

1 STATE OF ILLINOIS)
) SS:
 2 COUNTY OF MCHENRY)

3 IN THE CIRCUIT COURT OF THE TWENTY-SECOND
 4 JUDICIAL DISTRICT, MCHENRY COUNTY, ILLINOIS

5 PAUL DULBERG,)
)
 6 Plaintiff,)

7 -vs-) No. 12 LA 000178
)

8 DAVID GAGNON, Individually,)
 9 and as agent of CAROLINE)
 MCGUIRE and BILL MCGUIRE,)
 10 and CAROLINE MCGUIRE and)
 BILL MCGUIRE, Individually,)
 11 Defendants.)
)

12 The discovery deposition of
 13 MARCUS G. TALERICO, M.D., taken under oath on
 14 October 16, 2013, at the hour of 1:00 p.m.,
 15 at Mid America Orthopaedics, 1419 Peterson
 16 Road, Libertyville, Illinois, pursuant to the
 17 Rules of the Supreme Court of Illinois and
 18 the Code of Civil Procedure, before Terri A.
 19 Clark, CSR License No. 084-001957, a notary
 20 public in and for the County of Lake and the
 21 State of Illinois.

22
 23 APPEARANCES:
 24

1 MR. ROBERT LUMBER, of the
2 Law Offices of Thomas Popovich
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4 McHenry, Illinois 60050
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7 On behalf of the Plaintiff;

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14 On behalf of the Defendant,

15 David Gagnon;

16 MR. RONALD BARCH, of the Law Offices of
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22 On behalf of the Defendants,
23 Caroline and Bill McGuire.

24 - - - - -

I N D E X

WITNESS:

MARCUS G. TALERICO, M.D.

EXAMINATION

PAGE

BY MR. ACCARDO

4-21

EXHIBITS

ID

Exhibit 1 (Curriculum Vitae)

5

1 (Deposition start time 01:11.)

2 (Whereupon, the witness was
3 administered an oath.)

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

7 THE WITNESS: Marcus Talerico,
8 M-a-r-c-u-s, T-a-l-e-r-i-c-o.

9 MR. ACCARDO: Let the record reflect
10 this is the discovery deposition of
11 Dr. Marcus Talerico taken pursuant to
12 notice, taken in accordance with the
13 rules of the Circuit Court of McHenry
14 County, the rules of the Supreme Court of
15 the State of Illinois, and any other
16 applicable local court rules.

17 MARCUS G. TALERICO, M.D.,
18 having been first administered an oath, was
19 examined and testified further as follows:

20 EXAMINATION

21 BY MR. ACCARDO:

22 Q. Good afternoon, Doctor, my name is
23 Perry Accardo and I'm going to be asking you
24 some questions today about a former patient

1 of yours by the name of Paul Dulberg. Okay?

2 A. Yes.

3 Q. You have given depositions before;
4 is that correct?

5 A. Yes.

6 Q. You're familiar with the ground
7 rules governing depositions, generally?

8 A. Yes.

9 Q. Now, we have been tendered a copy
10 of your CV. I think we have marked it as
11 Exhibit No. 1 for identification. Is that
12 relatively current and up to date?

13 A. It is.

14 Q. What kind of doctor are you?

15 A. ~~Orthopedic surgeon.~~

Ortho

16 Q. And do you have a specialty within
17 that field?

18 A. ~~Hand and upper extremity surgery.~~

*Specialty in
hand & UE*

19 Q. And you are currently affiliated
20 with MidAmerica Orthopaedics?

21 A. Yes.

MidAmerica Ortho

22 Q. And that's in Libertyville,
23 Illinois?

24 A. Yes.

1 Q. And how long have you been
2 affiliated with them?

3 A. A little bit over two years.

4 Q. You have your chart for Mr. Dulberg
5 today?

6 A. I do.

7 Q. Does that chart contain everything,
8 all the records in regards to Mr. Dulberg?

9 A. It contains the two office
10 encounters, but no other documents that may
11 be with this chart. I don't know that for
12 sure. For example, the EMG which is
13 referenced in here, I don't have that, but I
14 commented on it.

