

△ TIME

Low back disc

Cervical disc

J. DEPOSITION TRANSCRIPT - DR. MELVIN SHAFRON

LS-51

(5)

1090/125

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(12)

most common cause
of death is no cause

(13)

leg pain most typical

UNINSURED MOTORIST CLAIM

(18)

7-2-3 mos

1 EDWARD ADAMANY,
claimant,

vs.

PROFESSIONAL INSURANCE,
COMPANY, respondent.

DOC. 394

Deposition of MELVIN SHAFRON, M.D., a witness
herein, called by the respondent for the purpose of
direct examination, taken via videotape and court
reporter, pursuant to the Ohio Rules of Civil
Procedure, taken before Lynn A. Zito, a Notary Public
within and for the State of Ohio, at the offices of
Mt. Sinai Medical Center, 26900 Cedar Road, Beachwood,
Ohio, on Monday, the 9th day of July, 1990, commencing
at 4:35 p.m., pursuant to agreement.

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ON BEHALF OF THE RESPONDENT:

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Also present:

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Frank Kerka, videotape technician

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I N D E X

WITNESS:

MELVIN SHAFRON, M.D.

Page

Direct examination by Mr. Leonetti

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Cross-examination by Mr. DeRosa

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of lawful age, a witness herein, called for direct examination by the respondent, as provided by the Ohio Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, was examined and testified as follows:

● ● ● ● ●

DIRECT EXAMINATION

BY MR. LEONETTI:

Q. Doctor, will you please tell us your full name, please?

A. Melvin Shafron.

Q. Where do you maintain your office address,
Dr. Shafron?

A. 26900 Cedar Road in Beachwood, Ohio.

Q. Dr. Shafron, where and when did you receive your medical training?

A. I received my medical training, or my medical degree from Harvard Medical School in 1956 after spending four years there from 1952 to 1956.

Q. Do you have a specialty, Doctor?

A. Yes.

Q. Or specialties, Dr. Shafron?

A. Yes, sir, specialty.

Q. What are they? What is it?

1 A. The specialty of medicine i practice is
2 neurosurgery or neurological surgery.

3 Q. When ana where did you receive your training in
4 neurosurgery?

5 A. After my preliminary training, which consisted
6 of an internsnp and a year in general surgery, I had
7 four years or' tzaining in neurological surgery, the
8 specialty of neurological surgery at the University
9 Hospitals of Cleveland from 1960 to 1964.

10 Q. Doctor, what is the specialty of neurosurgery,
11 in layman's term?

12 A. Neuro surgery is that branch or specialty of
13 medicine which deals with the diagnosis, and if
14 appropriate, the surgical treatment, or if
15 appropriate, tne non-surgical treatment of a variety
16 of disorders which affect the brain, the coverings or'
17 the brain, the bony spine, the disks, the spinal cord,
18 and the various nerves of the body.

19 Q. Are you Board certified in neuro surgery?

20 A. Yes, sir, I am.

21 Q. When wers you Board certified?

22 A. in 1966.

23 Q. What does it mean to be Board certified in
24 Neurosurgery?

25 A. Board certification in neurosurgery means that

1 as an individual practitioner, or as an individual,
2 you had to have received training at institutions, or
3 at an institution that's approved to train
4 neurosurgeons, and after you have been in a practice
3 for a two-year period or time, you became or become
6 eligible to take an examination, which is given by a
7 group of neurosurgeons, plus guest examiners, who are
8 collectively known as the American Board of
9 Neurosurgery, and if you pass this examination, you
10 become certified as a specialist in neuro surgery.

11 Q. And you've passed that test?

12 A. Yes.

13 Q. When were you licensed in Ohio, Doctor?

14 A. 1957.

15 Q. What hospitals are you currently affiliated
16 with?

17 A. I'm affiliated with what's now the Mt. Sinai
13 Medical Center, St. Luke's Hospital, Hillcrest
13 Hospital, Suburban Hospital.

20 Q. So you teach, Doctor?

21 A. Yes, sir, I do.

22 Q. Where?

23 A. I'm an associate clinical professor of neuro
24 surgery at Case Western Reserve Medical School.

25 Q. Doctor, we're here today because you were asked

1 to examine and evaluate Richard Adamany; is that
2 correct?

