

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA
BEACH

BETTY CALDWELL, :
Plaintiff, :
v. : AT LAW NO.
GERTRUDE GREENE, : CL07-1477
Defendant. :
:

DEPOSITION UPON ORAL EXAMINATION
BETTY CALDWELL

January 19, 2009 -- 2:30 p.m.

Virginia Beach, Virginia

APPEARANCES: SHAPIRO, COOPER, LEWIS & APPLETON, P.C.
By: James C. Lewis, Esquire,
counsel for the Plaintiff.

LAMBERT & LAMBERT
By: Robert L. Lambert, Jr., Esquire,
counsel for the Defendant.

ALSO PRESENT: Gertrude Greene, the Defendant.
Old Dominion Reporting
Telephone: (757) 620-6836 Facsimile: (757) 255-4397

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXAMINATION

BETTY CALDWELL

PAGE

Examination by Mr. Lambert 3

1 Deposition upon oral examination of Betty Caldwell,
2 the Plaintiff, taken before Shannon A. Crittenden-Mann, a
3 Notary Public for the Commonwealth of Virginia at Large,
4 pursuant to Notice and Agreement, commencing at 2:30 p.m. on
5 January 19, 2009, at Law Offices of Hajek, Shapiro, Cooper,
6 Lewis & Appleton, P.C., 1294 Diamond Springs Road, Virginia
7 Beach, Virginia, and these in accordance with the Rules of
8 the Supreme Court of Virginia, 1950, as Amended.

9
10 BETTY CALDWELL, the Plaintiff, called as a witness
11 on discovery, after having been first duly sworn, was
12 examined and testified as follows:

13
14 BY MR. LAMBERT:

15 Q Ms. Caldwell, I've been introduced. My name is
16 Larry Lambert. I represent Ms. Greene in this case. You've
17 sat through one deposition, so you've kind of seen how
18 things proceed. Like your attorney, I'm going to be --
19 asked my client I'm going to be asking you a number of
20 questions about this accident, your treatment and some about
21 your medical history. If at any time I ask you a question
22 that you do not understand or I am not making myself clear
23 for any reason, please stop me and I'll be glad to repeat or
24 rephrase the question. Is that understood?

25 A That's fine.

1 Q And as you've also heard, you need to verbalize
2 all your responses as opposed to nodding your head or saying
3 uh-huh or uh-uh.

4 A Right.

5 Q All right. Is there any reason that -- are you on
6 any kind of medication or is there any reason you would not
7 be able to understand and respond to questions today?

8 A No.

9 Q Would you please state your full name for the
10 record?

11 A Betty H. Caldwell.

12 Q And your date of birth?

13 A July 1st, 1943.

14 Q And your social security number?

15 A 235-66-0679.

16 Q And where do you live?

17 A I live at 22479 Vellines Lane, Carrollton,
18 Virginia 23314.

19 Q And that's where you were living back when this
20 accident occurred back in 2003?

21 A That's correct.

22 Q How long have you been at that address?

23 A Since August of 1990.

24 Q Anyone else live with you at that address?

25 A My husband.

1 Q And just his name?

2 A Carrol.

3 Q Has he lived with you on a continuous basis
4 between 2003 and the present?

5 A Yes.

6 Q Did anyone else live with you or has anyone else
7 lived with you at that address between 2003 and the present
8 other than your husband?

9 A No.

10 Q Do you have any children?

11 A Two.

12 Q Just their names and ages?

13 A David, he's 44. Bobby is 39.

14 Q And I notice you had them listed in your
15 interrogatory answers. What, did they witness this
16 accident?

17 A No.

18 Q What information or knowledge would they have
19 regarding this accident or this case?

20 A My youngest son, Bobby, I called him. First I
21 called my house to get my husband and he was outside, and I
22 didn't get an answer on the phone so then I called my son.
23 He was at Chesapeake Square. He and his wife came.

24 Q They came to the accident scene?

25 A They came to the accident and then he called my
Old Dominion Reporting

1 husband and my husband came. He got him on the phone and
2 they both -- he arrived later.

3 Q What did David know about --

4 A David lives in Hampton.

5 Q What, if anything, does he know about the events
6 of the accident?

7 A He knows everything we've told him, you know.

8 Q How often do you see Bobby?

9 A Oh, about every other day.

10 Q What about David?

11 A Weekly.

12 Q Had that been true ever since 2003?

13 A Yes.

14 Q Have they both been local since that time?

15 A Yes.

16 Q Living locally. Are you employed?

17 A No. I'm retired.

18 Q And from where are you retired?

19 A Fort Monroe.

20 Q What did you do at Fort Monroe?

21 A I was a management analyst.

22 Q When did you retire?

23 A January 2nd, 2001.

24 Q And how long did you do that job?

25 A I was at Fort Monroe 31 years.

Old Dominion Reporting

1 Q All right. And is your husband employed?

2 A He's retired.

3 Q And from where is he retired?

4 A He retired from Langley Air Force Base.

5 Q What did he do there?

6 A He was a crane operator, civilian.

7 Q If you could just give me your educational
8 background.

9 A High school, some college courses, no degree.

10 Q Have you ever served in the military?

11 A No.

12 Q All right. Let me go ahead and direct your
13 attention to September 7th of 2003. Do you agree the
14 accident occurred sometime around 2:00 in the afternoon?

15 A I thought it was closer to 4:00, but I'm not sure.

16 Q Was it daytime, daylight?

17 A Yes, it was.

18 Q Where were you going when the accident occurred?

19 A I was going home.

20 Q And was someone with you at the time?

21 A My mother was in the passenger's side in the
22 front, and my granddaughter was in the back seat.

23 Q And your mother's name?

24 A Ruth Mae Hagerman.

25 Q And your granddaughter?

Old Dominion Reporting

Telephone: (757) 620-6836 Facsimile: (757) 255-4397

1 A Kaitlyn Caldwell.

2 Q How old was your granddaughter at the time?

3 A Six at the time.

4 Q And where -- and where were y'all coming from?

5 A We had gone down to Anna's Pizza to get a pizza.

6 Q Where is that located?

7 A In Smithfield on Church Street.

8 Q All right. And what road were you on when the
9 accident happened?

10 A Route 10.

11 Q And what were the traffic conditions like as far
12 as light, moderate, heavy? How would you describe it?

13 A It was light.

14 Q Tell me about the accident. What happened?

15 A Well, I was in the left lane going toward -- there
16 was a light ahead at Turner Drive and I was going about 45
17 miles an hour, and all of a sudden I was -- I was just hit
18 in the rear and kind of knocked into the turning lane.

19 Q Did you ever see -- now, what color was the light
20 as you approached?

21 A It was green.

22 Q And did you ever see the car that hit you at any
23 time before it made contact with you?

24 A No. Uh-uh.

25 Q Now, had you gone through any other intersections
Old Dominion Reporting

1 just prior to that time?

2 A No, not anything close by.

3 Q How long had you been travelling in the left lane?
4 What distance?

5 A Probably quarter mile or half a mile maybe. I had
6 to turn left a little farther up the road is the reason I
7 was in that lane.

