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SUPREME COURT OF VIRGINIA
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RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 802042

LAWRENCE WALTERS,

Appellant,

v.

EDGAR CARL LITTLETON,

v.

JOYCE WHITE,

Appellees.

APPENDIX

Jeffrey G. Haverson
Attorney at Law
137 Citizens Trust Bank Building
6330 Newtown Road
Norfolk, Virginia 23502

Counsel for Appellant

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MOTION FOR JUDGMENT

TAKE NOTICE that plaintiff, by counsel, moves the court for judgment against defendant on the grounds and in the amount as hereinafter set forth:

1. On 10 June 1979, plaintiff was a passenger in a motor vehicle travelling in a westerly direction on East 25th Street at or near the intersection of East 25th Street and Gazel Street, in the City of Norfolk, Virginia.

2. At the time and place aforesaid, defendant was operating a motor vehicle in a northerly direction on Gazel Street in the City of Norfolk, Virginia.

3. The defendant did then and there so carelessly, recklessly, and negligently operate his motor vehicle so as to cause it to collide with the vehicle in which plaintiff was a passenger with great force and violence.

4. As a direct and proximate result thereof, plaintiff was caused to sustain serious and permanent injuries, has been prevented from transacting his business, has suffered and will continue to suffer great pain of body and mind; has sustained permanent disability, deformity and loss of earning capacity; has incurred and will incur in future hospital, doctors' and related bills in an effort to be cured of said injuries.

WHEREFORE, plaintiff demands judgment against defendant in the sum of TWENTY THOUSAND DOLLARS ($20,000.00), and his costs in this behalf expended.

LAWRENCE WALTERS

By _____
Of Counsel

Dail and Haverson, p.q.
137 Citizens Trust Building
6330 Newtown Road
Norfolk, Virginia 23502

461-0605

Filed in the Clerk's Office the 22nd day of January 1980

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HUGH L. STOVALL, CLERK

_____ D. C.

Virginia:

In the Circuit Court of the City of Norfolk, on the 25th *day of* SEPTEMBER *, in the year 19* 80

LAWRENCE WALTERS, Plaintiff

vs At Law #L80-128

EDGAR CARL LITTLETON, Defendant & Third-Party Plaintiff

vs

JOYCE R. WHITE Third-Party Defendant

ORDER

This day came again, the parties, in person and by counsel and came as well the same jury heretofore impaneled and sworn pursuant to adjournment on the 24th day of September, 1980.

Now the Jury having heard all of the evidence and argument of the parties, by counsel, retired to its chamber to consider its verdicts and after some time returned into Court with verdicts in the following words and figures: Motion for Judgment: "We, the Jury, find for the plaintiff, Walters against defendant, Littleton, and assess his damages at $500.00 to include for pain and suffering medical expense", Third Party Motion for Judgment: "We, the Jury, find that Joyce White was negligent, and that her negligence was a proximate cause of the accident.

Thereupon the plaintiff, by counsel moved the Court to set aside the verdicts of the jury on the ground of being contrary to the law and the evidence and inadequate and to grant him a new trial on damages, which motion after having

been fully heard and maturely considered by the Court, is overruled, to which action of the Court, the plaintiff, by counsel noted his exceptions.

Whereupon it is considered and ordered by the Court that the said plaintiff recover of and have judgment against the said defendant and third party plaintiff, Edgar C Littleton in the sum of Five Hundred Dollars ($500.00) with interest thereon at 8% per annum from the 25th day of September, 1980 plus his costs about his suit herein expended.

It is further considered and ordered by the Court that the said defendant and third party plaintiff, Edgar Carl Littleton recover of and have judgment against the said third party defendant, Joyce R. White in the sum of Two Hundred and Fifty Dollars ($250.00) with interest thereon at 8% per annum from the 25th day of September, 1980 plus his costs herein expended.

JOHN P. HARPER
JUDGE

A COPY, TESTE: HUGH L. SHOWALL, CLERK

PLAINTIFF'S STATEMENT OF FACTS,
TESTIMONY AND INCIDENTS OF TRIAL

A number of witnesses testified that on June 10, 1979 the plaintiff, Lawrence Walters, was a passenger in a vehicle being operated by Joyce White, when it was involved in a collision with a vehicle operated by the defendant, Edgar C. Littleton; that the collision occurred at the intersection of 25th Street and Gazel Street in the City of Norfolk, Virginia; that the vehicle operated by Joyce White was proceeding in a westerly direction on 25th Street and the vehicle operated by Edgar C. Littleton was proceeding in a northerly direction on Gazel Street; that there was no traffic control at the intersection; that the speed limit on both streets was 25 mph; the day was clear, streets were dry and the collision occurred at approximately 3:30 p.m.; that both drivers were familiar with the intersection; that the view of each driver of the others vehicle was impaired by hedges growing at the S.E. intersection of 25th and Gazel Streets.

Substantial conflicts existed in the evidence concerning the speed of each vehicle and the appropriateness of each driver's lookout as they approached the uncontrolled intersection.

The plaintiff's principle treating physician was Dr. James H. Boyd, who testified that the plaintiff came under his professional care for injuries sustained in the collision. Dr. Boyd's complete testimony on cross-examination is attached hereto and made a part hereof, as is the testimony of the plaintiff, Lawrence Walters, and a statement of counsel for the defendant, Edgar C. Littleton, during closing arguments.

LAWRENCE WALTERS

By: _____
Of Counsel

Jeffrey G. Haverson, p.q.
DAIL and HAVERSON
137 Citizens Trust Building
6330 Newtown Road
Norfolk, Virginia 23502

I HEREBY CERTIFY that a true copy of the foregoing was ~~mailed~~ delivered to all counsel of record this the 18 day of November, 1980.

Jeffrey G. Haverson

John M. Sanfor
Judge
12/2/80

CIRCUIT COURT
Filed 18 NOV 1980
BY: [illegible] D.C.

