

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

ZENIA WHITAKER, et al.,)	
)	
Plaintiffs,)	
)	CIVIL ACTION NO.:
vs.)	
)	CL08-3445
ALPHONSE H. BRUNO, M.D.,)	
et al.,)	
)	
Defendants.)	
)	

Deposition of Sumone Hewins,
Taken on behalf of the defendant.

Date: November 16, 2009

Place: Virginia Beach, Virginia

APPEARANCES:

SHAPIRO, COOPER, LEWIS & APPLETON, P.C.
By: Mr. James C. Lewis,
Counsel for the plaintiffs.

GOODMAN, ALLEN & FILETTI, P.L.L.C.
By: Ms. Lindsay M. Roberts,
Counsel for the defendants.

Reported by:

Connie D. Murden, Court Reporter
ALVIS & CHEESEBREW, INC.

1 Deposition upon oral examination of
2 Sumone Hewins, taken by and before Connie D. Murden,
3 a Notary Public for the Commonwealth of Virginia at
4 Large, pursuant to Notice to Take Depositions,
5 commencing on November 16, 2009, at the law offices of
6 Shapiro, Cooper, Lewis & Appleton, 1294 Diamond Springs
7 Road, Virginia Beach, Virginia, to be used in evidence in
8 the above-styled cause.

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11		PAGE
12	Examination by Ms. Roberts:	3

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1 (The court reporter was first duly sworn.)

2

3 SUMONE HEWINS, called as a witness on
4 behalf of the defendant, having been first duly sworn,
5 was examined and testified as follows:

6

7 EXAMINATION BY MS. ROBERTS:

8 Q Ms. Hewins, my name is Lindsay Roberts, and
9 I represent the estate of Dr. Bruno, as well as
10 Tidewater Physicians for Women in this lawsuit.

11 Could I get you to state your name and
12 current address for the reporter?

13 A Sumone Hewins, 1112 Hillock Crossing,
14 Virginia Beach, Virginia 23455.

15 Q And your first name is spelled
16 S-u-m-o-n-e?

17 A Yes.

18 Q Okay. I just want to make sure we had
19 that right.

20 Are you currently employed?

21 A Yes.

22 Q Where at?

23 A Southeastern Virginia Training Center.

24 Q Okay. And what do you do there?

25 A I work with mentally-challenged people, so
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1 it's a mental health facility.

2 Q Are they adults?

3 A It's all -- everybody adults and
4 teenagers.

5 Q Okay. Is that a residential facility?

6 A Yes.

7 Q How long have you worked there?

8 A I've been there since April of '09.

9 Q Okay. It's my understanding, at least as
10 of the time that your attorney provided us with these
11 discovery answers, that you were in school pursuing a
12 degree in social work. Is that correct?

13 A Yes.

14 Q Have you graduated?

15 A Yes.

16 Q And where did you get that degree from?

17 A Norfolk State University.

18 Q Okay. And is that a bachelor's degree?

19 A Yes.

20 Q And did you graduate, like it says here,
21 in December of 2008?

22 A Yes.

23 Q Where were you employed prior to the
24 Southeastern Virginia Training Center?

25 A City of Virginia Beach, parks and rec
ALVIS & CHEESEBREW, INC.

1 department.

2 Q And what was it that you did there?

3 A I was an activity center leader.

4 Q Okay. And what does that mean?

5 A I was a supervisor.

6 Q Of?

7 A Of my employees.

8 Q Okay. What kind of employees were they?

9 Just --

10 A Oh, they was -- they was -- they did the
11 same thing I did. I just had the higher position.

12 Q Okay. And then did you leave that job
13 because you had completed your social work degree?

14 A I left it because we won't -- I got this
15 other job at Southeastern.

16 Q Okay. Are you currently married?

17 A No.

18 Q Have you ever been married?

19 A No.

20 Q And you have two kids; is that correct?

21 A Yes.

22 Q We'll talk about Zenia. Am I saying her
23 name right?

24 A No. Zenia.

25 MS. ROBERTS: Zenia. Sorry.
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1 MR. LEWIS: I've never said it right.
2 Since I've been representing her, I haven't gotten it
3 right.

4

5 BY MS. ROBERTS:

6 Q We will talk about her in more detail
7 later, but I understand that her father is Antoine
8 Whitaker.

9 A Yes.

10 Q All right. And your other child, is it
11 Zevantae?

12 A Yes.

13 Q Okay. I got that one right.
14 And he is how old?

15 A He's 12.

16 Q Twelve years old.
17 And who is his dad?

18 A Anthony Holmes.

19 Q Where was Zevantae delivered?

20 A DePaul Hospital.

21 Q Who was your OBGYN?

22 A Marybeth Dixon.

23 Q Any complications with the birth of
24 Zevantae?

25 A Yes.

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1 Q And what was that?

