DIONISHA DUNCAN AND : NUMBER: 545,487-B

LATINA DUNCAN

VERSUS : FIRST JUDICIAL DISTRICT COURT

DEBBIE LOWERY AND THE

CADDO PARISH SCHOOL BOARD : CADDO PARISH, LOUISIANA

 **REASONS FOR JUDGMENT**

Trial was held May 5 and 18, 2011. The Court heard testimony from Tracee Shaw, Dionisha Duncan, Debbie Lowery, Latina Duncan, Jessica Jackson, Terrence Marshall, and Karen Kaler, and received numerous exhibits into evidence. After thorough consideration of the evidence, arguments of counsel, applicable law and for reasons which follow, the Court concludes that the plaintiffs have carried their burden of proof as to Caddo Parish School Board (CPSB), with fault assigned 75% to CPSB and 25% to Ms. Duncan.

This accident occurred on Gamm Road, a two lane, narrow country road between 7:30 and 8:00 a.m. on October 29, 2009. Dionisha Duncan, then age 19, was traveling south approaching a curve while Debbie Lowery, a CPSB bus driver for 15 years, was driving north. Ms. Lowery was operating the lead bus with two CPSB buses behind her, driven by Jessica Jackson and Terrence Marshall. Ms. Duncan testified that the lead bus as well as the second bus crossed the center line encroaching upon the southbound lane to such an extent that her choices included a head-on collision or a quick exit off the roadway. Choosing the latter, she veered off the roadway at a speed less than the posted limit, crashed through a fence and struck a tree, sustaining property damage and personal injury. Ms. Lowery, Ms. Jackson, and Mr. Marshall testified that their buses did not cross the center line at any point. Tracee Shaw, a motorist behind the third bus, testified that she observed the buses cross the center line during a gradual curve and that this violation necessitated Ms. Duncan’s exit from the roadway. Ms. Shaw is presently employed with the Bossier Parish School Board, but in October 2009, she was a teacher employed with CPSB. The Court agrees with plaintiff counsel that Ms. Shaw is an independent and credible witness, and her testimony tips the scales in favor of Ms. Duncan’s version of the accident.

A troubling aspect of this case is the fact that an investigator/adjuster for CPSB, Jim Nichols, engaged in inappropriate conduct with several witnesses, which impairs the integrity of CPSB’s case. Specifically, Ms. Lowery and Ms. Jackson wrote a summary of what took place at the accident scene, with Ms. Lowery writing that she was traveling 45-50 miles per hour and Ms. Jackson stating that she was traveling 50 miles per hour. When Mr. Nichols had their statements typed, either he, or someone with CPSB, changed the speeds to 40 for Lowery and 40-45 for Jackson. See Plaintiffs’ Exhibits 8 and 9. Ms. Shaw testified that she was interviewed by Nichols for 90 minutes during which he “harassed” her, attempted to get her to change her version of what occurred, told her that her “loyalty should be with CPSB” and, finally, that a trial in this case would be “long and drawn out”. By the end of the 90 minute interview, Ms. Shaw was crying and upset. Thus, the Nichols misbehavior was evidenced by testimony from two present CPSB employees, Jackson and Lowery, and testimony from a former CPSB employee, Shaw. Although this case was tried on two days, thirteen days apart, Mr. Nichols was not called by CPSB to rebut any of these ladies’ statements. The Court’s conclusion therefore is that an agent with CPSB attempted to manipulate – and falsify - the evidence thereby compromising the integrity of the defendants’ case.

The Court does not believe that any of the drivers were violating the posted speed limit; however, on this narrow two lane road at this time of a busy school morning, it was unreasonable for any of the parties to be traveling at 45 or 50 miles per hour, particularly anyone driving a school bus full of children. Accordingly, the Court concludes CPSB liable, assigning it to be 75% at fault and finds Ms. Duncan 25% at fault in the cause of this October 29, 2009 accident.

Regarding quantum, Latina Duncan incurred property damage in the amount of $2,375.00; accordingly, judgment shall be rendered in favor of Latina Duncan, subject to the apportionment of fault.

Dionisha Duncan incurred special damages as follows:

North Caddo Medical Center - $ 140.00

Shreveport Chiropractic - $2,272.00

Total: $2,412.00

Ms. Duncan is entitled to special damages as set forth, subject to the apportionment of fault.

 While counsel has requested general damages in the amount of $15,500.00 for this soft tissue 2-3 month injury, the Court concludes that this young lady (age 19 at time of accident, age 20 at time of trial) appears to be in excellent health and resilient. It is because of her excellent physical condition that she recovered quickly and easily from soft tissue injuries sustained in this accident. Therefore, the Court sets general damages in the amount of $5,000.00, subject to the apportionment of fault.

A formal judgment shall be submitted in accordance with La. Dist. Ct. R. 9.5.

Signed this 24th day of May, 2011, in Shreveport, Caddo Parish, Louisiana.

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 SCOTT J. CRICHTON

 DISTRICT JUDGE

DISTRIBUTION:

J. Allen Cooper, Jr., counsel for Dionisha Duncan and Latina Duncan

Joseph W. Greenwald, Counsel for Debbie Lowery and Caddo Parish School Board