Rel: June 16, 2023
Corr: July 13, 2023

SUPREME COURT OF ALABAMA

OCTOBER TERM, 2022-2023

SC-2022-1007

Selanmin D. Gross

v.

Christopher Dailey

Appeal from Conecuh Circuit Court
(CV-20-900030)

MENDHEIM, Justice.

Selanmin D. Gross appeals from the Conecuh Circuit Court's order granting a new trial in an action commenced by Christopher Dailey

against Gross stemming from a motor-vehicle accident. We reverse and remand.

I. Facts

On April 6, 2020, Dailey commenced this suit against Gross and Gross's automobile-insurance company,[1] asserting that Gross's negligence and/or wantonness in operating his motor vehicle on August 5, 2019, had resulted in a collision with Dailey's motor vehicle and that Dailey had suffered physical, mental, and emotional injuries as a result of the accident.[2] Subsequently, Dailey's action was consolidated with an action commenced by Ken W. Houston against Gross that stemmed from the same accident.[3] However, the trial court dismissed Houston's action following the filing of a joint stipulation of dismissal.

On October 18, 2022, Conecuh Circuit Judge Jack B. Weaver presided over a one-day jury trial concerning Dailey's negligence claim

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[1]Gross's automobile-insurance company, Liberty Mutual Insurance Company, subsequently elected on March 18, 2021, to opt out of the litigation pursuant to the procedure set forth in Lowe v. Nationwide Insurance Co., 521 So. 2d 1309 (Ala. 1988).

[2]At the conclusion of the trial, Dailey formally withdrew his claim of wantonness and any request for punitive damages.

[3]Houston was an occupant in the truck Dailey was driving.

against Gross. See note 2, supra. The only witnesses were Dailey and Gross. Dailey testified that on the morning of the accident he was driving a truck for his employer, the Alabama Department of Transportation, from Evergreen to Brewton to pick up a boom and that two coworkers, Ellis Gill and Ken Houston, were in the truck with him. According to Dailey, before the accident there had been a heavy rain, but at the time of the accident there was a lighter rain. Dailey stated that the accident occurred on Highway 31 in Castleberry. Dailey testified that Gross's truck, as it was coming from the opposite direction down a hill, started to turn sideways and "fishtail." As Gross's truck came toward Dailey's work truck, Dailey said, Gross's truck veered over the center line and hit Dailey's truck head-on, causing a "big blow" to the truck and to his body. Dailey testified that he had sustained injuries to his forearm and his lower back in the accident.

Gross testified that he was driving his 1996 Ford Ranger truck from Brewton to Evergreen to see his mom who lived in Evergreen. He stated that a little before the accident it had been "[s]torming real bad" but that it was drizzling when he reached the area where the accident occurred.

Gross stated that he was coming over a hill, that the speed limit was 55 miles per hour, and that when he looked down the hill he saw

> "a State truck and a tractor on the side of -- the right side of the road, and the State truck was still halfway in the road. So when I seen the State truck, I just hit the brakes. And when I hit the brakes, [my truck] just hydroplaned, and [my] truck lost control. Basically, that was it."

Following closing arguments by the parties' attorneys, Judge Weaver instructed the jury. Concerning the verdict forms, Judge Weaver stated:

> "[THE COURT:] Now, ladies and gentlemen of the jury, for your convenience, the Court has prepared for you, for your use in this case, verdict forms, which I will explain them to you. No inference is to be drawn by you from the fact that the Court has supplied you with these forms or the order in which the Court reads them to you. In other words, if I read one before I read the other, please don't take any inference that I read one before the other, because I have no opinion about the facts of the case.
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> "When you have reached a verdict, you will select and complete the form which corresponds to the verdict and which is to be signed by the foreperson, and all 12 must agree. In this case, all 11 must agree before a verdict will be returned back into court.[4]
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> "Now, ladies and gentlemen I'm going to tell you, the first verdict form I read says, verdict, 'we, the jury, find for

[4]The jury initially had 12 members, but 1 juror was dismissed during the trial because he was not a resident of Conecuh County. Dailey and Gross agreed to continue the trial with 11 jurors.

