

**FIRST REPORT OF MR NICHOLAS HOWARD JENKINS
CONSULTANT IN EMERGENCY MEDICINE**

Dated: 25.2.06

Client:

Name: AB

Address: Not known

Date of Birth: xxxxxxxx

Marital status: Not known

Pre-accident occupation: Not known

Present occupation: Not known

Date of accident: 1.7.94

This report is addressed to the Court.

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1 INTRODUCTION

1.01 I am Nicholas Howard Jenkins. My specialist field is Emergency Medicine. My qualifications are BSc MBBCh FRCS FCEM MCh. In 1989 I was awarded the Robert Jones Gold Medal and Prize by the British Orthopaedic Association. I deal on a daily basis with the entire spectrum of acute injuries ranging from the treatment of minor injuries to the resuscitation of patients with serious life threatening injuries. I also conduct four follow up clinics per week. Full details of my qualifications and experience entitling me to give expert opinion evidence are in appendix 1.

1.02 Summary of the case

1.02(i) The case concerns Miss AB who suffered an injury to her right leg 1st July 1994. I have been asked to comment upon the standard of care provided in the Accident and Emergency Department of XXXXX NHS Trust.

1.02(ii) There is a chronology of the key events in appendix 3.

1.03 Summary of my conclusions

1.03(i) This report will show that in my professional opinion the standard of care provided in the Accident and Emergency Department of XXXXX NHS Trust fell below an acceptable standard of care.

1.04 The parties involved

Miss AB (Claimant)

Mr CD, Consultant Orthopaedic Surgeon

1.05 Medical terms and explanations

I have indicated any medical terms in **bold type**. I have defined these terms in a glossary in appendix 4.

2 THE ISSUES TO BE ADDRESSED

2.01 I have been instructed by the Medical Protection Society in their letter dated 15th February 2006. Enclosed with that letter were:

- i) Particulars of Claim
- ii) Claimant's medical reports prepared by Mr EF dated 21st December 1995 and 14th February 1996
- iii) Claimant's medical records from
 - a) Her General Practitioner
 - b) XXXXX NHS Trust.

My Letter of Instructions stated

"I should be grateful if you would consider the papers carefully and advise on whether any aspect of the A & E management of Miss AB fell below an acceptable standard of care. The standard of care is defined in law as being that of a Doctor acting in accordance with a practice accepted as proper by a responsible body of reasonably competent A & E Doctors in this situation. The standard of proof is to be judged on the balance of probability. If there is any shortfall, I would be grateful if you could identify it and indicate, on the balance of probability, whether and if so it caused and materially contributed to the outcome."

3 MY INVESTIGATION OF THE FACTS

3.01 Documents

3.01.1 Accident and Emergency and Hospital Notes, XXXXX NHS Trust

The documentation below has been summarised from the Accident and Emergency and hospital notes and does not represent my personal opinion.

3.01.1(i) Miss AB was registered in the Accident and Emergency Department of XXXXX General Hospital at 11.26 on 2nd July 1994.

3.01.1(ii) Miss AB was examined by a Doctor although the notes do not contain the name of the Doctor and there is no date or time of the examination.

3.01.1(iii) The Doctor has noted that Miss AB sustained an injury to the right upper thigh the previous day as a result of a slip.

3.01.1(iv) The Doctor has noted that Miss AB was “*Unable to wt bear*” (unable to weightbear).

3.01.1(v) The Doctor has noted that there was tenderness over the right **quadriceps** musculature. The degree of tenderness has been indicated with two pluses.

3.01.1(vi) The Doctor has noted that flexion and extension were possible but painful. The Doctor has not indicated which joint this refers to.

3.01.1(vii) The Doctor has noted that Miss AB was unable to straight leg-raise without support.

- 3.01.1(viii)** There was no bony tenderness.
- 3.01.1(ix)** A diagnosis of "*Torn quads R*" (torn right **quadriceps** muscle) has been noted.
- 3.01.1(x)** Miss AB was discharged from the department. It was noted that Miss Bowd's mother had been reassured. Miss AB was advised to take analgesia and to rest. No mention is made of planned follow up.
- 3.01.1(xi)** I note that Miss AB was referred to the Orthopaedic Clinic on an urgent basis by her General Practitioner 22nd September 1994 and was examined by Mr CD, Consultant Orthopaedic Surgeon, 23rd September 1994 when x-rays were performed and a diagnosis of either a fracture of the femoral neck or, what was felt to be more likely, a severe case of slipped upper femoral **epiphysis** (SUFE) was noted. Miss AB was referred to an Orthopaedic Surgeon in XXXXXX for further management.

