IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

CHRISTOPHER RANDOLPH — PLAINTIFF

VERSUS — CAUSE NO. 20-118

THE CITY OF HATTIESBURG; TOBY BARKER, MAYOR OF THE CITY OF HATTIESBURG, WARREN PAVING, INC. AND JOHN DOES 1-10 — DEFENDANTS

OPINION AND ORDER

WHEREFORE, this cause having come before the court for a bench trial of claims made by the plaintiff against Defendant City of Hattiesburg,[1] the court, having heard the testimony of witnesses, received and reviewed all the evidence introduced at trial and having considered the evidence and applicable law, finds as follows:

In 2018, the City of Hattiesburg contracted with Warren Paving to overlay portions of Richburg Road in conformity with the Mississippi State Highway Standard Specification for Road and Bridge Construction-also known as the Red Book-which was made a part of that contract. The work was performed in November of 2018. By December 14, 2018, the work had been inspected, accepted and paid for by the City. Less than six months later, Christopher Randolph was driving along Richburg Road in a pick-up truck hauling a loaded trailer, which was wider than the truck. He was driving at a speed of 44 mph in a 35 mph zone. As he came out of a curve near Richburg Road's intersection with Honeysuckle Drive, the right tires of the trailer went off the roadway into a steep drop-off. The truck did not leave the roadway. Steering the truck to the left, he was eventually successful in getting the trailer back upon the roadway but

[1]At that same trial, the plaintiff's claims against Warren Paving were tried to a jury, which found the issues in favor of Warren Paving. The plaintiff's subsequent Motion for Judgment Notwithstanding the Verdict or in the Alternative for New Trial has been denied.

then crossed all the way over the road and struck a tree head-on, severely fracturing both his legs, requiring extensive and painful medical treatment and preventing him from returning to his usual activities. He incurred nearly $193,000.00 in medical expenses and will require additional treatment in the future.

By way of his Complaint against Warren Paving and the City of Hattiesburg arising from the accident, Plaintiff Randolph charged the City with negligence in its design, construction, repair, inspection and maintenance of Richburg Road. The City answered not only that it was entitled to immunities as specified by the Mississippi Tort Claims Act but also that the negligence of Chris Randolph was a proximate cause or contributing cause of the accident and his injuries.

At trial, PLAINTIFF RANDOLPH told the jury that he was "very, very" familiar with Richburg Road having driven it thousands of times over thirty-five years. He knew that it was hilly and curvy and that there were low spots and drop-offs along it, but he did not know that there was a drop-off where the accident happened and does not recall there being a low-shoulder sign or a warning. He was pulling a trailer loaded with pitching mounds behind his truck as he had done two or three times before. He had used the trailer at other times for purposes associated with his work and knew the trailer was wider than the truck. He described that as he started to come around what he called a "blind"curve, he saw a car coming in the other direction that he thought was a little too close to the center line, so he eased to the right side of his lane. The car did not cross into his lane. Then his steering vibrated, and he heard the sound of metal hitting pavement as the trailer dropped off. His truck stayed in his lane. He attempted to ease the trailer back into his lane, but he could not. He jack-knifed to the left and didn't have control. Seconds later, he hit a tree across the road. When he realized he was not going to be able to pull the trailer

back up, he started braking. He was traveling at 44 mph in a 35 mph zone.

ANN JONES,[2] the chief administrator officer for the City of Hattiesburg, was familiar with Richburg Road and the traffic flow along it. She described it as one of the City's busier corridor roads with thousand of cars traveling back and forth along it on a daily basis. It is also one of the most curvy and hilly roads in Hattiesburg. She described the systems in place for receiving reports, complaints or notice of any potential hazard either on a road or off the pavement. According to Jones, although the City does not have inspectors whose job it is to identify dangerous conditions, it does have a "mandate" to the employees of all its departments, such as police officers, code enforcement officers and sanitation workers, to identify and notify the City of such conditions. Ms. Jones acknowledged that the City maintains and mows the grass along the side of the road.[3] She explained that review of available documentation disclosed no information or report regarding any condition off the pavement of Richburg Road and Honeysuckle before Mr. Randolph's accident. Her research of Hattiesburg police department accident reports showed no accident related to any shoulder issue. Neither did she find any report from anyone who claimed that the shoulder on Richburg Road caused or contributed to their accident. She likewise was unable to find any evidence of when the dropoff first appeared, but she did know that an inspection had been done multiple times prior to Warren Paving's work in order to select which section of roadway would be paved and to arrive at a cost estimate. She knew of no photographs that had been taken before the work. Also according to Ms. Jones,

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[2]Rather than incorporating by reference the testimony of Ann Jones and of Lamar Rutland set out in the Memorandum Opinion denying the Plaintiff's Motion for JNOV, that testimony is, with some changes, reproduced here.

