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Maynard, Chief Justice, dissenting:

I dissent in this case because I believe the majority has lowered the standard for admissibility of expert testimony in sexual harassment cases. While it is not necessary for a plaintiff to prove incidental damages in sexual harassment cases by expert testimony, when a plaintiff alleges that the conduct at issue proximately caused special medical damages, as in this case, expert medical testimony is required. However, according to Syllabus Point 8 in the majority opinion, the admissibility of such expert testimony will be determined “based upon the nature and extent of the witness’s education, training, and expertise.” The potential application of this new standard is unlimited. For example, a person educated to be a counselor for school children could provide medical testimony in these types of cases even though he or she has no specific training in the diagnosis of psychiatric conditions.

I believe that when a plaintiff such as Ms. Akers seeks damages for a specific medical condition which she contends arose from the alleged sexual harassment, expert testimony from a medical doctor is required. A psychologist like Dr. Geronilla in this case, whose credentials limit her to the discipline of counseling, is clearly not qualified to make

a clinical diagnosis of a psychiatric medical condition. Thus, I fail to see how she could render an opinion that the plaintiff's major depression, acute situational anxiety, and post-traumatic stress syndrome were caused by the alleged conduct of Mr. Ball. Yet, under the new law created by the majority in this case, she may be able to render such testimony during the trial of this case.

I think that a more stringent standard for expert testimony is needed in these types of cases. Such a requirement would not place an unreasonable burden upon the plaintiff. There are at least fifteen psychiatrists in the Charleston area alone, and I am sure that a more extensive search would reveal many more qualified medical experts.

Accordingly, for the reasons set forth above, I respectfully dissent.