

1 Interrogatory No. 4: How long was the surgery process from time you started to
2 end?

3 Initial Response to Interrogatory No. 4: Objection. This interrogatory is vague
4 and ambiguous. Notwithstanding these objections and without waiving them, I
5 am presently unable to answer this question since I am not the custodian of
6 records for Methodist Hospital nor am I the custodian of records for the California
7 State Prison. I am informed and believe that this information may be discernable
8 from the anesthesia record, but I was not the anesthesiologist and do not presently
9 have this information. Discovery is continuing.

10 Supplemental Response to Interrogatory No. 4: Objection. This interrogatory is
11 vague and ambiguous. Notwithstanding these objections and without waiving
12 them, I have now had the opportunity to receive and review plaintiff's medical
13 records from Methodist Hospital which were not in my custody and control at the
14 time I originally answered this interrogatory on May 3, 2017. A true and correct
15 copy of the records subpoenaed from Methodist Hospital are attached hereto as
16 exhibit A. The records indicate that plaintiff arrived at Methodist Hospital in
17 Sacramento at 5:50 a.m. on April 24, 2013, to undergo a planned laparoscopic
18 right sided inguinal hernia repair procedure with mesh. Plaintiff was prepped for
19 the surgery by nursing staff. He also underwent a pre-anesthesia evaluation by
20 Dr. Robert Devoe, the anesthesiologist. The records indicate that the pre-
21 anesthesia assessment was conducted by Dr. Devoe commencing at
22 approximately 7:29 a.m. Vital signs, oxygen saturation levels, and weight were
23 within normal limits. Weight measurements were obtained and plaintiff's airway
24 was examined. Plaintiff's heart and lungs were within normal limits. Dr. Devoe
25 reviewed preoperative lab studies and there were no contraindications going
26 forward. The records indicate that the anesthetic risks were discussed and that
27 plaintiff elected to go forward with the surgery. Plaintiff also provided consent to
28 go forward with the surgery with Dr. Eslami as reflected in the preoperative
history and physical examination performed by Dr. Eslami.

After being prepped for surgery, plaintiff was taken to the operating room at
approximately 8:32 a.m. General anesthesia was started at 8:40 a.m. At 8:47
a.m., the surgery was started by Dr. Eslami. The surgery was completed at
approximately 9:05 a.m. Dressings were applied to the surgical wound at 9:06.
Plaintiff was subsequently transported from the operating room to the
postanesthesia care unit (PACU) at 9:25 a.m. By 9:45 a.m., plaintiff was waking
up from the anesthesia. By 10 a.m., the notes generated by the postanesthesia
care nurse, Ma Estoesta, R.N., indicate that plaintiff was awake and oriented. He
had a perfect Glasgow Coma Scale score of 15, indicating he had spontaneous eye
opening, was able to obey commands appropriately, and was oriented and able to
converse clearly. By 10:20 a.m., plaintiff was alert and oriented and had good
motor control.

Plaintiff was also evaluated by the anesthesiologist, Dr. Devoe, in the
postanesthesia care unit. Dr. Devoe noted plaintiff was arouseable, able to follow
simple commands, and had returned to his preanesthesia mental status.
Respirations and cardiovascular function were normal. Plaintiff's pain was noted
to be a 3 on a scale of 1 to 10, which was within the expected pain range. He had
no anesthesia complications and was noted to be in good condition. At 10:29
a.m., plaintiff was transferred from the PACU to the ambulatory care unit and was
in good condition. He ultimately left the hospital at 11:15 a.m.

1 Interrogatory No. 5: Is it “OK” for Plaintiff to walk 80 to 100 yards after
2 surgery?

3 Initial Response to Interrogatory No. 5: Objection. This interrogatory is vague,
4 ambiguous, and unintelligible. Notwithstanding these objections and without
5 waiving them, Plaintiff was provided with standard patient discharge instructions
6 following the April 24, 2013 surgery. Copies of these discharge instructions are
7 contained in Plaintiff’s medical records from the California State Prison,
8 Sacramento, and are attached hereto as exhibit B. Among other things, Plaintiff
9 was advised to avoid lifting objects over 10 points and to avoid heavy exertion.
10 He was encouraged to walk three times a day. The discharge instructions did not
11 document any specific limitations related to ambulation. The discharge
12 instructions indicated that ten (10) Norco tablets were dispensed at 10:46 a.m. to
13 help Plaintiff manage expected postoperative pain in the prison.

