IN THE COURT OF COMMON PLEAS

OF CUYAHOGA COUNTY, OHIO

SHARON A. WADE,

Plaintiff,

vs.

Case No.

JAMES D. WATERS,

399962

Defendant.

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Deposition of AHMED ELGHAZAWI,

statute, taken before me, Janice M. Rogers,. a Registered Professional Reporter and Notary Public in and for the State of Ohio, pursuant to subpoena and notice, at the offices of Ritzler, Coughlin & Swansinger, Ltd., 1001 Lakeside Avenue, 1550 North Point Tower, Cleveland, Ohio, on Friday, September 14, 2001, at 4:15 o'clock p.m.

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APPEARANCES:

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On behalf of the Plaintiff:
Ciano & Goldwasser, L.L.P., by
ANDREW S. **GOLDWASSER, ESQ.**
Tri-Pointe Building
**23825** Commerce Park Drive
Cleveland, Ohio **44122**
**(2**16) **378-9900**

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On behalf of the Defendant:
Ritzler, Coughlin & Swansinger, Ltd., by
JOSEPH G. RITZLER, ESQ.
1001 Lakeside Avenue
**I550** North Point Tower
Cleveland, Ohio **441 14**
**(216) 241-8333**

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AHMED ELGHAZAWI, M.D., of lawful age, called for examination, as provided by the Ohio Rules of Civil Procedure, being by me first duly sworn, **as** hereinafter certified, deposed and said as follows:

EXAMINATION OF AHMED ELGHAZAWI, M.D.

BY-MR. GOLDWASSER:

Q. Doctor, would you please state your full name for the record.

**A.** Ahmed, **A** H M E D, Elghazawi, **E L** G H **A Z A** W I.

Q. And what is your professional address?

A. **Im** a physician at **5500** Broadview Road and 5 Severance Circle in Cleveland Heights.

Q. You said you were a physician?

A. That's correct.

Q. **And** you are licensed to practice medicine in the State of Ohio?

**A.** Yes, I am.

Q. How much of your practice in percentage terms is devoted to the

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clinical practice of medicine?

**A.** About **70** percent.

**Q. 70** percent?

**A.** Yes.

Q. And what about the other **30** percent?

**A.** I'm the medical director for Cuyahoga County Health Services here **in** the downtown area at the Justice Center. I'm here two and-a-half days a week. I do administrative work. I oversee the clinical operation.

Q. What does the majority of your clinical practice focus on?

A. Regional Spine Clinic obviously is dedicated to musculoskeletal problems with emphasis on spinal disorder, so I'd say the majority of my clinical practice is spinal disorders.

**Q.** You're not **a** neurologist, correct?

**A.** No.

**Q.** You're not **a** neuroophthalmologist, correct?

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**A.** Correct.

**Q.** You're not a neurosurgeon?

A. That's correct.

**Q.** You're not an oncologist, correct?

A. That's correct.

Q. You're not a pathologist?

A. That's correct.

Q. You're not **an** orthopedic surgeon?

A. That's correct,

Q. You're not a general surgeon, correct?

A. Correct.

Q. You're not an internal medicine doctor?

A. Iam.

**Q.** You are an internal medicine doctor?

A. Yes.

Q. You're not **a** family medicine doctor, correct?

A. Correct.

**Q.** You're not a biophysicist?

A. No.

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Q. You're not an auto reconstructionist, are you?
A. No.
Q. Doctor, what is diplopia?
A. Diplopia is simply double vision is what it means.
Q. Do you treat diplopia as part of your regular practice?
A. No, sir.
Q. Diplopia is a neurologic disorder, is that correct?
A. It's an ophthalmologic and neurologic disorder. It can be caused from either eye disease or a neurological disease.
Q. Have you ever treated patients suffering from diplopia?
A. Usually we refer them to ophthalmologists.
Q. Have you spoken on the subject of diplopia?
A. No. Not personally, no.
Q. Have you ever written on the subject of diplopia?
A. No. No, sir.

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neurologist who may treat a patient --
A. Usually diplopia is treated by eye doctors. This is the specialty that treats them, not neurologists either.
Q. What is blastoma, Doctor?
A. It's a tumor. It's a brain tumor in the medulla, which is a portion of the brain called the medulla. And medulloblastoma is a tumor that affects the central nervous system. It can start in the brain, in the medulla area, and can metastasize to other area, can compress the spinal cord obviously.
And it usually is treated by chemotherapy and radiation. Sometimes there is surgical intervention. If it's early enough, we will excise the tumor. Then they will follow the excision with radiation therapy or chemo, but usually radiation therapy is effective.
Q. Are you familiar with the cure rates with respect to medulloblastoma?

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Q. Do you have any specialized training whatsoever with respect to diplopia?
A. Other than general medicine training, we take obviously rotation in ophthalmology as part of the medicine training, so we have knowledge how to diagnose. If we do diagnose on exam, we refer to an eye doctor.
Q. Okay. And when was your general medicine training?
A. We did this 1985 through 1989.
Q. So since 1989 you haven't had any training whatsoever on diplopia?
A. Well, obviously I see patients with general medical problems as well.
No, I have not.
Q. You have not seen any patients since 1989 suffering from diplopia, is that correct?
A. No. I'm not an eye doctor, sir, I don't.
Q. Okay. And you're not a

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A. It's pretty okay. People -- just like any other tumor, if it's diagnosed early enough, people do well.
Q. Okay. And they do well even though this is a tumor on the brain, is that correct?
A. That's correct,
Q. Is medulloblastoma a neurologic disorder?
A. It's a tumor that involves the neurological system, so it's sort of shared by oncology and neurology.
Q. Do you treat medulloblastoma?
A. If we see people with involvement in the spinal cord and spine. It's rare obviously, Hopefully they will discover it early with an MRI of the brain. If they do discover it early, then a good neurosurgeon would excise the tumor. Then follow up either with the primary physician, if they are stable.
If there are any neurological deficits, then they go to the neurologist, depending where the

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deficits where. If they have any eye problems, the cranial nerves which sets in the skull, these cranial nerves can be affected by this kind of tumor.

So if there's any involvement in the cranial nerves, and if this involvement affects the eye, for instance, then typically these patients go for frequent eye visits to the eye doctor to assess their vision. Then either prescribe lenses if needed to correct some of the deficits or basically repeat neurological studies, recent MRIs to see if there's any progression of the tumor, and basically follow them up.

Q. How long have you been practicing medicine?

**A.** Since -- in the United States?

Q. In the United States?

**A.** Since **1985.**

Q. Did you practice medicine prior to coming to the United States?

**A.** Yes.

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Q. For how many years?

**A.** Couple years in Egypt.

Q. So from **1983** to **1985** you were in Egypt?

**A.** No. I came here at the end of **1979.** I work in the Saudi Embassy in Washington, D.C. as a consultant through the end of **1984.**

Then I came to Cleveland Clinic, and **I** did training in internal medicine at that time. Then I did training in spinal disorders. And I had **a** fellowship in spinal.disorders in Sweden afterwards.

Q. When did you graduate from medical school?

**A. 1978,** sir.

Q. Have you ever treated a patient with medulloblastoma?

**A.** During residency and training we've seen a few cases obviously, because we do rotations as you know in the training. So we see people who have oncological problems.

Q. When was your residency,

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what year?

**A.** In **85** through **88, 89.**

And so we see cases with tumors. And **I** did write on the subject of spinal tumors in the Radiologic Clinics of North America. **I'm** pretty sure it's July of **1991,** the chapter there.

And, you know, part of spinal disorders obviously relates to cancers and tumors. And obviously medulloblastoma is a tumor that can involve the spinal cord like some other tumors.

Q. You said the year of that publication?

**A. 91.**

Q. **1991?**

**A.** Uh-huh.

Q. So you have written on the subject of medulloblastoma?

**A.** Well, with respect to tumors of the spine.

Q. Tumors of the spine.

**A.** And that's --

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Q. Have you ever -- go ahead. I'm sorry.

**A.** That's basically one of the tumors that **can** involve the spine. When you address tumors of the spine, whatever applies to one applies to most of them, depending on the aggressiveness of the tumor.

Medulloblastoma, like I said earlier, if it's treated early enough with the method that **I** mentioned to you, these patients usually do well long term. And again depending how stable they are, they either follow up with their primary care physicians until something happens or they have any change in their course or they will go to a specialist depending on what the problem is.

Q. **As** part of your clinical practice have you ever treated a patient with medulloblastoma?

**A.** During residency, yes. I don't remember exactly what year. We did an oncology rotation, we have all

kinds of tumors. That's not uncommon.
Q. Since 1989 have you ever treated a patient with medulloblastoma?
A. Not specifically with medulloblastoma, that's correct.
Q. Have you ever spoken on the subject of medulloblastoma?
A. Other than what I wrote about the brain tumors and spinal tumors, no.
Q. So you wrote one article on brain tumors --
A. It's a chapter. So ~ .
Q. One chapter. But you never have written specifically on the subject of medulloblastoma?.
A. No.
Q. You have never spoken specifically on the subject of medulloblastoma, is that correct?
A. No, sir.
Q. And you have no specialized training besides your general training with respect to medulloblastoma, is that correct?



if you would expect that there is a progression of the tumor, the myelopathy can be caused from radiation itself or can be caused by what we call a mass effect where the tissue of tumor can compress on the spinal cord and can also cause myelopathies. In these cases, the only -- there's really no treatment for it other than therapy, if the patient is weak, or follow-up CAT scans or MRIs, which any physician can order basically.
Q. During the course of your clinical practice since 1989, have you had occasion to diagnose a patient with radiation myelopathy?
A. Couple of times. I had a patient at the hospital who developed that post chemo and radiation therapy for a spinal cord tumor, it was an osteoblastoma that metastasized. I remember because it was a young lady. And another case from a colon cancer patient that metastasized also and developed radiation myelopathy after



