

Doc. 189

IN THE COURT OF COMMON PLEAS

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

Case No. 2155411

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References

taken by the Plaintiffs as if upon cross-examination before
Loren R. Fisher, a Registered Professional Reporter and
Notary Public within and for the State of Ohio, at the
offices of Joseph L. Coticchia Co., L.P.A., 1640 Standard
Building, Cleveland, Ohio, on Wednesday, the 4th day of
March, 1992, commencing at 10:15 a.m., pursuant to notice
and agreement of counsel.



DEPOSITIONS • ARBITRATIONS • COURT HEARINGS • CONVENTIONS • MEETINGS

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1 APPEARANCES:

2 Joseph L. Coticchia Co., L.P.A.,
3 By: Joseph L. Coticchia, Esq.,

4 On behalf of the Plaintiffs.

5 Jacobson, Maynard, Tuschman & Kalur Co., L.P.A.,
6 By: Susan M. Reinker, Esq.,

7 On behalf of Defendant Kingsbury G. Heiple, M.D.

8 Arter & Hadden,
9 By: Thomas H. Allison, Esq.,

10 On behalf of Defendants University Hospitals and
11 Dr. William J. Petersilge.

12 ALSO PRESENT:

13 Geraldine Zurawski,
14 Ronald Zurawski.

15 - - -

16 STIPULATIONS

17 It is stipulated by and between counsel for
18 the respective parties that this deposition may be
19 taken in stenotypy by Karen E. Fisher; that her
20 stenotype notes may be subsequently transcribed in the
21 absence of the witness; and that all requirements of the
22 Ohio Rules of Civil Procedure with regard to notice of time
23 and place of taking this deposition are waived.

24 - - -
25

1 KINGSBURY G. HEIPLE, M.D.,
2 a Defendant herein, called by the Plaintiffs for the purpose
3 of cross-examination, as provided by the Ohio Rules of Civil
4 Procedure, being by me first duly sworn, as hereinafter
5 certified, deposes and says as follows:

6 CROSS-EXAMINATION

7 BY MR. COTICCHIA:

8 Q. Please state your full name.

9 A. Kingsbury G. Heiple.

10 Q. How do you spell your last name?

11 A. H-e-i-p-l-e.

12 Q. What is your home address?

13 A. 28 Pepper Creek Drive, Pepper Pike, Ohio.

14 Q. Dr. Heiple, just before we started your
15 attorney, Susan Reinker, asked if you'd like a glass
16 of water. If you want to take a break, just let us know.

17 A. Thank you.

18 Q. For the record, can we agree that you are here
19 for a deposition pursuant to notice and agreement?

20 MS. REINKER: Correct.

21 A. I guess so.

22 Q. (BY MR. COTICCHIA) Did you bring your chart
23 pertaining to Mrs. Geraldine Zurawski?

24 A. I did.

25 Q. Is this chart kept in your normal course of

1 business?

2 A. Yes.

3 Q. And is it kept under your supervision and
4 control?

5 A. Yes.

6 MS. REINKER: I think I'm going to object
7 to that. I don't know that he personally is the custodian
8 of records in his office.

9 A. My secretary.

10 MS. REINKER: His staff.

11 Q. (BY MR. COTICCHIA) Okay. What is your
12 secretary's name?

13 A. Sylvia Dodich.

14 Q. Can I see the chart, please.

15 For the record, I've reviewed your chart,
16 Dr. Heiple. I have almost all of the copies of the chart
17 except for the surgery checklist and some of these items
18 pertaining to insurance and prescriptions so I'm going to
19 copy these. We'll take about a five-minute break. Do you
20 want to see what I'm going to copy? Starts with surgery
21 checklist, and it's about probably 15, 20 pages, and it
22 goes down to the American Red Cross, which I assume was
23 the blood donation, is that right?

24 A. Should be.

25 Q. Okay. Thank you.

1 MS. REINKER: Do you want us to send you
2 those later just to save time or have somebody copy it
3 while we continue?

4 MR. COTICCHIA: Yes. We'll go on with the
5 deposition.

6 MR. ALLISON: Why don't you make more than
7 one copy.

8 MR. COTICCHIA: Okay. Sure.

9 (Discussion had off the record.)

10 MR. COTICCHIA: Back on the record.

11 Q. (BY MR. COTICCHIA) Dr. Heiple, what is your
12 occupation?

13 A. I'm an orthopedic surgeon.

14 Q. Are you Board certified?

15 A. Yes, I am.

16 Q. When did you become Board certified?

17 A. 1961.

18 Q. What Board were you certified by?

19 A. The American Board of Orthopedic Surgery.

20 MS. REINKER: Joe, we've got a copy of the
21 CV here if that would help any.

22 MR. COTICCHIA: Yes. Can I keep that?

23 MS. REINKER: Yes. That's a little bit
24 outdated, but at least it will give you something.

25 Q. (BY MR. COTICCHIA) What is your date of birth,

1 Doctor?

2 A. 8/15, 1927.

3 Q. Are you married?

4 A. Yes.

5 Q. Do you have children?

6 A. Yes.

7 Q. How many children do you have?

8 A. Four by my wife. I have a second wife who has
9 children as well.

10 Q. All right. And I assume by your first wife
11 your children are all adults?

12 A. They are.

13 Q. In the area of orthopedic surgery, do you
14 specialize?

15 A. Yes, I do.

16 Q. And tell me what area of orthopedic surgery you
17 specialize in.

18 A. I principally do arthritis surgery.

19 Q. All right. Arthritis involving the joints?

20 A. Yes.

21 Q. The hips?

22 A. Correct.

23 Q. Knees?

24 A. Yes.

25 Q. Hands?

1 A. Yes.

2 Q. By the way, when did you get your license to
3 practice medicine in Ohio?

4 A. I believe 1958.

5 Q. In your practice as an orthopedic surgeon
6 approximately how many times have you done surgery
7 involving total hip replacements?

8 A. Probably close to a thousand.

9 Q. In that approximate one thousand hip
10 replacements, how many times have you had a patient result
11 in sciatic nerve damage?

12 A. To my best recollection once.

13 Q. Once, and who was that patient?

14 A. Mrs. Zurawski.

15 Q. According to your notes, I refer to July 30,
16 1990.

17 MS. REINKER: July 3rd.


18 MR. COTICCHIA: 30 -- I'm sorry, yes,
19 July 3rd. I'm mistaken.

20 Q. (BY MR. COTICCHIA) Fifth paragraph you state,
21 I discussed with she and her husband in some detail normal
22 hospital course, management, risks and benefits of total
23 hip replacement. Tell us, first of all, do you recall
24 that conversation independent of your notes?

25 A. Yes, I remember discussing it with them.

1 Q. Okay. Tell us what you discussed in regard to
2 the hospital course, management, risks and benefits of
3 total hip replacement.

4 A. The things I remember as to the best of my
5 memory, I discussed with them the fact that total hip
6 replacements are not perfect, that they're not an
7 artificial device, but they solve the major problem of hip
8 joint pain and that there are significant risks associated
9 with them, the most important of which would be infection
10 which at times could be bad enough to take the hip joint
11 back out again, leave you worse off than you were, the
12 fact you can get thrombophlebitis or blood clot in the
13 legs, you can have a pulmonary embolus, which
14 can even be fatal, that anesthesia is necessary, and that
15 in itself has sometimes risks of fatalities but that the
16 vast majority of patients do very well and are very happy
17 with them.

18 Q. Do you specifically recall discussing with 
19 Mr. and Mrs. Zurawski the risk of sciatic nerve damage?

20 A. No, I don't.

21 Q. If you had discussed the risk of sciatic nerve
22 damage, would it have been in your notes?

23 A. Not necessarily because, I mean, I generally
24 put down in my note a statement like this, that I
25 discussed risk with them; otherwise, I have a bed sheet

1 of very rare and unusual things.

2 Q. In your opinion, is sciatic nerve damage a risk
3 of this type of surgery?

4 A. I understand it can occur on rare occasions.

5 Q. In your opinion, as an orthopedic surgeon
6 having done this about a thousand times, do you consider
7 this in your hands as a surgeon a risk of surgery?

8 A. I consider it a very rare and unusual
9 occurrence.

10 Q. But you don't consider it a risk?

11 MS. REINKER: Objection.

12 A. It's an extraordinary and unusual occurrence,
13 and it would not normally occur to me to list it as a
14 risk.

15 Q. (BY MR. COTICCHIA) Can we agree that as a
16 result of the surgery, Mrs. Zurawski sustained sciatic
17 nerve injury?

18 A. Yes, I believe that that's correct.

19 Q. Tell us how this happened.

20 A. She had a perfectly uneventful and normal total
21 hip replacement surgery, and I do not know how it
22 happened.

23 Q. How did you discover that Mrs. Zurawski had
24 sciatic nerve damage?

25 A. Within the first half an hour, 45 minutes that

1 she was in the recovery room -- I do not recall whether
2 the nurse called me or the resident called me. One of
3 those two people called me to tell me that Mrs. Zurawski
4 as she was waking up from anesthetic was complaining that
5 her

6 foot was numb and that they were unable to get her to ✓
7 wiggle her toes or her foot.

8 Q. What does this mean to you?

9 A. That means that for some reason that her ✓
10 sciatic nerve is not functioning properly.

11 Q. What did you do?

12 A. I went to the recovery room and examined her
13 myself.

14 Q. What were your findings?

15 A. I found the same. She seemed to be very numb
16 over most of her foot and she could not apparently, at
17 least on request, she couldn't wiggle her toes or her
18 foot.

19 Q. What did you do?

20 A. We got an x-ray of her pelvis to check on the
21 status of the hip joint replacement. It looked perfectly
22 normal and fine, and after some thought and consideration
23 of the possibilities I decided that something untoward was
24 going on that was creating a problem with her sciatic
25 nerve and that the only safe thing to do or the safest

1 thing to do was to explore this again as rapidly as I
2 could get her back into a recovery room.

3 MS. REINKER: To recovery room?

4 A. Back into an operating room from the recovery
5 room.

6 Q. (BY MR. COTICCHIA) About how long after the
7 first surgery did you bring Mrs. Zurawski back to the
8 surgical room for the second surgery?

9 A. We should be able to tell exactly because the
10 first surgery started -- she went into the operating room
11 -- I believe I saw a time on that that she started shortly
12 after 8:00, entered the room at 8:10.

13 Q. What note are you referring to?

14 A. This is an operating nursing note. Okay.
15 And it says she got discharged from the operating room at
16 10:32. Her second surgery started at 13:40, which is 1:40
17 in the afternoon. So it would have been approximately
18 three hours later.

19 Q. And when did that surgery conclude?

20 A. That concluded at 15:30, which would have been
21 an hour, just under two hours.

22 Q. Will you please turn to your surgical or
23 operative record pertaining to the second surgery.

24 A. Okay.

25 Q. I call to your attention preoperative

1 diagnosis, status post right hip arthroplasty with
2 postoperative sciatic nerve palsy. What do you mean by
3 sciatic nerve palsy?

4 A. Simply that she did not apparently have a
5 functioning sciatic nerve. She had numbness and motor
6 weakness in the sensory area supplied by the sciatic nerve
7 and muscles supplied by the sciatic nerve.

8 Q. And then I note the postoperative diagnosis is
9 again the same thing with the additional comment that it
10 is a partial laceration of right sciatic nerve, is that ★
11 correct?

12 A. That's correct.

13 Q. How were you able to determine during this
14 surgery that there was a laceration of Mrs. Zurawski's
15 right sciatic nerve?

16 A. By surgically visualizing the nerve and ★
17 examining it.

18 Q. I note in the typewritten operative note almost
19 in the middle toward the bottom of that paragraph first
20 you stated, It was noted to have a partial laceration
21 below the level of the acetabulum to what appeared to be
22 the tibial division of the sciatic nerve.

23 I'm a layman, Doctor, so I'm going to refer to
24 the acetabulum as the socket of the hip. Is that fair,
25 the part that the ball goes into it, all right?

