2019 IL App (1st) 181578-U

FIRST DISTRICT
SECOND DIVISION
September 17, 2019

No. 1-18-1578



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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

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| MARILYN GRIFFIN, | ) | Appeal from the |
| | ) | Circuit Court of |
| Plaintiff-Appellant, | ) | Cook County |
| | ) | |
| v. | ) | No. 15 L 86 |
| | ) | |
| JULIA MARSHALL, R.N., | ) | Honorable |
| | ) | Patrick Foran Lustig, |
| Defendant-Appellee. | ) | Judge Presiding. |

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JUSTICE COGHLAN delivered the judgment of the court.
Presiding Justice Fitzgerald Smith and Justice Pucinski concurred in the judgment.

**ORDER**

¶ 1 *Held*: The jury's award of zero damages for pain and suffering and loss of a normal life relating to a nurse's negligence in injecting a patient with wrong allergy medication was not against the manifest weight of the evidence.

¶ 2 In this nursing malpractice case, plaintiff Marilyn Griffin, M.D. appeals the trial court's denial of her motion for a new trial, asserting that the jury's verdict finding defendant Julia Marshall, R.N. guilty of negligence for injecting her with the wrong allergy medication was inconsistent with the jury's award of zero damages for her pain and suffering and loss of a normal life. Griffin also claims that after the jury was deadlocked, the jury reached a

compromise verdict, evidenced by the jury's finding of negligence but awarding zero damages. Finding the trial court did not abuse its discretion in denying Griffin's motion for a new trial, we affirm.

¶ 3 BACKGROUND

¶ 4 Griffin completed her residency in general pediatrics, adult psychiatry, and child and adolescent psychiatry at the University of Pittsburgh Medical Center. Griffin is board certified in adult psychiatry and child and adolescent psychiatry. In November 2013, Griffin began working as an assistant professor of clinical psychiatry at the University of Illinois College of Medicine at Chicago.

¶ 5 Griffin first started having allergies in 2000, and her symptoms included watery, itchy eyes and occasionally a sore throat and nasal congestion. Griffin sought medical treatment for her allergies, and she was initially treated with oral medications. In 2011, Griffin began immunotherapy, which generally consisted of two injections in her upper right arm and one injection in her upper left arm.

¶ 6 Immunotherapy is the practice of injecting a patient with allergens that the patient is allergic to in order to induce a state of immune tolerance, resulting in the patient becoming desensitized and no longer reactive to the allergens. Immunotherapy helps reduce symptoms, decreases medication requirements, and improves a patient's quality of life. The injections are commonly known as allergy shots. All patients undergoing immunotherapy are at risk for allergic reactions. Swelling, redness, rashes, and itching are common symptoms of an allergic reaction, and are known risks and complications of immunotherapy.

¶ 7 Allergic reactions can vary from mild to moderate to severe. A mild allergic reaction may result in local swelling, similar to a bee sting or a mosquito bite. A moderate allergic reaction

may cause hives all over an individual's body. A very severe allergic reaction causes a reduced oxygen saturation level and the patient experiences difficulty breathing or starts wheezing. A patient suffering from reduced oxygen saturation is in a dangerous condition. The most severe allergic reactions are anaphylaxis and anaphylactic shock. A drop in blood pressure indicates an individual is in anaphylactic shock. Anaphylaxis can cause a wide spectrum of symptoms, including cardiovascular collapse or low blood pressure, lip and tongue swelling, difficulty breathing from narrowed airways, hives, nausea, and vomiting. Anaphylaxis is a stressful situation and can cause anxiety. Anaphylaxis can be fatal if left untreated. Epinephrine is used to treat anaphylaxis. Patients who receive doses of epinephrine may experience numbness and tingling as a side effect. Because epinephrine is adrenalin, it may also cause a fast heart rate, high blood pressure, and anxiety as side effects.

¶ 8 In November or early December 2013, Griffin began seeing Dr. Sharmilee Nyenhuis, an allergy specialist at an outpatient allergy clinic at the University of Illinois Medical Center at Chicago. Dr. Nyenhuis continued the allergy shots, which were administered by Nurse Marshall.

¶ 9 On January 7, 2014, Griffin went to Dr. Nyenhuis's allergy clinic for her allergy shots. Griffin had been to the allergy clinic four prior times for her allergy shots. At 9:15 a.m., Marshall administered two shots in Griffin's right arm and then informed Griffin that they were done. Griffin asked about the third shot, and she started to feel some itchiness around the injection site. Marshall realized that she "made a big mistake" as soon as Griffin brought it to her attention that she needed a third shot. Marshall left to look into the matter and realized she mistakenly injected Griffin with vials containing medicine belonging to a different patient. Marshall returned to the room and gave Griffin the third injection in her left arm. The correct vial was used to inject Griffin with the third shot. Griffin remained in the room for observation for any adverse

reactions, which was customary. About 90% of all reactions occur within the first 30 minutes after injection.

¶ 10 As a result of Marshall's mistake, Griffin received the two shots in her right arm in a greater concentration than she was scheduled to receive, but was comprised of the same allergens. Griffin's allergy shots were in a 1 to 10,000 concentration, but she was instead given a 1 to 100 concentration (100 times the intended dose).

¶ 11 Meanwhile, Marshall informed Dr. Nyenhuis about her mistake in injecting Griffin with medicine from the wrong vials.[1] Marshall acknowledged that she failed to verify that the immunotherapy vials belonged to Griffin before injecting her.

¶ 12 Dr. Nyenhuis and Marshall together informed Griffin that Marshall injected her with another patient's medicine vials and she would need to be observed for a longer period of time. Marshall apologized profusely to Griffin.

¶ 13 Griffin began experiencing allergic reaction symptoms at around 9:35 a.m., approximately 20 minutes after the injections. Dr. Nyenhuis gave Griffin an oral antihistamine and a steroid, which are administered to anyone having an allergic reaction.

¶ 14 Griffin's eyes became itchy and watery, and the itching spread throughout her entire body. Griffin also had the urge to use the bathroom and Dr. Nyenhuis followed as a precaution. Griffin got really dizzy and felt very nauseous. Griffin felt scared, anxious, and nervous. Griffin's heart started to race and she had trouble breathing "as if she was going to die." Griffin never experienced those symptoms before when receiving immunotherapy treatments.

¶ 15 Because Griffin was experiencing an allergic reaction, Marshall administered two standard doses of epinephrine intramuscularly.

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[1]Marshall injected Griffin with vials for a patient with the same G-R initials in the last name.

¶ 16 Dr. Nyenhuis tested Griffin's oxygen level through a pulse oximetry (pulse ox) test, and her oxygen saturation rate was 88%. The pulse ox sends wave forms through a patient's finger and calculates the patient's oxygen saturation. If a patient's oxygen saturation is low enough, certain organs may be deprived of oxygen and injured. Nail polish may skew pulse ox results because the polish effects transmission of the wave form.

¶ 17 Dr. Nyenhuis called 911 because Griffin's symptoms were worsening. Paramedics arrived at the allergy clinic at 10:02 a.m. Paramedics placed an oxygen mask on Griffin, and injected her with a third dose of epinephrine. At 10:05 a.m., Griffin's oxygen saturation rate was 100% and at 10:15 a.m., it was 97%. Griffin's oxygen saturation rate was considered normal. Paramedics documented "pulse ox difficult due to nail polish." Griffin's blood pressure was also normal. Paramedics left the allergy clinic with Griffin at 10:18 a.m. and arrived at the University of Illinois Medical Center Emergency Department at 10:19 a.m.

¶ 18 When Griffin arrived in the emergency room, a nurse evaluated her. Griffin reported that she felt better, but she still felt some numbness, tingling in her arms and lips, and was anxious. Griffin was injected with more epinephrine and was given an antihistamine and a steroid. The nurse recorded Griffin's pulse ox rate at 97%. Griffin's oxygen saturation, as well as her blood pressure, were considered normal. Griffin assessed her pain level on a scale of 0 to 10 as 0, which meant that she was pain-free. Griffin was nervous and scared while in the hospital because she had never been hospitalized before.

