

Monday, June 26, 2006

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From the August 29, 2005 Michigan Lawyers Weekly.

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Serious impairment claim yields 'no cause'

Defense showed plaintiff made full recovery

After having been injured in an automobile accident with the defendant, the 61-year-old plaintiff sought conservative treatment from her primary care physician the following day, at which time an MRI revealed degenerative changes in the plaintiff's spine at C4-5, C5-6, and C6-7 as well as a small herniated disk at C5-6.

Four months later, the plaintiff sought medical treatment for a right knee injury. She underwent arthroscopic surgery and made a full recovery.

Approximately two years after the accident, the plaintiff's neurosurgeon diagnosed a C6-7 herniation and performed a discectomy/fusion. Unaware of the plaintiff's pre-accident history of neck pain, the neurosurgeon attributed the herniation to the accident.

To the plaintiff's claim that her injuries interfered with her daily living activities — shopping, playing with her grandchildren — the defense experts responded that she had fully recovered from all injuries that may have been caused by the accident.

Ultimately, the jury concluded the defendant's negligence was the proximate cause of the plaintiff's injuries, but ruled the plaintiff had not sustained a serious impairment of body function.

According to defense counsel, the key to winning was using the plaintiff's medical records as well as her own testimony to prove that she had fully recovered from her injuries.

Type of action: Third-party auto negligence

Type of injuries: Herniated disk; knee injury

Name of case: Telfor v. Clark

Court/case no./date: Kent County Circuit Court; #03-06141-NI; June 10, 2005

Name of judge: George S. Buth

Verdict amount: \$0 (no cause for action)

Attorney for the plaintiff: Withheld

Attorney for the defendant: Robert B. Aardema

Name/city of most helpful experts: Dr. Stephen Bloom, D.O., physiatrist, Grand Rapids; Dr. Stephen Andriese, M.D., physiatrist, Grand Rapids; Dr. David Carr, D.O., neurosurgery, Grand Rapids

Insurance carrier(s): State Farm Mutual Automobile Insurance Company

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