

JOHN JEWELL,
Plaintiff

v.

MICHAEL NEWBERRY,
Defendant

JUDGMENT

This matter came before the Court on November 1, 2022 for a trial. Mr. Jewell appeared with this attorney, Brett Baber, Esq. Mr. Newberry did not appear. Mr. Newberry's appearance at court hearings has been somewhat sporadic. The Court waited before starting the trial for Mr. Newberry to appear. He did not appear, and a default was entered. Therefore, liability has been established. The hearing proceeded to address the issue of damages. The evidence on damages consists of the testimony of Michael Newberry and numerous medical records that were admitted into evidence. Additionally, it should also be noted that Mr. Newberry did not appear prior to the end of the hearing.

On August 28, 2015, Mr. Jewell was injured on a construction jobsite being managed by Michael Newberry. On that day, Mr. Jewell fell from an upper story of a home/garage that was being built to the garage floor below. As a result, he suffered a closed head injury, a left wrist fracture, a complex shoulder injury, and two rib fractures. Mr. Jewell was 56 years old at the time of the incident and he is currently 62 years old.

Ribs

Mr. Jewell sustained two rib fractures in his fall: a nondisplaced fracture of the left posterior second rib and a nondisplaced fracture of the left first rib. For some period of time, the rib fractures caused Mr. Jewell a fair amount of pain. Those fractures appear to have resolved on their own.

Wrist

Mr. Jewell suffered from a comminuted impacted fracture of the distal metaphysis of the left radius with dorsal displacement (a wrist fracture). Mr. Jewell had pain, swelling, and a deformity to the left wrist. On the same date as the incident, Mr. Jewell had a surgical fixation of his left wrist, including insertion of a radius locking plate. Thereafter, he engaged in physical therapy. The wrist injury does not appear to cause too many ongoing issues for Mr. Jewell.

Shoulder

Initially, non-operative care was given to Mr. Jewell for his left acromion fracture. This non-operative care was not successful and his shoulder was very painful. Imaging taken after a period of time suggested a widening of the acromioclavicular joint. After consultation with a few doctors, who gave him conflicting advice, he consulted with Dr. Endrizzi, a specialist in treating

complex shoulder injuries. Dr. Endrizzi operated on January 27, 2016 and performed a full-thickness rotator cuff repair, open reduction and internal fixation of the acromial nonunion and distal clavicle excision to his left shoulder. As a result, Mr. Jewell has a metal plate and screws in his shoulder. The medical records indicate he initially had a great deal of post-surgical stiffness, but over time and with physical therapy his shoulder became more comfortable and his range of motion improved. However, he continues to have some pain, weakness, and limited range of motion in his shoulder. He engaged in physical therapy for his shoulder both pre and post-surgery.

Closed head injury

Immediately after his fall, a small abrasion to Mr. Jewell's left temporal area was noted. As a result of his fall, Mr. Jewell had vision issues, headaches, and dizziness with fatigue. Imaging suggested no acute process. After his release from the hospital, Mr. Jewell continued with his primary care physician for the ongoing symptoms of his closed head injury. Due to the symptoms of his closed head injury, initially Mr. Jewell did not drive. On June 14, 2016, Mr. Jewell consulted with Dr. Dinnerstein, a neurologist. Dr. Dinnerstein opined that Mr. Jewell had sustained a "moderate-to-severe" concussion, but had recovered "nicely." Mr. Jewell testified that he continues to have some trouble concentrating.

As a result of the injuries he sustained in the August 28, 2015 fall, Mr. Jewell's life and activities have been affected. Initially, he was in pain and on several medications. His wife had to assist him with his activities and she had to assume all household responsibilities. These acute effects seem to have resolved. However, he continues to have decreased strength and limited range of motion in his shoulder and this prevents him from doing certain things, particularly with respect to engaging with his grandson, riding his motorcycle, and yard work. He also has some issues with pain and numbness. His ongoing issues with concentration are frustrating to him and seem to cause a bit of friction between he and his wife. Given the length of time the ongoing issues have existed, it appears they will continue going forward.

Medical Bills

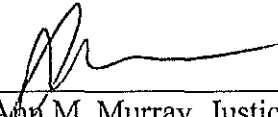
Mr. Jewell has incurred \$105,367.02 in medical bills in connection with his fall.

Mr. Jewell is not making a claim for lost wages/income past or future. He is not expecting and therefore is not making a claim for future medical expenses.

After considering all of the evidence, the Court awards the Plaintiff \$355,367.02 (\$105,367. in medical bills and \$250,000. in past and future pain, suffering, and loss of enjoyment of life) plus interest and costs.

The Clerk shall incorporate this Judgment upon the docket by reference.

Dated: November 1, 2022


Ann M. Murray, Justice

Maine Superior Court

ORDER/JUDGMENT ENTERED IN THE
COURT DOCKET ON: 11-4-2022