2 A He had to be suctioned out with a vacuum,
3 so his arm was limp.

4 Q Okay. We'll talk about that.

5 Did you have any problems during your
6 pregnancy with Zevantae?

7 A No.

8 Q And you had a vaginal delivery?

9 A Yes.

10 Q And this was in 1997?

11 A Uh-huh.

12 Q So during the labor and delivery, was it
13 Dr. Dixon that delivered him?

14 A Yes.

15 Q And she had to use a vacuum extractor?

16 A Uh-huh, yes.

17 Q Okay. Did you have any discussions with
18 her about why she had to use the vacuum?

19 A I guess he was hard to get out the birth
20 canal.

21 Q Okay. And you had testified a minute ago
22 that he had a limp arm after birth.

23 A Yes.

24 Q Do you remember which arm it was?

25 A No, I don't. I do not remember that.
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1 Q Okay. Does he continue to have any
2 problems with his arm?

3 A No.

4 Q Do you recall how long the arm was limp
5 for?

6 A A month or two.

7 Q Was it completely limp or was it just a
8 little floppy? I mean, could you describe it for me?

9 A It was completely limp.

10 Q Okay. And then did he gradually get use
11 of it back or did it come back all at once?

12 A It came back all at once.

13 Q Did he see any doctors other than a
14 regular pediatrician for that?

15 A No.

16 Q All right. Do you remember discussing
17 with Dr. Bruno during your pregnancy with Zenia the
18 complications with the delivery of Zevantae?

19 A All I discussed was that he was saying --
20 because my son was 8'14", so he was telling me that my
21 daughter was going to be bigger than that.

22 Q Okay. Did you ever talk with Dr. Bruno
23 about the fact that Zevantae had had a limp arm after
24 birth?

25 A No. I don't recall.
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1 Q Okay. And you have had a tubal ligation
2 since Zenia's birth; is that right?

3 A Three months after.

4 Q Okay. And currently who are you living
5 with?

6 A Zenia Whitaker and Zevantae Hewins.

7 MS. ROBERTS: Zenia. I keep saying it
8 wrong. Sorry.

9 MR. LEWIS: She's used to it.

10

11 BY MS. ROBERTS:

12 Q All right. So just you and your two kids?

13 A Yes.

14 Q All right. Does Mr. Holmes, Zevantae's
15 father -- does he pay child support? Is he involved
16 with your son at all?

17 A Yes, he's involved with my son, and it is
18 a child support order.

19 Q Okay. Do you have any, I guess,
20 understanding that Mr. Whitaker is currently
21 incarcerated? Are you guys planning on being together
22 once he gets out of jail?

23 A No.

24 Q I have a list that was given to me by your
25 attorney, which I will show you a copy of. Let me make
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1 sure that I have the right one. Okay. Well, I thought
2 I had a list of your doctors, but I suppose that I --
3 doesn't look like I do.

4 So I just want to talk briefly about
5 people that you, yourself, have seen as far as medical
6 providers. At some point -- and by my records, it looks
7 like in December of 2004 -- you began seeing doctors in
8 Tidewater Physicians for Women, which was Dr. Bruno's
9 group. Does that sound right to you?

10 A Yes.

11 Q Okay. Did you see any other OBGYN's about
12 Zenia's pregnancy other than Dr. Bruno?

13 A One other doctor.

14 Q And who was that?

15 A I can't recall. It was somebody in the
16 group.

17 Q Okay. Oh, it was somebody in the same
18 group, just a different physician?

19 A Yes.

20 Q Okay. And with Zevantae, you said you saw
21 Marybeth Dixon for prenatal care?

22 A Yes.

23 Q And he was delivered at DePaul, right?

24 A Yes.

25 Q Okay. Any reason in particular that you
ALVIS & CHEESEBREW, INC.

1 decided not to use Dr. Dixon for your second pregnancy?

2 A I guess because they are eight years
3 apart.

4 Q I read in your record that you have had a
5 hernia during your pregnancy with Zenia.

6 A Yes.

7 Q And you had that surgically repaired after
8 her birth; is that right?

9 A Yes.

10 Q And that was Dr. --

11 A Boustany. Boustany.

12 Q Do you have a primary care doctor that
13 you've seen about your pregnancies at all?

14 A A primary care about my pregnancies?

15 Q Yes.

16 A Since the birth of my two kids?

17 Q Yes.

18 A Right. I have a primary care doctor, but
19 I don't talk about my pregnancies.

20 Q And then you've got the tubal ligation,
21 which was by Dr. Bruno?

22 A Yes.

23 Q Okay. Other than the two pregnancies that
24 resulted from your children -- being pregnant, any other
25 times?

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1 A No.

