FIFTH DIVISION
June 10, 2011

No. 1-09-3122

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

JACQUELINE TRUMAN, Plaintiff-Appellant, v. AFFILIATED RADIOLOGISTS, S.C. d/b/a CIRCLE IMAGING CENTER, individually and as agent, servant, and/or employee of RUSH UNIVERSITY MEDICAL CENTER, a corporation, and RUSH UNIVERSITY MEDICAL CENTER, a corporation, Defendants-Appellees.	)	Appeal from Circuit Court of Cook County, Illinois. No. 06 L 2269 The Honorable Sheldon Harris, Judge Presiding.

JUSTICE JOSEPH GORDON delivered the judgment of the court.

Presiding Justice Fitzgerald Smith and Justice Howse concurred in the judgment.

ORDER

Held: A judgment notwithstanding the verdict was not warranted in a medical malpractice action where the parties presented conflicting expert testimony with respect to the

standard of care, defendant's breach thereof, and causation. Additionally, a verdict in favor of defendants was not against the manifest weight of the evidence where defendants presented such expert testimony that they did not breach the standard of care and that their actions did not cause plaintiff's injuries. Lastly, a new trial based on the contention that defense counsel improperly introduced medical texts was not warranted where the trial court sustained plaintiff's objections to any allegedly improper questions and instructed the jury to disregard the witness' answers.

Plaintiff Jacqueline Truman appeals from a judgment entered by the circuit court of Cook County in favor of defendants Affiliated Radiologists and Rush Medical Center, following a jury trial in a medical malpractice action. Plaintiff contends that the trial court erred in denying her motion for judgment notwithstanding the verdict because the evidence presented at trial so overwhelmingly favors her that no verdict for defendants could ever stand. She further contends that the trial court erred in denying her motion for a new trial because the verdict was against the manifest weight of the evidence and because it was prejudicial error for defendants to use published articles on medical topics as substantive evidence. Thus, plaintiff asks that the judgment of the trial court be reversed and her cause remanded for a new trial, or alternatively, that a new judgment be entered in her favor.

BACKGROUND

On March 2, 2006, plaintiff filed a complaint against defendants for medical negligence in the performance of a CT scan. In the complaint, plaintiff alleged that on March 3, 2004, she entered the hospital facilities controlled by defendant Rush Medical Center for a routine

diagnostic procedure, and was treated by defendant Affiliated Radiologists, which operated certain offices on the premises of Rush. According to the complaint, each defendant, after assuming the care and treatment of plaintiff, committed one or more of the following acts or omissions through the acts of authorized agents: (1) failure to properly administer an intravenous iodine agent to plaintiff; (2) failure to properly insert an intravenous apparatus in plaintiff's arm such that the contrast agent would go into her vein and not infiltrate into surrounding tissue; (3) failure to properly monitor the administration of the intravenous contrast agent to plaintiff; and (4) failure to follow its own policies and procedures in placing and/or monitoring the intravenous apparatus. The complaint alleged that as a proximate result of one or more of defendants' acts or omissions, plaintiff sustained severe, painful and disfiguring injuries, including left upper extremity partial compartment syndrome, namely the accumulation of fluid within a limb. Plaintiff further alleged that because of those injuries, she has endured pain and suffering, has been required to undergo physical therapy, has incurred medical, therapeutic and other expenses, and has lost certain wages and income. The parties do not appear to dispute that Affiliated Radiologists is an agent of Rush Medical Center.

The evidence adduced at trial showed, and the parties do not dispute, that plaintiff went to Rush, also known as Affiliated Radiologists, on March 3, 2004 for a CT scan of her abdomen and pelvis. Mr. Jairam Ramdhanie, the technologist administering her CT scan, placed a catheter in plaintiff's left arm to inject a contrast dye in plaintiff's vein, but at some point during the procedure the dye began to leak, or extravasate, from plaintiff's vein. Plaintiff contended that she felt a burning sensation and complained twice that the dye felt hot before Ramdhanie stopped

the injection. She claimed that as a result of that delay, she suffered nerve injuries that now cause her chronic pain in her left arm and increased sensitivity to cold. Defendants contended that plaintiff's initial complaint that it felt hot was ambiguous because patients are expected to feel a warming sensation when the dye is injected, and that Ramdhanie promptly stopped the injection when plaintiff complained for the second time. Defendants also contended that the extravsation of the dye did not cause plaintiff any injuries. The parties did not dispute that the extravasation of the dye can occur in the absence of negligence, but their points of contention was how long it took Ramdhanie to stop the injection after plaintiff first complained and whether the time it took him to respond was a breach of the standard of care. Finally, the parties did not dispute that Ramdhanie and his supervisor, Mr. Edward Jones, were employees of Affiliated Radiologist, and agent of Rush.

Plaintiff called Mr. Jairam Ramdhanie, the CT technologist who performed the CT scan, as an adverse witness. Ramdhanie testified that when that type of CT scan is performed on a patient, a dye is injected into the patient so the images appear brighter or better for the radiologist who reads the scans. Prior to that process, the patient swallows two oral contrasts, and when it is time for the exam, 125 cc's of another dye, Isovue 370, is administered intravenously through a catheter in the crease of the patient's elbow.

Although Ramdhanie did not specifically recall performing this procedure on plaintiff, he testified that he would normally tell patients that they may feel warm or flush during the procedure, and that they might have a metallic taste in their mouth. He would also advise the patient to speak up if they have any problems, and once the procedure begins, he would ask the

patient how they are doing. Ramdhanie acknowledged that a patient would feel a burning sensation if the dye extravasates, or leaks, out of the vein and into surrounding tissue. He testified, however, that if a patient says that she's "hot" during the procedure, she could be describing the warm sensation which is expected during a CT scan, and that he would not inquire further if that patient does not have other complaints. However, Ramdhanie stated, during cross-examination, that he would have, in fact, inquired further if a patient screamed and said that she was hot, especially if she screamed it twice. He also stated that if a patient complained of pain or screamed twice during the infusion process, it would be stopped immediately, even if the scanning had not started yet.

Ramdhanie further explained that after the catheter is inserted and the injection is about to begin, the CT technologist leaves the area where the patient is and goes near a console behind a lead-shielded wall that protects him from radiation emitted by the CT scan. From that console, Ramdhanie is able to hear the patient at any time, and the patient can hear him when he presses a button. He then begins the test by pre-programming a power injector to administer the dye at a rate of 2 cc's per second, and the CT scanning machine to begin scanning automatically after 50 seconds, when the injector has administered 100 cc's of the dye. He further testified that the scanning in issue takes about 20 to 25 seconds, and that he had buttons at the console which would allow him to stop the power injector and the scanner at any time during the procedure.

