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STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1703

Severin M. Chmielewski, et al.,
Respondents,

vs.

State Farm Fire and Casualty Company, a foreign corporation,
Respondent,

Twisted Knot Log Furniture, Inc., a Minnesota Corporation, et al.,
Appellants.

Filed August 19, 2024
Affirmed
Larson, Judge

Anoka County District Court
File No. 02-CV-21-3036

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Considered and decided by Connolly, Presiding Judge; Larson, Judge; and Jesson, Judge.*

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* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

LARSON, Judge

This appeal arises after a jury verdict finding that appellants Nathan Sztamburski and Twisted Knot Log Furniture, Inc., negligently caused a fire that destroyed a pole barn. The barn belonged to respondent Serverin M. Chmielewski, and he used portions of the barn to operate respondent Daystar Management Group, Inc. (Daystar). Appellants argue that the district court erred when it denied their motion for judgment as a matter of law (JMOL) because: (1) respondents presented insufficient evidence for the jury to reasonably conclude that appellants negligently caused the fire and (2) as a tenant of the barn, appellants did not have a duty to clean the heater that allegedly ignited the fire. In the alternative, appellants argue the district court erred when it denied their motion for remittitur or a new trial on damages because testimony regarding the barn's value lacked foundation. We affirm.

FACTS

In August 2021, respondents filed an amended complaint, alleging a common-law negligence claim against appellants.[1] The case proceeded to a four-day jury trial in June 2023, at which the parties elicited the following facts.

Chmielewski owned a 50% interest in Daystar, a small real-estate-management corporation. Chmielewski's son ("son") worked for Daystar. Daystar had offices in

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[1] Respondents filed their initial complaint against Twisted Knot's insurer, defendant State Farm Fire and Casualty Company (State Farm). The district court granted State Farm's motion for summary judgment, respondents did not challenge the district court's decision, and State Farm has not participated in this appeal.

Bethel, Minnesota, on an approximately 20-acre property. Chmielewski owned and resided on the property, where he also maintained multiple commercial buildings, including a barn.

The barn was approximately 45-by-96 feet and had three floors. Chmielewski testified that he believed the barn was in "very good condition" and estimated it was worth roughly $530,000 given his knowledge of rental value, along with replacement and construction costs. Based only on his knowledge of area rental properties, Chmielewski estimated that the barn had a marketable value of $500,000.[2] Son estimated that the fire destroyed over $81,000 worth of personal property, including two antique cars, a car lift, and a hydraulic hose. There were sometimes mice in the barn, but "[n]ot an unusual amount." Son testified that he would see mice droppings "from time to time."[3]

An electrical panel was located on the main floor near the center of the barn. Also on the main floor, respondents rented out a 900-square-foot area to tenants. Respondents designed the rental area as a "spray booth" for finishing wood products with partition walls and fans to pull out overspray. Inside the rental area, for 25 years prior to the fire, Daystar kept a heater, which it suspended from the ceiling. The heater was located near the center of the barn. The heater featured "a natural gas flame going up through a metal heat

[2] A 2020 tax statement on nine acres of property that included Chmielewski's home and three commercial buildings estimated a total market value for the property of $421,400. However, Chmielewski testified that in his experience, "the taxable market value [was] typically lower than the market value."

[3] Sztamburski also testified that he saw mice on "one or two occasions."

exchange." Maintenance on the heater involved using compressed air to blow out the area where the flame traveled.

In March 2020, Daystar began leasing the rental area to Twisted Knot. Sztamburski founded Twisted Knot in 2003 and owns 100% of the company. The written lease between Daystar and Twisted Knot included the following two provisions:

> **6. MAINTENANCE BY LANDLORD:** [Daystar] shall, at its expense, keep the structural parts of the Building in good order, safe condition and repair, including the exterior walls, roof, floor, foundation and interior support columns.
>
> **7. MAINTENANCE BY TENANT:** [Twisted Knot] shall be solely responsible for providing and paying for its own janitorial services, including but without limitation window washing and replacement of light bulbs for the Premises.[4]

Appellants used the rental area to manufacture and finish cabinetry and fireplace accessories. Appellants used "a mechanical airless sprayer" in the spray booth to finish wood products with lacquer, a flammable product.

Regarding maintenance on the heater, Sztamburski testified that he "knew there was a flame in [the] heater" but never wiped or otherwise cleaned the heater. He also never wiped off other surfaces, such as shelves, cabinets, or tabletops, in the rental area to prevent flammable vapors from accumulating. Sztamburski testified that he understood the lease

[4] The lease stated that it expired in August 2020, but contained a provision providing that, if Twisted Knot continued to occupy the premises upon expiration, "it shall be deemed to be occupying the Premises as a tenant from month to month," subject to the terms and conditions of the original lease "in so far as the same can be applicable to a month-to-month tenancy." The parties do not dispute that the lease terms quoted above remained in effect at the time of the fire.

to require Daystar to "maintain the unit heater," and that he had no training or knowledge on how to properly clean it.

Son testified that in August or September 2020, he noticed a trail of "white footprints coming out of [the rental] area" and could see "little icicles of overspray" extending over the area that air blew out of the heater. Son also testified that he told Sztamburski that the amount of overspray was a fire hazard and directed him to clean the heater. According to son, Sztamburski agreed that he would clean the heater.[5]

On February 19, 2021, Sztamburski used the rental area to spray three coats of lacquer on a wood product. Around 7:00 or 8:00 p.m., he turned off the exhaust fan and turned down the thermostat from 70 or 75 degrees to around 50 degrees. This caused the heater to turn off. Sztamburski knew the heater would automatically turn on later that night due to the freezing temperatures. Sztamburski did not notice anyone else in the barn and locked the barn's exterior entrance.

At some point in the late evening, a fire started in the barn. According to the barn's security system, around 11:18 p.m., a senser on a wall to the immediate exterior of the rental area detected motion. The security panel then experienced a power failure, indicating a loss of electricity. At 11:19 p.m., the senser indicated that it was "tampered with," meaning it was "either destroyed or the battery [was] melted or crushed." At 11:21 p.m., a smoke detector was triggered along the barn's northern wall.

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[5] In his testimony, Chmielewski also recalled that the amount of lacquer was a fire hazard, and Sztamburski promised to clean "the whole area." Sztamburski confirmed the conversation with son about white footprints but did not recall being asked to clean the heater.

Emergency services received the first reports that the barn was on fire around 11:23 p.m. Police arrived at Chmielewski's home and informed him that the security system reported a fire. Chmielewski went outside and saw a glow coming from the barn. The fire department arrived soon thereafter. Around midnight, Chmielewski called son on the phone to tell him about the fire. When son arrived at the property, he could smell lacquer coming from the fire and flames had broken "through the roof in the center of the building." A deputy state fire marshal arrived around 2:00 a.m., at which point "[t]he roof of the [barn] had collapsed in addition to most of the exterior walls." Sztamburski arrived around 1:30 a.m., and he recalled that by 3:00 or 4:00 a.m. the fire-suppression efforts had wound down and the area was "smoldering and smoky." The fire resulted in a total loss of the barn.

After the fire, son went to Sztamburski's office and asked him "what he thought had happened." According to son, Sztamburski "told [son] he thought it was the unit heater."[6]

Appellants called two experts at trial to testify regarding the cause of the fire. The first was the marshal who was at the scene the night of the fire and investigated the incident in the days that followed. The marshal testified that he interviewed Chmielewski, son, and Sztamburski for background information on the building, including its contents, construction, and use. He also watched surveillance videos that monitored activity on the property before the fire. The marshal concluded, based on his "initial firefighter

[6] Through a motion in limine, appellants sought to prevent son from testifying about Sztamburski's statement that the heater caused the fire. The district court denied the motion. At oral argument, appellants explained that they do not challenge the district court's ruling on their motion in limine.

observations and the security camera review," that the fire originated in "the center area of the building," but would not express any additional conclusions.

The second expert was a trained fire investigator that appellants hired. The investigator was on-site four days after the fire. By the time he arrived, a backhoe had already moved much of the debris, displacing "the initial locations of the mechanical [and] electrical items." The investigator emphasized that the scope of the destruction limited his investigation, but he interviewed Chmielewski, son, Sztamburski, and the marshal. He also reviewed the surveillance videos. Based on "the [surveillance] video and . . . discussion with the fire department," he believed the fire originated in the center of the building "because that's where [the fire] vented through the roof first." But he could not determine the fire's precise cause without speculating. The investigator testified that he believed the fire could have started "without the negligence or fault of any party," pointing to electrical failure or rodents as potential alternative causes.

