

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

GREGORY BOOHER,

Plaintiff,

v.

16-0918-DRH

**ROADTEX LTL, INC.,
and ERIC A. STENZEL,**

Defendants.

ORDER

HERNDON, District Judge:

Pending before the Court is plaintiff's motion to strike and/or limit proposed testimony of Joshua Shimony, M.D. (Doc. 53). Specifically, plaintiff moves the Court to limit Dr. Shimony's testimony because he cannot offer any opinion other than what is contained in his written report and disclosed by defendants' prior to the Court's deadline as Dr. Shimony fails to explain any relevant link between the lack of any acute injury on imagining study and the relationship between the collision and plaintiff's spine injury. As of this date, defendants have not responded to the motion. Thus, the Court considers this failure an admission of the motion.¹ Further, the Court limits Dr. Shimony's testimony to his opinion that based on his examination of C-spine radiographs dated 2/13/2015, C-spine MRI

¹ Local Rule 7.1(g) provides in part: "A party opposing a motion not listed in subsection (c) shall have **14 days** after service of the motion to file a written response. Failure to file a timely response to a motion may, in the Court's discretion, be considered an admission of the merits of the motion."

dated 6/25/2015, C-spine MRI dated 1/2016 and C-spine Myelogram dated 1/21/2016, all of which films demonstrate similar findings, including chronic mild to moderate degenerative changes, most likely due to aging. Consequently, in his opinion, based upon a reasonable degree of medical certainty, there is no evidence of acute injury, just degenerative changes due to the aging process. No other opinions may be elicited from Dr. Shimony.

Accordingly, the Court **GRANTS** plaintiff's motion to strike and/or limit proposed testimony of Joshua Shimony, M.D. (Doc. 53).

IT IS SO ORDERED.

David Herndon



Judge Herndon

2017.12.19

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United States District Judge