

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

IN THE COURT OF COMMON PLEAS

VERONICA FERRETTE, et al.,)
)
) Plaintiffs,)
vs.) Case No. 370938
)
THERESA KOWALCYK, et al.,)
)
) Defendants.)

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THE DEPOSITION OF ELLEN FLOWERS
THURSDAY, MARCH 15, 2001
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The deposition of ELLEN FLOWERS, called by the
Plaintiffs for examination pursuant to the Ohio
Rules of Civil Procedure, taken before me, the
undersigned, Gregory L. Koterba, Registered
Professional Reporter and Notary Public within and for
the State of Ohio, taken at Spangenberg, Shibley &
Liber, 2400 National City Center, Cleveland, Ohio,
commencing at 3:30 p.m., the day and date above set
forth.

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CADY & WANOUS FEE REPORTING SERVICES, L
55 PUBLIC SQUARE
1225 ILLUMINATING BUILDING
CLEVELAND, OHIO 44113
(216) 861-9270

1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 Dennis R. Lansdowne, Esq.
4 Spangenberg, Shibley & Liber
5 2400 National City Center
1900 East Ninth Street
Cleveland, Ohio 44114

6 On behalf of the Defendants:

7 Henry A. Hentemann, Esq.
8 Davis & Young
9 1700 Midland Building
Cleveland, Ohio 44115

10 ALSO PRESENT:

11 George J. Argie, Esq.
12 Jim Torok, Videographer

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ELLEN FLOWERS

of lawful age, called by the Plaintiffs for
examination pursuant to the Ohio Rules of Civil
Procedure, having been first duly sworn, as
hereinafter certified, was examined and
testified as follows:

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EXAMINATION OF ELLEN FLOWERS

BY MR. LANSLOWNE:

Q Would you state your full name for the court and
jury.

A Ellen Flowers.

Q And, Mrs. Flowers, what **is** your occupation or
profession?

A Occupational therapist at MetroHealth Medical
Center.

Q Would you tell us what occupational therapy is?

A Occupational therapy is a healthcare profession
where we work with individuals that have an
injury or sustain some sort of trauma where we
rehabilitate them to their prior level of
functioning or as independent as they could
possibly get to.

Q Would you when I'm asking you these questions

1 today, because we're on videotape, please keep
2 your voice up so that the court and jury can
3 hear you?

4 A Um-huh.

5 Q Have you ever given testimony before?

6 A No.

7 Q How long have you worked at MetroHealth Center?

8 A Nine years.

9 Q Mrs. Flowers, in your practice have you treated
10 a patient named Veronica Ferrette?

11 A I have.

12 Q Are you prepared to tell the court and the jury
13 today your findings regarding Veronica, what you
14 have been able to do for her, how she has
15 progressed from an occupational therapy
16 standpoint?

17 A Yes.

18 Q All right. Before I can do that, Mrs. Flowers,
19 I need to ask you just a little bit about some
20 background information.

21 Would you tell the jury about your
22 educational background?

23 A Bachelor of science in occupational therapy from
24 Ohio State University in 1989.

25 Q And have you been an occupational therapist

1 since that time?

2 A I've been an occupational therapist for 11
3 years.

4 Q How many of those at Metro?

5 A Nine years.

6 Q Currently what is your practice at Metro?

7 A TBI, traumatic brain injury.

8 Q Traumatic brain injury?

9 A Brain injury population.

10 Q **Is** MetroHealth a place that specializes in
11 traumatic brain injury?

12 A Yes, it is. It's one of the few in the city.

13 Q The trial of this case is set to begin the last
14 week of March. I understand you will not be
15 available at that time; is that correct?

