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BENTLEY & MORE LLP

TELLING YOUR STORY

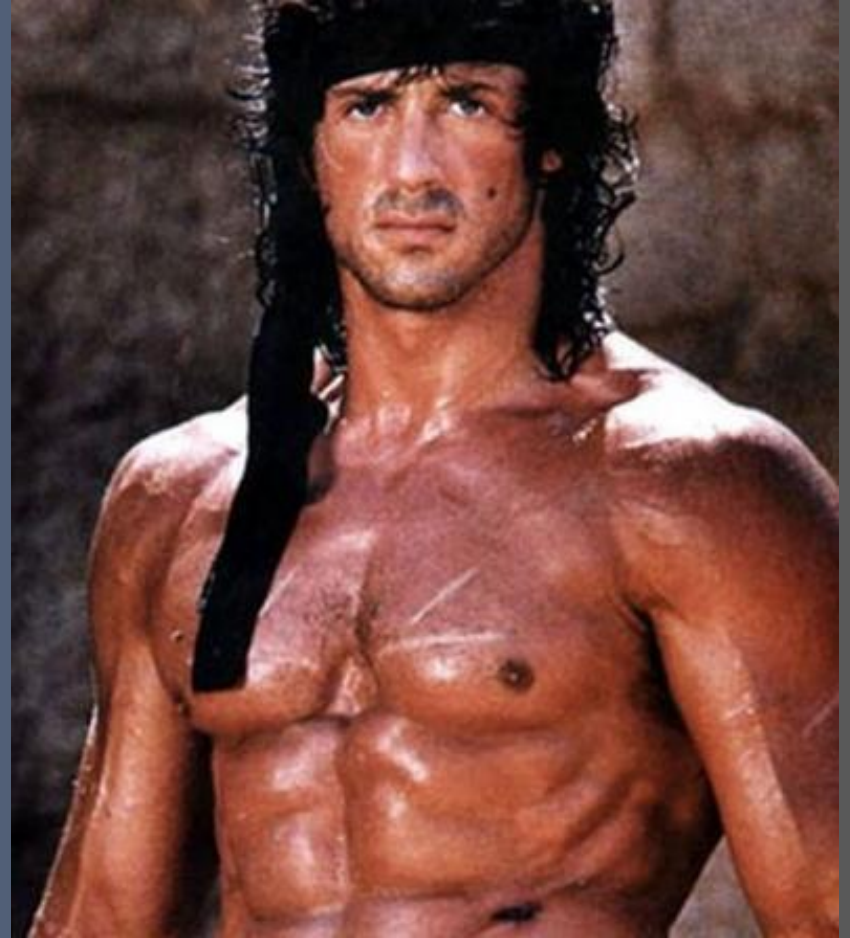
EFFECTIVE CROSS EXAMINATION OF DOCTORS

KEITH P. MORE – KMORE@BENTLEYMORE.COM

B & M

QME'S

A DYING BREED



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DWINDLING NUMBERS

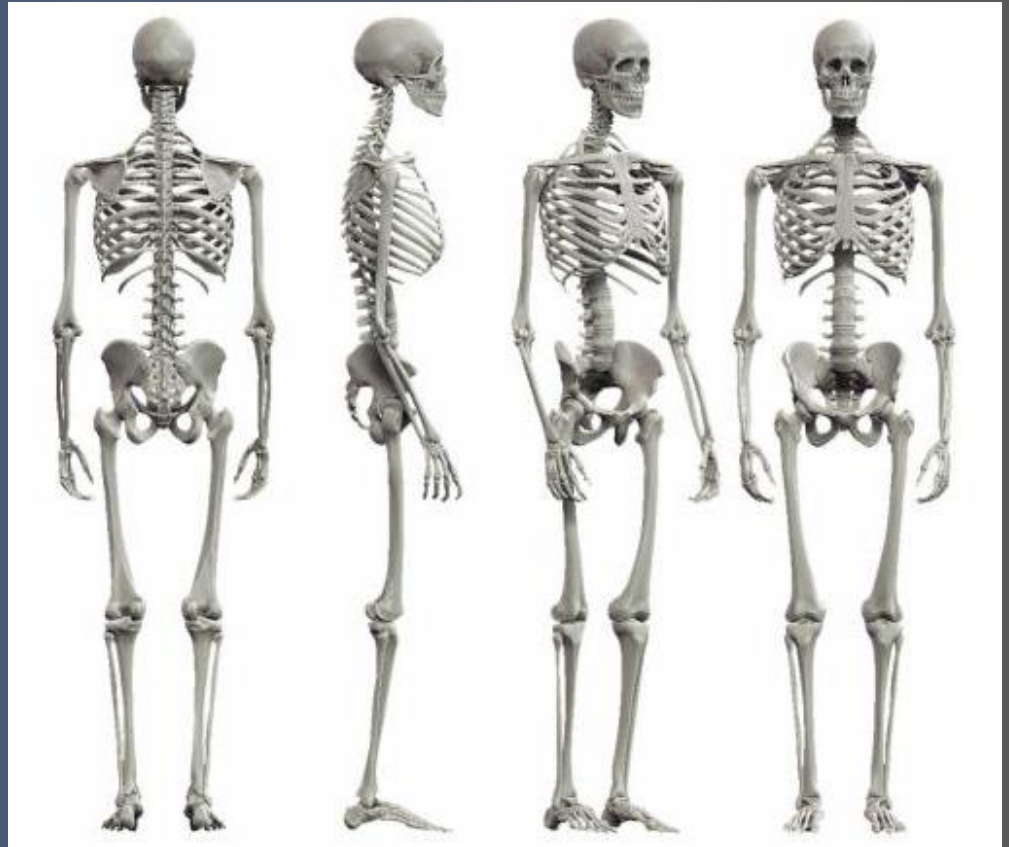
- 3239 PHYSICIANS IN 2012
- 2578 PHYSICIANS IN 2017



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ORTHOPEDIC INJURIES

**MOST COMMON IN
WORKER'S COMP**



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10 OFFICES!

LC § 139.2(h)(3)(B)



MUST COMPLY

- 1.) 8 CCR § 26(a) – AN ADDITIONAL \$100 PER LOCATION
- 2.) CITY ORDINANCES – BUSINESS LICENSES REQUIRED

BUSINESS LICENSES

SANTA ANA

Per Municipal Code 21-3, “business” means “all activities engaged in or caused to be engaged in within the city, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood . . . and every other kind of activity whether or not carried on for gain or profit.”

Violation – Municipal Code 21-26 – criminal infraction for violating the chapter, with a first violation punishable by a fine of \$100.00, a second violation punishable by a fine of \$200.00, and a fine of \$250.00 for each additional violation. Each day of a violation is a separate offense.

BUSINESS LICENSES

IRVINE

Business license required “for any business activity conducted in this city.” (Muni Code 4-6-201.)

**Failure to apply for business license is subject to a penalty as established by the city council.
(Muni Code 4-6-219.)**

BUSINESS LICENSES

NEWPORT BEACH

A separate business license must be obtained for each branch or location of a business. The same is true for each separate legal entity and each type of business at the same location.

(Muni Code 5.04.030.)

Penalty can be up to 50% of the amount of the license tax due (Muni Code 5.04.270)

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ISSUES OF A CROSS EXAMINATION

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ASSIGNMENT



JOINT
LETTER

- **AOE/COE**
- **MEDICAL TREATMENT**
- **APPORTIONMENT**
- **TEMPORARY DISABILITY**
- **PERMANENT DISABILITY**

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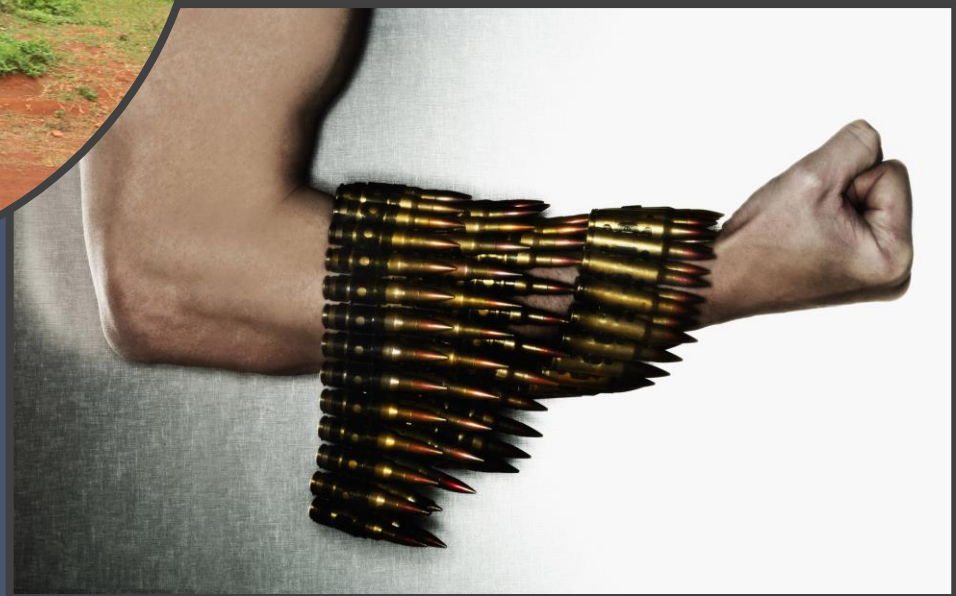
DOCTOR'S PREPARATION



- 1. REVIEW YOUR FILE**
- 2. REVIEW ALL MEDICAL RECORDS**
- 3. CONDUCT RESEARCH**

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ADMONITION OR AMMUNITION?



