

1 IN THE CIRCUIT COURT OF THE 22ND JUDICIAL DISTRICT  
2 McHENRY COUNTY, ILLINOIS

3 PAUL DULBERG,

4 Plaintiff,

5 vs.

) No. 12 LA 000178

6 DAVID GAGNON, Individually )  
7 and as Agent of CAROLINE )  
8 McGUIRE and BILL McGUIRE, )  
9 and CAROLINE McGUIRE and )  
10 BILL McGUIRE, Individually, )

11 Defendants. )

12 The discovery deposition of KAREN LEVIN,

13 M.D., taken in the above-entitled cause, before

14 Angela M. Ingham, a Notary Public within and for

15 the County of Cook and State of Illinois, and a

16 Certified Shorthand Reporter of said state, at

17 1900 Hollister Drive, Suite 250, Libertyville,

18 Illinois, on the 1st day of October, 2013, at the

19 hour of 9:00 a.m.

## 1 APPEARANCES:

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3 P.C.  
4 (3416 West Elm Street  
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8 On behalf of the Plaintiff;

9 LAW OFFICE OF STEVEN A. LIHOSIT  
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15 MR. PERRY A. ACCARDO,

16 On behalf of the Defendant  
17 David Gagnon;

18 CICERO, FRANCE, BARCH & ALEXANDER,  
19 P.C.  
20 (6323 East Riverside Boulevard  
21 Rockford, Illinois 61114  
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24 MR. RONALD A. BARCH,

On behalf of the Defendants  
Caroline McGuire and Bill  
McGuire.

## I N D E X

2	WITNESS	EXAMINATION
3	KAREN LEVIN, M.D.	
4	By Mr. Accardo	4
5	By Mr. Barch	50
6		56
7	By Ms. Freeman	55

## E X H I B I T S

9	NUMBER	MARKED FOR ID
10	Levin Deposition Exhibit	
11	No. 1 Dr. Levin's curriculum	4
12	vitae	

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1 (Whereupon, Levin Deposition  
2 Exhibit No. 1 was marked for  
3 identification.)

4 (Witness duly sworn.)

5 MR. ACCARDO: Doctor, could you please state  
6 your name and spell it for the court reporter.

7 THE WITNESS: Karen Levin, L-e-v-i-n.

8 MR. ACCARDO: Let the record reflect this is  
9 the discovery deposition of Dr. Karen Levin taken  
10 pursuant to notice, taken in accordance with the  
11 rules of the Circuit Court of McHenry County and  
12 the rules of the Supreme Court of the state and all  
13 other applicable local court rules.

14 KAREN LEVIN, M.D.,  
15 called as a witness herein, having been first duly  
16 sworn, was examined and testified as follows:

17 EXAMINATION

18 BY MR. ACCARDO:

19 Q. Dr. Levin, I'm going to be asking you some  
20 questions this morning about a patient of yours by  
21 the name of Paul Dulberg, okay?

22 A. Correct.

23 Q. All right. I assume that you've given  
24 depositions before?

1 A. Yes.

2 Q. You're familiar with the ground rules  
3 governing depositions, things of that nature?

4 A. Yes.

5 Q. All right, great.

6 We've been tendered your CV which has been  
7 marked as Levin Deposition Exhibit No. 1. Is that  
8 relatively current and up-to-date?

9 A. Yes, it is.

10 Q. All right. Are there any changes on it,  
11 or is it up-to-date?

12 A. It's up-to-date.

13 Q. All right. You are a neurologist, is that  
14 correct?

15 A. Correct.

16 Q. All right. And you're currently  
17 affiliated with Associated Neurology in  
18 Libertyville, Illinois?

19 A. Correct.

20 Q. And how long have you been affiliated with  
21 Associated Neurology?

22 A. It will be coming up on 20 years next  
23 year.

24 Q. And within neurology do you have any

1 specialties?

2 A. Not anymore. I did a fellowship in  
3 electrophysiology and epilepsy, but that's 20 years  
4 ago. I've been practicing general neurology since.

5 Q. And you have a couple of publications  
6 listed on your CV?

7 A. During fellowship, yes.

8 Q. Okay. Would either of those be applicable  
9 to this case, or is there any information that we  
10 can glean from those that would be useful in this  
11 case?

12 A. Only that they were related to EMG studies  
13 and he had an EMG but, other than that, not really.

14 Q. All right, great.

15 Are you board certified?

16 A. Yes.

17 Q. All right. And what does board  
18 certification mean?

19 A. In neurology there's two parts you have to  
20 pass, a written board and then an oral board, and  
21 then every ten years recertification.

22 Q. All right. Do you have any independent  
23 recollection of Paul Dulberg?

24 A. Some, but I still would need my notes

1 also.

2 Q. And you have your notes here. Is that  
3 your complete chart for Paul Dulberg?

4 A. Yes, it is.

5 Q. And would that be the complete chart for  
6 Associated Neurology then as well?

7 A. Correct.

8 Q. Now, it looks like Mr. Dulberg treated  
9 with Associated Neurology back in the early 2000s,  
10 is that correct?

11 A. Correct, with somebody else in the office,  
12 right.

13 Q. Than that was Dr. Grobman?

14 A. Correct.

15 Q. And that was all as a result of an  
16 automobile accident and involved the left side of  
17 Mr. Dulberg's body, is that correct?

18 A. Per the notes I have, yes.

19 Q. All right. Now I looked through those  
20 notes the best I could. Some of the writing I  
21 couldn't read; but in those notes related to the  
22 prior automobile accident, are there any complaints  
23 or anything related or anything that mentions any  
24 problems that Mr. Dulberg had with anything on the

1 right side of his body, in particular his right  
2 arm? I didn't see any.

3 A. I actually see there's a note on  
4 August 23rd of 2002. That's an exam that says  
5 pressure in the right supraclavicular fossa elicits  
6 pain, digits 3 and 4 of the right hand dorsally?

7 Q. And that's August 23rd --

8 A. Of 2002. And, again, I don't know if it  
9 was supposed to be left because that's the only  
10 time I see right. It's not my notes. I can't tell  
11 you.

12 Q. Okay.

13 A. Other than that, it looks like it's all  
14 saying left.

15 Q. Okay. Just going back to that August 23,  
16 2002, whether or not it's supposed to be left and  
17 says right, if it were, in fact, right sided, could  
18 you explain in laymen's terms what that part of  
19 that note means?

20 A. That when he gave pressure like right  
21 under the neck area he had some sensations in the  
22 pinky and the finger next to it.

23 Q. And, again, that's the only mention that  
24 you see of right sided?



1 A. Correct.

2 Q. And I know you're not the doctor that  
3 treated Mr. Dulberg at that time. I know it was  
4 Dr. Grobman; but if he were in the office for left-  
5 sided problems, would there be any particular  
6 reason that you would think of for the examination  
7 or for this pressure to be put on the right side?

