IN THE COURT OF COMMON PLEAS

CUYAHOGA COUNTY, OHIO

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SADIE HABER,

Plaintiff,

vs.

UNGER'S KOSHER BAKERY **AND** FOOD SHOP,

Defendant.

Case No. 171215

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Deposition of ROBERT CURTIS **CORM, called** by the Plaintiff **as** upon direct examination under the **Statute,** as **provided** by the Ohio Rules of Civil Procedure, before Jennifer L. **Tokar,** a Registered Professional Reporter and Notary Publi within and for the ***State*** of Ohio, on Thursday, March 1, 1990, at the offices of Robert C. Corn, 850 Brainard Road, Highland Heights, Ohio.

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APPEARANCES:

Mr. David I. Pomerantz, Esq.

On behalf of the Plaintiff;

Mr. Walter R. Matchinga, Esq.,

On behalf of the Defendant.

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PROCEEDINGS

ROBERT CURTIS CORN,

called by the Plaintiff as upon direct examination under the Statute, as provided by the Ohio Rules of Civil Procedure, having been first duly sworn as hereinafter certified, was examined and testified as follows:

MR. POMERANTZ: Let the record reflect that this is the deposition of Dr. Robert Corn, M.D., taken in the case of Sadie Haber versu Unger's Kosher Bakery and Food Shop, Case No. 171215 in the Court of Common Pleas for Cuyahoga County, Ohio.

Mr. Natchinga, can we waive any defects as to notice?

MR. MATCHINGA: Certainly.

MR. POMERANTZ: Then why don't we go forward.

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DIRECT EXAMINATION OF ROBERT CURTIS CORN

BY MR. POMERAXTZ:

Q. Would you please state your full name?

A. Robert Curtis Corn.

Q. And what is your profession, sir?

A. I'm an orthopedic surgeon.

P And what is your business address?

A 850 Brainard Road in Highland Heights, Ohio.

Q. And so the jury understands, we are in your offices right now for this deposition; is that correct?

A. *Yes*, that is correct.

Q. Doctor, where did you attend medical school?

A. At the Hahnemann University School of Medicine in Philadelphia, Pennsylvania.

P And what year did you graduate from medical school?

A. In 1975.

P Following graduating from medical school, did you do an internship?

A No. I did a combined internship and residency.

Q. And where was that?

A. At the Cleveland Clinic Hospital and Foundation here in Cleveland, Ohio.

Q. Can you explain briefly for us what a combined internship and residency is?

A. Basically it was a four-year program in which the student doctor or the doctor in

training would be exposed to all major medical specialties during the first year and then serve in orthopedics for three months of the first year and then for the remaining three years of the residency.

Q. Doctor, are you licensed to practice medicin in the State of Ohio?

A. Yes, I am.

Q. Now, you mention orthopedics. Can you explain briefly what orthopedics is?

A. Sure, Orthopedic surgery is that branch of medicine which involves the medical and surgical treatments of diseases, disorders and injuries of the musculoskeletal system.

It also has a number of subspecialties; surgery of the hand, surgery of the spine, snorts medicine surgery, and surgery for arthritis, that is the total joint replacement surgery.

Q. Doctor, are You Board Certified in any area of medicine?

A. Yes.

Q. And what would that area be?

A. I'm Board Certified in orthopedic surgery.

Q. How does a physician become Board Certified

in orthopedic surgery?

A. In 1980 when I was certified, the requirements for the candidate were that he or she graduated from an approved medical school, approved orthopedic residency that is approved by the American Board of Orthopedic Surgery, have been in one location for one calendar year in practice of that specialty. Undergone a peer review by all the orthopedic surgeons in that community and then sit for an oral and written examination after one year of practice. All those steps were completed in 1980.

Q. Doctor, do you have any staff privileges at any hospitals?

A. Yes.

Q. And which hospitals would those be?

A. I'm chief of orthopedic surgery at the Meridia Huron Hospital, I'm also an orthopedic attending physician at the Mount Sinai Medical Center, the Meridia Euclid Hospital, Meridia Hillcrest Hospital, courtesy staff privileges at the St. Vincent Charity Hospital and also staff privileges at the

Lake County Hospital Systems.

Q. Doctor, are you a member of any medical societies or organizations?

A. Yes, I am.

Q. Could you mention just a few of them for us, please?

A. I am a member of the, fellow of the American College of Surgeons, the American Academy of Orthopedic Surgeons, a member of the American Medical Association, the Ohio State Medical Association, Cleveland Academy of Medicine, Cleveland Orthopedic Club, and a bunch of other smaller organizations.

Q. Thank you. Have you had any experience teaching or lecturing in the area of medicine?

A. Yes.

P Can you tell us briefly about a couple of those?

A. I am a clinical instructor of orthopedic surgery at the Case Western Reserve School of Medicine, and I am also an assistant professor of orthopedic surgery at the Ohio College of Podiatric Medicine.

Q. Have you ever done any writing in the field

of medicine?

A. Well, in the field of orthopedic surgery, yes.

Q. All right. Could you mention a couple of writing that you've done?

A. I've a whole group of publications along different areas of interest including sports medicine, knee joint braces, coatings for artificial implants, artificial joint replacements. Metabolic bone disease, arthroscopic surgery, a variety of publications.

F Thank you. Now, Doctor, have you ever testified in a personal injury case in the past prior to today?

