

1990s, she was a monthly visitor to the office of Dr. Donald Stoltz and, later, his son, Dr. Bradford Stoltz, in the Bustleton section of Philadelphia. The arthritis and many other maladies that impelled Ms. Russell to make these visits has not inhibited the vivacity of her litigiousness. Using the same law firm that represents her here, Ms. Russell has filed several suits in the Court of Common Pleas against no less than five other defendants since 1986.

After her alleged May 8, 1998 accident, Ms. Russell, rather than seeing the physician who for so long treated her every month for her many pains, on May 29, 1998, instead sought medical advice from another quarter. There is no record at all that Dr. Stoltz (father or son) recommended this entity, Oxford Circle Family Medicine, 5363 Oxford Avenue in Northeast Philadelphia. The flavor for what was really going on that first visit and thereafter will be found from the "Patient Information" form, Gov't. Exh. 15, that Ms. Russell completed at Oxford Circle Family Medicine's office. This Exhibit bears reproduction here in full.

PATIENT INFORMATION

NAME Joy Russell
ADDRESS 1409 Imogene St
CITY PHILA STATE PA ZIP 19124
PHONE NUMBER (215) DATE OF BIRTH 2-17-45
AGE 53 SOCIAL SECURITY NUMBER _____
EMPLOYER NAME N/A
EMPLOYER PHONE NUMBER ()
OCCUPATION _____
(Koral)
LAWYERS [sic] NAME MARK KORAL
18th FL. PHILA PA 19103

CITY _____ STATE _____ ZIP _____
LAWYER'S PHONE# (215) 979-8900 FAX# _____ - _____
()
AUTO/WORKERS COMP. NAME _____
AUTO/WORKERS COMP. ADDRESS _____

CITY _____ STATE _____ ZIP _____
AUTO/WORKERS COMP. PHONE# () - FAX# _____
POLICY # _____ CLAIM # _____
INSURED NAME _____ ADJUSTERS NAME _____
DATE OF INJURY 5/8/98 S/F _____

[the following lines are on
the second page of the form]

HEALTH INSURANCE NAME (ONLY) OXFORD HEALTH PLAN
CURTIS CENTER STE 900
HEALTH INSURANCE ADDRESS INDEPENDENCE SQ. W
CITY PHILA STATE ZIP
HEALTH INSURANCE PHONE# (1-800) 959 - 6258
INSURED NAME JOY RUSSELL
ID NUMBER 312090 GROUP NUMBER _____
PRIMARY DOCTOR NAME (ONLY) BRAD STOLTZ

PLEASE X ONE OF THE FOLLOWING
MOTOR VEHICLE _____ WORKERS COMP. _____ SLIP/FALL OTHER _____
DRIVER _____ PASSENGER _____ PEDESTRIAN _____
FULL TORT _____ LIMIT TORT \$5000.00 _____ 10000.00 _____ OTHER _____
X-RAYS, IF YES WHERE? _____ NO _____
ER, IF YES, WHERE? _____ NO - DR'S OFFICE _____
ARE YOU OUT OF WORK, IF YES SINCE WHEN 5/8/98
TREATING WITH ANOTHER FACILITY, IF YES WHERE _____ NO _____
ARE YOU DISABLED, IF YES SINCE WHEN 5/8/98

Notably, five lines on the first page of the form are given for detailed identification regarding the patient's lawyer. By contrast, only one line on the second page is provided for the "Primary Doctor", and the form does not even provide a line for the primary doctor's phone number.

Ms. Russell's answers on this curious form give the first major instance of why we found her testimony to be utterly unworthy of belief. Claiming on the form that she has been "out of work" and "disabled" since the date of the May 8, 1998

accident, Ms. Russell thereby repudiated no less than six years' worth of medical assessment forms she submitted to the Pennsylvania Department of Welfare (Gov't Exhs. 11 - 14) which, starting on June 17, 1992, claimed a total disability that, in the words of her then-treating physician, Dr. Donald Stoltz, did not permit her to "do most normal daily chores." Indeed, Ms. Russell testified before us that she had been totally disabled for at least eight years prior to the date of the accident because of a variety of ailments.

The significance of the "Patient Information" form of Oxford Circle Family Medicine is thrown into even greater relief when one examines the notes of Ms. Russell's treating physicians from April, 1990 through the end of 1998. These notes -- first by Dr. Donald Stoltz and later by his son, Dr. Bradford Stoltz -- show that Ms. Russell was visiting them on a monthly basis about her ever-degenerating physical maladies. These pre-existing conditions include the very conditions for which she sought money from the Government the May 8, 1998 accident.

The fact that the "Patient Information" form does not have even a phone number for the "Primary Doctor" strongly suggests that neither the patient/plaintiff nor those acting on her behalf in this litigation had any interest in Oxford Circle Family Medicine ever learning of the realities of Ms. Russell's conditions. There is, in this regard, no hint in any of Dr. Stoltz's notes that he (a) was ever consulted by anyone from Oxford Circle Family Medicine, (b) was even told of the alleged

May 8, 1998 incident or (c) knew of Ms. Russell's ever-present lawyer.

As disquieting as this record is, a comparison of the real medical record with Ms. Russell's answers to the Government's first set of interrogatories (Gov't Exhs. 5 and 6) is even more unsettling. For example, though asked in interrogatory 8 to state whether she "ever suffered any injury, illness or disability" other than that claimed for the May 8, 1998 accident, the plaintiff, under oath, answered, "No". The notes of the two Drs. Stoltz, however, list a legion of illnesses, including degenerative arthritis, "chronic back pain" and other maladies -- often requiring nerve-blocking injections - - dating as far back as 1990 and continuing to May 5, 1998, the last day Ms. Russell saw Dr. Stoltz before the supposed accident.

Interrogatory 17 required Ms. Russell to list "any medication" she was taking "at the time of the accident" and her answer to that question was also "No". We know from Dr. Stoltz's patient notes of May 5, 1998 that plaintiff was then on no less than nine medications, including the Percocet she has been taking continuously since at least April of 1990.

Ms. Russell acknowledged that she signed a verification wherein she certified that her answers "are true and correct" and "made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities". After much pressing, she at last admitted that she signed this verification in blank and had "trusted" her counsel -- whom she said had represented her

for twenty years -- to supply the true information. Her indisputably false answers were thus, in her view, "mistakes".

We know from Ms. Russell's testimony that her counsel here had represented her in lawsuits against JFK Stadium (date of alleged accident September 5, 1986), McFarland Arborist (date of alleged accident June 12, 1991), Annette Weintraub and Life Support Ambulance (date of alleged accident September 25, 1991) and Skinner Nuts (date of alleged accident June 6, 1995). See Gov't Exh. 6 ¶ 19. Ms. Russell and her lawyer were anything but strangers to one another. Both she and he knew, or could readily obtain, the truth to supply for those interrogatory answers.

For all these reasons we not only found Ms Russell's testimony totally unworthy of belief, but we come to the graver conclusion that she is a seasoned plaintiff who cares not a whit for her oath or for any truth that would impede her recovery.

By contrast, we found the testimony of the Postal Service employees, in particular that of the custodian, Mr. Powell, and his supervisor, Mr. White, to be completely credible. They on May 8, 1998 maintained the Logan Station with scrupulous regard for their customers' safety, and the Postal Service breached no duty to Ms. Russell under § 343 of the Restatement (Second) of Torts, which the Pennsylvania courts would apply to the Postal Service were it a private party. See 28 U.S.C. § 1346(b) and, e.g., Myers v. Penn Traffic Co., 602 A.2d 926 (Pa. Super. 1992).

