J. A19013/01

2002 PA Super 11

ALLEN TRACH,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
v.	:	
	:	
J. FELLIN AND THRIFT DRUG/ ECKERD STORE, THRIFT DRUG, INC. AND ECKERD DRUG CO.,	:	
	:	
Appellee	:	No. 1921 EDA 2000

Appeal from the Order Entered May 18, 2000
In the Court of Common Pleas of Lehigh County
CIVIL at No. 97-C-1535

ALLEN TRACH,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
THRIFT DRUG, INC. (J. FELLIN, THRIFT DRUG/ECKERD DRUG STORE, AND ECKERD DRUG CO.),	:	
	:	
Appellant	:	No. 1949 EDA 2000

Appeal from the Order Entered May 18, 2000
In the Court of Common Pleas of Lehigh County
CIVIL at No. 97-C-1535

BEFORE: FORD ELLIOTT, BROSKY and BECK, JJ.

*****Petition for Reargument Filed February 1, 2002*****

OPINION by BECK, J: Filed: January 18, 2002

¶1 In this case, involving the erroneous dispensation of a drug by a pharmacy, we consider whether under ***Frye v. United States***, 293 F. 1013 (D.C. Cir. 1923), the trial court improperly admitted certain scientific expert

testimony on causation.

¶2 On July 11, 1995, plaintiff Allen Trach went to see his dentist for pain in his jaw. The dentist prescribed an antibiotic, Amoxil or Amoxicillin, and Trach took the prescription to defendant Thrift Drug. Instead of the antibiotic prescribed for Trach, the pharmacist's assistant on duty filled the prescription with Doxepin, an antidepressant. The prescription called for 40 capsules of 250 mg. Amoxil, and Trach received 29 capsules of 150 mg. Doxepin. Trach was told the pharmacy had only 29 capsules of Amoxil in stock and that he should return in a few days to pick up the rest of his prescription. Trach's prescription directed him to take two pills every four hours. Soon after taking the first dose, Trach began to have strange sensations, including shakiness, dizziness, confusion and headaches. He had difficulty walking and speaking coherently. He continued taking the pills as prescribed, and soon began experiencing nausea, vomiting, pain in his right eye, an intoxicated feeling and a rapid heartbeat. He felt as if he were going to die.

¶3 The next day Trach did not go to work but instead slept most of the day, and continued taking his pills. He continued to experience the same symptoms. He soon began to notice a yellow-orange crescent-shaped object in his right eye that partially obscured his field of vision. On July 14, Trach went back to work, but could not focus on his job and ended up sleeping most of the day at his desk. He started to cut down on his dosage the

following day, but the symptoms persisted. By July 16, Trach started to experience occasional hallucinations in addition to his other symptoms. He then stopped taking the pills. At that point, Trach had taken 23 of the 29 pills.

¶4 On July 18, Trach returned to Thrift Drug to pick up the remainder of the prescription, and his wife noticed that the 11 new pills were different from the original 29. She called the pharmacy, and upon investigation, the pharmacist stated that Trach had been given the wrong medication initially, an antidepressant called Doxepin. Trach then went to the hospital for testing. Tr. Ct. Opinion at 5.

¶5 Most of Trach's symptoms disappeared within a month. Trach testified that he continues to experience vision problems and cognitive difficulties. Eight months later, in March, 1996, Trach was diagnosed with "chronic open-angle glaucoma or even more specifically pigmentary glaucoma." Trach has continued to experience the crescent-shaped blind spot, known as an arcuate scotoma, in his right eye as a result of optic nerve damage from the glaucoma. Trach's vision problems are permanent.[1]

¶6 Trach continues to work at the same job he held in July 1995. However, he lost 15 days of work as a result of the problems caused by his ingestion of Doxepin, and he has been forced to make adjustments in the

[1] Trach underwent laser surgery to relieve the pressure in his eye in March 1999, but the procedure could not be completed because Trach experienced extreme pain.

way he does his work and is concerned about his ability to retain his job. He has difficulty reading due to his vision problems. These problems also limit his ability to pursue lifelong hobbies of photography and hunting.

