

IN THE COURT OF COMMON PLEAS

CUYAHOGA COUNTY, OHIO

NAN S GLASSER, et al.,

Plaintiffs

-vs-

JUDGE GREENE

CASE NO. 350062

DR NOEL ABOD, et al.

Defendants.

- - -

Deposition of NOEL ABOD D C taken as if
upon cross-examination before Kelli Rae Page a
Registered Professional Reporter and Notary
Public within and for the State of Ohio, at the
offices of Arter & Hardin, 925 Euclid Avenue,
1100 Huntington Building, Cleveland, Ohio, at
11:11 a.m. on Friday, November 20, 1998, pursuant
to notice and/or stipulations of counsel, on
behalf of the plaintiffs in this cause.

- - -

BARBERIC & ASSOCIATES, INC.
COURT REPORTERS
14237 DETROIT AVENUE, SUITE THREE
CLEVELAND, OHIO 44107
(216) 221-1970
FAX (216) 221-9171

1 APPEARANCES:

2 Laurel A. Matthews, Esq.
3 5200 Valley Parkway
4 Brecksville, Ohio 44141
5 (216) 526-7470,

6 - and -
7 Mark W. Ruf, Esq.
8 Hoyt Block Building, #300
9 700 West St. Clair Avenue
10 Cleveland, Ohio 44113-1230
11 (216) 687-1999,

12 On behalf of the Plaintiffs;

13 Victoria L. Vance, Esq.
14 Arter & Hadden
15 925 Euclid Avenue
16 1100 Huntington Building
17 Cleveland, Ohio 44115-1475
18 (216) 696-4097,

19 On behalf of the Defendants.

20 ALSO PRESENT:

21 Jan Glasser
22 David Glasser
23
24
25

NOEL ABOOD, D.C. of lawful age. called
by the Plaintiffs for the purpose of
cross-examination. as provided by the Rules of
Civil Procedure being by me first duly sworn. as
herein after certified, ~~deposed~~ and said is
followe:

CROSS-EXAMINATION OF NOEL ABOOD, D.C.

BY MS. MATTHEWS:

Q Hi. Dr Abood. I'm Laurel Matthews Sir Ruf and
I represent the Gladders in this case My
purpose is to get some information from you. not
to trick you in any way If I ask you a bad
question or you don't understand. ask me to
repeat it.

A. Okay.

Q Can you please state your full name and office
address for the record?

A Noel Abood. 6870 S O M Center Road, Solon, Ohio
44139.

Q Do you have any chance have a copy of your CV
here today?

A No I don't

Q Okay Well. let's just review a few things Can
you tell me where you went to high school?

A St Joseph in Cleveland

1 Q. Following that did you go to chiropractic school?

2 A No I went to the University of Toledo

3 Q Graduated in what year?

4 A In 1981 I left the University of Toledo

5 Q What did you do following the University of
6 Toledo?

7 A I went to Palmer College of Chiropractic located
8 in Davenport, Iowa

9 Q What year did you graduate from chiropractic
10 school?

11 A 1984.

12 Q Did you do some sort of residency training after
13 that or --

14 A Not official residency, but I associated with a
15 doctor in Cleveland for a couple months and then
16 down in Florida's after that

17 Q Are there official chiropractic residencies?

18 A. At this time I think there are. When I graduated
19 there wasn't.

20 Q Following the several months you spent with a
21 doctor in Cleveland and then in Florida's what did
22 you do?

23 A I opened my own clinic in Florida's

24 Q Do you know what year that was?

25 A '85. I believe

1 Q All right. Chronologically can you tell me what
2 happened to your practice then beginning with
3 your clinic in Florida in 1985?

4 A I'm not quite sure what you are asking

5 Q How long were you in Florida?

6 A. Until 1989.

7 Q And at that point did you come to Cleveland?

8 A Yes.

9 Q. Is that when you opened your present practice?

10 A. Yes, 1989.

11 Q In the same location?

12 A Across the street on Station Street as well

13 Q And in what year did you move into your present
14 location?

15 A 1993.

16 Q All right Now you mentioned that you did your
17 chiropractic education and training at Palmer
18 College in Iowa Was there any special spine
19 training involved?

20 A. Yes.

21 Q As part of the formal curriculum?

22 A Yes.

23 Q You didn't do any additional fellowships or any
24 kind?

25 A There was no fellowship offered

1 Q What about physical medicine or physical therapy.
2 were you exposed to those in your training?

3 A. Briefly.

4 Q Any additional exposure to physical therapy or
5 physical medicine following your formal
6 chiropractic training?

7 A Part of Ohio licensure requires that you have
8 physical therapy training.

9 Q Do you know how much?

10 A. I can look that up. I can get that information.

11 Q. All right. Now in chiropractic school were you
12 involved and trained in performing physical
13 examinations of the spine?

14 A. Yes.

15 Q Neurologic examinations?

16 A To what degree or any -- I'm not quite sure which
17 tests --

18 Q Did you learn how to test strength and reflexes
19 and sensation?

20 A. Yes.

21 Q. All of those things?

22 A. Yes.

23 Q Do you routinely examine the spine in your
24 practice of chiropractics?

25 A. Yes.

1 Q Do you routinely examine the nervous system
2 re-lated to the spine?

3 A Yes.

4 Q Do you do that before each time you perform a
5 manipulation?

6 A Generally, yes.

7 Q You say generally Under what circumstances
8 would you not?

9 A Which part -- you are asking if I would do
10 strength testing or spinal testing?

11 Q Strength, reflex, sensation, things like that?

12 A. Prior to the adjustments I'll check the spinal
13 mobility, musculature, spasms, so forth

14 Q So you do a physical examination of the spine
15 before manipulating?

16 A. Physical examination not as an initial
17 evaluation, not the same sort of evaluation as I
18 would on initial exam.

19 Q What would you do on an initial exam?

20 A Generally we would do weight balance, seeing --
21 checking posture Generally you would feel the
22 spine for mobility Objective findings looking
23 for range of motion Often time range of motion
24 often times spasms, spasms of the spine, edema
25 We use an instrument called a surface

1 lectrocyograph to get readings from that as
2 c
-ell

3 Q Do you test strength in the lower extremities?

4 O Not generally

5 Q Reflexes?

6 O Not generally

7 Q Sensation in the feet?

8 A No.

9 Q Now you said when you come back to do a
10 subsequent manipulation your practice is somewhat
11 different. is that true?

12 O My practice of examination. you mean?
13 O Yes.

14 A There we would do generally -- generally I would
15 check spinal mobility. leg lengths. spasms

16 Q I went to get back to leg length in a little bit
17 because I don't really understand what
18 Okay.

19 Q Doctor. approximately how often. if at all. have
20 you referred one of your chiropractic patients to
21 a medical doctor for care?

22 A How often? I'm not quite sure. meaning how many
23 people or do frequently?

24 Q Either.

25 A It's hard to tell. Each case is different. If

1 it shows indications that I would need to I would
2 do it.

3 Q. Is that something you have done?

4 A. Yes.

5 Q. Have you referred to neurologists?

6 A. Yes.

7 Q. Neurosurgeons?

8 A. I have to look in my notes whether neurosurgeon
9 or neurologist, I'm not sure.

10 Q. Is that something you have done frequently or
11 rarely, if you know?

12 A. I do it periodically, each month I would
13 imagine.

14 Q. Other than, say, a neurologist or neurosurgeon
15 are there any other specialists you might refer
16 to?

17 A. Orthopedic surgeon I might refer to.

18 Q. Have you authored any publications in peer review
19 journals of any kind?

20 A. No, ma'am.

21 Q. Do you teach chiropractics anywhere or teach
22 chiropractic students?

23 A. No, ma'am.

24 Q. Is the Abood Chiropractic Center a corporation?

25 A. No.

1 Q How is eet up?

2 A. I'm not sure. I can find that answer out from my
3 accountant.

4 Q You don't have any prtne>s?

5 A No.

6 Q Associates?

7 A No

8 Q Do you know the nature of your relationship with
9 the entity? Are you an employee?

10 A No

11 Q Are you a sole practitioner?

12 A Yes

13 Q Can you tell me what your current practice
14 consists of? Describe it for me

15 A In what way?

16 Q How many patients do you see?

17 A In a way?

18 Q In a way?

19 A Forty. fifty. could be sixty

20 Q And you don't perform physical therapy in your
21 office. is that correct?

22 A No

23 Q Can you describe the techniques that you do
24 employ?

25 A Chiropractic adjustments Occasionally we'll do

1 neuromuscular reeducation which is a muscle
2 technique.

3 Q So you don't do cold pack therapy or
4 electrostimulation or any of those techniques in
5 your office?

6 A No.

7 Q Is there someone you refer patients to you feel
8 need those kinds of things?

9 A Yes.

10 Q Who would that be?

11 A There could be a number of different people that
12 I have used in the past.

13 Q Do you want to name a couple?

14 A We use Dr. Randy Reed, a fellow chiropractor.
15 We've used massage therapy clinic.

16 Q Now is your practice set up pretty much the same
17 as it was when you were caring for Jan Glasser
18 back in 1996?

19 O In what way set up?

20 O Same number of patients? You're in the same
21 location, correct? Do you have approximately the
22 same volume?

23 A Maybe not as much now.

24 Q. You mean you might have been busier then?

25 A. May have, yes.

1 - - -
2 (Thereupon, a discussion was had off
3 the record.)
4 - - -

5 Q. I believe I heard something about at the time
6 when Miss Glasser was working in your office you
7 had some sort of contest where you were trying to
8 get a hundred patients a day, is that true?

9 A Not a contest, no.

10 Q Do you have any idea what I'm referring to?

11 A Not really. Not offhand.

12 Q I had heard something about a cruise you were
13 going to take the office on if you got a certain
14 patient volume, do you remember?

15 A We had discussed a cruise for our staff, yes.

16 O Under what circumstances?

17 A I don't remember the certain volume, but it was a
18 certain amount of work that needed to be done
19 clerically as well as on my part as well as their
20 part to qualify for it.

21 Q. And then everyone would go on a cruise?

22 A. Correct.

23 Q. Did that ever happen?

24 A. No.

25 Q. Do you know how many active patients you have in

1 your practice right now?

2 A No. I don't

3 Q. How many employees?

4 A. Two.

5 Q Do you routinely provide chiropractic services
6 for your employees?

7 A Yes

8 Q Do you provide chiropractic services for both of
9 your current employees?

10 A Yes.

11 Q On what basis? Is this something that they do as
12 a matter of routine or only when they need --

13 MS. VANCE: Objection. It seems

14 like that question is asking about his
15 patient physician relationship with other
16 individuals so he's indicated he has
17 rendered treatments to them. but in terms of
18 getting particular I think we're trespassing
19 on a confidentiality issue

20 Q. You may answer.

21 MS. VANCE: I'm not sure he can if
22 it's a privilege that he can't waive and I
23 can't waive for these other patients

24 MS. MATTHEWS: I don't believe I've
25 asked specifically for names or cure, just

1 for the mechanics of how that's done

2 MS VANCE: In terms of how it comes
3 to be they're patients?

4 MS. MATTHEWS: If they come in on an
5 as needed basis or whether they come on a
6 regular basis

7 MS VANCE: I'll let him answer
8 that, but he only has two employees and it's
9 easy to identify who they are and we're
10 learning their identity and their treatment
11 and so forth

12 A On an as needed basis

13 Q Thank you.

14 When you hire an employee is this something
15 that you tell them if they need chiropractic
16 services you will provide them?

17 A. Yes.

18 Q Doctor, how do you calculate your professional
19 fees?

20 MS VANCE: Objection to relevance

21 Q Can you answer that?

22 A No.

23 Q Do you have an hourly fee?

24 A No

25 Q Do you bill separately for an exam and a

1 manipulation?

2 MS. VANCE: I'm objecting for
3 relevance.

4 Go ahead. You can answer these
5 questions.

6 A Could you repeat it again?

7 Q When you are billing insurance for instance or
8 a patient do you bill separately for the
9 examination of the patient and for the
10 manipulation?

11 A Yes.

12 Q Those are separate procedure codes correct?

13 A Yes. Initial exam On subsequent visits there is
14 not a charge for the mini exam so to speak
15 Initial exam? Or what? For instance you have
16 to do an extended exam for further treatment can
17 you bill for that?

18 A Once they're under care are you saying?

19 Q Yes.

20 A. We don't generally.

21 Q All right Now you mentioned that you might see
22 up to 40 or 50 patients on a given day. is that
23 true?

24 A Yes.

25 Q On average how often do you see each of the

1 patients you care for?

2 A I ■ould have to look at my recorde to really tell
3 you the anser to that

4 Q You don't have a general ides?

5 A N .

6 MS. VANCz: Just so I'm clear about
7 that last question. You are asking how much
8 time per uay he might spend with those or
9 how long those patients have been under his
10 care over a period of ■eexs or months? I
11 thinx that question may be looked at tho
12 different uays

13 MS. MATTHEWS: I was really asking
14 does he see them three times a ■eex. thice a
15 ■eek once a week

16 MS VANCz: Oh. oxay

17 A Every one has an individual schedule
18 What do you base the frequency of -- ■hat do you
19 base the frequency of visits? That's a good
20 word

21 A There is subjective. objective findings

22 A All right So somebody ■ho has more findings.

23 ■ouldu you see them more or less often?

24 A H don't think I can say specifically then There
25 ■ould be other factors ■ell Maybe age.

1 chronicity.

2 Q You make the decision on an individual basis?

3 A Yes.

4 Q Are there some people you see more than once a
5 day?

6 O Occasionally, yes.

7 O Is there anything global you can say about those
8 people or are they just individual cases as well?

9 A Yes.

10 Q All right. Do you have any other offices other
11 than the Solon office?

12 A No.

13 Q You mentioned Dr. Randy Reed, can you tell me
14 what the nature of your relationship with
15 Dr. Reed is?

16 P He's a colleague.

17 O Do you manipulate each other?

18 P Occasionally he will do an adjustment on me and
19 vice versa.

20 Q How long have you known each other?

21 A Since I moved in in 1989, 1990, somewhere in that
22 area.

23 Q Do you consider yourself to be friends?

24 A More colleagues I would say.

25 Q Do you know how many patients you have referred

1 to him over the last five years?

2 A I don't know. I'd have to look. I can find out
3 most likely

4 Q You keep those kind of records?

5 A We have -- it would be difficult to find because
6 it would be individual charts looking through

7 Q Okay. Well, I don't want to put you through a
8 tremendous amount of work. I was wondering

9 whether it was something you did frequently or
10 maybe infrequently. Maybe you can answer that?

