2025 IL App (1st) 231131-U

THIRD DIVISION
March 31, 2025

No. 1-23-1131

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

LYTIESA LITTLE and REGINALD LITTLE,	)	Appeal from the
	)	Circuit Court of
Plaintiffs-Appellants,	)	Cook County
	)	
v.	)	No. 18 L 10146
	)	
CITY OF CHICAGO and GLORIA TIRADO,	)	Honorable
	)	Casandra Lewis and
Defendants-Appellees.	)	Maura Slattery Boyle,
	)	Judges Presiding.

JUSTICE REYES delivered the judgment of the court.
Justices Martin and D.B. Walker concurred in the judgment.

ORDER

¶ 1 *Held*: Affirming a jury's award of damages where the plaintiffs failed to demonstrate that any proven element of damages was ignored.

¶ 2 Lytiesa Little (Lytiesa) sustained injuries from a motor vehicle collision with an on-duty police officer, Gloria Tirado (Officer Tirado). Lytiesa and her husband Reginald Little (Reginald) filed a complaint in the circuit court of Cook County against Officer Tirado and her employer, the City of Chicago (City). Following a jury trial, the plaintiffs were awarded $8 million in damages. In this appeal, the plaintiffs challenge the amount of the judgment, *i.e.*,

they maintain that multiple errors resulted in an artificially and unfairly low award of damages. For the reasons discussed below, we affirm the judgment of the circuit court.

¶ 3 BACKGROUND

¶ 4 On August 26, 2018, at approximately 10 a.m., 53-year-old Lytiesa drove her vehicle northbound on Kildare Avenue toward Madison Street in Chicago, as Officer Tirado drove a Chicago Police Department vehicle westbound on Madison toward Kildare. The intersection of Kildare and Madison is controlled by a traffic light. When the traffic light was green for Lytiesa, she proceeded into the intersection. Officer Tirado entered the intersection on a red light, and the two vehicles collided, resulting in serious injuries to Lytiesa (discussed further below).

¶ 5 *Initial Litigation*

¶ 6 The plaintiffs filed a complaint against Officer Tirado and the City in September 2018. In count I (against the City) and count II (against Officer Tirado), Lytiesa alleged that Officer Tirado engaged in willful and wanton conduct, *e.g.*, she drove at an excessive speed and engaged in a "non[-]pursuit vehicle operation" in an unsafe manner. In count III (against the City), Reginald alleged that he sustained a loss of consortium, including a loss of household services.

¶ 7 The defendants filed an answer and affirmative defenses, claiming immunity and asserting that Lytiesa's own negligent acts—including her failure to yield to an authorized emergency vehicle—caused or contributed to her injuries.

¶ 8 In a motion for summary judgment filed in April 2021, the defendants argued that Lytiesa's vehicle struck Officer Tirado's marked squad car, which had its lights and sirens activated. At the time of the collision, Officer Tirado was responding to a call from police dispatch requesting emergency assistance for an unresponsive woman in an alley who was possibly shot. Although Officer Tirado did not completely stop before entering the

intersection—and she represented that she was traveling approximately 10 miles per hour over the posted 30 mile-per-hour speed limit prior to the collision—the defendants asserted that her conduct was merely negligent, not willful and wanton.

¶ 9 The plaintiffs responded, in part, that the "black box" of each vehicle was examined, which revealed information regarding the speed, braking, and turning of each vehicle during the five-second period preceding the collision. Officer Tirado's vehicle speed ranged from 53.5 miles per hour at five seconds before impact to 44.4 miles per hour at impact. The plaintiffs also represented that there were inconsistencies in the accounts provided by the parties and the eyewitnesses as to when the lights and sirens were activated on Officer Tirado's vehicle and as to whether Officer Tirado took evasive action prior to the collision.

¶ 10 The circuit court entered an order in September 2021, finding that there were "questions of fact" and denying the defendants' motion for summary judgment. In April 2022, the plaintiffs filed a motion for leave to file an amended complaint, wherein the plaintiffs sought to add alternative counts alleging negligence. The defendants objected to the motion, contending that the factors set forth in *Loyola Academy v. S&S Roof Maintenance, Inc.*, 146 Ill. 2d 263 (1992), dictated against allowing the amendment. The circuit court denied the motion to amend, and the case proceeded to a jury trial in May 2022.

¶ 11 *Trial*

¶ 12 The testimony and other evidence presented at trial included the following.

