2014 IL App (3d) 130365-U

Order filed October 1, 2014

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2014

KEITH SAGINUS, as Special Administrator of the Estate of JOSEPHINE SAGINUS, Deceased,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois.
Plaintiff-Appellant,	)	
v.	)	Appeal No. 3-13-0365
	)	Circuit No. 10-L-362
SILVER CROSS HOSPITAL AND MEDICAL CENTERS,	)	
Defendant-Appellee.	)	Honorable John Anderson, Judge, Presiding.

JUSTICE SCHMIDT delivered the judgment of the court.
Justice Carter concurred in the judgment.
Justice Holdridge dissented.

ORDER

¶ 1 *Held*: The trial court did not err in granting defendant's motion for summary judgment.

¶ 2 Plaintiff, Keith Saginus, as special administrator of the estate of Josephine Saginus, brought this personal injury suit against defendant, Silver Cross Hospital and Medical Centers (Silver Cross). The complaint alleges that plaintiff's mother, Josephine Saginus, was injured

when automatic doors at the hospital closed on her abruptly. The circuit court of Will County granted defendant's motion for summary judgment. Plaintiff appeals, claiming: (1) he produced evidence to support each and every element of a negligence claim against the hospital;(2) he raised a genuine issue of material fact regarding the proximate cause of his mother's injuries; and (3) the trial court erred when refusing to consider Josephine's emergency room records and finding such records inadmissible.

¶ 3 BACKGROUND

¶ 4 This incident occurred on September 5, 2008. Plaintiff's third amended complaint alleges that on that date, Josephine "was knocked to the floor by the automatic doors located at the west entrance" of a building owned by defendant. The complaint continues, alleging defendant had a duty to operate, manage and maintain the premises in a safe and reasonable manner. The complaint further alleges that defendant breached this duty by carelessly and negligently permitting the premises to remain in a dangerous condition even though defendant knew or should have known of the dangerous condition.

¶ 5 Specifically, plaintiff asserts that defendant: allowed the entrance doors to remain in an unsafe operating condition, thereby creating a danger to persons walking through them; failed to make reasonable inspection of the doors; failed to "rope-off" the doors in light of the dangerous condition; failed to warn Josephine of the dangerous condition; failed to provide a reasonable and safe means of ingress and egress; and failed to "have the sliding doors stay in an open position for a reasonable amount of time."

¶ 6 These breaches of defendant's duty, plaintiff alleged, directly and proximately caused Josephine to sustain severe and permanent injuries.

¶ 7 During his deposition, plaintiff testified that he accompanied his mother to the defendant's facility for a previous appointment on September 2, 2008. On that occasion, plaintiff observed Josephine "get caught" between the entrance doors. He heard her yell from behind him and witnessed the doors pushing on her.

¶ 8 However, on the date of the incident in question, September 5, 2008, plaintiff was not with his mother and has no personal knowledge of how the accident occurred. On that date, plaintiff was in Seattle. He did not return until four to five days thereafter, and does not recall talking to his mother on the phone during that time. He stated that he is aware his "mom alleged that she fell on September 5, 2008, after leaving an appointment at Joliet Oncology." Plaintiff recalled receiving a phone call from his sister while he was in Settle. His sister informed him of the fall and stated that it caused Josephine to bleed from her head and elbow.

¶ 9 Larry Delia testified that he works as a security guard at defendant's facility. He noted that he had no "independent recollection" of the "day itself" of September 5, 2008, but he did remember various matters regarding this incident. He recalled being "dispatched for a problem with a person injured *** on that day." He could not recall any of the weather conditions of the day, but knew that he was dispatched during daylight hours to the incident.

¶ 10 Upon arrival at the medical building, Delia "went into the doctor's office where the reported patient was, which [he thought] is Suite 111." A receptionist behind the counter, who Delia could not identify, reported to him that a lady had been "injured by the doors." Delia stated that he spoke to Josephine as she was waiting to see a doctor in suite 111. He did not recall the exact details of the conversation "other than she claims she was injured by the door. That's all I remember." When asked, "How was she injured by the door?" Delia replied, "She claimed that the door slammed on her as she was exiting."

¶ 11 When asked later in his deposition if Josephine indicated "how she fell," Delia replied, "The only thing she had said was the doors hit her." He could not recall if she indicated she fell forward, backward, or what side she may have fallen on. Delia had no recollection if she indicated which exact door, or set of doors, caused the fall. After Josephine was seen by the doctor in suite 111, Delia transported her to the emergency room. He then completed an incident report.