A. Yes.

Q. And have you ever testified on behalf of the Defendants in a personal injury case as opposed to Plaintiffs?

A. Yes.

P Can you give us some estimation of about what percentage of the time that you testified previously would be for the defense?

A. Probably 80 percent defense at this oint

in my practice. The first five or six year was mostly plaintiffs. Now it's mostly defense.

Q. All right. Thank you,

Are you currently in private practice

A. Yes.

P And in your practice do you have the opportunity to see and treat patients who are injured in falls?

A. Sure.

Q. Do you see and treat patients who suffer bone fractures of various kinds?

A. Yes.

Q. Have you had the opportunity to see and treat my client, Mrs. Sadie Haber?

A. Yes.

Q. Can you tell us when and where you first saw Mrs. Haber?

A Mrs. Haber first came under my care on May 15, 1989.

P And where was that?

A At the Meridia Huron Road Hospital.

Q. What was the history with which she presente at that time?

A. Basically I was called in as the orthopedic

consultant on duty that day. The history was that she sustained a fall and landed on her riqht side, sustained a rather severe injury to her right wrist and to her right hip. Apparently a door opened and knocked her to the ground. That was later found that it was at this food store.

Basically the emergency room physician had done all the x-rays and examined her and I was called in consultation for her specific treatment. And I believe they contacted her medical doctor who is not affiliated with the hospital, and because of the severity of her injuries, it was decided not to transfer her to his hospital but to leave her at Huron Road.

I. I take it that during your course of treatment for her at the hospital you had access to her hospital chart, would that be correct?

A Her chart at the hospital, yes. At Huron Road Hospital.

Q And did you have an opportunity to review that chart at that time?

A I have not reviewed it since she left the

hospital.

Q Are you aware of how she was transported to the hospital?

A. Yes, I am.

Q. How was that?

A. I believe she was brought in by one EMS units. She was on a back board, had a collar in place, had her legs tied down, probably had a splint on her arm although I don't remember how her arm was transported.

Q. What were her complaints when she came into the hospital?

A. She had severe pain in her right wrist and hand region, as well as her right hip, groin and right leg.

P Did you have an opportunity to examine her on that day at the hospital?

A. I'm not sure which day I examined her. I know I saw her at least the day afterwards, but I don't recall I saw her the day of her injury.

Q. Did you have an opportunity to review the x-ray films that were taken on May 15th, 1989?

A. Yes.

Q. Doctor, are you trained to read x-ray films'

A. Yes, I am trained to read orthopedic x-ray films.

Q. And in your practice do you have the opportunity to read and interpret orthopedic x-ray films?

A Every day.

Q. All right. As you testified earlier, you had an opportunity to look at the x-rays that were taken of Pirs. Haber on May 15th, 1989. Can you tell us briefly what you were able to observe in those x-rays?

A. She had two rather siqnificant injuries, One to her upper extremity and one to her lower extremity. They were what we call ipsilateral injuries, which meant they were all on the same side. Her wrist fracture was a very severely comminuted fracture which means the fracture was in many pieces. There was complete disruption of the joint itself and significant shortening of the hand. In other words, the hand wasn't sitting directly on the end of the wrist, it was cocked over in this direction

(indicating) and shortened, That's essentially where her, the position of her wrist.

Q. When you said there was disruption, what does that mean?

A. Disruption of the joint means the joint was not intact. In other words, instead of a nice, smooth surface such as when you open, let's say you're eating chicken and you break open a chicken bone and you see that nice pearly looking ends of the bone, hers was not in continuity in other words, It was all in many pieces, it was completely disrupted.

Q. Did you, first of all I notice you have some -- I guess one is a model and one is actually actual bones taken from a human subject -- using the, I'll call it the model that you have, can you demonstrate for us where the comminute fracture was on Mrs. Haber's arm.

A. This is a left wrist, but I don't have a lef and a right so this will have to suffice, but essentially the fracture was between this area of the bone and out to the joint,

this being the wrist joint which allows for this up and down motion, also a little side to side motion,

Q. What is the name of that bone?

A. This is the radius.

Q. And when you say that it was fractured, would this be what's known as a clean break or as a displaced or nondisplaced, you use the term comminuted, maybe you can explain that a little.

A. Okay.

Q. Let me strike that and let me ask the question, can you explain what the term comminuted means?

A. Comminuted means many pieces. More than *two* pieces.

Q. All right. Do you remember how many pieces there were?

A. I know there were more than four. I don't remember exactly how many.

Q. You testified that you also had an opportunity to examine Mrs. Haber in the hospital To begin with, can you tell me what did her wrist and hip look like?

A. The wrist we already described as being

ecchymotic, black-and-blue, shortened on the radial side, on the thumb side of the joint. Deformed, the hand was actually higher than the wrist. The hip you obviously couldn't see the hip itself, but the riqht extremity was shortened and rotated to the side, rotated outward, what we call external rotation.

Q. You said you also had the opportunity to review x-ray films of Mrs. Haber's hip. Using your model, can you show us where you found the fractures in her hip?

A. The hip is not where most people think it is. It's this one, you put your hand on you hip, you're actually putting your hands up here. The hip joint is about a hand's breadth below, in most people it is usually four or five inches below.

