

1 for stuff that I normally would reach to. Even to take stuff
2 from my house, from work, there's pain. My reaching was
3 limited.

4 Q. Okay. What about your neck, were you limited in how
5 you were able to move your neck after the accident?

6 A. I was.

7 Q. Can you describe that for us?

8 A. My entire body has to be turned at times instead of my
9 neck. If I try to turn my neck, I will feel pain that was
10 unbearable. So I have to stop at a certain point.

11 Q. What about your back, were you limited in how you were
12 able to use your back after the accident?

13 A. I was limited because I was not able to bend or to
14 lift stuff that I used to do normally.

15 Q. What kind of stuff would you normally bend and lift
16 before the accident?

17 A. At work, supplies, things to use to cook, we have to
18 the lift those stuff and you had to bend to get them.

19 Q. Are you limited or were you limited in how you were
20 able to move your right knee after the accident?

21 A. Yes, because sometimes I had to go down stairs, up
22 stairs. To walk up and down the stairs was too much.

23 Q. Was too much?

24 MR. CHUSTEK: Again, the editorial comments.

25 THE COURT: Go back to the room, members of the

1 jury.

2 COURT OFFICER: Follow the officer, jurors.

3 (At this time, the jury left the courtroom)

4 THE COURT: Ms. Borden, I warned you. Every time
5 the witness gives an answer, you are repeating it and the
6 jury is right here. They hear. I hear. Everyone hears.
7 And you consistently disregard my instructions to you and
8 you just continue doing it. If you want to do that, I will
9 send the jury home and we will do this next year. One more
10 time, if you do it, that's what will happen.

11 MR. CHUSTEK: Your Honor, she has also been very
12 demonstrative too in response to the questions, shaking her
13 hands.

14 THE COURT: Well, no, that I stopped her from
15 doing. She was doing that and I stopped her from doing
16 that.

17 MR. CHUSTEK: She has done this now on at least
18 half a dozen occasions, if not more.

19 MS. BORDEN: Your Honor, I just want you to know
20 that I am honestly --

21 THE COURT: No, don't use the word "honestly".

22 MS. BORDEN: I am having a difficult time hearing
23 him --

24 THE COURT: Don't use the word "honestly" because
25 you are not doing it honestly. You are doing it for effect

1 before the jury. Now, stop.

2 MS. BORDEN: And what about defense counsel who
3 just threw his chair and threw his documents all in front
4 of the jury? He is allowed to throw his chair in front of
5 the jury?

6 THE COURT: What do you mean throw the chair?

7 MS. BORDEN: He threw his chair --

8 THE COURT: Wait. When you throw something, you
9 lift it up --

10 MS. BORDEN: He picked --

11 THE COURT: Hey, when I am talking, you don't
12 talk. When somebody throws something, you lift it up and
13 it leaves your hand and it lands someplace else. Now, the
14 chair that Mr. Chustek is standing or sitting next to, the
15 chair is where, at the table behind him?

16 MS. BORDEN: He picked it up and threw it at
17 counsel's table.

18 MR. CHUSTEK: Your Honor, that is a
19 misrepresentation of what I did.

20 THE COURT: The chair is still there so nothing
21 was thrown. The chair is still at the table. I can see it
22 there. Had he thrown the chair, had it left that area, I
23 would take very strong action in that I would let the court
24 officer take him in the back and lock him up. Now, if you
25 can't behave, if I have to tell you "don't repeat", I am

1 going to dismiss the jury.

2 MS. BORDEN: Dismiss the jury. Go ahead.

3 THE COURT: What did you say?

4 MS. BORDEN: Go ahead.

5 MR. CHUSTEK: Your Honor, is this the respect she
6 shows the Court?

7 THE COURT: Okay, bring the jury back. Just for
8 that they are going to come back. You are very rude,
9 Ms. Borden.

10 MS. BORDEN: Rude?

11 THE COURT: You are very rude. And after the
12 trial you are going to have to answer for that. Let's get
13 this trial going. You are very rude. You have no respect
14 for the Court. Now sit down.

15 COURT OFFICER: Jurors are on their way, Your
16 Honor.

17 THE COURT: Bring them back.

18 COURT OFFICER: Are you ready, Your Honor.

19 THE COURT: Yes, bring them in.

20 COURT OFFICER: All rise. Jury entering.

21 (At this time, the jury entered the courtroom)

22 THE COURT: All jurors are accounted for. You
23 may be seated.

24 Proceed, Ms. Borden. And remember the Court's
25 instructions to you. See if you can obey the Court's

1 instruction. Proceed.

2 MS. BORDEN: Okay.

3 Q. Mr. Knight, the treatment that you received from
4 Dr. Leist for the two years three times a week, did that help
5 alleviate your symptoms in your neck and in your back?

6 A. Yes, it does.

7 Q. Why did you stop treating with Dr. Leist after two
8 years?

9 A. Because the insurance --

10 THE COURT: No, no. What is wrong with you?
11 Come here. You come here.

12 (The following occurred at sidebar out of the
13 presence of the jury:)

14 THE COURT: You prepped him to say that.
15 You prepped that witness, your witness, to use the word
16 "insurance" on the stand.

17 MS. BORDEN: How dare you accuse me of that, Your
18 Honor.

19 THE COURT: Yes, you did because when you first
20 came and you said something to me, "Oh, No-Fault wouldn't",
21 I told you I didn't want to hear that. I said I did not
22 want to hear that and you were not to say that on the
23 stand. I told you that. But you did it anyway. You did
24 it anyway.