During trial, after respondents rested their case, appellants moved for JMOL. *See* Minn. R. Civ. P. 50.01. The district court denied the motion. At the conclusion of the trial, the jury returned a verdict finding both appellants and respondents causally negligent and attributing 68% of the negligence to appellants and 32% to respondents. The jury found that $593,000 would adequately compensate respondents for their damages. Appellants then renewed their JMOL motion. *See* Minn. R. Civ. P. 50.02.[7] In addition, appellants moved for remittitur or a new trial on damages. In September 2023, the district court issued an order denying appellants' JMOL motion. The district court also denied appellants' motion for remittitur or a new trial on damages.

This appeal follows.

DECISION

Appellants argue the district court erred when it denied their JMOL motion. In the alternative, appellants challenge the district court's decision to deny remittitur or a new damages trial, arguing the testimony regarding the barn's value lacked foundation. We address each argument in turn.

I.

Appellants first argue the district court erred when it denied their JMOL motion. We review a district court's decision to deny a JMOL motion de novo. *Bahr v. Boise Cascade Corp.*, 766 N.W.2d 910, 919 (Minn. 2009). "[W]e view the evidence in the light most favorable to the prevailing party," *id.*, and will "affirm the denial of a [JMOL motion] unless no reasonable theory supports the verdict," *Vermillion State Bank v. Tennis Sanitation, LLC*, 969 N.W.2d 610, 618-19 (Minn. 2022). "This means that to reverse, the

[7] Appellants characterized their motion as one for judgment notwithstanding the verdict (JNOV) rather than for JMOL. However, Minn. R. Civ. P. 50 was amended in 2006 to comport with changes to the Federal Rules of Civil Procedure. Minn. R. Civ. P. 50 2006 advisory comm. cmt. The amended rule replaced "the archaic language and procedures" of motions for JNOV with the uniform standard of motions for JMOL. *Id.* While the amendment adopts a new name for the motion, "[t]his change [was] not intended to change substantive practice relating to these motions." *Id.* As such, pre-2006 caselaw addressing JNOV motions are applicable to JMOL motions.

evidence must be so overwhelming on one side that reasonable minds cannot differ as to the proper outcome." *Id.* at 619 (quotation omitted).

To succeed on its negligence claim, respondents needed to show "(1) [the] existence of a duty of care; (2) breach of that duty; (3) proximate causation; and (4) injury." *Bjerke v. Johnson*, 742 N.W.2d 660, 664 (Minn. 2007). Appellants challenge the district court's determination that respondents presented sufficient evidence on the first and third elements to sustain the jury's verdict.

A.

Appellants first argue that respondents failed to present sufficient evidence that appellants were a proximate cause of the fire. Because we conclude respondents presented sufficient evidence to prove proximate cause, we disagree.

"Proximate cause exists if the negligent conduct was a substantial factor in bringing about the injury." *Flom v. Flom*, 291 N.W.2d 914, 917 (Minn. 1980). Proximate cause is generally "a question of fact for the jury." *Jepsen as Tr. for Dean v. County of Pope*, 966 N.W.2d 472, 491 (Minn. 2021) (quotation omitted). However, it becomes a question of law when "reasonable minds can arrive at only one conclusion." *Lubbers v. Anderson*, 539 N.W.2d 398, 402 (Minn. 1995). We will only upset a jury's conclusion on proximate cause when it is "manifestly contrary to the weight of the evidence." *Lamke v. Louden*, 269 N.W.2d 53, 56 (Minn. 1978). A plaintiff may prove proximate cause through circumstantial evidence; "eyewitness testimony or other direct evidence" is not necessary. *Staub as Tr. of Weeks v. Myrtle Lake Resort, LLC*, 964 N.W.2d 613, 621 (Minn. 2021).

But the plaintiff's theory cannot rest on "speculation and conjecture." *Smith v. Runk*, 425 N.W.2d 299, 301 (Minn. App. 1988).

In previous fire cases, the supreme court has upheld a district court's decision to grant a JMOL motion when the plaintiff's proximate-cause theory was too speculative to sustain liability for the defendant. *See Rochester Wood Specialties, Inc. v. Rions*, 176 N.W.2d 548, 549-52 (Minn. 1970) (upholding JMOL because expert testimony positing that a fan ignited a fire, and that lacquer nearby could have ignited the fire, was "based on assumptions which were not established by the evidence"); *Huseby v. Carlson*, 238 N.W.2d 589, 589-90 (Minn. 1975) (per curiam) (upholding JMOL when an expert testified that a fire began in a tenant's bedroom, but the expert did not thoroughly investigate the premises). But the supreme court has indicated that an inference amounts to more than "speculation or conjecture" when the inference may be reasonable given a jury's "[l]ife experience and common sense." *Staub*, 964 N.W.2d at 625-26.

