

1 Michael J. Miller (appearance *pro hac vice*)
2 Timothy Litzenburg (appearance *pro hac vice*)
3 Curtis G. Hoke (State Bar No. 282465)
4 **THE MILLER FIRM, LLC**
5 108 Railroad Ave.
6 Orange, VA 22960
7 Phone: (540) 672-4224
8 Fax: (540) 672-3055
9 mmiller@millerfirmllc.com
10 tlitzenburg@millerfirmllc.com
11 choke@millerfirmllc.com

12 *Attorneys for Plaintiff*
13 **DEWAYNE JOHNSON**

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

13 DEWAYNE JOHNSON,
14 Plaintiff,
15 v.
16 MONSANTO COMPANY
17 Defendants.

Case No. CGC-16-550128

**DECLARATION OF CURTIS G. HOKE IN
SUPPORT OF PLAINTIFF'S MOTION IN
LIMINE NO. 14 TO EXCLUDE EVIDENCE
OF UNRELATED MEDICAL HISTORY**

Trial Judge: TBD

Hearing Date: TBD

Time: TBD

Department: TBD

Trial Date: June 18, 2018

[Filed Concurrently with Memorandum of Points
and Authorities and *[Proposed]* Order]

ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*
05/24/2018
Clerk of the Court
BY: SANDRA SCHIRO
Deputy Clerk

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DECLARATION OF CURTIS G. HOKE

I, Curtis Hoke, declare and state:

1. I am an attorney at law admitted to practice before all of the courts in the state of California. I am an attorney at The Miller Firm, LLC, attorneys of record for Plaintiff Dewayne Johnson. I am over eighteen years of age and am fully competent to make this Declaration in support of Plaintiff's Motion in Limine No. 14 to Exclude Evidence of Unrelated Medical History. Except as otherwise expressly stated below, I have personal knowledge of the facts stated in this declaration, and if called to testify, I could and would competently testify to the matters stated herein.

2. Attached hereto as **Exhibit A** is a true and correct copy of portions of the deposition of Dewayne Johnson that occurred on December 7, 2017.

3. Attached hereto as **Exhibit B** is a true and correct copy of portions of the deposition of Dewayne Johnson that occurred related to his worker's compensation claim on October 28, 2015.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 24, 2018 in Orange, Virginia.

By: 

Curtis G. Hoke,
Declarant

EXHIBIT A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

DEWAYNE JOHNSON,)	
)	
Plaintiff,)	
)	
vs.)	Case No.
)	CGC-16-550128
MONSANTO COMPANY,)	
)	
Defendant.)	
)	

VIDEOTAPED DEPOSITION OF
DEWAYNE ANTHONY LEE JOHNSON
Vallejo, California
Thursday, December 7, 2017
Volume I

Reported by: SUZANNE F. GUDELJ
CSR No. 5111
Job No. 2770165

PAGES 1 - 458

1 A Never.

2 Q Okay. Skin rashes, have you ever had that
3 before 2014?

4 A Never. I was told that I have arthritis by
5 medical office, family, friends. They say well, you 10:54:18
6 got arthritis. But I don't know if I have arthritis
7 or not. I was never been diagnosed by a doctor.

8 Q Okay. Well, I'm not going to ask you any
9 questions about your arthritis, at least not now.
10 But skin rashes, you went your entire childhood and 10:54:33
11 adult life until 2014 without having a skin rash?

12 A You know what, I guess I should say that I
13 did have chicken pox. Is that a skin rash?

14 Q Well, I don't know, but thank you for
15 clarifying that. 10:54:47

16 A Because I don't know if that's a skin rash

17 --

18 Q No.

19 A -- or if that's a skin death, or I don't
20 know what that is, but that's pretty bad. 10:54:50

21 Q Other than chicken pox --

22 A Chicken pox, yeah, I had chicken pox.

23 Q -- have you had skin rashes at any time
24 during your life?

25 A No. 10:54:58

1 A Mm-hmm.

2 Q Was there an occasion that you recall that
3 you had liver tests done by Dr. Ofodile -- Ofodile
4 (pronunciation) where your liver enzymes were
5 elevated and she believed the reason was you had had 03:24:30
6 drinks before the test?

