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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND - CIVIL TERM - PART DCM-3

-----X
ROBERT MESSINA and CAROL MESSINA,

Plaintiffs,

-against-

Index
#104742/07

STATEN ISLAND UNIVERSITY HOSPITAL,

Defendant.

-----X
TRIAL CONTINUED

Richmond Supreme Court
130 Stuyvesant Street
Staten Island, New York
June 3, 2011

B E F O R E :

HONORABLE JOSEPH MALTESE,

Justice of the Supreme Court

A P P E A R A N C E S :

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JOANN M. SANZO
SENIOR COURT REPORTER

Verdict

060311 (2)

1 THE CLERK: Case on trial continued, Robert and
2 Carol Messina against Staten Island University Hospital.

3 (The jury enters the courtroom with a verdict at
4 3:15 p.m.)

5 THE COURT: Please be seated.

6 THE CLERK: Mr. Foreman, has the jury reached a
7 verdict?

8 THE FOREPERSON: Yes.

9 THE CLERK: Question 1-A: Did the defendant, Staten
10 Island University Hospital, depart from acceptable nursing
11 practice in its care and treatment of the plaintiff from
12 August 31 through October 27, 2006?

13 Has the jury answered yes or no?

14 THE FOREPERSON: Yes.

15 THE CLERK: Is that by unanimous verdict?

16 THE FOREPERSON: Yes.

17 THE CLERK: Question 1-B: Was the negligence a
18 substantial contributing factor in plaintiff's injuries?

19 Has the jury answered yes or no?

20 THE FOREPERSON: Yes.

21 THE CLERK: Is that by unanimous verdict?

22 THE FOREPERSON: Yes.

23 THE CLERK: Question 2-A: Was Golden Gate Nursing
24 Home negligent in the manner in which it cared for the
25 plaintiff from October 27, 2006 to November 4, 2006 and

Verdict

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1 November 16 through December 4, 2006?

2 Has the jury answered yes or no?

3 THE FOREPERSON: Yes.

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060311 (2)

4 THE CLERK: Is that by unanimous verdict?
5 THE FOREPERSON: Yes.
6 THE CLERK: Question 2-B: Was the negligence of
7 Golden Gate Nursing Home a substantial contributing factor
8 in causing injury to the plaintiff?
9 Has the jury answered yes or no?
10 THE FOREPERSON: Yes.
11 THE CLERK: Is that by unanimous verdict?
12 THE FOREPERSON: Yes.
13 THE CLERK: Question 3: Please state the percentage
14 of fault attributable to each party.
15 Percentage attributed to Staten Island University
16 Hospital?
17 THE FOREPERSON: Seventy-five percent.
18 THE CLERK: Golden Gate Nursing Home?
19 THE FOREPERSON: Twenty-five percent.
20 THE CLERK: Totalling one hundred.
21 Is that by unanimous verdict?
22 THE FOREPERSON: Yes.
23 THE CLERK: Question 4: State the amount of
24 damages, if any, awarded to the plaintiff for past pain and
25 suffering experienced by the plaintiff, Robert Messina,

□

Verdict

1129

1 which was caused by the negligence of Staten Island
2 University Hospital and/or Golden Gate Nursing Home.
3 Has the jury awarded a dollar amount?
4 THE FOREPERSON: One million dollars.
5 THE CLERK: Is that by unanimous verdict?

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THE FOREPERSON: Yes.

THE CLERK: Question 5, state the amount awarded, if any, to the plaintiff for future pain and suffering experienced by the plaintiff, Robert Messina, which was caused by the negligence of Staten Island University Hospital and/or Golden Gate Nursing Home.

Has the jury awarded a dollar amount?

THE FOREPERSON: Yes.

THE CLERK: What is that?

THE FOREPERSON: \$120,000 for 11.6 years.

THE CLERK: Is that by unanimous verdict?

THE FOREPERSON: Yes.

THE CLERK: Question 6: State the amount, if any, awarded to Robert Messina for lost earnings that Robert Messina would not have incurred but for the negligence of Staten Island University Hospital and/or Golden Gate Nursing Home.

Has the jury awarded a dollar amount?

