

THE STATE OF OHIO,)
) SS: THOMAS J. POKORNY, J.
COUNTY OF CUYAHOGA.)

IN THE COURT OF COMMON PLEAS

LEON USYK, et al.,)
)
Plaintiff,)

DOC. 378

v.)

Case No. 90-182391

EDWARD LAPP, et al.,)
)
Defendants.)

- - -

Deposition of ARLEN J. ROLLINS, M.D., taken by
the Plaintiffs as if upon cross-examination before
Ginette M. Piro, a Registered Professional Reporter and
Notary Public within and for the State of Ohio, at the
Bedford Community Hospital, 44 Blaine Avenue, Room 112,
Bedford, Ohio, on Tuesday, the 9th day of April, 1991,
commencing at 4:45 p.m., pursuant to agreement of counsel.

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APPEARANCES:

~~Carson~~ & Associates,
By: Donna Taylor-Kolis, Esq.,

On behalf of the Plaintiffs.

The Ohio Bell Telephone Company,
By: Edward L. Bettendorf, Esq.,

On behalf of the Defendants.

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STIPULATIONS

It ~~is~~ stipulated by and ~~between~~ counsel for
the respective parties that this deposition may be
~~taken~~ in stenotypy by Ginette M. Piro; that her
stenotype notes may be subsequently transcribed in the
absence of the witness; that the reading and signing of
the deposition by the witness were expressly waived;
and that all requirements of the Ohio Rules of Civil
Procedure with regard to notice of time and place of
taking this deposition are waived.

- - -

1 ARLEN J. ROLLINS, M.D.,
2 herein, called by the Plaintiffs for the purpose of
3 cross-examination, as provided by the Ohio Rules of Civil
4 Procedure, being by me first duly sworn, as hereinafter
5 certified, deposes and says as follows:

6 MS. TAYLOR-KGLIS: Let the record reflect
7 that we're here today on April 3, 1991 to take the
8 discovery deposition of Dr. Arlen Rollins.

9 Dr. Rollins has been produced by agreement
10 of counsel in a case captioned Leon Usyk, et al. versus
11 Edward Lapp, et al.; is that correct, Mr. Bettendorf?

12 MR. BETTENDORF: Yes.

13 CROSS-EXAMINATION

14 BY MS. TAYLOR-KOLIS:

15 Q. Let the record further reflect probably more
16 for clarification for me, Dr. Rollins, when I came here
17 today I did give you a check for \$550; is that correct?

18 A. Yes.

19 Q. My office indicated that would be your charge
20 for a deposition today?

21 A. Yes.

22 Q. Was that an hourly charge or just however long
23 it takes?

24 A. We:?, that was for my preparation time and an
25 hour today.

1 Q. If it's longer than an hour, you can send me
2 an additional bill.

3 For the record can you please state your name.

4 A. Arlen Rollins.

5 Q. It's my understanding that you're a physician
6 licensed to practice medicine in the State of Ohio; is
7 that correct?

8 A. Yes, **it** is.

9 Q. Dr. Rollins, it is also my further
10 understanding that you had the occasion and opportunity to
11 examine my client, Mr. Usyk, sometime late in 1990?

12 A. December 12th of 1990.

13 Q. Did you keep a file with notes in **it** based
14 upon your examination of Mr. Usyk?

15 A. I have different papers here. When I examined
16 him I took some notes and then I dictated a report and
17 there wasn't any reason for those notes anymore.

18 Q. So you did not retain your examination notes.
19 You took your notes, dictated **it** into a report form and
20 the report, which is dated December 12, 1990, that was
21 forwarded to Mr. Bettendorf, would that be accurate?

22 A. Yes.

23 Q. I believe I have a copy of that complete
24 report?

25 A. Yes.

1 Q. I think it's pretty clear but just for the
2 jury if they happen to get their hands on this deposition,
3 you examined him at the request of Ohio Bell Telephone
4 specifically for Mr. Bettendorf?

5 MR. BETTENDORF: I'll stipulate to that.

6 A. Yes.

7 Q. (BY MS. TAYLOR-KOLIS) Prior to that
8 examination were you given any instructions as to what the
9 purpose of the exam was to be?

10 A. The purpose of the examination was to examine
11 Mr. Usyk and find out what his current medical status was
12 and what the possible causes are.

13 Q. Did you get those instructions in a telephone
14 conversation with Mr. Bettendorf or did he send you
15 a letter requesting the same?

16 A. I think I have a letter asking it. I think
17 that should be here.

18 Q. If it's in your file, I would just like to look
19 at it briefly.

20 A. I also received your mass notebook here which I
21 spent a considerable amount of time examining.

22 Q. I'm going to hold on to this letter for a
23 moment because I want to ask you some questions about it.

24 So Mr. Bettendorf did send you a letter on
25 November 15, 1990 basically outlining it would appear the

1 facts of the accident and requesting that you determine
2 history, injuries, treatment and current status of
3 Mr. Usyk. Is that accurately your recollection of what
4 you were required to do?

5 A. Yes.

6 Q. And in conjunction with that you were provided
7 with a notebook hopefully that was tabbed that contained
8 various medical reports and treatment notes?

9 A. Yes.

10 Q. Did you review that notebook and all of the
11 medical reports and records contained in it prior to your
12 examination of Mr. Usyk?

13 A. To the best of my ability.

14 Q. Did you --

15 A. Some things ~ ~ e illegible.

16 Q. A lot of things are illegible. But You did at
17 least go over them so you had some preliminary ideas about
18 what things had happened to Mr. Usyk subsequent to the
19 accident; would that be accurate?

20 A. Yes.

21 Q. Did you make a chronological history in your
22 own handwriting anywhere, pull out what you thought were
23 important details?

24 A. I have this here. I don't know if I did it
25 before the exam or after the exam.

1 Q. It's not really that important to me. It's
2 just I was seeking to determine whether you had made an
3 outline of the records.

4 A. It's a hard case to outline because there is so
5 many different things going on.

6 Q. But the answer is you, in fact, did make an
7 outline and I'd like a copy of this. I don't know if
8 there is photostatic availability on the premises but I
9 would like to see that..

