

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

ANDREW M. FERRARI,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. N17C-04-270 MMJ
)	
HELSMAN MANAGEMENT)	
SERVICES, LLC,)	
)	
Defendant.)	

ORDER

On Issues Relating to Case Management Order

By Order dated February 8, 2021, the parties were directed to file letter briefs addressing five issues relating to the Case Management Order. The Court’s decision on these issues follows.

(A) Whether Plaintiff can seek punitive damages in connection with his bad faith claim given Defendant’s contention that he has waived any claim for compensatory damages in connection with that claim.

In the absence of compensatory damages, Plaintiff cannot recover punitive damages.

(B) Whether plaintiff can properly recover pre-judgment interest as taxed costs in connection with his bad faith claim.

The Court finds that Plaintiff has not waived his right to recover pre-judgment *Tackett* interest as taxes costs.

(C) If the answers to (A) and (B) are “No,” whether Defendant is entitled to judgment on the bad faith claim.

Not applicable.

(D) Whether the standard applicable to a claim for punitive damages is preponderance of the evidence or clear and convincing evidence.

Pursuant to current Delaware law, the burden of proof for punitive damages is preponderance of the evidence.

(E) Whether Plaintiff’s tort claim for emotional distress is properly denominated as a claim for *intentional* infliction of emotional distress or *reckless* infliction of emotional distress.

For purposes of this litigation, Plaintiff’s claim shall be denominated as one for intentional or reckless infliction of emotional distress.

IT IS SO ORDERED.

Dated: March 31, 2021

Mary M. Johnston
The Honorable Mary M. Johnston