1 A. Yes.

2 Q. Now, where is the tibial division of the
3 sciatic nerve in relation to that acetabulum?

4 A. From the direction of a surgical approach that
5 we make, it would be -- we would say behind it, posterior;
6 in this case, since she's on her side, towards the floor.

7 Q. Okay. So it's at the same level of the hip,
8 but it's behind the hip?

9 A. Well, those words don't quite mean the same to
10 me that you're saying.

11 Q. Tell me as a layman. Do you want to use this
12 chart?

13 A. Closer to the midline than her socket, much
14 closer.

15 Q. Okay. Does this chart depicting the nervous
16 system in the leg help you to point out where the tibial
17 division is?

18 A. That one is not detailed enough to show at the
19 level of the hip. The tibial and perineal divisions, they
20 lay side by side and they lay loosely together, and that
21 doesn't show the hip joint so I can't show you the
22 relationship with that.

23 Q. Well, this shows the sciatic nerve, and it
24 shows the sciatic nerve up in the area of the right side
25 of the leg near the hip. Is it in this general area?

1 A. No. You're much lower.

2 Q. I have to get much lower?

3 A. Down the middle of the buttock.

4 Q. All right. I understand what you're saying.

5 This is not a detailed sketch or drawing of the sciatic
6 nerve, is that correct?

7 A. That's correct.

8 Q. But does that at least show the human anatomy
9 as far as the leg and the general direction of the sciatic
10 nerve?

11 A. Yes.

12 Q. All right. Will you step over here, please,
13 and mark or draw a circle around the area as reasonable as
14 you can of the tibial division?

15 MS. REINKER: Objection. I don't think
16 that you understand. The Doctor may want to explain. I
17 think he said the tibial and perineal divisions lay side
18 by side so they're parallel. They're running right next
19 to each
20 other.

21 MR. COTICCHIA: I understand that.

22 MS. REINKER: You understand that, okay.
23 So you're looking for the whole area of the sciatic nerve
24 then?

25 MR. COTICCHIA: Yes, because obviously

1 the --

2 MS. REINKER: Correct. This is just an
3 estimate the Doctor is giving us.

4 MR. COTICCHIA: Correct.

5 Q. (BY MR. COTICCHIA) Thank you, Doctor. You go
6 on to state in your operative report, Approximately 50
7 percent -- and I don't know how to pronounce this. Is
8 that word fascicles?

9 A. Fascicle.

10 Q. Approximately 50 percent of the fascicle of
11 the tibial fascicles which were interrupted were
12 reapproximated with number six nylon -- I'm sorry,
13 fascicles of the tibial division were noted to be
14 interrupted while 50 percent was in continuity. What does
15 that mean?

16 MS. REINKER: Objection to what he said in
17 his operative report.

18 A. I think your statement was that you say you,
19 and my resident dictated this note. ~~A~~

20 Q. (BY MR. COTICCHIA) Okay. I understand. Your
21 signature is also on this note.

22 A. Correct.

23 Q. And I assume you read this before you signed
24 it?

25 A. Yes, I did.

1 Q. Okay. What does that statement or that
2 sentence mean?

3 A. I have modified that when I read it.

4 Q. Okay. I understand you modified it with your
5 signature, and it says, Question mark 20 percent.

6 A. Yes.

7 Q. Is that what you wrote in?

8 A. Yes. I wrote, Question mark 20 percent, signed
9 my name and dated it.

10 Q. So you changed the approximately 50 percent to
11 20 percent?

12 A. That's correct.

13 Q. All right. First of all, what is the
14 significance of that sentence, that the fascicles of the
15 tibial division were noted to be interrupted? ★

16 A. Just exactly what it says, they were divided. ★
17 They were free ends.

18 Q. They were cut or broken?

19 A. They were not cut.

20 Q. All right. How were they divided? ★

21 A. They looked to be like they had been popped in
22 two. It had been torn or ruptured.

23 Q. Okay. What are the fascicles?

24 A. They're just the nerve bundles.

25 Q. All right. How many of these fascicles are

1 there normally approximately?

2 A. Varies from individual to individual so that I
3 can't give you a specific number.

4 Q. Be that as it may, you changed the estimate of
5 50 percent to 20 percent, is that correct?

6 A. That's correct.

7 Q. Why did you change it?

8 A. Simply looking at the area of injury as
9 compared to the total size of the nerve.

10 Q. And this was based on what you actually saw in
11 surgery as compared to what this was typewritten out to
12 be?

13 A. Yes.

14 Q. Okay. What did you mean when you say those
15 fascicles which were interrupted were reapproximated using
16 number six nylon?

17 A. Well, four of the fascicles where the ends were
18 visible enough and were -- could be brought together, and
19 we simply take a hairline suture and suture the margins of
20 the nerve ends together so that the nerve fibers can grow
21 back down the nerve and given a long enough period of time
22 restore some of that function possibly.

23 Q. And I understand that you were not able to
24 suture all of the damaged fascicles?

25 A. No. There were apparently two of them that

1 were shredded a bit and just couldn't be put back
2 together.

3 Q. How did this sciatic nerve or these segments of
4 the nerve become torn?

5 A. I do not know how it happened.

6 Q. Doctor, will you turn to your notes of August
7 6, 1990?

8 A. Office notes?

9 Q. Yes. I call to your attention right in the
10 middle of that note it says August 6 and at the top it
11 says Page 2, Geraldine Zurawski. Do you have that in
12 front of you?

13 A. Yes.

14 Q. Okay. I call to your attention right in the
15 middle. I assume this note, Doctor, discusses the second
16 surgery where you examine and repaired the sciatic nerve?

17 A. It's a discharge note so it discusses both of
18 them.

19 Q. All right. I quote, At that time of that
20 exploration it was found, that apparently one of the
21 retractors or some instrument had caught the edge of the
22 sciatic nerve and created a tear in the margin of the
23 tibial division of the nerve dividing perhaps six or seven
24 vesiculae. This may have been as much as 50 percent of
25 the tibial division, probably somewhat less, and certainly

1 only about 20 percent of the entire nerve. It was
2 possible to repair four to five of the vesiculae with
3 number eight nylon. Several were shredded enough to be
4 unrepairable. Those are your notes of August 6, aren't
5 they?

6 A. Correct.

7 Q. Don't your notes state that the sciatic nerve
8 was damaged by one of the retractors or some instrument?

9 A. Not by my interpretation. That's my
10 speculation. I said apparently. I still do not know
11 exactly what caused it.

12 Q. But your notes, of course, were made the same
13 day of the surgery, were they not?

14 A. No, day of discharge.

15 Q. All right. But they were made shortly after
16 the surgery, were they not?

17 A. Well, they were made actually on 8/18, 1990.

18 Q. Which is 12 days after the surgery?

19 A. Correct.

20 Q. And your recollection then is better than it is
21 now, isn't it?

22 MS. REINKER: Objection. I don't see how
23 that conflicts with what he's saying now, Joe.

24 MR. COTICCHIA: I understand.

25 Q. (BY MR. COTICCHIA) Was your recollection of

1 that surgery better on August 18th than it is now? ★

2 A. I'm certain the details were clearer then than
3 they may be now.

4 Q. And your note states that apparently one of
5 the retractors or some instrument had caught the edge of
6 the sciatic nerve and created a tear. Isn't that what
7 your note says?

8 A. It says apparently.

9 Q. What did you base that note on?

10 A. My speculation as to possible causes. ★

11 Q. Isn't it true that if the retractor is not
12 carefully used, it can cause damage to the sciatic nerve?

13 MR. ALLISON: Objection.

14 MS. REINKER: Objection.

15 A. I think it's one of the remote possibilities. ★

16 Q. (BY MR. COTICCHIA) My question, Doctor, is
17 isn't it true if the retractor is not carefully used, it
18 can cause damage to the sciatic nerve?

19 MR. ALLISON: Objection.

20 MS. REINKER: Objection. I think we'll be
21 willing to stipulate that if any instrument is not ★
22 carefully used it can cause injury to anything.

23 MR. COTICCHIA: Your objection is noted.

24 Q. (BY MR. COTICCHIA) You may answer the
25 question.

1 A. It's a major surgical procedure. We use
2 many instruments, all of which have the potential to
3 injure all of the structures in the wound.

4 Q. Doctor, do you agree with the statement t
5 the retractor is not carefully used it will cause da
6 on the sciatic nerve?

7 MR. ALLISON: Objection.

8 MS. REINKER: Objection. It's been a
9 and answered.

10 MR. COTICCHIA: It has not been answe

11 A. I think it is possible to use any of the
12 instruments in a fashion to cause damage to the ner
13 any other structure. I do not think not using it
14 carefully is inevitably going to cause an injury to
15 nerve.

16 Q. (BY MR. COTICCHIA) Do you agree that da
17 the sciatic nerve with the use of the retractor is
18 breach of medical care?

19 MS. REINKER: Objection.

20 MR. ALLISON: Objection.

21 A. No, I don't agree with that. I think th
22 every surgery carries with it surgical risks. It
23 possible to injure almost anything in the area und
24 unusual and rare circumstances. I believe I take
25 extraordinary and above-reasonable care in all my

1 surgeries.

2 Q. (BY MR. COTICCHIA) Dr. Heiple, you just
3 testified that when you discussed the risks with Mr. and
4 Mrs. Zurawski, you discussed blood clots, pulmonary
5 embolisms, the risk of anesthesia, but it's true, isn't
6 it, that you did not discuss the risk of sciatic nerve
7 damage?

8 MS. REINKER: Objection.

9 A. I cannot even say that I did not. I just don't
10 remember that I did. It would not normally occur to me. ★
11 It's been such a rare and unusual occurrence in my
12 experience.

13 Q. (BY MR. COTICCHIA) Do you agree with this
14 statement, Doctor, self-retaining retractors must be
15 carefully positioned to avoid pressure on the nerves?

16 MS. REINKER: Objection.

17 MR. ALLISON: Objection. ★

18 A. We handle all instruments in such a fashion as
19 to be careful of the nerves.

20 Q. (BY MR. COTICCHIA) Do you agree with that
21 statement?

22 MR. ALLISON: Objection.

23 MS. REINKER: Objection. Answered.

24 Q. (BY MR. COTICCHIA) You may answer.

25 MS. REINKER: He did answer.

1 A. I made my statement. All instruments should be
2 handled in such a fashion as to attempt to avoid damage to
3 any other structure.

4 Q. (BY MR. COTICCHIA) Including the sciatic
5 nerve?

6 A. Including the sciatic nerve.

7 Q. Do you agree with the statement that the
8 sciatic nerve may be injured by direct surgical trauma,
9 traction and pressure from retractors?

10 MS. REINKER: Objection.

11 MR. ALLISON: Objection.

12 MS. REINKER: May we see what you're
13 reading from, please?

14 MR. COTICCHIA: I'll be happy to as soon as
15 we get the questioned answered.

16 MS. REINKER: I think he's entitled to see
17 what you're reading from before he answers the question.

18 A. Can I have a question?

19 Q. (BY MR. COTICCHIA) Do you agree with the
20 statement that the sciatic nerve may be injured by direct
21 surgical trauma, traction and pressure from retractors?

22 MR. ALLISON: Objection.

23 MS. REINKER: Objection.

24 A. I think that's a possibility.

25 Q. (BY MR. COTICCHIA) I understand you're a

1 member of the Allen Memorial medical library?

2 A. Yes.

3 Q. You consider that ~~a~~ library ~~of sorts~~ ^{a source} of medical
4 authorities?

5 A. Good medical library.

6 MR. ALLISON: Objection.

7 Q. (BY MR. COTICCHIA) At your office or at
8 University Hospital do you have a copy of Campbell's
9 Operative Orthopedics?

10 A. I'm sure we do.

11 Q. Do you consider that an authority on orthopedic
12 surgery?

13 A. It's one of many useful source documents for
14 making decisions about orthopedic surgery. It's certainly
15 not necessarily authoritative.

