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

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IN THE COURT OF COMMON PLEAS

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Kimberly Richley, Plaintiff,	)	
vs.	)	Case No.: CV035N510
	)	Carolyn Friedland, J.
Reichenbach Family Chiropractic Professional Co., et al. Defendants.	)	

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Telephonic deposition of Amardeep S. Chauhan, D.O., a witness herein, called by the defendants for cross-examination pursuant to the Ohio Rules of Civil Procedure, taken before Jacqueline L. Reichert, Notary Public in and for the State of Ohio, at the offices of Precision Orthopeadics Specialists, 7575 Northcliff Avenue, Suite 300, Brooklyn, Ohio 44144, on Friday, September 10, 2004, commencing at 3:36 p.m.

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INDEX

- - -

E X H I B I T S

- - -

O B J E C T I O N S

- - -

APPEARANCES:

On behalf of the Plaintiff:
(via telephone)

Mark W. Ruf, Esq.
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On behalf of the Defendants:

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AMARDEEP S. CHAUHAN, D.O.,
of lawful age, being first duly sworn, as hereinafter certified, was examined and testified as follows:

MR. REGNIER: This is Mike Regnier, and I represent the defendants in this case, in the Kim Richley versus Reichenbach Chiropractic case.

CROSS-EXAMINATION

By Mr. Regnier:

Q Could you state your full name for the record, please?

A First name Amardeep, A-m-a-r-d-e-e-p. Last name C-h-a-u-h-a-n.

Q You pronounce that Chauhan?

A Yes, sir.

Q Can you state your professional address, please?

A Main office is in Chardon, that's 150 Seventh Avenue, Suite 200, Chardon, Ohio 44024.

Q And, Doctor, as you know, and so the record is clear, we're at two different locations because I'm at your other office in Brooklyn, Ohio. And so when we make reference to different materials and charts, please let me know if you don't have something or if you're not sure what I'm referring to, please let me know and we'll figure it out. Okay?

A Okay.
Q Do you have a file with you, Doctor?
A Yes.
Q Do you have your records of Kim Richley's treatment?
A Yes.
Q What else do you have, Doctor?
A That's all I have in my possession.
Q Doctor, do you have a copy of your CV with you by any chance?
A No, I don't.
Q I am going to give to the court reporter a copy of the CV -- your CV which was faxed to me by Mr. Ruf earlier on in this case. And we'll ask that you -- when you have an opportunity to review it and make sure it's accurate; is that fair?
A Okay.
Q Doctor, I understand that you went -- please state for the record your speciality, please?
A Physical medicine and rehabilitation.
Q And you went to Youngstown State University for your bachelor's degree; is that right?
A Right.
Q Did you have a year off in between undergrad and medical school?

A About nine months.
Q What did you do during that time, Doctor?
A Worked.
Q Did you immediately apply to medical school?
A Actually, you know, what happened was I finished my undergraduate degree before the four years. I actually took about three and a half, so I finished early. And medical school enrollment didn't start until the fall, so I had some off time.
Q You're a December grad?
A Yes.
Q What did you do in between?
A I worked.
Q What did you do? What was your job?
A Specifically I was working, I believe, as a transporter in a hospital.
Q You then went to Ohio University, College of Osteopathic Medicine; is that correct?
A Right.
Q How did you choose osteopathy, Doctor?
A I had been exposed to osteopathic medicine on several occasions. I had a couple different interviews at medical schools. And I liked the campus down in Ohio University and --
Q That's it?

A Right.
Q Doctor, have you had any further educational training since you received your Doctor Of Osteopathy degree?
A Just my internship and residency training.
Q Have you been board certified in any specialities?
A In physical medicine and rehabilitation.
Q When did you obtain that board certification?
A I obtained that in 2001. I mean, as soon as I was eligible, I passed the boards on my first try, both the oral and written.
Q It doesn't look like that's listed on your CV, what was the speciality?
A Physical medicine and rehabilitation.
Q What does that entail? What's the focus of that speciality?
A You know, rehabilitation from rehabilitating problems whether they're injuries, or strokes, or, you know, it's a very large speciality. Anywhere from rehabilitating children with cerebral palsy to rehabilitating spinal cord injuries, brain injuries, musculoskeletal injuries. We do EMG nerve conduction studies as well. So it's a very large speciality.
Q You received training in EMG studies as part of

that certification?
A Right.
Q Do you need to have that certification in order to do an EMG study?
A Well, you have to be -- you don't have to be, but, you know, generally it's a neurologist and physical medicine rehabilitation doctor that generally do EMG studies.
Q You're licensed by the State of Ohio?
A Yes.
Q Do you hold licenses in any other states? I'm sorry, could you hear me, Doctor, are you licensed in any other states?
A Yeah. I'm sorry, I said no.
Q I'm sorry. Have you had any action taken on your license?
A No.
Q Do you hold privileges at any institutions, Doctor?
A Yes.
Q Where?
A Geauga Hospital, at the University Hospital, Geauga Regional Hospital, St. Vincent Charity down in Cleveland. That's it right now.
Q Have you ever had any action taken on your

privileges?
A No.
Q Have you been practicing continually since graduation from medical school?
A Yes.
Q Have you published anything, Doctor?
A Not since I completed my residency.
Q I have two publications listed, one from '96 and one from '98; is that it?
A Yeah, that's all.
Q Do you hold any teaching positions?
A No.
Q Can you describe your practice for me, Doctor?
A It's a non-surgical orthopedic practice for the most part. I do rehabilitation in musculoskeletal injuries, which encompass work injuries, sports injuries. I also treat chronic pain. I do EMG nerve conduction studies. And I'm one of the physicians in a nine physician orthopedic group.
Q How many offices do you folks have?
A We have four offices.
Q Do you focus your practice at any particular office?
A You know, if I had to say where I spend most of my time, it's probably in the Chardon office.

Q Do you have any specialty or niche as far as your practice goes?
A You know -- I mean, the musculoskeletal non-surgical orthopedics is my niche within physical medicine and rehabilitation. So I guess you could say musculoskeletal injury. I do a fair amount of chronic pain management as well.
Q That was my next question. Are you a chronic pain management specialist?
A I'm not board certified in pain medicine.
Q That's a separate specialty?
A Right. Well, you know, there's board certification now that has recently become available where there's residencies available to specifically treat in pain management and pain treatment. And I am not a pain management specialist.
Q Have you taken any coursework toward obtaining that sort of speciality?
A No. I mean, the requirement now is that you actually have to do a two year fellowship, so I do not plan on doing that.
Q Doctor, when were you contacted by plaintiff's counsel in this case?
A I'm not sure when I was contacted. I was contacted to do this deposition. I did receive a request for

kind of a summary of what my prognosis was for Kim Richley back in the spring of this year. But I can't specifically recall exactly when I was contacted.

