
**VOCATIONAL
ECONOMICS,
INC.**

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direct, cross, close or any other portion of the trial as being unduly prejudicial is DENIED.

5. Plaintiff's motion in limine to prohibit any questions or comments alleging malingering or motivation by financial gain not based on fact regarding the Plaintiff is DENIED.

6. Plaintiff's motion in limine to prohibit any questions or comments regarding the lack of filing income tax returns for expenses and income regarding remodeling and repair work done by the Plaintiff is DENIED.

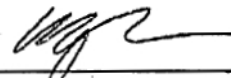
7. Plaintiff's motion in limine to prohibit any questions or comments or information regarding the lack of use of a seat belt by the Plaintiff is GRANTED.

8. Plaintiff's motion in limine to prohibit any questions or comments or information regarding Defendant's attempted visit of the Plaintiff is DENIED.

Dated this 17th day of March, 2003.

(Court Seal)

BY THE COURT:



MICHAEL J. KRAKER
Judge of District Court

MEMORANDUM

I. Vocational/Economic Expert

This lawsuit arises out of an automobile accident that occurred in East Grand Forks, Minnesota on December 19, 2002. The Defense asks that the Plaintiff's vocational/economic expert be precluded from testifying at trial based upon the belief that such testimony would be speculative, remote or conjectural.

The Defense claims that the vocational economic assessment for the Plaintiff is not specific enough to warrant the assessment reliable. However, the assessment applies methodology tools to Plaintiff's age, education, previous work experience and personal interview in which to determine the outcome of the assessment. Some aspects of the assessment will be speculative, as predicting the future is not an exact science. However, the method Plaintiff's experts use in this case does not appear overly speculative nor unreasonably statistical. Statistical data is admissible so long as it will assist the trier of fact in determining future earning capacity. May v. Strecker, 453 N.W.2d 549 554 (Minn.Ct.App.1990).

II. Accident Reconstructionist

James Grinolds was hired as an accident reconstructionist to give expert testimony as to the cause of the accident. The Defense objects to such testimony being admitted as he feels such testimony is unnecessary. Additionally, the Defense mentions a witnesses who should be able to account for the events that led up to the accident, and that the jury should be allowed to use "common sense" to determine the cause of the accident

Minnesota Rules of Evidence 702 states that so long as a witness with specialized knowledge can "assist the trier of fact to understand the evidence or to determine a fact in issue," then the expert may testify. Other prongs to consider are whether the testimony has a reasonable basis, whether the information relevant and whether its probative value outweighs its potential for prejudice. Matter of Welfare of K.A.S., 585 N.W.2d 71 (Minn. 1998).

In this case, the testimony of an accident reconstructionist would assist the triers of fact. Certainly, some common sense rules apply as to the determination of accidents. However, in such accidents where there is a dispute over the cause of an accident, rather than that of events, an accident reconstructionist can clarify issues not normally known by juries. There is a reasonable basis for such a reconstructionist and its probative value outweighs its potential for prejudice.

III. Collateral Sources of Income

References to collateral source income received by Plaintiff shall not be the subject of inquiry by the Defendant unless Plaintiff opens the door to such issues.

IV. Jackpot Justice

Plaintiff motions the Court to preclude any comments by Defense counsel referring to "jackpot justice" or "strike it rich" ideas. Those have been denied. However, Plaintiff's counsel will have fully opportunity to respond to such comments in order to balance the scales of injustice.

V. Malingering Comments

Plaintiff also motions the Court to prohibit any questions or comments alleging malingering or motivation by financial gain not based on fact regarding the Plaintiff.

Again, Plaintiff 's counsel will have full opportunity to respond to such comments in order to balance the scales of injustice.

VI. Seat belt Exclusion

Both parties stipulate in that all seat belt evidence shall be excluded at the trial as per M.S.A. § 169.685 Subd. 4, which excludes such evidence in litigation where personal or property damage resulted from the use of a vehicle.

VII. Defendant's Attempted Visit

Plaintiff's motion to exclude evidence of Defendant's attempt to visit the Plaintiff is denied, as such evidence would cause no prejudicial impact.