

IN THE CIRCUIT COURT OF NEWTON COUNTY, MISSISSIPPI

MATTHEW TYLER FELDMAN

PLAINTIFF

VS.

CIVIL ACTION NO. 21-cv-125-NWCM

ETHAN PARKER

DEFENDANT

PRE-TRIAL ORDER

1. Pre-Trial Conference

The Pre-Trial Conference was held on March 5, 2024, at the Neshoba County Courthouse in Philadelphia, Mississippi.

2. Trial Date

Trial is set to begin April 2, 2024, as a first setting in Newton County, Mississippi.

3. Counsel

The following counsel appeared at the Pre-Trial Conference:

For Plaintiff:

Mark C. Carroll  
Thomas G. "Gary" Bufkin  
Carroll Bufkin, PLLC  
1076 Highland Colony Parkway, Ste. 125  
Ridgeland, Mississippi 39157  
mcarroll@carrollbufkin.com  
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For Defendant:

M. James Weems  
Daniel Coker Horton & Bell, P.A.  
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P.O. Box 1084  
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Michael O. Gwin, Esq.  
Watkins & Eager PLLC  
400 E Capitol St #300  
Jackson, MS 39201  
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**4. Claims**

Negligence as plead in the complaint.

**5. Pleadings**

The pleadings are amended to conform to this pretrial order.

**6. Jurisdictional issues remaining**

None

**7. Pending Motions**

Defendant's Motion *in Limine* (order to be presented to judge)

**8. Summary of the case to be presented to the jury:**

**a. By Plaintiff:**

This case involves an automobile accident.

In 2021, Plaintiff Tyler Feldman and Defendant Ethan Parker were working for a Mississippi-based pipeline drilling company, River and Roads Directional Drilling. River and Roads was participating in a pipeline project in Indiana. Parker and Feldman had moved to Indiana temporarily to work on the pipeline.

On June 18, 2021, Parker and Feldman were released from their 12-hour shift early by their supervisor. They decided to use their extra time off to drive into town for a steak dinner. Parker had been issued a GMC 3500 truck by River and Roads. Parker drove Feldman back to the cabin they had rented. The men showered, changed clothes, and Parker drove them to the restaurant. After dinner, Parker began the 10-mile trip back to the cabin with Feldman as his passenger. It was dark and raining heavily.

At approximately 9:30 p.m., Parker lost control of the truck, departed the roadway, and collided violently with a guardrail. The guardrail penetrated the front grill of the GMC truck, tore through the engine compartment and firewall, and impaled Tyler Feldman, who was sitting in the front passenger seat. Feldman was driven backward by the guardrail, through his seatback, and was twisted and pinned against the rear window of the cab, with his left leg in the front seat and his right leg in the back seat of the truck. Feldman's skin

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was stripped away from his lower right leg exposing bone and muscle. Feldman's right ankle and right foot were broken in multiple places; his right and left shinbones were broken; his right kneecap was broken; his left ACL and left MCL were torn; his right and left femurs were broken; and his pelvis was broken in multiple places. Feldman's scrotum was torn, his right testicle was injured, and his left testicle was ruptured. Feldman's liver was lacerated; his right SI joint in his low back was separated; and his sciatic nerve was damaged. Feldman remained pinned in this position for nearly an hour until he was extracted by firefighters, who had to remove the guardrail from Feldman's body. Yet, he never lost consciousness.

In the hospital, Feldman's right leg was removed by guillotine amputation above the knee. However, Feldman's right leg was so severely damaged that it eventually was amputated at the hip. Feldman had surgeries to debride his wounds and close the skin flap left by the amputation. Feldman's knee on his remaining leg required a full reconstruction with tendon graft and he suffered nerve damage that resulted in "drop foot." Feldman's broken legs were left to heal over time.

Tyler Feldman has incurred medical expenses, lost wages, and is permanently disabled and disfigured. He has suffered immense pain and will require millions of dollars in future medical care.

**b. By Defendant:**

Defendant does not dispute his actions were negligent and caused the subject accident. The case to be presented by the defendant centers upon the plaintiff's claim of damages. Defendant contends that the extent of plaintiff's disability and his impact on his employability is less than claimed by the plaintiff. Defendant also disputes the extent and the necessity of some of the medical treatment claimed by the plaintiff. Defendant does not dispute the cost presented (before being discounted to present day value) of the prosthetic device in dispute. Defendant also contends that the economic evaluation presented by the claimant is higher than reasonable and will present a lower figure for the jury to consider.

**9. Facts established by stipulation:**

- a. Ethan Parker's negligence proximately caused the accident.
- b. Tyler Feldman's past medical expenses are \$569,692.34, as of March 5, 2024.
- c. Tyler Feldman's past lost wages are \$89,865.00 as of March 5, 2024.
- d. The projected lifetime cost of Tyler Feldman's prosthetic leg is \$1,454,073.26 prior to discount for the present-day value.

