

STATE OF MAINE

SUPERIOR COURT

AROOSTOOK, ss

DOC. NO. CARSC-CV-16-020

MATTHEW R. ENMAN)
 PLAINTIFF)
 vs.)
 KYLIE OLIVEIRA, ALAN BOUCHARD,)
 BOU’S BREW PUB, SCOTT SAED,)
 and ERIC NADEAU)
 DEFENDANTS)

ORDER AND
 DECISION
 REGARDING
 DAMAGES

On February 10, 2016 Plaintiff, Matthew Enman filed with the Court an action seeking damages for injuries sustained on February 28, 2014 due to the alleged reckless and negligent conduct of the Defendants, Kylie Oliveira, Alan Bouchard, Bou’s Brew Pub, Scott Saed and Eric Nadeau. All of the Defendants were properly served. Only Defendant Oliveira filed a response, in the form of a handwritten letter. Defendants Bouchard, Saed, Nadeau and Bou’s Brew Pub were all defaulted on June 8, 2016. The matter was set for trial and hearing on damages on April 2, 2018. At hearing, of the Defendants only Mr. Bouchard was present. Plaintiff Matthew Enman was present with his attorney, Scott Hunter, Esq.

Defendants Bouchard, Saed, Nadeau and Bou’s Brew Pub all previously being defaulted, and Defendant Oliveira failing to attend or defend, judgment is hereby entered for the Plaintiff on his Complaint. The Court will now address damages. In determining an award for damages, the Court has considered the testimony of the Plaintiff and Exhibits 1 through 7, which include the medical records and a summary of the related medical bills.

DISCUSSION

Late in the evening of February 28, 2014 Plaintiff was on the sidewalk in front of Bou's Brew Pub in Presque Isle when he was involved in an altercation with employees or bouncers of the pub, namely Defendants Saed and Nadeau. As a result of that altercation Plaintiff sustained an injury to his left leg, causing him to experience immediate pain and numbness. Plaintiff went to the Aroostook Medical Center in Presque Isle where he was diagnosed with an avulsion type injury, or sprain. He was discharged non-weight bearing and with crutches.

Believing his injury was more serious, later in the day on March 1, 2014 Plaintiff went to Cary Medical Center in Caribou. Further x-rays were taken and a non-displaced fibula fracture was diagnosed. A referral to orthopedics was made.

In March and April, 2014 the Plaintiff's care was followed by Pines Orthopedics. Plaintiff remained with significant pain and swelling and was non-weight bearing for a period of six weeks. He was referred to physical therapy which he commenced on April 14, 2014 at County Physical Therapy. In April Plaintiff moved back to his home in the Bangor area. At that time therapy was transferred to a local provider, Results Physical Therapy. Similarly, his orthopedic care was transferred to a Bangor provider and on May 12, 2014 he commenced treatment Dr. Trubey at Down East Orthopedics.

The Plaintiff treated with Dr. Trubey through October 12, 2014, consulting with him seven times. Through that period the Plaintiff's condition with his left ankle slowly but gradually improved, but not before several weeks of non-weight bearing, followed by several weeks of bracing and other forms of support. In total, through May 30, 2014 Plaintiff attended 23 sessions of physical therapy. And a follow-up MRI ordered by Dr. Trubey showed small, non-displaced fractures of both the Tibia and Fibula and also some ligament/tendon damage.

Plaintiff's activities were significantly limited for several weeks. With time however most, if not all, of his pre-injury activity level was recovered. He began running and exercising, including participation in P90X. Increased activity level did come however with the price of increased pain, stiffness and swelling. Although Dr. Trubey did not believe surgery was needed, he referred him for a consult with Dr. Asherman.

The Plaintiff was examined by Dr. Asherman on December 19, 2014. Although Plaintiff was still experiencing pain, stiffness and swelling, Dr. Asherman did not feel surgery was needed. Since then the Plaintiff continued to increase his activity level. All in all, Plaintiff has had a good recovery from his injuries, but to date still has some pain and stiffness, especially in mornings and after driving. His treatment and convalescence was intense for the first six months after the injury, through October 2014.

The medical treatment for the injuries related to this action resulted in Plaintiff incurring medical bills of \$11,558.80. The Plaintiff did not experience any loss of wages as he was able to work that summer of 2014 in a family operated business. And there has not been evidence presented of

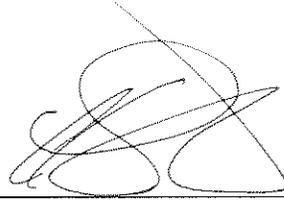
permanent impairment. Based on the nature and severity of the weight bearing injury, the treatment and convalescence required, with ultimately a successful recovery, the Court finds that an award of \$50,000.00 for pain, suffering and loss of enjoyment of life is warranted.

Accordingly, the Court finds that the Plaintiff is to be awarded \$61,558.80 in total damages.

The entry is:

1. Judgment for the Plaintiff, Matthew R. Enman and against the Defendants Kylie Oliveira, Alan Bouchard, Bou's Brew Pub, Scott Saed and Eric Nadeau in the amount of \$61,558.80, plus interest and costs;
2. The Clerk is directed to incorporate this Order into the docket by reference pursuant to M.R.Civ.P.79(a).

Dated: April , 2018



Justice, Superior Court