In *Staub*, a woman fell down a flight of stairs at a resort and eventually died. *Id.* at 616. The woman's trustee sued the resort and its owner, arguing that they proximately caused her death by negligently failing to keep the stairs in a safe condition. *Id.* In depositions and affidavits, multiple witnesses described seeing the woman rolling to the ground at the bottom of the stairs, and one witness described warning the owner repeatedly that the steps were dangerous. *Id.* at 617-18. The resort and its owner moved for summary judgment, arguing the trustee's causation theory was speculative. *Id.* at 619. The district court agreed, reasoning that, although the stairs were "cracked, chipped, leaning, and weathered," no one observed what caused the woman to fall. *Id.* The supreme court reversed, concluding "a jury could reasonably infer that the poor and degraded condition of the stair was a substantial factor in causing [the woman's] death." *Id.* at 625-26. The supreme court relied on the fact that the record showed that the woman "was on the landing before she fell and that she, in fact, fell," and that the stairs were degraded and unsafe. *Id.* at 625. The supreme court concluded that "[l]ife experience and common sense," would allow a jury to decide "that a degraded, cracked, and chipped stair, leaning away from a building, is a dangerous condition that may cause a person using the stair to fall." *Id.*

We conclude this case is similar to *Staub*. The jury received evidence that (1) the heater was hanging in the rental area near the center of the building; (2) appellants used a flammable lacquer in the rental area to finish wood products; (3) appellants had allowed excess lacquer to build up and settle on the heater; (4) despite an explicit request from son, Sztamburski had not cleaned the heater; (5) Sztamburski used the flammable lacquer in the rental area on the day of the fire; (6) Sztamburski turned the thermostat down to 50 degrees, causing the heater to turn off, but he knew the heater would turn on later in the evening given the freezing temperatures; (7) between 11:18 and 11:21 p.m., a motion sensor and a smoke detector were triggered; (8) after the fire, Sztamburski told son that he believed the heater ignited the fire; and (9) expert testimony indicated the fire started near the center of the building. Given the evidence presented at trial, the jury could have reasonably found—and did find—based on "[l]ife experience and common sense," *see id.*, that appellants' conduct caused the heater to ignite and start the fire that destroyed the barn.

Appellants argue that respondents' proximate-cause theory conflicted with the expert testimony at trial. An important consideration when deciding a JMOL motion is whether the jury verdict undercut credible expert opinion about causation. *See, e.g.*, *Gen. Accident Fire & Life Assurance Corp. v. Frito-Lay Co.*, 243 N.W.2d 726, 729-30 (Minn. 1976) (reversing district court's decision to grant JMOL after district court excluded expert opinion that was based on "an extensive personal investigation [into] the circumstances of the fire"); *Dalager v. Montgomery Ward & Co.*, 350 N.W.2d 391, 393 (Minn. App. 1984) (affirming district court's decision to deny JMOL motion after jury verdict aligned with expert testimony about the "most likely" cause of the fire). But here, we disagree with appellants' characterization that respondents' proximate-cause theory conflicted with the expert testimony.

In this case, the experts did not opine that something other than the heater caused the fire. Instead, both experts indicated that the fire started near the center of the barn, but they could not otherwise determine the fire's cause. The evidence presented at trial illustrates that the heater was hanging in the rental area near the center of the barn. Thus, the jury's finding that the heater caused the fire does not conflict with the expert testimony. Further, notably absent from both expert reports was available information regarding the lacquer's flammability and its accumulation on the heater. Based on this additional evidence, the jury was able to reasonably infer that appellants' use of the lacquer caused the heater to ignite and start the fire.

Appellants also argue that they are entitled to JMOL because they presented alternative theories of proximate cause. When a case proceeds on circumstantial evidence and the parties present proximate-cause theories that are inconsistent with one another, "the plaintiff's theory must reasonably preponderate over any other theories." *Staub*, 964

N.W.2d at 622 (quotation omitted). Here, witnesses provided extensive testimony about Sztamburski using lacquer, the lacquer's flammability, and Sztamburski's presence in the barn during the hours preceding the fire. Appellants presented very little evidence to support their alternative theories—namely, that rodents or electrical-system failure caused the fire. Therefore, we conclude that respondents' theory that the heater caused the fire "reasonably preponderated" over appellants' alternative theories.