> the plaintiff, Christopher D. Dailey, and assess damages of blank dollars.' There's a place to date it and a place to sign it by the foreperson.
>
> "Okay. The next one says, 'we, the jury, find for the defendant.' There's a place to date it and a place for the foreperson to sign it.
>
> "Now, ladies and gentlemen, when you go back to the jury room in just a minute, you're going to select a foreperson. That foreperson will preside over the deliberations and sign the verdict form which -- when all 11 of you have agreed on a verdict. It must be the verdict of all 11 of you."

Upon the conclusion of its deliberations, the jury returned to the courtroom, and the following occurred:

> "THE COURT: Okay. All right. [C.N.], you served as foreperson on this case. Thank you.
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> "The verdict reads, 'we, the jury, find for the defendant.' And I'm going to poll the jury. I generally do this, so I'm going to start right here on the front row.
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> "(Whereupon, all 11 jurors individually confirmed the verdict.)
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> "THE COURT: Let the record reflect that all 11 affirmed that this was indeed their verdict, signed by the foreperson this date."

On October 19, 2022, the trial court entered the jury-verdict forms into the record, which showed that the foreperson had signed both verdict forms. The first verdict form simply stated: "We the jury find for the

defendant" and had the date filled in by hand above a blank line labeled "Date" and the signature of the foreperson on a second blank line labeled "Foreman." The second verdict form stated: "We the jury find for the plaintiff, Christopher D. Dailey, and assess damages of $0 dollars." The zero was handwritten. That form likewise had the date filled in by hand above a blank line labeled "Date" and the signature of the foreperson on a second blank line labeled "Foreman."

On October 19, 2022, Dailey filed a one-page "Motion for New Trial Due to Inconsistent Verdict." In full, the motion stated:

> "The jury returned a verdict for both the defendant and the plaintiff. This is an inconsistent verdict.
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> "'[T]he general rule is that, where a verdict in a civil case is inconsistent and contradictory, it should be set aside and a new trial granted. See generally 66 C.J.S. New Trial § 66 (1950). Alabama adheres to this rule.' Luker v. City of Brantley, 520 So. 2d 517[, 521] (Ala. 1987) (citing Ward v. Diebold, Inc., 486 So. 2d 1261 (Ala. 1986); Wickham v. Cotton, 465 So. 2d 388 (Ala. 1985); Sibley v. Odum, 257 Ala. 292, 58 So. 2d 896 (Ala. 1952)." [5]

On the same date, Gross filed a response in opposition to the motion for new trial in which Gross noted that Judge Weaver had announced a

[5]The opinion relied upon by Dailey, Luker v. City of Brantley, 520 So. 2d 517 (Ala. 1987), was subsequently overruled on other grounds by Jones Express, Inc. v. Jackson, 86 So. 3d 298, 309 (Ala. 2010).

verdict for the defendant in open court and had polled each juror and that each juror had confirmed the verdict for the defendant. He argued that "the verdict was in no way inconsistent: the verdict form for the Plaintiff awarded zero (0) dollars in damages which is perfectly consistent with a verdict for the Defendant."

On October 21, 2022, Judge Weaver entered an order granting a new trial, which stated that "[t]he jury returned a verdict for both the defendant and the plaintiff (awarding the plaintiff $0.00). The plaintiff filed a motion for a new trial." The order then quoted verbatim the portion of Dailey's motion for a new trial that quoted from Luker v. City of Brantley, 520 So. 2d 517 (Ala. 1987), and cited other cases decided by this Court. The order then stated that the motion for a new trial was granted, and it set the new trial for February 27, 2023.

