

**SOCIAL SECURITY ADMINISTRATION
OFFICE OF DISABILITY ADJUDICATION AND REVIEW**

TRANSCRIPT

In the case of:

Sabryna Treutel

Claim for:

Period of Disability

Disability Insurance Benefits

Claimant

579-69-1004

Wage Earner

(Leave blank in SSI Claims, or if the name is the same as above.)

Social Security Number

Hearing Held at:

Hartford, New Mexico

(City, State)

April 29, 2022

(Month, Day, Year)

by:

Lonny Kunde

(Administrative Law Judge)

APPEARANCES:

Sabryna Treutel, Claimant
Lucious Robel, Attorney for Claimant
Carlo Ward, MD, Medical Expert
Stevie Rice, Vocational Expert

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(The following is a transcript of the hearing held before Lonny Kunde, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on April 29, 2022, at Hartford, New Mexico, in the case of Sabryna Treutel, Social Security number 579-69-1004. The claimant appeared by video and was represented by their attorney, Lucious Robel. Also present were Carlo Ward, MD, Medical Expert, Stevie Rice, Vocational Expert, and Grant Hansen-O'Reilly, Hearing Reporter.)

(The hearing commenced at 05:26 PM, on April 29, 2022.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: Good morning, I'm Administrative Law Judge Lonny Kunde. We're currently seated here at 10:30 AM on this particular day, but as we know, time zones are a bit of a thing, and it's actually 5:00 PM where my office is located. We have before us claimant Sabryna Treutel, with the Social Security number 579-69-1004, who has elected to appear via video conference today. She's accompanied by her attorney, Lucious Robel. I want to take a moment to let Ms. Treutel know that she is entitled to an in-person hearing if she so desires. We also have two medical experts with us today, Carlo Ward and Stevie Rice. Interestingly enough, Dr. Ward has been known to specialize in the field of rheumatology for over 20 years. Mr. Rice here has a keen eye for detail when it comes to vocational assessments. Now, let's get started. Attorney Robel, is this your first appearance before me?

ATTY: No, your Honor.

ALJ: I see that you've appeared before me previously, Mr. Robel. As we go through this process, I want to reiterate a few

things for the record and for Ms. Treutel's understanding. We have the option to hold this hearing in person, if she so desires. It's worth noting again that we can switch to an in-person format if she'd like, or we could just continue with what we've got going on here today. Now, let me rephrase that a bit more clearly - Ms. Treutel, it's really up to you at this point in time. Do you have any preference as far as the hearing format goes? Would you like us to switch to an in-person setting or do you feel comfortable continuing with the video conference?

CLMT: I'm comfortable continuing with the video conference, thank you.

ALJ: I'm glad we're on the same page with that, Ms. Treutel. I want to confirm that we'll indeed be proceeding with the video conference for today's hearing. You've made your preference known and we respect that choice, of course. As you know, we have a team assembled here today, including our vocational expert, Stevie Rice, and medical experts, Carlo Ward. For the record, I'd like to take a moment to go over their resumes, which are available for review if needed. Mr. Rice has an impressive background in vocational assessments, with experience spanning multiple industries and a keen eye for detail when it comes to matching individuals' skills with job opportunities. Dr. Ward, on the other hand, brings a wealth of knowledge in rheumatology, having worked extensively with patients suffering from various musculoskeletal conditions. Now, before we move

forward, Mr. Robel, is there anything else you'd like to add or collect before our scheduled adjournment date of 4:00 PM on this coming Wednesday?

ATTY: Thank you, Judge Kunde. I believe we're ready to proceed. The record is fully developed and nothing further needs to be added at this time.

ALJ: The record is fully developed as presented by Attorney Robel. I'm accepting his assertion at this time. The exhibits from 1A down to and including exhibit 12-B are hereby admitted into evidence.

(Exhibits, previously identified, were received into evidence and made a part of the record.)

ALJ: Now let me think about this for a moment, as I'm reviewing the record before us today... it seems we may have encountered an inconsistency of sorts regarding Ms. Treutel's medical history. Specifically, exhibit number 7 appears to indicate that she was prescribed medication for her condition back in February of last year, whereas the subsequent report from Dr. Ward suggests otherwise. And if I'm being entirely honest with myself here, it does seem a bit... perplexing. I mean, we've got two different accounts of essentially the same situation, and I need to clarify this point before we move forward any further. So let me ask you directly, Ms. Treutel: am I correct in saying that there's been some sort of discrepancy in your medical records?

ATTY: Yes, your Honor, it appears there is an inconsistency between Dr. Ward's report and the medication prescription records.

However, upon further review of Ms. Treutel's medical history, I believe we can clarify this discrepancy by amending exhibit number 7 to reflect that the prescribed medication was actually for a different condition, not related to her current disability claim. Specifically, it should be noted that the prescribed medication was for Ms. Treutel's eczema treatment in February of last year and was unrelated to her rheumatoid arthritis. I believe this will resolve the inconsistency and provide an accurate representation of Ms. Treutel's medical history.

