

IN THE COURT OF COMMON PLEAS  
OF CUYAHOGA COUNTY, OHIO

WILLIAM M. PRUSAK, et al.,  
Plaintiffs,

vs.

Case No.

JENNIFER E. NEEL, et al.,  
Defendants.

306768

Videotaped deposition of ROBERT C.

CORN, M.D., called for examination under the  
statute, taken before me, Claudine Kelly, a  
Notary Public in and for the State of Ohio,  
pursuant to notice and stipulations of counsel,  
at the offices of Robert C. Corn, 850 Brainard  
Road, Mayfield, Ohio, on Monday, June 2, 1997, at  
5:37 o'clock p.m.

COPY

1 APPEARANCES:

2  
3 On behalf of the Plaintiffs:

4 Donald E. Caravona & Associates, by

5 MICHAEL W. CZACK, ESQ.

6 1900 Terminal Tower

7 Cleveland, Ohio 44113

8 696-6500

9  
10 On behalf of the Defendants:

11 Dyson, Schmidlin & Foulds, by

12 RAYMOND SCHMIDLIN, JR., ESQ.

13 5843 Mayfield Road

14 Mayfield, Ohio 44124

15 461-9000

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17  
18 ALSO PRESENT:

19 Kurt Henschel, Video Tech

20 ----

1 MR. HENSCHER: Today is June 2nd,  
2 1997. We are on the record at 5:37. Would the  
3 Notary please swear in the witness.

4 ROBERT C. CORN, M.D., of lawful age, called  
5 for examination, as provided by the Ohio Rules of  
6 Civil Procedure, being by me first duly sworn, as  
7 hereinafter certified, deposed and said as  
8 follows:

9 EXAMINATION OF ROBERT C. CORN, M.D.

10 BY MR. SCHMIDLIN:

11 Q. Doctor, would you please state your  
12 name for the ladies and gentlemen of the jury?

13 A. My name is Robert Curtis Corn.

14 C O R N.

15 Q. And what is your business address?

16 A. My main office address is at 850  
17 Brainard Road in Highland Heights, Ohio.

18 Q. And what is your occupation?

19 A. I'm an orthopedic surgeon.

20 Q. Are you board certified?

21 A. I am.

22 Q. And what is an orthopedic surgeon?

23 A. An orthopedic surgeon is a physician  
24 who has fulfilled the obligations of the American  
25 Board of Orthopedic Surgery and practices a

1 medical subspecialty known as orthopedic surgery.

2 Q. And what is orthopedics, the study of  
3 orthopedics?

4 A. The subspecialty of orthopedic  
5 surgery deals with the medical and surgical  
6 treatment of diseases, disorders, injuries and  
7 tumors of the musculoskeletal system that  
8 includes the bones, the muscles, the tendons,  
9 joints and ligaments, and has a number of more  
10 recognized subspecialties, such as surgery of the  
11 spine, surgery of the hand, sports medicine and  
12 arthroscopic surgery, rehabilitation, as well as  
13 surgery for arthritis and total joint replacement  
14 surgery.

15 Q. Are you licensed to practice in the  
16 State of Ohio?

17 A. Yes.

18 Q. And what year did you become licensed  
19 in Ohio?

20 A. In 1976.

21 Q. Doctor, can you tell us a little bit  
22 about your educational background?

23 A. I received my Bachelor of Science in  
24 Biology from the Albright College in Reading,  
25 Pennsylvania in 1971. I then moved back to my

1     hometown, Philadelphia, Pennsylvania, where I  
2     attended the Hahnemann University School of  
3     medicine from 1971 to the middle of 1975. I  
4     received my M.D. Degree when I graduated in  
5     1975.

6                 I then moved out here to Cleveland  
7     and I started my orthopedic surgical training  
8     program at the Cleveland Clinic. I was at the  
9     Clinic from 1975 to the middle of 1979 when I  
10    graduated from the program.

11                I then started private practice in  
12    the field of orthopedic surgery in August of  
13    1979. And since that time I have been in the  
14    private practice of orthopedic surgery primarily  
15    on the east side of Cleveland.

16                Q.     Doctor, do you have any teaching  
17    responsibilities?

18                A.     At this point in time I still have an  
19    instructorship at the Case Western Reserve  
20    University School of Medicine in orthopedic  
21    surgery. And I'm an assistant professor of  
22    orthopedic study at the Ohio College of Podiatric  
23    Medicine.

24                Most of my time, however, is devoted  
25    at this point in my career to the private

1 practice. I was chief of orthopedic surgery for  
2 eight years at the Meridia Huron Hospital during  
3 which time I did a fair amount of teaching on a  
4 daily basis.

5 Q. Doctor, could you highlight one or  
6 two of your most relevant, or most important  
7 publications that you've had in your career?

8 A. My early interest in medicine was  
9 orthopedic research. When you can't practice  
10 medicine you do the next best thing and that's  
11 you do research to try to advance it. I started,  
12 I guess every summer between college, college  
13 years, and also between college and medical  
14 school. And I worked in this small animal  
15 research at my future medical school.

16 I guess some of the more interesting  
17 things that we worked on was to try to find out  
18 why people were dying when they first started  
19 doing total joint replacement surgery in the  
20 United States, and realizing that it was an  
21 allergic response and a physiologic response to  
22 the glue that was being used.

23 And the first research work I did was  
24 trying to figure out why this happened and we  
25 used an experimental model and ended up giving

1 some recommendations which are still used on a  
2 daily basis, by orthopedic surgeons and  
3 anesthesiologists even to this day.

4 Some of my initial research work in  
5 orthopedics was in the field of implant  
6 fixation. Now in English that means how do you  
7 keep a joint replacement in the body for as long  
8 as possible without it wearing out, breaking or  
9 becoming loose?

10 And the initial work that I did over  
11 the four years at the Cleveland Clinic in the  
12 biomechanics laboratory was we developed criteria  
13 for biological coatings for actual surface  
14 coatings of metal that will allow and promote the  
15 body to physically grow into the metal pieces  
16 and that also is used in everyday work.

