DIST/OFFICE	DOCKET YR.	DOCKET NUMBER	FILING DATE MO.	DAY	YEAR	J	N/S	O	F	R 23	DEMAND $	OTHER	JUDGE NUMBER	JURY DEM.	DOCKET YR.	DOCKET NUMBER
1085/4	76	0114	03	15	76	2	330	1			610		8510 ~~8509~~		76	0114-~~B~~ C

B

PLAINTIFFS

DANIEL LAVERN SETSER

DEFENDANTS

THE UNITED STATES OF AMERICA

CAUSE

28USCA, 1346(b) et seq, and Sect. 2671 et seq Pltf was under insulin therapy at the VA Hospital, Muskogee, Okla, & suffered numerous insulin reactions prior to his injury, while left unattended & unassisted on 3-15-73, he fell from his bed; guardrails were not put up during insulin reaction. Left hip was fractured. X-rays taken on 3-16-73, were misinterpreted & Pltf was sent for physical therapy ~~for one month with a broken hip. Suffered two operation on his hip.~~

ATTORNEYS

583-1313

Ronald A. Skoller
Dyer, Powers, Marsh, Turner & Powers
2711 ~~1501~~ Fourth National Bank Bldg.
Tulsa, Oklahoma 74119

Robert P. Santee
460 U. S. Courthouse
Tulsa, Oklahoma

☐ CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
				JS-5	4-1-76
				JS-6	5-1-79

76-C-114-C ~~JUDGE BARROW~~ B

DATE 1976	NR.	PROCEEDINGS
3-15-76	1	Complaint filed. Summons Issued.t
3-18		Summons, ret. & filed: served U.S. Atty., Tulsa, and mailed 2 copies by certified mail to The Atty. Gen., Dept. of Justice, Wash. D. C. on 3-17-76. (USM $3.00)g
5-12-76	2	Deft's., Answer,filed.t
6-22	MO	Parties are directed to hold PT conf. on or before 8-5-76 & file PT Order on or before 8-11-76. (AEB-J)s cps by cert ml
8-11	3.	Mot. of Deft., USA, for ext of time to submit pre-trial order, fld. v (o)
8-12	4.	Order, filed, granting Deft. till 9-1-76 to submit an agreed-upon pre-trial order.s (AEB-J) cps. mld.
8-26	5.	Pre-trial Order, filed. (AEB-J)k cps mld
9-21	MO:	Case set for N/J Trial on 10-26-76 at 10:00 a.m. (AEB-J)v -notices mld. cert.
10-7	6.	Application of pltf. for continuance of trial, filed. hm
10-7	7.	Stipulation, filed, re cont. of trial. hm
10-12	8.	Order, filed, continuing trial set on 10-26-76 at 10:00 a.m. for 30 days.s (AEB-J) cps. mld.
11-9	9.	Pltf's appl. for 30 days to complete discovery, filed.k
11-9	10.	Stipulation of parties for continuance of discovery completion to 12-10-76, filed.k O to J
11-10	11.	Order, filed, granting parties until 12-10-76 to complete discovery.s (AEB-J) cps. mld.
12-1	--	Dep. of Kevin Hastings taken on behalf of pltf/by Archie L. Cooper, Notary Public. ($148.60 pd. by pltf.)lm
12-6	MO:	Case set for non-jury trial on 1-17-77, at 10:00 A.m.(AEB-J)b nts by cert ml w/affid.
12-10	12.	Pltf's request for production under Rule 34 FRCP, filed.k
12-10	13.	Stipulation of the parties to complete discovery & finalize trial preparations 12-20-76, filed.k
12-10	14.	Pltf's appl. to complete discovery 12-20-76, filed.k O to J
12-13	15.	Order, filed, allowing the parties until 12-20-76 to complete discovery.s (AEB-J) cps. mld.
12-16	16.	Deft's mot. for continuance of 1-17 trial setting, filed.k
12-17	17.	Order, filed, continuing trial, pending settlement.(AEB-J)rm-copies md
1977		
1-18	MO	Case set for non-jury trial on 2-22-77 at 10:00 a.m. (AEB-J)s ntc. by cert. ml w/affid.
2-2	18.	Joint motion for continuance of non-ury trial set on 2-22-77, filed.s O to J
2-3	19.	Order, filed, that this case set for trial on 2-22-77 is continued to allow the parties to pursue the consummation settlement of this matter.s (AEB-J) cps. mld.
9-12	20.	Narrative & Summary of Pltf., filed. b copy to B. Santee
1978		
1-13	MO	Case set for report to the Court on status of case on 2-1-78 at 10:00 a.m. (AEB-J)k cps by cert ml

