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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

The Honorable James B. Jackson, Jr., Master-in-Equity

Case No. 2020-001254

Kacey Green and Charinrath Green,..... Appellants-Respondents,

v.

Mervin Lee Johnson,.....Respondent-Appellant.

MOTION TO DISMISS

Respondent-Appellant Mervin Lee Johnson (“Johnson”) moves before this Court for an Order dismissing Appellants-Respondents Kacey Green and Charinrath Green’s (“the Greens”) Notice of Appeal served and filed on September 14, 2020. The Greens’ Notice of Appeal was served after they timely filed with the trial court on August 24, 2020 their Motion for Reconsideration of Amended Final Order. That motion challenged the same order on which the Greens base their deficient Notice of Appeal. Because the Greens’ Rule 59(e) motion stayed the deadline for appeals, their Notice of Appeal was untimely. This Court lacks subject matter jurisdiction over the Greens’ appeal, which should therefore be dismissed.

Absent an order dismissing the Greens’ Notice of Appeal, Respondent-Appellant (“Johnson”) faces the potential that his Notice of Cross-Appeal, which was served after notice

from the trial court that it no longer had jurisdiction over this action, will be deemed untimely and his right to appeal forever waived. After this Court granted Johnson's Motion to Hold Appeals in Abeyance, the trial court denied the Greens' Rule 59(e) motion.¹ The Greens did not file a motion challenging the Master's order. Now that the Greens' Rule 59(e) motion is resolved, the parties' challenges to the trial court's orders are ripe for appeal. Dismissing the Greens' untimely appeal will cure these jurisdictional defects and resolve the uncertainty resulting from the Greens' inconsistent filings.

PROCEDURAL POSTURE

The Greens filed their personal injury lawsuit in Orangeburg County on January 11, 2019. They moved for an order of default on or about March 8, 2019.

A damages hearing was held May 22, 2019. [The Master's] order of damages was filed June 5, 2019. On or about June 17, 2019, Defendant appeared, through counsel, by filing a *Notice of Motion and Motion to Dismiss, or in the Alternative, to Set Aside Entry of Default and Order of Damages and Allow Defendant to Responsively Plead* ("Motion to Dismiss"). ... [the Master] held a hearing on Defendant's Motion to Dismiss on October 21, 2019. ... On November 4, 2019, [the Master] entered [a Form 4] order denying Defendant's motion. Defendant filed his Motion to Alter or Amend on November 14, 2019. [The Master] held its hearing on Defendant's Motion to Alter or Amend on July 13, 2020.

Exhibit A, Amended Order, dated August 14, 2020 (emphasis supplied). At that hearing, The Master granted Johnson's motion in part and amended the damages awarded in the June 5, 2019 order.² On August 24, 2020, the Greens timely filed a Rule 59(e) motion challenging the amended

¹ This Court granted on February 4, 2021 Johnson's Motion to Hold Appeals in Abeyance and remanded this action back to the Master for resolution of the Greens' Rule 59 motion. The Court amended this order on March 4, 2021 to clarify that the appeal and cross-appeal would both be held in abeyance pending the Master-in-Equity's consideration of the pending motion.

² As the Amended Order on Damages notes, the Greens evidenced medical expenses totaling \$12,826.00. The court's June 5, 2019 damages order awarded personal injury damages of \$1,000,000.00, property damages of \$10,000.00, and punitive damages of \$750,000.00. The August 24, 2020 order awarded \$190,000.00 in personal injury damages and \$60,000.00 in

order. Notwithstanding the stay of the deadline to appeal imposed by their motion, the Greens served a document purporting to be a Notice of Appeal on September 14, 2020 without withdrawing their Rule 59 motion.

After this Court granted Johnson’s Motion to Hold Appeals in Abeyance, the parties sought a hearing date before the trial court. On March 8, 2021, Master-in-Equity James B. Jackson denied the Greens’ Rule 59 motion.³ Exhibit B, Form 4 Order. An appeal from the underlying action served prior to the Master’s order was untimely.

ARGUMENT

A. The Court Lacks Subject Matter Jurisdiction Over the Greens’ Untimely Notice of Appeal.

On August 24, 2020, the Greens timely filed a Rule 59(e) Motion for Reconsideration of Amended Final Order. Exhibit C. This motion stayed the time to appeal until “receipt of written notice of entry of the order granting or denying such motion.” SCRCP, Rule 59(f). According to their return to Johnson’s Motion to Hold Appeals in Abeyance, the Greens did this “out of an abundance of caution to timely and fully preserve their rights.”⁴ Return to Motion to Hold Appeals in Abeyance, at pg. 1. Notwithstanding the stay of the deadline to appeal imposed by their motion, the Greens served a document purporting to be a Notice of Appeal on September 14, 2020. The Greens did not, however, withdraw their Rule 59(e) motion. Thus, their Notice of Appeal served

punitive damages. Ex. A. The order recognized that Greens settled their property damage claims with Johnson’s insurer prior to filing suit. *Id.*

³ Within ten-days of the Master’s order, Johnson served the Greens with his Notice of Appeal. Johnson timely filed his Notice of Appeal with this Court on April 16, 2021.

⁴ In the same filing, the Greens argue that “[a]ll issues were addressed by the lower court the previous two times it considered the original damages order.” Return to Motion to Hold Appeals in Abeyance, at pg. 1.

on September 14th was premature and this Court lacks subject matter jurisdiction over the issues raised by the Greens.

Because this Court lacks subject matter jurisdiction, the Greens’ appeal must be dismissed. “Rule 203(b), SCACR, requires a party to serve his notice of appeal within thirty days after receiving written notice of the entry of a final order or judgment, and failure to do so divests this court of subject matter jurisdiction and results in dismissal of the appeal.” *Canal Ins. Co. v. Caldwell*, 338 S.C. 1, 4, 524 S.E.2d 416, 418 (Ct. App.1999). Furthermore, the supreme court held in *Hudson v. Hudson*, that when a timely post-trial motion is pending before the lower court, any notice of appeal will be dismissed without prejudice as premature. 290 S.C. 215, 216, 349 S.E.2d 341, 342 (1986).

