

IN THE COURT OF COMMON PLEAS

DOC. 70

CUYAHOGA COUNTY, OHIO

TRAVIS CATES, et al.,

Plaintiffs,

- vs -

JUDGE J. SWEENEY
CASE NO. 167,835

CLEVELAND METROPOLITAN
GENERAL HOSPITAL, et al.,

Defendants.

- - - -

Deposition of WILLIAM R. BOHL, M.D., taken as
if upon direct examination before Judith A.
Gage, a Registered Professional Reporter and
Notary Public within and for the State of Ohio,
at the offices of Ohio City Orthopedics, 2600
Vestry Avenue, Cleveland, **Ohio**, at 1:00 p.m. on
Wednesday, November 28, 1990, pursuant to notice
and/or stipulations of counsel, on behalf of the
Defendant Mary Matejczyk, M.D. in this cause.

- - - -

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APPEARANCES:

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Robert C. Seibel, Esq.
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1001 Lakeside Avenue, Suite 1600
Cleveland, Ohio 44114-1192
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On behalf of the Defendant
Mary Blair Matejczyk, M.D.

1 WILLIAM R. BOHL, M.D., of lawful age,
2 called by the Defendant for the purpose of
3 direct examination, as provided by the Rules of
41 Civil Procedure, being by me first duly sworn,
5 as hereinafter certified, deposed and said as
Si follows:

7 DIRECT EXAMINATION OF WILLIAM R. BOHL, M.D.
8 BY MR. SEIBEL:

9 Q. Doctor, my name is Bob Seibel and I represent
10 Dr. Mary Matejczyk in a medical malpractice case
11 that's been filed against her and Cleveland
12 Metropolitan General Hospital by one of your
13 patients, Travis Cates. I'm here to ask you
14 just a brief series of questions today about
15 what your involvement is with Mr. Cates' care at
16 this point.

17 For the record, would you state your name,
18 please?

19 A. William Reinhardt Bohl.

20 Q. What is your occupation, Dr. Bohl?

21 A. Orthopedic surgeon.

22 Q. What is your professional address?

23 A. 2600 Vestry Avenue, Suite 3200, Cleveland, Ohio,
24 44113.

25 Q. And that's the medical office building attached

1 to Lutheran Hospital?

2 A. Yes.

3 Q. You said you practiced orthopedic surgery?

4 A. Yes.

5 Q. Are you Board certified?

6 A. Yes.

7 Q. How long have you been Board certified?

8 A. Since 1978.

9 Q. I assume that's Board certified in orthopedic
10 surgery?

11 A. Yes.

12 Q. Have you been -- have you gone under any
13 recertifications of your boards?

14 A. No, it was -- we were grandfathered, so we
15 didn't have to do that.

16 Q. You did take an exam?

17 A. Yes.

18 Q. What did that exam involve?

19 A. It was a written and oral exam. The exam is on
20 the four major areas of orthopedics, which I
21 think are pediatrics, trauma, adult
22 reconstructive, and hand.

23 Q. When did you graduate from medical school?

24 A. 1972.

25 Q. And where did you go to medical school?

1 A. Case Western Reserve.

2 Q. Have you been in the practice of medicine since
3 that time?

4 A. **No.** I did an internship and residency after
5 that.

6 Q. And where was your internship and residency?

7 A. One year general surgery internship at
8 University Hospital of Cleveland, a year of
9 general surgery residency at the same location,
10 and then three years of orthopedic surgery at
11 the Cleveland Clinic,

12 Q. Once you finished your internship and
13 residencies did you then enter the private
14 practice of medicine?

15 A. Yes.

16 Q. You are licensed in Ohio?

17 A. Yes.

18 Q. Are you licensed in any other states?

19 A. New York.

20 Q. What I'd like to do, doctor, is take a look at
21 your original chart for just a second.

22 - - - -

23 (Thereupon, a discussion was had off
24 the record.)

25 - - - -

1 Q. Have you reviewed your chart prior to today's
2 deposition?

3 A. Yes, but not real recently.

4 Q. How long ago was it, do you think?

5 A. Just before the last scheduled deposition.

6 Q. Have you --

7 A. And actually, we went over it just briefly
8 before this deposition.

9 Q. I will ask you about that. You also have Mr.
10 Cates' Lutheran Hospital chart in front of you,
11 the original hospital chart?

12 A. Yes.

13 Q. Did you take a look at that before today's
14 deposition?

15 A. No.

16 Q. You have some x-rays there, too, of Mr. Cates?

17 A. Yes.

18 Q. Would you just identify what films are in that
19 packet there for the record?

20 A. Chest and knee films in 1989 and 1990.

21 Q. Can you just go through and tell me how many
22 different films there are in there and just
23 count them?

24 A. Three views of the chest, six views of the knee,
25 including both before and after surgery

1 pictures.

