

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RHONDA R. BARKER,

Plaintiff,

v.

UNITED STATES OF AMERICA and
1ST AUTO & CASUALTY INSURANCE
COMPANY,

Defendants.

ORDER

04-C-524-C

A hearing was held by telephone in this case on August 12, 2005, before United States District Judge Barbara B. Crabb. Plaintiff was represented by Charles B. Harris. Defendant United States of America was represented by Steven O'Connor and 1st Auto & Casualty Insurance Company was represented by Rick Mundt.

The hearing was held on defendant 1st Auto's motion to bar plaintiff's expert, Peter M. Ihle, M.D., from testifying at trial on any matters relating to his examination of plaintiff for two reasons. The first is that Dr. Ihle was asked his opinions about matters that are not within his area of expertise, which is orthopedics, and the second is that he did not have an adequate foundation for his opinions because he had neither examined plaintiff before the

accident on January 15, 2002, nor reviewed the majority of her medical reports from before that time. Mr. Mundt objected also to Mr. Harris's noticing a trial deposition of Dr. Ihle less than 48 hours before it was scheduled to be held in Eau Claire and advising Mr. Mundt less than 24 hours before the deposition that Dr. Ihle would be testifying about additional medical records that he had reviewed since his discovery deposition in May 2005.

Plaintiff will not be able to use Dr. Ihle's trial deposition at the trial on August 18, 2005, in light of the late notice of the deposition and the more egregious delay in advising defendant's counsel of Dr. Ihle's examination of additional records. Moreover, Dr. Ihle will be limited in his testimony to testimony about plaintiff's soft tissue injuries and to her shear injury.

Entered this 12th day of August, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge