

I N T H E C O U R T O F C O M M O N P L E A S

CUYAHOGA COUNTY, OHIO

MARY ANNE YARMESON,

Plaintiff,

VS ■

ALBERT DELGRECO,

Defendant.

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Case No. 229694

Deposition of DR. DENNIS B. BROOKS, taken
on direct examination **before** William J. Mahan,
Registered **Professional** Reporter and Notary Public
within and **for** the State of Ohio, at 26900 **Cedar** Road,
Beachwood, Ohio, at 4:25 p.m., Thursday, August 26,
1993, pursuant to notice and/or stipulations of
counsel, **by** the Defendant in this **cause**.

1999 2000 2001 2002

1 APPEARANCES :

2 **Edward R. Stege, Jr., Esq.**
3 **Standard Building**
4 **Cleveland, Ohio 44113**
5 **(216) 861-0360**

6 **on behalf of the Plaintiff;**

7 **Joseph H. Wantz, Esq.**
8 **Meyers, Hentemann, Schneider & Rea**
9 **21st Floor**
10 **Superior Building**
11 **Cleveland, Ohio 44114**
12 **(216) 241-3435**

13 **on behalf of the Defendant.**

14 ALSO PRESENT:

15 **Mr, Doug Clark, Video Operator,**

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DR. DENNIS B. BROOKS, called by
the Defendant for the purpose of direct
examination, **as** provided by the Ohio
Rules of Civil Procedure, having been
first duly sworn, **as** hereinafter certified,
deposed and said **as follows**:

DIRECT EXAMINATION OF DR. DENNIS B. BROOKS

BY MR, WANTZ:

Q For the record, doctor, could you state your name,
please?

A. Dennis Brooks.

Q And are you a duly licensed physician and surgeon
in the State of Ohio?

A. Yes .

Q How long have you been practicing in the State of
Ohio?

A. I became licensed to practice in 1963 so that was
30 years ago except for a period away for the
Service. I have practiced in Ohio during that
entire period af time.

Q Where do you maintain your offices?

A. At 26900 Cedar Road in Beachwood, Ohio,

Q And that's where we are at this time for this
deposition, is that correct?

A. Yes.

Q. Doctor, could you tell us, a little bit about your background as far as your education and training is concerned, specifically where did you obtain your undergraduate degree?

A. At Harvard University,

Q. And what was your undergraduate degree?

A. Bachelor of Arts.

Q. In what specialty?

A. In psychology.

Q. And after that you obviously attended medical school, Where did you go?

A. I went to Western Reserve University School of Medicine.

Q. Where is that located?

A. Were in Cleveland.

Q. Is that what is now known as Case Western Reserve?

A. Yes.

Q. Okay. Thank you, Was that a four year program for medical school?

A. Yes.

Q. After that did you receive any further medical training?

A. I did.

Q. Could you tell us about what further medical

1 training you received?

2 **A.** Yes, my first year of postgraduate training was
3 a rotating intern at the Mt. Sinai Hospital of
4 Cleveland.

5 During my second year I was a general
6 surgery resident **also** at Mt. Sinai.

7 My third and fourth years, were as an
8 orthopedic surgery resident at Mt. Sinai, and
9 during my fifth year I was a National Institute
10 of Health research associate in the biomechanics
11 laboratory at **Case** Western Reserve Univexsity,

12 My sixth and final year of postgraduate
13 training was at **Childrens'** Orthopedics at
14 Indiana University **Medical** Center.

15 **Q.** Doctor, did your training include any type of
16 internship or residency?

17 **A.** Maybe I didn't explain it very well,

18 The first year was an internship and then
19 I had three years of orthopedic residency; one
20 year of general surgery residency and a year of
21 fellowship.

22 **Q.** I see. Thank you, doctor. Do you specialize in
23 any particular branch of medicine?

24 **A.** Yes, I am an orthopedic surgeon.

25 **Q.** What is an orthopedic surgeon?

1 **A.** An orthopedic surgeon is a specialist who treats
2 patients who have problems with their musculoskeletal
3 system.

4 As an orthopedic surgeon I take care of
5 patients who have problems with their **bones**,
6 joints, soft tissues that cover those areas; the
7 muscles, ligaments **and** tendons **as** well as taking
8 care of patients who have problems with their
9 spine and its contents. I treat a variety of
10 patient problems. There are those that are
11 present at birth that are referred to **as** congenital
12 there are problems that become apparent during
13 adolescence and **puberty** and are referred to
14 **as** developmental.

15 There are the injuries that occur
16 following vehicular accidents, sports activities,
17 work **related** activities, **and** those are referred to
18 **as** traumatic.

19 And then there is **the** large class of
20 patient problems that **we all** encounter as we
21 grow older and those are referred to as degenerative .

22 **As** an orthopedic surgeon I treat patients
23 both with surgery and without surgery, depending
24 on their needs.

25 **Q.** Thank **you.** Wow, have you always engaged in the

1 practice or specialty of **orthopedic** surgery
2 during the **course** of your profession?

3 **A.** *Yes.*

4 **Q.** Doctor, are **you** on any staffs, are you on the
5 staff of any hospitals?

6 **A.** *Yes.*

7 **Q.** Can you tell us which hospitals?

8 **A.** Mt. Sinai Medical Center of Cleveland.

9 **a** Any others at the **present** time?

10 **A.** **No.**

11 **Q.** In the past have you **been** on *the* staff at other
12 hospitals?

13 **a** *Yes.*

14 **Q.** What other hospitals?

15 **A.** Meridia Suburban, what is **now** Meridia Suburban;
16 what is **now** Meridia Huron and Hillcrest Hospitals.

17 **Q.** Thank you. Do you do **any** teaching presently?

18 **A.** **Yes.**

19 **Q.** What teaching **do** you do?

20 **A.** I am an assistant clinical professor of
21 orthopedic surgery at **Case** Western Reserve
22 University, School of Medicine.

23 I am active in the orthopedic residency
24 teaching program at the Mt. Sinai Medical Center
25 and I lecture in the field of biomechanics.

1 Q Do you belong to any professional groups or
2 societies in **your** field of medicine?

3 A Yes.

4 Q **Could** you **give** us a sample of what **groups** *yau*
5 **belong** to?

6 A Certainly, I am a **member** of the American
7 **Academy** of Orthopedic Surgeons; the International
8 Society of Orthopedics and Traumatology; the
9 Orthopedic Research Society and **the** Clinical
10 Orthopedic Society.

