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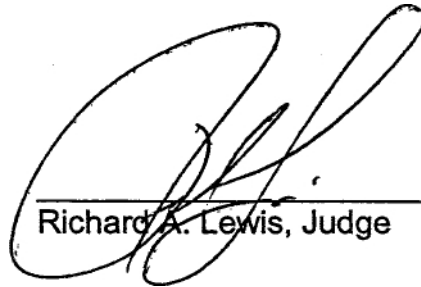
expert report assumes without any medical foundation that plaintiff is "occupationally disabled". There is no medical evidence in the record to support such a finding. A review of the report of plaintiffs' physician, Dr. Kunkle, does not mention a disability, occupational or otherwise, and contains no mention of any type of limitation or any other physical problem that would restrict the type of work that plaintiff could perform.

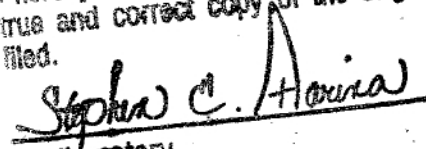
Since plaintiff has failed to introduce any competent testimony to establish a permanent physical disability or incapacity, this court finds that it would be error to permit plaintiff's expert to testify as to the plaintiff's projected future loss earnings based upon an assumption of disability not supported in the record. See Havens v. Tonner, 365 A.2d 1271 (Pa. Super. 1976), overruled on other grounds by Kaczkowski v. Bolubasz., 421 a.2d 1027 (Pa. 1980). See also, Baccare v. Mennella, 369 A.2d 806 (Pa. Super. 1976) (competent medical testimony necessary before jury may consider future continuation of a disability as an element of damages).

While Mr. Gamboa has impressive credentials as a vocational economist, this court is not satisfied that he possesses the necessary qualifications to render an opinion that Ms. Farina's medical condition prevents her from working. Additionally, Mr. Gamboa's opinion of a 16.2% loss of earning capacity for plaintiff as compared to non-disabled individuals is offered with no foundation.

Additionally, this court finds that the method used by plaintiffs' expert to arrive at a loss of earning capacity estimate are based on faulty assumptions, and thus a faulty methodology. After assuming a disability not supported by medical evidence, plaintiffs' fail to employ any scientific methodology in arriving at certain variables used to

calculate the wage loss. This lack of scientific methodology renders the report unreliable and speculative.


Richard A. Lewis, Judge

JUN 10 2004
I hereby certify that the foregoing is a true and correct copy of the original filed.

Prothonotary

Distribution:

Anthony Zabicki, Esq., STARK & STARK, 1800 JFK Blvd., Philadelphia, PA 19103 (Counsel for Plaintiffs)
Carol Steynour, Esq., McNEES, WALLACE & NURICK, LLC, POB 1166, Hbg., PA 17108 (Counsel for Defendant)