NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

RICHARD K. SIMON and KATHLEEN J. WADDELL, husband and wife, : IN THE SUPERIOR COURT OF PENNSYLVANIA

Appellants

v.

OWENS-ILLINOIS, INC.,

Appellee : No. 3446 EDA 2004

Appeal from the Judgment entered on November 17, 2004
in the Court of Common Pleas of Philadelphia County,
Civil Division, No. 0622 April Term 2003

RICHARD K. SIMON and KATHLEEN J. WADDELL, husband and wife, : IN THE SUPERIOR COURT OF PENNSYLVANIA

Appellees

v.

A.W. CHESTERTON, INC.,

Appellee : No. 3465 EDA 2004

Appeal from the Judgment entered on November 17, 2004
in the Court of Common Pleas of Philadelphia County,
Civil Division, No. 0622 April Term 2003

BEFORE: MUSMANNO, GANTMAN and TAMILIA, JJ.

MEMORANDUM:

FILED JANUARY 6, 2006

Richard K. Simon ("Simon") and Kathleen Waddell ("Waddell") (collectively, "Plaintiffs"), husband and wife, appeal from the judgment entered in favor of Simon and against Owens-Illinois, Inc. ("Owens-Illinois"), in the amount of $22,500, and in favor of Waddell and against Owens-Illinois

in the amount of $15,000 for loss of consortium. Owens-Illinois has filed a cross-appeal. We reverse the judgment entered by the trial court, and remand for entry of judgment in the full amount of damages specified by the jury's verdict.

The trial court summarized the facts underlying the instant appeal as follows:

> This case was tried before a jury as a reverse bifurcated trial. In the first phase, the jury found that [Simon's] injuries were caused by his exposure to asbestos. The jury awarded [Simon] $75,000.00 and [Waddell] $50,000.00. In Phase II, the jury found that . . . [Owens-Illinois] was 30% liable for the injuries sustained by [Simon].
>
> On March 1, 2004, Plaintiffs filed a motion for post trial relief seeking a new trial, or a molded verdict, or *additur*; and [Owens-Illinois] filed a motion for post trial relief seeking judgment notwithstanding the verdict. On November 16, 2004, this Court denied Plaintiffs' and [Owens-Illinois's] post-trial motions, and entered judgment in favor of [Simon] and against [Owens-Illinois] in the amount of $22,500.00, pursuant to its thirty percent liability attributed by the jury; and in favor of [Waddell and] against [Owens-Illinois] in the amount of $15,000.00, pursuant to its thirty percent liability attributed by the jury. On December 13, 2004, [Owens-Illinois] timely filed its Notice of Appeal. On December 15, 2004, Plaintiffs timely filed their cross-appeal.
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> * * *
>
> In the instant case, [Simon] testified that his asbestos exposure at PECO consisted of one summer in 1964. During that summer he spent two weeks working in the Hunting Park facility and three weeks in the Delaware Generating Station. The additional month he spent working in a sales office, N.T., [2/3/04], pgs. 19, 24, 25, for a total of five weeks occupational asbestos exposure.

> [Simon] also testified that he attended Philadelphia public schools which are known to contain asbestos, and that he purchased a home in San Luis Obispo which had asbestos containing materials. [***Id.*** at] 17-19. . . .

Trial Court Opinion (3446 EDA 2004), 1/12/05, at 1-2, 3-4.

Owens-Illinois presents the following claim for our review:

> Did the trial court err in failing to strike the testimony of Leo Hill, [P]laintiffs' sole product identification witness, or grant post-trial motions for judgment notwithstanding the verdict or a new trial on damages, where Mr. Hill never worked with [Simon], did not know [Simon], did not know what products [Simon] worked with, and could only speculate as to whether [Simon] had been exposed to any product manufactured by [Owens-Illinois]?

Brief for Owens-Illinois at 38.

In their cross-appeal, Plaintiffs present the following claims for our review:

> 1. Did the lower court err by admitting irrelevant and prejudicial evidence of [Waddell's] income?
>
> 2. Did the lower court err by denying the [Plaintiff's] motion for new trial on damages only because the verdict was grossly inadequate?
>
> 3. Did the lower court err by finding that Act 57 of 2002, which contained the amendment to 42 Pa.C.S.A. Section 7102, was constitutional?

Brief of Plaintiffs/Cross-Appellants at 4. We first will address the claims presented by Owens-Illinois.

