

March 15, 2001

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**RE: Gove v. Nickalaus Lawrence Smith, et al.
C.A. No. 99C-02-054 FSS**

**Submitted: January 17, 2001
Decided: March 15, 2001**

On Plaintiff's Motion for New trial. Denied.

Dear Counsel:

The plaintiff has filed a Motion for New Trial arguing that the verdict form utilized during the trial may have confused the jury. The Court finds no reasonable basis to support the plaintiff's contention and denies the motion.

This case was a simple motor vehicle accident where the primary dispute was the location of the plaintiff's vehicle as she entered the intersection of Harmony Road and Kirkwood Highway. Although disputed by the plaintiff, there was evidence introduced that suggests that the plaintiff was traveling in the right turn lane as she entered the intersection, but instead of turning, she proceeded straight through the intersection and collided with the defendant's vehicle, which was turning left from southbound Kirkwood Highway onto Harmony Road. As such, there was clearly evidence to support a finding that both parties shared responsibility for the accident, and the

verdict is neither against the great weight of evidence or unreasonable. *Gannett Company, Inc. v. Re*, Del. Supr., 496 A.2d 553, 558 (1985); *Storey v. Camper*, Del. Supr., 401 A.2d 458 (1979).

In spite of this background, the plaintiff now asserts that the jury verdict form potentially caused the jury to confuse the two parties and transpose the assigned degree of liability. First, the form utilized by the Court was thoroughly discussed with counsel prior to submitting it to the jury. While the form was unusual in that it asked the jury to determine the amount of damages prior to answering the question relating to comparative negligence, counsel agreed that the form was more consistent with the way the standard jury instructions concerning liability and damages are given and agreed to its use. The Court recalls that the form was actually favored by the plaintiff, although it has not reviewed the record to confirm this impression.

More importantly, the Court finds that the evidence fully supports the conclusions reached by the jury as set forth on the verdict form. The parties are identified by name, and there is no reason the jury would confuse the two individuals. The plaintiff is an elderly woman, and the defendant is a young male. It stretches reason and common sense to believe the jury would confuse the individuals. Further, the form is consistent in how the liability issues were addressed. The verdict form first asked the jury to determine whether the defendant was negligent and if so, to establish a damage award. The jury was then asked to determine whether the plaintiff was in any way negligent in the accident. Then, in this same order, the final question of the form requested the percentage of liability for each party. As such, the form is consistent, not confusing, and there is no reason to believe the jury's verdict is incorrect.

For all the reasons set forth above, the plaintiff's Motion for New Trial is **DENIED.**
IT IS SO ORDERED.

Sincerely yours,

Judge William C. Carpenter, Jr.

WCCjr:twp

cc: Prothonotary