

Page 3

Re: Lisbeth Talbert

February 07, 2024

buttock area. She states that after the surgery, the numbness and tingling got better, but the pain persists. She still has right shoulder pain. She still has numbness and tingling in the right hand. She takes gabapentin, which helps a little bit.

PAST MEDICAL HISTORY: History of a prior right shoulder surgery in December 2015. The patient denies any other significant past medical problems, accidents, or injuries that she recalls.

SOCIAL HISTORY: The patient is single, has one child. She does smoke cigarettes occasionally and does not drink alcohol.

PHYSICAL EXAMINATION:

All range of motion was performed in the passive range of motion with the use of a goniometer. Pain level is 8/10.

Right Shoulder: Diffusely tender. There are five arthroscopic surgical scars, (three are old, and two are new and causally related to this current accident).

Neck: Shows diffuse tenderness, diffuse moderate spasm, and multiple trigger points present. ROM: Lateral flexion: 30 degrees/45 degrees, lateral rotation: 60 degrees/80 degrees, flexion/extension: 40 degrees/60 degrees. Positive Spurling's maneuver. The ACDF surgical scar is barely visible.

Back: Shows diffuse tenderness, diffuse moderate spasm, and multiple trigger points present. ROM: Extension: 15 degrees/30 degrees, flexion: 60 degrees/90 degrees, bilateral lateral flexion/lateral rotation: 20 degrees/30 degrees.

SLR is 60 degrees/90 degrees with bilateral lower back pain. There is a 6-cm surgical scar, which is about 3.5 inches.

Active range of motion is normal for all four extremities except for the right shoulder flexion, which is 170 degrees/180 degrees, internal rotation and external rotation is 80 degrees/90 degrees. Positive Hawkins, positive Neer sign, positive O'Brien's, positive empty can test.

Muscle power testing is normal for all four extremities except for the right shoulder, which is 4+/5.

Sensation is diminished to pinprick and touch in the right biceps and right medial calf.

DTRs are 1-2+ and symmetrical bilateral.

Gait is slow and antalgic.

Diagnoses:

Page 4

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1. L4 through S1 disc herniations with radiculopathy and instability with neurological deficits.
2. Status post L4 through S1 lumbar laminectomy, discectomy, foraminotomy with posterolateral fusion from L4 through S1 with segmental pedicle fixation L4 through S1 with hemilaminectomy at L3-L4 (surgery was performed by Andrew Cordiale, D.O., on August 11, 2021 at the New York Presbyterian Lower Manhattan Hospital).
3. C3 through C6 disc herniations with radiculopathy, status post C3 through C6 anterior cervical discectomy with decompression and fusion with titanium plate and screws.
4. Permanent scarring to the lumbar spine and scarring to the cervical spine, which is hard to be seen, but still present.
5. Status post right shoulder intra-articular injection with arthrogram.
6. T2 through T7 disc herniations.
7. T8 through T10 bulges.
8. T10-T11 disc herniations.
9. T11-T12 disc bulges.
10. C2 through C6 disc herniations with C6 through T1 disc bulges with C7-T1 disc herniation.
11. Right C5-C6, bilateral L5-S1 radiculopathy with a left carpal tunnel syndrome (as per EMG studies of September 24, 2020 performed by Dr. Varlotta).
12. Persistent cervical and lumbar radiculopathy.

Opinion: Based upon the history obtained, clinical examination findings, review of the medical records, and response to many different types of treatment including surgery, it is my professional opinion that all of the above diagnoses are permanent and progressive and causally related to the accident of September 12, 2016. The patient had a prior pre-existing surgery to the right shoulder, which was made worse by this accident and necessitated surgery.

Since these injuries are permanent, progressive, and causally related to this accident and the patient had sustained a permanent total disability causally related to this accident, the patient will need the following medical services for the rest of her life based upon proper medical indications and they are as follows:

1. The patient needs and should be seen by an orthopedic surgeon at least six times per year to monitor the orthopedic injuries. The cost for each visit is \$200.
2. The patient needs and should be seen by a neurologist at least six times per year to monitor the neurological injuries. The cost for each visit is \$200.
3. The patient needs and should be seen by a physiatrist at least 10 times per year to monitor the patient's overall musculoskeletal injuries to assess the need for physical therapy, pain medications, diagnostic studies, referral to other medical specialists and other physiatric treatments. The cost for each visit is \$200.
4. The patient needs periodic MRIs of the cervical spine, lumbar spine, and right shoulder every 2-3 years to assess the extent of ongoing pathology. The cost for each MRI is \$1500.

