

1 04-E-59010 EB

2

CAUSE NO. 26,836-B

3

SHARON LEE * IN THE DISTRICT COURT OF

4

*

VS. * LIMESTONE COUNTY, TEXAS

5

*

PARKVIEW REGIONAL *

6

HOSPITAL, INC.; PROVINCE *

HEALTHCARE COMPANY; *

7

CHARLES RONALD SMITH, *

D.O.; ALPHA OMEGA LABS; *

8

GREG CATON; HERBOLOGICS, *

LTD. AND LUMEN FOOD CORP. * 87TH JUDICIAL DISTRICT

9

10

ORAL DEPOSITION OF
WAYNE R. SNODGRASS, M.D.

11

2-2-04

12

13 ORAL DEPOSITION OF WAYNE R. SNODGRASS, M.D., PRODUCED AS A
14 WITNESS AT THE INSTANCE OF THE DEFENDANTS, PARKVIEW
15 REGIONAL HOSPITAL AND PROVINCE HEALTHCARE COMPANY, AND
16 DULY SWORN, WAS TAKEN IN THE ABOVE-STYLED AND NUMBERED
17 CAUSE ON THE 2ND OF FEBRUARY, 2004, FROM 1:15 P.M. UNTIL
18 3:21 P.M., BEFORE EDITH A. BOGGS, CSR IN AND FOR THE STATE
19 OF TEXAS, REPORTED BY MACHINE SHORTHAND, AT THE LAW
20 OFFICES OF JOSEPH MALOUF, 5177 RICHMOND, SUITE 850,
21 HOUSTON, TEXAS, PURSUANT TO THE TEXAS RULES OF CIVIL
22 PROCEDURE AND THE PROVISIONS STATED ON THE RECORD OR
23 ATTACHED HERETO.
24
25

ESQUIRE DEPOSITION SERVICES (713) 524-4600

1

A P P E A R A N C E S

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ATTORNEY FOR PLAINTIFF:

THE LAW OFFICES OF STEPHEN F. MALOUF, PC
3506 CEDAR SPRINGS ROAD
DALLAS, TEXAS 75219
BY: PETER G. MALOUF, ESQUIRE

ATTORNEY FOR DEFENDANTS, PARKVIEW REGIONAL HOSPITAL
AND PROVINCE HEALTHCARE COMPANY:

CURNEY, GARCIA, FARMER, PICKERING & HOUSE, P.C.
411 HEIMER ROAD
SAN ANTONIO, TEXAS 78232-4854
BY: JOHN M. CURNEY, JR., ESQUIRE

ATTORNEY FOR DEFENDANT, CHARLES RONALD SMITH, DO:

HALEY DAVIS
510 NORTH VALLEY MILLS DRIVE
SUITE 600
WACO, TEXAS 76710
BY: BILL J. MERCHANT, ESQUIRE

ATTORNEY FOR DEFENDANT, LUMEN FOOD CORP.:

FULBRIGHT WINNIFORD
1105 WOODED ACRES
7TH FLOOR
P.O. BOX 7575
WACO, TEXAS 76714-7575
BY: GERALD L. BOLPING, ESQUIRE
ESQUIRE DEPOSITION SERVICES (713) 524-4600

1
2
3
4
5

A P P E A R A N C E S (CONTINUED)

ATTORNEY FOR DEFENDANTS, GREG CATON AND HERBOLOGICS,
LTD.:

LAW OFFICE OF RICHARD LORENZ
3511 CLAYHEAD ROAD

6 RICHMOND, TEXAS 77469
7 BY: RICHARD LORENZ, ESQUIRE
(PRESENT TELEPHONICALLY)

8
9

REPORTED BY:

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. EDITH A. BOGGS

ESQUIRE DEPOSITION SERVICES (713) 524-4600

4

1 INDEX

2

APPEARANCES..... 2

3 WAYNE R. SNODGRASS, M.D.
EXAMINATION BY MR. CURNEY..... 5

4 EXAMINATION BY MR. MERCHANT..... 56
EXAMINATION BY MR. BOLFING..... 78

5 EXAMINATION BY MR. CURNEY..... 88
EXAMINATION BY MR. MALOUF..... 92

6 EXAMINATION BY MR. MERCHANT..... 94
SIGNATURE AND CHANGES..... 98

7 REPORTER'S CERTIFICATE.....100

8

9

EXHIBITS

10

NO.	DESCRIPTION
11	
12 1	MEDICAL TOXICOLOGY REPORT
13 2	CORRESPONDENCE
14 3	BLACK NOTEBOOK

15 4 BLACK NOTEBOOK
16 5 BLACK NOTEBOOK
17 6 NOTICE
18
19
20
21
22
23
24
25

ESQUIRE DEPOSITION SERVICES (713) 524-4600

5

1 WAYNE R. SNODGRASS, M.D.
2 HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
3 EXAMINATION
4 Q. (BY MR. CURNEY) GOOD AFTERNOON. WOULD YOU TELL
5 US YOUR NAME, PLEASE.
6 A. YES. MY NAME IS WAYNE SNODGRASS.