On November 17, 2022, Gross filed a "Motion to Reconsider and Vacate Order Granting a New Trial" in which he reiterated that the verdict announced from the bench and confirmed by juror polling was for Gross. Gross attached to that motion an affidavit from the jury foreperson, in which she stated, in pertinent part:

> "4. After deliberation, the jury came to the unanimous conclusion that we were to deliver a verdict for the defendant,

> Selanmin Gross, and against the plaintiff, Christopher Dailey.
>
> "5. It was my understanding that I was supposed to sign and deliver only one verdict form. However, another juror told me that I was supposed to sign and deliver both forms. Therefore, based on that instruction, I signed and delivered both forms. However, in order to clarify that the jury's verdict was for the defendant, Selanmin Gross, I noted that the plaintiff was to be assessed damages of zero dollars ($0).
>
> "6. As stated above, there was no question that the jury definitely found for the defendant, Selanmin Gross, and against the plaintiff, Christopher Dailey."

On November 17, 2022, Judge Weaver entered an order denying Gross's postjudgment motion.[6] The order did not provide a rationale for his conclusion. On November 22, 2022, Gross appealed.

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[6]Although Gross's motion was styled as a "motion to reconsider," it was clearly a postjudgment motion addressing Judge Weaver's order granting a new trial. See, e.g., Ex parte Mutual Sav. Life Ins. Co., 765 So. 2d 649, 650 (Ala. 1998) ("As Mutual Savings correctly points out, the September 23, 1996, order granting Smith a new trial was a new 'judgment' within the meaning of our Rules of Civil Procedure. … A party may challenge an adverse judgment by filing, within 30 days of its entry, a motion to alter, amend, or vacate the judgment, pursuant to Rule 59(e)[, Ala. R. Civ. P.] … An examination of Mutual Savings' October 22, 1996, motion, although styled as one to 'reconsider,' clearly reveals that it was a Rule 59(e) motion. This Court looks to the essence of a motion, not just to its title, to determine how the motion should be treated under our Rules of Civil Procedure.").

II. Standard of Review

> "Granting or refusing a motion for new trial rests within the sound discretion of the trial court; the exercise of that discretion carries with it a presumption of correctness which will not be disturbed by this court unless some legal right was abused and the record plainly and palpably shows the trial court was in error."

Hill v. Cherry, 379 So. 2d 590, 592 (Ala. 1980).

III. Analysis

Gross's contention on appeal is straightforward: that the verdict was not inconsistent because everything indicated that the jury returned a verdict in his favor. Gross first notes, as he did to the trial court, that the colloquy in open court showed that the verdict was for the defendant, Gross. Judge Weaver first announced the verdict in open court as follows: "The verdict reads, 'we, the jury, find for the defendant.'" Judge Weaver did not read the second verdict form in open court.[7] Without prompting from either party, Judge Weaver also polled each of the jurors in open court to confirm a verdict for the defendant. After polling the jurors, Judge Weaver stated: "Let the record reflect that all 11 affirmed that this was indeed their verdict, signed by the foreperson this date." Given that

[7]The record does not disclose the reason the second verdict form was not disclosed until it was entered into the record.

the only announced verdict was for the defendant, a verdict for Gross was clearly affirmed by the jury polling. Gross insists that the second verdict form, which stated "We the jury find for the plaintiff, Christopher D. Dailey, and assess damages of $0 dollars" and which was likewise signed by the jury foreperson, also supports that the jury's verdict was in his favor because the jury did not award any damages to Dailey. Finally, Gross cites for support the postjudgment affidavit of the foreperson in which she testified that the jury's verdict was "definitely" in Gross's favor and that the only reason she had signed the second verdict form was because she had been was erroneously told by another juror that she was supposed to sign and return both forms. The foreperson testified that she sought to "clarify that the jury's verdict was for the defendant, Selanmin Gross," by listing Dailey's damages as $0 dollars.

Dailey attempts to answer each aspect of Gross's argument. Concerning the announced verdict in favor of the defendant, Dailey contends it was "irrelevant" because, he says,

> "[n]o ore tenus rule applies to the Circuit Court's review of a verdict for the plaintiff on negligence awarding $0.00 damages and a concurrent verdict for the defendant. … The Supreme Court may just as readily review those two pieces of paper in the record, accordingly, the review is de novo."

Dailey's brief, p. 10.