¶7 The recommended dosage of Doxepin is 75 mg. and the maximum allowable dosage per day is 300 mg. Each of the capsules ingested by Trach contained 150 mg. of medication, so that he substantially exceeded even the maximum allowable daily dosage on most days he took it.

¶8 Trach proffered expert testimony from a pathologist and toxicologist, Dr. John Shane. Prior to trial, Thrift Drug filed a motion in limine to preclude Shane's testimony because it did not meet the requirements for scientific expert evidence set forth in ***Frye v. United States***, 293 F. 1013 (D.C. Cir. 1923), and its progeny (the ***Frye*** test). ***See, e.g., Blum v. Merrell Dow Pharmaceuticals, Inc.***, 564 Pa. 3, 764 A.2d 1 (2000); ***Commonwealth v. Topa***, 471 Pa. 223, 369 A.2d 1277 (1977); ***Blum v. Merrell Dow Pharmaceuticals, Inc.***, 705 A.2d 1314 (Pa. Super. 1997): The trial court denied Thrift Drug's motion.

¶9 Shane was Trach's only expert witness on the issue of causation. The trial court in its opinion summarized Shane's expert testimony as follows:

> Doxepin is a tricyclic antidepressant… Doxepin works by blocking the amine pump that transmits nerve impulses across synapses, the junction points at which nerve cells hook up with each other. The transmission of nerve impulses across synapses depends on an intact chemical environment. Doxepin interferes with this environment by blocking the transmission of the chemical acetylcholine. This blocking action is known as an anticholinergic effect. There may be adverse reactions or side effects from even

a therapeutic dose of Doxepin. There are also contraindications for Doxepin, i.e., symptoms or conditions that may be exacerbated by the drug. The known side effects and contraindications have been determined through clinical trials prior to approval of the drug by the Federal Food and Drug Administration (the "FDA") and also from clinical experience since the drug has been on the market. The side effects and contraindications for a therapeutic dose of Doxepin are identified in the manufacturer's insert and in the Physician's Desk Reference (the "PDR"). The manufacturer's insert is included with each package of a drug that has been approved for marketing by the FDA. The PDR is a compilation of drugs that are available for the treatment of patients. It is considered authoritative and is relied on regularly by physicians in prescribing drugs to patients… The symptoms experienced by Trach after ingesting Doxepin are consistent with the adverse reactions identified in the manufacturer's package insert and in the PDR. These adverse reactions or side effects included ataxia (unsteadiness on his feet), dizziness, blurred vision and disorientation… Glaucoma is a condition of increased ocular pressure in the eye that causes pathologic change to the eye. It may result in damage to the optic nerve that is irreversible, and in some cases, loss of vision. Both the manufacturer's insert and the PDR state that Doxepin is contraindicated for glaucoma. This is for two reasons. First, the anticholinergic effect of Doxepin causes the pupils of the eye to dilate unequally, a condition known as mydriasis. Second, the anticholinergic effect also causes the ciliary muscle of the eye to become inactive, a condition referred to as cycloplegia… The combination of mydriasis and cycloplegia leads to blurred vision. It also leads to changes in the eye, specifically a blockage of the Canal of Schlemm, a circulatory channel between the front chamber and back chamber of the eye. The result is increased pressure in the eye. In addition, the dilation of the iris, the colored part of the eye, causes pigmentary loss. The pigment is deposited in the filter system at the Canal of Schlemm, further clogging up the filter and also causing increased pressure in the eye. The combination of mydriasis and cycloplegia is a mechanism that leads to narrow-angle glaucoma, sometimes referred to as closed-angle glaucoma. However, the distinctions between narrow or closed-angle glaucoma and open-angle glaucoma are often confused in the medical profession. Consequently, some authorities have recommended that the nomenclature be changed to eliminate the distinction…

¶10 Further, Shane testified to a reasonable degree of toxicological certainty that all the symptoms Trach suffered immediately after ingesting the Doxepin, and his continuing symptoms, including the glaucoma and scotoma and various cognitive problems, are the direct result of the overdose of Doxepin.