11 A To him specifically probably infrequently

12 Q What do you expect Dr. Reed to do when you send
13 him one of your patients?

14 A Do an evaluation, give an opinion. At times
15 we'll ask him to do -- after discussion to do
16 treatment

17 Q Do you expect him to call you after he sees your
18 patient or to write a report or --

19 A Verbally. Usually at least a call

20 Q And when you send him someone is it implicit that
21 we feel treatment is required he can perform it?

22 A. It's on an individual basis. Generally he has,
23 sometimes he doesn't. Sometimes we've decided to
24 send the patient to an additional person

25 Q Before he performs treatment on one of your

1 patients would he generally call you to discuss
2 it?

3 A Depending on the situation when sending them
4 over If -- I will speak to him verbally before
5 the patient arrives and we'll discuss if -- I
6 would say if you find something in your opinion
7 they should be worked on go ahead and do it,
8 otherwise just call and let me know your
9 thoughts.

10 Q. If he found something unexpected then you would
11 appreciate a call first?

12 A. Yes.

13 Q. Doctor, what have you reviewed in preparation for
14 today's deposition?

15 A. My office notes.

16 Q. Your medical records?

17 A. Yes.

18 Q. And those would be the ones you produced in
19 response to our request for production? You
20 don't have any additional notes?

21 A. No.

22 Q. Have you reviewed any narrative summaries of this
23 case?

24 A. I'm not sure what a narrative summary is.

25 Q. Has anybody written a summary of this case and

1 given it to you and asked you to read it?

2 A. No.

3 Q Have you looked at any expert reports of any
4 kind?

5 A I'm not quite sure of what an expert report would
6 be.

7 Q. That would be something written by another
8 chiropractor stating the opinions of the cure you
9 rendered to Mrs Glasser?

10 A No.

11 Q Did you read Van's and David's depositions?

12 A Yes

13 Q Did you review Dr Reed's videotaped deposition?

14 A No.

15 Q Have you specifically looked at books or
16 magazines or texts or any other reference since
17 learning of the lawsuit?

18 A Nothing out of the usual

19 Q Nothing to specifically educate yourself?

20 A No

21 Q As that your office file?

22 A It looks like it. Yes

23 MS MATTHEWS: May we look at it?

24 MS VANCE Sure

25 MS. MATTHEWS: If you don't mind --

1 that's fine

2

- - -

3

(Off the record)

4

- - -

5 Q Doctor, have you had your deposition taken

6 ~~as~~
before?

7

A. No.

8 Q. Have you ever been named as a defendant in a
9 malpractice case?

10

MS. VANCE: Objection.

11

You can answer.

12

A. I'm not sure what you are saying.

13

Q. Has a patient ever sued you before?

14

MS. VANCE: Objection.

15

THE WITNESS: Should I answer?

16

MS. VANCE: You can answer.

17 A. I don't know if it's considered sued. The case
18 was dropped against me.

19 Q. Can you tell me what the nature of that case
20 was?

21

MS. VANCE: Show an objection

22 A. It was a neck, he ~~was~~ ~~aches~~ ~~in~~ ~~an~~ ~~arm~~ ~~pain~~ following
23 an adjustment.

24

Q. And that case was ~~dismissed~~?

25

A. Yes.

1 Q. Have you ever testified as an expert witness?

2 A. No, ma'am

3 Q. Dr. Abood, do you maintain a personal library?

4 A. Of?

5 Q. Chiropractic textbooks?

6 A. Yes. I have some.

7 Q. Are these books that you would refer to if you
8 needed to review something?

9 A. Yes.

10 Q. Can you tell me what some of those books are?

11 A. There is some books by BJ Palmer, DD Palmer,
12 Terry Rhonberg, R-H-O-N-B-E-R-G.

13 Q. Those would be chiropractic texts?

14 A. Yes.

15 Q. And you consider them to be accurate and
16 reliable?

17 A. For the most part. I wouldn't agree with
18 everything that's in them, but those are books
19 that I would refer to.

20 Q. Are there any journals that you subscribe to?

21 A. Yes.

22 Q. What would those be?

23 A. The Chiropractic Journal. There is another one,
24 I just can't think of the name of it. It's a
25 similar context as that.

1 Q Do you belong to any chiropractic associations?

2 A International Chiropractic Association

3 Q Doctor, are there any orthopedic, neurology, or
4 neurosurgery texts in your personal book
5 collection?

6 A From college, yes. I still have --

7 Q Do you ever look at those?

8 A Not often. I refer to them periodically when I
9 need to

10 Q An orthopedic textbook? Do you know which one
11 you have?

12 A. It's a shoulder one and I can't remember the name
13 of it right now.

14 Q All right. Dr. Abbot, tell me, please, when did
15 you first become acquainted with Tom Glasser?

16 A During the interviewing process, before she was
17 hired

18 Q You put an ad in the newspaper, is that correct?

19 A I believe so. That's how we normally go about
20 it. Often sometimes potential applicants are
21 referred to me by a friend or someone so I don't
22 recall

23 Q What were you looking for, looking to hire?

24 A It's called a front desk position

25 Q And you had a vacancy?

1 A. Yes.

2 Q. So she contacted you, am I correct, about an
3 interest in this position?

4 A. Yes.

5 Q. Then what happened?

6 A. We did an interview and she was hired. Maybe two
7 interviews, I don't recall exactly.

8 Q. Do you recall how many applicants you had for the
9 job?

10 A. No, I don't.

11 Q. Do you recall what your reasons were for deciding
12 to hire Jan Glasser?

13 A. She seemed like a very nice person, very kind and
14 conscientious person.

15 Q. What were her duties as this front desk person?

16 A. Many. Answering phones, scheduling appointments,
17 collecting the fees over-the-counter. Many other
18 smaller things of equal importance.

19 Q. Did she spend a lot of time in that job in a
20 sitting posture?

21 A. Probably 60 -- 60 percent of the time was
22 sitting.

23 Q. At the time that you hired her did she complain
24 to you of back pain?

25 A. Yes.

1 Q So when you hired her you were aware that she had
2 a history of back pain?

3 A. Yes.

4 Q At the time when Van's medical condition began to
5 deteriorate prior to that time was she doing a
6 good job in her job?

7 A I felt so

8 Q Can you tell me Doctor, when and how you first
9 became involved in her medical care?

10 A It's a matter of semantics I wasn't treating
11 her medically, more chiropractically I was
12 treating her.

13 Q. Okay.

14 A I know that it began roughly two weeks after
15 beginning employment.

16 Q Did she make an appointment to see you?

17 A Yes We -- I recall working with her on -- just
18 as if it was any other patient coming into the
19 office at that point.

20 Q Do you remember the circumstances? I know it was
21 awhile ago, maybe you don't Did she say any back
22 is killing me today or something like that or was
23 this an appointment she made a week in advance to
24 get evaluated if you know?

25 A. It was something when she learned enough of the

1 chiropractic philosophy and the ideas of what we
2 do she decided she wanted to begin care and we
3 had both decided that it was to be begun

4 Q So she had been working in the office a few
5 weeks, something like that?

6 A. Yes.

7 Q First of all, do you know if she had ever been to
8 a chiropractor before?

9 A I don't believe so. We asked that question on
10 the intake form. That would answer the question
11 more accurately than I could.

12 Q Did you speak to any other chiropractor or
13 physician or individual before you started
14 treating Vin Glisser?

15 A No.

16 Q All right. Well, you mentioned the intake form
17 you might want to refer to it.

18 MR. RUF: We don't have copies of
19 any of that and I would like to request
20 copies of that.

21 ME VANCE: Okay.

22 MR. RUF: Off the record.

23 - - -
24 (Thereupon, a discussion was had off
25 the record.)

(Thereupon, Plaintiffs' Exhibits 1
through 3 were marked for purposes of
identification)

Doctor. I'm going to show you three two-sided
pages which have been marked Plaintiff's Exhibits
1, 2 and 3. Could you please look at these
document and identify them for me?

A This is what our patient information form
Q. That's Plaintiff Exhibit 1?

A Number 2 would be the travel card
Q Travel card?

A Yes. And Number 3 is the backside of the travel
card

Q Why do you call it the travel card?
A It travels with the patient when they go to the
room and when they come back.

Q Now at the time when you first saw Van Glineser
what was her general medical condition?

A. I wasn't evaluating her medically,
chiropractically she was complaining of back
pain, leg pain.

Q Did he seem to be in overall good health. Did you
feel you are qualified to comment on that?

1 A I'm not really qualified to answer that
2 Q All right From a chiropractic perspective what
3 were her chiropractic problems?

4 A Low back pain muscle spasms and leg cramps
5 Q Doctor on the date of this first visit which
6 would have been I believe 8/7 of '96 --

7 A Yes

8 Q -- did you take a complete history of her back
9 problems?

10 A Yes.

11 Q What did you learn the history of her back
12 problems?

13 A She's had it for years and it's pretty much
14 constant aggravated by sitting lifting
15 twisting coughing

16 Q You said constant meaning she had it all the time
17 or it came and went?

18 A I'm going off of her intake form where it's
19 saying -- I'm sorry I might have -- well her
20 words are for -- have these -- 'Have you had
21 these symptoms before? Yes for years all the
22 time."

23 MS VANCE: Excuse me were you
24 going to add anything else to your knowledge
25 of her history of back pain? You were

1 starting to look at the travel card when the
2 next question was posed

3 A She's had pain for years, as she states, and she
4 has seen other doctors regarding the herniated
5 disk. Was the diagnosis she put down

6 Q So you were aware that she had a history of
7 herniated disk?

8 A Yes.

9 Q All right. Now referring to this -- to these
10 forms as a group, the patient information form
11 and the travel card, are these the standard new
12 patient forms that you use in your practice?

13 A Yes

14 Q What's the purpose of these forms?

15 A To gather information, to help decide in the
16 treatment course of treatment

17 Q Do you read them before you treat the patient?

18 A Yes.

19 Q So you were aware then, were you not, at the time
20 you began treating Miss Glusser that she had
21 given positive findings to low back, hip and feet
22 complaints on these forms?

23 A. Yes.

24 Q Is this 8/6 or 8/7? I don't know why I'm so
25 confused. On 8/7 of '90 in what areas was she

1 complaining of symptoms?

2 A Wow back. the leg. the foot and a nervous
3 stomach

4 Q And what was the severity of these symptoms?

5 A As I said. From what we have. all the time.
6 constant And I can't give you -- I don't know
7 the specifics.

8 Q On original complaints on the back under low
9 back. For instance. she lists her low back pain
10 level as moderate. sometimes severe. correct?

11 A Yes

12 Q Did you get any reading on the degree of pain in
13 the other areas that she circled such as down the
14 leg?

15 A No.

16 Q Am I correct that all of her symptoms in the leg
17 appeared to be the left leg?

18 A Yes.

19 Q Did she complain of any pain in the buttocks or
20 hip joint or pelvis?

21 A Yes

22 Q And where is that noted?

23 A On the front page of the patient information
24 form Number 1

25 MS VANCE: Exhibit 1

1 Q Lower back pain. Muscle spasms. leg cramps Do
2 you see hip pain?

3 A I'm going from the diagram here where she filled
4 in the stick figure on here

5 Q Oh. I see You are referring to a circle at the
6 sacrum?

7 A It's low back area

8 Q Do you see any circles or other marks relating to
9 the hip or pelvis?

10 A No

11 Q And do you see any circles on the reverse side of
12 Plaintiff Exhibit 1 which would be original
13 complaint that would be circled saying she has
14 pain in the buttocks or pain in the hip joint?

15 A Well. here she has -- I guess. I should
16 reconsider my previous answer to that question
17 where I saw nothing on the hip We have circled
18 the sacroiliac joint. Muscle spasms along the
19 lower back and lower back pain
20 Q Under hip and legs has she circled anything for
21 pain in buttocks or pain in hip joint?

22 A. No.

23 Q What about the category numbness down leg. has
24 she circled anything there?

25 A No

1 Q. But she has circled that she has some pins and
2 needles in the left on the left side, correct?

3 A. Yes.

4 Q. So I'm reading those forms correctly?

5 A. Yes.

6 Q. So, Doctor, given her history of a herniated disk
7 and these complaints of pain down the leg and
8 pins and needles and leg cramps did you give any
9 consideration to the idea that she might have
10 some nerve compression?

11 A. Yes.

12 Q. Did that in any way affect your treatment plan?

13 A. Yes.

14 Q. Did Jan Glasser tell you that she had been
15 diagnosed with a herniated L5 disk in the past?

16 A. L4-5 is what I was told, and what I had seen on
17 the MRI.

18 Q. You actually saw the herniated disk on the MRI?

19 A. Yes.

20 Q. Did you also see a free fragment on the MRI?

21 A. From the report that's what I had seen. I saw
22 the herniation when she had the X-rays done and I
23 have it in my notes.

24 Q. What do you have on your notes?

25 A. For me this area HNP L4-5 and herniated

1 nucleus pulposus L4-5.

2 **O** And you are referring to Plaintiff Exhibit 2?
3 **A** Yes

4 **Q** What is the drawing under HNP or herniated
5 nucleus pulposus L4-5?

6 **A** That's the drawing of the configuration of the
7 X-ray. the AP lumbar

8 **Q** Of the AP lumbar X-ray or MRI?
9 **A** X-ray.

10 **Q** All right So you mentioned that you could see
11 the disk herniation yourself on the set of
12 pictures of the MRI?

13 **A** Yes
14 **Q** Could you see the free fragment?

15 **A** I don't recall

16 **Q** But you are aware of it from the
17 written report?

18 **A** Yes
19 **Q** Doctor, under what circumstances, if any, would

20 you not manipulate a patient with a herniated
21 disk?

22 **A** Can you repeat it again?
23 **Q** Under what circumstances, if any, would you not

24 manipulate a patient who has a herniated disk?
25 **A** You know, it's difficult because everyone is so

1 much different I'm finding that there is leg
2 weakness or foot drop or if there is --
3 generally. I mean certain cases I would look
4 for those things the only time I wouldn't -- I
5 wouldn't say the only time I wouldn't, I'm
6 thinking of a different case right now. but I
7 would look for subluxation That's the main
8 thing I'm looking for in the lumbar spine in that
9 condition to see if there is any nerve
10 expression

11 Q What different case did you mean?

12 A. You were saying if any case or any situation.
13 I'm trying to think of different situations that
14 have come up

15 Q Let me give you a more specific question then
16 If -- you mentioned if someone had foot drop or
17 perhaps some other fixed deficit would you still
18 manipulate a patient like that?

