CASE NO. 5932 CRB-6-14-4 : COMPENSATION REVIEW BOARD
CLAIM NO. 601048610

CHERYL HAINES
CLAIMANT-APPELLEE : WORKERS' COMPENSATION COMMISSION

v.

: MARCH 9, 2015

TURBINE TECHNOLOGIES, INC.
EMPLOYER

and

PEERLESS INSURANCE COMPANY
INSURER
RESPONDENTS-APPELLANTS
and

LIBERTY MUTUAL INSURANCE
UTICA NATIONAL INSURANCE
INSURERS
RESPONDENTS-APPELLEES

APPEARANCES:

The claimant was represented by Jonathan Dodd, Esq., Dodd Law Firm, LLC, 1781 Highland Avenue, Suite 105, Cheshire, CT 06410.

The respondents Turbine Technologies, Inc., and Peerless Insurance Company were represented by Marie E. Gallo-Hall, Esq., Montstream & May, 655 Winding Brook Drive, Glastonbury, CT 06033-6087.

The respondents Turbine Technologies, Inc., and Liberty Mutual Insurance, at the trial level, were represented by Marian Yun, Esq., Law Offices of Loccisano, Meehan, Turret & Rosenbaum, 101 Barnes Road, Third Floor, Wallingford, CT 06492 who did not submit a brief or attend oral argument.

The respondents Turbine Technologies, Inc., and Utica National Insurance were represented by Judith A. Murray, Esq., McGann, Bartlett & Brown, 111 Founders Plaza, Suite 1201, East Hartford, CT 06108.

This Petition for Review from the April 15, 2014 Finding & Award of the Commissioner acting for the Sixth District

was heard October 24, 2014 before a Compensation Review Board panel consisting of the Commission Chairman John A. Mastropietro and Commissioners Michelle D. Truglia and Nancy E. Salerno.

# OPINION

JOHN A. MASTROPIETRO, CHAIRMAN. The respondent-appellant, Peerless Insurance, ("Peerless") has appealed from a Finding and Award which determined that the claimant sustained a compensable lumbar spine injury in the course of her employment and that injury is the reason for her current need of medical treatment. Peerless argues that the evidence in this case suggests that the claimant's repetitive trauma is the reason for her need for medical treatment. They also argue that as the respondent did not file a Form 43 responsive to the claimant's Form 30C that the other insurers in this case are precluded from presenting evidence supportive of their position. We find Peerless's argument as to preclusion devoid of merit. As to the trial commissioner's findings as to liability, we find that they are based on evaluating expert testimony and are supported by expert testimony in the record. We affirm the Finding & Award.

The following findings of fact are pertinent to our consideration of this appeal. The trial commissioner took administrative notice of three Forms 30C filed by the claimant on May 26, 2006, August 21, 2007 and repetitive trauma for the period of February 1, 1994 through December 19, 2011. Findings, ¶ 1. The claimant testified that she started working with the employer-respondent in 1988, left their employment for a few years, and returned in 1994 and has worked continuous for this firm except for 2007. She testified that through her employment with the respondent, she worked in the set up,

airflow and quality control departments, and that her job duties in the set up department prior to and after 2006 included picking up heavy tools and fixtures, repetitive pushing and pulling equipment of heavy carts; repetitive activities of putting parts in and out of machines and hours leaning over a table to look at gauges. She said that her work since 2012 had been in the quality control department, but all of her work had made her back hurt. The claimant further testified that on May 26, 2006 while pushing a heavy power supply she twisted her back. As a consequence she felt pain in her back and legs.

Subsequent to the May 26, 2006 incident she sought medical treatment at Grove Hill Internal Medicine and was subsequently referred to Dr. Robert Pepperman. Dr. Pepperman, after reviewing an MRI performed on December 8, 2006, diagnosed the claimant with a L4-5 disc protrusion/herniation which was impinging on the right side of the thecal sac on the right L5 nerve root. She also had disc protrusion at L5 and S1 and L3 and L4. The claimant later was examined by Dr. Joseph Aferzon on July 13, 2007 and September 20, 2007. Dr. Aferzon discussed surgery as an option for the claimant's back and leg condition but she opted for injections. The claimant further testified that she has received a series of various types of injections since 2006 with only temporary relief and that her back and leg pain has not changed since May 26, 2006. On September 29, 2011 the claimant underwent another MRI which showed degenerative disc changes as well as a L4-5 protrusion/herniation which was slightly larger when compared to the prior MRI.

