

1 IN THE CIRCUIT COURT OF PUTNAM COUNTY
2 WEST VIRGINIA

3 LINDA DEAN AND HARLAN DEAN,

4 Plaintiff,

5 vs. CIVIL ACTION NO.: 04-C-480

6 JOHN A. KING, D.O.; DAVID McNAIR;
7 TEAYS VALLEY HEALTH SERVICES, INC.,
8 d/b/a PUTNAM GENERAL HOSPITAL,
9 HCA, INC.; HEALTHTRUST, INC.-
10 THE HOSPITAL COMPANY, a foreign
11 corporation; and HOSPITAL CORP.,
12 L.L.C.,

13 Defendants.

14 The deposition of RICK HOUDERSHELDT, D.O.,
15 taken upon oral examination, pursuant to notice and
16 pursuant to the West Virginia Rules of Civil
17 Procedure, before Johnny J. Jackson, Registered
18 Diplomat Reporter and Notary Public in and for the
19 State of West Virginia, Wednesday, September 13,
20 2006, at the Offices of the deponent, Suite 202,
21 3705 Teays Valley Road, Hurricane, West Virginia.

22 JOHNNY JACKSON & ASSOCIATES, INC.
23 606 Virginia Street, East
24 Charleston, WV 25301
(304) 346-8340

1 APPEARANCES

2 On behalf of Plaintiffs:

3 CURRY & TOLLIVER, PLLC
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5 David K. Schwirian, Esquire
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10 On behalf of Putnam General Hospital:

11 UZICK, ONCKEN, SCHEUERMAN & BERGER, P.C.
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1 Appearances (continued)

2 On behalf of David McNair:

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6 Post Office Box 553
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8 (304) 340-1000

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1 THE VIDEOGRAPHER: We are now on the video
2 record in the matter of Dean vs. King.

3 My name is Aaron Mann.

4 I am a legal video specialist for Katz
5 Consulting Group, LLC, located at 820 Quarrier
6 Street in Charleston, West Virginia, 25301.

7 I am not related to any of the parties to
8 this action or to counsel of record, nor do I have
9 a financial interest in this action.

10 Today is September 13th, 2006. The time
11 is 4:38 p.m.

12 This deposition is taking place at the
13 offices of Rick Houdersheldt, 3705 Teays Valley
14 Road, Suite 202, in Hurricane, West Virginia.

15 The witness today is Dr. Rick
16 Houdersheldt.

17 Would counsel please identify themselves
18 for the record.

19 MR. ONCKEN: Kevin Oncken for the
20 hospital.

21 MR. UZICK: Jeff Uzick for the hospital.

22 MR. JOHNSON: Scott Johnson for the
23 hospital in the Randy Peck matter by agreement of

24 all counsel.

5

1 MR. FOSTER: Bill Foster for the
2 hospital.

3 MS. MANKINS: Jennifer Mankins on behalf
4 of David McNair.

5 MR. OFFUTT: D.C. Offutt for the
6 hospital.

7 MR. FISHER: Mike Fisher for the Hospital.

8 MR. VANDERFORD: Tom Vanderford on behalf
9 of Linda Dean and Randy Peck.

10 MR. SCHWIRIAN: David Schwirian on behalf
11 of Linda Dean and Randy Peck.

12 VIDEOGRAPHER: Would the Court Reporter
13 please swear the witness.

14 EXAMINATION

15 BY MR. ONCKEN:

16 Q. Good afternoon, sir.

17 A. Good afternoon.

18 Q. Would you give me your name for the
19 record, please?

20 A. Rick Houdersheldt.

21 Q. Dr. Houdersheldt, my name is Kevin
22 Oncken. And as you heard off the record and then
23 somewhat in advance of my questioning, I represent
24 the hospital.

6

1 We have not met before, have we, sir?

2 A. No.

3 Q. To my right is Jeff Uzick, who is my
4 partner. You have not met Jeff either; is that
5 correct?

6 A. That's correct.

7 Q. To his right is Scott Johnson. You have
8 not met Scott?

9 A. No.

10 Q. Your address is what, please?

11 A. 3705 Teays Valley Road, Suite 202,
12 Hurricane West Virginia.

13 Q. What do you for a living?

14 A. Physician, internal medicine.

15 Q. Internal medicine. The address that you
16 gave here in Hurricane, West Virginia, how long
17 have you been here?

18 A. This address, I have been here for about
19 two years.

20 Q. For the folks in the community, how long
21 have you served --

22 A. Twenty years.

23 Q. -- provided care for them?

24 A. About 20 years.

7

1 Q. With regard to interaction with me, though
2 we have not met in person, we did have a telephone
3 conversation, to be fair, yesterday --

4 A. Yes, sir.

5 Q. -- did we not?

6 A. Yes, we did.

7 Q. And was that the first conversation, you
8 are aware, certainly is that I'm aware of, between
9 the two of us?

10 A. That's correct.

11 Q. We did not discuss any patient's case;
12 fair?

13 A. That's fair.

14 Q. Certainly, you very were truthful with us
15 yesterday on the telephone and will be truthful
16 with everyone here today, no doubt?

