

1           The videotaped deposition of THOMAS M. KOENIG,  
2 M.D., taken by agreement of counsel, for any and all  
3 purposes allowable under the Federal Rules of Civil  
4 Procedure, before DENISE M. HOOD, Court Reporter and Notary  
5 Public in and for the State of Tennessee at Large, on the  
6 30th day of November, 2005, at the office of the witness,  
7 11808 Kingston Pike, Knoxville, Tennessee.

8           It is agreed that the reporter may swear the  
9 witness, take the deposition stenographically, and  
10 afterwards reduce the same to typewritten form when the  
11 completed deposition may be used in the above-styled cause.

12           The plaintiff does not waive any objections until  
13 the time of the trial. All formalities are expressly  
14 waived as to caption, certificate, transmission, and the  
15 reading and signing of the deposition by the witness.

16           THOMAS M. KOENIG, M.D.,

17           having been first duly sworn, was examined and  
18           deposed as follows:

19                           DIRECT EXAMINATION

20           BY MR. ENGLISH:

21                   Q           Would you state your name for the  
22           record?

23                   A           Sure. Thomas Martin Koenig, M.D.

24                   Q           Dr. Koenig, my name is Bob English, as  
25           you know, and I'm here to ask you some questions about my

1 would, I'm going to ask you about some bills in a few  
2 minutes and if you could have your secretary or office  
3 manager take out any bills from the knee, from your charge  
4 for that date, that would be real helpful to us.

5 A Fine. I can send you an amended bill  
6 that --

7 Q That'd be fine.

8 A -- that subtotals that.

9 MR. ENGLISH: That will be fine. We'll  
10 have the court reporter contact you about getting  
11 that.

12 THE WITNESS: Fine.

13 Q So from the time you first saw him on  
14 October the 12th of '04 until you last saw him in November  
15 the --

16 A 15th.

17 Q -- 15th of '05, it looks like he'd been  
18 in to see you or your office on five or six different  
19 occasions?

20 A That'd be a fair representation.

21 Q And just generally speaking, tell the  
22 Court and jury how he was doing neckwise and low backwise  
23 for injuries from this wreck whenever he came to see you  
24 these five or six times, Doctor.

25 A For the most part, he was unchanged. He

1 Q Why?

2 A Because he still has pain and that is,  
3 unfortunately, where you send patients who you can't get  
4 better.

5 Q Have you done everything you can for  
6 this man to alleviate his pain in his neck and his back  
7 from this wreck?

8 A Yes, sir.

9 Q Okay. Who did you refer him to?

10 A I believe we sent him to Dr. Browder.

11 Q And is Dr. Browder a pain specialist  
12 here in Knox County?

13 A Yes, sir.

14 Q Do you have an opinion, Doctor, as to  
15 whether or not this man is capable of gainful employment at  
16 this time as a psychiatric technician or working with  
17 psychiatric patients?

18 MR. WOODFIN: Objection. That's beyond  
19 the scope of his expertise, but go ahead and  
20 answer the question.

21 MR. ENGLISH: Go ahead, please.

22 A I will state that I do feel comfortable  
23 answering that question, and I've seen him multiple times,  
24 and I believe that he does not have the ability to be  
25 gainfully employed as a psychiatric technician, as I would

1 understand a psychiatric technician would need to  
2 potentially have to subdue potentially unruly psychiatric  
3 patients, would have to assist them in feeding, have to  
4 assist them in lifting them on occasions to beds and  
5 commodes and/or move them from one place to another for CAT  
6 scans and things of that nature.

7 Q Doctor, when you last saw him the 15th  
8 of November, did you give him a permanent no duty, no work  
9 status with certain impairments?

10 A Yes, sir.

11 Q Restrictions?

12 A Yes, sir.

13 Q What were those restrictions? And I'll  
14 ask you to refer back to your July 6 note, the specifics of  
15 that, sir.

16 A On July 6th, it was written for no  
17 repetitive bending, stooping, squatting, or lifting greater  
18 than fifteen pounds. He should be allowed frequent changes  
19 in position.

20 Q Are those still the restrictions that  
21 you had him on permanently at this time, sir?

22 A If I can, sir, allow me just a few  
23 seconds to check my notes.

24 Q Okay.

25 A No. In effort -- I should state that

1 those were amended further to whereby he was placed on no  
2 duty on the 15th of November, 2005.

3 Q What does that mean, sir, in your  
4 opinion?

5 A Meaning that I really don't think he  
6 could do anything. When I saw him in the office, let's  
7 say, on the 15th of November, I saw him for forty-five  
8 minutes to an hour and during that time the man just could  
9 not sit or lay still or stand still. He was constantly  
10 having to change positions. I don't think that he would  
11 have been employable in that regard. He would have been a  
12 distraction to any workplace with as frequently as he had  
13 to move to try to keep himself in some semblance of  
14 comfort.

15 Q Doctor, do you have an opinion as to  
16 whether or not this man will suffer pain in the future as a  
17 result of these injuries?

18 A Yes, sir. I think that that  
19 unfortunately also is permanent, and that's the reason why  
20 we sent him to a pain management consultation through Dr.  
21 Browder.

22 Q Will he require medications to alleviate  
23 the pain of this wreck and injuries in the future?

24 A Most likely.

25 Q Have you done everything that you can