2 Q Okay. It looked to me from the records
3 like you had seen Dr. Bruno's office before you knew you
4 were pregnant. Is that right or did --

5 A Yes.

6 Q Okay. And then shortly thereafter you
7 learned that you were pregnant; is that correct?

8 A Yes.

9 Q Okay. Did you have any complications
10 during your pregnancy with Zenia?

11 A My feet was swollen most of the time.

12 Q Okay. And I think you said a few minutes
13 ago that you had discussed the size of your first baby
14 with Dr. Bruno, and did you say he was 8 pounds, 14
15 ounces?

16 A Yes.

17 Q And you had mentioned Dr. Bruno talking
18 about the size of Zenia. Can you tell me what you
19 recall about that?

20 A Basically, he was just saying that Zenia
21 would probably be a lot bigger than my first child.

22 Q Okay. Do you remember getting ultrasounds
23 to see how big she was?

24 A Yes.

25 Q Do you remember what you were told about
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1 the ultrasounds?

2 A Basically, I'm going to say about two or
3 three weeks before her due date she was about
4 seven pounds.

5 Q Okay. Did you talk with Dr. Bruno and
6 decide to then go ahead with vaginal delivery?

7 A Yes. That was the -- that was just the
8 plan, and to go ahead with it anyway. We never talked
9 about a C-section.

10 Q Okay. Did you ever ask for a C-section?

11 A No.

12 Q Okay. It looks like that you were
13 scheduled for an induction. Is that right?

14 A Yes.

15 Q And can you tell me why you were scheduled
16 for an induction?

17 A Because I don't like to go over my due
18 date.

19 Q Okay. So you wanted the induction?

20 A Yes.

21 Q Okay. And then did you go into labor
22 prior to the induction?

23 A The same day I was supposed to be induced
24 my water broke.

25 Q Okay. And then you went to Sentara Leigh
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1 Hospital?

2 A Yes.

3 Q Did anyone go to the hospital with you
4 that day?

5 A My son.

6 Q Oh, your older son went with you?

7 A Uh-huh.

8 Q Did he stay in the delivery room with you
9 all day?

10 A No. Somebody came -- he was with me that
11 morning, so I just took him with me, and then somebody
12 took him back home. Everybody else came, you know.

13 Q Okay. So you drove yourself to the
14 hospital; your son was with you?

15 A Yes.

16 Q Okay. Do you know what time that was?

17 A It was about 5:00 in the morning.

18 Q And then some other family members came
19 throughout the day?

20 A Yes.

21 Q All right. Was anyone in the room with
22 you when you were actually giving birth other than
23 Mr. Whitaker?

24 A Besides the nurses and doctors.

25 Q Okay. So no family members or friends
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1 during the actual delivery part?

2 A No.

3 Q All right. Prior to that, after you had
4 gotten checked in and put in the room, do you remember
5 Dr. Bruno coming in?

6 A More so of the nurses hooking me up and
7 stuff like that. Most of the time doctors -- they
8 don't -- they come in afterwards. So he came in, you
9 know, to check me a couple of times.

10 Q Okay. So you came in, and the nurses
11 hooked you up to the IV and got you settled, and then --
12 but at some point Dr. Bruno came in during the day?

13 A Yes.

14 Q Was he there more than once?

15 A Yes.

16 Q Do you remember talking to him?

17 A A couple times.

18 Q Okay. Did he have anything to say that
19 you can recall specifically?

20 A No.

21 Q All right. Any problems that day during
22 the -- while you were laboring that you were aware of?

23 A I just kept peeing on myself.

24 Q Okay.

25 A But I guess that's normal.
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1 Q And you had an epidural; is that right?

2 A Yes.

3 Q Okay. Now, when you actually started
4 pushing, do you remember who all was in the room as far
5 as how many nurses, doctors?

6 A Maybe two or three.

7 Q Okay. Maybe two or three nurses. Was --
8 and then Mr. Whitaker was there; is that right?

9 A Yes.

10 Q Okay. Dr. Bruno was in there?

11 A Yes.

12 Q Anyone else that you can remember?

13 A No, not that I can remember.

14 Q Okay. I take it Dr. Bruno was at your
15 feet. Is that right?

16 A Yes.

17 Q And where was Mr. Whitaker?

18 A He was on one leg, holding the one leg.

19 Q All right. Do you remember what side of
20 you he was on?

21 A I can't recall. It might have been my
22 right side.

23 MR. LEWIS: Don't guess. If you don't
24 know, say you don't know.

25 THE WITNESS: No, I don't know.
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1 BY MS. ROBERTS:

2 Q But he was on one of your sides?

3 A Yes.

4 Q Okay. And you said a minute ago that he
5 was holding your leg?

6 A Yes.

7 Q Was he holding your leg the whole time?

8 A Yes.

9 Q Okay. Did somebody tell him to hold your
10 leg?

11 A Yeah because I had the epidural.

12 Q Okay. So was it -- who told him to hold
13 your leg?

14 A Either the nurse or the doctor.

15 Q Okay. So was he holding your leg back,
16 towards your chest?

17 A Yeah. Holding it up. Yes.

18 Q Was somebody holding the other leg?

19 A A nurse.

20 Q All right. And did they continue to hold
21 your legs like that throughout the delivery?

22 A Yes.

23 Q All right. Do you recall about how long
24 you were pushing prior to Zenia being delivered?

25 A Maybe 10 or 20 minutes.
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1 Q Did Dr. Bruno have any conversations with
2 you during that time?