2 Q. What I'd like to do, doctor, is just mark this
3 as a deposition exhibit, the original chart, and
4 if Mr. Mellino and Mr. Allison have no objection
5 I would just as soon let you keep this in your
6 possession, but I would like to mark it as a
7 deposition exhibit. Okay? Mark it Deposition
8 Exhibit A.

9 - - - -

10 (Thereupon, Defendant's Deposition
11 Exhibit A was mark'd for purposes of
12 identification.)

21 MR. ALLISON: That's fine.

22 MR. MELLINO: Sure.

23 Q. Doctor, feel free to look at this chart if you
24 need to look at it to answer the questions that
25 I will ask. When did you first treat Travis

1 Cates?

2 A. I first saw Mr. Cates, it looks like January
3 10th, 1978.

4 Q. What was his condition at the time that prompted
5 him to come and seek treatment from you?

6 A. He had been a patient of Dr. Anthony Nakhle, who
7 was referred to me for -- oh, at that time
8 primarily deformities of his hands due to severe
9 rheumatoid arthritis.

10 Q. From your records or recollection, **can** you tell
11 us what Mr. Cates' condition was at that time
12 you first saw him?

13 A. He had severe rheumatoid arthritis with
14 deformities of both hands.

15 Q. What is rheumatoid arthritis?

16 A. It's a systemic disease that affects the joints

21 A. I'm familiar with a lot of the surgical
22 treatment of that disease, and some of the
23 medical treatment.

24 Q. Do you treat rheumatoid arthritic patients in
25 your practice?

1 A. Yes.

2 Q. What was the prognosis for Mr. Cates' disease at
3 the time you first saw him in 1978?

4 A. At that time, he already had fairly significant
5 changes, at least in his hand and feet. I did
6 not make any notes of his other joints at that
7 time. Rheumatoid arthritis can be a disease
8 that involves all the joints or it can involve
9 primarily just the hands and feet, and I took
10 care ~~of~~ his hands and I think a foot early when
11 I saw him, but no references to the other
12 joints.

13 Q. Does rheumatoid arthritis tend to progress in a
14 patient?

15 A. Yes.

16 Q. What treatment did you provide for Mr. Cates
17 when he first came under your care?

18 A. I replaced a number of joints in his hands and
19 did some tendon transfers.

20 Q. When did you next treat Mr. Cates?

21 A. Well, let's see. The surgery I did was on
22 January 19th, 1979. I then saw him -- no,
23 that's not right. 1978. Then I saw him in
24 follow-up for suture removal and referral to
25 occupational therapy, February 22nd, 1978.

1 Actually, the sutures were taken out in the
2 hospital. I saw him for follow-up to examine
3 him and sent him to occupational therapy. Do
4 you want me to follow this along?

5 Q. Sure, go ahead.

6 A. I saw him March 8th, 1978, again for follow-up
7 on his hands, then again March 22nd, 1978, and
8 at that time I scheduled him for admission, it
9 looks like, to do the other hand. That was done
10 in April, April 25th, 1978, and I saw him May
11 23rd, 1978, for that follow-up, and then I
12 didn't see him again -- oh, wait a minute. Then
13 I saw him, let's see, June 14th, 1978, again for
14 a follow-up of his hands. He then wasn't seen
15 again until I was asked to see him again by Dr.
16 Nakhle as a hospital consult June 25th, 1979,
17 and at that time it was for a problem with his
18 foot.

19 Q. Let me stop you there and ask you a question.
20 What did you intend to accomplish by performing
21 surgery on Mr. Cates' hands?

22 A. To realign his dislocated joints and improve the
23 function of his hands, put his fingers back
24 where they were supposed to be. The tendon
25 transfers were designed to keep his fingers

1 from, well, from the deformities reoccurring.

2 Q. What is the prognosis for a patient like that in
3 terms of the success of surgery?

4 A. They usually get some improved function, rarely
5 any improved strength, usually improved pain
6 relief, and probably slowing down of the disease
7 process in that location.

8 Q. You were going to tell us about, you began
9 attending to his, a problem with his foot.
10 Could you tell us about that?

11 A. Yes. I then did surgery on his foot in March,
12 1981, excision of a cuboid of his foot. That's
13 a bone in the mid part of the foot, and as I
14 recall, I think the bone was extruding and
15 causing pain, a lump in his foot, and all I did
16 was remove the lump at that time.