There's an area of the bone, the upper end of the femur or the thigh bone called the intertrochanteric region. There is a structure called the greater trochanter which is this side, and a less trochanter which is on this side (indicating) and the area between then, this area essentially

right where my finger is, is what we call the intertrochanteric area. She sustained a fracture to this area intertrochanteric fracture. This piece was broken off, the top part was broken off and there was this piece and this piece, so there was essentially four pieces. This is what we call a comminuted, many piece, four part intertrochanteric fracture of the upper end of the thigh bone,

It's really a thigh bone fracture, even though most people just call it a hip fracture, it does not involve the joint itself. Whereas, the wrist fracture did involve the joint.

Q. Doctor, just to sum up, based on your examination of Mrs. Haber and your view of the x-rays, can you tell us exactly what diagnosis you made with regard to the right hip and the right wrist?

A. Well, besides the soft tissue injury which she had to have received prior to the bone fracture, the major orthopedic treatable injuries were the right intertrochanteric hip fracture and the right distal radius

fracture.

Q. Doctor, you say the soft tissue injuries that she must have, or had to have incurred, why do you say that?

A. Well, the fracture is essentially a complicated soft tissue injury. In other words, the soft tissues were stretched and could not absorb the force of the fall in this case, and the bone broke. In other words, the soft tissues weren't able to dissipate the force. It's sort of like if you take a bowl full of Jello and you hit it on the ground or hit it on a table, you know, the Jello shakes around and wiggles around, but the force is able to absorb, the Jello can absorb the force involved. Whereas if you drop it hard enough what happens is the Jello can't absorb it and the dish breaks. Essentially that's when the dish breaks. The Jello is still damaged, but the dish broke, not just the Jello in this case.

Q. Was there any history given to you of any prior injuries or prior problems to Mrs. Haber's right wrist and right hip?

A. No. She had no problems with them.

Q. Based on her history, what was her general physical condition prior to this fall?

A. For 82 years old, she was in pretty good shape. She was alert, awake, oriented, pretty together and very active and independent.

Q. Based on the x-rays that you reviewed at that time, could you identify any pre-existing arthritis in Mrs. Haber's right wrist and right hip?

A. There was no significant arthritis.

Q. At that point was Mrs. Haber admitted to the hospital on the date of the fall?

A. Yes.

Q. What course of treatment did you perscribe f her at that time?

A. Because of her age, we knew we had to fix both fractures, you can't cast a hip fracture and you can't cast the wrist fracture and have a successful result. We knew that we had to do two surgeries. She underwent a diaqnostic work-up, a medical doctor saw her and we took her to surgery, I believe, the following day to

do her hip. Because of the complexity of hip fractures and because of her age, I elected not under the same anesthesia to do her wrist, but that Friday since the surgery was on a Tuesday, the hip surgery I believe was on a Tuesday and then the wrist was done on Friday so there were two days really in between the surgeries. That way you would have two anesthetics, but you have two shorter anesthetic times, and the anesthetic time is when the stress of anesthesia and surgery as well is dangerous to the elderly folks.

Q. You mentioned two surgical procedures. Did you in fact perform these operations yourself?

A. Yes.

P And you stated that the first surgery was performed I believe a day after she presented to the hospital?

A. I believe it was the 16th, yes.

Q. And what type of surqery are we talking about?

A. What was performed was an operation called an open reduction and internal fixation of

the hip fracture. Open reduction means we physically realign the bones with the skin open. Internal fixation means you put something inside to hold the bones together so that they will go into the healing process.

Q. You alluded to this previously, but that was done under a general anesthetic, is that correct?

A I believe so. I don't remember. It was either general or spinal, I don't remember.

Q. You mention that it would not be possible to just cast this part of the body. Why is that?

A. Well, it would have to be cast going from the foot up to the nipple line, and most people can't tolerate this. Old people definitely don't tolerate that.

Q. Okay. Could you explain to us in laymen's terms exactly what you did do during the surgery?

A. Essentially the, after positioning on a special table known as a fracture table, which allows you to put longitudinal stress and control the, what we call the distal

fragment, in other words we control the leg and the foot, everything below the fracture.

Q. Can this be controlled?

A. Control so it doesn't flop around or hold it in reasonably good alignment. The final alignment was made inside, but the course alignment, the gross alignment so to speak. She was placed on this and washed or prepped with a surgical prep. An x-ray machine that was sort of like a flourescope, it gives us active pictures, it's called an image intensifier, was moved into position. The operation was done with an incision, a straight incision along the side of the thigh. The skin and fat and muscle Layer was split. The bone was exposed, and the fracture was realigned. A metal device was placed, a screw was placed across in this direction (indicating), and a plate alongside of the bone and the plate was fixed to the bone with four screws. So the plate and screws held the bone, actually held this screw in position, the one going into the head of the femur so the hip fracture could

heal. Then we basically put drains in and sewed it up and that was the end of the case.

Q. Now, you talked about screws being put into the bone. I take it those holes had to be drilled?

A. Oh, yes.

Q. Into the bones?

A. Drilled and then tapped and then a stainless steel screw measured, in other words, we measured the depth of the hole and you put the appropriate length of screw, we have them in one millimeter increments and it's basically screwed on just like you put, you know, a hinge on a door.

Q. Okay. You testified you subsequently performed a second operation on Mrs. Haber, correct?

A. Yes.

Q. And that was also done under general anesthetic?

A. I don't remember. Probably.

Q. What's the type of surgery that that is, the surgery on the wrist?

A It's the same type of procedure, in other

words, under anesthesia we place a device, only this time it is not an implanted device, that is totally implanted. There were pins that went through the, this bone (indicating) which is the second meta-carpal, this bone, only on this side.

