
DEPOSITION OF KENNETH R. CALLAHAN, DDS

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CONDENSED TRANSCRIPT AND CONCORDANCE
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SCANNED

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(1) COURT OF COMMON PLEAS
CUYAHOGA COUNTY
(2) ---
(3) MARIE LIAPIS,)
(4) et al.,)
(5) Plaintiffs,)
(6) vs.) Case No. 254818
(7) ADELE CARAVELLA,)
(8))
Defendants.)
(9)
(10)
(11) ---
(12)
(13) Transcript of deposition of KENNETH R.
(14) CALLAHAN, D.D.S., Expert Witness herein, called by
(15) the Defendants as upon examination, pursuant to
(16) Subpoena and Agreement of Counsel, pursuant to the
(17) Ohio Rules of Civil Procedure, before Denise M.
(18) Andreotti, a Court Reporter and Notary Public
(19) within and for the State of Ohio on Wednesday,
(20) January 21, 1998, at the office of Kenneth R.
(21) Callahan, D.D.S., Southgate Medical Arts Building,
(22) Maple Heights, Ohio, commencing at 4:25 p.m. and
(23) concluding at 6:00 p.m.

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(24) APPEARANCES:
(25)
(2) Ellen McCarthy, Esq.
(3) Nurenberg, Plevin, Heller & McCarthy
(4) on behalf of the Plaintiffs;
(5) Stephen C. Merriam, Esq.
(6) Williams & Sennett Co., L.P.A.
(7) on behalf of Richard Harkins;
(8) Thomas J. Downs, Esq.
(9) Attorney-at-Law
(10) on behalf of Adele Caravella;
(11) Christopher J. Russ, Esq.
(12) Mazanec, Raskin & Ryder Co., L.P.A.
(13) on behalf of Sam Elkadi.
(14) ---
(15) Also present:
George Tackla, Videographer
(16) Tackla & Associates
(17)
(18)
(19)
(20)
(21)
(22)
(23)

(24)

(25)

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- (1) PROCEEDINGS
- (2) KENNETH R. CALLAHAN, D.D.S.
- (3) Expert Witness herein, called by the
- (4) Defendants as upon cross-examination, having
- (5) been first duly sworn, as hereinafter
- (6) certified, was examined and testified as
- (7) follows:
- (8) ---
- (9)
- DIRECT EXAMINATION OF KENNETH R. CALLAHAN, D.D.S.
- (10) BY MR. MERRIAM:
- (11) Q. Good afternoon, Doctor. Could you state
- (12) your full name for the record and spell your last
- (13) name, please.
- (14) A. My name is Kenneth Robert Callahan,
- (15) C-A-L-L-A-H-A-N.
- (16) MR. MERRIAM: Thank you,
- (17) Doctor. My name is Steve Merriam. I'm an
- (18) attorney with Williams & Sennett. I'm working
- (19) with Roger Williams on this matter. Our firm
- (20) represents Richard Harkins, one of the Defendants
- (21) in a case brought by Marie Liapis, et al. against
- (22) Adele Caravella and the other Defendants. This
- (23) matter is pending in a Cuyahoga County Court of
- (24) Common Pleas before Judge Eileen Gallagher.
- (25)

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- (1) BY MR. MERRIAM:
 (2) Q. Doctor, you've told us your name, could you
 (3) tell us your business location and the nature of
 (4) your business?
 (5) **A. I'm located at the Southgate Medical Arts**
 (6) **Building in Maple Heights. I do oral and**
 (7) **maxillofacial surgery.**
 (8) Q. Thank you, Doctor.
 (9) How long have you been located at this
 (10) address?
 (11) **A. I've been here for twenty-five years.**
 (12) Q. All right. Doctor, if you would, could you
 (13) summarize for the jury your educational and dental
 (14) training background, please.
 (15) **A. Yes. I am a graduate of St. Ignatius High**
 (16) **School, of John Carol University. I graduated**
 (17) **from Case Western Reserve University School of**
 (18) **Dentistry and then to the Graduate School of**
 (19) **Medicine at the University of Pennsylvania.**
 (20) **Internship and residency at Cleveland Metro**
 (21) **General Hospital, now called - at that time**
 (22) **called Cleveland City Hospital. After that time I**
 (23) **went into practice at West 25th and Lorain where I**
 (24) **remained until 1972 when I came out here to**
 (25) **Southgate.**

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- (1) Q. Doctor, how long have you been in the
 (2) private practice of dentistry?
 (3) **A. I've been oral and maxillofacial surgery**
 (4) **since - for thirty-nine years.**
 (5) Q. All right. And, of course, you're licensed
 (6) in the State of Ohio?
 (7) **A. I am, Mr. Merriam.**
 (8) Q. Do you have any hospital affiliations or
 (9) privileges?
 (10) **A. Yes. I teach at University Hospitals, I**
 (11) **teach the resident staff in oral and maxillofacial**
 (12) **surgery. I also do surgery at University**
 (13) **Hospitals. I'm former Chief of the Oral and**
 (14) **Maxillofacial Surgery Department at Marymount**
 (15) **Hospital and I occasionally go to Bedford and to**
 (16) **South Pointe Hospitals as well.**
 (17) Q. Thank you, Doctor.
 (18) Could you tell us some of the more
 (19) significant professional associations that you
 (20) belong to?
 (21) **A. I'm a diplomat of the American Board of the**
 (22) **Oral and Maxillofacial Surgeons. I'm a member of**
 (23) **our parent society which is the American Society**
 (24) **of Oral and Maxillofacial Surgeons. I also am a**
 (25) **member and past president of the Northeast Ohio**

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- (1) **Society of Oral and Maxillofacial Surgeons. I**
 (2) **belong to the Ohio and Great Lakes Societies of**
 (3) **the same and the American Dental Association.**
 (4) **I also have some honorary degrees. I'm a**
 (5) **fellow of the American College of Dentists, a**
 (6) **fellow of the International College of Dentists**
 (7) **and I've been teaching at Case Western Reserve**
 (8) **University and there's an honor associated with**
 (9) **that, certain teachers, which is called "Okay**
 (10) **You," which indicates that I must teach well or**
 (11) **long. One or the other.**
 (12) Q. Doctor, could you explain to the jury what
 (13) oral and maxillofacial surgery is all about? In
 (14) other words, in lay person's language, what that
 (15) means?
 (16) **A. Well, oral and maxillofacial surgery is**
 (17) **that branch of dentistry which deals with diseases**
 (18) **and injuries of their mouth, the jaws and their**
 (19) **associated structures.**
 (20) Q. And that would include problems with the
 (21) temporomandibular joint?
 (22) **A. That is correct; yes. It does,**
 (23) **Mr. Merriam.**
 (24) Q. Could you tell us about your experience and
 (25) background with that particular area of the jaw

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- (1) and the joint - the joint associated with the jaw
 (2) and tell us where that is.
 (3) **A. Well, I'll show you in a minute. Where's**
 (4) **my skull?**
 (5) MR. MERRIAM: I think we
 (6) left the model in the other room. Perhaps, we
 (7) could go off the record just for a moment and
 (8) retrieve it for a second. Thank you.
 (9) (A short break was taken)
 (10) MR. MERRIAM: Back on the
 (11) record, please.
 (12) **A. The temporomandibular joint is a ball and**
 (13) **socket joint which all of you can feel. It's in**
 (14) **front of your ear and when you open and close, you**
 (15) **will feel it rotating, and about 62 percent of you**
 (16) **will feel it clicking because that's the**
 (17) **percentage of adults who have clicking or popping**
 (18) **in the temporomandibular joint.**
 (19) **The ball and socket looks like this. This**
 (20) **is the ball. It's in the lower joint, the socket**
 (21) **is the upper joint. The ball rotates in the**
 (22) **socket like this and when you open very wide it**
 (23) **also slides down the little ramp. Between the**
 (24) **ball and the socket is a disc called a meniscus**
 (25) **which is a little cushion between the ball and the**

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- (1) socket. It's the joint which we move every time
 (2) we speak, every time we yawn and every time why
 (3) chew, but also every time we breathe so the joint
 (4) mechanism is in motion a great deal of our
 (5) adult – of all of our lives.
 (6) You had asked me about surgery, my
 (7) experience with surgery on it. I was one of the
 (8) pioneers in the area with Dr. Spilcovackonee,
 (9) (phonetic) middle fifties, one of the first people
 (10) to do surgical procedures on the ball and socket
 (11) joint in order to remove the meniscus or to repair
 (12) the meniscus. I did that at Lutheran Hospital
 (13) many years ago.
 (14) BY MR. MERRIAM:
 (15) Q. Do you presently do surgery in that area?
 (16) A. I do not any longer, Mr. Merriam. I do not
 (17) care to stand at an operating table that long.
 (18) Q. In recent years, Doctor, what has been the
 (19) focus of your practice then?
 (20) A. I do some exterior facial trauma, a lot of
 (21) jaw fractures and avulsed teeth and people that
 (22) are in bar fights who are talking when they should
 (23) be listening; but I do have some, do some facial
 (24) trauma, I do impacted wisdom teeth and diagnosis
 (25) of temporomandibular joint disorder.

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- (1) Q. All right. What is TMD?
 (2) A. It's an acronym which stands for
 (3) temporomandibular disorder. The TMJ that
 (4) everybody refers to is the joint, that's the
 (5) anatomic spot. So temporomandibular joint is TMJ.
 (6) The disease, and the disorder is called TMD.
 (7) Q. Okay. So rather than try to say that long
 (8) name, I'm going to be referring to TMD –
 (9) A. All right.
 (10) Q. – throughout the rest of your deposition.
 (11) Can you define what TMD is, how that shows up; the
 (12) type of symptoms you see?
 (13) A. Temporomandibular disorder manifests itself
 (14) in a cluster of symptoms. They include pain in
 (15) the ear, ringing in the ear, pain to open and
 (16) close, pain in – facial pain, frequently facial
 (17) pain, and pain sometimes to yawn, sometimes pain
 (18) to laugh, sometimes in all those cluster of
 (19) symptoms are other symptoms which by themselves
 (20) do
 (21) not designate the disorder like clicking or
 (22) popping. It affects a number of people. It
 (23) affects females in a ratio of 9 to 1 over males
 (24) for some reason which nobody is apparently aware.
 (25) Q. Doctor, what about sinus discomfort; is
 (26) that associated with TMD?