8 Q Where were you going to turn left?

9 A Let's see. It's called Smiths Neck Road.

10 Q Now, you said you had been in that lane for a
11 quarter to a half mile?

12 A Uh-huh.

13 Q And when you got into that lane had you turned
14 from another road? Had you switched from another lane on
15 Route 10 or how had you --

16 A No. When I came out from Anna's I just -- I
17 hadn't switched lanes at all.

18 Q When you came out of Anna's is that on Route 10?

19 A I think that's on Church Street I believe.

20 Q From Church Street does that intersect Route 10?

21 A Yes. There's a light there.

22 Q Did you make a right or a left?

23 A I turned left to Route 10.

24 Q Is Route 10 -- how many lanes of travel does
25 Route 10 have there at Church Street?

1 A Two with turning lanes at the intersections.

2 Q Got you. And so when you made your left from
3 Church Street onto Route 10 you turned into the left lane at
4 that point?

5 A Uh-huh.

6 Q Did you ever change lanes from that point up until
7 the time the accident occurred?

8 A I did not.

9 Q All right. The speed limit back there when you
10 get back where you turn onto Route 10, what was the speed
11 limit up there at Church Street?

12 A 45.

13 Q It remains 45 all the way through?

14 A It's 45 on 10.

15 Q That's what I meant. On Route 10?

16 A I think, yeah, on 10 it's 45.

17 Q Did you hear the sound of skidding, a horn or
18 anything of that nature before this accident occurred --
19 before you felt the accident occur?

20 A I didn't hear anything until I heard this loud
21 scrubbing noise pushing me across the road, and I looked up
22 in the rear-view mirror and I saw the car in my -- through
23 the back, you know. It was right up on me.

24 Q Did anybody in the car -- was that after you had
25 already been hit?

1 A It was pushing me along.

2 Q Had you -- did anybody in the car call out or give
3 you any kind of warning that something was about to happen?

4 A No. Uh-uh.

5 Q Did your mother ever inform you that she saw the
6 other car any time before the accident happened?

7 A No. Nobody saw it. Uh-uh.

8 Q Now, in your answers to interrogatories you
9 mention that -- your description is you were travelling on
10 Route 10 at approximately 45 miles an hour and that
11 Ms. Greene had decided to switch lanes to pass you. What
12 made you believe that?

13 A Well, that was an assumption on my part because of
14 the way she hit me.

15 Q And when you say "the way," what do you -- what do
16 you mean?

17 A Well, it hit that side of the car and if she was
18 behind me and was going to go into the other lane is what
19 appeared.

20 Q Did she hit straight on or off to one side or the
21 other?

22 A It just hit from that --

23 Q The driver's side or passenger's side?

24 A Passenger's side. I'm sorry. Passenger's side.

25 Q All right. Based on where the damage on your car
Old Dominion Reporting

1 was, is that where you made the assumption you thought she
2 might have been trying to pass you?

3 A Uh-huh.

4 Q Is that a yes?

5 A Yes. I'm sorry. Yes.

6 Q How far were you from the intersection or the
7 actual light when you got hit?

8 A Let's see. I would say probably 50 or 60 feet.
9 That's a pretty good distance.

10 Q Had you already reached the point where the
11 contact occurred with the back of your car initially or were
12 you already up even with the left turn lane to your left?

13 A No. Almost to it, but it knocked me over into it.
14 I kind of was pushed forward and to the side into that lane.

15 Q Did your vehicle strike anything else, that is
16 another car, guardrails, poles, anything like that?

17 A No, sir.

18 Q What, if anything, did you do in reaction to
19 feeling the contact I mean as far as the operation of your
20 vehicle?

21 A I guess I braked. I don't know. I stopped
22 anyway.

23 Q And how would you describe the contact between the
24 vehicles as far as severity, mild, moderate, heavy?

25 A Well, from my -- from my standpoint it was
Old Dominion Reporting

1 pretty -- a pretty hard hit.

2 Q Now, when your vehicle came to rest, which lane or
3 lanes was it in?

4 A I was in the turning lane.

5 Q Was any portion of your vehicle still in the
6 through lane?

7 A I don't believe so.

8 Q Where was Ms. Greene's vehicle after you came to
9 rest?

10 A I think it was in the left lane.

11 Q And when you say the left lane, would that be the
12 turn lane or the left straight lane?

13 A No, not the turning lane. The left straight lane.

14 Q Was it near your vehicle? Was it back down the
15 roadway somewhere? Where was -- how far away was it from
16 your car?

17 A It wasn't up against my car. I don't know how
18 many feet away from it it was, but it wasn't up against it.

19 Q Could you fit another car between the two vehicles
20 or was it not that far or was it farther than that?

21 A I don't know.

22 Q Was any portion of your vehicle off the side of
23 the roadway at all?

24 A I don't believe so. I think it was just in the
25 lane, in that turning lane.

1 Q All right. What did you do after your car came to
2 rest? Did you remain in the vehicle? Did you get out of
3 the vehicle or what did you do?

4 A I sit there a few minutes. I kind of felt like I
5 was going to faint. I got light-headed and then I made the
6 phone call to my son -- to my husband and then to my son. I
7 made sure everybody was okay in the car, and I think at that
8 point Ms. Greene came up to me.

9 Q All right. What, if anything, did she say?

10 A She wanted to know if I was okay.

11 Q Did you say anything back to her?

12 A I said, "I think I'm okay."

13 Q Any other conversation between yourself and
14 Ms. Greene at any other point in time other than what you've
15 already told me?

16 A I think about four or five days later she called
17 me at home.

18 Q Did you actually speak to her?

19 A Yes, I did. I answered the phone.

20 Q What, if anything, did she say at that point?

21 A She just wanted to make sure I was okay. She was
22 very nice.

23 Q And what did you tell her?

24 A I told her I was having problems with my neck and
25 my shoulder and headaches, and basically that's about it I

1 guess.

2 Q Was there any other conversation or any other
3 statements by Ms. Greene to you?

4 A That was the only time I spoke with her.

5 Q Other than speaking to you directly, what you've
6 already told me, did you overhear Ms. Greene making any
7 statements or saying anything to anybody else at the
8 accident scene or any other time?

9 A No, sir.

10 Q Now, you heard -- you said your son Bobby came out
11 to the scene; correct?

12 A Yes.

13 Q And his wife was there as well?

14 A Yes.

15 Q Do you know whether they spoke to Ms. Greene at
16 all?

17 A I don't know.

18 Q Have they -- has he ever related to you or told
19 you since that day that he had any conversation with
20 Ms. Greene?

21 A No, he has not.

22 Q You said your husband also came to the scene?

23 A Uh-huh.

24 Q And is that a yes?

25 A Yes, that's a yes. I'm sorry.

Old Dominion Reporting

Telephone: (757) 620-6836 Facsimile: (757) 255-4397

1 Q I'm doing it for her benefit. It makes her job a
2 lot easier.

3 A I understand. I'm sorry.

4 Q All right. And did your husband speak to
5 Ms. Greene to your knowledge?

6 A I don't remember him speaking with her.

7 Q Has he ever told you that he spoke to her or she
8 made any statements to him at any point in time?

9 A No.

10 Q Now, police came to the scene?

11 A Yes.

12 Q Did you speak to the investigating officer?

13 A I think I spoke to a policeman.

14 Q Was there more than one there?

15 A I don't remember.

16 Q Did you provide a statement to the officer about
17 what happened or how the accident occurred from your view
18 point?

19 A You know, I can't remember. I was in kind of
20 almost a state of shock.

21 Q An ambulance come to the scene?

22 A Yes.

23 Q How long were you there before the ambulance got
24 there?

25 A Just a few minutes I believe. It's close by.

1 Q Did more than one rescue squad come to the scene?

2 A I don't recall. I don't know. I just remember
3 the one.

4 Q Now, did someone initially come -- did you ever
5 get out of the vehicle while you were at the scene?

6 A I think I got out and stood out by the car.

7 Q Was that before or after the police got there?

8 A I don't know.

9 Q Was it before or after an ambulance got there, a
10 rescue squad?

11 A I don't know that either. I can't remember.

12 Q Did you speak to -- did you initially turn down
13 treatment at the scene with the ambulance or rescue
14 personnel?

15 A Yes. I did not want to go to the hospital.

16 Q And somewhere along the line that changed I guess;
17 is that correct?

18 A Well, my husband got there about that time and he
19 knew that my neck was hurting me already but not a lot. It
20 was just it was bothering me, and he knew I had problems
21 with my neck and he insisted that I go. So reluctantly I
22 went.

23 Q Got you. And when you said he knew you had
24 problems with your neck what do you mean?

25 A No. He knew that I had disk surgery, you know, a
Old Dominion Reporting

1 few years before and he was concerned that I was having pain
2 up the side of my neck, and he insisted that I go to get it
3 checked out.

4 Q And at that point at the scene what part of your
5 neck was bothering you?

6 A It was the side of the back on the left-hand side
7 and I was having some low back pain.

8 Q All right. So you were transported from the
9 scene; correct?

10 A Yes, sir.

11 Q When the accident occurred did you strike any part
12 of your body on the interior of the car?

13 A You mean like my head or something?

14 Q Head or arm or anything?

15 A No. I think I just kind of -- I think when the
16 blow was like from the taillight toward the steering wheel,
17 back taillight toward the steering wheel, and I was -- had
18 said something to my mother, and it kind of jerked my head
19 from the side to the back.

20 Q And when you said you said something to your
21 mother, are you talking about after the accident happened or
22 while the accident was happening?

23 A Well, she was in the passenger's seat and she said
24 I had turned around and had looked at her, you know, just
25 glanced at her about the time it hit.

1 Q So you were in that position when the accident
2 happened?

3 A Yes. My head was turned that way toward her, and
4 I think that's why --

5 Q That would have been toward the right?

6 A Yes, to my right, and I think that's probably
7 what's caused some of the problems.

8 Q All right. And back to my original question I
9 guess, did you strike any part of your body on the interior
10 of the car that you can recall?

11 A No, other than my head on the head -- back of the
12 seat.

13 Q All right. And any airbags deploy in your car?

14 A No.

15 Q Were you wearing a seat belt?

16 A I was.

17 Q Was that a belt going across your waist or across
18 your waist and your chest?

19 A It was both.

20 Q Both?

21 A Uh-huh.

22 Q Did that catch or hold you at all in the accident?

23 A As far as I know it did.

24 Q All right. When you were taken to the -- you were
25 taken to Riverside?

1 A Yes, sir.

2 Q So when you got to Riverside what was bothering
3 you? What problems were you having?

4 A Well, my neck was hurting. My -- I was just kind
5 of -- just mostly I was in -- I didn't know really. I was
6 confused that the whole thing just kind of -- I guess I was
7 upset, but my back was hurting and my neck was hurting.

8 Q And when you say your back what --

9 A I was hurting across the lower part of my back.

10 Q All right. Anything else?

11 A No, not that I remember now.

12 Q Did they keep you there overnight --

13 A No, sir.

14 Q -- or did they let you go?

15 A No, sir, they did not.

16 Q Did they give you any medication or take any
17 x-rays or do anything like that?

18 A They x-rayed me I believe.

19 Q Did they provide you any medication or
20 prescription when you left?

21 A I think they gave me a prescription for pain
22 medicine I believe. You know, it's been so long now.

23 Q Now, where were you seen next?

24 A I went to Dr. Michael Joynes.

25 Q That was your family doctor?
Old Dominion Reporting

1 A Primary care, right.

2 Q Now, how long had he been your family doctor
3 before this?

4 A About 18 or 19 years.

5 Q Was he with Hampton Roads Family Practice?

6 A He was. Still is.

7 Q Still is?

8 A Uh-huh.

9 Q All right. And by the time you got to him,
10 whenever it was the first time after this accident -- I'm
11 going to go by the records. It looks like you may have seen
12 him the next day. Does that sound about right, pretty soon
13 right after?

14 A Within a day or so.

15 Q And what pain or problems were you having at that
16 point?

17 A Neck and shoulder.

18 Q And when you say shoulder, what shoulder are you
19 referring to?

20 A Neck and left shoulder.

21 Q And was it pain, stiffness? What were you
22 experiencing?

23 A A lot of pain, pain going up the side of my head,
24 pain around the collar bone section of my neck.

25 Q All right. Were you having any other pain
Old Dominion Reporting

1 anywhere else in your body at that point?

2 A I did not have the back pain. I didn't have any
3 more of that after, you know, the initial. That went away.

4 Q That went away pretty quickly?

5 A Pretty -- yes.

6 Q And did Dr. Joynes recommend anything for you,
7 send you anywhere or what did he --

8 A Physical therapy.

9 Q All right. Now, you had already -- when you say
10 you went to physical therapy, where was that that Dr. Joynes
11 sent you?

12 A It was there on Executive Drive. Oh, gosh, I
13 can't -- I have records on it, but I don't know.

14 Q Tidewater Physical Therapy?

15 A That sounds right.

16 Q Does that sound right?

17 A That does.

18 Q And I'm going to go by the records that y'all
19 provided. It looks like you went there, according to these
20 records, from about September 24th, '03 to October 28th,
21 '03, for about a month. Does that sound right, the initial
22 time you went?

23 A Probably. I was going to say a couple weeks, but
24 that's probably right. I didn't keep track of it.

25 Q And I'm just trying -- I'm just trying to make
Old Dominion Reporting

1 sure I have a full picture. That's all I'm trying to do at
2 this juncture. All right. And what parts of your body did
3 they treat when you did go to that therapy when Dr. Joynes
4 sent you initially after this accident?

5 A Shoulder, neck.

6 Q And what type of things were they doing for you?
7 What kind of treatment were they giving you?

8 A Let's see. They were doing I think the hot packs.
9 I believe the Tens unit. They were doing three or four
10 different things. I can't recall all of them.

11 Q Now, have you undergone some similar or some types
12 of treatments like that in the past before with your prior
13 problems?

14 A When you say in the past how far are you going
15 back?

16 Q Any time before that had you been through therapy
17 before?

18 A No. I don't recall if I had it back in the
19 seventies. I think back in the seventies I may have had
20 some but not in 15 or 20 years I had not.

21 Q You did -- so after your surgery you never had any
22 therapy?

23 A No. No. I had -- after I had the surgery I had
24 absolutely no pain.

25 Q All right. Let me go back now. Apparently did
 Old Dominion Reporting

1 you continue to follow with your family doctor after you had
2 therapy or did you just not go back to him anymore after
3 that?

4 A I went back to him again and then we changed
5 doctors and I had to find a new primary care doctor because
6 he no longer accepted -- took the federal insurance that I
7 had. He had dropped. I had MAMSI or MDIPA or MAMSI and he
8 no longer carried that.

9 Q Got you. Let me get you oriented as to time I
10 guess is what I'm trying to okay.

11 A Okay.

12 Q I'm looking at some records from Hampton Roads
13 Family Practice. It says according to this you saw him the
14 day after the accident. That would be Dr. Joynes?

15 A Right.

16 Q You said at that point he referred you for some
17 therapy?

18 A Uh-huh.

19 Q And you went to Tidewater Physical Therapy?

20 A Uh-huh.

21 Q As I told you, it looks like about a month, and
22 you said sounds about right; is that right?

23 A Correct.

24 Q And you said the next person -- who was the next
25 doctor you saw after that, after you saw Dr. -- well,

1 actually let me see. Dr. Joynes, did you ever see him again
2 for anything accident related any time after September '03?