17 The other area which I am also proud  
18 of because it took a lot of work was the use of  
19 external limb compression. Everybody that has  
20 major abdominal or lower extremity surgery you  
21 have that, those special cuffs that are put on  
22 your leg to pump the blood out and keep the  
23 circulation going in the legs. As a medical  
24 student project we did the first animal research  
25 work on why that works and how to use it.

1                   So those are probably some of the  
2 highlights.

3               Q.     Doctor, could you also highlight some  
4 of the associations that you belong to?

5               A.     I have fellowship distinction in a  
6 number of organizations, and these are -- a  
7 fellowship is a type of membership, but you have  
8 to be elected into that body of -- or that  
9 group. I am a fellow in the American Academy of  
10 Orthopedic Surgeons.

11                   I'm a fellow in the American College  
12 of Surgeons. Last year I became a fellow in the  
13 American Academy of Forensic Medicine and the  
14 American College of Forensic Examiners. I was  
15 also board certified in both of those fields last  
16 year in 1996.

17                   I have membership in the national,  
18 state and local medical associations, the  
19 Cleveland Orthopedic Society, as well as a number  
20 of other organizations.

21               Q.     And where do you have hospital  
22 privileges, Doctor?

23               A.     I have hospital privileges at a  
24 number of the Meridia Health System Hospitals  
25 including Meridia Hillcrest, Meridia Euclid and

1 Merida Huron Hospitals. Most of the work I do is

2 at Euclid and Hillcrest.

3 I also have staff privileges at

4 University Hospitals Bedford Medical Center, the  
5 Mt. Sinai Hospital System, as well as the Lake

6 County Hospital System.

7 Q. Doctor, do you see patients on a

8 regular basis in your practice?

9 A. Yes, I do.

10 Q. And are you familiar with treating

11 injuries to the knees, neck and back?

12 A. Yes.

13 Q. And I asked you to examine William

14 Prusak and Mary Prusak as a result of a car

15 accident that they were involved in. Do you

16 recall examining them?

17 A. I do.

18 Q. And the purpose of that examination

19 was to give an opinion as to their injuries, not  
20 to treat them for their injuries, is that

21 correct, Doctor?

22 A. Yes. That's correct.

23 Q. Okay. I think this would be easier

24 if we handled these one at a time, Doctor,

25 starting with William Prusak can you tell me if

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1       you conducted a history of Mr. Prusak?

2               A.       I did.

3               Q.       And what does that history consist  
4       of?

5               A.       The medical history is the part of a  
6       doctor/patient encounter in which a number of  
7       facts are developed. In other words, in order  
8       for the doctor to get a full understanding of  
9       what the injuries were and how the injuries  
10       affected an individual, the doctor takes a  
11       medical history. And this is something that we  
12       do on a routine basis.

13               I see anywhere from 60 to 90 patients  
14       a week. So I will go through the same type of  
15       questioning many times during the course of a  
16       week. The history we try to elicit is: How did  
17       the accident happened? If it was an accident of  
18       course. What was the history of the present  
19       illness? What happened right afterwards? What  
20       health care providers were seen? What type of  
21       diagnostic testing was performed?

22               And, basically, to establish in a  
23       chronological order what transpired from the time  
24       the injury occurred up to the present time, or  
25       when the last treatment was rendered.

1 Q. Okay. And what was the history that  
2 William Prusak gave you?

3 A. Mr. Prusak was an unrestrained driver  
4 of the motor vehicle. His wife was in the front  
5 seat. That was the other co-Plaintiff, so to  
6 speak, Marion, their daughter was in the back  
7 seat of the car.

8 The collision occurred in a -- they  
9 described as a somewhat rural area. A car pulled  
10 out in front of their vehicle. The driver was  
11 unable to stop because of the timing and a -- an  
12 impact occurred between their 4-by-4 and the  
13 other -- the other vehicle, The force of the  
14 collision, this was primarily a front end  
15 collision.

16 The -- Mr. Prusak sustained neck  
17 injury and may have slammed his knee against part  
18 of the interior of the car. The vehicle  
19 apparently turned on its side, and Mrs. Prusak  
20 was sort of suspended from her seat belt for a  
21 period of time until they were extricated by the  
22 rescue squad and conveyed to the Medina General  
23 Community Hospital.

24 At that point in time certain  
25 appropriate testing was performed. X-rays were

1       -- were done. Some pre-existing arthritic  
2       condition was noted in his neck. There was some,  
3       a little bit of arthritis noted in his right knee  
4       that was injured. He also injured his forearm  
5       and right collar bone area and he was discharged  
6       from the emergency room primarily with a  
7       diagnosis of contusions or bruises.

8                       He then came under the care of Dr.  
9       Kavlich, his family doctor. He treated him for a  
10      period of time, primarily for the neck and back  
11      and the right knee contusion. He then saw an  
12      orthopedic surgeon, Dr. Karns, who basically had  
13      been treating him with follow-up x-rays, some  
14      medications for arthritis. And he was also seen  
15      by a Dr. Perry who was another family physician,

16               Q.      All right. Did you, in connection  
17      with the history, conduct an examination of Mr.  
18      Prusak?

19               A.      Yes.

20               Q.      Okay. And what did that examination  
21      consist of?

22               A.      The examination was a standard  
23      orthopedic examination that I perform on a  
24      regular basis. This involved certain composite  
25      movements, watching how he moves, stood up,

1 climbed, walked. And then I did specific  
2 examination of his neck, low back and both of his  
3 knees.

4 Q. And as a result of that examination  
5 did you come up with a diagnosis?

6 A. I did.

7 Q. And what was that diagnosis?

8 MR. CZACK: Objection.

9 A. On the basis of the examination I  
10 felt that he probably sustained a strain, which  
11 is a muscular injury of the neck and low back, or  
12 possibly a sprain, which is a ligamentous  
13 injury.

14 These had resolved by the time I had  
15 seen him and he had some pre-existing  
16 degenerative changes in the neck and low back,  
17 which also may have been, by history, transiently  
18 aggravated. He didn't know he had them before or  
19 may not have been that significant before, He  
20 was treated and it got better.

