

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL

**LINDA LILES v. THE YASUDA FIRE & MARINE INSURANCE
COMPANY OF AMERICA**

Chancery Court for Franklin County
No. 14673

No. M1999-00016-WC-R3-CV - Filed May 24, 2000

JUDGMENT

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference.

Whereupon, it appears to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs will be paid by Defendant/Appellant, The Yasuda Fire & Marine Insurance Company of America, Inc., for which execution may issue if necessary.

IT IS SO ORDERED.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT NASHVILLE

**LINDA LILES v. THE YASUDA FIRE & MARINE INSURANCE
COMPANY OF AMERICA**

**Direct Appeal from the Chancery Court for Franklin County
No. 14673 Jeffrey S. Stewart, Chancellor**

**No. M1999-00016-WC-R3-CV - Mailed April 19, 2000
Filed May 24, 2000**

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. §50-6-225(e)(3)(1999) for hearing and reporting of findings of fact and conclusions of law. Appellate review of factual issues in workers' compensation cases is *de novo* with a presumption that the trial court's findings are correct, unless the preponderance of the evidence is otherwise. Tenn. Code Ann. §50-6-225(e)(2)(1999); Hill v. Eagle Bend Mfg., Inc., 942 S.W. 2d 483, 487 (Tenn. 1997). When a trial court has seen and heard witnesses and issues of credibility and weight of testimony are involved, considerable deference is afforded the trial court's findings of fact. See Humphrey v. David Witherspoon, Inc., 734 S.W. 2d 315, 315-16 (Tenn.1987).

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed

SAMUEL L. LEWIS, SP. J., delivered the opinion of the court, in which FRANK F. DROWOTA, III, J., and TOM E. GRAY, SP. J., joined.

A. Gregory Ramos, Nashville, Tennessee, for the appellant, The Yasuda Fire & Marine Insurance Company of America, Inc.

Christina Henley Duncan, Manchester, Tennessee, for the appellee, Linda Liles.

OPINION

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. §50-6-225(e)(3)(1999) for hearing and reporting of findings of fact and conclusions of law. Appellate review of factual issues in workers' compensation cases is *de novo* with a presumption that the trial court's findings are correct, unless the preponderance of the evidence is otherwise. Tenn. Code Ann. §50-6-

225(e)(2)(1999); Hill v. Eagle Bend Mfg., Inc., 942 S.W. 2d 483, 487 (Tenn. 1997). When a trial court has seen and heard witnesses and issues of credibility and weight of testimony are involved, considerable deference is afforded the trial court's findings of fact. See Humphrey v. David Witherspoon, Inc., 734 S.W. 2d 315, 315-16 (Tenn.1987).

This is an appeal by Defendant/Appellant The Yasuda Fire & Marine Insurance Co. Of America, Inc. the workers' compensation carrier for CKR Industries (hereafter "CKR"). In this workers' compensation case, the Plaintiff Linda Liles contends that she suffered an on-the-job injury on 4 October, 1994 during the course and scope of her employment with CKR. Regarding the specific injuries, Plaintiff alleges that she injured her back, right shoulder, arm and neck on 4 October, 1994 while working as a lab technician for CKR.

Plaintiff was 49 years old at the time of trial. She began her employment with CKR in 1986. In October of 1997 at the time of trial, Plaintiff was a senior lab technician, a position she had held since 1992. Her income as a senior lab technician at the time of the trial was more than she was making at the time of the alleged accident in October, 1994. Plaintiff completed 2 years of High School and subsequently earned her GED.