JUDGE'S CERTIFICATE

I, John P. Harper, a Judge of the Circuit Court of the City of Norfolk, Virginia hereby certify that the foregoing is a true and correct statement of facts in the case of Lawrence Walters vs Edgar Carl Littleton vs Joyce R. White, tried in said Court on the 24th and 25th day of September, 1980.

I further certify that said statement of facts was presented to me for certification, and signed within time allowed, after the final order in said cause, and that the attorneys for the defendants had reasonable notice in writing of the time and place at which the same would be tendered for certification.

Given under my hand this 2nd day of December, 1980.

John P. Harper
Judge

CLERK'S CERTIFICATE

VIRGINIA:

In the Clerk's Office of the Circuit Court of the City of Norfolk, on the 2nd day of December, 1980.

I, Hugh L. Stovall, Clerk of the Circuit Court of the City of Norfolk, do certify that the foregoing statement of facts of the trial in the case of Lawrence Walters vs Edgar Carl Littleton vs Joyce R. White, was lodged and filed with me as Clerk of said Court on the 18th day of November, 1980.

HUGH L. STOVALL, CLERK
CIRCUIT COURT OF THE CITY OF NORFOLK

By: [signature]
Deputy Clerk

* * *

1 MR. HEILIG: Now, these are his
2 medical damages: two hundred five dollars plus or
3 minus twenty-five dollars for the preparation of a
4 report, but it didn't have anything to do with any
5 treatment or any diagnostic services rendered.
6
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1 came.

2 Q. And Officer Owens that was here today,

3 he came that day, didn't he?

4 A. Yes.

5 Q. Okay. Did you note any problems with

6 your body immediately after this collision took

7 place?

8 A. Yeah. My stitches had -- they had --

9 was bleeding. Blood was running off my foot and I --

10 you know, they had already just about healed up and

11 they had started coming loose again and started

12 bleeding. Blood was coming from them, plus I was

13 dizzy from that, you know, hit on the windshield.

14 Q. All right. How did you leave the

15 scene of the collision?

16 A. The police called the ambulance for

17 us.

18 Q All right. Did you go to any

19 hospital?

20 A. Yeah. I went to the hospital.

21 Q. How did you go to the hospital, and

22 what hospital did you go to?

23 A. Norfolk General.

24 Q. And how did you get there?

25 A. By the ambulance.

1 Q. All right. And when you went to
2 Norfolk General Hospital, that was on the same day
3 of the collision; is that right?
4 A. Right. Uh-huh.
5 Q. And were you examined there?
6 A. Yes. They examined me.
7 Q. And do you remember what was
8 troubling you at the time?
9 A. Yes. I were telling them I was
10 having headaches and my knee, I told them about my
11 knee was hurting me, and also about my foot had
12 started, you know, the blood -- it was bleeding.
13 Q. All right. So the doctors examined
14 you there?
15 A. Yes. Yeah.
16 Q. Did they do anything for you?
17 A. Yes. Well they told me they wasn't
18 going to bother the stitches because of where the
19 surgery was performed at, and they just put a piece
20 of tape over it, and they told me to go see my
21 family doctor.
22 Q. So --
23 A. And they -- I think -- I'm not for
24 sure. I think they wrote me out a prescription for
25 pain.

1 Q. All right. And did you fill the
2 prescription?
3 A. Yes, sir.
4 Q. Okay. And what did you -- did you go
5 home?
6 A. Yes. I went home.
7 Q. Which home did you go to?
8 A. 601 West 36th Street.
9 Q. All right. And did you go to your
10 doctor?
11 A. Yes. I went to the doctor.
12 Q. Did you go immediately?
13 A. No. My foot was bothering me.
14 That's why I didn't go right off.
15 Q. All right. What kind of shape were
16 you in after this collision?
17 A. I was nervous. And I was in pain. I
18 was just shook up.
19 Q. All right. Did you go to work?
20 A. No. I didn't go to work immediately.
21 No I didn't.
22 Q. Is there any reason why you didn't go
23 to work?
24 A. Because I was hurting. I couldn't go
25 to work.

1 Q. Did you eventually seek out medical
2 care?
3 A. Yes. I went to my family doctor.
4 Q. And who was that?
5 A. Dr. Boyd.
6 Q. Is that the same Dr. Boyd who was
7 here today?
8 A. Yes, sir.
9 Q. And you went to see him several weeks
10 later?
11 A. Yes, sir.
12 Q. Any reason that you waited several
13 weeks?
14 A. Yeah, because my foot -- I had to,
15 you know, keep it elevated, and after the stitches
16 busted open, I just went back and, you know, kept it
17 elevated.
18 Q. Okay. Well, when you went to see Dr.
19 Boyd, what was troubling you?
20 A. Well, I had pains in my neck and my
21 back. My knee was hurting, and I was having
22 headaches, and my foot was still -- you know,
23 stitches had busted, but he didn't treat my foot.
24 Q. Did you see anyone else for your foot?
25 A. Yes, sir. I seen a pediatrist.

