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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas
Donald B. Hocker, Circuit Court Judge

Appellate Case No.: 2024-000511

Tracy Campbell and Daniel Campbell

Appellants,

v.

Brian Keith Newman and Kimberly Norman

Respondents.

INITIAL BRIEF OF RESPONDENTS

s/Michelle N. Endemann

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I. STATEMENT OF THE ISSUES ON APPEAL

- 1) DID THE CIRCUIT COURT CORRECTLY HOLD THAT THERE WAS NO EVIDENCE TO SUPPORT A JURY CHARGE OF PUNITIVE DAMAGES?
- 2) DID THE CIRCUIT COURT CORRECTLY HOLD THAT EVIDENCE OF PAST CONDUCT WAS INADMISSIBLE?
- 3) DID THE CIRCUIT COURT CORRECTLY DENY APPELLANTS' MOTION FOR A NEW TRIAL *NISI ADDITUR*?
- 4) DID THE CIRCUIT COURT CORRECTLY DENY APPELLANTS' MOTION FOR A NEW TRIAL ABSOLUTE?

II. STATEMENT OF THE CASE

This lawsuit arises out of an automobile accident that occurred on or about June 14, 2018, in Greenwood County, whereby Respondent Brian Newman (“Newman”) struck the rear of Appellants’ vehicle (the “Accident”). At the time of the Accident, Newman was operating a vehicle owned by Respondent Kimberly Norman (“Norman”). As a result of the Accident, Newman received a citation for Driving Under Suspension (“DUS”) and was found guilty of such.

Appellants filed their Summons and Complaint in the Greenwood County Court of Common Pleas on November 13, 2019, against Brian Keith Newman and Kimberly Norman. [Complaint]. The Complaint alleged causes of action for negligence/gross negligence, negligent entrustment and loss of consortium for Appellant Daniel Campbell. The Complaint alleges that Newman violated S.C. Code Ann. § 56-5-1520, which pertains to maximum speed limits. [Complaint ¶8]. Respondents timely filed their Answer denying the allegations contained in the Complaint. [Answer].

On June 1, 2021, the parties entered a Consent Order pursuant to Rule 40(j), SCRCF. [Rule 40(j) Consent Order]. Appellants counsel indicated that Mrs. Campbell was still treating for her injuries, which was a contributing factor to entering into the Consent Order. On May 9, 2022, the court restored the case to the active docket. [Consent Order Restoring the Case].

This matter went to trial on May 30, 2023, before the Honorable Donald B. Hocker and concluded on June 1, 2023. The jury returned a verdict for Appellant Tracy Campbell, awarding her \$50,000. [Verdict Form]. In addition, the jury awarded Appellant Daniel Campbell \$0 with respect to his loss of consortium claim. [Verdict Form].

On June 10, 2023, Appellants filed a Motion for a New Trial Absolute and Motion for a New Trial based on the Thirteenth Juror Doctrine. [Motion for a New Trial]. In their Motion, Appellants argued that the trial court erred by not allowing the issue of punitive damages to go to

the jury, by not allowing cross-examination of Newman regarding “similar habitual conduct”, and that the verdict was not justified based on the evidence. [Motion for a New Trial]. On February 29, 2024, the trial court denied Appellants’ Motion. [Order Denying Appellants’ Motion for a New Trial]. This appeal followed.

III. STATEMENT OF THE FACTS

The record supports the jury’s verdict and the trial court’s decisions. In her testimony, Tracy Campbell admitted that she had significant pre-existing medical issues, particularly with regard to her low back. In fact, Ms. Campbell testified that she had significant low back pain before this accident, and she admitted that her prior low back pain had no relation to the Accident. Thereafter, Tracy Campbell admitted that, following her lower back surgery, she was able to return to work full-time, she was able to care completely for herself, (as her husband was out of the familial home routinely for 4 to 5 days out of the week because of out-of-state job requirements), and she was able to exercise on a frequent basis. Further, the testimony established that Mrs. Campbell did not present to her testifying expert witness, Dr. James Logins, for complaints of right hip pain until three years after the Accident. Shortly after seeing Dr. Logins, she underwent right hip surgery. From the beginning, the defense argued that Tracy Campbell’s hip complaints were not related to the Accident.