The respondents had the claimant examined by Dr. Gerald Becker on March 3, 2008 and November 15, 2011. In his report of November 15, 2011 Dr. Becker further opined "[i]t is my impression that Cheryl Haines has ongoing back pain with increased

right pain as a result of a contribution of her original injury in 2006 and repetitive trauma since that time. I believe that the repetitive trauma due to lifting, pulling and pushing parts has caused an increase in the size of her herniation at L4-5." The claimant sought medical treatment for her back condition on April 16, 2013 with Dr. Glenn Taylor. He issued several reports of his findings and conclusions and testified by deposition dated March 10, 2014. Dr. Taylor recommended surgery, a laminectomy and nerve root decompression. After an updated MRI of the claimant's back, Dr. Taylor noted on January 28, 2014 that a previously noted free fragment at L4-5 had fully resolved.

The trial commissioner noted that the various medical witnesses offered differing opinions as to the causation of the claimant's back condition. On November 2, 2009 in addressing the issue of causation, Dr. Pepperman opined heavy repetitive work with the respondent contributed to her low back and sciatica condition. In addressing the issue of causation, Dr. Aferzon noted degenerative disc changes and noted her heavy work activities. He opined that her work activities were 50% responsible for her back condition. Dr. Becker ascribed the claimant's deteriorating back condition to repetitive trauma at work. In his report of December 26, 2013, Dr. Taylor opined "that it is within reasonable medical probability that Mrs. Haines work related injury of May 26, 2006 is a substantial factor in her need for consideration of back surgery---I do not believe that her repetitive activities at the workplace since 2006 are necessarily a substantial factor in her need for consideration of back surgery." Findings, ¶ 25. At his deposition Dr. Taylor testified and acknowledged it is "possible" that the claimant's repetitive work activities since 2006 could have played a role in her need for surgery but stated "the notion that an

individual's back pain is necessarily caused by repetitive physical activities is---is more often than not speculation." Id.

Based on that factual background the trial commissioner concluded the claimant's testimony was credible and persuasive and that she sustained a compensable injury to her lumbar spine on May 26, 2006 which arose out of and in the course of her employment. The commissioner acknowledged that numerous expert opinions suggested repetitive work activities played a role in the claimant's back condition; but based on the totality of the evidence that the opinions and conclusions of Dr. Taylor were more persuasive than those expressed by other physicians, and that the claimant's repetitive work activities since May 26, 2006 were not a substantial factor for her need for present and future treatment. The commissioner ordered Peerless to accept the claimant's May 26, 2006 lumbar spine injury as compensable and administer the claim.

Peerless filed a Motion to Correct subsequent to the Finding & Award seeking 10 separate corrections all consistent with the theory that the cause of the claimant's back ailments was repetitive trauma sustained at work. The trial commissioner granted only one correction, which was that the respondent-employer had not filed a Form 43 for the 2011 repetitive trauma claim. Peerless then commenced the instant appeal. The appellant presents two primary theories of error. First, that the failure of the respondent to file a Form 43 to the 2011 repetitive trauma claim precludes them from offering any evidence contesting this claim and therefore the claim must be deemed compensable. Secondly, Peerless claims that therefore there was an inadequate foundation of probative evidence linking causation of the claimant's back ailment with a specific injury in 2006, as opposed to repetitive trauma subsequent to that date. We find neither argument

persuasive. The appellant also alleges error from the trial commissioner denying a Motion for Articulation in this matter.

We note the standard of deference we are obliged to apply to a trial commissioner's findings and legal conclusions is well-settled. "The trial commissioner's factual findings and conclusions must stand unless they are without evidence, contrary to law or based on unreasonable or impermissible factual inferences." Russo v. Hartford, 4769 CRB-1-04-1 (December 15, 2004), *citing* Fair v. People's Savings Bank, 207 Conn. 535, 539 (1988). Moreover, "[a]s with any discretionary action of the trial court, appellate review requires every reasonable presumption in favor of the action, and the ultimate issue for us is whether the trial court could have reasonably concluded as it did." Burton v. Mottolese, 267 Conn. 1, 54 (2003). "This presumption, however, can be challenged by the argument that the trial commissioner did not properly apply the law or has reached a finding of fact inconsistent with the evidence presented at the formal hearing." Christensen v. H & L Plastics Co., Inc., 5171 CRB-3-06-12 (November 19, 2007). We also note that in cases wherein causation of an injury is contested the trial commissioner's " . . . findings of basic facts *and* his finding as to whether those facts support an inference that the plaintiff's injury arose from his employment are subject to a highly deferential standard of review." Blakeslee v. Platt Bros. & Co., 279 Conn. 239, 253-254 (2006). (Emphasis in the original.)

