STATE OF ILLINOIS)
) SS.
COUNTY OF M C H E N R Y)

IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT, MCHENRY COUNTY, ILLINOIS

PAUL DULBERG, Plaintiff,	)	
VS.	)	Case No. 12 LA 178
DAVID GAGNON, Individually, and as Agent of CAROLINE McGUIRE and BILL McGUIRE, and CAROLINE McGUIRE and BILL McGUIRE, Individually, Defendants.	)	

The deposition of

APIWAT FORD, DO

November 20, 2013

Reported by:
Margaret Maggie Orton, CSR, RPR
VAHL REPORTING SERVICE, LTD
(847) 244-4117
11 N. Skokie Highway, Suite 301
Lake Bluff, Illinois 60044
and
53 W. Jackson Boulevard, Suite 656

The subpoenaed deposition of APIWAT FORD, DO, taken before Margaret Maggie

Orton, CSR, RPR, on November 20, 2013, at the hour of 10:03 o'clock a.m., at 4209 West Medical Center Drive, McHenry, Illinois.

APPEARANCES:

MR. HANS A. MAST, of the Law Offices of
THOMAS J. POPOVICH
3416 West Elm Street
McHenry, Illinois 60050

appeared on behalf of plaintiff;

MR. PERRY A. ACCARDO, of the Law Offices of
STEVEN A. LIHOSIT
200 North LaSalle Street
Chicago, Illinois 60601

appeared on behalf of defendant
David A. Gagnon;

MR. RONALD A. BARCH, of the Law Offices of
CICERO & FRANCE
6323 East Riverside Boulevard
Rockford, Illinois 61114

appeared on behalf of the Defendants
Caroline McGuire and Bill McGuire.

I N D E X

E X H I B I T S

NONE MARKED

(Witness sworn.)

APIWAT FORD, DO,

called as a witness, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY: MR. ACCARDO

Q. Now, Doctor, could you please state your name and spell it for the court reporter?

A. Yes, my first name is Apiwat, A P I W A T. Last name is Ford, F O R D.

MR. ACCARDO: Let the record reflect this is the discovery deposition of Dr. Apiwat Ford taken pursuant to subpoena, taken in accordance with the rules of the Circuit Court of McHenry County, the Rules of the Supreme Court of the State of Illinois, and any other applicable local court rules.

BY MR. ACCARDO:

Q. Good morning, Dr. Ford. My name is Perry Accardo, and I'm going to be asking you some questions today about a patient that you saw in the emergency room back in June of 2011, okay?

A. Okay.

Q. All right. Have you given a deposition before?

A. Yes, I have.

Q. All right. And you're familiar with the ground rules governing depositions then?

A. Yes.

Q. All right. Great. You are a medical doctor; is that correct?

A. Correct.

Q. And you're licensed to practice medicine in Illinois?

A. Yes.

Q. What type of doctor are you? Do you have a specialty?

A. Yes, I'm emergency medicine doctor.

Q. Okay. And where are you

currently employed?

A. At Centegra Hospitals.

Q. Okay.

A. Centegra Healthcare; they're two hospitals.

Q. All right. And back in --

(After a brief interruption, the deposition resumed as follows:)

BY MR. ACCARDO:

Q. And you said that there's -- you said that there's two hospitals in the system?

A. Yes.

Q. And what are those two hospitals?

A. Centegra McHenry and Centegra Woodstock.

Q. All right. And today we're at Centegra --

A. McHenry.

Q. -- McHenry, right?

A. Yes.

Q. Okay. Now, back in June of 2011, you were employed for Cen- -- you were employed with Centegra?

A. Yes.

Q. Okay. And also as an emergency room doctor?

A. Correct.

Q. All right. Could you just sort of briefly describe to me what an emergency room doctor specializes -- what the specialty is comprised of?

A. Well, we work in the emergency department and take care of all sorts of patients that come through the ER.

Q. Okay.

A. You know, injury, fever, cough. I mean, it's like all encompassing, kind of like the jack-of-all-trade type of thing.

Q. I got you. Back in June -- actually June 28th of 2011, you were working in the emergency room?

A. Yes.

Q. Okay. And which hospital was

that at? Was that at the McHenry location?

A. Is in McHenry location.

Q. Okay. And you had an occasion to see an individual who came into the emergency room by the name of Paul Dulberg; is that correct?

A. Yes.

Q. Do you have any independent recollection whatsoever of Mr. Dulberg or his injury?

A. I do not.

Q. Okay. That's fine. You do have your chart here today from the emergency room; is that correct?

A. Yes.

Q. And does that comprise your entire chart for the emergency room care that Mr. Dulberg received?

A. Yes.

Q. All right. Would it help you to -- when you're testifying to refer to your chart?

A. Yes.

Q. All right.

A. It will be a big help.

Q. Please feel free to do that. All right. So Mr. Dulberg came into the emergency room. Now, initially what is the procedure when one comes into the emergency room? Are they examined by a nurse initially, and at some point they see a doctor? How does that all work?

