

1                   IN THE COURT OF COMMON PLEAS  
2                   OF STARK COUNTY, OHIO

3                   - - - - -

4       ROBERT DENNISON, et al.,

5               Plaintiffs,

6                       vs

Case No. 2000CV01587

7       ERIC VOIERS, dba

VOIERS CONSTRUCTION, INC.,

8       et al.,

9               Defendants.

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11       VIDEOTAPED DEPOSITION OF TIMOTHY L. GORDON, M.D.

12                       MONDAY AUGUST 27, 2001

13                       - - - - -

14               Videotaped deposition of TIMOTHY L. GORDON,  
15       M.D., a Witness herein, called by counsel on  
16       behalf of the Defendant for examination under  
17       the statute, taken before me, Vivian L. Gordon,  
18       a Registered Diplomate Reporter and Notary  
19       Public in and for the State of Ohio, pursuant to  
20       agreement of counsel, at the offices of Highland  
21       Musculoskeletal Associates, 850 Brainard,  
22       Highland Heights, Ohio, commencing at 11:45 p.m.  
23       on the day and date above set forth.

24

25

1 APPEARANCES:

2 On behalf of the Plaintiff

3 Stergios & Kurtzman Co., LPA

4 J. FRED STERGIOS, ESQ.

5 2859 Aaronwood Avenue NE

6 Massillon, Ohio 44646-2389

7 330-832-9878

8

9 On behalf of the Defendant Voiers

10 Howes, Daane, Milligan, Kyhos & Erwin LLP

11 WAYNE C. KYHOS, ESQ.

12 200 Charter One Bank Building

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16

17 On behalf of the Defendant Bradshaw

18 Staff Counsel, of Cincinnati Insurance Co.

19 PATRICK C. CORRIGAN, ESQ.

20 76 S. Main Street

21 Akron, Ohio 44308

22 330-376-1600

23

24 ALSO PRESENT:

25 Scott Morrison, videographer

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2

(Thereupon, DEFENDANT'S Deposition  
Exhibits A thru D were marked for  
purposes of identification.)

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6

MR. CORRIGAN: Do we have a waiver of  
a any defect in the notice of this deposition?

8

MR. STERGLOS: Sure,

9

- - - - -

10

TIMOTHY L. GORDON, M.D., a witness herein,  
11 called for examination, as provided by the Ohio  
12 Rules of Civil Procedure, being by me first duly  
13 sworn, as hereinafter certified, was deposed and  
14 said as follows:

15

EXAMINATION OF TIMOTHY L. GORDON, M.D.

16

BY MR. CORRIGAN:

17

Q. Good morning, doctor. Would you  
18 please introduce yourself to the jury.

19

A. Timothy L. Gordon, M.D.

20

Q. Will you tell us about your medical  
21 training, including your specialty and any  
22 schools attended.

23

A. Yes. I did my medical school  
24 training at the Case Western Reserve University  
25 School of Medicine and then I went on to do my

1 orthopedic surgery residency at the Mt. Sinai  
2 Medical Center.

3 Q. Are you board certified in any  
4 specialty?

5 A. Yes.

6 Q. And what is that?

7 A. Orthopedic surgery.

8 Q. Do you have any hospital privileges  
9 and teaching faculties that you attend to?

10 A. Yes. I have privileges at several  
11 local hospitals, including Hillcrest, Euclid,  
12 Lake, also University Hospital, Bedford, and  
13 Richmond.

14 Q. Okay. Doctor, are you licensed to  
15 practice medicine in the State of Ohio?

16 A. Yes.

17 Q. Okay. Will you please describe for  
18 the jury your practice, particularly with  
19 respect to surgical work and orthopedic work  
20 that you do.

21 A. All right. Orthopedic surgeons are  
22 trained in the surgical and nonsurgical  
23 treatment of musculoskeletal conditions and  
24 injuries. And that would include injuries  
25 involving the spine, the limbs, muscles, joints,



1 nerves, so forth. And orthopedic surgeons do  
2 surgery in those areas, when indicated. Also  
3 treat things nonoperatively, as I said.

4 Q. There came a time when I contacted  
5 you to undertake a medical evaluation of  
6 Mr. Dennison, and would you please tell the jury  
7 what is involved in a medical evaluation,

8 A. All right. What we do is we take a  
9 history and talk to the individual about their  
10 complaints and problems, past history, treatment  
11 they have had, so forth. Then we would examine  
12 them, physically with a physical exam, and then  
13 would review the records that are available and  
14 so forth,

15 Q. In this case, what history did  
16 Mr. Dennison provide to you?

17 A. He indicated to me that at the time I  
18 saw him he was 37-years-old working as a  
19 plumber, and that September 23rd of 1998, he had  
20 been injured at work when he was carrying a  
21 water heater down some steps of a house under  
22 construction. The step collapsed. He fell onto  
23 his buttocks and then landed on a step area that  
24 fell about five feet down the area of the  
25 basement floor; that he had some pain in the

1     buttock area, some bruising in that area and  
2     also some complaints in the tailbone area, had  
3     some other scrapes and abrasions and  
4     subsequently got some treatment with the family  
5     doctor, Dr. Gideon.

6                     He had gone to the emergency room at  
7     some point. He also saw a Dr. Miller at the  
8     Crystal Clinic.

9                     Subsequently he had developed pain  
10    down the right leg. He had an MRI scan, which  
11    initially showed a disk bulge. Then he later  
12    had an MRI scan that showed a disk herniation  
13    and then he had surgery on his low back for the  
14    disk herniation, improved after the surgery, and  
15    had some therapy and so forth.

16                    He reported that at the time I saw  
17    him, he was having some low backaches and the  
18    right area of the buttock also ached. There was  
19    no tingling or numbness or leg complaints and no  
20    tailbone area complaints.

21            Q.     Doctor, you also had at your disposal  
22    some medical records directed from my office;  
23    isn't that correct?

24            A.     Yes.

25                                 - - - - -

1                   (Thereupon, DEFENDANT'S Deposition  
2                   Exhibit E was marked for  
3                   purposes of identification.)

4                   - - - - -

5           Q       I'm going to hand to you a stack of  
6           records, Will you tell us, are those the  
7           complete records provided to you?

8           A       Yes, these are the records that I  
9           reviewed.

10          Q.       Okay. In addition, you reviewed some  
11       x-rays and MRI scans; isn't that correct?

12          A       Yes, that's correct.

13          Q.       Okay. And you undertook a physical  
14       examination; correct?

15          A.       Yes.

16          Q.       Would you explain to the jury what  
17       your physical examination entailed and what your  
18       findings were?

19          A.       When I did the physical exam, the  
20       first thing we do is observe the individual. I  
21       had asked him how tall he was and how much he  
22       weighed. He was 6 foot 4 and he indicated he  
23       weighed 300 pounds.

24                   When I examined him, he was a large,  
25       obese man. He walked independently. His gait

1 without his shoes on -- I had him walk in the  
2 exam room -- was consistent with the left leg  
3 being shorter than the right. When I examined  
4 his leg, I noted that the left leg was a  
5 centimeter and a half shorter than the right  
6 leg. And he indicated that had been the case  
7 since he was a child.