The appellant in this matter, Peerless, argues that the trial commissioner erred by allowing the other insurance carrier, Utica National Insurance ("Utica") to present evidence contesting a linkage between the claimant's present medical condition and the repetitive trauma injury asserted in the 2011 claim. In Peerless's opinion, since the

claimant's employer did not file a Form 43 disclaimer contesting liability for this injury consistent with § 31-294c(b) C.G.S.[1] the carrier at that time, Utica, was barred from presenting evidence contesting causation pursuant to the precedent in Donahue v. Veridiem, Inc., 291 Conn. 537 (2009) and Harpaz v. Laidlaw Transit, Inc., 286 Conn. 102 (2008). Utica counters that this issue was never raised by the appellant in the formal hearing, and it is inappropriate to raise this issue for the first time on appeal. We concur, but further note that our precedent stands for the proposition that since Peerless lacked the standing necessary to raise this argument at the Formal Hearing it would have been a futile endeavor.

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[1] This statute reads as follows:

(b) Whenever liability to pay compensation is contested by the employer, he shall file with the commissioner, on or before the twenty-eighth day after he has received a written notice of claim, a notice in accord with a form prescribed by the chairman of the Workers' Compensation Commission stating that the right to compensation is contested, the name of the claimant, the name of the employer, the date of the alleged injury or death and the specific grounds on which the right to compensation is contested. The employer shall send a copy of the notice to the employee in accordance with section 31-321. If the employer or his legal representative fails to file the notice contesting liability on or before the twenty-eighth day after he has received the written notice of claim, the employer shall commence payment of compensation for such injury or death on or before the twenty-eighth day after he has received the written notice of claim, but the employer may contest the employee's right to receive compensation on any grounds or the extent of his disability within one year from the receipt of the written notice of claim, provided the employer shall not be required to commence payment of compensation when the written notice of claim has not been properly served in accordance with section 31-321 or when the written notice of claim fails to include a warning that (1) the employer, if he has commenced payment for the alleged injury or death on or before the twenty-eighth day after receiving a written notice of claim, shall be precluded from contesting liability unless a notice contesting liability is filed within one year from the receipt of the written notice of claim, and (2) the employer shall be conclusively presumed to have accepted the compensability of the alleged injury or death unless the employer either files a notice contesting liability on or before the twenty-eighth day after receiving a written notice of claim or commences payment for the alleged injury or death on or before such twenty-eighth day. An employer shall be entitled, if he prevails, to reimbursement from the claimant of any compensation paid by the employer on and after the date the commissioner receives written notice from the employer or his legal representative, in accordance with the form prescribed by the chairman of the Workers' Compensation Commission, stating that the right to compensation is contested. Notwithstanding the provisions of this subsection, an employer who fails to contest liability for an alleged injury or death on or before the twenty-eighth day after receiving a written notice of claim and who fails to commence payment for the alleged injury or death on or before such twenty-eighth day, shall be conclusively presumed to have accepted the compensability of the alleged injury or death.

It is black letter law that a party may not raise an issue on appeal to the Compensation Review Board that was not adjudicated by the trial commissioner. See Cable v. Bic Corp., 79 Conn. App. 178, 184 (2003) and Smith v. Connecticut Light & Power Co., 73 Conn. App. 619, 627-628 (2002). Peerless did not bring the issue of preclusion to the attention of the trial commissioner prior to the closure of the record. See Respondents', Turbine Technologies, Inc., and Peerless Insurance Company, Proposed Findings and Order, dated April 4, 2014.[2] Since Peerless never sought a factual finding on this issue prior to taking an appeal, it cannot obtain appellate relief.

Moreover, we do not believe Peerless could have obtained a favorable ruling from the trial commissioner had it sought one. There was no Motion to Preclude in this case filed by any party. We believe that preclusion cannot be granted in the absence of a Motion to Preclude and a factual finding by the trial commissioner. We further believe that preclusion is a form of relief available only to claimants and therefore Peerless would never have had standing to bring such a motion.

