

William S. Diven, Rebecca Sue Salmen, Sherry Lynn Pyles, Steven P. Martonosi, and alternates Tyler Scott Oldaker and Tabitha Lynn Urse. On August 21, 2019, counsel for the parties gave their opening statements, and the Plaintiffs proceeded with their case-in-chief. The Plaintiffs presented evidence on August 21 and 22, 2019. During the Plaintiffs' examination of Thomas B. Biller, the Defendant moved for a mistrial, which was **DENIED**. In the afternoon of August 22, 2019, the Plaintiffs rested their case-in-chief. Thereupon, the Defendant WesBanco Bank, Inc., through its counsel, presented its motion brought pursuant to West Virginia Rule of Civil Procedure 50 that the Court grant it judgment as a matter of law. After considering the arguments and contentions of the parties for and against the motion, the Court **DENIED** the Defendant's motion.

At that point, the Defendant rested its case. The Defendant had opted to examine its corporate representative, Cathi McClelland, as part of its case-in-chief immediately following her direct examination by the Plaintiffs during their case-in-chief. The jury was released at 3:39 p.m. on August 22, 2019. Court was adjourned at 3:40 p.m.

On the morning of August 23, 2019, the Court read the jury charge and instructions of law to the jury in open court. Whereupon counsel for the Plaintiffs and for the Defendant presented their closing arguments. Once closing arguments were completed, alternate Tyler Scott Oldaker was released. Alternate juror Tabitha Lynn Urse had previously been released with consent of the parties due to a child care conflict. The six jurors retired to their jury room for deliberations.

At that point, counsel for the Defendant renewed the Defendant's Rule 50 motion for entry of judgment as a matter of law. That motion was once again **DENIED** following argument of counsel. The Defendant also moved for a mistrial, which was likewise **DENIED**.

After approximately one and one-half hours of deliberation, the jury notified the bailiff that a unanimous verdict had been reached. The jurors were brought into the courtroom. The Foreperson delivered an executed Verdict Form to the Court. The Court inspected the Verdict Form and directed his Law Clerk to announce the following unanimous verdict in favor of the Plaintiffs Thomas B. Miller and Jamie L. Miller:

VERDICT FORM

QUESTION NO. 1: Did WesBanco breach its contract with the Millers?

✓ Yes

 No

If you answered No to Question No. 1, you are done and the Foreperson should sign in the appropriate space below and inform the bailiff that you have reached a verdict.

If you answered Yes to Question No. 1, please proceed to Question No. 2.

QUESTION NO. 2: Did the Millers incur damages as a direct and proximate result of WesBanco's breach of the contract?

✓ Yes

 No

If you answered No to Question No. 2, you are done and the Foreperson should sign in the appropriate space below and inform the bailiff that you have reached a verdict.

If you answered Yes to Question No. 2, please proceed to Question No. 3.

QUESTION NO. 3: What amount of damages did the Millers incur as a direct and proximate result of WesBanco's breach of the contract?

\$404,500

Sherry Lynn Pyles
Foreperson

Date: 8/23/19

The Court **FINDS** that pursuant to an Administrative Order signed by Chief Justice

Elizabeth D. Walker on January 3, 2019, the lawful rate of interest upon judgments and decrees entered in 2019 shall be 5.5 percent.

Wherefore, it is **ORDERED** that the Plaintiffs Thomas B. Miller and Jamie L. Miller shall have judgment against the Defendant WesBanco Bank, Inc. in the amount of **\$404,500.00** with interest thereon at the rate of 5.5 percent *per annum* until fully paid and satisfied, plus Court costs. Costs shall include the jury fee and court costs taxed by the Clerk all of which the Defendant shall pay directly to the Circuit Clerk of Marion County, West Virginia.

Once the Defendant has paid all court costs, it is **ORDERED** that, as to any costs previously paid by the Plaintiffs, they shall be reimbursed by the Clerk issuing payment in the appropriate amount to the law firm of Hamstead, Williams & Shook PLLC.

Post-trial motions must be filed within ten (10) days of the date of the entry of this Order.

The Clerk is hereby directed to provide file-stamped copies of this Order to all counsel of record upon entry.

/s/ David R. Janes
Circuit Court Judge
16th Judicial Circuit

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit www.courtswv.gov/e-file/ for more details.