

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2018-CP-04-01127

Lisa Styles
PLAINTIFF(S)

Southeastern Grocers, LLC and BI-LO, LLC
DEFENDANT(S)

Submitted by: Judge Sprouse

Attorney for : Plaintiff Defendant
or
 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: See statement of judgment below.

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk :

RECEIVED

May 26 2020

SC Court of Appeals

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)
		\$
		\$
		\$

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.

Circuit Court Judge _____ Judge Code 2752 Date 04/22/2020

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

This matter is before the Court pursuant to post trial motions filed by the parties. This case was tried by jury during the week of March 9, 2020 in Anderson County, resulting in a verdict for the Plaintiff in the amount of \$100,000 in actual damages and \$10,000 in punitive damages. The Court gave the parties ten (10) days in which to make post trial motions and make arguments regarding the Court's review of the punitive damages award in light of the applicable statutory law and case law.

After careful consideration of the materials filed along with the evidence and arguments presented during the trial, the Court denies the Plaintiff's Motions to Alter or Amend and/or New Trial regarding the malicious prosecution cause of action. The Court granted the Defendants' Motion for a Directed Verdict as to that cause of action after the conclusion of the evidence. The Court further considered the Defendants' motions. The Defendants moved for a Judgment Notwithstanding the Verdict (JNOV), a New Trial Absolute based on the Defendants' allegation that improper evidence was admitted, for the verdict to be set aside under the Thirteenth Juror Doctrine, and a New Trial Absolute or Nisi Remittitur based on the Defendant's allegation that the verdict was excessive.

The Court finds that there was not sufficient evidence presented to support a cause of action for malicious prosecution. Accordingly, the Plaintiff's Motion to Alter or Amend and/or New Trial on that cause of action is denied.

The Court finds that, in viewing the evidence regarding the cause of actions submitted to the jury in a light most favorable to the Plaintiff, there was evidence to support the Plaintiff's other causes of actions. Accordingly, the Defendants' motion for JNOV is denied. The Court finds that there is evidence that could justify the verdict. Accordingly, the Defendants' Motion for a New Trial under the Thirteenth Juror Doctrine is denied. In considering the Defendant's

Motion for New Trial-Nisi Remittitur and the Motion for New Trial Absolute, the Court finds that the amount of actual damages awarded by the jury in this case is not the result of passion, caprice or prejudice. Accordingly, the Defendants' motions are denied.

In reviewing the punitive damages awarded in this case, the Court is required to review the factors of the statutory law (SC Code § 15-32-520) and the Fortis factors along with the Gamble factors. First, the court looks to subsections (E) and (F). Subsection (E) sets forth eleven factors: (1) the defendant's degree of culpability; (2) the severity of the harm caused by the defendant; (3) the extent to which the plaintiff's own conduct contributed to the harm;(4) the duration of the conduct, the defendant's awareness, and any concealment by the defendant; (5) the existence of similar past conduct; (6) the profitability of the conduct to the defendant; (7) the defendant's ability to pay; (8) the likelihood the award will deter the defendant or others from like conduct; (9) the awards of punitive damages against the defendant in any state or federal court action alleging harm from the same act or course of conduct complained of by the plaintiff; (10) any criminal penalties imposed on the defendant as a result of the same act or course of conduct complained of by the plaintiff; and (11) the amount of any civil fines assessed against the defendant as a result of the same act or course of conduct complained of by the plaintiff.

Subsection (F) reads: "If punitive damages are awarded, the trial court shall review the jury's decision, considering all relevant evidence, including the factors identified in subsection (E), to ensure that the award is not excessive or the result of passion or prejudice."

The Court then looks to the Fortis and Gamble factors. Under *Gamble*, the court must consider (1) the defendant's degree of culpability; (2) the duration of the conduct; (3) the defendant's awareness or concealment; (4) the existence of similar past conduct; (5) the likelihood the award will deter the defendant or others from like conduct; (6) whether the award is reasonably related to the harm likely to result from such conduct; (7) the defendant's ability to pay; and (8) any other factors deemed appropriate. *Gamble v. Stevenson*, 305 S.C. 104, 406 S.E.2d 350 (1991)

As to *Fortis*, three added factors are included: (1) Reprehensibility: a court should consider whether: (i) the harm caused was physical as opposed to economic; (ii) the tortious conduct evinced an indifference to or a reckless disregard for the health or safety of others; (iii) the target of the conduct had financial vulnerability; (iv) the conduct involved repeated actions or was an isolated incident; and (v) the harm was the result of intentional malice, trickery, or deceit, rather than mere accident. (2) Ratio: the court should consider the disparity between the actual or potential harm suffered by the plaintiff and the amount of the punitive damages award. (3) Comparative Penalty Awards: the court should consider the difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases. *Mitchell, Jr. v. Fortis Ins. Co.*, 385 S.C. 570, 587–89, 686 S.E.2d 176, 185–86 (2009)

In applying these factors, the Court does not find the award of punitive damages unreasonable. The Court notes that, while a strict ratio has not been set under South Carolina law, the award in this case is one-tenth of the amount of the actual damages. The Court denies the Defense motion to set aside the award of punitive damages.

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Anderson Common Pleas

Case Caption: Lisa Styles VS Michael Craig Brickman , defendant, et al
Case Number: 2018CP0401127
Type: Order/Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Electronically signed on 2020-04-22 16:09:43 page 7 of 7