3 A No.

4 Q Okay. Did he ever say that anything was
5 out of the ordinary while you were pushing?

6 A No.

7 Q Okay. After Zenia got delivered, did you
8 see her right away?

9 A No. They took her over to the -- to get
10 her cleaned up.

11 Q So they took her over to the table, got
12 her cleaned up. Did they give her right back to you?

13 A Yes.

14 Q All right. At that time, did you notice
15 any problems with her arm?

16 A Yes.

17 Q Okay. And what did you notice?

18 A That her arm was limp.

19 Q Okay. And which arm was that?

20 A It is her right arm.

21 Q And that was right there in the delivery
22 room that you noticed it?

23 A Yes.

24 Q Did you talk to anyone about it at that
25 time?

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1 A No.

2 Q Okay. When is the first time you remember
3 talking to either a doctor or a nurse about her arm?

4 A When she went to her pediatrician's
5 office.

6 Q Okay. And who was that?

7 A CHKD.

8 Q How much -- I guess, how long after her
9 birth was that, that she first went to CHKD to see the
10 pediatrician?

11 A Two weeks. It was about two weeks after.

12 Q All right. And at that point, what was
13 going on with her arm?

14 A It was still the same.

15 Q Can you describe it to me?

16 A Limp.

17 Q Just limp?

18 A Yes.

19 Q Did her fingers move?

20 A No.

21 Q Okay. What did you discuss with the
22 pediatrician at that first visit about her arm?

23 A Getting her referred to see a neurologist
24 and getting physical therapy for her arm.

25 Q Okay. At the time, I guess, given that
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1 your son had had -- was it -- did it look the same as
2 when your son was born -- her arm?

3 A Yes.

4 Q Okay. Did you talk with the pediatrician
5 about the fact that your son had had the similar
6 problem?

7 A Yes.

8 Q Okay. And was that a man or a woman
9 doctor? Do you remember?

10 A Woman.

11 Q Okay. And what did she say?

12 A Just that she was going to refer Zenia to
13 see what was going on. Yes.

14 Q And was that Dr. Toor that they referred
15 you to?

16 A Yes.

17 Q Do you have a -- I do have a list of your
18 daughter's doctors, and I'll give you a copy of that
19 just to make sure that we have everybody on here.

20 So I'm going to hand you "Plaintiff's
21 Supplemental Response to Discovery," and it is dated
22 September 11th of this year, 2009. So let me give you
23 that. I guess, first on there we have "Sentara Leigh,"
24 which is where she was delivered.

25 A Yes.

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1 Q Is that right? And then I see "CHKD
2 General Pediatrics." Was that the pediatrician you were
3 just talking about her going to see?

4 A Yes.

5 Q And then Dr. -- if you look on Number 6,
6 it says, "Division of Child and Adolescent Neurology."
7 Is that Dr. Toor's office?

8 A Yes, it is.

9 Q All right. Now, when you saw Dr. Toor --
10 is Dr. Toor a man or a woman?

11 A He's a man.

12 MR. LEWIS: And the child -- not to
13 interrupt you, the child is still being seen there, and
14 so these dates are not current.

15 MS. ROBERTS: Okay. We'll get to that in
16 a roundabout way. I figured she's probably being seen
17 by some of these people.

18 MR. LEWIS: Yes, she is.

19

20 BY MS. ROBERTS:

21 Q All right. On your initial visit with
22 Dr. Toor, what did he tell you about Zenia's arm?

23 A He was just explaining to me her
24 condition.

25 Q Okay. Do you remember what he said? Any
ALVIS & CHEESEBREW, INC.

1 specifics?

2 A He just -- was just, basically, explaining
3 about the nerves and how everything happened basically.

4 Q Okay. What did he tell you about how
5 everything had happened?

6 A Just, basically, during -- basically,
7 during the birth, something may have got pulled apart.

8 Q Okay.

9 A The nerves.

10 Q The nerves. Okay.

11 Did he tell you it was because of anything
12 Dr. Bruno did?

13 A He just, basically, saying because of her
14 being pulled.

15 Q Okay. Because of her being pulled by
16 Dr. Bruno?

17 A Yes.

18 Q Okay. Did Dr. Toor do any tests on Zenia?

19 A No. Just checkup.

20 Q Okay. Did he refer you to someone else?

21 A Yes.

22 Q And who was that?

23 A That was Dr. Grossman in Miami, Florida.

24 Q Okay. Now, do you remember when Dr. Toor
25 referred you to Dr. Grossman about how old Zenia was?

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1 A She had her first surgery in August of
2 '06, so it had to be maybe a month or two months before
3 that.

