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IN THE COURT OF COMMON PLEAS

Case No. 270810

THE DEPOSITION OF RALPH J. KOVACH, M.D.
MONDAY, FEBRUARY 26, 1996

The deposition of RALPH J. KOVACH, M.D., called by the Defendant for examination pursuant to the Ohio Rules of Civil Procedure, taken before me, the undersigned, Gregory L. Koterba, Notary Public within and for the State of Ohio, taken at 9700 Garfield Boulevard, Cleveland, Ohio, commencing at 1:40 p.m., the day and date above set forth.

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1 APPEARANCES:

2 On behalf of the Plaintiff:

3 Michael W. Czack, Esq.
4 Carovona, Obral & Czack
5 1900 Terminal Tower
6 Cleveland, Ohio 44113

7 On behalf of the Defendant:

8 Malcom A. Hansen, Esq.
9 McNeal, Schick, Archibald
10 and Biro Co., L.P.A.
11 700 Skylight Office Tower
12 Cleveland, Ohio 44113

13 ALSO PRESENT:

14 Jim Torok, Videotape Technician

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RALPH J. KOVACH, M.D.

of lawful age, called by the Defendant for
examination pursuant to the Ohio Rules of Civil
Procedure, having been first duly sworn, as
hereinafter certified, was examined and
testified as follows:

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MR. HANSEN: Let the record

show that this is the videotape deposition of
Dr. Kovach, and is being taken for use at trial
in the case of Nasr vs. Bedford, Court of Common
Pleas, Cuyahoga County. This deposition is
being taken pursuant to notice.

Mr. Czack, would you agree to waive all
defects in service?

MR. CZACK: Yes.

MR. HANSEN: Thank you.

EXAMINATION OF RALPH J. KOVACH, M.D.

BY MR HANSEN:

Q Dr. Kovach, for the Members of Jury would you
please state your full name.

A Ralph Kovach.

Q And where is your office located?

A It's 9700 Garfield Boulevard, Cleveland, Ohio.

1 Q And you're licensed to practice medicine in the
2 State of Ohio?

3 A Yes, sir.

4 Q Would you please describe your educational
5 background, starting with your undergraduate
6 training?

7 A I graduated from University of Dayton and in
8 Dayton, Ohio in 1950, Bachelor of Science
9 degree. And I graduated from Loyola University
10 School of Medicine, Chicago, Illinois in 1953
11 with an M.D. degree. I then interned at St.
12 Luke's Hospital in Cleveland from 1953 to 1954.
13 And I completed an orthopedic residency training
14 program at St. Luke's in Cleveland, that was
15 1954 to 1958. And then I started practice doing
16 orthopedics in July of 1958.

17 Q Do you limit your practice to a medical
18 specialty?

19 A Yes.

20 Q And what is that specialty?

21 A That's orthopedic surgery.

22 Q And would you describe what that consists of?

23 A It's a specialty that deals with diseases and
24 injuries of the musculoskeletal system, and by
25 that we mean the bones, ligaments, joints,

1 nerves, muscles. And that's diseases or
2 injuries, as well.

3 Q Are you affiliated with any hospitals?

4 A Yes.

5 Q What hospitals would those be?

6 A I go to St. Luke's, St. Alexis, Marymount and
7 Deaconess Hospital.

8 Q Do you belong to any professional associations?

9 A Yes.

10 Q And what would those be?

11 A Locally, the Academy of Medicine in Cleveland
12 and the Cleveland Orthopedic Society. And
13 statewide, it's the Ohio Orthopedic Association.
14 And nationally, the American Academy of
15 Orthopedic Surgeons, the AMA and Mid America
16 Orthopedic Association.

17 Q As part of your specialty have you been
18 certified as a specialist?

19 A Yes.

20 Q And what is involved in becoming certified?

21 A At the time that I became certified you had to
22 complete an approved training program, and I
23 did. And I took an examination upon completing
24 my training. And it was a written and oral
25 examination, and completed that satisfactory.

1 And then my practice was evaluated for a period
2 of two years. Every case that I had in the
3 hospital had to be written up and examined. And
4 when that was found to be satisfactory then I
5 took another written and oral examination and
6 completed that satisfactory and then I was
7 certified.