21 He also had some arthritis in both of  
22 his knees. The right knee may have been injured  
23 a little bit more significantly than the left.  
24 But, again, most of his symptoms had revolved by  
25 the time I had seen him.

1 MR. CZACK: Objection.

2 Move to strike.

3 Q. Doctor, in connection with your  
4 treatment did you review any records in preparing  
5 your report?

6 A. Yes, I did.

7 Q. And can you tell me which records you  
8 reviewed?

9 A. The records I reviewed were those  
10 from Medina Community General Hospital, Dr.  
11 Kavlich, Dr. Karns and the Parma Community  
12 General Hospital.

13 Q. And did you have an opportunity to  
14 review the x-ray reports and other diagnostic  
15 tests contained in those reports?

16 A. Yes.

17 Q. And did those diagnostic tests or  
18 those x-rays contain any evidence of any  
19 degenerative arthritis?

20 A. There were degenerative changes, both  
21 arthritis and some disk disease in the neck and  
22 the low back area, yes, as well as in his knees.

23 Q. And in your opinion, based upon a  
24 reasonable degree of medical certainty, were  
25 these conditions present prior to the automobile

1 accident?

2 A, Yes.

3 Q. Doctor, in your discussions with Mr.  
4 Prusak did he give you any histories relating to  
5 his work history?

6 A. He did.

7 Q. Okay. Can you tell me what he  
8 related to you about his work history?

9 A. He was employed by LTV most of his  
10 working life. He was working in labor for quite  
11 some time. He ultimately applied for a job as an  
12 electrician, which he did for about a year  
13 and-a-half after the accident. And then he took  
14 a less demanding physical job working in the  
15 HVAC, the heating/air-conditioning group, service  
16 group at the -- at the plant.

17 He was out of work for a couple  
18 weeks. He has limited his overtime in the HVAC  
19 capacity. He was working in a more laboring  
20 capacity for about a year and-a-half prior to his  
21 job switch. I think that it was less strenuous,  
22 less demand on him physically, and he is able to  
23 continue to work in that capacity up to the time  
24 of my evaluation.

25 Q. Okay, Doctor, based upon a reasonable

1 degree of medical certainty, do you have an  
2 opinion as to whether or not William Prusak  
3 sustained any permanent injury in the motor  
4 vehicle accident?

5 A. I do have an opinion.

6 MR. CZACK: Objection.

7 Q. And what is that opinion?

8 MR. CZACK: Objection.

9 A. My opinion is that he did not sustain  
10 any permanent injury as part of the residuals of  
11 the motor vehicular accident.

12 Q. And based upon a reasonable degree of  
13 medical certainty, speaking to specific areas of  
14 his body, particularly his knee, neck or back, do  
15 you have an opinion, as to a reasonable degree of  
16 medical certainty, whether there is permanent  
17 injury to those areas of his body?

18 MR. CZACK: Objection.

19 A. I do have an opinion.

20 Q. Okay. And, again, for the sake of  
21 being repetitive, what is that opinion, Doctor?

22 A. My opinion is that he sustained no  
23 permanent injury to his neck, low back or right  
24 knee.

25 Q. And based upon a reasonable degree of

1 medical certainty, do you see the need for any  
2 surgery to any of those areas of his body in the  
3 future, Doctor?

4 A. I do not, on the basis of this  
5 evaluation and review of the x-ray reports and  
6 the medical records, believe, within a reasonable  
7 degree of medical certainty any surgery is  
8 necessary or appropriate at this point in time.  
9 And there is no evidence that any of these  
10 pre-existing conditions were accelerated by the  
11 accident.

12 There is no indication that surgery  
13 is necessary now or in the future.

14 MR. CZACK: Objection.

15 Move to strike.

16 Q. Okay. Doctor, based upon a  
17 reasonable degree of medical certainty, do you  
18 see any reason to limit Mr. Prusak's activities,  
19 or to limit his activities at work?

20 MR. CZACK: Objection.

21 A. Not on the basis of my evaluation,  
22 no.

23 MR. CZACK: Objection.

24 Move to strike.

25 Q. Doctor, let's move on to Mary Prusak

1 now. Without being too repetitive, can you  
2 highlight what her history was?

3 A. Again, she was a front seat passenger  
4 in the motor vehicle. She was restrained. After  
5 the emergency squad reached them and extricated  
6 her from the vehicle she was taken again to the  
7 Medina Community General Hospital and the same  
8 type of work-up was performed. She had the  
9 appropriate level of x-rays. She had the  
10 appropriate examination.

11 This again also revealed some  
12 degenerative changes in the lower end of her  
13 neck, what we call the cervical spine, but the  
14 pelvic films and the x-rays of the chest  
15 essentially were -- were normal. It was felt  
16 that she had a bruise of the chest and a bruise  
17 of the left knee as the initial -- the initial  
18 doctors' opinions.

19 She then returned to Dr. Perry, who's  
20 her family doctor, about two days after the  
21 accident, because of her ongoing symptoms and the  
22 suspicion that they may have missed something,  
23 certain x-rays were repeated primarily of her  
24 chest. These were again normal, no fractures  
25 were seen. A bone scan was performed. This is a

1 radionuclides scan, radioactive materials  
2 injected into the blood stream.

3 It travels around the blood and seems  
4 to settle in areas where there is rapid bone  
5 turnover where we see in tumors or fractures,  
6 And there were no fractures that were identified  
7 or there was some increased uptake where the  
8 ribs, the soft part of the ribs meet the hard  
9 part of the ribs.

10 She was then referred to an  
11 orthopedic surgeon. She never did see him. She  
12 went instead to Dr. Juguilon, who is a  
13 neurologist. Dr. Juguilon, because of her  
14 complaints, ran her through a series of  
15 diagnostic testing. And these included  
16 electrophysiological testing, that is looking at  
17 the nerves, seeing how they conduct impulses and  
18 how the muscles work in response to known  
19 impulses. And those were normal.

