

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

CHRISTOPHER RANDOLPH

PLAINTIFF

VERSUS

CAUSE NO.: 20-118

THE CITY OF HATTIESBURG; WARREN
PAVING, INC.; AND JOHN DOES 1-10

DEFENDANTS

MOTION TO AMEND/CORRECT JUDGMENT [DOC. 251]

Plaintiff, Christopher Randolph, by and through counsel, files this his Motion to Amend/Correct Judgment pursuant to *Mississippi Rule of Civil Procedure* 59(e). In support of this Motion, Plaintiff would state as follows:

1. On December 6, 2024, the Court entered its Opinion and Order [Doc. 250] as well as a Judgment [Doc. 251] awarding Plaintiff \$385,200.00 against The City of Hattiesburg ("The City"), following a trial held in July 2023. The Court also assessed 3% interest on the Judgment. Doc. 251.
2. In its Opinion and Order, the Court found that Plaintiff was entitled to compensatory damages in the amount of \$963,000.00.¹ However, the Court held that "the combined negligence of the City and Randolph proximately caused the accident."² The Court placed 40%³ of fault on Plaintiff, thereby allocating 60%⁴ of fault to The City.

¹ [Doc. 250, p.14]

² [Doc. 250, p.14]

³ 40% of \$963,000.00 equals \$385,200.00

⁴ 60% of \$963,000.00 equals \$577,800.00

3. The Court found that the damages of \$963,000.00 should be reduced by the 40% of fault attributed to Plaintiff. Reducing the award (\$963,000.00) by 40% (\$385,200.00)⁵ would leave an award of \$577,800.00 in favor of Plaintiff instead of the \$385,200.00 provided in the Judgment entered by the Court. Therefore, Plaintiff should have been awarded \$577,800.00 after accounting for his comparative negligence.
4. Because of the statutory cap of \$500,000.00 on damages against a governmental entity pursuant to *Miss. Code Ann.* § 11-46-15, it is Plaintiff's understanding that the Court would then be required by current law to reduce the award of \$577,800.00 to the statutory cap of \$500,000.00.⁶
5. Pursuant to *Mississippi Rule of Civil Procedure* 59(e), Plaintiff requests that the Judgment be amended to award Plaintiff \$500,000.00.
6. On the day before the Court entered the Judgment, the Mississippi Supreme Court awarded a plaintiff 4% post-judgment interest in *United Services Automobile Association v. Estate of Sylvia F. Minor*, 2023-CA-00049-SCT, 2024 Miss. LEXIS 331, 2024 WL 4985302 (Miss. Dec. 5, 2024). Plaintiff requests that this Court use that as the post-judgment interest figure in this Judgment.

⁵ \$963,000.00 (Judgment) - \$385,200.00 (40%) = \$577,800.00

⁶ Plaintiff reserves his right to challenge the constitutionality of this damages cap.

7. For the reasons stated above, Plaintiff requests that the Judgment be amended to correct the judgment to \$500,000.00 in favor of Plaintiff and to assess 4% post-judgment interest. A proposed Amended Judgment is attached as Exhibit 1.

RESPECTFULLY SUBMITTED, this the 10th day of December, 2024.

CHRISTOPHER RANDOLPH

/s/ Graham P. Carner

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that I have this day served the instant filing via the Court's electronic filing system which will send a notification to all known counsel of record.

/s/ Graham P. Carner

GRAHAM P. CARNER