CURTIS L. HOOKS : NUMBER: 547,502-B

VERSUS : FIRST JUDICIAL DISTRICT COURT

STEPHEN DUPREE, ET AL : CADDO PARISH, LOUISIANA

 **REASONS FOR JUDGMENT**

Trial was held on October 31, 2013. Plaintiff Curtis Hooks and Defendants Thomas Blake Johnson and State Farm Mutual Automobile Insurance Company stipulated liability as to the April 14, 2010 rear-end accident. Without objection, each side submitted exhibits (P 1-18; D 1-5) and one witness provided testimony. After thorough review of the evidence (particularly the medical reports) and oral arguments of counsel, the Court concludes that special damages should be set in the amount of $11,420.52 and general damages should be set in the amount of $30,000.00.

 THE ACCIDENTS

On January 25, 2010, Curtis Hooks was hit from the rear by Stephen Dupree, who was driving a truck owned by D’Anna Brothers Produce Company, Inc. The property damage sustained by Mr. Hooks’ vehicle was less than $400.00. Mr. Hooks sustained injuries to his neck, shoulder and back. At the time of the April 14, 2010 accident, which is the subject of the instant trial, Mr. Hooks was receiving treatment from Richard Kamm, M.D. and Shreveport Chiropractic. The January 25, 2010 rear-end automobile accident was settled, the terms of which are unknown to this Court. The event of April 14, 2010 was also a rear-end collision and that accident (unlike the January 25 event which caused less than $400.00 property damage) rendered Mr. Hooks’ vehicle a total loss. Mr. Hooks resumed treatment with Dr. Kamm and ultimately pursued treatment from orthopaedic and spinal specialists.

 THE INJURIES, MEDICAL FINDINGS AND TREATMENT

The injuries from the first accident had not entirely resolved by the date of the second accident. Thus, at the very least, the trauma of the April 14 accident exacerbated Hooks’ pre-existing injuries from the January accident. In the second accident, the then 60 year old Mr. Hooks sustained other aggravating injuries to his hand and wrist which he believes has led to an arthritic condition which nags him presently and which prevents him from performing some of the activities which he previously enjoyed.

The Court has thoroughly reviewed the medical reports from Willis Knighton Pierremont, Dr. Richard Kamm (13 visits and treatment), Chiropractor Grady Stimits (2 visits and treatment), Chiropractor Rodney Crews (2 visits and treatment), as well as his pharmacy prescription records (10 purchases). However, the most significant medical information is derived from the reports of Drs. Kurt Grozinger and Pierce Nunley. At the referral of Dr. Kamm, Mr. Hooks underwent an MRI on October 7, 2010 (almost 6 months post accident) for the purpose of obtaining views of Hooks’ left shoulder area. The impression by Radiology Imaging Associates, LLC was as follows:

Impression:

1. Evidence of posterior annular teat at L 4-5 level with small posterior disc protrusion causing mild bilateral neural foraminal narrowing.

2. Small posterior disc bulging at L5-S1 level with no significant neural foraminal compromise.

(P. 11)

Dr. Kamm then referred Mr. Hooks to Dr. Nunley, an expert in orthopaedic spinal surgery.

On December 1, 2012, Dr. Pierce Nunley thoroughly examined Mr. Hooks noting Hooks’ back pain rating of 9 on a scale of 1-10 and Dr. Nunley noted range of motion limitations and tenderness. He concluded the following in his “Impressions” and “Plan”.

Impression:

1. Low back pain – diskogenic in nature.

2. Pelvic girdle dysfunction.

3. Multilevel lumbar DDD.

4. HIZ at L 4-5.

Plan: I think the initial step is just get him to physical therapy, get a lumbar stabilization, pelvic girdle program with good effort and he should improve. We will see him back in 4 weeks for re-evaluation at which time may consider spinal injection if indicated.

In a separate note following the December 1 visit, Dr. Nunley wrote:

The patient is here for evaluation at the request of Dr. Kamm. He has lumbar MRI. It shows him to have a contained disk herniation at L4-5 with a HIZ present. He also has degenerative disk disease and broad-based disk bulge at L5-S1.

Four-view lumbar shows a fairly good alignment on AP. Lateral shows fairly good alignment. Flexion-extension views do not demonstrate any gross instability.

The patient had pain for over 2 months following an MVC.

I really think we need to work hard. He has not had any significant lumbar stabilization therapy. He has had some chiropractic.

We are going to get him into stabilization program. We will see him back in 4 weeks.

On January 5, 2011, Dr. Nunley examined Mr. Hooks and wrote the following:

This patient is here for follow-up. He rates his pain as 8/10 with a range from 5 to 10 out of 10, most days a 9/10.

The therapy helped his back tremendously. He says it is to the point where he does not “know he has a back”.

However, doing the superman exercises, he started getting some shoulder and neck pain.

Examination is unchanged today.

Plan: We are going to get him into therapy for his neck, and we will see him back in 4 weeks. If he is not better, we may get an MRI of his neck at that time.