The X-rays, or films, taken during this process are time stamped, and Ramdhanie acknowledged that the times printed on plaintiff's X-rays show that the CT scan stopped about 7 or 8 seconds after it began, which was before the procedure was completed. According to

Ramdhanie, the procedure was stopped because plaintiff complained, but he could not recall at what point she told him that she was hot. Ramdhanie stated that plaintiff was examined by a radiologist named Dr. Shriner after he stopped the CT scan, who estimated that about 100 cc's of the dye had leaked into plaintiff's arm. Dr. Shriner also put an ice pack on plaintiff's arm to alleviate the swelling. Ten minutes later, a new CT scan was performed on plaintiff, which was completed without interruptions. Lastly, Ramdhanie stated that he complied with the appropriate standard of care with respect to this incident.

Plaintiff testified that on March 3, 2004, she arrived at Circle Imaging at Rush for a CT scan with contrast which had been ordered by her physician. She further testified that before the procedure began, Ramdhanie and his supervisor, Jones, told her that most patients experience a warm feeling during that process, and some feel nauseated. After Ramdhanie went behind the console and began th injection, she felt warm at first, and seconds later that feeling changed to a burning sensation where the needle was. At that time, plaintiff said "it's hot, it's hot," but nobody responded to her reaction. According to plaintiff, she repeated that it was hot about 5 seconds later, and at that time, Ramdhanie responded "hold on. We are almost finished." Plaintiff stated that the exam was stopped and Ramdhanie entered the room about 30 seconds after her first complaint that it was hot. At that time, plaintiff was screaming and asking him to take the needle out because she was in a lot of pain and her arm was swollen. Plaintiff further testified that Ramdhanie looked at her arm, but did not remove the needle immediately, despite her request. According to plaintiff, her arm was red, tight and swollen to four or five times its size, and her hand was throbbing. The attending doctor then came in and applied ice on

plaintiff's arm, and a second doctor examined plaintiff's arm and stated that they should have a surgeon examine plaintiff. Plaintiff denied that a second CT scan was performed.

Plaintiff further stated that she saw a surgeon named Dr. Prinz later that day, who admitted her into the hospital for a 24-hour observation because of extravasation of the dye into her arm. After her discharge, plaintiff saw her internist, Dr. Papernik, who referred patient to Dr. Amin, an anesthesiologist. Plaintiff stated that although some of the swelling in her arm diminished after 48 hours, it remained somewhat swollen, and she has continue to experience throbbing pain from her shoulder to her hand. According to plaintiff, Dr. Amin prescribed her a cocktail of pain medication and performed two types of procedures on her: one called stellate ganglion block and another called bier block, each of which is designed to block certain nerves and ease her pain. In addition, plaintiff testified that she underwent therapy and consulted with several orthopaedic surgeons, including Dr. Bach and Dr. Verma, as she still experienced pain in her left arm and hand. Both doctors found "something wrong" in her shoulder, but after Dr. Verma performed surgery on plaintiff's shoulder, her pain did not subside. Plaintiff subsequently had EMG's taken and saw Dr. Petra-Joseph for a physical and occupational therapy. She subsequently consulted with Dr. Davison, Dr. Rock, and at the defense's request, Dr. Minore. In addition, plaintiff is currently being treated by Dr. Buck, who manages her pain medication.

Plaintiff further testified that she now has an intolerance to cold in her left arm and shoulder, such that when she is in a cold room, she experiences increased pain and her arm "freezes up." In addition, she stated that she is unable to work because her previous jobs required her to use a computer and speak to customers on the telephone, which caused the pain in her arm

to increase, and her pain medication causes her to become drowsy. She acknowledged, however, that she had previously taken time off work because of menopausal symptoms, hypertension and severe stress disorder. Further, while plaintiff averred that she had not experienced any problems with respect to her left arm prior to that incident, she acknowledged that she had previously taken pain medication for other conditions, such as migraine headaches and joint problems. However, plaintiff stated that, unlike the pain in her left arm, her previous pain-causing conditions were not chronic.

Plaintiff also called as an adverse witness Edward Jones, who was Ramdhanie's supervisor when the CT scan was performed on plaintiff. Jones testified that Isovue 370 was a product that, if extravasated, could cause a patient's arm to swell more than the amount that was leaked because it had the capability of drawing fluid from the tissue around it. Further, Jones acknowledged that a technologist cannot tell from the console table whether the dye is extravasating, and would only know that something if the patient complains. While he did not recall specific details of the incident involving plaintiff, Jones testified that he must have had a conversation with Ramdhanie at that time because it was part of the protocol that if a patient experienced leakage, Jones would speak to that individual to find out what happened. Jones then read from the incident report which he prepared at the time of the incident, and which stated that approximately 100 cc's of the contrast had extravasated, that the exam was stopped and the patient's physician was called. The estimate of the amount leaked was based on Ramdhanie's statement that the dye was injected for 50 seconds at the rate of 2 cc's per second. I

In addition, Jones stated that it is normal for a patient to describe the injection as "hot,"

and the technologist, therefore, may not think anything of it, since a feeling of warmth is expected during the infusion. He also stated that he understands "hot" as having the same meaning as "warm," and acknowledged that if the dye extravasates, the patient can feel a burning sensation, which she may describe as hot. He explained, however, that whether a technologist would stop the process depends on the totality of what and how the patient tells him. Jones stated that the procedure would be stopped if a patient screams twice in a matter of seconds, and that based on the X-rays taken from plaintiff, her procedure was stopped seven or eight seconds after scanning began.

Next, while the record does not contain a transcript of the corresponding portion of the trial, the parties do not dispute that plaintiff introduced into evidence the videotaped deposition of Dr. Morris Papernik, an internist who had treated plaintiff since the early 1990s, on the issue of injuries sustained. Dr. Papernik testified that he has been a guest lecturer for neuropathic pain syndrome, which is a syndrome originating from the nerves and causes a heightened sensitivity to pain. The syndrome could be secondary to peripheral damage to the nerve, to central damage, i.e., the brain, or to damage in the spinal cord.

According to Dr. Papernik, he saw plaintiff on March 29, 2004, at which time she told him about the incident from March 3 of that year. Plaintiff related that she was experiencing pain in her left arm and hand, and he saw a radiology report which stated that 100 cc's of dye had extravasated into plaintiff's arm. He also learned from a letter by Dr. Prinz that on the date of the incident, plaintiff's arm was swollen and she was admitted to the hospital so that she would not develop compartment syndrome, which occurs when pressure is placed within a limb and

causes fluid to accumulate in that limb. Those fluids would then put additional pressure in the adjacent tissue and diminish the blood supply to the area, which can lead to nerve damage if left untreated.