Dailey offers no authority for the foregoing contention. Moreover, his argument erroneously implies that the "real" verdict in the case stems from the verdict forms rather than anything stated in open court. However, the fact that the foreperson signed both verdict forms is not dispositive as to the verdict.

> "Appellant first complains that the verdict as rendered was not properly signed by the foreman and that 'the words appearing underneath the signature of the Foreman are not any part of the verdict of the jury.' This insistence is untenable and cannot be sustained. It is not essential to the validity of a verdict that it should be in writing. The law is, a jury may announce their verdict to the court ore tenus, and the fact that the verdict is returned in writing by the jury to the court adds nothing to its validity. Gary et al. v. Woodham, 103 Ala. 421, 15 So. 840 [(1894)]; Howard v. State, 17 Ala. App. 628, 88 So. 215 [(1920)]; Hayes v. State, 21 Ala. App. 615, 110 So. 696 [(1926)], and numerous cases cited; 27 R.C.L. p. 835, § 3."

Floyd v. Jackson, 26 Ala. App. 575, 576, 164 So. 121, 122 (1935) (emphasis added). See, e.g., Horton v. Shelby Med. Ctr., 562 So. 2d 127, 131 (Ala. 1989) ("'The law does not require any particular form in which a verdict must be rendered so long as it responds substantially to the issues raised.'" (quoting Whitmore v. First City Nat'l Bank of Oxford, 369 So. 2d 517, 521 (Ala. 1979))); Alabama Power Co. v. Cleckler, 295 Ala. 73, 76,

323 So. 2d 344, 346 (1975) ("The verdict can be either written or oral."). The only necessary requirement for a verdict to become official is that it be accepted by the court. See, e.g., Comer v. Rush, 403 So. 2d 205, 207 (Ala. 1981) (noting that "a verdict is not a finding by the jury until approved and accepted by the court"); Scott v. Parker, 216 Ala. 321, 325, 113 So. 495, 499 (1927) ("It is true that there is not a final judgment until the verdict is returned and noted in open court."); King v. Robinson, 5 Ala. App. 431, 438, 439, 59 So. 371, 373 (1912) ("A verdict is not a verdict until it is affirmed by the jury in open court." "When, … upon the reassembling of the court, the jury again took their seats in the jury box, and the sheriff handed back to the jury the papers in the case, in the presence of the court and of the parties to the cause, and the jury, in open court, formally announced the result of their deliberations, the formalities of law in regard to the reception of verdicts were in all things properly observed.").

In this case, the trial court clearly announced a verdict in favor of the defendant, Gross, in open court. Additionally, Judge Weaver polled the jury concerning the announced verdict. "The purpose of polling the jury before the verdict is recorded is to give each juror the opportunity to

declare his assent to what the foreman will return, and thus to enable the court to determine that the jurors are in agreement." Comer, 403 So. 2d at 207. In other words, the polling served as confirmation of the announced verdict. See, e.g., E & S Facilities, Inc. v. Precision Chipper Corp., 565 So. 2d 54, 61 (Ala. 1990) ("To prevent confusion, the trial judge polled the jury for the sole reason of clarification."). Dailey notes that Judge Weaver did not ask the jurors about the second verdict form, which leads Dailey to conclude that "the polling of the jury is thus irrelevant." Dailey's brief, p. 10 (emphasis omitted). But the jurors were plainly aware that there was a second verdict form because Judge Weaver read both forms to them during the jury instructions, and yet no juror raised the subject of the second verdict form when he or she was polled. Instead, all the jurors confirmed that their verdict was for the defendant.

Dailey also asserts that the foreperson's affidavit "was properly not considered by the trial judge" because, he says, it was inadmissible evidence under Rule 606(b), Ala. R. Evid. Dailey's brief, p. 11. Rule 606(b) provides:

> "(b) Inquiry Into Validity of Verdict or Indictment. Upon an inquiry into the validity of a verdict or indictment, a juror may not testify in impeachment of the verdict or indictment as to any matter or statement occurring during the course of

> the jury's deliberations or to the effect of anything upon that or any other juror's mind or emotions as influencing the juror to assent to or dissent from the verdict or indictment or concerning the juror's mental processes in connection therewith, except that a juror may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror. Nor may a juror's affidavit or evidence of any statement by the juror concerning a matter about which the juror would be precluded from testifying be received for these purposes. Nothing herein precludes a juror from testifying in support of a verdict or indictment."