7 A There was one time when we first started
8 where she was saying a little something about that
9 where, you know, you have alcohol in your system.
10 But to me, what happened is that even though I knew 03:24:45
11 she was giving me labs, I think they figured out
12 it's cold turkey quit. But to me I was still
13 drinking. I was having a beer here, I was having
14 some wine. I wasn't getting drunk, but I was still
15 drinking. 03:25:00

16 They tested me the next day in the lab, and
17 of course they say, "Oh, man, what you doing here?"
18 You know what I mean? So that's the reason that I
19 stopped, because if I do need a regular surgery or
20 something like that, they won't even give it to you 03:25:09
21 if you got a bunch of juice in your system. And I
22 don't mean Hawaiian punch. I mean, if you have a
23 bunch of alcohol in your system, they're not giving
24 you --

25 (Reporter clarification.)

1 If they're giving you -- if you have too
2 much alcohol in your system, they aren't giving you
3 a kidney or a lung, you know, if you need a kidney.
4 You know what I mean? They'll give it to the
5 healthier person. That's another reason why I cut 03:25:23
6 back and ready to quit.

7 Q All right. So you do remember the --

8 A There was a point to quitting.

9 Q You do remember the occasion with
10 Dr. Ofodile when your liver tests were off because 03:25:31
11 of some drinks?

12 A Yeah, but I haven't had an off one since.

13 Q Okay. Have you ever had your blood alcohol
14 level tested, either by law enforcement or
15 medically? 03:25:53

16 A The night of the rollover crash, yeah, I
17 had my blood -- I had my blood taken by the doctor
18 -- I mean by the -- by the doctor and by the
19 sheriffs gave me the (indicating). They gave me a
20 -- tested out your blood, you know. 03:26:06

21 They thought the only reason I flipped that
22 car was because I was drinking. There was a lot of
23 drinking going on in that car.

24 Q Do you recall what your level was?

25 A Naw. No, not at all. 03:26:18

EXHIBIT B

BEFORE THE WORKERS' COMPENSATION APPEALS BOARD
OF THE STATE OF CALIFORNIA

DEWAYNE JOHNSON,)
Applicant,)
-vs-) CASE NO.
BENICIA UNIFIED SCHOOL) ADJ10102319,
DISTRICT, PSI AS A SELF-INSURED) ADJ10094287
GROUP, ADJUSTED BY NORTH BAY)
SCHOOLS INSURANCE AUTHORITY,)
Defendants.)

DEPOSITION OF
DEWAYNE JOHNSON
October 28, 2015

Reported by: VICTORIA L. PETERSON, CSR #6992

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601 University Avenue, Suite 213, Sacramento, CA 95825
(916) 646-1891

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1 APPEARANCES:
2
3 FOR THE APPLICANT:
4 LEVITZ LEGAL GROUP
5 Attorneys at Law
6 BY: BRUCE LEVITZ, Esq.
7 2216 Laguna Vista Drive
8 Novato, CA 94945
9
10 FOR THE DEFENDANT:
11 LAW OFFICES OF CRYSTAL CUNNINGHAM
12 Attorneys at Law
13 BY: CRYSTAL CUNNINGHAM, Esq.
14 2485 Natomas Park Drive, Suite 420
15 Sacramento, CA 95833
16
17 ALSO PRESENT:
18 Catherine Chyl, Esq.
19
20
21
22
23
24
25

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1 BE IT REMEMBERED that on Wednesday,
2 October 28, 2015, commencing at the hour of
3 12:08 p.m., at the offices of LEVITZ LEGAL GROUP,
4 Attorneys at Law, 2216 Laguna Vista Drive, Novato,
5 California, before me, VICTORIA L. PETERSON, a
6 Certified Shorthand Reporter, empowered to administer
7 oaths and affirmations pursuant to Section 2093(b) of
8 the Code of Civil Procedure, personally appeared
9 DEWAYNE JOHNSON,
10 an applicant in the within-entitled matter, called as
11 a witness by the defendant, who, having been duly
12 sworn by the Certified Shorthand Reporter to tell the
13 truth, the whole truth, and nothing but the truth,
14 testified as follows:

--oOo--

EXAMINATION BY MS. CUNNINGHAM

17 Q. Good afternoon, Mr. Johnson. My name is
18 Crystal Cunningham, and I represent the School
19 District on the workers' compensation claims that you
20 filed.

Please state your entire name for the record.

