

1 State of Ohio, )

2 County of Cuyahoga. )

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IN THE COURT OF COMMON PLEAS

5

- - -

6 KEVIN AND LYNN BECKER, )

7 Plaintiffs, )

8 v. )

Case No. 307384

9 RALPH E. HOLLANDER, et al., )

Judge

Anthony Calabresse, Jr.

10

Defendants. )

11

- - -

12

THE DEPOSITION OF ROBERT T. BLANKFIELD, M.D.

13

TUESDAY, APRIL 28, 1998

14

- - -

15

The deposition of ROBERT T. BLANKFIELD, M.D., a

16

Witness herein, called for examination by the

17

Plaintiffs, under the Ohio Rules of Civil Procedure,

18

taken before me, Lauren I. Zigmont-Miller, Registered

19

Professional Reporter and Notary Public in and for the

20

State of Ohio, pursuant to notice, at Ohio City

21

Orthopedics, Lutheran Medical Arts Building, 2600

22

Vestry Avenue, Cleveland, Ohio, commencing at 9:00

23

a.m., the day and date above set forth.

24

- - -

25

1 APPEARANCES:

2

3 On behalf of the Plaintiffs:

4 DAVID B. MALIK, ESQ.  
Law Offices of David B. Malik  
5 8228 Mayfield Road, #4B  
Chesterland, Ohio 44026  
6 (440) 729-8260

7

8 On behalf of the Defendant Scott Schwartz:

9 PATRICK ROCHE, ESQ.  
Davis & Young Co., L.P.A.  
10 1700 Midland Building  
Cleveland, Ohio 44115  
11 (216) 348-1700

12

13 On behalf of the Defendant Ralph Hollander:

14 JEFFREY SCHENK, ESQ.  
Quandt, Giffels & Buck Co., L.P.A.  
15 800 Leader Building  
Cleveland, Ohio 44114  
16 (216) 241-2025

- - -

17

18

ALSO PRESENT:

19

Victoria Toohig  
20 Jim Torok - Mirror Image

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1 ROBERT T. BLANKFIELD, M.D.,  
2 a Witness herein, called for examination by the  
3 Plaintiffs, under the Rules, having been first duly  
4 sworn, as hereinafter certified, deposed and said as  
5 follows:

6 DIRECT EXAMINATION

7 BY MR. MALIK:

8 Q. Would you please state your name for the  
9 record?

10 A. Robert Peter Blankfield.

11 Q. And what is your profession?

12 A. I'm a physician.

13 Q. Are you licensed to practice medicine in  
14 the State of Ohio?

15 A. Yes.

16 Q. And how long have you been doing that?

17 A. I graduated from medical school in 1984.

18 Q. Would you explain to the jury your medical  
19 training?

20 A. I attended Case Western Reserve University  
21 School of Medicine, graduated in 1984. After that I  
22 did a transitional internship at the Mt. Sinai Medical  
23 Center here in Cleveland, and following that I did a  
24 family practice residency at Fairview General Hospital,  
25 also in Cleveland.

1 Q. And do you have a specialty?

2 A. I'm a family physician.

3 Q. Are you a member of any medical societies?

4 A. I'm a member of the American Academy of  
5 Family Physicians.

6 Q. Are you on the staff of any hospitals?

7 A. Yes, I am.

8 Q. Which ones?

9 A. I'm on the staff at Southwest General  
10 Hospital, Lutheran Medical Center, MetroHealth Medical  
11 Center and St. Vincent Charity Hospitals.

12 Q. And are you Board certified?

13 A. Yes.

14 Q. Did there come a time when you saw Kevin  
15 Becker?

16 A. I originally saw Kevin Becker on February  
17 8th, 1996.

18 Q. And what was the reason you saw Kevin  
19 Becker?

20 A. I saw Mr. Becker following an accident  
21 that he had on January 8th, 1996.

22 Q. And did you take a history and a physical?

23 A. Yes, I did.

24 Q. Would you please tell the jury what the  
25 history and physical revealed?

1           A.       As I look at my notes, Mr. Becker informed  
2 me that he was standing on the street during a  
3 Cavaliers basketball game on January 8th, 1996 and that  
4 a car came the wrong way and that he tried to jump out  
5 of the way and the front of that car caught Mr.  
6 Becker's left leg, he subsequently landed on the hood  
7 of the car landing on his right shoulder and on his  
8 back.

9                       Following the accident he had elbow and  
10 rib pain. He went to St. Vincent Charity Hospital's  
11 emergency room, he was treated there. He was told that  
12 x-rays were normal and he was sent back to work without  
13 any restriction -- with the restriction that he do no  
14 lifting more than ten pounds.

