

IN THE COURT OF APPEALS
AT KNOXVILLE

FILED
January 27, 2000
Cecil Crowson, Jr.
Appellate Court Clerk

RONALD STEPHEN SATTERFIELD,)
SR.,) E1998-00349-COA-R3-CV
)
Plaintiff-Appellee,)
)
)
vs.) KNOX CIRCUIT
) 03A01-9805-CV-00162
)
)
)
GARY LONG and RICHARD M.)
SMITH,)
)
Defendants-Appellants.)

OPINION ON PETITION TO REHEAR

Goddard, P.J.

Ronald Stephen Satterfield, Sr., has filed what he styles, "PETITION FOR CLARIFICATION OR LIMITED REHEARING." as to our opinion in this cause, which was filed on October 13, 1999.

He plausibly argues that upon our finding that the Co-Defendant, Richard M. Smith, should have been exonerated by a

directed verdict, all fault, giving rise to an action seeking damages for outrageous conduct should be assigned to Mr. Long, and that we should assess the entire award of compensatory damages in the amount of \$80,000 to him.

Although we recognize Mr. Satterfield is not specifically seeking an additur, which this Court is not authorized to grant, he is seeking that we assess damages against Mr. Long which a jury has not assessed. This we cannot do in light of Mr. Long's undeniable right to a jury trial as to the amount of damages he is required to pay.

We believe that Mr. Satterfield must make an election: either accept the jury's award of \$64,000 in compensatory damages against Mr. Long or seek a new trial as to that Defendant. Under the circumstances of this case we are prepared to grant Mr. Satterfield a new trial limited to the issue of compensatory damages if he elects the new trial option.

Mr. Satterfield will have 15 days from and after the entry of this opinion to file a statement of his election with the Clerk of this Court. If he desires to pursue further

appellate review in this matter, he can make his election under protest.

Pending the filing of Mr. Satterfield's election, his petition for rehearing will be held in abeyance by the Court.

Houston M. Goddard, P.J.

CONCUR:

Charles D. Susano, Jr., J.

William H. Inman, Sr.J.