

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

George S. Domaszek,)	
)	
Plaintiff,)	
)	
v.)	No. 19 L 11349
)	
)	
Kathleen A. Marrs,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

If a defendant’s liability is uncontested, the amount of damages owed to the plaintiff is not a question of material fact that defeats summary judgment. Here, the defendant has admitted liability on all elements of the plaintiff’s negligence claim. Since only a jury can determine the amount of damages owed to the plaintiff, the plaintiff’s summary judgment motion must be granted.

Facts

On February 8, 2018, vehicles driven by George Domaszek and Kathleen Marrs collided near the intersection of Palatine Road and South Ela Road in Inverness, Illinois. Domaszek was injured in the collision, and he eventually filed a negligence cause of action against Marrs.

The case proceeded to discovery, and Marrs testified at her deposition that she was uncertain as to whether she turned left onto South Ela Road on a red or green light. Marrs later responded to Domaszek’s requests to admit by admitting liability for the accident. She also admitted that Domaszek’s medical treatment was necessary as a direct and proximate result of the accident.

On July 2, 2021, Domaszek filed a motion for summary judgment. The parties subsequently filed their response and reply briefs.

Analysis

Summary judgment is appropriate if the available record reveals there exists no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. 735 ILCS 5/2-1005(c). The same Code of Civil Procedure section provides that “[a] summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages owed.” *Id.* That language is controlling here.

Domaszek is seeking summary judgment against Marrs in light of her admissions that there exist no genuine issues of material fact as to liability. Marrs does not contest a finding of liability against her, but argues that the entry of summary judgment would ultimately give the jury an inaccurate understanding of the case’s procedural posture. According to Marrs, the issue is whether pattern jury instruction 1.02 or 23.01B will be given to the jury.

Jury instruction 1.02, “pre-trial judicial determination in favor of plaintiff,” provides that:

The Court has found the defendant[s] [(insert name of defendant(s))], [is] [was] [were][negligent] [liable] [other finding], so that is not an issue you will need to decide. [The remaining defendants are not to be prejudiced by the fact that the (negligence) (liability) (other finding) of [(name of defendant(s) above)] is no longer at issue.]

In contrast, jury instruction 23.01B, “admitted fault and causation,” provides:

The defendant admits that [he] [she] [it] [was negligent] [produced an unreasonably dangerous product] [other fault conduct]. The defendant also admits that [his] [her] [its] [negligence] [unreasonably dangerous product] [other fault

conduct] was a proximate cause of [injuries] [damage] to the plaintiff. You need only decide what amount of money will reasonably and fairly compensate the plaintiff for those [injuries] [damages].

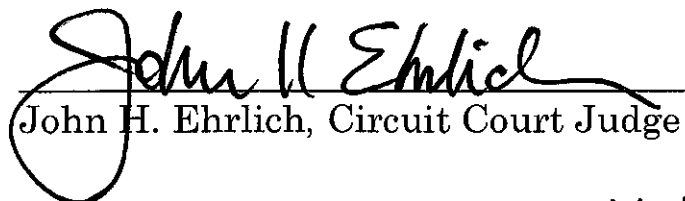
According to Marrs, jury instruction 1.02 fails to convey Marrs' voluntary admission of liability.

Marrs' argues a distinction without a difference. First, the inference associated with Marrs' argument is that a jury will be more sympathetic to her and assess less in monetary damages if it understands that Marrs admitted to liability. Even if that conclusion were true, that is no basis for a court to reject an otherwise legitimate request for summary judgment. Second, Marrs should have recognized that her admission as to liability would provide the factual basis for a summary finding. Third, regardless of the jury instruction, the jury would decide the issue of damages only; thus, Marrs faces no prejudice. Fourth, Marrs has not provided this court with any case law establishing that jury instruction 1.02 is, somehow, more prejudicial than 23.01B.

Conclusion

For the reasons presented above, it is ordered that:

Domaszek's summary judgment motion is granted.


John H. Ehrlich, Circuit Court Judge

Judge John H. Ehrlich

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Circuit Court 2075