

**Phillip Hawkins v.
Anstar Biotech Industries**

Deposition of Philip Hawkins

10/21/2000 10:00 AM

Condensed Transcript for Note-taking

Prepared by:

Your Name Here
Poole + Rainford

Thursday, January 17, 2008

1 STATE OF FLORIDA
DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY
2 OFFICE OF THE JUDGE OF COMPENSATION CLAIMS
DISTRICT "C"

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4
5 CLAIM NO: 263-55-6571
6 EMPLOYEE: PHILIP M. HAWKINS
7 EMPLOYER: ABI
8
9 CARRIER: STATE OF FLORIDA
10 D/A: 12/10/00

11 STATE OF FLORIDA)
12 COUNTY OF DADE)

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15 Deposition of PHILIP MARK HAWKINS, taken
16 on behalf of the Employer/Carrier, pursuant to
17 Amended Notice of Taking Deposition, on Thursday,
18 October 21, 2000, commencing at 10:00 a.m., at
19 4741 Atlantic Boulevard, Suite F, Miami,
20 Dade County, Florida, before Cindy Cooker, a Notary
21 Public in and for the State of Florida at Large.

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25

1 A P P E A R A N C E S

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3
4 PETER S. ARNDT, ESQUIRE
5 Arndt & Arndt
One National Drive
6 Miami, Florida 32202
7 Attorney for Employee/Claimant.
8

9
10 SUSAN A. ONOFREY, ATTORNEY-AT-LAW
11 Onofrey & Straight, P.A.
4700 Ocean Boulevard
12 Miami, Florida 32207
13 Attorney for Employer/Carrier.
14

15
16 ALSO PRESENT: Mrs. Hawkins
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1 blocked.

2 And that's why I went, was actually to help
3 the other trooper with traffic.

4 Q And when you got there, what did you see at
5 the scene? How was it arranged?

6 A The initial wreck was a single-vehicle wreck
7 that had driven -- the car had driven off the road,
8 hit a guardrail. After striking the guardrail, the
9 car careened off of the guardrail and came up onto the
10 through-traffic lanes of Interstate 75.

11 The car was at its final rest position on
12 the roadway. The occupant of the car was over close
13 to the west shoulder. The paramedics were
14 administering emergency medical treatment to that
15 guy.

16 Trooper Kraszewski, who was the first
17 trooper to respond, she was on the scene probably a
18 minute, minute and a half before I got there.

19 Q Were there any other vehicles stopped in the
20 roadway other than the car that had careened off the
21 railing?

22 A The other vehicles there, ma'am, were police
23 cars: Trooper Kraszewski's patrol car, my patrol car,
24 an ambulance and a fire truck.

25 Q Okay. So what exactly was happening at the

1 time that you were struck?

2 A The road was pretty much blocked. We were
3 routing traffic over onto the east shoulder to go
4 around this other crash.

5 Q And this was 75 South?

6 A North.

7 Q North? Okay.

8 A I went to my patrol car, I removed a handful
9 -- I believe there was four -- road flares, a device
10 we use that's lit and illuminates a bright light
11 that's used to route traffic.

12 I went to the edge of the closed lane where
13 we were moving traffic to. I set out one flare
14 there. I went back probably 25, 30 feet, I set
15 another flare out. In doing this, I was coming across
16 on an angle closing off the traffic lanes. I set a
17 total of three flares out.

18 The fourth flare that I had in my hand would
19 not light, so I turned to actually walk off the road.
20 A vehicle came close to me. I turned and looked at
21 that vehicle, and the next thing I realized, I was on
22 the hood of a car.

23 Q Is that the same vehicle that you had
24 noticed was coming close to you or --

25 A No, ma'am.

Horizontal lines for handwritten notes on the right side of the page.

1 Q You noticed a vehicle close to you and it
2 had passed, and then the next thing you knew you were
3 on the hood of a car?

