

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

SAVO DJUKIC,)	
Plaintiff,)	
)	
v.)	C.A. No. N12C-12-055 ALR
)	(CONSOLIDATED)
DOUBLETREE FRANCHISE LLC,)	
RB/WH ROCKY MOUNT DB LLC,)	
HOSPITALITY VENTURES)	
MANAGEMENT, LLC, and)	
TECTON MANAGEMENT SERVICES)	
COMPANY, LLC,)	
Defendants.)	

Submitted: December 4, 2015
Decided: December 16, 2015

***Upon Consideration of Defendants’ Motion for Partial Summary
Judgment of Plaintiff’s Punitive Damages Claim***
DENIED WITHOUT PREJUDICE

Upon consideration of Defendants’ Motion for Partial Summary Judgment of Plaintiff’s Punitive Damages Claim, Plaintiff’s response in opposition thereto, the applicable rules and decisional law, the entire record in this case, the Court finds as follows:

1. The Court may grant summary judgment only where the moving party can “show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.”¹ The moving party bears the

¹ Super. Ct. Civ. R. 56.

initial burden of proof, and once that is met, the burden shifts to the non-moving party to show that a material issue of fact exists.² At the motion for summary judgment phase, the Court must view the facts “in the light most favorable to the non-moving party.”³

2. The purpose of punitive damages is two-fold: (1) to punish wrongdoers; and (2) to deter others from similar conduct in the future.⁴ Punitive damages are recoverable “in situations where the defendant’s conduct, though unintentional, has been particularly reprehensible, *i.e.* reckless, or motivated by malice or fraud,”⁵ or where conduct “exhibits a wanton or willful disregard for the rights of plaintiff.”⁶ Conduct is willful or wanton if it reflects a “conscious indifference” or an “I don’t care” attitude.⁷ The question of whether conduct meets the standard for an award of punitive damages is typically a question for the jury to decide.⁸

² *Moore v. Sizemore*, 405 A.2d 679, 680-81 (Del. 1979).

³ *Brzoska v. Olson*, 668 A.2d 1355, 1364 (Del. 1995).

⁴ *Jardel Co. v. Hughes*, 523 A.2d 518, 529 (Del. 1987); *see also Short v. Drewes*, 2006 WL 1743442, at *1 (Del. Super. June 21, 2006).

⁵ *Jardel Co.*, 523 A.2d at 529.

⁶ *Cloroben Chem. Corp. v. Comegys*, 464 A.2d 887, 891 (Del. 1983).

⁷ *Id.* (internal citations omitted).

⁸ *Jardel Co.*, 523 A.2d at 527; *see also Brown v. United Water Delaware, Inc.*, 3 A.3d 272, 276 (Del. 2010) (“Ordinarily, questions of gross negligence and willful or wanton conduct are for the jury and are not susceptible of summary adjudication.”); *Eustice v. Rupert*, 460 A.2d 507, 509 (Del. 1983) (“The question of wanton conduct (as with a question of negligence) is ordinarily one for the trier of fact.”); *Alston v. Chrysler Corp.*, 1999 WL 463703, at *1 (Del. Super. May 24, 1999) (internal citations omitted) (“Whether to award punitive damages, as well as any amount, is within the province of the trier of fact.”).

3. Viewing the facts in the light most favorable to Plaintiff, the non-moving party, factual issues as to whether Defendants' conduct was willful or wanton remain. Accordingly, the Court finds that summary judgment on the issue of punitive damages is premature at this stage in the proceedings.

4. At the close of Plaintiff's case, Defendants may request judgment as a matter of law as to punitive damages if there is not a legally sufficient evidentiary basis for a reasonable jury to find for Plaintiff with respect to punitive damages.⁹

NOW, THEREFORE, this 16th day of December, 2015, the Motion for Partial Summary Judgment of Plaintiff's Punitive Damages Claim filed by Defendants is hereby DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Andrea L. Rocanelli

Hon. Andrea L. Rocanelli

⁹ See Super. Ct. Civ. R. 50(a)(1) ("If during a trial by jury a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue, the Court may determine the issue against the party and may grant a motion for judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue.").