IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

SHEILA KRABACHER, Plaintiff-Appellee, vs. ABUBAKAR ATIQ DURRANI, M.D., and CENTER FOR ADVANCED SPINE TECHNOLOGIES, INC., Defendants-Appellants.,	:	APPEAL NO. C-250113 TRIAL NO. A-1601533

ERIN GREELISH, Plaintiff-Appellee, vs. ABUBAKAR ATIQ DURRANI, M.D., and CENTER FOR ADVANCED SPINE TECHNOLOGIES, INC., Defendants-Appellants.	:	APPEAL NO. C-250520 TRIAL NO. A-1601539 *JUDGMENT ENTRY*

Theis cause was heard upon the appeals, the record, the briefs, and arguments.

For the reasons set forth in the Opinion filed this date, the judgments of the trial court are affirmed in part and reversed in part, and the cause is remanded.

Further, the court holds that there were reasonable grounds for these appeals, allows no penalty, and orders that costs be taxed 50% to Appellants and 50% to Appellees.

The court further orders that (1) a copy of this Judgment with a copy of the Opinion attached constitutes the mandate, and (2) the mandate be sent to the trial court for execution under App.R. 27.

To the clerk:

Enter upon the journal of the court on 8/28/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: Jennifer Hensley

Administrative Judge

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Civil Appeals From: Hamilton County Court of Common Pleas

Judgments Appealed From Are: Affirmed in Part, Reversed in Part, and Cause Remanded

Date of Judgment Entry on Appeal: August 28, 2026

Statman Harris, LLC, *Alan J. Statman* and *Benjamin M. Maraan*, *II,* for Plaintiffs-Appellees,

Taft Stettinius & Hollister LLP, Philip D. Williamson, Aaron M. Herzig, Russel S. Sayre and *Elise L. Marrinan*, for Defendants-Appellants.

MOORE, Judge.

{¶1} Defendants-appellants Dr. Abubakar Atiq Durrani and the Center for Advanced Spine Technologies, Inc., ("CAST") (collectively, "Durrani"), appeal the Hamilton County Court of Common Pleas' judgments entered in favor of plaintiffs-appellees Sheila Krabacher and Erin Greelish.[1] Of Durrani's four assignments of error, only Durrani's argument as it relates to their entitlement to a setoff is meritorious.

I. Factual and Procedural History

{¶2} Greelish and Krabacher both initially filed claims against Durrani in Butler County, but dismissed their actions, and refilled in Hamilton County. Once in Hamilton County, the plaintiffs sought to consolidate their cases for the purpose of trial, and despite objections from Durrani, the court in its revised joint-trial schedule consolidated the cases for trial.

A. Trial Testimony

{¶3} Greelish testified that she was 34 years old when pain forced her to stop working. Greelish complained of a host of issues, including headaches, dizziness, vertigo, neck pain, pain throughout her middle and upper back, as well as pain in her left leg and numbness in both legs. Greelish had previously been diagnosed with several conditions, including Ehlers-Danlos Syndrome ("EDS"), a genetic disorder that causes the body's muscles to become excessively relaxed, resulting in hyper flexibility. Greelish testified that during her initial consultation with Dr. Durrani, he identified that her EDS was causing issues with her cervical spine and that a surgical fusion was her only hope for relief. Greelish claimed that Dr. Durrani warned her that if she chose not to pursue surgery, and she ever fell down or was involved in any sort

[1] We sua sponte consolidate these separate appeals into a single opinion and judgment.

of accident, she risked either internal decapitation[2] or external decapitation, either of which could result in her death or paralysis.

{¶4} Greelish underwent two surgeries with Dr. Durrani, both procedures along her cervical spine. Neither procedure provided Greelish with lasting relief. Greelish testified that she has refrained from starting a pain-management regiment out of fear of becoming addicted, but that she remains in a great state of pain.

{¶5} Krabacher visited with Dr. Durrani complaining of intensifying pain in her neck and back. During her initial visit, Dr. Durrani diagnosed Krabacher with EDS, and noted that Krabacher was hypermobile, a conclusion that Krabacher took issue with, stating that she has never been hypermobile. Krabacher testified that Dr. Durrani warned her that her C1-C2 vertebrae were pressing against her thecal sac and that without surgical intervention, she would become paralyzed or die. Krabacher recalled that Dr. Durrani insisted that surgery was the only option, and that noninvasive care was never discussed. Ultimately, Krabacher agreed to surgery along her C1-C2 vertebrae. Both Krabacher's CAST and UC Health informed-consent forms listed the planned procedure as a C1-C2 fusion.

