

**SELENA RUSSELL, Individually and as
Personal Representative of the Estate
Of CHANDLER BLAKE RUSSELL, Deceased PLAINTIFF**

ORDER

HOSPITAL OF LOUISA, INC.
d/b/a THREE RIVERS MEDICAL CENTER DEFENDANT

The Defendant contends that it is entitled to a new trial because of a violation of the mandate that jurors not discuss the case prior to submission of the case to the jurors. The Defendant submitted an affidavit of an I. T. Consultant, which clearly shows that Juror Tommy Ratliff conversed on his Facebook page with other persons concerning the trial, this occurring during the course of the trial. From those Facebook pages, it appears that not only did the juror converse with other persons about the case, but it was also clear that the juror expressed an opinion about the case.

The Defendant cites to the Court the case of *Dalby v. Cook*, 433 S.W. 2nd (Ky. 1968) and *Doyle v. Marymount Hospital, Inc.*, 762 S.W. 2nd 813 (Ky. App. 1989). Both those cases clearly hold that the failure of jurors to abide by the Court's admonition not to discuss the case during the course of the trial mandates setting aside the trial verdict and ordering a new trial. The Court in *Dalby* stated as follows:

“What we are holding is that the good name of the jury system requires that jury trials be conducted free from outside influences and fact, and that such trials must be conducted so as to leave no question of complete regularity.”

The Court in no way relishes the thought of trying this case again, the first trial amounting to seven days, and a subsequent trial probably going into eight days. The Court's overarching obligation, however, is to ensure that the system is free of any hint of taint or wrongdoing. The evidence in this case is clear and obvious that there was a violation of the Court's order about discussing the case prior to submission to the jury. That being the case, it is the obligation of the Court to, most reluctantly, set aside the judgment, and order a new trial.

That being the decision of the Court, the Plaintiff's motion for a new trial on damages, and the Defendant's motion to reduce post judgment interest, are **MOOT**.

IT IS THEREFORE ORDERED AND ADJUDGED that the judgment entered in this case on December 7, 2011, be set aside and held for naught. **IT IS FURTHER ORDERED** that this case be set for

status conference on **FRIDAY, FEBRUARY 10, 2012**, at the hour of
9:00 A.M.

DATED this the 3rd day of January, 2012.

HON. JOHN DAVID PRESTON
JUDGE, LAWRENCE CIRCUIT COURT

CERTIFICATION:

I Jodi Parsley, Clerk of the Lawrence Circuit Court, do hereby certify that the foregoing is a true, correct and complete copy of an Order which was noted in the civil docket and entered on the ____ day of January, 2012, and that a true and correct copy of same was mailed, postage prepaid, to **Kyle Salyer, P.O. Box 339, Paintsville, KY 41240; Richard Hay, P.O. Box 1124, Somerset, KY 42502-1124; Sean Ragland, 716 West Main St., Ste. 300, Louisville, KY 40202-2677; and Eldred Adams, Jr., P.O. Box 606, Louisa, KY 41230.**

JODI PARSLEY, LAWRENCE CIRCUIT COURT CLERK

BY:_____ D.C.