A. Yes, sir.
Q. Okay. All right. What is radiation myelopathy?
A. It's a disease that can involve the spinal cord as a side effect of the radiation therapy.
Q. Is radiation myelopathy a neurologic disorder?
A. It's a neurologic, and it's like an oncologic and neurologic complication.
Q. Do you treat radiation myelopathy as part of your clinical practice?
A. There is no treatment for it really. So usually these patients, they do have some weakness, they get physical therapy which is done by a therapist anyway. So there's really no treatment that the neurologist, per se, would do, other than refer them to a physical therapy treatment which anybody can do.
Q. Okay. There's no follow-up?
A. Yeah, I mentioned to you earlier follow-up scans if needed. So



treatment.
Q. Have you ever written on the subject of radiation myelopathy?
A. No, sir.
Q. Have you ever spoken on the subject of radiation myelopathy?
A. No, sir.
Q. Besides your general training, do you have any specialized training whatsoever with respect to radiation myelopathy?
A. No, sir.
Q. Do you have an opinion regarding whether the impact between the two vehicles in this particular case caused or contributed to Sharon Wade's injuries?
A. Yes, I do.
Q. We'll get to your opinions in just a moment, Doctor.
A. Sure.
Q. Do you currently hold any board certifications?
A. Yes. I'm board certified in pain management. I'm board certified as

an independent medical examiner. I'm a board certified forensic examiner. I'm board certified in forensic medicine.

I'm also a fellow of the American Academy of Disability Evaluating Physicians, a fellow of the American Academy of the Spine, that society, and some other credentials, too.

Q. Have you ever failed any board examinations?

A. Yes, I failed internal medicine before.

Q. Have you retaken the internal medicine boards?

**A.** No, because I wasn't practicing internal medicine really, I didn't need to take it.

Q. Besides failing the internal medicine boards, have you failed any other boards?

A. No, sir.

Q. Doctor, I know that you were out of town and just got back what, two days ago, I think?



Q. Doctor, is this your entire file on Sharon Wade?

**A.** Well, there was a lot more records than that. I had to thin them. There were just too many records. So I kept the relevant records. It was just too many records to put in the file.

Q. So the records that are included in this particular file are the records --

A. I reviewed all the records that was listed in the letter from Mr. Ritzler that he sent to my office and the ones I listed also in my report. I listed in my report, I listed the records that I reviewed.

Q. Why did you select these particular records?

A. I didn't -- there's a Iot of things that's repetitive, like so many copies in the file. You know, there's so many very old records that really does not relate to this. So I basically go through them and keep the pertinent ones.



A. That'sright.

Q. So are you familiar with the fact that I served your office with a subpoena in this case?

A. Yes, **sir.**

Q. When did you come to learn that I served you **with** a subpoena?

A. Maybe last day or two.

Q. Okay.

**A.** I have a bad ear infection. I'm just a little groggy. I'm trying.

MR. **GOLDWASSER:** Go off the record for one second.

(Discussion off record.)

Q. Doctor, I'm,currently taking a look at your file. It's in front of me. We're going to mark your file as an exhibit, Exhibit 1. Why don't we go ahead and mark it now.

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(Thereupon, Plaintiffs Deposition Exhibit-1 was marked for purposes of identification.)

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Q. Okay. And in your file we have a letter to Joe Ritzler with your report dated August 17,2001, correct?

**A.** Yes.

Q. We have a couple of just general correspondence letters. We have an agreement for deposition services, which looks like it **was** signed by you and Mr. Ritzler, is that right?

**A.** Yeah. My office people have a stamp for my signature for these, that's right.

Q. And your charges for deposition services are $1,050 for the first hour and-a-half, correct?

A. Yes.

Q. And additional half hour increments are $350, is that correct?

**A.** Correct.

Q. What are you charging me today for your deposition?

**A.** Well, I think you have arrangements with Sharon, I think you charged for an hour if I'm not mistaken.

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Q. That's to be $700, is that right?
A. The reason is, I have to dedicate three hours for deposition. I have to leave my office and go back, if I have to go back, so it includes more than the hour for deposition. So the rate that's there incorporates more than just hour depositions, plus reviewing the file and so on.
Q. So when you say your first hour and-a-half is $1,050, that may be more than an hour and-a-half, is that right?
A. It depends, yeah.
Q. Then it looks like you have a copy of the subpoena that I served upon you?
A. Yeah. I just saw this today, because I was bot in my office. So it was in the file when Sharon gave it to me.
Q. Today is the first time you saw this subpoena?
A. Yeah.

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into the record, we'll just note that they're in Mr. Ritzler's letter dated July 31,2001 to you.
Then there's miscellaneous records which you pulled. Then I note on these records things are highlighted. Is that your highlighting?
A. Yes, sir.
Q. Okay. Behind the binder clip of records there's handwritten notes. Are these your notes?
A. Yes, sir.
Q. And I don't want to take your file apart, Doctor, but I would like you to please read your notes into the record, because I'm unable to read your handwriting.
A. This was the visit on 8-16, 2001. 36 year old white female. She worked as a credit manager, credit union manager. She was a driver with seat belt on at a stop on an exit ramp. Her car was rear ended.
She was seen at Hillcrest Hospital -- I think the accident was at

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Q. So you never responded to the subpoena, you personally, correct?
A. I was not in the office. I was out of town.
Q. So you never responded to the subpoena, correct?
A. No.
Q. Okay. Then there is a binder clip of information from your file, correct?
A. Yes, sir.
Q. And at the top of that is a letter actually to me from Mr. Ritzler advising my office of the independent examination of Sharon Wade?
A. Yes, sir.
Q. Next behind that is a letter from Mr. Ritzler to you dated July 31, 2001, correct?
A. Uh-huh.
Q. And that letter asks you for your opinion with respect to six key points, correct?
A. Uh-huh.
Q. And rather than read them

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Hillcrest and 271 area -- due to lower back pain. She had some blurring also of vision. X-rays were done. There was no fractures. And she said she received no medications.
And she was -- she was seen after that I assume by her family physicians. And three days later she was seen by another physician, Dr. Zaidi, because of lower back pain. She was treated for a strain and received physical therapy treatments. And she was referred to a neuroophthalmologist because of her eye symptoms.
She was told she had some nerve damage. No surgery was recommended. And she was asked to follow up with ophthalmology.
She had history of medulloblastoma since 1985. That was treated and treated later on with radiation. The MRI that was done after the treatment showed no recurrence. This was done by Dr. Wright.
Q. Doctor, let me interrupt you

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for one moment.
**A.** Sure.
Q. The notes that you are reading, are those your notes that you took following the examination of Sharon Wade or just following the review of the records?
**A.** No. This is from the patient as we're talkirig, I wrote this as she was sitting with me.
Q. Okay.
**A.** So this was before I reviewed the records.
Q. Why don't you continue on then.
**A.** She also had an MRI of the spine that was negative for any impingement, nerve impingement. She complained mostly of left sided pain. She stated she had a trial of medication and no relief, She had lower back pain occasionally. And she had some tingling in the face. And reported no insomnia; no headaches.
She still had visual

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symptoms that she stated to me that started before the accident. She was told she had sixth nerve, abducens nerve palsy. And that's basically the history.
On examination she had lower back and left sided pain. And cervical spine was normal. The right upper extremity examination was normal. The left upper extremity, she had normal movement, but she had some generalized weakness. She had left lower extremity. weakness at the muscle group especially of the left thigh and knee area. And she has negative straight leg raising bilaterally.
She was wearing a brace on the left side. Left side exam was limited because of the brace she was wearing obviously. And this is basically the history that she said. And I dictated my exam.
Q. So what you just read into the record were your notes from the history portion of her examination, is

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that correct?
**A.** This is what she told me. Then I also reviewed the history that was in the chart as well, I mean in the record that was sent to me as well.
Q. Just so I'm clear, the notes you just read into the record are from the history portion of the examination which she presented to you?
A. Correct.
Q. Correct?
**A.** That's correct.
Q. That doesn't have anything to do with the records that you reviewed, the notes you just read?
A. This is before I reviewed the records.
Q. You took a history from her and examined her before reviewing the records, is that right?
**A.** I always do that.
Q. Okay. You have another page of notes, correct?
**A.** This is the same one. This is just a copy of this. They sent you

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a copy and they made me an extra copy. This is the same one.
Q. Do you have any other notes that are not in your file?
A. No.
Q. Okay. The only thing that is not in your file, Doctor, are the records that you were provided by Mr. Ritzler, other than the few that are in there, is that right?
**A.** I kept some pertinent records. And as I told you, there was a lot of repetitive records that I did not keep obviously. And I dictated my examination.
Q. Okay. Did you review any type of medical literature in preparation of your opinions in this case?
**A.** No.
Q. Okay. Doctor, I've been told that you intend on testifying for purposes of trial regarding your opinions relative to Sharon Wade and the injuries she may or may not have

suffered as a result of the March 23, 1998 accident, is that correct?
A. Yes.
Q. Do you intend on testifying live at trial, Doctor?
A. If I was asked to, I would do, yes.
Q. You prepared a report which sets forth your opinions in this case, correct?
A. Yes, sir.
Q. And that report is dated August 17,2001, correct?
A. Yes, sir.
Q. Is that the only report you prepared in this case?
A. Yes, sir.
Q. Does that report reflect all of the opinions which you intend on rendering in this case?
A. Yes, sir.
Q. So when you come into trial on Monday or Tuesday, you won't be testifying to anything that's outside of your report, correct?



prepare and render opinions in this case?
A. I mentioned the -- yeah, there was a bunch of records here on page 4. From 1 to 10, these are the records that I reviewed.
Q. Okay. Did you review anything else besides what's listed on page 4 of your report?
A. No.
Q. Did you review the police report?
A. If it's not mentioned there, then I didn't review it.
Q. Okay. Is it mentioned there?
A. I'll tell you in a second.
Yes, it is.
Q. Did you rely on any statements in the police report in preparation of rendering your opinions in this case?
A. I rely on everything I mentioned in my list.
Q. Why was it important to you



A. I would testify to what I reviewed. And my report is there. Unless I'm asked a question outside of this that has to do with medicine that you ask me or he asks me, then I would.
Q. But as far as your opinions are concerned --
A. My opinions are stated in my report.
Q. And you're going to limit your opinions at trial to those opinions that are in the report, correct?
A. That's correct.
Q. Doctor, we're going to mark your report as Exhibit 2.

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(Thereupon, Plaintiff's Deposition Exhibit-2 was marked for purposes of identification.)