¶ 12 Kyle Nelson testified during his deposition that he is the director of building services for Silver Cross. He confirmed that a building service work order dated June 14, 2007, indicated the doors in question were not working properly. The order included a note stating, "east entrance doors, Me Arts not working." He authenticated a "hand ticket" that indicated on May 1, 2007, building maintenance staff "spent one hour on the east doors."

¶ 13 Nelson also discussed a purchase order from Stanley Access, which indicated Stanley performed service on the east doors on August 15, 2007. The document indicated that Stanley "found bad bottom guides and anti risers rubbing the frame" so the technician "replaced guides and adjusted anti risers." Nelson also identified another similar purchase order, dated September 10, 2007.

¶ 14 Nelson discussed one work order applicable to the doors for work performed after this incident. A work order dated November 12, 2008, authorized Stanley Access to "replace all the safety beams on the Medical Arts building doors."

¶ 15 Kimberly Midlock, a registered nurse, testified during her deposition that she worked in the building where the fall occurred from 2006 through 2010. Midlock worked in the oncology office at which Josephine sought treatment. She recalled the east entrance doors malfunctioning. When asked to identify when, comparative to Josephine's fall, Midlock observed the doors

malfunction, Midlock stated, "Maybe, like, two months before that." These malfunctions involved the doors beginning to close before individuals were all the way through them. She observed defendant's employees working on the doors after they malfunctioned.

¶ 16 When asked if Josephine had ever complained of the doors malfunctioning prior to the September 5, 2008, incident, Midlock stated, "I don't know if it was prior to that, but she did come in and say the doors closed on her once, but I don't know if it was prior to that." Midlock's deposition continued:

> "Q. So on the day that she fell, it's your understanding that there was an issue with the doors?
>
> A. I don't even remember if it was – – that was an issue with the doors on that day.
>
> Q. Okay. So you don't know if prior to the day that she fell if she ever complained about the doors?
>
> A. She did complain about the doors, but I don't know if it – – I mean, honest, I don't know if it was before that date or after that date."

¶ 17 Midlock concluded her deposition, noting that on September 5, 2008, Josephine came back into the oncology office and stated that she had fallen. Josephine did not "describe anything else about how she fell" to Midlock "other than saying that she fell."

¶ 18 Plaintiff attached, to his response to defendant's motion for summary judgment, a copy of Josephine's emergency room records from the day in question. The records consist of numerous entries for that day. Each entry corresponds to a specific time of day for September 5, 2008. These records state, in pertinent part:

"10:22 Acuity: urgent. Presenting complaint: patient states: triped and fell over the dog today. Care prior to arrival: none. Method of arrival: Family/friend.

10:38 The complaints affect the 90 yo female on Coumadin who had mechanical fall in doctors office getting Coumadin level checked. Pt states that she fell onto her r side and hit her head and hip, no loc, pain with ambulation. Pt denies headache, vomiting, fevers, uri, abd pain, cp, or any other com. Pt states that she was walking through door and the weight of the door caught her and pushed her forward off her feet."

¶ 19 The entries appear to be made by two different people. The "10:22" entry in the emergency room record appears to be made by someone with the designated initials "kmc." The "10:38" entry appears to have been made by someone with the designated initials "dc8."

¶ 20 As noted above, Josephine passed away on April 13, 2012. On December 13, 2012, defendant filed a motion to bar the use of Josephine's discovery deposition at trial. Plaintiff countered on December 20, 2012, filing a motion to admit into evidence plaintiff's discovery deposition. The circuit court granted defendant's motion and denied plaintiff's. On May 14, 2013, the court granted defendant's motion for summary judgment on the basis that no admissible evidence or testimony existed to firmly establish the elements of plaintiff's claim.

¶ 21 Plaintiff appeals, claiming he put forth evidence sufficient to support each and every element of his negligence claim against defendant. Plaintiff further claims the trial court erred when refusing to consider Josephine's emergency room records and finding such records inadmissible. Had these records been properly considered, plaintiff asserts there would exist a

genuine issue of material fact regarding the proximate cause of his mother's injuries. Specifically, plaintiff asserts that the emergency room records, coupled with other evidence of the doors' malfunctions, would allow a jury to conclude without engaging in speculation of conjecture, that it was the malfunctioning doors that knocked Josephine down, causing her injuries.

