

RECEIVED
JAN 03 2011
JEFFERSON COUNTY
CIRCUIT COURT

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

DORIS M. DeGRACIA,

Plaintiff,

v.

CIVIL ACTION NO. 08-C-390

AB&C GROUP, INC., and
JIMICA A. KANYATTA,

Defendants.

JUDGMENT ORDER

On the 14th day of December, 2010, this matter came on for a jury trial upon the issue of liability and damages, if any, to be awarded to the plaintiff before the Honorable David H. Sanders, Chief Judge of the 23rd Judicial Circuit in the Circuit Court of Jefferson County, West Virginia. At trial came the plaintiff, Doris M. DeGracia, in person and through her legal counsel, Harry P. Waddell, and came the defendants AB&C Group, Inc. and Jimica A. Kanyatta, in person and through their legal counsel, Bridget Cohee.

Following *voir dire* by the Court and individual *voir dire* by counsel for the parties, six qualified jurors and one alternate were selected to well and truly try the issues joined in this matter. The six qualified jurors and one alternate were sworn by the Clerk of Court on December 14, 2010 and were then given preliminary instructions by the Court to guide them and their conduct during the trial and to familiarize them generally with the proceedings.

Whereupon, following opening statements by counsel, the taking of evidence and the calling of witnesses began. On December 14, 2010, the plaintiff called the following witnesses: Jimica A. Kanyatta, Alex Ambroz, M.D., Trooper J.M. Bush, Earnestine

Cordray, Lille Dargan and Doris DeGracia. The Court adjourned for the day during the cross-examination of Doris DeGracia.

Whereupon on December 15, 2010, the examination of Doris Degracia concluded and the plaintiff called Karoly Varga, M.D. and rested. Whereupon, the plaintiff moved for a directed verdict on the issue of liability which motion and the Court's ruling denying the same is of record.

Whereupon on December 15, 2010, the defendants called Susan Womeldorf, M.D. and read to the jury the deposition of Mark J. Yacyk, M.D. Thereafter, the defendants rested on December 15, 2010.

Whereupon the plaintiff renewed her previously asserted motion for a directed verdict on liability and the Court denied the same for reasons that are of record.

Whereupon, the Court having provided the Jury with a copy of the instructions and reading the same to the Jury, counsel presented their closing arguments.

Whereupon the Court released the alternate juror and the Jury then retired to their deliberations.

Whereupon on December 15, 2010, the Jury returned from their deliberations and the following verdict was read:

1. Was the Defendant guilty of negligence which causes or contributed to the accident of October 2, 2006?

Yes No

If you answered "Yes," proceed to the question 2.

If you answered "No" to this question, STOP.

Do not answer any further questions. Inform the bailiff that you have reached a verdict.

2. Was the Plaintiff guilt of negligence which caused or contributed to the accident of October 2, 2006?

Yes No

If you answered "No" proceed to question 3.

If your answer to the question is "Yes", set forth the percentage of fault which you attribute to the Defendant and the percentage of fault you attribute to the Plaintiff. Your answer must equal 100%.

| | | |
|-----------|------------|---|
| Defendant | <u>80</u> | % |
| Plaintiff | <u>20</u> | % |
| Total | <u>100</u> | % |

3. Did the Plaintiff sustain personal injuries as a result of the accident of October 2, 2006?

Yes No

Proceed to the section in which you will consider Damages, **ONLY**, if you have found some fault in the Defendant **AND** if you have found the Plaintiff sustained injuries as a result **AND** you have not found the Plaintiff to be 50% or more at fault.

DAMAGES

Set forth the full amount of damages which you find will compensate the Plaintiff for any and all injuries which you find to have been caused by the collision of October 2, 2006, (regardless of anyone's percentage of fault).

| | |
|--|-------------------|
| (1) Past physical pain; | \$ <u>9,000</u> |
| (2) Future physical pain; | \$ <u>36,000</u> |
| (3) Past suffering or mental anguish; | \$ <u>9,000</u> |
| (4) Future suffering or mental anguish; | \$ <u>30,000</u> |
| (5) Past and future loss of ability to enjoy life; | \$ <u>10,000</u> |
| (6) Past doctor, hospital and medical expenses; | \$ <u>24,000</u> |
| (7) Future doctor, hospital, and medical expenses; | \$ <u>44,000</u> |
| Total Damages | \$ <u>162,000</u> |

(not reduced by any negligence attributed to Plaintiff)
(Any such reduction must be done only by the Court)

Whereupon, the Court awarded statutory prejudgment interest on the \$24,000 in past medical expenses at the rate of seven percent (7%) per annum for a total of \$7,000 in prejudgment interest. Whereupon, the Court reduced the total jury award by twenty percent (20%) to reflect the percentage of fault assigned to the plaintiff.

WHEREFORE, the Court hereby orders that judgment in the amount of One Hundred Thirty-Five Thousand Two Hundred Dollars (\$135,200.00) be awarded to the

plaintiff Doris DeGracia and the same entered against the defendants AB&C Group, Inc. and Jimica A. Kanyatta. The Court orders post-judgment interest at the statutory rate of 7% shall accrue upon the \$135,200 of damages awarded until said amount is paid in full.

All court costs as allowed by law shall be taxed to the defendants.

The Clerk shall enter this Judgment Order on the date set forth below and shall deliver an attested copy of this Judgment Order to all counsel of record.

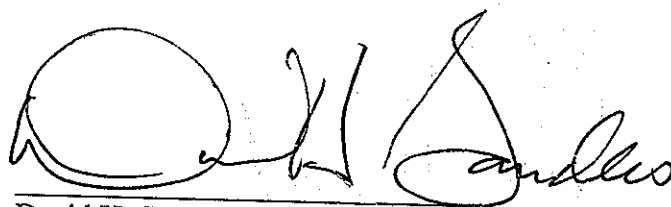
2 cc's

Entered: 1/3/0

B. Cahoe

H. Washburn

1-4-11 BC



David H. Sanders, Chief Judge of the 23rd Judicial Circuit

A TRUE COPY

ATTEST:

LAURA E. RATTENNI
CLERK, CIRCUIT COURT
JEFFERSON COUNTY, W.VA.

BY B. Cahoe
DEPUTY CLERK