¶ 19 Dr. Jillian Theobald, an emergency room physician and a medical toxicologist, evaluated Griffin at 11 a.m. When Dr. Theobald evaluated Griffin, she did not document any nausea, vomiting, diarrhea, urinary system symptoms, muscle pain, joint pain, frequent urination, anxiety or depression. Dr. Theobald checked 10 or 11 things, and everything was completely normal,

except for some skin redness, numbness, and tingling. Likewise, Griffin's respiratory exam results were normal−her lungs were clear, her breathing was non-labored, and she did not complain of any shortness of breath. Apart from localized redness on Griffin's skin and some tingling, which may have been related to the medication she was given, there were no other signs of an allergic reaction when Dr. Theobald examined her. On the spectrum of allergic reactions, Dr. Theobald classified Griffin's reaction as mild to moderate and there was no evidence when she evaluated Griffin that she was anaphylactic.

¶ 20 Dr. Theobald opined that based on Griffin's blood pressure level, *i.e.*, her blood pressure was not low, she did not suffer an anaphylactic shock**.** When Dr. Theobald examined Griffin, she had normal oxygen saturation without the aid of an oxygen mask. Based on a reasonable degree of emergency room medicine certainty, Dr. Theobald expected Griffin to make a full recovery from the anaphylactic reaction.

¶ 21 As of 11:32 a.m., Griffin's numbness had subsided.

¶ 22 Based on Griffin's reaction to the injections, Dr. Theobald recommended Griffin be admitted to the hospital for observation to guard against "late phase anaphylaxis" symptoms. But Dr. Theobald did not believe Griffin required any additional medication.

¶ 23 "Late phase anaphylaxis" is a recurrence of anaphylactic symptoms, and typically occurs within the first 8 to 12 hours after an initial allergic reaction. Once epinephrine starts to wear off, symptoms may return if the allergens remain in an individual's system.

¶ 24 At 4:42 p.m., Griffin was admitted for further observation. All of Griffin's vitals and exams were normal and she was asymptomatic.

¶ 25 Dr. Ryan Bolton, attending internist, evaluated Griffin the morning of January 8. Dr. Bolton decided to admit Griffin for two days for observation because (i) she had a severe

reaction initially and (ii) she still had some symptoms the day after the injections.

¶ 26 According to Dr. Bolton, once Griffin was admitted to the hospital, her anaphylactic reaction was no longer active. Griffin was being monitored for her symptoms and treated with medicine to prevent any late phase anaphylaxis, which she never experienced.

¶ 27 Dr. Bolton noted that at admission and discharge, Griffin's vital signs were normal and she never demonstrated any signs of respiratory distress—no wheezing or trouble breathing. Dr. Bolton also noted that when Griffin was discharged, she was symptom-free and made a full recovery.

¶ 28 When Griffin left the hospital, she felt better and she eventually fully recovered from the anaphylactic reaction.

¶ 29 About a week later, Griffin returned to Dr. Nyenhuis's allergy clinic for a post-discharge appointment. Griffin felt very nervous and was taken back to the day when she received the wrong injections. Griffin's heart started racing, she felt heart palpitations, and was crying in the waiting room. After that appointment, Griffin never returned to see Dr. Nyenhuis, because she did not feel comfortable going back.

¶ 30 About a week later on February 5, 2014, Griffin began seeing a different allergist, Dr. Christopher Codispoti, at Rush University Medical Center. Griffin informed Dr. Codispoti that she suffered an allergic reaction following the administration of immunotherapy in January 2014. Griffin looked completely recovered to Dr. Codispoti.

¶ 31 Griffin reported to Dr. Codispoti a past history of eczema (symptoms include itchy skin) and hay fever (symptoms include sneezing, runny nose, and nasal congestion). At that initial visit, Griffin rated her allergy symptoms as a 2 to 3 out of 10. Dr. Codispoti communicated that the plan was for Griffin to return to the office to restart immunotherapy. Griffin did not object or

express fear about restarting immunotherapy. According to Griffin, even though Dr. Codispoti offered to continue administrating the allergy shots, she elected not to because she was afraid.

¶ 32 Griffin returned for a follow-up appointment, and her current medication regime was continued. Because Griffin was doing so well and she was completely asymptomatic, she decided to postpone starting immunotherapy. Griffin saw Dr. Codispoti on three occasions and then stopped seeing him. Griffin began receiving allergy treatments from her primary care physician.