11 Q Thank you, doctor.

12 Now, **are** you Board certified in any of
13 these professional organizations?

14 A No.

15 Q **No?** Do you **hold** any special positions in **any**
16 of these organizations?

17 A Those are? not the organizations that are
18 responsible **for** Board certification.

19 Q Doctor, **maybe** I ~~nis~~asked the question. Are there
20 any organizations that **you** belong to which you are
21 Board certified in?

22 A Yes.

23 Q And what **groups** or organizations do you **belong**
24 to **where** you are **Board** certified?

25 A The **only** group or organization that **is** responsible

1 **for** Board certification is the American Board
2 of Orthopedic Surgery. And I have been
3 certified **by** the American Board of Orthopedic
4 Surgery.

5 **Q** And could you **tell us** what it means to be **Board**
6 certified?

7 **A.** Yes, **it** means that I have completed a postgraduate
8 training program after medical school which is
9 required **by** the American Board **of** Orthopedic
10 Surgery; that I have practiced only orthopedic
11 surgery to the exclusion of other branches of
12 medicine, In **my case** I **had** to practice
13 orthopedics **in** one location for one year, and
14 I **also** had to take an examination which **was**
15 a full day of written examination and a half
16 day oral examination,

17 And having completed **all of** those
18 parameters I was considered to be Board certified.
19 And in essence **it** means that I have the knowledge,
20 skill and expertise to practice **my specialty**.

21 **Q** And how **long have** you been Board certified?

22 **A.** Twenty-two years,

23 **Q** Now, doctor, **do** you hold any other special
24 **position** within any of the medical organizations
25 to which you belong?

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a Yes, I am an examiner for the American Board of Orthopedic Surgery.

Q And what does it mean to be an examiner?

A As an examiner for the American Board of Orthopedic Surgery, I help to conduct the oral portion of the Board examinations.

Each individual, each young orthopedic surgeon who is applying for approval by the American Board of Orthopedic Surgeons as to complete successfully both the written and oral examination, I help to conduct the oral examinations. That is the only time I get to ask the questions,

Q Thank you, doctor.

Now, being Board certified with the American Board of Orthopedic Surgeons, I assume by the way it is titled that this is something on a national basis, is that correct?

a That's correct.

Q Doctor, have you done any writing in your medical field?

A Yes.

Q And could you again give us a sampling of the articles that you have written?

A Certainly.

Q And that have been published.

1 A. I have written articles on bone grafting in
2 orthopedic surgery; on the biomechanics of
3 knee injuries; on congenital dislocation of
4 the knee. I have written articles and co-authored
5 articles on new devices for treatment of the hip,
6 wrist and ankle injuries.

7 Q. Okay, Doctor. Now, in the course of your practice
8 as an orthopedic surgeon, do you have occasion to
9 treat people with shoulder injuries?

10 A. Yes.

11 Q. And do you have occasion to treat people with
12 what are called acromioclavicular separations
13 of the shoulder?

14 A. Yes.

15 Q. And do you also have occasion to treat people
16 who have suffered what I understand to be called
17 rotator cuff tears of the shoulder?

18 A. Yes.

19 Q. And, doctor, do you treat them as a normal course
20 of your practice?

21 A. Yes.

22 Q. Now, doctor, at my request, by the way, do you
23 also treat people who have injuries to the
24 neck and their back and spine?

25 A. Yes.

1 Q Thank you. Now, at my request, doctor, did you
2 have an occasion to **see** Mary Anne Yarmesch?

3 A I did.

4 Q Can you tell **us** when you **saw** Miss Yarmesch?

5 A Yes, I believe **it was** in December of 1992.

6 Q And, doctor, as you **sit** here today, **do you** have
7 an independent recollection of that examination?

8 A No.

9 Q Do you have notes or records which **you** can refer
10 to which would **help** you recall that examination
11 and **your opinions** in connection with therewith?

12 A Yes.

13 Q Doctor, please **feel** free to refer to them **as**
14 necessary .

15 A Thank you.

16 Q **Now**, could you tell **us**, doctor, when you examined
17 Miss Yarmesch, what are the normal **steps** you as
18 an orthopedic surgeon **do** in an examination?

19 A The first thing I do after introducing myself
20 is **to** take a history, **and** once I have obtained
21 a history I **perform** a physical examination of
22 the **part** or parts **of** the body about which the
23 individual **is** complaining.

24 And then **if** indicated I order radiographs
25 or **x-rays** **of** those parts and **review** them,

1 Q Now, doctor, what is a history?

2 A A history is the beginning of the diagnostic
3 process. Without a history **any** physician **would**
4 not know the patient's complaints; would not know
5 really where to begin to **look for the cause** of
6 those complaints.

7 A history can **be divided** in three parts.
8 The first part **is** a recitation of certain facts
9 that the patient **tells** me that have occurred
10 between the onset of **the problem, here** Mrs.
11 Yarmesch's accident, and the time **I see** her.

12 The **second** part of the history **is** called
13 the current complaint, what **her** present symptoms
14 are or what **her** symptoms **are on** the day **I**
15 **examine** her.

16 And the third **part** of the history **is** the
17 past medical history in **which** the patient relates
18 prior symptoms that **they may** have had which are
19 comparable to those about which they are
20 complaining at the present time.

21 Q And, doctor, did **you** take a history from Miss.
22 Yarmesch?

23 A **Yes, I** did.

24 Q **And could you** tell us, please, **what** is the
25 history she gave you?

1 A Certainly, She told me that she had been
2 injured on March 31st, 1990 when she was driving
3 an automobile which was moving when it was
4 involved in a collision with an S-10 pick-up,

5 She indicated that the right front end
6 of her vehicle was damaged.

7 She was wearing seat belts at the time
8 of the accident.

9 She had, as she put it, stiffened her
10 right arm on the steering wheel and saw the
11 collision about to occur.

12 She also struck her head on the driver's
13 side window but did not become unconscious,

14 Soon after the accident she became aware
15 of pain in her neck and aware of a headache.

16 She told me that the following morning
17 she went to Marymount Hospital and by that time
18 she had pain in the superior aspect of the right
19 shoulder.

20 There she was examined, treated and
21 released.

22 O Doctor, I'm sorry but could I interrupt you for
23 just a second? What is the superior aspect of
24 the right shoulder?

25 A It is this area of the shoulder to differentiate

1 it from the actual shoulder joint

2 Q Thank you, Doctor. Please continue.

3 A She told me that she was given a prescription
4 for Motrin but could not take this medication
5 because it made her ill.

