

72525.4

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NO. 72525-4-I

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

Andrea Lister, Plaintiff

v.

Ryan Phan, Defendant

On appeal from King County Superior Court
Honorable Judge Rogoff

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2016 MAR 10 AM 8:38

Appellants Reply Brief

Andrea Lister
Pro-Se, Indigent Appellant
todaysgirlfriday@gmail.com

Specified Issues in addition to Opening Brief

1. Plaintiff did ask for even more time before trial and was denied because of other extensions but the situation of financial and disability issues were not fully understood although conveyed.
2. Plaintiff simply had excerpts transcribed which proves the LOAN by Mr. Wiseman as it directly relates to her financial crisis of this accident causing her an inability to work both due to injury and inability to rent vehicles as required by employment contract.
3. WISEMAN re loan starts on page 6 of YOM transcribed excerpts, all I could afford under indigent circumstances. This was a direct loan as a result of losing my businesses as a result of this accident "that broke the camels back". It is not unrelated as Vaei Somers would have you believe.
4. Transcripts are entered into the file by transcript company under some new Rule so that was done properly.
5. The entire file of minutes and proper subpoenas of Witnesses was entered and forwarded to this court.
6. Proposed instructions were not yet numbered as Honorable Judge Rogoff went thru them with us just before trial and we numbered them as we went. Handed the final ones I believe in person. I had objected to several: especially gross negligence and loss of consortium with kids. I had asked for more time to finish these as well but hard deadline set so I pressed on the best of my ability pro-se. I did submit some and statutory ones as well.
7. Costs of full transcripts in this civil case necessary for appeal outweigh the insufficient jury award. The excerpts are what I am pointing out.
8. Plaintiff cannot ask the courts in a civil trial to incur costs of transcripts even under indigency.
9. Even if time was granted to make this cost a possible reality the time frame would extend this case 2+ years, which Respondent would balk at.
10. The costs of the deductible for the rental car are still unpaid to Hertz Corporation or their creditor UCC or whomever bought out the collections account. Thus this case is still in a pending status of compensatory damages to date and affecting plaintiff's credit regardless. Plaintiff still cannot rent Rental Company Vehicles and is on some kind of Rental Car BANNED List preventing so. Plaintiff's self-employed business with Newspaper Companies, Magazine Publishers and recyclers relied solely on the ability to rent cars.
11. The error that was made in this case is: not allowing for Gross negligence to be considered yet there were several statutory violations leading up to the accident which constitutes behaviors to be considered under Gross Negligence. This issue should have gone to the jury by way of jury instructions for the jury to decide.
12. It is not necessary that the sequence of events or the particular resultant injury be foreseeable. It is only necessary that the resultant injury fall within the general field of danger which the defendant should reasonably have anticipated.
13. It is unreasonable for Defendant to deny liability and then when uncontroverted circumstances of injuries to person and loss of business and loss of consortium damages are proven to an amount more than a jury awards.

A. ASSIGNMENTS OF ERROR

A jury awarded an amount less than damages proven at trial.

Compensatory damages did not put Plaintiff back into the position prior to this accident. And did not meet the actual damages that occurred.

This accident and the unwillingness of Defendant to admit liability for 5-1/2 years caused even further economic hardship on Plaintiff and as a result Plaintiff lost her custody of her children, her 2 businesses, her stability, her everything.

The Plaintiffs personal loan taken as a result of this accident have not been paid nor satisfied as the jury award does not reflect the particular loss, detriment, or injury suffered as a result of the unlawful conduct of Defendant.

Gross Negligence was not allowed due to Liability Admission from Defendant the first day of trial.

Exemplary damages should have been allowed on the basis of laws violated during the commission of the act which was negligent.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

The jury instructions were deficient or confusing to explain what the jury is supposed to consider including all proper and justifiable damages.

The Plaintiff was denied more time with witnesses necessary for gaining the bigger picture of damages or losses suffered and to understand my disability .

C. STATEMENT OF THE CASE

Ryan Phan did disobey traffic signs and signals negligently to avoid a signal and sped thru an alley way former drive thru at Jack-in-the-Box Bellevue to thwart traffic during heavy rush hour traffic on March 17th, 2009 St. Patrick's Day. He then disobeyed pedestrian right away laws. Then he with his radio decibels excessive to ordinances did NOT check his mirrors, put his SUV into gear and hit the accelerator at a high rate of speed and ramming my Rental Car so hard that I was pinned inside the New Ford Mustang and Fire and Rescue had to get me out. I suffered economic hardship from the ability I could not rent vehicles a demand of my employment. I was physically injured further. I was unable to make an income to pay for independent family law counsel to represent me in a child custody/Dependency case which led to a huge and painful loss of consortium and all the emotional distress of the entirety as a whole from this accident. It essentially was the straw that broke the camel's back.

