STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2025 CA 0392

THOMAS LAPORTE AND LINDA LAPORTE

VERSUS

BATON ROUGE GENERAL MEDICAL CENTER

Judgment Rendered: AUG 05 2026

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On Appeal from the
19th Judicial District Court
Parish of East Baton Rouge, State of Louisiana
Trial Court No. 675,729, Div. "B"

The Honorable Donald R. Johnson, Judge Presiding

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BEFORE: LANIER, WOLFE, and HESTER, JJ.

WOLFE, J.

This is a medical malpractice action, wherein defendant/appellant, Baton Rouge General Medical Center ("BRGMC"), was cast in judgment for $500,000.00 in general damages, $135,712.68 in special damages, and $50,000.00 in loss of consortium damages to the plaintiffs/appellees, Thomas Laporte and Linda Laporte (collectively, "the plaintiffs"). Following the bench trial in this matter, BRGMC filed this appeal. For the following reasons, we affirm the judgment.

STATEMENT OF FACTS

On March 21, 2018, at 11:21, p.m., Thomas Laporte ("Mr. Laporte"), a 79-year-old male with a history of orthostatic hypotension[1], left-sided chest pain, and constipation presented to the emergency department at BRGMC due to loss of consciousness. Specifically, Mr. Laporte reported having recurrent falls, likely secondary to his low blood pressure, and that he had not had a bowel movement in two to three weeks. Mrs. Linda Laporte ("Mrs. Laporte"), Mr. Laporte's wife, noted that around 10:30 p.m. that evening, Mr. Laporte fell while getting off the toilet at their home. Mrs. Laporte informed the emergency staff that Mr. Laporte's pants were too heavy, and he slipped, but that he did not hit his head or lose consciousness. Further, it was noted that Mr. Laporte used a walker but was not using one when getting up from the toilet at his home. Upon his presentation to BRGMC, the emergency medical staff ordered Mr. Laporte to receive continuous cardiac, pulse oximetry monitoring, and a suppository.

At the time of Mr. Laporte's presentation to the emergency department, BRGMC had in place a written policy regarding the assessment of a patient's fall risk. The policy requires scoring a patient on several objective measures, including

[1] Orthostatic hypotension is a form of low blood pressure that occurs in a standing posture. Stedmans Medical Dictionary, 430600.

age, medical conditions, history of falls, use of assistive devices in ambulation, and medication intake. Following Mr. Laporte's presentation to the emergency department, at 12:15 a.m. on March 22, 2018, Nurse Alaina Turner, initially scored Mr. Laporte as having 0-5 points and categorized him as a minimal fall risk.[2] Mr. and Mrs. Laporte were both informed by Nurse Turner about his fall risk and to use the call light if he needed assistance. While still in the emergency department, Mr. Laporte was then placed in a low bed, with the siderails up, and a call light within reach, all within the BRGMC protocol of a minimal fall risk patient. Nurse Turner provided instructions to Mr. Laporte regarding operating the call light, and generally informed Mr. and Mrs. Laporte to call the nurse's station if Mr. Laporte needed assistance to use the restroom. Mr. Laporte also confirmed that Nurse Turner informed him to stay in bed and use the call light.

Nurse Turner checked on Mr. Laporte around 1:30 a.m., administering both nitroglycerin for Mr. Laporte's chest pain, as well as the previously ordered suppository, at that time. After Mr. Laporte denied a bedpan from Nurse Turner, she again reminded Mr. Laporte to use the call light if he needed assistance or needed to use the restroom. Nurse Turner, aware that the purpose of the suppository was to induce a bowel movement, and further aware that the published medical literature regarding the suppository stated it would be effective between fifteen and sixty minutes after administration, again checked on Mr. Laporte one hour later, at 2:20-2:30 a.m. Nurse Turner once again asked if Mr. Laporte needed to use the restroom and, at that time, he told her he did not.

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[2] The record and trial testimony contain much discussion regarding Nurse Turner's categorization of Mr. Laporte's fall risk. It is undisputed that, upon his admission to the emergency department, Nurse Turner scored Mr. Laporte as a minimal fall risk, with 0-5 points. However, four hours after Mr. Laporte's fall in the emergency department restroom, Nurse Turner backcharted Mr. Laporte's fall risk, categorizing him as a "high [fall] risk." Of note, Nurse Turner testified she had "leeway" in deciding whether a patient's fall risk should be elevated despite the policy's rubric yet chose to keep Mr. Laporte as a minimal fall risk upon his presentation to the emergency department.

However, sometime after 2:30 a.m., Mr. Laporte had the urge to use the restroom and signaled for help using the call light remote previously left by Nurse Turner. Due to the suppository's quick effects, Mrs. Laporte, who had just returned to Mr. Laporte's room after searching for a cell phone charger, then immediately left the room in search of help and solicited the first person she saw in scrubs, Edward Shim, an EKG technician employed by Southern Medical. Upon confronting Mr. Shim, Mrs. Laporte said that her husband needed to use the restroom, but that he is "hooked to a heart monitor and [she did not] know how to disconnect it." Assuring Mrs. Laporte that he could help her, Mr. Shim disconnected Mr. Laporte from his cardiac monitor, and escorted him to the restroom, which was about forty feet away from Mr. Laporte's room, toward the nurse's station. Mr. Shim noted that Mr. Laporte was "tangled up in a way that [he] was concerned [Mr. Laporte] might either damage himself or the machine. It was just all tangled." Mr. Shim did not go into the restroom with Mr. Laporte, but did instruct him, by "yelling through the door" about the location of the call light button and assistance cord within the restroom. Mr. Shim, who did not have any further conversations with Mrs. Laporte and could not locate other BRGMC staff to inform about Mr. Laporte's situation, eventually decided to leave while Mr. Laporte was still in the restroom, as he had been ordered to perform an EKG for an emergency situation in a different part of the department and needed to complete his duties.

Once Mr. Laporte needed to leave the restroom, he activated the pull cord four times and shouted for help, but no assistance came to him. After waiting for a prolonged period of time – Mr. Laporte estimated between thirty and forty minutes – he felt it was best and safest if he returned to his examination room, as he did not want to lose consciousness in the hospital restroom. Unfortunately, while exiting the restroom, Mr. Laporte fell "out [of] the door[,]" hit his head on the door jamb,

and landed in the hallway, all of which resulted in a broken hip. BRGMC Security Services Officer Willie Butler located Mr. Laporte at 3:12 a.m., called for help, and assisted Mr. Laporte into an emergency department bed. Mrs. Laporte estimated that between thirty and thirty-five minutes passed between when Mr. Shim escorted Mr. Laporte the restroom and when she "heard a commotion down the hall and [she] went and looked and saw [her] husband on the floor, and he was calling [her] name, so [she] went down there. And … he said, 'I think I broke my hip.'" Following these events, Mr. Laporte was admitted to the hospital floor and underwent a total hip arthroplasty surgery, remaining in the hospital for one month before being discharged with home health.

A Petition for Damages was filed on November 2, 2018, naming BRGMC as a defendant, and generally asserting that BRGMC's failure to render the appropriate care to Mr. Laporte was medical malpractice. Later, an Amended Petition for Damages was filed on May 10, 2019, adding Dustin Vincent, M.D. and Tiffany Scott, M.D., as defendants.[3] Further, on February 16, 2022, plaintiffs filed a Second Supplemental and Amending Petition for Damages, adding Mr. Shim and Southern Medical Holding Corporation as defendants. Later, on February 23, 2024, plaintiffs filed a Motion and Order for Partial Dismissal with Prejudice, dismissing Mr. Shim and Southern Medical Holding Corporation with prejudice, following a resolution of the claims against them through settlement. Thus, the only remaining defendant at trial was BRGMC.

Following a three-day bench trial on March 25-27, 2024, the trial court took the matter under advisement. A written judgment was signed by the trial court on July 3, 2024, finding that BRGMC breached the applicable standard of care in its treatment of Mr. Laporte, assigning 90% comparative fault to BRGMC and 10%

[3] Dustin Vincent, M.D. was voluntarily dismissed from the litigation by plaintiffs, and Tiffany Scott, M.D. was dismissed by way of a consent judgment on a dilatory exception raising the objection of prematurity.

comparative fault to Mr. Shim. Additionally, the trial court awarded a total of $500,000.00 in general damages, $135,712.68 in special damages, and $50,000.00 in loss of consortium damages to the plaintiffs. It is from this judgment that BRGMC now appeals.

ASSIGNMENTS OF ERROR

BRGMC presents the following assignments of error:

1. The trial court erred by rubber stamping [p]laintiffs' judgment and adopting plaintiffs' written reasons, while providing no independent evaluation.

2. The trial court erroneously determined that [p]laintiffs proved by a preponderance of the evidence that [BRGMC] breached the applicable standard of care in its treatment of Thomas Laporte on March 21st and March 22nd of 2018 and caused Mr. Laporte injury.

3. The trial court failed to properly apportion fault to Edward Shim and Thomas Laporte, who were both equally responsible for their actions and the role they played in the incident in question, and any resultant harm.

