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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

**RECEIVED**  
NOV 27 2019  
**SC Court of Appeals**

Case No. 2018-CP-10-666

Therese Hood.....Appellant  
v:  
United Services Automobile Association.....Respondent

MOTION AND MEMORANDUM FOR LEAVE TO PERMIT TRIAL COURT TO RULE ON  
MOTION TO ALTER/AMEND CERTAIN ORDERS UNDER APPEAL

Appellant moves to permit the Trial Court to hear her Motion to Alter/Amend the Order on Defendant's Motion for Judgment Notwithstanding the Verdict and Other Post-Trial Motions, that she filed pursuant to Rule 59 of the South Carolina Rules of Civil Procedure. That motion was timely filed, this appeal followed.

The procedural history of this case is as follows. Appellant obtained a jury verdict in her favor. Thereafter, Respondent timely moved for JNOV. Appellant alleges that the Trial Court made certain errors during the trial of this action. Some of these errors were relevant to Respondent's JNOV motion and were raised and ruled upon by the Trial Court as part of Appellant's opposition to JNOV. However, some of these errors were not relevant to Respondent's JNOV motion. Because Appellant had prevailed in the underlying action, Plaintiff had no need to address these errors through her own post-trial motions.

On November 1, 2019, the Trial Court issued an order granting Respondent's motion for JNOV and dismissing the case. This change in the case made Appellant's allegations of error during the trial relevant again, where before they had been moot given the verdict in Appellant's favor.

It is well settled that the filing of post-trial motions by one party tolls the time for filing of an appeal by all parties. See Rule 203(b)(1), SCACR; Rules 50(e), 52(c), and 59(f), SCRCP. However, the law is less clear on when a subsequent Rule 59 motion tolls the time for appeal

after a first Rule 59 motion is resolved by written order.

In this matter, Appellant timely filed a Rule 59 motion asking the Trial Court to reconsider its order granting JNOV based upon the additional grounds of errors during trial that were not relevant (at the time) to Respondent's initial JNOV motion.

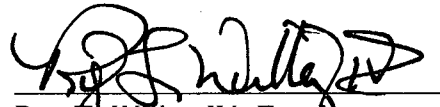
Appellant believes the Trial Court should be permitted the opportunity to pass on these issues and entertain Appellant's Rule 59 motion. However, out of an abundance of caution, Appellant timely filed this appeal to prevent any argument that Appellant's subsequent Rule 59 motion did not serve to stay the time for filing the appeal.

Appellant did not want to waive any of her potential arguments on appeal to the extent they occurred at the outset of and during the trial and were oral rulings, that did not "aggrieve" her as contemplated in Rule 201 of the South Carolina Appellate Court Rules, until such time as the Defendant's Motion for Judgment Notwithstanding the Jury's Verdict was entered. Specifically, these rulings involved damages, causes of action, and evidentiary rulings that were the subject of post-trial motions or that did not aggrieve Appellant under the jury's verdict in her favor.

However, once the Court set that jury verdict aside she was aggrieved based upon the reasoning of the Trial Court in its Order granting Judgment Notwithstanding Verdict, and the case law is not clear on whether the same serves to toll the time she has to appeal those rulings that occurred during trial, or whether it should be done within the time frames set forth in the SCACR.

As a result, Appellant filed the appeal and now seeks that this Court permit the Trial Court to rule on the previously filed motion made pursuant to Rule 59 on the post-trial motions.

November 25, 2019



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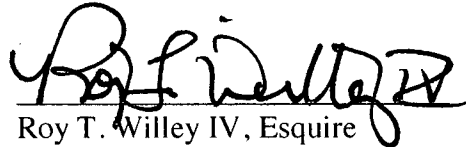
v.

United Services Automobile Association.....Respondent

PROOF OF SERVICE

I certify that I have served the Motion and Memorandum for Leave to Permit Trial Court to Rule on Motion to Alter/Amend Certain Orders Under Appeal on United Services Automobile Association by depositing a copy of it in the United States Mail, postage prepaid, on November 18, 2019, addressed to Respondent's attorney of record, Robert W. Whelan, 151 Meeting Street, Ste. 600, Charleston, SC 29401 and PO Box 1806 Charleston, SC 29402.

November 25, 2019



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Attorney for Appellant

Counsel of Record for Respondent:

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November 25, 2019

Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

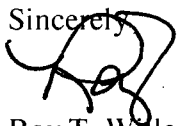
RE: *Therese Hood v. United Services Automobile Association*  
Case No.: 2018-CP-10-666

Dear Ms. Abbot Kitchings:

Enclosed for filing is Appellant's Motion and Memorandum for Leave to Permit Trial Court to Rule on Motion to Alter / Amend Certain Orders Under Appeal in the above case. Also enclosed are the following:

1. Proof of Service of the Motion and Memorandum on Respondent (original and seven copies);
2. A filing fee of \$50.00;
3. An Amended Proof of Service for the Notice of Appeal (a prior version was inadvertently sent);
4. A copy of our letter and check forwarding the fee requested by the Court Reporter for the transcript, which is also being sent to the Office of Court Administration.

We would appreciate it if you would file the original Motion and Proof of Service, and return one stamped copy in the enclosed envelope.

Sincerely,  


Roy T. Willey IV

Cc: Robert W. Whelan

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SC Court of Appeals

\*OF COUNSEL

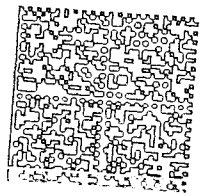
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**Columbia:** 1201 Main Street, Suite 1100, Columbia, South Carolina 29201 \* **Raleigh, NC:** 8801 Fast Park Drive, Suite 301, Raleigh, NC 27617

**Wilmington, NC:** Appointment Only



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**ANASTOPOULO**

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Charleston, SC 29403

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