

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RAYMOND VEILLEUX, ET AL.,)
)
) Plaintiffs
v.) Civ. No. 97-CV-9-B
)
NATIONAL BROADCASTING)
COMPANY, INC., ET AL.,)
)
) Defendants

ORDER AND MEMORANDUM OF DECISION

BRODY, District Judge

Defendants, National Broadcasting Company, Inc. (“NBC”), Alan Handel, and Fred Francis, move for judgment as a matter of law or, in the alternative, for remittitur or a new trial, following a jury verdict finding them liable for defamation, invasion of privacy, negligent and fraudulent misrepresentation, negligent infliction of emotional distress, and loss of consortium, and awarding Plaintiffs, Raymond Veilleux, Kelly Veilleux, and Peter Kennedy, a total of \$525,000.

In their Motion for Judgment as a Matter of Law, Defendants restate legal and factual arguments made in their motion for summary judgment, their motions in limine, their motion for judgment as a matter of law made at the close of Plaintiffs’ case, and at trial. The Court rejects these arguments for the reasons previously stated in its Summary Judgment Order and elsewhere on the record. As for the sufficiency of the evidence, the Court is persuaded that, viewing the trial evidence in a light most favorable to Plaintiffs and drawing all justifiable inferences in their

favor, there is a legally sufficient basis on which a reasonable jury could have rendered the verdict that this jury did. See Latremore v. Latremore, 584 A.2d 626, 630 (Me. 1990).

Defendants' Motion for Judgment as a Matter of Law is therefore DENIED.

In their Motion for Remittitur or New Trial, Defendants argue that the \$525,000 award for compensatory damages is excessive and should be reduced or a new trial ordered. The Jury awarded Raymond Veilleux \$150,000 for pecuniary losses, \$50,000 for physical and emotional injury, and \$100,000 for injury to reputation. The Jury also awarded Kelly Veilleux \$50,000 for loss of consortium and Peter Kennedy \$100,000 for physical injury and emotional distress and \$75,000 for injury to reputation.

In the ordering of a remittitur pursuant to the directive of Rule 59(a) M. R. Civ. P., the presiding Justice must not purport to act as a fact-finder and substitute his judgment for that of the jury as to the amount of damages which is proper. Rather, the function of the remittitur is to remove the unlawful excess in the jury's award, that is, the amount which, in light of all the evidence, is in excess of the bounds of rationality and is, therefore, erroneous as a matter of law.

Nyzio v. Vaillancourt, 382 A.2d 856, 861 (Me. 1978). An award will be disturbed "only when it is plain that there is no rational basis upon which the amount of the award may be supported."

Hood v. Mercier, 523 A.2d 572, 574 (Me. 1987). "Nevertheless, 'it is well settled law that damages are not recoverable when uncertain, contingent, or speculative.'" Id. (quoting Jamshidi v. Bowden, 366 A.2d 522, 524 (Me. 1976)). Damages may not "'rest wholly on surmise and conjecture.'" Id. (quoting Jamshidi, 366 A.2d at 524). Viewing the evidence in a light most favorable to Plaintiffs, Saunders v. Van Pelt, 497 A.2d 1121, 1126 (Me. 1985), the Court must "examine the record to determine whether the jury's award exceeds the limit of evidentiary support." Phillips v. Eastern Maine Medical Center, 565 A.2d 306, 309 (Me. 1989).

The Court is persuaded, after thoroughly examining the record, that the compensatory damages award is rationally supportable and not excessive when the evidence is viewed in a light most favorable to Plaintiffs. Defendants' Motion for Remittitur or, in the Alternative, New Trial is therefore likewise DENIED.

SO ORDERED.

MORTON A. BRODY
United States District Judge

Dated this 31st day of August, 1998.