



## ROSEN v. MARIETTA

48 F. Supp. 942 (1943) | Cited 0 times | W.D. Pennsylvania | February 26, 1943

McVICAR, District Judge.

This is an action by Ruth Rosen and Herbert Rosen, her husband, against J. D. Marietta, et al., to recover damages resulting from an intersection automobile accident alleged to have been caused by negligence. John Olivito, the driver of the automobile in which plaintiffs were riding at the time of the accident, was made a third-party defendant. At the trial, the action was dismissed as to all the defendants with the exception of John Olivito and J. D. Marietta. The case came on for trial before the writer of this opinion May 13, 1942. The trial was concluded Friday, May 15, 1942, at which time the jury retired for the purpose of determining their verdict. They arrived at a verdict two or three hours after court had adjourned for the day. They sealed their verdict and placed the sealed verdict in the hands of the forelady of the jury. On Saturday morning, when court convened at 10 A.M., the jury assembled in the courtroom in which His Honor, Judge Robert M. Gibson was presiding. The Clerk of the Court asked the jury whether they had agreed upon a verdict. That they had agreed was made known by the forelady. The Clerk received the sealed verdict which was presented to Judge Gibson who opened the same, and what occurred thereafter is set forth in the statement of Judge Gibson, in writing, which reads:

"The Clerk read the verdict as follows:

"Hearken to your verdict as recorded by the Court: In the case of Ruth Rosen and Herbert Rosen her husband vs. J. D. Marietta you say you find a verdict in favor of J. D. Marietta, defendant; and find a verdict for Ruth Rosen for two thousand dollars, and so say you all.'

"After the Court accepted the verdict one of the jurors, identified as Mrs. Sarah Languet, approached the bench and asked if she might say something to the Court. On being given permission she stated, in substance, that she worried all night about the verdict; that it was wrong as to Mr. Rosen being guilty of contributory negligence; that as far as she was concerned the verdict was brought under duress." The court record of the verdict and judgment, is as follows: "May 16, 1942 The jury find a verdict in favor of J. D. Marietta, defendant; and find a verdict for Ruth Rosen for two thousand dollars-verdict filed."May 16, 1942 Pursuant to verdict, judgment is hereby entered in favor of Ruth Rosen and against John Olivito, third-party defendant, in the sum of \$ 2000.00."

