

5-2-19
D Romano
W Harter
E McQuinn

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

**JOSEPH M. JENKINS, and
STEPHANIE D. JENKINS.**
Plaintiffs.

Civil Action No. 18-C-65-1
Judge Christopher J. McCarthy

v.

SAFECO INSURANCE COMPANY OF AMERICA,
a foreign corporation.
LIBERTY MUTUAL INSURANCE COMPANY.
Defendants.

JUDGMENT ORDER ON JURY VERDICT

On the 10th and 11th day of April, 2019, came the Plaintiffs, Joseph M. Jenkins and Stephanie D. Jenkins, in person and with their attorney, David J. Romano of Romano Law Office, LC, and came also the Defendants, Safeco Insurance Company of America and Liberty Mutual Insurance Company, by their designated representative, Aaron D. Ford, in person and with their attorney, William M. Harter, of Frost Brown Todd, LLC. The case having been matured for trial on said date, thereupon came a Jury consisting of the following named persons, who were duly selected according to law, and who were duly sworn to well and truly try the issues joined, and a true verdict rendered according to the evidence:

- 1) Aleta R. Stout
- 2) Jonathan A. Harris
- 3) Larry L. Maditz
- 4) Shelly D. Zirkle
- 5) Brenda S. Brown
- 6) Courtney R. Ludwick

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CIRCUIT COURT

The issues were tried before the Court and Jury on April 10, 2019 and April 11, 2019. At the conclusion of all of the evidence and after hearing the instructions of the Court and the argument of counsel, the Jury retired to their chambers to consider the verdict as to the Parties to this action, and after some time, returned to the Court and upon their oaths presented their verdict as stated below:

"VERDICT FORM

1. Do you find, by a preponderance of the evidence, that Defendants Liberty Mutual or Safeco's conduct was a conversion of Plaintiff Joe Jenkins's vehicle, thus violating West Virginia law?
Yes X No

2. Do you find, by a preponderance of the evidence, that Defendants Liberty Mutual or Safeco's conduct was a trespass, thus violating West Virginia law?
Yes No X

3. Do you find, by a preponderance of the evidence, that Defendants Liberty Mutual or Safeco conspired with other persons or companies, such as CoPart or Scrap & Transport Services, which resulted in the taking of Joe Jenkins's vehicle without his consent and/or keeping it until the present time?
Yes No X

4. Do you find, by a preponderance of the evidence, that Defendants Liberty Mutual or Safeco's conduct was outrageous and designed to intentionally inflict emotional distress upon Plaintiff Joe Jenkins?
Yes No X

[Proceed only if you have answered "Yes" to any of the above questions. If through 4 proceed to Question 5. If you answered "No" to all of the above questions 1 through 4, you have found in favor of the Defendants and against

the Plaintiffs regarding liability].

5. We find the Plaintiffs' compensatory and general damages to be as follows:

Annoyance and inconvenience	\$	<u>1,000.00</u>
Loss of consortium of Stephanie Jenkins	\$	<u>0.00</u>
Intentional infliction of emotional distress	\$	<u>0.00</u>
Total	\$	<u>1,000.00</u>

6. Do you find, by clear and convincing evidence that damages suffered by Plaintiffs were the result of Defendants Liberty Mutual and/or Safeco's conduct that was done with actual malice towards the Plaintiffs, or a conscious, reckless and outrageous indifference to the health, safety and welfare of others?

Yes X No _____

/s/ Shelly D. Zirkle
Jury Foreperson

04/11/19
Date

Upon presentation of the Jury's verdict, punitive damage instructions were warranted. The Jury then returned to open court whereupon Plaintiffs called as a witness Defendants Liberty Mutual and Safeco's designated Corporate representative, Aaron D. Ford, whereupon the witness was examined by all Parties. Thereafter, the Court instructed the Jury regarding assessment of punitive damages and the Jury retired to their chambers to consider their verdict regarding punitive damages, and after some time, returned to the Court and upon their oaths presented their punitive damage verdict as stated below:

"VERDICT FORM"

We, the Jury, after consideration of the factors set forth in the Court's Instructions, award punitive damages in the amount of \$ 60,000.00.

/s/ Shelly D. Zirkle
Jury Foreperson

04/11/19
Date"

Accordingly, it is **ADJUDGED** and **ORDERED** that the Plaintiffs, recover from the Defendants, Safeco Insurance Company of America and Liberty Mutual Insurance Company, jointly and severally, as compensatory and general damages, the sum of \$1,000.00, and as punitive damages, the sum of \$60,000.00, which results in a total judgment of \$61,000.00 which judgment shall bear post-judgment interest of \$7.52 per day, from and including April 11, 2019 until paid.

It is further **ADJUDGED** and **ORDERED** that the Plaintiffs shall recover their costs from the Defendants as taxable and assessed under the law of this State and Plaintiffs should provide to the Circuit Clerk a Bill of Costs within 10 days after the entry of this Judgment Order. The Defendants are also **ORDERED** to pay all costs as assessed by the Clerk as a matter of law for this Jury trial.

The objections and exceptions of the Defendants to this Judgment Order are noted herein.

The Clerk is directed to send a certified copy of this Order to the below identified counsel of record.

David J. Romano, Esquire
Romano Law Office, L.C.
363 Washington Avenue
Clarksburg, WV 26301

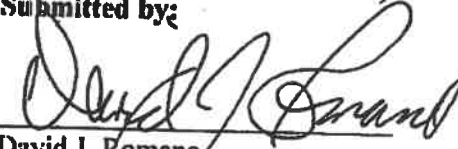
William M. Harter, Esquire
Frost Brown Todd, LLC
10 West Broad Street, Suite 2300
Columbus, OH 43215

Elise N. McQuain, Esquire
Frost Brown Todd, LLC
500 Virginia Street, East, Suite 1100
Charleston, WV 25301

ENTER: 5/1/19



JUDGE: CHRISTOPHER J. MCCARTHY

Submitted by:


David J. Romano
W.Va. State Bar ID No. 3166
Counsel for Plaintiffs

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON, TO-WIT:
I, Albert F. Merano, Clerk of the 15th Judicial Circuit and the
18th Family Court Circuit of Harrison County, West Virginia, hereby
certify the foregoing to be a true copy of the ORDER entered in the
above styled action on the 1 day of May, 2019.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the
Seal of this Court this the 2 day of May, 2019.


Albert F. Merano
15th Judicial Circuit & 18th Family Court Circuit Clerk
of Harrison County, West Virginia