Q Do you have any letters from either Mr. Ruf or Mr. Patno? That's Ms. Richley's attorneys?

A Not in my possession, no.

Q By possession, do you mean you don't have any in your office or you don't have any in front of you?

A I don't have any in front of me.

Q Do you know if you have some in your office?

A I'm sure I have at least one.

Q Do you have a separate file, Doctor, of correspondence and billings and things like that related to Kim Richley that's not in front of you right now?

A Do I have a separate file of correspondence? I'm not sure I understand the question.

Q Do you have a separate file related to this lawsuit somewhere in your office?

A Not that I'm aware of.

Q Where would the correspondence from plaintiff's counsel be then, just somewhere in one of your offices?

A Yeah, it would go in her chart. We don't have a

separate chart for medical/legal cases or what have you.

Q Are any of those letters in the chart in front of you?

A No. And I don't have Kim Richley's chart in front of me. I've just got copies of my notes from her chart.

Q You don't have your office record in front of you?

A I have copies of my office visits. I don't have her entire chart in front of me, no.

Q Do you have her history and physical forms in front of you?

A I have -- the first note I have in from me is from June 4th, 2002.

Q I tell you what, let's make this easier. Instead of me guessing, can you, please, list what you have in front of you, Doctor?

A I have office notes from June 4th, 2002 through August 19th, 2004. I've got a log of her prescriptions. I've got my EMG nerve conduction studies. I have Dr. Likavec's operative note. I have a functional capacity evaluation that was done on July 20th, 2004.

Q What was that date of that, Doctor?

A July 20th, 2004.

I have some physical therapy prescriptions we provided to Kim. And I have some progress notes from the physical therapist. And I also have my letter to Mr. Ruf that was on -- dictated on April 15th, 2004?

Q Anything else?

A No, sir.

Q By prescription log, do you mean one of those separate sheets where all that shows on there is what she was prescribed and when?

A Right.

Q What's the date of that log as far as how far back it goes, when to when?

A It goes from July 30th, 2001 is the first entry. And the most recent entry is August 31st, 2004.

Q And what was the date of your last treatment note? I have August of 2004, what was the day?

A August 19th.

Q Doctor, who did the functional capacity evaluation?

A A physical therapist. I'll spell his name for you. You know, I don't see his name readily available here. I mean John Strychasz is the one who usually does our functional capacity evals.

Q That's in-house? That was done by Precision Orthpeadics?

A Yeah, that was our physical therapist, right.
Q What's his name? John what?
A Strychasz. And I'm not sure how to spell his last name.
Q You mentioned there's physical therapy scrips as well?
A Yeah. Just a couple physical therapy prescriptions, yes.
Q What are the dates on those?
A One is January 6th, 2004, and the other is February 18th, 2003.
Q What progress notes -- physical therapy progress notes, what are the dates of those?
A February 20th, 2003 through May 8th -- or I'm sorry, through April 9th, 2004.
Q You said through, is that showing a continual course of treatment during that time, or is it just two notes from those two dates?
A I've got several notes, but that's the --
Q That's the start and end date?
A Yeah, that's kind of the start and end date.
Q Doctor, are those notes normally maintained as part of your chart?
A No, it's a separate chart. The physical therapy chart.

Q So if I requested something like that, I would need to request the physical therapy chart as well --
A Right.
Q -- for Kim Richley? What about the prescription log, is that normally included as part of your chart?
A Yes.
Q Doctor, have you reviewed any cases for Mr. Ruf or Mr. Patno?
A Other than this one?
Q Yes.
A No, sir.
Q Have you ever rendered any opinions for Kimberly Richley regarding her physical condition in any other case or Workers' Compensation claim?
A No.

MR. RUF: Objection as to Workers' Compensation claim.

Q Doctor, were you given anything to review in this case outside of your own chart?
A Just some monetary estimates as far as medications.
Q Could you identify it for me?

MR. RUF: Let me just tell you what it is so the record is clear. It's the report of Ernie Agen (phonetic) with the calculations for

future medical costs for prescriptions.
Q Anything else, Doctor?
A No. That's all.
Q Did you perform any research in this case?
A No.
Q Doctor, what were you asked to do in this case?
A Regarding what? I'm not clear on the question.
Q When plaintiff's counsel contacted you, what did they ask you to do?
A Just appear for a deposition.
Q When plaintiff's counsel contacted you and asked you to do a report, what did they ask you to give you a report about?
A Regarding her report that I referenced, the April 15th, 2004 report?
Q Yes.
A What was their specific request to me?
Q Yes.
A You know, I don't have the specific letter from Mr. Ruf, but I have my report in front of me. I'm not sure what was asked other than could you provide some prognosis as far as the permanency of her condition, and, you know, I can't specifically recall anymore than that.
Q And your impression then is fine of what you

believe of what you were asked to do. Prognosis and permanency?

A Prognosis, permanency, recurrent condition perhaps.

Q To make this quicker, Doctor, do you intend to offer any opinions on the chiropractic standard of care?

A No.

Q Do you intend to offer any opinions regarding whether a breach of the chiropractic standard of care proximately caused Kim Richley harm?

A I don't know enough about the chiropractic standard of care to offer those opinions.

Q You're not going to offer any opinion -- or any opinion testimony about her neck -- how she sustained the injury to her neck, but you're going to tell us what that injury involves; is that a fair statement?

A I'm not sure. I just appeared for the deposition. I'm not sure what's going to be asked of me and what's not going to be asked of me.

Q You understand the reason I'm taking your deposition is because plaintiffs have identified you as an expert in this case, and this is my chance to find out what you're going to testify about at trial. So that's the reason I'm asking

these questions.

So as you sit here today, are you going to offer any opinion testimony regarding what caused Kim Richley's neck injury?

A Again, I'm not sure. I mean, I didn't appear with the intent of offering one thing specifically over another.

Q So you don't know?

A I don't know.

Q Doctor, when did you start treating Kim Richley?

A Well, the first note I have is from June of 2002, but I had been treating her well before that.

Q Do you know when?

A Specifically no, I can't tell you when I first started treating her.

Q Why did you only bring part of her chart?

A I had my assistants make copies of what was available in her chart. I mean, you know, charts are broken down after several years and, you know, filed away, and this is what I was given.

Q Let's talk broadly, Doctor, about -- let me first ask you: You authored that April 15, 2004 report you're looking at, is that the only version of that report?