6 She told me that sometime thereafter
7 she came under the care of Dr. Seymour Friedman,
8 her family doctor.

9 By that time she continued to have symptoms
10 with respect to her neck and superior aspect of
11 her right shoulder.

12 Dr. Friedman treated her with what she
13 referred to as anti-inflammatory drugs and
14 later home cervical traction.

15 She indicated the traction, as she put
16 it, worked for a while.

17 She was re-evaluated by Dr. Friedman
18 approximately once a month.

19 During the latter part of 1990, she came
20 under the care of Dr. LoPresti who had cared for
21 her in the past.

22 By that time she had pain which radiated from
23 her neck into the proximal aspect of her right
24 shoulder.

25 Q If I can interrupt you again, where is the

1 proximal aspect of the right shoulder?

2 A. It is this area right here.

3 Q. Thank you, doctor.

4 A. Dr. LoPresti referred **her** to Dr. **Craciun** to
5 determine whether her symptoms were coming from,
6 as she indicated, a nerve in my neck.

7 And she also indicated that her right hand
8 **was** falling asleep.

9 She recalled that **by** three months after
10 the accident, she would be awakened two to
11 **three** times a night with a feeling, as she
12 described **it**, DO circulation.

13 Her **symptoms** **had** begun, **as** she indicated,
14 **not too** long after the accident and were present
15 initially **as** she indicated once in a while,

16 She told me that Dr. Craciun performed
17 several studies, These demonstrated, **as** she
18 indicated to **me**, carpal tunnel and nothing in
19 my neck.

20 She told me that she **also** underwent an
21 **MRI** of her cervical spine and this revealed that
22 there was, **as she** indicated, **nothing** wrong.

23 She told me after approximately three
24 **months** of discussion with **Blue Cross** she was
25 able to obtain an **MRI** of her right shoulder.

1 She was unsure of the results of that test.

2 She then returned to Dr. LoPresti who
3 treated her with a cortisone shot in her right
4 shoulder. He referred her to therapy.

5 She received treatments for two months
6 and found they were of no help.

7 Dr. LoPresti indicated that her symptoms
8 were stemming from her, as she put it, the
9 rotator cuff.

10 He suggested an upper limb specialist,
11 she told me,

12 She told me that during the latter part
13 of 1991 she came under the care of Dr. Seitz,
14 She had attempted to make an appointment at the
15 Cleveland Clinic but could not because she had
16 been involved in an accident.

17 Dr. Seitz obtained routine radiographs
18 and an ultrasound at the Mt. Sinai Medical
19 Center. The ultrasound revealed what she
20 referred to as a torn rotator cuff and spurs in
21 her shoulder.

22 Dr. Seitz also indicated that she was
23 symptomatic with respect to her neck because
24 her body had adjusted to her shoulder problem.

25 On April 1st, 1992 she underwent surgery

1 at the Mt. Sinai Medical Center.

2 She told me that Dr. Seitz, as she put
3 it, cleaned out the spurs and cut a tendon.
4 It increased the mobility. He moved the bone.

5 Following her surgery, she continued
6 under Dr. Seitz' care and prior to my examination
7 of December of 1992, she was examined by him
8 in October of 1992. She told me that she had not
9 undergone any right wrist surgery, although
10 her hand was still falling asleep, she wore a
11 splint at nighttime.

12 So that completed the first part of the
13 history, what had happened from the time of the
14 accident until the time I saw her in 1992.

15 Q Go ahead, doctor.

16 A I then asked her how she was feeling at the time
17 that I examined her and she indicated, and I
18 quote, "My shoulder is still not where it was."

19 She felt that she was still limited.
20 She could not reach behind her back to buckle
21 my bra, she indicated, and had difficulty in
22 raising her arm above shoulder level.

23 When she attempted to sleep on her left
24 side, she would have to rest her right arm on
25 a pillow, She could only sleep on her right shoulder.

1 for approximately 15 minutes.

2 She was able to -- unable, excuse me,
3 to carry a tray and demonstrated that her arm
4 doesn't go back.

5 She demonstrated that she **was** unable to
6 align her palm with her shoulder,

7 Her right shoulder would hurt with rain
8 and snow and her symptoms were decreased by the
9 use of a hot tub.

10 She also told me that her right hand
11 continued to fall asleep, **as** she put **it**.
12 This occurred **more** frequently **at** night than
13 during the **day**,

14 The numbness involved all the fingers
15 of the right hand. This **symptom was** not
16 occurring as frequently **when** I examined her
17 **as .it** had been in the past,

18 She **now** had no symptoms, or **was**
19 **asymptomatic**, with respect to her **neck**,

20 She was taking insulin and had been a
21 diabetic for **24** years. **She was** taking two
22 tablets of Nuprin **two** to three times a week.

23 I **then** inquired into her past medical
24 history and she indicated to me that **she** had
25 not **had** any symptoms referable to her neck or

1 right shoulder before the accident.

2 She had sustained a fracture of her right
3 little finger but she had never had any numbness
4 in her right hand. She also did not have **any**
5 numbness in her left hand.

6 She told me that since the accident of
7 **March 30, 1991**, she had fallen on to her left
8 side and sustained a fracture of **her** left foot.

9 She did not reinjure **her** right shoulder
10 **in** that fall, however, and that concluded her
11 history.

12 Q Thank **you**, doctor, Did you ~~then~~ perform a
13 physical examination on your own of **Miss Yarmesch**?

14 A Yes.

15 Q And could you tell us about that examination?

16 A Certainly, The examination revealed **a** female of
17 approximately her stated age who was of tall
18 stature.

19 **She** indicated to me that she **was** five foot
20 ten inches and that **she** weighed 175 pounds.

21 I noted that she got **up** out of **a** sitting
22 position without difficulty; that she walked
23 without limping and that **she** was able to climb
24 on to and off of the examining table in a normal
25 fashion.

1 I examined her cervical spine, or her
2 neck, and noted that she had normal cervical
3 lordosis without evidence of paracervical or
4 trapezius spasm.

5 There were no areas of localized
6 tenderness with palpation of the paracervical
7 or trapezius muscles.

8 There was a full range of cervical
9 flexion extension, lateral rotation and lateral
10 bending,

11 I examined her right shoulder and noted
12 that she had well healed anterior and lateral
13 arthroscopy Scars.

14 There was no evidence of atrophy.

15 There was no tenderness with palpation
16 of the shoulder or of the acromioclavicular
17 joint.

18 The active range of motion in degrees
19 was abduction 160, forward flexion, 170,
20 external rotation 45, internal rotation, L4.
21 Horizontal flexion complete. This compared
22 to the active range of motion of her left
23 shoulder of abduction 180 degrees, forward
24 flexion, 180 degrees, external rotation 45
25 degrees, internal rotation to the scapula,

1 horizontal flexion complete.

2 Muscle strength **was** five **out** of five.

3 **Q** Doctor, before we go on, **you** went through a lot
4 of measurements and rotations. And could you
5 possibly in more simple terms **for us** explain
6 what the differences were between her right
7 and left shoulder?