Plaintiff had a work related injury in 1986 while working at CKR. At that time she was helping build shelves and she was prying a shelf up on a backboard with a screwdriver when the screwdriver slipped and hit her on the chin causing her head to snap back which resulted in a disc rupture at C6-7. She received medical treatment in 1986 from Dr. Vaughn Allen, a neurosurgeon practicing in Nashville. Dr. Allen performed surgery on the Plaintiff's cervical spine in September of 1986 in order to remove the ruptured disc. He assigned a 6% anatomical impairment as a result of the Plaintiff's cervical spine injury and released her to return to work. Plaintiff returned to work at CKR after her cervical spine surgery; however, she continued to suffer some pain in her cervical spine and right arm. She informed her doctor, John Campa, her most recent physician that she had suffered from the same symptoms since 1985. The Plaintiff acknowledged filling out a "claimant questionnaire" in August of 1995 wherein she reported pain in her neck and right shoulder as well as weakness in her right arm for at least two years since 1993. As a result of her continuing symptoms, the Plaintiff returned to Dr. Allen and to some other physicians for treatment. She returned to see Dr. Allen on August 10, 1993, more than one year prior to the Plaintiff's October 4, 1994 accident at which time she reported that she was having neck pain and headaches. Dr. Allen obtained an outpatient MRI scan which revealed the Plaintiff had "an impressive amount of degenerative disc disease". Dr. Allen testified that the Plaintiff also had evidence of degenerative disc disease at the time he performed the spinal surgery in 1986. As a result of his examination on August 10, 1993, Dr. Allen decided to treat the Plaintiff conservatively with anti-inflammatory medications and physical therapy. Dr. Allen again saw the Plaintiff in his office on 5 July 1994, some three months before the alleged October 1994 workers' compensation injury. In July, 1994, she again reported complaints of neck pain and headaches. Dr. Allen ordered a repeat MRI scan of the cervical spine in July, 1994 and found that the Plaintiff had a progression of a pre-existing degenerative disc disease. He again treated her conservatively with physical therapy and an exercise program and anti-inflammatory medication. The Plaintiff also sought treatment prior to the accident

of 4 October 1994 from Dr. Richard Breeden, a Board Certified Neurologist whose offices are in Tullahoma, Tennessee. Dr. Breeden saw the Plaintiff for the first time in April, 1994 on a referral from Dr. Richard Cole. Plaintiff complained at that time of tightness in her cervical area radiating into her shoulders more on the right than the left. In light of the fact that the Plaintiff had cervical surgery in 1986, Dr. Breeden recommended that she have x-rays of her neck performed in order to determine the nature of her arthritic change related to the prior surgery. It was Dr. Breeden's testimony that he recommended the x-rays due to the fact that it is very common to see an increase in degenerative or osteoarthritic changes in an area, such as the neck that previously had undergone trauma or surgery. He did not know however, whether the Plaintiff and her personal physician ever followed up on this recommendation.

Dr. Breeden again saw Plaintiff on 3 June 1994. She was at that time again complaining of pain in her right shoulder area with paresthesias or tingling sensations that were radiating down into her right arm and hand. On 4 October 1994, the date of the on-the-job accident in this case, Plaintiff was removing a mold from a press when her right arm gave way. She experienced terrible pain in her right hand, wrist, elbow and shoulder. However, she continued to work five or six more hours to the end of her shift that day and in fact did not miss any time from work as a result of this alleged injury. She reported her alleged on-the-job accident on October 4, 1994 and from a panel of physicians authorized by her employer, she chose Dr. Bagby. She was able to see Dr. Bagby on October 10 1994, some six days after the accident. At that time she reported numbness in her right hand and arm to Dr. Bagby. When the Plaintiff saw Dr. Bagby for a follow-up appointment on October 31, 1994, she told him that she believed her pre-existing neck problems was the source of her symptoms in her right upper extremity.

Dr. Bagby's initial diagnosis concerning the Plaintiff on October 10, 1994 was that "she had mixed symptoms with some symptoms consistent with possible low grade carpal tunnel syndrome, albeit atypical, and it was possibly simply tendonitis of the wrist and forearm, which was the location of the greater amount of her pain, and possibly the synovitis of the wrist which is irritation of the wrist joint, with contributions to the disease both by the physiology and probably somewhat from the repetition and grasping of her work. When Dr. Bagby saw Plaintiff on 31 October 1994 and 16 November 1994, he was convinced that her symptoms were coming from her neck and related to her previous neck injury. He advised that she could continue working but that she should avoid overhead reaching or at least minimize overhead lifting to minimize her symptoms. In a letter to Dr. Bagby dated 22 December 1994, Dr. Vaughn Allen wrote as follows: "Linda Liles was re-evaluated in the office and I certainly would at this point feel that she undergo a cervical myelogram to look more carefully at the source of this pain. I do not feel that it is related to a prior surgical procedure, as her symptoms were to her left arm at that time and of course, she now has right arm symptoms." In the Plaintiff's 4 January 1995 visit to Dr. Bagby, he concluded that he agreed with Dr. Allen that this was a new set of symptoms to the right upper extremity from the one that had been operated on previously. Dr. Allen testified that Ms. Liles had degenerative disc disease as far back as 1986. He further testified that this degenerative disc disease had progressed and that trauma and repetitive work in a factory can exacerbate or aggravate degenerative disc disease. Dr. Allen further testified on cross-examination as follows:

- Q. Okay. If the proof in this case should develop that Ms. Liles received an on-the-job injury of October 4, 1997 [sic], could that have aggravated her neck and her degenerative disc disease?
- A. It can aggravate the symptoms of that disease, yes.
- Q. Okay. It can make it symptomatic?
- A. Yes.
- Q. Or more symptomatic?
- A. Either.
- Q. If Linda Liles had given you a detailed history of an on-the-job injury of 10-4-94, would you then be relating any of her condition to an on-the-job injury?
- A. I suppose that one could relate some to that. It would be - a lot would depend upon the history and how it was presented. I think one has to be very careful of it, because this lady has significant underlying degenerative disc disease.
- Q. But it could have aggravated or exacerbated that condition?
- A. Yes, sir.
- Q. Okay. And in your letter of February 26th, '97 - you a copy of it there, Doctor?
- A. Yes, sir.
- Q. Would you just read that. Go ahead and read the entire letter into the record.
- A. Yes. "Dear Mr. Rogers: Ms. Linda Fay Liles, of course, has had neck pain off and on for quite some period of time, and, therefore, I could state that perhaps an injury on 10/4/94 might have aggravated her neck. I certainly could not state with any medical certainty that she sustained any new anatomic impairment as a result of the injury."
- Q. Did you every perform any impairment rating on Ms. Liles?
- A. With the original '86 injury, but not since that period of time, no, sir.
- Q. You have not been called upon by anyone to rate her whether she has any disability from her present condition or not?
- A. No, I'm not.
- Q. And you're note in a position to say whether she does have any impairment as a result of her present condition?

- A. Well, she has an impairment as the result of her overall degenerative disc disease process. I can't ascribe that to injury or lack of an injury. If you say, does she have an impairment at the point, yes, she does.
- Q. And you cannot place that because you do not have a history in your notes of an on-the-job injury?
- A. That is correct.

Dr. John A. Campa, III, a neuro-pain specialist with offices in Nashville, Tennessee, also treated Plaintiff. He first saw her on 29 November 1995 as a referral from Dr. Keith Brown in Winchester, Tennessee. Dr. Campa took a medical history from Plaintiff which included the details of the 4 October 1994 accident. He also performed a physical and neurological exam and ordered other testing to be done. Dr. Campa treated the Plaintiff from November, 1995 until April, 1997. He initially recommended that she have a neuro-intervention in the form of a radio frequency procedure which is a pain control technique.

A functional capacity evaluation and assessment was performed by an outside agency. Dr. Campa suggested that Plaintiff might be able to perform more adequately in the light category of work as defined by the dictionary of occupational titles. This is defined as exerting up to 20 lbs of force occasionally and up to 10 lbs of force frequently and/or a negligible amount of force constantly. Dr. Campa testified that Ms. Liles retains a 25% permanent partial impairment to the body as a whole based on the AMA Guides for the Evaluation of Permanent Impairment Fourth Edition.

Dr. Campa prepared a written impairment rating report and also testified that the impairment was caused by Plaintiff's work. He testified that the fact that she had a previous impairment rating of 6% would not alter the 25% rating because she would still be a category IV multi-level neurological compromise rating of 25%. At the conclusion of all the proof, the Trial Court found that the Plaintiff had suffered a compensable work related injury and then retained a permanent partial impairment of 35% to the body as a whole. The Trial Court also held that the Plaintiff should receive medical treatment, expense and mileage expense for treatment rendered by Dr. Vaughn Allen. The Court held that the Plaintiff was entitled to future medical treatment for treatment arising out of the October 4th accident. The Trial Court further held that the

Plaintiff was not entitled to recover expenses for medical treatment or travel associated with the treatment rendered by Dr. John A. Campa, III because he was not an authorized treating physician.