{¶6} However, Dr. Durrani deviated from this procedure. Krabacher testified that when she awoke, Dr. Tayeb told her that Dr. Durrani inadvertently shattered her C1 and C2 vertebrae mid-operation. As a result, Dr. Durrani fused and installed hardware along other portions of Krabacher's cervical spine. Krabacher complained

[2] *See* Andrei Fernandes Jaquim, et al., *Traumatic Atlanto-Occipital Dislocation – A Comprehensive Analysis of All Case Series Found in the Spinal Trauma Literature* (2021), https://www.ijssurgery.com/content/ijss/15/4/724.full.pdf (accessed Aug. 11, 2026) (Traumatic atlanto-occipital dislocation is also known as internal decapitation.) [https://perma.cc/6RTH-7MR3]; *see also* Graham C. Hall, et al., *Atlanto-Occipital Dislocation* (Mar. 18, 2015), https://pmc.ncbi.nlm.nih.gov/articles/PMC4363805/pdf/WJO-6-236.pdf (accessed Aug. 11, 2026) (Internal decapitation results from the ligaments and bony structures of the skull and cervical spine disconnecting from one another.) [https://perma.cc/S32G-9CJU].

that the hardware greatly limited her head's mobility.

{¶7} Like Greelish, Krabacher's pain continued following surgery. Despite this, Krabacher agreed to two more surgeries, along the L5-S1, C3-C4, and C5-C6 vertebrae. After her second surgery, Krabacher complained she could hear "grinding" and "popping" noises coming from her neck. Following her third surgery, Krabacher consulted with Dr. Husa, who stated that "there are no signs of all imaging made available to me" that Dr. Durrani's surgeries were warranted. Krabacher then visited Dr. Greiner who removed the hardware along her cervical spine. Krabacher testified that her pain decreased following the corrective procedure.

{¶8} Plaintiffs called Dr. Stephen Bloomfield, a neurosurgeon, and Dr. Ranjiv Saini, a neuroradiologist, to testify. The plaintiffs also read Dr. Zeeshan Tayeb's deposition testimony into the record. Dr. Bloomfield's testimony as it relates to future medical procedures is material to this appeal. Dr. Bloomfield testified that it was reasonably likely that both plaintiffs would suffer from junctional syndrome, a condition in which segments of the back near the fusion site experience accelerated degeneration as an adverse side effect of the unnecessary surgical fusions Dr. Durrani performed. Dr. Bloomfield mentioned that the cost of the surgery would be comparable to Greelish's C5-C6 surgery and Krabacher's other surgeries. Greelish's billing breakdown stated that her C5-C6 surgery cost $150,000. Krabacher's three surgeries cost $35,953, $51,229, and $102,357.55.

{¶9} Durrani called Dr. Derk Purcell, a neuroradiologist, and Dr. Paul Edward Kaloostain, a neurosurgeon, to testify. Dr. Purcell only testified about Durrani's care of Greelish. Both doctors testified that Dr. Durrani's treatment did not breach the standard of care.

{¶10} At the close of trial, the jury found for both Greelish and Krabacher.

Material to this appeal is the jury's award for future medical damages. The jury awarded Krabacher $120,000, and Greelish $100,000 in future medical damages.

{¶11} Durrani filed a motion for judgment notwithstanding the verdict ("JNOV"), and in the alternative, a motion for a new trial. The arguments raised alleged that the absent-defendant instruction directed the jurors to draw negative inferences based on Dr. Durrani's absence, Dr. Tayeb's deposition testimony was improperly admitted, the court erred in consolidating the cases, plaintiffs failed to put forth sufficient evidence to support the future-medical-damages awards, and that the court's cumulative errors deprived Durrani of a fair trial.

{¶12} The court denied Durrani's JNOV and new trial motion. On the issue of Dr. Tayeb's testimony, the court noted that while the testimony was improperly admitted, it was harmless. The court noted that the jury's interrogatories did not quote or give any indication that the jury relied on the improperly admitted testimony. As for future medical damages, the court concluded that there was sufficient evidence to support the jury's awards.

