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# Two Angry Jurors Spur Mistrial; Poll Shows Panel Was Leaning Toward \$136K for Plaintiff

Greg Land, Daily Report

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A Clayton County jury trial involving a multivehicle accident was scuttled just before deliberations began when two jurors got into a heated altercation, unleashing what a lawyer termed "mayhem" in the jury room and spurring the judge to eject the warring panelists and declare a mistrial.

Plaintiff's attorney James "Jeb" Butler III of Butler Tobin said he was somewhat constrained in discussing the blowup because the case must be retried, but he said other members of the jury apparently tried without success to calm the two women involved.

There were no blows exchanged, he said.

"Apparently two of the jurors got into a personal argument unrelated to the case," said Butler. Clayton State Court Chief Judge John Carbo III conducted an inquiry and spoke to the bailiffs who had been present in the jury room. The judge "ultimately decided, at the defendant's urging and over my objections, that a fair trial would be impossible," said Butler, who represented the plaintiff with Atlanta solo Michael Rafi.

"It was really heartbreaking, because we put so much into that trial," he said.

A poll of the remaining 10 jurors, requested by the judge, showed the parties could have been headed for awarding the plaintiff about \$136,000.

Waldon Adelman Castilla Hiestand & Prout partner Hilliard Castilla, who along with firm associate Marcia Stewart represented the "John Doe" defendant accused of causing the wreck, said the bailiffs' account of the dust-up indicated that "it had to do with the improper use of social media."

According to Butler and court filings, the underlying incident occurred at about 7:30 a.m. in April 2014 on Interstate 285 south of Interstate 20, when a car suddenly swerved from an exit lane back onto I-285, causing several cars to hit their brakes.

The plaintiff, Christian Ford, hit his brakes but still tapped the car in front of him, Butler said—then Ford was "clobbered" by a bucket truck belonging to R.J. Haynie and Associates, a company specializing in traffic control devices and lighting.

Ford suffered cervical neck injuries and several fractured teeth requiring oral surgery and bone grafts, Butler said, as well as a concussion and recurring headaches. His medical bills totaled \$34,478, said Butler. Ford sued R.J. Haynie; its driver, Dennis Colbert; and the company's commercial vehicle insurer, Harleysville Insurance, as well as the unknown driver who caused the chain-reaction wreck.

Trial began Monday, May 23, and on the first day of trial, Harleysville agreed to pay \$460,000 to settle its portion of the case. The trial continued with Ford's uninsured motorist carrier, State Farm, representing the John Doe defendant.

Evidence lasted three days, and the parties returned on Thursday for jury charges when Carbo explained that there had been a disturbance in the jury room.

After conducting his inquiry and deciding to declare a mistrial, Carbo dismissed the quarrelsome jurors but had the remaining 10 stay and polled them to gauge what their findings as to damages were likely to have been. The average of those figures was \$259,848, but after apportioning liability to the truck driver would have resulted in \$135,867 awarded to Ford, said Butler. The State Farm policy carried a limit of \$200,000, he said.

The jurors' apportionment estimates ranged from zero to 75 percent, he said.

The exercise had no legal effect, Butler noted.

Both Butler and Castilla lauded Carbo's handling of the situation and his decision to gauge the jury's likely verdict.

"I suspect the judge thought it might give the parties a basis to settle the dispute and assist in the resolution of the claim," Butler said.

Castilla said the judge "expressed his outrage at having to call a mistrial, but I think he handled the whole thing expertly. He wasn't willing to sacrifice the integrity of system for judicial expediency."

Carbo's polling of the remaining jurors was "a master stroke," Castilla said. "We're going to have to try this one again, and it informs us as to what the jurors were thinking."

The lawyers did not speak with the remaining jurors afterward, "but they looked very disappointed," Butler said.

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