2017 IL App (2d) 151263-U
No. 2-15-1263
Order filed January 9, 2017

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

KATHERINE SONDERGAARD,	)	Appeal from the Circuit Court
	)	of Lake County.
Plaintiff-Appellant,	)	
	)	
v.	)	No. 13-L-320
	)	
ARNOLD J. HERBSTMAN, M.D.,	)	Honorable
	)	Margaret J. Mullen,
Defendant-Appellee.	)	Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Presiding Justice Hudson and Justice Jorgensen concurred in the judgment.

ORDER

¶ 1 *Held*: We affirmed the trial court's denial of plaintiff's post-trial motion seeking a judgment notwithstanding the verdict or a new trial; plaintiff forfeited her primary evidentiary objection by failing to raise a contemporaneous objection during the trial, and the evidence was otherwise sufficient to support the jury's verdict.

¶ 2 Plaintiff, Katherine Sondergaard, brought a medical malpractice action against defendant, Arnold J. Herbstman, M.D., arising out of a carpal tunnel release surgery that defendant performed on plaintiff's left wrist. Following a trial, the jury returned a verdict for defendant and against plaintiff. The trial court entered judgment on the jury's verdict and plaintiff filed a post-trial motion for a judgment notwithstanding the verdict or, in the alternative, a new trial.

Aside from arguing that the evidence was insufficient to support the jury's verdict, plaintiff argued that the defense had failed to provide an adequate foundation for certain opinions given by defendant and his retained expert. She maintained that the jury relied on this improperly speculative testimony in rendering its verdict. The trial court denied the post-trial motion and plaintiff now appeals. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Plaintiff alleged in her complaint that she sustained injuries to the median nerve in her left wrist during a carpal tunnel release surgery performed by defendant on February 12, 2010. Plaintiff further alleged that, following the surgery, she complained to defendant of continuing pain and numbness in her left hand. She claimed that she had consistently made these complaints up to and through October 18, 2010, her last office visit with defendant. However, defendant repeatedly assured plaintiff that the surgery had been successful and that her symptoms were not related to carpal tunnel syndrome. Approximately two years later, in September 2012, plaintiff was examined by Dr. Paul Lamberti, M.D., who recommended that she undergo an exploratory surgery of her left wrist to determine the causes of her continuing symptoms. Lamberti performed the second surgery on October 15, 2012. He concluded that plaintiff had sustained an injury to her median nerve during the first surgery, which he treated by grafting a nerve from her left ankle into her left wrist.

¶ 5 Plaintiff filed two pre-trial motions that are pertinent to this appeal. In her first motion, plaintiff sought to bar the testimony of defendant's retained expert, Dr. William Farrell, M.D. Plaintiff challenged the sufficiency of defendant's pre-trial disclosures (see Ill. S. Ct. R. 213(f)(3) (eff. Jan. 1, 2007)), arguing that Farrell had not provided an adequate basis for his opinion that defendant's conduct during the first surgery comported with the standard of care for

an orthopedic surgeon. Plaintiff's second motion related to opinions that had been offered by defendant during his deposition testimony regarding possible alternative causes of plaintiff's injury. Defendant noted that plaintiff had been in a car accident in November 2010, between her first and second surgeries. He opined that plaintiff's injury could have been caused by blunt trauma from the car accident. He also opined that plaintiff's injury could have been caused by Lamberti during the second surgery. Plaintiff argued that these opinions were not based on any facts, and that they therefore constituted improper speculation. See *Dyback v. Weber*, 114 Ill. 2d 232, 244 (1986) ("An expert witness' opinion cannot be based on mere conjecture and guess."). Plaintiff accordingly requested that defendant and the other defense witnesses be barred from providing speculative testimony about other possible causes of her injury.