8 **A** Certainly. Abduction is raising your arm from
9 the side, so when you can raise your arm straight
10 up, that's 180 degrees. On her right side she
11 could raise **it** to 160, and on the left side to
12 **180. So she lacked 20** degrees.

13 **Q** could you show **us** what that 29 **degree** difference
14 **would** be in terms of **how** far up?

15 **A** Well, this **is** 160 and **this** is 180.

16 **Q** Thank **you**, doctor,

17 **A** Forward flexion **is** this maneuver. Okay? **So**
18 on one side she **was** to **about** here, which is 170
19 and on the other side 180, **so she** lacked ten
20 degrees.

21 She had the same degree of external
22 rotation, **which is** just bringing your arms **out**
23 from the side. Internal rotation **is** reaching
24 **behind** your back. Unless I **get** up and turn
25 around, but I think I can describe **it**. On **her**

1 **left** side she could reach her shoulder blade,

2 On her right side **she** could only reach
3 her waist, **so** she had a fair amount of limitation
4 **of** internal rotation, about eight inches,

5 Horizontal. flexion is **bringing your** arm
6 in front of your body and **that** was normal on
7 **both** sides.

8 **Q** Thank you, doctor. I appreciate your going
9 through that.

10 What other examinations did **you** perform?

11 **A** I did a neurologic examination of the upper
12 extremities **and** noted that she had symmetrical
13 deep tendon reflexes.

14 She **had** normal muscle strength,

15 There **was** decreased perception of pinprick
16 **in** the median nerve distribution of the right
17 hand and the **Phalen's** test **was** positive **after**
18 **20** seconds.

19 **Q** What is the **Phalen's** test?

20 **A** Tha **Phalen's** test is a maneuver where the
21 patient is asked to bring both wrists, **flex**
22 them and **to oppose** the back surfaces of their
23 hands. **In so** doing **you** compress the carpal
24 tunnel which is an anatomic area of your wrist
25 and put pressure on the. median nerve. The **test**

1 **was** positive in that **by** causing compression of
2 the carpal tunnel she complained of numbness
3 in the median nerve distribution which is these
4 three fingers.

5 **Q** **Does** that mean she had carpal tunnel?

6 **A** **It means, from** a clinical standpoint that she
7 had carpal tunnel, that **is** correct,

8 **Q** Thank **you**. Doctor, did you perform any other
9 physical examination?

10 **A** No, that **completed** the examination.

11 **Q** Did you obtain any x-rays at the time that you
12 examined **or** did **you** have any x-rays taken?

13 **A** **I** did.

14 **Q** And what did those x-rays -- what parts of her
15 body did **you** have x-rays of and what did those
16 x-rays reveal?

17 **A** **I** asked that radiographs of the acromioclavicular
18 joints **be** obtained and those were normal.

19 There was no evidence of fracture,
20 subluxation, dislocation or separation.

21 **I** asked that radiographs **of** the right
22 shoulder **be** obtained and there **was** no evidence
23 of fracture, dislocation **or** degenerative change.

24 There was a mild anterior acromial **spur**.

25 And **I** asked that radiographs of the **right**

wrists **be** obtained and there was no evidence of fracture, dislocation or degenerative **change**.

Q Did that **complete your** examination of Miss Yarmesch?

A. Yes.

Q Doctor, **you also** had **some** records available to **you** to review regarding her **past** treatment, is that correct?

A. Yes.

Q Could you tell us, please, what records you reviewed and of what significance you found in those records?

A. Yes. After I examined her I reviewed the emergency room record from Marymount Hospital for April 1st, 1990.

I reviewed the radiographs of the right shoulder that were obtained on April 1st, 1990.

I reviewed Dr. Friedman's letter of January 12, 1991.

I attempted to review Dr. LoPresti's office records but they were generally illegible.

I reviewed radiographs of the right shoulder on July 15, 1991, and an MRI of the cervical spine on July 3.5, 1991, and an MRI of the right shoulder which was performed on

1 October 28, 1991.

2 I reviewed Dr. Craciun's records, and
3 Dr. Seitz' office records for the period between
4 February 13, 1992 and August 20, 1992,

5 I reviewed radiographs of the right
6 shoulder obtained at Dr. Seitz' request on
7 February 13, 1992.

8 And I reviewed records from the Mt. Sinai
9 Medical Canter for the surgery that was performed
10 on April 1st, 1992.

11 Q And what, if any, significance did you find in
12 those records, doctor?

13 A I noted that on April 1st, 1990, one day after
14 the accident, when Miss Yarmesch was examined
15 in the emergency room of Marymount Hospital, she
16 had complaints of right shoulder pain.

17 The examining physician noted, among
18 other things, that she had pain primarily with
19 movement, and that his diagnosis was a right
20 shoulder soft tissue injury.

21 I reviewed the radiographs obtained on the day
22 of the injury and noted that they revealed no
23 evidence of fracture or dislocation, and in
24 particular they revealed no evidence of
25 subluxation or separation of the
 acromioclavicular joint.

1 I reviewed Dr. Friedman's letter and
2 noted that when he first examined her approxi-
3 mately two weeks after the accident she had
4 several symptoms, including numbness of her
5 right hand.

6 I recall that his records or his letter
7 indicated that he examined her on-several
8 occasions but he did not describe the physical
9 findings which were always present.

10 The MRI of the cervical spine from July
11 15, 1991 was normal.

12 I actually reviewed the films of the MRI
13 of the right shoulder obtained on October 28, 1991
14 and that was normal and demonstrated no
15 abnormality of the rotator cuff.

16 Dr. Craciun performed an examination and
17 found that Miss Yarmesch had very mild decrease
18 in pinprick and light touch sensation in a
19 stocking glove distribution with upper limits
20 at the knees and elbows.

21 P What does that mean, doctor?

22 A That is a nan -- that is a finding for which
23 there is no anatomic basis, When an individual
24 has a stocking distribution or glove-like
25 distribution, that means that the numbness follows

1 a circumferential pattern as opposed to a
2 dermatomal pattern. A dermatomal pattern is a
3 pattern in the skin that is supplied by a
4 specific nerve, so that is a finding which really
5 has no anatomic basis and is not explainable on
6 the basis of any medical knowledge.

7 On June 27th, 1991, Dr. Craciun performed
8 electro diagnostic studies and he noted that she
9 had a carpal tunnel syndrome on the right as
10 well as a right; ulnar neuropathy.

11 There was no evidence of cervical
12 radiculopathy .

13 Dr. Seitz' office records covered his
14 treatment of Mrs. Parmesch between February 13,
15 1992 and August 20, of 1992.

