JAMES L. POTTER AND : NUMBER: 540,597-B

JOAN C. POTTER

VERSUS : FIRST JUDICIAL DISTRICT COURT

GRACIE SIMMS AND : CADDO PARISH, LOUISIANA

ALLSTATE PROPERTY AND

CASUALTY INSURANCE

COMPANY, IN SOLIDO

**REASONS FOR JUDGMENT ON QUANTUM**

Trial was held March 9, 2011. The Court heard testimony from James Potter and Joan Potter and received into evidence numerous exhibits. Defense Counsel for Gracie Simms and Allstate Property and Casualty Insurance Company stipulated coverage and liability of Allstate in connection with the December 10, 2009 accident. Counsel for plaintiffs has argued that the Court should set special damages in the amount of $3,781.43, as well as general damages in the amounts of $10,000.00 and $2,500.00 for Mr. And Mrs. Potter respectively. Counsel for defendants has argued for minimal damages, asserting lack of medical documentation to prove pain and suffering for a duration beyond early January, 2010. For reasons assigned, the Court sets special damages in the amount of $3,665.43, subject to any credit, general damages of James Potter in the amount of $5,000.00 and consortium damages of Joan Potter in the amount of $1,116.00.

On December 10, 2009, James Potter was hit head on by a vehicle driven by Ms. Simms. As reflected by the photographs, P5 and P6, the impact was significant.[[1]](#footnote-1) Although Mr. Potter did not seek emergency medical treatment, he did report to his primary physician, Dr. Carter Boyd, the following day. Dr. Boyd’s report indicates that Mr. Potter reported, “shoulder pain very severe, patient saw it coming and tensed up–hurting all over very bad.” He principally complained of pain in his neck, shoulder and lower back; he was x-rayed and treated with appropriate prescription medication and Dr. Boyd issued a directive that Potter be relieved from work, ultimately to January 5, 2009. Potter was treated by Dr. Boyd again on December 28, 2009 and January 4, 2010, at which point he reiterated his pain and sought treatment for an unrelated cough and respiratory issues.

Mr. Potter, age 42, works for Tango Transport and his job washing and detailing large trucks is labor intensive and arduous. It was reasonable, necessary and appropriate that Potter not return to work until January 4, 2010 and he is therefore entitled to lost wages in the amount of $1,300.50.

Although Mr. Potter’s neck pain has resolved, he has had recurring shoulder and low back pain, some of which he continues to have to date, which he associates with the accident.

The Court believes that Mr. Potter is a hard-working man genuinely injured by the accident of December 10, 2009; however, the neck injury resolved after about a month. Having found this head-on collision significant and concluding that Mr. Potter is credible, it is reasonable for the Court to infer that Potter’s shoulder and back pain continued beyond the January 4, 2010 examination by Dr. Boyd; however, without specific medical documentation the Court is unable to conclude that his pain continued much past 45-90 days as a result of the car accident. Accordingly, the Court sets general damages in the amount of $5,000.00 and special damages in the amount of $3,665.43 ($1,300.50 of which is lost wages).

The Court concludes that Mrs. Potter has proven her consortium claim and sets damages in the amount of $1,116.00, which obviously includes her lost wages as a result of having to take time from work to care for her husband and transport him to the doctor.

Counsel shall submit a formal Judgment in accordance with La. Dist. Ct. R. 9.5.

Signed this 9th day of March, 2011 in Shreveport, Caddo Parish, Louisiana.

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SCOTT J. CRICHTON

DISTRICT JUDGE

DISTRIBUTION:

William F. Kendig, Counsel for James L. Potter and Joan C. Potter

S. Curtis Mitchell, Counsel for Gracie Simms and Allstate Insurance Company

1. Joan Potter described her husband’s truck as “crumpled”; on the day following the accident James was “screaming” with pain. [↑](#footnote-ref-1)