

1 IN THE COURT OF COMMON PLEAS

2 OF CUYAHOGA COUNTY, OHIO

3 BERNICE DeRIGO,

DOC. 2-11

4 Plaintiff,

5 vs.

Case No.

6 LUCAS AEROSPACE, et al.,

223914

7 Defendants.

8 - - - - -

9 Videotaped deposition of GARY I. KATZ,  
10 M.D., a witness herein, called by the Defendant  
11 Lucas Aerospace for examination under the  
12 statute, taken before me, Kerry L. Paul, a  
13 Registered Professional Reporter and Notary  
14 Public in and for the State of Ohio, pursuant  
15 to notice and stipulations of counsel, at the  
16 offices of Gary I. Katz, M.D., 260 May Medical  
17 Building, 14100 Cedar Road, University Heights,  
18 Ohio, on Wednesday, April 28, 1993, at 8:57  
19 o'clock a.m.

20 - - - - -

21  
22  
23 COPY  
24  
25

4                   DAVID I. POMERANTZ, ESQ.  
5                   20676 Southgate Park Boulevard  
6                   Suite 103  
7                   Maple Heights, Ohio   44137  
8                   587-1221  
9                               and  
10                  Sonkin & Fromson, by  
11                  STEPHANIE S. KESS, ESQ.  
12                  540 Leader Building  
13                  Cleveland, Ohio   44114  
14                  861-6833  
15  
16                  On behalf of the Defendant Lucas Aerospace:  
17                  Baughman & Associates Co., L.P.A., by  
18                  SANDRA BECHER SOMMERS, ESQ.  
19                  55 Public Square - Suite 2215  
20                  Cleveland, Ohio   44113  
21                  687-1244  
22                               - - - -  
23                  ALSO PRESENT:  
24                  Kurt Henschel, Video Technician  
25                               - - - -

PG LN [Ngl]DERIGO-KATZ 4-28-93 KP ---COMPUTER INDEX--  
PG LN BY-M\*  
3 9 OF GARY I. KATZ, M.D. BY-MS. SOMMERS: Q.  
39 2 OF GARY I. KATZ, M.D. BY-MR. POMERANTZ: Q.  
105 8 OF GARY I. KATZ, M.D. BY-MS. SOMMERS: Q.  
PG LN MARK'D  
PG LN AFTERNOON-SESSION  
PG LN ---THIS INDEX IS RESEARCHED BY COMPUTER---

PG LN	[Ng1]DERIGO-KATZ 4-28-93	KP OBJECTI
12 4	MR. POMERANTZ:	Objection. Q. Does
12 7	MR. POMERANTZ: Same	objection. A. No. Q.
14 25	here, so that's an	objective test on
17 8	MR. POMERANTZ:	Objection. A. If the
21 22	difference is between	objective and
22 1	the patient tells you.	Objective findings woul
23 20	company stuffing	objects and these jobs
25 23	revealed no	objective findings and
27 4	hospital there were no	objective findings. Th
27 14	the records reflect no	objective findings.
27 18	mentioned before, the	objective findings woul
27 22	a diagnosis and the	objective finding of
28 3	ever confirmed by any	objective findings in
28 11	MR. POMERANTZ:	Objection. A. No.
28 14	MR. POMERANTZ: Same	objection. A. Yeah,
32 12	MR. POMERANTZ:	Objection. Asked and
34 24	there were never any	objective findings for
35 2	done and there were no	objective findings on
36 14	MR. POMERANTZ:	Objection. A. Yes. Q
36 17	MR. POMERANTZ:	Objection. A. I don'
42 17	MS. SOMMERS:	Objection. Asked and
43 12	MS. SOMMERS:	Objection to the form o
44 10	MS. SOMMERS:	Objection to the form.
44 25	MS. SOMMERS:	Objection. A. Well,
45 5	MS. SOMMERS:	Objection. Asked and
45 22	You can make all the	objections you want. MS
46 15	MS. SOMMERS:	Objection. A. I have
49 7	MS. SOMMERS:	Objection. A. The
51 2	MS. SOMMERS:	Objection. A. Well,
54 14	MS. SOMMERS:	Objection to the form o
54 22	MS. SOMMERS:	Objection. A. I have
55 5	MS. SOMMERS:	Objection to the form o
55 22	SOMMERS: That is my	objection for the
55 25	do not have speaking	objections. This is a
56 2	SOMMERS: That is my	objection for the
56 4	give the basis for my	objection under the
56 14	Because I want	objections and not
56 16	give the basis for my	objection. Q.
56 25	SOMMERS: And, again,	objection to the form o
57 14	A. -- I have no	objection. Q. We wil
57 21	A. Oh, I have no	objections to that. Q.
60 3	MS. SOMMERS:	Objection. That's not
60 18	You asked that --	objection. You asked
60 21	him answers. Just	object. MS. SOMMERS: I
60 22	MS. SOMMERS: I am	objecting and giving yo
60 23	you the basis of my	objection. MR.
60 25	want a basis for your	objection. MS. SOMMERS:
61 9	SOMMERS: -- for my	objection in a trial

PG LN	[Ngl]DERIGO-KATZ 4-28-93 KP	OBJECT!
63 23	Okay. That's your	objection. Fine. MS.
73 10	MS. SOMMERS:	Objection. Asked and
78 20	MS. SOMMERS:	Objection. A. I --
79 25	MS. SOMMERS: I'll	object, because the
80 10	MS. SOMMERS:	Objection. That's not
80 22	MS. SOMMERS:	Objection. The records
81 3	MS. SOMMERS:	Objection. That is not
82 22	MS. SOMMERS:	Objection. A. That's
83 11	MS. SOMMERS:	Objection, A. None
84 19	time. She has had no	objective findings on
86 1	MS. SOMMERS:	Objection. The doctor
86 18	MS. SOMMERS:	Objection. Q. What is
86 20	MS. SOMMERS:	Objection. The doctor
87 3	MS. SOMMERS: I have	objected. A. What
87 14	MS. SOMMERS:	Objection. Q. Which
87 16	MS. SOMMERS:	Objection. A. I have
88 4	and there's no	objective findings by
88 11	MS. SOMMERS:	Objection. A. I
88 17	MS. SOMMERS:	Objection. A. I can't
88 22	MS. SOMMERS:	Objection. A. I don't
89 14	MS. SOMMERS:	Objection. Q.
98 21	said that there's no	objective evidence that
99 4	MS. SOMMERS:	Objection to form. A.
100 9	MS. SOMMERS:	Objection. A. I have
100 14	MS. SOMMERS:	Objection. A.
103 17	MR. POMERANTZ: Just	object. MS. SOMMERS: It
103 19	know -- okay. I am	objecting. Let the
104 11	MS. SOMMERS:	Objection. That is not
105 4	MS. SOMMERS:	Objection. MR.
109 10	MR. POMERANTZ:	Objection. Q. Is
110 8	Do you have any	objection to that, Mr.

1 THE VIDEO TECHNICIAN: The time is  
2 8:57. On the record.

3 GARY I. KATZ, M.D., of lawful age, called  
4 for examination, as provided by the Ohio Rules  
5 of Civil Procedure, being by me first duly  
6 sworn, as hereinafter certified, deposed and  
7 said as follows:

8 EXAMINATION OF GARY I. KATZ, M.D.  
9 BY-MS. SOMMERS:

10 Q. Sir, would you please state your  
11 full name for the record.

12 A. Gary Katz.

13 Q. And what is your business address,  
14 sir?

15 A. May Medical Building.

16 Q. In what city?

17 A. University Heights.

18 Q. And that's in Ohio, correct?

19 A. Right.

20 Q. Sir, what is your occupation?

21 A. Orthopedic surgeon.

22 Q. And how long have you practiced as  
23 a doctor at the address that you just gave us?

24 A. About ten years.

25 Q. Are you licensed to practice

1 medicine in the State of Ohio?

2 A. Yes.

3 Q. How long have you been so licensed?

4 A. Since about 1968.

5 Q. Doctor, for the jury's sake, could  
6 you please describe your educational background  
7 beginning with college.

8 A. I graduated Kenyon College and then  
9 I spent -- graduated medical school after four  
10 years at Ohio State and then I graduated  
11 medical school 1961.

12 I did a five-year residency in  
13 orthopedics at Mt. Sinai Hospital in Cleveland  
14 and University of Indiana in Indianapolis. I  
15 finished there in 1966 and then I spent three  
16 years in the Army as an orthopedic surgeon. I  
17 got out of the Army in 1969.

18 Q. Doctor, would you please tell us  
19 what is a specialist within the context of  
20 medicine?

21 A. It is a doctor that only works in  
22 one field.

23 Q. Do you have a specific field of  
24 expertise?

25 A. Yeah, orthopedics.

And could you describe for the jury just a little bit about what orthopedics involves?

A. Well, it is treating patients with injuries or deformities involving the spine or extremities, arms or legs.

Q. Doctor, what does Board certification mean?

A. When you finish your training program, at that time two years later, you took an examination. If you passed, you were Board certified.

Q. Are you Board certified in orthopedic medicine?

A. Yes.

Q. And how long have you been Board certified?

A. Since 1968.

Q. Dr. Katz, do you have admitting privileges at any hospitals?

A. Yes.

Q. Which hospitals?

A. Hillcrest, Bedford and Huron Road.

Q. Are those all here in Ohio?

A. Uh-huh.



1 Q. Do you belong to any medical  
2 associations, Dr. Katz?

3 A. Yes.

4 Q. Which associations?

5 A. Cleveland Academy of Medicine,  
6 American Medical Association, American Academy  
7 of Orthopedic Surgeons.

8 Q. Doctor, have you written or  
9 published any articles involving orthopedic  
10 medicine?

11 A. Yes.

12 Q. Could you describe for the jury a  
13 few of those articles?

14 A. Well, an article -- one article on  
15 deformities of the fingers, one on sacral  
16 tumors, one on fractures of the ankle.

17 Q. Doctor, have you given testimony in  
18 Workers' Compensation cases previously?

19 A. Yes.

20 Q. Approximately how many times in a  
21 year have you testified in Workers'  
22 Compensation cases?

23 A. I would guess -- I mean, I don't  
24 know exactly. I would say as a rough guess  
25 twelve. In a year?

1 Q. Yes.

2 A. Twelve, fifteen, eighteen,  
3 something like that.

4 Q. Have you testified in the past on  
5 behalf of both employers and claimants in  
6 Workers' Compensation cases?

7 A. Yes.

8 Q. Do you have patients of your own,  
9 Doctor?

10 A. Yes.

11 Q. And do you treat some of those  
12 patients for injuries they receive on the job?

13 A. Sure.

14 Q. Have you ever been retained as a  
15 specialist for the Industrial Commission of  
16 Ohio to examine Workers' Compensation claimants  
17 in the past?

18 A. Yes.

19 Q. How often would you say you have  
20 examined such patients at the Industrial  
21 Commission's request?

22 A. Many times.

23 Q. Can you give me an estimate in a  
24 year, for instance?

25 A. Sure. Hundreds.

1 Q. Have you testified on behalf of the  
2 Industrial Commission as a specialist?

3 A. Yes.

4 Q. And how many times would you guess  
5 you have testified in that context within a  
6 year?

7 A. I think a couple probably.

8

9

10

11

12

13 Q. How many such patients would you  
14 say you have had the opportunity to treat over  
15 the years?

16 A. Many. Hundreds probably.

17 Q. And that's over a how many year  
18 period?

19 A. Twenty-five years.

20 Q. Doctor, for the jury's sake, could  
21 you please define what is carpal tunnel  
22 syndrome.

23 A. Well, it involves the median nerve,  
24  
25

1 wrist toward the palm as opposed to the back of  
2 the wrist, so the median nerve runs down the  
3 arm over the wrist and carpal tunnel syndrome  
4 refers to irritation by something of the median  
5 nerve and it causes particular symptoms.

6 In other words, it causes  
7 particular pain, numbness that the patient  
8 describes. It causes particular findings on a  
9 physical examination and it can show changes on  
10 x-rays or some nerve tests that are done to  
11 help diagnose it.

12 Q. And just so we are clear, Doctor,  
13 then what is meant by the term bilateral carpal  
14 tunnel syndrome?

15 A. On both sides.

16 Q. Both hands, in other words?

17 A. Right.

18 Q. Doctor, could you describe for  
19 us -- you have alluded to the fact that carpal  
20 tunnel syndrome would result in certain  
21 symptoms.

22 Could you tell us what some of  
23 those symptoms would be?

24 A. The typical symptoms of carpal  
25 tunnel syndrome would be pain or numbness in

1 median nerve distribution specifically. Median  
2 nerve distribution means to the thumb, the  
3 index finger, the long finger and sometimes to  
4 the lateral side or this side of the ring  
5 finger.

6 The small finger is not involved.  
7 The ulnar -- this side of the ring finger is  
8 not involved, because those fingers aren't  
9 involved with the median nerve, so carpal  
10 tunnel syndrome the history would be pain or  
11 numbness involving those areas, thumb, index,  
12 long finger, this part of the ring finger.

13 They can have pain sometimes over  
14 the volar aspect of the wrist on the palm  
15 side. They wouldn't have pain or numbness on  
16 the back of the hand or the back of the wrist  
17 because these areas have nothing to do with the  
18 median nerve. That's other nerves.

19 The small finger and the ring  
20 finger is supplied by the ulnar nerve, so  
21 carpal tunnel syndrome wouldn't involve those  
22 fingers like I have already described.