3 A I think I did see him again after that.

4 Q Do you know when that was?

5 A No, I do not know. I mean, I have records of it
6 in my car, but I don't know right now when that was. It was
7 soon after though.

8 Q He continued to be your regular family doctor for
9 a little while after this?

10 A For a while.

11 Q You see him for sore throats, typical cold things?

12 A Uh-huh.

13 Q And looking at -- and again looking through the
14 records I see where you've seen him for an earache in May of
15 '04. You saw him in January for a sore throat, January of
16 '04. Do you know when you think you may have been back to
17 see him about anything related to this accident if you had
18 any time after September, October of '03?

19 A I don't -- I don't know. Without looking in my
20 records, I don't know.

21 Q All right. Now, there also appears to be -- you
22 had a visit with Dr. Garner?

23 A Right.

24 Q Neurologist?

25 A Uh-huh.

1 Q November of '03, do you recall that?

2 A I do.

3 Q Just saw him on the one occasion.

4 A Uh-huh.

5 Q How did you get to him or how did you --

6 A I was referred to him I guess it was by

7 Dr. Joynes.

8 Q What did Dr. Garner tell you or do for you when
9 you did see him on the one occasion?

10 A Dr. Garner told me that he thought it was cervical
11 strain and that it would just take time. He said you can go
12 to a pain management clinic if you want. I said, well, I'll
13 just treat it with heat and muscle relaxers and consider
14 that at a future time if it doesn't go away.

15 Q When you did see Dr. Garner what kind of symptoms
16 were you having still at that point, and this is September
17 '03?

18 A Still severe pain in the neck, shoulder,
19 headaches.

20 Q All right. And unless you tell me otherwise, I'm
21 going to assume you're talking about your left shoulder; is
22 that correct?

23 A It's always the left shoulder.

24 Q Did you have pain in your right shoulder at any
25 time?

1 A No, I did not.

2 Q Now, did you have an MRI of your neck during that
3 time frame?

4 A Dr. Garner ordered an MRI.

5 Q In the fall? In the fall of '03?

6 A I believe it was in November.

7 Q You just saw him the one time; right?

8 A Right. Uh-huh.

9 Q Did he ever tell you what he thought that MRI
10 showed or what the results were?

11 A He told me he thought it was neck strain and that
12 time would -- he said it will just take some time for it to
13 go away.

14 Q You had had an MRI before this sometime in the
15 distant past?

16 A Probably in 1990.

17 Q Who would have ordered that MRI?

18 A Dr. McAdam.

19 Q He's the one who performed the surgery?

20 A Yes.

21 Q Where did you have that other MRI done, the one
22 you had had back in -- Dr. McAdam did?

23 A I believe it was Riverside.

24 Q And was that before or after your surgery that you
25 had that?

1 A Before.

2 Q Had you had any MRIs any time after your surgery
3 by Dr. McAdam and before this accident in September of '03?

4 A I had one in June of -- I believe it was June of
5 '97.

6 Q And why did you have one in June of '97?

7 A I was having pain in the right side.

8 Q Okay.

9 A Right side. Now, this is in '97, in the right
10 side neck and shoulder. He did an MRI and he said that I
11 had a herniated disk in that side.

12 Q "He" being Dr. Adams?

13 A Dr. McAdam.

14 Q Dr. McAdam? I'm sorry.

15 A Uh-huh.

16 Q Was that -- where was that MRI performed?

17 A I'm not sure. It might have been Sentara, but I'm
18 not sure about that.

19 Q Now, when you say Sentara, Sentara CarePlex?

20 A CarePlex.

21 Q Same place you had one after this accident?

22 A Yes. Yes, it was. Uh-huh.

23 Q How long had you had those neck symptoms before
24 you had that MRI in '97?

25 A '97 probably a couple weeks.

Old Dominion Reporting

Telephone: (757) 620-6836 Facsimile: (757) 255-4397

1 Q How long did you have them after that MRI in '97?

2 A Probably couple of weeks or so.

3 Q Did you get any treatment after that other than
4 MRI?

5 A I went to -- I went to him and he told me that he
6 could do surgery and we were going to set it up, and by the
7 time I went back to him I had another appointment, went back
8 to him again and the pain had gone away.

9 Q Was there any particular event or anything that
10 caused the pain to start, I mean, that you could put your
11 finger on as far as a fall or anything?

12 A I hadn't fallen or anything. I was doing yard
13 work is the only thing I had done. I don't know if that's
14 what did it or not, but I was working in the yard.

15 Q All right. Any other treatment other than the MRI
16 and the follow-up with Dr. McAdam in that '97 time?

17 A No. All the pain went away. I went back to him
18 and told him. I said, "I don't understand it. I don't have
19 the pain anymore." He said, "Well, if it comes back I'll
20 give you first priority. You call me." It never came back.
21 I had never been back to a doctor until after this incident.

22 Q After you saw Dr. McAdam in '97 did you ever
23 discuss that with Dr. Joynes or any other doctors any neck
24 pain or problems?

25 A No, I did not.

1 Q So after this accident in November -- I'm sorry --
2 September of '03 we've already discussed Dr. Garner you saw
3 in November of '03. The next person you saw, would that
4 have been your new family practitioner?

5 A Probably Dr. Ross.

6 Q And when did he become your new doctor?

7 A I think it was in August -- gosh, I don't know
8 what year it was. I've been going to him probably about
9 four years I guess.

10 Q Would that be August of '04?

11 A I can't say. I don't know.

12 MR. LEWIS: It's actually September.

13 THE WITNESS: September.

14 MR. LAMBERT: August, September '04? I just
15 want to make sure we're on the right page.

16 MR. LEWIS: Uh-huh.

17

18 BY MR. LAMBERT:

19 Q When you -- was that the -- that would have been
20 the first time you had actually seen Dr. Ross about
21 anything; correct?

22 A Right.

23 Q When you did -- when you first saw Dr. Ross at
24 that point did you talk to him about your neck or shoulder
25 pains or problem?

1 A I don't recall if I did or not. He was a new
2 doctor and required a physical. So I went in and just had
3 the normal physical things and we didn't discuss any
4 problems as I recall.

5 Q And there come a point you did discuss those
6 problems with him?

7 A Yes.

8 Q And what did you do -- when did you officially
9 make the transition? Was Dr. Joynes still your doctor up
10 until that September or August, September when you started
11 with Dr. Ross?

12 A Yes.

13 Q In other words -- so you always had a doctor.
14 It's just when you made the change; is that correct?

15 A Uh-huh.

16 Q How were you doing -- and again going by the
17 records it looks like you finished up -- you saw Garner
18 November '03. How was your neck and shoulder doing between
19 November of '03 and September of '04 when you saw Dr. Ross?

20 A It was still bothering me every day. I was using
21 Lidocaine patches.

22 Q Who was prescribing those?

23 A I guess it was Joynes. I don't -- I can't
24 remember, but I was just taking -- I cannot take any
25 narcotic medicine. So I was taking like Ibuprofen, you

1 know, things over-the-counter, using a heating pad. I can't
2 tolerate anything that's like -- anything narcotic, I can't
3 take it.

4 Q Stomach problems, things like that?

5 A I throw up for five and six hours if I take
6 something like a Vicodin or Demerol. I mean, McAdam tried
7 me on all of those and I just couldn't take them.

8 Q So you just did some over-the-counter things and
9 you believe Lidocaine and heating pad?

10 A Well, it was heating pad, and at some point I got
11 a Tens unit.

12 Q Who prescribed that?

13 A I think that was Dr. Quidgley at the Virginia --
14 Eastern Virginia Medical School. Dr. Ross referred me to
15 him.

16 Q Got you. Again, I'm specifically kind of zeroing
17 in on this time period from November of '03 until September
18 of '04 when you started with Dr. Ross. Apparently you
19 hadn't -- from the records I've been provided it doesn't
20 look like you've seen any doctors or health care providers
21 during that time period --

22 A That's correct.

23 Q -- for this accident?

24 A Yes. That's correct, and the reason I had not,
25 Dr. McAdam and Dr. Joynes had both told me that this type of
Old Dominion Reporting

1 injury is just -- and the physical therapist had said this
2 is going to have to just take time. So I just could not see
3 running to doctors and spending money that I couldn't afford
4 when they were telling me it's going to take time, and I had
5 no desire at that time to try to build a case against
6 anybody.

7 Q Now, when did you decide that you were going to go
8 back to a doctor? What prompted you to do that?

9 A It just was not getting better. It had gone on
10 too long and it was just -- it was getting -- in some ways
11 it was getting worse.

12 Q What was changing or getting worse?

13 A The intensity, everything I did made it almost
14 unbearable.

15 Q When you initially had that first round of
16 physical therapy did you get any improvement in your neck
17 pain or problems?

18 A Temporarily.

19 Q So Dr. Ross, what kind of treatment when you did
20 see him what kind of treatment did he provide or give you
21 with regard to your neck or shoulder complaints?

22 A He referred me to Dr. Quidgley for -- over in
23 Norfolk.

24 Q He's at EVMS?

25 A EVMS Physical Medicine.

Old Dominion Reporting

Telephone: (757) 620-6836 Facsimile: (757) 255-4397

1 Q Now, had you ever been to a physical medicine
2 doctor or physiatrist, pain management doctor before?

3 A No, not before.

4 Q And Dr. -- and we'll go by the records. It looks
5 like you saw him first in February '05. Is that kind of
6 helping you get oriented? Does that sound about right?

7 A I cannot be sure about dates.

8 Q Well, whatever it was, when you first saw
9 Dr. Quidgley over at EVMS what problems were you having?
10 What symptoms were you having?

11 A Neck pain, shoulder pain, muscle spasms,
12 headaches.

13 Q What part of your head? What kind of headaches
14 were you having?

15 A The pain goes up the back of my neck, on the side,
16 behind my ear, up to the top of my head, and the shoulder
17 pain underneath the shoulder blade, and sometimes the pain
18 would radiate down the arm almost to the elbow.

19 Q When did you notice -- when did you first notice
20 the pain radiating down your arm?

21 A It was always off and on. Mostly though it's just
22 the neck area and the shoulder and underneath the shoulder
23 blade.

24 Q Now, when did you first notice the headaches?

25 A Well, I guess they were from the beginning.

1 Q Had they ever gone away for any period of time
2 after the accident before you saw Dr. Quidgley?

3 A At times I would not -- at times they did. I
4 mean, I don't have them seven days a week now.

5 Q How frequently were you getting them during that
6 time period after the accident before you saw Dr. Quidgley?

7 A From '07 to '05.

8 Q That would have been September of '03 to February
9 of '05?

10 A They were irregular. I mean, there was no -- no
11 set pattern I don't guess.

12 Q So as far as giving an average or estimating how
13 many times you --

14 A Sometimes you'd go in to Dr. Quidgley and you'd
15 have to fill out a form on how you are that day. You give
16 your pain, a one to ten. You know, you might go in today
17 and not have headaches. You might go in next month and
18 having severe headaches so --

19 Q So it's possibility you might go a month without
20 any headaches and then next thing you know you have
21 headaches?

22 A Yeah, but the neck pain was always there.

23 Q Was there any period of time between the time of
24 the accident and the time you first saw Dr. Quidgley that
25 you didn't have neck pain?

1 A No.

2 Q Was there any day at all that you went by without
3 having neck pain?

4 A I don't think so.

5 Q When you did have the neck pain was it lasting all
6 day or was it just coming on with certain activities or --

7 A It's 24 hours a day at varying degrees, but
8 activities make it worse.

9 Q What type of activities make it worse?

10 A Turning my head to the left, lifting something
11 that weighs ten, twelve pounds, putting my arms over my head
12 to do anything. Mainly I guess those are the type things,
13 lifting and --

14 Q All right. So Dr. Quidgley, what did he do for
15 you? What kind of treatment did he provide?

16 A He has periodically given me trigger point
17 injections, and he gave me Lidocaine patches and he ordered
18 a Tens unit.

19 Q Now, let's address these things one at a time.
20 These trigger point injections, how many times have you had
21 those?

22 A I think I've had them about four times.

23 Q What part of your body did he give you those?

24 A Neck and shoulder.

25 Q That's something done right in his office there?
 Old Dominion Reporting

1 A Uh-huh. Yes, sir.

2 Q Did you get any improvement -- first started off
3 with your neck symptoms when you had the trigger point
4 injection?

5 A I did. The first time I had them I was -- got a
6 lot of relief. It never completely went away, but I got
7 relief from the pain and it lasted about four months.

8 Q Did you have any other follow-up trigger point
9 injections to your shoulder?

10 A Yes.

11 Q Did those help?

12 A Yes, but the next time it was even -- it lasted
13 longer. I mean, it helped a little bit longer, and then the
14 last time I had them they didn't help at all.

15 Q And did you have the neck and the shoulder
16 injections on the same days whenever he gave them to you?

17 A I think -- I think mainly the first couple was at
18 the upper shoulder and shoulder blade right at the base of
19 the neck, and the last time I think they were in the neck
20 and the top of the shoulder. He did them in various places.

21 Q Did he -- all right. And when's -- according to
22 the records I have it looks like the last time you saw him
23 was in November of '06.

24 A No. That's not correct.

25 Q When have you seen him after?

Old Dominion Reporting

1 A I saw him in it was either October or November. I
2 saw him in August of this past summer. I saw him in the
3 fall, and I have an appointment in February.

4 Q So you saw him, I'm sorry, August of --

5 A August, and I think I saw him in October.

6 Q Did you see him any time between November of '06
7 and August of '08?

8 A I can't remember if I did or not. Whenever the
9 pain would get unbearable I would go in and get trigger
10 point injections, and like I said, they would last
11 various -- sometimes they would last several months and
12 sometimes -- well, the one particular time they didn't help
13 at all. He had changed the medication, and he said it might
14 not do as well as he had been given me and it didn't, but
15 you can't get in to see him. You know, you can wait four
16 months to get an appointment with him because they're short
17 of doctors and they've had a couple doctors leave. Right
18 now I'm due to go in in February.

19 Q Well, let me talk to you about this period from
20 November of '06 to August of '08. That's a year and nine
21 months.

22 A Okay. During that time I was using the Tens unit
23 and the Lidocaine patches and muscle relaxers. I did not go
24 in to see him. I don't think I was in during that time.

25 Q And you didn't try to get any appointments during
Old Dominion Reporting

1 that time?

2 A I don't think so. I don't recall trying to.

3 Q What prompted you to go back all of a sudden in
4 August of '08?

5 A The pain just got worse.

6 Q Were you doing anything in particular that made
7 the pain get worse or --

8 A I picked up -- I picked up my niece's baby that
9 was eight months old and set it up in front of me on the
10 table at my mother's house, and the pain was excruciating
11 just from lifting that baby that weighed probably 10 or 12,
12 14 pounds.

