NOT DESIGNATED FOR PUBLICATION

JAMIE FENN-WELLS	*	**NO. 2014-CA-0543**
VERSUS	*	
		COURT OF APPEAL
LAUREN LELLE AND PROGRESSIVE DIRECT INSURANCE COMPANY	*	**FOURTH CIRCUIT**
	*	**STATE OF LOUISIANA**

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APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2012-11264, DIVISION "I-14"
Honorable Piper D. Griffin, Judge
* * * * * *
Judge Rosemary Ledet
* * * * * *

(Court composed of Judge Dennis R. Bagneris, Sr., Judge Paul A. Bonin, Judge Rosemary Ledet)

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AFFIRMED

OCTOBER 15, 2014

This is a personal injury case arising out of a motor vehicle accident. The two issues that were presented to the jury were medical causation and the quantum of the plaintiff's personal injury claims. The jury awarded the plaintiff, Jamie Fenn-Wells, several categories of damages, which totaled $56,609.34. Mr. Fenn-Wells appeals, challenging as inadequate only one category—the $20,000 award for past, present, and future physical pain, suffering, mental anguish, and emotional distress (the general damages award).[1] For the reasons that follow, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On December 4, 2012, Mr. Fenn-Wells filed this suit against Lauren Lelle and her insured, Progressive Direct Insurance Company. Mr. Fenn-Wells alleged that on December 29, 2011, he was driving his vehicle west-bound on Magazine

[1] We note that the jury also awarded an additional $5,000.00 for "[i]mpairment of plaintiff's enjoyment of life in the past and in the future." We note that such an award for loss of enjoyment of life technically falls within the category of general damages. Frank L. Maraist & Thomas C. Galligan, Jr., *Louisiana Tort Law*, §7-2(c) (1996).

Street in New Orleans, Louisiana. As he was driving through an intersection, his vehicle was struck on the driver's side—"t-boned"—by a vehicle driven by Ms. Lelle, who failed to yield the stop sign. As a result of this accident, Mr. Fenn-Wells alleged that he sustained injuries to his neck and back.

In February 2014, a two-day jury trial was held on the issues of Mr. Fenn-Wells' injuries and damages caused by the accident. The parties stipulated that the defendant-driver was solely at fault in causing the accident.[2] The jury found that Mr. Fenn-Well sustained damages as a result of this accident in the following amounts:

Past, present, and future physical pain, suffering, mental anguish, and emotional distress	$20,000.00
Medical expenses plaintiff incurred in the past	$11,609.34
Medical expenses plaintiff will incur in the future	$12,000.00
Past loss earnings	$6,000.00
Future loss earning	0
Permanent physical impairment	$2,000.00
Impairment of plaintiff's enjoyment of life in the past and in the future	$5,000.00
TOTAL AWARD	**$56,609.34**

On February 12, 2014, the trial court rendered judgment making the jury's verdict the judgment of the court. This appeal followed.

STANDARD OF REVIEW

In *Dixon v. Travelers Ins. Co*., 02-1364, pp. 9-15 (La. App. 4 Cir. 4/2/03); 842 So.2d 478, 484-88, this court summarized the well-settled principles applicable to a review of a general damage award as follows:

- When the trier of fact (in this case, the jury) has made a general damage award and the plaintiff is contending that award is inadequate, the "abuse of

[2] At the beginning of the trial, the trial court read the parties' stipulation to the jury, which was as follows: "Defendant[s] acknowledge that the accident in question occurred. Defendant[s] further acknowledge liability in this case for damages sustained by plaintiff."

discretion" standard of appellate review applies. That abuse of discretion standard is difficult to express and necessarily is "non-specific." *Cone v. National Emergency Services, Inc*., 99-0934, p. 8 (La.10/29/99); 747 So.2d 1085, 1089 (citing *Youn v. Maritime Overseas Corp*., 623 So.2d 1257 (La.1993)).

