

**FIRST REPORT OF MR NICHOLAS HOWARD JENKINS  
CONSULTANT IN ACCIDENT AND EMERGENCY**

**Dated:** 20.4.08

**Client:**

**Name:** Mabel Patient

**Address:** 13 A Road, A Town, Wales

**Date of Birth:** xxxxxx

**Marital status:** Married

**Pre-accident occupation:** Retired

**Present occupation:** As above

**Date of accident:** 23.3.06

This report is addressed to the Court.

Mrs Patient was examined at A Hospital, Aberxxxx, on 20.5.06 at 18.30. She was unaccompanied during the examination.

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## **1 INTRODUCTION**

**1.01** I am Nicholas Jenkins. My specialist field is Accident and Emergency Medicine. My qualifications are BSc MBBCh FRCS FCEM MCh. In 19-- I was awarded the Robert Jones Gold Medal 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 Mrs Mabel Patient who sustained injuries in a fall on 23.3.06. I have been asked to comment upon her injuries.

**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 Mrs Patient sustained a fall on 23.3.06 and suffered a minor head injury and also a soft tissue strain of her lower lumbar spine.

**1.03(ii)** Mrs Patient has now made a full recovery from her minor head injury.

**1.03(iii)** Mrs Patient's lower lumbar spine was the site of pre-existing degenerative change at the time of her accident although this degenerative disorder was asymptomatic. Mrs Patient has

experienced low back pain since her accident and I have suggested that the symptoms directly resulting from Mrs Patient's accident would be those symptoms in the first twelve months following the injury whilst any further symptoms would be constitutional in origin. These symptoms would however have been accelerated by a period of approximately two to three years.

**1.03(iv)** Mrs Patient has a past history of Rheumatoid Arthritis and she believes that her accident has aggravated the symptoms from this condition. This aspect of her injury should be addressed by a Consultant Rheumatologist.

**1.03(v)** Mrs Patient has suffered a loss of confidence and psychological upset as a result of her injury.

**1.04        The parties involved**

Mrs Mabel Patient (Claimant)

Dr R Radiologist, Radiologist

Dr J R Darkroom, Consultant Radiologist

Ms A Nurse, Clinical Nurse Specialist in Rheumatology to Dr P Joint, Consultant Rheumatologist

**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 Messrs File & Paper, Solicitors, who have requested that I address the issues stated in their Letter of Instruction, 16.4.07. I enclose a copy of that Letter of Instruction in Appendix 6.

### **3 MY INVESTIGATION OF THE FACTS**

#### **3.01 Documents**

##### **3.01.1 Accident and Emergency Notes, B Hospital**

**3.01.1(i)** Mrs Patient was registered in the Accident and Emergency Department of the B Hospital at 18.59 on 23.3.06.

**3.01.1(ii)** Mrs Patient was assessed on arrival by a Nurse who noted that Mrs Patient had fallen sustaining a head injury. Mrs Patient had not lost consciousness and had not vomited. Mrs Patient also complained of pain in her left side and the Nurse noted Mrs Patient's past history of Rheumatoid Arthritis. Mrs Patient was noted to be weightbearing and was mobile.

**3.01.1(iii)** Mrs Patient was examined by a Doctor at 20.10. The Doctor noted that Mrs Patient had slipped on a wet floor and had banged the back of her head. Mrs Patient had not lost consciousness. She was nauseated but had not vomited. It was noted that Mrs Patient had also injured her right hip. Mrs Patient was noted to complain of "*some pain*". Mrs Patient's past history of Rheumatoid Arthritis was again noted.

**3.01.1(iv)** On examination Mrs Patient was fully conscious and was comfortable at rest.

**3.01.1(v)** Examination of the left hip revealed no swelling or bruising and movements of the hip were normal.

**3.01.1(vi)** X-rays of the skull were performed and these were interpreted as

showing no evidence of fracture.

**3.01.1(vii)** Mrs Patient was discharged home with the written instructions appropriate to a head injured patient.

**3.01.1(viii)** Mrs Patient's x-rays were reported upon by Dr R Radiologist, Radiologist, 25.3.06, as follows: "*SKULL, 23.3.02. No acute boney injury*".

**3.01.2 General Practitioner's notes**

**3.01.2(i)** Mrs Patient consulted her General Practitioner, 22.7.06. The General Practitioner queried the presence of a crush fracture of a lumbar vertebra, prescribed analgesia and noted that an x-ray would be performed.

