

IN THE COURT OF APPEALS OF IOWA

No. 0-225 / 89-1009

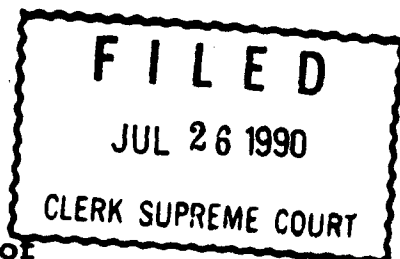
PHIL L. GOEDKEN, as Administrator of the Estate of
CYNTHIA D. CADY, Deceased,

Plaintiff-Appellant,

vs.

CITY OF BETTENDORF, IOWA,

Defendant-Appellee.



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Appeal from the Iowa District Court for Scott County,
Max R. Werling, Judge.

Plaintiff appeals a defendant's verdict in a wrongful
death case. **AFFIRMED.**

Michael K. Bush and Michael J. Motto of Carlin,
Hellstrom & Bittner, Davenport, for appellant.

Richard M. McMahon and Craig A. Levien of Betty, Neuman
& McMahon, Davenport, for appellee.

Heard by Schlegel, P.J., and Hayden and Sackett, JJ.

SACKETT, J.

This appeal follows a defendant's verdict in a wrongful death action. The action was tried to the court. We affirm.

Cynthia Cady died in a fire in her home in Bettendorf, Iowa. Following her death, this claim was filed against the city contending the Bettendorf Fire Department was negligent in fighting the fire. The claimed negligence occurred after the department arrived at decedent's home. It was agreed the department answered the call promptly.

The case was tried to the court. The trial court found Cynthia died before the fire department arrived; consequently the issue of the city's negligence did not need to be addressed.

Plaintiff appeals contending the trial court erred in (1) allowing the testimony of James D. Carpenter, and (2) admitting evidence concerning decedent's husband Steven Cady's attempt to bribe witnesses. Plaintiff also contends the trial court's findings are not supported by substantial evidence. We affirm.

Plaintiff first complains about James Carpenter testifying about what happened to decedent and what caused her burns. Plaintiff's basis for the objection was Carpenter was not a medical doctor or a pathologist. Plaintiff also complained discovery relating to Carpenter as a witness had not revealed he would so testify.

James Carpenter is the Fire Marshall for the City of Davenport, Iowa. He has been employed by the Davenport Fire Department since 1966, and has served in numerous capacities and has considerable experience in fighting and investigating fires. In 1980 he attended the Fire Cause & Arson Investigation School put on by the National Fire Academy. In 1981, as a fire fighter, he attended a ten-week course at the Iowa Law Enforcement Academy. He has seen a number of burn victims and has first aid and medical courses, including emergency medical courses relating to burns.

Plaintiff's complaints go to Carpenter's expertise to give the opinions he rendered, and the trial court's limiting expert witnesses' testimony because of alleged failures to provide adequate information during discovery. These are both issues on which we defer to the discretion of the trial court. See Marine American State Bank v. Lincoln, 433 N.W.2d 709, 713 (Iowa 1988) (a trial court will not be reversed on a discovery sanction without a finding of abuse of discretion). Plaintiff has not shown the trial court abused that discretion.

Plaintiff next complaint concerns evidence of certain actions of the decedent's husband. The trial court admitted the testimony of a witness who related decedent's husband, Steven Cade, while serving as administrator of her estate, had attempted to bribe him to give favorable

testimony relating to the time of Cynthina's death. After the alleged bribe, Steven was removed as administrator and disclaimed any interest in the estate. The couple's minor child apparently is the person who would have benefited had the wrongful death claim been successful. The trial court, over objection, received evidence of the bribe. Evidence of an attempted bribe by a party is relevant as to the strength or weakness of their case. See Harrison v. Harrison, 124 Iowa 525, 526-27 (1904). Plaintiff contends the rule is not applicable here because Steven was no longer a party. We note while not a party, Steven has a duty of support to his minor son, who now is a party and would benefit from any award. We need not address whether this relationship makes the evidence admissible. The trial court's findings clearly show it did not rely on the evidence. We, therefore, find no error.

Plaintiff contends there is insufficient evidence to support the trial court's verdict. The trial court's ruling carefully reviews the evidence and makes detailed findings. We too have carefully reviewed the evidence. There is substantial evidence to support the trial court's findings. We are bound by them. See Iowa R. App. P. 14(f)(1).

AFFIRMED.