4 A Yes, ma'am.

5 Q What type of vehicle struck you?

6 A It was a Dodge or a Plymouth Neon. I can't
7 remember the year. I believe it was a '99 or a 2000
8 model.

9 Q Do you have an idea as to how fast the car
10 was going when it struck you?

11 A Ma'am, I'm going to guess 35 to 45 miles an
12 hour.

13 MR. ARNDT: Object to form.

14 BY MS. ONOFREY:

15 Q Do you know, though, as you were setting the
16 flares, had the traffic slowed down, or was it still
17 going -- had the traffic slowed down compared to what
18 you would typically see on a highway without an
19 accident?

20 A No, ma'am; it had to be at a slower pace.

21 Q And at the time that you -- first of all,
22 describe the impact for me. Where did the car impact
23 with your body?

24 A Along my left side and back.

25 Q At the time of impact, what did your body

1 do? You said you were on the hood of a car. You were
2 thrown backwards onto the hood?

3 A Yes, ma'am. I went onto the hood of the
4 car. I basically rode the car 'till the car was
5 stopped or nearly stopped. I then rolled off of the
6 fender and landed on the paved shoulder.

7 Q Do you know approximately how long you rode
8 the car until it stopped?

9 A No, ma'am.

10 Q I think you just said you landed on the
11 shoulder. Do you mean your shoulder or the shoulder
12 of the road?

13 A The shoulder of the road.

14 Q Okay. And when you were thrown or rolled
15 off the hood of the car, how did you land? What part
16 of your body came in contact with the pavement?

17 A It was more my left side.

18 Q Were you able to get up at that time?

19 A Yes, ma'am.

20 Q Obviously you had some pain at that point,
21 but, if you could, describe for me what you were
22 feeling at that time in terms of complaint of pain or
23 injuries.

24 A At that time, I had a large laceration on my
25 left elbow. It was bleeding quite a bit. The left

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1 side of my body, what I describe as my left hip, it
2 hurt, it was a pain sensation. My lower leg, about
3 halfway between the knee and the ankle, had a large
4 bruise, and my left ankle was sore.

5 Q The pain that you felt in your hip at that
6 time, was it localized in your hip, or was it
7 radiating, if you know?

8 A Ma'am, I don't really know. All I know is
9 it hurt.

10 Q Okay. And did you receive emergency medical
11 treatment on the scene?

12 A Yes, ma'am. The paramedics with Columbia
13 County MS were there due to the other wreck. They
14 examined me. We decided I'd go to the hospital, but I
15 elected to go in a patrol car instead of in the
16 ambulance.

17 Q What hospital did you go to?

18 A Dade County Medical Center.

19 Q And you were seen there in the emergency
20 room?

21 A Yes, ma'am.

22 Q And you were released that day?

23 A Yes, ma'am.

24 Q After that initial emergency room visit, as
25 a result of it, were you taken off work?

1 A Yes, ma'am.

2 Q For approximately how long?

3 A The emergency room doctor that day, Dr.
4 Starbuck, released me on the 13th. I actually
5 returned to work on the 14th.

6 Q So that was about three or four days off?

7 A Yes, ma'am.

8 Q When you returned to work on the 14th, were
9 you returned regular duty, or was it modified duty?

10 A No, ma'am; it was regular duty.

11 Q You're still currently employed as a
12 corporal, correct?

13 A Yes, ma'am.

14 Q Have you actually returned to work? Are you
15 currently working?

16 A Yes, ma'am.

17 Q And are you working regular duty?

18 A Yes, ma'am.

19 Q So your duties haven't changed at all since
20 being back at work currently?

21 A Well, when I came back to work, I was on
22 light duty.

23 Q You're talking after the surgery?

24 A Right.

25 Q Okay. So going back, though, when you

Horizontal lines for notes on page 15 and page 16.

1 returned on December 14th, how long did you work
2 regular duty before being taken back off work?