Based on the jury’s award, the jury agreed with the defense and returned a verdict that did not include Tracy Campbell’s hip surgery or her claim that her quality of life decreased significantly after the Accident.

IV. STANDARD OF REVIEW

“An appellate court will not reverse the trial court's decision regarding jury instructions unless the trial court committed an abuse of discretion.” Cole v. Raut, 378 S.C. 398, 404, 663 S.E.2d 30, 33 (2008). An abuse of discretion occurs when the trial court's ruling is based on an

error of law or is not supported by the evidence. Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000). “However, the trial court is not required to instruct the jury on a principle of law that is irrelevant to the case as proved.” Greenville Housing Authority of City of Greenville by Carlton v. Massey, 281 S.C. 618, 622, 316 S.E.2d 722, 724 (Ct.App.1984). “Moreover, even if the trial court erred in failing to give a requested instruction, the requesting party also must show that the error was prejudicial to warrant reversal on appeal.” Miller v. City of West Columbia, 322 S.C. 224, 471 S.E.2d 683 (1996).

“All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, the Constitution of the State of South Carolina, statutes, [the South Carolina Rules of Evidence], or by other rules promulgated by the Supreme Court of South Carolina.” Rule 402, SCRE. However, relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. State v. Aleksey, 343 S.C. 20, 35, 538 S.E.2d 248, 256 (2000). “Determinations of relevance are largely within the trial court's discretion, and its decision to either admit or exclude evidence will not be disturbed on appeal unless there is an abuse of discretion amounting to an error of law to the prejudice of the appellant's rights.” Merrill v. Barton, 250 S.C. 193, 195, 156 S.E.2d 862, 863 (1967).

Under the “thirteenth juror” doctrine, a trial judge may grant a new trial absolute when he finds the evidence does not justify the verdict. Gastineau v. Murphy, 323 S.C. 168, 473 S.E.2d 819, 827 (Ct.App.1996). The grant or denial of new trial motions rest within the discretion of the trial judge and his decision will not be disturbed on appeal unless his findings are wholly unsupported by the evidence or the conclusions reached are controlled by error of law. Vinson v. Hartley, 324 S.C. 389, 477 S.E.2d 715 (Ct. App. 1996). When an order granting a new trial is before this Court, our review is limited to the consideration of whether evidence exists to support

the trial court's order. South Carolina Department of Highways & Public Transportation v. Mooneyham, 275 S.C. 205, 269 S.E.2d 329 (1980).

The trial judge alone has the power to grant a new trial nisi when he finds the amount of the verdict to be merely inadequate or excessive. McCourt by and Through McCourt v. Abernathy, 318 S.C. 301, 457 S.E.2d 603 (1995). The denial of a motion for a new trial nisi is within the trial judge's discretion and will not be reversed on appeal absent an abuse of discretion. O'Neal v. Bowles, 314 S.C. 525, 431 S.E.2d 555 (1993). This Court has the duty to review the record and determine whether there has been an abuse of discretion amounting to an error of law. Bailey v. Peacock, 318 S.C. 13, 455 S.E.2d 690 (1995).

V. ARGUMENT

A. The Circuit Court Correctly Held That There Was No Evidence Presented to Support a Punitive Damages Jury Charge.

When evidence presented at trial yields only one conclusion, the trial court may properly grant a motion for directed verdict. Fairchild v. South Carolina Dept. of Transp., 385 S.C. 344 (S.C.App.,2009). "A plaintiff is entitled to recover punitive damages if the act complained of is determined to be willful, wanton or reckless." Camp v. Components, Inc., 285 S.C. 443, 444, 330 S.E.2d 315, 316 (Ct.App.1985). "In any civil action where punitive damages are claimed, the plaintiff has the burden of proving such damages by clear and convincing evidence." S.C. Code Ann. § 15-33-135.

"Ordinarily, the test is whether the tort has been committed in such a manner or under circumstances that a person of ordinary reason or prudence would have been conscious of it as an invasion of the plaintiff's rights." Cartee v. Lesley, 290 S.C. 333, 350 S.E.2d 388, 390 (1986). "The test may also be satisfied by evidence of the causative violation of an applicable statute." Id.

“However, before punitive damages may be submitted to the jury, there must be evidence the statutory violation proximately contributed to the injury.” Id. “There must be some inference of a causal link between the statutory violation and the injury to warrant submitting the issue of punitive damages to the jury.” Id. at 337-338.