¶ 6 The trial court heard arguments on the pre-trial motions on February 20, 2015, three days before the trial began. Regarding plaintiff's motion to bar Farrell's testimony, the trial court commented, "it really needs to be an unusual situation where a doctor in this factual setting will not have [any] foundation to offer opinions." The trial court accordingly entered an order denying plaintiff's first motion. Turning to plaintiff's motion to bar the defense from speculating as to other possible causes of her injury, the trial court remarked at the outset that it would be difficult to rule on the issue of expert speculation before the trial. It stated, "[i]f I just say, okay, no speculation both sides, how is that going to help me when there is alleged speculation and objection to it?" After hearing arguments, the trial court noted that the issue was "probably a bit too complicated" and reserved its ruling. When the parties revisited the issue near the end of the hearing, the trial court interjected and stated as follows: "You know what, can I just—and I am not prejudging it, but I just—I wouldn't enter an order on principle that speculative evidence is not allowed, because what is the point of an order *in limine* that is so broad and not specific? I

wouldn't waste my time with it. I would have to hear it." The record contains no other transcripts or written orders relating to any further rulings on this issue.

¶ 7 At trial, plaintiff testified that defendant had first performed carpal tunnel release surgery on her right wrist in 2005. That surgery "went perfectly fine." Plaintiff later felt numbness, tingling, weakness, and pain in her left wrist. As a result, defendant performed carpal tunnel release surgery on plaintiff's left wrist on February 12, 2010. Plaintiff visited defendant three days after the surgery and complained of continuing symptoms. This was not alarming, as she had also experienced continuing symptoms immediately following the surgery on her right wrist. She testified, however, that she was experiencing shooting pains through her fingers when she visited defendant on February 22, 2010; she explained that she had not felt these symptoms following the surgery on her right wrist. Plaintiff visited defendant again in March, April, and October 2010. She testified that she repeatedly complained to defendant that, although she had resumed her normal activities, her left wrist was not recovering as well as her right wrist had recovered. Her left wrist felt weak. She described pain and numbness that felt like "pins and needles." Plaintiff acknowledged that defendant would test her grip strength, that she could move all of her fingers, and that she had not yet experienced any atrophy in the thenar muscle at the base of her thumb. She claimed, however, that defendant never specifically tested the strength of her thumb. According to plaintiff, defendant simply explained that "sometimes things heal differently and it could take up to six months" for her wrist to heal. He repeatedly advised plaintiff to continue with her grip exercises.

¶ 8 Plaintiff testified that she was in a car accident in November 2010. She explained that it was a serious accident in which her airbag had deployed and her car was "totaled." She visited defendant the day after the accident because of pain in her shoulder, knee and both hands. She

noted, however, that her left hand had always in pain, "so it was [not] even part of [the] equation." According to plaintiff, defendant did not make any diagnosis or suggest any new procedures on her left wrist or hand.

¶ 9 Plaintiff testified that as time went by her left wrist became progressively weaker. She began inadvertently dropping things and her left hand appeared thinner than her right hand. The "pins and needles" feeling was also getting worse. Plaintiff did not seek any further medical treatment for her left wrist or hand until September 2012, when she visited Lamberti. He was concerned that something had gone wrong during the first surgery and he recommended a second surgery, which took place on October 15, 2012. Plaintiff testified that her symptoms began improving shortly after the second surgery. She admitted, however, that she continued to experience constant shooting pains and weakness in her left hand at the time of the trial.

¶ 10 The jury heard testimony from three board-certified orthopedic surgeons: Dr. Lamberti (plaintiff's expert witness), Dr. Herbstman (defendant), and Dr. Farrell (defendant's expert witness). The doctors provided a detailed overview of carpal tunnel release surgery. They explained that the carpal tunnel is a canal on the palm side of the wrist. The retinaculum is the ligament that covers the carpal tunnel. The median nerve passes underneath the retinaculum and through the carpal tunnel. Small bundles of nerve fibers, called fascicles, are located within the median nerve. Pain and numbness, often described as "pins and needles," occurs when pressure builds within the carpal tunnel and irritates the median nerve. To relieve these symptoms, an orthopedic surgeon may release, or sever the retinaculum to create more space within the carpal tunnel, thereby relieving the pressure. The resulting gap in the retinaculum eventually fills with scar tissue. Complications may arise where the median nerve is damaged, leading to a buildup of excess scar tissue.