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT B	DOCKET NO. _____
Daniel Lavern Setser	The United State of America	PAGE ____ OF ____ PAGES

DATE	NR.	PROCEEDINGS
2-1		Case called for disposition before Mag. Rizley upon order of the Court. Parties pres. Pltf. presents status report for filing. Govt. requests extension of time to work on settlement. Mag. recommends if matter not settled in 60 days the Court consider setting for trial. Documents are to be furnished Pltf. in 30 days.(RSR-Mag) b
2-1	21	Status report, filed. b
3-16	22	Deft. notice of depo. of Doctor Steve Landgarten & Doctor Milton R. Workman on 3-30-78 & 3-28-78 respectively,in Tulsa, OK. Sub. issued ho
3-20		Ret. of USM service of Depo. Sub., fld. served Dr. Milton R. Workman by serving Carroll Davis, Office Mgr. on 3-17-78 in Tulsa, OK; Dr. Steve Landgarten by serving Anita Wendoff, Office Mgr. on 3-17-78 in Tulsa, OK (USM $4.24)ho
5-2		Depo. of Dr. Richard F. Barbee, M.D. taken on behalf of the Deft. on 3-31-78 before Patricia Walker, CSR. fld. ho
5-2		Depo. of Dr. Milton Rice Workman, M.D. taken on behalf of the Deft. on 3-28-78 before Patricia Walker, CSR. fld. ho
5-22-78	MO:	Case is set for non-jury trial on 6-19-78, at 10:00 A.M.(AEB-J)b nts cert w/affid.
6-13	MO:	By the agreement of the parties this case is ORDERED referred to Mag. Robert Rizley, for non-jury trial & findings of fact & conclusions of law pursuant to T. 28, U.S.C., Sec. 636 et seq. & M-128. IT IS FURTHER ORDERED that case is stricken from non-jury docket of 6-19-78.(AEB-J)b nts mld
7-20	MO:	Case is set for PT conference on 8-7-78, at 2:30 P.M.(RSR-Mag) b nts by KT
8-7	23	Pltf. requests for admissions, fld. ho
8-7	Min.	Case called for pretrial conf. Parties present. Pretrial conference held. Parties to file final trial briefs w/in 30 days. Non-jury trial set 10-17-78, at 9:30 A.M. (RSR-Mag)b
9-1	MO:	Case is set for non-jury trial on 10-17-78, at 9:30 A.M.(RSR-Mag) b nts by KT
9-5	24.	Deft's Answer to requests for admissions, filed. b
10-11	--	Ret. of USM service of sub. fld. served VA on 10-10-78 in Muskogee, OK. (USM $3.00)ho
10-12	25.	Deft's trial brief, filed.k
10-13	MO	Upon agreement of the parties, non-jury trial set for 10-17-78 at 9:30 a.m. is stricken and reset on 11-7-78 at 9:30 a.m. (RSR-Mag)k ntc by KT
10-17		Subpoenae ret. & filed unexecuted as to Dr. Ann Kent & Ozella L. Scruggs at request of U. S. Atty. g
11-1	--	Ret. of USM service of sub. fld. served Dr. Ann Kent on 10-27-78 in Muskogee, OK; Ray Smith on 10-26-78 in Muskogee, OK; & Ozella L. Scruggs on 10-26-78 in Muskogee, Ok. (USM $9.00)ho
11-1	MO	Upon oral mot. of deft., non-jury trial set for 11-7-78 at 9:30 a.m. is stricken and reset on 11-8-78 at 9:30 a.m. (RSR-Mag)k cps by KT
11-8		Case called for N/J trial before Mag. Rizley. Parties present & announce ready. Govt. renews objection to 2nd cause of action. Pltf. makes opening statement. Deft. defers same until close of Pltf. case. Pltf. presents case in chief, witnesses sworn & testify: Dr. Workman; Dr. Barbee; Zella Yount. Pltf. exhibits admitted. Ct. recess til 11-9-78, at 9:30 A.M.(RSR-Mag) b
11-9		Non-Jury trial continues with pltf's case. Parties present. Ruling reserved on

