

No. 1-09-2787

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(3)(1).

Third Division
May 25, 2011

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

DAVID BLUTCHER,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	01 L 14480
)	
ROSELAND COMMUNITY HOSPITAL,)	Honorable
)	Allen S. Goldberg,
Defendants-Appellant.)	Judge Presiding.

JUSTICE NEVILLE delivered the judgment of the court.
Justices Murphy and Steele concurred in the judgment.

ORDER

HELD: When the defendant's expert refused to answer a question about the amount of income he earned from testifying as an expert, and the defendant rejected the trial court's suggestion that it would permit the expert to testify but would instruct the jurors that they could weigh the refusal to answer the question as a matter affecting the expert's credibility, the trial court did not abuse its discretion when it barred the expert from testifying. The plaintiff established his claim for negligent credentialing by presenting evidence that the defendant hospital breached the standard of care by awarding credentials to a doctor who lied on his application for credentials, and that the doctor subsequently committed medical malpractice which proximately caused the plaintiff's injury. The trial court did not abuse its discretion when it awarded the plaintiff a new trial on damages after the jury awarded the plaintiff \$200,000 for pain and suffering, but nothing for past medical expenses, when many

unchallenged expenses covered treatment for the plaintiff's pain.

On July 1, 1995, David Blutcher went to Roseland Community Hospital. He had a heart attack that day. Two years later, he suffered a stroke. David sued Roseland, contending that its negligent credentialing of the doctor who examined him at Roseland in 1995 proximately caused his stroke in 1997. The first trial resulted in a finding of liability and an assessment of damages against Roseland, but the jury awarded David nothing for past medical expenses. The trial court ordered a new trial on damages only.

At the second trial, Roseland's expert on lost income refused to divulge the amount he earned from testifying as an expert witness. The trial court barred him from testifying. The trial court later entered judgment on a jury verdict finding Roseland liable for almost \$3.2 million in damages.

On appeal, Roseland argues: (1) the trial court should have granted Roseland a judgment notwithstanding the verdict after the first trial; (2) the trial court should not have ordered a new trial, and it should not have limited the new trial to damages; (3) the trial court should not have permitted David's expert to testify about the average earnings of lawyers as an estimate of the amount David could earn as a lawyer; (4) the court should not have barred Roseland's expert on lost income from testifying; and (5) the court should have stricken testimony from David's medical expert about the negligent acts of a doctor who worked at Roseland. Because we find no abuse of discretion in the trial court's many rulings, we affirm.

BACKGROUND

David arrived at Roseland at 6:15 a.m. on July 1, 1995, seeking treatment for shortness of breath. Dr. Niluardo Cay examined David at 7 a.m. and recorded that David had some chest

tightness. He ordered an EKG, which technicians administered at 7:30 a.m. David at that time had good vital signs and no complaints. At 9 a.m., David again complained that his chest felt tight. The hospital gave David Mylanta. His blood pressure rose to 166/93.

David's physician, Dr. Hugh Russell, came to Roseland around noon. David and Dr. Russell asked to have David transferred to Trinity Hospital, where Dr. Russell had staff privileges. At 2 p.m., an ambulance took David to Trinity. A second EKG, performed at 2:35 p.m., showed that David was having a heart attack. Doctors at Trinity ordered the administration of tissue plasminogen activator (tPA), which helps break down blood clots.

David responded well after receiving the drug, and he recovered from the heart attack. He returned to his work as an attorney with a private practice, but he cut back sharply on the hours he worked. His wife, Lisa, whom he married in August 1995, gave birth to a daughter in 1996 and a son in 1997.

On December 30, 1997, David had a stroke that damaged his brain. He has significant deficits with all types of language activities. He lost some of his ability to understand language, especially complex uses. He experienced severe disturbance of his ability to speak. After a year of intensive therapy, David had made some progress, but he still had severe, permanent language deficits.

David sued Roseland, Trinity, Dr. Russell, Dr. Cay, and other doctors who treated him at Trinity on July 1, 1995, alleging that their medical malpractice caused him to suffer the stroke in 1997. David claimed that Roseland should not have approved Dr. Cay's application for credentials, and if Roseland had credentialed a competent doctor, rather than Dr. Cay, that doctor would have

diagnosed and treated David's heart attack much sooner, thereby preventing much of the damage to David's heart. David also alleged that the nurses at Roseland should have delayed the transfer to Trinity until David's condition stabilized, and they should have performed a second EKG before the transfer. If the nurses had done the EKG, the doctors would have seen evidence of the heart attack in progress before the transfer, and they would have started the appropriate treatment hours earlier.

