

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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3 KEVIN FEAGINS, et al.,)

4)
5 Plaintiffs,)

6 vs.)

Case No.: 2:11-cv-1121-GMN-GWF

ORDER

7 OTIS ELEVATOR COMPANY, et al.,)

8 Defendants.)
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10 On September 28, 2016, the Court concluded a three-day jury trial, in which the jury
11 assessed damages in the amount of \$17,500.00 in favor of Plaintiff Andre Feagins. (See Verdict
12 Forms, ECF Nos. 165, 167). Now pending before the Court is Plaintiffs' Motion for New Trial
13 solely on the issue of damages pursuant to Federal Rule of Civil Procedure 59(a). (ECF No.
14 176). Defendant Otis Elevator Company ("Defendant") filed a response, (ECF No. 177), and
15 Plaintiffs filed a reply, (ECF No. 178). For the reasons discussed herein, Plaintiffs' Motion for
16 New Trial is **DENIED**.

17 **I. LEGAL STANDARD**

18 Federal Rule of Civil Procedure 59(a)(1) provides that "[t]he court may, on motion,
19 grant a new trial on all or some of the issues—and to any party—as follows: (A) after a jury
20 trial, for any reason for which a new trial has heretofore been granted in an action at law in
21 federal court [.]” While Rule 59 does not specify the grounds on which a motion for a new trial
22 may be granted, “[h]istorically recognized grounds include, but are not limited to, claims ‘that
23 the verdict is against the weight of the evidence, that the damages are excessive, or that, for
24 other reasons, the trial was not fair to the party moving.’” *Molski v. M.J. Cable, Inc.*, 481 F.3d
25 724, 729 (9th Cir. 2007) (quoting *Montgomery Ward & Co. v. Duncan*, 311 U.S. 243, 251

1 (1940)). A new trial should not be granted unless, after giving full respect to the jury's
2 findings, the Court "is left with the definite and firm conviction that a mistake has been
3 committed." *Landes Const. Co. v. Royal Bank of Canada*, 833 F.2d 1365, 1371-72 (9th Cir.
4 1987). "The grant of a new trial is 'confided almost entirely to the exercise of discretion on the
5 part of the trial court.'" *Murphy v. City of Long Beach*, 914 F.2d 183, 186 (9th Cir. 1990)
6 (quoting *Allied Chem. Corp. v. Daiflon, Inc.*, 449 U.S. 33 (1980)).

7 **II. DISCUSSION**

8 Plaintiffs argue that the Court should grant a new trial because: (1) the jury mistakenly
9 failed to follow the jury instructions; and (2) the verdict is against the clear weight of evidence.
10 (Mot. for New Trial, ECF No. 176). Specifically, Plaintiffs believe that the jurors' affirmative
11 answer to "Question No. 5" on the special verdict form indicates that the jury determined each
12 plaintiff was entitled to damages. (Pl.'s Reply 2:16–24, ECF No. 178). According to Plaintiffs,
13 "[t]he failure to assess Plaintiffs' damages or injuries determined to have been suffered by all of
14 them in the special verdict form cannot be reconciled with the assessment of damages in the
15 general verdict form for only Plaintiff Andre Feagins" (Id. 4:1–3)

16 The Court does not agree with Plaintiffs' characterization of the verdict forms. Question
17 No. 5 in the special verdict form reads: "[w]as the defect a proximate cause of damage or injury
18 to the plaintiffs?" (Special Jury Verdict, ECF No. 167). In answering "yes" to this question, the
19 jury is in no way indicating that damages must be awarded to all of the plaintiffs. Rather, the
20 assessment of damages to any one of the plaintiffs necessarily requires an affirmative answer to
21 this question.

22 The relationship between Question No. 5 and the ultimate calculation of damages is
23 further clarified by Jury Instruction No. 16, which states that "[i]n determining the amount of
24 losses, **if any**, suffered by the plaintiffs as a proximate result of the accident in question, you
25 will take into consideration the nature, extent and duration of the injuries" (Jury

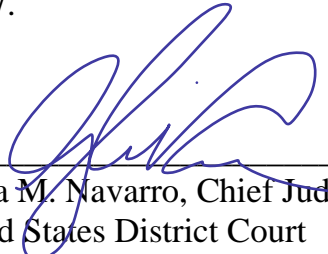
1 Instructions, ECF No. 162) (emphasis added). The jury therefore had the discretion to evaluate
2 whether Defendant was the proximate cause of any damages to Plaintiffs generally, and if so,
3 separately determine the amount of damages, if any, entitled to each individual plaintiff.

4 The Court therefore finds that the jury properly followed the instructions and did not
5 render a contradictory verdict. Furthermore, the Court rejects Plaintiffs' contention that the
6 verdict is against the clear weight of evidence. See Molski, 481 F.3d at 729.

7 **III. CONCLUSION**

8 **IT IS HEREBY ORDERED** that Plaintiffs' Motion for New Trial, (ECF No. 176), is
9 **DENIED.**

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11 **DATED** this ¹¹ day of September, 2017.

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15 Gloria M. Navarro, Chief Judge
16 United States District Court
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