

MISSISSIPPI

FUTURE DAMAGE CLAIMS DISMISSED

NO PROOF, NO PAYMENT



In this highly contested case, the Plaintiff claimed that Landstar's driver, Hector Cruz, Jr. negligently rear-ended the Plaintiff's vehicle, causing bodily injury. The Defendants denied any liability for the accident due to the fact that Cruz's vehicle was actually rear-ended by a driver of a different vehicle and subsequently pushed into Plaintiff's. The Plaintiff nevertheless sought damages from Landstar, including past and future lost wages, loss of earning capacity, and future medical expenses. During discovery, the Plaintiff produced a schedule of worker's compensation benefits received following the accident and tax records for the year prior to the accident in support of his claim for future lost wages/lost earning capacity. Plaintiff provided medical records, but no expert testimony, as evidence supporting his claim for future medical expenses.

With trial approaching, the Defendants knew they could not successfully obtain summary judgment on the entirety of the Plaintiff's case due to a factual dispute regarding liability. However, the Defendants filed a motion for partial summary

judgment as to Plaintiff's future damage claims, including both future medicals and future lost wages. The Defendants argued the Plaintiff lacked any evidence to support a claim for future lost wages and lacked any credible evidence – outside of the Plaintiff's own self-serving testimony – to support a claim of future medicals.

The trial court agreed. Despite substantial discretion afforded to the trial court in weighing evidence sufficient to support claims for future lost wages and medical expenses, David Dunbar and Kim McCormack of DunbarMonroe, PLLC successfully argued that Plaintiff had fallen short of his burden of proof. The trial court agreed with Defendants and dismissed Plaintiff's claim of lost wages, finding "the Plaintiff has not provided substantial evidence to support his claim." Similarly, the Court dismissed the Plaintiff's claims for future medical expenses, finding "Plaintiff is not competent to testify as to his own medical prognosis and treatment and has provided no other evidence to support his claim for future medical expenses."



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