Q. So that would be the bottom bone of my finger?

A. It would be below, in other words it would be, looking at my hand, it would be this bone here.

Q. Oh, I see.

A Between here and here. This is not in fingers. The fingers can move, which is why we do it this way. And then two pins below the fracture. These are above the fracture (indicating) and these are below the fracture (indicating). And they are usually somewhere in this region, the middle third of the radius, so two were here and two were here and then a frame. We sew those up and we put this frame on, on the outside. The frame has a lot of little adjustments and then what we do after the frame is in and the skin is closed and the

dressing is on, is we pull longitudinally, actually we put them in a device in which the fingers are held up and the arm is flat and we pull longitudinally 20, 25 pounds worth of force and Pull, then we manipulate the bones until we get them all aligned and then we tighten up the frame. And the frame holds the pins, the pins hold the bones separated so the fracture doesn't you know, we take it out of its collapsed alignment.

Q. First of all, again, you talked about putting pins into different parts of the bone, that's actually done by drilling into the bones and then tapping and then -- is that correct?

A. Yes.

Q. And you mention now that there was these pins, actually came out of the skin, would that be --

A. Let me just clarify.

MR. MATCHINGA: Objection. Asked and answered.

A. (Continuinq) The drill is used to make the hole but the screws for the wrist are

just screwed in, they're not tapped.

Q. oh, I see.

A. So we just basically screw them in.

Q. Let me ask you this. When you were done with this surgery and that apparatus was in place, what does the hand look like?

A. I'm not sure what you mean.

Q. In other words, what I'm saying is, is all this apparatus below the skin?

A. The pins go through the skin, but most of the apnaratus is outside the skin.

Q. All right. Following the surgery, two surgeries, did you prescribe any physical therapy for Mrs. Haber?

A Yes.

Q. And what was the purpose of the physical therapy?

A To get her moving, to qet her out of bed and so that joint contracture and stiffness are prevented, in her case, because of her age and the severity of her hip fracture we don't want any blood clots to form in the legs, we don't want her to get pneumonia and all the somewhat nasty postoperative complications that are potential and ger her on the

road to recovery,

Q. And did in fact she submit to physical therapy while she was in the hospital?

A. Yes.

Q. When was Mrs. Baber released from the hospital?

A. On 5/25/89.

Q. So she was in the hospital for a total of approximately 11 days?

A. Ten or 11 days, yes.

Q. When she was released was she in your medical opinion capable of living independently and caring for herself?

A. No.

Q. And why do you say that?

A. Well, basically because of her, a combination of her injuries, the upper extremity and lower extremity injuries. If she had one or the other, she could have taken care of herself, but having both it was impossible.

Q. At the time that she was released from the hospital was she able to walk on her own?

A. No.

Q. Where was she released to on discharge from the hospital?

A. I believe she went to the Margaret Wagner Convalescent Home.

Q. All right. Incidentally, Doctor, by the way Mrs. Haber, is she a left- and or right-handed individual?

A. I believe she is right-handed.

Q. Did you continue to follow Mrs. Haber while she was at the Margaret Wagner House?

A. I wasn't the primary treating physician, but she was brought here throughout her convalescence.

Q. Are you aware of when she was discharged from Margaret Wagner House?

A. On -- I don't know. It was in my letter, I don't know offhand.

Q. According to the Margaret Wagner House she is released on June 16th --

A. About a month after, yes.

Q. Okay. And following that time, when was the next time that you saw Mrs. Haber?

A. She was seen on 6/1/89 and then on 6/21/89.

Q. Briefly, could you run through the dates which you saw her subsequently and basically what your course of treatment was?

A. The course of treatment initially was to make

sure the wounds healed and then to follow her gradually until the fractures had healed When the wrist fracture was healed enough, we were able to remove the device and put her in a cast and then subsequently when that protection was not needed anymore, then the cast was discontinued. 6/1/89 was the first post-op visit, her wounds were normal and looked fine. The sutures from the right hand, around the pins were removed. She was given instructions to go back, to take back to Margaret Wagner to be worked on at that facility. On 6/21/39 re-x-rays of the hip show that there was complete healing of her intertrochanteric fractures or the fracture had essentially healed within six weeks, which is early. At that time we were deciding when to take the wrist device off. She was seen again on 7/10/89, about eight weeks post-surgery, or just shy of eight weeks, and at that time there was acceptable alignment, the fractures were healed enough so that the hardware for the wrist could be removed. She was placed in a cast at that time.

Q. Do the pins that protrude from the skin, were they removed also when the exterior --

A. Yes. In other words all that was left were just four little holes which would naturally heal then.

And then she was seen on 7/24/89, at that point in tine her cast was removed and discontinued. She was given a prescription for pain. On 8/21/89, about a month later, x-rays showed her hip was improving, the bone callus was maturing, and basically at the time of the last visit, 10/12/89, we told her to 3et rid of her cane at thst point in time because everything was satisfactory.

Q. Doctor, at the present time, for what of a better term, does she still have hardware in her body?

A. Yes, she does.

Q. And what does she have and where would it be located?

A. The whole hip device is still inside.

Q. Now, Doctor, based on the history given to you, your examinations of Mrs. Haber, her x-ray -- strike that.

Before I ask you that question, have you taking subsequent x-rays in your office?

