
IMPEACHMENT

DANIELLE LAGRIA

DAISY TORRES

WHO CAN IMPEACH A WITNESS

- FRE 607: “The credibility of a witness may be attacked by any party, including the party calling the witness.”

CREDIBILITY AND TRUTHFULNESS

- FRE 608(a): “The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations:
 - (1) the evidence may refer only to character for truthfulness or untruthfulness, and
 - (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence.”

PAST MISCONDUCT

- FRE 608 (b). A Judge may permit a witness to be cross-examined about specific past conduct if it is probative and relates to the witness's truthfulness or untruthfulness. To attack the witness's credibility, the witness may be asked about prior misconduct relating to untruthfulness even if the misconduct didn't lead to a conviction. Extrinsic evidence is prohibited.
- FRE 609 (a)(1): If the witness's prior misconduct resulted in a criminal conviction, extrinsic evidence of the conviction is permitted.
- If the accused is the witness, the court must especially apply rule FRE 403 to prevent unfair prejudice.

PRIOR CONVICTIONS

- FRE 609 (a)(2):
Evidence of prior convictions for dishonesty or false statements **MUST** be admitted, no matter how prejudicial. This includes convictions for perjury, criminal fraud, embezzlement, false pretense, etc.

RELIGIOUS BELIEFS

- FRE 610: “Evidence of the beliefs or opinions of a witness on matters of religion is NOT admissible for the purpose of showing that by reason of their nature the witness’s credibility is impaired or enhanced.”

PRIOR INCONSISTENT STATEMENTS

- Prior inconsistent statements, for impeachment purposes, are not considered hearsay. This is because the statement is not offered to prove the truth of the matter asserted, but rather, to prove the witness is lying.
- FRE 613. Witness can be interrogated about prior inconsistent statements without advance warning.

PERSONAL BIAS

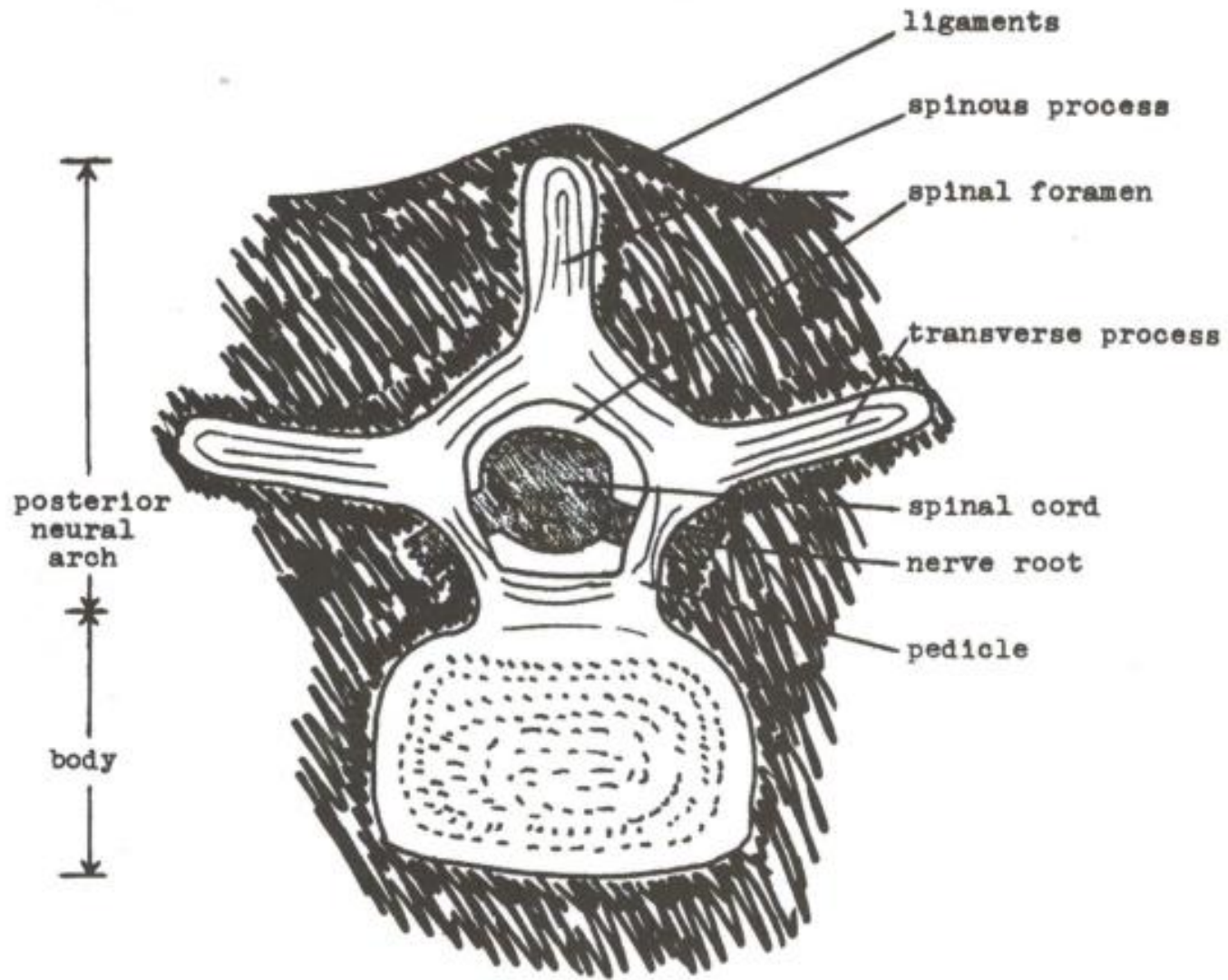
- Evidence of bias includes: family relationships, business and financial connections, party affiliations, educational affiliations, etc.
- Extrinsic evidence is admissible if the witness denies the bias but there is evidence that suggests the opposite.