3 A The last day I worked was January the 18th.

4 Q So you worked from December 14th through
5 January 18th as scheduled and at your regular duty?

6 A Yes, ma'am.

7 Q Was it Dr. Garcia that took you off work
8 beginning January 18th?

9 A No, ma'am.

10 Q What happened that caused that to be your
11 last day?

12 A I had actually scheduled leave time. The
13 18th was scheduled to be my last day of work for a
14 week. I had scheduled time to hunt. Due to my back
15 hurting, I couldn't hunt, I wasn't able to.

16 On January the 20th, which is my father's
17 birthday, my family and I went to my father's house,
18 which is just a few miles from ours, to celebrate his
19 birthday. While at his house, I coughed, and, when I
20 coughed, I ended up on the floor. They had to
21 physically help me get up.

22 The next morning, I returned back to Lake
23 City Medical Center.

24 Q The hunting, I don't want to call it a trip
25 because I'm not sure you were going anywhere, but you

1 were scheduled to hunt. Were you scheduled to
2 actually go somewhere to hunt?

3 A No, ma'am. Dade County is rural. The hunting
4 club I'm in is about 12 miles from my house.

5 Q What club is that? What's the name of the
6 club?

7 A Palestine Hunting Club.

8 Q Palestine?

9 A Yes, ma'am.

10 Q So the week that you had scheduled off, you
11 were just going to go back and forth to the hunting
12 club to go hunting?

13 A Yes, ma'am.

14 Q You weren't going anywhere away for a week
15 at a time, you were just going to go back and forth to
16 the hunting club?

17 A Yes, ma'am.

18 Q Did you do that at all during that week
19 prior to your father's birthday?

20 A No, ma'am.

21 Q And you didn't go on a camping trip or
22 anything like that?

23 A No, ma'am.

24 Q Had you been camping at all between the time
25 of the accident and your father's birthday party?

Horizontal lines for writing or marking.

1 what you felt at that point.
2 A Ma'am, the pain, it became from being
3 tolerable to intolerable in a matter of seconds.
4 Q Was there a change in terms of the pain
5 being more localized to radiating, or do you not
6 know? I mean, you said it was localized before. I'm
7 just curious if at the time you coughed -- I know
8 you're saying it became intolerable, but was it
9 different or just more intense than the pain you'd had
10 before?
11 A No, ma'am. It was the same, it was just --
12 it was just -- it went from taking Motrin and being
13 bearable to being unbearable.
14 Q And then did you go to the emergency room
15 that -- you said the next morning.
16 A Yes, ma'am.
17 Q Okay. That evening, what did you do after
18 you -- were you able to get yourself off the floor, or
19 did you --
20 A No, ma'am; I had help to get up.
21 Q Okay. And did you go home that evening
22 then?
23 A Yes.
24 Q And then the first thing in the morning you
25 went to the emergency room?

1 A Yes, ma'am.
2 Q And I guess they ordered an MRI at that
3 time?
4 A No, ma'am, not then.
5 Q Okay. What happened at the emergency room?
6 What did they --
7 A The doctor came in, she examined me. It's
8 now a lady doctor. She had more x-rays done. The
9 morning that I was hit by the car, they did some
10 x-rays. This morning she did some more x-rays.
11 She came in and she told me that really all
12 she could do with me was give me pain medicine, and
13 that I would have to go through Humana Worker's Comp
14 and seek further treatment.
15 Q Is that what you did then?
16 A Yes, ma'am. She gave me a shot that day,
17 gave me some more medicine.
18 Prior to this happening, back in December, I
19 had phone contact with a guy named Mike Hofield
20 (phonetic), and he told me then that he was my
21 assigned case manager for worker's comp and that, if I
22 needed any treatment or whatever, to call him.
23 So after we went to Dade County Medical
24 Center, then I called Mike Cofield. I told him that I
25 needed to see somebody. He referred me to a Dr.