8 A. You just would do a full exam. Again, I  
9 suspect with everything else looking in here that  
10 that was supposed to say left because it's the only  
11 mention anywhere of right.

12 Q. Okay. All right.

13 A. And Mr. Dulberg, I think the first time I  
14 saw him, had said he had never had any right-sided  
15 problems.

16 Q. Before the deposition today, did you  
17 review any other documents other than the records  
18 contained in your chart?

19 A. No.

20 Q. Okay. Now it looks like the first time  
21 that Mr. Dulberg came to see you was on July 28th  
22 of 2011, is that right?

23 A. Correct.

24 Q. And why was it that he came to see you?

1 A. ~~He had had an injury while holding a~~  
2 ~~branch, and a chain saw cut his right forearm.~~

3 Q. And he filled out a health questionnaire  
4 at that time?

5 A. Correct.

6 Q. And under his medical history he indicated  
7 headaches. Do you have that, or no?

8 A. I will in a second.

9 Q. Okay. Under his health medical history,  
10 he indicated headaches, muscle weakness, numbness,  
11 and tingling sensations and neck pain, is that  
12 correct?

13 A. Correct.

14 Q. And he was 41 years old at the time?

15 A. Correct.

16 Q. And right handed?

17 A. Correct.

18 Q. Now jumping back a little bit to the prior  
19 treatment that was done for the left arm, what type  
20 of procedure was performed on Mr. Dulberg's left  
21 arm? He lists a left arm ulnar nerve trans?

22 A. Right. That would be an ulnar nerve  
23 transposition. Behind the elbow, the nerve kind of  
24 gets caught in an area called the ulnar groove, and

1 they sort of take it out, and it's basically the  
2 carpal tunnel of the elbow. So they just move the  
3 nerve over a little so you don't get the symptoms  
4 of pressure on the nerve.

5 Q. Okay. Going to the second page of the  
6 health questionnaire, I don't know if it's the  
7 second page necessarily but it's --

8 A. My examination sheet.

9 Q. Okay. That would be your examination  
10 sheet?

11 A. Yes.

12 Q. And is that two pages then?

13 A. Yes. It's a front and a back.

14 Q. Okay, all right. The first page under  
15 explanatory notes there's a little diagram of a  
16 hand. What does that show? What are the little  
17 hashmarks for?

18 A. It's where he had a cut mark.

19 Q. Okay. Under reflexes it looks like there  
20 are some marks. What do those indicate?

21 A. That his upper extremity reflexes were  
22 symmetric and what we call one. Reflexes are  
23 graded between one and four, and his were one.

24 Q. One being best?

1       A.   No.  'It's just how strong they are, but  
2  (it's just more of a symmetry thing.  Four is an  
3  abnormally brisk reflex; but between one and three,  
4  you're more just looking to see if they're  
5  symmetric on both sides, and his were."

6       Q.   And then going into the second page,  
7  there's a little diagram and some notes next to it.  
8  What does that say, and what does that indicate on  
9  that diagram?

10      A.   In that area that I have the darkness  
11  which is in the distribution of the ulnar nerve, he  
12  had -- actually it can be the ulnar or C8 based on  
13  that diagram.  He had decreased sensation to light  
14  sensation, pinprick sensation, and temperature  
15  sensation."

16      Q.   All right.  And how are those tests  
17  performed, the light touch, the pinprick, and the  
18  temperature?

19      A.   It's comparing side to side parts of the  
20  arm using -- light touch is a tissue, pinprick is a  
21  safety pin, and temperature is a cold tuning fork.

22      Q.   Would you consider those to be objective  
23  or subjective?

24      A.   Subjective.

1 Q. And then there are some notes then  
2 underneath, underneath the diagram?

3 A. Sure.

4 Q. What do those say?

5 A. It says ~~likely~~ branch sensory neuropathy,  
6 check an EMG, and may need to see a hand surgeon.

7 Q. And what is branch sensory neuropathy?

8 A. That is as opposed to cutting one of the  
9 main nerves that he had cut sensory nerves that are  
10 kind of on the ends, the tiny little branches that  
11 go to do the sensation peripherally in the hand.

12 Q. And it looks like then following your  
13 July 28th visit you wrote a letter to a Hans Mast,  
14 who is Mr. Dulberg's attorney?

15 A. I'm glad you knew who it was because  
16 that's what I was looking through a little bit  
17 before just now when I was here, trying to figure  
18 out who Mr. Mast was, yes.

19 Q. The mysterious Mr. Mast. All right, yes,  
20 and that was prepared following your examination of  
21 July 28th?

22 A. Correct.

23 Q. Is there any indication as to how it was  
24 that Mr. Dulberg came to see you? Was it on the

1 basis of a referral, another physician?

2 A. I looked at his patient information sheet  
3 and referred by is empty, so I don't know.  
4 Probably because he had been here before would be  
5 my guess.

6 Q. Okay, all right. And in that letter -- I  
7 know you already mentioned that Mr. Dulberg told  
8 you that he had never had any difficulties with his  
9 right arm?

10 A. Correct.

11 Q. All right. And other than the one  
12 sentence that talks about holding a branch for a  
13 neighbor when a chain saw came up and cut his right  
14 forearm, did Mr. Dulberg give you any other details  
15 about how the accident happened?

16 A. No, he did not.

17 Q. Does your chart contain any of the  
18 emergency room records? It would be from Northern  
19 Illinois Medical Center?

20 A. No.

21 Q. And in that letter, he indicates that he  
22 had originally very significant pain but as the  
23 pain was getting better he started noticing that he  
24 had numbness in his fifth digit and the inner

1 aspect of the forearm, is that correct?

2 A. Correct.

3 Q. Is there any indication in your notes as  
4 to how long this significant pain lasted or when it  
5 was that it started to get better and he noticed  
6 this numbness and tingling as far as time goes?

7 A. No.

8 Q. And the fifth digit, which one is that?

9 A. Pinky.

10 Q. It also indicates that he had not been  
11 dropping things. Is that significant to you?

12 A. The weakness. First signs people have a  
13 weakness is they can't grasp things or they're  
14 dropping them.

15 Q. Needless to say, that would be a good  
16 thing that he was not dropping things?

17 A. Correct.

18 Q. And he indicated that it was just mostly a  
19 tingling and a numb feeling?

20 A. Correct.

21 Q. And he talked about him undergoing the  
22 nerve conductions. Is that the EMG that is talked  
23 about in the note?

24 A. Correct.

1 Q. All right. And when was that done? When  
2 was that performed?

3 A. On August 11th -- or actually August 10th  
4 of 2011, which I know is interesting that it's  
5 prior to the date on this letter, and I don't know.  
6 They must have just dated the letter the date of  
7 his evaluation as opposed to when I actually  
8 dictated it.

9 Q. All right. You anticipated my next  
10 question.

11 And what is an EMG?

12 A. There's two parts to it. An EMG actually  
13 is -- the first part is called nerve conduction  
14 velocities, which check how your nerves conduct the  
15 impulse, stimulated at one point and recorded in  
16 another, and see how fast the response is, the  
17 size, shape, and speed of the response, comparing  
18 it to normal.