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**10. Contested issues of fact:**

- a. The amount Tyler Feldman is entitled to recover for future medical expenses.
- b. The amount Tyler Feldman is entitled to recover for future lost wages and wage-earning capacity.
- c. The amount Tyler Feldman is entitled to recover for his past, present and future pain and suffering
- d. The amount Tyler Feldman is entitled to recover for his past, present and future mental anguish and emotional distress.
- e. The amount Tyler Feldman is entitled to recover for scarring and disfigurement,
- f. The amount Tyler Feldman is entitled to recover for past, present and future loss of enjoyment of life.
- g. The amount Tyler Feldman is entitled to recover for permanent disability.
- h. Whether Tyler Feldman's claimed future damages were proximately caused by the subject accident.
- i. The extent and reasonableness and/or necessity of plaintiff's claimed injuries and damages.
- j. All contested issues of law that may be considered contested issues of fact.

**11. Contested issues of law:**

**By Plaintiff:**

- a. Amount of post-judgment interest plaintiff is entitled to on any judgment.

**By Defendant :**

- a. Whether the negligence of Ethan Parker proximately caused future damages claimed by the plaintiff.
- b. The extent and reasonableness and/or necessity of plaintiff's claimed injuries and damages.
- c. Amount of post-judgment interest Tyler Feldman is entitled to on any judgment.

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d. All contested issues of fact that may be considered contested issues of law.

**12. Exhibits**

The following are the exhibits to be used by each party (except exhibits to be used for impeachment). Each exhibit has been marked for identification and examined by counsel for Plaintiff and Defendant. The Parties have agreed to the authenticity and admissibility of each exhibit listed.

**a. By Plaintiff:**

No.	Exhibit	Admitted or Objection
P-1	Plaintiff's Summary of medical bills	Summary has not been provided and defendant objects to any summary or interpretation of the medical bills. Additionally, objection is made because it is cumulative. The amount of past medicals is not in dispute and thus no summary is needed. Defendant does not object to stipulation of an undisputed number agreed upon by the parties.
P-2	Accident scene photos (Bates No. 0001-0024)	Objection M.R.E. 403. The use of multiple photos of the injury and accident scene are prejudicial to the defendant, create bias, and such are designed to inflame the jury, with their use being out of proportion to any relevance have no relevance on the contested issues in this case. Defendant acknowledges that plaintiff can use some photos of the injury and accident scene at trial, but objects to the proposed number for the reasons set forth herein.
P-3	2 Photos of GMC (Bates No. (Bates No. 0001 & 0003)	

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P-4		Injury photos of Tyler Feldman (0001-0006)	Objection M.R.E. 403. The use of multiple photos of the injury and accident scene are prejudicial to the defendant, create bias, and such are designed to inflame the jury, with their use being out of proportion to any relevance have no relevance on the contested issues in this case. Defendant acknowledges that plaintiff can use some photos of the injury and accident scene at trial, but objects to the proposed number for the reasons set forth herein.
P-5		Photos of prosthetic from Rick Psonak (Bates No. 0001-0002)	
P-6		Pre-accident photos of Tyler Feldman (001-005)	
P-7		Medical Records/Bills at Morgan County EMS (Bates No. 0001-0013)	
P-8		Medical Records/Bills at Indiana University Health (Bates No. 0001-0464)	Objection to p. 258/402 – MRE 401, 403. Mention of high rate of speed not relevant and highly prejudicial to defendant
P-9		Medical Records/Bills at Anesthesia Consultants of Indianapolis (Bates No. 0001)	
P-10		Medical Records/Bills at Angel Med Flight (Bates No. 001)	
P-11		Medical Records/Bills at MPS Wound Management (Bates No. 0001-0012)	
P-12		Medical Records/Bills Methodist Rehab Center (Bates No. 0001-2512 & 0001-0534)	
P-13		Medical Records/Bills UMMC (Bates No. 0001-0470)	
P-14		Medical Records/Bills East MS Medical Center (Bates No. 0001-0011)	

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P-15		Medical Records/Bills Walmart (Bates No. 0001-0004)	
P-16		Medical Records/Bills Decatur Family Medical Clinic (Bates No. 0001-0051)	
P-17		Medical Records/Bills Newton Family Medical Rehab (Bates No. 0001-0193)	
P-18		Mark Webb Treatment Record and bill (Bates No. 0001-0002)	

Each of the preceding exhibits to be offered into evidence by the Plaintiff is stipulated by the parties to be authentic and admissible into evidence except those exhibits which Defendant objects below by stating the exhibit number, the objection raised, and a brief description of the grounds for the objection:

- b. **By Defendant:** Defendant will use the exhibits, as needed, offered by the plaintiff and reserves right to use the ones listed by plaintiff.

No.		Description	Admitted or Objection

Each of the preceding exhibits to be offered into evidence by the Defendant is stipulated by the parties to be authentic and admissible into evidence except those exhibits which Plaintiff objects below by stating the exhibit number, the objection raised, and a brief description of the grounds for the objection:

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No.		Objection

(THE COURT WILL ATTEMPT TO RULE ON THE ADMISSIBILITY OF ALL EXHIBITS AT THE PRE-TRIAL CONFERENCE. THEREFORE, ALL EXHIBITS NOT AGREED UPON SHOULD BE BROUGHT TO THE COURT'S ATTENTION AT THE PRE-TRIAL CONFERENCE).

