APPLICANT’S COUNSEL: Ms. Alton

WITNESS: Mr. Maxwell

DEFENSE COUNSEL NO. 1: Ms. Vanella

DEFENSE COUNSEL NO. 2: Mr. Greene

WARM UP

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

A Yes.

Q How many minutes did you spend in that regard?

A About an hour.

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

MS. ALTON: Yes, I will stipulate.

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

A No.

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

A No.

Q Are you able to give your best answers now?

A Yes.

Q Besides the first deposition that you have given //
in this case, have you ever had your deposition taken before in another matter?
A No.
Q Have you been seen by a Dr. Robert Sanchez with / respect to your claim against West Mortuary Services?
MR. GREENE: Could you please repeat that, Counsel? I did not hear it.
MS. VANELLA: Sure thing.
MR. GREENE: Thanks.
Q BY MS. VANELLA: Have you ever /// been seen by a Dr. Robert Sanchez with regard to your case against West Mortuary Services?
A Yes, it was twice.
Q About when were those dates? /
A The last one was in November of last year.
Q November 2017?
A Yes.
Q And the time before that, was that in 2016? /*(1)
A Correct.
Q Besides Dr. Sanchez, have you seen any other doctors with respect to your case against my client?
A Yes, ma’am.
Q Who else have you seen? /
A Dr. Olsen.
Q Have you also been seen by a Dr. Mateo?
A I think he is at the same office as Dr. Olsen.
Q Have you been / seen by Dr. Mateo?
A Yes, I actually have.
Q How many times have you seen him?

MS. ALTON: Objection. Vague as to time.
MR. GREENE: I am sure she means / ever, Counsel.
MS. VANELLA: I will clarify the question.
MS. ALTON: That would be best. Thanks.

Q BY MS. VANELLA: How many times total have you ever seen Dr. Mateo?
A I don’t know // exactly.
Q Can you provide me with an estimate?
A I am not sure.
Q Do you believe you have seen him more than 100 times?
A Oh, / no, nothing like that.
Q Do you believe you have seen him on more than ten occasions?
A I estimate I have seen him about five times. ///
Q How about Dr. Olsen? Do you know about how many times you treated with Dr. Olsen for this claim?
A No, I don’t remember.
Q Are you / able to provide any type of an estimate?
A I really can’t say.
Q Do you believe it is more than 100 times?
A Well, no, it /*(2) would not be that many occasions.
Q I am just attempting to help you narrow down a range for me.
A I understand.
Q Was it more than / ten times that you saw Dr. Olsen for this injury?
A It was probably right around ten times.
Q And then what about Dr. Sanchez? How many / times have you seen Dr. Sanchez?
   MS. ALTON: Objection. Asked and answered.
   MR. GREENE: No, she is asking about Dr. Sanchez now.
   It would be another doctor.
   MS. ALTON: Oh, my / mistake. I am sorry I interrupted you, Counsel.
   MR. GREENE: You are not objecting, then?
   MS. ALTON: Yes.
Q BY MS. VANELLA: Moving back to the question, how many times have you treated // with Dr. Sanchez?
A I think I only saw that doctor just the one time.
Q Okay. In addition to these three doctors, have you been seen / by any other doctors?
A You mean ever in my life?
Q No, I am asking just with respect to the injury claims that you have against // West Mortuary Services.
A Those are the only three that I can remember at this time.
Q All right. Let me change gears slightly. Have you been / given any physical therapy with regard to the injury claims you have against my client?
A Yes, that is correct. I have had quite a lot. /*(3)

**END OF WARMUP**
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,
are you meaning more than ten therapy sessions for your knees, more than ten for your arms? Is that what you mean?

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

Q  Did you say "different times"?

A  Yes, "different times."

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

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

Q  Okay. Was it in 2017?

A  Yes.

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

A  Yes. I remember, but not the day.

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

A  In the beginning of 2016.

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

A  No, ma’am.

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

A Yes.

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

A It was last year, too.

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

A Yes.

Q Did you receive physical therapy for your right elbow?

A Yes.

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

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

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

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

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

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

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

(End of warmup – continue without stopping)
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
here. This was also covered in the prior depo.

MS. VANELLA: Okay.

MR. GREENE: Is your objection asked and answered?

MS. ALTON: Yes, it is.

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

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

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

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

A Yes.

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

A No.

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

A No.

Q After you stopped working / for Johnson Trucking but before you had worked for West Mortuary and before doing the work at the cemetery, did you work somewhere else?
A  No. //

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

Q  Do you know the body / parts that you are currently alleging were injured at West Mortuary Services?
A  Yes.

Q  What are those body parts?
A  My knee, right knee. It is my // should it be //? shoulders, both of them, and my elbows and wrists, my hands. And they found a hernia. I have depression. I think that is all.

Q  Okay. / For the right knee you are claiming an injury that you say came from your employment with West Mortuary. Do you recall a time when /*2) you first noticed that you were having pain in your right knee?
A  I remember the incident very well. I was --

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

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

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

Q  What happened?
A  Well, I was digging out two specific plots at the same time. I was running to go retrieve a tool. The / ground there is very irregular and uneven, and I tripped
over a flowerpot.