16 A Correct.

17 Q Okay. Are you licensed?

18 A Yes.

19 Q What **is** the license?

20 A To practice occupational therapy.

21 Q Who grants the license, the state --

22 A State of Ohio. You need 20 contact hours every
23 two years to renew your license.

24 Q So you have to keep continuing --

25 A Continuing education classes.

1 Q And have you done that?

2 A Yes.

3 Q With respect to Veronica, when did you first
4 meet her?

5 A November 9th, 'I believe, in the early part of
6 November, the 9th.

7 Q Of 2000, last year?

8 A Correct.

9 Q How is it that you came to meet Veronica?

10 A She was referred for an occupational therapy
11 eval. from Dr. Vargo.

12 Q You mean an evaluation?

13 A Correct.

14 Q And she was referred down to you, is that how it
15 works?

16 A Yes. I'm the occupational therapist that works
17 in the brain injury program so I get all the
18 evaluations.

19 Q All the brain injury people that come into Metro
20 for therapy?

21 A On the outpatient side.

22 Q On the outpatient side, come down to see you?

23 A Right.

24 Q Okay. And when Dr. Vargo referred her to you,
25 what is it that you did to do this evaluation?

1 A I did a two hour evaluation. It's split up
2 amongst two treatment sessions typically. And
3 what we do, is get an objective and subjective
4 report for the patient on their physical status.
5 Subjective information on their current
6 functioning of everyday tasks, as well as some
7 perceptual skills and some cognitive processing
8 skills.

9 Q Now, are these standardized, recognized tests
10 that you perform?

11 A Some of them are objective and some are
12 subjective, so there's both.

13 Q And are these tests that are widely used in the
14 field of occupational therapy?

15 A Yes.

16 Q And are they specific for brain injured persons?

17 A Some of them are.

18 Q And did you perform those tests, you and your
19 people that work with you?

20 A My students. Yes.

21 Q What were your findings, or what was your
22 assessment?

23 MR. HENTEMANN: Objection.

24 You're not asking for a diagnosis, are *you*?

25 MR. LANSLOWNE: No.

1 Q I'm not asking you for a medical diagnosis, I'm
2 asking you for an evaluation from an
3 occupational therapist standpoint. Is that what
4 you're prepared to give?

5 A Right. At the end of the evaluation we found
6 that Ms. Ferrette had significant problems
7 functioning in everyday activity. And what I
8 mean by that, is that she had trouble doing
9 simple things, such as checkbook writing,
10 remembering her daily appointments, she had
11 visual inattention skills, which means that she
12 didn't scan everything in front of her and she
13 would be unsafe in certain situations. She
14 was -- needed help remembering when she was
15 cooking things, she needed help for her laundry,
16 just everyday tasks that we complete normally
17 she had significant trouble with.

18 Q You mentioned visual attention and then you said
19 that it means that she didn't scan things in
20 front of her. What does that mean?

21 A Example of that is that her attention was so
22 poor, for example, that she was going to do a
23 cooking task and she went to get eggs out of the
24 refrigerator and she couldn't find the eggs and
25 they were clearly marked, so we had to redirect

1 her back to it.

2 Q Okay. And is that something that you're
3 familiar with, that kind of attention --

4 A Yes.

5 Q -- problem from working with brain injured
6 patients?

7 A Yes.

8 Q You also mentioned trouble with everyday tasks.
9 Did that -- I see that in your evaluation you
10 have time management issues checked?

11 A Veronica really pushed herself.

12 MR. HENTEMANN: You're referring
13 to what page of your report?

14 THE WITNESS: The back page
15 where things are checked off. It's the
16 assessment page, right there on your right-hand
17 side.

18 A The time management -- Veronica had trouble
19 managing everyday tasks. Like if when she would
20 get up in the morning, she had trouble knowing
21 what she was supposed to do at that time. She
22 has a low energy level, like fatigue, she
23 fatigues very easily, and she would get real
24 frustrated. And as her frustration increased
25 when she can't do things, then she tends to shut

1 down. She needs redirection to get back to
2 tasks. She cannot direct herself back to tasks
3 without some sort of cuing. At the time of the
4 initial eval. that's what I found.

5 Q When you say redirect back to task and cuing,
6 I'm not sure that I understand what that is.
7 Can you explain that a little bit?

8 A For example, if you or I were to try to clean
9 your house when we get up in the morning, we
10 might have some tasks that we want to do, mop
11 the floor, do the refrigerator, something like
12 that. She would get started with a task,
13 fatigue, and just shut down in the middle of
14 something. She needs help to organize her day.
15 For example, we need to write down with her, you
16 know, Veronica stay on task for 20 minutes, set
17 a timer. At that time you need to take a break,
18 do something, and then go back to it to finish
19 the task.

