

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

BARRY ECK,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	DOCKET NO. 15-01874
	:	
	:	
	:	CIVIL ACTION – LAW
	:	
CITY OF WILLIAMSPORT, WILLIAMSPORT	:	
BUREAU OF POLICE, JONATHAN P. DEPRENDA	:	
AND NANCY ROBINSON-WESTBROOKS AS	:	
ADMINISTRATRIX OF THE ESTATE OF	:	
JAMES DAVID ROBINSON	:	
	:	
Defendant	:	MOTION IN LIMINE

ORDER

AND NOW, this 12th day of **January 2017**, following argument held this date on Plaintiff's motion in limine regarding the city of Williamsport's reliance on the statutory cap for damages under the Pennsylvania Political Subdivision Tort Claims Act filed December 1, 2016, the motion in limine is DISMISSED. The facts establish that the \$500,000 paid by the City through its insurance carrier was totally attributable to the negligence claim. Consequently, the \$500,000 statutory cap under Pennsylvania Political Subdivision Tort Claims Act, 42 Pa. C.S. 8553(b) has been exhausted by that payment.

The background of this case is that Plaintiff seeks recovery for damage to his property that occurred on January 12, 2014 when an automobile caught fire and came in contact with the Plaintiff's property. The automobile caught fire after hitting a utility pole due to a police vehicle crashing into it. The police vehicle was involved in a high speed chase when it crashed into the automobile belonging to James Robinson. Mr. Robinson's estate sued the City and the police officer in federal court for negligence and on civil rights claims. The parties reached a settlement in the federal court case for one million dollars. That agreement and release did not specify what portion of the funds was attributable to what claims.

Plaintiff seeks a determination that the statutory cap of \$500,000 was not exhausted by payment of that settlement. In Thomas v. City of Philadelphia, 861 A.2d 1023 (Pa. Cmwlt. h.

2004), the Superior Court affirmed the trial court denial of summary judgment as to the exhaustion of the statutory cap. The record before the trial court in Thomas was that the full cap of \$500,000 settled the both federal and state claims where the federal claims are not counted toward the cap. In Thomas, the parties discussed withdrawal of the federal claims, but those claims were never withdrawn. Since those claims were not withdrawn the trial court found that the settlement of \$500,000 was based at least in part on the federal court claims and that it was not possible to find that the cap of \$500,000 had been reached.

In the present case, the record before the Court shows that the terms of the City's insurance policy specified that it only covered the negligence claims and the insurance carrier paid the full amount of the cap, \$500,000. The City paid an additional \$500,000 at later date by its own check. The petition for federal court approval of settlement of the claims recognized that the City's insurance coverage of \$500,000 only applies to negligence claims and that the City was not covered for the civil rights claims against it and not obligated to indemnify the police officer. Accordingly, the Court concluded that the statutory cap was reached by the insurance company's \$500,000 payment.

BY THE COURT,

January 12, 2017

Date

J. Michal Williamson, Senior Judge
Specially Presiding

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