[3] Although not offered for that purpose, a number of exhibits–including 1 and 64–do show at least some degree of maintenance along the sides of Richburg Road in the area of the accident.

Warren Paving's invoice for the Richburg Road overlay would not have been paid without the City's inspecting the job to make sure the purchase order had been completed. Lamar Rutland, the city engineer, would have done inspections and day-to-day checking of the job.

As the city engineer, LAMAR RUTLAND was over large construction projects for Hattiesburg, including Warren Paving's overlay on Richburg Road in November of 2018. Among his duties were overseeing those projects–including the payment progress–and performing visual inspections. According to Mr. Rutland, at the time Warren Paving was hired to do the overlay, shoulder work was not a part of its scope of work. He did agree he would have expected Warren to notify him of any hazard outside Warren's scope of work that needed repairs. Rutland acknowledged that if he in his drive-by "windshield" inspections or Warren Paving had seen a pavement edge dropoff like the one that existed on May 17, 2019, either the City would have repaired it or had Warren Paving repair it.[4] He was never contacted by Warren Paving that any shoulder work was needed on Richburg Road. As a civil engineer, Rutland had no idea how such a dropoff could have been created, but he testified that had it existed at the time he did his inspection, he would have seen it. Instead, he saw nothing that raised any concern or that was out of compliance with his expectation on the part of Warren Paving. Mr. Rutland explained that the overlay process required striping not be done until seven to fourteen days after the asphalt was laid to allow for curing. He acknowledged that the Richburg Road striping was completed prior to Warren Paving's submission of its Progress Billing Invoice dated December 19, 2018.[5]

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[4]Also, Rutland agreed that the City maintains the right-of-way next to roads like Richburg Road, including mowing.

[5] Exhibit 8 (RANDPOLPH000220).

Expert witness TERRELL TEMPLE, an engineer familiar with the flow of water and how that affects roadway construction, maintenance, and management, testified that engineering design for roads involves control of water and getting it from one side of the road to the other and providing structures such as ditches and culverts to handle the water. Using Exhibit 87C, an aerial photograph and contour maps completed in October of 2022 which show, in part, the direction of water flow from Honeysuckle Drive, Mr. Temple explained that in that area if a one-inch rainfall occurs in an hour, forty-five gallons of water per minute would be dumped on the side of the road. In Mr. Temple's opinion the drop-off and the gravel and debris on the side of the road in the area of the dropoff where the accident happened as shown in Exhibits 58 and 59 were caused by water washing across the road and creating a ditch parallel to the road. The condition of the shoulder was also caused by rainfall eroding the shoulder material away from the edge of the pavement. He acknowledged that the ditch became more shallow as the water came to an area that was not as erosive. He could not, however, date when the erosion occurred, stating only that it was dependent upon the rain.[6] He used Exhibit 87B, a Google Earth photograph from November, 2013, to show that significant washes existed even then in the same area as the one that is the subject of this action. Referring to Exhibit 88, a photograph taken the day after the accident showing no vegetation at all in the wash next to the dropoff,[7] Temple expressed his

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[6]As expressed in Temple's report, in December of 2018 a flooding event occurred that affected the Richburg Road area. Exhibit 86 ID at 7. Plaintiff's expert Asarisi noted in his report that this flooding event damaged paving on Dogwood Road to the extent that it had to be repaved after having been paved only a few weeks earlier. Exhibit 23 ID at 7. Dogwood Drive, which is in very near proximity to Honeysuckle Drive, was repaved about the same time as Richburg Road. Exhibit 78.