A I believe so, yes.

Q Were there any drafts?
A Not that I'm aware of.
Q Does the report fairly and accurately summarize your opinions?
A Yes.
Q Do you have any changes you want to make to it before we start?
A I don't think so.
Q As I read that, Doctor, you're going to testify about Kim Richley's current condition; is that right?
A Right.
Q You'll talk about how you're treating her currently; is that right?
A Right.
Q You're also going to talk about how you've treated her in the past?
A Right.
Q It appears to me that you're going to offer opinions regarding whether she can be gainfully employed due to this injury; is that correct?
A Correct.
Q And you will offer opinions regarding the permanency of her injuries; is that right?
A Correct.

Q Is there anything else that you can think of?
A No.
(Defendant's Exhibits 1 & 2 marked for identification.)
MR. REGNIER: Mark, I have marked a copy of the report you provided me as Defendant's Exhibit 2. Do you have any objection to me attaching that as an exhibit?
MR. RUF: I do not.
MR. REGNIER: Same thing with the CV, any problems with that?
MR. RUF: No.
MR. REGNIER: Thanks.
Q Doctor, give me a broad overview of Kim Richley's condition. What's she like right now?
A Well, she has day to day pain in the neck, it's up and down. She has her good days, she has her bad days. The pain is about as controlled as we can get it with the medication that she's on. And, you know, again, she'll have good days and bad days.
She used to have problems with her upper extremities following the injury to her neck, those have resolved. So, you know, she's very happy and pleased about the fact that she's regained her strength for the most part back into her upper

extremities.

And, you know, I think the best way to sum it up, she has good days and she has days where the pain is a little bit more substantial and produces headaches. And she knows she's not able to do a whole lot. If she pushes herself and tries to do things, she's usually paying for it later or the next day. So she's limited from a physical standpoint.

Q Doctor, what's your understanding of her neck injury or her cervical injury? What does she have?

A What's my understanding of her injury, meaning -- I'm sorry, can you be more clear?

Q Yes. What's your understanding of what's wrong with her neck?

A Well, she had an injury, sustained a fracture to the neck. It was a fractured subluxation, which is a pretty significant injury. She initially had some neurologic complications as well. That was repaired by Dr. Likavec, who's an excellent neurosurgeon. And, you know, so she has a cervical fusion now. And, you know, she'll continue with some neck discomfort.

Q Do you have an understanding of where and what was fractured?

A I believe it was C6-7 level she had fractured through a facet joint.
Q And what's your understanding of the repair that was done?
A Well, I've got an operative report here. I read through it earlier today. I mean, they reduced the fracture. They removed some pieces of bone that were causing compression on a nerve root. And a posterior cervical fusion was performed. I mean, that's about it.

I mean, there's lots of other details, I don't know if you want to get into details. I think you have the op report, too.

Q That's fine. You mentioned you reviewed the operative report before the deposition today?
A Right.
Q Were you advised of any other medical records or testimony by plaintiff's counsel before the deposition today?
A No.
Q Were you advised of anything else at all by plaintiff's counsel before the deposition today?
A No, sir.
Q Kim Richley then came to you for -- well, Kim Richley was already treating with you prior to

her neck injury, correct?
A Yes.
Q And she had been treating with you for some time; is that right?
A Right.
Q Would you agree she was seeing you on a pretty regular basis around every month to two months?
A She was on Schedule II narcotics, which requires regular visits.
Q What was she on?
A Fentanyl, which is a transdermal -- the brand name is actually Duragesic. It's transdermal Fentanyl, which is a pain patch.
Q What else?
A At different times she was on different things. You know, she was on medications for breakthrough pain, anti-inflammatories. I mean, do you want specifics?
Q I'd like to know what medications she was already on before the injury under your supervision.
A Okay. Well, immediately before the injury she was taking the Duragesic patch I had mentioned, with a dose of 25 micrograms transdermally. Ultram, which is pain medication, or Tramadol, which is the generic form. I mean, she -- you know, I'm just

giving a list of what she was on not necessarily all at the same time, but in looking at my med log here.

Q I wasn't given a copy of the prescription log, so I'd appreciate that.

A So she was also on Hydrocodone or Vicodin. That prescription was provided on July 9th. So I mean she wasn't taking it necessarily concomitantly with the Tramadol, but that was also something she had been on prior to the neck injury.

Q What else?

A I mean, immediately prior to the neck injury, not much else. I mean, several months prior to that she was on some anti-inflammatories with Vioxx. I mean, I could go back a whole year if you want and give you her meds that she was on.

Q No. Doctor -- and with Mr. Ruf's permission -- after this is over, I would like you to make a copy, or your office to make a copy of what you have there today so that I can see that as well.

Is that okay with you?

A Yes.

Q Thanks.

MR. RUF: I don't have those records either so we're going to need to get two

copies.
Q Okay. And I'm sorry, Doctor, when do your notes start that you have there?
A In my possession the first note I have is from June 4th, 2002.
Q Doctor, has Kim Richley -- have you had to prescribe narcotics for Kim Richley for sometime prior to that date?
A Yes.
Q Have you been treating her prior to that date for chronic pain management?
A Right. Yes.
Q Can you give me a -- with the understanding that those notes aren't in front of you, can you give me sort of a broad description of what you were treating her for prior to this injury?
A I mean, she had, you know, some back pain that was coming into the legs, was not responding to physical therapy, and, you know, lesser medications, anti-inflammatories and muscle relaxers. And so we had done what we could do from a treatment standpoint, and we decided to get a little bit more aggressive with the pain control.
Q She was having difficulty with the pain prior to this injury?

A Yeah, difficulty with low back pain.
Q Was she also having difficulty with right arm and hand pain related to carpal tunnel?
A Possibly at a point in time. I mean, you know, her early EMGs did demonstrate that she had some very mild carpal tunnel that did get progressively worse.
Q Would that have been your December 10, 2002 EMG, or did you do one earlier than that?
A I did one earlier than that. I did one in January of 2002.
Q Okay.
A She had some mild carpal tunnel at that time.
Q There's a -- did your office perform her carpal tunnel surgery or is that someone else?
A You know, I can't be sure whether we did or not.
Q So after -- do you have an understanding in looking at your chart, did Kim Richley keep a regularly scheduled appointment to see you after her neck surgery, or did she come in special, how did she come back into your office?
A Let me -- I'll find my first note following her neck injury. You know -- I mean, she was on pain medication, so it wasn't what you would say a scheduled visit. There was a lapse of a couple

months that I didn't see her. And then the first note I have is from October 29th, 2002 after her injury. And, you know, I have -- the first sentence in that note is, "She appeared today" -- came in here today for follow up.