16 At the time he saw her approximately two
17 years after the accident, she had symptoms
18 referable to her right shoulder.

19 He apparently reviewed the previous
20 MRI'S and he also reviewed radiographs at the
21 time of his examination.

22 He indicated that those radiographs
23 revealed, and I quote, "What appears to be a
24 grade 2 AC separation; a type 3 acromion, some
25 narrowing of the AC joint itself.

1 Following his examination his impression
4 **was** posttraumatic rotator **cuff** impingement,
3 right shoulder, grade 2 **AC** separation right
4 shoulder. **Secondary** frozen shoulder. Median
5 **compression** right wrist. Probably posttraumatic
6 **as well.**

7 **As I** indicated I reviewed the radiographs
8 of the right shoulder that Dr. Seitz obtained on
9 February 13, 1992. They **do** demonstrate a type
10 3 acromion. They **are not** the appropriate views
11 to demonstrate the relationships of the
12 acromioclavicular joint and I believe they are
13 not the views upon which the diagnosis of
14 acromioclavicular joint separation can **be** made.

15 **Q** Doctor, if I can interrupt **you** there ~~for~~ a
16 minute then, What is a type 3 acromion?

17 **A.** Would a model **help**?

18 **Q.** Certainly.

19 **A.** **This is** the model **of** the right shoulder.

20 This **is** the collarbone or the clavicle,
21 and this **is** the acromion which is part of the
22 shoulder blade. **So** the acromion comes **from** the
23 **back** around to the front. And when **we** talk
24 **about** different types of acromion, **it** has to
25 do with the configuration of **the** undersurface of th

1 acromion. A type 3 acromion is like a hook and
2 it comes down as opposed to a type 1 which is
3 flat.

4 Q So that has nothing to do with traumatic injury,
5 it is just the way the person's acromion developed
6 as they grew up, is that what you're saying?

7 A That's correct.

8 Q So the reference to a type 3 acromion is just
9 a reference to how Mrs. Yarmesch's acromion
10 developed as she grew up, is that what I
11 understand?

12 A That's correct.

13 Q Okay. Thank you, doctor. Could you go on and
14 tell us what other significant records you saw?

15 A Yes. In Dr. Seitz' office records he referred
16 to the ultrasound of the right shoulder which he
17 had ordered, and he indicated and I quote,
18 "Some edema in inflammation in the rotator cuff but
19 no frank tear."

20 Now, the records from Mt. Sinai Medical
21 Center indicate that Mrs. Yarmesch was admitted
22 to the hospital on April 1st, 1992 and on that
23 day underwent an operative procedure which was
24 entitled: Examination of the right shoulder under
25 anesthesia, manipulation right shoulder,

arthroscopic subacromial decompression, coraco-
ligament resection and anterior acromialplasty,

Q Doctor, could you kind of give us some more
of a layman's idea of what that means?

A Sure. Examination of the right shoulder under
anesthesia is merely an examination of the right
shoulder, its motion, while the patient was under
anesthesia or asleep.

Manipulation was a movement of the
shoulder by Dr. Seitz and/or his associate or
assistant, rather, Dr. Selman, while the patient
was asleep to gain some further movement of the
shoulder.

An arthroscopic subacromial decompression,
coraco-acromial Ligament resection and anterior
acromialplasty are all one procedure with
separate parts.

The arthroscopic subacromial decompression
refers to the fact that the subacromial space
is being decompressed or being made larger, so
the subacromial space is the space that is under
the acromion like a submarine is under the water.
Okay? The coraco-acromial ligament is this
ligament here, right here, that extends from
the coracoid which is this process, to the

1 acromion, **So** when you do **a** coraco-acromial
2 release, **you** cut this ligament.

3 **And** then an anterior acromioplasty is
4 removal of that leading edge and spur which gives
5 the acromion the type 3 configuration, **So** in
6 essence, you **are** trying to convert **it from** an
7 acromion, which is hook shaped, to one that is
8 flat.

9 **Q.** Okay. Thank **you**, doctor.

10 **Was** there anything **else** of significance
11 in those **records**?

12 **A.** **Yes.** The operative notes which were dictated
13 by **one** of the residents, Dr, **Selman**, contained
14 some **errors**,

15 **Dr.** Selman wrote, "**The** preoperative
16 ultrasound disclosed **a** partial thickness,
17 rotator cuff **tear.**"

18 But that is not **what it said**, There
19 **was** no indication that **it** did,

20 He did describe considerable fraying of
21 the supraspinatus tendon and a **linear**, about
22 four millimeters, that **is**, about a sixth of an
23 inch, **tear was** found in the supraspinatus tendon
24 and **it** was partial thickness.

25 **Q.** What does that mean, that it's partial thickness?

1 A. It means that it does not extend through the
2 entire substance of the rotator cuff, that is
3 to say, from the humeral side to the acromial
4 side, That is what partial thickness refers to.

5 Q. Thank you. Now, doctor, based upon your medical
6 training and background and the examination of
7 Mrs. Yarmesch, the history she gave you and the
8 records that you have reviewed, did you reach
9 any opinions to a reasonable degree of medical
10 certainty as to what injuries Mrs. Yarmesch
11 suffered as a result of this motor vehicle
12 accident on March 31st, 1990?

13 A. Yes.

14 Q. And, doctor, could you tell us what those
15 opinions are?

16 A. Yes. I believe that she sustained a contusion
17 to her head, a cervical strain and a soft tissue
18 injury to her right shoulder.

19 Q. Doctor, let's go through those just, if we could,
20 one at a time. What is a contusion to the head?

21 A. A bump on the head,

22 Q. Thank you. And a cervical strain, what is that,
23 doctor?

24 A. A strain is an injury to the muscles around a
25 structure, Like a hamstring pull is a strain

1 so a cervical strain would be an injury to the
2 muscles of the neck.

3 Q And what is a soft tissue injury to the right
44 shoulder?

55 A Soft tissue injury to the right shoulder is an
66 injury which involves the muscles and structures
77 external to the shoulder joint.

88 Q And, doctor, do you find to a reasonable degree
99 of medical certainty that Miss Parmesch is still
100 suffering from any of those problems which you
111 believe are related to the accident?

122 A I find to a reasonable degree of medical certainty
133 that she is not suffering from any of those
144 problems.

155 Q Thank you. And do you have an opinion to a
166 reasonable degree of medical certainty as to how
177 long those problems did affect Miss Yarmesch?

188 A No, I don't have an opinion,

199 Q Okay. At the time you saw her, was she still
200 suffering from any of those problems, to your
211 opinion, to a reasonable degree of medical
222 certainty?

