

1 APPLICANT'S COUNSEL: Ms. Alton

2 WITNESS: Mr. Maxwell

3 DEFENSE COUNSEL NO. 1: Ms. Vanella

4 DEFENSE COUNSEL NO. 2: Mr. Greene

5

6 **WARM UP**

7 Q BY MS. VANELLA: Good morning. My name is Jane
8 Vanella, and I represent West Mortuary Services. You
9 have had a chance to discuss with your counsel what we /
10 are doing here today; is that correct?

11 A Yes.

12 Q How many minutes did you spend in that regard?

13 A About an hour.

14 MS. VANELLA: Counsel, do you stipulate to / 60
15 minutes?

16 MS. ALTON: Yes, I will stipulate.

17 Q BY MS. VANELLA: In the last 24 hours, have you had
18 any medicine?

19 A No.

20 Q In the last 24 hours, have / you had any type of
21 alcohol?

22 A No.

23 Q Are you able to give your best answers now?

24 A Yes.

25 Q Besides the first deposition that you have given //

1 in this case, have you ever had your deposition taken
2 before in another matter?

3 A No.

4 Q Have you been seen by a Dr. Robert Sanchez with /
5 respect to your claim against West Mortuary Services?

6 MR. GREENE: Could you please repeat that, Counsel?

7 I did not hear it.

8 MS. VANELLA: Sure thing.

9 MR. GREENE: Thanks.

10 Q BY MS. VANELLA: Have you ever /// been seen by a
11 Dr. Robert Sanchez with regard to your case against West
12 Mortuary Services?

13 A Yes, it was twice.

14 Q About when were those dates? /

15 A The last one was in November of last year.

16 Q November 2017?

17 A Yes.

18 Q And the time before that, was that in 2016? /*(1)

19 A Correct.

20 Q Besides Dr. Sanchez, have you seen any other doctors
21 with respect to your case against my client?

22 A Yes, ma'am.

23 Q Who else have you seen? /

24 A Dr. Olsen.

25 Q Have you also been seen by a Dr. Mateo?

1 A I think he is at the same office as Dr. Olsen.

2 Q Have you been / seen by Dr. Mateo?

3 A Yes, I actually have.

4 Q How many times have you seen him?

5 MS. ALTON: Objection. Vague as to time.

6 MR. GREENE: I am sure she means / ever, Counsel.

7 MS. VANELLA: I will clarify the question.

8 MS. ALTON: That would be best. Thanks.

9 Q BY MS. VANELLA: How many times total have you ever
10 seen Dr. Mateo?

11 A I don't know // exactly.

12 Q Can you provide me with an estimate?

13 A I am not sure.

14 Q Do you believe you have seen him more than 100 times?

15 A Oh, / no, nothing like that.

16 Q Do you believe you have seen him on more than ten
17 occasions?

18 A I estimate I have seen him about five times. ///

19 Q How about Dr. Olsen? Do you know about how many
20 times you treated with Dr. Olsen for this claim?

21 A No, I don't remember.

22 Q Are you / able to provide any type of an estimate?

23 A I really can't say.

24 Q Do you believe it is more than 100 times?

25 A Well, no, it /* (2) would not be that many occasions.

1 Q I am just attempting to help you narrow down a range
2 for me.

3 A I understand.

4 Q Was it more than / ten times that you saw Dr. Olsen
5 for this injury?

6 A It was probably right around ten times.

7 Q And then what about Dr. Sanchez? How many / times
8 have you seen Dr. Sanchez?

9 MS. ALTON: Objection. Asked and answered.

10 MR. GREENE: No, she is asking about Dr. Sanchez now.
11 It would be another doctor.

12 MS. ALTON: Oh, my / mistake. I am sorry I
13 interrupted you, Counsel.

14 MR. GREENE: You are not objecting, then?

15 MS. ALTON: Yes.

16 Q BY MS. VANELLA: Moving back to the question, how
17 many times have you treated // with Dr. Sanchez?

18 A I think I only saw that doctor just the one time.

19 Q Okay. In addition to these three doctors, have you
20 been seen / by any other doctors?

21 A You mean ever in my life?

22 Q No, I am asking just with respect to the injury
23 claims that you have against /// West Mortuary Services.

24 A Those are the only three that I can remember at this
25 time.

1 Q All right. Let me change gears slightly. Have you
2 been / given any physical therapy with regard to the
3 injury claims you have against my client?

