

ZAGONYI B. TUNGATE

v.

WILLIAM D. GARDNER JR.

Submitted on Briefs November 25, 2003
Decided December 5, 2003

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, CALKINS, and
LEVY, JJ.

MEMORANDUM OF DECISION

Zagonyi B. Tungate appeals from a judgment entered in the Superior Court (Cumberland County, *Cole, J.*) based on a jury verdict awarding her \$10,000 on her negligence claim against William D. Gardner Jr. Contrary to Tungate's contentions, a new trial was not warranted because the award is supported by credible evidence and there is no indication in the record that the jury acted improperly in determining the amount of damages, *McLellan v. Morrison*, 434 A.2d 28, 30 (Me. 1981); the court did not err regarding the actions of opposing counsel, including its decision to permit opposing counsel to ask leading or

suggestive questions, M.R. Evid. 611(c) (permitting leading questions during cross-examination). Finally, a claim of ineffective assistance of counsel, which arises from the Sixth Amendment and the Due Process Clauses of the United States Constitution, is available to criminal defendants, not civil litigants, *see Aldus v. State*, 2000 ME 47, ¶ 15, 748 A.2d 463, 468; *Strickland v. Washington*, 466 U.S. 668, 684-86 (1984).

The entry is:

Judgment affirmed.

For the plaintiff:

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