17 A. That's correct.

18 Q. You were on staff at Putnam General
19 Hospital in 2002 and 2003 when Dr. John King was in
20 town; is that true?

21 A. That's true.

22 Q. Do you continue to hold privileges at
23 Putnam at this time?

24 A. Yes.

8

1 Q. How long have you serviced the community
2 at Putnam General Hospital?

3 A. Twenty years.

4 Q. When we began the deposition, or just
5 before we went on the record, one of your staff
6 members requested a check, and that was forwarded
7 through Mr. Uzick to your office, in the amount of
8 \$1,000.

9 Will you confirm for anyone interested in
10 evaluating your testimony that this was
11 reimbursement for time away from your practice this
12 afternoon and not payment for testimony of any
13 sort?

14 A. That's correct.

15 Q. Am I correct that in 2002-2003, while
16 Dr. King was in town, you shared a number of
17 patients in common with him?

18 A. Yes, sir.

19 Q. Referred patients to him?

20 A. Yes, sir.

21 Q. If we look back at that experience of
22 acting in concert as a physician, on behalf of

23 patients, with Dr. King, you as a medical approach,
24 he as a surgical approach, can you confirm for us

9

1 that you were satisfied with the care, treatment
2 and interaction he had on behalf of your patients
3 up until about two weeks before he left?

4 A. Yes. I can say that.

5 Q. Then roughly two weeks before he left you
6 certainly became somewhat disenchanted because, as
7 I understand it, he took a patient of yours to
8 surgery without calling to discuss the case with
9 you first. Fair statement?

10 A. Fair statement.

11 Q. With regard to your experience with
12 Dr. King up until that point in time, fair to say,
13 for all who are interested in hearing your
14 testimony, that you considered him to be, albeit
15 from the vantage point of a medical perspective
16 rather than a surgical perspective, you considered
17 him to be a good surgeon and to be attentive to
18 your patients?

19 MR. VANDERFORD: I object. This is
20 leading. Is he an adverse witness or --

21 MR. ONCKEN: You are outside the rules,
22 counsel. As far as your objection, is it to form?
23 If not, then I would ask you to follow the rules.

24 MR. VANDERFORD: That is the rule. I made

10

1 the objection.

2 BY MR. ONCKEN:

3 Q. Dr. Houdersheldt, again, fair statement
4 that from your perspective as a medical provider,
5 an internal medicine doctor, you felt that Dr. King
6 was a pretty good surgeon providing care and
7 treatment for patients that the two of you shared?
8 Fair statement?

9 A. Yeah. That's a fair statement.

10 Q. Let me ask you this. And I will preface
11 my question with a statement. Mr. Curry and his
12 law firm represent some 70-plus plaintiffs against
13 Putnam General Hospital and Dr. John King.

14 I'm not asking you to confirm the number.
15 But you are aware that they represent plaintiffs
16 against these entities and individuals?

17 A. Yeah. I didn't know the number.

18 Q. Did you know that they have identified you
19 as a person with knowledge of relevant facts in
20 each of their cases? Did you know that?

21 A. No.

22 Q. Did they call you and ask you what your

23 knowledge was with respect to Linda Dean or any
24 other patient that they represent before listing

11

1 you?

2 A. No.

3 Q. Have you ever had a conversation with
4 Mr. Curry or Mr. Tolliver, the two gentlemen that
5 are seated here on their behalf --

6 MR. ONCKEN: I'm sorry. I didn't get the
7 last names, Tom and --

8 MR. VANDERFORD: Tom Vanderford.

9 MR. ONCKEN: And ...

10 MR. SCHWIRIAN: David Schwirian.

11 BY MR. ONCKEN:

12 Q. Any conversations or interactions with
13 these two gentlemen?

14 A. No.

15 Q. Have you ever had any conversation or
16 interaction with Mr. Druckman, who also represents
17 patients?

18 A. No.

19 Q. Have you had any interaction or
20 conversation with Mr. Richard Lindsay or anybody at
21 his office, Pam Taber Lindsay?

22 A. No.

23 Q. Have any of those individuals called you
24 and asked you what knowledge you may possess before

12

1 they listed you as a person with knowledge?

2 A. No.

3 Q. I will represent to you that Frank Armada
4 is a lawyer that represents a number of patients
5 against Putnam General and Dr. King.

6 Have you had any conversation or
7 interaction with him or anybody at his office?

8 A. Yes, sir.

9 Q. When was that?

10 A. He is my personal lawyer.

11 Q. Outside of that context, which we are not
12 allowed to get into --

13 A. We never talked about any patient about
14 the John King case.

15 Q. Fair enough. How about DiTrapano or
16 anybody at that office?

17 A. No.

18 Q. Any other plaintiff lawyers ever call you
19 and ask you, Hey, Dr. Houdersheldt, do you know
20 anything, number one, outside of those patients
21 that you shared with Dr. King and, number two, what

22 do you know? Anybody representing any of these
23 patients ever do that?
24 A. No. This is the first.

13

1 Q. Let me give you a list of patients that
2 are scheduled for trial beginning next August and
3 ask you if any of them ring a bell.
4 I'm going to save Linda Dean, because I do
5 know and I have showed you in advance of the
6 deposition this afternoon the EKG that has your
7 name. Fair?
8 A. Fair.
9 Q. I will come back to that one.
10 Do you remember providing any care or
11 treatment to the Dillon child?
12 A. No.
13 Q. Does that name ring a bell?
14 A. No.
15 Q. Do you know why they listed you as a
16 person with knowledge of facts in that case?
17 A. No.
18 Q. Do you have any recollection of having
19 treated Randy Peck?
20 A. No.
21 Q. Do you know why they have listed you as a
22 person with knowledge of relevant facts in that
23 case?
24 A. No.