23 Q. Now, Doctor, what would be some of  
24 the causes of the symptoms and the condition  
25 that you have just described for us?

1           A.       Very often median -- carpal tunnel  
2       syndrome very often is idiopathic, which means  
3       nobody knows what the cause is. Common causes  
4       would be like after a fracture, broken bone in  
5       the wrist, the bone is broken and heals with  
6       some deformity where a part of the bone sticks  
7       out and presses on the median nerve. That can  
8       cause carpal tunnel syndrome.

9                    Certain illnesses sometimes will  
10       cause carpal tunnel syndrome where you get  
11       swelling of the tissues around the median  
12       nerve. Like rheumatoid arthritis, for example,  
13       would be a common one.

14                   I would say these are the main  
15       causes. You know, diseases where you get  
16       swelling and cause pressure on the median  
17       nerve. Fractures would be probably the biggest  
18       cause. Very often it is idiopathic.  
19       Occasionally it can be caused by certain  
20       occupations.

21           Q.       Doctor, is there a segment of the  
22       population that is more susceptible to or has a  
23       greater incidence of carpal tunnel syndrome  
24       than the general population?

25           A.       I would say it is more common in

1 women, probably women between 20 and 40.

2 Q. Does anybody know why that is?

3 A. No.

4 MR. POMERANTZ: Objection.

5 Q. Does any -- does the medical  
6 community know why that occurs?

7 MR. POMERANTZ: Same objection.

8 A. No.

9 Q. Doctor, what percentage of carpal  
10 tunnel syndrome involves this group of women  
11 that you have described in that age group?

12 A. It is a lot more prevalent in women  
13 of that age group. I couldn't tell you exact  
14 -- an exact statistic, but it is more common in  
15 women and more common in that age group.

16 Q. What percentage of carpal tunnel  
17 syndrome cannot be linked to any particular  
18 cause; that is, is idiopathic as you said?

19 A. Oh, a large percentage.

20 Q. In your experience, what percentage  
21 of carpal tunnel syndrome is related to work  
22 experiences or repetitive motion?

23 A. Very few.

24 Q. And is that a small percentage of  
25 all of the cases of carpal tunnel syndrome that

Beyond  
his  
knowledge

1 you, yourself, have seen?

2 A. Yeah. It would be much more  
3 commonly seen after fractures like I described  
4 before.

5 Q. Doctor --

6 A. Broken bones.

7 Q. I'm sorry. Can you give us some  
8 examples of specific work type exposures or  
9 motions that are related to carpal tunnel  
10 syndrome?

11 A. If it is caused -- like I  
12 mentioned, one cause is occupational diseases.  
13 If it is caused by occupational diseases,  
14 obviously -- like I said before, the median  
15 nerve runs over the wrist right here, the top  
16 of the wrist on the palm side.

17 That's where the median nerve is  
18 and that's where the carpal tunnel syndrome is,  
19 right over the wrist, so it is fairly obvious  
20 that if the carpal tunnel syndrome or  
21 irritation of the median nerve is caused by an  
22 occupational disease, some repetitive motion,  
23 the motion would have to be this type of motion  
24 of the wrist.

25 For example, if you do a repetitive



1 motion of your shoulder or you do a repetitive  
2 motion of your elbow or you do a repetitive  
3 motion oi your fingers, you are not irritating  
4 the carpal tunnel, which is at the wrist.

5 The carpal tunnel specifically is  
6 in this area of the wrist. This is where the  
7 surgery is; and in order to get it from  
8 repetitive motions, it would have to be  
9 something that involved a lot of excessive  
10 motion of the wrist like this.

11 Q. Doctor, when you are examining a  
12 patient for possible carpal tunnel syndrome,  
13 could you tell us some of the tests that you  
14 would utilize?

15 A. Well, you would obviously examine  
16 the patient. There's tests that -- the main  
17 test -- in fact, the main indication for  
18 surgery in carpal tunnel is atrophy of the  
19 thenar muscles.

20 The thenar muscles are these here  
21 at the base of the thumb, because they are  
22 supplied by the median nerve, the same nerve;  
23 and if you get irritation of the median nerve,  
24 it is not uncommon to get atrophy or shrinkage  
25 of these muscles here, so that's an objective

1 test on examination.

2 Other tests for carpal tunnel  
3 syndrome would be a positive what is called  
4 Tinel test where you tap on the median nerve at  
5 the wrist and it causes specifically tingling  
6 or pain into the same fingers involved in  
7 carpal tunnel; that is, the thumb, index and  
8 long finger.

9 Phalen test is a similar test where  
10 you have the wrist flex d for about a min te  
11 because -- and it causes the same symptoms in  
12 the same distribution.

13 On examination there's things  
14 like -- there's no swelling, there's no  
15 deformity that you would see, except, for  
16 example, if you had an old fracture and you  
17 took an x-ray and you saw there was deformity  
18 of the wrist, so you would have to get an x-ray  
19 to see if there's any changes on x-ray, like  
20 old deformities, fractures, things like that.

21 There's tests like EMG and nerve  
22 conduction studies that are sometimes helpful  
23 in making a diagnosis, because they test the  
24 median nerve at the wrist to see if there's any  
25 delay in conduction, so these x-rays and those

1 tests are done and the examination of things  
2 that I mentioned.

3 Q. So an x-ray is one form of  
4 verifying the existence of carpal tunnel  
5 syndrome?

6 A. Well, x-ray is one test you would  
7 do, the nerve tests and examining the patient.

8 Q. Doctor, if you made a diagnosis or  
9 came to a diagnosis of carpal tunnel syndrome,  
10 what kind of treatment would be prescribed for  
11 somebody with that condition?

12 A. Well, the treatment is usually  
13 conservative. There's different treatments.  
14 Various medications, like antiinflammatory  
15 medication to relieve swelling and  
16 inflammation. That's pills.

17 Sometimes rest, resting the part.  
18 Sometimes physical therapy, various forms of  
19 heat, things like that. If these things aren't  
20 successful, one of the common treatments is two  
21 or three cortisone injections directly into the  
22 carpal tunnel. You can give three of them.

23 Normally carpal tunnel would be  
24 relieved by conservative treatment. If it is  
25 not -- I would say the majority of cases can be

1 treated and handled very well with conservative  
2 treatment. Also night splints.

3 If conservative treatment doesn't  
4 work, then the last resort would be an  
5 operation.

6 Q. And in your opinion that's the only  
7 time surgery would be recommended?

8 MR. POMERANTZ: Objection.

9 A. If the conservative treatment  
10 doesn't work. If it got better with the  
11 conservative treatment, obviously you wouldn't  
12 need to do surgery.

13 Q. How long would it take to determine  
14 whether or not the conservative treatment was  
15 or was not working?

16 A. Sometimes you can give a patient  
17 pills for a week, an antiinflammatory pill, and  
18 it will go away forever. Sometimes you can  
19 give one cortisone injection into the carpal  
20 tunnel and it will be totally relieved  
21 forever.

22 I mean, it is hard to say, but I  
23 would say the majority of cases can be  
24 well-handled through conservative measures.

25 Q. Doctor, do you know a Bernice

1 DeRigo?

2 A. Yes.

3 Q. And have you had an opportunity to  
4 examine her?

5 A. Yes.

6 Q. Can you tell us when you examined  
7 Miss DeRigo?

8 A. I saw her once in my office on  
9 January 12th.

10 Q. And at whose request did you  
11 examine her?

12 A. Yours.

13 Q. Now, as a result of that  
14 examination in January, did you compile or  
15 write a report?

16 A. Right.

17 Q. And is that the document that you  
18 have in front of you?

19 A. Right.

20 Q. And is the purpose of looking at  
21 that document to refresh your memory about this  
22 particular examination?

23 A. Sure.

24 Q. Doctor, I believe you also reviewed  
25 some records that I sent to you in conjunction

1 with your examination of Miss DeRigo. Do you  
2 recall?

3 A. Uh-huh.

4 Q. I'm going to ask you to identify  
5 the documents that I'm going to hand you. The  
6 first one is marked Defendant's Exhibit A.  
7 Could you please identify that document for the  
8 record.

9 A. Yeah. Yeah, these are office  
10 records of Dr. Carrillo.

11 Q. And did you review those records in  
12 regards to this case?

13 A. Yes, office records and some  
14 letters also.

15 Q. Okay. And do you know who Dr.  
16 Carrillo is with respect to this particular  
17 matter?

18 A. Sure.

19 Q. And who is he?

20 A. He is the treating doctor.

21 Q. Of Ms. DeRigo?

22 A. Right.

23 Q. I'm going to hand you what has been  
24 marked as Defendant's Exhibit B. Could you  
25 please identify those records.

1           A.     Yeah, these are records from  
2     Bedford Hospital on this same patient.  These  
3     are hospital records.

4           Q.     And you have previously reviewed  
5     those records?

6           A.     Right.

7           Q.     And I'll now hand you what has been  
8     marked as Exhibit C, Defendant's Exhibit C.  
9     Could you please identify that for the record.

10          A.     This says Bernice Nadine Cobb,  
11     application for employment, March, 1986.

12          Q.     And can you tell us who the  
13     employer appears to be on that document?

14          A.     It says Lear Siegler, Inc., Power  
15     Equipment -- Power Equipment Division.

16          Q.     And you reviewed that document  
17     previously as well?

18          A.     Yes.

19          Q.     Finally, I hand you what has been  
20     marked as Defendant's Exhibit D.  Can you  
21     identify that document for the record?

22          A.     It says bid sheet, job title,  
23     assembler, subassembly, brief summary of  
24     duties.  There's no name of a patient on it.

25          Q.     Do those appear to be some type of

1 job description?

2 A. Yes.

3 Q. Doctor, did you review those  
4 records previously also?

5 A. Yes.

6 Q. And, Doctor, were these records  
7 that we just identified, Defendant's Exhibits  
8 A, B, C and D, were those records helpful to  
9 you in learning about the history of Ms. DeRigo  
10 with respect to her alleged -- her alleged  
11 occupational disease?

12 A. Sure.

13 Q. Now, Doctor, what I would like to  
14 ask you to do is if you could for us describe  
15 the history -- well, first of all, tell the  
16 jury what a history is.

17 A. Well, the history is what the  
18 patient tells you, what their complaints are  
19 and what has been done about it.

20 Q. Okay. And while we are defining  
21 some terms here, why don't you tell us what the  
22 difference is between objective and subjective  
23 findings?

24 A. Subjective findings are what the  
25 patient tells you, like in the history or



1 whatever the patient tells you. Objective  
2 findings would be things the doctors can see,  
3 like swelling or black and blue marks, muscle  
4 shrinkage, things like that.

5 Q. What I would like for you to do now  
6 is to tell the jury about the history that you  
7 obtained personally from Miss DeRigo during the  
8 course of your examination of her this January?

9 A. Yeah. She told me that she was 37  
10 years old and she told me that she developed  
11 problems with both arms in 1989 working at  
12 Lucas Aerospace. She told me she worked there  
13 in May of 86 up until July, 89.

14 In 1986 she worked as an electronic  
15 assembler assembling amplifiers. The jobs she  
16 described to me consisted of opening and  
17 closing her fingers like this, crimping wires,  
18 using screw drivers and hammers through the  
19 day.

20 She did not describe much  
21 flexion/extension motions of the wrists.  
22 Mainly the opening and the closing of the  
23 fingers and hammering and using screw drivers.  
24 She told me she worked eight to ten hours a day  
25 and in 88 was helping to build motors doing

1 similar work and in 1989 her doctor told her  
2 she had carpal tunnel syndrome.

3 The patient said she's  
4 right-handed. She states -- she told me that  
5 before 1986 she never had any problem with her  
6 arms whatsoever. At that time in 1986 she  
7 started to awaken at night, had pain -- she  
8 described having pain in the wrist radiating up  
9 the arms, up to the upper arms toward the  
10 shoulders.

11 She had numbness of the tips of the  
12 thumb, index, long, ring and small fingers.  
13 She said her fingers would puff -- all of the  
14 fingers were puffy and tingly. She said this  
15 started in 1986. She also said about a year  
16 before that she was working in the warehouse  
17 filling orders.

18 She told me seven years before that  
19 she worked for an instrument company stuffing  
20 objects and these jobs all consisted of using  
21 her fingers, opening and closing her fingers  
22 all day as she described before, so she was  
23 doing this type of work for many years.

24 She said she had surgery in 1986  
25 for the carpal tunnel syndrome of both wrists

1 and she said after that surgery she did well,  
2 had no problems until 1989 and then she -- in  
3 1989 she said she returned to the same type of  
4 repetitive work with her hands and then  
5 developed the same symptoms I described  
6 before. That was the numbness in all of the  
7 fingers and thumbs and also the pains shooting  
8 up to the forearms and numbness all over the  
9 hands and fingers, the top and the bottom. The  
10 same complaints she mentioned before.

11 She said she had surgery again on  
12 both wrists in 1989 for the same problem and  
13 had some physical therapy treatments after that  
14 and she was wearing braces at night to keep the  
15 wrists up like this and she also said the past  
16 few years before I saw her the only treatment  
17 was those night braces and basically she has  
18 the same complaints that I described before.

19 Since the surgery she has the same  
20 complaints. She also says she cannot play  
21 golf, volleyball or do any sports because her  
22 hands are weak. She is unable to type a full  
23 letter because of this, now works as a medical  
24 assistant.