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- (1) A. No. Sinus discomfort is manifested usually
 (2) as pain underneath the eye and feeling of fullness
 (3) under the eye and above the upper teeth, upper
 (4) front teeth particularly, that's where sinus is
 (5) most unnoticeably symptomatic. Sometimes frontal
 (6) headaches, too.
 (7) Q. Doctor, in your experience does it occur
 (8) that instead of diagnosing TMD that a sinus
 (9) problem is diagnosed?
 (10) MS. McCARTHY: Objection.
 (11) A. Yes. That is a frequent misdiagnosis
 (12) because TMD is really one of the most frequently
 (13) misdiagnosed or misaccentuated diagnosis. Often,
 (14) you're not thinking of TMD and you're thinking of
 (15) something else. It's a great imposter disorder
 (16) because you could overlook it so often. What may
 (17) appear to be a sinus infection is actually a TMD
 (18) disorder.
 (19) Q. Doctor, is TMD caused by direct trauma to
 (20) the area?
 (21) A. It can be caused by direct trauma; yes.
 (22) Q. In your experience does it occur without
 (23) direct trauma to the facial area?
 (24) A. No. It doesn't, Mr. Merriam, and it's
 (25) been – there's so many new articles and new

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- (1) research in the area in our literature about the
 (2) causes of TMD and there's kind of a wide spread
 (3) consensus among the new authors. It suggests that
 (4) in the absence of direct trauma you do not get
 (5) temporomandibular joint disorder. In the absence
 (6) of being struck on the face or in the face or on
 (7) the chin or in the mouth you do not develop TMD.
 (8) There's one recent article published in
 (9) 1995 by Dr. Howard, et al. which suggests that in
 (10) a low velocity moving vehicle accident the trauma
 (11) to the temporomandibular joints is less than what
 (12) you'd ordinarily experience in chewing a tough
 (13) steak so we don't think that that trauma, in the
 (14) absence of direct injury, is any worse than a
 (15) sudden sneeze, uncontrolled yawn. I don't think
 (16) trauma causes it unless there's direct trauma.
 (17) MS. McCARTHY: Objection.
 (18) BY MR. MERRIAM:
 (19) Q. Well then, Doctor, a motor vehicle accident
 (20) resulting in simple whiplashes, it's caused, as
 (21) it's ordinarily called, would not be the type of
 (22) thing that would cause TMD; is that correct?
 (23) MS. McCARTHY: Objection.
 (24) A. That is correct, Mr. Merriam. And as a
 (25) matter of fact there's a guy by the name of

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- (1) Laskin, who is one of our international heroes who
- (2) published an article a couple years ago. He's the
- (3) editor of the journal, the Oral and Maxillofacial
- (4) Surgeon Journal. He examined the cervical
- (5) flexing/extension injury, the whiplash, of
- (6) one-hundred and fifty three patients and his
- (7) conclusions were that, no, well, there's obvious
- (8) whiplash and so annotated in the emergency room
- (9) they did not produce temporomandibular joint
- (10) disorder.
- (11) MS. McCARTHY: Objection.
- (12) **A. It doesn't do it.**
- (13) Q. Doctor, in your experience when someone is
- (14) involved if an accident would problems with the
- (15) joint, specifically TMD, would those problems
- (16) arise immediately or would you except somebody to
- (17) be reporting those problems weeks or months later?
- (18) MS. McCARTHY: Objection.
- (19) **A. In my experience of almost forty years of**
- (20) **dealing with patients in the emergency room,**
- (21) **patients who have suffered direct injuries to**
- (22) **their jaw joints, they have pain right away. The**
- (23) **reason for this, and I think you can all**
- (24) **understand this is this, if you hurt one of your**
- (25) **joints it hurts right away. If you've ever see a**

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- (1) **football player on your football screen who**
- (2) **injures one of his joints maybe the elbow the knee**
- (3) **or the ankle, he does not report that a month and**
- (4) **a half later. He rolls around the field and**
- (5) **everybody, the coaches, the viewers, the players**
- (6) **know that he has hurt one of his joints. This is**
- (7) **true of temporomandibular joint, as well. If you**
- (8) **hurt it in an accident, it hurts right away and**
- (9) **basically in the emergency room you say, oh, I**
- (10) **can't open my mouth. It should hurt right away,**
- (11) **but not - within the first seventy-two hours**
- (12) **anyway.**
- (13) Q. All right. Doctor, you've mentioned
- (14) various symptoms or signs of TMD such as the
- (15) headaches, sometimes sinus, sometimes ear pain and
- (16) ringing, facial pain; is there any correlation
- (17) between personal external stressors, parts of the
- (18) patient's personal life, and people getting this
- (19) type of disorder?
- (20) MS. McCARTHY: Objection.
- (21) **A. There is a strong consensus again among**
- (22) **authors and lectures on the subject that do a lot**
- (23) **of research suggesting that stress is a primary**
- (24) **source from which temporomandibular joint arises.**
- (25) **Stress produces a lot of parafunctional habits**

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- (1) **which do stretch the tendons and the ligaments,**
- (2) **and, yeah -**
- (3) Q. Doctor -
- (4) **A. - and psychosocial stresses have more to**
- (5) **do with it than anything.**
- (6) Q. Doctor, you mentioned certain habits para?
- (7) **A. Parafunctional habits. When people are**
- (8) **under stress they sometimes clench their teeth and**
- (9) **their jaws not knowing it and doing that you**
- (10) **stretch the tendons and ligaments beyond their**
- (11) **elastic limits.**
- (12) Q. Doctor, when you take a history from a
- (13) patient complaining of symptoms that suggest TMD
- (14) do you ask about their personal life and the types
- (15) of things that may cause them to have that sort of
- (16) array of external stressors affecting them?
- (17) **A. Sometimes I will; yes, Mr. Merriam.**
- (18) Q. Did you examine the Plaintiff, Marie
- (19) Liapis, in this case?
- (20) **A. I did, Mr. Merriam.**
- (21) Q. And when did that examination take place?
- (22) **A. That took place in my office on October the**
- (23) **7th of 1994.**
- (24) Q. And did you produce a written report
- (25) regarding your examination including your

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- (1) conclusions and opinions?
- (2) **A. I did, Mr. Merriam; yes.**
- (3) Q. And what is the date of that report,
- (4) Doctor?
- (5) **A. November 7th, 1994.**
- (6) Q. Now, you're holding a copy of that report
- (7) marked as Exhibit A; is that correct, Doctor?
- (8) **A. Yes. That's correct.**
- (9) Q. All right. And it's certainly permissible
- (10) for you to refer to that report or any of your
- (11) file while I continue to question you about this
- (12) particular case, Doctor.
- (13) **A. Okay.**
- (14) Q. Where did you examine the Plaintiff in this
- (15) case?
- (16) **A. It was in my office.**
- (17) Q. Okay. Was that prior to her having any
- (18) surgery?
- (19) **A. Yes, yes.**
- (20) Q. Okay. Doctor, did you begin your session
- (21) with her on October 7, 1994 by taking a history?
- (22) **A. I did.**
- (23) Q. And referring to your records as well as
- (24) your report marked as Exhibit A, what did the
- (25) history you took reveal regarding this particular

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(1) individual?
 (2) A. Ms. Liapis stated that she was involved in
 (3) a moving vehicle accident which took place on May
 (4) 9, 1993. She was the driver. She was restrained
 (5) with both lap and shoulder seat belts. At the
 (6) time of my examination – excuse me – she stated
 (7) that she suffered injuries to her neck, shoulder
 (8) and back. She denies having suffered any cuts,
 (9) lacerations or bruises, and she did not strike any
 (10) object on the inside of the automobile. She had
 (11) no direct trauma. I said did you strike your face
 (12) or jaw and she said, oh, no, I had a seat belt on.
 (13) She drove home.
 (14) Later she presented herself to the
 (15) emergency room at Fairview Hospital and her chief
 (16) complaints at that time were those of pain and
 (17) discomfort in the back, shoulder, neck and lower
 (18) back. I asked her if she had any discomfort with
 (19) her jaw joint when she went to the emergency room
 (20) and she said no; and this is corroborated by the
 (21) emergency room report which says there's no – she
 (22) made no complaint of jaw or facial or pain, facial
 (23) or jaw injury. She later on went to the office of
 (24) her personal physician, Dr. Fitch, who
 recommended
 (25) physical therapy.

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(1) Two and a half months later she made her
 (2) first presentation to Dentist James Moodt, in
 (3) regard to jaw complaints. She states she went
 (4) there because, quote, my jaws were clicking when I
 (5) opened wide. I pointed out to Ms. Liapis that
 (6) indeed jaw clicking is not really very important.
 (7) It is as much as 62 percent of us have it at any
 (8) given time. She says that Dr. Moodt made a bite
 (9) splint for her which she wore during sleep hours
 (10) thereafter. She said it was made a little bit
 (11) better, but she said by that time her complaint
 (12) was not just clicking but numbness. The numbness
 (13) was on the left face. I do not know the source of
 (14) the numbness because numbness is not and never
 has
 (15) been a symptom of TMD. I don't know why she has
 (16) the numbness, but...
 (17) Q. Doctor, before you get on to the second
 (18) accident, let me ask you a question or two about
 (19) what you have said so far.
 (20) The first page of your report refers to the
 (21) first accident being in 1991, but you mentioned
 (22) 1993; is there a typographical error in your
 (23) report?
 (24) A. Yes. It's the other way around. I said it
 (25) was in 1991, it was 1993. It's a typo that the

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(1) secretarial service made, a typographical error.
 (2) 1993; yes.
 (3) Q. That May 9th, 1993 accident, I'll refer to
 (4) as the first accident on some of my subsequent
 (5) questions.
 (6) On the second page there's a reference to
 (7) two and a half months before she presented any
 (8) complaints of TMD problems, in further reviewing
 (9) the records is that two and a half months
 (10) reference accurate?
 (11) A. She made some reference to jaw discomfort
 (12) one and a half months later. She first presented
 (13) for treatment to Dr. James Moodt two and a half
 (14) months later.
 (15) Q. Well, Doctor, is there any significance as
 (16) to whether it was six weeks or two and a half
 (17) months after the accident before she first made
 (18) any complaints about TMD problems?
 (19) MS. McCARTHY: Objection.
 (20) A. No. No; there's no significance,
 (21) Mr. Merriam, but the important thing is that if
 (22) she didn't report complaints within the first
 (23) seventy-two hours then I do not believe it's
 (24) accident-related. As I told you about the
 (25) football players, when you hurt your elbow you