David later settled with Dr. Russell and voluntarily dismissed the counts against Dr. Cay, refiling a separate lawsuit against Dr. Cay. The lawsuit against Dr. Cay remains unresolved.

The First Trial

At trial, David presented evidence which showed that Dr. Cay asserted on his application that he was board certified in internal medicine, but the board's records showed no such certification. In fact, Dr. Cay repeatedly failed his board examinations. Dr. Cay asserted in his application that no one had sued him for malpractice, but in fact several persons had sued him for malpractice.

Charles Brosseau testified as an expert in health care management that Roseland violated the standard of care by failing to adhere to its own procedures for credentialing physicians when it approved Dr. Cay's application for credentials in 1991, and when it permitted Dr. Cay to continue working at the hospital without going through the credentialing process again before 1995. Hospital staff should have discovered the misrepresentations in Dr. Cay's application, and because of those misrepresentations, Roseland should not have granted Dr. Cay credentials.

Dr. Jorge Del Castillo testified that Dr. Cay breached the standard of care repeatedly on July 1, 1995. First, Dr. Cay should have obtained a more complete history from David on intake, and Dr. Cay should have ordered more complete testing then. At 9 a.m., Dr. Cay should have ordered a

second EKG to find the source of David's reported tightness in his chest. An EKG at that time would have shown the beginning of the heart attack. Dr. Cay should then have ordered tPA and a consultation with a cardiologist. Again at 11 a.m., and at noon, after Dr. Cay spoke with Dr. Russell, Dr. Cay should have ordered an EKG, and an EKG at both of those times would have shown the heart attack in progress. Dr. Cay should not have approved the transfer to Trinity because David's condition had not stabilized, and Trinity provided no services other than those available at Roseland.

Susan Schroeder, a nurse, testified that Roseland's nurses breached the standard of care for nurses when they transferred David to Trinity without repeating the EKG and without stabilizing David's condition. The delay in obtaining the EKG until some time after David arrived at Trinity contributed to the delay in diagnosis of his condition and to the delay in treating his heart attack.

Dr. Dan Fintel testified that Dr. Cay should have ordered EKGs for David both at 9 a.m. and at 11 a.m. on July 1, 1995. At both times, the EKG would have shown the heart attack in progress, so the standard of care required the doctor to administer several medications, including tPA, once the doctor received the results of the EKG. The delay in treatment caused a larger portion of the heart to die. Appropriate treatment at 9 a.m. would have limited the damage to a small portion of the heart. The damage to David's heart greatly increased the chance of a blood clot forming in the heart.

In the opinion of Dr. Jeffrey Frank, a neurologist, a blood clot, which formed in David's heart, broke off and invaded his brain, causing him to suffer the stroke.

Lisa Blutcher testified to the medical expenses David incurred for treating his stroke. David testified about his income for the years before and after his stroke. David also presented tables

showing the average annual income for attorneys in Chicago for 1995 through 2002. Both David and Lisa detailed David's linguistic deficits and the difficulties he faced due to the loss of his linguistic facility.

Some witnesses testified that further delay in treatment at Trinity worsened the effects of the heart attack and increased the likelihood of stroke. Defense witnesses testified that Trinity and its doctors complied with the standard of care. Roseland's experts testified that the heart attack did not begin until some time around 2 p.m., when David left Roseland. According to one expert, Roseland's nurses met the standard of care in their treatment of David. Another expert said Dr. Cay met the standard of care.

The court permitted the defense to show a videotape of clips showing David playing golf, apparently chatting with friends, driving, and engaging in other activities.

The jury found in favor of Trinity and its doctors, but the jury found Roseland liable. The jury awarded David damages totaling \$800,000, itemized as \$200,000 for future medical care, \$200,000 for loss of a normal life, \$200,000 for pain and suffering, \$200,000 for lost income, but nothing for past medical expenses.

Both David and Roseland filed posttrial motions attacking the verdict. Roseland sought a judgment notwithstanding the verdict, claiming that David failed to prove that Roseland's alleged negligence proximately caused his stroke. The trial court denied Roseland's motion. David moved for a new trial on damages only. The trial court agreed with David that the court erred by admitting into evidence the videotape showing David engaged in everyday activities. Because David argued primarily that he suffered a loss of linguistic ability, and the videotape showed nothing about his

linguistic ability, the court held that it should have excluded the evidence. The court also held that the jury ignored David's proven damages of past medical expenses. The court awarded David a new trial on damages only.