15                      Held seen some other physicians prior  
16 to my evaluating him. Held been for physical therapy,  
17 he'd been treated with a tennis elbow brace and given a  
18 diagnosis of tennis elbow. At the time that I saw him  
19 he complained of midline low back pain at approximately  
20 the L4 level and he told me that the pain radiated to  
21 his right buttock, to his right posterior thigh and to  
22 his right anterior thigh. He told me that his right  
23 leg had fallen asleep on one occasion after a half hour  
24 drive.

25           Q.       Let me stop you right there. What was the

1 date of that?

2 A. The date that the leg fell asleep?

3 Q. The date that you saw him again.

4 A. February 8th, '96.

5 Q. Thank you. Any other complaints?

6 A. He told me that he'd had some rib problems  
7 in the past, that there had been some fractured ribs in  
8 1993 and that he'd been treated with nerve blocks and  
9 that he had some right-sided flank pain which was worse  
10 since the injury from February '96.

11 Q. What did your examination reveal?

12 A. My examination revealed that there was  
13 some tenderness to palpation over the right flank area,  
14 kind of over the posterior ribs there. Otherwise my  
15 examination was pretty much normal. There were no  
16 neurological deficits suggestive of a pinched nerve to  
17 my examination.

18 Q. Did you ask that x-rays be taken?

19 A. Yes, I did obtain some x-rays.

20 Q. And what did those reveal?

21 A. The x-rays revealed that there was  
22 bilateral spondylolysis -- let me check which level --  
23 at the L5 level, and I thought that there was some  
24 minimal spondylolisthesis.

25 Q. Would you tell the jury what spondylolysis

1 is and distinguish it from spondylolisthesis?

2 A. I can try. Without a picture it's a  
3 little difficult.

4 Q. Let me see if I can help you. Does this  
5 help you at all?

6 A. Yes, this helps. The structure called the  
7 pars interarticularis is a bony bridge between the bulk  
8 of the vertebral body here (indicating) and the spinous  
9 process, which is the part of the vertebral body which  
10 protrudes backwards. The pars interarticularis  
11 basically allows for the vertebral body to form a loop  
12 around the spinal column.

13 At Mr. Becker's L5 level, which is  
14 illustrated here, spondylolysis means that there's a  
15 crack in that pars interarticularis. If the bones do  
16 not move in relationship to each other it's called  
17 spondylolysis. If there are cracks on both sides then  
18 the vertebral body at that level can nudge forward, can  
19 inch forward in relation to the vertebral body below  
20 it. It's that pars interarticularis remaining in tact  
21 that's responsible for the vertebral bodies remaining  
22 in alignment. So when there's bilateral spondylolysis  
23 often times spondylolisthesis, meaning one vertebral  
24 body moving in relation to the other, can occur.

25 Q. When that occurs what symptoms develop?



1           A.     The symptoms can vary. There can be back  
2 pain, and if the nerves are pulled, tugged by the  
3 shifting of the vertebral bodies there can be nerve  
4 pain known as radiculopathy or sciatica.

5           Q.     Can you have spondylolisthesis and be  
6 asymptomatic?

7           A.     Yes, some people are asymptomatic.

8           Q.     Were Mr. Becker's symptoms when he  
9 presented to you consistent with an accident as he  
10 described it to you?

11          A.     Yes.

12          Q.     Okay. Do you have an opinion to a  
13 reasonable degree of medical certainty whether or not  
14 the accident caused Mr. Becker's symptoms as he  
15 presented to you?

16          A.     Yes. It's my medical opinion that the  
17 accident of January 1996 was responsible for  
18 aggravating the spondylolysis, spondylolisthesis  
19 condition and that this resulted in the pain for which  
20 I evaluated him in February 1996.

21          Q.     Doctor, can you tell me how close the  
22 spinal cord nerves are to the vertebrae?

23          A.     I'm not for sure. It's, I believe, a very  
24 small distance, on the order of a millimeter or so.

25          Q.     Would 13 or 14 millimeters be incorrect

1    though in your opinion?

2           A.     The entire width across the spinal column  
3    is about 13 or 14 millimeters, so, yes, I would  
4    consider that incorrect.

5           Q.     What was your diagnosis of Mr. Becker?

6           A.     My diagnosis was spondylolysis of L5 on  
7    S1, minimal spondylolisthesis, chronic back pain from  
8    his remote rib fractures and lateral epicondylitis.  
9    Lateral epicondylitis is tennis elbow.

