IN THE COURT OF COMMON PLEAS

LORAIN COUNTY, OHIO

RHONDA STOVER,

Plaintiff,

-vs-

JUDGE MCGOUGH
CASE NO. 97CV117894

NANCY FIGUERRA,

Defendant.

- - - -

Videotape deposition of TIMOTHY L. GORDON, M.D., taken as if upon direct examination before X. John Revmatas, a Notary Public within and for the State of Ohio, at the offices of Timothy L. Gordon, M.D., 850 Brainard Road, Highland Heights, Ohio, at 3:25 p.m. on Monday, July 6, 1998, pursuant to notice and/or stipulations of counsel, on behalf of the Defendant in this cause.

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On behalf of the Defendant.

ALSO PRESENT:

Daniel Williams, Video Technician

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(Thereupon, Defendant's Exhibits 4 through D were marked for purposes of identification.)

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MR JEPPE: This is the videotaped deposition of Dr. Timothy Gordon taken in his offices on Monday July the 7th, 1998 to be used in the case of Rhonda and Irene Stover versus Nancy Figueira presently pending in the Court of Common Pleas of Lorain County, Ohio

At this time it's the intention of the defense to use Dr. Gordon's deposition, videotape deposition at time of trial and I am going to ask plaintiff's counsel if he has any objections to the taking of the deposition, the manner in which it's being taken or its use at trial?

MR MIRALDI: I have no objection to notice of the deposition and the manner in which it's being taken.

MR JEPPE: Or its use at trial?

MR MIRALDI: Or its use at trial

MR. JEPPE: All right. If that's

the case, would you go ahead and swear the witness in please.

VIDEO TECHNIC'IAN: On the record.

TIMOTHY L. GORDON, M.D., of lawful age, called by the Defendant for the purpose of direct examination, as provided by the Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, deposed and said as follows:

DIRECT EXAMINATION OF TIMOTHY L. GORDON, M.D.

BY MR. JEPPE:

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

A. Timothy L. Gordon, M.D.

Q. And your business address?

A. 850 Brainard Road in Highland Heig ts, *O* .io.

Q. And then could you please tell the jury, if you would, your business or your occupation, profession?

A. I am a physician. I am an orthopedic surgeon.

Q. Would you define, if you would, the practice of orthopedic surgery for the jury?

A. All right. Orthopedic surgeons are trained in the surgical and nonsurgical treatment of the musculoskeletal system, and this would include

the spine, the joints, the ligaments, nerves, tendons, the extremities, those kind of things.

Q. would this include like the neck, back, injuries to those areas of the body?

A. Yes.

Q. And what about the knees, your area of practice cover knees as well?

A. Yes. That would be included also.

Q. Now, doctor, would you please tell the jury your educational background with respect to preparing yourself for your profession?

A. All right. 1 went to medical school at the Case Wester? Reserve University School of Medicine. And then went on to do my residency in orthopedic surgery at the Mt. Sinai Medical Center.

Q. And how many years was your internship and residency, sir?

A. It's a five year residency program in orthopedic surgery.

Q. And did you successfully complete those five years of orthopedic surgery residency?

A. Yes.

Q. Are you licensed to practice medicine in the State of Ohio?

A. Yes.
Q. And when did you become so licensed?
A. 1986.
Q. Doctor, are you actively engaged in the practice of orthopedic surgery here in the Northeastern Ohio area?
A. Yes.
Q. And how long have you been in practice here at the Northeastern Ohio area?
A. I've been in private practice since 1991.
Q. Would you tell the jury what hospitals that you have admitting privileges to or you are affiliated with?
A. Certainly. I have admitting and surgical privileges at a number of area hospitals including Meridia Hillcrest, Huron, Euclid, Lake Hospitals, also Mt. Sinai and University Hospital of Bedford.
Q. Along with your active practice of orthopedic surgery, have you found time to teach your profession in any teaching hospital or college or university?
A. I've instructed anatomy at the medical school, Case Medical School.
Q. During the course of your career as an

orthopedic surgeon, have you authored any publications, books, chapters in books, medical journals, et cetera?

A. Yes. I've published articles in the area of orthopedic surgery.

Q. And how many have you published, sir?

A. Oh, less than ten I think.

Q. And where have they appeared?

A. Various journals in orthopedics.

Q. Are you affiliated -- excuse me.

Do you belong to any professional organizations or associations?

A. Yes.

Q. Would you name a few of those for the jury, please.

A. I am a fellow of the American Academy of Orthopedic Surgery. Also, I am a member of the American Medical Association. Also the Ohio State Medical Association, and the Cleveland Academy of Medicine.

Q. Now, doctor, are you board certified in orthopedic surgery?

A. Yes.

Q. When did you become board certified?

A. 1993.

Q. would you tell the jury what it takes to become board certified in your specialty of orthopedic surgery?

A. Yes. Board certification in orthopedic surgery requires that the individual take an extensive written examination. Once they have completed the residency, when that is passed then they need to be in private practice for two years, and then they undergo an extensive oral examination. Once that is passed they can apply for orthopedic fellowship, board certification, I have done all those things and did them in the minimal amount of time.

Q. All right. Now, doctor, at the request of my office, did you examine and evaluate an Irene Stover?

A. Yes.

Q. Now, in front of you on your desk, is that the file of Irene Stover that you have in your possession?

A. Yes.

Q. And also in that file is there a report that you have generated, and I believe it's the dated December the 4th, of 1997; is that correct?

A. Yes.

Q All right. Now, Doctor, during the course of my direct examination and also the cross-examination of opposing counsel, please feel free to refer to your report or to the record while testifying here to?

All right?

A All right.

Q Did you evaluate or did exam Irene Stower; is that correct?

A That's correct.

Q When did that take place?

A. I evaluated her August 21st of 1997

Q And where did that examination take place?

A Best I can recall it was here at t is office

Q Now, Doctor, is it your -- is it your practice to take a history from a patient as a part of the examination that you conduct?

A Yes.

Q Would you tell the jury what a history is and why it's important to a physician?

