

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)
)
Jessica Flegel,)
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Plaintiff,)
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vs.)
)
Thayne Dawkins Reece,)
)
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Defendant.)
)
_____)

IN THE COURT OF COMMON PLEAS
CASE NO: 2021CP2200552

**ORDER DENYING PLAINTIFF'S
MOTION FOR A NEW TRIAL**

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Apr 11 2023
SC Court of Appeals

This case involves an automobile accident that occurred on September 8, 2020. The trial took place on March 6, 2023 and March 7, 2023 before this Court. At the conclusion of the trial, the jury returned a verdict in favor of the Plaintiff for \$10,000.00 in actual damages.

The Plaintiff through her counsel, Gedney M. Howe, IV, came before this Court requesting a New Trial as to Punitive Damages or in the alternative, a New Trial Absolute. That motion was filed on March 16, 2023.

The Plaintiff cannot recover punitive damages based on negligent conduct. Mere negligence will not support a punitive damages award. To recover punitive damages, the Plaintiff must prove by clear and convincing evidence that the Defendant's actions were willful, wanton, or reckless. Meaning, there must be a conscious failure to exercise due care or a conscious indifference to the rights and safety of others or a reckless disregard thereof.

During trial, the Plaintiff did not present any evidence of willful, wanton, or reckless behavior on the part of the Defendant. The Plaintiff testified that it was dark outside, and she was listening to music at the time of the accident. She did not hear or see anything prior to impact.

Additionally, the Plaintiff testified that she did not see the Defendant's vehicle before impact. Julie Flegel and Charles Flegel both testified at trial. However, neither of them was present when the accident occurred. There was no evidence presented of Defendant's actions immediately prior to or during the accident. No accident reconstruction was presented during trial, which may have included the biomechanics of the speed of the vehicle, the impact, the lighting conditions or any distractions or impairments on behalf of the Defendant. Evidence to support an award of punitive damages would have been based solely on speculation.

Furthermore, Plaintiff filed her motion on March 16, 2023. Rule 59(b) provides that a "motion for a new trial shall be made promptly after the jury is discharged, or in the discretion of the court, not later than 10 days thereafter." SCRCP, Rule 59(b). At the conclusion of the trial, Plaintiff did not move for a new trial and did not request additional time from this Court to file her motion. Therefore, Plaintiff's Motion for a New Trial did not comply with Rule 59(e) of the South Carolina Rules of Civil Procedure. It is

ORDERED, that the Plaintiff's Motion for a New Trial as to Punitive Damages or in the alternative, a New Trial Absolute is HEREBY DENIED. It is

SO ORDERED.



Georgetown Common Pleas

Case Caption: Jessica Flegel VS Thayne Dawkins Reece
Case Number: 2021CP2200552
Type: Order/Other

So Ordered

s/ Maite Murphy 2166

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