14

1 Q. Do you have any knowledge of having
2 provided care or treatment to a patient by the last
3 name of Wilfong, W-i-l-f-o-n-g?
4 A. No.
5 Q. Do you know why Mr. Curry and others
6 listed you as a person with knowledge of that case?
7 A. No.
8 Q. Do you have any recollection having
9 treated a patient by the last name of Higgenbotham?
10 A. I have a bunch of Higgenbothams in my
11 practice.
12 Q. I will have to check the first name,
13 because it doesn't come to me right now. We will
14 come back to that one.
15 How about Mayfield?
16 A. No.
17 Q. Do you know why they listed you as a
18 person with knowledge of relevant facts in the
19 Mayfield case?
20 A. No.
21 Q. How about Birch?

22 A. No.
23 Q. Any idea why they listed you there?
24 A. No.

15

1 Q. How about Robert Smith or Brian Smith?
2 A. No.
3 Q. Again, any idea while you have been listed
4 there?
5 A. No, sir.
6 Q. And Pamela McGrew, any record of having
7 provided any care or treatment for that patient?
8 A. No.
9 Q. Again, do you know why John Curry,
10 Mr. Tolliver or others have listed you as a person
11 who knows something about those cases?
12 A. I do have no knowledge.
13 Q. Finally, how about Hazel Plumley, do you
14 recognize that name?
15 A. Yes, I recognize.
16 Q. Is that one of your patients?
17 A. Yes.
18 Q. Let me ask you this, sir. With respect to
19 the Dean case -- and I am going to hand you a
20 document that I showed you informally off the
21 record just a moment ago. I will ask if you can
22 just generically identify what that is for the
23 jury?
24 A. It's an EKG.

16

1 Q. And an EKG is a tracing of the heart in
2 lay term?
3 A. Correct.
4 Q. Let me go back just for a minute to my
5 list of patients.
6 James or Herman Higgenbotham, ring a bell?
7 A. No.
8 Q. Any idea why you are listed as a person
9 with knowledge of that case?
10 A. No.
11 Q. Let's go back to Linda Dean's EKG.
12 Does your name appear on that computer-
13 generated? In other words, is your name apparently
14 electronically entered into that EKG?
15 A. It's my name, yes, my signature.
16 Q. And the squiggly line, no offense --
17 A. That's me.
18 Q. The squiggly line next to "Rick
19 Houdersheldt," is that your signature?
20 A. That sure is.

21 Q. Does that represent that you read and that
22 you agreed with the computer interpretation of this
23 EKG?
24 A. No. I don't do computer interpretations.

17

1 I do the -- this is retyped. You actually get a
2 computer, a computer printout. What I do is I
3 reread them and then it's typed on here.
4 Q. May I have it just for a moment.
5 What you're telling us then is that the
6 typed impression that appears at the top of the EKG
7 comes from what you had --
8 A. Dictated.
9 Q. -- dictated?
10 A. Yes, sir.
11 Q. And you said then that this EKG shows a
12 sinus tachycardia, nonspecific st-wave changes,
13 lateral wall changes suggestive of an LVH, which is
14 left ventricular hypertrophy?
15 A. Yes, sir.
16 Q. Nonspecific anterior lateral wall changes,
17 and that you could not, from your expert
18 evaluation, excludes ischemia?
19 A. That's correct.
20 Q. Which means you couldn't exclude that she
21 had blockage in the heart?
22 A. That's correct.
23 Q. A diminution of blood flow to the heart
24 through the main arteries?

18

1 A. Correct.
2 Q. And, certainly, you felt that there were
3 indications of left ventricular hypertrophy, which
4 goes hand in glove with someone who has chronic
5 hypertension or high blood pressure; fair?
6 A. That's fair.
7 Q. These things don't have anything to with
8 her ankle. Can we agree on that?
9 A. That's correct.
10 Q. These things demonstrate, at a very
11 minimum, that you she may have some coronary artery
12 disease and the sequelae from that; fair?
13 A. It's possible, yeah.
14 Q. Do you believe that you had any other
15 interaction on behalf of Linda Dean, other than to
16 have in some form been handed an EKG and asked for
17 an interpretation?
18 A. I read EKGs on a monthly basis for --
19 Q. All right, sir
20 A. -- hospital.

21 Q. So whether they are your clinical or
22 office patient or not, if the EKG is there when you
23 are there you will read it?
24 A. That's correct.

19

1 Q. And you believe that's what you did for
2 Linda Dean?
3 A. I do believe that.
4 Q. Let's return to the patients that you
5 shared with Dr. King. Can we do that?
6 A. Sure.
7 Q. Did you learn in June and July of 2004
8 that five to six of your patients had been
9 approached by plaintiffs lawyers suing King and
10 Putnam General and asked to join the lawsuits?
11 A. It was actually three patients.
12 Q. Did you learn then in June or July of 2004
13 that three of your patients had, in fact, been
14 approached by lawyers who were suing King and
15 Putnam General and asked to join the lawsuit?
16 A. Yes.
17 Q. Did your patients complain to you because
18 of a number of things, that is, one, they had been
19 approached rather than their having approached the
20 lawyers? Fair?
21 A. Fair.
22 Q. Number two, because they had been offered
23 money to join these lawsuits; true?
24 A. That's correct.