20 She had an MR scan, which is a type  
21 of radiological imaging study, in which the body  
22 is placed into a large magnetic field bombarded  
23 with radio waves and the degree of water content  
24 is assessed by computer imaging. This basically  
25 confirmed there was degenerative disk disease the

1 lower three levels of her cervical spine. This  
2 test done of her brain was normal.

3 Let's see, what else did she have?  
4 She continued to see with -- follow with Dr.  
5 Juguilon. He did a MR scan of her thoracic  
6 spinal area. That's the chest area of the  
7 spine. That showed a minor disk abnormality  
8 between the T7 and T8. This is in the lower  
9 middle portion of the thoracic area. There are  
10 12 vertebrae in the thoracic area.

11 She basically conditioned with Dr.  
12 Perry. He sent her to physical therapy, and that  
13 was essentially her care and treatment. The only  
14 medical doctors that she saw were Dr. Juguilon  
15 and Dr. Perry.

16 Q. Doctor, did you review any medical  
17 records of Mary Prusak in connection to your  
18 opinion and what were they?

19 A. The records that were reviewed were  
20 from the Medina General Hospital, the Parma  
21 Community Hospital, Dr. Juguilon, Parma  
22 Radiology, Magnatech, that was the MRI facility  
23 and then McCoy Physical Therapy Associates,

24 Q. Doctor, I take it that you also  
25 conducted an examination of Mary Prusak?

1 A. Yes, I did.

2 Q. And can you tell me what that  
3 examination consisted of?

4 A. Well, again, a complete orthopedic  
5 evaluation of her neck, chest, upper back, both  
6 upper extremities and her lower back.

7 Q. Okay. And based upon a reasonable  
8 degree of medical certainty what was your  
9 impression of Mary Prusak's condition at the  
10 conclusion of your examination?

11 A. My opinions was that she more likely  
12 than not sustained a soft tissue strain or sprain  
13 of her neck and a chest wall contusion.

14 Now, by the MRI scan, however, more  
15 abnormalities were detected, and that included  
16 primarily disk disease and arthritis at the lower  
17 end of her neck, the mid-thoracic spine. There  
18 was no signs of any disk herniation or any disk  
19 putting mechanical pressure on any of the  
20 significant spinal nerve roots or spinal cord,

21 So these were just some degenerative  
22 changes that by history may have been aggravated  
23 by the accident as well, but primarily a soft  
24 tissue injury.

25 Q. And based upon a reasonable degree of

1 medical certainty, Doctor, did Mary Prusak  
2 sustain any permanent injury in the motor vehicle  
3 accident?

4 A. On the basis of my evaluation, I was  
5 unable to detect any permanent injury sustained.

6 Q. And based upon a reasonable degree of  
7 medical certainty, Doctor, do you see any need  
8 for surgery in the future of Mary Prusak?

9 A. No.

10 Q. And, Doctor, based upon a reasonable  
11 degree of medical certainty, do you see any  
12 reason to limit the activities of Mary Prusak or  
13 to limit her work activities?

14 MR. CZACK: Objection.

15 A. On the basis of my evaluation there  
16 really are no specific limitations for sports or  
17 recreation. I think if she appropriately trains  
18 for something she can do anything she wanted to:

19 Obviously, contact type of athletics  
20 would not be recommended, but I'm not sure that  
21 would be a choice in this case. But on the basis  
22 of the physical examination and objective  
23 findings, I would not restrict her. She could  
24 try or do anything she'd like.

25 Q. Doctor, can you tell me what is meant

1 by the term osteophyte?

2 A. An osteophyte, this is a medical  
3 term, usually a radiological term of a attempt of  
4 the bone to heal a arthritic area or an area that  
5 is under some sort of chronic stress. It is most  
6 commonly associated with an arthritic joint. It  
7 can also be noted with a degenerative or a  
8 wearing out disk.

9 But it is a objective bony reaction  
10 to either chronic stress or a chronic arthritic  
11 condition.

12 Q. And are the presence of osteophytes  
13 something that is normal to find in a 50 year old  
14 individual?

15 A. Yes. I would think so.

16 MR. SCHMIDLIN: Okay, Doctor, I don't  
17 believe I have anything further at this point.  
18 Thank you.

19 EXAMINATION OF ROBERT C. CORN, M.D.

20 BY MR CZACK:

21 Q. Good evening, Doctor, my name's Mike  
22 Czack. We've met on a number of occasions.

23 A. Yes.

24 Q. I represent Mr. and Mrs. Prusak, so  
25 I'm here to ask you some questions concerning

1 your evaluation and your testimony here today.

2 Can I take a moment to look at your files on the  
3 Prusaks, please?

4 A. Sure.

5 MR. CZACK: Off the record.

6 MR. HENSCHER: Off the record.

7 (Recess had.)

8 MR. HENSCHER: 6:02, on the record.

9 Q. Thank you, Doctor. You can take a  
10 second to organize those if you need to.

11 Now, I'm going to ask you some --  
12 some general questions first, Doctor, that relate  
13 to your examinations, and then I'll talk  
14 specifically about Mr. and Mrs. Prusak.

15 In order for the jury to understand  
16 your role in this case, you saw these people just  
17 one time in December of '96, is that correct?

18 A. Yes.

19 Q. And you saw them, I take it, during  
20 your normal business office hours?

21 A. Probably.

22 Q. All right. And how long did your  
23 physical examination of each of these people  
24 take?

25 A. Well, I don't usually keep a log of

1 r  
2 the history and physical. I would say the bulk  
3 of the time was probably taking the histories  
4  
5 them about the accident  
6  
7  
8  
9  
10 And you never saw these people before  
11 December of '96 as patients, correct?  
12 A. I never did, no.  
13 Q. And you've not examined them since  
14 them?  
15 A. That's correct also.  
16 Q. And, as Mr. Schmidlin asked you, you  
17 didn't see them for the purpose of treating or  
18 helping them medically, we know that, correct?  
19 A. Yes.  
20 Q. In fact, the sole purpose of your  
21 exam was to prepare a report and to testify here  
22 today if -- if need be, correct?  
23 A. Yes.  
24 Q. Now you were hired by Mr. Schmidlin's  
25 firm, is that -- is that how I understand it?