The supreme court has unequivocally stated that an appeal noticed after a timely Rule 59(e) motion should be dismissed without prejudice to allow the trial court to consider the issues raised in such a motion.

IT IS ORDERED that in the event timely post-trial motions are filed under Rule 59, simultaneously with or subsequent to the filing of a Notice of Appeal, the appellant shall notify the Clerk of this Court in writing.⁵ Upon receipt of such notice, the appeal shall be dismissed without prejudice. **Any party can appeal within ten (10) days after the order disposing of the post-trial motions.**⁶

Hudson, 290 S.C. at 216, 349 S.E.2d at 341–42 (emphasis supplied). The purpose of the rule is so that “all ancillary matters can be timely heard, and appealed, if necessary, in an efficient and

⁵ Johnson’s filed Notice of Cross-Appeal notified the Court of the unresolved Rule 59(e) motion and described the procedural defects of the Greens’ Notice of Appeal. *See* Notice of Cross-Appeal, filed October 5, 2020. The Clerk of Court did not thereafter dismiss the Greens’ appeal with prejudice.

⁶ Johnson served on April 7, 2021 a Notice of Appeal from the Master’s March 8th order dismissing the Greens’ Rule 59(e) motion. On April 16th, Johnson timely filed with this Court his Notice of Appeal, together with a copy of the orders appealed from, proof of service, and filing fee.

wholesale manner.” *Holmes v. East Cooper Community Hosp., Inc.*, 408 S.C. 138, 162, 758 S.E.2d 483, 496 (2014) (citing *Hudson*, 290 S.C. at 216, 349 S.E.2d at 341–42)). Therefore, the Greens’ Notice of Appeal should be dismissed.

B. Unless the Greens’ Notice of Appeal is Dismissed, Johnson Will be Prejudiced by His Reliance on the Stay of Appeal Deadline Resulting from the Greens’ Rule 59(e) Motion.

If the Greens’ Rule 59(e) motion was ineffective to stay the deadline to serve and file notices of appeal from the Master’s Amended Order, then this Court may find that Johnson’s appeal is untimely and not within this Court’s jurisdiction. Fundamental fairness requires that Johnson not be penalized for the Greens’ failure to respect the stay imposed by their timely Rule 59(e) motion.

“A notice of appeal **shall** be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment.” Rule 203(b)(1), SCACR. “The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.” *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 14–15, 602 S.E.2d 772, 775 (2004) (quoting *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985)).

Even if the Greens’ have not challenged the timeliness of Johnson’s cross-appeal, the timeliness of an appeal is a jurisdictional requirement that this Court may raise *sua sponte*. *Elam*, 602 S.E.2d at 778, 361 S.C. at 21 (citing favorably this Court’s dismissal of the defendant’s appeal in *Matthews v. Richland County School Dist. One*, 357 S.C. 594, 594 S.E.2d 17 (Ct. App. 2004)). See also, *Ness v. Eckerd Corp.*, 350 S.C. 399, 402, 566 S.E.2d 193, 195 (Ct. App. 2002) (finding that the appellate court is obligated to evaluate subject matter jurisdiction on its own motion).

In reliance on the stay on the appeal deadline imposed by that Rule 59 motion, Johnson did not serve a Notice of Appeal. Because the Greens' Rule 59(e) motion challenged issues not previously raised by the Parties, the motion did not violate the "single bite at the apple" rule. Johnson had no cause to believe that he was then subject to Rule 203(b)(1)'s 30-day time limit. Nor could Johnson predict that the Greens would simultaneously move "to convince the lower court it has ruled wrongly" and ask the appellate court to reverse the Master's amended order. *I'on, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000).

Faced with the prospect that this Court would fail to dismiss the Greens' notice of appeal, Johnson sought the trial court's guidance on the status of the outstanding Rule 59(e) motion. Exhibit D, Email to Chambers, dated September 18, 2020. The Master erroneously informed Johnson that the trial court no longer had jurisdiction to consider the motion. *Id.* Having relied on the stay imposed by that motion Johnson found himself "between the proverbial rock and a hard place" predicted in *Elam*, 361 S.C. at 25, 602 S.E.2d at 781. Therefore, Johnson on September 25, 2020 served his Notice of Cross-Appeal based on the date of the Master's correspondence. See *Wells Fargo Bank, N.A. v. Fallon Properties South Carolina, LLC*, 422 S.C. 211, 219, 810 S.E.2d 856, 860 (2018) (holding that "an email sent from the court, an attorney of record, or a party that provides written notice of entry of an order or judgment triggers the time for serving a notice of appeal for purposes of Rule 203(b)(1), SCACR").

The Greens' procedurally defective Rule 59(e) motion and untimely Notice of Appeal threaten Johnson's right to appeal the Master's failure to set aside default judgment and allow the Parties to litigate these claims on the merits. This prejudice can only be cured by an order dismissing the Greens' Notice of Appeal.

C. The Parties' Deadline to Serve Notices of Appeal was Stayed by Greens' Timely Rule 59(e) Motion, Which was Necessary to Preserve Issues for Appellate Review and Was Not Successive

The Greens cannot demonstrate that their Notice of Appeal filed on September 14, 2020 was timely. As the losing parties to the trial court's Amended Order, the Greens appropriately moved to reconsider. In that motion, the Greens contested the trial court's findings and conclusions regarding their property damages claims.⁷ They argued as follows.

[The Greens] contend that a factual finding that all property damage claims were released by [them] is inappropriate as no proper evidence has been presented to suggest the same.