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TO WAIVE OR NOT TO WAIVE

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JUST A FEW
FRIENDLY
REMINDERS...



1 A Yes.
 2 Q All right. We'll attach this as Exhibit 1 for
 3 identification purposes.
 4 (Exhibit 1 was marked for
 5 identification.)
 6 MR. MORE: Let the record reflect I'm handing it to
 7 Ms. [REDACTED]
 8 Q Doctor, my name is Keith More. I introduced
 9 myself outside. I represent Mr. [REDACTED] with regard to
 10 this devastating injury that he sustained.
 11 You understand that under the Labor Code that
 12 if you are blind, that you would be deemed 100 percent
 13 disabled; correct?
 14 A Correct.
 15 Q All right. So with regard to disability, as
 16 far as your qualifications in your area of expertise,
 17 it really makes no difference what you find as far as
 18 permanent disability is concerned. True?
 19 A That's correct.
 20 Q Okay. But in this particular incidence, you
 21 did what you normally would do, and that's take a
 22 thorough and full history from the patient; correct?
 23 A That is correct.
 24 Q You would review all medical records that were
 25 provided to you?

1 A I did.
 2 Q And you would diligently report that in your
 3 report which we have, I believe, two reports. One is a
 4 supplemental, and one is a -- a regular report.
 5 A Correct.
 6 Q Okay. And then you've been administered an
 7 oath.
 8 You've had your deposition taken how many
 9 times?
 10 A [REDACTED]
 11 Q All right. Are you familiar enough with the
 12 admonition that you'll dispense of that?
 13 A Correct. I will.
 14 Q All right. The one thing I do want to remind
 15 you is that you are under oath. It's the same oath you
 16 would receive if you were testifying in front of a
 17 judge at the WCAB.
 18 A I understand.
 19 [REDACTED]
 20 clarification, are you referring to the appendix as the
 21 supplemental report, or was there an actual
 22 supplemental report. I only have a June 19.
 23 MR. MORE: It was a July 7.
 24 MS. [REDACTED] Okay. I did not appear to get a copy
 25 of that report.

1 MS. [REDACTED] He reviewed additional records and did
 2 not change his opinion.
 3 MR. MORE: Here it is.
 4 MS. [REDACTED] Okay. Okay.
 5 MR. MORE: Good?
 6 MS. [REDACTED] Yeah.
 7 MR. MORE: Okay.
 8 Q So, Doctor, I want to take you to the June 19,
 9 2015 report, on page 11.
 10 A Got it.
 11 Q All right. And that's a standard declaration
 12 by the signing physician; correct?
 13 A That is correct.
 14 Q It indicates, probably about the second or so
 15 sentence down, as to the information -- that
 16 information, I declare under penalty of perjury that
 17 the information accurately describes the information
 18 provided to me, and, comma, except as noted herein,
 19 comma, that I believe it to be true; correct?
 20 A Correct.
 21 Q All right. So when you took and prepared this
 22 report, any of the information that you had is
 23 accurately depicted in this report. So sworn by you
 24 under penalty of perjury; correct?
 25 A Yes, sir.

1 Q All right. So I now want to direct your
 2 attention -- and we'll mark the June 19, 2015 report as
 3 Exhibit No. 2 for identification purposes. Okay?
 4 A Okay.
 5 Q And I think we'll just have the court reporter
 6 or someone make a copy of your report, because mine's
 7 all, you know, marked up.
 8 I want to turn to page 2, under the history.
 9 A Okay.
 10 Q So you indicate in the history here that
 11 Mr. [REDACTED] states.
 12 What does that mean?
 13 A He -- he told me.
 14 Q Okay. And did you take the history yourself?
 15 A I did.
 16 Q And did anybody else participate in that
 17 history besides you, Mr. [REDACTED] and, I believe, an
 18 interpreter?
 19 A There was nobody else here.
 20 Q Okay. But there was an interpreter.
 21 A Yes, there was. [REDACTED]
 22 Q Okay. Correct.
 23 All right. And so when I read this history, I
 24 kind of -- it caught my eye a little bit, and let me
 25 tell you why.

Q All right. Are you familiar enough with the admonition that you'll dispense of that?

A Correct. I will.

Q All right. The one thing I do want to remind you is that you are under oath. It's the same oath you would receive if you were testifying in front of a judge at the WCAB.

