

13-0681

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

JUDITH L. JOHNSON, Executrix and
Personal Representative of the Estate of
JOSEPH B. JOHNSON,

Plaintiff,

v.

CIVIL ACTION NO: 10-C-328
Judge Phillip D. Gaujot

THE MONONGALIA COUNTY COMMISSION,

Defendant.

JUDGMENT ORDER

On the 21st day of May, 2013, came the Plaintiff by Bader C. Giggenbach, Esq., and J. Tyler Slavey, Esq., her attorneys, and came the Defendant by Boyd Warner, Esq., and Brandy Bell, Esq., its attorneys, for a jury trial regarding the Plaintiff's claims against the Defendant, all of which are set forth in the pleadings which have been previously filed in the Court file in this matter. Thereupon came a jury consisting of six (6) persons who were duly selected according to law and duly sworn to well and truly try the issues joined and a true verdict rendered according to the evidence.

More specifically, evidence was presented, and argument was heard, in regards to Plaintiff's claims against the Defendant. The issues were tried before the Court, and the jury, on May 21st, 22nd, 23rd, and 24th of 2013. During the trial, testimony was heard from the following fourteen (14) individuals:

1. Judith L. Johnson
2. Kenneth Goodwin

3. Angie Inskeep
4. Amanda Sanders
5. Ryan Thorne
6. Josh Slagle
7. David Flanigan
8. Jeff Quinn
9. Vickie Jones
10. Robyn Holden
11. Paul D. Linnée, ENP
12. Dr. Roger A. Abrahams, M.D., FCCP
13. Dr. Christopher Faber, M.D.
14. Randy Lowe

At the conclusion of all the evidence¹ of all the parties, and after hearing closing arguments from counsel for the parties, the Court submitted the case to the jury with the exhibits, jury instructions on the law of the case, and provided the jury with a verdict form to be utilized by the jury in rendering its verdict. The Court notes that any and all objections to the jury instructions and verdict form which were utilized in this matter are a part of the record.

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All of the exhibits which were admitted into evidence during the trial of this matter are located in the official Court file. The titles of the exhibits are not set forth herein, however, the Court FINDS that the jury's verdict was based on all of the evidence, both documentary and testimonial, which was presented during the trial.

Thereupon, on May 24, 2013, the jury found, by a preponderance of the evidence, that the conduct of the Defendant, through its employees, on May 11, 2008, amounted to willful or wanton misconduct. The jury also found, by a preponderance of the evidence, that the conduct of the Defendant, through its employees, on May 11, 2008, was a proximate cause of the injury or damages to the Plaintiff. Accordingly the Jury awarded the Plaintiff the following damages:

Economic Damages	<u>\$525,000.00</u>
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Pain and Suffering of Decedent, Joseph B. Johnson	<u>\$175,000.00</u>
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Sorrow, mental anguish, and solace which may include society, companionship, comfort, guidance, kindly offices and advice of the survivors of the Decedent, Joseph B. Johnson:	<u>\$175,000.00</u>
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Reasonable funeral expenses	<u>\$10,000.00</u>
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Accordingly, the jury awarded the Plaintiff damages totaling eight hundred eighty-five thousand dollars (\$885,000.00). The Court FINDS that the Plaintiff previously settled its claims against Jan-Care Ambulance Service, Inc., and any other Jan-Care entities (hereinafter collectively referred to as "Jan-Care") for a total sum of seventy-five thousand dollars (\$75,000.00). As such, the Court FINDS that the Defendant, the Monongalia County Commission, is entitled to an offset of the verdict which was rendered against the Monongalia County Commission in the amount of

seventy-five thousand dollars (\$75,000.00), based upon the Plaintiff's prior settlement with Jan-Care. As such, the Court FINDS that the total amount of the jury's award to the Plaintiff, after the above described offset, is eight hundred ten thousand dollars (\$810,000.00).

It is therefore, ORDERED, ADJUDGED, and DECREED that Plaintiff Judith L. Johnson, Executrix and Personal Representative of the Estate of Joseph B. Johnson, recover of and from Defendant, the Monongalia County Commission, the sum of eight hundred ten thousand dollars (\$810,000.00) with post judgment interest at the rate of seven percent (7%) per annum, beginning on the date of the entry of this Judgment Order, and continuing until the amount of said judgment is paid in full. It is further ORDERED that, pursuant to West Virginia Code § 55-7-6, all of the monies awarded to the Plaintiff shall be distributed to Judith L. Johnson. It is further ORDERED that Judith L. Johnson can, and shall, pay all costs, expenses and attorneys' fees associated with this matter out of the monies awarded to the Plaintiff.

It is further ORDERED that each party shall be responsible for their individual costs and attorneys' fees as may have been incurred in this matter.

Upon entry of this Order, the Circuit Clerk shall provide certified copies of the same to counsel for the Plaintiff, Bader C. Giggenbach and J. Tyler Slavey, at P.O. Box 4206, Morgantown, West Virginia, 26504; and to counsel for the Defendant, Monongalia County Commission, Boyd L. Warner, and Brandy Bell at 701 Goff Building, P.O. Box 1716, Clarksburg, West Virginia, 26302-1716.

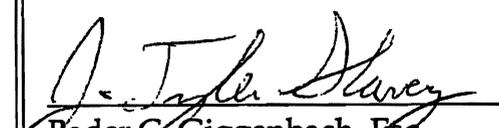
CIVIL ACTION NO: 10-C-328

ENTER: May 31, 2013



JUDGE PHILLIP D. GAUJOT

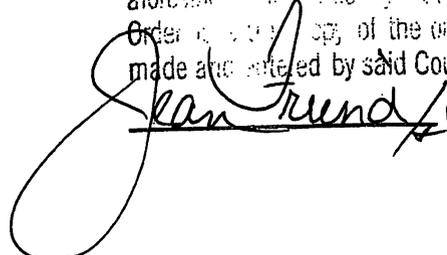
Prepared by:



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Counsel for Plaintiff
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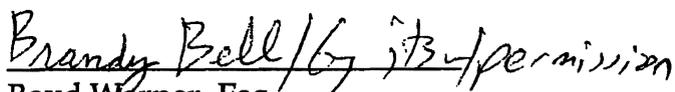
STATE OF WEST VIRGINIA SS:

I, Jean Friend, Clerk of the Circuit Court and Family Court of Monongalia County State aforesaid, hereby certify that the attached Order is a true copy of the original Order made and entered by said Court.



Jean Friend, Circuit Clerk

Agreed for entry by:



Boyd Warner, Esq.
Brandy Bell, Esq.
Kristi Cecil, Esq.
Counsel for Monongalia County Commission
Waters, Warner, & Harris, PLLC
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Clarksburg, WV 26302-1716