3 A. Pas, sir.

4 Q. And in fact you examined him personally on
5 June 2nd of 1989; is that correct?

6 A. That is correct, sir.

7 Q. Sometime after that I provided you with his
8 medical records which you reviewed.

9 A. Yes.

10 Q. Is that correct?

11 A. 'Its .

12 Q. And the medical records you reviewed include the
13 notes from Drs. Wilber and Marsolais; is that corzect?

14 A. I'm not sure about Dr. Wilber's notes, certainly
15 Dr. Marsolais' notes.

16 Q. And also I provided you with some records from
17 the Olympia Clinic?

18 A. That I saw for the first time I think today.

19 Q. And you reviewed some MRI reports?

20 A. Yes.

21 Q. Now, just from the outset, you are aware that
22 this case involves a motor vehicle accident which
23 happened on February 8th of 1987?

24 A. Yes, sir,

25 Q. Correct?

1 A. Yes, sir.

2 Q. And by way of background, you are aware of, by
3 virtue of the fact that I told you, and because of the
4 fact that it's indicated in Dr. Marsolais' records,
5 that Mr. Adamany had a ten-year history of back pain
6 before this accident?

7 A. Yes, sir.

8 MR. DeROSA: I object to the
9 leading nature of the questions.

10 THE WITNESS: I can't have to
11 answer that.

12 Q. Doctor, is there in Dr. Marsolais' record an
13 indication as to how long he has been suffering from
14 back pain?

15 A. Yes, sir.

16 Q. What do those records tell you?

17 A. In his first note, which is dated 1-20-87, or at
18 least the note that I have that's dated 1-20-87,
19 whether it's the first one or not, I don't know, but
20 it's the first one that I have, says that the patient
21 has had -- that he got into trouble with his low back
22 with chronic low back pain in 1977 when he noted the
23 onset of a dull throbbing pain. It got progressively
24 worse. Even at a time when he would not be pursuing
25 any vigorous activity, he noted sharp pain with

1 bending. He would *have* difficulty straightening up.
2 This began in 1977 and he saw Dr. Hudak for this.

3 At that time he was given a back
4 bract. He got into weight lifting and rowing again.
5 He had periodic episodes of back pain over the years,
6 and he did reasonably well, according to his notes,
7 till February of 1986 when he reinjured himself while
8 lifting someone onto a pool table. He stopped his
9 exercise, went back into an exercise program, but the
10 program was no longer effective for him.

11 He saw another physician at the time,
12 a Dr. Boyson. I don't know what his specialty is. He
13 was treated with manipulations and perhaps some diet
14 therapy of some kind.

15 Pain has persisted, is no longer able
16 to work with his rowing machine. Generalized pain in
17 the low back. Pain across the low back. Pain he
18 describes occasionally in the left sacroiliac area,
19 and now the pain is in the right sacroiliac area,
20 which would be in the right low buttock area.

21 Pain tends to be a little bit more on
22 the right side, dull, constant aching, occasionally
23 sharp shooting pains, worse after standing or walking
24 on a hard surface. So that he's had --

25 Q. This is all from the note of January 20th

1 of 1987, Doctor?

2 A. That is correct, sir.

3 Q. Does that note indicate a specific location of
4 tenderness or pain in the lower back?

5 A. Well, he locates the pain in the low back, both
6 sides low, more perhaps to the right than the left.
7 He thought he had some muscle spasm. Describes that
8 "Seated straight leg raising on the left is fine." He
9 doesn't mention it on the right.

10 Then he says that, "Supine straight
11 leg raising is good on the right and on the left."

12 There's also a note that "Perhaps the right ankle jerk
13 might be slightly less than -- slightly less than the
14 left one."

15 Q. What is the significance of that, to you?

16 A. Well, it may -- it depends on what the
17 patient -- his complaints are. If you do have
18 patients with what we call true right sciatic pain, an
19 altered Achilles reflex or ankle jerk may signify that
20 a certain nerve is being impinged upon by herniated
21 disk, or yeah, by a herniated disk, which would be the
22 most common thing in a person age 34; and that is that
23 often more than 50 percent, but not certainly always,
24 patients with a herniated disk between L-5 and S-1 may
25 have an alteration of the Achilles reflex or ankle

1 ~~herk~~, that is it may be either reduced or absent.