A I understand.

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DEMEANOR



RETAIN CONTROL

- I'M ASKING,
YOU'RE
ANSWERING
- LEADING
QUESTIONS



BIGGEST MISTAKES MADE



1. NOT LISTENING TO THE QUESTION
2. RAMBLING ON
3. NOT ANSWERING THE QUESTION ASKED
4. SPECULATING

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LISTEN



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**KNOW YOUR
MEDICINE**

MOVE TO STRIKE

- REPEAT THE QUESTION
- REPEAT THE QUESTION
- REPEAT THE QUESTION

4 A No, it doesn't itemize them, no.

5 Q So would it be a true statement or false
6 statement, the report of 8-28-03 does not provide a
7 listing of all medical records reviewed; true or false?

8 A True.

9 Q Okay. In fact, at this point in time, you have
10 no idea whether or not those reports that are listed on
11 page 3 of this 8-28 report are all of the reports that
12 you received; is that correct?

13 A Oh, on page 3, it says, "Review of Records,"
14 and I have listed the following, not necessarily in
15 chronological order and I commented on a number of
16 records. There may have been more.

17 Q And at this point in time, you don't know
18 whether or not there were more records; correct?

19 A I don't know for sure, that is correct.

20 I can only say, however, that if in fact State
21 Fund sent me or you sent me or anybody sent me box of
22 records, my usual and customary is to review each and
23 every record by myself and sometimes comment only on the
24 ones that would be pertinent to my specialty or to my

4 A No, it doesn't itemize them, no.

5 Q So would it be a true statement or false
6 statement, the report of 8-28-03 does not provide a
7 listing of all medical records reviewed; true or false?

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10 no idea whether or not those reports that are listed on
11 page 3 of this 8-28 report are all of the reports that
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22 records, my usual and customary is to review each and
23 every record by myself and sometimes comment only on the
24 ones that would be pertinent to my specialty or to my

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THE BATTLE



ATTACK!



1 A It does.

2 Q And that shows a distribution of L5, S1 nerve
3 roots on the left side. True?

4 A Yes, it does.

5 Q Okay. So as early as 2-22-01 there were
6 positive findings with respect to nerve root
7 impingements; is that correct?

8 A That is correct.

9 Q Okay. And that would be consistent with the
10 cauda equina syndrome?

11 A Actually, first of all, I am not an expert. I
12 am a urologist. But it can be consistent with this, but
13 it is not diagnostic of cauda equina syndrome. *

14 Q Okay. It is consistent in that it shows the
15 impingement below L2, but the better testing would be
16 the myelogram. True?

17 A That would be a better testing in my opinion.

18 Q And if in fact the applicant had a myelogram,
19 which he did in this case, that was positive or showed
20 abnormal findings below L2, you would agree that that
21 would be consistent as well with a cauda equina
22 syndrome?

23 A It would be part of that, yes.

24 Q Now, when the applicant saw you, did you note
25 that the applicant was wearing two pairs of underwear *

1 and had newspaper stuffed in his underwear?

2 A I did.

3 Q What was the reason why he was wearing two
4 pairs of underwear and newspaper?

5 A To the best of my knowledge, he was afraid of
6 being incontinent or getting wet.

7 Q Where in your report does it indicate that,
8 doctor?

9 A I would have to review my report. But to the
10 best of my knowledge, my report does not indicate that
11 per say, but let's see if my notes do, here. ✱

12 They don't.

13 Q But you have independent recollection of this
14 individual --

15 A Yes. He did have some newspapers -- let me put
16 it this way: I didn't see the newspapers, but he told
17 me when he came in that he had them.

18 Q Another one of the admonitions, just so the
19 court reporter doesn't smack me or yell at me, you have
20 to let me finish my question before you provide an
21 answer and I need to allow you to finish your answer
22 before I ask another question.

23 A I understand.

24 Q Where in your medical report does it indicate
25 that the applicant told you that he was wearing these

BINGO

24 Q Where in your medical report does it indicate
25 that the applicant told you that he was wearing these

18

1 two pair of underwear or that he had in the newspaper
2 stuffed in his pants?

3 A It doesn't. *

4 Q Why doesn't your report included that when you
5 are seeing an individual who is alleging to have urinary
6 incontinence?

7 A In this case, perhaps it should have. And that
8 is something that -- well, it should have. *

9 But much of the time my report reflects that at
10 least he -- I have no reason to disbelieve him that he
11 wears one pair of underwear or two.

12 But in this case, I think my report indicates
13 that he has incontinence and he has urgency and he has
14 frequency.

15 Q So if I had not taken your deposition,
16 Dr. [REDACTED] then nobody would have known that the
17 applicant had told you of his problem with respect to
18 wearing two pairs of underwear or utilizing newspaper
19 because of his incontinence. True?