20 Q I see. As a result of the initial assessment
21 that you did for her brain injury, did you
22 recommend a course of occupational therapy?

23 A I initially recommended a course of twice a week
24 for 12 to 16 sessions. I ended up seeing her 25
25 sessions because she wasn't making good progress

1 throughout the treatment plan. And so we would
2 update our goals as needed and continue to see
3 her.

4 Q So you saw her a total of 25 sessions?

5 A Correct. She was just discharged last Thursday.

6 Q And with respect to the treatment plan, what did
7 you plan to do for her?

8 A The goal of occupational therapy and for her
9 specifically, was to increase her functioning at
10 home. She needed help with compensatory
11 techniques to manage her everyday tasks. Given
12 the fact that her injury was three years old,
13 her baseline with where she was at was pretty
14 much where I felt like I had to work with. And
15 so what I needed to do was implement strategies
16 where she could remember to do things, and just
17 help her see things throughout the day, what we
18 call compensatory techniques, which is notes, a
19 timer, things like that.

20 Q Compensatory techniques are things that help her
21 work with the deficits that she has, is that
22 what you're talking about?

23 A Correct.

24 Q All right. And you mentioned notes and timers,
25 explain that a little bit, would you.

1 A If Veronica were to put a load of wash in the
2 washing machine -- Veronica is very easily
3 distracted. If something were to come up, the
4 phone would ring or she would have switched
5 gears and just train of thought, pick up a book
6 or something, she would forget the load was
7 there, So I encouraged her to set a timer or
8 put a note where she could consistently look to
9 see what task she was doing previously. And
10 that also goes for cooking. If she were to
11 initiate a cooking task, the phone would ring, I
12 don't feel comfortable that she could go back to
13 it without some sort of cuing.

14 Q What is it that you were trying to accomplish
15 from an occupational therapy standpoint?

16 A Improve her quality of life and her functioning
17 at home.

18 Q Did Veronica participate in the occupational
19 therapy that you prescribed?

20 A Veronica actually did very well. She did
21 participate. Veronica is a very hard worker,
22 she's very motivated. Veronica gets frustrated
23 easy when she sees that she can't do it.
24 Throughout our course of our treatment
25 Veronica's insight improved significantly where

1 she saw that she had some deficits and knew what
2 she wanted to work on. But it didn't improve to
3 the point where she could independently work
4 through those problems. She needs help from the
5 therapist to direct her day.

6 Q What do you mean by "direct her day"?

7 A We use a notebook where we write things down and
8 she has to plan things day to day to achieve it
9 best. So Monday she may just do laundry,
10 Tuesday she may do something else. And she
11 needs constant cuing of what she's going to do
12 to help manage her time and her day.

13 Q And "by constant cuing" you mean somebody
14 telling her or what?

15 A She uses her notebook now significantly, which
16 helps a lot. But she does need outside help,
17 support from her family. I know her mom does
18 call to make sure that she's up and dressed for
19 appointments.

20 Q Did this therapy, the occupational therapy, that
21 you prescribed for her involve taking her on
22 different daily living tasks that she might have
23 to do?

24 A She cooked in the kitchen. We simulate
25 different tasks. Yeah, we took her out of the

1 hospital once where she did a travel training
2 task, where she went down to Tower City. We
3 wanted to see how she could do on the bus and if
4 she could locate things in the store. Again her
5 attention is really poor, she's easily
6 distracted. And she could get herself to a
7 familiar setting. I don't think she would be
8 able to get herself to somewhere where she has
9 not been able to go before. She's not
10 independent in travel training. She needed a
11 list with what she was at Tower City to get, and
12 without that list I don't think she would have
13 been able to get it.

14 Q One of the things that you had marked in your
15 assessment was transportation retraining, is
16 that what you're talking about?

17 A Right, that was it. We took her out on the bus
18 to see what she could do. But I think if she
19 were to go to a new environment, she wouldn't be
20 able to get independently, from what we saw.
21 She's easily distracted.

22 Q When you say "easily distracted" what do you
23 mean? Is it attention span?

24 A Attention span, yeah. I mean like she -- I'm
25 not sure that she would remember to get off the

1 bus at the appropriate stop if it were a new
2 environment, she wouldn't know where she's
3 going, I don't think she would be able to get
4 off the bus at the right stop.