- In *Youn*, *supra*, the Supreme Court noted that although an articulated basis is required to disturb such awards, little guidance is offered as to what articulation will suffice to justify modifying a generous or a stingy award.

- An appellate court's initial inquiry in reviewing a general damage award is whether the particular effects of the particular injuries on the particular plaintiff are such that there has been an abuse of the "much discretion" vested in the trier of fact (judge or jury). *Youn*, 623 So.2d at 1260.

- The rationale behind the application of the "much discretion" standard in review of general damage quantum awards is that "awards of general damages, at least as to the amount awarded for injuries proved to have been caused by the tort, cannot be calculated with mathematical certainty." *Guillory v. Insurance Co. of North America*, 96-1084, p. 1 (La. 4/8/97); 692 So.2d 1029, 1036 (Lemmon, J., concurring) (citing *Viator v. Gilbert*, 253 La. 81, 216 So.2d 821 (1968)). For that reason, general damage awards are reviewed under the "much discretion" standard of La. Civ. Code art. 1999.[3] *Id.*

- Given that "[r]easonable persons frequently disagree about the measure of general damages in a particular case," a general damage award may be disturbed on appeal only when "the award is, in either direction, beyond that which a reasonable trier of fact could assess for the effects of the particular injury to the particular plaintiff under the particular circumstances." *Youn*, 623 So.2d at 1261. The jurisprudential theme that has emerged is that "the discretion vested in the trier of fact is 'great,' and even vast, so that an appellate court should rarely disturb an award of general damages." *Id*.

- An interplay often arises between the manifest error and the abuse of discretion standards of review. *Guillory*, 96-1084 at p. 1, n. 1; 692 So.2d at 1036 (Lemmon, J., concurring). Explaining that interplay, former Justice Lemmon aptly stated:

> The "much discretion" standard applies to the amount of the award of general damages. But there are often factual issues in a review of an award of general damages, such as whether a certain condition was caused by the tort. Of course, most issues decided by courts are mixed fact-law questions, and the fact

[3] La. C.C. art. 1999 provides that "[w]hen damages are insusceptible of precise measurement, much discretion shall be left to the court for the reasonable assessment of these damages." *See also* La. C.C. art. 2324.1 (providing that "[i]n the assessment of damages in cases of offenses, quasi offenses, and quasi contracts, much discretion must be left to the judge or jury").

> determinations are reviewed under the manifest error standard. *Id.*

- In *Youn*, the Supreme Court reiterated its disapproval of an appellate court "simply reviewing the medical evidence and then concluding that the award for those injuries was excessive, without taking into consideration the particular effect of the particular injuries on the particular plaintiff" and also reiterated its disapproval of "the use of a scale of prior awards in cases with generically similar medical injuries to determine whether the particular trier of fact abused its discretion in the awards to the particular plaintiff under the facts and circumstances peculiar to the particular case." *Id*. Indeed the settled jurisprudential rule is that resort to prior awards is only appropriate after an appellate court has concluded that an "abuse of discretion" has occurred. *Cone*, 99-0934 at p. 8; 747 So.2d at 1089.

- In determining whether an "abuse of discretion" has occurred, the *Youn* court notes that "[e]ach case is different, and the adequacy or inadequacy of the award should be determined by the facts or circumstances particular to the case under consideration." *Id.*

DISCUSSION

The sole issue presented on appeal is whether the jury's award of general damages was inadequate. Mr. Fenn-Wells frames the issue by asking "[w]as the jury's verdict manifestly erroneous for awarding only $20,000.00 for both past and future pain and suffering given the award of $12,000.00 for future medical expenses and $2,000.00 and $5,000.00, respectively for permanent impairment and loss of enjoyment of life in the past and future." Citing awards in other cases involving a non-surgical disc[4] and a twenty-seven month soft tissue injury without

[4] We note that the argument Mr. Fenn-Wells makes regarding other awards for non-surgical disc awards is based on *Buckheister v. U.S. Environmental Services*, *L.L.C.*, 11-1148, p. 13 (La. App. 5 Cir. 5/31/12); 97 So.3d 414, 422-23, *writ denied*, 12-1462 (La. 10/8/12); 98 So.3d 861, in which the court, after finding an abuse of discretion, reasoned as follows:

> Having found that the awards are manifestly inadequate, we turn to a review of similar cases to determine the lowest appropriate award in this case.
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> In *Hoyt v. Gray Ins. Co*., 00–2517 (La. App.4 Cir.1/31/02); 809 So.2d 1076, *writ denied*, 02–1222 (La.6/21/02); 819 So.2d 343, the court affirmed a general damage award of $150,000.00 to a plaintiff diagnosed with C5 radiculopathy without evidence of disc herniation and a bulge at L–5, S–1 which was possibly pre-existing. The court noted that these injuries were disabling injuries, having long-term implications.

a disc diagnosis,[5] he contends that the lowest general damage award that would be appropriate in this case is between $50,000.00 to $150,000.00. For ease of analysis, we divide the issue presented into two parts: (i) whether the jury's award to this particular plaintiff under these particular circumstances was an abuse of

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> In *Rico v. Sewerage and Water Bd. of New Orleans*, 04–2006 (La. App.4 Cir.3/8/06); 929 So.2d 143, the court affirmed an award of $150,000.00 to a plaintiff who suffered a herniated disc in his neck and who was not a candidate for surgery due to pre-existing health conditions.
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> In *Fox v. Anderson*, 05–934 (La.App.3 Cir.3/1/06); 924 So.2d 399, *writ denied* 06–0722 (La. 6/23/06); 930 So.2d 977, the court affirmed an award of $175,000.00 to a plaintiff who suffered, at the very least, an aggravation to a prior back condition for which he underwent physical therapy and a number of lumbar injections. At the time of trial Mrs. Buckheister continued to experience pain and could no longer plan out or participate in events, and he could no longer work as his job required heavy lifting.
>
> Considering the foregoing jurisprudence, we conclude that $150,000.00 was the least amount of general damages that is appropriate in this case. . . .

Mr. Fenn-Wells also cites *Sanchez v. Dubuc*, 12-526, p. 11 (La. App. 5 Cir. 2/21/13); 110 So.3d 1140, 1146, in which the Fifth Circuit affirmed a general damage award of $47,462, and included in its reasoning the following statement: "[i]n two fairly recent opinions, this Court held that the lowest reasonable general damage award for a non-surgical herniated disc within a jury's discretion was $50,000. *See Webb v. Horton*, 01–978 (La. App. 5 Cir. 2/13/02); 812 So.2d 91, 99; *Rehm v. Morgan*, 04–344 (La. App. 5 Cir. 10/26/04); 885 So.2d 687, 692-93." *Id.*

[5] Mr. Fenn-Wells' argument regarding a twenty-seven month soft tissue injury without a disc diagnosis is based on *Sanchez*, 12-526 at pp. 10-11; 110 So.3d at 1146, in which the Fifth Circuit further noted:

> Even without disc involvement, there is support in the jurisprudence for an award of $2,000 to $2,500 per month for soft tissue injuries. *See Ennis v. Sears, Roebuck and Co.,* 08–235 (La. App. 5 Cir. 2/25/09); 9 So.3d 899 (affirming general damage award of $24,000 for a 12–month soft tissue injury within trial court's discretion); *Bittner v. Scott*, 07–718 (La. App. 5 Cir. 2/6/08); 980 So.2d 5 (affirming a general damage award of $35,000 for a fifteen-month soft tissue injury); and *Williams v. Roberts*, 05–852 (La. App. 5 Cir. 4/11/06); 930 So.2d 121 (affirming a general damage award of $7,500 for a three-month soft tissue injury).
>
> In the instant case, the testimony at trial established that Mr. Sanchez was still experiencing pain from his injuries as of the date of trial, March 13, 2012, which was approximately 27 months after the accident at issue. Assuming that Mr. Sanchez sustained a soft tissue injury without a disc injury diagnosis, the aforementioned jurisprudence suggests that a general damage award of $67,500 for a 27–month soft tissue injury ($2,500 per month) could well have been within the trial court's discretion. Here, the trial court awarded $47,462 in general damages for Mr. Sanchez's injury.

