

1 NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
2 SUPERIOR COURT DIVISION
95 DVS 09176

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5 CLIFTON J. MOODY

6 VS.

7 CSX TRANSPORTATION, INC.

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10 The video deposition of ELLEN C. HUDGINS,
11 OTR, a witness called on behalf of the plaintiff,
12 before Connie Alys Crane Pryor, a Registered Court
13 Reporter and a Notary Public in and for the State of
14 Virginia at Large, by agreement of counsel and
15 pursuant to Notice, beginning at 2:10 p.m. on November
16 21, 1996, at 1500 W. Third Street, Farraville,
17 Virginia; said depositions taken pursuant to the rules
18 of the Supreme Court of Virginia.

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23 CRANE-SNEAD & ASSOCIATES, INC.
24 4914 Fitzhugh Avenue - Suite 203
Richmond, Virginia 23230
25 Tel. No. (804) 355-4335

@INAL

1 APPEARANCES:

2 WILSON, HAJEK & SHAPIRO
3 1294 Diamond Springs Road
4 Virginia Beach, Virginia 23455
5 By: Mr. Richard Shapiro
6 Counsel for the plaintiff

7 MILLBERG & GORDON
8 1030 Washington Street
9 Raleigh, North Carolina 27605
10 By: Mr. John C. Millberg
11 Counsel for the defendant

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I N D E X

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				RECROSS
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	Ellen C. Hudgins	4	17	30

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E X H I B I T S

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PAGE

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Hudgins Deposition Exhibit No. 1
Referral

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Hudgins Deposition Exhibit No. 2
Letter

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Hudgins Deposition Exhibit No. 3
Impairman rating

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MR. SHAPIRO: My name is Rick

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Shapiro. our firm and Mr. White's firm

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represents Clifton Moody, the plaintiff.

1 MR. MILLBERG: This is John
2 Millberg from Raleigh, North Carolina. We
3 represent the defendant, CSX.
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9 ELLEN C. HUDGINS, a witness called on behalf
10 of the plaintiff, first being duly sworn, testifies as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. SHAPIRO:

14 Q Could you please state your full
15 name?

16 A Ellen C. Hudgins.

17 Q And what is your office address
18 here, where we are today?

19 A 1500 West Third Street, Farmville,
20 Virginia.

21 Q Is this your physical therapy
22 office address?

23 A Y e s .

24 Q And your therapy office here is
25 called Progressive Therapy in Farmville?

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1 A Yes, that's correct.
2 Q What is your occupation?
3 A I'm a registered occupational
4 therapist.
5 Q Do people generally call you a
6 physical therapist, although it might not be
7 technically correct?
8 A That's true.
9 Q What is your educational
10 background in occupational therapy, briefly,
11 Ms. Hudgins?
12 A I have a Bachelor's of Science
13 degree in occupational therapy. Graduated from the
14 Medical College of Virginia in 187.
15 Q And do you have a specialty within
16 occupational therapy at all?
17 A Yes. I've worked in occupational
18 rehab, working with clients who have been injured on
19 the job, performing evaluations on those types of
20 clients.
21 Q And your facility here, you have
22 lots of different types of physical therapy machines
23 and modalities that you use in treating patients?
24 A That's correct.
25 Q And are your patients often

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1 referrals from orthopedic doctors, or other doctors in
2 the area of Farmville, Virginia?
3 A Yes.
4 Q How long have you been here in
5 Farmville, at this office?
6 A Three-and-a-half years.
7 Q Do you -- Actually, do you manage
8 the office here? Are you the --
9 A Yes. I'm the president and owner.
10 Q Okay. Do you see patients,
11 yourself, and also have other therapists here that see
12 patients on a daily basis?
13 A Yes, I do see patients. And we
14 have five other therapists on staff, as well.
15 Q In your practice as an
16 occupational therapist, are you called on to provide
17 comprehensive physical therapy to patients on a --
18 A Daily basis, yes.
19 Q -- repeating basis, I guess is
20 what I was looking for.
21 A Right.
22 Q Are you also sometimes called upon
23 to evaluate patients of doctors for whether they
24 suffer from any type of permanent impairment?
2 5 A Yes.