5 Q You mentioned that Veronica would become
6 frustrated with her performance?

7 A Um-hub.

8 Q Can you explain that or give an example of that?

9 A In therapy if she's doing a task, sometimes we
10 do checkbook balancing things, and she's having
11 trouble with it and it's wrong, she's very hard
12 on herself. She'll just shutdown and we can't
13 continue.

14 Q When you say "shut down," what do you mean, she
15 just --

16 A She gets real frustrated and her attention is
17 totally gone and she'll just say that she can't
18 focus any longer, she needs to get up, walk
19 around, can we end therapy early.

20 Q You mentioned that you discharged Veronica from
21 occupational therapy?

22 A I did.

23 Q And when was that?

24 A Last week.

25 Q Why did you discharge her?

1 A Her progress was plateauing out, she made good
2 progress throughout the course of the treatment.
3 What I mean by that is, from her current
4 functional status where she came in at to where
5 she was when she left, she did improve her
6 quality of life at home somewhat, but I don't
7 think she'll ever be able to live and function
8 independently.

9 MR. HENTEMANN: Objection. Move
10 that it be stricken.

11 Q With respect to the progress that you were
12 describing, what is it that you are trying to
13 get her to progress or you were trying to get
14 her to progress with?

15 A To live independently at home safely.

16 Q All right. And that's what you do as an
17 occupational therapist, try to make those kinds
18 of assessments and evaluations?

19 A I try to improve their functioning level, yes,
20 which means that I try to get them as
21 independent as they can to function in everyday
22 life.

23 Q All right. And what is her current level of
24 functioning?

25 A She needs supervision.

1 MR. HENTEMANN: Objection.

2 Q Go ahead.

3 A I feel that she is unsafe in a --

4 MR. HENTEMANN: Objection to the
5 opinions being rendered here. Move that they be
6 stricken.

7 MR. LANSDOWNE: Well, you can
8 move that they be stricken, but why don't you
9 make your objection, let her answer, and then
10 the judge will rule upon it.

11 Q Let me, since there's been an objection -- what
12 was -- what is her current condition from an
13 occupational therapy standpoint at the time that
14 you discharged her?

15 A Veronica's attention significantly impedes her
16 functioning at home, from the standpoint I have
17 concerns about cooking safety.

18 MR. HENTEMANN: Let me just
19 enter an objection on the record as to any
20 opinions that she is rendering in this matter.

21 MR. LANSDOWNE: You already did
22 that.

23 MR. HENTEMANN: I'm doing it
24 again.

25 MR. LANSDOWNE: I know. Well,

1 can we get the answer out, and then you can
2 object and you can have the judge rule upon it,
3 so we don't have this tape all chopped up?

4 Q (BY MR. LANSDOWNE) Mrs. Flowers, let me ask
5 you, at the point that you discharged Veronica,
6 were you able to achieve the goals that you had
7 set out?

8 A The goals that I had set out we did achieve, but
9 she -- but I don't view her safe to live
10 independently. What I base that on is the fact
11 that her compensatory strategies aren't
12 reliable. The timer and the notes are very
13 important for her when she's cooking, but
14 there's no guarantee if a crisis were to come up
15 when she's at home that she would be safe to
16 react quick enough or that she would remember
17 what was on the stove, which is a significant
18 safety hazard.

19 Q With respect to the -- you said the compensatory
20 skills are not reliable. What do you mean by
21 that?

22 A I think Veronica can implement them, but when
23 she's by herself I think that she needs someone
24 to check to make sure that she's doing it
25 consistently. There is no checking. There's no

1 guarantee that she's doing this consistently.

2 Q And is that something that you found as you went
3 through these 25 sessions of therapy?

4 A Yes, it is. Because we would set up a plan for
5 her to go home and try. She would come back for
6 therapy, and the next time, and often times she
7 would forget what we had spoken about or she
8 just didn't do it, became distracted with
9 something else.

10 Q With respect to Veronica's situation, living
11 situation now, did you come to understand what
12 her living situation is presently?

13 A I understand that she lives in an apartment and
14 her mother comes by and checks on her and her
15 sister offers a lot of help with checkbook
16 writing, things like that, transportation.