20 A That would be true. *

21 Q And at this point in time, the diagnosis for
22 this individual is clearly that he has urinary

1 technicians, the blood-taking technicians are
2 instructed always to -- excuse me -- to take blood from
3 an opposite arm from where the sugar is going in for
4 obvious reasons because you could get a spurious or
5 fictitiously-elevated glucose level if you take it from
6 the IV site.

7 So I'm assuming that they did -- it was a
8 good -- they did -- well, in the hospital, I'm assuming
9 that this was -- this is obviously not a fasting sample
10 because he wasn't eating. I mean, it was fasted, but
11 he had -- he was getting continuous infusion of
12 glucose. The difference between 104 and the next day
13 of 147, in my mind, is not that significant.

14 **Q And what symptoms would you anticipate if he**
15 **had gone to the hospital -- well, strike that.**

16 **What symptoms would you anticipate if**
17 **Mr. Campos had a blood sugar level of 104 or glucose of**
18 **104 prior to getting kicked in the face?**

19 A He probably wouldn't have any symptoms.

20 **Q Okay. I found this article in a neurosurgery**
21 **treatise from February of 2000. It was the influence**
22 **of hyperglycemia on neurological outcome in patients**
23 **with patients of severe injury.**

24 **Are you familiar with, any studies that**
25 **demonstrate that when individuals suffer a severe head**
Page 22

1 **injury, they have significantly higher serum glucose**
2 **levels?**

3 A I wasn't aware of that.

4 Is that a transient serum elevated levels, or
5 is that permanent level?

6 MR. MORE: Let the record reflect I'm handing the
7 doctor the study.

8 (Pause.)

9 THE WITNESS: Okay.

10 BY MR. MORE:

11 **Q So head trauma can cause an increase in blood**
12 **sugar; correct?**

13 A According to that article, yes.

14 **Q You're just not familiar with that; right?**

15 A That's correct.

16 **Q And now that you've had a chance to look at**
17 **that article, does that in any way assist you in**
18 **formulating any opinions in this particular case?**

19 A No.

20 **Q All right. One of the things I'm going to**
21 **just let you in on, Doctor, is that all I'm trying to**
22 **establish here is that we have a patient who, prior to**
23 **March 6 of 2014, had some prior problems in 2002 or so**
24 **when he allegedly was diagnosed with diabetes. Some**
25 **type. And he takes one month of medication, and then**
Page 23

1 **goes the next 12 years with no problems. According to**
2 **him.**

3 **And then he gets kicked in the face, and he**
4 **has this traumatic brain injury, severe head trauma,**
5 **severe facial fractures. Becomes blind. And all I**
6 **want to do is try to find out is there any contribution**
7 **to the increase of his symptoms as it relates to the**
8 **diabetic condition.**

9 **Can you tell us beyond a degree of medical**
10 **probability, one way or another -- and if you can't say**
11 **yes or you can't say no, it's perfectly fine to say**
12 **without speculating, I can't say either way, Mr. More.**

13 **So what would be your answer?**

14 A I would say the latter. I can't say.

15 **Q One way or another?**

16 A Correct.

17 **Q Okay. Because there's a lot of presupposing,**
18 **and you jumped in your conclusions here that I wanted**
19 **to ask you these questions, but I just want you to know**
20 **where I'm going. Okay?**

21 A Okay.

22 **Q And the same goes with the hypertension.**
23 **Because we know that trauma, especially this type of**
24 **trauma, as Mr. [REDACTED] experienced on March 6th, will**
25 **cause an elevation in blood pressure; true?**
Page 24

1 A That's correct.

2 **Q I mean, we have a brain that's bleeding. We**
3 **have a heart that's pumping even more; correct?**

4 A Correct.

5 **Q And so that blood pressure is obviously going**
6 **to be skyrocketing; true?**

7 A True.

8 **Q So when he goes to the ER -- and, I believe,**
9 **without looking -- it was somewhere around 202?**

10 A It was very high.

11 **Q Right? Let's see.**

12 207 over 98.