16 Q. Have you had occasion to use it as a reference
17 or a text?

18 A. I've used it for various things at times.

19 Q. I understand that you are a clinical professor
20 at Case Western Reserve University?

21 A. That's correct.

22 Q. Is this one of the --

23 A. Actually, I'm not a clinical professor. I'm a
24 professor.

25 Q. I'm sorry. Is this one of the textbooks that

1 either you or the medical students refer to?

2 A. We don't usually use this for medical students,
3 no.

4 Q. Is it a textbook that residents or you would
5 refer to?

6 A. They may.

7 Q. All right. That book, in fact, isn't it, is
8 available at the medical library, isn't it?

9 A. Yes.

10 Q. Have you had occasion to use Complications in
11 Orthopedic Surgery, the text or made reference to it?


12 A. By Charles Epps?

13 Q. Yes.

14 A. No, I haven't.

15 Q. Do you know Dr. Epps?

16 A. I know Dr. Epps.

17 Q. Do you consider his text a source of medical
18 authority? 

19 A. One of many sources.

20 MR. COTICCHIA: Anyway, that's what I
21 read from to answer your question.

22 MS. REINKER: Which one, Epps?

23 MR. COTICCHIA: Campbell's.

24 MR. ALLISON: What edition?

25 MR. COTICCHIA: Well, the most current

1 edition. Let's see, 7th edition.

2 MR. ALLISON: Page?

3 MR. COTICCHIA: 1399.

4 MR. ALLISON: Thank you. No sense I should
5 have to look.

6 Q. (BY MR. COTICCHIA) During surgery was
7 Dr. Petersilge present?

8 A. Yes.

9 Q. Who is Dr. Petersilge?

10 A. He's one of the orthopedic residents.

11 Q. How many years of residency had Dr. Petersilge
12 been in in August of 1990?

13 A. I don't know. I would have to go back and look
14 at the hospital records to see what year he was in at that
15 point.

16 Q. Do you know him?

17 A. Yes.

18 Q. Had he been in surgery with you on prior
19 occasions?

20 A. Yes.

21 Q. Do you know during surgery involving
22 Mrs. Zurawski's hip replacement who was holding the
23 retractor?

24 A. It would have varied from moment to moment who
25 had their hand on the retractor, depending on what I was

1 doing.

2 Q. One time it would be you, is that correct? ★

3 A. Might be for a few minutes.

4 Q. One time it would be Dr. Petersilge?

5 A. Yes.

6 MR. ALLISON: Objection.

7 Q. (BY MR. COTICCHIA) Dr. Heiple, when you do
8 this kind of surgery, based on your experience and your
9 specialty, you can recognize the sciatic nerve when you ★
10 see it, can't you?

11 A. Yes.

12 Q. Would you expect a resident like Dr. Petersilge
13 to be able to recognize a sciatic nerve --

14 MR. ALLISON: Objection.

15 Q. -- when he sees it during the surgery?

16 A. Depending on the level of his experience and
17 training.

18 Q. (BY MR. COTICCHIA) And today you don't know ★
19 what that level of experience or training was in August of
20 1990, is that correct?

21 A. That's correct.

22 Q. At the time of the surgery for Mrs. Zurawski,
23 Dr. Petersilge was a medical doctor and is today, right?

24 A. Correct.

25 Q. So he had gotten his degree and graduated from

1 medical school, correct?

2 A. Correct.

3 Q. And he had completed his internship, correct?

4 A. Yes. I think, pretty sure, he had at that
5 point.

6 Q. And at this time he is now a resident, is that
7 correct?

8 A. Correct.

9 MR. ALLISON: Do you mean in August of --

10 MR. COTICCHIA: August 1990.

11 Q. (BY MR. COTICCHIA) Is that correct?

12 A. Yes.

13 MS. REINKER: As best you recall.

14 A. Best of my memory.

15 MS. REINKER: Internships and residency now
16 are continuous. There's no break anymore.

17 A. It depends. There's first, second, third,
18 fourth and fifth-year residents.

19 Q. (BY MR. COTICCHIA) All right. Is this
20 residency where Dr. Petersilge is now in surgery with you,
21 Dr. Heiple, an area in which Mr. or Dr. Petersilge wants
22 to specialize in orthopedic surgery?

23 MR. ALLISON: I'm sorry, Joe. What was the
24 question?

25 Q. (BY MR. COTICCHIA) Let me make it simpler. At

1 this point, August 6, 1990, Dr. Petersilge is in
2 orthopedic surgery with you. Is that because he's doing a
3 residency to specialize in orthopedic surgery? *

4 A. Yes.

5 MR. ALLISON: Objection.

6 MR. COTICCHIA: Did you get the answer?

7 Q. (BY MR. COTICCHIA) My question then would be
8 since you stated you are a professor of medicine more so
9 than a clinical professor, would you expect a resident in
10 orthopedic surgery to be able to recognize the sciatic
11 nerve during this type of surgery?

12 MR. ALLISON: Objection.

13 MS. REINKER: Objection. It's been
14 answered. *

15 A. He may or might not depending on his particular
16 experience with hip surgery at that level in his training.

17 Q. (BY MR. COTICCHIA) During the surgery, you are
18 in charge, are you not? *

19 A. That's correct.

20 Q. So during Mrs. Zurawski's surgery you had the
21 ultimate responsibility for the total hip replacement?

22 MS. REINKER: Objection. *

23 A. Yes.

24 Q. (BY MR. COTICCHIA) Did you supervise
25 Dr. Petersilge?

1 A. I am one of his supervisors at the hospital.

2 Q. All right. I want to narrow this question
3 down. I understand you're a supervisor in residency.
4 While you were in surgery doing Mrs. Zurawski's hip
5 replacement, were you responsible for Dr. Petersilge's
6 surgery?

7 MS. REINKER: Objection. I think there's --

8 A. I don't agree that he did surgery.

9 Q. (BY MR. COTICCHIA) All right. You stated that
10 you and Dr. Petersilge would intermittently change on who
11 was holding the retractor? ★

12 A. Right.

13 Q. Regardless of who held the retractor, if damage
14 occurred while Dr. Petersilge was holding the retractor,
15 who is responsible?

16 MS. REINKER: I'm going to object and
17 instruct the witness not to answer. That's a legal
18 conclusion which I don't think the doctor is qualified to
19 answer.

20 MR. COTICCHIA: You can object. I don't
21 think you can instruct the witness, a Board certified
22 orthopedic surgeon, a professor of medicine at Case
23 Western Reserve who has already said in the general
24 rotation of residency he supervises Dr. Petersilge.

25 Q. (BY MR. COTICCHIA) My question simply is,

1 Dr. Heiple, are you responsible for Dr. Petersilge's
2 performance as a resident when he's in surgery with you
3 doing Mrs. Zurawski's hip replacement?

4 MS. REINKER: Objection, and I'm
5 instructing the witness not to answer the question because
6 there's a difference between legal responsibility as you
7 well know, and that's something for Mr. Allison and I to
8 discuss. The Doctor is not qualified to testify for whom
9 he is legally responsible in the operating room. That's
10 the basis for my instructing him not to answer.

11 MR. COTICCHIA: This is not a legal
12 question.

13 MS. REINKER: Yes, it is.

14 Q. (BY MR. COTICCHIA) I want you to assume,
15 Doctor, that this is not a lawsuit.

16 MS. REINKER: He's not going to answer the
17 question, Joe. We can go home or continue.

18 Q. (BY MR. COTICCHIA) He's training,
19 Dr. Petersilge is training under you, is he not?

20 A. He's training under the staff. I'm one of the
21 staff under whom he is being trained.

22 Q. Dr. Heiple, when you're in surgery, you're in
23 charge of the surgery, is that correct?

24 MS. REINKER: Objection.

25 A. I'm the operating surgeon, right. I'm the

1 person who is doing the hip replacement.

2 Q. (BY MR. COTICCHIA) You make the decision of
3 all the things that go along with surgery, do you not?

4 MS. REINKER: Objection.

5 A. I make all the decisions that are under my
6 direct control. I don't control decisions of the
7 anesthesiologist and some other people.

8 Q. (BY MR. COTICCHIA) I understand that.

9 MS. REINKER: Wait. Did you hear the whole
10 thing? And some other people.

11 Q. (BY MR. COTICCHIA) For example, you decide
12 what instruments are going to be used in surgery, don't
13 you?

14 A. Yes.

15 Q. You decide what type of prosthesis
16 Mrs. Zurawski will have in this total hip replacement,
17 don't you?

18 A. Yes.

19 Q. You decide what kind of nylon will be used in
20 the suturing, don't you?

21 A. Generally, yes.

22 Q. You decide what kind of tools are going to be
23 used. For example, your notes said something about a
24 reamer, correct?

25 A. Yes.

1 Q. If you don't want a certain type of tool, you
2 can say you don't want that type of tool, can't you?

3 A. Yes.

4 Q. Or instrument? ★

5 A. Yes.

6 Q. Do you direct Dr. Petersilge whether or not
7 he's going to use a retractor? ★

8 A. Yes.

9 Q. Are you responsible for Dr. Petersilge's use of
10 that retractor?

11 MS. REINKER: Objection. There's no way
12 one human being can control the way another human being
13 does something. He's not going to answer the question
14 that you asked earlier so if you want to terminate the
15 deposition you can.

16 MR. COTICCHIA: I'm not going to terminate.
17 We're going to go on. There's going to be a motion to
18 compel. You can argue a legal conclusion. I still have a
19 right to get that answer. This is discovery.

20 MS. REINKER: You're not going to get the
21 answer today from him so go on to another subject.

22 Q. (BY MR. COTICCHIA) My question is would ★
23 Dr. Petersilge voluntarily use the retractor without your
24 instruction or direction?

25 A. In the course of the procedure he might take a

1 retractor and do something spontaneously if he's
2 experienced enough to be accustomed to what's going to
3 happen the next moment.

4 Q. Were those circumstances in this case?

5 A. I can't recall which level of experience at
6 that point.

7 Q. On any circumstances if Dr. Petersilge damaged
8 Mrs. Zurawski's sciatic nerve during surgery, is that a
9 breach of medical standard of care?

10 MR. ALLISON: Objection.

11 MS. REINKER: Objection.

12 A. I don't understand ^{how} ~~that~~ extraordinary accidents
13 ^{when} ~~that~~ you don't understand how they occurred would
14 necessarily be a breach of standard of care if you've used
15 all the standards that you're acquainted with.

16 Q. (BY MR. COTICCHIA) Well, all right. I
17 understand your statement. I'd like an answer to the
18 question.

19 A. I believe I just answered it.

20 MR. ALLISON: Objection.

21 Q. (BY MR. COTICCHIA) I don't understand your
22 answer. Maybe let me rephrase it since you don't know
23 whether you or Dr. Petersilge was holding the retractor
24 during the surgery when this occurred and since you don't
25 know whether or not the retractor caused the damage. Your

1 note does state it was a retractor or some instrument?

2 A. I said apparently.

3 Q. Apparently, is that correct?

4 A. That's what I said.

5 Q. All right. Let's assume that Dr. Petersilge
6 was using the retractor or some instrument which damaged
7 the sciatic nerve during surgery. Is that damage the
8 result of negligence?

9 MR. ALLISON: Objection.

10 MS. REINKER: Objection.

11 A. I wouldn't perceive it necessarily to have been
12 negligence. I think it's an extraordinary occurrence, and
13 I still don't understand how it happened.

14 Q. (BY MR. COTICCHIA) Would the damage be the
15 result of a lack of care?

16 MR. ALLISON: Objection.

17 MS. REINKER: Objection.

18 A. I don't believe so.

19 Q. (BY MR. COTICCHIA) Has Mrs. Zurawski sustained
20 a permanent injury to her sciatic nerve?

21 A. I think that she has some permanent deficit in
22 sensation and weakness in plantar flexion of her foot.

23 Q. What is plantar flexion?

24 A. Pushing your foot down.

25 Q. When you say weakness, is this a weakness in

1 the ~~muscle~~?