Dr. Papernik believed that the dye extravasation resulted in a partial compartment syndrome, which in turn caused chronic pain secondary to chronic regional pain syndrome (CRPS), a type of neuropathic pain which occurs when a person suffers an injury to an extremity that causes pain without any structural damage to that extremity. The doctor stated that a small amount of fluids can be enough to cause neuropathic pain if they extravasate in an extremity, and that while it is not common for a patient to suffer neuropathic pain from extravasation of contrast dye, it is also not rare. Dr. Papernik stated that the neuropathic pain could have been caused by the possibly caustic nature of the dye, by the pressure of the fluid cutting the blood supply to the nerve, or by the needle stick alone. According to Dr. Papernik, it is important to understand that neuropathic pain is a type of illness that causes significant pain, even without any outward signs of trauma.

On Dr. Papernik's file was a letter from Dr. Shayk, who was an associate professor in the neurology department at Rush, and was referred to plaintiff by Dr. Papernik. Dr. Shayk believed that plaintiff's condition was neuropathic pain, although not necessarily CRPS. Dr. Papernik also received a letter from Dr. Amin, an anesthesiologist who specializes in pain management. Plaintiff's main complaint to Dr. Amin was pain in her left shoulder, arm and hand pain, which was achy in nature and worsened with activity. The letter further indicates that an electromyography (EMG) was previously done, and that its results were normal. Dr. Papernik

explained that an EMG measures the transmission of impulses through the nerves, but that patients with neuropathic pain can usually have a normal EMG because it does not pick up every type of fiber which causes nerve pain. A subsequent letter from Dr. Amin indicated that almost a year later, plaintiff's pain had improved after she had a series of ganglion blocks, and that Dr. Amin diagnosed her with CRPS.

Additionally, Dr. Papernik received a letter from Dr. Visotsky, an orthopedic surgeon to whom he referred plaintiff. Dr. Visotsky observed swelling in plaintiff's left arm, and that the nerves on that arm were tender. His diagnosis of plaintiff was "transient" compartment syndrome and irritation of several nerves in her left arm, namely, the brachial plexus, median and ulnar nerves. Further, Dr. Papernik also had a letter from Dr. Bach, another orthopedic surgeon, who stated, based on plaintiff's history and symptoms, that her pain may be the result of scarring or chronic inflammation following the dye extravasation. In addition, Dr. Papernik received a report from Dr. Verma, yet another orthopedic surgeon, stating that plaintiff continued to complain of significant pain in her shoulder, arm, wrist and finger 12 weeks after undergoing shoulder surgery and subacromial decompression. That surgery appears to be related to plaintiff's impingement syndrome, which is apparently unrelated to the nerve injuries in her left arm.

Dr. Papernik further testified that as of September 2005, plaintiff was still complaining of throbbing pain in her left arm and hand. At that time, she was taking a pain medication named Tramadol six times a day, but complained that it was not helping her and that it was making her lethargic and depressed.

On cross-examination, Dr. Papernik acknowledged that prior to 2004, when the CT scan was taken, plaintiff had seen Dr. Papernik on more than one occasion with complaints of pain, including pain in her chest, foot, ankle, shoulder, knee, back and face, some of which had prevented her from working for certain periods of time. In fact, one month prior to the CT scan, Dr. Papernik wrote a note explaining that plaintiff was unable to work due to abdominal pain which she had experienced since undergoing a hysterectomy in December 2003, and due to pain medications which clouded her memory and concentration. Additionally, plaintiff had told Dr. Papernik that other people did not take some of her pain complaints seriously.

Plaintiff called Dr. William Davison, a neurologist, who testified that he performed a complete neurological examination on plaintiff in June of 2008, to find out whether she had any neurological problems. During the examination, plaintiff had explained that she had acute pain throughout her left arm and hand, which sometimes radiate to her shoulder and occasionally to her neck. She had also complained of numbness, sensitivity to cold and difficulty using her left hand. The doctor observed during his examination that she had a decrease in the range of motion of her left shoulder, and kept her arm in a "dependent position," meaning that it hangs down on her side, such that it was flexed away from anything that could touch it. In addition, the doctor stated that the results of plaintiff's EMGs were normal, but that it did not necessarily mean that plaintiff had suffered no nerve damage. Dr. Davison explained that EMGs measure only damage to major nerves, and he believed that plaintiff had suffered damage to the nerve endings and small fiber sensory nerves, which may not be detected during an EMG.

Dr. Davison believed that the damage to plaintiff's nerves was most likely caused by

pressure of the dye under her skin, which pressed against the nerves and stretched the skin away from the nerve endings when the dye extravasated. As a result of that damage, plaintiff developed a pain syndrome because even after the pressure was relieved, her nerves no longer function correctly and continue to send signals to her brain which cause her to feel pain. Further, the doctor stated that the extent of the damage suffered was based on the quantity of the dye that extravasated, which the doctor believed to be about 100 cc's. He further testified that he diagnosed plaintiff with CRPS, and explained he found no other cause for plaintiff's symptoms besides the dye extravasation.

Additionally, Dr. Davison stated that in his opinion, plaintiff was not faking or exaggerating her symptoms, based on the facts that she answered all of his questions, he could feel her trying to flex her muscles and carried her arm in a way that people suffering from chronic pain usually do. According to Dr. Davison, plaintiff had normal sensation and did not describe any symptoms of allodynia, which is painful touch.

Next, plaintiff called Dr. Howard Rock, an anesthesiologist and pain specialist who saw plaintiff twice at Dr. Davison's request. Based on plaintiff's history, Dr. Rock believed that her pain was consistent with neuropathic pain, but not with CRPS. Dr. Rock testified that he could not have a complete examination of plaintiff because it was too painful for her to finish all of the tests. The doctor did conclude, however, that plaintiff did not have allodynia, which was an indication that she did not suffer from CRPS. In addition, the doctor did not observe symptoms that are usually present in patients with CRPS, such as tightness of the skin and sparse hair on the area affected. Additionally, Dr. Rock stated that his conclusion is consistent with the results of

the bier block and stellate ganglion block that plaintiff had. According to the doctor, both tests involve the injection of drugs that block the sympathetic nervous system, which is the system that causes the type of pain associated with CRPS. If after the effect wears off, the patient has a deeper pain without skin sensitivity, as plaintiff had, that is indicative of neuropathic pain without CRPS.

