#532

STATE OF OHIO)
) SS: IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY)

CASE NO. CV 94 03 0769

KAREN LANE,	)	
	)	
PLAINTIFF,	)	VIDEOTAPE DEPOSITION
	)	
VS.	)	OF
	)	
ROBERT SHOVER,	)	DR. DENNIS BROOKS
	)	
DEFENDANT.	)	JUDGE COSGROVE

VIDEOTAPE DEPOSITION taken before Tim Palcho, a Notary Public within and for the State of Ohio, pursuant to Notice, and as taken on November 3, 1994 at the office of Dr. Dennis Brooks, 26900 Cedar Avenue, Beachwood, Ohio. Said deposition taksn of Dr. Dennis Brooks is to be used as evidence on behalf of the Defendant in the aforesaid cause of action, pending in the Court of Common Pleas, within and for the County of Summit, for the State of Ohio.

APPEARANCES:

MR. JOHN LINDAMOOD,

On Behalf of the Defendant,

MR. LAWRENCE STEWART,

On Behalf of the Plaintiff,

cross
Begins on
page
26

The witness, Dr. Dennis Brooks, after first being sworn to testify to the truth, the whole truth, and nothing but the truth did say as follows: Direct examination by John Lindamood:

Q. . Doctor Brooks, I'm John Lindamood and I represent Mark Shover in an action filed by Karen Lane. For purposes of this videotape would you please give your full name and professional address for the jury?

A. Yes. My name is Dennis Bruce Brooks and my address is 26900 Cedar Road, Beachwood, Ohio.

Q. And Doctor Brooks you are a physician?

A. Yes Sir.

Q. Licensed to practice in Ohio?

A. Yes.

Q. Let me hand you what I've already marked Defendant's Exhibit Number One and ask if you will please identify that.

A. This is a copy of my curriculum vitae.

Q. And that is eight pages. I just counted them.

A. Yes.

Q. Doctor, beginning with your undergraduate education, would you detail that for me through your licensure in medicine?

A. Yes. I graduated from Harvard College in 1959 with a Bachelor of Arts degree. I then attended Western

Reserve University School of Medicine and graduated from there in 1963 with a degree of Doctor of Medicine. At that point I took the Ohio State Medical Board and became licensed to practice in the State of Ohio.

Q. . Did you have any additional training beyond your original licensure, Doctor?

A. Yes.

Q. Can you detail your internship and residency and so on for me?

A. Certainly. Following medical school I served as a rotating intern at the Mt Sinai Hospital of Cleveland for one year and then as a general surgery resident, also at Mt. Sinai for one year. My third and fourth year of post graduate training were as an orthopedic surgery resident at Mt Sinai. During my fifth year I was a National Institute of Health Research Associate in the Biomechanics Laboratory of Case Western Reserve University. And my sixth and final year of post graduate training was in Children's Orthopedics at the Indiana University Medical Center.

Q. Alright the Doctor, have you been then in the private since that time?

A. No.

Q. What did you do after Indiana?

A. After Indiana I was in the United States Air

Force for two years and then returned to Cleveland in 1971 ,and since 1971 have been in the private practice of orthopedics.

Q. And you do limit your practice to orthopedic surgery ?

A. Yes Sir.

Q. Will you explain just briefly, for the jury, orthopedic surgery? What is that particularly confined specialty?

A. Orthopedic surgery is that branch of medicine that treats patients who have problems with their musculo-skeletal system. By that I mean I take care of patients who have problems with their bones, joints, soft tissues that cover those areas, muscles, ligaments and tendons,as well as taking care of patients who have problems with their spine and its contents, the intervertebral disks and the nerve roots. As an orthopedic surgeon, I treat patients both with surgery and without surgery depending on their specific problems,

Q. Alright, thank you Doctor. Also in your field, Doctor, there is also what we know as Board Certification, is there not?