22 A. Dewayne Anthony Lee Johnson.

23 Q. What is your date of birth?

24 A. 1/20/72.

25 Q. Have you ever gone by any other names?

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1 Outside of that, no, just Medi-Cal.
2 Q. Where did you go for treatment for Medi-Cal?
3 A. Solano County. Different places. You know how
4 they have those clinics and little, small little
5 hospitals. I've been to Sutter also with Medi-Cal.
6 Q. Which Sutter?
7 A. Sutter Vallejo.
8 Q. What are the clinics in Solano County that
9 you've sought treatment?
10 A. Clinica -- it's called La Clinica Vallejo.
11 It's on Georgia Street in Vallejo. Like I said,
12 Sutter Solano.
13 Any other Medi-Cal clinics. That's it.
14 Q. Have you ever had any injuries to your
15 shoulders prior to September 26, 2013?
16 A. Not that I recall, no.
17 Q. So no rotator cuff tears or anything like that?
18 A. No.
19 Q. Have you ever had any injuries to your back,
20 other than what we've already mentioned, which
21 included that injury when you were moving all the
22 leaves?
23 A. As far as I can remember, as far as we've
24 discussed as far as my back, that's about it. Other
25 than that, yeah. I know I went for the leaves.

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1 thing where they make you go to the hospital. But I
2 don't recall. It's been such a long time. I don't
3 remember like limping or blood or anything traumatic
4 that went on that night, other than the guy that hit
5 us was hurt pretty bad. He was drunk driving. He
6 hurt himself pretty bad.
7 Q. Did you have any whiplash or anything?
8 A. I didn't. I don't even think I went to a
9 chiropractor. I don't remember. I don't think I did
10 if I did. I don't remember.
11 Q. Did you ever seek any treatment after that day
12 for the motor vehicle accident?
13 A. I don't remember. I don't.
14 Q. Did you file a claim against an insurance
15 company?
16 A. We did. I remember -- the only thing I
17 remember is that a lawyer named William Dulea handled
18 that case. And I think it was basically because of
19 the guy being under the influence. It was one of
20 those things where, you know, the insurance did
21 certain things. I don't even remember how it went or
22 whatever. But I remember William Dulea helping out
23 with that.
24 Q. How do you spell the last name?
25 A. D-u-l-e-a.

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1 That's it as far as the back. Even back in the days,
2 I don't remember really having a medical thing on my
3 back.
4 Q. Have you been involved in any other motor
5 vehicle accidents other than the one on September 26,
6 2013?
7 A. I remember being in an accident in
8 El Sobrante. I don't know the year. I don't know the
9 month. But that was the most major accident that I
10 can remember.
11 Q. And approximately when was it?
12 A. That's over 20-something years ago. Before my
13 son. Before anything. Before my first born. I was
14 very young. When I was a kid. I had to be -- I was
15 younger.
16 Q. Did you seek medical treatment?
17 A. The ambulance took us to some hospital by -- I
18 don't know if was in El Sobrante or Richmond or
19 somewhere in that area. Richmond, El Sobrante, you
20 know, where the Hilltop area is. Whatever hospital's
21 around there. I don't know where it was.
22 Q. What were your injuries?
23 A. I think I really didn't have injuries. I think
24 they just took us because it was such a bad accident.
25 We were hit so hard. They did sort of the trauma

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1 Q. And so you filed that claim for injuries?
2 A. I think it was because of the insurance company
3 that contacted us. It's been a while. We were
4 younger. And all I remember is the insurance company
5 contacted us, ended up getting a lawyer, and ended up
6 getting paid. And I think it was because the guy was
7 under the influence, and the injuries they were having
8 in the car with the other people, too. And I think it
9 became a suit or something. So I don't remember the
10 whole details. But I do remember Mr. Dulea helping
11 out with that.
12 Q. How much money for settlement did you get?
13 A. I don't remember.
14 Q. So you don't remember any treatment other than
15 the initial emergency room visit?
16 A. Exactly.
17 Q. And have you been involved in any other motor
18 vehicle accidents?
19 A. No. Not like the one I was in that night.
20 Q. Well, I mean any.
21 A. Little bumps here and there. Write your name
22 on a paper, "You scraped my car," stuff like that, but
23 nothing major. No major collisions.
24 Q. I don't mean major. I just mean any motor
25 vehicle accidents.