19 The second part is a part where you  
20 actually put a pin into muscles. He did not have  
21 that part because what I was looking for was to see  
22 how the nerve conduction were working.

23 So we kind of group it altogether and call  
24 it an EMG even though in reality when all he had



1 was the nerve conduction part.

2 Q. And what were the results of the nerve  
3 conduction?

4 A. That it showed that all the big branch  
5 nerves were conducting the electricity the way they  
6 should, the medial nerve and the ulnar nerve, which  
7 are your two big nerves in your arm.

8 Q. And when you say "the big branch nerves,"  
9 is that as sensitive as the nerve conduction gets,  
10 or would it go into any other smaller nerves?

11 A. No, that's as sensitive as it gets is  
12 looking at the big nerves. It doesn't pinpoint  
13 down to the nerve endings themselves.

14 Q. Okay. Is there any type of test that can  
15 figure out or tell you what's going on with the  
16 nerve endings or the smaller nerves?

17 A. After you get from the median nerve or the  
18 ulnar nerve, no, you can't really differentiate  
19 into the little branches that come off of it, so  
20 no.

21 Q. And then following that EMG which would  
22 have been on 8-10-11 -- or, I'm sorry, the nerve  
23 conduction study. I guess it's better to call it  
24 that. You indicated that you recommended that he

1 see a hand surgeon?

2 A. Correct.

3 Q. Okay. And why was it that you wanted him  
4 to see a hand surgeon?

5 A. Just to make sure that they didn't feel  
6 that there was anything else that needed to be  
7 explored or anything that they thought could be  
8 done with the scar that was there, anything else  
9 like that.

10 Q. Do you have any idea as to whether or not  
11 Mr. Dulberg ever went to see a hand surgeon?

12 A. Yes, he did.

13 Q. And who was it that he went to see?

14 A. The first person he saw in December on  
15 December 2nd of 2011 was at Mid-American Hand and  
16 Shoulder, Dr. Marcus Talerico, T-a-l-e-r-i-c-o.

17 Q. And do you have a report back from  
18 Dr. Talerico?

19 A. Yes, I do.

20 Q. And what did that indicate?

21 A. It says there is no evidence of complete  
22 injury to his ulnar nerve on physical exam. His  
23 complaints are likely muscular in origin. He may  
24 have some superficial sensory complaints as well.

1 They did not think he needed surgery.

2 Q. And was there another doctor or another  
3 hand surgeon that he went to see?

4 A. On February 29th of 2012, he saw  
5 Dr. Sagerman, Scott Sagerman, S-a-g-e-r-m-a-n.

6 Q. And do you have a report back from  
7 Dr. Sagerman?

8 A. Yes.

9 Q. What kind of doctor is Dr. Sagerman?

10 A. He's a hand surgeon.

11 Q. Okay. And what did Dr. Sagerman tell you  
12 in his report back to you?

13 A. Well, actually it was Dr. Sek, S-e-k, who  
14 had sent him there, so I was just getting a copy of  
15 it.

16 Q. Do you know who Dr. Sek is?

17 A. No, I don't. His note said that there was  
18 the scar in his forearm, tenderness and sensitivity  
19 over the scar, and sensitivity in the -- that area  
20 we were talking behind the elbow, what's called the  
21 cubital tunnel. He thought that there was partial  
22 ulnar nerve injury, and he referred him for an EMG.

23 Q. Do you have any idea -- or did you get a  
24 report back on that second EMG?

1       A.    Actually that's why I had that note  
2   because he came here on March 13th of 2012.

3       Q.    And that was on the recommendation of  
4   Dr. Sagerman?

5       A.    Correct.

6       Q.    All right. And what were the results of  
7   that 3-13-12 EMG?

8       A.    It was normal, and this time both the  
9   needle part and the nerve conductions were done.

10      Q.    Okay. Was there any more follow-up that  
11   your chart shows with Dr. Sagerman or any other  
12   communication between the offices?

13      A.    I spoke to Dr. Sagerman on that March --  
14   May 16th of 2012. Is that the EMG date? Now I've  
15   got to look back. That was March. Okay, so a  
16   couple months later I have a note here on May 16th,  
17   I spoke to Dr. Sagerman, and Dr. Sagerman would

18   like the patient on neuropathic pain medications.

19            I was just trying to figure out why the  
20   patient was here, so he was in to be put on what we  
21   call neuropathic pain medicine, gabapentin, Lyrica.  
22   There's other ones, too, but those are the two  
23   common that help with unusual sensations.

24            And I believe I spoke with Dr. Sagerman

1   sometime this year also. I'm not seeing if it's in  
2   my notes or I just vaguely remember speaking to him  
3   sometime this year about Dr. Sagerman wanted to get  
4   another opinion from another neurologist. I don't  
5   see my note on it, but that's one of my independent  
6   recollections.

7           Q.   And do you recall as to why Dr. Sagerman  
8   wanted to get another opinion from another  
9   neurologist?

10          A.   Well, when Mr. Dulberg had come back in  
11   August complaining of a new symptom of contractures  
12   in his hands.

13          Q.   And contractures meaning what?

14          A.   Well, something that's called a dystonia-  
15   like symptom where his hand was cramping up.

16          Q.   And that was something new as of --

17          A.   Well, the first time I had seen it was in  
18   August, August 14th of 2013, but Mr. -- let me look  
19   through my notes here.

20                Yes, Mr. Dulberg said he had been having  
21   those spells since his original injury and they had  
22   only been rarely and now they were several times a  
23   day.

24          Q.   Now when was the last time that

1 Mr. Dulberg came to your office?

2 A. August 14th of 2013.

3 Q. And before that when did he come?

4 A. February 4th of 2013.

5 Q. And before that?

6 A. May 16th of 2012.

7 Q. I don't think I have the records from

8 February 4th or August 14th of 2013. Would we be

9 able to get copies of those?

10 A. Sure. So February 13th of '12 is the last  
11 note you have?

12 Q. The last I have is -- yes, I think I have  
13 5-16-12.

14 A. You do have that, okay.

15 MR. BARCH: Here is where the notes ended,  
16 right there, so you can see your page has some --

17 THE WITNESS: Okay.

18 MR. BARCH: The very top page has some entries  
19 after that.

20 (Discussion had off the record.)

21 BY MR. ACCARDO:

22 Q. Now backing up a little bit -- I think I'm  
23 getting a little ahead; but backing up, are there  
24 any handwritten notes other than the notes for your

1 examination that we talked about from the July 28,  
2 2011 initial visit?

3 A. Yes. Anytime that Mr. Dulberg would call  
4 in and talk to my assistant there would be a note  
5 that says mostly PC for phone call.

