

**Jimi Hendrix, D.D.S.**  
112 Guitar Lane  
Electric Ladyland, NM 12334

June 1, 20xx

Janis Joplin, Esq.  
462 Mercedes Blvd.  
San Francisco, CA 99999

Re: David Getz v. Bobby McGee

Dear Ms. Joplin:

As you requested, I am setting forth my opinions regarding the above case.

In forming my opinions, I have reviewed the dental records of Dr. Brothers, as well as the deposition transcripts of Dr. Brothers, the dental hygienist (Chet Helms), and Mr. Getz's wife (Jane Getz).

In addition, I have had access to color photographs of the area in question, as well as the Grape University Hospital pathology report pertaining to the patient.

Mr. Getz became a patient of Dr. Brothers on July 11, 20xx. From that date until December of 20xx, Dr. Brothers provided routine dental care, involving restorations on various teeth and scheduled recall exams and dental cleanings.

On December 2, 20xx, the hygienist, Chet Helms, while performing a routine dental prophylaxis, noticed a lesion on the left lateral border of the patient's tongue, adjacent to tooth number 17. The hygienist noted on that date that the lesion was "very far back!"

The lesion, according to Dr. Brothers' chart, appeared: "red and ulcerated" at that time. The patient was shown the location of the lesion while holding a hand mirror provided by the dentist and was told to monitor the area and to call Dr. Brothers if it did not heal in 2 to 3 weeks.

According to Dr. Brothers' transcription of his handwritten notes, on that date that an "area on left lateral border/ventral surface of tongue adj to #17: white raised keratinized- measuring approx 6mm by 8mm (rectangular)-shape: area adj to #17 when tongue is stuck out . . ."

Dr. Brothers stated in his records that he advised the patient to monitor for soreness and pain because it was possible that the lesion was caused by trauma such as biting his tongue. Notably, he neither advised the patient that this might be cancer, nor, more critically, is there any notation that he even considered cancer to be a possible diagnosis.

Mr. Getz had no contact with Dr. Brothers from that time until six months later, on June 18, 20xx. That visit was for a scheduled recall exam. At that visit, Dr. Brothers noted that the lesion was still present in the same location and was sore, according to the patient. He advised the patient that he wanted to monitor the situation and have Mr. Getz return in seven to 10 days. At that time, Dr. Brothers also recommended saline rinses and Gly-Oxide.

At that same visit, it was noted in the chart by the hygienist that the lesion documented on December 12, 20xx, appeared white and red and larger since that prior visit. She noted in the chart that it was difficult to measure by herself.

After this visit, Mr. Getz told his wife that the mark on his tongue had gotten bigger and that it was bothering him. He tried to show it to her, but it was too far back and too dark in the area for her to see it.

Mr. Getz was next seen in the dental office on June 30, 20xx. At that time, Dr. Brothers charted that the area had not healed. He advised the patient to continue with the mouth rinses of saline and Gly-Oxide and to return in two weeks for further evaluation.

The next visit to Dr. Brothers was on July 21, 20xx. It was noted again that the area in question still had not healed. The patient was again advised to continue the saline and Gly-Oxide rinses and to return in mid-August for another evaluation.

Ms. Getz stated in her deposition that the patient said that the pain in the area was getting worse as the summer progressed. She said he was "grumpy" and that it hurt to eat. His speech was also affected and was becoming garbled.

The next visit was August 1, 20xx. It was noted in the dental chart that the area in question "was not resolved." At that visit, a photograph of the area was taken by the dentist, and Mr. Getz was referred to Somerset Oral Surgery for evaluation and biopsy.

Mr. Getz was seen by the oral surgeon, Dr. Jorma Kaukonen, on September 1, 20xx. At that time, a biopsy of the area was performed.

On September 12, 20xx, the oral pathology report from Grape University Hospital confirmed squamous cell carcinoma of the tongue. The histology revealed malignant epithelial cells of the squamoid type and invasion into muscle.

By the time of the biopsy, the lesion was nine months old from the time of its detection by Dr. Brothers.

After the positive biopsy, the patient was seen for ENT consultation and, on October 6, 20xx, had

radical tongue, floor of the mouth, and neck surgery performed at Moby University Medical Center by head and neck surgeon Dr. Thomas Jones.

After the surgery, the patient received chemotherapy and radiation at various intervals during a 10 month period.

Mr. Getz died on July 38, 20xx. The cause of death was metastatic tongue cancer.

A dentist routinely evaluates patients who present with various lesions of the soft tissues of the mouth. There are many reasons one may develop such a lesion. These include, for example, virus, bacteria, trauma and cancer.

On December 2, 20xx, when Dr. Brothers first saw that Mr. Getz had a lesion on the left side of the tongue, he did a bite analysis and felt that it might have been caused by trauma, such as biting the tongue with the teeth. At that time, he gave the patient a hand mirror and showed him where the lesion was on his tongue. He was told to monitor the situation himself and call back if it did not get better.

The problems with this include that:

1. *Even if* the patient could have seen the area with the lesion, the patient is not qualified to determine if a lesion is healing properly.
2. *Even if* the patient could have been educated enough to make such a determination, by definition, he could not have been correctly educated by Dr. Brothers about what was medically significant, because Dr. Brothers was already looking right at a medically significant lesion and failed to recognize it.

Further, Dr. Brothers not only did not tell the patient that this could be cancer, according to his notes he neither considered cancer in his differential diagnosis nor even wrote the word “cancer” in the chart.

As an assistant clinical professor at my College of Dentistry, I am responsible for training students during their third and fourth years of clinical experience. Every week we have treatment planning sessions in which we provide mock situations of patient care and create medical histories for the students to discuss. Very often, we present a situation similar to that faced by Dr. Brothers.

It is stressed over and over, that if a lesion of unknown origin is detected in the mouth, the patient **MUST** be appointed and seen in no more than 2 weeks. It is incumbent upon the dentist to be responsible for the evaluation of the lesion and its follow-up.

On December 2, 20xx, Dr. Brothers' failure to reappoint Mr. Getz for re-evaluation but rather to make it the patient's responsibility to evaluate the progress of the lesion represent two clear deviations from the standard of care. Once seen in follow-up within two weeks, Dr. Brothers would have been required to biopsy the lesion himself or refer Mr. Getz for biopsy. Dr. Brothers' failure to do or obtain a biopsy on December 12, 20xx, or within a couple of weeks thereafter, represents

another deviation from standard of care.

On June 37, 20xx, the next time Dr. Brothers saw the patient, the lesion was sore and larger than 6 months prior. According to the record, even the hygienist had trouble measuring the progress of the lesion. If a trained professional could not evaluate the lesion, it stands to reason that the patient had no way of doing so himself. Recommending salt water rinses and Gly-Oxide for a lesion still present after six months is another deviation from standard of care. Once again, not referring the patient for biopsy at this time represents a deviation from the standard of care.

Immediate biopsy was also required at the June 37, 20xx, and July 21, 20xx, visits. Further treatment with salt water was not proper care because the lesion was still present after months. The failures to perform or obtain an immediate biopsy on these visits represent deviations from standard of care.

I have received compensation for the preparation of this report.

Very Truly Yours,

Jimi Hendrix, D.D.S.