17 Q. Was that condition related to his rheumatoid
18 arthritis?

19 A. Yes. Then I have two follow-up visits after
20 that, April 7th, 1981 and May, 1981. That
21 apparently healed up fairly well, and he was
22 only having minimum tenderness when I last saw
23 him.

24 Q. Did Mr. Cates have any other conditions besides
25 his rheumatoid arthritis which complicated the

1 treatment that you provided?

2 A. I'm referring to his hospital chart now. He
3 apparently had coronary artery disease with a
4 cardiomyopathy, which would make anesthesia a
5 more significant risk and it might impair the
6 rehabilitation some.

7 Q. When did you next have occasion to see Mr.
8 Cates?

9 A. November 14th, 1989.

10 Q. And tell us why you saw Mr. Cates at that time
11 and what your treatment involved.

12 A. I had received a call from Dr. Balloo, a
13 rheumatologist at Cleveland Metropolitan General
14 Hospital. Mr. Cates was apparently a patient of
15 his.

16 He stated that Mr. Cates had had a total
17 knee done and that it was infected and that
18 there hadn't been any success clearing up the
19 infection at Metropolitan General and Mr. Cates
20 had remembered me from the past and asked if he
21 couldn't be transferred to Lutheran for care of
22 that infection, and I agreed to accept him.

23 Q. What was Mr. Cates' condition when he returned
24 to your care in 1989, November?

25 A. He had had a colostomy since I had seen him. He

1 had a large, swollen knee, I think it was the
2 right knee, yes, with pus running out of it.

3 There was a sinus tract on the medial aspect of
4 the knee.

5 Q. Sinus tract means what, doctor?

6 A. It was an opening with pus draining out of it.

7 Q. Where did that sinus tract open, specifically?

8 , A. I didn't know that just looking at his knee, but
9 at the time of the surgery I found that the
10 sinus tract connected with several large
11 subcutaneous abscesses around the knee, and then

13 Q. Was the tract open superficially along a
14 previous incision line?

15 A, No.

16 Q. Where on the knee? Can you describe
17 anatomically where on the knee?

18 A. It was on the medial aspect of the knee, right
19 over the medial femoral condyle.

20 Q. Describe what you saw at that opening. Was it
21 inflamed, was it swollen? How was it open?

22 A. All I really remember is that there was a hole
23 and that purulent material was draining out of
24 it.

25 Q. Had you seen that type of occurrence before in

1 your practice?

2 A. Not in my practice. Well, not exactly that
3 occurrence. I have seen sinus tracts, I have
4 seen infected knee replacements. I don't recall
5 seeing one that bad.

8 A. Well, he had the cardiomyopathy, he had been on
chronic steroids. In addition to the colostomy,
10 he had a chronic draining sinus in his lower
11 abdomen. I had to have the cardiologist see him

21 I don't know for sure.

22 Q. Is that unusual, to find rheumatoid arthritic
23 patients on steroids?

24 A. No.

25 Would that be considered a customary treatment

1 for rheumatoid arthritics?

2 A. For severe rheumatoid arthritis, yes.

When Mr. Cates -- when you **saw** Mr. Cates first
4 in the late '80s, was he considered a severe
5 rheumatoid arthritic?

6 A. I would have considered him severe.

7 Q. Were you at all surprised when Mr. Cates
8 returned to your care in late '89 with the
9 progress of his disease?

10 A. No.

11 Q. Was it unusual to have a patient like Mr. Cates,
12 who is a severe rheumatoid arthritic, have the
13 disease progress like it had during the time
14 that he had not seen you?

15 A. No.

16 Q. In November of '89 when you began treating Mr.
17 Cates again, was he already hospitalized?

18 A. I believe he was hospitalized at Metropolitan
19 General or Highlandview, one of the two.

20 Q. So he transferred directly over to Lutheran?

21 A. Yes.

22 Q. When you obtained the history that you did upon
23 Mr. Cates' return to your care, did you obtain
24 an infectious disease consult at Lutheran?

25 A. I don't think so. I don't see any record **of**

1 that.

2 Q. Is there an infectious disease service at
3 Lutheran?

4 A. There is a doctor you can consult that actually
5 happens to be one of the same ones that goes to

9 Q. He is not in the facility full-time, though, I
10 take it?

11 A. No. You call him and he will show up in a day
12 or two.

13 Q. Is he the only one that you would be able to
14 consult with at Lutheran for infectious disease
15 care?

16 A. I think so.

17 Q. You operated on Mr. Cates in November of 1989,
18 correct?

19 A. Yes.

20 Q. What did you find when you operated on him
21 then?

22 MR. SEIBEL: Off the record.

23 - - - -

24 (Thereupon, a discussion was had off
25 the record.)