D. ARGUMENT

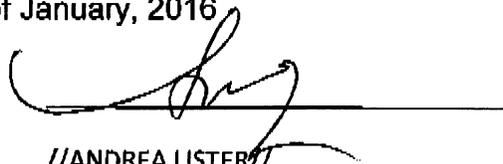
Had Ryan Phan properly admitted liability instead of lying to his insurer and the courts then this case might have had a resolution not wasting the courts time and my damages might have been much less than the ones proven at trial which are equal to \$8,000 medical, a \$30,000 loan to Dan Wiseman, and an amount equal to the loss of my earnings for at least only 2 years equal to \$40,000. At the least I have proven the \$50,000 damage cap of insured. I was never offered but only denied my claims for years.

Furthermore I have suffered other court cases that this court surely has knowledge of in Criminal Actions due to the fact I could not pay Dan Wiseman back in the sense of time he thought he should have been paid and have d4early suffered from his ability to control me as a victim in other cases from a mere loan. He appeared as a hostile witness in this case in an attempt to thwart my receiving anything.

E. CONCLUSION

I have proven substantial damages in this case yet the jury did not consider the instructions or were confused from them to award the proper and justified amount that places me the Plaintiff back into the proper position the law has meant to do. I am still unable to procure renting any vehicles due to the longstanding inability to pay the deductible fees which are also on my credit preventing other positive results and further doing economic damage to me as a whole. I had asked for more time with witnesses which had been denied, yet necessary for my disability and it might have had a different outcome and helpful in my other cases as well.

Respectfully submitted this 25th day of January, 2016



//ANDREA LISTER//

(Signature waived if emailed)

Andrea Lister, Pro-Se Appellant

todaysgirlfriday@gmail.com

Exhibits



ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

Hertz vehicle deductible and interest 1013715099-1-3

Ryan Johnson <ryan.johnson@farmersinsurance.com>

Fri, Sep 19, 2014 at 4:33 PM

To: A Pierce <todaysgirlfriday@gmail.com>

Cc: Vali Somers <vali.somers@farmersinsurance.com>

Dear Andrea,

I have been attempting to contact the collection agency regarding the rental car with no success. The last record we have is dated April 13, 2010 from United Collection Corp. Their telephone number is no longer accurate, and I cannot locate any contact information on the internet. Do you have a more recent collection letter, perhaps from a different agency? What was the last letter you received regarding the deductible and interest?

Truly,

Ryan Johnson
Farmers Insurance Company of Washington
Special Liability Claims Handler
South Sound Service Center
PO Box 268994
Oklahoma City, OK 73126-8994
P: 206-212-5623
C: 253-329-0639
F: 877-217-1389
ryan.johnson@hpcs.com

***** PLEASE NOTE ***** This E-Mail/telefax message and any documents accompanying this transmission may contain privileged and/or confidential information and is intended solely for the addressee(s) named above. If you are not the intended addressee/recipient, you are hereby notified that any use of, disclosure, copying, distribution, or reliance on the contents of this E-Mail/telefax information is strictly prohibited and may result in legal action against you. Please reply to the sender advising of the error in transmission and immediately delete/destroy the message and any accompanying documents. Thank you.*****



ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

Hertz vehicle deductible and interest 1013715099-1-3

ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

Fri, Sep 19, 2014 at 7:06 PM

To: Ryan Johnson <ryan.johnson@farmersinsurance.com>, Vali Somers <vali.somers@farmersinsurance.com>, ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

I just sent you an email and I can't find anything on Google either - the numbers are all disconnected - probably because it was bought out or something - so I guess we will have to find out what the credit reporting agencies have on the latest info. I will try to find out how to do that. And get back to you.

Thanks

Andrea



ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

Hertz vehicle deductible and interest 1013715099-1-3

Ryan Johnson <ryan.johnson@farmersinsurance.com>

Wed, Sep 24, 2014 at 11:30 AM

To: todaysgirlfriday@gmail.com

Cc: Ryan Johnson <ryan.johnson@farmersinsurance.com>, Vali Somers <vali.somers@farmersinsurance.com>

Hi Andrea,

I wanted to see how things are going.

I'm guessing if you haven't received any notice lately, that the rental company debt may have been written off. Regardless we have the record from April 2010.

Regarding a letter to the credit bureaus: the fact that our investigation did not immediately recognize liability does not change the fact that you were responsible for any written contract you may have entered into. The credit bureaus will not consider a third party's explanation as relevant as we were not a party to the contract.

Regarding resolution of the claim, I am willing to offer \$5000 inclusive of economic, non-economic and property damages. This offer is conditional upon your agreement to enter a satisfaction of verdict and agree not to appeal the case.

Thank you for your attention and consideration.

Truly,

Ryan Johnson
Farmers Insurance Company of Washington
Special Liability Claims Handler
South Sound Service Center
PO Box 268994
Oklahoma City, OK 73126-8994
P: 206-212-5623
C: 253-329-0639
F: 877-217-1389
ryan.johnson@hpcs.com

From: ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

To: Ryan Johnson <ryan.johnson@farmersinsurance.com>, Vali Somers <vali.somers@farmersinsurance.com>, ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

Date: 09/19/2014 07:06 PM

Subject: Re: Hertz vehicle deductible and interest 1013715099-1-3

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[Quoted text hidden]



ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

Hertz vehicle deductible and interest 1013715099-1-3

Vali Somers <vali.somers@farmersinsurance.com>

Fri, Sep 26, 2014 at 12:56 PM

To: Ryan Johnson <ryan.johnson@farmersinsurance.com>

Cc: todaysgirlfriday@gmail.com, Ryan Johnson <ryan.johnson@farmersinsurance.com>

Dear Andrea and Ryan, Will you please let me know where we are at with this. If you are not able to resolve this then I will need to ask the court to enter judgment in the amount of \$3500. At that point Andrea will have to satisfy the judgment in that amount or I will have the money put into the court registry so it can be satisfied. Hopefully, this can be settled for the \$5000 so I won't need to do that. Please let me know by Monday.

