

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

AUGUST 20, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-3212

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

GARY C. SALVESON,

Plaintiff-Respondent,

v.

**MARY G. HANSON and
UNITED FIRE & CASUALTY
COMPANY,**

Defendants-Appellants.

APPEAL from a judgment of the circuit court for Douglas County:
JOSEPH A. MCDONALD, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Mary Hanson and her insurer appeal a judgment awarding Gary Salvesson past and future earnings and loss of earning capacity due to injuries he suffered in a traffic accident. Hanson argues that Salvesson's medical experts provided an insufficient foundation for his vocational expert's

testimony regarding lost wages. We reject this argument and affirm the judgment.

At the time of the accident, Salveson was self-employed as a refrigeration technician and also had a rural newspaper delivery route. After the accident, he quit the newspaper delivery job and modified his refrigeration business practices. He testified that his injuries slowed him down on the job, required him to purchase a lift truck to assist him in moving equipment and required that he take off some hours from work after the accident. His vocational consultant estimated loss of past earnings of \$21,000 and projected \$6,000 to \$20,000 per year loss of future earnings. The jury awarded Salveson \$4,000 for past earnings loss and \$20,000 for future earnings loss.

The testimony of Salveson's medical experts provides an adequate foundation for his vocation expert's testimony. To establish a premise for a loss of earning capacity, Salveson had to establish a permanent injury that disabled him from performing his jobs as before. *Wells v. National Indemnity Co.*, 41 Wis.2d 1, 11, 162 N.W.2d 562, 566-67 (1968). Salveson's chiropractor testified that Salveson sustained a permanent injury and that his work would continue to aggravate his condition. His neurosurgeon testified that the accident permanently aggravated an underlying preexisting condition. Salveson suffered from muscle spasms, a loss of cervical lordosis and bulging discs at multiple levels. The neurosurgeon testified that the injury was permanent and it would affect Salveson's ability to work and to lift. The doctors' diagnosis and prognosis, when combined with Salveson's confirmation that he suffered pain as a result of his work and was required to modify the way in which he worked, provided an adequate basis for the vocational expert's opinions regarding lost wages and earning capacity.

It is not necessary for the doctors to instruct their patient to quit any job or place formal restrictions on his work in order to establish an adequate medical foundation for the vocational expert's opinion. Rather, the doctors' statements that Salveson would experience pain if he engaged in lifting, twisting and bending, combined with Salveson's observation that he suffered on-the-job pain when doing his job as he previously did, constitutes an adequate basis for the vocational expert's opinion that permanent injuries reduced Salveson's past earnings and future earning capacity.

By the Court. – Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.