17 Q The progress that you were able to achieve with
18 Veronica, is that in terms of making the -- her
19 deficits better or in terms of tools to deal
20 with her deficits? I'm not sure that we
21 understand that.

22 A Can you repeat that question?

23 Q The therapy that you did and the progress that
24 you were able to achieve, was that with respect
25 to making the deficits that Veronica has better

1 or giving her tools to deal with the deficits?

2 A Tools to deal with the problems that she has. I
3 think the problems that she came in with, she
4 still has --

5 MR. HENTEMANN: Objection.

6 A -- but they're not impeding her life to the
7 certain extent that they were.

8 Q Did you observe any change in the actual
9 deficits that she has from the time that you saw
10 her until the time that she was discharged?

11 A The change that I have seen would be in the
12 management of her deficits.

13 Q You mean utilizing the tools that you talked
14 about?

15 A Correct.

16 Q How is it that Veronica was able to make the
17 progress that she did?

18 A She's very motivated. I think that she wants to
19 get better, I think that she continually tries
20 the strategies that we suggested to her, she
21 does try. I think she wants to get better. So
22 it's all of the progress that she has made has
23 fallen on her. I mean she should get credit for
24 all of that. She worked very hard in therapy.

25 MR. LANSDOWNE: Okay. That's

1 all the questions that I have for you.

2 EXAMINATION OF ELLEN FLOWERS

3 BY MR. HENTEMANN:

4 Q Ms. Flowers --

5 A Yes.

6 Q -- may I see the records that you brought with
7 you today?

8 A Sure.

9 Q You referred to them in your testimony, did you
10 not?

11 A Um-huh. They're my progress notes and my
12 evaluation.

13 Q I'm looking at a piece of paper that has **your**
14 handwriting on it.

15 A That's a summary of what we did in therapy.

16 Q **Is** that something that you prepared for this
17 deposition here?

18 A Yes.

19 Q So this was not part of your ordinary work
20 record that you create as you're working in the
21 hospital, this was something that you put
22 together for this deposition?

23 A Correct. It summarized my treatment plan.

24 Q Did you follow Veronica through her course of
25 occupational therapy at Metro Hospital?

1 A Yes.

2 Q Did you see her each day?

3 A No.

4 Q I see here that there's only one note that I see
5 that looks like in your writing.

6 A That was my student. I have a student and she
7 evaluated. I was there while she did the
8 evaluation.

9 Q Okay. I see a note in here that --

10 A And Michelle Moose is an occupational therapy
11 assistant that also treated her. It's not
12 uncommon to have more than one therapist.

13 Q But were you present whenever the student was
14 evaluating her?

15 A Oh, yes.

16 Q So you were there along with the student?

17 A Yes.

18 Q Okay. And what happens in the course of this
19 treatment, is that you elicit complaints or
20 comments from the patient; is that correct, and
21 then you put them in your record?

22 A Correct.

23 Q And you put in the record what the patient tells
24 you?

25 A Along with what we objectively see, correct.

1 Q The first time you saw Veronica, I think here it
2 looks like 11-16?

3 A 11-9 actually.

4 Q 11-9, November 9th of 2000?

5 A Right.

6 Q And I think your objective in occupational
7 therapy is to get the person to the level of
8 occupational achievement that they were in
9 before they came to see you?

10 A That or to the level of functioning as
11 independent as we can get them to, correct.

12 Q Was this the first time that you had ever seen
13 Veronica Ferrette?

14 A Yes.

15 Q Was she complaining about an incident that
16 occurred back in May of 1998?

17 A The carbon monoxide poisoning?

18 Q Yeah.

19 A Yes.

20 Q And that would be like three years ago, correct?

21 A Three years is May.

22 Q Yeah, in May. A little over two years, close to
23 three years?

24 A Right.

25 Q Do you know whether she had any occupational

1 therapy administered by anybody else during that
2 three year period?

3 A I don't know.

4 Q Okay. Did you ask her that in your history?

5 A I'd have to look in the eval. to see.

6 I don't have it written down.

7 Q Would ,thatbe important to know, if she had had
8 other occupational therapy?

9 A Not necessarily from the standpoint that when
10 I'm working with people, I try to rehabilitate
11 them from where they're at current functional
12 level, so I would go according to my assessment.