¶ 13 Officer Tirado testified regarding the collision and related events, and another officer testified regarding the operation and capabilities of the in-car camera systems in Chicago Police Department vehicles. An accident reconstruction expert retained by the plaintiffs who reviewed the data recovered from the parties' vehicles opined that there was ample time for Officer Tirado

to have stopped before the collision.

¶ 14 Lytiesa's Medical Treatment

¶ 15 Multiple medical professionals who provided treatment or diagnostic services as part of Lytiesa's care testified at trial by deposition or in person; their testimony indicated the following.

¶ 16 After the collision on August 26, 2018, Lytiesa was transported by ambulance to Mount Sinai Hospital (Mount Sinai) in Chicago. Lytiesa had sustained a spinal fracture, multiple rib fractures, a left scapular (shoulder blade) fracture, and a bilateral hemopneumothorax, *i.e.*, the presence of blood and air in the chest cavity. Based on a brain CT (computerized tomography) scan, Lytiesa was also diagnosed with a scalp hematoma, *i.e.*, a bruise, as well as an acute subarachnoid hemorrhage, *i.e.*, bleeding outside the brain but inside the skull. A subsequent brain CT scan performed at Mount Sinai indicated that the subarachnoid hemorrhage had receded, but the images revealed possible edema, *i.e.*, swelling. After an initial spinal fusion surgery at Mount Sinai, Lytiesa was transferred to the University of Illinois at Chicago Medical Center (UIC) on September 1, 2018.

¶ 17 Dr. Sergey Neckrysh (Dr. Neckrysh) testified he is a board-certified neurosurgeon in the UIC spine surgery section. He performed a revision surgery on Lytiesa on September 4, 2018, to stabilize her spinal fracture. After reopening the incision and exposing the instrumentation, he replaced various screws, tightened the rods, and placed a bone graft to obtain bone formation and fracture healing. Dr. Neckrysh testified that Lytiesa's spinal cord would have been damaged and she would have become paralyzed if the surgery was not performed.

¶ 18 Dr. David Chen testified that he is a physiatrist—a medical doctor who specializes in physical medicine and rehabilitation—at the Shirley Ryan AbilityLab (the AbilityLab). He testified that when Lytiesa was admitted to the AbilityLab on September 8, 2018, she had

neurological impairments from her spinal cord condition and cognitive impairments—including delayed speech and short-term memory issues—from her traumatic brain injury. Through her in-patient treatment at the AbilityLab, including speech, occupational, and physical therapy, Lytiesa made significant progress. Following her discharge from in-patient treatment on October 5, 2018, she transitioned into the AbilityLab's day rehabilitation program until late January 2019.

¶ 19 Lytiesa had a follow-up visit with neurosurgeon Dr. Neckrysh at UIC in January 2019. An x-ray performed during the visit indicated that "everything was in place and working correctly." Dr. Neckrysh explained, however, that "repaired is not new," *i.e.*, the surgery results in a permanent loss of motion across the portions of the spine which have metal hardware and bone graft. When asked whether there was any likelihood that Lytiesa would require future surgery in those areas of her back, Dr. Neckrysh responded there was an 8% to 10% chance per year that junctional kyphosis would develop—*i.e.*, an issue with the section of the spine adjacent to the fusion surgery area—which would lead to "performance of future surgery."

¶ 20 In April 2019, Lytiesa commenced physical therapy at Athletico Physical Therapy in Oak Park, Illinois, to address her ongoing lower back pain. She initially received treatment approximately twice a week for six weeks, including therapeutic exercises and manual therapy; the treatment frequency was subsequently reduced to once a week through mid-July 2019. An Athletico physical therapist testified that Lytiesa exhibited improvements in her functionality and pain levels during the treatment.

¶ 21 Dr. Joseph Brindise (Dr. Brindise), an orthopedic spinal surgeon at the Romano Orthopedic Center in River Forest, Illinois, testified that he first treated Lytiesa in July 2020. Her primary complaint was rib pain on her left side. Dr. Brindise performed gait and balancing testing on Lytiesa, which revealed no abnormalities. He reviewed her medical records and

conducted a physical examination, which indicated rib and spinal tenderness. He ordered a rib x-ray, which evidenced that her ribs had healed. He further testified that x-rays of her spine demonstrated that the hardware was in good shape and there was "no instability seen with flexion or extension." Dr. Brindise and Lytiesa discussed various options, including observation, pain medication, and obtaining advanced imagery; she opted for observation. During another appointment in April 2021, Dr. Brindise conducted gait and strength testing, which revealed normal results. A CT scan performed in May 2021 demonstrated that her spinal fusion appeared to be stable.

