Baptist Church v. Fletcher, 287 S.C. 602, 604, 340 S.E.2d 546, 547 (1986) ("One Circuit Court Judge does not have the authority to set aside the order of another.").

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further asserted that there was some confusion regarding Plaintiff seeking a jury trial on the issue of damages. However, it is clear from the record that the Plaintiff abandoned any request for a jury trial via its request and notice of damages hearing filed with the court on September 19, 2016. Further, Defendant and his counsel were clearly advised by the Clerk's office as well as the administrative staff that the hearing on damages was going forward as scheduled. After hearing extensive argument from both parties, the Court found that proper notice of the hearing was provided to Defendant DeClemente on October 4, 2016 and October 25, 2016. Further, there was no discernable reason for the Defendant DeClemente's absence from the proceedings. Moreover, the Court found that Defendant DeClemente, by and through his counsel, was afforded significant time in which to pursue discovery on damages. Defendant DeClemente also had the opportunity to elicit deposition testimony from Plaintiff's damages witnesses, namely G. Murrell Smith and Art Brabham, and did, in fact, depose both of these individuals prior to the hearing. In light of these facts, the Court proceeded with the damages hearing on November 1, 2016 by hearing testimony from witnesses for the Plaintiff, Art Brabham and G. Murrell Smith. The Court did, however, in an abundance of caution offer the Defendant the opportunity to supplement the record and request to reconvene the hearing at a later date so that Defendant DeClemente could attend and present any additional evidence. The Defendant was given five (5) days from the date of the hearing to advise the Court of his desire to supplement the record with any additional witnesses so that the matter could be reconvened, if necessary.

The first witness called by Plaintiff on November 1, 2016 was Art Brabham, CPA. Mr. Brabham testified as to his education, training, experience and certification as a Certified Valuation Analyst and Enrolled Agent as well as his experience as an expert witness on economic damages in South Carolina. Mr. Brabham then testified as to his knowledge of the Plaintiff's losses in this

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action and detailed how he completed his economic analysis of Plaintiff's losses. Plaintiff's counsel thereafter sought to qualify Art Brabham, CPA as an expert on the calculation and valuation of the damages suffered by the Plaintiff. Defense counsel was afforded the opportunity to cross-examine Mr. Brabham on his qualifications and knowledge of Plaintiff's losses. The Court then heard arguments from counsel. After hearing these arguments and considering the qualifications and experience of Art Brabham, the Court qualified Art Brabham as a Certified Valuation Analyst and an Economic expert witness for the purpose of rendering an expert opinion as to the damages suffered by the Plaintiff.

Plaintiff's counsel thereafter elicited testimony from Mr. Brabham. The Court was provided with a detailed written report and a summary of Mr. Brabham's opinions and conclusions.⁶ Mr. Brabham testified as to the three separate methods he employed to calculate the economic loss suffered by Plaintiff: (1) capitalization of net cash flow to equity holders; (2) direct valuation of equity by discounted cash flows method; and (3) market value comparison. Mr. Brabham ultimately came to the conclusion that Plaintiff sustained a total loss of \$875,144.00. This amount is comprised of the valuation of the loss suffered by omission of the sales tax liability owed on the purchase date (\$100,644.00) and the valuation of the loss suffered by the overstatement of the value of the business (\$774,500.00). Moreover, Mr. Brabham testified that Plaintiff sustained actual loss as Plaintiff paid the South Carolina Department of Revenue the sales tax liability (\$100,644.00) owed by the business after purchase. Mr. Brabham also testified that Plaintiff showed a loss of over \$900,000.00 on their tax returns as a result of the overstatement of the value of the business. Lastly, Mr. Brabham testified that the damages suffered by Plaintiff were the result of the Defendant's conduct. Defense counsel was then given the opportunity to cross

⁶ The report drafted by Plaintiff's expert, Art Brabham, was admitted into evidence at the November 1, 2016 hearing as Plaintiff's Exhibit No. 1.

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examine Mr. Brabham on his opinions and conclusions and did so. Mr. Brabham further testified on cross examination that the Plaintiffs were "losing their shirts" on the Charleston operation because they "overpaid" for the business due to the Defendant's misrepresentation of the business valuation and underrepresentation of the outstanding tax liabilities. Defense counsel also elicited testimony from Mr. Brabham about past services provided to Plaintiff. The Court finds the testimony of Mr. Brabham credible and persuasive on the issue of damages.

Plaintiff's counsel then called Murrell Smith, owner of ATMES, to the stand to testify on behalf of ATMES. Mr. Smith testified as to his position in the ATMES Company. Mr. Smith further testified regarding the purchase of Abacare stocks from Defendant DeClemente. Mr. Smith stated that he and his business partner are still making payments on the \$650,000.00 note they signed to purchase Abacare. Mr. Smith further requested that the Court enter an Order of Judgment in the amount of \$875,144.00 in favor of the Plaintiff and against Defendant DeClemente. Defense counsel was then given an opportunity to cross-examine Mr. Smith and did, in fact, do so. On cross examination, defense counsel elicited testimony from Mr. Smith that Plaintiff sold Abacare's assets to Long's Medical on December 30, 2009 for "somewhere between \$560,000 and \$600,000." The Court finds the testimony of Mr. Smith credible and persuasive.