1 Q Is that something that you've done
2 over the years at the request of doctors or attorneys?
3 A That's correct.
4 Q And in conducting those
5 evaluations, do you use any particular written guide
6 that's known to you as a therapist?
7 A Yes. I use the AMA Guides to the
8 Evaluation of Impairment.
9 Q Can you generally explain what
10 those AMA Guides to the Evaluation of Impairment are
11 all about?
12 A Well, they -- It's just a
13 standard way that you would measure specific areas of
14 the body. Um, depending upon where the injury site
15 is--whether it's neck, back, hand, leg--it gives you
16 very specific, um, ways to measure a joint, specific
17 tools to use to quantify what an impairment rating is.
18 Q Is it -- Are the criteria
19 objective in the sense that they require you to take
20 specific measurements and then follow a certain
21 formula in the book?
22 A Right. It's totally objective.
23 There's no subjectivity in it at all.
24 Q What do you mean when we talk
25 about objective versus subjective?

1 A That it's -- You're using
2 scientific instruments to measure at very specific
3 joint sites, areas of the body. And, um, you know,
4 you do not make any impression on your own in terms of
5 the impairment. I mean, it's based on the patient's
6 performance.

7 Q In the course of your work here,
8 did you have an opportunity to evaluate Clifton Moody,
9 who is the plaintiff in this case?

10 A Yes, I did. I did an impairment
11 rating.

12 Q And was he referred to you at the
13 request of our law firm for the evaluation, at least
14 in part?

15 A Um, I believe that he was. Um,
16 typically, patients that come here may have, um,
17 attorneys on their case who need further information
18 regarding their status with regard to impairment, and,
19 um, I do believe that Wilson & Hajek originally
20 requested, and Dr. Haney ultimately approved the
21 impairment rating.

22 Q Okay.

23 A We have a physician referral on
24 chart with his signature for this assessment.

25 Q All right. Did you have the

1 benefit of any records on Mr. Moody, or did you take
2 just a verbal history from him when he came in?

3 A All I have is a verbal history
4 from the patient, himself.

5 Q Just so I can set this up and it's
6 understood up front, the only time you saw Mr. Moody
7 was for this evaluation, is that correct?

8 A That's it. Just a one-time visit.

9 Q Can you look at your chart and
10 tell me if you obtained any verbal history from
11 Mr. Moody when he came to see you about any, the
12 nature of what had caused any of his problems?

13 A Well, he indicated that on
14 9-29-93, he was using a rail saw. He'd been using
15 that for a couple of days. Um, he was cutting on top
16 of a cross tie, and he said, in quote, that he felt a
17 pop in his back and that, um, both of his legs went
18 out.

19 His chief complaints, basically,
20 were pain in the low back region with referred pain
21 into the right leg.

22 Q What date was this that you took
23 that history?

24 A That history was taken on 3-29-95.

25 Q All right. And when you took that

1 history from him, did he relate any prior important
2 medical history of recent origin, or any at all?
3 A He indicated that he had
4 arthritis, and held had a surgery, carpal tunnel
5 surgery on 1-25-95.
6 Q So just a couple of months before
7 that?
8 A Y e s .
9 Q okay. Did he describe any prior
10 history relating to low pack pain being of importance?
11 A He checked under arthritis, yes.
12 Under joints involved, he, he wasn't specific. And
13 then, um, when I questioned him about that,
14 specifically, he mentioned something about his back.
15 Q Okay. Can you describe how you
16 conducted your impairment evaluation of the lumbar or
17 the low back area of Mr. Moody?
18 A Sure. um, I use an inclinometer,
19 which is a tool one uses to measure spinal mobility at
20 varying levels. Um, it measures that in degrees, of
21 course. I measure at T12 and at the sacral region to
22 come up with an overall lumbar flexion impairment.
23 Q Where is the T12? Can you just
24 point, or if you can stand. I mean --
25 A T12 is right here, mid-back.

1 Q okay.
2 A okay? And then sacral area is
3 right here, in the very low back, or the tailbone, if
4 you will.
5 Q Okay.
6 A Um, so you measure flexion, which
7 is forward bending. Flexion is this. okay? And then
8 extension is backward. And then side bending to the
9 right and to the left.
10 Q And you record all of the figures
11 of the various movements?
12 A That's correct. In addition to
13 straight leg raises, bilaterally.
14 Q And do you record each figure and
15 do repeat trials?
16 A We do three trials each to come
17 up, to determine that the figures are consistent.
18 Q And do you have those numbers in
19 your notes of all the various angles and --
20 A Yes, I do. I have an evaluation
21 record that I do to calculate the overall impairment.
22 Q When you do three separate tests,
23 is that done so you can compare how he did on each
24 time and see if they're consistent?
25 A Right. If you -- If you compare

1 all the figures, they should be within 10 percent of
2 each other. And if they are, then the client is
3 exhibiting maximum effort.

4 Q Was Mr. Moody, on those three
5 tests, within 10 percent of each test on all the
6 different angles?

7 A We performed six different tests.
8 And six out of the six were considered consistent and
9 valid.

10 Q Okay. What was the impairment
11 rating under the AMA guides that Mr. Moody, that you
12 came up with, basically, using the guidelines --

13 A Okay.

14 Q -- the AMA has set forth, and
15 explain that?

16 A Okay. The overall impairment was
17 13 percent.

18 And at this point, I'd like to
19 bring out that, um, in addition to looking at all
20 figures to look at consistency, there's another way to
21 determine consistency; that is to look at the straight
22 leg raise.

23 Q In other words, compare that, a
24 figure on the straight leg raise to something else?

25 A To the lumbar sacral flexion and

1 extension.

2 Q All right.

3 A okay? Originally, I was using the
4 Third Edition. And in that --

5 Q Can you hold that up so the
6 cameraman can see that?

7 A Yes. This is the Third Edition.

8 Q Put out by the AMA?

9 A Put out by the AMA. And that's
10 what I had used to determine the impairment rating for
11 this particular client.

12 Since that time, in 195, the
13 Fourth Edition became available. Unfortunately, I did
14 not have that at the time of this assessment. Um,
15 they have changed the criteria for comparing straight
16 leg raise to sacral flexion and extension. And now
17 they've, they've --

18 Q How did they change those figures?

19 A They changed that from instead of
20 saying that the difference should be, you know, within
21 10 percent, they're saying the difference should be
22 not greater than 15 degrees. Okay? They have given
23 the patient more variability. Apparently, it was too
24 tight of a measure before.

25 And given that, this test is

1 considered valid, because the sacral
2 flexion/extension, if you add those two figures
3 together, that's 51. And his titus straight leg raise
4 was 65. And that gives us a 14 degree difference,
5 which is, given the new guidelines, is considered
6 valid.

7 Q But under the old guidelines, that
8 actually fell slightly outside?

9 A Just very slightly. Very
10 slightly.

11 Q So you're saying that under the
12 guides, there's a 13 percent lumbar impairment rating?

13 A That's correct.

14 Q Okay. once you did your report,
15 did you provide that to Dr. Haney's office?

16 A Y e s .

17 Q All right. And your fee for doing
18 the evaluation, I believe, was paid by our law firm,
19 wasn't it?

20 A That's correct.

21 Q Do you have any awareness of,
22 besides the fact that you're being deposed in a court
23 case, about what's going on with Mr. Moody? Have you
24 ever seen him again, or do you know him?

25 A No, I do not. I have not seen him

1 since this date.

2 Q All right.

3 MR. SHAPIRO: That's all I have.

4 Please answer opposing counsells questions.

5 MR. MILLBERG: May I take a moment
6 to look at your file, Ms. Hudgins?

7 THE WITNESS: Sure.

8 MR. SHAPIRO: Can we take a break?

9

10 NOTE: At this time, recess is
11 had; following which the deposition
12 continues, without the video, viz:

1 3

14 MR. SHAPIRO: Let me state, I've
15 noted that Mr. Millberg is going to make
16 three exhibits here, and one of them is a
17 letter from our law firm to Ms. Hudgins,
18 which I think our objection would be that it
19 would put undue emphasis on a document when
20 it was already brought out in direct
21 examination.