6 Q. Okay.

7 A. Or if records were released, they will be  
8 saying per subpoena records released.

9 Q. Okay. Could I see the handwritten notes  
10 from 7-28-11 because I don't think I have that  
11 either. That would have been his initial visit.

12 A. Oh, yes, that there wouldn't have been.  
13 It would have just been the sheet you had here and  
14 then I dictated out, so that there's no -- there's  
15 isn't anything.

16 Q. All right. So then he comes back. His  
17 second visit was August 10, 2011. We talked about  
18 that a little bit, and do you suspect then that  
19 this letter of July 28, 2011 was prepared after the  
20 August 10, 2011 visit?

21 A. Correct, it would have been put together  
22 on that August 10th.

23 Q. Now in that August 10, 2011 note, you  
24 indicate that he likely will improve somewhat over

1 the next several months?

2 A. Correct.

3 Q. Why is it that you believed at that time  
4 that he would improve somewhat over the next  
5 several months?

6 A. The typical pattern of this type of an  
7 injury?

8 Q. And by several months, what are we talking  
9 about?

10 A. Well, it used to be said that between six  
11 months and a year would be the most for recovery.  
12 ~~Now we say even up to maybe two years you can have~~  
13 ~~a little recovery back, but certainly the majority~~  
14 ~~of it is going to be between six months and a year.~~

15 Q. And in your letter you indicate sort of  
16 the same thing, that that may improve or you  
17 indicate that it may result in permanent numbness  
18 in the distribution that he was showing numbness.

19 How often or in what percentage of cases  
20 that you've dealt with would you say that this type  
21 of injury has resulted in permanent numbness?

22 A. ~~Cutting of a nerve can result in permanent~~  
23 ~~numbness often; but, again, it's just usually a~~  
24 ~~numb sensation in the distribution of that little~~



1 peripheral nerve?

2 Q. And just to be clear, when he came to see  
3 you both on July 28, 2011 and August 10 of 2011,  
4 his complaints were of the numbness and the  
5 tingling, not pain, is that a fair statement?

6 A. Correct. He had mentioned as the pain was  
7 getting better he started noticing the numbness and  
8 tingling.

9 Q. And in your notes there's no specific  
10 complaints of him having trouble with pain in the  
11 right forearm?

12 A. Correct.

13 Q. Okay. Did he ever mention to you any  
14 problems or anything associated with the area where  
15 the scar was or the scar itself?

16 A. At that point in time, no.

17 Q. Now after August 10th of 2011, he came  
18 back to the office on January 30th of 2012?

19 A. Correct.

20 Q. And why was it that he came in at that  
21 time?

22 A. His therapist asked him to be  
23 re-evaluated.

24 Q. And by "therapist," are we talking about a

1 physical therapist, I presume?

2 A. Correct.

3 Q. Do you know where he was undergoing  
4 physical therapy or anything like that?

5 A. No, I don't.

6 Q. Do you have any idea who recommended or  
7 who ordered him to undergo any physical therapy?

8 A. No, I don't.

9 Q. Given the symptoms that he was complaining  
10 of back in August of 2011, would any type of  
11 physical therapy have been something that would  
12 have been your recommendation?

13 A. No. We had asked him to see the hand  
14 surgeon, so it's very likely they recommended it.

15 Q. As far as making a decision regarding  
16 therapy for the symptoms that he was complaining of  
17 back in August of 2011, would you defer to a hand  
18 surgeon for a decision regarding physical therapy  
19 or the need for it?

20 A. Yes.

21 Q. Did you ever get any records from any  
22 physical therapists? I'm guessing not since you  
23 didn't know where he got it but...

24 A. That was the hand surgeon's notes I was

1 just going back to look; and actually, yes, it does  
2 look like in the hand surgeon's notes that they  
3 sent over there was some therapy notes, Dynamic  
4 Hand Therapy. That would have been February 6th of  
5 '12, so it would have been after. So after we saw  
6 him we must have asked for some notes from the  
7 therapist.

8 Q. Now going to the January 30, 2012 visit,  
9 what were his complaints when he came back in for  
10 this re-evaluation?

11 A. He was complaining of numbness and  
12 tingling and burning on the ulnar side, kind of the  
13 inner side of his arm and hand; and if he bent his  
14 little finger, it made the pain worse.

15 He had been filing for disability for disk  
16 disease and wanted to make sure that the symptoms  
17 he was having weren't related to the disk disease.

18 Q. Do you know what he's talking about as far  
19 as this disk disease, what part or parts of his  
20 body he's talking about?

21 A. No, I don't. If he was worrying about  
22 being from his arm, though, usually that would be  
23 cervical disk, not lumbar; but I don't know what he  
24 was applying for. I certainly was not the one

1 giving him disability.

2 Q. All right. Now I know that in his initial  
3 intake with you he had indicated a history of neck  
4 pain?

5 A. Correct.

6 Q. Did he give you any more details about  
7 that?

8 A. No, but it also was on his health  
9 questionnaire of 2002.

10 Q. Okay. And I think going back to the  
11 little diagram of the person back from July 28th of  
12 2011 you had mentioned, I think, there being a C8  
13 involvement or ulnar nerve involvement in that  
14 particular area --

15 A. Correct.

16 Q. -- that he was complaining of?

17 A. The distribution that he had, it could be  
18 C8 or ulnar. The EMG kind of excluded both of  
19 those.

20 Q. Okay. C8, however, that would be the  
21 cervical spine?

22 A. Correct, the cervical nerve root lesion,  
23 but his EMG was normal.

24 Q. This indication of burning on January 30th

1 of 2012, was that something new?

2 A. Well, when I had seen him July 28th, he  
3 was complaining of tingling and numbness, no  
4 burning at that time.

5 Q. Okay.

6 A. That kind of all goes together. It's what  
7 we call paresthesias, so they kind of all do run  
8 with each other.

9 Q. It's not significant to you at all that  
10 he's coming and complaining now of burning feeling  
11 in January of 2012? It's just pretty much all  
12 lumped together?

13 A. Correct.

14 Q. Okay. And the area in which he's  
15 complaining of symptoms, was it the same in  
16 January, on January 30th of 2012, or had it  
17 expanded or contracted at all?

18 A. Same area.

19 Q. How about the bending of his little finger  
20 aggravating the pain and I think it also said sets  
21 it off all day, does that have any significance to  
22 you?

23 A. Not really explainable why that should be  
24 doing it.

1 Q. And did you perform an examination of him  
2 then on January 30th of 2012?

3 A. Yes.

4 Q. And what were the results of that  
5 examination?

6 A. He had shown decreased strength in moving  
7 this little finger out but not in. Abduction is out  
8 but --

9 Q. Out being away from --

10 A. Away from the middle. If your hand is  
11 together, pulling your fingers apart but not  
12 pulling it in.

13 Q. And would that be an objective or a  
14 subjective finding?

15 A. You ask somebody to give you their full  
16 strength. Obviously they don't have to be giving  
17 you their full strength, but you would like to  
18 presume they are.

