

246 A.D.3d 956
Supreme Court, Appellate Division.
Second Department, New York.

Beverly QUENTIN, respondent,

v.

Grannell E. KNOX, appellant.

2025-02109

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(Index No. 57868/20)

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Argued—January 29, 2026

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February 18, 2026

Synopsis

Background: Niece commenced action, pursuant to Child Victims Act (CVA), against her paternal uncle, alleging that uncle repeatedly sexually abused her as a child. Following jury trial on issue of liability, wherein jury found that there was sexual contact between parties when niece was under age of 14, and jury trial on issue of damages, wherein jury awarded niece sums of \$3 million for past pain and suffering, \$1 million for future pain and suffering, and \$1 million for punitive damages, the Supreme Court, Westchester County, Helen M. Blackwood, J., denied uncle's motion to set aside jury verdict and for new trial on issue of liability, or, in the alternative, to set aside, as excessive, the verdict on the issue of damages, and issued judgment in favor of niece in principal sum of \$5 million. Uncle appealed.

The Supreme Court, Appellate Division, held that jury's award of \$1 million in punitive damages was not excessive.

Affirmed.

Attorneys and Law Firms

Bryant & Pipenger, LLP, Mineola, NY (Matt Bryant of counsel), for appellant.

Law Offices of Francis X. Young, PLLC, White Plains, NY, for respondent.

COLLEEN D. DUFFY, J.P., PAUL WOOTEN, JANICE A. TAYLOR, PHILLIP HOM, JJ.

****641** DECISION & ORDER

***956** In an action to recover damages for personal injuries, the defendant appeals from a judgment of the Supreme Court, Westchester County (Helen M. Blackwood, J.), dated August 27, 2024. The judgment, upon a jury verdict in favor of the plaintiff on the issue of liability and upon a separate jury verdict on the issue of damages awarding the plaintiff the sums of \$3,000,000 for past pain and suffering, \$1,000,000 for future pain and suffering, and \$1,000,000 for punitive damages, and upon an order of the same court dated April 5, 2024, denying the defendant's motion pursuant to CPLR 4404(a) to set aside the jury verdict on the issue of liability as contrary to the weight of the evidence or in the interest of justice and for a new trial on the issue of liability or, in the alternative, to set aside, as excessive, the jury verdict on the issue of damages, is in favor of the plaintiff and against the defendant in the principal sum of \$5,000,000.

ORDERED that the judgment is affirmed, with costs.

The plaintiff commenced this action against the defendant pursuant to the Child Victims Act (CVA) (*see* CPLR 214-g), alleging, among other things, that the defendant, her paternal uncle, repeatedly sexually abused her as a child in the 1960s. After a jury trial on the issue of liability, the jury found that ***957** there was sexual contact between the plaintiff and the defendant when the plaintiff was under the age of 14. Following a trial on the issue of damages, the jury awarded the plaintiff the sums of \$3,000,000 for past pain and suffering, \$1,000,000 for future pain and suffering, and \$1,000,000 for punitive damages.

Subsequently, the defendant moved pursuant to CPLR 4404(a) to set aside the jury verdict on the issue of liability as contrary to the weight of the evidence or in the interest of justice and for a new trial on the issue of liability or, in the alternative, to set aside, as excessive, the verdict ****642** on the issue of damages. In an order dated April 5, 2024, the Supreme Court denied the defendant's motion. The court issued a judgment dated August 27, 2024, in favor of the plaintiff and against the defendant in the principal sum of \$5,000,000. The defendant appeals.

