

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

INTELISTAF HEALTHCARE,
INC.,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D11-3723

LANETTE GERVATO AND
RON CONDREN, HER
HUSBAND, AND AS PARENTS
AND NATURAL GUARDIANS
OF ANTHONY JUSTIN
GERVATO, SUMMER LEA
GERVATO, DOMINICK JAMES
GERVATO, AND MADELINE
ELIZABETH CONDREN,
THEIR MINOR CHILDREN,

Appellees.

Opinion filed July 3, 2012.

An appeal from the Circuit Court for Alachua County.
Victor L. Hulslander, Judge.

Christine Davis Graves and Peter D. Webster of Carlton Fields, P.A., Tallahassee,
for Appellant.

Joel S. Perwin of Joel S. Perwin, P.A., Miami; S. William Fuller Jr., of Fuller,
Mitchell, Hood & Stephens, Tallahassee; Gary Cohen of Grossman Roth, Boca
Raton; Susan L. Kelsey of Kelsey Appellate Law Firm, P.A., Tallahassee; Stuart I.
Grossman of Grossman Roth, Miami; and William E. Partridge, Sarasota, for
Appellees.

PER CURIAM.

The appellant, InteliStaf Healthcare, Inc., raises three issues on appeal, only one of which merits discussion. The appellant argues that, if there is a new trial, the trial should encompass damages as well as liability. We agree and affirm the trial court's order granting a new trial as to liability, but remand for a new trial on both liability and damages.

In the order below, the trial court found that the cumulative effect of InteliStaf's misconduct as a whole created an environment "so prejudicial and inflammatory that it denied Plaintiffs their right to a fair trial." However, the trial court found that the misconduct warranting a new trial did not affect the determination of compensatory damages; therefore, it granted a new trial only as to the apportionment of liability.

In Purvis v. Inter-County Telephone & Telegraph Co., the supreme court held, "the majority rule is that a new trial may be limited to the question of liability when it is clear that the course can be pursued without confusion, inconvenience, or prejudice to the rights of any party." 173 So. 2d 679, 681 (Fla. 1965) (citation omitted). In the instant case, the trial court granted a new trial after finding various instances of misconduct that extended from the beginning of the trial to the end. Because we cannot determine that the cited instances of impropriety did not bleed into the determination of damages, we reverse the portion of the trial court's order

granting a new trial on the issue of liability only and remand for a new trial on liability and damages.

AFFIRMED in part, REVERSED in part, and REMANDED.

VAN NORTWICK and ROBERTS, JJ., and DEMPSEY, ANGELA, ASSOCIATE JUDGE, CONCUR.