

1 IN THE COURT OF COMMON PLEAS

2 CUYAHOGA COUNTY, OHIO

Doc. 154

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4  
5 SHARON BRANAND, et al., )

6 Plaintiffs, )

7 vs. )

Case No. 343745

) Judge McDonnell

8 NATALIE C. BLEVINS, )

9 Defendant. )

10  
11 - - -

12  
13 Deposition of PATRICIA A. GANNON, M.D., a  
14 witness herein, called by the Plaintiffs for direct  
15 examination pursuant to the Rules of Civil  
16 Procedure, taken before me, Michael Christy, a  
17 Stenographic Reporter and Notary Public in and for  
18 the State of Ohio, at the offices of The Cleveland  
19 Clinic Foundation, 16215 Madison Avenue, Lakewood,  
20 Ohio, on Tuesday, the 26th day of May, 1998, at 2:35  
21 o'clock p.m.

22  
23 - - -  
24  
25

APPEARANCES:

On Behalf of the Plaintiffs:

Hollister, Leiby, Hanna & Rasnick

BY: Timothy H. Hanna, Attorney at Law  
2100 One Cascade Plaza  
Akron, Ohio 44308

On Behalf of the Defendant:

Meyers, Hentemann & Rea Co., L.P.A.

BY: Gerald L. Jeppe, Attorney at Law  
2121 The Superior Building  
Cleveland, Ohio 44114

- - -

I N D E XEXAMINATIONPAGE

By Mr. Hanna

4, 55

By Mr. Jeppe

33, 60

EXHIBITSMARKED

Plaintiff's

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1                    PATRICIA A. GANNON, M.D.

2       of lawful age, a witness herein, having been first  
3       duly sworn, as hereinafter certified, deposed and  
4       said as follows:

5                    DIRECT EXAMINATION

6                    (Whereupon, Plaintiff's Exhibit 1  
7                    was marked for purposes of  
8                    identification.)

9                    MR. HANNA:                    Mr. Jeppe, can  
10       we stipulate to the waiving of the filing of the  
11       deposition?

12                    MR. JEPPE:                    Yes.

13                    MR. HANNA:                    Okay.

14       BY MR. HANNA:

15       Q.       Doctor, can you please tell us your name?

16       A.       I'm Dr. Patricia Ann Gannon.

17       Q.       And Doctor, what is your profession?

18       A.       I'm a general internist for The Cleveland  
19       Clinic.

20       Q.       Are you licensed to practice medicine in the  
21       stat of Ohio?

22       A.       Yep.

23       Q.       And when were you licensed?

24       A.       July of 1993.

25       Q.       Okay.

1 Can you please tell us about your medical  
2 education?

3 A. Went to college at Kenyon College with a  
4 bachelor's in chemistry, went to the Medical College  
5 of Ohio thereafter 1986, graduated in 1990 from  
6 Medical College of Ohio and did two years of my  
7 residency in general internal medicine at the Albany  
8 Medical Center up in Albany, New York, and then I  
9 did a senior year at Metro Hospital here in  
10 Cleveland, I graduated July of '93, took my boards  
11 in September of '93 and passed them.

12 Q. Do you specialize in any specific field of  
13 medicine?

14 A. No, I don't.

15 Q. Do you serve on any hospital staffs?

16 A. Yes.

17 Q. And which hospitals would they be?

18 A. Lakewood Hospital, Fairview General Hospital,  
19 St. John's West Shore Hospital and as well The  
20 Cleveland Clinic.

21 Q. And we're sitting here in the office on -- is  
22 that -- what street are we here; Woodward?

23 A. Madison.

24 Q. Madison?

25 A. Yeah.

1 Q. And that's part of The Cleveland Clinic?

2 A. Uh-huh.

3 Q. And how long have you been affiliated with The  
4 Cleveland Clinic?

5 A. Since August of 1995.

6 Q. And what did you do before August of 1995?

7 A. I was in private practice as a general  
8 internist.

9 Q. Was that with your mom?

10 A. Uh-huh.

11 Q. So I take it you were in practice with your  
12 mom from 1993 till --

13 A. Uh-huh.

14 Q. -- you associated with the clinic?

15 A. Right, and Dr. David Wood is another general  
16 internist.

17 Q. Now, Dr. Gannon, do you know Sharon Branand?

18 A. Uh-huh.

19 Q. How do you know Sharon Branand?

20 A. She's a patient of mine.

21 Q. And we're all here today concerning the  
22 injuries Mrs. Branand suffered as a result of being  
23 hit by a car on March 2nd, 1994.

24 If I understand correctly, you were Mrs.  
25 Branand's doctor before that happened?

1 A. Uh-huh, I was.

2 Q. Okay.

3 And are you aware of Mrs. Branand ever  
4 complaining of neck pain, upper back or shoulder  
5 pain before that date?

6 A. No.

7 Q. Okay.

8 When did you first see Mrs. Branand for the  
9 injuries she suffered as a result of being hit by  
10 the car?

11 A. March 16th, 1994.

12 Q. And if you want to refer to your chart notes,  
13 you can be --

14 A. Please.

15 Q. -- you can do that, okay?

16 Did you take a history at that time?

17 A. Uh-huh.

18 Q. And what history were you given?

19 A. That was a history given of the motor vehicle  
20 accident.

21 Q. Okay.

22 And what complaints did she have at that time?

23 A. She had immediately afterwards right arm pain,  
24 neck pain, head pain and upper back pain.

25 Q. And can you please tell us what if any

1 examinations you conducted at that time?

2 A. Uh-huh, certainly did.

3 After taking a physical history I did a  
4 physical exam; and on physical exam notably there  
5 was right neck pain, right upper arm pain, deltoid  
6 pain, triceps/biceps pain, right trapezius muscle  
7 pain and pain with inspiration and posterior thorax  
8 pain.

9 Q. Okay.

10 A. There was also notably that she didn't  
11 complain of, there was a 5 by 7 centimeter  
12 ecchymotic area in the right lateral thigh, no  
13 neurological problems always.

14 Q. For the benefit of me and the jury -- we've  
15 used a lot of medical terms and we're not all  
16 associated with the anatomy -- can you kind of point  
17 out on your shoulder and your neck --

18 A. Sure.

19 Q. -- the areas she was complaining of and --

20 A. Uh-huh.

21 Q. -- you talked about ecchymotic --

22 A. Ecchymotic area.

23 Q. Yes.

24 A. That's just big bruise.

25 Q. Oh, okay. Gotcha.



1 A. The pain that she was having was up in the  
2 upper right back, in the back of her back.

3 The upper trapezius muscle is the whiplash  
4 muscle, the shoulder muscle.

5 The upper deltoid muscle is the roundedness of  
6 the shoulders, her biceps and triceps.

7 Nothing down in the forearms.

8 All in the upper back and neck.

9 Q. And you found the black and blue mark where?

10 A. Down on the right side of her leg down on her  
11 mid-thigh area.

12 Q. And what did you associate that with?

13 A. The car accident.

14 Q. Did you understand at that time she was a  
15 pedestrian and she was struck on the right-hand side  
16 by the car?

17 A. Uh-huh.

18 Q. Doctor, based upon the history that you were  
19 given and the examination you conducted on March  
20 16th, 1994, what was your diagnosis at that time?

21 A. That she had severe musculoskeletal strain of  
22 her right trapezius muscle, shoulder muscle, her  
23 rhomboid, her scapular muscles and it was all  
24 secondary to a strain of being struck by a car.

25 Q. Doctor, after that initial examination, what

1 treatment did you recommend?

2 A. I tried conservative therapy at first,  
3 immobilizing.

4 She was more than two weeks after seeing her,  
5 so I advised using local heat and then using  
6 anti-inflammatories.

7 Q. I'm going to ask you a general question here  
8 and it might speed things up.

9 I notice from your records that you have  
10 followed Sharon basically through the course of this  
11 since March of 1994.

12 Is that a fair statement?

13 A. Uh-huh.

14 Q. Okay.

15 Now I'm going to ask you some specific  
16 questions about the treatment that she received and  
17 your involvement with that.

18 A. Uh-huh.

19 Q. In March of 1994 Mrs. Branand was referred to  
20 a physical -- to physical therapy.

21 A. Uh-huh.

22 Q. Can you tell the ladies and gentlemen of the  
23 jury what is physical therapy?

24 A. Physical therapy is a discipline in medicine  
25 to teach patients how to stretch muscles and

1 ligaments and tendons that have been hurt or  
2 overpulled or spasmed as well as to therapeutically  
3 get the strength back in those muscles, be it from  
4 something internal, from a stroke or from something  
5 external like being struck by a car.

6 Q. Okay.

7 And do you know who referred her to physical  
8 therapy in March of 1994?

9 A. I did.

10 Q. Okay.

11 And why did you do that?

12 A. 'Cause I thought it was important.

13 She had already been two weeks out and had not  
14 done well with just using anti-inflammatories and  
15 local conservative therapy, but I wanted to make  
16 sure that we didn't have any long-term troubles with  
17 the muscles being enabled and painful.

18 Q. Okay.

19 And during this course of physical therapy,  
20 did you find as her attending physician that it was  
21 helping her?

22 A. Throughout the years, especially that first  
23 year I got the impression that it wasn't as helpful  
24 and that it would help somewhat with her pain  
25 threshold and her pain ability to tolerate but she

1 still had recurrence of pain.

2 Q. I also notice in the chart that in July of  
3 1994 Mrs. Branand was referred to -- is that Louise  
4 Martello?

5 A. Yes, a massage therapist.

6 Q. Okay.

7 And can you tell the ladies and gentlemen of  
8 the jury what a massage therapist is?

9 A. Massage therapist helps with literally rubbing  
10 and using physical pressure on those muscles in  
11 order to stretch those muscles and relax those  
12 muscles in hopes that those muscles can regain its  
13 strength and properly rest.

14 Q. Okay.

15 And who referred Mrs. Branand to Dr. Martello?

16 A. I think I did.

17 Q. And why did you do that?

18 A. Because physical therapy in my opinion is that  
19 there would be some therapeutic benefit to it.

20 Q. Okay.

21 And did that seem to help her?

22 A. Yes, for short terms.

23 Q. And it seems that you were -- have some  
24 reservation about that, about the help that Martello  
25 gave.

1           What is it that -- trying to find the words  
2 here. You said short-term.

3 A.       Right.

4 Q.       Is this something that would help her  
5 long-term?

6 A.       It can help muscles that are strained and  
7 intermittently, but I got the impression that the  
8 muscles that were strained would be overused or  
9 overworked just in her daily living and so she would  
10 reinjure those in a subtle way, but enough to give  
11 her her pain back, and so she needed to have  
12 multiple therapeutic modalities of massage therapy.

13 Q.       Okay.

14           I also notice that in October of 1994 Mrs.  
15 Branand was referred to Dr. Baig?

16 A.       Uh-huh.

17 Q.       And who is Dr. Baig?

18 A.       Dr. Baig is a physical medicine, he's also  
19 boarded in internal medicine so he's very similar to  
20 my specialty as -- as well as knows more about the  
21 musculoskeletal areas of expertise that I thought  
22 Sharon could benefit from.

23 Q.       What type of doctor is Dr. Baig?

24 A.       Rehab.

25           It's called PM&R, physical medicine and rehab.

1 Q. All right.

2 And was Dr. Baig able to help Sharon Branand?

3 A. I don't think so.

4 She -- the same conclusion was brought upon my  
5 evaluation as his.

6 He asked to use a low-dose tricyclic  
7 antidepressant which helps with the musculature, the  
8 nervous system and how it gives a signal to the  
9 muscles.

10 She was unable to tolerate that medication.

11 Q. And what was the significance of the autonomic  
12 nervous system I believe you talked about?

13 Can you explain to the jury why that was  
14 significant to Sharon Branand?

15 A. Why a tricyclic antidepressant was used --

16 Q. Right.

17 A. -- as medication?

18 It's thought in -- when you've injured a  
19 muscle, sometimes you can injure the nerve that  
20 gives the impulse or the signal to the muscle for  
21 the muscle to contract or to expand, there's stretch  
22 receptors and contracture receptors, and a lot of  
23 times a low-dose antidepressant medication such as a  
24 tricyclic antidepressant is used such as Elavil can  
25 help with that and relax the muscle.

1 Q. And she had difficulty taking those types of  
2 medications?

3 A. Right.

4 They have a sedating side effect.

5 So even it taken at nighttime, two hours  
6 before going to bed, which is what we finally had to  
7 try, she still was feeling too sedated by it and it  
8 wasn't causing that much benefit to her -- to her  
9 pain.

10 Q. Okay.

11 Now, I also notice in the chart that on March  
12 2nd, 1995, Mrs. Branand underwent a MRI.

13 A. Uh-huh.

14 Q. Can you tell the ladies and gentlemen of the  
15 jury what an MRI is?

16 A. MRI is a magnetic resonance imaging study that  
17 actually shows, very-well delineates the difference  
18 between both the musculature as well as the bone;  
19 and because the pain was thought to be so deep close  
20 to the chest wall and there's such bony prominences  
21 there with the ribs and the spine and such, it was  
22 important to find out exactly how the nerves were  
23 connecting to the muscles and how those small  
24 muscles around the spine were involved.