15 Q. The question was everything that
16 you have in front of you comprises the entire
17 chart?

18 A. Yes.

19 Q. Now, ~~you saw Mr. Dulberg twice,~~ is
20 that correct?

21 A. Yes.

22 Q. ~~And the first time was on December~~
23 ~~2nd of 2011,~~ is that correct?

24 A. Yes.

Saw it 2x

① 12/2/11

1 Q. The second time was on January 6th
2 of 2012?

② 1/6/12

3 A. Yes.

4 Q. Have you or your office had any
5 contact whatsoever with Mr. Dulberg since
6 that time?

7 A. I believe not.

8 Q. I'm sorry, Doctor, it wasn't a
9 trick question before, but on one of the
10 records I did note, it looks like a
11 June 21st, 2012 telephone -- was it a
12 telephone call? It's on the second page of
13 the December 2nd, 2011 record.

14 A. Okay, I see that on the bottom.
15 That was a phone call, and apparently the
16 patient called. And VV is one of our
17 employees, a nurse in our office, Vernice.
18 And she must have taken this phone call where
19 he said that he detailed the injury
20 apparently. I didn't take that phone call
21 and I didn't even know that until you pointed
22 it out.

23 Q. It's more about him giving more
24 detail about how the actual incident took

1 place as opposed to describing any additional
2 problems with injuries or anything like that?

3 A. Correct. And I didn't see him at
4 that time, that was a phone call.

5 Q. Backing up. Safe to say then that
6 since June 21st of 2012 neither you nor your
7 office has had any contact with Mr. Dulberg?

8 A. Correct.

9 Q. I would also ask any opinions that
10 you give today, I would ask that they be
11 within a reasonable degree of medical and
12 orthopedic certainty. Fair enough?

13 A. Yes.

14 Q. Let's just go over the visits. The
15 first visit on December 2nd, 2011. Was

16 Mr. Dulberg referred to you?

17 A. He was, by Dr. Levin, a
18 neurologist.

Referred by
Dr. Levin
(neuro)

19 Q. Do you know Dr. Levin?

20 A. I don't.

21 Q. Do you know of her?

22 A. I have heard her name.

23 Q. And Mr. Dulberg gave you a history
24 when he came in to see you?

1 A. He did.

2 Q. And what was that history?

3 A. That he was using a chain saw and
4 was accidentally struck on the right forearm,
5 volar side.

6 Q. He indicates that he was seen in
7 the emergency room; is that correct?

8 A. Yes.

9 Q. Did you ever receive any records
10 from the emergency room?

11 A. No.

12 Q. And what were his complaints as far
13 as pain, discomfort?

14 A. Persistent pain that was radiating
15 from the laceration side in the forearm
16 region.

*no persistent
pain radiating
to from laceration
side*

17 Q. Where was it that the laceration
18 was, it was on the right forearm?

19 A. Right volarly, so palm side and mid
20 forearm level. And he also had intermittent
21 numbness and tingling.

*intermittent
numbness &
tingling
in
ring & small
finger*

22 Q. In any particular areas?

23 A. In the ring and small finger.

24 Q. What else did he indicate?

1 A. Grip weakness with loss of
2 endurance with wrist flexion and gripping.

*grip
weakness*

3 Q. Now, before he came to see you he
4 had seen Dr. Levin and had an EMG and nerve
5 conduction study performed; is that right?

6 A. Yes.

7 Q. And you did not have the report at
8 that time?

9 A. Correct.

10 Q. Did he indicate to you his work
11 status?

*not
working*

12 A. He was currently not working at
13 that time apparently, but was a trained
14 graphic designer.

15 Q. And he reported using a computer
16 mouse for 20 minutes causes him significant
17 forearm pain; is that right?

18 A. Correct.

19 Q. You performed an examination?

20 A. Yes.

21 Q. And what were the results of that
22 examination specific to his right arm or
23 hand?

24 A. Basically it was a normal exam

1 except for the fact he did have a well-healed
2 laceration in that area of the forearm where
3 the chain saw hit him.

4 He did also have some apparent
5 muscle incongruity, meaning some scarring at
6 the muscle belly level deep to the skin.

normal
exam
well-healed
laceration
muscle
scarring

7 Q. And just a little bit more
8 specifically about the exam. I know you said
9 that it was normal. It appears that there
10 was no tenderness to palpation of the
11 forearm?

no TTP of
forearm

12 A. Correct.

13 Q. And would that include the area
14 where the laceration and the scarring was?

15 A. Yes.

16 Q. As far as his strength, was that
17 tested?

18 A. It was.

19 Q. And what were the results of that?

20 A. He had intact strength. He had
21 normal wrist flexion and extension strength.
22 He had normal grip strength. He had normal
23 intrinsic strength, which are the muscles in
24 the hand.

normal
strength

1 Q. It's noted he had a negative
2 Froment's sign. What is that?

3 A. That is a sign that looks for
4 atrophy and weakness of the muscles in the
5 hand. The implication there is an ulnar
6 nerve injury.