Q You said you have to see her how often when she's on Schedule II substances?

A Generally every one to two months. I mean, it's nothing that's written in stone, but that's my own personal standard of care as I'd like to -- especially on Schedule II narcotics to see them at least every two months.

Q What was your role in managing Kim Richley's care after her neck injury and surgery?

A Just to, you know, monitor her progress as far as neurologically as she had some upper extremity weakness, and try to keep her pain under control, and, you know, those type of things. You know, as a rehab doctor it's hard to put your finger on one specific thing. You know, you take several things into account how they're doing in life in general. Trying to get them back, you know, to work, if possible. Rehabilitation in every manner.

Q Do you know were you treating her within the Workers' Compensation system or were you treating

her as a private pay patient?

MR. RUF: Objection as to Workers' Compensation.

Q Go ahead, Doctor.

A You know, I'm not sure. I don't have any of the billing stuff in front of me. There was a period of time when she did have an injury -- she did have an injury when she was employed. I believe she was working at a bakery at the time. And, you know, it might be more specifically listed in my note if you want me to look.

Q Sure.

A You know, we actually have a separate Workers' Compensation chart, so it's possible that I don't have that information.

Q You have a separate Workers' Comp chart for Kim?

A Well, yeah. You know, generally that's how we do it. I mean, if they have private pay -- if it's the same person that has one case that's Workmen's Comp and another situation that's private pay, then we have two separate charts.

Q You feel it's appropriate to open a separate file -- if a person has one injury that's related to a Workers' Comp accident, and the other that's unrelated, you believe it's appropriate to keep two

separate charts; is that correct?
A Right.
Q And to bill accordingly? To bill Workers' Comp for the Workers' Comp injury and to bill the private pay for the unrelated injuries; is that right?
A Yeah. That's generally what we do.
Q Is that the standard of practice that you're aware of of physicians in Ohio?
MR. RUF: Objection.
He said he's not testifying as to standards of practice.
A I mean, I'm not sure -- I mean, that's what we at Precision Orthopeadic Specialties generally try to do, and I'm sure things get mixed up a bit.
Q And my question is only: You don't think that's unusual?
A Two separate charts?
Q Yes.
A No.
Q You're not her primary care physician, right?
A Right. I am not.
Q Is there a primary care physician that you correspond with on Kim Richley, or are you aware of who that would be?
A No.

Q You've mentioned that the different areas that you practice in, would you view your role with Kim to be primarily one of pain management?
A Yes, primarily.
Q Doctor, could you look at your October 29th, 2002 note you were just talking about?
A Okay.
Q I'm not going to ask you to read it, but there's one word I can't read and that's in the middle. It says saw a blank facet. And it looks like there's a word written in there, could you tell me what that word is?
A Perched, p-e-r-c-h-e-d.
Q And you mentioned in the last two sentences, you say, "Her back pain continues as previous and she has yet to return to work from the back pain."
What was going on with her back?
A Well, I mean, I had been treating for her back for some time. She had back pain and radicular pain into the leg. And I mean, that's why we had engaged in pain medications.
Q And that injury had prevented her from working prior to the neck injury?
A Right. I mean, apparently for some time, yes.
Q What does the transdermal patch do? How does it

work?
A Well, it blocks specific receptors in the brain that receive pain signals.
Q How long does one -- I'm sorry, I'm not familiar with patches, how long does one patch last?
A Generally they're changed every 72 hours. Some patients do require a change of the patch every 48 hours.
Q Does it act as a -- you say it blocks the pain receptors?
A Right. I mean, it binds the pain receptors in the brain, and then those pain receptors cannot accept any other chemical that would trigger a pain response. So it's basically a centrally acting pain controlled mechanism.
Q That was my next question. It acts generally to pain reception in the body or to a specific body area?
A No, just generally. I mean, so it's really acting at the brain level.
Q So it helps blocks pain wherever the patient is experiencing it?
A Right.
Q And in the past Kim had mentioned to you that it was helping block pain in several areas, had she

not?
A Right.
Q She had mentioned that it was helping block her low back pain; is that right?
A Right.
Q And it was helping to block her jaw pain, her TMJ that she had; do you recall that?
A Right.
Q Did she mention it helping any other areas that you recall?
A Not that I can specifically recall. I mean, she had some pain into the pelvic area as well posteriorly, the sacral iliac area. I cannot recall any other specific areas.
Q Doctor, after your -- well, after you saw her on October 29th, what did you do for her?
A We continued with her medications, and -- I mean, my last sentence on that note is we extended her time off from work.
Q Forgive me, because as I said, I don't have your prescription log. Did you change any of her medications on October 29th, 2002?
A No. It does not look like the medications were changed until a month later.
Q What visit would that be, Doctor, or the date that

you're looking at?

A Probably November 25th.

Q Doctor, do you have a treatment note for November 25th? And I say that only because I don't.

A I have one for November 21st, so that was probably the date that we made the decision to increase her pain medication.

Q Then the prescription would have been filled some days later?

A Right.

Q Okay. What did you do on the 21st, Doctor?

A November 21st?

Q Yes.

A I gave her some Percocet which is a short acting pain reliever. We continued with the Fentanyl or the Duragesic patch. I gave her a muscle relaxer. And I decided to set her up for an EMG nerve conduction study.

Q Do you see on your paragraph in that note that says plan, Doctor?

A Yes.

Q A couple of questions: Are you -- were you the one prescribing her the Neurontin or was that somebody else?

A That was somebody else.
Q That was for her epilepsy, right?
A Right.
Q Does that have some side pain management benefits?
A Yes.
Q What are those?
A It controls nerve pain.
Q You mentioned that you set her up or you wanted to get an EMG study done; is that right?
A Correct.
Q You said, "Will call her once that is approved." Was that being sent into Workers' Comp or her private pay insurances, do you know?
A Private pay insurance.
Q What were your findings on that day, Doctor?
A She had some nerve damage to the C6 and C -- cervical level six and cervical level seven nerve roots on the right side.
Q How do you determine that?
A Well, I mean, the part of the test you stimulate the nerves with probe that delivers current. And you measure how quickly the current travels, you measure the amplitude of the wave response, and then you calculate conduction velocities.
The second part of the test involves

placing a monopolar needle into the muscle. And, you know, depending on where the muscles are injured or nerves are injured, you'll have different findings. And her specific findings were that she had findings consistent with nerve damage that was acute.

Q I'm sorry, that sounds like you're describing the EMG test?