Peerless's argument can be distilled down to one sentence. Once the Form 30C was filed for the 2011 repetitive trauma claim preclusion automatically occurred 28 days later in the absence of a Form 43 by the employer. This position is unsupported by the plain meaning of the statute and by precedent this tribunal has issued on this question.[3] We have ruled on whether an insurance carrier can raise preclusion on its own to bar

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[2] We note that this is the mirror image of Barbieri v. Comfort and Care of Wallingford, LLC, 5794 CRB-8-12-10 (September 26, 2013) where the trial commissioner was asked to consider an issue at the formal hearing, did not do so, and on appeal we remanded the matter for essential factual findings.

[3] See Williams v. Brightview Nursing & Retirement, 5854 CRB-6-13-6 (June 12, 2014) where we reviewed and Donahue v. Veridiem, Inc., 291 Conn. 537 (2009) and Harpaz v. Laidlaw Transit, Inc., 286 Conn. 102 (2008) and held, "[n]one of this precedent stands for the proposition that a Motion to Preclude can be decided solely by use of a calendar, despite the fervent assertions of claimant's counsel." Id.

consideration of a claim or defense. See Colas v. Marriott Food Services, 9 Conn. Workers' Comp. Rev. Op. 86, 939 CRD-7-89-11 (February 26, 1991) where a respondent failed to file a disclaimer to a new theory of recovery we determined preclusion "would not lie even if it were claimed by the employee, *the only one who would have a right to assert the irrebutable presumption* of Sec. 31-297(b);" (now § 31-294(c)). (Emphasis added.) Id., 89. See also, Vernon v. V.J.R. Builders, Inc., 11 Conn. Workers' Comp. Rev. Op. 237, 1360 CRD-7-91-12, (November 8, 1993), "[w]e need not determine the adequacy of the disclaimer involved here, however, because the claimant and *not* the employer is 'the only one who would have a right to assert the irrebutable presumption of Sec. 31-297(b) . . . .' Consequently, the employer lacks standing to raise a claim of preclusion . . . ." (Emphasis in original.) Id., 240. We have reviewed the plain meaning of the preclusion statute, § 31-294c(b) C.G.S., pursuant to § 1-2z C.G.S. In so doing we note that the entire obligation for filing a disclaimer to a claim is on the "employer." The statute does not reference insurers in any fashion.[4] The only beneficiary of the preclusion statute is the claimant. Such a reading is consistent with the stated purpose of the preclusion statute as delineated by the Supreme Court in Menzies v. Fisher, 165 Conn. 338, 342-344 (1973),

> The Supreme Court in Menzies pointed that the circumstances that prompted the adoption of the preclusion statute was to "correct some of the glaring inequities and inadequacies of the Workmen's Compensation Act [such as] the needless, prejudicial delays in the proceedings before the commissioners, delays by employers or insurers in the payment of benefits, lack of knowledge on the part of employees that they were entitled to benefits and the general inequality of resources available to claimants with bona fide claims."

[4] "Where a statute, with reference to one subject contains a given provision, the omission of such provision from a similar statute concerning a related subject . . . is significant to show that a different intention existed." State v. Kevalis, 313 Conn. 590, 603 (2014).

Id., at 342.

The Supreme Court further stated, "[t]he object which the legislature sought to accomplish is plain", and that was to ensure "that employees would be timely apprised of the specific reasons for the denial of their claims."

Id., 343.

Finally, our precedent also stands for the general principle that an insurance carrier lacks standing to pursue legal relief on behalf of a claimant who did not exercise their rights. "Standing is the legal right to set judicial machinery in motion. One cannot rightfully invoke the jurisdiction of the court unless [one] has, in an individual or representative capacity, some real interest in the cause of action . . . ." Blumenthal v. Barnes, 261 Conn. 434, 441-442 (2002). "Our case law is also clear that a person cannot gain standing by asserting the due process rights possessed by another individual." Strobel v. Strobel, 64 Conn. App. 614, 620 (2001). See Hernandez v. American Truck Rental, 5083 CRB-7-06-4 (April 19, 2007). Therefore, not only was no Motion to Preclude filed in this case for which Utica could have been precluded from offering a defense to the repetitive trauma claim; but Peerless had no right under the law to have obtained this relief. As a result, we find Peerless's argument that preclusion could be ordered on appeal from the Finding and Award devoid of merit.[5]

