

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOHNS MANVILLE, a Delaware corporation,)	
Complainant,)	
)	
v.)	PCB No. 14-3
)	(Citizen Suit)
ILLINOIS DEPARTMENT OF)	
TRANSPORTATION,)	
)	
Respondent.)	

RESPONDENT'S MOTION TO RESCHEDULE HEARING

Exhibit A

Steven Gobelman Affidavit

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOHNS MANVILLE, a Delaware corporation,)
)
Complainant,)
)
v:) PCB No. 14-3
) (Citizen Suit)
ILLINOIS DEPARTMENT OF)
TRANSPORTATION,)
)
Respondent.)

AFFIDAVIT OF STEVEN GOBELMAN

I, STEVEN GOBELMAN, certify under penalty of perjury that the statements set forth in this affidavit are true and correct, and hereby declare and state as follows:

1. On the night of November 10, 2019, while playing hockey, I suffered an injury to my right ankle. I was immediately taken to the emergency room at Memorial Medical Center in Springfield, Illinois for evaluation and treatment.

4. Once at the emergency room, my ankle was x-rayed. The x-ray showed that I had broken both my tibia and fibula at my ankle.

5. While I was in the emergency room, I was evaluated by Doctor Stephen Pineda, who was the on-call orthopedic specialist at the hospital that evening. He advised me that I would need surgery to correct the breaks to my tibia and fibula. My ankle was then placed in a cast as a temporary measure, in order to allow the swelling in my ankle to go down. This was a necessary pre-condition before my ankle could be operated on.

6. On November 18, 2019, I saw Dr. Pineda at his office in Springfield. He determined that at that time that the swelling around my ankle had gone down enough, such that I could now be scheduled for surgery. During this visit, he advised me that it would take approximately six weeks for me to recover from this surgery.

7. On November 21, 2019, Dr. Pineda operated on me at Memorial Medical Center in Springfield, Illinois. The operation lasted approximately two hours, during which time the

doctor inserted a plate into my bone, as well as surgical screws. Due to the severity of the break, however, Dr. Pineda also had to insert two long screws, in order to reattach the tibia and fibula.

8. Because my injuries proved to be more extensive than I had been lead to believe, I was advised that my recovery time would take upwards of three months, which was twice as a long of a recovery period long as I had originally been told. Following the surgery, I was sent home.

9. When I was sent home I was advised to elevate my leg, rest and use ice. I was also told that I could not put any weight on my right foot for three months, twice the amount of time that I had originally been advised I would need to recover from this surgery. This would place the end of my restrictions out to approximately mid-February 2020.

10. I saw Dr. Pineda for a post-surgery visit on December 3, 2019. He advised me that my ankle looked good and to continue to stay off of my right foot. I am scheduled to have another follow up appointment with Dr. Pineda on December 31, 2019.

11. I am currently following Dr. Pineda's instructions. I am only able to get around using crutches. In order to go to and from work, I need to be driven by my wife. I have attached a true and correct copy of my post-operative instructions from Doctor Pineda as Exhibit 1 to my affidavit.

12. Based on my current recuperation schedule, I will still need crutches to get around until approximately mid-February 2020. Given this prognosis, I am concerned that it would be extremely challenging for me to participate in the Board hearing for this matter, which is currently scheduled to begin on February 3, 2020. In particular, I am very concerned that if rainy, snowy, and/or icy conditions existed at the time of the hearing, I could suffer a potential injury or relapse if I were to slip while getting around. Accordingly, it is my preference that the Board reschedule the hearing in this matter until no earlier than the week of February 17, 2020.

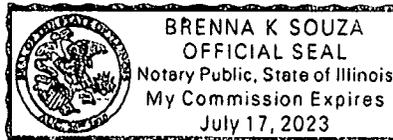
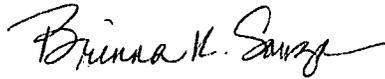
FURTHER, AFFIANT SAYETH NOT.



STEVEN GOBELMAN

SUBSCRIBED AND SWORN to before me

this 19th day of December, 2019.