10 As you recall it since you didn't save your
11 notes from your exam, when you examined Mr. Usyk was he
12 cooperative in all respects with you regarding your
13 requests during the examination?

14 A. Yes.

15 Q. And to the best of your ability as a physician
16 did he appear to be truthful at the time of his
17 examination in response to questions that you asked him?

18 A. I think so.

19 Q. What I would first like to do -- one of the
20 additional purposes of a discovery deposition other than
21 to determine opinions that you hold regarding this person
22 is to investigate your own personal background and
23 qualifications. I had previously been provided with a
24 curriculum vitae. It looks essentially the same as the
25 one that you showed me today, so I'd like to go over a

1 couple of things that were contained in it.

2 It's indicated in your CV that from 1971 to
3 1973 you were involved in clinical and hospital practice.
4 Could you tell me what you did, what's your definition of
5 what occurred during '71 to '73 in your clinical and
6 hospital practice?

7 A. The Chicago College Of Medicine is a four-year
8 medical school in Hyde Park in Chicago. The first two
9 years are basically basic sciences and then you have a
10 clinical practice after the first two years,

11 So during that period of time I went through
12 different clinical rotations and had my own patients and
13 consulted with specialists on different things.

14 Q. In your experience with your clinical rotations
15 what areas of medicine were you involved in?

16 A. All. Every area of medicine.

17 Q. A, B, C, D, E, F, G, OB/GYN?

18 A. Yes.

19 Q. Pediatrics?

20 A. Yes.

21 Q. Orthopedics?

22 A. Certainly a lot of orthopedics.

23 Q. Neurology?

24 A. Yes.

25 Q. So a doctor of orthopedic medicine in the

1 four-year medical training course receives essentially the
2 same training as an MD?

3 A. Exactly the same plus the manipulation, the
4 addition of orthopedic manipulation and diagnosis.

5 Q. All right. Subsequent to that time from '73 to
6 '74 you did a rotating internship in Phoenix, Arizona,
7 correct?

8 A. Correct.

9 Q. Just recall quick in 25 words, or less?

10 A. Rotating internship where I started delivering
11 babies and then work in the emergency room and work in
12 surgery and work in medicine,

13 Q. Were you ever licensed to practice medicine in
14 Arizona?

15 A. Yes.

16 Q. And did you let that lapse?

17 A. I think I've kept it up.

18 Q. I was unclear. From your CV it looked like
19 you were currently licensed in Ohio and California only.

20 A. Maybe I did let it lapse. I took an
21 examination to obtain that license and it's -- I think I'm
22 eligible to get it back.

23 Q. From 1974 to 1977 your CV indicates that you
24 were affiliated or studying at the College of Medicine at
25 the University of Cincinnati. Can you tell me what you

were doing during that three-year period of time

2 ■ was a resident in occupational medicine at
3 the University of Cincinnati and took all the credits for
4 a Master's degree and just had to complete my thesis. At
5 the same time I worked at the Ford Motor Company plant in
6 Fairfax which is a suburb of Cincinnati.

7 Q. Correct. I've been there several times. Since
8 you brought it up you have a Master's ■ think it's M.Sc.,
9 what does that mean?

10 A. Master's of Science.

11 Q. So it was some additional degree that you
12 obtained; is that correct?

13 A. Yes, it is.

14 Q. While you were involved in that. program with
15 the medical center you indicated, and ■ think it was clear
16 in your CV, that you were serving with the Ford Motor
17 Company doing something, plant physician?

18 A. Yes.

19 Q. How many years did you perform that service,
20 three?

21 A. Three.

22 Q. Can you tell me what your primary
23 responsibility as the plant physician was at Ford Motor
24 Company?

25 A. Yes. ■ would do pre-employment examinations,

1 treat injuries that occurred at work, ergonomic problems
2 in the plants.

3 Q. What kind of problems'?

4 A. Ergonomic. I have a special interest in that
5 so that's what, I did my Master's thesis on. And see
6 people following medical leaves. I was involved in the
7 substance abuse program.

8 Q. Probably about covers it?

9 A. Yes.

10 Q. Was that a full-time job?

11 A. It was a full-time job but cars weren't selling
12 that's why I was able to go to the University of
13 Cincinnati at the same time.

14 There was a considerable amount of layoffs at
15 the time and I had permission from the plant manager
16 when I worked there. In order -- I said I would take the
17 job there if I would be allowed to go to the Master's
18 program at the university so I left work a lot.

19 Q. When you say you treated injuries at the plant
20 do you mean that you rendered emergency care for any
21 traumatic injuries that occurred in the plant?

22 A. I would render emergency care for traumatic
23 injuries. I would sew up lacerations. I probably did
24 some castings, splinting, send people to the emergency
25 room or specialists if that was indicated.

1 Q. Ford didn't have on its facilities a medical
2 clinic *for* treating its own --

3 A. Yes, they did.

4 Q. -- for ongoing treatment of its own employees?
5 In other words, if I got hurt, if I worked at Ford and I
6 fell off a platform and injured my low back, I would come
7 to you initially in the dispensary, correct?

8 A. You would come to me initially in the
9 dispensary and I would treat you throughout the injury.

10 Q. You're serious?

11 MR. BETTENDORF: Objection.

12 Q. (BY MS. TAYLOR-KOLIS) That's very unusual. I
13 didn't realize that. They had an on-site treatment
14 facility other than emergency care?

15 A. Yes. They kept medications there. We had our
16 own pharmacy.

17 Q. Your CV lists you as a physician and
18 surgeon --

19 A. Plus we had our own x-ray and other things.

20 Q. Your CV lists you as a physician and surgeon.
21 When was the last time you performed a surgery?

22 A. I sewed up a laceration within the last couple
23 weeks.

24 Q. You're calling that surgery, correct?

25 A. I'm sorry?

Q. You're defining sewing a laceration as surgery?

A. Yes. That's — The state license in Ohio is physician and surgeon.

Q. Have you ever done a back surgery?

A. I've assisted in back surgeries. I've never done one by myself.

Q. When was the last time you assisted in back surgery?

A. During my internship.

Q. In what year was that?

A. '73 to '74.

Q. Subsequent to that time, however, have you treated any patients for back injuries or performed any back surgeries?

A. I've treated many patients for back injuries. That's the main thing I treat in my occupational medicine practice. I haven't done any back surgery.

