

# **EXHIBIT 1**

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
COUNTY OF SPARTANBURG ) SEVENTH JUDICIAL CIRCUIT

**RECEIVED**

Brandon Hendrickson,

Plaintiff,

vs.

Dennis Wheeler,

Defendant.

MAR 08 2017

SC Court of Appeals ORDER

2016 - CP - 42 - 03107

This matter comes before this Court by way of Judge Hayes' Order of Default Judgment with a reference for a damages hearing which was held on January 30, 2017. Present at the hearing was the Plaintiff, Brandon Hendrickson and his attorney Jon E. Newlon, Esq. Jeanmarie Tankersly, Esq., appeared for the Defendant Dennis Wheeler who was not present.

Plaintiff Brandon Hendrickson testified to his damages. He testified to the amount of his medical bills, \$7,675.00, and lost wages, \$1,300.00 which were set out in Plaintiff's Exhibit 4. Defendant did not object to the introduction of this Exhibit or to the amount of medical bills or lost wages claimed by Plaintiff.

Further, Plaintiff testified to his noneconomic loss in the form of shock, anxiety and mental disturbance immediately following the accident and at the scene. Plaintiff also, while referencing his emergency room record, testified to a pain level of 8 out of 10 just before he was administered pain medication on the day of the accident. Plaintiff also testified he was given prescriptions for muscle relaxers and pain medications which he took for a couple weeks after leaving the emergency room. Plaintiff also described the nature of the pain he experienced to his neck, low back and hips. Plaintiff also testified that his pain worsening after running out of his prescription medication so he

sought the services of Dr. Arcamone of River Falls Chiropractic. Plaintiff's Exhibit 4 indicates that he saw Dr. Arcamone for 20 visits for a total of \$5,930.00 and during that time, experienced pain from level 7/8 out of 10 at the beginning of treatment to 1/2 out of by the time this treatment concluded. He also testified to a muscle spasm that was found during the emergency room visit which was also found and treated by Dr. Arcamone.

Defendant cross-examined Plaintiff regarding the time it took him to get from the accident scene to the emergency room. Plaintiff also pointed out that a nurse made an entry that "pain onset was 2 hours ago while exercising.

In response, Plaintiff pointed out that this was a mistaken entry because there were a number of nurses in training at the time she confused Plaintiff with another patient. Plaintiff also pointed out that the nurse made a mistaken entry by recording "no back tenderness" when the treating doctor found, upon examination of Plaintiff's back, "vertebral point tenderness at lumbar spine spasm in bilateral lower paraspinal muscles."

Defendant further cross-examined Plaintiff about an entry in the emergency room record that said "pain improved." In response, Plaintiff pointed out that the emergency room record stated showed he was given muscle relaxers and pain medications at 1905 which caused his pain to improve prior to his departure from the emergency room.

Defendant further cross-examined Plaintiff regarding a two week delay between going to the emergency room to and treatment by Dr. Arcamone. In response, Plaintiff pointed out that he was taking medications during this time, the medications ran out and, therefore, he sought Dr. Arcamone's services.

At the close of the evidence, Plaintiff argued for recovery of medical bills in the

amount of \$7,675 and lost wages in the amount of \$1,300, noneconomic damages in the form of shock, anxiety, disruption of life, pain and suffering as was presented by physical evidence, reference to medical records and testimony.

Plaintiff further argued that he was entitled to some measure of punitive damages for vindication of Plaintiff's private rights because, aside from Defendant's guilty plea, the pleadings were deemed admitted by the default and the reckless conduct along with the violation of South Carolina Statutes regarding the operation of motor vehicles on public roads (S.C. Code Ann. §§ 56-5-580, 56-5-2150, 56-5-2320). Plaintiff further argued that because Defendant was reckless as a matter of law under admitted pleadings and admitted liability, and pursuant to Magnolia N. Prop. Owners' Ass'n, Inc. v. Heritage Communities, Inc., 4943, 2012 WL 469730 (S.C. Ct. App. Feb. 15, 2012), reh'g denied (Apr. 20, 2012), Plaintiff was entitled to some award for punitive damages.

In response, Defendant argued that Plaintiff's injuries were insignificant and only soft tissue without ever challenging the amount or the accuracy of the charges. Defendant further argued the emergency room record suggests Plaintiff's pain was brought on by exercising even though the testimony and medical records discussed showed he went to the emergency room the same day and within hours of the accident, and the emergency room records stated, as Plaintiff testified, he was there for a motor vehicle accident. Defendant further questioned the hourly rate used to calculate Plaintiff's lost wage claim even though Plaintiff testified his minimum daily earnings of \$100 was used to calculate his lost wages.

After a review of the evidence presented at the damages hearing and the exhibits

put into evidence, I find for the Plaintiff in the amount of \$8,637.00 which is comprised of \$7,337.00 in medical bills and \$1,300.00 in lost wages. The Court does not award any damages for noneconomic damages nor punitive damages because Plaintiff did not show, by a preponderance of the evidence, any noneconomic loss nor show, by clear and convincing evidence, that he was entitled to punitive damages.

IT IS SO ORDERED.

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Gordon G. Cooper, Master-in-Equity  
Seventh Judicial Circuit

\_\_\_\_\_, 2017  
\_\_\_\_\_, S.C.



Spartanburg Common Pleas

**Case Caption:** Brandon Hendrickson VS Dennis Wheeler

**Case Number:** 2016CP4203107

**Type:** Master/Order/Other

It is So Ordered

s/Judge Gordon G Cooper-3065

Electronically signed on 2017-02-07 14:02:02 page 5 of 5