discretion; and (ii) whether the jury's award for general damages was inconsistent with its other damage awards. We separately address each part.

(i) Abuse of discretion

A determination of whether the jury's general damage award constitutes an abuse of discretion turns on an evaluation of the testimony and medical evidence presented at trial. To provide a background for analyzing this issue, we first outline the testimony and medical evidence.

Mr. Fenn-Wells testified that the accident occurred at about 12:30 a.m. on December 29, 2011. At the time of the accident, he was thirty-three years old and employed as a waiter at a local restaurant. Consistent with his attorney's characterization at trial of the accident as a "violent collision," Mr. Fenn-Wells testified that not only did Ms. Lelle's vehicle t-bone the vehicle he was driving, but also that his vehicle, as a result of the impact, went through a stop sign and a fence and ran into a tree. He, however, acknowledged that the airbags in his vehicle did not deploy.

Immediately after the accident, Mr. Fenn-Wells testified that he had only a headache. The following day, however, he began having back and neck pain, and his mother brought him to the St. Tammany Parish Hospital emergency room for treatment. At the emergency room, he complained of neck, back, and right hip pain. He also complained of numbness in his right quadriceps. At the emergency room, x-rays were taken, but no fracture was noted. He was treated and released.

A week later, Mr. Fenn-Wells, on referral from his attorney, began treatment with a chiropractor, Dr. William Batherson. According to the medical records, Dr. Batherson's initial clinical impressions were that Mr. Fenn-Wells had a blunt trauma to the head with headaches, a cervical and lumbar strain or sprain, and a

strain of the right femur acetabular joint. Dr. Batherson, who was qualified as an expert in the field of chiropractic medicine, testified that he initiated a conservative course of treatment based on his initial impression that Mr. Fenn-Wells had only muscle and ligament type injuries. By March 2012, Dr. Batherson testified that Mr. Fenn-Wells complaints of neck pain had resolved, but his complaints of lower back pain and recurring radicular symptoms into his right lower extremity continued. Dr. Batherson thus ordered an MRI of the lumbar spine.

On June 14, 2012, Mr. Fenn-Wells had the MRI. The interpreting radiologist determined that Mr. Fenn-Wells had a bulging disc at the L4-L5 level and a herniated disc at the L5-S1 level. Given the MRI results, Dr. Batherson referred Mr. Fenn-Wells to an interventional spine physician for either epidural steroid injections or a neurosurgical evaluation. Based on the history reported to him by Mr. Fenn-Wells regarding the timing of the onset of symptoms and the lack of prior back or neck problems, Dr. Batherson opined that it was more likely than not that the trauma from the December 29, 2011 accident was the probable cause of the injuries that necessitated the conservative treatment he provided to Mr. Fenn-Wells from January to June 2012 (for six months).

In July 2012, Mr. Fenn-Wells, on referral from his attorney, began treatment with Dr. Troy Beaucodray, a board certified neurologist and pain management specialist. At trial, Dr. Beaucodray, who was qualified as an expert in the fields of neurology and interventional pain, testified that he saw Mr. Fenn-Wells five times between July 2012 and the date of trial. The initial visit was on July 30, 2012; the follow-up visits were on September 24, 2012, December 17, 2012, August 19, 2013, and November 18, 2013. At each of the five visits, Dr. Beaucoudray

prescribed medication and instructed Mr. Fenn-Wells to return to see him in three months.