8               There **was** also a mild curvature of  
9 the spine, mild scoliosis, and that would go  
10 along with the leg length discrepancy and would  
11 be a childhood developmental problem that had  
12 been long standing.

13              Then I examined his back, and that,  
14 as indicated, showed the mild scoliosis curve.  
15 He also had a healed lumbar incision where he  
16 had the surgery on his low back.

17              When I palpated the area, he  
18 indicated he had some tenderness, diffusely.  
19 When I palpated the sacrococcygeal area, meaning  
20 the tailbone area down in the buttocks area,  
21 that was relatively, not really tender to exam,  
22 and there was no palpable deformity; in other  
23 words, I couldn't palpate any deformed tailbone,

24              Then I asked him to bend forward, and  
25 he bent forward and put his fingertips down to

1 about mid shin level.

2 And then I examined his Power  
3 extremities. Reflexes were good, strength was  
4 good. He reported a little decreased sensation  
5 of the right lateral calf area, There was no  
6 atrophy or muscle wasting, and the straight leg  
7 raising exam was negative.

8 Q. In addition to that, doctor, did you  
9 find anything significant in the medical records  
10 that were provided to you?

11 A. Yes.

12 Q. Would you please tell us what was  
13 significant in your review of the medical  
14 records?

15 A. All right. What was significant in  
16 the review of the medical records was that on  
17 his initial evaluations, he went to the Akron  
18 City Hospital emergency room the day of the  
19 injury, was evaluated there, had complaints  
20 regarding the tailbone area and some low back  
21 area, subsequently had some x-rays of the low  
22 back, which didn't show any fracture.

23 He did have some complaints in the  
24 coccyx area, the tailbone. He had some x-rays.  
25 They were noted in different occasions to not

1 really be consistent with a fracture of bone;  
2 that he probably disrupted some of the fibrous  
3 attachment of the tailbone at the very end, and  
4 that went on to heal,

5                   So basically he was evaluated also by  
6 Dr. Gideon, who saw him, got some x-rays,  
7 examined, him, and he basically had some therapy.  
8 Noted he had some improvement. He had gone back  
9 to work.

10                   There were then notations in the  
11 records regarding subsequent injuries. One  
12 injury, which he fell off the back of a pickup  
13 truck, or some kind of truck, trying to get a  
14 lawn tractor on up to it; had injuries with  
15 that.

16                   There is other documentations of  
17 acute low back pain after bending and twisting  
18 type of activities and seeking treatment for  
19 those acute changes, and also a report of  
20 daughter stepping on his left foot causing it to  
21 be painful and he couldn't walk on it right and  
22 he thought that hurt his back more.

23                   So there were a number of other  
24 events and series of problems relating to his  
25 low back that were not related to this initial

1 injury.

2 Then he developed pain going down the  
3 right leg about a year after this accident. And  
4 then was found to have a disk herniation on an  
5 MRI scan,

6 Which most important is to realize  
7 that three months after the accident when he  
8 fell on the steps, he had an MRI scan, which did  
9 not show a disk herniation.

10 There was a mild degenerative disk  
11 bulge on that MRI scan. There was no disk  
12 herniation. Then over a year later he had new  
13 symptoms, a new MRI, which did show a disk  
14 herniation, so a whole new process over a year  
a5 later.

16 Q. Doctor, you actually examined the MRI  
17 scans; isn't that correct?

18 A. Yes.

19 Q. Would you be willing to show the jury  
20 the MRI scans and the distinction that you have  
21 just described between the mild degenerative  
22 disk bulge and the subsequent herniation more  
23 than a year after the accident?

24 A. Yes.

25 Q. Please do so.

1                   And we have marked these MRI scans  
2   Exhibits A, B, C and D.

3           A.       So the first scan is the MRI that was  
4   obtained in 1998, December 31st of 1998. And  
5   this is looking at the spine from the side,  
6   This is called a saginal view. And the MRI scan  
7   is cutting the spine down the front to back and  
8   then you are looking at the side views.

9                   And what you see here is that these  
10   are the disk spaces, these are vertebral bony,  
11   vertebral bodies, disk space, disk spaces.

12                  This is the L4-5 disk space and this  
13   is the area of interest in this case; that at  
14   this level you can see that compared to the  
15   level above, the disk is narrowed and it's  
16   blackened, meaning it's degenerative, lost water  
17   content. And then if we look, this is the area  
18   where the nerve roots are, the spinal canal is  
19   back here, and you could see that there is  
20   really nothing sticking posteriorly into the  
21   spinal canal. There is no herniation.

22                  At best this is a minimal bulge.  
23   It's nothing that is herniated into the spinal  
24   canal at this level. This is E4-5 and this is  
25   in December of 1998. So he has some



1 degenerative disk changes which are old and have  
2 been there for a while.

3 This is the saginal view.

4 Q. In other words, doctor, when you say  
5 they were old and had been there for a while,  
6 that is not attributed to the steps collapsing  
7 incident in September of 1998, am I correct in  
8 that understanding?

9 A. That's correct. These would have  
10 been **long** standing degenerative changes which  
11 would have been there for years.

12 So now this is what is called the  
13 axial, cut, and this is taking a cut through the  
14 spine like you were taking a bologna and cutting  
15 it cross-section and looking at the end of it.  
16 You are cutting through the spine and looking at  
17 it on end.

18 So now here is the L4-5 level that's  
19 marked here on the MRI. This is the disk, This  
20 would be where the abdominal contents is. This  
21 is the most posterior aspect of this individual.

22 Here is what is called the dural. sac.  
23 This is where the nerve roots are in the spinal  
24 canal. There is no deformity, it's nice and  
25 round and oval, as it should be, and here is the

1 disk, which is a little bulge, minimally,  
2 nothing exciting. This is part of the  
3 degenerative disk disease. This is not a  
4 traumatic type of finding, something that has  
5 developed over time, and there is no disk  
6 herniation here.

7 So we go to the study that was then  
8 done in March of 2000, and you can see a very  
9 significant difference, So we now come to the  
10 same level, L4, L5. Now look at this disk, You  
11 can see that now the disk is really markedly  
12 herniated back into the spinal canal, This is a  
13 very different looking picture.

14 We can put those up side by side and  
15 take a look at them. So here is the disk  
16 herniation that's present 16 months after the  
17 accident, Here is the MRI scan three months  
18 after the accident, same level, same  
19 orientation, and you see there is no disk  
20 herniation there, This is a pretty benign  
21 looking film. There is nothing happening at the  
22 L4-5 as far as disk herniation, so this is a new  
23 finding.

24 And then we will go to the axial cut.  
25 Now, this is the film 16 months after the

1 accident. He has developed new complaints a  
2 year later, right leg pain. Now we are down at  
3 the L4-5 level again and we have cut through the  
4 spine and we are looking on the end of it.

5 Here is a good size right sided disk  
6 herniation. This disk is herniated posteriorly  
7 into the right side. You can see that the dural  
8 sac here is now pushed down, it's deformed,  
9 This disk herniation is compromising the right  
10 E4-5 neuroforamen, This is very different from  
11 the study before,

12 We Look at that again. Here is the  
13 study that was done three months after the  
14 accident, There is nothing here, No disk  
15 herniation here. This is the area of interest  
16 right here.

17 Notice that the dural sac again is  
18 nice and rounded, there is nothing pushing on it  
19 or deforming it.

20 And we come back to the MRI, which is  
21 16 months after the injury, over a year after  
22 the first MRI, and here is this new disk  
23 herniation, which is very obviously different,  
24 right here.

25 Q. Doctor, there has been testimony in

1 this case from Dr. Miller, who is the back  
2 surgeon for Mr. Dennison, that the MRI  
3 distinction between a disk bulge and a  
4 herniation is really, rather -- really didn't  
5 have any effect in this case.

6 Would you please tell the jury the  
7 difference between the bulge and a herniation?

8 A. All right. Different people  
9 sometimes use different words to describe  
10 findings on an MRI scan regarding bulge and  
11 herniation. I would use the word bulge to  
12 describe something that we saw in that first  
13 study. Minimal bulging, it's not a herniation,  
14 it's something that is often normal,

15 A lot of people without back  
16 complaints on just MRI test studies will have  
17 bulges. They don't have any symptoms from them.

18 A herniation is a very different  
19 thing. As I showed you in the two studies, the  
20 first study showed a disk bulge, which was  
21 barely a prominence into the spinal canal. The  
22 disk herniation was an obvious herniation of the  
23 disk material out into the spinal canal forming  
24 nerve roots.

25 So in this case, regardless of what

1    you want to call it, we looked at the studies.  
2    There are two very different findings. The disk  
3    herniation that was present on the study in  
4    March of 2000 was not present on the study in  
5    December of 1998. This is a new condition that  
6    developed down the road, It was not there after  
7    this accident.

8           Q       Okay.

9           A,       Three months after **this** accident,

10          Q.       All right, Doctor, as a result of  
11    your physical examination, your review of the  
12    records and the application of your training and  
13    expertise as an orthopedic surgeon, were you  
14    able to form any opinions regarding what  
15    injuries Robert Dennison actually sustained as a  
16    result of the September 1998 collapse of the  
17    stairs?

18          A.       Yes.

19          Q.       Would you please state those opinions  
20    within a reasonable degree of medical certainty?

21          A.       All right. It's my opinion that he  
22    sustained a soft tissue strain to the neck and  
23    low back areas; that he sustained a contusion  
24    and sprain to the coccyx, the tailbone area, and  
25    then some contusions, abrasions to various other

1 places of his body that, these I think did occur  
2 as a result of the accident of September 23,  
3 1998; however, they did go on to heal and they  
4 are not permanent injuries, and they  
5 subsequently resolved,

6 Q. Further, doctor, do you have an  
7 opinion within a reasonable degree of medical  
8 certainty whether the chronic pain condition  
9 diagnosed by Dr. Klejka was caused by the  
10 September 23rd, 1998 accident?

11 A. It's my opinion that it was not  
12 caused by that accident.

13 Q. Okay.

14 MR. CORRIGAN: Thank you, doctor. I  
15 have no further questions at this time.

16 THE WITNESS: You're welcome.

17 MR. STERGIOS: Can we go off the  
18 record for just a minute or two?

19 MR. MORRISON: We are off the record.

20 MR. KYWOS: Doctor, I'm attorney  
21 Wayne Kyhos and I'm here today representing one  
22 of the defendants here in this matter, Eric  
23 Voiers, and I have no questions for you at this  
24 time. Thank you, doctor.

25

1                               - - - - -  
2                               (Thereupon, PLAINTIFF'S Deposition  
3                               Exhibit 1 was marked for  
4                               purposes of identification.)  
5                               - - - - -

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

7       BY MR. STERGPOS:

8               Q.           All right, doctor, we have been  
9                               introduced. My name is Fred Stergios and I  
10                              represent Robert Dennison in this case, and I  
11                              have got some questions for you today.

12                             If my questions are confusing in some  
13                             fashion, please tell me, and I'll try to  
14                             eliminate the confusion.

15            A.           All right.

16            Q.           And we will go from there, if that's  
17                             okay with you.

18            A.           Sounds good.

19            Q.           All right. We are at your offices  
20                             today; is that correct? Or at least one of your  
21                             offices at Highland Musculoskeletal Associates?

22            A.           Yes.

23            Q.           And what's the address of this  
24                             particular location?

25            A.           This is 850 Brainard Road.

1 Q. And Cleveland, Ohio, Highland  
2 Heights, Ohio?

3 A. Highland Heights, Ohio, yes.

4 Q. You have another office elsewhere in  
5 this vicinity?

6 A. We have an office at Euclid Hospital  
7 at the office medical building there.

8 Q Is this your primary office?

9 A. Yes.

10 Q. All right. Highland Musculoskeletal.  
11 Associates is a corporation, I take it; is that  
12 right?

13 A. Yes.

14 Q. And who are the stockholders of the  
15 corporation?

16 MR. CORRIGAN: Objection.

17 A The stockholders are myself and  
18 Dr. Corn.

19 Q Just the two of you?

20 A. Yes.

21 Q. Who are the physician employees Of  
22 Highland Musculoskeletal Associates?

23 A. Myself and Dr. Corn,

24 Q. All right. If my notations are  
25 correct, you first saw Mr. Dennison in June of



1 2001; is that correct?

2 A. Yes.

3 Q. With regard -- and then you saw him  
4 with regard to an injury he sustained in  
5 September of 1998 and his subsequent medical  
6 care; is that accurate?

7 A. Yes.

8 Q. Mr. Corrigan stated earlier that he  
9 arranged for you to examine Mr. Dennison in June  
10 last year; is that your memory also?

11 A. Yes.

12 & What did he ask you to do?

13 A. Well, my understanding was he asked  
14 me to form an independent medical exam.

15 Q. Okay. Did he ask you to review those  
16 records about four inches thick there in front  
17 of the desk in front of you?

18 A. Yes, he asked me to evaluate this  
19 individual, review the records he made  
20 available.

21 Q. So you reviewed the records. I think  
22 you testified that you examined Mr. Dennison?

23 A. Yes.

24 Q. You obtained a history from  
25 Mr. Dennison?

1           A.     Right.

2           Q.     And then you sent Mr. Corrigan a  
3     written report; is that accurate?

4           A.     Yes.

5           Q.     What's the date of your report, if  
6     you have that available to you?

7           A.     It's June 25th, 2001.

8           Q     Now, I assume, doctor, that -- and  
9     you tell me if I'm wrong -- that before you sent  
10    that report to Mr. Corrigan, you signed it and  
11    read it carefully?

12          A.     I don't proofread these reports. I  
13    dictate them and then sign them, so there may be  
14    typographic errors in the report.

15          Q.     I suppose if you don't proofread  
16    them, there could be factual errors in there, as  
17    well. Is that possible?

18          A.     Not that I know of.

19          Q.     Well, did you proofread it or not,  
20    this particular one?

21          A.     I usually review them to some extent,  
22    but again, I don't proofread them. I don't  
23    proofread them for every word. I dictated them,  
24    so I was there when I dictated, obviously  
25    thinking about it.