25 Q. And what was the result of that study?

1 A. Can I look? I actually think I flagged it  
2 here.

3 I think it was normal.

4 I'll read it to you. It's right here.

5 "MRI thoracic spine done on 8/15/1995.

6 Impression: Normal study."

7 Q. Okay.

8 And what if -- what significance, if any, did  
9 that have on your diagnosis and your treatment of  
10 Sharon Branand?

11 A. It was important to do because it excluded a  
12 lot of other troubles, a lot of other pathology that  
13 might have been the etiology for such persistent  
14 back pain, yet it doesn't necessarily make the  
15 diagnosis of myofascial pain or for muscle strain  
16 that's persistent.

17 Q. And these other etiologies you're talking  
18 about, what were -- what were the things that you  
19 were looking for?

20 A. Disk.

21 If you have enough of a whiplash or enough of  
22 a fall, because she was a pedestrian being hit,  
23 sometimes you can jar the thoracic spine enough to  
24 impinge upon one of the spinal roots or the spinal  
25 cord so that she has persistent pain.



1 Q. So if I understand correctly, you're trying to  
2 rule out an orthopedic problem?

3 A. Uh-huh.

4 Q. Okay.

5 And basically that was -- the orthopedic  
6 problem was ruled out up in the thoracic cervical  
7 area through the MRI?

8 A. Specifically just the thoracic area, right,  
9 and it was ruled out.

10 Q. All right.

11 So again you were focusing on the muscles as  
12 opposed to the bony structures?

13 A. Right, right.

14 Q. Now, the records also indicate that in March  
15 of 1995 Mrs. Branand was referred to Dr. Tucker.

16 A. Uh-huh.

17 Q. Who is Dr. Tucker?

18 A. Dr. Tucker is well-known in the Cleveland area  
19 as being a physical medicine doctor, so he's an  
20 internist as well as has special expertise in sports  
21 medicine.

22 Q. Okay.

23 And who referred her to Dr. Tucker?

24 A. I did.

25 Q. And why did you do that?

1 A. I'm trying to think, 'cause I think maybe Dr.  
2 Baig did, but we had a conversation, we all agreed  
3 that he might have some help.

4 Because she was failing all management, she  
5 was just still not doing well on a daily basis and  
6 having persistent pain of which I couldn't figure  
7 out why.

8 Q. Okay.

9 And do you know whether Dr. Tucker was able to  
10 help her?

11 A. Dr. Tucker asked for certain types of physical  
12 therapy to be done. He also thought it was a remote  
13 but plausible possibility that she could have a  
14 rheumatologic problem for which he did blood work  
15 that was -- turned out to be negative.

16 Q. So they ruled out the rheumatology?

17 A. Uh-huh.

18 Q. All right.

19 Records also indicate that in August of 1995  
20 Mrs. Branand had another MRI done.

21 A. Uh-huh.

22 Q. Do you know why that was done?

22 A. The one that I have is August 15th, 1995.

24 Q. Yeah, I think there was one in March. She had  
25 two of them, if I'm not mistaken.

1           There was done -- one done in --

2       A.     March 2nd --

3       Q.     Yeah --

4       A.     -- uh-huh.

5       Q.     -- March 2nd and then another one done in  
6     August.

7           Do you know why there were two of them done?

8       A.     Five months later?

9       Q.     Yeah.

10      A.     I think it was through the recommendations of  
11     the -- it doesn't have any -- it has that I ordered  
12     it -- through the recommendations probably of one of  
13     the subspecialists to say something still is amiss  
14     here, something still doesn't make sense, she is  
15     more than -- she's six months out from her accident  
16     and she's still not better --

17      Q.     Okay.

18      A.     -- so it was thought to be rechecked.

19      Q.     And again, what effect did the second MRI have  
20     on your diagnosis and treatment of Mrs. Branand?

21      A.     Yeah.

22           I think I recall here, 'cause I have a  
23     little -- a clinical data note saying  
24     that "28-year-old white female complaining of pain  
25     in the midthoracic area since a motor vehicle

1 accident is thought to have a superficial soft  
2 tissue mass in this region," and I remember actually  
3 doing her physical exam.

4 "The patient is to be evaluated for evidence  
5 of a soft tissue mass or other underlying structural  
6 abnormalities."

7 What in hindsight appeared to be, 'cause now  
8 we know the end result, is that her rhomboid muscles  
9 which are very small, they're only about four  
10 centimeters in -- in length, are the muscles that  
11 attach the scapular spine to the thoracic cage, to  
12 the thorax, were so spasmed that they actually felt  
13 like a knot and because I clinically could not feel  
14 around that, not knowing what else it could be, I  
15 asked for another MRI to be done.

16 Q. And is that something you physically felt on  
17 examination?

18 A. Uh-huh, I certainly did.

19 Q. And is that something that she could have  
20 reproduced voluntarily?

21 A. I can't think of a way.

22 Q. Now, the records also indicate that in April  
23 of 1996 Mrs. Branand underwent a nerve conduction  
24 study.

25 A. Uh-huh.

1 Q. Okay.

2 Can you tell the ladies and gentlemen of the  
3 jury what a nerve conduction study is?

4 A. A nerve conduction study is a nice elaborate  
5 way of using signals from the muscle to watch the  
6 muscle contract and make sure that it's getting an  
7 appropriate signal from the nerve.

8 So it says that the nerve is working well and  
9 it shows any impingement and it also says that the  
10 muscle is getting that nerve impulse.

11 Q. And who ordered that study?

12 A. I imagine I did.

13 Q. And do you know why you did?

14 A. Because it was still unclear as to whether  
15 this was a muscular strain that still was persistent  
16 or whether there was any cutaneous nerve; unlike  
17 what would be seen in the MRI which would be a  
18 central lesion, a spinal root, whether there was a  
19 cutaneous nerve that was being impinged.

20 Q. What's a cutaneous nerve?

21 A. Cutaneous -- superficial, anything going out  
22 from the skin.

23 The depth of the musculature between the chest  
24 wall and the outside skin layer is very thin and  
25 sometimes the nerves that go to the skin supply or

1 to the muscle supply itself can be pinched.

2 Q. Okay.

3 And do you recall what the result of that  
4 nerve conduction study was?

5 A. Do you want me to look it up for you?

6 Q. I think it was normal --

7 A. Probably was.

8 Q. -- if that might help.

9 A. Probably was.

10 Q. Okay.

11 A. 'Cause I know it wasn't a neuropathic problem.

12 Q. The fact that the nerve conduction study was  
13 normal, Doctor, what effect did that have on the  
14 your diagnosis and treatment of Mrs. Branand?

15 A. It narrowed things down to a muscular  
16 etiology.

17 Q. Okay.

18 So again we're looking at the muscles as  
19 opposed to the bony structures now and the nerves?

20 A. Uh-huh.

21 Q. Now, in May of 1996 Mrs. Branand was referred  
22 to Dr. Wilke.

23 A. Uh-huh.

24 Q. Who's Dr. Wilke?

25 A. Dr. Wilke's a rheumatologist.

1 Q. And he's affiliated with The Cleveland Clinic?

2 A. Right, exactly.

3 Q. And who referred her to Dr. Wilke?

4 A. I did, because I was thinking that this might  
5 be an area for which the muscles moving on top of  
6 each other were causing irritation and this is one  
7 of the trigger points for which fibromyalgia can be  
8 diagnosed, but because it was an isolated trigger  
9 point and her generalized aches and pains, she had  
10 mild depression from this, this was really getting  
11 the best of her and a general quality of life issue,  
12 I asked for her to be seen by a rheumatologist.

13 Q. Okay.

14 And what was the result of her being consulted  
15 by Dr. Wilke?

16 A. He reassured me and he reassured the patient  
17 that there was nothing else rheumatologic going on,  
18 this was an isolated problem for which it didn't fit  
19 the history of fibromyalgia syndrome.

20 Q. Okay.

21 And based upon the referral to Dr. Wilke, what  
22 effect did that have on your diagnosis and treatment  
23 of Sharon Branand?

24 A. Helped me affirm to both Sharon and myself  
25 that judicious physical therapy and persistent

1 physical therapy would potentially be of benefit,  
2 that we weren't on the wrong path.

3 Q. It sort of sounds -- we've gone through a  
4 little bit of her history here -- that you were  
5 quarterbacking for this team of doctors.

6 Is that a fair --

7 A. Uh-huh.

8 Q. -- analogy of what's going on here?

9 A. Uh-huh.

10 Q. The question I have is was there ever a  
11 consult or a referral to an orthopedic surgeon?

12 A. No.

13 Q. And why didn't you do that?

14 Why didn't you ever refer her to an orthopedic  
15 surgeon?

16 A. There was nothing bony that was involved.

17 Her x-rays when she was initially evaluated in  
18 the emergency room were all normal.

19 Q. Okay.

20 And Doctor, at The Cleveland Clinic, are there  
21 other -- are there differing specialties relative to  
22 muscle treatment as opposed to orthopedic bony  
23 treatment?

24 A. Uh-huh, certainly.

25 Q. And -- sure.



1           And can you tell us what kind of doctors help  
2 those patients with a muscle problem as opposed to a  
3 bony or orthopedic problem?

4       A.     Muscle doctors are thought to be with myositis  
5 which is inflammation in the muscles.

6           Rheumatology, so rheumatology's more the  
7 expertise when you've hurt a bone, hurt a tendon,  
8 hurt something else that's attached to the bone than  
9 orthopedic department is of help.

10    Q.     Okay.

11           And are you familiar with the orthopedic  
12 doctors here at The Cleveland Clinic also referring  
13 patients to the pain management doctors --

14    A.     Uh-huh.

15    Q.     -- or the muscles doctors?

16    A.     Uh-huh.

17    Q.     And is that common practice here at The  
18 Cleveland Clinic?

19    A.     Certainly.

20    Q.     I think your records also reflect that in  
21 August of 1997 Mrs. Branand was referred to Dr.  
22 Shin.

23    A.     Uh-huh.

24    Q.     Who is Dr. Shin?

25    A.     He's an anesthesiologist by education and he

1 works for The Pain Center.

2 Q. And can you tell the ladies and gentlemen of  
3 the jury what an anesthesiologist does and what The  
4 Pain Center at The Cleveland Clinic does?

5 A. Yeah.

6 An anesthesiologist is someone who learns  
7 about the cardiovascular system, the physiology of  
8 putting people asleep and making them anesthetic,  
9 without pain, without cognition of what's going on,  
10 and they're people that put them to sleep when you  
11 go to have surgery.

12 The Pain Center is specific in the fact that  
13 they help with people who have chronic pain that's  
14 not taken care of by the typical conservative  
15 treatment such as physical therapy, massage therapy  
16 and conventional anti-inflammatory medications, and  
17 that they do invasive procedures; epidurals, they do  
18 TENS unit which is stimulation of muscle tissue,  
19 they do injections with steroids, with Lidocaine  
20 which is an anesthetic product to see if they can get  
21 the person's pain to go away.

22 Q. Okay.

23 And would orthopedic surgeons treat patients  
24 like anesthesiologists or The Pain Management Center  
25 would or is there a difference in those two theories

1 of medicine?

2 A. I don't think so.

3 I think if a person had a fracture for which  
4 the muscles that were aligning the fracture and if  
5 they had persistent pain after even the bone healed,  
6 they still can be of benefit by going through The  
7 Pain Clinic.

8 Q. Okay.

9 Doctor, when was the last time that you saw  
10 Sharon Branand?

11 A. A month ago, two months ago.

12 Q. And at that time, what was your physical  
13 examination, what was your findings and based upon  
14 your examinations, the history you had of Sharon  
15 Branand, the referrals you made of Sharon Branand,  
16 what was your final diagnosis?

17 A. Final diagnosis that she has myofascial pain  
18 syndrome that was secondary to the car accident, and  
19 she has done considerably better.

20 She says she's nearly healed.

21 She has changed her life so that she's not  
22 using or overusing the right arm and the right upper  
23 chest wall muscles so that she doesn't get into a  
24 vicious cycle where she's having fatigue and  
25 recurrent pain.

1           When I saw her, I saw her for something else  
2           totally incidental and said "By the way, how's  
3           everything going?"

4           So I didn't do a physical exam at that time,  
5           but she felt pretty comfortable in saying that the  
6           last physical therapy she worked with was very  
7           beneficial.

8           Q.       And who was that?

9           A.       Pritts or --

10          Q.       Stephanie Pritts?

11          A.       Yes.

12          Q.       Okay.

13          Doctor, you've used the term myofascial pain  
14          syndrome.

15          A.       Uh-huh.

16          Q.       What is that?

17          A.       There's fascia which is a sheet almost  
18          like -- you see it in meat that you're eating.  
19          You'll see fascial sheets that divide the muscle  
20          tissues so the muscles can work without getting all  
21          tangled up together, and those fascial sheets can get  
22          inflamed or the muscle itself can get inflamed, and  
23          when that happens it can irritate muscles that are  
24          overlying or underneath that.