Q. You are Board Certified?

A. Yes.

Q. And that certification was when?

A. I was originally certified in 1971.

Q. And is there a provision now in the field of orthopedics for recertification?

A. Yes.

Q. And have you gone through that procedure ?

A. Yes I have.

Q. And how recently was that?

A. I took the recertification examination in 1993 and was recertified by the board in 1994.

Q. Now that would be the American Board of Orthopedic Surgery?

A. Yes Sir.

Q. Do you hold any positions with that organization?

A. Yes.

Q. What is that?

A. I have the privilege of being an examiner for the American Board of Orthopedic Surgery.

Q. Which means you actually participate in what?

A. It means, I get to ask the questions.

Q. You're actually in the process of certifying other orthopedic surgeons who seek Board Certification?

A. Yes.

Q. Alright. Now Doctor, getting to the point of

this particular deposition. We had asked you to see a woman by the name of Mrs. Karen Lane. Do you recall that?

A. Yes.

Q. And I'm going to hand you what I've previously marked Defendant's Exhibit Two which is a five page document and ask if you'll identify that for me, please?

A. This is a report which I prepared following my examination of Mrs Lane, a review of certain records that were provided to me.

Q. Alright, let's begin first ....you mentioned some records that were provided to you. What materials were you able to review either in conjunction with the examination or before or after your examination.

Mr Stewart: On behalf of the plaintiff I wish to make this observation. I have no objection at all to Dr Brooks reviewing his own report. I do have an objection to its being introduced into evidence.

Q. Doctor, what materials were you able to review?

A. After I examined Mrs Lane I reviewed the

following records; Dr. Chin's office records for the period between November 10th, 1992 and April 5th, 1993, limited views of the cervical spine obtained on November llth, 1992....

Q. Those were x-rays?

A. Yes.

Q. That had been taken?

A. Right.Limited radiographs or limited x-rays of the lumbar spine obtained on November llth, 1992, a letter of Dr. Chin dated February lst, 1993 ,Dr Corn's letter of December 8th, 1993, and those were the materials that I reviewed.

Q. Alright Sir.Now as a part of our requesting you to examine this woman...first of all, when did the examination take place?

A. The examination took place on September 1st of this year, 1994.

Q. Alright, and as a part of that meeting or examination, Doctor, did you take a history from Mrs. Lane?

A. Yes.

Q. And or her lawyer, I understand.

A. No, I didn't take a history from her lawyer. I took a history from....

Q. You did receive some materials from her

lawyer though, did you not?

A. Yes. Her attorney ,or actually it was Mr DeChant gave me a typewritten statement some point during the examination.

Q. Alright, let's get back to your normal examination procedure. That involves taking a history from the patient, does it not?

A. Yes.

Q. And what history did Mrs Lane give you?

A. She told me that she had been injured on approximately October 7,1992 when she was driving an automobile which was stopped when it was struck from behind by what she referred to as a full sized van. She was restrained at the time and went backward, and forward, and backward in her seat. She demonstrated to me that she had been, as she characterized it, stretched to the max changing the radio station. Following the accident she was, as she characterized it, shook up all together.

She told me that she did not receive any medical treatment until approximately three to four weeks after the accident where she was, as she indicated, waiting to get better. She then came under the care of Dr. Chin. She indicated that at that time she had pain in her neck and what she referred to as her whole back.

She told me that those symptoms began the morning after the accident.

She went on to explain that Dr Chin referred her to southwest General Hospital for massage and therapy. She received treatment two to three times a week for approximately four weeks. She was re-examined by Dr Chin on one or two occasions after the completion of her therapy.

She indicated to me that she quit therapy. It lasted about three hours she said. She also indicated that Dr Chin instructed her in some exercises and that she did not like the exercises. She also told me she had difficulty understanding Dr Chin.

She went on to explain that in June of **1993** she came under the care of Dr Corn. He referred her to physical therapy and she received heat and massage and was again instructed in exercises. She told me that the exercises hurt. She attended therapy two times **a** week for approximately three weeks. After she completed her therapy she did not return to Dr Corn until May **of 1994.** He referred her for some additional therapy and she was at last examined by him in August of **1994.**

Q. At the time of her relaying that to you, did she indicate to you whether or not she had any plans for any further treatment?

