

LISA A. JOHNSTON

v.

CITY OF LEWISTON

Submitted on Briefs October 2, 2008

Decided October 23, 2008

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, and MEAD, JJ.

MEMORANDUM OF DECISION

Lisa A. Johnston appeals from a judgment entered in the Superior Court (Androscoggin County, *Gorman, J.*) pursuant to a jury verdict. Johnston contends that the Superior Court committed reversible error when it instructed the jury that she had to prove future damages for earning capacity and pain, suffering and loss of enjoyment of life to a reasonable certainty. Johnston argues that although the court generally instructed the jury to use the preponderance of the evidence standard, the court created confusion by adding the “reasonable certainty” language with respect to future damages. Jury instructions amount to reversible error only when the error is prejudicial, and the instructions must be reviewed in their entirety to determine prejudice. *Adamatic v. Progressive Baking Co.*, 667 A.2d 871, 874 (Me. 1995). Any error made by the court in instructing the jury did not prejudice Johnston and was therefore harmless. *See Wheeler v. White*, 1998 ME 137, ¶ 6, 714 A.2d 125, 127.

The entry is:

Judgment affirmed.

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