Roseland petitioned for leave to appeal from the order for a new trial, but this court denied Roseland's petition.

For the new trial on damages, David decided to present an expert, Roger Skurski, to estimate the income David lost due to his stroke. Roseland hired an expert, David Knowles, to criticize Skurski's methods and to reach a separate, lower estimate of David's lost earnings.

At Knowles's deposition, David's attorney asked how much money Knowles made in 2006 from consulting with lawyers. Knowles answered that he made all of his income from such consultation, and he did 75 % of his work on behalf of defendants. However, he refused to divulge his income. David's attorney said he would certify the question, and Roseland's attorney agreed that the parties should move the court to decide the issue, "if that's what needs to happen." Neither party sought a ruling on the issue before the new trial on damages.

The Second Trial

At the new trial, the court told the jury to assume that Roseland acted negligently, and the jury should determine only what damages, if any, Roseland's negligence caused. The court restricted evidence from both parties to the issues of proximate cause and damages. The court said it would not permit either party to introduce evidence of the standard of care and breach of that standard.

Dr. Fintel testified that if Dr. Cay had ordered an EKG at Roseland any time between 9 a.m. and 2 p.m., the EKG would have shown the heart attack in progress. If Dr. Cay had then started

administration of tPA, David would have suffered only minimal damage due to the heart attack. Dr. Fintel said that if Dr. Cay had diagnosed the heart attack “at 9:00 a.m. when the pain intensified, and an EKG would have been dramatically abnormal, that would have led to an order to start a clot busting drug like tPA within minutes. The swift use of that drug would have opened the vessel as it did when it was used about six hours later at 3:00 p.m., and using that treatment earlier would have stopped the damage, limited the injury to the tip of Mr. Blutchter’s heart leaving him with a stronger heart and a much lower likelihood that this complication would have developed.” Roseland objected repeatedly that Dr. Fintel’s testimony addressed the standard of care and breach of that standard, rather than proximate cause. The court overruled the objections.

Dr. Richard Peach testified that, at the time of trial, David suffered from Broca aphasia, which severely limited his ability to use language. Dr. Peach detailed the treatment David had undergone and its limited success, and Dr. Peach said that in his opinion, David’s linguistic ability would never improve. David will never again work as a lawyer.

Skurski testified that he calculated David’s lost income in three separate ways. By adding David’s reported income for 1997 to amounts David later received after he stopped working as a lawyer, Skurski calculated David’s total income for the work he did in 1997 at \$56,255. Skurski then used the average growth rate for earnings according to government data for 1998 through 2007, and used average long-term earnings growth statistics to project David’s probable income to retirement if he had not suffered the stroke. Using this method, Skurski estimated David’s lost income at \$2,072,489. For the second method of calculating lost income, Skurski used the average annual income of all attorneys performing legal services in the United States, with growth

projections for the years after trial. On cross-examination, he admitted that in making this estimate, he assumed that David would join a law firm and earn as much as the average attorney so employed. He acknowledged that the average for attorneys performing legal services had always far exceeded David's actual earnings from his practice. Using the second method, Skurski estimated David's lost income at \$3,238,665. In his third method of calculating lost income, Skurski again used his estimate of David's 1997 income, but Skurski projected rapid growth for the first several years after 1997 because David's gross receipts from his practice had grown sharply for several years before his heart attack. The third method showed a loss of \$2,839,027 in lifetime earnings.

Lisa again identified the stroke-related medical bills and described David's language deficits.

Roseland's expert on causation, Dr. Vincent Bufalino, testified that the heart attack occurred after David left Roseland. Dr. Bufalino agreed with Dr. Fintel that no treatment at Roseland could have prevented the heart attack. Although Dr. Bufalino also agreed that a blood clot, due to the heart attack, caused the stroke, in his opinion the timing of treatment for the heart attack, and in particular the timing of the administration of tPA, had no causal connection to the stroke. A second defense expert found that David's hypertension and coronary artery disease led to his stroke. The timing of the administration of tPA had no causal relationship to the stroke.

