

IN THE COURT OF COMMON PLEAS  
OF CUYAHOGA COUNTY, OHIO

DAVID EDWARDS, et al.,

Doc. 247

Plaintiffs,

vs.

Case No.

MARK MCGEE, et al.,

250420

Defendants.

JUDGE CORRIGAN

Deposition of RALPH J. KOVACH, M.D.,

called for examination under the statute, taken  
before me, Diane J. Cross, a Registered  
Professional Reporter and Notary Public in and  
for the State of Ohio, by agreement of counsel,  
at the offices of Ralph J. Kovach, M.D., 9700  
Garfield Road, Garfield Heights, Ohio, on  
Thursday, April 13, 1995, at 10:10 o'clock a.m.

COPY



## 1 APPEARANCES:

## 2 On behalf of the Plaintiffs:

3 Friedman, Domiano &amp; Smith

4 Co., L.P.A., by

5 LISA M. GERLACK, ESQ.

6 1370 Ontario Street

7 Suite 600

8 Cleveland, Ohio 44113

9 216-621-0070

## 10 On behalf of the Defendant:

11 Gallagher, Sharp, Fulton &amp; Norman, by

12 PATRICK M. FOY, ESQ.

13 7th Floor

14 1501 Euclid Avenue

15 Cleveland, Ohio 44115

16 216-241-5310

17 -----

## 18 ALSO PRESENT:

19 Kurt Henschel, Videographer

20 -----

21 -----

22 -----

23 -----

24 -----

25 -----

Y9100



1 (Thereupon, Defendants' Deposition  
2 Exhibits Y and Z were marked for  
3 purposes of identification.)

4 - - - -

5 KURT HENSCHL: Today is April 13th,  
6 1995, we're on the record at 10:09.

7 Would the notary please swear in the  
8 witness?

9 MR. FOY: Let the record reflect that  
10 we're here today to take the videotape deposition  
11 of Dr. Ralph Kovach in the case of David Edwards,  
12 et al, versus Mark McGee, et al, for use at  
13 trial.

14 This deposition is being taken by  
15 agreement of counsel and I would ask that any  
16 defects in service and notice be waived.

17 MS. GERLACK: Yes.

18 RALPH J. KOVACH, M.D., of lawful age,  
19 called for examination, as provided by the Ohio  
20 Rules of Civil Procedure, being by me first duly  
21 sworn, as hereinafter certified, deposed and said  
22 as follows:

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

24 BY MR. FOY:

25 Q. Doctor, would you please state your



1 name for the jury?

2 A. Ralph Kovach.

3 Q. And what is your occupation?

4 A. I'm an orthopedic surgeon.

5 Q. And we're here today -- what is your  
6 business address, Doctor?

7 A. It's 9700 Garfield Boulevard.

8 Q. And is this your -- your office?

9 A. Yes.

10 Q. All right. You said that you're an  
11 orthopedic surgeon. Could you tell the jury,  
12 please, a little bit about what is an orthopedic  
13 surgeon?

14 A. Well, first of all, he's a surgeon,  
15 he's had training in the treatment of injuries  
16 and diseases of the musculoskeletal system, and  
17 to break it down to a lay translate that means  
18 the bones, ligaments, joints, muscles, nerves as  
19 they are involved in the locomotion.

20 Q. Okay. And how long have you been an  
21 orthopedic surgeon?

22 A. I've been in practice since 1958.

23 Q. I'm going to hand you what has been  
24 marked as Defendants' Exhibit Z and ask you to  
25 identify that document for us, Doctor. Is that



1 your curriculum vitae?

2 A. Yes, it is.

3 Q. Is that curriculum your most current  
4 curriculum vitae?

5 A. Yes, except the last thing, I'm now  
6 immediate past president of the medical staff at  
7 St. Alexis.

8 Q. You're immediate past president?

9 A. Yes.

10 Q. Other than that everything on this  
11 curriculum vitae is current?

12 A. Yes.

13 Q. Great. Now, Doctor, could you just  
14 explain to the jury your -- just briefly your  
15 educational background?

16 A. I graduated from the University of  
17 Dayton in Dayton, Ohio, Bachelor of Science  
18 degree in 1950. I graduated from Loyola  
19 University School of Medicine, that's in Chicago  
20 Illinois, 1953. After that I interned at St.  
21 Luke's Hospital in Cleveland, 1953 to 54. And I  
22 completed orthopedic residency training program  
23 at St. Luke's in Cleveland, that was from 1954 to  
24 1958. And I started practice July of 1958.

25 Q. Have you been in private practice



1 then in orthopedic surgery since 1958?

2 A. Yes, sir.

3 Q. Are you currently affiliated with any  
4 hospitals, Doctor?

5 A. Yes.

6 Q. And what hospitals are those?

7 A. St. Luke's, Marymount, St. Alexis  
8 Deaconess and Bedford.

9 Q. Are you a member of any learned or  
10 professional associations or organization?

11 A. Yes.

12 Q. Can you just tell us a few of those,  
13 please?

14 A. The Cleveland Orthopedic Society,  
15 Academy of Medicine of Cleveland, Ohio Orthopedic  
16 Association, Ohio Medical Association, American  
17 Academy of Orthopedic Surgeons, Mid-America  
18 Orthopedic Association.

19 Q. Doctor, are you board certified?

20 A. Yes.

21 Q. Can you just explain to the jury  
22 briefly what board certification is and how one  
23 becomes board certified in a certain area of  
24 medicine?

25 A. In my instance I was certified by the



1 American Board of Orthopedic Surgery, and this is  
2 the board that's been set up to certify the  
3 qualifications of individuals who apply for  
4 certification. So the necessary prerequisites  
5 are graduation from the medical school, qualified  
6 training in a certified program, then  
7 examination, both written and oral at the  
8 completion of the training, then review of the  
9 individual's practice for a period of two years  
10 and then another written and oral examination.  
11 If those are all satisfactorily completed then  
12 the individual is certified as being capable of  
13 practicing orthopedic surgery.

14 I was certified in 1962.

15 Q. Doctor, are you currently an  
16 instructor or have you ever been an instructor in  
17 the medical field?

18 A. Yes.

19 Q. And that was two questions I guess.  
20 How about currently?

21 A. Yes, I'm currently.

22 Q. And where is that?

23 A. I teach at the orthopedic residency  
24 training program at St. Luke's Hospital.

25 Q. And you mentioned in your curriculum



1 vitae that there's a change, that you are now  
2 past president of the medical staff at St. Alexis  
3 Hospital. How long were you president of the  
4 medical staff?

5 A. Ten years ago I was president for one  
6 year and then I had a second term, which I just  
7 completed, and it was president elect for two  
8 years and just completed a two year term as  
9 president.

10 Q. Now, Doctor, did you perform an  
11 examination of a David Edwards?

12 A. Yes.

13 Q. Do you recall how it is that you came  
14 to examine Mr. Edwards?

15 A. Yes. The firm that you represent  
16 contacted me and asked that I do an examination  
17 on this individual and submit a report.

18 Q. Okay. And did you, in fact, examine  
19 Mr. Edwards and submit a report?

20 A. Yes, I did.

21 Q. I'm going to hand you what has been  
22 marked as Defendants' Exhibit Y and ask you to  
23 identify that as your report.

24 A. Yes, it is.

25 Q. All right. Do you also have a copy



1 of that report in your file, Doctor?