1           A.     That's how I understand it.

2           Q.     And in the past year how many times  
3 have you examined patients for Mr. Schmidlin's  
4 law firm?

5           A.     I'm not really sure.

6           Q.     Okay.

7           A.     I don't think it's been more than  
8 five or six --

9           Q     okay

10          A     -- over the past couple years.

11          Q     All right. Now you also examine, I  
12 know my office, at Caravona and Czack, you  
13 examined patients I know that are being  
14 represented by a defense firm Meyers Hentemann.  
15 You examined ~~patients~~ --

16          A.     Sure.

-- or that law firm

Yes.

For the defense firm of Keller &

20 Curtin

21                 Yes.

22          Q.     For the defense firm of Weston &  
23 Hurd?

24                 I have. Sure,

Q.     Okay, And for the defense firm of

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Damelio, Marillyn Damelio's law office?

2 A. Yes.

3 Q. Examined patients there.

4 Can you estimate the percentage of  
5 your practice, Doctor, devoted to doing defense  
6 examinations and depositions?

7 A. Well, I usually, over the past 10  
8 years I have averaged two of these a week. So  
9 you're talking about two 45 minute sessions. I  
10 think I may have examined but of these on the  
11 same day, so that --

12 Q. Yeah. I think you did. Yeah. You  
13 did.

14 A. -- may have screwed up that week's  
15 percentage or statistics, but, and then I  
16 schedule routinely, my deposition times are  
17 Monday and Thursday afternoons at five. Similar  
18 to what we're doing today.

19

21 have available to schedule two of each per week  
22 on a average over the last 10 years.

23 Q. And you're paid for the time you take  
24 to do the examinations of these people and the  
25 reports that you prepare, correct?

1 A. Yes.

2 Q. What do you charge for the  
3 examination and preparation of a report, Doctor?

4 A. It would be a single charge for the  
5 examination history, physical, review of the  
6 records and the report. And it ranges anywhere  
7 from 900 to \$1,700 on the average, depending on  
8 how complex. How long it takes --

9 Q. Sure.

10 A. -- to get through. That kind of  
11 thing.

12 Q. Okay. Per exam or per patient?

13 A. Per report essentially.

14 Q. Okay. And in this case you also are  
15 doing depositions here today. What are your  
16 charges for the depositions here this evening?

17 A. Well, it's one deposition from what I  
18 understand.

19 Q. Okay.

20 A. With our standard charge is \$900 an  
21 hour for that.

22 Q. All right. So even though we're  
23 doing two patients we're charging just under one  
24 deposition?

25 A. It's for the time. Yes.

1 Q. Okay. And, again, these charges for  
2 the report and exam and for the deposition are  
3 paid by Mr. Schmidlin's firm to you, correct?

4 A, I'm not sure who ends up paying me,  
5 but that's who the bill would go to.

6 Q. Okay. To his law firm. And when you  
7 made this one examination of the Prusaks, as I  
8 understand it from your testimony and looking at  
9 your reports, Mr. Schmidlin didn't send you the  
10 actual x-rays and diagnostic scans you talked  
11 about. You just looked at the reports, correct?

12 A. I looked through the medical records  
13 today and I don't -- there's no indication that I  
14 saw the actual x-rays.

15 Q. All right. And you didn't look  
16 through the discovery depositions that he did of  
17 Mr. and Mrs. Prusak, correct?

18 A. I did not.

19 Q. Where they talked about their  
20 injuries?

21 A. I didn't see them at all, no.

22 Q. And he never sent you the reports.  
23 Actually you never sent your reports to any of  
24 their treating physicians either, did you?

25 A. Not directly, no.

1 All right. Now let's talk about the  
2 history of the collision, Doctor. You took  
3 histories from both of these people. You'd agree  
4 that this was a pretty serious and violent  
5 collision, would you not?

6 I never saw any pictures, but it  
7 certainly sounded that way.

8 Q. Mr. Schmidlin didn't show you any of  
9 the photos?

10 A. No.

11 Q. Okay. Did he show you any of the  
12 photos of the Prusaks and the bruising and  
13 contusions that were on their body after the  
14 accident?

15 A. No.

16 Q. Did he show you the State Highway  
17 patrol pictures of the vehicles at the -- at the  
18 wreck scene?

19 A. I did not.

20 Q. All right. Did you inquire to him  
21 as to the extent, severity and location of the  
22 damage to the vehicles?

23 A. No.

24 Q. Upon your examination I noted in your  
25 report that you found these people to be pleasant

1 and cooperative?

2 Yes. They were very nice people,  
3 Appear to be honest sincere people?  
4 To the best that you can judge  
5 people

6 Sure. Doctor, what affect can stress  
7 have on one's physical and emotional makeup and  
8 well-being?

9 A. Well, it would be out of my area of  
10 expertise to be precise. But obviously stress  
11 plays a role usually in the maintenance or the  
12 development of certain symptoms. Are you talking  
13 about psychological stress?

14 Q. Psychological and physical I mean.

15 A. Well, physical -- physical stress  
16 would be related to a particular activity or  
17 exercise. Where psychological would be a little  
18 bit less, less clear.

19 Q. Sure. Could it have an affect on  
20 someone's blood pressure, if they're under  
21 stress?

22 A. I think that they're -- and again  
23 this is --

24 Q. Sure. I understand.

25 A. I don't even have a sphygmomanometer

1 in my office.

2 Q. I understand.

3 A. So I think that it's probably  
4 generally accepted that physical stress can occur  
5 with trauma.

6 Q. Okay.

7 A. And this -- these could transiently,  
8 for a short period of time, raise blood pressure,  
9 sure.

10 Q. Okay. Can stress, have you ever  
11 heard in doing all your medical studies and  
12 research and reading and having patients, can  
13 stress cause hair loss, can stress cause skin  
14 problems on people?

15 A. I guess I don't really pay attention  
16 to that literature, and I really wouldn't choose  
17 to comment as an expert on that.