At the initial (July 30, 2012) visit, Mr. Fenn-Wells presented with complaints of neck and low back pain. Mr. Fenn-Wells gave a history of being involved in the December 2011 accident, which he described as "a broad-side accident there was no impact from the front, so there is no air bag deployment." He indicated that following the accident he began having increasing neck and low back pain, was seen at a local emergency room shortly after the accident, and had several months of chiropractic treatment with therapy. He further indicated that his neck pain had somewhat subsided, but he had continuing and worsening low back pain. On a scale of 1 to 10, with 10 being the worst pain you could imagine, Mr. Fenn-Wells rated his pain an 8. He characterized his pain as something that was very discomforting to him; he characterized it as aching, throbbing, burning, stabbing pain in the low back region intermittently radiating down his legs and worse on his right side. He reported that he was using only over-the-counter medication for his pain. He further reported that his pain was affecting his daily living activities. At that initial visit, Dr. Beaucoudray instructed Mr. Fenn-Wells to avoid lifting over twenty pounds, to undergo an EMG nerve conduction study, and to have an epidural steroid injection for his radicular pain.

At the second (September 24, 2012) visit, Mr. Fenn-Wells related that he continued to have episodes of pain, which he attributed to his recent return to work as a waiter, requiring him to be on his feet for long periods of time. At the third (December 17, 2012) visit, Mr. Fenn-Wells again related that he had radicular symptomatology to the bilateral lower extremities and increasing spasms, which he attributed to working long hours standing on his feet. In the interim, on February 2,

2013, Mr. Fenn-Wells completed the EMG nerve conduction study of the lower extremities, which revealed a right L5-S1 radiculopathy—a pinched nerve or sciatica.

Mr. Fenn-Wells missed his next scheduled (March 2013) visit. At trial, Mr. Fenn-Wells explained that he missed the visit because he had to appear in court on an unrelated traffic matter that day. At the fourth (August 19, 2013) visit, Mr. Fenn-Wells reported that for the previous six months he had been using over-the-counter medication for his pain since he ran out of prescription medication. Mr. Fenn-Wells also reported that three weeks before the appointment—in July 2013—he was involved in another motor vehicle accident; the vehicle in which he was riding was rear-ended by another vehicle. Mr. Fenn-Wells reported that as a result of the July 2013 accident he experienced an exacerbation of his overall pain complaint. He also complained of right foot pain since the July 2013 accident and noted he had a prior history of surgery to that foot.

At the fifth (November 18, 2013) visit, which was the last visit before trial, Mr. Fenn-Wells continued to report chronic low back pain with an associated lumbar radiculopathy. Dr. Beaucodray testified that he believed Mr. Fenn-Wells was being truthful regarding his complaints of pain. He explained that Mr. Fenn-Wells' MRI, EMG nerve conduction study, and subjective complaints all correlated. He opined that it is more likely than not that Mr. Fenn-Wells will continue to have chronic pain. Stated otherwise, he opined that Mr. Fenn-Wells more likely than not will be in pain for the rest of his life as a result of the injuries he sustained in the accident. He agreed that his opinion was based on the history that Mr. Fenn-Wells provided to him, which included no prior neck or back problems. On the issue of medical causation, Dr. Beaucodray testified that unless

he was shown an MRI taken the day before and one taken the day after the accident, he could not opine that the accident caused Mr. Fenn-Wells' bulge and herniated disc. Nonetheless, he agreed that "no matter what we know it [the trauma of the December 2011 accident] caused the symptoms."

There is no question that the jury found that Mr. Fenn-Wells was injured in the accident. Indeed, the jury awarded all of his past medical expenses. The issue is thus the severity of his injuries and the effect that his injures have on his life. *See Glasper v. Henry*, 589 So.2d 1173, 1180 (La. App. 4th Cir. 1991) (noting that the factors to be considered in assessing general damages for pain and suffering include severity and duration). Although Mr. Fenn-Wells testified that he had constant pain, especially in his lower back, from the time of the accident through trial, there was evidence, as the defendants suggest, from which the jury reasonably could have found that Mr. Fenn-Wells' testimony was less than credible. Moreover, the jury could have reasonably inferred, as the defendants further suggest, that Mr. Fenn-Wells' pain was not solely related to the December 2011 accident.