13 A Correct.

14 **Q You would anticipate that that would be normal**
15 **under the circumstances for him to have that high blood**
16 **pressure.**

17 A Yes. Yes.

18 **Q Now, let's look at a timeline here.**

19 A Okay.

20 **Q He arrives at the ER at approximately what**
21 **time? Do you know?**

22 A I imagine it was the daytime. I don't know
23 exactly what time of the day this injury occurred.

24 **Q I think it was roughly 7:15 a.m. --**

25 MS [REDACTED] Correct.
Page 25

<p>1 blood pressure.</p> <p>2 A Correct.</p> <p>3 Q Right?</p> <p>4 A Yes.</p> <p>5 Q It could affect his liver function, kidney</p> <p>6 function; true?</p> <p>7 A Yes.</p> <p>8 Q And when you were doing your analysis and</p> <p>9 review here, did you take that into consideration after</p> <p>10 the cardiac arrest?</p> <p>11 A I did.</p> <p>12 Most of the -- most -- most of the effects of</p> <p>13 the factors that you mentioned like blood pressure and</p> <p>14 kidney function for cardiac arrest are transient. And</p> <p>15 once the patient is stabilized, usually the -- more</p> <p>16 often than not -- not always -- but more often than</p> <p>17 not, most of the vital signs usually return to the</p> <p>18 pre-arrest vital signs.</p> <p>19 It's usually -- in other words, you probably</p> <p>20 won't get a permanently elevated hyper -- blood</p> <p>21 pressure reading. It will probably be reverted back to</p> <p>22 the blood pressure reading prior to the arrest.</p> <p>23 Q Now, what part of your findings indicates</p> <p>24 anything as it relates to the Isovue that was used in</p> <p>25 the CT scan?</p> <p style="text-align: right;">Page 30</p>	<p>1 A It worsens his existing.</p> <p>2 Q Fine. It -- it worsened his existing renal</p> <p>3 condition.</p> <p>4 A Correct.</p> <p>5 Q Where does it say in your report that the</p> <p>6 Isovue worsened his renal condition?</p> <p>7 A It just -- you just called that to my</p> <p>8 attention, and I agree with you.</p> <p>9 Q Okay. Beyond a degree of medical probability,</p> <p>10 you agree; correct?</p> <p>11 A I do.</p> <p>12 Q All right. So your report would be inaccurate</p> <p>13 as it relates to the renal failure.</p> <p>14 A Correct.</p> <p>15 Q Okay. In fact, Doctor, before they could do</p> <p>16 and use that Isovue, they had to do a blood test; true?</p> <p>17 A Correct.</p> <p>18 Q Because otherwise they would have to override</p> <p>19 the system in order to do that CT scan and use the</p> <p>20 Isovue. Especially considering the fact that they had</p> <p>21 suspected alcohol abuse; correct?</p> <p>22 A Correct.</p> <p>23 Q Now, if his creat- -- creatinine --</p> <p>24 A Creatinine.</p> <p>25 Q -- creatinine levels were at 3.26, they would</p> <p style="text-align: right;">Page 32</p>
<p>1 A The -- the contrast, you mean?</p> <p>2 Q Correct.</p> <p>3 A As far as his renal function studies?</p> <p>4 Q Correct.</p> <p>5 A You -- usually dyes of the -- that they use</p> <p>6 for CT scans can -- can make renal function worse.</p> <p>7 Q In this case, it did.</p> <p>8 A I think it did, yes.</p> <p>9 Q Okay. And so why did he need a CT scan?</p> <p>10 A Why did he need a CT scan?</p> <p>11 Q Right.</p> <p>12 A Because of his injuries.</p> <p>13 Q And his injuries were what? Industrial?</p> <p>14 A Yes.</p> <p>15 Q So we have an industrial injury that requires</p> <p>16 a CT scan to be done; true?</p> <p>17 A Correct.</p> <p>18 Q The CT scan, they use Isovue, which is a</p> <p>19 contrast; correct?</p> <p>20 A Correct.</p> <p>21 Q Well known to cause renal failure; correct?</p> <p>22 A It can, yes.</p> <p>23 Q Very well-known.</p> <p>24 A Yes.</p> <p>25 Q And, in fact, it does in this particular case.</p> <p style="text-align: right;">Page 31</p>	<p>1 never have used the Isovue.</p> <p>2 A I would think that would be contraindicated.</p> <p>3 Q Right. Because that would be malpractice;</p> <p>4 right?</p> <p>5 A It would be not a good thing to do.</p> <p>6 Q Okay. So then before they did the test, the</p> <p>7 CT scan, if they did a blood test, he would have had to</p> <p>8 have had normal creatinine levels. That would warrant</p> <p>9 the use of the Isovue; true?</p> <p>10 A Theoretically true. I recall -- and I'm --</p> <p>11 this, again, goes back to the -- I believe he had a</p> <p>12 elevated -- I think they knew that he had chronic renal</p> <p>13 disease at the time of his admission, because one of</p> <p>14 the things that you alluded to as far as his diagnoses</p> <p>15 included several conditions that we talked about.</p> <p>16 No. 4, it says suspect chronic kidney disease,</p> <p>17 unclear stage. So obviously -- not obviously but there</p> <p>18 was some -- there was some mention that there was an</p> <p>19 issue that they suspected he had chronic kidney</p> <p>20 disease, and perhaps they -- they didn't know the</p> <p>21 extent of it. I can't -- I can't answer for what they</p> <p>22 did or didn't do. But it implies that they suspected</p> <p>23 he had some chronic renal disease of an unclear stage</p> <p>24 at -- at his admission.</p> <p>25 And they gave him this contrast anyway. So</p> <p style="text-align: right;">Page 33</p>

