IN THE UTAH COURT OF APPEALS

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Bonnie Huyot-Renoir, Plaintiff and Appellant, v. Kathleen Wilkinson and John Doe, Defendants and Appellees.	MEMORANDUM DECISION (Not For Official Publication) Case No. 20050293-CA F I L E D (May 4, 2006) 2006 UT App 186

Third District, Salt Lake Department, 010907017
The Honorable Frank G. Noel

Attorneys: Bonnie Huyot-Renoir, Salt Lake City, Appellant Pro Se
Brian C. Webber and Michael K. Woolley, Salt Lake City, for Appellees

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Before Judges Davis, McHugh, and Orme.

PER CURIAM:

Bonnie Huyot-Renoir appeals from a jury verdict in favor of Kathleen Wilkinson. We affirm.

Huyot-Renoir asserts that there was insufficient evidence to support the jury's verdict. "A jury verdict should not be reversed due to insufficient evidence unless the evidence presented at trial is so lacking that reasonable minds could not have reached the conclusion that the jury reached." Harding v. Bell, 2002 UT 108,¶14, 57 P.3d 1093. "[W]e employ this standard in light of our general deference toward the jury's role as fact-finder and our repeated recognition of trial courts' 'advantaged position to evaluate the evidence and determine the facts.'" Water & Energy Sys. Tech., Inc. v. Keil, 2002 UT 32,¶15, 48 P.3d 888 (citation omitted). The jury determined that although Wilkinson was negligent, her negligence was not the cause of Huyot-Renoir's damages. Our review of the record reveals ample evidence to support the jury's verdict. For example, multiple defense experts opined that there was no impact between Wilkinson's car and Huyot-Renoir's car. Further, another defense expert testified that even if there was an accident, he did not

believe Huyot-Renoir's injuries were the result of the accident. If the jury believed such testimony, it could reasonably conclude that Wilkinson was not the proximate cause of Huyot-Renoir's injuries. Accordingly, despite the fact that Huyot-Renoir introduced testimony that her injuries were proximately caused by Wilkinson's negligence, there was sufficient evidence to support the jury's conclusion to the contrary. See Brookside Mobile Home Park, Ltd. v. Peebles, 2000 UT App 314,¶37, 14 P.3d 105 (stating that appellate courts "assume that the jury believed those aspects of the evidence which sustain its findings and judgment" (citations and quotations omitted)).

Huyot-Renoir next asserts that the district court erred in excluding the testimony of a certified public accountant and a biomechanical expert. "[A] trial court's decision to admit or bar testimony for failure to adhere to discovery obligations lies within the trial court's discretion." State v. Arellano, 964 P.2d 1167, 1169 (Utah Ct. App. 1998). Such decisions will not be disturbed on appeal absent a clear abuse of discretion. See id.; see also DeBry v. Cascade Enters., 879 P.2d 1353, 1361 (Utah 1994) (concluding district court did not abuse discretion in excluding expert witnesses from testifying who were not properly disclosed by court's deadline). Here, the two excluded experts were not listed in Huyot-Renoir's final designation of witnesses and neither proposed expert ever submitted an expert report. Huyot-Renoir fails to demonstrate that the district court abused its discretion in excluding the witnesses.

Huyot-Renoir also argues that the district court erred by refusing to allow her to testify as an expert in biomechanical accident reconstruction and forensic accounting. "Determinations as to who qualifies as an expert witness and the admission of the witness's testimony fall within [the trial court's] discretion." Haupt v. Heaps, 2005 UT App 436,¶11, 131 P.3d 252. The record fails to demonstrate that Huyot-Renoir qualified as an expert in either of the two fields from which she sought to give testimony. Instead, she claimed that she had developed expertise in discussions with her excluded experts. The district court did not abuse its discretion in excluding her testimony.[1]

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[1]Huyot-Renoir also claims that prior to trial the district court stated that she could testify as an expert in these areas. Wilkinson disputes this assertion. Because Huyot-Renoir fails to direct us to the portion of the extensive record on appeal that contains this alleged conversation, we cannot evaluate her claim and must assume the regularity of the proceedings below. See Butler, Crockett & Walsh Dev. Corp. v. Pinecrest Pipeline Operating Co., 909 P.2d 225, 230 (Utah 1995) (stating that "an

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Huyot-Renoir next argues that the district court erred in allowing Dr. Gerald R. Moress, a neurologist, to testify as to whether Huyot-Renoir's surgery was necessary, because he was not a neurosurgeon. Without deciding whether Dr. Moress could properly testify as to this issue, we conclude that Huyot-Renoir waived any objection to the presentation of the testimony when she stipulated that all videotaped depositions the parties wished to present to the jury would be played to the jury "as-is." The videotaped deposition contained the testimony of which she now complains. Accordingly, because Huyot-Renoir stipulated to the admission of the testimony, the evidence was properly presented to the jury.

Huyot-Renoir claims that the district court erred in referring to Dr. Moress as an independent medical examiner when he was a retained defense expert. After reviewing the record, we conclude such error was harmless. Huyot-Renoir effectively cross-examined Dr. Moress. In so doing, she demonstrated that he testified as a defense expert approximately ninety percent of the time. She also offered the testimony of several of her own experts to counter his testimony. Accordingly, the record does not reveal that Huyot-Renoir was prejudiced by the district court's statement.

Huyot-Renoir next asserts that the district court erred in denying her request for a ten day trial to be tried four hours per day. Instead, the district court required the parties to present their cases in four days. "Trial courts have broad discretion in managing the cases assigned to their courts. . . . We will not interfere with a trial court's case management unless its actions amount to an abuse of discretion." Berrett v. Denver & Rio Grande W. R.R. Co., Inc., 830 P.2d 291, 293 (Utah Ct. App. 1992) (citations omitted). While Huyot-Renoir asserts that the district court abused its discretion because she was not physically capable of attending trial more than five hours a day, the record reveals that the district court cleared the schedule with Huyot-Renoir's physician and repeatedly checked on her condition during trial. Accordingly, the district court did not abuse its discretion in setting the four day trial schedule.

Huyot-Renoir claims that she also should have been entitled to legal aid in her action and urges this court to adopt the British legal model in this regard. However, Huyot-Renoir cites us to no legal authority that would demonstrate that she is

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appellant's failure to cite to the record in a brief is grounds for assuming regularity in the proceedings and correctness in the judgment appealed from").

entitled to legal aid in a civil tort action. Accordingly, we decline to address the issue. See Smith v. Four Corners Mental Health Ctr., Inc., 2003 UT 23,¶46, 70 P.3d 904 (declining to address an inadequately briefed argument).

Finally, Huyot-Renoir asserts several other issues relating to whether the district court properly excluded evidence relating to her damages. Without determining whether the district court erred in excluding such evidence, we conclude that any such errors were harmless. The jury determined that Wilkinson was not the proximate cause of Huyot-Renoir's injuries, thereby making the issue of the amount of damages moot. Accordingly, any errors made regarding the admission of evidence of damages were harmless.

Affirmed.

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James Z. Davis, Judge

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Carolyn B. McHugh, Judge

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Gregory K. Orme, Judge