

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

DAVID W. REINEKE, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 04C-03-270 MJB
	)	
JESSICA TEASE,	)	
	)	
Defendant.	)	

Submitted: January 11, 2007  
Decided: February 22, 2007

Upon Plaintiff's Motion for New Trial, **DENIED**.

**OPINION AND ORDER**

W. Christopher Componovo, Esquire, Weik, Nitsche, Dougherty & Componovo, Wilmington, Delaware, Attorney for Plaintiff.

James Haley, Esquire, Ferrara Haley Bevis & Solomon, Wilmington, Delaware, Attorney for Defendant.

BRADY, J.

### ***Facts and Procedural History***

This action arises out of a motor vehicle collision on March 27, 2002, in which Plaintiff, David Reineke, sustained personal injuries. Prior to trial, Defendant admitted liability. The remaining issues for the jury's determination were whether the alleged injuries were proximately caused by the collision and whether the medical expenses claimed were reasonable and necessary.

At trial, Plaintiff testified that he suffered from injuries to his lower back and neck as well as a torn meniscus of his left knee and facial nerve palsy as a result of the collision. Plaintiff offered two experts at trial, who testified about the severity of the injuries and their connection to the collision. Plaintiff's medical bills, submitted to the jury, demonstrated a total of \$32,535.42 in medical care, prescriptions and future surgery expenses. In addition, Plaintiff submitted evidence of lost wages in the amount of \$9,029.90 for thirteen weeks of absence from his employment.

Defendant offered expert testimony by Dr. Fischer who disputed the extent of the alleged injuries and opined that the injuries related to this collision were limited to soft tissue neck and back injuries.<sup>1</sup> After a two day

---

<sup>1</sup> Transcript of Dr. Fischer's deposition, at 28-30.

trial, on December 19, 2006, the jury returned a verdict for the Plaintiff in the amount of \$4,480.00. Plaintiff moved for a new trial or in the alternative, additur on grounds that the verdict is shockingly low and was not based upon the evidence.<sup>2</sup> For the reasons set forth herein, the Motion for New Trial or Additur is DENIED.

### ***Applicable Standard***

“Under Delaware law, enormous deference is given to jury verdicts. In the face of any reasonable difference of opinion, courts will yield to the jury's decision.”<sup>3</sup> A jury verdict is presumed to be correct and just, but when it is clear that the award is so grossly out of proportion to the injuries suffered as to shock the Court's conscience and sense of justice, it will be set aside.<sup>4</sup> This standard is met when the award is so inadequate that it must have been based on passion, prejudice, or misconduct rather than on an objective consideration of the trial evidence.<sup>5</sup>

---

<sup>2</sup> During deliberations the jury asked three questions of the Court: whether the medical bills were paid; whether they could see the police report; and whether Defendant would have to pay any verdict out of pocket. Plaintiff argues that the jury's verdict and the three questions asked during deliberations indicate the jury must have given consideration to improper factors. The Court finds this argument unpersuasive because the jury was properly instructed on factors to consider in deliberations. Further, in answering the questions of the jury, the Court once again emphasized the importance of considering only those factors properly before the jury. Therefore, the Court does not find any evidence that the jury's verdict is the result of improper considerations.

<sup>3</sup> *Young v. Frase*, 702 A.2d 1234, 1236 (Del. 1997).

<sup>4</sup> *Mills v. Telenczak*, 345 A.2d 424, 426 (Del. 1975).

<sup>5</sup> *Young v. Frase*, 702 A.2d at 1237.

## *Analysis*

A review of the record, as to relevant facts for the purposes of resolving this motion, establishes that on March 27, 2002, Plaintiff's vehicle was rear-ended by Defendant's vehicle; that following the collision, Plaintiff drove the vehicle to Philadelphia where he resides;<sup>6</sup> that Plaintiff did not seek medical care for any injuries until the next day;<sup>7</sup> that Plaintiff was involved in a previous vehicular collision in 1988 in which he suffered injuries to his neck, back, and limbs;<sup>8</sup> that Plaintiff suffered previous injuries to his neck, back and left arm in a slip and fall incident in 1995;<sup>9</sup> that Plaintiff filed lawsuits in both of the previous incidents;<sup>10</sup> that prior to the March 2002 accident, Plaintiff was involved in a work-related incident in which he strained his back;<sup>11</sup> that Plaintiff was under the care of Feel Better Reflexology Center for neck tension and left side pain at the time of the March 2002 collision;<sup>12</sup> that subsequent to the March 2002 collision, Plaintiff was involved in two vehicular collisions and another work-related

---

<sup>6</sup> Trial Transcript, December 18, 2006, Plaintiff's Testimony, at 57.

<sup>7</sup> Trial Transcript, December 18, 2006, Plaintiff's Testimony, at 58.

<sup>8</sup> Trial Transcript, December 18, 2006, Plaintiff's Testimony, at 125-126, 148.

<sup>9</sup> Trial Transcript, December 18, 2006, Plaintiff's Testimony, at 125, 161.

<sup>10</sup> Trial Transcript, December 18, 2006, Plaintiff's Testimony, at 148- 161.

<sup>11</sup> Trial Transcript, December 18, 2006, Plaintiff's Testimony, at 127.

<sup>12</sup> Trial Transcript, December 18, 2006, Plaintiff's Testimony, at 176.

incident in which he suffered further injuries to his back and neck;<sup>13</sup> that Plaintiff suffered head injuries and brain hemorrhage as a result of a confrontation with a co-worker in 2005;<sup>14</sup> that Plaintiff suffered from chronic headaches for at least two years prior to 1998;<sup>15</sup> that in 2000 Plaintiff sought treatment for pain in his left hip due to a bullet that remains in the soft tissue;<sup>16</sup> and finally, that Plaintiff failed to mention the bullet to Defendant's expert during the physical examination.<sup>17</sup>

In light of the numerous previous and subsequent accidents and injuries in which Plaintiff sustained injuries, the Court finds that the jury could reasonably have concluded that the March 2002 collision, for which Defendant is liable, only aggravated the pre-existing injuries or that the Plaintiff suffered relatively minor injuries as a result of that collision. Both parties presented expert testimony in support of their positions. The experts offered conflicting testimony as to the extent of injuries caused by the accident. The jury simply believed the testimony of Defendant's expert over that of the Plaintiff's experts. Nothing in the record suggests that the jury

---

<sup>13</sup> Trial Transcript, December 18, 2006, Plaintiff's Testimony, at 128-132.

<sup>14</sup> Trial Transcript, December 18, 2006, Plaintiff's Testimony, at 178.

<sup>15</sup> Trial Transcript, December 18, 2006, Plaintiff's Testimony, at 174.

<sup>16</sup> Trial Transcript, December 19, 2006, Plaintiff's Testimony, at 22.

<sup>17</sup> Transcript of Dr. Fischer's deposition, at 35; Trial Transcript, December 19, 2006, Plaintiff's Testimony, at 67-68.

was improperly influenced by impermissible factors. Considering all the evidence, the Court does not find that the verdict is so clearly disproportionate as to damages related to injuries resulting from the March 2002 collision that the verdict should be set aside.

***Conclusion***

For the reasons stated above, the Motion for New Trial or Additur is **DENIED.**

**IT IS SO ORDERED.**

\_\_\_\_\_/s/\_\_\_\_\_  
M. Jane Brady  
Superior Court Judge