1 Q. What was his name?
2 A. James Clarke.
3 Q. All right. He checked out your foot?
4 A. Yes. Uh-huh.
5 Q. And did he do anything for your foot?
6 A. Yeah. He dressed it, and he took
7 X-rays of it.
8 Q. All right. Now, Dr. Boyd, you told
9 him about your various complaints to your head and
10 your neck, back, knee?
11 A. Yes. Uh-huh.
12 Q. And what did Dr. Boyd do for you?
13 A. Well, he wrote me a prescription, and
14 he examined me, and he told me to go to treatment.
15 He say it was just a muscle relaxer.
16 Q. What type of treatment?
17 A. I think they say it's ultrasonic.
18 Q. Where were these treatments
19 administered to you?
20 A. In the doctor's office.
21 Q. And did you have a number of these
22 treatments?
23 A. A number of them?
24 Q. Yes.
25 A. I went to him -- you mean how many

1 times I went to him?
2 Q. Yes, sir. It happened more than once,
3 right?
4 A. Yeah. It was more than once.
5 Q. Do you recall approximately how many
6 times you went in for these treatments?
7 A. Yeah. It was about ten times.
8 Q. And what did the treatments consist
9 of?
10 A. Ultrasonic.
11 Q. How were they administered to you?
12 A. You lay on your back and they put
13 this thing that vibrate your back muscles.
14 Q. And how long do you have to lie there?
15 A. About ten minutes.
16 Q. Okay. And are you clothed when this
17 is going on, or do you get undressed?
18 A. No. You take your shirt off. I took
19 my shirt off.
20 Q. What part of your body did the doctor
21 or the doctor's assistant administer these
22 treatments to?
23 A. The lower back and my -- up by my --
24 up top, and my right knee.
25 Q. Uh-huh. All right. Did you have any

1 cuts on your body?
2 A. No I just had a cut on my foot.
3 That had, you know, come back aloose, stitches.
4 Q. All right. When you left the
5 hospital, were you able to walk by yourself?
6 A. Yeah. Yeah. I had crutches.
7 Q. Well, Mr. Walters, I'm going to show
8 you a number of photographs and ask if you can
9 identify what these photographs depict; and if you
10 can tell us approximately when they were taken.
11 A. You want to know what, now?
12 Q. Well, what do they depict?
13 A. Depict? What you mean?
14 Q. What is shown in the photograph?
15 A. Oh.
16 Q You recognize the person?
17 A. Yeah. This is me.
18 Q. That's you. Okay. And where were
19 you when the picture was taken of you?
20 A. Oh, I was at your office.
21 Q. And what is shown in there, the
22 crutches that you had?
23 A. Yeah. The crutches.
24 Q. Did you take off your shoe or
25 anything like that in any of these pictures?

1 A. Yeah. Not that one.
2 Q. Now, these are all of you?
3 A. Yes.
4 Q. Is that right?
5 A. Yes.
6 MR. HAVERSON: I d ask these be
7 admitted, Your Honor.
8 THE COURT: Any objection, gentlemen?
9 MR. HAVERSON: There are five
10 photographs.
11 THE COURT: Is this the order you
12 want them in.
13 MR. HAVERSON: Doesn't make any
14 difference.
15 THE COURT: All right. They will be
16 admitted and marked as Plaintiff's Exhibits two
17 through six. I guess that would be it.
18
19 (Whereupon, the photographs referred
20 to were marked Plaintiff s Exhibits 2 through 6 for
21 identification and received in evidence.)
22
23 BY MR. HAVERSON:
24 Q. Now, one of those photographs shows
25 your, appears to be your toe. Is that your foot?

1 A. Yes. My foot.
2 Q. And the skin appears to be separated
3 there?
4 A. Yes.
5 Q. Explain to the jury what happened
6 when your stitches came out?
7 A. Explain it when they came out?
8 Q. When the stitches came out, what
9 happened to your foot?
10 A. When the stitches came open -- when
11 the stitches came aloose, the cut came back open.
12 Q. All right. Now, you are shown with
13 crutches in these --
14 A. Right.
15 Q. -- pictures. And where did you get
16 those crutch et cetera?
17 A. From the veterans -- VA Hospital in
18 Hampton.
19 Q. You had had those crutches before
20 this collision?
21 A. Yes. Uh-huh.
22 Q. All right. Now, this exhibit has
23 been marked Plaintiff's Exhibit No. 3 would indicate
24 basically a photograph of your knee; is that correct?
25 A. Yes. Uh-huh.

1 Q. What's depicted in there? What is
2 shown there? Anything happen to your knee that's
3 shown?
4 A. Yeah. It's swollen up. It's swollen
5 up.
6 Q. It's a cut or abrased in that area?
7 A. Yeah. It is skint (phonetic).
8 Q. Is it a healing scab?
9 A. It started to heal. Yeah.
10 Q. Okay. Now, you say Dr. Boyd gave you
11 these treatments?
12 A. Yes. Uh-huh.
13 Q. And what other things did Dr. Boyd
14 direct you to do?
15 A. He told me not to work while I was
16 getting the treatment, and he also told me to go get
17 X-rays too.
18 Q. Did you do what he said?
19 A. Yeah. I went to Norfolk Community
20 Hospital.
21 Q. Did you have X-rays made there?
22 A. Yes. Uh-huh.
23 Q. All right. And what parts of your
24 body were x-rayed?
25 A. My head, my chest, my back, my sides.

1 Q. All right. Your knee?
2 A. Yes, and my knee. Yes.
3 Q. Did they reveal that you had any
4 broken bones?
5 A. No
6 MR. HEILIG: Objection, Your Honor.
7 THE COURT: Sustained.
8
9 BY MR. HAVERSON:
10 Q. How long did you continue to see Dr.
11 Boyd?
12 A. I seen him through July -- from June
13 to July; the end of July.
14 MR. HAVERSON: If Your Honor please,
15 do you have Dr. Boyd's statement as an exhibit?
16 THE COURT: I don't believe so. Is
17 it on the table?
18 MR. HEILIG: Unless the doctor took
19 it with him. It's not up there, is it?
20 MR. HAVERSON: If Your Honor please,
21 currently the one that was introduced, this is a
22 duplicate. If there's no objection, remarking.
23 THE COURT: Any objections to
24 remarking this statement of September 6th on the
25 letterhead of Dr. James H. Boyd?

