N	EELY v. FOX OF OAK RIDGE	Cond	cns	seIt! [™]	DEPO - THOMAS M. KOENIG, M.D
	IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE THOMAS NEELY, Plaintiff V. MO. 3:05-CV-304 PHILLIF/GUYTON FOX OF OAK RIDCE, INC. and BENJAMIN H. CURD, Defendants APPEARANCES: ROBERT J. ENGLIGH, MICHAELC INMAN, Attorney for the Plaintiff, Thomas Neely CLINT J. WOODFIN, Attorney for the Defendant, FOX of Oak Ridge, InC. and Benjamin H. Curd DEPOSITION OF THOMAS M. KOENIG, M.D. November 30, 2005		2 2 3 3 4 4 5 6 6 7 7 8 9 9 100 111 122 13 14 15 16 17 7 18 19 20 21 22 23 23 24	would three reasonable that for us A Q medicine? A Kingston I Q A Q that entail? A bones, mus Q medical tra A Philadelph there called University Washingto Q	I will. Okay. Dr. Koenig, where do you practice ? I practice in Knoxville, Tennessee, on Pike. What's your specialty? Orthopedic surgery. Doctor, what does that mean, what does
1 2 3 4 4 5 5 5 7 8 9 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 2 6	INDEX WITNESS PAGE THOMAS M. KOENIG, M.D. Direct Examination by Mr. English 3 Cross Examination by Mr. Woodfin 33 Redirect Examination by Mr. English 62 EXHIBITS NO. DESCRIPTION PAGE 1 Curriculum vitae 7 2 List of medical expenses 17 3 MRI report dated October 27, 2004 27 4 MRI report dated January 10, 2005 27	Page 2	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	major case centers lika Surgery Ce tell you wh here in the Q 1992, I dic privileges a Children's you don't l different pl the west. Q long have y orthopedic A Q certified, E A	Page 5 I've got privileges at a fair number of Most of my surgery is done out west, the more ses at Parkwest. There are a bunch of surgery ke Parkwest Surgery Center Tower, Knoxville Center, Fort Sanders West. It may be easier to where I don't have privileges, but primarily out ce west. Okay. Is that for convenience sake? Yes. Whenever I first came here in idn't mind the travel so much and thus I had is at Children's, I'm sorry, East Tennessee s, U.T., Regional, and as your practice matures, t have the time to run around to the various places, so it's more or less stayed out here in Doctor, as a matter of maturity, how you practiced, been licensed to practice c surgery in the state? In the state, since '92. Okay. Are you Board certified, sir? Yes, sir. And recently recertified. Okay. What does it mean to be Board Dr. Koenig? When you sit for your Boards the first undergo a rigorous written exam with several
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	The videotaped deposition of THOMAS M. KOENIG M.D., taken by agreement of counsel, for any and all purposes allowable under the Federal Rules of Civil Procedure, before DENISE M. HOOD, Court Reporter an Public in and for the State of Tennessee at Large, on t 30th day of November, 2005, at the office of the with 11808 Kingston Pike, Knoxville, Tennessee. It is agreed that the reporter may swear the witness, take the deposition stenographically, and afterwards reduce the same to typewritten form when completed deposition may be used in the above-styled The plaintiff does not waive any objections until the time of the trial. All formalities are expressly waived as to caption, certificate, transmission, and the reading and signing of the deposition by the witness. THOMAS M. KOENIG, M.D., having been first duly sworn, was examined and deposed as follows: DIRECT EXAMINATION BY MR. ENGLISH: Q Would you state your name for the record? A Sure. Thomas Martin Koenig, M.D. Q Dr. Koenig, my name is Bob English, as you know, and I'm here to ask you some questions ab Case 3:05-ev-00304 Document 16-1	d Notary he ess, the i cause. I	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	lour or five On the assi queries you goes, and y x-rays, all period of y that. They bunch of b your operat for about e everything you are, at 1988, if you time, ten you Q year 2014, like. Q Would you most recem A recertified	Page 6 questions. I no longer remember, but I'm sure it's ve hundred questions, and you have to pass those. sumption that you've passed those, then the Board ou as to what you actually do as far as practice you have to simulate for them and gather all the l the operative reports for about a six-month your time and they have the ability to scrutinize y ask you to come to Chicago and you carry a bags with x-rays and all kinds of stuff, MRI's, ative reports, and then they grill you. You sit eight hours and they ask you anything and g and hopefully you pass, and if you pass, then it that time, Board certified. I think ever since you're certified, you're certified for a limited years, then you had to re-sit for Boards again. And you did so? Yes, sir. I think I'm good through the t, if I'm not mistaken. I have a CV, if you'd Doctor, we have a copy of your CV. bu hand that to the doctor and see if that's the nt CV he has, Ms. Court Reporter? Yes. That is correct. And I'm I through the 31st of December, 2014. MR ENGLISH: Let's make your CV Exhibit Page 1 of 11 PageID #: 6