A. Yes.

Q. All right. Handing you what has been marked as Plaintiff's Exhibits No. 1 and 2, can you describe what these are?

A. Plaintiff's Exhibit No. 1 is what we call an AP view or front view of Mrs. Haber's right hip. This was performed on August 21, 1989. The other Exhibit 2 is the right wrist and this was on 6/12/89.

Q. Why don't we begin with the hip since you have that one in your hand.

Can you show us, I know you don't have a light box, but perhaps you can hold it up to the light and you can show us exactly, this is not post-surqeries obviously, this is approximately two months, did you say July?

A. August-

Q. August.

A. So it's about three months.

This is the device, this is the p ate over here (indicating), these are the four little screws and the large screw going

into the head of the femur. This is one area that was fractured, the other area was right through here and this was the fourth fracture over in there.

Q. Does that x-ray fairly and accurately protray the condition of her hip on that date?

A. I would think so, *yes.*

Q. Now as far as the wrist is concerned, --

A. This is a little darker, I'm not sure this is going to come out. If it does come out, I think the problem is that the pins are in different planes so you can see how the screws are in the middle third of the radius at this end. This is the whole area of the fracture, and we actually got excellent anatomic alignment of the fracture fragments. The other screws are really coning perpendicular to the way we are looking at this and they're right tip in that same area that we were talking about. And this is this external skeletal fixation, the last thing that we were talking about.

Q. And that x-ray was taken in about June?

A. Yes. This is just the best one to show the

device, but it was from June 21st, 1989.

Q. And so she actually walked around with that device outside of her body on her arm?

A. Yes.

Q. And it subsequently was removed?

A. Yes.

Q. All right. Now, Doctor, based on the history given to you and your examinations of Mrs. Haber, her x-ray and test results, your surgical intervention and treatment of Mrs. Haber, and based upon your knowledge, skill and training as an orthopedic surgeon do you have an opinion based on a reasonable degree of medical probability as to the causal connection between Mrs. Haber's injuries as you diagnosed them previously and her fall at the entrance way of Unger's bakery on May 15th, 1989. Do you have an opinion, Doctor?

A. Yes.

Q. And what would that opinion be?

A. My opinion there is a direct causal relationship between the fall sustained on 5/15/89 and the injuries to her right wrist and right hip.

Q. And, Doctor, what do you base that opinion on?

A. The opinion is based on the history and the type of injuries and my knowledge of the mechanism of injury on the human body.

Q. Doctor, in your opinion, is there any other trauma in Mrs. Haber's history serious enough to cause these types of .injuries?

MR. MATCHINGA: Objection,

A. Not to my knowledge,

MR. POMERANTZ: Mr. Matchinga can we stipulate to the authenticity and the necessity and reasonableness of the medical Sills that we've provided to you previously?

MR. MATCHINGA: As to Dr. Corn's charges?

MR. POMERANTZ: As well as the hospital and -- I'm just in question whether I want him to go through having to identify them.

THE WITNESS: It's up to you.

MR. MATCHIMGA: Specifically

with regard to the physician's ability to access the reasonableness of the hospital charges since I think he will admit on cross that he doesn't prepare nor does he know how they charge. But as to his own records, I think you've probably submitted those under the Statute anyway and I think --

MR. POMERANTZ: The authenticity of them, I'm not concerned as far as much as the reasonableness and the necessity.

MR. MATCHINGA: I think under the Statute you got them anyway.

MR. POMERANTZ: Well, I ran into this problem before so if you tell me that you will, then fine. If not, I'll have him run through the hoops.

MR. MATCHINGA: Run through. I'm not going to have a problem --

MR. POMERANTZ: Let's go off the record for just one second.

MR. MATCHINGA: Okay.

(Whereupon, a discussion was had off the record.)

MR. MATCHINGA: Okay, we can go back on the record.

Q. Doctor, handing you what has been marked as Plaintiff's Exhibit 3, do you recognize that?

A. Yes.

Q. And can you identify it for us?

A. Plaintiff's Exhibit is a copy of Mrs. Haber's ledger.

Q. Is that from your office?

A. Yes.

Q. And Doctor, were the services reflected in that bill necessary services for the treatment and care of Mrs. Haber?

A. In my opinion, yes.

Q. And in your opinion, are the charges therein reasonable for the services provided?

A. In my opinion, the charges were reasonable for the services provided.

Q. Doctor, I'm handing you now what is marked as plaintiff's Exhibit No. 4, which I represent to you to be the bill of Meridia Huron Road Hospital. First of all, do the

services reflected therein, were they necessary for the treatment of Mrs. Haber, in your opinion?

A. The services appear to he reasonable, yes.

Q. And --

MR. MATCHINGA: Objection,

P were the services necessary?

A. Yes, the services that I can tell by reading this, they appear to be necessary. Added are the room and board, the O.R. charges, I'm not sure what all the other charges are here, but the ones that I was directly involved seem to be appropriate.

Q. And are the charges that are therein, are they reasonable for the services that were provided?

MR. MATCHINGA: Objection.

A. I believe so.

Q. Okay. Thank you, Doctor.

In your opinion, was the period of tine that Mrs. Haber spent convalescing at Margaret Wagner House medically necessary as the result of her injuries of May 15, 1989?