4 A Yes, that is correct. I have had quite a lot. /* (3)

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7 ****END OF WARMUP****

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EXAM

Q Are you able to give me any kind of estimate of how many times you have received physical therapy in connection with this claim?

A I / had therapy to my knees, my arms, my elbows. I do not remember how many sessions.

Q More than ten sessions?

A Yes.

Q More than 20 sessions? /

A I do not believe so. It was different for the knees and the rest of the body.

Q When you get physical therapy for your knees, / would you also be getting therapy for your arms during the same --

A No.

Q -- session?

A No.

Q If you could, please wait for me to finish my // question before you start to answer.

MS. ALTON: You have to allow her to finish her question completely before you speak.

THE WITNESS: I am sorry.

MR. GREENE: It is hard / to wait when you know what the question is probably going to be.

Q BY MS. VANELLA: When you are saying ten sessions,

1 are you meaning more than ten /// therapy sessions for
2 your knees, more than ten for your arms? Is that what
3 you mean?

4 A I received so many. It was definitely more than /
5 ten physical therapy sessions for my knees; more than ten
6 for my arms, my shoulders, and my neck. Those all
7 occurred at different times.

8 Q Did /*(1) you say "different times"?

9 A Yes, "different times."

10 Q When is the last time you received physical therapy
11 to your knees?

12 A For the right knee only. I / do not remember when it
13 ended.

14 Q Okay. Was it in 2017?

15 A Yes.

16 Q Do you recall when you first got the physical therapy
17 for / your right knee?

18 A Yes. I remember, but not the day.

19 Q When, approximately, did you first receive therapy to
20 your right knee?

21 A In the beginning of / 2016.

22 Q Have you received physical therapy with regard to
23 your left knee?

24 A No, ma'am.

25 Q All right. Did you get physical therapy to your //

1 arm?

2 A Yes.

3 Q When did you last receive physical therapy to your
4 right arm?

5 A It was last year, too.

6 Q Did you receive physical therapy for your / left arm?

7 A Yes.

8 Q Did you receive physical therapy for your right
9 elbow?

10 A Yes.

11 MS. ALTON: Counsel, I just want to note that all of
12 this was covered /// in the last deposition.

13 MS. VANELLA: Are you instructing him not to answer?

14 MS. ALTON: I am just noting it for the record.

15 MR. GREENE: I disagree that we went into / this
16 level of detail.

17 MS. ALTON: I have made my record. You may proceed.

18 Q BY MS. VANELLA: Did you receive any therapy for your
19 left elbow?

20 A Yes. That is correct. /* (2)

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22 **(End of warmup - continue without stopping)**

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START TYPING

Q BY MS. VANELLA: Did you get any therapy for any other body part?

A Just my shoulders and neck.

Q All right. Any other body parts that you got therapy / for?

A Not really, no.

Q When was your last day working for West Mortuary?

A I think that it was May 30, 2015.

Q I am sorry. / Did you say May 30?

A Yes. It was May 30, I believe.

Q And then when you had stopped working for West Mortuary Services, did you / apply for unemployment benefits?

A No, ma'am. I did not.

Q Well, did you apply for state disability?

A No. I think that I did it after that. //

Q Listen to what I am asking. I am asking after you stopped working for West Mortuary Services, did you decide that you would then apply / for disability benefits?

A Yes.

Q When did you apply for those benefits?

A June 2016. No. That is not right. Excuse me.