At the conclusion of Mr. Smith's testimony, Plaintiff's counsel advised the Court that they had no further witnesses or documents to submit. Plaintiff requested that the Court enter an Order of Judgment in the amount of \$875,144.00 in favor of the Plaintiff and against Defendant DeClemente. The Court adjourned the hearing upon the conclusion of Plaintiff's case to accommodate Defendant's request to supplement the record with additional testimony at a later date, if necessary.

The damages hearing reconvened on January 5, 2017. Plaintiff's counsel, James Smith,

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Esq., was present at the hearing. Defendant DeClemente and his counsel, Cameron Marshall, Esq., were also present. At the outset of the hearing, Defense counsel once again objected to moving forward with the damages hearing on the basis that Plaintiff's counsel had not provided Defendant with subpoenaed documents requested from Art Branham. In response, Plaintiff's counsel notified the Court of its pending Motion to Quash the Subpoena and for Protective Order, filed December 28, 2016. This motion asks the Court to quash the subpoena issued by Defendant DeClemente to Art Brabham and protect the materials sought by Defendant. Defendant subsequently filed a Motion to Compel Subpoena Compliance on December 29, 2016. Neither of these motions were scheduled for hearing on January 5, 2017 or thereafter. Nor did the parties request a hearing on these motions prior to the January 5 damages hearing. The Court then inquired as to the nature of the documents and their relevance for the damages hearing. After considering the arguments of counsel, the Court resolved the motions and proceeded with the continuation of the damages hearing as scheduled and noticed.

The first defense witness was Defendant DeClemente who testified and was cross-examined regarding his case on damages. Mr. DeClemente testified that he has twenty-two (22) years of experience owning and managing durable medical equipment operations and that no damages calculation in excess of Abacare's tax debt and interest (totaling \$100, 643.00) is defensible by a person possessing ordinary business knowledge and common sense. Defendant DeClemente further testified that he is entitled to a credit or "set-off" against damages as to any settlement amounts paid to Plaintiff by his Co-Defendants under the South Carolina Uniform Contribution Among Tortfeasors Act. However, Defendant DeClemente has failed to provide this Court with any calculations or figures setting forth the amount he believes he is entitled to as a set-off under the Act. In fact, Defendant DeClemente has failed to offer this Court even a scintilla of

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evidence that a monetary settlement was tendered to the Plaintiff by any of the parties dismissed by Consent Order. The Court is unable to ascertain, based upon the record and evidence presented by Defendant, the reason why Defendants, Hood & Selander, LLC and Donna E. Cash as Personal Representative of the Estate of Dorothy Connelly, were dismissed by consent.⁷ In any event, Defendant DeClemente would not be entitled to a set-off pursuant to Section 15-38-50 of the Uniform Contribution Among Tortfeasors Act. See S.C. Code Ann. § 15-38-50 ("When a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death, it discharges the tortfeasor to whom it is given from all liability for contribution to any other tortfeasor."). Moreover, the purpose of a default damages hearing is to determine the amount of liability of the defaulting defendant. Wells Fargo Bank, N.A. v. Marion Amphitheatre, LLC, 408 S.C. 87, 90, 757 S.E.2d 557, 558 (Ct. App. 2014). The Circuit Court does not have the authority to determine the amount of liability or "percentage of fault" of any non-defaulting defendants who appeared in the lawsuit and resolved the claims against them. See S.C. Code Ann. § 15-38-15. The remainder of Mr. DeClemente's testimony was not relevant to the issue of Plaintiff's damages. The Court finds that nothing testified to by Mr. DeClemente provided a credible dispute or challenge to the testimony and evidence submitted by Plaintiff's expert, Art Brabham.

Defense counsel then called Jeff Reed, co-owner of the ATMES Company, to the stand. Mr. Reed testified that he relied upon the assessment conducted by Art Brabham to identify the total loss suffered by the Plaintiff. He also testified that he personally continues to make payments on the \$650,000.00 note used to purchase Abacare. Mr. Reed further testified that the ATMES Company sustained a loss of \$875,144.00 as a result of its transaction with Defendant. The

⁷ Defendant W.E. Applegate, III as Personal Representative of the Estate of James B. Connelly was dismissed from the case by Judge Nicholson for lack of subject matter jurisdiction via written Order dated September 28, 2012.

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Defendant concluded his case on damages at the end of Mr. Reed's testimony. At that time, the Court adjourned the hearing and took Plaintiff's Motion to Set Damages under advisement.