A. Yes, usually when they come through the emergency department, they're first seen by the triage nurses out in the receiving area, and then the nurse go over the vital signs and the complaints and everything and then kind of set the criteria whether this is -- like how serious this situation is level. If it's like a -- They give a ranking number like 1 to 5, if it's real critical, not as critical or, you know, that type of thing, and then the patient will be put on the computer and will come through the ED, you know, the -- by the priority of the severity of the illnesses.

Q. Okay. And that initial

assessment is made by the triage nurse?

A. Triage nurses, yes.

Q. All right. Now, in looking at -- Well, actually let me ask you this: When the triage nurse does the initial examination and I guess, for lack of a better term, intake, do they make their own notes and fill out their own part of the chart?

A. They do, yes.

Q. All right. Now, in your chart, what part of it is filled out or completed by the triage nurse? Because I have a couple of different things, I have the emergency admission assessment and then I have the emergency physician record.

A. Okay.

Q. I just want to know who did what.

A. This is -- This part right here we'll put together that -- this part (Indicating). You see the ...

Q. The emergency admission assessment?

A. Yes. Yeah, assessment, yeah, that was done by the triage nurse.

Q. Okay. And that -- it looks like it consists of three pages?

A. Yes, that is what it looks like.

Q. All right. Okay. And that's done initially upon presentation then?

A. Correct.

Q. Okay. In this particular case what did the triage nurse indicate as far as vital signs?

A. The vital signs?

Q. Yeah.

A. Appear to be stable.

Q. Okay. And what was the reason that Mr. Dulberg was in the emergency room that day?

A. It says the -- states the chain saw versus the right arm.

Q. All right.

A. 15 minutes ago at home.

Q. And it also indicates --

A. He was feeling light-headed.

Q. Okay. Going on to the second page then, there's under admission assessment. Is there any indication that Mr. Dulberg was complaining of pain at that time? I'm looking up at the top?

A. On the top, yes.

Q. Yeah.

A. Yes.

Q. Okay. And he rated the pain as a 9 to 10 on a scale of --

A. 9 out -- 9 out of 1 through 10, yes.

Pain = 9/10

Q. All right. Was there -- Then does the triage nurse perform just a general physical examination at that point?

A. Yes.

Q. Okay. What were the results of that general physical examination?

A. He was oriented times three, conscious, alert. The cardiovascular, it is pink and warm, the skin, and then his radial pulse in both arms are present, and he has good capillary refill, lung sounds are good, and there's no other problem with

ENT. Everything seemed to be okay except for the -- Besides the complaint of the arm, the other assessment is good, I think.

Q. Okay. And it looks like he was, at least under the handwritten notes there down at the bottom of the second page --

A. Right.

Q. -- he was accompanied by somebody?

accompanied by coworker?

A. Coworker.

Q. Okay. The patient was initially sent out for an X-ray?

A. Yes.

Q. Okay. Was that X-ray done, as far as you know?

A. I think it was done.

Yes. It was done, yes.

Q. Okay. And --

A. And then I did look at it. I have my notes on the X-rays, yeah.

Q. And what were the results of that X-ray?

A. It just says there's no

fracture and no malalignment of the bone.

X-Ray R arm is normal

Q. Okay. Did it -- Did it show the laceration to the right forearm?

A. The X-ray?

Q. Yeah. Would that -- Would that show up at all on that?

A. Sometime it can show up, but I don't recall. I mean, if it's not a real -- like it doesn't gape open, it doesn't necessarily show up on the X-ray.

Q. Okay.

A. It doesn't --

MR. MAST: Soft tissue. It doesn't show the soft tissue.

THE WITNESS: Yeah, it doesn't show the soft tissue.

MR. MAST: That's the X-ray report.

BY MR. ACCARDO:

Q. Does that mention anything about the laceration?

A. There's a deep -- Yeah, there's -- There's a deep soft tissue laceration along the ventral surface of the

deep soft tissue laceration along ventral surface of mid-forearm

mid forearm.

Q. And would that be more of the inner side of the right forearm?

A. Yes. It's on the -- yeah, on the inner side. We refer to that as ventral surface of forearm belly; this is what it refers to.

Q. Okay. And it indicates in there that it was a deep laceration?

A. Yes.

Q. Is there a general classification of -- I mean, how do you rank lacerations and in terms of severity? I mean, is there some kind of standardized language for that, whether they be --

A. No.

Q. -- minor?

A. It just des- -- Well, it just describe the depth. You know, usually when we see, we have to go like does it go down deep to the muscle, to the bone? We just describe what we see.

Q. Okay. I guess jumping ahead a little bit, when you saw Mr. Dulberg, you

ventral surface = inner side

examined him; is that correct?

