

101579

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

DAVID SNYDER and MARY SNYDER,
Personal Representatives of the
Estate of Michael Snyder, deceased,
Plaintiffs,

vs.

Civil Action No. 06-C-243

HUNTFIELD, L.C.,
RYAN INCORPORATED CENTRAL,
CHS TRAFFIC CONTROL SERVICES, INC.,
VIP LIMOUSINE SERVICE, LTD.,
GLEN M. LEE, d/b/a VIP LIMOUSINE SERVICE, LTD.,
SHARON K. WILSON,
HEATHER L. STRACHAN, and
LEE JAMES CRAWFORD,
Defendants.

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JAN 12 2010

JEFFERSON COUNTY
CIRCUIT COURT

JUDGMENT ORDER

This action came on for trial before the Court and a jury, Honorable David H. Sanders, presiding, and the issues having been duly tried, and the jury having returned its answers to the interrogatories propounded by the Court, and the jury on December 11, 2009, having rendered the following verdict:

VERDICT FORM

1. Do you find by a preponderance of the evidence that the Defendant **Huntfield** was guilty of negligence which proximately caused or contributed to the death of Michael Snyder?

Yes No

2. Do you find by a preponderance of the evidence that the Defendant **Ryan Incorporated Central** was guilty of negligence which proximately caused or contributed to the death of Michael Snyder?

Yes No

3a. Do you find by a preponderance of the evidence that the Defendant **CHS Traffic Control Services** expressly agreed to indemnify Huntfield?

Yes No

If you answer question 3a "NO" then do not answer question 3b but proceed to question 4. If you answer "YES" to question 3a please also answer 3b, then go to question 4 and the remaining items on the verdict form.

3b. Do you find by a preponderance of the evidence that the Defendant CHS Traffic Control Services was guilty of negligence which proximately caused or contributed to the death of Michael Snyder?

Yes [] No []

4. Do you find by a preponderance of the evidence that the Defendant James Lee Crawford was guilty of negligence which proximately caused or contributed to the death of Michael Snyder?

Yes [X] No []

If you answered "No" to each questions 1, 2, 3b and 4. STOP. Do not answer any further questions. Inform the bailiff that you have reached a verdict.

If you answered "Yes" to one or more of questions 1, 2, 3b or 4, proceed to the next question.

5. Do you find by a preponderance of the evidence that Plaintiff Michael Snyder was guilty of negligence which proximately caused or contributed to the death of Michael Snyder?

Yes [] No [X]

Set forth the percentage of fault which you attribute to any of the Defendants guilty of negligence above, and, any percentage of fault you attribute to the Plaintiff. Your answer must equal 100%.

Huntfield	0%
Ryan Incorporated Central	0%
CHS Traffic Control Services	0%
Lee James Crawford	100%
Michael C. Snyder	0%
Total	100%

Do you find that, at the time of the accident at issue in this lawsuit,

a. Lee Crawford was an agent or employee of VIP Limousine Service acting within the course and scope of his employment? Yes [] No [X]

b. Lee Crawford was an agent or employee of Glen Lee acting within the course and scope of his employment. Yes [] No [X]

c. Heather Strachan was an agent or employee of VIP Limousine Service acting within the course and scope of her employment? Yes [] No [X]

- d. Heather Strachan was an agent or employee of Glen Lee acting within the course and scope of her employment?
Yes No
- e. Lee Crawford and Heather Strachan were engaged in a joint enterprise as that term has been defined for you in the jury instructions?
Yes No

Proceed to the section in which you will consider Damages, ONLY, if you have found some fault in the Defendant and have not found the Plaintiff to be 50% or more at fault.

DAMAGES

Set forth the full amount of damages which you find will fully compensate the Plaintiff, regardless of any percentage of fault,

(1) the sorrow and mental anguish suffered by Michael Snyder's parents;
\$ 700,000.00

(2) the loss of solace, which may include society, companionship, comfort, guidance, kindly offices and advice, which has been suffered by Michael Snyder's parents as a result of his death;
\$ 700,000.00

(3) compensation for the reasonably expected loss of (i) income of Michael Snyder, and (ii) services, protection, care and assistance provided by Michael Snyder; and
\$ 1,109,308.00

TOTAL DAMAGES (not reduced by fault) \$ 2,509,308.00

Given the facts as the jury has determined them from evidence, does the jury find that an additional award of punitive damages should be considered as against any defendant in this case? If so the jury will be further instructed on this issue before being asked to state the amount of any such damages.

Should punitive damages be considered against any of the following:

- | | | |
|----------------------|---|--|
| Huntfield | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| CHS Traffic Services | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| Lee James Crawford | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

Dated: _____

/s/ Sean O'Hara
Foreperson

PUNITIVE DAMAGES VERDICT FORM

You have determined by your verdict that it would be appropriate under the facts of this case to consider and award of punitive damages against the defendant Leland James Crawford and you have now been instructed on that point and heard additional argument of counsel. Accordingly:

What amount does the jury find would be appropriate as punitive damages against the defendant Leland James Crawford?