1 - - - -

2 A. Okay.

3 Q. First of all, what was the date of the surgery?

4 A. November 16th, 1989.

5 Q. And what did you find?

6 A. There were multiple scars, anterior aspect of
7 the knee, from previous surgery, what looked
8 like a rotation flap, which would indicate he
9 had had some trouble with skin healing in the
10 past. He had a draining sinus medially.

11 I opened up his joint and immediately a
12 large amount of purulent material came out. The
13 joint was filled with kind of a brown,
14 hypertrophic synovial appearance. When I went
15 to remove the synovia, remove all this brown
16 stuff, I ran into several large pockets of,
17 actually chronically walled pockets of pus, with
18 their own synovial-type linings, long villus
19 formations. I believe there were several of
20 those and they kind of ended up coming out the
21 sinus of the medial aspect of the knee, so I
22 actually ended up making a little bigger hole
23 than I expected, and an additional incision
24 around the sinus.

25 The knee prosthesis itself was firmly

1 fixed, there was no loosening like there is
2 sometimes in infection. That had to be knocked
3 loose. There was some, what looked like
4 necrotic bone, possibly infected bone that was
5 debrided away. Those are the basic findings.

6 Q. You removed the prosthesis at this time?

7 A. I removed the prosthesis, all the infected
8 looking tissue, and the dead or infected-looking
9 bone.

10 Q. Now, when Mr. Cates underwent this surgery, was
11 he already on antibiotics?

12 A. He was -- I don't know whether he came in on
13 them. He was on antibiotics before and during
14 the surgery.

15 Q. Who prescribed those antibiotics?

16 A. I did.

17 Q. What antibiotic did you prescribe?

18 A. Well, it says he was on Vancomycin.

19 Q. What dose?

20 A. Actually, I put him on Ancef rather than
21 Vancomycin, which makes me wonder, I didn't see
22 it in the chart, but there may have been an
23 infectious disease consult later, because Dr.
24 Gopal likes Vancomycin.

25 Q. Did he eventually go on Vancomycin during that

1 hospitalization?

2 A. Perhaps he was on Vancomycin when he arrived
3 here and I never had him on anything but the
4 Ancef, because I don't really see anyplace where
5 the Vancomycin is ordered.

6 Q. Why did you select the antibiotic Ancef?

7 A. That's the one I usually use unless I get back
8 some sensitivities that indicate that something
9 else would be better. And the sensitivities we
10 got back apparently showed that it was sensitive
11 to Ancef.

12 Q. What organisms does Ancef generally combat?

13 A. It's a broad spectrum antibiotic, usually covers
14 staphylococcal organisms, most gram positives, a
15 few gram negatives. I think there was an
16 occasional staph epidermitus that it doesn't
17 cover, and then you might use something like
18 Vancomycin.

19 Q. What is the difference between Ancef and
20 Vancomycin in terms of its coverage?

21 A. There is a lot of overlap. I think maybe there
22 are a few things that Vancomycin covers that
23 Ancef doesn't, but you can't -- there is no oral
24 equivalent of Vancomycin, and I like to have
25 somebody on something that I can switch over to

1 an oral medication, which is usually Keflex,
2 That's why I use the Ancef.

3 Q. Preoperatively, did you have a discussion with
4 Mr. Cates about the need to remove his
5 prosthesis?

6 A. Yes.

7 Q. Was he at all reluctant about removal of the
8 prosthesis?

9 A. No. Actually, I -- when I talked to Dr. Balloo,
10 I told him that I would not be willing to accept
11 Mr. Cates as a patient unless he was willing to
12 have the knee removed, because I felt that would
13 be the only way to clear up the infection he was
14

15 Q.

16

17

18

19 A.

20 Q.

21

22 would undergo removal of the prosthesis?

23 A. Yes. Otherwise, I didn't really think there was
24 any point in transferring him.

25 Q. When you did your operation on Mr. Cates in

1 November of 1989, could you determine whether
2 the prosthesis was the source of the infection
3 or not?

4 A. No.

5 Q. Would you have an opinion as to whether it was
6 or wasn't?

7 A. The prosthesis itself?

8 Q. Right.

9 A. I don't think there would be any way to prove
10 whether the prosthesis itself was the source of
11 the infection.

12 Q. I think we can agree that the knee joint itself
13 was infected. Is that fair?

14 A. I don't know all of the things that happened to
15 him after his initial surgery. It looked like
16 there had been some type of flap done on his
17 knee, which might indicate some difficulty with
18 wound healing, and in my experience, most total
19 knees that become infected are really secondary
20 infections from a superficial wound infection or
21 possibly somebody that has a bacteremia from
22 something elsewhere in their body, such as they
23 were catheterized postoperatively, or they get a
24 postoperative pneumonia, a lot more often than
25 actual technique during the surgery itself.

