Highland
Musculo-Skeletal
Associates, Inc.

Robert C. Corn, M.D., F.A.C.S.
Timothy L Cordon, M.D.
Orthopaedic Surgeons

December 31 ,1996

G. Michael Curtin
Attorney at Law
330 Hanna Building
1422 Euclid Avenue
Cleveland, OH 44115-1901

RE: SusanBotz
Case No. 301'792
File No. 1111/13838-SF

Dear Mr. Curtin:

I have recently had the opportunity of reviewing the medical records which were somewhat extensive from the Cleveland Clinic. These stem from February of 1968 through March of 1974. Included within this packet was the operative note which did show a scoliosis fusion from T10 through L4. "his did include the L3-4 level but not the L4-5 or the L5-S1 level. Because of the lengthy spinal fusion, the expected degree of degenerative arthrosis and disc disease at the L4-5 and L5-S1 level occurred. This was noted in the original CT scan and workup which was done in June of 1994.

In my original preliminary report dated September 16, 1996, I was unable to resolve the question of a facet "fracture" as mentioned in Dr. Ruch's records. The facet abnormality was not within the fusion but was at the first level below the fusion according to the medical records reviewed. These records, therefore, rule out the probability of the '"fracture"being from a failed fusion level.

It remains my opinion, within a reasonable degree of medical certainty, that no "fracture" occurred. The absence of complex medical care initially after the motor vehicular accident rules out a bony traumatic injury.

The accident in question, after review of these additional records, was, in my opinion, at worst, a soft tissue lumbar strain. There was no significant objective neurological abnormalities noted in the immediate post injury period. Her long-term prognosis remains fair due to the severity of pre-existing degenerative condition, the extensive lumbar scoliosis fusion, and her excessive weight. Her long-term prognosis, in my opinion, was not influenced objectively by the motor vehicular accident in question,

Sincerely,

Robert C. Corn, M.D., F.A.C.S.

RCC/bn

cc: File

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September 16 ,1996

G. Michael Curtin
Attorney at Law
330 Hanna Building
1422 Euclid Avenue
Cleveland, OH 441 15-1901

RE: Susan Botz
Case No. 301792 (Cuyahoga County)
File No. 1111113838-SF
PRELIMINARY REPORT

Dear Mr. Curtin:

I evaluated the above plaintiff in my office on June 10, 1996, in reference to alleged residuals of injury sustained to her low back. Throughout the history and physical she was accompanied by her attorney, Thomas Mayernick.

This report should be considered preliminary as I have not had the opportunity to review all of the medical records. As will be noted, the medical records that were sent for review contained absolutely no treatment fiom the date of the injury in early February of 1994 to late May of 1994. In that there is an alleged fracture that occurred as part of this accident and the need for subsequent low back surgery, it is critical to review any records from this initial time period. On review of the initial medical records, it is clear there was not a great deal of medical care rendered for the first three and one-half months after the accident. This is an **unusual** presentation for any severe lumbar spinal trauma.

9/20/96

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She presented with a history that on February 4, 1994, she was a rear seat passenger in a Dodge Omni vehicle in the vicinity of Rockside and Turney Roads. Their car was stationary in traffic waiting to make a turn when a rear-end impact occurred. She stated she felt pain in the low back region immediately. She did not discuss the intensity of the impact other than saying "he hit us but it really wasn't a bad crunch".

She and the two other individuals in the car were on their way to a family get-together. She was able to continue, but felt some increasing back pain. At no time did she report leg pain, numbness or bowel or bladder dysfunction. The fact that she could continue on with her social plans indicated the minor nature of her low back injury.

She was initially evaluated at the Kaiser Emergency Room on Rockside Road in Bedford where she was examined and rest was recommended. She was also taking Tylenol. These records need to be reviewed to look at the initial complaints and to document any previous or subsequent complaints of her low back.

One of the most unusual features of this case is that she continued to work and did not seek any medical attention until she saw Dr. Jeffrey Morris on or about May 25, 1994, approximately three and one-half months after the accident. She was employed at that time as a baker for the Garfield Heights High School. She went back to work but allegedly had backache with intermittent leg pain every day. The pain allegedly worsened over this time period. There is no documentation of any medical care given which would be unusual for severe trauma. This certainly is not a scenario for a "fracture" of the lumbar spine. She had no episodes of excruciating **pain** during these three months, but a generalized backache which gradually got worse.