22 And the other document, which is
23 the impairment rating itself, I object to,
24 since the testimony is a better, fully
25 covers the necessary points there.

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I would object to the introduction of the report, and the part that deals with the cervical spine, which we haven't made a part of the case. okay.

NOTE: At this time, the video is started, the deposition continues, viz:

NOTE: The above-referred to referral was marked and filed as Hudgins Deposition Exhibit No. 1.

The above-referred to letter was marked and filed as Hudgins Deposition Exhibit No. 2.

The above-referred to impairment rating was Tnarked and filed as Hudgins Deposition Exhibit No. 3.

1 CROSS-EXAMINATION
2 BY MR. MILLBERG:
3 Q Afternoon, Ms. Hudgins. I do have
4 a few questions for you, ma'am.
5 As I understand it, your
6 involvement in this case was limited to one thing, and
7 that was performing an impairment rating of Mr. Moody?
8 A That's right.
9 Q And that was done in March of
10 1995?
11 A That's right.
12 Q That's more than a year-and-a-half
13 ago?
14 A Right.
15 Q Okay. And let me ask you to
16 identify a couple of documents from your file, if you
17 would, for the record. What is Exhibit No. 1, and
18 what does it indicate?
19 A That is a referral from the
20 physician indicating for us to do an impairment
21 rating.
22 Q And who does it indicate requested
23 the impairment rating?
24 A This is the attorney's request.
25 Q This is the Wilson, Hajek &

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1 Shapiro firm?
2 A Yes.
3 Q And Exhibit 2 is a letter from
4 Wilson & Hajek, is that correct?
5 A That is correct.
6 Q Addressed to you?
7 A That's correct.
8 Q And that's a part of your file?
9 A Right.
10 Q And that also clarifies that this
11 impairment rating was done at the initial request, not
12 of Dr. Haney, but at the initial request of
13 plaintiff's counsel?
14 A That's correct.
15 Q Okay.
16 MR. SHAPIRO: Reserve our
17 objection to those two documents. Go ahead.
18 Q Now, so it's your understanding,
19 isn't it, that that, the impairment rating that you
20 performed in the case with regard to Mr. Moody was
21 really not requested, or required, or part of, or
22 necessary to any ongoing treatment that this man was
23 receiving, but actually, it was done as part of his
24 lawsuit. Is that your understanding?
25 A I'm not sure why. I mean, at that

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1 point, why it was requested, other than we received a
2 referral from Dr. Haney's office. And on that
3 referral, it indicated that it was at the attorney's
4 request.

5 Q Okay. Now, Exhibit 3 is a copy of
6 your actual impairment rating. This is the document
7 that you generated, as a result of the tests that you
8 did, is that correct?

9 A That is correct.

10 Q Here at your business, at your
11 place of practice here, you perform functional
12 capacity evaluations from time to time, do you not?

13 A That is correct.

14 Q Which go into great detail about a
15 person's capabilities, physical capabilities, what
16 they can do and that kind of thing; is that fair to
17 say?

18 A That is correct, yes.

19 Q Plaintiff's counsel did not
20 request a complete functional capacity evaluation be
21 performed here, is that correct?

22 A Not on this patient. That is
23 correct.

24 Q And the impairment rating that you
25 did is actually a much more limited examination of the

1 patient; is that fair to say?

2 A It's limited specifically to, um,
3 the specific joint or area of the body. It does not
4 take into account functional capabilities of the
5 patient.

6 Q Yes, ma'am. And as I understand
7 it, the only thing that you looked at was the range of
8 motion, is that correct?

9 A That's correct.

10 Q What was requested of you did not
11 ask that you look at strength, for instance?

12 A That is correct.

13 Q Or sensory, the senses or anything
14 of that nature?

15 A I went strictly by the guidelines.
16 And when calculating a lumbar range of motion
17 impairment rating, it's based on range of motion, loss
18 thereof, and compare that to straight leg raises
19 bilaterally.