[7]There was, however, grass and other vegetation growing above the wash. He noted that May would have been in the midst of the growing season.

opinion that a water event that caused the dropoff occurred within a matter of weeks or a couple of months prior to the accident.[8]

By statutory mandate and judicial interpretation of that mandate, THE MISSISSIPPI TORT CLAIMS ACT is the sole avenue by which Plaintiff Randolph may pursue this action.[9] Despite its provisions waiving immunity, the Act provides a number of exemptions that may nonetheless render the governmental entity immune from liability, among them the dangerous-condition exemption and the discretionary-function exemption.[10] However, these exemptions are

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[8]By reference to rainfall data for Hattiesburg provided by the U.S. Department of Commerce National Oceanic and Atmospheric Administration, Temple described rainfall in the first part of May, 2019 as exceeding "any of the averages noted for the total month of May" as well as that total rainfall for April, 2019 "was almost twice as much as the April average rainfall." Exhibit 86 ID at 6-7.

[9]*See* Miss. Code Ann. § 11-46-7(1) (specifying that "any claim made or suit filed against a governmental entity...to recover damages for any injury for which immunity has been waived under this chapter *shall* be brought *only* under the provisions of this chapter, notwithstanding the provisions of any other law to the contrary"(emphases added)); *see also City of Jackson v. Sutton,* 797 So. 2d 977, 980 (¶¶ 9, 10) (Miss. 2001) ("Any claim filed against a governmental entity and its employees *must* be brought under this statutory scheme. Statutes contained in the Act support the assertion that the Tort Claims Act is the exclusive route for filing suit against a governmental entity and its employees."(emphasis added, citation omitted)), *quoted in Suddith v. University of Sou. Miss.,* 977 So. 2d 1158, 1177 (¶ 44) (Miss. Ct. App. 2007), *cert. denied,* 977 So. 2d 1144 (Miss., Mar. 27, 2008).

[10]With regard to immunity to which a qualifying defendant may be entitled, the Mississippi Supreme Court has observed that in cases in which multiple bases for immunity are claimed "[a]pplicability under any *one* of the provisions of Mississippi Code Section 11-46-9 provides immunity for a governmental entity and its employees." *Fortenberry v. City of Jackson,* 71 So. 3d 1196, 1204 (¶ 25) (Miss. 2011) (also finding that "the City has immunity under

not themselves without exceptions.

> The dangerous-condition exemption applies to any claim
>
> Arising out of an injury caused by a dangerous condition on property of the governmental entity that was not caused by the negligent or other wrongful conduct of an employee of the governmental entity or of which the governmental entity did not have notice, either actual or constructive, and adequate opportunity to protect or warn against; *provided, however, that a governmental entity shall not be liable for the failure to warn of a dangerous condition which is obvious to one exercising due care*[.]

MISS. CODE ANN. § 11-46-9(1)(v). The Mississippi Supreme Court has applied the emphasized provision and found immunity established only under circumstances in which a failure to warn claim is made:

> [T]he case before the Court today is not a failure to warn case. The issue here is not whether the City was negligent for failing to warn of a dangerous condition, but rather whether the City was negligent for failing to inspect and maintain the drainage ditch, and consequently allowing a dangerous condition to continue to exist.

City of Jackson v. Internal Engine Parts Group, 903 So. 2d 60, 64 (¶¶ 11-12) (Miss. 2005) (distinguishing *City of Clinton v. Smith,* 861 So. 2d 323 (Miss. 2003) and affirming award of damages). Citing *City of Jackson,* the Court of Appeals has arrived at the same conclusion:

> While both parties concede that 'open and obvious' is not a complete bar to recovery in this case, we recognize that it is a complete bar in a Tort Claims Act case for the failure to warn of a dangerous condition. It is not a bar to recovery when the issue is the government's negligent maintenance or repair which led to

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Mississippi Code Section 11-46-9(1)(d) *alone*, without discussion of Mississippi Code Section 11-46-9(1)(b)")(emphases added).

the dangerous condition. This case likewise presented questions of affirmative acts of negligence by the city as well as negligent maintenance and repair.

City of Natchez v. Jackson, 941 So. 2d 865, 876 (¶ 33) (Miss. Ct. App. 2006) (internal citations omitted) (affirming award of damages).