¶11 Thrift Drug presented expert testimony from an ophthalmologist, Dr. Michael Naidoff, and a neurologist, Dr. Richard Katz, to challenge Trach's causation evidence. Naidoff testified from his review of Trach's records that Trach has open-angle glaucoma, not closed-angle or narrow-angle glaucoma. Naidoff opined that although Doxepin can cause closed-angle glaucoma, there is nothing in the medical literature to support the proposition that it can cause open-angle glaucoma such as Trach has.

¶12 Katz opined that Trach's records revealed no objective signs of continuing neurological damage and indicate that Trach is neurologically normal. Katz denied that Doxepin permanently alters the brain's chemistry. He opined that the only cognitive difficulties experienced by Trach from the Doxepin were temporary and would have subsided within a month after he stopped taking the drug. Katz testified that there is nothing in the medical literature to support the proposition that Doxepin caused Trach's continuing cognitive difficulties.

¶13 After trial, the trial court granted a directed verdict in favor of Trach on

the issue of negligence,[2] and submitted only the issue of damages to the jury. The jury rendered a verdict in favor of Trach in the amount of $5,000,000.00. Thrift Drug filed a post trial motion requesting judgment n.o.v. or, in the alternative, a new trial, arguing that Shane's expert testimony was improperly admitted. Despite his earlier decision on the motion in limine, the trial judge agreed that Shane's testimony as to the causation of Trach's remote and continued vision and cognitive problems did not meet the ***Frye*** test, and granted the motion for a new trial, as to damages only. The court denied the motion for judgment n.o.v. These cross-appeals followed.

¶14 We first note our standard of review in this appeal from the grant of a new trial. Where, as here, the trial court set forth the specific basis for its grant of a new trial, we consider whether the court abused its discretion or committed an error of law in its decision on that stated basis only. ***Coker v. S.M. Flickinger Co***., 533 Pa. 441, 625 A.2d 1181 (1993). Therefore, we consider only whether the trial judge erred in ordering a new trial on damages on the basis that a portion of Trach's causation evidence did not meet the ***Frye*** test and was improperly admitted at trial.[3]

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[2] This ruling was not challenged on appeal.

[3] Trach argues that Thrift Drug waived its ***Frye*** challenge when it failed to object to Shane's testimony during trial, and waited until after it was completed to move to strike the testimony in its entirety. However, we note that Pa.R.E. 103 (a) (1) provides that when a litigant challenges the admission of evidence, the issue is preserved if there is "a timely objection, motion to strike or motion in limine stating the specific ground of objection."

¶15 We begin by considering the ***Frye*** test itself. As most recently described by our Supreme Court, ***Frye*** "requires the scientific community to reach some consensus as to reliability then relies on such consensus to determine admissibility." ***Blum v. Merrell Dow, supra***, at __, 764 A.2d at 3. The ***Frye*** test bars novel scientific evidence until it has achieved "general acceptance" in the relevant scientific community. ***Id***. at __, 764 A.2d at 2.

¶16 Trach argues that ***Frye*** is not applicable in this case because it applies only to "novel" scientific evidence, and Shane's opinions were based on well-established scientific principles. However, we have previously stated that ***Frye*** applies "whenever science enters the courtroom." ***Blum v. Merrell Dow Pharmaceuticals, Inc.,*** 705 A.2d 1314, 1317 (Pa.Super. 1997); ***Commonwealth v. Rodgers***, 605 A.2d 1228 (Pa. Super. 1992).

¶17 We must therefore apply the ***Frye*** test of admissibility to Shane's expert testimony on causation. First, there is no question that Shane's testimony that the symptoms and side effects experienced by Trach immediately upon ingesting the Doxepin were proximately caused by the drug overdose, was admissible under ***Frye***. The PDR and the manufacturer's insert, in addition to Shane's testimony, clearly indicated that such symptoms—shakiness, dizziness, confusion, blurred vision—could be caused

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The Comment to the Rule further states: "A ruling on a motion in limine on the record is sufficient to preserve the issue for appeal, without renewal of the objection or offer at trial." Therefore, the ***Frye*** issue is properly before us.

by even a therapeutic dose of Doxepin.

¶18 However, Shane's testimony regarding causation of the alleged long term effects of the Doxepin overdose, including Trach's open angle glaucoma and cognitive difficulties, was not demonstrated to be "generally accepted" in the relevant scientific community, nor was his opinion that open angle glaucoma and closed angle glaucoma are interchangeable terms for the same general condition of intraocular pressure. Shane could point to no medical literature to support his opinion on causation of these conditions, and the PDR did not state that Doxepin causes a permanent change in brain chemistry or that it leads to permanent cognitive or vision problems. The trial court properly noted that "the fact that glaucoma is identified as a contraindication suggests a possible biological relationship. However, it is impossible to infer from the PDR that the scientific community generally accepts the proposition that an overdose of Doxepin can cause glaucoma."

¶19 Moreover, the testimony of the other expert witnesses contradicts the claim that Shane's opinions are generally accepted. And although there was evidence that Trach's visual problems occurred for the first time shortly after his ingestion of Doxepin, a temporal connection is not sufficient to establish legal causation. Shane's testimony regarding causation of the alleged long term effects of the Doxepin did not pass muster under ***Frye***, and therefore the trial judge did not err in his determination that he should not have admitted that testimony.

¶20 The Superior Court's decision in ***Blum*** notes that that "there are two ways to analyze the question of whether causation testimony proffered…meets the ***Frye/Topa*** standard. One focuses on whether the causal relationship is generally accepted by the scientific community, and the other whether the methodology is generally accepted by the scientific community." ***Blum***, 705 A.2d at 1322.[4] In the instant case involving an overdose of a drug it is unlikely that the scientific community would have engaged in any systematic research studies on the effects of the overdose. Therefore, the absence of medical literature or published studies relating to the effects of an overdose should not in itself bar the testimony. However, in the absence of systematic studies the trial court must examine the methodology underlying the expert's testimony. The trial court found Dr. Shane's methodology failed the test of general acceptability. At trial Dr. Shane gave a detailed scientific explanation of the cause of glaucoma related to closed angle glaucoma. Trach suffered from open angle glaucoma. Although Dr. Shane attempted to put forth the proposition that closed angle and open angle glaucoma were interchangeable he offered no scientific

[4] We are aware that the dissenters in the Supreme Court's decision in ***Blum*** criticized this two-part application of the ***Frye*** test. ***Blum v. Merrell Dow***, 564 Pa. at __, 764 A.2d at 5-17 (Cappy, J. and Castille, J., dissenting). However, the majority of the Supreme Court affirmed Superior Court's application of the ***Frye*** analysis. ***Id***. at __, 764 A.2d at 4-5. We note that, in the instant case, we decide the ***Frye*** question primarily on the methodology prong, which was in fact approved by the dissenting justices. ***Id***. at __, 764 A.2d at 5, 9.

support for this conclusion. Also, other experts at trial testified that the two types of glaucoma were distinct. Trach's treating opthalmologist, Dr. Moran, testified that Trach had open angle glaucoma. Shane's methodology whereby he equated the cause of open and closed angled glaucoma is flawed and not generally accepted.

¶21 Before scientific evidence can be admitted it must satisfy certain standards of reliability. This insures that the fact finder arrives at a factual conclusion based on evidence that is generally accepted by the scientific community. As to glaucoma, Dr. Shane's testimony did not satisfy the standard and the trial court correctly ruled that it erred in admitting it.

¶22 We must now decide whether the trial court properly granted a new trial as to all damages, including damages on the alleged permanent injuries. Thrift Drug argues that because Shane's testimony was insufficient to prove causation of permanent damages and Trach did not make out this claim, he should not be allowed another bite at the apple by presenting competent proof of all damages in a new trial. Indeed, the trial court has allowed for "another bite" by leaving open the possibility that Trach might be able to "assemble such proof" of causation in the retrial. ***See Pupich v. Bock***, 195 A.2d 809 (Pa. Super. 1963) (grant of new trial means new trial generally and restores case to original status to be tried de novo). Thrift Drug argues instead that Trach should be permitted to present evidence at retrial only as to the temporary injuries he suffered shortly after taking

Doxepin, and that judgment n.o.v. should have been entered on the alleged permanent injuries. We disagree**.**

¶23 Judgment n.o.v. is an extreme remedy that may be granted only in a clear case. ***Gunn v. Grossman***, 748 A.2d 1235 (Pa.Super. 2000); ***Lilley v. Johns-Manville Corp***., 596 A.2d 203 (Pa. Super. 1991). The record must be read in the light most favorable to the verdict winner, who is entitled to every favorable inference; if, even under this level of scrutiny, no two reasonable minds could fail to agree that the verdict was improper, judgment n.o.v. is proper. ***McKnight v. City of Philadelphia***, 445 A.2d 778 (Pa.Super. 1982).

¶24 Although Shane's causation testimony as to permanent damages was improperly admitted, the trial judge correctly concluded that judgment n.o.v. should not be entered on a diminished record. ***Jones v. Treegoob***, 433 Pa. 225, 229, 249 A.2d 352 (1969); ***Hughes v. John Hanna & Sons***, 144 A.2d 617 (Pa.Super. 1958).

¶25 Entry of judgment n.o.v. after erroneously admitted evidence has been heard by the jury and utilized in rendering a verdict is not proper:

> [T]he court could not eliminate evidence that was material in securing the verdict but which it concludes was improperly admitted, and then, with that evidence out of the record, enter judgment n.o.v. The entry of such a judgment is proper only if justified by the record at the close of trial. Manifestly, it would be unfair, where a party has relied upon a favorable ruling on evidence presented by him, to enter a final judgment against him without affording him the opportunity to furnish the proofs of which he might have availed himself had the evidence submitted by him been rejected. The only remedy under such

circumstances is to grant a new trial.

Hershberger v. Hershberger, 345 Pa. 432, 439, 29 A.2d 95 (1942). ***See also McMahon v. Young***, 442 Pa. 484, 276 A.2d 534 (1971) (new trial granted where plaintiff's expert testimony was incompetent and improperly admitted at trial); ***Stewart v. Chernicky***, 439 Pa. 43, 266 A.2d 259 (1970) (judgment n.o.v. does not lie for correction of errors in admission or exclusion of evidence, such errors are properly the subject of a motion for new trial); ***Greer v. Bryant***, 621 A.2d 999 (Pa.Super. 1993) (same).[5] *Cf.* ***Northwest Savings Ass'n v. Distler***, 511 A.2d 824 (Pa.Super. 1986) (where improper admission of evidence was not sole reason for grant of judgment n.o.v., diminished record rule did not preclude entry of judgment n.o.v.).

