

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2006 CA 0008

KETY CALMES

VERSUS

KIMBERLY WEEMS
AND ALLSTATE INSURANCE COMPANY

Judgment Rendered: November 3, 2006.

* * * * *

On Appeal from the
22nd Judicial District Court,
In and for the Parish of St. Tammany,
State of Louisiana
Trial Court No. 2002-11885

Honorable Donald M. Fendlason, Judge Presiding

* * * * *

Byard Edwards, Jr.
Hammond, LA

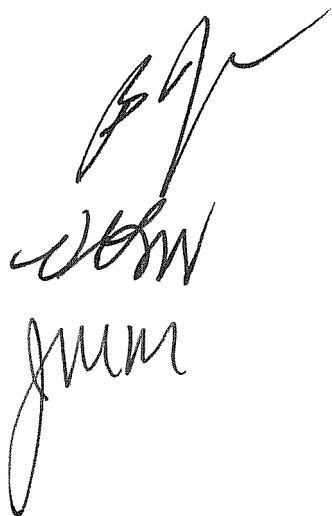
Attorney for Plaintiff/Appellant,
Kety Calmes

John Keller
Madisonville, LA

Attorney for Defendant/Appellee,
Allstate Insurance Company

* * * * *

BEFORE: CARTER, C.J., WHIPPLE AND MCDONALD, JJ.



CARTER, C. J.

This suit arises from a rear-end collision that occurred in St. Tammany Parish. Kety Calmes, a guest passenger in the vehicle that was rear-ended, claimed to have suffered injuries as a result of the impact. After settling her claims with the driver of the other vehicle and that driver's liability insurer for the \$10,000 policy limits, Calmes presented her claims for coverage under her host driver's uninsured/underinsured motorist (UM) policy to a jury. The jury concluded that Calmes's injuries were not caused by the accident and dismissed her claims. Calmes now appeals.

On appeal, Calmes contends the jury could not conclude that her injuries were not caused by the accident because the parties had stipulated to liability. The record does reflect the parties' oral stipulation regarding liability. The court explained to the jury that, "the parties have stipulated or agreed that the automobile accident, which is the subject of this lawsuit, was caused by the fault of the negligence of the defendant, Kimberly Weems." Thereafter, the jury was presented with evidence regarding causation. Moreover, the jury was instructed to decide the issue of causation and the first question for the jury on the verdict form was whether the injuries were caused by the accident. Calmes's counsel did not enter any objection on the basis that causation was included within the stipulation to liability. Under these circumstances, the issue of causation was squarely before the jury. The record does not support Calmes's argument that the only question for the jury was quantum.

Calmes further complains that the jury did not deliberate long enough to review the evidence, including the medical records. The length of jury deliberation is not indicative of jury misconduct. **Drury v. American**

Honda Motor Co., Inc., 93-1414 (La. App. 1 Cir. 12/22/94), 659 So.2d 738, 773, writ denied, 95-1012 (La. 6/23/95), 660 So.2d 437. Further, while the jury deliberated for only approximately thirty minutes, it did hear two days worth of testimony. Finally, the evidence reasonably supports the jury's verdict. We find no manifest error.

Considering the foregoing, the judgment of the trial court is affirmed. This memorandum opinion is issued in compliance with URCA Rule 2-16.1B. Costs of this appeal are assessed to Kety Calmes.

AFFIRMED.