A All right A history is what physicians are trained to do in part evaluating anyone History is the story the patient tells us, why they are there, how they feel, past medical history It's what they chose to tell us and the

usually document it.
Q. Now, when arriving at opinions in a case, arriving at a medical opinion in a case, do you take the history in consideration with respect to those opinions?
A. Yes.
Q. With respect to Irene Stover, did you take a history from her on August the 21st of 1997?
A. Yes, I did.
Q. Was it your practice to take the history yourself or does someone else in your office do that for you?
A. I take the history myself with the patient.
Q. All right. Doctor, if you would then would you kindly relate to the jury the history that was given to you by Irene Stover back on August the 21st of 1997. And at various times as we go through your testimony I may stop and have you define some terms or to try to explain some things for the jury. All right?
A. All right.
Q. All right. If you would you please, begin with the history that was given to you by Irene Stover back on August the 21st of 1997.
A. All right. As a summary of the history she gave

me, she reported that she was 57 years old at the time, and that she is hearing impaired and she was there with her daughter and a paralegal. She indicated that in December 2nd, '95 she was involved in a motor vehicle accident. She indicates that she was wearing a seat belt when the car hit the rear of their car, that she went back and forth and hit the dash indicating that her chest and left knee had hit the dash. Indicates that she was taken by ambulance to Lorain Community Hospital Emergency Room, subsequently evaluated there. She had reported that her -- she hurt all over and that she had left knee pain that started right away. X-rays were taken and she was sent home.

Q. Doctor, did she give you any history as to whether or not either knee was bruised and was reported that way to the emergency room?

A. No. That history was not given.

Q. All right.' Thank you. Go ahead, sir.

A. She indicates that she subsequently followed up with her family doctor, Dr. Lindstruth, within a couple of days and then was referred to a Dr. Wright, an orthopedic surgeon, and she had complaints regarding her left knee. She

indicates that she subsequently had some surgery on the left knee an arthroscopic surgery in March of 1996. And that she had also some treatment €or some neck and back complaints by Dr. Lindstruth, apparently had some physical therapy by her history,, and that she had seen a Dr. Doctors, who she subsequently indicates that she apparently had seen previously for some back problems that she had prior surgery on her back twice before this motor vehicle accident. She indicates she subsequently saw a Dr. Patterson, Vernon Patterson, in May of 1997 and a Dr. Nemeth in July of 1997, who I believe is also an orthopedic surgeon,

Q. All right. At the present time or at the time that you examined her, did she have any symptoms or complaints at that time?

A. Yes. She reported that at that time she had pain in left knee that she felt like it rubbed and catches with walking, and that she reported she had pain in the neck, upper back and left low back. She indicated she didn't have any complaints regarding her right knee.

Q. With respect to taking a history, do you also then take a past medical history? I know you've

given us some of the past medical history already. Is that part of the history that you take from the patient?

A. Yes. We like to know a little bit about their past history.

Q. Again, would you just briefly relate the past --

A. All right.

Q. -- history that was given to you by Irene Stover?

A. All right. She indicated that prior to this motor vehicle accident in question that she had had a prior history of back problems, left leg numbness, pain, and that she had had two prior surgeries on her low back. Once by Dr. Bruger and then by Dr. Doctors. The most recently in 1990. She indicated that she was in a motor vehicle in 1976 and injured her lower back and she did not have any prior knee problems.

Q. And did that basically end the taking of the history from Irene Stover?

A. Yes. She also indicated that she was five foot five and a half and weighed 157 pounds as part of her history.

Q. Following the taking of the history, what if anything was done next?

A. Well, I examined her then.
Q. The actual physical examination?
A. That's correct.
Q. What parts of the body were examined?
A. Well, I performed an orthopedic evaluation or examination, meaning that I didn't listen to her heart or lungs, those kind of things, but I examined the areas of the body that were appropriate for this evaluation.
Q. I believe that she complained about pain in her neck; is that correct?
A. Yes. When evaluated I watched her during the giving the history and she had demonstrated a brisk going back and forth motion of her head' apparently to describe what she thought happened to her at the time of the impact. That indicated to me that she had good flexion and extension of her neck and had she could do that rather vigorously and it didn't seem to bother her.

When I examined the neck and felt it there was no tenderness. She had been told that if there was tenderness when I pushed to report that and she acknowledged that. There was good range of motion in the neck. There was good

active elevation of the shoulders up over the head. The neurologic examination of the upper extremities, the reflexes, the sensation was intact, the muscles were well developed in the upper extremities, the right arm was dominant. In other words, she used her right arm more by her own report. This was a little larger than left, which is what we expect to find. There were noted to be degenerative changes in both hands.

When I examined her back and pressed around and palpated it there was no tenderness. She was able to bend forward and put her finger tips down to shin level, and it was noted on her back to be two healed surgical incisions from the old surgeries on her back. When I examined her lower extremities, the reflexes were symmetric, she did report some decreased sensation in the left lower leg, and this was reported to be present from before the motor vehicle accident. She did have the prior surgeries and apparently was related to that. The left calf was a little smaller than the right, and again, this was related to the old process. There was good resistance in strength in lower extremities.

When I specifically examined the knees they were noted to look similar in appearance. There was no fluid in the knees. The patella or kneecaps were moved a little medially. The knees were a little knock-kneed. When I examined the left knee she reported some diffused tenderness, kind of all over. Nothing focal, nothing specific. There was full extension of the knee and there was a hundred degrees of flexion on both knees, and there was crepitus with motion to both knees, meaning some cracking and popping when I held my hand and moved the knee. This is consistent with some arthritis. And the kneecaps moved well on both sides and the ligament exam was stable on both sides.

Q. All right. Now, doctor, Pet's go back then to the examination of the neck just for a second.

Do you find any abnormalities with the examination of the neck?

A. No. She seemed to be able to move her neck well and seemed to be a pretty normal exam.

Q. You said there was some diffused degenerative changes of both hands, what does that mean, sir?

A. Well, the hands often tell us a little bit of

the story about the general part of the body. She had significant degenerative changes at both hands that would go along with a systemic type of degenerative process. This is a common finding in middle aged to older women.

Q. What do you mean by degenerative process?

A. Well, it's indicative of degeneration going on in multiple joints.

Q. Now, doctor, with respect to the back, were there any abnormal findings with respect to the low back?

A. The two prior surgical incisions were noted that were consistent with her prior history with two lumbar surgeries in the past.

Q. Other than the after effects of the two lumbar surgeries that you have referred to, was there any other abnormalities noted with respect to the low back at the time of your examination?

A. No.

Q. Let's talk about the knees then for a moment.

You examined both the left knee and the right knee; is that correct?

A. Correct.

Q. Was she complaining of both left knee and right knee at the time of examination?

A. No. Just the left.
Q. Why would you then examine both the left knee and the right knee?
A. For a comparison, to compare one side to the other.
Q. And what was the comparison when you compared to the left knee to the right knee?
A. well, we consider the objective finding. In other words, not the report of one knee hurts or not, but just what the findings are and physical exam, they really were quite similar, They both were consistent with arthritis in both knees,
Q. Now, doctor, with respect to the extension of the examination, did you or were you requested to review some medical records as well?
a. Yes.
Q. And these of course related to Irene Stover, correct?
A. That's correct.
Q. First of all, did you have and did you review the emergency room records from the Lorain Community St. John -- or St. Joseph Hospital -- excuse me, dated December the 2nd of 1995?
a. Yes.
Q. All right. Doctor, if you would tell me, what

if any significant or significant findings in those records with respect to your review that you can relate to the jury with respect to Irene Stover?