14 Supplemental Response to Interrogatory No. 5: Objection. This interrogatory is
15 vague, ambiguous, and unintelligible. Notwithstanding these objections and
16 without waiving them, it is okay for a patient to walk 80 to 100 yards on the first
17 postoperative day and this is not contraindicated. To the contrary, walking was
18 encouraged and was specifically included in plaintiff’s discharge instructions.
19 Copies of these discharge instructions were previously provided and are contained
20 in plaintiff’s medical records from the California State Prison, Sacramento. The
21 discharge instructions are attached hereto as exhibit B. As reflected by the
22 discharge instructions, plaintiff was advised to avoid lifting objects over 10 points
23 and avoid heavy exertion. He was instructed to walk three times a day. The
24 discharge instructions also indicated that ten (10) Norco tablets were dispensed at
25 10:46 a.m. to help plaintiff manage expected postoperative pain in the prison.

26 Interrogatory No. 6: After hernia repair surgery was over on 4/24/2013 how long
27 was Plaintiff awake from the anesthesia?

28 Initial Response to Interrogatory No. 6: Objection. This interrogatory is vague
and ambiguous. Notwithstanding these objections and without waiving them, I
am presently unable to answer this interrogatory because I am not the custodian of
records for Methodist Hospital and I am not in possession of the anesthesia
record. Discovery is continuing.

Supplemental Response to Interrogatory No. 6: Objection. This interrogatory is
vague and ambiguous. Notwithstanding these objections and without waiving
them, please see defendant Dr. Eslami’s supplemental response to special
interrogatory number 4 above. The records from Methodist Hospital reveal that
plaintiff was taken to the operating room at Methodist Hospital at 8:32 a.m.
Anesthesia began at 8:40 a.m. The laparoscopic right inguinal hernia repair
procedure performed by Dr. Eslami commenced at 8:47 a.m. and was completed
by 9:05 a.m. A dressing was applied at 9:06 a.m. Plaintiff was then transferred
from the operating room to the postanesthesia care unit at 9:25 a.m. By
approximately 9:45 a.m., plaintiff was beginning to wake up from the general
anesthesia in the PACU. By 10 a.m., plaintiff was awake and oriented to his
situation. He was ultimately discharged from the PACU at 10:29 a.m. and
transferred to the ambulatory care unit. Plaintiff left the hospital at 11:15 a.m.

Interrogatory No. 13: Did you feel the lump on the right testicle?

Initial Response to Interrogatory No. 13: Objection. This interrogatory is vague,
ambiguous, assumes facts not in evidence, and is argumentative. On May 6,

1 2013, Plaintiff had some bruising around the incision site from the prior surgery
2 and scrotum; however, this was not unexpected. There was no evidence of a lump
3 on the right testicle on May 6, 2013, nor was there any evidence on examination
4 that Plaintiff had developed a left inguinal hernia by that time.

5 Supplemental Response to Interrogatory No. 13: Objection. This interrogatory is
6 vague, ambiguous, assumes facts not in evidence, and is argumentative.
7 Notwithstanding these objections and without waiving them, Dr. Eslami responds
8 as follows. Dr. Eslami first had occasion to see plaintiff at his outpatient office in
9 Sacramento on February 11, 2013. Plaintiff was 43 years old and presented with
10 a right inguinal hernia that had been present since October 16, 2012. He denied
11 nausea or vomiting. Physical examination confirmed the presence of right
12 inguinal hernia and surgery was envisioned.

13 Plaintiff was ultimately admitted to Methodist Hospital on April 24, 2013. A
14 right inguinal hernia repair surgery with mesh was performed without
15 complications. Plaintiff tolerated the procedure well.

16 Dr. Eslami had no further contact with plaintiff until May 6, 2013. On that date,
17 plaintiff had some bruising around the incision site from the prior surgery and his
18 scrotum. However, this was not unexpected. Dr. Eslami found no evidence of a
19 lump on the right or left testicle on May 6, 2013. There was no evidence on
20 examination that plaintiff had developed a recurrent right inguinal hernia or that
21 he had developed a new left inguinal hernia by that time.

22 ECF No. 56 at 24-32.

23 **II. Governing Law**

24 Rule 33(a) of the Federal Rules of Civil Procedure generally allows a party to federal
25 litigation to serve 25 interrogatories on another party. Under Rule 33(b), the recipient is obligated
26 to respond to the interrogatories under oath within 30 days of service. If the serving party is
27 dissatisfied with the response, he or she may move to compel a further response under Rule 37.
28 Such a motion “must include a certification that the movant has in good faith conferred or
attempted to confer with the person or party failing to make disclosure or discovery in an effort to
obtain it without court action.” Fed. R. Civ. P. 37(a). Rule 37 further empowers the court to
order a nonresponsive party to pay the moving party’s reasonable expenses in making the motion.
Fed. R. Civ. P 37(a)(5). Such an order may not issue, however, if the movant filed the motion
without meeting and conferring with the other party or if the other party’s nondisclosure was
substantially justified. *Id.*

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