25          A syndrome is a way of describing something

1 that's persistent and unrelenting or waxing and  
2 waning but it's there and it's there all the time,  
3 unlike just a strain or just something that can  
4 simply be held firm.

5 So because it's unclear as to whether it's the  
6 muscle itself, which is thought to be the rhomboid  
7 muscles, or whether it's the fascial sheet that was  
8 scarred or strained on top of the rhomboid muscles,  
9 we give it a title of myofascial pain syndrome.

10 Q. Okay.

11 This myofascial pain syndrome, is that a  
12 recognized medical diagnosis?

13 A. Uh-huh.

14 Q. And is it recognized here at the Cleveland as  
15 a recognized medical -- Cleveland Clinic as a  
16 recognized medical diagnosis?

17 A. It's recognized in the textbooks. You can  
18 look it up.

19 Q. Okay.

20 So if -- if a doctor would render an opinion  
21 that myofascial pain syndrome is a wastebasket  
22 diagnosis, would you agree with that?

23 A. No, not by any means.

24 Q. And is it the position of The Cleveland Clinic  
25 that that's a wastebasket-type of diagnosis?

1 MR. JEPPE: Objection.

2 MR. HANNA: That's okay.

3 You can answer the question.

4 THE WITNESS: Okay.

5 No.

6 MR. HANNA: Okay.

7 BY MR. HANNA:

8 Q. Now, Dr. Gannon, throughout your testimony I  
9 will be asking you questions where I will be asking  
10 you to express opinions.

11 A. Uh-huh.

12 Q. When you render opinions in this case, I want  
13 you to base those opinions upon your education,  
14 training and expertise in medicine, I also want you  
15 to base your opinions on the history given to you by  
16 Mrs. Branand, your review of the tests and the  
17 physical examinations you conducted, the referrals  
18 that you made.

19 A. Uh-huh.

20 Q. Furthermore, I want you to express your  
21 opinions within the realm of reasonable medical  
22 certainty.

23 Do you understand what I'm --

24 A. Uh-huh.

25 Q. -- saying? Okay.

1 Doctor, do you have an opinion within the  
2 realm of reasonable medical certainty as to whether  
3 or not Mrs. Branand's myofascial pain syndrome which  
4 you just diagnosed was a direct and proximate result  
5 of her being hit by a car on March 2nd, 1994?

6 A. Yes.

7 Q. And what is that opinion?

8 A. That I agree her myofascial pain syndrome was  
9 a direct relationship to her car accident.

10 Q. Okay.

11 Doctor, prior to your deposition today I asked  
12 you to look at a medical expense summary and the  
13 medical bills attached to what's been --

14 A. Uh-huh.

15 Q. -- marked as Plaintiff's Exhibit 1, and I'm  
16 going to ask you do you have an opinion within the  
17 realm of reasonable medical certainty as to whether  
18 or not the services depicted in the medical bills  
19 attached to the medical expense summary were  
20 necessary as a direct and proximate result of Mrs.  
21 Branand being hit by the car on March 2nd, 1994.

22 A. Yes.

23 Q. And what's that opinion?

24 A. I agree that everything that was done from  
25 March 2nd onward that is entitled in here is due to

1 the car accident.

2 Q. Okay.

3 And Doctor, do you have an opinion within the  
4 realm of medical certainty as to whether or not the  
5 charges for the services are reasonable?

6 A. Do I have a medical opinion?

7 Yes, they're reasonable because she wanted to  
8 have her pain relieved.

9 Q. Okay.

10 Doctor, do you have an opinion within the  
11 realm of reasonable medical certainty as to whether  
12 or not Mrs. Branand's myofascial pain syndrome which  
13 was caused by her being hit by the car on March 2nd,  
14 1994 is a permanent condition?

15 MR. JEPPE: Objection.

16 MR. HANNA: That's okay,  
17 you can answer,

18 THE WITNESS: Okay.

19 It probably is going to be a permanent  
20 condition.

21 BY MR. HANNA:

22 Q. And what is the basis of that opinion?

23 A. Because through -- this was March of 1994, so  
24 it's been at least four years out for which she  
25 still says that there's things that she does that



1 can cause the pain.

2 So unless she not -- does not use her right  
3 arm, her right shoulder muscle, I can't help but  
4 think that this will recur in some means sometime in  
5 the future.

6 When I don't know, but it probably will.

7 Q. Thank you.

8 MR. JEPPE: Object. I'll  
9 ask the last answer be stricken and the question  
10 being stricken.

11 Go ahead.

12 MR. HANNA: Doctor, that's  
13 all I have.

14 THE WITNESS: Okay.

15 MR. HANNA: Thank you very  
16 much.

17 THE WITNESS: Okay.

18 CROSS-EXAMINATION

19 BY MR. JEPPE:

20 Q. Doctor, my name is Jerry Jeppe.

21 I'm going to ask you some questions with  
22 regards to your direct examination here today, okay?

23 A. Uh-huh.

24 Q. Also, I may make some statements during the  
25 course of the cross-examination.

1           If any of my statements are incorrect, would  
2 you please stop me and tell me where I'm incorrect?

3       A.     Uh-huh.

4       Q.     I am not a doctor, some of these terms are  
5 unfamiliar to me and, therefore, if I make a  
6 misstatement, which I don't intend to do purposely,  
7 but if I do make a misstatement, please stop me and  
8 tell me where I'm wrong, okay?

9       A.     Okay.

10      Q.     All right.

11           First of all, one thing I want to try to get  
12 straight here, I have read the records, your records  
13 and Dr. Shin's records and the records of Dr. -- is  
14 it Dr. Wilke? .

15      A.     Uh-huh.

16      Q.     And in some places they refer to the condition  
17 as a myofascial pain syndrome and other places it's  
18 referred to as fibromyalgia.

19      A.     Uh-huh.

20      Q.     Is that the same?

21           Are we talking about the same thing when they  
22 use both terms?

23      A.     No.

24           Fibromyalgia is more of a generalized disorder  
25 for which there is more multiple muscular areas that

1 are involved.

2 Myofascial pain syndrome, you need to put a  
3 hyphex -- hyphen next to it and say specifically  
4 what muscle group you're referring to.

5 Q. Okay.

6 When Dr. Wilke refers to the diagnosis of  
7 fibromyalgia --

8 A. Uh-huh.

9 Q. -- is that incorrect?

10 MR. HANNA: Objection.

11 THE WITNESS: When Dr. Wilke  
12 refers to fibromyalgia?

13 MR. JEPPE: Yeah.

14 BY MR. JEPPE:

15 Q. He states here "Examination of the muscles and  
16 the attachments show tender points in the posterior  
17 neck, upper back, the anterior chest and forearms  
18 consistent with a diagnosis of fibromyalgia."

19 MR. HANNA: Objection.

20 THE WITNESS: You can have a  
21 fibromyalgia that's very specific to one area and  
22 just say coincidentally so it happened in the area  
23 that she was struck and hurt.

24 BY MR. JEPPE:

25 Q. Which area was she struck?

1 A. She **was** struck on the right side.

2 Q. **Is** it your understanding that she was struck  
3 in the right neck and the right upper back?

4 A. Uh-huh, uh-huh.

5 Q. And --

6 A. And on the right thigh as well.

7 Q. And on the right thigh as well?

8 A. Uh-huh.

9 Q. **Is** it your understanding that she was taken to  
10 a hospital following the accident?

11 A. Uh-huh.

12 Q. **Is** it your understanding that she was  
13 complaining at that hospital of pain in the upper  
14 back and the neck and the shoulder area?

15 A. Uh-huh.

16 Q. And who gave you that history?

17 A. She did.

18 Q. I'm wondering.

19 Have you ever reviewed the medical records  
20 from the emergency room that she went to right after  
21 the accident?

22 A. No, actually I didn't get them.

23 Q. Did you ever review the medical records from  
24 Lakeland -- I think it's -- excuse me. Let me --  
2E let me just check this to make sure I'm correct --

1 to the Lakewood Hospital?

2 Did you ever review those records?

3 A. From her emergency room visit?

4 Q. Yes.

5 A. No.

6 Q. Did you ever -- do you know if she went to  
7 more than one emergency room on the day of the  
8 accident?

9 A. Not -- I don't know that.

10 Q. Did you ever review her medical records from  
11 Kaiser?

12 A. No.

13 Q. Did you ever review any of the medical records  
14 of this individual prior to the treatment that you  
15 rendered her after the -- after the accident?

16 A. My understanding is I was treating her  
17 primarily for her accident --

18 Q. Uh-huh.

19 A. -- and that I had follow-up correspondence  
20 from the doctors for which I referred her to.

21 Q. All right.

22 So for the purpose of our discussion then I  
23 can't refer to myofascial pain syndrome as  
24 fibromyalgia; is that correct?

25 We're talking about two different things

1 there?

2 A. No.

3 You can get fibromyalgia that's just in one  
4 spot, but to meet the definition you need to have at  
5 least 8 of the 12 trigger points for which the right  
6 upper shoulder can be one of them.

7 Q. Okay.

8 Now, did she have 8 of the 12 trigger points?

9 A. No.

10 Q. And what is the other -- what is the other  
11 test -- what is the other point for diagnosing  
12 fibromyalgia other than having to have 8 of a  
13 certain number of trigger points?

14 A. Yes.

15 Generalized pain and fatigue.

16 Q. And did she have that?

17 A. Yes.

18 I think when I referred her to Dr. Wilke, she  
19 had complaints of generalized fatigue, enough for me  
20 to feel concerned that she might have some other  
21 difficulties in addition to the myofascial problems  
22 that she was working on.

23 Q. Would you disagree then if Dr. Wilke in fact  
24 had diagnosed the condition as fibromyalgia?

25 MR. HANNA: Objection.

1 THE WITNESS: Would I --  
2 MR. JEPPE: Disagree with  
3 that diagnosis.

4 THE WITNESS: No. It can be  
5 atypical presentation of it.

6 BY MR. JEPPE:

7 Q. All right.

8 Now, a couple of things I'd like to ask you  
9 about the -- about the history that Sharon Branand  
10 gave to you.

11 Did you ask her whether she had had any prior  
12 injuries or problems with the neck, upper back or  
13 right shoulder area?

14 A. Yes.

15 My understanding is she didn't.

16 Q. Did you ask her if she had had any, let's say,  
17 subsequent injuries or problems to her neck, upper  
18 back or right shoulder area?

19 A. I remember her specifically stating that when  
20 she was trying to go back to work, there was a heavy  
21 door of which she had to go in and out of, and every  
22 time she held the door handle and opened it up, that  
23 would cause her extreme pain in her hand, so much  
24 that she didn't want to open up the door.

25 So I know that she trying to get back into the

1 workplace, going and using that upper arm --

2 Q. Uh-huh.

3 A. -- could have reinjured it, could have rehurt  
4 that muscle that otherwise was trying to heal with  
5 the means of -- for which we were doing it.

6 Q. Are you familiar with any specific incident?

7 A. No.

8 Q. Okay.

9 Now, in arriving at your opinions here today,  
10 is your opinions or are your opinions based upon the  
11 fact that this individual according to her history  
12 never had any other problems or injuries to her  
13 neck, upper back or right shoulder area?

14 A. Am I aware. that she'd had prior injury?

15 Q. No.

16 A. No.

17 Q. I'm asking you are your opinions based upon  
18 the history given to you by Sharon Branand that she  
19 had no prior injuries or problems with her neck --

20 A. Right.

21 Q. -- upper back or right shoulder.

22 A. Yes.

23 Q. If in fact there were other injuries or  
24 problems with her neck, upper back or right  
25 shoulder, would that have an effect upon your



1 opinions?

2 A. Sure.

3 Q. Are you aware that she was involved in a motor  
4 vehicle accident on September the 6th of 1992 and  
5 was treated at Kaiser Hospital for headache, neck  
6 pain and upper back pain?

7 A. I'd have to check the chart and see if I ever  
8 noted that, but no, I'm not aware that had anything  
9 to do with what was going on.

10 Q. Are you -- are you aware that on September the  
11 17th of 1992 she went to Kaiser complaining of  
12 tingling in the right arm?

13 This was shortly after the accident of  
14 September the 6th of 1992.

15 A. I know that I had seen her before her motor  
16 vehicle accident and never did I treat her for  
17 headaches, right shoulder pain -- right arm pain,  
18 right shoulder pain.

19 Q. Are you aware, though, that she had problems  
20 that I've just mentioned that she was treated at  
21 Kaiser Hospital?

22 A. Can I look?

23 Q. Sure. Please do.

24 A. Let's see if I can get my handwritten notes.  
25 March 16th, 1994.

1           No, I have in the distant past, past medical  
2 history of headaches only, so I do have that as a  
3 pertinent past medical history.

