LANDAU, J., dissenting. I respectfully dissent from the majority opinion because I believe that the size of the verdict cannot be used to determine whether the claimed improper jury instruction was prejudicial to the plaintiff.[1]

The following procedural fact is critical to a resolution of the plaintiff's claim, which is essentially that the jury did not award her enough damages. The foreperson completed the jury form, indicating that the parties were equally responsible for the accident and awarding the plaintiff $4700 for economic damages and $1600 for noneconomic damages. The total verdict was $6300. No interrogatories were submitted to the jury to elucidate its verdict. The jury's awards with respect to economic and noneconomic damages are therefore the result of a general verdict. See *Barrows* v. *J.C. Penney Co.*, 58 Conn. App. 225, 229, 753 A.2d 404, cert. denied, 254 Conn. 925, 761 A.2d 751 (2000).

''Where there is a general verdict and no breakdown of the components of the verdict, it would be error to set it aside. *Marchetti* v. *Ramirez*, 40 Conn. App. 740, 746, 673 A.2d 567 (1996), aff'd, 240 Conn. 49, 688 A.2d 1325 (1997). The rendering of a general verdict coupled

with the absence of interrogatories, [makes] it impossible for the trial court or this court to determine what factors the jury considered in making its award. Id. We cannot speculate as to how the jury reached its figure. *Caruso* v. *Quickie Cab Co.*, 48 Conn. App. 459, 462, 709 A.2d 1154 (1998).'' (Internal quotation marks omitted.) *Barrows* v. *J.C. Penney Co.*, supra, 58 Conn. App. 229.

Here, the absence of any explanation of the verdict clouds the basis of the jury's economic damages award, which is only a fraction of the medical special damages that the plaintiff had claimed,[2] as well as its noneconomic damages award. The plaintiff's argument before this court is that, in view of the court's charge, the jury drew an adverse inference about the opinions of various medical experts because the experts did not testify. In particular, the plaintiff scrutinizes the permanent, partial disability ratings assigned by the various experts and makes assumptions about the verdict in that regard. The plaintiff, however, has not demonstrated how the jury viewed the expert opinions. In fact, there is no way to parse the jury's verdict between past and future medical expenses, let alone a permanent, partial disability to any part of her body. ''The general verdict rule operates to prevent an appellate court from disturbing a verdict that may have been reached under a cloud of error, but is nonetheless valid because the jury may have taken an untainted route in reaching its verdict.'' (Internal quotation marks omitted.) *Kunst* v. *Vitale*, 42 Conn. App. 528, 535 n.4, 680 A.2d 339 (1996).

''The amount of a damage award is a matter peculiarly within the province of the trier of fact . . . .'' (Internal quotation marks omitted.) *Grayson* v. *Wofsey, Rosen, Kweskin & Kuriansky*, 231 Conn. 168, 183–84, 646 A.2d 195 (1994). The court should set aside a verdict where ''circumstances justify a suspicion that the jury was influenced by prejudice, corruption or partiality.'' *Rejouis* v. *Greenwich Taxi, Inc.*, 57 Conn. App. 778, 787, 750 A.2d 501, cert. denied, 254 Conn. 906, 755 A.2d 882 (2000). ''The only practical test to apply to this verdict is whether the award falls somewhere within the necessarily uncertain limits of just damages or whether the size of the verdict so shocks the sense of justice as to compel the conclusion that the jury was influenced by partiality, prejudice, mistake or corruption.'' (Internal quotation marks omitted.) *Mather* v. *Griffin Hospital*, 207 Conn. 125, 139, 540 A.2d 666 (1988).

There is nothing shocking about the size of the verdict here. Furthermore, appellate courts have always ascribed great weight to a trial court's decision not to set aside the verdict or to award an additur. *Daigle* v. *Metropolitan Property & Casualty Ins. Co.*, 60 Conn. App. 465, 476, 760 A.2d 117 (2000), aff'd, 257 Conn. 359, A.2d (2001). In denying the plaintiff's motion for additur, the court stated that the verdict was not

low enough to satisfy the standard for additur, although it would have awarded the plaintiff more damages. The court's gratuitous comment with respect to the size of the verdict it would have awarded is meaningless in view of the long-standing rule that the court does not sit as the seventh juror. See *Purzycki* v. *Fairfield*, 44 Conn. App. 359, 362, 689 A.2d 504 (1997), rev'd on other grounds, 244 Conn. 101, 708 A.2d 937 (1998). ''Upon issues regarding which, on the evidence, there is room for reasonable difference of opinion among fair-minded men, the conclusion of a jury, if one at which honest men acting fairly and intelligently might arrive reasonably, must stand, even though the opinion of the trial court and this court be that a different result should have been reached.'' (Internal quotation marks omitted.) *Daigle* v. *Metropolitan Property & Casualty Ins. Co.*, supra, 478.

It is beyond question that the jury is the arbiter of fact and credibility. *Stuart* v. *Stuttig*, 63 Conn. App. 222, 226, 772 A.2d 778 (2001). At trial in this case, the parties contested the plaintiff's injuries, their proximate cause and their severity. The jury had before it the opinions of all of the medical expert witnesses. It was for the jury to believe all, some or none of their opinions. *Pickles* v. *Goldberg*, 38 Conn. App. 322, 325, 660 A.2d 374 (1995). The plaintiff attempted to convince the jury that she sustained significant, permanent injuries as a result of the motor vehicle accident with the defendant. On the other hand, the defendant, in view of his belief that the accident was relatively minor, attempted to convince the jury that the plaintiff exaggerated her injuries and sought more treatment than was necessary. There were many factors beyond the opinions of the experts that the jury had to consider, including the testimony of the parties, demonstrative evidence and the arguments of counsel. No one outside the jury knows how or why it rendered its verdict. See *Pisel* v. *Stamford Hospital*, 180 Conn. 314, 344, 430 A.2d 1 (1980). Because the verdict fell within the necessarily uncertain limits of fair, just and reasonable damages, this court should not sit as a seventh juror and reverse the judgment.

For these reasons, I would affirm the judgment.

[1] I take no position as to the correctness of the court's instruction that ''[i]n weighing and considering the evidence of expert witnesses, you're to apply the same rules that you apply to any witness insofar as it relates to the witness' interest, bias or prejudice, partiality toward one party or against the other, frankness, and candor and so forth. Although these things, obviously, can be difficult to determine from a piece of paper rather than a . . . witness testifying.'' In this situation, however, I note that the instruction applied equally to the opinions of both the plaintiff's and the defendant's medical experts.

[2] The plaintiff submitted evidence that her medical special damages exceeded $12,000.