First, both of Mr. Fenn-Wells' treating doctors—his chiropractor, Dr. Batherson, and his neurologist and pain specialist, Dr. Beaucoudray—based their opinions on the history Mr. Fenn-Wells provided to them, which included a representation that he had no prior neck or back problems. At trial, however, the defendants introduced a medical record from the radiology department of the Medical Center of Louisiana, New Orleans, which established that in 2003 Mr. Fenn-Wells had a C.T. scan of his cervical spine (neck). When cross-examined regarding this medical record, Mr. Fenn-Wells explained that in 2003 he was the victim of a mugging. He further explained that this must have been one of the tests

that were run when he was treated for the injuries related to the mugging. He denied having any treatment for his neck or back before the December 2011 accident.

Second, Mr. Fenn-Wells was involved in two other accidents between the December 2011 accident and the trial in this matter. Although he describes both of the other accidents as "minor," Mr. Fenn-Wells testified that it caused him to be a "little sore" and that he was in "just a little more pain in [his] back but it subsided." Dr. Beaucoudray testified that Mr. Fenn-Wells reported that he experienced an exacerbation of his overall pain complaint as a result of the July 2013 accident.

Third, in March 2013, Mr. Fenn-Wells missed his scheduled appointment with Dr. Beaucoudray. As a result, he ran out of prescription medications; he was without prescription medication for about six months. During that same time period, Mr. Fenn-Wells was involved in the July 2013 motor vehicle accident, which as noted above exacerbated his overall pain complaint.

Fourth, both Dr. Batherson, in June 2012, and Dr. Beaucoudray, in July 2012, recommended that Mr. Fenn-Wells receive an epidural steroid injection for his pain. Mr. Fenn-Wells acknowledged that his doctor told him that the epidural steroid injection was the less severe option. He explained that he was told if the injection did not work, the only other option was surgery. Nonetheless, as of the date of trial, February 2014, Mr. Fenn-Wells admitted that he had not had an epidural steroid injection. Rather, he testified that he had called to schedule an appointment to have the injection in the future. As the defendants point out, "[t]he jury could well have concluded that if Mr. Fenn-Wells did not seek the recommended pain relief, perhaps his complaints of pain were somewhat inflated." *See Raspanti v. Liberty Mut. Ins. Co*., 05-623, p. 9 (La. App. 5 Cir. 1/31/06); 922

So.2d 631, 636 (citing the fact that "plaintiff rejected steroid treatments which most doctors recommended for pain" as a factor supporting its finding that the jury's general damage award was not an abuse of discretion).

Fifth, Mr. Fenn-Wells testified at trial that at the time of the accident he was employed as a waiter. Nonetheless, on the day after the accident, December 30, 2011, Mr. Fenn-Wells stated on the emergency room intake sheet that he was unemployed. When questioned at trial regarding this apparent inconsistency, Mr. Fenn-Wells response was that after the accident, he called his prior employer and said that he would be out of work for a while. He stated that their response was that they would have to fill his position. He stated that they informed him that if he was going to be out that long, they could not hold his spot. As the defendants point out, Mr. Fenn-Wells was unable to explain why he would have known that he would be out for a long time before he had even seen an emergency room physician.

The defendants further stress that Mr. Fenn-Wells was referred by his attorney to both a chiropractor, Dr. Batherson, and a neurologist and pain specialist, Dr. Beaucoudray. The defendants still further stress that a few months after the accident Mr. Fenn-Wells returned to work as a waiter at a different restaurant earning twice as much as he was making before the accident.