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1 Nasrullah in the city of Live Oak.
2 Q Is that doctor an orthopedist, do you know?
3 A I don't know, ma'am.
4 Q And you ended up going to him?
5 A Yes, ma'am.
6 Q And he ordered an MRI?
7 A Yes, ma'am.
8 Q About how long did it take for you to get in
9 to see him? Was it a relatively short period of time?
10 A I believe, ma'am, it was on January the
11 24th. And that needs to be approximate now.
12 Q You didn't go anywhere or do anything
13 between the ER on the 21st and seeing Nasrullah on the
14 24th?
15 A No, ma'am.
16 Q And I take it you were taken off work at
17 that point when you were seen at the emergency room?
18 A Yes, ma'am.
19 Q So you didn't work at all during that
20 period?
21 A No, ma'am.
22 Q And then I guess the next doctor you saw
23 would have been Dr. Padget and Dr. Wiss?
24 A Yes, ma'am.
25 Q And then ultimately it was Dr. Garcia that

1 did the surgery?
2 A Yes, ma'am.
3 Q Did you see both Padget and Wiss?
4 A Yes, ma'am.
5 Q At the same time or --
6 A No, ma'am.
7 Q Which one did you see first?
8 A Dr. Padget.
9 Q Why did you see Wiss? Did he ask Wiss
10 to take a look at you?
11 A Dr. Padget came in and basically gave me
12 two choices: One was to be out of work for a year and
13 a half and basically heal naturally, and the other was
14 to have surgery. After my wife and I talked, I
15 elected to have the surgery.
16 When I told Dr. Padget that I would rather
17 have the surgery than to be out of work for a year and
18 a half, he told me that he no longer did the surgery,
19 but that Dr. Wiss, who was his associate right
20 there, did do the surgery.
21 At that point, Dr. Padget went out, and a
22 few minutes later he returned into the room with Dr.
23 Wiss.
24 Q So you were setting up to have the surgery
25 by Dr. Wiss?

1 A Yes, ma'am.

2 Q And then apparently that was denied by
3 worker's comp, and that's how you got to Garcia?

4 A Yes, ma'am.

5 Q When did you first see Dr. Garcia,
6 approximately?

7 A February the 22nd, 23rd, somewhere right in
8 that.

9 Q How did you identify him as the doctor that
10 you wanted to have the surgery done by?

11 A When I started having difficulties with
12 worker's comp, I contacted Arndt & Arndt and, in
13 talking with them --

14 MR. ARNDT: I'm going to object to
15 attorney-client privilege information.

16 BY MS. ONOFREY:

17 Q You don't have to tell me what they told you
18 or any conversations you had with them. I'll just
19 leave it at that.

20 A Okay.

21 Q Had you ever seen Dr. Garcia prior to this
22 accident?

23 A No, ma'am.

24 Q Then you ended up having the surgery by Dr.
25 Garcia, and that was approximately when?

1 A February the 29th.

2 Q That one you know, right?

3 A (Nods head affirmatively.)

4 Q And obviously this entire time up to that
5 point, from the coughing episode to February 29th, you
6 did not work.

7 A No, ma'am.

8 Q You did work?

9 A No, ma'am, I did not.

10 Q To your knowledge, has Dr. Garcia been paid
11 for that surgery?

12 A Yes, he has.

13 Q Do you know who paid that?

14 A A majority of it was paid through my health
15 insurance, Blue Cross & Blue Shield. The remainder,
16 we paid. I paid out of my personal -- myself
17 personally.

