

IN THE STATE COURT OF CLAYTON COUNTY

STATE OF GEORGIA

CASE NO. 2014CV02055-C,

Plaintiff,

vs.

)

R.J. HAYNIE AND ASSOCIATES, INC.)
HARLEYSVILLE INSURANCE
COMPANY, DENNIS COLBERT and
JOHN DOE,

Defendants.

ORDER

The above-styled matter was presented to this Court pursuant to several pending pre-trial motions. The case is currently set to appear for trial on August 29th, 2016 at 9:00 a.m.

1. Plaintiff's Motion in Limine to Exclude Settlement with R.J. Haynie Defendants

Plaintiff seeks to exclude 1) the fact a settlement occurred, 2) the amount of settlement, and 3) the fact that the R.J. Haynie Defendants were named defendants in the prior trial. After review of all the pleadings and argument presented, the Court **GRANTS** Plaintiff's Motion in Limine in its entirety. The parties shall not mention any aspect of the settlement with the R.J. Haynie Defendants to the pending jury. However, the Court will revisit its ruling if Defendant discovers new evidence in the settlement documents that Defendant argues will make such evidence relevant.

2. Defendant John Doe's Motion for Set-Off

Defendant argues that he is entitled to a set-off for the settlement amount reached with the R.J. Haynie Defendants of \$460,000. Defendant argues Plaintiff has and will continue to

cast liability to both Defendant John Doe and the R.J. Haynie Defendants. In doing so, Defendant John Doe argues Plaintiff has admitted some negligence was attributable to the R.J. Haynie Defendants and therefore, entitling him to a set-off.

The applicability of a set-off is predicated on the settling party being held liable, at least in some part, for the plaintiff's injury. Broda v. Dziwura, 286 Ga. 507, 509, 689 S.E.2d 319 (2010), *see also*, McReynolds v. Krebs, 290 Ga. 850, 725 S.E.2d 584 (2012). There has not yet been a legal determination of the R.J. Haynie Defendants liability in the case *sub judice*. A pre-trial settlement did not determine the R.J. Haynie Defendants' liability. That is an issue for the jury in apportioning the percentage of fault on the pending verdict form. Therefore, Defendant's Motion for Set-Off is hereby **DENIED**.

3. Plaintiff's Motion to Determine Sufficiency of Defendant John Doe's Objection to Plaintiff's Fourth Request for Admission

After the previous trial, Plaintiff served on Defendant his Fourth Request for Admission seeking to clarify the issues at trial. Defendant has objected and argued discovery has been closed since January 2, 2016. Notwithstanding an objection to the timeliness of such admissions, the Court finds the admissions propounded to be improper. The admissions as propounded seek information that Defendant John Doe cannot provide and are outside his personal knowledge. Defendant cannot either admit or deny the admissions as they pertain to Plaintiff's medical care and treatment. Such facts are outside Defendant John Doe's personal knowledge.

Therefore, the Court **DENIES** Plaintiff's Motion.

4. Defendant John Doe's Motion to Compel Settlement Document(s) from Plaintiff

Lastly, Defendant seeks an order compelling Plaintiff to produce all documents pertaining to the settlement agreement reached between Plaintiff and the R.J. Haynie Defendants. Plaintiff has offered to provide the limited liability release to the Court for an *in camera*

inspection, but refused to the entire document to Defendant John Doe alleging its contents are irrelevant. After review of the argument and pleadings presented, the Court finds such documents are discoverable and hereby **GRANTS** Defendant's Motion to Compel.

Plaintiff shall submit all settlement documents, including the limited liability release to Plaintiff **INSTANTER**. If the final settlement documents are not the entire memorialization of the terms of settlement, then Plaintiff shall also submit all documents that would include those terms of settlement.

No attorney's fees shall be awarded to either party. The case shall report on August 29th, 2016 at 9:00 a.m. in Courtroom 301 ready for trial.

SO ORDERED this 25 day of August, 2016.



Chief Judge John C. Carbo, III.
Clayton County State Court

CERTIFICATE OF SERVICE

This is to certify that I have this day served all counsel and interested parties in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in the properly-addressed envelope with the adequate postage thereon to ensure delivery or by hand-delivery as follows:

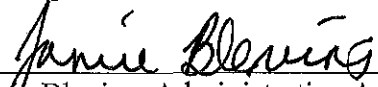
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This 25th day of August, 2016



Jamie Blevins, Administrative Assistant and Civil
Calendar Clerk to Chief Judge John C. Carbo, III
State Court of Clayton County