4           I have that she has left shoulder pain nine  
5 months prior.

6           She had allergic rhinitis, she suffered a  
7 concussion back in 1978 and she was approximately  
8 three days in the hospital per her history.

9           Q.     No mention, though, of the motor vehicle  
10 accident on September the 6th of 1992 where she was  
11 treated at Kaiser for headache, neck pain and upper  
12 back pain?

13          A.     No.

14           Her prior., I have here that she had a prior  
15 doctor at Kaiser, because we ask for follow-up  
16 records and things and so I have this written on the  
17 top.

18           So she must have been a prior Kaiser patient,  
19 but I don't know anything about that motor vehicle  
20 accident.

21          Q.     All right.

22           Were you aware that in February -- on February  
23 11th of 1993, that she was treated at Kaiser  
24 Hospital for upper back pain, difficulty in moving  
25 the neck and torso and pain in the arms as a result

1 of a problem that arose at work on that date?

2 Are you aware of that?

3 A. It might be what she's referring to when I  
4 took the history of left shoulder pain approximately  
5 nine months prior.

6 That would make sense.

7 Q. Did she refer to the upper back pain and the  
8 neck pain as well?

9 A. No.

10 Q. Now, Doctor, you had just said that if you had  
11 knowledge of prior injuries or problems with the --

12 A. Uh-huh.

13 Q. -- neck, upper back and right arm, that --

14 A. Uh-huh.

15 Q. -- that would have an effect upon your  
16 opinions.

17 I have just given you several incidences of  
18 prior problems and injuries to those areas --

19 A. Uh-huh.

20 Q. -- of the body that you were unaware of.

21 A. But I --

22 Q. Does that in fact affect your opinion now?

23 A. Well, when I saw her on January 14th, 1994,  
24 which looks to be the first time I ever saw her, she  
25 had no complaints of anything, completely healthy

1 physical exam.

2 She got a tetanus booster, that's about all.

3 Q. You have seen her at other times, though,  
4 since the accident where she's been a perfectly  
5 healthy individual and had no complaints as well,  
6 have you not?

7 A. No.

8 Ever since -- I've only met her once before  
9 that where she had a completely physical -- normal  
10 physical exam --

11 Q. Right.

12 A. -- and didn't -- did not complain of  
13 headache --

14 Q. That --

15 A. -- or shoulder pain.

16 Q. That one time.

17 A. Right.

18 And then the second time I met her was two  
19 months later where she had the -- I saw her for a  
20 car accident.

21 Q. Fine.

22 So you saw her one time before the car  
23 accident?

24 A. Uh-huh.

25 Q. Is that correct?

1 A. Uh-huh.

2 Q. My point is you have treated her on other  
3 occasions since car accident --

4 A. Uh-huh.

5 Q. -- where she did not complain of neck, upper  
6 back and right shoulder pain.

7 A. I think every time I -- 'cause she is a  
8 healthy person, I don't see her for much.

9 Every time she mentions about the level of  
10 severity.

11 I don't think there's ever a time I saw her --  
12 maybe two months ago when I saw her just last was  
13 the best she's ever been.

14 Q. Would your records reflect -- as an example,  
15 I've reviewed your records. There are instances  
16 where you examined her where nothing is mentioned  
17 about the neck, right shoulder or upper back.

18 A. Okay.

19 Q. The question then would be if she had  
20 complained of those areas, would you have noted it  
21 in your records?

22 A. Uh-huh.

23 Q. Thank you.

24 A. If I -- right, if I wanted to address it as a  
25 problem.

1 Q. Thank you.

2 I guess we go back to the question I asked you  
3 earlier.

4 Now that you know that there were in fact or  
5 appears to have been prior accidents or injuries to  
6 those areas of her body --

7 A. Uh-huh.

8 Q. -- does that have an effect upon your opinions  
9 here today with the relationship between your  
10 diagnosis --

11 A. Uh-huh.

12 Q. -- and the automobile accident of March the  
13 2nd of 1994?

14 A. Yeah.

15 From knowing Sharon for three plus years, I'd  
16 have to say that when I first met her I had never  
17 any impression that she had a chronic myofascial  
18 pain syndrome for which she was seeking drugs,  
19 seeking physical therapy, seeking anything, and I  
20 just have it noted when I went through her accident  
21 report on March 26th -- or March 16th that I was  
22 doing that to be completely thorough because I know  
23 it's so important to make for darn sure this is a  
24 new injury.

25 So I don't think it really changes my

1 impression.

2 I truly believe that she truly had an injury  
3 at that time for which she was adamant to make for  
4 darn sure it was relieved to the -- as much as she  
5 could.

6 Q. Doctor, I'm not contending that she didn't  
7 have an injury in the accident.

8 A. Uh-huh.

9 Q. I guess my point to you is with these prior  
10 injuries and problems that I have in fact relayed to  
11 you --

12 A. Uh-huh.

13 Q. -- that is your opinion that this myofascial  
14 condition was in fact caused by the accident and  
15 didn't predate the accident.

16 A. I don't think so.

17 Q. Can you make that opinion without reviewing  
18 the medical records?

19 A. What medical records?

20 Q. The Kaiser medical records outlining those  
21 injuries.

22 A. My only comfort level is saying that I did a  
23 physical exam on her two months beforehand and I  
24 have no mention of any complaints at all.

25 Q. All right.

1 Now, Doctor, no mention of any complaints?

2 A. Uh-huh.

3 Q. Would an x-ray show you myofascial pain  
4 syndrome?

5 A. No.

6 Q. Would an MRI?

7 A. No.

8 Q. Would an EMG?

9 A. No.

10 Q. Would a CAT scan?

11 A. No.

12 Q. My point to you is if the patient doesn't  
13 relate to you --

14 A. Uh-huh.

15 Q. -- that she in fact has pain, there's no way  
16 of you to know that one way or the other, is there?

17 A. Right.

18 Q. Thank you.

19 I believe I read somewhere that in most cases  
20 the myofascial pain syndrome is what you call almost  
21 a self-diagnosed problem because it does in fact  
22 rely upon the subjective complaint of pain.

23 Is that correct?

24 A. Yes.

25 Well, there's no -- meaning there's no way to



1 prove it.

2 Q. Is that correct? Okay.

3 A. Uh-huh.

4 Q. I also noted from the records that her pain  
5 improved considerably and significantly throughout  
6 her pregnancy.

7 Were you aware of that?

8 A. From whose records?

9 Q. You know, she -- they're not really from  
10 records like a review.

11 She told me that at deposition, that she had  
12 really no problems during her pregnancy.

13 A. Uh-huh.

14 Q. "I have no pain."

15 A. Uh-huh.

16 Q. And there is in fact a reference in the  
17 records. I just can't put my finger on it right  
18 now --

19 A. Yeah.

20 Q. -- but there is a reference in there that in  
21 fact during her pregnancy she had really no  
22 problems.

23 Does that seem strange to you?

24 A. It might be a situation where she has  
25 low-level pain but with other problems or other

1 concerns with pregnancy she might have been diverted  
2 so could have gotten better.

3 She could have been taking care of herself  
4 better, resting better, just fatigued, having other  
5 problems with her pregnancy in order to take away  
6 from her pain.

7 Don't know.

8 Q. Don't know, okay.

9 I'll accept that answer. I think that's a  
10 good answer.

11 You don't know?

12 A. Uh-huh.

13 MR. JEPPE: Off the record  
14 a second.

15 (Whereupon, a discussion was  
16 held off the record.)

17 BY MR. JEPPE:

18 Q. You've given an opinion I believe here that  
19 you believe that the condition is probably  
20 permanent; is that correct?

21 A. That's a difficult one to say.

22 Q. I know, and I really -- we really need to  
23 know --

24 A. Uh-huh.

25 Q. -- the -- the answer to that question.

1           Is in fact -- is it your opinion within a  
2   reasonable degree of medical probability that her --

3   A.     Uh-huh.

4   Q.     -- condition is permanent?

5   A.     If I were to venture and say more so that she  
6   would have complete resolution after three years  
7   time of going through all the physical therapy,  
8   massage therapy and what have you and it still is  
9   not a hundred percent, she has as much improvement  
10   from the last physical therapy as possible, I can't  
11   help but think that her using her body, using her  
12   arm, using her shoulder the same way that she's been  
13   doing for the last three years will probably give  
14   her some recurrence at some time, so I err on the  
15   side of saying it probably is going to be permanent.

16   Q.     All right.

17           Let me ask you this question then:

18           Can you tell me will it occur tomorrow?

19   A.     Don't know.

20   Q.     Next year?

21   A.     Don't know.

22   Q.     Five years from now?

23   A.     Don't know.

24   Q.     10 years from now?

25   A.     Couldn't -- I couldn't tell you.

1 Q. All right.

2 A. I don't know.

3 Q. Have you heard of cases -- strike that.

4 I understand from the reading I have done that  
5 myofascial pain syndrome sometimes has an  
6 inexplicable quality about it, and that is people  
7 involved in litigation, many times after litigation  
8 is over, the pain in fact goes away.

9 Have you had such cases --

10 MR. HANNA: Objection.

11 MR. JEPPE: -- heard of  
12 such cases?

13 MR. HANNA: Objection.

14 THE WITNESS: Have I -- have  
15 I what such cases?

16 MR. JEPPE: Heard of such  
17 cases or had any such cases.

18 THE WITNESS: To think it's  
19 factitious or indeed the pain just --

20 MR. JEPPE: Just --

21 THE WITNESS: -- the day you  
22 walk out with --

23 MR. JEPPE: Just goes  
24 away.

25 THE WITNESS: -- the final --

1 never heard of such a case, you walk down the steps  
2 of the court and, boom, it's gone.

3 MR. JEPPE: Right.

4 THE WITNESS: Never.

5 MR. JEPPE: Or the shortly  
6 thereafter.

7 THE WITNESS: No.

8 BY MR. JEPPE:

9 Q. Does myofascial pain syndrome have a  
10 psychosomatic type of a quality as well or can it?

11 A. It certainly can.

12 MR. JEPPE: Off the record  
13 a second.

14 (Whereupon, a discussion was  
15 held off the record.)

16 BY MR. JEPPE:

17 Q. The first physical examination that you  
18 conducted on Sharon Branand following the accident,  
19 was there any -- okay?

20 A. Uh-huh.

21 Q. Did you notice any atrophy in any of the  
22 muscles?

23 A. No, but you wouldn't.

24 Q. Any neurological deficits?

25 A. No, but you wouldn't in such an acute

1 situation.

2 Q. Any -- anything that you could find with  
3 respect to -- I think your initial diagnosis was  
4 strain, was it not?

5 A. Uh-huh.

6 Q. What is a strain?

7 A. Strain is when you pull the muscle too far.

8 Q. Is that what in fact you believe happened in  
9 this case?

10 A. Uh-huh.

11 Q. Is this a -- so myofascial pain syndrome is  
12 the result of a strain-type of an injury?

13 A. Persistently, yes.

14 Q. I believe that you talked about the muscle  
15 that was involved here -- and correct me if I'm  
16 wrong. It was a long time ago into your direct  
17 examination -- that the muscle that she apparently  
18 has a problem with, was complained about is called  
19 the whiplash muscle?

20 A. Oh, trapezius muscle.

21 When I explain to patients what the muscle  
22 does, it holds the head upright.

23 So in car accidents, when you're inside a car  
24 and you don't have an adequate headrest and your  
25 head goes forward, that's the muscle that gets most

I hurt.

2 Q. I gotcha. Okay.

3 Thank you.

4 I have nothing further.

5 REDIRECT EXAMINATION

6 BY MR. HANNA:

7 Q. Doctor, I just have a couple of follow-up  
8 questions.

9 Dr. -- or -- Dr. Jeppe.

10 Mr. Jeppe asked you some questions concerning  
11 the Lakewood Hospital emergency room record --

12 A. Uh-huh.

) 13 Q. -- and I've pulled that out for you, for the  
14 day of the accident, and I want to ask you whether  
15 the emergency room doctor's notation concerning his  
16 physical examination was consistent with what you  
17 found two weeks later.

18 A. Uh-huh.

19 Q. And I believe it's right there --

20 A. Uh-huh.

21 Q. -- where I underlined it.

22 Can you read that for us, Doctor?

23 A. Sure.

24 It says the date of March 2nd, 1994.

) 25 "Neck slightly tender in the paracervical area

1 along the entire thoracic spine, especially T10-T11,  
2 and there's some tenderness at the lumbar spine  
3 L3-L4."

4 Q. And was that physical finding consistent with  
5 the physical findings you found on March 16th, 1994?

6 A. My physical exam is "Painful neck, paraspinous  
7 muscles, right arm, right midthoracic area," and  
8 midthoracic area there's 12 vertebral -- or 12  
9 thoracic spine.

10 Mid would be thoracic 6 through 7-8 is the mid  
11 area.

12 Q. And were the findings in the emergency room  
13 consistent with your initial diagnosis of a muscular  
14 strain in that area?