Defendant/Appellant's first issue is, "the Plaintiff's injury/condition is not causally related to an accident suffered during the course and scope of her employment at CKR". On the contrary, her injury/condition is causally related to her pre-existing degenerative disc disease.

As we have stated the scope of review in this Court on issue is the fact that is *de novo* upon the record of the Trial Court accompanied by presumption in accordance with the findings unless a preponderance of the evidence is otherwise. T.C.A. §50-6-225(e)(2). The workers' compensation law is a "remedial statute which shall be given an equitable construction by the Courts to the end that the objects and purposes of this chapter may be realized and obtained." T.C.A. §50-6-116.

We are of the opinion that Plaintiff met her burden of proof of establishing by the preponderance of the evidence that the October 1994 injury was an injury by accident which caused a disability and arose out of the scope of her employment with CKR as defined by T.C.A. §50-6-102(a)(5). The phrase "in the course of" refers to time, place and circumstances and the phrase "arising out of" refers to cause of origin. Hill v. Eagle Bend Mfg., Inc., 942 S.W. 2d 483, 487 Tenn. (1997). An accidental injury is one which cannot be reasonably anticipated, is unexpected and is precipitated by unusual combinations of fortuitous circumstances. Fink v. Caudle, 856 S.W. 2d 953, 958, Tenn. (1993). An accidental injury arises out of and is in the course and scope of employment if it has a rational connection to the work and occurs while the employee is engaged in the duty of employment. Orman v. Williams-Sonoma, Inc., 803 S.W. 2d 672, 676 Tenn (1991). Absolute medical certainty is not required to establish causation. Although causation cannot be based upon speculative or conjectural proof, reasonable doubt is to be construed in favor of the employee. White v. Werthan Industries, 824 S.W. 2d 158, 159 Tenn. (1992). The causal connection must be established by expert opinion combined with lay testimony. White, 842 S.W. 2d at 159. Smith v. Empire Pencil Co., 781 S.W. 2d 833, 835, Tenn. (1989). It is appropriate for a Trial Judge to predicate an award on medical testimony to the effect that a given incident "could be" the cause of the Plaintiff's injury when he also has heard lay testimony from which it may be reasonably inferred that the incident was in fact the cause of the injuries. Hill v. Eagle Bend Mfg., Inc., 942 S.W. 2d 483, 487 Tenn. (1997). The preponderance of the evidence in this record supports the Trial Court's finding that the Plaintiff suffered a compensable injury. Plaintiff had performed repetitive actions of reaching out over and above her head in her employment with CKR from 1986 until 1994. In the 4 October 1994 incident, Ms. Liles was operating the wabash press. When the procedure was complete, she lifted the 43 lb. mold out of the press and when she moved it away from the press her right arm gave way and she had to remove the mold with her left hand to keep from dropping it on the floor. She testified that she immediately experienced "terrible pain in my right hand, wrist, elbow and shoulder". She continued to have pain and problems for which she sought medical treatment. The Plaintiff testified that she had headaches and right neck pain prior to 4 October 1994 but that she had not had massive pain in her right arm and shoulder that she experienced after 4 October 1994. The only problem that she had with her right arm prior to 4 October 1994 was an occasional numbness and tingling. The preponderance of the evidence shows that the work related

incident resulted in a compensable injury. There is medical testimony in the record that establishes that Plaintiff suffered a compensable injury. Dr. Campa testified that Plaintiff reported she dropped a mold out of a press on October, 1994 and this resulted in increased right upper extremity pain. Dr. Campa testified “to me I believe that the sudden give away of the mold stressed the degenerative disc that were in her neck and caused them to become overly symptomatic or increased her pain to where she needed further care.” Dr. Campa rated Plaintiff with a 25% whole person impairment based on the AMA Guides for Evaluation of Permanent Impairment Fourth Edition. He also testified that in his opinion based upon a reasonable degree of medical certainty that the permanent impairment was work related to the 4 October 1994 injury. He further testified that his 25% permanent partial impairment did not change when he considered the rating prior involving the C6-7 because under the AMA Guide Plaintiff still qualified as a category IV multi-level neurological compromise rating of 25%. While Dr. Vaughn Allen testified that Plaintiff had a permanent impairment, he gave no anatomical impairment. He did not have a history of the 4 October 1994 accident and no one had requested that he give her a rating.