As in *City of Jackson* and *City of Natchez,* this is not a failure to warn case. The plaintiff charges the City with negligent design, construction, repair, inspection and maintenance of Richburg Road. This court therefore cannot find that the City of Hattiesburg has shown that it is within the umbrella of immunity raised by section 11-46-9(1)(v). Accordingly, the court will follow appellate authorities on the issue and decline to apply the statute as urged by the defendant. *See generally McGee v. Neel Schaffer Engineers and Planners, Inc.,* 350 So. 3d 236, 248 (¶ 43) (Miss. Ct. App. 2022), *cert. denied,* 350 So. 3d 234 (Miss., Nov. 10, 2022); *Campbell v. Harrison Cty. Bd. of Supervisors,* 269 So. 3d 1269, 1274 (¶ 15) (Miss. Ct. App. 2018), *cert. denied,* 268 So. 3d 1280 (Miss., May 9, 2019) (both applying *City of Natchez v. Jackson*).

As an additional matter, even if failure to warn were an issue, it is beyond dispute that the Richburg Road dropoff was a dangerous condition; however, it was not one that could be deemed obvious to Plaintiff Randolph: on the other side of a heavily-treed blind curve with a narrow shoulder present,[11] down a sharp decline, with his eyes fixed upon the road ahead of him. As has very recently been observed about the open-and-obvious defense, "[it] is not a complete bar to recovery for every premises liability claim against a government entity. ... It is not a bar to recovery when the issue is the government's negligent maintenance or repair which led to the dangerous condition." *Simmons v. Jackson County,* 357 So. 3d 1129, 1134 (¶ 14) (Miss. Ct. App. 2022)(internal quotations, citations omitted), *cert. denied,* 357 So. 3d 643 (Miss., Mar. 9, 2023).

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[11] Exhibit 1

This treatment is consistent with an exception to the otherwise applicable discretionary-function immunity as provided in Miss. Code Ann. § 11-46-9(1)(d) for any claim

> Based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the governmental entity or employee thereof, whether or not the discretion be abused[.]

The Mississippi Supreme Court has applied this provision and held that "if the governmental employee indeed is performing a discretionary function, then the governmental entity is immune, regardless of whether the employee has abused his discretion." *Mississippi Transp. Comm'n v. Montgomery,* 80 So. 3d 789, 795 (¶ 18) (Miss. 2012) (citation omitted). Discretionary-function immunity is established only under circumstances in which a two-part public-function test is satisfied: First, the activity in question involved an element of choice or judgment. Then, the discretionary conduct must involve "considerations of public policy." *Id.* at ¶ 20 (internal quotations and citations omitted).[12] However, even the presence of both descriptors as to one activity is not dispositive of absolute immunity as to all:

> [T]he decision to build a road and the initial placement of traffic control devices is of the planning nature, involving public policy considerations. However, once the road is built and the responsible entity becomes aware of a dangerous condition in connection with the road, the duty becomes one of maintenance.

Jones v. Mississippi Dept. of Transp., 744 So. 2d 256, 264 (¶ 24) (Miss. 1999); *accord Moses v.*

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[12] Regarding public-policy function analysis the Supreme Court has instructed: "Because discretionary-function immunity protects only governmental actions and decisions based on considerations of public policy, when applying the discretionary-function exception, this Court must distinguish between *real policy decisions* implicating governmental functions and *simple acts of negligence* which injure innocent citizens." *Wilcher v. Lincoln County Board of Supervisors,* 243 So. 3d 177, 188 (¶ 34) (Miss. 2018) (internal quotations and citations omitted) (holding that defendants could not "take refuge' in discretionary-function immunity for a "simple act of negligence" (¶ 14)).

Rankin County, 285 So. 3d 620, 625-26 (¶¶ 15-16) (Miss. 2019) (holding trial court in error by finding County "protected by discretionary function immunity" where County's alleged failure to maintain was "a case of simple negligence contemplated in *Wilcher*"); *Bailey v. City of Pearl,* 282 So. 3d 669, 675 (¶ 14) (Miss. Ct. App. 2019) (observing that "negligent maintenance is a separate actionable claim against a public entity and not subject to discretionary-function analysis").

As for the necessity that the City "become aware of a dangerous condition" before the duty of maintenance arises, "dangerous condition" has recently been "broadly defined in our state as any condition that should be corrected by the governmental unit and which endangers the public." *Towns v. Panola County Board of Supervisors*, 357 So. 3d 1062, 1073 (¶ 30) (Miss. Ct. App. 2022)(internal quotations, alterations, citations omitted), *cert. denied,* 357 So. 3d 643 (Miss., Mar. 2, 2023). But, for more than a hundred years, awareness has been held to arise by CONSTRUCTIVE NOTICE.