4 Q Okay. Looks like the first time you saw
5 him was June of 2006. Would that have been right around
6 the time that Dr. Toor referred you to him?

7 A Yes.

8 Q Okay. Did Dr. -- did you and Dr. Toor
9 discuss whether he thought Zenia's condition was
10 permanent?

11 A Basically, yes, and she was -- as long as
12 she's, you know, getting therapy. She would have to
13 have therapy.

14 Q Okay. After she was born, did you notice
15 her arm improve at all --

16 A No.

17 Q -- prior to the surgery?

18 A No.

19 Q Okay. So prior to the surgery, it was
20 still limp or -- limp? Were her fingers still limp?

21 A With therapy, she was using some, not all.

22 Q Of her fingers?

23 A Yes.

24 Q Okay. And she was getting therapy at

25 CHKD?

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1 A Yes.

2 Q Okay. It looks like that started about a
3 couple weeks after she was born. Does that sound right?

4 A Yes.

5 Q Is she still in therapy?

6 A Yes, she is.

7 Q And that's still at CHKD?

8 A Yes.

9 Q How often does she go?

10 A Twice a week.

11 Q All right. How long has she -- how long
12 do you expect her to be in therapy twice a week?

13 A She's in there for an hour.

14 Q No. I mean, is -- I guess -- is it for
15 another year, another six months? Do you just not know
16 at this point?

17 A Right now, as long as she has this
18 condition, she will be in therapy.

19 Q Okay. So you went -- did you go down to
20 Miami to see Dr. Grossman?

21 A The first surgery, I went to New York.

22 Q Okay. So that would be on this list,
23 Numbers 10 and 11, which says, "NYU Hospital for Joint
24 Diseases" and "Miami Children's Hospital"?

25 A Yes.

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1 Q And Number 12 is Dr. Grossman there, too.
2 Okay. So did you go up and see him for an evaluation
3 prior to the surgery?

4 A Yes.

5 Q And how long before the surgery was the
6 evaluation?

7 A When -- I had seen him in, I guess, that
8 one or two months before, and then she had her surgery
9 in August.

10 Q Okay. Is this the surgery -- was there a
11 Dr. Price there, too?

12 A The first surgery, yes.

13 Q Okay. Was he a partner of Dr. Grossman or
14 do you know what their relationship was?

15 A They -- well, Dr. Price works out of
16 Miami. His office is in Miami, but he will come to
17 New York.

18 Q Okay.

19 A He do -- he do surgeries with Dr. --
20 Dr. Grossman.

21 Q Okay. So they do the surgeries together?

22 A The first surgery was them together. The
23 second surgery was just Dr. Price.

24 Q Okay. And does Dr. Price have offices in
25 New York and in Miami, then?

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1 A Dr. Price's main office is in New York.

2 Q And Dr. Grossman is in New York and Miami?

3 A His main office is in Miami.

4 Dr. Grossman's main office is in Miami, but he comes to
5 New York to do surgeries and see patients.

6 Q Okay. Got you.

7 What kind of surgery did he do on Zenia in
8 August of 2006? You don't have to -- I mean, as best as
9 you understand it, what he was doing.

10 A The first surgery, he took nerves from her
11 legs and planted it in her neck and underneath her arm.

12 Q Okay. And after -- was she in a cast
13 after that surgery?

14 A Yes.

15 Q Okay. How long was she in a cast? Do you
16 remember?

17 A She was in that cast for two weeks.

18 Q Okay.

19 A For surgery.

20 Q After that surgery, she continued to have
21 physical therapy; is that right?

22 A Yes. After the cast was taken off.

23 Q Okay. Did her arm improve after that
24 surgery?

25 A Somewhat with the surgery.
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1 Q Okay. What could she do after the surgery
2 that she couldn't do before the surgery?