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Q. Doctor, does your report which has been marked for identification purposes as Exhibit 2 set forth all of the materials which you reviewed to



to review the police report with respect to your opinions in this case?
A. Well, you want to know the extent of the accident obviously. You want to know if the patient was wearing his seat belt. You want to know if. there was any trauma that was noted in the police report, such as bleeding or loss of consciousness.
You want to report the extent of the damage that she -- her car had or the other car had. That may be significant in the reference to the trauma itself. And sometimes it helps in the -- if there's an issue about biomechanics or the issue of mechanics of the injury, it may help a little bit, but not always. And the state of the patient, you know, how the patient was, what she said and so on.
Q. Okay. Does the extent of the impact have anything to do with your opinions in this case?
A. Sometimes it does, yeah, depending on the case obviously. You

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know, the extent of the impact depends on many factors. You know, one of them is, how did the patient present after the accident. Sometimes a minor impact can cause significant damage. Sometimes significant impact may cause minor damage, depending on how the patient's response -- what the patient's complaints were afterwards. Loss of consciousness obviously is important, if somebody loses consciousness, if there's evidence of fractures, evidence of dislocations, bleeding, as I mentioned earlier, things of this nature, like a broken seat that may have moved them in the car. If they hit the interior of the vehicle, for instance, that may be important sometimes.

Q. Well, I want to limit really your thoughts with respect to this particular case. Did the police report or anything in the police report have any bearing on any of the opinions you intend to render in this case?

A. My opinions as I mentioned

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to you, in all these records -- and the emergency room obviously is very important, because it's the first doctor who saw the patient.

Q. I want to know specifically about the police report. Was there anything in the police report which you relied on in formulating your opinions in this case?

A, Not the general opinion. The genera1 opinion was based on all these facts together, nothing specifically in the police report.

Q. Okay. Did you review an EMS run report?

A. The EMS report, if I didn't mention it, then I didn't have it or didn't review it.

Q. Is it mentioned in your report?

A. No.

Q. So you did not review it, correct?

A. Probably not.

Q. Would that be something that

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typically is important for you to review in rendering your opinions in these types of cases?

A. It's part of the records. And I have to review it in the context of the whole case or the whole situation.

Q. It's as important as the police report, correct?

A. It's another information that's relevant.

Q. Did you review any photographs of the automobiles following the collision in this case?

A. You know, again 1don't think so, because I didn't have the rest of the -- of these records here with me right now. So I don't remember if I saw pictures or not. I don't think I did.

Q. And if you did, you would have noted that in your report, correct?

A. Not always. Not always. I mean, I would mention, as I mentioned to you earlier, if there was anything,

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fractures or anything related to the biomechanics of the accident. Usually I don't mention pictures in the reports if it's not relevant.

Q. If the photographs were relevant, you would have mentioned them in your report, correct?

A. I would mention it, yes.

Q. So since they're not mentioned in your report, if you did review the photographs, they weren't relevant, correct?

A. If I did review them and there was nothing significant there, I wouldn't mention it. But if there was something significant there that would relate to the clinical diagnosis, I would mention it.

Q. But you didn't mention anything in your report, correct?

A. That's correct.

Q. So therefore is it fair to assume that if you did see the photographs, those photographs meant nothing to you in the rendering of your

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opinions in this case?
MR. RITZLER Photographs were not provided.
A. I wouldn't say it meant nothing. I would just say it bears no clinical value. Because again, you know, you may have a significant damage to a vehicle, What matters is the patient's state afterwards. The emergency room physician who sees the patient immediately, if it's immediately obviously, after the accident is probably very important document, because he sees the patient firsthand.
Q. Just so I'm clear in your testimony, a minimal impact collision can cause a significant injury, isn't that true?
A. Sure. Sure.
I can explain to you if you like.
Q. That's okay:
Did you review any of the repair estimates relating to the property damage of the vehicles in this

Page 4

A. I think some physicians, I'm not sure, but Dr. Lerner probably who saw the patient before, she was following up with him, I think, or one of the physicians. So his care extends from before and after.
But the majority of the records, almost all of them was from MetroHealth, who were treating the patient for the medulloblastoma.
Q. All right. Did you review the Hillcrest emergency room records?
A. Yes, sir.
Q. Was Sharon taken there by ambulance?
A. Yes, sir.
Q. What did Sharon complain of when she arrived at Hillcrest Hospital?
A. Neck, back pain, as well as blurring of vision.
Q. Did she also complain of dizziness?
A. Probably, yeah.
Q. Did she also complain of having headaches?

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case?
A. I think there may have been something in the records. Sometimes they send bills of repairs and stuff. I don't comment on those.
Q. So those have no bearing on your opinion one way or the other?
A. No.
Q. Is that yes?
A. No.
Q. No meaning correct, they have no bearing?
A. Yes, sir.
Q. Did you review any medical records which predated the March 1998 accident?
A. Yes, there was a few records from – actually a lot of records from Metro Hospital, I think, MetroHealth Medical Center and Dr. Cappeart, CAPPEART.
Q. Besides the medical records from MetroHealth and Dr. Cappeart, did you review any other medical records which predated the March 1998 accident?