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(1) know the moment you hurt it; when you hurt your
 (2) knee you know the moment you hurt it. So whether
 (3) you report it six weeks later or two and a half
 (4) months later, ten weeks later, it doesn't make any
 (5) difference; no.
 (6) Q. Okay. Doctor, getting back to your history
 (7) I think you were at the point where you were going
 (8) to go into the paragraph about the November 19th,
 (9) 1993 accident involving my client.
 (10) A. This is an accident which Ms. Liapis
 (11) reported to me which happened indeed on
 November
 (12) the 19, of '93. Once again she was completely
 (13) restrained with the seat and with a seat belt
 (14) shoulder harness. Again she denies having struck
 (15) any object of the inside of the automobile and she
 (16) did not suffer any cuts, lacerations or bruises.
 (17) Dr. Moodt told her and Dr. Fitch told her
 (18) that she had somehow aggravated the injury, and
 (19) she believes that her jaw symptoms expanded to
 (20) include pain upon the act of chewing and headaches
 (21) which had expanded before that had now
 (22) deteriorated; and she finished by saying in her
 (23) history that as long as she's able to wear the
 (24) bite splint that the jaw is stable, but she was
 (25) planning on having arthroscopic surgery done on

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- (1) **the both temporomandibular joints and it's my**
 (2) **understanding that Dr. Michael Hauser did, indeed,**
 (3) **do arthroscopic surgery after my examination.**
 (4) Q. Doctor, did she report to you any direct
 (5) trauma to her face as a result of either the first
 (6) accident on May 9th, 1993 or the second accident
 (7) on November 19th, 1993?
 (8) MS. McCARTHY: Objection.
 (9) **A. She did not report any direct trauma and**
 (10) **she specifically denied any direct trauma to any**
 (11) **part of her face or neck – or, excuse me – face**
 (12) **or head in either one of the accidents, Mr.**
 (13) **Merriam.**
 (14) Q. All right. Doctor, did she, in giving you
 (15) the history about her condition prior to the first
 (16) accident, mention anything about prior headaches?
 (17) **A. I don't think she did, but it is in her**
 (18) **history that she has had headaches in the past.**
 (19) Q. Well, maybe I'm getting ahead to the
 (20) records that you reviewed.
 (21) **A. All right.**
 (22) Q. So I'll save you those questions for a
 (23) little bit later. I guess that leads me to the
 (24) part of your report on page two that is about the
 (25) records and charts that you reviewed as part of

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- (1) your examination, could you summarize for the jury
 (2) what records and films and so forth you looked at?
 (3) **A. I looked at all the charts of Dr. Fitch,**
 (4) **her personal physician and the charts from**
 (5) **St. John's West Shore Hospital dealing with an**
 (6) **accident in which she was involved in September of**
 (7) **1986 and her charts, Dr. Moodt's charts, her prior**
 (8) **dentist charts and –**
 (9) Q. Did you also look at the emergency room?
 (10) **A. And the emergency room report.**
 (11) Q. Okay. Did you look at – did the
 (12) information you looked at include information on
 (13) MRI?
 (14) **A. She has an MRI report which was taken in**
 (15) **April of 1994.**
 (16) Q. Okay. And also Dr. Moodt's commentary on
 (17) the tomogrome – excuse me – tomograms?
 (18) **A. Yes. That's in Dr. Moodt's letters; yes.**
 (19) Q. Doctor, now referring to your report as
 (20) well as your recollection, what was significant
 (21) about the records you reviewed pertaining to this
 (22) individual?
 (23) **A. Ms. Liapis was involved in a previous MVA**
 (24) **which I mentioned took place in September of 1986,**
 (25) **well before.**

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- (1) Q. By MVA do you –
 (2) **A. A motor vehicle accident; yes.**
 (3) Q. Okay.
 (4) **A. That was she suffered direct injury to her**
 (5) **face in that accident. She struck her face**
 (6) **against the inside of the automobile, and as a**
 (7) **result of that she was left with a residual and**
 (8) **persistent, dull ache in the right shoulder,**
 (9) **shooting pain in the left cervical area, the neck**
 (10) **area and chronic neck pain. She was being treated**
 (11) **as late as July of '87 for that disorder.**
 (12) It also – at that time she complained of shoulder
 (13) numbness, chronic neck pain and difficulty driving
 (14) the automobile and that was back in '86.
 (15) Q. Okay. Did those records indicate anything
 (16) about headaches or sinus problems? And I'm
 (17) referring to Section B on top of page three of
 (18) your report?
 (19) **A. In her prior charts from St. John's West**
 (20) **Shore Hospital she listed headaches going back to**
 (21) **1987. She had complained – she had been to a**
 (22) **weight control clinic and she complained of**
 (23) **persistent headaches at that time, and in fact**
 (24) **headaches are listed as one of her physical**
 (25) **problems on virtually every one of her charts**

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- (1) **throughout the spring of 1987. She listed the**
 (2) **headaches at one time as being sinus-related, and**
 (3) **she eventually had headaches so severe, this was**
 (4) **back in '87, that they were awakening her at**
 (5) **night. She described her headaches to a**
 (6) **physician, Dr. Howard Levine, as being in the**
 (7) **right face and cheek area.**
 (8) **Again, I think – I had first thought these**
 (9) **belonged to the paranasal sinus – these were**
 (10) **sinus headaches, but that didn't turn out to be**
 (11) **the case. Dr. Levine's examination and x-rays of**
 (12) **paranasal sinuses on 1-6-93 show that she had**
 (13) **normal sinuses.**
 (14) Q. Do those records indicate any complaint of
 (15) facial pain or ear pain prior to either of the two
 (16) accidents that I mentioned?
 (17) **A. Yes, Mr. Merriam. Dr. Fitch noted on March**
 (18) **20th, '92, a year before the three accidents that**
 (19) **the patient had pain in her face and on 12-8-92**
 (20) **she complained of, quote, her ears hurt and again**
 (21) **in January of '93, she complained she had facial**
 (22) **pain and ears hurting. She complained of facial**
 (23) **pain after her two accidents, but she had**
 (24) **complaint of facial pain many times before her**
 (25) **accidents. She attributed the pain before her**

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- (1) accidents to sinus problems, but there is good
 (2) evidence that she didn't have sinus problems
 (3) because Howard Levine examined her and she had
 (4) didn't have sinusitis.
 (5) MS. McCARTHY: Objection.
 (6) A. So I think the pain in the ears is strongly
 (7) suggestive of chronic temporomandibular joint
 (8) disorder going back to the, until 1987 at least.
 (9) I think she has this disorder well before any of
 (10) the moving vehicle accidents.
 (11) Q. Doctor, do the records reflect that she had
 (12) complained about clicking in her jaw prior to the
 (13) accidents we're talking about?
 (14) A. I don't know that there's any mention of
 (15) clicking prior to these.
 (16) Q. Well, on page three, Section C you were
 (17) mentioning Dr. Fitch's reports or - excuse me -
 (18) documents from 1993. I guess in June of 1993; do
 (19) you see where I'm referring to in your report?
 (20) A. Yeah. Clicking was noted in June, but no
 (21) other symptoms.
 (22) Q. So this would be prior to the accidents
 (23) that we're talking about in this case?
 (24) A. No. This would be after the first of the
 (25) three accidents so May of '93.

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- (1) Q. All right. But prior to the one involving
 (2) my client?
 (3) A. Yes.
 (4) Q. Doctor, further on in your discussion of
 (5) what you reviewed, you refer to an MRI examination
 (6) in April of 1994. Before I asked you about that
 (7) could you tell the jury what an MRI is so we know
 (8) what you're referring to here.
 (9) A. MRI is again an acronym which stands for
 (10) magnetic resonance imaging. It is a non-evasive
 (11) peak at some area in your body. In this case the
 (12) temporomandibular joint which produces an image,
 (13) but when I say non-evasive it's not like cutting
 (14) in there to look in there. And it's not like
 (15) you're using x-rays which you don't like to use
 (16) x-rays because they could be destructive to cells.
 (17) An MRI is not destructive at all, but it's a look
 (18) at some internal portion of the body.
 (19) In this case the MRI was done on
 (20) Ms. Liapis's temporomandibular joints and they
 (21) showed normal temporomandibular joints on both
 (22) sides. That was in April of 1994.
 (23) Q. So that was after the accident. You've
 (24) also referred to tomograms taken by Dr. Moodt in
 (25) July of 1993?

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- (1) A. Yes.
 (2) Q. What did the documentation pertaining to
 (3) those and any letters or reports by Dr. Moodt
 (4) indicate?
 (5) A. Dr. Moodt took tomograms of Ms. Liapis's
 (6) temporomandibular joints in July of '93, and these
 (7) are significant. This is important because he
 (8) said in a letter to Dr. Murphy, he comments on his
 (9) own tomograms. He says, quote, there is no
 (10) question that these radiographs, that means these
 (11) x-rays, do suggest the development of some
 (12) arthritic change within the temporomandibular
 (13) joints certainly would have predated her initial
 (14) accident. See, could have predated the accident
 (15) of May of 1993. Arthritic changes which Dr. Moodt
 (16) has seen in his tomogram take years to develop,
 (17) take years to develop, so I presume they have been
 (18) that - arthritic change has been there for a long
 (19) time. My own x-rays show arthritic changes as
 (20) well in the left temporomandibular joint so again
 (21) I have to presume that those arthritic changes
 (22) predated all three of the accidents by years.
 (23) Q. Thank you, Doctor.
 (24) Comparing tomograms to MRIs, which would
 (25) say is a better way to evaluate a potential TMD

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- (1) problem?
 (2) A. They're both pretty good. I think MRI is
 (3) better, but both of them are pretty accurate.
 (4) They're better than trying to just take a regular
 (5) x-ray. Yeah, I think MRI is probably considered
 (6) the gold standard, the best you could do.
 (7) Q. But tomogram is certainly accepted -
 (8) A. A tomogram is very good.
 (9) Q. - in your field of specialty as a proper
 (10) way for evaluating and diagnosing TMD problems?
 (11) A. Yes.
 (12) Q. Okay. Doctor, the next section of your
 (13) report refers to oral regional and radiographic
 (14) examination, could you explain just in general
 (15) terms for the jury the type of examination you
 (16) give and specifically gave this individual kind of
 (17) braking it down by those three areas and also
 (18) explaining what the results were.
 (19) A. My examination ordinarily consists looking
 (20) at the bite, looking at the occlusion, then asking
 (21) the patient to open to see if the jaw deviates to
 (22) the right or the left and then palpating the
 (23) muscles of mastication, that is the chewing
 (24) muscles to see whether those are tendred. There's
 (25) four of those muscles. Then you measure the