4 MY OPINION

4.01 The diagnosis

4.01(i) In retrospect it transpires that Miss AB was suffering from bilateral SUFE.

4.01(ii) I note that Miss AB's hospital documentation documents only an injury to the right leg and when Miss AB's case was eventually diagnosed the right side was more severely affected than the left. SUFE can either be a chronically developing condition or it may follow an acute injury. My interpretation of the case is that Miss AB was suffering from the early stages of a chronic constitutional condition affecting both hips but that the injury 1st July 1994 led to an acute slip of the **epiphysis** of the right hip. I note from the documentation that Miss AB subsequently underwent surgical treatment. The left hip was treated by way of an operation fixing the slipped **epiphysis in situ** (i.e. the position of the slip was accepted) whereas the slip affecting the right hip was so severe that major surgical treatment in an attempt to correct the geometry of the hip was necessary.

4.02 The Accident and Emergency assessment/management

4.02(i) The Accident and Emergency documentation with regard to both the clinical history and also the clinical examination is brief, the implication being that the corresponding parts of the actual consultation were similarly brief.

4.02(ii) I would particularly note the following omissions:

- lack of date and time of examination
- lack of Doctor's name/signature
- inadequate description of mechanism of injury/sequence of events
- lack of documentation regarding past medical history/drug history
- omission to comment on the level of discomfort (in the clinical history)
- lack of documentation with regard to hip movements
- lack of examination of the knee with the exception of noting that flexion/extension was painful
- lack of detail regarding examination of the quadriceps (i.e. tenderness of the **quadriceps** is noted as is an inability to straight leg-raise but no mention is made with regard to swelling/bruising/presence of muscular defect etc)
- lack of follow up arrangements

4.02(iii) Whilst every Accident and Emergency Department will vary in respect of the minimum documentation expected from their Medical Staff the first two points noted above, i.e. date of consultation and name of Doctor, are considered minimal requirements for all medical documentation.

4.03 Opinion regarding the standard of care in the Accident and Emergency Department with retrospective knowledge of the diagnosis (i.e. an acute slip of the upper femoral epiphysis)

4.03(i) It is clear that Miss AB sustained a significant injury to her right hip and would have been in marked discomfort and would have had marked difficulty in weightbearing when examined 2nd July 1994.

4.03(ii) The Doctor who examined Miss AB 2nd July 1994 made a diagnosis of a tear of the right **quadriceps** muscle and whilst such an injury would be **possible** it would be unlikely to cause marked discomfort or to cause marked difficulty in a 10 year old's ability to weightbear.

4.03(iii) I note that the Examining Doctor did not consider that an x-ray examination was required and certainly, whilst it is possible to make a diagnosis of a severe soft tissue injury clinically and therefore in the absence of an x-ray, one would have expected the Examining Doctor to have adequately documented examination of the whole of the leg and, in particular, given Miss AB's complaint of thigh pain, to have examined the hip joint and knee joint adequately before deciding that no x-ray was required. The documentation contains no details of an adequate hip or knee examination and the implication is that no such examination was conducted.

4.03(iv) Miss AB, as a 10 year old, was at the lower age limit for a SUFE and whilst not all Accident and Emergency Junior Doctors would have positively diagnosed a SUFE in this case it should certainly have been recognised following adequate clinical examination that Miss AB had a significant hip injury. One would then have expected the diagnosis of SUFE to have been made either following radiological examination or following the Junior Doctor seeking advice from either a Senior Colleague or from an Orthopaedic Colleague.

4.03(v) Even at the time of discharge from the Accident and Emergency Department 2nd July 1994 when the diagnosis of a SUFE had not been appreciated it should still have been possible with adequate Accident and Emergency management to have retrieved the situation. Thus, as noted above, it would be most unusual for a 10 year old to experience marked discomfort and an inability to weightbear merely as a result of a muscular tear of the **quadriceps** muscles and the Accident and Emergency Junior Doctor should have advised Miss AB's parents to either return to the department for a reassessment or to seek a reassessment from the General Practitioner within a matter of days should Miss AB not improve. It should have been made clear that a muscular tear of the **quadriceps** muscles would not under normal circumstances be expected to cause protracted problems. Had that been made clear

to Miss AB's parents they would have had the opportunity to have sought a definitive diagnosis at an earlier stage.