Roseland called Knowles as its expert witness on the amount of earnings David lost due to the stroke. David's attorney moved for an order directing Knowles to disclose the amount of income he earned annually from testifying as an expert witness. The court ordered Knowles to disclose the amounts he earned in the two years prior to trial from his work as an expert witness. Knowles refused. The court offered to seal the record, so that no one could disclose Knowles's income

publicly. Knowles refused. The court also suggested that Knowles could testify to the hours he worked as an expert and his hourly fee, thereby leaving the jurors to calculate his total income. Again Knowles refused. The court suggested that Knowles could testify, but the court would instruct the jurors that they could draw an inference adverse to Roseland and Knowles because Knowles refused to answer a question about his income. Roseland refused this suggestion. Finally, the court asked Roseland and Knowles if they had any suggestions that would permit Knowles to testify and acknowledge that David had a right to present evidence of how much money Knowles earned annually from his services as an expert witness. Roseland and Knowles had no suggestions. The court barred Knowles from testifying.

The jury again found Roseland liable for David's injuries, and the jury assessed total damages of \$3,186,047, itemized as \$86,047 for past medical expenses, \$250,000 for loss of a normal life, \$750,000 for pain and suffering, and \$2,100,000 for lost income. The court denied Roseland's posttrial motion and entered judgment on the verdict. Roseland now appeals.

ANALYSIS

Judgment Notwithstanding the Verdict

Roseland argues first that the trial court never should have held the new trial, because the court should have entered a judgment notwithstanding the verdict in favor of Roseland after the first trial. We review *de novo* the denial of a motion for a judgment notwithstanding the verdict. *McClure v. Owens Corning Fiberglass Corp.*, 188 Ill. 2d 102, 132 (1999). The trial court should grant such a motion only if "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." *Pedrick v. Peoria & Eastern R.R. Co.*, 37 Ill. 2d 494, 510 (1967).

David advanced two theories for holding Roseland liable for the stroke: Roseland negligently credentialed Dr. Cay, and Roseland, through its nurses, negligently transferred David to Trinity Hospital, without stabilizing his condition and without performing a second EKG. To establish Roseland's liability for negligent credentialing, David needed to show that the hospital breached the standard of care when it granted medical staff privileges to Dr. Cay, Dr. Cay breached the applicable standard of care, and the negligent granting of credentials proximately caused David's injury. *Frigo v. Silver Cross Hospital & Medical Center*, 377 Ill. App. 3d 43, 72 (2007).

Roseland admits that Dr. Cay misrepresented some of his qualifications on his application for credentials. He falsely asserted that he had board certification in internal medicine, and no one had sued him for malpractice. Brosseau testified that Roseland violated the standard of care when it failed to check Dr. Cay's qualifications and when it granted Dr. Cay credentials based on an application in which Dr. Cay lied. Dr. Del Castillo testified that Dr. Cay violated the standard of care when he failed to order a second EKG at 9 a.m., and if he had done so he would have seen abnormalities indicating that the heart attack was beginning. Both Dr. Del Castillo and Dr. Fintel testified that if Dr. Cay had performed a timely EKG, he would have administered tPA much earlier, saving more of David's heart muscle and diminishing David's risk of stroke. Dr. Fintel testified that the delay in administering tPA led to increased damage to the heart and that damage caused the stroke and the subsequent injury to David's brain. We find that all the evidence, viewed in the light most favorable to David, adequately supports the finding that Roseland caused David's injury by negligently credentialing Dr. Cay, and therefore the trial court correctly denied Roseland's motion

for judgment notwithstanding the verdict.

New Trial

Roseland also contends that the trial court erred when it ordered a new trial on damages only. We review an order granting a new trial for abuse of discretion. *Maple v. Gustafson*, 151 Ill. 2d 445, 455 (1992). Although the trial court usually defers to the jury's assessment of damages, the court should set aside the verdict and order a new trial if the jury ignored a proven element of damages. *Usselman v. Jansen*, 257 Ill. App. 3d 978, 981 (1994).

Here, the jury at the original trial found that Roseland's negligence caused David damages of pain and suffering, loss of a normal life, and future medical costs, and the evidence showed that those damages all related to David's stroke. However, the jury awarded David nothing for past medical expenses. The jury's award of \$200,000 for pain and suffering does not seem reconcilable with its award of \$0 for past medical expenses, especially where many of the expenses related directly to David's efforts to alleviate his pain and suffering. See *Snover v. McGraw*, 172 Ill. 2d 438, 449 (1996).

