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2000 Survey of Rhode Island Law: Cases: Remedies

Joseph Proietta

Roger Williams University School of Law

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Remedies. *Simone v. Charron*, 762 A.2d 442 (R.I. 2000). Under Rhode Island law, punitive damages are not recoverable in a wrongful death action. Furthermore, interrogatories which seek information on the issues of conscious pain and suffering and willfulness or wanton recklessness, however brief, are relevant.

FACTS AND TRAVEL

Maria G. Simone (Simone) was killed on Fruit Hill Avenue in North Providence, Rhode Island, when the car she was driving was struck by a car operated by the defendant, Craig S. Charron (Charron).¹ The administratrix of the decedent's estate brought a wrongful death suit under Rhode Island's Death by Wrongful Act statute, alleging that Charron willfully, recklessly or negligently caused the collision.² The plaintiff sought damages, which included medical expenses and an award for conscious pain and suffering.³ In addition, the plaintiff sought punitive damages in the amount of \$10 million.⁴

The defendant admitted in his amended answer that he was negligent and was legally responsible for Simone's death, but denied that he acted willfully or recklessly, or that his actions conferred to plaintiff the right to claim punitive damages.⁵

During the course of discovery, plaintiff sent interrogatories to Charron seeking details about the collision, including Charron's conversations about the accident, his consumption of drugs and alcohol before the accident, his driving record and criminal history, and knowledge of witnesses to the collision.⁶ Charron objected to most of the interrogatories stating that since he admitted liability, the questions were not relevant to the subject matter of the action.⁷ He also asserted he would invoke his Fifth Amendment privilege against self-incrimination.⁸

After hearing plaintiff's motion to compel more responsive answers and defendant's motion to strike the punitive damages

1. See *Simone v. Charron*, 762 A.2d 442, 443 (R.I. 2000).

2. See *id.*

3. See *id.*

4. See *id.*

5. See *id.* at 443-44.

6. See *id.* at 444.

7. See *id.*

8. See *id.*

claim, the trial justice denied the motion to compel more responsive answers and granted the motion to strike the punitive damages claim.⁹ In finding that the wrongful death act derogated the common law, the justice strictly construed the act to bar punitive damages; she also found that the interrogatories sought irrelevant information not reasonably calculated to lead to admissible evidence.¹⁰

ANALYSIS AND HOLDING

The Rhode Island Supreme Court stated that the question of whether punitive damages can be recovered in a Rhode Island wrongful death action is a question of law.¹¹ If the act derogated the common law, it must be strictly construed.¹² The court stated that on numerous occasions it has held the act to be a derogation of the common law, and has thus construed the act strictly.¹³ After a discussion of the history of the act and case law, the court held that punitive damages are precluded in a Rhode Island wrongful death suit.¹⁴

The court then addressed the question of whether the disputed interrogatories were relevant to the issue of conscious pain and suffering.¹⁵ Rule 26(b) of the Rhode Island Superior Court Rules of Civil Procedure states that parties may obtain discovery of any matter not privileged, which is relevant to the subject matter of the pending litigation, and that even inadmissible evidence may be obtained if it appears that the information sought could lead to the discovery of admissible evidence.¹⁶ The court construed Rule 26(b) liberally and held that "interrogatories seeking information on even brief conscious pain and suffering before death may lead to admissible information that should not be decided on discovery."¹⁷

9. *See id.*

10. *See id.*

11. *See id.*

12. *See id.* at 445 (citing *Providence Journal Co. v. Rodgers*, 711 A.2d 1131, 1134 (R.I. 1998)).

13. *See id.* (citing *Short v. Flynn*, 374 A.2d 787 (R.I. 1977)).

14. *See id.* at 449.

15. *See id.*

16. *See id.*

17. *Id.* at 450.

CONCLUSION

In *Simone v. Charron*, the Rhode Island Supreme Court held that the Rhode Island Death by Wrongful Act statute bars recovery of punitive damages. The court also held that interrogatories, which seek information on the issues of pain and suffering and willfulness or wanton recklessness, are relevant and may lead to the discovery of admissible information.

Joseph Proietta