1 MR. HEILIG: No objection, Your Honor.
2 THE COURT: All right. And that
3 previously was what, number one for the plaintiff.
4 It must have been because the
5 portraits started with two just a moment ago.
6 This would be number one for the
7 plaintiff as a duplicate.
8 All right.
9
10 BY MR. HAVERSON:
11 Q. Mr. Walters, Dr. Boyd's bill was
12 previously introduced into evidence, and that sets
13 forth the number of visits. Did you visit the
14 doctor's office the times that are set forth in that
15 bill?
16 A. Yes. Uh-huh.
17 Q. What were the dates that you went to
18 his office?
19 A. July 30th, June 29th, June 30th July
20 2nd, 3rd, July 3rd, July 5th, July 6th, July 9th,
21 July 12th, July 14th, July 21st and July 24th.
22 Q. All right, sir.
23 A. 1979.
24 Q. Okay. And what was his charge to you?
25 A. Two hundred five dollars.

1 Q. Thank you.
2 Now, Mr. Walters, you described these
3 other medical services that you received as a result
4 of the collision. Did you receive bills from any of
5 these other providers of medical services?
6 A. Yes sir. I received a bill from
7 Dr. James Clarke.
8 MR. HEILIG: Judge, I'm going to
9 object for the same reason.
10 THE COURT: I'm going to sustain you,
11 and the jury will disregard that question and that
12 answer.
13 MR. HAVERSON: If Your Honor please,
14 I'd like to be heard out of the presence of the jury.
15 THE COURT: All right. If the jury
16 would retire to the jury room, please.
17
18 (Whereupon, the jury was excluded
19 from the courtroom and proceedings resumed as
20 follows:)
21
22 MR. HAVERSON: All right. If Your
23 Honor please, as I previously stated to the Court,
24 the plaintiff has a right to testify as to bills he
25 received for medical services incurred, and I site

1 to His Honor the case of Crist versus Fitzgerald,
2 189 Virginia 109, and this particular case, you
3 could say that the plaintiff's attorney went even
4 further than what's happening here, because
5 apparently there was a switch of counsel in that
6 case, and first lawyer that represented the
7 plaintiff was called to the stand to testify as to
8 the various bills which he had received. This is,
9 the lawyer, had received on behalf of the plaintiff
10 during the course of his representation of the
11 plaintiff, and the particular bill that was in issue,
12 as a matter of fact, was a hospital bill of a
13 non-Virginia hospital, and the attorney testified
14 that he had received this bill in the course of his
15 representation, and the evidence was permitted.
16 It's a quote from the opinion of the Court, Mr.
17 Hughes is the attorney.
18 "Defendant contended that the
19 testimony of Mr. Hughes was inadmissible because it
20 was not the best evidence of the amount of expense
21 incurred by the plaintiff. He here claims there was
22 a possibility that its admission influenced the
23 jury in arriving at the amount of their verdict and
24 the Court went on to say, While, undoubtedly the
25 better proof of her expenses should have come from

1 the source that rendered the services, we think that
2 no harmful error was committed in admitting the
3 evidence in question under the circumstances here.
4 According to the record, Bluefield Sanitarium, Inc.,
5 is located in Bluefield, West Virginia. The court
6 lacked power to compel the witnesses from that state,
7 who had personal knowledge of the amount of the bill
8 and the custody of records of the hospital. Had
9 they been sent to the plaintiff, she could have
10 testified as to the amount demanded of her. Mr.
11 Hughes, acting as her agent and attorney, secured
12 this information.
13 The bill -- it goes on to say, The
14 bill merely stated the character of the services
15 rendered and the amount demanded of her. Neither
16 the services nor the charges therefore are claimed
17 to be excessive. Under the circumstances, we don't
18 think the admission of evidence was prejudicial to
19 the defendant. Now, here I have --
20 THE COURT: What was that last one?
21 MR. HAVERSON: Under the
22 circumstances, we do not think the admission of the
23 evidence was prejudicial to the defendant.
24 THE COURT: Just before, something
25 with regard to excessive.

1 MR. HAVERSON: Neither the services
2 nor the charges therefore are claimed to be
3 excessive.
4 Now, clearly, Mr. Walters, the
5 plaintiff, received charges for services that were
6 rendered to him, various medical authorities, and
7 it's the plaintiff's position he has a right to
8 testify as to the amount of the bills he received
9 and what they were for, which would be the character
10 of the services, which would be directly on point
11 with the case that I have quoted to you.
12 THE COURT: All right.
13 MR. HAVERSON: May I introduce this
14 evidence?
15 THE COURT: Well, do you gentlemen
16 care to be heard?
17 MR. HEILIG: Well, Judge, I would
18 continue in my objection. I think that the -- I
19 think there's a recent case that's just come out of
20 the Circuit Court of the City of Hampton -- I'm not
21 sure it's in the advance sheets -- where it's
22 clearly been ruled that even the plaintiff doesn't
23 even have the guarantee any more of getting his
24 special damages through verdict, that the jury is
25 allowed to award whatever damages it deems were

1 applicable to the injury, and I would certainly take
2 the position that I would have the right to
3 cross-examine the person who took -- Dr. Boyd, of
4 course, is not even in evidence, as yet, except for
5 this defendant's testimony. Dr. Boyd said he didn't
6 recall and didn't have any record of it, and simply
7 to admit a bill into evidence that could have been
8 from whatever source, without determining the reason
9 or why or what areas except from the plaintiff's own
10 mouth, and all he is testifying is receiving a piece
11 of paper in the mail -- I think this case can be
12 distinguished by the fact you have an out of court --
13 I mean, an out of state entity that's firing in this
14 bill from the -- from outside the confines of the
15 state, and the Court goes on to say, obviously,
16 there was no objection from either side, and of
17 course, we have an objection to the admissibility of
18 the evidence, and I think the Court's ruling is
19 correct.
20 THE COURT: No objection from either
21 side in what case?
22 MR. HEILIG: In the case he just read
23 Your Honor, it appears that neither side made a
24 claim that they were excessive. Maybe they had a
25 chance to determine the value, the reasonable value

