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JAMES L. SPAETH
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
COUNTY OF WARREN, STATE OF OHIO

KEVIN ARTL,

Plaintiff,

-vs-

BERNARD WRIGHT, et al.,

Defendants.

CASE NO. 02CV59010

MAGISTRATE'S
DECISION

This matter came on for trial, to a jury, upon a Complaint and the Answer.

The Defendant admitted that he was negligent in the manner in which he operated his motor vehicle on this occasion and that his negligence was the proximate cause of the collision with the Plaintiff and of at least some physical injury to the Plaintiff. The central issue in the trial was as to the nature and extent of the injuries proximately caused to Plaintiff and the amount of compensation to which the Plaintiff is entitled.

The Plaintiff introduced evidence to show that the accident caused a herniated disc in his cervical spine and that he has suffered loss of earnings, a 5% whole body disability which is permanent, medical expensed, pain and suffering in the past and the future, and surgery to repair the herniated disc. There was no evidence of a need for future medical care or treatment.

The Defendant introduced evidence to show that the Plaintiff suffered a cervical sprain/strain which, with appropriate care, should have resolved within less than a year.

At the close of the evidence, the Plaintiff moved for a directed verdict to the effect that his own surgeon, Dr. Onikko, had committed medical malpractice. This motion was denied.

At the close of the evidence the Defendant moved for a directed verdict to the effect there was no evidence that the Defendant would suffer pain in the future. This motion was denied.

Prior to trial the Defendant filed a motion in limine with regards to the testimony of the Plaintiff's witness Dr. Anthony M. Gamboa, Jr. Ph.D., an economist. The Court granted the motion in limine in part and denied it in part. The Court ruled that Dr. Gamboa would not be permitted to testify as to the Plaintiff's pre-injury earning capacity, his post-injury earning capacity, or that he hoped to achieve a college degree sometime in the future. This testimony was disallowed for the reasons that the testimony appeared to be too speculative as to the Plaintiff's college education and because the testimony as to the Plaintiff's pre-injury and post-

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BY *[Signature]*
DEPUTY

injury earning capacity was not based on an appropriate statistical scientific base. The Court denied the motion in limine in part and allowed Dr. Gamboa to testify as to the Plaintiff's work-life expectancy.

The jury returned a verdict in favor of the Plaintiff and awarded compensation in the amount of \$103,000.00. The jury also answered interrogatories as to the various categories of the awarded damages. Answers to the interrogatories were not inconsistent with the general verdict.



MAGISTRATE P. DANIEL FEDDERS

NOTICE TO PARTIES

The parties shall take notice that this decision may be adopted by the Court unless objections are filed within fourteen (14) days of the filing hereof in accordance with Civil Rule 53 of the Ohio Rules of Civil Procedure.

A party shall not assign as error on appeal the court's adoption of any finding of fact or conclusion of law in that decision unless the party timely and specifically objects to that finding or conclusion as required by Civil Rule 53(E)(3).



MAGISTRATE P. DANIEL FEDDERS

Cc: Attorney Jeffrey Kenney
Attorney John Ipsaro