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2
3 UNINSURED MOTORIST ARBITRATION
4

5 IN RE:)
6 THOMAS BRUHN,)
7 Plaintiff,)
8 - vs -)
9 BROTHERHOOD MOTORIST INS. CO.,)
10 Defendant.)
11

12
13 Videotaped deposition of JOHN K. KREBS,
14 M.D., a witness herein, called by the
15 Plaintiff as if upon direct examination
16 under the statute, and taken before Luann Z.
17 Cawley, RPR, a Notary Public within and for
18 the State of Ohio, pursuant to the agreement
19 of counsel, and pursuant to the further
20 stipulations of counsel herein contained, on
21 Friday, the 6th day of October, 2000, at
22 4:30 p.m., at the medical office of John K.
23 Krebs, M.D., 5275 North Abbe Road, City of
24 Elyria, County of Lorain and the State of
25 Ohio.

1 APPEARANCES:

2
3 On behalf of the Plaintiff:
4 Nurenberg, Plevin, Heller &
5 McCarthy, by:
6 David Paris, Esq.
7 Andrew Young, Esq.

8
9 On behalf of the Defendant:
10 Keller and Curtin Co., L P A BY:
11 Dennis M. Pilawa, Esq.

12 - - - -

13 ALSO PRESENT:

14 David Mackla, Photographer

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I N D E X

OBJECTION BY:	PAGE	LINE
Mr. Pilawa	18	9
Mr. Pilawa	19	14
Mr. Pilawa	20	5
Mr. Pilawa	20	9
Mr. Pilawa	20	16
Mr. Pilawa	20	23
Mr. Pilawa	21	2

P R O C E E D I N G S

(Plaintiff's Exhibit 1 through 8 marked.)

JOHN KREBS, M.D., a witness

herein, being of lawful age, having
been first duly sworn according to law,
deposes and says as follows:

DIRECT EXAMINATION OF

JOHN KREBS, M.D.

BY MR. PARIS:

Q Doctor, will you tell the arbitration
panel your full name, please?

A My name is John Keith Krebs.

Q Doctor, my name's David Paris, I
represent your patient, Tom Bruhn, in
connection with this matter. Exhibit 8, is
this a copy of your CV?

A Yes.

Q Okay. And I take it you are a board
certified orthopedic surgeon --

A That's right.

Q -- in the State of Ohio?

A That's correct.

Q And how long have you been an

1 orthopedic surgeon?

2 A I began my training in 1988. I've been

3 board certified, I believe, since 1996.

4 Q And all of your activities and honors

5 and awards are -- are contained in this CV?

6 A That's right.

7 Q And you have a -- a special area of

8 interest in orthopedic surgery?

9 A Hand around upper extremity surgery.

10 Q Okay. Now, as it relates to Tom Bruhn,

11 when did you first see Tom?

12 A I saw Tom, it was in August, I believe,

13 was it '99?

14 Q Okay.

15 A The actually -- August 23rd, 1999.

16 Q Have you come to learn, as a result of

17 that visit, what happened to Tom back in

18 June of '98?

19 A Right. The history would -- would --

20 would go the year prior, June 2nd of '98, to

21 be exact, he was involved in a motor vehicle

22 accident.

23 Q And you understand he was the driver of

24 that truck?

25 A That's right.

1 MR. PILAWA: Can we go off
2 the record for a second?

3 VIDEOGRAPHER: Off the
4 record.

5 - - - - -
6 (Brief break.)

7 - - - - -

8 BY MR. PARIS:

9 Q Did you have an understanding that this
10 was a head-on collision?

11 A Yes.

12 Q What is your understanding as to what
13 happened to Tom behind the wheel as a result
14 of the collision?

15 A Well, that he injured his left knee,
16 which, obviously, he suffered a laceration
17 to the knee. And that he was unable -- he
18 had a lot of pain, obviously, in the knee.
19 And -- and from what I was able to gather
20 from his ER notes and from him was that he
21 had a difficult time lifting his knee,
22 lifting his leg.

23 Q He was taken by ambulance from the
24 scene over to Elyria Memorial Hospital,
25 where he was admitted from June 3rd to June

1 7th, and he was under the care of, I
2 believe, your partner Dr. Patil?

3 A That's correct.

4 Q And are you familiar with the procedure
5 that Dr. Patil performed?

6 A Yes.

7 Q What is that procedure?

8 A Dr. Patil took him to surgery, did an
9 irrigation and debridement of his knee.
10 Basically, he had -- the laceration extended
11 all the way into the knee joint itself,
12 which therefore required a thorough
13 irrigation and debridement of the knee. He
14 had ruptured or torn the patellar tendon in
15 addition to suffering the laceration and had
16 to undergo a repair of the patellar tendon.

17 Q Now, I'm gonna go off the record a
18 minute and use a model so that you can
19 demonstrate to the arbitrators what it is.
20 Let's go off.

21 VIDEOGRAPHER: Off the
22 record.

23 - - - - -
24 (Brief break.)

25 - - - - -

1 BY MR. PARIS:

2 Q Using that model, can you help
3 demonstrate that for us?

4 A Sure. This is, obviously, a model of a
5 knee. It would be a left knee. What we're
6 demonstrating here is, this blue structure
7 here is pretty much the extensor mechanism,
8 which is composed of the patellar tendon,
9 the kneecap, or patella, and the quadriceps
10 tendon. Anything that's -- any discontinued
11 -- this is broken in any area, the patient's
12 unable to lift their knee because the whole
13 extensor mechanism goes through this
14 mechanism.

15 In Mr. Bruhn's case, what happened
16 was, when he impacted and lacerated the knee
17 he actually lacerated right through the
18 patellar tendon, and that could explain why
19 he was unable to lift his leg. He couldn't
20 lift his leg. The quadriceps tendon
21 continued to pull, but it would pull away
22 and so his lower leg would stay -- you know,
23 wouldn't extend.

24 Q So the mechanism of -- of this, if
25 -- if you're behind the wheel and you're

1 seated with your -- your butt in the seat
2 and your legs are bent --

3 A That's right.

4 Q -- is this typically referred to as a
5 classic dashboard injury?

6 A It takes a pretty good impact. I mean,
7 obviously, he had a pretty good impact to
8 cause not only the laceration to the skin,
9 but the rupture through this tendon. This
10 is a pretty healthy -- it's a very strong
11 structure to be able to cut through and then
12 actually to go into the knee joint itself,
13 so it took a pretty good force. Often times
14 when we have a dashboard injury, not only do
15 you see -- you don't often times see the
16 laceration injury, you may see some -- you
17 know, either some destroyed ligaments in the
18 knee itself. You could even see a pretty
19 bad fracture involving the distal part of
20 the femur or the thigh bone.

21 Q When you say a laceration into the knee
22 joint, aside from the -- the severing of the
23 patellar tendon, what do you mean,
24 "laceration into the knee joint"?

25 A Well, actually, that the -- in other

1 words, the skin involved and the tendon
2 involved, but the capsule, the joint capsule
3 itself was violated. So the joint itself
4 was open --

5 Q Okay.

6 A -- to the external environment.

7 Q All right. And I understand that --
8 from looking at the records that this was
9 about a four inch or ten centimeter scar or
10 laceration that required surgery. And we
11 also have a photograph, which we'll show
12 later to the arbitrators, which I guess is
13 the postsurgical -- do you have that on the
14 frame? Which is the postsurgical wound?

15 A Yes.

16 Q Okay. So how does -- how does Dr.
17 Patil go about repairing that tendon?

18 A Well, after he irrigated, debrided the
19 wound, he took a heavy type of a suture and
20 just, basically, do an end to end type
21 repair.

22 Q Okay. Okay. Let's go back on the
23 one -- one picture.

24 A And it's a matter, of course, of making
25 sure that tendon heals before you can stress

1 it -- stress the repair side or getting it
2 to move.

3 Q And part of that healing process
4 involved physical therapy, I take it?

5 A That was -- yeah. Of course, I think
6 -- I'm not sure how long he immobilized him,
7 but usually after about six weeks of
8 immobilization, you then slowly get him to
9 start bending the knee, moving to stretch
10 the tendon out.

11 Q Right. I think there was a period that
12 he was using a brace?

13 A Right.

14 Q Then he moved to gradual stretching,
15 using a -- a cane. Tell me about the
16 physical therapy that is typically
17 prescribed for something like this.

18 A Well, the thing you -- your goal
19 initially with therapy is to regain full
20 range of motion of the knee, as best as
21 possible, to help stretch out the scar
22 tissue. Once you've obtained motion and
23 control pain to some degree, then you begin
24 working on strengthening, and that is
25 regaining the strength of the muscle, the

1 quadriceps muscles, which are the muscles
2 that help extend the knee, and the hamstring
3 muscles. The whole leg, generally, is
4 weakened from such an injury and the
5 inactivity that it takes for that -- for a
6 person to recover from such an injury.

7 Q Sure. Do you have Dr. Patil's notes
8 from January of '99 and June of '99, I think
9 of the two visits immediately before he saw
10 you?

11 A There's June, yeah, and January, yeah.

12 Q January of '99 was Tom still
13 complaining of some achiness in the knee?

14 A Still having pain in his knee as of
15 January 7th of '99.

16 Q Did he, also, have a decreased range of
17 motion in that knee?

18 A He still lacked full flexion by about
19 15 degrees, according to Dr. Patil's note.

20 Q Was he experiencing any functional
21 problems with any activities? Problems with
22 stairs, for example?

23 A Yeah, he does complain going up and
24 downstairs stairs was difficult.

25 Q Okay. In June of '99 was he still

1 having some occasional pain?

2 A He was still having occasional pain.
3 He, apparently, used to do a lot of weight
4 lifting before and had to stop weight
5 lifting because of pain, I guess, he
6 experienced and the problems he was
7 experiencing with his knee at that time.

8 Q Okay. Tom was off work for about eight
9 weeks after this accident. In your opinion,
10 to a reasonable degree of medical
11 probability, was that time off reasonable
12 and necessary because of the injury?

13 A Very reasonable. I would say that
14 that's, actually, pretty good that he was
15 able to get back that soon.

16 Q Yeah. Tom came to see you for a second
17 opinion on August 23rd of '99. Can you tell
18 us about that visit?

19 A Just that at the time when he visited
20 we took a history, he stated that he had
21 been in the accident over a year ago. He
22 says he was unable to squat, to lift things,
23 he always had to bend over his back, which
24 was causing him pain in the knee, but he was
25 -- hurts after he stood for a long time.

1 And he was complaining of some pain not so
2 much even in the front of the knee, but more
3 in the medial aspect of his knee joint.

4 Q You -- you examined him?

5 A Yes.

6 Q What did the examination reveal?

7 A At the time he could flex his knee to
8 about 120 degrees, he demonstrated full --
9 he could fully extend --

10 Q What -- what's normal flexion?

11 A Normal flexion's between 135 and 140
12 degrees.

13 Q All right.

14 A The stability in his knee was stable as
15 far as mediolateral; therefore, all the
16 ligaments appear to be stable. There was a
17 lot of scarring noted towards the medial
18 side of where he had had the repair. His --
19 other than that, we did get x-rays at the
20 time of that -- on the August 23rd, which
21 demonstrated some mild evidence of
22 degenerative arthritis involving the medial
23 compartment of his knee.

24 Q Where -- if you'll hold up the -- we
25 don't have to do the picture in picture, but

1 if you'll hold up the knee -- the knee model
2 for us, where was the arthritis
3 demonstrated?

4 A At least radiographically, it was more
5 or less in this inner compartment here of
6 the knee, which would be referred to as the
7 medial compartment. That's where he had
8 some spurs that were built up on the femoral
9 component -- the femur, distal femur and the
10 proximal tibia. (Witness indicating.)

11 Q At the time that you examined Tom in
12 August of '99, you did not have an
13 opportunity, at that time, to review the
14 x-rays taken of his knee in June of '98,
15 right after this accident?

16 A That's correct.

17 Q Okay. And I take it you didn't have an
18 opportunity to look at any of his prior
19 medical records existing before this
20 accident?

21 A That's correct.

22 Q You know, for example, looking for the
23 absence or presence of any prior knee
24 complaints or prior knee problems; right?

25 A With the exception of his history,

1 right --

2 Q Right.

3 A .. there was no other complaints of his
4 knee.

5 Q Right. Did there come a point in time
6 when I asked you to review those -- those
7 x-rays?

8 A Yes.

9 Q And we've marked these x-rays as
10 Exhibits 1 and 2 that were taken in June of
11 '98. Did those films demonstrate to you the
12 presence of any arthritis in that knee?

13 A No -- not to -- not that I could
14 actually appreciate on the x-rays.

15 Q Okay.

16 A And in addition to the x-ray report
17 from the radiologist was the same, they --
18 they didn't mention any arthritis, as well.

19 Q Right. And you had, also, an
20 opportunity to review briefly some of his
21 prior medical records, which I've marked as
22 Exhibit 3. And I take it those records also
23 show an absence of any prior knee problem --
24 problems?

25 A That's correct.

1 Q Okay. Based upon all of the materials
2 -- and I take it you've asked Tom whether he
3 had any on prior knee problems but this
4 accident and he said no?

5 A That's correct.

6 Q Do you have an opinion, to a reasonable
7 degree of medical probability, whether
8 there's a cause and effect relationship
9 between this car accident and the injuries
10 that you've diagnosed for Tom?

11 A Right.

12 Q What's your opinion?

13 A Well, I mean, here's a gentleman who's
14 never had problems with his left knee, who
15 was involved in a pretty serious motor
16 vehicle accident, it was bad enough that it
17 caused an opening, a wound -- a laceration
18 that extended all the way into his knee
19 joint, which relates to a pretty heavy,
20 strong impact to that knee. And when -- not
21 only is the soft tissue damage, which we
22 don't appreciate, but the articular
23 cartilage, the -- the joint itself is
24 injured from something like that. You,
25 don't appreciate, that on an x-ray

1 initially, you don't really appreciate that
2 clinically, because you're gonna take care
3 of what's -- the bothersome thing at hand,
4 which is the wound itself, the things that
5 would appear grossly obvious. The thing
6 that -- that you have to appreciate that
7 impact to that articular surface --

8 MR. PILAWA: Here, let --
9 let me object at this point. I -- I
10 believe the question -- this is way
11 beyond the question. The question --

12 MR. PARIS: You want me to
13 rephrase the question, Denny?

14 MR. PILAWA: Well, I'd
15 like an answer to the question, first.
16 If you want to ask more questions, go
17 ahead, but I mean, it's pretty far
18 afield right now.

19 MR. PARIS: Just state
20 your objection, that's all.

21 MR. PILAWA: Well, you
22 asked me.

23 MR. PARIS: State your
24 objection.

25 MR. PILAWA: You asked me

1 what I wanted and I told you.

2 A Well, my -- okay. My opinion is that
3 the accident caused the problems with his
4 knee, obviously, the laceration, the
5 patellar tendon ruptured. And I think it
6 also is what's led to the degenerative
7 arthritis that now he shows on his x-ray a
8 year later.

9 Q Okay. And the basis for that opinion
10 was the absence of any arthritis --

11 A Prior --

12 Q -- in the knee joint in June of '98?

13 A That's correct.

14 MR. PILAWA: Objection.

15 BY MR. PARIS:

16 Q Is that true?

17 A That's correct.

18 Q The absence of any prior knee
19 complaints?

20 A Correct.

21 Q Okay. Do you have an opinion, to a
22 reasonable degree of medical probability, as
23 to whether all the care and treatment he
24 received following this accident, which is
25 the -- the ambulance, the emergency room,

1 the -- the hospitalization and surgical
2 charges and the physical therapy were all
3 related to this accident?

4 A That's correct.

5 MR. PILAWA: Objection.

6 A Yes.

7 Q Okay. And -- and all caused and
8 necessitated by this accident?

9 MR. PILAWA: Object.

10 A That's right.

11 Q Okay. Do you have an opinion, to a
12 reasonable degree of medical probability, as
13 to whether Tom's knee injuries are
14 permanent?

15 A Tom's --

16 MR. PILAWA: Objection.

17 A Yes, I do believe that his problems are
18 permanent.

19 Q And is he gonna have -- in your
20 opinion, to a reasonable degree of medical
21 probability, is he gonna have pain on a
22 permanent basis in that knee?

23 MR. PILAWA: Objection.

24 A Yes.

25 Q Is he gonna have some disability with

1 regard to that knee in the future?

2 MR. PILAWA: Objection.

3 A I do believe he will.

4 Q And what's the basis for that opinion?

5 A The fact that it's -- he's 40 years old
6 and he -- he demonstrates arthritis in his
7 knee in a 40-year-old.

8 Q What -- conservatively, what do you
9 project the future holds for Tom and his
10 knee as it relates to future medical care?

11 A Well, I think that there's gonna be the
12 time when, pretty frequently, that Tom's
13 probably gonna have to see a physician
14 regarding knee pain and, at the very least,
15 will probably require some type of
16 anti-inflammatory medication to help
17 alleviate the pain, the inflammation that's
18 associated with his complaints of pain,
19 inflammation and arthritis.

20 MR. PARIS: All right.

21 Off the record.

22 VIDEOGRAPHER: Off the
23 record.

24 - - - - -
25 (Brief break.)

1 - - - - -
2 MR. PARIS: Thank you,
3 Doctor. I have no further questions.
4 Mr. Pilawa, your witness.
5 MR. PILAWA: Doctor, my
6 name is Dennis Pilawa and I represent
7 the Respondent in this case. I -- I do
8 want to go off the record for a moment
9 to look at your chart, if you don't
10 mind, because I know you've made
11 reference to it and you've spoken with
12 Mr. Paris before the start of -- of the
13 deposition here and this will probably
14 make things go a bit faster. Thanks.
15 If we could go off the record a minute,
16 please.

17 - - - - -
18 (Brief break.)

19 - - - - -
20 CROSS-EXAMINATION OF
21 JOHN K. KREBS, M.D.

22 BY MR. PILAWA:

23 Q Dr. Krebs, let me understand your
24 involvement in this case. You have seen Tom
25 Bruhn one time?

1 A That's right.

2 Q Did you give him any treatment?

3 A I don't believe we -- I can't remember
4 right offhand if I even suggested any
5 anti-inflammatories or anything at that
6 time. He pretty much had been through
7 therapy.

8 Q Well, here, I'll --

9 A I'm sorry.

10 Q You're looking at a -- a note that I
11 took out of your -- your chart. Go ahead
12 and take a look at that, if -- if that helps
13 you.

14 A Right. Yeah, we didn't recommend
15 anything -- anything further at that time.

16 Q Yeah, right. Did you -- did you give
17 him -- did you prescribe physical therapy
18 for him?

19 A No. Like I said, he's already -- he
20 had already been through some pretty
21 extensive therapy.

22 Q Did you prescribe any medication for
23 him?

24 A No.

25 Q Since August 23, 1999, have you had any

1 opportunity to be involved with Mr. Bruhn at
2 all, either by telephone or person to
3 person, or -- or anything in connection with
4 his medical care and treatment?

5 A No.

6 Q Okay. I am looking -- I'm looking at
7 your office note and I believe this is your
8 office note. Maybe we can have this marked.

9 A That's correct.

10 Q Do you mind if I --

11 A No.

12 Q -- if I have this marked?

13 A That's fine.

14 MR. PILAWA: Okay. Could
15 you mark this?

16 MR. PARIS: Why don't we
17 use a copy and let the Doctor --

18 MR. PILAWA: Okay.

19 MR. PARIS: -- have his
20 original?

21 MR. PILAWA: Okay. Do you
22 have a copy? Because I don't have a
23 copy of this.

24 MR. PARIS: I will get you
25 a copy.

1 MR. PILAWA: Okay.

2 MR. PARIS: Stanley Keller
3 has a copy.

4 MR. PILAWA: Really? He --
5 then he seems to be keeping it from me,
6 David, because -- because I -- I have
7 all --

8 MR. PARIS: We'll make a
9 copy.

10 MR. PILAWA: Okay. I have
11 all of the notes except for the August
12 23, 1999 note.

13 BY MR. PILAWA:

14 Q In fact, if you don't mind, maybe you
15 can help me out. In fact, Doctor, it's --
16 it's noted that with respect to past
17 surgical history, the work that was done by
18 Dr. Patil resulted in a very good recovery
19 and that the patient regained nearly normal
20 range of motion?

21 A Uh-huh.

22 Q Is that yes?

23 A Yes. Sorry.

24 Q You note that he can flex to 120
25 degrees and fully extend.

1 A That's correct.

2 Q The 120 degrees is short of normal by?

3 A Twenty degrees.

4 Q By 20 degrees?

5 A (Witness nodding.)

6 Q Is that noticeable to a -- to a doctor,

7 but not necessarily to a layman or --

8 A Depends on what that layman's does for

9 a living.

10 Q Okay. All right. That's pretty close

11 to normal, though, isn't it, the 120?

12 A Twenty degrees, if -- is -- is a very

13 reasonable recovery from -- from an injury

14 like this.

15 Q Yeah. And that's -- and that's what I

16 was going to suggest next, was that that 120

17 degrees of flexion and the ability to fully

18 extend indicates, really, pretty good work

19 by Dr. Patil?

20 A That's right.

21 Q And frankly, a good recovery by this

22 person; correct?

23 A That's correct.

24 Q You note that he has good medial and

25 lateral stability. Now, that's a -- that's

1 a good finding, is it?

2 A That's good.

3 Q What, exactly, does that mean, medial
4 and lateral --

5 A Just that the collateral ligaments, as
6 far as the model is concerned, it would be
7 that the ligaments on the sides of the knee
8 are stable.

9 Q You're looking for that stability in a
10 patient, you're hoping to find that
11 stability?

12 A Correct.

13 Q so -- so, basically, we're finding a --

14 A A stable knee.

15 Q Okay. A stable knee.

16 Okay. He -- it says, "He no true
17 effusion." What is it, he has no true
18 effusion?

19 A No effusion.

20 Q Okay. But a lot of -- what is "true
21 effusion"?

22 A Meaning, actually, that he would
23 demonstrate fluid in the knee.

24 Q Okay. But -- and you didn't find that,
25 did you?

1 A No.

2 Q But you just found a lot of scarring?

3 A A lot of scar tissue.

4 Q "A lot of scar tissue."

5 And that's what you would

6 expect --

7 A From an injury like that.

8 Q -- from an injury like this?

9 And -- and frankly, looking at
10 that scar that's depicted on that
11 photograph; correct?

12 A That's correct

13 Q All right what will get better over
14 time, the -- the area of the scarring?

15 A Well scar tissue will -- it takes --
16 it takes your body about six months to
17 remodel scar tissue.

18 Q Okay.

19 A So once you've past the six months,
20 that's pretty much -- you're pretty much
21 left with what you've got.

22 Q Pretty much where he is?

23 A (Witnesses nodding heads)

24 Q Okay All right. It -- it -- it notes
25 - it notes that he has a negative, is that

Lachman or Latchman?

2 A Lachman.

3 Q Lachman anterior and posterior draw;
4 what does that mean?

5 A That's -- that's just the opposite of
6 mediolateral. You're checking anterior and
7 posterior. In a Lachman you're checking the
8 stability of what's called the cruciate
9 ligaments.

10 Q Okay.

11 A The anterior cruciate, to be specific.
12 And then the drawers, the anterior drawers,
13 anterior cruciate, the posterior
14 drawers, checking the posterior cruciate.

15 Q Okay. And -- and if you find a -- a
16 negative Lachman --

17 A That's good.

18 Q -- that's good? That's what we're
19 hoping to find?

20 A That's right.

21 Q Particularly in a person who's had an
22 injury of this nature?

23 A Right.

24 Q Again --

25 A Yeah.

1 Q Again, it shows good work by Dr. Patil
2 and a pretty good recovery?

3 A Well, it just means that the cruciate
4 ligaments weren't injured.

5 Q Okay. That's a good -- good finding
6 anyway?

7 A That's a good finding.

8 Q All right. Your impression, at that
9 point, was good recovery from tendon
10 laceration repair with mild degenerative
11 changes medial compartment of the knee;
12 correct?

13 A That's correct.

14 Q Frankly, your pretty satisfied with the
15 recovery to date?

16 A Absolutely. Based on the degree of the
17 injury, sure.

18 Q Sure.

19 A Sorry.

20 Q Okay. You need to get that? Do we
21 need to go off the record?

22 A No. We're okay.

23 Q And the only -- the only treatment that
24 you recommend was that he can work on
25 strengthening and flexibility. But -- but

1 doesn't this, which is going to be marked
2 as, I assume, Defendant's Exhibit A, you
3 know, I would not recommend any further
4 treatment?

5 A Well, meaning any kind of surgical
6 intervention. Like I said, he had been
7 through a pretty aggressive physical
8 therapy, and after talking with him, going
9 for more therapy -- I mean, this is a guy
10 who used to lift weights, that understood
11 that -- what it required to -- to work on
12 quad strengthening and hamstring
13 strengthening. So we left it pretty much up
14 to him.

15 Q Okay. But you don't -- you don't limit
16 that -- you don't limit that simply to
17 surgery, though, that you wouldn't recommend
18 any further surgery. You say there you
19 don't recommend any further treatment;
20 correct?

21 A At this time.

22 Q Okay.

23 A Surgery, or therapy, or -- sure, either
24 or.

25 Q Or treatment?

1 A Well, that's pretty much what we do.

2 Q Okay.

3 A Medications -- to include medications
4 then, too.

5 Q Okay. And he doesn't have an
6 appointment scheduled to with you now, does
7 it?

8 A That's right.

9 Q At least to your knowledge?

10 A At least to my knowledge, correct.

11 Q All right. Were -- did you have
12 available to you, Doctor, the Community
13 Health Care Partners Rehabilitation --
14 Rehabilitation Center records?

15 A I did not.

16 MR. PILAWA: Okay. Now,
17 David, I only have one copy of these,
18 because I wasn't sure that I was gonna
19 get into these. But I'm gonna have
20 these marked as Defendant's Exhibit B,
21 but can I keep that exhibit and then
22 provide you a copy, is that all right
23 with you?

24 MR. PARIS: Of course.

25 MR. PILAWA: Okay. Would

1 you then mark this as Defendant's
2 Exhibit B?

3 - - - - -

4 (Defendant's Exhibits B marked.)

5 - - - - -

6 MR. PARIS: Whatever you
7 have, I -- I already have.

8 MR. PILAWA: You do?

9 MR. PARIS: Yeah.

10 MR. PILAWA: You probably

11 --

12 MR. PARIS: That was the
13 only way that you could get those.

14 MR. PILAWA: Well, I --

15 MR. PARIS: Not
16 necessarily.

17 MR. PILAWA: Well, sure,
18 with a -- with an attorney of your --
19 of your thoroughness, of course.

20 BY MR. PILAWA:

21 Q Doctor, I'm going to hand you what
22 I've, apparently, received from Mr. Paris
23 and it is a one, two, three, four, five,
24 six, seven, eight, nine pages of documents
25 from Health Partners Rehabilitation Center.

1 MR. PILAWA: Did you need
2 to see those, Dave?

3 MR. PARIS: I've seen
4 them.

5 MR. PILAWA: Okay.

6 BY MR. PILAWA:

7 Q And I'm gonna draw your attention to
8 the February 23, 1999 entry; do you see it
9 there?

10 A Uh-huh.

11 Q And it suggests that, at that point in
12 February -- on February 23, 1999, that Mr.
13 Bruhn was pain free; is that correct?

14 A Yes.

15 Q And that he was working out at his
16 club?

17 A That's right.

18 Q Could I just have that back for a
19 minute?

20 And he's working out at his club
21 on nautilus machines; correct?

22 A That's correct.

23 Q Okay. And then, Doctor, if you would
24 take a look at your chart again and refer to
25 the note from June 17th, 1999.

- 1 A Okay.
- 2 Q This suggests that -- and -- and I'll
- 3 have this -- I'll have this marked in a
- 4 moment, that this gentleman a coming along
- 5 quite well. He said once in a while he gets
- 6 some pain. He used to do some -- some
- 7 weight lifting. Do you know what happened
- 8 between February and June that caused him to
- 9 stop his weight lifting?
- 10 A **No**, I don't.
- 11 Q Okay. It also says that the
- 12 examination reveals that he walks well with
- 13 no limp?
- 14 A (Witness nodding head.)
- 15 Q That's a good finding, isn't it?
- 16 A That's good.
- 17 Q That he can almost squat down and cut
- 18 in and out; what does that mean?
- 19 A I'm not sure what he means by that.
- 20 Q These are Dr. Patil's note?
- 21 A Yeah.
- 22 Q Okay. He had full extension and almost
- 23 full flexion and very good strength.
- 24 A Uh-huh.
- 25 Q Again, good findings?

1 A Yes.

2 Q I told -- this is Dr. Patil,
3 apparently. He was told by Dr. Patil to
4 continue with exercise and he'd see him as
5 needed --

6 A That's correct.

7 Q -- is that correct?

8 A Uh-huh.

9 Q Okay. And as I understand it, then,
10 the next thing is a second opinion from you?

11 A That's right.

12 Q What happened that resulted in that
13 second opinion, what happened in this man's
14 life?

15 A I don't know. Unless he was still
16 experiencing some pain in his knee, that's
17 all I can --

18 Q Are you aware of any other event that
19 would in some way have --

20 A No, not --

21 Q -- put a check on -- on his ongoing and
22 good improvement?

23 A No.

24 Q All right.

25 A At least not from what he revealed to

1 me.

2 Did -- did the search for a second
3 opinion from you have anything to do with
4 this arbitration being scheduled?

5 A No, not that I'm aware of.

6 Q Not that -- at least not that was
7 communicated to you?

8 A That's right.

9 Q Okay. All right. And as I understand
10 it, there was no -- no -- there was no
11 treatment going on with Mr. Bruhn from,
12 basically, February of '99 through the
13 present; correct?

14 A That's the impression I have, yes.

15 MR. PILAWA: Okay. Could
16 we just go off the record for a second?

17 VIDEOGRAPHER: Off the
18 record.

19 - - - - -

20 (Defendant's Exhibit C marked.)

21 - - - - -

22 BY MR. PILAWA:

23 Q Dr. Krebs, I'm going to hand you what I
24 have had marked as Defendant's Exhibit C.
25 If you would just take a look at those and

1 just confirm for the panel that those are
2 copies of the office notes of Dr. Patil?

3 A Yes.

4 Q Okay.

5 A Yeah.

6 Q Could you -- could you look through
7 those and -- for a second and tell me if
8 it's -- if it's fair for me to say that,
9 basically, all of these records pretty much
10 show that Mr. Bruhn has made excellent
11 progress?

12 A Yes, I would agree.

13 Q Pretty much, the records indicate that
14 he's doing pretty well?

15 A He's doing well.

16 Q Okay. Dr. Krebs, does -- does trauma
17 always result in arthritis in a joint?

18 A It depends on what type of trauma. An
19 impact-type trauma to a knee joint, for
20 instance, such as this type, it's very
21 common to develop arthritis.

22 Q Okay. Are there other causes for
23 arthritis besides trauma?

24 A Well, sure. Arthritis can be a -- a
25 condition which we don't -- really can't --

1 it could be idiopathic, no discernible
2 cause. It could be someone who's just
3 destined for arthritis, which we normally
4 will see in someone who maybe in -- as they
5 approach their fifties, sixties.

6 Q Do you see it in individuals in their
7 forties?

8 A Very rare.

9 Q I suppose that's approaching their
10 fifties, but --

11 A Rare. I mean, it's rare to see someone
12 who develops degenerative arthritis in their
13 forties spontaneously.

14 Q Do you see it -- do you see it in
15 individuals who participate in a repetitive
16 activity, say like running, for example, do
17 you see arthritis in knees and ankles?

18 A It can occur. Not so much the ankle,
19 but the -- but the knee.

20 Q But the knee. How about the
21 repetitive -- the repetitive action of, you
22 know, heavy weight lifting, squatting, using
23 -- using the -- the hips, the knees, the
24 ankles, the legs for -- for heavy weight
25 lifting?

1 A Well, usually weight lifting itself --
2 I mean, it really depends on what kind of
3 weight lifting your doing. But I mean,
4 without an injury, per se, like if the
5 patient had -- a heavy weight lifter who
6 maybe has torn up some cartilage in the past
7 and has had some cartilage, meniscus
8 removed, we see lots of arthritis in that
9 type of a patient.

10 Q But you're not suggesting to me you
11 can't see it, you know, by reason of that
12 repetitive activity on the joints, are you?

13 A Right. I mean, you can see it --

14 Q You can --

15 A -- from repetitive trauma disorder,
16 sure.

17 Q Sure, sure. And you're giving your
18 opinions here today based upon the records
19 of Dr. Patil that you've -- that you've
20 reviewed in your conversation with -- with
21 Mr. Bruhn; correct?

22 A That's --

23 MR. PARIS: Dennis, he also
24 said the review of all the x-rays --

25 THE WITNESS: X-rays.

1 MR. PARIS: -- the prior
2 medical records.

3 MR. PILAWA: Correct.

4 MR. PARIS: Be accurate.

5 MR. PILAWA: Did you want to
6 object?

7 MR. PARIS: No. I wanted
8 to correct you.

9 MR. PILAWA: You adjusted
10 want to -- you just wanted say that.

11 BY MR. PILAWA:

12 Q And I understand. I didn't mean to --
13 I didn't mean to suggest that you didn't
14 look at all of these things, but it's based
15 upon -- it's based upon your review of -- of
16 records not generated by you and treatment
17 not given by you; is that correct?

18 A That's correct.

19 Q Okay. If you give me one more second,
20 Doctor. Is the only change -- is the only
21 change that resulted in the addendum to your
22 report, that is the addendum dated
23 9-22-2000, that you did get the chance to
24 see the x-rays and make the comparison?

25 A That's right.

1 Q And as a result -- you were requested
2 to make that comparison, presumably, by Mr.
3 Paris?

4 A Correct.

5 MR. PILAWA: All right.
6 All right. I don't have any other
7 questions then. Thank you.

8 MR. PARIS: No questions,
9 Doctor. Thank you, very much.

10 VIDEOGRAPHER: Off the
11 record. Do we have to do the
12 signature thing, waiver of viewing?

13 MR. PARIS: You'll waive
14 everything?

15 THE WITNESS: Yes.

16 MR. PARIS: Thank you,
17 very much, Doctor.

18 - - - - -

19 (Deposition concluded at 5:33 p.m.)

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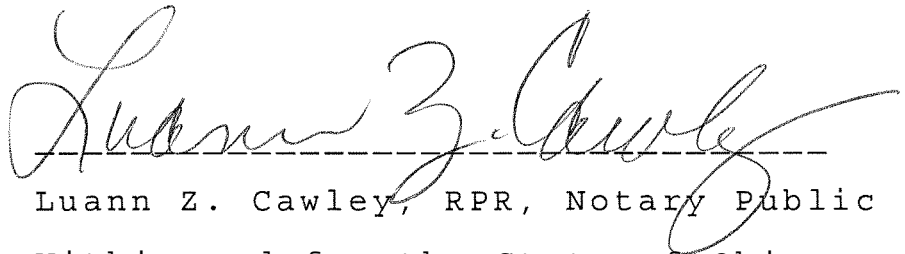
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I, Luann Z. Cawley, RPR, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named witness, JOHN K. KREBS, M.D., was by me first duly sworn to testify to the truth, the whole truth and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

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

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

5 IN WITNESS WHEREOF, I have hereunto set
6 my hand and affixed my seal of office at
7 Cleveland, Ohio, this 13th day of October,
8 A.D., 2000.

9
10
11 

12 Luann Z. Cawley, RPR, Notary Public
13 Within and for the State of Ohio
14 My Commission Expires 8-8-05

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