### 13. Demonstratives

Any charts, graphs, diagrams, models, or similar objects intended to be used in opening statements or closing arguments, but not offered into evidence:

#### a. For Plaintiff:

- i. A chart itemizing economic damages.
- ii. Enlarged photos or copies of exhibits.
- iii. A prosthetic leg similar to the one recommended by Plaintiff's expert, Rick Psonak.
- iv. A section of guardrail similar to the one extracted from Tyler Feldman's body at the accident scene.
- v. Enlargements of certain jury instructions for use in closing arguments

Defendant's objections to Plaintiff's demonstratives: Objection is made to the use of guardrail. Such has not been produced and no foundation has been set establishing its similarity to the one in this accident. The guardrail is depicted in some photographs offered by the plaintiff, and such is sufficient for the jury to consider in this case.

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**b. For Defendant:**

1. Excerpts from the deposition of Tyler Feldman.
2. Charts utilized by experts in presenting case to jury.
3. Jury instruction enlargements.
4. Defendant reserves the right to use the objects utilized by plaintiff in closing, as applicable.

Plaintiff's objections to Defendant's demonstratives:

**c. Other demonstratives:**

If other objects are to be used, such objects will be submitted to opposing counsel at least three days before trial. If there is then any objection to use of said objects, the dispute will be submitted to the Court at least one day before trial.

**14. Witnesses**

All listed witnesses must be present to testify when called unless specific arrangements have been made with the trial judge before commencement of trial. Listing "will call" witnesses constitutes a professional representation, upon which opposing counsel may rely, that the witness will be present at trial absent reasonable written notice to counsel to the contrary. For witnesses expected to testify by deposition, state whether the entire deposition or specific portions will be used. Counsel shall confer before the pre-trial conference in an effort to resolve all controversies concerning deposition testimony. All controversies not resolved by the parties shall be submitted to the Court for decision at the pre-trial conference. All objections not presented at the pre-trial conference are waived.

**a. By Plaintiff:**

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Plaintiff anticipates calling the following witnesses at trial (excluding witnesses to be used solely for rebuttal or impeachment).

<u>Name</u>	<u>Will/ May Call</u>	<u>[F]act/ [E]xpert [L]iability/ [D]amages</u>	<u>Business Address &amp; Telephone Number</u>
Ethan Parker	Will	F/ D	Contact through counsel
Tyler Feldman	Will	F/D	Contact through counsel
Howard T. Katz, M.D.	May	E/D	Gulf States Physical Medicine and Rehabilitation Medical Arts East Building 1190 North State St., Ste 202 Jackson, MS 39202
Bruce Brawner M.Ed., CRC, CCM, LPC	May	E/D	Brawner and Associates, Inc P.O. Box 297 Madison, Mississippi 39130
Rick Psonak, MS, CPO, FAAOP	May	E/D	184 Stump Ridge Rd. Brandon, MS 39047
Jim Koerber, CPA/ABV/CFF	May	E/D	103 Madison Plaza Hattiesburg, MS 39402 (601) 583-1000
Mark Webb, MD	May	E/D	MS Neuropsychiatric Clinic, PLLC 576 Highland Colony Parkway, Suite 100 Ridgeland, MS. 39157 601-853-2676
Steve Mills	May	F/D	2092 Church Street

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Chunky, MS 39323

Kevin Greene

May

F/D

Fire Chief, Martinsville, IN  
(765) 346-9833

John Lake

May

F/D

Fire Chief, Washington  
Township, IN  
765-342-4435

Allen Amis

May

F/D

417 Muley Rd., Decatur, Ms.  
39327

Kim Amis

May

F/D

417 Muley Rd., Decatur, Ms.  
39327


**b. By Defendant:**

<u>Name</u>	<u>[F]act/ Will/ May Call</u>	<u>[E]xpert [L]iability/ [D]amages</u>	<u>Business Address &amp; Telephone Number</u>
Micheal Herman Josef Winkelmann, MD	May	E/D	NewSouth Neurospine 2470 Flowood Drive Flowood, MS. 39232
D.C. Sharp, Ph. D.	May	E/D	35 Union Ave. Ste 104 Memphis, TN 38103
Ethan Parker	May	D	3951 Lawrence Hazel Road Lawrence, MS 39336

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This pre-trial order has been formulated at a pre-trial conference before the undersigned, notice of which was duly served upon all parties, and at which the parties attended as stated above. Reasonable opportunity has been afforded for corrections or additions before signing this order. This order will control the course of the trial, as provided by Rule 16 of the Mississippi Rules of Civil Procedure, and it may not be amended except by the consent of the parties and the Court, or by order of the Court to prevent manifest injustice.

SO ORDERED AND ADJUDGED, this the 5 day of March, 2024.

  
CIRCUIT COURT JUDGE

**FILED**

MAR 08 2024

TIME  
MICHAEL L. BUTLER, CIRCUIT CLERK  
BY 

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