

15-0013

**IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA**

**HASIL PAK,**

**Plaintiff,**

v.

**CIVIL ACTION NO. 11-C-621  
JUDGE PHILLIP D. GAUJOT**

**JOHN DOE, AN UNKNOWN DRIVER,**

**Defendant.**

**AMENDED JURY ORDER AND ORDER  
ADDRESSING MOTION(S) TO ALTER/AMEND**

On the 10<sup>th</sup> day of September, 2013, came the Plaintiff, Hasil Pak, in person and by her attorneys, John R. Angotti and David J. Straface, and also came the Defendant, John Doe, by his attorney, Tiffany R. Durst.

Thereupon, came a jury, to-wit: Tabatha Burch, Carrie Costello, Linda Fortney, Donald Nunley, Kristopher Richardson, and Elizabeth Sisler, six (6) good and lawful jurors selected according to law to well and truly try the issues between the Plaintiff, Hasil Pak, and the Defendant, John Doe, an unknown driver, and true verdict render according to the evidence presented.

Whereupon, following selection of the jury, Plaintiff's counsel renewed Plaintiff's previously filed motion *in limine* with regard to Defendant's Rule 35 medical expert, Dr. Victor Thomas. Upon consideration of the same and for those reasons spread upon the record, the Court denied Plaintiff's renewed motion.

Whereupon, Plaintiff's counsel presented argument on the outstanding motion *in limine* which sought to preclude Defendant from challenging the reasonable of Plaintiff's medical expenses on the basis that the uninsured motorist carrier, State Farm Mutual Automobile

Insurance Company ("State Farm") had paid Twenty-Five Thousand Dollars (\$25,000.00) in medical expenses on behalf of the Plaintiff pursuant to medical payments coverage. The Court, for those reasons apparent on the record in this case, denied the Plaintiff's motion.

Thereupon, on the 10<sup>th</sup> day of September, 2013, the six (6) good and lawful jurors, having been duly selected and sworn, heard the opening statements on behalf of Plaintiff and Defendant and further heard part of the testimony on behalf of the Plaintiff before adjourning for the day, that testimony being from the following witnesses: Officer Morgan, Edie Barnard, Cheri Satterfield, Dr. Joseph Prud'homme, James Cox, Christine Pak Cox Cutburth and Dr. Chong Kim. The testimony of Dr. Joseph Prud'homme and Dr. Chong Kim was presented by videotaped testimony. Following conclusion of the videotaped testimony of Dr. Chong Kim, the trial was adjourned for the day.

On the 11<sup>th</sup> day of September, 2013, the jury returned into Court and heard the remaining testimony of Plaintiff's witnesses, which included testimony from the following witnesses: Hasil Pak, Cathy Gross and Dr. Clifford Hawley. Following the testimony of Dr. Clifford Hawley, Plaintiff rested.

The jury then heard part of testimony of Defendant's witnesses, that being the testimony of Dr. Victor Thomas, the same having been presented to the jury by way of videotaped testimony. Following conclusion of the videotaped testimony of Dr. Victor Thomas, the trial was adjourned for the day.

On the 12<sup>th</sup> day of September, 2013, the jury returned into Court and heard the remaining testimony of Defendant's witnesses, which included the testimony of Kathy Messimer. Following the presentation of the testimony of Kathy Messimer, the Defendant rested.

In addition to the foregoing testimony, the jury also heard instructions of the Court and the closing arguments on behalf of the Plaintiff and the Defendant before retiring to their chambers to consider a verdict. After their deliberations, the jury returned to Court and upon their oaths did render the following verdict:

1. Do you find, by a preponderance of the evidence, that the Defendant was guilty of negligence as is alleged by the Plaintiff in the accident that occurred on November 23, 2009?

YES       NO

If your answer to Question Number 1 is "NO," then skip the remaining questions and have the foreperson sign the jury verdict form. Return it to the bailiff and advise him that you have completed your deliberations. If your answer to Question Number 1 is "YES," then you are to continue on and answer the following questions.

2. If you have answered "YES" to Question Number 1, do you find, by a preponderance of the evidence, that the negligence of the Defendant was a proximate cause of the damages suffered by the Plaintiff in the accident that occurred on November 23, 2009?

