

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

Bonise Character-Ragins,	:	
Plaintiff-Appellant,	:	
v.	:	No. 12AP-124
Maudie Dains,	:	(C.P.C. No. 10CVC-02-2362)
Defendant-Appellee.	:	(REGULAR CALENDAR)

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D E C I S I O N

Rendered on November 1, 2012

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*Darryl O. Parker*, for appellant.

*Hollern & Associates*, and *Edwin J. Hollern*, for appellee.

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APPEAL from the Franklin County Court of Common Pleas.

SADLER, J.

{¶ 1} Plaintiff-appellant, Bonise Character-Ragins, appeals from a judgment of the Franklin County Court of Common Pleas overruling her objections to a magistrate's decision rendered after a jury trial that resulted in a verdict in favor of appellant and against defendant-appellee, Maudie Dains, in the amount of \$5,697.74. For the reasons that follow, we affirm the judgment of the trial court.

**I. BACKGROUND**

{¶ 2} On February 16, 2010, appellant filed this personal injury action seeking damages sustained in a two-car collision alleged to have been caused by appellee's negligence. The parties agreed to have a magistrate preside over a jury trial that was held on November 30 and December 1, 2011. After deliberations, the jury rendered a verdict in favor of appellant and against appellee in the total amount of \$5,697.74. The total award

consisted of \$3,697.74 for economic loss and \$2,000 for noneconomic loss. On December 2, 2011, the magistrate issued a decision reflecting the jury's total award and instructing appellant's counsel to prepare an appropriate entry for the court's consideration.

{¶ 3} On December 15, 2011, appellant filed an objection to the magistrate's decision. Without directing the trial court to any specific evidence, the objection asserted the magistrate's decision was against the manifest weight of the evidence because appellant should have been compensated for all of her medical bills and the award for noneconomic loss should have been higher. Appellant did not submit a transcript in support of the objection.

{¶ 4} On January 18, 2012, the trial court issued a decision overruling the objection to the magistrate's decision. The decision indicated that due to appellant's failure to provide both specificity and support for her objection, said objection was found to be without merit and overruled. Several months later, the trial court rendered judgment in favor of appellant and against appellee in the total amount of \$5,697.74.

## **II. ASSIGNMENT OF ERROR**

{¶ 5} This appeal followed, and appellant raises the following assignment of error:

The verdict of the jury was against the manifest weight of the evidence.

## **III. DISCUSSION**

{¶ 6} Appellant contends the award of damages is against the manifest weight of the evidence. According to appellant, despite incurring \$6,345.44 in medical expenses and testifying about her inability to return to work, the jury awarded only \$3,697.74 for economic loss. Additionally, appellant contends that based on her testimony describing the severity of her injuries and associated pain, the damages for noneconomic loss should have been higher. In support of her argument, appellant relies on the trial transcript and exhibits admitted during trial.

{¶ 7} Civ.R. 53 requires that if a party objects to a factual finding, whether or not specifically designated as a finding of fact, the objection "shall be supported by a

transcript of all the evidence submitted to the magistrate relevant to that finding or an affidavit of that evidence if a transcript is not available." Civ.R. 53(D)(3)(b)(iii). The duty to provide a transcript or affidavit rests with the party objecting to the magistrate's decision. *GMS Mgt. Co., Inc. v. Coultier*, 11th Dist. No. 2005-L-071, 2006-Ohio-1263, ¶ 26. Furthermore, if a complaining party fails to support his or her factual objections pursuant to Civ.R. 53, he or she is precluded from arguing factual determinations on appeal. *Remnant Room v. Smith*, 11th Dist. No. 2002-T-0041, 2003-Ohio-3545, ¶ 5; *Sain v. Estate of Haas*, 10th Dist. No. 06AP-902, 2007-Ohio-1705, ¶ 23.

{¶ 8} In the case before us, though appellant filed an objection to the magistrate's decision, appellant did not provide a transcript of the trial proceedings, or suitable substitute, to the trial court. In the absence of a transcript or affidavit, the trial court is required to accept the magistrate's findings of fact and may only determine the legal conclusions drawn from those facts. *Lesh v. Moloney*, 10th Dist. No. 11AP-353, 2011-Ohio-6565, ¶ 11. Similarly, because a transcript was not filed with the trial court, our review is limited to whether the trial court correctly applied the law to the facts set forth. *Id.*

{¶ 9} Though not filing a trial transcript with the trial court, appellant has filed a written transcript of the trial proceedings with this court on appeal. We are, however, precluded from considering anything that was not before the trial court when it overruled appellant's objection to the magistrate's decision. *Compton v. Bontrager*, 10th Dist. No. 03AP-1169, 2004-Ohio-3695, ¶ 6, citing *Johnson v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 02AP-1428, 2003-Ohio-4512; *GMS* at ¶ 27; see also *Saipin v. Coy*, 9th Dist. No. 21800, 2004-Ohio-2670 (an appellate court cannot consider transcript of magistrate's hearing that was not before the trial court when it considered objections to the magistrate's decision).

{¶ 10} Appellant's assignment of error and the arguments made therein are based entirely on factual determinations, which may not be challenged on appeal as no transcript was provided to the trial court. *Compton* at ¶ 7. Accordingly, we overrule appellant's asserted assignment of error.

**IV. CONCLUSION**

{¶ 11} For the foregoing reasons, appellant's sole assignment of error is overruled, and the judgment of the Franklin County Court of Common Pleas is hereby affirmed.

*Judgment affirmed.*

KLATT and CONNOR, JJ., concur.

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