Q Is that when you sustained the injury?
A Well, I felt a click // but did not pay attention to it and continued working.

Q Are you saying there was no pain at that point?
A At the moment I did / not feel any big problem. I kept on working. After that, there was just pain.

Q Did you report the incident to anyone?
A I reported it /// to the supervisor the following day because at the time I did not think it was a big deal.

Q What is your supervisor’s name?
A His / name is Jesse Garcia.

Q Where was the pain that you were experiencing?
A In my right knee.

Q After that occurred to your right knee, did you /(*3) go to any type of medical provider for treatment or some therapy?
A When I told my boss, he did not do anything at all.

MR. GREENE: Objection. / Nonresponsive.

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

THE WITNESS: What was the question?

Q BY MS. VANELLA: Did you receive any treatment for your right knee?
A Well, / after that, I think I did have an appointment
with my family doctor.

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

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

Q  Did you receive any treatment?

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

Q  Do you know where this personal doctor is located?

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

Q  Do you remember the doctor's name?

A  Parsons is his last name.

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

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

MR. GREENE: Was it like your yearly physical?

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

Q  BY MS. VANELLA: When you described the pain in your right knee to Dr. Parsons, did he give you any therapy or treatment?
A No.

Q Did he provide you / any medications?
A No.

Q Did he advise that you should be wearing a brace?
A No. He only told me to apply the heating pads.

Q Did Dr. / Parsons tell you what you should and should not do? Did he give you maybe some restrictions or suggestions?
A No.

Q Did Dr. Parsons tell you // that you could return back to work at West Mortuary Services in your full capacity?
A We did not speak about that. It was just the / comment that I made about my knee and the pain.

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

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

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

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

Q BY MS. VANELLA: Did the pain to your right knee ever resolve?
A Not completely.
Q  Do you /*5) remember the next time there was any pain in your knee?
A  Not exactly. But when I did any walking, if I made wrong movements, it / was painful.

I want to explain something. Can I?

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

Q  BY MS. VANELLA: Your attorney cannot answer the question for / you. Do you want a quick recess so that you can talk to your attorney?
A  No.

Q  Is there something you want to explain further, Mr. / Maxwell?
A  Yes. In 2000 I had a hernia. I reported it to my manager. I went to see my doctor because my manager told // me to do that.

Q  Did you do as your manager had requested and go visit the doctor?
A  Yes, I went to see my doctor, and / he sent me to surgery right away, that same day. I went to my personal doctor, and I ended up paying for the surgery myself. ///

Q  Did you believe the hernia was a work-related injury?
A  I did not know if I got injured at work, what I had to do / or anything. And the supervisor did not tell me anything, either. He just told me to go to my doctor.
Q  Did you file a workers’ comp claim for this injury, sir?

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

MR. GREENE: When did you say this happened?

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

MR. GREENE: Objection. Relevance.

THE WITNESS: What do I do now?

MS. ALTON: Just wait for the next question.

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

A  Yes, ma’am.

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

A  Oh, yes.

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

A  Yes.

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

A  Yes.
Q  When you were seen by Dr. Huron, you told the doctor that you had had a left ankle injury in 2002 while at work; right?
A  Yes.
Q  And you told the doctor about your hernia in 2000; correct?
A  Yes.
Q  And did you tell Dr. Huron about how the injury happened, where you tripped over the flowerpot, injuring your right knee?
A  Yes, ma’am.
Q  Did you tell Dr. Huron that you went to see Dr. Parsons as it related to when you had tripped over the flowerpot?
A  Yes, ma’am.
Q  And did you describe to him the level of pain that you experienced on the day of the incident?
A  Do you mean like a number?
Q  Just a number or what type of pain you were having, whether it was hot, sharp, stabbing.
MS. ALTON: Objection. Compound.
MR. GREENE: Counsel, may I clarify with the witness? It might be helpful.
MS. VANELLA: That would // be fine. Go ahead.
EXAMINATION

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

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

Q  What did you tell Dr. Huron?
A  That, yes, I had pain. I told him that I had
continuous pain.

Q  You / informed Dr. Huron that your right knee pain
had never resolved; is that correct?
A  Yes, that is correct.

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

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

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

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

MS. VANELLA: You can answer the question, sir.
THE WITNESS: Well, I would answer if I knew what it was.

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

A Yes, please.

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

A I don’t remember discussing that with him exactly that way.

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

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

Q Did you inform him that it had worsened?

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

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

A No.

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

A I do not understand the question.

MS. ALTON: Make sure you listen carefully.

MS. VANELLA: Counsel will clarify it for you.

THE WITNESS: Good. Because I don’t get what the question *(9) is.
Q BY MR. GREENE: Well, did you ever tell Dr. Huron during what period of time your knee had worsened? For example, did it get worse in / 2011? Did it get worse in 2012?

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

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

A Yes, sir.

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

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

Q From digging and lifting? //

A Yes.

Q Why is that?

MS. ALTON: That is argumentative.

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

MS. ALTON: My objection is for the record.

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

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

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

A  It never did. /

Q  And when did you notice it getting worse?

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

END OF EXAM