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Clerk, Supreme Court of Appeals
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207 VA 761

Record No. 6318

In the
Supreme Court of Appeals of Virginia
at Richmond

ANNA A. WAGNSTROM

v.

GERALDINE R. POPE

FROM THE CIRCUIT COURT OF THE CITY OF PORTSMOUTH

RULE 5:12 BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.
§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND.

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Record No. 6318

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Monday the 10th day of January, 1966.

ANNA A. WAGNSTROM, Plaintiff in error,

against

GERALDINE R. POPE, AN INFANT,
Defendant in error.

From the Circuit Court of the City of Portsmouth
Henry W. MacKenzie, Jr., Judge

Upon the petition of Anna A. Wagnstrom a writ of error is awarded her to a judgment rendered by the Circuit Court of the City of Portsmouth on the 10th day of August, 1965, in a certain motion for judgment then therein depending wherein the said petitioner was plaintiff and Geraldine R. Pope and another were defendants; upon the petitioner, or some one for her, entering into bond with sufficient security before the clerk of the said circuit court in the penalty of three hundred dollars, with condition as the law directs.

RECORD

* * * * *

page 17] CIRCUIT COURT
of the
CITY OF PORTSMOUTH
Virginia

July 29, 1965

ROBERT M. FURNISS, JR., Esquire
Attorney at Law
One Main Plaza East
Norfolk, Virginia

PETER G. DECKER, JR.
Attorney at Law
Board of Trade Building
Norfolk, Virginia

Re: *Anna A. Wagnstrom* vs. *Geraldine R. Pope*

Gentlemen:

I have given very careful consideration to the evidence and arguments of counsel in this case and have determined that I cannot enter judgment on the verdict of Seven Thousand ($7,000.00) Dollars rendered by the jury.

The evidence on the plaintiff's injuries may be summarized as establishing multiple contusions and abrasions as a result of her being struck by the defendant's car on the Zayre parking lot, requiring a week's hospitalization. After discharge all injuries healed in uneventful fashion, except the hematoma in her left leg did not clear and had to be aspirated. Infection set in and plaintiff was under constant treatment until April, and she was finally discharged by the doctor on May 7th. During the period between January 25, 1965 and May 7th, this sixty-four year old woman experienced moderately severe pain. She testified at the trial on July 6th that she was still experiencing difficulty with her leg, but her physician was positive in his evidence that while he had treated her for other ailments subsequent to May 7th and was cognizant of her complaints, he did not relate them to the accident.

This Court is cognizant of the often repeated rules applying to the trial judge's authority over juries' verdicts in personal injury cases. Suffice it to say that there is no evidence of passion, corruption or prejudice on the part of the jury trying this case, nor could it be stated that a jury misunderstood the facts or law applicable. However, the amount is not only more than I would have allowed if sitting on the jury, but is in such disparity as to shock the conscience of the court and the entry of judgment on the verdict would constitute, in the Court's opinion, the plain perpetration of an injustice.

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The special damages amount to about Five Hundred ($500.-00) Dollars. There is no evidence of permanency or impairment of the plaintiff's physical condition, and the entire span of her suffering from the effects of the accident hardly exceeded ninety days. True, she experienced moderately severe pain during this period induced by the complications of the hematoma of her left leg, but this discomfort was of comparatively short duration, and no residuals are indicated.

The basic situation is similar to that obtaining in *Smithey* vs. *Refining Company,* 203 Va. 142, and do not involve serious permanent and disabling injuries of the nature before the court in *Edmiston* vs. *Kupsenel,* 205 Va. 198, or *Simmons* vs. *Boyd,* 199 Va. 806.

The plaintiff will, therefore, be put on terms to accept an award of Four Thousand ($4,000.00) Dollars or suffer a new trial on the issue of damages only. An order should be submitted embodying these rulings.

Very truly yours,
H. W. MacKENZIE, JR.

