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March 17, 2025

(Via e-Courts and Email))
 The Honorable Jeffrey B. Beacham, J.S.C.
 470 Dr. Martin Luther King, Jr. Blvd.
 3rd Floor
 Newark, New Jersey 07102

Re: Anas vs. Agyapong vs. Asamoah
Docket No. ESX-L-002918-22
Plaintiff's Notice of Cross Motion for Summary Judgment
Returnable for Friday, September 13, 2024

Dear Judge Beacham:

In furtherance of my Oral motion made on Thursday, defense requests that the court grant a remittitur in this matter as to the Jury's verdict in the amount of Eighteen Million Dollars (\$18,000,000.00). The amount is clearly excessive and shocks the judicial conscience in light of the proofs presented and the improper statements of the plaintiff's counsel in summation and the general tenor of his closing and the trial in general.

Although the preferred method is to honor the jury's verdict on damages a litigant is not without redress. In *Cuevas v. Wentworth Grp.*, 226 N.J. 480, 501 (2016) the court held "A jury's verdict, including an award of damages, is cloaked with a 'presumption of correctness.'" *Cuevas v. Wentworth Grp.*, 226 N.J. 480, 501 (2016) (quoting *Baxter v. Fairmont Food Co.*, 74 N.J. 588, 598 (1977)). "[S]ubstantial deference ... must be accorded [to] a damages award rendered by a jury." *Graphnet, Inc. v. Retarus, Inc.*, 250 N.J. 24, 37 (2022) (quoting *Orientale v. Jennings*, 239 N.J. 569, 589 (2019)).

However, where appropriate "[T]he molding of a monetary jury award is appropriate when done to conform with and reflect allocation of liability." *Wadeer v. N.J. Mfrs. Ins. Co.*, 220 N.J. 591, 611 (2015). Molding jury verdicts to conform to evidence like liens, medical bills or lost wages is "most appropriate when it pertains to form rather than substance." *Kassick v. Milwaukee Elec. Tool Corp.*, 120 N.J. 130, 135 (1990). This is not a request to mold but to correct an injustice. A jury award may be adjusted by the trial court under certain limited circumstances. Accordingly, a trial court may use remittitur or additur to adjust a jury verdict beyond what is allowed by molding. In that regard, the New Jersey Supreme Court has explained:

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[I]n those rare instances when a trial judge determines that a damages award is either so grossly excessive or grossly inadequate that the grant of a new damages trial is justified, the judge has the option of setting a remittitur or an additur at an amount that a reasonable jury would award given the evidence in the case.... If both parties accept the remittitur or additur, then the case is settled; if not, a new trial on damages must proceed before a jury.

Orientale, 239 N.J. at 575.

To warrant remittitur or additur, a jury award must “shock[] the judicial conscience.” *Id.* at 595 (quoting *Cuevas*, 226 N.J. at 485). The jury award must also be consistent with the evidence presented and fair comment of the attorneys of the evidence but must “be viewed in the light most favorable to plaintiffs.” in light of the trial record. *Cuevas*, 226 N.J. at 488.

Our court’s have held that when a damages award “is so grossly excessive or so grossly inadequate” as to require a new trial, the court “also has the option of recommending to the parties a remittitur or an additur in lieu of a new trial.” *Orientale*, 239 N.J. at 595-96. “In setting a remittitur or an additur, the court must determine ‘the amount that a reasonable jury, properly instructed, would have awarded.’ ” *Orientale*, 239 N.J. at 596 (quoting *Tronolone v. Palmer*, 224 N.J. Super. 92, 103 (App. Div. 1988)). Although a trial court “must exercise the power of remittitur with great restraint” and only “in the unusual case in which the jury’s award is so patently excessive, so pervaded by a sense of wrongness, that it shocks the judicial conscience.” the remedy is still available to a party to litigation. *Cuevas*, 226 N.J. at 485. “[A] judge’s personal experiences with seemingly similar cases while in practice and on the bench are not relevant in deciding a remittitur motion.” *Id.* at 505.