A Yeah. Well, I mean, the first part of my statement was the nerve conduction study. When I talked about the monopolar needle, that was the needle examination or the EMG.

Q My question was: What did you do on the 21st to find that she had nerve damage, or were you just referring to what you found later?

A I'm sorry. I thought you wanted me to elaborate on the EMG.

Q No. I'm sorry. I thought you had said that you diagnosed that she had nerve damage on November 21st?

A Well, I suspected it. She had some weakness, she had a blunted reflex. You know, had muscle weakness in different parts of the arm.

Q That's what I wanted to know. So the EMG that you were just describing to me, that happened on

December 10, had a nerve conduction study December 10, 2002?

A Right.

Q Is it accurate your general findings were that there was a lesion on the cervical spine involving nerve root C-6 and 7; is that right?

A Yeah. I mean, lesion just implies injury.

Q Did you also find carpal tunnel injuries that day?

A Yes.

Q Would it be accurate to say that the diminished sensation that she had on the ulnar half of her forearm and the fourth and fifth digits of her hand were related to the carpal tunnel and not to her cervical injury?

A No. I mean, carpal tunnel generally affects the first two or three digit of the hand. It very rarely effects the fourth and fifth digits of the hand.

Q Is it your belief that the ulnar nerve injury you were talking about, that that was related to the cervical injury?

A I believe that the paraesthesia and the numbness she had in the fourth and fifth digits were related to her cervical injury.

Q What were your recommendations to Kim Richley in

December of 2002 treatment-wise?
A You know, there's not much you can do once you have nerve damage if the compression has been removed or decompressed. So, you know, it was a wait and see thing at that time. We were going to monitor any nerve or neurologic recovery she would have at that time. And, you know, it's just a matter of seeing her for months and months to continue to manage her pain.
Q You continued to manage her for other conditions as well; is that correct?
A Yeah. But, you know, the neck kind of took the focus from that point forward.
Q Does she continue to have back pain from this point forward?
A I mean, not that she really complained about much anymore.
Q Did she complain of foot and leg pain?
A Possibly.
Q Would it be fair to say your records speak for themselves, and whatever you wrote, you wrote. That would be the most accurate reflection of what you were treating on a given day?
A Yes.
Q Has Kim Richley been treated with narcotics

continually since October of 2002 for her condition?

A Yes.

Q Is that raising any dangers in treating her that way?

A Dangers in what sense?

Q Of treating with narcotics for a period of years?

A Well, you know, before you make the decision to proceed with narcotic treatment, you know, you try to do anything and everything else you can, whether there's any surgical correction available, or whether therapy will do what you want, or, you know, lesser medications, such as anti-inflammatories or muscle relaxers. You know, help the patient cope with their pain before engaging in narcotic treatment.

Once you start using medications like Fentanyl that are generally longer acting narcotics, you're generally resigned to the fact that they may very realistically be on these medications forever.

Q Does the patient build up a tolerance to the narcotics when they're treated long term?

A Generally quicker to the short acting narcotics and that's why we try to use the longer acting

narcotics like the transdermal Fentanyl.
Q Would she develop a tolerance to the Percocet and things like that though?
A Yeah, anybody would.
Q Did you -- when was the first time you recommended physical therapy for Kim Richley?
A I don't recall.
Q Do you have it in your notes?
A Chances are that before I -- before she came to see me she was referred to me by somebody else and has been -- had been through any lesser treatments. But, you know, again, my first note is from June 4th, 2002, I don't have any prior notes on her available to me today.
Q I apologize. I mean, when was the first time you referred her to physical therapy after her neck injury?
A You know, I'm going to check here, but I mean she was still under the care of Dr. Likavec for the first few months following her neck injury. And it looks like the first time I recommended physical therapy was February of 2003.
Q And did she go to physical therapy then?
A I'm not sure. I mean, it doesn't look like we have the records of those visits with her. I mean, I'm

not sure if she did or not.
Q Did you say you maintained a separate physical therapy chart as well?
A Yes.
Q I'm sorry did you say yes?
A Yes.
Q And that physical therapy would have been done in your office?
A I mean, it most likely would have been done in our office, yes. I mean, it does not appear that she actually scheduled any physical therapy, you know, in February or March of 2002.
Q Would you expect the patient to schedule physical therapy after you requested over ordered that they do so?
A You know, not necessarily. I mean, you know, mostly people with chronic pain have been through physical therapy before. It's one of those things that you can recommend just because there's not many other things to recommend. You know, a patient has pain and they're having a bad day and they're looking at you for answers. And sometimes that's something you do recommend as an option.

I mean, it's not comparable to someone, let's say, who had a sports injury and that

physical therapy is imperative for them to improve their performance and get back to their baseline.

Q Well, Doctor, it's not fair to characterize her neck injury as chronic in January of 2003, is it, it's only -- she's just had the repair surgery?

A You know, I wasn't speaking specifically of her neck injury. I was giving you a generality regarding someone who has chronic pain.

Q All right. Well, it's fair to say that in the fall of 2002 and the winter of 2003 her neck injury was not a chronic injury, isn't it?

A Right.

Q In fact, the recovery process from an injury like this can last for, what, up to a year or 18 months; is that right?

A Right.

Q So during that time period, it wouldn't be fair to characterize it as a chronic injury, correct?

A Right.

Q And when I review your records, is it fair for me to assume that when you mention chronic pain, you're not talking about her neck injury; is that right?

A Right.

Q So my question is: Would you normally expect

someone to comply with your request or order to undergo physical therapy me for an acute injury?

A Again, I wasn't -- I did not treat her acute injury, so that wouldn't be my place to make that recommendation.

Q Is it your position you had no role in her recovery from her neck injury?

A I had a minimal role. I mean, I was controlling her pain. Dr. Likavec managed her cervical injuries.

Q Okay. So in your opinion, Dr. Likavec is the primary treater of her neck injuries; is that right?

A Right.

Q And your role is to help her with pain management down the road after she is --

A Well, you know, during her recovery and thereafter, yeah.

Q Do you know of anyone else who is treating her neck injury besides you after January of 2002 -- excuse me, 2003?

A No.

Q Did you recommend at any other times physical therapy for Kim Richley --

A Yes.