However, on January 24, 2017, Defendant filed a supplemental Motion to Consider Evidence of Damages, Adopt Proposed Order, and Reconvene Damages Hearing. In this motion, Defendant asks the Court to reconvene the damages hearing, determine settlement amounts paid by the co-defendants, adopt his proposed order on damages, and hear expert testimony from its Certified Public Accountant. Plaintiff filed a Memorandum in Opposition to Defendant's Motion on February 9, 2017, arguing that the motion is untimely, prejudicial, and without merit. On July 27, 2017, the Court conducted a hearing with counsel by telephone to address Defendant's Motion to Reconsider Evidence of Damages, Adopted Proposed Order, and Reconvene Damages Hearing.⁸ The Court noted the belated nature of Defendant's request during the status conference and in the Form 4 Order issued on July 27, 2017. But, in an abundance of caution, allowed for the additional, expert testimony of Defendant's expert witness. The Court further ordered the parties to schedule the deposition of the expert at a mutually agreeable time on or before August 31, 2017.

On August 23, 2017, the Defendant filed an affidavit from its expert, Ronald H. Burkett, CPA, CVA. The parties took the deposition of Defendant's expert on September 14, 2017. The Court was provided with a copy of the deposition transcript on October 11, 2017. The Court has reviewed both the affidavit and deposition of Ronald H. Burkett, and finds that Mr. Burkett prepared a draft valuation of the common stock of Abacare for use by Defendant DeClemente on or about July 14, 2008. See Aff. Ronald Burkett. At his deposition, Mr. Burkett was asked to testify regarding his opinion as to the damage, if any, suffered by ATMES as a result of the stock purchase and assignment agreement entered into with Defendant DeClemente. Mr. Burkett

⁸ Counsel consented to resolving the motion by telephone conference.

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testified that if ATMES had knowledge that there was a potential sales tax issue with Abacare at the time of purchase (as Mr. Burkett opines they had or should have had), then ATMES paid fair market value for Abacare and did not sustain damage. Burkett Dep. 17:21-18:8, September 14, 2017. However, Mr. Burkett admitted that his opinion is based on the potential liability of Defendant DeClemente and is subject to change if ATMES did not, in fact, have knowledge of the sales tax liability. Burkett Dep. 18:19-25. Moreover, Mr. Burkett testified he does not have an opinion as to whether or not ATMES suffered damages in this case, nor has he made a damages calculation. Burkett Dep. 22:21 – 23:1; 59:1-4. In light of these statements, the Court does not find the testimony of Mr. Burkett to be relevant or persuasive on the issue of damages.

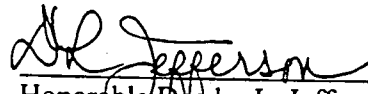
The Court has fully and carefully considered the testimony of all of the witnesses presented, the arguments of counsel, and all documents and exhibits submitted to the Court. Upon careful and deliberate consideration of the evidence, the Court finds Defendant DeClemente to be in default as a result of Judge Nicholson's Order filed April 30, 2014. As a result of his default, Defendant DeClemente is deemed to have admitted the substantive allegations of the Complaint. The only remaining issue before this Court is the amount of damages to be awarded to the Plaintiff. The Court further finds the testimony and conclusions reached by Plaintiff's damages expert, Art Brabham, to be persuasive, credible and reliable. Moreover, the Court finds that Defendant DeClemente has failed to adequately challenge the testimony presented by Plaintiff. Defendant's expert, Ronald H. Burkett, testified that he does not have an opinion as to the damages in this case, nor does he have an opinion as to the damages calculation reached by Plaintiff's expert, Art Brabham. Burkett Dep. 30:17-31:9. In fact, the only evidence offered by Defendant DeClemente to contradict the Plaintiff's damages calculation is his own testimony that the Plaintiff's damages calculation is simply not defensible by a person possessing ordinary business knowledge and

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common sense. The Court declines to rely solely upon the testimony of Defendant DeClemente as it is inherently self-serving and, more importantly, unsupported by the numerical evidence before the Court. The Court instead relies upon the damages calculation presented by Plaintiff's expert, Art Brabham. Accordingly, the Court awards Plaintiff Eight Hundred Seventy-Five Thousand One Hundred Forty-Four and 00/100 (\$875,144.00) dollars in actual damages.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff is entitled to recover actual damages as Defendant DeClemente is in default. Plaintiff is therefore entitled to an award of Eight Hundred Seventy-Five Thousand One Hundred Forty-Four and 00/100 (\$875,144.00) dollars in actual damages against Defendant DeClemente in the name of all his aliases to include Phillip DeClemente, Alec Rocford, and Phillip Goodpastor.

AND IT IS SO ORDERED!



Honorable Debra L. Jefferson
Presiding Judge, Ninth Judicial Circuit

December 20, 2017
Charleston, SC

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. ²⁰¹¹~~2017~~ CP-10-8011

ASSISTIVE TECHNOLOGY MEDICAL
EQUIPMENTS SERVICES, LLC

PHILLIP DECLEMENTE

2017 DEC 21 AM 9:55
FILED
JULIE M. HARRIS
CLERK OF COURT

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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)
Assistive Technology Medical Equipment Services, LLC	Phillip DeClemente	\$875,144.00
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the Court Appeals		

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MAR 14 2018
SC Court of Appeals

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.