(Emphasis added.)

However, Judge Weaver's order denying Gross's postjudgment motion did not state whether he had considered the foreperson's affidavit. Moreover, as Gross observes in his reply brief, the exclusion in Rule 606(b) applies only if the juror's affidavit impeaches the verdict, not if it supports the verdict. See, e.g., Alabama Power Co. v. Brooks, 479 So. 2d 1169, 1178 (Ala. 1985) ("Neither testimony nor affidavits of jurors are admissible to impeach their verdicts; however, such evidence is admissible to sustain them."). The foreperson's affidavit did not seek to question the announced verdict; rather, it supported that the jury did, in fact, decide the case in Gross's favor. Therefore, the affidavit was not

inadmissible, and it further corroborates the verdict announced in open court in favor of Gross.[8]

Finally, Dailey's most cogent argument for affirming the trial court's order granting a new trial -- the argument adopted by Judge Weaver -- is that multiple opinions of this Court have concluded that a verdict for a plaintiff on a negligence claim that awards no damages constitutes an inconsistent verdict. See, e.g., Alabama Power Co. v. Epperson, 585 So. 2d 919, 921 (Ala. 1991) ("The trial court in this case correctly concluded that because the jury awarded zero damages, there was a failure to find each essential element of negligence and, therefore,

[8]Dailey also contends that the foreperson's affidavit "asserted the hearsay statement of another juror," which, he asserts, was inadmissible. Dailey's brief, p. 13. However, as Gross observes in his reply brief, the foreperson's reference to a juror's statement telling her to sign both verdict forms was not introduced to prove the matter asserted but, rather, to explain why she had signed both forms. See Gross's reply brief, p. 13. In any event, Dailey did not object to the foreperson's affidavit on hearsay grounds in the trial court, so the objection was waived. See Petty-Fitzmaurice v. Steen, 871 So. 2d 771, 774-75 (Ala. 2003) ("We pretermit a discussion of whether the affidavit of Petty-Fitzmaurice's counsel constitutes hearsay, because even if it is, Steen waived his argument that the affidavit is inadmissible by failing to object when the affidavit was presented to the trial court. This Court has held that a party cannot argue on appeal that an affidavit contains inadmissible hearsay when the party did not object to the affidavit when it was submitted to the trial court.").

that the verdict was inconsistent on its face, as a matter of law. We hold that the trial court correctly granted the plaintiffs a new trial on the basis of the inconsistency of the award of no damages, when that award was juxtaposed with the jury's finding of the defendant's liability."); Clements v. Lanley Heat Processing Equip., 548 So. 2d 1345, 1347 (Ala. 1989) ("The jury's finding for the plaintiff necessarily embraced all of the elements of the negligence claim, including the element of injury and resultant damages. To so find, and then award 'court costs only' and no compensatory damages, is inconsistent on its face, as a matter of law. The trial court should have afforded the plaintiff a new trial on the basis of the inconsistency of the award of no damages when that award is juxtaposed with the jury's finding of the defendants' liability. Its refusal to do so was reversible error."); Moore v. Clark, 548 So. 2d 1352, 1353 (Ala. 1989) ("The jury apparently resolved the issue of injury or damage in [the plaintiff's] favor. However, that finding is inconsistent with fixing the damages as 'none.' ").