“A jury verdict may be set aside as contrary to the weight of the evidence [under CPLR 4404(a)] only if the evidence so preponderated in favor of the [moving party] that the verdict could not have been reached on any fair interpretation of the evidence” (*Pen v. Wheels, Inc.*, 231 A.D.3d 848, 848, 219 N.Y.S.3d 710 [internal quotation marks omitted]; see *Lolik v. Big V Supermarkets, Inc.*, 86 N.Y.2d 744, 746, 631 N.Y.S.2d 122, 655 N.E.2d 163). “It is for the jury to make determinations as to the credibility of the witnesses, and great deference in this regard is accorded to the jury, which had the opportunity to see and hear the witnesses” (*Angieri v. Musso*, 225 A.D.3d 43, 51, 206 N.Y.S.3d 316 [internal quotation marks omitted]; see *Bacchus v. Restaurant Depot, LLC*, 234 A.D.3d 903, 904, 227 N.Y.S.3d 152).

Here, the record provides no basis for disturbing the jury’s determination to credit the plaintiff’s testimony over that of the defendant’s testimony, and a fair interpretation of the evidence supports the jury’s finding that there was sexual contact between the plaintiff and the defendant while the plaintiff was under the age of 14 (see *Hannays v. Miskiewicz*, 240 A.D.3d 582, 584, 236 N.Y.S.3d 733). Thus, the jury’s verdict on the issue of liability was not contrary to the weight of the evidence.

“A motion pursuant to CPLR 4404(a) to set aside a verdict and for a new trial in the interest of justice encompasses errors in the trial court’s rulings on the admissibility of evidence, mistakes in the charge, misconduct, newly discovered evidence, and surprise” (*Bhim v. Platz*, 207 A.D.3d 511, 513, 172 N.Y.S.3d 54 [internal quotation marks omitted]; see *Hervey v. Northern Westchester Hosp.*, 238 A.D.3d 1117, 1118, 236 N.Y.S.3d 208). In considering such a motion, a trial judge must decide “whether substantial justice has been done” and “whether it is likely that the verdict has been *958 affected” and must rely on his or her “own common sense, experience and sense of fairness” (*Micallef v. Miehle Co., Div. of Miehle-Goss Dexter Inc.*, 39 N.Y.2d 376, 381, 384 N.Y.S.2d 115, 348 N.E.2d 571 [internal quotation marks omitted]; see *Hervey v. Northern Westchester Hosp.*, 238 A.D.3d at 1118, 236 N.Y.S.3d 208). On appeal, “this Court is invested with the power to decide whether the trial court providently exercised its discretion” (*Yu v. New York City Health & Hosps. Corp.*, 191 A.D.3d 1040, 1042, 142 N.Y.S.3d 580 [internal quotation marks omitted]; see *Micallef v. Miehle Co., Div. of Miehle-Goss Dexter Inc.*, 39 N.Y.2d at 381, 384 N.Y.S.2d 115, 348 N.E.2d 571).

The defendant’s contentions regarding certain summation comments and a cross-examination question by the plaintiff’s counsel are largely unpreserved for appellate review (see *Farias-Alvarez v. Interim Healthcare of Greater N.Y.*, 166 A.D.3d 945, 947, 88 N.Y.S.3d 485; *Coma v. City of New York*, 97 A.D.3d 715, 716, 949 N.Y.S.2d 98). To the extent that the contentions are preserved, “litigants are entitled, as a matter of law, to a fair trial free from improper comments by counsel or the trial court” (*Rodriguez v. City of New York*, 67 A.D.3d 884, 886, 889 N.Y.S.2d 220; see *Fortune v. New York City Hous. Auth.*, 201 A.D.3d 705, 708, 161 N.Y.S.3d 283). “The interest of justice thus requires a court to order a new trial where comments by an attorney for a party’s adversary deprived that party of a fair trial or unduly influenced a jury” (*Rodriguez v. City of New York*, 67 A.D.3d at 885, 889 N.Y.S.2d 220; see **643 *Bacchus v. Restaurant Depot, LLC*, 234 A.D.3d at 905, 227 N.Y.S.3d 152). Here, some of the challenged conduct by the plaintiff’s counsel was improper, and we do not condone it (see *Fortune v. New York City Hous. Auth.*, 201 A.D.3d at 708, 161 N.Y.S.3d 283; *Lariviere v. New York City Tr. Auth.*, 131 A.D.3d 1130, 1132, 17 N.Y.S.3d 153). Nonetheless, the conduct was not so pervasive or prejudicial as to have deprived the defendant of a fair trial (see *Fortune v. New York City Hous. Auth.*, 201 A.D.3d at 708, 161 N.Y.S.3d 283; *Lariviere v. New York City Tr. Auth.*, 131 A.D.3d at 1132, 17 N.Y.S.3d 153).