¶ 22 Dr. Brindise was questioned regarding the likelihood of Lytiesa needing future surgery. He responded that he advises patients who have spinal fusion surgery that they might need additional intervention—*i.e.*, medication, physical therapy, or possible surgery—at a rate of 3% per year.

¶ 23 Dr. Brindise referred Lytiesa to Dr. Samip Morker (Dr. Morker), an interventional pain management specialist, for treatment of her back pain. Dr. Morker testified that he examined Lytiesa in July 2021; he agreed with Dr. Brindise that "there didn't appear to be anything invasive or surgical that needed to be addressed." One week later, following the initial examination, Dr. Morker administered trigger point injections, *i.e.*, injecting medications into trigger points to relax muscles and alleviate pain. According to Dr. Morker, Lytiesa experienced 70% relief, but later reported that her back pain had returned. In March 2022, Dr. Morker performed a second procedure, wherein he injected medicine into the facet joints of Lytiesa's spine. Dr. Morker's notes reflect that Lytiesa responded well to the treatment, and she noticed an improvement in her functional status.

¶ 24 A patient financial services director—who is familiar with patient billing and coding—

testified that the itemized bills from the various medical institutions which provided services to Lytiesa (*e.g.*, UIC) appeared to be reasonable. The itemized bills totaled $770,995.70.

¶ 25 Lytiesa, her Supervisor, and her Family Members

¶ 26 Lytiesa testified that she had no recollection of her hospitalization in Mount Sinai or UIC. She testified that, after she left the AbilityLab, her ability to function somewhat improved. Lytiesa returned to work at the U.S. Postal Service (USPS) in February 2019 but was unable to perform her prior duties. She "retired on disability" from the USPS in March 2022.

¶ 27 When she returned home from the AbilityLab, Reginald assisted her with many tasks, including bathing and dressing. Lytiesa testified that her injuries negatively affected her intimate relationship with her husband. As of the time of the trial, she took gabapentin and Tylenol to alleviate pain. She was unable to walk for more than two blocks since the collision, even though she previously could run four miles on a treadmill. Lytiesa testified that she resided on the second floor of a two-flat building, and she preferred walking down the staircase backwards, as she feared losing her balance and falling on her back. She expressed embarrassment regarding her use of wheelchairs in airports.

¶ 28 During cross-examination, Lytiesa confirmed that she did not need nursing care or assistive devices, such as crutches, following her discharge from the AbilityLab. She was able to drive again as of May 2019.

¶ 29 Arleen O'Neal (O'Neal) testified that she had been Lytiesa's supervisor at the USPS. O'Neal testified that Lytiesa was promoted in 2017 to safety specialist, which required her to inspect approximately 70 facilities each year. According to O'Neal, such inspections required Lytiesa to walk through the facilities and to occasionally climb ladders. Upon her return to work after the collision, Lytiesa was physically unable to perform certain duties, and she experienced

some memory difficulties. She was offered "sedentary duty," which required limited walking and standing. O'Neal confirmed that Lytiesa discontinued working for the USPS in March 2022, as she could no longer perform certain functions.

¶ 30 Lytiesa's adult sons testified that Lytiesa travels less frequently and that she appears to experience pain while seated, since the collision. They testified that their mother's posture, gait, and weight were negatively affected by the collision. Although Lytiesa spends time with her grandchildren, she is unable to play sports (as she previously did).

¶ 31 Reginald testified that he assumed primary responsibility for household activities—including cooking and cleaning—for the first year after his wife's collision. When questioned regarding the activities enjoyed by Lytiesa prior to the collision, Reginald testified that she periodically rode on the back of his motorcycle to Milwaukee, and they vacationed together. He noted that they enjoyed traveling to Las Vegas, where they walked extensively. She also previously enjoyed roller skating, dancing, and taking her grandchildren ice skating.

¶ 32 Reginald testified that although he and Lytiesa had taken two trips to Mexico since the collision, she required more breaks while traveling, as she experiences tightness from being seated for extended periods of time. According to Reginald, Lytiesa was unable to attend a family funeral in Ohio since she could not sit for a 6.5-hour road trip. He testified that she sleeps approximately four hours each night and that their intimacy lessened dramatically due to her increased self-consciousness and physical discomfort. He described his wife as somewhat depressed, more forgetful, and more "grandmotherly" since the collision.

