

IN THE SUPREME COURT OF THE STATE OF NEVADA

DESIREE WHITE, INDIVIDUALLY
AND AS SPECIAL ADMINISTRATOR
FOR THE ESTATE OF YOLANDA
CARRILLO, DECEASED; TAMARA
HARLESS, AS SPECIAL
ADMINISTRATOR FOR THE ESTATE
OF YOLANDA CARRILLO, DECEASED;
PATRICIA MESA, DAUGHTER OF
YOLANDA CARRILLO; AND
ERNESTINA HUYNH, DAUGHTER OF
YOLANDA CARRILLO,
Appellants,
vs.
MICHAEL SEIFF, M.D., AN
INDIVIDUAL,
Respondent.

No. 56035

FILED

OCT 27 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order in a medical malpractice action. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

Yolanda Carrillo died from complications following a spinal surgery. Appellants, Carrillo's daughters and the special administrators of her estate, filed suit against respondent, Dr. Michael Seiff, the surgeon who performed Carrillo's surgery. Appellants alleged that respondent had negligently injured Carrillo's vertebral artery during surgery and had subsequently failed to treat the injury in a timely manner. Following a nine-day jury trial, the jury returned a unanimous verdict in favor of respondent.

On appeal, appellants argue that (1) the jury's verdict was not supported by substantial evidence, and (2) the district court abused its

discretion in excluding impeachment evidence relating to a separate surgery that was performed by respondent.¹ We disagree and therefore affirm the district court's order.

Substantial evidence

Appellants argue that the jury's verdict was not supported by substantial evidence. See Soper v. Means, 111 Nev. 1290, 1294, 903 P.2d 222, 224 (1995) (reviewing a jury verdict for substantial evidence). However, several expert witnesses testified that the type of injury suffered by Carrillo can occur even in the absence of negligence, and that respondent did not act negligently in this case. We conclude that this testimony provided substantial evidence to support the jury's verdict.

Impeachment

Appellants argue that the district court abused its discretion in refusing to admit evidence that respondent may have damaged another patient's vertebral artery in a separate surgery. See Hansen v. Universal Health Servs., 115 Nev. 24, 27, 974 P.2d 1158, 1160 (1999) (stating that

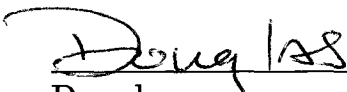
¹Appellants also argue that the district court erred in providing a special interrogatory regarding breach for two reasons. First, they contend that the special interrogatory was "neither timely nor properly provided." Second, they contend that the special interrogatory misstated the applicable burden of proof.

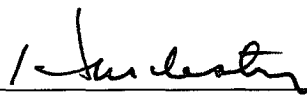
Appellants did not object to the special interrogatory on these grounds in the district court. Therefore, we conclude that they have waived these arguments on appeal. See Building Trades v. Thompson, 68 Nev. 384, 409, 234 P.2d 581, 593 (1951) (holding that "objections to the form of [a] verdict are deemed waived if no objection is made" at or before the time of the verdict); NRCP 51(c)(1) ("A party who objects to an instruction . . . must do so on the record, stating distinctly the matter objected to and the grounds of the objection.").

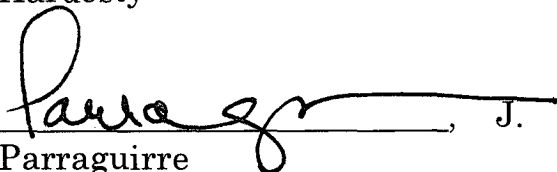
this court reviews a district court's evidentiary decisions for an abuse of discretion). Specifically, appellants intended to introduce a portion of the pretrial deposition of Dr. Thomas Lee, who was respondent's assisting anesthesiologist. In the deposition, Dr. Lee stated that respondent was involved in a surgery in which another patient's vertebral artery may have been damaged.

Appellants sought to admit Dr. Lee's deposition testimony for the sole purpose of impeaching respondent's credibility. According to appellants, they sought to rebut respondent's statement that he had never damaged another patient's vertebral artery. However, the record does not reflect that respondent made a statement to that effect at trial. Because Dr. Lee's deposition testimony could not properly be used to impeach respondent's credibility, we conclude that the district court did not abuse its discretion in excluding the evidence. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Valorie Vega, District Judge
Christensen Law Offices, LLC
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Lemons, Grundy & Eisenberg
Eighth District Court Clerk