THE FOREPERSON: Yes, \$45,000 for 3.6 years.

THE CLERK: Is that by unanimous verdict?

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Verdict

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THE FOREPERSON: Yes.

THE CLERK: Question 7: State the amount, if any, awarded to Robert Messina for future living expenses that Mr. Messina would not have incurred but for the negligence of Staten Island University Hospital and/or Golden Gate Nursing Home.

Has the jury awarded a dollar amount?

THE FOREPERSON: Yes, \$132,153.50 for 16.6 years.

9 THE CLERK: Is that by unanimous verdict?
10 THE FOREPERSON: Yes.
11 THE CLERK: Question 8: State the amount, if any,
12 to Carol Messina for the loss of services of Robert
13 Messina.
14 Has the jury awarded a dollar amount?
15 THE FOREPERSON: Yes, \$50,000.
16 THE CLERK: Is that by unanimous verdict?
17 THE FOREPERSON: Yes.
18 THE CLERK: Question 9: State the amount, if any,
19 awarded to Carol Messina for expenses paid on behalf of
20 Robert Messina.
21 Has the jury awarded a dollar amount?
22 THE FOREPERSON: Yes, \$15,000.
23 THE CLERK: Is that by unanimous verdict?
24 THE FOREPERSON: Yes.
25 THE CLERK: Have all six jurors signed the signature

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Verdict

1131

1 page?
2 THE FOREPERSON: Yes.
3 THE COURT: Do any of the attorneys desire that the
4 jury be polled in connection with this matter?
5 MR. ASHLEY: I do not, your Honor.
6 MR. CASTELLO: No, your Honor.
7 THE COURT: Very fine.
8 Ladies and gentlemen of the jury, you've performed
9 your service as members of this jury for the past month and
10 on behalf of the State of New York and the New York State

11 court system, I'd like to thank you for rising to the
12 occasion for doing your civic duty here in Richmond County.
13 Most people try to avoid jury duty. You stood up and were
14 counted. I thank you for that.

15 We're going to speak to you shortly. You're going
16 to retire back to the jury deliberation room. I'll come and
17 see you at that time in a few moments. Thank you for your
18 service.

19 (The jury leaves the courtroom at 3:20 p.m.)

20 THE COURT: Are there any applications at this time
21 before the court?

22 MR. ASHLEY: Your Honor, I don't know frankly what
23 to do. I'm a little puzzled by the numbers for future
24 because I almost -- and the way they were laid out, it
25 almost seems as if somebody is thinking they have to be

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Verdict

1 multiplied, the years by the number. I can't answer.

2 I know what the instructions were, but when it comes
3 to the dollar amount for the living expenses, it just seems
4 like they took what was the yearly number and then gave it a
5 year. I don't know if we can inquire as to make sure that
6 they understood because you had told them to do no math. So
7 I don't know if someone then said, "well, we have to just
8 put the number. Don't do the math."

9 THE COURT: We told them a gross amount. If not for
10 the numbers the way they are -- when you give a million for
11 past and only one hundred some odd thousand for future over
12 that number of years, it seems not correct.

13 MR. CASTELLO: well, it's different for past and
Page 6

14 future. The future is a lump sum and your instructions were
15 very clear. So I don't know if there's anything more that
16 needs to be done on that. I would oppose any questioning to
17 them about that.

18 THE COURT: Are there any other points to make at
19 this point?

20 MR. ASHLEY: No, your Honor.

21 MR. CASTELLO: Your Honor, I would move for a stay
22 of judgment and a stay of execution of the judgment pending
23 a hearing and determination of all issues which we'll raise
24 in our post-trial motions and I would request 60 days to
25 make that motion. It's summertime, so that's why I would

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Verdict

1133

1 like a bit of a time period.

2 THE COURT: The CPLR says 15 days to make the
3 motion. I don't have my calendar in front of me. I realize
4 the summer is upon us. It might be a little bit long for
5 that. Let me get my calendar. We'll do a schedule of
6 that.