A. All right. In reviewing those records it indicates that her daughter was apparently there in the emergency room also. Apparently by her history, her husband was there, too and indicates that she reported some complaints of being in a car accident and that she hit her chest on the dashboard. She made complaints of neck and chest area complaints. There were no complaints regarding either knee. The extremities were specifically noted to be within normal limits. They were looked at and it was specifically stated lower extremities noted to be within normal limits.

Q. All right. Now, doctor, does that mean that the lower extremities or the legs were examined by a physician at the emergency room?

A. It indicates that the lower extremities were evaluated in the emergency room and apparently felt to be within normal limits.

Q. Any indication of any injury to either lower extremity, either leg or either knee as a result

of this accident of December 12 of 1995?

A. No. They were indicated to have full range of motion subsequently also and appear normal. And this would not go along with the history given of striking the knee on the dashboard.

Q. Was there any history in the emergency room records of striking either or both knees on the dashboard?

A. No, there was not.

Q. Now, doctor, did you review the x-rays that were taken at the emergency room on that date, December the 2nd of 1995?

A. I reviewed the reports regarding the x-rays that were taken, yes.

Q. And will you tell the jury whether or not either knee was x-rayed --

A. No.

Q. -- as a part that examination?

A. No. Neither knee was x-rayed in the emergency room. There were no complaints made regarding the knee.

Q. All right. Doctor, what other records have you reviewed other than the emergency room records, sir?

A. Dr. Lindstruth's records, which appeared to

indicate that some time after the motor vehicle accident, possibly several days later, that the nurse's note indicates complaints regarding the knees, back, ribs and neck. Subsequently she is noted to be able to squat to 90 percent. The knees were noted to be tender, but she could squat to 90 percent, which is pretty good. And subsequently some x-rays of the knee, left knee were ordered and I did have a chance to review those.

Q. Let's stop there for one second.

I want to go back for just a second to the x-rays that were taken on 12/2 1995 of the neck, and the low back.

A. All right.

Q. What were the findings, if any, those x-rays that were taken with respect to the neck and low back?

A. Well, the x-rays of the neck and back indicated there were degenerative arthritic changes present and the indication of the old surgery in the low back.

Q. Now, doctor, am I correct in stating that so far there have been degenerative changes found in both hands and degenerative changes, arthritis

found in the neck and low back; is that correct?
A. Yes.
Q. And during your examination you found evidence of degenerative changes in both knees as well; is that correct?
A. Yes.
Q. All right. With respect to Dr. Lindstruth's records, what if anything within those records did you find in fact important or significant with respect to Irene Stover?
A. As indicated she did apparently present to Dr. Lindstruth several days later. There was noted degree of report of complaints regarding the knees. The knees were noted to be tender,. but that she could squat to 90 percent, which I said is quite good for her age. And subsequently some x-rays were taken of the left knee which I did review.
Q. All right. Now, doctor, do you have the x-rays that you just referred to that were taken I believe on 12/12/95 of the left knee?
A. Yes, I do.
Q. And have they been marked as exhibits?
A. I believe so, yes.
Q. Would you take a look at those, sir, and tell

the jury how they have been marked.

A. Yes. These are marked Exhibit A, B and C.

Q. If you would then, would you put Exhibits A, B and C, I don't care which order you do in it and let the jury know what we are looking at --

A. All right.

Q. -- and what this indicates on December the 12th of 1995.

First of all, you are capable of reading x-rays, are you not, sir?

A. Yes. I read them all the time.

Q. All right. Fine. Thank you.

A. The x-ray here is of the left knee. And this is a view looking at the knee from the front. This is the femur, which would be the thigh bone. In other words, the hip would be up above and the tibia here is the lower leg bone, major lower leg bone, and the ankle and foot would be down below.

And what we see of significance are these calcifications of the cartilage discs within the knee. The discs are outlined with calcified, what's called chondrocalcinosis and that is just an extra descriptive image. This consistent with a diagnosis called pseudogout, which is a

inflammatory joint disease which involves the deposition of what *is* called calcium pyrophosphate crystals in the knee joint and other joints also. This is a problem that develops typically in middle age and gets worse with time.

Q. Does a situation like that develop within let's say a ten day period?

A. **No.** It's an on-standing long term process to get this amount of calcification in the joint spaces.

Q. How long are we talking about?

A. Years.

Q. All right.

A. Then we go to a lateral view of the knee and this is, again, the left knee, and what is important on this view, this is now a week **or** so after the car accident that we see again the calcification back here of the cartilage, but very importantly we see a cyst in the kneecap.

This is a side view of the patella or kneecap which sits out in front of the knee and there **is** a degenerative knee cyst here which is about five millimeters in size. It's got sporadic edges, and that means it's been there

for years and that goes along with degenerative changes, When one sees that on the plain x-ray one 'would expect to see degenerative changes of the kneecap if one were to look at the kneecap at surgery at that time.

Q. Again, would this have developed within 10 to 12 day --

A. No.

Q. -- period following the accident?

A. No. This would have been present for years.

Q. All right. There is one more exhibit I believe, sir.

A. Basically this is just another version of what is called an oblique view and it just shows more of the degenerative change of the disc cartilage with calcification and so forth.

Q. Now, doctor, I realize that you do not have any x-rays of the right knee; is that correct?

A. That's correct.

Q. Would you expect to find the same type of findings on the right knee as you would on the left?

A. Usually with this type of calcium chondrocalcinosis and then taking into consideration the recent exam of both knees, I

would expect to find similar findings and x-rays to both knees.

Q. Would you expect to find both knees to be symptomatic?

A. Et wouldn't be surprising at all with this amount of degenerative chondrocalcinosis and cyst formation underneath the kneecap, I would not be surprised if there were symptoms related to that.

Q. Would it be possible to have symptoms only in one knee and not the other?

MR. MIRALDI: Objection.

A, Anything is possible. Often time they come in pairs.

Q. All right. Now, doctor, did you review any further records other than that, sir?

A. Yes. I reviewed additional records. These included records from a Dr. Wright, who is an orthopedic surgeon that she was referred to who subsequently did an orthoscopic surgery of the left knee March of 1996.

