

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

**KARIN SCHULDT WHEELER
JEFFREY WHEELER**

CASE NO. 06571 LACV080261

Plaintiff(s),

vs.

**ORDER ON PLAINTIFFS' LIMINE ISSUE
REGARDING PRIOR MEDICAL TREATMENT**

**AMCO INSURANCE CO
DEREK SCOTT SWENSON
REINHART TRANSPORTATION
REINHART FOOD SERVICE LLC**

Dated: 09/26/2016

Defendant(s).

A Pretrial Conference was conducted in this matter on September 23, 2016. The parties appeared through their respective counsel. Formal record was waived. The Court entertained additional argument on Issue 1 (Prior Medical Treatment) contained in Plaintiff's April 29, 2016, Motion in Limine. In support of their resistance, Defendants provided the Court with an advance copy of portions of their proposed exhibits relevant to this issue (Defense Exhibits E, p.1-8; F, p. 1-9; and G, p. 1-2). Defendant seeks to use prior medical information of Plaintiff Karin Wheeler during the cross-examination of Plaintiff's medical witnesses. Specifically, the proffered prior medical information regards symptoms and/or conditions for which Plaintiff Karen Wheeler received treatment in the past that she now claims, at least in part, are present as a result of the underlying accident in this matter. Plaintiffs argues these matters should not be allowed at trial because they are not relevant or probative, and even if they are, any probative value is outweighed by the danger of unfair prejudice or confusion. Plaintiffs cite Iowa Rules of Evidence 5.402 and 5.403.

Iowa Rule of Evidence 5.401 defines "relevant evidence" as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." The proffered evidence of Defendants squarely meets this definition. However, even relevant evidence may be excluded under Iowa Rule of Evidence 5.403 if the probative value of that evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. After applying this test to the proffered evidence, the Court finds the probative value of the proffered evidence in not substantially outweighed by the danger of unfair prejudice. Plaintiffs claim Defendants' negligence has caused Karen Wheeler's physical injury. Evidence that Plaintiff Karen Wheeler had sustained substantially

similar injury prior to the accident is probative on the issue of damages and the probative value of that evidence is not substantially outweighed by the danger of unfair prejudice. This conclusion includes the referenced treatment Plaintiff Karen Wheeler received 26 years ago for migraine headaches. Defendants shall be allowed to inquire about this past medical history during cross-examination of Plaintiff's medical witnesses. Conversely, Plaintiffs will be allowed to present evidence regarding these past medical treatments, if desired, in order to provide the jury with a complete picture of Plaintiff Karen Wheeler's relevant medical history.

Clerk to notify.



State of Iowa Courts

Case Number

LACV080261

Type:

Case Title

KARIN S JEFF WHEELER VS DEREK S SWENSON ET AL
Other Order

So Ordered

Ian K. Thornhill, District Court Judge,
Sixth Judicial District of Iowa

Electronically signed on 2016-09-26 11:01:04