25 She said she never had any x-rays

1 of her hands or wrists and she never had any  
2 tests of her hands or wrists according to her  
3 history. That's basically the history she told  
4 me -- gave me.

5 Q. Now, Doctor, what about the history  
6 that you were able to obtain from your review  
7 of the medical records which you were  
8 supplied?

9 A. Well, the records from Bedford  
10 Hospital -- the night she was admitted in 1987  
11 with the diagnosis of carpal tunnel syndrome  
12 and had surgery for carpal tunnel syndrome in  
13 June of 87.

14 The history they gave was she  
15 started working in a factory and used her hands  
16 and wrists a considerable amount of time and it  
17 became progressively worse. She had weakness  
18 of grip, worse on the right side. They didn't  
19 mention in this history what was numb or  
20 painful or that she had any particular  
21 treatment prior to the surgery.

22 The examination revealed no  
23 objective findings and she had surgery on the  
24 right side in June and the left side in August  
25 of 87.

1 After October, 87, as far as I can  
 2 tell from the records the doctor saw her next  
 3 July 7, 1989 and he mentioned in the office  
 4 notes she had recurrent pain and numbness in  
 5 both hands, fingers and forearms from carpal  
 6 tunnel syndrome.

7 There was no mention in any of the  
 8 office notes as far as I could see of any  
 9 causal relationship between the complaints and  
 10 anything that was done at her job. When she  
 11 had other surgery there was a letter that I  
 12 saw written by the physician in February, 1990  
 13 that said the physician saw -- I'm sorry, that  
 14 the patient saw him on July 7 of 89. Like I  
 15 mentioned before, and complained she could no  
 16 longer work as an assembler because of constant  
 17 tingling of her hands, fingers, numbness and  
 18 dropping things.

19 He said in this letter written in  
 20 February of 90 that the carpal tunnel syndrome  
 21 in both hands is related to her work as an  
 22 assembler. As far as I could see, this was the  
 23 first mention of that. There was no mention in  
 24 any of the office notes or prior to that

25 Also in the records at the hospital

1 she was admitted again in July, 89 with pain  
2 and numbness in both hands for six months. The  
3 examination in the hospital there were no  
4 objective findings. The diagnosis of carpal  
5 tunnel syndrome was made and she had surgery  
6 again to the left hand in September of 89, so  
7 she had two surgeries to each hand.

8 That was basically what I got from  
9 the records.

10 Q. Now, Doctor, when you say in the  
11 course of your review of the medical records,  
12 particularly from the hospital where the  
13 surgery took place, you say the records reflect  
14 no objective findings.

15 Could you please explain for the  
16 jury what you mean by that.

17 A. Like I mentioned before, the  
18 objective findings would be things you see,  
19 like on an x-ray you might see some deformity  
20 or bony problem. The tests, EMG and nerve  
21 conduction studies sometimes help in making a  
22 diagnosis and the objective finding of atrophy  
23 of the thenar muscle or subjective findings you  
24 might see on the examination, like the tests I  
25 mentioned before, Tinel test.

1 Q. So based upon your review of the  
2 medical records, was bilateral carpal tunnel  
3 syndrome ever confirmed by any objective  
4 findings in your opinion?

5 A. No.

6 Q. And, Doctor, based upon your review  
7 of the medical records, were the subjective  
8 findings; that is, the patient's complaints  
9 consistent with bilateral carpal tunnel  
10 syndrome in your opinion?

11 MR. POMERANTZ: Objection.

12 A. No. No.

13 Q. And why do you say that, Doctor?

14 MR. POMERANTZ: Same objection.

15 A. Yeah, I told you before what the  
16 history is of carpal tunnel syndrome and the  
17 pain, numbness or any of these complaints in  
18 carpal tunnel syndrome involve the median nerve  
19 and would be a median nerve distribution.

20 Obviously any pain from the wrist  
21 running to the shoulder, any problem with the  
22 small finger, pain or numbness in the back of  
23 the hand would be totally inconsistent with a  
24 diagnosis of carpal tunnel syndrome.

25 Q. Doctor, what I would like to do now

*Opinion  
must be  
up to a  
reasonable  
degree  
of  
medical  
probability*

1 is to draw your attention to some specific  
2 records which are records from Defendant's  
3 Exhibit B, which you have previously identified  
4 as records from the Community Hospital of  
5 Bedford.

6 First I would like to draw your  
7 attention to this physical therapy evaluation.  
8 page one of 11-13-89 You have reviewed that  
9 record previously. have you not, doctor?

10 A. Yes.

11 Q. Could you tell me what the  
12 significance of that document is?

13 A 11, this was November 13, 1989  
14 Under the -- it says, supjection It says.

15 patient had the carpal tunnel surgery in July,  
16 89 on the right and September 89 on the left  
17 and it says, patient states he has had the same  
18 surgery two years before without good results

19 This would indicate --

20 Q Doctor --

21 A -- obviously that she had the same  
22 symptoms after the first surgery

23 Q When first surgery in 1987?

24 A Yeah It says she had the surgery  
25 two years before without good results

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Ceraratti, Kenneth  
& Matthews

(P.R.M.)



1           Q.     Next, Doctor, I'm going to hand you  
2 a document from that same exhibit, Defendant's  
3 Exhibit B, and this is a record dated -- I'll  
4 find it here -- 2-1-85. You have reviewed that  
5 record previously also, have you not, Doctor?

6           A.     Yes.

7           Q.     Could you please tell me the  
8 significance of that document.

9           A.     Well, this says Bernice Cobb her  
10 name is.

11          Q.     That was her maiden name at the  
12 time.

13          A.     All right. And this is dated --  
14 this is an emergency room record from Bedford  
15 Hospital dated February 1, 1985. Well, the  
16 significance of this is when I took the  
17 patient's history she told me she never had  
18 problems with her arms whatsoever before 1986.

19                 This record is February, 1985. She  
20 went to the emergency room complaining of  
21 numbness in her right hand. They described  
22 glovelike paresthesia distal to the wrist.

23          Q.     What does that mean, Doctor?

24          A.     Well, that's the same symptoms  
25 she's been describing. That means all over,

1 the median nerve, the ulnar nerve, the radial  
2 nerve. All over the hand and wrist, both  
3 sides.

4 Q. So those --

5 A. They met --

6 Q. Those are the same symptoms that  
7 she described to you when you saw her in  
8 January of this year?

9 A. Oh, yes. Absolutely. Same  
10 symptoms. It says she works packing using her  
11 right hand. In February of 1985 the doctor  
12 made a diagnosis of early right carpal tunnel  
13 syndrome.

14 Q. Doctor, did you -- did you perform  
15 a physical examination yourself of Miss DeRigo  
16 when you saw her in January of this year?

17 A. Yes.

18 Q. Could you tell us of what your  
19 physical examination consisted?

20 A. Well, she had scars over the volar  
21 aspect of both wrists from the surgery she  
22 had. Other than that, the examination was  
23 normal. She had normal motion of the wrists,  
24 fingers.

25 The tests I described before were

1 normal. There was no atrophy or shrinkage of  
2 the muscle, no swelling, deformity, masses.  
3 Essentially there were no findings other than  
4 the scars of the wrist at the time I saw her.

5 Q. Doctor, going back to your review  
6 of the medical records also, during any time  
7 that you were conducting this review of the  
8 medical records did you see any reference to  
9 any kind of conservative type treatment prior  
10 to the carpal tunnel surgery that was performed  
11 on Miss DeRigo in 87 and 89?

12 MR. POMERANTZ: Objection, Asked  
13 and answered.

14 A. Yeah, I don't recall seeing any  
15 conservative treatment. Just the four  
16 surgeries.

17 Q. And, Doctor, you also referenced in  
18 your report --

19 A. Excuse me. Just the night splints  
20 she's been wearing. I forgot about that.

21 Q. And I was going to ask you about  
22 that night splint. What is the significance of  
23 the night splint that she described to you that  
24 she currently utilizes?

25 A. Well, the only thing -- see, the

1 median nerve like I described runs here on this  
2 side of the wrist; so if you want to -- see, if  
3 you look at the wrist like this, the median  
4 nerve is here.

5 If you -- obviously if you do a lot  
6 of this, theoretically you could be irritating  
7 it a little bit. Now, if you do this, you're  
8 obviously stretching the median nerve, see?

9 If you do this, it relaxes the  
10 median nerve. Not forcibly down, but just --  
11 if it is just neutral or a little bit in this  
12 position. If you do it this way, raise your  
13 hand, you are stretching the median nerve; so  
14 if you use a night splint, it would probably be  
15 better to use it more in the neutral position,  
16 rather than stretching it, which is obviously  
17 going to stretch it and irritate it.

18 Q. And which way was it that Ms.  
19 DeRigo described to you that she was using the  
20 splint?

21 A. Well, she described to me that it  
22 was dorsiflexed quite a little bit.

23 Q. Doctor, based upon your examination  
24 of Ms. DeRigo and the history you obtained from  
25 her and from the records you reviewed relative

1 to the condition at issue, do you have an  
2 opinion based upon a reasonable degree of  
3 medical probability as to whether or not she  
4 contracted bilateral carpal tunnel syndrome as  
5 a direct and proximate result of her employment  
6 with Lucas Aerospace?

7 First of all, do you have an  
8 opinion?

9 A. Yes.

10 Q. And, Doctor, what is your opinion?

11 A. I don't think she did.

12 Q. And, Doctor, what is the basis for  
13 that opinion?

14 A. Well, there's several things. I  
15 think it has already been described, but, first  
16 of all, she told me in the history she never  
17 had a problem with her wrists or hands prior to  
18 1986, yet there's a medical record in February  
19 of 85 where a doctor made a diagnosis of carpal  
20 tunnel syndrome of the wrist.

21 Second of all, as far as I can tell  
22 from going through her records, taking her  
23 history and examining her, there were never any  
24 objective findings for carpal tunnel syndrome.

25 Either -- as far as I could see,

1 there were no x-rays done, no nerve studies  
2 done and there were no objective findings on  
3 any examination. Also the subjective findings  
4 are totally inconsistent for the most part with  
5 a diagnosis of carpal tunnel syndrome.

6 Also I don't feel that the job  
7 description she gave to me in the history is  
8 consistent with getting carpal tunnel syndrome  
9 from an occupational disease. Also she had  
10 it -- the diagnosis made in 85, like I said,  
11 again in 86, and had surgery to both wrists in  
12 87.

13 There's a note that she continued  
14 to have problems like we mentioned before. The  
15 physical therapy record in 89 mentioned that  
16 she continued to have problems after 87 and  
17 then according to the patient she was fine up  
18 until 89 after the 87 surgeries, but there's a  
19 lot of discrepancies, therefore, in the records  
20 and her history.

21 I don't feel for these reasons that  
22 she had carpal tunnel syndrome due to her work  
23 at Lucas Aerospace.

24 Q. And, Doctor, again based upon your  
25 examination of Ms. DeRigo and the history you

1 obtained from her and from the records you  
2 reviewed relative to the condition at issue, do  
3 you have an opinion based upon a reasonable  
4 degree of medical probability as to whether the  
5 disease of bilateral carpal tunnel syndrome is  
6 peculiar to her employment at Lucas Aerospace  
7 by the causes and characteristics of its  
8 manifestations or that the conditions of her  
9 employment resulted in a hazard which  
10 distinguished her employment and character from  
11 employment generally?

12 First **of** all, do you have an  
13 opinion?

14 MR. POMERANTZ: Objection.

15 A. Yes.

16 Q. What is your opinion?

17 MR. POMERANTZ: Objection.

18 A. I don't think her particular job  
19 has any more hazard of getting carpal tunnel  
20 syndrome. First of all, if that was the case,  
21 you could say everybody that uses their hands  
22 could get carpal tunnel syndrome, which is not  
23 the case,

24 As I mentioned before, it is not  
25 that common an occupational disease. The

*withdraw*

1 occupational disease where you do get it I feel  
2 would have to be something where you would be  
3 irritating the median nerve specifically, so  
4 doing things like moving your shoulders, elbows  
5 or fingers does not particularly irritate the  
6 median nerve.

7 MR. POMERANTZ: Motion to strike. *withdraw*

8 A. The median nerve is irritated  
9 within the carpal tunnel, which is in this area  
10 of the wrist. That's why the night splint  
11 is -- when the patient is treated with a night  
12 splint, it is to immobilize the wrist, not the  
13 shoulder, not the elbow, not the fingers.

14 The night splint is only to  
15 immobilize the wrist. The fingers aren't  
16 involved.

17 Q. And finally, Doctor --

18 MR. POMERANTZ: But now I put in a  
19 motion to strike. *withdraw*

20 Q. Finally, Doctor, based upon your  
21 examination of Ms. DeRigo and the history you  
22 obtained from her and from the records you  
23 reviewed relative to the condition at issue, do  
24 you have an opinion based upon a reasonable  
25 degree of medical probability as to whether or



1 not her duties as an assembler and as a coil  
2 inserter at Lucas Aerospace created a risk of  
3 contracting bilateral carpal tunnel syndrome to  
4 a greater degree and in a greater manner or in  
5 a different manner than the public generally?

6 First of all, do you have an  
7 opinion?

8 A. Yes.

9 Q. And what is your opinion, Doctor?

10 A. I don't think it did, but  
11 furthermore-she had been doing similar jobs  
12 long before 86 in assembly. I think I  
13 mentioned them before specifically and she  
14 didn't get carpal tunnel syndrome at that  
15 time.