Roseland suggests that this court could reconcile the awards if the court interpreted the award of \$200,000 for future medical expenses as an award for both past and future medical expenses. Roseland cites no case permitting such a reconstruction of a jury's verdict. To reach the conclusion that the jury intended to award part of the \$200,000 for past medical expenses, this court would need to find that the jury misunderstood the itemized verdict form. Such a misunderstanding would then warrant a new trial. See *Smith v. City of Evanston*, 260 Ill. App. 3d 925, 933 (1994). We find that the jury's failure to award David any compensation for proven past medical expenses justified the

trial court's decision to award David a new trial.

The trial court may order a new trial on damages only where (1) the evidence amply supports the verdict on liability; (2) the separation of issues of liability from damages will not unfairly prejudice the defense; (3) the record does not suggest that the jury reached a compromise verdict; and (4) the record does not suggest that the error that led to the award of inadequate damages also affected the verdict on liability. *Hollis v. R. Latoria Construction, Inc.*, 108 Ill. 2d 401, 408 (1985).

The evidence showed that Dr. Cay lied on his application for credentials, and Roseland could have discovered some of the lies if it had made an effort to check Dr. Cay's representations. David's experts provided ample testimony to establish (1) that Roseland should not have credentialed Dr. Cay, (2) that if it had credentialed a competent doctor, that doctor would have started administering tPA to David sooner, and (3) that the delay in administering tPA proximately caused the stroke. We agree with the trial court that the evidence sufficiently supports the verdict on liability. The separation of the issues of liability and damages does not appear unfair to the defense. Nothing in the record seems to suggest a compromise verdict, and nothing in the record suggests that the errors that led to the inadequate award of damages had any effect on the finding of liability. The trial court did not abuse its discretion when it limited the new trial to damages only. See *Hollis*, 108 Ill. 2d at 411.

Skurski

Next, Roseland argues that the trial court erred when it permitted Skurski to speculate about the amount David would have earned if he had joined a law firm. For Skurski's second estimate, he used the average earnings of lawyers in professional services, even though the average far

exceeded David's income for the years before his heart attack. Skurski admitted that he based the estimate on the assumption that David would find a position in a law firm and thereby quickly raise his income to the national average for lawyers.

Singh v. Air Illinois, Inc., 165 Ill. App. 3d 923, 930 (1988), provides useful guidance for resolution of the issue. In *Singh*, an expert estimated the plaintiff's lost income by using the average earnings of persons with the same educational level as the plaintiff. The appellate court found the evidence admissible. Similarly, in *Valiulis v. Scheffels*, 191 Ill. App. 3d 775, 788-89 (1989), the court permitted an expert to testify as to the average earnings of college graduates to project the expected income for a plaintiff who had completed almost three years of college before he suffered the injury for which he sought compensation. Here, Skurski testified to the average earnings nationally of persons who had an educational background like David's, in that they had law degrees and worked in legal services.

Roseland claims that *Christou v. Arlington Park - Washington Park Race Tracks Corp.*, 104 Ill. App. 3d 257, 260 (1982) should control our decision here. In *Christou*, the plaintiff, who had some training as a bartender, testified that he hoped to own a restaurant. The appellate court held that the trial court erred when it admitted evidence about the earnings of restaurant owners, because the evidence had only remote bearing on the plaintiff's future earnings. In *Christou*, the plaintiff sought to base his projected income on one small subset of the persons with training and experience like the plaintiff's, and he chose an especially successful subset for his projection. Here, David's expert based his estimate on government statistics about the average earnings of the class of persons with training and education very similar to David's. This case appears to be much more like *Singh*

and *Valiulis* than *Christou*. Accordingly, we hold that the trial court did not abuse its discretion when it permitted Skurski to testify about the average earnings of attorneys.

Knowles

Roseland most forcefully argues that the trial court erred when it barred Knowles from testifying. The trial court barred the testimony because Knowles refused to divulge the income he earned during the two years before trial for testifying as an expert witness. Our supreme court in *Trower v. Jones*, 121 Ill. 2d 211 (1988), held that the trial court in that case correctly permitted one party to ask the opposing party's expert how much money the expert earned annually by testifying in court. The trial court correctly ruled that David had a right to ask Knowles about his annual income from testifying as an expert. *Trower*, 121 Ill. 2d at 222.