ALJ: I understand that you'd like to amend exhibit number 7 to reflect that the prescribed medication was for Ms. Treutel's eczema treatment, rather than her rheumatoid arthritis. I'm inclined to agree with your assessment of the situation and believe this change will indeed clarify the inconsistency in the medical records. However, before we proceed, I'd like to ask Ms. Treutel directly: are you aware that even if this amendment is made, it could potentially impact the overall outcome of your claim? Specifically, are you aware that if the amended exhibit shows a treatment for eczema unrelated to your current disability claim, it might be viewed as evidence that your rheumatoid arthritis symptoms were not severe enough to warrant the prescribed medication? Do you have any thoughts on this matter?

CLMT: Yes, I understand that it could impact the outcome of my claim.

ALJ: I understand, Ms. Treutel, that you're aware of the

potential impact this amendment could have on the outcome of your claim. I want to take a moment to review the record and confirm that all parties are in agreement with the proposed amendment to exhibit number 7. Hearing Reporter Grant Hansen-O'Reilly, please note in the record that we will be amending exhibit number 7 to reflect that the prescribed medication was for Ms. Treutel's eczema treatment in February of last year. I believe this should now accurately represent her medical history. With that clarification, I'd like to begin questioning and answering with you directly, Ms. Treutel.

(The claimant, SABRYNA TREUTEL, having been first duly sworn, testified as follows:)

EXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE:

Q Ms. Treutel, could you please state your full name for the record?

A Sabryna Logan [INAUDIBLE]

Q What is your current mailing address, Ms. Treutel?

A 645 Dexter Cove Suite 134, Decatur, Arkansas 52396

Q When did you stop working due to your disability?

A I stopped working on October 10th, 2021, due to my worsening rheumatoid arthritis symptoms that made it increasingly difficult for me to perform my job duties as an office administrative assistant.

Q What is your highest level of education completed?

A I completed a Bachelor of Science degree in Business

Administration from Northern State University in May 2015.

Q What was your last job before stopping work due to disability?

A My last job before stopping work due to disability was as a photographer at Smith Studios, where I worked for approximately 3 years and was responsible for capturing events, portraits, and commercial photographs. I held this position from June 2018 until my disability forced me to leave in October 2021.

Q What specific tasks and responsibilities did you perform as a photographer at Smith Studios?

A As a photographer at Smith Studios, my specific tasks and responsibilities included photographing events such as weddings, graduations, and corporate functions; creating custom portraits for clients, including family, children, and pets; capturing commercial images for businesses, including products, storefronts, and interior spaces; editing and retouching photographs to ensure high-quality final products; maintaining and organizing inventory of equipment, including cameras, lenses, and lighting; providing excellent customer service and communication throughout the photography process; and working closely with clients to understand their vision and preferences for each photo shoot.

Q Ms. Treutel, to the best of your knowledge, were you ever employed or involved with the Social Security Administration in any capacity?

A To the best of my knowledge, I was never employed or

involved with the Social Security Administration in any capacity, either as an employee, contractor, or in any other official role.

Q I'd like to confirm that you've stated under oath that you were never employed or involved with the Social Security Administration in any capacity. I accept your affirmation and move on to the next line of questioning. Ms. Treutel, you've claimed disability due to your rheumatoid arthritis symptoms. Can you please explain why you believe these symptoms render you unable to engage in substantial gainful activity?

A Well, it's just that my rheumatoid arthritis has caused so much pain and discomfort over the years, I mean, especially since it started affecting my hands and feet. And now with this Peripheral Neuropathy, I'm experiencing numbness and tingling in my extremities all the time, which makes it really hard for me to even do simple tasks like holding onto things or walking without stumbling. It's just gotten to a point where I feel like I'm constantly struggling to function, and I don't know how much longer I can keep going.

Q I understand, Ms. Treutel, that you're experiencing significant pain and discomfort due to your rheumatoid arthritis symptoms, particularly with the added complication of Peripheral Neuropathy. I appreciate your candor in sharing these details with me today. However, I'd like to clarify a few points. You mentioned numbness and tingling in your extremities, but could you please elaborate on what specific tasks or activities have become

increasingly difficult for you due to this symptom? For instance, are there any particular daily tasks or work-related duties that you're now unable to perform?

A Well, it's just that everything has become so much more difficult for me, like even doing the simplest things. I mean, like trying to cook a meal or wash dishes without dropping them because my hands are just numb and tingly all the time. And don't even get me started on walking, I've had to hold onto walls just to make it from one room to another, because if I'm not careful, I'll just stumble and fall over. It's like my legs have lost all feeling, you know? And as for work-related duties, forget about it, trying to even type or use a mouse is just agony, the pain in my hands and wrists is just constant, and the numbness makes it hard to focus on anything anyway. I mean, even talking to people, like now, feels exhausting because I'm constantly shifting positions to try and get some feeling back in my legs, it's just... ugh...

ALJ: I understand, Ms. Treutel, that living with rheumatoid arthritis and Peripheral Neuropathy is causing you immense distress and affecting even the most basic tasks in your daily life. I want to assure you that I'm taking careful note of all your statements today. As I understand it, your condition has led to chronic pain, numbness, and tingling sensations in your hands, feet, and legs, making everyday activities like cooking, walking, and even typing extremely challenging for you. This is consistent

with the symptoms described in the medical records provided by your treating physician, Dr. Lee. Based on what you've shared today, it appears that your condition significantly impacts your ability to perform even simple tasks, let alone work-related duties. I'd like to request some clarification from your attorney regarding the documentation of your medication regimen and dosages, specifically for the opioids prescribed to manage your pain levels. Can you provide an updated list of medications, including dosages, that I can review further in conjunction with Dr. Lee's reports?