A. Yes.

Q. Was there any -- any type of measurement or anything like that made as far as what the depth of the laceration was? I mean, how --

A. The depth of the laceration?

Q. How far down it actually went down?

A. Let me see. You really can't -- You know, you can't really measure the depth. You can just tell like how deep it goes to. You can't -- Measurement like by the ruler, is that what you mean by that?

Q. No. Even -- Even just visual --

A. Like a visual.

Q. Right.

A. Yeah, usually I would say.

MR. MAST: You have the length. I don't know about the --

BY THE WITNESS:

A. They have the length. They

didn't have -- Oh, I have on my description on the laceration page.

Q. Yes.

A. Under laceration I put down it was -- the wound is irregular shape and it went down to the muscle level. That's what I have down there.

Q. Okay. Would you consider that to be a deep laceration, something --

A. It's --

Q. Something more than superficial, I would imagine?

A. More than superficial, yes.

Q. Okay. Would you consider that to be a deep laceration?

A. It's -- It's deeper than superficial. That's how I, you know ...

Q. Okay.

A. I just describe it as it went down to the muscle level. I mean, that's, yeah, deeper than superficial for sure.

Q. Okay. What would be then below the muscle level had it gone down lower?

A. Had it gone down lower? Blood

vessels, bone, nerves.

Q. Okay. In your examination of Mr. Dulberg, was there any evidence or any indication of any nerve injury resulting from this laceration and looking at the results of your examination?

A. I have here he -- You know, in my note it says numbness on the right fifth finger, but on my note it says neuro exam is intact.

numbness 5th finger
neuro intact?

Q. Those appear to be in conflict a little bit or at least don't correspond?

A. Yeah. Maybe a little bit of conflict. Numbness the fifth finger. I didn't really go down -- I didn't -- When I examined, I didn't really go to the detail of the fifth finger; I just did the -- around the, you know, the wound and then I checked the function of all the -- the function of all the muscles and the tendons appear to be intact.

Q. Okay. So he had -- he had full use of --

A. Yeah, all the tendon

Q. -- his arm and his hand?

A. Yes.

Q. And his fingers?

A. Definitely.

Q. Would that indication of the numbness in the right fifth finger, would that have been the result of a complaint that Mr. Dulberg would have made or something that he would have vocalized to you?

A. He did, yeah, because I have it noted. I put it on the side of my chart that numbness in the right fifth finger.

Q. Is there any type of exam or test that you would have run during the course of your examination to test or at least to correlate that complaint of numbness in the right fifth finger, any type of sensation test or anything like that?

A. Yeah, usually just -- I just do the touch, you know, like touch the finger and everything and see if it's really intact and he can feel me touching the

fingers. That's what I usually do, yeah. That's the complaint and that's the examination.

Q. Yeah.

A. I usually touch the fingers, I mean, to see -- to indicate whether he can feel, that's what I usually do.

Q. And in this particular case the results of that test or examination would have been normal?

A. It appear to be normal. I put down sensation intact in my note.

Q. Okay. What was done to repair the laceration?

A. To repair the laceration? Well, I have in my note that the wound was contaminated so I gave him the long-acting anesthetic Marcaine.

Q. When you say contaminated, what does that mean?

A. Usually means there's some dirty in it. Some, you know -- Usually just mean the dirt. It's not -- The wound is not clean, yeah. Let's say, yeah, that's just

mean the wound wasn't clean.

Q. Would it be cleaned out or irrigated or something like that then?

A. Oh, definitely, yeah.

Q. Okay.

A. That's one of the things we do is to really irrigate a wound copiously. He was given -- He was irrigated with -- Well, he was cleaned with Shur-Clens, which is a cleansing agent, antibacterial agent, and he was irrigated with saline, the sterile saline that we use to care for the wound care.

wound irrigated

Q. And then what else was done? Was he stitched up, or ...

A. Yes, he was stitched up. There was -- He had a little wound debridement, meaning that the wound -- I have in my note the wound was irregular, you know, the wound was very irregular. It was cut by the chain saw so I had to do some -- debriding means skin trimming because it's so jagged so I did some of that to trim the wound edges.

little wound debridement (trimming of skin) b/c irregular

Q. Would that have been like around the outside more on the -- more on the skin level?

A. Yeah, more on the skin on the outside. That's what I -- That's what I have in my note. And then -- So I did the two-layer closure. I did with the -- one of them is absorbable suture called Vicryl suture, and I did that. I put in three stitches under the skin, and then I put in four stitches with the Prolene suture on the outside.

2 layer Closure

3 stitches under the skin & 4 on outside

Q. Are those sutures or stitches that would have needed to have been removed at some point in the future, or would they be the absorbing kind?

A. No, the one on the outside, the one that's called Prolene, they need to be removed, but the one called Vicryl on the inside, those were absorbable.

Q. And you said there were 11 stitches on the outside?

11 stitches outside?