19 A Possibly, and what would depend on some of the
20 orthopedic findings -- not orthopedic. the
21 chiropractic findings and the spinal alignment
22 findings that I found to see whether there was
23 compression of the nerve

24 Q I see so the presence of a fixed neurologic
25 deficit by itself might not deter you?

1 A My not and it may It's an individualized
2 situation.

3 Q Is there anything about the location of a
4 herniated disk that might impact your decision
5 whether or not to manipulate?

6 A Yes I would get -- yeah the location if there
7 was a fragment floating in the joint that would
8 cause me to look differently at how I would
9 manipulate -- just the person

10 Q It might not only affect your decision whether
11 you were going to manipulate but also how is
12 that true? There are different techniques you
13 might use?

14 A Possibly yes

15 Q What about the location of the disk would what
16 affect your decision making anterior posterior,
17 lateral?

18 A To some degree yes

19 Q Is there some type of disk herniation that you
20 consider to be worse in some way?

21 A The bigger the herniation usually and generally
22 the more severe the problem is

23 Q Does the presence of these free fragments present
24 any kind of special problems?

25 A Problem for me the patient?

1 Q For you as a chiropractic practitioner?

2 A Those are things you have to take into account
3 when you are examining them.

4 Q In terms of wh t techniques to manipulate?

5 A What techniques or -- yes

6 Q Doctor, do you agree with the statement that the
7 decision to manipulate the spine of a patient
8 with low back pain is based upon specific
9 observed and palpable findings?

10 A In part.

11 Q In addition to the presence of qualifying
12 criteria such as a subluxation, is the decision
13 to manipulate also based on the absence of
14 contraindications? Are there contraindications
15 to manipulating a patient?

16 A At times. yes

17 Q Can you tell me what some contraindications to
18 chiropractic manipulations are?

19 A Fracture, tumor.

20 Q So let's see if we can break these down maybe
21 into categories. Would you agree that tumors and
22 bony infections that weaken bone are
23 contraindications?

24 A Yes.

25 Q Would you agree that fractures and other

1 traumatic injuries are contraindications?

2 A Yes.

3 Q Would you agree that metabolic and arthritic
4 disorders associated with osteoporosis might be
5 contraindications?

6 A Possibly.

7 Q What about certain drugs? Are there drugs which
8 present contraindications to therapy?

9 A At times, I imagine.

10 Q What about, for instance, anticoagulants? If a
11 person is taking anticoagulants are these
12 patients you would hesitate to manipulate?

13 A Possibly.

14 Q What about neurologic considerations? We've
15 talked about hard neurologic findings. Fixed
16 deficits such as a foot drop, correct? or loss of
17 an ankle jerk reflex?

18 A Yeah, we talked about that.

19 Q Are you aware of chiropractic literature which
20 states that, for instance, rotary side posture
21 manipulation can be disastrous in these patients?

22 A Rotary side posture?

23 MS. VANCE: Let me object to the
24 term disastrous. I don't know whether
25 that's your phrase or quoted from a source

1 Q Actually, are you aware that some authorities
2 feel there are problems with rotary side posture
3 manipulation in patients with hereditary neurologic
4 signs?
5 A With rotary manipulation, yeah. I have heard of
6 that
7 Q Do you agree with that?
8 A With rotary, at times, yes
9 Q Are there different indications for side posture
10 manipulation as opposed to flexion or extension
11 or extension procedures?
12 A Different indications?
13 Q. Yes.
14 A I'm not sure You are asking -- could you
15 rephrase it?
16 Q Yes. Do you use side posture rotary
17 manipulations in different situations than you
18 could use flexion or extension
19 procedures?
20 A I don't use rotary manipulations We call them
21 adjustments, but I don't use rotary adjustments
22 at all.
23 Q How do you begin a rotary adjustment?
24 A Rotational force in the spine
25 Q Can you describe how you perform a rotary

1 manipulation?

2 A I don't perform rotary manipulation so I wouldn't
3 be able to describe it

4 Q When you have someone lying in a fetal position
5 and you turn them in opposite directions, their
6 legs is that a rotary?

7 A I don't have them lying in a fetal position and
8 I don't do rotary move -- were you saying the
9 shoulder backward or --

10 Q I was just trying to understand what a rotary
11 manipulation is?

12 A I don't know Rotation -- if I were to do one it
13 would be rotation of the spine, twisting

14 Q The hip went one way and the shoulder the other,
15 right or wrong?

16 A It's difficult because I wasn't trained in a
17 rotary adjustment so I wouldn't be able to give a
18 good answer on that

19 Q As a chiropractor that's not something you were
20 trained in, rotary side posture manipulation?

21 A Correct

22 Q When you adjust the spine in a side lying posture
23 does that increase the torque on the neck?

24 A No.

25 Q Does flexion of the spine during manipulation

1 increase the torque on a disk?

2 A Flexion of what part of the spine?

3 Q. Any part of the spine?

4 A Not necessarily. no

5 Q Are there any sorts of maneuvers that you need to
6 avoid for fear of further loosening or moving a
7 knee fragment in the disk?

8 A Rotational forces

9 Q Now we talk about contraindications Before
10 manipulating Miss Glasser did you determine
11 whether she had any contraindications to
12 therapy?

13 A I wasn't performing the so that wasn't what I
14 was looking at contraindications for

15 Q What about contraindications to chiropractic --
16 A Yes. I looked at the disk situation and I knew
17 that I would need to take specific precautions
18 regarding that disk

19 Q Did you perform a physical examination?

20 A Chiropractic exam. yes

21 Q How long did this examination take?

22 A. Probably ten minutes.

23 Q What did it consist of?

24 A Surface electromyography. the motion. rotation.
25 range of motion. bilateral weight scales.

1 dynamometer testing

2 Q You did that all in ten minutes?

3 A Maybe it was longer I didn't do it myself. My
4 staff is trained in doing the surface EMG and the
5 thermography and the grip strength and the
6 bilateral weight scale

7 Q What's the bilateral weight scale?

8 A Standing with one foot on each scale to see if
9 there is an imbalance in the -- standing one
10 foot on each scale to see if there is an
11 imbalance carrying more weight on one side of
12 the body than the other

13 Q Now you mentioned some of the actual physical
14 examinations of the spine Did you look at her
15 posture?

16 A Yes.

17 Q What did you note about that?

18 A Cervical lateral flexion distortion
19 lateral to the right or lateral to the left?

20 A I have just cervical lateral I don't know the
21 direction

22 Q Would it be one direction or the other?

23 A Generally, yes

24 Q Did you do a movement inspection?

25 A Yes

1 Q What are you looking for?

2 A Loss of joint play in lateral flexion, extension,
3 rotation.

4 Q. Did you note any of that?

5 A. Yes.

6 Q Can you be more specific as to your finding?

7 A 04-05, left S1, C4 and C5 and C1

8 Q In those areas you noted a loss of joint --

9 A Play, yes.

10 Q. Meaning mobility?

11 A Mobility is a part of it but more of an active --
12 passive joint play when you move it beyond the
13 active muscles we get into the ligamentous joint
14 play.

15 Q Did you perform any sort of static palpation of
16 the spine?

17 A. Yes.

18 Q What did you find?

19 A A severe spasm of the lumbar and of the cervical
20 spine - spasms and tenderness at the 05 and C1
21 levels.

22 Q. What about movement palpation?

23 A That's what I described before with the flexion,
24 extension rotation

25 Q Did you -- utilize what I have read about as a

1 quick scan procedure?

2 A I'm not familiar with that. no

3 Q Did you perform your examination of Miss Glasser
4 in both the sitting and standing position?

5 A Yes.

6 Q Did Miss Glasser have any areas which you
7 considered to be infixation or restricted?

8 A Yes

9 Q What areas would those be?

10 A 04-5. left SI. C4 C5 and C1

11 Q Now you are looking at -- when you are answering
12 many of these questions you are looking at the
13 backside of Plaintiff Exhibit 2. am I correct?

14 A Yes.

15 Q. And it's dated 8/5 of '96, is that -- is that a
16 mistake?

17 A Yes I would think that is 8/7 appears to be
18 the day we did the exam and X-rays and the scan
19 So all these things were most likely done on the
20 same day?

21 A I would assume so. Yes

22 Q So as we've gone through your findings we've gone
23 through the reverse side of Plaintiff Exhibit 2
24 Have I covered everything or have I missed
25 something pertinent to your findings that you

1 haven't mentioned?

2 A. That appears to be everything.

3 Q. What about this trigger point?

4 A. Oh, the right gluteal is a trigger point.

5 Q. For her?

6 A. Yes.

7 Q. Meaning when you pushed on the right gluteal what
8 happened?

9 A. It was a painful point.

10 Q. That's what trigger point means, trigger pain?

11 A. Yes.

12 Q. Under muscle spasms do you have both right and
13 left circled? I'm just trying to make sure I
14 understand your forms. Is that right and left?

15 A. Yes.

16 You are referring to under lumbar?

17 Q. Lumbar right and left and cervical right?

18 A. And left.

19 Q. And left.

20 What do one, two and three mean?

21 A. Mild, moderate and severe.

22 Q. So you said that she has severe lumbar spasm and
23 moderate cervical spasm?

24 A. Yes.

25 Q. Now you mentioned before leg length testing. Is

1 that a muscle length assessment?

2 A. It could be. It's showing that there is an
3 inequality of the biomechanics of the spine

4 Q Under those circumstances one leg would be longer
5 or shorter?

6 A correct

7 Q Do most people have some natural inequality in
8 the length of their legs?

9 A. Generally that's what we find upon evaluation,
10 that people are offset on one side or the other

11 Q How do you perform this leg length measuring?

12 A The prone position. Lying prone and looking at
13 the leg lengths.

14 Q You measure them?

15 A. Visually, and then we bring the legs up to a
16 secondary position with the knees bent and
17 evaluate. If they continue to remain short or
18 change the length at that point.

19 Q. That's an eyeball kind of test?

20 A. Yes.

21 Q Did you do any sort of muscle strength inspection
22 in Miss Glasser?

23 A. No.

24 Q Did you do any sort of a neurologic examination?
25 The surface electromyography. the thermoscan and

1 the sublux tion analysis and a neurologic
2 examination

3 Q Did you get out a reflex hammer and check for the
4 presence or absence of patellar or --

5 A No

6 Q Did you check the --

7 A No.

8 Q Let me finish first

9 Did you test with a pin or other sharp
10 object for the presence or absence of sensation
11 in the foot?

12 A No

13 Q How do you know whether there is nerve
14 impingement then, Doctor?

15 A Yes our chiropractic analysis

16 Q I Don't understand Explain to me what in your
17 chiropractic analysis would show you if there is
18 compression of, let's say, the fourth lumbar
19 nerve root?

20 A Yes doing palpation By doing the best readings
21 which would show us whether there is an autonomic
22 dysfunction, a motor dysfunction or imbalance of
23 the nerves, and through the joint play I spoke
24 about earlier That's how to determine what
25 level the possible nerve blockage is at

1 Q Do you as a chiropractor do not believe in
2 standard neurologic testing meaning medical
3 neurologic testing?

4 A Do I believe in its reliability?

5 Q Yes

6 A. I believe it's reliable, yes.

7 Q It's not something you were trained to do?

8 A Correct

9 Q So based on the tests that you did perform in
10 your office the surface temperature seen and you
11 mentioned some others?

12 A The surface EMG and the thermography

13 Q Did you find any evidence of nerve damage or
14 nerve compression?

15 A. Yes.

16 Q What did you find?

17 A Nerve compression

18 Q At what levels?

19 A There is there's difference at T2 T5 8 and
20 T10 and Q4 C4-5 6-7 and T1. C3. T3 and T7

21 Q Let me direct your attention back to the thermal
22 narrative.

23 A Yes.

24 Q You have gone through a number of areas you are
25 talking about sympathetic nerve function?

1 A Parasympathetic nerves, the autonomic nervous
2 system.

3 Q It says under thermo, quote, the purpose of the
4 examination was to assess sympathetic nerve
5 function, period, end quote?

6 A Yes

7 Q So you're not actually testing here the nerve
8 roots?

9 A The function of the nerve It's one tool to
10 assess the function of the nerve

11 Q So you are telling me then that you are not
12 assessing the sympathetic nerve fibers that
13 travel together with the nerve root?

14 A I'm testing the nerve function It's one tool to
15 test the function of that nerve

16 Q And the most severe differences would be four or
17 more standard deviations, is that correct?

18 A Correct.

19 Q And according to the thermal nerve sensitive her
20 most severe problems appear to be at 7?

21 A Correct

22 Q How do you reconcile that with the fact that you
23 know that she has low back pain?

24 A This isn't necessarily pain, it's nerve
25 imbalances or blockage

1 Q Sensed on the thermal nerve sensitive you don't find
2 much evidence of nerve imbalance at the L4-5?

3 A. It's within normal range at the L4-5 level.

4 Q. Did that surprise you?

5 A. No, not necessarily.

6 Q. So we were talking about evidence you found for
7 nerve compression? What other evidence did you
8 find?

9 A. Surface electromyography.

10 Q. Which form is that?

11 A It's the EMG report

12 MS MATTHEWS: I would like to mark
13 this as Plaintiff Exhibit 4.

14 - - -

15 (Thereupon, Plaintiffs' Exhibit 4

16 was marked for purposes of identification)

17 - - -

18 Q Doctor, I'm showing you what's been marked as
19 Plaintiff Exhibit 4. Can you identify that for
20 me, please?

21 A Yes.

22 Q What is it?

23 A It's the surface electromyographic scan

24 Q It's performed on what date? August 7th, 1996.
25 correct?

1 A Yes

2 Q And what does that show?

3 A This will tell the muscle activity of the
4 muscles. The electrical activity of the muscles,
5 yes.

6 Q What sort of abnormalities does it demonstrate?

7 A On this one it's showing muscle spasms in these
8 areas. If you would like me to read them off --
9 Q The major areas would be helpful?

10 A. T1, T4, T6, S1, C3, C1, T1, T2, T4, T6, T8, T10
11 and E1.

12 Q So again the EMG report fails to show any
13 evidence of abnormalities at L4-5?

14 A At the L4-5 level there is an imbalance at the L5
15 on the following page here. This is the symmetry
16 page.

17 Q. All right. At the L5 level?

18 A There is a disruption of 27 percent more on the
19 right side at L5 than there is on the left and at
20 S1 62 percent more

21 Q. What does that mean to you?

22 A It's showing an imbalance in the muscles. and
23 secondary it's showing us that the nerve supply
24 is not flowing as well as it should

25 Q Do you have any ideas from these studies whether

1 there is any nerve compression by this disk on
 2 the L4 nerve root. ■ whether there was compressions
 3 on Miss Glasser's L4 nerve root by her herniated
 4 disk?

