

Plaintiff's Expert Witness Response Pursuant
to CPLR 3101(D), dated June 10, 2014
[pp. A44 - A46]

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Index# 12421/12

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STENNETH KNIGHT,

Plaintiff,

-against-

ROBERT J. BARSCH, JENNIFER L. BARSCH,
JOSEPH FENELON & ROSELY FENELON,

Defendants.
-----X

PLAINTIFF'S EXPERT
WITNESS RESPONSE
PURSUANT TO
CPLR 3101(D)

PLEASE TAKE NOTICE that pursuant to defendants' demand under CPLR 3101(d) for
Expert Witness, the plaintiff's response is as follows:

1. Plaintiff's anticipated expert witness is JERRY A. LUBLINER, M.D. His office
is located at 215 East 73rd Street, New York, NY 10021.

2. Dr. Lubliner is expected to testify in accordance with his report dated May 6,
2014, a copy of which is annexed hereto. He will further testify regarding the natural flowing
sequelae of injuries of this nature, his office notes and hospital records, his prognosis for this
particular patient, his fees, past medical charges expended by this patient for his medical care
and treatment, fees that may be incurred by him in the future and his overall knowledge and
experience with this plaintiff and his injuries and injuries of this nature. He will further testify,
with a reasonable degree of orthopedic certainty, that the injuries sustained by plaintiff were
causally related to the incident of November 9, 2011. He will further testify regarding the
permanency of plaintiff's injuries.

3. Said expert will also testify regarding the facts which he received by the plaintiff,
his medical opinions regarding the plaintiff and any additional facts and opinions which the court
will allow at the time of trial.

4. Said expert graduated from SUNY Downstate, Brooklyn, New York, Doctor of Medicine in 1980. He is licensed by the State of New York to practice medicine. He has had various internships and residencies in New York hospitals and has achieved Diplomate status in Orthopaedic Surgery. He has held teaching positions at various schools of medicine and is a Fellow of the American College of Surgeons and International College of Surgeons. He maintains a private practice at the address listed above for the practice of orthopaedics and orthopaedic surgery. He is affiliated with and is a member of various medical societies.

5. Said expert testimony shall be based upon the physical examination of the plaintiff, STENNETH KNIGHT, his medical records, including the Brookdale Hospital, Dr. Eric Senat, Kings Highway Chiropractic/Dr. Scott Leist, Cornelia Pain Management & Rehab/Dr. S. Bhattacharya records, and any X-rays, CT scans, dynamic CT scans, Magnetic Resonance Images and any X-rays taken at Dr. Lubliner's office of the plaintiff and any reports rendered by him and upon all evidence allowed by the Court and his expertise in the area of orthopaedics, together with any and all information provided by the plaintiff to the doctor.

6. Said expert is further expected to testified in support of all theories posed in plaintiff's bill of particulars and upon all evidence allowed by the Court and his expertise in the area of orthopedics, together with any and all information provided by the plaintiff to the doctor.

7. Furthermore, said witness reserves the right to rebut, refute or otherwise respond to issues and allegations raised in the defendant(s)' pleadings and those raised in the trial of this action as deemed necessary and relevant to defend against the defendant(s)' allegations.

PLEASE TAKE FURTHER NOTICE, that plaintiff reserves the right to supplement his response to this demand after the completion of depositions and discovery.

Dated: New York, New York
June 10, 2014

Yours, etc.

BURNS & HARRIS, ESQS.
Attorneys for Plaintiff

BY: 

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TO:

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Annexed to Response -
Orthopedic Consultation Report, of Jerry A. Lubliner, M.D.,
dated May 6, 2014
[pp. A47 - A50]

JERRY A. LUBLINER, M.D., F.A.A.O.S.