YES       NO

If your answer to Question Number 2 is "NO," then skip the remaining questions and have the foreperson sign the jury verdict form. Return it to the bailiff and advise him that you have completed your deliberations. If your answer to Question Number 2 is "YES," then you are to continue on and answer the following questions.

3. Do you find, by a preponderance of the evidence, that the Plaintiff was guilty of negligence which in any way contributed to the injuries and damages alleged by the Plaintiff?

YES       NO

If your answer to Question Number 3 is "NO," then skip the remaining part of this question and answer Question Number 4. If your answer to Question Number 3 is "YES" and you have found that Plaintiff was at least partially at fault for her alleged injuries and damages, then please assign the percentage of fault for which you find Plaintiff was negligent in the matter before you in this case, such that each party is assigned a percentage of fault, the total of which equals 100%.

Plaintiff	<u>30</u> %
Defendant	<u>70</u> %
TOTAL	<u>100</u> %

If you have assigned fifty percent (50%) or more of the total negligence for the motor vehicle accident of November 23, 2009 to the Plaintiff, do not proceed to Question Number 4, skip the remaining questions and have the foreperson sign the jury verdict form. Return it to the bailiff and advise him that you have completed your deliberations. If you have assigned less than fifty percent (50%) of the total negligence to the Plaintiff, then proceed to Question Number 4.

4. Please state what amount of damages you award the Plaintiff as compensation for the following:

- |    |  |                     |
|----|--|---------------------|
| a. | Any doctor, hospital, medical and related expenses to date:                      | \$ <u>25,000.00</u> |
| b. | Any loss of earnings capacity to date:   | \$ <u>30,000.00</u> |
| c. | Any loss of future earning capacity:   | \$ <u>0.00</u>      |
| d. | Any loss of household services to date:  | \$ <u>10,000.00</u> |
| e. | Any loss of household services to be incurred in the future:                     | \$ <u>0.00</u>      |
| f. | Any pain and suffering and mental anguish and loss of enjoyment of life to date: | \$ <u>6,000.00</u>  |

- g. Any pain and suffering and mental anguish and loss of enjoyment of life to be incurred in the future: \$ 30,000.00

You have now completed your deliberations. Have the foreperson sign the jury verdict form, return it to the bailiff and advise him that you have completed your deliberations.

Dated: 9/12/13

/s/Tabatha Burch  
JURY FOREPERSON

Following the trial in this matter, Plaintiff, Hasil Pak, presented a proposed *Jury Order* to the Court for entry, reflecting a total jury verdict of One Hundred One Thousand Dollars and Zero Cents (\$101,000.00), exclusive of statutory pre-judgment interest. The Defendant objected to the proposed *Jury Order* on several grounds, including the fact that the proposed *Jury Order* did not reflect a Twenty-Five Thousand Dollar (\$25,000.00) payment made to Plaintiff by State Farm Mutual Automobile Insurance Company pursuant to the medical payments coverage of Plaintiff's uninsured motorist coverage; did not reflect an advance payment of Thirty Thousand Six Hundred Twenty-Eight Dollars and Fifteen Cents (\$30,628.15) made to Plaintiff prior to trial by State Farm; did not deduct the two (2) payments referenced above before computing the amount of prejudgment interest; and, included pre-judgment interest to be calculated on Plaintiff's award of past household services.

On May 14, 2014, the Court entered an Order, finding that State Farm was entitled to deduct the Twenty-Five Thousand Dollar (\$25,000.00) payment made to Plaintiff pursuant to the medical payments coverage of Plaintiff's uninsured motorist coverage. The Court further found that the Twenty-Five Thousand Dollar (\$25,000.00) payment would not be included in the pre-judgment interest calculation, meaning that the Twenty-Five Thousand Dollars (\$25,000.00) paid by State Farm for medical payments coverage would be deducted from

the jury verdict before any pre-judgment interest was calculated. However, the Court ruled that the advance payment made by State Farm of Thirty Thousand Six Hundred Twenty-Eight Dollars and Fifteen Cents (\$30,628.15) should not be deducted from the amount of the verdict

because it is wholly unclear as to what this payment actually *is* or for what purpose it was paid out. Pursuant to ¶3 of the Plaintiff's Response to Defendant's Objections to Plaintiff's Proposed Jury Order, this amount was gratuitously paid by State Farm, without requiring a release of claim from Ms. Pak or her counsel; this payment could very well be found to constitute a gift, and the Court is without sufficient knowledge to decidedly find otherwise.