2 A. Yes.

3 Q. And that's a result of the nerve injury?

4 A. Yes.

5 Q. And is it fair to state that at this point the
6 nerve isn't going to get any better?

7 A. No, not necessarily. People will show
8 improvement of a nerve injury sometimes as long as two
9 years, sometimes even a little longer than that.

10 Q. I call your attention to your office note of
11 August 23rd, 1990. Your third paragraph states, I believe
12 her symptoms are neuritic in origin due to the injury of
13 the sciatic nerve. What do you mean by neuritic?

14 A. It says that they're from the nerve, meaning
15 she's having symptoms that are due to the nerve fibers
16 being damaged and that that causes a sensation that she
17 feels.

18 Q. Do you agree that the injury to the sciatic
19 nerve has caused Mrs. Zurawski to undergo a lot of pain?

20 A. She seemed to have a lot of discomfort with
21 this particularly the first month or so.

22 Q. I call your attention to the last paragraph on
23 that page. It states, She was upset enough to think that
24 somehow this was a dead foot that we were going to have
25 to cut off. Is that your note?

1 A. Yes.

2 Q. And that was based on a conversation that you
3 had with Mrs. Zurawski, wasn't it?

4 A. That was based on a report. One of the nurses
5 came to me and said that Mrs. Zurawski was very concerned
6 and upset and tearful, that she didn't seem to understand
7 at all what had happened and was very confused about what
8 this meant to her and that somehow she had got this
9 fixation that this meant she would be losing her foot or
10 her leg, and I spent a considerable period of time with
11 her one day trying to tell her exactly what I thought
12 would be the result of this and no way was this going to
13 possibly result in her losing her foot or her leg or
14 anything like that, that she was probably going to have
15 some persistent weakness in the foot. We couldn't tell
16 how much total recovery there would be and that she might
17 have some sensory deficit in the foot, but in no way would
18 this be enough to result in anything so drastic as losing
19 her foot.

20 Q. Do you agree that Mrs. Zurawski has had a long
21 and difficult recovery since her discharge from the
22 hospital?

23 A. It was certainly very slow.

24 Q. Do you recall prior to the surgery one of
25 Mrs. Zurawski's concerns was a blood transfusion and the

1 risk of AIDS?

2 A. I don't recall specifically.

3 Q. Now, you have some notes in there in regard to
4 Mrs. Zurawski donating her own blood, don't you?

5 A. Yes.

6 Q. Wasn't that because she was concerned about the
7 risk of AIDS?

8 A. It was because I suggested it.

9 Q. Okay. Why did you suggest that?

10 A. We suggest it to all of our patients in the
11 last few years for all the risks, primarily hepatitis.
12 AIDS is certainly one consideration but probably about one
13 percent or a thousandth of one percent ^{as} ~~is~~ common as
14 hepatitis. The reason we really do it is for hepatitis.

15 Q. Do you recall Mrs. Zurawski asking you how long
16 she would be unable to return to her job?

17 A. Yes. We discussed normal average post-op
18 disability, and I believe I told her at that time that for
19 people who are working on their feet a good bit of the
20 time that three months was usually a fair time.

21 Q. Didn't she state that she was anxious to go
22 back to selling coats at her job at Higbee's?

23 A. I don't know.

24 Q. Do you remember her saying that she was looking
25 forward to being able to recuperate enough from the

1 surgery so that she could return to her job in the fall
2 during the season that the coats are sold at Higbee's?

3 A. I remember that her intention was to return to
4 work.

5 Q. When you discussed the benefits with
6 Mrs. Zurawski in regard to this hip replacement, do you
7 remember her inquiry as to whether she would be able to go
8 to amusement parks with her kids like at Cedar Point?

9 A. I don't remember any such conversation.

10 Q. You don't remember telling her that she could
11 probably go on the rides with her kids with her new hip
12 once she recuperated?

13 A. I don't recall any conversation about Cedar
14 Point.

15 Q. In the answer filed by your attorney, Doctor, a
16 defense has been raised that Geraldine Zurawski may have
17 caused or contributed to her sciatic nerve injury. What
18 has, to your knowledge, Geraldine Zurawski done that has
19 caused or contributed to her sciatic nerve injury?

20 MS. REINKER: Objection.

21 A. I don't know what we're talking about. ★

22 Q. (BY MR. COTICCHIA) Are you aware of anything
23 that Mrs. Zurawski has done that may have caused or
24 contributed to her sciatic nerve injury?

25 A. Not that I'm aware of.

1 Q. Did you review any medical literature in
2 preparation for your deposition?

3 A. No, I did not.

4 Q. What documents did you review in preparation
5 for your deposition?

6 A. Her chart.

7 Q. Did you review any answers to interrogatories
8 prepared by your attorney that were answered by Mrs.
9 Zurawski?

10 A. Prepared by Mrs. Zurawski?

11 Q. No, prepared by Susan Reinker, answered by
12 Mrs. Zurawski?

13 A. I don't recall seeing that document.

14 MR. COTICCHIA: Do you want to take a
15 break?

16 MRS. ZURAWSKI: Yes, because I can't sit
17 anymore.

18 (Recess taken.)

19 MR. COTICCHIA: Let's get back on the
20 record please.

21 Q. (BY MR. COTICCHIA) Doctor, I call your
22 attention to your office note of September 4th, 1990. By
23 the way, what does BHC stand for?

24 A. Bolwell Health Center.

25 Q. What does that mean?

1 A. That's the medical office building that's
2 attached to University Hospitals.

3 Q. That's your office?

4 A. That's one of the places I have an office,
5 yes.

6 Q. Okay. At the second paragraph, second sentence
7 I quote, Still having a major struggle. The recovery from
8 the sciatic nerve injury is going to be the most difficult
9 part of this whole management particularly as we're almost
10 certainly going to have some permanent neurologic deficits
11 of those that were the six to eight vesiculae that were ★
12 torn on the tibial portion of the sciatic nerve and only
13 four of them were able to be tacked back together. That
14 is your note, is it not?

15 A. Correct.

16 Q. Is that still your opinion today in regard to ★
17 the permanent neurologic deficit?

18 A. Yes.

19 Q. Following the surgery, do you remember talking
20 to Mrs. Zurawski's husband, Mr. Ron Zurawski, immediately
21 after the surgery?

22 A. I talked to him twice that day.

23 Q. Okay. Do you remember telling him that you
24 damaged Mrs. Zurawski's sciatic nerve with a retractor
25 clamp?

1 A. No. I told him that the nerve had been
2 damaged. I may have speculated on what possibly could
3 have caused it, but I couldn't have told him what exactly
4 caused it. I really didn't know.

5 Q. Well, when you were explaining what you
6 speculated may have happened, do you remember using the
7 word the retractor clamp?

8 A. Well, I never would have used those exact words
9 because a retractor and a clamp are different things.
10 I might have said a retractor or a clamp. ✕

11 MR. COTICCHIA: I'm sorry. Did you get
12 that last answer?

13 Q. (BY MR. COTICCHIA) In the notice of this
14 deposition I asked that you bring the retractor. Did you
15 bring it with you?

16 A. No.

17 Q. Is there some reason why you didn't?

18 A. It said retractor clamp. That's not an
19 instrument. That's two different instruments. There were
20 three trays full of instruments. Those instruments are
21 not under my control. Those are the hospital's.

22 Q. Since I'm a layman and I don't know exactly
23 what these instruments are termed, had I asked for
24 a retractor so we could have seen what it looked like
25 here, could you have brought that?

1 A. I would have had to have brought a half tray of
2 retractors. There are multiple retractors in the major
3 surgical setup to do a hip replacement.

4 Q. I believe the subpoena or the -- Sorry. It was
5 not a subpoena. The notice was that you bring a retractor
6 of the type or sample that was used in the surgery. Would
7 that have helped you in determining what to bring?

8 A. I still would have had to have discussed with
9 you whether you wanted every retractor because there are
10 multiple kinds used. You can't say the kind used. There
11 are multiple kinds used.

12 Q. Well, you pointed out an area where, generally
13 speaking, the sciatic nerve was damaged. I think you said
14 it was the tibial division, correct?

15 A. Correct.

16 Q. What does a retractor do, what do you use it
17 for?

18 A. To separate tissue, to pull tissue to one side.

19 Q. And that's in order to get to the surgical
20 site, is that correct?

21 A. Correct.

22 Q. What type of retractor would you have used for
23 Mrs. Zurawski?

24 A. Multiple retractors.

25 Q. How many is multiple?

1 A. During the course of the surgery we probably
2 used at least five or six different kinds.

3 Q. It's not your testimony that you couldn't bring
4 it today because these instruments belong to the hospital,
5 is it?

6 MS. REINKER: Objection. They're not under
7 his custody and control.

8 MR. COTICCHIA: I understand that.

9 Q. (BY MR. COTICCHIA) But you as a surgical
10 specialist and as a professor of medicine are able to get
11 something like this to bring to a deposition, can't you?

12 A. I've never been asked to before. I would have
13 no idea whether the hospital would permit me to take that
14 out of the hospital suite or not.

15 Q. Did you inquire?

16 A. Since the instrument you asked for doesn't
17 exist; therefore, I came here to answer whatever questions
18 you wanted about it. I don't know of such a thing as a
19 retractor clamp.

20 Q. That's my mistake, but you know what I'm trying
21 to ask about, don't you?

22 A. You can only ask me questions.

23 Q. Yes.

24 MS. REINKER: At some point if you want
25 to --

1 Q. (BY MR. COTICCHIA) What is a retractor?

2 A. Retractor is an instrument that you retract
3 tissue with, pull as opposed to push.

4 Q. Is it something that you have to hold in your
5 hand all the time when it's being used?

6 A. No. Some do, some don't.

7 Q. All right. What type of retractor or
8 retractors were used in Mrs. Zurawski's surgery?

9 A. Six or eight different kinds, both those that
10 require holding by hand and those that don't.

11 Q. What do you call these different types of
12 retractors?

13 A. Call them all retractors. Some of them are
14 called self-retainers. Many of them have historic names
15 attached to them or surgeons' names attached to them,
16 Appendeccele being retractors which were usually used when
17 you did an appendectomy. Still has that name on it.

18 Q. Are the retractors referred to by size?

19 A. Sometimes.

20 Q. What I'm getting at, Doctor, is Mrs. Zurawski's
21 surgery, was any type of retractor used that had to be
22 held at all times?

23 A. By hand?

24 Q. Yes.

25 A. Yes. Certainly there were some retractors

1 being used that you would have to use by your hand, but ★
2 the instant you let go of it, it no longer is retracting;
3 and, therefore, you have to take it out and lay it down.

4 Q. Okay.

5 A. Some of the retractors are that kind, yes.

6 Q. All right. And some of the retractors, is it
7 right that they are self-attaching?

8 A. They have either a ring or a bow that allow you
9 to put it in place and hold the incision open, and it
10 will stay there until you take it out again.

11 Q. All right.

12 MS. REINKER: Self-retaining.

13 A. Self-retaining.

14 Q. (BY MR. COTICCHIA) What type of retractor or
15 retractors mainly did you use in Mrs. Zurawski's surgery?

16 A. We used a self-retainer retractor, and we used
17 five or six other temporary retractors for various
18 retracting throughout the procedure.

19 Q. In regards to the other ones that you referred
20 to as temporary, were those the type that had to be held
21 by hand all the time?

22 A. If it's a temporary retractor, it has to be
23 held by hand, yes. ★

24 Q. Was there anything different about the
25 retractors that you used in Mrs. Zurawski's surgery that

1 ~~you've~~ used in other hip replacement surgery?

2 A. No. ~~A~~

3 Q. As far as this type of surgery was concern
4 prior to the diagnosis of the sciatic nerve injury,
5 the hip replacement surgery go routinely?

6 A. Yes.

7 Q. Nothing unusual?

8 A. Not that I was aware of.

9 Q. So this is the only time in a thousand h
10 replacement surgeries that you have done that result
11 sciatic nerve damage?

12 A. This is the only one that I can recall.

13 Q. Do you agree that prior to Mrs. Zurawski
14 surgery of August 1990 she did not have any sciatic
15 damage in the right leg?