7 MR. ASHLEY: We would need to schedule a hearing for
8 the past medical expenses as well.

9 THE COURT: I understand. So I want to get my
10 calendar to ascertain when.

11 On reflection, I'm going to question the jury on
12 that issue.

13 MR. ASHLEY: Thank you, your Honor.

14 THE COURT: Let's bring them in.

15 (The jury enters the courtroom at 3:25 p.m.)

16 THE COURT: Please be seated.

17 Jurors, I just wanted to confirm your verdict in
18 connection with this matter. You said liability as to both
19 parties at a 75/25 split. We understood that.

20 Past pain and suffering, a million dollars was the
21 award. Do all six of you agree to that?

22 THE JURY: Yes.

23 THE COURT: Now as to question number 5, which is
24 the future pain and suffering, you have a number here,
25 \$120,000 over 11.6 years.

□

Verdict

1134

1 Juror number one, is that your verdict?

2 JUROR #1: Yes.

3 THE COURT: Now this is the gross amount that you're
4 awarding. You're not multiplying or dividing by 11.6?

5 JUROR #1: No.

6 THE COURT: Juror number two, is that how you
7 calculate it?

8 JUROR #2: Yes.

9 THE COURT: Juror number three?

10 JUROR #3: Yes.

11 THE COURT: Juror number four?

12 JUROR #4: Yes.

13 THE COURT: Juror number five?

14 JUROR #5: Yes.

15 THE COURT: Juror number 6?

16 JUROR #6: Yes.

17 THE COURT: As to question number 6, there's an
18 award for lost earnings of \$45,000 for 3.6 years.

19 Juror number one, is that the total amount that
20 you're awarding for earnings?

21 JUROR #1: Yes.

22 THE COURT: That's over 3.6 years?

23 JUROR #2: Yes.

24 THE COURT: Juror number three, is that your
25 verdict?

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Verdict

1135

1 JUROR #3: Yes.

2 THE COURT: Juror number four, is that your
3 verdict?

4 JUROR #4: Yes.

5 THE COURT: Juror number five?

6 JUROR #5: Yes.

7 THE COURT: Juror number six?

8 JUROR #6: Yes.

9 THE COURT: As to the amount of future living
10 expenses, you have a verdict of \$132,153.50 over 16.6
11 years.

12 Is that the total amount awarded over that period of
13 time, juror number one?

14 JUROR #1: Yes.

15 THE COURT: Juror number two?

16 JUROR #2: Yes.

17 THE COURT: Juror number three?

18 JUROR #3: Yes.

19 THE COURT: Juror number four?

20 JUROR #4: Yes.

21 060311 (2)
THE COURT: Juror number five?
22 JUROR #5: Yes.
23 THE COURT: Juror number six?
24 JUROR #6: Yes.
25 THE COURT: Just to continue, the award to Carol

Verdict

1136

1 Messina is for \$50,000 for loss of services.
2 Juror number one, is that your verdict?
3 JUROR #1: Yes.
4 THE COURT: Juror number two?
5 JUROR #2: Yes.
6 THE COURT: Juror number three?
7 JUROR #3: Yes.
8 THE COURT: Juror number four?
9 JUROR #4: Yes.
10 THE COURT: Juror number five?
11 JUROR #5: Yes.
12 THE COURT: Juror number six?
13 JUROR #6: Yes.
14 THE COURT: Lastly, the award for expenses to Carol
15 Messina is \$15,000.
16 Is that your verdict, juror number one?
17 JUROR #1: Yes.
18 THE COURT: Juror number two?
19 JUROR #2: Yes.
20 THE COURT: Juror number three?
21 JUROR #3: Yes.
22 THE COURT: Juror number four?
23 JUROR #4: Yes.
Page 10

24 THE COURT: Juror number five?

25 JUROR #5: Yes.

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Verdict

1137

1 THE COURT: Juror number six?

2 JUROR #6: Yes.

3 THE COURT: All right. I just wanted to confirm the
4 numbers with you. Thank you very much. You may retire.
5 I'll be with you shortly.

6 (The jury leaves the courtroom at 3:30 p.m.)

7 THE COURT: Please be seated.

8 One can argue some inconsistencies as to the
9 longevity issue here. In the award for future pain and
10 suffering, they do it over 11.6 years and that was their
11 gross sum. Yet, when they do living expenses, they're at
12 16.6 years and they've reconfirmed this. Whether over the
13 period of time is something that we can deal with, I trust.