PRESUMPTION OF TOTAL DISABILITY

LC § 4662 (a) ANY:

- 1.) Loss of both eyes or the sight thereof.**
- 2.) Loss of both hands or the use thereof.**
- 3.) An injury resulting in a practically total paralysis.**
- 4.) An injury to the brain resulting in incurable mental incapacity or insanity.**

HOLY GRAIL

**LC § 4662 (b) In all other cases,
permanent total disability
shall be determined in
accordance with the fact.**



- **UNABLE TO COMPETE IN THE OPEN LABOR MARKET**
- **NOT JUST FOR VOCATIONAL EXPERTS**

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USING THE DECLARATION



<p>1 Because you indicate in the second paragraph 2 there, Mr. [REDACTED] states that he was diagnosed with 3 diabetes mellitus type 2 in 2002. 4 Did he actually use those words? 5 A I asked him when he was diagnosed with 6 diabetes, and he said it was in 2002. 7 Q Okay. 8 A He didn't say diabetes mellitus type 2. I 9 said, when were you -- when were you first told that 10 you have diabetes? That was my question. That's 11 always my question. 12 And he said it was in 2002. 13 Q And how did you know that he had been 14 diagnosed with diabetes? 15 A Because I was -- one of my charge of this 16 thing was to evaluate for diabetes, blood pressure, and 17 chronic kidney disease. That was my assignment. In 18 the -- in the advocacy letter. 19 Q My question was, how did you know that he had 20 previously been diagnosed with diabetes before this 21 industrial injury? 22 A I didn't know he was previous -- I asked him 23 when was he diagnosed. That was the question. I said 24 when was he first informed that he had diabetes. 25 Q All right. And so he responded, in 2002.</p> <p style="text-align: right;">Page 10</p>	<p>1 A No, I didn't -- 2 Q Listen to my question. 3 A Pardon me? 4 Q Listen to my question, please. 5 A Okay. 6 Q When you signed this under penalty of perjury, 7 did you indicate in that paragraph that you would be 8 paraphrasing from the patient? 9 A No, I did not. 10 Q Thank you. 11 Now, do you think that Mr. [REDACTED] was 12 sophisticated to understand what you were talking about 13 as far as medication to lower his blood sugar? 14 A I don't know. I -- 15 Q He had a fourth grade education; correct? 16 That's in your history. 17 A That's correct. 18 Q He didn't seem too complicated or complex an 19 individual, did he, at that point in time during the 20 examination? 21 A He did not seem -- I'm sorry. Could you say 22 that -- 23 Q Let me strike that question. 24 You understood that he had been diagnosed with 25 a traumatic brain injury as well; correct?</p> <p style="text-align: right;">Page 12</p>
<p>1 A That's correct. 2 Q All right. So you added the addition of the 3 mellitus type 2. 4 A Correct. 5 Q All right. And then it then goes on to state, 6 at the time of his diagnosis, he was prescribed 7 hypoglycemic medication. 8 Did he use those words, hypoglycemic 9 medication? 10 A No. 11 Q Where did that come from? 12 A It came from me. I said did you have -- were 13 you prescribed any medicine to lower your blood sugar? 14 And he said yes. 15 So I'm just -- I'm trying to make it sound a 16 little bit more sophisticated. That's all I'm doing. 17 I'm just paraphrasing his words. I'm not changing the 18 meaning of his words. 19 It just seemed to be easier to say he was 20 prescribed hypoglycemic medication instead of 21 medication to lower his blood sugar. It's just a 22 choice that I use. 23 Q Okay. When you sign this under penalty of 24 perjury, you didn't indicate that you'd be 25 paraphrasing; did you?</p> <p style="text-align: right;">Page 11</p>	<p>1 A Correct. 2 Q Okay. And he was able to answer your 3 questions, though; correct? 4 A I think he did. Yes. 5 Q And do you think he fully understood exactly 6 what you were saying when you were talking about blood 7 sugar and diabetes? 8 A I never mentioned the word blood sugar to him, 9 and the only mention I -- the only mention of the word 10 diabetes was to ask him when he was diagnosed with 11 diabetes. I never mentioned the word blood sugar. 12 The question was, did they give you any 13 medicine to treat your diabetes? 14 Q So the record's going to be clear -- earlier 15 you just testified that you asked him if he took any 16 medication to lower his blood sugar. 17 A I don't know specifically what at the time, 18 four months ago I specifically asked him -- the 19 implication or the -- the question was basically was 20 there any medication he was -- either used to lower his 21 blood sugar or to treat his diabetes which is basically 22 the same thing. I don't know exactly which phrase at 23 the time that I used. 24 Q All right. But he did tell you that after one 25 month, he ran out of the medication and he never used</p> <p style="text-align: right;">Page 13</p>