13 Q Doesn't that indicate to you if she didn't have
14 any occupational therapy beforehand, that she
15 was functioning fairly well on her own?

16 A No.

17 Q But nevertheless, you did not check or you do
18 not know of her having had any occupational
19 therapy prior to first seeing you?

20 A Right. Yeah. I don't think that that's
21 necessarily important when I see somebody. I
22 mean it helps, but what I base it on is what I
23 objectively find when I see her --

24 Q But it is interesting that for three years she
25 never sought any help for occupational --

1 through occupational therapy; is that correct?

2 MR. LANSLOWNE: Objection.

3 A Some doctors aren't aware. I don't know who she
4 went to. And maybe they didn't refer her to a
5 brain injury program, so that that might be why.

6 Q Does pertinent history refers to -- on the first
7 page, I think, of your form, it refers to
8 depression.

9 A Um-huh.

10 Q Did she tell you that she was depressed?

11 A No. We had received a past medical history
12 chart on her.

13 Q Okay. And that past medical history chart
14 indicated she was suffering from depression?

15 A Yes.

16 Q And that goes back even before the carbon
17 monoxide poisoning incident, does it not?

18 A Right.

19 Q And it goes back to like 1987 when she was
20 seeing a psychiatrist; is that correct?

21 A Without that in front of me, I know it goes back
22 to before the incident, but I don't know how far
23 back.

24 Q Okay. It seems that when she came to see you
25 she was complaining about -- she wanted -- the

1 complaint that she wanted treated was that she
2 wanted to treat her -- or strengthen her left
3 side; is that correct?

4 A Um-huh.

5 Q Did you find anything wrong with the left side
6 of her body?

7 A The left side was weaker than the right side,
-8 yes.

9 Q Did you perform a test on the left side?

10 A We did.

11 Q Okay. And it shows that here on your chart that
12 you had -- you checked the upper extremity, the
13 shoulder extension, the shoulder abduction,
14 different movements of the shoulder?

15 A Right.

16 Q Is that correct?

17 A Right.

18 Q The elbow, the forearm, the wrist and the finger
19 flexion and finger extensions, a whole list of
20 things.

21 A It's a movement of the arm, right.

22 Q And you gave a rating of fours and fives; is
23 that correct?

24 A Five out of five is normal.

25 Q Okay. And four is pretty close to normal; is

1 that correct?

2 **A** Yes.

3 **Q** And the patient can -- the patient has something
4 to do with how far they move their extremity; is
5 that correct?

6 **A** Yes.

7 **Q** **So** a four and a five pretty much means normal,
8 does it not?

9 **A** Um-huh.

10 **Q** With respect to the problems that you claim you
11 were treating her for, namely I believe it was
12 what, checkbook and things like that?

13 **A** Home management tasks, yes.

14 **Q** And your history shows that she was living alone
15 for the past three years --

16 **A** Right.

17 **Q** -- two and a half years, whatever it was?

18 **A** Living alone but had constant supervision.

19 **Q** Well, did you know that it was constant
20 supervision --

21 **A** Yes.

22 **Q** -- or did people stop over?

23 **A** Well, actually we would find out it was constant
24 supervision. Because after we finished our
25 evaluations we meet with the brain injury team,

1 we round on her, which would be OT, PT, speech,
2 physical therapy, speech therapy and
3 occupational therapy. And there were
4 significant concerns that we had of her living
5 alone.

6 Q But she was living alone before she came to see
7 you?

8 A She was with constant -- with supervision.

9 Q Not constant. It doesn't say in your records it
10 was constant supervision.

11 A Right.

12 Q It says that her mother -- she told you her
13 mother stopped by and her sister stopped by.
14 Mothers and sisters stop **by** visiting their
15 children all the time, do they not, normally?

16 A Well, I mean we needed to know that they were
17 stopping by to help her, because we had
18 significant concerns.

19 Q And that's something she told you?

20 A Right.

21 Q And her other complaints were all subjective
22 complaints, were they not, things that she told
23 you?

24 A Right. Well, we do some testing, too. I don't
25 have the standardized testing with me., but where

1 we can pick up on things, too.