20

1 Q. How much money do you recall these
2 patients having told you?
3 A. I don't recall that.
4 Q. From our discussion yesterday, the sum of
5 \$10,000 was conveyed by --
6 MR. VANDERFORD: Objection, hearsay.
7 BY MR. ONCKEN:
8 Q. You believe that to be in all likelihood
9 the number that these patients told you about?
10 MR. VANDERFORD: Object to form.
11 BY MR. ONCKEN:
12 Q. You can answer.
13 A. There was one patient that said that.
14 Q. That she or he had been offered 10,000 to
15 become a plaintiff against Putnam and King?
16 A. That's correct.
17 Q. Certainly, they were angry, as I
18 understand it, that these attorneys had gotten
19 their names without their permission?

20 A. Very upset.
21 Q. Upset that they had been approached and
22 asked to join a lawsuit that they didn't want to
23 join?
24 A. That's correct.

21

1 Q. Upset that they had been, or at least one
2 was upset that he or she had been offered \$10,000
3 to join the lawsuit that he or she did not want to
4 join?

5 A. That's correct.

6 Q. Did you come to learn the identity of the
7 lawyers who had made these solicitations and this
8 offer of cash?

9 MR. VANDERFORD: Objection.

10 Q. You can answer.

11 MR. VANDERFORD: Object to form.

12 A. They gave me names, yeah.

13 Q. Would you share that with us right now,
14 please?

15 A. Curry & Tolliver.

16 Q. Anyone else?

17 A. No.

18 Q. With respect to the patients that brought
19 this to your attention, were they angry?

20 A. Yes.

21 Q. Were you also angry?

22 A. Yes. In fact, I went directly to the
23 hospital, to Frank Molinaro.

24 Q. With regard to these patients, as best you

22

1 know, did these patients join the lawsuits against
2 Putnam or Dr. King?

3 A. I have no idea. I have never asked a
4 patient that.

5 Q. I have not asked you for the names of
6 these and do not intend to because of physician-
7 patient privileges. But, as far as you know, the
8 three or four patients that you have described for
9 us here under oath today did not know the lawyers
10 from Curry & Tolliver and were not related to
11 them? Fair statement?

12 MR. VANDERFORD: Object to form.

13 Q. Far as you know?

14 A. As far as I know.

15 MR. ONCKEN: I will pass the witness.

16 EXAMINATION

17 BY MR. JOHNSON:

18 Q. I'm actually here, Doctor, on a different
19 case. I think the questions have been covered, but

20 just for the record, I'm here regarding Randy Peck,
21 or at least that's what I wanted to ask you about.
22 But I think you made it clear. Let me just
23 reconfirm, make clear, Mr. Oncken, you have no idea
24 why you would have been listed as a person with

23

1 knowledge as a witness in the Randy Peck case?

2 A. I have no idea who Randy Peck is.

3 Q. Don't know him, never have treated him,
4 don't know nothing about his claims?

5 A. No.

6 MR. JOHNSON: Thank you, very much.

7 That's all.

8 MR. ONCKEN: Is that it? Are we done?

9 MR. VANDERFORD: No. Take a break.

10 Be right back.

11 VIDEOGRAPHER: Going off the video

12 record. The time is 4:55 p.m.

13 (Break.)

14 VIDEOGRAPHER: We are now back the video

15 record. The time is 4:56 p.m.

16 EXAMINATION

17 BY MR. VANDERFORD:

18 Q. Doctor, my name is Tom Vanderford.

19 A. Yes, Tom.

20 Q. I'm with Curry & Tolliver.

21 Have I ever spoken with you before?

22 A. No, sir.

23 Q. Who spoke with you yesterday?

24 A. Kevin and --

24

1 Q. Kevin Oncken?

2 A. -- Jeff.

3 Q. Jeff Uzick?

4 A. Yes.

5 Q. Any persons other than Mr. Oncken and

6 Mr. Uzick?

7 A. Attorney Martin.

8 Q. Bob Martin?

9 A. Bob Martin.

10 Q. Any persons other than Oncken, Uzick and

11 Martin?

12 A. No, sir.

13 Q. What time did that telephone conversation

14 occur?

15 A. I would say it was probably 10:00 a.m.,

16 something like that.

17 Q. When were you contacted about speaking

18 with these three individuals?

19 A. Friday, last week.
20 Q. Who contacted you?
21 A. Martin, Bob Martin.
22 Q. Bob Martin?
23 A. Yes, sir.
24 Q. Other than Bob Martin's contact with you

25

1 last Friday and the telephone conversation of
2 yesterday, have you spoken with any other lawyers
3 who have represented they are lawyers for either
4 Putnam General or HCA?
5 A. No.
6 Q. Were you asked any questions yesterday,
7 other than those questions you were asked today, by
8 Mr. Oncken and Mr. Johnson?
9 MR. ONCKEN: Mr. Uzick was on the phone,
10 not Mr. Johnson.
11 MR. VANDERFORD: Sorry.
12 A. No, not really. That's basically what we
13 talked about.
14 Q. Did you give them any answers yesterday
15 that were different from the answers you gave
16 today?
17 A. No.
18 Q. Have you ever been approached by third-
19 parties and asked that you would talk to the
20 lawyers for the plaintiffs and you said that you
21 would only speak with the plaintiffs lawyers in a
22 deposition?
23 A. Have I ever said that?
24 Q. Yes.

