



JUGE NAPOLITANO

GUILBEAU RULI FRIEMAN APLC

### **Alvis v. Peninsula Gaming Partners LLC**

Alicia Alvis worked for Peninsula Gaming Partners LLC as a hostess at the Amelia Belle Casino in June 2012, when she tripped on an uneven area in the floor. Alvis told her supervisor she felt immediate tightness in her right knee.

Alvis went to Assumption Community Hospital and was diagnosed with a knee strain. Peninsula initially accepted the injury as compensable and paid for treatment for Alvis' knee. Dr. Pamela Petrocy performed surgery on Alvis' knee in October 2012.

Alvis mentioned lower-back pain for the first time during a July 2014 appointment with Petrocy. Dr. Neil Maki performed a second surgery in July 2016 and then referred Alvis to Dr. Donald Gervais for an electromyography. Dr. Gervais reported the EMG showed L3 and L4 radicular disease as well as right L5 and S1 radicular changes.

In May 2018, Alvis filed a workers' compensation claim seeking payment for treatment recommended by Dr. Gervais for lower back pain. She later amended her claim to request reimbursement for medical expenses from "various health care providers for her low back injury." Alvis also sought attorney fees and penalties alleging that Peninsula arbitrarily denied treatment for her back.

Peninsula responded that Alvis' back conditions were not connected to the June 2012 accident.

A workers' compensation law judge determined the muscular issues in Alvis' back were related to her gait issues and were caused by the work accident, but the WCJ said Alvis did not meet her burden of proving that her L5-S1 disc herniation was caused by the work accident. Alvis appealed.

The Court of Appeal for the 1st Circuit of Louisiana noted that Alvis saw several doctors, and most of them attributed her back pain to her altered gait caused by her knee injury. However, at least two of the doctors opined that her back injury was muscular and one acknowledged that a 2016 motor vehicle accident could have contributed to the disk herniation.

"Under these circumstances, the WCJ's decision, finding that Mrs. Alvis proved muscular issues related to her back were caused by the work accident but failed to prove causation by a

preponderance of the evidence regarding the L5-S1 disc herniation, was entirely reasonable,” the court said.

The court said that the burden of proof is on a worker to prove that an accident occurred on the job, and that she sustained an injury.

“Based on the testimony of Mrs. Alvis as well as the medical evidence presented, we conclude that the records support the WCJ's conclusion that Mrs. Alvis did not establish a causal connection between her work accident and her L5-S1 disc herniation by a preponderance of the evidence,” the court said.

The court further said Alvis was not entitled to penalties or attorney fees since Peninsula reasonably controverted her claim given the two-year gap between the accident and Alvis' initial complaints of pain, the intervening motor vehicle accident and the medical records.