{¶13} The court held a hearing on plaintiffs' motion for prejudgment interest. At the hearing, the court heard plaintiffs' claims that they each demanded $1 million before reducing their request to $500,000, and in this case, plaintiffs offered to settle for $500,000 each on the morning of voir dire. The court found that in June 2024, Med Pro, Durrani's insurer, made a global offer of $4 million for the remaining 400 plaintiffs. Following the hearing, the court granted plaintiffs' motion for prejudgment interest. In support, the court found that plaintiffs offered to settle, that Durrani failed to make a counter offer in this case, that the global settlement offer that was extended was an amount far lower than what they would have received had each plaintiff proceeded to trial, and that plaintiffs' attorneys had won 81 percent of cases against

Durrani.

{¶14} This appeal followed.

II. Analysis

{¶15} Durrani raises four assignments of error on appeal. First, Durrani argues that the court's consolidation of these cases for trial was erroneous and presented a reversible error. Second, Durrani argues the court erred in denying its JNOV motion based on alleged trial errors. Third, Durrani argues that the court's denial of its JNOV as it relates to future medical damages and Durrani's entitlement to a setoff was erroneous. Fourth, Durrani disputes the court's award of prejudgment interest to plaintiffs. We address these in turn.

A. Joinder

{¶16} Durrani argues that the court erred in joining these cases for trial. In light of the majority's opinion in *Wilson v. Durrani*, 2026-Ohio-2279, ¶ 51-52, 84 (1st Dist.), Durrani's contention is correct that joinder was improper, but the joinder was harmless.[3]

{¶17} We review a court's denial of a new-trial motion for improper joinder for an abuse of discretion. *Weisman v. Durrani*, 2026-Ohio-2639, ¶ 78 (1st Dist.), citing *Ravenscraft v. Durrani*, 2025-Ohio-2900, ¶ 95 (1st Dist.).

{¶18} Civ.R. 42(A) governs the joinder of trials. Causes may be joined where they involve "a common question of law or fact." The majority in *Wilson* defined a common question of law as a question of law that can be resolved for all parties all at once, that the question must relate to the defendant's liability, and that the answer

[3] While acknowledging my dissent in *Wilson*, the majority obviously did not adopt my reasoning. *Wilson* is now the law of this court and is therefore followed for purposes of determining the instant appeal, my disagreement with that opinion notwithstanding. *See Wilson* at ¶ 95-125 (Moore, J., dissenting).

must be the same across all the consolidated cases. *Wilson* at ¶ 57.

{¶19} Similarly, the *Wilson* majority held that a common question of fact exists when common factual questions material to the merits of the cases are capable of uniform resolution. *Wilson*, 2026-Ohio-2279, at ¶ 68 (1st Dist.). It is not enough that the cases contain common allegations or an overlap of insignificant facts. *Id.* The Court in *Kleines v. Dir. of Hwys.,* 38 Ohio St.2d 317, 320 (1974), underscored this nuance. The Court noted that while common factual questions existed amongst the plaintiffs as to whether they were related, consolidation was improper because these common questions were immaterial to the disposition of the case. *Wilson* at ¶ 68, citing *Kleines* at 320; *see Wheeler v. Durrani*, 2026-Ohio-2475, ¶ 87 (1st Dist.) (holding that there may be common facts between cases, but that does not mean that the cases "present a common question of fact or law to be answered.").

{¶20} If we determine that a court's joinder of cases constituted an abuse of discretion, we must next assess whether the court's joinder was harmless and ask whether the appellants suffered prejudice that would entitle them to a new trial. *Id* at ¶ 85; *see Weisman*, 2026-Ohio-2639, at ¶ 86 (1st Dist.). Civ.R. 61 provides that courts must disregard any error or defect by the trial court as grounds for a new trial unless refusing such relief is "inconsistent with substantial justice." *Id.* "To find that substantial justice has not been done, a court must find (1) errors and (2) that without those errors, the jury probably would not have arrived at the same verdict." *Hayward v. Summa Health Sys.*, 2014-Ohio-1913, ¶ 25. We are "bound by the disclosures of the record" when determining whether prejudicial error exists. *Id.*

{¶21} The court's consolidation of plaintiffs' cases was improper. Plaintiffs failed to raise a common legal question capable of uniform resolution in their cases. Plaintiffs' claims against Durrani for negligence, battery, lack of informed consent, and

fraud were premised upon individualized facts and were therefore incapable of uniform resolution. Common allegations against a defendant are not enough to be a common question of law. *Wilson* at ¶ 66. Likewise, no common piece of evidence could answer whether the plaintiffs needed surgery or whether Dr. Durrani's performance of the plaintiffs' surgeries breached the standard of care. Because there was no common question between Krabacher's and Greelish's cases, the court abused its discretion in consolidating these cases for trial.