233 MR. STEGE: Objection.

244 I'm not clear as to what those problems
255 are.

MR. WANTZ:

The problems,

all right, I will rephrase the question.

Q Doctor, do you have an opinion to a reasonable degree of medical certainty as to whether Miss Yarmesch still suffered from any problems as a result of the motor vehicle accident at the time you examined her in December of 1992?

A At the time that I examined her in 1992, she was not suffering any residuals of the contusion of her head: the cervical strain or the soft tissue injury to her right shoulder that she had sustained as a result of the accident.

Q Now, doctor, Dr. Seitz has also already testified and he has rendered his opinion that as a result of this accident, Miss Yarmesch suffered from acromioclavicular separation of the right shoulder, are you aware of that?

A Yes.

Q Are you aware that that his his opinion?

A Yes.

Q All right. And, doctor, do you have an opinion to a reasonable degree of medical certainty as to whether Miss Yarmesch suffered such a separation from this accident?

A Yes, I have an opinion.

1 Q And what is your opinion, doctor?

2 A My opinion is that she did not suffer an
3 acromioclavicular separation **as** a result of that
4 injury .

5 Q And could **you** explain, and I believe you touched
6 on **it** a **little?** bit already, but could you **explain**
7 to us why that is your opinion?

8 A Yes. The bottom line is that there is no
9 objective evidence that she has **or** had that
10 injury.

11 When I examined her about two and a half
12 **years** after the accident, I obtained appropriate
13 views of the acromioclavicular joint and those
14 **views** demonstrate normal relationships. When you
15 develop an acromioclavicular separation,
16 especially the type that Dr. Seitz referred to as
17 a type-2, the relationships found on both
18 clinical examination and x-ray examination
19 between the outer end of the **clavicle** and the
20 acromion are abnormal. They were not abnormal.

21 Q Doctor, you mentioned appropriate views. You
22 are talking about the radiographs or x-rays that
23 you obtained, is that correct?

24 A Yes.

25 Q And you have those here with you, don't **you?**

1 **a** Yes.

2 **Q** Could you show us what you mean doctor by putting
3 them on your shadow box?

4 **A.** Certainly. This is a radiograph of both the
5 right and **left** acromioclavicular joint obtained
6 on December 10, 1992 of Mary Anne Yarmesch, the
7 day that I examined her.

8 This structure **is** the collarbone or the
9 clavicle, and this structure **is** the acromion which
10 attaches as we saw before **as** part of the scapula
11 or shoulder blade,

12 And if I draw a line along the undersurface
13 of the clavicle **and** a line along the undersurface
14 of the acromion, **the** two line up.

15 With **a type 2** acromioclavicular separation,
16 the clavicle rides high. Okay.

17 **Now, we** were talking about appropriate
18 views. I have the views that Dr. Seitz obtained
19 when he **was** -- when he examined Mrs. Yarmesch
20 in February **of** -- February 13, 1992, **and I** also
21 obtained the same views when I examined her
22 because those are the standard views that
23 orthopedists obtain of the shoulder. And because
24 they are not taken to visualize the **acromio-**
25 clavicular joint, they **give you a false** impression.

1 For example, if you draw a line here along the
2 undersurface of the clavicle and the acromion,
3 it looks like the clavicle is riding high with
4 respect to the acromion on this view. And' this
5 makes it look even worse.

6 Here is the undersurface of the clavicle,
7 Here is the acromion, and there is a big
8 separation. But those are not the views. I
9 mean, if those views were adequate views we
10 wouldn't have this view which we ask for when
11 we are concerned about an acromioclavicular
12 separation. So that is the bottom line. There
13 is no acromioclavicular separation.

14 Q Now, doctor, just so I know what you are saying,
15 in other words, the views that Dr. Seitz looked
16 at were not properly angled, is that what you
17 are saying?

18 A The views that Dr. Seitz looked at were proper
19 views to evaluate the shoulder and the
20 subacromial space, They are not centered
21 properly.

22 I don't want to imply that anything is
23 improper'but if you want to evaluate the
24 acromioclavicular joint, then you need to obtain
25 different views that focus on the acromio-

1 clavicular joint so that, yes, in fact, they
2 are centered on the acromioclavicular joint,
3 the angle of the x-ray tube is appropriate.

4 Q Doctor, I didn't mean to imply any mistake, but
5 I'm only asking about the x-rays that Dr. Seitz
6 looked at were not correctly positioned in order
7 to evaluate the acromioclavicular joint?

8 A Exactly. They are not the standard views for the
9 acromioclavicular joint.

10 Q Now, doctor, would the surgery, the surgical
11 procedure, that Dr. Seitz performed, would that
12 have corrected the separation so that resulting
13 in what you found?

14 A No.

15 Q Okay. If the separation had been there you would
16 have still seen it in your views of the x-rays?

17 A Absolutely because -- I was going to say would
18 that in fact have made it worse? Actually, it
19 wouldn't have made it worse but it certainly
20 is not -- that type of surgery is not the type
21 of surgery that one does to repair an
22 acromioclavicular separation.

23 Q Thank you, Now, doctor, also Dr. Seitz has
24 rendered the opinion that the rotator cuff tear
25 that he found was caused by this automobile

1 accident, are you aware of that?

2 A. Yes.

3 P All right. And, doctor, do you have an opinion
4 as to a reasonable degree of medical certainty
5 as to whether the rotator cuff tear that Dr.
6 Seitz found was caused by the motor vehicle
7 accident in March of 1990?

8 A. Yes, I have an opinion.

9 Q And what is your opinion, doctor?

10 A. My opinion is that the partial, not full
11 thickness, one-sixth of an inch, rotator cuff
12 tear that was noted at the time of her surgery
13 two years after the accident was not caused by
14 the accident.

15 Q Doctor, can you tell us why that is your opinion?

16 A. Certainly. As I understand the mechanism of the
17 accident or events of the accident, Mrs. Yarmesch
18 was driving an automobile which was moving when
19 the right front end of her car was struck and
20 she said she braced her hand on the steering
21 wheel so there was a rapid deceleration, and
22 if anything she had anterior to posterior loading
23 of her shoulder, that is to say, her shoulder
24 might have gone posteriorly. The rotator cuff
25 is superior. Rotator cuff tears are caused by

1 falling **on** an outstretched arm, falling with
2 **your** arm **adeducted** **across** your **body**, landing
3 on the point of your shoulder, not with your
4 arm out in front of you, That's number **one**.

5 People who -- patfents **who** sustain a
6 rotator cuff tear have significant symptoms
7 with respect to their shoulder joint and continue
8 to have those symptoms until the **condition** is
9 treated.