¶ 22 ANALYSIS

¶ 23 Summary judgment is proper where, when viewed in the light most favorable to the nonmoving party, the pleadings, depositions, admissions and affidavits on file reveal that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c) (West 2010); *Home Insurance Co. v. Cincinnati Insurance Co.*, 213 Ill. 2d 307 (2004). We review an order awarding summary judgment *de novo*. *Id*. We may affirm a grant of summary judgment on any basis appearing in the record, regardless of whether the lower court relied on that ground. *Id*.

¶ 24 In reviewing a grant of summary judgment, we construe the pleadings, depositions, admissions and affidavits strictly against the moving party and liberally in favor of the nonmoving party. *Lake County Grading Co., LLC v. Village of Antioch*, 2013 IL App (2d) 120474, ¶ 12. A triable issue precluding summary judgment exists where material facts are disputed or where the material facts are undisputed, but reasonable persons might draw different inferences from the undisputed facts. *Adams v. Northern Illinois Gas Co*., 211 Ill. 2d 32, 43 (2004). Although the nonmoving party is not required to prove its case in response to a motion for summary judgment, it must present a factual basis that would arguably entitle it to judgment. *Land v. Board of Education of the City of Chicago*, 202 Ill. 2d 414, 432 (2002).

¶ 25 To properly state a cause of action for negligence, a plaintiff must allege facts that establish the existence of a duty of care owed by the defendant to the plaintiff, a breach of that duty and an injury proximately caused by the breach. *Marshall v. Burger King Corp*., 222 Ill. 2d 422, 430 (2006). Summary judgment in favor of a defendant is proper where the plaintiff fails to establish a single element of a cause of action. *Pyne v. Witmer*, 129 Ill. 2d 351, 358 (1989).

¶ 26 Liability "cannot be predicated upon surmise or conjecture as to the cause of an injury, and therefore proximate cause can be established only when there is a reasonable certainty that the defendant's act caused the injury." *Wiegman v. Hitch-Inn Post of Libertyville, Inc.*, 308 Ill. App. 3d 789, 795 (1999). However, "[t]he plaintiff may establish proximate cause through circumstantial evidence." *Keating v. 68th & Paxton, L.L.C.*, 401 Ill. App. 3d 456, 473 (2010).

¶ 27 Therein lies the crux of this appeal. That is, plaintiff argues he presented circumstantial evidence sufficient to prove each and every element of the cause of action that would arguably entitle him to a judgment. Defendant disagrees, claiming that since no one saw the accident and the record is devoid of evidence indicating the doors malfunctioned on the day or at the time in question, a jury would be left to engage in speculation and conjecture as to whether defendant's actions caused Josephine's injuries.

¶ 28 Our task is rather straightforward. We must simply review the record to determine whether plaintiff put forth enough evidence to create a genuine issue of material fact on each element of his claim. The parties do not dispute that defendant owed Josephine a duty. The dispute lies in the question of whether or not sufficient evidence exists to show defendant breached that duty and whether that beach proximately caused Josephine to fall and become injured.

¶ 29 Before reviewing the evidence, we must first address claims of evidentiary error. Plaintiff asserts the trial court incorrectly failed to consider “statements in decedent’s medical record and statements made to defendant’s employees by the decedent that established a breach and proximate cause."

¶ 30 I. Evidentiary Issues

¶ 31 Specifically, plaintiff claims the trial court failed to properly consider: (1) the decedent’s statement to security guard Delia that the doors slammed into her; (2) decedent's statements to nurse Midlock that the doors closed prior to decedent being all the way through them; and (3) the statement contained within her emergency room records that the doors hit her and pushed her forward.

¶ 32 The trial court found Midlock's testimony "unhelpful because she had no personal knowledge of the doors closing prematurely on herself, Josephine, or anyone else. Moreover, Ms. Midlock's testimony is insufficient to establish that the doors actually malfunctioned on September 5, 2008, and injured Josephine."

¶ 33 The trial court also found Josephine's emergency room records self-contradictory and lacking in sufficient trustworthiness to be admissible as evidence. The court noted that plaintiff "presents no adequate testimony or evidence from anyone at Silver Cross for foundational purposes or to reconcile these two contrary explanations for Josephine's alleged fall. Accordingly, the ER record is not inherently reliable, does not carry a circumstantial probability of trustworthiness, and is not sufficient to give rise to a question of material fact regarding Josephine's injuries or any breach of duty by Silver Cross."

¶ 34 While not characterized in this specific manner by the plaintiff, our review of the record suggests that the trial court separated Midlock's testimony, Delia's testimony and the emergency

room records into two separate categories: inadmissible and speculative. As such, we will initially address the admissibility of the emergency room records, then the speculative nature of Midlock and Delia's testimony.

