

IN THE CIRCUIT COURT OF
ST. FRANCIS COUNTY, ARKANSAS

PATRICIA WHITE, individually and as
Guardian and Next Friend of
William Joseph Paulman, a Minor,

PLAINTIFFS,

CASE NO.
CIV 98-102

VS.

AMTRAN INTERNATIONAL CORPORATION,
AMERICAN TRANSPORTATION
CORPORATION, AND WARD
BUS SALES, INC.

DEFENDANTS.

MEMPHIS, TENNESSEE
TUESDAY, JULY 27, 1999

Deposition of

S.T. CANALE, M.D.

ORIGINAL

ALPHA REPORTING CORPORATION
Suite 210A - 100 North Main Building
Memphis, Tennessee 38103
(901) 523-8974

The following deposition was taken of the aforementioned witness who was called for examination by counsel for Plaintiffs, pursuant to notice, taken at the offices of Campbell Clinic, 1400 S. Germantown Road, Germantown, Tennessee, on Tuesday, July 27, 1999, beginning at 5:30 p.m., before Barbara Barron, a Notary Public in and for the State of Tennessee.

APPEARANCES

ON BEHALF OF THE PLAINTIFFS:

MARK LEDBETTER, ESQ.
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ON BEHALF OF THE DEFENDANTS:

KELLY CARBETTA SCANDY, ESQ.
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COURT REPORTING FIRM:

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Note: Exhibits marked and attached hereto.

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PROCEEDINGS

Whereupon,

S.T. CANALE

a witness, was called for examination, and, after having been duly sworn, was examined and testified as follows:

EXAMINATION BY: MR. LEDBETTER

Q. State your full name, please.

A. S. Terry Canale.

MR. LEDBETTER: Dr. Canale, I am Mark Ledbetter, and I am the attorney in this case for William Joseph Paulman, and we are going to make your curriculum vitae an exhibit to the deposition and to have the contents of it sketched in in question and answer form.

(Canale Deposition Exhibit Number 1, the Doctor's Curriculum Vitae, was marked for identification.)

(Whereupon, the curriculum vitae of Dr. S.T. Canale was inserted in question and Answer form by the court reporter as follows:)

Q. Doctor, would you please give us your educational background?

A. I did my undergraduate studies at the University of Virginia in Charlottesville, Virginia, where I received a B.A. degree in 1962. I attended medical school at the University of Tennessee at Memphis, Tennessee, and graduated in 1967 with an MD degree.

I did a rotating internship at Philadelphia General Hospital, Philadelphia, Pennsylvania, from January 2, 1968 to December 31, 1968. I did my residency training in orthopedic and general surgery at Jefferson Medical College in Philadelphia, Pennsylvania from January 1, 1969 to December 31, 1972.

Q. Doctor, are you board certified in the specialty of orthopedic surgery?

A. Yes. I became board certified in the field of orthopedic surgery on September 6, 1974.

Q. Are you licensed to practice medicine in the State of Tennessee?

A. Yes. I received my medical licensure from the State of Tennessee in July of 1973. I am also licensed to practice in Mississippi and Florida.

Q. Could you please now give us the names of the hospitals where you are currently on staff?

A. I am Chief of Staff at the Campbell Clinic. I am Chief of Pediatric Orthopedics at LeBonheur Children's Hospital. I am on active staff at Baptist Memorial Hospital, MidSouth Surgery Center and the Midtown Surgery Center.

I am on courtesy staff at Veteran's Administration Hospital and East Memphis Surgery Center. And I am on the consulting staff at the Regional Medical Center at Memphis.

Q. Doctor, do you hold any teaching or other related appointments?

A. Yes. I have been, since 1991, a Professor at the University of Tennessee, College of Medicine, Memphis, Department of Orthopedic Surgery. I started out as a clinical instructor in October of 1974; then moved to clinical assistant professor in July 1979; then moved to clinical associate professor in July of 1983; then to clinical professor in July of 1989; and, finally, to Professor in July of 1991.

Q. Doctor, could you give us the names of any societies and/or organizations you are a member of?

A. Yes. I am a member of the Academic Orthopedic Society, the American Academy for Cerebral Palsy and Developmental Medicine, the American Academy of Orthopedic Surgeons, the American Academy of Pediatrics, the American Medical Association, the American Academy of Sports Medicine, the American Board of Orthopedic Surgery, the American Orthopedic Association, the Council of Musculoskeletal Specialty Societies, to name just a few.

(Whereupon, the insertion of the Doctor's qualifications were completed, and examination by counsel resumed as follows)

BY MR. LEDBETTER:

Q. If you would, with respect to Joey Paulman, who is William Joseph Paulman, I would like to ask if you would go through your records in detail, the treatment that you have in the records. And, if you would, explain, since this apparently was handled on a service in regard to which you were a director back in 1995, what your treatment was of him or what the treatment was of him at that time with respect to a radial ulnar fracture?

A. Yes. William Paul at the present time is an 11-year-old, right-hand dominant male who was involved in a school bus accident, evidently, in April of 1995. He was treated by the Campbell Clinic staff at LeBonheur Hospital at that time.

He went on to receive his treatment in the clinic at LeBonheur. Subsequently, healed his fracture and returned here for evaluation concerning an up and coming lawsuit in the near future.

I saw him on 7/1/99 where it was explained to me that he was involved in this bus accident in 4/95 where he had a loss of consciousness. Evidently he was thrown from the bus, suffered bilateral, meaning both sides, fractures of his mandible, which is the biting bone of your mouth, the bottom part, and several facial lacerations, tooth lacerations.