ATTY: Yes, I can provide that information, Your Honor. My client's medication regimen includes OxyContin 40mg twice daily and Lyrica 300mg three times a day for her pain management. However, it's essential to note that these medications have not provided adequate relief, as you've gathered from the medical records and my client's testimony today. In fact, despite the increased dosages, she continues to experience chronic pain, which affects her daily activities significantly.

ALJ: I'd like to clarify, Ms. Treutel, that despite being prescribed OxyContin 40mg twice daily and Lyrica 300mg three times a day for pain management, you continue to experience chronic pain. Can you please elaborate on the nature of this persistent pain - is it more like a dull ache or a sharp stabbing sensation?

BY ADMINISTRATIVE LAW JUDGE:

A It's more like a constant throbbing or burning sensation

that never really goes away.

Q Ms. Treutel, it sounds like the pain is quite debilitating and constant. I'd like to ask, did you ever see a doctor about this throbbing or burning sensation in your body, specifically for this issue?

A Yes, I saw Dr. Lee about it.

Q Ms. Treutel, you mentioned that Dr. Lee is one of your treating physicians. Can you please tell me how often this throbbing or burning sensation occurs, and what triggers it, if anything?

A From what I recall, this sensation occurs almost constantly, but it's more intense at night and when I'm sitting or standing for long periods. It seems to be triggered by movement or changes in position, as well as certain activities like typing or using my hands.

Q Based on our discussion today, I'll summarize that you claim disability due to rheumatoid arthritis and Peripheral Neuropathy symptoms causing chronic pain, numbness, and tingling sensations. You've described difficulties with everyday activities, typing, and walking. Your treating physician, Dr. Lee, has documented these conditions and your ongoing treatment regimen. Next steps will involve further review of medical records and testimony from other experts as needed.

A Yes, I believe that's a fair summary, Your Honor. To be honest, things reached a point where even basic self-care became

overwhelming for me. I would go days without showering or changing clothes because I just couldn't muster the energy to do so with the constant pain and fatigue.

Q You're saying that pain and fatigue made basic self-care activities too exhausting to manage.

A Yes, exactly. It wasn't just about being tired or not wanting to do things, but feeling like I was physically unable to take care of myself due to the overwhelming nature of my symptoms. I remember going weeks without cooking a proper meal for myself because even simple tasks like chopping vegetables or stirring food felt like Herculean efforts. I would often go days without leaving my bed, and when I did manage to get out, it was only to do the bare minimum - like getting dressed, using the bathroom, or making a phone call.

Q Ms. Treutel's testimony confirms her symptoms significantly impacted daily life, making basic self-care activities extremely challenging due to chronic pain and fatigue.

A I've lost the ability to walk into a store or go out with friends without needing to stop and rest several times along the way, and even that's become a rare treat for me.

Q You've lost mobility due to chronic pain and fatigue.

A I've also lost the ability to drive a car without experiencing severe pain and discomfort during even short trips.

Q Is this loss of ability to drive related to the notes from Dr. Lee's office dated March 12, 2022?

A Yes, that's correct.

Q On March 12, 2022, were you taking Zorvax 50mg for your pain management?

A Yes, I was taking Zorvax 50mg as part of my pain management regimen at that time.

Q Were you also taking Lyrica 150mg for your Peripheral Neuropathy symptoms at that time?

A Yes, I was also taking Lyrica 150mg at that time to help manage my Peripheral Neuropathy symptoms.

Q Ms. Treutel, I'd like to clarify an apparent discrepancy regarding your medication regimen. On March 12, 2022, you mentioned taking Lyrica 150mg for Peripheral Neuropathy symptoms, but earlier today you stated that your current dosage is actually 300mg three times a day. Can you please explain this difference in dosages and whether there have been any changes to your treatment plan?

A I understand there's a discrepancy. I've actually been taking 300mg of Lyrica three times a day for some time now due to increased severity of my Peripheral Neuropathy symptoms.

ATTY: I'd like to clarify that for my client, it appears there's a discrepancy regarding her medication regimen. She initially mentioned taking Lyrica 150mg for Peripheral Neuropathy symptoms on March 12, 2022, but later stated that she's currently taking 300mg three times a day. I believe this discrepancy may be due to the fact that Dr. Lee did indeed increase her dosage of

Lyrica in response to the increased severity of her Peripheral Neuropathy symptoms. However, it's also possible that there was an error in reporting or documentation at some point. To clarify, I'd like to request a review of my client's medical records and treatment plan to confirm the most up-to-date information on her medication regimen.

ALJ: I've taken note of the discrepancy regarding Ms. Treutel's Lyrica dosage and her attorney's clarification on the matter. To confirm, it appears that Dr. Lee increased her dosage from 150mg to 300mg three times a day due to the worsening of her Peripheral Neuropathy symptoms.

BY ADMINISTRATIVE LAW JUDGE:

A That's correct.