3 A Hold a ball.

4 Q Okay. So her hand worked better?

5 A Yes.

6 Q Okay. Could she move her arm at all?

7 A Yes.

8 Q Okay. Could she bend her elbow?

9 A Yes. She could -- yes.

10 Q Okay. Could she raise her arm out in
11 front of her?

12 A Yes.

13 Q All right. Could she touch her head after
14 that first surgery?

15 A No.

16 Q All right. Could she put her arm behind
17 her?

18 A No.

19 Q Okay. Now, after some point, I see -- I
20 guess it would have been in -- when was her second
21 surgery?

22 A February of '08.

23 Q Okay.

24 A '09. Yeah. '09. It's '09.

25 Q Okay. And that surgery was at Miami
ALVIS & CHEESEBREW, INC.

1 Children's Hospital with Dr. Grossman; is that right?

2 A Yes -- no. Dr. Price.

3 Q Dr. Price. Okay. And why did she have
4 that second surgery?

5 A Dr. Grossman thought that she needed a
6 second surgery, so he felt like Dr. Price should do the
7 second surgery because, I guess, the second surgery, he
8 specialized in what she needed to be done.

9 Q After the first surgery in August of 2006,
10 did Zenia follow up with Dr. Grossman?

11 A Yes.

12 Q How often?

13 A Six months -- supposed to have been, like,
14 six months, a year after.

15 Q Okay. So, then, I guess in February of
16 this year or around that time Dr. Grossman recommended
17 another surgery?

18 A Well, February of this year she had her
19 surgery, so before that.

20 Q Okay. Did he tell you why he was
21 recommending that surgery?

22 A Saying that she needed the Botox
23 injections, and this will make her do more movement of
24 her arm -- her arm and her wrist and stuff, extending.

25 Q Okay. And then he referred you back to
ALVIS & CHEESEBREW, INC.

1 Dr. Price in Miami for the surgery?

2 A Yes.

3 Q Okay. So you guys went down to Miami in
4 February of this past year?

5 A Yes.

6 Q All right. And he -- Dr. Price did the
7 surgery then I take it.

8 A Yes.

9 Q Was she in a cast again after that
10 surgery?

11 A Yes.

12 Q How long was she in the cast?

13 A This time she was in there for a month.

14 Q Okay. All right. Has she been back to
15 see Dr. Price or Dr. Grossman since February of 2009?

16 A She went back to see Dr. Price to get the
17 cast taken off.

18 Q Okay. So that would have been, I guess,
19 in March?

20 A Yes.

21 Q Has she seen either of them since that
22 time?

23 A No, she hasn't.

24 Q Okay. Do you have plans to take her back
25 to either of them for follow-up?

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1 A Yes.

2 Q Okay. And when is that plan?

3 A Sometime soon.

4 Q Okay. And will that be Dr. Price or
5 Dr. Grossman?

6 A At this time, Dr. Price because he just
7 did her last surgery.

8 Q Okay. And will you go back down to Miami
9 for that follow-up or up to New York?

10 A I'll go to New York.

11 Q Okay. So sometime in the next six months
12 you would think?

13 A Yes.

14 Q All right. But in the meantime, she has
15 been back to CHKD for physical therapy?

16 A Yes.

17 Q All right. Has she gotten some movement
18 improvement after that February of 2009 surgery?

19 A Yes. Some.

20 Q Okay. I think that we have talked about
21 all the doctors that are on here. There is some --
22 let's see. "EVMS." It looks like she had a hearing
23 evaluation right after she was born.

24 A Yes.

25 Q And then a couple of other tests at CHKD.
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1 Number 9 here is, "Pediatric Medicine
2 Private, pre-op assessment." I'm guessing that would be
3 the assessment prior to her August of 2006 surgery.
4 Does that sound right to you?

5 A Yes.

6 Q All right. She's seeing -- is she seeing
7 a regular pediatrician now?

8 A Yes. She has always been seeing a regular
9 pediatrician.

10 Q And who is her regular pediatrician?

11 A CHKD.

12 Q So does she have a particular doctor there
13 or just the general practice?

14 A The general practice.

15 Q Okay. How often does she go to the
16 pediatrician?

17 A She goes every year for her checkup.

18 Q Okay. So she's probably been there
19 since --

20 A She was just there.

21 Q Okay.

22 A In October.

23 Q All right. Okay. Any other doctors that
24 she is seeing currently?

25 A Besides an eye doctor.
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1 Q Who is her eye doctor?

2 A Okay. He is a foreign doctor.

3 Q Okay. Where is he at? Do you know?

4 A Kempsville.

5 Q Does she have eye problems or is that
6 just --

7 A She wears glasses.

8 Q Okay. Any other doctors that she's
9 currently seeing?

10 A No.

11 Q All right. Any discussions with anyone
12 that you've had about future surgeries at this time?

13 A No, not at this time.

14 Q Okay. All right. I want to talk about
15 her current condition now and the things that she can
16 and can't do now.

17 She is 4 years old; is that right?

18 A Yes.

19 MS. ROBERTS: My math skills are
20 brilliant.

21 MR. LEWIS: Overwhelming.

22

23 BY MS. ROBERTS:

24 Q Okay. So she's 4. I guess when you're
25 4 -- do you know if she's right-handed or left-handed
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1 yet?