14 The other inconsistency, of course, is the
15 expenses. It was almost stipulated that it was \$5,000.
16 They awarded 15. We'll deal with that in post-judgment
17 matters. That's the least of the issues here.

18 I think we can schedule -- it would seem to me at
19 this point we would need to do a call with the insurance
20 person or reach out to her with reference to the lien,
21 number one. We'd have to first, I trust, agree to a sum
22 certain that the judgment would be, you know, at a minimum,
23 reducing it by \$10,000 --

24 COURT OFFICER: There was a misunderstanding.
25 They'd like to come back in.

Verdict

1138

1 THE COURT: Bring them in.
2 (The jury enters the courtroom at 3:35 p.m.)
3 THE COURT: Mr. Foreman, you've informed the court
4 clerk that there is a misunderstanding or a misstatement?
5 THE FOREPERSON: Yes, I apologize.
6 THE COURT: What is that?
7 THE FOREPERSON: We meant per year, not for years.
8 All the questions that were for years, we meant per year.
9 THE COURT: Let's go through this individually.
10 Question 5 was the first future damages issue. That
11 was for future pain and suffering. You have \$120,000.
12 Now that's times 11.6 years?
13 THE FOREPERSON: Yes.
14 THE COURT: I need a calculator.
15 THE FOREPERSON: I'm sorry about that.
16 THE COURT: It's okay. It's not the first time this
17 has happened.
18 So \$120,000 times 11.6 years comes to \$1,392,000
19 even.
20 MR. ASHLEY: It's \$1,392,000?
21 THE COURT: That is correct.
22 Now as to number 6, which is lost earnings, you have
23 \$45,000 at 3.6 years. Is that times?
24 THE FOREPERSON: Times.
25 THE COURT: So \$45,000 times 3.6 years would be

1 \$162,000.

2 THE FOREPERSON: Yes.

3 THE COURT: As to question 7, future living expenses
4 for Mr. Messina, you have \$132,153.50 for 16.6 years.

5 THE FOREPERSON: Multiply.

6 THE COURT: You have made an award for his life
7 expectancy at 11.6 years, but you have his living expenses
8 at 16.6 years. His expenses would not exceed what you
9 predict is his life expectancy.

10 In question number 5, you've awarded future pain and
11 suffering of \$120,000 for 11.6 years and that would be what
12 you have established as the life expectancy. Yet, it is
13 inconsistent with question number 7 where you say the life
14 expectancy is 16.6.

15 In my charge, I had stated that the statistical
16 average was 18 years for life expectancy and you could find
17 a lesser amount based upon his condition or a greater amount
18 or that amount. So you have an inconsistency here as to the
19 life expectancy issue. If you want to rehuddle on that
20 issue, I'll let you do that now. But it is an inconsistency
21 that we'll have to deal with unless you deal with it at this
22 time.

23 JUROR #3: No, we'll deal with it.

24 THE COURT: Juror number three, you want to say
25 something?

Verdict

1140

1 JUROR #3: we should review that because it may have

060311 (2)
2 been something of a mistake.
3 JUROR #4: We did it on dates.
4 THE COURT: It should be consistent regardless of
5 what the number is. You can't have expenses beyond life.
6 That's the issue.
7 The other numbers there's not a problem because
8 those are sum certains.
9 THE FOREPERSON: Total sums, yes.
10 THE COURT: why don't you go back into the room?
11 JUROR #3: We need two minutes.
12 THE COURT: If you decide to change the verdict
13 sheet, put a line through it and I want each of you to
14 initial the change if you decide to make a change. I'm not
15 directing you to make a change, but if you decide to make a
16 change, I want you all to initial it. Even if you don't
17 make a change, I want you all to initial any page that has a
18 future expectancy on it.
19 why don't you redeliberate on that issue?
20 (The jury leaves the courtroom at 3:40 to continue
21 deliberations.)
22 (Court is in recess.)
23 * * *
24 (The jury enters the courtroom at 3:46 p.m.)
25 THE COURT: Juror number one, I notice that on the

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Verdict 1141

1 verdict sheet, on question number 5, which deals with future
2 pain and suffering, you have crossed out 11.6 years and have
3 substituted 16.6 years; is that correct?