¶ 33 Plaintiffs' Experts

¶ 34 Dr. Steven E. Rothke (Dr. Rothke), a licensed clinical psychologist with a specialization in neuropsychology and rehabilitation psychology, was retained by plaintiffs' counsel to evaluate

Lytiesa. He conducted evaluations of Lytiesa in February 2019 and July 2021. Dr. Rothke diagnosed Lytiesa with "mild-major" neurocognitive disorder due to traumatic brain injury and adjustment disorder with depressed mood. He described an adjustment disorder as a "significant emotional reaction to a major life event such as an injury or an illness." Although he noted that she experienced improvements in the 2.5 years between the two neuropsychological evaluations, he opined that her cognitive impairments due to her traumatic brain injury were permanent.

¶ 35 Dr. John Merritt (Dr. Merritt) testified that he is a physician who is board certified in internal medicine and physical medicine rehabilitation; he also has subspecialty board certifications in brain injury medicine and in spinal cord injury medicine. He was engaged by plaintiffs' counsel to prepare a "life care plan" for Lytiesa. Dr. Merritt described a life care plan as a "document that objectively identifies the residual medical conditions and ongoing care requirements of ill or injured individuals, and that quantif[ies] the costs of supplying these individuals with requisite, medically related goods and services throughout probable durations of care." Dr. Merritt clarified that the life care plan is not intended to provide compensation for items like pain and suffering or the loss of a normal life.

¶ 36 Based on his physical examination of Lytiesa and his review of her medical records, employment records, family history, and other information, Dr. Merritt estimated Lytiesa's life expectancy to be 85 years and the total future costs of Lytiesa's life care plan to be $2,801,955. This amount included (but was not limited to) the future costs of imaging and diagnostic studies; medical procedures; physical therapy; massage therapy; neuro-biofeedback training; pain management; medications; and medical equipment. The estimated costs of future medical equipment included (but were not limited to) canes, walkers, cushions, shower chairs, power scooters, and $125,000 in upgrades to the plaintiffs' residence.

¶ 37 Dr. Stan Smith (Dr. Smith), an economist, was retained by plaintiffs' counsel to calculate and prepare a report estimating the plaintiffs' economic losses due to Lytiesa's injuries, including the value of her household services. When interviewed by Dr. Smith's staff, Lytiesa reported that she spent about two to three hours each day on housework before the collision. Following the collision, she represented that she performed approximately 30% of her usual housework. Dr. Smith thus determined that Lytiesa suffered a 70% loss of ability to perform household services. Based on the estimated cost of such services, he calculated the loss of Lytiesa's "household/family services"—*e.g.*, cleaning, laundry, and cooking—to be $708,823.

¶ 38 During cross-examination, Dr. Smith testified that his use of a 70% loss of ability for his calculations was exclusively based on Lytiesa's self-reporting, not based on any consultation with a medical professional or a vocational expert. Noting that Lytiesa was interviewed while she was still employed at the USPS, defense counsel questioned whether her subsequent retirement gave her more time and energy to do housework. Dr. Smith responded, in part:

> "She said she can only do 70 percent. That's all I can tell you. If you want to know why that is, you'd have to ask her directly. ***
>
> I will say this. If somebody says she can do 40 percent, not 30 percent, you could adjust these numbers. My report says it's a tool and a guide. If someone says, okay, that's a 70 percent loss, what's a 60 percent loss? Take off one-seventh."

¶ 39 Defense counsel also questioned Dr. Smith regarding overlap between the costs included in his report and Dr. Merritt's report. Counsel specifically noted that Dr. Merritt's life care plan included expenses for a home health care aide, who may perform services for Lytiesa, such as laundry and cleaning. Although Dr. Smith testified that his estimates related to the services performed for the entire household, he acknowledged the possibility of duplicative charges.

¶ 40 Defense Expert

¶ 41 The defense witnesses included Dr. Elizabeth Kessler (Dr. Kessler), a board-certified neurologist retained by the City. She testified, in part, that she disagreed with Dr. Rothke's conclusions, *e.g.*, she opined that an individual cannot have both "mild" and "major" neurocognitive disorder. She further testified that "major" neurocognitive disorder means that an individual "is not able to function independently" and "they need assistance with activities in daily living." Dr. Kessler opined that Dr. Rothke's conclusion that Lytiesa had major neurocognitive disorder was "inconsistent with [Lytiesa's] actual ability to function."