88

7 Q. THESE UNTRUTHS THAT YOU COULD POINT OUT TO ME,
8 AGAIN, THESE ARE MATTERS THAT BASED ON YOUR MEDICAL
9 TRAINING, YOU'VE LOOKED AT IT AND YOUR MEDICAL TRAINING
10 TELLS YOU THAT THIS DOESN'T MAKE SENSE, IS THAT WHAT
11 YOU'RE TELLING ME?
12 A. CORRECT. IN OTHER WORDS, WITH THE FLEXNER REPORT
13 IN THE 1920S OR SO IN THIS COUNTRY AND REVAMPING MEDICAL
14 SCHOOLS AND THE PASSAGE OF THE 1938 FDA LAW, I THOUGHT WE
15 HAD GOTTEN RID OF MOST OF THIS KIND OF THING.
16 Q. WOULD YOU EXPECT ANY TYPE OF A DOCTOR OR SURGEON
17 TO HAVE THE SAME BASIC UNDERSTANDING OF THESE ITEMS AS
18 WHAT YOU'VE TOLD US HERE TODAY?
19 A. YES.

98

1
2
3
4
5 WAYNE R. SNODGRASS, M.D.
6
7 THE STATE OF _____

8 COUNTY OF _____
9
10 BEFORE ME, _____, ON THIS DAY PERSONALLY
11 APPEARED WAYNE R. SNODGRASS, M.D., KNOWN TO ME (OR PROVED
12 TO ME UNDER OATH OR THROUGH _____) (DESCRIPTION
13 OF IDENTITY CARD OR OTHER DOCUMENT) TO BE THE PERSON WHOSE
14 NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND
15 ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE
16 PURPOSES AND CONSIDERATION THEREIN EXPRESSED.
17
18 GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ DAY OF
19 _____, _____.
20
21 NOTARY PUBLIC IN AND FOR
22 THE STATE OF _____
23
24
25
ESQUIRE DEPOSITION SERVICES (713) 524-4600

1 ERRATA SHEET
2
3 CORRECTION PAGE LINE
4
5 _____
6
7 _____
8
9 _____
10
11 _____
12
13 _____
14
15 _____
16
17 _____
18
19 _____
20
21
22
23
24

1 CAUSE NO. 26,836-B
 2 SHARON LEE * IN THE DISTRICT COURT OF
 *
 3 VS. * LIMESTONE COUNTY, TEXAS
 *

4 PARKVIEW REGIONAL *
 HOSPITAL, INC.; PROVINCE *
 5 HEALTHCARE COMPANY; *
 CHARLES RONALD SMITH, *
 6 D.O.; ALPHA OMEGA LABS; *
 GREG CATON; HERBOLOGICS, *
 7 LTD. AND LUMEN FOOD CORP. * 87TH JUDICIAL DISTRICT
 8 TAXABLE COSTS:
 PAID BY: JOHN M. CURNEY, JR., ESQUIRE
 9 TBA NUMBER: 05258600
 JOB NUMBER: 04-E-59010

10

REPORTER'S CERTIFICATION
 11 TO THE DEPOSITION OF WAYNE R. SNODGRASS, M.D.
 TAKEN ON 2-2-04

12

I, EDITH A. BOGGS, CERTIFIED SHORTHAND REPORTER IN
 13 AND FOR THE STATE OF TEXAS, HEREBY CERTIFY THAT THE
 EXAMINATION OF WAYNE R. SNODGRASS, M.D. WAS CORRECTLY
 14 REPORTED IN MACHINE SHORTHAND BY ME AT THE TIME AND PLACE
 SET FORTH IN SAID CAPTION AND HAS BEEN TRANSCRIBED FROM
 15 MACHINE SHORTHAND INTO TYPEWRITING UNDER MY SUPERVISION IN
 THE FOREGOING TRANSCRIPT AND THAT SAID TRANSCRIPT CONTAINS
 16 A TRUE RECORD OF THE PROCEEDINGS HAD AT SAID TIME AND
 PLACE, AFTER SAID WITNESS WAS DULY SWORN/AFFIRMED BY ME.

17

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR
 18 COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF THE
 PARTIES TO THE ACTION IN WHICH THIS TESTIMONY WAS TAKEN.
 19 FURTHER I AM NOT A RELATIVE OR EMPLOYEE OF ANY ATTORNEY OF
 RECORD IN THIS CAUSE, NOR DO I HAVE A FINANCIAL INTEREST
 20 IN THE ACTION.