MS. ALTON: I think I /// am going to object again

1 here. This was also covered in the prior depo.

2 MS. VANELLA: Okay.

3 MR. GREENE: Is your objection asked and answered?

4 MS. ALTON: Yes, it is.

5 MS. VANELLA: Are / you instructing him not to
6 answer?

7 MS. ALTON: No. But it looks like he is having
8 trouble remembering. I am just telling you that it was
9 in />(*1) the last deposition.

10 THE WITNESS: The last time I received it was in
11 March, 2015.

12 Q BY MS. VANELLA: So in the prior depo it was
13 established that after / you stopped working for West
14 Mortuary, you had applied for benefits through EDD; is
15 that right?

16 A Yes.

17 Q Before that date, had you ever / applied for benefits
18 through EDD?

19 A No.

20 Q Before that date, had you ever received benefits from
21 EDD?

22 A No.

23 Q After you stopped working / for Johnson Trucking but
24 before you had worked for West Mortuary and before doing
25 the work at the cemetery, did you work somewhere else?

1 A No. //

2 Q Now, my notes say that you currently have a claim for
3 injury against West Mortuary Services. Is that right?

4 A Yes.

5 Q Do you know the body / parts that you are currently
6 alleging were injured at West Mortuary Services?

7 A Yes.

8 Q What are those body parts?

9 A My knee, right knee. It is my /// shoulders, both of
10 them, and my elbows and wrists, my hands. And they found
11 a hernia. I have depression. I think that is all.

12 Q Okay. / For the right knee you are claiming an injury
13 that you say came from your employment with West
14 Mortuary. Do you recall a time when / (*2) you first
15 noticed that you were having pain in your right knee?

16 A I remember the incident very well. I was --

17 MS. ALTON: That was calling for just / a yes or no.

18 MR. GREENE: If you continue interrupting, we are
19 going to be here all day.

20 MS. VANELLA: Not to worry, Counsel. I will just ask
21 the / next question.

22 Q What happened?

23 A Well, I was digging out two specific plots at the
24 same time. I was running to go retrieve a tool. The /
25 ground there is very irregular and uneven, and I tripped

1 over a flowerpot.

2 Q Is that when you sustained the injury?

3 A Well, I felt a click // but did not pay attention to
4 it and continued working.

5 Q Are you saying there was no pain at that point?

6 A At the moment I did / not feel any big problem. I
7 kept on working. After that, there was just pain.

8 Q Did you report the incident to anyone?

9 A I reported it /// to the supervisor the following day
10 because at the time I did not think it was a big deal.

11 Q What is your supervisor's name?

12 A His / name is Jesse Garcia.

13 Q Where was the pain that you were experiencing?

14 A In my right knee.

15 Q After that occurred to your right knee, did you /(*3)
16 go to any type of medical provider for treatment or some
17 therapy?

18 A When I told my boss, he did not do anything at all.

19 MR. GREENE: Objection. / Nonresponsive.

20 MS. ALTON: Please listen to the question and only
21 answer that question.

22 THE WITNESS: What was the question?

23 Q BY MS. VANELLA: Did you receive any treatment for
24 your right knee?

25 A Well, / after that, I think I did have an appointment

1 with my family doctor.

2 Q What did you tell your doctor about your knee at that
3 point / in time?

4 A I reported to him that I had increasing pain in my
5 knee.

6 Q Did you receive any treatment?

7 A He told me that for the // moment I should use some
8 heating pads. That is what I remember. And he said that
9 if I had any problems, it was because of / my working.
10 He told me to talk to my supervisor.

11 Q Do you know where this personal doctor is located?

12 A Yes. He is in the city /// of Orange. I do not
13 recall where.

14 Q Do you remember the doctor's name?

15 A Parsons is his last name.

16 Q When you saw Dr. Garcia in about / 2016, was your
17 only complaint involving pain to your right knee?

18 A At that moment, yes. I went to see him because I
19 had /(*4) my appointment for my regular checkup.

20 MR. GREENE: Was it like your yearly physical?

21 THE WITNESS: Yes. It was mainly for my heart. I was
22 taking pills for that. /

23 Q BY MS. VANELLA: When you described the pain in your
24 right knee to Dr. Parsons, did he give you any therapy or
25 treatment?