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- (1) opening with a little measuring stick, you know,
- (2) how wide can you open. Normal is on females is
- (3) maybe thirty to forty-five millimeters. Then you
- (4) measure how far they could go to the left, to the
- (5) right and out to the front and can they do that
- (6) without pain, can they reach normal limits without
- (7) pain, then you listen for clicks, then you palpate
- (8) for popping with your fingers and then you palpate
- (9) the areas around the external joint and you've
- (10) made a pretty good physical examination.
- (11) Q. Doctor, you've mentioned previously that
- (12) you took x-rays. I believe they were Panorex
- (13) x-rays at the time –
- (14) A. Yes.
- (15) Q. – you examined this individual.
- (16) A. Yes. I have that Panorex here.
- (17) Q. Do those x-rays confirm what Dr. Moodt had
- (18) indicated in his letter to Dr. Murphy that being
- (19) the existence of osteoarthritic changes in both
- (20) joints?
- (21) A. Absolutely. And Ms. Liapis has
- (22) osteoarthritic changes particularly in the left
- (23) and it's evident on my x-ray; yes.
- (24) Q. Okay.
- (25) A. And they take long years for any arthritis

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- (1) to develop as you know.
- (2) Q. Doctor, if you could just summarize for the
- (3) jury what your examination of this Plaintiff
- (4) indicated.
- (5) A. When she opened she was able to reach
- (6) thirty-eight millimeters which is within normal
- (7) limits, but she did a lot of guarding, that is
- (8) moving, so that she didn't want to open very much;
- (9) and the muscles of mastication, she had some
- (10) tenderness in the left muscles and I listened for
- (11) clicks. I didn't hear any because she didn't open
- (12) really wide enough to hear a click, but that isn't
- (13) significant. Clicks aren't significant anyway
- (14) unless they're associated with a lot of other
- (15) cluster symptoms. She was having, summarily she
- (16) was having some temporomandibular joint
- (17) discomfort
- (18) and pain on the left side when I examined her.
- (19) Q. Okay. Doctor, in your discussion section
- (20) of your report you mention that some TMD patients
- (21) cope well and some do not; did I accurately quote
- (22) your report?
- (23) A. Yes. I think some patients tolerate minor
- (24) discomfort and the little ups and downs of life
- (25) better than others; yes.
- (26) Q. Doctor, based on the history you took from

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- (1) this individual, the review of the reports, your
- (2) examination, how is this particular individual
- (3) coping –
- (4) MS. McCARTHY: Objection.
- (5) Q. – with the symptoms that she's complained
- (6) of?
- (7) MS. McCARTHY: Objection.
- (8) A. I think she visited doctors more frequently
- (9) than other patients might have done. I think her
- (10) numbers of treatments were considered to be more
- (11) than others might have done. I think that even
- (12) prior to her MVAs she saw Dr. Fitch for a number
- (13) of things, numbness in the shoulders, numbness in
- (14) the hand, numbness – pain in the ankle, pain in
- (15) the shoulder, but things that are – she had a lot
- (16) of somatic complaints over a period of years.
- (17) Q. What do you mean by somatic?
- (18) MS. McCARTHY: Objection.
- (19) A. Bodily complaints of...
- (20) Q. Doctor, you indicate in your report that
- (21) you would put her in the category of a chronic
- (22) pain patient, could you explain that to us.
- (23) A. She had a number of anatomic areas in which
- (24) she complained frequently as some people do.
- (25) Q. Okay. Doctor, I'm going to ask you a

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- (1) series of questions all of which I'd like you to
- (2) answer with a reasonable degree of medical
- (3) certainty and based on your education, your
- (4) training, your experience, the history you took
- (5) from this individual as well as the records that
- (6) you have reviewed.
- (7) First of all, I want to ask you to a
- (8) reasonable degree of medical certainty based on
- (9) all those things whether this individual had
- (10) chronic temporomandibular disorder prior to either
- (11) the May 9th, '93 accident or the November 19th,
- (12) '93 accident involving my client?
- (13) MS. McCARTHY: Objection.
- (14) A. Mr. Merriam, I believe strongly that
- (15) Ms. Liapis has had chronic temporomandibular joint
- (16) disorder for many years prior to any of the three
- (17) motor vehicle accidents. The three recent ones.
- (18) Q. Doctor, would you summarize for the jury
- (19) the basis of that opinion.
- (20) MS. McCARTHY: Objection.
- (21) A. She had a number of symptoms prior to 1993
- (22) including episodes of facial pain, ear pain, pain
- (23) behind the eyes and headaches all of which suggest
- (24) a cluster of symptoms which would suggest
- (25) temporomandibular joint and they're all in her

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- (1) **charts going back to the late '80s and early '90s.**
 (2) Q. Do you also base your opinion on the fact
 (3) that the radiographic evidence shows
 (4) osteoarthritic changes?
 (5) MS. McCARTHY: Objection.
 (6) **A. Both by Dr. Moodt and by my own x-rays**
 (7) **shows she has osteoarthritic changes which take a**
 (8) **long timing to develop which would suggest that**
 (9) **she has temporomandibular joint disorder for many**
 (10) **years prior to 1993. Perhaps beginning with her**
 (11) **auto accident in 1986 or perhaps because of the**
 (12) **various stresses of her life, but she's had it for**
 (13) **a long time prior to the accident.**
 (14) MS. McCARTHY: Objection.
 (15) Q. Based on that, your last comment there, I
 (16) would assume the prior accident in 1986 where
 (17) there was direct contact with the face is also
 (18) part of the basis of your opinion?
 (19) MS. McCARTHY: Objection.
 (20) **A. That is right, Mr. Merriam. You need to**
 (21) **strike your face in order to produce**
 (22) **temporomandibular joint disorder as a result of**
 (23) **trauma. She has not in any of the three**
 (24) **subsequent accidents, in the '93, '94 time, she**
 (25) **did not strike her face any time.**

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- (1) **In 1986, in that accident, she did strike**
 (2) **her face and thereafter she starts talking about**
 (3) **jaw pain – excuse me – about facial pain, about**
 (4) **ear pain and about headaches and then I imagine**
 (5) **that's when she began to have the osteoarthritic**
 (6) **changes in the joint, which are evident in both**
 (7) **Dr. Moodt's x-rays and in my x-rays.**
 (8) Q. Thank you, Doctor.
 (9) Again to a reasonable degree of medical
 (10) certainty do you have an opinion as to the
 (11) reasonableness of the treatment she had received
 (12) up until the point you saw her?
 (13) MS. McCARTHY: Objection.
 (14) **A. Yes. I think all of her treatment was**
 (15) **reasonable. Dr. Moodt made a bite splint for her**
 (16) **which is the ordinary treatment. Sometimes**
 (17) **makes – most frequently makes patients improve.**
 (18) **If that doesn't make patients improve then you**
 (19) **have arthroscopic surgery which it is my**
 (20) **understanding she had done by Dr. Hauser. Yeah;**
 (21) **treatment is within normal limits; yes.**
 (22) Q. Doctor, do you have an opinion as to
 (23) whether the treatment was proximately caused by
 (24) either of the two motor vehicle accidents or the
 (25) need for that treatment was proximately caused by

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- (1) either of the two motor vehicle accidents that
 (2) we've mentioned?
 (3) MS. McCARTHY: Objection.
 (4) **A. Yes; I have such an opinion, Mr. Merriam.**
 (5) **The need for treatments arose from her**
 (6) **longstanding temporomandibular joint disorder, her**
 (7) **longstanding joint disorder as I've just**
 (8) **explained. Not from any of the motor vehicle**
 (9) **accidents.**
 (10) Q. All right. Doctor, do you have an opinion
 (11) again to a reasonable degree of medical certainty
 (12) and based on all the things that I previously
 (13) listed as to her prognosis for the future?
 (14) MS. McCARTHY: Objection.
 (15) **A. Understand that I have not seen her from**
 (16) **1994. It's hard for me to make a definitive**
 (17) **prognosis, but based on from what I've been told I**
 (18) **would think that after she's had jaw joint**
 (19) **surgeries and treatment, I think her prognosis in**
 (20) **my experience is pretty good. You have patients**
 (21) **who get better, that do not continue to have**
 (22) **temporomandibular joint all their lives, the joint**
 (23) **disorder. They get better after such treatment.**
 (24) **It's the reason for such treatment really.**
 (25) Q. Okay. And, finally, Doctor, do you have an

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- (1) opinion regarding any claim of permanent problems
 (2) that she may be relating to the accident involving
 (3) my client or the one before that?
 (4) MS. McCARTHY: Objection.
 (5) **A. My own view and that is after proper bite**
 (6) **splint therapy and arthroscopic and/or open**
 (7) **surgery patients get better, but we do know that**
 (8) **they do not have longstanding, permanent**
 (9) **disability because the jaw remodels.**
 (10) **Eventually, jaws remodel and as I've**
 (11) **mentioned before you have patients – a lot of**
 (12) **studies were done on patients in nursing homes,**
 (13) **for example, who complain about everything, but**
 (14) **not temporomandibular disorders; so where did it**
 (15) **go? They had it, an awful lot of people had it**
 (16) **when they are young, and it eventually does**
 (17) **dissipates. And this had been brought out by a**
 (18) **number of articles to see that eventually it is a**
 (19) **self-limiting disorder.**
 (20) MR. MERRIAM: Thank you,
 (21) Doctor. I don't have any further questions for
 (22) you right now.
 (23) MS. McCARTHY: Off the
 (24) record.
 (25) (A short break was taken)

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(1) ---

(2)

CROSS-EXAMINATION OF KENNETH R. CALLAHAN, D.D.S.

(3) BY MS. MCCARTHY:

(4) Q. Doctor, my name is Ellen McCarthy, and I

(5) along with Leon Plevin represent the Liapis's in

(6) this action. I have some questions for you.

(7) And I suppose, first of all, Doctor, is it

(8) your opinion that when you saw this woman at the

(9) request of one of the Defendants in October of

(10) 1994 she had dysfunction of the temporomandibular

(11) joint?

(12) **A. It is; yes.**

(13) Q. All right. No doubt in your mind about

(14) that when you saw her she was in dysfunction?

(15) **A. Yes. That's true.**

(16) Q. All right. Now, could you and I agree that

(17) dysfunction of the temporomandibular joints can be

(18) a very painful condition?

(19) **A. Oh, yes.**

(20) Q. Is it a functionally, limiting condition?

(21) **A. Well, there's all different gradencies to**(22) **it, but full-blown temporomandibular joint**(23) **disorder is functionally limiting, yes; and**(24) **painful.**

(25) Q. It can be a permanent injury, can it not,

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(1) Q. All right. Now, in terms of the first part

(2) of your opinion that she had symptoms in 1986, '88

(3) or thereabouts associated with temporomandibular

(4) joint dysfunction.

(5) **A. Yes.**

(6) Q. Where did you get that information and when

(7) did you get it?

(8) **A. Well, I got the information from her charts**(9) **and I received that sometime either prior to or**(10) **after my independent medical examination. I never**(11) **look at charts until I do the examination.**

(12) Q. Did you receive the medical records

(13) associated with her 1986 automobile accident two

(14) days ago?