Q -- for her neck?
A For her neck? You know, I can't be sure.
Q What's your understanding of what you were recommending physical therapy for then when you would recommend it for Kim?
A Mostly modalities to reduce pain.
Q Pain where?
A In her neck.
Q Isn't that what I asked? When did you refer her for PT for her neck? That's what I'm asking you. When did you refer her for physical therapy for relief or improvement for her neck?
A It looks like February 2003, one time.
Q When else?
A You want me to check all the notes and tell you specifically?
Q Please.
A Can we just say that anywhere in my notes that I recommended physical therapy is when I recommended physical therapy?
Q Yes. I didn't know if you have a separate -- Doctor, with what you have in front of you, because we don't have the same things. I don't know if you have a separate sheet that shows when referrals were made or histories that were made when you

referred her?
A I mean, I have a log of her physical therapy, you know, assessments and subsequent visits.
Q That's a separate sheet?
A Right.
Q How long is it?
A There's several sheets here. I mean, several times she did not appear for physical therapy, other times she had cancellations, other times she did appear.
Q Do any of them show, Doctor, a regular course of, you know, two to three times a week for a certain amount of time?
A No. I mean, she never, under my care, had consistent physical therapy.
Q Was that because you never recommended it or because she never went to it?
A You know, partly it's because she cancelled and no shows for appointments. I mean, there's documentation here from a physical therapist that her mother was ill and she had a hard time making physical therapy appointments.
Q I mean, that's all I'm asking. Did you ever recommend a regular course that wasn't followed, or did you never recommend a regular course?

A Again, the physical therapy was specifically to improve her pain. It wasn't to improve her upper extremity function in any way. It was to try to maintain range of motion in the cervical spine and to reduce her pain.

Q So what does that mean? What kind of things do you do for her then? What do you recommend?

A You know, ultrasound, a therapist can apply electric stimulation, they can do some manual therapy, you know, those type of things.

Q So it wasn't exercise or stretching or rehabilitative exercises?

A Right.

Q Was that sort of therapy ever recommended for Kim Richley?

A At one point, you know, just to maintain her range of motion, but never any strengthening per se, no.

Q When was the range of motion set -- ordered?

A I believe it was February 2003, but let me double cheek here. My note on February 18th, 2003.

Q Doctor, let's talk about your neurological findings with Kim Richley currently.

Did I understand you correctly that you believe her neurological function has returned in her right extremity?

A Yes.
Q Is it now functionally normal?
A Yes.
Q When did that happen, Doctor, if you know? When did it return to normal?
A Per my notes, she had a gradual return to functional capacity. You know, per my note on July of '04, she had pretty decent return by that time. Per my note to Mr. Ruf in April 2004, I believe I state in there that her strength is back to a functional level.
Q Does it say that? I'm sorry. What I have is, "Some weakness in the right upper extremity. EMG was repeated on March 2, 2004 and has ongoing evidence of chronic nerve damage but some recovery of the nerves noted."

So would it be since that time she has regained her neurological function in her right arm?
A You know, as of April 15th she did have some residual weakness. And as of my note in July of 2004, she had regained most of that deficit.
Q Have you ever reviewed Dr. Likavec's treatment notes?

A Just recently I did.
Q Did you look at his last treatment note then on January, I believe, it's 29 of 2003?
A I do not believe I did.
Q So she has -- currently she has normal nerve function in her right arm. What other findings does she have in her neck and right extremity, if any?
A Well, she has substantial pain which does limit the ability, you know, to engage in physical activity. I mean, you know, from a strict perspective of her nerves anatomically, they have healed. But, you know, she doesn't have the endurance and the ability to perform very much arduous work. I mean, per the functional capacity evaluation, you know, she had a very minimal ability to lift, you know, to sit for long periods of time, et cetera.
Q Let's start with the pain. Where is she telling you it hurts?
A In the neck.
Q The pain, is it primarily at the operative site?
A No, just generalized pain in the neck. I mean, left and right. Some days right is worse, sometimes left is worse. Extending into the muscles around the shoulder blades and into the

trapezius muscles in either side of the neck.
Q Is it primarily -- in your opinion, what kind of pain is it? Is it muscular pain? Is it pain from the fracture? What is it?
A You know, it's difficult to say exactly where it's from. I mean, there's several possibilities. It could be from the facet joints themselves. It could be from the discs themselves. It could be partly from the hardware that was placed. So, I mean, it's impossible to say, but as a result of what's going on in and near the spine, there's muscle pain and muscle spasm as well.
Q Pain anywhere else, Doctor, that she's complaining to you of?
A I mean, she has the ongoing back pain but that's of lesser concern. I mean, that was controlled pretty well with the lesser dose of the transdermal patch that we were treating her with. And since then she's on a little bit stronger of a dose. So the back pain has been well controlled.
Q And I'm sorry, I also don't have functional capacity evaluation. Is her strength back to normal in her right arm?
A You know, the functional capacity eval really looks at the function, it doesn't specifically look at

isolated muscle strength. It looks at the ability to lift and lift overhead, et cetera. So, no, she's far from normal as far as what she could do functionally.

Q Strength-wise, has her strength returned in that arm, the right arm?

A Yes, it has. Isolated muscle testing, she has returned pretty much to normal.

Q So what is causing the limitations then?

A Pain.

Q Anything else?

A You know, there might be an endurance factor there, but I really believe it's mostly pain.

Q Doctor, could that be -- could the pain or the lack of endurance be helped with physical therapy currently?

A I don't believe so.

Q Why is that?

A I don't think she can tolerate physical therapy because the pain gets exacerbated. I mean, the physical therapy, I believe, she can tolerate is going to be very simply modalities, electric stim and those type of things. I don't think she's going to be able to sit there and repetitively lift weights, et cetera.

Q In your practice is it typical for a patient to experience this level of pain after a facet injury?
A Yeah. I mean, it's not out of the ordinary. I mean, you know, more than facet fractures themselves, I deal more with facet arthritis which can be very painful. I mean, the facet joint itself is full of pain fibers. So, you know, the facet capsule and the facet joint can be a strong pain, you know, elicitor.
Q Doctor, you mentioned in -- let's see it's the second to last paragraph of your report, that the pain -- you describe what the pain is doing for her. You say it limits her ability to lift, sit for long periods of time.

Do you see that paragraph?

A Yes.
Q And you mention several other things. Was that history derived from her?
A Primarily, but, I mean, she's also had a functional capacity eval that was done after this report that does verify that. But, yeah, that specific history was derived from her.
Q And in your opinion the functional capacity test that's been done since then corroborates that?
A Yes.

Q Doctor, in the first sentence of the last paragraph of your report you state that you do not feel she is able to sustain any gainful employment at this time because of her cervical condition.

Is that still your opinion?

A Yes.

Q Why do you believe she can't be employed doing anything?