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1 A. That I recall is twice.
2 Q. And when you say "twice," you mean two other
3 ones than what we've already mentioned?
4 A. Exactly.
5 Q. So when was the most recent one?
6 A. The most recent one would be the one on the
7 26th that we're talking about.
8 Q. Other than that?
9 A. There haven't been any. Before that -- before,
10 yes. But after that, no. So you said the most
11 recent, that's the most recent.
12 Q. No. I mean the most recent of the two that
13 we've not already discussed.
14 A. Okay. So I don't know. It's been a long time.
15 Those are years prior to where you're talking about.
16 Q. Do you know about how many years?
17 A. I don't.
18 Q. Do you recall having one on December 19, 2008?
19 A. No.
20 Q. Well, the two that you're referring to -- okay.
21 Let's talk about those -- where were you? In the most
22 recent one after -- the most recent one before the one
23 that's the subject here today.
24 A. The one that I can remember was in Vallejo.
25 The street, I don't know. I had -- I was in back of a

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1 lady and the lady stopped, and I ended up bumping the
2 lady's car and basically ruining my car. And nothing
3 happened to hers. We exchanged information and we
4 went on with the day.
5 Q. And you didn't seek any medical treatment?
6 A. No.
7 Q. And you didn't file any claims?
8 A. No.
9 Q. When was the other one?
10 A. The other one, I don't have any recollection of
11 the dates. I don't even remember. I can tell you the
12 street it was on was on Fairgrounds. I don't remember
13 if that's the date that you are talking about, but I
14 am telling you that the only two accidents I can
15 remember is in Vallejo, and one was on Fairgrounds,
16 and the other one I don't know the street.
17 Q. What happened with the one on Fairgrounds?
18 A. Same thing. This guy stopped in front of me.
19 He had bumped my car, and then I bumped his car, we
20 exchanged information, and that was it. It was not a
21 major accident. It was just a bump.
22 Q. And you didn't seek any medical treatment for
23 that?
24 A. No.
25 Q. Did you file a claim against an insurance

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1 company?
2 A. No. We exchanged information. Ended up
3 talking it out with the guy, and we just dropped it.
4 It was not a big deal at all. Most of the damage was
5 on my car anyway.
6 Q. So you don't recall any motor vehicle accidents
7 where you filed a claim for your back and your neck,
8 other than September 26, 2013?
9 A. Any other one that we discussed from Mr. Dulea.
10 Q. Well, you said that you didn't file anything
11 for that.
12 A. No. Like I said though, it was a case with
13 that. That's why I ended up with a case. But I
14 didn't file anything. I think I ended up with the
15 other people in the suit. You know what I mean? The
16 other people that were in the car, if they got hurt,
17 like the female I was in the car with, she got hurt
18 pretty bad. I was a driver. I didn't get hurt that
19 bad.
20 Q. And you don't recall how much money you
21 received as a result of that settlement?
22 A. No.
23 Q. Have you ever had chiropractic treatment other
24 than the one chiropractor that we've already
25 discussed?

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1 A. With Dr. Petrie in Vallejo.
2 Q. How do you spell it?
3 A. P-e-t-r-i-e.
4 Q. When did you go to see him?
5 A. Wow. That was so long ago, I don't recall the
6 date, the year. That was years ago.
7 Q. What was it for?
8 A. Something that happened with my back. What it
9 was, I don't know.
10 Q. You don't recall an injury to your back?
11 A. I'm almost thinking it was a slip-and-fall
12 case.
13 Q. Did you file a claim for a slip-and-fall?
14 A. I believe so.
15 Q. Against who?
16 A. I believe it was a liquor store or some small
17 store in Vallejo.
18 Q. What happened?
19 A. I walked in, and I fell on some liquid on the
20 floor.
21 Q. And did you file a claim against an insurance
22 company?
23 A. Against the store where I fell.
24 Q. And did you receive a settlement?
25 A. I believe so. It's been a while. I don't

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1 remember how much or when that was. It was a long
 2 time, yeah.
 3 Q. What was the name of the store?
 4 A. I don't recall.
 5 Q. Where did you go for treatment, other than the
 6 chiropractor?
 7 A. I don't recall. It might have been Sutter or
 8 something like that. Sutter or Kaiser are the only
 9 two hospitals in Vallejo. They didn't even have
 10 clinics back then, all the little clinics they have
 11 now.
 12 Q. Which part of your back did you hurt?
 13 A. I don't recall. I don't remember exactly.
 14 Q. What problems were you having with your back as
 15 a result of that slip-and-fall?
 16 A. Just pain, serious pain.
 17 Q. Were you working at the time?
 18 A. I don't remember. I was younger. Maybe some
 19 small, little job part time, but I don't know.
 20 Q. Have you sought treatment with any other
 21 chiropractors?
 22 A. Other than?
 23 Q. The two that we've already discussed?
 24 A. No.
 25 Q. Have you ever had physical therapy?