A. I don't recall that she indicated she did.

Q. Okay, thank you. Was there more to the history?

A. Yes. I asked if she had received any additional treatment since last seeing Dr Corn and she said that she had not. I asked her if she had undergone any specialized testing and she told me that both Dr Chin and Dr Corn had recommended an MRI ,but because she had claustrophobia she *felt* she could not tolerate being in the MRI scanner.

Q. What is an **MRI?**

A. MRI is an acronym. I guess that's what it is.its an abbreviation for magnetic reasoning imaging.

Q. How does that help you **or** any other orthopedic treating physician with regard to the care of **a** patient?

A. Well its a very specialized diagnostic procedure that allows very precise imaging of not **only** the bony structures,in this case, of the spine but also the soft tissues including the intervertebral disks and the nerve roots. And it helps us because it **allows us** to make a diagnosis, or helps us in making a diagnosis.

Q. Is it an invasive procedure that means something is going into the body?

A. **No.**

Q. Is it an uncomfortable procedure in terms of body pain?

A. Its not uncomfortable in terms of body pain, no.

Q. . Was there more to her history?

A. Yes. I then inquired as to how she was feeling when I examined her September 1st of 1994.

Q. On that particular day.

A. Yes.

Q. Okay.

A. And she told me that she experienced what she characterized as a little knife pain everyday in her low back. She would awaken at 6:00 a.m.. She told me her symptoms were increased by "being on my feet and doing norma! things, by doing too much housework, bending over the dishwasher or clothes dryer."

Her symptoms were decreased by taking a hot shower. She told me she took two tablets of Tylenol Extra Strength two to four times a day. She had taken two on the day of my examination. She also told me she had pain in her right buttock which radiated down the posterior aspect of her right thigh to her knee. She told me that had been present since the accident ,right after the accident.

She would experience this radiating pain as far as

her knee three times a week. Coughing, sneezing, and bowel movements did not cause leg radiation and she had not had any change in her bowel or bladder habits. She also told me that when she slept for longer than an hour her back, quote, "bothers me." When she sat too long her hands would fall asleep. When the therapist pressed on her buttock that "would hurt too much", she said. Also approximately three times a week her neck would become stiff.

So that completed the portion of her history about her complaints or symptoms at the time I saw her.

Q. Alright. Following that history were you then able to conduct a physical examination, Doctor?

A. Well I took a little more history.

Q. Alright, and that other history would be related to what?

A. Well that's her past history. In other words, her relating to me what had occurred before the automobile accident, or what symptoms she might have had before the automobile accident.

Q. And were there any?

A. No, there were not. She had had no symptoms with respect to her neck or her low back before the accident. She also had not involved any new injuries. And that completed her history.

Q. Alright. Following that, then were you able to conduct a physical examination as part of your examination for us?

A. Yes.

Q. And what did that consist of, Doctor?

A. It was a standard orthopedic examination. In essence I examined her musculo-skeletal system, I basically involved observation, palpation, which is touching or pressing various areas, assessing range of motion, performing various neurologic tests.

Q. When you say palpation, you mentioned that term for the jury as a touching. As a trained physician we hear a lot about aches and pains that aren't demonstrated on x-rays or other diagnostic tests. But is it possible for a physician to actually feel muscle tension on palpation?

A. Yes.

Q. Were you able to detect any muscle tension in this woman during your physical examination?

A. No.

Q. Is that significant?

A. Its significant in that its a normal finding. In other words there is absence of muscle tension , and muscle tension, or spasm as it is sometimes called, is a finding that's present when a disease process is in

its acute or active stages.

Q. Alright. Where did your physical examination then take you, Doctor?

A. It began with observation and I noted that Mrs. Lane was a female of approximately her stated age who was somewhat overweight. I noted that she got out of a chair without difficulty, that she walked without limping, and that she was able to climb onto and off of the examining table in a normal fashion.