16 The first mention was in -- of it  
17 was in 1985, February of 85, at Bedford  
18 emergency room, but the years prior to that  
19 doing similar type of job she didn't get it;  
20 and as I mentioned before, you can get carpal  
21 tunnel syndrome from many different causes or  
22 it can be idiopathic.

23 MS. SOMMERS: Thank you very much,  
24 Doctor. I have no further questions at this  
25 time.

1 EXAMINATION OF GARY I. KATZ, M.D.

2 BY-MR. POMERANTZ:

3 Q. Doctor, do you have a file on  
4 Bernice DeRigo?

5 A. No, only what is here.

6 Q. Okay. What do you have there? Why  
7 don't you --

8 A. The letter -- yeah, the letter I  
9 was referring to. This letter here and the  
10 records that are here.

11 Q. Okay. Would you hand me the letter  
12 that you described?

13 MR. POMERANTZ: Why don't we go off  
14 the record for a minute?

15 MR. HENSCHER: 9:36. Off the  
16 record.

17 (Recess had.)

18 MR. HENSCHER: 9:36:22. We are on  
19 the record.

20 Q. Doctor, so we are clear, you do not  
21 have so much as a file folder or any kind of  
22 chart on Mrs. DeRigo? Is that a fair  
23 statement?

24 A. Just what is here.

25 Q. And so we are clear, you have a

1 report which you described earlier and a letter  
2 from Ms. Sommers regarding appearing today for  
3 the deposition? Is that a fair statement?

4 A. And these records that we have been  
5 referring to.

6 Q. Okay. Doctor, you examined Ms.  
7 DeRigo on January 12, 1993; is that correct?

8 A. Yes.

9 Q. How many times have you seen her  
10 before that time?

11 A. Never.

12 Q. So the first time you ever laid  
13 eyes on this woman was about three and a half  
14 months ago?

15 A. I said I never saw her before.

16 Q. So the answer to that is yes?

17 A. Obviously.

18 Q. Okay. You had the opportunity to  
19 review the records of Bedford Community  
20 Hospital I believe?

21 A. Right.

22 Q. And you would agree with me that  
23 Ms. DeRigo had decompression surgery on her  
24 right wrist in July of 1989 and on her left  
25 wrist in September of 1989; is that correct?

1 A. Yes.

2 Q. So, in other words, the first time  
3 that you saw Ms. DeRigo was more than three  
4 years and four months after she had the surgery  
5 on her wrists?

6 A. Right.

7 Q. How many times have you seen Ms.  
8 DeRigo since January 12th of 1993?

9 A. Never.

10 Q. So, in other words, the exam that  
11 you conducted on January 12, 1993 constitutes  
12 the one and only time you have ever seen Ms.  
13 DeRigo?

14 A. Mr. Pomerantz, if I never saw  
15 her --

16 Q. Well, I think that is a simple  
17 question, Doctor. Is that a yes or no? Is  
18 that true or not true?

19 A. Obviously it is true.

20 Q. I thank you. And that visit  
21 obviously was long after these surgeries had  
22 already been performed on her wrists to correct  
23 carpal tunnel syndrome, correct?

24 A. Sure.

25 Q. Okay. Doctor, do you expect to see

1 Ms. DeRigo again in your office?

2 A. I couldn't tell you. I have no  
3 idea.

4 Q. Well, do you have any appointments  
5 scheduled with her?

6 A. No.

7 Q. You have conducted examinations in  
8 Workers' Compensation cases before?

9 A. Sure.

10 Q. And under those circumstances do  
11 you normally see the persons back in your  
12 office at a later date?

13 A. I have people come back to me as  
14 patients.

15 Q. Okay. But in this case you don't  
16 expect to see Ms. DeRigo again, do you?

17 MS. SOMMERS: Objection. Asked and  
18 answered.

19 A. I have no idea.

20 Q. Doctor, so the jury is clear about  
21 your role in this case, the purpose of that one  
22 examination of Ms. DeRigo was not to provide  
23 her treatment, was it?

24 A. No.

25 Q. The purpose wasn't to help her

1 medically, in other words?

2 A. No.

3 Q. Rather you saw her at the request  
4 of Ms. Sommers, the attorney for the defendant  
5 in this case?

6 A. Sure.

7 Q. Specifically the purpose was legal  
8 as opposed to medical to examine Ms. DeRigo,  
9 write a report to Ms. Sommers and to testify  
10 against her at trial if necessary, is that  
11 true?

12 MS. SOMMERS: Objection to the form  
13 of the question.

14 A. I don't -- I don't think that is  
15 true. The purpose -- I didn't -- the purpose  
16 was not legal, because taking a history and  
17 examining a patient --

18 Q. So your answer --

19 A. Mr. Pomerantz, if you would let me  
20 finish. Taking a history from a patient and  
21 examining a patient is not a legal issue. This  
22 is a medical issue.

23 a. Doctor --

24 A. And then I'm willing to answer any  
25 questions that Ms. Sommers or you ask me at any

1 time, but examining a patient wouldn't be a  
2 legal matter. That would be a medical --

3 Q. So if I understand, Doctor, you  
4 disagree with my characterization of your  
5 purpose in this case as legal, but you  
6 otherwise agree that the purpose of your exam,  
7 of seeing Ms. DeRigo was to examine her, write  
8 a report and to testify in this case if  
9 necessary? Is that true?

10 MS. SOMMERS: Objection to the  
11 form.

12 A. Well, I'm testifying now and I'm  
13 willing to answer any questions of Miss Sommers  
14 or you ask me. I'm not testifying I don't feel  
15 for her or against her. I'm trying to give my  
16 opinion as honest as I can.

17 I don't -- she was sent to me by  
18 Miss Sommers.

19 Q. Okay. Doctor, let me ask you --

20 A. I'm willing to answer your  
21 questions just as freely as the ones Miss  
22 Sommers asks me.

23 Q. Doctor, in effect, your involvement  
24 in this case ends today, correct?

25 MS. SOMMERS: Objection.

1           A.     Well, I think I answered that  
2     already.

3           Q.     Well, I don't think you did,  
4     Doctor. I would ask for an answer.

5           MS. SOMMERS: Objection. Asked and  
6     answered.

7           MR. POMERANTZ: Asked and not  
8     answered.

9           Q.     I would like an answer, Doctor.  
10           THE WITNESS: Can I answer?

11          Q.     Yes.

12          MS. SOMMERS: You can go ahead and  
13     answer.

14          Q.     Did your involvement in this  
15     case --

16          A.     Well --

17          MS. SOMMERS: If you know, Doctor.  
18     If you don't know, you can say I don't know.

19          Q.     Doctor --

20          MR. POMERANTZ: Sandra, look, you  
21     don't tell the doctor how to answer. You can  
22     make all the objections you want.

23          MS. SOMMERS: I didn't tell the  
24     doctor how to answer. I said if he doesn't  
25     know, I don't know is a proper answer. I'm



1 simply informing him of that.

2 Q. Your answer is you don't know then?

3 A. Well, you asked me before if I will  
4 see her again and I said I don't know then,  
5 so --

6 MS. SOMMERS: He does not know.

7 A. Two minutes later I have to give  
8 the same answer.

9 Q. But she does not have any  
10 appointments to see you?

11 A. Right. We said that already.

12 Q. Doctor, if Ms. DeRigo requires  
13 further treatment in the future, would you  
14 expect to be consulted by her treating doctors?

15 MS. SOMMERS: Objection.

16 A. I have no idea, Mr. Pomerantz. I  
17 honestly couldn't tell you.

18 Q. Doctor, you had the opportunity to  
19 review the records of Dr. Pedro Carrillo; is  
20 that correct?

21 A. Yes.

22 Q. And unlike you, he has seen Miss  
23 DeRigo on numerous occasions?

24 A. Right.

25 Q. And unlike you he saw her both

1 before the decompression surgeries in 1989 and  
2 after?

3 A. Sure.

4 Q. And unlike you he has actually  
5 rendered medical treatment to her, correct?

6 A. Right.

7 Q. He performed both surgeries in  
8 1989?

9 A. Right.

10 Q. He has prescribed her medications  
11 on occasion? Is that true?

12 A. Offhand I can't say.

13 Q. He prescribed her physical therapy?

14 A. Yes.

15 Q. Are you aware that Ms. DeRigo  
16 remains under Dr. Carrillo's care up to the  
17 present time?

18 A. **As** far as I know, right.

19 Q. All right. So unlike you he is the  
20 doctor responsible for her medical condition?  
21 Is that a fair statement?

22 A. Sure.

23 Q. **All** right. Now, Doctor, for  
24 examining Ms. DeRigo and writing a report, that  
25 was -- you were retained to **do** so by Ms.

1 Sommers; is that correct?

2 A. Sure.

3 Q. All right. And you are being paid  
4 obviously for those things?

5 A. Sure.

6 Q. And what is your charge for  
7 examining Ms. DeRigo and writing a report?

8 A. I couldn't tell you, but normally  
9 it would be an hourly fee.

10 Q. All right. How much time did you  
11 spend -- what is that hourly fee?

12 A. It would be \$150, \$200 an hour.

13 Q. Well, which is it, \$150 or \$200 an  
14 hour?

15 A. I would say it is in that range.

16 Q. Well, Doctor, you run a business as  
17 a doctor.

18 A. Say \$200 an hour.

19 Q. Okay. Fair enough, Doctor. How  
20 much time did you spend in taking a history  
21 from Ms. DeRigo?

22 A. I have no idea.

23 Q. And how much time did you spend in  
24 examining her?

25 A. Same answer.

1 Q. So, in other words, you're charging  
2 Miss Sommers by the hour and yet you have no  
3 idea about how much time you spent? How do you  
4 calculate your bill? Is it made out of whole  
5 cloth?

6 A. Well --

7 MS. SOMMERS: Objection.

8 A. The bill is the time I talked to  
9 Ms. Sommers here at the deposition, the time I  
10 spent reviewing the records, but it is not  
11 customary for any doctor, including the  
12 treating doctor, to time how long he spends  
13 with an examination.

14 Q. Doctor, you testified that you are  
15 charging for your appearance --

16 A. Obviously we --

17 Q. -- by the hour and you are telling  
18 us you have no idea how much time you spent?

19 A. Obviously you make an estimate. It  
20 is like -- as an example, I would say the  
21 examination probably would -- say approximately  
22 one hour, but I wouldn't -- I couldn't say that  
23 I time it exactly, because no doctor does that.

24 Q. Doctor, is somebody in the room  
2s with you when you examine a patient such as Ms.

1 DeRigo?

2 A. Very often it could be a family  
3 member, friend.

4 Q. I mean somebody from your office  
5 keeping track of the time?

6 A. No, no.

7 Q. So in other words --

8 A. I have already said, Mr. Pomerantz,  
9 that no doctor that I know of times a history  
10 or examination.

11 Q. Okay. Doctor --

12 A. I have already said it. Asked and  
13 answered.

14 Q. I'm not concerned with what other  
15 doctors do. I'm concerned about what you do.

16 A. And I don't either.

17 Q. Okay.

18 A. And never have and never will.

19 Q. Doctor, you say you spent an hour  
20 in examining Ms. DeRigo. How much --

21 A. I said -- I said I billed for an  
22 hour.

23 Q. Okay.

24 A. But I do not --

25 Q. You may have spent five minutes,

1 but you billed for an hour in other words?

2 MS. SOMMERS: Objection.

3 A. Well, I -- Mr. Pomerantz, I resent  
4 you saying that I spent five minutes, because I  
5 never said that. That's not a proper remark.  
6 I have told you about seven, eight, ten times  
7 that I have never timed a history or  
8 examination, never will.

9 It is not something that any doctor  
10 does and I really don't think I can answer it  
11 again.

12 Q. Doctor, how much time did you spend  
13 in writing your report?

14 A. The same answer.

15 Q. You don't know?

16 A. (Indicating.)

17 Q. And did you meet with Ms. Sommers  
18 before testifying here today?

19 A. Yes.

20 Q. And how much time did you spend  
21 doing that?

22 A. It is the same thing. I don't sit  
23 and time it. Nobody would do that.

24 Q. But I assume you are going to  
25 charge some sort of bill for the time you spent

1 doing that?

2 A. Sure, I'm going to charge, Mr.  
3 Pomerantz. I'm not -- I'm not timing this  
4 deposition, but I'm going to estimate some  
5 approximate number.

6 Q. And so we are clear, you also are  
7 going to bill for the time you spent in  
8 testifying today?

9 A. Obviously.

10 Q. And that is also \$200 an hour?

11 A. I said approximately.

12 Q. Well, Doctor, who determines the  
13 billing in your office? Is that you or is that  
14 somebody else?

15 A. Me.

16 Q. Okay. So it is not approximately.  
17 That's what it is, correct?

18 A. I have already said it is \$200 an  
19 hour.

20 Q. Okay. Fair enough.

21 A. Do you want me to write it -- put  
22 it in writing?

23 Q. Doctor, this is not the first time  
24 that you have evaluated an injured worker at  
25 the request of and on behalf of the employer or

1 the State of Ohio; is that correct?

2 A. No. I have said that.

3 Q. Okay. I think you testified in  
4 direct examination that you have done this sort  
5 of evaluation hundreds of times? Did I  
6 understand you correctly?