7 Q. And a positive Wartenberg sign.
8 What is that?

9 A. Wartenberg sign is where the small
10 finger deviates away from the ring finger
11 when you ask them to bring in the small
12 finger against the ring finger. That again
13 has to do with ulnar nerve function. So a
14 positive sign is normally, it's attributed to
15 an imbalance from weakness of the intrinsic
16 of the hand.

17 Q. Would you consider that to be a
18 subjective or an objective finding?

19 A. It's an objective finding. It's
20 clinical significance, it's part of the big
21 picture. So just because that's a positive
22 sign doesn't necessarily mean anything
23 per se. In context with other findings is
24 where it's helpful.

Negative
Froment's
Sign
(Testing for
ulnar nerve
injury)

Positive
Wartenberg
Sign
(also ulnar
nerve test)

Not necessarily
sig

1 Q. Were any tests run during your
2 examination regarding sensation? Because he
3 was complaining of this numbness and the
4 tingling.

5 A. I would test sensation by just
6 light touch.

7 Q. And would that have been normal as
8 well?

9 A. Yes.

10 Q. And what was your assessment then
11 following that initial visit and examination?

12 A. My assessment was that he had a
13 healed laceration in the forearm. I did not
14 appreciate any obvious nerve, tendon, or
15 artery injury. He had some scarring. And
16 that my recommendation was therapy to try to
17 improve his strength and his perceived
18 weakness and the pain he had at the injury
19 site.

20 Q. You also indicate under your plan
21 that his complaints are likely muscular in
22 origin?

23 A. Correct.

24 Q. And that he may have some

*Normal
Sensation*

*No
Obvious
Nerve, Tendon or
Artery injury
Recommend
PT*

*C/O's are
Muscular
in
Origin*

1 superficial sensory complaints?

2 A. Correct.

3 Q. What would be the cause of these
4 potential superficial sensory complaints
5 given his history and given the results of
6 your examination?

7 A. He could have in that area there
8 are some sensory nerves. One in particular
9 is the medial and the brachial cutaneous
10 nerve. He could have neuromas at that point
11 where they could be sort of scarred ends of
12 the nerve perhaps. That's all in the sort of
13 differential, but I guess at that time I
14 really didn't get the sense that that was
15 really at play.

16 Q. Is there any way to test for that?

17 A. Well, you can try to palpate the
18 area and try to find a specific focal area.
19 And if you had one area that is very
20 obviously the tender area, there is a Tinel's
21 sign where you tap there to see if that
22 recreates all the symptoms. Perhaps you
23 could explore that.

24 You could try with an EMG. I don't

24 A. He reported no improvement in his

*weaker;
burning
in forearm*

1 symptoms. He felt therapy did not help him.
2 He felt that he was getting weaker. And also
3 burning in his forearm.

4 Q. The burning in the forearm, is that
5 a new complaint or was that sort of go along
6 with the numbness and tingling?

7 A. I think that was all part of what
8 he was complaining of. I might not have used
9 that language in the first encounter, but
10 that's my recollection of the event.

11 Q. Were there any new and unique
12 complaints when he came to see you the second
13 time in January?

14 A. No, not according to the note and
15 what I recall.

*no new
C/O's*

16 Q. I know he indicated to you that he
17 didn't feel that occupational therapy was
18 helping, and we have established that he had
19 the two visits. Do you have the records or
20 the reports from the therapist?

21 A. I have not seen it, no.

22 Q. In the interim between your two
23 visits you were able to get a copy of the
24 EMG, the nerve conduction study?

1 A. Yes.

2 Q. What did you find when you reviewed
3 that?

4 A. It was a normal study.

*normal
EMG*

5 Q. And it looks like he also when he
6 came to see you in January he asked you about
7 some disability paperwork. Do you recall
8 that?

9 A. I don't specifically recall that
10 question, but I did note that in the report
11 that he did ask me about disability
12 paperwork, yes.

13 Q. What type of paperwork would it be
14 that he would have been asking for, if you
15 know?

16 A. I don't know, to be honest. It's
17 just the phrase I put in there.

18 Q. At that time did you feel he was
19 suffering from any type of disability?

20 A. No. I think that he had some
21 scarring in his forearm and he had a lot of
22 complaints, but I did not have any real
23 objective findings that I could come up with
24 a diagnosis, at least that I could treat.

