

COMMONWEALTH OF KENTUCKY  
WARREN CIRCUIT COURT  
DIVISION 1

CIVIL ACTION NO. 17-CI-00285

ALICE and LLOYD DEAN DUFF

PLAINTIFFS

VS

TAGE F. HAASE, M.D., ET. AL.

DEFENDANTS

**FINAL ORDER RELATING TO PENDING MOTIONS OF  
JUDGMENT NOT WITHSTANDING THE VERDICT, MOTION TO ALTER,  
AMEND OR VACATE, AND ORDER ON AMENDMENT OF COMPLAINT**

The trial court, having heard the case, reviewed the pleadings and arguments of counsel, finds as follows:

**MOTION TO SET ASIDE THE VERDICT**

The Defendants' Motion to Set Aside the Verdict is overruled. The Court can not find legal justification for setting aside such verdict, based on arguments of the Defendants. The parties have shown me no authority upon which I may lower the verdict, therefore the options are to accept the verdict or reject and conduct a new trial. While the Court is familiar with the standards for setting aside a verdict, the Court cannot say, as a matter of law or fact, that the issue of liability was not based on reasoned opinion of the testimony given and the amount of the verdict. Although a large amount has been awarded, it does not "shock" the conscience of the Court.

**MOTION TO ALTER, AMEND OR VACATE**

The Court's ruling relating to the Motion to Alter, Amend or Vacate the order Dismissing Dr. Haase entered on or about September 23, 2022, is sustained. After review of the pleadings and of the record, the Court had requested that counsel tender proposed findings as it relates to the Motion to Alter, Amend or Vacate the Order Dismissing Dr. Haase's case. Defense counsel tendered their order and, seeing that no other proposed orders were filed, the Court signed such. The reasoning was

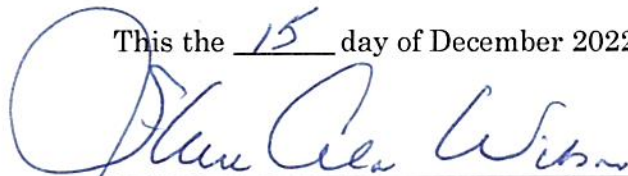
that the Court deemed that there was no question that Dr. Haase performed his services in conformity with his employment with Graves Gilbert Clinic. At no time was it argued that he acted in any individual capacity and therefore, he should not be held personally liable. However, as cited by the Plaintiff, the case of Cohen v. Alliant Enters., Inc., 60 S.W. 2d. 536 (Ky. 2001) holds that a plaintiff may bring suit and recover from the principle under a vicarious liability theory without first filing suit or getting a judgment against the agent. This Court gave one instruction that the jury could find Graves Gilbert Clinic liable, acting through its agents, Dr. Haase and Dr. Wierson, since Graves Gilbert was responsible for both. The claims against Dr. Haase as an agent against Graves Gilbert were incorporated into the instruction as contemplated by Cohen. Because this Court did not isolate Dr. Haase in the instruction and because Graves Gilbert is responsible for him, this Court has not included him in the judgment. Further, since the last hearing on the matter, it has come to the Court's attention that Dr. Haase's employment contract, in fact, states that he is responsible for any excess verdict over the insurance limits, and it is the concern of the Court that the order signed may affect Dr. Haase's insurance coverage. Therefore, I am setting aside the order signed on or about September 23, 2022.

#### MOTION TO AMEND COMPLAINT

After the verdict, the Plaintiffs filed a motion in which they wished to amend the complaint for the purpose of bringing a bad faith claim against Dr. Haase and Graves Gilbert Clinic's insurance carrier, State Volunteer Mutual Insurance Company. There are many different avenues in which this claim may be asserted. However, in looking at the rules, it appears that a motion to amend to assert a new claim that arises and matures after the verdict is proper. Therefore, the Court will allow the amendment.

There being no just cause for delay, this order is final and appealable.

This the 15 day of December 2022.

  
\_\_\_\_\_  
STEVE ALAN WILSON, JUDGE  
WARREN CIRCUIT COURT, DIVISION 1

Clerk: Send Copies to:

- \_\_\_\_\_ Chadwick Gardner, Esq.
- \_\_\_\_\_ Frank Hampton Moore, Jr, Esq.
- \_\_\_\_\_ Christopher Johnson, Esq.
- \_\_\_\_\_ Daniel Brown, Esq.
- \_\_\_\_\_ Craig Johnson, Esq.
- \_\_\_\_\_ John L. Tate, Esq.