18 Q. How about pain, can pain affect one's  
19 physical and emotional makeup?

20 A. I have been told that, yes.

21 Q. All right. Now you made a point in  
22 both of your reports, Doctor, concerning Mr. and  
23 Mrs. Prusak appearing older than their stated  
24 age. What criteria do you use to make that  
25 judgement about people?

1 A. It's purely subjective on my part.

2 Q. All right. There's no --

3 A. I see, you know, many, many patients  
4 and that's just the way they may have appeared to  
5 me.

6 Q. All right. So you don't know what  
7 they looked like before this accident, correct?

8 A. I don't know what they look like now.

9 Q. All right. Let me ask you, let's  
10 talk about Mary first, if you could, you could  
11 turn Mary's file out, since we most recently talk  
12 about her. You've given this jury your opinion  
13 that she injured her upper spine, her neck and --  
14 and thoracic area and her chest in this accident,  
15 correct?

16 A. Correct.

17 Q. Now, Mr. and Mrs. Prusak have  
18 previously testified in this case that in some  
19 ways this collision has changed their life,  
20 Doctor, Have you learned, you haven't learned of  
21 any prior neck or thoracic injuries or complaints  
22 to Mrs. Prusak before this collision in 1994, did  
23 you not?

24 A. I didn't see any records that  
25 predated the accident, and they didn't claim any

1 previous problems with those areas.

2 Q. Okay, And further there's no  
3 indication that Mrs. Prusak had any pain or  
4 symptoms in the neck or thoracic area from any  
5 degenerative changes or arthritic conditions  
6 before this crash, did she?

7 A. She didn't complain about it and  
8 there were no records available that predated the  
9 accident, so I have to say on the basis of what I  
10 have there was no indication.

11 Q. Okay. Now when you saw her in  
12 December of '96 she was still complaining of  
13 discomfort in her neck area you said?

14 A. She was.

15 Q. She complained of occasional tingling  
16 and numbness in the left side of her face and  
17 down her left arm, according to your report?

18 A. Yes.

19 Q. And her most constant symptom at that  
20 time was in the upper part of the back and spine?

21 A. Correct. In the muscles and the  
22 upper back. Yes.

23 Q. And she still had some occasional  
24 burning chest pain, but that had mostly resolved,  
25 correct?

1           A.     That's what she told me, yes.

2           Q.     **Now** you've talked about, and I heard  
3 you mention once or twice in Mr. Schmidlin's  
4 examination about soft tissue injuries as being  
5 part of what you diagnose these people as having,  
6 is that right?

7           A.     Correct.

8           Q.     All right. And soft tissue injuries  
9 involved injuries to, to what, the tendons and  
10 ligaments and muscles, everything that's not bony  
11 inside the body?

12          A.     Well, I think that you could -- you  
13 could say that, but the colloquial reference for  
14 soft tissue is either muscle or ligament.

15          Q.     Okay. Normally soft tissue injuries  
16 don't show up on plain x-rays, do they?

17          A.     Normally soft tissue injuries, the  
18 actual injuries don't show up --

19          Q.     Okay.

20          A.     -- on a plain x-ray. They would show  
21 up on more sophisticated scans, but they won't  
22 show up on regular x-rays.

23          Q.     Soft tissues injuries can be painful,  
24 can they not, Doctor?

25          A.     Sure.

1           Q.     And if you have a tearing of a muscle  
2 or ligament like you talked about with regard to  
3 these soft tissues, that heals in with scar  
4 tissue, is that right?

5           A.     Well, first of all, I didn't say  
6 tearing.

7           Q.     Okay.

8           A.     I said it could be a stretching. It  
9 could be a bruising. It could be an irritation  
10 of the lining. And they may or may not heal with  
11 scar tissue, depending on if there has been a  
12 physical disruption or not.

13          Q.     Of that particular tendon or muscle,  
14 correct?

15          A.     Well, it will be -- wouldn't be a  
16 tendon.

17          Q.     All right.

18          A.     We'd know about it if it was tendon,  
19 but if it was a muscle.

20          Q.     Okay. Now you've also made a point  
21 to talk about arthritis. Once, obviously,  
22 somebody has arthritis that's a permanent  
23 condition, is it not?

24          A.     Usually.

25          Q.     And arthritis can be a painful

1 condition, can it?

2 A. It can be sure, in and of itself.

3 Q. All right. And trauma, as you've  
4 talked about earlier, can activate arthritis that  
5 is not symptomatic, correct?

6 A. Although there's no scientific  
7 evidence of that in the literature. I think from  
8 an anecdotal standpoint and what I've seen in my  
9 own practice, it can for a short period of time  
10 become symptomatic solely on the basis of trauma,  
11 although there's no statistics for that.

12 Q. Okay. Let's switch gears here a  
13 little bit, Doctor. You deal with patients  
14 obviously in your practice who complain of pain  
15 from injury related traumas, accidents, any  
16 number of things, correct?

17 A. Sure.

18 Q. Pain can range from -- from mild to  
19 moderate to severe?

20 A. in general i think that's the typical  
21 category, yes.

22 Q. And in many people, I'm sure many of  
23 your patients, they try to continue on with their  
24 normal activities in spite of pain, don't they?

25 A. Some do. Some don't.

1 Q. As an orthopedic surgeon would you  
2 tend to encourage that, they continue on with  
3 their activities as much as they're able to?

4 A. That's a tough general question to  
5 answer. I would, with appropriate  
6 rehabilitation, with appropriate care and easing<sup>g</sup>  
7 into it and reconditioning, I think most people  
8 can get back to most of the things they were  
9 doing before, unless there was a horrendous  
10 disruption of the joint or something that needed<sup>d</sup>  
11 some further reconstruction.

12 Q. But, nevertheless, people, be it a  
13 factory worker, an injured doctor, an injured  
14 lawyer, people work in pain every day, correct?<sup>e</sup>?

15 A. In general?

16 Q. Yes.

17 A. I don't know. I don't know the  
18 statistics. I don't doubt that that exists, but<sup>but</sup>  
19 I don't really know.