20 Q Yes, ma'am. It doesn't consider
21 anything else?

22 A No. Not in this particular exam.

23 Q okay. Now, you mentioned earlier
24 with regard to the examination that you performed,
25 that you looked at flexion. That is basically leaning

1 forward?
2 A Forward bending, right.
3 Q Extension, which is leaning
4 backwards?
5 A Backwards.
6 Q Lateral flexion, which is
7 basically leaning to one side?
8 A To the right.
9 Q To both the right and to the left?
10 A Uh huh. (Indicating in the
11 affirmative.)
12 Q And you also performed what you
13 called straight leg raising?
14 A That is correct.
15 Q Can you explain to the jury what
16 straight leg raising is?
17 A That's where the patient is lying
18 on their back, and with their leg fully extended, you
19 raise their leg straight upward until you feel tension
20 in the back and/or take it as far as you can take it
21 without significantly increasing the patient's pain.
22 Q Okay. so you're basically bending
23 the patient at the hips, more or less?
24 A That is correct.
25 Q So in that regard, it's somewhat

1 similar to the motion involved in lumbar flexion?
2 A That's right. And that's why you
3 do that, so that you can compare one to the other to
4 look for consistency.
5 Q Yes, ma'am. And as I understand
6 your earlier testimony, that there's been some changes
7 over, with time, there's been some changes to the way
8 the AMA looks at the comparison between straight leg
9 raising and lumbar flexion and extension?
10 A That is correct.
11 Q Now, and I understand, as it
12 exists currently, that you look at, you look at
13 degrees of angle as opposed to percentage of motion?
14 A Right. That is right.
15 Q And he had a difference -- When
16 you compared his straight leg raising to his flexion
17 and extension, he had a difference there of 14
18 degrees?
19 A That is correct.
20 Q Which one demonstrated greater
21 flexibility? The straight leg raising or the
22 flexion/extension test?
23 A The straight leg raise shows, you
24 know, more flexibility. But here, again, they still
25 are close and considered consistent.

1 Q Yes, ma'am. So the results, the
2 tests that you had were that the, he was able to --
3 When you had him -- When you had him perform the
4 straight leg raising, you found more flexibility, more
5 motion by 14 degrees --

6 A Uh huh. (Indicating in the
7 affirmative.)

8 Q -- than when you asked him to flex
9 and extend his back?

10 A That is correct. However, 14
11 degrees is very minimal when you're looking at a
12 goniometer. 14 degrees is almost -- I mean, it's
13 certainly not visible by the eye, the difference.

14 The whole reason this came up is
15 before the, um, depositions, u-m, Rick Shapiro
16 contacted me and had me relook at this. And when I
17 looked at it, I realized that the way to calculate
18 this had changed.

19 I also, in doing this assessment,
20 realized that this was a very marginal case. It was
21 very close, even though at the time in doing it, it
22 was deemed invalid. So after I looked at it and then,
23 of course, looked at the new guidelines, I realized
24 that it was considered a valid test, because it was
25 marginal all along. It was very close all along.

1 Q So you were contacted by
2 plaintiff's counsel at some point before the
3 deposition?
4 A That is correct.
5 Q And when was that?
6 A Um, I would assume somewhere
7 around the early part of November. I have a letter to
8 me dated November 5th, confirming the deposition.
9 Q Of what? November 5th of what
10 year?
11 A Of 196.
12 Q So -- And was it about that time
13 that this discussion came up about the validity of the
14 test?
15 A That is correct.
16 Q Okay. So now as I understand it,
17 the report that's been marked No. 3, that is the only
18 report that you have generated in connection with
19 Mr. Moody's case?
20 A Yes.
21 Q And that report indicates that the
22 impairment rating test that you did of this
23 gentleman's low back was invalid, as I understand
24 it
25 A Based on the report that was