16 A. Not that I was aware of.

17 Q. You would not have done this type of sur
18 would you, if you had found preexisting sciatic ne
19 damage in the right leg?

20 A. That would have had nothing to do with
21 problem of her hip replacement. Yes, we would hav
22 done her hip replacement. "C

23 Q. Doctor, will you please turn to the (pro
24 note.) I think it's one of the first ones, August
25 1990. Her surgery was not until August 6. This v

1 patient history. It's dated August 2nd.

2 A. Okay. That was done before she was admitted to
3 the hospital.

4 Q. Right. I'm sorry. I have it under my tab as
5 progress note. What would you refer to that as?

6 A. Under admission history and physical.

7 Q. Okay. Whose handwriting is this?

8 A. It is Mr. Rick Megasi's. He's an RN.

9 Q. And your signature is next to Mr. Megasi's,
10 isn't it?

11 A. Right.

12 Q. Were you present when this history was taken? ★

13 A. No.

14 Q. It states, This active lady presents with a
15 15-year history of progressive right hip pain and
16 disability, is that correct?

17 A. Yes.

18 Q. I want to get down farther in this paragraph.
19 It says, Walks approximately two blocks with a cane.
20 Isn't it true that prior to Mrs. Zurawski's surgery she
21 never had a need to use a cane?

22 A. That's not my understanding.

23 Q. What is the basis of your understanding that
24 she needed a cane before this hip surgery? *Wrong*
hix

25 A. My recollection is that she was using it for

1 intermittent support.

2 Q. When would she need this intermittent support?

3 A. When her hip hurt too much.

4 Q. So it's your understanding based on this note
5 that prior to the surgery, despite whatever hip problems
6 Mrs. Zurawski had, she was able to walk approximately two
7 blocks?

8 A. Yes.

9 Q. Would you agree this is some indication by
10 history of an active lady independent of her hip trouble?

11 A. She was employed, she was working, yes.

12 Q. Doctor, since the notice of this lawsuit, have
13 you talked to or corresponded with Dr. Tarvez Tucker?

14 A. Yes. Since the lawsuit?

15 Q. Since the inception of the lawsuit.

16 A. I don't believe so.

17 Q. You've not talked to Dr. Tucker about
18 Mrs. Zurawski or about this lawsuit?

19 A. I think I saw Dr. Tucker in a corridor maybe
20 after this was filed and told her that Mrs. Zurawski had
21 filed an action, but I've had no discussion with her
22 about it.

23 Q. Did you talk to her at all about this
24 deposition?


25 A. No.

1 Q. Did you confer with any other doctors in regard
2 to this deposition?

3 A. No.

4 Q. Did you confer with any doctors in regard to
5 this lawsuit?

6 A. No.

7 Q. I'd like to talk to you a little bit about your
8 notation in regard to the 50 percent versus 20 percent of
9 sciatic nerve damage. Are you saying that the tibial
10 division of the sciatic nerve has been damaged? 

11 A. Yes, that's what I indicated.

12 Q. All right. In relation to that entire area of
13 the sciatic nerve, are you saying it's a 20 percent
14 damage?

15 MS. REINKER: Do you mean at the time he
16 wrote the comments on the operative note? Is that your
17 question?

18 MR. COTICCHIA: Yes.

19 MS. REINKER: Or as of today?

20 MR. COTICCHIA: Well, the operative notes
21 are changed from 50 to 20.

22 MS. REINKER: Correct. There was a
23 correction made by Dr. Heiple.

24 MR. COTICCHIA: Now, will you let him
25 answer my question.

1 MS. REINKER: My question was at what
2 in time are we referring to?

3 MR. COTICCHIA: At the time the note was
4 made. He hasn't said anything more than that, has he?

5 Q. (BY MR. COTICCHIA) Dr. Heiple, what I'm
6 to get at, and I don't question why you did it, you
7 to keep accurate records. There's no question about
8 I want to understand what it means. Okay. Does this
9 that in relation to the whole nerve, particularly the
10 area where you put a little red circle, there's 20 percent
11 damage to the sciatic nerve and 50 percent damage to
12 particular division?

13 A. No. That's not what I meant to indicate

14 Q. Okay.

15 A. The tibial division is approximately half
16 of the nerve.

17 Q. Tibial division half the nerve, okay.

18 A. And I meant to indicate when I corrected
19 which was Dr. Petersilge's dictation, didn't think
20 his appreciation of it was as experienced as mine in
21 looking at sciatic nerves, and I said I didn't believe
22 more than 20 percent of that tibial division so I'm
23 talking about 20 percent of half, which may be 10 percent
24 of the whole nerve. I thought that was probably a
25 as had been injured. That was 8/10/90.

1 Q. Your office notes of October 23rd in --
2 several of them talk about Mrs. Zurawski's complain
3 discomfort, pain in the right leg, complaints of sp
4 and cramps behind the knee and calf, marked
5 hypersensitivity of the whole foot. Are these all
6 symptoms of sciatic nerve damage?

7 A. They could be.

8 Q. You say they could be. Is it likely or
9 it more likely or less likely that they are symptom
10 sciatic nerve damage?

11 MS. REINKER: What note were you lo
12 at, the 16th of October?

13 MR. COTICCHIA: October -- I'm sor
14 August 23rd.

15 MS. REINKER: August 23rd.

16 A. You said October.

17 Q. (BY MR. COTICCHIA) I'm wrong. I beg
18 pardon.

19 MR. ALLISON: You're back on 8/23

20 MR. COTICCHIA: Yes. It's my mist

21 MS. REINKER: At this point she's
22 three weeks post-op?

23 THE WITNESS: Yes.

24 MS. REINKER: Okay.

25 A. She is less than three weeks.

1 Q. (BY MR. COTICCHIA) Are these symptoms of
2 sciatic nerve damage?

3 MS. REINKER: Again, is what?

4 A. Those kind of symptoms can be due to many other
5 things besides sciatic nerve damage. In her case I
6 thought they were probably due to this.

7 Q. (BY MR. COTICCHIA) I didn't hear your last
8 -- probably due --

9 A. In her case I thought that they were very
10 possibly due to her sciatic nerve injury. ✓

11 Q. Your note of September 25th states that she is
12 having a severe time dealing with the emotional aspect
13 of this injury, is that correct?

14 A. Yes.

15 Q. And what did you notice in regard to
16 Mrs. Zurawski's emotions that led to this note?

17 A. Mrs. Zurawski was still at that point not
18 -- Apparently at least from what her husband related to me
19 at that point, said she complains she was exhausted all
20 the time, she didn't want to come downstairs, she didn't
21 want to get dressed, she wanted to stay in her pajamas and
22 her robe, and I couldn't understand why somebody at this
23 point after a hip replacement just because her foot was a
24 bit numb and she was having some weakness of the foot why,
25 you know, she would want to stay upstairs and invalid

1 herself. I was very concerned.

2 Q. As your notes go on, they also reflect some
3 progress on Mrs. Zurawski's being able to get around with
4 the use of a crutch, correct?

5 A. Where are you?

6 Q. Well, you also stated March 12th that
7 adjustment of this disability --

8 A. Excuse me.

9 MS. REINKER: March 12th.

10 MR. ALLISON: March 12th of 1991.

11 A. Are you quoting from my office records?

12 Q. (BY MR. COTICCHIA) Yes, March 12th, 1991.

13 A. Okay. Yes.

14 Q. Overall adaption and adjustment to this
15 disability so far, however, has not been extremely good,
16 and it is questionable how well she is going to do over
17 the long term. Again, isn't this the result of sciatic
18 nerve injury?

19 A. It seemed to be related to it.

20 Q. Do you agree that different patients in regard
21 to this type of nerve injury emotionally react
22 differently, don't they?

23 A. I can't testify to patients' reactions typical
24 about sciatic nerve injuries since this is a new
25 experience for me.

1 Q. Your note of -- I'm sorry.

2 A. This is the only patient I've had with this
3 kind of circumstance so, I mean, you're asking me to
4 express what typical responses are. I'm sure that I can't
5 answer that.

6 MS. REINKER: I just would like the record
7 to be clear that this is the only one you've had in your
8 practice, but you've seen one other.

9 A. I've seen another patient, and he's running his
10 own business and walks all over the place.

11 Q. (BY MR. COTICCHIA) There are different degrees
12 of sciatic nerve injury, aren't there?

13 A. Yes.

14 Q. And there are different manners or ways that
15 people respond and live with this type of injury?

16 A. I would think that's very possible.

17 Q. Some of them respond differently emotionally,
18 don't they?

19 A. Again, I only have the two people that I have
20 ever seen to relate this to.

21 Q. You have another patient that you're recalling
22 that had a sciatic nerve injury?

23 A. I recall one of my senior associates, since
24 retired.

25 Q. Was that injury a result of surgery?

1 A. Due to hip replacement, yes. ~~X~~

2 Q. One of your office associates, who was that?

3 A. My recollection is Dr. Herndon.

4 Q. I wanted to go to the May 31st, 1991 note. You
5 make a note that there are complaints of a flare-up of
6 aching pain about the right hip and buttock and she had no
7 particular injury or twist that she's aware of around the
8 house doing her normal activities around the house, et
9 cetera. On exam she's lame and sore in her buttock clear
10 up to the iliac crest well above her incision.

11 Number one, if you don't mind, can you point to
12 the area on this diagram that you're talking about where
13 it says clear up to the iliac crest well above her
14 incision.

15 A. (Indicating).

16 Q. Okay. Will you put an X or a check there so we
17 know where that is. For the record, the area of the X is
18 I guess you'd say right in the area of the right hip. Is
19 that a fair statement?

20 A. No. That's the iliac crest.

21 Q. Okay, the iliac crest. As a layman I'd say
22 it's around the hip, maybe around the beltline, is that
23 fair?

24 MS. REINKER: Closer to the waist. You're
25 not talking about around the hip joint.

1 MR. COTICCHIA: No. I'm not talking about
2 the joint. I'm talking above it.

3 Q. (BY MR. COTICCHIA) Is it above the joint?

4 A. Yes.

5 Q. Okay. Is that a symptom of sciatic nerve --

6 A. No.

7 Q. Is it a symptom of sensitivity to the surgery?

8 A. I didn't believe so after examining her.

9 Q. What do you think that is a symptom of?

10 A. I thought she had pulled a muscle.

11 Q. Pulled a muscle even though there's sensitivity
12 in the -- I guess in the surface there?

13 A. Her incision was still tender, but this was way
14 above her incision, went above it.

15 Q. Doctor, are you employed by Orthopaedics
16 Associates, Incorporated?

17 A. I believe it's University Orthopaedics
18 Associates.

19 Q. I'm sorry. University Orthopaedics Associates,
20 Incorporated?

21 A. Yes.

22 Q. That's your employer?

23 A. Yes, one of my employers.

24 Q. Are you an officer of that company or
25 corporation?

1 A. Yes.

2 Q. Are you a shareholder?

3 A. Yes.

4 Q. How long has that corporation been in
5 existence?

6 A. I don't know.

7 Q. I also in my notice of subpoena asked you to
8 bring along a copy of your policy and your declaration
9 page of that policy.

10 A. They're not in my possession. I don't have
11 them.

12 Q. I assume they're in the possession of your
13 attorney because that's who I sent the notice to.

14 MS. REINKER: No, actually I don't have
15 them, and I've never seen them and --

16 MR. COTICCHIA: Are you saying that you
17 can't get them?

18 MS. REINKER: I don't see any reason why
19 you need them. We provided all the information that you
20 need from the policy. I've never in 12 years produced
21 one, and now I would suggest you file a motion to compel
22 so we can see the reasons why you want it.

23 MR. COTICCHIA: I have a right to know the
24 terms of the policy and terms of coverage. It's pursuant
25 to the rules of discovery.

*Motion
to
compel*

1 MS. REINKER: Well, again, my suggestion --
2 The Doctor does not have it. He's never seen it, and I
3 just suggest you file a motion to compel, and we'll see
4 why you need it and I'll try to dig one up.