19 Q. Any other abnormal findings in that  
20 examination?

21 A. When he flexed his fifth digit, he  
22 complained of this pain up his arm. So bending  
23 your pinky is what flexing your fifth digit means.

24 Q. And, again, would that be subjective or

1 objective?

2 A. Subjective.

3 Q. And can you think of any reason or if --  
4 there's no explanation for why that would be the  
5 case?

6 A. Right. I was trying to come up with maybe  
7 there was some type of a neuroma, which is a bundle  
8 of nerve endings somewhere on the nerve that he's  
9 irritating, somewhere on the tendon. So that's why  
10 I recommended that he get the MRI scan of his  
11 forearm.

12 Q. Underneath in your handwritten note -- and  
13 I apologize for not being able to read some of it,  
14 but under the flexion of the fifth digit,  
15 there's --

16 A. Scar is raised, question, bump on it.

17 Q. Okay.

18 A. So that's the bump could be a neuroma, so  
19 that's why I decided to do the MRI.

20 Q. Okay. And so the area where he had the  
21 scar, it was raised?

22 A. Yes, so it wasn't a flat scar. It was  
23 raised off, still in the healing stage likely also.  
24 Scars takes years to change.

1 Q. And the bump, was that something that was  
2 visible, or is it something that you found upon  
3 examination?

4 A. To feel and that's why I even have it as  
5 question, so was there a bump or wasn't there. So,  
6 again, I wanted to get that MRI just to make sure.

7 Q. And did he have that MRI then?

8 A. Yes, he did.

9 Q. And what did that MRI show?

10 A. No neuromas, normal tendons.

11 Q. And when was that MRI done?

12 A. On February 3rd of 2012.

13 Q. And he came back to see you for follow-up  
14 on that MRI on February 13th of 2012?

15 A. Correct.

16 Q. And I presume that you gave him the  
17 results of the MRI?

18 A. Correct.

19 Q. And in your handwritten notes, what does  
20 that say under here for results of MRI?

21 A. MRI negative, I do not know why patient  
22 has continued symptoms, not sure why when he bends  
23 this little finger things get worse with pain in  
24 entire arm. I suggested he get a third opinion



1 with Dr. Scott Sagerman.

2 Q. And it looks like that was a relatively  
3 short visit?

4 A. Ten minutes. That's -- our follow-ups are  
5 usually between ten and fifteen minutes.

6 Q. And then we already talked about he went  
7 to see Dr. Sagerman and Dr. Sagerman then sent him  
8 back to your office for this second EMG that took  
9 place on May 13th of 2012?

10 A. Correct.

11 Q. Okay. I'm just trying to get the time  
12 frame --

13 A. Actually it's March 13th of 2012.

14 Q. Oh, March 13th, I'm sorry. All right.

15 And the next contact with your office then  
16 was on May 4th of 2012?

17 A. It looks like somebody asked for records.  
18 Record release to Thomas somebody.

19 MS. FREEMAN: Popovich.

20 THE WITNESS: There we go.

21 BY MR. ACCARDO:

22 Q. Okay. So no office visit, no contact with  
23 Mr. Dulberg?

24 A. Correct.

1 Q. Just a records release?

2 A. My office manager sent out some records.

3 Q. Okay. He came into your office then on  
4 May 16th of 2012?

5 A. Correct.

6 Q. All right. And why was he there on  
7 May 16th of 2012?

8 A. Dr. Sagerman wanted him to be on  
9 neuropathic pain medicines.

10 Q. And we had already talked about that, or  
11 you had mentioned some of those earlier?

12 A. Correct.

13 Q. Did you put him on some pain meds at that  
14 time?

15 A. Yes. We started gabapentin, 300  
16 milligrams, and then to increase that to twice a  
17 day within a week.

18 Q. And what is that for?

19 A. It -- originally actually gabapentin was  
20 an antiseizure medicine. It's a lousy antiseizure  
21 medicine. It works better on the nerves that fire  
22 wrong.

23 Someone years ago thought, oh, if seizures  
24 are nerves that fire wrong, why can't it work for

1 peripheral nerves, and it does. Basically no one  
2 knows why.

3           Probably what happens when it's an  
4 irritated nerve, instead of -- like if you think of  
5 an electrical cord, instead of your impulses going  
6 down each little cord, they jump from cord to cord  
7 and then they -- or jump from nerve to nerve in  
8 this case, and the gabapentin stops that jumping.  
9 It's all theory, though, but it works.

10       Q.   Are there any side effects for that  
11 medication?

12       A.   Generally that one is very well tolerated.  
13 That's why it's the first we like to use.

14       Q.   And the dosage that you put him on, was  
15 that a standard --

16       A.   Still very small. Some people -- even  
17 getting him up after that week, he would be on a  
18 total of 600 milligrams. Some people need as much  
19 as 3 grams. So we just build it up to, (a),  
20 symptoms are gone, (b), you tolerate, or, (c),  
21 about 3 grams. After that, it really won't do much  
22 more good.

23       Q.   And what were his complaints then, or what  
24 did he tell you during the May 16, 2012 visit?

1       A.   He thought his strength was bad. He  
2   thought the pain was still there. (He wasn't sure  
3   if it was as bad as it was but only lasting a few  
4   seconds. Doing physical therapy or small things,  
5   small work with the hand -- that's why it's small  
6   caliber is small things with the hand -- brings the  
7   pain on at the scar. He wears his splints at  
8   night.

9       Q.   Do you know who it was that put him in a  
10   splint?

11      A.   I guess it would be Dr. Sagerman, but I  
12   would have to go and look at the records from him  
13   to see.

14      Q.   And then you talk about adding the drug  
15   then?

16      A.   Correct. And then he's going to call in  
17   two weeks or if he had anything that he thought was  
18   unusual, any side effects, to call sooner.

19      Q.   Did you perform an examination of him at  
20   that time, or was it pretty much just him telling  
21   you these things?

22      A.   Just telling me.

23      Q.   Your next contact with Mr. Dulberg was on  
24   June 1st of 2012?

1       A.    No.  He spoke with Melissa, my clinical  
2   assistant, on June 1st that said he had done some  
3   gardening two days ago and his symptoms were  
4   increasing.  So we increased the medication to 600  
5   milligrams twice a day.

6       Q.    And that was just a telephone call?

7       A.    Correct.

8       Q.    And it looks like there was another call  
9   on June 11th of 2012?

10      A.    Correct.

11      Q.    And what was he complaining of at that  
12   time?

13      A.    Still been noticing frequent twinges of  
14   pain, discomfort from the nerve when he uses the  
15   arm.  So we increased him now to 900 milligrams  
16   twice a day.

17      Q.    Now I noticed during the subsequent visits  
18   and certainly after Mr. Dulberg was seeing  
19   Dr. Sagerman and undergoing the physical therapy  
20   that he talks a little bit more in the records or  
21   there's more mention in the records of there being  
22   pain with use of the arm where there didn't seem to  
23   be that initially.  Can you offer any explanation,  
24   or is that significant to you at all?