¶ 42 Dr. Kessler also noted that Dr. Merritt stated that Lytiesa had been in a "prolonged coma," which was inaccurate. Dr. Kessler opined that Lytiesa had "no brain injury that [accounts] for any cognitive or memory impairment continuing for months or years." On cross-examination, Dr. Kessler acknowledged that she reviewed Lytiesa's medical records but never examined her.

¶ 43 *Verdict, Damage Award, and Posttrial Motion*

¶ 44 Following closing arguments and deliberations, the jury found in favor of the plaintiffs and against the defendants. The jury determined that the total amount of damages suffered by Lytiesa and Reginald was $10,666,666, itemized as follows. As to Lytiesa, the jury awarded (a) "[r]easonable expense of necessary medical care, treatment, and services received and the present cash value of the medical care, treatment and services reasonably certain to be received in the future" in the amount of $2,526,605; (b) "[p]ain and suffering experienced and reasonably certain to be experienced in the future as a result of the injuries" in the amount of $3,295,572; (c) "[l]oss of normal life experienced and reasonably certain to be experienced" in the amount of $3,515,276; (d) "[t]he value of earnings lost and the present cash value of earnings reasonably

certain to be lost in the future" in the amount of $889,804; and (e) "disfigurement resulting from the injury" in the amount of $109,852. The jury awarded $0 in damages for "emotional distress experienced and reasonably certain to be experienced in the future." As to Reginald, the jury awarded "[t]he reasonable value of the society, companionship, and sexual relationship with his wife of which he has been deprived or is reasonably certain to be deprived in the future" in the amount of $329,557. The jury awarded $0 in damages for "[t]he reasonable value of the services of his wife of which he has been deprived and the present cash value of the services of his wife of which he is reasonably certain to be deprived in the future."

¶ 45 The jury further found that Lytiesa was 25% responsible for her injuries and Officer Tirado was 75% responsible for Lytiesa's injuries, which reduced the plaintiffs' recoverable damages to a total amount of $8 million ($10,666,666 x 75%). The circuit court entered judgment on the verdict in the amount of $8 million plus costs.

¶ 46 The plaintiffs filed a posttrial motion, seeking an increased award based on damages which were "totally ignored" by the jury or, alternatively, a new trial on the issue of damages. Among other things, the plaintiffs maintained that the jury should have awarded damages for Reginald's loss of "[h]ousehold/[f]amily housekeeping" and "home management services" in the amount of $708,823, as reflected in Dr. Smith's opinion. According to the plaintiffs, the circuit court should have granted the jury's request during deliberations for a copy of the exhibit summarizing Dr. Smith's opinion. The plaintiffs also argued, in part, that the jury failed to award any past medical expenses and failed to award damages for future medical expenses for the future extension of Lytiesa's spinal fusion, despite the evidence supporting such amounts.

¶ 47 In their response to the posttrial motion, the defendants argued that the plaintiffs failed to establish that the $8 million award was inadequate or that a new trial on damages was warranted.

The defendants alternatively maintained that the issues of liability and damages were "intertwined" in this matter, and thus a new trial limited solely to the question of damages would be unfair to the defendants.

¶ 48 Prior to ruling on the posttrial motion, the judge who presided over the trial (Judge Casandra Lewis) retired, and another judge (Judge Maura Slattery Boyle) was assigned to this matter. The circuit court entered an order on May 25, 2023, denying the posttrial motion "for additur and/or a new trial on the issue of damages." The plaintiffs timely filed a notice of appeal.

¶ 49 ANALYSIS

¶ 50 The plaintiffs initially argue on appeal that a new trial on damages is warranted based on the "overwhelming" evidence on liability and the "uncontradicted" evidence on damage elements which were ignored. The plaintiffs next contend that the circuit court abused its discretion in denying the jurors' requests for (a) a supplemental report from economist Dr. Smith and (b) the plaintiffs' proposed verdict form. Finally, the plaintiffs assert that the jury's "palpably low" award for Lytiesa's past and future medical expenses and the jury's failure to award any damages for Reginald's loss of the value of Lytiesa's household services were against the manifest weight of the evidence.