26

1 A. No.
2 Q. Have you ever been approached by another
3 lawyer who asked you that question and you said you
4 would only answer questions in a deposition?
5 MR. ONCKEN: Objection to form.
6 A. No, I never said that.
7 Q. You have never said that?
8 A. Not in this case, no.
9 Q. Which case?
10 A. This King case.
11 Q. In none of the King cases?
12 A. No.
13 Q. You have never been asked that question in
14 any King case?
15 A. No.
16 Q. Did you ever hear anyone express any
17 concerns about John King's infection rates?
18 MR. ONCKEN: Objection to form.

19 I would caution you, Doctor, though I'm
20 not your counsel, that if he is asking you to
21 discuss patient care he has got to have consent to
22 do that, outside of the Dean case.

23 A. Yeah, I was told by my personal lawyer
24 that I wasn't to actually talk about any specific

27

1 case without the folder in front of me.

2 BY MR. VANDERFORD:

3 Q. Did you ever hear from anyone, other than
4 a patient of yours, that Putnam General expressed
5 any concern about John King's infection rates?

6 MR. ONCKEN: Objection to form.

7 A. Other patients, my patients?

8 Q. Just persons other than your patients.

9 MR. ONCKEN: Objection to form.

10 A. I can't say, no, I haven't.

11 Q. Did you ever make any complaints to anyone
12 about John King's infection rates?

13 MR. ONCKEN: Objection to form.

14 A. No. Not his infection rate, no.

15 Q. What complaints did you make about
16 Dr. King?

17 MR. ONCKEN: Objection to form.

18 A. I basically went to administration because
19 I thought that John had taken -- I was questioning
20 who he was taking to surgery.

21 I was the first person that basically
22 approached the hospital about John.

23 Q. Is that because you felt he was doing
24 unnecessary surgeries?

28

1 A. I'm not a surgeon.

2 MR. ONCKEN: Excuse me. Objection to
3 form.

4 A. I'm not a surgeon, so I'm not really
5 qualified to answer that. But I was concerned
6 about him taking patients that I didn't think
7 possibly could benefit from surgery. That was my
8 opinion.

9 Q. Were those your patients?

10 A. Yes.

11 Q. Are any of those patients represented by
12 Curry & Tolliver?

13 A. I have no idea. I try to stay out of
14 that, not ask patients. If they identify
15 themselves, they usually won't say which lawyer
16 they are with.

17 Q. With whom did you speak when you made the

18 complaint that you have just described?

19 A. Frank Molinaro.

20 Q. Do you recall when that was?

21 A. It was in -- I know it was summer and it
22 was a summer day. Probably two years ago.

23 Q. In relation to the time when Dr. King left
24 about June 5, or had his privileges suspended, in

29

1 relation to that time, when would it have been?

2 A. One to two weeks before I went to Frank
3 Molinaro and I told Frank my concerns, and within
4 one to two weeks his privileges had been
5 suspended. I commend Frank Molinaro for that.

6 Q. What kind of surgeries did this involve
7 that you were concerned about?

8 MR. ONCKEN: Objection to form, also
9 object --

10 A. Back surgeries.

11 MR. ONCKEN: Excuse me. I need to object
12 to inquiring into patients that he has not
13 identified that may or may not be your own, doesn't
14 have consent to talk about.

15 BY MR. VANDERFORD:

16 Q. Back surgeries?

17 A. Yes.

18 Q. Any other kinds of surgeries?

19 A. No.

20 Q. Were there any rumors around the hospital
21 at any time that Dr. King was doing unnecessary
22 surgeries?

23 MR. JOHNSON: Object to form.

24 MR. ONCKEN: Objection to form.

30

1 A. I never heard that.

2 Q. Were there any rumors around the hospital
3 that Dr. King's infection rates were way too high?

4 MR. JOHNSON: Objection to form.

5 MR. ONCKEN: Objection to form.

6 A. Not to my knowledge, no.

7 Q. Were there any complaints or did you hear
8 any complaints about the lack of sterile fields
9 when he was treating his patients?

10 A. I had never heard that.

11 Q. The concerns that you expressed to
12 Mr. Molinaro about back surgeries, were those
13 patients of yours?

14 MR. ONCKEN: Objection to form.

15 A. Yeah. I wouldn't complaint about anybody
16 else. I would complain about my patients.

17 Q. What did you tell Mr. Molinaro?

18 A. I just asked for an investigation. I said
19 that I just wanted to make sure of the quality, the
20 patients he is taking to surgery, and that I would
21 like to be notified if a patient that was going to
22 surgery, was my patient.

23 Q. How did you form this opinion that you
24 believed that Dr. King was doing unnecessary

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1 surgeries?

2 MR. JOHNSON: Objection to form.

3 MR. ONCKEN: Object to form.

4 MR. JOHNSON: He never said --

5 A. I didn't really say unnecessary. I was
6 concerned about him taking certain patients to
7 surgery that I probably didn't, looking at the
8 MRIs, I didn't really feel would benefit from
9 surgery.