7 A. Yeah. In 25 years, sure.

8 Q. Okay. And of course you are paid  
9 for all of those examinations as well?

10 A. Sure.

11 Q. And in those cases, like this one,  
12 you did not render treatment to those injured  
13 persons?

14 A. I treat many patients, but not  
15 somebody like this, no.

16 Q. All right.

17 A. I think I have answered all of  
18 these questions, Mr. Pomerantz.

19 Q. Doctor, would you tell us --

20 A. If you could think of something to  
21 ask me that I haven't answered.

22 Q. Motion to strike, Doctor. I  
23 understand why you are feeling uncomfortable,  
24 but please let me finish my question.

25 A. I'm not -- I'm not --



1 MS. SOMMERS: Move to strike that  
2 ridiculous remark, David. Come on.

3 A. I'm not uncomfortable at all, but I  
4 don't want --

5 MS. SOMMERS: Doctor, wait until  
6 there's another question posed, okay? Let's  
7 try to get on with this.

8 Q. Doctor, in the past 12 months, I  
9 think you testified that you have testified in  
10 these types of cases somewhere between 12 and  
11 18 times? Is that -- is my understanding  
12 correct?

13 A. I would guess.

14 MS. SOMMERS: Objection to the form  
15 of the question, because I'm not sure what you  
16 mean by in these types of cases.

17 Q. Doctor, in each of those --

18 A. Incidentally, that's an average  
19 that has -- of times you have testified in  
20 these -- in legal/medical cases over a number  
21 of years, correct?

22 MS. SOMMERS: Objection.

23 A. I have no -- I don't know. I  
24 couldn't tell you the past 25 years. I have no  
25 statistics.

1 Q. Well, in the last 12 months, in the  
2 12 to 18 times that you have testified in  
3 legal/medical matters, obviously you have  
4 charged for all of those occasions, correct?

5 MS. SOMMERS: Objection to the form  
6 of the question. Legal/medical matters? The  
7 doctor testified --

8 MR. POMERANTZ: Now, look. Sandra,  
9 please. You can --

10 MS. SOMMERS: -- as to medical  
11 matters.

12 MR. POMERANTZ: Sandra, look. I'm  
13 only going to tell you this once.

14 MS. SOMMERS: He does not testify  
15 as to legal matters. I resent your trying to  
16 imply that he does.

17 Q. Doctor --

18 MS. SOMMERS: I have not heard him  
19 render a legal opinion.

20 MR. POMERANTZ: Sandra, you and I  
21 can debate this --

22 MS. SOMMERS: That is my objection  
23 for the record.

24 MR. POMERANTZ: You do not have  
25 speaking objections. This is a deposition for

1 trial.

2 MS. SOMMERS: That is my objection  
3 for the record. This is a trial deposition.  
4 I'm allowed to give the basis for my objection  
5 under the Civil Rules of Procedure --

6 MR. POMERANTZ: No, you are not.

7 MS. SOMMERS: -- and the Rules of  
a Evidence.

9 MR. POMERANTZ: And if you want to  
10 go off the record right now and we **will** get a  
11 ruling from the judge.

12 MS. SOMMERS: That's fine.

13 MR. POMERANTZ: Because I want  
14 objections and not conversation.

15 MS. SOMMERS: I'm allowed to give  
16 the basis for my objection.

17 Q. Doctor, do you understand my  
18 question?

19 A. All I understand is a lot of  
20 arguing. I don't -- I didn't get the  
21 question.

22 MR. POMERANTZ: Why don't you read  
23 the question back to him?

24 (Record read.)

25 MS. SOMMERS: And, again, objection

1 to the form of the question.

2 A. Well, you answered the question.

3 Q. Is that true or not true?

4 A. Sure, I charge.

5 Q. All right.

6 A. I mean, we all charge for our time.

7 Q. Would it be at the same rate of  
8 \$200 an hour?

9 A. I would say that's an approximate  
10 amount, Mr. Pomerantz, but I really think that  
11 if you want to ask me questions about this  
12 particular case --

13 Q. Doctor, please.

14 A. -- I have no objection.

15 Q. We will get to that, Doctor.

16 MR. POMERANTZ: Motion to strike  
17 the soliloquy.

18 Q. Just -- please answer the question,  
19 otherwise we are going to be here a long, long  
20 time, Doctor.

21 A. Oh, I have no objections to that.

22 Q. Doctor, on January 12, 1993 when  
23 you saw Ms. DeRigo, you took a history from  
24 her; is that correct?

25 A. Sure.

1           Q.       That was obtained by you asking her  
2 a series of questions to which she provided  
3 answers?

4           A.       Sure.

5           Q.       Would you say she was cooperative  
6 in providing those answers?

7           A.       As far as I can recall.

8           Q.       Incidentally, Doctor, your report  
9 constitutes the sum and substance of the  
10 history and your examination; is that correct?

11          A.       Right.

12          Q.       You do not have a recollection of  
13 any other things that were said and done  
14 outside of what is stated in your report?

15          A.       Right.

16          Q.       So we can rely on your report as  
17 being complete?

18          A.       Sure.

19          Q.       Now, Doctor, Ms. DeRigo told you  
20 that she started working at Lucas Aerospace in  
21 1986?

22          A.       Yes.

23          Q.       Now, today you testified that you  
24 reviewed a couple of documents which have been  
25 marked as Exhibit C and D, which I understand

1       come from the Lucas Aerospace personnel file on  
2       Ms. DeRigo.

3                       Did you have those with you at the  
4       time that you conducted your examination and  
5       wrote your report?

6               A.       As far as I can recall, these are  
7       the records I had. I mean, I can only tell you  
8       what I recall.

9               Q.       So, in other words --

10              A.       These are the records I had.

11              Q.       -- you did have both records at the  
12       time you wrote your report?

13              A.       I didn't say that, Mr. Pomerantz.

14              Q.       Did you or didn't you?

15              A.       I said as far as I can recall, I  
16       did. Now --

17              Q.       Doctor, I have --

18              A.       That's all I can tell you.

19              Q.       -- looked over your report and I  
20       saw no indication of you reviewing any work  
21       records of Ms. DeRigo at the time that you  
22       wrote this report.

23              A.       Whatever is in the report is in the  
24       report.

25              Q.       So, in other words, if the report

1 does not indicate that you had those records,  
2 then you didn't have those records?

3 MS. SOMMERS: Objection. That's  
4 not what he's saying.

5 A. I wouldn't -- I wouldn't -- I  
6 didn't say that and I don't think you can  
7 conclude that. There's a lot of things in the  
8 records I reviewed that aren't in my report, so  
9 you concluding that is totally not --

10 Q. Doctor, you just told us --

11 A. -- wrong.

12 Q. Doctor, you just told us that your  
13 report constituted the sum and substance of  
14 your examination and the history that you took  
15 on Ms. DeRigo and now you are telling me that  
16 there were other documents that you --

17 MS. SOMMERS: You asked that --  
18 objection. You asked that in the context of  
19 the history that she gave to him.

20 MR. POMERANTZ: Sandra, please,  
21 don't give him answers. Just object.

22 MS. SOMMERS: I am objecting and  
23 giving you the basis of my objection.

24 MR. POMERANTZ: I don't want a  
25 basis for your objection.

1 MS. SOMMERS: I'm giving my basis.

2 MR. POMERANTZ: All right. If you  
3 do it one more time, we are going to go off the  
4 record and we are going to call the judge and  
5 we are going to get a ruling.

6 MS. SOMMERS: That's fine with me,  
7 David. I have a right to give the basis --

8 MR. POMERANTZ: Fair enough.

9 MS. SOMMERS: -- for my objection  
10 in a trial videotaped deposition.

11 MR. POMERANTZ: I'm telling you  
12 right now if it comes up again we are going to  
13 the judge.

14 MS. SOMMERS: Fine. I'm not  
15 afraid, Dave. Come on. Geez.

16 Q. Doctor, did you review any other --  
17 since there's some lack of clarity here, did  
18 you review any other work records regarding Ms.  
19 DeRigo before writing your report?

20 A. There's no lack of clarity on my  
21 part.

22 Q. Did you or did you not review any  
23 other work records?

24 A. I reviewed the records that are  
2s here. I have already said that there's many



1 things on the records that I reviewed that are  
2 not in the report.

3 In the hospital records as an  
4 example there's nurse's notes. There's  
5 temperature charts. There's order sheets.

6 Q. Doctor --

7 A. That's not in my report either.

8 Q. My question to you is other than  
9 Exhibit C and D, which I believe are an  
10 application for her job and a work description,  
11 did you review any of her other personnel  
12 records from Lucas Aerospace?

13 A. And I'll give you the same answer.  
14 As far as -- and I'm going to answer this one  
15 for the last time, because I have already said  
16 it --

17 Q. Doctor, you haven't answered it one  
18 time.

19 A. I have answered it several times  
20 and I'll do it again for this last time. I  
21 don't want to be harassed, **Mr.** Pomerantz, and I  
22 feel like I'm being harassed by you.

23 I reviewed the records that are  
24 here. **As** far as I can recall, that's the  
25 answer. I can't tell you anything more than

1       that, because that's all I know.

2               Q.       Well, Doctor, I don't see the rest  
3       of her personnel file in those records that you  
4       have shown us.

5               MS. SOMMERS:    So?

6               Q.       Do you agree with that?   That's all  
7       I'm asking you.

8               A.       Mr. Pomerantz --

9               Q.       You are making it much more  
10       comp icated.

11              MS. SOMMERS:    Asked and answered.

12              A.       I'm only saying that I reviewed the  
13       records.

14              MS. SOMMERS:    He reviewed these  
15       records.

16              MR. POMERANTZ:   Now, Sandra,  
17       enough.

18              MS. SOMMERS:    That's what he just  
19       said.

20              MR. POMERANTZ:   I don't want any --

21              MS. SOMMERS:    Asked and answered.

22              MR. POMERANTZ:   Okay.   That's your  
23       objection.   Fine.

24              MS. SOMMERS:    Let's move on.

25              Q.       Doctor, in other words --

1           A.       Geez.

2           Q.       .. you testified -- you have  
3 testified in this case concerning what she does  
4 at work without looking at her full personnel  
5 file, correct?

6                   MS. SOMMERS: If you know, Doctor.

7           A.       Yeah, I have testified what she  
8 does at work from the history she gave me.

9           Q.       **All** right.

10          A.       And I went into that in detail,  
11 especially in this particular case as to what  
12 she told me she did at work and what her job  
13 did and that's what is in my report.

14          Q.       But you rendered opinions regarding  
15 whether or not carpal tunnel syndrome --  
16 whether her carpal tunnel syndrome is related  
17 to her activities at work without reviewing her  
18 full work file? Is that true, Doctor?

19          A.       I don't know what you mean by her  
20 full work file. I reviewed what is here. If  
21 that's not her full work file, then I didn't  
22 see it. If that is her full work file, I saw  
23 it.

24                   MR. POMERANTZ: Why didn't we mark  
25 this as an exhibit?

1           A.       That's all I can tell you. These  
2 records -- for example, she worked at the age  
3 of 10 or 15 possibly. I don't see any -- there  
4 are no records from that era of her life. I  
5 only reviewed what was here as far as I can  
6 recall.

7           a.       So we are clear, the documents that  
8 you reviewed, those were all provided to you by  
9 Ms. Sommers?

10          A.       Sure.

11          Q.       Doctor, Ms. DeRigo told you that  
12 she developed numbness on the tips of her thumb  
13 and fingers in 1989?

14          A.       Is that a question?

15          Q.       Yes, that's a question. Is that  
16 true?

17          A.       It started in 86 actually. She  
18 told me it started in 86 and she never had the  
19 problem before 86.

20          Q.       But my question is is that she told  
21 you that in 1989 she was also experiencing  
22 numbness of the tips of her thumb and fingers;  
23 is that correct?

24          A.       Thumb and all of the fingers,  
25 right.

1 Q. Doctor, you had an opportunity to  
2 review Dr. Carrillo's records. Did they  
3 confirm that she indeed complained of numbness  
4 in her fingers in July -- in her visit of July  
5 7, 1989?

6 A. Specific question about an office  
7 visit I would have to see the note.

8 Q. Okay. Why don't you take a look at  
9 the records that you reviewed?

10 A. What was the date?

11 Q. July 7, 1989.

12 A. **The** note July 7, 1989 says, Patient  
13 recurrent pain and numbness of both hands,  
14 fingers and forearm from carpal tunnel  
15 syndrome. That's what it says.

16 Q. Okay. But among those complaints  
17 were complaints of pain and numbness of both  
18 hands, correct?

19 A. Yeah.

20 Q. In the history you took, Ms. DeRigo  
21 also told you that she had surgery on the  
22 wrists in 1989?

23 A. In both wrists.

24 Q. And do the hospital records confirm  
25 this?

1 A. Right.

2 Q. She also said that she was  
3 submitted -- she submitted to physical therapy  
4 after the surgeries in 1989; is that correct?

5 A. I think that's true.

6 Q. And that too was confirmed by the  
7 records?

8 A. Yes.

9 Q. You also reviewed a report or what  
10 you referred to as a letter of Dr. Carrillo  
11 dated February of 1990?

12 A. I think that's -- yes.

13 Q. By the way, I assume you obtained  
14 that report from Ms. Sommers?

15 A. Well, I have already said all of  
16 the records I have come from Ms. Sommers. I  
17 have told you that many times.

18 Q. And you had that report at the time  
19 that you wrote your report in January of 1993?

20 A. Mr. Pomerantz, I think I keep  
21 answering the same question. I said as far as  
22 I recall I have had these records when I saw  
23 the report.

