

IN THE COURT OF APPEALS OF IOWA

No. 7-764 / 07-0466
Filed November 29, 2007

**JULIE A. ERICKSON, n/k/a
JULIE A. DAVIS,**
Plaintiff-Appellant,

vs.

**RAHEEL FOODS, INC., d/b/a
KENTUCKY FRIED CHICKEN,**
Defendant-Appellee.

Appeal from the Iowa District Court for Boone County, Dale E. Ruigh,
Judge.

Julie Erickson Davis appeals from the district court's damage award.

AFFIRMED.

A. Zane Blessum, Winterset, and Catherine Levine, Des Moines, for
appellant.

Mitchell Kunert of Nyemaster, Goode, West, Hansell & O'Brien, P.C., Des
Moines, for appellee.

Considered by Sackett, C.J., and Vaitheswaran and Baker, JJ.

VAITHESWARAN, J.

Julie Erickson Davis bought a sandwich from a Kentucky Fried Chicken restaurant owned by Raheel Foods, Inc. The sandwich was contaminated with a metal strand from a scouring pad. Davis sued Raheel Foods for negligence. Following a bench trial, the district court determined “KFC was negligent in failing to keep their establishment free of [the] contaminated chicken sandwich purchased by Ms. Davis” and that “such negligence was a proximate cause of damage to Ms. Davis.” The court awarded Davis the \$81.00 cost of a dental visit and \$500 for the anxiety she suffered as a result of the incident.

On appeal, Davis argues she should have been awarded more damages for past pain and suffering and past medical expenses as well as damages for future pain and suffering. In reviewing the damage issue, the district court’s fact findings bind us if supported by substantial evidence. *Claus v. Whyle*, 526 N.W.2d 519, 526 (Iowa 1994).

The district court made several pertinent findings. The court found that “on the day she bit into the KFC sandwich, Ms. Davis sought no medical care.” The court also found that Davis visited a dentist six days later and the dentist “found no physical injuries from the sandwich incident.” The court nonetheless found that Davis “suffered one or more very small abrasions to the inside of her mouth.” The court stated these abrasions “caused no long-term physical injury.” The court rejected other complaints of damage. With respect to Davis’s assertion that she developed abscesses, the court stated:

Ms. Davis attributes a great many of her past and present health difficulties to the single bite she took from the KFC sandwich She believes that chemicals from the Brillo pad in the

sandwich entered her lymphatic system and caused the sores and abscess. This belief is unsupported by any credible evidence.

With respect to her assertion that she had nightmares, anxiety, and nausea after the incident, the court stated,

The experience of biting into the chicken sandwich caused Ms. Davis some modest, short-term anxiety and anguish. Her testimony about ongoing anxiety and nausea caused by biting into the sandwich, however, is unconvincing.

These fact findings are supported by substantial evidence. The dentist who examined Davis noted that her left cheek was cut, but was "O.K. today." Approximately three months after the incident, Davis saw a physician for a routine physical examination and made no complaints about health problems related to the sandwich incident. Though Davis later complained to the same physician about anxiety, depression, and nausea, a reasonable fact-finder could have discounted these complaints in light of her failure to mention them earlier. Because there is substantial evidence to support the district court's fact findings on damages, we conclude the court did not err in only awarding \$581. We find it unnecessary to decide any remaining issues raised by Davis.

AFFIRMED.