

STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT

04-988

MICHELLE DETRAZ

VERSUS

VICTOR LEE d/b/a/ VIRGIN NAILS

GENOVESE, J., dissenting.

I find no manifest error in the jury verdict and must respectfully disagree with the majority as to the issue of causation.

The jury's findings in this case are reasonable in light of the review of the record in its entirety. Though there are two permissible views of the evidence, the jury's choice between them cannot be considered manifestly erroneous or clearly wrong, nor is this court allowed to simply substitute its view for that of the jury. Though the jury found negligence in this case, it did not find legal causation, nor did Dr. Stewart or Dr. Daigle, the only two dermatologists who testified at trial. The majority in this case reverses a jury verdict based on the testimony of a plastic surgeon who never saw, nor treated Plaintiff's infection, who is not a dermatologist, and who did not even examine the Plaintiff until approximately seven months post infection. I respectfully dissent and would affirm the jury verdict.