Under the particular circumstances of this case, we cannot say the amount of general damages determined by the jury, $20,000.00, was so low as to be an abuse of the trier of fact's vast discretion. *See Youn*, 623 So.2d at 1261 (noting "the discretion vested in the trier of fact is 'great,' and even vast, so that an appellate court should rarely disturb an award of general damages."). Given our finding that the general damage award was not an abuse of discretion, we reject Mr. Fenn-Wells' invitation to resort to prior awards in other cases involving similar

injuries—a non-surgical disc or a twenty-seven month soft tissue injury without a disc diagnosis. As this court noted in *Dixon, supra*, "the settled jurisprudential rule is that resort to prior awards is only appropriate after an appellate court has concluded that an "abuse of discretion" has occurred." 02-1364 at p. 14; 842 So.2d at 487 (citing *Cone*, 99-0934 at p. 8; 747 So.2d at 1089). Moreover, as Mr. Fenn-Wells points out, the Louisiana Supreme Court has reiterated this settled principle in *Rando v. Anco Insulations Inc*., 08-1163, 08-1169, p. 41 (La. 5/22/09); 16 So.3d 1065, 1094, stating:

> It is only after articulated analysis of the facts discloses an abuse of discretion, that the award may on appellate review, for articulated reason, be considered either excessive . . . or insufficient. . . . Only after such determination of abuse [of discretion] has been reached, is a resort to prior awards appropriate for purposes of then determining what would be an appropriate award for the present case.

Id. Our finding that the jury's award of $20,000.00 in general damages was not an abuse of discretion renders a resort to prior awards in this case inappropriate.

(ii) Inconsistent damage awards

As noted, the second component of Mr. Fenn-Wells' argument is that the jury's general damage award of $20,000.00 is inconsistent with its other awards of $12,000.00 for future medical expenses and $2,000.00 and $5,000.00, respectively, for permanent impairment and loss of enjoyment of life in the past and future. Addressing a similar argument that a general damage award was inconsistent with awards for past and future medicals, the court in *Raspanti, supra,* reasoned as follows:

> The question of inconsistent special and general damages was presented in *Wainwright v. Fontenot, supra.* There the court noted that there is no bright line rule that such damages must be compatible. Instead it ruled that the analysis to be used is the same as any analysis of damages, i.e. whether there is an abuse of the much discretion given to finders of fact.

Raspanti, 05-623 at p. 9, 922 So.2d at 636-37.

Similarly, this court in *Coghlan v. Smith*, 07-0485, pp. 2-3 (La. App. 4 Cir. 11/14/07); 971 So.2d 1197, 1198-99, rejected the plaintiff's argument that the jury's verdict was inconsistent because it awarded $45,000.00 for future medical treatment and only a "nominal" $10,000.00 for future general damages. In so doing, we reasoned:

> First, we disagree with the plaintiff's characterization of $10,000.00 as a nominal award for future general damages based on soft-tissue injuries. Moreover, as the Louisiana Supreme Court specifically held in *Wainwright*, a jury . . . can reasonably reach the conclusion that a plaintiff has proven his entitlement to recovery of certain medical costs, yet failed to prove that he endured compensable pain and suffering as the result of defendant's fault, *Wainwright*, 774 So.2d at 76, and once the jury has made its determinations, this court will not disturb those determinations absent evidence of unfairness, mistake, partiality, prejudice, corruption, exorbitance, excessiveness, or a result that is offensive to the conscience and judgment of the court. *Wainwright*, 774 So.2d at 77.

Id.

Applying those principles to the instant case, we find that our prior determination that the $20,000.00 general damages was not an abuse of discretion requires that we reject Mr. Fenn-Wells' argument regarding the alleged inconsistent or disproportionate nature of the damage awards. Thus, we find this argument unpersuasive.

DECREE

For the foregoing reasons, the judgment of the trial court is affirmed.

AFFIRMED