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CHARLES KRUEGER v SAN FRANCISCO FORTY NINERS et al

Alyssa Johnson and Mason Briles

WV
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HEALTHCARE

Parties in the Case



Plaintiff and Appellant: Charles Krueger

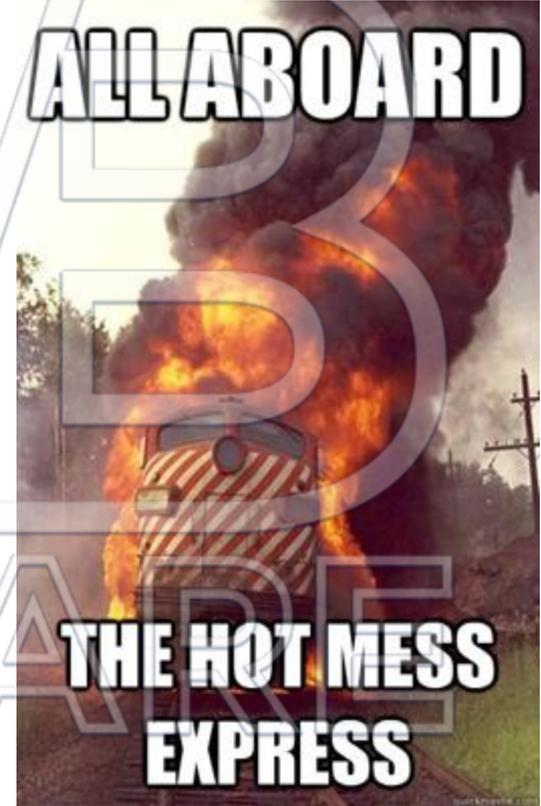
Defendant and Respondent: San Francisco Forty-Niners, et al.

Appellant: a person who applies to a higher court for a reversal of the decision of a lower court.

Respondent: a defendant in a lawsuit, especially one in an appeals or divorce case.

Medical Background

- 1955
 - Krueger tore his meniscus in left knee at Texas A&M
- 1963
 - Krueger tore his MCL in the same knee
 - MCL repaired by Dr. Taylor, the team physician, but Krueger not informed of ACL tear
- 1964
 - Krueger sought treatments for edema by novocaine and cortisone steroids
 - 162-210 of these treatments from 1964-1973
- 1970
 - Krueger felt a “piece of his knee break off.”
 - Doctors expressed little to no concern
 - Krueger played the last 5 games of the season



Medical Background continued

- 1971
 - Dr. Taylor operated on Krueger's left knee
 - Removed loose bodies and chronic chondromalacia patella
 - These are issues consistent with prolonged steroid use
- 1974
 - Dr. Milburn arranged a full physical exam for the Krueger
 - X-rays nor physical testing of his knees occurred
- 1978
 - Krueger was informed he suffered chronic and permanent disability in his left knee
 - Dr. Taylor performed a tibial osteotomy
 - Krueger's knee calcified and pain became worse with ADL's than before surgery
- 1979
 - NFL Players Association informed Krueger he was no longer eligible for medical benefits

Legal Proceedings

Conjecture: 1. The expression of a theory, or of an opinion, based on speculation, without substantial proof. 2. A conclusion reached by guesswork.

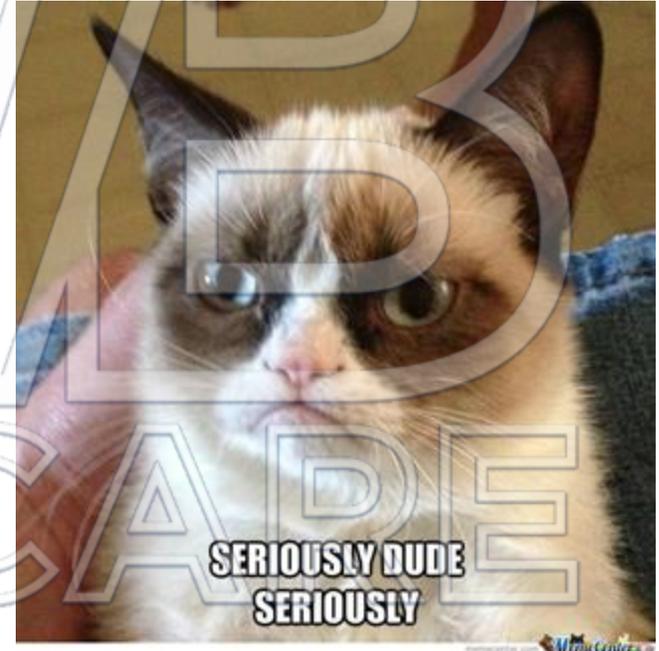
Fraudulent concealment: the deliberate hiding or suppression, with an intention to deceive or defraud other persons of a material fact or circumstance by a person which s/he is legally bound to disclose.

- Court Trial 1984
 - Krueger lost that case
 - Reasonings
 - Judge stated that plaintiff would have continued to play football even if he had been advised of the nature and extent of his injuries.
 - The defendant to not withhold information from the plaintiff
- Appellate Court 1987
 - Judge statement of plaintiff was 'mere conjecture'
 - Not about the *Withholding* of information, but the fiduciary responsibility for full *Disclosure*
 - Respondent sued for negligence and fraudulent concealment
 - Cal. civ. Proc. code §1709 & §1710(3)

§1709: provides that one who willfully deceives another with intent to induce him to alter his position to his injury or risk, is liable for any damages which he thereby suffers
§1710(3): the suppression of a fact, by one who is bound to disclose it or who gives information of other facts which are likely to mislead for want of communication of that fact. **A physician cannot avoid responsibility for failure to make full disclosure by simply claiming that information was not withheld** © 2019. Mason W. Briles. All Rights Reserved

Refresher: Components of Negligence

- Duty of Care
 - Team physician is responsible to fully disclose information to patient
- Breach of Duty
 - Team physician deviated from recognized standard of care by NOT disclosing information
- Injury/Actual Damages
 - Long term degradation of patient's left knee
- "But for" Causation
 - "But for" the respondents' lack of disclosure, the appellant's injury would not have increased to such severity



Outcomes and Damages

- Appellate court ruled in favor of the appellant
- 49ers and team physicians found liable
 - Negligence and fraudulent concealment
- Court awarded actual and punitive damages to Charles Krueger
 - \$2.3 million (general damages), \$66,000 (special damages)



Relevance to Athletic Training

Thoughts??

- Document EVERYTHING!
- Medical professionals have a fiduciary relationship with the athletes
 - Lack of disclosure is just as fraudulent as intentional withholding of medical information
- Have great communication with everyone involved
 - Physicians, coaches, athlete, parents
- Patient centered care should be the focus
 - Educate and inform patients on diagnoses, treatments, healing processes and any short or long term health outcomes associated

Fiduciary: involving trust, especially with regard to the relationship between a trustee and a beneficiary.