In this matter the award of compensatory damages of Eighteen Million Dollars (\$18,000,000.00) returned in 30 minutes clearly breaches the threshold of “shocking the conscience” even viewing it in a light most favorable to the plaintiff. The verdict was less about the evidence presented then the plaintiff’s counsel closing argument where returning a fair and reasonable verdict was mentioned in a brief passing and the focus was on “stopping the defendant” because he could not be stopped in Ghana and that he came to New Jersey to stop the defendant and not obtain a fair and reasonable verdict. This is the equivalent of advising the jury the verdict would be “sending a message” which our courts have held is improper and reversible. *Szczecina v. PV Holding Corp.*, 414 N.J. Super. 173 (App. Div. 2010)

Counsel for plaintiff also made a statement about asking for a “substantial” amount of money and not just what the evidence showed. Plaintiff’s counsel continually made several statements during the trial and closing about plaintiff and his family’s safety and fear of being harmed due to the defendant. These were severely prejudicial and not relevant to the claims regarding defamation that occurred in West Orange. They were extrinsic matters that occurred in Ghana and had no relevance to the plaintiff’s claims. Specifically, by clearly trying to tie the death of Ahmed Hussein-Suale and inflaming the jury with these claims. There was no evidence presented regarding actual losses of the plaintiff suffered as a result of the statements. The plaintiff presented no experts, no witnesses and no testimony from plaintiff about any emotional damage that would justify the verdict. The plaintiff himself never testified that these statements had any real impact

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upon him, either financially or emotionally. Again, plaintiff's counsel kept referring to potential harm to he and his family not to any actual losses throughout the trial. Curative instructions and sustaining of objections can not un-ring this bell of such serious accusations leading to an unjust verdict that shocks the conscience.

Additionally, plaintiff rather than focus on the statements made brought in evidence that was not relevant and prejudicial regarding the plaintiff's work on corruption with Judges in Ghana. This was clearly meant to infer that he received no redress in Ghana because the Judges were corrupt so this jury should "stop him" here, meaning the defendant. Plaintiff when asked on cross examination about the statements regarding the Chinese nationals and any investigation he did he was dismissive of the whole thing and said something to the effect that in his work people say things about him all the time and he he pays them little attention.

The entire tenor of the testimony elicited during trial by plaintiff on direct, cross examination and the closing of his counsel was not one of fair and reasonable award of compensatory damages to the plaintiff for compensatory damages he may have suffered but rather to punish the defendant for his actions. That lead to a verdict surely meant to punish and "stop the defendant" that should "shock the conscience" of the Court. Procedurally, the request for remittitur is not to overturn the verdict on liability but to simply correct the injustice of a verdict that has no rational relationship to the competent and relevant evidence that was presented. The verdict being rendered in mere 30 minutes is further evidence it was not facts that drove the shocking verdict but emotion. Closing arguments should be fair and courteous, grounded in the evidence and free from any 'potential to cause injustice,' such as '[u]nfair and prejudicial appeals to emotion'" *Jackowitz v. Lang*, 408 N.J. Super. 495, 505 (quoting *Geler v. Akawie*, 358 N.J. Super. 437, 464 (App.Div. 2003)) A jury verdict must be "based solely on legal evidence . . . and entirely free from the taint of extraneous considerations and influences." *Panko v. Flintkote*, 7 N.J. 55, 61 (1951). This verdict did not adhere to this principals.

The proper remedy at this time is the grant of remittitur to an amount that is fairly and reasonably calculated to compensate the plaintiff for the harm that was proven by the competent evidence at trial.

Respectfully submitted,

BRESLIN AND BRESLIN, P.A.

E. Carter Corriston, Jr. /s/

E. Carter Corriston, Jr.

ECCJr:rs

cc: Andrew K. De Heer, Esq.(Via e-Courts and Email)