4 THE FOREPERSON: Yes.
Page 14

5 THE COURT: And your calculation is \$120,000 times
6 16.6 years?
7 THE FOREPERSON: Yes.
8 THE COURT: Which my calculator tells me is
9 \$1,992,000.
10 Each of you have signed your initials to this too?
11 THE FOREPERSON: Yes.
12 THE COURT: Juror number one, these are your
13 initials?
14 JUROR #1: Yes.
15 THE COURT: Juror number two, these are your
16 initials?
17 JUROR #2: Yes.
18 THE COURT: Juror number three, these are your
19 initials?
20 JUROR #3: Yes.
21 THE COURT: Juror number four, these are your
22 initials?
23 JUROR #4: Yes.
24 THE COURT: Juror number five, these are your
25 initials?

□

Verdict

1142

1 JUROR #5: Yes.
2 THE COURT: Juror number six, these are your
3 initials?
4 JUROR #6: Yes.
5 THE COURT: You all agree with that?
6 THE JURY: Yes.

7 THE COURT: Any other questions by counsel at this
8 time?

9 MR. CASTELLO: No, your Honor.

10 MR. ASHLEY: At this time question 7 is \$132,153.50
11 times 16.6 years?

12 THE JURY: Yes.

13 THE COURT: Right. That hasn't been changed.

14 All right, jurors, thank you. One more time back to
15 the room.

16 (The jury leaves the courtroom at 3:55 p.m.)

17 THE COURT: Please be seated.

18 Are there any other matters for the record at this
19 time other than to schedule a hearing?

20 MR. CASTELLO: What's the number become, your
21 Honor?

22 THE COURT: It becomes \$1,992,000 even.

23 MR. ASHLEY: No, on question 7.

24 THE COURT: Question 7 is \$132,153.50 times 16.6
25 years is \$2,193,748.10.

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Verdict

1 MR. ASHLEY: Your Honor, I was going to suggest that
2 I will call the carrier because if we can't agree to a
3 number, they may still be willing to consent to a hearing
4 here. I know on the phone they said well, they talked about
5 jurisdiction, but they might now be willing to consent to a
6 hearing here on the issue.

7 Now, given the change in the future number, we need
8 to have a hearing on the 50-A and B matters anyway. We
9 might be able to do it all at once.

10 THE COURT: That's correct. Why don't you reach out
11 to them right away and get back to us maybe sometime next
12 week? If we need to do a conference call, call counsel and
13 me and we'll schedule a conference call. You have the
14 ability to set up a four-way conference call?

15 MR. ASHLEY: Yes, your Honor. I do it through AT&T.

16 THE COURT: Yes, we'll do that and if they need to
17 speak with me and I may pose some questions to them, but
18 that would be the issue. So they probably want to know
19 what's the sum certain here.

20 Just so that you can give them that number, I would
21 entertain, just to make this quick, I'd entertain a motion
22 as to question number 9, to the \$15,000 as against the
23 weight of the evidence, it being \$5,000 that was presented.

24 With your consent, I would reduce it to \$5,000 to
25 take that issue off the table. Are you amenable to that?

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Verdict

1144

1 MR. ASHLEY: Yes, your Honor.

2 THE COURT: And the rest of it will stand. I guess
3 we'll have to do a calculation here.

4 Maybe I can do that right now so we're all on the
5 same page.

6 (Short pause.)

7 THE COURT: We have a million dollars for past pain
8 and suffering. We have \$1,992,000 for future suffering. We
9 have lost earnings at \$162,000. We have future living
10 expenses at \$2,193,748.10. We have loss of services for
11 Carol Messina at \$50,000 even and \$5,000 for expenses made

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by her in the past.

If the total is \$3,502,000 --

MR. ASHLEY: That can't be, your Honor.

THE COURT: We may have missed something here. We missed a decimal point probably.

(Short pause.)

THE COURT: It's \$5,402,748.10 times .75 equals \$4,052,061.075. We'll call it eight cents. We all have those numbers now.