The other major averment of error advanced by Peerless is one which we consider on a regular basis and which insurers frequently raise on appeal; the argument that the

[5] In any event the appellant's argument essentially is a bid for piecemeal litigation, which our precedent clearly states is inappropriate. See Hines v. Naugatuck Glass, 4816 CRB-5-04-6 (May 16, 2005) and Schreiber v. Town & Country Auto Service, 4239 CRB-3-00-5 (June 15, 2001). Parties should not proceed under the belief this appellate body will remedy an unfavorable result resulting from an advocate's ineffective factual presentation. As the Appellate Court held in McGuire v. McGuire, 102 Conn. App. 79, 83 (2007), "[w]e have made it clear that we will not permit parties to anticipate a favorable decision, reserving a right to impeach it or set it aside if it happens to be against them, for a cause which was well known to them before or during the trial."

trial commissioner's Finding & Award was not adequately supported by the probative evidence on the record. The appellant cites DiNuzzo v. Dan Perkins Chevrolet Geo, Inc., 294 Conn. 132 (2009) for the proposition that a commissioner must ensure that the opinions he or she relies on are not rooted in evidence based on "conjecture, speculation or surmise." Id., 136-137. As Peerless views the medical evidence four physicians testified as to the cause of the claimant's back condition. Each witness opined that the claimant's repetitive trauma injury could have played some role in her current condition. Peerless also places great emphasis on the absence of any expert medical report which stated repetitive trauma played no role in her injury. Therefore, as Peerless views the evidence a Finding & Award which attributed her medical condition to her May 26, 2006 compensable injury was inconsistent with the record presented to the trial commissioner.

Utica argues that the trial commissioner had a sufficient basis of probative evidence to support the Finding & Award. Utica believes that the testimony of Dr. Taylor was definitive enough to justify an award to the claimant fixing responsibility for her medical condition on the May 26, 2006 compensable injury. They further believe that the conflicting testimony, in particular that of Dr. Becker, was too equivocal to merit reliance. Essentially they view Peerless's appeal as an inappropriate vehicle to retry the case, in contravention of Phaiah v. Danielson Curtain (C.C. Industries), 4409 CRB-2-01-6 (June 7, 2002).

As previously noted, the factual findings of an adjudicative fact finder are given a significant amount of deference on appellate review. Burton, supra. The trial commissioner in this case clearly found Dr. Taylor the one expert witness whom he found to be persuasive and reliable.

> While recognizing all medical opinions agree that the claimants repetitive work activities has or may have played a role in the progression of her lumbar condition, I find and conclude the opinions and conclusions of Dr. Taylor to be more persuasive than those expressed by other physicians that the claimants repetitive work activities since May 26, 2006 are not a substantial factor for her need for present and future treatment.

Conclusion, B.3.

We must ascertain if the opinions offered by Dr. Taylor were based on a sufficient foundation to merit reliance, unlike the opinions which proved unreliable in DiNuzzo, supra. We must also ascertain if those opinions support the trial commissioner's conclusions. Upon review, we are satisfied that the commissioner could rely on these opinions in his decision and they are consistent with the decision he reached.

We have reviewed the deposition of Dr. Taylor. He testified to having examined the claimant in April 2013 and January 2014 and having reviewed her 2011 lumbar spine MRI. Respondent's Exhibit 11, March 10, 2014 Deposition of Glenn Taylor, M.D., pp. 7-10. Dr. Taylor was given an opportunity to review the medical reports of the other expert witnesses in the case. Id., pp. 11-12. After reviewing these reports he opined that he believed the view held by the other witnesses that repetitive work strain would cause back pain "is, more often than not, speculation." Id., p. 12. Dr. Taylor further testified that he had reviewed a December 23, 2013 MRI and that it objectively indicated that the claimant's back condition was improving due to natural healing. Id., pp. 18-19. Dr. Taylor further testified that subsequent to the May 26, 2006 work related injury "there is reasonable medical probability that that particular episode resulted in the development of a disk herniation and sciatica." Id., p. 21. Dr. Taylor further associated the claimant's leg pain to a disk herniation she sustained in 2006. Id., pp. 28-29.

We have reviewed our recent cases where causation of a claimant's injury was disputed such as Hart v. Federal Express Corporation, 5897 CRB-2-13-11 (November 12, 2014) and Hadden v. Capitol Region Education Council, 5843 CRB-1-13-5 (May 20, 2014), *appeal pending*, AC 36913. These cases stand for deference to the factual determination of a trial commissioner on issues when there is conflicting evidence as to causation of an injury.