A. I believe so, yes.

Q. Were you given a history that subsequent to leaving Margaret Wagner House, that she had further help at home?

A. Yes, she needed more help at home.

Q. And do you feel that that was medically necessary?

A. As I discussed with her family at the time, yes.

Q. Doctor as of the last time you saw Mrs. Haber, had she fully recovered from her injuries in this fall?

A. She had not fully recovered. Her fractures were healed, but she had not fully recovered

Q. Doctor, what does the term prognosis mean?

A. I have to struggle through that one.

Prognosis to me is a intelligent estimate as to what the future holds for a particular entity.

Q. What, in your opinion, what is Mrs. Haber's prognosis with regard to the injury she sustained on Nay 15th of 1989?

MR. MATCHINGA: Objection.

A. Generally, my prognosis was fair.

Q. And --

MR. MATCHINGA: Objection.

Ask the jury to disregard the answer.

Q. And what does that mean in your useage of the term?

MR. MATCHINGA: Objection.

A. It means that she will, within reasonable medical certainty and probability, have continuing problems with the parts of her body that were injured, stiffness and pain.

Q. Doctor, I'm going to rephrase the question for the purposes of the, you may have alread answered this, but for the purposes of havinq a clean record.

In your opinion, to a reasonable degree of medical certainty, are Mrs. Haber's injuries of a permanent nature?

A. Yes, I have an opinion.

Q. And what is that opinion?

A My opinion is that there is a degree of permanency to both her wrist and hip 'injury.

Q. And which one would be the more severe of the two?

A. I think prognostically, the wrist is, I think, initially her hip was much more of a concern.

Q. I'm a little bit confused and the jury may

be also. You've testified that the bones have healed in both her wrist and her hip, and I take that to mean that they have knitted together, would that be correct?

A. They healed.

Q. Okay.

A Knitted -- it's a lay term, but the bones are now one. They were many pieces and now they are one.

Q. And yet you say that she, her prognosis is fair and that in your opinion to a reasonable degree of medical certainty that she will never, that her injuries are of a permanent nature. Can you explain that?

A. The fair prognosis that was given was due primarily to her wrist injury, in that her fracture involved the joint surface and it has led, despite therapy, to a lack of full improvement or lack of full correction of normal motion as compared to her uninjured side. The manifestation of stiffness and pain with repetitive use, opening of jars, opening of car doors, doing the simple activities of daily living will be a constan

source of discomfort for her.

Q. Doctor, in your opinion to a reasonable degree of medical certainty, will Mrs. Haber develop arthritis post-traumatically in her right wrist as a result of this fall?

MR. MATCHINGA: Objection.

A. In my opinion, based on my knowledge of this type of injury and the severity of her fall and severity of the disruption of the joint, that there is a high probability for the development of post-traumatic arthritis.

MR. MATCHINGA: Objection.

Q. Thank you, Doctor, I have nothing further.

MR. MATCHINGA: Doctor, I introduced myself earlier and my name is Walter Matchinga, and I represent the Defendant in this case.

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CROSS-EXAMINATION OF ROBERT CURTIS CORN

BY MR. MATCHINGA:

Q. You have had an opportunity, I take it, to review the medical chart or records pertaining to Mrs. Haber before testifying today?

A. Yes.

Q. Could I see it, please?

A. Sure.

MR. MATCHINGA: off the record.

(Thereupon, a discussion was held off the record.)

Q Thank you, Doctor, for the opportunity to look at your chart. I take it you didn't take an initial history from Mrs. Haber at the tine she was first brought to the hospital?

A No.

Q Did someone else, in fact, do that for you?

A i believe a number of people did it for me. There were a number of doctors, people wno saw her before I was even notified.

Q I think yoil testified In your initial, in your direct examination that Mrs. Haber was knocked to the ground, I think those were the words you used?

A Correct.

Q Do you know whether or not the record or your notes reflect that she was, in fact, struck by a door as opposed to having fallen near a door?

A According to my records, I don't know. My letter was stated that she was knocked to the ground.

Q When you examined her, was there any evidence about her body as to whether she had been contacted by another object? I mean, were there marks, bruises, abrasior of any kind, Opposite her right side where she fell to the ground?

A Not that I can recall. She had some bruises, but it's been almost a year, I don't remember where.

Q Had she had any other area of injury or identifiable area of injury to her person that would have been noted in the record?

A It may not have been a bad hit, but it was enough to knock her over. There wasn't any physical evidence of a car hitting her or severe ecchymosis or Slack and blue on the other side. But, it was apparently enough to knock her over.

Q You don't know how fast she may have been walking in terms of how fast the door was moving, there is nothing really to base that assessment on, is there, in

terms of --

A How hard she was hit?

Q Yes.

A No. I think that's sort of moot from my standpoint.

Q Or whether in fact she was, in fact, hit by something?

A There was no evidence as far as i can remember that she was physically hit by something.

Q Okay. Did you note in your examination of Mrs. Haber or through any record, whether or not she had a problem in ambulating or walking prior to this incident?

A I don't believe she had a problem ambulating or walking before the incident. She was, as far as i knew, she didn't have any problems, no.

She doesn't have any problems walking now either, but I don't think she had any problems before.

Q I just wondered if you examined her feet, lower extremities to determine if there was anything by way of bone deformity,

condition of her lower --

A She had a bunion deformity on one of her feet. I can't remember which one, but that wouldn't have impaired ambulation

Q That's all she had?

A That's all I remember. She may have had a hammertoe, but I can't remember any significant lower extremity deformity that would impair her.

Q What is a hammertoe?