*May 14, 2014 Order at 2.* For the same reason, the Court found that the advance payment could not be deducted before calculating pre-judgment interest. *Id.* The Court also found that pre-judgment interest should accrue on the award for loss of household services under the Court's decision in *Wilt v. Buracker*, 191 W. Va. 39, 443 S.E.2d 196 (1994). *Id. at 3.*

As the Court's May 14, 2014 Order did not permit a deduction for the advance payment made to the Plaintiff in the amount of Thirty Thousand Six Hundred Twenty-Eight Dollars and Fifteen Cents (\$30,628.15), the Defendant filed with this Court the *Motion to Alter or Amend May 14, 2014 Order*. On June 16, 2014, a hearing was held on Defendant's *Motion to Alter or Amend May 14, 2014 Order*. On the 28<sup>th</sup> day of July, 2014, the Court entered an Order denying the Defendant's *Motion to Alter or Amend May 14, 2014 Order*.

Thereafter, on October 3, 2014, the Court entered its *Jury Order* in the captioned matter. However, the *Jury Order* did not reflect the Court's rulings in the May 14, 2014 Order. Specifically, the October 3, 2014 *Jury Order*, and the judgment entered in favor of the Plaintiff, did not reflect any deduction whatsoever for the Twenty-Five Thousand Dollar (\$25,000.00) payment made to Plaintiff pursuant to the medical payments coverage of Plaintiff's uninsured motorist coverage. Moreover, since the *Jury Order* did not reflect any deduction for the medical payments coverage to Plaintiff, the pre-judgment interest included in the *Jury Order* was

incorrect as it was calculated without taking any deduction for medical payments coverage paid to Plaintiff, as per the Court's May 14, 2014 Order. Consequently, the Defendant filed a *Motion to Alter or Amend Jury Order*. A hearing was held on the *Motion to Alter or Amend Jury Order* on November 3, 2014, at which time the Court granted the *Motion to Alter or Amend Jury Order* without objection by Plaintiff's counsel to reflect the Court's rulings in the May 14, 2014 Order.

Accordingly, based on the foregoing true verdict of the jury and the Court's rulings on the Defendant's motions, it is therefore **ORDERED, ADJUDGED and DECREED** that the Plaintiff, Hasil Pak verdict against the Defendant shall be calculated as follows:

• \$101,000.00 - \$30,300.00 (for Plaintiff's 30% negligence) = \$70,700.00

• \$70,700.00 - \$17,500.00 (for MPC/non-duplication with a reduction by 30%) = \$53,200.00

Consequently, Plaintiff's total verdict (prior to calculation of any statutory pre-judgment interest) is Fifty-Three Thousand Two Hundred Dollars and Zero Cents (\$53,200.00).

It is the further **ORDERED, ADJUDGED and DECREED** that the Plaintiff be and is hereby entitled to recover statutory pre-judgment interest, pursuant to *West Virginia Code § 56-6-31*, on the past lost earning capacity of Thirty Thousand Dollars (\$30,000.00) and past loss of household services of Ten Thousand Dollars (\$10,000.00). Accordingly, the Court finds that the statutory pre-judgment interest to which Plaintiff, Hasil Pak, is entitled to recover shall be calculated as follows:

$\$40,000.00 \times 0.07 = \$2,800.00$  per year (if this amount is divided by 365 days the amount is \$7.67 per day)

\$2,800.00 (from Nov. 23, 2009 – Nov. 23, 2010)

\$2,800.00 (from Nov. 23, 2010 – Nov. 23, 2011)

\$2,800.00 (from Nov. 23, 2011 – Nov. 23, 2012)

\$2,254.98 (from Nov. 23, 2012 – Sept. 12, 2013 -- \$7.67 x 294 days)

\$10,654.98 total amount of pre-judgment interest

Accordingly, it is the further **ORDERED, ADJUDGED and DECREED** that the Plaintiff be

and is entitled to recover statutory pre-judgment interest, pursuant to *West Virginia Code § 56-6-31*, in the amount of \$10,654.98, thereby bringing the Plaintiff's total recovery of and from the Defendant in the amount of \$63,854.98.

