

IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

NICHOLAS SNYDER)

Plaintiff,)

v.)

JAMES J. LIVESAY)

Defendant)

C.A. No.: 2006-08-092

Willard F. Preston III, Esquire
Silverman McDonald & Friedman
1010 North Bancroft Parkway
Suite 22
Wilmington, DE 19805
Attorney for Plaintiff

James J. Livesay
137 Bellanca Lane
Collins Park
New Castle, DE 19702
Pro Se Defendant

Decision after Inquisition Hearing

This is the Court's decision regarding damages to be awarded to Nicholas Snyder ("Plaintiff") for medical expenses, pain and suffering and other damages, as a result of an attack on Plaintiff by Defendant James J. Livesay ("Defendant"), occurring on August 10, 2005.

As a result of the attack Defendant was criminally charged and, on June 14, 2006, pled guilty to Offensive Touching. Apparently there was no restitution ordered as a part of Defendant's criminal sentence.

On August 2, 2006 Plaintiff filed this civil action seeking compensatory damages, general and special, including pain and suffering, punitive damages, and costs. Service was made on Defendant on August 17, 2006. Defendant failed to file an Answer to the Complaint and this Court entered Default Judgment in favor of Plaintiff on October 13, 2006. An Inquisition Hearing to determine damages was scheduled for March 27, 2007 and notice was mailed to all parties on January 5, 2007.

Defendant did not appear at the Inquisition Hearing. Plaintiff Nicholas Snyder testified that on August 10, 2005, Defendant Livesay was yelling at Plaintiff from the

property adjacent to 135 Bellanca Lane, New Castle, Delaware. Defendant stated that he was going to attack Defendant. Shortly thereafter Defendant “snuck up” behind Plaintiff and struck him several times in the head. Plaintiff suffered a black eye along with bruises to his arm, neck, head, right ear and jaw area. Plaintiff was taken by ambulance to a hospital. The hospital later sent Plaintiff to the Wilmington Dental Clinic.

Plaintiff further testified that, as a result of the injuries, Plaintiff’s jaw has a “clicking” feeling during cold weather that persists to this day. Also, Plaintiff was restricted to a diet of soft foods for a period of six weeks after the attack. A “stabbing pain” and “pressure” in Plaintiff’s jaw lasted for five weeks. There was bruising around Plaintiff’s right eye, right ear and right side of his neck that Plaintiff said, “looked horrible”. As a result of the injuries Plaintiff, for a time, was unable to lift his six year old son. Plaintiff also missed three days of work as a result of the injuries.

Testimony indicated that Plaintiff suffered the following losses:

Balance due on Hospital visit	\$218.45
Balance due for Ambulance Transportation	300.00
Wages lost (3 days @ \$10.25\hour	<u>248.40</u>
<i>Total Compensatory Damages sought</i>	\$766.85

As to Plaintiff’s request for damages for pain and suffering, the Court hereby awards Plaintiff Seven Thousand Five Hundred Dollars (\$7,500.00) in damages. Further, the Court awards Plaintiff One Thousand Dollars (\$1,000.00) in punitive damages.

The Court hereby directs the clerk to enter Judgment in favor of Plaintiff, Nicholas Snyder, and against Defendant, James J. Livesay as follows:

\$ 766.85	Compensatory Damages
7,500.00	Damages for Pain and Suffering
<u>1,000.00</u>	Punitive Damages
\$9,266.85	<i>Total amount</i>

Together with prejudgment interest from August 10, 2005 until October 6, 2006 and post judgment interest from October 7, 2006 until paid, both at the legal rate of interest. Plaintiff’s Court costs shall also be paid by Defendant.

IT IS SO ORDERED this 29th day of June, 2007.

Joseph F. Flickinger III
Judge

