

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

PARVIZ MAHANI &)
MARIAM SALEH,)

Plaintiffs,)

v.)

C.A. No. 97C-10-139

JENNIFER WALLS As)
Administratrix of the Estate of)
JOHN F. FIELDS,)

Defendant.)

Date Submitted: August 23, 2001

Date Decided: September 21, 2001

ORDER

UPON DEFENDANT’S MOTION FOR COSTS

DENIED WITHOUT PREJUDICE

On this 21st day of September, 2001, upon consideration of Defendant’s Motion for Costs filed by Jennifer Walls, as Administratrix of the Estate of John F. Field, (“Defendant”), the Opposition filed by Parviz Mahani and Mariam Saleh (“Plaintiffs”), and the record, it appears to the Court that:

(1) This is a personal injury claim arising out of an automobile accident that occurred on December 15, 1995. Neither negligence nor proximate cause was conceded by Defendant. On July 20, 2001, a jury rendered a verdict that Defendant was not negligent. On September 21, 2001, this Court granted Plaintiff's Motion for a New Trial.

(2) Delaware Courts have held that an order granting a new trial is an interlocutory order.¹ **"An interlocutory order or decree is one which does not finally determine a cause of action but only decides some intervening matter pertaining to the cause, and which requires further steps to be taken in order to enable the court to adjudicate the cause on the merits."**² Whereas no final judgment has been entered in this case, Defendant's Motion for Costs is premature and is hereby **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

ALFORD, J.

Original: Prothonotary's Office - Civil Div.

¹ *5.97752 Acres of Land in New Castle County v. State*, Del. Supr., 202 A.2d 924, 925-26 (1964); *Miller v. Suburban Propane Gas Corp.*, Del. Supr., 565 A.2d 913, 914 (1989); *Katcher v. Martin*, Del. Supr., 597 A.2d 352, 353 (1991).

² Black's Law Dictionary 815 (6th ed. 1990).