Page 5

Re: Lisbeth Talbert

February 07, 2024

5. The patient needs EMGs of the upper and lower extremities now and every 1-2 years to assess the extent of radiculopathy and/or neuropathy. The cost for each EMG is about \$2000-\$2500 per study.
6. In addition to a full EMG, the patient needs nerve conduction studies of the hands every three months to assess the extent of median neuropathy. The cost for that would be about \$1000.
7. The patient needs and should have at least one physical therapy session per week to diminish pain and spasm, improve range of motion, restore motor deficits and make the patient as pain free as possible. The cost for each physical therapy session is \$150-\$200 depending on the number of modalities performed. Since this patient has multiple injuries, I recommended comprehensive physical therapy session with four modalities. The cost would be about \$200 per visit.
8. The patient will need periodic medications for pain, spasm, and inflammation. The approximate annual cost would be anywhere from \$3000 to \$10,000 per year depending on medication, dosage and frequency as this will change from time to time and also I recommended topical compounding cream medications, which have the least amount of side effects. The cost for that would be about \$800-\$900 per month.
9. The patient will need periodic CBC, basic chemistry profile, liver function test, and urinalysis every four months to monitor the potential side effects of the medications. The cost would be about \$400 for each lab test.
10. For the next five years, the patient will need the following medical interventional pain management procedures. While the patient is getting interventional pain management procedures to the cervical and lumbar spine, the patient will need annual MRIs of the cervical and lumbar spine.
11. The patient will need three cervical epidural injections per year, three lumbar epidural injections per year. The cost for each epidural is \$2000 and the outpatient surgical facility fee for each is \$3000.
12. The patient will need three cervical/medial branch block injection sets per year and the same for the lumbar spine. The cost for each is \$3000 and the outpatient surgical facility fee for each is \$3000.
13. The patient will need two cervical radiofrequency ablation procedures per year one to each side and the same for the lumbar spine. The cost for each radiofrequency procedure is about \$5000 and the outpatient surgical facility fee for each is \$4000.
14. The patient will also need 12 sets of trigger point injections per year for the next five years for the muscle pain. The cost is \$400 per set.
15. As time goes on and adjacent segmental pathology and traumatic arthritis will set in, this patient will need more cervical and lumbar surgeries as such procedures typically last seven years plus or minus two years.
16. The cost for each future surgery to the neck and the back is as follows: Surgeon's fee would be about \$100,000. Surgical assistant fee for each surgery would be \$10,000. A one- to two-day hospital stay for each surgery would be about \$150,000-\$200,000. This will include the prosthetic disc replacements and other miscellaneous expenses. The patient will need anesthesia. The cost would be \$4000 for each surgery.

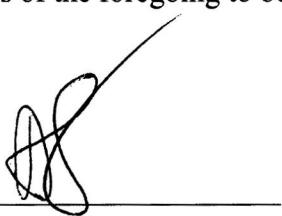
Page 6

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February 07, 2024

17. The patient will need neuromonitoring studies performed for each surgery to monitor the spine during surgery. The cost would be \$3000 for each surgery. After each surgery, the patient would need postsurgical bracing, which will cost about \$1000 and afterwards the patient will need physical therapy sessions three times a week for 4-6 months. The patient's overall prognosis must therefore remain guarded.

I, Ali E. Guy, M.D. being a physician duly licensed to practice medicine in the State of New York, under the penalties of perjury pursuant to CPLR 2106, do hereby affirm the contents of the foregoing to be true and accurate.



Ali E. Guy, M.D.
Clinical Assistant Professor of Physical Medicine & Rehabilitation
NYU School of Medicine
NYU Medical Center

AGI/gisl/law/dka/022224/AGI02210410-1

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

LISBETH E. TALBERT,
Plaintiff,
-against-
C.A.C. INDUSTRIES, INC., and STEVEN J.
FOULDS,
Defendants.

Index No.: 512937/2021

AFFIRMATION
OF SERVICE

JOSEPH P. NAPOLI, an attorney duly licensed to practice before the Courts of the State of New York hereby affirms, under penalty of perjury,

1. That I am over the age of eighteen years, am not a party to this action and reside in New York County;

2. That on February 26, 2024, I served the within: **RESPONSE TO DEMAND FOR EXPERT WITNESS DISCLOSURE PURSUANT TO CPLR §3101(d)** to be served on the undersigned, counsel for the parties hereto, at the addresses below, supplied by those counsel as their mailing addresses for service of papers, by causing same to be enclosed in a post-paid envelope and deposited in a depository box maintained under the exclusive control of the US Postal in the City and State of New York. The following offices were served:

HANNUM FERETIC PRENDERGAST & MERLINO, LLC.
Attorneys for Defendants
C.A.C. INDUSTRIES, INC. and STEVEN J. FOULDS
55 Broadway, Suite 202
New York, New York 10006
(212) 530-3900



Joseph P. Napoli, Esq.

Index No.: 154468/2017

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

LISBETH E. TALBERT,

Plaintiff,

-against-

C.A.C. INDUSTRIES, INC., and STEVEN J. FOULDS

Defendants.

3101 (D)

NAPOLI SHKOLNIK, PLLC

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New York, New York 10017-6502

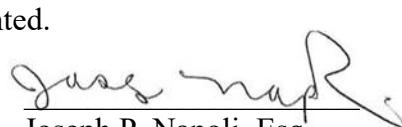
(212) 397-1000

CERTIFICATION PURSUANT TO 22 N.Y.C.R.R. §130-1.1a

JOSEPH P. NAPOLI, ESQ., hereby certifies that, pursuant to 22 N.Y.C.R.R. §130-1.1a, the foregoing is not frivolous as nor frivolously presented.

Dated: New York, New York

February 26, 2024



Joseph P. Napoli, Esq.

To

Attorney(s) for Plaintiff

Service of a copy of the within _____ is hereby admitted.

Dated:

Attorney(s) for Plaintiff

Please take notice that the within is a (certified) true copy of a _____ duly entered in the Office of the Clerk of the within named Court on _____, 20____

Please take notice that an Order of _____ which the within is a true copy will be presented for settlement to the Hon. _____ one of the Judges of the within named Court, at _____ on _____, 20____ at ____:____ a.m./ p.m.