

IN THE SUPREME COURT OF TENNESSEE  
SPECIAL WORKERS' COMPENSATION APPEALS PANEL  
AT NASHVILLE  
September 25, 2003 Session

**VIRGINIA SYKES v. SATURN CORPORATION**

**Direct Appeal from the Circuit Court for Maury County  
No. 6944 Jim T. Hamilton, Circuit Court Judge**

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**No. M2003-00532-WC-R3-CV - Mailed - December 19, 2003  
Filed - January 27, 2004**

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This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with TENN. CODE ANN. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law. In this appeal, the defendant/appellant, Saturn Corporation, argues that there is no evidence that the permanency of plaintiff/appellee's plantar fasciitis and Morton's neuroma was caused by her employment, and that the plaintiff/appellee's condition of lupus was not caused by her employment.

**Tenn. Code Ann. § 50-6-225(e) (1999) Appeal as of Right; Judgment of the Circuit Court is Affirmed**

JOHN K. BYERS, SR. J., delivered the opinion of the court, in which ADOLPHO BIRCH, J. and ALLEN W. WALLACE, SR. J., joined.

Thomas H. Peebles, IV, and Terrence O. Reed, Nashville, Tennessee, for the appellant, Saturn Corporation

J. Anthony Arena, Nashville, Tennessee, for the appellee, Virginia Sykes

**MEMORANDUM OPINION**

Review of the findings of fact made by the trial court is *de novo* upon the record of the trial court, accompanied by a presumption of the correctness of the finding, unless the preponderance of the evidence is otherwise. TENN. CODE ANN. § 50-6-225(e)(2); *Stone v. City of McMinnville*, 896 S.W.2d 548, 550 (Tenn. 1995). The application of this standard requires this Court to weigh in more depth the factual findings and conclusions of the trial courts in workers' compensation cases. *See Corcoran v. Foster Auto GMC, Inc.*, 746 S.W.2d 452, 456 (Tenn. 1998).

The trial court in this case awarded the plaintiff/employee permanent partial disability benefits as a result of injury to her feet. The defendant argues that the plaintiff failed to carry the burden of proof with respect to causation of the permanency of the plaintiff's conditions, and that the trial court erred in finding that the plaintiff is entitled to permanent partial disability benefits. We do not find that the evidence preponderates against the finding of the trial court, and therefore affirm the ruling of the trial court.

### **Facts**

The plaintiff/appellee, Virginia Sykes, began working at the Saturn plant in 1990, and was assigned to a team that was responsible for attaching latches and other parts to the doors of the cars. Sykes worked ten hour shifts, having to stand on concrete or wood floors the entire time, except for two breaks and a thirty minute lunch break. Sykes began experiencing pain in her feet in 1993 and went to her doctor, Linda Monroe, about this problem. Sykes told Dr. Monroe that she thought the problem was work related, and Dr. Monroe referred her to Dr. McArthur. Sykes reported the problem to Saturn on April 30, 1994.

Dr. McArthur treated Sykes with medications, injections, etc., and the treatment did help somewhat. Sykes was then referred to Dr. Davidson, who diagnosed her with plantar fasciitis and Morton's neuroma and kept Sykes off of work. Dr. Davidson tested Sykes for lupus at that time, but the test was negative. Dr. Davidson performed surgery on the left foot of Sykes in 1995, but there was little or no improvement. In 1998, Sykes was diagnosed with lupus. Sykes was on permanent work restrictions of sitting only, but that was modified to one hour of standing, one hour of sitting, alternatively. Sykes was placed on long-term disability because of her lupus.

### **Medical Evidence**

The depositions of Dr. Randall Davidson and Dr. David Gaw were the only medical testimony before the trial court. Although both doctors agree that the impairment rating should be 4 percent to the left lower extremity and 2 percent to the right lower extremity, they do not agree that the working conditions at Saturn is what caused this condition. Dr. Davidson testified that he believes within a reasonable degree of certainty that lupus caused Sykes foot problems to become permanent, whereas they are usually temporary problems. Dr. Davidson also testified that lupus could have actually been a factor in causing Sykes' plantar fasciitis. Dr. Davidson further testified that there are a number of factors that could have caused Sykes' foot problems, and that he could not state within a reasonable degree of medical certainty that Sykes' work at Saturn did anything more than temporarily aggravate the plantar fasciitis. Dr. Davidson did perform surgery on Sykes' left foot, however there was little or no improvement, so there was no surgery to the right foot. Dr. Davidson put Sykes on permanent work restrictions after the surgery as stated above.

Dr. Gaw conducted an independent medical evaluation of Sykes. Dr. Gaw testified that

the likely cause of Sykes' foot problems was the long periods of standing on the hard surfaces Sykes described at work. Dr. Gaw also testified that he agreed with Dr. Davidson's permanent restrictions of alternating sitting and standing every hour. Dr. Gaw further testified that plantar fasciitis is usually not a permanent condition, but that Sykes foot problems are permanent.

### **Discussion**

The employer/appellant argues on appeal that there is no evidence in the record that the permanency of Sykes' foot problems was caused by her employment. While Drs. Gaw and Davidson agree on the impairment rating to be assessed to Sykes, they disagree as to the causation of the condition. Dr. Gaw is of the opinion that Sykes' working condition caused her condition, whereas Dr. Davidson is of the opinion that Sykes' working conditions probably only worsened Sykes' condition. The trial court chose to accept Dr. Gaw's opinion as being the most accurate. The trial court has the discretion to accept the opinion of one medical expert over another medical expert. *Kellerman v. Food Lion, Inc.*, 929 S.W.2d 333 (Tenn. 1996); *Johnson v. Midwesco, Inc.*, 801 S.W.2d 804, 806 (Tenn. 1990).

As to the permanency of Sykes' foot condition, both doctors agree that plantar fasciitis is not usually a permanent condition. Dr. Davidson testified that the reason Sykes' plantar fasciitis and Morton's neuroma became permanent was because of her lupus, not because of her employment. However, Dr. Davidson acknowledged in his own testimony that approximately three years before Sykes' lupus was diagnosed, and one year after Sykes tested negative for lupus, Dr. Davidson had already placed Sykes' on permanent work restrictions, and had assessed a permanent impairment rating for Sykes' condition. Therefore, the evidence does not preponderate against the trial court's finding that Sykes is entitled to permanent disability benefits as a result of her plantar fasciitis and Morton's neuroma.

Lastly, the employer/appellant argues that Sykes' condition of lupus was not caused by her employment nor was it a direct and natural cause of her employment.<sup>1</sup> We find it unnecessary to address this issue because, as stated above, Sykes' condition became permanent approximately three years before she was diagnosed as having lupus. Therefore, we affirm the judgment of the trial court.

Costs are taxed to the appellant.

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JOHN K. BYERS, SENIOR JUDGE

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<sup>1</sup>Sykes has never taken the position that her lupus was caused by her working conditions.

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**JUDGMENT**

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference.

Whereupon, it appears to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs will be paid by the appellant, Saturn Corporation, for which execution may issue if necessary.

IT IS SO ORDERED.

PER CURIAM