5 A These weren't evaluating disk status. These
 6 weren't measuring spinal nerve compression
 7. Do you have any idea whether she has compression
 8 of the L4 nerve root based on your testing?

9 A. At the time of the testing the L4 nerve root
 10 itself, through these tests that ■ we're doing,
 11 appeared to be ■ within normal limits

12 Q So at the time that Miss Glasser first began
 13 treating ■ with you there ■ was no evidence of nerve
 14 compression of L4?

15 A No. on these tests

16 Q Now did you ever repeat these tests?

17 A No.

18 Q I noticed on one of your forms it seems to show
 19 even every 15 boxes?

20 A Uh-huh.

21 Q Is that because your practice is to repeat the
 22 scene after approximately 15 treatments?

23 A Approximately those were we like to repeat them.
 24 Yes.

25 Q Is that to follow progress ■ with treatment?

1 A. Yes.

2 Q So I believe we've covered this but I want to
3 make sure. Did you do any orthopedic or
4 neurologic testing to test the strength of the
5 muscle supplied by the L4-5 and S1 nerve roots?

6 A Orthopedically, no

7 Q And you didn't do any reflexes?

8 A No.

9 Q Did you do any straight leg testing?

10 A No.

11 Q Cross straight leg raise?

12 A No.

13 Q Valiev, any other maneuvers?

14 A No

15 Q Would positive findings on any of these tests
16 have impacted your decision to manipulate this
17 patient?

18 A It's possible

19 Q Now you mentioned that you performed some sort of
20 a mini exam before each manipulation is that
21 correct?

22 A Correct

23 Q Is that how you proceeded with Miss Glasser?

24 A Yes

25 Q In your opinion does the standard of care in

1 chiropractors won't be in examination before
2 performing manipulation?

3 MS VANCE: Objection

4 A Could you say that again?

5 Q In your opinion, does the statement of cure in
6 chiropractors mandate an examination of the
7 patient before performing a manipulation?

8 MS VANCE: Objection

9 A Not that I know of

10 MS VANCE: When you say exam, what
11 type of exam? He's referred to many exams

12 Q Right, some sort of exam?

13 A As far as mandated I don't know

14 Q Can you conceive of a circumstance where you
15 think it would be appropriate to manipulate a
16 patient without physically examining their
17 spine?

18 MS VANCE: Objection

19 A. Generally it's possible. It's probable. I don't
20 know.

21 Q Are you familiar with a book Physical Examination
22 of the Spine and Extremities by Stanley
23 Hoppenfeld?

24 A I've heard of it. Yes

25 Q Is this a book that you would consider to be

1 reliable or accurate?

2 MS. VANCE: Objection

3 A Parts of it. I imagine I haven't read it since
4 years ago or I have used it periodically. Parts
5 of it I wouldn't agree with, no.

6 Q Conservative Care of Low Back Pain authored by
7 Arthur White?

8 A No

9 Q Before adjusting Ben Glaseer did you look at any
10 of her prior medical records?

11 A Her MRI results

12 Q No actual written medical reports?

13 A I don't know I don't recall whether I did or
14 didn't. I don't know. But generally -- because
15 I have the results of the MRI generally that
16 come with records within it. So I'm assuming
17 those were in with it.

18 Q Do you know if you looked at Dr Morgenstern's
19 notes? Did you request those?

20 A The MRI results. Yes I don't recall anything
21 else that we had in our files

22 Q You didn't ask for a release of information and
23 send for other medical records at any time?

24 A Records. I don't think so

25 Q When you say you looked at her MRI which MRI did

1 You look at."

2 A The one that was showing the L4 and L5
3 posterolateral bulge

4 MS. MATTHEWS: Let's mark that.

5 - - -

6 (Thereupon, Plaintiffs' Exhibit 5

7 was marked for purposes of identification)

8 - - -

9 Q Showing you that I have marked as Plaintiff
10 Exhibit 5. is this the MRI scan you are referring
11 to?

12 A Yes.

13 Q That was performed for the sake of clarity in
14 1994, 7/30/94 at Meridian Hillcrest Hospital.
15 correct?

16 A Yes.

17 Q Now you mentioned before that you -- that you
18 looked at the MRI scan is this because you
19 brought the films into the office?

20 A We had them there and I had them on my records
21 I don't know whether she brought them or I
22 requested them or how it went.

23 Q Do you agree this is an accurate report as to
24 what the findings were on the MRI scan?

25 A From what I know of reviewing the MRIs. yes

1 Q So there is nothing in this report that you would
2 dispute?

3 A No.

4 Q Did you take these MRI scans to anyone else to
5 review or discuss?

6 A No.

7 Q Did you take any X-rays of your own?

8 A Yes.

9 Q And what was the reason for taking these X-rays?
10 A To check pathology.

11 Q. What were you looking for on the plain films?

12 A These that would rule out or contraindicate our
13 adjustments and alignments. general alignment if
14 there is degeneration

15 Q And to that end you took cervical and lumbar
16 plain films?

17 A. Yes.

18 Q What did those films demonstrate to you?

19 A Regarding the cervical, the lambar --

20 Q Lumbar?

21 A My report is that she has degenerative disk
22 disease at the L4 level with condylolysis
23 at L4-2 and L3-4. Shwitals noted in L2

24 Q. What does that mean in English?

25 A The disk is being decayed beginning to

1 deteriorate at L4-S1 level

2 Q L4 through S1?

3 A She has sacralization at L5 to S1, so it's taking
4 on the characteristics of sacrum

5 Q Did you look at the films yourself?

6 A Yes

7 Q Then you submit them to a chiropractic
8 radiologist?

9 A Correct

10 Q Did you have any personal conversation with the
11 chiropractic radiologist or just reviewed the
12 report?

13 A The report

14 Q Do you agree with all the findings in that
15 report?

16 A Yes.

17 Q. Now given that this MRI scan was from 1994 and
18 you have those plain films that showed some
19 sacralization of L5 didn't you give any
20 consideration to repeating the MRI scan before
21 beginning manipulating this patient?

22 A I took it into consideration, however at the
23 point of beginning care I didn't feel it was
24 needed

25 Q And the reason you didn't feel it was needed at

1 the point of beginning cure ■ is that she changed
2 significantly?

3 A That it ~~didn't~~ have as much bearing on the
4 subluxation that I ■ is evaluating ~~and~~ beginning
5 to work on.

6 Q So you ■ are going to treat not the herniated ~~and~~ disk
7 but a subluxation?

8 A Correc^Qt.

9 Q At what level?

10 A Well, it would be at the -- either some visits --
11 some visits it might be L4, some might be the S1
12 level.

13 Q Did the presence or absence of this herniated
14 ~~disk~~ or free fragment ■ are these at all the
15 focus of your cure?

16 A I certainly took that into concern

17 Q So this would be something you ■ are going to
18 carefully ■ atch to make sure it ■ isn't getting
19 worse?
Q

20 A Yes

21 Q Following this initial visit ~~didn't~~ you consider
22 yourself Miss Glasser's primary caregiver?

23 A As her chiropractor I ~~couldn't~~ say the primary
24 caregiver, no

25 Q Dr Reed testified that he viewed you as Vin's

treating physician. end quote?

MS VANCE: Objection

A I'm not a treating physician I'm a chiropractor
and I was working on her case I know she has
many doctors in the past and has been referred
to.

Q Would you consider yourself her primary treating
chiropractor?

A. At that time, yes.

Q Approximately how often did you see a
patient following that first visit?

A. I can count them up for you.

Q. Okay.

A. We have 23 visits.

Q Did you make a note for each visit?

A Yes Here each visit on the notes. yes

Q Each time you manipulated her you made a note on
the travel card?

A At times we would do it a second time in our
office If there was nothing significantly
different or changed I wouldn't note it

Q All right You may have treated her more than 23
times? Do you have any idea how many more than
23 times you might have manipulated her?

A Toward the end of our involvement there were

1 ways when we would do two on a way so I would say
2 additionally, boy, roughly speaking maybe eight
3 or nine additional visits at that point.

4 Q You mentioned there were ways where you would do
5 two Were there ways you ever did more than two
6 manipulations?

7 A. Maybe three possibly. but I would never go more
8 than four. I know that Possibly three on
9 occasion.

10 Q. Is that standard practice for you to perform more
11 than one adjustment on a given day?

12 A. If the circumstances warrant it, yes.

13 Q. All right. Why are there records when you
14 treated her more than one time on a given way?

15 A. Generally it was a situation where if nothing was
16 really particular different or changed or all
17 that much different from the outlook in the
18 morning we would pursue it as the same.

19 Q. How, if at all, did Miss Glasser's back problems
20 impact her ability to do her job?

21 A. I know in the early going of it, the first week
22 or two of getting adjustments -- before she got
23 adjustments, before we began adjustments the
24 first week or two, I think we began maybe a week
25 or two after she began employment, I think she

1 would have a day or morning off where she had a
 2 bad attack and she said this happens periodically
 3 and a friend of hers would stay with her and
 4 comfort her and she said this happens
 5 periodically That would be the only time I
 6 really noticed she was off work for the back
 7 except until the last week of our treatment
 8 together

9 Q Did her job performance decline throughout the
 10 treatment or she missed just those isolated days?
 11 A Just the isolated days

12 Q He it fair to say that her job performance was
 13 always satisfactory?

14 A Overall, yes

15 Q Would like to show you what I'm going to mark
 16 as an exhibit which is your answers to
 17 interrogatories

18 - - - -

19 (Thereupon, Plaintiffs' Exhibit 6

20 was marked for purposes of identification)

21 - - - -

22 Q Doctor, I'm showing you that's been marked as
 23 Plaintiff Exhibit 6, I believe. That's your
 24 answers to interrogatories, correct?

25 A Yes.

1 Q Have you read those answers?

2 A Yes.

3 Q. Is this your sworn testimony?

4 A. Yes.

5 Q I would like you to take a moment please to
6 review those answers and tell me if there is
7 anything you would like to change or add at this
8 time? Do you need a break?

9 A I'm okay

10 - - - -
11 (Thereupon, a recess was had)
12 - - - -

13 MS VANCE: Take your time to read
14 through the answers

15 Q You wanted to comment Doctor on interrogatory
16 number eight?

17 A Yes I viewed the MRIs from the date. I believe
18 you said it was 1994 I saw those as well

19 Q Okay

20 A On this number nine the discrepancy of the
21 examination date on 8/5 versus 8/7. I believe it
22 was 8/7 from everything I have here when we began
23 adjustments with her Yes. those appear to all
24 that I would agree with

25 Q I would like to direct your attention to number

1 nine where you state your diagnosis at the time
2 of initiating Jan Glasser's treatment was a
3 lumbar --

4 O That's correct.

5 O O
6 Please state your diagnosis for Jan Glasser when
7 you first started treating her.

8 A Yes.

9 Q Would you agree that she also had a diagnosis of
10 herniated nucleus pulposus L5?

11 A That wouldn't be my diagnosis, but I would agree
12 that was the case based on the MRI, but I'm not
13 treating that.

14 Q All right. Now you state in your answer number
15 12 that you performed, quote, straight
16 chiropractic adjustments, end quote. What does
17 this mean?

18 A Chiropractic adjustments. Just doing a
19 chiropractic adjustment, mobilizing or restoring
20 mobility as best we can to the joint.

21 Q. What is straight chiropractic adjustment?
22 A. The term has been within the chiropractic
23 profession -- this is a mixer, a straight is one
24 who stays mainly with the chiropractic
25 adjustments alone and doesn't generally deviate
and use the therapies and muscle stimulation,

1 ultrasound in order to relieve pain

2 Q It means like purely chiropractic adjustments or
3 only?

4 A Only.

5 Q So that doesn't refer to the technique of
6 adjustment that you use?

7 A No.

8 Q Can you describe the techniques that you used to
9 manipulate Miss Glasser?

10 A The names of the techniques or --

11 Q If there is a standard name that would be fine.
12 otherwise can you describe how you did them?

13 A Initially we started by working in the upper
14 cervical. C1 area which is called a toggle

15 recoil. That's how we began. Then we worked
16 down into the thoracic and we began adjusting the
17 lumbar spine

18 Q What sort of adjustments did you perform in the
19 lumbar spine?

20 A Anterior adjustment. While the patient is sitting
21 and we go backward and move in the upper lumbar
22 that way. At other times we do a side lying
23 adjustment where the patient lies on their side
24 or in the case Miss Glasser lays on her side and
25 we bring the knee to the chest and bring the body

1 over as a unit to the side and introduce an
2 adjustment at that point

3 Q And so some sort of force is required?

4 A To mobilize the joint. Yes

5 Q Do you always use the same degree of. can I call
6 it vigore?

7 A Maybe intensity No it depends on the size,
8 spasm. and so forth

9 Q What sort of intensity did you use in
10 manipulating Miss Glasser?

11 A Mild due to her size and nature

12 Q Did you always use the same techniques to
13 manipulate her lumbar spine?

14 A No The other technique is one where we sat and
15 went backward with her

16 Q Did you always use those same two techniques?

17 A No I would sometimes work with a technique
18 called the activator which is a hand-held
19 instrument

20 Q. Is that like a little button?

21 A. Yes.

22 Q. A metal device?

23 A. Yes, exactly.

24 Q Did you perform any other sort of twisting or
25 turning or other types of adjustments that we

1 haven't already discussed?

2 MS VANCE: Objection I don't
3 think he's described any twisting
4 adjustments or any kind he ever performed

5 Q Did you perform any twisting --

6 A No.

7 Q All right so your testimony is you did not
8 perform any rotary side posture manipulation?

9 A Correct

10 Q Did you give Miss Glussee any sort of exercise or
11 physical therapy program?

12 A I don't have that in my notes. no

13 Q Did you give her any advice as to posture or
14 lumbar support?

15 A. Yes.

16 Q Did you tell her what position she should avoid?
17 We talked about sitting at the chair and using a

18 shoulder harness to hold her shoulders back and
19 stretching throughout the day and generalize
20 posture techniques

21 Q Did her chair at the office have a lumbar
22 support?

23 A It has an ability to push it forward or
24 backward but the hole unit comes forward so it
25 does have a degree of lumbar support

1 O Not one of those lumbar pieces or pillows?

2 A We had pillows available to use for the staff.
3 what was designed for those chairs.

4 Q Did Van use such a pillow?

5 A I don't recall.

6 Q Now, Doctor, would you continue to manipulate
7 someone who was getting worse with each
8 successive manipulation?

9 MS VANCE: Objection.

10 A If someone were getting worse then you need to
11 see why and what was happening. Sometimes I
12 guess you have to define what worse meant.