A Well, I mean -- you know, especially since the functional capacity evaluation has been done, if I wasn't convinced before, I'm certainly convinced after looking at the functional capacity eval. You know, when the functional capacity eval was done, that was done specifically looking at whether or not she could return working in a bakery, and she wasn't even close to that. I mean, her lifting ability is two and a half pounds. She can't sit for long periods of time. So, I mean, that's all pretty clearly documented in the functional capacity eval.

Q Who did the functional capacity evaluation?

A You know what, I've actually found his last name. That was John Strychasz. And I can spell his last name for you.

Q That would be great.

A It's S-t-r-y-c-h-a-s-z.
Q Thank you. And he's --
A From a work evaluation system called The Matheson System of Work Evaluation.
Q And he's a physical therapist?
A Yes. And it's a comprehensive, you know, functional capacity eval.
Q So that -- your opinion in that test is that she certainly could not return to work as a baker, correct?
A Working in a bakery, right.
Q What about other jobs though?
A Well, I mean, she's less than even a sedentary level of physical ability. So, you know, I mean --
Q What do you mean by that? What's less than sedentary level of ability?
A Sedentary implies pretty much the lowest level in the job demands in the industrial medicine arena. And she's less than sedentary. Sedentary implies five pounds lifting and she can't even do that on a repetitive and continuous basis.

I mean, again, that's based on a functional capacity eval. That's the reason we do these functional capacity evals, is because that's as close as we can get to an objective measure of

their function.
Q Right. At the time of your letter and your report that hadn't been done yet?
A Correct.
Q So what was it based on at the time?
A Well, at the time it was based on the fact that I had been treating her for, you know, a couple of years at that point. And, you know, I know how she was from month to month and -- you know, and I just --

I mean, as a physician, you're not going to second guess everything your patient tells you, so you have a tendency to believe what they're telling you. And if she's telling me that she's having a hard time because she did the laundry one day and she's hurting for the next couple of days, then you tend to believe they're struggling to make it from day to day because of their pain.

Q Is it your opinion that her current status, this being -- how did you say it -- less then sedentary?
A Right.
Q That that is entirely caused by her cervical injury?
A I mean, can I give you a percentage?
Q Sure. You can say it anyway you want.

A You know, it's impossible to say, really. I mean, I know that would make it easier for everybody if we had a way to measure all that out, but it's very difficult to say. I mean, she -- you know, she has back problems that are well documented. I mean, she -- you know -- but I would say that the cervical injury set her back a fair amount. And I would, you know, I would certainly contribute most of her current condition to the neck injury.

Q You would contribute most of it to her neck injury?

A Right.

Q You would agree with me that her back injury certainly affects her employability, correct?

A Yeah. To a much lesser degree, but, you know, I think her inability to perform well with the functional capacity evaluation was primarily due to her neck complaints.

Q Doctor, speaking of other conditions, shortly -- let me get the exact date for you unless you know it offhand. After her neck injury, at one point Ms. Richley had surgery on her elbow for cubital tunnel syndrome; do you recall that?

A I don't specifically recall it, no.

Q Let me find the note. It would have been March 23rd of 2003. It looks like your office note

would be for March 5, 2003.
A I have one for March 4 of 2003.
Q Does your chart have on the very next page then 3/5/03, and it looks like by Jeffrey F. Shall?
A Yeah. That's one of my partners. I don't have that.
Q That's not in your chart that you have in front of you?
A No.
Q Are you aware of a diagnosis of cubital tunnel syndrome with her and a surgery to correct it in her right elbow?
A You know, I mean, that was a year and a half ago. I don't specifically remember it, but --
Q Let me ask you this and here's the reason I'm asking, that surgery is an expense being claimed in this case. Would you agree with me that that surgery would not be related to her cervical injury?
A Right. I don't see any correlation with those two.
Q Doctor, you've also offered an opinion that -- the way you said it, "The majority of her cervical issues are permanent;" is that correct?
A Yes.
Q What of her cervical issues are permanent?

A Her pain primarily. You know, her pain in the cervical region. The muscle spasm that she gets. The pain that travels into the shoulder blades and out to the shoulders along the trapezius muscles.

Q And in your opinion that is all related to the cervical injury?

A The cervical injury and then, you know, the operation to correct and stabilize the neck.

Q Is there anything else -- is there any other permanent injury that you believe she has sustained cervically?

A No.

Q What's your understanding of Kim Richley's current activities as far as what she can do and can't do?

A You know that's based mostly off the functional capacity eval. Do you want me to give you a summary of that?

Q You weren't there, though, for the functional capacity evaluation. What has she been telling you when she comes in for treatment about what she can and can't do?

A Again, she's going to have good days and bad days. You know, I can't recall any specifics for you.

Q Does it seem to be activity related when you say good days and bad days?

A Sometimes it is, not necessarily all the time though.
Q Some days she can just wake up with it?
A Right.
Q Doctor, while you were treating -- while you've been treating Kim Richley, did -- she's had several bad falls, has she not?
MR. RUF: Objection.
A You know, I'm not sure. She might have had, I'm not sure.
Q Well, you know she had one at work in August of 2002, right?
A Right.
Q And do you have your history intake forms in front of you?
A For that specific fall?
Q No, in general. I've got several history forms of yours.
A Yeah. I mean, I don't have all of them. You know, that specific fall would be under the Workers' Comp chart.
Q Do you have your note for May 6th, 2003?
A Yes.
Q Do you have the treatment history that goes with it, the history intake?

A Yes.
Q What treatment did you render to her -- she slipped and fell on that date, correct, or shortly before?
A Right.
Q And she was concerned about a concussion; is that right?
A Right.
Q On your history forms, Doctor, whose handwriting is that? Is that yours, a nurse's, or Ms. Richley's?
A That's a medical assistant.
Q Do you know why in several spots in your chart Kim Richley had an aversion to getting X-rays, do you know why that was?
A No. You know, it could be because in that Brooklyn office we have to send them downstairs for X-rays and it can take a long time.
Q Where was she treated primarily, do you know, which office?
A Yeah, the Brooklyn office.
Q So when there's a note in your chart that's stamped Ridgepark Office, is that another one of your locations?
A No. That's the same one, Ridgepark, Brooklyn.
Q You know, Doctor, you also have a note on September 15, 2003 in your chart that says,

"Kim Richley was hospitalized."

Do you know what that was for?

A I remember she had pneumonia at one point, but I'm not positive if it was at that time or not.

Q Doctor, do you think her back has improved enough to go to work?

MR. RUF: Her low back?

MR. REGNIER: Yes.

A Yeah, I think so. I think she could be employed because, you know, the back was not as much of a concern. I mean, she was working with the back pain.