A Hammertoe is basically a toe deformity. The toe is stuck up a little bit like that. It usually accompanies a bunion.

MR. POMERANTZ: Move to strike. No evidence that she had a hammertoe.

MR. MATCHINGA: If you read the report, in fact, bilateral hammertoes.

MR. POMERANTZ: I'll move to strike that.

THE WITNESS: It's a very common deformity in the elderly.

Q Does that affect someone's ability to ambulate or balance themselves?

A No, not usually.

Q Okay, thank you, Doctor. I take it you were somewhat satisfied in seeing the initial x-rays of Mrs. Haber, that there was no joint involvement in regards to the hip fracture?

A Well, classically and typically in intertrochanteric fractures, there isn't joint involvement, usually, not with hip fracture. In the elderly, there usually isn't any joint involvement, per se, specifically for the fracture. So, that was not an abnormal finding.

Q So the areas surrounding the joint itself, where the hip bone meets the socket, that is in a pre-accident condition, it wouldn' be traumatized by this accident?

A I understand your question. The answer would be yes.

Q I may not have understood.

A Below that level.

Q And she still has that hardware on the leg?

A In the leg.

Q In the leg?

A In the bone.

Q On the bone in the leg?

A Well, actually, it's on the bone and in the bone in the leg.

Q Its presence there is actually part of that fracture now?

A Now it probably has serviced very little, if any function at all. But in the healing process, it served a very important function.

Q Okay. You indicated that she had no significant arthritis in her wrist prior to the accident?

A There is no significant arthritis in her wrist prior to the accident.

There was evidence of some arthritic condition compatible with her age, but nothing that would impair motion or impair activity.

Q All right. The transfer -- I guess that's maybe not the right word -- but when she was discharged from the hospital and then taken to the Margaret Wagner home, did you understand that to be of an intended short duration?

A It was intended to be a short duration. I didn't think it was going to be a long period of convalescence. My concern was that part of liking, recovering from a hip fracture, was using your arms to walk, use a walker. This is what really slowed her up and that's the combination of injuries, not necessarily each individual.

Q I understand that, doctor.

A Necessitated it.

Q In other words, it was not going to be a long term convalescence at the Margaret Wagner home?

A That was my initial intention, yes.

Q She wasn't unable to use a walker, was she, at the time she left the hospital?

A Yes, but with assistance.

Q And by the time the wrist hardware came off, that is the external device, she was then able to have some weight bearing on that wrist with a cast, to assist her in the walker use?

A She was able to use her hand.

Q More?

A More without risk of damaging her risk reduction, the reduction of her fracture, that is, bringing the fracture fragments back into alignment.

Q Exhibit 2 which is the picture of the wrist that you showed us moments ago, is that magnified at all by way of the x-ray process?

A Three percent, two percent, not significan .y.

Q Mrs. Haber's wrist, that is, her right wrist, it's a functional wrist, she can use it in her lifestyle; can she not?

A It's a functional wrist. She is capable of doing certain of her activities painless y, but there are limitations, yes. She's, I mean, it's proportional in the amount of injury that she had, but she's made a good recovery.

Q Generally I think you agree that postoperatively and through her period of recovery, she did fairly well considering her age?

A She did fairly well considering her age and her injuries, yes.

Q And your examination of her has shown

that her hip has a full range of motion; is that correct?

A I don't know if she has a full range of motion. I don't remember She has a good functional range of motion, but more of a limitation in her wrist. I'm looking for a notation. I can't remember.

Q Why don't you look at your report, doctor, that you wrote. I think you may have comments to that extent in there. Did you see that term?

A Yes, full range of motion of her right hip with some discomfort at the extremes of external rotation.

Q That report is dated?

A October 25, 1989.

Q Shortly after you last saw her?

A Yes, that's correct.

Q Okay. And, the limitation of any of her wrist motion is about 15 degrees in certain directions?

A 15 percent.

Q 15 percent. In that letter, doctor, did you not state that it was unlikely that there would be significant arthritic

changes in those areas that were injured?

A Well, I said there was, my letter, I said that she had extensive damage to the forearm and to the wrist joint and post-traumatic arthritis would not be uncommon with this injury. It is unlikely that she'll develop significant arthritis solely due to the fall in recent, to the hip, joint on the wrist.

Essentially, that's what I testified to on direct, that I'm not that concerned with her hip, but more concerned with ner wrist.

Q Take a look in your chart there at the last visit you had with Mrs. Haber October of '89. There is a paragraph dedicated or addressing the condition of her wrist, I think. Did you find that, Doctor?

A She has a good range of motion. I'm not really sure what that word is, though, in the wrist. That's what it said. And, the discomfort she has is only intermittent. That's essentially what was in the chart note.

Q Intermittent means, meaning it's not

constant, comes and goes?

A Comes and goes, depending on the activity.

Q Is that the end of the commentary about the wrist?

A As much as I can see here.

Q You've not seen Mrs. Haber for what, about six months now?

A It's, I spoke to her but I haven't seen her, no.

Q You spoke with her on the telephone?

A Yes.

Q Do you know the purpose of that call?

A She was having increasing amounts of pain in the right knee and thigh area, had an x-ray, wanted to know what the x-ray showed.

Q You didn't have her come in the office to discuss anything?

A No, it was, matter of fact, it just happened to be last night.

Q Happened to be when?

A Last night. She had the x-rays and she called me last night.

Q Who ordered the x-rays?

A I did.