Owens-Illinois first claims that the trial court improperly failed to strike the testimony of product identification witness Leo Hill ("Hill"). According to Owens-Illinois, Hill never worked with Simon, did not know the products with

which Simon worked, and could only speculate as to whether Simon had been exposed to products manufactured by Owens-Illinois. Brief of Owens-Illinois at 38.

In its Opinion, the trial court determined that Owens-Illinois waived this claim, and stated the following:

> In its Statement of Matters Complained of on Appeal, [Owens-Illinois] contends [that the trial court] should have granted judgment notwithstanding the verdict.
>
> [The trial court] notes however, that [Owens-Illinois's] "Concise" Statement of Matters Complained of on Appeal, although only stating one contention, is twelve pages long, contains fifty-two numbered paragraphs, and includes three lengthy exhibits. [The trial court] therefore, is addressing the only issue it can determine based on the [Pennsylvania Rule of Appellate Procedure] 1925(b) Statement as presented. ***See Provident National Bank, N.A., v. Song***, 832 A.2d 1077, 2003 Pa. Super. 333 (2003).

Trial Court Opinion (3465 EDA 2004), 1/12/03, at 2.

In ***Kanter v. Epstein***, 866 A.2d 394 (Pa. Super. 2004), this Court held that "when an Appellant raises an 'outrageous' number of issues in the Rule 1925(b) statement, the Appellant has 'deliberately circumvented the meaning and purpose of Rule 1925(b) and has thereby effectively precluded appellate review of the issues [it] now seeks to raise.'" ***Id.*** at 401. We further noted that such "voluminous" statements do not identify the issues that an appellant actually intends to raise on appeal because the briefing limitations contained in Rule of Appellate Procedure 2116(a) makes the

raising of so many issues impossible. ***Id.*** Accordingly, we agree with the determination of the trial court and deem Owens-Illinois's challenge to the testimony of Hill waived.

In the issue preserved by Owens-Illinois for appellate review, Owens-Illinois challenges the trial court's denial of its Motion for judgment n.o.v. Owens-Illinois contends that Simon failed to establish that he worked with asbestos-containing products manufactured by Owens-Illinois.

Our scope of review with respect to whether judgment n.o.v. is appropriate is plenary, as with any review of questions of law. ***Phillips v. A-Best Products Co.***, 665 A.2d 1167, 1170 (Pa. 1995). "When reviewing a motion for judgment [n.o.v.], the evidence must be viewed in the light most favorable to the verdict winner, who must be given the benefit of every reasonable inference of fact. Any conflict in the evidence must be resolved in the verdict winner's favor." ***Kiker v. Pennsylvania Financial Responsibility Assigned Claims Plan***, 742 A.2d 1082, 1084 (Pa. Super. 1999) (internal citations omitted).

> There are two bases upon which judgment n.o.v. can be entered: one, the movant is entitled to a judgment as a matter of law, and/or two, the evidence was such that no two reasonable minds could disagree that the outcome should have been rendered in favor of the movant. We will reverse the trial court only upon a finding of an abuse of discretion or error of law that controlled the outcome of the case.

Fanning v. Davne, 795 A.2d 388, 393 (Pa. Super. 2003) (citations omitted).

In his testimony, Hill testified that he worked at Philadelphia Electric's Delaware Power Station in the mid-1950s. N.T., 2/19/04, at 42. At that time, Hill performed work insulating the pipes. ***Id.*** Hill worked for about two to three years at the Delaware Power Station. ***Id.*** at 43. When Hill cut the insulation, it would create dust. ***Id.*** Hill stated that the insulation was placed "all over the plant, on the boilers, turbines, pipes, all over, all over the plant." ***Id.*** at 44. Hill further stated that there was "no part of the plant I didn't do." ***Id.*** According to Hill, he worked with several products, including Kaylo, the product made by Owens-Illinois. ***Id.*** at 46. Hill further testified that he used Kaylo on the high temperature pipes, such as those coming out of the boilers. ***Id.*** at 48-49.

Hill stated that in 1964, he worked at the Delaware Power Station as a janitor. ***Id.*** at 46. During power outages, Hill indicated that coverings on the pipes were removed, after which the pipes were replaced. ***Id.*** at 50. According to Hill, if Simon had been sweeping in that area, he would have been sweeping asbestos dust. ***Id.*** at 50.