¶ 51 As a threshold matter, we observe that the record is insufficient as to the question of whether Dr. Smith's report and the proposed verdict form should have been sent to the jury room. The decision to send exhibits to the jury room is within the discretion of the trial court and will not be reversed absent an abuse of that discretion. *Estate of Oglesby v. Berg*, 408 Ill. App. 3d 655, 659 (2011); *Gossard v. Kalra*, 291 Ill. App. 3d 180, 184 (1997). The record on appeal in this case does not include a transcript of the proceedings where the jury's requests regarding Smith's report and the verdict form were discussed and ruled upon. We are unable to

determine if the trial court abused its discretion without a transcript or other report of the proceedings where the alleged error occurred. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984) (noting that the appellant has the burden to present a sufficiently complete record to support a claim of error, and any doubts arising from the insufficiency of the record will be resolved against the appellant); *Illinois Founders Insurance Co. v. Williams*, 2015 IL App (1st) 122481, ¶ 56 (stating that "[w]e cannot divine the trial court's reasoning in denying defendant's motion"). We note that plaintiff's trial counsel submitted a declaration dated October 7, 2022, in support of the plaintiffs' posttrial motion, which purported to summarize the parties' arguments and the court's rulings regarding the jury requests. This document, however, does not satisfy the requirements of Illinois Supreme Court Rule 323 (eff. July 1, 2017). We further observe that the retirement of the judge who presided over the trial did not preclude plaintiffs from pursuing another viable alternative, *i.e.*, an agreed statement of facts. *Id.* The record is thus incomplete, and we presume that the rulings were correct. *Foutch*, 99 Ill. 2d at 392. We thus turn to the plaintiffs' other contentions.

¶ 52 The question of damages is "peculiarly one of fact" (*Control Solutions, LLC v. Elecsys*, 2014 IL App (2d) 120251, ¶ 55), and the amount of a verdict is generally within the discretion of the jury. *Hollis v. R. Latoria Construction, Inc.*, 108 Ill. 2d 401, 407 (1985). Accord *Stanford v. City of Flora*, 2018 IL App (5th) 160115, ¶ 27 (observing that the "amount of money a jury awards is an issue of fact for the jury to determine and is entitled to substantial deference"); *Poliszczuk v. Winkler*, 387 Ill. App. 3d 474, 490 (2008) (noting that "the determination of damages is a question of fact, not law, and is within the discretion of the jury, not the court"). "Accordingly, in a jury trial, it is the function of the jury to weigh contradictory evidence, to judge the credibility of the witnesses, and to draw the ultimate conclusion as to the facts."

Control Solutions, 2014 IL App (2d) 120251, ¶ 55.

¶ 53 Reviewing courts are reluctant to interfere with the discretion of the jury in assessing damages and will overturn an award only if it is against the manifest weight of the evidence. *Id.* A reviewing court thus will not upset a jury's damage award "unless a proven element of damages was ignored, the verdict resulted from prejudice, or the award bears no reasonable relationship to the loss suffered." *Id.* See also *Hollis*, 108 Ill. 2d at 407; *Poliszczuk*, 387 Ill. App. 3d at 490; *Wade v. Rich*, 249 Ill. App. 3d 581, 587 (1993).

¶ 54 The plaintiffs contend that the jury's award was against the manifest weight of the evidence, as the jury ostensibly "ignored" three costs in its award: (a) approximately $770,000 for Lytiesa's past medical expenses; (b) the amount of $200,000 for a likely future spinal surgery; and (c) the amount of $708,823 for Reginald's loss of the household services performed by Lytiesa. Simply put, we reject this contention. Based on our review of the record, there is no indication that the jury disregarded any proven element of damages.

¶ 55 The jury awarded $2,526,605 for her past and future medical expenses, which is more than $950,000 less than the amount requested by the plaintiffs. The mere fact, however, that the verdict was less than the claimed damages does not necessarily indicate that the award was inadequate, as the jury was free to determine the credibility of the witnesses and to assess the weight to be accorded to their testimony. *DiFranco v. Kusar*, 2017 IL App (1st) 160533, ¶ 22. The jury was repeatedly informed that the plaintiffs sought approximately $770,000 for Lytiesa's past medical bills, including through the testimony of a patient financial services director. During closing arguments, both plaintiffs' counsel and defendants' counsel reminded the jury that Lytiesa's past medical expenses totaled approximately $770,000. We see no reason to presume that the $2,526,605 award did not include the cost of Lytiesa's past medical expenses.

