


IN THE SUPREME COURT OF THE STATE OF NEVADA

EARL FUNK,
Appellant,
vs.
RENZO LOUISE SANTOS,
Respondent.

No. 88487

FILED

AUG 14 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment on a jury verdict and a post-judgment order denying a motion for a new trial in a torts matter. Eighth Judicial District Court, Clark County; Nadia Krall, Judge.

Appellant Earl Funk rear-ended respondent Renzo Santos' vehicle, injuring Santos. After an eight-day trial, the jury rendered a verdict for Santos. The district court issued a judgment on the jury verdict awarding \$1,351,745.47 in past damages, \$1,653,776.00 in future damages, and \$365,189.16 in prejudgment interest. Funk moved for a new trial, which the district court denied. Funk now appeals.

Funk first argues the district court abused its discretion by permitting Santos' expert and treating physician witness, Thomas Dunn, M.D., to opine on Santos' future medical expenses and treatments. Funk asserts this was improper because Santos did not provide a timely computation of future expenses under NRCP 16.1(a)(1) and did not timely disclose Dr. Dunn's expert opinion regarding future damages under NRCP 16.1(a)(2). Funk argues that because the error affected his substantial rights, the district court erred by denying the motion for a new trial. We

review orders denying motions for a new trial for an abuse of discretion, *Lioce v. Cohen*, 124 Nev. 1, 20, 174 P.3d 970, 982 (2008), and review the admission or exclusion of evidence for an abuse of discretion, *FCH1, LLC v. Rodriguez*, 130 Nev. 425, 432, 335 P.3d 183, 188 (2014).

The district court properly permitted Dr. Dunn to testify regarding Santos' need for a future surgery. Dr. Dunn was Santos' treating physician, and Santos supplemented the initial disclosures regarding future medical expenses as soon as Santos could. NRCP 26(e)(1) requires supplementation of a disclosure if material information is later acquired. *See also Capanna v. Orth*, 134 Nev. 888, 895, 432 P.3d 726, 734 (2018) (holding that parties have a duty to supplement their experts' disclosures "at appropriate intervals" under a substantively identical version of NRCP 26(e)). A treating physician may testify about opinions formed during the course of treatment without issuing an expert report regarding those opinions. *FCH1, LLC v. Rodriguez*, 130 Nev. 425, 433, 335 P.3d 183, 189 (2014). Dr. Dunn's initial disclosure indicated that Santos would likely require surgery. During that surgery, Dr. Dunn discovered conditions that made it likely that Santos would require additional surgeries. Dr. Dunn disclosed that information to Santos shortly after surgery and Santos supplemented the disclosures to Funk within days of hearing from Dr. Dunn. The opinions and records regarding Santos' future surgery could not have been disclosed earlier because they were unknown until after Dr. Dunn performed the first surgery. The record therefore supports that Dr. Dunn determined Santos would need a future surgery in the course of treating Santos. It further supports that Santos timely supplemented his initial disclosures upon receipt of that information from Dr. Dunn. Thus, we conclude the district court did not abuse its discretion by admitting the

challenged evidence. Further, Funk had been on notice that Santos would require surgery and was informed before the trial that Santos would require a second surgery. Therefore, Funk did not demonstrate his substantial rights were materially affected by the admission of this evidence. And thus, we further conclude that the district court did not abuse its discretion by denying Funk's motion for a new trial. NRCP 59; *Lioce*, 124 Nev. at 20, 174 P.3d at 982.


Funk next argues the district court abused its discretion by excluding evidence of Santos' medical liens and the lack of lien documents in Dr. Dunn's file. Funk argues that he intended to introduce this evidence to demonstrate Dr. Dunn's bias and lack of credibility. We review the district court's decision to exclude evidence of medical liens for an abuse of discretion, *Pizarro-Ortega*, 133 Nev. 261, 270, 396 P.3d 783, 791 (2017), and conclude that Funk's argument lacks merit. Evidence of medical liens is of limited relevance where, as here, the "liens indicate the plaintiff will still be responsible for his or her medical bills." *Id.* at 270, 396 P.3d at 790. Regardless, both parties' experts testified that medical liens do not change their clinical judgment, and the district court permitted both parties to cross-examine the experts as to payments for their trial testimony. As to Dr. Dunn specifically, the district court permitted Funk to ask about Dr. Dunn's compensation for testifying at trial and to impeach Dr. Dunn with evidence that Dr. Dunn had a lien on any recovery Santos obtained in this case. In permitting Funk to impeach Dr. Dunn, the district court did not limit Funk from asking Dr. Dunn about the lack of any lien documents in Santos' medical file. We thus conclude that the district court did not abuse its discretion by denying Funk's motion for a new trial on this ground. See NRCP 59; *Pizarro-Ortega*, 133 Nev. at 266-67, 396 P.3d at 788.


Next, Funk argues the district court abused its discretion by excluding evidence of attorney-driven medical treatment. Funk sought to admit evidence that after retaining an attorney, Santos saw numerous treatment providers on a lien basis, and that “[g]iven the minor nature of the accident and the minimal physical damage resulting to either vehicle, these liens are relevant evidence to Mr. Funk’s low-impact defense.” While the district court denied Funk’s motion in limine in this regard, it did not prevent Funk from addressing these issues at trial. The district court allowed both parties to show potential physician bias by discussing payments for testimony. And as to Dr. Dunn specifically, the district court did not prevent Funk from inquiring into evidence that Santos’ attorneys approved Santos’ treatments. Thus, we conclude the district court did not abuse its discretion in its evidentiary decision or its denial of Funk’s motion for a new trial. *See* NRCP 59; *Pizarro-Ortega*, 133 Nev. at 266-67, 270, 396 P.3d at 788, 791.

Finally, Funk argues cumulative errors warrants reversal. Even assuming that cumulative error applies in civil cases, no relief is warranted here because there are not multiple errors to cumulate. *See Carroll v. State*, 132 Nev. 269, 287, 371 P.3d 1023, 1035 (2016) (holding that more than one error is required for the cumulative error doctrine to apply). We therefore

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Nadia Krall, District Judge
Persi J. Mishel, Settlement Judge
Resnick & Louis, P.C./Las Vegas
Nicolas M. Bui, Ltd.
Eighth District Court Clerk