5 Q. (BY MR. COTICCHIA) Doctor, were you aware in
6 regard to the notice of deposition that I had requested
7 that you bring along a copy of your policy?

8 A. I don't remember.

9 Q. You don't remember your attorney telling you or
10 showing you the notice of deposition?

11 MS. REINKER: I've never shown him the
12 notice of deposition.

13 Q. (BY MR. COTICCHIA) Did your attorney tell you
14 what I asked for pursuant to that notice?

15 A. I remember being asked to bring all my records.
16 I don't recall other items.

17 A. I remember about the retractor bit, yes. Okay.

18 Q. Tell me what you know of in regard to your
19 insurance coverage.

20 MS. REINKER: Objection.

21 A. I simply know that I'm insured.

22 Q. (BY MR. COTICCHIA) Who is your insurance
23 company?

24 MS. REINKER: Continuing objection.

25 A. I believe it's PIE.

1 Q. (BY MR. COTICCHIA) Do you know the extent of
2 your coverage?

3 A. Not for sure.

4 Q. Do you know if you have an ^{excess} ~~access~~ policy?

5 A. I think so.

6 Q. Is this also issued by PIE or another company?

7 A. I don't recall.

8 MS. REINKER: These answers were all
9 provided in the answers to interrogatories.

10 Q. (BY MR. COTICCHIA) Doctor, please turn to a
11 letter dated June 10th, 1991 and to whom it may concern.
12 Near the end of the first paragraph you state that sciatic
13 nerve which was repaired but has resulted in some
14 permanent weakness of her right leg particularly below the
15 knee and with major amounts of dysesthesia,
16 hypersensitivity and pain in the right lower extremity.
17 Is that still your opinion today?

18 MS. REINKER: Objection. He's not seen the
19 woman for over a year now, almost a year.

20 Q. (BY MR. COTICCHIA) Is that still your opinion
21 today?

22 A. It was my opinion at that time.

23 Q. Are you aware of anything in regard to
24 Mrs. Zurawski's treatment or recovery today that would
25 change the opinion that you wrote in this letter of June

1 10th?

2 A. No. I haven't seen her since May of '91.

3 Q. You've received correspondence from Dr. Tarvez
4 Tucker, haven't you?

5 A. Yes.

6 Q. Is there anything in that correspondence that
7 would change your opinion that you stated on June 10th,
8 1991?

9 A. I don't seem to have anything from Dr. Tucker
10 after my last visit. April 9th, '91 is the last note that
11 I have from Dr. Tucker.

12 Q. At that point we can agree you hadn't received
13 anything that would change the statement on June 10th,
14 1991?


15 A. No.

16 Q. What do you mean by dysesthesias?

17 A. Funny feelings, prickle, tingle.

18 Q. Sometimes pins and needles and sometimes
19 numbness?

20 A. Yes.

21 Q. Your last sentence in the letter is still
22 using external support but doing a bit more around the 
23 house and remains essentially totally disabled in terms of
24 being able to return to work. It is a significant
25 question as to whether she will ever be able to work on

1 this extremity on an on-her-foot basis. Is that still
2 your opinion today.

3 MS. REINKER: Objection.

4 A. I haven't seen her in a year. I can't state
5 whether that's true or not still.

6 Q. (BY MR. COTICCHIA) Dr. Heiple, assuming that
7 her condition remains the same today as it was on June 9,
8 1991, isn't it true this is the type of injury that will
9 prevent her from returning to work selling coats at
10 Higbee's?

11 MS. REINKER: Objection.

12 A. No, I don't believe it should have.

13 Q. (BY MR. COTICCHIA) So it's your testimony with
14 her condition today she could go back to doing the same
15 type of job she was doing before her surgery?

16 A. I think it's possible. The only other patient
17 I'm aware of certainly works on his feet successfully.

18 Q. Wasn't this a letter that you prepared to be
19 sent to the Higbee Company?

20 A. I have a little problem remembering exactly the
21 circumstances, but my recollection is that I was asked to
22 prepare this letter because Miss Zurawski was having
23 difficulty in going back to work and wished to apply for
24 some sort of disability. I don't know whether this helped
25 her with mortgage payments or what it did, but I get a lot

1 of requests to make a current status of disability for
2 people, and you do your best to put together a statement
3 that reflects her status at that time and what she feels
4 that she can do and able to work and the amount of
5 complaints that she still had about, and at that point I
6 didn't think that she was able to return to her
7 on-her-feet job and couldn't tell how long it was going to
8 be until she could.

9 Q. Let's turn to a letter to you from Dr. Tarvez
10 Tucker dated November 6, '91. Even though you had not
11 seen Mrs. Zurawski, you were still receiving
12 correspondence in regard to her condition from Dr. Tucker,
13 weren't you?

14 A. You seem to have a letter that I don't have in
15 my own records.

16 Q. November 6, 1991.

17 A. I don't find November at the moment. I'll have
18 to look at yours.

19 MS. REINKER: I don't have it.

20 A. You may have records from Dr. Tucker that I
21 don't have. I don't know. Sometimes things don't get
22 totally filed.

23 MR. COTICCHIA: Do you want me to make a
24 copy of this?

25 MS. REINKER: We probably have it in

1 Dr. Tucker's chart, but he doesn't have it in his.

2 THE WITNESS: I have an October and
3 and I have a subsequent October 23rd and then you said --
4 I go to a December one after that.

5 MS. REINKER: December of '90?

6 THE WITNESS: December of '90. You said
7 November.

8 MR. ALLISON: November of '91.

9 A. I have had nothing since April of '91 from
10 Dr. Tucker so I've never seen that. Is it addressed to
11 me?

12 Q. (BY MR. COTICCHIA) Yes.

13 A. Somehow it never got to my chart.

14 Q. Doesn't that letter, without reading the whole
15 thing, Doctor, doesn't that letter state that there is
16 some progress, but it looks like the condition has
17 plateaued?

18 A. Let's see. That's the first sentence, the
19 fourth paragraph, yes.

20 Q. All right. Going down to the third paragraph
21 it states, Once again reflexes are brisk and symmetrical
22 but are not present at the right ankle. The toes are down
23 going. Isn't that a symptom of sciatic nerve damage?

24 A. It's a symptom of nerve injuries somewhere. It
25 doesn't say it's sciatic, but it's somewhere in the course

1 of the nerve from the ankle to the spine.

2 Q. And it's most likely in this case, knowing what
3 we know based on your records and your testimony, the
4 nerve we're talking about is the sciatic nerve, isn't it?

5 MS. REINKER: Objection.

6 A. Yes.

7 MR. COTICCHIA: Did you get the answer
8 after the objection?

9 A. Yes.

10 Q. (BY MR. COTICCHIA) So this letter now is
11 an indication that the sciatic nerve injury is permanent,
12 isn't it?

13 MS. REINKER: Objection. That's a question
14 you should put to Dr. Tucker.

15 Q. (BY MR. COTICCHIA) You may answer, Doctor.

16 A. I think I've already stated that I think that
17 she has some elements that will be permanent, but she
18 still could improve a bit from here.

19 Q. If she improves, how is she going to improve,
20 how is this nerve going to improve?

21 A. She may have less dysesthesia, her strength in
22 plantar flexion of her foot may improve. She's complained
23 of a lot of sensitivity to it, and that sensitivity may
24 slowly fade.

25 Q. Your explanation of the sciatic nerve surgery,

1 as I understand it, was you were able to repair or
2 reapproximate some but not all of these damaged fibers, is
3 that correct?

4 A. Correct.

5 Q. Some of them were interrupted or torn apart,
6 correct?

7 A. Correct.

8 Q. And that you just could not reattach them, is
9 that correct?

10 A. There were a couple fascicles that were
11 shredded and couldn't get the ends back together.

12 Q. If you can't get them back together, isn't it
13 true, Doctor, that they're not going to mend or grow
14 together?

15 A. Well, in rare cases some fibers will even jump
16 a gap but it's basically true. I would not expect that to
17 happen.

18 Q. Do you receive medical journals and
19 publications at your office, Doctor?

20 A. Yes.

21 Q. What medical journals and/or publications do
22 you receive?

23 A. I subscribe to the Journal of Bone and Joint
24 Surgery. I subscribe to Clinical Orthopedics and Related
25 Research. I subscribe to the Journal of Orthopedic

1 Research. I subscribe to the Journal of Hand Surgery, and
2 there are others that come to the department library that
3 are not personal subscriptions. Those would be 30 or 40
4 others.

5 Q. I understand that you have written several
6 articles in the area of orthopedic surgery.

7 A. Yes.

8 Q. And biomechanics.

9 A. Yes.

10 Q. Is that correct?

11 A. Correct.

12 Q. Is that one of your areas of specialty,
13 biomechanics?

14 A. That's a research area.

15 Q. Right. You do research in the hip replacement
16 prostheses, is that correct?

17 A. That's correct.

18 Q. Involving wear, tear, how they load or fail, is
19 that correct?

20 A. Correct.

21 Q. Have you ever done any research or written any
22 articles pertaining to sciatic or perineal nerve damage?

23 A. No.

24 Q. In regard to Mrs. Zurawski's condition prior
25 to the surgery, the first surgery of August 1990, this was

1 elective surgery, wasn't it?

2 A. I would consider it so, yes.

3 Q. There was no emergency, was there?

4 A. No.

5 Q. Did you expect that the surgery would -- the
6 hip replacement surgery would relieve most of, if not all,
7 of her hip pain and disability?

8 A. Yes.

9 Q. Would you say today as a result of this surgery
10 her disability is greater than it was prior to the
11 surgery?

12 MS. REINKER: Objection.

13 MR. ALLISON: Objection.

14 A. I don't know that I can evaluate that.

15 Q. (BY MR. COTICCHIA) Why not?

16 A. I don't have a detailed assessment of how much
17 she thought she hurt beforehand. She thought she was
18 pretty disabled. She was indicating to me that she didn't
19 think she was going to be able to work on this hip much
20 further.

21 Q. Give me an assessment based on what you have in
22 your chart how she compared to the last --

23 A. I don't understand the question.

24 Q. All right. Is Mrs. Zurawski's disability
25 greater today than it was prior to her surgery in August

1 1990?

2 MS. REINKER: Objection. He's not seen the
3 patient in almost a year.

4 Q. (BY MR. COTICCHIA) To the point you last saw
5 Mrs. Zurawski.

6 A. She was doing much less than before, and I'm
7 not sure that I can completely understand why she was
8 doing that little. I felt she ought to be able to do a
9 great deal more than that.

10 Q. Who was the manufacturer of the hip, total hip
11 joint that you used?

12 A. I believe it would be the Zimmer Corporation.

13 Q. I think they have an office in Akron, don't
14 they?

15 A. Not that I'm aware of.

16 Q. Are there any instructions or warnings provided
17 by the manufacturer that go with the hip?

18 A. I'm not aware whether there are or not. There
19 probably are. Everything comes with a package insert
20 nowadays.

21 Q. You're not aware if there are any warnings or
22 instructions to the surgeon?

23 A. I'm not aware of the specifics ones, no.

24 Q. Do you know the nurse, Rick Megasi?

25 A. Yes.

1 Q. Is he employed by University Orthopaedics
2 Associates?

3 A. No. He's an employee of the hospital.

4 Q. Has, to your knowledge, University Orthopaedics
5 Associates ever paid Mr. Megasi for work that he's done
6 in your office or the office of other employees of
7 University Orthopaedics Associates?

8 A. They might have.

9 Q. Do you recall providing Mrs. Zurawski with a
10 pamphlet that describes hip surgery?

11 A. Mr. Megasi would have probably provided that
12 to her.

13 Q. Was that one of his job duties?

14 A. Generally he does that, yes.

15 Q. I had provided copies of this to the attorneys
16 for -- I think I just did it for --

17 MR. ALLISON: I have copies.

18 MR. COTICCHIA: I'm sorry. Have you --

19 MS. REINKER: No.

20 MR. COTICCHIA: All right. Let's mark this
21 as an exhibit, both of these.

22 (Plaintiffs' Deposition Exhibits Heiple 1
23 and 2 marked for identification)

24 MR. COTICCHIA: Okay. We all have a copy
25 now.

1 Q. (BY MR. COTICCHIA) Dr. Heiple, I show you
2 what's been marked Plaintiffs' Exhibit Heiple 1. Do you
3 recognize this pamphlet?