HWM,jr:jg

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The trial court having required the plaintiff to remit Three Thousand ($3,000.00) Dollars of her recovery in this case as ascertained by the verdict of the jury, now comes the plaintiff and accepts the judgment of the Court for the

reduced sum of Four Thousand ($4,000.00) Dollars, but under protest, as provided by Code of Virginia, 1950, Sec. 8-350 and excepts to the action of the Court in refusing to render judgment upon the verdict of Seven Thousand ($7,000.00) Dollars and in lieu thereof requiring said remittitur, upon the ground that the evidence on the subject of damages amply supports the verdict of Seven Thousand ($7,000.00) Dollars.

Given under my hand this 10 day of August, 1965.

ANNA A. WAGNSTROM

By: PETER G. DECKER, JR.
Of Counsel

1965 Aug 10th

* * * * *

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* * * * *

It appearing to the Court that the plaintiff by counsel filed on August 10, 1965, her written pleading accepting under protest the judgment of the Court in awarding a judgment for Four Thousand ($4,000.00) Dollars, and requiring a remittitur of Three Thousand ($3,000.00) Dollars, and excepting to the ruling of the Court, the Court doth order that the plaintiff recover of the defendant the sum of Four Thousand ($4,000.00) Dollars, with interest thereon to be computed at the rate of six per cent per annum from the 6th day of July, 1965 until paid and her costs by her about her suit in this behalf expended.

8/10/65 H.W.M.
Entered 8/10/65 D.V.M.

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* * * * *

NOTICE OF APPEAL AND ASSIGNMENT OF ERROR

To: Kenneth L. Dietrick, Clerk
Circuit Court for the City of Portsmouth

Anna A. Wagnstrom

NOTICE is given that Anna A. Wagnstrom, plaintiff herein, appeals from the Order entered herein on August 10, 1965, to the Supreme Court of Appeals of Virginia, and will apply for a writ of error.

ASSIGNMENT OF ERROR

The following is the error assigned:

1. The Court erred in requiring the plaintiff to remit $3,000.00 of the $7,000.00 verdict rendered by the jury and in ordering that the plaintiff recover of the defendant the sum of $4,000.00 only.

ANNA A. WAGNSTROM

By: PETER G. BECKER, JR.
Of Counsel

Circuit Court, Portsmouth, Va. Filed Aug 12 1965
K.L.D. Clerk
By L.K.B., D.C.

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ANNA A. WAGNSTROM,
the plaintiff, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Decker:

Q. Would you state your full name, please?
page 6] A. Anna Wagnstrom.
Q. Where do you presently live?
A. Well, it used to be Bowers Hill. They call it Chesapeake now.

Anna A. Wagnstrom

Q. Chesapeake?
A. Yes.
Q. How old are you?
A. Sixty-four.
Q. Would you speak up, please, so the jury can hear you?
A. Sixty-four. I have a sore throat.
Q. Now, Mrs. Wagnstrom, on this day in question, which was the 25th of January, 1965, you were struck that day by a car, were you not?
A. Yes.
Q. If you will, tell the jury what happened just from the moment that the car struck you. You don't have to go into how the accident occurred at this point.
A. Well, after the car struck me, I can't say very much. It shoved me and at the end of it shoving me, after I fell, then I was in front of my car and my glasses were off someplace and I just laid there.
Q. Were you or were you not knocked unconscious?
A. No, sir, I wasn't. I did hit my head but I wasn't unconscious.

page 7] Q. You were not knocked unconscious?
A. No.

Q. Then what happened as you were knocked on the ground?
A. Well, it seems like in a few minutes the cops came and took me to the hospital. I seen some people. They were talking. I believe the lady that was driving come to me. I wouldn't recognize her because my glasses were off but she spoke to me and said she was sorry and then they took me to the hospital and asked me whether I wanted to go.
Q. What portions, if any, of your body were injured when you were knocked down?
A. Well, at that time I didn't feel nothing until about a half hour after it happened. I was hurt from my hip all the way down to my ankle and my hands were skinned. My wrists were swollen and my head was hurt. And then it began to hurt later.
Q. Where did the police take you?
A. They took me to Maryview.
Q. That was on the 25th?

Anna A. Wagnstrom

A. That must have been. It was on a Monday about noon.

Q. How long did you stay there at the hospital?

A. Just a week.

page 8] Q. Would you tell the Court and jury, please, from what you could see and feel, what injuries you had sustained?

