

COMMONWEALTH OF KENTUCKY
MCCRACKEN CIRCUIT COURT
CIVIL ACTION NO. 21-CI-00106
Division No. I
Filed Electronically

LARRY L. WHITT and
LINDA WHITT

PLAINTIFFS

v.

SHANNON L. BROTHERTON, et al

DEFENDANTS

PLAINTIFFS' AMENDED TRIAL BRIEF

Come now Plaintiffs, Larry L. Whitt and Linda Whitt (hereafter "Plaintiffs" or "Whitt"), by and through counsel, and for their Trial Brief and itemized list of special damages would show unto the Court as follows:

Factual Background

On February 14, 2020, Larry L. Whitt drove his motor vehicle to his insurance agent's office, Brotherton Insurance Agency, at 3560 Park Plaza Road in Paducah, McCracken County, Kentucky. He was accompanied by his wife, Linda Whitt, who was a front seat passenger. Mr. Whitt arrived a little before 5:00 p.m. and parked in the front parking lot. At or near the same time, Defendant, Shannon L. Brotherton, exited her insurance agency building and got in her Ford Explorer SUV, License Plate No. 973 XPD, which was parked on the side of the building. Defendant, Shannon L. Brotherton, was closing her agency early and was in a hurry. She started her truck and hurriedly backed the vehicle up in order to exit the parking lot. While driving in reverse, she swung her vehicle around to the front parking lot so she could pull forward to exit the parking lot, and

in doing so struck the parked vehicle in which Plaintiffs, Larry L. Whitt and Linda Whitt, were sitting. Ms. Brotherton failed to maintain a safe lookout, and her Ford Explorer SUV struck the wheel and front door of Mr. Whitt's vehicle as he was attempting to open the door to get out. Mr. Whitt suffered injury to his left hip, his right shoulder, and his right wrist.

As a result of the negligence of Defendant, Shannon Brotherton, Plaintiff, Larry L. Whitt, sustained severe and permanent personal injuries to his left hip, right shoulder, and his right wrist, resulting in past and future medical expenses, lost earnings and destruction of his capacity to earn money, past and future pain and suffering, and inconvenience. Additionally, as a result of being unable to work at Whitt Farms, a nursery business Mr. and Mrs. Whitt had operated for many years, Plaintiff lost the inventory in the nursery.

As a result of the negligence of Defendant, Shannon Brotherton, Plaintiff, Linda Whitt, the wife of Larry L. Whitt, has suffered a loss of the services, assistance, aid, society, companionship, conjugal relationship, and the love and affection of and/or from her husband, Larry L. Whitt.

Mr. Whitt was not immediately seen by a doctor for injuries due to the accident but was subsequently treated by Monte Rommelman, MD for pain in his left hip, by Jason Patton, MD, for the pain in his right wrist, and Spencer Romine, MD for the pain in his right shoulder.

Plaintiffs' Witnesses

1. Larry L. Whitt – Mr. Whitt will testify concerning the facts of the accident, his injuries, treatment, and all damages suffered, as further described herein.

2. Linda Whitt – Mrs. Whitt will testify concerning the facts of the accident and his husband's injuries and treatment, her loss of consortium, and the damages alleged herein.

3. Shannon Brotherton – Mrs. Brotherton will testify concerning the facts of the accident.

4. Monte Rommelman, MD – Paducah Physiatric Partners, PSC – Dr. Rommelman will testify by deposition regarding Mr. Whitt's injury, causation, medical treatment necessitated by Defendant's negligence, pain and suffering and need for future medical treatment.

5. Spencer Romine, MD – The Orthopaedic Institute of Western Kentucky – Dr. Romine will testify by deposition regarding Mr. Whitt's injury, causation, medical treatment necessitated by Defendant's negligence, pain and suffering and need for future medical treatment.

6. Jason Patton, MD – The Orthopaedic Institute of Western Kentucky – Dr. Patton will testify by deposition regarding Mr. Whitt's injury, causation, medical treatment necessitated by Defendant's negligence, pain and suffering, and need for future medical care.

7. The Plaintiff reserves the right to call as a witness any witness identified by Defendant or any other witness identified in discovery with relevant, admissible information.

Plaintiffs' Exhibits

1. Photographs of Plaintiffs' vehicle.
2. Photographs of Shannon Brotherton's vehicle.

3. Photographs of the parking lot at Brotherton Insurance Agency where the accident occurred.
4. Deposition Transcript and video of deposition of Monte Rommelman, MD to be played for the jury.
5. Deposition Transcript and video of deposition of Spencer Romine, MD to be played for the jury.
6. Deposition Transcript and video of deposition of Jason Patton, MD to be played for the jury.
7. Medical records for medical services rendered to Larry Whitt which were related to and caused by the accident.
8. Medical bills for medical services rendered to Larry Whitt which were related to and caused by the accident.
9. Itemized list of Larry Whitt's medical bills caused by the accident.
10. Tax returns of Larry Whitt and Whitt Gardens, LLC.
11. Documents produced in discovery showing plant inventory lost due to injuries.
12. The Plaintiffs reserve the right to use any exhibit offered or introduced into evidence by the Defendant.

Pending Motions

The following motions are pending ruling by the Court:

1. Defendants' Motion *in Limine* Regarding Liability Insurance.

Stipulations

Plaintiffs stipulate as to the authenticity and admissibility of any documents referred to in their Exhibit List and to the authenticity and admissibility of any other documents that appear to be reliable and self-authenticating that have been previously produced pursuant to discovery requests.

Jury Instructions

Plaintiffs have submitted their proposed Jury Instructions. However, Plaintiffs reserve the right to modify, change, and/or supplement the proposed jury instructions as the proof and evidence at trial may dictate.

Special Damages

Plaintiff seeks special damages as follows:

- (1) Pre-trial pain and suffering in an amount to be determined by the jury, not to exceed \$100,000.00.
- (2) Post-trial pain and suffering in an amount to be determined by the jury, not to exceed \$75,000.00.
- (3) Pre-trial lost wages and earnings, not to exceed \$100,000.00.
- (4) Loss of future wages and earning capacity, not to exceed \$50,000.00.
- (5) Pre-trial medical expenses in their actual amount not to exceed \$17,469.00.
- (6) Future medical expenses, not to exceed \$149,333.80
- (7) Value of Plants lost due to Plaintiff's Injuries, not to exceed \$79,959.00.
- (8) Loss of Consortium, Linda Whitt, not to exceed \$50,000.00

Respectfully submitted,

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/s/ *Brian S. Katz*
BRIAN S. KATZ
ATTORNEY FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been filed using the Court's e-filing system, Courtnet 2.0, which will generate electronic notice to counsel of record for the parties, **R. Brent Vasseur, Esq.**, KEULER, KELLY, HUTCHINS, BLANKESHIP & SIGLER, LLP, 100 S. 4th Street, Suite 400, Paducah, KY 42001, bvasseur@kkhblaw.com, Attorney For Defendants, on this the 12TH day of September, 2022.

/s/ *Brian S. Katz*
BRIAN S. KATZ