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1 A. No.
 2 Q. Have you had any other workers' compensation
 3 injuries other than what we've already discussed here
 4 today?
 5 A. You know, not physically. But because of the
 6 School District, when you get a bee sting or whatever,
 7 they handle all of those as workmen's comp. So if I
 8 tell you "no," and you go see 15 of those, because I
 9 had a bee sting -- I had a tough day, and they did it
 10 as a workers' comp case. The whole thing of papers,
 11 the big folder, everything, for the bee stings, to the
 12 point where you get hurt and you don't even call it in
 13 anymore. It's like, "I don't want to go through those
 14 papers."
 15 Yeah. So, no, before the School District and
 16 before here, the only other time is in Vallejo, I had
 17 a -- must have been an inguinal hernia. That was
 18 being a custodian slash kind of supervisor for the
 19 Vallejo School District. Ended up with a hernia.
 20 Q. And you had it repaired?
 21 A. Yes, ma'am.
 22 Q. Where did you have it repaired?
 23 A. Kaiser.
 24 Q. Which Kaiser?
 25 A. Vallejo.

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1 Q. Any other workers' compensation injuries? And
 2 you did mention the bee stings earlier and the wasp
 3 stings.
 4 A. Yeah. That hurt.
 5 Q. Any other ones?
 6 A. No. Not that I remember.
 7 Q. Have you ever been diagnosed with arthritis?
 8 A. No. Diagnosed with it?
 9 Q. Yes.
 10 A. No. Not diagnosed with it. But I've been
 11 told, like, "You've probably got arthritis. Family
 12 members and stuff. You know it runs in the family."
 13 But the doctor itself, no, not arthritis.
 14 Q. Have you ever sought treatment for arthritis?
 15 A. No. What I did seek treatment for was another
 16 situation.
 17 Q. What does that mean?
 18 A. Bursitis is the only itis that I know of that I
 19 was diagnosed with.
 20 Q. When was that?
 21 A. That was during Applebee's days. So I don't
 22 know the years. So it had to be like early '90s or
 23 late '90s. After my -- right after my son -- right
 24 around the time my son was being born. So, yeah,
 25 right around that time.

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1 Q. Bursitis in which body part?
 2 A. Bursitis can be on any joint. It's a
 3 swollen -- swelling of the bursa. The bursa swells up
 4 and it feels like a little ball. It feels like a
 5 lymph node inside. It could be around your knees,
 6 around your elbows, around moving joints.
 7 Q. No. I know. But I'm asking which --
 8 A. For me, it was on my -- it was on my right
 9 hand, my chopping hand. I was chopping thousands of
 10 pounds of tomatoes for that special sauce that
 11 everyone loves at Applebee's. Pico de Gallo.
 12 Q. Where did you go for treatment?
 13 A. They took me to Kaiser.
 14 Q. Which one?
 15 A. Vallejo.
 16 Q. Have you had any diagnostic studies for your
 17 shoulders? So like an MRI or an x-ray or anything
 18 like that?
 19 A. I went and saw Dr. -- my regular doctor, like I
 20 said, and she did her little test and found nothing.
 21 When I say Dr. Stephano, the reason why I stopped
 22 going to see him, I went to him for the shoulders and
 23 the chest. But he was massaging my back, and the
 24 masseuse couldn't explain what the lumps were. And I
 25 knew that he was feeling something on my shoulder.