20 Q. All right. Let's talk about  
21 subjective symptoms, Doctor. Somebody complains<sup>ins</sup>  
22 of pain or discomfort or tenderness. That's a a  
23 subjective system, is it not?

24 A. Correct.

25 Q. And subjective systems are an

1 important part of your work as an orthopedic  
2 surgeon, isn't that true?

3 A. Well, I think that subjective,  
4 meaning the patient is the only person that can  
5 tell whether they exist or not. I think it's an  
6 important consideration. But I certainly don't  
7 practice medicine, nor do I treat or operate on  
8 people solely on the basis of what their  
9 complaints are.

10 I think their complaints are  
11 important because they point out where on a  
12 physical examination that you have to spend the  
13 time to try to find some objective or physical  
14 correlation with that complaint. So I think as a  
15 physician we all take into consideration the  
16 patient's complaint, but it certainly isn't  
17 gospel or the sole way we have of judging what  
18 the patient's injury is.

19 Q. Now I want to close here on Mrs.  
20 Prusak, Doctor. I want to summarize some  
21 things. On page four of your report you talk  
22 about, I've come to some conclusions concerning  
23 her ongoing level of physical impairment.

24 Now you've told us that Mrs. Prusak  
25 has had no prior neck, thoracic or chest injuries

1

2

3

4

5

6

7 this accident happened correct by history?

8

9 that's what she told me. Yes.

10 Q. Okay. And you do believe, as you  
11 told us, Mrs. Prusak did sustain trauma related  
12 injuries from this accident, did you not?

13 A. She probably did, sure.

14 Q. All right. Let's move to Mr. Prusak,  
15 Doctor. Can you pull, do you have his file right  
16 there?

17 A. Sure.

18 Q. Okay. His primary injuries from this  
19 crash were to his neck, his low back and his  
20 right knee, correct?

21 A. Yes.

22 Q. And when he saw you in December  
23 of '96, two and-a-half years after the accident,  
24 he still had a deep and aching pain which  
25 occasionally turned into a sharp pain in his neck

1 and upper back, correct?

2 A. I'm fairly certain that's what his  
3 <sup>CO</sup>Complaints were. Y

4 Q. All right. And the pain was <sup>ai</sup>exacerbated  
5 exacerbated by activities such as crawling,  
6 lifting or working in certain positions?

7 A. That's what he said. Yes.

8 Q. And he also had pain in his knees  
9 again worse with doing activity related things  
10 such as climbing, sitting or kneeling?  
such as

11 A. Again this is the history that was

12 present, yes

13 intermittent

14 Okay. And he also had in  
15 symptoms with regard to his low back, you  
16 that?

17 A. Yes.

18 Q. Now, again, I want to ask you,  
19 Doctor, isn't it true that you have no evidence  
20 or knowledge that Mr. Prusak ever had a neck,  
21 upper back, lower back or knee injury or problem  
22 prior to the April 1994 crash?

23 a. I think that's a true statement.  
24 Yes.

25 Q. Now, we talked about soft tissue  
injuries when we talked about Mrs. Prusak. We

1       talked about subjective complaints and how  
2       they're used by the physician in evaluating a  
3       patient.

4                       What I want to ask you is Mr. Prusak  
5       was still complaining of pain in December of '96  
6       to various areas as a result of this crash,  
      correct?

8               A.       On an intermittent basis in some  
9       areas. But, yes, he did have some ongoing  
10      complaints.

11              Q.       And from a medical standpoint when  
12      pain continues over six months, is it fair to  
13      state generally that -- that that pain condition  
14      moves from an acute state to a chronic state?

15              A.       Well, actually in medicine chronic is  
16      past six weeks.

17              Q.       Okay.

18              A.       So you don't need to have it for six  
19      months to be chronic.

20              Q.       All right. When -- when pain moves  
21      past six weeks and becomes chronic regardless of  
22      the cause and continues on into two, two  
23      and-a-half years, doesn't that condition tend to  
24      become permanent, Doctor?

25              A.       I don't know. If you are basing it

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1 just on the symptoms you can come to some  
2 conclusions. But I don't treat symptoms. I  
3 treat people and I treat actual diseases and  
4 abnormalities.

5 Q. Let me -- let me talk about your  
6 study of Mr. Prusa's case. You said you made a,  
7 in your report, a careful review of the records  
8 concerning Mr. Prusak and you told us that you  
9 looked at the Medina Hospital records, Dr.  
10 Kavlich's records, Dr. Karns' records and the  
11 records from Parma Hospital.

12 Did you ever look at Dr. Marvin  
13 Perry's records or reports, Doctor?

14 A. I don't recall. I don't recall that  
15 they were forwarded to me.

16 Q. All right. Did you ever look at the  
17 80 or 90 pages of LTV records dating back to 1959  
18 that Mr. Schmidlin has regarding Mr. Prusak?

19 A. No.

20 Q. And the notes that you made when you  
21 made your review of these peoples records, do you  
22 still have those in your file?

23 A. I do not.

24 Q. What did you do with those?

25 A. I don't keep them as part of the

file. Once the reports are dictated I don't keep  
2 them.

3 Q. Now, in your physical exam of your  
4 Mr. Prusak you did find objective abnormality in  
5 his knee, something called patella femoral  
6 crepitans?


7 A. Correct. In both of his knees.

8 Q. What is that, Doctor?

9 A. It's a grinding or a crunching  
10 sensation.

11 Q. And that's elicited how, when you're  
12 examining the knee?

13 A. It is -- well, I do it a couple  
14 different ways, with the patient sitting I have  
15 them do range of motion. That is moving the  
16 knees to the fullest extent. And I also do some  
17 provocative testing.



18 MR. CZACK: All right. Now at this  
19 time I'd like to note for the record that I  
20 reserve the right to withdraw the following  
21 questions concerning occupation and employment  
22 pending a ruling on my objection.

23 Q. Doctor, I want to ask you a  
24 question. Mr. Schmidlin asked you about Mr.  
25 Prusak and his -- his ability or inability to

1 limit his activities. Did you study at all, you  
2 noted in your testimony Mr. Prusak missed a  
3 couple of weeks of work. Do you remember when  
4 that was in terms of the accident?

