

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

SUSAN J. KLINT and FRANCIS J. KLINT, her husband,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	C.A. No.: 99C-09-22 SCD
	:	
SHANNON M. BRENNAN,	:	
	:	
Defendant.	:	

Submitted: June 28, 2004
Decided: July 9, 2004

ORDER

Upon Consideration of Plaintiff's Motion for Reargument – DENIED

This 9th day of July, 2004, upon consideration of plaintiff's motion for reargument, it appears that:

- (1) On October 3, 1997, plaintiff was involved in a car accident with the defendant in which she sustained injuries.
- (2) On November 3, 2003, a jury trial commenced. Because liability was not disputed, the case focused on causation and damages. At trial, plaintiff offered the testimony of three medical experts, a vocational expert and an economist, who testified to plaintiff's accident related injuries and her economic loss. Defendant cross-examined these witnesses, and offered no witnesses on her own behalf. At the close of trial, the jury returned a verdict for the injured plaintiff in the amount of \$30,000, and a verdict of zero dollars for her spouse.

(3) On June 16, 2004, this Court issued a letter opinion denying plaintiff's motion for a new trial/additur. In its decision, this Court indicated that it rejected "as improper the affidavit offered by the economic expert, David E. Black ("Black"), who encountered a juror after the trial, and discussed the deliberations with her."¹

(4) On June 28, 2004, plaintiff filed a motion for reargument alleging that the decision of the jury was not based on the evidence presented, and that it would be a miscarriage of justice if it is allowed to stand. Plaintiff argues that Black's affidavit demonstrates the decision of the jury was based on evidence not presented to the jury.²

(5) Delaware law strongly disfavors a juror's impeachment of the verdict once the jury has been discharged. This standard has been codified by Rule 606(b) of the Delaware Rules of Evidence, which states:

Inquiry into the validity of verdict or indictment. Upon inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon his or any other juror's mind or emotions as influencing him to assent to or dissent from the verdict or indictment or concerning his mental processes in connection therewith, except that a juror may testify on the question of whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear on any juror. Nor may his affidavit or evidence of any statement by him concerning a matter about which he would be precluded from testifying be received for these purposes.³

¹ *Klint v. Brennan*, Del Super., C.A. No. 99C-09-022, Del Pesco J. (June 16, 2004) (Letter Op.) at 7.

² The affidavit stated that one of the jurors was a teacher who said that, "returning to work as a teacher would not be as easy a process as it was portrayed because the recertification process would be difficult." Affidavit of David E. Black, PH.D., Nov. 18, 2003, at 1. In addition, a juror indicated that one of the plaintiff's medications was addictive, and plaintiff could not be on that type of medication for the rest of her life. *Id.*

³ D.R.E. 606(b).

(6) There is nothing in Black's affidavit reporting the jurors' statements which indicates that extraneous prejudicial information or outside influence prejudiced the jury's verdict. Such testimony is precluded by D.R.E. 606(b). Plaintiff's motion for reargument is denied.

IT IS SO ORDERED.

Judge Susan C. Del Pesco

Original to Prothonotary
xc: Joseph J. Rhoades, Esquire
James J. Haley, Jr., Esquire