

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

ANTHONY HEATH,	: No. 01-00518
	:
Plaintiff	:
	:
vs.	: CIVIL ACTION - LAW
	:
DERRECK J. ZIELEWICZ,	: Defendant's Motion
Defendant	: in Limine

ORDER

AND NOW, this 29th day of October 2002, the Court DENIES Defendant's Motion in Limine seeking to preclude the testimony of Chiropractor Jennifer Dewald regarding the diagnosis of Plaintiff's herniated lumbar disc and its relationship to the automobile accident of April 20, 1999.

First, Defendant has not cited any case that holds a chiropractor cannot testify regarding the diagnosis and causation of a back injury. The cases cited by Defendant preclude chiropractors from performing acupuncture and providing certificates of general physical fitness to the Secretary of the Department of Transportation.

Second, the definition of chiropractor includes diagnosis, provided diagnosis is necessary to determine the nature and appropriateness of chiropractic treatment. Plaintiff's complaints of referring pain to his chiropractor indicated a possibility of a bulging or herniated disc. Dewald Dep., at p.42. Plaintiff was referred for an MRI of the low back. Id. The MRI was performed on or about May

27, 1999. Id. at 43. Chiropractor Dewald received, reviewed and relied upon the MRI in the treatment and diagnosis of Plaintiff's injuries from the accident of April 20, 1999. Id. Based on the deposition testimony of Chiropractor Dewald, the Court believes the diagnosis of disc herniation at L3-L4 was necessary to determine the nature and appropriateness of chiropractic treatment.

Third, as a chiropractor, Jennifer Dewald has a reasonable pretension of specialized knowledge regarding vertebrae of the spine and other articulations.¹ It is not a prerequisite that she possess all knowledge of a given field, only that she possess more knowledge than is otherwise within the range of training, knowledge, intelligence or experience of the ordinary, lay person. Miller v. Brass Rail Tavern, Inc., 541 Pa. 474, 481, 664 A.2d 525, 528 (1995)(mortician of twenty-seven years, who also served in dual capacity of coroner for fifteen years had specialized knowledge regarding the time of death which would not otherwise be known to a lay person and therefore the trial court's refusal to qualify him as an expert witness simply because he was not a physician was an abuse of discretion); McClain v. Welker, 761 A.2d 155, 157 (Pa.Super. 2000)(witness, who had a Ph.D in neuroscience and psychobiology and had focused his career on brain function and behavior, was qualified to render an expert opinion on causation of child's cognitive

1 Additionally, an intervertebral disc might meet the definition of articulation. An articulation is "the structure which unites two bones, usually allowing some movement; the place of junction between two bones, or between several bones, with or without movement: a joint." Commonwealth, Dept. of State v. Schatzberg, 29 Pa. Commw. 426, 429 n.3, 371 A.2d 544, 546 n.3 (1977). Intervertebral discs are "layers of fibrocartilage between the bodies of the adjacent vertebrae [the bones of the spinal column], consisting of a fibrous ring enclosing a pulpy center." Dorland's Illustrated Medical Dictionary, 26th Ed. (1985). In fact, under the definition of joint, there is an illustration of the symphysis joint, which consists of vertebrae and an intervertebral disc. Dorland's Illustrated Medical Dictionary, 26th Ed. at 690 (1985)(see Illustration 3, a copy of which is attached).

disorders, despite lack of formal medical training). Therefore, the fact that Jennifer Dewald is not a physician goes to the weight of her testimony, not its admissibility.

By The Court,

Kenneth D. Brown, J.

cc: Michael J. Dempsey, Esquire
Gary Weber, Esquire
Work File