{¶22} However, the court's improper consolidation was harmless. Durrani identifies two instances at trial in which the consolidation of plaintiffs' cases potentially prejudiced Durrani's defense. In one instance, plaintiffs' counsel asked Dr. Bloomfield to compare Greelish's and Krabacher's consent forms. Another instance involved plaintiffs' counsel in closing arguments emphasizing to the jury that Dr. Purcell only testified in Greelish's case and not Krabacher's. Both references are harmless. When considering both alleged errors, they amount to little more than an off-hand remark in closing arguments and an improper directive by plaintiffs' counsel for an expert to compare informed-consent forms. Neither the jury's interrogatories nor any other evidence in the record reflect that but for these remarks at trial, the jury likely would not have reached the same conclusion. Therefore, we conclude that these errors were harmless.

{¶23} Durrani also notes that plaintiffs' punitive-damages awards were identical. This court has held that identical punitive-damages awards were unremarkable where Dr. Durrani's representations, diagnoses, and operating without plaintiffs' informed consent were common for both patients. *Ravenscraft*, 2025-Ohio-2900, at ¶ 90 (1st Dist.).

{¶24} Therefore, any error in the consolidation of these trials was harmless

and not a valid basis for awarding Durrani a new trial. Accordingly, Durrani's first assignment of error is overruled.

B. Trial Errors

{¶25} In their second assignment of error, Durrani argues that the court should have granted their JNOV motion, or in the alternative, new-trial motion, based on alleged errors at trial.

{¶26} Our standard of review varies based on the motion. We review a court's denial of a JNOV motion de novo. *Courtney v. Durrani*, 2025-Ohio-2335, ¶ 61 (1st Dist.), citing *Hounchell v. Durrani*, 2023-Ohio-2501, ¶ 30 (1st Dist.). However, we review a court's decision on a new-trial motion for an abuse of discretion. *Id.*, citing *Hounchell* at ¶ 31.

{¶27} Durrani contends that they were entitled to a new trial based on three principal issues: that the court erred when it permitted Dr. Tayeb's deposition transcript to be read before the jury because it was hearsay, that the court's issued absent-defendant instruction was prejudicial, and that the trial court's errors had the cumulative effect of tipping the scales in plaintiffs' favor. We address these arguments in turn.

1. Dr. Tayeb's Testimony

{¶28} Durrani argues that Dr. Tayeb's testimony contained prejudicial hearsay testimony. Dr. Tayeb's testimony made references to remarks allegedly made by Dr. Durrani to patients, promising that he would fix them, and without surgery, they risked paralysis, or worse, that their heads would fall off. The court admitted these remarks under the hearsay exception contained within Evid.R. 803(21) for remarks establishing the subject's reputation in the community.

{¶29} In *Weisman*, 2026-Ohio-2639, at ¶ 96 (1st Dist.), we considered a

similar challenge to Dr. Tayeb's testimony. We emphasized that for evidence to be admitted going towards a defendant's reputation, "the proper foundation must be laid establishing that the witness had the means of knowing the [subject's] reputation." *Id.* at ¶ 95. "It is not enough that such testimony be based upon what some or a few others have said regarding the reputation of the [subject]" as "[m]ere rumors are not reputation because reputation involves a notion of the general estimate of a person by the community as a whole. Reputation is not what a few persons say or may think about the party in question; rather, it is what the community generally believes." *Id.*, quoting *State v. Collins*, 1987 Ohio App. LEXIS 8045, *19 (12th Dist. July 27, 1987).