10 Q. So were any of these concerns taking
11 patients to surgery because they were
12 co-morbidities or you just didn't think the surgery
13 was necessary at all?

14 MR. ONCKEN: Objection to form.

15 MR. JOHNSON: Same objection.

16 A. Basically both.

17 Q. Let me ask you this. How many times did
18 you go to Mr. Molinaro with this concern?

19 A. Twice.

20 Q. How far apart were these visits?

21 A. Two days.

22 Q. Two days? On the first occasion you went
23 to Mr. Molinaro what was his response?

24 A. That he would investigate it immediately.

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1 I went back two days later, and he said he
2 would have something forthcoming within a week.
3 And he was true to his word. I mean, I think
4 within one to two weeks after our conversation his
5 privileges were temporarily suspended upon
6 investigation. That's what I was told.

7 MR. JOHNSON: I'm sorry. You are kind of
8 soft-spoken. Did you say Mr. Molinaro was true to
9 his word?

10 THE WITNESS: Yes, he was true to his
11 word.

12 BY MR. VANDERFORD:

13 Q. Do you know the circumstances under which
14 -- strike that.

15 Do you believe that the termination of
16 Dr. King was directly related to the complaints

17 that you had made about the unnecessary surgeries?
18 A. I can't answer that. I don't know. I
19 don't know what his investigation even consisted
20 of. That was to up to the quality committees, and
21 I wasn't a member of that quality committee at that
22 time. That's just what I asked for, quality
23 review.
24 Q. Did you ever express any concerns about

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1 the length of the surgeries that John King had
2 undertaken?
3 MR. ONCKEN: Object to form.
4 A. No, I never.
5 Q. Did you experience any problems with John
6 King's treatment of your patients?
7 MR. ONCKEN: Objection to form.
8 A. Say that again.
9 Q. I'm just curious, because you had told
10 Mr. Oncken in his examination of you that you
11 didn't have any problems with Dr. King's treatment
12 of your patients and now you have testified that --
13 A. No, I didn't say that. I said I had --
14 I obviously had problems or I wouldn't
15 have gone to Mr. Molinaro.
16 Q. Tell me what the problems were, other than
17 those two visits to Mr. Molinaro?
18 A. Very difficult to say that without getting
19 into specifics with a particular patient, and I was
20 told that I wouldn't have to do that without proper
21 counsel here today.
22 I can get into specifics, but I would
23 rather have my counsel with me. And that's a
24 little bit of a conflict, because my counsel is

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1 Frank Armada and Frank Armada is --
2 Q. Are you telling me that you would like to
3 adjourn the deposition so you can seek counsel
4 so --
5 A. If I'm going to talk about --
6 MR. ONCKEN: Wait a minute. Let me object
7 to that statement and question.
8 He is not telling you that at all. He is
9 here on the Dean case. I think his statement is
10 quite clear as to the parameters, as is his comment
11 with respect to Mr. Armada being his counsel.
12 MR. VANDERFORD: I beg to disagree. You
13 went into issues were totally extraneous to the
14 deposition concerning Linda Dean, deposition
15 concerning Randy Peck.
16 I'm here to ask him questions that you

17 opened up about his concern, his nonconcern about
18 the treatment of his patients by Dr. King.

19 MR. ONCKEN: And he is telling you if you
20 want to talk about his patients he is fine with
21 doing that, given a chart and time to review it.
22 That's what he is saying. I have got no problem
23 with that.

24 MR. JOHNSON: For the record, just show

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1 that I don't think I asked anything but about Randy
2 Peck.

3 A. If I'm going to talk about specific cases,
4 and you can ask me about every case I have, but I
5 would want that chart here and to go over it, and
6 proper counsel, is what I'm saying.

7 MR. ONCKEN: And a release.

8 A. Exactly.

9 BY MR. VANDERFORD:

10 Q. Just in general terms, what were the
11 problems that you experienced with John King's
12 treatment of your patients?

13 MR. ONCKEN: Objection to form.

14 A. What were the problems?

15 Q. Yes. In a general way.

16 MR. ONCKEN: Objection to form.

17 Q. Without identifying a patient.

18 MR. ONCKEN: Objection to form.

19 A. Again, I was concerned about the patients
20 that he was taking to surgery. I was concerned
21 about the situation that were they actually
22 surgical candidates.

23 Q. Did that include patients other than
24 patients that underwent spine surgery?

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1 MR. ONCKEN: Object to form.

2 A. That's all I can think of. The backs,
3 basically, is what I was concerned about.

4 Q. Were you ever in the operating room when
5 King performed the surgeries?

6 A. No.

7 Q. Did you participate in any way in
8 credentialing or privileging Dr. King?

9 A. No.

10 Q. Same question with reference to David
11 McNair?

12 A. I don't even know who David McNair is.

13 Q. So you, to your knowledge, never worked
14 with David McNair?

15 A. I might know him to see him, but I don't

16 know who he is.
17 Q. So did you have any idea what his position
18 was?
19 A. He might be the PA or whatever.
20 Q. Physician assistant?
21 MR. ONCKEN: Object to form.
22 A. Yeah. That's all I know.
23 Q. Is that what you understood him to be?
24 MR. ONCKEN: Objection.