As we pointed out in O'Connor v. Med-Center Home Healthcare, Inc., 4954 CRB-5-05-6 (July 17, 2006), "[t]here are few principles of jurisprudence more fundamental than the principle that a trier of fact must be the one party responsible for finding the truth amidst conflicting claims and evidence." See also Strong v. UTC/Pratt & Whitney, 4563 CRB-1-02-8 (August 25, 2003), "[i]f on review this board is able to ascertain a reasonable diagnostic method behind the challenged medical opinion, we must honor the trier's discretion to credit that opinion above a conflicting diagnosis." The trial commissioner could reasonably find the treating physicians more persuasive than the respondents' expert. In a "dueling expert" case that is his prerogative. Dellacamera v. Waterbury, 4966 CRB-5-05-6 (June 29, 2006), n.1.

We note that a trial commissioner must evaluate medical evidence in its totality in determining whether or not to find it reliable. See Marandino v. Prometheus Pharmacy, 294 Conn. 564, 595 (2010) and O'Reilly v. General Dynamics Corp., 52 Conn. App. 813, 816 (1999). Reviewing Dr. Taylor's opinion in its entirety we find that it is supportive of the trial commissioner's ultimate conclusions. The witness opined that the May 26, 2006 work incident was a substantial factor in the claimant's condition to a reasonable medical probability in accord with the standard promulgated in Struckman v. Burns, 205 Conn.

542, 555-56 (1987). Moreover, his opinion that MRI's showed the claimant's back condition was improving during a period under which she was working and presumably placing repetitive trauma on her spine was consistent with finding the 2006 work incident the primary cause of her back ailments, and discounting any opinion linking this condition to repetitive trauma. A reasonable fact finder could find that opinion was persuasive and reliable.

Peerless's argument that a majority of the witnesses in this case opined that repetitive trauma was a substantial factor in the claimant's back condition, and the trial commissioner erred in not crediting this evidence, is akin to the argument we rejected in Arnott v. Taft Restaurant Ventures, LLC, 4932 CRB-7-05-3 (March 1, 2006). "These matters go to the weight of the evidence before the trial commissioner. Goldberg v. Ames Department Stores, 4160 CRB-1-99-2 (December 19, 2000). In this sense "weight" means the *qualitative* value of the evidence presented. The trial commissioner decided the claimant presented the superior qualitative evidence. "As the finder of fact, the trier has the sole authority to decide what evidence is reliable and what is not . . . ." Byrd v. Bechtel/Fusco, 4765 CRB-2-03-12 (December 17, 2004)." Id. The trial commissioner found Utica presented superior qualitative evidence in this case and we may not second guess this decision. O'Reilly, supra.

Peerless finally argues that it was error for the trial commissioner to only grant a single correction in the Motion to Correct and to deny the Motion for Articulation. We find no error. We may properly infer from the trial commissioner's decision to deny the corrections sought by Peerless that the commissioner did not find the evidence submitted probative or credible, Brockenberry v. Thomas Deegan d/b/a Tom's Scrap Metal, Inc.,

5429 CRB-5-09-2 (January 22, 2010), *aff'd,* 126 Conn. App. 902 (2011) (P*er Curiam*). We also find no error in the trial commissioner's denial of the Motion for Articulation. Peerless admits that this case "involves fairly straightforward questions of causation" Appellant's Brief, p. 13, and precedent such as Biehn v. Bridgeport, 5232 CRB-4-07-6 (September 11, 2008) stands for the proposition '[a]n articulation is appropriate where the trial court's decision contains some ambiguity or deficiency reasonably susceptible of clarification.' Alliance Partners, Inc. v. Oxford Health Plans, Inc., 263 Conn. 191, 204 (2003), *citing* Miller v. Kirschner, 225 Conn. 185, 208 (1993)." A trial commissioner need not articulate his or her reasoning when a case involves "fairly straightforward questions of causation."

We find the trial commissioner had a sufficient quantum of probative evidence to find that the claimant's current medical condition was due to her May 26, 2006 compensable back injury. We further find that Peerless had no right to assert preclusion in this case. We therefore affirm the Finding & Award.

Commissioners Michelle D. Truglia and Nancy E. Salerno concur in this opinion.