

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEPHEN MILLS, JR., et al. : CIVIL ACTION
: :
v. : :
: :
LONDON GROVE TOWNSHIP, et al. : NO. 05-00122-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

April 13, 2005

Plaintiffs suffered severe injuries in an intersection accident, allegedly caused by the negligence of the defendant township and certain of its officials in permitting a stop sign to be obscured from view by foliage, and by improper maintenance of warning signs at the approach to the intersection. Plaintiffs seek damages for (a) negligence; (b) negligent infliction of emotional distress; and (c) intentional infliction of emotional distress. Defendants have filed a motion to dismiss various portions of the complaint.

Since plaintiffs are suing the individual defendants only in their official capacities, they cannot recover punitive damages against any of the defendants. The facts alleged in the complaint cannot give rise to a valid claim for intentional infliction of emotional distress, but defendants are incorrect in arguing that plaintiffs cannot recover for negligent infliction of emotional distress, since such claims are merely an aspect of pain and suffering, recoverable in a negligence action. Husband-

plaintiff's claim for loss of consortium also survives the dismissal.

An Order follows.

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ORDER

AND NOW, this 13th day of April 2005, upon consideration of the defendants' motion to dismiss and plaintiffs' response, IT IS ORDERED:

1. The claim for intentional infliction of emotional distress is DISMISSED.
2. The claim for punitive damages is DISMISSED.
3. The claim for attorneys' fees is DISMISSED.
4. In all other respects, defendants' motion to dismiss is DENIED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.