2 A. Yes, I have.

3 Q. And in front of you do you have your  
4 file and the documents that you received?

5 A. Yes.

6 Q. Please feel free to refer to your  
7 file and your report during my examination.

8 Can you tell us, Doctor, and tell the  
9 jury, when was the first time you saw Mr.  
10 Edwards?

11 A. The first time I saw him, and  
12 actually the only time I saw him, was on October  
13 24th of 1994.

14 Q. All right. And was that here in your  
15 office?

16 A. Yes.

17 Q. And at that time then you performed  
18 an examination, correct?

19 A. Yes, I did.

20 Q. And as part of that examination did  
21 you take a history from Mr. Edwards?

22 A. Yes.

23 Q. Could you tell the jury what history  
24 Mr. Edwards gave you?

25 A. This gentleman told me that he was



1 involved in a motor vehicle accident, that the  
2 date of the accident was November 10th of 1992,  
3 and that he was wearing seat belts, and the  
4 automobile in which he was the driver was hit in  
5 the right rear part of the car by a steel hauling  
6 truck.

7 Q. Now, Doctor, let me stop you there.

8 A. Yes.

9 Q. Did Mr. Edwards tell you or mention  
10 to you that he had been involved in a -- in an  
11 automobile collision after the automobile  
12 collision of 1992 but before that he saw you?

13 A. No, he did not.

14 Q. All right. Could you continue,  
15 please? What other history did he give you?

16 A. So he told me that at the time of  
17 this collision he was making a left-hand turn,  
18 and when he had this collision he said that his  
19 left knee struck the area about the door on the  
20 left side of his knee. And he also told me that  
21 no other part of his body made any contact with  
22 the interior of his automobile.

23 He said that he got out of the car  
24 and stood up and that his left knee, using his  
25 words, kind of gave way, but he never actually



1 did fall down to the ground.

2 And from that accident site he was  
3 taken by a rescue squad to St. Alexis Hospital  
4 emergency room. He said that he was examined  
5 there, he had some x-rays taken and he was  
6 released.

7 And after he was released he said he  
8 went to various physicians for treatment and also  
9 some treatment at the Veteran's Administration.

10 And he said he was having pain in his  
11 back and pain in his left knee, so that more  
12 x-rays were taken but no broken bones were  
13 found.

14 He said that he did go for physical  
15 therapy treatments at a place called the  
16 Cleveland Therapy Center, and mostly his  
17 treatments consisted using heat and massage, and  
18 he said these seemed to help him.

19 Then he said that at first he did  
20 have some pain in the neck area but that that  
21 painful area had completely subsided.

22 Q. Did Mr. Edwards tell you at that  
23 time, Doctor, what areas of his body were being  
24 treated by physical therapy at the Cleveland  
25 Physical Therapy Center?



1 A. Well, looking at the records it was  
2 his left knee and his neck and upper part of his  
3 back of the shoulder area.

4 Q. Okay. Now, you say that you looked  
5 at records. So in addition to seeing Mr. Edwards  
6 you also had in your possession medical records  
7 and films, is that correct?

8 A. Yes.

9 Q. All right. We'll get into what those  
10 records were. Could you please continue and tell  
11 us what other history he gave you?

12 A. So he said that because he was  
13 continuing to have problems he went to another  
14 orthopedic surgeon and he had studies called  
15 MRIs. And then after that was performed he had  
16 one injection into his back and he said that this  
17 was done only one time.

18 He also told me that he had been  
19 given a back support to use and he stated that  
20 seemed to be helping him.

21 Q. Now, when you say he had an injection  
22 in his back, Doctor, what are you referring to?

23 A. Upon review this was what's called an  
24 epidural injection. That's an injection into  
25 part of the lower back where he had the



1 injection, and a long spinal needle is placed  
2 through the skin between the spinous processes of  
3 the bones and lower back and just go right  
4 through the covering but not into the covering of  
5 the spinal cord or the nerves. So it's called an  
6 epidural injection because it's given outside of  
7 the spinal fluid but over the covering of those  
8 areas. And usually the injection is a local  
9 anesthetic such as Novocain or some other type  
10 and usually with some type of cortisone, one  
11 variety or another.

12 Q. And in speaking with Mr. Edwards and  
13 reviewing the records were you able to determine  
14 how many of those injections he did have?

15 A. At the time I saw him and of the  
16 records that I had been furnished that had been  
17 done only once.

18 Q. Doctor, to go back a minute, when you  
19 examined Mr. Edwards was he alone?

20 A. No, he was with a representative, his  
21 attorney.

22 Q. Okay. All right, please continue.  
23 Did he talk to you about any medications that he  
24 was on?

25 A. At the time he said the medications



1 were primarily for diabetes and at that time he  
2 was not taking anything else.

3 Q. Okay. Was there anything unusual  
4 about Mr. Edwards when you saw him about his  
5 physical condition when you saw him?

6 A. Well, at the time I saw him he was  
7 using a cane and he had a -- what we call a  
8 surgical boot. It's just a shoe in case you have  
9 an injury or swelling of your foot you use that  
10 instead of your regular shoe because you may have  
11 swelling or pain and you can't really fit in a  
12 shoe comfortably, so we use these things that  
13 kind of go over it, because he said that he had  
14 had a fracture on one of the bones of his foot  
15 which had occurred just about six days before I  
16 examined him. And the way that happened he said  
17 he missed a step. And he injured that bone  
18 that's called the fifth metatarsus, and that's  
19 the bone on the side of your foot.

20 Q. It's your understanding that that had  
21 no relationship to why you were examining Mr.  
22 Edwards, is that correct?

23 A. No, that was a recent thing. It had  
24 nothing to do with the problems that I was seeing  
25 him for.



1 Q. Did you talk to him about any of his  
2 previous medical history?

3 A. Yes.

4 Q. And what did he tell you?

5 A. Well, he told me that he had never  
6 had any prior back problems, had never had any  
7 prior knee problems, and he also didn't tell me  
8 whether or not he had been in any accidents  
9 before that time and said the only accident he  
10 could recall was the accident of November 10th,  
11 1992.

12 Q. And he certainly didn't tell you  
13 about any accidents that he had after that  
14 November 10th.

15 A. No, he did not.

16 Q. Now, in addition, then, to receiving  
17 the records, which we'll talk about, taking an  
18 examination and doing a history of Mr. Edwards,  
19 did you also do a physical examination?

20 A. Yes.

21 Q. And could you tell the jury what your  
22 physical examination consisted of?

23 A. Well, I looked at this gentleman and  
24 showed that he was normally developed, he  
25 appeared to be well nourished, didn't appear to



1 be in any starvation type of situation or  
2 anything, seemed to be fairly good health.

3 Just by appearance he appeared to be  
4 about 70 years old. He didn't appear to be  
5 having any distress at the time, by that I mean  
6 he wasn't extremely uncomfortable or anything, he  
7 didn't appear to be anything like that.

8 And as I said, he was using a cane  
9 and that he used to help him walk and he had this  
10 boot on his left foot.

11 And so I checked his posture, that  
12 was within normal limits, I didn't find anything  
13 unusual. And I felt his back from his neck down  
14 to his buttocks, all over the entire back, I  
15 didn't find any areas of muscle spasm at that  
16 time.

17 And I saw that he was able to sit on  
18 the edge of my examining table, and he did this  
19 without any problems.

20 And I checked his reflexes in his  
21 arms and in his legs and all the reflexes that  
22 should be there were there and there was no  
23 difference from one side to the other, except  
24 that I couldn't find the reflexes at his knees,  
25 and that was on both sides.



1 Q. Did that have any significance to  
2 you?

3 A. No, because it's both sided and that  
4 frequently is unable to be found in older  
5 individuals.

6 Then I stretched the sciatic nerve by  
7 doing what we call a straight leg raising test.

8 Q. What is the sciatic nerve?

9 A. That's the nerve that comes down from  
10 your lower back down the back of your thigh back  
11 into the lower leg down into the foot. And it  
12 supplies nerves that help you move the muscles of  
13 your lower extremity, also carries sensation back  
14 up to the brain.

15 Q. Okay. You said you did some testing,  
16 how were those tests done?

17 A. Well, when he was seated, knees are  
18 bent to 90 degrees, I pulled it out straight and  
19 then I pressed into the back of knee, put more  
20 tension on the nerve, and that did not produce  
21 any difficulty. So that was a normal finding.  
22 And that was same on both sides.

23 And also checked him to see if there  
24 was any changes in sensation in his arms or in  
25 his legs, and that was no difference. I didn't



1 find any weakness in his legs when I checked that  
2 to indicate there was no muscle problem there.

3 And then I checked his knees when he  
4 was lying down and while he was seated and there  
5 was no instability, by that I mean the ligaments  
6 were intact and his knees were not moving in any  
7 -- in any abnormal manner when I stressed them.

8 And I also felt his knee while he  
9 moved the knees and I didn't feel anything  
10 unusual. There was no grinding sensation. I  
11 also moved his kneecap against the femur bone,  
12 which is your thigh bone, down at the knee, and  
13 do what we call a grind test, and that was not  
14 uncomfortable and didn't produce any crunching  
15 sensation. There was no free or excess fluid in  
16 the knee, we call it a joint effuse, and that was  
17 not present.

18 Q. Any swelling?

19 A. Yeah, there was none.

20 Q. Okay.

21 A. And also did what we call a McMurray  
22 test to see if there was any problem with the  
23 cartilages in the knee. These are the washer  
24 like ones that we have. There's one on either  
25 side of the knee, so we have two in each, and



1 checked both knees, of course, and that test was  
2 normal on both sides.

3 Q. Did you also then examine and do any  
4 examination on his back?

5 A. Yes. And when he was lying down --  
6 of course I examined his back while he was  
7 standing and while he was sitting, but also while  
8 he was lying down and lying in the prone  
9 position, that means lying down on his abdomen.

10 I could see that when he was lying on his abdomen  
11 he was able to turn his neck fully from one side  
12 to the other. In other words, he wasn't lying  
13 flat on his nose but he could turn his head from  
14 side to side out without any problem.

15 I didn't find any areas of tenderness  
16 when I pressed on the muscles of the upper back  
17 and middle back, the muscles in the back of the  
18 shoulder or in the lower back area.

19 And I did what we called a skin  
20 roller test, pick up the skin between the fingers  
21 and it should be supple, such as that, and it  
22 should be painless when I do that; and that's  
23 what it was, it was painless and it was supple.

24 And also I didn't find any areas that  
25 we call trigger point tenderness anywhere over



1 the entire back area. And you look for that by  
2 doing the skin rolling, also pressing on the  
3 various areas. So he didn't have those at that  
4 time.

5 Q. Doctor, can you tell us, to go back  
6 into the history briefly, what areas of the body  
7 that Mr. Edwards was -- had complaints of when he  
8 saw you in November of 1994 -- or October, I'm  
9 sorry.

10 A. He complained of his knee and lower  
11 back.

12 Q. Did he make any mention to you,  
13 Doctor, of any problems with his hip?

14 A. None.

15 Q. Okay, great. Now, in addition -- now  
16 we're up to the medical records.

17 So in addition to the taking of the  
18 history and doing a physical examination you did  
19 review the medical records. Does your report  
20 indicate what medical records you reviewed?

21 A. Yes.

22 Q. Could you please tell the jury what  
23 records those were?

24 A. These were records of Dr. Curtis  
25 Smith, the Cleveland Therapy Center, Dr. Jeffrey



1 Morris, Dr. Leizman, L E I Z M A N, and MRI  
2 films.

3 Q. In addition to some MRI reports you  
4 also reviewed the actual films?

5 A. Yes.

6 Q. And you had those here in your  
7 office, is that correct?

8 A. Yes, sir.

9 Q. All right. Now, Doctor, on the basis  
10 of your examination, do you have an opinion --  
11 first of all, why don't you go ahead and tell us  
12 what you found, if anything, based on your  
13 examination.

14 A. Well, this is a normal examination of  
15 a man who is 70 years old. He's a man who has a  
16 fresh fracture in his foot which has nothing to  
17 do with what I was examining for, it's something  
18 entirely different.

19 I did a neurological examination  
20 showing that by this examination there was no  
21 problem with any nerve root pressure anywhere.

22 And my examination of his back didn't  
23 show anything unusual from the way of  
24 externally. There was no muscle spasm, no  
25 painful area, and skin was not bound down at any



1 point, it's supple showing he has nothing such as  
2 myofascitis.

3 Q. Which is?

4 A. Which is painful condition of the  
5 muscles, and he didn't have that.

6 And also when I examined him my  
7 examination of his -- both knees was the same,  
8 there was no difference from one to the other, it  
9 was a normal examination.

10 Q. Now, Doctor, you're not saying that  
11 this gentleman has a completely normal back, are  
12 you?

13 A. No, he doesn't have a completely  
14 normal back, but my physical examination is a  
15 normal back.

16 Q. Doctor, do you have an opinion based  
17 on a reasonable degree of medical certainty as to  
18 whether David Edwards was suffering from any  
19 injury to his back, neck, knee and hip as the  
20 result of the automobile accident of November  
21 10th, 1992 when you examined him on October 24th,  
22 1994?

23 A. When I examined him he had no  
24 problems, showing no residuals of any injuries to  
25 those areas.

CEFFARATTI-RENNILLO

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1 Q. So your opinion is? First of all,  
2 You do have an opinion.

3 A. Yes, I do have an opinion.

4 Q. And your opinion is?

5 A. That he has no problems in these  
6 areas that can be attributed to an automobile  
7 accident.

8 Q. Doctor, would you expect that one who  
9 is involved in an accident as described to you by  
10 the plaintiff in his history and in the records  
11 that you reviewed would have symptoms of any  
12 injuries that result from that accident within a  
13 short period of time after the accident?

14 A. Yes.

15 Q. And when we're talking about the  
16 injuries that we see that Mr. Edwards is  
17 claiming, would you call those soft tissue  
18 injuries?

19 A. Yes.

20 Q. And could you explain to the jury  
21 just briefly what are soft tissue injuries?

22 A. Soft tissue means anything other than  
23 bone, meaning the skin, muscle, covering of the  
24 muscle which is called fascia, ligaments are soft  
25 tissues, that type of thing.



1 Q. Okay. And Doctor, do you have an  
2 opinion based on a reasonable degree of medical  
3 certainty as to the prognosis for Mr. Edwards'  
4 future conditions as a result of the automobile  
5 accident in November of 1994?

6 A. Yes, my opinion is that he should not  
7 have any problems that can be attributed to this  
8 automobile accident.

9 Q. Great. Thank you, very much,  
10 Doctor.

11 MS. GERLACK: Off the record for a  
12 minute.

13 KURT HENSHEL: 10:32, off the record.  
14 (Recess taken.)

15 KURT HENSHEL: 10:33, on the record.

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

17 BY MS. GERLACK:

18 Q. Doctor, my name is Lisa Gerlack and I  
19 represent David Edwards in this case.

20 Doctor, so there's no question in the  
21 jury's mind I'd like to focus on your role in  
22 this litigation. You did not see Mr. Edwards for  
23 the purpose of medical care and treatment.

24 A. No, ma'am.

25 Q. Isn't that true?



1 And in fact, you conducted a single  
2 exam of him on October 24th, 1994, which was  
3 almost two years after the accident.

4 A. Yes.

5 Q. Now, Doctor, you were required by  
6 defense counsel, Mr. Betz, to conduct the exam,  
7 correct?

8 A. Yes.

9 Q. And your exam did not involve  
10 treatment, correct?

11 A. No.

12 Q. And certainly the exam was not  
13 conducted for the benefit of Mr. Edwards,  
14 correct?

15 MR. FOY: Objection.  
16 You can answer.

17 A. In what way would it be his benefit?

18 Q. Well, you weren't providing any type  
19 of medical care and treatment.

20 A. No, I wasn't providing medical care.

21 Q. And your exam that you conducted on  
22 Mr. Edwards was conducted for medical/legal  
23 purposes, correct?

24 A. Yes.

25 Q. And that means for litigation or this



1 particular case?

2 A. Oh, yes, sure.

3 Q. Now, your exam of Mr. Edwards was not  
4 the first time that you performed a medical/legal  
5 exam, correct?

6 A. No, ma'am.

7 Q. In fact, you conduct an average of  
8 three to six IMES per week, don't you?

9 A. Yes.

10 Q. And your decision to conduct these  
11 IMES is a voluntary one, correct?

12 A. Yes.

13 Q. It's not mandated by any type of  
14 medical association, correct?

15 A. No, I'm not mandated to treat  
16 anyone. I can refuse to treat anyone, too, so  
17 this is no different. I can refuse to treat  
18 individuals, too. So there's no difference.

19 Q. Right, so it's a voluntary decision?

20 A. Right, just like any physician, it's  
21 voluntary.

22 Q. And Doctor, the majority of IMES,  
23 which usually consist of the physical exam,  
24 records review and then the patient history  
25 that's received by the patient and writing a



1 report, the majority of those IMEs, independent  
2 medical exams, are conducted for defense counsel,  
3 correct?

4 A. Oh, yes.

5 Q. And you charge \$450 for the  
6 independent medical exam, is that correct?

7 A. Yes.

8 Q. And you charge \$950 an hour for court  
9 testimony such as this?

10 A. No. \$950, but not per hour.

11 Q. Pardon me?

12 A. \$950. Whether this goes for half an  
13 hour or five hours it's the same charge.

14 Q. And Doctor, can you tell us how many  
15 times you give court testimony per month?

16 A. It varies depending on whether  
17 individuals will settle or not. Sometimes they  
18 don't, so usually I'll have one a month.

19 Q. Doctor, for the type of exam that you  
20 conducted on Mr. Edwards, what is your -- what  
21 would you charge your own patients for such an  
22 exam?

23 A. My own patients --

24 MR. FOY: Objection.  
25 You can answer.



1 A. -- in a situation such as this, I  
2 would charge the same as the doctors have charged  
3 saw him for exams.

4 THE NOTARY: Charged what?

5 A. Like \$175 charged by other doctors  
6 that were involved.

7 Q. Now, Doctor, a patient's history is  
8 important to a diagnosis, true?

9 A. Yes.

10 Q. And as the defense medical doctor in  
11 this case it's important for you to review all of  
12 his -- the patient's records of treatment related  
13 to the accident, correct?

14 A. Yes.

15 Q. And when you take a history from a  
16 patient, that history is based on questions that  
17 you pose to the patient, correct?

18 A. It's based on some of the questions I  
19 ask, and I also ask them to volunteer and give me  
20 all the information and not hold back anything so  
21 that I cover as much as possible and not try to  
22 overlook anything.

23 Q. Now, Doctor, when you examine a  
24 patient who has been involved in a trauma or a  
25 traumatic incident such as a motor vehicle



1 accident it's important for you as a physician to  
2 find out the dynamics of how that particular  
3 accident happened, true?

4 A. Yes, it helps.

5 Q. Are you aware that in this case Mr.  
6 Edwards was struck by a loaded semi tractor  
7 trailer?

8 A. Yes.

9 MR. FOY: Objection.

10 A. Yes, he told me that.

11 Q. Are you aware of the weight of that  
12 particular vehicle at the time of the accident?

13 A. No, I didn't weigh it.

14 MR. FOY: Objection.

15 Q. Now, Doctor, you already told the  
16 jury the records that you reviewed in connection  
17 with your exam of Mr. Edwards, and those records  
18 included various records from the VA hospital.

19 A. Yes, there was some there.

20 Q. And you're aware from your review of  
21 those records that in December of 1992 Mr.  
22 Edwards had his left hip x-rayed at the VA  
23 hospital?

24 MR. FOY: Objection.

25 A. No, I'm not aware of it.



1 MR. FOY: Assumes facts not in  
2 evidence.

3 A. But I'd be glad to review it now,  
4 because I do have the records, I can look at it.

5 Q. Would that be significant to you?

6 A. Only that he may have had an x-ray of  
7 the hip, but he had no complaints about a hip, he  
8 complained about his back to me.

9 Q. Now, Doctor, you reviewed the records  
10 from Cleveland Therapy Center, correct?

11 A. Yes, I looked at some of those.

12 Q. And Mr. Edwards received a course of  
13 therapy to his neck and his knee and he concluded  
14 that treatment on his own somewhere in April of  
15 1993?

16 A. I'm assuming you're correct on the  
17 dates you've given and I won't dispute it. I  
18 think that was the month he said that. April  
19 1st, 1993.

20 Q. And Doctor, are you aware from your  
21 review of the VA records that were provided to  
22 you that in July of 1993 there was an entry at  
23 the VA hospital that Mr. Edwards indicated he had  
24 had chronic left hip and knee pain since the  
25 accident?



1 A. Let me pull those out.

2 MR. FOY: I'm going to object to the  
3 characterization, but if you want to show him the  
4 page --

5 MS. GERLACK: I will. I'm trying to  
6 locate it.

7 MR. FOY: I've got it.

8 MS. GERLACK: Okay.

9 MR. FOY: It's in Section 7 of that I  
10 think.

11 A. I'm trying to find that. I should  
12 have it in here.

13 Q. Doctor, if it helps I have the page.

14 A. I have these.

15 MR. FOY: Did you find it?

16 A. I'll get it. We should be looking so  
17 she can ask me from there. Yeah, I see what  
18 you're pointing to.

19 MR. FOY: Okay.

20 A. I haven't come across that yet. I'm  
21 working through all these.

22 MR. FOY: Why don't you just take my  
23 copy.

24 Is that all right, Lisa?

25 MS. GERLACK: Sure.



1 MR. FOY: Just take my copy.

2 A. Okay.

3 Q. Sorry about the delay.

4 A. That's all right.

5 Q. Now that you have the entry, which is  
6 dated July 20th, 1993, did you review this record  
7 as part of your -- the history that you took of  
8 Mr. Edwards?

9 A. Yes, I did look at this.

10 Q. And in fact, this entry reveals that  
11 Mr. Edwards, at the time he presented himself to  
12 the VA for this particular exam, he had  
13 complaints of left knee and hip pain which is  
14 unchanged since motor vehicle accident, correct?

15 A. That's what's written down here.

16 Q. Now, from the history in the records  
17 and the history that you took from Mr. Edwards  
18 you learned that Mr. Edwards was involved in a  
19 car accident, correct?

20 A. Yes.

21 Q. And following the accident you  
22 learned that Mr. Edwards complained of neck,  
23 head, knee and left hip pain, correct?

24 MR. FOY: Objection.

25 A. No, ma'am.



1           Would you repeat that?

2           Q.     Sure. Based upon your review of the  
3           medical records --

4           A.     Yes.

5           Q.     -- that you have identified that you  
6           reviewed as part of Mr. Edward's history and the  
7           history that you took from Mr. Edwards himself,  
8           you learned that following the accident Mr.  
9           Edwards had complaints of neck, head, knee and  
10          left hip pain.

11          A.     I don't have anything on the hip  
12          other than that one entry that you state at the  
13          VA hospital. Everything before that doesn't

14          reflect anything about his hip.

15          Q.     Doctor, I'm going to refer you in the  
16          tabbed documents which were marked in Dr. Morris'  
17          deposition, exhibit under Tab 7, that on December  
18          16th, 1992 Mr. Edwards had x-rays taken of his  
19          left hip at the VA hospital.

20          A.     Yes, I see that.

21          MR. FOY: Would you look at that,  
22          please, read it?

23          A.     Yes. Okay, this is a report on David  
24          Edwards dated December 16th, 1992, and it says  
25          procedure, knee, four or more views routine exam



1 modifiers, left clinical history, status post  
2 motor vehicle accident left knee hit dash, pain,  
3 swelling since, then reports views of left hip  
4 show no evidence of an acute fracture,  
5 dislocation or other bony abnormalities,  
6 calcifications and soft tissues are noted. Then  
7 it also says impression, unremarkable examination  
8 of left knee.

9 Q. Doctor, did you review that record as  
10 part of the history that you considered in  
11 writing your report?

12 A. Yeah, it says left hip but it  
13 describes the knee, so this -- I don't see an  
14 x-ray of the hip.

15 Q. Okay. And based upon your review of  
16 Mr. Edwards' records that you have in your file  
17 you learned that he received emergency room  
18 treatment following the accident, correct?

19 A. Yes. Yes, ma'am.

20 Q. And that he followed up with Dr.  
21 Smith, an orthopedic doctor?

22 A. Yes.

23 Q. And then went to the VA hospital and  
24 had x-rays taken on December 16th, the x-rays  
25 that we just referred to?



1 A. Yeah, and that's an x-ray of the  
2 knee, not a hip.

3 Q. Right.

4 A. Yes.

5 Q. And then he followed treatment and  
6 had a course of physical therapy at the Cleveland  
7 Therapy Center and then finally came to treat  
8 with Dr. Morris, correct?

9 A. Yes, he saw Dr. Morris sometime  
10 later.

11 Q. Okay. And Doctor, based upon your  
12 review of those records and the history that you  
13 took from Mr. Edwards you would agree that Mr.  
14 Edwards' history is devoid of any prior -- any  
15 evidence of any prior back injuries, correct?

16 A. As far as I can tell he didn't have  
17 any. He said he didn't have any prior back  
18 problems.

19 Q. Now, Doctor, would you agree that two  
20 or more doctors can examine the same patient and  
21 arrive at a different diagnosis?

22 A. Certainly.

23 Q. And that's quite frequent in the  
24 medical world, isn't it?

25 MR. FOY: Objection.



1 A. Yes.

2 Q. And that's why oftentimes patients  
3 get what's called second opinions, correct?

4 A. Yes.

5 Q. Now, let's talk about the exam that  
6 you took of Mr. Edwards.

7 You recall that an associate in our  
8 office was present during that exam?

9 A. Yes, ma'am.

10 Q. Your exam took -- the physical --  
11 actual physical exam of Mr. Edwards took  
12 approximately five minutes, correct?

13 MR. FOY: Objection.

14 A. Yes.

15 Q. And your exam did not include or you  
16 did not direct that any MRIs or x-rays be taken  
17 as part of your exam, correct?

18 A. No, he had already had that. There's  
19 no reason to repeat something. Those things cost  
20 \$1,000 or more. To repeat something that's  
21 already adequate, there's no reason for that.

22 Q. Now, your exam of Mr. Edwards was a  
23 search for objective findings to support his  
24 ongoing complaints of pain, correct?

25 A. I certainly try to find something



1 like that, yes.

2 Q. And the difference between subjective  
3 and objective findings or subjective complaints  
4 and objective findings boils down to what you can  
5 actually feel or see, correct?

6 A. Yes. Or smell, too.

7 Q. And your opinion that Mr. Edwards has  
8 recovered from any injuries from this accident is  
9 based in part on the fact that you personally did  
10 not find any objective findings of injury,  
11 correct?

12 A. Yes, plus review of the material that  
13 was submitted and the results of the various  
14 tests that had been performed.

15 Q. Okay. Doctor, you testified earlier  
16 that you learned in Mr. Edwards' history that he  
17 had received an epidural block prior to your  
18 exam.

19 A. Yes.

20 Q. What is the purpose of an epidural  
21 block?

22 A. In all honesty I don't know why they  
23 even bother doing them, but the results have been  
24 obtained. But all you're doing is putting a  
25 little local anesthetic to numb the nerves in an



1 area, and that's not going to do anything because  
2 the anesthetic leaves so what does it do? In the  
3 long run it does nothing.

4 The second thing is if you put  
5 cortisone in an area, what does cortisone do?

6 Q. Reduces inflammation.

7 A. Theoretically it reduces inflammation  
8 if inflammation is present, and that might  
9 temporarily help the situation if inflammation is  
10 the cause of the complaint of pain. And so the  
11 results of these things haven't been too good.

12 Q. Doctor, within --

13 A. But they are given and hopefully  
14 someone will benefit from them.

15 Q. And Doctor, what -- how long do the  
16 effects of an epidural block last?

17 A. Well, if they're going to work at all  
18 to begin with -- they usually talk about giving a  
19 series of three blocks over a period of about ten  
20 days, but if it's going to work it should work  
21 just with one. And that might help you for a  
22 short period of time if it's going to help at  
23 all.

24 Q. Okay. Doctor, you tested Mr.  
25 Edwards' range of motion, correct, during --



1 A. I observed him moving, yes.

2 Q. And that particular test calls for  
3 some type of a subjective response, correct?

4 A. Usually. Most of the time someone  
5 says I can't move beyond a certain point, so  
6 you're better off observing and see how they act  
7 and move to see if there's any real restriction.

8 Q. Doctor, you indicated that you looked  
9 for muscle spasms on Mr. Edwards which would be,  
10 if one were found, an objective sign.

11 A. Yeah, if one were present. There was  
12 none on that day.

13 Q. And you didn't find any, but it's  
14 true, is it not, that spasms are subject --  
15 muscle spasms can be better on some days and  
16 worse on others.

17 A. Yeah, just like anything else.  
18 Headache can be bad on one day and not so bad on  
19 another. That happens.

20 Q. And muscle spasms are something that  
21 cannot be faked, correct?

22 A. True muscle spasm cannot, no.

23 Q. They're either present or they're  
24 not, right?

25 A. Yes.



1 Q. Now, pain is a symptom of an injury,  
2 isn't it?

3 A. It's one of the symptoms.

4 Q. And people with injuries often  
5 complain of pain, correct?

6 A. Yes.

7 Q. And if a person is suffering from  
8 symptoms of pain you will not be able -- as a  
9 doctor will not be able to predict with any  
10 certainty when that pain will resolve, correct?

11 MR. FOY: Objection.

12 A. No one can predict, only someone can  
13 give an educated estimation of when something  
14 will get better or not get better.

15 Q. And pain is subjective, correct?

16 A. Pain is always subjective.

17 Q. It can't be felt or measured or  
18 touched?

19 A. Can't see it, either, no matter how  
20 much you grimace or reach for the ceiling when I  
21 touch a back.

22 Q. And a doctor can't feel a person's  
23 pain, correct?

24 A. Can't what?

25 Q. Can't feel a person's pain.



1 A. Oh, no. Pain is not palpable.

2 Q. And Doctor, the AMA, the American  
3 Medical Association, indicates that pain is a  
4 serious and debilitating disorder, doesn't it?

5 MR. FOY: Objection. ~~Overruled.~~

6 A. I don't know. It's a symptom, it's  
7 not a disorder.

8 Q. And at the time that Mr. Edwards came  
9 to your office for an exam he reported to you a  
10 history of chronic pain from dating back to  
11 November 10th, 1992, correct?

12 A. Yes.

13 Q. And a person can have a legitimate  
14 basis for subjective complaints of pain without  
15 any objective findings such as muscle spasm to  
16 support that particular complaint, true?

17 A. That's possible to have pain without  
18 muscle spasm, certainly.

19 Q. And basically what that means is that  
20 one can have a legitimate basis for pain even  
21 with a normal physical exam that's searching for  
22 objective findings.

23 A. Yeah, sometimes.

24 Q. Now, Doctor, you reviewed the MRI  
25 scan taken of Mr. Edwards?



1 A. Yes, ma'am.

2 Q. And that was taken in August of 1994,  
3 correct?

4 A. Yes.

5 Q. And in those -- in the MRIs it's  
6 noted that there are degenerative changes in Mr.  
7 Edwards' low back and his knee, correct?  
8

9 A. Yes.

10 Q. And degenerative changes in joints  
11 such as the knees and the spine are part of the  
12 normal aging process in humans, right?

13 A. Well, first of all, you're talking  
14 things in general now, but he didn't have any  
15 significant degenerative changes in his knee.

16 I'm not agreeing with you. You said  
17 that, I'm not agreeing that he did have that.  
18

19 Q. Okay.

20 A. But what you're talking about  
21 degenerative changes, yes, as part of a normal  
22 aging process, sure.

23 Q. All right. Would you agree with me  
24 that his MRI scan of the low back indicated that  
25 there were degenerative changes?

A. Oh, definitely.

Q. Okay. And just so we're clear, what



1 is your position with respect to the MRI that was  
2 taken of his knee in terms of degeneration?

3 A. The knee only showed what we call  
4 small osteophytes or spurs developing as a form  
5 of arthritic change. What was specific was that  
6 the overlying cartilage that lines the back of  
7 the kneecap was stated to be a normal cartilage,  
8 was not showing any softening or degeneration in  
9 that area. Also the MRI didn't show anything in  
10 the way of the tearing of any cartilage.

11 So other than having a minimal amount  
12 of osteophyte formation, which is spurs, that was  
13 pretty much a normal MRI going along with the  
14 x-rays that had been taken. And -- yes.

15 Q. Excuse me. Doctor, are osteophytes a  
16 condition of degenerative changes?

17 A. They can be, and probably are in this  
18 instance.

19 Q. And degenerative changes can exist in  
20 any person without symptoms, correct?

21 A. They can.

22 Q. And it's not -- degeneration in and  
23 of itself is not necessarily debilitating if it's  
24 without symptoms, correct?

25 A. Yes.



1 Q. And I assume that in your own  
2 practice you have seen patients with some degree  
3 of degeneration, correct?

4 A. Yes.

5 Q. And they don't have any outward  
6 manifestations of that process, are there  
7 occasions --

8 A. Well, there are no symptoms, it's  
9 just something you find and they have no  
10 problems. Yeah, that happens.

11 Q. And it's common, is it not, that when  
12 a -- a patient may have no idea that they have  
13 degenerative changes in their body until perhaps  
14 an x-ray or an MRI is taken.

15 MR. FOY: Objection.  
16 You can answer.

17 A. That's been shown frequently that you  
18 can go ahead and take an x-ray or an MRI of  
19 people who have absolutely no symptoms at any  
20 time, 20 to 40 percent of the people are going to  
21 show these changes.

22 Q. Now, Doctor, prior to November 10th,  
23 1992, Mr. Edwards, his medical history through  
24 the records and the history that he gave to you,  
25 there's no indication that he was receiving any



1 active treatment, medical treatment for the  
2 degenerative changes that were noted in the MRIs  
3 and x-rays.

4 A. No, I had no record that he had any  
5 prior treatment for that.

6 Q. And Doctor, would you agree that  
7 patients that have degenerative disk disease and  
8 degenerative changes are more sensitive to  
9 injuries because the discs are not as sound and  
10 flexible or spongy as they would be in a normal  
11 person?

12 A. Yes.

13 Q. And trauma can create symptoms of  
14 degenerative changes, pain, correct?

15 A. It's possible, yes.

16 Q. And if a person with asymptomatic, no  
17 symptoms of degenerative changes, were to be  
18 involved, like Mr. Edwards, in a car accident, a  
19 traumatic injury, that could bring on symptoms in  
20 a person with degenerative changes, correct?

21 A. That's possible.

22 Q. And Doctor, it's true, is it not,  
23 that a person who has degenerative changes and  
24 undergoes a trauma, it takes that person longer  
25 to recover because their joints and the discs are

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1 not as healthy as they would be in a normal  
2 person.

3 A. Now, we're assuming now that there  
4 was actually an injury to those particular  
5 joints. And if there is, then of course it  
6 probably would take longer.

7 Q. So just to reduce it to its simplest  
8 form, a person who has degenerative changes is  
9 sort of like an eggshell and if they're injured  
10 and the injury is significant enough to cause  
11 symptoms in the degenerative changes like pain,  
12 it would be easy to liken it to like an eggshell,  
13 correct?

14 MR. FOY: Objection.

15 A. No, that's too simplified.

16 Q. Doctor --

17 A. In an eggshell you're assuming just  
18 something around the outside and that's not what  
19 a joint is. They're not eggshell when you have  
20 degenerative changes. It's not that.

21 Q. Doctor, would you agree with the  
22 statement that trauma can trigger a degenerative  
23 process to worsen and cause pain?

24 A. Yes, if the trauma is significant to  
25 a specific area and you can show that that area



1 was specifically injured it's possible, sure.

2 Q. And Doctor, there's no cure for  
3 degenerative changes, correct?

4 A. No, degenerative changes are --  
5 putting it in everyday terms you're talking about  
6 a form of arthritis.

7 Q. Doctor --

8 A. Wearing out and you don't replace  
9 things.

10 Q. Your opinion, just so I'm clear in  
11 this case, is that at the time that you examined  
12 Mr. Edwards on October 24th, 1994, you did not  
13 find any objective findings that would lead to --  
14 you didn't find any injuries, correct?

15 A. I didn't find anything at the time I  
16 examined him other than we're dealing with a man  
17 who is 70 years old.

18 Q. And you have no reason to dispute the  
19 records that you reviewed that indicated that he  
20 did have injuries and pain and of course a  
21 treatment following the accident, correct?

22 A. I don't dispute that he had  
23 complaints and that he was examined and he had  
24 certain tests done to determine the extent of his  
25 injuries and that he did have treatments, and



1 also the complaints and the order that they  
2 arose, that's also reviewed too.

3 Q. Doctor, when Mr. Edwards came to you  
4 for his exam he did not tell you that he still  
5 had neck pain, correct?

6 A. He said he didn't have any problems  
7 with his neck.

8 Q. And in fact, he indicated to you that  
9 his neck problem had resolved itself --

10 A. Yes.

11 Q. -- following the therapy, correct?

12 A. Yes.

13 Q. Now, Doctor, you reviewed Dr. Morris'  
14 treatment records, correct, and his report?

15 A. Yes. Yes, I reviewed them. Are you  
16 going to refer to them?

17 Q. Yes.

18 A. Okay. Let me get them. Yes.

19 Q. If you could refer to Page 2 of Dr.  
20 Morris' report, the last paragraph that refers to  
21 his physical exam of Mr. Edwards' left knee.

22 A. Yes.

23 Q. Dr. Morris' exam of Mr. Edwards at  
24 the time that he wrote this report, which was in  
25 June of 1994, indicates that he did find -- have



1 abnormal findings when he did the knee exam,  
2 correct?

3 A. No.

4 Q. Okay. I'm going to refer you to --

5 A. Just read the paragraph and then  
6 go -- and I'll comment on it on what you talk  
7 about being abnormal.

8 Q. Examination of the left knee revealed  
9 no clinical change in contour, color or  
10 temperature, patellar femoral rub caused  
11 crepitus, the apprehension test was positive.

12 A. Yes.

13 Q. Now, the finding painful crepitus,  
14 what does that mean, Doctor?

15 A. It means that when he rubbed the  
16 kneecap against the lower end of the thigh bone  
17 he said that was productive of pain and that he  
18 felt that grating sensation when he was doing  
19 that.

20 When I examined him he did not have  
21 that.

22 Now, he says an apprehension test is  
23 positive, what does that mean? It doesn't mean a  
24 heck of a lot except if we're talking about  
25 someone who's got a kneecap that dislocates. And



1 if you take the kneecap and you push it out  
2 sideways, they kind of haul themselves back  
3 expecting it to dislocate. In this instance he  
4 has good stability. I don't buy that.

5 Q. You disagree with that finding of Dr.  
6 Morris?

7 A. I don't think that was present, but  
8 there again I wasn't there. I'm not saying this  
9 doctor is putting something that he didn't see.

10 Q. Okay.

11 A. But that's what an apprehension test  
12 is looking for, you're checking to see if it's  
13 going to dislocate.

14 Q. And his exam at the time he wrote  
15 this report and made this finding was about six  
16 months, five, six months before your exam,  
17 correct?

18 A. Approximately, yes, because I was in  
19 June of 94.

20 Q. Okay. I have no further questions,  
21 thank you.

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

23 BY MR. FOY:

24 Q. Doctor, I have some on redirect.

25 Doctor, I'm going to hand you -- I'm



1 going to stand up and hand it to you because it's  
2 my only copy. This is the x-ray report from the  
3 VA dated December 16th, 1992 and you were asked  
4 some questions regarding that, Doctor.

5 In your opinion, Doctor, is this a  
6 report of someone who had an x-ray of their hip  
7 or is it a report of someone who had an ray of  
8 their knee?

9 A. This is a report of the knee.

10 Q. And the word hip is in there.

11 A. Yes, the word is in there and so is  
12 the word knee.

13 Q. And in fact, the report says that  
14 it's an exam of the left knee, isn't that  
15 correct?

16 A. Says the left knee, yes.

17 Q. And under the impressions, that  
18 doesn't say anything about impressions of the  
19 hip, does it?

20 A. No, it says --

21 Q. Impressions.

22 A. -- unremarkable examination of the  
23 left knee.

24 MR. FOY: I would like to mark this  
25 as Defendants' Exhibit Z-1, just so that it's



1 marked. We can do that after we're done.

2 Q. Now, Doctor, we've had a lot of talk  
3 about degenerative changes and symptoms and how  
4 trauma can bring on symptoms when there's a  
5 degenerative change that's laying dormant. Would  
6 you expect, Doctor, that a trauma would cause  
7 symptoms in degenerative changes fairly quickly  
8 after the trauma?

9 A. Yes.

10 Q. And regarding Mr. Edwards' low back,  
11 the degenerative changes were there. If he had  
12 suffered a trauma to those degenerative changes  
13 in the accident of November -- October of 1992,  
14 would you have have expected those symptoms to  
15 have occurred shortly after the accident?

16 MS. GERLACK: Objection.

17 A. Yes.

18 Q. And in reviewing the records from the  
19 Cleveland Therapy Center, Doctor, did you see any  
20 treatment whatsoever for Mr. Edwards' low back?

21 A. There's no mention of his low back at  
22 any point, either by complaints or by treatment.

23 Q. Okay. And the first mention then is  
24 in the VA records and you went over those with  
25 Miss Gerlack, in July of 1993, correct?



1 A. Yes.

2 Q. That was some seven months after the  
3 accident.

4 A. Yes.

5 Q. Thanks, Doctor.

6 MS. GERLACK: Nothing further.

7 MR. FOY: Thank you. Off the record.

8 KURT HENSCHL: 11:05, off the  
9 record.

10 MR. FOY: Do you waive signature?

11 THE WITNESS: Yes, I waive  
12 signature.

13 - - - - -  
14 (Deposition concluded at 11:05 a.m.)

15 - - - - -  
16  
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## 1 CERTIFICATE

2 The State of Ohio, )

3 SS:

4 County of Summit. )

5  
6 I, Diane J. Cross, a Notary Public  
7 within and for the State of Ohio, duly  
8 commissioned and qualified, do hereby certify  
9 that the within named witness, RALPH J. KOVACH,  
10 M.D., was by me first duly sworn to testify the  
11 truth, the whole truth and nothing but the truth  
12 in the cause aforesaid; that the testimony then  
13 given by the above-referenced witness was by me  
14 reduced to stenotypy in the presence of said  
15 witness; afterwards transcribed, and that the  
16 foregoing is a true and correct transcription of  
17 the testimony so given by the above-referenced  
18 witness.

19 I do further certify that this  
20 deposition was taken at the time and place in the  
21 foregoing caption specified and was completed  
22 without adjournment.  
23  
24  
25



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 Akron, Ohio, on this 26 day of April,  
8 1995.

9  
10  
11  
12  
13  
14 Diane J. Cross  
15 Diane J. Cross, Notary Public  
16 within and for the State of Ohio

17 My commission expires July 1, 1998.  
18  
19  
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23  
24  
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1	EXAMINATION OF RALPH J. KOVACH, M.D.		
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CLEVELAND ORTHOPAEDIC ASSOCIATES, INC.  
GARFIELD HEIGHTS MEDICAL CENTER  
9700 GARFIELD BOULEVARD  
CLEVELAND, OHIO 44125

TELEPHONE 441-3223

RALPH J. KOVACH, M.D.  
CYRIL E. MARSHALL, M.D.

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October 24, 1994

Thomas E. Betz, L.P.A.  
Gallagher, Sharp, Fulton & Norman  
1501 Euclid Avenue - 7th Floor  
Cleveland, Ohio 44115

Re: David Edwards  
Your File No. 500-93820  
D.A: 11-10-92

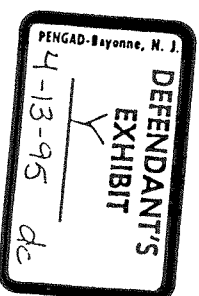
Dear Mr. Betz:

I examined David Edwards at your request in my office on October 24, 1994; he was accompanied by a representative of his attorney's office. This seventy year old man stated that he was injured on November 10, 1992 when, while the restrained driver of an automobile, his automobile was struck in the right rear by a steel hauling truck. At the time of the collision, he was making a left hand turn.

Mr. Edwards stated that the accident in question caused his left knee to strike the area about the door on the left side; no other area of his body made contact with the confines of the automobile. He stated that when he got out of the car and stood up his left knee gave way, but that he did not actually fall to the ground.

He was taken by the rescue squad to St. Alexis Hospital emergency room where he was examined, x-rayed, and released. He subsequently went to various physicians for treatment, including the Veterans Administration. He complained of pain in his back and in the left knee and additional x-rays which were taken revealed no fractures to be found. He did go for physical therapy treatments at the Cleveland Therapy Center and these treatments, which consisted of heat and massage, seemed to help him. Mr. Edwards initially did have some pain in the neck area, but this had completely subsided.

Because he had continued problems, he went to another orthopaedic surgeon, had MRI study performed, and was given an injection into his back. He stated that this was done only one time. He also had been given a back support to use which was stated to be of help to him.





Page Two  
October 24, 1994  
TO: Thomas E. Betz, L.P.A.  
Re: David Edwards  
From: Ralph J. Kovach, M.D.

Medications at this time consist only of medication for diabetes mellitus and he did not recall taking any other type of medication. He did have some treatments to the left knee, but no surgery was advised. He has not recently seen any physicians for the past several months.

When Mr. Edwards presented himself to my office, he used a cane and had a surgical boot on his left foot. He stated that this was because, six days prior to my examination date, he missed a step and sustained a fracture of the fifth metatarsal bone.

Previous medical history revealed him to deny having any prior back or knee problems. He did not volunteer at any time that he had been involved in a prior accident on October 27, 1992. He only recalled having the accident of November 10, 1992.

Examination revealed a well developed, well nourished, seventy year old black male who was not in acute distress. As stated previously, Mr. Edwards used a cane and he did have a surgical boot on his left foot. Examination of his posture revealed no abnormalities and no muscle spasm was present.

He was able to sit on the examining table and, in this position, he was found to have normal biceps, triceps, brachioradialis, and Achilles reflexes. The knee reflexes were absent bilaterally. Straight leg raising test while seated was negative. While seated he was seen to have a complete range of painless movement to the neck.

Examination in the recumbent position revealed negative straight leg raising test. No sensory changes and no motor weakness were present in the extensors or flexors of his ankles. Specifically, no weakness of the extensor hallucis longus muscles was present.

Examination of the knees revealed no instability, no crepitation was palpable, and patella grind test was negative. No joint effusion was present and he had a negative McMurray test bilaterally.

Examination in the prone position revealed no tenderness in any area about the trapezius muscles, upper back, middle back, or lower back. Skin rolling was normal without any evidence of binding down. No areas of trigger point tenderness were present anywhere over the entire back.



Page Three  
October 24, 1994  
To: Thomas E. Betz, L.P.A.  
Re: David Edwards  
From: Ralph J. Kovach, M.D.

Review of the submitted material, which included records of Dr. Curtis Smith, the Cleveland Therapy Center, Dr. Jeffery Morris, Dr. Leizman, and MRI films, was conducted by me.

On the basis of my examination, Mr. Edwards showed no evidence of any problems existing in his neck, upper back, middle back, or lower back. He showed no evidence of any problems existing in the knees. Specifically, after review of the submitted material, it is evident that he does have changes in his lower back consisting of pre-existing spinal stenosis secondary to hypertrophy of the ligamentum flavum. No herniation of a disc was described.

The MRI studies of his knee are entirely normal, except for the presence of mild osteophyte formation, and it was specifically reported that he did not have any chondromalacia of the patella. The degenerative disc disease which was described was stated to be mild and certainly was not caused by the accident in question, nor was it made any worse by the accident in question.

Therefore, on the basis of my examination, it is my opinion that Mr. Edwards has recovered from any injuries which he may have sustained in the accident of November 10, 1992.

Very truly yours,



Ralph J. Kovach, M.D.

RJK/adm



Curriculum Vitae

Ralph J. Kovach, M.D.

IDENTIFYING  
INFORMATION

Ralph J. Kovach, M.D. DOB: 08-27-25

PRE-MEDICAL  
EDUCATION

University of Dayton/Bachelor of Science  
Degree/1950

MEDICAL  
EDUCATION

Loyola University School of Medicine,  
Chicago, Illinois/M.D. Degree/1953

INTERNSHIP

St Luke's Hospital, Cleveland, Ohio/1953-  
1954.

RESIDENCY

St. Luke's Hospital, Cleveland, Ohio/  
Orthopaedic Surgery/1954-1958.

LICENSING  
INFORMATION/  
CERTIFICATION

Licensed in Ohio Since 1953/General Ortho-  
paedic Surgery Certifield by American Board  
of Orthopaedic Surgery/1962

MEDICAL SOCIETY  
MEMBERSHIP

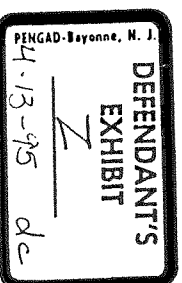
Cleveland Academy of Medicine  
Ohio State Medical Association  
American Medical Association  
Cleveland Orthopaedic Club  
Ohio State Orthopaedic Association  
Mid-America Orthopaedic Association  
American Academy of Orthopaedic Surgeons

CURRENT STATUS/  
STAFF MEMBERSHIPS

St. Alexis Hospital - Cleveland, Ohio  
St. Luke's Hospital - Cleveland, Ohio  
MaryMount Hospital - Garfield Hts., Ohio  
Community Hospital of Bedford - Bedford, Oh  
Deaconess Hospital - Cleveland, Ohio

Instructor in Orthopaedic Surgery/Case  
Western Reserve University School of  
Medicine

President Medical Staff - St. Alexis Hosp.





CLEVELAND, OH

ARDS, DAVID L.  
SN: 26-7617

DOB: 02-01-24  
Sex: MALE

ate: DEC 16, 1992 13:04  
ase: 1416

Service:  
Ward/Clinic: W ADMITTING  
Phy: COOPER, KATHERINE A.

Procedure: KNEE 4 OR MORE VIEWS (ROUTINE)  
Exam Modifiers : LEFT

Clinical History:  
S/P MVA LEFT KNEE HIT DASH PAIN SWELLING SINCE

Report:  
MULTIPLE VIEWS OF THE LEFT HIP SHOW NO EVIDENCE FOR AN ACUTE FRACTURE  
OR DISLOCATION OR OTHER BONY ABNORMALITIES. CALCIFICATIONS IN SOFT  
TISSUES ARE NOTED.

Impression:  
UNREMARKABLE EXAMINATION OF THE LEFT KNEE.  
films were read by INNA VILINSKY (Staff Radiologist).

FW



REFL  
VAF