13 Q. Well, I'm trying to understand, for instance,
14 with Miss Glasser in particular why on some days
15 you perform as many as three manipulations?

16 A I'm not sure we did three, but I know on days we
17 did two it would be because of the pain intensified
18 or the pain resumed.

19 Q. So let's say, for instance, you performed an
20 adjustment and then later in the day the pain was
21 worse, that would be the reason why you would
22 perform another adjustment?

23 A Not just the pain, that's when we would look and
24 evaluate her and then if the objective findings
25 verified the adjustment was needed we would

1 perform another one.

2 Q Didn't it concern you that the pain seemed to be
3 intensifying in those situations?

4 A It didn't seem to be intensifying on a regular
5 basis. We found ~~w~~ days that she was doing better
6 and better than ever in years, you know, seven
7 years with this condition, so those were
8 encouraging.

9 Q Are those days ~~note~~ somehow in your records that
10 those days would ~~w~~ be?

11 A I have here at night she slept better. This is
12 the first time I had no pain in the back.
13 Through discussions.

14 Q. Are those noted in your records?

15 A. Not in the records, it was just the proximity of
16 working with someone I had a better idea of
17 finding out their subjective findings when you
18 work with them all day as opposed to a regular
19 patient you don't see after their visits.

20 Q So would that be, do you recall, early on or
21 later in the course of therapy when she was
22 having those good days?

23 A Periodically throughout. Through the end she
24 would have bigger swings from what I recall, more
25 days that were real good and more days that were

1 b^s where she d^s more **dis**comfort

2 Q All right. Both Mr. and Miss Glasser have
3 testified that on at least one occasion Jan
4 complained to you that she seemed to be getting
5 worse. Do you recall that?

6 A Through our conversations there were days that
7 she would be getting worse but I didn't sense an
8 overall picture. It was on an individualized
9 basis.

10 Q Do you remember ever telling her it's going to
11 get worse before it gets better?

12 A In the early goings sometimes it will as the
13 muscles are starting to **ad**apt to the new
14 alignment.

15 Q. So that's something you might have e^si^d?

16 A. Yes.

17 Q. Why should get worse before it gets better?

18 A. It's the biomechanics change in the spine the
19 muscle's inactive for many years can become
20 active and become sore and **st**iff It's **re**ter of
21 retracing that I read about that it happens.

22 Q Wouldn't one of your concerns be if it seems
23 be getting worse that you might be developing
24 worse nerve compression?

25 A It's a possibility, of course. **an**d whose are

1 things we looked for and through the evaluation
2 that's not what I was finding necessarily.

3 Q How did you look for those things?

4 A Was there still chiropractic findings that
5 indicated was the leg length indifferent.
6 spasm.

7 Q But you didn't repeat the thermoscan or EMG?

8 A No

9 strength testing, pinprick, reflexes any of those
10 tests?

11 A. They had no bearing to me at that point on the
12 nerve pressure on this situation

13 Q We've had some testimony on one occasion one of
14 your patients, I believe, performed some
15 manipulation of some sort. Was it rolling?

16 A No, no

17 Q Did you have any recollection of someone being in
18 your office for the purpose of an adjustment and
19 your asking that person to do body work?

20 A We had a licensee massage the chiropract we a patient
21 and I recall she spent 15 to 20 minutes relieving
22 the spasm in Vin's back

23 Q What was the woman's name?

24 A Debbie Rizzio

25 Q Is she licensee to practice chiropractic?

1 A She ■'s performing massage

2 Q Do you know what sort of training she has?

3 A Licensed massage therapist training I don't
4 know. I don't know the degree or what it's
5 called

6 Q Has she ever performed body work on you?

7 A Yes Massage is what she performed I don't
8 know what body work --

9 Q Why would you have someone like that work on one
10 of your patients?

11 A It was why when she was having a hard time and
12 I felt it would give her some relief and we
13 thought we should try it

14 Q Did it help?

15 A Not on that way I don't recall it did

16 Q Are there other individuals who have come in your
17 office to work on your patients on other
18 circumstances?

19 A. Generally no.

20 Q Do you have your patients sign some sort of
21 consent for that?

22 A It generally doesn't happen with my patients
23 Miss Glussee also testified what on one occasion
24 you manipulated her in an airport, do you
25 remember that?

1 A. Yes.

2 Q What were the circumstances surrounding that?

3 A We traveled to an educational seminar in
4 Bethlehem, Pennsylvania and we were in the
5 airport and there was hard chaire and she was
6 having discomfort at that time and the adjustment
7 gave her relief, which it usually did, and we
8 performed an adjustment there which is really
9 unusual.

10 Q On a table in public in the airport?

11 A It was a small airport There was no one there
12 and it was early in the morning and we were the
13 only ones in the airport

14 Q You had her hop on a table?

15 A She's a staff person, because a friend and someone
16 who is in pain and it allowed her to get on the
17 plane and travel more comfortably It would be
18 an ethical thing to do

19 Q Does the type of table have any bearing
20 whatsoever on chiropractic adjustments?

21 A It's helpful to have a chiropractic table,
22 absolutely

23 Q Can improper manipulation cause injury?

24 A. At times, I'm sure.

25 Q There was a time, was there not, in the course of

1 you> adjustments of Miss Glasser when she
2 definitely got worse?

3 A Got worse at times during the adjustment you are
4 saying?

5 Q Well when she started to complain of increased
6 numbness and constant worsening pain?

7 A I don't recall the increased numbness I recall
8 the increased pain There would be flare-ups or
9 the next day or next week it would calm down
10 Each adjustment was giving temporary relief so it
11 was seeing it as an up and down period and it got
12 to a point where it became more severe which I
13 referred her to Dr Reed

14 Q She started complaining of trouble going to the
15 bathroom is that true?

16 A I don't recall that That was prior to getting
17 care I know she had female problems she
18 discussed with me

19 Q You don't remember her suddenly having severe
20 pain when she tried to defecate things like
21 that?

22 A No.

23 Q What about just a complete inability to sit?

24 A No because she would work at the office and what
25 required a good percentage of time was sitting

1 Q Doctor, overall throughout your course of therapy
2 were you of the impression that your treatments
3 were helping her?

4 A Yes.

5 Q Did you think they were making her symptoms
6 better?

7 A Yes.

8 Q Which symptoms were better?

9 A The back pain. There was moments -- times when
10 she was going without pain completely and that
11 was the first time within seven years, she would
12 say at times. Specifically in Pennsylvania that
13 was the time completely with no pain at all, so
14 those were encouraging and that's what we wanted
15 to see.

16 Q Do you know on what date you referred Jan to
17 Dr. Reed?

18 A I don't.

19 Q Would it be in your notes?

20 A No.

21 Q Do you know what her condition was that day?

22 A I know the overall condition at that point for
23 the last day or so was getting worse.

24 Q What were your reasons for sending her to
25 Dr. Reed?

1 A reevaluation. A different evaluation.

2 Q What sort of conversation did you have with him
3 about this?

4 A I said at this point this type of therapy might
5 be better for you having someone try the physical
6 therapy route or at least have someone else take
7 a look and see why this is continuing

8 Q What did you tell Dr Reed about your
9 condition?

10 A I filled her in with what I have in my notes and
11 what I found and the status of her condition

12 Q Did you speak to Dr Reed after he examined and
13 treated Miss Glisser?

14 A Yes.

15 Q. What did he tell you?

16 A He told me that it looks like the disk is bulging
17 and he said he did light therapy to try to
18 relieve it and got minimal to moderate results

19 Q Did he give you any advice as to your further
20 treatment?

21 A No We agreed at that point that, I think, she
22 should be getting an evaluation from another
23 doctor at that point Both of us came to that
24 conclusion

25 Q A medical doctor?

1 A. Yes.

2 Q Did you continue to treat her chiropractically
3 after beginning treatment with Dr Reed?

4 A From memory I don't think so

5 Q You don't think so? So then maybe it was
6 sometime around your last recorded visit of
7 8/24/86

8 A. I'm assuming -- from recall I believe that's when
9 she was sent I don't recall seeing her after
10 Dr Reed had seen her

11 Q Seeing her as a patient?

12 A Not seeing her as a patient

13 MS VANCE: With reference to that
14 date it may be --

15 A It should be 8/24/86

16 Q Okay Now that makes sense We're continuing on
17 the second page?

18 A It should be

19 Q. In September as well?

20 A. Yes.

21 Q Did Dr Reed tell you -- he told you he thought
22 it was a herniated disk?

23 A. Correct.

24 Q Did he tell you that he had done a variety of
25 orthopedic tests to confirm this?

1 A No

2 Q At any time during your treatment of Miss Glasser
3 did you give any consideration to sending her for
4 repeat MRIs?

5 A At that point, yes

6 Q After she saw Dr. Reed?

7 A Yes.

8 Q Never before then?

9 A No.

10 Q What about repeat X-rays?

11 A No.

12 Q Repeat EMG?

13 A Not at that point. It wasn't indicated.

14 Q Other than when Dr Reed recommended it had you
15 ever given any consideration to a neurology or
16 neurosurgical evaluation?

17 MS VANCE: Objection

18 A At that point I considered what would be a
19 possibility

20 Q At the point that you sent her to Dr Reed?

21 A Yes

22 Q Did you consider it prior to that time?

23 A No

24 Q Dr Reed testified that he quote, tried to
25 relate to you after seeing Van that you should

1 repeat the MRI?

2 MS. VANCE: I'm going to object only
3 because as far as I know there has never
4 been a transcript made of Dr. Reed's
5 testimony so I have some suspicion about
6 quoting anything Dr. Reed might have said
7 until we have a recorded transcript of this
8 testimony.

9 Q Let me for the sake of ease phrase what
10 Dr. Reed said. He said he tried to relate to you
11 that you should repeat the MRI. You said
12 something similar, correct, that he told you he
13 thought the MRI should be repeated?

14 A I felt at that phase of the care that it is a
15 possibility.

16 Q Did you order a repeat MRI?

17 A No. Not from my office. no

18 Q Why not?

19 A Because when I stopped seeing her I had referred
20 her to an orthopedic surgeon on the phone when
21 she had called me and said she wasn't able to
22 come to work the next day.

23 Q Let me see if I have this right. She went to see
24 Dr. Reed and the next day she didn't come back to
25 work?

1 A I don't believe that's how it went. She saw
 2 Dr. Reed. And then I know it was probably over a
 3 weekend because my office hours were done on a
 4 Friday at noon and then I got a call Sunday night
 5 from Jan saying that she was in a lot of pain and
 6 couldn't get off the couch subsequent to getting
 7 into her car on that morning or Saturday morning
 8 and it got worse from that point on she said. I
 9 recall mentioning an orthopedic surgeon that I
 10 know and to get in right to see him, it's
 11 important.

12 Q Who was that?
 13 A Dr. John Landsman.

14 Q Did you make that telephone call?

15 A Yes.

16 Q Do you know if she ever saw him?

17 A. No, she chose not to.

18 Q. You expected that if an MRI were indicated
 19 Dr. Landsman would get it?

20 A Correct

21 Q As a chiropractor can you order an MRI scan?
 22 A Yes.

23 Q Do you have any sort of standards that you
 24 follow, Doctor, in terms of referrals such as if
 25 a patient doesn't get better in a certain length

1 of time you refer them out for evaluation? Do
2 you have any guidelines you follow?

3 A General guidelines

4 Q What are those guidelines?

5 A In this case with someone who is good and getting
6 ups and down and it got to a point where you
7 didn't see as much findings and the adjustments
8 were affective in relieving the pain I felt it
9 was important to refer her to someone else
10 Q Was this a decision you reached before you sent
11 her to Dr Reed or after consulting with him?
12 A At that point I felt it was time to refer out
13 didn't feel the chiropractic adjustments were
14 adjusting her the way I would like
15 Q Do you believe a surgical consult is indicated
16 when a patient has a progressive neurologic
17 deficit?

18 A My evaluation doesn't necessarily look for
19 progressive I wouldn't be able to diagnose
20 progressive neurologic deficit

21 Q Does that worry you?

22 A No I'm looking for subluxation which is mainly
23 what I'm looking for through testing and
24 evaluation I'm treating the subluxation
25 Q Well in the course of treating subluxation is

1 you were creating a neurologic deficit would t
2 concern you?

3 A Correcting a subluxation I don't foresee should no
4 that if my findings were indicating the
5 physiological changes were improving after an
6 adjustment

7 Q Can you conceive of a circumstance where you
8 could correct the subluxation and move the free
9 segment in such a way as to injure the nerve?

10 A It's possible

11 Q I would like to go through your office notes
12 which is Plaintiff Exhibit 2 and the backside of
13 Plaintiff Exhibit 3 which I mentioned before I
14 can't read what does -- directing your
15 attention to the top of Plaintiff Exhibit 2 you
16 have circled under the demographic information
17 LSP. what does that mean?

18 A. Lumbar spine pain.

19 Q What does organic mean?

20 A Female problems what I have circled

21 Q Run that by me again

22 A Female problems

23 Q. And video check means you had her watch a video?
24 A. Correct.

25 Q Could we just go through this form at the

1 bottom? You gave the date of service. then it
2 says services, what is that line used for?

3 A What we performed on that day

4 Q And what does it say? Can you go through 8/7/86?

5 A Two cervical. two lumbar and exam and an
6 adjustment

7 Q Okay And then all the other lines seem to say
8 the same thing for 8/8/96 through the end. What
9 is that, AJ?

10 A It's where we sat and explained and went over the
11 findings of the scan and X-ray and gave an idea
12 as to what I thought would benefit her and what
13 we could try and whether she was willing to go
14 through it The X is additional time spent

15 Q. That's for 8/8/96?

16 A. Right.

17 Q. What are the initials before the X?

18 A. That's an A with a line around it.

19 Q That mean adjustment?

20 A Yes

21 Q Now it says subluxation level and then you have
22 various things listed Is that the level of the
23 subluxation?

24 A At that point what I adjusted was C1 on that
25 day

1 Q When you put a line straight through a box?

2 A I felt a level of hypomobility motion, the things
3 along the top column

4 Q. From 8/7/96 through 9/4/96 do you have any
5 comments in the box portion relative to the
6 lumbar spine or is that all the cervical spine?

