

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

UNIVERSAL PIPING INDUSTRIES,
LLC, A MICHIGAN LIMITED
LIABILITY CORPORATION, D/B/A
UNIVERSAL PIPING, INC.,
Appellant,
vs.
VERISE CAMPBELL,
Respondent.

No. 69794

FILED

MAR 22 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from an order granting a new trial as to damages in a short trial matter. Eighth Judicial District Court, Clark County; James Crockett, Judge.¹

While driving in a parking lot, an employee of appellant Universal Piping Industries, LLC, (UPI) got into a car accident with respondent Verise Campbell. Following a jury trial conducted under Nevada's Short Trial Program, the jury found UPI liable for the accident but declined to award any damages based on its conclusion that Campbell did not suffer any injuries. The short trial judge then granted Campbell's

¹The order granting a new trial in the underlying action was entered by Judge Pro Tempore Georlen K. Spangler. See NSTR 3(d) (providing that a pro tempore judge presiding over a short trial action "shall have all the powers and authority of a district court judge except with respect to the final judgment").

motion for a new trial as to damages only, finding that the jury manifestly disregarded the court's instructions. This appeal followed.

This court reviews a decision to grant or deny a motion for a new trial for an abuse of discretion. *See Nelson v. Heer*, 123 Nev. 217, 223, 163 P.3d 420, 424-25 (2007). NRCP 59(a)(5) provides a court with the discretion to grant a new trial where there is a “[m]anifest disregard by the jury of the instructions of the court.” Thus, this court will affirm an order granting a new trial where it “perceive[s] plain error or a showing of manifest injustice” in the jury’s verdict. *Fox v. Cusick*, 91 Nev. 218, 220, 533 P.2d 466, 467 (1975).

In this case, we perceive no such plain error or manifest injustice that warranted granting Campbell’s motion for a new trial. *See id.* In a negligence action, “causation issues, including the circumstances and severity of an accident and whether it proximately caused the alleged injuries, are factual issues that are proper for a jury to weigh and determine.” *Rish v. Simao*, 132 Nev. ___, ___, 368 P.3d 1203, 1209 (2016). The jury’s province also extends to assessing the credibility of witnesses and weighing the evidence presented. *See Fox*, 91 Nev. at 221, 533 P.2d at 468 (concluding that it is “for the jury to weigh the evidence and assess the credibility” of witnesses). Thus, the jury in this case was free to disregard witness testimony as not credible and conclude that Campbell suffered no injuries as a result of the accident caused by UPI. *See id.* (“With regard to the matter of injury and damage, it was within the province of the jury to decide that an accident occurred without compensable injury.”).

Accordingly, because the jury did not disregard the jury instructions, we conclude that the court abused its discretion in granting

the motion for a new trial. See NRCP 59(a)(5); *Nelson*, 123 Nev. at 223, 163 P.3d at 424-25. We therefore reverse that order and remand this matter for entry of judgment on the jury verdict.

It is so ORDERED.

Silver, C.J.
Silver

Tao, J.
Tao

Gibbons, J.
Gibbons

cc: Hon. James Crockett, District Judge
Ara H. Shirinian, Settlement Judge
Ray Lego & Associates
Breske & Andreevski
Eighth District Court Clerk