

IN THE CIRCUIT COURT OF MARSHALL COUNTY, WEST VIRGINIA

DEBORAH L. JARRETT, as the  
Executrix of the Estate of  
KEVIN M. JARRETT,

Plaintiff,

v.

SPEEDWAY LLC,

Defendant.

Civil Action No. 15c-217

Judge David W. Hummel, Jr.

**FINAL JUDGMENT ORDER**

On March 3, 2020, this Court conducted a jury trial on an amended complaint filed against Speedway, LLC (Speedway). This trial having been scheduled as a result of the Court's prior ORDERS concerning a retrial of jury interrogatory question numbers 5(a) and (b) of the verdict of July 26, 2019. Upon the conclusion of the presentation of evidence and arguments, and after being instructed by the Court, the jury deliberated and returned its unanimous verdict, answering the following interrogatory:

What total amount of damages do you assess to fully compensate all the beneficiaries of the Estate of Kevin Jarret, which is Deborah Jarrett, Logan Jarrett, Cody Jarrett and Jamie Jarrett Pettit for:

The sorrow, mental anguish and solace, including loss of society, loss of companionship, loss of comfort, loss of guidance, loss of kindly offices and loss of advice of Kevin Jarrett:

\$ 5,500,000.00

The loss of services, protection, care and assistance provided by Kevin Jarrett:

\$ 362,323.00

The verdict form was signed by the jury foreperson, Matthew Ritz. The jury was polled and all confirmed that this was their verdict.

The Court does incorporate the prior damage findings reflected in the Final Judgment Order entered August 8, 2019 as reformed in part in the Order entered November 18, 2019, which damages are in addition to the damages reflected above in the March 3, 2020 verdict. Those damages are as follows:

Pain and suffering of Kevin Jarrett	\$ 50,000.00
Economic damages:	
Medical Bills	\$ 8,321.36
Funeral Bills	\$ 16,422.02
Lost Wages to July 22, 2019	\$ 477,708.00
Lost Earning Capacity (Future)	\$ 262,000.00

In total, the assessed damages for the injuries to and death of Kevin Jarrett by this verdict and previous Orders total \$6,676,744.38.

Therefore, the Court finds the plaintiff is entitled to judgment for the following damages:

1. As to the March 3, 2020 jury verdict: 30% of the assessed damages (\$5,862,323) pursuant to West Virginia Code §55-7-13c, said amount being \$1,758,696.90;
2. As to the July 26, 2019 jury verdict: 30% of the assessed damages for jury interrogatories 3 and 4 as reformed in this Court's order entered November 18, 2019 (\$814,451.38), said amount being \$244,335.41
3. As to the July 26, 2019 jury verdict: 30% of the total pre-judgment interest on the portion of the jury award representing liquidated damages, defined as medical expenses, funeral expenses and past lost wages, calculated from the date of the accident of September 15, 2015 through July 26, 2019, the date of

the verdict on said damages, said amount being \$40,760.51, (correcting the amount from prior Orders as the incorrect interest rate was used. See *W.Va. Code §56-6-31(b)(1)* reflecting that the rate in effect in the year the cause of action accrued is used for pre-judgment interest. 7% was the 2015 rate not the 5.5% rate used in the prior calculation);

4. Post judgment interest as allowed by law at the rate of 5.5% (the 2019 rate) from July 26, 2019, on the award of damages from the July 26, 2019 jury verdict as reformed by the Court in its Order of November 18, 2019, and after application of *W.Va. Code §55-7-13c*, and inclusive of pre-judgment interest, said amount being \$285,097.74;
5. Post judgment interest as allowed by law at the rate of 4.75% (the 2020 rate) from March 3, 2020 on the award of damages as reflected in the jury's verdict, after application of *W.Va. Code §55-7-13c*, said amount being \$1,758,696.90;
6. The Court incorporates its prior finding that court costs of \$265.00 (to be paid to plaintiff as reimbursement) and jury fees of \$2,956.12, and any other costs, as assessed by the Circuit Clerk, to be paid to the Circuit Clerk by the defendant Speedway LLC as related to the trial ending July 26, 2019; and
7. Jury fees of \$1,347.38, and any other costs, as assessed by the Circuit Clerk, to be paid to the Circuit Clerk by the defendant Speedway LLC as related to the trial of March 3, 2020.

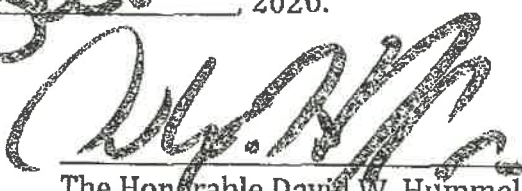
Therefore, based upon the total damages determined by the juries and the Court, and the percentage of fault assessed against Speedway, LLC, the Court hereby ORDERS judgment against Speedway LLC and in favor of DEBORAH L. JARRETT, as the Executrix of the Estate of KEVIN M. JARRETT, in the total amount of \$2,043,792.82, (\$285,095.92 July 26, 2019 verdict plus \$1,758,696.90 March 3, 2020 verdict), together with post judgment interest as specified herein and reimbursement of costs of \$265.00;

It is further ORDERED that defendant pay to the Clerk of the Circuit Court of Marshall County costs in the amounts of \$2,956.12 and \$1,347.38 (total \$4,303.50) .

The objections of the parties are noted.

The Court does direct the Clerk to provide an attested copy of this Order to all counsel of record.

ENTERED this 30<sup>th</sup> day of August, 2020.

  
The Honorable David W. Hummel, Jr.  
Judge Circuit Court Marshall County, West Virginia

Prepared by:

  
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Certified by me this 6<sup>th</sup> day  
of August, 2020.  
Debra Crow Deputy

Agreed as to form by:

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