Defendant insists that Plaintiff’s injury/condition is causally related to her pre-existing degenerative disc disease. Defendant relies on the deposition of Dr. Richard Breeden for this position. We are of the opinion after reviewing Dr. Breeden’s deposition that this insistence is misplaced. Dr. Breeden never saw Plaintiff after the 4 October 1994 accident and the circumstances of the incident were not described and he did not render any opinion as to whether the incident was work related. Dr. Breeden saw Plaintiff on two occasions - 21 April 1994 and 3 June 1994. Both of which were prior to the 4 October 1994 injury. He did not see or treat Plaintiff or review any records or test performed or review any other physician’s record after the 4 October incident. He, therefore, had no knowledge about Plaintiff’s condition after 4 October 1994 and was not in a position to express any opinion as to her condition or to causation of her post 4 October 1994 condition. Dr. Breeden did testify that it is common to see a natural increase in degenerative or osteoarthritic change in an area where you have had a previous injury. However, both Drs. Allen and Bagby testified that Plaintiff’s symptoms were not related to her previous neck injury. Defendant states in his Brief that Dr. Bagby did not testify that Plaintiff’s condition was related to her pre-existing disc disease. The doctor that knew Plaintiff’s condition was related to her pre-existing disc disease although Dr. Bagby at one time thought her symptoms were related to her previous neck surgery. He later changed this opinion. He diagnosed Plaintiff as having fibromyalgia with an unknown origin. Dr. Allen testified that in his opinion the problems which Plaintiff was having after the 4 October 1994 injury were not related to her previous neck injury. He testified that he did not rate her with a work related impairment because no one had requested that an impairment be given and she did not have a history of work related injury in his notes.

He further testified that the trauma of 4 October 1994 “could have” exacerbated or aggravated the degenerative disc disease. In the instant case, the Plaintiff experienced an exacerbation of her degenerative disc disease that resulted in disabling pain. All the physicians testified that trauma can exacerbate degenerative disc disease. Dr. Campa directly related the aggravation to the 4 October 1994 trauma and Dr. Allen testified that the 4 October 1994 trauma could have exacerbated the pre-existing condition.

The preponderance of the evidence here shows that the Plaintiff did suffer an unforeseen, unexpected or fortuitous event on 4 October 1994. The medical proof established that the work related injury did exacerbate and aggravate Plaintiff's condition and produce disabling pain. Plaintiff in this case has a permanent partial impairment. The facts in this case are distinguishable from those in Bowling v. Raytheon Co., 448 S.W. 2d 405, Tenn. (1969) on which the Defendants rely.

The medical proof supports the Trial Court's finding that the trauma of 4 October 1994 aggravated and exacerbated Plaintiff's pre-existing condition. Her pain was disabling and work related and she is therefore entitled to compensation. This issue is without merit.

The Defendant/Appellant by its second issue argues that "even if the Plaintiff's alleged accident on October 4, 1994 caused increased pain, such increased pain was not "disabling" as that term is used in Hill v. Eagle Bend Mfg., Inc.

Defendant/Appellant suggests that a person must be rendered totally disabled before pain can be disabling or compensable.

We are of the opinion that the Plaintiff does not have to show 100% disability in order to recover or establish disability pain. "There is no doubt that pain is considered a disabling injury, compensable when occurring as a result of a work related injury." Talley v. Virginia Insurance Reciprocal, 775 S.W. 2d 587, 592 (Tenn. 1989).

Defendant/Appellant relies heavily on Hill v. Eagle Bend Mfg., Inc., 942 S.W. 2d 483 (Tenn. 1997). In its analysis of Hill, Defendant states that the fact that the Defendant had an emotional injury played a role in the determination of whether the 20 October 1992 injury (last back injury) exacerbated the Plaintiff's pre-existing back condition. Defendant in its Brief states, "moreover, this was quite important to the Supreme Court local decision, Supreme Court reasoned that the Claimant further developed a severe debilitating mental condition which had been diagnosed as permanent". This condition in and of itself represented a significant progression and worsening of the Claimant's pre-existing condition beyond a mere increase of pain and symptoms." Defendant also states that it would point out that the Claimant in Eagle Bend Mfg. developed an emotional condition which was in and of itself an exacerbation of his pre-existing condition.