¶ 33 On January 6, 2015, about a year after the incident, Griffin filed her negligence complaint against Marshall. In the complaint, Griffin alleged that as a proximate cause of Marshall's wrongful conduct in administering the wrong medication, she suffered "pain, suffering, anaphylactic and allergic reaction to the medication given, fear, emotional reactions, and medical expenses." Griffin requested $45,000 in pain and suffering damages and damages for loss of a normal life of $45,000.

¶ 34 The case proceeded to a jury trial. At the time of trial, Griffin continued to have allergy symptoms, which were treated with medications. No anaphylactic reaction symptoms had returned and her allergies were managed after the incident.

¶ 35 During trial, Griffin, Marshall, Dr. Theobald, and Dr. Bolton testified as summarized above. Griffin and Marshall each offered expert testimony from allergy immunologists. Dr. Laura Rogers testified as an expert on behalf of Griffin and Dr. James Wedner testified on behalf of Marshall. To prepare for their testimony, the experts reviewed, among other records, the January 7 records from the allergy clinic and hospital records during Griffin's admission from January 7 to January 9.

¶ 36 Based on her review of the records, Dr. Rogers noted that within minutes after Griffin

was given the wrong injections, she had an anaphylactic reaction. Griffin's symptoms included itchiness, hives, shortness of breath, urge to defecate, and nausea. Griffin had shortness of breath, demonstrated by an oxygen saturation rate of 88%. Dr. Rogers believed that Griffin sustained damages as a result of the wrong injections because she almost died.

¶ 37 While Griffin was in the emergency room for approximately four hours, Dr. Rogers noted that Griffin was itchy, not feeling well, and anxious. Dr. Rogers also noted that Griffin's vital signs were normal and she was medically stable throughout her hospitalization. According to Dr. Rogers, Griffin had a full physical recovery from the anaphylactic reaction as far as it can be measured.

¶ 38 To a reasonable degree of immunology certainty, Dr. Rogers opined that Griffin suffered an anaphylactic reaction on January 7, 2014, and that reaction was caused by one of the injections given by Marshall. Dr. Rogers also opined that Griffin's anaphylactic reaction was ending by the time she got to the emergency room.

¶ 39 Based on his review of the medical records, Dr. Wedner classified Griffin's reaction as mild. Dr. Wedner noted that Griffin sustained a skin reaction from two out of four of her prior injections at the allergy clinic administered on different days. Dr. Wedner concluded that Griffin experienced an anaphylactic reaction on January 7, but not anaphylactic shock.

¶ 40 Dr. Wedner opined that the treatment and interventions provided by the allergy clinic in response to Griffin's allergic reaction were successful, because she got better rather quickly and there were no lasting adverse effects. In fact, by the time Griffin arrived in the emergency room, she was within her normal state of health and she was basically asymptomatic, with the exception of the side effects from epinephrine, which included numbness and tingling. Dr. Wedner elaborated that by the time Griffin arrived in the emergency room, her oxygenation was

perfectly normal, and all of the symptoms that she experienced at the allergy clinic appeared to be resolving. And Griffin did not experience any signs or symptoms of a late phase anaphylactic reaction. Dr. Wedner determined that Griffin made a full recovery on the day she experienced the allergic reaction and there were no lasting effects or complications. Dr. Wedner found no competent medical reason why Griffin would not be able to proceed with immunotherapy injections in the future.

¶ 41 At the close of evidence, the jury was presented with two verdict forms: (i) form A, finding for Griffin and awarding damages and (ii) form B, finding for Marshall. Verdict form A itemized damages into two categories: (i) pain and suffering and (ii) loss of a normal life. The trial judge instructed the jury that "If you decide for plaintiff on the question of liability, you must then affix the amount of money which will reasonably and fairly compensate her for [the loss of normal life experienced and the pain and suffering experienced as a result of the injury] proven by the evidence to have resulted from the negligence of the defendant, taking into consideration the nature and extent and duration of the injury." The trial judge defined "loss of a normal life" as "the temporary or permanent diminished ability to enjoy life. This includes the person's inability to pursue the pleasurable aspects of life."

