

STATE OF MICHIGAN
COURT OF APPEALS

VITTORIO COPELAND,

Plaintiff-Appellee,

v

CARL DOUGLAS MOSLEY, JR. and SEVEN-UP
OF DETROIT, INC., a Michigan Corporation,

Defendants-Appellants.

UNPUBLISHED

August 15, 1997

No. 191831

Wayne Circuit Court

LC No. 94-430863-NI

Before: Smolenski, P.J., and Fitzgerald and Gage, JJ.

PER CURIAM.

Defendants appeal as of right a jury verdict for damages in the amount of \$150,000 for plaintiff's economic loss and \$50,000 for plaintiff's non-economic loss in this personal injury case in which defendants admitted negligence. We affirm.

Defendants argue that the trial court abused its discretion in allowing an unlisted witness to testify. We disagree. The witness, who was plaintiff's supervisor at Harper Hospital, was implicitly listed on defendants' witness list as a "representative from Harper Hospital." Moreover, defendants were not surprised or prejudiced by the witness' testimony. *Grubor Enterprises v Kortidis*, 201 Mich App 625, 628; 506 NW2d 614 (1993). A theory that defendants advanced to challenge plaintiff's claim to economic damages was that plaintiff was terminated from Harper Hospital because plaintiff made a fraudulent claim for disability benefits, not because of the injuries that he sustained as a result of defendants' negligence. It was through the witness's testimony that defendants were able to advance this theory. Finally, defendants' counsel himself admitted that defendants were not prejudiced by the failure to explicitly list the witness. We find no abuse of discretion in the trial court's decision to allow the witness to testify. *Ray v Dep't of Social Services*, 156 Mich App 55, 65; 401 NW2d 307 (1986).

Defendants' argument that a letter from Harper Hospital regarding the reason for plaintiff's dismissal from employment was erroneously admitted at trial has been waived for failure to file the necessary record. MCR 7.210(C).

Affirmed.

/s/ Michael R. Smolenski

/s/ E. Thomas Fitzgerald

/s/ Hilda R. Gage