Exhibit D

STATE OF SOUTH CAROLINA COUNTY OF ALLENDALE DOROTHY A. LEHEW, Plaintiff, vs. R & W FOODS, INC. (d/b/a ALLENDALE IGA), DIXIE-RIVERSIDE, INC., and CHAMPION BEVERAGE DISTRIBUTORS, LLC, Defendants.	IN THE COURT OF COMMON PLEAS C/A#: 11-CP-03-051 **ORDER**
STATE OF SOUTH CAROLINA COUNTY OF ALLENDALE ROBERT LEHEW, Plaintiff, vs. R & W FOODS, INC. (d/b/a ALLENDALE IGA), DIXIE-RIVERSIDE, INC., and CHAMPION BEVERAGE DISTRIBUTORS, L.L.C., Defendants.	IN THE COURT OF COMMON PLEAS C/A#: 12-CP-03- 00102 **ORDER**

This matter came before the Court on Defendant R & W Foods, Inc.'s motion to reallocate the settlements entered into between the Plaintiffs and Defendants Dixie-Riverside, Inc. and Champion Beverage Distributors, LLC.

The motion states that it is based upon the fact that at the time of the settlements, there was no pending action for the loss of consortium by Robert Lehew and the sums allocated to Robert Lehew are in excess of the value of his claim. First, the settlement did

not occur until after the consortium claim was filed. Secondly, there is no authority for a court to second guess the decision of settling Defendants to the satisfaction of a claim such as the consortium claim in this case.[1] See e.g, Ward v. Epting, 290 S.C. 547 (S.C. St. App. 1986) (where there was factual evidence of conscious pain and suffering to present a factual question to the jury and thus evidentiary support for the settlement allocation); Welch v. Epstein, 342 S.C. 279 (S.C. Ct. App. 2000) (where court found evidence only allowed for recovery of medical bills in survival claim and thus limited the settlement allocation). In other words, in this case, R & W Foods does not dispute the existence of a consortium claim for Robert Lehew, it simply argues the claim is not worth what was paid for it.

At this point and based on what is before the Court, the Court does not agree. Accordingly, the motion is DENIED.

IT IS SO ORDERED, this _____ day of _____, 2012.

_____
Perry M. Buckner, III
Presiding Judge

[1] Especially in a case such as this where the settling Defendants have created a right of contribution in their settlement and the non-settling Defendant failed to comply with the mandatory mediation rules in this circuit.

Exhibit E

The South Carolina Court of Appeals

Patrice Smart, Respondent,

v.

James Allen Grady, Louis Daniel Moffett, Lynwood Brantley d/b/a Brantley Hauling, Randolph Murdaugh, III, Defendants,

Of Whom James Allen Grady is the Appellant.

Appellate Case No. 2011-197290

ORDER

Appellant has filed a notice of appeal from the trial court's order dismissing Respondent's loss of consortium action against him with prejudice. Respondent has filed a motion to dismiss this appeal, arguing Appellant is not an "aggrieved party" to the order. Appellant filed a return, and Respondent filed a reply.

After careful consideration, Appellant's motion to dismiss is granted. *See* Rule 201, SCACR ("Only a party aggrieved by an order, judgment, sentence or decision may appeal.") Although Appellant alleges he is aggrieved because the trial court's dismissal of the consortium action hinders Appellant's right to set off for any judgment Gary Smart may receive against him, the dismissal of the consortium action does not preclude Appellant from making arguments in favor of set off after trial if any judgment is awarded in Gary Smart's personal injury action.

C.J.
FOR THE COURT

Columbia, South Carolina

FILED
9/28/12