¶ 35 A. Emergency Room Records

¶ 36 Plaintiff asserts that "statements made by decedent to defendant's employees, those are admissible as hearsay exceptions, as either excited utterances, then existing mental, emotional or physical condition, or statements for the purposes of medical diagnosis or treatment under Rule 803(4)." Plaintiff acknowledges Josephine's medical records contain a conflict as to whether she fell over a dog or was pushed forward off her feet by the doors. Plaintiff asserts this conflict goes to the weight of the records and not the admissibility. Therefore, plaintiff claims the trial court erred when finding the record was not sufficiently reliable to be admissible. We disagree.

¶ 37 The trial court recognized that medical records are generally admissible under the business record exception to the hearsay rule. Ill. R. Evid. 803(6) (eff. April 26, 2012). Moreover, a "statement of the declarant's then existing *** physical condition" (Ill. R. Evid. 803(3) (eff. April 25, 2012)) made to a physician or medical provider "for the purposes of treatment" are excluded from the hearsay rule. *Caponi v. Larry's 66*, 236 Ill. App. 3d 660, 676 (1992). "A physician may testify as to information received from the patient or from outside sources for such purposes of diagnosis." *Id*.

¶ 38 However, the rationale behind any hearsay exception is the recognition that statements made in certain instances are inherently trustworthy. See *People v. Alsup*, 373 Ill. App. 3d 745, 755 (2007) ("The business records exception to the rule against hearsay recognizes that when made as a matter of routine in the regular course of business, records or reports of events or occurrences are generally trustworthy."). Under the business records exception, business records

which "indicate [a] lack of trustworthiness" should not to be admitted into evidence. Ill. R. Evid. 803(6) (eff. April 26, 2012).

¶ 39 When declining to consider the emergency room records, the trial court relied upon T*royan v. Reyes*, 367 Ill. App. 3d 729 (2006). In *Troyan*, this court discussed four factors to use when "evaluating the trustworthiness of an out of court statement offered for the truth of the matter asserted." *Id.* at 735 n. 1. Courts "will consider whether 1) the declarant had a motive to fabricate; 2) the statements are written or oral; 3) the statements are contradicted by direct evidence; and 4) the declarant is available to testify." *Id.*

¶ 40 Clearly, the declarant, Josephine, had no motive to lie regarding the mechanism of her injuries as she was attempting to seek treatment for them. Her statements were made orally and recorded in writing by hospital person. It is consideration of the third and fourth factors that weigh against admission of the medical records into evidence.

¶ 41 Not only is there no direct evidence to corroborate or contradict Josephine's statements contained within the emergency room records, but the record itself contains conflicting statements, noting at one point Josephine indicated she tripped over a dog; minutes later, she indicated she was pushed forward by the doors. Josephine's passing rendered her unavailable to testify at trial. However, plaintiff filed this action in May of 2010, giving plaintiff almost two years before her passing in April of 2012 to secure an evidence deposition in an attempt toward obtaining admissible evidence of the mechanism of her injury.

¶ 42 "Ultimately, it is for the trial court to determine by the totality of the circumstances whether it considers the hearsay statement to be trustworthy. [Citation.] Because the admission of evidence is within the trial court's sound discretion, a reviewing court will not reverse the trial court's decision absent a clear showing of abuse of that discretion." *People v. Swaggirt*, 282 Ill.

App. 3d 692, 700 (1996). When viewing the totality of these circumstances, we cannot say the trial court abused its discretion in finding the medical records lacked sufficient indicia of reliability to be admitted under any exception to the hearsay rule. Which entry is "trustworthy?" Decedent tripped over a dog, or decedent was pushed forward by the doors.

¶ 43 Furthermore, even the statement that she was "pushed forward by the weight of the door" seems more logical to describe someone being struck by a swinging door as opposed to being caught between two sliding doors. Therefore, we find that the trial court committed no error when refusing to consider the statements contained therein in its analysis of whether plaintiff put forth sufficient evidence to create a genuine issue of material fact as to the proximate cause of Josephine's injuries.

¶ 44 B. Midlock's and Delia's Testimony

¶ 45 As noted above, plaintiff claims Josephine's statements made "to defendant's employees, those are admissible as hearsay exceptions, as either excited utterances, then existing mental, emotional or physical condition, or statements for the purposes of medical diagnosis under Rule 803(4)." Plaintiff fails to identify the exact statements "made to defendant's employees" to which he is referring in this section of his brief. The structure of plaintiff's brief suggests to us he is referring to statements made to Midlock and Delia.