I then examined her cervical spine, or her neck, and I noted that she had normal cervical lordosis without spasm. There was normal cervical flexion and extension, approximately fifty percent of lateral rotation bilaterally, and approximately seventy-five percent of lateral bending bilaterally. All six maneuvers were performed in a ratchet like fashion. She complained of pain with extension and complained of stiffness with lateral bending. There was no tenderness with palpation of the spinous processes, the muscles on either side of the spine , or the trapezia. She indicated to me that my palpation was too light and so I repeated this and with deeper palpation she complained of pain in the right trapezius and the cervical spine.

Q. Doctor, let me interrupt you there for a

moment. Regarding two points, range of motion... I assume part of this initial examination is to determine how far the patient can reasonably move the various appendages?

A. Yes.

Q. Is that what range of motion is?

A. Exactly.

Q. And you mentioned something about her maneuvers being performed ratchet like. What does that mean? Can you elaborate on that a bit?

A. If you were to imagine that you had a vise grip pliers and as you closed it down, closed down the handle on the vise grip pliers there are distinct stops as you ratchet from one position to another. When I asked her to move her neck so I could assess the range of motion of her cervical spine it was as though she was moving it with very distinct stops from one position to the next. That's what is referred to as an inappropriate response. When a patient has limitation, or some limitation of cervical motion they go as far as they can in a smooth fashion and then they stop. That's as far as they go, but they don't go step by step. So that is an inappropriate response.

Q. Well when you describe it as an inappropriate response , what does that lead you to conclude, if

anything, as an examining physician?

A. It leads me to conclude that the individual is attempting to display more disability than they really have.

Q. Okay. The examination continued?

A. Yes. I examined her shoulders and noted that she had no evidence of deformity, localized swelling, or tenderness. The range of motion of her shoulders was essentially normal in that she had normal abduction, external rotation, internal rotation, and horizontal flexion. She had a twenty degree limitation of forward flexion. At the extremes of forward flexion she complained of low back pain and at the extremes of external rotation she complained of mid back and low back pain. Her peripheral pulses were palpable in all three positions.

Q. Doctor, if I can interrupt you again. You talk about forward flexion. With regard to the examination then, this would be the upper torso, I take it. at this point.

A. No. I'm sorry. The forward flexion I was referring to was forward flexion of her shoulders...

Q. Oh, of the arms.

A. Yes.

Q Alright. And you've Just demonstrated that

for purposes of the deposition. When that elicits, as you described from Mrs. Lane, a complaint of the low back pain. Is that significant?

A. Yes.

Q. Why?

A. That's another inappropriate response or response that has no basis in anatomy. As I raise my arm up, or as you raise your arm up, there's no connection between the muscles that you use to elevate your arm or forward flex your arm and the muscles in your low back. So there would be no reason why you would complain of pain in your low back.

Q. Caused by raising your arm?

A. Raising your arm.

Q. Alright. And what is external rotation?

A. External rotation is the movement of your shoulder away from the body from the midline. So its turning your arm outward, if you will.

Q. And as you have detailed in you exam, she complained that upon moving her shoulder that way, with the external rotation ,that she had mid or low back pain?

A. Yes.

Q. Is that unusual?

A. Yes, that's also unusual.

Q. Why?

A. Well again , the muscles that you use to externally rotate ,not surprisingly, are called the external rotators and they're muscles that are around your shoulder girdle. Again, there's no connection between those muscles and your low back. If you're going to have any kind of problems you're going to feel pain in your shoulder joint, per se.

Q. Doctor, it appears that your examination is now moving down. Did it then continue to the mid back area?

A. Yes. And the examination of the mid back or thoracic spine revealed no evidence of deformity or localized tenderness. I then did a neurological examination of the upper extremities and that was entirely normal.

Q. Alright, which means to you as an examining physician ...normal neurologic tests mean what?

A. I'm not quite sure I can explain it. Well, the normal neurologic tests were normal deep tendon reflexes. She had normal muscle strength and she had normal sensory perception. It means to me that ...and I don't mean to sound sarcastic but.....