Diplomate American Board of Orthopaedic Surgery
215 East 73rd Street
New York, N.Y. 10021

(212) 249-8200

May 6, 2014

Ms. Rocio Gomez
Burns & Harris, Attorneys at Law
233 Broadway – The Woolworth Building Suite 900
New York, New York 10279

RE: Stenneth Knight
Date of Accident: November 9, 2011
Chart #: 28641

Dear Ms. Gomez:

Please be advised that on May 6, 2014, I rendered an orthopedic consultation to the above-captioned patient as a result of injuries suffered in an accident of November 9, 2011.

HISTORY:

The patient states he was in his usual state of health until 11/09/2011 when, as a driver of a motor vehicle secured by a seatbelt, he was involved in a motor vehicle accident suffering injuries to his right knee, right shoulder, low back and neck. A review of the medical records revealed that on 11/16/2011, the patient went to Brookdale Hospital presenting with neck pain, back pain and right knee pain. X-rays taken of the back at Brookdale Hospital on 11/16/2011 interpreted by Dr. Eric Minkin were negative.

The patient then had treatment by Dr. Scott Leist, Kings Highway Chiropractic. Dr. Leist sent the patient to have MRIs. An MRI of the lumbosacral spine was done on 03/07/2012 at Southwest Nassau Radiology and interpreted by Dr. John Himelfarb. He found posterior disc bulges at L3-4 through L5-S1 with encroachment. An MRI of the cervical spine was done on 03/07/2012 at the same location interpreted by Dr. Himelfarb who found posterior disc bulges at C2-3 and C3-4 with lesser bulges at C5-6 and C6-7. At C2-3 and C3-4 there was encroachment on the thecal sac.

An MRI of the right shoulder was done on 03/12/2012 at Southwest Nassau Radiology and interpreted by Dr. Jeffrey Chess who found impingement upon the musculotendinous portion of the supraspinatus. An MRI of the right knee was done on 03/12/2012 at the same location interpreted by Dr. Chess finding an oblique tear of the body and posterior horn of the medial meniscus contacting the superior surface.

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The patient is a right-hand dominant individual who was a chef at the time of the accident. He took off from work because of pain. He is now a student. He states he was asymptomatic to his right knee, right shoulder, low back and neck prior to 11/09/2011 and he has no history of injury to this area after this accident. The patient states the pain in his right knee today is 7/10; right shoulder pain is 5/10; low back pain is 8/10 and neck pain is 6/10. The patient states he had lumbar injections x2 that helped for a little while. The patient states he had much physical therapy.

The patient states he used to play cricket and football prior to the accident of 11/09/2011, but cannot play since. In regard to the right knee, he has pain with standing more than a half hour and pain going up and down stairs. He states he has weakness when he goes up and down stairs. He complains of pain walking for more than 30 minutes and he complains of recurrent swelling of the right knee. In regard to the right shoulder, he has pain reaching overhead and behind his back and pain carrying over 30 pounds. In regards to the lower back, he has pain that is sometimes so intense he has to stop and rest. He has pain bending forward, backwards and squatting. He has pain in his back lifting 30 pounds. In regards to the neck, he complains of stiffness and pain with turning side to side and up and down.

PHYSICAL EXAMINATION of 05/06/2014:

The patient states he stands 6'1" and weighs 285 pounds.

In regard to the neck, he will flex 35 degrees, extend 35 degrees, laterally flex to the right 50 degrees, to the left 60 degrees, and laterally rotate to the right 50 degrees and to the left 60 degrees. He complains of pain in the cervicothoracic junction, mostly on right lateral rotation and right lateral flexion. Normal range of motion of the cervical spine is flexion to 40 degrees, extension to 40 degrees; lateral flexion to 60 degrees and lateral rotation to 80 degrees.

Range of motion of the right shoulder is forward flexion of 180 degrees, abduction of 180 degrees; external rotation to the vertical and internal rotation to T10. On the left, he will forward flex 170 degrees, abduct 160 degrees, externally rotate vertical plus 10 degrees and internally rotate to L3; motion is measured as active. He complains of pain in the anterior shoulder at the limits of motion. Normal range of motion of the shoulders is forward flexion of 180 degrees, abduction of 180 degrees; external rotation to the vertical and internal rotation to T10. He has one-grade of external rotation weakness. He has a positive Neer and Hawkins' sign.