With regard to the cause of plaintiff's neuropathic pain, Dr. Rock believed, based on her history, that it was caused by the extravasation of the dye into her tissue because the type of dye used in this case would swell up the area where it extravasates and cause compression and blocks off the blood supply to the surrounding tissue. The doctor also explained that the dye is believed to have a detrimental chemical effect which may have contributed to plaintiff's present condition. Additionally, Dr. Rock stated that the majority of plaintiff's pain was in the distribution of the median nerve, which extends from the ring finger through the thumb, and follows all the way up to the crook of the elbow, which is where the doctor believed there was pressure from the dye. Further, the doctor testified that if a large volume of dye extravasates in the crook of plaintiff's elbow, it blocks the blood supply to the nerves fibers in the affected area, and because the pressure from the dye cannot be alleviated quickly, the damage to those nerves is permanent. Dr. Rock acknowledged, however, that he did not know how much of the dye went in before and after plaintiff complained of pain.

In addition, Dr. Rock acknowledged, on cross-examination, that during the course of his examination of plaintiff, he determined that she had neck pain due to a hereditary condition, which could also impact her shoulder. He further stated that plaintiff had an impingement

syndrome in her left shoulder, and that after having surgery to relieve "narrowing" in her shoulder, she developed a frozen shoulder. Although Dr. Rock and two other physicians had recommended physical therapy for plaintiff's conditions, but she did not follow through.

Moreover, it appears that plaintiff introduced the videotaped evidence deposition of Dr. Myron Marx, with regard to the applicable standard of care. Dr. Marx testified that he is a diagnostic and interventional radiologist, and performs CT scans of the abdomen on a daily basis. According to Dr. Marx, it is the responsibility of the CT technologist to operate the CT scan machinery and obtain images in a safe and satisfactory way so the radiologist can interpret them. The doctor further testified that Isovue 370 has osmolarity, which means, as discussed previously, that it is saltier than blood, and that if it extravasates from the vein and into soft tissue, it will draw fluid and cause swelling. Dr. Marx explained that if that contrast extravasates, it is going to spread to soft tissues and put pressure on adjacent structures, such as nerves, veins and tissues themselves. Additionally, extravasation of a salty solution such as Isovue 370 is going to cause a burning sensation, as if a salt solution were poured into a wound.

Dr. Marx further testified that extravasations can happen in the absence of negligence, but stated that the standard of care requires technologists to instruct patients to speak up if they feel unusual pain. The doctor also stated that under the applicable standard of care, if the patient complains and extravasation is suspected, the injection is to be stopped the problem investigated because the more the dye extravasates, the more severe the injury is likely to be. Additionally, the doctor explained that because extravasation causes a painful burning sensation, patients will normally complain within one to three seconds from the time the dye begins to extravasate. The

doctor acknowledged, however, that if a patient's complaint is ambiguous and the technologist communicates with the patient to find out whether there is possible extravasation, and only then stops the injection, that conduct is not negligent.

In addition, Dr. Marx stated that in his opinion, Ramdhanie breached the standard of care in administering plaintiff's CT scan when plaintiff complained of pain and screamed and Ramdhanie did not stop the injection right away. According to the doctor, Ramdhanie's breach contributed to the injuries sustained by plaintiff because if the injection had been stopped when plaintiff complained, a small extravasation injury would have been discovered and the injection would have been continued in another site. Dr. Marx attested that his opinion is based on plaintiff's medical records related to the CT scan in question, as well as the deposition testimony of plaintiff, Ramdhanie and Jones. While Dr. Marx reviewed the films of the CT scan a week before giving his evidence deposition, that did not change his opinion. Based on those records, which included the radiologist's estimates of how much dye extravasated, Dr. Marx believed that 125 cc's were injected into plaintiff at the rate of 2 cc's per second, of which 100 cc's extravasated. He then estimated that the dye must have begun extravasating after 14 seconds, at which time plaintiff first complained, but the dye continued to be injected for an additional 50 seconds. In Dr. Marx's opinion, waiting 50 seconds to stop the injection from the time plaintiff first complained was negligent, and had Ramdhanie stopped the injection as soon as he heard plaintiff's complaint, it is unlikely that she would have sustained the same negative effects from extravasation. The doctor acknowledged, however, that he did not know from the records how long it took for plaintiff to complain of pain after the dye began extravasating. He also

acknowledged that if a patient complains late, the technologist communicates with the patient to identify the problem, then stops the injection, that would have been appropriate.

It appears that after plaintiff's case-in-chief, defendants called Dr. Robert Vogelzang, another diagnostic and interventional radiologist, on the issue of whether there was a breach of the standard of care. Dr. Vogelzang testified that he based his opinions with respect to this case on plaintiff's hospital records immediately following the extravasation, the films taken during the CT scan, the radiology reports, as well as the depositions of plaintiff, Ramdhanie, Jones and Dr. Marx. Dr. Vogelzang also reviewed certain medical texts on the field of radiology, which dealt with extravasation, in preparing his opinion.

Dr. Vogelzang further testified that in his opinion, Ramdhanie did not deviate from the applicable standard of care in managing plaintiff's CT scan in question and responding to the extravasation incident. The doctor stated that if plaintiff sustained any injuries, they did not result from improper care by Ramdhanie. Additionally, the doctor stated that based on his experience, knowledge and reading, no patients have ever developed neuropathic pain following extravasation of dye, whether it is small or large. He also testified, as did Dr. Marx, that dye extravasation may occur during a CT scan in the absence of negligence. According to Dr. Vogelzang, he read the techniques employed by Ramdhanie in administering the catheter into plaintiff's arm, which in his opinion, were appropriate and widely accepted to endure that the dye would be injected in the patient's vein. Additionally, the doctor stated the films taken during the CT scanning process indicate that it only lasted 8 seconds, and that it was not completed because while this was going to be a CT scan of the abdomen and pelvis, the film showed only images

from the top to the middle of plaintiff's abdomen. The second CT scan, performed 10 minutes later, showed a complete examination from the top of the abdomen to the bottom of the pelvis, and was taken over the course of 20 seconds. Thus, the doctor concluded that the first set of scans was abruptly stopped 12 seconds before completion.