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A. She may have, yes.
Q. What was the diagnosis of Sharon upon discharge from Hillcrest Hospital?
A. Closed head injury and hyperextension neck and back injury.
Q. Was all of the treatment rendered at Hillcrest Hospital reasonable and necessary, Doctor, in your opinion?
A. Yes, sir.
Q. Was all of the treatment rendered at Hillcrest Hospital a direct and proximate result of the March 23, 1998 accident?
A. Yes, sir.
Q. Did you review the records of Meridia Euclid Hospital in formulating your opinions in this case?
A. Yes, sir.
Q. What was Sharon being treated for at Meridia Euclid?
A. I think she was seeing Dr. Zaidi.
Q. Was she treating with Dr.

Zaidi before the accident?
A. I think so, yeah. He saw her before, maybe. I have to go back and look at all of them. But he saw her certainly after the accident, April 15, 1998.
Q. Okay. And what was he treating her for, do you know?
A. She complained of dizziness at the time, difficulty focusing her right eye afterwards, as well as neck and back pain, headaches.
And he examined her initially on April 15th and noted tenderness in the neck and back area. She also complained of weakness in her left upper and lower extremities, which is arms and legs.
And she was diagnosed as having whiplash of the cervical spine. It was felt that this was resolving, that was residual tenderness in the cervical area. Rule out herniated lumbar disk, which was the lumbar disk, the back pain. He recommended MRI of



Q. In layman's *terms*, what does it mean to have a minor concentric bulging disk at L 1-2?
A. It means a small confined disk in the extra part of the disk space that is not touching any of the nerve roots and not causing any nerve pressure.
The L 4-5 level was also a protrusion type, which means that the disk was out of its place. And there was no stenosis, meaning that there was no narrowing of that part of the spine as a result of the disk hemiation.
And there was no neuroimpingement, meaning that the exit of the nerves or the nerve foramen or where the nerves come out are not affected.
Q. But was the bulging disk at L 1-2 caused by the March 23, 1998 accident?
A. Most probably not. I mean, bulging disk themselves are -- unless there is a significant nerve root



the lumbar spine as well as EMG and nerve conduction testing.
Q. Did she also have physical therapy at Meridia Euclid?
A. Yes, sir.
Q. Was all of the treatment rendered at Meridia Euclid following the March 1998 accident reasonable and necessary?
A. Yes, sir.
Q. Was all of the treatment rendered at Meridia Euclid following the March 1998 accident a direct and proximate result of the March accident?
A. Yes.
Q. Doctor, do you know what the MRI revealed on April 20, 1998?
A. Yes. The report stated that this was done 4-20-98. That was consistent with minor concentric bulging disk at the L 1-2 level without stenosis or neuroimpipgement. And central disk protrusion type herniation at the L 4-5 level without significant stenosis or neuroimpingement.



impingement or a tear that is significant, they are incidental findings. Indeed if you take 100 people walking down the street, almost 30 percent of those would have a bulging disk of some sort.
The disk herniation at the L 4-5 level or the protrusion at that level, from the history of the patient, apparently she had an MRI before that also had a disk at that level.
Q. So are you of the opinion, Doctor, that the herniation at L 4-5 was not caused by the accident?
A. Yes, sir.
Q. All right. The MRI was conducted at Meridia South Pointe Hospital, correct?
A. Yes, sir,
Q. In addition to an MRI being conducted at Meridia South Pointe, there was also an EMG test done at Meridia South Pointe Hospital, correct?
A. Yes, sir.
Q. Was all of the treatment

rendered at Meridia South Pointe Hospital reasonable and necessary?
A. Yeah, it was reasonable and necessary.
Q. Was all of the treatment rendered at Meridia South Pointe Hospital a direct and proximate result of the March 1998 accident?
A. Yes.
Q. I believe we already talked about Dr. Zaidi who treated her through Meridia Euclid, correct?
A. Yes, sir.
Q. And you are of the opinion, Doctor, that all of the treatment that Dr. Zaidi rendered was reasonable and necessary, correct?
A. Yeah. You know, the nerve blocks that the patient had in my opinion has really no long term clinical benefit in soft tissue injuries. And she did have some nerve blocks. And I do not believe that these nerve blocks have any long term clinical benefit for the patient.



Q. But as far as the treatment that was rendered to her by Dr. Zaidi, that was reasonable and necessary, correct?
A. The other treatments were, yes.
Q. So everything other than the nerve blocks?
A. Yeah. I don't believe that the nerve blocks was necessary.
Q. But all of his other treatment --
A. The physical therapy obviously and follow-up visits were, correct, plus the MRIS.
Q. Was all of Dr. Zaidi's treatment following the March 1998 accident a direct and proximate result of that accident?
A. Yes, sir.
MR. RITZLER: Other than his previously stated --
MR. GOLDWASSER: Other than his previously stated nerve blocks.
Q. All right. Sharon was