On February 7, 2011, Dr. Nunley examined Mr. Hooks and wrote the following:

The patient presents today status post motor vehicular collision for recheck. The therapy has been doing awesome. He has 0/10 pain. We talked about transitioning to gym program which he is ready to do. There is no change in exam. He rates his pain as 0/10. He is very pleased with therapy. We will see him back on a p.r.n. basis.

In connection with Dr. Nunley’s directive, between December 8, 2010 and January 31, 2011, Mr. Hooks attended physical therapy 19 times. The Court has reviewed the daily progress notes as well as the typed report of Physical Therapist Dale McPhearson, with whom Dr. Nunley consulted during this time frame.

By February 2010, Mr. Hooks’ neck, back and shoulder injuries were resolved, as evidenced by the medical reports and his testimony with the exception of some residual discomfort and the arthritic condition in his wrist and hand areas.

 TESTIMONY OF CURTIS HOOKS

 AND CREDIBILITY DETERMINATION

The Court is called upon to examine demeanor and assess credibility of parties particularly in suits where a plaintiff is seeking compensatory damages for pain and suffering and especially where not all of the pain can be objectively determined. In this case, the medical records (and especially those of Drs. Grozinger and Nunley) support the testimony of Mr. Hooks.

But, the Court is also independently impressed with Curtis Hooks. He is presently age 63 (age 59 at point of first accident; age 60 at point of second accident). He is a graduate of Southern University; he has a Masters Degree from Prairieview and holds additional certification degrees from Centenary College and Louisiana Tech. He is an elected member of the Caddo Parish School Board as well as an appointed member of Governor Bobby Jindal’s state advisory board designed to help prevent juvenile delinquency; he is a former teacher and principal and is a long time member of Zion Baptist Church. His testimony was that the second accident which totaled his vehicle “compounded my previous condition” and that it made his “grass roots” campaign for Caddo Parish School Board (later in 2010) a physically challenging experience with his “excruciating” back and neck problems. His lingering and residual problems associated with his hand and wrist presently cause him problems and he is of the opinion that “part of my life has been taken”.

Although defense counsel astutely pointed out some deposition inconsistencies, the Court deems Mr. Hooks to be credible and compelling; furthermore, his testimony of pain is corroborated by the dozens of treatments which he has received from medical doctors and physical therapists during the 10 months between April 14, 2010 through February 2011. The Court concludes that the rear-end collision of April 14, 2012, which totaled Mr. Hooks’ vehicle, caused him injuries, aggravated the healing process from injuries in the first accident and/or aggravated a pre-existing asymptomatic disc condition which required treatment by a spine surgeon. All of the facts lead the Court to conclude a violent and serious impact which caused serious injuries and required significant medical treatment. A reasonable assessment of monetary damages is warranted.

 QUANTUM

In closing argument, plaintiff counsel urged the Court to set damages in the amount of $50,000.00, inclusive of the $11,420.52 medical charges post April 14, 2010. In contrast, defense counsel has argued that Mr. Hooks was “already undergoing treatment for the exact same injuries as a result of the January 25, 2010 accident at the time of the April 14, 2010 accident...that (all injuries) were a result of the January 25, 2010 accident and (that) Mr. Hooks has already resolved his claims regarding that accident and is not entitled to further recovery for those injuries”[[1]](#footnote-1) Alternatively defense counsel has characterized the second accident as a “minimal aggravation”[[2]](#footnote-2) for which Mr. Hooks is “entitled to an award solely for a mild aggravation...”[[3]](#footnote-3)

Notwithstanding Defense Counsel Marshall Pearce’s excellent advocacy, this Court respectfully disagrees. The impact of the second accident was severe enough to warrant a finding of “totaled” as to Mr. Hooks’ vehicle. Secondly the medical reports provide objective diagnostic evidence to corroborate Mr. Hooks’ complaints of pain; and finally the Court deems Mr. Hooks to be credible in all respects. Accordingly, the Court sets special damages in the amount of $11,420.52 and general damages for the dozens of trips to doctors, physical therapists, hospitals and facilities over a 10 month period plus the extensive pain and suffering shall be set in the amount of $30,000.00. All costs are assessed against defendants.

Counsel shall submit a proposed formal judgment in conformity with this ruling and in accordance with La. Dist. Ct. R. 9.5.

Signed this \_\_\_\_ day of November, 2013, in Shreveport, Caddo Parish, Louisiana.

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 SCOTT J. CRICHTON

 DISTRICT JUDGE

DISTRIBUTION:

J. Marshall Rice, Counsel for Curtis L. Hooks

Marshall R. Pearce, Counsel for Thomas Blake Johnson and State Farm Mutual Insurance Company

1. Pretrial Order p. 2 [↑](#footnote-ref-1)
2. Closing Argument 10/31/13 [↑](#footnote-ref-2)
3. Pretrial Order p. 2-3 [↑](#footnote-ref-3)