1 **any other medication from that point forward till this**
2 **accident; correct?**

3 A That's what he told me.

4 **Q Did you ask him specifically if he had ever**
5 **checked his blood sugar prior to the industrial injury**
6 **that we're here about?**

7 A I don't recall whether I did.

8 **Q Look at page 3 at the top.**

9 A I think I --

10 Then I did. He never visited a physician. He
11 did not check his blood sugar. And he did not stick to
12 and adhere to a diabetic diet.

13 **Q And what were his symptoms back in 2002 with**
14 **regard to the diabetes?**

15 A I didn't ask him.

16 **Q Well, you asked him how long or when was he**
17 **diagnosed with diabetes; correct?**

18 A That's correct.

19 **Q And did you ask him what the symptoms were**
20 **that he was having?**

21 A No.

22 **Q How did you know that it was mellitus 2?**

23 A Because usually diabetes mellitus 1 occurs in
24 the ages 30- to 40-year-old people, and they're placed
25 on insulin right away, and it's a very -- it's a very

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1 labile type of illness. Much unlike diabetes type 2.
2 And 90 percent of patients with diabetes have type 2.
3 I assumed his was type 2. Just playing the odds.

4 **Q Okay. So your medical reporting, then, takes**
5 **into account assumptions that were made by you;**
6 **correct?**

7 A Okay.

8 **Q Look, I'm not trying to get you upset, Doctor.**
9 **I'm just trying to get to the facts here.**

10 See, your report says he stated that he had
11 diabetes mellitus -- or however you pronounce it -- 2,
12 and I'm saying there's no way that this man could have
13 known that.

14 And so you made an assumption in your report,
15 and you did not indicate that you were assuming that he
16 had that; true?

17 A That's true.

18 **Q Okay. So if he had diabetes, let's say, type**
19 **2 --**

20 A Okay.

21 **Q -- and you did not check his blood sugar and**
22 **he did not adhere to a diabetic diet, would you**
23 **anticipate that he would feel well or that his**
24 **condition would gradually get worse over 12 years?**

25 A It can go either way. There's people who have

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1 diabetes for a long time who are totally asymptomatic,
2 and they feel fine. And there's some people, some
3 individuals who their blood sugar goes over a certain
4 area, and then they start to have symptoms. So it's --
5 it can go either way.

6 **Q So he was lucky.**

7 A At that time he was, I guess.

8 **Q 'Cause here, according to your report -- and**
9 **unless you're paraphrasing -- he states that he felt**
10 **well during this period of time.**

11 A That's what he said.

12 **Q And he also said and he found no reason to**
13 **seek medical attention; correct?**

14 A Correct.

15 **Q Okay. So he doesn't adhere to any diabetic**
16 **diet. He doesn't check his blood sugar. And for 12**
17 **years, he feels great or well. True?**

18 A That's what he said.

19 **Q And so what would you consider his condition**
20 **as far as the diabetes type 2 at that point?**

21 Stable?

22 A I -- I -- not necessarily. It really wasn't
23 stable because -- I mean, I -- I don't know what his --
24 I -- I can't tell he was --

25 **Q Whoa, whoa, whoa.**

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1 **What do you mean you don't know?**

2 A I don't know what his condition was just
3 because he felt well. I'm not assuming that his
4 diabetes was stable because he didn't have any
5 complaints.

6 **Q Okay. Well, you just said it could go either**
7 **way.**

8 A It could.

9 **Q One way his condition would get worse, or one**
10 **way he could just stay stable and do fine.**

11 A Well, the definition of stable for diabetics
12 can be variable. He could have a blood sugar of 350 or
13 400 for 12 years and not be aware of that. That
14 doesn't mean he's doing well, and that doesn't mean
15 everything is going well with him.

16 **Q If he had that blood sugar level, okay, and he**
17 **wasn't doing well, he would have some symptoms;**
18 **correct?**

19 A If he had that level, and -- and he was not
20 doing well, yes, he would have symptoms; that is
21 correct.

22 **Q And he would feel like he had excessive**
23 **thirst; correct?**

24 A He could have that, yes.

25 **Q Frequent need to urinate. Yes?**

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TELLING YOUR STORY



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