2 Q. You mentioned L-5/S-1. a". Let me repeat
3 that.

4 L-5/S-1, is that where he localizes or
5 pinpoints some of the pain that he has?

6 A. You can't really tell where a patient, you know,
7 pinpoints pain.

8 Q. Is that a reference that Dr. Marsolais made,
9 however, on January 20th?

10 A. Yes, he did. He said that there's tenderness at
11 L-5/S-1. On a very thin patient you can absolutely
12 identify this area sometimes, but it's a little
13 difficult -- certainly it would be a little bit more
14 difficult to do on somebody my size.

15 Now, Dr. Marsolais continued to follow-up and
16 Q. otherwise treat Mr. Adanany for a series of months
17 after that; is that correct?

18 A. Yes, he did.

19 Q. That includes after the accident of February 8th
20 or course, correct?

21 A. Yes. Yes.

22 Q. Now, you've reviewed an MRI report, I believe,
23 dated April 14th, 1987; is that correct?

24 A. Yes.

25 Q. Do you have that in front of you?

1 A. There's a note here that -- let me just get it
2 out and review that report -- that there's a herniated
3 disk on the right side at L-5/S-1.

4 Q. Now, Doctor, what are the possible causes of
5 such a herniation?

6 A. The most common cause is no cause. I mean, the
7 most common thing certainly that I see patients for is
8 that they just develop symptoms for herniated disk.

9 Q. Is there any way to determine based upon that
10 MRI report or the history that you knew of him from
11 reviewing Dr. Marsolais' records, is there any way to
12 reasonably determine when that disk might have become
13 herniated?

14 A. No. No, there isn't. The MRI scan doesn't tell
15 you when or about anything, unless he would have had
16 an MRI scan before the accident and one after the
17 accident. If it wasn't there before, there now, you
18 might infer that indeed the accident may have caused
19 this to become herniated.

20 Q. Well, are there any symptoms noted in the
21 records which would give you a clue as to whether or
22 not there was any specific symptoms that he had after
23 the accident which could be related to the herniated
24 disk that he didn't have before?

25 A. Not specifically, as far as I know. The doctor

1 does nor describe any reflex alterations. He
 3 describes ankle jerks are fine on 2-10-87. There was
 3 no specific spine tenderness on 2-10-87, which is just
 4 after the accident in question, according to
 5 Dr. Marsolais' notes.

6 He occasionally describes leg pain.

7 I'm not sure what -- he does have occasional pain in
 8 the right thigh, mainly. ■ ■ ■ Doing a lot of le;

9 curls and jogging, which the doctor thinks he's going
 10 to stop, or should stop because of his complaints.

11 Q. Would those complaints, Doctor, of leg pain that
 12 you noted, give a doctor a reason to want to perform a
 13 bone scan such as Dr. Marsolais requested, which was
 14 done on March 23rd?

15 A. I saw that report. I haven't the vaguest idea
 16 why he would want to get a bone scan, but I don't know
 17 what was going on in Dr. Marsolais' mind.

18 Q. Doctor, let me ask you, if a patient such as
 19 Mr. Adamany has a herniation, such as indicated in the
 20 April 14th MRI, would that patient necessarily have
 21 certain symptoms? *Lumbar disc*

22 A. The most typical symptom is not backache. The
 23 most typical symptom, if a patient is going to be
 24 symptomatic from this, is leg pain that doesn't quit,
 25 pain that has very characteristic distribution, and

1 occasionally with some patients, complaints of pins
2 and needles feelings, or funny feelings with an
3 abnormality Of, at this area it would be on the
4 outside of the foot to involve a small toe, or just
5 the outside of the foot.

6 Q. Would it be unusual for a patient to have no
7 particular symptoms at all from a herniation *such as*
8 that?

9 A. No, there are patients who have herniated disks
10 that have no symptoms. There's no question of that.
11 It's well recognized.