Q However, I'd like to bring up another matter that may impact our understanding of Ms. Treutel's situation. It appears that there is an outstanding workers' compensation claim from 2018 related to a work-related injury involving her left shoulder and arm, which resulted in a permanent partial disability rating. This claim was settled in 2020 with a lump-sum payment. Given the current hearing is focused on Ms. Treutel's disability due to rheumatoid arthritis and Peripheral Neuropathy, I'd like to explore how this prior injury may or may not be related to her current condition.

A The workers' compensation claim was for a work-related injury to my left shoulder and arm, which had nothing to do with

my rheumatoid arthritis or Peripheral Neuropathy symptoms.

Q I've taken note of your clarification, Ms. Treutel. Further review of your medical records reveals a new development - you were seen by Dr. Patel on January 10, 2023, and were diagnosed with possible myofascial pain syndrome due to inflammation in the soft tissues surrounding your muscles. This condition has not been previously mentioned in our discussion today. Can you tell me more about this diagnosis and whether it's related to your ongoing symptoms?

CLMT: I was not aware of this diagnosis. I will need to review my records further to understand how it relates to my ongoing symptoms.

BY ADMINISTRATIVE LAW JUDGE:

A Ms. Treutel, it appears that Dr. Patel's diagnosis of possible myofascial pain syndrome was made without any mention of a treatment plan or follow-up appointments in your medical records. Can you tell me if this condition has been treated by your healthcare providers at any point?

Q No.

A This diagnosis has not been addressed by any of Ms. Treutel's treating physicians.

Q It's not related to my rheumatoid arthritis or Peripheral Neuropathy symptoms.

A I'd like to revisit the issue of Ms. Treutel's medication regimen and the discrepancy regarding her Lyrica dosage. Given

that she had previously mentioned experiencing increased severity of Peripheral Neuropathy symptoms, it appears that Dr. Lee did increase her dosage from 150mg to 300mg three times a day in response to this worsening condition.

Q As a result of this increased dosage, I've found that even basic tasks like getting dressed or preparing meals become significantly more challenging due to the exacerbation of my Peripheral Neuropathy symptoms.

A Ms. Treutel's condition has clearly worsened due to increased Lyrica dosage.

Q Every movement feels like it's being conducted through a haze of numbness and pain.

A You're saying that every movement feels like it's being conducted through numbness and pain. Have you considered seeking further medical attention to explore alternative treatment options?

Q I've been trying to find a doctor who understands my unique situation.

A Have you had difficulty finding specialists willing to take on complex cases like yours?

Q Yes, many have referred me back to Dr. Lee or told me I'm not a good candidate for treatment.

A It appears that many specialists you've seen have referred back to Dr. Lee's care or told you that you're not a suitable candidate for treatment due to the complexity of your

case. This lack of access to care and willingness to take on your unique situation raises further concerns about the adequacy of Ms. Treutel's current treatment plan.

Q I believe it's clear that my current treatment plan is not effectively addressing my needs due to its narrow focus on managing symptoms rather than seeking a comprehensive understanding of the underlying causes of my condition.

A You feel that your current treatment plan is symptom-focused rather than addressing the underlying causes of your condition.

Q Yes, it's focused on managing symptoms rather than finding a cure.

A I acknowledge that concern. What do you propose as an alternative treatment approach?

Q I would propose seeking out a multidisciplinary approach that incorporates rheumatology, neurology, and pain management specialists to better understand my complex condition and develop a more comprehensive treatment plan.

A I've taken note of Ms. Treutel's proposal for a multidisciplinary approach that incorporates rheumatology, neurology, and pain management specialists to better understand her complex condition and develop a more comprehensive treatment plan. That being said, what specific qualities or characteristics would you look for in a specialist who is willing to take on your unique case?

Q Open-mindedness, willingness to collaborate with other specialists, and a commitment to exploring innovative treatment options.

ALJ: Those are essential qualities for a specialist to tackle a complex case like yours.

ATTY: I'd like to summarize the key points from today's discussion. My client's Lyrica dosage was increased due to worsening Peripheral Neuropathy symptoms, but this new development of possible myofascial pain syndrome by Dr. Patel has not been addressed in her treatment plan.

ALJ: I acknowledge the key points discussed today: increased Lyrica dosage for worsening Peripheral Neuropathy symptoms and neglect of possible myofascial pain syndrome diagnosis by Dr. Patel.

EXAMINATION OF MEDICAL EXPERT BY ATTORNEY:

Q What is the status of Dr. Lee's treatment plan for Ms. Treutel's rheumatoid arthritis and Peripheral Neuropathy symptoms, considering her increased Lyrica dosage and recent diagnosis by Dr. Patel?

A It appears that Dr. Lee's treatment plan is inadequate due to neglect of recent diagnosis and failure to adjust current regimen accordingly.

Q Has Dr. Lee failed to update Ms. Treutel's medical records with her increased Lyrica dosage and recent diagnosis of myofascial pain syndrome?

A Yes, Dr. Lee's office has been aware of these changes for some time now, and it appears that they haven't updated her records as they should have.

Q Is it accurate to say that Dr. Lee's failure to update Ms. Treutel's medical records has led to a significant delay in her receiving adequate treatment for her worsening condition?

A Yes.

Q Has Dr. Lee's office provided any written documentation of their attempts to update Ms. Treutel's medical records with her increased Lyrica dosage and recent diagnosis of myofascial pain syndrome?

A No, I've received no written documentation from Dr. Lee's office regarding these updates to my medical records.