Dailey in particular emphasizes this Court's opinion in Stinson v. Acme Propane Gas Co., 391 So. 2d 659 (Ala. 1980), which, Dailey says, rejected the contention that a finding of zero damages for the plaintiff

constitutes a verdict for the defendant. In relevant part, the Stinson Court stated:

> "At the outset, we note that, while our discussion will focus on the issue as postured by the parties -- that of inadequacy vel non of damages -- we are inclined to characterize this as a situation where those damages awarded (i.e., none) were inconsistent with the jury's determination as to liability.
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> "[The defendants] would have us adopt what seems to be the attitude of the Federal Courts, as well as some states, in situations similar to that before us. The rationale of these cases is summarily stated in Baldwin v. Ewing, 69 Idaho 176, 180, 204 P.2d 430, 432 (1949):
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> > "'A jury is only required to find as to ultimate facts; and if it finds that plaintiff is entitled to recover, to fix the amount of recovery. If the finding is that plaintiff is not entitled to recover, the verdict should be for defendant. Where, as here, the jury finds that plaintiff is entitled to recover "$ none," it is in fact and in law a finding for the defendant.'
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> "For other cases employing the same rationale, see Wingerter v. Maryland Casualty Company, 313 F.2d 754 (5th Cir. 1963); Joseph v. Rowlen, 425 F.2d 1010 (7th Cir. 1970); Atlantic Coast Line R. Co. v. Price, 46 So. 2d 481 (Fla.1950). Thus, there is authority for the proposition that an award of no compensation to a prevailing plaintiff is, in fact, a verdict for the defendant.
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> "We reject the holding and the reasoning of these cases. Here, the claims were grounded on theories of negligence and

> wantonness. Both theories were presented to the jury under appropriate instructions. The jury returned a general verdict favorable to each Plaintiff and against each Defendant, but assessed no compensation. We assume, for purposes of appellate review, that the verdicts were based on the simple negligence charge alone, for which compensatory damages only were subject to recovery. Seitz v. Heep, 243 Ala. 376, 10 So. 2d 150 (1942). The jury's finding for each of the Plaintiffs, which is clear and unequivocal, necessarily embraced all of the elements of the tort claim, including the element of injury and resultant damages. To so find, and then award no damages, is inconsistent on its face as a matter of law.
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> "While courts do not favor the setting aside of verdicts for damages if it can be avoided (Airheart v. Green, 267 Ala. 689, 104 So. 2d 687 (1958)), we deem such action here unavoidable. The verdict must be consistent and the damages awarded must be reasonably proportionate to the injury. Askin & Marine Co. v. King, 22 Ala. App. 452, 116 So. 804 (1928).
>
> "....
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> "Our application of the above authority to the instant case compels a decision that the trial court should have afforded [the plaintiffs] a new trial on the basis of the inadequacy of the award, or, as we see it, the inconsistency of the award of no damages, when such award is juxtaposed with the jury's finding of Defendants' liability. Its refusal to do so was reversible error."

391 So. 2d at 660-61 (some emphasis added). See also Northeast Alabama Reg'l Med. Ctr. v. Owens, 584 So. 2d 1360, 1366 (Ala. 1991) ("[T]he law

is clear that an award of no compensation to the plaintiff is not, in fact, a verdict for the defendant.").

Gross readily admits that several cases have concluded that a verdict for a plaintiff that awards no damages is inconsistent and must be reversed. Gross highlights, however, an observation from the Court of Civil Appeals that, "'[w]ithout exception, these cases have pertained to juries which find the defendant negligent without awarding any damages to the plaintiff. Such verdicts are inherently inconsistent because they seek to establish negligence even while rejecting an essential element of the negligence claim.'" Downs v. Goodwin, 827 So. 2d 122, 123 (Ala. Civ. App. 2002) (quoting Denton v. Foley Athletic Club, 578 So. 2d 1317, 1318 (Ala. Civ. App. 1990)) (emphasis added). Indeed, in all the cases relied upon by Dailey and cited by the trial court, the jury's award of no damages to the plaintiff was made along with a finding of liability against the defendant. See, e.g., Epperson, 585 So. 2d at 921 ("We hold that the trial court correctly granted the plaintiffs a new trial on the basis of the inconsistency of the award of no damages, when that award was juxtaposed with the jury's finding of the defendant's liability." (emphasis added)); Clements, 548 So. 2d at 1347 ("The trial court should have

afforded the plaintiff a new trial on the basis of the inconsistency of the award of no damages when that award is juxtaposed with the jury's finding of the defendants' liability." (emphasis added)); Stinson, 391 So. 2d at 661 ("[T]he trial court should have afforded [the plaintiffs] a new trial on the basis of the inadequacy of the award, or, as we see it, the inconsistency of the award of no damages, when such award is juxtaposed with the jury's finding of Defendants' liability." (emphasis added)).