MR. CASTELLO: \$4,052,061.08?

THE COURT: Correct. So that's the number we're dealing with at this point and that, of course, has been reduced by the percentage of 75/25.

MR. ASHLEY: Yes, your Honor, I understand.

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Verdict

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THE COURT: So you have a number as a starting point for the lien at this juncture.

MR. ASHLEY: No, because we didn't include the past at all and we now have to agree on some sort of number. They just know that we have a plaintiff's verdict. So they are entitled to some sort of recovery, but the lien in no way attaches to this number based on what's gone on in court so far. We've spoken of the fact that we had to have some sort of hearing about the past and we agreed we wouldn't put it on the verdict sheet at all.

THE COURT: That's correct. So sequentially, I guess we have to deal with that issue.

MR. ASHLEY: I'm going to call them, obviously right away. I don't imagine I'll get anybody now, but certainly

060311 (2)

15 Monday I'll get on the phone with them and I'll be able to
16 report back to everybody.

17 THE COURT: As to the past, you have \$750,000, just
18 his past pain and suffering.

19 MR. ASHLEY: Right.

20 THE COURT: And we reserved on any medical, past
21 medicals.

22 MR. ASHLEY: Right.

23 THE COURT: So that is an issue that we have to
24 determine.

25 MR. ASHLEY: The easiest thing, obviously, is if

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Verdict

1146

1 either defense counsel and I can agree on a number or
2 barring that, that the carrier, the lien holder would agree
3 to come here and agree to jurisdiction for a hearing. Those
4 are the two easy ways it can work.

5 THE COURT: Of course the hospital, what do they
6 have, a five million policy? Who is this, M.L.M.?

7 MR. CASTELLO: No, P.R.I.

8 THE COURT: You probably need a representative to
9 enter into these discussions --

10 MR. CASTELLO: Right.

11 THE COURT: -- as to where we're going and then
12 absent that, we'll do any motion practice, but if there's a
13 number that's within the ballpark here, maybe we could
14 resolve it that way.

15 Why don't we do this? We will adjourn sine die,
16 until we meet again. You will call us and we will schedule

17 a date for whatever hearing we need based upon you speaking
18 to the various -- you speaking to your representative and
19 you speaking to the carrier and collaborating with Mr.
20 Castello and his carrier as to what number, if any, would be
21 agreeable for the past medical expenses to offset the lien
22 or whatever. That discussion you people can have, okay?

23 MR. ASHLEY: Yes, your Honor.

24 THE COURT: Does that sound like a game plan?

25 MR. CASTELLO: Yes, your Honor.

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Verdict

1147

1 MR. ASHLEY: Is subsumed within that -- I guess we
2 need a separate date for what Mr. Castello requested, the
3 motion, I assume, to set this aside.

4 THE COURT: Yes. I'll give him a long date then.
5 We're not going to put his feet to the fire on that issue if
6 this thing is still in flux.

7 MR. ASHLEY: That I understand.

8 THE COURT: We don't play that game.

9 MR. CASTELLO: Would you grant the motion for the
10 stay?

11 THE COURT: I would grant the motion if it was a
12 short period. If this is going to go into perpetuity,
13 you're, of course, looking at the calculation period.

14 I'll put that down for July 22nd, which is a
15 Friday. How does that look?

16 MR. ASHLEY: That's for the motion?

17 THE COURT: Yes.

18 MR. CASTELLO: I'm out of the office the last two
19 weeks of July.

060311 (2)

20 THE COURT: I can't do the week before. I'm going
21 in for some surgery. I'd have to put it off until August
22 5th.

23 MR. ASHLEY: It's a difference of two weeks, your
24 Honor. That's fine.

25 THE COURT: Okay. The second part of that is the

Verdict

1148

1 stay issue on the calculation of the judgment.

2 MR. ASHLEY: Obviously, I would oppose the stay.
3 We're granting them extra time to do it, that I understand,
4 but the stay issue is not fair to my clients.

5 THE COURT: I understand. I would stay it -- is
6 there a possibility of you doing it sooner, by the end of
7 the month?