When she saw Dr. Morris, in his initial note of May 25, 1995, he stated she complained of upper and lower back pain with swelling of both of her legs. The **pain** had been severe over the past three days and she had been unable to walk around since approximately five days before that. Radicular pain was not, according to the medical records, the major source of her pain. Despite the fact the patient stated that she had

complaints of numbness and tingling, aggravated by coughing, sneezing, and bowel movements, as well as twisting, weather changes, walking, sitting, and driving, there was no mention of this in the doctor's records. His physical examination was not suspicious for a neurological injury. X-rays were done at that time which showed the details of her spinal surgery which she had had for scoliosis in the past. This was a rather extensive fusion which attempted to fuse T11 through L5, although the lowest two levels did not appear to be completely solid.

His initial impression was soft tissue strain or sprain. On June 16, 1994, a CT scan of the low back was carried out which showed the expected muscular atrophy (due to her lengthy spinal fusion). There was some degenerative arthritis noted in the facets at the L4-5 level with disc bulging and impingement. A consultation was obtained with Dr. Leizman. EMG and nerve conduction studies were carried out on June 28, 1994 and were normal. There was no objective evidence of neurological impairment initially. When she returned to work later in June of 1994, her major complaint was recurrent swelling of the lower extremities. As noted above, the initial CT scan did reveal severe degenerative arthrosis at the L4-5 and L5-S1 level with bulging discs. It also revealed a degree of lumbar spinal canal stenosis.

The pain seemed to increase dramatically by early July of 1994 with significant radicular pain. When seen on July 5, 1994, there were some changes in her bowel and bladder habits, indicating some neurological compromise. She was evaluated by Dr. Yokiel, an anesthesiologist at the Suburban Pain Management program. She had three blocks which did not help a great deal.

A consultation was then obtained with Dr. Teresa Ruch, a neurosurgeon, who first saw her on September 19, 1994. There were no significant neurological findings, but a series of complaints. The plaintiff explained to Dr. Ruch that these have been extant since the time of the injury, but in reality these were never documented until three months after the accident. A myelogram was suggested. This ultimately was performed and demonstrated an L4-5 and L5-S1 herniated disc. These are the only

two levels of her low back that were left after the lengthy spinal fusion that was carried out.

Ultimately a surgical procedure was performed on January 18, 1995, by Dr. Ruch. This revealed a "fractured facet" with foraminal stenosis and compression of the L5-S1 nerve root. An L4-5 and L5-S1 laminectomy and foraminotomy were done bilaterally. There was also a cyst and fracture compressing the nerve both at the L5 and S1 level. This was completely released by the surgical procedure. She was hospitalized for a few days and ultimately discharged, and went through outpatient physical therapy.

She concluded treatment with Dr. Ruch and Dr. Morris in mid-1995. Since the referral to Dr. Ruch, she concluded her treatment with Dr. Morris.

CURRENT MEDICATIONS include either Tylenol or over-the-counter anti-inflammatory.

EMPLOYMENT HISTORY: The patient had been employed as a baker for the Garfield Heights High School and school district. She did go back to work shortly after the accident, but complained of backache and intermittent leg pain every day. Due to the increasing neurological functions, by the summer of 1994 she was out of work until May of 1995. She returned to her previous job and worked for a while but recently quit "for personal reasons."

PAST MEDICAL HISTORY is significant. She has always been "overweight". She weighs in excess of 250 pounds and has been that weight for many years.

The Cleveland Clinic records were request. In that a "fracture" has been suspected, it would be critical to note the extent of the attempted lumbar fusion. Perhaps this fracture was not a traumatic lesion but a result of an attempted fusion down to a lower vertebral level.

CURRENT SYMPTOMS: After her lumbar surgery, which was essentially to remove a cyst which was compressing the nerve root and a laminectomy, the neurological symptoms completely dissipated. Since that time, there was no neurological compromise and she continued with primarily back pain.

The patient has intermittent back pain and intermittent pins and needles sensation in her lower extremity. The low back pain is, as stated, intermittent and usually bothers her after activity or in the evening. She takes Tylenol, Aleve or uses a heating pad and the pain is usually totally relieved. She tends to avoid heavy lifting and bending. Intermittently she describes a pins and needles sensation in her lower extremities, the left greater than right, She has to take frequents rests while walking. The discomfort seems to come and go. The symptoms are not consistent.

PHYSICAL EXAMINATION revealed a pleasant, very heavyset female, approximately 5'8" and weighing approximately 250 pounds. She was able to arise from a sitting position without difficulty. Ascendmg and descending the examining table was performed in a normal fashion. She was able to heel and toe walk without difficulty.

Examination of her lumbar spine revealed a very long midline incision compatible with her remote surgery. There was also a left iliac crest incision for the bone graft of her scoliosis surgery.