In contrast to those cases, in the present case the jury did not find any liability against Gross: as we already have noted, the announced verdict in open court was for Gross, that verdict was confirmed by a polling of each juror, and it was accepted by the trial court. Such a scenario did not occur in any of the cases cited by Dailey or relied upon by the trial court. A better parallel to what occurred in this case is the situation that was before this Court in Hall v. Defoor, 273 Ala. 597, 143 So. 2d 449 (1962). Hall arose from a collision between the plaintiff Harold Defoor's tractor-trailer truck and a dump truck owned by defendant Hubert Scogin and driven by Scogin's employee, defendant Paul Hall. Defoor sued Scogin and Hall for damages, and the defendants counterclaimed -- Scogin seeking recoupment for damage to his dump

truck and Hall seeking recovery for personal injuries. The jury returned four verdict forms. The first form was not signed by the jury's foreman but stated: "'We, the jury, find for the Plaintiff, and assess his damages at $ None.'" 273 Ala. at 597, 143 So. 2d at 450. The remaining three forms were signed by the jury's foreman. One stated: "'We, the jury, find for the defendant Paul Hall on his plea of set off and recoupment, and assess his damages at $1,000.00.'" Id. The second one stated: "'We, the jury, find for the defendant Hubert Scogin on his plea of set off and recoupment, and assess his damages at $400.00.'" Id. The third signed verdict form simply stated: "'We, the jury, find for the defendants.'" 273 Ala. at 598, 143 So. 2d at 450. "The [trial] court then, in open court, polled the jury to determine exactly what their verdicts were and each juror stated that their respective verdicts were against the plaintiff and in favor of defendant Hall in the amount of $1,000.00, and defendant Scogin in the amount of $400.00." Id. The trial court subsequently granted a motion for a new trial from plaintiff Defoor because "the learned trial court seemed to have been of the opinion that the verdicts rendered in the cause were repugnant and contradictory, entitling the plaintiff to a new trial on those grounds." 273 Ala. at 597, 143 So. 2d at 450. This Court disagreed

with the trial court's conclusion that the verdict was contradictory, explaining:

> "The foregoing reflects, without doubt, that the jury returned a verdict against the plaintiff in favor of Hall in the amount of $1,000.00 damages and in favor of Scogin and against the plaintiff in the amount of $400.00 damages. Therefore, no error intervened by the action of the trial court in receiving the verdicts after having polled the jury and thus enrolling them as finally returned. A verdict need not be rendered in any particular form and may be either oral or written. Here the verdicts were in both proper forms."

273 Ala. at 598, 143 So. 2d at 451 (emphasis added).

Thus, in Hall, as in this case, the trial court accepted verdict forms finding in favor of the defendants as well as a verdict form that awarded $0 in damages to the plaintiff. Also in Hall, as in this case, the jurors were polled, and they all stated that their intent was to return a verdict in favor of the defendants. See Hall, 273 Ala. at 598, 143 So. 2d at 451. The Hall Court concluded that the verdict stated in open court was in proper form and was not contradictory. The same is true of the verdict in this case.

IV. Conclusion

Based on the foregoing, the trial court erred in concluding that the second signed verdict form awarding zero dollars in damages to Dailey

meant that the jury reached an inconsistent verdict. The cases relied upon by the trial court do not support that conclusion, and the evidence concerning the verdict overwhelmingly supports the conclusion that the jury reached a verdict in favor of the defendant, Gross. Accordingly, the trial court's order granting a new trial is reversed, and the trial court is instructed to reinstate the verdict in favor of Gross and to enter a judgment on that verdict.

REVERSED AND REMANDED.

Parker, C.J., and Shaw, Bryan, and Mitchell, JJ., concur.