Q. But there may or not be any type of nerve involvement?

A. Right, that's what I mean. There's nothing that's abnormal. There's no nerve involvement.

Q. Okay. Excuse me for interrupting.

A. No, that's okay. I then proceeded and examined her lumbo sacral spine or her low back and noted that she had increase in her lumbar lordosis without evidence of spasm. There was tenderness with the lightest of palpation of the mid line in both buttocks. Forward flexion was restricted such that her finger tips reached the proximal tibias. Extension and lateral bending were performed completely. She complained of pain on all three maneuvers. Heel walking and toe walking were performed without evidence of weakness. She complained of low back pain with heel walking.

She also complained of pain with cervical compression and torso rotation. And Burns test was considerably positive.

Q. Doctor, I guess there are three things I need to ask you to explain here. You mentioned tenderness with lightest palpation of the mid line in both buttocks. The pain I take it was in the buttocks.

A. When I palpated the mid line of her low back, the middle of her low back....

Q. Right around the belt area would that be?

A. Yes, but I'm also talking about a vertical...

Q. Axis?

A. ...dimension or axis, right. So when I palpated that area with the lightest of palpation, in essence, stroking the skin. And each buttock, when I palpated each buttock, she complained of pain.

Q. Is that significant?

A. Yes.

Q. Why?

A. Its another inappropriate response or another response that has no basis in anatomy.

Q. When you say it has no basis in anatomy, what are you saying to the jury?

A. What I'm saying is that ...I can't explain that based on something that's happening to the person's body. Its related to their mind as opposed to their body. Or more specifically, if you injure a muscle, for example if you strain the muscles in your back, or you pull a hamstring and strain a muscle in the back of your leg and somebody presses on that muscle that's going to hurt. But they have to apply a certain amount of pressure because the muscle sits underneath the skin and underneath the fascia which is the covering over the muscle. Now even if you have a very sore muscle, just stroking the skin over the top

of that muscle should not cause you to experience pain. So that's why complaints of pain are an inappropriate response.

Q. Okay, I guess the second one then is, apparently she also complained of low back pain with cervical compression and torso rotation.

A. Yes.

Q. What is cervical compression?

A. While she was in the upright position, I gently pressed on her head and she told me her low back hurt.

Q. Okay, now is that inappropriate again?

A. Yes.

Q. I take it there must not be any connection between the two then.

A. There's no connection between the two because that amount of axial loading or cervical compression shouldn't cause your low back to hurt.

Q. Alright then , what about torso rotation?

A. Torso rotation is another....these are all things by the way that are called Wadell Factors. Dr. Wadell is a physician who has described a number of responses that are noted during examination that can be considered inappropriate when they are what we calf positive. Torso rotation merely was having her in the

upright position with her arms at her side and her torso rigid and having her pivot so that the pivoting is really taking place at her knees. And she complained of back pain. And again that should not cause back pain.

Q. Alright, and the third question that I have with regard to your tests. You mentioned a Burns Test.

A. Yes.

Q. What is a Burns Tests?

A. Burns Test is a maneuver that was described by Dr Burns and the patient is asked to kneel on a wooden chair that has no arms so that the....their shoulders are at right angles to the back of the chair or their body is parallel to the chair. They're asked to kneel on the chair, which relaxes their hamstrings, and then to sit back onto their heels which reverses the curvature of their spine , their lumbar lordosis. From that position they're then asked to bend over and touch the floor. Now in this situation ,in Mrs Lane's case, the Burns Test was considerably positive in that she complained of low back pain as she attempted to sit back onto her heels. That's another inappropriate response. All of these maneuvers that occurred during the Burns Test should relieve the pressure on the low back. Should not cause low back pain.

Q. I see. Was there more to your examination, Doctor?

A. Yes. She then moved over to the examining table and while she was sitting on the examining table I asked her to perform sitting straight leg raising and she was able to do that to eighty degrees on the right and ninety degrees on the left. The tripod sign was negative. She complained of low back pain and right buttock pain on the right. While performing planter flexion of her right ankle she also complained of low back pain. I then had her lie down and perform supine straight leg raising and that was restricted to five degrees bilaterally and accompanied by low back pain.