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1 pests at bay and to keep the things under control that
 2 you need to keep under control.
 3 And then when you're not doing that -- because
 4 of course you can't do that all day. You're not going
 5 to be looking for pests all day. You put the stuff in
 6 traps, whatever, you leave and go. So that's why it
 7 was designed for me to go do grounds.
 8 Now, I have two schools, the middle school and
 9 the elementary, that I'm responsible for all
 10 maintenance work, grounds, responsibilities for two
 11 sites, and I guess -- I'm just guessing that they
 12 still expected me to be an Interdistrict Pest Manager.
 13 So we're at that point right now, we're kind of
 14 weighing that out, like "How do you think I'm supposed
 15 to do this?" So that's where I am right now with the
 16 School District, where I'm not really giving the
 17 attention to IPM now. I'm giving the attention to my
 18 sites that I was assigned to. And that was not in the
 19 MOU. They're, "Oh, don't forget your Interdistrict
 20 Pest Management stuff." That was not included in the
 21 MOU.
 22 So now we're on the fence, me and the District,
 23 with, "How do we get him back in there doing pest
 24 manager and keeping his responsibilities as a
 25 groundsman? How do we split this guy up into four

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1 people?" So that's where it is.
 2 Q. And you haven't worked it out yet?
 3 A. Oh, no. Far from being worked out.
 4 Q. In the last three months, have the symptoms in
 5 your shoulder improved, worsened, or stayed the same?
 6 A. It's getting worse.
 7 Q. In the last three months, have the symptoms in
 8 your chest improved, worsened, or stayed the same?
 9 A. It's gotten worse.
 10 (Discussion off the record.)
 11 (Break taken.)
 12 (Question and answer read by the reporter.)
 13 Q. MS. CUNNINGHAM: Have you ever sought treatment
 14 at an emergency room, other than for the motor vehicle
 15 accident that we already discussed?
 16 A. No. Except for after just recently, I sprained
 17 my hand, or fractured it, skateboarding. That was
 18 just like a month ago.
 19 Q. Where did you go?
 20 A. Two months.
 21 Kaiser, Vallejo.
 22 Q. Did you fall?
 23 A. Off the skateboard, yeah, I fell. Oh, yeah.
 24 Q. Did you have any increased symptoms in your
 25 shoulder as a result of that?

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1 A. No. Just my hand. I caught myself with my
 2 hand, and it did something to my wrist. Like a
 3 hairline fracture across my wrist.
 4 Q. And that was a couple months ago?
 5 A. Right.
 6 Q. Did you miss any time from work because of
 7 that?
 8 A. I missed a day or two, and then I was on light
 9 duty, because I definitely had half a cast on this
 10 hand (indicating). So I did light duty, and I did a
 11 couple of days off. Because this whole arm
 12 (indicating) for a minute was hurt, it was sore, but
 13 it wasn't like too bad. So they put the cast on. I
 14 lost a day or two and did light duty.
 15 Q. And you're pointing to your left arm, correct?
 16 A. Yes. It was this hand (indicating), the left,
 17 the left arm. The left hand basically. Not the arm.
 18 Q. Other than your shoulders and your chest and
 19 the skin cancer, are you having any other problems
 20 that you relate to your employment with the School
 21 District?
 22 A. Loss of sleep. A lot of loss of momentum to do
 23 the things I usually do. I just kind of feel
 24 overwhelmed and stressed with these injuries and with
 25 this cancer. And no one knows, you know. And no one

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1 has answers. Just Lee's just kind of drifting out
 2 there with no answers from anyone, you know.
 3 So, yes, kind of mentally, it's tough, because
 4 you just want to do what you're supposed to do, which
 5 is go to work, you get cancer or whatever, and you end
 6 up with all this confusion. It's like a ball of
 7 confusion, you know. You're not healthy, but you are
 8 healthy. You're sick. It's just too much mystery to
 9 deal with. So it bothers me to sleep. It bothers me
 10 with play. It bothers me with a lot of stuff. So I
 11 try to just mask it by going to work and do what I
 12 need to do and just running general life.
 13 Q. So the loss of sleep is because you're waking
 14 up at night because of thinking about things?
 15 A. Thinking about things a lot. You know, and not
 16 only waking up, it's hard to go to sleep, and then not
 17 getting a night of full sleep because I'm thinking
 18 about things like the IPM program or being exposed or
 19 all the stuff that I have to do at work, with all the
 20 grounds stuff and then the IPM stuff and "if you can,"
 21 "if you can't." "What about your other license,"
 22 "this license," "that license." Just a lot. It's a
 23 lot. And I do the best I can. And I lose sleep,
 24 because it bothers me, because I want to get it right.
 25 So it's stressful, because I don't want to make

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