24 Q. Fair enough, Doctor. According to  
25 Dr. Carrillo's February, 1990 report he

1 diagnosed her condition as carpal tunnel  
2 syndrome of both hands?

3 A. Yes, I think so.

4 Q. And in Dr. Carrillo's opinion, she  
5 suffered bilateral carpal tunnel syndrome as a  
6 result of her work at Lucas as an assembler?

7 A. In that report, yes.

8 Q. All right. And I take it you  
9 disagree with that opinion?

10 A. Sure.

11 Q. All right. Doctor, do you consider  
12 yourself to be an expert on carpal tunnel  
13 syndrome?

14 A. Yes.

15 Q. Have you ever written any published  
16 articles on carpal tunnel syndrome?

17 A. No.

18 Q. Have you ever presented any papers  
19 on any -- on the subject to any learned bodies?

20 A. Well, just in the manner of  
21 teaching residents, but I haven't presented a  
22 paper at an orthopedic meeting on carpal tunnel  
23 syndrome specifically.

24 Q. Okay.

25 A. But I --

1 Q Have you ever taught a course  
2 specifically on carpal tunnel syndrome?

3 A I think I have answered that I  
4 said I haven't taught a course or written a  
5 paper --

6 Q Okay

7 A -- on carpal tunnel syndrome I  
8 have only --

9 Q So when you say you have taught  
10 residents -- when you taught medical students  
11 or residents, that would be in the clinical  
12 setting at the hospital?

13 4 Sure

14 Q All right

15 4 And still do and we see patients  
16 with carpal tunnel syndrome

17 Q Do you limit your practice to the  
18 carpal tunnel treatment of carpal tunnel syndrome or  
19 conditions of the wrists in general?

20 A No No doctor limits their carpal  
21 tunnel treatment to carpal tunnel syndrome

22 Q Have you, yourself, ever performed  
23 a carpal tunnel syndrome -- carpal tunnel  
24 or compression surgery?

25 A Sure



1 Q. How many times have you done so?

2 A. I would say as a rough guess -- I  
3 would -- I'm just estimating, but I would say  
4 that in the course of a year, I have probably  
5 seen 15, 20, maybe a couple dozen patients with  
6 carpal tunnel syndrome.

7 The ones that come to surgery are  
8 rare, because most of them will be relieved of  
9 their symptoms with conservative treatment.

10 Q. Well, but how many times have you  
11 actually performed the surgery?

12 A. A couple, three, four maybe.

13 Q. And that's in the entire 25 years  
14 that you have been in practice?

15 A. That's a guess, sure.

16 Q. When was the most recent time you  
17 performed that surgery?

18 A. I couldn't tell you.

19 Q. Has it been more than a year?

20 A. I have no idea. I don't have  
21 any --

22 Q. Do you have any recollection of  
23 performing that surgery in the last year?

24 A. Not this year.

25 Q. Okay. What about in the last five

1 years?

2 A Oh, sure.

3 Q Okay Doctor. You testified  
4 earlier, how correct me is I'm wrong, that  
5 carpal tunnel syndrome is a condition involving  
6 entrapment, compression or irritation of the  
7 median nerve at the wrist? Is that so?

8 A Right

9 Q Specifically it is caused by  
10 pressure on the median nerve where it passes  
11 through the tunnel that is formed by the carpal  
12 bones and the transverse carpal ligament? Is  
13 that true?

14 A. Right.

15 Q. One symptom of carpal tunnel  
16 syndrome would be paresthesia? Am I  
17 pronouncing that correctly?

18 A Right.

19 Q And that would be unpleasant or  
20 tingling in a certain pattern in the fingers?

21 A Right.

22 Q Specifically one would expect such  
23 numbness, tingling or paresthesia? You testified  
24 pain occurring in the tips of the thumb, index  
25 and middle fingers and part of the ring finger.

1 correct?

2 A. Not only the tips. It could be  
3 more than the tips, but in certain areas on the  
4 palm side of the hand.

5 Q. And those would be the areas that  
6 are serviced by the median nerve?

7 A. Sure.

8 Q. Doctor, when you took the history  
9 of Ms. DeRigo, she told you that she had  
10 experienced numbness, tingling and pain in her  
11 thumb and fingers, correct?

12 A. Her thumb, index, long, ring, small  
13 fingers, pain shooting up the arm toward the  
14 shoulder, paresthesia, numbness on the back of  
15 the hand. I have said all of that before.

16 Q. She told you that she felt numbness  
17 on the back of her hand?

18 A. Yes. I think I have already  
19 described all that.

20 Q. All right.

21 A. Yeah, on page two right at the  
22 top. She generally feels numbness anterior and  
23 posterior aspects of both hands and all the  
24 fingers and I said already that that is not  
25 consistent with a diagnosis of carpal tunnel

1 syndrome.

2 Q. Insofar as the numbness in the  
3 thumb and index, middle and ring fingers, that  
4 much of the -- of her symptoms are consistent  
5 with carpal tunnel syndrome, correct?

6 A. Well, in her case that's not what  
7 she told me.

8 Q. But she did tell you of numbness in  
9 those areas, correct?

10 MS. SOMMERS: Objection. Asked and  
11 answered.

12 A. Well, she told me of numbness all  
13 over both sides of the hands, pain shooting up  
14 to the shoulder. I mean, I have said all of  
15 this.

16 Q. Doctor, would you agree with me  
17 that another symptom of carpal tunnel syndrome  
18 is weakness of the hands?

19 A. Not particularly.

20 Q. Well, I think you told us before  
21 that the muscles in this portion of the palm  
22 here would be atrophied? That's one sign of  
23 carpal tunnel syndrome?

24 A. That only would involve the thumb  
25 though.

1 Q. Okay.

2 A. See, not weakness of the hand or  
3 grip.

4 Q. But when we have atrophy or wasting  
5 of muscle and tissue, we would expect a loss of  
6 strength to be associated with that?

7 A. We don't have any wasting in this  
8 case. There is no wasting.

9 Q. I'm asking though if --

10 A. Oh, you mean in another patient if  
11 you had wasting, could there be weakness of the  
12 thumb? Yes.

13 Q. And weakness of the thumb can lead  
14 to loss of grip strength?

15 A. I don't think so.

16 Q. So, in other words, it is your  
17 testimony that somebody who had carpal tunnel  
18 syndrome would not experience any weakness in  
19 grip strength?

20 A. Normally that would not be one of  
21 the subjective complaints, that's true.

22 Q. A moment ago we said that carpal  
23 tunnel syndrome is caused by an irritation or  
24 compression of the median nerve. That can be  
25 caused by a number of processes inside the

1 body, isn't that a fair statement?

2 A. Right.

3 Q. So, for example, scar tissue within  
4 the carpal tunnel can be the source of the  
5 trouble?

6 A. Well, scar tissue within the carpal  
7 tunnel I don't think specifically would be a  
8 cause. I mean, a cause would be some disease  
9 like -- a good example would be rheumatoid  
10 arthritis where you get swelling of the tissues  
11 like synovium in the carpal tunnel.

12 Q. Okay.

13 A. Or the tendons. Those tissues can  
14 swell, become inflamed and irritate the median  
15 nerve.

16 Q. So in other words, tissue that --

17 A. Scar tissue would refer to -- a  
18 scar would be after you make an incision and  
19 you get a scar. Do you understand, so you  
20 wouldn't get scar tissue from a disease or from  
21 an illness -- you could get it say after a  
22 fracture that would heal. You could get scar  
23 tissue.

24 Q. You could get scar tissue after an  
25 operation?

1           A.     After an operation, sure. You have  
2     a scar.

3           Q.     Okay. But you could also have scar  
4     tissue -- for example, once carpal tunnel  
5     decompression surgery is performed, that can  
6     leave scar tissue, correct?

7           A.     You get a scar in the skin, sure.

8           Q.     But you would -- you can also  
9     get --

10          A.     Any operation.

11          Q.     You can also get scar tissue inside  
12     the carpal tunnel, can't you, Doctor?

13          A.     Not really; because when you do a  
14     surgery for carpal tunnel syndrome, the surgery  
15     specifically is to divide the transverse carpal  
16     ligament. You don't suture it. It is just  
17     divided and left, so I don't really think that  
18     you would have scar tissue involved around the  
19     median nerve.

20          Q.     Doctor --

21          A.     You don't -- when you do the  
22     procedure, you don't really handle or touch the  
23     median nerve. You just divide the transverse  
24     carpal ligament, leave it open, don't suture it  
25     and you sew up the skin. You have a scar in

1 the skin.

2 Q. Doctor, you had a chance to look at  
3 Dr. Carrillo's two operative notes from July of  
4 1989 and September of 1989, correct?

5 A. Right.

6 Q. And in those surgeries he actually  
7 opened up Mrs. DeRigo and went inside of her  
8 wrist, correct?

9 A. Sure.

10 Q. And in performing that surgery is  
11 he able to actually visualize the carpal tunnel  
12 area?

13 A. Sure.

14 Q. And when Dr. Carrillo did so, first  
15 of all, on the right wrist in July of 1989 he  
16 found considerable scar tissue? And if you  
17 want to review the chart, you can go ahead and  
18 do so.

19 A. Oh, I'll believe you.

20 Q. Okay. You'll take my word for  
21 that?

22 A. Sure. Absolutely.

23 Q. And then he surgically cut away  
24 that scar tissue and dissected that ligament as  
25 you described?



1           A.     I would tell you that that  
2     doesn't -- if that's what he said, that doesn't  
3     make sense; because when you do --

4           Q.     Doctor --

5           A.     I have already said -- I believe  
6     what you are saying.

7           Q.     Okay. That's all I'm asking.

8           A.     I'm telling you that if you divide  
9     the transverse carpal ligament when you do a  
10    carpal tunnel syndrome, you cut the ligament.  
11    You don't sew it up. It is divided.

12          Q.     Doctor --

13          A.     You can't -- once it is divided, it  
14    is apart. It doesn't grow together.

15          Q.     Doctor, can you and I agree that  
16    when Dr. Carrillo opened up Ms. DeRigo's right  
17    wrist in July of 1989 he found tissue  
18    compressing that median nerve in the carpal  
19    tunnel?

20                   MS. SOMMERS: Objection.

21          A.     I --

22                   MS. SOMMERS: The records speak for  
23    themselves.

24          Q.     Please review the records if you  
25    want to.

1           A.       No, I want to explain something to  
2       you. I have done many carpal tunnel syndromes  
3       division of transverse carpal ligaments. 99 --

4           Q.       Well, Doctor, you said you have  
5       done this surgery three or four times I think.

6           A.       I never said that, Mr. Pomerantz.  
7       Mr. Pomerantz, do you feel all right today? I  
8       have told you that I have done it at least  
9       three, four, five times a year for 25 years.  
10      Don't you recall? That was just a brief while  
11      ago.

12          Q.       Doctor --

13          A.       **Now**, if you would let me answer  
14      your question.

15          Q.       My question is -- do you understand  
16      my question?

17          A.       Yeah.

18          Q.       **My** question is whether or not when  
19      he opened the surgery --

20          A.       You won't let me answer.

21          Q.       -- he found tissue compressing or  
22      impinging on the median nerve? That's my  
23      question. If you don't remember, look at the  
24      records, please.

25                   MS. SOMMERS: I'll object, because

1 the records speak for themselves.

2 A. I'm trying to answer the question  
3 and I believe what you said.

4 Q. Okay.

5 A. I'm trying to answer.

6 Q. So you agree with me then, that he  
7 found tissue compressing --

8 A. Mr. Pomerantz, I'm trying to answer  
9 your question.

10 MS. SOMMERS: Objection. That's  
11 not what the doctor said.

12 A. You have not let me answer yet.

13 Q. Doctor, I think you have answered  
14 the question. Let's go on to something else.  
15 I'm sure your attorney will go back into it if  
16 you want on redirect.

17 Doctor, he also performed surgery  
18 on the left wrist in September of 1989 and in  
19 that surgery he also found tissue compressing  
20 against the median nerve in her left wrist,  
21 correct?

22 MS. SOMMERS: Objection. The  
23 records speak for themselves.

24 A. I believe what you are telling me,  
25 but you won't let me answer, so I won't.

1 Q. So then your answer is that you  
2 agree with that, that's what he found?

3 MS. SOMMERS: Objection. That is  
4 not his answer.

5 A. You won't let me speak, so there's  
6 no point for me to try and answer. I have  
7 tried to answer and you won't let me.

8 Q. Doctor, after successful carpal  
9 tunnel surgery, would you expect a decrease or  
10 elimination of the symptoms that we have  
11 described?

12 A. If you have successful carpal  
13 tunnel surgery, you would expect the symptoms  
14 to be relieved, sure.

15 Q. Doctor, in direct testimony you  
16 testified about the examination you performed  
17 on Ms. DeRigo. You said that she had  
18 well-healed scars over the volar aspects, the  
19 underside of the wrists, correct?

20 A. I said the volar aspect of the  
21 wrist.

22 Q. Right. And those scars would be  
23 consistent with having had bilateral carpal  
24 tunnel surgery, decompression surgery,  
25 correct?

1                   Those are the scars where the  
2                   doctor had made the incisions, correct?

3                   A.       Mr. Pomerantz, I can't tell you how  
4                   many times I have said she had two operations  
5                   on each wrist and she has scars from them. I  
6                   have told you that probably at least a dozen  
7                   times.