15 A. Uh-huh.

16 Q. Okay.

17 A. Uh-huh.

18 Q. Doctor, Mr. Jeppe also referred to a motor  
19 vehicle accident in September of 1992, which looks  
20 like she got treatment for approximately two weeks  
21 in September of 1992.

22 If that was an acute problem that she had and  
23 it resolved shortly after that, what effect if any  
24 would that have on your opinions in this case?

25 A. None.



1 Q. And the February 11th, 1993 complaints of  
2 upper back pain, if Sharon gave a history that that  
3 was a short-lived problem, an acute problem and was  
4 not a chronic problem --

5 A. Uh-huh.

6 Q. -- what effect if any would that incident have  
7 on your opinions in this case?

8 A. None.

9 Q. Mr. Jeppe also asked you concerning not noting  
10 every time Sharon was in here concerning an  
11 examination of her neck, upper back and thoracic  
12 area --

13 A. Uh-huh.

14 Q. -- or noting, specifically noting any  
15 complaints of pain.

16 Were there any times you ever saw Sharon after  
17 the accident when you were not addressing the  
18 myofascial pain syndrome but another problem?

19 A. Certainly.

20 I see her for several normal adult-type  
21 problems and because I care enough about her, I'd  
22 say "And how's the pain going," because she would be  
23 going through physical therapy and massotherapy and  
24 I just want to keep abreast as to what's going on.

25 But because I don't bill it and because I

1 don't see it as that problem and I'm not -- I'm not  
2 going to be addressing it, I don't put it down in my  
3 dictation.

4 Q. There was also a question or some question  
5 concerning the voracity of a patient concerning  
6 subjective complaints.

7 A. Uh-huh.

8 Q. Were there times where you objectively felt  
9 problems in Sharon Branand's body that was  
10 consistent with your diagnosis of myofascial pain  
11 syndrome?

12 A. Uh-huh, especially when we're talking about  
13 the MRI being done in August.

14 Six months later to say why was it done, there  
15 clearly was abnormalities that were persistent  
16 enough that needed to be worked up.

17 Q. And are you aware of any medical possibility  
18 of her manipulating her body in such a way to  
19 produce that physical finding?

20 A. No.

21 Q. And Doctor, he -- Mr. Jeppe asked you whether  
22 you found atrophy or neurological deficits in the  
23 muscle, and I think you wanted to explain to him why  
24 you wouldn't.

25 A. Uh-huh.

1 Q. Can you explain to the ladies and gentlemen of  
2 the jury why you wouldn't?

3 A. Because for the muscle to not get a nerve  
4 innervation for months and years is when you'd start  
5 seeing atrophy of that area.

6 So so soon after a car accident you wouldn't  
7 be noting. You wouldn't have notable negative  
8 findings.

9 That would be something that you would have to  
10 put down when I see --

11 Q. And Doctor, isn't it also the case that that  
12 is why you go through physical therapy, so the  
13 muscles don't atrophy and wasn't she consistently  
14 going through physical therapies?

15 A. Yeah.

16 It's not as if her muscle wasn't getting the  
17 nerve impulse.

18 So I don't think she was at risk for having  
19 atrophy of the muscle, but so that her muscle  
20 wouldn't scar and not be used and to have chronic  
21 pain because you're asking other muscles around  
22 there to do the job of that injured muscle is why  
23 she was going to physical therapy.

24 Q. Okay.

25 So what effect was no finding of atrophy or no

1 finding of neurological deficit in the muscle, what  
 2 effect if any did that have on your opinions in this  
 3 case?

4 A. None.

5 It just excluded any prior injury to that area  
 6 that was longer term.

7 Q Thank you. That's all I have

8 RE CROSS-EXAMINATION

9  
 10 Q. One further question.

11 A. Uh-huh.

12 Q. Are you aware of any subsequent injuries,  
 13 injuries following March the 2nd of 1995 to the  
 14 neck, upper back or right shoulder area?

15 MR. XANNA:

Objection.

16 MR. WIMNESS:

1994?

17 MR. JEPPE:

Following --

18 I'm sorry, 1994

19 MR. WIMNESS:

'94?

20 Yeah, none.

21 MR. JEPPE:

Okay thank

22 you.

23 (Whereupon, the deposition was  
 24 concluded at 3:30 o'clock p m.)

25 - - -

C E R T I F I C A T E

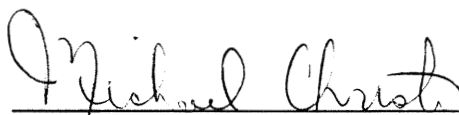
STATE OF OHIO,       )  
                          )   SS:  
COUNTY OF SUMMIT, )

I, Michael Christy, a Stenographic Reporter and Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, PATRICIA A. GANNON, M.D., was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by her was by me reduced to Stenotypy in the presence of said witness, afterwards prepared and produced by means of computer-aided transcription and that the foregoing is a true and correct transcription of the testimony so given by her as aforesaid.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Akron, Ohio, on this 1st day of June, 1998.



Michael Christy, Stenographic  
Reporter and Notary Public  
in and for the State of Ohio.

My commission expires February 12, 2002.

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-1-			44308 [1] 2:5	aforesaid [2] 61:8 61:11	61:8 afterwards [2] 7:23 61:9	11:12 41:17 43:13 51:12 56:7	b F t t t t t t		
'93 [2] 5:10 5:11 '94 [1] 60:19									
-1-			5 [1] 8:11 55 [1] 3:3	again [3] 17:11 19:19 22:18	age [1] 4:2 ago [4] 27:11 27:11 45:12 54:16	arms [1] 42:25 arose [1] 43:1 arriving [1] 40:9 asleep [1] 26:8 associate [1] 9:12 associated [2] 6:14 8:16	t 25:8 27:5		
1 [3] 3:8 4:6 31:15									
10 [1] 51:24 11th [2] 42:23 57:1 12 [5] 38:5 38:8 56:8 56:8 61:23				6 [1] 56:10 60 [1] 3:4 6th [3] 41:4 41:14 42:10	agreed [1] 18:2 ahead [1] 33:11	agree [3] 29:22 31:8 agrees [1] 18:2 Akron [2] 2:5 61:18	atrophy [6] 53:21 58:22 59:5 59:13 59:19 59:25	bony [6] 15:20 17:12 22:19 24:16 24:22 25:3	
14th [1] 43:23 5th [1] 18:23 6215 [1] 1:19 6th [5] 7:11 9:20 41:25 46:21 56:5 7th [1] 41:11 978 [1] 42:7 986 [1] 5:5 990 [1] 5:5 992 [6] 41:4 41:11 41:14 42:10 56:19 56:21 993 [4] 4:24 6:12 42:23 57:1 994 [19] 6:23 7:11 9:20 10:11 10:19 11:8 12:3 13:14 31:5 31:21 32:14 32:23 41:25 43:23 46:13 55:24 56:5 60:16 60:18 1995 [7] 6:5 6:6 15:12 17:15 18:19 18:23 60:13 1996 [2] 20:23 22:21 1997 [1] 25:21 1998 [2] 1:20 61:18 1st [1] 61:18									
-1-			7 [1] 8:11 7-8 [1] 56:10	aligning [1] 27:4 allergic [1] 42:6 almost [2] 28:17 48:20 along [1] 56:1 always [1] 8:13 amiss [1] 19:13 analogy [1] 24:8 anatomy [1] 8:16 anesthesiologist [3] 25:25 26:3 26:6 anesthesiologists [1] 26:24 anestic [2] 26:8 26:20	Ann [1] 4:16 answer [6] 30:3 32:17 33:9 50:9 50:10 50:25 interior [1] 35:17 anti-inflammatories [2] 10:6 11:1 anti-inflammatory [1] 26:16 antidepressant [4] 14:7 14:15 14:23 14:24	attach [1] 20:11 attached [3] 25:8 31:13 31:19 attachments [1] 35:16 attending [1] 11:20 attorney [3] 2:4 2:8 61:15 a typical [1] 39:5 August [7] 6:5 6:6 18:19 18:23 19:6 25:21 58:13 automobile [1] 46:12 autonomic [1] 14:11 avenue [1] 1:19 ware [11] 7:3 40:14 41:3 41:8 41:10 41:19 42:22 43:2 49:7 58:17 60:12 way [4] 26:21 50:5 52:8 52:24	boom [1] 53:2 booster [1] 44:2 Branand [30] 1:5 6:17 6:19 6:22 7:3 7:8 10:19 12:3 12:15 13:15 14:2 14:14 15:12 16:10 17:15 18:20 19:20 20:23 22:14 22:21 23:23 25:21 27:10 27:15 27:15 30:16 31:21 39:9 40:18 53:18 Branand's [4] 6:25 31:3 32:12 58:9 brought [1] 14:4 bruise [1] 8:24 Building [1] 2:9		
-1-									
-2-			8 [3] 38:5 38:8 38:12 8/15/1995 [1] 16:5	ability [1] 11:25 able [2] 14:2 18:9 abnormalities [2] 20:6 58:15 abreast [1] 57:24 accept [1] 50:9 accident [31] 7:20 9:13 19:15 20:1 27:18 31:9 32:1 36:10 36:21 37:8 37:15 37:17 41:4 41:13 41:16 42:10 42:20 44:4 44:20 44:23 45:3 46:12 46:20 47:7 47:14 47:15 53:18 55:14 56:19 57:17 59:6 accidents [2] 46:5 54:23	APPEARANCES [1] 2:1 appeared [1] 20:7 appropriate [1] 21:7 April [1] 20:22 area [24] 8:12 8:22 9:11 17:7 17:8 17:18 19:25 23:5 35:21 35:22 35:25 36:14 39:13 39:18 40:13 55:25 56:7 56:8 56:11 56:14 57:12 59:5 60:5 60:14 areas [6] 8:19 13:21 34:25 43:18 45:20 46:6 arm [10] 7:23 8:5 27:22 33:3 40:1	basis [2] 18:5 32:22	-B- bachelor's [1] 5:4 Baig [6] 13:15 13:17 13:18 13:23 14:2 bills [2] 31:13 31:18 bit [1] 24:4	-C- C [3] 1:8 61:1 61:1 cage [1] 20:11 caption [1] 61:13 car [18] 6:23 7:10 9:13 9:16 9:24 11:5 27:18 31:5 31:9 31:21 32:1 32:13 44:20 44:22 45:3 54:23 54:23 59:6 cardiovascular [1] 26:7 care [3] 26:14 50:3 57:21 Cascade [1] 2:5 case [8] 1:7 30:12 53:1 54:9 56:24 57:7 59:11 60:3 cases [7] 48:19 52:3 52:9 52:12 52:15 52:17 52:17 CAT [1] 48:10 caused [2] 32:13 47:14 causing [2] 15:8 23:6 Center [5] 5:8 26:1 26:4 26:12 26:24 centimeter [1] 8:11 centimeters [1] 20:10	
-2-									
2002 [1] 61:23 2100 [1] 2:5 2121 [1] 2:9 26th [2] 1:20 46:21 28-year-old [1] 19:24 2:35 [1] 1:20 2nd [11] 6:23 15:12 19:2 19:5 31:5 31:21 31:25 32:13 46:13 55:24 60:13									
-3-			adamant [1] 47:3 addition [1] 38:21 address [1] 45:24 addressing [2] 57:17 58:2 adequate [1] 54:24 adjournment [1] 61:13 adult-type [1] 57:20 advised [1] 10:5 affect [1] 43:22 affiliated [2] 6:3 23:1 affirm [1] 23:24 affixed [1] 61:18						
33 [1] 3:4 343745 [1] 1:7 3:30 [1] 60:24									
-4-									
4 [2] 3:3 3:8 44114 [1] 2:9									