A. Well, it wasn't long after that my leg felt like it was just going to pop open. It was twice as big as it is.

And my ankle and my hip, I turned black and blue and purple all the way down and it was skinned all over. And, of course, my head was hurt and my wrist was sprained but I wasn't bleeding much. It was just where the scars were where I skinned myself all over.

Q. How about your leg? Would you tell the jury about your left leg?

A. Well, as I say, that began to hurt when I was laying on the table in the emergency room. There was a swelling, and swelling, and swelling, but nobody did — they gave me some shots at the hospital and then they take X-rays and then I just stayed there.

Q. Well, during the eight days that you were at the hospital, what treatment, if any, was given to you?

A. Dope, sleep and pain-killing pills and so forth.

Q. You were given pills?

A. Yes.

Q. Was your leg treated at that time?

page 9] A. It wasn't a bit better until I went to the doctor and he cut it and got quite a bit of the dead flesh or whatever it was in there, I don't know.

Q. Would you tell the jury and the Court, please, what type — you say the doctor cut your leg? Tell the Court and jury what he did.

A. Well, I couldn't tell you the instrument he used, but he used some sort of knife and cut it there and then he began squeezing it and I couldn't even have a sheet on my leg and he was squeezing with all his might.

Q. Why couldn't you have a sheet on your leg?

A. It was hurting so bad that I couldn't touch it and he was squeezing it and I just wanted to die or something.

Anna A. Wagnstrom

So when he got that out it felt a little relief.

But I went to see him three times a week, it must be for two months, and once a week he could cut that, kind of stick an instrument in there and irritate it so that it would keep draining, otherwise it kind of heals on top and has been doing that for a couple of months, I think.

Q. I don't want you to be immodest, but would you show the jury where your scars are? Is this the scar on your knee?

A. Yes. Well, this is where it was swollen so bad. This is where he cut me. But it hurt me and it hurts all the way down and the ankle swells up in the evening when I walk a block or two. But this is continuously sore. page 10] Now and then I kind of get shooting pains through it. I don't know, it hasn't gone away completely but I say it's much better. But it hurts.

Q. It hurts you now?

A. It has been hurting for the last two days a little bit more, I guess, because I was nervous and upset. But it has shooting pains. Sometimes I have to look to see if something isn't stinging me or something.

Q. I show you this bill and ask you if you can identify it?

A. Yes, that is my bill from Maryview Hospital.

Q. In the amount of $248, is it not?

A. I suppose so. I have forgotten. I never paid attention to it.

Mr. Decker: I ask that this be marked as Plaintiff's Exhibit 1 or A.

The Court: Plaintiff's Exhibit 1.

(Whereupon, said foregoing document was marked as Plaintiff's Exhibit 1.)

By Mr. Decker:

Q. When you went home, Mrs. Wagnstrom, were you told by the doctor to go home at that time?

A. No, I wanted to go home. I was so nervous and the

noise there. And I wanted a private room. They
page 11] didn't have one. I was just so sick I wanted to go where I could be comfortable.

Q. And you went home after about eight days, is that correct?

A. Yes.

Q. Do you have any idea on how many occasions you saw Dr. Mayo after you got out?

A. No.

Q. Do you know how much his bill is? If you don't know, that is all right. He will testify.

A. I am not quite sure. I am not very good at remembering things and I don't even know if I looked at it.

Mr. Furniss: We can agree on that.

Mr. Decker: I will just let the doctor testify to it.

By Mr. Decker:

Q. What pains other than your leg are you now suffering, if any?

A. Well, in the morning my knee is kind of stiff when I get up. I suppose when you hurt the knee, it hurts a little. But, well, ailments as Dr. Mayo said, has nothing to do with the accident, but he is treating me for high blood pressure.

page 12] Q. You don't have to go into that.

A. But otherwise it's just the leg that is really hurting.

Q. And it does hurt you in the morning now?

A. Yes.

Q. Prior to this accident, Mrs. Wagnstrom, were you having any trouble with your legs?

A. No, I never had any trouble with my leg before in my life.

Q. How about all these other body bruises? Where were these body bruises all over your body that you were complaining with?