Q You did. That was to her right knee?

A Right thigh and knee, radiating to her knee. She wanted to be sure everything looked okay and it did.

Q Turned out to be all right?

A Yes.

Q Okay. Do you know how she functions today at her home, how she functions in her lifestyle today, not having seen her for the past six months?

A No, but when you don't hear from Mrs Haber, you know she's doing reasonably well.

Q Okay, by August of '89 she elected to stop any home therapy in her house, didn't she?

A I thought therapy at that point was not necessary. She knew what she had to accomplish and just needed some time and some practice.

Q That was a decision she made or told you of, she elected to stop it herself?

A Well, I think that she asked whether she could stop it. I discussed it with the therapist, but I don't like patients

necessarily to decide to do that on their own without consulting with me or consulting with a therapist. And, I think the therapist was sort of in agreement that she didn't need as intensive amount of therapy.

Q That was by August of '89?

A Yes, which is five months, four months after the injury.

Q Okay.

A Three months after the injury.

Q Does it take, is there a period of years, two, three years, for someone to be able, a physician to be able to assess arthritic changes in an injured?

A Sometimes it takes more, but usually if they're severe enough disruption, probably by six months to a year, you will have a pretty good idea that it was going to develop through the severity.

Obviously, time will show.

Q Effectively, then, as we sit here today, it's too soon to even really, medically assess the development of arthritis in her wrist or hip area, isn't it?

A I have to say, let's say, to continue the hypothetical, if I was to take an x-ray today, I would see no change, it would not change my opinion that I'd still be concerned about it, but it would obviously not be anything to say, yes, she has developed it by now.

Q All right, thank you, Doctor.

A Sure.

MR. POMERANTZ: I just have a couple questions on redirect.

REDIRECT EXAMINATION OF ROBERT CORN, M.D.

By Mr. Pomerantz:

Q In cross-examination you were asked about a notation in your report about full range of motion with the right hip with some discomfort on the extremes of axternal rotation. What is rotation with reference to the hip?

A Rotation is the ability when standing or lying, to either roll the foot inward or roil the foot outward. It was uncomfortable when she would roll it outward or when she was walking around and

with the right foot planted, so the right foot would remain in one position but the hip would have to externally rotate. That would bother her, too.

Q What would you attribute that type of pain to?

A Probably scar tissue from the surgery, not arthritic condition.

Q You also mentioned in cross-examination about Mrs. Haber when she recently contacted you about right thigh and right knee pain. Do you feel to a reasonable degree of medical probability that that is related to the injuries she sustained in this fall?

A Yes.

MR. MATCHINGA: Objection. Move to strike.

Q What do you base that upon?

A It's not unusual, as a matter of fact, it's pretty typical for disease of the hip, whether it's infection injury, not fracture, but arthritis, that there is what we call referred pain which manifests

itself in the form of thigh pain or knee pain.

I felt that Ms Xander's not particularly a complainer and when she is concerned about something, I felt it was necessary or appropriate to get an x-ray.

Q Now you mentioned the last time you actually saw her was in October of 1989. Do you have any plans or do you anticipate to see her in the future regarding these injuries?

A I believe she's scheduled to be seen in late March, early April, though I don't have my calendar back. I don't know, she's scheduled. It should be about six months after her last evaluation.

Q When you treat these types of injuries, do you normally follow up with the patients that would be roughly one year after the examination? You usually like to see them after that?

A Usually yearly, either for exam or x-rays, depending on their symptoms

Q Thank you, doctor. I have nothing further.

A Okay.

RECROSS-EXAMINATION OF ROBERT CORN, M.D.

By Mr. Matchinga:

Q Doctor, so to avoid this discomfort on the external rotation, someone simply doesn't turn quite as sharply or abruptly with their step; is that how that's avoided?

A I missed --

Q You said she might experience this pain if she's turning her foot outwardly or inwardly. You made a reference to a sharp left turn or something.

A I didn't say sharp. I said such as she's walking and pivoting -- in other words, turning to the left or coming on the left diagonal, not necessarily a left 90 degree turn or 180 degree.

External rotation, in other words, the foot rolled on out. On examination, it was uncomfortable for her when the foot was rolled out.

Q You don't know today whether that. does, in fact, bother her in the use of that leg and foot?

A I didn't ask it last night. She didn't

bring it up. It may not even exist now, I don't know.

Q In fact, Doctor, in this phone call you had with Mrs. Haber last evening, you didn't have an opportunity to review with her her daily lifestyle, did you?

A I really don't have the time to. She basically just wanted to find out what the x-rays showed.

Q You didn't know what she has been doing by way of her personal activity or actions or level of physical activity so as to attribute what she described to you as this disccmfort, as being solely related to this accident?

A I have to agree with ycu, I don't know.

MR. MATCHINGA: All right, thank you.

MR. POMERANTZ: Nothing further. Doctor, you want to waive signature?

THE WITNESS: I waive my right to review the tape of the transcript.

(Signature waived)

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

C E R T I F I C A T E

I, Jeniffer L. Tokar, a Registered Professional Reporter and Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that this is a true and accurate transcript of my stenotypy notes taken in the above-captioned matter and afterwards transcribed into typewritten inanuscript hereto attached.

I do further certify that I am not a relative nor an attorney of either party, nor otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of March, 1990.

Jeniffer L. Tokar

Jeniffer L. Tokar, RPR
Notary Public
My commission expires 2-9-93

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