¶ 11 Dr. Lamberti's video-recorded evidence deposition was played for the jury. Lamberti's opinion, based on a reasonable degree of medical certainty, was that defendant had damaged plaintiff's median nerve during the first surgery, and that defendant's conduct had fallen below the standard of care for orthopedic surgeons. He explained that a general rule for orthopedic surgeons is "never cut what you don't see." Lamberti testified that defendant had made an 8-millimeter incision directly over plaintiff's median nerve, or directly over her ring finger, rather than off to the ulnar side of the nerve. Based on the size of plaintiff's incision and her recollection from the first surgery, Lamberti concluded that defendant had performed the first surgery endoscopically, rather than using an open technique in which the incision is large enough to visualize the structures of the hand. He implied that the location of the incision and defendant's limited vision of the structures within the carpal tunnel contributed to him injuring plaintiff's median nerve during the first surgery. Specifically, Lamberti testified that defendant severed two fascicles of the median nerve and failed to fully release the retinaculum. He explained that neuromas, or small bulbs of healing tissue, had formed at the ends of the severed fascicles. According to Lamberti, the neuromas from the severed fascicles had grown into the virgin tissue from the unreleased retinaculum, which caused a buildup of excess scar tissue and led to the atrophy of plaintiff's thenar muscle. Lamberti testified that he spent about an hour attempting to separate the severed fascicles from the retinaculum before determining that a nerve graft was necessary to repair the damage.

¶ 12 On cross-examination, Lamberti admitted that he had not reviewed defendant's office records or operative notes relating to the first surgery. Aside from his observations during the second surgery, his opinions were based solely on the information relayed by plaintiff. Lamberti further admitted that a lack of thenar atrophy six months after surgery would be inconsistent with

his opinion that defendant had damaged plaintiff's median nerve. Finally, Lamberti acknowledged that patients with severe cases of carpal tunnel syndrome may experience prolonged recovery.

¶ 13 Defendant testified while referencing his operative report and post-operative notes. He disputed Lamberti's assertions that he had only made an 8-millimeter incision, that his incision was made directly over defendant's median nerve, and that he had performed an endoscopic procedure. Defendant's operative report rather reflected that, as was his customary practice, he had performed an open procedure using an 18-millimeter incision made between plaintiff's ring and middle fingers. Defendant also maintained that, contrary to Lamberti's opinion, he had completely released plaintiff's retinaculum without causing any damage to the fascicles, thus complying with the applicable standard of care. Defendant testified that he had cauterized the severed ends of the retinaculum before closing his incision, and that he "saw everything under direct vision."

¶ 14 Referring to his post-operative notes, defendant testified that plaintiff's symptoms were improving during her follow-up visits after the first surgery. Defendant dictated those notes during each appointment, in plaintiff's presence, noting that plaintiff had full range of motion in her fingers and she was able to make a fist. She was also able to touch her fingers to her thumb. According to defendant, this would not have been possible if he had severed the fascicles in plaintiff's median nerve as Lamberti had testified. Because plaintiff did not describe constant numbness in her fingers and inability to move her thumb, defendant did not believe that plaintiff's complaints of ongoing symptoms were consistent with a median nerve injury. Rather, defendant believed that plaintiff's symptoms were caused by irritation to a nerve outside the carpal tunnel.

¶ 15 Defendant testified that plaintiff visited him the day after her car accident, which was approximately nine months after her surgery. She reported pain throughout her body, including both wrists. Defendant's notes reflected that plaintiff had swelling, stiffness and soreness in her hands and wrists. He concluded that she had suffered "deep bruising to her hands and wrists." When asked for his opinion regarding the cause of the scar tissue observed by Lamberti during the second surgery, defendant explained that scar tissue always forms after any surgery. Referring to the car accident, defendant added, "it's very common after blunt trauma to have an increased amount of scar tissue form an exuberant amount after someone who's had surgery within a year or so." Defendant also opined that Lamberti could have severed the fascicles during the second surgery, thereby creating the need for the nerve graft. Plaintiff made no objections during this line of questioning.

