

EXHIBIT C

STATE OF SOUTH CAROLINA)
)
COUNTY OF ABBEVILLE)

WILLIAM F. NICKLES, IV,)
)
PLAINTIFF,)
)
V.)
)
HOWAR EQUIPMENT, INC.,)
SONOCO PRODUCTS COMPANY,)
PALMETTO STATE)
TRANSPORTATION, LLC,)
KSC LOGISTICS, INC., AND)
JOHN DOE CORPORATION.)
)
DEFENDANTS.)
)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2021-CP-01-00076

ORDER ASSESSING DAMAGES
AGAINST KSC LOGISTICS, INC.

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SC Court of Appeals

THIS MATTER came before the Court on December 18, 2023 in the Abbeville County Courtroom of the Honorable Donald B. Hocker at the appointed time of 10:00 AM. Present at the hearing was the Plaintiff and his attorney Thomas E. Hite, III, and Daniel Atkinson, appearing on behalf of Defendant KSC Logistics, Inc.

This motion arises from a complaint seeking damages from negligence, gross negligence, negligence *per se*, and willful, wonton and reckless conduct related to the Plaintiff's injuries suffered from a November 10, 2018 incident in Abbeville County.

A trial judge has considerable discretion regarding the amount of damages, both actual or punitive. *Austin v. Specialty Transp. Servs., Inc.*, 358 S.C. 298, 310, 594 S.E.2d 867, 873 (Ct. App. 2004)(internal citations omitted.) The Court having conducted the damages hearing, and by the analysis set forth below, determines an appropriate measure of damages suffered by the Plaintiff to be **Nine Hundred Seventy-Two Thousand One Hundred and Seventeen and 33/100 (\$972,117.33) DOLLARS** against Defendant KSC Logistics, Inc. only.

BACKGROUND AND PROCEDURAL HISTORY

William F. Nickles, IV was gainfully employed at Prysmian Cable, located in Abbeville County. On November 10, 2018, Mr. Nickles sustained serious injuries when a D-Ring on a High Voltage Cable Reel snapped, causing a High Voltage Cable to fall approximately 15 feet onto him. As a result of this incident, Mr. Nickles suffered severe and permanent injuries to his shoulder, back, and leg. The impact of the fall rendered Mr. Nickles unconscious and resulted in a severe broken leg.

On April 12, 2021, the Plaintiff filed a Summons and Complaint against KSC and others as a result of his November 10, 2018 injury. Plaintiff later filed an Amended Summons and Complaint on November 9, 2021. The Amended Summons and Complaint were properly served on KSC's registered agent on December 16, 2021. KSC did not respond to the Amended Summons and Complaint within thirty days and was subsequently held in default and the Defendant's Motion To Set Aside Default was denied in previous Order of this Court.

LEGAL STANDARD AND DETERMINATION OF DAMAGES

Rule 55, SCRCP, provides in part:

If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearing or order such references as it deems necessary and proper and shall accord a right of trial by jury to the parties if a proper demand therefor has been made pursuant to Rule 38 and not withdrawn, or when and as required by any statute. SCRCP 55(b)(2)

No motion was before the court for reference, nor was there a jury demand made by the Defendant. Therefore, the Court held the hearing and acted as the finder of fact without objection.

The Court applied the burden of proof of by the preponderance of the evidence for actual

damages. The amount of actual damages in a default action must be proved by the preponderance of the evidence. *Jackson v. Midlands Human Res. Ctr.*, 296 S.C. 526, 529, 374 S.E.2d 505, 507 (Ct.App.1988) (“A judgment for money damages must be warranted by the proof of the party in whose favor it is rendered.”). At the damages hearing, the defendant may only participate by cross-examining witnesses and objecting to evidence. *Howard v. Holiday Inns, Inc.*, 271 S.C. 238, 241–42, 246 S.E.2d 880, 882 (1978) (citations omitted).

The Court now proceeds to determine the appropriate damages owed to Mr. Nickles based on the aforementioned facts and subsequent procedural developments. In reaching a decision on the damages due to the Plaintiff, the Court heard testimony from several key witnesses, each providing critical information in their areas of expertise.

Jeff Horne, a fact witness, provided detailed testimony about the incident that led to the Plaintiff's injuries. He described the accident as severe, with a faulty cable mechanism leading to gruesome injuries for the Plaintiff. Mr. Horne's account helped to establish the direct cause of the physical harm suffered by the Plaintiff.

Dr. Oliver Wood, an expert in economics, presented testimony which was accepted by the Court without objection following a proper voir dire by the Defense. Dr. Wood testified to the total economic losses sustained by the Plaintiff, providing a detailed analysis of past and future wage loss, medical expenses, and other financial impacts resulting from the injury.

Glen Adams, a Vocational Expert whose expertise was also accepted without objection, provided testimony on the Plaintiff's ability to work and earn a livelihood post-incident. His insights contributed to the Court's understanding of the Plaintiff's reduced earning capacity and the vocational rehabilitation needs following the injury.

Each expert witness was duly qualified in their respective fields and their testimonies were

given considerable weight in the Court's determination of damages.

Plaintiff William F. Nickles, IV, also took the stand. His testimony offered the Court valuable insight into the personal and emotional impact of the injuries he sustained. The Plaintiff spoke to the pain and suffering, the loss of enjoyment of life, and the mental and emotional anguish he experienced as a direct result of the incident.

The Court, having considered the testimonies provided, the evidence presented, and the applicable laws and precedents, and applying the burden of proof by the preponderance of the evidence for actual damages as required by *Jackson v. Midlands Human Res. Ctr.*, 296 S.C. 526, 529, 374 S.E.2d 505, 507 (Ct.App.1988), finds in favor of the Plaintiff, William F. Nickles, IV.

NOW THEREFORE BASED UPON EVIDENCE PRESENTED TO THIS COURT, AND THE PROCEDURAL HISTORY NOTED, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. The Defendant, KSC Logistics, Inc., is in default as determined by prior Order of this Court.
2. The Plaintiff suffered severe and lasting injuries as a result of the Defendant's negligence.
3. The Plaintiff has proven by the preponderance of the evidence that the actual damages are apportioned as follows:
 - Medical Expenses: \$62,849.33
 - Financial Loss: \$759,268.00
 - Pain and Suffering: \$75,000.00
 - Loss of Enjoyment of Life, Mental Anguish, and Suffering: \$75,000.00
 - **Total Damages \$972,117.33**
4. That judgment of **Nine Hundred Seventy-Two Thousand One Hundred and Seventeen**

and 33/100 (\$972,117.33) DOLLARS be entered in favor of the Plaintiff against KSC Logistics, Inc. against Defendant KSC Logistics, Inc.

AND IT IS SO ORDERED.

DONALD B. HOCKER
COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

FEBRUARY ____, 2024
LAURENS, SOUTH CAROLINA



Abbeville Common Pleas

Case Caption: William F Nickles Iv VS Palmetto State Transportation Llc ,
defendant, et al
Case Number: 2021CP0100076
Type: Order/Damages

Circuit Court Judge

s/Donald B. Hocker, Judge Code 2167