7 A. To what date?

8 Q 8/7/96 through to the first scan box?

9 A There was a microilisc adjustment done There
10 was a logon adjustment in the lumbar spine done
11 Q What are the notes?

12 A. 9/4/96 and 8/19/96. And then right logan 8/21.

13 Q Would it be possible with your counsel to prepare
14 for us a legible copy of your comments, the
15 comment section, or would you prefer to go line
16 by line?

17 MS VANCE: I don't have any trouble
18 if we provide a dictated exact transcription
19 of what we see here We can certainly do
20 that

21 MS. MATTHEWS: I'm having trouble
22 with the Xeroxing.

23 MS VANCE: You are primarily
24 interested in the comments section?

25 MS MATTHEWS: Yes

1 MS. VANCE: Okay. We can do that.
 2 whichever way you prefer to go I can have
 3 him give a dictated date and comment.

4 MS. MATTHEWS: I would appreciate
 5 that if you would do that for us then or
 6 provide me with a better copy.

7 MS. VANCE: We'll give you a better
 8 copy before you leave here today and I'll
 9 give you a dictated copy of the comments
 10 noted

11 Q If you knew a patient was reacting negatively to
 12 an adjustment do you continue to manipulate in
 13 the same way or try something different?

14 A It depends on the situation

15 Q Is there some circumstance in this case that
 16 would have stopped you from further manipulating
 17 Miss Glasser?

18 MS VANCE: Objection

19 A. Say that again.

20 Q Is there some circumstance in the case of
 21 Miss Glasser which would have stopped you from
 22 performing further adjustments?

23 MS VANCE: Objection

24 A I think just being able to perform the adjustment
 25 due to pain is one indicator and if I didn't find

1 any objective or subjective findings to correlate
2 with the subluxation I wouldn't adjust her.

3 Q Following her treatment on 8/4 -- 9/24 of '96 --
4 following your treatment on 9/24/9 -- which is the
5 last recorded treatment. What is your
6 recollection of Miss Glasser's condition?

7 A I know that I left work on Friday and I got the
8 call on Sunday, so really from what I know it was
9 stable at that point

10 Q Did you ever see her again in your office after
11 9/24/96?

12 A I don't believe so

13 Q Do you recall what her last day of work was?

14 A I know it was Friday and I don't know which day
15 that was

16 Q So following her last day of work -- the last day
17 of work seemed to correlate with the visit to
18 Dr. Reed?

19 A. Yes.

20 Q Did you have occasion to talk with Mr. or
21 Mrs. Glasser following her last day of work?

22 A Yes.

23 Q On how many occasions?

24 A On that Sunday night I spoke to her when she
25 related the pain she was suffering and I referred

1 her to Dr Landsman. and I called the next day to
 2 see how that went and she said she chose not to
 3 go or go to a family doctor or wait it out
 4 periodically daily or every other day I was in
 5 communication with her

6 Q To see how she was doing?

7 A Correct

8 Q And you say you actually called Dr Landman?

9 A Yes

10 Q No in your answer to interrogatory number four,
 11 back to 14 it says, the question, state any new
 12 complaints that the patient had during your
 13 treatment of her And your response was no new
 14 complaints

15 Wasn't, in fact, the persistent numbness on
 16 a new complaint?

17 A I didn't hear her say that

18 Q You didn't ever hear her say she was numb all the
 19 time?

20 A When we started we knew that there was numness
 21 Q. Numbness was one category where she didn't circle
 22 anything. actually?

23 A I know from talking to her that she had some
 24 numbness she had referred that came periodically
 25 at times. come and go. and at that point it was

1 back pain mainly that I was hearing from her.

2 Q I know on your form you differentiate between
3 pins and needles and numbness. Are you
4 differentiating now between numbness and pins and
5 needles?

6 A I would imagine pins or needles and numbness in
7 this situation saying it's the same thing she
8 referred to me that she had initially.

9 Q So you're saying when her whole leg started to
10 get numb that didn't represent a change as far as
11 you were concerned?

12 MS. VANCE: Objection I don't
13 think that's been the testimony that that
14 ever occurred that he noticed

15 A I don't know of any of that happening.

16 Q You have no information of a time when
17 Miss Classer's whole leg was numb?

18 A She had bouts of the numbness when she first came
19 in initially

20 Q What are you referring to?

21 A On the back of this form

22 Q Again meaning pins and needles?

23 A Yes

24 Q As opposed to numbness down leg which she left
25 blank?

1 O Correct.

2 O
3 So do you know whether by the end of your course
4 of treatment with her her symptoms were constant
5 as opposed to intermittent?

6 A I'm sorry?

7 Q Do you know whether at the end of her course of
8 treatment with you Miss Glasser's symptoms were
9 constant as opposed to intermittent?

10 A Towards the end -- still I believe intermittent
11 because she came to work on a Friday and was
12 still able to work. It wasn't where it was not
13 allowing her to come to work, so they were
14 intermittent at that point.

15 Q Do you recall any specific one adjustment or
16 group of adjustments that had a more negative
17 result than any others?

18 A. No.

19 Q. All right. Doctor, you produced a bill for
20 services in Exhibit B in response to plaintiffs'
21 request for production, and I am going to mark
22 that as our last exhibit.

23 (Whereupon, Plaintiffs' Exhibit 7
24 was marked for purposes of identification.)
25

1 (Thereupon, a recess was had.)

2 - - -

3 Q Okay. Doctor, I'm showing you what's been marked
4 as Plaintiff Exhibit 7 and this, I believe, is a
5 bill for your services, is that correct?

6 A Yes.

7 Q What were the circumstances that led you to
8 prepare this bill?

9 A It's part of our procedure with our computer
10 system.

11 Q So was it then not prepared for the purposes of
12 this litigation?

13 A Right. We would just -- as each adjustment comes
14 through the staff enters that adjustment into our
15 computer with the code, and we were not charging
16 Jan for care.

17 Q But you kept a record of the charges?

18 A Yes.

19 Q Why are there no charges then on days when you
20 performed more than one manipulation?

21 A Generally we don't charge for a second if they
22 come in.

23 Q This bill, was it kept in the office?

24 A It's in our computer system, yes.

25 Q And it's not on a ledger card, it's actually in

1 the computer?

2 A. Yes.

3 Q. What happened? You were asked for a bill and you
4 had your computer print it up?

5 A. Yes.

6 Q Do you know what date you had it printed on?

7 A No. I don't

8 Q. Was Jan aware that you were keeping a bill?

9 A. Yes, because she would be entering it in. That
10 was her duty

11 Q It was her duty to keep track of charges?

12 A Yes.

13 Q Van had insurance through your office. Is that
14 correct?

15 A Health insurance. Yes

16 Q Did that cover chiropractic care?

17 A. I don't think so.

18 Q Was that provided by your office?

19 A. The insurance, yes.

20 Q. You get your employees health insurance that
21 doesn't cover chiropractic care?

22 A Yes I don't recall if it does or doesn't

23 Q Do you recall whether this bill was submitted to
24 an insurance company at any time?

25 A I don't think so

1 Q Why would you prepare a bill if you had no
2 intention of submitting it?

3 A Part of our record keeping system is to enter in
4 the work we've done

5 Q What is a "segmental dysfunction L." Does
6 that mean left or lumbar?

7 A. Lumbar.

8 Q. What does that mean?

9 A. It can be often times interchangeable with a
10 subluxation or loss of range of motion or joint
11 mobilization

12 Q Does that mean nerve impingement?

13 A A facet of it could be nerve impingement

14 Q So does that mean as early as 8/7/30 you felt
15 there was nerve impingement?

16 A. Yes.

17 Q Did Miss Glaeser have an intervertebral disk
18 syndrome?

19 A That's not something that I would be diagnosing
20 Q I would like to direct your attention to your
21 form that's entitled the doctor patient
22 relationship and chiropractic.

23 - - -

24 (Thereupon, Plaintiffs' Exhibit 8

25 was marked for purposes of identification)

1
2 Q Doctor, do you have all your patients sign this?
3 A Yes

4 Q Could you identify Plaintiff Exhibit 8?

5 A He's a doctor patient relationship and
6 chiropractic form

7 Q Why do you have all your patients sign it?

8 A So they will understand what I'm doing as a
9 chiropractor and what my objectives would be

10 Q The second paragraph a chiropractor conducts a
11 chiropractic analysis for the express purpose of
12 determining whether there is evidence of spinal
13 subluxations. Is that correct?

14 A Yes

15 Q Is that all that a chiropractor does?

16 A Yes, in my office

17 Q And the fourth paragraph states that the
18 chiropractic adjustment is usually beneficial and
19 seldom causes any problem. Is that correct?
20 A Correct

21 Q Do you know exactly what the incidences are of
22 complications following spinal manipulation?

23 A No, I don't

24 Q You don't know any national figures?

25 A I own get those I'm sure they're available

1 Q. What about in your own practice?

2 A I would agree with that statement

3 Q Rarely?

4 A Right.

5 Q Now the form goes on to state that in more cases
6 underlying physical defects, deformities or
7 pathology may render the patient susceptible to
8 injury. The chiropractor of course will not
9 give a chiropractic adjustment if he is aware
10 that such conditions exist. correct?

11 A Correct

12 Q Now didn't Dr. Glasser have the type of
13 pathology that rendered her susceptible to
14 injury?

15 A I didn't feel that way in her situation

16 Q. You didn't feel that the free fragment and the
17 herniated disk rendered her susceptible to
18 injury?

19 MS VANCE: Objection

20 A In the case I examined her, no, and with the
21 subsequent subjective finding and improvement
22 no.

23 Q At the bottom of the form it's extremely
24 important that you state whether your report of
25 finding consultation

1 A. Yes.

2 Q Is that your routine?

3 A e try It's not alwye successful to get the
4 epouse there

5 Q Did you try?

6 A I imagine we tol him we woul like to see him
7 come in

8 Q. That didn't happen?

9 A. No.

10 Q. While Jan was having surgery who performed her
11 duties?

12 A We has no one One st person has to do both
13 duties.

14 O Yo didn't hire a tempoary?

15 A No

16 Q Why not?

17 A The job is pretty difficult to learn the computer
18 system and that's the main challenge and we were
19 under the impression she would be back in a week
20 and week. it got longer and longer

21 Q Once you knew she was going to have surgery did
22 you contemplate having a tempoary?

23 A No I felt we wanted to leave the job open to
24 continue working with an

25 Q You felt hiring a tempoary wasn't --

1 A. A temporary wouldn't be able to learn the system
2 as fast and the other staff person was able to
3 handle both duties on a short-term basis.

4 Q. Did Miss Glasser have an employment contract?

5 A. We have an application form and we have an office
6 policy.

7 MS. MATTHEWS: Do we have those?

8 MR. RUF: No

9 MS. MATTHEWS: Are we getting them?

10 MR. RUF: Yes.

11 Q. What was your agreement in terms of how long she
12 would be out for recovering from surgery?

13 A. It changed as she progressed. Through our
14 conversations at first the doctor wanted to do
15 steroidal treatment and that would have meant she
16 would have been out for a week, and that was
17 unsuccessful and attempts to get her to feel
18 better, and she tried a couple different doctors,
19 as I understand, and eventually chose surgery.
20 Q. Why did you suddenly terminate her?
21 A. Suddenly? I believe it was a month and a half or
22 two months after we chose to.

23 Q. What were your reasons for deciding to terminate?
24 A. We were falling behind in our office work and we
25 didn't have a definite date she would be back.

1 Q. At that time didn't you have a letter from
2 Dr. Likavec saying she ^{was} able to come back in a
3 week and a half?

4 A I saw a letter saying part time and we needed
5 full time at that point.

6 Q. Were you aware that she was staying out of work
7 on the advice of Her operative surgeon?

8 A. Yes.

9 Q. And you didn't at that point still feel that
10 you wanted to keep the position open. Is that
11 correct?

12 A. I wanted to I wanted to have her back. She was
13 a fine employee. It got to a point where we were
14 falling behind in our office duties.

15 Q. Before her termination did either Jan or her
16 husband give you any indication that they blamed
17 you for her condition?

18 A No.

19 Q. At that time you terminated her did you have any
20 information or suspicion which made you believe
21 she was considering a malpractice case against
22 you?

23 A. No.

24 Q. So this didn't contribute to your decision to
25 fire her?

1 A No

2 Q Did you give her any severance pay?

3 A No. I offered her another job in our office that
4 she could do out of her home but she declined
5 that

6 Q. What was that?

7 A. Telemarketing job.

8 Q What was to happen to her health benefits when
9 you terminated her?

10 A I don't know. I know I continued to keep her
11 coverage on until the new year. I believe It's
12 in one of these notes here

13 Q You were going to keep her coverage?

14 A I continued to cover her and there was an option
15 for COBRA after that

16 Q So she was to have insurance through the end of
17 the year?

18 A Yes

19 Q Did you give any consideration to the fact that
20 it was going to be extremely difficult to get
21 insurance?

22 A No. I don't know the insurance industry

23 Q Doctor, we talked about -- I have some
24 miscellaneous questions -- we talked about the AP
25 lumbar X-ray. Did it show any contraindications

1 to manipulation?

2 A. No.

3 Q You mentioned before that you left Florid~~us~~ to
4 come to Cleveland~~and~~ What ~~here~~ your reasons ~~for~~
5 that?

6 A I hav~~ed~~ family here ~~and~~ ~~wanted~~ to come back~~x~~
7 Q. What happened to your practice down there?

8 A I sol~~ed~~ it to some partners

9 Q Do you follow the Palmer method~~of~~ of chiropractic
10 treatment?

11 A Overall. Yes

12 Q You mentioned that you have res~~ided~~ ~~in~~ ~~and~~ David~~'s~~
13 deposition~~s~~ Is there anything in them that you
14 believe is inaccu~~rate~~?

15 A. There was some point, which I can't recall right
16 now, that I didn't agree with.

17 Q You don't recall specifically what they~~y~~ were?

18 A Right.

19 Q Do you have an opinion as to whether ~~you~~ ~~in~~ Glisser
20 in any way ~~aided~~ to seek treatment in a timely~~y~~
21 fashion or whether she ~~did~~ anything else to
22 contribute to her own injury?

23 MS VANCE: Objection

24 A It was my job to turn them over~~y~~ ~~and~~ listen to
25 doctor's ~~advice~~ I was concerned that she ~~didn't~~

1 seek the referral that I made for her and set up
2 for her.