[The Greens] contend that findings of a meritorious defense as to damages only is an inappropriate reading of the factors elaborated in *Wham v. Shearson Lehman, Bros, Inc.*, 298 S.C. 462, 465, 381 S.E. 2d 499, 501-02 (Ct. App. 1989); see also *McClurg v. Deaton*, 380 S.C. 563, 671 S.E.2d 87 (Ct. App. 2008).

...

[The Greens] contend that the property damage claims were not released in full. Specifically, diminished value of the nearly new vehicle as well as loss of use of the vehicle constituted appropriate claims for property damage.

Exhibit C, Greens' Rule 59(e) Motion, at ¶¶ 9, 10, & 14.

In support of their Rule 59(e) motion, the Greens submitted an affidavit containing evidence offered to the court for the first time. Mrs. Green states that she never signed a release for her claims⁸ for loss of use or diminution in the value of her Tesla. *Id.*, at ¶ 2. Thus, the Greens' assertion that "[a]ll issues were addressed by the lower court the previous two times it considered the original damages order" is meritless. Return to Motion to Hold Appeals in Abeyance, at pg. 1. Their motion to reconsider was mandatory and once filed, the motion stayed the parties' deadline to serve and file notices of appeal.

⁷ The trial court's property damages award was not the only unresolved issue necessitating the Greens' motion to reconsider. The Greens' motion contains 16 separate contentions with the amended order. Exhibit C, Greens' Rule 59(e) Motion.

⁸ As discussed above, these claims were not alleged in the Greens' complaint.

The Greens' Rule 59(e) motion was not a duplicative or successive procedure. In *Coward Hund Const. Co., Inc. v. Ball Corp.*, this Court considered "whether [the defendant's] second Rule 59 motion stayed the time for filing its notice of appeal." 336 S.C. 1, 3, 518 S.E.2d 56, 58 (Ct. App. 1999). Under the facts of that case, the Court concluded that the appeal deadline expired 30-days after the denial of the *first* Rule 59 motion. The *Coward* opinion shows that the appropriateness of a Rule 59 motion is determined by the substance of the moving party's challenge. As is true in the instant action, the parties may be required to submit multiple Rule 59 motions to ensure their issues are preserved for appeal.

[A] second motion for reconsideration is appropriate only if it challenges something that was altered from the original judgment as a result of the initial motion for reconsideration. In such a case, a new judgment has replaced the previous judgment and the party aggrieved by the alteration may move for reconsideration.

Coward, 336 S.C. at 3, 518 S.E.2d at 58. The court's amended damages order significantly reduced the amount of the Greens' damages award and eliminated their property damages claim. Therefore, according to *Coward*, their Rule 59(e) motion was timely and appropriate. Because they were the losing party in the court's ruling on Johnson's Rule 59(e) motion, the Greens' subsequent motion was not merely successive and their notice of appeal deprived the court from its opportunity to "rule properly after it has considered all relevant facts, law, and arguments." *Home Medical Systems, Inc. v. South Carolina Dept. of Revenue*, 382 S.C. 556, 562, 677 S.E.2d 582, 586 (2009) (considering the effect of a Rule 59(e) motion in administrative proceedings).

In *Elam v. South Carolina Dep't of Transp.* the Supreme Court held that a "party must file [a Rule 59(e), SCRCPP] motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review." 361 S.C. at 24, 602 S.E.2d at 780. The importance, and fairness, of allowing the trial court to resolve the parties' issues is well-established.

Although a Rule 59(e) motion may effectively seek a reconsideration of issues and arguments, this type of motion is often required for issue preservation purposes. . . . We explained in *Elam* that “there is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument.” *Id.* at 22, 602 S.E.2d at 779. Indeed, “it is inherently unfair to disallow such an opportunity.” *Id.*

...

In *I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000), we discussed the policy underlying this rule:

If the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review. Imposing this preservation requirement on the appellant is meant to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments. (Emphasis added, citations omitted).

... Rule 59(e) motions serve a vital purpose for proper issue preservation.

Home Medical Systems, Inc., 382 S.C. at 562, 677 S.E.2d at 586 (considering the effect of a Rule 59(e) motion in administrative proceedings).

Finally, the Greens’ timely August 24, 2020 motion, did not recapitulate a previously denied argument. See *Fields v. Regional Medical Center Orangeburg*, 363 S.C. 19, 28–29, 609 S.E.2d 506, 510–11 (2005). The Greens’ Rule 59(e) motion challenged their losses in the amended damages order and was necessary to preserve those issues for appellate review. Therefore, the motion stayed the deadline to serve notices of appeal until the Master’s order of March 8, 2021. The Greens’ September 14, 2020 Notice of Appeal was premature. Therefore, the Court should grant this motion and dismiss the Greens’ Notice of Appeal.

CONCLUSION

Respondent-Appellant Johnson respectfully requests that the Court grant his Motion to Dismiss the Greens’ Notice of Appeal. The trial court has now issued its order dismissing the Greens’ timely Rule 59(e) motion. The Court’s jurisdiction over appeals timely served and filed

subsequent to that final order is doubtless. Failing to dismiss the Greens' untimely appeal will perpetuate uncertainty regarding the effect of motions to reconsider and impose on Johnson significant, and avoidable, prejudice. For these reasons, the Court should grant Johnson's motion and dismiss Appellants-Respondents' Notice of Appeal.

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May 7, 2021

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

The Honorable James B. Jackson, Jr., Master-in-Equity

Case No. 2020-001254

Exhibit A

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)
)
Kacey Green and Charinrath Green,)
)
Plaintiffs,)
versus)
)
Mervin Lee Johnson,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS

C/A No. 2019-CP-38-00053

AMENDED ORDER

THIS MATTER CAME BEFORE THIS COURT on July 13, 2020, as to Defendant's Motion to Alter or Amend filed on November 14, 2019, pertaining to this Court's order entered on November 4, 2019, denying Defendant's Motion to Dismiss, or in the Alternative, to Set Aside Entry of Default and Order of Damages and Allow Defendant to Responsively Plead ("Motion to Dismiss"). Present at the hearing were: Todd R. Flippin of Holcombe Bomar P.A. for the Defendant, Virginia W. Williams for the Plaintiffs, and E. Mason West for the Plaintiffs (appearing remotely).

The procedural history of this action is summarized as follows. Plaintiff filed this lawsuit on or about January 11, 2019, alleging negligence, recklessness, carelessness, willfulness, wantonness, and gross negligence. Plaintiffs served Helen Johnson by personal service at 348 High Street, Orangeburg, SC 29115, Defendant Mervin Lee Johnson's address of record, on January 26, 2019. The Court concluded that Defendant Johnson was properly served with the summons and complaint. Nevertheless, Defendant did not timely answer or make an appearance in this matter. An order of default was entered on or about March 8, 2019. Defendant was properly notified of this hearing but did not appear.

A damages hearing was held May 22, 2019. This court's order of damages was filed June 5, 2019. On or about June 17, 2019, Defendant appeared, through counsel, by filing a Notice of Motion and Motion to Dismiss, or in the Alternative, to Set Aside Entry of Default and Order of Damages and Allow Defendant to Responsively Plead ("Motion to Dismiss"). On October 17, 2019, Defendant filed two affidavits, one from insurance adjuster and one from a trucking company representative. This Court held a hearing on Defendant's Motion to Dismiss on October 21, 2019. Present at the hearing were A. Walker Barnes for the Defendant, and David R. Williams and E. Mason West for Plaintiffs. On November 4, 2019, this Court entered an order denying Defendant's motion and found the damages order remained in effect. Defendant then filed his Motion to Alter or Amend on November 14, 2019. The Court held its hearing on Defendant's Motion to Alter or Amend on July 13, 2020.

At that hearing, the Court denied the motion insofar as Defendant's liability was concerned but granted the motion on the issue of the amount of damages awarded in the June 5, 2019 damages order. Plaintiffs requested leave of Court to brief the issue of the timeliness of Defendant's Motion to Alter or Amend. Plaintiffs thereafter submitted a proposed order denying Defendant's motion as to both liability and damages. Because the Court finds Plaintiffs' arguments on the timing of Defendant's motion unavailing, its rulings from the bench stand. Therefore, the Court's June 5th damages order is withdrawn. The Court's amended findings of fact and conclusions of law are as follows.

I. Amended Findings of Fact

1. On or about February 28, 2018, Plaintiff Kacey Green was a driver of a vehicle traveling westbound on Interstate 26, near or around exit 209, State of South Carolina, County of Charleston. Plaintiff Charinrath Green was riding as a passenger in same vehicle.

Defendant Johnson was an operator of a 2005 tractor-trailer truck, traveling westbound on Interstate 26, positioned to the rear of the Plaintiffs, when Defendant Johnson violently collided with Plaintiffs, striking Plaintiffs' vehicle with multiple impacts, resulting in injuries and damages to Plaintiffs.

2. Defendant Johnson was an independent contractor for CDS Transport, Inc., which is insured by Claims Direct Access ("CDA").
3. Plaintiffs' counsel provided Defendant's insurer, CDA, with notice of representation on March 13, 2018.
4. A representative of Defendant's insurer, Nikole Shields, responded to that notice on March 27th seeking additional information for the insurer to investigate Plaintiffs' claims.
5. In the course of their correspondence, Plaintiffs' counsel provided Ms. Shields with medical records and bills. The two spoke by phone and communicated by email on multiple occasions. Plaintiffs' counsel provided a video recording of the accident. Defendant's insurer made an initial offer of settlement, which Plaintiffs rejected. Plaintiff's counsel indicated his intention to recommend the settlement sum of \$192,390 to his clients.
6. Plaintiffs' property damage claims were settled through a subrogation claim against Plaintiffs' insurer, USAA. Defendant's insurer satisfied this claim by paying Plaintiffs' insurer with a check releasing any and all property damage claims arising on or about February 28, 2018. USAA's subrogation demand indicated damages to Plaintiffs' 2016 Tesla totaling \$1,737.46.
7. Plaintiff filed this lawsuit on or about January 11, 2019, alleging negligence, recklessness, carelessness, willfulness, wantonness, and gross negligence. The complaint does not allege property damage claims.

8. Defendant Mervin Lee Johnson was served this lawsuit by personal service upon Helen Johnson, pursuant to S.C. Code Ann. Section 15-9-350, at 348 High Street, Orangeburg, SC 29115, on January 26, 2019, as more fully evidenced in affidavit of personal service filed with this court. The Court finds Defendant was properly served with the summons and complaint
9. Defendant did not timely file an answer or make an appearance in this matter.
10. An order of default was entered on or about March 8, 2019.
11. Defendant was properly notified of this Court's May 22, 2019 damages hearing.
12. At the damages hearing, this Court found as follows:
 - a) Defendant was negligent:
 - i. In failing to maintain a proper lookout;
 - ii. In traveling too fast for conditions;
 - iii. In failing to take evasive action to avoid colliding with Plaintiffs;
 - iv. In operating his vehicle in disregard for the safety of others on the highway, including Plaintiffs;
 - v. In failing to keep proper control of his vehicle;
 - vi. In failing to yield the right-of-way to Plaintiffs;
 - vii. In failing to exercise the degree of care that a reasonably prudent person would have exercised under the same or similar circumstances.
 - b) Defendant's conduct was in violation of, but not limited to, S.C. Code Ann. §§56-5-580, 56-5-1520, 56-5-1930.
 - c) Defendant's negligent conduct was the direct and proximate cause of Plaintiffs' injuries and damages, to include but not limited to:
 - i. personal injuries;
 - ii. great pain and suffering, past, present and future;
 - iii. medical expenses, past, present and future;
 - iv. shock, embarrassment and mental distress, past, present and future;
 - v. mental anguish;
 - vi. permanent physical injuries;
 - vii. loss of enjoyment of life; and,
 - viii. all corresponding damages.