1 of the services rendered and the appropriateness of
2 the value, and of course, we object.
3 THE COURT: Must have been some
4 objection if it was the subject of that case. I am
5 familiar with that case. I have been through it
6 several times.
7 MR. HEILIG: All I can say is what
8 the Court said.
9 THE COURT: How did the issue arise
10 if nobody had any objection to it?
11 MR. HEILIG: At the trial level.
12 Maybe at hindsight, on retrospect, on Scope.
13 THE COURT: With what?
14 MR. HEILIG: An instrument appointed
15 by Mr Harland, Your Honor, but I m frank to say I
16 have not had an opportunity to review this case nor
17 the other case at this point, but I certainly would
18 continue in my objection.
19 THE COURT: You suggest there's a
20 case from Hampton? Did it go to the Virginia
21 Supreme Court?
22 MR. HEILIG: No, sir. It's not
23 reported in the advance sheets. It's just -- it's a
24 circuit court ruling.
25 THE COURT: I see. To what effect is

1 that?

2 MR. HEILIG: The effect, I believe --

3 I think it was Judge Massenburg's court. The ruling

4 was, and I believe that the plaintiff received a

5 verdict on or was -- received a verdict of somewhere

6 in the neighborhood of eleven hundred dollars which

7 was not even the -- did not even total the special

8 damages, the medicals and specials claimed and the

9 Court held that -- in that case that the jury had a

10 right to hear the evidence and to hear

11 cross-examination on the specials and to disregard

12 any services that were unreasonable or that it

13 deemed to be inappropriate or not proximately caused --

14 THE COURT: That's not appropriate to

15 the discussion we have. It's not germane to the

16 objection you have here.

17. MR. HEILIG: That's true, Your Honor.

18 THE COURT: The question here is

19 whether or not this x-ray bill is admissible over

20 the testimony of the plaintiff who was the patient

21 who received the x-ray.

22 MR. HEILIG: That's correct.

23 THE COURT: Whether or not the injury --

24 whether it s admissible or not, whether the jury

25 wants to believe it or disbelieve it or award it or

1 not, we are concerned at this time with the
2 admissibility of it not the weight of it. Mr.
3 Smith.
4 MR. SMITH: My position would be the
5 same as Mr. Heilig's. I think he --
6 THE COURT: Let me see that case, Mr.
7 Haverson. I'm generally familiar with it. I
8 haven't read it lately. It's one of the Western
9 counties of Virginia, if I recall correctly. Well,
10 let's get it all.
11 Sheriff, would you look in my office,
12 189 Virginia?
13 MR. SMITH: I'm vaguely familiar with
14 the case. I think the rest of the case primarily
15 deals with questions of liability. I think this was
16 one of the issues involved on the appeal only.
17 THE COURT: All right. Well, are we
18 all through, gentlemen? Do we have a case -- this
19 says it was not error to let the bill in, Mr.
20 Haverson.
21 MR. HAVERSON: That's correct, sir.
22 THE COURT: Do you have a case that
23 says that it was error to keep it out?
24 MR. HAVERSON: Well, this is the only
25 case I have, sir, and I think this case definitely

1 stands to the issue that we have here.

2 THE COURT: I don t mean to be short

3 to you, but I'm going to give them a chance to

4 consider it the other way around. I'm still not

5 going to admit it and for the reason that I stated

6 to you earlier, and if you like my analogy, compare

7 it to an automobile repair, here, this man had some

8 repairs done to his body or some X-rays done to his

9 body, and I don't think that his statement that he

10 received a bill for it is any more admissible than

11 if a person has some damages done to their car and

12 they get an estimate to repair it or a bill for

13 repairing it, I don't think they are a proper

14 witness to admit that bill, and in my analogy, I

15 don't think it's any more admissible here than a

16 repair bill or repair estimate on a car. Frankly,

17 I'm a little bit disappointed that you would present

18 it to the jury in the way that you did when I had

19 already expressed this view to you, but we can t

20 help that, I suppose.

21 MR. HAVERSON: If Your Honor please

22 at this point in the case, I haven't even gotten to

23 the x-ray bill.1 I m going to simply start off and

24 ask the man next if he received a bill from Norfolk

25 General Hospital for his services that he s

1 testified to.

2 THE COURT: All right. Let the

3 record show it will be the same ruling if there

4 will be an objection as to that.

5 MR. HAVERSON: Your ruling is any

6 charge this man has incurred and for medical

7 services, he is not entitled to testify in this

8 court, that is, if he went to the store and filled a

9 prescription and the pharmacist charged him ten

10 dollars, he can't say that he got charged ten

11 dollars for that prescription, that he's got to

12 bring the pharmacist in here and have the pharmacist

13 say, I filled the prescription for Lawrence Walters --

14 THE COURT: Do you have a pharmacy

15 bill? Let s don't deal with moot questions.

16 Why don t you state for the record

17. what bills you intend to offer, and I'll rule on

18 each of them, and we will give counsel opportunity

19 to see if they object. Perhaps they don't object.

20 If they don't object, certainly I have no objection

21 but if you want to vouch the record, I'll give you

22 that opportunity.

23 MR. HAVERSON: Yes, sir.

24 THE COURT: All right.

25 MR. HAVERSON: The plaintiff would

1 tender or intends to tender the bill he received
2 from the City of Norfolk for ambulance services in
3 the sum of thirty dollars.
4 THE COURT: Any objection to that?
5 MR. HEILIG: Objection, Your Honor.
6 THE COURT: Let me have it, and if
7 you make it a part of the record, I will mark it and
8 refuse it, so you will have it as a matter of record
9 in the case. Is that what you would like?
10 MR. HAVERSON: Yes, sir.
11 THE COURT: Let me have it.
12 MR. HEILIG: Your Honor the same
13 objection would continue.
14 THE COURT: Well, let s just see what
15 they are. As I say, I have no interest in the
16 matter, and if you don't object to them, I m not
17 going to object. The Court is not going to object,
18 but let's do them ad seriatim. The first one now is
19 the --
20 MR. HAVERSON: City of Norfolk bill
21 for -- I'll read it in: City of Norfolk bill for
22 ambulance services rendered to Lawrence Walters on
23 June 10th, 1979.
24 THE COURT: Now do you want me to
25 mark these?