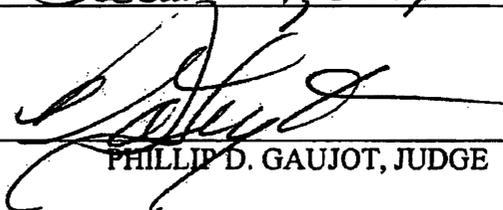
The objections and exceptions of any party to the Court's rulings on the Motion(s) to Alter/Amend are hereby saved and preserved.

It is **ORDERED, ADJUDGED** and **DECREED** that the Clerk of this Court transmit a copy of this Order, duly certified, to all counsel of record.

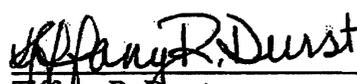
The Clerk of this Court is further directed to strike this matter from the docket of this Court.

It is so **ORDERED**.

ENTER: December 4, 2014

  
\_\_\_\_\_  
PHILLIP D. GAUJOT, JUDGE

Prepared by:

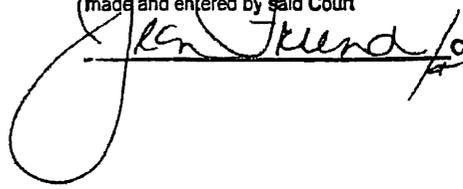
  
\_\_\_\_\_  
Tiffany R. Durst (WVSB # 7441)  
Pullin, Fowler, Flanagan, Brown & Poe, PLLC  
2414 Cranberry Square  
Morgantown, West Virginia, 26726  
Telephone: (304) 225-2200  
Facsimile: (304) 225-2214  
**Counsel for Defendant, John Doe,  
An Unknown Driver**

ENTERED Dec 4, 2014

DOCKET LINE #: 113

JEAN FRIEND, CIRCUIT CLERK

STATE OF WEST VIRGINIA, SS  
I Jean Friend, Clerk of the Circuit and Family Courts of  
Monongalia County, State aforesaid do hereby certify that  
the attached ORDER is a true copy of the original Order  
made and entered by said Court

  
\_\_\_\_\_  
Circuit Clerk

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA  
DIVISION NO. 3

HASIL PAK,

*Plaintiff,*

v.

Case No. 11-C-621  
Chief Judge Phillip D. Gaujot

JOHN DOE, AN UNKNOWN  
DRIVER, and STATE FARM MUTUAL  
AUTOMOBILE INSURANCE COMPANY,

*Defendants.*

**ORDER**

On the 10<sup>th</sup>, 11<sup>th</sup>, and 12<sup>th</sup> days of September, 2013, a jury trial was conducted in the afore-styled case. The Plaintiff, Hasil Pak, was represented by counsel, John R. Angotti and David J. Straface. The Defendant, the unknown driver John Doe, appeared by his attorney, Tiffany R. Durst. Following the trial, the Plaintiff's counsel submitted a proposed Jury Order to which the Defendant filed objections on November 13, 2013, and the Plaintiff responded on November 25, 2013.

The Defendant advances two main arguments. First, counsel asserts that the Jury Order does not reflect the medical payments made by State Farm prior to trial, in the amount of \$25,000.00, or the advance payment made to Ms. Pak, in the amount of \$30,628.15. The Defendant argues that failing to do so would enable a double recovery of damages. Second, the Defendant contends that the Proposed Jury Order does not deduct these amounts before computing pre-judgment interest. The Court will address each of the Defendant's objections in turn.