10          Q.     Did you prescribe Mr. Becker any  
11   medication?

12          A.     Yes, I did.

13          Q.     And what did you prescribe?

14          A.     I prescribed an anti-inflammatory medicine  
15   called Dolobid. I subsequently when I saw him in  
16   follow-up on March 7th, 1996 I advised him to stop the  
17   Dolobid and try a different anti-inflammatory called  
18   Voltaren.

19                   MR. MALIK:                   Thank you. I  
20                   have nothing further.

21                   MR. SCHENK:                   Go off the  
22                   record.

23                   (Thereupon, there was a brief recess.)

24                                   - - -

25   *Ill*

## CROSS-EXAMINATION

BY MR. ROCHE:

Q. Doctor, my name is Pat Roche, and I represent Scott Schwartz in the same matter.

Is it true to say that before Mr. Becker was involved in either one of these accidents he had spondylolysis, he had spondylolisthesis, right?

A. Well, that's uncertain. It's very possible that that's the case, but --

Q. It's more probable than not, isn't it?

MR. MALIK: Objection.

A. It is probable, but spondylolysis can be congenital, one can be born with it, or it can be acquired, it can be the result of injury.

Q. So you don't know in this case if it predated these two accidents or not?

A. That's correct.

Q. Do you know if Mr. Becker has been involved in any subsequent accidents since the one in January or the one in May of 1996?

A. Those are the only two accidents that I'm aware of that have happened to Mr. Becker.

Q. Okay. I'm going to ask you some questions about your office notes. The first one concerns February 1, 1996. You had indicated that you first saw

1 Mr. Becker on February 8th, 1996; is that right?

2 A. Right.

3 Q. Is it true that one of your medical  
4 associates saw him on February 1, 1996?

5 A. That's correct.

6 Q. Do you have that note in front of you?

7 A. Yes, I do.

8 Q. Is it true that the note indicates on  
9 February 1, 1996 that he was in a motor vehicle  
10 accident while working and he injured his back, right  
11 elbow and ribs on January 1, 1996? Is that right?

12 A. On January -- I'm trying to decipher Dr.  
13 Berkowitz's writing, his note of February 1st, 1996.

14 Q. Right here, February 1, 1996, the stuff  
15 that's written a little larger than the rest. It's  
16 easy enough to read, isn't it?

17 A. All right.

18 Q. Did I read it correctly?

19 A. Yes.

20 Q. Then down a little further in his notes he  
21 indicates, lower back and right leg?

22 A. M-hm.

23 Q. And then the word numbness?

24 A. Right.

25 Q. In right thigh; is that correct?

1 A. Correct.

2 Q. So would you agree with me that all those  
3 symptoms were present February 1, 1996?

4 A. Yes.

5 Q. All right. Then you saw him on February  
6 8th, 1996?

7 A. Right.

8 Q. At which time you noted that -- save you a  
9 little trouble -- about the middle of your note that  
10 February 8th of 1996 he complains of something --

11 A. Midline low back pain.

12 Q. -- low back pain about L4.

13 A. L4 level.

14 Q. Can we agree that L4 is the level at which  
15 Mr. Becker eventually had his surgery? Do you know  
16 anything about that?

17 A. I'm not certain if he had the surgery at  
18 L4 or L5.

19 Q. The note also indicates that the pain  
20 radiates into the right buttock, correct?

21 A. Yes.

22 Q. Would that indicate some nerve  
23 involvement, if pain is radiating from one place to  
24 another?

25 A. Not necessarily. With the back -- pain

1 can radiate from a back injury to the buttock, to the  
2 thigh. Generally one uses whether the patient extends  
3 below the knee as an indication of whether it's nerve  
4 pain, meaning sciatica, or referred pain from a  
5 non-nerve injury.

6 Q. At the top, I think, of the next page of  
7 your notes, continuing your notes of February 8, 1996,  
8 you have the abbreviation for assessment I think,  
9 correct? A. Yes.

10 Q. One of the findings you make there **is**  
11 chronic back pain from remote rib fracture, right?

12 A. Yes.

13 Q. Now, am I correct that that means exactly  
14 what it says, that he's got chronic back pain, which  
15 means ongoing back pain, correct?

16 A. Yes.

17 Q. And that the back pain was from rib  
18 fractures, right?

19 A. That was my assessment at the time, yes.

20 Q. And the rib fractures that we are speaking  
21 of occurred in 1993 when he was involved in another  
22 motorcycle accident, correct?

23 A. That's correct.

24 Q. On March 7th I wanted to ask you about  
25 this, I had a little trouble reading it myself. What

1 are these two words?