¶ 56 With respect to the requested compensation for the projected cost of $200,000 for a future spinal fusion surgery, we observe that the jury could have reduced or rejected the amount requested based on the lack of clear evidence that Lytiesa will need future surgery. The two physicians who opined on the likelihood of a future surgery offered differing predictions regarding its likelihood. Dr. Neckrysh testified that patients have an 8% to 10% annual chance of requiring another spinal fusion surgery. A surgeon who examined Lytiesa two years after the collision, Dr. Brindise, testified that her fusion was in good repair and that patients generally have a 3% annual chance of needing some form of intervention, but not necessarily surgery. A verdict is not contrary to the manifest weight of the evidence when the evidence is conflicting and the jury resolves the conflict. *Sheth v. SAB Tool Supply Co.*, 2013 IL App (1st) 110156, ¶ 41. The jury could have reasonably concluded, based on Dr. Brindise's testimony and other evidence—*e.g.*, the relative success of the non-surgical treatments performed by Dr. Morker—that Lytiesa will not require another spinal fusion surgery.

¶ 57 Similarly, the jury was not required to accept the testimony of economist Dr. Smith that Reginald lost $708,823 in Lytiesa's household services. Although we recognize that the loss of household services is a compensable form of injury (*e.g.*, *Passafiume v. Jurak*, 2024 IL 129761), the jury was not obligated to accept Dr. Smith's testimony as to this issue. The jury remained "free to disbelieve and disregard" Dr. Smith's testimony (*Lange v. Freund*, 367 Ill. App. 3d 641, 651 (2006)), particularly given defense counsel's thorough cross-examination of Dr. Smith. See also *Kayman v. Rasheed*, 2015 IL App (1st) 132631, ¶ 74. Defense counsel effectively called into question certain factual underpinnings of Dr. Smith's calculations, *e.g.*, whether Lytiesa's self-reported 70% loss of ability to perform household services remained viable following her retirement. Dr. Smith also acknowledged during cross-examination that certain

charges on his report could be duplicative of Dr. Merritt's calculations.

¶ 58 We further note that the primary subject of Dr. Smith's testimony—the performance and value of housework—is not an arcane topic beyond the understanding of an average layperson. See *Morus v. Kapusta*, 339 Ill. App. 3d 483, 492 (2003). The jurors had the opportunity to observe the witnesses, including Lytiesa and Reginald, and potentially determined that Reginald's increased household responsibilities were temporary, minor, and/or implicitly gratuitous based on his marital commitment. For example, while Reginald initially assumed the household responsibilities following the collision, he testified that his mother-in-law also provided cooking at his home. Reginald acknowledged that "six months to a year in," Lytiesa resumed some of the housework and cooking. The physical therapist at Athletico also reported that Lytiesa had "returned to normal activities of daily living about the home" by the summer of 2019. Based on the foregoing, the jury's decision not to award Reginald the requested amount was reasonable.

¶ 59 In sum, we cannot conclude that the jury ignored a proven element of damages, that the verdict resulted from prejudice, or that the award bears no reasonable relationship to the loss suffered. *Control Solutions*, 2014 IL App (2d) 120251, ¶ 55. We similarly reject the plaintiffs' request for *additur* as to the $708,823 for household services. "*Additur* is appropriate only to rectify the omission of a liquidated or easily calculated item of damages and is improper if the defendant does not consent to it as an alternative to a new trial." *Schiller v. HomeServices of Illinois, LLC*, 2024 IL App (3d) 220405, ¶ 45. We observe that the jury in the instant case did not omit any item of damages on the verdict form; all blank spaces on the form were filled. In any event, *additur* is not available where damages are disputed, as is the case herein. See *Sheth*, 2013 IL App (1st) 110156, ¶ 84 (noting that *additur* is unavailable "where the jury makes

credibility determinations based on conflicting testimony").

¶ 60 For the reasons discussed above, we also reject the plaintiffs' request for a new trial on damages. We are unmoved by the plaintiffs' suggestion that the changing of judges (based on a judge's retirement) necessitates a new trial. *E.g.*, *In re Marriage of Zander*, 273 Ill. App. 3d 669, 673 (1995) (noting that the respondent was not entitled to a new trial "if happenstance or court procedure requiring the rotation of judges prevents the original judge from presiding over post-trial motions").

¶ 61 CONCLUSION

¶ 62 The judgment of the circuit court of Cook County is affirmed in its entirety.

¶ 63 Affirmed.