¶ 42 During deliberations, the jury sent a note requesting additional guidance on the issue of proximate cause and later sent another note indicating that it was deadlocked. Regarding the jury's question on proximate cause, the trial judge directed the jury to review the instructions on proximate cause and burden of proof. Regarding the deadlock, the trial judge instructed the jurors not to "surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors or for the mere purpose of returning a verdict." Illinois Pattern Jury Instructions, Civil No. 1.05 (1995). The trial judge further instructed the jury

that "[i]f you fail to agree on a verdict the case must be [retried]." Illinois Pattern Jury Instructions, Civil No. 1.06 (1995). After receiving those instructions from the trial judge and deliberating for an additional two hours, the jury returned verdict form A finding in favor of Griffin and awarded zero damages.

¶ 43 Griffin filed a posttrial motion seeking a new trial, asserting that the verdict was against the manifest weight of the evidence and internally inconsistent, and the verdict was compromised because the jury awarded no damages even though it found that Marshall acted negligently. The trial court denied Griffin's motion for a new trial, finding the jury's verdict was consistent with the evidence offered at trial that Griffin did not sustain any compensable damages. Griffin timely appealed.

¶ 44 ANALYSIS

¶ 45 At the outset, Marshall urges this court to strike Griffin's brief and dismiss her appeal on the basis that her brief fails to comply with multiple Illinois Supreme Court Rules, arguing that the brief lacks an appendix, an adequate statement of facts, and proper citation to the evidence offered at trial. See Ill. S. Ct. R. 341(h)(1)-(9) (eff. Nov. 1, 2017). Every appellant is presumed to have the requisite knowledge of the rules and must comply with them. *Steinbreacher v. Steinbrecher*, 197 Ill. 2d 514, 528 (2001). In Griffin's reply brief, counsel concedes that the opening brief failed to adhere to certain rules addressing the preparation of appellate briefs. Although this court may justifiably strike Griffin's brief for failing to conform to the rules, the errors in Griffin's brief are not so egregious as to hinder our review. *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 12; *Budzileni v. Department of Human Rights*, 392 Ill. App. 3d 422, 440 (2009). We therefore decline Marshall's request to strike Griffin's brief and dismiss the appeal.

¶ 46 As to the merits, Griffin claims that the trial court abused its discretion in denying her motion for a new trial on the issue of damages. Griffin asserts that a new trial was warranted because the jury's verdict awarding zero damages for pain and suffering and loss of a normal life was against the manifest weight of the evidence and inconsistent with its finding of liability.

¶ 47 The determination of damages raises a question of fact for the jury, and the jury's finding on damages is entitled to substantial deference. *Snelson v. Kamm*, 204 Ill. 2d 1, 36 (2003); *Snover v. McGraw*, 172 Ill. 2d 438, 447 (1996); *Cimino v. Sublette*, 2015 IL App (1st) 133373, ¶ 102. It is well-established that a court will not disturb a jury's decision to award or not award damages unless (i) the award is palpably inadequate or a proven element of damages was ignored, (ii) the verdict is shown to be inadequate or resulted from passion or prejudice, or (iii) the award bears no reasonable relationship to the loss suffered. *Gill v. Foster*, 157 Ill. 2d 304, 315 (1993); *Cimino*, 2015 IL App (1st) 133373, ¶ 102.

¶ 48 We review a trial court's ruling on a motion for a new trial limited to the issue of damages for an abuse of discretion. *Snelson*, 204 Ill. 2d at 36; *Theofanis v. Sarrafi*, 339 Ill. App. 3d 460, 473 (2003). A trial court abuses its discretion only where no reasonable person would take the view adopted by the trial court. *Peach v. McGovern*, 2019 IL 123156, ¶ 25. The trial court may award a new trial if, in the exercise of its discretion, it finds that the jury's verdict is against the manifest weight of the evidence. *Id.* at ¶ 50; *Poliszczuk v. Winkler*, 387 Ill. App. 3d 474, 490 (2008). The jury's verdict is "against the manifest weight of the evidence where the opposite conclusion is clearly evident or where the findings of the jury are unreasonable, arbitrary, and not based upon any of the evidence." *Peach*, 2019 IL 123156, ¶ 50.