2 A. Back brace.

3 Q. Back brace. In March of 1996 was Mr.  
4 Becker given a back brace?

5 A. I wrote a prescription.

6 Q. Okay. Do you know whether or not he used  
7 it?

8 A. I'm looking at my subsequent notes. I'm  
9 not sure whether he used it or not.

10 Q. Okay. Also on March 7, 1996 you refer to  
11 a TENS, T-E-N-S.

12 A. Yes.

13 Q. Am I correct that that's a little  
14 electrical box that helps people that have usually back  
15 pain?

16 A. Yes.

17 Q. Was that prescribed for Mr. Becker in  
18 March of 1996?

19 A. That was prescribed, yes.

20 Q. Do you know whether or not he used it  
21 then?

22 A. He told me in March that he was using it  
23 and that it was helping with his rib pain.

24 Q. Okay. And then the last note I wanted to  
25 ask you about was May 9th, 1996. Do you have that note

1 in front of you?

2 A. Yeah.

3 Q. May 9th, 1996, there's a note here, still  
4 having pack pain; is that correct?

5 A. Yes.

6 Q. That's obviously because he complained to  
7 you at the time my back still hurts, right? You  
8 indicated, would that be correct to call it a diagnosis  
9 of LS strain?

10 A. Yes.

11 Q. That's lumbosacral strain?

12 A. Correct.

13 Q. That's a strain of the low back?

14 A. Yes.

15 Q. And that's spondylolisthesis?

16 A. Spondylolysis.

17 Q. Spondylolysis, I'm sorry.

18 Obviously everything we've talked about  
19 to this point, the last note occurring on May 9, 1996,  
20 would have predated any accident this gentleman had on  
21 May 23, 1996, would it not?

22 A. Certainly.

23 Q. Is there a reason why you didn't perform  
24 the surgery in this case?

25 MR. MALIK: Objection.



1 BY MR. ROCHE:

2 Q. Did you perform the surgery in this case?

3 A. No, I did not perform the surgery.

4 Q. Was he referred to another doctor for  
5 surgery?

6 A. I recommended that he see a colleague of  
7 mine Dr. William Bohl for a surgical consultation.

8 Q. Do you know if Dr. Bohl did the surgery?

9 A. No. From what I've been informed, Dr.  
10 Bohl did not do the surgery.

11 Q. Dr. Roberts did the surgery, do you  
12 understand that to be the case?

13 A. Yes.

14 Q. Do you know whether or not Dr. Roberts got  
15 a good result in this case?

16 MR. MALIK: Objection.

17 Q. From your own personal knowledge of the  
18 plaintiff, do you know one way or the other?

19 A. I've not seen Mr. Becker since the  
20 surgery. I've had a chance to see a letter from Dr.  
21 Roberts that suggests that the surgery was helpful.

22 MR. ROCHE: That's all I  
23 have for you. Thanks very much.

24 - - -

25 ///

1 BY MR. SCHENK:

2 Q. Doctor, my name is Jeff Schenk, and I  
3 represent the estate of Ralph Hollander.

4 When you initially examined Mr. Becker  
5 on February 8th, 1996 did I understand you correctly in  
6 that you indicated your physical examination indicated  
7 that he had tenderness over the right flank area over  
8 the right ribs?

9 A. Yes.

10 Q. And that's the area that you referred to  
11 in your assessment with respect to the chronic back  
12 pain from the remote rib fracture?

13 A. Yes, that's correct.

14 Q. When you eventually referred Mr. Becker to  
15 one of your associates, it was after the May 23rd, 1996  
16 accident?

17 A. Yes. I made the recommendation for  
18 referral in June of 1996.

19 Q. Why did you make that recommendation?

20 A. At that time I felt that he might benefit  
21 from surgical intervention considering that his MRI  
22 looked to me like it showed a small herniated disk.

23 Q. Prior to that second accident had you had  
24 any indication or any concern that he might benefit  
25 from surgical intervention?

1           A.     Again, looking at my notes, a note of May  
2 9th, 1996, Mr. Becker was still having some back pain,  
3 but as I try and recall what I was thinking at the time  
4 it was my impression that his back pain was at a  
5 satisfactory level and was not severe enough to warrant  
6 considering surgery.

7           Q.     In that note of May 9th, 1996 there's no  
8 reference or no mention of any radiculopathy or any  
9 radiating pain; is that correct?

10          A.     That's correct.

11          Q.     Would it be fair to say that if it's not  
12 in your note that there was no complaint of it at that  
13 time?

14          A.     Correct.

15          Q.     That would be something that you would  
16 consider important with respect to Mr. Becker's  
17 condition, wouldn't you?