Q. Okay. With respect to Dr. Wright's records, what if anything of significance did you find with respect to Irene Stover as it possibly relates to or does relate to the automobile

accident December 12th of 1995?

A. Okay. Well, he notes the history that she apparently gave him of some complaints of the left knee since then apparently gave the history of hitting the knee on the dashboard. He notes the degenerative changes of the knee and the calcific deposits in the meniscus. He refers to the medial meniscus as being abnormal, which it is. That wouldn't be related to the motor vehicle accident. And subsequent recommends that she undergo an arthroscopy of the knee, which she did March 25 of 1996, and I reviewed his operative report and intraoperative photographs taken at the time, and the findings are consistent with degenerative changes of the under surface of the kneecap, and that would go along with that degenerative cyst that we talked about in the kneecap or patella, same thing, and that there were also degenerative changes of the disc of cartilage within the knee more so on the medial side. I noted to be a tear of that degenerative area which commonly occurs because of the degenerating nature of the meniscal cartilage. It just tears with every day type activity. There was nothing that would be

specific to having been caused by this motor vehicle accident.

Q. That was my next question.

With respect to the operative notes and what is described there, would that be consistent with a traumatically induced tear in the meniscus or cartilage?

A. No.

Q. And why is that, sir?

A. Well, this is something we see very commonly at arthroscopy. It's very common in this age group of individual, especially these individuals who have this preexisting calcified cartilage and degenerative change going on in their knee. They kind of have a double whammer going on, if you will, and they have two problems going on. Not just degenerative arthritis, but **also** the pseudogout, and it's very common to see these general meniscus tears which are the result of just wear and tear on the degenerated meniscus and they fray over time and it's very common to see these.

Q. What is pseudogout? You used that term a couple times.

A. All right. Sure. That's a fair question.

Pseudogout refers to there is really two types of common inflammatory joint disease. Gout and pseudogout. Pseudogout is the more common type that goes along with degenerative disease in this age group and it's specifically the deposition of calcium pyrophosphate which is a crystal in the joint cartilage surface, very commonly in the knees and this is what she has. In addition to degenerative arthritis she also have pseudogout.

Q. I know that Dr. Wright in his report, I think his operative report, notes that the degenerative changes were almost all the way through and showed signs of calcification in the posterior horn.

Is that a condition that would have occurred like within the last two or three months, four months from the day of the accident?

A. No. That description is consistent with the long-standing process of the degeneration and pseudogout.

Q. All right. Doctor, what others records did you review.

A. I also reviewed records of George Doctors

another physician. Subsequently before that further records of Dr. Wright who indicates that when he last saw her, I believe it was July of 1996, that she had some symptoms by history, but they needed not prevent her from leading an active life and it indicates that she apparently was doing an active amount of things at the time. Subsequently to that records of George Doctors were reviewed, he again indicates the prior history of back surgery and prior problems with the left leg that she had prior to this car accident.

Q. You also reviewed I believe some records of Dr. Vernon Patterson?

A. Yes.

Q. And did you also review MRI films of the knee that were taken?

A. Yes.

Q. Doctor, do you have a copy of the MRI film or films in front of you?

A. Yes.

Q. And have they been identified, please?

A. These have been labeled as Exhibit D.

Q. All right. If you would -- by the way, doctor, what date were those taken, sir?

These MRI films were taken I believe June of 1997. Yes, June 3rd of 1997.

Q. And is this the MRI of Irene Stover?

A. Yes. Left knee.

Q. All right. Would you please put those on the shadow box, if you would, sir.

A. okay.

Q. And would you describe for the jury what we are looking at and the significance of what we looking at?

A. Well, an MRI scan is a high-tech study that cuts through the various parts of the body that we ask for it to and gives us pictures of anatomy and the things we can use to make diagnoses and treatment. And what we see on this MRI scan this is as though we are cutting through the knee from the front to the back, and it's as though we are looking from the knee from a side view. And what we see of significance is this is now in June of 1997 we see this degenerative cyst of the patella in multiple views, and if we moved the MRI over and kind of correlate that with our plain x-ray, we see that this is basically the same exact location of the degenerative cyst that was present the week of

the automobile accident is still there a year and a half later and goes along with the idea that this is a long-standing degenerative condition, and he would expect to find degenerative changes in the area of the back of the kneecap would have nothing to do with the motor vehicle accident.

Q. With respect to the degenerative conditions that you have described, is this the type of a condition that will continue to get worse, stay the same, get better?

A. Okay. Well, unfortunately, with all degenerative arthritic conditions, especially those people who have pseudogout on top of it; they won't get better, they will only get worse over time and that is something we see in our clinical practice.

Q. Did you also review some records of doctor, I think it's Victor Nemeth?

A. Yes.

Q. And I know that since the examination of Irene Stover you've been supplied with other records of Dr. Nemeth as well which outline a subsequent surgery and follow-up care; is that correct?

A. That's correct.
Q. Would you briefly outline those for the jury as well?
A. Well, I reviewed doctors of Dr. Nemeth, who indicate that she apparently came to see him a year after she had last seen Dr. Wright, were reporting some left knee complaints. He subsequently did another arthroscopy on her knee and found a continuation of the, essentially degenerative conditions that were already noted previously.
Q. Now this is two surgical procedures in what, a little over a year and a half or about a year and a half; is that correct?
A. Yes.
Q. Is that consistent with injury to a left knee in the motor vehicle accident back on December the 2nd of 1995?
A. Well, it was found that the arthroscopies were not consistent with any acute injury to the knee at the time of that motor vehicle accident.
Q. What was it consistent with, sir?
A. Degenerative disease and pseudogout.
Q. Which you've already described?
A. Right.

Q. Okay. Doctor, what is synovitis?
A. Synovitis is inflammation of the synovial lining of the knee or joint." In this case it would be a knee.
Q. And there was no indication I believe on the records that, I think it was from Dr. Nemeth, that she did have synovitis; is that correct?
A. I think there was indication of some synovitis present.
Q. Doctor, based upon the history given to you by Irene Stover, based upon your examination and the records that you reviewed, do you have an opinion within a reasonable degree of medical certainty as to whether or not the synovitis was a direct result of the motor vehicle accident of December the 2nd of 1995.

First of all, do you have an opinion, sir?

A. Yes.
Q. And what is that opinion?
A. It's my opinion that the synovitis was not a direct result, It would be more than likely related to the pseudogout and underlying degenerative disease.

MR. MIRALDI: Objection to the question and answer as it was not addressed

in his report.