We further note Simon's testimony that in the summer of 1964, he worked at the Delaware Power Station. N.T., 2/19/04, at 25-26. At that time, a boiler was being either replaced or renovated, and parts of the boiler and the piping had been removed. ***Id.*** at 26-27. Simon testified that "[t]here was dust in the atmosphere of the power plant all the time . . . ." ***Id.*** at 32. Simon further stated that "when they didn't need me to hold a

pipe or bring [the crew] supplies, they had me sweep up in the work area that was our work area." ***Id.***

Based on the foregoing, we conclude that the evidence was not "such that no two reasonable minds could disagree that the outcome should have been rendered in favor of the movant." ***See id.*** at 393. We therefore conclude that the trial court did not err in denying Owens-Illinois's Motion for judgment n.o.v., and that Owens-Illinois is not entitled to relief on this claim.

Plaintiffs, in their first claim of error, assert that the trial court improperly permitted Owens-Illinois to cross-examine Waddell regarding her income. According to Plaintiffs, Owens-Illinois questioned Waddell about her reported wages in the years 2000, 2001, and 2002. Plaintiffs contend that this evidence was irrelevant and prejudicial, because Simon was not diagnosed with malignant mesothelioma until January 2003. Thus, "this evidence did not even bear a temporal reference to the issues in the case." Brief of Plaintiffs at 11. The trial court disagreed, concluding that Waddell's salary was "relevant to both her consortium claim as well as her husband's retirement plans." Trial Court Opinion (3446 EDA 2004), 1/12/05, at 3.

"Our standard of review regarding a trial court's denial of a motion for a new trial is limited. The power to grant a new trial lies inherently with the trial court and we will not reverse its decision absent a clear abuse of

discretion or an error of law which controls the outcome of the case." ***Kaplan v. O'Kane***, 835 A.2d 735, 737 (Pa. Super. 2003) (citation omitted).

In addition, "the admission of evidence is within the sound discretion of the trial court and will not be reversed absent a clear abuse of that discretion." ***Cooke v. Equitable Life Assurance Society of the U.S.***, 723 A.2d 723, 729 (Pa. Super. 1999) (citation omitted). Questions concerning the relevancy of evidence are within the sound discretion of the trial court and will not be reversed on appeal absent a clear abuse of discretion. ***Williams v. Otis Elevator Co.***, 598 A.2d 302, 306 (Pa. Super. 1991). As a general rule, "all relevant evidence is admissible. . . ." Pa.R.E. 402. Nevertheless, relevant evidence "may be excluded if its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Pa.R.E. 403.

Finally, we note that the scope of cross-examination is within the sound discretion of the trial court. ***Carroll v. Avallone***, 869 A.2d 522, 528 (Pa. Super. 2005). Upon review, the appellate court will not reverse such a determination absent an abuse of discretion. ***Id***.

Plaintiffs first challenge the trial court's determination that cross-examination regarding Waddell's income was relevant to her claim for loss of consortium. A claim for loss of consortium arises from the marital relationship and is based on the loss of a spouse's services resulting from an

injury. ***Tucker v. Philadelphia Daily News***, 848 A.2d 113, 127 (Pa. 2004). A loss of consortium claim is intended to compensate one for a loss of services, society and conjugal affection of one's spouse. ***Smalls v. Pittsburgh-Corning Corp.***, 843 A.2d 410, 417 (Pa. Super. 2004). Consortium is defined as "the legal right of one spouse to the company, affection, and assistance of and to sexual relations with the other." ***Machado v. Kunkel***, 804 A.2d 1238, 1244 (Pa. Super. 2002).

We fail to see how Waddell's earnings were relevant to her claim for loss of consortium. The issue was not whether Waddell was in economic need, but the value of the loss of her husband's services. Accordingly, such evidence had no relevance to Waddell's claim for loss of consortium. However, our analysis does not conclude at this point.