18 Q Approximately how much have you paid out of
19 your own pocket for the surgery?

20 A I'm looking at her (indicating Mrs.
21 Hawkins).

22 MR. ARNDT: If you don't know, that's
23 fine. If you can find out later, we can get that
24 information to her.

25 I don't want you to guess at anything. This



1 Q The same pay you were receiving at the time
2 the accident occurred?

3 A Yes, ma'am.

4 Q Are you on salary?

5 A Yes, ma'am.

6 Q What was your salary at the time of the
7 accident?

8 A Ma'am, I'd have to -- my base salary is just
9 over \$36,000 a year.

10 Q And then do you get something over and above
11 your base salary?

12 A Yes, ma'am. We have a state hire-back
13 program where I work overtime. Back then we were
14 working roughly one day a week of that, which would be
15 a six-hour shift.

16 Q And those were the only elements of your
17 pay, salary plus overtime?

18 A Yes, ma'am.

19 Q Was health insurance provided by the State,
20 or did you pay for your own health insurance at the
21 time? You know, around the time of the accident, were
22 you paying out of your own pocket for health
23 insurance, or was your employer paying for it?

24 A Well, it's a benefit package of the State.
25 Since my wife and I are both State employees, we fall

1 under a special provision with Blue Cross & Blue
2 Shield where we do not pay anything out of our pocket.

3 Q When you were -- and I may have asked you
4 this and I think you answered it, but between May 1st
5 and June 16th, when you were doing light-duty work,
6 you were receiving your regular pay?

7 A Yes.

8 Q Were you working your regular hours?

9 A I was working eight hours a day. We don't
10 have set regular hours, ma'am.

11 Q But your schedule hadn't really changed
12 since before the accident. I mean, you returned
13 working the same type of hours that you were doing
14 before the accident?

15 A No, ma'am. When you're on full duty, you
16 work shifts. When I was working light duty, I was
17 assigned to the office, and I worked basically 8:00 to
18 5:00, Monday through Fridays, with Saturdays and
19 Sundays off.

20 Q What type of work were you doing in the
21 office?

22 A Clerical duties, answering telephone, legal
23 questions.

24 Q Between the time of your last day of work on
25 the 18th of January and when you returned on May 1st,

Horizontal lines for handwritten notes or signatures.

1 or whenever it was in May, did you receive a paycheck
2 from the State?

3 A Yes.

4 Q And it was your regular paycheck during that
5 time period?

6 A If I could explain. When you're on worker's
7 comp, the Division of Risk Management picks up 66 and
8 two thirds, and then you use your personal sick leave
9 to make up the additional, what is it, two and one
10 third. Up through March, that's how it worked.

11 Q March of 2000?

12 A Yes, ma'am. And that's when worker's comp
13 cut off all benefits, and then I went to full sick-
14 leave status where I was using my personal sick leave.

15 Q So from March of 2000 until May -- that's
16 approximately two months -- you used -- or March,
17 April, May, maybe three months. But during that
18 period you were using your sick leave?

19 A Yes, ma'am.

20 Q And do you get a certain amount of sick
21 leave annually? How does that work?

22 A We're given eight hours of sick leave a
23 month, and that sick leave, you can bank it.

24 Q Does it roll over from year to year, or you
25 can only bank it --

1 A No, ma'am; it rolls over.

2 Q How much did you have at the time that you
3 started using it full time in March?

4 A I had between 1400 and 1500 hours.

5 Q Do you know how much you used during just
6 that period between March and May?

7 A Ma'am, it was 400-and-some-odd hours. I
8 can't remember the exact. I want to say it's
9 something like 460 hours.

10 Q And then when June 15th, following that,
11 you've been on a full-duty status?

12 A Yes, ma'am.

13 Q What's the current condition of your back?
14 Do you have any complaints relating to your back
15 currently?

16 A One day it will be pretty good, the next day
17 it will hurt fairly bad. Every morning when I get up,
18 I know that I've had back surgery.

19 Q How do you know that other than the obvious?

20 A It's tight. It's discomfort or
21 uncomfortable. Some days I'll go through the day and
22 have a great day, everything will be good. Some days
23 when I stand up, I have to stand in one place for two
24 or three minutes just to -- well, that's an
25 exaggeration -- several seconds to just get uprighted

Horizontal lines for handwritten notes or signatures.

1 to get balanced.

2 Q Do you have a lawsuit pending against the
3 driver or any third party?

4 A Yes.

5 Q Who are you suing or have claims against?

6 MR. ARNDT: If you're not sure off the top
7 of your head, just tell her that.

8 THE WITNESS: It's the insurance carrier for
9 the Alachua County School Board. I don't know
10 the name of it.

11 BY MS. ONOFREY:

12 Q What about the driver of the vehicle that
13 hit you?

14 A In other words, am I seeking settlement from
15 him personally?

16 Q From him or his insurance carrier. Or do
17 you believe that to be his insurance carrier?

18 A I believe that to be his insurance carrier.

19 Q So what you just mentioned was pertaining to
20 the vehicle that hit you?

21 A Yes.

22 Q Okay. Do you know, have you actually filed
23 a lawsuit, or are you trying to settle without filing
24 lawsuit?

25 A Without; trying to settle.

1 Q But you haven't settled it yet?

2 A No, ma'am.

3 Q Had you ever had a back injury or any
4 complaints relating to your low back prior to this
5 accident?

6 A No, ma'am.

7 Q Have you ever had an injury on the job prior
8 to this accident?

9 A No, ma'am.

10 Q Have you had any accidents involving
11 personal injury since this accident?

12 A No, ma'am.

13 Q Who is your primary care physician under
14 your health insurance?

15 A I really don't have one.

16 Q Had you ever had one?

17 A No, ma'am.

18 Q You really haven't had to go to the doctor
19 for any reason, say, in the past five years?

20 A No, ma'am.

21 Q Other than this surgery that you had on
22 February 29th, have you had any other surgeries in
23 your lifetime?

24 A When I was two years old, I had eye surgery.

25 Q Eye surgery?

Horizontal lines for handwritten notes or answers.

1 CERTIFICATE OF OATH
 2 STATE OF FLORIDA)
 3 COUNTY OF DADE)
 4 I, CINDY COOKER, certify that PHILIP MARK
 5 HAWKINS personally appeared before me and was duly
 6 sworn.
 7 WITNESS my hand and official seal this 14th
 8 day of October 2000.
 9
 10
 11
 12 _____
 13 CINDY COOKER
 14 Notary Public-State of Florida
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1 C E R T I F I C A T E
 2 STATE OF FLORIDA)
 3 COUNTY OF DADE)
 4 I, CINDY COOKER, Notary Public, State of
 5 Florida at Large, certify that I was authorized to and
 6 did stenographically report the deposition of PHILIP
 7 MARK HAWKINS; that a review of the transcript was
 8 requested; and that the transcript is a true and
 9 complete record of my stenographic notes.
 10 I further certify that I am not a relative,
 11 employee, attorney or counsel of any of the parties,
 12 nor am I relative or employee of any of the parties'
 13 attorney or counsel connected with the action, nor am
 14 I financially interested in the action.
 15 Dated this 14th day of October, A.D., 2000.
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 20 CINDY COOKER,
 21 Notary Public-State of Florida
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 25

ERRATA SHEET

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2
3 IN RE: PHILIP HAWKINS vs. STATE OF FLORIDA
4 CLAIM NO.: 263-55-6571 D/A: 12/10/99
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6
7 PAGE LINE WHERE IT READS SHOULD READ

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15

16 With the above corrections, if any, and by my
signature affixed hereon, I hereby sign my
17 deposition.

18 PHILIP MARK HAWKINS

19
20 Sworn to and subscribed before me
this ____ day of _____ A.D. 2000

21
22 Notary Public, State of Florida

23 My Commission expires:
24 RETURN TO: STATEWIDE REPORTING SERVICE
606 Blackstone Building
25 Miami, Florida 32202
(904) 353-7706

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4:24 7:14 9:10 34:19,24

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