1 A. I can't offer a good explanation for it,  
2 no.

3 Q. Okay. That is not something that you  
4 would normally expect to see given the nature of  
5 Mr. Dulberg's injury that there being a later onset  
6 of pain with use --

7 A. Correct.

8 Q. -- is that a fair statement?

9 A. Correct, unless something like a neuroma  
10 had developed which we looked and hadn't. That's  
11 what the MRI was for.

12 Q. Okay. Now it looks like it gets a little  
13 bit cut off here down at the bottom. Is that  
14 July 16th of 2012?

15 A. Yes. Again, it looks like my office  
16 manager faxed records this time to SSA, which  
17 should be Social Security Administration, I'm  
18 assuming, so he must have been applying for some  
19 kind of disability.

20 Q. And then it looks like in July of 2012,  
21 September of 2012, and November of 2012 that's all  
22 dealing with records and releases and things like  
23 that?

24 A. Correct.

1 Q. And there was a telephone call. Then the  
2 next contact was July 23rd of 2013?

3 A. Phone call from January.

4 Q. Sorry, January 23rd of 2013.

5 A. Correct.

6 Q. And what did he indicate during that  
7 telephone conversation?

8 A. He's -- again, he spoke with my clinical  
9 assistant, said there was an overwhelming flash  
10 that comes over him, confused, hard to breathe,  
11 responsive driving, and no loss of consciousness,  
12 because we always want to make sure if somebody is  
13 talking about that that they're okay driving, and  
14 not sure if it's a panic attack. He wasn't sure  
15 where to go with this.

16 She talked to my associate who was on  
17 call. I was probably not in town at that point in  
18 time, and my associate said he should make an  
19 appointment to see me.

20 Q. Okay.

21 MR. BARCH: That's good advice.

22 BY MR. ACCARDO:

23 Q. Good, solid advice.

24 All right. And did he then come into the

1 office?

2 A. Yes.

3 Q. And that was on February 4th of 2013?

4 A. Correct.

5 Q. All right. And what were his complaints  
6 at that time?

7 A. He had been on a medication called  
8 fluoxetine. He abruptly stopped it, and then for  
9 two weeks he was getting those spells like were  
10 described above.

11 Q. What is fluoxetine --

12 A. I'm sorry, I say it the other way. He  
13 stopped it for two weeks, and the spells got  
14 better. Then it says none since back on medicine,  
15 so somebody put him back on.

16 It's usually used as an antidepressant,  
17 but I don't know what he was on it for.

18 Q. Okay.

19 A. Then it said he had surgery with  
20 Dr. Sagerman to remove scar tissue. Since then he  
21 had been feeling a lot better, but the strength  
22 hasn't come back; and also when he uses his hand,  
23 the burning comes back.

24 Q. Okay.



1       A.   He was also now complaining of symptoms on  
2   the left side and headaches and went into some  
3   things about his headaches.

4           He uses hydrocodone for his headaches. He  
5   had never been on Triptans, which are headache  
6   medications; and his examination was normal at that  
7   point in time, and we recommended some headache  
8   medications for him and then to continue on his  
9   gabapentin for the arm.

10       Q.   As far as a physical examination of the  
11   right arm and the area involved, that was normal?

12       A.   Right. We had been looking at strength,  
13   and in this exam I probably didn't go into a  
14   detailed sensory exam in a follow-up. That was  
15   mostly more now for his headaches.

16       Q.   Can you think of any reason why headaches  
17   would be associated with any injury that he may  
18   have suffered to his right forearm?

19       A.   No, there's no connection.

20       Q.   Did you get any surgical notes from  
21   Dr. Sagerman as far as what procedure was  
22   performed?

23       A.   No.

24       Q.   Safe to say then that you would defer to

1 Dr. Sagerman regarding any procedure that was  
2 performed by him and relating it back to the  
3 accident or the need for it related to any injuries  
4 that Mr. Dulberg is claiming?

5 A. Correct.

6 Q. Was there any examination or anything  
7 undertaken regarding his left arm since he was then  
8 complaining of left, quote, unquote, tennis elbow?

9 A. No.

10 Q. Tennis elbow, is that essentially the same  
11 thing that he had been complaining about related  
12 back to that prior care following the 2002  
13 accident?

14 A. Correct.

15 Q. And I guess in not laymen's terms what is  
16 tennis elbow?

17 A. Pain behind your elbow that affects that  
18 nerve that goes to the groove back there and can  
19 cause trouble down your arm.

20 Q. And given the procedure that Mr. Dulberg  
21 underwent for his left arm back in 2002, is that a  
22 condition that can come back or --

23 A. Yes, it can.

24 Q. Okay. And under what circumstances or for

1 what reasons would something like tennis elbow come  
2 back or show itself?

3 A. Continued repetitive use of that area,  
4 same thing as why do people who have carpal tunnel  
5 get carpal tunnel again, continuing the same things  
6 that can cause it.

7 And I have not reviewed his records from  
8 2002, whether his was traumatic back then; but once  
9 you have it, repetitive use of the elbow can  
10 certainly do it.

11 Q. And then it looks like on -- is it  
12 May 29th of 2013 there was a telephone call?

13 A. Correct.

14 Q. And what were his complaints at that time?

15 A. A migraine, unrelated to his injury.

16 Q. Any complaints at all regarding the right  
17 forearm or the left arm at that time?

18 A. No.

19 Q. Then another telephone call on August 12th  
20 of 2013?

21 A. Correct.

22 Q. And what was that in regards to?

23 A. It says he had been taking his gabapentin  
24 until July and then he stopped it back because he

1 didn't think it was doing anything for him, but now  
2 he was realizing it was helping him, and the  
3 physical therapist recommended he restart it. So  
4 we recommended he come back to be seen if he wanted  
5 to restart the medicine.

6 Q. The medication that he was on, the  
7 gabapentin, is that something that you would  
8 recommend somebody stop on their own accord?

9 A. No.

10 Q. Okay. Why not?

11 A. Well, for one reason because it is an  
12 antiseizure medicine. If you abruptly start it,  
13 you can cause a seizure, so you want to taper those  
14 kind of medications.

15 Q. Abruptly stop it?

16 A. I'm sorry, abruptly stop it, yes. So  
17 those are the kind of medicines you like to taper,  
18 not just stop.

19 Q. Not just stop cold turkey?

20 A. Correct.

21 Q. All right.

22 A. Pretty much a good idea on any medicine to  
23 check with your doctor first.

24 Q. More useful advice, thank you.

1           He came in on August 14th of 2013?

2           A.    Correct.

3           Q.    All right.  And that's the last time he  
4 has physically been in the office?

5           A.    Correct.

6           Q.    Okay.  Why did he come in on August 14th  
7 of 2013?

8           A.    Again, he stopped his medication.  He was  
9 now noticing spells of tingling and burning in the  
10 scar area and contraction in the scar area, and his  
11 whole hand including the wrist contracts and curls  
12 up.