The trial court also stated that evidence of Waddell's income was relevant to the issue of Simon's "retirement plans." Trial Court Opinion (3446 EDA 2004), 1/12/05, at 3. The evidence at trial established that Simon was 58 years old in January 2003, when he was diagnosed with malignant mesothelioma. N.T. (Deposition), 5/22/03, at 10.[1] Simon further testified that in his last year of employment, he earned $74,000. ***Id.*** at 23. Brian Sullivan ("Sullivan"), a forensic economist, testified that, pursuant to a table of life expectancy, Simon would be expected to live approximately 79.4 years. N.T., 2/4/04, at 144. Sullivan opined that the national average work

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[1] Simon's deposition was presented as evidence at trial.

life expectancy was 66.7 years. ***Id.*** at 145. Sullivan first projected Simon's loss of income based upon that figure. ***Id.***

Sullivan also performed calculations based on a work life expectancy of 70 years. ***Id.*** In estimating Simon's projected retirement age, Sullivan considered Simon's financial status. Specifically, Sullivan stated that he considered Simon's education, "which meant [that Simon] went to school a relatively long time. He started working relatively late in his life. Therefore, you have to make it up at the end." ***Id.*** During cross-examination, Sullivan acknowledged that he considered Simon's deposition, and "financial incentives provided by. . . California Public Employees Retirement System Plan ['CALPERS']." ***Id.*** at 161. Sullivan testified he deemed a projected retirement age of 70 reasonable because of the "way the CALPERS pension plan works and incentives provide[d]." ***Id.*** at 170. In his testimony, Sullivan emphasized that education and length of time in the work force are determinative of a projected date of retirement. ***Id.*** at 171. Sullivan stated the following:

> . . . Remember, education is an important determinant. Because the early part of our lives, we spend getting educated, the more we got to catch up to the people who have been out in the work force for the last 10 years.

Id. at 172. Sullivan acknowledged that he did not ask Simon's current employer about retirement incentive plans, did not consider Waddell's plans regarding retirement, and did not consider the couple's investments and their impact on Simon's projected retirement date. ***Id.*** at 161-63.

Thus, the record discloses that Plaintiffs introduced evidence regarding factors to be taken into account in determining Simon's projected date of retirement. These factors included financial considerations. We cannot conclude, based on this evidence, that the trial court abused its discretion in allowing Owens-Illinois to cross-examine Waddell regarding her income and its impact on Simon's projected retirement date. Accordingly, Plaintiffs are not entitled to relief on this claim.[2]

Plaintiffs next claim that the trial court erred in denying their Motion for a new trial because the verdict was grossly inadequate. Plaintiffs contend that the jury's damages award does not adequately compensate Simon for economic losses and for pain and suffering.

"A jury verdict is set aside as inadequate when it appears to have been the product of passion, prejudice, partiality, or corruption, or where it clearly appears from uncontradicted evidence that the amount of the verdict bears no reasonable relation to the loss suffered by the plaintiff." ***Kiser v. Schulte***, 648 A.2d 1, 4 (Pa. 1994).

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[2] Although Plaintiffs direct our attention to cases that prohibit the introduction of evidence of collateral sources of recovery for an injury, we deem those cases inapplicable to the current situation. As set forth above, Owens-Corning cross-examined Waddell regarding her income as evidence relevant to Simon's projected retirement date. The issue of factors relevant to the determination of a projected retirement date was introduced by Plaintiffs during the direct examination of Sullivan and was an appropriate subject of cross-examination.

> Where the jury's verdict is so contrary to the evidence as to "shock one's sense of justice" a new trial should be awarded. It is the province of the jury to assess the worth of the testimony and to accept or reject the estimates given by the witnesses. If the verdict bears a reasonable resemblance to the proven damages, it is not the function of the court to substitute its judgment for the jury's. However, where the injustice of the verdict "stands forth like a beacon", a court should not hesitate to find it inadequate and order a new trial.

Id.

In this case, the trial court determined the verdict was not against the weight of the evidence. While this Court, reviewing the same evidence, might have determined otherwise, we cannot conclude that the trial court abused its discretion in denying Plaintiffs' Motion for a new trial. Accordingly, we cannot grant Plaintiffs relief on this claim.

Finally, Plaintiffs claim that the trial court erred when it found that the June 19, 2002 amendment to the Comparative Negligence Act, 42 Pa.C.S.A. § 7102, was constitutional. Plaintiffs assert that prior to the liability phase of the proceedings, they presented a Motion *in limine* to declare the 2002 amendment, which would require the allocation of damages among defendants in proportion to their respective negligence, as violative of Article III, Section 3 of the Pennsylvania Constitution.[3] According to Plaintiffs,

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[3] Article III, Section 3, provides that "[n]o bill shall be passed containing more than one subject, which shall be clearly expressed in its title, except a general appropriation bill or a bill codifying or compiling the law or a part thereof." PA. CONST. art. III, § 3.