¶ 16 Dr. Farrell's video-recorded evidence deposition was played for the jury. He had reviewed the records of both defendant and Lamberti, as well as the transcript from Lamberti's video-recorded evidence deposition. Based on his review of these materials, Farrell opined to a reasonable degree of medical certainty that defendant had complied with the standard of care for an orthopedic surgeon during plaintiff's first surgery. Although he could not tell from defendant's records whether defendant had fully released plaintiff's retinaculum, he did not believe that defendant could have severed any fascicles of plaintiff's median nerve. This was due mainly to his observations of: (1) the procedures described in defendant's operative record; and (2) plaintiff's range of movement in her thumb and fingers as described in defendant's post-operative notes.

¶ 17 Finally, the jury viewed video-recorded evidence depositions from Drs. Laura DeMarco-Paitl and Matthew Bernstein. Demarco-Paitl, a family practice physician, testified that plaintiff

had visited her on November 1, 2010, about a week before her car accident. Plaintiff made no specific complaints related to her left hand. Demarco-Paitl performed a grip test and reported no abnormality. She also found no evidence of gross deficits neurologically or vascularly. Bernstein, an orthopedic surgeon, testified that plaintiff had visited him for additional consultation in May 2014, after her second surgery. Bernstein found that plaintiff had full motion with normal strength and sensation in her left hand, which he had not expected to find after reading Lamberti's operative report.

¶ 18 The jury returned a verdict for defendant and against plaintiff. Plaintiff filed a motion seeking the entry of a judgment notwithstanding the verdict or a new trial. The trial court denied the motion and plaintiff timely appealed.

¶ 19 II. ANALYSIS

¶ 20 Plaintiff contends that the trial court erred by failing to grant her motion for either a judgment notwithstanding the verdict or a new trial. She argues that the evidence so overwhelmingly favored her that a verdict for defendant cannot stand. She further argues that the trial court erred by failing to grant her pre-trial motions to bar Dr. Farrell's testimony and to bar defendant from speculating as to other causes of her injury. Regarding the latter motion, plaintiff argues that the jury's verdict can only be explained by its reliance on defendant's improper speculation testimony. We will address plaintiff's evidentiary challenges before proceeding to the sufficiency of the evidence.

¶ 21 The decision of whether to admit expert testimony is within the sound discretion of the trial court, and the trial court's ruling will not be reversed absent an abuse of that discretion. *Snelson v. Kamm*, 204 Ill. 2d 1, 24 (2003). A trial court abuses its discretion where its ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by

the trial court. *Taylor v. City of Cook*, 2011 IL App (1st) 093085, ¶ 23. "Expert testimony is admissible if the proffered expert is qualified by knowledge, skill, experience, training, or education, and the testimony will assist the trier of fact in understanding the evidence." *Snelson*, 204 Ill. 2d at 24. The proponent must lay an adequate foundation establishing the reliability of the information on which the expert's opinion is based. *Fronabarger v. Burns*, 385 Ill. App. 3d 560, 565 (2008). Once a proper foundation has been established, the weight to be assigned to the expert's opinion is for the jury to determine. *Id*.

¶ 22 Here, plaintiff first argues that Farrell's opinion—that defendant did not cut the fascicles of plaintiff's median nerve during the first surgery—lacks a proper evidentiary foundation. Plaintiff asserts that Farrell failed to examine plaintiff, that he "summarily disregarded" Lamberti's findings, and that he simply adopted defendant's explanation that he saw the median nerve and did not cut it. We disagree.