¶26 We are particularly reluctant to foreclose the opportunity for a new

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[5] This case is distinguishable from our decision to grant judgment n.o.v. after expert testimony was ruled inadmissible in ***Blum v. Merrell Dow Pharmaceuticals, Inc***., 705 A.2d 1314 (Pa.Super. 1997), *aff'd*, __ Pa. __, 764 A.2d 1 (2000). In ***Blum***, neither the parties nor the court raised the diminished record issue. ***See also Peerless Dyeing Co. v. Industrial Risk Insurers***, 573 A.2d 541 (Pa. Super. 1990) (j.n.o.v. entered where expert causation testimony ruled incompetent; diminished record rule not discussed); ***Mitzelfelt v. Kamrin***, 549 A.2d 935 (Pa.Super. 1988) (same); ***Niggel v. Sears, Roebuck & Co***., 281 A.2d 718 (Pa.Super. 1971) (same). Here, the trial court based its decision to deny judgment n.o.v. on the diminished record rule, and we find no error in that determination. In addition, we expressly determined in ***Blum***—a case that had already been tried to jury verdict on two separate occasions—that there was "nothing to be gained by returning the matter for a third trial. The enormous record in this case, including more than 7,000 pages from two trials spanning 16 weeks, contain[ed] all relevant testimony proffered by the [plaintiffs]." ***Blum***, 705 A.2d at 1325. The instant case is distinguishable.

trial on all damages in this case especially in light of the fact that the trial court failed to hold a seperate ***Frye*** hearing to determine if Shane's conclusions and methods were "generally accepted." In the absence of such a hearing, and where the court denied Thrift Drug's ***Frye*** challenge in its motion in limine, Trach may have reasoned it was unnecessary at trial to adduce specific evidence of general admissibility during Shane's testimony. These circumstances could well have prevented Trach's proffer of further proof of causation at trial.

¶27 We therefore conclude that the trial court properly ordered a new trial as to all damages. We affirm the order denying the motion for judgment n.o.v. and granting the motion for a new trial as to all damages.

¶28 Order affirmed.

¶29 Ford Elliott, J. files a Concurring Statement.

J. A19013/01

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ALLEN TRACH v. THRIFT DRUG, INC. (J. FELLIN, THRIFT DRUG/ECKERD DRUG STORE, AND ECKERD DRUG CO.), Appellants	:	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 1949 Eastern District Appeal 2000

Appeal from the Order Entered May 18, 2000,
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Civil Division, No. 97-C-1535

BEFORE: FORD ELLIOTT, BROSKY, AND BECK, JJ.

CONCURRING STATEMENT BY FORD ELLIOTT, J.:

¶1 Regrettably, I must join the majority opinion, although I am deeply troubled by the problem this case so clearly illustrates when a trial court

applies the ***Frye***[6] test to scientific expert testimony under circumstances such as those existing here.

¶2 A pharmacy assistant negligently gave a healthy 47-year-old man a prescription for an anti-depressant, Doxepin, known to cause serious adverse side effects in individuals who take it in the ***recommended*** dosage. He took the Doxepin according to the dosage his dentist prescribed for an antibiotic for a sinus infection, for which that dosage was appropriate.[7] As a result, Trach took 1,800 milligrams ("mg.") of Doxepin on the first day, for which the recommended dosage is 150 mg. per day and the maximum dosage is 300 mg. per day. (Expert report of John J. Shane, M.D. ("expert report"), citing Physician's Desk Reference ("PDR") for Doxepin, R.R. at 104a.)

¶3 When Trach immediately experienced side effects, including visual symptoms, he consulted his physician, who diagnosed the problem as trigeminal neuralgia, but did not believe it was a side effect of the antibiotic. (Plaintiff's complaint at 3 ¶ 12, R.R. at 12a.) Trach subsequently developed a sore throat, and, believing the sinus infection caused it, took an additional ten capsules (1,500 mg.) of Doxepin over the next 24 hours. (***Id.***) Despite

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[6] ***Frye v. United States***, 293 F. 1013 (1923).

[7] The prescription called for Trach to take two 250 mg. capsules of the antibiotic four times per day. The pharmacy assistant gave Trach 150 mg. capsules of the anti-depressant, with instructions to take two capsules four times per day.

suffering hallucinations, heartburn, confusion, and extreme difficulty concentrating, Trach continued to take the medication until he had consumed 4,800 mg. over a five-day period.