4. Alternatively, the trial court erred in its excessive award of damages to the [plaintiffs], considering his limited injuries and treatment, as well as governing damage awards in similar cases.

DISCUSSION

TRIAL COURT'S FAILURE TO DRAFT INDEPENDENT REASONS FOR JUDGMENT

As an initial matter, BRGMC assigns as error the trial court's failure to draft its own independent reasons for judgment, stating, "[t]he trial court judge committed manifest error by essentially rubber-stamping Plaintiffs' Proposed Judgment and adopting Plaintiffs' written Reasons for Judgment without any showing of independent evaluation, or drafting of the court's own written reasons at all."

Article 1917 of the Louisiana Code of Civil Procedure provides that the court shall give its findings of fact and reasons for judgment in writing when requested to do so by a party, provided the request is made not later than ten days

after the mailing of the notice of the signing of judgment. La. Code Civ. P. art. 1917(A). In this case, rather than drafting its own reasons, the trial court issued "Written Reasons for Judgment[,]" stating it "generally adopts the Post-Trial Memorandum of Plaintiff filed April 15, 2024 in connection with this matter as its written reasons for Judgment."

Initially, we note that a trial court's reasons for judgment, while defining and elucidating a case, form no part of the official judgment it signs and from which appeals are taken. Regardless of the trier of fact's reasons, if a judgment is correct, it should be affirmed. **Doe v. Breedlove**, 2004-0006 (La. App. 1st Cir. 2/11/05), 906 So.2d 565, 571; see also **Burkett v. Crescent City Connection Marine Div.**, 98-1237 (La. App. 4th Cir. 2/10/99), 730 So.2d 479, 485, writ denied, 99-1416 (La. 9/3/99), 747 So.2d 543 ("[a]lthough a trial judge might adopt most or almost all of a party's suggested reasons for judgment, the reasons and judgment itself will stand as long as the record supports them."). However, we decline to rule on whether such *adoption* of reasons by the trial court complies with the mandate of Article 1917(A). We observe that no penalty is provided in Article 1917 for failure to comply with the statute's mandate. It is not the function of the judicial branch in a civilian legal system to legislate by inserting penalty provisions into statutes where the legislature has chosen not to do so. **Carter v. Duhe**, 2005-0390 (La. 1/19/06), 921 So.2d 963, 970. Nevertheless, we do reiterate that "the better course by far is for a trial judge to author any reasons for judgment himself, thereby giving us the benefits of his thoughts and his insights into the litigation under consideration." **King v. Allen Court Apartments II**, 2015-0858 (La. App. 1st Cir. 12/23/15), 185 So.3d 835, 839, writ denied, 2016-0148 (La. 3/14/16), 189 So.3d 1069, *quoting* **Bell v. Ayio**, 97-0534 (La. App. 1st Cir. 11/13/18), 731 So.2d 893, 896, writ denied, 98-3115 (La. 2/5/99), 738 So.2d 7. "It is one thing for victorious counsel to prepare a judgment comprised of the stark, final

determinations of a case. It is quite another for a counsel to present as the inner thoughts of a judgment what amounts to a well-written brief." **King**, 185 So.3d at 839. Yet, it is well settled that appeals are taken from judgments, not written reasons, and if the trial court reached the proper result, the judgment should be affirmed. **Washington v. Waring**, 2013-0078 (La. App. 1st Cir. 2/18/14), 142 So.3d 40, 47, writ denied, 2014-0515 (La. 4/25/14), 138 So.3d 646. Therefore, we acknowledge that this court cannot place any real value on the written reasons drafted entirely by counsel for one of the parties. **King**, 185 So.3d at 838-39. Accordingly, this assignment of error lacks merit.

FACTUAL DETERMINATION REGARDING BREACH OF THE STANDARD OF CARE

In their second assignment of error, BRGMC contends the trial court erred in its determination that the plaintiffs met their burden of proof in showing a breach of the applicable standard of care by BRGMC. Specifically, BRGMC argues that "the evidence at trial clearly shows any injury Mr. Laporte suffered was a direct result of the actions of Edward Shim and Mr. Laporte himself, and not as a result of any actions of the Baton Rouge General staff." Ultimately, BRGMC claims it used reasonable care to avoid Mr. Laporte's injury.