Q The lack of written documentation raises concerns about Dr. Lee's office intentionally withholding this information from Ms. Treutel. Can you confirm that she was not informed by her healthcare provider or any affiliated staff member regarding the increased dosage and myofascial pain syndrome diagnosis?

A Yes.

Q Dr. Lee's failure to update Ms. Treutel's records and withholding of this information could be seen as a critical breach of her duty of care. Does Dr. Lee have any documentation that would support her claim that she had instructed the office staff to update Ms. Treutel's records with the new dosage and diagnosis?

A [INAUDIBLE]

Q Without Dr. Lee's documentation or testimony, can we assume she is unable to refute Ms. Treutel's claim that her office withheld critical treatment information?

A Yes.

Q In light of Dr. Lee's failure to provide documentation or testimony to refute Ms. Treutel's claim, it appears that her office did indeed withhold critical treatment information from her, which further supports our assertion that Dr. Lee has breached her duty of care and failed to provide adequate medical treatment to my client.

A The evidence supports our claim that Dr. Lee breached her duty of care and failed to provide adequate medical treatment.

Q What is the exact date of Ms. Treutel's last documented appointment with Dr. Lee prior to her increase in Lyrica dosage and recent diagnosis by Dr. Patel?

A October 15, 2022.

Q Given that Dr. Lee's last documented appointment with Ms. Treutel was on October 15, 2022, can we conclude that her office deliberately withheld information about the increased Lyrica dosage and myofascial pain syndrome diagnosis for over six months?

A [INAUDIBLE]

Q Is it not true that Dr. Lee's withholding of Ms. Treutel's increased Lyrica dosage and myofascial pain syndrome diagnosis for over six months directly contributed to her worsened condition and subsequent disability?

A Yes.

Q Can we agree that Dr. Lee's failure to update Ms. Treutel's records with her increased Lyrica dosage and myofascial pain syndrome diagnosis on October 15, 2022, constitutes negligence?

A Yes.

Q Dr. Lee's failure to update records before November 1st, 2022, is key to her negligence claim. Did she notify Ms. Treutel about this critical dosage increase?

A No

Q Dr. Lee did not notify Ms. Treutel about the increased dosage before November 15th, 2022, and her office was aware of this critical information for over a month without informing her.

A That's correct.

ATTY: I've exhausted all relevant inquiries regarding Ms. Treutel's case.

ALJ: I'd like to summarize some of the key points that have been discussed regarding Dr. Lee's treatment plan for Ms. Treutel. Can you clarify why Dr. Patel's recent diagnosis of myofascial pain syndrome was not incorporated into her current regimen?

ATTY: Dr. Lee's office failed to update Ms. Treutel's records with Dr. Patel's diagnosis of myofascial pain syndrome, despite being aware of it since October 15, 2022.

ALJ: Did Dr. Lee's office intentionally withhold this information from Ms. Treutel?

ATTY: Yes.

ALJ: What documentation do you have to support the claim that Dr. Lee's office intentionally withheld this information?

ATTY: There is no written documentation from Dr. Lee or her staff acknowledging they intentionally withheld this information.

ALJ: So it appears that Dr. Lee's office intentionally withheld information without documentation. What evidence do you have to support Ms. Treutel's claim of disability resulting from this withholding?

ATTY: Ms. Treutel's condition worsened after Dr. Lee's office withheld her increased Lyrica dosage and myofascial pain syndrome diagnosis for over six months.

BY ADMINISTRATIVE LAW JUDGE:

Q I appreciate the thorough explanation provided by the Attorney regarding Dr. Lee's office withholding of critical treatment information from Ms. Treutel. Can you tell me, Ms. Treutel, how did you initially find out about your increased Lyrica dosage and myofascial pain syndrome diagnosis?

A I found out about my increased Lyrica dosage through a third-party letter from Dr. Patel on April 1st, 2023.

Q So it wasn't until April 1st, 2023, that you became aware of this information despite Dr. Lee's office being aware since October 15th, 2022.

A Correct.

Q This significant delay in information caused further harm

to Ms. Treutel's condition. Did Dr. Lee's office inform her about the myofascial pain syndrome diagnosis before she received the letter from Dr. Patel?

A No.

Q Dr. Lee's office did not inform Ms. Treutel about the myofascial pain syndrome diagnosis until she received Dr. Patel's letter.

A That's correct.

Q No written documentation from Dr. Lee's office supports her claim that Ms. Treutel was informed about the myofascial pain syndrome diagnosis.

A Correct.

Q Is Dr. Lee's office responsible for Ms. Treutel's worsened condition due to withholding of critical treatment information?

A Yes.

Q Dr. Lee's office is responsible for Ms. Treutel's worsened condition due to withholding of critical treatment information.

A Yes.

Q The record supports that Dr. Lee's office was negligent and withheld critical information from Ms. Treutel.

A [INAUDIBLE]

Q I acknowledge Dr. Lee's office negligence and withholding of critical information from Ms. Treutel.

A Thank you.

Q Case closed.

A Noted.

Q What is Ms. Treutel's current medical status?

A Ms. Treutel's condition remains unmanaged due to delayed treatment.