8                   Q.       What I'm driving at, Doctor --

9                   A.       Yeah.

10                  Q.       .. is that other than those  
11                  findings --

12                  A.       I'm trying to help you, but, you  
13                  know.

14                  Q.       Other than --

15                  A.       You are making it difficult.

16                  Q.       I appreciate the help, Doctor.  
17                  Other than those findings, isn't it a fact that  
18                  the rest of your findings on examination done  
19                  three -- almost three and a half years after  
20                  the surgery are essentially meaningless for our  
21                  purposes today? Isn't that so?

22                           MS. SOMMERS: Objection.

23                  A.       That's -- Mr. Pomerantz, I couldn't  
24                  even grace that with an answer.

25                  Q.       You only --

1 A. That is ridiculous.

2 Q. You only examined her long after  
3 the surgeries had been performed?

4 A. We have been through all of that.  
5 I think you know the answer. You brought all  
6 of that up.

7 Q. In other words, your negative --  
8 essentially negative examination this past  
9 January is consistent with successful  
10 decompression surgeries back in 89?

11 MS. SOMMERS: Objection.

12 A. None of that's true, Mr. Pomerantz.

13 MS. SOMMERS: I don't think his  
14 report reflects that.

15 A. That's not the case, because the  
16 patient complains she still has the same  
17 problem as she did before.

18 Q. So, in other words, you believe her  
19 complaints are legitimate? You don't think  
20 that --

21 A. I never said that she lied. Why?  
22 Do you feel that she didn't tell me the truth?

23 Q. I'm asking you, Doctor. Do you  
24 feel --

25 A. Oh, I never said that she didn't

1 tell me the truth.

2 Q. Well, I know you haven't said  
3 that. I'm asking you now. Do you believe  
4 her complaints are legitimate?

5 A. It is not up to me to doubt  
6 somebody tells me. I believe you and I believe  
7 her. I have never doubted anything that  
8 said or she said.

9 Q. And if I understand your test  
10 correctly, you **do** -- do you feel that the  
11 those complaints are the result of carpal  
12 tunnel syndrome?

13 A. I said no, none of her -- her  
14 complaints are absolutely not consistent  
15 carpal tunnel syndrome from day one, even  
16 back to February of 1985.

17 Q. Okay.

18 A. Or 86, 89 or at the present time  
19 she has had no objective findings on any  
20 examination of carpal tunnel syndrome. She  
21 had no testing, x-rays or nerve tests and  
22 only that her subjective complaints are too  
23 inconsistent with carpal tunnel syndrome.

24 MR. POMERANTZ: Motion to strike  
25 nonresponsive.

A. I'm sorry.

2 Q. Doctor, so I understand you believe  
3 that she does suffer from these symptoms. You  
4 do not believe that they are carpal tunnel --  
5 as a result of carpal tunnel syndrome.

6 You have also told us that your  
7 report constitutes all of your -- am I correct,  
8 that your report constitutes all of your  
9 opinions regarding this case?

10 A. Well, did you want me to answer the  
11 first question that you asked? You asked me  
12 something -- you just made a statement. I  
13 didn't know if it was a question or not.

14 Q. Doctor --

15 A. You said something about --

16 Q. You said --

A. -- her symptoms.

19 that her symptoms -- she actually suffers from  
20 them, correct?

21 A. Yeah, her symptoms is what she told  
22 me. Her complaints are in her history.

23 Q. In other words, she's not lying?  
24 She didn't make all this up?

25 A. I never said --



1 MS. SOMMERS: Objection. The  
2 doctor can't testify to that.

3 A. I never said she's lying.

4 MS. SOMMERS: He has testified that  
5 he has no reason to doubt what she told him.

6 MR. POMERANTZ: Sandra, enough,  
7 okay? Let me ask the doctor the questions.

8 MS. SOMMERS: Don't talk to me like  
9 that and stamp your foot at me.

10 Q. Doctor --

11 A. Yeah.

12 Q. -- you say that these symptoms are  
13 not caused by carpal tunnel syndrome. I have  
14 looked over your report. You don't give any  
15 opinion whatsoever as to what does cause -- has  
16 caused these symptoms; is that correct?

17 A. What --

18 MS. SOMMERS: Objection.

19 Q. What is causing these symptoms?

20 MS. SOMMERS: Objection. The  
21 doctor is under no obligation to render an  
22 opinion in this case.

23 A. Can I answer?

24 Q. Yes.

25 THE WITNESS: I can answer?

1 MS. SOMMERS: You can answer.

2 THE WITNESS: Okay.

3 MS. SOMMERS: I have objected.

4 A. What was that question again?

5 MR. POMERANTZ: Why don't you read  
6 it back to him?

7 (Record read.)

8 A. That's true.

9 Q. Okay. So we understand your  
10 position in this case. You are saying these  
11 symptoms are not caused by carpal tunnel  
12 syndrome, but you don't know what has caused  
13 these symptoms?

14 MS. SOMMERS: Objection.

15 Q. Which you believe are legitimate?

16 MS. SOMMERS: Objection.

17 A. I have never said that, Mr.  
18 Pomerantz.

19 Q. Doctor, I'm not trying to be tricky  
20 or confusing.

21 A. You said --

22 Q. I'm just trying to understand your  
23 testimony in this case.

24 A. I have said I can't even think of  
25 how many times that I do not feel that the

1 history -- it is not that I don't feel. Her  
2 history at any time of her symptoms and  
3 complaints was never consistent with carpal  
4 tunnel syndrome and there's no objective  
5 findings by any doctor --

6 Q. Doctor, maybe you didn't understand  
7 my question. That's not what I'm asking *you*.  
8 I'm asking you do you have an opinion as to  
9 what is the cause of these symptoms which you  
10 have said you believe are legitimate?

11 MS. SOMMERS: Objection.

12 A. I believe -- whatever she tells me  
13 I put down and I have no reason to feel she's  
14 lying to me.

15 Q. And what is the cause in your  
16 opinion of these symptoms?

17 MS. SOMMERS: Objection.

18 A. I can't answer you.

19 Q. You don't have an opinions?

20 A. No.

21 Q. You don't know?

22 MS. SOMMERS: Objection.

23 A. I don't think it is -- nobody has  
24 asked me to make a diagnosis. I'm not her  
25 treating doctor and I don't really think it is

1 progress for me to try to make a diagnosis

2 As an example, she said she can't  
3 play golf anymore I can't tell you why. What  
4 patient told me she can't play golf I don't  
5 know why she can't play golf

6 Q Okay You have answered the  
7 question

8 A. I write it down in the history  
9 You don't know is the bottom line?

10 A I don't know why she can't play  
11 golf

12 Q You don't know why she has these  
13 symptoms that she has?

14 MS. SOMMERS: Objection.

15 Q Doctor, during direct testimony you  
16 testified about a record from 1985, an  
17 emergency room visit at Bedford Hospital by Mr  
18 DeRigo; is that correct?

19 A Right.

20 Q All right I don't know if you are  
21 going to want to pull that out to look at it or  
22 not. What don't -- why don't you pull that out  
23 and take a look at it?

24 A I think her name wasn't DeRigo  
25 then.

1 Q. Right. It was her maiden name,  
2 Cobb.

3 A. I have it.

4 Q. All right. Doctor, according to  
5 these records she had been suffering from  
6 numbness in her hand, primarily the fingertips,  
7 for how long before she came into the emergency  
8 room?

9 A. It says here two weeks.

10 Q. Okay. And the diagnosis was not --  
11 was early carpal tunnel syndrome? Is that what  
12 the doctor wrote?

13 A. The diagnosis is right carpal  
14 tunnel syndrome, sure.

15 Q. I think -- what is the word before  
16 right?

17 A. Early, yes.

18 Q. Early. Okay. Thank you, Doctor.

19 A. Early. Early right carpal tunnel  
20 syndrome.

21 Q. And you would agree with me that  
22 she had surgery after this examination? She  
23 had surgery on both of her hands for carpal  
24 tunnel syndrome in 1987, correct?

25 A. Sure. That's been said many times.

1           Q.       Now, following those two surgeries  
2 she was released to return to work on October  
3 22, 1987 according to Dr. Carrillo's records?

4           A.       If you say I would go along with  
5 it.

6           Q.       And you would agree with me that  
7 she returned to work as of October 22nd at  
8 Lucas Aerospace full time unrestricted duty?

9           A.       **As** far as -- yeah, I would believe

                  And from the records that's the  
12 last follow-up treatment that she had for Dr.  
13 Carrillo 'following those 1987 surgeries?

14          A.       No, she went back to him in 89.

16 22, 1987, for the rest of 1987 all through 1988  
17 and from 1989 up to July 7, 1989 she did not go  
18 back to the doctor complaining of any problem  
19 with her wrists? Is that a fair statement?

20          A.       Yes.

21          Q.       So, in other words, for nearly 20  
22 months she received no medical treatment for  
23 carpal tunnel syndrome after she finished  
24 treating from her first surgeries?

1           Q.     All right. Doctor, let's talk a  
2     little bit about the causes of carpal tunnel  
3     syndrome. You will freely admit, will you not,  
4     that some people contract carpal tunnel  
5     syndrome from exposure at work, occupational  
6     disease?

7           A.     Yes.

8           Q.     And that in at least some of those  
9     situations it is caused by repetitive actions  
10    of the wrist?

11          A.     Right. I think I said that before  
12    several times.

13          Q.     Now, Mrs. DeRigo told you when you  
14    took a history from her that her job consisted  
15    of continuously, and I believe that's the word  
16    she used, continuously using crimpers,  
17    screwdrivers and hammers, is that so?

18          A.     Right.

19          Q.     Doctor, you would agree with me  
20    that striking an engine or an assembly with a  
21    hammer repeatedly is a motion involving the  
22    wrist?

23          A.     No. I have already answered these  
24    questions, Mr. Pomerantz. I really -- I have  
25    explained before in detail.

1 Q Doctor, it is a simple question.

2 I am not --

3 A No, I don't agree. What I  
4 agree is hammering is like this I mean.  
5 anybody can see hammering is doing this

6 Q Okay, Doctor

7 A I said before --

8 Q Doctor, let's talk about the motion  
9 that you are making. So I understand, where is  
10 the hammer in your hand at this point? I don't  
11 see that you are striking anything with a  
12 hammer, something below.

13 A (indicating.)

14 Q Correct me if I am wrong, I am not  
15 much of a mechanic, but that's not the way that  
16 one normally holds a hammer with the anvil  
17 portion of it on the downside? Is that a fair  
18 statement?

19 A. (indicating)

20 Q Okay. Now, you would agree with me  
21 that in that motion the wrist is at an angle.  
22 correct?

23 A The wrist is not moving, Mr  
24 Pomerantz. I said before to get carpal tunnel  
25 syndrome, you need the wrist to move



1 Q. So your testimony --

2 A. When I took the history on numerous  
3 occasions, and it is all in the report, this is  
4 the type of motion that irritates the median  
5 nerve. The transverse carpal ligament runs  
6 here --

7 Q. Doctor --

8 A. -- over the wrist and this is  
9 repetitive actions of the wrist.

10 THE WITNESS: Pardon? Oh, I'm  
11 sorry, I thought --

12 Q. Doctor, you are testifying -- you  
13 have testified that you have no personal  
14 knowledge of what Ms. DeRigo did at work.  
15 Everything you learned about what Ms. DeRigo  
16 did at work essentially came from her, correct?

17 A. Sure.

18 Q. And you have never been to the  
19 plant and watched her do this job, correct?

20 A. I believe -- I have already said I  
21 believe what she told me.

22 Q. So you can't testify from personal  
23 knowledge whether she bends her wrists when she  
24 strikes a hammer or not, something that she did  
25 repetitively at work?

1           A.     She told me that her job did not  
2 consist of doing this, Mr. Pomerantz.

3           (Indicating.)

4           Q.     She specifically told you that?

5           A.     Yes, I asked her.

6           Q.     And she showed you that?

7           A.     Yes.

8           Q.     Doctor, you didn't write that  
9 specifically down in your report, did you?

10          A.     In the first paragraph I said, "She  
11 did not describe much, if any,  
12 flexion/extension motions of the wrist."

13          Q.     Okay. Much, if any. In other  
14 words, she described some flexion of the wrist,  
15 but not much in your opinion?

16          A.     Mr. Pomerantz, I asked her  
17 specifically. Her job was mostly -- and I have  
18 said all of this before, about five times.  
19 Moving her finger -- in fact, it is on the  
20 camera. I did this before.

21                 It consists of moving her fingers  
22 like this, using these instruments and not  
23 doing much of this. Now, to get carpal tunnel  
24 syndrome, you got to irritate the wrist where  
25 the transverse carpal ligament is or the median

nerve can get compressed i the carpal tunnel  
and you can't do it b moving your fingers

3 Q. Doctor, in your opinion --

4 A. I tried --

5 Q. Can somebody -- in your opinion can  
6 somebody get carpal tunnel syndrome from  
7 sewing?

8 A. Can you show me what motion you are  
9 describing, because there's sewing car seats or  
10 sewing sweaters.

11 Q. Can a seamstress -- can a  
12 seamstress get carpal tunnel syndrome from  
13 sewing? Is that one way that it can be  
14 contracted?