13 Q Now, at that point when had you last had a
14 prescription renewed for Lidocaine before August of '08?

15 A I don't know. Of '08 I had -- I had a
16 prescription filled in January I know because I had
17 shingles, and Dr. Ross prescribed Lidocaine patches.

18 Q For the shingles?

19 A For the shingles, but I used them for my neck and
20 the shingles.

21 Q But your understanding was -- when was the last
22 time he had prescribed the Lidocaine patches before January
23 of '08?

24 A I don't know.

25 Q When were you diagnosed with the shingles?

1 A January.

2 Q Of '08?

3 A '08.

4 Q What pain symptoms were you having associated with
5 the shingles? What parts of your body?

6 A My left thigh and hip.

7 Q Had you had that before? Had you ever been
8 diagnosed with shingles before that?

9 A No. Don't want to have them again either.

10 Q When was the last time you had had Lidocaine
11 patches prescribed for you before January of '08?

12 A Don't know.

13 Q Don't know whether it was a month, six months, a
14 year?

15 A I don't know. He always gives me refills.

16 Q "He" being Dr. Ross?

17 A Dr. Quidgley.

18 Q Dr. Quidgley prescribed the Lidocaine patches?

19 A He did too. Well, Dr. Ross did for the shingles,
20 but Dr. Quidgley always gave me refills.

21 Q And I guess that's what I'm trying to figure out.
22 Before January of '08 when's the last time anybody gave you
23 any kind of refill for Lidocaine?

24 A I don't know.

25 Q And when I asked you a few moments ago whether it
Old Dominion Reporting

1 was a month, six months, a year you just don't know?

2 A I have no idea.

3 Q But you specifically remember getting them in
4 September -- I mean, January of '08?

5 A I know I do because I would get them for the
6 shingles. I thought that was weird.

7 Q Dr. Ross had prescribed it for that?

8 A He did.

9 Q Has Dr. Quidgley prescribed you Lidocaine since
10 that time?

11 A Yes, he has.

12 Q When has he prescribed you Lidocaine patches since
13 then?

14 A I think it was October I believe.

15 Q Of '08?

16 A Uh-huh.

17 Q He prescribe you any other medication?

18 A Skelaxin.

19 Q When did he prescribe that to you?

20 A Well, he's been prescribing it off and on as I've
21 needed it, but in October I think it was, the last time.

22 Q When's the last time he prescribed Skelaxin for
23 you before October of '08?

24 A I don't know.

25 Q Did he give you any trigger point injections in
Old Dominion Reporting

1 October '08?

2 A I went in to get them, but I couldn't get them
3 because they hadn't got approval from the insurance.

4 Q Have you had any trigger point injections with him
5 any time in '08?

6 A Yes, in August.

7 Q Did he prescribe anything else other than
8 medication and giving you trigger point injections any time
9 in '08?

10 A No.

11 Q You didn't see him in '07 at all?

12 A I'm not sure. I don't know.

13 Q When you initially saw Dr. Nevares he -- did he
14 send you to therapy?

15 A I've been to therapy twice on two different -- two
16 different occasions I've had a series, but I can't remember
17 if it was -- if he was the one or not. I don't know. I
18 don't know.

19 Q I'm looking at the records that y'all provided.
20 It looks like you went to another therapy at Physical
21 Therapy Works February '05 to April '05. Do you recall
22 going to any other therapy other than that period?

23 A No. Uh-uh. I had been through therapy twice and
24 I -- I didn't see the benefit of it.

25 Q Did you get any improvement with your therapy that
 Old Dominion Reporting

1 you had at Physical Therapy Works in February through
2 April of '05?

3 A It was just temporary. I mean, it was temporary.

4 Q And when you say temporary, what got better
5 temporarily?

6 A I mean, it helped for a few days, maybe a week or
7 so, but then it would just come right back so --

8 Q Now, you said you also got a Tens unit?

9 A Yes.

10 Q Had you ever used one of those before this
11 accident?

12 A No, I don't -- well, yes, I had used one. At one
13 point in time I had used one.

14 Q Who had prescribed you one before?

15 A It was not mine. I just tried it. My son had
16 one.

17 Q When did you try that?

18 A I put it on my arm. I had a sprained wrist or
19 something.

20 Q When was that?

21 A Oh, gosh, ten years ago probably.

22 Q Have you ever used one on your neck or your back
23 or shoulder area before this accident?

24 A No.

25 Q Are you currently -- you're currently scheduled to
 Old Dominion Reporting

1 see Dr. Nevares in February you say?

2 A Yes, sir.

3 Q Has Dr. Ross treated you at all for any complaints
4 related to the automobile accident any time since 2005?

5 A He has not. He referred me to Dr. Nevares and --

6 Q Once he did that he hadn't really treated you for
7 it?

8 A No, he had not. I mentioned it to him when I had
9 my physical in September.

10 Q Of?

11 A This year or '08.

12 Q You mentioned what to him?

13 A I asked him if he thought a chiropractor would
14 help.

15 Q What did he tell you?

16 A He said, "No." He said, "I can't tell you not to
17 go to one, but my feeling is the neck is such a sensitive
18 area I would not recommend it," and I did not -- I didn't
19 go. I felt like I had tried everything else. I thought
20 maybe a chiropractor might help.

21 Q All right. Have you been to any other doctors or
22 health care providers other than Dr. -- Hampton Roads Family
23 Practice doctor, Dr. Ross, Riverside Regional Medical
24 Center, Dr. -- Dr. Garner on the one occasion and
25 Dr. Nevares for anything related to this accident?

1 A No, sir.

2 Q You also been -- has Dr. Nevares prescribed any
3 additional therapy for you or anything?

4 A Just the trigger point injections. They
5 mentioned -- one thing they did mention the last time I was
6 in -- it was not Dr. Nevares. I saw a physician assistant,
7 and she wanted to know if I wanted to try an
8 anti-depressant. They said sometimes that would help in
9 pain management and she gave me -- it was Cymbalta.

10 Q What was it called?

11 A Cymbalta. She gave me two sample packages, and
12 after reading the side effects I decided I did not want to
13 take that. I've never taken an anti-depressant, and I
14 didn't figure this was the time to start.

15 Q Let me ask you about your prior history. You've
16 already told me about the -- you had the neck surgery by
17 Dr. McAdam. That was in -- what year was that that you had
18 your surgery?

19 A 1993.

20 Q All right. And did you have -- you said you had
21 no pain or problems after that?

22 A Absolutely none.

23 Q Before this surgery was the pain in your left side
24 at that point?

25 A It was.

1 Q Also the left -- same area as you had after this
2 accident?

3 A Prior to 1990, yes.

4 Q Prior to your surgery?

5 A Yes.

6 Q Now, after your surgery with Dr. McAdam -- but it
7 was the same areas that you were experiencing after the
8 automobile accident that you were experiencing before your
9 neck surgery; is that correct?

10 A Repeat that, please.

11 Q The symptoms you were having in your left neck,
12 your left shoulder, left scapular area, those were the areas
13 you were having the problems before the surgery Dr. McAdam
14 performed in '93?

15 A Not this area. The shoulder and the neck, yes,
16 but not -- not the area of the collar bone.

17 Q Not the collar bone?

18 A No.

19 Q After your surgery by Dr. McAdam in '93 did you
20 have any residual pain or problems in those areas of your
21 body?

22 A Absolutely none. Well, until -- well, no, not on
23 the left side. In '97 I had a problem on the right side.

24 Q Which we've already talked about?

25 A Right.

1 Q And you said that kind of went away on its own
2 after a short while?

3 A It did. Prayer took care of that one.

4 Q Now, you had apparently -- between '97 and
5 2003 had you consulted -- after you saw Dr. McAdam between
6 '97 and 2003 had you consulted any other health care
7 providers, doctors of any kind for any neck pain or
8 problems?

9 A Absolutely not.

10 Q After you've saw Dr. McAdam in '97 and before 2003
11 had you consulted any doctors, health care providers about
12 any shoulder problem, left shoulder or scapular upper back
13 area?

14 A No, sir.

15 Q Now, before this accident I noticed some of the
16 records indicated that you had a -- Dr. McAdam had done a
17 carpal tunnel release for you?

18 A Right.

19 Q That was on your right hand?

20 A Uh-huh.

21 Q Apparently they mentioned you might have had a
22 lesser carpal tunnel problem in your left hand at that point
23 in time?

24 A That's right.

25 Q Apparently you typed a lot or something while you
Old Dominion Reporting

1 were --

2 A Used the computer a lot.

3 Q A lot, okay. Did they kind of relate to you that
4 they thought that might be one of the --

5 A They never said.

6 Q They said you got it, and that was it?

7 A They operated on the right hand and it was -- I
8 had a mild case on the left hand, and they said it didn't
9 need surgery. It was not bad enough.

10 Q That was back in '01 that he did that?

11 A I think Nevares -- he did an EMG on the left hand
12 to check that and it was not -- it was not -- it was very
13 mild.

14 Q But 2001 they had done those as well; correct?

15 A I don't know what -- let's see.

16 Q EMG Dr. McAdam?

17 A Yes. Yes.

18 Q They did it on both hands; is that correct?

19 A Yes.

20 Q The test on both hands?

21 A Okay. Right, yes.

22 Q And they had seen that the right was bad -- a lot
23 worse than the left. You had mild on the left, worse on the
24 right; correct?

25 A Uh-huh. That's correct, and I had surgery.
 Old Dominion Reporting

1 Q Had that changed as at since the accident as far
2 as how your left hand or wrist feels?

3 A No, sir. It doesn't really bother me anymore.

4 Q You said Dr. Nevares did an EMG test to check out
5 your left hand?

6 A He was just checking because I had told him I had
7 a problem with it in I guess 2001, and he did it. He said
8 it was just very mild.

9 Q Was that -- did it bother you at all after the
10 accident any more than it had before?

11 A No. Uh-uh.

12 Q Now, since this accident -- before this accident
13 of 2003 involving Ms. Greene you were involved in an
14 accident in 1975?

15 A That's correct.

16 Q You injured what part of your body in that
17 accident?

18 A It was the left shoulder. I had shoulder pain.

19 Q And did you have some neck pain with that?

20 A Neck pain, shoulder pain, had a myelogram.

21 Dr. McAdam did a myelogram, couldn't find anything wrong.

22 Q And looks like mid-scapular pain also after that
23 '75 accident. Do you remember that, shoulder blade area?

24 A Shoulder blade area, yes.

25 Q Now, apparently you made a claim as a result of
Old Dominion Reporting

1 that?

2 A I did.

3 Q Did anybody tell you you had any type of permanent
4 injury as a result of that accident or injury?

5 A They couldn't find anything wrong with it.

6 Q You had the pain, they just couldn't figure out
7 the source?

8 A Couldn't find anything wrong, no, and then it kept
9 on bothering me. I kept having muscle spasms until 1990
10 when the disk ruptured and Dr. McAdam operated, and then I
11 had no more problems after that.

12 Q So up until 1990 when the disk ruptured you still
13 had the neck pain and the shoulder pain and the scapular
14 pain?

15 A Prior to 1990.

16 Q Prior to 1990. '90 the disk ruptured which led to
17 your surgery; correct?

18 A '93. I'm sorry. It was '93.

19 Q So you had the problems up until '93?

20 A Right.

21 Q The disk ruptured, then you had the surgery for
22 your disk in your neck?

23 A Right. I said '90, but that's incorrect. It was
24 '93.

25 Q So you continued to have those pain or problems up
Old Dominion Reporting

1 until '93. The disk ruptured at that point. Got to the
2 point they did the surgery?

3 A And everything was fine after that. I had no more
4 pain in the left side.

5 Q You said before that time, before '93 when the
6 disk ruptured, they couldn't find the source of your pain?

7 A Couldn't find it. I went to Dr. McAdam.

8 Q Did they give you -- during that period between
9 '75 and '93 did they offer you any kind of relief or anybody
10 give you any kind of treatment or medication or try to do
11 anything?

12 A I was in the hospital. They were, you know, doing
13 the -- I guess the normal things they do for -- feed you
14 Valium and, you know, things like that, but it really never
15 helped. It never went away until the disk ruptured and then
16 it got well when I had the surgery.

17 Q After the surgery, okay.

18 A So I think that's what was causing it all along,
19 and they just couldn't find it.

20 Q You mean the ruptured disk?

21 A Uh-huh.

22 Q So you had that period for I guess, looking at the
23 records, about 16, 17 years?

24 A Long time I suffered with that.

25 Q Did any family doctors offer you any medication or
 Old Dominion Reporting

1 anything during that time?

2 A Well, tell you the honest truth, I didn't really
3 go to the doctors a lot with it because I had been and they
4 couldn't do anything. So I just couldn't see running to
5 doctors every time, you know.

6 Q Got you.

7 A So I just kind of suffered with it and ate pain
8 pills or, you know, over-the-counter things and heating pads
9 and muscle relaxants, you know, basically is what I did.

10 Q Got you. Had you taken any medication at all
11 between '93 and I guess '97 when you got back to Dr. McAdam
12 for the right side?

13 A No. I hadn't had any problems between there.

14 Q Any medications, take my medications or any home
15 remedies type of treatment between '97 and 2003, that is
16 heating pads, Tens units, any kind of over-the-counters?

17 A No. Uh-uh. I hadn't had any problems after '97.

18 Q Other than the 1976 -- '75 accident, I'm sorry,
19 had you had any other motor vehicle accidents before this
20 motor vehicle accident involving Ms. Greene?

21 A No.

22 Q And that would be either as a driver or a
23 passenger?

24 A No, I hadn't been in any.

25 Q Other than possibly -- and just I'll mention the
Old Dominion Reporting

1 1975 accident as a possible cause of some of those problems
2 you had back then. We don't know, but other than possibly
3 the accident in 1975, had you had any other injuries, that
4 is traumas, blows, falls, specific instances where you hurt
5 your neck or left shoulder area before the accident of 2003?

6 A No, sir.

7 Q Before -- after September 2003 accident with
8 Ms. Greene have you been involved in any motor vehicle
9 accidents?

10 A No, sir.

11 Q After September of 2003 have you been involved or
12 had any type of traumas, that is falls, blows, any specific
13 instances of aggravation to your neck or shoulder pain other
14 than possibly the baby lifting incident you told me about?

15 A No. I haven't had any accidents or anything like
16 that. Just the normal things that bother it, you know,
17 doing my housework and things in the yard. I mean, those
18 things bother it, aggravate it, cause it to flare up, but I
19 haven't had any injuries.

