Submitted: April 19, 2001
Decided: April 25, 2001

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Re: ***Laraye Wright v. Chad Roland Meek and William Di Pietrapaul d/b/a First State Lawn Service*** **- Civil Action No. 99C-02-181 SCD**

Dear Counsel:

The Plaintiff has filed a Motion for New Trial resulting from a verdict of no injury, returned by the jury on March 28, 2001, after three days of trial.

This personal injury action arises from a motor vehicle accident that occurred on February 4, 1998. The plaintiff was a passenger in a vehicle which was hit from the rear by a vehicle operated by Chad Roland Meck. Mr. Meck was an employee of William Di Pietrapaul, doing business as First State Lawn Service.

The defendant admitted negligence. The only issue put to the jury was whether the negligence was a proximate cause of injury. If so, the jury was to award damages. The jury concluded that the accident was not a proximate cause of injury.

The plaintiff complained of neck and back strain and an injury to the left knee. The plaintiff's case was complicated by the fact that she had complained of left knee problems a couple months before the accident which was treated with an inflammatory medication. She did not complain of a left knee problem at the emergency room after the accident nor do the records reveal any reference to a bump or bruise or other injury to the left knee. In fact, there is no medical record documenting left knee complaints until two months after the accident. When she complained regarding her left knee, an MRI was performed which was interpreted by Andrew Gelman, D.O., the defendant's medical expert, as inconsistent with a February

1998 injury but consistent with a longer standing injury.

As to the neck and back injuries, the jury was instructed that the complaints were subjective in nature. Once the plaintiff's credibility was in issue, there was a basis for the jury to doubt all the plaintiff's claims of injury.

A motion for new trial on an allegation of inadequate evidence pursuant to Superior Court Rule 59 will not be granted unless "the evidence preponderates so heavily against the jury verdict that a reasonable jury could not have reached the result." *Story v. Camper*, Del. Supr., 401 A.2d 458, 465 (1979). I find that there was ample evidence to support the jury's conclusion that the plaintiff did not sustain an injury as a result of the accident of February 4, 1998.

The motion is denied. IT IS SO ORDERED.

Very truly yours,

Susan C. Del Pesco

SCD/msg
Original to Prothonotary