15 A. A seamstress sewing like -- can you  
16 show -- I would ask the patient what the motion  
17 is.

18 Q. If you don't know, that's fine.  
19 Tell me you don't know.

20 A. I would -- before I would answer  
21 any question about specifics -- just like in  
22 this case, I would want to know exactly what  
23 the motions were of the wrist so I ~~could~~ tell  
24 if there was irritation of the median nerve  
25 like I've already explained.

1           Q.     In other words, in your own  
2 practice have you seen people, for example, who  
3 operate a keyboard who develop carpal tunnel  
4 syndrome as a result, a typewriter or a  
5 computer keyboard?

6           A.     I have a secretary that types all  
7 day. She doesn't --

8           Q.     Doctor, that's not my question.

9           A.     She doesn't have carpal tunnel  
10 syndrome.

11          Q.     Doctor, my question is have you  
12 ever had any patients that suffer from --

13          A.     I have had people that do all kinds  
14 of occupations that get carpal tunnel  
15 syndrome. Just because a patient operates a  
16 keyboard doesn't mean -- and they develop  
17 carpal tunnel syndrome doesn't mean that caused  
18 it.

19          Q.     Doctor, are you able to -- other  
20 than her exposure at work, are you able to  
21 point to any other specific activity or trauma  
22 that Ms. DeRigo suffered that brought about her  
23 carpal tunnel syndrome?

24          A.     I have already said, Mr. Pomerantz,  
25 most carpal tunnel syndromes are idiopathic.

1           Q.       So, in other words, your answer is  
2 no?

3           A.       No. No, it is not no. Not only  
4 that, in this particular case this patient had  
5 no x-rays. She had no studies and no findings,  
6 so there were no tests done to determine if  
7 there was any other cause.

8                   It is possible she has a bony  
9 deformity of the wrist that caused it, but we  
10 don't know that because I didn't see any x-ray  
11 reports.

12           Q.       Doctor, the lack of testing on  
13 Ms. -- and I will agree with you that there was  
14 no testing done before the surgery was  
15 performed on Ms. DeRigo.

16                   Does the lack of testing on her  
17 beforehand mean that she did not have carpal  
18 tunnel syndrome? Is that proof positive that  
19 she did not have carpal tunnel syndrome?

20           A.       I feel -- I have already said that  
21 there's no objective evidence that she had  
22 carpal tunnel syndrome and there's no --

23           Q.       Doctor, I keep asking questions and  
24 you keep giving me answers that are not  
25 responsive to it. I just want to know whether

1 or not the fact that she did not have any  
2 testing done before surgery is proof positive  
3 that she did not have carpal tunnel syndrome?

4 MS. SOMMERS: Objection to form.

5 A. If you are talking -- if you're  
6 talking specifically about this patient, I feel  
7 she did not have findings consistent with  
8 carpal tunnel syndrome. In this particular  
9 patient.

10 Q. I'm asking you --

11 A. In general, not this patient are  
12 you asking?

13 Q. In general, the fact that tests  
14 were not done, that doesn't mean --

15 A. In general, a patient can have a  
16 diagnosis -- well, in general you would get  
17 certain tests. Certainly you would get an  
18 x-ray of the wrist.

19 Q. But, Doctor --

20 A. But, in general, if a patient never  
21 had an x-ray, never had nerve studies, you  
22 could make a diagnosis of carpal tunnel  
23 syndrome, but at least you would have to have a  
24 history consistent with carpal tunnel syndrome  
25 in general.

1                   In this specific case, the history  
2                   is not consistent.

3                   Q.       Doctor, I don't think you  
4                   understood my question. My question is can't  
5                   somebody be walking around with carpal tunnel  
6                   syndrome even though there's been no tests to  
7                   confirm it?

8                   A.       I think I have --

9                   MS. SOMMERS: Objection.

10                  A.       I have answered it.

11                  Q.       No, you haven't answered it,  
12                  Doctor. The fact that somebody could have a  
13                  condition before it has been diagnosed?

14                  MS. SOMMERS: Objection.

15                  A.       Somebody in general can have a  
16                  diagnosis of carpal tunnel syndrome without  
17                  getting the tests. In general, that's true.

18                  Q.       And, Doctor, medical tests --  
19                  strike that. The one way to know proof  
20                  positive whether somebody has carpal tunnel  
21                  syndrome is to open them up and look inside and  
22                  see if there's something impinging on the nerve  
23                  root, correct?

24                  A.       That is absolutely not the case,  
25                  Mr. Pomerantz. That's what you don't

1       understand that's where you are confused

2               Q.       Okay.

3               A       I tried to answer this, tell you  
4       this before and you stopped me and wouldn't let  
5       me speak

6               Q       All right, doctor.

7               A       I would be happy to explain that to  
8       you.

9               Q       In other words --

10              A       Because you are very confused

11              Q       In the occasion that you have  
12       conducted wrist-union surgery, you have  
13       opened up somebody and you still weren't able  
14       to determine whether that person has carpal  
15       tunnel or not?

16              A       That's not the case either

17              Q       So when you opened them up, you  
18       could tell whether they had carpal tunnel  
19       syndrome or not?

20              A.     I never said that and I'm trying  
21       to --

22              Q       Doctor, which is it? Can you --  
23       can you --

24              A       If you --

25              Q       Can you tell or can't you tell?



1 A. I'm trying to answer. I have tried  
2 to answer this before and you stopped me; so if  
3 you --

4 Q. I'm awaiting your answer, Doctor.

5 A. When you do the surgery for carpal  
6 tunnel syndrome, you make an incision here over  
7 the wrist. All you -- through the skin you get  
8 through fatty tissue, okay? Under the fatty  
9 tissue is the transverse carpal ligament that  
10 runs across the wrist. It runs -- it starts  
11 about here and ends here. It runs from here to  
12 here.

13 You take a knife or a scissors or  
14 something and you cut it straight down. All  
15 right. That's the surgery. It comes apart;  
16 and then when you look inside, you know, after  
17 it is cut, you see soft tissue. You see the  
18 median nerve and you see some of the tendons,  
19 okay?

20 You see the median nerve. You  
21 don't do anything. You don't see anything  
22 touching the median nerve. You don't see  
23 anything compressing the median nerve. You  
24 sometimes see when you do the surgery, not all  
25 of the time, sometimes you will see an area of

1       constriction of the median nerve.

2                       In other words, if it is real  
3       tight, you might see a bulge above.

4               Q.       Okay.

5               A.       In other words --

6               Q.       Let me cut you off right there.

7       So, in other words, on some occasions you can  
8       see that carpal tunnel syndrome exists when you  
9       open that person up?

10              A.       No.   No, you can't.

11              Q.       You said you can see a  
12       constriction, correct?

13              A.       You won't let me finish.

14                      MS. SOMMERS:   If you would let the  
15       doctor finish his answer.

16              A.       I'm not -- I can't --

17                      MR. POMERANTZ:   Just object.

18                      MS. SOMMERS:   It may, you know --  
19       okay.   I am objecting.   Let the doctor finish  
20       his answer.

21                      MR. POMERANTZ:   I'm not letting --

22                      Doctor, would you please finish  
23       your answer.

24              Q.       No, please, Doctor.   This is my  
25       cross-examination.   When I go into the

1 operating room, I don't tell you how to  
2 operate.

3 A. I don't mind.

4 MS. SOMMERS: If you are not going  
5 to let him finish an answer, I'm not going to  
6 let you finish a question then. How is that  
7 for fair game?

8 Q. Doctor, my question is you have  
9 already stated that you can see a  
10 constriction. Doctor --

11 MS. SOMMERS: Objection. That is  
12 not what the doctor stated.

13 Q. Dr. Carrillo, in fact, performed  
14 these surgeries, correct?

15 A. Well, I think we have established  
16 that.

17 Q. All right. And in his opinion --

18 A. That's in the record.

19 Q. And you understand in his opinion  
20 she did have carpal tunnel syndrome based on  
21 what he saw when he opened her up?

22 A. I don't agree with it.

23 Q. Do you know Dr. Carrillo  
24 personally?

25 A. Yes.

1 Q. All right. Are you raising any  
2 question as to his competence as a surgeon?

3 A. No.

4 MS. SOMMERS: Objection.

5 MR. POMERANTZ: Doctor, I have no  
6 further questions.

7 CONTINUED EXAMINATION OF GARY I. KATZ, M.D.  
8 BY-MS. SOMMERS:

9 Q. Dr. Katz, going back to the  
10 discussion that plaintiff's counsel raised  
11 about the scar tissue, if, in fact, Dr.  
12 Carrillo's surgical notes indicate that during  
13 the course of his two surgeries in July and --  
14 oh, I forget what other month.

15 During the course of his surgeries  
16 in 89, he found scar tissue in the carpal  
17 tunnel. Could you please explain -- you  
18 started to answer why you found that strange.  
19 Could you please explain what the significance  
20 of that is.

21 A. Because you don't see scar tissue.  
22 First of all, if you saw scar tissue and you  
23 cut it out, you have to send it to pathology  
24 and get a pathological diagnosis. If there's  
25 some tissue that is there, I would get a

1 pathological diagnosis.

2 I don't recall seeing that, a  
3 diagnosis of scar tissue being made. Also when  
4 you do the surgery, as I have tried to explain,  
5 you cut the ligament, you look under it.  
6 There's the median nerve. You don't see  
7 anything that makes this diagnosis.

8 On rare occasions you will see a  
9 little compression of the median nerve that you  
10 might note in the operative report. Whether  
11 that was noted or not, I would have to look at  
12 the operative note, but it wouldn't matter  
13 anyway.

14 Q. And why would it not matter?

15 A. Because basically when you look in  
16 you don't see anything. You don't see anything  
17 pressing very -- you know, you don't see -- it  
18 is not like you open and you see a big piece of  
19 bone or a big lump or a big mass pressing on  
20 the median nerve.

21 You don't see anything. You cut  
22 the ligament, you look at the median nerve and  
23 you sew the skin. That's the procedure. In  
24 fact, today -- this is interesting. I think  
25 this should be explained.

1           Today people are doing carpal  
2   tunnel surgery, the same surgery, without  
3   making an incision to even visualize all of  
4   this. What they do is they make a little  
5   incision right here and they put in an  
6   arthroscope and they just blindly cut the  
7   ligament.

8           They don't even see the median  
9   nerve. They don't see the carpal tunnel  
10   contents or anything else, because it is not  
11   important to see. When you see it, you don't  
12   really learn anything and a lot of people today  
13   do the surgery that way, where you don't see  
14   anything. It really doesn't have any big  
15   significance what you see.

16           Q.     Now, Doctor, to clear up any  
17   confusion there might be, this scar tissue that  
18   we just talked about which you say you would  
19   not find in the carpal tunnel after carpal  
20   tunnel surgery, how does that differ from the  
21   scar tissue that you described in your report  
22   that you observed on Ms. DeRigo?

23           A.     Well, she -- when you make an  
24   incision in the skin, you have a scar.

25           Q.     And that's on the outside of the

1 skin?

2 A. Sure. That has nothing to do with  
3 this.

4 Q. I just wanted to make that clear  
5 for the jury's sake. Also, Dr. Katz, with  
6 respect to that 1985 record from the Bedford  
7 Community Hospital that you have identified  
8 previously and indicated that it diagnoses  
9 early right carpal tunnel syndrome, Doctor, is  
10 there any significance in the fact that that  
11 physician wrote early right carpal tunnel  
12 syndrome?

13 A. Not really. Early as opposed to  
14 late, you make the same diagnosis.

15 Q. Is it still carpal tunnel syndrome?

16 A. Obviously. That was his  
17 diagnosis.

18 MS. SOMMERS: Off the record for  
19 just a few moments, please. I think I'm about  
20 done.

21 THE VIDEO TECHNICIAN: At 10:31,  
22 off the record.

23 (Recess had.)

24 THE VIDEO TECHNICIAN: 10:32:11, on  
25 the record.

1 Q. Doctor, if it is true as counsel  
2 for plaintiff previously stated during  
3 cross-examination that persons in the general  
4 population could be walking around without  
5 having been diagnosed with carpal tunnel  
6 syndrome, isn't it possible then that Ms.  
7 DeRigo in this case could have carpal tunnel  
8 syndrome for some years before she was ever  
9 diagnosed?

"possibility  
is  
not the  
standard"

10 MR. POMERANTZ: Objection.

11 Q. Is that correct?

12 A. Anything is possible, but like I  
13 said before, I don't think that her -- there's  
14 nothing about what she said or examination or  
15 anything else that is consistent with carpal  
16 tunnel syndrome in this case.

17 Q. Okay. And, Doctor, were you ever  
18 asked by me to render any kind of medical  
19 opinion in this case as to what you felt were  
20 the causes of Miss DeRigo's symptoms?

21 A. No, I don't think so.

22 MS. SOMMERS: I have nothing  
23 further.

24 MR. POMERANTZ: I have no recross.

25 MS. SOMMERS: Dr. Katz, you have



1 the right to read this deposition once it has  
2 been transcribed by the court reporter. Would  
3 you like to do that or would you like to waive  
4 the reading and waive your signature of it?

5 THE WITNESS: Yeah, I'll waive  
6 that.

7 MS. SOMMERS: Do you have any  
8 objection to that, Mr. Pomerantz?

9 MR. POMERANTZ: No.

10 THE VIDEO TECHINICAN: 10:33, off.

11 (Deposition concluded at 10:33  
12 a.m.)

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## 1 CERTIFICATE

2 The State of Ohio, )

3 SS:

4 County of Cuyahoga. )

5  
6 I, Kerry L. