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October 24, 2006

Stuart F. James, Esquire
Goins, Carpenter, James & Lockett
736 Cherry Street
Third Floor, Heritage Center
Chattanooga, TN 37402

Re: Massengale v. Drury

Dear Stuart:

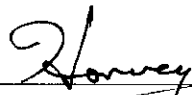
I would like to get the Motion which I have caused to be filed in the above captioned heard on November 28, 2006, at 1:00 P.M. If this date is not available with you then please advise of some available dates so that we may see where Judge Perry might be so that we can have the Motion heard.

I shall be awaiting your reply.

With best personal regards, I am

Yours truly,

CAMERON & GOUGER

By: 

J. Harvey Cameron

JHC/clt

Enclosures

cc: Mr. Rex Massengale

IN THE TWELFTH JUDICIAL DISTRICT OF TENNESSEE
CIRCUIT COURT OF MARION COUNTY

REX MASSENGALE

Plaintiff

v.

WINIGENE DRURY and GREGORY
LEWIS, next of kin of RYAN LEWIS,
Deceased

Defendants

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No.: 14210

FILED
MAR 10 2014
MARION COUNTY
CLERK

MOTION FOR NEW TRIAL

Comes the Plaintiff pursuant to Rule 59 of the Tennessee Rules of Civil Procedure and files this Motion for a New Trial and for grounds of which would show unto the Court as follows:

I

The verdict of the jury is contrary to the weight of the evidence in this action and the Court acting as a thirteenth juror should grant to the Plaintiff a new trial.

II

The evidence in the case reflected absolutely no negligence on behalf of the Plaintiff and that the Defendant, Ryan Lewis', vehicle traveled approximately one hundred (100) yards across the median and crossed two (2) lanes of traffic coming to rest on the shoulder of the west bound lane of traffic on I-24 striking the Plaintiff's vehicle before coming to rest.

III

Although the testimony of the Plaintiff was such that he could not state the exact speed of the vehicle driven by the Defendant it was clear from the testimony that the

Defendant was traveling too fast for the weather conditions which existed. There was no evidence of any other vehicles being involved in the accident or causing the accident in question, and the Court as the thirteenth juror should grant to the Plaintiff a new trial on all issues.

IV

The jury failed to adhere to the charge of the Court in that the negligence of the Defendant was negligence per se and, therefore, the jury was onorrated with a responsibility to return a verdict on behalf of the Plaintiff. The Plaintiff was free of any negligence and the statutory obligation imposed upon the Defendant driver required him to maintain control of his vehicle and keep his vehicle in the proper lane of traffic and because his vehicle crossed the median and came into the Plaintiff's lane of traffic causing the accident and resulting injuries to the Plaintiff the Defendant is absolutely liable under law.

V


The acts of the jury in returning a verdict on behalf of the Defendants was arbitrary, capricious and apparently motivated by sympathy.

VI

This Honorable Court as a thirteenth juror is duty bound under law to approve or disapprove the verdict of the jury and based upon all of the evidence your Honor acting in such capacity should grant the Plaintiff's Motion for a new trial.

Respectfully submitted,

CAMERON & GOUGER
An Association of Attorneys
28 Courthouse Sq., Suite 100
P. O. Box 759
Jasper, TN 37347
(423) 942-9975


By: 
J. Harvey Cameron, BPR#2465
Attorney for the Plaintiff

CERTIFICATE OF SERVICE

I, J. Harvey Cameron, do hereby certify that I have served the a copy of the foregoing pleading to:

Stuart F. James, Esquire
Goins, Carpenter, James & Lockett
736 Cherry Street
Third Floor, Heritage Center
Chattanooga, TN 37402

by hand-delivery, facsimile or by mailing a copy of same by United States mail with postage prepaid thereon this the 26th day of October, 2006.

By: 
J. Harvey Cameron