2 Q With respect to the examination that you -- or I
3 guess the examination that you put her through
4 when she first came in, it's noted here that the
5 reflex patterns -- is that nerves?

6 A Right.

7 Q Were within normal limits?

8 A Um-huh. That would be abnormal tone, like
9 spasticity or flaccidity.

10 Q You didn't find any problems there?

11 A No.

12 Q And her upper extremity joint integrity is the
13 word used. That was also normal?

14 A Correct.

15 Q And she had no problems there?

16 A Right.

17 Q And she had her skin integrity, I guess there
18 were no bruises or contusions; is that correct?

19 A Or swelling.

20 Q And that was normal also?

21 A Right. Her upper extremity, I just want to
22 clarify, I don't think is what's impeding her
23 from living.

24 Q Okay. But she came to see you, her subjective
25 goal was to strengthen her left side; is that

1 correct?

2 A Well, that was one of them. When we ask people
3 their goals, that's what they want to get out of
4 it, right.

5 Q And your examination of the left side, left
6 upper extremity, was within normal limits of
7 fours and fives, five being normal, perfectly
8 normal?

9 A The left was weaker than the right.

10 Q But there were fours and fives; is that correct?

11 A Correct.

12 Q That's pretty close to normal; is that right?

13 A Right.

14 Q You found no significant problems with her left
15 side?

16 A Correct. On left upper extremity.

17 Q You did not give her any treatment?

18 A I did give her like Theraband for it, exercise,
19 and Theraputty to work on strengthening it.

20 Q Did you ever send her to physical therapy?

21 A Occupational therapy treats the upper extremity
22 for that.

23 Q Did she ever have any physical therapy that you
24 know of before she came to see you three years
25 after this incident?

- 1 A I don't know.
- 2 Q Did she ever talk to you about this lawsuit that
3 she had pending?
- 4 A No. In fact I didn't know it was a lawsuit
5 until I got -- until I heard from you.
- 6 Q She progressed at least to the point where you
7 discharged her from further care at Metro
8 Hospital?
- 9 A She is no longer receiving occupational therapy.
10 She still receives speech therapy.
- 11 Q She's not receiving any occupational therapy?
- 12 A Correct.
- 13 Q And you discharged her?
- 14 A Right.
- 15 Q You felt that she had reached an improvement
16 level that it was okay for you to discharge her?
- 17 A I felt that she was plateaued out, that there
18 wasn't any more help that I would be able to
19 give her.
- 20 Q And I believe your testimony was she had made
21 good progress?
- 22 A She had made good progress from where she came
23 in at. I still think that she needs
24 supervision.
- 25 Q You don't know what her level was before she

1 came in to see you, do you?

2 A Well, I'm basing that on when I started working
3 with her four months ago.

4 Q So she improved from the time she saw you until
5 the time you discharged her?

6 A She did improve.

7 MR. HENTEMANN: I have no
8 further questions.

9 REEXAMINATION OF ELLEN FLOWERS

10 BY MR. LANSLOWNE:

11 Q Just briefly, Mrs. Flowers. Mr. Hentemann asked
12 you about what Veronica had come to see you
13 about and the statement that she made to you
14 about what she came for. And would you -- she
15 did refer to strengthen her left side. But
16 would you read the rest of the report.

17 A "I want to get what I had back with my memory,
18 organization and take care of my own apartment."

19 Q So that's what she told you originally when she
20 came?

21 A Right.

22 Q With respect to the complaints that she had, the
23 cognitive complaints that she had.

24 Mr. Hentemann referred to these as subjective
25 complaints. Did you do --

- 1 A They're standardized testing for the cognitive.
2 Yes.
- 3 Q And those are objective tests that you do,
4 standardized tests?
- 5 A They're standardized to Metro, they're not
6 standardized nationally.
- 7 Q Standardized for the brain injury program at
8 Metro?
- 9 A Um-huh.
- 10 Q And you specifically work exclusively with brain
11 injury patients?
- 12 A Correct.
- 13 Q And did your testing and everything that you did
14 throughout your sessions confirm the subjective
15 complaints that Mrs. -- that Ms. Ferrette,
16 Veronica had about her ability to function
17 cognitively?
- 18 A Yes, I think it did. I think from what we
19 picked up on, there is actually -- we had -- she
20 didn't have as much insight into her impairments
21 from what we picked up on.
- 22 Q What do you mean by that?
- 23 A Which means that she is -- like I viewed her as
24 more unsafe to live alone than she does.
- 25 Q She doesn't comprehend all of the implications

1 of her deficits, is that what you determined
2 from an occupational therapy standpoint?

