

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

ELEANORE AND FRANK ROTHSCHING, et al.	:	CIVIL ACTION
	:	
v.	:	
	:	
MICHAEL RANSOM, et al.	:	NO. 97-1293

MEMORANDUM AND ORDER

AND NOW, this day of July, 1997, upon consideration of plaintiffs' Request for Entry of Default Judgment Pursuant to Rule 55,¹ and following a hearing pursuant to Fed. R. Civ. P. 55(b) on said Motion in open court on June 24, 1997, it is hereby ORDERED that judgment is ENTERED in FAVOR of plaintiffs and AGAINST defendants as follows:

1. Defendants shall pay plaintiff Karen Warner the amount of \$50,000.
2. Defendants shall pay plaintiff Eleanore Rothsching the amount of \$42,000.
3. Defendants shall pay plaintiff Joseph Warner the amount of \$20,000.
4. Defendants shall pay plaintiff Frank Rothsching the amount of \$10,000.

Plaintiffs presently move for default judgment against both defendants Michael Ransom and Chanell Brooks; default having been previously entered against both defendants. Since plaintiffs' claims against defendants are not for a sum certain,

1. The Court treats plaintiffs' request for entry of default as a motion for entry of default judgment pursuant to Rule 55.

Rule 55(b)(2) of the Federal Rules of Civil Procedure requires a determination of the amount of damages. On June 24, 1997, this Court held an assessment of damages hearing to determine the amount of damages suffered by plaintiffs as a result of defendants' allegedly negligent conduct.

The Court's only function in this case is to determine the amount of damages because defendants have not contested liability. The following are the Court's Findings of Fact and Conclusions of Law pursuant to Rule 52 of the Federal Rules of Civil Procedure on the issue of damages:

1. The factual allegations of plaintiffs' complaint are deemed admitted.

2. The factual allegations of plaintiffs' complaint establish a prima facie case of negligence against the defendant Michael Ransom.

3. The factual allegations of plaintiffs' complaint establish a prima facie case of negligence against the defendant Chanell Brooks.

4. As a result of the negligence of the defendants, Karen Warner suffers from substantial and permanent injuries.

5. Karen Warner suffers from a cervical disc herniation at the C5-C6 disc as a result of the negligence of defendants.

6. Karen Warner also suffers from continuing cervical, dorsal, lumbar strain and sprain as a result of the negligence of defendants.

7. Karen Warner further suffers from bilateral trapezius myofascitis as a result of the negligence of the defendants.

8. Karen Warner has undergone and will continue to undergo pain and suffering as a result of the negligence of the defendants.

9. Due to the negligence of defendants, Karen Warner has been unable to perform many of the domestic chores that she performed prior to her accident.

10. Karen Warner has also been placed under additional stress due to the reduction in marital relations with her husband, plaintiff Joseph Warner.

11. Karen Warner has also experienced a diminution in her ability to enjoy life's pleasures as a result of defendants' negligence.

12. The medical expenses incurred by Karen Warner as a result of defendants' negligence totals \$7,047.95. Further, Karen Warner may require medical care into the foreseeable future.

13. At the time of the accident on March 1, 1996, Karen Warner was employed at Toys-R-Us. She was earning approximately \$150.00 per week.

14. As a result of defendants' negligence, Karen Warner had to take a leave of absence from her employment with Toys-R-Us. Karen Warner did not resume working until approximately November 16, 1996.

15. As a result of defendants' negligence, Karen Warner has suffered wage loss in the amount of \$4800 (32 weeks x \$150.00 average weekly wage).

16. As a result of defendants' negligence, Eleanore Rothsching suffers from substantial and permanent injuries as a result of the negligence of defendants.

17. Eleanore Rothsching suffers from cervical acceleration/deceleration injury as a result of defendants' negligence.

18. Eleanore Rothsching suffers from cervical trapezius myofascial process as a result of the negligence of defendants.

19. Eleanore Rothsching has undergone and will continue to undergo pain and suffering as a result of the negligence of the defendants.

20. Eleanore Rothsching has incurred as a result of defendants' negligence \$6,291.50 in medical expenses. Further, Eleanore Rothsching may continue to require medical care into the foreseeable future.

21. Eleanore Rothsching has experienced a diminution in her ability to enjoy life's pleasures as a result of defendants' negligence. Additionally, she has been unable to perform some of the domestic chores that she performed before the accident.

22. At the time of the accident, Eleanore Rothsching was employed as a convenience store clerk. She made approximately \$120.00 per week.

23. As a result of defendants' negligence, Eleanore Rothsching was required to stop working, and she has been unable to resume her employment due to the injuries she suffered.

24. As a result of defendants' negligence, Eleanore Rothsching has suffered a wage loss of \$8,280 (69 weeks x \$120.00 average weekly average).

25. Eleanore Rothsching will continue to suffer wage loss into the foreseeable future as a result of the negligence of the defendants.

26. Joseph Warner was deprived and continues to be deprived of his wife's services and companionship, including a reduction in the frequency of marital relations, as a result of defendants' negligence.

27. Joseph Warner has experienced increased stress and anxiety as a result of being deprived of his wife's services and companionship.

28. Frank Rothsching was deprived and continues to be deprived of his wife's services and companionship, including a reduction in the frequency of marital relations, as a result of defendants' negligence.

29. The Court finds and concludes that Karen Warner suffered total damages in the amount of \$50,000 as a result of defendants' negligence.

30. The Court finds and concludes that Eleanore Rothsching suffered total damages in the amount of \$42,000 as a result of defendants' negligence.

31. The Court finds and concludes that Joseph Warner suffered total damages in the amount of \$20,000 as a result of defendants' negligence.

32. The Court finds and concludes that Frank Rothsching suffered total damages in the amount of \$10,000 as a result of defendants' negligence.

AND IT IS SO ORDERED.

Clarence C. Newcomer, J.