

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF DARLINGTON

FOR THE FOURTH JUDICIAL CIRCUIT

Michelle Glass as PR for the Estate of
Sanford Earl Glass,

Case Number 2020-CP-16-00507

Plaintiff,

vs.

Mike's Landscaping Service, Inc., Stephanie
Ann Smith, UIG Infrastructure Group, Inc.,
and South Carolina Department of
Transportation,

ORDER

Defendants.

RECEIVED

Aug 30 2023

SC Court of Appeals

Mike's Landscaping Service, Inc. and
Stephanie Ann Smith,

Third-Party Plaintiffs,

vs.

Richard Jones and Jones & Taylor Insurance,
Inc., d/b/a Jones & Taylor Insurance,

Third-Party Defendants.

THIS MATTER came before the Court on April 17, 2023, for a non-jury trial in Darlington County, South Carolina. Present at the trial were Plaintiff Michelle Glass as PR for the Estate of Sanford Earl Glass and Defendants Mikes Landscaping Service, Inc. ("MLS") and Stephanie Ann Smith. Ms. Glass, MLS, and Mrs. Smith were all represented by counsel. The Third-Party Claims asserted against Third-Party Defendants Richard Jones and Jones & Taylor Insurance, Inc. ("J&T") have been bifurcated and will be tried at a later date. However, by agreement of all parties, counsel for Mr. Jones and J&T participated in the trial pursuant to Rule

14(a) of the South Carolina Rules of Civil Procedure.

Before the conclusion of the trial, Ms. Glass dismissed Stephanie Ann Smith as a defendant. Ms. Glass also dismissed her claims for negligent entrustment and for survival damages. The remaining claim in this action is Ms. Glass' claim against MLS for negligence, including negligent hiring, training, and supervision.

After considering the exhibits admitted into evidence and testimony provided by all witnesses, the Court hereby finds the facts specially and states separately its conclusions of law pursuant to Rules 52 and 58 of the South Carolina Rules of Civil Procedure as follows:

FINDINGS OF FACT

1. MLS is a company that performs erosion control work on highway projects.
2. In October 2019, MLS hired an employee named Kenneth Cogdell.
3. When it hired Mr. Cogdell, MLS did not check his driving record.
4. If it had checked his driving record, MLS would have discovered that Mr. Cogdell had multiple traffic violations, had been in multiple wrecks, and had his driving license suspended at least once.
5. A month after he was hired by MLS, Mr. Cogdell's driver's license was suspended on November 16, 2019, and was not reinstated until January 10, 2020.
6. Mr. Cogdell drove a truck known as a hydroseeder for MLS.
7. The hydroseeder was used to spray a grass seed mixture for erosion control on highway projects.
8. The only training MLS gave Mr. Cogdell for the hydroseeding truck was having him observe other employees drive it and then having someone observe him drive it for a short period of time before he started driving it by himself.

9. There are no written records concerning Mr. Cogdell's training.
10. On March 11, 2020, MLS sent Mr. Cogdell on a hydroseeding job in Darlington County.
11. The project involved the replacement of three bridges on Lamar Highway.
12. Because the bridges were closed, Mr. Cogdell had to take secondary roads to drive from one side of the jobsite to the other.
13. Mr. Cogdell was not familiar with the area.
14. MLS did not give him directions or take any steps to familiarize him with the area.
15. Instead, MLS told him and his passenger known as the "navigator" to use a cell phone to find their way from one side of a bridge to another.
16. The cell phone that the navigator was using did not have good service and the map feature kept malfunctioning.
17. Mr. Cogdell and his navigator became lost once they turned off of Lamar Highway.
18. The MLS truck driven by Mr. Cogdell ended up traveling north on High Hill Road towards the intersection of High Hill Road and Green Street.
19. At the intersection, High Hill Road has a stop sign and stop line.
20. There is no stop sign on Green Street.
21. The intersection is surrounded by fields that, at the time, had nothing growing in them.
22. There were no obstructions that would have impeded Mr. Cogdell from seeing the stop sign.
23. Ms. Glass' accident investigation expert, Bryan Durig, testified that Mr. Cogdell would have been able to see the stop sign one-half-mile before the intersection.

24. Mr. Cogdell, however, was lost and distracted.

25. He ran the stop sign at a rate of speed that caused a violent collision on Green Street.

26. At the time the MLS truck ran the stop sign, Sanford Earl Glass entered the intersection heading west on Green Street.

27. Bryan Durig testified that skid marks and gouges in the highway show that Mr. Glass attempted to take evasive action and that he tried to turn right immediately before the collision to avoid the MLS truck.

28. However, he was unable to avoid it.

29. The MLS truck struck Mr. Glass' Hyundai with such force that it altered Mr. Glass' vehicle's direction and pushed it 175 feet north up High Hill Road.

30. The damage to Mr. Glass' vehicle was extensive.

31. Mr. Glass was later pronounced dead at the scene by the Darlington County Coroner, Todd Hardee, who also testified at trial.

32. When highway patrol arrived, the MLS employees told the trooper that Mr. Glass ran the stop sign and was at fault.

33. These statements made by the MLS employees were false because Mr. Glass had the right-of-way.

34. Stephanie Smith testified that Mr. Cogdell and the navigator were acting within the scope of their employment at the time of the collision.