2 A At this point, she's left-handed because
3 she had a surgery on the right hand, so she used the
4 left hand more.

5 Q Okay. Does she use her right hand at all?

6 A Yeah.

7 Q Okay. Can she get clothes on and off by
8 herself?

9 A Yes.

10 Q Okay. I don't have any kids, so I'm sorry
11 if some of these questions are kind of --

12 Is she potty-trained?

13 A Yes.

14 Q Okay. Can she go to the bathroom by
15 herself, then?

16 A Yes.

17 Q All right. Can she feed herself?

18 A Yes.

19 Q All right. And I think we talked about
20 this before. She can hold things in her right hand?

21 A Yes.

22 Q Can she comb her hair with her right hand?

23 A No.

24 Q All right. Does she ever try or is she --

25 A Not with her right hand.

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1 Q Okay. Can she now put her hand on top of
2 her head?

3 A No.

4 Q Okay. This might be an odd question, but
5 can you tell me ways that she can't move her arm?

6 And if it's easier, I can just go through
7 ways.

8 A Ways she can't move her arm?

9 Q Yes.

10 A Well, as in this moment, Zenia -- she
11 really couldn't -- what is it -- and, I need to
12 re-angle.

13 She can't put it on the top of her head.
14 She cannot put her arm behind her back. She cannot snap
15 her fingers. She can't put her hand behind her neck.
16 She cannot put her arm in the air. She could probably
17 put her arm maybe this much. She can't go up this much.

18 Q Okay. I'm going to stop you for the court
19 reporter because I think all of that is probably pretty
20 clear on the record except for the last one.

21 So she can put her arm out to her side but
22 not up at shoulder height?

23 A Yes.

24 Q Okay. Can she turn her hand over?

25 A No.

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1 Q So she can't flip her palm to face up?

2 A No, she can't.

3 Q Okay.

4 A And she cannot extend her wrist like this.

5 Q Flex her wrist?

6 A Yes.

7 Q Okay. Given that it's been, I guess,
8 seven months since her surgery, have the doctors told
9 you how long she'll keep improving after the surgery?

10 A Yes. Her nerves -- they have to keep
11 regenerating theirselves (sic), so it's up to her
12 nerves, and it's up to herself and physical therapy.

13 Q Okay. So they are -- have the physical
14 therapists told you they think she'll improve some?

15 A Yes.

16 Q Okay. And, I guess, obviously, she hasn't
17 been seen back by Dr. Price about the surgery yet, so
18 you haven't had that conversation.

19 And the plan right now is to keep her in
20 physical therapy until someone tells you to stop?

21 A Yes.

22 Q Okay. Have you talked with any of her
23 doctors about what her condition is going to be like
24 permanently?

25 A Somewhat. As long as she's in physical
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1 therapy, she will progress somewhat. Maybe not
2 100 percent, maybe not 50 percent, but as she gets older
3 and she gets more aware of what's going on.

4 Q Okay. I see in your answers here that a
5 person named Maria, who works in Dr. Grossman's office,
6 suggested that you ought to consult an attorney
7 regarding Zenia's injury. Is that right?

8 A Yes.

9 Q Do you know who Maria is? Was she a
10 nurse?

11 A No. Maria is, basically, Dr. Grossman's
12 personal assistant or assistant.

13 Q And what did Maria say to you
14 specifically?

15 A She just, basically, asked me have I --
16 have I spoken to an attorney yet about this condition.

17 Q And what did you tell her?

18 A At the present time, I said, No.

19 Q Before you had talked to Maria, had you
20 thought about filing a lawsuit?

21 A Yes.

22 Q Okay. And why is that?

23 A Because of what happened to my daughter.

24 Q Okay. But did someone tell you that
25 Dr. Bruno did something wrong?

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1 A Did somebody tell me?

2 Q Uh-huh.

3 A Yes.

4 Q And who was that?

5 A People in general that I know.

6 Q Okay. Any doctors tell you that?

7 A No, not at that present time.

8 Q At that time, had you talked to any nurses
9 about it, anybody in the medical field about it?

10 A No.

11 Q Okay. Other than Maria asking you if you
12 had -- do you know Maria's last name by the way?

13 A No, I don't.

14 Q Other than her asking you if you had
15 talked to an attorney yet, did she tell you anything
16 else at that time?

17 A No.

18 Q All right. Did you talk to Dr. Grossman
19 about filing a lawsuit?

20 A No.

21 Q All right. Did you talk to Dr. Price
22 about filing a lawsuit?

23 A No.

24 Q Do you remember when you had that
25 conversation with Maria?

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1 A Around maybe her first visit.

2 Q Okay. Her first visit with Dr. Grossman?

3 A Yes.

4 Q All right. After that conversation, did
5 you then decide to go ahead and get an attorney?

6 A Yes.

7 Q All right. I'm not going to ask you any
8 questions about what you've talked to your attorney or
9 attorneys about. I do see in the medical chart that
10 there was a request for records from the Heilig firm.
11 Did you ask them to represent you at some point?

