

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

JON PERONTEAU, <i>et al.</i> ,	:	CIVIL ACTION
	:	NO. 03-5490
Plaintiffs,	:	
	:	
v.	:	
	:	
GROSS SCHOOL BUS SERVICE,	:	
INC.; <i>et al.</i>	:	
Defendants.	:	

MEMORANDUM AND ORDER

NEWCOMER, S.J.

February 2, 2005

Presently before the Court is Plaintiffs' Motion for Post-Trial Relief in the Form of a New Trial. Plaintiffs seek a new trial on the following grounds: that this Court erred in its pre-trial rulings, that the Court erred during its trial rulings, and that the Jury's verdict was against the weight of the evidence. The Court will deal with each claim in turn.

**I. BACKGROUND**

Plaintiffs, K.P. and his mother, brought suit against the Defendants after K.P. was not allowed off of his school bus at the proper stop. At trial, Plaintiffs' remaining claims were for false imprisonment and intentional infliction of emotional distress (on behalf of K.P. and his mother, against Defendants Meredith and Gross School Bus Service, Inc.) and for violations of the Rehabilitation Act of 1973 (on behalf of K.P., against Defendant Owen J. Roberts School District). At trial, the Jury returned a defense verdict, finding no liability for Gross School

Bus Service, Inc., and for Owen J. Roberts School District. As to Mr. Meredith, the Jury found that, although he intentionally caused the confinement of K.P. against his will, his conduct was not a substantial factor in bringing about harm to K.P. After losing at trial, Plaintiffs filed the instant Motion, for post-trial relief in the form of a new trial. Plaintiffs seek relief because, they claim, the Court erred on several evidentiary rulings, because the Court erred when it did not enter judgment in favor of Plaintiffs on their intentional infliction of emotional distress claims, and because the Jury's verdict was against the weight of the evidence with respect to all Defendants. Although this Motion was filed in September of 2004, the Court has been prevented from deciding it due to a failure on Plaintiffs' Counsel's part to obtain (and pay for) a transcript of the Court proceedings. With the transcript (or at least part of it) in hand, the Court can now rule. For the reasons stated below, the Court denies Plaintiffs' Motions.

## **II. LEGAL STANDARD**

A district court grants a new trial pursuant to FED. R. CIV. P. 59(a) only when, "in the opinion of the trial court, the verdict is contrary to the great weight of the evidence, thus making a new trial necessary to prevent a miscarriage of justice." Roebuck v. Drexel University, 852 F.2d 715, 736 (3d Cir. 1988). In general, this Court has discretion over whether

to grant or deny a motion for a new trial. American Bearing Co. v. Litton Industries, Inc., 729 F.2d 943, 948 (3d Cir. 1984), cert. denied, 469 U.S. 854 (1984) (internal citations omitted). Courts have historically granted a new trial to remedy prejudicial errors of law or to correct a verdict that is against the weight of the evidence. Maylie v. Nat'l R.R. Passenger Corp., 791 F. Supp. 477, 480 (E.D. Pa. 1992), aff'd without opinion, 983 F.2d 1051 (3d Cir. 1992). Courts in the Third Circuit employ two different standards when deciding a motion for a new trial. When the Motion is based on a prejudicial error of law, the district court has broad discretion to order a new trial. Klein v. Hollings, 992 F.2d 1285, 189-90 (3d Cir. 1993). When, on the other hand, a party moves for a new trial because a verdict is against the weight of the evidence, a district court's discretion is much narrower. In such a situation, a Court can only grant a new trial when the jury's verdict resulted in a miscarriage of justice, or where the verdict "cries out to be overturned or shocks the conscience." Williamson v. CONRAIL, 926 F.2d 1344, 1353 (3d Cir. 1991). The Court will analyze Plaintiffs' Motion against this framework.

### **III. ANALYSIS**

Plaintiffs first object to this Court's refusal to enter judgment in their favor on their intentional infliction of emotional distress claims. "One who by extreme and outrageous

conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm." Taylor v. Albert Einstein Med. Ctr., 562 Pa. 176, 181 (Pa. 2000). This Court's Order of May 20, 2004, denied Plaintiffs' Motion seeking summary judgment in their favor. The Court ruled that the question of whether Defendants' conduct was "outrageous," within the meaning of the law of the Commonwealth, was best left to the Jury given the facts in the record. The Jury, in its interrogatories, found that the Defendants' conduct was not outrageous. Plaintiffs seem to argue that, because Defendants did not rebut their evidence of outrageous conduct, they are somehow entitled to a favorable verdict. Without reaching any part of this suspect legal conclusion, the Court can dispatch of this argument. The jury is free to make credibility determinations during its deliberations. Moreover, it is free, and it should, impose its own judgment on whether behavior is extreme and outrageous. The Jury, therefore, could have simply not believed Plaintiffs' evidence. Likewise, the Jury could have concluded that Defendants' conduct was simply not "outrageous" as they understand that term. The jurors were present for the express purpose of applying their own values to this case; and this is exactly what they did. The Court cannot say that the Jury's conclusion cries out to be overturned. Plaintiffs' Motion

on this point is denied.