25 Let's go back.

1 MS. BORDEN: What is the point? I am not allowed
2 to ask him? I need a ruling. I need you to --

3 THE COURT: You need a ruling on what?

4 MS. BORDEN: On what I am allowed to ask him.

5 THE COURT: You better not ask him "why you
6 stopped treatment" on anything.

7 MS. BORDEN: I am not allowed to ask him why he
8 didn't have surgery?

9 THE COURT: No.

10 MS. BORDEN: Your Honor, it is a reasonable
11 excuse you are allowed to talk about at trial. You are not
12 allowed to talk about casualty insurance --

13 THE COURT: No, it's not.

14 MS. BORDEN: Do you have case law to support
15 that?

16 THE COURT: I am making a decision. You can go
17 to the Appellate Division when this is over. Let's go.

18 (The sidebar matter concluded. At this time, all
19 parties returned to the courtroom:)

20 Q. I'm sorry. Why did you stop treating --

21 MR. CHUSTEK: Objection, Your Honor.

22 THE COURT: What did I say to you outside? What
23 did I say to you outside? You are doing it again. Are you
24 doing that again?

25 MS. BORDEN: I'm sorry.

1 THE COURT: Are you disobeying? Are you
2 disregarding? Maybe I am not the judge here. Is there
3 somebody else underneath the table? Members of the jury,
4 do I look like the judge?

5 Did I tell you not to do that. You are doing it
6 in the presence of the jury. You better don't do that.
7 The first question out of your mouth is what I told you
8 don't do. You are disrespecting the very system that you
9 are utilizing. Go ahead and do it and then we won't have a
10 system. You see what's happening in other lands? Maybe
11 that's what you want. So go ahead.

12 MS. BORDEN: I'm sorry, Your Honor. I didn't
13 understand that.

14 THE COURT: You don't understand? I am speaking
15 English. I speak the Queen's English.

16 Q. Mr. Knight, my apologies. You treated with Dr. Senat
17 for eight months.

18 MR. CHUSTEK: Objection, Your Honor. It's
19 leading.

20 MS. BORDEN: There is no question yet.

21 MR. CHUSTEK: Then it's compound.

22 THE COURT: Didn't you ask him that already?
23 Now, what is the question after that?

24 Q. What type of treatment did Dr. Senat, the orthopedic
25 doctor who treated you for your knee, provide you with?

1 A. He examined my knee and he told me he was checking --

2 THE COURT: No, not told you. What did he do?

3 THE WITNESS: He examined my knee and because the
4 films that had been done, the MRI --

5 THE COURT: No. What did the orthopedist do?
6 That is the question. The question was, what treatment did
7 he render to you?

8 THE WITNESS: Well, he checked my knee.

9 Q. Okay, let me ask you this question:

10 You told us that you stopped working at Golden Crust.

11 MR. CHUSTEK: Objection, Your Honor.

12 MS. BORDEN: There is no question yet.

13 THE COURT: Let me hear the question. What is
14 the question?

15 Q. All right, why did you stop working at Golden Crust?

16 MR. CHUSTEK: Objection, Your Honor. It's a
17 compound question. She is restating what has already been
18 stated by this witness.

19 THE COURT: Members of the jury, did you hear
20 that?

21 They said yes, they heard it. Next question.

22 Q. Tell us what field you went into after you left Golden
23 Crust.

24 THE COURT: I didn't hear the question.

25 MS. BORDEN: I said, "Tell us what field you went

1 into after you stopped working at Golden Crust."

2 THE COURT: You may answer.

3 A. I went into the nursing field.

4 Q. Did you need additional schooling to go into that
5 field?

6 A. Yes, I did.

7 Q. When did you obtain that schooling?

8 A. During the time working at Golden Crust.

9 THE COURT: Was that after the accident?

10 THE WITNESS: I did schooling after --

11 THE COURT: Was that after the accident? Yes or
12 no.

13 THE WITNESS: Yes, after the accident.

14 Q. I know there is a lot of yelling going on here,
15 Mr. Knight, but just try to --

16 THE COURT: I didn't hear that.

17 MS. BORDEN: I said, "I know there's a lot of
18 yelling going on, Mr. Knight, but just try to speak up."

19 THE COURT: What did you say? What did you say?
20 You are very rude. You are very rude to the Court. You
21 show no respect for the Court.

22 MS. BORDEN: I don't think it shows much respect
23 for the plaintiff, Your Honor.

24 THE COURT: No, you show no respect for the
25 Court. Now, go ahead. See if you can show a little

1 more --

2 MS. BORDEN: What about respect for my client,
3 Your Honor?

4 THE COURT: When I am talking, you don't talk.
5 You don't talk when I am talking.

6 Now, you may talk. Ask your client a question,
7 if you can do it without insulting the Court.

8 Q. Mr. Knight, why did you go attain additional schooling
9 after this accident?

10 A. I was trying to find a job that don't keep me on my
11 feet so long for the amount of time that I do at the restaurant
12 and bakery --

13 THE COURT: Don't give approval by nodding your
14 head yes.

15 MS. BORDEN: Approval?

16 THE COURT: Don't do it. Don't do it.

17 MS. BORDEN: Would you like to ask the
18 question --

19 THE COURT: Don't do it.

20 Are you laughing at the Court? You are laughing
21 at the Court?

22 MS. BORDEN: I can't do anything, Your Honor.

23 THE COURT: No, no, you are laughing at the
24 Court. That's funny?

25 MS. BORDEN: I am not laughing.