{¶30} Here, like in *Weisman*, Dr. Tayeb's testimony was improperly admitted. Plaintiffs failed to lay a foundation establishing Dr. Durrani's reputation or elicit testimony of what the community thought of Dr. Durrani. Both in the case sub judice and in *Weisman*, the plaintiffs relied on Dr. Tayeb's testimony that Dr. Durrani employed scare tactics to encourage his patients to agree to surgery. This testimony at best captured Dr. Tayeb's opinion, and not that of the community. *Id.* at ¶ 96.

{¶31} Accordingly, the court erred in permitting Dr. Tayeb's testimony to be read to the jury.

2. The Absent-Defendant Instruction

{¶32} Durrani asserts that the court's absent-defendant instruction was prejudicial. This challenge concerns an instruction identical to the instruction in *Jones v. Durrani*, 2024-Ohio-1776 (1st Dist.), and argues that the *Jones* instruction is incongruous with our holding addressing an improper absent-defendant instruction given in *Hounchell*, 2023-Ohio-2501 (1st Dist.).

{¶33} However, in *Weisman*, 2026-Ohio-2639, at ¶ 120-126 (1st Dist.), we recently resolved an identical challenge to both arguments. In *Weisman*, we noted that

the *Jones* instruction has been considered in several other cases before this court, and in each case, we held that while the instruction was erroneous, the error was harmless, and it was therefore not a reversible error. *Id.* at ¶ 121.

{¶34} The *Weisman* court also put to bed the argument that *Jones* conflicts with *Hounchell* because the instructions were erroneous for different reasons. *Id.* at ¶ 125. The instruction in *Hounchell* permitted the jury to draw impermissible inferences, whereas in *Jones* the instruction was improper because it "was not permissible nor limited to evidence that would naturally be produced." *Id.*; *see Hounchell* at ¶ 69-70; *Jones* at ¶ 34. While the *Jones* instruction was erroneous, we also noted that the general-inference instruction as well as the court's directive that whether the jury makes an inference is within the jury's discretion, did not render the jury instruction in *Jones* misleading. *Id.*, citing *Jones* at ¶ 37. We reach the same conclusion as in *Weisman* and hold that the given absent-defendant instruction does not constitute a reversible error and reject Durrani's argument that *Jones* and *Hounchell* are in conflict. *Id.* at ¶ 126.

3. Cumulative Error

{¶35} Durrani argues that the cumulative effect of the trial court's evidentiary errors was not harmless and that Durrani is entitled to a new trial. Specifically, Durrani argues that the absent-defendant instruction and Dr. Tayeb's testimony presented a "one-two punch" and constituted cumulative error. Durrani's argument does not include their erroneous joinder claim.

{¶36} An improper evidentiary ruling may only rise to the level of reversible error when the error affects the substantial rights of the adverse party. *Weisman*, 2026-Ohio-2639, at ¶ 128 (1st Dist.), quoting *Beard v. Meridia Huron Hosp.*, 2005-Ohio-4787, ¶ 35. Whether an error was so prejudicial to have affected the substantial

rights of a party turns on whether the jury would have reached the same conclusion had the error not occurred. *Id.*, citing *Bender v. Durrani*, 2024-Ohio-1258, ¶ 93 (1st Dist.). We have recognized that the cumulative-error doctrine is a valid basis for relief in the civil context. *Setters v. Durrani*, 2020-Ohio-6859, ¶ 60 (1st Dist.).

{¶37} If we were to only consider the arguments in Durrani's briefs that the court committed cumulative error, then Durrani's argument fails. Per our analysis, the absent-defendant instruction did not constitute reversible error and was harmless. Thus, we are left to determine whether, but for Dr. Tayeb's improper testimony, the jury would have reached the same conclusion. Dr. Tayeb's assertions that Dr. Durrani would tell patients that he could fix them, and that they risked paralysis or decapitation without surgery were remarks both Krabacher and Greelish testified to. It has long been recognized that the admission of inadmissible testimony may be harmless when the evidence was cumulative of other properly admitted testimony. *See Kelley v. Horton*, 2025-Ohio-5252, ¶ 25 (1st Dist.); *State v. Conway*, 2006-Ohio-2816, ¶ 8.