Q. Doctor, what is -- you have to help me with this term I think. A-r-a-c-h-n-o-i-d-i-t-i-s.

A. That's arachnoiditis.

Q. And what is that, sir?

A. Okay. Arachnoiditis is essentially inflammation of the arachnoid membrane, and you probably ought to talk about what the arachnoid membrane is. The arachnoid membrane is lining around the spinal contents that helps bathe it with spinal fluid and arachnoiditis can occur after surgery. She was noted to have this arachnoiditis in her low back after her initial surgeries. It was noted to be present before the motor vehicle accident,

Q. Now, doctor, if one has a traumatic tear of the medial meniscus, what would the symptoms, if any, be at the time of the trauma or the blunt -- this is blunt trauma, such as a knee hitting a dashboard?

A. Well, if someone had an injury as a result of their knee hitting the dashboard, I would expect that there would be immediate pain in the knee area. When we strike our knee on a dashboard or fall forward and strike our knee on the ground I

think we all can relate that you tend to have pain in the knee right away. This is something you would expect to see. This is indicated to not have been present, and in fact the records indicate that the lower extremities were normal, so this doesn't go along with an acute injury to the left knee occurring at the time of this motor vehicle accident.

Q. All right. Doctor, based upon the history that was given to you by Irene Stover on the date of your examination, your examination and the records that you have reviewed, do you have an opinion based upon a reasonable degree of medical certainty of what if any injuries she did sustain in the motor vehicle accident of December the 2nd of 1995?

A. Yes.

Q. Would you please outline those for the jury, if you would?

A. All right. Well, this is really primarily based on her history, in other words, what she told us, is that it's possible that she could have sustained a neck and back strain. These wouldn't have been indicated permanent and she appears to have returned to her preexisting

condition. She had a lot of ongoing neck -- excuse me -- a lot of ongoing back and left lower leg complaints well before the motor vehicle accident. She would have been expected to continue to have those. Those wouldn't have anything to do with the motor vehicle accident. She may have cracked a rib. It was a little uncertain on the x-ray whether that was a real rib fracture or just an artefact, but it may have been, but it went on to heal and it wouldn't be a permanent problem.

In regards to the left knee, by history only, she may have had a symptomatic aggravation of the preexisting degenerative disease which was clearly present at the time of the motor vehicle accident. Again, this is just based on her history.

Q. Now, doctor, what about the arachnoiditis that you talked about earlier, was that involved in this at all?

A. The arachnoiditis was present before the motor vehicle accident and wouldn't be expected to be changed by a motor vehicle accident. This was something to be present before it would be expected to continue on as it was before.

Q. All right. Now, doctor, based upon the history that was given to you by Irene Stover, your review of the records or your examination of her, in your knowledge as an orthopedic surgeon, do you have an opinion based upon a reasonable degree of medical certainty whether Irene Stover at the time of your examination had any permanent or residual condition or injury that can be directly related to the automobile accident of December the 2nd of 1995.

First of all, do you have an opinion?

A. Yes.

Q. And what is that opinion, sir?

A. It's my opinion that she did not have any permanent injuries as a result of that motor vehicle accident.

Q. With respect to the first arthroscopic surgery of March 25th of 1996, do you have an opinion based upon a reasonable degree of medical certainty as to whether that surgery was in any way related to the motor vehicle accident of December the 2nd of 1995.

First of all, do you have an opinion?

A. Yes.

Q. And what is your opinion, sir?

A. Well, it's my opinion that that orthoscopic surgery was performed to address the underlying long-standing degenerative and pseudogout condition that was going on in the left knee. I don't think that was directly casually related to the accident, and I think that she would have subsequent undergone that type of surgery regardless of the motor vehicle accident.

Q. Same question with respect to that subsequent surgery performed I believe in November of 1997?

A. well, it would essentially be the same answer because I think that both surgeries, including the second surgery, addressed the underlying degenerative and pseudogout condition. And this is just a continuation of a natural deterioration of those processes, and that's what. the point of the surgery was and that's what was dealt with intraoperatively and she would have required those procedures irregardless of the motor accident.

Q. Then, doctor, then based upon the history given to you by Irene Stover, based upon the examination you conducted, the records you reviewed, the x-rays, the MRI's that you reviewed, do you have an opinion based upon a

reasonable degree of medical certainty whether or not Irene Stover will in fact or does in fact need a knee replacement?

A. Yes, I have an opinion.

Q. And what is that opinion, sir?

A. Based on my evaluation I don't think she is a candidate for knee replacement surgery very soon. She wouldn't need one as of the evaluation I made of her. It is possible that with the natural deterioration of the underlying degenerative process that she could require knee replacement in both knees in the future, but that's uncertain at this point.

Q. If in fact she does require a knee replacement in one or both knees, within a reasonable degree of medical certainty, would that in fact in anyway be related to the motor vehicle accident of December the 2nd of 1995?

A. No.

MR. JEPPE: Thank you. I have nothing further at this time.

THE WITNESS: You're welcome.

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CROSS-EXAMINATION OF TIMOTHY L. GORDON, M.D.

BY MR. MIRALDI:

Q. Doctor, I would like to just review what you've got in your file before we get started, so if we just go off the record for just a minute.

A. Sure.

VIDEO TECHNICIAN: We are off the record.

- - - -

(Thereupon, a discussion was had off the record.)

- - - -

VIDEO TECHNICIAN: We are on the record.

Q. Doctor, you would agree with me that the defense attorney arranged the single appointment with Irene Stover with you?

A. Yes.

Q. That you did one examination, reviewed records and reported directly to defense attorney?

A. Well, I reported to the individual who asked me to perform the examination. I wrote the report to them.

Q. Okay. And then the defense attorney would have paid you for your time in preparing,the report

and for your time today?
A. Well, I expect to be paid for my time and expertise o'f whoever asks for an evaluation,.
Q. Okay. You would agree with me that Irene Stover's treating doctors did not seek your involvement in this case?
A. No.
Q. And you would agree that you were not appointed by the court as an independent medical examiner?
A. I am not sure what you mean by appointed by the court. I was asked to perform an independent medical exam by I think it was Mr. Margolis at the time.
Q. Okay. As part of your practice you examined people involved claims for the defense attorneys, do you not?
A. 1 have.
Q. And these people then are not your patients?
A. No. They can't be.
Q. Okay. The vast majority of these examinations are done for the party defending the claim, such as the law firm in this case, perhaps an employer in a workers' compensation matter.
A. I am not sure that's an accurate statement.
Q. How many defense examinations do you do per

week?

A. I perform independent medical evaluations. I've done them for plaintiffs, I've done them far defense, I've done them at the request of the industrial commission, either at the request of an employer or employee. It's just as an independent evaluator. I am not really sure how many I do in a course of a week.