¶ 49 Here, Marshall acknowledged her mistake in injecting Griffin with medication from the wrong vials and the jury found her negligent. Based on the jury's award of zero damages, we can

logically conclude that the jury found that Griffin did not sustain any damages or the damages for pain and suffering and loss of a normal life resulting from Marshall's negligence were insignificant and not compensable. See *Kleiss v. Cassida*, 297 Ill. App. 3d 165, 176 (1998) (jury found negligence but the award of zero damages demonstrated that either defendant's negligence was not a proximate cause of plaintiff's injury or plaintiff did not sustain damages). The evidence presented at trial amply supports the jury's verdict of zero damages.

¶ 50 The jury heard testimony at trial that Griffin sustained an anaphylactic reaction at the allergy clinic, but her symptoms had already subsided by the time she arrived at the emergency room. In fact, while Griffin was in the emergency room, she assessed her pain level at zero. After Griffin arrived at the emergency room, her vital signs were within the normal range and remained normal throughout her hospitalization. Although Griffin's oxygen saturation rate was 88% while at the allergy clinic, reliability of that reading was questionable due to nail polish interference, and her oxygen saturation rate was normal in the emergency room and during her two day hospitalization. It was undisputed that Griffin was admitted overnight on January 7 and January 8 only for observation to rule out late phase anaphylaxis and not for active treatment.

¶ 51 The jury also heard testimony that Griffin's anaphylactic reaction was characterized as mild to moderate, and she never suffered from anaphylactic shock. To the extent that the jury heard conflicting testimony regarding the severity of Griffin's allergic reaction, it was the jury's function as the trier of fact to resolve the conflict and accept one opinion over another. *Peach*, 2019 IL 123156, ¶ 54; *In re Yohan K.*, 2013 IL App (1st) 123472, ¶ 111; *Brannen v. Seifert*, 2013 IL App (1st) 122067, ¶ 45; *People v. Williams*, 201 Ill. App. 3d 207, 216 (1990); *Anderson v. General Grinding Wheel Corp.*, 74 Ill. App. 3d 270, 281 (1979). And many of the symptoms that Griffin experienced, such as itchiness, watery eyes, and redness at the injection site, were

typical reactions of immunotherapy treatment and reactions she had experienced with prior injections. Likewise, hives were noted during Griffin hospital admission, but Griffin had a history of hives and that reaction could not necessarily be isolated to receiving injections from the wrong vials. Importantly, Griffin never developed late phase anaphylaxis, and she was symptom-free and fully recovered when she was discharged from the hospital.

¶ 52 Griffin asserts that she was anxious, nervous, and scared during her hospital admission because she had never been admitted as a hospital patient before this incident. The jury was entitled to reject that notion, particularly given that she was a licensed psychiatrist, who completed her residency in a hospital and who worked on the campus of a hospital. Griffin acknowledges on appeal that she was the only witness who testified regarding her pain and suffering and loss of a normal life. It was within the jury's discretion to reject Griffin's subjective testimony and find her testimony regarding pain and suffering and loss of a normal life unconvincing, particularly in light of the other testimony that her allergic reaction symptoms had essentially subsided by the time she arrived in the emergency room and she was symptom-free at discharge. *Doe v. Bridgeforth*, 2018 IL App (1st) 170182, ¶ 78. Likewise, the jury could reasonably disregard the opinions of medical professionals that were based on the subjective information provided by Griffin. *Peach*, 2019 IL 123156, ¶ 55.

¶ 53 The jury was also entitled to reject Griffin's claim that her decision to forgo future immunotherapy treatment was due to her fear of another anaphylactic reaction, and the lack of such treatment impacted her ability to enjoy a normal life. Dr. Codispoti testified that Griffin was open to additional immunotherapy treatments following her anaphylactic reaction. In any event, Griffin's allergy symptoms improved with medication therapy, and the jury could have reasonably found that the need for immunotherapy had been eliminated.

