

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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KATHLEEN SIELAFF, as Next Friend of  
BRANDON SIELAFF, a Minor,

UNPUBLISHED  
August 4, 2000

Plaintiff-Appellee,

v

No. 211638  
Wayne Circuit Court  
LC No. 94-409954-NH

ROGER A SHOMO, D.O. P.C., and  
DR. MARVIN COY, Jointly and Severally,

Defendants-Appellants.

and

ROGER A. SHOMO, D.O., and GARDEN CITY  
HOSPITAL, an assumed name of GARDEN CITY  
HOSPITAL, OSTEOPATHIC, a Michigan  
Corporation,

Defendants.

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Before: Meter, P.J., and Gribbs and Griffin, JJ.

PER CURIAM.

This medical malpractice action, involving two circumcisions performed on an infant child, has been the subject of two jury trials. Defendants appeal the jury verdict of \$200,000 in favor of plaintiff following the second trial, arguing that the original verdict of negligent, with no damages, was improperly vacated by the trial court. We agree and remand for reinstatement of the original jury verdict.

Trial court's have the discretion to grant new trials and this Court will not interfere absent a palpable abuse of discretion. *Joerger v Gordon Food Service, Inc.*, 224 Mich App 167; 568 NW2d 365 (1997); *Snell v UACC*, 194 Mich App 511; 487 NW2d 772 (1992). In deciding whether to grant a new trial, however, the trial judge may not repudiate a jury verdict merely because it disbelieves the testimony of a witness. *People v Lemmon*, 456 Mich 625; 576 NW2d 129 (1998). A jury's verdict is to be upheld, even if it is arguably inconsistent, if there is an interpretation of the evidence that

provides a logical explanation for the findings of the jury. *Bean v Directions Unlimited, Inc.*, \_\_\_ Mich \_\_\_; \_\_\_ NW2d \_\_\_ (2000) (#114099, issued 5-2-2000), slip op at 9-10; *Granger v Fruehauf Corp*, 429 Mich 1, 7; 412 NW2d 199 (1987). In deciding whether to grant a new trial, the trial court must make every effort to reconcile seemingly inconsistent verdicts. *Bean, supra* slip op at 10; *Lagalo v Allied Corp*, 457 Mich 278, 282; 577 NW2d 462 (1998). A trial court may not grant a new trial based upon its disagreement with the jury's assessment of credibility. *In re Ayres*, 239 Mich App 8, 23; 608 NW2d 132 (1999). This Court will only find that the trial court abused its discretion if an unprejudiced person, considering the facts upon which the trial court made its decision, would conclude that there was no justification for the ruling made. *People v Miller*, 198 Mich App 494, 495; 499 NW2d 373 (1993).

The original trial court in this matter improperly granted plaintiff a new trial after finding that the jury verdict was against the great weight of evidence. The trial court specifically found that “there was virtually uncontroverted evidence of plaintiff’s injuries” and that the “vast preponderance” of evidence “acknowledged that the plaintiff suffered from an abnormal penis.” The record does not support the trial court’s conclusion. In fact, the evidence in this case was evenly split and hinged on the credibility of each side’s medical expert witnesses. Although the trial judge evidently did not find it persuasive, there was medical expert testimony that, regardless whether defendant Dr. Coy was negligent in performing a second circumcision, the child’s penis was normal and not damaged by the re-circumcision. The trial court here abused its discretion in repudiating the jury’s assessment of which medical expert was more credible.

The jury verdict in the second trial is vacated and this matter is remanded for reinstatement of the original jury verdict. Because of our decision on this issue, we need not reach defendants’ remaining arguments.

Reversed and remanded. We do not retain jurisdiction.

/s/ Patrick M. Meter  
/s/ Roman S. Gribbs  
/s/ Richard Allen Griffin