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RESPONDENT'S MOTION TO RESCHEDULE HEARING

Exhibit 1

Steven Gobelman Affidavit

HEALTH STATUS FORM

Date: Time In: Time Out:
 Name: Date of birth:
 Employer / School:

STATUS

Return to work/school on restrictions

No exposure to cold, heat, water dampness, chemicals, paint, dust welding (appropriate restrictions circled) No lifting over lbs.

Keep affected area clean and dry No push or pull over lbs. with arm.

No climbing of stairs or ladders No reaching above shoulder level

No work around high speed or moving machinery No kneeling or squatting

No operating of mobile equipment Should be considered permanent

Should be sitting % of time One-handed job with arm

No work requiring repetitive bending of No use of

Limited use of

Other:
 Restrictions apply until

Unable to work/school

Excuse from Physical Education unit

Is pregnant with an expected date of confinement of and may / may not work until

Required to take medication during active hours

Medication

Other:
 Was in my office today Physical Therapy on:

Return to physician PRN Follow-up on:

Appt. with: Date:

Please phone Springfield Clinic, extension to schedule follow-up appointment.

Diagnosis:

Signature of Provider

You are hereby authorized to discuss with and send to:

Employer:
 Street:
 City: State: Zip:

or its representative, any and all information you may have regarding my condition when under observation or treatment of you, including past history obtained, findings, diagnosis, laboratory results, x-ray results and medical records.

Signed:

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RESPONDENT'S MOTION TO RESCHEDULE HEARING

Exhibit B

Affidavit of Evan McGinley

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AFFIDAVIT OF EVAN J. McGINLEY IN SUPPORT OF IDOT'S MOTION TO CANCEL

I, EVAN J. McGINLEY, certify under penalty of perjury that the statements set forth in this affidavit are true and correct, and hereby declare and state as follows:

1. I have been lead counsel for the Illinois Department of Transportation ("IDOT") in this matter since May of 2014 and represented IDOT during the Board's prior round of hearings in this matter during May and June of 2016.

2. IDOT's concurrently filed Motion to Cancel represents the first time that IDOT has sought to cancel the final set of hearings in this matter since the Board issued its Interim Opinion and Order on December 15, 2016.

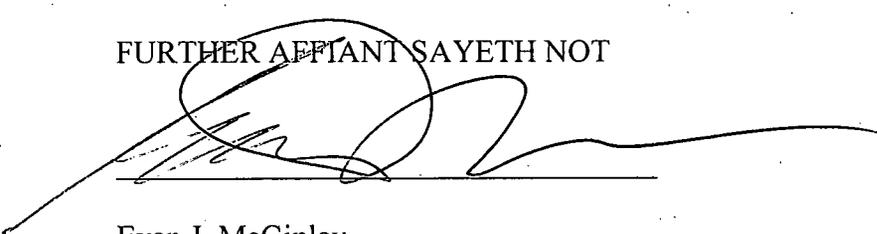
3. I have known and worked with IDOT's expert witness, Steven Gobelman, for more than four and a half years. Mr. Gobelman recently suffered a very serious injury to his ankle and is recovering from surgery.

4. I have discussed the nature and extent of his injuries with Mr. Gobelman now on several occasions. Based on my longstanding working relationship with Mr. Gobelman, it is my belief that Mr. Gobelman is genuinely concerned about having to travel to Chicago to participate in the next round of hearings in this matter, while he is still required to use crutches and his mobility is limited.

5. IDOT was prepared to go to hearing, as originally scheduled, during the week of November 18, 2019. When Johns Manville moved to cancel and reschedule the hearing date, IDOT did not object.

6. IDOT's request to now cancel the hearing set to begin on February 3, 2020 to a date after February 18, 2020 should not be construed in any way as evidencing any lack of diligence on IDOT's part.

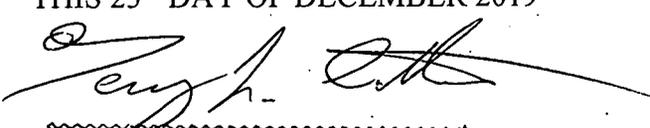
FURTHER AFFIANT SAYETH NOT



Evan J. McGinley

SIGNED AND SUBSCRIBED TO ME

THIS 23rd DAY OF DECEMBER 2019



OFFICIAL SEAL
TERRY L. COTTON
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 01-19-2021