1           Q.     You testified a little earlier that  
2     when Mr. Dennison fell back in September of 1998  
3     and went to the emergency room and so forth and  
4     so on, he had complaints about his coccyx or  
5     tailbone area --

6           A.     Yes.

7           Q.     -- is that right?

8           A.     Yes.

9           Q.     And I don't recall what you said, but  
18    your testimony indicated that the records did  
1%    not show a fractured coccyx; is that -- is my  
12    memory right or did I misunderstand what you  
13    said?

14          A     Well, I think the issue, if we look  
15    through what the records did show, that they  
16    don't show a fracture of bone, and that's what I  
17    said earlier.

18                 What I was referring to is that in  
19    the coccyx, the coccyx is a series of bony  
20    segments that are connected by fibrous  
21    connections, And that he didn't fracture bone;  
22    he disrupted one of the fiber segments that  
23    connect the two sections of bone together. And  
24    that's what I indicated and that's what the  
25    records would indicate.

a Q. Let me ask you to look at page three  
2 of your report there that you have in front of  
3 you.

4 At the end of the -- in the last line  
5 of the very first paragraph, there is a sentence  
6 that begins there with the word impression.  
7 What does that sentence say?

8 A. This is an impression from the  
9 emergency room.

10 Q. What does it say?

a1 A. And the impression was fractured  
12 coccyx, multiple abrasions,

13 Q And was that impression done by the  
14 emergency room contained in the emergency room  
15 records?

16 A. Yes.

17 Q. How about further down in the next  
18 paragraph, next to last line, the first word,  
99 what does that say?

20 A. This is a note from Dr. Gideon, and  
21 I'm just noting that there was a diagnosis  
22 regarding the emergency room --

23 Q. Just read the words,

24 A -- of a coccygeal fracture,  
25 I am just explaining the content. It

1     says coccygeal fracture.

2           Q       It says diagnosed with coccygeal  
3     fracture; is that right?

4           A.       Yes, that is correct,

5           Q.       Further up in the first paragraph,  
6     there is an indication at the emergency room  
7     that Mr. Dennison had excruciating soreness in  
8     his low back. Is that accurate?

9           A.       Yes.

10          Q.       Is the coccyx or tailbone fairly easy  
11     to fracture, or would you have to have a  
12     significant impact to create such a fracture?

13          A.       Well, first I think we need to define  
14     what we are talking about. The word fracture  
15     sometimes gets used in coccygeal injuries, when  
16     there is really not a bony fracture. And that's  
17     what I was trying to explain.

18                   He subsequently saw Dr. Brauer.

19          Q.       Let's back up a minute, doctor.

20          A.       Okay.

21          Q.       We just read, or you just read from  
22     your report two different instances where two  
23     different people looking at x-rays diagnosed a  
24     coccygeal fracture.

25                   Are you telling us they were

a     inaccurate or accurate?

2                   MR. CORRIGAN:  Objection,

3                   MR. KYWOS:  Objection,  The doctor  
4     was attempting to explain, I think, counsel,  
5     exactly what you are getting at, and I think if  
6     you allow him to continue that explanation, the  
7     jury will, then have an understanding as to what  
8     the doctor is looking at and what his opinion  
9     is.

10            Q.     Let's try it a different way, doctor.  
11                   Did you review the actual x-rays,  
12     films, with regard to that coccyx issue,  
13     tailbone issue?

14            A.     Yes, there were x-rays available that  
15     I did review from around that time that did  
16     include the coccyx, and there is not a bony  
17     fracture present.

18            Q.     Do you have those with you today?  
19     You have other x-rays and MRI reports.

20            A.     Yes.  Me can look at those if you  
21     would like.

22            Q.     I just asked if you have them,

23            A.     I have them, yes.

24            Q     Okay.

25                   You also testified something about

1 Mr. Dennison was involved in a fall and a lawn  
2 mower and so forth.

3 A. Yes.

4 Q Does your report contain information  
5 about that?

6 A. Yes.

7 Q. Was there anything in your report or  
8 in the records you looked at with regard to that  
9 lawn mower incident that indicated that  
10 Mr. Dennison's back was in any way involved?

11 A. The records, what they indicate is  
12 that right before he was -- let's see, the  
13 accident on the lawn mower was around April of  
14 '99. That he was seen by Dr. Brauer in January  
15 of '99, and Dr. Brauer notes that he has some  
16 degenerative disk changes at L4-5, but no **disk**  
17 herniation, and states his real source of pain  
18 is his coccyx.

19 Q Let's go back to what the question  
20 was.

21 A. Well, I am trying to explain, because  
22 you are asking me kind of an open question,

23 Q The question was related to the lawn  
24 mower incident on April 19, 1999. And if it  
25 helps, you can refer to your report there on

1 page five.

2 A. Sure.

3 Q About the paragraph in the middle of  
4 the page.

5 A. Right.

6 Q. Riding lawn mower.

7 What were his complaints noted at the  
8 emergency room with regard to that incident?

9 a. Well, what the record indicates is  
10 that he had fallen off the back of the truck  
11 while on a lawn mower and that he had a  
12 transient loss of consciousness, he had  
13 complaints regarding the left arm, left  
14 shoulder, left rib cage, left hip, left knee.

15 He reported at that time that there  
16 was no acute change in the low back pain at the  
17 time of that new fall. And then subsequently  
18 the records indicate he had more low back  
19 complaints.

20 Q. All right. Thank you, doctor.

21 Now, I think you testified a little  
22 earlier you had a five-year residency program as  
23 part of your, let's say, postgraduate medical  
24 training?

25 A. Yes.



1 Q And I think you said that was in the  
2 Cleveland area here?

3 A. Yes.

4 Q. Did you have any additional formal  
5 training after the completion of that residency  
6 program?

7 a. No.

8 Q. You also testified, I think -- and  
9 you know, I didn't write all this down, so if I  
10 say something wrong, you tell me -- that you had  
11 privileges at a number of local hospitals here?

12 a. Yes.

13 Q. Hillcrest Hospital, for example,  
14 that's not too far from here, is it?

15 A. No. It's close by.

16 Q. Do you have admitting privileges at  
17 Hillcrest Hospital?

18 A. Yes.

19 Q. Do you have privileges to perform  
20 spinal surgery there?

21 A. I don't perform spinal surgery, I  
22 have been trained to do that.

23 Q. Okay. So you don't do spinal surgery  
24 any place?

25 A. No. But I treat people with disk

1 herniations and spinal problems. A lot of them  
2 don't need surgery, fortunately.

3 Q. All right,  
4 Do you do any surgery at Hillcrest  
5 Hospital?

6 A. Sure.

7 Q. Okay. University Hospital?

8 A. Yes. At the facilities I mentioned.

9 Q. You have admitting privileges there  
10 also?

11 A. And surgical, privileges, yes.

12 Q. What percent of your annual income,  
13 doctor, would you say, or your annual billings  
14 for professional services, let's call it, come  
15 from actual patient care?

16 MR. CORRIGAN: Objection.

17 A. I don't know the percentage.

18 Q. Did you ever discuss Mr. Dennison's  
19 case with Dr. Gideon, who was his primary care  
20 physician?

21 A. No.

22 Q. Did you ever discuss it with  
23 Dr. Miller, who performed the surgery on  
24 Mr. Dennison?

25 A. No.

a Q. Did you ever see Mr. Dennison before  
2 or after June 22nd of 2001?

