

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

October 21, 2019 Session

JAMES IVY v. MEMPHIS LIGHT GAS & WATER DIVISION

**Appeal from the Circuit Court for Shelby County
No. CT-000632-17 Felicia Corbin Johnson, Judge**

No. W2019-00104-SC-R3-WC - Mailed December 30, 2019; Filed-January 31, 2020

Employee fell onto his buttocks during the course and scope of his employment with Employer and experienced left hip and shoulder pain that later radiated to his right leg. After a course of treatment, the selected treating physician and a second-opinion physician opined Employee's pain was attributable to a degenerative condition rather than to his work injury and assigned no impairment. Because the pain persisted, Employee's personal physician referred him to an orthopedic surgeon who opined Employee's fall ruptured a synovial cyst which aggravated his pre-existing spine condition. The orthopedic surgeon performed surgery and later assigned a twelve percent (12%) impairment rating. A physician who conducted an independent medical records review at Employer's request sided with the selected physician as to causation and impairment; however, a physician who performed an independent medical examination at Employee's request agreed with the orthopedic surgeon. Following a trial, the court awarded benefits having determined that Employee met his burden of establishing causation and overcame the statutory presumption afforded the selected physician's causation opinion. Employer appealed. The appeal has been referred to the Special Workers' Compensation Appeals Panel for a hearing and a report of findings of fact and conclusions of law pursuant to Tennessee Supreme Court Rule 51. We affirm the trial court's judgment.

**Tenn. Code Ann. § 50-6-225(e) (2014) (Applicable to injuries occurring prior
to July 1, 2014) Appeal as of Right;
Judgment of the Circuit Court Affirmed**

ROBERT E. LEE DAVIES, SR. J., delivered the opinion of the court, in which HOLLY KIRBY, J, and DON R. ASH, SR. J., joined.

Sean A. Hunt, Memphis, Tennessee, for the appellant, Memphis Light Gas & Water Division

William Steven Taylor, Memphis, Tennessee, for the appellee, James Ivy

OPINION
Factual and Procedural Background

James Ivy (“Employee”), age 53, is employed as a meter reader for Memphis Light, Gas & Water. On June 10, 2014, while reading meters in the rain, Employee fell onto his buttocks and left shoulder when he attempted to jump over a puddle of water. Employee reported the incident to his supervisor and finished his route. Employer sent Employee to Baptist Minor Medical, where he was x-rayed and given medication.

Employee described his fall and the initial pain he experienced in his left hip and shoulder that later “adjusted” to his right side. After receiving treatment at Baptist Minor Hospital, Employee ultimately selected Dr. Riley Jones, an orthopedic surgeon as his authorized treating physician from a list provided by Employer. He recalled that Dr. Jones ordered an MRI and eventually sent Employee for a nerve block, which provided only a few hours of relief.

After his course of testing and treatment, Dr. Jones opined that Employee’s complaints were attributable to degenerative changes rather than to a work injury. Dr. Jones referred Employee to Dr. Fereidoon Parsioon, a neurosurgeon, for a second opinion. Dr. Parsioon also attributed Employee’s back and leg pain to degenerative processes. Dr. Jones assigned a zero percent (0%) impairment rating and released Employee to full duty.

When Employee continued to experience pain after his release from Dr. Jones’ care, Employee’s family physician referred him to Dr. Glenn Crosby, a neurosurgeon. Employee recalled that Dr. Crosby reviewed with him the MRI scan ordered by Dr. Jones and used a pen to point to the source of his pain on the scan. When Dr. Crosby viewed the MRI scan previously ordered by Dr. Jones, he too noted degenerative changes, but he also observed a synovial cyst rupture, causing compression of the nerve root. Dr. Crosby confirmed the cyst rupture in a follow-up MRI, and he performed surgery in August 2015.

The surgery provided some degree of relief; however, Employee continued to experience pain inside his leg down to his toe. Dr. Crosby opined that Employee’s injuries

were caused by his June 2014 fall, noting that the fall “at the very least” aggravated the underlying spine problems. Dr. Crosby assigned a twelve percent (12%) impairment rating to the whole body.

Dr. Jeffrey Hazlewood performed an independent medical records review at Employer’s request. He agreed with Dr. Jones that Employee’s pain was not caused by his work injury. Dr. Hazlewood also assigned a zero percent (0%) impairment rating.

Dr. Apurva Dalal conducted an independent medical examination at Employee’s request. Dr. Dalal opined that the work injury caused an aggravation or acceleration of a pre-existing condition, and he assigned an impairment rating of twelve percent (12%) to the body as a whole.

The deposition testimony of Drs. Crosby, Dalal, Jones, and Parsioon was read into the record, and the video deposition of Dr. Hazlewood was viewed in the courtroom.

Dr. Glenn Crosby

Dr. Crosby, a board-certified neurosurgeon, saw Employee on March 23, 2015, as a referral from Employee’s personal physician. Employee reported that he had fallen on his backside and left shoulder while reading meters for Employer. Employee indicated his back had been hurting and that he had developed a radiating symptom in his right leg to the calf, including tingling in his foot. When Dr. Crosby examined the July 2014 MRI scan ordered by Dr. Jones, he observed degenerative changes in Employee’s spine, but he also detected a synovial cyst rupture on Employee’s right side, causing compression of the nerve root. Dr. Crosby ordered a follow-up MRI scan which confirmed “the synovial cyst rupture to the right causing severe neuroforaminal stenosis.” Dr. Crosby offered Employee surgery to decompress or remove the cyst. On August 25, 2015, Dr. Crosby performed a “right-sided L5-S1 hemilaminectomy and resection of synovial cysts.”

Dr. Crosby opined, to a reasonable degree of medical certainty, that Employee’s injuries were fifty-one percent (51%) or more due to the fall during his work and “at the very least aggravated an underlying problem in [Employee’s] lumbar spine.” He added that the synovial cyst became symptomatic as a result of the fall. Dr. Crosby assigned a 12 percent (12%) impairment rating.

Dr. Apurva Dalal

Dr. Dalal, a board-certified orthopedic surgeon, saw Employee for an independent medical examination (IME) on July 13, 2016, at the request of Employee's attorney. Employee provided a history of his injury and his treatment by Dr. Jones, which included an MRI, EMG, physical therapy, and an unsuccessful nerve block administered by Dr. Van Alstine. Dr. Dalal reviewed the records of Drs. Jones, Parsioon, Van Alstine, Crosby and Hazlewood. He was aware that Dr. Jones and Dr. Parsioon found no impairment and that Dr. Crosby had performed surgery. In Dr. Dalal's opinion, to a reasonable degree of medical certainty, Employee injured his back in his June 2014 fall at work which "caused him to have radiculopathy¹ for which he needed surgery." Dr. Dalal explained that the synovial cyst was caused by degenerative changes. When Employee fell, he aggravated the pre-existing degenerative disease, causing pressure on the nerve, and in turn, making surgery necessary.

Dr. Dalal noted that Employee showed signs of radiculopathy early in his course of treatment when Employee informed Dr. Jones of "hip pain." Dr. Dalal explained that patients often describe buttock pain as hip pain. He opined that "all [of Employee's] problems, which started with back pain, radiculopathy, need for treatment, including [nerve] blocks, surgery, all came from the fall." Dr. Dalal assigned an impairment rating of 12 percent (12%) to the body as a whole.

Dr. R. Riley Jones

After Employee was initially treated at Baptist Minor Medical, he chose Dr. R. Riley Jones from a physician panel provided to him by Employer. Dr. Jones, a board-certified orthopedic surgeon, first saw Employee on June 25, 2014, for complaints of left shoulder and left buttock pain resulting from a work-related fall on June 10, 2014. Dr. Jones noted tenderness related to both the shoulder and buttocks injuries, and he treated him conservatively. When Employee returned on July 1, 2014, he still had pain in his left hip, but the pain had shifted to his right buttock and leg down to the knee. Dr. Jones ordered an MRI of the lumbar spine and physical therapy. The straight leg raise was negative, and range of motion in his legs and hips was normal. The MRI revealed some degenerative changes "primarily on the right, facet osteoarthritis at L-5/S-1." Dr. Jones saw no signs of a synovial cyst at the L-5 disc space. The MRI report generated by the radiologist was

¹ Dr. Dalal defined "radiculopathy" as "a pain which is very specific to the back where you have pressure on a spinal nerve, which causes shooting pain down the leg."

made an exhibit to the deposition. When asked whether he reviewed the MRI scan itself, Dr. Jones responded, "Yes." However, when pressed whether he had viewed the actual film, Dr. Jones responded, "But I don't . . . supersede the radiologist. He does it all the time." Dr. Jones reiterated that the radiologist did not see evidence of a synovial cyst as of July 7, 2014, when the MRI was performed, and Dr. Jones added that he did not remember seeing it. He explained that "all of this is a degenerative process . . . not caused by the fall."

