

Judge Backs Damages Against Reliable

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State District Judge Robert Scott on Friday upheld jury awards against Reliable Chevrolet totaling \$703,958 for a 33-year-old Albuquerque air traffic controller who was injured in a 1994 automobile accident.

Scott also entered an order that Reliable pay plaintiff Frank Gillingham \$119,345 in prejudgment interest, dating to Oct. 3, 1994, when Gillingham filed a

personal-injury lawsuit against the then-new West Side car dealership and employee Michael Hinkle.

But at the same hearing Friday, Scott put a temporary halt to an attempt by Gillingham's lawyers to force immediate payment from Reliable of the \$428,958 in compensatory damages and \$275,000 in punitive damages a jury awarded Gillingham last month.

According to the lawsuit, the then-21-year-old Hinkle, who had just been hired by Reliable as a truck salesman, was dri-

ving one of the company's 1994 Camaros when he turned off Indian School Road NE "at an excessive rate of speed" and struck Gillingham's 1993 Toyota pickup, which was northbound on the Tramway frontage road, head-on.

Hinkle was driving with a suspended driver's license at the time of the accident, according to court records.

Among his injuries, Gillingham suffered two herniated discs in his neck that had to be removed and replaced by a titanium plate.

Though he still works as an air traffic controller for the Federal Aviation Administration in Albuquerque, he continues to suffer from a great deal of pain years after the accident, his lawyers said.

According to testimony at a hearing before Scott on Friday, Gillingham's lawyers Carl Bettinger and Alfred M. Sanchez filed documents Monday to force payment. Scott had entered a judg-

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ment in favor of Gillingham more than two weeks earlier.

Then on Wednesday, lawyers said, eight Bernalillo County sheriff's deputies went to the dealership to serve the paperwork.

The deputies went to Reliable under a court-approved order filed by Gillingham's lawyers to seize property, "and they were not very well treated by the Reliable people," being forced to "sit in a back room" for 2½ hours, Bettinger said.

Jim Nevergold, Reliable Chevrolet's general manager, would only say that the sheriff's deputies "were very professional," but he referred all other questions to Reliable's attorney, J. Douglas Compton, who couldn't be reached for comment late Friday.

But at the hearing before Scott, Compton told the judge that "despite the plaintiff's being put on notice" that emergency motions

were pending, "they went out to Reliable ... for the purpose of obtaining vehicles for sale at auction."

No property was seized, Bettinger said.

Compton also argued that Reliable was entitled to an "automatic stay" of 60 days in which to file an appeal.

Scott denied Reliable's motion to quash the "writ of execution" and "temporarily" denied the car dealer's posting of a \$1.75 million bond for appeal of the case, because Compton couldn't show Scott the insurer was licensed to do business in New Mexico.

But Scott granted Reliable's motion to avoid a repeat of the deputies' Wednesday visit — "until further order of the court."

Gillingham will not be paid until that order is lifted or appeals are resolved.

Also on Friday, Scott denied Compton's motion to overturn or

reduce the jury's \$275,000 punitive-damages verdict — or get a new trial on all the issues.

Compton argued there was "no evidence of a culpable mental state" on Reliable's part to warrant punitive damages in the case.

Evidence at trial showed "at most" that Hinkle or Reliable were negligent but had not engaged in "evil conduct," Compton said.

Compton also argued that Scott erred in not giving a "limiting instruction" to the jury about an alleged "forgery incident" involving Hinkle some 2½ years after the accident, when he was no longer employed at Reliable.

That evidence was prejudicial to Reliable, Compton said, "so the jury could punish Reliable for (Hinkle's) alleged dishonesty in November and December 1996."

But Bettinger argued Friday that the jury's unanimous verdicts on liability and damages were made after "an abundance of evidence" of

Reliable's "culpable mental state."

The car dealer had access to computerized driver's license and court records, Bettinger said, "but no one ever checked to see if this young man should drive across our highways."

Scott agreed with Bettinger and denied the motion.

According to Bettinger and court records, Hinkle recently pleaded guilty in Albuquerque Metropolitan Court to careless driving, driving with a suspended license and failure to appear citations stemming from the 1994 accident as well as other traffic counts.

He was ordered to pay a fine and sentenced to 100 hours of community service, Bettinger said.

Hinkle admitted in testimony at trial last month that he'd forged a check in November on his brother's account, but that case hasn't been prosecuted, Bettinger said.