First, as the case law makes clear, the \$25,000.00 medical payment made by State Farm to Ms. Pak prior to trial should be deducted from the jury verdict amount. Doing so prevents a double recovery of damages, as opposed to a reduction in coverage, which would violate our State's public policy. See *State Farm Mut. Auto. Ins. Co. v. Schatken*, 230 W. Va. 201, 737 S.E.2d 229 (2012); *State Auto. Mut. Ins. Co. v. Youler*, 183 W. Va. 556, 396 S.E.2d 737 (1990).

However, this Court does not believe that the \$30,628.15 "advance payment" should similarly be deducted because it is wholly unclear as to what this payment actually is or for what purpose it was paid out. Pursuant to ¶3 of the Plaintiff's Response to Defendant's Objections to Plaintiff's Proposed Jury Order, this amount was gratuitously paid by State Farm, without requiring a release of claim from Ms. Pak or her counsel; this payment could very well be found to constitute a gift, and the Court is without sufficient knowledge to decidedly find otherwise. For these reasons, this Court cannot find that this payment should be deducted from the jury verdict.

Second, this Court finds that pursuant to *State Farm Mutual Automobile Insurance Company v. Rutherford*, the medical payment should be deducted from the jury verdict before pre-judgment interest is calculated. 229 W. Va. 73, 77-78, 726 S.E.2d 41, 45-46 (2011). However, for the same reason this Court cannot find that the advance payment of \$30,628.15 should be deducted from the verdict, it similarly cannot find that it should be deducted before calculating pre-judgment interest.

The Defendant has also argued that pre-judgment interest shall not accrue on damages concerning the Plaintiff's loss of household services. Counsel contends that these are not out-of-pocket expenditures paid by the Plaintiff, as contemplated by West Virginia Code §56-6-31. Pursuant to that code section, specifically subsection (a), "[s]pecial damages includes lost wages



IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA  
DIVISION NO. 3

HASIL PAK,

*Plaintiff,*

v.

Case No. 11-C-621  
Chief Judge Phillip D. Gaujot

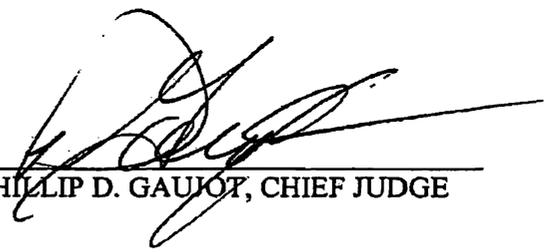
JOHN DOE, AN UNKNOWN  
DRIVER, and STATE FARM MUTUAL  
AUTOMOBILE INSURANCE COMPANY,

*Defendants.*

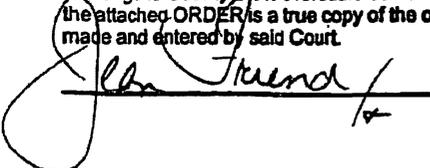
**ORDER**

On the 14<sup>th</sup> day of May, 2014, this Court entered an Order ("May 14<sup>th</sup> Order") addressing the Defendant's objections to the proposed Jury Order as submitted by the Plaintiff. The Defendant filed a Motion to Alter or Amend the May 14<sup>th</sup> Order on May 29, 2014. This Court has reviewed the Motion, in addition to the record in this case, and for the reasons as cited in the May 14<sup>th</sup> Order, the Defendant's Motion is DENIED. The Circuit Clerk is directed to provide copies of this Order to counsel of record.

ENTER: *July 28, 2014*

  
\_\_\_\_\_  
PHILLIP D. GAUJOT, CHIEF JUDGE

STATE OF WEST VIRGINIA, SS:  
I, Jean Friend, Clerk of the Circuit and Family Courts of  
Monongalia County State aforesaid do hereby certify that  
the attached ORDER is a true copy of the original Order  
made and entered by said Court.

  
\_\_\_\_\_  
Circuit Clerk

ENTERED *July 28, 2014*

DOCKET LINE #: *101*

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CLERK OF COURT

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA:  
DIVISION NO. 3

HASIL PAK,

Plaintiff,

Vs.

CIVIL ACTION NO. 11-C-621  
PHILLIP D. GAUJOT, JUDGE

JOHN DOE, AN UNKNOWN  
DRIVER, and STATE FARM MUTUAL  
AUTOMOBILE INSURANCE COMPANY,

Defendants.