¶ 23 An expert's medical opinion may be based on a review of the patient's medical records, and there is no requirement that the expert personally examine a patient prior to rendering a medical opinion. See *Davis v. Kraff*, 405 Ill. App. 3d 20, 37 (2010). Farrell testified during his evidence deposition that his opinion was based on the notes from plaintiff's post-operative visits. He explained that, if defendant had cut any fascicles of the median nerve, plaintiff would not have had full range of motion in her thenar muscle, and she "would have had a lot more weakness in use of the arm." This was a sufficient foundation for Farrell to offer his opinion that defendant did not cause plaintiff's injury, and the trial court did not abuse its discretion in allowing Farrell's testimony.

¶ 24 We now turn to plaintiff's second evidentiary challenge—that the trial court should have barred defendant from speculating as to alternative causes of her injury. This argument is the

gravamen of plaintiff's appeal. She argues that, because the evidence in her favor was so overwhelming, the jury's verdict can only be explained by its reliance on defendant's improper speculation.

¶ 25 As noted, an expert's opinion cannot be based on mere conjecture and guess. *Dyback v. Weber*, 114 Ill. 2d 232, 244 (1986). However, an expert may testify as to possible causes of an injury based on facts assumed to be true. *Scassifero v. Glaser*, 333 Ill. App. 3d 846, 852 (2002). Whereas opinions based on sheer speculation should be stricken as irrelevant, testimony based on an expert's analysis of the known physical facts is admissible. *Petraski v. Thedos*, 382 Ill. App. 3d 22, 31 (2008).

¶ 26 Here, plaintiff argues that defendant failed to establish an adequate factual foundation for his opinion that the damage to plaintiff's median nerve was caused by either: (1) plaintiff's car accident; or (2) Lamberti himself during the second surgery. In arguing to the contrary, defendant first points to plaintiff's complaints of atrophy and weakness following the car accident. He also points to his own testimony that blunt trauma could cause an increased amount of scar tissue in the area of a recent surgery. Regarding Lamberti's actions during the second surgery, defendant stresses Lamberti's testimony that he spent nearly an hour attempting to separate the fascicles from the scar tissue.

¶ 27 As we will explain, we need not decide this issue, because plaintiff has forfeited her challenge by failing to raise a contemporaneous objection during trial. This forfeiture notwithstanding, and contrary to plaintiff's argument, the jury's verdict is resolved without resorting to defendant's purported speculation testimony.

¶ 28 As discussed above, the trial court heard arguments on the parties' pre-trial motions on February 20, 2015. The record contains two motions from plaintiff relating to defendant's

purported speculation testimony. The first motion is file-stamped February 20, 2015. It is broadly titled, "Motion in Limine." Therein, plaintiff raises fifteen separate motions. In the tenth motion, plaintiff generally argues that defendant "should be barred from eliciting testimony that is speculative about other potential causes of plaintiff's injuries." A notation in parentheses states, "(See Motion to Bar)." The second motion is labeled, "Motion to Bar Speculation As To Other Causes of Plaintiff's Injuries." Although it contains no file stamp, the record reflects that this motion was argued at length during the hearing. In expressing its reluctance to grant the motion, the trial court commented, "[i]f I just say, okay, no speculation both sides, how is that going to help me when there is alleged speculation and objection to it?" After stating that it would reserve its ruling, the trial court later remarked, "I wouldn't enter an order on principle that speculative evidence is not allowed, because what is the point of an order *in limine* that is so broad and not specific? I wouldn't waste my time with it. I would have to hear it."

¶ 29 The denial of a motion *in limine* does not in itself preserve an objection to disputed evidence that is introduced later at trial; rather, "a contemporaneous objection to the evidence at the time it is offered is required to preserve the issue for review." *Simmons v. Garces*, 198 Ill. 2d 541, 569 (2002). Relying on *Dillon v. Evanston Hospital*, 199 Ill. 2d 483 (2002), plaintiff argues that this case falls within an exception to the general rule requiring contemporaneous objections during trial. In *Dillon*, our supreme court stated as follows:

> "When a trial court excludes evidence, no appealable issue remains unless a formal offer of proof is made. The failure to do so results in a waiver of the issue on appeal. The purpose of an offer of proof is to inform the trial court, opposing counsel, and a reviewing court of the nature and substance of the evidence sought to be introduced. However, an offer of proof is not required where it is apparent that the trial

court clearly understood the nature and character of the evidence sought to be introduced." *Dillon*, 199 Ill. 2d at 495.