8 Q Do you teach at any universities or hospitals?

9 A I teach at St. Luke's in the orthopedics
10 residency training program.

11 Q At my request did you examine the Plaintiff;
12 Jean Nasr?

13 A Yes.

14 Q And when did that examination take place?

15 A I examined this gentleman on May 18th of 1995.

16 Q And could you tell the Members of the Jury what
17 the examination consisted of?

18 A Well, first of all, it was an examination where
19 I was checking someone who said that he had been
20 injured. So I had to find out how he was
21 injured and what happened, what had been done
22 for him in the way of treatment. So I was
23 taking what we call a history. And then I did
24 an examination, we call that the physical
25 examination. And I reviewed the records and

1 documents that had been submitted and then put
2 together a report.

3 Q Okay. And what did the history that you took
4 reveal?

5 A This man told me that he had an injury and that
6 he sustained this injury on June 9th of 1993.
7 So this was almost two years prior to the time
8 that I examined him that he said that he was
9 injured. He was working as an attendant at a
10 parking lot and an automobile moved forward and
11 pinned him between the bumpers of the car that
12 was behind him and the car that moved toward
13 him. So as a result, he said that the car moved
14 because the engine was left running and it was
15 in the drive part rather than the park position,
16 and this is why the car moved. And so when he
17 was pinned, he was pinned with his leg from the
18 front to the back, between, not side to side,
19 and that this involved his left knee.

20 He said that the owner of the car then
21 immediately moved the car and backed away from
22 him. And that he had immediate pain but he
23 continued working. And then he developed more
24 pain and more swelling so that the following day
25 he went to a doctor and he had some x-rays

1 taken. They didn't find any broken bones, but
2 he continued to have pain in his knee and he
3 said he continued to have this swelling.

4 So he had various treatments with various
5 medications and physical therapy treatments, and
6 he was not improving, so he then saw another
7 physician. And he had a study called an MRI
8 study done on his knee. Now, the MRI is
9 something that's done with magnetism rather than
10 with x-rays, and it's very good for showing up
11 soft tissues. So it was done on his knee and he
12 said that this study showed that he had some
13 ligaments torn and he also had tearing of
14 cartilages inside his knee and he said that he
15 was advised to have surgery to his knee.

16 And then he said that sometime after that
17 original problem he developed pain and numbness
18 that went down the outer side of his foot. And
19 he said that he did not experience any real
20 weakness on lifting up his foot and the ankle
21 but he did have the pain and the numbness. And
22 he said that he was checked out a little more
23 closely and that he was found to have what's
24 call an osteochondroma over the upper fibula. I
25 know it's a lot of words put together, but an

1 osteochondroma is a type of growth that's bony
2 and it has a cap of a cartilage covering the top
3 of this growth. And this was located on the
4 fibula.

5 Now, the fibula is the smaller bone in
6 your leg, and it's the outer bone near the knee,
7 I'll point to my left knee (indicating). And
8 that's the area we're talking about, along that
9 level.

10 So that was found, nothing was really done
11 about it. But he did say that he was able to
12 work until August of 1993, even though he had
13 been injured on June the 9th of 1993. And he
14 said that he's been unable to work, because
15 whenever he is on his feet he will get more
16 swelling and more pain develops. So at the time
17 that I examined him, he told me he had a general
18 type of pain about the knee and swelling, which
19 would become worse when he was active,
20 regardless of the type of activity when he was
21 on his feet.

22 And he also said that he had never had any
23 prior problems with his knee or any area of that
24 leg. And also I rechecked to be certain that he
25 did not have any other parts injured. He said

1 that no other part of his body was injured other
2 than that knee area. Then I proceeded to
3 examine him.

4 Q And what did your examination of him consist of?

5 A Well, it showed that this was a pleasant, well
6 developed, well nourished, 35 year old man. He
7 had early graying to his hair, he had normal
8 posture, he walked without a limp, he had an
9 elastic bandage that he used about his knee,
10 which was kind of a slip-on support that you see
11 that we call knee sleeves. And that was the
12 mood for the examination.

13 Then I checked his thighs and measured
14 them and showed that he didn't have any wasting
15 of the muscles of his thighs. In other words,
16 the circumference was the same on both sides.

17 Q Doctor, is that significant?

18 A Well, it's significant in that it shows that at
19 least the time I examined him he had been
20 exercising or had been active enough so that
21 there was no wasting away of the muscles about
22 the injured side when you compared it to the
23 other side. And he also did not have any joint
24 diffusion. By that I mean, there was no excess
25 fluid in the joint extending it. We call that,

1 you know, normal finding there.