(15) **A. I have prior records from St. John's West**(16) **Shore in this chart. I received the full set two**(17) **days ago, but I had -- it turned out I read prior**(18) **to that.**

(19) Q. Doctor, you would agree that facial pain,

(20) pain behind the eyes and headaches are complaints

(21) consistent with a sinus problem or sinus

(22) infection; would you not?

(23) **A. Yes.**

(24) Q. All right. Now, your function in this case

(25) was just to see this woman one time, review some

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(1) or permanent problem?

(2) **A. Well, again, this is a kind of disputed**(3) **point. Without treatment it may be a longstanding**(4) **disorder.**

(5) Q. Can it be a longstanding disorder even with

(6) treatment?

(7) **A. Yes.**

(8) Q. That was your opinion in October of 1994;

(9) is that right?

(10) **A. What was?**

(11) Q. All of those things? You had that opinion

(12) or those ideas in mind in October of 1994?

(13) **A. Yes.**

(14) Q. All right. As I understand it, Doctor, you

(15) base the opinion that Ms. Liapis had

(16) temporomandibular joint dysfunction on, I believe,

(17) three things. The first one being that in

(18) sometime in the late '80s she had a variety of

(19) symptoms that you associate with temporomandibular

(20) joint dysfunction; is that correct?

(21) **A. Yes.**

(22) Q. All right. Now, you also base that opinion

(23) on the fact that she shows osteoarthritic changes

(24) in her x-rays; is that correct?

(25) **A. Yes.**

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(1) records, arrive at some conclusions and if

(2) necessary testify about those conclusions; is that

(3) correct?

(4) **A. That is correct.**

(5) Q. All right. And in doing that task it's

(6) important for you to thoroughly review the records

(7) that you were provided; correct?

(8) **A. That is correct.**

(9) Q. It's important to be accurate with respect

(10) to the facts that you were not only familiar with

(11) the patient, but from your review of all the

(12) medical records you were provided; correct?

(13) **A. Yes. That is correct.**

(14) Q. And it's important to be fair in terms of

(15) your opinions; correct?

(16) **A. Oh, sure.**

(17) Q. Now, you didn't have any intention of

(18) providing this woman with dental care; did you?

(19) **A. No.**

(20) Q. How many times a year do you see people

(21) like Ms. Liapis for this one-time evaluation and

(22) records review?

(23) **A. As you know I see patients both -- on both**(24) **sides, Plaintiffs as well as Defense patients.**(25) **Perhaps twenty per year.**

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- (1) Q. Maybe I didn't phrase my question
- (2) correctly.
- (3) On how many occasions do you do these
- (4) independent medical examinations per year?
- (5) **A. Well, I think whatever – I don't keep**
- (6) **close track of that, Ms. McCarthy, but I think on**
- (7) **the Discovery deposition I said around twenty or**
- (8) **twenty four; something like that.**
- (9) MS. McCARTHY: Let's go off
- (10) the record for a minute.
- (11) (A short break was taken)
- (12) BY MS. McCARTHY:
- (13) Q. Okay. Doctor, I think in the time I took
- (14) your Discovery deposition on Monday, you told me
- (15) you do about three a month which by my math is
- (16) thirty six a year; would you quibble with that?
- (17) **A. Probably a little high, but again I don't**
- (18) **keep accurate records on that.**
- (19) Q. What do you charge, Doctor, for the
- (20) examination of the patient as distinct from
- (21) sitting down and analyzing the medical records and
- (22) actually writing a report?
- (23) **A. The charge for the examination is pretty**
- (24) **much standard assigned by which considered**
- (25) **usually**
- (26) **customary and reasonable in Northeast Ohio and**

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- (1) **that is someplace around \$50 for the examination**
- (2) **and someplace around \$50 for the Panorex x-ray.**
- (3) Q. And how much do you charge, Doctor, for the
- (4) review of the records and generating a report
- (5) setting forth your opinions?
- (6) **A. It depends. If it's a very short chart, I**
- (7) **charge I suppose by the hour, it's a very short**
- (8) **letter of one page or two pages, I suppose then it**
- (9) **would take you a half hour or forty-five minutes,**
- (10) **an hour maybe, that would be maybe \$200. A longer**
- (11) **report would be maybe more like \$400.**
- (12) Q. \$400 for the report or \$400 an hour?
- (13) **A. No, no. \$400 for the report plus the**
- (14) **typing costs, plus the exam costs.**
- (15) Q. So you wrote a seven-page report on
- (16) Ms. Liapis in your review of what you call
- (17) voluminous records, what did that cost?
- (18) **A. I'm sorry. I don't have that record,**
- (19) **Ms. McCarthy.**
- (20) Q. Well, based on –
- (21) **A. That was back in 1994. I don't keep**
- (22) **records.**
- (23) Q. Well, based on your experience, Doctor,
- (24) what would you except for that type of work to
- (25) have cost?

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- (1) **A. It's a long report, it took me two nights.**
- (2) **I suppose \$400 or \$500 total.**
- (3) Q. And your charge for testifying by the hour
- (4) is what, Doctor?
- (5) **A. \$225.**
- (6) Q. You don't treat disorders of the
- (7) temporomandibular joint beyond medication and diet
- (8) advice; is that right?
- (9) **A. That is true. If they need bite splints I**
- (10) **send them to a colleague in the building here. If**
- (11) **they need surgery then I send them down to the**
- (12) **University Hospitals to Dr. Goldberg.**
- (13) Q. You have not operated as an attending
- (14) surgeon on the temporomandibular joint since the
- (15) 1960s; is that correct?
- (16) **A. As the first operator, that is correct;**
- (17) **no, I haven't.**
- (18) Q. If you have a patient with a
- (19) temporomandibular joint problem who needs
- (20) treatment, you send that patient out to
- (21) specialists so that patient gets the very best
- (22) care for their temporomandibular joint; is that
- (23) right?
- (24) **A. Yes. I explained that I don't want to**
- (25) **stand at a table that long anymore.**

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- (1) Q. Sure. In the past, Doctor, you have
- (2) referred patients of your own to Dr. Michael
- (3) Hauser at Mt. Sinai Medical Center; haven't you?
- (4) **A. Yes.**
- (5) Q. And you were aware that Ms. Liapis was a
- (6) patient of Dr. Hauser's; right?
- (7) **A. Yes.**
- (8) Q. Now, Dr. Hauser not only has a dental
- (9) degree but has a medical degree as well; is that
- (10) correct?
- (11) **A. That is correct.**
- (12) Q. All right. You would acknowledge that he
- (13) is a highly skilled and highly regarded
- (14) temporomandibular joint surgeon in this community;
- (15) wouldn't you?
- (16) **A. Yes.**
- (17) Q. All right. And because he is so highly
- (18) regarded and so highly skilled you send patients
- (19) of your own to him for evaluation and treatment if
- (20) necessary; correct?
- (21) **A. I just said that; yes.**
- (22) Q. Now, you don't consider yourself an expert
- (23) in the surgical management of temporomandibular
- (24) joints at this point; do you?
- (25) **A. No.**

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- (1) Q. Would you defer to Dr. Hauser as to whether
- (2) Ms. Liapis developed temporomandibular joint
- (3) disorder as the result of the May 1993 accident?
- (4) MR. DOWNS: Objection.
- (5) MR. MERRIAM: Objection.
- (6) **A. No. I wouldn't because we're talking about**
- (7) **causation. You're talking about surgical**
- (8) **technique.**
- (9) BY MS. McCARTHY:
- (10) Q. All right. Well, you understand
- (11) Dr. Hauser's opinion to be that the accidents that
- (12) issue in this case caused the problems he
- (13) diagnosed and treated her for, right?
- (14) MR. DOWNS: Objection.
- (15) MR. MERRIAM: Objection.
- (16) **A. That may be his opinion. That is not my**
- (17) **opinion.**
- (18) BY MS. McCARTHY:
- (19) Q. When I was here on Monday, Doctor, you gave
- (20) me a number of items that caused temporomandibular
- (21) joint dysfunction and I'd like to run through
- (22) those with you so that I'm correct.
- (23) You talked about bruxing or grinding as
- (24) being a cause?
- (25) **A. Yes.**

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- (1) Q. Clenching?
- (2) **A. Yes.**
- (3) Q. Gum chewing?
- (4) **A. Yes.**
- (5) Q. Chin-to-shoulder telephone use?
- (6) **A. These are – you asked for all the list of**
- (7) **all of, yes, the causes.**
- (8) Q. Okay. I'd like to go through them.
- (9) **A. All right.**
- (10) Q. Singing?
- (11) **A. Singing, vocals.**
- (12) Q. Violin playing?
- (13) **A. Uh-huh.**
- (14) Q. Is that a "yes"?
- (15) **A. That's a yes.**
- (16) Q. Sudden uncontrolled sneezing or yawning?
- (17) **A. Yes.**
- (18) Q. Opening too wide to eat a sub sandwich?
- (19) **A. Yes.**
- (20) Q. And direct injury to the jaw; is that
- (21) right?
- (22) **A. And stress.**
- (23) Q. Well, actually I think you didn't really
- (24) say stress was causative. You said stress leads
- (25) to bruxing and clicking?

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- (1) **A. Stress itself is causative.**
- (2) Q. Is that something different than causative
- (3) of bruxing and clenching?
- (4) **A. Yes.**
- (5) Q. All right. Explain how that is different.
- (6) **A. I think stress causes muscle tension and**
- (7) **the muscle tension then produces**
- (8) **temporomandibular**
- (9) **joint disorder.**
- (9) Q. Well, the muscle tension would lead to what
- (10) anatomic function that would produce disorders?
- (11) **A. Well, that might be to bruxing or**
- (12) **clenching.**
- (13) Q. All right. You also talked about a cluster
- (14) of symptoms associated with temporomandibular
- (15) joint dysfunction –
- (16) **A. Uh-huh.**
- (17) Q. – as being pain on opening; correct?
- (18) **A. Yes.**
- (19) Q. Ear pain?
- (20) **A. Yes.**
- (21) Q. Headaches?
- (22) **A. Yes.**
- (23) Q. Pain while chewing?
- (24) **A. Uh-huh.**
- (25) Q. Facial pain?