1 MR. HAVERSON: From 800 East 25th
2 Street to Norfolk General hospital.
3 THE COURT: Mr. Haverson, do you ask
4 me to mark these? If you don t, I'm not going to
5 insist on doing it.
6 MR. HAVERSON: I would like to offer
7 all these as exhibits and have my client testify
8 that he received them and these are the charges
9 that he incurred as a result of this collision.
10 THE COURT: I understood that at this
11 point that was your purpose, to vouch the record in
12 that respect.
13 MR. HAVERSON: Correct.
14 THE COURT: All right. My question
15 to you is -- just answer me yes or no -- do you want
16 me to mark these in each case, or is your
17 description into the record sufficient for your
18 purposes?
19 MR. HAVERSON: No. I would ask --
20 MR. SMITH: I think Mr. Heilig and I
21 can shorten things. We can agree that Lawrence
22 Walters would testify that these were the bills for
23 the particular services.
24 THE COURT: Right. Well, I
25 understood that. I didn't understand there was any

1 dispute about that, but you object to it. All right.
2 I'm going to mark the ambulance bill as Plaintiff s
3 Exhibit A for identification, refused
4 All right.
5 MR. HAVERSON: I'd also like to
6 introduce the bill of Dr. James H. Clarke in the
7 amount of fifty dollars for treatment to this young
8 man's foot.
9 THE COURT: Same objection, gentlemen?
10 MR. HEILIG: Yes, sir.
11 THE COURT: Same ruling. That will
12 be Plaintiff s Exhibit number B.
13 All right.
14 MR. HAVERSON: That s the statement
15 of Norfolk Community Hospital to Mr. Walters in the
16 amount of a hundred and fifteen dollars for x-ray
17 services rendered to him on July 10th, 1979.
18 THE COURT: Objection.
19 MR. HEILIG: Same objection.
20 THE COURT: Same ruling. It will be
21 Plaintiff's Exhibit number C, refused.
22 MR. HAVERSON: Next, the statement of
23 Dr. Southall and Hopkins radiologist, in the amount
24 of seventy-one dollars for services rendered to Mr.
25 Walters on July 10th 1979.

1 THE COURT: Objection, gentlemen?
2 MR. HEILIG: Objection.
3 THE COURT: Same ruling. That will
4 be Plaintiff's Exhibit number D, refused.
5 All right.
6 MR. HAVERSON: The statement of
7 Norfolk General Hospital for services rendered there
8 to Lawrence Walters on June 10th 1979 in the amount
9 of twenty-six dollars and twenty cents.
10 THE COURT: Any objection, gentlemen?
11 MR. HEILIG: Objection, Your Honor.
12 THE COURT: Same ruling. That will
13 be plaintiff's number E, refused.
14 MR. HAVERSON: That, Your Honor
15 would be the extent of the statements which I had
16 intended to introduce into --
17 THE COURT: Well, now, in fairness
18 you earlier had I think an x-ray bill --
19 MR. HEILIG: I think he just covered
20 that, Your Honor. I should have pointed that --
21 THE COURT: I beg your pardon. I was
22 afraid you had overlooked it. That was number C
23 All right.
24 Let the record show that these items
25 will not go, that is, Plaintiff's Exhibits A through

1 E, both inclusive, will not be admitted in evidence
2 nor go to the jury but will be preserved and made a
3 part of the record in this case and be maintained by
4 the clerk.
5 MR. HAVERSON: Now, if Your Honor
6 please, so that -- please note my objection and
7 exception to the ruling.
8 THE COURT: By all means, the record
9 will show that you object to the Court's refusal to
10 admit these exhibits and that you object to the
11 Court's rulings on the objections in favor --
12 sustaining the objections of counsel for the
13 defendant and third party defendant. Does that
14 protect everybody on the record?
15 All right.
16 MR. HAVERSON: Now if Your Honor
17 please, I would also desire to inquire of Mr.
18 Walters whether or not he received any charges for
19 the services that were rendered to him. I
20 understand your ruling is that I can't introduce the
21 bills, per se. Now, I would desire --
22 THE COURT: I understand what you are
23 saying.
24 MR. HAVERSON: -- to ask Mr. Walters
25 whether he received any statements and what charges

1 he was billed, and it s my understanding that I am
2 prohibited from tendering those questions to him?
3 THE COURT: Do you gentlemen object?
4 MR. HEILIG: I would object to that,
5 Your Honor, because --
6 THE COURT: It would be in the same
7 vein, but you may vouch the record if you want to
8 ask him at this time, or if you like I suppose
9 counsel will stipulate he would testify he did
10 receive bills in the amounts shown on these exhibits
11 MR. HEILIG: We would stipulate --
12 MR. SMITH: We would stipulate.
13 THE COURT: Of course, you want the
14 record to show you object and note exception to the
15 Court's permitting the plaintiff to testify to that
16 in the presence of the jury?
17 MR. HAVERSON: Yes, sir.
18 MR. HAVERSON: All right. I think
19 that being the case, we can bring the jury back.
20 THE COURT: All right Bring the
21 jury in, please, Sheriff.
22
23 (Whereupon, the jury was returned to
24 the courtroom, and proceedings resumed as follows:)
25

* * *

ASSIGNMENTS OF ERROR

I. THE TRIAL COURT ERRED IN NOT PERMITTING WALTERS TO TESTIFY AS TO THE CHARGES HE HAD INCURRED FOR MEDICAL, HOSPITAL AND RELATED SERVICES TO TREAT INJURIES HE HAD SUSTAINED IN THE COLLISION.