8 MR. CASTELLO: The end of this month?

9 THE COURT: Yes. I don't know if we're going to
10 have an answer.

11 MR. CASTELLO: That's the other problem.

12 THE COURT: The other issue is you know, because of
13 the some, we have to do that calculation. That's a math
14 drill basically. We could do that, you submit your
15 proposal, you submit yours and we could do it at that time.

16 I'm somewhat loathe to stay more than 30 days
17 interest on a judgment absent consent. We don't have
18 consent here is what I'm hearing. I could do June 24th or
19 July 1st. June 24th is a busy day.

20 MR. ASHLEY: June 24th for their papers? I'm not
21 understanding what the June 24th day is for.

22 THE COURT: June 24th would be the day that I
23 adjourn the motion on the calculation of the final judgment
24 based upon Article 16 and any other reduction that needs to
25 be done. what is the section, the malpractice section? It

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Verdict

1 eludes me right now.

2 MR. ASHLEY: 50-A and B calculations?

3 THE COURT: Right. That's when we have the final
4 calculation as to what the judgment would be absent me
5 setting it aside as excessive or otherwise, okay? So that
6 will be the day that I will stay it till.

7 MR. ASHLEY: So June 24th?

8 THE COURT: June 24th, okay?

9 MR. ASHLEY: Okay.

10 THE COURT: Then if you have all your papers in by
11 then, great. If you don't, we'll give you another date to
12 do the rest of it, but if we could have that done on that
13 date, that would be fine.

14 You know, I have more time on July 1st, if that's a
15 better date for you. That's the beginning of the 4th of
16 July weekend, but we are going to have a slight calendar.
17 I'm here as Special 2. I've got to be here.

18 MR. CASTELLO: I would prefer July 1st. If you
19 don't have a big calendar, it would probably get done.

20 THE COURT: The week before is a nightmare.

21 MR. CASTELLO: So could I ask for July 1st?

22 THE COURT: July 1st is a better date.

23 MR. ASHLEY: Okay, July 1st.

24 THE COURT: I'll stay it until July 1st. Make your
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25 motions by then, Mr. Castello, and then we'll decide. If

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Verdict

1 you could exchange papers by the 24th and we'll have the
2 return date on July 1st, that probably makes sense.

3 MR. ASHLEY: Just for the 50-A and B.

4 THE COURT: And if he makes a motion for everything,
5 we'll deal with that too. He may make a motion to set it
6 aside against the weight of the evidence, you know, the
7 typical motions.

8 MR. ASHLEY: If the return date is the 1st, are you
9 saying he has to get me the papers before then so I can try
10 to have all my papers in for the 1st?

11 THE COURT: Yes, by the 24th. By the 24th and then
12 the return date would be the 1st, okay?

13 MR. ASHLEY: Yes, sir.

14 THE COURT: I'll stay everything until July 1st,
15 okay?

16 MR. CASTELLO: Okay.

17 THE COURT: Any other issues -- obviously, if we
18 need to have a dialogue between then and now with the
19 carriers, pick up the phone and, you know, if we have to do
20 it live, we will. If we can do it on the phone, we'll do it
21 on the phone. Fair enough?

22 MR. ASHLEY: Thank you, your Honor.

23 MR. CASTELLO: Fair enough. Thank you.

24 THE COURT: It is my custom to speak with the jury
25 after each case. So I will be speaking with them. You are

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1 free to speak with them after I speak to them, if you should
2 so choose.

3 You may not speak to them to attempt to impeach a
4 verdict, but lawyers always learn from jurors, not for this
5 case, but for the next case. So you're free to talk to
6 them. You can leave if you want to and I'll instruct them,
7 they may or may not speak to you at their own choosing, but
8 I always speak with the jurors.

9 MR. CASTELLO: If I were to speak with them, where
10 would I go?

11 THE COURT: Outside here in the hallway. I'm going
12 into the jury deliberation room. You can speak to them in
13 the hallway.

14 MR. CASTELLO: Thank you.

15 * * *

16 It is hereby certified that the foregoing is a true
17 and accurate transcript of the original stenographic
18 proceedings.

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JOANN M. SANSONO

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SENIOR COURT REPORTER

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