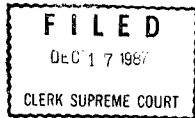


IN THE COURT OF APPEALS OF IOWA



ROBERT C. JACOBSON,)
Administrator of the Estate of)
CYNTHIA R. JACOBSON, Deceased.)

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Filed December 17, 1987

Plaintiff-Appellee,)

vs.)

ESTATE OF JOHN M. LENERS, by)
EDWARD C. LENERS, Executor,)

7-378
86-1209

Defendant-Appellant.)

Appeal from the Iowa District Court for Palo Alto County (21108), Charles
H Barlow, Judge.

Defendant appeals the trial court's final judgment on jury verdicts awarding
the plaintiff damages. **AFFIRMED.**

David A. Scott of Cornwall, Avery, Bjornstad and Scott, Spencer, for
defendant-appellant.

Donald J. Bormann, Emmetsburg, for plaintiff-appellee.

Considered by Oxberger, C.J., and Donielson and Schlegel, JJ.

SCHLEGEL, J.

The defendant appeals the trial court's final judgment on jury verdicts awarding the plaintiff damages. The main issue at trial was whether a car accident on February 9, 1982, between the defendant and the plaintiff's decedent, which resulted in the decedent's hospitalization for a cervical sprain, directly led to her death on March 2, 1982 from a heart attack. The defendant contends on appeal that: (1) the trial court erred in allowing a doctor, the initial treating physician after the accident, to express an opinion about the cause of death since the plaintiff failed to reasonably supplement his answers to interrogatories, and (2) there was insufficient evidence to establish a link between the accident and the heart attack. Our scope of review is for the correction of errors of law. Iowa R. App. P. 4. We affirm.

I. Background. The defendant appeals a trial court judgment based on a jury verdict finding the defendant sixty percent liable for a car accident between the defendant and the decedent. Based on this finding, the plaintiff (administrator of the estate of the deceased) was awarded \$63,000 in damages. After the accident, the decedent, a healthy twenty-five year old nurse, was treated at a hospital with medication and therapy by Dr. Kellenberger for a cervical sprain. During the evening after her release on March 1, 1982, the decedent collapsed and died the following day from a heart attack. An autopsy was performed finding that the plaintiff died from a myocardial infarction due to blood clotting. At trial, numerous experts were presented concerning whether the clotting occurred before or after death and whether the car accident directly led to the decedent's death.

II. Supplementation of Interrogatories. The defendant contends that the plaintiff failed to seasonably supplement his answers to interrogatories and thus, the trial court erred in allowing the plaintiff's expert, Dr. Kellenberger,

to express an opinion about the cause of the decedent's death. Iowa Rule of Civil Procedure 125 requires a party to supplement his or her response to previous discovery in relation to the identities of expert witnesses, the expected subject matter of the testimony, and the substance of the testimony. The purpose of this rule is to avoid surprise to the litigants and to allow the parties to formulate their positions on as much evidence as is available. Lambert v. Sisters of Mercy Health Corp., 369 N.W.2d 417, 422 (Iowa 1985). The trial court possesses inherent power to enforce the discovery rules and may impose sanctions for a litigant's failure to obey them, including the exclusion of the testimony. Hubby v. State, 331 N.W.2d 690, 697 (Iowa 1983). On review, we will reverse only upon finding an abuse of discretion by the trial court. Id. Abuse of discretion exists when "such discretion is exercised on grounds or for such reasons clearly untenable or to an extent clearly unreasonable. Id.

In the instant case, we find the trial court's allowance of Dr. Kellenberger's opinion as to cause of death was not an abuse of discretion. Trial of this case commenced on May 20, 1986. The discovery deposition of Dr. Kellenberger was taken by the defendant on May 14, 1986. The defendant filed a motion in limine on May 15, 1986, requesting that the court prohibit Dr. Kellenberger from expressing any opinion regarding the cause of the decedent's death. The plaintiff filed supplemental answers to interrogatories on May 16, 1986, stating that Dr. Kellenberger would state an opinion at trial to the cause of the decedent's death. The defendant filed another motion in limine on May 20, 1986, again requesting that limitations be placed on Dr. Kellenberger's testimony. The trial court overruled each of the motions in limine, as well as objections to Dr. Kellenberger's testimony made at trial.

The defendant took the deposition of Dr. Kellenberger on May 14, 1986, during which Dr. Kellenberger was asked whether he had an opinion as to the

cause of the decedent's death. Dr. Kellenberger indicated that he did have an opinion and stated that there was a "significant chance" that the decedent's death could have been caused by injuries sustained in the auto accident. The substance of Dr. Kellenberger's testimony was similar to the opinion rendered earlier by another of the plaintiff's witnesses, Dr. Ramosa, who stated that the decedent's cause of death was a result of the auto accident. Since the defendant was aware of Dr. Ramosa's opinion at the time of Dr. Kellenberger's deposition, there was no surprise to the defendant. The defendant, at the time of Dr. Kellenberger's deposition, was prepared to put on expert witnesses of its own regarding the cause of death and therefore, the substance of Dr. Kellenberger's testimony was not something that the defendant was unprepared to confront. Thus, we cannot find an abuse of discretion by the trial court in allowing Dr. Kellenberger to testify at trial as to the cause of death.

III. Sufficiency of the Evidence. The defendant contends that there is no substantial evidence in the record to support a finding that the decedent died as a result of injury she might have suffered in the automobile accident. Findings of fact in a law action are binding upon us if supported by substantial evidence. Iowa R. App. P. 14(f)(1). Furthermore, questions of proximate cause, such as in this case, are usually for the jury and only in exceptional cases may they be decided as a matter of law. Iowa R. App. P. 14(f)(10). Evidence is "substantial" if "a reasonable mind would accept [it] as adequate to reach a conclusion." C.F. Sales, Inc. v. Amfert, Inc., 344 N.W.2d 543, 553 (Iowa 1983) (citation omitted). The evidence in this case was conflicting: the plaintiff's witnesses expressed opinions that the decedent's heart attack was a result of the automobile accident, while the defendant's experts testified that death was due to natural causes. Even though the evidence is conflicting, we fail to find the overwhelming evidence that the defendant claims shows that the

decedent died of natural causes. Rather, there is sufficient evidence to allow the jury to reasonably reach the conclusion it did. We therefore decline to reverse the trial court's ruling denying the defendant's motions for directed verdict and for a new trial.

AFFIRMED