Plaintiffs also challenge this Court's June 6, 2004, ruling that Plaintiffs may not introduce irrelevant evidence pertaining to Defendant Meredith's health or age. Plaintiffs claim that Defendant Meredith's age could have been the reason for his behavior towards Plaintiff. Given the facts adduced at trial, the Court simply does not see the connection here, nor does the Court see how the facts supporting the reasoning of its June 6, 2004 Order has changed. It was this Court's judgment that the evidence Plaintiff sought to offer would unfairly confuse and ignite the passions of the Jury. With the benefit of hindsight, this Court can confirm that its ruling was correct.

As to the length of videotape of the incident that the Court allowed Plaintiffs to show the Jury, the Court stands by its ruling; the suggestion to Plaintiffs that they either edit their tape, or fast forward through irrelevant portions was made to avoid the delay caused by presentation of cumulative evidence. By any measure, Plaintiffs were not prevented from showing the Jury the relevant portions of the tape. Plaintiffs' Motion is denied.

Trial Rulings:

Plaintiffs take issue with several of this Court's trial rulings. First, they argue that the Court erred by cutting short Mrs. Peronteau's testimony. Second, they argue that the Court

erred by not allowing Plaintiffs a rebuttal to Defendant Gross School Bus Service, Inc.'s closing. Third, they argue that the Court's Jury instructions were contrary to Pennsylvania law. Finally, they argue that the Jury's verdict in favor of Defendants was against the manifest weight of the evidence.

Plaintiff's have not presented the Court with any legal precedent, or factual argument, as to why this Court erred in its rulings during Mrs. Peronteau's testimony. As to the Court's refusal to allow Plaintiff's counsel a rebuttal against the Gross Defendants, the Court must stand by its ruling. The Court does not view Defense Counsel's questions to Mr. Meredith as exceeding the scope of any direct or cross-examination by Plaintiff's Counsel.

Plaintiff's objection to the Court's instruction that the Jury may award damages if it found for Plaintiff is not grounded in law. First of all, the Jury was instructed that it was entitled to assume that Plaintiff was damaged by false imprisonment; clearly, the Jury found that no harm was done to Plaintiff. The Court is not particularly surprised by this fact, as there was virtually no evidence presented that the Plaintiffs actually suffered any harm, other than humiliation and embarrassment. Why Counsel chose not to present any evidence of causation, or more substantial evidence of harm, is not a question for this Court, but it is certainly not appropriate to

overturn a jury verdict due to what was apparently a strategic decision by Plaintiffs' counsel. The Jury was entitled to find that the harm suffered by Plaintiffs was so small that it either did not exist, or did not justify an award of damages. As evidenced by the jury interrogatory, the Jury found that none of the Defendants' conduct was a substantial factor in bringing about any of the Plaintiffs' harm. As Plaintiffs have not presented any compelling reason for this Court to invade the sanctity of the Jury's verdict, no further discussion of this issue is warranted. Plaintiffs' Motion on this issue is denied.

Finally, the Court rejects Plaintiffs' arguments that the jury verdict was against the weight of the evidence as to all Defendants. Plaintiffs have marshaled scant evidence or argument on this issue, let alone evidence sufficient to demonstrate that the Jury's conclusions were contrary to the great weight of evidence. Plaintiffs have not demonstrated that the Jury's decision on this matter cries out to be overturned. Their Motion must be denied. An appropriate Order follows.

Clarence C. Newcomer

United States District Judge

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                          Defendants.         :

**O R D E R**

AND NOW, this day 2<sup>nd</sup> of February, 2005, upon  
consideration of Plaintiffs' Motion for a New Trial (Doc. 80) and  
Defendants' Responses, it is hereby ORDERED that Plaintiff's  
Motion is DENIED.

AND IT IS SO ORDERED

Clarence C. Newcomer

United States District Judge