18          A.     Sure.

19          Q.     And in the April 18th, 1996 note, which is  
20 the visit preceding the May 9th, is there any reference  
21 to radiculopathy or radiating pain?

22          A.     No, there's not.

23          Q.     Did I understand correctly that the TENS  
24 unit that you prescribed for Mr. Becker was being used  
25 for the rib pain?

1 A. Yes, that was primarily my intent.

2 MR. SCHENK: Thank you,

3 Doctor. I have no other questions.

4 MR. MALIK: I just have a  
5 couple follow-up questions.

6 - - -

7 REDIRECT EXAMINATION

8 BY MR. MALIK:

9 Q. Are you a surgeon?

10 A. No, I'm not.

11 Q. Are you -- do you feel yourself -- do you  
12 feel comfortable making surgical decisions?

13 A. Not entirely.

14 Q. Okay. Do you have any problem as we sit  
15 here today with the fact that Kevin Becker had surgery  
16 performed on his back?

17 A. Do I have a problem with it?

18 Q. M-hm.

19 MR. ROCHE: Object.

20 A. No, I don't have a problem with that.

21 Q. Do you know Dr. Roberts?

22 A. I've met Dr. Roberts, I don't really know  
23 him.

24 Q. Your area of specialty is family practice,  
25 correct?

1           A.     That's correct.

2           Q.     Is radiculopathy the kind of injury where  
3 the symptoms wax and wane?

4           A.     Sometimes, yes.

5           Q.     Would you just explain to the jury what  
6 radiculopathy is?

7           A.     Radiculopathy is simply medical jargon for  
8 a pinched nerve. Some people when it involves the leg  
9 they call it sciatica. It refers to pain due to  
10 irritation of the nerve. It's usually experienced as  
11 pain running down the leg from the thigh to the foot.

12          Q.     Have you had the opportunity in your  
13 practice to treat rib fractures?

14          A.     On occasion.

15          Q.     And do you have an opinion as to how long  
16 it takes for rib fractures to heal?

17          A.     Rib fractures like other fractures  
18 generally heal within six to eight weeks.

19                   MR. MALIK:                   Thank you. I  
20                   have nothing further.

21                   MR. ROCHE:                   I have nothing  
22                   further. Thank you, Doctor.

23                   MR. SCHENK:                   Nothing further.

24                   THE VIDEOGRAPHER:            Doctor, you have  
25                   the right to review this videotape in its

1                   entirety or you may waive that right.

2           THE WITNESS:                   I'm willing to  
3           waive it.

4           THE VIDEOGRAPHER:           May we also have  
5           a stipulation between counsel that Mirror  
6           Image Video remain custodian of this  
7           videotape until its time of playback at  
8           trial?

9           MR. SCHENK:                   Yes.

10          MR. ROCHE:                   Agreed.

11                                       - - -

12                   (DEPOSITION CONCLUDED.)

13                   (SIGNATURE WAIVED.)

14                                       - - -

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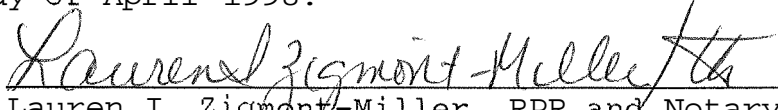
1 STATE OF OHIO, ) CERTIFICATE  
2 COUNTY OF CUYAHOGA. ) SS:

3 I, LAUREN I. ZIGMONT-MILLER, Registered  
4 Professional Reporter and Notary Public within and for  
5 the State of Ohio, duly commissioned and qualified, do  
6 hereby certify that the within-named witness, ROBERT T.  
7 BLANKFIELD, M.D., was by me first duly sworn to tell  
8 the truth, the whole truth and nothing but the truth in  
9 the cause aforesaid; that the testimony then given by  
10 him was reduced to stenotypy in the presence of said  
11 witness, and afterwards transcribed by me through the  
12 process of computer-aided transcription, and that the  
13 foregoing is a true and correct transcript of the  
14 testimony so given by him as aforesaid.

15 I do further certify that this deposition was  
16 taken at the time and place in the foregoing caption  
17 specified.

18 I do further certify that I am not a relative,  
19 employee or attorney of either party, or otherwise  
20 interested in the event of this action.

21 IN WITNESS WHEREOF, I have hereunto set my hand  
22 and affixed my seal of office at Cleveland? Ohio, on  
23 this 29th day of April 1998.

24   
25 Lauren I. Zigmont-Miller, RPR and Notary  
Notary Public in and for the State of Ohio.  
My commission expires December 3, 2000.