

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

DANIEL MOORE,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No. 04-cv-4563
	:	
DOROTHY VISLOSKY,	:	
	:	
Defendant.	:	
	:	

MEMORANDUM ORDER

Presently before this Court is Plaintiff’s Motion for New Trial Pursuant to Fed. R. Civ. P. 59 (Dkt. #33 & #38), Defendant’s Motion for New Trial and Judgment as a Matter of Law and Motion for Amendment of Judgment (Dkt. #34), Defendant’s Amended Motion for a New Trial and Judgment as a Matter of Law and Motion for Amendment of Judgment (Dkt. # 37) and the respective replies thereto. A trial commenced in this matter on November 14, 2005, and on November 17, 2005, the jury returned a verdict in favor of Plaintiff and against Defendant, in the amount of \$100,000.00, and judgment was duly entered.

Regarding Plaintiff’s Motion for New Trial Pursuant to Fed. R. Civ. P. 59 (Dkt. #33 & #38), contrary to Plaintiff’s assertions, Plaintiff has not provided this Court with any new evidence in support of his Motion. After hearing argument from counsel for Plaintiff at the charge conference, this Court ruled on the issue of whether the jury would be given an instruction on punitive damages.¹ **AND NOW**, this day of December 2005, **IT IS HEREBY ORDERED** that Plaintiff’s Motion For New Trial Pursuant to Fed. R. Civ. P. 59 is **DENIED**.

Regarding Defendant’s Motion for New Trial and Judgment as a Matter of Law and Motion for Amendment of Judgment (Dkt. #34), this Court has already ruled on the issues

¹The evidence at trial could support a jury finding that the statements made by Defendant were well founded as to others but not as to Plaintiff.

concerning the admission of certain newspaper articles and testimony by Plaintiff into evidence. The issues were fully argued during the course of trial and Defendant does not provide this Court with any new evidence in support of her Motion. Additionally, this Court finds that, in light of Pennsylvania law regarding presumption of damages in a defamation case, the jury award of \$100,000.00 is supported by the evidence and does not “shock the conscience” of this Court.

AND NOW, this day of December 2005, **IT IS HEREBY ORDERED** that Defendant’s Motion for New Trial and Judgment as a Matter of Law and Motion for Amendment of Judgment (Dkt. #34) is **DENIED**.

Regarding Defendant’s Amended Motion for a New Trial and Judgment as a Matter of Law and Motion for Amendment of Judgment (Dkt. # 37), contrary to Defendant’s assertions, this Court granted Defendant additional time during trial to locate Mr. Joseph McAndrews so that Defendant could call him as a witness. Furthermore, despite this Court’s offer to send a United States Marshall to pick up Mr. McAndrews, Defendant provided no information to allow a United States Marshall to locate the missing witness. **AND NOW**, this day of December 2005, **IT IS HEREBY ORDERED** that Defendant’s Amended Motion for a New Trial and Judgment as a Matter of Law and Motion for Amendment of Judgment (Dkt. # 37) is **DENIED**.

BY THE COURT:

CLIFFORD SCOTT GREEN, S.J.