In 1917 in the City of Greenville, Middleton was in a two-wheeled cart pulled by a pony. It was after dark, and Middleton was delivering newspapers to subscribers. As the cart crossed a wooden bridge at the intersection of Gloster and Theobold streets, the pony stepped in a hole caused by a broken plank and fell. Middleton was injured when he was thrown from the cart. Theobold Street was described as being "one of the main thoroughfares of the city and [as]very much traveled" while Gloster Street was in a "thickly populated" area. *City of Greenville v. Middleton,* 124 Miss. 310, 86 So. 804, 805 (1921). On appeal of the $5,000 jury verdict, the Court noted first that there was "no contention...that the city authorities had actual notice of the defective condition of the bridge" and then that the question was "whether the facts and circumstances in evidence were sufficient to attribute to the municipality constructive notice of

the defect." *Id.* The Court defined the elements for consideration in making this determination:

> No definite rule as to the length of time a defect must have existed to furnish notice to the municipal authorities can be fixed by the court, and whether notice shall be imputed to the city authorities is ordinarily a question for the jury to determine from the length of time the defect has existed, the nature or character thereof, the publicity of the place where it exists, the amount of travel over the street, and any other facts or circumstances in evidence which tend to show notoriety, and from which they may conclude that by the exercise of ordinary and reasonable care and diligence the defect should have been discovered by the corporate authorities.

City of Greenville v. Middleton, 86 So. at 805 (affirming judgment in favor of plaintiff) (citing *Whitfield v. City of Meridian,* 66 Miss. 570, 6 So. 244, 245 (1889) (stating that "[n]egligent ignorance is no less a breach of duty than willful neglect" and reversing judgment for the city)).

This precedent is not without application in much more recent years: *Couch v. City of D'Iberville,* 656 So. 2d 146, 150-51 (Miss. 1995) (reversing directed verdict for City); *City of Jackson v. Locklar,* 431 So. 2d 475, 480 (Miss. 1983) (affirming denial of jnov following verdict for plaintiff); *City of Jackson v. Hilton,* 324 So. 3d 1164, 1170-71 (¶ 19) (Miss. Ct. App. 2021) (affirming verdict for plaintiff). It applies equally here: One of the busiest, curviest, hilliest roadways in Hattiesburg; no evidence of a set inspection/maintenance plan; several years' notice of wash issues in the area of the blind curve with a very narrow shoulder at the site of the accident; notice within six months of the accident of the effect of heavy rainfall in the area of the accident, and an admittedly dangerous condition attributable to a washout. Thus, not only did this condition endanger the motoring public, under the circumstances "by the exercise of ordinary

and reasonable care and diligence" the [dropoff] should have been discovered."

It is clear that AS A RESULT OF THE ACCIDENT, the plaintiff sustained painful injuries to both his legs, that he has significant scarring, that he is permanently physically impaired, that he has incurred $192,457.72 in medical expenses, that he will require future treatment, that he has suffered, and will suffer, pain from his injuries, and that he can no longer engage in activities that he did before his injury. However, in determining the amount of damages he may recover,[13] consideration must be given to negligence on his part that contributed to the accident and his injuries. *See generally Campbell v. Harrison County Board of Supervisors,* 269 So. 3d 1269, 1274-75 (¶ 18) (Miss. Ct. App. 2018), *cert. denied,* 268 So. 3d 1280 (Miss., May 9, 2019).[14] The recognized base upon which this consideration rests is that