¶ 46 Initially, we must note that the record reveals Midlock is not an employee of the defendant. She worked for an oncology group located within defendant's facility. Her deposition transcript indicates it is the oncology group, and not the hospital, which is her employer.

¶ 47 Moreover, neither the trial court's order granting summary judgment, nor transcripts from the hearing on defendant's motion for summary judgment suggest that the trial court found

Midlock's or Delia's testimony inadmissible. The trial court did not mention Delia's testimony, whatsoever, in its analysis and labeled Midlock's testimony as "unhelpful" as she had no "personal knowledge of the doors closing prematurely on herself, Josephine, or anyone else." Therefore, we need not decide whether the trial court properly excluded testimony from Midlock or Delia, as there is no suggestion in the record that the trial court actually barred their testimony. The trial court simply found Midlock's testimony specifically, and the remainder of the evidence adduced by plaintiff (which includes Delia's testimony), to be insufficient to create a genuine issue of material fact.

¶ 48 II. Genuine Issue of Material Fact

¶ 49 Plaintiff argues that he put forth sufficient evidence to create a genuine issue of material fact regarding the proximate cause of Josephine's injury. To support this claim, plaintiff cites to testimony from Delia, Midlock and Nelson, the director of building services, which is detailed above. Defendant argues that the trial court correctly found this evidence lacking, as a matter of law, and allowing a jury to consider it would invite impermissible speculation and conjecture as to the proximate cause of Josephine's injury. We agree.

¶ 50 In *Kimbrough v. Jewel Cos*., 92 Ill. App. 3d 813 (1981), the plaintiff testified that she had no idea why she fell when exiting defendant's store. *Id.* at 816. While she did see spots of grease on the exit ramp, she could not say she slipped on them. *Id*. Thus, she could not prove the condition of defendant's store was the proximate cause of her injury and the trial court's summary judgment order in favor of defendant was affirmed. *Id.* at 818.

¶ 51 In *Barker v. Eagle Food Centers, Inc*., 261 Ill. App. 3d 1068 (1994), plaintiff asserted that she stepped off carpet onto a wet floor and slipped in defendant's store. *Id.* She did not see any water on the floor before, after, or at the time she fell, but nevertheless concluded the floor

was "wet," causing her to fall. *Id*. at 1071. The *Barker* court held "that plaintiff's conclusional assertion that the floor was wet, '[o]therwise, I wouldn't have slipped,' fails to provide a 'factual basis which would arguably entitle [her] to judgment in [her] favor.' " *Id*.

¶ 52 Plaintiff's assertions herein are similar to those of the *Barker* plaintiff: that is, Josephine fell near the doors, therefore the doors must have malfunctioned and been the proximate cause of her injury. While we acknowledge that plaintiff put forth evidence of maintenance completed on the doors both prior to and after this accident, there is no evidence as to the nature of that maintenance. One cannot tell from the record if the maintenance was intended to keep the doors open longer, allow them to shut more quickly, or was merely routine maintenance to keep them properly lubricated.

¶ 53 Moreover, the trial court correctly stated that while testimony may exist to indicate the doors malfunctioned prior to or after this incident, there is no testimony "to establish that the doors actually malfunctioned on September 5, 2008, and injured Josephine."

¶ 54 While Delia stated that Josephine informed him the doors "slammed" into her, the jury would be left to speculate which doors? There were two sets of sliding doors one must walk through to exit the building. Was Josephine referring to the interior set of sliding doors or the exterior set of sliding doors? When Delia spoke to Josephine, she was not in the area of the sliding doors used to enter or exit the building, but, instead, in a doctor's office. Delia recalled Josephine indicating "she was injured by the door." He further stated that Josephine "claimed the door slammed on her as she was exiting." Exiting where? The oncologist's office she had just left, or the building with two sets of sliding doors?

¶ 55 We note that plaintiff's third amended, and final, complaint, identifies the "west" doors as the offending doors, yet all the other evidence in the record discusses the east doors. When

recalling Josephine's statement, Delia used the singular: door. Even assuming, *agruendo*, that Josephine's statements to Delia are admissible under a hearsay exception, allowing a jury to consider such statements would invite speculation and conjecture. Not just about which "door" Josephine was referring to, but how contact with the door affected her.