20 Q Now, I notice in the Physical Therapy Works' notes
21 from February 25 of '05 there's a mention your condition had
22 started worsening in November after a motor vehicle accident
23 in September. Were you involved in -- were you involved in
24 any type of accidents in '04?

25 A No, sir. I've only been involved in two
Old Dominion Reporting

1 accidents. That was '75 and '03.

2 Q All right. Now, also in your records you had
3 apparently gone in for some cardiovascular testing in March
4 of '05. What was that regarding?

5 A Well, I have muscle spasms with this problem that
6 I've got with my shoulder and my neck, and because it hurts
7 it runs into -- the pain runs into my chest from the
8 shoulder blade, and I went in -- well, I mentioned it to my
9 doctor, Dr. Ross, and he had me to go in to have a stress
10 test, but the stress test was fine. So it was obviously
11 just from the problems I was having in my back or my
12 shoulder.

13 Q Other than Riverside Hospital, have you been
14 treated at any of the other area hospitals for any -- for
15 any conditions?

16 A No. Other than having bone density exams and
17 mammograms, I haven't had anything else.

18 Q Apparently you've been diagnosed with osteopenia?

19 A Uh-huh.

20 Q Who first diagnosed that?

21 A Dr. Joynes.

22 Q Were you on any type of medication or supplements
23 for that?

24 A Now. I am now.

25 Q When were you put on those?
Old Dominion Reporting

1 A Well, Dr. Joynes put me on a couple, but I
2 couldn't tolerate them so --

3 Q And what kind of medications were they?

4 A He had me on I think that was Actonel, and I took
5 Fosamax, and I couldn't tolerate either one of those. I'm
6 taking Boniva now.

7 Q Have you ever been to -- diagnosed with any type
8 of arthritis at any time?

9 A I've got it in one of my toes.

10 Q Have you been to a rheumatologist?

11 A No.

12 Q Have you ever consulted a rheumatologist?

13 A No, I have not. I had a foot problem and the
14 doctor x-rayed my foot, and he said, "Oh, you have arthritis
15 in one of your toes," but I didn't even know I had it.

16 Q Is that one of the family doctors that did that?

17 A No. It was a podiatrist. I can't think of his
18 name now.

19 Q Have you been to -- ever treated with any
20 orthopedic physicians?

21 A No.

22 Q Some people call them bone doctors.

23 A No, I have not.

24 Q Have you been back for any other diagnostic
25 testing since 2006, and that would be x-rays, additional
 Old Dominion Reporting

1 MRIs, anything else related to this accident?

2 A No.

3 Q Have you ever made a claim for personal injury
4 against any person, company, entity for any type of injury
5 or physical problem other than the -- arising from the 1975
6 accident?

7 A No, sir.

8 Q In that '75 accident did you get to the point
9 where you got in the litigation process where you filed a
10 suit?

11 A Yes. Uh-huh.

12 Q Do you know what city that was filed in?

13 A Hampton.

14 Q Did you go through this process or did you get
15 this far?

16 A No, we didn't get this far.

17 Q Did you have to do written questions like
18 interrogatories?

19 A No. Uh-uh.

20 Q No other personal injury claims or suits other
21 than that '75 accident, the one we're here about today?

22 A No, sir.

23 Q Have you ever made a claim for workman's comp or a
24 claim for on-the-job injury?

25 A No.

1 Q Have you ever applied for a disability for any
2 type of reason with any government or private agency?

3 A No, sir.

4 Q Your mom lives in West Virginia; is that right?

5 A Uh-huh. She does.

6 Q At the time of this accident was she living in
7 West Virginia or did she live in this area?

8 A She was visiting me.

9 Q I think I'm about done. Have you ever been
10 convicted of a felony?

11 A I have not.

12 Q Have you ever been convicted of a crime involving
13 lying, cheating or stealing?

14 A No.

15 Q Since your retirement from Fort Story, have you
16 worked anywhere since that time on a part-time or full-time
17 basis?

18 MR. LEWIS: Fort Monroe.

19

20 BY MR. LAMBERT:

21 Q I'm sorry. Did I say Fort Story? Fort Monroe?
22 I'm sorry.

23 A No, I have not.

24 Q Did you work anywhere other than Fort Monroe while
25 you were employed there?

1 A No.

2 Q Have any of your physicians placed you on any type
3 of physical restrictions?

4 A No.

5 Q Since the time of this accident?

6 A Since the time -- I was retired when I had the
7 accident.

8 Q And I mean when I say that, let me -- did they
9 tell you not to lift anything over a certain weight?

10 A No.

11 Q Not to climb a ladder, not to do any type of
12 physical activity?

13 A No. No.

14 Q Basically left it to your discretion?

15 A Uh-huh. That's right. Well, they didn't discuss
16 it with me, let me say that.

17 Q In other words, they didn't tell you, "Don't do
18 this"?

19 A No.

20 Q Are there any activities that you do not do now?

21 A Yes.

22 Q What type of activities do you not do now that you
23 would have done before this accident?

24 A Well, there's several things. I like to do
25 yard -- I like to garden, do things in the yard. I have a
Old Dominion Reporting

1 big yard, lots of flowers. I'm very restricted in doing
2 things there. My husband has had to do -- I can do very
3 little outside now. I do some. There's lots of things in
4 the house I no longer can do.

5 Q Such as?

6 A My husband ends up putting up the curtains or
7 shades or whatever. Things like that I always did.
8 Painting ceilings, I always did that. I can no longer sit
9 at the computer for very long.

10 Q What happens if you sit at the computer?

11 A I start hurting worse because you know how you
12 bend your head forward? I just can't sit there very long.
13 I also paint, do oil paintings, and I can't -- can't do much
14 of that anymore.

15 Q When you did the oil paintings is that like a
16 recreational type thing?

17 A Yes.

18 Q Did you ever get to the point where you exhibited
19 your art or sold the art at all?

20 A No.

21 Q What about that --

22 A That was my plan though when I retired was to get
23 in to painting. In fact, I picked up an application at a
24 local gallery and just -- I just can't really pursue it
25 anymore because I can't sit that long.

Old Dominion Reporting

Telephone: (757) 620-6836 Facsimile: (757) 255-4397

1 Q You retired in 2001?

2 A Uh-huh. Yes.

3 Q And you say you can't -- you say you can't sit
4 that long?

5 A I can't sit that long. It just hurts my neck, my
6 shoulder. I just -- you know.

7 Q Have any of your physicians given you a prognosis,
8 that is what the future holds for you?

9 A They just say it will take time. It's going to
10 take time. That's all I've heard is it will take time.
11 It's been five years.

12 MR. LAMBERT: All right. I believe that's
13 all the questions I have, Ms. Caldwell.

14 MR. LEWIS: She'll waive.

15

16 (The witness was excused.)

17

18

19

20

21

22

23

24

25

1 COMMONWEALTH OF VIRGINIA AT LARGE, To-Wit:

2

3

4

5 I, Shannon A. Crittenden-Mann, a Notary
6 Public in and for the Commonwealth of Virginia at
7 Large, whose commission expires May 31, 2012, certify
8 that the foregoing deposition of BETTY CALDWELL, the
9 Plaintiff, was duly taken and sworn to before me at
10 the time and place for the purpose in the caption
11 mentioned, and that the foregoing is a true and
12 correct transcript to the best of my ability of the
13 testimony given by the witness.

14 I further certify that I am not a relative or
15 employee of attorney or counsel of any of the parties
16 or financially interested in the action.

17 Given under my hand this _____ day of
18 _____, _____.

19

20

21

22

23

24

25

Notary Public

Registration No. 217036