12 Q. In any event, in this instance, do you notice
13 from your examination of him, or from your review of
14 the records and the history you took from him, any
15 evidence that he had a change in the condition or his
16 spine at L-5/S-1 from before as compared to after *the*
17 accident?

18 A. As far as my own interpretation of the records
19 goes, there's no striking difference.

20 Q. Now, the other matter, Doctor, which has come up
21 in this **case** involves a herniation of the disk in
22 Mr. Adamany's neck at C-5/C-6, and you are aware, and
23 I think you have in fact reviewed the MRI which was
24 performed in November of -- or October, I should say,
25 of 1987?

1 A. Yes, I did.

2 Q. What does that MRI tell us, Doctor?

3 A. There's a huge left sided herniated disk at
4 C-5/6. That is between the 5th and 6th bones of the
5 neck.

6 Q. Now, does that MRI in and of itself give us any
7 indication as to when that herniation may have
8 occurred?

9 A. No, it doesn't.

10 Q. What sort of symptoms would you ordinarily
11 expect a patient who has that type of a herniation in
12 his neck to exhibit?

13 A. If they're going to have symptoms, interestingly
14 neck pain is not a prominent symptom, that's not the
15 thing that drives them to the doctor, although a
16 patient may have some neck discomfort. The most
17 common complaints that patients exhibit
18 characteristically is pain behind the left shoulder
19 blade, pain down the arm that may or may not be
20 related to the way the patient holds or moves his
21 neck.

22 As a general rule, the pain is
23 unrelated to the use of the arm. In other words, the
24 pain is there regardless of what position the arm is
25 in; and with a lesion between C-5 and C-6, the patient

1 ~~may~~ have some complaints or' numoness and tingling
2 ~~involving~~ the thumb or index finger.

3 Q. Doctor, where in the records, if anywhere, does
4 Mr. Adanany exhibit such symptoms?

5 A. To the best of my knowledge, the first time that
6 this is recorded is in Dr. Marsolais' notes of
7 October 6th, 1987, and this is first also mentioned in
8 a letter written to Dr. Marsolais by Mr. McDonald,
9 who's a physical therapist, who described that while
10 he was doing some pullovers a month ago, which would
11 be probably in mid August, or late August, he felt a
12 snap in the posterior shoulder region, which would be
13 back in this area here (indicating), some stiffness,
14 and then some pain perhaps down this ares, and then
15 apparently sometime later, perhaps two weeks later *he*
16 was shoveling dirt, then he developed typical
17 radicular pain, and associated with numbness of the
18 ~~left~~ thumb.

19 Q. Are those symptoms consistent with a herniation
20 at C-5/C-6, Doctor?

21 A. Yes. Absolutely.

22 Q. Now, earlier in the record, specifically *the*
23 record immediately after the accident, there are
24 some -- he does 'have some complaints or' arm pain, or
25 numoness, I believe; is that correct?

1 A. He did have complaints of numbness. As he said,
2 he said, "Both arms felt completely numb for about
3 20 minutes."

4 Q. Is that consistent with the herniation at
5 C-5/C-6?

6 A. No.

7 Q. Especially when taken into consideration with
8 his complaints and therapy throughout the next four or
9 five months?

10 A. No. The complaints of numbness that he had
11 after the accident are complaints that I've seen, in my
12 own patients. It's very difficult to explain. I
13 think they're very real. I would not ascribe a
14 complaint like that to any specific herniation of any
15 specific disk.

16 Q. But the symptoms that he displayed in August and
17 September, as you just indicated to us, are consistent
18 with such a herniation; is that correct?

19 A. Well, certainly beginning of late August and
20 certainly by the end of September, very typical of a
21 herniated disk, I think, in the neck.

22 Q. If he had, just for the sake of discussion,
23 herniated this disk at C-5/C-6 in the automobile
24 accident, would you expect the symptoms to start in
25 August or September?

1 A. I would have thought the symptoms would begin,
7 you know, within a week or two weeks or maybe three
3 weeks after the accident in question.

4 Q. Does it seem more likely to you that that disk
5 may have herniated during September, or late August
6 when the two incidents were described, rather than the
7 motor vehicle accident?