A witness "does not have the right to choose what questions he will answer once he takes the stand." *People v. Figueroa*, 308 Ill. App. 3d 93, 101 (1999). David's question would elicit relevant information that could affect Knowles's credibility. See *Trower*, 121 Ill. 2d at 221. The trial court has discretion to devise a sanction when a witness refuses to answer questions on cross-examination. See *Magyar v. United Fire Insurance Co.*, 811 F.2d 1330, 1331 (9th Cir. 1987); *Burke v. Harman*, 574 N.W.2d 156, 173 (Neb. App. 1998); *State v. Cox*, 98 P.3d 1103, 1113 (Or. 2004).

In *Burke*, a witness refused to answer a number of questions designed to impeach his testimony. The trial court struck all of the witness's testimony as a sanction for the refusal to answer proper questions. The Nebraska Supreme Court reversed, finding that the court should have instructed the jurors that they could consider the refusal to answer the questions as a reason to accord less weight to the witness's testimony. *Burke*, 574 N.W.2d at 173. See also *State v. Grubbs*, 570

P.2d 1289, 1291-92 (Ariz. App. 1977); *People v. Siegel*, 663 N.E.2d 872, 876 (N.Y. 1995); *Besco v. Henslee, Monek & Henslee*, 297 Ill. App. 3d 778, 784-85 (1998) (trial court should not have barred testimony when it could fashion lesser sanction).

The trial court here tried to fashion a lesser sanction, as the court suggested that it could instruct the jurors that they could draw an inference adverse to Roseland and Knowles because of Knowles's refusal to answer certain questions. Roseland expressly rejected this reasonable suggestion that accords with precedent from other jurisdictions. See *Burke*, 574 N.W.2d at 173; *Grubbs*, 570 P.2d at 1291-92; *Siegel*, 663 N.E.2d at 876. Roseland cannot now complain about the court's failure to use the lesser sanction Roseland expressly rejected. See *Forrester v. Patrick*, 167 Ill. App. 3d 105, 112 (1988).

Roseland argues that David waived the right to question Knowles about his income when David failed to raise the issue in pretrial motions. Roseland cites no authority to support the claim that a party must ask the court in advance of trial whether it may ask certain questions of a witness. Roseland cites *Hastings v. Gullede*, 272 Ill. App. 3d 861, 867 (1995), as its best authority for finding waiver. In that case, after the defense expert testified, the plaintiff moved to strike the testimony because in his deposition the expert had refused to answer questions about his finances. The case does not indicate whether the plaintiff asked the same questions at trial, and the defendant in that case did not reject a reasonable proposal to permit the testimony and instruct the jury that it could draw an inference adverse to the expert because of his refusal to answer the questions. *Hastings* provides no support for Roseland's claim that David waived the right to question Knowles at trial about his income from his work as an expert witness. In view of the refusal of Knowles and

Roseland to accept any of the trial court's reasonable proposals, or to recommend any other accommodation for the jury's right to know Knowles's income from testifying as an expert, we find that the trial court did not abuse its discretion when it barred Knowles from testifying. See *Figueroa*, 308 Ill. App. 3d at 101.

Dr. Fintel

Finally, Roseland maintains that the trial court erred by permitting Dr. Fintel to testify that an EKG at 9 a.m. on July 1, 1995, would have shown that David was having a heart attack, that the EKG at that time would have led to the earlier administration of tPA, that the earlier use of tPA would have saved David's heart from most of the damage it suffered during the heart attack, and that earlier treatment would have reduced significantly David's risk of stroke. The evidence directly bears on the causal connection between David's stroke and Roseland's negligence in giving Dr. Cay credentials to work in the hospital. The trial court did not abuse its discretion by admitting this relevant testimony. See *O'Donnell v. Holy Family Hospital*, 289 Ill. App. 3d 634, 646 (1997).

CONCLUSION

After the first trial, the trial court correctly denied Roseland's motion for judgment notwithstanding the verdict because David presented evidence showing that Roseland's negligence in granting Dr. Cay credentials caused David to suffer a stroke. The trial court did not abuse its discretion when it granted David's motion for a new trial on damages only. The trial court also did not abuse its discretion when it permitted Skurski to testify about the average income for lawyers in the United States who perform legal services. Because Knowles and Roseland rejected every accommodation the trial court offered to permit Knowles to testify despite his refusal to answer a

1-09-2787

legitimate, relevant question on cross-examination, the trial court did not abuse its discretion when it barred Knowles from testifying. Dr. Fintel's testimony showed the causal connection between the negligent credentialing and David's stroke, and, therefore, the trial court did not abuse its discretion when it allowed the testimony. Accordingly, we affirm the trial court's judgment.

Affirmed.