10 In reviewing **Mrs.** Yarmesch's records,
11 **she** was seen in the emergency room the **day** after
12 the accident. She **saw** Dr. Friedman two **weeks**
13 after the accident. She then saw **Dr.** Friedman
14 two weeks later which **was** four **weeks** after the
15 accident, and then did not see him **for seven**
16 months. **So if** she **was** having persistent symptoms
17 from **a** rotator cuff tear there wouldn't **have** been
18 that hiatus in treatment.

19 **Another very** important factor is that
20 **when she saw** Dr. LoPresti, I think about a year
21 after the accident, **I can't keep** all of these
22 **dates** straight, but actually she saw him in
23 **August** of 1991 which was almost a year **and a**
24 half after the accident, **An** MRI of the shoulder
25 was performed **and** that demonstrated **no** evidence

1 of a rotator cuff tear. If **she** had torn a
2 rotator cuff tear -- if **she** had torn her rotator
3 cuff in the accident, that also would have shown
4 **up** on the MRI.

5 Q Doctor, if **it** was only a partial tear, would a
6 partial tear show up on an MRI?

7 A A partial tear **would** show up on an MRI.

8 Q Doctor, let me-- **go ahead**, I'm sorry.

9 A I'm only half through.

10 Q I apologize.

11 A No, there is **just one** other factor and the other
12 factor that **is important** is that Mrs. Yarmesch
13 has a type 3 acromion, a hooked acromion and
14 **when people have a type 3 acromion**, each time
15 they abduct **their** arm, they are bringing their
16 rotator **cuff** in **close** proximity to the acromion
17 and **over** a period of time develop degenerative
18 changes in the **rotator** cuff **as** opposed to a
19 traumatic change and can **develop** these **small**
20 little tears.

21 Q Are there any other factors, doctor?

22 A Not that I can think of right now.

23 Q Doctor, let me ask you, and you mentioned **it**
24 earlier, **Miss Yarmesch** did have complaints of,
25 and I wrote **it down** here, pain in the superior

1 aspect of her right shoulder after the accident.

2 Does that have any significance to you in terms
3 of the AC separation or the rotator cuff tear?

4 A. No, it doesn't have any significance because
5 she doesn't have an AC separation, Okay. It
6 doesn't have any significance -- well, it has
7 significance with respect to the rotator cuff
8 tear because people who have rotator cuff tears
9 don't complain of pain in the superior aspect
10 of their shoulder, they actually complain of
11 pain inferior to their shoulder near the origin
12 of the deltoid muscle. It's called referred
13 pain.

14 Q You're pointing to the area that you are
15 referring to?

16 A. Right.

17 Q Okay,

18 A. People who have neck injuries, which is an injury
19 that I believe that Miss Yarmesch sustained,
20 a cervical strain, complain of pain in the
21 superior aspect of their shoulder, in their
22 trapezius, because the trapezius muscle is
23 like a shawl, if you will, and it begins on the
24 side of your neck, drapes over the top of your
25 shoulder and then down your shoulder blade. So

1 when you experience, as she did, flexion-
2 extension maneuver, you can strain that muscle
3 and so it is not at all unusual for people to
4 experience pain in the superior aspect of the
5 shoulder.

6 Q Thank you. Doctor, there is one last area I want
7 to cover. Again, I think you mentioned in your
8 opinion Miss Yarmesch does suffer: from carpal
9 tunnel symptoms, is that correct?

10 A Yes.

11 Q Doctor, do you believe, to a reasonable degree
12 of medical certainty, or do you have an opinion
13 to a reasonable degree of medical certainty,
14 as to whether these carpal tunnel symptoms are
15 related to the motor vehicle accident of March
16 1990?

17 A Yes, I have an opinion.

18 Q And what is your opinion?

19 A My opinion is that they are not related to the
20 accident.

21 Q And, again, doctor, could you tell us why?

22 A There is no indication that she had an injury
23 to her wrist which would have! been competent to
24 cause an injury to the carpal tunnel. Rather,
25 there is evidence that she is a diabetic and

1 **people** who **have** diabetes develop what **is** known
2 **as** diabetic neuropathy, and one form of diabetic
3 neuropathy **is** involvement **of** the **median** nerve
4 which **can**, I don't want to **use** the word
5 masquerade, but produce the **same** kind of **symptoms**
6 because **it** involves the median nerve **as** carpal
7 tunnel syndrome.

8 In **fact**, to further that opinion is the
9 fact **that** she **also** has involvement of her ulnar
10 nerve which is the nerve right next to the median
11 nerve. So she has a **peripheral**, what is called
12 a peripheral **neuropathy**. Wow you're going to
13 **ask** me what that means.

14 **Q.** **You** anticipate, doctor.

15 **A.** **It's an** involvement of the nerves in **the**
16 extremity as opposed to a nerve coming from her
17 **neck**, And I believe that **is** on the **basis** of the
18 diabetes.

19 MR. WANTZ: Thank **you**,
20 doctor. I have no further questions.

21 THE WITNESS: **You're welcome**

22 MR. STEGE: Doctor, I'm
23 going to **ask** to **go off** the record for
24 **just** one minute **so** I can organize **my**
25 notes. Thank **you**.

1 VIDEOTAPE OPERATOR: We are off the
2 record.

3 (Temporarily off the record.)

4 VIDEOTAPE OPERATOR: We are now
5 back on the record.

6
7 CROSS-EXAMINATION OF DR. DENNIS BROOKS

8 BY MR. STEGE:

9 Q Dr. Brooks, Rick Stege for Mary Anne Yarmesch.

10 A Good evening,

11 Q Good evening.

12 Q Doctor, you examined Mrs, Yarmesch, Ms. Yarmesch
13 rather, Ms,, I think that is the appropriate
14 way she prefers to be addressed, Ms. Yarmesch,
15 in December of '92, is that correct?

16 A Yes.

17 Q And that was approximately eight months after
18 her surgery, is that corrects?

19 A Yes.

20 Q But it was; several months before Dr. Seitz
21 brought her in for a further manipulation of
22 her shoulder under anesthesia, is that correct?

23 A I am unaware that she had any further treatment
24 after I examined her.

25 Q Doctor, I'm going to tell you that she did have

1 further treatment in **July** of this year, further
2 manipulation under anesthesia, **but I take it**
3 that you have no records to that effect, is
4 that **correct**?

5 **A.** That's correct.

6 **Q.** You have no information since December of 1992,
7 **is** that correct?

8 **A.** That **is** correct,

9 MR. WANTZ: I'm going
10 to **object** to this. I'm not **sure** you
11 provided **it** to me,

12 MR. STEGE: I did **to**
13 you or co-counsel and to you.

14 **Q.** Doctor, when you saw her in **December** of 1992
15 or -- by the way, you only saw her once, is that
16 correct?

