

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

DAWN CROCKFORD AND KEITH
CROCKFORD, INDIVIDUALLY AND AS
PARENTS AND NATURAL GUARDIANS OF
B.C., A MINOR

Appellants

v.

NATIONAL STARCH AND CHEMICAL CO.,

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 931 MDA 2012

Appeal from the Judgment of April 26, 2012,
in the Court of Common Pleas of Luzerne County,
Civil Division at No. 3762-C of 2004

BEFORE: FORD ELLIOTT, P.J.E., WECHT and COLVILLE*, JJ.

MEMORANDUM BY COLVILLE, J.:

FILED JUNE 06, 2013

This is an appeal from the judgment entered upon a jury verdict in favor of Appellee. Appellants raise one issue for our review: whether the trial court erred in denying their post-trial motion for a new trial where the verdict was against the weight of the evidence.¹ We affirm.

The relevant background of this case is as follows. Appellants' suit against Appellee was based upon Appellant Dawn Crockford's alleged

* Retired Senior Judge assigned to the Superior Court.

¹ "[W]hen reviewing the denial of a motion for new trial, we must determine if the trial court committed an abuse of discretion or error of law that controlled the outcome of the case." *Long et al. v. Mejia et al.*, 896 A.2d 596, 599 (Pa. Super. 2006) (citation omitted).

exposure to toxic paint fumes, during her pregnancy, at the office of Appellee, where she was employed. At the conclusion of the trial, the jury was presented with a verdict slip on which the first question read:

Do you find that [Appellee] was negligent?

_____ Yes _____ No

If you answer Question 1 "No," [Appellants] cannot recover and you should not answer any further questions . . .

The jury answered "No" to the first question and did not answer any further questions. We note that in a strictly legal context, negligence has four elements: (1) a duty; (2) a breach of that duty; (3) a causal connection between the breach and an injury; and (4) damages. **Grossman v. Barke**, 868 A.2d 561, 566 (Pa. Super. 2005). However, it is clear that in the context of this case and this verdict slip, a determination of whether Appellee was negligent encompassed only the first two elements; causation and damages were accounted for in the remaining questions on the verdict slip.

In response to Appellants' post-trial motion seeking a new trial, the trial court explained, *inter alia*, that ". . . the ultimate issues of credibility and reasonableness under the circumstances as it pertains to the planning, preparation and response to [the] fumes were for the trier of fact . . ." Trial Court Opinion, 09/25/12, at 8.

On appeal, Appellants argue that the verdict was "in direct conflict with the admitted and proven facts presented at the time of trial." Appellants' Brief at 8. Appellants support their argument with extensive references to

trial evidence which they claim constitutes uncontroverted proof of Appellee's duty and breach of that duty. However, Appellants provide no citation to or discussion of legal authority for these concepts. Appellants baldly assert conclusions such as:

. . . [W]hile the trial court also concluded that there was an issue of "credibility" for "the trier of fact" as to [Appellee's] **"response"** to the fumes that entered the building -- such as opening doors or telling employees to go outside for air or to take the afternoon off -- this has nothing to do with the threshold issue of whether [Appellee] was negligent in the first place. What [Appellee] may have done **after the fact in RESPOSNE** [sic] to the fumes that entered the office goes to mitigation and/or causation, not negligence. The trial court . . . confuses these distinct legal issues.

Appellants' Brief at 53 (citation omitted)(emphasis in orginial).

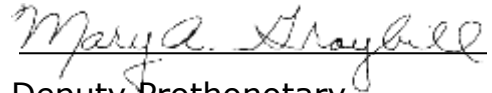
Appellants provide no analysis to clarify the legal issues to which they refer. Accordingly, they have failed to persuade us that the trial court abused its discretion or legally erred in denying their request for a new trial. ***See Commonwealth v. Thoeun Tha***, 2013 Pa. Super. LEXIS 158, *22-23 (explaining that "[f]ailure properly to develop an argument with citations to relevant legal authority renders the issue unreviewable and will cause the issue to be waived.").

Judgment affirmed.

Judge Wecht files a Concurring Memorandum.

J-A11040-13

Judgment Entered.


Deputy Prothonotary

Date: 6/6/2013