IN THE COURT OF APPEALS OF TENNESSEE
WESTERN SECTION AT JACKSON

TIMOTHY D. LEONARD,	)	From the Shelby County Circuit Court
	)	at Memphis, Tennessee
Plaintiff/Appellant,	)	
	)	The Hon. George H. Brown, Judge
vs.	)	
	)	Shelby Circuit No. 42326-6 T.D.
IRA L. CASEY and WESTERN WATERPROOFING COMPANY OF AMERICA, INC.,	)	Appeal No. 02A01-9605-CV-000131
	)	
	)	**AFFIRMED**
	)	
Defendants/Appellees.	)	Timothy D. Leonard, pro se
	)	Fort Lauderdale, Florida
	)	
	)	Robert L. J. Spence, Jr.
	)	Karen L. Schlesinger
	)	Memphis, Tennessee
	)	Attorneys for Appellees

FILED

July 29, 1997

Cecil Crowson, Jr.
Appellate Court Clerk

MEMORANDUM OPINION[1]

HIGHERS, J.

In this automobile accident case, Timothy Leonard ("Plaintiff") filed suit against Ira Casey ("Defendant") and Western Waterproofing Company of America ("Company") for injuries allegedly sustained when Defendant, while driving a vehicle owned by his employer, Company, hit Plaintiff from the rear. The trial court granted Company's motion for a directed verdict at the close of Plaintiff's proof and granted judgment in favor of the Defendant based upon the jury's verdict. Plaintiff appeals the judgment of the trial court arguing that the trial court erred in granting judgment in favor of the Defendant based upon the jury's verdict. For the reasons stated hereafter, we affirm the judgment of the trial court.

FACTS

On Friday, November 9, 1990 at approximately 9:00 p.m., Defendant, while driving a vehicle owned by his employer, Company, hit Plaintiff from the rear while Plaintiff was

[1]Rule 10 (Court of Appeals). Memorandum Opinion. -- (b) The Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in a subsequent unrelated case.

stopped at a traffic light at the intersection of Getwell Road and Interstate 240. Defendant stipulated to liability at trial. The issue at trial was whether the automobile accident of November 9, 1990, proximately caused any injuries to Plaintiff.

At the time of the accident, Defendant was not on or about the business of Company. Company allowed Defendant to use the vehicle he was driving for business and personal purposes.

LAW

Plaintiff makes the following arguments on appeal: that Defendant's attorney misrepresented Plaintiff's medical records to the jury, that Plaintiff does not recall certain portions of Dr. Rosenweig's deposition being read to the jury, that Plaintiff's attorney failed to object to the admission into evidence of medical records showing that Plaintiff was human immunodeficiency virus ("HIV") positive, that Plaintiff's attorney failed to obtain evidence showing that certain statements made by Defendant's attorney were false, that Defendant's attorney acted fraudulently in failing to state the reason that Plaintiff could not walk for more than ten minutes at a time when he presented this fact to the jury, that Defendant's attorney acted fraudulently in not making it clear to the jurors that Plaintiff had told some of his treating physicians about his HIV positive status, that Plaintiff's Veteran Administration medical records contained incomplete and misleading information, that Plaintiff's attorney erred in not presenting evidence to the jury explaining why certain medical facts about Plaintiff were not contained in his Veteran's Administration medical records, that Defendant's attorney acted fraudulently in not questioning Plaintiff about his medical history before Defendant's attorney presented Plaintiff's medical history to the jury, that Defendant's attorney acted fraudulently in alleging that Plaintiff's weight loss and drooping shoulder could have been caused by acquired immune deficiency syndrome ("AIDS"), and that Defendant's attorney acted fraudulently in not stating that Plaintiff's weight loss occurred due to Plaintiff's irritable bowel syndrome in accordance with Plaintiff's medical records.

Plaintiff, however, has produced no evidence indicating that Plaintiff objected at the trial of this matter to any of the aforementioned alleged errors and misrepresentations. In the absence of such evidence, Plaintiff has waived his right to raise these arguments as issues on appeal. Ehrlich v. Weber, 88 S.W. 188, 189 (Tenn. 1905); Harwell v. Walton, 820 S.W.2d 116, 119-20 (Tenn. Ct. App. 1991); Wright v. United Services Auto. Ass'n, 789 S.W.2d 911, 914 (Tenn. Ct. App. 1990); Dement v. Kitts, 777 S.W.2d 33, 35 (Tenn. Ct. App. 1989); Yarbrough v. Stiles, 717 S.W.2d 886, 887-88 (Tenn. Ct. App. 1986); Pyle v. Morrison, 716 S.W.2d 930, 936 (Tenn. Ct. App. 1986); Baxter v. Vandenheoval, 686 S.W.2d 908, 911 (Tenn. Ct. App. 1984). We, therefore, affirm the order of the trial court which granted Company's motion for a directed verdict at the close of Plaintiff's proof. We also find there was material evidence to support the verdict and therefore affirm the judgment in favor of the Defendant in accordance with the jury's verdict.

The judgment of the trial court is hereby affirmed. Costs on appeal are taxed to the Appellant for which execution may issue if necessary.

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HIGHERS, J.

CONCUR:

_____
CRAWFORD, P.J., W.S.

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FARMER, J.