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1 MR. JOHNSON: Calls for speculation.
2 Object to form.
3 MR. ONCKEN: And leading.
4 A. I didn't know his position.
5 Q. What was your understanding of his
6 position?
7 MR. JOHNSON: Object.
8 A. I just thought he was King's PA, if that's
9 who, if that's the guy. I didn't even know his
10 name.
11 Q. And a PA is a physician's assistant?
12 MR. ONCKEN: Form.
13 A. Yes.
14 Q. Were you ever told of his qualifications?
15 A. No.
16 Q. Were you told by anyone of Dr. King's
17 qualifications?
18 A. No.
19 Q. How did you learn about John King the
20 spine surgeon?
21 A. He came here, the year he came here I
22 think he went in with Dr. Cox, and he came around
23 and introduced himself.
24 Q. And at some point you referred your

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1 patients to him; correct?
2 A. Yes.
3 Q. What was your understanding of his
4 credentials as a spine surgeon?
5 A. He had privileges to do them. So I just
6 thought he went through proper credentialing.
7 Q. And you relied upon the hospital's
8 credentialing of Dr. King to do spine surgeries as
9 a basis for your referring your patients to him; is
10 that correct?
11 MR. ONCKEN: Object.
12 MR. JOHNSON: Object to form. He said he
13 wasn't involved.
14 A. I have to rely upon the hospital.
15 Q. So you relied upon the hospital in

16 forwarding your patients to Dr. King for the spine
17 surgery; is that correct?
18 MR. ONCKEN: Objection. Objection to
19 form.
20 A. Right.
21 Q. And your answer is "correct"?
22 A. Right.
23 Q. Did you ever have a discussion with
24 Dr. King about his training and his work

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1 experience?
2 A. No. Never.
3 Q. Did you believe that Dr. King was a board-
4 certified orthopedic surgeon?
5 A. I didn't -- I never questioned that. I
6 just assumed that.
7 Q. Have you ever heard of the American
8 Association of Physician Specialists?
9 A. Sure.
10 Q. Do you know if there were any infectious
11 disease specialists who practice at Putnam General
12 Hospital during the period November 2002 when King
13 first arrived and July 2003 after he left?
14 MR. ONCKEN: Object to form.
15 A. I'm not aware of anybody that was there at
16 that time. Dr. Modi came later. I don't think
17 there was anybody at that time.
18 Q. If a patient suffered an infection as a
19 result of coming into the hospital, what was
20 protocol for treating patients under those
21 circumstances?
22 MR. ONCKEN: Objection to form.
23 A. If they have an infection?
24 Q. If they had an infection that was acquired

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1 in the hospital, as opposed to having been there
2 before.
3 A. Nosocomial infection?
4 Q. Yes.
5 MR. ONCKEN: Objection to form.
6 A. What's the protocol for treatment?
7 Q. Yes. Was there a protocol?
8 MR. ONCKEN: Objection to form.
9 A. I don't know if there is an protocol, but
10 it's appropriate antibiotics, cultures and
11 antibiotics.
12 BY MR. VANDERFORD:
13 Q. Other than the two conversations that you
14 have told us about where you complained about

15 Dr. King, did you have any other conversations with
16 Frank Molinaro say about David McNair?
17 A. I have never had a conversation about
18 David McNair.
19 Q. Do you know why Frank Molinaro left Putnam
20 General Hospital?
21 MR. ONCKEN: Object to form.
22 A. Yeah, but I'm not going to get into that.
23 Q. Have you ever spoken to any investigators
24 about John King prior to today's deposition?

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1 A. Have I ever? Excuse me.
2 Q. An investigator, somebody not an
3 attorney.
4 MR. ONCKEN: Objection to form.
5 A. No.
6 Q. Other than the telephone interview you had
7 with Mr. Oncken and Mr. Uzick yesterday and the
8 telephone call you received from Bob Martin on
9 Friday, have you talked to any other attorneys
10 about this case of Linda Dean or Randy Peck?
11 A. I didn't, no.
12 Q. Have you talked to any other lawyers about
13 any other of the King cases?
14 A. No.
15 Q. Except for Frank --
16 A. Frank Armada, but not specific cases, no,
17 except for the case that I think he is involved in.
18 Q. Did any of the patients that were treated
19 by King suffer infections?
20 MR. ONCKEN: Objection to form.
21 A. I need to look at specifics there. I
22 would have to look at the charts.
23 Q. So you can't answer that question today?
24 A. Yeah, I can't answer that.

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1 Q. Did you ever witness John King doing
2 things in the hospital that required using sterile
3 fields or appropriate measures to prohibit
4 infections?
5 MR. ONCKEN: Objection to form.
6 A. I never really watched him do any sterile
7 procedures. I wasn't in the OR with him.
8 Q. So you have never witnessed him or
9 observed him changing dressings?
10 A. No. No.
11 Q. You never heard any rumors in the hospital
12 concerning --
13 A. Well, you hear rumors, but that is
14 hearsay. I hear rumors everyday in the hospital.

15 Q. Did you hear rumors in the hospital about
16 the fact that he was not doing things properly as
17 far as keeping down infections?

18 MR. ONCKEN: Objection to form.

19 MR. JOHNSON: Objection.

20 A. I never really heard that, no.

21 Afterwards, I mean, in the last year when
22 all of this became public, obviously, you hear
23 that. But that's hearsay. But at the time, no, I
24 can't say I did.

