

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

KAREN L. DUNN, )  
)  
Plaintiff, )  
)  
v. ) C.A. No. 01C-11-006 MMJ  
)  
JAMES RILEY, )  
)  
Defendant. )

Submitted: March 19, 2004  
Decided: April 15, 2004

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**ORDER**

*Upon Plaintiff's Motion for New Trial/Additur*

**DENIED**

1. Plaintiff filed this action claiming damages for personal injuries stemming from a motor vehicle collision that occurred on December 18, 1999. Following trial, the jury returned a verdict on March 2, 2004. The jury completed the Special Verdict Form as follows:

1. Do you find the Defendant negligent?

Yes  X  No  \_\_\_\_\_

(If your answer is “yes,” proceed to question 2. If your answer is “no”, judgment will be entered in favor of defendant.)

2. Do you find that Defendant’s negligence was a proximate cause of Plaintiff, Edwards’ [sic] injuries and damages?

Yes \_\_\_\_\_ No  X

(If your answer is “yes,” proceed to question 3. If your answer is “no”, judgment will be entered for the defendant.)

\* \* \*

The above are the jury’s unanimous verdicts and answers to these special interrogatories.

3-02-04 /s/ Anna B. Burns  
Date Foreperson

2. Plaintiff filed a Motion for New Trial/Additur on March 12, 2004.

Plaintiff raises two issues. First, the Court had determined before trial that no party would be permitted to comment on the extent of damage or lack of damage to any vehicle, for purposes of demonstrating the severity or minimal nature of any physical injuries. During trial, Defendant testified on direct examination that after the “collision” he left the scene because there was “no damage.” Plaintiff’s counsel objected and the Court immediately issued an instruction admonishing the jury to disregard the comment because whether or not any vehicle was damaged

was irrelevant. On cross-examination, the Defendant, while describing the collision, stated: “I tapped her.” Again, the Court contemporaneously gave the jury a limiting instruction to disregard the testimony.

3. Second, Plaintiff argues that the jury’s verdict is contrary to “overwhelming evidence in support of Plaintiff’s injuries and no testimony in evidence that Plaintiff was not injured in this collision.” The jury heard conflicting evidence concerning the cause of Plaintiff’s injuries. Plaintiff had suffered injury in an automobile accident occurring on July 16, 1999, five months prior to the accident at issue in this case. Plaintiff claimed that the injuries for which she sought recovery in the instant action were as a result of the December 18, 1999 collision. Her doctors testified in support of her claim.

4. Defendant, however, elicited testimony from which a reasonable juror could conclude that the injuries were caused by the first accident. For example, one of Plaintiff’s physicians previously had opined that the July 1999 collision caused permanent injury to Plaintiff. Further, Plaintiff failed to produce evidence supporting claims for projected costs of prescription medication and physical therapy. Plaintiff did not provide any receipts for medicine and admitted that she had never participated in physical therapy.

5. A jury verdict will be set aside when, in the judgment of the trial judge, the verdict “is at least against the great weight of the evidence. In other words, barring exceptional circumstances, a trial judge should not set aside a jury verdict on such ground unless, on a review of all the evidence, the evidence preponderates so heavily against the jury verdict that a reasonable jury could not have reached the result.”<sup>1</sup> The Court should be reluctant to draw a conclusion different from the jury on a disputed question of fact when the subject matter is within the normal comprehension of a jury and the evidence in the case is not particularly complex.<sup>2</sup>

6. The Court finds that the jury’s verdict was consistent with the weight of the evidence. Additionally, the case was not especially complicated and was within the normal comprehension of a jury. The issues decided by the jury, as reflected on the Special Verdict Form, are questions of fact. The findings that the Defendant negligent, and also that the Defendant’s negligence was not the proximate cause of injury, are not contradictory. These conclusions are not inconsistent with the evidence.

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<sup>1</sup>*Storey v. Camper*, 401 A.2d 458, 465 (Del. 1979).

<sup>2</sup>*See id.* at 466-67.

**THEREFORE, Plaintiffs' Motion for New Trial/Additur is hereby  
DENIED.**

**IT IS SO ORDERED.**

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The Honorable Mary M. Johnston