ALJ: I appreciate the Claimant's testimony regarding Ms. Treutel's ongoing struggles with unmanaged symptoms due to delayed treatment. I'd like to take a moment to acknowledge the Claimant's patience and understanding throughout this process. Thank you, Claimant, for your time and cooperation.

ATTY: Ms. Treutel's condition remains unmanaged due to delayed treatment.

(The medical expert, CARLO WARD, MD, having been first duly sworn, testified as follows:)

EXAMINATION OF MEDICAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q Dr. Rodriguez, what is your medical specialty?

A Physical Medicine and Rehabilitation.

Q Can you elaborate on your experience with treating patients with fibromyalgia and chronic pain?

A I've been practicing Physical Medicine and Rehabilitation for over 20 years, with a strong focus on treating patients with fibromyalgia and chronic pain. In my experience, it's essential to consider the multifaceted nature of these conditions, taking into account not only their physical manifestations but also the

emotional and psychological toll they can take on patients. I've found that a comprehensive approach, involving a combination of pharmacological interventions, lifestyle modifications, and alternative therapies such as acupuncture and cognitive-behavioral therapy, is often most effective in managing symptoms and improving quality of life for these patients. However, I must emphasize the importance of a thorough medical history and physical examination in accurately diagnosing and treating fibromyalgia and chronic pain, as these conditions can be complex and require individualized treatment plans. In this case, it's crucial to review the medical records and testimony provided by Ms. Treutel's previous healthcare providers to ensure that we're considering all relevant factors in evaluating her condition.

Q Are you an expert in treating patients with fibromyalgia and chronic pain similar to Ms. Treutel's?

A Yes.

Q Have you reviewed Ms. Treutel's medical records and testimony?

A Yes, I [INAUDIBLE]

Q Is there anything that stands out to you as inconsistent with a finding of disability?

A Well, I think it's worth noting that Ms. Treutel's medical records indicate that she did receive treatment for her fibromyalgia and chronic pain from Dr. Smith, a board-certified pain management specialist, prior to the alleged negligence by Dr.

Lee's office. In fact, Dr. Smith's notes suggest that Ms. Treutel was receiving regular injections of corticosteroids and lidocaine to manage her symptoms, which is a common treatment approach for fibromyalgia and chronic pain. Now, I know the Claimant has testified that she was not adequately treated by Dr. Lee's office, but it does seem that Ms. Treutel did have access to some form of treatment prior to the alleged negligence, which might suggest that her condition could have been managed despite any supposed mistakes made by Dr. Lee's office. I mean, I'm not saying that Dr. Lee's office didn't make any mistakes or anything, but it does seem like there are a few different factors at play here.

Q Note taken. However, I still need clarification on how Dr. Lee's office negligence directly contributed to Ms. Treutel's disability.

A Well, as I was saying earlier, it seems that Ms. Treutel did have access to some form of treatment prior to the alleged negligence by Dr. Lee's office. And if we look at the medical records, it does appear that she received regular injections of corticosteroids and lidocaine to manage her symptoms. But, I mean, it's not like she was receiving any sort of comprehensive care or anything...I mean, it's just those injections, right? And, yeah, Dr. Lee's office didn't follow up on the treatment plan that Dr. Smith had established, but, you know, maybe they could have done more to communicate with each other and get her back on track. I'm not saying that would have necessarily cured her or anything, but

it might have helped to manage her symptoms a bit better, maybe even get her off some of the medications she's currently on...But, yeah, I mean, that's just speculation at this point. And, uh, one thing that does seem clear is that Dr. Lee's office didn't follow proper protocol when it came to documenting and reporting Ms. Treutel's treatment history, which could have led to some confusion and delays in her care...But, you know, I'm not sure how directly that contributed to her disability...

Q It appears that Dr. Lee's office did not follow proper protocol when it came to documenting and reporting Ms. Treutel's treatment history, which could have led to delays in her care.

ATTY: I'd like to point out that Dr. Lee's office not only failed to document and report Ms. Treutel's treatment history properly but also neglected to follow up on the established treatment plan set by Dr. Smith. This lack of communication and continuity in care directly contributed to Ms. Treutel's worsening symptoms and ultimately led to her disability.

ALJ: Agreed. The lack of communication and continuity in care directly contributed to Ms. Treutel's disability.

ATTY: I'm Lucious Robel, representing Ms. Treutel.

ME: The lack of documentation, reporting, and follow-up on Ms. Treutel's established treatment plan by Dr. Lee's office directly contributed to her worsening symptoms and ultimately led to her disability.

ATTY: You mentioned earlier that Ms. Treutel received

injections of corticosteroids and lidocaine from Dr. Smith, but what about the fact that she was prescribed 800mg of Lyrica by Dr. Lee's office, which is a significant increase in her opioid dosage?

ME: Yes, that is a notable increase in opioid dosage.

ATTY: Given that Ms. Treutel was already taking 600mg of Lyrica and had a history of dependency on opioids, don't you think that Dr. Lee's office should have been more cautious when increasing her dosage by another 200mg?

ME: Yes.

ATTY: Did Dr. Lee's office adequately address Ms. Treutel's risk of opioid overdose when increasing her dosage?

ME: No, Dr. Lee's office did not adequately address Ms. Treutel's risk of opioid overdose when increasing her dosage.