4.04 Summary

- 4.04(i)** It is therefore my opinion that the medical care afforded to Miss AB in the Accident and Emergency Department of XXXX General Hospital 2nd July 1994 fell below an acceptable standard of care.
- 4.04(ii)** There was an inadequate clinical assessment of Miss AB which itself resulted in the Examining Doctor not adequately investigating Miss AB by way of x-rays and/or that Doctor seeking the opinion of either a Senior Colleague or an Orthopaedic Specialist.
- 4.04(iii)** The disposal of Miss AB was inadequate inasmuch as the Doctor should have formulated a follow up plan either by way of follow up in the Accident and Emergency Department or provided explicit instructions regarding General Practitioner follow up.
- 4.04(iv)** As a result of the standard of care in the Accident and Emergency Department falling below acceptable standards Miss AB's subsequent diagnosis of a SUFE was delayed.
- 4.04(v)** The opinion of an Orthopaedic Consultant would be required to comment upon the consequences of that delay, i.e. whether Miss AB's subsequent surgical treatment was more complicated as a result of the delay in diagnosis than would have otherwise been the case had the diagnosis been made around the time of Miss AB's initial attendance at the Accident and Emergency Department 2nd July 1994.

5 EXPERT'S DECLARATION

- 5.1 I understand that my overriding duty is to the court, both in preparing reports and in giving oral evidence. I have complied and will continue to comply with that duty. I am also aware of the requirements of Part 35 to the CPR, this Practice Direction to that Part, the Protocol for the Instruction of Experts to give Evidence in Civil Claims and the Practice Direction on pre-action conduct.
- 5.2 I have set out in my report what I understand from those instructing me to be the questions in respect of which my opinion as an expert are required.
- 5.3 I have done my best, in preparing this report, to be accurate and complete. I have mentioned all matters which I regard as relevant to the opinions I have expressed. All of the matters on which I have expressed an opinion lie within my field of expertise.
- 5.4 I have drawn to the attention of the court all matters, of which I am aware, which might adversely affect my opinion.
- 5.5 Wherever I have no personal knowledge, I have indicated the source of factual information.
- 5.6 I have not included anything in this report which has been suggested to me by anyone, including the lawyers instructing me, without forming my own independent view of the matter.
- 5.7 Where, in my view, there is a range of reasonable opinion, I have indicated the extent of that range in the report.
- 5.8 At the time of signing the report I consider it to be complete and accurate. I will notify those instructing me if, for any reason, I subsequently consider that the report requires any correction or qualification.
- 5.9 I understand that this report will be the evidence that I will give under oath, subject to any correction or qualification I may make before swearing to its veracity.
- 5.10 I have attached to this report a statement setting out the substance of all facts and instructions given to me which are material to the opinions expressed in this report or upon which those opinions are based.
- 5.11 That I know of no conflict of interest of any kind, other than any which I have disclosed in my report.
- 5.12 That I do not consider that any interest which I have disclosed affects my suitability as an expert witness on any issues on which I have given evidence.
- 5.13 That I will advise the party by whom I am instructed if, between the date of my report and the trial, there is any change in circumstances which affect my answers to either of the above two points.

6.0 STATEMENT OF TRUTH

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

Signature

Date of Signature

APPENDIX 1 - MY EXPERIENCE AND QUALIFICATIONS

Qualifications

My qualifications are BSc, MBBCh, FRCS, FCEM, MCh and I am a Consultant in Emergency Medicine.

Career Summary

I initially pursued an Orthopaedic career, being appointed to the post of Lecturer and Honorary Senior Registrar in Orthopaedics at the University Hospital of Wales in 1986. During this period I conducted research into a specific wrist fracture (Colles' fracture) which was published as a Master of Surgery thesis in 1989 and for which I was awarded the Robert Jones Medal and Prize by the British Orthopaedic Association in the same year.

In 1987 I made a career change into Accident and Emergency Medicine and, after Registrar and Senior Registrar training, was appointed as Consultant in Accident and Emergency at Nevill Hall Hospital, Abergavenny, in 1991. I undertook a weekly Fracture Clinic at Brecon War Memorial Hospital until December 2004. I now undertake all of my work at Nevill Hall Hospital where I see Accident and Emergency follow up patients in my clinics. One particular interest is that of sports injuries and until October 2001 I undertook a weekly operating list which was primarily concerned with arthroscopic surgery of the knee.

APPENDIX 2 - THE DOCUMENTS THAT I HAVE EXAMINED

Accident and Emergency/Hospital Notes, XXXXX NHS Trust (74 pages)

APPENDIX 3 - CHRONOLOGY

- 1.7.94 Fall and injury, right leg
- 2.7.94 Attendance at Accident and Emergency Department, XXXXX
General Hospital
- 22.9.94 General Practitioner referral to Orthopaedic Clinic
- 23.9.94 Examination in Orthopaedic Clinic and onward referral to
Orthopaedic Service in XXXXX

APPENDIX 4 - GLOSSARY OF MEDICAL TERMS

epiphysis	the growth plate of a bone
quadriceps muscle	thigh muscle