evaluated by Dr. Lerner, correct?
A. Which page are we on now?
Q. Which page are we on?
A. I thought you were reading from my report.
Yes, she was seeing Dr. Lerner as well, that's correct.
Q. How many times was she seen by Dr. Lemer, do you know?
A. I would say two or three times at least, maybe more.
Q. What was she being treated for with Dr. Lerner?
A. Because of the intermittent diplopia.
Q. Anything else besides that?
A. This was the main reason, her eye symptoms.
Q. Okay. He wasn't seeing her for her back at all?
A. He may have been, yes. I don't have -- I have to look at his records specifically.
Q. So as you sit here today you don't know whether he was treating her



for her back?
A. I have to look at them. Can I look at them?
Q. Sure, go ahead.
(Discussion off record.)
A. Yeah, low back pain, as . . well, was one of the things he saw her for.
Q. Anything else besides the diplopia and the low back pain, Doctor?
A. This is most of the symptoms that she was seeing him for.
Q. Was all of the treatment that Dr. Lemer rendered to Sharon Wade reasonable and necessary?
A. Yes, they were.
Q. Was all of the treatment that Dr. Lemer rendered to Sharon Wade a direct and proximate result of the March 1998 accident?
A. Yes.
Q. Doctor, did you review the records from Western Reserve Ophthalmology, Dr. Lisa Lystad, I believe?

Page

A. If it was forwarded to me, then I reviewed them.
Q. As you sit here --
**A.** I did not mention them in my report, so I'm not sure if I reviewed them or not.
Q. Okay. And you don't have an opinion one way or the other as you sit here today whether the Western Reserve Ophthalmology treatment to Sharon Wade was reasonable and necessary, do you?
A. If you tell me what the treatments were, I can tell you.
Q. If you didn't review the records --
**A.** Well, I said there were so many records, it may have been there. I'm not sure.
Q. But if it was there, you would have noted it in your report, correct?
A. Yes.
Q. So it's not noted in your report, so you didn't review it, correct?

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or the other whether that treatment was a direct and proximate result of the March accident, correct?
**A.** That's correct.
Q. All right. Was Sharon Wade treated at University Ophthalmology, Doctor?
A. Yes, sir.
Q. And what was she treated at University Ophthalmology for?
A. She was treated in the neurology department by Dr. Lemer, and she was treated by Dr. Cappeart.
Q. I think you're mistaken a little bit. I don't think she was treated by Dr. Lerner at University Ophthalmology.
**A.** She was at University Hospital, ophthalmology Dr. Cappeart, I think.
Q. Dr. Cappeart?
**A.** *Yes.*
Q. And do you know why Dr. Cappeart was treating her?
**A.** For her eye symptoms.

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A. Yes, probably.
Q. Okay. So without reviewing that --
A. You're talking about the Case Western Reserve?
Q. It's called Western Reserve Ophthalmology.
A. Yes, of course, it's part of University Hospital, isn't it?
Q. No. University Ophthalmology is Dr. Cappeart. Western Reserve Ophthalmology is Dr. Lisa Lystad who saw Sharon Wade on only one occasion in July of 1998. Does that refresh your recollection, Doctor?
**A.** I don't have these records right with me right now, so I don't think I reviewed them.
Q. Okay. Andsowithout reviewing them, you're unable to say one way or the other whether that treatment was reasonable and necessary, correct?
A. That's correct.
Q. And without reviewing those records, you're unable to say one way

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Q. Okay. Areyouofthe opinion, Doctor, that all of the treatment rendered by Dr. Cappeart was reasonable and necessary?
MR. RITZLER Objection. He's not an ophthalmologist or an eye specialist.
Q. Doctor, before I ask you -- let me *go* back *a* second in light of Mr. Ritzler's objection. Are you intending on stating opinions with respect to vision in this case?
A. No.
Q. Okay. Allright.
**A.** I'm not an ophthalmologist, so it's not fair to me.
Q. In light of that statement, Doctor, you have no opinion one way or the other with respect to whether Sharon Wade's vision was impaired **as a** result of the March 1998 accident, correct?
**A.** Well, there was records, you know, from reputable ophthalmologists in the records, that I mentioned this in my impression, based on the historical

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clinical information that I have, that basically restated the .previous expert opinion in that area. But I'm not an ophthalmologist.

Q. You're not an ophthalmologist, so you have no opinion one way or the other whether Sharon Wade's vision problems were caused by the March 1998 accident?

**A.** My opinion in reference to the diplopia and the eye problems was derived from the clinical information that I had based on the medical records provided to me, not as an ophthalmologist.

Q. Okay. So are you intending to state an opinion with respect to Sharon Wade's vision --

**A.** Well, I had it in my impression. I'm not an ophthalmologist. I will not testify on eye problems.

Q. Okay. Are you intending to state an opinion at trial with respect to her eye problems?.

**A.** No.

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had some dizziness and difficulty focusing of her right eye, which was also stated in the ophthalmologist's report.

Q. Do you believe, Doctor, that her complaints of dizziness were caused by the March 1998 accident?

MR. RITZLER: Objection.

Q. You can answer, Doctor.

MR. RITZLER Beyond the scope of his report and opinions.

A. I have no opinion in reference to that.

Q. Okay. So at the time of trial you're not going to testify one way or the other regarding Sharon Wade's feeling of dizziness, correct?

**A.** That's correct.

Q. Doctor, do you have an opinion with respect to whether Sharon Wade injured her neck area as a result of the accident?

**A.** Yes, I do.

Q. And what is your opinion?

A. That she had a soft tissue

Page 5

Q. All right.

Almost done, Doctor.