South Carolina case law provides that punitive damages may be proven by evidence of the causative violation of an applicable statute. However, there must be evidence that the violation of the statute proximately caused the injury in order for punitive damages to be submitted to the jury. Here, Appellants failed to prove a causal link between the alleged statutory violations and the injuries she claimed were caused by the Accident.

Appellants alleged that Newman was driving with a suspended license at the time of the Accident. Appellants argued that Newman’s lack of a license was an act that rose to the level of reckless conduct, supporting a punitive damages jury charge. Newman testified on direct examination that he lost his license about 20-25 years ago. [Transcript P. 80, lines 6-8]. Counsel for Appellants asked Newman on direct examination whether he was ever told not to drive, which Newman responded “no.” [Transcript P. 79, lines 15-16]. That is the extent of the evidence introduced by Appellants of Newmans violation of a statute. Appellants did not introduce any evidence proving by clear and convincing evidence that Newman driving with a suspended license proximately caused the injuries alleged. Merely asking the defendant whether he had a license at the time of the accident does not amount to proving a causal connection between the statutory violation and the injuries alleged. As the trial court correctly stated:

THE COURT: Right. I – I agree. However, violation of statute in and of itself would not be the sole basis to – to allow punitive damages to go to the jury.

[Transcript P. 84, lines 6-8]. Appellants argument that the trial court refused to charge the jury with punitive damages based on a fear of awarding punitive damages in every automobile accident is misplaced and wholly unsupported by the record.

Additionally, the trial court offered Appellants' counsel avenues to introduce evidence that Newman was allegedly charged with driving too fast for conditions, as outlined below:

THE COURT: Right. Okay. What if – if you want to, in order to protect the record, call the trooper up and get him to testify that he was charged with driving too fast for conditions. That's part of the record. I'm not going to allow that to go before the jury, but to protect the record because I know you're seeking punitive damages. So I'll allow you to do that. The DUS is a – I mean, yeah. That – that can come in.

MR. NICHOLSON: You were talking about make a proffer with him?

THE COURT: Yeah. On – on the driving too fast for conditions.

MR. NICHOLSON: I don't – I don't want to do that.

[Transcript P. 226, lines 17-25; P. 227, lines 1-4].

In addition, Appellants called Trooper James Brown, Jr., but did not elicit any testimony regarding Newman's DUS charge, or any other evidence that would establish proximate cause between Newman's statutory violation and the injuries.

Appellants cannot now complain of the trial court's ruling based on the lack of evidence presented towards the issue of punitive damages when they refused to proffer evidence that may have been relevant to punitive damages.

Therefore, the trial court, in its sound discretion, correctly held that there was insufficient evidence that Newman's actions were willful, wanton, or reckless and that there was insufficient evidence of a causal connection between the alleged violation of a statute and Mrs. Campbell's alleged injuries.

B. The Circuit Court Correctly Ruled that Evidence of Respondent's Past Conduct Was Inadmissible.

"As a general rule, evidence of a person's prior bad acts is not admissible for the purpose of proving action in conformity therewith on a particular occasion." Rule 404(a), SCRE. "The law in civil cases, as well as in criminal cases, permits proof of acts other than the one charged which are so related in character, time and place of commission as to ... tend to show the existence of a common plan or system." Citizens Bank of Darlington v. McDonald, 202 S.C. 244, 24 S.E.2d 369, 376(1943). When attempting to admit evidence under the common scheme or plan exception barring admission of a prior bad act, "a close degree of similarity between the prior bad act and the present case is necessary." State v. Martucci, 380 S.C. 232, 669 S.E.2d 598 (Ct. App. 2008). "Prior bad act evidence is admissible where the evidence is of such close similarity to the charged offense that the previous act enhances the probative value of the evidence so as to outweigh the prejudicial effect." Judy v. Judy, 384 S.C. 634, 682 S.E.2d 836 (Ct. App. 2009).

South Carolina courts have defined "habit" as conduct that is "situation specific" or "specific, particularized conduct capable of almost identical repetition." State v. Brown, 344 S.C. 70, 543 S.E.2d 552 (2001). "Evidence of habit is frequently rejected when offered for the purpose of showing that a person acted in accordance with such habit on a particular occasion." Holcombe v. W.N. Watson Supply Co., 171 S.C. 110, 117, 171 S.E. 604, 606 (1933).