5 A. I assumed it was right after the  
6 accident.

7 Q. Okay. And in your study of Mr.  
8 Prusak did you come to learn at all about his  
9 inability to take as much overtime as he had  
10 before this accident?

11 A. I think he told me that. Yes.

12 Q. Okay. Do you know how much overtime  
13 he had to limit himself to after this accident  
14 versus before this accident?

15 A. I don't recall asking that question.

16 Q. And I don't think, Doctor, that you  
17 have any opinion, according to your direct  
18 testimony, concerning Mr. Prusak's inability to  
19 take overtime after this accident, is that  
20 correct?

21 A. Again, in situations where there are  
22 voluntary overtime people have whatever reasons  
22 why they do or they do not take them. So I don't  
24 have any direct opinion, as I really didn't ask  
25 him what influence his physical condition did

1       versus any other personal need or lack of need to  
2       work extra.

3               Q.       All right. So when Mr. Schmidlin  
4       talked to you about any reason to see that Mr.  
5       Prusak should limit his activities at all, you  
6       testified that you didn't see any reason for him  
7       to limit his activities, you weren't then  
8       referring to his inability to work overtime, is  
9       that correct?

10              A.       I was referring to any activity.  
11       There was nothing that would stop him from  
12       working overtime on the basis of my evaluation.  
13       I felt that he could work as much as he want, or  
14       limit himself as much as he wants. That's really  
15       usually a personal choice.

16              Q.       Okay. All right. And if he was  
17       having problems in doing that kind of work it's  
18       reasonable for him to limit himself according to  
19       how he felt, correct?

20              A.       Well, I think there may be many  
21       factors that decide whether you're going to take  
22       voluntary additional work. His physical  
23       condition could be one. His own personal  
24       finances could be another. I mean there are  
25       many, many, if we just sit down and try to think

1 of them. I don't know the real reason why.

2 Q. All right. Well, let me ask you  
3 this, Doctor, if -- if somebody's limiting his  
4 ability to work overtime, what do his personal  
5 finances have to do with that?

6 A. He may not need to work extra.

7 Q. Okay. Assuming that Mr. Prusak  
8 continues to need to work extra time, and  
9 assuming before this accident he worked anywhere  
10 between 60 and 70 hours a week up until the time  
11 of this accident in terms of regular hours and  
12 overtime hours, the fact that he is now limiting  
13 himself to only a few overtime hours a week,  
14 there's no other reason he should limit himself  
15 other than this accident, correct, that you see  
16 in your study of him?

17 A. I don't know how to answer that  
18 question. I didn't really go into his personal  
19 life to any extent. I think that unless it's a  
20 mandatory overtime situation. If it's voluntary  
21 there can be any number of reasons why you may  
22 not choose to -- to work as hard, and I don't  
23 really know.

24 Q. What -- what was the nature of his  
25 job, Doctor?

1           A.     At the job at the time that he was  
2     doing, he was an electrician --

3           Q.     Right.

4           A.     -- at the time of the accident.

5           Q.     What did he do?

6           A.     I have a number of patients who work  
7     as electricians at LTV and it really depends,  
8     basically they are in the maintenance and repair  
9     crew. They have to climb. They have to carry.  
10    They have to work in certain obscure areas. It's  
11    usually a young man's type of job.

12                   I'm not sure what the demographics of  
13    the other individuals working that job, but I  
14    doubt if there are a significant number of people  
15    over 50 that -- that continue to do that kind of  
16    work. It's somewhat strenuous.

17           Q.     And you did -- you did not look at,  
18    as I recall, Mr. Prusak's LTV records, is that  
19    correct?

20           A.     I think you asked me that and that  
21    was not --

22           Q.     Okay.

23           A.     -- immediately available.

24           Q.     I wasn't aware if I asked you that  
25    again.

1                   And, in closing with Mr. Prusak's  
2 case, Doctor, the evidence in this case and I  
3 think you have admitted to this jury that by this  
4 accident he injured his neck, his low back and  
5 his right knee, is that correct?

6           A.       That's certainly what the records  
7 show.

8           Q.       Okay. And by the history and by the  
9 evidence and by all the records that you've been  
10 given by the defense law firm, there's no  
11 evidence that Mr. Prusak had ever had any  
12 problems with his neck, his low back or his right  
13 knee prior to April of 1994, is that correct?

14          A.       I think, as I stated before with Mrs.  
15 Prusak, that there were no records that preceded  
16 or predated the accident. So based on the  
17 history presented in the medical records, which  
18 were solely after the accident, I would have to  
19 say yes.

20          Q.       Okay. And we can assume that if Mr.  
21 Schmidlin in representing the defense in this  
22 case had such records they'd have been given to  
23 you, right, Doctor?

24          A.       Well, there was a couple of the  
25 records that you stated that may have assisted me

1 to answer some of your questions, but I didn't  
2 see them, so.

3 Q. Right. He didn't give them to you,  
4 correct?

5 A. No.

6 MR. CZACK: Okay. Off the record for  
7 one second, if I can take a moment.

8 MR. HENSCHER: Off the record.

9 MR. HENSCHER: 6:26, on the record.

10 MR. CZACK: Doctor, I don't have any  
11 further questions. Thank you.

12 MR. SCHMIDLIN: No further questions.  
13 Do you waive signature, Doctor?

14 THE WITNESS: Yes and yes.

15 - - - - -

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## CERTIFICATE

The State of Ohio, )

SS:

County of Cuyahoga. )

I, Claudine Kelly, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, ROBERT C. CORN, M.D., was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

1 I do further certify that I am not a  
2 relative, counsel or attorney for either party,  
3 or otherwise interested in the event of this  
4 action.

5 IN WITNESS WHEREOF, I have hereunto  
6 set my hand and affixed my seal of office at  
7 Cleveland, Ohio, on this 16th day of  
8 June, 1997.

12 Claudine Kelly  
13 Claudine Kelly, Notary Public  
14 within and for the State of Ohio

15  
16  
17 My commission expires December 1, 1997.  
18  
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