\$ 300,000.00

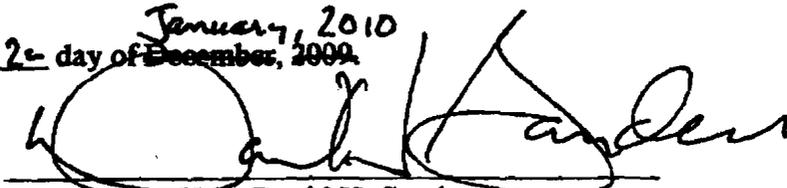
Dated: _____

/s/ Sean O'Hara
Foreperson

It is ORDERED and ADJUDGED that the plaintiffs recover judgment against the Defendants Lee James Crawford and the Estate of Heather L. Strachan, deceased, jointly and severally in the sum of \$2,509,308.00, in compensatory damages, with prejudgment interest at the statutory rate on \$1,109,308.00 thereof, from July 19, 2004, with postjudgment interest thereon on \$1,400,000.00 thereof until paid, and an additional sum of \$300,000.00 in punitive damages, against James Lee Crawford, with postjudgment interest thereon at the statutory rate, until paid and that Plaintiffs further recover their costs in this action. It is further ORDERED and ADJUDGED that the Plaintiffs take nothing from Defendants Huntfield, L.C., Ryan Incorporated Central, CHS Traffic Control Services, Inc., VIP Limousine Services, Ltd., and Glen M. Lee d/b/a VIP Limousine Service, Ltd., and that this action is dismissed on the merits as to these Defendants.

The Clerk will enter the foregoing Order and provide attested copies to counsel of record.

Dated this 12th day of ~~December, 2009~~ ^{January, 2010}



Hon. David H. Sanders
Judge of the Circuit Court of
Jefferson County, West Virginia

DLB 17 cc's
See attached list
1-13-10
-dc

6358

17 cc's

1-13-10 *me*

S. Byrer

M. Lorensen

J. Molenda

D. Buck

P. Nooney

D. Parker

R. Arcovio

A. Sunseri

S. Williams McAuliffe

T. Durst

T. Mount

S. Gandee

T. Wiley

P. Weiss

G. Pullin

D. Geis

B. Mecom

T. Wiley

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SHARON K. WILSON,
HEATHER L. STRACHAN, and
LEE JAMES CRAWFORD,

Defendants.

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APR 12 2010

JEFFERSON COUNTY
CIRCUIT COURT

ORDER DENYING DEFENDANT CRAWFORD'S MOTION FOR NEW TRIAL

THIS 12th DAY OF April, 2010, the Court considered the Motion for New Trial filed by Defendant Crawford. The Court has also reviewed the memoranda in opposition thereto and the applicable law.

In consideration of all of the same, the Court makes the following findings of fact and conclusions of law.

First, the Court concludes that the damages section of the verdict form was not erroneous. The verdict form set forth the damages recoverable in a wrongful death case, delineated in the precise manner of the jury instructions.¹ No party objected to the

¹ The instruction stated:

damages portion of the verdict form and no party objected to the wrongful death damages jury instruction. Defendant Crawford waived this point of error. A new trial on this point is not warranted.

Second, the Court concludes that the punitive damages award was supported by the evidence. The jury returned a punitive damages verdict against Defendant Crawford in the amount of \$300,000. Based on the evidence at trial, the punitive damages were warranted and were not excessive. A punitive damages review must be conducted in two steps:

first, a determination of whether the conduct of an actor toward another person entitles that person to a punitive damage award . . . ; second, if a punitive damage award is justified, then a review is mandated to determine if the punitive damage award is excessive

Syl. Pt. 7, *Alkire v. First National Bank of Parsons*, 197 W.Va. 122, 475 S.E.2d 122 (1996).

First, the Court considers whether Defendant Crawford's conduct merits the assessment of punitive damages. The type of conduct which gives rise to punitive damages occurs "where gross fraud, malice, oppression, or wanton, willful, or reckless conduct or criminal indifference to civil obligations affecting the rights of others appear,

If you find that any defendant was guilty of negligence, and that this negligence proximately caused the death of Michael Snyder, then you may find for the Plaintiffs and award them damages. In determining the appropriate amount of damages to award, it is your duty to award monetary damages for the following:

- (1) the sorrow and mental anguish suffered by Michael Snyder's parents;
- (2) the loss of solace, which may include society, companionship, comfort guidance, kindly offices and advice, which has been suffered by Michael Snyder's parents as a result of his death; and,
- (3) compensation for the reasonably expected loss of (i) income of Michael Snyder, and (ii) services, protection, care and assistance provided by Michael Snyder.

or where legislative enactment authorizes it[.]” Syl. Pt. 4, *Alkire v. First National Bank of Parsons*, 197 W.Va. 122, 475 S.E.2d 122 (1996); Syl. Pt. 4, *Mayer v. Frobe*, 40 W.Va. 246, 22 S.E. 58 (1895). A brief summary of the evidence from this case demonstrates that the verdict for punitive damages was supported by the evidence. According to some evidence, Defendant Crawford saw Michael Snyder in the roadway when he was hundreds of feet away; however, instead of driving cautiously, Crawford took the opportunity to hunt for his spit cup for a period of nearly six seconds. His inattention to the roadway was grossly negligent.