1. Standard of Review

In a medical malpractice action, the plaintiff must prove by a preponderance of the evidence the applicable standard of care, a violation of that standard of care, and a causal connection between the violation and the claimed injuries. **Myles v. Hospital Service District No. 1 of Tangipahoa Parish**, 2017-1014 (La. App. 1st Cir. 4/6/18), 248 So.3d 545, 549; see also La. R.S. 9:2794(A). Louisiana Revised Statutes 9:2794(A)(3) requires the plaintiff to prove that, as a "proximate result" of the defendant's failure to exercise the required degree of care, "the plaintiff suffered injuries that would not otherwise have been incurred." **Myles**, 248 So.3d

at 549. Resolution of each of these inquiries is a factual determination that may not be reversed on appeal absent manifest error. **Id.**

Under the manifest error standard of review, a factual finding cannot be set aside unless the appellate court finds that it is manifestly erroneous or clearly wrong. **Jackson v. Tulane Medical Center Hospital and Clinic**, 2005-1594 (La. 10/17/06), 942 So.2d 509, 512. To reverse a factfinder's determination, an appellate court must review the record in its entirety and find that a reasonable factual basis does not exist for the finding and further determine that the record establishes that the factfinder is clearly wrong or manifestly erroneous. **Id.** at 512-13. The appellate court must not reweigh the evidence or substitute its own factual findings because it would have decided the case differently. **Id.** at 513.

Where there are two permissible views of the evidence, the factfinder's choice between them cannot be manifestly erroneous, particularly where the findings are based on determinations concerning witness credibility and weighing of evidence. Where the factfinder's determination is based on its decision to credit the testimony of one or two or more witnesses, that finding can virtually never be manifestly erroneous. **Myles**, 248 So.3d at 550. The trial court's credibility determinations, even when based on depositions offered in lieu of live testimony, are accorded great deference. **Landry v. Doe**, 2019-0880 (La. App. 1st Cir. 6/26/20), 307 So.3d 1064, 1073, writs denied, 2020-00952 (La. 10/20/20), 303 So.3d 313 & 2020-00948 (La. 10/20/20), 303 So.3d 316.

Further, in reaching its conclusions, the trier of fact need not accept all of the testimony of any witness as being true or false and may believe and accept a part or parts of a witness's testimony and refuse to accept other parts. These rules apply equally to the evaluation of expert testimony, including the evaluation and resolution of conflicts in expert testimony. **Id.**

In medical malpractice actions, opinions from medical experts are necessary to determine both the applicable standard of care and whether that standard was breached. It is the trier of fact's responsibility to evaluate conflicting expert opinions in relation to all the circumstances of the case and to determine which evidence is most credible. **Lefort v. Venable**, 95-2345 (La. App. 1st Cir. 6/28/96), 676 So.2d 218, 220; see also **Aymami v. St. Tammany Parish Hospital Service District No. 1**, 2013-1034 (La. App. 1st Cir. 5/7/14), 145 So.3d 439, 447. Where there are contradictory expert opinions concerning compliance with the applicable standard of care, the reviewing court will give great deference to the conclusions of the trier of facts. **Lefort**, 676 So.2d at 221.

Nurses who perform medical services are subject to the same standards of care and liability as physicians. **Johnson v. Morehouse General Hosp.**, 2010-0387 (La. 5/10/11), 63 So.3d 87, 96; **Aymami**, 145 So.3d at 446. A nurse's duty is to exercise the degree of skill ordinarily employed, under similar circumstances, by members of the nursing profession in good standing in the same community or locality, and to use reasonable care and diligence, along with his or her best judgment, in the application of his or her skill to the case. **Granger v. United Home Health Care**, 2013-0910 (La. App. 1st Cir. 6/19/14), 145 So.3d 1071, 1081, writ denied, 2014-1665 (La. 10/31/14), 152 So.3d 158. It is well settled that a hospital can be liable for the negligence of its employees, specifically nurses employed by the hospital, under the doctrine of respondeat superior. **Myles**, 248 So.3d at 550; **Aymami**, 145 So.3d at 446.

We disagree with BRGMC's claim that Mr. Laporte's injuries are the sole result of the actions of Mr. Laporte and Mr. Shim and find the record supports two broad categories by which Nurse Turner and other BRGMC staff fell below the appropriate standard of care in their treatment of Mr. Laporte.