1 A No.

2 Q Did he provide you / any medications?

3 A No.

4 Q Did he advise that you should be wearing a brace?

5 A No. He only told me to apply the heating pads.

6 Q Did Dr. / Parsons tell you what you should and should
7 not do? Did he give you maybe some restrictions or
8 suggestions?

9 A No.

10 Q Did Dr. Parsons tell you // that you could return
11 back to work at West Mortuary Services in your full
12 capacity?

13 A We did not speak about that. It was just the /
14 comment that I made about my knee and the pain.

15 Q But he never gave you any treatment or therapy at
16 that time?

17 MS. ALTON: Asked and answered, /// Counsel. Please
18 move on.

19 MR. GREENE: Well, he can answer the question unless
20 you are instructing him not to.

21 THE WITNESS: He examined it and said that I should /
22 apply ice and that with time it was going to be resolved.

23 Q BY MS. VANELLA: Did the pain to your right knee ever
24 resolve?

25 A Not completely.

1 Q Do you /(*5) remember the next time there was any
2 pain in your knee?

3 A Not exactly. But when I did any walking, if I made
4 wrong movements, it / was painful.

5 I want to explain something. Can I?

6 MS. ALTON: No. No. You have to just answer the
7 questions.

8 Q BY MS. VANELLA: Your attorney cannot answer the
9 question for / you. Do you want a quick recess so that
10 you can talk to your attorney?

11 A No.

12 Q Is there something you want to explain further,
13 Mr. / Maxwell?

14 A Yes. In 2000 I had a hernia. I reported it to my
15 manager. I went to see my doctor because my manager told
16 // me to do that.

17 Q Did you do as your manager had requested and go visit
18 the doctor?

19 A Yes, I went to see my doctor, and / he sent me to
20 surgery right away, that same day. I went to my personal
21 doctor, and I ended up paying for the surgery myself. ///

22 Q Did you believe the hernia was a work-related injury?

23 A I did not know if I got injured at work, what I had
24 to do / or anything. And the supervisor did not tell me
25 anything, either. He just told me to go to my doctor.

1 Q Did you file a workers' / (*6) comp claim for this
2 injury, sir?

3 A I ended up paying it. When this incident with my
4 knee happened, I thought I had to pay for / it also. I
5 had medical insurance. But I thought I was going to end
6 up paying for the treatment myself.

7 MR. GREENE: When did you say this / happened?

8 THE WITNESS: I believe it was in 2000 or so.

9 MR. GREENE: Objection. Relevance.

10 THE WITNESS: What do I do now?

11 MS. ALTON: Just wait for the next question.

12 Q BY MS. VANELLA: You have / been seen by Dr. Huron in
13 regard to your case against West Mortuary; right?

14 A Yes, ma'am.

15 Q When you were seen by Dr. Huron, you understood //
16 that you had an obligation to be truthful to him; is that
17 correct?

18 A Oh, yes.

19 Q And so you knew that Dr. Huron would ask you /
20 questions with regard to your medical history; is that
21 right?

22 A Yes.

23 Q And you understood that it was your obligation to
24 give him a complete and /// accurate history; correct?

25 A Yes.

1 Q When you were seen by Dr. Huron, you told the doctor
2 that you had had a left ankle injury in 2002 while at
3 work; right?

4 A Yes.

5 Q And you told the doctor about your hernia in 2000;
6 correct?

7 A Yes.

8 Q And did you tell Dr. /(*7) Huron about how the injury
9 happened, where you tripped over the flowerpot, injuring
10 your right knee?