4 A. Yes.

5 Q. Where did it come from?

6 A. It's one that we used to give patients several
7 years ago in anticipation of hip replacement surgery.

8 Q. This cover page says University Orthopaedics
9 Associates, correct?

10 A. Correct.

11 Q. Prior to Mrs. Zurawski's surgery of August 6,
12 1990, had you read this pamphlet?

13 A. I'm sure I did at some point.

14 Q. Is it a practice of your office to provide a
15 copy of this to patients who are going to have a total hip
16 replacement like Mrs. Zurawski?

17 A. Usually do. We try to. I think it helps them
18 understand what's going to happen.

19 Q. Is Mr. Megasi instructed to provide this kind
20 of a pamphlet to your patients?

21 A. That's one of his general duties, yes.

22 Q. Is there anything, to your knowledge, in this
23 pamphlet marked Exhibit 1 that discusses sciatic nerve
24 damage as a risk of surgery?

25 A. No.



1 Q. I call to your attention what's been marked
2 Plaintiffs' Exhibit Heiple 2. It's another booklet that
3 states, All About Your New Hip. Have you seen this
4 before?

5 A. Yes.

6 Q. That says Department of Orthopaedics,
7 University Hospitals of Cleveland.

8 A. Yes.

9 Q. Who prepared that pamphlet?

10 A. I believe it says on the cover.

11 Q. Somebody from the hospital?

12 A. Yes.

13 Q. Do you know who gave this to Mrs. Zurawski?

14 A. No, I don't.

15 Q. Showing you specifically Exhibit 2, do you know
16 whose handwriting appears at the top, do you recognize
17 that?

18 A. No.

19 Q. Did you know that prior to surgery
20 Mrs. Zurawski was going to be given this pamphlet from the
21 hospital?

22 A. Not specifically, no.

23 Q. Is this something that normally occurs with one
24 of your patients at University Hospital?

25 A. This pamphlet they would ordinarily get

1 sometime postoperatively. This is from 1981, revised
2 '87, yes.

3 Q. But at the top it says Gerry, which is
4 Mrs. Geraldine Zurawski's first name, August 2nd, '90;
5 surgery, August 6, '90 so I don't know, but it appears to
6 me that this was given to her before surgery.

7 MR. ALLISON: Objection.

8 MS. REINKER: Objection.

9 MR. COTICCHIA: I guess we'll have to ask
10 her.

11 MR. ALLISON: We'll ask the plaintiff.
12 That's probably the easiest way to find out.

13 Q. (BY MR. COTICCHIA) You had nothing to do with
14 the preparation of that pamphlet, is that correct?

15 A. No, I didn't. I may have seen it in its
16 multiple revisions. I might have looked at it or made
17 some comment about it. I might have been asked to read it
18 and see if I had anything in it that I would be -- would
19 be included, but I didn't prepare it, and I'm not
20 responsible for its preparation.

21 Q. And, to your knowledge, prior to today's
22 deposition you didn't know that this was given to her,
23 Mrs. Zurawski?

24 A. Not specifically. Although, most of our
25 patients get one or both of these booklets.

1 Q. Is there anything in the pamphlet, All About
2 Your New Hip, that discusses sciatic nerve damage?

3 MS. REINKER: Did you get a chance to look
4 through?

5 A. I haven't had a chance to look through it
6 carefully enough to answer that question.

7 Q. (BY MR. COTICCHIA) Do you know how many hours
8 a week Mrs. Zurawski worked at Higbee's prior to this
9 surgery?

10 A. No, I don't.

11 Q. Did you know that before the surgery in
12 addition to these pamphlets Mrs. Zurawski saw a videotape?

13 A. I'm not specifically aware of that, no.

14 Q. Is it your practice to instruct patients to
15 view a videotape which portrays total hip surgery?

16 A. Not my specific practice. The patients are
17 seen by the nurse clinician in advance. They review with
18 them, and many of the patients attend a voluntary session,
19 instruction before they come in the hospital.

20 Q. When you say nurse clinician, what that be
21 Mr. Megasi?

22 A. He's one of them, yes.

23 Q. Is it a practice of University Hospitals to
24 show hip replacement patients this video or movie?

25 MR. ALLISON: Objection.

1 A. I don't believe. That wouldn't be the
2 hospital's. That would be the orthopedic department's
3 specification of what instruction material they would
4 get.

5 Q. (BY MR. COTICCHIA) Orthopedic department of
6 University Hospital, is that correct?

7 A. Yes. 

8 Q. But it's not part of your practice?


9 A. Yes. I would say it was part of our practice.

10 Q. It is part of your practice?

11 A. I don't remember specifically whether a
12 videotape was introduced. I know that there has been one.
13 I don't know specifically if Mrs. Zurawski saw a videotape
14 or not.

15 Q. Okay. You don't know that specifically?

16 A. No, I do not.

17 Q. So if Mr. Megasi advised Mrs. Zurawski to see
18 this videotape to give her some instruction and give her
19 an idea of what the hip replacement surgery is about,
20 would that be under his direction as an employee of
21 University Hospital? 

22 MR. ALLISON: Objection.

23 A. He is an employee of University Hospitals;
24 nevertheless, he will do, as many of the employees do,
25 will follow instructions from the staff on what his

1 relationships will be to the patients and what kind of
2 instructional materials he'll give them. So he certainly
3 works for the hospital, but the material that he will
4 present to patients will be selected by the orthopedic
5 staff.

6 Q. And you're a member of that staff?

7 A. Yes.

8 Q. Who is responsible for the selection of that
9 film?

10 A. I don't know.

11 Q. Had you ever seen the film?

12 A. I have not seen the film.

13 Q. And you don't have any specific recollection,
14 do you, that you wanted Mrs. Zurawski to see the film?

15 A. Specifically a film, no.

16 Q. There's nothing in your --

17 A. No. We ask all the patients to come for
18 preoperative testing and instruction.

19 Q. Did University Orthopaedics purchase this film
20 or video?

21 A. I have no idea.

22 Q. Do you know if the hospital did?

23 A. I have no idea.

24 Q. You don't know then if the film or video
25 depicts or discusses the risks of surgery, do you?

1 A. No, I don't.

2 Q. Based on your experience doing total hip
3 replacements, did you assure Mrs. Zurawski that this was a
4 routine surgery?

5 A. Before or after we're talking about?

6 Q. Before the surgery.

7 A. She has some complicating medical factors so
8 it certainly wasn't totally routine.

9 Q. As far as the hip replacement, didn't you
10 assure her that this was routine, that she could expect to
11 go back to normal activities and feeling better than she
12 did --

13 A. I didn't say that we have any unusual technical
14 problems about putting in a good hip replacement.

15 Q. What were some of the factors in regard to
16 Mrs. Zurawski's health that you were making reference to
17 in conjunction with the hip replacement surgery?

18 A. Miss Zurawski has ulcerative colitis, and she
19 has a colostomy, which means that we have problems in
20 getting -- which means that she has more skin
21 contamination in her abdomen and hip with possible -- with
22 increased possibility of risk of infection, and my
23 recollection in talking with she and her husband, this was
24 a little greater concern for me than most of the other
25 kind of risks.

1 Q. While Mrs. Zurawski was recovering following
2 the sciatic nerve surgery, do you remember telling her
3 that she may never walk again?

4 A. No, I never told her any such thing. Couldn't
5 possibly have told her such a thing. I had no reason to
6 think that she wouldn't walk. She did get up and walk for
7 us ~~once~~^{when} she was still in the hospital.

8 Q. How was she walking?

9 A. With crutch support.

10 Q. Did she need crutches before the surgery?

11 A. She would have needed crutches after the
12 surgery whether there had been a sciatic injury or not.
13 That is normal post-operative management.

14 Q. She uses a crutch today, doesn't she?

15 A. I saw her use one today.

16 Q. Is that normal following a hip replacement
17 surgery, 18 months post surgery?

18 A. No, I would not expect her to need one at this
19 point.

20 Q. Isn't that due to the sciatic nerve damage?

21 MS. REINKER: Objection.

22 MR. ALLISON: Objection.

23 A. I don't know why she still uses one.

24 Q. (BY MR. COTICCHIA) Dr. Heiple, have you been a
25 defendant in other medical malpractice cases?

1 MS. REINKER: Objection.

2 A. What do you mean by defendant?

3 Q. (BY MR. COTICCHIA) A patient such as
4 Mrs. Zurawski brings a claim for medical negligence
5 against you as a doctor.

6 MS. REINKER: Continuing objection.

7 A. A claim?

8 Q. (BY MR. COTICCHIA) Yes, a suit. Have you been
9 sued for negligent medical treatment?

10 A. I think a couple times, yes.

11 Q. Okay. How many times is a couple times?

12 A. I would have to go back and ask the insurance
13 company, but I'm aware of two that I can think of at the
14 moment.

15 Q. Who were your attorneys in those cases?

16 A. PIE.

17 Q. PIE. What type of negligence was claimed in
18 those cases?

19 A. One lady had a hammertoe got infected, she
20 wasn't happy with, and I have one that's still been
21 perking along for some years, a wrist problem.

22 Q. Following surgery?

23 A. Yes.

24 Q. As an expert in orthopedic surgery, have you
25 been an expert witness in regard to any cases on behalf of

1 doctors insured by PIE?

2 MS. REINKER: Still the continuing
3 objection.

4 A. Not that I'm aware of, not that I can remember.
5 I don't remember ever testifying as an expert witness for
6 PIE.

7 Q. (BY MR. COTICCHIA) Have you been involved in
8 any peer review committees on behalf of PIE?

9 MS. REINKER: Objection.

10 A. No, I don't believe I have.

11 Q. (BY MR. COTICCHIA) Have you been called by
12 either employees of PIE or attorneys of Jacobson, Maynard
13 as a consultant to review records in regard to medical
14 malpractice claims or lawsuits?

15 MS. REINKER: Objection.

16 A. I don't think I have.

17 Q. (BY MR. COTICCHIA) Have you been an expert
18 witness regardless of whether it's for plaintiff or
19 defendant in any medical malpractice lawsuits?

20 MS. REINKER: Continuing objection.

21 A. I don't believe that I've ever been an expert
22 witness for anyone other than a patient of mine.

23 Q. (BY MR. COTICCHIA) With respect to your
24 patients, who would that have been?

25 A. You're subpoenaing my patient records?

1 Q. No, I'm just asking.

2 A. A patient of mine who was --

3 Q. Suing another doctor?

4 A. And, therefore, I've had to testify as to what
5 their problem was.

6 Q. Do you remember who the doctor was that was
7 being sued?

8 A. No. I'm sure I've done this four or five times
9 in the last 20 years. Sometimes I have no idea, no idea
10 who the doctors were.

11 Q. So as a medical doctor who specializes in the
12 field of orthopedic surgery you have testified against
13 other orthopedic surgeons and rendered an opinion, have
14 you not?

15 A. Yes.

16 Q. And that opinion, I assume, is that the doctor
17 who was being sued by the patient breached medical
18 standards of care?

19 A. I can remember once -- Most the time it's
20 simply been a matter of my expert opinion about the
21 present level of their injury or their disability. I can
22 remember one case some years back that I thought standard
23 of care hadn't been met.

24 Q. And I assume then you also provided an opinion
25 as to what caused the injury as a result of the breach of

1 standard of care?

2 A. I'm not sure I understand that question.

3 Q. All right. What case are you recollecting, was
4 it in your area of specialty like hips, knees or hands?

5 A. Yes. It was a hip case.

6 Q. Do you remember who the doctor was?

7 A. It was in Jefferson County. I can't at the
8 moment. I probably would recall in a few minutes if I
9 spent enough time thinking about it.