When Employee returned on August 4, 2014, he continued to complain of pain radiating down the right leg. However, Dr. Jones found nothing neurologically abnormal. Nonetheless, Dr. Jones ordered an EMG which was performed on August 13, 2014, by Dr. Ronald Bingham. The resulting report showed no definable radiculopathy. Dr. Jones observed no significant changes in the ensuing visits, and the straight leg raises remained negative. The nerve block administered by Dr. Van Alstine at his direction provided only a day or two of relief.

Dr. Jones referred Employee for a second opinion with Dr. Parsioon. Dr. Jones was aware Employee complained to Dr. Parsioon of numbness in his right big toe and pain going down the right posterior leg. He also acknowledged Employee had a positive straight leg raise during Dr. Parsioon's examination. Nonetheless, Dr. Jones persisted in his opinion that Employee's subjective pains were attributable to degenerative changes and not to his fall at work.

Dr. Jones noted that Employee had his first positive straight leg raise during his December 16, 2014 visit; however, Dr. Jones attributed this result to Employee's "symptom magnification." He released Employee to full duty at that time. During a visit on January 13, 2015, Dr. Jones noted that Employee continued to complain of pain radiating to his right thigh; however, Dr. Jones saw no signs of documented radiculopathy. When asked if he saw evidence of a synovial disc rupture, Dr. Jones said any rupture would necessarily have occurred after the MRI because neither he nor Dr. Parsioon "saw anything [on the MRI]." He released Employee at maximum medical improvement (MMI) on that date, finding no impairment.

When asked about the treatment eventually provided by Dr. Crosby, Dr. Jones did not agree that surgery was necessary, exclaiming, "I don't know what we would be operating on." He submitted that even if a cyst was present, any cyst would have been attributable to degenerative processes. Dr. Jones found nothing in his review of Dr. Crosby's records that caused him to change his earlier opinions regarding causation.

Dr. Fereidoon Parsioon

Dr. Parsioon, a neurosurgeon, saw Employee on November 10, 2014, for a second opinion. When reviewing Employee's history, Dr. Parsioon noted that Employee fell on his buttocks at work and started having left hip pain and eventually right lower extremity pain that radiated down to his calf with numbness in his big toe. He was aware of the nerve block and the physical therapy ordered by Dr. Jones. Dr. Parsioon's own examination of Employee revealed normal results with the exception of a positive straight right leg raise. He recalled that the MRI revealed degenerative changes, but nothing related to acute falls or injury. Dr. Parsioon saw no evidence of a cyst. When he viewed the later MRI scan requested by Dr. Crosby, he saw essentially no difference between this scan and the first scan. The results of his physical examination mirrored those findings. In Dr. Parsioon's opinion, Employee's back pain and leg pain were related to degenerative processes. Accordingly, he assigned no impairment rating.

Dr. Jeffrey Hazlewood

Dr. Hazlewood, a board-certified physical medicine and rehabilitation physician, conducted a medical records review of Employee at Employer's request for the purpose of offering an opinion on the appropriate impairment rating. In Dr. Hazlewood's opinion, Employee eventually developed a radiculopathy but Dr. Hazlewood could not associate it with the injury itself. He believed the cyst was a degenerative condition, and he could not state that the fall at work caused the cyst to occur, "especially several months down the road." He found zero percent (0%) impairment rating to the whole person based on the lumbar spine injury.

Action of the Trial Court

This matter was tried on September 13 and 19, 2018. The trial court heard live testimony from Employee and his wife and considered the deposition testimony of the expert witnesses. At the conclusion of the hearing on September 19, 2018, the trial court issued its ruling from the bench. The trial court correctly stated that the opinion of the physicians selected by the employee of the employer's designated panel shall be presumed correct on the issue of causation; however, the presumption can be rebutted by preponderance of the evidence. On the issue of causation, the trial court found the testimony of Dr. Crosby and Dr. Dalal more credible than that of Dr. Riley and Dr. Parsioon. The trial court then found that Employee had a preexisting condition which was aggravated by his fall at work which caused the synovial cyst. The trial court found the synovial cyst was present on the first MRI but was not diagnosed by Dr. Jones or by Dr.