1 Q. Okay. Why was it that you felt it was necessary
2 to remove the prosthesis at that time?

3 A. It sounded to me like the other things that you
4 might try first had already been done.
5 Frequently, a debridement will be carried out, a
6 course of antibiotics. If that doesn't work,
7 then in my experience, it is usually necessary
8 to remove the prosthesis and clean up all the
9 infection before attempting to put another one
10 back in.

11 Q. Is it reasonable to, in the first instance, give
12 the patient a chance to fight the infection
13 without removal of the prosthesis?

14 A. Yes. I think there are studies that have shown
15 a fairly high percentage of good results with
16 just a debridement and antibiotics.

17 Q. When was the last time that you saw Mr. Cates?

18 A. Probably the day he was discharged to Sunny
19 Acres.

20 Q. In January of '90?

21 A. Whenever it was.

22 Q. You haven't seen him since he was discharged
23 from Lutheran?

24 A. No. He never kept any of his follow-up visits.

25 Q. Prior to today's deposition, did you have an

1 opportunity to discuss your testimony with any
2 of the other lawyers in this case?

3 A. Yes.

4 Q. Okay. Was that Mr. Mellino?

5 A. Yes, I guess.

6 Q. What did you two talk about?

7 MR. MELLINO: Objection.

8 A. Well, actually, I don't remember everything. He
9 asked me what I knew about the case, what I had
10 heard about the case. He reminded me that I
11 didn't have to have an opinion. Those are the
12 things that I remember.

13 Q. Did you tell him that you in fact had an opinion
14 in this case?

15 A. Well, what I told him was that if I had the case
16 described to me again that I might be able to
17 form an opinion, or that if I had a properly
18 worded hypothetical question I might be able to
19 form an opinion to it.

20 Q. Did he try to formulate one of those
21 hypotheticals for you?

22 A. No, I don't think so.

23 Q. The original hospital chart, did you get that
24 from medical records here at the hospital?

25 A. This one? Yes.

1 Q. And the same holds true for the x-rays?

2 A. Yes.

3 Q. My question I guess is are those x-rays you keep
4 here in your office or at the hospital?

5 A. The hospital's x-rays.

6 MR. SEIBEL: I don't have any
7 further questions. These guys might.

8 MR. ALLISON: Go ahead, Chris.

9 MR. MELLINO: I don't have any
10 questions.

11 - - - -

12 CROSS-EXAMINATION OF WILLIAM R. BOHL, M.D.

13 BY MR. ALLISON:

14 Q. Doctor, I just have a very few questions for
15 you.

16 Have you ever reviewed any of the Cleveland
17 Metropolitan General Hospital records on Mr.
18 Cates?

19 A. You know, I don't remember. I might have.

20 Q. Do you recall reviewing any Cleveland Metro
21 records?

22 A. I don't recall reviewing any, but I couldn't say
23 that I didn't.

24 Q. Specifically, you don't recall reviewing records
25 from any hospitalization he may have had in

1 1987?

2 A. No, I don't remember that.

3 Q. Is it fair to say that you don't have any
4 knowledge of Mr. Cates' condition as regards his
5 right knee in 1987?

6 A. Nothing that I remember.

7 MR. ALLISON: That's all I have.
8 You are allowed to review your testimony,
9 because we will have it transcribed, and you can
10 sign it if you would like to.

11 THE WITNESS: I will waive it.

12 (Signature waived.)

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C E R T I F I C A T E

The State of Ohio,) SS:
County of Cuyahoga.)

I, Judith Gage, a Notary Public within and for the State of Ohio, authorized to administer oaths and to take and certify depositions, do hereby certify that the above-named WILLIAM R. BOHL, M.D. was by me, before the giving of his deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition as above-set forth was reduced to writing by me by means of stenotypy, and was later transcribed into typewriting under my direction; that this is a true record of the testimony given by the witness, and the reading and signing of the deposition was expressly waived by the witness and by stipulation of counsel; that said deposition was taken at the aforementioned time, date and place, pursuant to notice or stipulation of counsel; and that I am not a relative or employee or attorney of any of the parties, or a relative or employee of such attorney, or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, at Cleveland, Ohio, this 7th day of December A.D. 1990.

Judith Gage
Judith Gage, Notary Public, State of Ohio
1750 Midland Building, Cleveland, Ohio 44115
My commission expires March 24, 1995

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