First, Nurse Turner breached the standard of care as it relates to Mr. Laporte by failing to accurately assess his fall risk. Nurse Turner testified at trial that she did not review Mr. Laporte's emergency department triage note, yet this would have revealed he suffered from recurrent falls, including one that very day. A history of falls by the patient in the previous three months is a critical factor in the BRGMC fall risk assessment policy. Plaintiffs' expert witness in the field of emergency nursing room care and geriatric care, Louanne Trahant, testified that if the triage note was available at the time of her fall risk assessment of Mr. Laporte and Nurse Turner did not consult it, it was a breach of the standard of care. Had Nurse Turner adhered to this standard of care, she would have known about Mr. Laporte's medical history of orthostatic hypotension, that his reason for admission into the emergency department was standing from a seated position on a toilet and falling, and that he was complaining of chest pain. Additionally, Nurse Turner failed to observe Mr. Laporte's gait, another key factor in assigning an accurate fall risk score, and another breach of the reasonable standard of care. Because Nurse Turner failed to gather all applicable information concerning Mr. Laporte's fall risk, Nurse Trahant opined that Nurse Turner incorrectly scored Mr. Laporte and that he should have received at least twelve points, instead of zero to five, and been categorized as a high fall risk.

The appropriate categorization of Mr. Laporte's fall risk is important because once a moderate or high fall risk patient is identified, BRGMC policy and the standard of care require a highly visible yellow fall risk armband to be placed on the patient. Nurse Turner failed to apply this armband, which she described as "nonverbal communication among all of the healthcare providers present" on multiple occasions. Additionally, Nurse Turner admitted that Mr. Laporte lacking this yellow armband resulted in other healthcare providers being unaware of his fall risk status. Nurse Trahant further opined that the lack of a yellow armband

was a breach of the standard of care by Nurse Turner. Mr. Shim also admitted he would have engaged with Mr. Laporte differently had he known Mr. Laporte was a high fall risk.

Second, Nurse Turner and other BRGMC staff clearly breached the appropriate standard of care by failing to appropriately monitor and respond to Mr. Laporte. Mr. Laporte was admitted to the emergency department due to chest pain and constipation and, as noted above, was personally administered a suppository laxative at 12:24 a.m. by Nurse Turner. Despite understanding the purpose of the suppository, and the time frame by which it should begin to be effective, Nurse Turner failed to respond to Mr. Laporte's use of the call light, the very directive she gave Mr. Laporte should he need to use the restroom. Nurse Trahant agreed that the appropriate standard of care for a high fall risk patient who had been administered a suppository laxative should be "frequently" helped.

Further, Mr. Laporte was administered nitroglycerin for his chest pains and cardiac concerns. Additionally, given the concern for cardiac function, several leads were affixed to Mr. Laporte's body and attached to a cardiac and vital signs monitor. When a patient remains attached to the cardiac monitor, it continuously relays critical health information (*i.e.*, cardiac rhythm, heart rate, and oxygen levels) to the electronic tracking board located in the nearby nursing station. In the event a patient gets disconnected from that monitor, the health information would no longer be transmitted, and an auditory alarm would sound, notifying the nursing staff of the disconnection. The record shows that the applicable standard of care required both the primary nurse, and any other employee in the nursing station, to be aware of a patient's disconnection at the moment it occurs, due to the sounding alarm; if it is an employee other than the primary nurse, then the standard of care requires that employee to notify the primary nurse. As noted, Mr. Laporte was disconnected from his cardiac monitor and escorted to the restroom by Mr. Shim

and, due to this disconnection, an auditory alarm sounded in the nursing station. Nurse Turner admitted she never attempted to ascertain whether Mr. Laporte was still connected to his cardiac monitor, even though she had ample opportunity to do so between her 2:30 a.m. round and the time of his fall. Record evidence shows it was a breach of the standard of care for Nurse Turner to be unaware that her geriatric, cardio-impaired patient had been disconnected from his cardiac monitor. Nurse Turner's failure to respond to her patient's disconnection was shown to be an additional breach.

Lastly, after being disconnected from the cardiac monitor, Mr. Laporte was escorted to the restroom by Mr. Shim and was instructed on how to use the in-restroom call cord to signal for assistance once finished. Mr. Laporte pulled the cord four times, yelled loudly at least twice, and waited a prolonged period of time for help, but no assistance came to him. Nurse Trahant testified it is a breach of the standard of care for BRGMC's employees to fail to respond to the restroom alarm for any period of time longer than five minutes.

We find the trial court was not manifestly erroneous or clearly wrong in its determination that Nurse Turner and any other BRGMC staff breached the standard of care in its treatment of Mr. Laporte, and that a reasonable factual basis exists within the record for such a determination. Accordingly, this assignment of error lacks merit.

APPORTIONMENT OF FAULT

In their third assignment of error, BRGMC asserts the trial court erred by failing to appropriately apportion fault to Mr. Shim and Mr. Laporte, both of whom, BRGMC claims, are responsible for Mr. Laporte's injuries. Specifically, BRGMC alleges "[t]he record is overflowing with factual and expert witness testimony which criticizes the actions of Mr. Shim, and finds that his behavior rose to a breach in the standard of care multiple times[,]" such that he should be

apportioned more than 10% of comparative fault. Further, BRGMC argues, "Mr. Laporte should be determined to be at fault due to his failure to listen to nursing instructions, and unreasonable behavior, despite his clear knowledge that he was a fall risk."

