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Case Bulletin: Civil Litigation

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Pennsylvania Supreme Court explains that any ten jurors who agree on an answer to a special interrogatory is sufficient for a majority on that issue and that not all of the same ten jurors need to agree as to each special interrogatory.

Darala Fritz and Gordon Fritz v. Hazel Wright, et al.
No. 116 MAP 2005
Decided October 18, 2006

In 1971, the Pennsylvania Constitution was amended to permit the General Assembly to replace the traditional requirement of unanimous jury verdict with a five-sixths rule in civil cases. In *Fritz v Wright, et al.*, 872 A.2d 851 (PA. Super.2005) the Pennsylvania Supreme Court determined whether the same ten jurors, five-sixths, must vote identically on each special interrogatory (questions answered by the jury to aid them in determining a verdict) in order to sustain a verdict. The Supreme Court on appeal reviewed the Superior Court's decision.

In the present case, plaintiff fell on defendant's property, sustained an injury and made a claim in negligence of improper design and maintenance. The jury was asked to answer the following special interrogatories in order to reach a verdict.

Do you find defendants negligent?

Was defendant's negligence a substantial factor in causing plaintiff's injury?

Was plaintiff contributorily negligent?

Was plaintiff's contributory negligence a substantial factor in bringing about plaintiff's harm?

State the amount of damages plaintiff suffered.

Upon completion of trial, the jury weighed these questions and unanimously agreed on question one, two and three. Ten jurors did not believe plaintiff's contributory negligence a substantial factor in bringing about plaintiff's harm. Two jurors, jurors four and ten, disagreed and believed plaintiff's contributory negligence a substantial factor in his injury. Concerning question five, ten jurors agreed that plaintiff sustained \$51,300 in damages. Jurors four and nine believed plaintiff only suffered \$6,300 in damages. Therefore, only nine jurors agreed it with the totality of the verdict, with jurors four, nine and ten disagreeing on at least one special interrogatory.

The trial court granted plaintiff \$51,300 in damages, ruling that any five-sixths was required to sustain a verdict. Defendants appealed to the Superior Court who overturned the Trial Court's decision and ruled the same five-sixths was required to sustain verdict. Thereupon, the plaintiff appealed the Supreme Court and the Court ruled that any five-sixths of a jury was required to answer a special interrogatory, as opposed to the same five-sixths for all special interrogatories.

The Court rationalized their answer with two supporting arguments. First, the same five-sixths jury rule would require a court to delve into the sanctity of the jury to determine disagreements among jurors and subparts of the jury's discussions. If the case did not have special interrogatories, the Court and attorneys would not be permitted to explore the findings of a jury, therefore, they should not be able to in cases that have special interrogatories. Second, the Court reasoned that special interrogatories are not verdicts, but rather a way to guide the jury in determining the verdict of a case.

Justice Saylor dissented and believed that the same five-sixths were needed to sustain a verdict. He rationalized that each special interrogatory was a requirement of the claim and, if the same ten jurors did not agree on all the special interrogatories, then the same ten jurors did not agree the verdict. Therefore, a jury that did not have the same ten jurors answers each interrogatory, the five-sixths requirement was not met and a verdict could not be sustained.