A. On the outside.

Q. And three on the inside?

A. Three on the inside, yes.

Q. Now, I just wanted to clarify. Under length -- Under wound description, length is 8 centimeters; is that correct?

A. Yes.

Q. In terms of inches, how much is -- I mean, I can do the conversion, but ...

A. The math?

Q. Yeah.

A. Well, it's 2.5 centimeter makes up one inch so it's 2.5 ...

MR. MAST: Three and a half inches?

BY THE WITNESS:

A. Three and a half, yeah.

Q. Was Mr. Dulberg given any pain medication in the emergency room?

A. I gave him a numbing medication, the local anesthetic, which -- yeah, I gave it to him, the Marcaine; that's a local anesthetic.

Q. Okay. And that would have been for pain relief on the site as well as for

wounded = 3½ inches long

when you did the suturing?

A. The suturing, yes.

Q. Okay. As far as discharge instructions, what were his instructions on discharge?

A. The usual thing we give is like the wound care instruction and we would give the suture removal in how many days. The standard is, like, ten days. And then we usually give the instruction if the wound appears to be infected. Like if it's, you know, it's red and swollen, pus coming out, the patients usually are instructed to come back to ED for reexamination. Yeah, that's what -- that's what we usually do.

Q. Okay. As far as any prescriptions for any pain medication, anti-inflammatories, anything like that?

A. I don't remember what I gave him. It doesn't say -- Usually I give the prescription and the nurse would write down on the discharge paper, that's what I usually do. But in this situation, I

normally would give him -- because of the severity of the injury, the deep wound and all, I usually give antibiotic because the wound is contaminated. I'm really not sure; I didn't have it -- I don't know, I didn't write it down but usually the nurse will write down what medications were given to patients.

Q. I think -- Let me pull --

A. Do you see one in there?

Q. Yeah, let me pull the discharge instructions. This is what I have.

Does that mention some medications?

A. Oh, yeah, so I gave him some pain medication, and I gave him, yeah, the antibiotic. Yes, that's usually what we would do in this situation, yeah.

given pain meds & an antibiotic

Q. Okay. And there's no indication that Mr. Dulberg came back to the emergency room with any of the complaints related to infection or anything like that?

A. Not -- I didn't see him again

so I never heard from him again, so I don't know. I don't think so.

Q. Okay. I also -- it looks like I have some type of restriction or release form. Does that look familiar to you?

A. I don't remember but this is a form like this. Yeah, we have this kind of form, like restriction -- work restriction form.

Q. Does it look like that that's something that you filled out? Is that -- Is that your handwriting or would that have been somebody else who had filled it out?

A. That's done by the nurse.

Q. Okay. Under -- Under your supervision --

A. Yes.

Q. -- or under your orders?

A. Yeah. Well, usually they would ask, you know, to give him so I said yeah, go ahead, give it because of the ...

Q. Okay. And it looks like he was taken off of work for two days?

A. Two days, according to that

Taken off work x2 days

note.

Q. All right. Any particular reason why he would have been taken off of work for two days? Just because of the fact that he did have a laceration?

A. Yeah, because of the injury because like -- and also I forgot exactly, a lot of time I would talk to the patient like what type of work he does, if it involved using the arm, the lifting and all that, so I would, you know, give him the time of so it wouldn't be aggravating the injury site; that's -- I usually do that.

Q. Okay. Is there -- I didn't see myself in the notes, is there any indication or do you have any independent recollection of what Mr. Dulberg may have told you about what he did for a living that would have prompted the two days off of work?

A. No, he did not tell me. I mean, I don't have a, you know, recollection of what.

Q. Okay. Given the nature of his

injury and the care that you gave him, is the two days off of work pretty standard? I mean --

A. Yes.

Q. -- that's not unusual.

A. Yeah, it's not unusual. And what happened is like the patient, a lot of time they have their own doctor, you know, so we'll give two days off work and then if they need more, they are encouraged to follow up with a doctor and then, you know, if they need more days to be off work, they can get that extension from the doctor.

Q. Okay.

MR. ACCARDO: All right. I don't think I have anything else. Thank you, Doctor.

EXAMINATION

BY: MR. MAST

Q. I don't know if you put it in the notes because I haven't read the discharge, but was he told or was it just

expected that he would follow up with his own doctor if he had any other issues or to get the stitches removed, things like that?

A. The procedure, he can follow up with his own doctors or come back to the ED if he needed to.

Q. It was left up to him then?

A. Left up to him, yes.

Q. Okay. All right. You didn't -- I mean, the -- I thought you said the numbness, he had a complaint of some numbness in the finger?

A. Yes.

Q. Okay. You did an examination and didn't -- The exam -- Were you able to discount the numbness or you just weren't able to find the reason for the numbness or what was the exam and how did that relate to his complaint?

A. I can only go by my exam, and it says the neuro exam is intact, you know.

Q. But does that -- When you say it's intact, does that mean he didn't have

the numbness or there wasn't really anything at that point going on to be a serious issue that needs to be followed up on?