A. Hope so.

Q. Do you have an opinion with respect to whether Sharon Wade's motion, her feeling of motion was affected by the March 1998 accident? Do you understand my question?

**A.** No.

Q. Okay.

MR. RITZLER: I don't.

Q. Sharon Wade complains of a feeling of dizziness. Are you aware of that, Doctor?

**A.** Yes.

Q. Do you hade an opinion whether the dizziness of which Sharon Wade complains was caused by the March 1998 accident?

**A.** When I saw Mrs. Wade, most of her complaints to me was the left sided weakness basically, and a progression of the left sided weakness beside her visual problems. But it was mentioned in the records that she also

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cervical and lumbar strain that was due to the motor vehicle accident on **3-23,** 1998. And that's resolved.

**I** also have **an** opinion in reference to the disk which I mentioned on page **5,** that she had an aggravation of preexisting lumbar disk L **4-5** that was previously asymptomatic.

**Q.** When you say previously asymptomatic, it means it wasn't bothering her before the accident, but it was bothering her after, correct?

**A.** Yes, sir.

Q. You state an opinion with respect to her radicular manifestations, correct?

**A.** Which page?

Q. I'm looking at your conclusion on page 6.

What do you mean by radicular manifestations?

**A.** The symptoms are affecting her extremities, being left upper, left lower.

Q. And you are of the opinion,

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Doctor, correct me if I am wrong, that the problems she is with having with the left side of her body are unrelated to the March accident, correct?

A. Historically she had left sided pain according to her that predated the accident of 3-23, 1998. The diagnostic studies and the MRIs did not show any nerve impingement or nerve damage. The EMG and nerve conduction testing did not reveal any evidence that the nerves going to her leg were affected. Plus the disk itself that was reported on the MRI was preexisting.

Q. Did it seem like her symptoms were exacerbated by the motor vehicle accident of March 23, 1998?

MR. RITZLER: What symptoms?

Q. Her left upper and left lower extremity weakness.

**A.** When I mentioned to you that these were preexisting symptoms, that these symptoms I mentioned to you also in the impression which are on 5, that

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it seems like her symptoms were exacerbated by the motor vehicle accident on 3-23, 1998.

But the chronic weakness, meaning the ongoing, long term weakness is a natural progression. When you have myelopathy from post radiation, the natural progression **of** this type of radiation myelopathy is progressive weakness. And in this case it's no different from any other clinical case. You have progressive weakness on both sides. And the MRI has proved that, as well. There was no evidence she had any traumatic lesions that's causing this.

Q. Was her left side weakness aggravated by the March 1998 accident?

**A.** It's exacerbated.

Q. And what is the difference between an aggravation and exacerbation?

**A.** The aggravation basically means that the level of the symptoms are more than what's expected, what it usedtobe.

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The exacerbation means it brings it to that level. It's bringing it at the level of weakness to her, what's really to her. So it's not more than the weakness than she had before is what it means.

Q. I'm a little bit confused. Is it your opinion that her left side weakness was not aggravated by the accident?

**A.** No, it was exacerbated.

Q. And not aggravated?

A. That's correct.

Q. You state in your conclusion on page *6,* Doctor, that her radicular manifestations are unrelated to the March 23,1998 accident and are consistent with chronic history of weakness of the left side status post medulloblastoma surgery and radiation therapy.

**A.** That's right.

Q. The next sentence reads, this is a common complication of radiation therapy, that is to say,

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development *of* myelitis and other myelopathy.

**A.** That's right.

Q. **And** you're not a radiologist, correct?

**A.** I have the report right there that revealed that.

Q. But you're not a radiologist, correct?

A. What does that have to do with anything?

Q. I don't know. Are you stating an opinion with respect to radiation therapy and how that affected her injuries at all?

**A.** Absolutely. I mean, radiation therapy complications is known to many doctors. It's not something' that is unusual. People in general practice see post radiation complications all the time. This is not so unrare, so uncommon.

Q. Okay. Doctor, you've treated a number of patients who have been involved in auto accidents,

Page 6

correct?
A. Yes, sir.
Q. And every person you treat is different, correct?
A. Yes, sir.
Q. If two people are involved in the same auto accident, it is possible that one may be hurt and the other may not, correct?
A. Yes, sir.
Q. some peopie are more susceptibleto injury than others, correct?
A. That's correct.
Q. Do you know Dr. Conomy?
A. I know Jack very well.
Q. Do you know him well?
A. Yes. And he knows me, too.
Q. What is your opinion of Dr. Conomy?
A. He's a good doctor.
Q. Do you believe he's qualified to state opinions in this case?
A. Ofcourse.

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Q. And if the opinions are contrary to yours, what do you make of that, Doctor?
A. He's entitled to his opinions. And people may have different opinions.
Q. Would you defer to him under issues of neurology?
A. If it's something I can't give an opinion to, I would defer to him, sure.
MR. GOLDWASSER I have nothing further. Thank you.
MR. RITZLER: That's it.
MR. GOLDWASSER Waiver?
THE WITNESS: Fine.
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