- d) The allegations contained in Plaintiffs' Complaint are sufficient to justify a damages award.
- e) Plaintiffs incurred significant medical expenses as a result of this accident, including:

Plaintiff Kacey D. Green (44-year life expectancy)	\$5,970.00
Roper ER – Northwoods	\$857.00
Roper Physicians	\$214.00
Charleston Pain & Rehabilitation	\$4615.00
Pharmacy	\$284.00

Plaintiff Charinrath Green (52-year life expectancy)	\$6,856.00
Roper Hospital ER – Northwoods	\$857.00
Roper Physicians -	\$214.00
Charleston Pain & Rehabilitation	\$3131.00
South Eastern medical – MRI	\$2250.00
Pharmacy	\$404.00

TOTAL: \$12,826.00

The testimony presented conclusively finds that these expenses were not only reasonable and necessary, but that they were all the result of Plaintiffs' injuries suffered as a result of the car accident on February 28, 2018.

- f) The medical records and testimony presented substantial evidence of pain and suffering beginning on the date of the collision to the present.
- g) The medical records and testimony presented substantial evidence of the need for future medical treatment.
- h) The medical records and testimony presented substantial evidence of emotional and mental anguish, anxiety, and loss of enjoyment of life from the date of the collision to the present and into the future.
- i) The testimony also conclusively finds that Defendant was negligent in his conduct.

13. In Defendant's supplemental filing in support of his motion to alter or amend this Court's denial of his motion to dismiss, Defendant presented evidence in the form of a video recording of the subject collision. This video was received from Plaintiffs' counsel by Defendant's affiant, Nikole Shields, and previously included in Defendant's Motion to

Dismiss. The video, which the Court has reviewed, shows a relatively minor rear-end collision. The Court did review this same video at the original damages hearing.

14. Defendant's supplemental filing also included a photograph purporting to show the rear of Plaintiffs' vehicle after the collision.

II. Amended Conclusions of Law

1. "[B]y suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff's allegations and to have conceded liability.' *Austin v. Specialty Transp. Servs. Inc.*, 358 S.C. 298, 319 (Ct. App. 2004) (quoting *Roche v. Young Bros. Inc.*, 332 S.C. 75, 81 (1998)). Therefore, inasmuch as the Defendant in this action is in default, the factual allegations of the Complaint relating to his liability are taken as true. Additionally, it appears to this Court by a preponderance of the evidence, the Defendant's negligence caused injuries and damages to Plaintiff.
2. A motion to alter or amend the judgment under Rule 59(e) must be "served not later than 10 days after receipt of written notice of the entry of the order." SCRCF Rule 59(e). Defendant's Rule 59(e) motion was timely filed on November 14, 2019, which is within 10-days of this Court's November 4, 2019 order denying Defendant's motion to dismiss. The Defendant's Motion of June 17, 2019 included a request to Set Aside Entry of Default and Order of Damages. This Court's Order of November 14, 2019 upheld the previous Order issued as to liability but did not address damages as it should have. Therefore, the Defendant's Motion to Alter or Amend is appropriate for the Court to reconsider the amount of damages previously awarded.
3. Defendant's motion to alter or amend argued that the default judgment should be set aside pursuant to Rules 6(b), 55(c), and 60(b), SCRCF. The motion further sought

reconsideration of Defendant's motion to dismiss citing Rules 12 and 56, SCRCPP alleging improper service of process and arguing that the damages awarded were disproportionate to the medical damages exhibited before the Court.

4. If, as is the case here, when "a judgment by default has been entered, [it] may likewise [be] set aside in accordance with Rule 60(b)." Rule 55, SCRCPP. Rule 60(b) allows relief from a final judgment or order for five reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud, misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application. Rule 60(b), SCRCPP.
5. In *McClurg v. Deaton*, 380 S.C. 563, 573, 671 S.E.2d 87, 92–93 (Ct. App. 2008), the Court of Appeals held that plaintiff's attorney's contacts with the defendant's insurer, and subsequent failure to notify the insurer of the lawsuit, may amount to misrepresentation and misconduct, which justify relief from "a final judgment [or] order" under Rule 60(b)(3). The Court does not conclude that Plaintiffs' counsel engaged in any intentional misconduct. However, much like the court in *McClurg*, the Court's findings of fact "at least, support[s] relief based on mistake, inadvertence, surprise or excusable neglect." 380 S.C. at 573, 671 S.E.2d at 92–93. Therefore, the Court grants, in part, Defendant's motion.
6. The trial judge has discretion to grant a motion to set aside default when the order "was controlled by some error of law or when the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support." *Sundown Operating Co v. Intedger*

Indus., 383 S.C. 601, 606, 681, S.E.2d 885, 888 (2009). “[A] party seeking relief from an entry of default [must] provide an explanation for the default and give reasons why vacation of the default entry would serve the interests of justice.” *Id.* If there is a satisfactory explanation for default, the court then considers “(1) the timing of the motion for relief; (2) whether the defendant has a meritorious defense; and (3) the degree of prejudice to the plaintiff if relief is granted.” *Id.* (citing *Wham v. Shearson Lehman Bros., Inc.*, 298 S.C. 462, 465, 381 S.E.2d 499, 501-02 (Ct. App. 1989)).