Parsion because they relied on the radiology report; and that Employee was having symptoms associated with radiculopathy as noted by Dr. Dalal. Accordingly, the trial court found Employee rebutted the opinion of the selected physician on the issue of causation and awarded eighteen percent (18%) disability to the body as a whole. Finally, the trial court denied Employer's motion to alter or amend Employer appeals.

Analysis

Standard of Review

In workers' compensation cases, appellate courts "review the trial court's findings of fact de novo accompanied by a presumption of correctness unless the evidence preponderates otherwise." Wilhelm v. Krogers, 235 S.W.3d 122, 126 (Tenn. 2007). While the reviewing court must conduct an in-depth examination of the trial court's factual findings and conclusions, Id. (Citing Galloway v. Memphis Drum Service, 822 S.W.2d 584, 586 (Tenn. 1991)), considerable deference must be afforded to the trial court's factual findings. Tryon v. Saturn Corp., 254 S.W.3d 321, 327 (Tenn. 2008). No similar deference need be accorded to the trial court's findings based on documentary evidence such as depositions. Glisson v. Mohon Intern., Inc./Campbell Ray, 185 S.W.3d 348, 353 (Tenn. 2006). Likewise, there is no presumption of correctness to a trial court's conclusions of law. Seiber v. Reeves Logging, 284 S.W.3d 294, 298 (Tenn. 2009).

Causation

As its first issue, Employer claims the evidence preponderates against the trial court's finding that the synovial cyst was causally connected to Employee's work injury. Indeed, to be compensable, an injury must "arise out of" and occur "in the course of" employment. Tenn. Code Ann. § 50-6-102(12) (Repl. 2014) (applicable to injuries occurring prior to July 1, 2014). An employee must typically establish by expert evidence the causal relationship between the injury and the employment activity. Cloyd v. Hartco Flooring Co., 274 S.W.3d 638, 643 (Tenn. 2008) (citations omitted). Causation cannot be based on speculative or conjectural proof, but absolute certainty is not required. Id.

However, an employer takes an employee "as is" and assumes the responsibility for any work-related injury which aggravates a preexisting injury. Id. Although an employee "does not suffer a compensable injury where the work activity aggravates the pre-existing injury or condition," the work injury is compensable "if the work injury advances the severity of the pre-existing condition, or if, as a result of the pre-existing condition, the employee suffers a new, distinct injury other than increased pain." Trosper v. Armstrong Wood Products, Inc., 273 S.W.3d 598, 607 (Tenn. 2008).

In the instant case, it is undisputed that Employee fell while reading meters during the course and scope of his employment with Employer. However, the parties dispute whether this fall caused the injury for which Employee now seeks compensation.

At the outset, we can narrow the causation issue based on the consensus of the medical experts. All of the experts agreed that Employee suffered from a preexisting degenerative spine condition at the time of his fall. The experts also agreed that Employee developed a synovial cyst on his spine and that the synovial cyst resulted from Employee's degenerative condition rather than from his fall. In our view, the issue we must resolve is whether the synovial cyst was present on Employee's spine at the time of Employee's work-related fall and whether the fall caused the cyst to rupture thereby resulting in a compensable injury to Employee. To answer these questions, we look to the medical testimony.

As discussed, Dr. Jones ordered an MRI during his course of treatment that began shortly after Employee's fall. Dr. Jones testified that he did not detect the presence of a synovial cyst on the MRI. Likewise, Dr. Parsion saw no evidence of a cyst on the MRI. The parties vigorously disputed whether Dr. Jones had viewed the actual MRI scan or had merely relied on the radiologist's report, which did not mention a synovial cyst. Because the participants were speaking over each other during this portion of the deposition questioning, we agree with the trial court that the record is unclear.

Nonetheless, both physicians deduced that the synovial cyst developed some months after Employee's fall. Naturally, if the cyst was not present at the time of the fall, it could not have ruptured as a result of the fall. Regardless of whether Drs. Jones and Parsion viewed the actual scan or the report, both physicians opined that Employee's pain was attributable to a degenerative condition rather than to a work injury.

Tennessee Code Annotated section 50-6-102(A)(ii) provides that "[t]he opinion of the physician, selected by the employer's designated panel of physicians pursuant to §§ 50-6-204(a)(4)(A) or (a)(4)(B), shall be presumed correct on the issue of causation but said presumption shall be rebutted by a preponderance of the evidence." Tenn. Code Ann. § 50-6-102(12)(A)(ii) (Repl. 2014). Therefore, we must next consider whether Employee rebutted the causation opinions of Dr. Jones and Dr. Parsion by a preponderance of the evidence.