35. At the time of his death, Mr. Glass was 80 years old.

36. He had two biological adult daughters, Michelle Glass and Melissa Glass.

37. Mr. Glass worked part-time at Michelle Glass' law firm.

38. On the day of the wreck, Mr. Glass was returning from visiting Michelle Glass at

her home in Jacksonville, Florida.

39. He was returning home to attend an evening service at his church.

40. Michelle Glass and Pastor Randy James, who is the pastor at Mr. Glass' church, testified that Mr. Glass was planning to put his home on the market and move to Jacksonville to live with Michelle Glass.

41. Both testified that he would have moved there earlier, but he stayed in Darlington to raise his grandson, Mikey Glass, over whom he had custody.

42. Mikey Glass had recently turned 18 and moved out of Mr. Glass' home a few weeks before the wreck.

43. Michelle Glass testified that her father was her best friend and that his loss negatively impacts her life every day.

44. Michelle spoke with her father every day, and he visited her at least once a month.

45. He helped her run her law firm and also helped to take care of her house.

46. Shortly before his death, she had renovated her condo so that he would have his own room when he moved there.

47. She was looking forward to him living with her in Jacksonville and has been deprived of his championship.

48. She was shocked by his sudden death and is still grieving his loss.

CONCLUSIONS OF LAW

1. "A plaintiff, to establish a cause of action for negligence, must prove the following four elements: (1) a duty of care owed by defendant to plaintiff; (2) breach of that duty by a negligent act or omission; (3) resulting in damages to plaintiff; and (4) damages proximately resulted from the breach of duty." *Thomasko v. Poole*, 349 S.C. 7, 11, 561 S.E.2d 597, 599 (2002).

2. “Whenever the death of a person shall be caused by the wrongful act, neglect or default of another and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, the person who would have been liable, if death had not ensued, shall be liable to an action for damages.” S.C. Code Ann. § 15–51–10.

3. “The general elements of damages recoverable [for wrongful death] are: (1) pecuniary loss, (2) mental shock and suffering, (3) wounded feelings, (4) grief and sorrow, (5) loss of companionship, and (6) deprivation of the use and comfort of the intestate's society, including the loss of his experience, knowledge, and judgment in managing the affairs of himself and of his beneficiaries.” *Burroughs v. Worsham*, 352 S.C. 382, 406, 574 S.E.2d 215, 227 (Ct. App. 2002).

4. “In order to receive an award of punitive damages, the plaintiff has the burden of proving by clear and convincing evidence the defendant’s misconduct was willful, wanton, or with reckless disregard for the plaintiff’s rights.” *Welch v. Epstein*, 342 S.C. 279, 301, 536 S.E.2d 408, 419 (Ct. App. 2000).

5. Mr. Cogdell was an employee of MLS, was authorized to drive the hydroseeder, and was acting within the scope of his employment at the time of the collision.

6. Therefore, MLS is responsible for Mr. Cogdell’s acts and omissions. *Austin v. Specialty Trans. Serv., Inc.*, No. 358 S.C. 298, 318 594 S.E.2d 867, 877 (2004).

7. I further conclude that MLS knew or should have known that hiring Mr. Cogdell created an undue risk to the public, including Mr. Glass, based on the numerous traffic violations, suspensions, and wrecks on his driving record. *See Kase v. Ebert*, 392 S.C. 57, 63, 707 S.E.2d 456, 459 (2011).

8. MLS also had a duty to train its employees on how to safely operate its equipment

and to make sure they could safely navigate their way around the Lamar Highway bridge replacement project.

9. MLS breached that duty by failing to provide Mr. Cogdell directions and telling him to navigate around the job site with a cell phone that was not working.

10. MLS' employee had a duty to pay attention to the road and stop at the stop sign on High Hill Road.

11. MLS' employee breached that duty by not paying attention, by running the stop sign, and failing to yield the right-of-way to Mr. Glass.

12. MLS and its employee's breach of their duties were the proximate cause of Mr. Glass' injuries and death.

13. Therefore, I conclude that MLS is liable to Plaintiff for negligence and the wrongful death of Mr. Glass.

14. I further conclude that Plaintiff has shown by clear and convincing evidence, including MLS' failure to check its employees' driving record, its failure to train or provide directions to its employees, and its employees' attempt to falsely blame Mr. Glass for the wreck, that MLS' misconduct was willful, wanton, or with reckless disregard for Mr. Glass' rights. Therefore, Plaintiff is entitled to punitive damages.

15. Under S.C. Code Ann. § 19-1-150, Mr. Glass had a life expectancy of 7.49 more years at the time of his death.

16. Under S.C. Code Ann. §15-21-20, Mr. Glass' statutory beneficiaries are Michelle Glass and Melissa Glass.

AWARD

Based on the foregoing findings of fact and conclusions of law, I find that the amount of

actual damages are \$6,750,000.00

I further find that the amount of punitive damages that are appropriate is \$2,000,000.00.

IT IS SO ORDERED.

[ELECTRIC SIGNATURE ON FOLLOWING PAGE]



Darlington Common Pleas

Case Caption: Michelle Glass Personal Representative , plaintiff, et al VS Mikes Landscaping Service Inc , defendant, et al

Case Number: 2020CP1600507

Type: Order/Other

So Ordered

s/Paul M. Burch, Judge #2048