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2233 445566 778899 100111 122133 144155166 177188 19920 211222	 patients, would have to assist them in feeding, have to assist them in lifting them on occasions to beds and commodes and/or move them from one place to another for scans and things of that nature. Q Doctor, when you last saw him the 15th of November, did you give him a permanent no duty, no we status with certain impairments? A Yes, sir. Q Restrictions? A Yes, sir. Q What were those restrictions? And I'll ask you to refer back to your July 6 note, the specifics of that, sir. A On July 6th, it was written for no repetitive bending, stooping, squatting, or lifting greater than fifteen pounds. He should be allowed frequent changes in position. Q Are those still the restrictions that you had him on permanently at this time, sir? A If I can, sir, allow me just a few seconds to check my notes. Q Okay. 	ork S	2 try v 3 unde 4 that 5 liftin 6 over 7 8 restr 9 saw 10 Nov 11 12 try i 13 med 14 hope 15 16 anyt 17 com 18 19 prob 20 hour 21 hour 22 wall 23 youu 24 that	various limited dui ershoots, sometime he could not toler ag that we attempt shot the mark in J Q So you thin icted from doing a him up until the t ember? A No, sir. I t t in July. I don't t in July. I don't ical decision maki eful that he would Q When you hing, are you sayi plete day and not A What I'm sably can't even to rs. He's going to la c, he's going to ha q uestion, simply, k he could sit and	the physician can ty attempts. Some es he overshoots. I ate the fifteen pour ted to get him to de luly; I asked him to nk he should have anything from the time that you last s think it was approp think that there was ing. I think that I be able to do that say he is not able ng he needs to sit i do any activity at saying is that this g plerate sitting in be have to sit, stand. to a recliner. He's we to pace. In that , and similarly at ti just answer a phor e to stand, he's goi	times he t was my opinion nds of repetitive o in July, so I o do too much. been first time that you aw him here in oriate to is an error in just was overly to do in a bed for a all? gentleman d for eight He's going to going to have to regard, no to he workplace do I he, I don't think
2 3 4 5 6 7 7 8 9 10 11 12 13 14 15 16 177 18 19 20	opinion? A Meaning that I really don't think he could do anything. When I saw him in the office, let' say, on the 15th of November, I saw him for forty-five- minutes to an hour and during that time the man just of not sit or lay still or stand still. He was constantly having to change positions. I don't think that he would have been employable in that regard. He would have distraction to any workplace with as frequently as he to move to try to keep himself in some semblance of comfort. Q Doctor, do you have an opinion as to whether or not this man will suffer pain in the future is result of these injuries? A Yes, sir. I think that that unfortunately also is permanent, and that's the reason we sent him to a pain management consultation throug Browder. Q Will he require medications to alleviate the pain of this wreck and injuries in the future? A Most likely.	s e could ld been a had as a why gh Dr.	2 time 3 posi 4 to de 5 6 asse 7 8 have 9 deal 10 voca 11 how 12 adju 13 but, 14 court 15 16 are a 17 18 the a 19 com 20 21 any 23	E. I know that I co tion in my office, o any manual labo Q Do you ha ssor? A Indirect tra c substantial how with a lot of voca tional rehabilitation they orthopedical sted or improved, no, sir, I'm not a selor. Q Do you ha available for disab A I have a go ability to know tha pany "X" has a jo Q Is that genu of us who have ar lytes has? A I would th t any other Board	to lie down for a souldn't employ him and I certainly cou- or in my office. ve any training as a aining in the fact th w can we put it, in ational reports. I d on counselors varie ly or mechanically so I have a fair bit vocational rehabili ve any training in v- oled people in this a bod general idea. I at at this particular b that's opened, no cral ability similar n understanding as ink it would be sim- certified orthopedi	a in a clerical aldn't employ him a vocational hat I the fact that I iscuss with ous options and can be potentially t of experience, tation what jobs area? Do I have time that one b, sir. to what to what work
2233 4455 6677 8899 100111 12213 144155 166177 188 199200 211222 233	MR. ENGLISH: I believe that's all. CROSS EXAMINATION BY MR. WOODFIN: Q Dr. Koenig, my name's Clint Woodfin, an I represent Mr. Curd and Fox of Oak Ridge in this law Mr. Curd was driving the vehicle that rear-ended Mr. Neely's vehicle. If I understood your testimony corre about his restriction, you have changed the restriction that you had him on since July of 2004 as of 11-15-0. that correct? A That was correct. I just want to make sure I heard the dates correctly. He was we attempt to put him back to work on a limited duty basis, very limited, in July, and I responded as such to Mr. Engli question. He said as of July, what was his duty status and then on the 15th of November, 2005, he was placed duty. Q And that original restriction didn't change until November 15th, 2005, correct?	d wsuit. ctly 5; is ted sh's s, ed on no	5 thin 6 7 8 activ 9 com 10 11 with 12 as w 13 14 wou 15 he v 16 17 was 18 fifte 19 was 20 21 200 22 that	ally performed a v k that would be not A That is cor Q You menti vities, and I'm thin plaints of pain tha A Based on t A Based on t A Based on t A the objective find cell as a physical e Q There are n did lead you to cor vould hurt himself A Not within allowed to do bac een pounds would able to do the fift Q And that's 5, when you last s you can point to the thing, he's going	no less. as whether or not vocational analysis o? rect. ioned his inability t nking that's primar at he's relating to y the complaints of p dings on MRL CT se examination that's no objective indica- nclude that if he trid , are there? a the fifteen pounds ck in July. I don't hurt him. I just de teen pounds. s still the same in N saw him? There's n that says if this ma	on someone, I to do these rily based on the ou, correct? ain coupled an and plain films repetitively done. tions which ed to do anything, s that he think that the on't think that he lovember of nothing objective n tries to do

23 this gentleman has never had a Functional Capacity 24 Evaluation, which would objectively describe exactly what 25 this gentleman can and cannot do. When you don't have the 24 A I think if he tried to lift more than 25 fifteen pounds again, I think that he would fail again. 26 Case 3:05-cv-00304 - Document 16-1 - Filed 06/02/06 - Page 6 of 11 - PageID #: 11 Page 31 - Page 36