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1 written to Dr. Haney dated March 29, 195, yes.
2 Q Yes. Based on the examination
3 that you performed, the only examination that you
4 performed?
5 A Right. Using the old guidelines,
6 the Third Edition, yes.
7 Q Right. You did the examination,
8 you wrote a report. And it said that the lumbar
9 examination was invalid because of this disparity
10 between flexion/extension --
11 A Right.
12 Q -- and straight leg raising?
13 A There was a 17 percent disparity
14 between the figures when looking at the old
15 guidelines.
16 Q And the standard under the old
17 guidelines was 10 percent. If it was more than 10
18 percent, it was considered invalid?
19 A That is correct.
20 Q And the reason for that was
21 because it indicated that the patient was giving less
22 than maximal effort, is that correct?
23 A Using these particular guidelines,
24 yes.
25 Q Okay. And those were the

1 guidelines that you used at the time?
2 A At that particular time, yes.
3 Q And in this particular
4 circumstance, what that suggested was that the
5 patient, with the application of that standard, was
6 giving less than maximal effort with regard to the
7 flexion and extension that you asked him to do of the
8 lumbar spine, of the low back?
9 A Based on these guidelines, yes.
10 Q Okay. And you sent that letter
11 out, is that correct?
12 A That is right.
13 Q And as I understand it, that was
14 your last involvement in the case until you were
15 contacted by plaintiff's counsel a few weeks ago?
16 A That is right.
17 Q And he brought to your attention
18 this issue about the, whether there is a difference in
19 these standards or not?
20 A No. Actually, I brought it to his
21 attention. He had -- He had, um, had asked,
22 actually, if I could take another look at this
23 particular patient and repeat this impairment rating.
24 And when I pulled his file and looked at it, I told
25 him I did not feel that that was necessary, because in

1 essence, had I had the current guidelines, this would
2 have actually been a valid test.

3 Q I see. But what he called you
4 about was he wanted you to take another look at
5 Mr. Moody?

6 A That's right.

7 Q He wanted you to repeat the test?
8 A Right.

9 Q Why did he say he wanted you to do
10 that?

11 A Well, he felt that the patient had
12 a legitimate injury, and that, um, he also, in looking
13 at the figures, realized that it was a very close
14 exam, that it was very close to being valid and asked
15 if we could, you know, repeat the exam to see if, in
16 fact, the figures would come up to the same or not.
17 And after looking at the file, I did not feel that
18 that was necessary, because based on today's
19 standards, the Fourth Edition, it is considered valid.
20 Q so nothing about your observations
21 has changed. The only thing that changed was the
22 standard?

23 A That is correct.

24 Q Okay.

25 A No. Nothing's changed in, in how

1 you would do the exam.

2 Q Now, you've made, you've been
3 asked to make no recommendations about -- well,
4 strike that.

5 You also -- In addition to the
6 lumbar test that we've talked about, you also were
7 requested to perform some impairment ratings with
8 regard to other parts of the body, is that correct?

9 A That is correct. Dr. Haney's
10 referral slip indicated that he had a nerve root
11 compression at C5-6, and he also indicated that he had
12 bulging lumbar disks. So in that, we looked at both
13 his neck and back.

14 Q With regard to the neck test that
15 you did, you found that overall test to be valid, is
16 that correct?

17 A Yes.

18 Q However, two of the subtests that
19 you did were invalid, were they not?

20 A Two of the subtests, yes. But the
21 overall exam was valid in the cervical rating.

22 Q And again, two of the subtests
23 were invalid, because the indication was that the
24 patient was not giving maximal effort on all tests?

25 A In those particular portions of

1 the exam, yes.
2 Q That is correct?
3 A That is correct.
4 Q I just wanted to go back and ask
5 you one question, Ms. Hudgins, about the history that
6 you received from Mr. Moody. If I could direct your
7 attention to the front page of your report there,
8 Exhibit 3. Right there on the top.
9 The quote that you attribute to
10 Mr. Moody is as follows, as I understand it: Quote, I
11 was cutting on top of a cross tie. I felt a pop in my
12 back. Both legs went out. Close quote.
13 A Right. That is correct.
14 Q Okay. You've not seen this
15 gentleman since March of 195?
16 A No, I have not.
17 MR. MILLBERG: Thank you very
18 much.
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Southside Therapy Associates, Inc.
1509 West Third Street
Farmville, VA 23901
(804) 392-1596