*not suffering
from any
disability*

1 Q. You did do another examination of
2 him in January?

3 A. Yes.

4 Q. And what were the results of that,
5 that examination in comparison to the earlier
6 examination?

7 A. Basically the same thing.

8 Q. So essentially negative?

9 A. Yes.

10 Q. And what was your assessment and
11 plan at that time?

12 A. My assessment was, again, he had
13 continued forearm pain and some scarring in
14 the muscle. My recommendation was continued
15 therapy. I really didn't have much else for
16 him.

17 Q. Do you know whether he sought out
18 any additional therapy?

19 A. No idea.

20 Q. During the two visits when he came
21 to see you did he ever make any complaints
22 regarding any pain or discomfort above the
23 area where the laceration was up into the
24 right elbow or anything like that?

Negative Exam again

Cont 07

1 A. No, I don't recall that.

2 Q. It was strictly confined to the
3 forearm and the area where the laceration
4 was?

5 A. Yeah, with sort of radiating -- it
6 doesn't say. I guess shooting, radiating
7 from the laceration site. I didn't say which
8 way, up or down, but radiating.

9 Q. And nothing in your examination or
10 your review of the EMG indicated anything
11 regarding any injury to the ulnar nerve; is
12 that a fair statement?

13 A. Correct.

14 Q. Are you talking mostly about then
15 if any nerves were involved it would have
16 been these more branch sensory type nerves?

17 A. Yes.

18 Q. Do you have an opinion as to what,
19 if any, injury Mr. Dulberg suffered as a
20 result of this incident with the chain saw?

21 A. My sense is he sustained a
22 laceration in the muscle belly of his
23 forearm. That did heal. And I did not
24 appreciate any objective weakness or real

*Radiating
Pain*

*No indication
of ulnar nerve
injury*

*if any injury,
more branch
sensory type
nerves*

*Op: He suffered
laceration to muscle
belly of his forearm*

1 abnormality other than his subjective
2 complaints of shooting, burning pain, and
3 feelings all in his forearm area.

4 Q. And again, none of which you could
5 correlate clinically with any certainty?

6 A. To me, I have seen a lot of
7 lacerations, and typically a laceration in
8 the muscle will heal. And I did not note any
9 obvious deficits.

10 So he could have pain there, that's
11 a subjective complaint, I have no way to
12 measure that. I don't know what to make out
13 of that when people tell me it's hurting. I
14 can only look for objective findings. And I
15 really didn't find any so that's really all I
16 could come up with for him.

17 Q. And just for clarification. What
18 is the muscle belly you referred to, what's
19 that?

20 A. The muscles of the flexor pronator
21 mass, so the wrist flexors. And there is a
22 forearm pronator, which is a deep muscle
23 coming off of the medial epicondyle of the
24 elbow, and they radiate across the forearm.

1 A chain saw going through
2 transversely in his forearm probably went
3 into the muscle. I think he described that
4 he had an open wound down to muscle.

5 Obviously, I didn't see the open
6 wound because I saw him six months after the
7 injury, going by his description. So those
8 are the wrist flexors primarily. And he had
9 perfectly normal functioning wrist flexors,
10 so the muscle healed.

11 MR. ACCARDO: I don't have any other
12 questions.

13 MR. LUMBER: I don't have any.

14 MR. BARCH: To be honest, I believe
15 you covered it.

16 MR. ACCARDO: Signature?

17 THE WITNESS: Waived.

18 (Deposition concluded at 01:31 PM.)
19
20
21
22
23
24

*Chain saw
probably went
thru muscle, wrist
flexors
b/c they functioned
normally
muscle
healed*

1 CERTIFICATE OF REPORTER
2
3
4

5 I, TERRI A. CLARK, Certified
6 Shorthand Reporter for the State of Illinois,
7 do hereby certify that the foregoing was
8 reported by stenographic and mechanical
9 means, which matter was held on the date, and
10 at the time and place set out on the title
11 page hereof, and that the foregoing
12 constitutes a true and accurate transcript of
13 same.

14 I further certify that I am not
15 related to any of the parties, nor am I an
16 employee of or related to any of the
17 attorneys representing the parties, and I
18 have no financial interest in the outcome of
19 this matter.
20
21
22

23 _____
TERRI A. CLARK, CSR

24 LICENSE NO. 084-001957