We agree with Plaintiff that this analysis is flawed. In Hill, the Court made a determination that Hill suffered a compensable injury since the 20 October 1992 injury aggravated his pre-existing back condition. This determination was not based upon any emotional or mental condition. Once the Court made the determination that Plaintiff suffered a compensable injury then the Court turned to the issue of analyzing the mental condition. Hill, 942 S.W. 2d at 488. "In light of our conclusion that Hill suffered a compensable injury on October 20th, the second injury concedes that Hill is entitled to compensation for any mental disorder which resulted from the injury. Hill at 488. In fact the mental condition in Hill was not an exacerbation of a previous condition. Prior to the 20 October 1992 physical injury, Hill had never seen a psychiatrist and there was no proof of any previous mental or psychological problem. Hill at 486. This mental condition played a role in the Court's

determination of the percentage of disability to assign Hill but it did not play a role in the Court's separate analysis of whether the 20 October 1992 injury aggravated his pre-existing back condition. Defendant correctly asserts that Plaintiff cannot rely upon an emotional psychological injury; however, the Plaintiff submits that such a psychological injury is not necessary. Defendant further argues that Plaintiff was required to present expert vocational proof in order to establish permanent partial disability. Vocational disability can be established by lay testimony. Perkins v. Enterprise Truck Lines, Inc. 896 S.W. 2d. 123 (Tenn. 1995). In the instant case, Plaintiff experienced pain which was disabling. She testified that she could no longer perform the duties of a lab technician on a full time basis. Her current job involves more paperwork and training than accurately performing testing. Her current job is less stressful than her previous job. Plaintiff testified that she missed work as a result of her injury but she was not due any temporary total disability payments because she was paid a salary. She further testified that her pain and problems prevented her from performing her household duties which included vacuuming and raking leaves. Plaintiff testified that when she performed many duties, she "pays for it with pain" which requires her to go to bed and take medication. Dr. Bagby testified that he released Plaintiff to return to work to perform her duties as she is able to tolerate the pain. He further testified that she was going to be miserable at home and at work so she might as well work. Both Drs. Bagby and Allen testified that she had permanent impairment as a result of her condition. Dr. Bagby diagnosed Plaintiff as having fibromyalgia which often involves "a dull miserable fatigue producing pain." There is no doubt from the record that Plaintiff's pain is disabling.

By its last issue, the Defendant/Appellant objects to the Trial Court's considering testimony of Dr. John A. Campa, III. Dr. Campa was a treating physician and he is a specialist in neuropain, a subspecialty of neurology. Dr. Campa began treating Plaintiff in November, 1995. He took a detailed history of the Plaintiff as well as reviewing test that had been ordered by previous physicians. The Defendant argues that Dr. Campa's testimony is inconsistent with the other physicians. We disagree. Dr. Bagby and Allen both testified the Plaintiff would retain a disability or continue to have disabling pain. These doctors' testimony only differ as to causation. Dr. Allen agrees that the October, 1994 incident could have aggravated the pre-existing condition. When the opinions of medical experts differ in a workman's compensation case, the Trial Court has the discretion to accept the opinion of one medical expert over another. Johnson v. Midwesco, Inc., 801 S.W. 2d 804 (Tenn. 1990). Here the Trial Court properly chose the opinions of Dr. Allen and Dr. Campa over Dr. Bagby and Dr. Breeden. Dr. Breeden did not see or treat Plaintiff after the 4 October 1994 incident and therefore is not in a position to give any opinion regarding Plaintiff's condition or causation of the condition after the 4 October 1994 injury. Dr. Bagby saw Plaintiff on four occasions. He made three different diagnosis of Plaintiff's condition and the cause of it. He ultimately diagnosed her as having fibromyalgia of an unknown origin. He is the only doctor that made this diagnosis. He had not seen the Plaintiff since February, 1995 and was not in a position to testify concerning her current condition. We are of the opinion that the Trial Court gave the appropriate weight to Dr. Campa's testimony.

We find the issues submitted by Defendant/Appellant to be without merit. The preponderance of the evidence fully supports the findings of the Trial Court and we affirm the Trial Court's judgment in all respects.

Costs on appeal are taxed to the Defendant/Appellant and the cause remanded to the Trial Court for further necessary proceedings.