17 **A.** Yes.

18 **Q.** Dr. *Seitz* has seen her **probably** eight or ten
19 times, is that correct?

20 **A.** I don't know how many times he has seen her.

21 **Q.** But when you saw **her** that one time in December
22 of 1992, you **concentrated** primarily on two
23 things, you did look at her neck but you
24 primarily concentrated on the wrist and **also**
25 on the **shoulder**, is that a fair statement?

1 A I concentrated on **her** areas **of** complaints,
2 correct, her wrist, shoulder and **neck**,
3 Q But **she** didn't complain about her neck when she
4 was in to **see** you in **December** of '92, did she?
5 A No, **she** said that --

6 P That **it** had resolved itself?

7 A The **symptoms**, right, I was trying to determine
8 where her wrist symptoms might **be** coming from.

9 Q The two complaints that she brought **to** your
10 attention in **December** of '92 were **the** shoufder
11 and the wrist?

12 A Correct.

13 Q Let's talk **about** the shoulder first. I think **it**
14 was her **right** shoulder, right?

15 a Yes.

16 Q And **she** is **right** handed, is she not?

17 A Yes.

18 Q And when you **saw** her **she** was still limited in **the**
19 **use** of her right shoulder, **was** she not?

20 A Yes.

21 Q **She** couldn't reach behind her back, for **ex** mple,
22 to buckle hew **bra**, could **she**?

23 A That's correct,

24 Q And **she** had difficulty waving her **arm** above
25 shoulder **level**, didn't **she**?

1 A. That **was a** complaint, not something that I --

2 Q. That **is what** she told you?

3 A. **Please** don't interrupt, **sir**.

4 Q. **Well**, doctor, did she tell you **that** she had
5 difficulty raising her arm **above** her shoulder?

6 A. **Yes**.

7 Q. Did **she** tell you that she couldn't carry a tray
8 **at work**?

9 A. **Yes**.

10 Q. Now, you **didn't go to** her work to observe her,
11 did you?

12 A. **No**.

13 Q. Do **you** have any reason to doubt that she could
14 **not carry a** tray **at work** with her right hand?

15 A. **No**.

16 Q. **She** also told **you** that **her** shoulder hurt **during**
17 **the rainy days** and during the snowy **days**, didn't
18 she?

19 **k Yes**.

20 Q. Do **you** have any reason to doubt **her** truthfulness
21 on that point?

22 A. **No**.

23 Q. And you did examine **her**, didn't **you**?

24 A. **Yes**. You were there.

25 Q. And **you** examined her for several minutes, and at

1 the end of the examination you concluded that
2 she **was** still symptomatic in that right shoulder,
3 didn't you?

4 A At the end of my examination I --

5 Q You took an x-ray? I'm sorry for interrupting,
6 doctor.

7 A Thank you.

8 Q I **may** have jumped the gun but you did order an
9 **x-ray** before you concluded **your** opinions, is that
10 correct?

A That's correct.

Q In **all** fairness, but when **you** got the x-ray and
you got the additional records, then **you came to**
some conclusions and one of **those** conclusions
was that **she**, as of December of 1992, was **still**
16 symptomatic, **she still** had symptoms in her right
17 shoulder?

18 She **still** had symptoms or complaints in her
19 right shoulder, absolutely.

20 And **now** let's turn to the right wrist **for** the
21 moment.

22 She told **you** in December of '92 that her
23 right hand **was** continuing to fall asleep, didn't
24 **she?**

25 A Yes.

1 Q And she said she had some numbness involved in the
2 fingers of her right hand, didn't she?

3 A Yes.

4 Q And when you examined her right hand and right
5 wrist, you gave her a pinprick test, didn't you?

6 A Yes.

7 Q And you learned through that pinprick test that
8 she didn't have the same sensation on the right
9 side in her right hand that she did on the left,
10 is that correct?

11 A That's correct.

12 Q And then you also did one of those Phalen's
13 tests that you described for Mr. Wantz?

14 A Correct,

15 Q And in fact her right wrist, that is, her right
16 hand, rather, the three fingers on her right
17 hand went numb after only 20 seconds, is that
18 correct?

19 A Correct.

20 Q That didn't happen with her Left wrist, did it?

21 A That's correct.

22 Q And that is an abnormal event, is it not?

23 A It is.

24 Q And as a result of the history that she gave you,
25 as far as the right wrist was concerned, and as a

1 result of **your** physical examination, and
2 whatever records you reviewed, you concluded
3 that she, and I'm quoting from your report now,
4 "**She** continues to have **symptoms and** findings
5 of carpal tunnel syndrome," is that what you wrote?

6 **A.** Correct.

7 **Q.** Now, doctor, you **spent sometime** with the **x-rays**
8 talking about one of the shoulder problems **that**
9 **Dr. Seitz** found. **He found** several, did he not?

10 **A.** **Two** that I am aware of.

11 **Q.** Well, he found a constellation of problems in that
12 shoulder, **is that a** fair statement?

13 **A.** **No**, I wouldn't **call it a** constellation, I don't
14 understand your question. I'm **sorry**,

15 **Q.** **Well**, he did conclude that **she** suffered a type 2
16 **AC** separation, **is that** correct?

17 **A.** That **was his** conclusion, yes .

18 **Q.** He did that **based** on the x-rays that he ordered?

19 **a** Correct.

20 **Q.** And the x-rays that you reviewed?

21 **A.** That's correct.

22 **Q.** Now, doctor, **can** a type 2 **AG** separation improve
23 with time?

24 **A.** Not that radiographic appearance of the type 2
25 **AC** separation.

1 Q It cannot?

2 A It cannot,

3 Q That is your opinion?

4 A That's my opinion.

5 Q And is it also your opinion that it cannot
6 improve even though the architecture of the other
7 structures around it have been changed by
8 arthroscopic surgery and manipulation of that
9 surgery? I'm sorry. Manipulation of that
10 shoulder.

11 A I cannot answer that very broad question with a
12 yes or no. You will have to be more specific.

13 Q Well, doctor, I'm going to come back to that.

14 I would like to ask you a related question
15 if I can.

16 A Certainly.

17 e At the outset of your testimony you said that when
18 Mary Anne Yarmesch came to see you in December
19 of 1992, which was almost three years -- well,
20 three months short of three years to the day of
21 her collision or her injury, her initial injury,
22 that she complained of pain in the, quotes,
23 "Superior aspect," using your words now, "Superior
24 aspect of her shoulder." Do you recall that
25 testimony, doctor? Do you recall your testimony?