A. Well, from my hip down.

Q. What kind of a bruise did you have on your hip, for example?

Anna A. Wagnstrom

A. It was the same thing. This side was pushed by the car, sort of shoved on the cement.

Q. What I want to know is what kind of a bruise was it? Was it a severe bruise, a big bruise?

A. I couldn't tell you. It looked like a piece of raw beef to me for weeks.

Q. Weeks?

A. Something I don't want to see again.

Q. Well, is that bothering you now?

A. Sir?

page 13] Q. Is your hip bothering you now?

A. No, my hip doesn't bother me. It's from my knee down. Because I had a heavy coat on and that wasn't hurt as bad as my leg was.

Q. Do you use any assistance at all in your walking now?

A. No. I kind of make out.

Q. You kind of make out?

A. Make out.

Mr. Decker: Okay, Mrs. Wagnstrom, would you please answer Mr. Furniss.

CROSS EXAMINATION

By Mr. Furniss:

Q. Mrs. Wagnstrom, you were taken to the hospital immediately following the accident?

A. The police took me there.

Q. At that time you weren't admitted to the hospital, were you?

A. I can't hear you, sir.

Q. At that time you were not admitted to the hospital, were you? You went on home after receiving emergency treatment, didn't you?

A. I don't understand what you mean.

page 14] Q. You were taken to the hospital from the scene of the accident?

A. Yes.

Q. You were taken into the emergency room, weren't you?

A. Yes.

Anna A. Wagnstrom

Q. Were you then taken upstairs and put in a room?

A. They took me some place and then took me to an X-ray room.

Q. Didn't they take you home that day?

A. Then they took and put me — I don't know what you call it, a ward, I guess.

Q. They put you on a ward? You didn't go home? You were admitted to the hospital the day of the accident?

A. If you could call it that.

Q. On a ward? In a room?

A. Yes, of course.

Q. That is all I want to know.

A. Well, I don't quite understand the way you were saying it.

Q. Was your knee stiff at that time?

A. About a week later.

Q. A week later?

A. I asked the doctor. I wanted to go home
page 15] because I couldn't stand it there any longer.

Q. You say that right now the trouble that you have is that your knee is stiff in the morning?

A. Yes.

Q. Did you tell Dr. Mayo this?

A. He knows all about it.

Q. Then the answer is yes, you have told Dr. Mayo?

A. Of course.

Q. When did you last see Dr. Mayo?

A. Well, I went to see him — let's see, my daughter was here. Three weeks ago Thursday, but he wasn't there so I seen his assistant, Dr. Barham, and he hasn't been back yet.

Q. Could you tell me when it was that you last saw Dr. Mayo?

A. I would say it's about three weeks ago, maybe more now. I don't count the days and I don't put the dates down. I am going through so much, I am just tired of thinking about it.

Q. Well, you went there about three weeks ago and you saw Dr. Barham?

A. It must be.

Dr. Alex T. Mayo

Q. How about the visit before that? Did you see Dr. Mayo?

page 16] A. Yes, sir. I have been going there since I come back from the hospital, three times a week, twice a week and then once a week regular.

Q. Was it a week before you saw Dr. Barham that you last saw Dr. Mayo?

A. Well, if Dr. Mayo isn't there, Barham takes his place. He come down and see me at the hospital, they are both in the same office and dividing their patients, in a way, when he is not there.

Q. You say that your ankle also swells?

A. Sir?

Q. You say that your ankle also swells?

A. When I do shopping, walk around a little bit.

Q. Did you tell Dr. Mayo this?

A. Yes, sir.

Q. And that's been going on ever since the accident happened?

A. Yes.

Q. You say you have shooting pains from your knee down?

A. It hurts, the shooting pain and then I can — even if it's anything just accidentally, it pains, because it's still swollen, you see.

Q. In other words, if it strikes something, that is when you get the pain?

page 17] A. Yes, sir.