3 Q Do you have any knowledge of anything that she
4 did in the course of your treatment that might
5 have injured her?

6 A No, I just saw her during work hours. I wouldn't
7 be able to determine that.

8 Q Do you feel that she failed to seek treatment
9 when her condition deteriorated?

10 P Did she fail to seek treatment? No, I have no --
11 she was under the instructions and she seeing the
12 doctors that I referred to her, yes.

13 Q Do you have any criticisms at all of Dr. Reed's
14 treatment of Miss Glasser?

15 P I saw no notes on it so I don't know what
16 actually was wrong

17 Q So given what you know you have no criticisms?

18 P Given what I know, no. From what I have seen, H
19 don't.

20 Q And you did not review Dr. Reed's deposition?

21 MS. VANCE: Objection. There has
22 been no deposition of Dr. Reed.

23 Q Videotape, you did not review Dr. Reed's
24 videotape?

25 MS. VANCE: It's never been

transcribed or made available

2 A No

3 Q Do you have any information about the procedure
4 performed by Dr. Likavec?

5 A. No.

6 I'm sorry?

7 Q Have you reviewed the procedure performed?
8 Yes.

9 Q I know that you are not a neurosurgeon. But as seen
10 on your information and belief do you have any
11 criticism of the care provided by Dr Likavec?

12 MS VANCE: Objection

13 A I can't judge it I don't know

14 Q All right Doctor. is a free fragment a
15 contraindication to chiropractic manipulation?

16 A Not always

17 Q. There are circumstances when it is?

18 A A contraindication. it could be. yes

19 Q Under what circumstances?

20 A If it's -- each case is different. but you have
21 to see the findings and the symptoms and the
22 correlation between the subluxation findings
23 Are there any contraindications to spine lying
24 manipulation?

25 A Not that I know of

1 Q Did you tell Wendy Reen you performed while lying
2 rotational manipulations on Vin Slasser?

3 A No

4 Q What precautions do you need to take in
5 performing manipulations?

6 MS VANCE: Is that just a global or
7 for this patient or for what he does?

8 Q Global? What precautions do you need to take?

9 A Is there fractures in the area. tumors.
10 dislocations

11 Q. What about in the actual performance, the
12 intensity. is that a factor?

13 A. I think with age, size.

14 Q If you use too much force in an older person or
15 small person could this produce complications?

16 A Possibly if you are using too much
17 Q Is there a way to quantitate how much force you
18 use or is that the kind of a thing you do by
19 feel?

20 A By feel.

21 Q Doctor. are you familiar with the Guidelines For
22 Chiropractic Quality Assurance and Practice
23 Parameters prepared as part of the proceedings of
24 the Mercy Center Consensus Conference?

25 MS VANCE: Objection to any use or

1 reference to that document

2 A I have heard of it

3 Q. Is it something you own a copy of?

4 A. No.

5 Q Then you don't use this in your practice?

6 MS VANCE: Objection

7 A. I don't know enough about it to comment.

8 Q Did you at any time explain any risks of
9 chiropractic manipulations to Van Glesser?

10 A Through our doctor patient relationship from we
11 did and we talked about how there may be

12 discomfort through the early parts of care and
13 throughout care as we changed different levels

14 Q Did you explain that it could cause permanent
15 nerve damage?

16 A No We went to a seminar in Bethlehem.

17 Pennsylvania where she was taught chiropractic
18 principles and procedures and learned pretty much
19 about the chiropractic procedures and how it's
20 performed and efficiencies of it

21 Q Did it talk about the complications of
22 chiropractic?

23 A. Parts of the seminar, I believe it did, yes.

24 Q Do you have -- do you have any opinion on why Van
25 Glesser needed surgery?

1 A Any opinion as to "h"? I'm not a surgeon. I
2 wouldn't be able to make that opinion.

3 - - -
4 (Thereupon, Plaintiffs' Exhibit 9
5 was marked "X" for purposes of identification)

6 - - -
7 Q Doctor. I'm showing you "hat's been marked "X" as
8 Plaintiff Exhibit 9, can you identify that
9 document?

10 A. Yes.

11 Q. What is it?

12 A It's a letter I sent to "m

13 Q Do you know on what date you sent it?

14 A No

15 Q Can you read it, please?

16 A Dear "m. I'm truly sorry about this whole
17 situation I wish it could have been different
18 I wish you the best and a speedy recovery

19 Sincerely, Noel Adoo P S. let me know if you
20 are interested in telemarketing job

21 Q You were truly sorry about this "hole situation?
22 What "ere you truly sorry about?"

23 A. The suffering that she is going through.

24 Q Were you apologizing for her suffering?

25 A No I'm sorry anyone has to suffer like she

1 hes

2 Q. So you were expressing empathy then?

3 A I elieve thst's whst the term means. yes

4 Q This is not intended as an apology?"

5 A. No.

6 MS. MATTHEWS: I have nothing
7 further.

8 MS VANCE: No wivier of signature

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NOEL ABOOD, D.C.

C E R T I F I C A T E

The State of Ohio,) SS:
County of Cuyahoga.)

I, Kelli Rae Page, a Notary Public within and for the State of Ohio, authorized to administer oaths and to take and certify depositions, do hereby certify that the above-named NOEL ABOOD, D.C., was by me, before the giving of his deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition as above-set forth was reduced to writing by me by means of stenotypy, and was later transcribed into typewriting under my direction; that this is a true record of the testimony given by the witness, and was subscribed by said witness in my presence; that said deposition was taken at the aforementioned time, date and place, pursuant to notice or stipulations of counsel; that I am not a relative or employee or attorney of any of the parties, or a relative or employee of such attorney or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, at Cleveland, Ohio, this
_____ day of _____, A.D. 19 ____.

Kelli Rae Page, Notary Public, State of Ohio
14237 Detroit Avenue, Cleveland, Ohio 44107
My commission expires October 30, 2000.

W I T N E S S I N D E X

CROSS-EXAMINATION
NOEL ABOOD, D.C.
BY MS. MATTHEWS

PAGE

3

E X H I B I T I N D E X

Plaintiffs' Exhibits 1 through 3
Plaintiffs' Exhibit 4
Plaintiffs' Exhibit 5
Plaintiffs' Exhibit 6
Plaintiffs' Exhibit 7
Plaintiffs' Exhibit 8
Plaintiffs' Exhibit 9

PAGE

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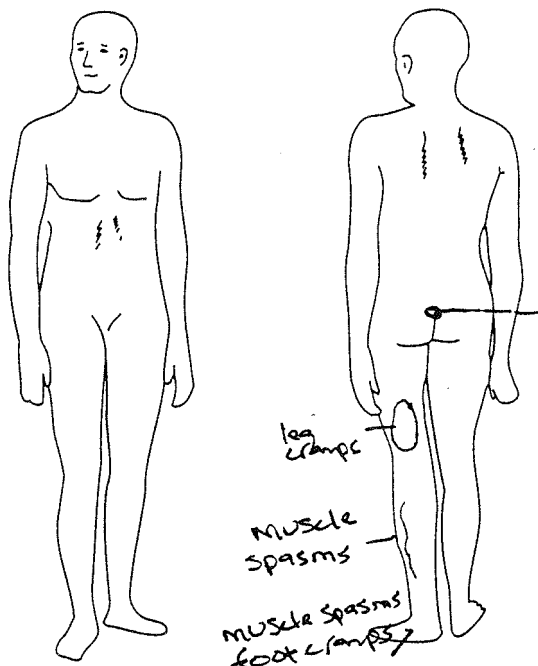
88

91

103

PATIENT INFORMATION FORM

First Name Jan M.I. S. Last Name Glasser Phone (216) 338.
 Address 13725 Heath Rd City Novelty State Oh Zip 44072
 A 10 Sex F Birthdate 12 / 10 / 55 Marital Status (S (M) W D) Spouse's Name David Glasser
 Social Security # 295.50.4340 occupation Receptionist Employer Dr. Aboud's Chiropractic Ctr
 Work Phone (216) 248.5070 Work Address _____
 Referred by _____ Person responsible for this account _____

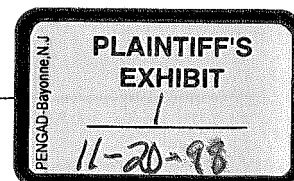


Are you currently under medication? Yes _____ No ✓
 If yes what kind? (Alleva Tylenol w/Codeine, Flexaril)
 Are you presently taking birth control pills? Yes _____ No ✓
 Are you actively involved in an exercise program? Yes _____ No ✓
 If yes explain _____
 Circle the value which is most important for you to achieve: Peace of mind Security Love Spirituality Power Adventure Happiness
 Circle the value which is most important for you to avoid: Anger Frustration Rejection Depression Failure Humiliation

What are your major complaints? Lower back pain (LS) muscle spasms, leg cramps
 Is this condition due to an: A) Auto Accident B) Work Injury C) Other Accident D) Unknown Cause E) Illness
 Are the symptoms: A) Improving B) Getting Worse C) About the same D) Intermittent (Come & Go) Date symptoms appeared _____
 Circle any activities which aggravate your condition: A) Standing B) Walking C) Sitting D) Lying E) Bending F) Lifting G) Twisting H) Coughing
 Have you had these symptoms before? (Y) / N If so, when? For 17 years, all the time!
 Have you seen a doctor for this condition? @ M.D. B) Chiropractor C) Osteopath D) Acupuncturist E) Dentist F) Podiatrist
 Drs. Name Many Date Consulted 8/17/96 Diagnosis herniated Disc.

on _____

8/17/96



1992

GLASSER, JAN S. 8-7-96

Areas

Home () 338-8281

Name 13725 HEATH RD. NOVELTY 44072 Date Phone Work () 248-5070

Address 12-10-55 40 F M C.A. Dr.

Birthdate Age Sex Marital Status Occupation Referred

PMS	Stress	Fatigue	SCC	Date	Coverage %	2nd Area
CSP	HA	HNP	Ins. Consult		X-Ray Covg %	Pre Adj.
LSP	NL	Spondy	Video 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/>		OV & Manip.	# Visits Dx.
TSP	NA	Organic	Month	Payment	Deduct	Met ?
					Pre Exist.	

Dx. 8-7-96	Dx. _____
LS	

MO.	DAY	YR.	Services	Subluxation Level	Hypomobility	Abnormal Motion	Spasm/Taut	Postural Evaluation	Pain Tolerance	Edema	R/P.D.	L/P.D.	Instrument	COMMENTS
8	7	96	2020/21/22	C10										2SCAN C1(B) toggle only
	8		A1 X1	C10										ROT toggle C1
	12		A1	C10										toggle LSP same same hand SAT
8	13	96	A1	C10										LS mod 3 toggle
	14		A1	C10										
	19		A1	C10										toggle BEST. (B)log
	7		A1	C10										log (B)log C10
	24		A1	C10										
	26		A1	C10										72pmw w/ blue C1(B)log
	27		A1	C10										72pmw (B)log
	28		A1	C10										
	29		A1	C10										
9	3	96	A1	C10										C10 toggle
9	4	96	A1	C10										OSI and
			SCAN											
	5		A1	LS										
9	10	96	A1	LS										SAR C10
	11		A1	LS										
	12		A1	LS										
	17		A1	LS										46px3

PENGAD-Bayonne, N.J.

PLAINTIFF'S EXHIBIT

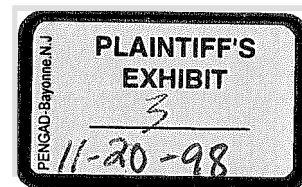
2

11-20-98

ORIGINAL COMPLAINTS

GENERAL SYMPTOMS: (Circle as many as apply) A) Nervousness B) Irritability <u>C) Fatigue</u> D) Depression <u>E) Loss of Sleep</u> F) Tension G) PMS H) Jaw Pain	MIDBACK: (Circle as many as apply) A) Pain - 1) Left 2) Right 3) Both Pain Level - 1) Mild 2) Moderate 3) Severe Pain Type - 1) Sharp/Stabbing 2) Dull Ache B) Muscle Spasm - 1) Left 2) Right 3) Both
HEAD: (Circle as many as apply) A) Headache 1) Mild 2) Moderate 3) Severe How often: (1 2 3 4 5 6) Per (Day / Wk. / Mo.) Are they: 1) <u>Sharp</u> 2) Dull Are they: 1) Constant 2) Intermittent Where located: 1) Back of head 2) Forehead 3) Temples 4) Rt. Side 5) Lft. Side 6) Behind eyes B) Light headed C) Memory loss D) Fainting E) Blurred vision F) Double vision G) Sensitivity to light H) Loss of balance I) Hearing loss J) Ringing in ears	CHEST: (Circle as many as apply) A) Deep Chest Pain - 1) Left 2) Right 3) Both Pain Level - 1) Mild 2) Moderate 3) Severe B) Pain around Ribs - 1) Left 2) Right 3) Both C) Shortness of Breath D) Irregular Heartbeat
NECK: (Circle as many as apply) A) Pain - 1) Left side 2) Right side 3) Both Pain Level - 1) Mild 2) Moderate 3) Severe Pain increased by: 1) Forward movement 2) Backward movement 3) Rotate head left 4) Rotate head right 5) Bend neck left 6) Bend neck right B) Stiffness C) Muscle Spasm D) Grinding/Gritting sounds	ABDOMINAL SYMPTOMS: (Circle as many as apply) A) Pain - 1) Mild 2) Moderate 3) Severe <u>B) Nervous Stomach</u> C) Nausea D) Gas E) Constipation F) Diarrhea G) Heartburn H) Indigestion I) Loss of Appetite LOWBACK: (Circle as many as apply) <u>7 yrs.</u> <u>C) Upper Lumbar Pain</u> 1) Left 2) Right 3) Both <u>B) Lower Lumbar Pain</u> 1) Left 2) Right <u>3) Both</u> <u>C) Sacro-Iliac Pain</u> 1) Left 2) Right 3) Both <u>D) Muscle Spasm</u> 1) Left 2) Right 3) Both * Lowback Pain Level - 1) Mild 2) Moderate <u>3) Severe</u> <u>sometimes</u>
SHOULDERS: (Circle as many as apply) A) Pain in joint - 1) Left 2) Right 3) Both B) Pain Across Shoulder - 1) Left 2) Right 3) Both C) Limitation of Movement - 1) Left 2) Right 3) Both D) Tension - 1) Left 2) Right 3) Both	HIPS AND LEGS: (Circle as many as apply) A) Pain in Buttocks - 1) Left 2) Right 3) Both Pain Level - 1) Mild 2) Moderate 3) Severe B) Pain in Hip Joint 1) Left 2) Right 3) Both Pain Level - 1) Mild 2) Moderate 3) Severe C) Pain Down Leg - <u>1) Left</u> 2) Right 3) Both Location - 1) Front 2) Back <u>3) Side</u> Pain Radiates to - 1) Knee 2) Calf <u>3) Foot</u> D) Numbness Down Leg - 1) Left 2) Right 3) Both Location - 1) Front 2) Back 3) Side E) Pins & Needles (Leg) - <u>1) Left</u> 2) Right 3) Both Location - <u>1) Front</u> 2) Back <u>3) Side</u> F) Knee Pain - 1) Left 2) Right 3) Both G) Leg Cramps - <u>1) Left</u> 2) Right 3) Both
ARMS: (Circle as many as apply) A) Pain in Upper Arm - 1) Left 2) Right 3) Both B) Pain in Elbow - 1) Left 2) Right 3) Both C) Pain in Forearm - 1) Left 2) Right 3) Both D) Pins & Needles (Arm) - 1) Left 2) Right 3) Both E) Pins & Needles (Forearm) - 1) Left 2) Right 3) Both F) Numbness in Arm - 1) Left 2) Right 3) Both G) Numbness in Forearm - 1) Left 2) Right 3) Both	FEET: (Circle as many as apply) A) Ankle Pain - 1) Left 2) Right 3) Both B) Swollen Ankle - 1) Left 2) Right 3) Both <u>C) Foot Pain</u> - <u>1) Left</u> 2) Right 3) Both D) Numbness of Feet - 1) Left 2) Right 3) Both E) Swollen Feet - 1) Left 2) Right 3) Both G) Cramps - <u>1) Left</u> 2) Right 3) Both
HANDS: (Circle as many as apply) A) Pain in Wrist - 1) Left 2) Right 3) Both B) Pain in Hand - 1) Left 2) Right 3) Both C) Pins & Needles (Hand) - 1) Left 2) Right 3) Both D) Numbness (Hand) - 1) Left 2) Right 3) Both	