A. I didn't think it was serious, and another thing is when somebody has a laceration, there's a possibility that the nerve would have been, you know, cut too, you know, and if there's like a tiny little nerve, you really can't repair those, you know, and then a lot of time the numbness, patient will regain that back.

Q. Okay.

A. People come in and complain like that and we do the exam and it's intact and then we just have to see because everybody that has a cut can't go to microsurgery to get the nerve.

Q. Right.

A. You know, a lot of time this function will come back.

Q. All right. And that's what I'm trying to understand.

A. Yeah.

Q. Is he had numbness. You did the exam and there wasn't anything significant on the exam?

A. No, nothing significant.

Q. So that's all you could do at that point and hopefully later on it resolves, right?

A. Yes.

Q. You're not saying your exam discounted the fact that he had the numbness? You accept the fact he might have had numbness, correct?

A. Yes.

Q. Okay. The exam doesn't discount the fact that he had numbness, it just discounts the severity of any issue that's ongoing at that point?

A. Yes.

Q. Were you able in your exam at all to negate or discount any nerve involvement, or is that left up to later on other doctors?

A. I can't negate a nerve involvement.

Q. Okay. That's up to other doctors then?

A. Yes.

Q. Because you didn't see him since?

A. No.

Q. So whether there was any nerve or even some significant muscle involvement, you're not here to say that it was or it wasn't; that's up to somebody else later on down the road?

A. The muscle part, I mean I can only go by my note. There's some muscle involvement. I don't know. I don't have an independent recollection of you know.

Q. Right. How much the muscle got involved, is that what you're saying?

A. Yeah, I can't.

Q. Okay. That's what I'm saying though, to the extent of the muscle involvement or whether there was any nerve issue later on, that is something you're not able to say yes or no about; that's something that other doctors that have seen

Can't say whether any nerve or muscle involvement b/c that would be up to adjc that told him later

him since would have to talk about; is that correct?

A. Yes.

Q. Okay.

MR. MAST: That's all I have.

MR. BARCH: I have a couple questions, follow-up.

THE WITNESS: Yes.

EXAMINATION

BY: MR. BARCH

Q. If I understood your earlier testimony, the wound -- the laceration that you -- did reach the muscle but it didn't get deep enough to catch like, for instance, the ulnar nerve itself?

A. I don't think so.

Q. Okay. But there are smaller nerves that come off the ulnar nerve which innervate the muscles and also out to the skin for sensation, those might have been cut?

A. Possible, yes.

DN think ulnar nerve cut

maybe smaller nerves that come off ulnar nerve may have been cut

Q. Okay. But you didn't test that to know for sure?

A. No.

Q. Okay.

MR. BARCH: That's all I have. Thank you.

MR. MAST: All right. Thank you, Doctor.

THE WITNESS: Thank you so much.

MR. ACCARDO: Signature? Would you like to waive it, reserve it? Do I need to explain it?

THE WITNESS: Yeah, would you explain it to me?

MR. ACCARDO: If you -- If you waive it, it basically means that you're trusting that the court reporter took everything down accurately. If you reserve it, you have the right to read the transcript before it's actually finalized. You have to sign off on it and when you read it, you can make any --

THE WITNESS: Amendment?

MR. ACCARDO: -- corrections for

typographical errors.

THE WITNESS: Okay.

MR. ACCARDO: Things like that. You can't change your answers, but you can look for typographical errors and things like that. So it's up to you. I'll tell you that probably 99 percent of doctors usually waive their signatures.

THE WITNESS: I can waive it.

MR. ACCARDO: All right. We'll show signature waived then.

THE WITNESS: Okay.

MR. ACCARDO: All right. Thank you, Doctor.

THE WITNESS: Thank you so much.

STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

I, Margaret Maggie Orton, CSR, Certified Shorthand Reporter, and RPR, Registered Professional Reporter, do hereby certify that APIWAT FORD, DO, on November 20, 2013 was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth, and that the above deposition was recorded stenographically by me and transcribed by me.

I FURTHER CERTIFY that the foregoing transcript of said deposition is a true, correct, and complete transcript of the testimony given by the said witness at the time and place specified.

I FURTHER CERTIFY that I am not a relative or employee or attorney or

employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have set my hand.

_____

Margaret Maggie Orton
Certified Shorthand Reporter
Certificate No. 84-004046

STATE OF ILLINOIS)
) SS:
COUNTY OF MCHENRY)

IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL DISTRICT, MCHENRY COUNTY, ILLINOIS

PAUL DULBERG, Plaintiff, -vs- DAVID GAGNON, Individually, and as agent of CAROLINE MCGUIRE and BILL MCGUIRE, and CAROLINE MCGUIRE and BILL MCGUIRE, Individually, Defendants.	No. 12 LA 000178

The discovery deposition of MARCUS G. TALERICO, M.D., taken under oath on October 16, 2013, at the hour of 1:00 p.m., at Mid America Orthopaedics, 1419 Peterson Road, Libertyville, Illinois, pursuant to the Rules of the Supreme Court of Illinois and the Code of Civil Procedure, before Terri A. Clark, CSR License No. 084-001957, a notary public in and for the County of Lake and the State of Illinois.