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[13] While the plaintiff does have the burden of proving damages, he is also to be given "all favorable inferences that can reasonably be drawn from that evidence." *Scott Prather Trucking, Inc. v. Clay,* 821 So. 2d 819, 821 (¶ 10) (Miss. 2002). In *Clay*, the plaintiff had undisputed damages in the amount of $48,413.22, but the jury awarded only $35,800.00. The supreme court determined that the jury had ignored certain of the plaintiff's proven injuries as well as her pain and suffering and loss of enjoyment of life. Based on that determination as well as that her limitations "may affect future career paths," the court affirmed the trial court's additur of $114,200. *Id.* at ¶ 13. *See also Mississippi Dept. of Mental Health v. Hall,* 936 So. 2d 917 (Miss. 2006) (affirming award of $591,597.06 for pain and suffering and permanent physical impairment to leg and foot where past medical expenses totaled $348,402.94 and future medical expenses were $75,000); *Thompson v. Lee County Sch. Dist.,* 925 So. 2d 57 (Miss. 2006) (affirming total damage award of $200,000 where medical expenses were more than $50,000); *Mississippi Dep't of Pub. Safety v. Durn,* 861 So. 2d 990 (Miss. 2003) (finding no abuse of discretion in court's award of $148,000 for pain and suffering, emotional distress and permanent disability where other proven damages totaled $12,500); *City of Jackson v. Perry,* 764 So. 2d 373 (Miss. 2000) (affirming award of $100,000 for pain and suffering where plaintiff incurred $11,000 in medical expenses).

[14] Applying Miss. Code Ann. § 11-46-9(1)(v): "[I]f the plaintiff can show that the [dangerous] condition existed or was not corrected because the governmental entity negligently failed to maintain the premises in a reasonably safe condition...the open and obvious standard is simply a comparative negligence defense used to compare the negligence of the plaintiff to the negligence of the defendant." *Id.* (internal quotations and citations omitted), *quoted in Simmons v. Jackson County,* 357 So. 3d 1129, 1134 (¶ 14) (Miss. Ct. App. 2022), *cert. denied,* 357 So. 3d 643 (Miss., Mar. 9, 2023) (both concluding that the sole proximate cause of each accident was

"the operator of a motor vehicle has a duty to keep the vehicle under proper control and to drive at a speed which is reasonable *under the conditions that [he] faces.*" *Simmons,* 357 So. 3d at 1134 (¶ 18) (quoting *Mississippi Dept. Of Transp. v Trosclair,* 851 So. 2d 408, 418 (¶ 35) (Miss. Ct. App. 2003).[15] Notably, Miss. Code Ann. § 63-3-505 specifies that the driver of any motor vehicle "*must* decrease speed...when approaching and going around a curve [or] when approaching a hill crest." (Emphasis added).

In this case, Plaintiff Randolph was very familiar with Richburg Road. He knew it was heavily traveled, that it was hilly and curvy, and that there were low spots and drop-offs along it. The posted speed limit was 35 mph. Despite his knowledge, he pulled a heavily-loaded trailer wider than his truck's bed around what he called a "blind" curve on a two-lane road at a speed of 44 mph. As a result, the accident and the plaintiff's consequent injuries resulted not just from the City's negligence but also from Randolph's. *See Thompson v. Lee County Sch. Dist.,* 925 So. 2d 57 (Miss. 2006) (applying Miss. Code Ann. § 11-7-15 which provides in part that "damages shall be diminished by the jury in proportion to the amount of negligence attributable to the person injured"); *Callahan v. Ledbetter,* 992 So. 2d 1220 (Miss. Ct. App. 2008) (affirming APPORTIONMENT OF FAULT to plaintiff in action against school board resulting from collision with school bus).

Based upon the foregoing and considering the totality of the circumstances leading up the

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the plaintiff's own negligence).

[15] *See generally City of Jackson v. Spann,* 4 So. 3d 1029, 1033 (¶ 12) (Miss. 2009) ("If the plaintiff's injuries are brought about by more than one tortfeasor, cause in fact is based upon whether the negligence of a particular defendant was a substantial factor in causing the harm. Once cause in fact is established, the defendant's negligence will be deemed the legal cause so long as the damage is the type, or within the classification, of damage the negligent actor should reasonably expect (or foresee) to result from the negligent act." (citations omitted)).

accident and injuries sustained by the plaintiff, it is the OPINION of this court that Plaintiff Randolph is entitled to recover an award of compensatory damages in the total amount of $963,000.00 together with interest on the judgment. However, it is the FURTHER OPINION of this court that the combined negligence of the City and Randolph proximately caused the accident and its consequences and therefore that the judgment against the City should be reduced by the 40% of fault attributable to Randolph. Accordingly, a separate judgment will be entered against The City of Hattiesburg in the amount of $385,200.00 together with 3% interest thereon from and after the date judgment is entered.

SO ORDERED AND ADJUDGED this, the 12 day of December, 2024.

ROBERT B. HELFRICH
CIRCUIT COURT JUDGE