Allere
 Tylenol w/ codeine
 Flexaril



Patient: GLASSER, JAN

Static EMG Scan

SSN:

ID: 000

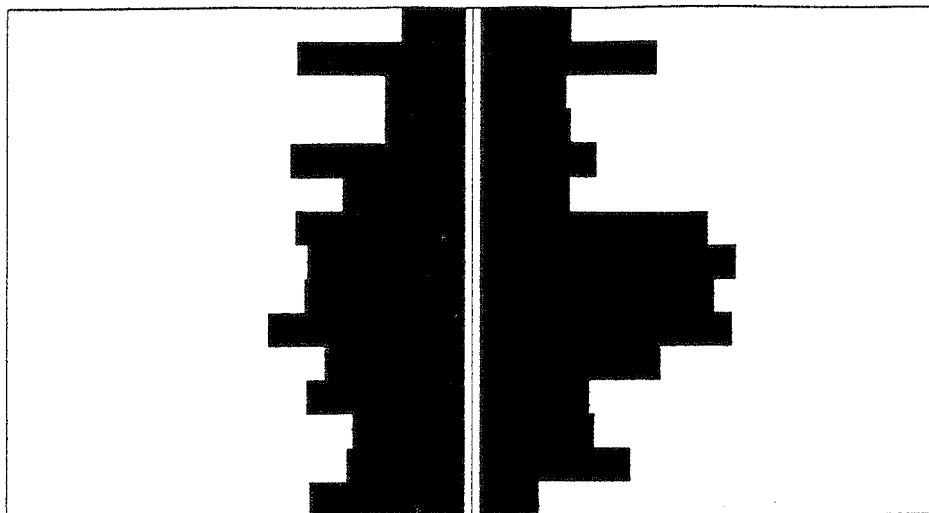
Static-Scan, spinal on Wed Aug 07, 1996 03:11 PM

Seated/Neutral in freq. band 25-500Hz

Scale shown = 0.0 - 25uV

Left Sites

3.4uV C1
9.0uV c3
4.3uV c5
4.3uV c7
9.3uV T1
6.5uV T2
9.0uV T4
8.4uV T6
8.5uV T8
10.5uV T10
7.5uV T12
8.4uV L1
6.0uV L3
6.3uV L5
8.3uV S1



Right Sites

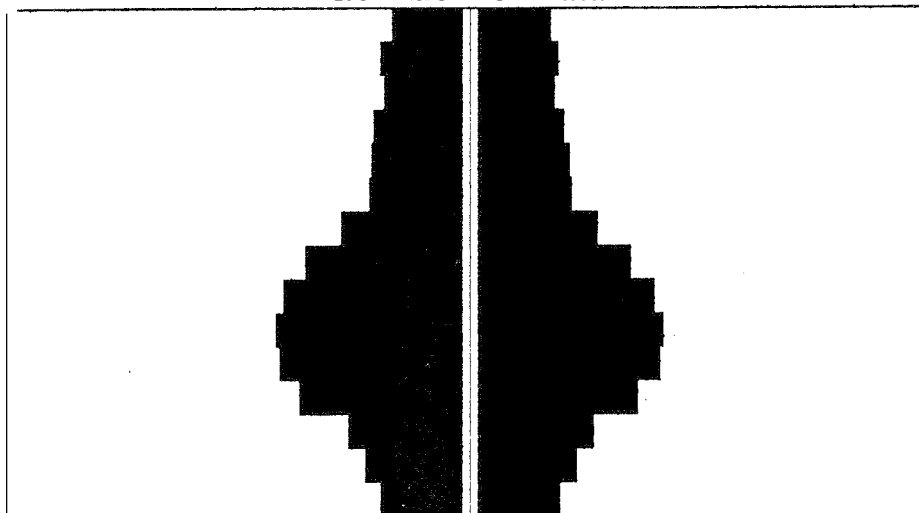
C1 4.9uV
c3 9.5uV
c5 4.6uV
c7 4.8uV
T1 6.2uV
T2 4.8uV
T4 12.3uV
T6 13.8uV
T8 12.6uV
T10 13.6uV
T12 9.7uV
L1 5.8uV
L3 6.1uV
L5 8.1uV
S1 3.1uV

within 1SD (or no norm) = +1SD = +2SD = +3SD = -1SD =

Left Sites

3.8uV C1
4.4uV c3
4.2uV c5
4.8uV c7
4.9uV T1
5.0uV T2
6.5uV T4
8.4uV T6
9.6uV T8
10.0uV T10
9.8uV T12
8.7uV L1
6.1uV L3
2uV L5
4.4uV S1

Normative Data



Right Sites

C1 3.9uV
c3 4.3uV
C5 4.1uV
c7 4.6uV
T1 4.9uV
T2 5.0uV
T4 6.4uV
T6 8.2uV
T8 9.5uV
T10 10.0uV
T12 9.8uV
L1 8.6uV
L3 6.2uV
L5 5.3uV
S1 4.4uV

C 30/94 0954 07/30/94 1015 GLASSER, JAN

L561500

12/10/55 42Y F DIS - HMB RUCH, TERESA D

L9421100084 R/O HERN DISC

RUCH, TERESA D
34900 CHARDON RD
WILLOUGHBY HILL, OH 44094

Adm: RUCH, TERESA D

Con:

Ref: BYERS, KEITH

Chk-in #	Order	Exam	
1276087	0001	3017	MRI LUMBAR W/O 72148
			Ord Diag: R/O HERN DISC

9469

NONCONTRAST MRI OF THE LUMBAR SPINE:

The vertebral bodies are normally aligned. There is no fracture, dislocation or destructive bone lesion. Marrow signal is normal.

At T12-L1, L1-2, L2-3 and L3-4, no significant disc bony or ligamentous abnormality seen. The canal and foramina are normal at these levels.

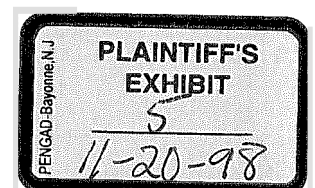
At L4-5, there is a left posterolateral disc herniation with mass effect on the left anterior aspect of the canal. A large amount of herniated disc material lies behind the L5 vertebral body as well. The L4-5 foramina are normal.

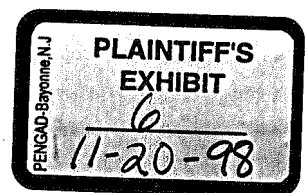
At L5-S1 no significant disc bony or ligamentous abnormality is seen.

IMPRESSION: L4-5 POSTEROLATERAL DISC HERNIATION WITH DISC MATERIAL EXTENDING INFERIORLY TO LIE BEHIND THE L5 VERTEBRAL BODY.

Interpreted By: DAVID JACOBS MD

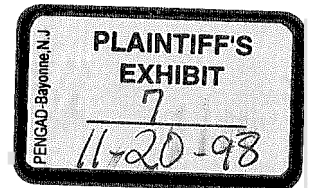
SCH
08/01/94 0838





Abood Chiropractic Center
6370 Som Center Rd, Ste 108
Solon, OH 44139
440-248-5070

RE: GLASSER, JAN S



Diagnosis:

1 739.3 SEGMENTAL DYSFUNCTION.L

Date	Description	Charge	Balance
	1 PAT BALANCE FWD	0.00	0.00
08/07/96	1 72040 CERVICAL 2 VIEWS AP & LAT	40.00	40.00
08/07/96	1 72100 LUMBAR 2 VIEWS AP & LAT	50.00	90.00
8/07/96	1 99204 NEW PT. INITIAL EXT. EXAM	45.00	135.00
08/07/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	165.00
08/08/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	195.00
08/08/96	1 99212 BRIEF PRE-ADJUSTMENT	20.00	215.00
08/12/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	245.00
08/13/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	275.00
08/15/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	305.00
08/16/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	335.00
08/20/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	365.00
08/21/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	395.00
08/24/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	425.00
08/26/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	455.00
08/27/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	485.00
08/28/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	515.00
08/29/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	545.00
09/03/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	575.00
09/04/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	605.00
09/05/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	635.00
09/10/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	665.00
09/11/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	695.00
09/12/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	725.00
09/16/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	755.00
09/17/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	785.00
09/18/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	815.00
9/19/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	845.00
09/20/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	875.00
09/23/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	905.00
09/24/96	1 97265 PROCEDURE MANUAL MANIPULATIO	30.00	935.00

DOCTOR-PATIENT RELATIONSHIP IN CHIROPRACTIC

CHIROPRACTIC

It is important to recognize the difference between Chiropractic and medicine. Either can be important to your health, but for entirely different reasons. Chiropractors seek to restore health through natural means and without the use of medicine or surgery. Although a medical diagnosis may be of great importance to a patient, such a diagnosis does not necessarily assist the Chiropractor in his efforts. The Chiropractor's purpose is to restore health through the natural flow of energy in the nervous system. This gives the body maximum opportunity to heal itself. The success of the Chiropractic procedures often depends upon underlying causes and conditions. It is important to understand what to expect from Chiropractic and medical services in order that you, the patient, can determine whether either or both may be of benefit to you.

ANALYSIS

A chiropractor conducts a Chiropractic analysis for the express purpose of determining whether there is evidence of spinal subluxations. When such subluxations are found, Chiropractic adjustments are given to restore proper spinal alignment. It is the Chiropractors premise that proper spinal alignment allows free nerve flow throughout the body, and give the body its best chance to restore health. Due to the complexities of nature, no Chiropractor can promise you specific results. This depends upon the recuperative powers of the body.

DIAGNOSIS

Although Chiropractors are experts in Chiropractic analysis, they are not specialists in the field of diagnosis. Internists are medical specialists who are highly qualified in diagnosis. Every Chiropractic patient should be mindful of his own symptoms, and should secure medical opinion if he has any concern as to the nature of his illness or injury. Your Doctor of Chiropractic may express an opinion as to whether or not you should take this step, but you should take the initiative if in doubt.

CHIROPRACTIC ADJUSTMENTS

The patient, in coming to the Chiropractor, gives the Chiropractor permission and authority to adjust the patient in accordance with the Chiropractic analysis. The Chiropractic adjustment is usually beneficial and seldom causes any problem. In rare cases, underlying physical defects, deformities or pathology may render the patient susceptible to injury. The Chiropractor, of course, will not give a Chiropractic adjustment if he is aware that such conditions exist. Again, it is the responsibility of the patient to make it known, to learn through medical procedures whether he is suffering from latent pathological defects, illness, or deformity which would otherwise not come to the attention of the Chiropractor. The patient should not look to the Doctor of Chiropractic for in-depth diagnostic procedures. The Doctor of Chiropractic provides a specialized health service, and does not and should not become involved in the patient's medical regimen. A patient should never ask or accept advice from a Chiropractor concerning the taking of prescriptive medicine. The Doctor of Chiropractic is not licensed in medical practice.

RESULT

The purpose of Chiropractic services is to promote natural health through the release of maximum nervous energy. Since there are so many variables, it is difficult to predict the time schedule and efficiency of the Chiropractic procedures. Occasionally, the results are mediocre or dismal. Two or more similar conditions may respond differently to the same Chiropractic care. Many medical failures find quick relief through Chiropractic, in turn, we must admit that conditions which do not respond Chiropractically, may come under control or be cured through medical science. The fact is, the science of Chiropractic and medicine may never be so exact as to provide definite answers to many problems, Both have made great strides in alleviating pain and controlling disease.

QUESTIONS

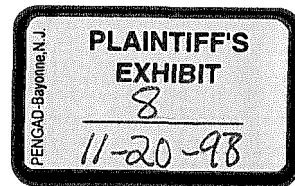
The patient should discuss any questions/problems with the Doctor before signing this statement of policy.

ACKNOWLEDGMENT

I have read the foregoing and understand it.

Signed this Jan Glasser day of Aug. 7 1996
SIGNATURE Jan Glasser

Due to the very important information presented in your extended consultation, it is extremely important that your spouse attends your report of findings consultation. We at Dr. Aboud's Chiropractor Associates believe that your health affects your whole life, and your families participation is important.





Noel Abood, D.C.

6370 S.O.M. Center Rd., Ste. 108 • Solon, OH 44139 • (216) 248-5070

Dear Joe,

I'm truly sorry about
this whole situation. I wish
it could have been different
I wish you the best & a

speedy recovery.

Sincerely,
Noel

P.S. Let me know if you
are interested in the
telemarketing job

PENGAD-Bayonne, N.J.

PLAINTIFF'S
EXHIBIT

9
11-20-98