

BRUCE MERCHANT

v.

EASTERN MAINE MEDICAL CENTER et al.

Submitted on Briefs March 29, 2007

Decided April 26, 2007

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

MEMORANDUM OF DECISION

Bruce Merchant appeals from a judgment entered in the Superior Court (Penobscot County, *Hjelm, J.*) for Eastern Maine Medical Center and Thyssenkrupp Elevator Corporation. Contrary to Merchant's contentions: (1) the court did not abuse its discretion in refusing to allow an employee of EMMC to testify regarding an admission made by Thyssenkrupp, because the witness lacked personal knowledge as required by M.R. Evid. 602; (2) even if the court erred in excluding the testimony of Merchant's physician, such error was harmless and did not affect the verdict because the physician's testimony related to causation, and the jury found that EMMC and Thyssenkrupp were not negligent, *see State v. DeMass*, 2000 ME 4, ¶ 17, 743 A.2d 233, 237; *see also Phillips v. E. Me. Med. Ctr.*, 565 A.2d 306, 308 (Me. 1989); and (3) the presiding justice did not abuse his

discretion in declining to recuse himself despite his past professional contacts with Merchant and his relatives, *see Estate of Dineen*, 1998 ME 268, ¶ 8, 721 A.2d 185, 188. Because we affirm the judgment, we do not reach EMMC's and Thyssenkrupp's claims that the court erred in denying their motions for judgment as a matter of law.

The entry is:

Judgment affirmed.

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