Louisiana Civil Code article 2323 governs the application of comparative fault, stating, in pertinent part, that "[i]n any action for damages where a person suffers injury, death, or loss, the degree or percentage of fault of all persons causing or contributing to the injury, death, or loss shall be determined, regardless of whether the person is a party to the action or a nonparty [...] or that the other person's identity is not known or reasonably ascertainable." The trier of fact is owed great deference in its allocation of fault, and such allocation should be affirmed unless it is manifestly erroneous or clearly wrong. **Vicknair v. Plaisance**, 2024-1168 (La. App. 1st Cir. 8/21/25), 420 So.3d 749, 768, writ denied, 2025-01185 (La. 11/25/25), 421 So.3d 532. Allocation of fault is not an exact science or the search for one precise ratio, but rather an acceptable range; an allocation by the factfinder within that range cannot be clearly wrong. **Tisdale v. Hedrick**, 2022-01072 (La. 3/17/23), 359 So.3d 484, 490. Only after making a determination that the trier of fact's apportionment of fault is clearly wrong can an appellate court disturb the apportionment, and then only to the extent of lowering it or raising it to the highest or lowest point respectively that is reasonably within the trier of fact's discretion. **Id.**

In determining the percentages of fault, the trier of fact must consider the nature of each party's conduct and the extent of the causal relationship between that conduct and the damages claimed. **Watson v. State Farm Fire & Cas. Ins. Co.**, 469 So.2d 967, 974 (La. 1985). Consideration of several factors aids in the determination of a proper degree of fault: (1) whether the conduct resulted from inadvertence or involved an awareness of the danger; (2) how great a risk was

created by the conduct; (3) the significance of what was sought by the conduct; (4) the capacities of the actor, whether superior or inferior; and (5) any extenuating circumstances which might require the actor to proceed in haste, without proper thought. **Watson**, 469 So.2d at 974; see also **Tisdale**, 359 So.3d at 490. These same factors guide an appellate court's determination as to the highest or lowest percentage of fault that could reasonable be assessed. **Id**.

Regarding Mr. Laporte, we find the trial court did not err in its comparative fault assessment. Mr. Laporte called for help, as instructed to do so by Nurse Turner, before getting out of his bed and, once in the restroom, made multiple attempts to seek assistance before standing up to leave. Once in the restroom, Mr. Laporte either had to choose to stay in the restroom for an indefinite period of time or to walk back to his room. We find his decision to attempt to return to his room was not an unreasonable one, and the trial court did not err in not assigning any comparative fault to him. As to Mr. Shim, while he admitted he did leave Mr. Laporte in the restroom unattended, he also noted that he would have acted differently if he had knowledge regarding Mr. Laporte's actual fall risk. Mr. Shim further indicated he could not find other BRGMC staff to inform regarding Mr. Laporte's situation. The trial court is owed great deference in allocating comparative fault percentages, and we find it was not manifestly erroneous or clearly wrong in its determination. Accordingly, this assignment of error lacks merit.

TRIAL COURT'S GENERAL AND SPECIAL DAMAGES AWARDS

In its final assignment of error, BRGMC claims the trial court's total general damage award of $500,000.00 is excessive and should be reduced. BRGMC argues that Mr. Laporte "suffers no residual injury to his hip[,]" and has "stipulated that his medical treatment for the alleged injury is complete and he is no longer treating for the injury." As such, BRGMC suggests that an "appropriate award of

general damages based on prior awards in similar cases ranges from $20,000 to $150,000 at its maximum." Furthermore, BRGMC argues the trial court "erroneously awarded [the plaintiffs] special damages as repayment for medical expenses which were paid by Medicare[,]" but that "Mr. Laporte's obligation to repay Medicare has been extinguished in exchange for acceptance of payment by previous [d]efendants, and therefore, the trial court's award should not have included an amount for medical expenses."

