

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2012

DIMITRI-EMMANUEL RACINE,
Appellant,

v.

JOCELYN JEAN-PIERRE and JENNIFER FRANCOEUR,
Appellees.

No. 4D10-4737

[July 18, 2012]

PER CURIAM.

Dimitri-Emmanuel Racine appeals from the trial court's final judgments which were entered after a jury found him negligent in causing an automobile accident that injured Jocelyn Jean-Pierre and Jennifer Francoeur (collectively referred to as the "plaintiffs"). Racine argues that the trial court erred in not offsetting the amount from both verdicts against him with the entire amount the plaintiffs received from the settlement with Racine's mother (the owner of the vehicle Racine was driving) and her insurance company. However, because the settlement was, in part, for the plaintiffs' release of other claims against the mother's insurance company and the settlement was not apportioned in any way, we find that the trial court properly denied the request to offset the verdicts beyond the mother's bodily injury policy limits. *See Gouty v. Schnepel*, 795 So. 2d 959, 965 (Fla. 2001) ("[T]he applicability of the setoff statutes is predicated on the existence of other tortfeasors who are liable for the same injury as the settling party." (emphasis added)); *Lauth v. Olsten Home Healthcare, Inc.*, 678 So. 2d 447, 448 (Fla. 2d DCA 1996) ("When a plaintiff has separate claims, a setoff is inappropriate. A separate and distinct claim is one that involves different elements of damages." (citation omitted)).

Affirmed.

STEVENSON, TAYLOR and CIKLIN, JJ., concur.

* * *

Appeal and cross-appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; John Bowman, Judge; L.T. Case No. 08-035556 CACE (02).

Shelley Ray Senecal of the Law Office of Shelley Senecal, Fort Lauderdale, for appellant.

Steven M. Goldsmith of Steven M. Goldsmith, P.A., Boca Raton, and Neal Hirschfeld and Mark Siedle of Greenspoon Marder, P.A., Fort Lauderdale, for appellees.

Not final until disposition of timely filed motion for rehearing.