Lasseg sign was negative. She allowed approximately thirty degrees of simultaneous hip and knee flexion and indicated that also caused low back pain. I then performed a neurological examination of the lower extremities and found that that was normal.

Q. With regard to this hip and knee flexion..

A. Yes,

Q. That producing back pain. Why is that significant?

A. Its significant because its another inappropriate response.

Q. Why is that?

A. When I have a patient who has low back pain I tell them to go home and to lie down in bed and put something under their calves so they're knees are bent and their hips are bent so that you're in like a contour type of position.

Q. Sure.

A. Not quite as extreme as the maneuver that they perform during the Burns maneuver, but by flexing their knees and flexing their hips they again take the pressure off of their spine. So this should not increase somebody's low back pain. It should decrease the low back pain.

Q. Doctor, you also wanted to take some x-rays or radiographs of this woman as a part of your examination, did you not?

A. Yes.

Q. And she refused to let you do that?

A. Yes.

Q. The films that you were able to see, were those the ones taken when she first sought medical treatment?

A. Yes.

Q. Which was, as I understand it, about five or six weeks after this accident.

A. The accident was on October 6th and..

Q. Right.

A. Yes, and November 11th.

Q. Now in those films you detailed what ...from what you could see, as I understand it, the cervical films, for example had a narrowing at C-5,6.

A. Yes.

Q. Were you able to visualize that on those films?

A. Yes I was able to see that myself,yes.

Q. Doctor, based upon your education, training, and experience, a review of those films, and your examination of Mrs Lane : is there anyway that narrowing that was demonstrated on the films could have been caused by an accident five weeks earlier?

A. No. There's no way that an accident five weeks earlier would have caused that degree of narrowing.

Q. Alright, and also on the lumbar films you mentioned that there might be a possible narrowing at L-5,S-1. Within a reasonable degree of medical probability is there anyway that if in fact there was a narrowing there that would have been caused by our accident of October 6,1992?

A. If in fact there was a narrowing , no, it was not caused by the accident that just had occurred five

weeks previously.

Q. And the speculation that I put on, if there was a narrowing, was caused by the quality of the films, was it not?

A. That's correct. I had copies and that was the reason.

Q. Now Doctor, given your education, training, and experience, the fact that you've been in the practice of orthopedic surgery since 1971, the history, the physical, and examination that you made of this woman; is there any question in your mind, within a reasonable degree of medical probability, that as a result of the incident on October 6,1992 that this woman sustained some injury?

A. No, there's no question in my mind that she did sustain some injury.

Q. And again, within a reasonable degree of medical probability, do you have an opinion as to whether or not whatever injury she did sustained would have cleared up?

A. Yes I have an opinion.

Q. And what is that opinion?

A. That she has recovered from those injuries.

Q. And once again Doctor, within a reasonable degree of medical probability is there any, or do you

have an opinion as to whether or not whatever happened to Mrs Lane as a result of this incident on October 6,1992 would have caused any permanent situation or condition?

A. Yes I have an opinion.

Q. And what is that opinion?

A. That her injuries were no, permanent in nature or the accident did not cause a permanent situation.

Q. Thank you very much,Doctor. I have nothing further.

A. You're welcome.

Mr Stewart: Let's go off the record

(Off Record and Return)

Cross Examination By Mr Larry Stewart:

Q. I'm Larry Stewart,Dr Brooks, I am the counsel of record for Mrs Lane and my partner Torn DeChant is the one who accompanied her to the examination. One other person accompanied her, correct?

CROSS

A. Yes Sir. Good evening.

Q. That was Michelle Lauby who is a registered nurse, who is with my office. She was there during the physical examination .

A. Yes.

Q. Correct? In the five page report that you

Q. You're right. I did change it in the middle. Put it simply, a patient who has been injured can demonstrate muscle spasm on occasion. Correct?