3 A. No

4 Q. How long did your exam take, doctor?

5 A. I don't know exactly how long it  
6 took. I didn't keep track of it.

7 Q. You talked to him?

8 A. Yes

9 Q. And you examined him?

10 A. I took a history and physically  
11 examined him, and then I would have reviewed  
12 records and the numerous studies that we already  
13 talked about.

14 Q. Okay. Forgetting the review of the  
15 records, your time spent talking to and  
16 examining Mr. Dennison, can you estimate for the  
17 jury approximately how long that took?

18 A. I don't know how long the history  
19 took. It was a thorough history of what was  
20 going on with him and past history and so forth.

21 We talked about more history than we  
22 just did in the overview.

23 Q. You are not able to tell us  
24 approximately how long that took?

25 A. I told you I did not keep track of

1 it. It would have been more than ten minutes.

2 It wouldn't have been an hour. It would have  
3 been somewhere --

4 Q. Somewhere between ten minutes and an  
5 hour?

6 A. Sure, the history and then the exam.

7 Q. Now, those records there that you  
8 reviewed, I don't know what's in them. There is  
9 quite a few records there.

10 A. Uh-huh.

11 Q And you obtained an oral history from  
12 Mr. Dennison?

13 A Yes.

14 Q. Was there anything in those records  
15 or in your history that you obtained from  
16 Mr. Dennison that indicated that he had a low  
17 back injury of any kind before September of  
18 1998?

19 A. I don't recall that there were any  
20 records available from before this incident.

21 Q. And apparently you didn't see any  
22 records that he had any symptoms of a low back  
23 injury before September of 1998 either; is that  
24 accurate?

25 A. Well, I think what I am trying to

1 tell you is, is that I don't think there were  
2 any records available from before.

3 Q. Did you ask him about it?

4 A. I did ask him in the history and he  
5 said he had not had prior problem with low back.

6 Q. Okay.

7 Doctor, if your report to  
8 Mr. Corrigan indicates that Mr. Dennison was  
9 involved in an automobile accident, was there  
10 anything about an automobile accident in this  
11 case?

12 A. I think that could be a typographic  
13 error.

14 Q. Did you find that kind of a reference  
15 in your report there that you are looking at?

16 A. Again, you may be referencing a  
17 proofreading issue. I didn't proofread it.

18 If there is a reference to that, it  
19 may have just been a typographical error,

20 Q. Well, my report that Mr. Corrigan  
21 furnished me -- let's look at that one and you  
22 can compare it to your own.

23 And when I say he furnished it to me,  
24 he furnished it to my office. And I assume  
25 that's the same as the one you have before you

1     there.

2                   On page eight, refers to a motor  
3     vehicle accident.

4                   MR. CORRIGAN: Objection. This has  
5     already been explained, Mr. Stergios.

6           Q.     Was Bob involved in some motor  
7     vehicle accident that E don't know about?

8           A.     Which line are you referring to, sir?

9           Q.     Well, actually it's the last  
10    paragraph at the bottom of page eight, right in  
11    the first sentence, I would say.

12          A.     Well, in this report you handed me,  
13    there is a reference to accident,

14          Q     What about on page eight?

15          A.     You just handed me this and it says  
16    was not related to the accident, reference to  
17    the accident, which we were talking about.

18          Q.     Oh. What's that?

19          A.     Sure. What happened here was  
20    probably the initial report mentioned a motor  
21    vehicle accident as a typographic error, the  
22    idea of an accident, and the typist just made  
23    have typed in motor vehicle accident instead of  
24    accident. So apparently that was corrected, and  
25    just the issue is that we are referring to an

1 accident. The accident we are talking about is  
2 September of 1998. He was not in a motor  
3 vehicle accident,

4 Q. He wasn't in a motor vehicle  
5 accident. I'm not confused, am I?

6 A. No, just a typographical error and  
7 the issue is he was in the accident, We are  
8 talking about the September of '98 accident.

9 Q. And the report you furnished  
10 Mr. Corrigan contains two page eights?

11 A. The only difference is the correction  
12 for the typographical error which he picked up  
13 and read it.

14 Q. That clears up that confusion,  
15 doctor.

16 A. Sure.

17 Q. Doctor, how many times have you given  
18 depositions this year in 2001 in medical/legal  
19 cases?

20 A. I don't recall an actual number, I  
21 think you may have that, From what I  
22 understand, we kept track of that since October  
23 of 1998, and it's been averaging about two a  
24 month. I don't know the exact number.

25 Q. So you have done, in 2001 -- this is

1 near the end of August -- you've probably done  
2 16 depositions or so?

3 A. Roughly. Again, you may have a  
4 specific listing of certain numbers for dates,  
5 but that would be the rough estimate off the top  
6 of my head. But if you have something specific  
7 that I have supplied, I will be happy to review  
8 it.

9 Q. These examinations, like you were  
10 hired by Mr. Corrigan to examine Bob Dennison  
11 and review his records and so forth, you do  
12 quite a number of those too, don't you, doctor?

13 MR. CORRIGAN: Objection.

14 A. It depends what you call quite a  
15 number. It's been averaging about eight a  
16 month, doing evaluations, independent medical  
17 exams, what I refer to in that,

18 Q. Okay. So maybe in this year, you  
19 have probably done 60 or so?

20 A. Well, it's the idea if it's an  
21 average of about eight a month, and if you take  
22 six times eight, I think that's 48. But a  
23 general idea is for a six month period so far  
24 would be about that number. Again, that's a  
25 rough estimate, on an average. You might have a



a specific listing.

2 Q In the last couple years, you've  
3 literally done hundreds of these, haven't you?

4 MR. KYHOS: Objection.

5 A. Well, it's the idea, again, if we are  
6 averaging about eight a month, over the course  
7 of a year, that would be about 96.

8 Q. Well, Let me ask you, doctor, to take  
9 a look at what's been marked here as Plaintiff's  
10 Exhibit 1.

11 MR. CORRIGAN: Objection to that  
12 exhibit.

a3 Q. Is that form familiar to you?

14 MR. CORRIGAN: Objection.

15 A. I have seen this before, It's not  
16 related to this case,

17 Q. Is it related to information provided,  
18 by your office and your attorneys in a sworn  
19 deposition you gave during the year 2001?

20 MR. CORRIGAN: Objection.

21 A. It could have been.

22 Q. You've seen it, haven't you?

23 A. I don't remember the date from them  
24 when that would be.

25 Q Well, that record indicates that in,

1 from October of 1998 to December of 1999 you did  
2 124 of these exams, like you did for  
3 Mr. Corrigan here.

4 MR. KYHOS: Objection.

5 Q. Is that right?

6 A. That's what that number indicates.  
7 That was independent medical exams, They would  
8 be both of request of plaintiff and defense.

9 Q. How many did you do in the year 2000,  
10 doctor?

11 A. For this listing it shows from  
12 January 2001 to March of 2001, 24.

13 Q. How about in January, 2000 to  
14 December 2000?

15 A. That was noted to be 89, So for a  
16 year period, 89.

17 Q. And, obviously, you charge for this  
18 type of work, do you not?

19 A. Sure do.

20 Q. And that exhibit you are looking at  
21 there indicates that for an examination and  
22 review like you did for Mr. Dennison, you might  
23 charge at least \$500 and as much as \$2,008; is  
24 that accurate?