II. THE TRIAL COURT ERRED IN NOT PERMITTING THE INTRODUCTION INTO EVIDENCE OF THE BILLS WALTERS HAD RECEIVED FROM THE PROVIDERS OF MEDICAL AND RELATED SERVICES FOR THE TREATMENT OF INJURIES SUSTAINED IN THE COLLISION.

III. THE TRIAL COURT ERRED IN NOT INSTRUCTING THE JURY THAT IT COULD CONSIDER HOSPITAL AND MEDICAL EXPENSES INCURRED BY WALTERS AS A RESULT OF THE COLLISION.

TELEPHONE 62( )

NORFOLK, VA 23510 September 6, 1979

JAMES H. BOYD, M. D.

549 EAST BRAMBLETON AVENUE

Lawrence Walters

601 West 36 th Street

Norfolk, Va. 23508

PROFESSIONAL SERVICES RENDERED			
Complete physical examination & treatment 6-29-79		30	00
Medical Report		25	00
Ultra-sonic treatments at my office June 30, 1979 @ $15.00 ea.		15	00
July 2,3,5,6,9,12,14,21,24, 1979 @ $15.00 ea.		135	00
Total	$	205	00

Exhibit No. 1
Initialed for Identification
Judge

CITY OF NORFOLK, VIRGINIA – BUREAU PARAMEDICAL RESCUE SERVICES

MAKE CHECKS PAYABLE TO TRUMAN D. BAXTER, CITY TREASURER

RETURN ENTIRE STATEMENT WITH REMITTANCE

TO WALTERS, LAWRENCE
882 VICK ST
NORFOLK VA 23504

FOR WALTERS, LAWRENCE

Exhibit No. A Refused
Initialed for Identification
Judge

INVOICE DATE 06/17/79
INVOICE NUMBER 61458

EMERGENCY AMBULANCE SERVICE

FROM 800 E 25TH ST

TO NORFOLK GENERAL

SERVICE DATE 06/10/79

DUE DATE 07/17/79

RESCUE SERVICE 30.00

AMOUNT DUE $ 30.00

OFFICE COPY

TRANSACTION NO. DATE PAID AMOUNT PAID

VALID ONLY FOR AMOUNT RECEIPTED BY MACHINE.
TRUMAN D. BAXTER, CITY TREASURER

NOTE-IF CHECK IN PAYMENT IS NOT HONORED BY BANK THIS RECEIPT IS VOID.

PAYMENT AND REIMBURSEMENT PROCEDURES

MEDICAID RECIPIENTS – Please call 441-2166 and advise us of your Medicaid Number.

WELFARE RECIPIENTS – Contact your Social Worker to make arrangements for payment.

ACTIVE SERVICE PERSONNEL – Please call 441-2166 and advise.

SERVICE DEPENDENTS - Please send your remittance to Truman D. Baxter, City Treasurer, and File with CHAMPUS for reimbursement.

IMPORTANT—Send entire statement with remittance.

If you carry any other insurance other than the above listed such as Medicare, Blue Cross, Blue Shield, etc., please send your remittance to Truman D. Baxter, City Treasurer and file with your insurance company for reimbursement.

NOTE: No insurance companies are billed directly through this office. Payments are due upon receipt. Validated receipt will be returned to responsible party when payment is received.

CITY OF NORFOLK, VIRGINIA – BUREAU PARAMEDIC RESCUE SERVICES

MAKE CHECKS PAYABLE TO TRUMAN D. BAXTER, CITY TREASURER

RETURN ENTIRE STATEMENT WITH REMITTANCE

TO WALTERS, LAWRENCE
882 VICK ST
NORFOLK VA 23504

FOR WALTERS, LAWRENCE

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FROM 800 E 25TH ST

TO NORFOLK GENERAL

SERVICE DATE 06/10/79

DUE DATE 07/17/79

RESCUE SERVICE 30.00

AMOUNT DUE $ 30.00

PATIENT RECEIPT

TRANSACTION NO. DATE PAID AMOUNT PAID

VALID ONLY FOR AMOUNT RECEIPTED BY MACHINE
TRUMAN D. BAXTER, CITY TREASURER
NOTE-IF CHECK IN PAYMENT IS NOT HONORED BY BANK THIS RECEIPT IS VOID.

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STATE T

TELEPHO... -9515

JAMES H. CLARKE, D.P.M.
PODIATRIC MEDICINE
219 MIDTOWN BLDG.
NORFOLK, VA. 23505

July 2, 1980

Mr. Lawrence Walters

601 West 36 Street

Norfolk, Virginia 23508

FOR PROFESSIONAL SERVICES: 1979

06-28-79	Diagnostic X-Rays	$35.00
07-05-79	Office visit and Treatment	$15.00
		$50.00

Exhibit No. B
Initialed for Identification
Refused
Judge

Balance: $50.00

PAST DUE!

.207 16.22.09 0350 0025 0

NORFOLK COMMUNITY
2 9 CORPREW AVE
NORFOLK VA 23504
804 628-1568

DATE OF BILL	DATE OF PREV. BILL
07/25/79	

NS.

PAGE NO. 1

HOSP. NO. 086

PATIENT NAME	PATIENT NUMBER	SEX	AGE	ADMISSION DATE	DISCHARGE DATE	DAYS	
ALTERS, LAWRENCE	8280265	M		07/10/79			OUT PATIENT

GUARANTOR NAME AND ADDRESS

LAWRENCE WALTERS
601 W 36TH ST
NORFOLK, VA 23508

C.O.B.	INSURANCE COMPANY NAME	GROUP NUMBER	POLICY NUMBER
1	LEGAL	L01DAIL	HAVERSON

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT.