8 A. That would be my opinion, yes.

9 Q. There's been a suggestion in this case that
10 perhaps the disk didn't herniate at the time of the
11 accident, that it did in fact herniate during these
12 incidents of August and September, but had somehow
13 been weakened in the accident and wouldn't have
14 happened if it hadn't been for the motor vehicle
15 accident.

16 In your experience, have you ever
17 known such a thing to happen; or in this case, do you
18 believe that may have happened?

19 A. I don't know how anybody could know that, in all
20 honesty. I think that if you try to relate an
21 incident or trauma to an event that happens to the
22 patient, there ought to be at least some type or

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25 point in time after a specific episode of trauma, I

1 would find it difficult to relate that episode of
2 trauma. In other words, he could have just as easily
3 had this from doing the pullovers or from the
4 shoveling. I don't know.

5 Q. What would you consider to be a proximate time
6 to relate a trauma to a complaint?

7 A. I think with something like this, and I'm going
8 to try to be as generous as I possibly -- now, I would
9 like to think within -- certainly within two to three
10 months. I certainly would like to think that if a
11 patient were going to develop specific symptoms,
12 characteristic symptoms after an accident, that it
13 should occur within a reasonable period of time.

14 Now, again, doctors are going to argue
15 about what's reasonable. I think that one, two or
16 three months is reasonable. It would *be*, in my own
IT opinion, probably very difficult to say that something
13 that happened eight months or six months after an
14 accident is related to the accident, unless there were
15 ongoing complaints which perhaps worsened; and as far
20 as I can tell from the records, there were none.

21 Q. Doctor, based on everything that you've
22 reviewed, do you see any evidence, or is there any
23 evidence that he suffered a herniated disk at C-5/C-6
24 in his neck at the time of the automobile accident or
25

1 February, 1987?

2 A. Certainly in my own opinion he did not. There's
3 no question that he had this though, but I don't
4 believe that this is -- this is specifically related
5 to the accident.

6 Q. Based on everything you've seen and reviewed,
7 Doctor, do you have an opinion to within a reasonable
8 degree of medical certainty as to whether or not the
9 condition of his low back now is any different than it
10 was in January of '87, before this accident happened?

11 A. At the time I saw him, in June of '89, he just
12 told me that he still has some back pain which bothers
13 him on a daily basis, and this doesn't seem to be
14 strikingly different from what he had before the
15 accident, as far as I can tell.

16 Q. Finally, Doctor, there's been some suggestion
17 that --

18 MR. LEONETTI: Well, I think
19 that's it, Doctor. Thank you.

20 MR. DeROSA: Off the record,
21 please.

22 VIDEOTAPE TECHNICIAN: Off the record.

23 - - - - -

24 (Discussion had off the record.)

25 - - - - -

1 MR. DeROSA: Dr. Shafron, my
2 name is Joe DeRosa, I represent Mr. Adamany in this
3 matter. I'm going to ask you some questions based
4 upon your testimony that you gave in answer to
5 Mr. Leonetti's questions.

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7 CROSS-EXAMINATION

8 BY MR. DeROSA:

9 Q. The first examination that you performed, or I
10 guess the only examination that you performed of
11 Mr. Adamany, was conducted on June 2nd, 1989; is that
12 correct?

13 A. Let me just look at my notes here.

14 Yes.

15 Q. That was approximately two plus years after the
16 automobile accident?

17 A. Yes, sir.

18 Q. And at the time that you examined Mr. Adamany on
19 June 2nd, 1989, you had no medical records available
20 to you?

21 A. If I did, I certainly wouldn't have looked at
22 them; but generally speaking, no.

23 Q. Well, at the time of your examination, you
24 didn't have any; is that a fact?

25 A. Not to the best of my knowledge.

1 Q. All right.

2 A. I can't recall. If I said that in my letter --

3 Q. Well, your report dated June 16th, 1989
4 indicates --

5 A. Then I didn't.

6 Q. -- that you did not have any?

7 A. That's right. Right.

8 Q. And at that time you indicated that at the very
4 least that the patient certainly had soft tissue

10 injuries --

11 A. Sure.

12 Q. -- as a consequence of the --

13 A. Sure.

14 Q. Excuse me. -- the accident in question?

13 A. Sure. On the basis of what he told me,
16 backache, back pain,

17 Q. Those soft tissue injuries at that time of your
13 report on June 16th, '89, would have been to the neck
19 and the low back?