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. 76-C-114
Daniel Lavern Setser	U.S.A.	PAGE 4 OF 2 PAGES

DATE	NR.	PROCEEDINGS
1978		
		Deft's motion for S/J in re 2nd cause of action. Deft. makes objection to testimony of Dr. Troncoso. Arguments made. Ruling reserved. Pltf. witnesses Dr. Troncoso; Dr. Landgarten & D.L. Setser testify. Court adjourns until 11-21-78. Parties to advise Court if there are conflicts in trial setting. (RSR-Mag) b
11-22-78		Non-Jury trial continues on 11-21 & 11-22-78. Parties pres. N/J trial continues with cross examination of Pltf. Pltf. offers deposition of Kevin Hastings as Ex. 35. Deft. objects to portions of deposition. Pltf. rests. Deft. makes opening statement & presents case in chief; witnesses sworn & testify. Deft. rests. Ct. sustains Deft's motion for S/J as to 2nd cause of action & overrules Deft's motion for S/J as to 1st cause of action. Ct. sustains Deft. objection to portions of Hastings deposition. Closing arguments made. Parties are directed to furnish Court with Findings of Fact & Conclusions of Law & any further arguments they desire to make w/in 10 days. Trial concluded. (RSR-Mag) b
11-22		Pltf's trial exhibits 1 thru 17 & 19 thru 37, filed. b (exhibit room)
11-22		Deft's trial exhibits 1 & 2, filed. b (exhibit room)
12-7	MO	Upon oral request, parties are granted until 12-8-78 to submit F/F & C/L. (RSR-Mag)k ntc by RSR
1979		
2-8	26	Magistrate's Findings of Facts, Conclusions of Law and Recommendations, filed. Mag. recommends that judgment be entered in favor of pltf. & against the deft. in the sum of $32,000.00 on the first cause of action, plus costs. Further recommended that deft's mot. for S/J on pltf's 2nd cause of action be sustained. (RSR-Mag)k cps mld
2-20	27	Pltf. appl. for ext. of time to respond to F/R of Mag. fld. ho O to J.
2-23	MO	Pltf. is granted until 3-12-79 to respond to F&R of the Mag. (AEB-J)k cps of orig. order mld
2-27	28	Deft. USA mot. & brief in supp. of mot. for assignment of replacement Judge, fld. ho
3-12	29	Pltf. appl. for further ext. of time to file objections to Mag. F/R, fld. ho O to J.
3-14	30	Order, fld. granting Pltf. an ext. of time until 4-11-79 to file objections to Mag. ruling, (HDC-J)ho c/m to movant.
3-16	MO	Case transferred to Judge H. Dale Cook. (JCS-Clk)k
4-18	31	Pltf's answer to F/F & recommendations of Magistrate, filed. g
4-18	32	Order, fld., adopting F/C & Recs. of Magistrate that judgment be entered for Plaintiff against the deft. in sum of $32,000.00; that deft's mot/summary judgment on pltf's second cause of action be sustained. (HDC-J)g c/mld
4-18	33	Judgment, fld & entered, in favor of pltf. against the deft. USA in sum of $32,000.00. (HDC-J)g c/mld
6-15	34	NOTICE OF APPEAL, of Deft. ho c/m to counsel & USCA
6-22	35	WITHDRAWAL by deft. of 6-15-79 ntc. of appeal.k
7-11	36	ORDER dismissing appeal, filed 6/15/79. (HDC-J)rm-c/m counsel & USCA
8-1-79	37	RELEASE & SATISFACTION OF JUDGMENT. b