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1 BY MR. VANDERFORD:

2 Q. Even in the last year, have you had
3 anybody tell you, from Putnam General or who was on
4 staff, that John King's sterile technique was not
5 appropriate?

6 MR. ONCKEN: Form.

7 A. No. Every physician that would talk to me
8 about John King, I would say, I don't want to talk
9 about it. Walked away. Won't talk about it.

10 Q. Other than a physician, has anybody talked
11 about his lack of sterile technique or
12 inappropriate sterile technique?

13 MR. ONCKEN: Object to form.

14 A. None of my patients that I can recall.

15 Q. Anybody in the hospital?

16 A. No one approached me about that.

17 MR. VANDERFORD: That's all I have,
18 Doctor.

19 EXAMINATION

20 BY MR. ONCKEN:

21 Q. Dr. Houdersheldt, let me see if I can
22 understand what you have told this gentleman to my
23 left.

24 MR. VANDERFORD: My name is Tom

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1 Vanderford.

2 MR. ONCKEN: Mr. Vanderford. I apologize
3 for not retaining your name.

4 BY MR. ONCKEN:

5 Q. As soon as you formed a concern with
6 respect to your patients, relative to John King,
7 you went to the hospital and within one to two
8 weeks John King no longer operated at Putnam
9 General; fair statement?

10 A. Fair statement.

11 Q. You believe with regard to your actions
12 they were not only appropriate but timely, speedy,
13 and that Putnam General was responsive to your

14 comments; can we agree on that?

15 MR. VANDERFORD: Object to form.

16 A. Yes.

17 BY MR. ONCKEN:

18 Q. With regard to David McNair, aside from
19 what Mr. Vanderford suggested, you didn't know and
20 you don't know today what his job description was
21 or in what capacity he functioned while in this
22 community; can we agree on that?

23 MR. VANDERFORD: Object to form.

24 A. Agree.

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1 Q. Have you, in fact, been honest with this
2 judge, this jury and all of the people here today?

3 A. Yes.

4 MR. ONCKEN: Thank you, sir.

5 I pass the witness.

6 MR. JOHNSON: I just have a couple of
7 follow-up questions.

8 EXAMINATION

9 BY MR. JOHNSON:

10 Q. Have you ever had any other patients that
11 have been solicited by attorneys and offered money
12 to be plaintiffs in lawsuits?

13 MR. VANDERFORD: Object to form.

14 BY MR. JOHNSON:

15 Q. Other than what you have mentioned here
16 today?

17 A. No.

18 Q. With regard to being on the hospital
19 staff, the doctors acknowledge and read the medical
20 bylaws just as part of application and
21 reapplication?

22 A. Yes.

23 Q. And are part of the process of privileging
24 and credentialing other physicians that may be

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1 appointed or reappointed, as best you remember?

2 A. Say the question again.

3 Q. Physicians either in the Department of
4 Surgery or Department of Medicine and/or the
5 Medical Exec Committee made up of doctors are a
6 part of the credentialing and privileging process?

7 A. That's correct.

8 Q. And appointment and reappointment of
9 doctors?

10 A. Correct.

11 MR. JOHNSON: I believe that's all.

12 EXAMINATION

13 BY MR. VANDERFORD:

14 Q. Were you a part of the peer review
15 process concerning John King?

16 MR. JOHNSON: Just a moment. I think
17 there is a court order against going into any peer
18 review.

19 MR. VANDERFORD: I'm not going to go into
20 it. I just want to establish whether he was part
21 of it or not.

22 A. I was not. I was asked to be, but I
23 refused. I always refused that. That's not
24 appropriate --

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1 Q. That's just not something you wanted to
2 do?

3 A. Exactly.

4 Q. And it had nothing to do with Dr. King,
5 just something generally --

6 A. It's a general thing. They have
7 appropriate committees for that, and that's the way
8 it should be. You don't ask people from outside to
9 do that.

10 MR. VANDERFORD: That's all I have.

11 MR. ONCKEN: I think we are done.

12 Thank you, sir.

13 VIDEOGRAPHER: That concludes the
14 deposition of Dr. Rick Houdersheldt on September
15 13th, 2006. Going off the record at 5:22 p.m.

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1 STATE OF WEST VIRGINIA, To-wit:

2 I, Johnny Jay Jackson, a Notary Public and
3 registered Diplomat Reporter within and for the
4 state aforesaid, duly commissioned and do hereby
5 certify that the deposition of RICK HOUDERSHELDT,
6 D.O., was duly taken by me and before me at the
7 time and place specified in the caption hereof.

8 I do further certify that said proceedings
9 were correctly taken by me in stenotype notes, that
10 the same were accurately transcribed out in full
11 and true record of the testimony given by said
12 witness.

13 I further certify that I am neither attorney
14 or counsel for, nor related to or employed by, any
15 of the parties to the action in which these
16 proceedings were had, and further I am not a
17 relative or employee of any attorney or counsel
18 employed by the parties hereto or financially
19 interested in the action.

20 My commission expires the 30th day of
21 september 2014.

22 Given under my hand and seal this 14th day of
23 September 2006.

24 -----
Johnny Jay Jackson
Registered Diplomat Reporter
Notary Public