¶ 30 Here, plaintiff asserts that the argument during the pre-trial hearing sufficiently informed the trial court of "what the substance of the challenged testimony would be," and that the trial court therefore abused its discretion because it "decided not to address the motion." We disagree. The trial court indicated that it was reserving its ruling, and that the issue would be more appropriately considered during the trial when there was an objection to the alleged speculation testimony. Furthermore, the defendant in *Dillon* was relieved from the requirement that he make an offer of proof on the heels of the trial court's ruling to exclude evidence during the trial. *Dillon*, 199 Ill. 2d at 494. Plaintiff cites no cases, nor has our research revealed any, where a trial court's having reserved a ruling on a pre-trial motion relieved the moving party from the duty to make a contemporaneous trial objection.

¶ 31 Plaintiff also argues that she was not required to make a contemporaneous trial objection because "any ruling on the merits of a Motion to Bar is not interlocutory in nature, and the unsuccessful movant need not object to preserve the issue for review." This argument is premised on the holding in *McMath v. Katholi*, 304 Ill. App. 3d 369 (1999), *rev'd on other grounds*, 191 Ill. 2d 251 (2000), where the appellate court drew a distinction between a motion *in limine* and a motion to bar evidence. The court noted that rulings on motions *in limine* are considered interlocutory in nature, meaning they remain subject to reconsideration at trial. *McMath*, 304 Ill. App. 3d at 375. "Accordingly, the failure to object when the contested evidence is offered generally constitutes forfeiture of the issue, and a pretrial motion *in limine* will not preserve the question for review." *Id.* The court noted, however, that the "motion *in limine*" at issue in that case should have been designated a "motion to bar" because it was

brought after the full context of the evidentiary issue had been developed at trial. *Id.* "When, as here, the evidence at issue is presented within minutes of the trial court's ruling, requiring another objection to preserve the issue would make no sense." *Id.*

¶ 32 Plaintiff argues that, pursuant to *McMath*, the trial court's pre-trial ruling constituted a denial of her "Motion to Bar," rather than a reserved ruling on a motion *in limine*. Again, we disagree. Unlike in *McMath*, defendant's purported speculation testimony in this case was not offered within minutes of the trial court's ruling. To the contrary, the "Motion to Bar" was brought prior to trial and the trial court reserved its ruling. Hence, we are not persuaded that the language distinguishing plaintiff's respective motions is of any consequence. At any rate, plaintiff's motion *in limine* incorporated her "Motion to Bar" by parenthetically stating "(See Motion to Bar)." For these reasons, we hold that plaintiff forfeited her challenge to defendant's purported speculation testimony.

¶ 33 Semantics aside, we note that a motion *in limine* is a powerful and potentially dangerous weapon because it addresses a trial court's power to restrict evidence. *People v. Stevenson*, 2014 IL App (4th) 130313, ¶ 26. Accordingly, before granting a motion *in limine*, a trial court must be certain that it will not unduly restrict the opposing party's presentation of its case. *Reidelberger v. Highland Body Shop, Inc.*, 83 Ill. 2d 545, 550 (1981). "Given the uncertainties that are inherent with any motion *in limine*, it is difficult to envision a situation in which a trial court would abuse its discretion by choosing not to entertain the motion and instead requiring that the matter be presented and resolved at trial." *People v. Owen*, 299 Ill. App. 3d 818, 824 (1998). Thus, even if the trial court in this case was aware of nature and character of the evidence sought to be introduced, we cannot say it was an abuse of discretion to reserve ruling on the issue and instead require that the matter be presented and resolved at trial.

