

STATE OF SOUTH CAROLINA COUNTY OF SUMTER Mae McGruder, Plaintiff, vs. Dollar General Corporation, d/b/a Dollar General Store #1677 and Janie Davis, Defendants.	IN THE COURT OF COMMON PLEAS THIRD JUDICIAL CIRCUIT CIVIL ACTION NO: 2022-CP-43-00508 ORDER OF JUDGMENT RECEIVED Oct 19 2023 SC Court of Appeals
--	--

This matter came before the Special Referee on June 30, 2023 for a hearing on damages. Judgment is hereby entered in favor of Plaintiff for Nine Hundred Twenty Five Thousand and 00/100 Dollars (\$925,000.00) actual damages. No punitive damages are awarded.

This case arises from an automobile accident that occurred on October 29, 2019. Defendant is in default and as such the allegations of the complaint as to liability are deemed admitted. This case involves a slip and fall at Defendant's store resulting in injuries to Plaintiff. The Plaintiff had the burden of proving her damages with reasonable certainty, without leaving the amount of damages to speculation or conjecture.

The hearing on damages took place on June 30, 2023 via Zoom. Present were Plaintiff Mae McGruder, her counsel John Clark and Josephine Harriott and counsel for Defendant Trippett Boineau, III and Michael Trask. A court reporter was present and transcribed the



hearing. Pursuant to the rules governing default hearings, Plaintiff presented her damages testimony and Defendant's participation was limited to cross-examination of Plaintiff's witness.

Plaintiff testified that it was a rainy day when she walked into the Dollar General Store on Highway 441. Her grandson was with her. The fall was captured on video. Since liability is deemed admitted in this hearing, the video was used by Defendant for cross examination and impeachment purposes. The video clearly shows that the Plaintiff had a hard fall in the foyer of the Dollar General when her legs slipped out from under her as a direct result of the wet floor.

Ms. McGruder testified she went to the hospital on the day of the fall. She also testified to seeing a number of medical providers subsequent to the fall for injuries to her left knee, right hand, right shoulder and low back. She testified that she still uses a walker or cane as a result of her injuries.

Plaintiff also presented the expert testimony of Dr. Rodney Alan, an orthopedic surgeon with McLeod Orthopedic. He testified that the fall at the Dollar General caused a "mechanical loosening" of the previously installed knee replacement and testified it was his opinion that the loosening was caused by the fall. He further testified that the subsequent left knee revision surgery was required as a result of fall. The knee revision surgery involved the removal and replacement of the prior knee replacement. He also testified that Plaintiff right hand was injured in the fall and that her back was injured in the fall. He testified she had permanent back pain and stiffness. He further testified that Plaintiff had the current need for an assisting device (walker or cane) as a result of her condition and that that need was permanent. He said she may need another knee replacement in 10-15 years. Dr. Alan also noted that pre-accident Plaintiff's knee replacement was about 13 years old at the time of her fall and a typical knee replacement lasted 20 years and with certain health conditions, such as diabetes, a knee replacement could last less

than 20 years. While Plaintiff suffered from diabetes, there was no evidence that Plaintiff's knee replacement created any issues for Plaintiff prior to her fall or that it would not have lasted for the full life expectancy of the artificial knee.

Plaintiff presented the expert testimony of Jenn Massey , a life care planner. However, Ms. Massey did not testify in her capacity as a life care planner, and was qualified in the field of medical cost projections. She provided a cost projection report which she concluded was a conservative estimate of future medical care needed by Plaintiff regarding medical projections, based on her review of the medical records. Finally, Plaintiff presented the testimony of Dr. Oliver Wood who testified to the economic loss of Plaintiff. He testified that she had a personal services loss, past and future medical treatment costs, and arrived at a present value loss of \$686,976.00.

The weight of the evidence is that Plaintiff would have needed a knee replacement revision at some point in the next several years whether she had this fall or not. She received her initial knee replacement in 2006 and Dr. Alan testified that the average life span was 20 years. Dr. Alan testified that Plaintiff might be subject to a shorter span due to her health conditions. The weight of the evidence supports that Plaintiff suffered significant pain from the injuries received in this fall and that the fall hastened her knee revision surgery and for this she is entitled to damages. Dr. Alan further testified that plaintiff's injuries were permanent and that the use of an assisting device such as a cane or walker was permanent.

Based on this testimony, I find that plaintiff has met her burden of proof by a preponderance of the evidence and is entitled to damages for pain, suffering, bodily injury, mental distress and medical bills in the amount of \$925,000.00 as a direct and proximate result of

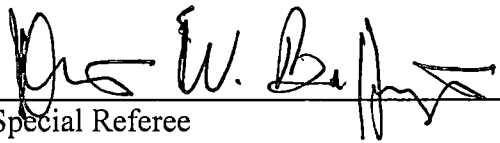
the incident. I find that there was insufficient clear and convincing evidence on which to base an award of punitive damages.

THEREFORE, JUDGMENT TO BE ENTERED IN FAVOR OF PLAINTIFF IN THE AMOUNT OF Nine Hundred Twenty Five Thousand Dollars (\$925,000.00) ACTUAL DAMAGES.

It is so Ordered.

September 25, 2023

Myrtle Beach, SC


By: Special Referee

Robert W. Buffington (SC Bar # 7825)

2411 North Oak Street, Suite 305-F

Myrtle Beach, South Carolina 29577

Tel: (843) 443-4019

Email: bobby@bufflawfirm.com