1. General Damages

General damages are those that may not be fixed with pecuniary exactitude; instead, they involve mental or physical pain or suffering, inconvenience, the loss of intellectual gratification or physical enjoyment, or other losses of life or lifestyle which cannot be definitely measured in monetary terms. **Jones v. Mkt. Basket Stores, Inc.**, 2022-00841 (La. 3/17/23), 359 So.3d 452, 464. Much discretion is left to the trier of fact in the assessment of general damages. See La. Civ. Code art. 2324.1; see also **Oldenburg v. Elkersh**, 2023-0890 (La. App. 1st Cir. 7/2/24), 394 So.3d 838, 851. Even so, general damage awards must not be the result of passion or prejudice and should bear a relationship to the elements of proved damages. **Vicknair**, 420 So.3d at 769. To reduce a factfinder's award, a reviewing court must conclude from the entirety of the evidence in the light most favorable to the plaintiff, that a rational trier of fact could not have fixed the awards of general damages at the level set by the factfinder or that this is one of those "exceptional cases where such awards are so gross as to be contrary to right reason." **Id.** *citing* **Davis v. Hoffman**, 2000-2326 (La. App. 4th Cir. 10/24/01), 800 So.2d 1028, 1030.

In **Pete v. Boland Marine and Manufacturing Company, LLC**, 2023-00170 (La. 10/20/23), 379 So.3d 636, the Louisiana Supreme Court explained that "the question of whether the trier of fact abused its discretion in assessing the amount of damages remains the initial inquiry. However, to evaluate this issue, an

appellate court is to include a consideration of prior awards in similar cases, as well as the particular facts and circumstances of the case under review." **Id.** at 644. If an abuse of discretion is found, the court is to then also consider those prior awards to determine "the highest or lowest point which is reasonably within that discretion." **Id.** Further, "[n]o two cases will be identical." **Id.** at 643.

As an initial matter, we note that BRGMC repeatedly states the total general damage award of $500,000.00 is excessive but is vague and fails to precisely state which specific element – $300,000.00 for Mr. Laporte's physical pain and suffering, $50,000.00 for his mental anxiety and distress, or $150,000.00 for his loss of enjoyment of life and community – it objects to. Nevertheless, in ascertaining whether the trial court abused in its discretion in awarding $500,000.00 in total general damages, we turn to a consideration of prior awards in similar cases. We note that, in presenting their assertions, counsel for the plaintiffs have adjusted the awards for inflation in all the cases they cited, whereas counsel for BRGMC did not.[4]

Of the cases cited by the plaintiffs, none include injuries or circumstances identical to those presented to us in this appeal. See **Thibodeaux v. Stonebridge, L.L.C.**, 2003-1256 (La. App. 5th Cir. 4/27/04), 873 So.2d 755 (78-year-old nursing home resident who was injured after being knocked over by a food cart, suffered hip fracture as a result of a fall, trial court awarded $150,000.00 in general damages which was deemed abusively low by the appellate court and increased to $400,000.00 or $664,536.17 as adjusted for inflation); **Monroy v. Hendrix**, 2017-9256 (La. E.D., Jan. 7, 2019), 2019 WL 118018 (plaintiff suffers hip fracture in a

[4] This court has acknowledged the reality that general damage awards will fluctuate and increase over time given changes in economic conditions, including inflation, and has used the U.S. Bureau of Labor Statistics Consumer Price Index Inflation Calculator as a guide to adjust general damage awards for inflation. See **DePedro v. State Through Department of Transportation and Development**, 2024-0877 (La. App. 1st Cir. 7/3/25), 417 So.3d 1061, 1101; see also **Vicknair**, 420 So.3d at 770, n. 15 ("we note the majority of the cases cited by the dissent are at least ten years old, and 'equity would demand' we consider the possible effect of inflation on a similar damage award made today.")

car accident, medical expenses of $158,032.98, and a general damage award of $406,246.67 or $504,083.38 when adjusted for inflation); and **In re Parish of Plaquemines**, 231 F.Supp.2d 506 (E.D. LA., Nov. 14, 2002) (maritime injury where a plaintiff suffered a fractured hip and foot, trial court awards $300,000.00 in general damages for pain and suffering, or $516,820.74 when adjusted for inflation). Particularly citing **Thibodeaux**, plaintiffs claim that "$400,000.00, before adjusting for inflation, is the lowest reasonable award. The general damages award to Mr. Laporte of $500,000.00 fits squarely within this range and has not been shown to be shocking to the conscious or abusive of the factfinder's vast discretion."