Q. And you told Dr. Mayo this also, this has been going on since the accident?

A. Yes.

Q. Is that true?

A. Yes, sir.

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DR. ALEX T. MAYO,

called as a witness on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Decker:

Q. You are Dr. Alex T. Mayo?

A. That is right.

Q. Would you state your qualifications as an expert, please, sir?

Mr. Furniss: We will admit the doctor's qualifications, your Honor.

Mr. Decker: That is all right. Thank you.

page 18] By Mr. Decker:

Q. Dr. Mayo, do you know Anna Wagnstrom?

A. Yes, I do.

Q. Did you have an occasion to see her on or about the 25th of January and subsequent to that relative to an accident in which she was involved?

A. I did.

Q. If you will, will you tell the Court and jury what your diagnosis was and what you did? I will let you carry it from there.

A. This lady was injured on January 25, 1965. She stated that she was in a parking lot at Zayre's and she was knocked down by an automobile.

At the time of being admitted to Maryview Hospital, she was complaining of pain in her shoulder, her left shoulder, and her left knee. She was examined at this time and found to have multiple skin abrasions of her left lower leg and both hands and also contusions and abrasions of her right leg. She had a definite large blood clot on the calf of the left leg and definite hemorrhage underneath the skin at the left knee. Examination of the right shoulder definitely showed that there was considerable tenderness but there was no limitation of motion at this time.

She was admitted to the hospital at Maryview and X-rays of the left leg and ankle were negative for frac-
page 19] ture, negative or fracture or dislocation, and due to continued pain in the lower part of her back and the pelvic region — the pelvic region, of course, is in the lower part of the abdomen — and also of the left hip, X-rays of the lumbosacral spine and pelvis were taken and there was no fracture of any bone of the hip or the pelvis or the back.

Dr. Alex T. Mayo

She remained in Maryview until February 1st of 1965 and was sent home and she didn't come back to see me until February 9th of 1965, although I told her to come back sooner. When she came back at this time, she was found — the hematoma was still present in her leg and it was very soft at this time and had some reddening around it.

Q. Doctor, excuse me, if I may interrupt you —

A. A hematoma, a blood clot of her left leg. This was enlarged and it was soft. She was advised to keep hot applications on this.

The following day under local anethsthesia, under novocaine, an incision of this hematoma was done. This hematoma contained serum which is a portion of the blood as it settles down. This contained serum and blood and I would estimate there was approximately 250 cc's. Two hundred fifty cc's is actually about a quarter of a pint, I would say, two good cupfulls. This was aspirated and a rubber drain was inserted.

She came back to the office several times page 20] following this and then on February 27th, it was found that this thing had become definitely infected and it was necessary to enlarge this opening and another drain was inserted and she was started on antibiotics. Her temperature went up to about 103 or 104 and I had to make two or three visits to her home at Bowers Hill and give her injections of penicillin and to dress this place. During this time, of course, she was in considerable pain.

We finally continued with this thing and the thing just didn't heal up and it was necessary to enlarge the incision in April, around April 13th, and to pack this with idoform packings and we packed this a few times and she was discharged from my care on May 7th of 1965.

During this time, especially during the time from the time of the accident until the time we reopened and repacked this hematoma, this lady was in considerable pain and required narcotics to relieve her pain. That's about the extent of it.

Q. If you would, please, sir, when you say on about Febru-

ary 22nd, I think — or maybe it was in April when you opened and packed it?

A. That was in April. I think it was in April.

Q. Would you please tell the Court and jury what you mean when you say you packed it?

page 21] A. Well, I put some novocaine in and enlarged the incision and put a pack of gauze or cloth which is impregnated with iodoform and this is to allow the opening to heal up from the bottom rather than healing over the top as it had been doing.

Q. Could you tell us how many incisions you made in all, sir?

A. Well, I only made one incision in the same place.

Q. In the same place, but how many times did you open that one place up?

A. I don't know because she came in there — we had to open it daily and do it, which is a very simple thing to do. But twice, the first time we opened it and the second time we packed it. But the other times we simply cleaned it with alcohol and took a little clamp and opened it and cleaned it and drained it.