Q. I just wanted to be clear on that. From June 1968 to August of 1969 your CV lists you were an Industrial Hygiene Engineer for the City of Cleveland. Can you just basically tell me what that occupation is?

A. I received special training in industrial hygiene. Industrial hygiene is the study of the workplace for different exposures including noise, chemicals, smoke, and I received training from the United States Public

1 Health Service and the different universities around the
2 country for specialized training. And my boss had a
3 Master's degree from Harvard in industrial hygiene.

4 Q. At any time since your licensure in the State
5 of Ohio — What year did you become licensed as a
6 physician and surgeon in the State of Ohio by the way?

7 A. '74.

8 Q. I guess what I'm asking, since that time have
9 you served as a private attending physician only to a
10 medical office is just *what* I'm asking?

11 A. Your question -- I'm not sure what your
12 question is. Yes, I've been a private physician for many
13 people. I treat a lot of people every day for injuries
14 that occurred at work and private things that they have.

15 Q. Do you have a private medical office?

16 A. I have an office in my home. I have an office
17 in Suite 100 here so yes, I do.

18 Q. If I understand your CV, you're on the hospital
19 staff of University Hospital, Hillcrest, Bedford,
20 Brentwood and the Cleveland Clinic?

21 A. Yes.

22 Q. You're a staff physician or you have privileges
23 at those hospitals?

24 A. Cleveland Clinic I'm a ~~CompreCare~~ member.

25 Q. What does that mean?

1 A. That means -- It's called a Cleveland Clinic
2 affiliate physician. I know a lot of physicians there
3 and it's something you apply for and generally receive.
4 I do most of my practice here.

5 Q. Here at Bedford?

6 A. At Bedford. I used to teach at Case Western
7 Reserve specialty of occupational medicine to residents
8 and see private patients there but I discontinued doing
9 that.

10 Q. Currently you're treating people for injuries;
11 is that something that you do?

12 A. Every day.

13 Q. How do those people become your patients?

14 A. The people that are injured at the different
15 places where I'm the medical director come to me for that.
16 If they're injured there, they do. If they have private
17 injuries, they frequently ask me questions and then they
18 can call my office and see me for something private.

19 Q. Do the patients who you are seeing and treating
20 come to you at the request of their employers?

21 A. Some do, some don't.

22 Q. How many would you say come to you not at the
23 suggestion of their employers?

24 A. Few. Probably five, ten percent.

25 Q. Five or ten percent of your practice?

1 A. Yes.

2 Q. I notice that you have a Board certification in
3 occupational medicine. Can you describe for me what a
4 Board certification in occupational medicine means?

5 A. Under the American Medical Association there is
6 a specialty of preventive medicine, and in the specialty
7 of preventive medicine is public health aviation medicine
8 and occupational medicine.

9 In order to receive Board certification in that
10 you take a -- you have to have a residency, which I had,
11 and I think it's five years of clinical full-time
12 practice, which I had, and therefore I applied.

13 Following that I took a test for general
14 preventive medicine and then I took a test for the
15 subspecialty of occupational medicine,

16 Q. I guess I'm still confused about what
17 occupational medicine in actuality is.

18 A. Treating the worker in the workplace.

19 Q. Treating the worker in the workplace. That's
20 the definition of occupational medicine,

21 Do you have a Board certification in any other
22 specialties such as orthopedics or neurology?

23 A. I do not have a Board certification in that. I
24 attend a lot of seminars on it and I treat a lot of those
25 things, and being an osteopath I've had special training

1 in that. And that's kind of the majority of what I do.

2 Q. You're Board eligible for orthopedics?

3 A. Board eligible probably for general practice
4 and family practice. I'm not -- I don't think I'm Board
5 eligible for orthopedics, no.

6 Q. As a regular part of your current medical
7 profession that you do on a daily basis do you read
8 x-rays, CAT scans and MRIs yourself or do you rely upon a
9 radiologist for those?

10 A. I read a lot of x-rays myself.

11 Q. What about CAT scans?

12 A. CAT scans. I have an x-ray facility at the
13 Ford plant that I'm working at now. I do not have a CAT
14 scan or an MRI unit there.

15 Q. So you wouldn't be familiar with reading CAT
16 scans or MRIs yourself?

17 A. Well, because of my interest in that I've met
18 with those specialists and have attended readings of those
19 and courses on that so I have some idea of what's going on
20 but I'm not a radiologist, no.

21 Q. In this particular case in reaching any
22 conclusion which you might have about Mr. Usyk did you
23 view the actual films, any films that were performed on
24 Mr. Usyk?

25 A. No films were provided. The reports were

1 provided.

2 Q. So the answer is you haven't read any films, no
3 x-rays, no CAT scans, no MRIs?

4 A. Correct.

5 Q. From 1977 to December of 1979 you were the
6 Associate Medical Director of the East Side Occupational
7 Health Center; is that correct?

8 A. Yes, it is.

9 Q. East Side Occupational Health Center was or
10 is -- I don't know if it still exists -- was that on
11 St. Clair Avenue by the day?

12 A. Yes.

13 Q. it's been awhile. What kind of medical
14 facility was the East Side Occupational Health Center?

15 A. The center was owned by Otto Price who was a
16 specialist in occupational medicine and he was asked to
17 set that up by the employers in the area. He came from
18 the Euclid Clinic Foundation and set that place up and
19 hired me from Cincinnati to be the doctor there.

20 Q. Essentially if I recall the facility and
21 understand what it was, East Side Occupational Health
22 Center was that a place where employers sent employees
23 with workers' comp injuries to be evaluated; is that an
24 accurate statement.?

25 A. No.

1 Q. Did you do much rehabilitation while you were
2 there or did you more do report writing for workers' comp
3 purposes?

4 A. I think you have a misunderstanding of what --
5 We did pre-employment examinations, we treated injuries,
6 we had private patients come in there. We did not only
7 treat the people that were referred but people referred
8 themselves there. One of the things that we did there was
9 do evaluations for permanent partial impairment.

10 Q. It's been some time obviously since you've been
11 there but as you recall what percentage of persons who
12 were seen in that facility were actually there not at the
13 request of an employer?

14 A. Probably 25 percent.

15 Q. Obviously from 1981 to 1986 you were the staff
16 physician and medical consultant for Ohio Bell Telephone.
17 Can you tell me what your job duties consisted of during
18 that five-year period?

19 A. Oh, sure. I would do pre-employment
20 examinations, see people for return-to-work examinations,
21 help with substance abuse problems. We had psychologists
22 up there that we would work with when there was emotional
23 problems. We would get a lot of private consultations
24 when people had some personal problems. Do
25 return-to-work exams.

1 Q. You were doing pre-employment and
2 return-to-work examinations that was your responsibility as
3 the staff physician with that --

4 MR. BETTENDORF: Objection. Asked and
5 answered.

6 MS. TAYLOR-KOLIS: I just wanted to make
7 sure that's what he said.

8 Q. (BY MS. TAYLOR-KOLIS) At Ohio Bell were
9 you rendering medical treatment?

10 A. Yes.

11 Q. What kind of medical treatment were you
12 rendering there?

13 MR. BETTENDORF: Objection. Asked and
14 answered. Please answer again.

15 A. We had our own pharmacy there and we would
16 treat people for the injuries that occurred at work plus
17 there were people that had some personal health problems
18 that we would treat.

19 Q. (BY MS. TAYLOR-KOLIS) @idyou have a physical
20 therapy facility there?

21 A. We had a fella that had worked at Metro that
22 was a nurse there, and before then he was a physical
23 therapist so he would help us to train people in some
24 exercises.

25 Q. Train people in exercises is that what you

said?

Yes, I did.

3 Q. But I guess the question I asked was if you had
4 a physical therapy facility there for rendering treatment
5 and the answer would be?

6 A. No, sir. I guess it depends on how you define
7 physical therapy. If you define physical therapy as shake
8 and bake, then, no, we didn't. If you define physical
9 therapy as seeing what's wrong and helping them do
10 exercises to improve their function, then maybe we did.

11 Q. And that employment ended in 1986, correct?

12 A. It was at that time that I had an offer from
13 Ford Motor and I took that.

14 Q. Your curriculum vitae says, Present Positions
15 and I want to be sure if these are -- it says Since 1986.
16 It lists six occupations. Are you doing these all at the
17 same time or were these in order of which you did these
18 jobs, Medical Director of the Bedford Hospital
19 Occupational Health YProgram; is that where you currently
20 are employed?

21 A. I'm not employed there. They don't pay me
22 anything. Just when they have questions about
23 occupational medicine they come to me.

24 Q. Medical Director of I. Schumann and Company.
25 Are you employed there or once again is that --

1 A. I'm an independent contractor there. I'm not
2 an employee.

3 Q. How much time a week do you spend currently
4 as Medical Director of the Bedford Hospital Occupational
5 Health YProgram?

6
7 Q. How much time a week do you spend as Medical
8 Director to I. Schumann and Company?

9 A. A couple hours.

10 Q. It says, Plant Physician Ford Motor Company,
11 Walton Hills. Is that also currently part of your work
12 responsibility?

13 A. Yes.

14 Q. How much time a week do you devote to that
15 particular occupation?

16 A. There 27 and a half hours a week.

17 Q. What are your job responsibilities as the Plant
18 Physician of Ford Motor Company?

19 A. Pre-employment examinations, return-to-work
20 examinations, look at the ergonomics of different jobs,
21 functioning on the ergonomics committee, deal with
22 substance abuse and mental health problems, treating
23 injuries and that's about it.

24 Q. Just so that I won't be confused about this
25 later when you say ergonomics are you referring to the

1 machine that I've seen, the one that charts muscular
2 strength?

3 A. No.

4 Q. Will you tell me what that is?

5 A. Ergonomics is fitting the job to the man.
6 Making the job design so it's easy for the person to do
7 and so **it** doesn't cause them injury.

8 Q. You also listed the University Hospitals of
9 Cleveland, Clinical Instructor in Medicine?

10 A. Yes.

11 Q. is that a current position which you hold?

12 A. Again, I have different lectures there. I
13 haven't given any recently.

So it's just something that occasionally you
do?

Yes.

17 Q. Staff Physician University Hospitals .
18 Occupational Health Center, is that also currently a job
19 which you hold?

20 A. It's a title I hold, yes.

21 Q. How much time a week do you devote to that job
22 title?

23 A. I haven't done that much currently.

24 Q. President, Occupational Health Management
25 Consultants. First of all, is that the name of a company,

1 Occupational Health Management Consultants?

2 A. It's a company I founded that included myself
3 and two psychologists. One was a clinical psychologist
4 the other was a clinical psychologist that also had an
5 interest in substance abuse and we -- something I
6 founded.

7 Q. Is that currently a functioning business? Is
8 that an operational business? I couldn't find a listing
9 for it.

10 A. Yes. I no longer advertise in the phone book.

11 Q. How much time a week do you devote to your
12 company Occupational Health Management Consultants?

13 A. None.

14 Q. I'd like to direct your attention to the report
15 which you wrote so that we can discuss some things about
16 it. First of all, if you need to refer to your report,
17 that's fine.

18 After examining Leon Usyk and reviewing his
19 records do you have an opinion within a reasonable degree
20 of medical certainty as to what injuries Leon Usyk
21 sustained in the automobile accident of March of 1986?

22 A. Yes.

23 Q. Can you outline those injuries for me?

24 A. He sustained fractures of the left sixth,
25 seventh, eighth and ninth ribs. He may or may not have

1 sustained a fracture of *the* left tibial plateau. He may
2 or may not have sustained an avulsion fracture of the
3 pelvis on the right side.

4 He was diagnosed as having a cerebral
5 concussion by Dr. Tucker but concussion means he was
6 unconscious and he wasn't unconscious.

7 Q. I'm going to interrupt your answer as being
8 nonresponsive. I want to know what injuries you believe
9 that he sustained not the may or may not have. Which ones
10 you believe he sustained in the accident to a reasonable
11 degree of medical certainty.

12 A. Do you want me to start again?

13 Q. Just as long as you understand that my question
14 is which injuries you believe he sustained in the
15 accident. Sure; you can start again.

16 A. I believe he had those fractures of the ribs.
17 I believe he had an injury to the left tibial plateau of
18 some degree.

19 Q. Okay.

20 A. -- He may have had some type of head injury.
21 It's hard to say. And he may have had a temporary
22 aggravation of his chronic back problem.

23 Q. What is *the* basis for your opinion in
24 believing that he sustained *the* rib fractures as a result
25 of the accident?

1 A. X-ray results taken at the time of the injury
2 plus his history.

3 Q. What is the basis upon which you believe that
4 he sustained some sort of avulsion fracture -- I think
5 maybe that's what you said. She can read it back -- of
6 the pelvis?

7 A. The initial x-ray said that he did have that
8 and the subsequent x-ray said he didn't.

9 Q. What's your understanding of what an avulsion
10 fracture is?

11 A. It's a chip fracture or pull-out fracture.

12 Q. Do you have an opinion as a medical doctor
13 whether or not a small avulsion fracture is hard to read
14 or see on an x-ray?

15 A. I think it is.

16 Q. Would that in your opinion as a medical
17 practitioner be a reason why Dr. Zaas, who re-x-rayed
18 him three weeks later, may not have seen the avulsion
19 fracture?

20 A. It was read by a radiologist not just by Zaas
21 and I don't think any of them saw it.

22 Q. Do avulsion fractures heal themselves rather
23 quickly especially if they're small'?

24 A. I don't think it healed that quickly.

25 Q. Just asking for your opinion. Regarding the

1 fracture to the tibial plateau what is your basis for
2 believing there is a causal relationship between the
3 accident?

4 A. Apparently the emergency room did have some
5 swelling of the knee. I think that was in the emergency
6 room report. As I recall there was no fracture found on
7 the x-ray at that time in the emergency room. Subsequent
8 to Zaas seemed to have found a small linear fracture so
9 that's my basis.

10 Q. And lastly, you have an opinion that he may
11 have sustained -- and I don't know if you used the word
12 "small" or "slight" but something to the effect
13 aggravating preexisting low back condition; is that
14 correct?

15 A. Yes.

16 Q. Upon what basis do you draw that conclusion?

17 A. Going back in the record we find that he had a
18 back injury on September 26th of '78, a back injury on
19 January 19th of '81. He was off for two years from '82 to
20 '84. He received weekly treatment up until the time of
21 the injury, the latest treatment being 3-10 of '86 the
22 injury being on 3-20 of '86.

23 Although he did not say that he had a back
24 injury in the emergency room when he went later on to see
25 Dr. McFadden he said that then he noted he had a back

1 injury as well so I was taking him at his word.

2 Q. Did you read all of the Parma Community
3 Hospital records that were provided to you?

4 A. I'm sure I read them initially, yes.

5 Q. Let's see if this will refresh your
6 recollection to what may or may not have been in his
7 records.

8 Do you recall in the Parma Community Hospital
9 records regarding a request for back examination the
10 Plaintiff, Mr. Usyk, declined a back examination because
11 of the position. Does that refresh your memory as to
12 something that was in the records?

13 A. You have probably read that more recently than
14 I have.

15 Q. Let's find it for you. Let me ask it to you
16 hypothetically. As a medical doctor and person who has
17 dealt with people with traumatic injuries for a good
18 number of years, if a person had the fractures that
19 Mr. Usyk did, would you find it hard to believe that they
20 wouldn't want to move off their back to be examined
21 because of pain?

22 A. Having sustained a hip fracture myself I can
23 understand it.

24 Q. So if the records were to say that a person
25 declined back examination because of positional discomfort

1 due to their ribs, you would find that understandable
2 wouldn't you, medically?

3 A. Medically I'd find that understandable
4 depending on the degree of that injury.

5 Q. Do you have an opinion as a medical
6 practitioner as to what degree of trauma the body would
7 have sustained to fracture a rib, tibial plateau and a
8 pelvis?

9 A. The fella was driving, his Toyota pickup was
10 hit by a Citation, I understand, in the driver's door. He
11 said he went on the other side of the vehicle when that
12 happened so I'm sure there was some impact there
13 certainly.

14 Q. Is it not accurate that it takes a pretty good
15 deal of force to fracture a bone that's located within
16 the pelvis?

17 A. I would say it does. I can't argue with that.

18 Q. Let me ask you this. Clearly noticeably one
19 thing I didn't say is that you must not be of the opinion
20 that the eventual back surgery was related to this
21 accident; is that your opinion?

22 A. That's my opinion.

23 Q. Even though you didn't write about it I'm
24 gathering that's your opinion?

25 A. That's my opinion.

1 Q. On what do you base your opinion that the disk
2 surgeries that Mr. Usyk eventually had are not related to
3 this accident?

4 MR. BETTENDORF: Are you referring to the
5 1989 disk surgeries?

6 MS. TAYLOR-KOLIS: Yes, I am.

7 Q. (BY MS. TAYLOR-KOLIS) The surgeries that were
8 performed by Dr. Marsolais can you tell me why you don't
9 think those are associated with this trauma of 1986?

10 A. I think I dealt with that to some extent in my
11 report. Looking on Page 9 I discussed that, and I think I
12 discussed it earlier in the report as well.

13 I'll reiterate if you like that he had a back
14 injury 9-26 of '78. He had weekly treatment following
15 that injury up until he had another injury on
16 January 29th of 1981.

17 At that time he developed pain in the left
18 buttock and was diagnosed as having sciatic neuralgia and
19 was found by a physician to have decreased reflexes in the
20 left lower extremity on March 25th of 1982. And the
21 patient continued to have left sciatic neuralgia and have
22 weekly treatment for it up until ten days of the motor
23 vehicle accident.

24 The patient's symptoms were essentially the
25 same after the motor vehicle accident, and the symptoms

that he said he had when he was complaining and seeing
2 Dr. Marsolais were basically the same as he had prior to
3 the motor vehicle accident --

4 Q. Let me ask you something.

5 A. -- and he admitted to that.

6 Q. What do you believe he admitted to?

7 A. That his symptoms that he was having after the
8 motor vehicle accident were the same as those that he had
9 prior to the motor vehicle accident.

10 Q. Did you record that that's what he told you in
11 response to this question?

12 A. I remember discussing that with him, yes.

13 Q. Well, what do you think essentially the same
14 symptoms were? Do you have an understanding of what his
15 symptoms were?

16 A. The pain in the lower back, the pain down the
17 left leg.

18 Q. Let's deal with some specifics

13 A. Okay.

20 Q. You indicated several places in your report
21 that you believe that there was a diagnosis of left
22 sciatic neuralgia?

23 A. That's in here.

24 Q. Well, it's important for us to fair out --
25 First of all, why don't you tell me what you think

1 whatever physician wrote the phrase left sciatic neuralgia
2 meant.

3 You indicated at Page 3 of your report, Left
4 sciatic neuralgia, meaning that he had a radiation of pain
5 along the sciatic nerve going down from the -- dot, dot,
6 dot whatever it says. Can you locate that portion of your
7 report?

8 MR. BETTENDORF: You said Page 3?

9 MS. TAYLOR-KOLIS: I believe it's Page 3.

10 A. Dr. Charboneau apparently said that the allowed
11 diagnosis under the Workers' Compensation claim, what he
12 was treating him for every week, was a paravertebral
13 muscle strain with secondary left sciatic neuralgia.

14 Q. (BY MS. TAYLOR-KOLIS) First of all, let's deal
15 with the definition. What do you think left sciatic
16 neuralgia is or what's your understanding? When you use
17 that term as a physician what would you believe you were
18 stating?

19 A. Pain down the left leg.

20 Q. Did you call Dr. Charboneau or any other
21 physician whose name was included in this file to
22 determine what they meant by left sciatic neuralgia?

23 A. Let's go back over my CV. I'm an orthopedic,
24 went to medical school. Since my second year of medical
25 school I've been treating back injuries. I've dealt

1 closely with orthopedists over that time and neurologists.
2 I see chiropractors. I've seen patients, I've read books
3 about it. I know what left sciatic neuralgia means and I
4 don't like you seem to be saying I don't know what it
5 means.

6 Q. I'm asking you if you know what this physician
7 meant when he used that phrase.

8 A. You brought a dictionary with you, you can use
9 that or Stedman's or Dorland's.

10 Q. Would you like to use Taber's?

11 A. No. But it's in all the textbooks and that's
12 what it means.

13 Q. Would you agree that there is a difference
14 between someone stating that person is suffering with
15 sciatic neuralgia versus sciatica?

16 A. That there is a difference between the two,
17 sciatica and sciatic neuralgia?

18 Q. Correct.

19 Q. There is a difference between the two?

20 A. No.

21 Q. You don't think there is a difference?

22 A. I think the terms are used clinically
23 interchangeably.

24 Q. Excuse me?

25 A. The terms are used clinically interchangeably.

1 Q. Did you, in fact, see a Workers' Compensation
2 allowance for a low back strain and sciatic neuralgia or
3 is that something you picked off a report that someone had
4 written?

5 A. I think I should find it in here so we can
6 discuss it further.

7 Q. Sure. My page references would be the same as
8 yours if you can find it.

9 A. Can you tell me where it is?

10 Q. To save you some time, I believe, Section 29 of
11 my tabs. This is the section that has the Industrial
12 Commission records in it.

13 A. It's in Section 28.

14 Q. Section 28 as identified in my records are
15 office notes of Dr. Gordon Charboneau; is that what your
16 Section 28 is?

17 A. Yes. Here it is.

18 Q. A page?

19 A. The pages aren't numbered.

20 Q. At the bottom if you look there is real faint
21 printing that indicates page numbers.

22 A. Eight.

23 Q. 0008.

24 A. Diagnosis.

25 Q. Lumbosacral strain with left sciatic

neuralgia?

A. That's what I'm ~~reading~~

Q. You don't know if that's a Workers' Compensation allowance that was the doctor's diagnosis at that time?

MR. ~~SCHEIDT~~ Let the record ~~reflect~~ that this document speaks ~~for~~ itself and it appears to be signed by Dr. Charboneau. This was supplied by Plaintiff with the representation that ~~these~~ were Dr. Charboneau's records.

MS. TAYLOR-KOLIS: And they are. I just don't want. ~~we~~ confuse it with what's conditional what someone may have.

A. Did you supply us as requested with that information?

Q. Yes. ~~It's~~ in the comp records. I ~~was~~ just referring you to Section 29 ~~of~~ the Workers' Compensation records, If I could direct your attention to ~~Page~~ 000041 now, you had previously been supplied ~~ed~~ with a?1 of these records and you could ~~review~~ them; is that correct --

A. Yes,

Q. -- in reaching your conclusion --

A. And I did.

Q. -- and in seeing what ~~people~~ had to say prior to this accident; is that right?

1 A. Yes.

2 Q. Have you found the page? That's Page 41?

3 A. Yes.

4 Q. Do you see this report signed by Dr. Fierra?

5 A. Yes.

6 Q. Do you know Dr. Fierra?

7 A. No. But I know of his work.

8 Q. But you're also a state specialists; is that
9 correct?

10 A. Yes.

11 Q. Do you see that Dr. Fierra indicates in this
12 particular report for examination of 3-3-82 that there
13 are no neurological deficits on examination of this
14 person?

15 MR. BETTENDORF: Is your question does he
16 see where that says that?

17 MS. TAYLOR-KOLIS: Yes.

18 MR. BETTENDORF: Why don't you point it out
19 to him.

20 MS. TAYLOR-KOLIS: I think it's paragraph
21 two. "Examination. There is no definite tilt of the
22 pelvis or list of the shoulders -- no atrophy, muscle
23 spasm or neurosensory deficit of lower extremities is
24 identified."

25 A. Your question is what?

1 MR. BETTENDORF: Do you see it?

2 Q. (BY MS. TAYLOR-KOLIS) Do you see where that
3 is?

4 A. Do I see that Fierra said that?

5 Q. Yes.

6 MR. BETTENDORF: The document speaks for
7 itself.

8 MS. TAYLOR-KOLIS: Right.

9 Q. (BY MS. TAYLOR-KOLIS) Did you consider the
10 reports of other physicians that were contained in the
11 workers' comp records that did not find any neurological
12 finding?

13 MR. BETTENDORF: Objection.

14 A. I'm referring to Dr. Lydia Ljuboja's report of
15 19 days later which says that she found his left reflexes
16 to be sluggish.

17 Q. (BY MS. TAYLOR-KOLIS) Would it be accurate to
18 say there is some disagreement as to Mr. Usyk's symptoms?

19 There are three reports written essentially
20 within a three-week period, one by Dr. Fierra, one by
21 Dr. Katz and one by Dr. Ljuboja. Does that refresh your
22 memory of reports you may have seen dated sometime in
23 March of 1989?

24 A. That refreshes my memory.

25 Q. Would it refresh your memory or is it an

1 accurate statement that those three reports don't even
2 necessarily agree on what Mr. Usyk's symptoms were?

3 MR. BETTENDORF: I'm going to object on the
4 relevancy to the question. He's answered his opinion.
5 You're now asking him to express an opinion as to what
6 these other doctors found and I'm going to object on that
7 basis.

8 MS. TAYLOR-KOLIS: Well, let's clarify the
9 record then.

10 Q. (BY MS. TAYLOR-KOLIS) You are basing your
11 opinion of what injury Mr. Usyk sustained to his low back
12 from the automobile accident in March of 1986 on written
13 reports of physicians that were created prior to that
14 accident; is that correct?

15 A. Are you familiar with how long a state
16 specialist like Dr. Fierra spends with a person?

17 Q. My question is in reaching your opinions
18 regarding Mr. Usyk's low back condition and his subsequent
19 surgery did you not rely upon reports that were written
20 prior to the March 1986 automobile accident?

21 MR. BETTENDORF: I'm going to object to the
22 question. It's been asked and answered.

23 It was answered at the beginning of your
24 inquiry. He testified he based his opinion on three
25 elements, the examination of the patient, the history of

1 the patient and the documents that the patient provided
2 through counsel. It's been asked and answered.

3 MS. TAYLOR-KOLIS: Fine.

4 THE WITNESS: I reviewed everything that
5 was available and including what the patient told me to
6 base my opinion.

7 Q. (BY MS. TAYLOR-KOLIS) At Page 6 of your report
8 you indicated that -- it's in the first paragraph. "We
9 should also note that Dr. McFadden had diagnosed a
10 spondylolisthesis at L-5 meaning that there was a
11 common instability in the patient's low back and this was
12 found prior to the motor vehicle accident of March 20,
13 1986."

14 A. Yes.

15 Q. Following that is degenerative arthritis was
16 noted as well.

17 A. Yes.

18 Q. Do you mean that degenerative arthritis was
19 noted prior to March 20, 1986?

20 A. That's what I meant.

21 Q. Can you tell me from where you gathered that
22 piece of information?

23 A. Let's recall this is about four inches or more,
24 five inches. Give me a minute and I'll find it.

25 I'd have to review that all again to give you

1 the answer to the arthritis

2 Q. The reason that I ask, and if you could provide
3 the answer, so that we don't stay here for hours, to
4 Mr. Bettendorf and he can tell me. I do not find a
5 diagnosis by Dr. McFadden prior to this accident of
6 degenerative arthritis. If it exists, I'd like to know
7 where I missed it that's why I'm asking you.

8 A. Okay.

9 Q. So we'll consider that an ongoing question to
10 which you're going to let Mr. Bettendorf know. If it's
11 someone other than Dr. McFadden that said that, I'd like
12 to know that, too. I didn't see it that's why I'm asking.

13 A. So who said degenerative arthritis.

14 Q. At Page 5 you seemed to think, in the
15 comprehensive report, that it was Dr. McFadden that
16 diagnosed degenerative arthritis before the accident and
17 I've been unable to determine the accuracy of that
18 statement.

19 A. Okay.

20 Q. Referring you also further on on Page 5, second
21 paragraph apparently you spent some time discussing the
22 knee situation close to the end of that paragraph --

23 MR. BETTENDORF: I'm sorry, Donna?

24 MS. TAYLOR-KOLIS: Paragraph 2, Page 5.

25 Q. (BY MS. TAYLOR-KOLIS) "We should note that the

1 patient has never had an arthrogram of the knee nor any
2 other special diagnostic tests, and the knee examinations
3 have all been normal". When you said that the knee
4 examinations have all been normal --

5 A. Let me find this, please.

6 Q. I'm sorry. Page 5, paragraph 2 second to last
7 sentence.

8 A. Okay.

9 Q. Did you mean to say that each and every time he
10 was examined by any of his treating physicians that there
11 were no findings in the knee?

12 A. When the guy had the motor vehicle accident
13 there was swelling at that time. When you look further
14 past when he was treated by Zaas the exams appear to be
15 normal since then.

16 Q. Did you have Dr. Zaas' office notes available
17 to you at the time you wrote this report?

18 A. Just a moment. I'll refer you to something
19 that is in it. I think there was no further orthopedic
20 treatment indicated.

21 Q. Well, how about if we give the exact. What I
22 think he said was, "No further formal orthopedic treatment
23 needed at this time" which is a little different
24 statement.

25 How about if I refer you to Section 23 of the

1 notebook which is Dr. Zaas' report and office notes
2 Hopefully that's what it is in your book

3 A. Okay.

4 Q. At Page 28-A on the bottom those are office
5 notes of Dr. Zaas top of the page beginning Radiological
6 Consultation examination date 3-26-87; 6-12-87; 6-30-87
7 Are we on the same page?

8 A. Yes, we are.

9 Q. In reading those office notes you are
10 characterizing his findings of those examinations of his
11 knee as normal?

12 MR. BETTENDORF: Let the record reflect
13 that the doctor has testified off of Zaas' entire file not
14 merely page 28-A.

15 MS. TAYLOR-KOLIS: Well, I want to see. It
16 appears to me that his testimony is but for the emergency
17 room every examination by any doctor was normal so I
18 want to make sure I understand that

19 A. Other than findings of tenderness anteriorly
20 that's a normal knee exam.

21 Q. After his notes of 3-6, 6-30-87 he has a two
22 paragraph description of history and examination
23 apparently on that date and he prescribes, "Advised to
24 continue medications prescribed by treating doctors.
25 Continue with outpatient physical therapy. Quadriceps

1 to knee no so be performed
2 indefinitely. Activity restrictions to protect the left
3 knee." Did, in your opinion, Dr. Zaas render that
4 prescriptive advice because there was no problem with the
5 knee?

6 MR. BETTENDORF: Objection. You're going
7 to have to ask Dr. Zaas that.

8 MS. TAYLOR-KOLIS: I'm sure that we will.

9 A. I think that's a facetious question. No, if he
10 said quadricep exercises should be performed, and
11 certainly that's something I recommend as well.

12 Q. What are quadricep exercises for?

13 A. They strengthen the quadricep muscle which is
14 the muscle on top of the upper leg and that helps the
15 knee.

16 Q. If I could refer you to Page 29-A which is part
17 of Dr. Zaas' office notes examination of 10-15-87, did
18 you also read that in drawing your conclusion that all the
19 knee examinations were normal?

20 A. Well, I'd have to -- You're taking that out of
21 context. I would have to go back and see what I meant by
22 that.

23 Q. I'm trying to find out what you mean by that.

24 A. I assume I meant that after he completed
25 treatment with Zaas that the examinations were essentially

normal, and that's what I think I'm trying to say here.

Q. That's a lot clearer for me. In other words, you didn't mean to say that all his exams were normal?

A. If we look on this 23-A, which I was looking at while you were talking, he said, Left knee is slightly enlarged. Now, that's a positive physical finding. I can't dispute that.

Q. I just want to be sure about that. His prescription at that time was to continue with activity restrictions, may have to alter or modify his work schedule if the shoulder, back and knee flare-ups persist.

A. I assume you're reading from the record?

Q. Right. That's what it says anyway.

A. Okay.

Q. And after, He is not otherwise a candidate for formal orthopedic treatment at this time.

A. See, the tests for stability in the knee, the tests does he have a torn cartilage, those tests are negative. Does he have a torn anteriorcruciate, those tests are negative. There is no finding of internal injury would which would require orthopedic care.

Q. What would cause the change in the girth of the knee in your opinion if you have an opinion?

A. I was -- Let me read that. He doesn't say if there is an infusion or swelling in the knee so I'm not

1 sure what he's referring to there -- if there was swelling
2 in the knee, he would have said there is a positive
3 Blotman Test. He doesn't say that. In that case I really
4 don't know what he was trying to say with that statement.

5 MS. TAYLOR-KOLIS: Doctor, I don't have any
6 further questions. Do you want to waive signature?

7 MR. BETTENDORF: Doctor, as you know, you
8 have a right to read this transcript if it's requested
9 before it can be used in a Court of law.

10 I'm not familiar with this court reporter
11 but I am familiar with this plaintiff's counsel and I
12 believe that she has hired a reputable and competent court
13 reporter. It would be my recommendation, although it's
14 entirely up to you, that you waive your right to read this
15 but again, you'll have to tell the court reporter.

16 THE WITNESS: I'll waive the right to read
17 it. I will get back with you. I'll study this tonight
18 and see where I got that.

19 MS. TAYLOR-KOLIS: Also while we're still
20 on the record I would like a copy of the letter which you
21 received from Ohio Bell and your personal chronological
22 notes that you had made regarding the case.

23 MR. BETTENDORF: Unless you have an
24 objection perhaps the doctor could supply those to me and
25 I'll get them to you in the morning.

MS. TAYLOR-KOLIS: No, I have not problem
with that.

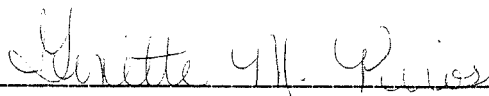
(Deposition concluded at 5:45 p.m.)

- - -

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

4 I, Ginette M. Piros, a Notary Public
5 within and for the State of Ohio, duly commissioned and
6 qualified, do hereby certify that ARLEN J. ROLLINS, M.D.
7 was by me, before the giving of his deposition, first duly
8 sworn to testify the truth, the whole truth and nothing
9 but the truth; that the deposition as above set forth
10 was reduced to writing by me by means of Stenotype and was
11 subsequently transcribed into typewriting by means of
12 computer-aided transcription under my direction; that said
13 deposition was taken at the time and place aforesaid
14 pursuant to agreement of counsel; that the reading and
15 signing of the deposition by the witness were expressly
16 waived; and that I am not a relative or attorney of either
17 party or otherwise interested in the event of this action

18 IN WITNESS WHEREOF, I hereunto set my hand and
19 seal of office at Cleveland, Ohio, this 16th day of
20 April, 1991.

21 
22 _____
23 Ginette M. Piros, RPR
24 Within and for the State of Ohio
25 540 Terminal Tower
Cleveland, Ohio 44113

My Commission Expires: June 21, 1993