

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

T. HENLEY GRAVES  
*RESIDENT JUDGE*

SUSSEX COUNTY COURTHOUSE  
ONE THE CIRCLE, SUITE 2  
GEORGETOWN, DE 19947

February 18, 2010

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**RE: Rachel Erixson v. State Farm Mutual Automobile Insurance  
Company  
Civil Action No. S08C-12-024 THG**

Dear Counsel:

The zero verdict has produced an ironic result. The ruling against Plaintiff as to educating the jury about the \$25,000.00 settlement with the tortfeasor results in Plaintiff living to fight another day. Had the jury been aware of the \$25,000.00 settlement, then a zero verdict would stand because the jury would have decided no further damages were warranted. So under the facts of this case, we will have another trial because: (a) the uncontroverted evidence established some injury requiring compensation, Amalfitano v. Baker, 794 A.2d 575 (Del. 2001); and (b) everyone agreed prior to the verdict that this was a damages case with the dispute being the amount of damages.

If the jury had awarded damages, albeit a low amount, then the issue would have been decided. For whatever their reason, the jury did not help resolve the case.

Knowing how far apart the parties were, I shall not go down the additur path. You both have a jury's opinion to provide some guidance if you chose to settle the case, but I shall not try to force it.

The Motion for a New Trial is granted, and my civil case manager will communicate with you on a new trial date. I do not think we need another pretrial conference, but if you want one, let Heather Johnson know and she can establish a date for same.

Yours very truly,

/s/ T. Henley Graves

T. Henley Graves

THG:baj

cc: Prothonotary