A. Yes.

Q. And that same patient who has been injured can demonstrate no muscle spasm on occasion. Correct?

A. Correct.

Q. So that your fact that you found on September 1,1994, that Karen Lane did not have muscle spasm does not mean that she didn't have it the day before or the day after.

A. That's correct,

Q. I think that.... In your experience in management of ladies who have suffered injury to the low back, is one of the complaints that you hear from time to time the fact that, I find using the vacuum cleaner causes more pain to my back?

A. Yes.

Q. And Karen Lane gave you that complaint, didn't she?

A. Yes.

Q. That's all I have.

Redirect Examination By Mr Lindamood:

Q. Dr Brooks, just a couple of questions. Mr Stewart asked you about the radiologist report

contained in Dr Chin's records. Once again, based upon your education, trainig, and experience, and your examination of Mrs Lane, and having had an opportunity to review copies of those actual x-ray films ; were any of the findings on those films as a result of this accident of October 6,1992?

A. No.

Q. And Doctor, generally having treated, I assume, lots *of* soft tissue injury cases, what is the length of time for resolution or healing of a soft tissue injury?

Mr Stewart: Objection.

A. It depends upon the circumstances and the magnitude of the injury. People can recover from this in as short as two to three weeks. Some people take two to three months to recover.

Q. And once again Doctor, within a reasonable degree of medical probability, after your examination, and your training, and your education, an so forth; is there any finding that you made that this woman has any type of personal...or permanent injury as a result of the occurance of October 6,1992?

Mr Stewart: Objection.

A. **No,** she had no permanent injury, or any permanent, or any evidence of permanent injury when **I**

examined her in September of 1994.

Q. Did in fact, Doctor, you find any connection between her complaints at the time of your examination, approximately two years later....did you find any connection between those complaints and the accident of October 6, 1992?

Mr Stewart:Objection.

A. No I did not.

Q. Thank you very much,Doctor.

A. You're welcome.

Recross Examination By Mr Stewart:

Q. Finally,in the questions that I presented to you, you don't think that I suggested that the pre-existing conditions of the narrowing in the neck, and the narrowing in the back, and the osteoarthritis in the neck and the back were caused by this collision, do you?

A. You wouldn't have called them pre-existing if you thought they were caused by the accident.

Q. So that we have no suggestion that that was caused by it, but what is the fact is that with those pre-existing conditions an injury of this nature can cause greater problems for a patient than one who does not have those pre-existing conditions.

A. Correct.

Q. That's all I have. Thank you.

A. You're welcome.

Operator: Doctor, you have the right to view this videotape or you may waive that right.

Dr Brooks: I'll waive that right.

Operator: And will counsel waive filing of the tape?

Mr Stewart: The Plaintiff waives filing of the tape.

Mr Lindamood:I will also.

Whereupon the deposition was concluded.

STATE OF OHIO)		
) SS:		IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY)		
KAREN LANE,	)	CASE NO. CV 94 03 0769
	)	
PLAINTIFF,	)	VIDEOTAPE DEPOSITION
	)	
VS.	)	OF
	)	
ROBERT SHOVER,	)	DR. DENNIS **BROOKS**
	)	
DEFENDANT.	)	JUDGE COSGROVE

C E R T I F I C A T I O N

I, Tim Palcho, a Notary Public within and for the state of Ohio, do hereby certify that the within named witness, Dr. Brooks, was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the cause aforesaid.

I further certify that the testimony then given by him was transcribed to typewritten form and that the foregoing **is** a true and correct transcription of the testimony **so** given by him as aforesaid.

I do further certify that I am not counsel for or related to any of the parties involved in this action, nor am I interested in the outcome of this matter. Also I am an independent videotape reporter and not in the employ on a regular or full time basis of any of the parties involved in the aforesaid litigation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office to attest these facts to be true on this 11th day of November, 1994.

My Commission Expires:
Aug. 23, 1995

Tim Palcho Notary Public
and Videotape Reporter