10 Q. That's okay. I'm only inquiring. We don't
11 want to take up too much time.

12 Have you testified for patients in lawsuits in
13 this county, Cuyahoga County?

14 MS. REINKER: Medical malpractice?

15 Q. (BY MR. COTICCHIA) Medical malpractice.

16 A. I'm not sure. I'm really not sure, not sure.

17 Q. Dr. Heiple, do you remember a case involving
18 Dr. Steffee?

19 A. That I testified in?

20 Q. Yes, or at least you submitted an opinion?

21 A. Okay. Vaguely. I might have submitted an
22 opinion about a patient of Dr. Steffee's about a hand
23 thing once but I never, to my knowledge, never made a
24 deposition or appeared in court.

25 Q. Okay. Do you have any opinions in regard to

1 the care that's been provided Mrs. Zurawski by Dr. Tarvez
2 Tucker?

3 A. As far as I could determine, Dr. Tucker was
4 doing the best she possibly could to help Mrs. Zurawski.

5 Q. And that's based on the correspondence that you
6 got from Dr. Tucker, isn't it?

7 A. Yes.

8 Q. I wanted to ask you something to clear up in
9 regard to Mrs. Zurawski. Isn't it true that Mrs. Zurawski
10 had a history of ulcerative colitis, but when you examined
11 her she had a colostomy?

12 A. She had had a -- That's right.

13 Q. She did not have at that point prior to surgery
14 ulcerative colitis?

15 A. I'm not sure whether her internist through my
16 original note would agree with that. I think that's kind
17 of a medical definition of saying that she -- I'm not sure
18 that that's a correct way of saying it. I mean, she's
19 either a subtotal -- depending whether she has a subtotal
20 or total colostomy and that I don't know in further
21 detail. I don't know whether there's any evidence of
22 residual disease in the colon. You'd have to ask her
23 gastroenterologist, who I believe is Dr. Dworken, whether
24 she has any evidence of active colitis. That I don't
25 know.

1 Q. I don't have anymore questions. Thank you,
2 Dr. Heiple.

3 CROSS-EXAMINATION

4 BY MR. ALLISON:

5 Q. Dr. Heiple, as you know, my name is Tom
6 Allison. We met before your deposition. I represent
7 University Hospitals of Cleveland. I'm going to try and
8 be very brief.

9 First of all, Doctor, during your answers that
10 you gave to Mr. Coticchia you said that you were an
11 employee of University Orthopaedics Associates,
12 Incorporated, is that correct?

13 A. That's one of my employers.

14 Q. You are not an employee of University Hospitals
15 of Cleveland, are you?

16 A. I am not.

17 Q. And basically you are a physician with
18 admitting privileges at University Hospitals of Cleveland,
19 is that right?

20 A. That is correct.

21 Q. And during the hospitalization in August of
22 1990 you were Miss Zurawski's private attending physician?

23 A. Correct.

24 Q. And you admitted her to the hospital as your
25 private patient, correct?

1 A. That's correct.

2 Q. Dr. Petersilge we've talked about briefly in
3 Mr. Coticchia's portion of this deposition. He assisted
4 you in that surgical procedure that was conducted on Miss
5 Zurawski, correct?

6 A. Yes.

7 Q. And you said you didn't consider him to be
8 doing the surgery, is that correct?

9 A. No.

10 Q. Is it fair to say, Doctor, that when you do
11 surgery in your capacity as a private attending surgeon
12 with a resident who -- and we found out is a physician in
13 training, that what that resident does to assist you
14 during the performance of that procedure, they are acting
15 under your direct supervision and control?

16 A. Yes.

17 Q. Doctor, you don't have any criticism of
18 Dr. Petersilge in regard to any of the care that he gave
19 to Miss Zurawski as a resident during that
20 hospitalization, do you?

21 A. No, I do not.

22 Q. And you don't have any criticisms of any of the
23 medical care given to Miss Zurawski at University
24 Hospitals of Cleveland during that August 1990 admission,
25 is that correct?

1 A. No, I do not.

2 Q. That includes the nurses and any other
3 employees or agents of the hospital?

4 A. That's correct.

5 Q. Rick Megasi is a registered nurse, not a
6 physician, correct?

7 A. Correct.

8 Q. And his functions at the hospital, really he
9 works exclusively as an orthopedic nurse, doesn't he?

10 A. That's correct.

11 Q. And his work really is only on the patients who
12 are the patients of University Orthopaedics Associates,
13 Incorporated, is that correct?


14 A. That happens to be the case since there are no
15 private staff orthopedic surgeons who are not members of
16 University Orthopaedics, Incorporated so that does happen
17 to coexist.

18 But if there are other physicians, he would be
19 -- if there were an admitting orthopedic surgeon who was
20 not a member of University Orthopaedics, he would work for
21 them as well.

22 Q. And that was the case in August of 1990 as
23 well?

24 A. That's the case.

25 Q. When Mr. Megasi provides any kind of

1 pre-surgical patient instructional classes or materials,
2 those classes and the materials are from a nursing
3 standpoint, is that correct? 

4 A. Well, both nursing and in an effort to make the
5 patient understand what's going to happen both surgically
6 and postoperatively so some of that overlaps into the area
7 of what the physician would be communicating as well as
8 what the nurses would be communicating.

9 Q. When he gives these type of patient sessions,
10 though, he is not meant to provide the same information
11 that a physician such as yourself provided to Miss
12 Zurawski in the discussion that you had with her, is that
13 correct?

14 A. No. He covers much of the same ground but not
15 meant to be a substitute for it.

16 Q. And in that capacity Mr. Megasi is not expected
17 to or intends to discuss all of the risks of a surgical
18 procedure with the patient, would that be correct?

19 A. That's correct.

20 Q. And that's not really his function, is it?

21 A. No.

22 Q. That's the function of the physician?

23 A. That's correct.

24 Q. Thank you, Doctor. That's all I have.

RE-CROSS-EXAMINATION

BY MR. COTICCHIA:

Q. In regard to the pamphlets pertaining to Exhibit 1, Exhibit 2 and the video that Mrs. Zurawski saw, assuming that these were all provided by Nurse Rick Megasi, I'd like to know, Dr. Heiple, is Mrs. Zurawski supposed to rely or not rely on that information provided her by Mr. Megasi?

MR. ALLISON: Objection.

MS. REINKER: Objection.

A. I think we expect her to use this information to review what's going to happen, what the normal course of events are so if there's things she doesn't understand or things that she wants amplified or wants to talk about, she can take them up with the physician.

Q. (BY MR. COTICCHIA) And it's true, isn't it, that as you stated there's some overlap between the nursing and the surgical aspect of this type of patient education, isn't there?

A. There always is.

Q. Now, there's been some reference in regard to Dr. Petersilge. Isn't it true at the time of Mrs. Zurawski's surgery he was an employee of University Hospitals of Cleveland?

MR. ALLISON: Objection. If the Doctor

1 knows that, that's fine.

2 A. That's my understanding.

3 ~~MR. COTICCHIA:~~ All right. Let's mark
4 this Exhibit 3. For the record, it's dated August 6th,
5 and it says, Authorization for medical procedure,
6 University Hospitals of Cleveland at the top.

7 (Plaintiffs' Deposition Exhibit Heiple 3
8 marked for identification)

9 Q. (BY MR. COTICCHIA) Doctor, calling your
10 attention to what's been marked Exhibit 3, have you seen
11 this authorization form?

12 A. Yes.

13 Q. Is this in your chart or record?

14 A. Yes.

15 MS. REINKER: Wait.

16 A. In the hospital chart.

17 Q. (BY MR. COTICCHIA) You don't have it in your
18 office chart?

19 A. No.

20 Q. Were you present when that was signed by
21 Mrs. Zurawski?

22 A. No.

23 Q. Were you present when it was signed by
24 Dr. Petersilge?

25 A. No.

1 Q. Do you know what, if anything, Dr. Petersilge
2 and Mrs. Zurawski discussed prior to that signing?

3 A. No, I don't.

4 Q. Doctor, I want to ask you this. You just
5 stated that you are the direct supervisor with regard to
6 Mrs. Heiple's surgery, is that correct?

7 A. Mrs. Zurawski's surgery.

8 Q. I'm sorry. You didn't operate on your own
9 wife. I'm sorry.

10 Anyway, the question is you just testified,
11 didn't you, that you were directly supervising
12 Mrs. Zurawski's surgery?

13 A. Yes.

14 Q. Does that supervision include the signing of
15 Exhibit 3 by a resident who is an employee of University
16 Hospitals?

17 MR. ALLISON: Objection.


18 A. I've stated I wasn't present when that was
19 done.

20 Q. (BY MR. COTICCHIA) I understand, but my
21 question is is that part of your supervision or
22 responsibility?

23 MR. ALLISON: Objection.

24 MS. REINKER: Objection.

25 A. It's one of my responsibilities to make sure we

1 have a signed consent form. It's the nurse's 
2 responsibility as well. They wouldn't let us proceed
3 without one.

4 Q. (BY MR. COTICCHIA) All right. Is part of your
5 responsibility, independent of making sure that it's
6 signed, that you get involved in going over this form with
7 the patient and the resident?

8 A. No. I don't agree with that. I do my consent
9 with the patient in the office. We've already discussed
10 that.

11 Q. There was nothing signed in regard to your
12 consent, was there, obtained from Mrs. Zurawski?

13 A. In the office?

14 Q. Yes.

15 A. No.

16 Q. Something that I didn't -- just came up. Is it
17 my understanding that every member of the orthopedic staff
18 at University Hospital is an employee of University
19 Orthopaedics Associates?

20 A. I think there's at least one exception right
21 now. I think John Posh has admitting privileges so maybe
22 there's one who's not.

23 Q. Other than that one, when we refer to the
24 staff, the orthopedic staff of University Hospitals, we're
25 also talking about University Orthopaedics Associates

1 other than Dr. Posh?

2 A. Pretty much.

3 Q. Okay. Thank you.

4 MR. ALLISON: Nothing further.

5 MS. REINKER: Okay. Doctor, you have the
6 right to review the deposition and then put your signature
7 on it rather than let the court reporter put your
8 signature on it for you. I also recommend in these cases
9 that you review it first, medical cases so we get the
10 spellings right and everything.

11 THE WITNESS: Okay.

12 MS. REINKER: Are you going to request this
13 written?

14 MR. COTICCHIA: Yes.

15 MS. REINKER: Okay. I'll take a copy.

16 - - -

17 (Deposition concluded at 12:40 p.m.)

18 - - -

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25

1 I have read the foregoing transcript of my deposition
2 taken on Wednesday, March 4th, 1992 from page 1 to page 92
3 and note the following corrections:

4
5 PAGE: LINE: CORRECTION: REASON:

6
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10
11
12
13
14
15
16 _____
KINGSBURY G. HEIPLE, M.D.

17 Subscribed and sworn to before me this
18 day of , 1992.

19 _____
Notary Public

20 My Commission Expires:
21
22
23
24
25

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

4 I, Karen E. Fisher, a Notary Public
5 within and for the State of Ohio, duly commissioned and
6 qualified, do hereby certify that KINGSBURY G. HEIPLE,
7 M.D. was by me, before the giving of his deposition, first
8 duly sworn to testify the truth, the whole truth and
9 nothing but the truth; that the deposition as above set
10 forth was reduced to writing by me by means of Stenotypy
11 and was subsequently transcribed into typewriting by means
12 of computer-aided transcription under my direction; that
13 said deposition was taken at the time and place aforesaid
14 pursuant to notice and agreement of counsel; and that I am
15 not a relative or attorney of either party or otherwise
16 interested in the event of this action.

17 IN WITNESS WHEREOF, I hereunto set my hand and
18 seal of office at Cleveland, Ohio, this 16th day of March,
19 1992.



20 Karen E. Fisher, RPR, Notary Public
21 Within and for the State of Ohio
22 540 Terminal Tower
23 Cleveland, Ohio 44113

24 My Commission Expires: August 29, 1994.
25