APPEARANCES:

MR. ROBERT LUMBER, of the
Law Offices of Thomas Popovich
3416 West Elm Street
McHenry, Illinois 60050
(815) 344-3797
rlumber@sbcglobal.net

On behalf of the Plaintiff;

MR. PERRY A. ACCARDO, of the
Law Offices of Steven A. Lihosit
200 North LaSalle Street, Suite 2550
Chicago, Illinois 60601-1014
(312)558-9800 (312)558-9357 Fax
illinoislegal@allstate.com

On behalf of the Defendant,

David Gagnon;

MR. RONALD BARCH, of the Law Offices of
Cicero France Barch & Alexander, P.C.
6323 East Riverside Boulevard
Rockford, Illinois 61114
(815)226-7700
rb@cicerofrance.com

On behalf of the Defendants,
Caroline and Bill McGuire.

- - - - -

I N D E X

WITNESS:

MARCUS G. TALERICO, M.D.

(Deposition start time 01:11.)

(Whereupon, the witness was administered an oath.)

MR. ACCARDO: Doctor, could you please state your name and spell it for the court reporter.

THE WITNESS: Marcus Talerico, M-a-r-c-u-s, T-a-l-e-r-i-c-o.

MR. ACCARDO: Let the record reflect this is the discovery deposition of Dr. Marcus Talerico taken pursuant to notice, taken in accordance with the rules of the Circuit Court of McHenry County, the rules of the Supreme Court of the State of Illinois, and any other applicable local court rules.

MARCUS G. TALERICO, M.D., having been first administered an oath, was examined and testified further as follows:

EXAMINATION

BY MR. ACCARDO:

Q. Good afternoon, Doctor, my name is Perry Accardo and I'm going to be asking you some questions today about a former patient

of yours by the name of Paul Dulberg. Okay?

A. Yes.

Q. You have given depositions before; is that correct?

A. Yes.

Q. You're familiar with the ground rules governing depositions, generally?

A. Yes.

Q. Now, we have been tendered a copy of your CV. I think we have marked it as Exhibit No. 1 for identification. Is that relatively current and up to date?

A. It is.

Q. What kind of doctor are you?

A. Orthopedic surgeon.

Ortho

Q. And do you have a specialty within that field?

A. Hand and upper extremity surgery.

Specialty in Hand & UE Sx

Q. And you are currently affiliated with MidAmerica Orthopaedics?

MidAmerica Ortho

A. Yes.

Q. And that's in Libertyville, Illinois?

A. Yes.

Q. And how long have you been affiliated with them?

A. A little bit over two years.

Q. You have your chart for Mr. Dulberg today?

A. I do.

Q. Does that chart contain everything, all the records in regards to Mr. Dulberg?

A. It contains the two office encounters, but no other documents that may be with this chart. I don't know that for sure. For example, the EMG which is referenced in here, I don't have that, but I commented on it.

Q. The question was everything that you have in front of you comprises the entire chart?

A. Yes.

Q. Now, you saw Mr. Dulberg twice, is that correct? saw pt 2x

A. Yes.

Q. And the first time was on December 2nd of 2011, is that correct? (1) 12/2/11

A. Yes.

Q. The second time was on January 6th of 2012?

(2) 1/6/12

A. Yes.

Q. Have you or your office had any contact whatsoever with Mr. Dulberg since that time?

A. I believe not.

Q. I'm sorry, Doctor, it wasn't a trick question before, but on one of the records I did note, it looks like a June 21st, 2012 telephone -- was it a telephone call? It's on the second page of the December 2nd, 2011 record.

A. Okay, I see that on the bottom. That was a phone call, and apparently the patient called. And VV is one of our employees, a nurse in our office, Vernice. And she must have taken this phone call where he said that he detailed the injury apparently. I didn't take that phone call and I didn't even know that until you pointed it out.

Q. It's more about him giving more detail about how the actual incident took

place as opposed to describing any additional problems with injuries or anything like that?

A. Correct. And I didn't see him at that time, that was a phone call.

Q. Backing up. Safe to say then that since June 21st of 2012 neither you nor your office has had any contact with Mr. Dulberg?

A. Correct.

Q. I would also ask any opinions that you give today, I would ask that they be within a reasonable degree of medical and orthopedic certainty. Fair enough?