¶ 34 This brings us to plaintiff's overarching contention that the trial court erred by failing to grant her post-trial motion for a judgment notwithstanding the verdict or, in the alternative, a new trial. The standards for granting either motion are well known to the parties and this Court.

¶ 35 A motion for a judgment notwithstanding the verdict (JNOV) should be granted only when " 'all of the evidence, when viewed in its aspect most favorable to the opponent, so overwhelmingly favors [a] movant that no contrary verdict based on that evidence could ever stand.' " *York v. Rush-Presbyterian-St. Luke's Medical Center*, 222 Ill. 2d 147, 178 (2006) (quoting *Pedrick v. Peoria & Eastern Railroad Co.*, 37 Ill. 2d 494, 510 (1967)). Because of this highly deferential standard, a JNOV is inappropriate where reasonable minds may differ as to the inferences and conclusions to be drawn from the evidence. *York*, 222 Ill. 2d at 178. We review *de novo* the trial court's decision to deny a motion for JNOV. *Id*.

¶ 36 A motion for a new trial should be granted only where the jury's verdict is contrary to the manifest weight of the evidence. *Redmond v. Socha*, 216 Ill. 2d 622, 651 (2005). A verdict is contrary to the manifest weight of the evidence where the opposite conclusion is clearly evident, or where the jury's findings are unreasonable, arbitrary and not based upon any of the evidence. *York*, 222 Ill. 2d at 179. We will not reverse the trial court's decision with respect to a motion for a new trial unless we find that the trial court abused its discretion. *Id*.

¶ 37 A plaintiff in a medical malpractice case must prove: (1) the standard of care against which the medical professional's conduct must be measured; (2) that the defendant was negligent by failing to comply with that standard; and (3) that the defendant's negligence proximately caused the injuries for which the plaintiff seeks redress. *Walton v. Dirkes*, 388 Ill. App. 3d 58, 60 (2009). Here, plaintiff argues that she satisfied these requirements with "uncontradicted direct and circumstantial evidence." Namely, plaintiff points to Lamberti's findings during the

second surgery that two fascicles had been severed, that neuromas were growing on the ends of the severed fascicles, and that there was an incomplete release of the retinaculum. Plaintiff further argues that, because defendant was the only surgeon to operate on plaintiff's left wrist prior to the second surgery, "one would think that the jury could only come to one conclusion—that [plaintiff's] injuries were caused by [defendant's] negligence."

¶ 38 Defendant disputes the notion that Lamberti's conclusions stood uncontradicted. He argues that Lamberti's credibility was undermined when it was established that he had not read defendant's operative report or any of defendant's post-operative records. The operative report countered Lamberti's conclusion that defendant performed the first surgery endoscopically, with limited vision of the structures within the carpal tunnel. Regarding causation, the post-operative records further established that plaintiff could perform oppositional "finger to thumb" touching approximately one month after surgery. Defendant and Farrell both testified that plaintiff would not have been able to move her thumb in such a way if defendant had damaged her median nerve as Lamberti had testified.

¶ 39 In light of this competing evidence, we cannot say that an opposite conclusion to the jury's verdict was clearly evident. Stated differently, we cannot say that the verdict was contrary to the manifest weight of the evidence, or that the trial court abused its discretion in denying plaintiff's motion for a new trial. See *York*, 222 Ill. 2d at 179. It therefore follows that the evidence, when viewed in the light most favorable to plaintiff, did not so overwhelmingly favor plaintiff that no contrary verdict could ever stand. Hence, the trial court did not err in denying plaintiff's motion for a JNOV. See *Id*. at 178. These conclusions hold true regardless of the weight that the jury placed on defendant's opinions regarding alternative causes of plaintiff's injury.

¶ 40 III. CONCLUSION

¶ 41 For the reasons stated, we affirm the trial court's denial of plaintiff's post-trial motion seeking a judgment notwithstanding the verdict or a new trial.

¶ 42 Affirmed.