¶ 54 Since the evidence adduced at trial arguably showed that Griffin sustained no pain and suffering or loss of a normal life damages or such damages were too temporary and minimal to warrant compensation, the jury's verdict finding Marshall negligent, but awarding zero damages was not against the manifest weight of the evidence. See *Snover*, 172 Ill. 2d at 449 (damages for pain and suffering are not readily calculable in money and the jury must draw upon their real life experiences when determining any award); *Simon By & Through Simon v. Van Steenlandt*, 278 Ill. App. 3d 1017, 1021 (1996) (a jury's award of zero damages for pain and suffering will stand where a jury could reasonably conclude that damages are minimal); *Stift v. Lizzadro*, 362 Ill. App. 3d 1019, 1029-30 (2005) (loss of a normal life damages are a component of disability and compensate an individual for a change in lifestyle, which can consist of ongoing pain); see *contra Theofanis*, 339 Ill. App. 3d at 465, 474-75 (a new trial warranted where physician's negligence caused the plaintiff to have a stroke leaving her unable to speak or walk, but the jury awarded zero damages); *Tindell v. McCurley*, 272 Ill. App. 3d 826, 831 (1995) (uncontradicted evidence established that plaintiff suffered some damages when he fell from a stepladder at a construction site landing face down on the concrete basement floor). Moreover, verdicts will "not be found legally inconsistent unless absolutely irreconcilable." *Redmond v. Socha*, 216 Ill. 2d 622, 643 (2005). For the reasons stated, the jury's verdict finding Marshall negligent can be reasonably reconciled with its finding of zero damages for pain and suffering and loss of a normal life. See *id.* at 644 (jury's verdict is not inconsistent if supported by any reasonable hypothesis). Consequently, the trial court did not abuse its discretion in refusing to grant Griffin a new trial.

¶ 55 Griffin next contends that the jury's verdict was compromised because the jury sought additional clarification on the element of proximate cause and after the jury was deadlocked, the

jury reached a compromise by finding Marshall negligent but awarding zero damages.

¶ 56 We disagree. Because Griffin's allergic reaction symptoms were consistent with the symptoms associated with receiving immunotherapy in general, regardless of whether the injections contained the correct medication, or the side effects of epinephrine, it stands to reason that the jury would seek clarification on the element of proximate cause. And the fact that the jury was deadlocked during deliberations in no way demonstrates that the verdict was compromised in order to reach a unanimous decision. Indeed, the trial judge dissuaded the jury from reaching a compromise by instructing the jurors not to surrender their honest convictions for the mere purpose of returning a verdict, and jurors are presumed to follow the instructions given by the trial judge. *People v. Taylor*, 166 Ill. 2d 414, 438 (1995); *People v Sutton*, 353 Ill. App. 3d 487, 505 (2004).

¶ 57 A jury's verdict may be compromised if the award of damages bears no reasonable relationship to the evidence presented at trial. *Bruzas v. Richardson*, 408 Ill. App. 3d 98, 106 (2011); *Winters v. Kline*, 344 Ill. App. 3d 919, 926 (2003). But a verdict awarding zero damages is proper if there was evidence that the plaintiff suffered no damages. *Cimino*, 2015 IL App (1st) 133373, ¶ 112. As stated, the jury's finding that Griffin either did not incur any pain and suffering and loss of a normal life damages or her damages were so temporary and *de minimis* warranting no compensation was reasonably related to the evidence presented at trial and was not against the manifest weight of the evidence. *Snover*, 172 Ill. 2d at 449. Consequently, Griffin's claim that the jury returned a compromise verdict is based on mere speculation and Griffin failed to meet her burden of demonstrating otherwise. See *Merrill v. Hill*, 335 Ill. App. 3d 1001, 1008 (2002) (the record must positively indicate a compromise verdict because one will not be presumed); *Smith v. City of Evanston*, 260 Ill. App. 3d 925, 941 (1994) (the appealing party

bears the burden of demonstrating the jury's conduct resulted in a compromise verdict).

¶ 58 CONCLUSION

¶ 59 The trial court did not abuse its discretion denying Griffin's motion for a new trial on damages because the jury's verdict of zero damages was not against the manifest weight of the evidence and there was no evidence supporting a finding that verdict was internally inconsistent or compromised.

¶ 60 Affirmed.