13          Q.    And he indicated that that condition would  
14 stay for a few seconds?

15          A.    Correct.  He said at other times he thinks  
16 the strength is bad.  He said that Dr. Sagerman had  
17 told him there was scar tissue.  He had told me  
18 that these spells of the hand contracting had  
19 actually been there since his original injury, they  
20 had been rare, and now were happening several times  
21 a day.

22          Q.    And that was the first mention to you of  
23 the spells of contraction?

24          A.    Or my seeing any contractions in his hand

1 in his exam.

2 Q. And was there an examination performed?

3 A. Yes.

4 Q. And what were the results of the  
5 examination?

6 A. Strength looked normal. There was no  
7 atrophy, which is shrinkage in the muscles which  
8 you would see from continued contractures or  
9 continued disuse of the hand, and his reflexes were  
10 equal.

11 MS. FREEMAN: I'm sorry. Court Reporter, can  
12 you repeat her answer?

13 (Record read as requested.)

14 BY MR. ACCARDO:

15 Q. During that office visit of August 14th of  
16 2013, were there any complaints regarding the left  
17 arm?

18 A. Not that I have written down.

19 Q. And what was your impression then on  
20 August 14th of 2013?

21 A. Confusion. Not knowing why he was still  
22 having these -- why he was having these dystonia  
23 symptoms, I recommended he go back and see the hand  
24 surgeon and put him back on the gabapentin since he

1 thought it was helping.

2 Q. And by, I guess, saying confusion, safe to  
3 say then that there were no -- or there was no  
4 clinical correlation that you could find between  
5 your findings upon examination and the complaints  
6 that Mr. Dulberg was complaining of at that time?

7 A. Correct.

8 Q. Is that a better way to that?

9 A. Yes. And, like I say, over the course of  
10 seeing him all these times, I had never seen any of  
11 these things he was now complaining of that he said  
12 he had continually from the beginning, which is a  
13 bit unusual.

14 Q. And it looks like the last -- well, no.  
15 There was a telephone call on September 25th of  
16 2013?

17 A. Correct.

18 Q. Okay. What did he say during that  
19 telephone call?

20 A. He said he had seen another neurologist,  
21 Dr. Kujawa, and he said that Dr. Kujawa had told to  
22 call us about his gabapentin. None of this was  
23 making sense to me since Dr. Kujawa is a  
24 neurologist. So we got some of her records, and

1 actually she's going to give him Botox for his  
2 dystonia, and she's going to be managing his  
3 Neurontin.

4 Q. Botox for his dystonia?

5 A. Yes.

6 Q. Could you explain that to me a little bit?

7 A. Well, if someone has continued  
8 contractures, Botox is a treatment for it. I'm  
9 just a little concerned in that I see in  
10 Dr. Kujawa's notes again he said that he had this  
11 curling continually for 18 months. I'm not sure  
12 that it actually has been there for those 18  
13 months, so I'm not sure that I would use Botox on  
14 this gentleman.

15 I don't do Botox anyhow, so I couldn't use  
16 it anyway, but he's not someone I recommend for  
17 Botox, let's put it that way.

18 Q. And the last contact with Mr. Dulberg was  
19 on September 30th of 2013?

20 A. Again, Melissa basically called him back  
21 to say we got Dr. Kujawa's notes and what she was  
22 saying is that she can manage his care, so she  
23 would be.

24 Q. Okay. And are you familiar with



1 Dr. Kujawa?

2 A. Yes.

3 Q. So as far as you're concerned, presently  
4 Mr. Dulberg is under the care of Dr. Kujawa for the  
5 problems that he had been seeing your office for?

6 A. Correct.

7 Q. Do you have an opinion within a reasonable  
8 degree of medical and neurological certainty as to  
9 what, if any, injury Mr. Dulberg suffered as a  
10 result of the June 28, 2011 incident with the chain  
11 saw?

12 A. Yes, I do have an opinion.

13 Q. And what is that opinion?

14 A. He had a branch nerve disturbance that  
15 would cause some sensory changes in his forearm and  
16 hand.

17 Q. Which could possibly result in a permanent  
18 injury?

19 A. Permanent numbness and potentially even  
20 some -- what we call the paresthesias, the tingling  
21 numbness feeling in an isolated distribution.

22 Q. And as far as any continuing care or  
23 treatment for Mr. Dulberg, would it be limited to  
24 the medication that you had put him on?

1 A. That's what I would feel, correct.

2 Q. The injury that you believe that  
3 Mr. Dulberg suffered as a result of the accident,  
4 would that result in any loss of use of the right  
5 arm or hand, or are we just talking about the  
6 numbness and the tingling sensation?

7 A. Numbness and tingling sensation.

8 Q. Okay. So he should be able to use his  
9 right hand and his right arm normally?

10 A. Correct.

11 Q. I don't think I have anything else. Thank  
12 you, Doctor.

13 EXAMINATION

14 BY MR. BARCH:

15 Q. Dr. Levin, my name is Ron Barch. I'm here  
16 on behalf of a couple of the defendants in the case  
17 as well. Mr. Accardo did a good job covering  
18 everything, but I do have a couple follow-ups.

19 Just as a layperson -- I don't play a  
20 doctor on TV or anything -- from an anatomy  
21 standpoint we've been talking about the ulnar nerve  
22 and the median nerve. Do those emanate somewhere  
23 in the neck? I think you mentioned something about  
24 C8 nerve roots?

1       A.   All nerves start as the nerve roots that  
2   come out from the neck.  They then kind of get  
3   together under your arm into an area called the  
4   brachial plexus, which then distributes out to  
5   nerves down the hand, down the arm and hand.

6           The two final branches in your arm, in  
7   your forearm, and going into your hands and fingers  
8   are called the median and ulnar nerves.  They run  
9   deep.  They weren't disturbed in this case.

10       Q.   That was one of the questions.  Now you  
11   mentioned something about the elbow.  Do those  
12   nerves come to the elbow before they get into the  
13   forearm?

14       A.   Correct.  The ulnar nerve wraps behind the  
15   elbow before it --

16       Q.   And when people hit their elbow and  
17   they're like, ow, they get the pins and needles,  
18   and they call it the funny bone, is that what we're  
19   talking about striking?

20       A.   Exactly.

21       Q.   And there's no question he had the  
22   laceration on the forearm.  You saw the evidence of  
23   the scar, correct?

24       A.   Correct.

1 Q. And I take it it's your opinion then that  
2 laceration on the forearm did not go deep enough to  
3 actually hit either the ulnar or the median nerve?

4 A. Correct.

5 Q. But from those nerves there's little  
6 branches of nerves that come out which innervate  
7 the forearm muscles and things?

8 A. Well, some do the muscles; some do  
9 sensation.

10 Q. Okay.

11 A. His ones for sensation in that forearm and  
12 down even some that may have went down to the  
13 finger were disrupted.