2 And I also checked to see if he had any
3 instability of his knee and checked it for both
4 sides, and front to back with various tests.
5 And these tests showed that there was no
6 unsteadiness about the knee, it was quite
7 stable.

8 And also when he would bend his knee back
9 and forth, we checked to see if there was what
10 we call crepitation. That's a grinding type of
11 feeling that's transmitted to your hand if .
12 there's a roughness inside of the cartilage, is
13 rubbing against rough surfaces, and that was not
14 present.

15 And I did what we call a McMurray test,
16 and that's check to see if you have any tearing
17 of the cartilages, that is like the washers that
18 are between the bone ends. And when I did this
19 particular test, he said that he had pain, but I
20 did not feel any clicking or popping inside his
21 knee when I did that.

22 And he also had what I mentioned before,
23 an osteochondroma, like can't see the
24 osteochondroma but I can feel it. And it was
25 about two centimeters. And two centimeters is

just a little bit shorter than an inch Two and a half centimeters is one inch So it was about that size and I could easily feel that and that was over the back part of the fibula

And I have a model here. I'll give you an idea of where that was located This would be the tibia (indicating), and this is the fibula down at this part, the back part. at this level is where I could feel that And it was firm and sharp because it is bone covered with a little bit of cartilage cap

And also I looked for what we call a Tinel's sign. As I tapped and squeezed around the nerve in this area to see whether or not that there was any evidence of any injury to the nerve locally from that spot And when you tap on that and if you get pain or an electric type of shooting down toward the foot and the ankle, that would be what we call a positive test for a Tinel's sign. He didn't have that at the time that I examined him.

And that was the physical examination.

And I reviewed the other things that had been sent to me.

Q You indicated that the New York State that his knee

1 was pinned front to back --

2 A Yes.

3 Q -- between the bumpers of two cars?

4 A Yes.

5 Q Is that consistent with the injury that Mr. Nasr
6 sustained?

7 A It would be difficult to say. Because the MRI
8 test, which was we said that he had, and I
9 reviewed that and it says that he had a tearing
10 of the inner and outer meniscus or the semilunar
11 cartilages. Well, if I take this, and you look
12 at it from the front and this is the back and
13 these are the sides. If he was pinned from
14 front to back, pinched in this manner. If I
15 take this apart, right on top of this tibia bone
16 you see two structures. These are what we call
17 the menisci or the semilunar cartilages. These
18 were the areas that had a tear in the back part
19 of one and a tear in the front part of the
20 other. And if you just get pinned from here to
21 here, it's hard to see how this could be torn.
22 But in any event, he did have tears. And
23 there's no question that he has tears, according
24 to the MRI. So it would be difficult to
25 envision how that particular thing could happen

1 rather than finding bone bruises or something
2 else on that MRI study.

3 The MRI said that he had a partial tear of
4 this medial collateral ligament. Now, that's
5 the ligament that is on the inner side going
6 from the femur down to the tibia. And that
7 prevents your knee opening up in that manner if
8 it's torn.

9 Well, when I examined him he was stable,
10 so it was healed. But whether he occurred
11 getting a tear from this spot from being pinned
12 through here, and that not being involved in a
13 pinning is difficult to envision how that had
14 occurred. But that was present on the MRI,
15 anyhow.

16 Q Did you review any reports from Dr. Orra,
17 O-r-r-a?

18 A Yes.

19 Q And were there any findings in Dr. Orra's report
20 that you found significant?

21 A Well, Dr. Orra insists in his report that this
22 osteochondroma came about as a result of a
23 condition called myositis ossificans. Now,
24 that's two words that mean, myositis meaning
25 inflammation and then ossificans, it means that

1 this inflammation caused bony changes in that
2 muscle, and that this is what this is rather
3 than an osteochondroma. But we all know that an
4 osteochondroma does not arise from myositis
5 ossificans, they are two entirely different
6 things. They look entirely different on your
7 x-ray description. They are not the same thing
8 at all.

9 So I don't know why he would insist that
10 this came about from that rather than this thing
11 was there and that it got pinched.

12 Q Did Dr. Orra's report indicate that Mr. Nasr was
13 undergoing physical therapy for this knee injury
14 that he sustained?

15 A Yes.

16 Q Do you have an opinion, based on your education,
17 training and experience to a reasonable degree
18 of medical probability, as to whether this
19 physical therapy would be helpful in treating an
20 injury of the type that Mr. Nasr sustained?

21 A Yes, I have an opinion.

22 Q And what is that opinion, Doctor?

23 MR. CZACK: Objection.

24 A My opinion is, that I'm reading this doctor's
25 records and he makes the diagnosis of a torn

1 cartilage in his knee for which he's giving heat
2 treatments, he's giving electrical stimulation,
3 which is totally worthless and absolutely not
4 indicated for a torn cartilage. Cartilage is
5 not going to respond to being heated, it's not
6 going to respond to any electrical stimulation
7 He did not require this, he may have been
8 helped. And also ultrasound treatments, he may
9 have been helped for the initial injury that he
10 had, which was mainly the contusion with some
11 subsequent bleeding. And the doctor is talking
12 about this man having a prepatellar bursitis,
13 which means it bursts on the front of the
14 kneecap area. Yeah, that would help that. But
15 then that's -- you've got a limit as to how many
16 treatments you going to have for that type of
17 condition where it's going to be effective and
18 that would be six to 10 at the most.

19 MR. CZACK: Move to strike
20 along with that objection.

21 Q Dr. Kovach, would -- if Mr. Nasr were your
22 patient would you recommend arthroscopic surgery
23 to repair the torn menisci?

24 MR. CZACK: Objection. Move
25 to strike the answer.

A Well, the type of injury that's described will not be amenable to repair. But it will be amenable to removing the torn portion of the menisci. And you can't repair the type of tear that he has because it will not heal. What you do is take out the torn portion to have less material that's movable inside under weight bearing. And so that should help much of his symptomatology.

Q Mr. Kowach, how much would you anticipate such surgery would cost?

A I anticipate the maximum would be in the range of \$3,000.

Q And based on your education, training and experience and including your examination of Mr. Nasr, do you have an opinion as to his recovery time following surgery for removal of the menisci?

A Well, in this case you're talking about two sides, not one. So, illustrate again, when we talked about doing surgery to this one as well as that one.

MR. CZACK: Note on

objection. Move to strike.

A Both sides would be involved, that would

1 estimate about six weeks.

2 MR. CZACK: Move to strike
3 that answer.

4 MR. HANSEN: Thank you,
5 Doctor. I have no further questions.

6 EXAMINATION OF RALPH J. KOVACH, M.D.

7 BY MR. CZACK:

8 Q Good afternoon, Dr. Kovach, my name is Mike
9 Czack, I work for the law firm of Donald
10 Carovona & Associates. I represent Mr. Nasr in
11 this case.

12 Can I please take a look at your file for
13 a moment --

14 A Yes.

15 Q -- before we get started?

16 - - - - -

17 (Discussion held off the record.)

18 - - - - -

19 Q Thank you, Doctor.

20 Doctor, so the Jury understands your role
21 in this case, you saw Mr. Nasr on what date?

22 A Let me look at it again. It was on May 18th,
23 1995.

24 Q Okay. And that exam took place out here in your
25 Garfield Heights office?

1 A Yes, sir.

2 Q Did you see regular patients throughout that
3 day?

4 A Yes.

5 Q How long did your physical exam take?

6 A I don't know. You were present, weren't you?

7 Q No.

8 A Wasn't someone with him?

9 Q No.

10 A Physical exam probably takes about five minutes
11 to check out the knee and history, and physicals
12 of course take a lot longer.

13 Q Okay. And you never examined him before May
14 18th, 1995?

15 A No, sir.

16 Q And you haven't seen him since then?

17 A No, sir.

18 Q You saw him on one occasion two years, almost
19 two years after this accident. Now, you didn't
20 see him on that date for the purpose of treating
21 him or helping him medically, did you, Doctor?

22 A No. As I said, it was to determine what my
23 opinion would be of the injuries that he had two
24 years before.

25 Q Okay. And that determination was made in order

1 to put together a report for Mr. Hansen's office
2 and to testify, if it became necessary; correct?

3 A Yes.

4 Q And in this report that you prepared and that
5 you testified from here today, which is about
6 two pages, you never sent that to any of Mr.
7 Nasr's doctors, did you?

8 A No. I wasn't supposed to

9 Q with regard to your personal injury exams that
10 you do in your office here, Doctor, I think you
11 recently told me that 80 percent of those exams
12 are done for defendants and about 20 percent of
13 those are actually injury plaintiffs of your
14 own. Does that sound accurate still?

15 A Yes.

16 MR. HANSEN: Objection.

17 Q I believe that you also previously told me you
18 do about four to six defense exams a week?

19 A Yes, sir.

20 Q And with regard to the evaluation you gave to
21 the Jury here today regarding Mr. Nasr's
22 injuries, you were retained or hired by Mr.
23 Hansen's law firm; is that correct?

24 A Yes, sir, I was retained.

25 Q And I note that you have a bill in there that

1 you were paid \$450 for the exam --

2 A Yes.

3 Q -- and the two page report you did?

4 A No. I was paid for my time in doing the
5 examination, reviewing the chart and then
6 getting my things together and then submitting a
7 report. I could have extended the five pages,
8 but the charge would have been the same.

9 Q Okay. And that charge was \$450?

10 A \$450, yes, sir.

11 Q In addition, I would presume you submit a bill
12 for your opinions here today in the deposition;
13 correct?

14 A Yes. I've already been paid.

15 Q And what are your charges for today?

16 A \$950.

17 Q Okay. So total that you've been paid thus far
18 in this case would be 1,350?

19 A Yes.

20 Q For what you've done?

21 A Yes.

22 Q Would it be more if you came to court to
23 testify?

24 A If I had gone to court instead or in addition
25 to?

1 Q Instead.

2 A Instead. Yeah, it would be more, because that
3 involved travel and more time involved
4 Certainly.

5 Q And you're paid this 1,350 PX r. Hansen's firm;
6 that's correct?

7 A Oh, yeah Sure

8 Q Let's turn to your review of this case, Doctor.
9 Would you tell the Members of the Juror
10 what items you reviewed in preparing for your
11 testimony here today?

12 A I have to go over the piece PX piece

13 Q Just Briefly I mean, I don't need you to --

14 A Well, the treating Doctor, and then there was a
15 Dr. Essig, I believe, who was an orthopedic
16 surgeon who saw him on one occasion. A lot of
17 pills, but they're all in here
18 Okay.

19 A And I believe an MRI report, which indicated
20 what was found on the RI study

21 Q Okay You gave me the opportunity to look
22 through that file Is that the extent of what
23 you've looked at in this case, Doctor?

24 A Yes, I've had no other material other than what
25 I gave you.

- 1 Q I didn't see physical therapy notes in there. I
 2 presume you won't have physical -- actually from
 3 the therapists' transcripts?
- 4 A All I see is --
- 5 Q Dr. Orra's notes?
- 6 A Orra's notes on what was done. You know,
 7 biochemistry, electrical stimulation, that type of
 8 thing
- 9 Q Okay. But the actual therapists' notes are not
 10 in there?
- 11 A Well, let's see. There was a therapist set up.
- 12 Q Right. The MRI and the x-rays that we talk
 13 about. You've looked at the reports but you've
 14 actually not looked at the films to ourselves,
 15 have you?
- 16 A That's correct.
- 17 Q How about Dr. Orra's October 14th, 1995 report.
 18 Did you look at that?
- 19 A If it's in here I will. Let me look at it
- 20 Q Okay.
- 21 A I'm trying to find that October date. I have
 22 one other than that date. I haven't seen
 23 it. I don't think it's in here, as far as the
 24 date. I have another one, though.
- 25 Q Okay. How about orthopedic surgeon Patricia

1 Hergenroeder's report, do you have that one,
2 Doctor?

3 A No, I do not.

4 Q How about orthopedic surgeon Kenneth Marks'
5 multiple reports, do you have those?

6 A I know I don't have reports but I have notations
7 by Dr. Marks.

8 Q Okay. But you don't have any of Dr. Marks's
9 formal reports that were prepared in this case?

10 A No, I don't have a formal report.

11 Q You mentioned doctor -- or I had just mentioned
12 Dr. Kenneth Marks, do you know him?

13 A I met him on one occasion, I've also referred
14 two cases to him.

15 Q Okay. He's a member of the Cleveland Clinic
16 Orthopedic Department?

17 A He's the head of the department.

18 Q Now, with regard to the materials that you've
19 reviewed and we've just discussed, those
20 materials were sent to you by Mr. Hansen's law
21 firm; is that correct?

22 A Yes, sir.

23 Q And they decided what to send you in terms of
24 what they want you to review; is that correct?

25 A I don't know. But I presume that's involved.

1 And I understand they sent me report that that was
2 available at the time they had me see him.

3 Q Okay

4 A Now, I don't know whether Hergronroder or others
5 made reports after I saw seen him

6 Q Okay put nevertheless, they had the
7 opportunity to send those things to you up until
8 this date in 1996; correct?

9 A You mean after I had submitted a report?

10 Q Right

11 A Sure Yes, they would

12 Q Let's switch gears here, Doctor.

13 You are aware that Mr. Nasr left Xmas got
14 innocent between the two persons do you have
15 any other history regarding how this accident
16 happened other than Mr. Nasr's statement to you?
17 No, that's the only history that I have, that
18 that's how it occurred

19 Q Okay And that's the statement that you noted
20 in your report and you talked about today?

21 A Yes.

22 Q You're also aware that in June '93 was a
23 marking lot attendant, basically was on his feet
24 all day; correct?

25 Y. E

1 Q You're aware that immediately after this
2 accident he tried to continue working for a
3 period of time at his job?

4 A Yes, he worked several months.

5 Q And I think you discussed with him in his
6 history, that the more he was on his feet after
7 the accident the more pain and swelling he had?

8 A Yes, that's what he said.

9 Q You're also aware that by history he never had
10 any pain or never injured his left knee before;
11 correct?

12 A That's what he told me.

13 Q And you don't have any evidence to the contrary,
14 do you?

15 A No.

16 Q Doctor, one thing before we continue. I note
17 that Mr. Hansen really did not ask you to
18 address or comment on any of the opinions given
19 by the other orthopedic surgeons; isn't that
20 correct?

21 A No, he didn't ask me.

22 Q And the orthopedic surgeons' opinions that at
23 least you have in your file are Dr. Marks and
24 Dr. Essig; correct?

25 A Yes, sir. Yes.

1 Q Dr. Essig is also an orthopedic surgeon?

2 A Well, I don't know him. But it's identified as
3 such in here.

4 Q Okay. You'll agree for the Jury's purposes,
5 that Dr. Orra and Dr. Marks are in a better
6 overall position to evaluate Mr. Nasr's injuries
7 and current physical condition for the period of
8 June '93 until the present date, wouldn't you
9 agree?

10 A If they have seen him after I had seen him then
11 they would know what's going on now. But up'
12 until the time that I saw him I think that I'm
13 in an equal position.

14 Q You were in -- I'm sorry, equal position?

15 A I think I'm in an equal position to evaluate --

16 Q Okay.

17 A -- up until that date. After I had seen him,
18 that's something else. If they've seen him
19 since and they've got other findings then
20 that's, of course, they're seeing him and I'm
21 not.

22 Q Okay. And I think you'll agree that the
23 conditions that Mr. Nasr has in his left knee
24 can and do cause pain and limitation in motion;
25 correct?

1 A Yes, it can.

2 Q You also agree, that one of the problems with
3 his knee, needs to be repaired by surgery, I
4 heard Mr. Hansen ask you that?

5 A No. He -- No. I said that it can't be
6 repaired. What he needs is removal of the torn
7 portion, I stated that you cannot repair this.

8 Q I apologize. He does need surgery, though, to
9 deal with that condition?

10 A Yes.

11 Q All right. Now, in your -- in the historical
12 part of your report, Doctor, if you can please
13 refer to Page 2.

14 A Yes, sir.

15 Q Your testimony was a little bit different today
16 than what is in your report. The very top
17 paragraph you state "Mr. Nasr also did not
18 injure any other area of his body at the time
19 this occurred." That's what he told you at the
20 time?

21 A Yes, sir. In other words, he didn't injure his
22 back or these other things, the only thing he
23 said that was injured was his knee.

24 Q Okay. Are you aware that he had some complaints
25 of other body parts later on developing?

1 A No, he didn't tell me that he had any other
2 thing develop elsewhere.

3 Q Did you note those, though, in the reports that
4 you had in your file?

5 A I don't know. I can't see anything where he had
6 that. Maybe you could point this out to me.

7 Q Well, the October 18th, 1995 report by Dr. Orra
8 talks about low-back pain due to disturbed gate,
9 secondary to the damage to his knee.

10 A First of all, I don't have that. And I don't
11 agree with that. I think that's a bunch of 'you
12 know what.

13 Q Okay. You don't have that and you haven't
14 looked at it?

15 A No, I don't have it. But if someone is
16 attributing something to a gate and trying to
17 say that he's got a back problem, I don't buy
18 that at all.

19 Q Anatomically, medically, absolutely not even
20 there?

21 A No.

22 Q Okay.

23 A No way.

24 Q All right. We're nearly through here, Doctor.

25 Now, with regard to Mr. Nasr, you've been

30

1 ask~~ed~~ to ~~evaluat~~ what, basical~~ly~~ two components
 2 of his kn~~ow~~, two injuri~~es~~?

3 A I've ~~asked~~ to ~~evaluat~~ the ~~gentl~~man to
 4 begin with.

5 Q Okay.

6 A It so happens that the M I came up with things
 7 that indicat~~e~~ that the~~r~~ is tearing of
 8 cartilag~~es~~, as well as a collat~~er~~al ligam~~en~~t

9 Q Okay Now, with regard to Mr. Nae~~r~~'s tearing
 10 t~~e~~ cartilag~~e~~ and ligam~~en~~ts, as far you know ha~~v~~e

11 we~~r~~e --
 12 on- ligam~~en~~t, not ligam~~en~~ts

13 Q Ligament.

14 A There's a difference.

15 w~~ith~~ regard to the ligam~~en~~t and the cartilag~~e~~ --

16 two is more than one

17 -- that he ha~~v~~e, he ne~~v~~er ha~~v~~e any problems w~~ith~~ th
 18 those ~~for~~ June of '98, as far as you know;
 19 correct?

20 No. I don't think he has any probl~~em~~ with his
 21 ligament now. That's ha~~v~~ing, as in~~de~~ed~~ed~~ ~~by~~ my
 22 examination

23 Q The ligament?

24 A Ligament, sur~~e~~

25 Q Okay Now, we know that his kn~~ow~~ got squ~~are~~ z~~er~~o

1 between these two bumpers in June of '93;
2 correct?

3 A Yes, sir.

4 Q And only two months later he had an MRI, which
5 showed all the findings that you read to the
6 Jury; correct?

7 A Yes.

8 Q And between the accident of June of '93, the MRI
9 of August of '93, as far as you're aware he had
10 no other injury or accident to that left knee.;
11 correct?

12 A No, I'm not aware of any subsequent injury.

13 Q Now, you've read the reports, or at least the
14 notes of Dr. Marks and you've read Dr. Essig's
15 report. They relate the meniscus injury and the
16 ligament injury to this accident, you disagree
17 with that?

18 A No. It's just that's most difficult to try to
19 understand how that type of tearing to cartilage
20 from a front-to-back situation could occur.

21 Q Okay. Well, let's be fair then. I
22 understand --

23 A But, you know -- but it's there and I'm not
24 disputing it, it's found on the MRI and, you
25 know.

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Q You just find it hard to understand. But it's
no impossible; is that correct?

A No, it's not impossible, it's difficult in the
sense how that particular tear could occur.

Q All right Let's talk about the second part of
Mr. Naeer's injuries The perineal nerve injury,
are you aware of that Doctor?

A I see that he has the complaints of pain and the
distribution. And it's entirely possible that
that area could have been squashed because he
did have this osteochondroma at that point --
Okay.

A -- and the nerve is in that vicinity and that
could happen. But by the time I had seen him,
for practical purposes, he had recovered from
that. That's a temporary thing, it's not a
permanent thing.

Q Let me ask you something, Doctor. I want to
read something to you.

'He says that there's an injury that
occurs from squeezing of the knee from front to
back between two bumps. This injury would
likely cause contusion and swelling. The
perineal nerve condition, which is present,
could have been aggravated by the contusion

1 The only thing that will improve his complaints
2 in the perineal nerve would be excision of the
3 osteochondroma." Do you know who made those
4 statements, Doctor?

5 A Dr. Morris. But that's not necessarily true.

6 Q I would submit to you, Doctor, that those
7 statements were made by you in your report.

8 A Well, I also know that Dr. Marks said that, as
9 well. But when I examined him he didn't have
10 any problem with the nerve and I also feel that
11 he should have that removed.

12 Q Okay. You were saying before that those
13 statements were not necessarily true. Doctor,
14 again, I would submit to you, that those are
15 taken right out of Page 3 of your report.

16 A Yes. And if --

17 MR. CZACK: I don't have
18 anything further, Doctor. I haven't asked the
19 question.

20 REEXAMINATION OF RALPH J. KOVACH, M.D.

21 BY MR. HANSEN:

22 Q Would you like to finish your answer?

23 MR. CZACK: I didn't ask a
24 question.

25 Q Dr. Kovach, I have just a couple more questions.

1 Mr. Czack asked you frequently about the
2 medical history that Mr. Nasr provided you.
3 When you take a medical history you have to rely
4 essentially on the patient's honesty; isn't that
5 correct, in order to get an accurate history?

6 A Yes.

7 MR. CZACK: Objection. Move
8 to strike.

9 Q Earlier you indicated that surgery, arthroscopic
10 surgery, would be required to remove the
11 menisci. Would the osteochondroma be excised
12 during the same surgery?

13 A Some people feel that they might possibly be
14 able to do both procedures at the same sitting.
15 But one would require you to be on your back and
16 would call the thigh holder so that you can move
17 the arthroscopic surgery to the knee from the
18 front. To get to the osteochondroma you'd have
19 to go through the back. So if you would want to
20 do it, take the osteochondroma out by -- and
21 then change the position and redrape and reprep
22 and try to do the arthroscopy at the same time,
23 it's possible. But my opinion is, that it would
24 be much safer to do it in two sittings.

25 MR. HANSEN: Thank you. I

1 have nothing further.

2 REEXAMINATION OF RALPH J. KOVACH, M.D.

3 BY MR. CZACK:

4 Q Doctor, right along those lines, what would --
5 do you do that surgery yourself?

6 A Yes.

7 Q What would the cost of that be and what would
8 the --

9 A The osteochondroma would be, oh, about \$1,000 to
10 1,200 at the most, depending on how much the
11 section you had to do along with the perineal
12 nerve.

13 Q Okay. And you'd have to actually get in there
14 and look at it? Is that done by scope or is
15 that done by --

16 A No. No. That's done with cutting. That's the
17 removing of a piece of bone. And in that area
18 of bone you have to insect out the nerve and do
19 it with care so you don't cause any other
20 injuries. Then they'd be a little bit trickier
21 to do and that's why, as I say, it would vary as
22 to time and extent of it involved.

23 Q Sure.

24 A But I think it's really only -- you would have
25 to look at the nerve.

1 Q Sure. And that's something that you do on an
2 outpatient basis or is that inpatient basis?

3 A Could be done as outpatient.

4 Q Okay. And --

5 A If you find that you had so much a section that
6 you might want to keep an individual overnight,
7 then that's a possibility.

8 Q You have to wait until you open them up?

9 A Yeah. But I would think it's possibly as an
10 outpatient. I've done it as an outpatient. But
11 everybody is different.

12 Q Now, in terms of the recovery time for that, I
13 know Mr. Hansen asked you about the arthroscopy
14 earlier. What about the recovery for this?

15 A For that, that would be about three or four
16 weeks.

17 Q Okay. And would any rehab be involved in that
18 in terms of therapy exercises?

19 A You do the exercise at home. You don't need any
20 rehab. That's overdone in most instances.

21 Q Okay.

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

24 MR. HANSEN: I don't have any
25 further questions, Doctor.

1 You have the right to review this
2 transcript and the videotape. Would you like to
3 waive your right?

4 THE WITNESS: I waive.

5 MR. HANSEN: Thank you

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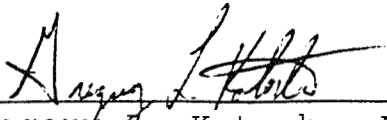
1 THE STATE OF OHIO,) SS: CERTIFICATE
2 COUNTY OF CUYAHOGA.)

3 I, Gregory L. Koterba, a Notary Public within
4 and for the State of Ohio, duly commissioned and
5 qualified, do hereby certify that the within-named
6 witness, RALPH J. KOVACH, M.D., was first duly sworn to
7 testify the truth, the whole truth and nothing but the
8 truth in the cause aforesaid; that the testimony then
9 given by him was by me reduced to stenotype in the
10 presence of said witness, afterwards transcribed on a
11 computer/printer, and that the foregoing is a true and
12 correct transcript of the testimony so given by him, as
13 aforesaid.

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

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

20 IN WITNESS WHEREOF, I have hereunto set my hand
21 and affixed my seal of office at Cleveland, Ohio, on
22 this 1ST day of March 1996.

23 
24 Gregory L. Koterba, Notary Public
25 within and for the State of Ohio
My Commission expires January 12, 2000.