A. Yes.

Q. Let's just go over the visits. The first visit on December 2nd, 2011. Was Mr. Dulberg referred to you?

A. He was, by Dr. Levin, a neurologist.

Referred by Dr. Levin (neuro)

Q. Do you know Dr. Levin?

A. I don't.

Q. Do you know of her?

A. I have heard her name.

Q. And Mr. Dulberg gave you a history when he came in to see you?

A. He did.

Q. And what was that history?

A. That he was using a chain saw and was accidentally struck on the right forearm, volar side.

Q. He indicates that he was seen in the emergency room; is that correct?

A. Yes.

Q. Did you ever receive any records from the emergency room?

A. No.

Q. And what were his complaints as far as pain, discomfort?

A. Persistent pain that was radiating from the laceration side in the forearm region.

CLO persistent pain radiating from laceration side

Q. Where was it that the laceration was, it was on the right forearm?

A. Right volarly, so palm side and mid forearm level. And he also had intermittent numbness and tingling.

intermittent numbness + tingling in ring + small fingers

Q. In any particular areas?

A. In the ring and small fingers.

Q. What else did he indicate?

A. Grip weakness with loss of endurance with wrist flexion and gripping.

Q. Now, before he came to see you he had seen Dr. Levin and had an EMG and nerve conduction study performed; is that right?

A. Yes.

Q. And you did not have the report at that time?

A. Correct.

Q. Did he indicate to you his work status?

A. He was currently not working at that time apparently, but was a trained graphic designer.

Q. And he reported using a computer mouse for 20 minutes causes him significant forearm pain; is that right?

A. Correct.

Q. You performed an examination?

A. Yes.

Q. And what were the results of that examination specific to his right arm or hand?

A. Basically it was a normal exam

except for the fact he did have a well-healed laceration in that area of the forearm where the chain saw hit him.

He did also have some apparent muscle incongruity, meaning some scarring at the muscle belly level deep to the skin.

Q. And just a little bit more specifically about the exam. I know you said that it was normal. It appears that there was no tenderness to palpation of the forearm?

A. Correct.

Q. And would that include the area where the laceration and the scarring was?

A. Yes.

Q. As far as his strength, was that tested?

A. It was.

Q. And what were the results of that?

A. He had intact strength. He had normal wrist flexion and extension strength. He had normal grip strength. He had normal intrinsic strength, which are the muscles in the hand.

normal exam
well-healed laceration
muscle scarring
NO TTP forearm
normal strength

Q. It's noted he had a negative Froment's sign. What is that?

A. That is a sign that looks for atrophy and weakness of the muscles in the hand. The implication there is an ulnar nerve injury.

Q. And a positive Wartenberg sign. What is that?

A. Wartenberg sign is where the small finger deviates away from the right finger when you ask them to bring in the small finger against the ring finger. That again has to do with ulnar nerve function. So a positive sign is normally, it's attributed to an imbalance from weakness of the intrinsics of the hand.

Q. Would you consider that to be a subjective or an objective finding?

A. It's an objective finding. It's clinical significance, it's part of the big picture. So just because that's a positive sign doesn't necessarily mean anything per se. In context with other findings is where it's helpful.

Negative Froment's Sign (testing for ulnar nerve injury)

Positive Wartenberg Sign (also ulnar nerve test)

Not necessarily Dx

Q. Were any tests run during your examination regarding sensation? Because he was complaining of this numbness and the tingling.

A. I would test sensation by just light touch.

Q. And would that have been normal as well?

A. Yes.

Q. And what was your assessment then following that initial visit and examination?

A. My assessment was that he had a healed laceration in the forearm. I did not appreciate any obvious nerve, tendon, or artery injury. He had some scarring. And that my recommendation was therapy to try to improve his strength and his perceived weakness and the pain he had at the injury site.

Q. You also indicate under your plan that his complaints are likely muscular in origin?

A. Correct.

Q. And that he may have some

Normal sensation

no obvious nerve, tendon or artery injury recommend PT

C/O's are muscular in origin

superficial sensory complaints?

A. Correct.

Q. What would be the cause of these potential superficial sensory complaints given his history and given the results of your examination?

A. He could have in that area there are some sensory nerves. One in particular is the medial and the brachial cutaneous nerve. He could have neuromas at that point where they could be sort of scarred ends of the nerve perhaps. That's all in the sort of differential, but I guess at that time I really didn't get the sense that that was really at play.

Q. Is there any way to test for that?

A. Well, you can try to palpate the area and try to find a specific focal area. And if you had one area that is very obviously the tender area, there is a Tinel's sign where you tap there to see if that recreates all the symptoms. Perhaps you could explore that.

You could try with an EMG. I don't

know how good they are at picking up a neuroma and a sensory nerve like that. That you would have to ask a neurologist, that I'm not sure.

It's normally a clinical diagnosis based on an injury, a trauma, a laceration or something, and a very specific sensory complaint.

Q. Okay. And you asked him to come back after sending him out for some therapy?

A. Yes.

Q. It looks like he did go for some of that therapy?

A. Apparently he went to one or two sessions when I saw him.

Q. The records that I had it looked like he went to three sessions. Well, actually two in between your office visits, and it looks like then one after. But okay. So two in between.