Owens-Illinois's liability should not be reduced through an apportionment of liability. We agree.

Initially, we note that the trial court deemed this claim waived because Plaintiffs did not object to the inclusion of another company on the verdict sheet. Our review of the record discloses that prior to the beginning of the liability phase of the trial, Plaintiffs presented a Motion *in limine* seeking to declare the Act of June 19, 2002, P.L. 394 ("Act 57"), which amended provisions of the Judicial Code, unconstitutional. N.T., 2/12/04, at 5, 16. Plaintiffs argued that under the statute, the jury would be permitted to apportion liability to other companies. ***Id.*** at 26, 27. The trial court denied the Motion. ***Id.*** The trial court further stated that "this is the law that both parties will be bound by at the second phase [of the proceedings]." ***Id.*** Plaintiffs did not further challenge the trial court's ruling until their post-trial motions. Plaintiffs also presented this claim in their Concise Statement of matters complained of on appeal.

The Pennsylvania Supreme Court has declined to deem claims waived where "a timely objection would be a futile, and possibly detrimental, exercise in legal procedure . . ." ***Harman ex rel. Harman v. Borah***, 756 A.2d 1116, 1125 (Pa. 2000). Here, it is clear from the trial court's statement at trial that further objections by Plaintiffs would have been futile. Accordingly, we will address Plaintiffs' challenge to the constitutionality of Act 57.

In ***Pennsylvanians Against Gambling Extension Fund, Inc. v. Commonwealth***, 877 A.2d 383 (Pa. 2005), the Pennsylvania Supreme court described our standard of review of a challenge to the constitutionality of a statute as follows:

> [T]here is a strong presumption in the law that legislative enactments do not violate our Constitution. This includes the manner by which legislation is enacted. Accordingly, a statute will not be declared unconstitutional unless it clearly, palpably, and plainly violates the Constitution. All doubts are to be resolved in favor of finding that the legislative enactment passes constitutional muster. Thus, there is a very heavy burden of persuasion upon one who challenges the constitutionality of a statute.

Id. at 395 (citations omitted). In analyzing the application of Article III, Section 3 to a legislative act, the Supreme Court recognized the following:

> In broad terms, Article III's aim was to "place restraints on the legislative process and encourage an open, deliberative, and accountable government." [***City of Philadelphia v. Commonwealth***, 838 A.2d 566, 585 (Pa. 2003)] (quoting ***Pennsylvania AFL-CIO ex rel. George v. Commonwealth***, 563 Pa. 108, 757 A.2d 917, 923 (Pa. 2000)). More specifically, Section 3 was designed to curb the practice of inserting into a single bill a number of distinct and independent subjects of legislation and purposefully hiding the real purpose of the bill. ***City of Philadelphia***, 838 A.2d at 586. Related thereto, the single subject requirement prohibits the attachment of riders that could not become law as is, to popular legislation that would pass. An additional benefit of the Section 3 requirements is that there will be a greater probability that a bill containing a single topic will be more likely to receive a considered review than a multi-subject piece of legislation. ***Id.***, citing Millard H. Ruud, *No Law Shall Embrace More Than One Subject*, 42 MINN. L. REV. 389, 391 (1958) (offering that an additional purpose served by the one-subject rule is to facilitate orderly legislative procedure). As we indicated

in ***City of Philadelphia***, the single subject requirement proscribed the inclusion of provisions into legislation without allowing for "fair notice to the public and to legislators of the existence of the same." ***City of Philadelphia***, 838 A.2d at 587. Thus, reasonable notice is the keystone of Article III, Section 3.

While recognizing the importance of Section 3, we acknowledged that bills are frequently subject to amendments as they proceed through the legislative process and not every supplementation of new material is violative of the Constitution. Thus, "where the provisions added during the legislative process assist in carrying out a bill's main objective or are otherwise 'germane' to the bill's subject as reflected in its title," the requirements of Article III, Section 3 are met. Article III, Section 3 must have, however, some limits on germaneness, for otherwise virtually all legislation - no matter how diverse in substance - would meet the single-subject requirement, rendering the strictures of Section 3 nugatory. As stated by our Court in ***Payne v. School Dist. of Coudersport Borough***, 168 Pa. 386, 31 A. 1072, 1074 (Pa. 1895), "no two subjects are so wide apart that they may not be brought into a common focus, if the point of view be carried back far enough." Thus, defining the constitutionally-valid topic too broadly would render the safeguards of Section 3 inert. Conversely, the requirements of Section 3 must not become a license for the judiciary to "exercise a pedantic tyranny" over the efforts of the Legislature. ***City of Philadelphia***, 838 A.2d at 588 (citing ***Commonwealth In re Commonwealth***, ***Dep't of Transp. (Estate of Rochez)***, 515 A.2d 899, 902 (Pa. 1986)). Indeed, "few bills are so elementary in character that they may not be subdivided under several heads...." ***Payne***, 31 A. at 1074.