Q Why, Doctor, did you recommend counseling for Kim Richley?

A I mean, that's something we recommend to a lot of patients that are having chronic pain. You know, I was feeling that she emotionally was having a hard time coping with the pain, and that may be something that might have been helpful in helping cope with the pain.

Q A couple of times -- well, at least once in your chart you said that family stress was exacerbating her neck pain, didn't you?

A Yeah.

Q What was going on there?

A Specifically I don't recall, but, I mean, there's lots of things that can exacerbate pain. You know, stress is certainly one of those.

Q Doctor, on January 29th, 2004, when you recommended counseling, it wasn't for -- it was for family dynamics causing stress, so my question is: What was that about?

A You're asking me what the specific family dynamics were?

Q Why were you recommending counseling? What was going on?

A Again, I can't specifically recall. I mean, from what I can specifically remember, her daughter was pregnant and, you know -- I mean, I can't specifically recall. Daughter's unmarried and she was really worrying about her daughter being pregnant and, you know, those type of things.

Q You mentioned, Doctor, that you've had a chance to review Bernard Agen's report, which lists three medications on it; Bextra, Percocet, and the transdermal patch?

A Right.

Q Is it your testimony that Kimberly Richley will require those medications for the rest of the her life?

A Most likely she will. I mean, that's a regimen she's on to have her pain reasonably controlled. You know, it's possibly -- it's possible she will, it's also possible that she won't. I mean, as far as today, you're asking me, my answer today would be that she most likely will require these medications for the rest of her life.

Q I'm just about done, Doctor. If you'll hang on just a second.

MR. RUF: I have a few questions for him when you're done.

Q Doctor, have we covered all the areas of opinion that you currently hold in this case?

A I believe we've covered most of them, yes.

Q Can you think of anything else?

A No.

Q Doctor, what are your fees that you charge for deposition and trial testimony?

A I could find out for you. I'm not sure. Our office here does most of that stuff.

Q How many depositions have you given in the last year?

A In the last year, it's possibly my second, if not my first. I'm not completely sure again.

Q How long have been testifying in cases?

A Three to four years. Again, that's an estimate.

MR. REGNIER: Doctor, Mr. Ruf is going to ask you some questions in a minute, but I would like to have copies of everything you have there. And the release that we had sent, I believe, earlier to your office --

And Mark we can talk about it if you want a separate release -- asks for your entire chart.

I would like the entire chart that your office has for Kimberly Richley.

THE WITNESS: Can you repeat that?

MR. RUF: You just broke up.

MR. REGNIER: I believe your release earlier was for all the records you had of Kimberly Richley, but I would like -- whether you provide it to us or if we need a separate release for Kim Richley, all of her files of the treatment you have rendered to her.

THE WITNESS: Okay.

MR. REGNIER: Do you have any objection to that, Mark?

MR. RUF: No. I asked for them originally. I mean, this is what they gave me. It sounds like you have more than I've got.

MR. REGNIER: I think I might.

MR. RUF: All I've got are his notes, and that's it.

MR. REGNIER: Okay.

Q Doctor, real quickly, your EMG study, you did one this past spring?

A Yes.

Q And I understand that since her -- since currently -- whatever you found then, if it showed a nerve deficit, that deficit is now gone, correct?

MR. RUF: Objection.

Q I just want to know whether we have it take you through all that or not?

A I mean, if you're specifically asking about the EMG, the needle part of the EMG is always going to detect some chronic problems.

Q Okay. What does it show?

A You know, it showed chronic denervation, which means that there's been some damage to the nerves and there's been some resprouting of exons so you see some different potentials on the needle examination that generally mean that there's been damage and some recovery, some resprouting.

You know, I'm not sure if you're asking me from a functional standpoint, do feel that she's --

any neurologic deficit that she has fully recovered or --

Q My question is whether the deficits shown in the -- whether she's recovered from the deficits shown in that EMG study?

A Well, see, the deficits shown in that EMG, again, it showed chronic nerve damage. I mean, that may show up for years and years and years on an EMG nerve conduction study. It may be indefinite. It permanently shows, because that's -- anatomically her nerves had to regrow and resprout and so their pattern is never going to be completely normal, there's always going to be evidence of nerve injury there.

MR. REGNIER: I see.

With that, Mark, due to the logistical difficulties today, but primarily because I would like his entire chart, I'm done, but I would like reserve the right maybe shortly before a trial deposition to reconvene if there's something new and different in his chart that we don't have.

MR. RUF: That's fine. I don't have an objection to that as long as you pay for his time.

MR. REGNIER: Sure.

DIRECT EXAMINATION

By Mr. Ruf:

Q Doctor, this is Mark Ruf, I just have a few questions for you.

Do you have an opinion, based upon a reasonable medical certainty, as to whether Kimberly Richley's neck condition is permanent?

A I do believe it's permanent.

Q Do you have an opinion, based upon reasonable medical certainty, as to whether she will permanently have to remain on the medication she's on?

A I believe she'll most likely need to remain on the medication she's on.

Q Do you have an opinion, based upon reasonable medical certainty, as to whether she will be able to sustain gainful employment?

A I don't believe she's be able to sustain gainful employment.

Q Is one of the limitations that she has the ability to look up and down repetitively?

MR. REGNIER: Objection, leading.

A Yes. Up and down, left and right. You know, any cervical movement on a repetitive basis is going to most likely aggravate her pain, and for that reason

she's going to be very hesitant to perform those activities.

Q Is the letter of April 25, 2004 that you wrote to me part of your chart?

A Yes.

Q And was that letter prepared in the regular course of your medical practice?

A Yes.

MR. RUF: Thank you, Doctor, that's all I have.

Anything additional, Mike?

MR. REGNIER: No.

MR. RUF: Do you want to read this deposition or do you want to assume it's been taken down correctly and waive right?

THE WITNESS: I'll waive that right.

(Signature waived.)

(Deposition concluded at 5:10 p.m.)

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State of Ohio,)
) SS: CERTIFICATE
County of Cuyahoga,)

I, Jacqueline L. Reichert, a Court Reporter and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, Amardeep S. Chauhan, D.O., was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the testimony then given by him was by me reduced to stenotypy/computer in the presence of said witness, afterward transcribed, and that the foregoing is a true and correct transcript of the testimony so given by him as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified, and was completed without adjournment.

I do further certify that I am not a relative, counsel, or attorney of either party, or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 21st day of September, 2004.

Jacqueline L. Reichert, Court Reporter
and Notary Public in and for the State of Ohio.
My Commission expires December 6, 2004.