Second, the Court considers whether the punitive damages verdict is excessive. In doing so, the Court applies the *Garnes* factors.

i. The punitive damages assessed “bear a reasonable relationship to the harm that is likely to occur from the defendant’s conduct as well as to the harm that actually has occurred.” *Garnes*, at Syl. Pt. 3, in part. Crawford’s gross negligence resulted in one person’s death and could have led to serious injuries or death to others: the child or the cancer patient in the car or other workers in the construction zone.

ii. The punitive damages were also not excessive due to “the reprehensibility of the defendant’s conduct.” *Id.* Crawford’s grossly negligent driving merited the punitive damages verdict by the jury.

iii. The punitive damages were not excessive because the punitive damages assessment “discourages future bad acts by the defendant.” *Id.*

iv. The punitive damages verdict “bears a reasonable relationship to compensatory damages.” *Id.* The punitive damages were less than one-eighth of the compensatory damages. “The outer limit of the ratio of punitive damages to compensatory damages in cases in which the defendant has acted with extreme negligence or wanton disregard but with no actual intention to cause harm and in which compensatory damages are neither negligible nor very large is roughly 5 to 1.” Syl. Pt. 21, in part, *Peters v. Rivers Edge Mining, Inc.*, 224 W.Va. 160, 680 S.E.2d 791 (2009); syl. pt. 15, in part, *TXO Production Corp. v. Alliance Resources Corp.*, 187 W.Va. 457, 419 S.E.2d 870 (1992), *aff’d*, 509 U.S. 443, 113 S.Ct. 2711, 125 L.Ed.2d 366 (1993). The punitive damages award was well within the Supreme Court’s accepted range.

v. The punitive damages award did not take into consideration the “financial position of the defendant,” *Garnes* at Syl. Pt. 3, in part, but the reason was Defendant’s failure to be present to testify to such matters.

vi. The punitive damages award was not excessive because the “costs of the litigation” were high. *Garnes*, at Syl. Pt. 4, in part. Plaintiffs utilized three expert witnesses for trial, and numerous depositions were taken. The litigation costs in this matter were substantial.

vii. The punitive damages were not excessive based upon a consideration of “[a]ny criminal sanctions imposed on the defendant for his conduct.” *Id.* As noted in *Garnes*, at 905, the imposition of criminal sanctions is a mitigating factor. Defendant Crawford did not plead guilty to the crime he was charged with; his defense counsel negotiated a no contest plea, with only a thirty day jail sentence, for Michael Snyder’s

death.

viii. There were no "other civil actions against the same defendants, based on the same conduct." *Id.*

ix. The punitive damages are appropriate "to encourage fair and reasonable settlements when a clear wrong has been committed." *Id.* It is the Court's perception that the punitive damage award in this case will perhaps encourage defendants in the future to fairly and reasonably settle cases when the defendant is clearly in the wrong.

Punitive damages were appropriate for the jury's consideration in this case, and the amount of the punitive damages are not substantial in relation to the compensatory damages. Neither a new trial nor a remittitur is appropriate.

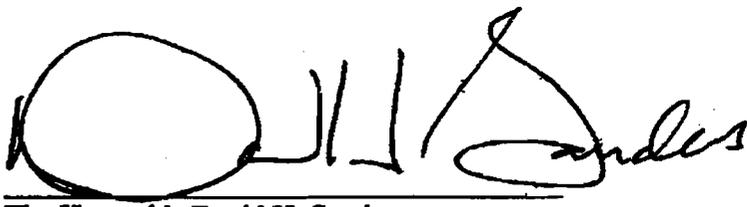
Accordingly, it is ADJUDGED and ORDERED that Defendant Crawford's Motion for New Trial is hereby DENIED.

The Court notes any objections of the parties for the record.

The Clerk is directed to enter this Order and transmit copies of this Order to all *pro se* parties and counsel of record.

16 cc's

Entered: 4/12/10



The Honorable David H. Sanders
Judge of the Twenty-Third Judicial Circuit
Jefferson County, West Virginia

A TRUE COPY
ATTEST:

LAURA E RATTENNI
CLERK, CIRCUIT COURT
JEFFERSON COUNTY, W.VA.

BY B. Cralk
DEPUTY CLERK

- | | |
|-------------------|-----------|
| S. Byner | T. Deust |
| M. Johnson | T. Mount |
| J. Malinda | S. Gandel |
| D. Buck | T. Wiley |
| P. Noony | P. Weiss |
| D. Parker | G. Pullen |
| A. Arcorio | B. Macom |
| A. Swani | |
| S. Wynn McAuliffe | |

4-13-10