

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 00-3024

Clarence Nice; Willa Nice,

Appellees,

v.

ZHRI, Inc., formerly known as
Reeddrill, Inc.,

Appellant.

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Appeal from the United States
District Court for the Eastern
District of Arkansas.

[UNPUBLISHED]

Submitted: April 13, 2001

Filed: April 18, 2001

Before BOWMAN and FAGG, Circuit Judges, and VIETOR,* District Judge.

PER CURIAM.

Clarence Nice was severely injured when a bolt holding the elevating cylinder of a drilling machine broke, causing the elevating cylinder to strike Nice in the face. Nice brought a products liability action against the drill's manufacturer, ZHRI, Inc. A jury awarded \$1.4 million in damages to Nice and \$100,000 to Nice's wife for loss of

*The Honorable Harold D. Vietor, United States District Judge for the Southern District of Iowa, sitting by designation.

consortium. The district court** denied ZHRI's motion for a new trial and motion to remit the damages. ZHRI appeals arguing the district court abused its discretion in admitting expert testimony that ZHRI "should have designed some type of retainer device to keep the bolt from backing out in the event of a failure." ZHRI contends that without the expert testimony, there was no evidence that ZHRI negligently designed the drilling machine and thus ZHRI was entitled to judgment as a matter of law. We disagree. The district court did not abuse its discretion in admitting the testimony. Besides, even without the testimony, evidence showed ZHRI negligently designed the drilling machine at issue and the Nices' damages were proximately caused by that negligence. ZHRI also argues the district court should have granted its motion for a new trial or remittitur. Given the substantial evidence of the Nices' permanent injuries, we cannot say the jury's awards were excessive. We thus affirm the district court.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

**The Honorable William R. Wilson, United States District Judge for the Eastern District of Arkansas.