{¶38} This case is dissimilar to *Densler v. Durrani*, 2024-Ohio-14, ¶ 19-20 (1st Dist.), where we held that Dr. Tayeb's improperly admitted testimony constituted a reversible error. In *Densler*, we concluded that because the jury's answers to the interrogatories only referenced testimony offered by Dr. Tayeb, the jury relied on improperly admitted evidence in deciding the case, and we could not discern that but for the improperly admitted testimony, the jury would have reached the same conclusion. *Id.* Here, the jury's findings were different. In each respective plaintiff's case, the jury specifically found that Dr. Durrani was negligent because he failed to exercise reasonable diligence by not pursuing conservative care, and by not conferring with additional medical professionals to resolve conflicting interpretations in the

plaintiffs' imaging. The jury's findings did not make specific reference to Dr. Tayeb's testimony as was the case in *Densler*. *Id.* Based on this record, we cannot say that the harmless errors present at trial had the pervasive effect of denying Durrani a fair trial.

{¶39} Even if Durrani had included the issue of joinder within their cumulative-error argument, Durrani's cumulative-error argument would have failed. As mentioned in our joinder analysis, plaintiffs' comments in closing arguments emphasizing that Dr. Purcell testified about Greelish but not Krabacher, paired with plaintiffs' request that Dr. Bloomfield compare Greelish's and Krabacher's informed-consent forms, when considered in concert with the court's erroneous admission of Dr. Tayeb's testimony, do not have the cumulative effect of denying Durrani a fair trial.

{¶40} When reviewing the weight of the potential prejudice of these errors, we cannot say that but for the errors identified by Durrani, the jury probably would have reached a different conclusion. Accordingly, Durrani's second assignment of error is overruled.

C. Damages

{¶41} In his third assignment of error, Durrani argues that the court erred when it denied his JNOV motion as it relates to damages. Durrani argues that the jury's future-medical-damages award was not supported by the record, and that they were entitled to a setoff.

1. Future Medical Damages

{¶42} Durrani argues that there was insufficient evidence in the record to support the jury's award of $100,000 to Greelish and $125,000 to Krabacher. Durrani insists that the jury relied on speculative evidence and that the plaintiffs are not currently planning on any treatment in the future.

{¶43} "A plaintiff's claim for future medical expenses must be supported by

evidence that reasonably established the amount to be incurred in the future." *Potts v. Durrani*, 2023-Ohio-4195, ¶ 58 (1st Dist.), quoting *Setters*, 2020-Ohio-6859, at ¶ 40 (1st Dist.). Evidence in support must demonstrate reasonably certain costs and cannot be purely speculative. *Boggs v. Durrani*, 2026-Ohio-210, ¶ 94 (1st Dist.), citing *Bender*, 2024-Ohio-1258, at ¶ 136 (1st Dist.), citing *Setters* at ¶ 40.

{¶44} In *Puckett-Morrissette v. Durrani*, 2026-Ohio-1444, ¶ 39-40 (1st Dist.), we considered *Waller v. Phipps*, 2001 Ohio App. LEXIS 4119 (1st Dist. Sept. 14, 2001), a case where a future-medical-damages award was not supported by sufficient evidence.

> In *Waller*, we held that absent expert projection of expected costs and testimony regarding specific future course of treatment, there is insufficient evidence to support the jury's award of future medical expenses. [*Waller* at *12-13]. Future medical expenses awards must be supported by expert testimony regarding the duration, frequency, kind of care, and costs that plaintiffs could expect in the future. *Id.* The expert in *Waller* did not offer this kind of testimony. *Id.* Therefore, we held that the future medical expenses award was not supported by sufficient evidence, and that the appropriate remedy was to vacate the award. *Id.* at *14.

Puckett-Morrissette at ¶ 31.

{¶45} Plaintiffs furnished sufficient data to support the jury's future-medical-damages awards. Dr. Bloomfield testified that it is reasonably likely that both plaintiffs will suffer from junctional syndrome, and that both plaintiffs will need future surgery. Dr. Bloomfield testified that the cost of the corrective procedures for Greelish would be comparable to the $150,000 cost of her C5-C6 fusion, and that the cost of

Krabacher's corrective procedure would be like the costs of her other procedures. Evidence in the record reflects that Krabacher's surgeries ranged in costs from $35,953 to $102,357.55. In accordance with this court's holdings in *Puckett-Morrissette* and *Waller*, plaintiffs put forth sufficient evidence to support the jury's future-damages awards for both plaintiffs. Accordingly, Durrani's challenge to the future-medical-damages awards is overruled.