Appellant argues that evidence of Newman’s prior driving record is relevant to the issue of punitive damages. However, the record reflects that Appellants’ counsel sought to elicit testimony from Newman regarding his driving record, both before and after the Accident, for the purpose of impeaching Newman’s “inconsistent activity.” [Transcript P. 221, lines 16-18]. Appellants’ counsel reiterated that he was seeking to admit testimony regarding Newman’s driving record “for impeachment purposes.” [Transcript P. 221, lines 7-8]. The trial court even offered to allow Appellants’ counsel to cross-examine Newman for punitive damages. [Transcript P. 221, lines 19-22; P. 222, lines 4-6]. However, Appellants’ counsel sought to proffer inadmissible testimony regarding prior driving convictions, as well as post-accident driving offenses. Appellant cannot now complain that the trial court erred in refusing to allow testimony for the purpose of proving punitive damages when the trial court offered to allow such evidence, so long as it was not otherwise inadmissible.

Regardless, the evidence of Newman’s prior convictions is inadmissible pursuant to Rule 609, SCRE. Rule 609 permits evidence of prior convictions if the crime was punishable by death or imprisonment in excess of one year. Newman’s driving offenses would not fall within the first prong of Rule 609, as they were neither punishable by death nor subject to imprisonment in excess of a year. Next, Rule 609 allows evidence of prior convictions for impeachment purposes if the convicted crime if it involved dishonest or false statements. SCRE 609(a)(2). As the trial court correctly ruled, Newman’s DUI traffic offenses would not fall under the second prong of Rule 609. [Transcript P. 199, lines 13-14]. Moreover, evidence that Newman allegedly had a “habit” of driving with a suspended license was inadmissible as it was not “situation specific” or “identical repetition.” *See State v. Brown*, 344 S.C. 70, 74. Therefore, impeachment evidence of Newman’s prior traffic offenses was inadmissible, as the trial court correctly ruled.

C. The Circuit Court Correctly Denied Appellants' Motion For A New Trial *Nisi Additur*.

"The consideration of a motion for a new trial *nisi additur* requires the trial judge to consider the adequacy of the verdict in light of the evidence presented." Vinson v. Hartley, 324 S.C. 389, 404, 477 S.E.2d 715, 723 (Ct. App. 1996). The mere listing of the plaintiffs claimed damages compared to the jury verdict "does not constitute compelling reasons for invading the jury's province." Green v. Fritz, 356 S.C. 566, 570, 590 S.E.2d 39, 41 (Ct. App. 2003). Furthermore, "[a] trial court does not abuse its discretion in denying a motion for new trial *nisi additur* where there is evidence in the record to support the jury's verdict." Ligon v. Norris, 371 S.C. 625, 635, 640 S.E.2d 467, 473 (Ct. App. 2006).

In Nestler v. Fields, 426 S.C. 34, 824 S.E.2d 461 (Ct. App. 2019), the defendant admitted that he was at fault for causing an accident and the plaintiff's injuries. The plaintiff claimed injuries of a cervical strain, left elbow contusion, tennis elbow, and a permanent impairment rating of 53% for his left upper extremity, which translated to a 32% impairment rating for the whole person. Id. at 463. The medical bills submitted into evidence for the plaintiff's alleged injuries totaled \$7,117.50, and the jury awarded \$7,117.50 in actual damages. The plaintiff moved for both a new trial *nisi* and a new trial *nisi additur* and argued that he was entitled to such relief because, "despite the extensive evidence as to his permanent impairment, pain and suffering, and other non-economic damages, the jury awarded him the amount of his medical bills." Id.

In fact, even in cases where the verdict did not cover all of the medical bills claimed by plaintiffs, South Carolina courts have found that it was an abuse of discretion for the trial judge to grant an additur. In Luchok v. Vena, 391 S.C. 262, 705 S.E.2d 71 (Ct. App. 2010), the plaintiffs alleged medical bills were \$10,071.00, and the jury returned a verdict for only

\$3,023.90. The defendant admitted fault for the accident submitted evidence questioning whether some of the plaintiff's chiropractic bills were reasonable and necessary. While the trial judge granted the motion for additur based on the fact that the verdict did not cover all of the chiropractic bills, this Court reversed and held that "[i]n the face of the sharply conflicting evidence, this is not a compelling reason to grant the motion." *Id.* at 73.