After Dr. Jones released Employee from treatment, Employee was referred by his personal physician to Dr. Crosby. Dr. Crosby testified that Employee brought the MRI

scan ordered by Dr. Jones to his first visit. Dr. Crosby observed a synovial cyst rupture on Employee's right side that was causing compression of the nerve root. Employee described how Dr. Crosby used a pen to point out the problem area on the MRI. Dr. Crosby then ordered a follow-up MRI which confirmed the synovial cyst rupture. In Dr. Crosby's view, the synovial cyst became symptomatic as a result of the fall. He opined that Employee's injuries were fifty-one percent (51%) or more due to the fall and "at the very least" aggravated a preexisting problem in Employee's spine.

As the case progressed to trial, Employee sought an independent medical examination with Dr. Dalal. Dr. Dalal explained that the synovial cyst was caused by generative changes. In his opinion, the fall aggravated the pre-existing degenerative disease-causing radiculopathy,² for which Employee needed surgery. In similar fashion, Employer sought to reinforce the causation opinions of Drs. Jones and Parsioon with the testimony of Dr. Hazlewood. Indeed, Dr. Hazlewood agreed with the treating physicians that the cyst was a degenerative condition, and he could not conclude the fall at work caused the cyst to occur. Dr. Hazlewood acknowledged that Employee eventually developed a radiculopathy; however, he could not tie it to the injury.

At the close of proof, Employee urged the court to accredit Dr. Crosby's testimony, emphasizing that Dr. Crosby detected the synovial cyst rupture after having viewed the actual MRI scan and confirmed his finding in a follow-up MRI. On the other hand, Employer asked the court to give greater weight to Dr. Jones' and Dr. Parsioon's testimony that no synovial cyst, much less a rupture of the cyst, was present on the initial MRI. Employer sought to discredit Dr. Crosby's opinion by pointing to the lack of objective evidence of radiculopathy, which the experts opined would have accompanied a synovial cyst rupture. Employer insisted Employee failed to rebut the statutory presumption afforded to Dr. Jones' causation opinion.

The court conducted a lengthy discussion on the record about the medical testimony of each expert witness, noting the "clearly conflicting opinions" of Dr. Jones and Dr. Crosby regarding the existence of a synovial cyst on the initial MRI. Notwithstanding Employer's insistence that Dr. Jones viewed the actual scan rather than relying on the radiologist's report as was disputed, the court reasoned that "even if [Dr. Jones] . . . reviewed the actual scan, he didn't see a cyst." In assessing whether Employee rebutted the statutory presumption, the court chose to accredit Dr. Crosby's causation testimony, characterizing him as "the most qualified" in terms of treating patients in this practice area.

² Dr. Dalal defined "radiculopathy" as "a pain which is very specific to the back where you have pressure on a spinal nerve, which causes shooting pain down the leg."

The court also accredited Dr. Dalal's causation opinion, particularly Dr. Dalal's testimony that Employee actually showed objective signs of radiculopathy "from the get-go" when he complained to Dr. Jones of "hip pain" which patients often conflate with buttock pain.

The trial court largely disregarded Dr. Hazlewood's testimony. The trial court essentially viewed Dr. Hazlewood's testimony as a "third causation opinion" by a non-treating physician. The court compared the credentials of Dr. Hazlewood, who is board-certified in physical medicine and rehabilitation, with those of the remaining four medical experts who are either orthopedic surgeons or neurosurgeons. The trial court commented that, when considering whether Employee had rebutted the statutory presumption, Dr. Hazlewood is "not competent" to rebut the medical opinion of an orthopedic surgeon or neurosurgeon. The trial court added that it placed "little weight" on Dr. Hazlewood's testimony to refute the other medical testimony. Employer contends the trial court erred by ignoring Dr. Hazlewood's testimony.