<b>central</b> [1] 21:18	36:13 41:11	<b>court</b> [2] 1:1 53:2	<b>discipline</b> [1] 10:24	56:23 57:6 59:25
<b>certain</b> [2] 18:11	<b>complaint</b> [1] 48:22	<b>cross-examination</b> [2] 33:18 33:25	<b>discussion</b> [3] 37:22	60:2
38:13	<b>complaints</b> [9] 7:22	<b>cutaneous</b> [4] 21:16	50:15 53:14	<b>elaborate</b> [1] 21:4
<b>certainly</b> [6] 8:2	38:19 43:25 44:5	21:19 21:20 21:21	<b>Disk</b> [1] 16:20	<b>Elavil</b> [1] 14:24
20:18 24:24 25:19	47:24 48:1 57:1	<b>CUYAHOGA</b> [1] 1:2	<b>disorder</b> [1] 34:24	<b>emergency</b> [7] 24:18
53:11 57:19	57:15 58:6	<b>cycle</b> [1] 27:24	<b>distant</b> [1] 42:1	36:20 37:3 37:7
<b>certainty</b> [5] 30:22	<b>complete</b> [1] 51:6		<b>diverted</b> [1] 50:1	55:11 55:15 56:12
31:2 31:17 32:4	<b>completed</b> [1] 61:13		<b>divide</b> [1] 28:19	<b>EMG</b> [1] 48:8
32:11	<b>completely</b> [3] 43:25		<b>doctor</b> [28] 4:15	<b>enabled</b> [1] 11:17
<b>certified</b> [1] 4:3	44:9 46:22		4:17 6:25 9:18	<b>end</b> [1] 20:8
<b>certify</b> [3] 61:6	<b>computer-aided</b> [1] 61:9	<b>-D-</b>	9:25 13:23 17:19	<b>entire</b> [1] 56:1
61:12 61:15	<b>concerned</b> [1] 38:20	<b>D</b> [1] 3:1	22:13 24:20 27:9	<b>entitled</b> [1] 31:25
<b>cervical</b> [1] 17:6	<b>concerning</b> [7] 6:21	<b>daily</b> [2] 13:9 18:5	28:13 29:20 31:1	<b>epidurals</b> [1] 26:17
<b>changed</b> [1] 27:21	55:10 55:15 57:9	<b>darn</b> [2] 46:23 47:4	31:11 32:3 32:10	<b>err</b> [1] 51:14
<b>changes</b> [1] 46:25	57:10 58:5 58:5	<b>data</b> [1] 19:23	33:12 33:20 34:4	<b>especially</b> [3] 11:22
<b>charges</b> [1] 32:5	<b>concerns</b> [1] 50:1	<b>date</b> [3] 7:5 43:1	42:15 43:10 47:6	56:1 58:12
<b>chart</b> [4] 7:12 12:2	<b>concluded</b> [1] 60:24	55:24	48:1 55:7 55:22	<b>et</b> [1] 1:5
15:11 41:7	<b>conclusion</b> [1] 14:4	<b>David</b> [1] 6:15	56:18 58:21 59:11	<b>etiologies</b> [1] 16:17
<b>check</b> [2] 36:25	<b>concussion</b> [1] 42:7	<b>days</b> [1] 42:8	<b>doctor's</b> [1] 55:15	<b>etiology</b> [2] 16:13
41:7	<b>condition</b> [7] 32:14	<b>deep</b> [1] 15:19	<b>doctors</b> [7] 24:5	22:16
<b>chemistry</b> [1] 5:4	32:20 34:16 38:24	<b>Defendant</b> [2] 1:9	25:1 25:4 25:12	<b>evaluated</b> [2] 20:4
<b>chest</b> [4] 15:20 21:23	47:14 50:19 51:4	2:6	25:13 25:15 37:20	24:17
27:23 35:17	<b>conducted</b> [4] 8:1	<b>deficit</b> [1] 60:1	<b>doesn't</b> [5] 16:14	<b>evaluation</b> [1] 14:5
<b>Christy</b> [3] 1:16	9:19 30:17 53:18	<b>deficits</b> [2] 53:24	19:11 19:14 27:23	<b>event</b> [1] 61:16
61:5 61:21	<b>conduction</b> [5] 20:23	58:22	48:12	<b>evidence</b> [1] 20:4
<b>chronic</b> [4] 26:13	21:3 21:4 22:4	<b>definition</b> [1] 38:4	<b>done</b> [15] 11:14	<b>exactly</b> [2] 15:22
46:17 57:4 59:20	<b>connecting</b> [1] 15:23	<b>degree</b> [1] 51:2	16:5 18:12 18:20	23:2
<b>Civil</b> [1] 1:15	<b>conservative</b> [3] 10:2 11:15 26:14	<b>delineates</b> [1] 15:17	18:22 19:1 19:1	<b>exam</b> [8] 8:4
<b>clearly</b> [1] 58:15	<b>considerably</b> [2] 27:19 49:5	<b>deltoid</b> [2] 8:5	19:5 19:7 20:15	8:4 20:3 28:4
<b>(Cleveland)</b> [6] 1:18	<b>consistent</b> [5] 35:18	9:5	27:19 31:24 52:4	44:1 44:10 47:23
2:9 4:18 5:10	55:16 56:4 56:13	<b>department</b> [1] 25:9	<b>door</b> [3] 39:21 39:22	56:6
5:20 6:1 6:4	58:10	<b>depicted</b> [1] 31:18	39:24	<b>examination</b> [14] 1:15 3:2 4:5
17:18 23:1 24:20	<b>consistently</b> [1] 59:13	<b>deposed</b> [1] 4:3	<b>down</b> [7] 9:7	9:19 9:25 20:17
25:12 25:18 26:4	<b>consult</b> [1] 24:11	<b>deposition</b> [6] 1:13	9:10 9:10 22:15	27:13 33:22 35:15
29:14 29:15 29:24	<b>consulted</b> [1] 23:14	4:11 31:11 49:11	53:1 58:2 59:10	53:17 54:17 55:5
<b>clinic</b> [14] 1:19	<b>contending</b> [1] 47:6	60:23 61:12	<b>Dr</b> [34] 4:16 6:15	55:16 57:11
4:19 5:20 6:1	<b>contract</b> [2] 14:21	<b>depression</b> [1] 23:10	6:17 12:15 13:15	<b>examinations</b> [3] 8:1 27:14 30:17
6:4 6:14 23:1	21:6	<b>depth</b> [1] 21:23	13:17 13:18 13:23	<b>examined</b> [1] 45:16
24:20 25:12 25:18	<b>contracture</b> [1] 14:22	<b>describing</b> [1] 28:25	14:2 17:15 17:17	<b>example</b> [1] 45:14
26:4 27:7 29:15	<b>conventional</b> [1] 26:16	<b>diagnosed</b> [3] 23:8	17:18 17:23 18:1	<b>excluded</b> [2] 16:11
29:24	<b>conversation</b> [1] 18:2	31:4 38:24	18:9 18:11 22:22	60:5
<b>clinical</b> [1] 19:23	<b>cord</b> [1] 16:25	<b>diagnosing</b> [1] 38:11	22:24 22:25 23:3	<b>excuse</b> [1] 36:24
<b>clinically</b> [1] 20:13	<b>correct</b> [8] 36:25	<b>diagnosis</b> [19] 9:20	23:15 23:21 25:21	<b>Exhibit</b> [2] 4:6
<b>close</b> [1] 15:19	37:24 44:25 48:23	16:9 16:15 19:20	25:24 30:8 34:13	31:15
<b>Co</b> [1] 2:7	49:2 50:20 54:15	22:14 23:22 27:16	34:13 34:14 35:6	<b>EXHIBITS</b> [1] 3:6
<b>cognition</b> [1] 26:9	61:10	27:17 29:12 29:16	35:11 38:18 38:23	<b>expand</b> [1] 14:21
<b>coincidentally</b> [1] 35:22	<b>correctly</b> [2] 6:24	29:22 29:25 35:6	55:9 55:9	<b>expense</b> [2] 31:12
<b>college</b> [4] 5:3	17:1	35:18 39:3 46:10	<b>drugs</b> [1] 46:18	31:19
5:3 5:4 5:6	<b>correspondence</b> [1] 37:19	54:3 56:13 58:10	<b>due</b> [1] 31:25	<b>expertise</b> [4] 13:21
<b>comfort</b> [1] 47:22	<b>counsel</b> [1] 61:15	<b>dictation</b> [1] 58:3	<b>duly</b> [3] 4:3 61:6	17:20 25:7 30:14
<b>comfortable</b> [1] 28:5	<b>COUNTY</b> [2] 1:2	<b>difference</b> [2] 15:17	61:7	<b>expires</b> [1] 61:23
<b>commission</b> [1] 61:23	61:3	26:25	<b>during</b> [4] 11:19	<b>explain</b> [4] 14:13
<b>commissioned</b> [1] 61:6	<b>couple</b> [2] 39:8	<b>different</b> [1] 37:25	33:24 49:12 49:21	54:21 58:23 59:1
<b>common</b> [2] 1:1	55:7	<b>differing</b> [1] 24:21	<b>-E-</b>	<b>express</b> [2] 30:10
25:17	<b>course</b> [3] 10:10	<b>difficult</b> [1] 50:21	<b>E</b> [3] 3:1 61:1	30:20
<b>complain</b> [3] 8:11	11:19 33:25	<b>difficulties</b> [1] 38:21	61:1	<b>external</b> [1] 11:5
44:12 45:5		<b>difficulty</b> [2] 15:1	<b>eating</b> [1] 28:18	<b>extreme</b> [1] 39:23
<b>complained</b> [2] 45:20		42:24	<b>ecchymotic</b> [3] 8:12	
54:18		<b>direct</b> [7] 1:14	8:21 8:22	<b>-F-</b>
<b>complaining</b> [5] 7:4 8:19 19:24		4:5 31:4 31:9	<b>education</b> [3] 5:2	<b>F</b> [1] 61:1
		31:20 33:22 54:16	25:25 30:13	<b>facial</b> [1] 28:21
		<b>disagree</b> [2] 38:23	<b>effect</b> [11] 15:4	
		39:2	19:19 22:13 23:22	
			40:25 43:15 46:8	