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The right arm measures 33 cm in circumference measured at 15 cm above the olecranon tip; left is 32.5 cm. The right forearm measures 31.5 cm in circumference measured at 10 cm distal to the olecranon tip; left is 31 cm. DTR's are 2+ of the upper extremities. He states his left arm feels "rougher" from the axilla to the fingertips in a circumferential fashion; the right is normal.

In regard to the lower back, he will flex 70 degrees, extend 30 degrees, laterally flex 40 degrees and laterally rotate 50 degrees complaining of pain in the lumbosacral junction at the limits of motion especially motions to the right. Normal range of motion of the lumbosacral spine is flexion to 90 degrees, extension to 40 degrees, lateral flexion to 60 degrees and lateral rotation to 80 degrees. He complains of pain on the straight-leg raising test on the right at 40 degrees.

Both thighs measure 54 cm in circumference measured at 10 cm above the proximal pole of the patella. The right knee measures 41 cm in circumference; left is 39 cm. Both calves measure 42 cm in circumference measured at 10 cm. distal to the tibial tubercle.

Range of motion of the right knee is 20 to 120 degrees; left knee is 10 to 130 degrees. Normal range of motion of the knees is flexion of 0 to 140 degrees. He has one-grade of weakness of the right quadriceps. On the right knee, he has medial joint line tenderness and positive McMurray's sign. He has no evidence of ligamentous instability. The Lachman's, anterior drawer and pivot shift tests are negative.

Gait is normal today in the office.

All measurements were taken using a goniometer and a tape measure.

REVIEW OF RECORDS:

I reviewed the emergency room record of Brookdale Hospital dated 11/16/2011; the patient complained of pain in his neck, back and right knee.

I reviewed the medical records of Dr. Eric Senat, orthopedic surgeon.

I reviewed the medical records of Kings Highway Chiropractic office, Dr. Scott Leist.

I reviewed the medical records of Cornella Pain Management & Rehab, Dr. S. Bhattacharya.

I reviewed the MRI report of the lumbar spine dated 03/07/2012.

I reviewed the MRI report of the cervical spine dated 03/07/2012.

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I reviewed the MRI report of the right shoulder dated 03/12/2012.

I reviewed the MRI report of the right knee dated 03/12/2012.

IMPRESSION:

This patient states he was asymptomatic to the right knee, right shoulder, neck and back prior to 11/09/2011 and he has no history of injury to these areas after this accident.

Based on the history, physical examination and review of medical records, I feel this patient has and will continue to have permanent deformities/conditions. I feel the patient has and will continue to have permanent loss of range of motion, permanent recurrent pain, permanent recurrent radiculopathy down his right lower extremity, permanent limitation of his activities of daily living and his ability to participate in sports.

I feel the accident of 11/09/2011 is the competent cause for injuries to the neck, back and right shoulder, for bulging discs L3-4 through L5-S1, for bulging discs C2-3 through C6-7, for symptomatic impingement to the right shoulder, for a medial meniscal tear to the right knee, for the need for treatment and for the permanent deformities/conditions as described.

Due to the continued pain in the right knee, the positive clinical findings and the positive MRI report, I feel the patient needs operative arthroscopy of the right knee and possible meniscal repair/menisectomy. I feel the need for this surgery and postoperative physical therapy and orthopedic care is causally related to the accident of 11/09/2011.

I, Jerry A. Lubliner, M.D. being a physician, duly licensed to practice in the state of New York, pursuant to CPLR section 2106, hereby certify and affirm that the above is true with a reasonable degree of medical certainty under penalties of perjury.

Yours truly,

Jerry A. Lubliner, M.D.
Chief, Sports Medicine Service
Beth Israel Medical Center

JAL/tc