25 A. That's a general range, a rough

a range.

2 Q. So sometimes you probably charge more  
3 than \$2,000?

4 A. Could be. It's a general range.

5 Q. Wow much did you charge Mr. Corrigan  
6 before today for your services in this specific  
7 case?

8 A. I don't recall the specific amount  
9 that I charged him.

10 Q. Do you have that information  
a1 available to you here?

12 A. No.

13 Q. If we were to take a brief recess,  
14 could you obtain that information from the  
15 records here in your office?

16 MR. CORRIGAN: Objection as to  
17 relevance.

18 A. I don't know if that's available or  
19 not, Again, the issue is that the estimate  
20 would be in the area of \$500 to around \$2,000.

21 Q. Well --

22 A. For the report.

23 Q. I'm asking if you know how much you  
24 charged Mr. Corrigan so far in this case, or if  
25 you can find out in your office today if we take

1 a five minute recess?

2 MR. KYHOS: Objection.

3 MR. CORRIGAN:: Objection. He charged  
4 Mr. Dennison -- my client, for the services he  
5 is rendering on behalf of my client in this  
6 case.

7 A. I've already told you I don't recall  
8 what I charged.

9 Q Can you find out?

10 A. I don't know if I can or not. I  
11 don't know the answer to that,

12 Q Are you willing to try?

13 A I can ask if you want me to.

14 Q I want you to, and I request that we  
15 take a recess to find out the answer to that.

16 MR. KYHOS: For the record, I would  
17 object to the relevancy. The doctor has already  
18 testified to the fact that in his estimate to  
19 the best of his recollection the charges are  
20 somewhere between \$500 and \$2,000.

21 I believe that that sets it within a  
22 range and that that information is important to  
23 the jury, which I question at this point.  
24 Certainly there is no need to get any more  
25 specific than, and I would object to any further

1 questioning of the doctor regarding this  
2 particular matter and move to strike all of the  
3 testimony after the doctor had indicated his  
4 estimate for the amount charged for services for  
5 the independent medical examination of the  
6 plaintiff. Thank you.

7 MR. CORRIGAN: I join in the  
8 objection and motion to strike.

9 MR. STERGIOS: As a response, I would  
10 indicate that the doctor has available to him  
11 and easily obtainable specific information on  
12 what's been charged. He clearly has a financial.  
13 interest in this case and the jury has a right  
14 to know how much that financial interest is and,  
15 how much. he has charged.

16 MR. CORRIGAN: That being said, we  
17 can take a recess and Dr. Gordon can attempt to  
18 determine that.

19 MR. STERGIOS: That's fine.

20 MR. MORRISON: We are off the record,  
21 (Recess had.)

22 MR. MORRISON: We are back on the  
23 record.

24 Q. All, right, Dr. Gordon, we are back  
25 from a short recess where you were going to try

1 to obtain a little information from your office  
2 records.

3 Did you have any success?

4 A. Yes. I found out that the amount  
5 charged for this evaluation was \$2,350.

6 Q. Okay. So that was before today, I  
7 take it?

8 A. Correct.

9 a. And, obviously, you are going to  
10 charge for your time today; is that right?

11 A. Yes.

12 Q. Did you meet with Mr. Corrigan before  
13 your deposition began at approximately 11:30  
14 this morning?

15 A. Yes.

16 Q. How long a period of time did you  
17 meet with him?

18 A. Approximately a half hour.

19 Q. Okay. And what are you charging  
20 Mr. Corrigan and his client for your deposition  
21 here today?

22 A. For the deposition time, I would  
23 charge \$900 an hour.

24 Q And does that include the half hour  
25 that you spent discussing the case with

1 Mr. Corrigan?

2 A. Yes.

3 Q. And if your total time is in excess  
4 of an hour, hour and five minutes or ten minutes  
5 or so, that's another \$900; is that right?

6 A. No. I would charge in increments.

7 Q. So you charge by the minute after an  
8 hour or how do you do that?

9 MR. CORRIGAN: Objection.

10 MR. KYHOS: Objection.

11 A. I suppose each one depends how much  
12 time it actually took and **it's** based on how long  
13 you ask me questions. But I would probably  
14 charge about 15 minute intervals.

15 Q. So maybe 15 minute intervals. What  
16 is that? About each 15 minutes is about \$225  
17 then, is it?

18 A. Roughly.

19 Q Okay.

20 MR. STERGPOS: All right, doctor. I  
21 don't have any other questions. Thank you.

22 THE WITNESS: You are welcome.

23 EXAMINATION OF TIMOTHY E. GORDON, M.D.

24 BY MR CORRIGAN.

25 Q. Doctor, on redirect, does that mean

1     that my client has to pay for 15 minutes for you  
2     to explain your fees based on those onerous  
3     questions by Mr. Stergios?

4           A.     Yes, that's true.

5           Q.     Now, despite all this dissertation on  
6     the amount that you charge for your time and  
7     services in this case, the fact is, you reviewed  
8     the actual MRI scans in this case; correct?

9           A.     That's correct.

10          Q.     And the fact remains that you perform  
11     services for all sorts; of patients and clients;  
12     correct?

13          A.     Correct.

14          Q.     And you in the past have performed  
15     worker compensation exams, Social Security  
16     exams, and isn't it true, in fact, that you  
17     testify on behalf of plaintiffs?

18          A.     Yes, I have.

19          a.     And it's typical in cases where you  
20     have been retained by a party who is being sued  
21     to be asked numerous questions about your  
22     services on behalf of people who are sued;  
23     correct?

24          A.     Yes.

25          Q.     All that being said, have any of your



1     opinions changed regarding the prognosis and  
2     injuries sustained by Mr. Dennison in this case?

3             A.     No.

4             MR. CORRIGAN: Thank you very much,  
5     doctor.

6             THE WITNESS: You are welcome.

7             (Off the record.)

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

9     BY MR. KYWOS:

10            Q     Doctor, I do have a couple questions,  
11     just as follow up.

12                    There seemed to be some questions  
13     from plaintiff's counsel regarding whether or  
14     not you had actually looked at some x-rays  
15     regarding the problem that the plaintiff is  
16     alleged to have experienced in the area of the  
17     coccyx, the tailbone.

18                    And doctor, you did, in fact -- or  
19     let me ask you this way. Did you, in fact, look  
20     at those particular x-rays in rendering the  
21     opinion that you have given this jury today?

22            A.     Yes.

23            Q.     And did you have an opinion regarding  
24     whether or not there in fact was a fracture of  
25     the tailbone that was experienced by the

1 plaintiff, or at least that you may have noted  
2 or not noted in those x-rays?

3 MR. STERGIOS: Objection.

4 A. Yes.

5 Q. And what was your opinion within a  
6 reasonable degree of medical certainty, of  
7 a course, as far as the alleged fracture of the  
8 tailbone? Did you see one?

9 A. No. There is not a bony fracture.  
10 And that's also described by Br. Brauer, an  
11 orthopedic surgeon who saw this individual.