7. The Court finds that Defendant’s appearance in this action on June 17, 2019, within 10-days of learning of the default judgment on June 7, 2019, was adequate to satisfy the first *Wham* factor. See *Sundown Operating Co.*, 383 S.C. at 607, 681 S.E.2d at 888 (providing that “[o]nce a party has put forth a satisfactory explanation for the default, the trial court must also consider” the *Wham* factors).
8. As to the second *Wham* factor, the Court finds as a matter of law that Defendant has not evidenced a meritorious defense as to his liability for causing the February 28, 2018 accident. However, the Court amends its July 5, 2019 order finding a meritorious defense to the damages award.
9. To the extent Plaintiffs challenge Defendant’s proffer of the affidavits of Defendant’s insurer’s agents, the Court finds this evidence meets Defendant’s burden in its motion to alter or amend. The *McClurg* court relied on *Edwards v. Ferguson*, to determine that a Rule 60(b) motion is properly made by an insurer in circumstances such as those present in this case. *McClurg*, 380 S.C. at 571–72, 671 S.E.2d at 92 (citing *Edwards v. Ferguson*, 254 S.C. 278, 175 S.E.2d 224 (1970)). Further, in *Williams v. Carpenter*, the court found that an affidavit from the defendant’s counsel indicating the existence of a meritorious defense

“constituted a *prima facie* showing of a meritorious defense to the plaintiff’s action. 273 S.C. 339, 341–42, 256 S.E.2d 316, 317, (1979) (citing *Bledsoe v. Metts*, 258 S.C. 500, 189 S.E.2d 291 (1972)).

10. As to the burden to establish that he has a meritorious defense, Defendant Johnson need not show that he would prevail on the merits, but only that his defense is meritorious. *McClurg*, 380 S.C. 563, 575, 671 S.E.2d 87, 93–94 (citing *Thompson v. Hammond*, 299 S.C. 116, 120, 382 S.E.2d 900, 903 (1989)). Defendant has presented sufficient evidence that the Court’s order dated June 5, 2019 awarding property damages, which the parties had previously settled, presents a meritorious defense.
11. As to the third *Wham* factor, the prejudice to the parties, the Court finds that any inconvenience to Plaintiffs in amending the Court’s June 5th order cannot compare to the prejudice Defendant would suffer from a damages award disproportionate to the losses alleged and evidenced to the Court or to the award of previously settled property damages.
12. Finding that the essential elements of Plaintiffs’ claim have been established, and in light of the amended findings of fact, the Court now amends its calculation of damages that the preponderance of the evidence shows will fairly and adequately compensate Plaintiffs for the injuries they suffered. The evidence reflects that because of the incident, Plaintiffs indeed sustained the injuries indicated in the Amended Findings of Damages, *supra*. The Court concludes that these injuries and damages, the attendant pain and suffering, and the incurring by Plaintiff of medical expenses for treatment all resulted from the Defendant’s negligence.

13. Where a case comes before the Court for a bench trial, “[t]he trial judge has considerable discretion regarding the amount of damages, both actual and punitive.” *Austin*, 358 S.C. at 310, 594 S.E.2d at 873.
14. Generally, in order for damages to be recoverable, the evidence should be such as to enable the court or jury to determine the amount thereof with reasonable certainty or accuracy.... While neither the existence, causation nor amount of damages can be left to conjecture, guess or speculation, proof with mathematical certainty of the amount of loss or damage is not required. *Austin v. Stokes-Craven Holding Corp.*, 387 S.C. 22, 43, 691 S.E.2d 794, 135, 146 (2010) (quoting *Whisenant v. James Island Corp.*, 277 S.C. 10, 13, 281 S.E.2d 794, 796 (1981)).
15. “Actual damages are properly called compensatory damages, meaning to compensate, to make the injury party whole, to put him in the same position he was in prior to the damages received insofar as this is monetarily possible.” *Austin*, 358 S.C. at 311, 594 S.E.2d at 874. The goal is to restore the injured party, as nearly as possible through the payment of money, to the same position he was in before the wrongful injury occurred.” *Id.*
16. In determining the amount of compensation for personal injuries, it is proper to consider past and present aspects of the injuries. This would include physical and mental pain and suffering, expenses incurred for necessary medical treatment, loss of time and income which resulted from the impairment of the ability to work and earn a livelihood, the loss of enjoyment of life suffered as a result of the injury, and any other losses which are reflected by the character of the injury.
17. The injured party may recover for those future damages that are reasonably sure to result from the injuries. The principle underlying compensation for future damages is that only

one action can be brought and, therefore, only one recovery had. It is proper to include in the estimate of future damages compensation for loss of capacity for work or attention to the plaintiff's ordinary business, future medical expenses, and pain and suffering which will, with reasonable certainty, result. See *Boan v. Blackwell*, 343 S.C. 498, 541 S.E.2d 242 (2001). "[E]xpert testimony admitted to prove future damages need not meet the most probable standard. To be admissible, future damages do not need to be proved to a mathematical certainty. Oftentimes a verdict involving future damages must be approximated." *Pearson v. Bridges*, 337 S. C. 524, 529, 524 S.E.2d 108, 111 (1999).

18. Plaintiff is also entitled to damages for "loss of enjoyment of life" and "pain and suffering." See *Boan*, 343 S.C. at 499, 541 S.E.2d at 243 (2001). These are two separately compensable elements of damages. See *id.* "Pain and suffering compensates the plaintiff for the physical discomfort and the emotional response to the sensation of pain caused by the injury itself." *Id.* at 501-02, 541 S.E.2d at 244.
19. Further, "[s]eparate damages are given for mental anguish where the evidence shows, for example, that the injured person suffered shock, fright, emotional upset, and/or humiliation as the result of the defendant's negligence." *Boan*, 343 S.C. at 502, 541 S.E.2d at 244 (citing *Turner v. A B C Jalousie Co. of North Carolina, Inc.*, 251 S.C. 92, 160 S.E.2d 528 (1968)).
20. Damages for loss of enjoyment of life, on the other hand, "compensate for the limitations, resulting from the defendant's negligence, on the injured person's ability to participate in and derive pleasure from the normal activities of daily life, or for the individual's inability to pursue his talents, recreational interests, hobbies, or avocations." *Boan*, 343 S.C. at 502, 541 S.E.2d at 244.