ATTY: So, it's clear that Dr. Lee's office not only failed to communicate effectively with other healthcare providers but also disregarded Ms. Treutel's history of opioid dependency and increased her dosage without proper caution. I'd like to ask, wasn't the 800mg dosage a recipe for disaster, especially considering the lack of proper monitoring or follow-up by Dr. Lee's office?

ME: [INAUDIBLE]

ATTY: It's clear that Dr. Lee's office was grossly negligent in their treatment of Ms. Treutel, and I'd like to ask you, Doctor, don't you think it's astonishing that they would

increase her opioid dosage by such a significant amount without even so much as a cursory conversation with the prescribing physician, let alone any kind of thorough review of her medical history? And isn't it remarkable that despite their clear dereliction of duty, Dr. Lee's office still managed to botch the documentation and reporting of Ms. Treutel's treatment history, leaving her vulnerable to further harm? I mean, really, Doctor, how could they have been so reckless with someone's life? And can you honestly say that you're confident in your previous assessment that Dr. Lee's office simply 'made a mistake', or do you think there might be something more sinister at play here?

ME: The lack of proper communication and documentation by Dr. Lee's office was not a simple mistake, but rather a clear dereliction of duty that put Ms. Treutel's life at risk.

ATTY: I'm glad we're finally on the same page, Doctor. The lack of proper communication and documentation by Dr. Lee's office was not a simple mistake, but rather a clear dereliction of duty that put Ms. Treutel's life at risk. And I must say, it's nothing short of astonishing that they would so callously disregard the well-being of their patient, especially considering the severity of her medical condition and the gravity of the consequences that could have arisen from their actions. Now, if I may ask, Doctor, don't you think that Dr. Lee's office was, in fact, aware of the risks associated with increasing Ms. Treutel's opioid dosage, given the clear warnings and guidelines set forth by medical

professionals such as yourself? And isn't it rather disconcerting that they chose to ignore these warnings, despite having access to the very same information that you've provided us today?

ME: Yes, it's clear that Dr. Lee's office was aware of the risks associated with increasing Ms. Treutel's opioid dosage, and their decision to ignore these warnings despite having access to the same information as myself is indeed disconcerting.

ATTY: I've asked all my questions, Doctor. Thank you for your expert testimony.

BY ADMINISTRATIVE LAW JUDGE:

Q I'd like to take a look at Exhibit 3, which appears to be a medication list for Ms. Treutel. Can you, Doctor, tell me how this interacts with your previous testimony regarding Dr. Lee's office increasing her opioid dosage?

A Yes, Exhibit 3 indicates that Ms. Treutel was prescribed a combination of medications including oxycodone, hydrocodone, and fentanyl, which are all potent opioids. Given this medication regimen, it's my expert opinion that Dr. Lee's office should have been even more cautious when increasing her opioid dosage by 200mg of Lyrica, as this could have significantly contributed to the risks of overdose and dependency.

Q I'd like to take a look at Exhibit 5, which appears to be a medical history of Ms. Treutel's previous opioid use. Can you, Doctor, tell me how this interacts with your previous testimony regarding Dr. Lee's office increasing her opioid dosage and the

risks associated with it?

A Exhibit 5 confirms Ms. Treutel's history of opioid dependency, making Dr. Lee's office even more culpable for increasing her dosage without proper caution.

Q I've reviewed Exhibit 7, which appears to be a letter from Dr. Lee's office to Ms. Treutel's previous prescribing physician. Can you, Doctor, explain how this letter relates to your previous testimony regarding the lack of communication and continuity in care?

A The letter indicates that Dr. Lee's office did not properly inform the previous prescribing physician about Ms. Treutel's treatment history and current medication regimen, further highlighting their lack of communication and continuity in care.

Q I'd like to take a look at Exhibit 10, which appears to be an internal memo from Dr. Lee's office regarding their treatment protocol for patients with opioid dependency. Can you, Doctor, tell me how this interacts with your previous testimony regarding the lack of proper caution when increasing Ms. Treutel's opioid dosage?

A The memo indicates that Dr. Lee's office had knowledge of recommended guidelines for treating patients with opioid dependency, yet they chose to disregard these protocols when increasing Ms. Treutel's dosage.

ATTY: I'd like to address Exhibit 10, Doctor. It appears

that Dr. Lee's office had knowledge of recommended guidelines for treating patients with opioid dependency, yet they chose to disregard these protocols when increasing Ms. Treutel's dosage. This further supports my assertion that their actions were not merely careless but rather a reckless disregard for the well-being of their patient.

(The vocational expert, STEVIE RICE, having been first duly sworn, testified as follows:)

EXAMINATION OF VOCATIONAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q What are the physical demands of a photographer, and how do they relate to Ms. Treutel's current limitations?

A Well, you see, a photographer is an individual who captures images and creates visual representations for various purposes, such as artistic expression, commercial use, or documentation. This occupation requires a combination of technical skills, creativity, and attention to detail. In terms of physical demands, photography can be quite varied depending on the specific type of photography being performed. For example, a portrait photographer may spend most of their time standing or sitting in front of a camera, while a landscape photographer may need to hike or travel to remote locations to capture certain images. As for Ms. Treutel's current limitations, I would say that her ability to lift, bend, and stand for prolonged periods may be affected by her condition, which could impact her ability to perform tasks such as carrying equipment, standing for long periods of time, or bending

to adjust settings on a camera. However, it's worth noting that some photography work can be done from a seated position, so it's not entirely impossible for someone with Ms. Treutel's limitations to find employment in this field. But I digress, the physical demands of a photographer would likely fall into the medium physical demand category, which is SVP code 5-6, indicating a skilled occupation that requires some manual dexterity and physical stamina. And, uh, I think that's about it.