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- (1) **A. Facial pain; yes.**
- (2) Q. Ringing in the ears?
- (3) **A. Tinnitus, ringing in the ears; yes.**
- (4) Q. And in the presence of one or several of
- (5) those symptoms, clicking or popping would be
- (6) indicative of the temporomandibular joint
- (7) dysfunction; is that correct?
- (8) **A. In association with other symptoms; yes.**
- (9) Q. In one of the symptoms I just read off?
- (10) **A. Yes.**
- (11) Q. All right. Now, at the time you wrote your
- (12) report on November 7th, 1994 you had Dr. Fitch's
- (13) records, Dr. Beater's records and Dr. Moodt's
- (14) records; is that right?
- (15) **A. Yes.**
- (16) MR. DOWNS: Objection.
- (17) BY MS. McCARTHY:
- (18) Q. After you examined Ms. Liapis and reviewed
- (19) the records you wrote a seven-page report setting
- (20) forth your summary of all those things and your
- (21) opinions; is that right?
- (22) **A. Yes.**
- (23) Q. And you said in that report you believed
- (24) her temporomandibular joint dysfunction is related
- (25) to a longstanding bout with temporomandibular

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- (1) joint disorder; is that right?
 (2) **A. Yes.**
 (3) Q. Could you please show me in your file what
 (4) records you have or had at the time you wrote this
 (5) report that documented this woman ever made
 (6) complaints of pain while opening her mouth, pain
 (7) chewing foods, pain yawning, pain while laughing
 (8) or pain opening real wide?
 (9) **A. That is not documented in the records nor**
 (10) **did I say it was. She had –**
 (11) Q. All right. Thank you.
 (12) **A. – the other symptoms, pain in the ears and**
 (13) **headaches and ringing in the ears, however.**
 (14) MS. McCARTHY: Move to strike
 (15) the last comment as non-responsive to the
 (16) question.
 (17) BY MS. McCARTHY:
 (18) Q. Now, could you show me in your records,
 (19) Doctor, where it's indicated that this woman
 (20) struck her face in the 1986 accident?
 (21) **A. We may as well go off the record because**
 (22) **I'm going to have to find it.**
 (23) (A short break was taken.)
 (24) BY MS. McCARTHY:
 (25) Q. Could you tell me what you're looking at

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- (1) specifically, Doctor?
 (2) **A. I'm looking at a narrative letter written**
 (3) **by George Randt, R-A-N-D-T, M.D., internal**
 (4) **medicine. He writes June 13th, 1988, forty-two**
 (5) **year old involved in auto accident 8-31-86 when**
 (6) **another car struck the front of the passenger's**
 (7) **side of the car which she was riding. Ms. Liapis**
 (8) **stated that she struck the right side of her head,**
 (9) **the right side of her thorax and abdomen and**
 (10) **twisted her head. She suffered tinnitus of the**
 (11) **left ear.**
 (12) Q. I'm asking for a record that indicates she
 (13) struck her face, Doctor.
 (14) **A. Well, I think when you strike your head and**
 (15) **your thorax face is right in between those and it**
 (16) **sticks out further. I think when you strike your**
 (17) **head and your thorax, you can't help but strike**
 (18) **your face. Unless she has a caved-in face which**
 (19) **she doesn't.**
 (20) Q. Can you and I agree that there isn't any
 (21) record that indicates Ms. Liapis struck her face
 (22) in the 1986 automobile accident?
 (23) MR. MERRIAM: Objection.
 (24) **A. I've just explained to you, Ms. McCarthy,**
 (25) **that if you strike your head that includes your**

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- (1) **face. Isn't face part of the head?**
 (2) Q. Doctor, I would imagine that people in this
 (3) profession would be more specific. If that were
 (4) the case, if she struck her face, Dr. Randt would
 (5) have put that in there.
 (6) MR. MERRIAM: Objection.
 (7) Q. Now, it could have been the back of her
 (8) head for all we know; is that right?
 (9) **A. No; it isn't. It says the right side of**
 (10) **her head. It doesn't say the back of her head.**
 (11) **The right side of her head.**
 (12) Q. It could be the right, top side of her
 (13) head; right? It has nothing to do with her face;
 (14) right?
 (15) MR. MERRIAM: Objection.
 (16) **A. And thorax. If you get the thorax and the**
 (17) **head, then you'd have to get the face. I think**
 (18) **that's reasonable.**
 (19) Q. That is your interruption of her head?
 (20) **A. That's correct.**
 (21) BY MS. McCARTHY:
 (22) Q. All right. Incidentally, at that time did
 (23) Ms. Liapis make any complaints at all about jaw
 (24) pain?
 (25) **A. 11-6-86, it states on the record maxillary,**

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- (1) **that means the upper jaw, maxil is the upper jaw,**
 (2) **maxillary facial pain. History, several days of**
 (3) **facial pain. Maxillary is the upper jaw.**
 (4) Q. Why don't we just read the notice that
 (5) exists, Doctor. Would you do that for us?
 (6) 11-6-86, read the entire first, underlined
 (7) sentence. Out of abundance of fairness.
 (8) **A. Maxillary facial pain with nasal**
 (9) **congestion.**
 (10) Q. Then the next sentence reads history,
 (11) several days of –
 (12) **A. Several days of facial pain with nasal**
 (13) **congestion and some postnasal drip. No period**
 (14) **with drainage fever or chills findings.**
 (15) Q. All right. Now, in summary, the doctor
 (16) diagnoses or puts down, maxillary facial pain and
 (17) congestion, will treat with decongestant and he
 (18) prescribes Drixoral and a nasal spray; is that
 (19) correct?
 (20) **A. Yes.**
 (21) Q. And the next note after that dated 12-19-86
 (22) says absolutely nothing about her congestion or
 (23) her nasal problem; is that right?
 (24) **A. Yes; that's right.**
 (25) Q. Now, in terms of the November '86 note,

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- (1) when was that note generated in relation to the
- (2) automobile accident?
- (3) **A. That was prior to the auto accident of '86.**
- (4) Q. I thought the automobile accident that you
- (5) just talked about when quoted Dr. Randt's report
- (6) was 8-31-86?
- (7) **A. All right. So that was after the auto**
- (8) **accident. Both were after the auto accident.**
- (9) Q. So it's at least three months after the
- (10) automobile accident, or about three months after
- (11) the automobile accident; is that right?
- (12) **A. Yes.**
- (13) Q. So if we accept what you said on direct
- (14) that if a patient injures their temporomandibular
- (15) joint in an automobile accident they will have
- (16) symptoms immediately; right?
- (17) **A. Yes.**
- (18) Q. All right. So can we –
- (19) **A. They should have symptoms, but they don't**
- (20) **necessarily report the symptoms and she didn't.**
- (21) Q. All right. So can we eliminate the 1986
- (22) accident as being causative of any injury to her
- (23) jaw?
- (24) MR. MERRIAM: Objection.
- (25) **A. I think it's speculative what is causative**

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- (1) **in 1986. She had it for a long time.**
- (2) Q. Since it's speculative can we eliminate the
- (3) 1986 accident as causative of temporomandibular
- (4) joint dysfunction?
- (5) MR. MERRIAM: Objection.
- (6) **A. No. We can not, Ms. McCarthy, because she**
- (7) **struck her face at that time.**
- (8) Q. But you told us earlier, Doctor, that a
- (9) person has to have immediate complaints of jaw
- (10) pain if there's a jaw injury.
- (11) **A. That is correct.**
- (12) Q. This woman has no documented complaints of
- (13) jaw pain at that time; is that right?
- (14) **A. It's not documented, but she should have**
- (15) **had some symptoms at the time.**
- (16) Q. Why should she have had some symptoms at
- (17) that time?
- (18) **A. Because she struck her face.**
- (19) Q. No, no. She struck the right side of her
- (20) head. Let's stick with Dr. Randt's description of
- (21) it.
- (22) MR. MERRIAM: Objection.
- (23) **A. The auto accident was 8-31-86. On 9-2-86**
- (24) **she sees Dr. Randt and she was complaining of**
- (25) **tinnitus in the ear and that would be a symptom**

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- (1) **then that she was starting to get some TMJ**
- (2) **symptoms.**
- (3) Q. But you told me you need to have more than
- (4) one symptom in that constellation of symptoms in
- (5) order to have temporomandibular joint dysfunction;
- (6) didn't you tell me that earlier?
- (7) **A. I did, but she reported only one.**
- (8) Q. Right. So she couldn't possibly have had
- (9) temporomandibular joint dysfunction at that time?
- (10) **A. That's not true.**
- (11) MR. MERRIAM: Objection.
- (12) Move to strike.
- (13) **A. She only reported one.**
- (14) Q. Are you saying she had symptoms and didn't
- (15) report them?
- (16) **A. Yes.**
- (17) Q. Okay. What symptoms did she have that she
- (18) failed to report, Doctor?
- (19) **A. Well, I don't know. I know that she had**
- (20) **one at least, ringing in the ear.**
- (21) Q. All right. But that's insufficient to
- (22) arrive at a diagnosis of TMJ; is that true?
- (23) **A. It is certainly suggestive of...**
- (24) Q. Is it sufficient in and of itself to arrive
- (25) at a diagnosis of temporomandibular joint

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- (1) dysfunction? "Yes" or "no"?
- (2) **A. No.**
- (3) Q. All right. Thank you.
- (4) Now, you said on direct examination that
- (5) this woman, and I can't recall your phrase for it,
- (6) but as I understand it the gist of it was that she
- (7) is in and out of the doctors' office with a myriad
- (8) of complaints, Doctor, from head to toe; right?
- (9) MR. MERRIAM: Objection.
- (10) Q. Would that be a fair characterization of
- (11) what you said?
- (12) **A. I don't think from head to toe. She had a**
- (13) **number of somatic, bodily complaints.**
- (14) Q. Okay. And prior to May 9th, 1993 she never
- (15) made any complaints of jaw pain; true?
- (16) **A. She had signs of TMJ pain. She did not**
- (17) **make a complaint of jaw pain except the note of**
- (18) **maxillary pain.**
- (19) Q. Well, that could be associated with sinus;
- (20) right?
- (21) **A. Except we found out from Dr. Levine's**
- (22) **examination that she didn't have sinus.**
- (23) Q. We didn't find anything out from
- (24) Dr. Levine.
- (25) MR. MERRIAM: Objection.

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- (1) Move to strike.
- (2) BY MS. McCARTHY:
- (3) Q. We can assume, can we not, that she did not
- (4) complain – because she did not explain on the
- (5) next visit of any more sinus trouble or nasal
- (6) drip, that the medication she was given was
- (7) sufficient to take care of that problem; can't we?
- (8) MR. MERRIAM: Objection.
- (9) **A. No. We can't. Temporomandibular joint**
- (10) **also is a disease of exacerbation and remission,**
- (11) **it comes and goes, it has bad days and good days.**
- (12) Q. So for seven years between the 1986
- (13) accident and the May '93 accident was her TMJ
- (14) problem in a dormant condition?
- (15) **A. I don't think it was dormant. I think**
- (16) **every once in awhile she would have some**
- (17) **symptoms.**
- (18) **It was not discovered.**
- (19) Q. Did Dr. Randt misdiagnose her?
- (20) **A. No. I think an awful lot of people, I**
- (21) **think TMD is hard to diagnose because it mimics so**
- (22) **many other disorders and this has been published**
- (23) **again very frequently that sometimes it's**
- (24) **overlooked, unless you're specifically looking for**
- (25) **it; because it mimics so many others.**
- (26) Q. So Dr. Randt missed it?