For these reasons, we conclude that, when viewing "the evidence in the light most favorable to the prevailing party," *see Bahr*, 766 N.W.2d at 919, the district court did not err when it denied appellant's JMOL motion on the proximate-cause element.

B.

Appellants also argue that respondents failed to prove appellants had a duty under the lease to perform maintenance on the heater. We disagree.

Whether a party has a duty of care is generally a legal question that we review de novo. *Bjerke*, 742 N.W.2d at 664. "In the absence of a lease provision to the contrary, a tenant is generally liable in tort to its landlord for damages to the leased property caused by the tenant's negligence." *RAM Mut. Ins. Co. v. Rohde*, 820 N.W.2d 1, 13 (Minn. 2012) (providing framework for insurance companies to pursue subrogation claims against insured's tenant when the tenant is negligent). Duties between a landlord and a tenant are based on "the expectations of the parties as to which party bears responsibility for a particular loss." *See id.* at 14. "[I]f a lease expressly provides that the tenant is not responsible for a particular loss, the landlord [cannot] bring an action against the tenant in the first instance," and, beyond the lease itself, "other admissible evidence" might "shed[] light on the expectations of the parties." *Id.* at 15 (quotation omitted).

Here, under the terms of their written lease, Twisted Knot agreed to undertake "janitorial services, including but without limitation window washing and replacement of light bulbs for the Premises." Meanwhile, Daystar agreed to "keep the structural parts of the Building in good order, safe condition and repair, including the exterior walls, roof, floor foundation and interior support columns." Son testified that in August or September 2020, Sztamburski agreed to clean the heater along with other portions of the rental area to reduce concerns over the lacquer's flammability. Chmielewski also testified that Sztamburski agreed to clean the rental area. Viewing the testimony at trial in the light most favorable to the verdict," *see Bahr*, 766 N.W.2d at 919, we conclude respondents proved, consistent with the terms in the lease, that the parties reasonably expected appellants to clean the heater. Thus, respondents established that appellants had a duty to clean the heater.

For this reason, the district court did not err when it denied appellant's JMOL motion on the duty element.

II.

Appellants argue in the alternative that the district court erred when it denied appellant's motion for remittitur or a new trial on damages. A district court may grant remittitur on the grounds that a jury entered an excessive verdict "under the influence of passion and prejudice or on the ground that the damages are not justified by the evidence." *Kwapien v. Starr*, 400 N.W.2d 179, 184 (Minn. App. 1987). Likewise, a district court may grant a new trial based on "[e]xcessive or insufficient damages, appearing to have been given under the influence of passion or prejudice." Minn. R. Civ. P. 59.01(e). Absent "a clear abuse of discretion" we will not reverse a district court's denial of remittitur or a new trial on damages. *Kwapien*, 400 N.W.2d at 184 (remittitur); *LaValle v. Aqualand Pool Co.*, 257 N.W.2d 324, 328 (Minn. 1977) (new trial).

Appellants argue the district court clearly abused its discretion when it denied remittitur or a new trial on damages because Chmielewski's testimony regarding the barn's value lacked foundation and was purely speculative. We disagree.

A property owner is competent to testify about the market value of their property without any "particular foundation for [the] opinion," subject to the limitation that the opinion cannot be "wholly incredible." *Hous. & Redevelopment Auth. v. Zweigbaum*, 100 N.W.2d 719, 721 (Minn. 1960); *see also Lehman v. Hansord Pontiac Co.*, 74 N.W.2d 305, 309 (Minn. 1955) ("In this state the owner of property . . . is presumptively acquainted with its value and may testify as to its value."). Weakness in the foundation of a property owner's testimony about market value typically "goes to its weight, not its admissibility." *Vreeman v. Davis*, 348 N.W.2d 756, 757 (Minn. 1984).

Here, Chmielewski testified that the barn had a value of $530,000, relying on a combination of rental value, replacement costs, and construction costs. Based on his knowledge of area rental rates, Chmielewski also estimated the barn to be worth $500,000. In addition, son estimated that the fire destroyed over $81,000-worth of personal property, which appellants do not challenge on appeal. Based upon this evidence, the jury awarded $593,000 in damages to respondents.

Because property owners are “presumptively acquainted” with the marketable value of their property, *see Lehman*, 74 N.W.2d at 309, and weak foundation for a property owner’s testimony “goes to . . . weight, not . . . admissibility,” *Vreeman*, 348 N.W.2d at 757, we conclude that the district court did not clearly abuse its discretion when it denied remittitur or a new trial on damages.

Affirmed.