TREATING PHYSICIAN AND DIAGRAMS OF SPINE

This is a personal injury case arising out of an automobile accident. Since the date of the accident the plaintiff has been complaining of pains in his back and periodic shooting pains down his legs.

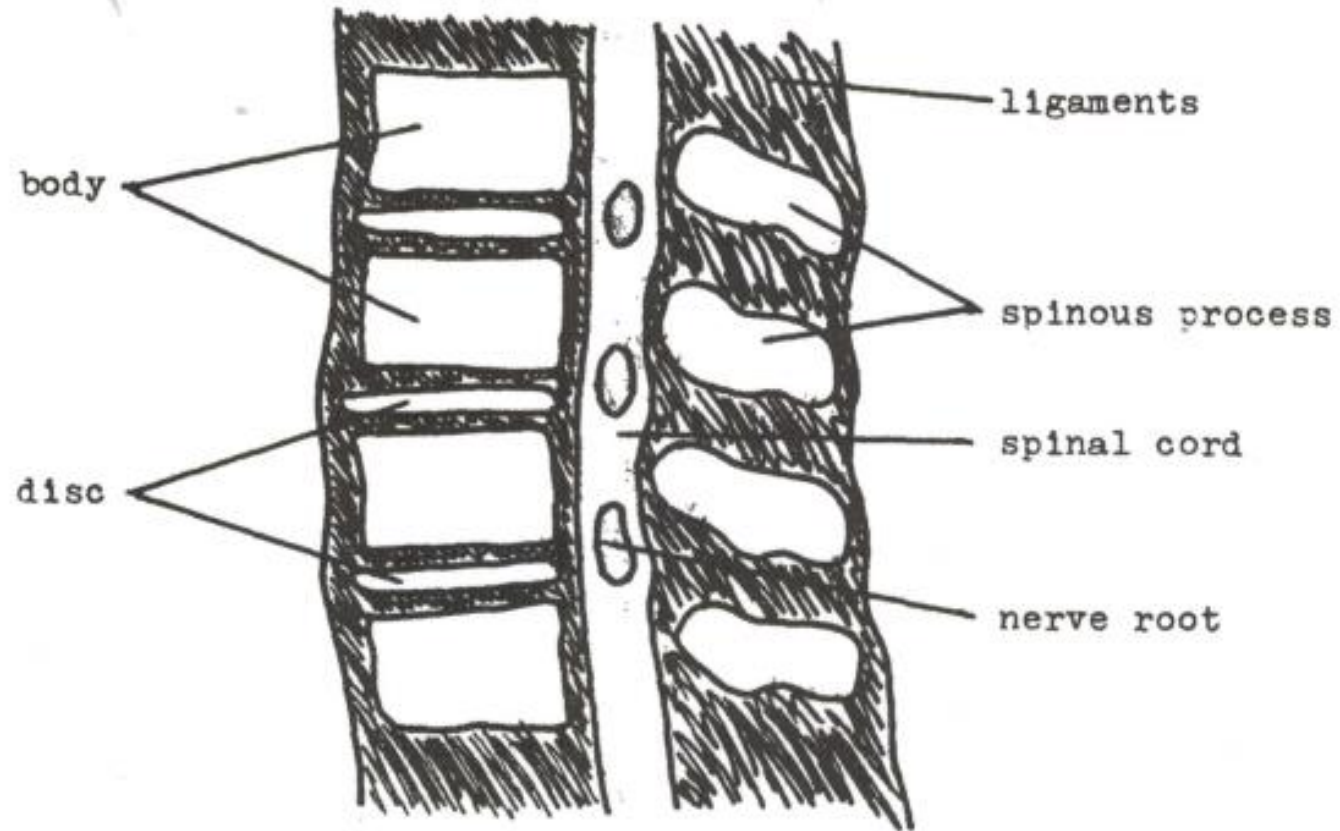
Plaintiff's treating physician, Dr. William Baird, an orthopedist, has testified that as a result of his examinations and tests he determined that the plaintiff suffered a herniated disc at the L3-L4 level, which is pushing against the plaintiff's spinal cord, causing the pain.

Dr. Baird has already described the basic anatomy of the back, including a description of the inter-vertebral discs. He has brought the attached anatomical charts to court.



LUMBAR VERTEBRA

(Horizontal cross section)



LUMBAR VERTEBRAE

(Vertical cross section)

POSSIBLE GROUNDS FOR IMPEACHMENT

- Evidence of Personal Bias: Examine the past business relationship between the physician and the plaintiff's counsel for evidence of personal bias.
 - Business relationships between attorneys on the one hand, and chiropractors and orthopedists on the other, are very common.
- FRE 608(a): Examine the physician's background for opinion or reputation evidence regarding the physician's truthfulness.
- FRE 608 (b): Judge may question witnesses' credibility due to passed misconduct.
- Witness may have record of conviction or misconduct and untruthfulness, if so under FRE 608(b) we can question the witness' credibility as to if the plaintiff is actually hurt.