Here, there is substantial evidence in the record to support the jury's verdict. With respect to Appellant Tracy Campbell's medical expenses, Appellants argue in their initial brief that the evidence was directly related to Mrs. Campbell's hip injury and was not contradicted. [Appellants' Initial Brief, Pp. 26-27]. However, during trial, Mrs. Campbell testified that she had significant lower back pain prior to the Accident, as well as at the time of the Accident. [Transcript P. 151, lines 14-17]. Mrs. Campbell testified that four months after the Accident, she underwent lumbar surgery and, after the surgery, she was not experiencing pain. [Transcript 153, lines 20-22; P. 156, lines 3-4]. Mrs. Campbell further testified, and evidence was introduced, that she did not complain about any issues with her hip until approximately four months after the Accident. [Transcript P. 160, lines 6-11]. Then, Mrs. Campbell testified, and evidence was introduced, that approximately five months after the Accident, and one month after first reporting hip problems, she reported to her physical therapist that she was feeling good and was able to do everything on her own, and no longer needed physical therapy. [Transcript P. 161, lines 17-22]. Further, Mrs. Campbell testified that more than a year after the Accident, she reported to her doctor that she was doing well and had returned to all of her usual activities. [Transcript P. 165, lines 21-24]. Mrs. Campbell did not present to her testifying expert, Dr. James Logins, for hip pain until three years after the Accident. Further, Mrs. Campbell testified that following her right hip surgery, she reported that she was not having any hip pain, despite

testifying later that she was still experiencing pain. [Transcript 169, lines 4-7]. Therefore, a jury could have reasonably concluded that the Accident was not the proximate cause of Mrs. Campbell's injuries, supporting an award of \$50,000.

With regard to Mrs. Campbell's lost wages claim, there is evidence in the record to support the jury's findings. Mrs. Campbell testified that she was able to return to work full-time following the Accident. [Transcript P. 165, lines 22-24]. Mrs. Campbell also testified that when she missed work for her surgery, she did not lose any wages. [Transcript P. 177, lines 4-13].

Lastly, as it relates to Appellant Daniel Campbell's loss of consortium claim, evidence was introduced that he and Mrs. Campbell were still able to engage in shared hobbies together, such as riding motorcycles. [Transcript P. 177, lines 14-20]. Moreover, Mr. Campbell testified that his wife's pre-existing back condition kept them from engaging in hobbies even before the Accident. [Transcript P. 268, lines 13-21]. A jury could have reasonably concluded that Mr. Campbell's loss of consortium claim was not related to the Accident, but rather was a result of Mrs. Campbell's pre-existing injuries.

Respondents argued and presented evidence that Mrs. Campbell's right hip pain was not caused by the Accident. As the trial court correctly stated: "[i]t is reasonable to believe that the jury considered the total special damages claimed by the plaintiffs, the believability and credibility of plaintiffs' testimony, the credibility of co-plaintiff Tracy Campbell's expert testimony, the credibility of the co-defendant Brian Keith Newman, the pre-existing medical conditions and the gap in co-plaintiff Tracy Campbell's medical treatment to arrive at its verdict of \$50,000. [Order Denying Plaintiffs' Motion for New Trial]. Therefore, there is ample evidence supported by the record for the jury's decision to award Mrs. Campbell less than her claimed medical bills.

D. The Circuit Court Did Not Err in Denying Appellants' Motion For A New Trial Absolute.

“Traditionally, in South Carolina, circuit court judges have the authority to grant a new trial upon the judge’s finding that justice has not prevailed.” Todd v. Owen Indus. Prods., Inc., 315 S.C. 34, 431 S.E.2d 596 (Ct.App.1993). Similarly, the judge may grant a new trial if the verdict is inconsistent and reflects the jury’s confusion. Johnson v. Parker, 279 S.C. 132, 303 S.E.2d 95 (1983). Such discretion is “founded upon the facts, the evidence, the witnesses, the trial circumstances, the verdict and the judge’s view of them.” Fallon v. Rucks, 217 S.C. 180, 189, 60 S.E.2d 88, 92 (1950).

