

**IN THE COURT OF APPEALS OF IOWA**

No. 6-961 / 06-0544  
Filed December 28, 2006

**BEVERLY ANN ELMORE,**  
Plaintiff-Appellant,

**vs.**

**JOHN WOUDEBERG,**  
Defendant-Appellee.

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Appeal from the Iowa District Court for Wapello County, Annette J. Scieszinski (motion for summary judgment) and E. Richard Meadows, Jr. (motion for new trial), Judges.

Plaintiff Beverly Elmore appeals from the district court's refusal to grant her a new trial following a judgment for defendant John W. Woudenberg.

**AFFIRMED.**

Robert E. Breckenridge of Breckenridge & Duker, P.C., Ottumwa, for appellant.

Michael J. Moreland and Allen L. Cook, III, of Harrison, Moreland & Webber, P.C., Ottumwa, for appellee.

Considered by Sackett, C.J., and Zimmer and Eisenhauer, JJ.

**SACKETT, C.J.**

Plaintiff Beverly Elmore appeals from the district court's refusal to grant her a new trial following a judgment for defendant John W. Woudenberg. We affirm.

Cars driven by Elmore and Woudenberg collided at the three-way stop intersection of Washington and Second in Ottumwa, Iowa. Both Elmore and Woudenberg were required to stop before entering the intersection. After the accident Woudenberg pled guilty to failure to stop at the intersection.

The case was tried to a jury. The jury found Elmore seventy-five percent at fault and Woudenberg twenty-five percent at fault. The district court then entered a judgment in favor of Woudenberg, and Elmore filed a motion for new trial, which was denied. Elmore contends, among other things, that she should have been granted a new trial because the verdict was not supported by the evidence and does not do justice between the parties.

Our standard of review of a trial court's action on a motion for new trial is for abuse of discretion. *Foggia v. Des Moines Bowl-O-Mat, Inc.*, 543 N.W.2d 889, 891 (Iowa 1996). We review the granting or denial of a motion for new trial for abuse of discretion. *Magnusson Agency v. Public Entity Nat. Co.-Midwest*, 560 N.W.2d 20, 30 (Iowa 1997); *Lane v. Coe College*, 581 N.W.2d 214, 216 (Iowa Ct. App. 1998).

The trial judge found that after assessing the witnesses' credibility, their versions of the accident, pictures of the cars, and the other evidence the jury could have reasonably determined Elmore was at fault for not keeping a proper lookout, and her fault was more responsible for the accident than was

defendant's fault. After reviewing the evidence, we find no reason to disagree with the trial court's conclusions. The trial court did not abuse its discretion in denying the motion for new trial. We have considered Elmore's other arguments and find them to be without merit.

**AFFIRMED.**