<b>fact</b> [16] 22:12 26:12 38:23 40:11 40:23 43:22 46:4 47:10 47:14 48:15 48:21 49:16 49:21 51:1 52:8 54:8	<b>factitious</b> [1] 52:19	<b>failing</b> [1] 18:4	<b>fair</b> [2] 10:12 24:6	<b>Fairview</b> [1] 5:18	<b>fall</b> [1] 16:22	<b>familiar</b> [2] 25:11 40:6	<b>far</b> [1] 54:7	<b>fascia</b> [1] 28:17	<b>fascial</b> [2] 28:19 29:7	<b>fatigue</b> [3] 27:24 38:15 38:19	<b>fatigued</b> [1] 50:4	<b>February</b> [4] 42:22 42:22 57:1 61:23	<b>feeling</b> [1] 15:7	<b>felt</b> [4] 20:12 20:16 28:5 58:8	<b>female</b> [1] 19:24	<b>fibromyalgia</b> [12] 23:7 23:19 34:18 34:24 35:7 35:12 35:18 35:21 37:24 38:3 38:12 38:24	<b>field</b> [1] 5:12	<b>figure</b> [1] 18:6	<b>filing</b> [1] 4:10	<b>final</b> [3] 27:16 27:17 52:25	<b>finally</b> [1] 15:6	<b>finding</b> [4] 56:4 58:19 59:25 60:1	<b>findings</b> [4] 27:13 56:5 56:12 59:8	<b>Fine</b> [1] 44:21	<b>finger</b> [1] 49:17	<b>firm</b> [1] 29:4	<b>first</b> [9] 4:2 7:8 10:2 11:22 34:11 43:24 46:16 53:17 61:7	<b>fit</b> [1] 23:18	<b>Five</b> [2] 19:8 51:22	<b>flagged</b> [1] 16:1	<b>focusing</b> [1] 17:11	<b>follow-up</b> [3] 37:19 42:15 55:7	<b>followed</b> [1] 10:10	<b>following</b> [4] 36:10 53:18 60:13 60:17	<b>follows</b> [1] 4:4	<b>forearms</b> [2] 9:7 35:17	<b>foregoing</b> [2] 61:10 61:13	<b>forward</b> [1] 54:25	<b>found</b> [4] 9:9 55:17 56:5 58:22	<b>Foundation</b> [1] 1:19	<b>four</b> [2] 20:9 32:24	<b>fracture</b> [2] 27:3 27:4	<b>Furthermore</b> [1] 30:20	<b>future</b> [1] 33:5	<b>heard</b> [4] 52:3 52:11 52:16 53:1	<b>heat</b> [1] 10:5	<b>heavy</b> [1] 39:20	<b>held</b> [4] 29:4 39:22 50:16 53:15	<b>help</b> [15] 11:24 12:21 12:24 13:4 13:6 14:2 14:25 18:3 18:10 22:8 25:1 25:9 26:13 33:3 51:11	<b>Helped</b> [1] 23:24	<b>helpful</b> [1] 11:23	<b>helping</b> [1] 11:21	<b>helps</b> [2] 12:9 14:7	<b>Hentemann</b> [1] 2:7	<b>hereby</b> [1] 61:6	<b>herein</b> [2] 1:14 4:2	<b>hereinafter</b> [1] 4:3	<b>hereunto</b> [1] 61:17	<b>herself</b> [1] 50:3	<b>hindsight</b> [1] 20:7	<b>history</b> [18] 7:16 7:18 7:19 8:3 9:18 23:19 24:4 27:14 30:15 36:16 39:9 40:11 40:18 42:2 42:3 42:8 43:4 57:2	<b>hit</b> [6] 6:23 7:9 16:22 31:5 31:21 32:13	<b>holds</b> [1] 54:22	<b>Hollister</b> [1] 2:3	<b>hopes</b> [1] 12:12	<b>hospital</b> [13] 5:9 5:15 5:18 5:18 5:19 36:10 36:13 37:1 41:5 41:21 42:8 42:24 55:11	<b>hospitals</b> [1] 5:17	<b>hours</b> [1] 15:5	<b>hundred</b> [1] 51:9	<b>hurt</b> [6] 11:1 25:7 25:7 25:8 35:23 55:1	<b>hyphen</b> [1] 35:3	<b>hyphex</b> [1] 35:3	<b>impingement</b> [1] 21:9	<b>important</b> [4] 11:12 15:22 16:11 46:23	<b>impression</b> [5] 11:23 13:7 16:6 46:17 47:1	<b>improved</b> [1] 49:5	<b>improvement</b> [1] 51:9	<b>impulse</b> [3] 14:20 21:10 59:17	<b>incidences</b> [1] 43:17	<b>incident</b> [2] 40:6 57:6	<b>incidental</b> [1] 28:2	<b>incorrect</b> [3] 34:1 34:2 35:9	<b>indeed</b> [1] 52:19	<b>indicate</b> [3] 17:14 18:19 20:22	<b>individual</b> [3] 37:14 40:11 44:5	<b>inexplicable</b> [1] 52:6	<b>inflamed</b> [2] 28:22 28:22	<b>inflammation</b> [1] 25:5	<b>initial</b> [3] 9:25 54:3 56:13	<b>injections</b> [1] 26:19	<b>injure</b> [1] 14:19	<b>injured</b> [2] 14:18 59:22	<b>injuries</b> [14] 6:22 7:9 39:12 39:17 40:12 40:19 40:23 43:11 43:18 46:5 47:10 47:21 60:12 60:13	<b>injury</b> [6] 40:14 46:24 47:2 47:7 54:12 60:5	<b>innervation</b> [1] 59:4	<b>inside</b> [1] 54:23	<b>inspiration</b> [1] 8:7	<b>instances</b> [1] 45:15	<b>intend</b> [1] 34:6	<b>interested</b> [1] 61:16	<b>intermittently</b> [1] 13:7	<b>internal</b> [3] 5:7 11:4 13:19	<b>internist</b> [4] 4:18 6:8 6:16 17:20	<b>invasive</b> [1] 26:17	<b>involved</b> [6] 15:24 24:16 35:1 41:3 52:7 54:15	<b>involvement</b> [1] 10:17	<b>irritate</b> [1] 28:23	<b>irritation</b> [1] 23:6	<b>isolated</b> [2] 23:8 23:18	<b>issue</b> [1] 23:11	<b>itself</b> [3] 22:1 28:22 29:6	<b>-J-</b>	<b>January</b> [1] 43:23	<b>jar</b> [1] 16:23	<b>Jeppe</b> [33] 2:8 3:4 4:9 4:12 30:1 32:15 33:8 33:19 33:20 35:13 35:14 35:24 39:2 39:6 50:13 50:17 52:11 52:16 52:20 52:23 53:3 53:5 53:8 53:12 53:16 55:9 55:10 56:18 57:9 58:21 60:9 60:17 60:21	<b>Jerry</b> [1] 33:20	<b>job</b> [1] 59:22	<b>John's</b> [1] 5:19	<b>Judge</b> [1] 1:7	<b>judicious</b> [1] 23:25	<b>July</b> [3] 4:24 5:10 12:2	<b>June</b> [1] 61:18	<b>jury</b> [8] 8:14 10:23 12:8 14:13 15:15 21:3 26:3 59:2	<b>-K-</b>	<b>Kaiser</b> [9] 37:11 41:5 41:11 41:21 42:11 42:15 42:18 42:23 47:20	<b>keep</b> [1] 57:24	<b>Kenyon</b> [1] 5:3	<b>kind</b> [2] 8:16 25:1	<b>knot</b> [1] 20:13	<b>knowing</b> [2] 20:14 46:15	<b>knowledge</b> [1] 43:11	<b>knows</b> [1] 13:20	<b>-L-</b>	<b>L</b> [1] 2:8	<b>L.P.A</b> [1] 2:7	<b>L3-L4</b> [1] 56:3	<b>ladies</b> [6] 10:22 12:7 15:14 21:2 26:2 59:1	<b>Lakeland</b> [1] 36:24	<b>Lakewood</b> [4] 1:19 5:18 37:1 55:11	<b>last</b> [6] 27:9 28:6 33:9 45:12 51:10 51:13	<b>lateral</b> [1] 8:12	<b>Law</b> [2] 2:4 2:8	<b>lawful</b> [1] 4:2
---	-----------------------------	-------------------------	----------------------------	--------------------------	-----------------------	-----------------------------------	---------------------	-------------------------	----------------------------------	---	--------------------------	---	-------------------------	--	-------------------------	--	-----------------------	------------------------	------------------------	---------------------------------------	-------------------------	---	--	-----------------------	-------------------------	----------------------	---	----------------------	----------------------------	-------------------------	---------------------------	--	---------------------------	---	------------------------	----------------------------------	-------------------------------------	--------------------------	--	----------------------------	----------------------------	----------------------------------	------------------------------	------------------------	---	----------------------	------------------------	---	---	-------------------------	--------------------------	--------------------------	-------------------------------	--------------------------	------------------------	-------------------------------	----------------------------	---------------------------	-------------------------	---------------------------	--	--	------------------------	--------------------------	------------------------	---	---------------------------	-----------------------	-------------------------	--	------------------------	------------------------	-----------------------------	---	--	--------------------------	-----------------------------	---	-----------------------------	----------------------------------	----------------------------	--	-------------------------	--	---	------------------------------	------------------------------------	------------------------------	---------------------------------------	-----------------------------	-------------------------	-----------------------------------	---	--	-----------------------------	-------------------------	----------------------------	----------------------------	------------------------	-----------------------------	--------------------------------	---------------------------------------	---	---------------------------	--	------------------------------	---------------------------	----------------------------	-----------------------------------	------------------------	--------------------------------------	------------	--------------------------	----------------------	---	------------------------	----------------------	------------------------	----------------------	----------------------------	-----------------------------------	-----------------------	--	------------	---	-----------------------	-----------------------	---------------------------	-----------------------	-----------------------------------	----------------------------	------------------------	------------	------------------	----------------------	-----------------------	---	---------------------------	---	--	-------------------------	------------------------	-----------------------



layer[1] 21:24	massotherapy [1] 57:23	moving [2] 23:5	necessary [1] 31:20	40:9 43:10 43:22
learns[1] 26:6	may [3] 1:20 22:21	42:24	neck [24] 7:4	46:4 48:1 49:18
least[2] 32:24 38:5	33:24	MRI [11] 15:12	7:24 8:5 8:17	51:22 51:24
left[2] 42:4 43:4	McDonnell [1] 1:7	15:15 15:16 16:5	9:8 35:17 36:3	number [1] 38:13
leg [1] 9:10	meaning [1] 48:25	17:7 18:20 19:19	36:14 39:12 39:17	-O-
Leiby [1] 2:3	means [4] 29:23	20:15 21:17 48:6	40:13 40:19 40:24	o'clock [2] 1:21
length[1] 20:10	33:4 40:5 61:9	58:13	41:5 42:11 42:25	60:24
lesion[1] 21:18	meat [1] 28:18	Mrs [20] 6:22 6:24	43:8 43:13 45:5	Object[1] 33:8
level [2] 45:9 47:22	medical [29] 5:1	7:3 7:8 10:19	45:17 55:25 56:6	Objection [8] 30:1
licensed[2] 4:20	5:4 5:6 5:8	12:3 12:15 13:14	57:11 60:14	32:15 35:10 35:19
Lidocaine[1] 26:19	8:15 29:12 29:15	15:12 17:15 18:20	need [3] 35:2 38:4	38:25 52:10 52:13
life [2] 23:11 27:21	29:16 30:21 31:2	19:20 20:23 22:14	50:22	60:15
ligaments [1] 11:1	31:12 31:13 31:17	22:21 25:21 30:16	needed [2] 13:11	objectively [1] 58:8
literally [1] 12:9	31:18 31:19 32:4	31:3 31:20 32:12	58:16	occasions [1] 45:3
litigation [2] 52:7	32:6 32:11 36:19	multiple [2] 13:12	negative [2] 18:15	occur [1] 51:18
living [1] 13:9	36:23 37:10 37:13	34:25	59:7	October [1] 13:14
local [2] 10:5 11:15	42:1 42:3 47:18	muscle [40] 8:6	nerve [14] 14:19	off [4] 50:13 50:16
long-term [2] 11:16	47:19 47:20 51:2	9:3 9:4 9:4	20:23 21:3 21:4	53:12 53:15
longer [1] 60:6	58:17	9:5 9:22 9:22	21:7 21:8 21:10	office [2] 5:21
look [5] 16:1 22:5	medication [3] 14:10	14:19 14:20 14:21	21:16 21:19 21:20	61:18
29:18 31:12 41:22	14:17 14:23	14:25 16:15 21:5	22:4 22:12 59:3	offices [1] 1:18
looking [2] 16:19	medications [2] 15:2 26:16	21:6 21:10 22:1	nerves [3] 15:22	Ohio [12] 1:2
22:18	medicine [11] 4:20	24:22 25:2 25:4	21:25 22:19	1:18 1:20 2:5
looks [2] 43:24	5:7 5:13 10:24	26:18 28:19 28:22	nervous [2] 14:8	2:9 4:21 5:5
56:19	13:18 13:19 13:25	29:6 33:3 35:4	14:12	5:6 61:2 61:5
Louise [1] 12:3	17:19 17:21 27:1	40:4 54:7 54:14	neurological [4] 8:13 53:24 58:22	61:18 61:22
low-dose [2] 14:6	30:14	54:17 54:19 54:20	60:1	once [1] 44:8
14:23	meet [1] 38:4	54:21 54:25 58:23	neuropathic [1] 22:11	one [18] 2:5 16:24
low-level [1] 49:25	mention [3] 42:9	59:3 59:16 59:19	never [5] 40:12	18:23 18:24 19:1
lumbar [1] 56:2	47:24 48:1	59:19 59:22 60:1	41:16 46:16 53:1	19:5 19:12 23:6
-M-	mentioned [2] 41:20	muscles [31] 9:23	53:4	34:11 35:21 37:7
M.D [3] 1:13 4:1	45:16	10:25 11:3 11:17	new [2] 5:8 46:24	38:3 38:6 44:16
61:7	mentions [1] 45:9	12:10 12:11 12:12	next [2] 35:3 51:20	44:22 48:16 50:21
Madison [3] 1:19	met [3] 44:8 44:18	12:12 13:6 13:8	nice [1] 21:4	60:10
5:23 5:24	46:16	14:9 15:23 15:24	nighttime [1] 15:5	onward [1] 31:25
magnetic [1] 15:16	Metro [1] 5:9	17:11 20:8 20:10	nine [2] 42:4 43:5	>pen [1] 39:24
management [3] 18:4 25:13 26:24	Meyers [1] 2:7	22:18 23:5 25:5	none [4] 56:25 57:8	opened [1] 39:22
manipulating [1] 58:18	Michael [3] 1:16	25:15 27:4 27:23	60:4 60:20	opinion [15] 12:18
March [23] 6:23	61:5 61:21	28:20 28:23 29:7	normal [7] 16:3	29:20 31:1 31:7
7:11 9:19 10:11	mid [2] 56:10 56:10	29:8 35:15 53:22	16:6 22:6 22:13	31:16 31:23 32:3
10:19 11:8 15:11	mid-thigh [1] 9:11	56:7 59:13 59:21	24:18 44:9 57:20	32:6 32:10 32:22
17:14 18:24 19:2	midthoracic [3] 19:25	muscular [4] 21:15	notable [1] 59:7	43:22 47:13 47:17
19:5 31:5 31:21	56:7 56:8	22:15 34:25 56:13	notably [2] 8:4	50:18 51:1
31:25 32:13 32:23	might [9] 10:8	musculature [3] 14:7 15:18 21:23	8:10	opinions [15] 30:10
41:25 46:12 46:21	16:13 18:3 22:8	musculoskeletal [2] 9:21 13:21	Notary [3] 1:17	30:12 30:13 30:15
46:21 55:24 56:5	23:4 38:20 43:3	must [1] 42:18	61:5 61:22	30:21 40:9 40:10
60:13	49:24 50:1	myofascial [22] 16:15	notation [1] 55:15	40:10 40:17 41:1
mark [1] 9:9	58:18	27:17 28:13 29:9	note [1] 19:23	43:16 46:8 56:24
marked [3] 3:6	March [23] 6:23	29:11 29:21 31:3	noted [4] 41:8	57:7 60:2
4:7 31:15	7:11 9:19 10:11	31:8 32:12 34:17	45:20 46:20 49:4	opposed [4] 17:12
Martello [3] 12:4	10:19 11:8 15:11	35:2 37:23 38:21	7:12	22:19 24:22 25:2
12:15 12:24	17:14 18:24 19:2	46:17 47:13 48:3	nothing [6] 9:7	order [2] 12:11 50:5
mass [2] 20:2 20:5	19:5 31:5 31:21	48:20 52:5 53:9	23:17 24:16 45:16	ordered [2] 19:11
massage [6] 12:5	31:25 32:13 32:23	54:11 57:18 58:10	55:4 61:7	21:11
12:8 12:9 13:12	41:25 46:12 46:21	myositis [1] 25:4	notice [5] 10:9	orthopedic [9] 17:2
26:15 51:8	46:21 55:24 56:5	-N-	12:2 13:14 15:11	17:5 24:11 24:14
		N [1] 3:1	53:21	24:22 25:3 25:9
		name [2] 4:15	noting [4] 57:9	25:11 26:23
		33:20	57:14 57:14 59:7	otherwise [2] 40:4
		named [1] 61:6	now [19] 6:17 10:15	61:15
		narrowed [1] 22:15	15:11 17:14 20:7	outlining [1] 47:20
		NATALIE [1] 1:8	20:22 22:19 22:21	outside [1] 21:24
		nearly [1] 27:20	30:8 38:8 39:8	overlying [1] 28:24
		necessarily [1] 16:14		overpulled [1] 11:2