Further, the doctor explained that in his experience, extravasations of the type of dye used on plaintiff do not typically cause discomfort or symptoms aside from swelling, and that when patients do experience discomfort, it does not begin until after 50 to 150 cc's of dye have extravasated. At a rate of 2 cc's per second, it would take more than 2 or 3 seconds for a patient to feel pain, and in Dr. Vogelzang's experience, most patients who experience extravasation do not complain until the end of the injection. The reason for that, according to Dr. Vogelzang, is that unlike some of the older contrast solutions, Isovue 370 has low osmolarity, which means that although it is saltier than blood, it has a lower concentration. As a result of such low concentration, it causes less irritation to tissues than older solutions and is safer to patients.

In addition, Dr. Vogelzang estimated, based on plaintiff's deposition, that about 20 seconds elapsed between her first complaint and the time when Ramdhanie was in the room with her. According to the doctor, it was an appropriate length of time for the technologist to hear the patient, communicate with her, hear her second complaint, turn off the injector and scanner and enter the room. Further, it was Dr. Vogelzang's opinion that plaintiff likely did not make her first complaint until 50 to 60 cc's of dye had extravasated, and that her statement that the dye felt "hot" was ambiguous, because it is expected that the patient will feel warm when the injection begins. He further stated that if a patient complains that she is "hot," it is not a deviation of the

standard of care if the technologist does not inquire further. The doctor acknowledged that if the patient screamingly repeats the complaint, the infusion should be stopped, and noted that based on the time stamps on the films, plaintiff's infusion was stopped when she made the second complaint.

Moreover, it appears that defendants called Dr. John Markman, a neurologist and anesthesiologist who specializes in pain management, on the issue of whether plaintiff suffered permanent injury. In fact, Dr. Markman testified that he is a recognized expert in the field of neuropathic pain, which as previously mentioned, consists of pain caused by an injury or dysfunction of the nervous system. Dr. Markman further stated that as part of his work in the field of neuropathic pain, he has never treated a patient who, after experiencing extravasation of fluid, developed neuropathic pain but did not also develop compartment syndrome. Dr. Markman further testified that he uses Isovue 180, 240 and 370 in his practice, and routinely injects Isovue dye in patients' spinal canal, which has a high density of nerve fibers. He acknowledged, however, that he is not certain whether the particular dye Isovue 370 can be injected directly into a patient's spinal canal.

In reaching his opinions with respect to this case, Dr. Markman reviewed plaintiff's medical records, including her history before and after the extravasation, the opinions of Dr. Davison, Dr. Rock and Dr. Marx, and her EMG reports. Dr. Markman further stated that based on the assessment by the radiologist immediately after the extravasation, Dr. Prinz's examination and records from Rush regarding plaintiff's 23-hour admission following the incident, there was no indication of disruption of blood flow to plaintiff's nerves. Additionally, there was no

indication from any of those records that plaintiff sustained compartment syndrome, either partial or otherwise. In fact, the doctor explained that since plaintiff suffered no disruption of the blood flow at the time of the incident, she did not develop compartment syndrome.

According to Dr. Markman, plaintiff does not have CRPS, because if she had sustained CRPS 1, which is consistent with a normal EMG, she would have presented other symptoms, such as changes in her arm hair or fingernails, muscle atrophy or severe weakness. In addition, the doctor acknowledged that a patient who does not have CRPS may nevertheless have another type of neuropathic pain. However, according to Dr. Markman, about 34 to 40 percent of patients who suffer from neuropathic pain syndrome develop it without an identifiable inciting event. Further, the doctor testified that, assuming that plaintiff has neuropathic pain, he did not believe that the fluid that extravasated into her arm is what caused her neuropathic pain. Although Dr. Markman reviewed in plaintiff's records the opinions of other physicians who believed that the cause of plaintiff's neuropathic pain was the dye extravasation, he disagreed with their conclusion. The doctor explained that nothing shows that nothing indicates that the blood flow to plaintiff's nerves was disrupted, and that it is very uncommon for a patient to develop neupathic syndrome only because of swelling.

In addition, Dr. Markman stated that, based on plaintiff's records, she suffers from other painful conditions in her left arm that are unrelated to her complaints that are consistent with neuropathic pain. For instance, plaintiff had a cervical joint disease, which can cause pain in her neck and arm. Plaintiff had also suffered a small stroke, which can cause pain in her left arm, and she had surgery performed in her left shoulder.

When Dr. Markman was asked whether he was familiar with literature on the consequences of dye extravasation, plaintiff's objection was sustained. Further, the trial court twice sustained plaintiff's objection to the doctor's testimony that there was no support in medical literature to the theory that there is a correlation between neuropathic pain and quantity of fluid extravasated. In both instances, the trial court instructed the jury to disregard the question and response.

Next, it appears that defendants called Dr. William Minore, a pain management specialist who examined plaintiff at defendants' request on December 10, 2008. In forming his opinions, Dr. Minore also reviewed plaintiff's medical records, her EMG reports, as well as the depositions of Dr. Davison, Dr. Rock, Dr. Petra-Joseph, Dr. Markman and plaintiff. Dr. Minore testified that the medical records from plaintiff's hospitalization following the incident indicated that she had not developed compartment syndrome, and there were no findings of disruption of the blood flow to her nerves which would have injured the small nerve fibers in her arm. Those records indicated that plaintiff's skin had normal color and temperature, her motor strength was normal and her pain was not severe. Although the records indicated that plaintiff's skin was hard, that is expected immediately after an extravasation when the fluid is just under the skin, and that the hardness normally decreases as the fluid is sucked into the bloodstream. Dr. Minore explained that when patients suffer compartment syndrome, they experience motor nerve damage and sensory damage because the fluid either blocks the blood flow to the nerve or physically squeezes the nerve. Nothing indicated that plaintiff's nerves were damaged in either of those mechanisms. The doctor further testified that if there had been lack of blood flow to plaintiff's sensory nerve

fibers, she would lose sensation in that area, and the records show that plaintiff always had normal sensation in her arm.

Dr. Minore further testified that Isovue 370 is not neurotoxic, which is why it is directly injected in the spinal canal next to the nerves during myelograms. On cross-examination, Dr. Minore acknowledged that the package of Isovue 370 says "not for intrathecal use," which means not for injection in the spinal cord, and the doctor responded he wouldn't use "high volumes" intrathecally.

In addition, Dr. Minore stated that following his 42 minute examination of plaintiff, he concluded that she has a pain syndrome, but is uncertain whether it is neuropathic pain. He further testified that he did not believe that she had CRPS because she did not have usual signs, such as changes in the skin, hair, nails or temperature in her left arm. Dr. Minore also stated that plaintiff's actions during the examination were inconsistent with those of patients who have pain syndromes. For instance, patients who suffer from CRPS or other neuropathic pain usually hold their arm close to their chest because keeping it in a dependent position, which is when it hangs down, actually increases pain. During Dr. Minore's examination, however, plaintiff almost always had her arm in a dependent position. Additionally, while plaintiff had told Dr. Minore that she could not lift her arm due to pain, he was able to elevate it without causing her pain or discomfort. According to Dr. Minore, he could not normally manipulate the arm of a patient in a "neuropathic situation" because it would have been too painful. Further, Dr. Minore observed that plaintiff was tapping both hands on her knees to the beat of the music that was playing in the background, which was inconsistent with what he had seen in her records.

Additionally, Dr. Minore stated that plaintiff was susceptible to suggestion, which caused him to question whether she had neuropathic pain. The doctor explained that he shined a laser light on plaintiff's arm after telling her that it "may or may not cause discomfort," when in truth the light cannot cause pain at all. When Dr. Minore shined the light on her left arm, she complained of pain, and when he turned the light off, her pain stopped. In addition, when Dr. Minore examined plaintiff's hands, he gently squeezed her left hand without eliciting complaints of pain. However, when he told her that the touch of the tip of a Kleenex tissue "may hurt," she told him that it did. Dr. Minore further testified that while plaintiff's records indicated that plaintiff had a bier block as treatment for her pain complaints, a patient with neuropathic pain would be unable to tolerate that procedure.

Furthermore, Dr. Minore noted that plaintiff had other conditions which could explain her chronic pain. He observed that after plaintiff had shoulder surgery, she failed to follow through with physical therapy as she was instructed. According to Dr. Minore, that inactivity of her shoulder can cause the nerves that go through a patient's arm down to her hand to become pinched. As a result, she would experience painful symptoms throughout her arm and hand. In addition, plaintiff's records indicated that she had a significant amount of cervical degenerative disc disease and stenosis with arthritic changes in her neck. Those conditions could have caused pain in her left arm if she positioned herself in a way that helped to correct them. As a result, it is Dr. Minore's opinion that plaintiff has chronic pain syndrome as a result of her shoulder and cervical spine, not the extravasation of the dye.

At closing arguments, defense counsel mentioned that unlike plaintiff's expert Dr.

Davison, Dr. Markman was involved in academic research and written peer-reviewed articles on neuropathic pain. Counsel did not, however, summarize the substance of Dr. Markman's articles, or any other medical literature.

The jury returned a verdict in favor of defendants, and the trial court subsequently denied plaintiff's postjudgment motion for judgment notwithstanding the verdict (n.o.v.) or a new trial.

ANALYSIS

On appeal, plaintiff first contends that trial court erred in denying her motion for judgment notwithstanding the verdict on the grounds that the testimony elicited during trial shows that defendants deviated from the applicable standard of care and that such deviation caused or contributed to plaintiff's injury. Plaintiff argues that defendants' own liability expert conceded that the technologist should have inquired when plaintiff complained that she was hot because that complaint could have denoted that the dye was leaking, not merely that she was reacting to the dye as it was normally expected. She maintains that since defendants' expert agreed that the complaint could have denoted extravasation, the evidence that defendants deviated from the applicable standard of care by not stopping the injection promptly, even when viewed in the light most favorable to defendants, so overwhelmingly favors plaintiff that no judgment in favor of defendants could stand. We profoundly disagree, as shall be explained below, it is readily apparent from the record that the verdict of the jury is more than amply supported by the evidence including the opinion testimony of defendants' experts.

It is well established that a motion for judgment notwithstanding the verdict should be granted only where all of the evidence and inferences to be drawn therefrom, viewed in the light

most favorable to the nonmoving party, " 'so overwhelmingly favors movant that no contrary verdict based on that evidence could ever stand.' " *Thorton v. Garcini*, 237 Ill. 2d 100, 107 (2010), quoting *Maple v. Gustafson*, 151 Ill. 2d 445, 453 (1992). In making that assessment, the court does not weigh the evidence or the credibility of the witnesses, and must not substitute its own judgment for that of the jury merely because there are other conclusions or inferences that could have been drawn or because there are other results which the court believes are more reasonable. *Grillo v. Yeager Construction Co.*, 387 Ill. App. 3d 577, 589 (2008). " 'The court has no right to enter a judgment n.o.v. if there is any evidence, together with reasonable inferences to be drawn therefrom, demonstrating a substantial factual dispute, or where the assessment of the credibility of the witnesses or the determination regarding conflicting evidence is decisive to the outcome.' " *Gutstein v. City of Evanston*, 402 Ill. App. 3d 610, 616 (2010), quoting *Maple*, 151 Ill. 2d at 454. This court reviews *de novo* a trial court's ruling on a motion notwithstanding the verdict. *Grillo*, 387 Ill. App. 3d at 590.

Further, in order to prevail in a medical malpractice case, plaintiff must establish the applicable standard of care against which defendants' conduct is measured, and must then prove: (1) a deviation from that standard of care; and (2) a resulting injury proximately caused by defendants' breach of the applicable standard of care. *Sullivan v. Edward Hospital*, 209 Ill. 2d 100, 112 (2004); *Dienstag v. Margolies*, 396 Ill. App. 3d 25, 32 (2009). The weight to be given an expert's testimony is for the trier of fact to determine. *Dienstag*, 396 Ill. App. 3d at 36.

For instance, *Dienstag*, 396 Ill. App. 3d at 27, involved a malpractice action against a defendant doctor for failure to diagnose plaintiff's breast cancer, wherein the jury found in favor

of plaintiff. There, plaintiff's expert testified that the standard of care required defendant to recommend a surgical consultation and discontinue plaintiff's hormone replacement therapy when her mammogram showed tissue density, which defendant failed to do. *Deinstag*, 396 Ill. App. 3d at 32-33. Defendant's experts testified that defendant complied with the standard of care since plaintiff's mammogram showing tissue density did not reveal any evidence of a malignant or cancerous mass, and the radiologist's report stated that it was "probably benign." *Deinstag*, 396 Ill. App. 3d at 34. In affirming the trial court's denial of defendant's motion for judgment n.o.v., the reviewing court noted that the parties presented conflicting testimony with regard to the applicable the standard of care and with regard to the defendant's breach thereof. *Deinstag*, 396 Ill. App. 3d at 36. The court then found that such conflicting evidence raised a question of fact for the jury and that this court would not substitute its judgment for that of the jury or reweigh the credibility of the witnesses. *Deinstag*, 396 Ill. App. 3d at 36; see also *Piano v. Davison*, 157 Ill. App. 3d 649, 666 (1897) (judgment n.o.v. not warranted where parties presented conflicting expert testimony regarding the standard of care and defendant's breach thereon in medical malpractice action).

In this case, plaintiff presented the testimony of Dr. Marx, who testified that the standard of care required the technologist to stop the injection if the patient complains and extravasation is suspected because the more dye extravasates, the more severe the injury is likely to be. He also stated that defendants deviated from that standard when Ramdhanie failed to stop plaintiff's injection when she first complained that it was hot. Dr. Marx based that conclusion on his belief that a patient will feel a burning sensation, which may be described as "hot," and will usually

complain within 3 seconds of extravasation. He estimated, based on his review of the pertinent medical records, that Ramdhanie did not stop the injection for 50 seconds after plaintiff first complained. However, defendants presented Dr. Vogelzang's testimony that if a patient complains that the dye feels hot, the standard of care does not require the technologist to inquire further because it does not necessarily mean that the dye extravasated. He further testified that, even if plaintiff's complaint denoted extravasation, there was nevertheless no deviation from the standard of care because plaintiff's medical records indicated that Ramdhanie was in the room, after stopping the injection, 20 seconds after her first complaint, which was a reasonable amount of time to clarify her complaint and stop the injection. Dr. Vogelzang reached that conclusion because in his experience, patients usually do not begin to feel discomfort until at least 50 cc's of dye have extravasated and most do not complain until the end of the procedure.

With regard to causation of her injuries, plaintiff introduced the testimony of Dr. Davison, who stated that plaintiff developed CRPS because of the extravasation of the dye, which caused damage to her nerves by stretching the skin away from her nerves. In his opinion, the extent of her injury was directly related to the quantity of dye that extravasated. Plaintiff also presented the testimony of Dr. Rock, who disagreed that she suffered from CRPS, but believed that she developed neuropathic pain syndrome as a result of the extravasation of the dye, which would have caused the dye to press against her nerves and block the blood supply to those nerves. She also presented Dr. Papernik's testimony that the extravasation caused her to develope a partial compartment syndrome, which in turn caused CRPS. Defendants, however, presented the testimony of Dr. Markman, who stated that plaintiff did not develop neuropathic

pain from the extravasation of the dye. He testified that plaintiff's records did not show that the incident had caused disruption in her blood flow, that she did not develop compartment syndrome or CRPS, and if she had neuropathic pain, it was not caused by the extravasation. Similarly, Dr. Minore testified that plaintiff had not suffered any injuries from the extravasation. He also believed that nothing indicated that plaintiff's blood flow was disrupted, and the results of his examination of plaintiff did not reveal the signs of neuropathic pain syndrome. Dr. Minore's examination of plaintiff revealed that she was susceptible to suggestion and did not position her arm in a manner consistent with the symptoms of neuropathic pain syndrome. Both Dr. Markman and Dr. Minore testified that plaintiff has other conditions, unrelated to the extravasation incident, which may explain her painful symptoms.

Similarly to *Dienstag* and *Piano*, the expert testimony in this case was in conflict with respect to the standard of care governing the administration of the CT scan, whether defendants breached that standard in their response to plaintiff's complaints, and whether the extravasation of the dye between the time plaintiff first complained and the time the injection was stopped caused plaintiff's injuries. In each of those instances, the question was dependent on the credibility of the expert witnesses, a determination that is assessed by the jury. Consequently, this court will not substitute its judgment for that of the jury or make a determination of the credibility of the expert witnesses.

Plaintiff's attempt to find support in *Carman v. Dippold*, 63 Ill. App. 3d 419 (1978), is futile because that case did not involve conflicting testimony with regard to the pertinent issue. In that case, the jury entered a verdict in favor of defendant in a medical malpractice action

against an obstetrician. The defendant in that case delivered plaintiff's baby through the birth canal after becoming aware that the baby was in a breech position. *Carman*, 63 Ill. App. 3d at 421-23. After the baby's body came through, the aftercoming head did not emerge easily and the doctor used a maneuver in which he inserted two fingers in the baby's mouth to lower his chin, but no forceps. *Carman*, 63 Ill. App. 3d at 424. However, it took defendant ten minutes to deliver the aftercoming head, during which time the baby's oxygen supply was cut off, and as a result, the baby died hours later. *Carman*, 63 Ill. App. 3d at 424-25. Defendant admitted that he did not have Piper forceps in the delivery room at the time, and had never used them before. *Carman*, 63 Ill. App. 3d at 424. At trial, plaintiff's expert witnesses who testified that during a delivery of a baby in breech position to a first-time mother, such as plaintiff, Piper forceps should have been used if other maneuvers proved unsuccessful. *Carman*, 63 Ill. App. 3d at 424. In reversing the judgment on that issue, the court noted that defendant presented no expert testimony in support of his continued use of his maneuver even though it took him ten minutes to free the baby' head. *Carman*, 63 Ill. App. 3d at 427. In this case, by contrast there was conflict in testimony in every element of plaintiff's claim, and the jury was free to choose whose testimony to believe. Defendants presented testimony from Ramdhanie that if a patient screamed in pain he would stop the injection immediately. Defendants also presented expert witnesses attesting that Ramdhanie did not deviate from the applicable standard of care in stopping the injection after plaintiff's second complaint, as well as expert testimony that the extravasation incident did not cause plaintiff to suffer injuries. Accordingly, we conclude that the trial court did not err in denying plaintiff's motion for judgment notwithstanding the verdict.

Plaintiff contends, in the alternative, that the trial also court erred in denying her motion for a new trial because the verdict in defendants' favor was against the manifest weight of the evidence. She maintains that the evidence presented at trial established that the technologist failed to inquire further the first time she complaint that the dye felt hot. Plaintiff also argues that there was no competent testimony to contradict the evidence presented by plaintiff that she suffered neuropathic pain as a result of the extravasation.

Our supreme court has recognized that a new trial is warranted if, after weighing the evidence, the trial court finds that the verdict is contrary to the manifest weight of the evidence. *York v. Rush-Presbyterian-St. Luke's Medical Center*, 222 Ill. 2d 147, 178 (2006). "A verdict is against the manifest weight of the evidence when the opposite conclusion is clearly evident or when the jury's findings are unreasonable, arbitrary and not based on any of the evidence." *McClure v. Owens Corning Fiberglas Corp.*, 188 Ill. 2d 102, 132 (1999), quoting *Maple*, 151 Ill. 2d at 454, quoting *Villa v. Crown Cork & Seal Co.*, 202 Ill. App. 3d 1082, 1089 (1990). A reviewing court will not reverse a trial court's ruling with regard to a motion for a new trial based on the manifest weight of the evidence unless it finds that the trial court abused its discretion. *York*, 222 Ill. 2d at 179. The trial court is accorded such deference because it had the benefit of observing the witnesses's appearance, manner and other circumstances which would have aided in assessing their credibility. *Bosco v. Janowitz*, 388 Ill. App. 3d 450, 461 (2009). In determining whether the trial court abused its discretion, we must consider "whether the jury's verdict was supported by the evidence and whether the losing party was denied a fair trial." *Maple*, 151 Ill. 2d at 445-46.

