OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

CAROL LOWE,	)	No. ED108826
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of Franklin County
vs.	)	16AB-CC00047
	)	
MERCY CLINIC EAST	)	
COMMUNITIES, BRYAN MENGES,	)	Honorable Stanley D. Williams
D.O., JAMES D. CASSAT, M.D., and	)	
MERCY HOSPITALS EAST	)	
COMMUNITIES,	)	
	)	
Appellants.	)	Filed: November 16, 2021

This case returns to our Court after the untimely passing of Vincent Lowe, who was the underlying plaintiff in this case. The trial court entered an initial judgment entered upon a jury verdict awarding Mr. Lowe a total of $12,820,990.51 in damages as a result of the alleged medical negligence of defendants Mercy Clinic East Communities, Bryan Menges, D.O., James D. Cassat, M.D., and Mercy Hospitals East Communities (collectively "Defendants") that left Mr. Lowe with short bowel syndrome.[1] In *Lowe I*,[2] our Court affirmed the $12,820,990.51 judgment, which consisted of a net award of $2,470,990.51 in past economic and past non-economic damages, $900,000.00 in future non-economic damages, and $9,450,000.00 in future medical damages. In *Lowe I*, our Court also determined Mr. Lowe was entitled to damages pertaining to attorney's fees in the amount of $5,128,396.00 pursuant to a contingency fee agreement entitling Mr. Lowe's attorneys to 40% of Mr. Lowe's net jury verdict of $12,820,990.51, and we remanded the cause with specific directions including giving the trial court the express authority to award litigation expenses. After *Lowe I* was issued by our Court, Mr. Lowe died, which resulted in Defendants being relieved of liability for a total of $3,115,096.18 plus interest in annual future medical damages installment payments. After Mr. Lowe's death, Respondent Carol Lowe, Personal Representative of the Estate of Vincent Lowe, was substituted as a party for Mr. Lowe. Then, *Lowe I* was mandated and the cause was remanded to the trial court to determine the impact of Mr. Lowe's death upon the proceedings, which is also the central issue in this appeal.

Defendants appeal the trial court's July 1, 2020 amended judgment ("July 2020 amended judgment") awarding the Estate of Vincent Lowe a total of $9,707,839.62 in damages (consisting of a total of $5,215,330.40 in damages pertaining to attorney's fees and litigation expenses and a total of $4,492,509.22 in past economic damages, past non-economic damages, future non-economic damages, and medical damages). Defendants specifically challenge portions of the July 2020 amended judgment awarding the Estate of Vincent Lowe a total of $5,215,330.40 in

[1] Short bowel syndrome is caused by the loss of a significant portion of the small intestine resulting in nutrient malabsorption and difficulty in forming fecal matter.

[2] All references to *Lowe I* are to *Lowe v. Mercy Clinic East Communities*, 592 S.W.3d 10 (Mo. App. E.D. 2019).

damages pertaining to attorney's fees and litigation expenses ($5,128,396.00 and $86,934.40, respectively) and a total of $1,121,518.71 in medical damages.

AFFIRMED.

Division One holds:

(1) We find no merit to Defendants' arguments on appeal challenging the portions of the trial court's July 2020 amended judgment awarding the Estate of Vincent Lowe damages pertaining to attorney's fees and litigation expenses.

(2) We find no merit to Defendants' arguments on appeal challenging the portion of the trial court's July 2020 amended judgment awarding the Estate of Vincent Lowe medical damages.

Opinion by: Robert M. Clayton III, J.
Colleen Dolan, P.J., and Kelly C. Broniec, J., concur.

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Attorney for Respondent:	Edward D. Robertson, Jr., David M. Zevan, Rachel L. Roman, Anna E. Haber, Morgan C. Murphy

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.