12 A Yes.

13 Q Okay. Generally speaking, why is it that
14 you are now with Mr. Lewis and his firm and not the
15 Heilig firm?

16 A They referred me to him.

17 Q Okay. Do you remember when that was?

18 A Maybe two years ago.

19 Q All right. Have you talked with any of
20 Zenia's doctors about this lawsuit?

21 A No.

22 Q Okay. Have you ever filed any other
23 lawsuits?

24 A No.

25 Q Have you made any sort of disability
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1 claims, social security disability claim?

2 A Yes.

3 Q And was that for Zenia?

4 A Yes.

5 Q And what was the outcome of that?

6 A She won.

7 Q Okay. So she's getting disability
8 payments?

9 A Yes, she is.

10 Q And when did you file that claim?

11 A Almost two years ago.

12 Q What kind of disability benefits does she
13 get?

14 A SSI.

15 Q Is that just a monthly check that comes?

16 A Yes.

17 Q And how much is that for?

18 A It was \$604. Right now it's \$133.

19 Q Any reason why it went from \$600 to \$100?

20 A It's, basically, income. It's based on
21 income.

22 Q So it's based on your income?

23 A Yes.

24 Q All right. Has she been declared
25 permanently disabled by social security? I guess -- is
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1 that something that she's going to get --

2 A As long as she has this condition.

3 Q Okay. Did they do any sort of disability
4 rating do you know?

5 A Well, I had to fight it and take it to a
6 judge.

7 Q Okay. And when was that?

8 A That was about two years ago.

9 Q Okay.

10 A It took a year I think -- a year to fight.

11 Q Was that in the Worker's Compensation
12 Commission?

13 A No.

14 Q No. So this was --

15 MS. ROBERTS: I have no idea where they
16 go.

17 MR. LEWIS: I don't either. I'm assuming
18 that she worked her way through the appeals process and
19 ended up in front of an administrative law judge.

20 THE WITNESS: That's what I did.

21 MR. LEWIS: But we had nothing to do with
22 it, and I don't have any records from social security on
23 that. If you want to get them, we will be happy to
24 cooperate with you.

25 MS. ROBERTS: Okay.
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1 BY MS. ROBERTS:

2 Q After Zenia was born, how many times did
3 you go back to see Dr. Bruno for follow-up?

4 A My six weeks, and then my tubes getting
5 tied.

6 Q Did you talk with him about her arm?

7 A At the six weeks.

8 Q What do you remember telling him?

9 A Just -- he was like, Oh, is this the baby?
10 And I said, Yes, this is the baby.

11 And I was just telling him about the arm,
12 and he said he didn't recall about her arm.

13 Q Okay. He didn't recall anything being
14 wrong with her arm at the delivery?

15 A Yes.

16 Q Did you have any other conversations with
17 Dr. Bruno about Zenia's arm?

18 A No.

19 Q All right. Did you talk with any of the
20 other doctors or nurses in his office since her birth
21 about her arm?

22 A No.

23 Q Have you talked to any doctors about --
24 yourself about this lawsuit or Zenia's arm and what
25 caused her injuries?

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1 A No. Just the doctors that's involved.

2 Not about the lawsuit, but just about her condition.

3 MS. ROBERTS: All right. I don't think I
4 have any other questions. Let me just flip through this
5 stuff for a second.

6

7 BY MS. ROBERTS:

8 Q During the actual delivery, could you see
9 anything that Dr. Bruno was doing while he was
10 delivering the baby?

11 A No.

12 Q Okay. I think I had asked you before if
13 Dr. Bruno had mentioned there being any complications
14 during this delivery. Did any of the nurses mention
15 anything to you during the delivery about any
16 complications?

17 A No.

18 MS. ROBERTS: All right. I do not have
19 any other questions.

20 We can just make that Exhibit 1.

21 Any questions?

22 MR. LEWIS: She'll waive.

23

24 (The deposition was concluded.)

25

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C E R T I F I C A T E

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, Connie D. Murden, Court Reporter,
Notary Public for the Commonwealth of Virginia at Large,
certify that the foregoing deposition of Sumone Hewins
was duly sworn to before me and taken by me at the time
and place and for the purpose in the caption mentioned
and that the transcript is a true record of the
testimony given by the witness.

I further certify that I am neither
attorney, nor counsel for, not related to or employed by
any of the parties to the action in which this
deposition is taken, and further, that I am not a
relative or employee of any attorney or counsel employed
by the parties hereto nor financially interested in the
action.

Given under my hand this 30th day of
November 2009.

Notary Public

My commission expires: December 31, 2011
ALVIS & CHEESEBREW, INC.

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