¶4 According to the PDR, adverse reactions to Doxepin when taken in the ***recommended*** dosage may include blurred vision, confusion, disorientation, and hallucinations. Additionally, Thrift Drug's medical expert acknowledged that Doxepin could cause narrow angle glaucoma. (Majority opinion at 6.) The PDR also indicates that death or coma may result from an overdose of Doxepin, as well as confusion, disturbed concentration, transient visual hallucination, dilated pupils, and other serious consequences. For obvious reasons, however, no one has conducted studies to determine if massive overdoses of Doxepin such as the dose Trach took can cause open angle glaucoma, the form of glaucoma from which Trach continues to suffer.

¶5 Trach's expert, Dr. Shane, therefore extrapolated the known side effects of the recommended dosage of Doxepin, which include narrow angle glaucoma, dizziness, confusion, and blurred vision, to reach his conclusion that Trach's massive overdose of Doxepin caused his glaucoma and other on-going symptoms. He based his conclusion on the fact that psychotropic drugs such as Doxepin operate by altering the brain's chemistry and have a profound effect on the central nervous system. Thus, according to Dr. Shane, altering an individual's brain chemistry to the extent that occurred in this case would also account for Trach's ongoing optic neuritis,

cognitive difficulties, and cluster headaches. (Expert report, R.R. at 104a.) As Dr. Shane observed, psychiatrists recognize that patients who suffer a psychotic break have profoundly altered personalities after the break because the "pieces do not go back together the same way." (***Id.*** at 105a.) Additionally, Dr. Shane noted that Doxepin is contraindicated in patients suffering from glaucoma. Finally, Dr. Shane observed that Trach, who was a healthy 47-year-old man prior to taking Doxepin, developed all of his symptoms after taking the massive overdose of the drug. (***Id.*** at 105a.)

¶6 Nevertheless, this court has repeatedly held that ***Frye*** applies "'whenever science enters the courtroom.'" ***Thomas v. The West Bend Co., Inc.***, 760 A.2d 1174, 1179 (Pa.Super. 2000), ***appeal denied***, ___ Pa. ___, 781 A.2d 147 (2001), quoting ***Blum v. Merrell Dow Pharamceuticals, Inc.***, 705 A.2d 1314, 1317 (Pa.Super. 1997), ***affirmed***, 564 Pa. 3, 764 A.2d 1 (2000). As the majority aptly notes, ***Frye*** requires that the relevant scientific community generally accept either the causal relationship or the methodology on which the testifying scientist bases his opinion. (Majority opinion at 10-11, citing ***Blum***, 705 A.2d at 1322.)[8]

¶7 In this case, Dr. Shane conceded that he had been unable to find any references in the literature predicting the effects of Doxepin in the dosage Trach took, or indicating that massive overdoses of Doxepin can cause

[8] ***But see*** majority opinion at 10 n.4 (discussing the supreme court's split as to the two-part application of the ***Frye*** test).

permanent changes in the brain's chemistry. (Expert opinion, R.R. at 105a.) Additionally, as the majority notes, Dr. Shane did not offer any support from the scientific community for his theory that open angle and narrow angle glaucoma are similar terms for the same general condition, and Thrift Drug's experts contested that theory. (Majority opinion at 11.)

¶8 Thus, despite what to the average layman would be an obvious causal link between a massive overdose of a potent drug and the development of previously non-existing, permanent symptoms the same as or similar to the transient symptoms the drug is known to cause in recommended doses, I must agree with the majority that Dr. Shane's testimony failed to meet the standards of reliability required by ***Frye*** and its progeny in this Commonwealth. I write separately only to note my dismay with this outcome under the facts of this case. It is unfortunate that in cases such as this, when science enters the courtroom, common sense must leave.