To prevail in an action founded in negligence, the plaintiff must establish three essential elements: (1) a duty of care owed by the defendant to the plaintiff; (2) a breach of that duty by a negligent act or omission; and (3) damage proximately caused by a breach of duty. Newton v. South Carolina Pub. Rys. Comm'n, 312 S.C. 107, 439 S.E.2d 285 (Ct.App.1993). In a negligence action, the plaintiff must prove proximate cause. Rush v. Blanchard, 310 S.C. 375, 426 S.E.2d 802 (1993). “A negligent act or omission is a proximate cause of injury if, in a natural and continuous sequence of events, it produces the injury, and without it, the injury would not have occurred.” Crolley v. Hutchins, 300 S.C. 355, 387 S.E.2d 716, 717 (Ct. App. 1989). Negligence is deemed to be the proximate cause of an injury when, without such negligence, the injury would not have occurred or could have been avoided. Hughes v. Children's Clinic, P. A., 269 S.C. 389, 237 S.E.2d 753 (1977). “Ordinarily, the question of proximate cause is one of fact for the jury and the trial judge’s sole function regarding the issue is to inquire whether particular conclusions are the only reasonable inferences that can be drawn from the evidence.” Vinson v. Hartley, 324 S.C. 389, 477 S.E.2d 715, 721 (Ct. App. 1996).

In Hartley, the plaintiff, Vinson, was injured as a result of a motor vehicle accident that was caused by Hartley. At trial, Hartley argued that Vinson did not indicate that he was hurt at the scene and did not seek medical treatment. In addition, Vinson alleged dental injuries but admitted that he did not hit his mouth or do anything during the accident that would have injured his teeth. It was established that the dental injuries being alleged did not occur until about a week after the accident. The jury deliberated and returned a verdict in favor of Hartley. Vinson then moved for JNOV and a new trial pursuant to the “Thirteenth Juror” doctrine.

On appeal, this Court held that the credibility of the witnesses was for the jury to determine, and a review of the record revealed there was sufficient evidence from which the jury could have reached a verdict in favor of Hartley. This Court reasoned that Vinson’s testimony related to his dental injuries showed that it could have been caused by something else. Further, this Court held that the jury could have concluded that the injuries suffered by Vinson were not caused by the accident at all. Lastly, this Court noted that there were certain inconsistencies in one of the witness’s testimony, which may have brought his credibility into question. This Court held “[s]implistically put, credibility of witnesses was for the jury to determine. The jury could have determined the medical bills testified to by Vinson were not the result of the accident which gave rise to this suit.” Id. at 727.

Similarly, in Black v. Hodge, 306 S.C. 196, 410 S.E.2d 595 (Ct.App.1991), the plaintiff alleged injuries following a motor vehicle accident. At trial, there were no witnesses that directly contradicted the plaintiff’s testimony or the testifying doctor. Yet, the jury returned a verdict in favor of the defendant. This Court reasoned that “[t]here remains the question of the inherent probability of the testimony and the credibility of the witnesses or the interests of the witness in the result of litigation.” Id. at 726. This Court held that “[u]nder the circumstances, the jury had

the right to find that she was not injured, and we do not have the right to second-guess the jury.”
Id.

As mentioned above, there is sufficient evidence in the record to support the jury’s findings. Respondents consistently argued that Appellants’ damages were not proximately caused by the Accident. The Court properly charged the jury on the issue of proximate cause, and based on the monetary award returned, the jury clearly did not believe that the Campbells had sufficiently proven that the full amount of medical bills submitted by them to the jury were proximately related to the Accident.

The record clearly establishes that the jury properly weighed the evidence and found the Campbells’ evidence unconvincing. The record and evidence presented does not suggest that the jury was confused, misled, or in any way inadequately performed the function of the finder of fact. Moreover, the record and evidence certainly does not reflect a verdict that is grossly inadequate to shock the conscience of the court. Instead, the verdict displayed a fair and reasonable sum determined by the evidence and testimony.

VI. CONCLUSION

The trial court properly denied the Campbells’ Motion for a New Trial Absolute and Motion for New Trial *Nisi Additur* and properly found that the jury’s verdict was reasonable based on the evidence presented. Therefore, Respondents respectfully request that the trial court’s February 29, 2024 Order denying the Motion for a New Trial be affirmed and that the jury’s verdict be upheld.

Respectfully Submitted by:

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