

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

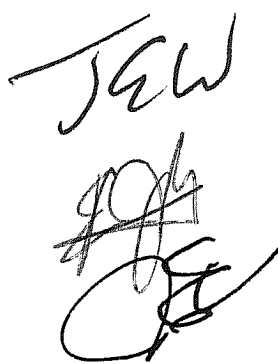
FIRST CIRCUIT

NUMBER 2006 CA 0859

CARLA ANDERSON

VERSUS

STATE FARM MUTUAL AUTOMOBILE INSURANCE
COMPANY AND JOSEPH BOOKER



Judgment Rendered: February 9, 2007

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Appealed from the
Twenty-Second Judicial District Court
In and for the Parish of St. Tammany, Louisiana
Trial Court Number 2003-11031

The Honorable William J. Burris, Judge

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BEFORE: KUHN, GAIDRY, AND WELCH, JJ.

WELCH, J.

Plaintiff, Carla Anderson, was injured in an automobile accident on June 20, 2001, when the vehicle she was driving was struck broadside by a vehicle operated by Joseph Booker.¹ As a result of the impact, Ms. Anderson's vehicle was forced off the road, where it flipped over into a ditch. Ms. Anderson subsequently filed suit against Mr. Booker and his automobile liability insurer, State Farm Mutual Automobile Insurance Company (State Farm).²

Prior to trial, the parties stipulated that Mr. Booker was at fault in the accident and that Ms. Anderson's damages did not exceed \$50,000.00. Thereafter, Mr. Booker was dismissed from the suit, and the matter proceeded to a bench trial against State Farm on October 11, 2005. Ms. Anderson testified at trial, and her medical records were introduced into the record. The remainder of the testimony was submitted by deposition.

The medical evidence at trial indicated that Ms. Anderson was diagnosed with a chronic cervical strain or sprain secondary to a motor vehicle accident. In addition, Ms. Anderson's MRI demonstrated a slight protrusion of the disc at the C6-7 level. The medical records demonstrated that Ms. Anderson's pain or discomfort had remained at a constant low level, and Ms. Anderson testified that she rarely took pain medication. Furthermore, Ms. Anderson acknowledged that she was not prevented from participating in any activities due to her pain.

After taking the matter under advisement, the trial court issued written reasons for judgment in favor of Ms. Anderson, awarding her general damages in the amount of \$12,000.00, and special damages in the amount of \$5,578.15. On

¹ Mr. Booker's name is spelled in different ways in various parts of the record. We have chosen to spell the name as it appears in the petition.

² Ms. Anderson's three minor children were in the vehicle with her at the time of the accident; however, the petition does not state any claims on their behalf.

January 4, 2006, the trial court signed a judgment in accordance with these reasons. Ms. Anderson has appealed the award of general damages.

The discretion vested in the trier of fact in fashioning an award of general damages is great, and even vast, so that an appellate court should rarely disturb an award of general damages. Reasonable persons frequently disagree about the measure of general damages in a particular case. It is only when the award is, in either direction, beyond that which a reasonable trier of fact could assess for the effects of the particular injury to the particular plaintiff under the particular circumstances that the appellate court should increase or reduce the award. **Youn v. Maritime Overseas Corp.**, 623 So.2d 1257, 1261 (La. 1993), cert. denied, 510 U.S. 1114, 114 S.Ct. 1059, 127 L.Ed.2d 379 (1994). The role of the appellate court in reviewing general damage awards is not to decide what it considers to be an appropriate award, but rather to review the exercise of discretion by the trier of fact. **Millican v. Ponds**, 99-1052 (La. App. 1st Cir. 6/23/00), 762 So.2d 1188, 1192.

We do not find that the trial court abused its discretion in its general damage award considering the “particular injuries and their effects under the particular circumstances” of the case. See Youn, 623 So.2d at 1260. Therefore, we affirm the judgment. All costs of this appeal are assessed to the plaintiff, Carla Anderson.³

AFFIRMED.

³ This memorandum opinion is issued in compliance with Uniform Rules-Courts of Appeal Rule 2-16.1.B.