JURY ORDER

On the 10<sup>th</sup> day of September, 2013, came the Plaintiff, Hasil Pak, in person and by her attorneys, John R. Angotti and David J. Straface, and also came the Defendant, by his attorney, Tiffany R. Durst.

Thereupon came a jury, to-wit: Tabatha Burch, Carrie Costello Linda Fortney, Donald Nunley, Kristopher Richardson, and Elizabeth Sisler, six (6) good and lawful jurors selected according to law to well and truly try the issues between the Plaintiff, Hasil Pak, and the Defendant, Joe Doe, an unknown driver, and true verdict render according to the evidence presented.

On the 10<sup>th</sup> day of September, 2013, the six (6) good and lawful jurors, having been duly selected, heard the opening statements on behalf of Plaintiff and Defendant and further heard part of the testimony on behalf of Plaintiff before adjourning for the day, that testimony being from the following witnesses: Officer Morgan, Edie Barnard, Cheri Satterfield, Dr. Prudhomme, James Cox, Christine Cox Cutburth, and Dr.

Kim. The testimony of Dr. Prudhomme and Dr. Kim was presented by video. Following conclusion of the testimony of Dr. Kim, the trial was adjourned for the day.

On the 11<sup>th</sup> day of September, 2013, the jury returned into Court and heard the remaining testimony of Plaintiff's witnesses, which included testimony from the following witnesses: Plaintiff, Hasil Pak, Cathy Gross, and Dr. Clifford Hawley. The jury then heard testimony of Defendant's witnesses, Dr. Victor Thomas and Cathy Messimer. The testimony of Dr. Victor Thomas was presented by video. The presentation of the testimony of Cathy Messimer on September 12, 2013, was the conclusion of Defendant's case-in-chief.

In addition to the foregoing testimony, the jury also heard the instructions of the Court and the closing arguments on behalf of the Plaintiff and the Defendant before retiring to their chambers to consider a verdict. After their deliberations, the jury returned to the Court and upon their oaths did render the following verdict:

**Section 1. Hasil Pak**

1. Do you find, by a preponderance of the evidence, that the Defendant, was guilty of negligence as is alleged by the Plaintiff in the accident that occurred on November 23, 2009?

  X   YES               NO

If your answer to Question Number 1 is "NO", then skip the remaining questions and have the foreperson sign the jury verdict form. Return it to the bailiff and advise him that you have completed your deliberations. If your answer to Question Number 1 is "YES", then you are to continue on and answer the following questions.

2. If you have answered "YES" to Question Number 1, do you find, by a preponderance of the evidence, that the negligence of the Defendant was a proximate cause of the damages suffered by the Plaintiff in the accident that occurred on November 23, 2009?

  X   YES             NO

If your answer to Question Number 2 is "NO", then skip the remaining questions and have the foreperson sign the jury verdict form. Return it to the bailiff and advise him that you have completed your deliberations. If your answer to Question Number 2 is "YES", then you are to continue on and answer the following questions.

3. Do you find, by a preponderance of the evidence, that the Plaintiff was guilty of negligence which in any way contributed to the injuries and damages alleged by the Plaintiff?

  X   YES             NO

If your answer to Question Number 3 is "NO", then skip the remaining part of this question and answer Question Number 4. If your answer to Question Number 3 is "YES" and you have found that Plaintiff was at least partially at fault for her alleged injuries and damages, then please assign the percentage of fault for which you find Plaintiff was negligent in the matter before you in this case, such that each party is assigned a percentage of fault, the total of which equals 100%.

Plaintiff        30%  

Defendant       70%  

TOTAL          100%

If you have assigned fifty percent (50%) or more of the total negligence for the motor vehicle accident of November 23, 2009 to the Plaintiff, do not proceed to Question Number 4, skip the remaining questions and have the foreperson sign the jury verdict form. Return it to the bailiff and advise him that you have completed your deliberations. If you have assigned less than fifty percent (50%) of the total negligence to the Plaintiff, then proceed to Question Number 4.