Q Okay, so let me see if I understand correctly. You're saying that a photographer's physical demands would fall into the medium physical demand category, which is SVP code 5-6. And you mentioned that some photography work can be done from a seated position, but other tasks may require standing or bending for prolonged periods. Now, let me review these three profiles: Profile 1 - Photographer at a commercial studio, requires frequent lifting of equipment and standing for long periods; Profile 2 - Freelance photographer who specializes in indoor portrait photography, often working from a studio setting with minimal physical demands; and Profile 3 - Photographer who primarily works on location, but has an assistant to help with equipment and lifting. Can you tell me if these profiles are consistent with the claimant's abilities? Could she perform the duties of a photographer in a commercial studio, like Profile 1?

A No, based on the claimant's limitations, I believe she could not perform the duties of a photographer in a commercial

studio like Profile 1.

Q Profile 2 describes a freelance photographer who specializes in indoor portrait photography and often works from a studio setting with minimal physical demands. Given the claimant's limitations, could she perform the duties of a photographer like Profile 2?

A Yes

Q Given that Profile 2 describes a freelance photographer who specializes in indoor portrait photography and often works from a studio setting with minimal physical demands, I'd like to clarify if this finding is consistent with your previous testimony regarding Ms. Treutel's ability to work as a photographer from a seated position? Is her inability to perform tasks requiring prolonged standing or bending still an issue in this scenario?

A No

ALJ: It appears that based on your testimony, Ms. Treutel's limitations may not significantly impact her ability to work as a freelance photographer specializing in indoor portrait photography from a studio setting with minimal physical demands. Is this correct?

ATTY: [INAUDIBLE]

EXAMINATION OF VOCATIONAL EXPERT BY ATTORNEY:

Q Ms. Rice's testimony suggests that Ms. Treutel could potentially work as a freelance photographer specializing in indoor portrait photography from a studio setting with minimal

physical demands, but I'd like to ask about her ability to establish and maintain relationships with clients, which is an important aspect of this occupation. Does her history of substance abuse and treatment for opioid dependency affect her employability in this regard?

A Yes, Ms. Treutel's history of substance abuse and treatment for opioid dependency may impact her ability to establish and maintain relationships with clients, as it could affect her credibility, trustworthiness, and reliability. However, this is not a definitive conclusion, and individual circumstances would need to be taken into account when evaluating her potential employability in this regard.

Q Ms. Rice also mentioned that Ms. Treutel's condition may impact her ability to perform tasks requiring prolonged standing or bending. How would this physical limitation affect her employability as a photographer working on location, as described in Profile 3?

A Ms. Treutel's physical limitation would likely impact her employability as a photographer working on location, as described in Profile 3, particularly if she requires an assistant to help with equipment and lifting. This could limit her ability to work independently or travel to remote locations, which are often necessary for this type of photography. Additionally, the need for assistance may also affect her ability to respond quickly to changing circumstances or adapt to unexpected situations that

require physical exertion.

ALJ: Thank you, Stevie Rice, for your thorough and insightful testimony. It's been a pleasure having you here today to help us understand Ms. Treutel's employability as a photographer. I think we've covered all the relevant points, but if there's anything else you'd like to add or clarify, please feel free to do so.

CLMT: I just want to take a moment to address everyone here today, and I'm not going to sugarcoat it or try to make it sound any better than it is. Being disabled isn't something that can be fixed with a simple solution or a quick fix. It's a part of who we are, and it takes a lot of courage to live with it every day. I mean, people often think that being disabled means you're weak, or that you're not capable of doing things on your own, but that couldn't be further from the truth. We may have physical limitations, but our minds are just as sharp, if not sharper, than anyone else's. And it takes a lot of strength to keep going when people around us don't understand what we're going through. But I want you all to know that being disabled doesn't make me any less of a person. It makes me more resilient, more determined, and more compassionate towards others who may be struggling in their own ways. And I think that's something that everyone can learn from. So let's not focus on trying to fix us, or change us into something we're not. Let's focus on embracing our differences, and celebrating the unique perspectives and experiences that each and

every one of us brings to the table.

ALJ: I'd like to thank Ms. Treutel for her powerful statement and for being an inspiration to us all. I'd also like to express my gratitude to our Vocational Expert, Stevie Rice, and attorney for their time and expertise. This meeting is adjourned.

VE: Thank you for allowing me to testify today.

ME: I'd like to review the claimant's medical history to see if there are any red flags that could impact her employability as a photographer.

CLMT: Thank you for having me today.

ATTY: Thank you, everyone, for a productive meeting. I'm satisfied with Ms. Rice's testimony and appreciate Ms. Treutel's courage in [INAUDIBLE] perspective.

(The hearing closed at 06:42 PM, on April 29, 2022.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing in the case of Sabryna Treutel, held before Administrative Law Judge Lonny Kunde.

Wilber Schoen, Transcriber
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