Read in isolation, the court's remarks regarding Dr. Hazlewood's competency appears harsh or unwarranted. Having reviewed Dr. Hazlewood's credentials, the Panel can easily conclude Dr. Hazlewood is competent to offer opinion testimony regarding causation and impairment. However, viewing the court's comments in the context of the statutory presumption, it appears the trial court determined Dr. Hazlewood's testimony as a non-treating physician in this case carried little weight when considering whether Employee rebutted the presumption which, by its plain language, refers specifically to the causation opinions of the selected treating physicians. It is well settled that the trial court, as fact finder, may consider each expert opinion and give it the weight, if any, the court thinks the testimony deserves. Reeves v. Olsen, 691 S.W. 2d 527, 231 (Tenn. 1985); Mayuric v. Huff & Puff Trucking, Inc., 2018 W.L. 287038, *4 (Tenn. Special W.C. Panel, January 4, 2018). For the most part, questions regarding competency of expert testimony are left to the discretion of the trial court. Hunter v. Ura, 163 S.W.3d 686, 704 (Tenn. 2005). In this instance, we cannot conclude the trial court abused that discretion.

Having assessed the evidence in its entirety, the trial court concluded that Employee met his burden of establishing his injury was caused by his fall at work and that he rebutted the statutory presumption afforded to Dr. Jones' opinion by a preponderance of the evidence. After conducting our own review of the deposition testimony, we conclude the evidence does not preponderate against the trial court's findings.

Motion to Alter or Amend

Employer next claims the trial court erred in denying his Tenn. R. Civ. P. 59 motion

to alter or amend. In its motion, Employer sought to alter or amend the court's findings related to Dr. Jones' viewing of the initial MRI, insisting the trial court mischaracterized the evidence. In the alternative, Employer asked the court to allow Employer to re-depose Dr. Jones in an attempt to clarify the evidence related to the MRI.

Interestingly, Employer attached to his motion to alter or amend a post-trial letter from Dr. Jones in which Dr. Jones indicated he was unsure whether he had reviewed the MRI at the time of treatment and explained that it was the practice of his office to "depend primarily on the read out of the radiologist." Dr. Jones indicated, however, that during a post-trial review of the initial MRI (in consultation with the radiologist), he did not see a synovial cyst.

At the hearing on Employer's motion, Employer recognized that Dr. Jones' letter was inadmissible; however, he asked the court for an opportunity to re-depose Dr. Jones so as to rehabilitate or clarify his earlier causation testimony. The court explained that Employer should have presented such testimony at the trial. In denying the Rule 59 motion, the court remarked that Employer was not entitled to a "second bite at the apple" by presenting Dr. Jones' post-trial opinion regarding the MRI.

As discussed above, the parties disputed whether Dr. Jones viewed the actual MRI scan or relied on the radiologist's report when he testified that he did not see a synovial cyst on the original MRI. The panel has reviewed the trial testimony, and we agree with the court that the record is not completely clear on the issue. Although the trial court remarked that Dr. Jones had reviewed the radiologist's report instead of the actual MRI scan, the court acknowledged the issue was contested. In fact, the court found that "even if [Dr. Jones] reviewed the actual scan, he did not see the cyst." The court simply accredited the testimony of Dr. Crosby (as a neurosurgeon who regularly performs surgery) that the cyst was present in the first and follow-up MRIs. The trial court did not mischaracterize the evidence as suggested by Employer.

We agree that no basis exists to alter or amend the original judgment. Further, we concur with the trial court that Employer is not entitled to introduce Dr. Jones' "second bite" evidence. A Rule 59 motion should not be used to raise or present new, previously untried or unasserted theories or legal arguments. In Re: M.L.D., 182 S.W. 3d 890, 895 (Tenn. Ct. App. 2005). In order to sustain a motion to alter or amend a judgment based on newly discovered evidence, it must be shown that the new evidence was not known to the moving party prior to or during trial and that it could not have been known to him through exercise of reasonable diligence. Kirk v. Kirk, 447 S.W. 3d 861, 871 (Tenn. Ct. App. 2013).

A trial court's ruling on a motion to alter or amend will be reversed only for an abuse of discretion. Harris v. Chern, 33 S.W.3d 741, 744 (Tenn. 2000). We find no abuse of discretion.

Conclusion

For the foregoing reasons, the judgment of the trial court is affirmed. Costs are taxed to Memphis Light Gas and Water Division for which execution may issue if necessary.

ROBERT E. LEE DAVIES, SENIOR JUDGE

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

JAMES IVY v. MEMPHIS LIGHT GAS & WATER DIVISION

**Circuit Court for Shelby County
No. CT-000632-17**

No. W2019-00104-SC-R3-WC – Filed January 31, 2020

JUDGMENT ORDER

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 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 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 are assessed to the Appellant, Memphis Light Gas and Water Division, for which execution may issue if necessary.

It is so ORDERED.

PER CURIAM