

DAVID WEIR

v.

ONEBEACON INSURANCE COMPANY

Argued September 14, 2005
Decided October 6, 2005

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

MEMORANDUM OF DECISION

OneBeacon Insurance Company appeals from an order entered in the Superior Court (Cumberland County, *Warren, J.*) denying OneBeacon's motion for judgment as a matter of law following a jury verdict in favor of David Weir and a judgment against OneBeacon in the amount of \$300,000, the limit of Weir's uninsured motorist policy. Contrary to OneBeacon's contentions, the court did not err in admitting the testimony of the plaintiff's expert. *See Searles v. Fleetwood Homes of Pa., Inc.*, 2005 ME 94, ¶ 24, 878 A.2d 509, 516 (holding that a trial court's decision to admit expert testimony, if there is a proper foundation, "is a

matter of discretion”); *State v. Irving*, 2003 ME 31, ¶ 11, 818 A.2d 204, 207 (noting that the admissibility of expert testimony is controlled by the relevance of the testimony and whether the testimony will assist the fact-finder in determining a contested fact or in understanding the evidence). Additionally, the court did not err in instructing the jury on damages. *See Wheeler v. White*, 1998 ME 137, ¶ 6, 714 A.2d 125, 127 (reviewing jury instructions as a whole and considering their potential for juror misunderstanding); *see also Goldstein v. Sklar*, 216 A.2d 298, 309 (Me. 1966) (stating that a jury could conclude “that the plaintiff’s [work] was dependent upon his personal efforts and that it practically stopped when he did, and that his estimates of loss were not pure fiction or fantasy but were factually grounded”).

The entry is:

Judgment affirmed.

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