AMOUNT OF PAYMENT $

CODE	DESCRIPTION OF HOSPITAL SERVICES	SERVICE CODE	TOTAL CHARGES	EST. COVERAGE INS. CO. NO. 1	EST. COVERAGE INS. CO. NO. 2	EST. COVERAGE INS. CO. NO. 3	EST. COVERAGE INS. CO. NO. 4	PATIENT AMOUNT
TAIL OF CURRENT CHARGES, PAYMENTS AND ADJUSTMENTS								
10 01	SKULL, COMP 4	4270260	26.00	26.00				
10 01	RIBS, BILATERA	4271110	26.00	26.00				
10 01	CERV, COMP 4 V	4272050	25.00	25.00				
10 01	LUMB-SACRAL W/	4272110	25.00	25.00				
10 01	KNEE, COMP 3 V	4273570	13.00	13.00				
MMARY OF CURRENT CHARGES								
	X-RAY-DIAGNOSTIC		115.00	115.00				
B-TOTAL OF CURR. CHARGES			115.00	115.00				

Exhibit No. C
Initialed for identification
Refused
Judge

Phone 628 1562

TOTALS	115.00	115.00

8280265

ADDITIONAL PATIENT BILLING MAY BE NECESSARY FOR ALL CHARGES NOT POSTED WHEN THIS BILL WAS PREPARED. PLAN INSURANCE CARRIERS DO NOT PAY 100 PERCENT OF THE AMOUNTS SHOWN UNDER ESTIMATED INSURANCE COVERAGE

NORFOLK COMMUNITY
NORFOLK VA

NJ6

DRS. SOUTHALL AND HOP NS
RADIOLOGISTS TELEPHONE (804) 423-3007
P.O. BOX 9586
NORFOLK, VIRGINIA 23505

DOCTORS
EUGENE P. SOUTHALL, JR., M.D.
JOHN D. HOPKINS, M.D.

PATIENT NAME	ACCOUNT NUMBER
WALTERS LAWRENCE	29413

LAWRENCE WALTERS
601 W 36TH ST
NORFOLK VA 23508

STATEMENT DATE: JUL 79

ALL PAYMENTS AND CHARGES AFTER THIS DATE WILL APPEAR ON NEXT STATEMENT

AMOUNT DUE: 71.00

DATE	DOCTOR	CODE	DESCRIPTION	AMOUNT
10 JUL 79	EUGENE P SOUTHALL JR	70260	SKULL,COMPLETE 4 VIEWS	15.00
10 JUL 79	EUGENE P SOUTHALL JR	71110	RIBS 81	16.00
10 JUL 79	EUGENE P SOUTHALL JR	72050	SPINE CERVICAL MIN 4 VIEWS	14.00
10 JUL 79	EUGENE P SOUTHALL JR	72110	LUMBAR SACRAL WITH OBLIQUES	17.00
10 JUL 79	EUGENE P SOUTHALL JR	73570	KNEE COMPLETE 3 VIEWS	9.00
	PLEASE PAY THIS BALANCE WITHIN 15 DAYS. IF YOU HAVE INSURANCE PLEASE CONTACT THIS OFFICE IMMEDIATELY. THANK YOU			

Exhibit No. D
Initialed for Identification
Refused
Judge

LOCATION OF SERVICE: NORFOLK COMMUNITY HOSP. O/P P. O. BOX 9586

REFERRING PHYSICIAN: J COYD

PAY THIS AMOUNT

BALANCE DUE: 71.00

PLEASE SEE OTHER SIDE FOR EXPLANATION OF CHARGES.

DRS. SOUTHALL AND HOPKINS
TAX ID NO. 54-0993080

CHARGES FOR X-RAY EXAMINATIONS MADE IN HOSPITAL ARE BILLED SEPARATELY BY THE HOSPITAL AND THE RADIOLOGIST (PHYSICIAN) WHO IS REQUIRED TO REPORT ON THE EXAMINATION.

THE RADIOLOGIST (PHYSICIAN) CHARGES ARE FOR HIS PROFESSIONAL CONSULTATION, THE READING AND THE REPORT TO YOUR DOCTOR.

MAKE CHECK PAYABLE TO
NORFOLK GENERAL DIVISION
MEDICAL CENTER HOSPITAL
P.O. BOX 2200
NORFOLK, VA. 23501

ACCOUNT NO. 75299362

BILLING DATE 071379

ACCOUNT NO.	PATIENT NAME	ADMISSION DATE	DISCHARGE DATE	BALANCE DUE
75299362	WALTERS, LAWRENCE	061079	061079	26.20

AMOUNT ENCLOSED _____

BILL DUE UPON PRESENTATION

WALTERS, LAWRENCE
882 VICK ST
NORFOLK VA
23504

PLEASE DETACH THIS PORTION AND RETURN WITH PAYMENT.

THIS IS A STATEMENT OF YOUR ACCOUNT. RETAIN THIS PORTION FOR YOUR RECORDS.

NORFOLK GENERAL DIVISION

ACCOUNT NO.	PATIENT NAME	ADMISSION DATE	DISCHARGE DATE	BILLING DATE
75299362	WALTERS, LAWRENCE	061079	061079	071379

TRANSACTION DATE	DESCRIPTION	AMOUNT
	BAL FORWARD	26.20
	TOTAL	26.20
	ESTIMATED INSURANCE	.00
	PAY THIS AMOUNT	26.20

Exhibit No. E
Initialed for Identification
Refused
Judge

TELEPHONE NUMBER
(804) 466-6041

FOR ASSISTANCE ON YOUR ACCOUNT, PLEASE CALL THE TELEPHONE NUMBER LISTED ABOVE OR VISIT US AT OUR FINANCE DEPARTMENT LOCATED AT 22 KOGER EXECUTIVE CENTER IN NORFOLK. FOR YOUR CONVENIENCE WE WILL ACCEPT PAYMENTS BY VISA, MASTERCHARGE AND AMERICAN EXPRESS OVER THE TELEPHONE.