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OF WEST VIRGINIA

Maynard, Justice, dissenting:

I dissent to the majority’s decision to make *Louk v. Cormier* retroactive to cases pending in circuit court or on appeal at the time *Louk* was decided.

First, I believe that the *Louk* decision is wrong, for the reasons explained in my dissent to that opinion, and should not be applied retroactively.

Also, I believe that Appellant waived the issue of retroactivity by failing to raise it in the trial court both before and after the verdict. Generally, a new rule of law will apply retroactively only to those cases in which an objection is made at trial. *See King v. Kayak Manufacturing Corp.*, 182 W.Va. 276, 285, 387 S.E.2d 511, 520 (1989) (making new doctrine of comparative assumption of risk applicable “on appeal if the point was preserved at trial”); Syllabus Point 13, *LaRue v. LaRue*, 172 W.Va. 158, 304 S.E.2d 312 (1983), *overruled on other grounds*, *Butcher v. Butcher*, 178 W.Va. 33, 357 S.E.2d 226 (1987) (holding that equitable distribution based on economic contributions is available “in pending cases where the issue is specifically asserted”). Having made no objection below, Appellant should not now have the benefit of the new rule announced in *Louk*.

Accordingly, for the reasons set forth above, I dissent.