Q. Do you have any type of average, whether it's two or five or ten?

A. I don't really keep track of them to give you an average.

Q. Would you say that 25 percent of your practice is devoted to these types of examinations or is that too high?

A. I don't know.

Q. Well, doctor, your deposition was taken in another case in which the attorney who had asked you to evaluate the client, that was the case of Anthony Yakovella versus Kenneth Goldsten, and that question was posed to you by a Richard McDonald.

And the question was, in terms of the work that you do related to what I will call a medical legal type affairs, what percentage of

your time do you spend doing that.

And the answer was, oh I would suppose approximately 25 percent or so.

Was that -- does that refresh your recollection?

A. How long ago was that?

Q. That was on May 9th of 1996?

A. So two years ago I said maybe I suppose it mig be an estimation. I am not sure that's accurate. If I said that then that was a supposed estimated at that point in time.

Q. Do you have any record of how many examinatior you've done for this law firm of Meyers, Hentemann, Schneider & Rea?

A. No.

Q. Have you done examinations for them in the past?

A. I may have. I am not sure how many.

Q. Now, you're probably aware that I did issue a subpoena to Highland Musculoskeletal Associates to obtain records to determine how many examinations you did per year.

Are you aware of that?

a. It sounds vaguely familiar.

Q. Are you aware that Judge McGough issued an order for certain records to be produced by Highland

Musculoskeletal Associates?

A. As I recall, our corporate attorney responded to that and 1 will defer to that.

Q. I am just going to hand that to you. I'll give you a moment just to review it.

A. All right.

Q. Were you aware that the judge had asked that any and all 1099 tax forms for 1995, '96 and '97 be provided as well as all the cases in which you have testified in the courtroom or by deposition since January of 1 of '95 and your billing for the defense medical of Irene Stover.

Were you aware that that was part of the court order?

A. I don't recall specifically what was asked for. To my understanding, our corporate attorney would have responded to that and I'll defer to that.

MR. JEPPE: It's my understand the corporate attorney did respond to that in writing. I got a copy of the letter that was sent to opposing counsel. Other than that, I have no idea what he supplied your office.

Q. Would it surprise you that no documents or

records or lists have been provided to me by your corporate attorney?

A Again, the corporate attorney responded to that and I'll defer to that response. I am not the corporate attorney.

Q Okay. Would it surprise you that all of the requested documents are allegedly not available because they have been destroyed?

A Again, the corporate attorney responded to your request, I'll defer to that.

Q Okay. Do you agree that Irene Stover sustained some injuries from the automobile accident December 2nd of 1995?

A Well, I've already told you that I am relying on her history in that the story she chooses to tell us. And I've already rendered opinions based on that.

Q All right. And it would appear to me that you do agree that she sustained a cervical strain based on history?

A. She could have based on her history.

Q. A lumbar strain?

A. It's possible based on her history.

Q. Contusion to her chest?

A. Yes, based on her history.

Q. Possibly a nondisplaced rib fracture, but that's not conclusive?
A. Correct.
Q. Temporary symptomatic aggravation *of* her underlying low back condition?
A. Based on her history only. There is no indication of any permanent changes there.
Q. And symptomatic aggravation of the underlying condition in her left knee?
A. As I've already indicated, that's based solely on her history. There is no indication there was any significant structural alteration of the underlying condition.
Q. Now you had the opportunity to review records; *is* there -- you would agree with me that Mrs. Stover was never treated for any problems to her left knee before the auto accident of December 2nd of 1995?
A. I am not sure I can answer that. E don't know if she never was.
Q. But you're not aware that she was?
A. I am not aware 'that she was **by** her history.
Q. Okay. Have you reviewed records of Dr. George Adams a prior primary care physician for Mrs. Stover?

A. I'm not sure if I reviewed those specifically myself.
Q. They are not in 'front of you and you don't.have any record from your report of reviewing those?
A. There are numerous doctors that are listed as her care providers that weren't made available to me including I would assume that one also.
Q. All right. And a Dr. Robert Evans, did you ever review his records as a primary care physician for Mrs. Stover?
A. I don't believe so.
Q. In terms of Dr. Lindstruth's records, did you have records that predated the auto accident?
A. I don't believe so.
Q. Would you like to have reviewed those records?
A. If they are available I'll review them. The patient also gave me a history, but in addition there is also indicated in the medical records that a Dr. Gray was one of her treating doctors at the time of the accident. There are no records available from Dr. Gray either.
Q. Dr. Gray and Dr. Lindstruth were partners at the time of the accident so that--
A. Okay.
Q. -- Dr. Lindstruth and Dr. Gray's records are

synonymous,
A. All right.
Q. But based on what you've testified to, we can agree that you certainly were provided no records to show that she had any prior treatment for her left knee?
A. That's correct.
Q. Or her right knee?
A. That's correct.
Q. Would you agree with me that not all symptoms are evident on the date of an accident?
A. Depends.
MR. JEPPE: Objection, The generality of the question. Go ahead.
A. Depends on what symptoms you're asking about. From what kind of process, you know, you need 'be to more specific.
Q. Well, it's not unusual for neck or back complaints to develop a day or two after the accident or several days?
A. It's not been my experience.
Q. That's not your experience.
Are you saying you have knowledge of that never happening?
A. Well, once again we are coming into something

that is a history. People can report whatever they care to report. History given if someone wants to tell me they have a red car, I don't know if they do or don't have a red car. It's a part of history. We can write it down if they want us to.

The issue is is that when people have soft tissue strains, you know, they may have some awareness of if they got neck strain. The may have some awareness of a neck strain the day of the injury, maybe worse the next day, but usually there is some awareness that there is something going on there the day of.

I think what we are talking about here is this knee injury that she says she hit her knee on the dashboard the day of and that it was hurting her right away. That's what she told me. Well, that's not what the emergency room records indicate. They evaluated the lower extremities and there is nothing there, so that doesn't go along with the history, so when the records and the histories don't go together then that certainly raises questions as to, you know, the suggestion of the history.

Q. I think my question was whether all symptoms are

evident on the day of the accident and you took that opportunity to talk about --

A. I am trying to be specific, because I already asked you, we need to be specific, so I tried to be specific.

Q. All right. And in terms of Mrs. Stover you're talking about the emergency room and your review of those records. You saw the ambulance run report, did you not, that said that the seat belt did not hold her?