Q. Doctor, a little while ago before you got here, I had showed the jury these scars on her leg and knee and calf. Are they permanent scars?

A. Yes, they are permanent scars.

Q. In other words, they will be there for the rest of her life?

A. Yes, they will.

Q. Doctor, what is your bill to date without giving any credits?

page 22] A. Without any credits and without costs for Court, $232.

Q. That is without the cost for Court?

A. Without the cost for coming to Court, that is right. That is without that.

Q. Did you see her approximately daily while she was in the hospital?

A. I saw her every day. Or if I didn't, my associate, Dr. Barham, one or the other.

Q. Could you try to tell us a little more about these con-

tusions which are bruises, are they not?

A. Yes.

Q. That were all over her body? Would you tell us a little more?

A. There isn't much to tell you except she had bruises and sore places on her body and her shoulder and both legs and both hands and they were painful. They were definitely painful and she required, as I told you, narcotics during her stay in the hospital and up until, I would say, well, into April from the time she was hurt.

Q. So you say from your professional knowledge for a period of approximately three months after the accident or more, she was in severe pain?

A. Well, moderately severe. Let's don't say severe. Moderately severe.

page 23] Q. In this regard, could you tell the Court and jury approximately how many prescriptions did you give her?

A. There is no way I could tell you that. I don't make a record of those things. She had several, yes. She certainly expended considerable money in antibiotics, I am sure, that she was taking, and, of course, she had something for pain. But I couldn't tell you anywhere near the number or the amount or anything of that sort. I just don't keep a record of that sort of thing.

Q. You say you aspirated and put a rubber drain in there. That was, I think, in February?

A. The first time we aspirated it. Just a big, large needle and the novocaine and just aspirated the blood out of it and the serum, and we did this on several occasions and it would not stop forming so it was necessary then to open and drain it.

Q. This process, Doctor, do you stick a needle in the leg when you do that?

A. Yes, you do, but it's not very painful, sir.

Q. It's not very painful?

A. It is not.

Q. How long is that needle?

A. It doesn't make any difference how long the needle is because you don't have to go but that far. (Witness indicat-

ing.) If the needle was this long, you wouldn't
page 24] have to go but this far.

Q. Did you have to give her, or did you give her, any local anesthetic?

A. Yes, she had some novocaine.

Q. Each and every time?

A. Yes, she did.

Q. At this time, Doctor, taking the hypothesis that she says her knee when she gets up in the morning is bothering her —

Mr. Furniss: I object to this.

Mr. Decker: I am setting up a hypothetical situation, your Honor.

Mr. Furniss: It seems to me that he can testify as to what complaints this lady has made to him and so on.

The Court: There has to be a proper foundation laid for it, for any hypothetical question.

By Mr. Decker:

Q. Doctor, did she have troubles with her knees and leg, is that correct?

Mr. Furniss: Again I am going to object to Mr. Decker leading the witness any further, your Honor. He can ask the Doctor to testify rather than his doing the testifying.

page 25] Mr. Decker: Your Honor, if the Court please, the way I first approached this is that anything that is consistent with the evidence thus far —

The Court: The Doctor has treated this lady and I think it's proper to ask him what complaints have been made and what his subsequent findings were rather than posing some hypothetical.

Mr. Decker: Well, your Honor, — thank you, your Honor.

By Mr. Decker:

Q. May I ask you this question, Doctor, is it consistent with your findings or inconsistent with your findings that this lady would sometimes have some pain when she got up in the morning with her knees and ankles?

Mr. Furniss: I object to that, your Honor.
The Court: I sustain the objection.

By Mr. Decker:

Q. Have you seen her since May 7th?

A. I last saw Mrs. Wagnstrom on May 7th, and then I saw her again for something irrelevant to this condition on June 1st, June 3rd, and then on June 24th of this year. I was out of town and Dr. Barham, my partner, saw her, but it was not related to the accident. However, there

page 26] were some complaints that she was complaining about which she attributed to the accident.