12 What occurred was there was a  
13 disruption of the fibrous connection between two  
14 segments, and that is referred to as essentially  
15 a fibrous sprain. So there wasn't a bony  
16 fracture. And again, that is described by  
17 Dr. Brauer also,

18 Q. You mentioned Dr. Brauer, doctor, and  
19 in reviewing the plaintiff's records, did you  
20 see records from a Dr. Brauer in the documents  
21 that were given to you for review prior to  
22 actually examining the plaintiff?

23 A I don't recall if I reviewed  
24 Dr. Brauer's records before I examined the  
25 individual or afterwards.

1           Q.     Or at least in conjunction with,  
2     let's put it that way. But you did review those  
3     in conjunction with your examination of the  
4     plaintiff?

5           A.     Yes.

6           Q.     And you've indicated to us, of  
7     course, that Dr. Brauer's opinion -- first of  
8     all, what particular area or specialty, if you  
9     know, does Dr. Brauer practice in?

10          A.     My understanding is he is an.  
11     orthopedic surgeon.

12          Q.     And did he have an opinion. as to  
13     whether or not the plaintiff had suffered a  
14     fracture of the tailbone?

15          A.     What he indicated is that he took  
16     x-rays. And he stated in his note that plain  
17     x-ray show probably disruption through the  
18     fibrous union between the coccyx and the sacrum,  
19     and that's what I've referred to,

20          Q       Does that indicate to us that there  
21     has been some sort of a bony fracture in that  
22     area?

23          A.     That would not indicate a bony  
24     fracture. That would indicate a disruption of  
25     the fibrous union.

a           Q.     Doctor, in reviewing Dr. Brauer's  
2     records, I believe you indicated to us before  
3     you also had an opportunity to review those  
4     records as they pertained to a disk herniation  
5     or Dr. Brauer's interpretation of a disk  
6     herniation. Do you recall that?

7           A.     Yes.

8           Q     And do you recall what Dr. Brauer's  
9     interpretation was regarding whether or not the  
10    plaintiff in that doctor's opinion had a disk  
11    herniation at the time that he viewed the MRI of  
12    December 1998?

13          A.     His records indicate that he notes  
14    there was not a disk herniation at that time.

15          Q.     And does that also coincide with what  
16    you have indicated to this jury today; that  
17    there is no, was no disk herniation at that  
18    point?

19          A.     'Yes.

20                 MR. KYHOS: Thank you, doctor. I  
21    have nothing further,

22                 MR. CORRIGAN: I will have a few  
23    follow up based on that.

24                 Fred, anything?

25                 EXAMINATION OF TIMOTHY L. GORDON, N.D.

1 BY MR. STERGIOS:

2 a. Doctor, I want to return back to page  
3 three of your report here, We have already  
4 discussed in the last line of the first  
5 paragraph an x-ray report from Akron City  
6 Hospital that indicates Mr. Dennison -- or  
7 indicates, I suppose, that the radiologist who  
8 read the x-ray believed he had a fractured  
9 coccyx; is that right?

10 A. Well, I think what is important to  
11 realize is sometimes radiologists are looking at  
12 coccygeal x-rays, and they think there is a  
13 disruption between the two bony segments through.  
14 the fibrous union. They will call it a fracture  
15 and I have seen it happen on a number of  
16 occasions,

17 Q. This particular radiologist called it  
18 a fracture; is that right?

19 MR. KYHOS: Objection, Doctor -- if  
20 you can, please -- counsel, if you can please  
21 allow the doctor to finish his explanation prior  
22 to your next question.

23 MR. STERGIOS: Well, we'll run up  
24 another \$900 if we keep that up.

25 MR. KYHOS: Objection. Move to

1 strike.

2 A. I am just trying to answer your  
3 question intelligently and it deserves an  
4 explanation, because the point of this is,  
5 sometimes the word fracture is used to describe  
6 a disruption of the fibrous connection between  
7 two bony segments in the coccyx, and that's the  
8 only point I have been trying to make and I have  
9 been trying to tell you the whole time we have  
10 been here, is that what's we are talking about.

11 Q. Okay. So if these people, these  
12 different radiologists refer to this tailbone  
13 condition as a fracture, you are not saying they  
14 are wrong, are you?

15 A. I'm not saying they are wrong in that  
16 if you --

17 Q. You just call it a sprain and they  
18 call it a fracture?

19 A. No. I'll specifically describe why,  
20 again. The issue is that there is not a bony  
21 fracture. There is not a fracture through bone  
22 in this case.

23 Dr. Brauer notes that in his viewing  
24 of the x-rays. The issue is there was a  
25 disruption to the connection between two bony

1 segments, the fibrous connection or fibrous  
2 union. That is not a bony fracture. It's a  
3 disruption, disruption of fibrous tissue, which  
4 accurately is described as a sprain or  
5 disruption of fibrous tissue, It's not a bony  
6 fracture, and that's the point I'm trying to  
a make is what we are actually talking about.

8 Q. All right, doctor.

9 MR. STERGIOS: I don't have any other  
10 questions. Thank you.

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

12 BY MR. CORRIGAN:

13 Q Doctor, finally, Patrick Corrigan.

14 The coccygeal fracture -- I think I  
15 pronounced that properly -- actually resolved  
16 itself eventually sometime by, it appears  
17 January of 1999; isn't that correct?

18 A. Yes, It's noted that he improved.  
19 He had a bone scan done of that area, which was  
20 negative, consistent with the problem that  
21 healed. There is no indication that it was  
22 anything other than a healed condition at that  
23 point.

24 Q. And then Mr. Dennison really  
25 experiences some kind of an injury on April

1 14th, 1999 in his lower back that is separate  
2 from the September 1998 accident; isn't that  
3 true?

4 A. Yes.

5 MR. STERGIOS: Objection.

6 Q. And subsequently, he has a fall from  
7 a tractor and loses consciousness on April  
8 19th, 1999?

9 A Yes. That's one occasion that's  
10 noted of an injury, There is also other  
11 subsequent notations of acute changes;  
12 specifically, subsequent notations regarding  
13 acute changes in his low back pain after such as  
14 twisting and bending and picking something up.  
15 Those are unrelated to this fall on the stairs,

16 Q. And those are shown objectively on  
17 the MRI scans, which you examined and showed to  
18 the jury; correct?

19 A. Yes. There is a specific change in  
20 the MRI scan that was done December of 1998  
21 which showed a mild degenerative disk bulge  
22 which was not causing any nerve impingement or  
23 compression of any neural components.

24 Then he had an MRI done in March of  
25 2000, which showed a very different picture of a



1 significant disk herniation that had happened  
2 well after this accident, not related to the  
3 accident.

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(Thereupon, DEFENDANT'S Deposition  
6 Exhibits F and G were marked for  
7 purposes of identification.)

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9

Q Doctor, I'm going to hand to you  
10 exhibits which I have marked as F and G. Would  
11 you describe those for the jury, please?

12 A. Yes, these are radiology reports,  
13 The first one is December 31st, 1998, and the  
14 second one is March 28th, 2000. These are both  
15 of the lumbar spine. They are MRI scans of the  
16 lumbar spine.

17 Q. And it's my understanding that they  
18 clearly show a major difference in his spinal  
19 condition long after the injury, Am I correct  
20 in that impression?