He was treated for this initially in West Memphis, and he subsequently was transferred to LeBonheur where his right both bone forearm fracture underwent a reduction and a casting on 4/12/95.

His mother states that he did fairly well with his right arm. She just wanted this further evaluated. She felt that there was some mild angulation to the arm, and, on occasion, it aches him.

He says there is basically no pain and no swelling except when hanging from the arm, evidently off of a bar or something like that.

On examination on 7/21/9 he was a well-developed, well-nourished and alert male in no acute distress. His right upper extremity, the exam was limited to, and it demonstrated sensation to be intact to light touch.

His three nerves, the median, radial and ulnar, in the arm were all intact. His reflexes were normal. His strength in his hand and his wrist and finger flexors, as well as the biceps muscle, and its opponent, the triceps muscle, were all normal.

The deltoids and external and internal rotators in the shoulder were all normal. He had full range of motion about the shoulder, elbow, wrist and hand. He was non-tender to palpation on pressing up and down the arm.

He had full rotation meaningful pronation and supination. The skin was normal, and there were no scars and no swelling. And we thought at that time, which is 7/21/99, our diagnosis was statute post right both bone fracture forearm since 4/95.

My evaluation at that time was that he, basically, had no permanent impairment. I thought the little angulation would remodel over time as he got older and wouldn't be a problem as the arm got bigger.

And, basically, I saw no evidence of a permanent disability with full range of motion of his elbow, wrist and shoulder. I did not evaluate his mandible.

Q. All right, sir. Now, Dr. Canale, are injuries of the type sustained by Joey Paulman particularly painful and discomfort-producing in type?

A. Yes. He had a more proximal forearm fracture one closer to the elbow than normally. And those in the mid forearm are usually less stable and more painful than the distal forearm. So, fairly painful injury, yes.

Q. Dr. Canale, do you have an opinion as to whether the injuries, the radial ulnar injuries, are consistent to a reasonable degree of medical certainty with a history of Joey Paulman being a passenger involved in a school bus accident?

A. Yes, that could be.

Q. Now, on the surgery that was done on his right arm, was that a closed reduction or an open reduction?

A. Let me stop and just check that for a second. It was my impression that the surgery was required of his mandible, and that a closed reduction was carried out of his forearm, and he did not actually have an open reduction to his forearm.

Q. Thank you, Doctor. Now, in the course of your years of practice, have you treated a number of trauma patients or patients whose injuries are due to trauma as opposed to just age or some other cause?

A. Have I treated a lot of children with trauma, yes.

Q. And have you written in that area fairly widely?

A. Yes, I have. Yes.

Q. Now, as far as an injury of the type which has been sustained here by Joey Paulman, can you give me an opinion as to whether this injury or these injuries were consistent to a reasonable degree of medical certainty with his being an unrestrained passenger in a school bus involved in an accident on April 12 of 1995?

MS. SCANDY: Objection, you can answer.

THE WITNESS: Well, that is a difficult question. But, the best way I can answer that, if what I surmised occurred, like him being thrown through the air and even out of the bus, then the chances of him sustaining these fractures being unrestrained was much greater than if he had been restrained.

BY MR. LEDBETTER:

Q. Will Joey Paulman have some degree of pain or discomfort with this arm for the rest of his life?

A. I don't think so.

Q. Will he have some continued problem with aching on exertion?

A. I doubt that he would.

Q. Now, insofar as any future care is concerned, do you know of any future care that will be needed?

A. No.

Q. Would you say, then, he has reached maximum medical improvement and has been released, and, to your knowledge, you wouldn't expect anymore medical care at all?

A. That is correct.

Q. Dr. Canale, have the opinions you have expressed today been to a reasonable degree of medical certainty?

A. Yes, they have.

EXAMINATION BY: MS. SCANDY

Q. Just a few follow-up questions, Doctor. Aside from the brief visit, I believe, that Joey had with you last week, it has been approximately four years since you or any of your associates have seen him; isn't that correct?

A. That's correct.

Q. And when he was last seen, he had no complaints, had full range of motion of his shoulder, his elbow, his wrist and his hand?

A. You mean in '99?

Q. I am sorry. No. In 1995?

A. I don't know that.

Q. I am quoting from the records, I believe, from your clinic. If you refer to a record dated June 19, 1995, which appears to have been prepared following a visit with Dr. Robert Williams at LeBonheur?

A. Yes, this is a resident note from Dr. Robert Williams, a resident in 1995, stating simply that he was non-tender over his fracture site with full motion.

Q. All right. And, to your knowledge, that is the last visit Joey had before he saw you over four years later in 1999?

A. Yet, as far as I know.

Q. And, are you aware that Joey has, during the last few years, played tackle football without any problems?

A. Am I aware of that? No, I am not aware of that.

Q. That wouldn't surprise you, though, would it?

A. No, it wouldn't.

Q. And, as you have stated this was not a permanent injury Joey suffered; it has gone on to heal completely

A. That is correct.

Q. And he has simply gone about the business of being a young boy as far as you know?

A. As far as I know.

MS. SCANDY: I don't have anything further.

MR. LEDBETTER: Nothing further.

(Witness waives reading and signature.)

(Whereupon, at 5:45 p.m., the deposition was concluded.)

AND FURTHER DEPONENT SAITH NOT.

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CERTIFICATE OF REPORTER

I, Barbara W. Barron, do hereby certify that the foregoing proceedings were taken by me in stenotype to the best of my ability, and thereafter reduced to typewriting under my supervision; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto nor financially or otherwise interested in the outcome of the action.

Barbara W. Barron
Notary Public in an for
the State of Tennessee

My Commission Expires:
March 1, 2003