

IN THE SUPREME OF TENNESSEE

AT NASHVILLE

**FILED**

October 11, 1999

Cecil Crowson, Jr.  
Appellate Court Clerk

BETTY JO REEVES

Plaintiff/Appellant

vs.

HENRY I. SIEGEL COMPANY, INC. }  
UNITED STATES FIDELITY & }  
GUARANTY CO., and ROYAL }  
INSURANCE CO., LTD. }

Defendant/Appellees

LEWIS CHANCERY

No. Below 3/65

Hon. Donald P. Harris

No. 01S01-9806-CH-00115

AFFIRMED

JUDGMENT ORDER

*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 plaintiff/appellant, for which execution may issue if necessary.*

*IT IS SO ORDERED on October 11, 1999.*

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE

SPECIAL WORKERS' COMPENSATION APPEALS PANEL

AT NASHVILLE  
(MARCH 31, 1999 Session)

BETTY JO REEVES,	)	LEWIS CHANCERY
	)	
Petitioner-Appellant,	)	Hon. Donald P. Harris,
	)	Judge.
	)	
VS.	)	
	)	
	)	
HENRY I. SIEGEL COMPANY, INC.,	)	
UNITED STATES FIDELITY &	)	
GUARANTY CO., AND ROYAL	)	
INSURANCE CO., LTD.,	)	
	)	
Respondents-Appellees.	)	

01S01-9806-CH-00115
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<u>For Appellants:</u>	<u>For Appellee Henry I. Siegel Co.,</u>	<u>For Appellee</u>
	<u>Royal</u>	
	<u>Inc., and United States Fidelity</u>	<u>Insurance Co.:</u>
	<u>and Guaranty Co.:</u>	

David D. Peluso	Leigh A. Buckley	David T. Hooper
Hohenwald, TN	Cornelius & Collins	Hooper & Hooper
	Nashville, TN	Brentwood, TN

MEMORANDUM OPINION

\_\_\_\_\_ Members of Panel:

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Frank F. Drowota, III, Associate Justice  
Thomas W. Brothers, Special Judge  
Joe C. Loser, Jr., Special Judge

AFFIRMED

Broth  
ers,  
Judge

MEMORANDUM OPINION

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. In this appeal, Betty Jo Reeves questions the trial court's finding that this workers' compensation action be dismissed due to a lack of expert medical proof. In addition, Appellees Henry I. Siegel, Inc. and United States Fidelity & Guaranty Company question which defendant-carrier should be responsible for the employee's benefits should this Court determine that Betty Jo Reeves did suffer a work-related injury. The panel finds that the evidence offered at trial does not preponderate against the decision of the trial court to dismiss the case. The medical evidence clearly supports the conclusion that Betty Jo Reeves's condition existed due to her degenerative joint disease, and was not a work-related injury. Therefore, it is not necessary for the Court to address the issue of which insurance carrier would be responsible for payments to Reeves if she is found to have suffered a work-related injury. As discussed below, the panel has concluded the award should be affirmed.

The claimant, Betty Jo Reeves, was 57 at the time of trial. She began to work for Henry I. Siegel Company, Inc. (hereinafter "HIS") in 1975, and worked there until 1993. Her last two jobs at HIS were

fusing bands, and the “slide and stop” job.

According to Reeves’s initial testimony, she began to have problems with her hands in 1992. However, she acknowledged that she was also having problems with her neck, arms, elbows, and shoulders at the same time.

In January 1993, Reeves informed HIS that she was in pain and needed to see a doctor. She went to see Dr. Frank Jones and he returned her to work without any recommendation for any accommodations.

After beginning the slide and stop job at HIS in May 1993, Reeves went to the emergency room at Maury Regional Hospital. She saw Dr. Randall Davidson two or three times, and Dr. Davidson referred Reeves to Dr. Kenneth Moore, who routinely treats patients with hand problems. Dr. Moore saw her several times. After those treatments, Reeves’s attorney sent her to see Dr. William Christopher in Memphis. When seen by Dr. Christopher, Reeves complained of pain in her hands, arms, neck, shoulders, shoulder blades, feet, ankles, and knees.

Appellate review is *de novo* upon the record of the trial court, accompanied by a presumption of the correctness of the findings of fact, unless the preponderance of the evidence is otherwise.

Tenn.Code Ann. §50-6-225(e)(2). When the medical testimony differs, the trial judge must choose which view to believe. In doing so, the trial judge is allowed, among other things, to consider the qualifications of the experts, the circumstances of their examination the information available to them, and the evaluation of the

importance of that information by other experts. Orman v. Williams Sonoma, Inc., 803 S.W.2d 672(Tenn.1991). Moreover, it is within the discretion of the trial judge to conclude that the opinion of certain experts should be accepted over that of other experts and that it contains the more probable explanation. Hinson v. Wal-Mart Stores, 654 S.W.2d 675, 675-7(Tenn.1983).

The medical conclusions drawn by Reeves's treating physicians were made clear at trial. Dr. Jones diagnosed Reeves with degenerative joint disease, and added that she had "no significant problem due to an injury." Dr. Davidson ultimately concluded that Reeves had arthritis in her hand joint and that this was not caused by her job. Dr. Moore concluded that Ms. Reeves had degenerative arthritis and that he "did not feel that the arthritis was caused by the repetitive use" and that it was not a work-induced injury. Dr. Christopher also found that Ms. Reeves had degenerative arthritis and his testimony regarding any other diagnosis of her wrists and hands was called into question when he admitted during questioning that the x-ray reports he thought he consulted were not the x-rays he consulted. The medical evidence offered at trial does not support Reeves's claim.

For the above reasons, the panel cannot find that the evidence preponderates against the findings of the trial judge. The judgment of the trial court is affirmed. Costs on appeal are taxed to the plaintiff-appellant.

CONCUR:

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Frank F. Drowota, III, Associate Justice

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Joe C. Loser, Jr., Special Judge