Similarly, of the cases cited by BGRMC, none include injuries as exactly presented to us in this appeal. See **Fox v. Housing Authority of New Orleans**, 605 So.2d 643 (La. App. 4th Cir.), writ denied, 607 So.2d 570 (La. 1992) (trial court's award of $20,000.00 for pain and suffering of elderly woman who was injured after tripping over crack in public sidewalk, and who required hip replacement, was not abusively low); and **Mouhot v. Twelfth Street Baptist Church**, 2006-1283 (La. App. 3d Cir. 2/7/07), 949 So.2d 668 (award of $55,000.00 in general damages awarded to parishioner, who tripped and fell while walking from one building to another on church property, resulting in broken hip, head injury, and subsequent hip surgery was deemed "modest" but not an abuse of discretion). Using these two cited cases, BRGMC, noting that "Mr. Laporte had a successful hip surgery in March 2018, underwent physical therapy for 28 days following surgery, and ultimately never treated for his hip again after being last seen by Dr. Easton in July of 2018," argued that general damages in the range of $20,000.00 to $150,000.00 was appropriate.

We disagree. BRGMC would have this court believe that Mr. Laporte's injuries were of a relatively routine nature with a simple and straightforward

recovery. However, based on Mr. Laporte's significant physical, mental, and life-altering injuries, including the lost active lifestyle in which he engaged, we cannot say that the trial court's award of $500,000.00 in total general damages was an abuse of discretion. Again, because of his fall in the emergency department restroom at BRGMC, Mr. Laporte suffered a broken hip requiring intensive medication, a subsequent total hip replacement surgery, and hospitalization for over one month for recovery. Mr. Laporte endured substantial physical pain, had to relearn how to walk through physical therapy, and relied heavily on assistive devices, including a lift chair, for ambulation around his home. Further, Mr. Laporte became increasingly alienated from his family and lost out on his ability to participate in family events, vacations, and holidays. Moreover, Mr. Laporte became extremely disconnected from his local church community, of which he had attended multiple weekly services, was an active member and deacon for over fifty years, and which was described as "his life" by Mr. Laporte's son. These significant, detrimental effects in Mr. Laporte's life caused depression and social anxiety. Considering Mr. Laporte's injuries and loss of community, and given the much discretion afforded to the trier of fact, we cannot say that the total general damage award of $500,000.00 is excessive. The evidence presented at trial supports this award under these specific circumstances, and we do no find that it exceeds the highest reasonable awards in similar cases or otherwise shocks the conscious. Accordingly, we find no abuse of discretion by the trial court, and we affirm the general damage award.

2. Special Damages

Regarding the trial court's award of special damages, BRGMC asserts that the trial court erroneously awarded plaintiffs $135,712.68 in special damages that were reimbursed to Medicare following an earlier third-party settlement between plaintiffs and Mr. Shim, Southern Medical Holding Corporation, Landmark

Insurance Company, and the Patient's Compensation Fund. As a result, the plaintiffs' claims against these defendants were dismissed with prejudice. Though not a party to this earlier settlement, BRGMC now argues it should not be responsible for these previously reimbursed special damages.

Imperative to BRGMC's argument regarding special damages are the Medicare lien and the proof of satisfaction of the lien, neither of which were admitted into evidence. In fact, the trial court excluded evidence regarding amounts paid by Medicare and the amount paid by settling parties prior to trial. (Vol. 8, R. 1679). While the Medicare lien and the lien satisfaction letter were ultimately proffered, BRGMC failed to assign as error the trial court's ruling to exclude this evidence. (Vol. 8, R. 1743). Without briefing, assigning error to, or otherwise mentioning the trial court's evidentiary rulings regarding the Medicare lien and the lien satisfaction letter, any potential issues or errors related thereto are deemed abandoned and the trial court's exclusion of this evidence stands. See **Frandria v. Holden**, 2020-0410 (La. App. 1st Cir. 12/30/20), 319 So.3d 332, 337-38, writ not considered, 2021-00692 (La. 9/27/21), 324 So.3d 102; see also Rule 2-12.4(B)(4), Uniform Rules of Louisiana Courts of Appeal (requiring that all assignments of error be briefed and permitting appellate courts to consider as abandoned any assignment of error which has not been briefed). Without being able to consider the Medicare lien and the lien satisfaction letter, BRGMC's argument that it should not be required to pay this portion of special damages because it would result in a double recovery fails. See **Albert v. Farm Bureau Ins. Co.**, 2005-2496 (La. 10/17/06), 940 So.2d 620, 622 ("Louisiana law does not allow for double recovery of the same element of damages.") There is simply no proof in the record that payment was made for any portion of the medical expenses claimed by Mr. Laporte to support BRGMC's argument; therefore, we pretermit this issue. Accordingly, we affirm the special damage award.

CONCLUSION

For the foregoing reasons, the trial court's July 3, 2024 judgment, rendered in favor of plaintiffs/appellees, Thomas Laporte and Linda Laporte, and against defendant/appellant, Baton Rouge General Medical Center, is affirmed. All costs of this appeal are assessed to Baton Rouge General Medical Center.

AFFIRMED.