36:1 36:3 36:3	s	16:23 21:25 52:5	street [1]	5:22	teach [1] 10:25
36:6 36:7 36:20	32:5	somewhat [1] 11:24	strength [2]	11:3	team [1] 24:5
37:21 38:5 39:7	set [1] 61:17	somewhere [1] 48:19	12:13		tender [2] 35:16
39:13 39:18 40:13	several [2] 43:17	soon [1] 59:6	stretch [3]	10:25	55:25
40:20 40:21 40:24	57:20	sorry [1] 60:18	12:11 14:21		tenderness [1] 56:2
41:12 41:17 41:17	severe [1] 9:21	sort [1] 24:3	stricken [2]	33:9	tendon [1] 25:7
41:18 42:21 43:13	severity [1] 45:10	sounds [1] 24:3	33:10		tendons [1] 11:1
44:11 44:17 45:6	Sharon [2] 1:5	spasmed [2] 11:2	strike [1]	52:3	T'ENS [1] 26:18
45:17 45:24 47:25	6:17 6:19 10:10	20:12	stroke [1]	11:4	term [2] 28:13 60:6
48:17 49:17 51:16	13:22 14:2 14:14	special [1] 17:20	sitruck [7]	9:15	terms [4] 8:15
52:1 53:3 55:19	16:10 23:23 23:24	specialize [1] 5:12	9:24 11:5 35:23		12:22 34:4 34:22
56:7 56:7 60:14	27:10 27:14 27:15	specialties [1] 24:21	35:25 36:1 36:2		test [1] 38:11
ight-hand [1] 9:15	39:9 40:18 46:15	specialty [1] 13:20	structural [1]	20:5	testify [1] 61:7
isk [1] 59:18	53:18 57:2 57:10	specific [5] 5:12	structures [2]	17:12	testimony [3] 30:8
oom [7] 24:18 36:20	57:16 58:9	10:15 26:12 35:21	22:19		61:8 61:10
37:3 37:7 55:11	sheet [2] 28:17 29:7	40:6	study [9]	15:16	tests [1] 30:16
55:15 56:12	sheets [2] 28:19	specifically [4] 17:8	15:25 16:6 20:24		tetanus [1] 44:2
oot [1] 21:18	28:21	35:3 39:19 57:14	21:3 21:4 21:11		textbooks [1] 29:17
oots [1] 16:24	Shin [2] 25:22 25:24	specified [1] 61:13	22:4 22:12		Thank [8] 33:7
oundedness [1] 9:5	Shin's [1] 34:13	speed [1] 10:8	subjective [2] 48:22		33:15 45:23 46:1
ubbing [1] 12:9	Shore [1] 5:19	spinal [3] 16:24	58:6		48:18 55:3 60:7
ule [1] 17:2	short [1] 12:22	16:24 21:18	subsequent [2] 39:17		60:21
uled [3] 17:6 17:9	short-lived [1] 57:3	pine [8] 15:21	60:12		heories [1] 26:25
18:16	short-term [1] 13:2	15:24 16:5 16:23	subspecialists [1]		herapeutic [2] 12:19
Rules [1] 1:15	shortly [3] 41:13	20:11 56:1 56:2	19:13		13:12
	53:5 56:23	56:9	subtle [1] 13:10		herapeutically [1] 11:2
-S-	shoulder [2] 7:4	ports [1] 17:20	such [14] 14:23		herapies [1] 59:14
saw [10] 27:9 28:1	8:17 9:4 9:22	spot [1] 38:4	14:24 15:20 15:21		herapist [3] 12:5
28:1 43:23 43:24	33:3 36:14 38:6	SS [1] 61:3	16:13 26:15 52:9		12:8 12:9
44:19 44:22 45:11	39:13 39:18 40:13	St [1] 5:19	52:12 52:15 52:16		herapy [22] 10:2
45:12 57:16	40:21 40:25 41:17	staffs [1] 5:15	52:17 53:1 53:25		10:20 10:23 10:24
says [5] 21:8 21:9	41:18 42:4 43:4	start [1] 59:4	58:18		11:8 11:15 11:19
27:20 32:25 55:24	44:15 45:6 45:17	stat [1] 4:21	uffered [3] 6:22		12:18 13:12 18:12
scan [1] 48:10	51:12 60:14	State [4] 1:18 61:2	7:9 42:6		23:25 24:1 26:15
scapular [2] 9:23	shoulders [1] 9:6	61:5 61:22	ummary [2] 31:12		26:15 28:6 46:19
20:11	show [2] 35:16 48:3	statement [1] 10:12	31:19		51:7 51:8 51:10
	shows [2] 15:17	statements [2] 33:24	SUMMIT [1] 61:3		57:23 59:12 59:23
	21:9	34:1	superficial [2] 20:1		hereafter [2] 5:5
	side [5] 9:10 9:15	states [1] 35:15	21:21		53:6
	15:4 36:1 51:15	stating [1] 39:19	Superior [1] 2:9		therefore [1] 34:5
	signal [3] 14:8	stenographic [3] 1:17 61:5 61:21	supply [2] 21:25		Thereupon [1] 60:23
	signals [1] 21:5	Stenotypy [1] 61:8	22:1		thigh [3] 8:12 36:6
	significance [2] 14:11 16:8	Stephanie [1] 28:10	urgeon [2] 24:11		36:7
	significant [1] 14:14	steps [1] 53:1	24:15		thin [1] 21:24
	significantly [1] 49:5	steroids [1] 26:19	urgeons [1] 26:23		thinking [1] 23:4
	similar [1] 13:19	still [1] 12:1 15:7	surgery [1] 26:11		thoracic [9] 16:5
	simply [1] 29:4	18:5 19:13 19:14	sworn [2] 4:3		16:23 17:6 17:8
	sitting [1] 5:21	19:16 21:14 21:15	61:7		20:11 56:1 56:9
	situation [2] 49:24	27:6 32:25 51:8	syndrome [2] 23:19		56:10 57:11
	54:1	stimulation [1] 26:18	27:18 28:14 28:25		thorax [2] 8:7
	six [2] 19:15 58:14	stipulate [1] 4:10	29:9 29:11 29:21		20:12
seem [2] 12:21 49:23	skin [3] 21:22 21:24	stop [2] 34:2 34:7	31:3 31:8 32:12		thorough [1] 46:22
self-diagnosed [1] 48:21	sleep [1] 26:10	straight [1] 34:12	34:17 35:2 37:23		thought [9] 11:12
senior [1] 5:9	slightly [1] 55:25	strain [9] 9:21	46:18 48:4 48:20		13:21 14:18 15:19
sense [2] 19:14	small [2] 15:23	9:24 16:15 21:15	52:5 53:9 54:11		18:12 19:18 20:1
43:6	20:9	29:3 54:4 54:6	57:18 58:11		25:4 29:6
September [7] 5:11	soft [2] 20:1 20:5	54:7 56:14	system [3] 14:8		three [4] 42:8 46:15
41:4 41:10 41:14	someone [1] 26:6	strain-type [1] 54:12	14:12 26:7		51:6 51:13
42:10 56:19 56:21	sometime [1] 33:4	strained [3] 13:6	-T-		threshold [1] 11:25
serve [1] 5:15	sometimes [4] 14:19	13:8 29:8	T [2] 61:1 61:1		through [13] 10:10
		strange [1] 49:23	T10-T11 [1] 56:1		17:7 19:10 19:12
			taking [3] 8:3		24:3 27:6 32:23
			15:1 50:3		46:20 51:7 56:10
			tangled [1] 28:21		

57:23 59:12 59:14 throughout [3] 11:22 30:8 49:5 times [5] 14:23 44:3 52:7 57:16 58:8 Timothy [1] 2:4 tingling [1] 41:12 tissue [3] 20:2 20:5 26:18 tissues [1] 28:20 title [1] 29:9 today [5] 6:21 31:11 33:22 40:9 46:9 together [1] 28:21 tderate [2] 11:25 14:10 tomorrow [1] 51:18 too [2] 15:7 54:7 took [2] 5:10 43:4 top [3] 23:5 29:8 42:17 torso [1] 42:25 totally [1] 28:2 training [1] 30:14 transcription [2] 61:9 61:10 trapezius [4] 8:6 9:3 9:22 54:20 treat [2] 26:23 41:16 treated [5] 41:5 41:20 42:11 42:23 45:2 treating [1] 37:16 treatment [11] 10:1 10:16 16:9 19:20 22:14 23:22 24:22 24:23 26:15 37:14 56:20 triceps [1] 9:6 triceps/biceps [1] 8:6 tricyclic [3] 14:6 14:15 14:24 tried [1] 10:2 trigger [5] 23:7 23:8 38:5 38:8 38:13 troubles [2] 11:16 16:12 true [1] 61:10 truly [2] 47:2 47:2 truth [3] 61:7 61:7 61:7 try [2] 15:7 34:11 trying [6] 13:1 17:1 18:1 39:20 39:25 40:4 Tucker [6] 17:15 17:17 17:18 17:23 18:9 18:11 Tuesday [1] 1:20 turned [1] 18:15	two [14] 5:6 10:4 11:13 15:5 18:25 19:7 26:25 27:11 37:25 44:18 45:12 47:23 55:17 56:20 type [2] 13:23 53:10 types [2] 15:1 18:11 typical [1] 26:14  -U- unable [1] 14:10 unaware [1] 43:20 unclear [2] 21:14 29:5 underlined [1] 55:21 underlying [1] 20:5 underneath [1] 28:24 understand [5] 6:24 9:14 17:1 30:23 52:4 underwent [2] 15:12 20:23 unfamiliar [1] 34:5 unit [1] 26:18 unless [1] 33:2 unlike [2] 21:16 29:3 unrelenting [1] 29:1 up [10] 5:8 9:1 10:8 17:6 22:5 28:21 29:18 39:22 39:24 58:16 upper [28] 7:4 7:24 8:5 9:2 9:3 9:5 9:8 27:22 35:17 36:3 36:13 38:6 39:12 39:17 40:1 40:13 40:21 40:24 41:6 42:11 42:24 43:7 43:13 45:5 45:17 57:2 57:11 60:14 upright [1] 54:22 used [5] 8:15 14:15 14:24 28:13 59:20 using [10] 10:5 10:5 11:14 12:10 21:5 27:22 40:1 51:11 51:11 51:12  -V- vehicle [7] 7:19 19:25 41:4 41:16 42:9 42:19 56:19 venture [1] 51:5 vertebral [1] 56:8 very-well [1] 15:17 vicious [1] 27:24 visit [1] 37:3 voluntarily [1] 20:20 voracity [1] 58:5 vs [1] 1:7	-W- waiving [1] 4:10 walk [2] 52:22 53:1 wall [3] 15:20 21:24 27:23 waning [1] 29:2 wastebasket [1] 29:21 wastebasket-type [1] 29:25 watch [1] 21:5 waxing [1] 29:1 weeks [4] 10:4 11:13 55:17 56:20 well-known [1] 17:18 West [1] 5:19 WHEREOF [1] 61:17 whiplash [3] 9:3 16:21 54:19 white [1] 19:24 whole [1] 61:7 Wilke [10] 22:22 22:24 23:3 23:15 23:21 34:14 35:6 35:11 38:18 38:23 Wilke's [1] 22:25 within [8] 30:21 31:1 31:16 32:3 32:10 51:1 61:5 61:6 without [5] 26:9 26:9 28:20 47:17 61:13 witness [21] 1:14 4:2 30:4 32:18 33:14 33:17 35:11 35:20 39:1 39:4 52:14 52:18 52:21 52:25 53:4 53:7 60:16 60:19 61:6 61:9 61:17 wondering [1] 36:18 Wood [1] 6:15 Woodward [1] 5:22 words [1] 13:1 worked [2] 28:6 58:16 workplace [1] 40:1 works [1] 26:1 written [1] 42:16 wrong [3] 24:2 34:8 54:16  -X- X [1] 3:1 x-ray [1] 48:3 x-rays [1] 24:17  -Y- year [3] 5:9 11:23 51:20	years [9] 5:6 11:22 32:24 46:15 51:6 51:13 51:22 51:24 59:4 Yep [1] 4:22 yet [1] 16:14 York [1] 5:8
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