4. Please state what amount of damages you award the Plaintiff as compensation for the following:

- |   |             |
|---|-------------|
| a. Any doctor, hospital, medical and related expenses date:   | \$25,000.00 |
| b. Any loss of earnings capacity to date:   | \$30,000.00 |
| c. Any loss of future earning capacity:   | \$ 0.00     |
| d. Any loss of household services to date:  | \$10,000.00 |
| e. Any loss of household services to be incurred in the future:   | \$ 0.00     |
| f. Any pain and suffering and mental anguish and loss of enjoyment of life to date                      | \$ 6,000.00 |
| g. Any pain and suffering and mental anguish and loss of enjoyment of life to be incurred in the future | \$30,000.00 |

You have now completed your deliberations. Have the foreperson sign the jury verdict form, return it to the bailiff and advise him that you have completed your deliberations.

The jury having returned a verdict for the Plaintiff for past medical expenses, the Court then instructed the jury that they were required to award the Plaintiff

some amount for past pain and suffering, mental anguish and loss of enjoyment of life sustained as a proximate result of the accident. The jury then again retired to their jury room to deliberate per the Court's instructions. Thereupon, the jury returned to the Court and upon their oaths did render the following additional verdict:

a. Any doctor, hospital, medical and related expenses date:	\$25,000.00
b. Any loss of earnings capacity to date:	\$30,000.00
d. Any loss of household services to date:	\$10,000.00
f. Any pain and suffering and mental anguish and loss of enjoyment of life to date	\$ 6,000.00
g. Any pain and suffering and mental anguish and loss of enjoyment of life to be incurred in the future	\$30,000.00

Based on the foregoing true verdict of the jury, it is therefore **ORDERED, ADJUDGED and DECREED** that the Plaintiff, Hasil Pak, recover of and from the Defendant, John Doe, an unknown driver, the following sums: \$25,000.00 for any doctor, hospital, medical and related expenses, \$30,000.00 for any loss of earnings capacity to date, \$10,000.00 for any loss of household services to date, \$6,000.00 for any pain and suffering and mental anguish and loss of enjoyment of life to date, and \$30,000.00 for any pain and suffering and mental anguish and loss of enjoyment of life to be incurred in the future. Pursuant to applicable law and the jury's apportionment of thirty percent (30%) negligence to Plaintiff, Hasil Pak, the Court has reduced Plaintiff's recovery of

\$101,000.00 by thirty percent (30%), thus making Plaintiff's verdict against the Defendant in the sum of \$70,700.00.

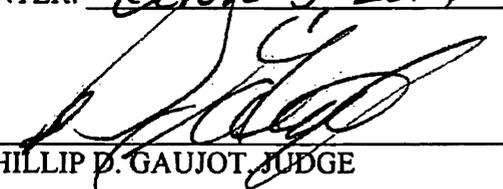
It is further **ORDERED, ADJUDGED and DECREED** that the Plaintiff be and is hereby entitled to recover statutory pre-judgment interest, pursuant to *West Virginia Code §56-6-31*, in the amount of \$18,819.49, thereby bringing the Plaintiff's total recovery of and from the Defendant in the amount of \$89,519.49.

It is **ORDERED, ADJUDGED and DECREED** that the Plaintiff is entitled to statutory interest at the rate of seven percent (7%) per annum from the date of the judgment until the same has been paid in full.

It is **ORDERED** that the Clerk of this Court shall provide a copy of this Order to counsel of record herein.

*The Clerk of the Court is directed to strike this matter from the Docket. PDG*

ENTER: October 3, 2014

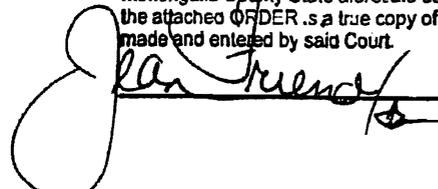
  
PHILLIP D. GAUJOT, JUDGE

Prepared by:

\_\_\_\_\_  
John R. Angotti  
WV State Bar #5068  
David J. Straface  
WV State Bar #3634  
Angotti & Straface, L.C.  
Counsel for Plaintiff  
274 Spruce Street  
Morgantown, WV 26505

STATE OF WEST VIRGINIA, SS

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

  
Circuit Clerk