-IS-	Name	Date
	Diagnosis@	
	Date of Onset	
	Precaufions	
	Medical Mstory	

TREATMENT PROGRAM

EVALUATE AND TREAT AS
SIGNATUREX
RERURN M.D. AP

REHABILITATION SERVICES

Exercise	Evaluadon & TreatinenL	() Gait Training
	Hand Rehab	() Lgtrasound
	Lntrasound	() FCE
	Back Care Workshop	() T'herapeutic
Conditioning	Moist Heat	() Work
	ADL Eval and Training	() Work Hardening
	Splinting	Impainnent
RaLing	Other	

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oRl 4ou sT qeq4 laeAsmoH -Aed o-4 !;eonlai 9.7ole@v;z;L ;-T pebuvx."? 94
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o-4 Su-ron;e.T useq evq 'PuL:ti3.78Pun I 'g-TOTOAV.1,L -suo-r,4vnIleAe
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4n; eq-4 uj

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30; TlTq anoa
pugg DevoTd -13.4us-r@o psuotqdvo DA@IV 944
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puv pvaqv 05 ol
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Total cervical ROM impairment is 13%.

Comments: Please note that 6 tests were done for validity of this particular impairment rating. The patient only-tcored high on two out of the six tests; therefore, the cervical ROM evaluation is considered valid.

EXHIBrr

@lf-2Y.

Clifton Moody, Jr.
March 29, 1995
Page 2

Lumbar ROM/Impairment Rating:

Maximum true lumbar flexion angle is 30 degrees; percent impairment is 4%.

Maximum true lumbar extension angle is 7 degrees; percent impairment is 5%.

Maximum lumbar R lateral flexion angle is 15 degrees; percent impairment is 2%.

Maximum lumbar L lateral flexion angle is 14 degrees; percent impairment is 2%.

Total lumbar ROM impairment is 13%.

Comments: If the tightest SLR ROM exceeds the sum of sacral flexion and extension by more than 10%, the lumbar ROM test is considered invalid. Mr. Moody's tightest SLR does exceed the sacral flexion and extension by more than 10%. Therefore, lumbar ROM impairment is considered invalid.

Ellen C. @udgins, TR

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REDIRECT EXAMINATION

BY MR. SHAPIRO:

Q Ms. Hudgins, when our office contacted you about your report--and take another look at it--did you offer to amend the report?

A No, I did not.

Q What was your reasoning at that time?

A My reasoning was that after looking at it, that it, it is, it was valid. And I mentioned that I would bring that up during the deposition.

Q All right. Did we indicate to you that we'd notify the defendant of the alteration in, essentially in what happened?

A Yes.

MR. SHAPIRO: I have nothing further.

MR. MILLBERG: Thank you, ma'am.

NOTE: With the consent of the witness and by agreement of counsel for the respective parties, the reading and signing

CRANE-SNEAD & ASSOCIATES, INC.

1 of this deposition by the witness is hereby
2 waived.

3

4

5 And further this deponent saith not.

6

7

8 SIGNATURE WAIVED BY AGREEMENT OF COUNSEL AND THE
9 WITNESS

10

11

12 DEPOSITION CONCLUDED AT 2:46 P.M.

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1 COMMONWEALTH OF VIRGINIA,
2 COUNTY OF HENRICO, to-wit:

3
4

5 I, Connie Alys Crane Pryor, a Registered
6 Court Reporter and Notary Public for the State of
7 Virginia at Large, do hereby certify that the
8 foregoing deposition of Ellen C. Hudgins was duly
9 taken and sworn to before me at the time and place set
10 out in the caption hereto.

11 Further, that the transcript of the
12 deposition is true and correct to the best of my
13 ability, and that there were no exhibits filed with ine
14 during the taking hereof.

15 Given under my hand this 23rd day of
16 November, 1996.

17
18
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20 Connie Aly@ Crane Igryor - RCR
21 Notary Public for the State of Virginia
at Large

22 My commission expires:
23 August 31, 1998

24 **I was commissioned as Connie Alys Crane

25