14 Q. And that's what you talked about in  
15 response to Mr. Accardo's questions. You do  
16 believe that he did suffer an injury to those nerve  
17 branches that emanate from the ulnar and median  
18 nerve, the sensation part of it?

19 A. Correct, absolutely. The branch nerves  
20 for sensation were disturbed.

21 Q. If you get an injury to the nerve branches  
22 that come out into the forearm and then down into  
23 the hand, would you expect it to cause any problems  
24 up in the elbow area?

1 A. No.

2 Q. And I don't want to get too rudimentary,  
3 but you would maybe see some symptoms downstream  
4 with the nerve but not upstream?

5 A. Correct.

6 Q. So if he ended up having a surgery on the  
7 elbow to address thickening and scarring associated  
8 with the ligament and the ulnar nerve floor and the  
9 cubital tunnel, that would not be associated with  
10 the laceration to the forearm?

11 A. Correct.

12 Q. And I think I caught your comment about  
13 this, and we just talked about a moment ago that  
14 the C8 level in the cervical spine is where those  
15 nerves come out from the neck and then make their  
16 way down the arms?

17 A. Correct.

18 Q. And that EMG that was done, I think -- was  
19 it in March of 2012? I can't recall.

20 A. Correct, March 13th of 2012.

21 Q. Did that for you confirm that the problems  
22 he was having with respect to the branch neuropathy  
23 were unrelated to any injury to his cervical spine?

24 A. Correct.

1 Q. If somebody had problems as Mr. Dulberg  
2 had, branch neuropathy after this laceration, would  
3 you expect that to somehow evolve into a tennis  
4 elbow situation?

5 A. No.

6 Q. And the tennis elbow that you mentioned  
7 earlier, laypeople call that -- that's carpal  
8 tunnel in the elbow?

9 A. That's the best way to look at it, yes.  
10 It's called an ulnar entrapment but, yes, cubital  
11 tunnel syndrome; but the cubital tunnel is the  
12 equivalent of the carpal tunnel in the wrist in the  
13 elbow.

14 Q. And to get the tennis elbow, I take it  
15 it's going to be some type of repetitive engagement  
16 in that elbow or maybe an actual injury right to  
17 that location?

18 A. Correct. Or if you lean on your elbows a  
19 lot, that's a real common one; and nowadays with  
20 people using computers, you'll be leaning on your  
21 elbows. Keeping your elbow bent out of your car  
22 window is a common one, left sided usually, but,  
23 yes, anything that traps that area there.

24 Q. What if somebody decided because of the

1 branch neuropathy they were going to favor their  
2 left arm as opposed to their right arm, would that  
3 result in -- the non-use of the arm create carpal  
4 tunnel or tennis elbow in that elbow?

5 A. On that side, no. If you're overusing  
6 your other side, it might on the other side, but it  
7 wouldn't cause it in the unused side.

8 Q. I think that's all I have. Thank you.

9 EXAMINATION

10 BY MS. FREEMAN:

11 Q. Like two, three questions, Doctor.

12 You had just said that if he gave you a  
13 description or a scenario where if somebody is not  
14 using their right arm or mobilizing that elbow and  
15 they're using their left arm to do things because  
16 of pain or problems in that, that could result in  
17 tennis elbow of the left arm, correct?

18 A. If you're overusing the left arm, yes.

19 Q. Okay. One other thing I had to ask you  
20 about. You talked about that your recommendation  
21 or what you would recommend for continuing  
22 treatment is the medicine that you discussed  
23 before, correct?

24 A. Correct, if that one is working or one of

1 the other nerve medications.

2 Q. Do you think Mr. Dulberg will need these  
3 medications for the rest of his life?

4 A. There's a potential of that. You need to  
5 be on some medication and see a neurologist about  
6 once a year for the treatment of that, for the  
7 prescription of that.

8 Q. And do you have any other opinions  
9 regarding any other care that he may need?

10 A. In regard to this accident, I don't  
11 believe he should need any other care besides that.

12 Q. Besides the medicine and seeing a  
13 neurologist once a year?

14 A. Correct.

15 Q. Okay. That's all.

16 FURTHER EXAMINATION

17 BY MR. BARCH:

18 Q. That just prompted a couple more follow-  
19 ups, sorry.

20 Now with respect to the right arm and  
21 whether he was using the left arm, if I understood  
22 your earlier comment, there was nothing about this  
23 branch neuropathy that prevents him from using his  
24 right arm?



1       A.    Correct.

2       Q.    All right.  And is there anything in your  
3   contact with him relative to this right arm branch  
4   neuropathy that renders him in your opinion either  
5   partially or totally disabled?

6       A.    No, there is nothing there.

7       Q.    If he was pursuing disability and somebody  
8   did declare him disabled, I take it it would be  
9   from your vantage point something other the branch  
10   neuropathy?

11      A.    Absolutely.

12      Q.    Thank you.

13      MR. ACCARDO:  I don't have anything else.

14      MS. FREEMAN:  Doctor, how do you want to do  
15   signature?

16      THE WITNESS:  Waived.

17      MR. ACCARDO:  All right.  Thank you, Doctor.

18                   FURTHER DEPONENT SAITH NOT

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1 STATE OF ILLINOIS )  
2 ) SS:  
3 COUNTY OF COOK )

4 I, ANGELA M. INGHAM, a Notary Public  
5 within and for the County of Cook, State of  
6 Illinois, and a Certified Shorthand Reporter of  
7 said state, do hereby certify that heretofore,  
8 to-wit, on the 1st day of October, 2013, KAREN  
9 LEVIN, M.D., personally appeared before me at  
10 1900 Hollister Drive, Suite 250, in the City of  
11 Libertyville, in the County of Lake and State of  
12 Illinois, a witness in a certain cause now pending  
13 and undetermined in the Circuit Court of McHenry  
14 County, Illinois, wherein Paul Dulberg is the  
15 plaintiff and David Gagnon, et al., are the  
16 defendants.

17 I further certify that the said witness  
18 was first duly sworn to testify the truth, the  
19 whole and nothing but the truth in the cause  
20 aforesaid; that the testimony then given by said  
21 witness was reported stenographically by me, in the  
22 presence of said witness, and afterwards reduced to  
23 typewriting by Computer-Aided Transcription, and  
24 the foregoing is a true and correct transcript of  
the testimony so given by said witness as

1 aforesaid.

2 I further certify that the signature of  
3 the witness to the foregoing deposition was waived  
4 by agreement of counsel for the respective parties;  
5 and that I am not counsel for nor in any way  
6 related to any of the parties to this suit, nor am  
7 I any way interested in the outcome thereof.

8 In witness whereof, I have hereunto set my  
9 hand and affixed my notarial seal this day  
10 of , 2013.

11

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13 Notary Public, Cook County, Illinois  
C.S.R. License No. 084-002984

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