21 A. That's correct. The radiologist that  
22 read the first study in December of 1998 noted  
23 degenerative disk disease with a mild broad disk  
24 bulge, which is what I saw in the MRI scan from  
25 1998. No disk herniation is noted here, both by

a myself and the radiologist.

2 And then we look at the study from  
3 March 28th of 2000, and the radiologist notes  
4 that he has a posterior right sided disk  
5 herniation. I agree with that. That's present  
6 on the March, 2000 film. It's not present on the  
7 December of 1998 film.

8 Q And given his complaints of a chronic  
9 pain condition diagnosed by Dr. Klejka, is it  
10 your opinion within a reasonable degree of  
11 medical certainty that that condition is not  
12 attributable to the December 1998 stair  
13 collapsed injury?

14 A. Yes. It's my opinion that that  
15 condition of the chronic pain, as you have  
16 described by Dr. Klejka, is not related to the  
17 September 1998 accident.

18 MR. CORRIGAN: Thank you. Nothing  
19 further, doctor,

20 MR. KYHOS: This is attorney Wayne  
21 Kyhos. I have nothing further at this time.  
22 Thank you.

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

24 BY MR. STERGIOS:

25 a. I have a couple more questions, since

1 we seem to be pretty wide ranging here.

2 Dr. Miller has testified that trauma  
3 can injure a lumbar disk.

4 Do you agree or disagree with that?

5 A. I think that's one of those very  
6 general statements, and in general, that's true.

7 Q. Okay.

8 A But you have to look at the specifics  
9 of each case.

10 Q I'm not talking about a specific  
11 case.

12 In general, trauma can injure a  
13 lumbar disk; is that correct?

14 A. The right kind of trauma, it's  
15 possible, but you have to look at each case  
16 specifically.

17 Q. All right.

18 Dr. Miller has also testified that in  
19 his opinion, a lumbar disk that has been injured  
20 by trauma, can and does frequently deteriorate  
21 and get worse.

22 Would you agree or disagree with that  
23 general principle?

24 A. I would not agree with it in general,  
25 because it's just too general. The specifics

1 have to be looked at.

2 In this case, this gentleman had an  
3 MRI scan done three months after his injury. If  
4 he had sustained a disk herniation as a result  
5 of this accident, it certainly would have been  
6 present on an MRI scan three months after the  
7 accident. It was not present.

8 Q Let's turn it around.

9 Dr. Miller has testified that a  
10 classic case of disk herniation would be a  
11 traumatic injury to a disk and over time  
12 deterioration of that disk, until it herniated  
13 and impinged on a nerve.

14 Do you agree or disagree with that?

15 MR. KYHOS: Objection. Asked and  
16 answered.

17 A I don't agree with that vast  
18 generalization. I would rather be asked  
19 questions based on the specifics of this case,  
20 because that generalization does not apply to  
21 this case.

22 MR. STERGIOS: All right, doctor. I  
23 don't have any other questions.

24 MR. CORRIGAN: Thank you. Nothing  
25 further.

1 MR. KYHOS: Nothing further, doctor.

2 Thank you.

3 MR. MORRISON: Doctor, you do have  
4 the right to read this transcript and review the  
5 videotape if you so wish or you can waive such  
6 rights.

7 THE WITNESS: I will waive it. Thank  
8 you.

9 MR. MORRISON: That concludes the  
10 deposition. We are off the record.

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12 (Deposition concluded at 12:50 p.m.)

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CERTIFICATE

State of Ohio,


SS:

County of Cuyahoga.

I, Vivian L. Gordon, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named TIMOTHY L. GORDON, M.D. was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony as above set forth was by me reduced to stenotypy, afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony.

I do further certify that this deposition was taken at the time and place specified and was completed without adjournment; that I am not a relative or attorney for either 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 Cleveland, Ohio, on this 28th day of August, 2001.

  
Vivian L. Gordon, Notary Public  
Within and for the State of Ohio

My commission expires June 8, 2004

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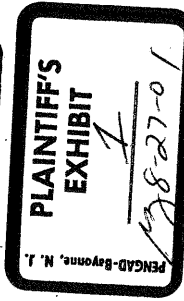
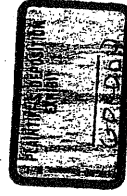
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<u>Category</u>	<u>Time Period</u>	<u>IMEs</u>		<u>Depositions</u>	
		<u>Dr. Corn</u>	<u>Dr. Gordon</u>	<u>Dr. Corn</u>	<u>Dr. Gordon</u>
Number Performed	October 1998 - December 1999	141	124	58	34
	January 2000 - December 2000	107	89	30	29
	January 2001 - March 2001	21	24	4	3
Range of Charges	October 1998 - December 2000	\$1,200 to \$2,000	\$500 to \$2,000	\$900 per hour charged to plaintiffs and defendants irrespective of who retained the doctor	





DENNISON, ROBERT D

MRN 03653383

ORD\_DATE 1998/12/31 09:29:00.00

INTERP DR: ULLMAN MD, HARLAN  
RESIDENT:

**MRI LUMBAR SPINE:**

Sagittal T1 and multiecho T2-weighted images and axial T1-weighted images are obtained. Axial images are moderately grainy in character, probably related to artifacts secondary to the patient's large body habitus.

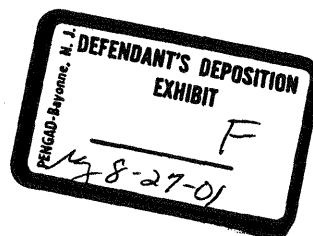
No signal or structure abnormality of the conus medullaris or cauda equina is seen. There is degenerative disc disease at **L4-5** with loss of disc height signal intensity on T2-weighted images and some narrowing. No area of abnormal bone narrowing signal intensity is seen. There is some mild broad disc bulge at **L4-5** with some mild flattening of the ventral aspect of the thecal sac. There is moderate facet hypertrophy at this level. No significant thecal sac or neural foraminal narrowing is seen.

No disc bulge or protrusion is seen at the to the other lumbar intervertebral levels. There is no thecal sac or neural foraminal narrowing. There is bilateral facet hypertrophy at **L3-4** and **L5-S1**.

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**IMPRESSION:** Degenerative disc disease at **L4-5** with mild broad disc bulge. No focal disc protrusion, spinal canal narrowing or neural foraminal narrowing identified at any level.

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MRN 03653383

ORD\_DATE 2000/03/28 07:18:00.00

INTERP DR: PEPE DO, RICHARD G  
RESIDENT:

Reason(s) for test: BACK PAIN RIGHT LEG PAIN.

**MRI OF THE LUMBAR SPINE:**

Scans were obtained in the sagittal and axial views.

Advanced degenerative narrowing of the L4-5 disc is present. There is posterior right sided excursion of a small to moderate size disc fragment. The disc fragment extends into the right side of the neural canal and proximal right L4-5 neural foramen. There is compression and deformity of the right side of the thecal sac.

Mild narrowing of the L5-S1 disc is present.

The remainder of the lumbar spine is essentially normal.

\*\*\*\*\*

IMPRESSION: Advanced degenerative narrowing of the L4-5 disc with posterior right sided excursion of a moderate size disc fragment.

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A copy of this report was faxed to Dr. Michael Gedeon and Dr. Scott Miller on 3/28/00 at 1035 hours.