Vali M. Somers
Senior Trial Attorney
Hollenbeck, Lancaster, Miller & Andrews
15500 SE 30th Place #201
Bellevue, WA 98007
425-564-0223

Legal Assistant: Rachel Bradley 425-564-0241

From: Ryan Johnson/HPCS/Farmers/USA/Zurich
To: ANDREA LISTER-PIERCE
<todaysgirlfriday@gmail.com>@ZURICH-INTERNET,
Cc: Ryan Johnson <ryan.johnson@farmersinsurance.com>, Vali Somers
<vali.somers@farmersinsurance.com>
Date: 09/24/2014 11:30 AM
Subject: Re: Hertz vehicle deductible and interest 1013715099-1-3

Hi Andrea,

I wanted to see how things are going.

I'm guessing if you haven't received any notice lately, that the rental company debt may have been written off. Regardless we have the record from April 2010.

Regarding a letter to the credit bureaus: the fact that our investigation did not immediately recognize liability does not change the fact that you were responsible for any written contract you may have entered into. The credit bureaus will not consider a third party's explanation as relevant as we were not a party to the contract.

Regarding resolution of the claim, I am willing to offer \$5000 inclusive of economic, non-economic and property damages. This offer is conditional upon your agreement to enter a satisfaction of verdict and agree not to appeal the case.

Thank you for your attention and consideration.

Truly,

Ryan Johnson
Farmers Insurance Company of Washington
Special Liability Claims Handler
South Sound Service Center
PO Box 268994
Oklahoma City, OK 73126-8994
P: 206-212-5623
C: 253-329-0639
F: 877-217-1389
ryan.johnson@hpcs.com

From: ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>
To: Ryan Johnson <ryan.johnson@farmersinsurance.com>, Vali Somers
<vali.somers@farmersinsurance.com>, ANDREA LISTER-PIERCE
<todaysgirlfriday@gmail.com>,
Date: 09/19/2014 07:06 PM
Subject: Re: Hertz vehicle deductible and interest 1013715099-1-3

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[Quoted text hidden]

3/9/2016

Mar. 9. 2016 5:03PM

Sand Point Housing

Vehicle Deductible and Interest 1013715099-1-3

No. 3453 P. 11



ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

Hertz vehicle deductible and interest 1013715099-1-3

ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

Mon, Sep 29, 2014 at 11:25 AM

To: Ryan Johnson <ryan.johnson@farmersinsurance.com>, Vali Somers <vali.somers@farmersinsurance.com>, ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

Sorry I haven't been able to check my email for several days - I have so many appointments and my computer is absolutely dead!. Can you give me until next Monday to respond to anything because i have some info i'd like to share with you.

Gotta run

A



ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>

Hertz vehicle deductible and interest 1013715099-1-3

Vali Somers <vali.somers@farmersinsurance.com>

Mon, Sep 29, 2014 at 1:02 PM

To: todaysgirlfriday@gmail.com

Cc: Ryan Johnson <ryan.johnson@farmersinsurance.com>

Hi Andrea. What information are you planning to share? I would like to either settle this now or get the judgment entered for \$3500 without any further delays. I should have already done it.

Vali M. Somers
Senior Trial Attorney
Hollenbeck, Lancaster, Miller & Andrews
15500 SE 30th Place #201
Bellevue, WA 98007
425-564-0223

Legal Assistant: Rachel Bradley 425-564-0241

From: ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>
To: Ryan Johnson <ryan.johnson@farmersinsurance.com>, Vali Somers <vali.somers@farmersinsurance.com>, ANDREA LISTER-PIERCE <todaysgirlfriday@gmail.com>,
Date: 09/29/2014 11:27 AM
Subject: Re: Hertz vehicle deductible and interest 1013715099-1-3

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COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

Andrea Lister Appellant,	NO. 72525-4-1
v.	
Ryan Phan, <u>Respondent</u>	Declaration of Service

I, Andrea Lister, did complete service by email, and or fax, the following documents
On January 25th, 2016:

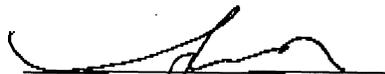
- Appellant's opening brief
- Declaration of Service
-

to:

Attorney Vali Somers at fax number 206-747-8338.

Susan Dahlem, COA Case Manager, at COA fax 206-389-2613.

Respectfully submitted this 25th of January, 2016.



//ANDREA LISTER//

(Signature waived if emailed)

Andrea Lister, Pro-Se Appellant

todaysgirlfriday@gmail.com

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2016 MAR 10 AM 8:39