In light of this tension, as well as the purpose of Article III, Section 3, our focus in ***City of Philadelphia*** fell upon whether there was a single unifying subject to which all of the provisions of the act are germane. ***City of Philadelphia***, 838 A.2d at 589. While acknowledging that exercising deference by hypothesizing a reasonably broad topic was appropriate, to some degree, in

> determining whether the bill passed constitutional muster, ***id.*** at 588, the vast subject of "municipalities" stretched the concept of a single topic beyond the breaking point. Indeed, it was not apparent how the diverse subject-matter had a logical or legislative nexus to each other. ***Id.*** at 589. Finding that, as virtually all of local government is a municipality, the proposed subject was simply too broad to qualify for single subject status for purposes of Article III, Section 3. Thus, we struck the statute as constitutionally infirm.

Id. at 395-96. It is under this law that we review Plaintiffs' challenge to the constitutionality of Act 57.

In 2002, the Pennsylvania General Assembly's enactment of Act 57 sought to curtail joint and several liability among tortfeasors. Prior to the amendment, the law regarding tortfeasor liability directed that "the plaintiff may recover the full amount of the allowed recovery from any defendant against whom the plaintiff is not barred from recovery." 42 Pa.C.S.A. § 7102(b) (deleted). The defendant could then seek contribution from the remaining defendants. ***Id.*** Under Act 57, each defendant could only be held liable for proportional damages equal to his proportion of the total liability, subject to certain restrictions. 42 Pa.C.S.A. § 7102(b.1).

Subsequent to the enactment of Act 57, H. William DeWeese, the House Minority Leader and member of the House Rules Committee, and Mike Veon, the Democratic Whip of the House of Representatives, filed a Petition for review of Act 57 in the nature of a Complaint seeking declaratory and injunctive relief in the Commonwealth Court of Pennsylvania. The

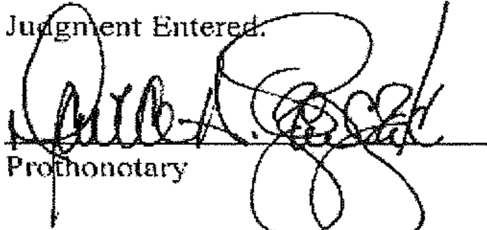
petitioners challenged the constitutionality of Act 57 alleging, *inter alia*, that Act 57 violated Article III, Section 3 of the Pennsylvania Constitution.

The Commonwealth Court, after a comprehensive and thorough review of the Pennsylvania Constitution and Pennsylvania law, declared that Act 57 violated the single subject requirement of Article III, Section 3. ***DeWeese v. Weaver***, 880 A.2d 54, 61-62 (Pa. Cmwlth. 2005). In so holding, the Commonwealth Court determined that the two subjects of Act 57, requiring DNA samples from incarcerated felony sex offenders and joint and several liability for acts of negligence, violated Article III, Section 3 of the Pennsylvania Constitution. ***Id.*** at 60-62. On this basis, the Commonwealth Court declared Act 57 unconstitutional and void. ***Id.*** at 62.

Thereafter, in ***Estate of Harsh v. Petroll***, 2005 Pa. LEXIS 2551 (Pa. Nov. 23, 2005), the Pennsylvania Supreme Court cited the holding in ***DeWeese*** with approval. ***Id.*** at *24.

We agree with the sound reasoning of the Pennsylvania Commonwealth Court and adopt it herein by reference, and hold that Act 57 is unconstitutional and void. On this basis, we conclude that the trial court erred when it reduced the damages awarded by the jury to Plaintiffs in accordance with the jury's apportionment of liability. We therefore reverse the judgment entered by the trial court and remand for the entry of judgment in the full amount of the damages reflected in the jury's verdict.

Judgment reversed; case remanded for entry of judgment in accordance with this Memorandum; jurisdiction relinquished.



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