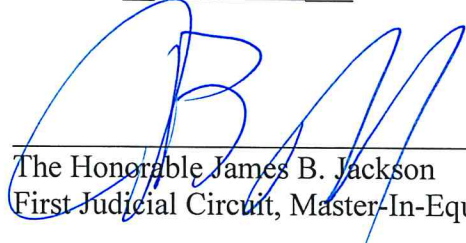
21. There is no definite standard by which standard to compensate the plaintiff for pain and suffering. The fact finder has the authority to determine the amount, if any, to be allowed for pain and suffering, using calm and reasonable judgment to ensure that the damages are just and reasonable in light of the testimony and evidence presented in the case. See *Smalls v. South Carolina Dep't of Educ.*, 339 S.C. 208, 528 S.E.2d 682 (Ct. App. 2000).

III. Amended Award

Given Plaintiffs' uncontested medical bills of \$12,826.00; and the additional evidence presented at the hearing, **IT IS SO ORDERED** that Plaintiffs are awarded \$ 250,000.00 to be divided *pro rata* according to each Plaintiff's medical expenses as indicated below in actuals for their medical expenses, expected future medical expenses, pain and suffering, future pain and suffering, loss of enjoyment of life, future loss of enjoyment of life, and punitive damages as a result of this accident.

Personal injury claim –

Plaintiffs Kacey Green and Charinrath Green	\$ <u>190,000.00</u>
Punitive Damages	\$ <u>60,000.00</u>
TOTAL:	\$ <u>250,000.00</u>



The Honorable James B. Jackson
First Judicial Circuit, Master-In-Equity

August 10, 2020

Orangeburg, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

The Honorable James B. Jackson, Jr., Master-in-Equity

Case No. 2020-001254

Exhibit B

Kacey D Green et al
PLAINTIFF(S)

Mervin Lee Johnson
DEFENDANT(S)

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.
- 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:

I find that the Court's Amended Order of August 20, 2020 addresses all of the issues raised by the parties. Therefore, I find that the Plaintiff's Motion for Reconsideration of this Order must be denied.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 03/08/2021 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: 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 judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Orangeburg Common Pleas

Case Caption: Kacey D Green , plaintiff, et al VS Mervin Lee Johnson

Case Number: 2019CP3800053

Type: Order/Electronic Form 4

So Ordered

James B. Jackson, Jr. 3077 Master in Equity

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

The Honorable James B. Jackson, Jr., Master-in-Equity

Case No. 2020-001254

Exhibit C

6. Plaintiff contends that Claims Direct Access is not a party to this action. Claims Direct Access has never made a motion to intervene. Therefore, any evidence from Claims Direct Access cannot be considered.
7. Plaintiff contends that any evidence presented without Defendant's counsel having any contact or communication with the Defendant himself is improper evidence.
8. Plaintiff contends that a factual finding of the Defendant Johnson being an independent contractor is inappropriate as there has been no evidence presented by Johnson or his employer to suggest his employment agreement with CDS Transport, Inc.
9. Plaintiff contends that a factual finding that all property damage claims were released by Plaintiffs' is inappropriate as no proper evidence has been presented to suggest the same.
10. Plaintiff contends that findings of a meritorious defense as to damages only is an inappropriate reading of the factors elaborated in *Wham v. Shearson Lehman, Bros, Inc.*, 298 S.C. 462, 465, 381 S.E. 2d 499, 501-02 (Ct. App. 1989); see also *McClurg v. Deaton*, 380 S.C. 563, 671 S.E.2d 87 (Ct. App. 2008).
11. Plaintiff contends the Court inappropriately considered factors in Rule 60, SCRPC, wherein said factors had previously been considered in its November 4 Order.
12. Plaintiff contends that the Court's August 14, 2020 misconstrues the *McClurg v. Deaton*, 380 S.C. 563, 671 S.E.2d 87 (Ct. App. 2008). A non-party cannot claim mistake, inadvertence, surprise or excusable neglect." Defendant's counsel still to date cannot provide this Court with any explanation whatsoever of his failure to appear and reason for default. On information and belief, Counsel for Defendant still cannot

- represent to this Court that he has had any personal contact with the Defendant at any time.
13. Plaintiff contends the Court misconstrued *McClurg, supra,* as it pertains to the relationship between a plaintiff's counsel and the insurer. The Court also misinterpreted the rulings in *McClurg, supra,* as they pertain to a meritorious defense.
 14. Plaintiff contends that the property damage claims were not released in full. Specifically, diminished value of the nearly new vehicle as well as loss of use of the vehicle constituted appropriate claims for property damage. See Exhibit A.
 15. Plaintiff contends that any photographs submitted by Defense counsel are not appropriate for consideration and they are hearsay. Defendant's have not laid a proper foundation, and Defendant himself has not presented anything to corroborate that he took the picture or can verify the picture as accurate.
 16. Plaintiff contends that the August 14, 2020 Order contains an award for punitive damages and hereby seeks clarification on the findings of fact which support the award.

WHEREFORE, the Respondent moves this Court to alter or amend its August 14, 2020 Order to reflect its prior Order of June 5, 2019, and Order affirming the same on November 4, 2019.

Respectfully submitted,

S/ Virginia Williams _____
Virginia Williams
Bar # 77898
David Williams
Bar #: 77899
Williams & Williams
1281 Russell Street
P.O. Box 1084

August 24, 2020
Moncks Corner, SC

Orangeburg, SC 29116

E. Mason West
E. Mason West, Esq.
Bar # 100788
WEST LAW FIRM, P.A.
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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

The Honorable James B. Jackson, Jr., Master-in-Equity

Case No. 2020-001254

Exhibit D



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W. McElhane White
A. Todd Darwin
Todd R. Flippin
Konstantine S. Diamaduros

Neville Holcombe, 1902-1983
Horace L. Bomar, 1912-1994

September 17, 2020

Via E-Mail & US Mail

The Honorable James B. Jackson, Jr.
151 Docket St. (Room 305)
Orangeburg, SC 29116

RE: Kacey D. Green and Charinrath Green v. Mervin Lee Johnson
C/A No.: 2019-CP-38-00053
Our File No: 15580

Dear Judge Jackson:

I hope you are doing well and that things are returning to normal for your courtroom.