Q. On her leg, you mean?

A. Yes. If the Court so wills, I will then go into this. At the time of my last examination on May 25th, and I am sure the lawyers have a report on this, she complained of aching over all of her body and aching in the back of her neck and in her limbs and in her back. I was frankly unable to find anything objective to substantiate the cause of any complaints at this time. In other words, there was no swelling, there was no limitation of motion and there was no bruising and there was no swelling. Then she came back in and she attributed — she was extremely nervous and had been extremely nervous over a period of a long time, so I did a complete physical examination on her and for the first time, she had a blood pressure of 200 over 90.

Q. Is that high, Doctor?

A. Yes, it is high and she had never had this prior to the time of the accident, and the blood pressure in the hospital at Maryview had essentially been normal. It was charted at 160 over 80 on the day of admission to the hospital.

Mr. Furniss: If your Honor please, I don't know whether the Doctor's opinion is that this was caused by the accident, but I feel he should limit his testimony as to

page 27] what he did and what was done as a result of what he felt was brought on by this accident rather than all the other problems this lady might have had.

The Witness: It was not my opinion that this was due to the accident at all. I did not feel that it was and she was told

that. I told her that in my office that I did not feel that this was a result of the accident although she felt that it was.

By Mr. Decker:

Q. Just the one question would be on the subsequent visits to you after May 7th. What complaints, if any, did she make concerning her leg?

A. She was complaining of headaches and dizziness and also she was complaining of still having some soreness in her leg and her knee, and also some pains in the back of her neck, in the back portion of her neck, and in the lower part of her back. They were the nature of her complaints.

Mr. Decker: Would you answer questions of Mr. Furniss or Mr. Davis?

CROSS EXAMINATION

By Mr. Davis:

page 28] Q. Doctor, these complaints that you have just finished enumerating just now, I want to be clear and I want the jury also to be clear pertaining to the headaches and aches to the head and neck and back. These, in your opinion, did not come from the accident?

A. I did not believe they did.

Q. Now, if I understand you correctly, the last time you saw Mrs. Wagnstrom for the treatment for the injuries in this accident was on May 7th?

A. That is right.

Q. And you performed an examination that date on her?

A. That is right.

Q. And you pronounced this leg completely healed?

A. That is right.

Q. And there was no swelling, no limitation of motion or anything of that sort?

A. That is right.

Q. Doctor, going back earlier, Mrs. Wagstrom was in the hospital immediately after this accident, I believe. Do you know why she was discharged from the hospital?

A. Why she was discharged?

Q. Yes, sir.

A. Well, we felt she was able to go home at the time she was discharged.

Mr. Davis: That is all. Thank you, Doctor.

page 29] REDIRECT EXAMINATION

By Mr. Decker:

Q. Let me ask you one question, Doctor. Didn't she request to go home?

Mr. Furniss: I object to him leading the witness, your Honor.

The Court: I overrule the objection. I think it's a proper question.

By Mr. Decker:

Q. Did she request to go home?

A. No, she didn't request to go home. I discharged her because I felt like she was able to go home at that time as far as I remember. Now, I don't recall every individual patient that I see exactly, but usually they have to sign a release at the hospital if they do and she did not sign any release. She was discharged in a proper manner.

* * * * *

Mr. Decker: Call Officer C. A. Gibson, please.

CHARLES A. GIBSON,

page 30] called as a witness on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Decker:

Q. Would you state your full name?

A. Officer Charles A. Gibson.

Q. On the 25th of January, 1965, at or about Zayre's

Charles A. Gibson

parking lot, did you investigate an accident?

A. Yes, sir, I did.

Q. Was Mrs. Wagnstrom involved in it?

A. Yes, sir, she was.

Q. If you will, you don't have to go into anything as to how the accident happened, sir, but just testify what condition you found Mrs. Wagnstrom?

A. When I arrived on the scene, Mrs. Wagnstrom was on the ground. Several people were trying to administer first aid. She seemed to be in quite a bit of pain. We tried to put her on the stretcher. She had quite a bit of pain in her left leg, her right shoulder, and both of her hands were scraped up right badly and her leg had several abrasions on it and was scraped.

Q. Where did you then take her?

A. We took her to Maryview Hospital.

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A Copy—Teste:

H. G. TURNER, Clerk.

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