2. Entitlement to a Setoff

{¶46} Durrani's contention that they are entitled to a setoff based on plaintiffs' settlements with other tortfeasors is correct. Our holding in *Fenner v. Durrani*, 2025-Ohio-4477, ¶ 121 (1st Dist.), recognized that Durrani is entitled a setoff under R.C. 2307.28(A).

{¶47} Durrani's third assignment of error is overruled in part and sustained in part. The cause is remanded to the trial court to resolve Durrani's entitlement to a setoff.

D. Prejudgment Interest

{¶48} In his fourth assignment of error, Durrani insists that the court erred in awarding plaintiffs' prejudgment interest. Durrani disputes that they acted in bad faith, based on the notion that Durrani extended a global offer in advance of trial, and that the plaintiffs' settlement offer was extended the morning of voir dire.

{¶49} We review a court's award of prejudgment interest for an abuse of discretion. *Bender*, 2024-Ohio-1258, at ¶ 151 (1st Dist.). We shall not disturb the court's judgment if there is competent and credible evidence in the record supporting its decision. *Id.*

{¶50} The court in *Boggs* considered a similar scenario, in which, following a hearing on prejudgment interest, the trial court found that each plaintiff demanded $1

million and then $500,000 on the morning of the first day of trial, and that Durrani made a global settlement offer of $4 million to the 400 remaining Durrani plaintiffs. *Boggs*, 2026-Ohio-210, at ¶ 57 (1st Dist.).

{¶51} The court's award of prejudgment interest was not an abuse of discretion because plaintiffs made a good-faith effort to settle. Like in *Boggs*, plaintiffs made two attempts at settling for $1 million and $500,000 respectively, and Durrani failed to counter these offers because of the global offer. *Id.* at ¶ 106-108. While plaintiffs' punitive and compensatory damages awards were reduced posttrial, both plaintiffs' damages awards exceeded Durrani's global offer as well as plaintiffs' revised settlement offer. As was the case in *Boggs*, competent and credible evidence supports the court's conclusion that plaintiffs attempted in good faith to settle. *Id.* at ¶ 108.

{¶52} The court's finding that Durrani acted in bad faith was also supported by the record. Like in *Puckett-Morissette*, 2026-Ohio-1444, ¶ 45-50 (1st Dist.), Durrani argues that plaintiffs' "eleventh-hour" offer was not made in good faith, but fails to mention that they did not make a good faith effort to settle. Durrani's global settlement offer of $4 million to all remaining plaintiffs would have paid approximately $10,000 each, a de minimis figure compared with what the jury awarded each plaintiff. *Id.* at ¶ 45-47. "[G]iven how low that offer was, there is nothing in the record to show that the trial court abused its discretion when it determined that Durrani did not make a good faith effort to settle." *Id.* at ¶ 49.

{¶53} Accordingly, Durrani's fourth assignment of error is overruled.

III. Conclusion

{¶54} Durrani's first, second and fourth assignments of error are overruled. Durrani's third assignment of error is sustained as it relates to Durrani's entitlement to a setoff but is overruled as it relates to the future-medical-damages award.

Judgments affirmed in part, reversed in part, and cause remanded.

NESTOR, J., concurs.

ZAYAS, P.J., concurs separately.

{¶55} I concur with the majority opinion's ultimate resolution of the issues raised in this case. However, I must concur in only the resolution of the first assignment of error. The majority opinion relies on a recently decided case from this court, *Wilson v. Durrani*, 2026-Ohio-2279 (1st Dist.), to resolve the issue of whether there was error in the joining of the trials in this case under Civ.R. 42. *Wilson* drastically departed from this court's past precedent and is still within the time frame for appeal to the Ohio Supreme Court and is currently subject to reconsideration by this court. *See* S.Ct.Prac.R. 7.01(A)(5)(a); App.R. 26. I disagree with the rationale of *Wilson* for the reasons set forth in my concurrence in *Wheeler v. Durrani*, 2026-Ohio-2475 (1st Dist.). *See Wheeler* at ¶ 136-169 (Zayas, J., concurring in part and concurring in judgment only in part). Therefore, I disagree with the majority opinion's reliance on *Wilson* here. Nevertheless, even assuming—without deciding—that the joint trial here was held in error, I concur with the majority opinion's ultimate judgment that any error in the joining of trials was harmless error. Accordingly, I concur in the court's judgment.