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- (1) **A. He reports that she had soft tissue injury,**
- (2) **strains and sprains to the neck, shoulders, chest**
- (3) **wall resulting from a motor vehicle accident. It**
- (4) **doesn't, no. He didn't diagnose temporomandibular**
- (5) **joint disorder, but it would be probably hard to**
- (6) **find at that time, too.**
- (7) Q. So he missed it?
- (8) **A. All right.**
- (9) Q. All right. And in the seven years that
- (10) transpired between that accident and the first
- (11) accident at issue here, Dr. Beater, her treating
- (12) dentist missed it; is that right?
- (13) **A. He did not specifically ever exam her for**
- (14) **it.**
- (15) Q. How do you know that?
- (16) **A. Because he would have written it down. Did**
- (17) **a TMJ exam.**
- (18) Q. Did she ever make any complaints to him of
- (19) jaw pain?
- (20) **A. No.**
- (21) Q. Pain on opening?
- (22) **A. No.**
- (23) Q. Popping, clicking?
- (24) **A. No.**
- (25) Q. All right. Did she ever make any

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- (1) complaints to Dr. Fitch during the period of time
- (2) Dr. Fitch treated her before the May '93 accident
- (3) of pain in the jaw, popping, clicking, pain on
- (4) opening, pain while chewing, pain while yawning
- (5) and pain while laughing?
- (6) **A. No.**
- (7) Q. All right. Did Dr. Fitch miss the
- (8) diagnosis, as well?
- (9) **A. Dr. Fitch notices some other symptoms. She**
- (10) **does not diagnose this as temporomandibular joint,**
- (11) **but again that's hard to diagnose.**
- (12) Q. Sure. Now, did Ms. Liapis sustain any
- (13) injury in these accidents?
- (14) MR. DOWNS: Objection.
- (15) **A. I am not an expert in the areas of**
- (16) **shoulders and neck injuries so I don't know. It**
- (17) **is reported that she complained of shoulder, back**
- (18) **and ankle injuries.**
- (19) Q. She also complained of a neck injury?
- (20) **A. That's what she said when she went to the**
- (21) **emergency room, I believe.**
- (22) Q. Okay. Can a person have --- strike that.
- (23) Can cervical whiplash cause
- (24) temporomandibular joint dysfunction specifically
- (25) internal derangement?

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- (1) **A. No. That's what we've discussed talking**
- (2) **about Dr. Howard.**
- (3) Q. Who?
- (4) **A. Dr. Howard who published the article in**
- (5) **1995, an excellent article saying that cervical**
- (6) **whiplash, the flexion/extension injury does not**
- (7) **cause internal derangement. That's in my letter**
- (8) **when I mentioned Dr. Puliger (phonetic) said, no,**
- (9) **it does not cause displacement or derangements;**
- (10) **and that's what Dr. Laskin found out in his**
- (11) **one-hundred and fifty three examples of patients**
- (12) **who had cervical extension/flexion, that is**
- (13) **whiplash. He did not notice any significant**
- (14) **temporomandibular joint disorder.**
- (15) MS. McCARTHY: Move to strike
- (16) as non-responsive to the question.
- (17) BY MS. McCARTHY:
- (18) Q. Doctor, have you ever questioned to the
- (19) contrary, that cervical whiplash trauma can and
- (20) will cause temporomandibular joint dysfunction
- (21) specifically internal derangement?
- (22) **A. (No response)**
- (23) Q. Maybe I can help you out.
- (24) **A. Please help me out because I don't recall**
- (25) **that.**

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- (1) Q. Wendy Perin, P-E-R-I-N, versus Bella
- (2) Leybovich, L-E-Y-B-O-V-I-C-H, case number 153064,
- (3) pending in Cuyahoga County before Judge James J.
- (4) Carol, cross-examination of Dr. Kenneth Callahan,
- (5) you were being represented by David Borland and
- (6) Thomas O. Callahan was cross-examining you and he
- (7) asked you the following question: As a –
- (8) strike that.
- (9) "Question: And fact is cervical whiplash
- (10) trauma can and will cause temporomandibular
- (11) joint dysfunction specifically internal
- (12) derangement?" Your answer was yes.
- (13) MR. MERRIAM: Objection.
- (14) Move to strike.
- (15) Q. Do you dispute that?
- (16) A. Pardon?
- (17) Q. Do you dispute that that was your
- (18) testimony?
- (19) A. I don't – will you give us the date of
- (20) that testimony, please?
- (21) Q. I don't have the date of it, Doctor, but I
- (22) can certainly get it to you?
- (23) A. I believe you could find that date. It's
- (24) someplace on there, and I'll bet you it was in
- (25) 1985; in the middle '80s.

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- (1) Q. Okay. So now you recall this testimony?
- (2) A. And everyone – since so much new material
- (3) has come out in the '90s about specifically
- (4) whiplash injuries vis-a-vis temporomandibular
- (5) joint disorder, of course, I've changed my opinion
- (6) on that. People who don't change their opinions,
- (7) they're foolish people.
- (8) Q. Can a person have arthritis and never be
- (9) troubled by it, Doctor?
- (10) A. I think you could have low-grade arthritis
- (11) that's starting to show up and not have symptoms.
- (12) Q. All right. In terms of MRI that was done
- (13) in April, I believe it was April 19, 1994 and you
- (14) have a copy of that report in your records there.
- (15) It was ordered by Dr. Moodt.
- (16) A. Yes.
- (17) Q. And that MRI showed no significant
- (18) arthritic changes; is that true? I believe it
- (19) might be one of the pages I turned.
- (20) A. Menisci, that MRI shows menisci. That is
- (21) the discs normal position on the right and left
- (22) side. There's normal range of motion. There's no
- (23) evidence of subluxation, condyle appears normal
- (24) and no significant arthritic changes, that's true.
- (25) Q. And that was after this accident?

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- (1) A. Yes.
- (2) Q. Or after the first two accidents; is that
- (3) right?
- (4) A. That's right. But Dr. Moodt's found it in
- (5) 1993.
- (6) MS. McCARTHY: Objection. As
- (7) non-responsive to the question. Move to strike.
- (8) BY MS. McCARTHY:
- (9) Q. Now, in your report, at least as I could
- (10) count, five times you indicate that Ms. Liapis
- (11) never made any complaints consistent with TMD for
- (12) two half months following the first accident and
- (13) that is incorrect; isn't that right?
- (14) A. Just a minute. Sorry, just a minute.
- (15) Q. I could give you the page and reference if
- (16) that will help.
- (17) A. I say in my report at one time it was not
- (18) until two and a half months later that she first
- (19) sought treatment, and that is, of course, correct.
- (20) Two and a half months later, first sought
- (21) treatment.
- (22) Q. Page three, paragraph C?
- (23) A. But she first complained of treatment on a
- (24) month – six weeks after the MVA.
- (25) Q. But you didn't put that in your report; did

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- (1) you?
- (2) A. No. But remember it is, as we've said, a
- (3) very voluminous set of charts.
- (4) Q. Well, certainly that's an important point,
- (5) Doctor, isn't it? When she was first making any
- (6) complaints that you would associate with the
- (7) diagnosis of TMD?
- (8) A. I think I already answered that. I said
- (9) that the difference between six weeks and two and
- (10) a half months is insignificant. If you don't make
- (11) it within the first three or four days then I find
- (12) that significant. Six weeks or eight weeks
- (13) doesn't make much difference.
- (14) Q. So then we go back to the 1986 accidents
- (15) where there are no complaints associated with TMD
- (16) within the first two or three or four days; right?
- (17) A. There was a complaint the third day in the
- (18) 1986 accident according to Dr. Randt that she had
- (19) tinnitus, ringing in her ears.
- (20) Q. But told me that in the absence of any
- (21) other complaint that you gave me –
- (22) A. That amounts to at least a
- (23) temporomandibular joint symptoms.
- (24) Q. But that's not that what you told me
- (25) earlier.

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- (1) MR. MERRIAM: Objection.
 (2) **A. I said she didn't report any others.**
 (3) **It didn't mean there weren't any others.**
 (4) Q. Right, okay. She didn't report them.
 (5) **A. All right.**
 (6) Q. You also told me earlier on it was
 (7) important to be accurate in terms of defense;
 (8) right? So you were inaccurate here; right?
 (9) MR. MERRIAM: Objection.
 (10) **A. In that - I've listed a number of times**
 (11) **where I was. I said that she didn't seek**
 (12) **treatment for two and a half months and that one**
 (13) **instance it said she didn't have symptoms for two**
 (14) **and a half months, that is inaccurate.**
 (15) Q. Okay. Well, let's then go through it.
 (16) Four lines down, paragraph C, page three, first
 (17) sentence on line four: Clicking was noted in June
 (18) but with no other symptoms, that's wrong; isn't
 (19) it?
 (20) **A. That's wrong, but -**
 (21) Q. All right.
 (22) **A. Yes, for a reason. It's very hard to read**
 (23) **Dr. Fitch's chart. I finally found it the other**
 (24) **night going back through it, again I can't read**
 (25) **that. It doesn't look like TMJ to me, but it is,**

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- (1) **apparently, if you look down at it very closely.**
 (2) Q. Well, I guess a jury will be able to
 (3) determine whether it's legible or not. I
 (4) certainly had no trouble reading it.
 (5) MR. MERRIAM: Objection.
 (6) Move to strike.
 (7) BY MS. MCCARTHY:
 (8) Q. She does write in the June 16, 1993 note
 (9) where she writes jaw popping, left side face pain;
 (10) isn't that correct?
 (11) **A. Yes. In June 16th, low back pain, jaw**
 (12) **pops, still pain in neck and shoulder.**
 (13) Q. Has had seven therapy sessions, nasal
 (14) congestion -
 (15) **A. Yes.**
 (16) Q. Postnasal drip.
 (17) **A. Postnasal drip.**
 (18) Q. Dizziness.
 (19) **A. Dizziness.**
 (20) Q. Left side of face pain -
 (21) **A. Left side of face pain, congestion.**
 (22) Q. All right. Your sentence later on in
 (23) paragraph C, which is seven lines down: And she
 (24) was not having any TMJ symptoms. She was having
 (25) TMJ symptoms on June 16, 1993; wasn't she?