So he comes back to see you then on January 6th of 2012, and how was he doing at that point?

A. He reported no improvement in his

Jan 6th, 2012

symptoms. He felt therapy did not help him. He felt that he was getting weaker. And also burning in his forearm.

Q. The burning in the forearm, is that a new complaint or was that sort of go along with the numbness and tingling?

A. I think that was all part of what he was complaining of. I might not have used that language in the first encounter, but that's my recollection of the event.

Q. Were there any new and unique complaints when he came to see you the second time in January?

A. No, not according to the note and what I recall.

Q. I know he indicated to you that he didn't feel that occupational therapy was helping, and we have established that he had the two visits. Do you have the records or the reports from the therapist?

A. I have not seen it, no.

Q. In the interim between your two visits you were able to get a copy of the EMG, the nerve conduction study?

A. Yes.

Q. What did you find when you reviewed that?

A. It was a normal study.

Q. And it looks like he also when he came to see you in January he asked you about some disability paperwork. Do you recall that?

A. I don't specifically recall that question, but I did note that in the report that he did ask me about disability paperwork, yes.

Q. What type of paperwork would it be that he would have been asking for, if you know?

A. I don't know, to be honest. It's just the phrase I put in there.

Q. At that time did you feel he was suffering from any type of disability?

A. No. I think that he had some scarring in his forearm and he had a lot of complaints, but I did not have any real objective findings that I could come up with a diagnosis, at least that I could treat.

normal EMG

not suffering from any disability

Q. You did do another examination of him in January?

A. Yes.

Q. And what were the results of that, that examination in comparison to the earlier examination?

A. Basically the same thing.

Q. So essentially negative?

A. Yes.

Q. And what was your assessment and plan at that time?

A. My assessment was, again, he had continued forearm pain and some scarring in the muscle. My recommendation was continued therapy. I really didn't have much else for him.

Q. Do you know whether he sought out any additional therapy?

A. No idea.

Q. During the two visits when he came to see you did he ever make any complaints regarding any pain or discomfort above the area where the laceration was up into the right elbow or anything like that?

A. No, I don't recall that.

Q. It was strictly confined to the forearm and the area where the laceration was?

A. Yeah, with sort of radiating -- it doesn't say. I guess shooting, radiating from the laceration site. I didn't say which way, up or down, but radiating.

Q. And nothing in your examination or your review of the EMG indicated anything regarding any injury to the ulnar nerve; is that a fair statement?

A. Correct.

Q. Are you talking mostly about then if any nerves were involved it would have been these more branch sensory type nerves?

A. Yes.

Q. Do you have an opinion as to what, if any, injury Mr. Dulberg suffered as a result of this incident with the chain saw?

A. My sense is he sustained a laceration in the muscle belly of his forearm. That did heal. And I did not appreciate any objective weakness or real

Radiating pain

no indication of ulnar nerve injury

if any injury, more branch sensory type nerves

OP: PT suffered laceration to muscle belly of his forearm

abnormality other than his subjective complaints of shooting, burning pain, and feelings all in his forearm area.

Q. And again, none of which you could correlate clinically with any certainty?

A. To me, I have seen a lot of lacerations, and typically a laceration in the muscle will heal. And I did not note any obvious deficits.

So he could have pain there, that's a subjective complaint, I have no way to measure that. I don't know what to make out of that when people tell me it's hurting. I can only look for objective findings. And I really didn't find any so that's really all I could come up with for him.

Q. And just for clarification. What is the muscle belly you referred to, what's that?

A. The muscles of the flexor pronator mass, so the wrist flexors. And there is a forearm pronator, which is a deep muscle coming off of the medial epicondyle of the elbow, and they radiate across the forearm.

A chain saw going through transversely in his forearm probably went into the muscle. I think he described that he had an open wound down to muscle.

Obviously, I didn't see the open wound because I saw him six months after the injury, going by his description. So those are the wrist flexors primarily. And he had perfectly normal functioning wrist flexors, so the muscle healed.

MR. ACCARDO: I don't have any other questions.

MR. LUMBER: I don't have any.

MR. BARCH: To be honest, I believe you covered it.

MR. ACCARDO: Signature?

THE WITNESS: Waived.

(Deposition concluded at 01:31 PM.)

Chainsaw probably went thru muscle, wrist flexors b/c they functioned normally muscle healed

CERTIFICATE OF REPORTER

I, TERRI A. CLARK, Certified Shorthand Reporter for the State of Illinois, do hereby certify that the foregoing was reported by stenographic and mechanical means, which matter was held on the date, and at the time and place set out on the title page hereof, and that the foregoing constitutes a true and accurate transcript of same.

I further certify that I am not related to any of the parties, nor am I an employee of or related to any of the attorneys representing the parties, and I have no financial interest in the outcome of this matter.

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TERRI A. CLARK, CSR

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