

DOCKET NO: FBT-CV19-6086501-S

VICTOR AGUERO

V.

MICHAEL CAVALIERE

OFFICE OF THE CLERK
SUPERIOR COURT

2024 MAY 13 P 4: 24

JUDICIAL DISTRICT
OF BRIDGEPORT

SUPERIOR COURT

J.D. OF BRIDGEPORT

AT BRIDGEPORT

MAY 13, 2024

MEMORANDUM OF DECISION

On September 13, 2017 at approximately 5:15pm, the plaintiff, Victor Aguero, was operating a motor vehicle on Chapel Street in Bridgeport, CT. The defendant, Michael Cavalier, was on duty as a police officer, operating a vehicle owned by the defendant, City of Bridgeport, also on Chapel Street. The defendant was in the process of backing up when he struck the front of the plaintiff's vehicle.

Officer Cavalier testified that he had just started his shift and was traveling on Chapel Street towards Main Street. He stopped his vehicle because he received a call from his dispatcher. After stopping in the road he began backing up to park closer to the curb. He felt an impact after he began backing up. He testified he did not see the plaintiff prior to the impact. Officer Cavalier candidly testified that he understood it was his obligation, prior to backing, to make sure it was safe to do so. He further testified that he did not engage his hazard lights when he stopped. Officer Cavaliere described a "slight impact".

The plaintiff testified that he had exited the parking lot of his apartment building onto Chapel Street and saw the police vehicle stopped in the street. He stated he stopped approximately ten to fifteen feet behind the defendant and waited to see which way the vehicle was going to move. He testified that the defendant began backing up and hit his vehicle.

Notice sent to all
counsel : RJD.

5/13/24 *R. Jones* Asst. Clerk

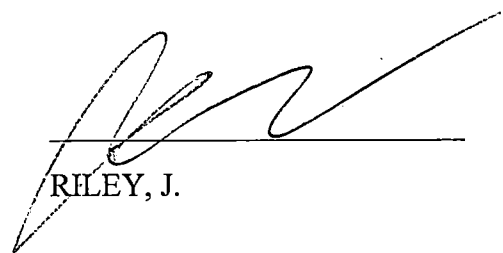
The plaintiff, an ordained minister, is 71 years old. He testified that he was not in pain at the scene of the accident. He claims he began experiencing neck pain and shaking in his hands that evening which prompted a visit to the emergency room at St. Vincent's Hospital. The plaintiff sought follow up with Dr. William DeAngelo, a chiropractor, Access Rehab Centers for physical therapy, Connecticut Pain and Wellness Center, Dr. Abraham Mintz, and Dr. Patrick Mastroanni. Dr. Mastroianni opined that the plaintiff had a 42% permanent partial impairment to his cervical spine.

The plaintiff testified that he suffers from constant headaches, neck pain, and shaking and weakness in his hands which prevents him from gripping or lifting items or gripping a steering wheel. He also complained of difficulty working. He acknowledges he had suffered neck pain prior to the accident but was functioning much better. His wife also testified stating that she never noticed that the plaintiff had any difficulties prior to the incident.

The defendant introduced records demonstrating that the plaintiff had a long record of preexisting issues with his neck. The defendant also introduced a report from Dr. Brittis, who performed an IME. Dr. Brittis stated that the plaintiff's impairment was 20% and that it would be difficult to apportion the rating between this incident and the history of prior neck pain. Finally, the defendant introduced video of the plaintiff preaching on September 1, 2018 in Paterson, New Jersey and on July 24, 2022 in the Dominican Republic. On both occasions the plaintiff appears on stage for 90 minutes or more. His exhibited endurance and body movements over these prolonged periods contradict the limitations to which he testified in court.

The plaintiff claims \$8,864.25 in past medical expenses and is not making a lost wage claim. The parties stipulated that the plaintiff has the life expectancy of 13 years.

Liability is found in favor of the plaintiff. He is awarded \$8,864.25 in economic damages and \$20,000 in non-economic damages for a total award of \$28,864.25.



RILEY, J.