11 A Yes, ma'am.

12 Q Did you tell Dr. Huron that you / went to see
13 Dr. Parsons as it related to when you had tripped over
14 the flowerpot?

15 A Yes, ma'am.

16 Q And did you describe to him the / level of pain that
17 you experienced on the day of the incident?

18 A Do you mean like a number?

19 Q Just a number or what type of / pain you were having,
20 whether it was hot, sharp, stabbing.

21 MS. ALTON: Objection. Compound.

22 MR. GREENE: Counsel, may I clarify with the witness?
23 It might be helpful.

24 MS. VANELLA: That would // be fine. Go ahead.
25

1 EXAMINATION

2 Q BY MR. GREENE: Mr. Maxwell, did you describe to
3 Dr. Huron the type of pain you were having to your right
4 knee?

5 A Yes.

6 Q Did / you tell Dr. Huron whether or not your right
7 knee pain ever got better, had gotten worse, or remained
8 the same as a result of /// that incident?

9 A Yes, I did.

10 Q What did you tell Dr. Huron?

11 A That, yes, I had pain. I told him that I had
12 continuous pain.

13 Q You / informed Dr. Huron that your right knee pain
14 had never resolved; is that correct?

15 A Yes, that is correct.

16 Q Is it true that you told him /* (8) that the pain you
17 were feeling just continued on?

18 A Absolutely.

19 Q Did you inform him that your right knee pain had
20 never decreased or gotten any / better?

21 MS. ALTON: Objection. That has been asked and
22 answered. It is also compound.

23 MR. GREENE: I believe the record is unclear. I want
24 to be sure I understand / the testimony.

25 MS. VANELLA: You can answer the question, sir.

1 THE WITNESS: Well, I would answer if I knew what it
2 was.

3 Q BY MR. GREENE: Do you need me to repeat the /
4 question?

5 A Yes, please.

6 Q Did you ever tell Dr. Huron that your right knee pain
7 had improved?

8 A I don't remember discussing that with him exactly
9 that // way.

10 Q Did you report to him that your knee pain had ever
11 worsened?

12 A I mentioned to him that the pain continued. That is
13 everything I / mentioned to him.

14 Q Did you inform him that it had worsened?

15 A I believe so, yes. I informed him about that.

16 Q Did you relate to him /// what you were physically
17 doing that made your right knee pain worse?

18 A No.

19 Q Did you tell him when you were experiencing worse
20 right knee pain? /

21 A I do not understand the question.

22 MS. ALTON: Make sure you listen carefully.

23 MS. VANELLA: Counsel will clarify it for you.

24 THE WITNESS: Good. Because I don't get what the
25 question /*(9) is.

1 Q BY MR. GREENE: Well, did you ever tell Dr. Huron
2 during what period of time your knee had worsened? For
3 example, did it get worse in / 2011? Did it get worse in
4 2012?

5 A It was continuously painful. I was just trying to
6 bear it.

7 Q When you tripped over / that flowerpot, was the only
8 pain you experienced the painfulness to your right knee?

9 A Yes, sir.

10 Q When did you first notice pain to your right / arm?

11 A It was like in 2012. I do not remember when. Mostly
12 it was from digging and heavy lifting.

13 Q From digging and lifting? //

14 A Yes.

15 Q Why is that?

16 MS. ALTON: That is argumentative.

17 MR. GREENE: Well, no, I only want more information.

18 MS. ALTON: My objection is for the record.

19 MS. VANELLA: You may answer, sir. Do / you remember
20 the question?

21 THE WITNESS: Well, because sometimes all the digging
22 is by hand, and you use more of your arms. I lifted
23 heavy items.

24 Q BY MR. GREENE: When /// you initially started
25 noticing pain to your right arm in 2012, did the pain in

1 your right arm get better?

2 A It never did. /

3 Q And when did you notice it getting worse?

4 A Well, it was during the time we were doing a lot of
5 the digging, moving, and lifting. /* (10)

6

7 **END OF EXAM**

8