21 I FURTHER CERTIFY THAT CHARGES FOR THE PREPARATION
 OF THE FOREGOING COMPLETED DEPOSITION AND ANY COPIES OF
 22 EXHIBITS ARE \$ _____, CHARGED TO ATTORNEY FOR THE
 DEFENDANTS, REGIONAL HOSPITAL, INC. AND PROVINCE

23 HEALTHCARE COMPANY.

24 I FURTHER CERTIFY THAT THE DEPOSITION TRANSCRIPT WAS
DELIVERED ON THE _____ DAY OF _____, 2004,
25 TO _____ FOR EXAMINATION AND SIGNATURE AND
WAS/WAS NOT RETURNED TO ESQUIRE DEPOSITION SERVICES. THE

101

1 ATTACHED CHANGE/CORRECTION SHEET CONTAINS CHANGES, IF ANY,
MADE BY THE WITNESS.

2

I FURTHER CERTIFY THAT THE ORIGINAL DEPOSITION
3 TRANSCRIPT, OR A CERTIFIED COPY THEREOF, TOGETHER WITH
COPIES OF ALL TENDERED EXHIBITS, WAS DELIVERED TO JOHN M.
4 CURNEY, JR., ESQUIRE; CUSTODIAL ATTORNEY.

I FURTHER CERTIFY THAT, PURSUANT TO THE INFORMATION
5 PROVIDED TO THE REPORTER AT THE TIME SAID TESTIMONY WAS
6 TAKEN, A COPY OF THIS CERTIFICATE HAS BEEN SERVED ON ALL
PARTIES OF RECORD, AS LISTED BELOW:

7 PETER G. MALOUF, ESQUIRE, ATTORNEY FOR PLAINTIFF, 1 MINUTE
USED;

8 JOHN M. CURNEY, JR., ESQUIRE, ATTORNEY FOR DEFENDANTS,
PARKVIEW REGIONAL HOSPITAL AND PROVINCE HEALTHCARE

9 COMPANY, 1 HOUR, 2 MINUTES USED;

BILL J. MERCHANT, ESQUIRE, ATTORNEY FOR DEFENDANT, CHARLES

10 RONALD SMITH, DO, 36 MINUTES USED;

GERALD L. BOLPING, ESQUIRE, ATTORNEY FOR DEFENDANT, LUMEN

11 FOOD CORP., 20 MINUTES USED;

RICHARD LORENZ, ESQUIRE, ATTORNEY FOR DEFENDANTS, GREG

12 CATON AND HERBOLOGICS, LTD., NO TIME USED.

13 TOTAL DEPOSITION TIME: 1 HOUR, 59 MINUTES

14 FURTHER CERTIFICATION REQUIREMENTS PURSUANT TO RULE

203 OF TRCP WILL BE COMPLIED WITH AFTER THEY HAVE

15 OCCURRED.

16 CERTIFIED TO BY ME THIS THE _____ DAY OF
_____, 2004.

17

18

19

EDITH A. BOGGS, CSR

20 CERTIFIED SHORTHAND REPORTER

IN AND FOR THE STATE OF TEXAS

21

22 NOTARY EXPIRES: 4/25/2004

CERTIFICATION NO. 3022

23 EXPIRATION DATE: 12/31/2005

24 ESQUIRE DEPOSITION SERVICES, REGISTRATION NO. 3
3401 LOUISIANA
25 SUITE 300
HOUSTON, TEXAS 77002 713/524-4600 4600

102

1 FURTHER CERTIFICATION UNDER RULE 203 TRCP
2 THE ORIGINAL DEPOSITION WAS/WAS NOT RETURNED TO THE
3 DEPOSITION OFFICER ON _____;
4 IF RETURNED, THE ATTACHED CHANGES AND SIGNATURE PAGE
5 CONTAINS ANY CHANGES AND THE REASONS THEREFOR;
6 IF RETURNED, THE ORIGINAL DEPOSITION WAS DELIVERED
7 TO JOHN M. CURNEY, JR., ESQUIRE, CUSTODIAL ATTORNEY;
8 THAT \$_____ IS THE DEPOSITION OFFICER'S CHARGES
9 TO THE DEFENDANT FOR PREPARING THE ORIGINAL DEPOSITION
10 TRANSCRIPT AND ANY COPIES OF EXHIBITS;
11 THAT THE DEPOSITION WAS DELIVERED IN ACCORDANCE WITH
12 RULE 203.3, AND THAT A COPY OF THIS CERTIFICATE WAS SERVED
13 ON ALL PARTIES SHOWN HEREIN AND FILED WITH THE CLERK.
14 CERTIFIED TO BY ME THIS _____ DAY OF
15 _____, 2004.

16
17 CERTIFICATE NO. 3022 _____
18 EDITH A. BOGGS
19 EXPIRES: DEC. '05 CERTIFIED SHORTHAND REPORTER
20 IN AND FOR THE STATE OF TEXAS
21
22
23
24
25

ESQUIRE DEPOSITION SERVICES (713) 524-4600