

Summary of SC90628, *Edith C. Deck v. Delmar Teasley*

Appeal from the Greene County circuit court, Judge Michael J. Cordonnier
Argued and submitted April 14, 2010; opinion issued Oct. 26, 2010

Attorneys: Deck was represented by Jeff Bauer and Steven Garner of Strong-Garner-Bauer PC in Springfield, (417) 887-4300, and James E. Corbett, David T. Tunnell, Matthew W. Corbett and Daniel P. Molloy of Corbett Law Firm PC in Springfield, (417) 866-6665; and Teasley was represented by M. Sean McGinnis and Jason Coatney of Keck & Austin LLC in Springfield, (417) 890-8989.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A woman awarded certain damages in a personal injury case appeals the trial court's exclusion of evidence of the total amount she was billed for her medical treatment. In a unanimous decision written by Judge Patricia Breckenridge, the Supreme Court of Missouri reverses the portion of the trial court's judgment awarding damages, remands (sends back) the case for a new trial on the issue of damages only, and affirms the judgment in all other respects. Because the woman presented substantial evidence that her total medical bills represented the value of her medical treatment, she rebutted the statutory presumption that such value be the dollar amount necessary to satisfy her health care providers' financial obligations. The trial court erred in precluding her from presenting this evidence to the jury. Because this error was prejudicial, the woman is entitled to a new trial as to damages.

Facts: In May 2003, Delmar Teasley rear-ended a line of vehicles stopped at a traffic signal, causing the vehicle behind Edith Deck to collide with her vehicle. She sustained injuries in the collision and underwent surgery, physical therapy and follow-up care. Although she was billed nearly \$28,000 for her treatment, the amount actually paid by Medicare, supplemental insurance and Deck – after adjustments – was about \$9,900. Deck sued Teasley, alleging he was negligent in causing the collision and her resulting injuries and seeking damages for her medical expenses. Both before and during trial, Deck sought to admit evidence of the full amount she was billed for her treatment and not just the amount that was paid for her treatment. She produced, within offers of proof (allowing the court to hear the evidence that would be presented to the jury, if the court were to allow it), testimony of physicians and others that the value of Deck's medical care was the amount billed, not the amount ultimately paid by Medicare and others. The trial court excluded the evidence, determining that the presumption in section 490.715.5, RSMo Supp. 2005 – that the dollar amount necessary to satisfy a plaintiff's financial obligation to the plaintiff's health care provider constituted the value of the medical treatment rendered – was not rebutted and, therefore, determined that the value of Deck's medical treatment was the amount actually paid for it together with any amount she still was obligated to pay. The jury rendered its verdict in Deck's favor and awarded \$42,500 in damages. Deck appeals.

AFFIRMED IN PART; REVERSED IN PART; REMANDED.

Court en banc holds: (1) The trial court erred in ruling that Deck's claim for past medical expenses was limited to the amount actually paid for the treatment she received.

(a) Section 490.715.5 creates a rebuttable presumption that the dollar amount necessary to satisfy a financial obligation to health care providers represents the value of the medical treatment rendered. It permits a court, on the motion of any party, to determine whether other evidence of value – including the medical bills incurred – is admissible. This rebuttable presumption requires the trial court to determine if the party seeking to rebut the presumption has presented substantial evidence that the value of medical treatment rendered is an amount different from the dollar amount necessary to satisfy the financial obligations to health care providers. If such substantial evidence is proffered, the statutory presumption is rebutted, and the party's other evidence of value, as well as the amount necessary to satisfy the financial obligations, is admitted at trial as if no presumption existed. Here, Deck's evidence presented in her offers of proof – that the amount she was billed is the value of the medical treatment rendered to her – is substantial evidence that, if true, has probative force on the issue of the value of the medical treatment rendered. In light of such substantial evidence, the trial court misapplied the law in ruling the statutory presumption was not rebutted and in precluding Deck from presenting at trial evidence of the amount of the medical bills she incurred.

(b) The trial court should have limited its role to determining whether the presumption in section 490.715.5 was rebutted by substantial evidence. Instead, it weighed the competing evidence presented by both parties concerning the value of medical treatment and determined that the value of medical treatment rendered to Deck was the amount actually paid for her medical treatment plus any amount she still was obligated to pay. This is not supported by a full reading of section 490.715.5, however, which requires that, if the presumption is rebutted, the jury would be presented with evidence as though no presumption existed. Further, the statute's language clearly contemplates that evidence regarding the value of medical treatment will be presented to the jury.

(c) The trial court's error was sufficiently prejudicial to justify reversal. Deck proffered evidence that the value of the medical treatment rendered to her was nearly \$28,000, but because of the trial court's exclusion of that evidence, the jury was permitted to hear only evidence that the value of her medical treatment was about \$9,900. The exclusion of evidence of the nearly \$18,100 in additional potential damages that the jury should have been allowed to consider materially affected the merits of the action, constituting prejudice. Deck is entitled to a new trial on the issue of damages only.

(2) Because the case is remanded, this Court need not decide whether the trial court's exclusion of a physician's testimony regarding the costs of Deck's possible future medical treatment constituted reversible error. Because time has passed since trial, the circumstances regarding Deck's need for future medical treatment may have evolved. In the event she offers the same testimony from the physician on remand, the trial court should consider the effect of *Swartz v. Gale Webb Transportation Co.*, 215 S.W.3d 127, 131 (Mo. banc 2007) (noting that expert testimony regarding a plaintiff's increased risk of future consequences – including the possibility of future surgery and the potential costs of such treatment – is admissible to aid the jury in

assessing the extent and value of the plaintiff's present injuries, even if those future consequences are not reasonably certain to occur) and the cases it cites to determine the admissibility of evidence regarding Deck's possible future medical treatment.