As discussed above, the jury's verdict in defendants' favor was supported by testimony of their expert witnesses. Defendants presented expert testimony that it did not deviate from the standard of care in responding to plaintiff's complaints because most patients will not feel much discomfort until more than 50 cc's extravasated and the complaint that she was hot was ambiguous. Additionally, defendants' experts also testified that the extravasation of the dye did not cause plaintiff's nerve injuries because there is no indication that it disrupted her blood flow at the time of the incident. Further, although plaintiff testified that Ramdhanie told her to "hold on" after her second complaint, Ramdhanie testified that he would have stopped the procedure, and the CT scans indicate that the procedure was, in fact, stopped. While the jury also heard plaintiff's evidence on how defendants breached the standard of care and how it caused her injuries, the jury was free to weigh that evidence and judge the credibility of the testimony presented. Further, although plaintiff contends that two of defendants' expert witnesses were impeached with regard to whether Isovue 370 may be injected into the spinal cord in order to vitiate their credibility, we disagree. As discussed above, it is the province of the jury to resolve conflicts in the evidence, assess the credibility of the witnesses, and decide what weight should be given to those witnesses' testimony, taking into account surrounding facts tending to impeach their veracity. *Maple*, 151 Ill. 2d at 452; see Oberkircher v. Chicago Transit Authority, 41 Ill. App. 2d 68, 74 (1963). Accordingly, we cannot conclude that the jury's verdict in favor of defendants was arbitrary, unreasonable or unsupported by evidence so that the opposite conclusion is clearly evident.

Likewise, plaintiff's reliance on *Reardon v. Bonutti Orthopaedic Services, Ltd.*, 316 Ill.

App. 3d 699 (2000), has no merit. In that case, plaintiff claimed that his physician was negligent in failing to examine his foot after nurses reported a worsening condition, and as a result, his foot had to be amputated. *Reardon*, 316 Ill. App. 3d at 699. In that case, several expert witnesses testified that plaintiff had developed compartment syndrome, which can lead to the death of the muscles if left untreated for too long. *Reardon*, 316 Ill. App. 3d at 710-12. The only witnesses who disagreed were defendant himself, and a doctor who did not examine plaintiff and stated that compartment syndrome could not be diagnosed without an instrument that measures the pressure in the limb. *Reardon*, 316 Ill. App. 3d at 711. In this case, however, defendants presented the testimony of Dr. Markman and Dr. Minore, which was based in plaintiff's medical records, explaining in detail why they did not believe plaintiff suffered any injuries from the extravasation, namely, that her records did not indicate any disruption in her blood flow, which could have damaged her nerves. Unlike the testimony of defendants' witnesses in Reardon, the testimony presented by defendants in this case was more than sufficient to support the verdict of the jury. Additionally, Dr. Minore's opinion that plaintiff did not develop neuropathic pain was based not only on her records, but on his personal examination of plaintiff. Thus, we conclude that the trial court did not abuse its discretion in denying plaintiff's motion for a new trial because the jury's verdict in favor of defendants was amply supported by the evidence.

Lastly, plaintiff contends that she was denied a fair trial because defense counsel questioned two of its witnesses about medical texts "as to the safety or lack of dye extravasation injuries and as to the percentage or numbers of people who had suffered an injury due to said extravasation," and that defense counsel made other references to those texts during closing

arguments. She appears to argue that the trial court erred in denying her motion for a new trial because defense counsel improperly made references to published medical articles as substantive evidence in questioning Dr. Markman and Dr. Minore, and again during closing arguments. That contention lacks merit.

As previously noted, a reviewing court will not reverse a trial court's ruling on a motion for a new trial absent an affirmative showing of abuse of discretion. *Maple*, 151 Ill. 2d at 455; *Bosco*, 388 Ill. App. 3d at 462. Further, it is the burden of the party moving for a new trial based on the violation of an evidentiary ruling to explain how she was prejudiced or how that violation affected the outcome of the trial. See e.g. *Deinstag*, 396 Ill. App. 3d at 40.

It has been held that while an expert witness can cite to published medical texts as the source for his opinion, he cannot read from notes taken while reviewing such texts, thereby summarizing the findings of studies in the medical literature. *Schulman v. Stackable*, 198 Ill. App. 3d 209, 230 (1990); *Mielke v. Condell Memorial Hospital*, 124 Ill. App. 3d 42, 54 (1984). However, when a party's objections to improper remarks are sustained by the trial court and the jury is instructed to disregard the improper statements, any prejudice arising from those statements is cured and a new trial is not warranted. *Leggett v. Kumar*, 212 Ill. App. 3d 255, 280 (1991); see also *Bresland v. Ideal Roller & Graphics Co.*, 150 Ill. App. 3d 445, 454 (1986) (if the trial was fair as a whole and the evidence was sufficient to support the jury's verdict, a case will not be reversed based on improper questions or comments as to which objections were sustained).

In this case, the trial court sustained plaintiff's objection to questions posed to Dr.

Markman which would elicit responses about the substance of certain published medical texts, and instructed the jury to disregard the doctor's responses to those questions. Thus, in each of those instances, the trial court cured the impropriety of that evidence, and a new trial is therefore not warranted on that basis.

In addition, a review of the transcript of Dr. Minore's testimony shows that he was not asked questions about the substance of any medical literature, and plaintiff did not direct this court's attention to any improperly admitted testimony by that doctor. Furthermore, a review of defense counsel's closing arguments shows that the only references made to any type of medical literature were counsel's discussions of the qualifications of Dr. Markman, who unlike plaintiff's expert Dr. Davison, has researched and authored medical articles on neuropathic pain. More notably however, plaintiff fails to argue how she was prejudiced by any of the allegedly improper responses by Dr. Markman and Dr. Minore, and remarks made during closing argument, or how any of that testimony affected the outcome of her trial. Accordingly, we conclude that the trial court did not abuse its discretion in denying plaintiff's motion for a new trial.

Affirmed.