Range of motion of her lumbar spine, as expected, was severely limited. Most of the range of motion took place at her hip joints. There was a mild discrepancy between the standing and sitting lumbar flexibility. In the standing position she could barely bend forward to touch her distal **thigh,** but in the sitting position she could touch her mid calf level. Hyperextension, side bending, and rotation were also significantly limited due to the multiple levels of spinal fusion. She seemed to move around protecting her lumbar area. Her straight leg raising both in the sitting and supine positions were performed to 90 degrees bilaterally. Neurologic examination of both

lower extremities was normal. Circumferential measurements of both lower extremities at the upper and lower thigh, and upper and lower calf level were equal and symmetrical bilaterally.

IMPRESSION: Lumbar strain related to this accident. Degenerative disc disease and arthritis secondary to residuals of her long scoliosis fusion. Alleged "fracture" of the low lumbar area, which by history, is **not** related to the motor vehicle accident. Progressive neurological compromise related to the degenerative cyst in the lumbar area.

DISCUSSION: I have had the opportunity to review medical records associated with her care and treatment. These include the psychiatric records from Dr. Minn Jinn and the Marymount Hospital, Dr. David Weiner, Dr. Jeffrey Moms and Beachwood Orthopaedics, Dr. Teresa Ruch, Beachwood Orthopaedics including consultation and EMGs of Dr. Daniel Leizman, and records from Meridia Suburban Hospital.

I have reviewed some records from the Kaiser Foundation facilities, but I have not yet reviewed the records from the Cleveland Clinic. .

After careful questioning of the patient's history and physical limitations, as well as after a careful physical examination and review of medical records, I have come to some initial conclusions concerning her ongoing level of physical impairment.

Review of the Kaiser records revealed the emergency room record stated "2/5/94" the day after the accident. *Primary* complaints at that time were lower back pain radiating down the back of the left leg and complaints of dizziness. This did report the motor vehicular accident and her history of scoliosis. There was no **objective** neurological abnormality at the time of this evaluation with the negative straight leg raising and no paresthesias referred down to her lower extremity. Her diagnosis was "lumbar strain, left." She was seen on one and only one occasion for follow-up. The examination showed absolutely no abnormality neurologically. It was felt to be a soft tissue, low

back injury. This only follow-up visit was on February 14, 1994. As noted above, other than this minimal care, she received no treatment until she saw Dr. Jeffrey Morris in late May of 1994. She did continue her employment through the 1994 school year. It was difficult to establish the precise loss from work. She is currently not working due to "personal reasons."

It is clear that by the summer of 1994 there was definite neurological signs. Ultimately, after failure of conservative care including epidural blocks, she underwent a lumbar spinal operation, This totally relieved her symptoms. The major offendmg abnormality appeared to be what Dr. Ruch describes as a "fracture." **A** cyst associated with this fracture seemed to be the primary culprit in creating the neurological deficits.

In my medical opinion, within a reasonable degree of medical certainty, this "fracture" was not related to trauma. Her initial history was incompatible with an individual who sustained a fracture. I suspect that this abnormality may have been a pseudarthrosis, that is a failure of fusion, related to the Cleveland Clinic records. Perhaps after those records are reviewed, a more detailed analysis of this "fracture" can be made. My opinion remains that this was not a traumatic lesion. According to the pathology this was a degenerative type of cyst which was causing the neurological deficits.

At the time of this evaluation she had objectively recovered from her neurological insult. She continued with primarily back **pain.** As noted in this physical examination there was a significant diminution of lumbar flexibility primarily due to the extensive previous lumbar spinal fusion. There was very minor discrepancies noted in degrees of stiffness in the sitting and standing position. This discrepancy was mild.

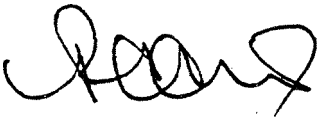
In conclusion, it is my opinion, that the etiology of her neurological dysfunction and subsequent low back care and treatment, including surgery, was minimally, if at all, related to the motor vehicular accident in question. In my medical opinion, this is due primarily to the extensive thoracolumbar scoliosis fusion and degenerative changes at

the distal end of the fusion **mass.** It is also clear that her excessive weight for many years (in excess of 250 pounds) causes a tremendous abnormal mechanical load on her lower lumbar spine which is compromised by the massive spinal fusion. In my opinion, 90 percent of her low back complaints are derived solely from this degenerative condition.

The accident in question, in my opinion, at worst, created a lumbar spinal **strain.** There may have been some subjective neurological complaints, but they certainly were not the major portion of her clinical picture **until** the summer of 1994. There was a recent flare up of her pain which prompted the visit to Beachwood Orthopaedics. The early clinical picture was not that of a traumatic lesion.

The long-term prognosis is fair due to the severity of her pre-existing degenerative condition, the extensive lumbar fusion, and her excessive body weight.

Sincerely,



Robert C. Corn, M.D., F.A.C.S.

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