**3.01.2(ii)** X-rays of Mrs Patient's lumbar spine were performed on 5.8.06 and were reported upon on 6.8.06 by Dr J R Darkroom, Consultant Radiologist, as follows: "*LUMBO-SACRAL SPINE. 5.8.06. Probable slight generalised loss of bone density, but no lumbar or lower thoracic vertebral body collapse. There are degenerative changes in the lumbar spine, most marked at L5/S1 where there is associated disc space narrowing and facet joint arthritis. Normal SI (sacro-iliac) joints.*"

**3.01.2(iii)** The notes contain a letter from Ms A Nurse, Clinical Nurse Specialist in Rheumatology to Dr P Joint, Consultant Rheumatologist, indicating that Mrs Patient had been reviewed in the Rheumatology Clinic of the B Hospital, 18.11.06. Ms Nurse

notes Mrs Patient's Rheumatoid Arthritis symptoms as well as Mrs Patient's recent total knee replacement operation. Mrs Patient's fall of 23.3.06 is not noted and Ms Nurse has stated "*Her arthritis remains stable at present and there was no evidence of active disease*".

**3.01.2(iv)** The rest of the General Practitioner's notes are concerned with pre-existing problems of Rheumatoid Arthritis and gynaecological problems. There is no previous mention of spinal problems.

### **3.02 Interview and medical examination**

#### **3.02.1 Past medical history**

**3.02.1(i)** Mrs Patient has a long history of Rheumatoid Arthritis which she states affects all joints. She states that her symptoms are worse when she is stressed.

**3.02.1(ii)** Mrs Patient has previously undergone bilateral total knee replacements.

#### **3.02.2 Immediate events**

**3.02.2(i)** Mrs Patient describes falling on the 23.3.06 in a supermarket. She states that she stepped on a slippery floor causing her feet to fly out in front of her and Mrs Patient fell backwards, hitting her head and back upon the floor.

**3.02.2(ii)** Mrs Patient states that there was a loud noise as her head struck the floor.

**3.02.2(iii)** Mrs Patient believes that she tried to break her fall with her right

arm.

**3.02.2(iv)** Mrs Patient was advised to remain lying upon the floor and was attended to by ambulance who took her to the Accident and Emergency Department of the B Hospital.

**3.02.2(v)** Mrs Patient was discharged home following x-ray examination.

**3.02.3 Progress**

**3.02.3(i)** Mrs Patient states that she developed a large swelling on the back of her head.

**3.02.3(ii)** Mrs Patient suffered from bad headaches for several weeks following her accident.

**3.02.3(iii)** Mrs Patient states that she has experienced low back pain since her fall having not suffered previously with low back problems.

**3.02.4 Current symptoms**

**3.02.4(i)** Mrs Patient states that her Rheumatoid Arthritis has become generally more troublesome since her fall and her symptoms are worse necessitating increased medication.

**3.02.4(ii)** Mrs Patient states that her lower back remains painful on a daily basis.

**3.02.4(iii)** Mrs Patient states that she has recently been supplied with a splint for her right wrist.

**3.02.4(iv)** Mrs Patient states that she has lost her confidence.

**3.02.5 Loss of amenity****3.02.5(i) Domestic activities**

**3.02.5(i)a** Mrs Patient has been less able to attend to her housework since her accident and has been helped by her husband.

**3.02.5(i)b** Mrs Patient states that she finds that her back is too painful to bend over a sink to wash her hair and her family now need to help her with this activity.

**3.02.5(ii) Activities**

Mrs Patient states that she enjoys sewing but she has been less able to pursue this activity since her accident.

**3.02.6 Clinical examination, 20.5.07**

**3.02.6(i)** Mrs Patient appeared to be generally healthy although walked slowly and with a limp as a result of foot problems resulting from her Rheumatoid Arthritis.

**3.02.6(ii)** Movements of the spine were very stiff throughout the anamnesis.

**3.02.6(iii)** Examination of the hands revealed typical rheumatoid arthritic changes with swelling of the **metacarpo-phalangeal joints** and **ulnar** deviation of the fingers.

**3.02.6(iv)** Mrs Patient indicated the lower lumbar spine as her site of low back pain and all movements of the spine were grossly restricted.

**3.02.6(v)** Rotation of the hips was limited and painful.

**4 MY OPINION****4.01 Diagnosis**

**4.01(i)** Minor head injury

**4.01(ii)** Soft tissue injury, lower lumbar spine

**4.01(iii)** Possible exacerbation of Rheumatoid Arthritis

**4.01(iv)** Loss of confidence/psychological upset

**4.02 Prognosis****4.02.1 The head injury**

**4.02.1(i)** Mrs Patient sustained a minor head injury as a result of her fall, 23.3.06.

**4.02.1(ii)** This injury resulted in the presence of a large swelling on the back of Mrs Patient's head and was also responsible for severe headaches in the early weeks following her accident.

**4.02.1(iii)** Mrs Patient has now made a full recovery from this injury and will not experience any future symptoms as a result of this injury.

**4.02.2 The low back strain**

**4.02.2(i)** Mrs Patient sustained a soft tissue strain of her lower lumbar spine as a result of her fall.

**4.02.2(ii)** X-rays of the lower lumbar spine performed in August 2002 reveal degenerative changes and these changes clearly pre-dated Mrs Patient's fall, 23.3.06.

**4.02.2(iii)** It should be noted however that Mrs Patient had no symptoms

affecting her lower lumbar spine prior to her fall, 23.3.06.