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- (1) **A. Are you referring to face pain? It would**
 (2) **have been the congestion, too.**
 (3) Q. I'm referring to popping and face pain.
 (4) Well, you've dismissed the face pain earlier as
 (5) being sinus-related.
 (6) MR. MERRIAM: Objection.
 (7) Move to strike.
 (8) Q. She was having symptoms on June 16, 1993 of
 (9) temporomandibular joint dysfunction; right?
 (10) **A. That's right. That is six weeks after the**
 (11) **MVA for the first time.**
 (12) Q. Then on page six, top paragraph, third
 (13) sentence down you say she had no symptoms during
 (14) those two and one half months; again, that's
 (15) incorrect?
 (16) **A. Yes.**
 (17) Q. All right.
 (18) **A. I said she didn't seek treatment for two**
 (19) **and a half months.**
 (20) Q. I'm sorry, maybe I misread it. I'm
 (21) reading, she had no symptoms during those two and
 (22) one half months.
 (23) **A. That's what it says in that sentence;**
 (24) **that's right.**
 (25) Q. All right. And in your last paragraph,

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- (1) page seven entitled summary, last full sentence:
 (2) Finally the time hiatus between her first MVA and
 (3) her first seeking treatment two and a half months
 (4) during which time she had no TMJ symptoms makes a
 (5) causal relationship somewhat unlikely; did I read
 (6) that correctly?
 (7) **A. Yes.**
 (8) Q. All right.
 (9) **A. First seeking treatment two and a half**
 (10) **months.**
 (11) Q. And the absence of complaints; right?
 (12) **A. Yes.**
 (13) Q. All right. Now, you haven't read any of
 (14) the records generated on Ms. Liapis since you saw
 (15) her in October of 1994; is that right?
 (16) **A. I think I just have Dr. Hauser's report.**
 (17) Q. All right. So you don't really know
 (18) anything about her subsequent surgical care and
 (19) how she progressed or failed to progress after you
 (20) saw her in October of '94; is that correct?
 (21) **A. That's correct.**
 (22) Q. Are you at all curious about how she
 (23) progressed?
 (24) **A. Well, of course, I'm curious about all**
 (25) **patients at all times. It's what our business is.**

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- (1) Q. And did you request the records that were
- (2) generated on her from the time you last saw her up
- (3) to the present time?
- (4) MR. DOWNS: Objection.
- (5) **A. No.**
- (6) MS. McCARTHY: I don't have
- (7) any questions for you. Thank you.
- (8) ---
- (9) DIRECT EXAMINATION OF
- (10) KENNETH R. CALLAHAN, D.D.S.

- (11) BY MR. DOWNS:
- (12) Q. Doctor, my name is Tom Downs and I
- (13) represent Adele Caravella. She was one
- (14) involved -
- (15) MR. DOWNS: Let's go off
- (16) the record for a minute.
- (17) (A short break was taken)
- (18) MS. McCARTHY: I'm just going
- (19) to interpose that any objection to anybody else
- (20) cross-examining or doing any kind of
- (21) rehabilitation with this doctor beyond Steve
- (22) Merriam; any questions that you and Chris might
- (23) have so... I didn't want to put that on the
- (24) videotape, but with that go ahead.
- (25) MR. DOWNS: Thank you. I

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- (1) have the right to cross-examine a Witness that's
- (2) expressed opinions regarding an accident my
- (3) client's in.
- (4) BY MR. DOWNS:
- (5) Q. Doctor, my name is Tom Downs and I
- (6) represent Adele Caravella. She's a Defendant in
- (7) this lawsuit. She was involved in the May 9, 1993
- (8) accident.
- (9) If a patient has skull x-rays following an
- (10) accident does that imply that you're having pain
- (11) or a problem in that area in an emergency room?
- (12) MS. McCARTHY: Objection.
- (13) **A. Yes. Yes; certainly it does.**
- (14) Q. And the skull includes the part of the head
- (15) and face that includes the temporomandibular
- (16) joints; correct?
- (17) **A. It showed the whole thing; yes.**
- (18) Q. So would it be fair for me to understand if
- (19) Marie Liapis in August of 1986 following her motor
- (20) vehicle accident is in the emergency room at
- (21) Southwest General Hospital and has x-ray to her
- (22) skull that that would imply she's having pain in
- (23) that area?
- (24) **A. It would to me; yes.**
- (25) Q. Okay. And then three days later she's

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- (1) complaining of tinnitus in one of her ears. The
- (2) pain one day and tinnitus a couple days later,
- (3) those are both indicia of the TMJ dysfunction that
- (4) you've been describing here today; correct?
- (5) **A. Yes.**
- (6) MR. DOWNS: Thank you,
- (7) Doctor. I don't have any more questions.
- (8) MR. RUSS: I don't have
- (9) any questions.
- (10) ---
- (11) FURTHER EXAMINATION OF
- (12) KENNETH R. CALLAHAN, D.D.S.

- (13) BY MR. MERRIAM:
- (14) Q. Doctor, very briefly. You were asked about
- (15) Dr. Randt and Dr. Fitch and what they diagnosed or
- (16) didn't diagnose.
- (17) **A. Yes.**
- (18) Q. Let me refer back to Dr. Randt's June 1988
- (19) report, if you could take a look at that document.
- (20) **A. Maybe you better show it to me.**
- (21) Q. Okay. Let me just pull it up so you could
- (22) just kind of read it at a distance. Could you
- (23) read to the jury the specialty or nature of
- (24) Dr. Randt's practice as indicated by his
- (25) letterhead in 1986?

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- (1) **A. He does internal medicine, preventive**
- (2) **medicine, sports medicine, fitness testing, injury**
- (3) **rehabilitation; that was Dr. Randt M.D.'s**
- (4) **letterhead listing his specialties.**
- (5) Q. So obviously he does not list as his
- (6) practice or specialties any of the types of things
- (7) that you do on a regular basis; isn't that
- (8) correct?
- (9) **A. No.**
- (10) Q. So would you agree it's not surprising that
- (11) he did not properly diagnose a TMD situation based
- (12) on the focus of his ordinary practice?
- (13) MS. McCARTHY: objection.
- (14) **A. I would agree to that.**
- (15) Q. And in the same way Dr. Fitch, I believe,
- (16) is a general practitioner, a family doctor?
- (17) **A. Yes.**
- (18) Q. And she would also would not necessarily be
- (19) someone expected to have any expertise or special
- (20) background such as you have in TMD problems; is
- (21) that correct?
- (22) MS. McCARTHY: Objection.
- (23) **A. That is also correct.**
- (24) MR. MERRIAM: Doctor, I
- (25) don't have any further questions for you at this

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- (1) time. Thank you very much.
- (2) THE WITNESS: Okay.
- (3) ---
- (4) RECROSS-EXAMINATION OF
- (5) KENNETH R. CALLAHAN, D.D.S.
- (6) BY MS. MCCARTHY:
- (7) Q. Doctor, are you aware that Dr. Fitch was
- (8) one of the people that referred Ms. Liapis to
- (9) Dr. Moodt?
- (10) A. I'm not aware of that nor is it
- (11) significant.
- (12) Q. Well, you've commented on her not being
- (13) able to recognize or diagnose TMJ, but after she
- (14) learned that Ms. Liapis was making complaints of
- (15) popping in her jaw and left-sided face pain she
- (16) sent her off to a specialist in the treatment of
- (17) temporomandibular joint disorder, that being
- (18) Dr. Moodt; is that right?
- (19) MR. MERRIAM: Objection.
- (20) A. Yes.
- (21) Q. So apparently --
- (22) A. Six weeks.
- (23) Q. -- she had some recognition of the problem;
- (24) right?
- (25) A. The patient started to complain at that

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- (1) time.
- (2) Q. And she understood what the complaints
- (3) were; right?
- (4) A. Well, yes.
- (5) Q. And she put them her into the hands of
- (6) somebody that does nothing other than treats
- (7) temporomandibular joint situations on a
- (8) conservative basis; is that right?
- (9) A. That's right.
- (10) MS. MCCARTHY: I don't have
- (11) any more questions for you. Thanks.
- (12) MR. MERRIAM: Thank you,
- (13) Doctor. We don't have any further questions for
- (14) you today.
- (15) Doctor, do you waive your right of
- (16) signature? And will everybody waive, well, we
- (17) waived the filing requirement of the transcript
- (18) and of the tape, itself, correct?
- (19) MS. MCCARTHY: Right.
- (20) THE WITNESS: Yes. I'll
- (21) waive.
- (22) ---
- (23)
- (24)
- (25)

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- (1) CERTIFICATE
- (2)
- (3) The State of Ohio,)
- (4)) SS:
- (5) County of Cuyahoga.)
- (6)
- (7) I, Denise M. Andreotti, a Notary Public
- (8) within and for the State of Ohio, duly
- (9) commissioned and qualified, do hereby certify that
- (10) the within-named witness, KENNETH R. CALLAHAN,
- (11) D.D.S., was by me first duly sworn to testify the
- (12) truth, the whole truth, and nothing but the truth
- (13) in the cause aforesaid; that the testimony then
- (14) given by the above-referenced witness was by me
- (15) reduced to stenotype in the presence of said
- (16) witness, afterward transcribed, and that the
- (17) foregoing is a true and correct transcription of
- (18) the testimony so given by the above-referenced
- (19) witness.
- (20) I do further certify that this deposition
- (21) was taken at the time and place in the foregoing
- (22) caption specified and was completed without
- (23) adjournment.
- (24) I do further certify that I am not a
- (25) relative, counsel, or attorney of either party, or

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- (1) otherwise interested in the event of this action.
- (2) IN WITNESS WHEREOF, I have hereunto set my
- (3) hand and affixed my seal of office at Cleveland,
- (4) Ohio, on this 23rd day of January, A.D., 1998.
- (5)
- (6)
- (7)
- (8) Denise Andreotti, Notary Public in and
- (9) for the State of Ohio.
- (10) My commission expires August 18, 2001.
- (11) -----
- (12)
- (13)
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- (25)

Look-See Concordance Report

 UNIQUE WORDS: 1,382
 TOTAL OCCURRENCES: 4,661
 NOISE WORDS: 385
 TOTAL WORDS IN FILE:
 12,383

SINGLE FILE CONCORDANCE

CASE SENSITIVE

 NOISE WORD LIST(S):
 NOISE.NOI

 INCLUDES ALL TEXT
 OCCURRENCES

DATES OFF

IGNORES PURE NUMBERS

POSSESSIVE FORMS OFF

 MAXIMUM TRACKED
 OCCURRENCE THRESHOLD:
 50

 NUMBER OF WORDS
 SURPASSING OCCURRENCE
 THRESHOLD: 7

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