STATE OF MICHIGAN

COURT OF APPEALS

EMAD HANA BAJJU and AMAL BASHA,

Plaintiffs-Appellants,

v

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY and LAURA CHRISTENE BROWN,

Defendants-Appellees.

UNPUBLISHED
February 5, 2013

No. 307365
Macomb Circuit Court
LC No. 2009-001046-NI

Before: TALBOT, P.J., and JANSEN and METER, JJ.

JANSEN, J. (*concurring in part and dissenting in part*).

I concur with the majority's conclusion that the circuit court properly denied plaintiffs' motion for a directed verdict, which was brought at the incorrect time. See MCR 2.516. I respectfully dissent, however, from the majority's conclusion that the circuit court properly denied plaintiffs' motion for a new trial.

As an initial matter, I note that a motion brought during a hearing or trial may be made orally rather than in writing. MCR 2.119(A)(1); *Atkins v Hartford Accident & Indemnity Co*, 7 Mich App 414, 419; 151 NW2d 846 (1967). Plaintiffs' counsel specifically requested that the circuit court "set aside the jury verdict based upon it being against the great weight of the evidence[.]" In my opinion, this language was sufficient to constitute a motion for a new trial.

The circuit court may grant a motion for a new trial on the ground that the jury's verdict was against the great weight of the evidence. MCR 2.611(A)(1)(e); *Ellsworth v Hotel Corp of America*, 236 Mich App 185, 194; 600 NW2d 129 (1999). This Court reviews for an abuse of discretion the circuit court's grant or denial of a motion for a new trial on the ground that the verdict was against the great weight of the evidence. *King v Taylor Chrysler-Plymouth, Inc*, 184 Mich App 204, 210; 457 NW2d 42 (1990).

Turning to the present case, defendant Brown plainly testified that she was at fault for causing the automobile accident. No countervailing evidence was presented to the jury. Nor was there any admissible evidence to support Brown's speculative theory that the accident resulted from black ice or a similar roadway condition. A jury may not base its verdict on speculation or mere conjecture. *Doran v Equitable Life Assurance Society*, 58 Mich App 507, 510-511; 228 NW2d 437 (1975). In the end, the only plausible explanation for the accident was

that Brown did not slow down quickly enough as she rounded the curve in the highway and approached the vehicles that were stopped ahead of her. I conclude that the jury's verdict of no cause of action was against the great weight of the evidence. In my opinion, the circuit court abused its discretion by declining to order a new trial pursuant to MCR 2.611(A)(1)(e).

/s/ Kathleen Jansen