A. Yes. I have that here in front of me.

Q. And that she in fact indicated that her chest hit the dashboard, did she not?

A. Apparently.

Q. And the knee is also close to the dashboard, is it not, in most cars?

A. I think it depends on the car, and if you want to think about biomechanics the back can flex forward and you can probably hit your chest before you hit your knee on the dash. I mean that can happen, too, so I am not sure that's very helpful.

Q. Well, and also the knee is usually closer to the dashboard than the chest, is it not?

A. Again, I think it depends on what vehicle you're

talking about, how you're sitting. I mean all kinds of factors come in. Clearly in this record there is no indication of any complaints regarding the knee or hitting her knee on the dashboard. That's not there.

Q. Now, doctor, she -- we agree that she did not report any injury to her knee? At least it's not reflected in the emergency room record that she reported any injury to her knee.

We agree on that?

A. Well, I think I've already told you that they evaluated her lower extremities and they were noted to be normal. They looked at her legs.

Q. Your answer is yes?

A. My answer is what I am telling you, is that they evaluated the lower extremities, they were indicated to be normal and have full range of motion. There is no indication of knee injury on the evaluation of the emergency room.

Q. Doctor, if the patient does not report a knee injury, are they are going to have an extensive examination of the lower extremity or is it going to be a very superficial?

A. I guess you're not getting my point. Is that the way doctors are trained to evaluate

individuals is that you listen to their complaints and evaluate based on their complaints plus other evaluations.

They looked at her legs. Had she had a significant enough injury to the knee to cause a problem, certainly, it would have been evident at that time. That's been my experience with my own patients that have injuries to the knee of this type. This doesn't make any senge. There is no indication of any knee injury in the emergency room. The area was evaluated and it was indicated to be normal. That's what the record says.

MR. MIRALDI: Could you read back my question, please.

- - - -

(Thereupon, the requested portion of the record was read by the Notary.)

- - - -

Q. Doctor, I don't believe you responded to that question.

A. I did respond to the question. I am trying to explain to you how things work in emergency rooms. There is no indication that this was a superficial evaluation. Her lower extremities

were evaluated not only the admitting nurse, but also the evaluating physician, so that's not a superficial examination. That's rather thorough actually.

Q. Were you present at the emergency room to know that it was a thorough examination of her lower extremity?

A. Of course I wasn't present. I am relying on the medical records which are clearly docymented here, and both the nurse and the doctor evaluated both the lower extremities and note that.

Q. Doctor, do you agree that Mrs. Stover told the nurse that Dr. Lindstruth's office two days after the accident that she had injured her knees in the accident?

A. There is reference to the knees in the subsequent. I already noted that.

Q. All right. And did it also indicate a contusion of the knees? Is that in the nurse's notes?

A. That reference is made.

Q. And, in fact, ten days after the accident Dr. Lindstruth ordered x-rays of the left knee?

A. That's correct.

Q. Is it fair to assume that her complaints were

predominantly to the left knee if that's where the x-rays were ordered?

A. I am not sure of that. You have to ask Dr. Lindstruth. Clearly the records indicate knees.

Q. Will you agree with me in terms of the emergency room treatment it was predominantly for her neck back and chest. These were the areas in which she made complaint.

A. We have already gone over those the areas she made complaint to.

Q. So you do agree with me on that?

A. I am not sure what you're asking me. I mean we have already gone over what she complained of, what she didn't complain of, what was evaluated. There is no indication of any knee injury or knee complaints in the emergency room record despite the area being evaluated.

Q. Doctor, regardless of causation, do you agree that Mrs. Stover needed the first orthoscopic surgery on her left knee?

A. Okay. You mean irrespective of what it would be related to?

Q. Yes,

A. It was reasonable medical treatment.

Q. It was appropriate treatment for her situation?
A. Reasonable, certainly.
Q. Do you also agree that her second surgery was appropriate and reasonable medical treatment?
A. Again, we are not talking about occasion?
Q. That's correct. causation
A. Okay. That's fine. It was reasonable.
Q. Doctor, when you completed your examination of Mrs. Stover back in August of '97, did you believe that she would need further treatment on her left knee after you conducted your examination?
A. Let me look back in the report.

I note in my report and after reviewing it and what I've testified to already is I think she had arthritis in her left knee at the time I evaluated her. I noted in the report that as we already talked about arthritis can get worse and it could require future surgical intervention.
Q. You didn't put that in your report that she would need future surgery, but you would believe that it would be reasonable if that occurred?
A. Well, I note that as we understand about arthritic conditions is they don't get better unfortunately, but they can progress and with

that in mind, it's possible she could require further surgical intervention. I already said that.

Q. Now, you said in direct exam that she is a candidate for knee replacement surgery.

A. Possibly. Possibly. Not at this point in time.

Q. Now, doctor, when you conducted your examination that was after Dr. Wright had done his arthroscopy, but before Dr. Nemeth had done his arthroscopic examination; is that correct?

A. That is true.

Q. Wouldn't you agree that Dr. Nemeth is in a better position to determine whether Mrs. Stover needs a knee replacement than you?

A. I don't agree with that. I've had the opportunity to review his reports, his findings what he found at the time of arthroscopy. I wouldn't think that she would need a knee replacement now. It's possible she could need one in the future. We've already discussed that.

Q. Now do you do that surgery yourself, knee replacement?

A. Yes.

Q. What normally is a surgeon's fee for that?

A. Depends. It varies from surgeon to surgeon.
Q. What is your charge?
A. Oh, it could be anywhere from $5,000 to more depending on what is all involved.
Q. In the length of disability after a person has a knee replacement, how long are they -- have limitations normally from that type of surgery?
A. Oh usually there is six week or so period of therapy. Most people do pretty well after that period of time and are up and around quite well.
Q. Mow long is the physical therapy?
A. It depends from person to person. Some people don't need much physical therapy. Some people need more. It depends.
Q. Doctor, 1 believe I heard you on direct exam say that Mrs. -- well, let me back up.

Do all persons with arthritic changes in their knee require surgery?

A. No.
Q. Do all people with arthritic changes in their knee have symptoms?
A. Depends. Symptoms are very subjective issue, so one person's symptoms may be nothing to someone else. That's a very difficult question to answer. It's a subjective issue,

Q. There are people though that have degenerative changes in their knee and have no pain?
A. Well, I've already tried to answer that question for you. That issue of pain and symptoms is a purely subjective issue, What one individual might think are horrible symptoms another individual might report I don't have any problems, so that's subjective.
Q. And someone may not have any problems?
A. Well, subjective report of complaints, it depends. It's subjective. I am trying to explain that.
Q. Now, you're saying that Mrs. Stover would have had the knee surgery regardless of the accident?
a. Yes. That's based on what was found actually in the knee at the time of the surgery, plus what we know was found in diagnostic studies right after the surgery. I would render that opinion, yes.
Q. She certainly did not need the surgery as long as the left knee was not painful, did she?
a. Well, again, that's subjective. She apparently reported that she was having some complaints regarding the left knee.
a. But certainly during the period of time where

she was, where she had not reported any complaints of pain to any physician she was not a candidate for surgery, she did not need immediate surgery on her knee when she was not making complaints?

A. Your question is -- you seem to be asking a number of questions in a question.

Q. Yes, let me repeat it then.

A. Would you please.

Q. Let me repeat it.

A. Okay.

Q. Mrs. Stover did not need surgery on her left knee during the period of time when she was not reporting any complaints of pain to her left knee?

A. Well, once again, we are getting into this issue of reporting symptoms and, you know, do you have all the medical records that are available from everywhere. That is a subjective issue again. She had the surgery for degenerative problems. That's what was found at the time of the surgery. And that's what was treated. Clearly that was there before the motor vehicle accident.

Q. Well then, are you saying she needed surgery

before the motor vehicle accident?

A. She may have. I have not had a chance to look at all the records from before. She may have. Based on her history she says she didn't have any symptoms in her knee. That's based on her history.

Q. Doctor, can trauma accelerate or make worse arthritic conditions in the knee?

A. Anything is possible. You have to look at each specific situation individually to access that.

Q. Was Mrs. Stover more suspectable to traumatic injury in her left knee because of the underlying degenerative condition?

A. It's too general of a question to answer. In other words, we know she had degenerative changes in her knee at the time of motor vehicle accident. And there is a significant question in our minds as did she even have an injury of the left knee at the time of time of the motor vehicle accident based on the records. So to say she's more susceptible, she already had degenerative changes. Based on what I found on the records at the time of the initial arthroscopy, all of those findings would have been expected to be there for some time and

preexist the motor vehicle accident in question.

Q. I am not sure that you answered my question.

Was she more suspectable to injury or not in her knee because of the --

A. There is no indication based on the records we have that she was. The findings that were noted and documented at the time of the surgery and also x-rays we have gone over, all those are consistent with degenerative and pseudogout conditions that were there before this motor vehicle accident. There is no indication they changed. They didn't have any acute appearance to them or new kind of appearance, so that doesn't go along with any new changes.

Q. So you disagree with Dr. Wright who in his report that you've reviewed indicated that he believed the meniscal tear was probably related to the automobile accident.

Do you agree or disagree with that?

A. I would disagree with that based on the extensive degenerative changes noted at the site of the meniscal tear that went all the way through the meniscus, with all those findings, those are classic. They are long-standing degenerative changes. I see them all the time

in my own practice.

Q. So you disagree with him. That's fine.

And you also disagree with Dr. Nemeth in terms of his opinion that the second arthroscopy was necessitated because of the injuries in the accident?

A. It's my opinion that all of the surgeries were the result of a continuation, a natural deterioration of the underlying degenerative and pseudogout condition of the knee. Mot as a result of the motor vehicle accident.

Q. Doctor, did Mrs. Stover ever cry out in pain during your examination of her?

A. I am not sure what you mean by cry out in pain.

Q. Well, make an audible sign, sound that would reflect that she was in pain?

A. You know, I don't recall specifically noises that were made during the examination.

Q. Now, you've testified that she had degenerative conditions in her hands. Is there a need for surgery on her hands?

A. She may require it in the future. The reason 1 brought up the degenerative changes in the hands, it goes along with the degenerative changes we know about in her neck, her spine,

her knees, her hands. Those are all physical exam findings that we commonly see in people who have arthritis. It just goes along with that.

Q. Now; you've reviewed Dr. George Doctor's the, neurosurgeon's records, where he has testified -- or he has stated that there is aggravation of chronic lumbar arachnoiditis probably resulting from the accident.

Do you agree or disagree with that?

A. Well, I think that is only by history. That that's a symptomatic kind *of* report. Clearly she had ongoing problems with her back well before that. That's well documented in those records, too, and that based on my evaluation' and what she complained of and my exam, she looks as though she returned to her preexisting state in that regards.

Q. So you disagree with Dr. Doctors?

A. I already told you she may have had a temporary symptomatic aggravation *of* the back condition, but it's not permanent. It's gotten better.

Q. Well, I am specifically referring to aggravation ***of*** arachnoiditis, lumbar arachnoiditis. I take it from your answer that you disagree with Dr. George Doctors that she had an aggravation

of that condition?
A. Based on the history, that's what he is apparently going on. It doesn't make sense to me that you would aggravate a postsurgical condition. without further surgery in that specific case, so I would not agree with that.
Q. All right. That's all I am looking for, agreement or disagreement.

Do you agree with him that she sustained an acceleration/deceleration soft issue injury of the cervical spine.

MR. JEPPE: At this point, is Dr. Doctors going to be called as a witness in the case?

MR. MIRALDI: Not that I'm aware of.

MR. JEPPE: I'll object to any questions with regards to Dr. Doctors.

You may answer, if you know.

A. Go ahead. I am sorry. Could you repeat that?
Q. Do you agree or disagree with his finding in the record that you reviewed that she sustained an acceleration/deceleration soft tissue injury of the cervical spine?
A. I think that equates to a neck strain. We have

record.

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(Thereupon, a discussion was had off the record.)

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MR. JEPPE: Doctor, do you waive the signature of the transcript and waive the viewing of the video?

THE WITNESS: Yes. Waive.

MR. JEPPE: Okay.

MR. MIRALDI: Fine with me.

(Signature waived.)

C E R T I F I C A T E

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

I, X. John Revmatas, a Notary Public within and for the State of Ohio, authorized to administer oaths and to take and certify depositions, do hereby certify that the above-named TIMOTHY L. GORDON, M.D. Was by me, before the giving of their deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition as above-set forth was reduced to writing by me by means of stenotypy, and was later transcribed into typewriting under my direction; that this is a true record of the testimony given by the witness, and the reading and signing of the deposition was expressly waived by the witness and by stipulation of counsel; that said deposition was taken at the aforementioned time, date and place, pursuant to notice or stipulation of counsel; and that **I** am not a relative or employee or attorney of any ***of*** the parties, or a relative or employee of such attorney, or financially interested in this action,

IN WITNESS **WHEREOF, I** have hereunto set my hand and seal of office, at Cleveland, Ohio, this 9th day of JULY A.D. 19 98.

X. John Revmatas

X. John Revmatas, Notary Public, State of Ohio
1750 Midland Building, Cleveland, Ohio 44115
My commission expires August 28, 2001

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