3 A Right.

4 MR. HENTEMANN: Objection to the
5 form of the question.

6 Q With respect to her deficits did you, from an
7 occupational therapy standpoint, try to make a
8 determination as to whether she had insight into
9 the extent of those deficits?

10 A I think initially her insight was poor.
11 Throughout the therapy sessions her insight did
12 improve, she began to realize what her deficits
13 were and what she could do to help manage them
14 better. But I still think that there is some --
15 not lack of insight, per se, but comprehension
16 of how it's going to continue to affect her.

17 Q And was that still the case at the time that you
18 discharged her?

19 A Yes.

20 MR. LANSLOWNE: Thank you.
21 That's all I have.

22 REEXAMINATION OF ELLEN FLOWERS

23 BY MR. HENTEMANN:

24 Q On the backside of your what might be considered
25 the admission summary or where you have on the

1 backside where it shows performance.

2 A ADL status, activity of everyday life.

3 Q Performance areas and daily living skills.

4 There's a column there for dependent. That
5 means -- that 'wouldbe the area of activity
6 where she would need some help?

7 A Correct.

8 Q And going down that chart, which is rather
9 lengthy, which includes bathing, grooming,
10 feeding, toileting, cleansing, mobility,
11 transfers, homemaking.

12 A Right.

13 Q That whole list, catalog of things, there is not
14 one check mark after any of those activities
15 which indicate that she requires or she's
16 dependent upon somebody else to help her?

17 A How we view this dependency is that they require
18 100 percent dependency on someone else. And I
19 don't think that she requires 100 percent
20 dependency on someone else.

21 Q But she doesn't require any dependency. There's
22 nothing there marking she needs assistance?

23 A Well, if you go down to homemaking under meal
24 prep it says, "max assist," which means that she
25 does require some assistance with that. And

1 then under the other part we have that she
2 forgets lists or buys double, she burns pizzas,
3 things like that.

4 Q And this is a chart where she herself fills it
5 out?

6 A No. We ask these questions and we fill it out.

7 Q You ask the questions, but then you fill it out
8 based upon what she tells you?

9 A We base it upon what she tells us and then we
10 evaluate some of these where we think there's
11 problems.

12 MR. HENTEMANN: I have no
13 further questions.

14 MR. LANSDOWNE: That's all we
15 have. Thank you very much.

16 THE VIDEOGRAPHER: Mrs. Flowers,
17 you have the right to review this videotape in
18 its entirety or you may waive that right.

19 THE WITNESS: I'll waive the
20 right.

21 THE VIDEOGRAPHER: Will counsel
22 waive the filing of the videotape?

23 MR. HENTEMANN: Yes.

24 MR. LANSDOWNE: Yes. But I
25 would like a copy of it.


1 THE STATE OF OHIO,) SS: CERTIFICATE
2 COUNTY OF CUYAHOGA.)

3 I, Gregory L. Koterba, a Notary Public within
4 and for the State of Ohio, duly commissioned and
5 qualified, do hereby 'certify that the within-named
6 witness, ELLEN FLOWERS, was first duly sworn to
7 testify the truth, the whole truth and nothing but the
8 truth in the cause aforesaid; that the testimony then
9 given by her was by me reduced to stenotype in the
10 presence of said witness, afterwards transcribed on a
11 computer/printer, and that the foregoing is a true and
12 correct transcript of the testimony so given by her, as
13 aforesaid.

14 I do further certify that this deposition
15 was taken at the time and place in the foregoing
16 caption specified.

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

20 IN WITNESS WHEREOF, I have hereunto set my hand
21 and affixed my seal of office at Cleveland, Ohio, on
22 this 21st day of March 2001.

23
24 
25 Gregory L. Koterba, Notary Public
within and for the State of Ohio
My Commission expires January 12, 2005.