¶ 56 Similarly, a review of Midlock's testimony reveals that allowing a jury to consider her testimony as evidence of the proximate cause of Josephine's injuries would invite the same level of impermissible speculation and conjecture. Midlock specifically stated she could not remember the specifics of Josephine's complaints about the doors. When referring to the date of the incident, Midlock noted that Josephine "did complain about the doors, but I don't know if it – I mean, honest, I don't know if it was before that date or after that date." Midlock did, however, specifically remember that when Josephine returned to the oncology office on September 5, 2008, Josephine did not "describe anything else about how she fell *** other than saying that she fell."

¶ 57 Finally, plaintiff asserts that Midlock's testimony regarding complaints that the east door malfunctioned, coupled with Nelson's authentication of work orders, is sufficient circumstantial evidence that the doors malfunctioned on September 5, 2008, causing Josephine to be knocked to the ground and suffer injuries. We disagree.

¶ 58 Plaintiff failed to clarify the nature of the work performed on the doors. Based on the evidence within the record, a jury would be left to speculate as to whether the work was being performed as routine maintenance or as a reaction to doors improperly closing prematurely.

¶ 59 To find in favor of the plaintiff, a jury must conclude that the doors malfunctioned on September 5, 2008, and that malfunction caused Josephine's injuries. Plaintiff has not identified exactly which doors allegedly malfunctioned: the interior sliding doors or the exterior sliding

doors. Plaintiff has not identified which doors allegedly struck Josephine. Plaintiff has not identified which doors were the subject of the work orders discussed by Nelson: the interior doors, the exterior doors, or both. In addition to failing to identify which door allegedly caused Josephine to fall, plaintiff has proffered no evidence that would allow a jury to determine how coming into contact with the door caused Josephine to fall. We find the trial court was correct in stating that "there exists no admissible evidence or testimony to firmly establish the elements of [plaintiff's] claim." As such, we hold the trial court properly granted defendant's motion for summary judgment.

¶ 60 CONCLUSION

¶ 61 For the foregoing reasons, the judgment of the circuit court of Will County is affirmed.

¶ 62 Affirmed.

¶ 63 JUSTICE HOLDRIDGE, dissenting.

¶ 64 I respectfully dissent. In my view, the plaintiff presented evidence sufficient to forestall summary judgment. Larry Delia, a security guard employed by the defendant, testified that he was dispatched to a doctor's office in the medical building on September 5, 2008, because a person had been injured. When he arrived, he spoke with Josephine, who told him that she was injured when "the door slammed on her as she was exiting." Although Josephine's statement described an accident that allegedly occurred some minutes beforehand, the statement was admissible under the "excited utterance" exception to the hearsay rule. See, *e.g.*, *People v. Sutton*, 233 Ill. 2d 89, 107-09 (2009); *People v. Connolly*, 406 Ill. App. 3d 1022, 1025-26 (2011).

¶ 65 Moreover, the September 5, 2008, emergency room record states that Josephine fell while walking through a door at the doctors' office. Specifically, the record states that she was "pushed off her feet" by the "weight of the door." Although this medical record contains another entry prepared a few minutes earlier which states that "the patient state[d] that she "triped [*sic*] and fell

over the dog today," this apparent conflict does not render the medical record inadmissible. See, *e.g., United States v. Keplinger*, 776 F. 2d 678, 694 (7th Cir. 1985) ("Generally, objections that an exhibit may contain inaccuracies, ambiguities, or omissions go to the weight and not the admissibility of the evidence."); see generally *Wade v. City of Chicago Heights*, 295 Ill. App. 3d 873, 886 (1998) ("any alterations made to [a] record affect the probative weight to be given to the documents, not their admissibility").

¶ 66 In addition, Kimberly Midlock, a registered nurse who worked in the oncology office where Josephine sought treatment, testified that, approximately two months before Josephine's alleged accident, the east doors had malfunctioned and were starting to close before people got all the way through them. She testified that she saw the defendant's employees working on the doors after they malfunctioned. Further, during his deposition, Keith Saginus testified that, when he accompanied Josephine to the defendant's facility for a medical appointment three days before her alleged accident, he saw her "get caught" between the entrance doors while the doors were pushing on her.

¶ 67 When taken together, I believe this evidence is sufficient to raise a genuine issue of material fact as to whether the defendant's breach of a duty to maintain its sliding doors in working order was a proximate cause of Josephine's injuries on September 5, 2008. Although the issues raised by the trial court and the majority might affect the weight of the plaintiff's evidence at trial, I believe that the plaintiff should have been allowed to submit his claims to a jury.