- 4.02.2(iv)** I think that it would be reasonable to attribute a period of approximately 12 months' worth of symptoms to Mrs Patient's fall, 23.3.06, and any symptoms beyond that period would be attributable to Mrs Patient's degenerative condition.
- 4.02.2(v)** In the first 12 months following Mrs Patient's fall the bulk of her symptoms relating to the lumbar spine would have been accident-related symptoms whilst, as that 12 month period progressed, the proportion of accident-related to constitutional symptoms would have diminished, such that after 12 months all symptoms would be constitutional in origin.
- 4.02.2(vi)** Mrs Patient had no symptoms affecting her lower lumbar spine at the time of her accident, 23.3.06, and her accident has therefore produced an acceleration of the onset of symptoms emanating from the constitutional degenerative lower lumbar spine. It is impossible to estimate with any accuracy the period of such acceleration although one must take into account the nature of the injury, the level of post-injury symptoms, the level of radiological changes and a "feel" for the individual case.
- 4.02.2(vii)** Bearing these factors in mind, I believe that a period of two to three years of acceleration of symptoms would be reasonable, i.e. at any given point in the future Mrs Patient's low back symptoms would be those symptoms that she would have otherwise experienced two to

three years later had her accident not have occurred.

**4.02.2(viii)** The accident will not have otherwise altered the natural history of the degenerative changes.

**4.02.3 The apparent exacerbation of Rheumatoid Arthritis symptoms**

**4.02.3(i)** Mrs Patient complains that the symptoms resulting from her Rheumatoid Arthritis have increased since her accident, 23.3.06, and certainly stress is known to play a part in the course of this disease process (M. Joint, 2001).

**4.02.3(ii)** I would note, however, that when Mrs Patient was reviewed in the Rheumatology Clinic, 18.11.06, not only was there no mention of the accident, 23.3.06, but it was also noted that Mrs Patient's symptoms were stable.

**4.02.3(iii)** The condition of Rheumatoid Arthritis is however outside of my area of expertise and an opinion from a Consultant Rheumatologist would be required to address this aspect of Mrs Patient's injury.

**4.02.4 Loss of confidence/Psychological upset**

**4.02.4(i)** Mrs Patient suffered a loss of confidence as a result of her fall, 23.3.06, with an associated psychological upset. This is not at all uncommon following such injuries in ladies of Mrs Patient's age.

**4.02.4(ii)** Should this aspect of Mrs Patient's injuries need to be explored further an opinion from a Consultant Physician with an interest in the Care of the Elderly would be required to provide both a prognosis and an indication of possible treatment options.

**4.02.5 Treatment requirements**

Mrs Patient will not require any future medical intervention as a result of her minor head injury. It is possible that her low back symptoms would respond to a course of Physiotherapy but Mrs Patient will not require any other medical intervention as a result of her injury.

**4.02.6 Future complications**

Mrs Patient's injury will not be followed by any future complications and, as noted above, it will not have altered the natural history of the pre-existing arthritic changes affecting her lower lumbar spine.

**4.02.7 Consistency of account**

Mrs Patient's account of her symptoms appear to be consistent with her injury and there was no evidence of exaggeration of symptoms.

**4.02.8 My opinion on loss of amenity**

Mrs Patient's loss of amenity is consistent with her injury which slowed Mrs Patient's ability to perform her housework and daily activities. This would be the result of a combination of symptoms affecting the lower back and also an exacerbation of Mrs Patient's symptoms resulting from her Rheumatoid Arthritis which as I have noted above should be addressed by a Consultant Rheumatologist.

## 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 19--. During this period I conducted research into a specific wrist fracture (Colles' fracture) which was published as a Master of Surgery thesis in 19-- and for which I was awarded the Robert Jones Medal and Prize by the British Orthopaedic Association in the same year.

In 19-- I made a career change into Emergency Medicine (A&E) and, after Registrar and Senior Registrar training, was appointed as Consultant in Accident and Emergency at A Hospital, Aberaber in 199-. I undertook a weekly Fracture Clinic at Boris Hospital until 20.. and undertake Clinics in A Hospital at which I see Accident and Emergency follow up patients. 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 Notes, B Hospital (7 pages)

General Practitioner's notes (234 pages)

## **APPENDIX 3 - CHRONOLOGY**

23.3.06 Fall and attendance at Accident and Emergency Department, B Hospital

22.7.06 General Practitioner consultation noting back problem

5.8.06 X-rays of lumbar spine revealing degenerative changes

18.11.06 Review in Rheumatology Clinic noting that arthritis is stable.

## **APPENDIX 4 - GLOSSARY OF MEDICAL TERMS**

<b>metacarpo-phalangeal joints</b>	knuckle joints
<b>ulnar aspect</b>	little finger side

## **APPENDIX 5 - REFERENCES**

M. Joint. Stress and Rheumatoid Arthritis. *Journal of arthritis*. **42**, 31 – 32. 2001