Plaintiffs filed on August 24th a Motion to Reconsider the Court's August 10, 2020 Amended Order on damages. Will you please advise if there is a specific date by which the Court requires Defendant's response to that motion?

Very Respectfully,

HOLCOMBE BOMAR, P.A.

Todd R. Flippin

TRF/vcc

cc: E. Mason West, Esq. (Via E-Mail)
Virginia "Ginny" Williams, Esq. (Via E-Mail)

Todd Flippin

From: Valerie Coleman
Sent: Friday, September 18, 2020 11:16 AM
To: Todd Flippin
Subject: FW: -FW: -FW: Kacey D. Green and Charinrath Green v. Mervin Lee Johnson C/A No.: 2019-CP-38-00053 HB File No: 15580
Attachments: Judge Jackson 9.17.20.pdf

Todd,

See the email below that I received on this letter we sent yesterday.

Let me know what we should do next?

Thanks



Holcombe Bomar, P.A.

Valerie Coleman, Paralegal

Holcombe Bomar, P.A.
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vcoleman@holcombebomar.com

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From: Barbara O. Beach <BBeach@orangeburgcounty.org>
Sent: Friday, September 18, 2020 11:04 AM
To: Valerie Coleman <vcoleman@holcombebomar.com>; Mason West (mason@westlawfirmssc.com) <mason@westlawfirmssc.com>; Virginia Williams <ginny@williamsattys.com>
Cc: James B. Jackson <JBJackson@orangeburgcounty.org>
Subject: -FW: -FW: Kacey D. Green and Charinrath Green v. Mervin Lee Johnson C/A No.: 2019-CP-38-00053 HB File No: 15580

Ms. Coleman,

Judge Jackson noted the Clerk of Court shows that a Notice of Filing Appeal was filed by the Plaintiff's counsel on September 14, 2020. Therefore, Judge Jackson has stated this Court no longer has jurisdiction in this case.

Barbara

From: James B. Jackson
Sent: Friday, September 18, 2020 9:55 AM
To: Barbara O. Beach
Subject: -FW: Kacey D. Green and Charinrath Green v. Mervin Lee Johnson C/A No.: 2019-CP-38-00053 HB File No: 15580

From: Valerie Coleman [<mailto:vcoleman@holcombebomar.com>]
Sent: Thursday, September 17, 2020 4:39 PM
To: James B. Jackson <JBJackson@orangeburgcounty.org>
Cc: mason@westlawfirm.com; Virginia Williams <ginny@williamsattys.com>
Subject: Kacey D. Green and Charinrath Green v. Mervin Lee Johnson C/A No.: 2019-CP-38-00053 HB File No: 15580

Dear Judge Jackson,

Please find the attached correspondence in reference to the above matter. A hard copy was also placed in the mail to you today.

Thank You



Holcombe Bomar, P.A.

Valerie Coleman, Paralegal

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RECEIVED

May 07 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

The Honorable James B. Jackson, Jr., Master-in-Equity

Case No. 2020-001254

Kacey Green and Charinrath Green,..... Appellants-Respondents,

v.

Mervin Lee Johnson,.....Respondent-Appellant.

PROOF OF SERVICE

The undersigned hereby certifies that on the 7th day of May, 2021, he has served counsel for Respondents with a copy of the **MOTION TO DISMISS** together with all enclosures in this matter by electronically mailing copies of the same to the following addresses:

David R. Williams, Esq.
Charlie H. Williams III, Esq.
Virginia W. Williams, Esq.
WILLIAMS & WILLIAMS
1281 Russell Street
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Phone: (803) 534-5218
ginny@williamsattys.com
david@williamsattys.com
charlie@williamsattys.com

&

E. Mason West, Esq.
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Attorneys for Appellants-Respondents

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By: *s/Todd R. Flippin*

William B. Darwin, Jr. (S.C. Bar No. 15109)
Todd R. Flippin (S.C. Bar No. 101197)
Attorneys for Respondent-Appellant



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Todd R. Flippin
Konstantine S. Diamaduros
Neville Holcombe, 1902-1983
Horace L. Bomar, 1912-1994

May 7, 2021

VIA U.S. MAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED
May 07 2021
SC Court of Appeals

RE: *Kacey Green v. Mervin Lee Johnson*
App. Case No. 2020-001254
Our File No. 15580

Dear Ms. Kitchings:

Please find enclosed our check number 71835 in the amount of \$50.00 for the filing fee in the above case for a Motion to Dismiss that was e-mailed to the court on today's date.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

HOLCOMBE BOMAR, P.A.

Valerie Grohs, Paralegal

Enclosure

cc: David R. Williams, Esq.
david@williamsattys.com
chwilliams@williamsattys.com
Virginia W. Williams, Esq.
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E. Mason West, Esq.
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Konstantine S. Diamaduros
Neville Holcombe, 1902-1983
Horace L. Bomar, 1912-1994

May 7, 2021

VIA ELECTRONIC MAIL ONLY ctappfilings@sccourts.org

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED
May 07 2021
SC Court of Appeals

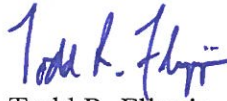
RE: *Kacey Green v. Mervin Lee Johnson*
App. Case No. 2020-001254
Our File No. 15580

Dear Ms. Kitchings:

Enclosed please find for filing our Motion to Dismiss in the above referenced matter, along with our exhibits and Proof of Service.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,


Todd R. Flippin

Enclosures

cc: David R. Williams, Esq. (Via E-Mail Only - david@williamsattys.com)
Charlie H. Williams III, Esq. (Via E-Mail Only - chwilliamsiii@williamsattys.com)
Virginia W. Williams, Esq. (Via E-Mail Only - ginny@williamsattys.com)
E. Mason West, Esq. (Via E-Mail Only - mason@westlawfirmssc.com)