The defendant’s contentions that the Supreme Court improperly admitted testimony regarding the plaintiff’s outcry to her mother and a college dorm mate into evidence is unpreserved for appellate review (see *People v. Darby*, 196 A.D.3d 643, 644, 148 N.Y.S.3d 380; *Burke v. Carrion*, 101 A.D.3d 920, 922, 957 N.Y.S.2d 243). The defendant’s contentions concerning the admission of testimony regarding his failure to respond to a phone call and the court’s response to a jury note asking for a readback of that testimony are also unpreserved for appellate review (see *Torres v. Hickman*, 162 A.D.3d 821, 823, 79 N.Y.S.3d 62; *Burke v. Carrion*, 101 A.D.3d at 922, 957 N.Y.S.2d 243).

“The amount of damages to be awarded to a plaintiff for personal injuries is a question for the jury, and its determination *959 will not be disturbed unless the award deviates materially from what would be reasonable compensation” (*Wynter v. Transdev Servs., Inc.*, 207 A.D.3d 785, 787, 172 N.Y.S.3d 460; see CPLR 5501[c]). “Since the inherently subjective nature of noneconomic awards cannot produce mathematically precise results, the reasonableness of compensation must be measured against the relevant

precedent of comparable cases” (*Liciaga v. New York City Tr. Auth.*, 231 A.D.3d 250, 255, 218 N.Y.S.3d 359 [internal quotation marks omitted]). “Although prior damage awards in cases involving similar injuries are not binding upon the courts, they guide and enlighten them with respect to determining whether a verdict in a given case constitutes reasonable compensation” (*Aguilar v. Graham Terrace, LLC*, 237 A.D.3d 1149, 1151, 233 N.Y.S.3d 634 [internal quotation marks omitted]). “However, consideration should also be given to other factors, including the nature and extent of the injuries” (*Liciaga v. New York City Tr. Auth.*, 231 A.D.3d at 256, 218 N.Y.S.3d 359 [internal quotation marks omitted]; see *Fuentes v. Ingram*, 235 A.D.3d 850, 852, 228 N.Y.S.3d 260).

Here, considering the nature and extent of the injuries sustained by the plaintiff and the relevant precedent, the damages awards for past and future pain and suffering did not deviate materially from what would be reasonable compensation (see CPLR 5501[c]; *Splawn v. Lextaj Corp.*,

197 A.D.2d 479, 480–481, 603 N.Y.S.2d 41; *Breest v. Haggis*, 2023 WL 374404, *3, 2023 N.Y. Misc. LEXIS 23487 [Sup. Ct., N.Y. County, No. 161137/2017]; see also *Stines v. Sanchez*, 2025 WL 3701734, *7, 2025 U.S. Dist. LEXIS 263453 [S.D.N.Y., No. 21 Civ. 7884(DEH)(GWG)]).

Moreover, contrary to the defendant's contention, the punitive damages award was not excessive (see generally *Nardelli v. Stamberg*, 44 N.Y.2d 500, 503, 406 N.Y.S.2d 443, 377 N.E.2d 975; *Frankson v. Brown & Williamson Tobacco Corp.*, 67 A.D.3d 213, 219, 886 N.Y.S.2d 714).

The defendant's remaining contention is without merit.

DUFFY, J.P., WOOTEN, TAYLOR and HOM, JJ., concur.

All Citations

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