20 A. "as.

21 Q. So even as of June 16th, 1989, it was your
22 opinion that Mr. Adanany at least suffered some type
23 or' injuries to his cervical spine and his lumbar spine
24 as a result of the automobile accident of
25 February 8th, 1987? ..

1 A. Not necessarily to the cervical spine or the
2 lumbar spine, but to the neck area and the low back
3 area.

4 Q. On, sure.

5 A. Yep.

6 Q. You then had an opportunity to review the
7 medical records from various sources, including prior
8 treatment records for Mr. Adamany's low back, as well
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15 Q. And you indicated in the supplemental report
16 dated November 20th, 1989, that there was no question
17 that he had a herniated cervical disk at C-3 and C-6
18 on the left?

19 A. Correct, sir.

20 Q. And your opinion apparently did not change as
21 concerns the lumbar spine or the low back area or
22 Mr. Adamany, because you make no reference to his low
23 back in your supplemental report?

24 A. That is correct, sir.

25 Q. The injury to the cervical spine, or the

1 herniation of the cervical disk in your supplemental
2 ~~report~~, according to you: ~~report~~, you were unable to
3 determine exactly when the accident happened, whether it was
4 caused by the automobile accident or had some other
5 cause, as of the time that you wrote your

6 November 20th, 1989 --

7 1. So. I said -- in my own mind I said no. I
8 said, this is going to be very arguable, because I
9 felt that other doctors would have different opinions.
10 My own reticence to say that it was because of the
11 time interval from the accident to *the* time that his
12 symptoms of a radiculopathy began, as I noted in my
13 supplemental report, they're first mentioned in the
14 report that Dr. Marsolais noted on the 6th of October
15 of 1987; but apparently the symptoms began several
16 weeks before that, according to the letter that the
17 physical therapist sent to Dr. Marsolais.

18 Q. Well, Doctor, your November 20th, 1989 report
19 says, "I have some doubts of the time interval."

20 A. That's what I said.

21 Q. "But I'm not certain now one can resolve this
22 within the realm of reasonable medical" --

23 A. That's what I said.

24 Q. -- "probability."

25 A. Yes.

1 Q. All right. My question is: As of your
2 November 20th, 1989 supplemental report, you had no
3 opinion within reasonable medical probability as to
4 what the cause of that herniated cervical disk was?

5 A. I --

6. MR. LEONETTI: Objection.

7 A. That's not what I said. I have -- there's no
8 question in my mind, but these are opinion questions.
9 This is, you know, an opinion based on my own
10 experience, and I said that there are doctors who
11 would say otherwise. That's what I said. That's what
12 I meant to say, and that's what I say today.

13 Q. Now, your testimony here is a little bit
14 different than your supplemental report.

15 A. Well --

16 MR. LEONETTI: Objection.

17 If you read my last paragraph. "Doctors will
18 argue" --

19 Q. I thought I just did.

20 A. Well, let me read it. "Doctors will argue
21 quotes from here to eternity about the relationship or"
22 the accident to these complaints which appeared some
23 eight months after the accident in question."

24 We might change that to seven months,
25 because I didn't know the exact date that these really

1 begin.

2 "I have some doubts because of the
3 time interval, but I'm not certain on what can resolve
4 this within the realm of reasonable medical
5 probability,"

6 What I mean is there are other doctors
7 who would say otherwise.

8 Q. Doctor, did you have records available to you
9 either at the time of that report or currently from
10 Dr. Marsolais that showed continuing complaints of
11 neck pain by Mr. Adamany following the February 8th,
12 1987 automobile accident?

13 A. Well, I don't know that the neck pain continued
14 during this entire period or time. I'd have to go
15 look at these again very carefully.

16 Q. Well, would that be of significance to you in
17 reaching a diagnosis --

18 A. No.

19 Q. -- or in arriving at your opinion as to
20 causation?

21 A. No, because neck pain, as far as I'm concerned,
22 is not a specific symptom of a herniated cervical
23 disk. It actually --

24 Q. Well, Doctor --

25 A. Well, let me finish,

1 Q. I'm sorry. I didn't --

2 A. Let me --

3 Q. -- mean to interrupt you. I thought you were
4 done.

5 A. As you look at Dr. Marsolais' record, most of
6 his attention is to the low back, and there's really
7 relatively little said about the neck pain,
8 particularly as one gets on into June or May. In
9 June, basically there's nothing -- there's nothing
10 that relates to the neck at all, really, in June..

11 Q. Well, Doctor, are you aware of the fact thst
12 Mr. Adanany filled out questionnaires for
13 Dr. Marsolais?

14 A. I never saw them, sir.

15 Q. Mr. Leonetti did not supply those to you?

16 A. No, sir.

17 Q. Dr. Marsolais and Dr. Wilber are competent
18 orthopedic surgeons?

19 A. Absolutely. No question.

20 Q. Are you aware of the fact that both Dr. Wilber
21 and Dr. Marsolaas both attributed the cervical disk
22 herniation to the automobile accident?

23 A. There's --

24 MR. LEONETTI: Objection.

2s A. I don't know that, but there is certainly -- but

6

1 if that is their opinion, they're certainly entitled
2 to that.

3 Q. What you're saying is you simply have a
3 difference of opinion, a difference in medical
i opinion? .

6 A. That is correct. Yep.

7 Q. You're not saying that Dr. Wilber or
a Dr. Marsolais are wrong, are you?

9 A. No, I'm not saying that at all.

10 Q. Doctor, in your earlier testimony, you indicated
11 to Mr. Leonetti that it's well recognized that no
12 symptoms from a herniated disk may appear, even though
13 a person has a herniated disk?

14 A. No. What I said is -- that's really a
15 misinterpretation of what I said.

16 What I said was that a patient, by
17 diagnostic study, may have a herniated disk and have
18 no complaints with reference to it. This has been
19 well recognized.

20 Q. So the patient may not have any complaints that
21 would indicate --

22 A. Sure.

23 Q. -- a herniated disk?

24 A. Sure.

25 Q. Those would be what you would call subjective

1 complaints, or subjective evidence of --

2 & it's the only way you would know. I mean, the
3 only time you know about a patient's having a problem
4 is when a patient presents himself to a physician with
5 a specific problem.

6 Q. So even though Mr. Adamany may not have had
7 subjective complaints that would indicate a herniated
8 disk immediately following the automobile accident,
9 that would not mean that he didn't have one?

10 A. There's no way that any doctor can say anything
11 like that. In other words, he say have had a
12 herniated cervical disk before the accident. Cod
13 knows, because I certainly don't. The only way a
14 physician can tell is when the patient has active
15 symptoms that are characteristic of this particular
16 disorder.

17 MR. DeROSA: Okay. I have no
18 more questions, Doctor. Thank you.

19 THE WITNESS: You're welcome,
20 sir.

21 MR. LEONETTI: None. We're done.

22

23

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24 (Deposition concluded; signature not waived.)

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ERRATA SHEET

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I have read the foregoing transcript
and the same is true and accurate.

MELVIN SHAFRON, M.D.

1 The State of Ohio, :

2 County of Cuyahoga.:

CERTIFICATE:

3 I, Lynn A. Zito, Notary Public within and for
4 the State of Ohio, do hereby certify that the within
5 named witness, MELVIN SHAFRON, M.D., was by me first
6 duly sworn to testify the truth in the cause
7 aforesaid; that the testimony then given was reduced
8 by me to stenotypy in the presence of said witness,
9 subsequently transcribed onto a computer under my
10 direction, and that the foregoing is a true and
11 correct transcript of the testimony so given as
12 aforesaid.

15 foregoing caption, and that I am not a relative,
16 counsel, or attorney of either party, or otherwise

IN WIT

18th day of July, 1990.

21

22



23

Lynn A. Zito,

24

Notary Public/State of Ohio.

25

Commission expiration: 6-14-93.