



**TENNESSEE BUREAU OF WORKERS' COMPENSATION CLAIMS  
IN THE COURT OF WORKERS' COMPENSATION CLAIMS  
AT MURFREESBORO**

<b>DARRELL AILSHIE,</b>	)	<b>Docket No. 2017-05-0869</b>
<b>Employee,</b>	)	
<b>v.</b>	)	
	)	
<b>TN FARM BUREAU FEDERATION,</b>	)	<b>State File No. 93732-2014</b>
<b>Employer,</b>	)	
<b>and</b>	)	
	)	
<b>BRIDGEFIELD CASUALTY INS. CO.,</b>	)	<b>Judge Dale Tipps</b>
<b>Carrier.</b>	)	

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**ORDER**

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This matter came before this Workers' Compensation Judge upon TN Farm Bureau Federation's (FBF) Motion in Limine, filed May 23, 2019. FBF seeks to exclude portions of Dr. Louise Ledbetter's deposition testimony from the Compensation Hearing in this matter, specifically testimony and records related to the impairment rating she assigned to Mr. Ailshie.

FBF relies in part on the holding in *McDaniel v. CSX Transportation, Inc.*, 955 S.W.2d 257 (Tenn. 1997). It argues that Dr. Ledbetter is not qualified to provide expert testimony on the issue of permanent impairment because she has no formal training in the use of the Sixth Edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* (AMA Guides). FBF further contends that Dr. Ledbetter's opinion cannot qualify under *McDaniel* because her methodology is untested. It bases this argument on Dr. Ledbetter's statements that she could not specifically recall how she reached her impairment rating.

The Court finds these arguments unpersuasive. Dr. Ledbetter's deposition, which was previously filed with the Court, shows that she is a board certified neurologist who

examined and treated Mr. Ailshie for his work injury over several months. She testified that she utilized the AMA Guides in calculating the impairment rating, that she had been using the Guides for twenty-five years, and that she was confident she knew how to use it. Her credentials and experience therefore qualify her to offer an expert opinion on both medical causation and the extent of any permanent impairment.

FBF's suggestion that *McDaniel* requires exclusion of Dr. Ledbetter's opinion because she has no formal training in using the AMA Guides is unsupported by law. No authority, including *McDaniel*, requires specific formal training as a prerequisite in Tennessee before a doctor may offer an opinion.<sup>1</sup> Further, its contention that her methodology is untested unduly strains the application of *McDaniel*. The Guides itself provides the relevant methodology. As the use of the Guides is mandated by statute, no *McDaniel* analysis of that methodology is necessary or appropriate. The question, then, is whether Dr. Ledbetter properly applied the Guides methodology.

FBF contends that Dr. Ledbetter improperly used the Guides because of her responses to a number of questions on cross-examination. These may be summarized as her inability to recall specifically how she calculated the grade modifier for Mr. Ailshie's Class 2 impairment, or to remember the specific grade modifiers for a cervical strain. Dr. Ledbetter's inability to recall the grade modifiers is irrelevant – the Court sees no reason to impose some sort of memory test as part of a *McDaniel* analysis, especially when the doctor offered to go through the Guides and explain the modifiers to counsel. Instead, the issue is whether she properly used them. Dr. Ledbetter's failure to explain how she calculated Mr. Ailshie's grade modifier might be relevant to the Court's evaluation of her opinion but does not preclude its admissibility.

Similarly, FBF's contention that Dr. Ledbetter's opinion should be excluded pursuant to Tennessee Rules of Evidence 702 and 703 is unconvincing. As noted above, the doctor is an "expert by knowledge, skill, experience, training, or education," and the Court believes her testimony could "substantially assist" it to determine the facts of this case. Therefore, she meets the qualification requirements of Rule 702. Further, her testimony, when read in full, does not indicate a lack of familiarity with the Guides that would constitute untrustworthiness under Rule 703.

The Court finds that the issues raised by FBF go to the weight, rather than the admissibility, of Dr. Ledbetter's opinion testimony. Therefore, FBF's Motion in Limine is denied.

It is so **ORDERED**.

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<sup>1</sup> The same may be said for FBF's argument that Dr. Ledbetter was unqualified because she was unwilling to testify that she had read every word in Chapter 13 or the entire Guides.



Dale Tipps  
Workers' Compensation Judge

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Order was sent to the following recipients by the following methods of service on this the 6<sup>th</sup> day of June, 2019.

Name	Certified Mail	Fax	Email	Service sent to:
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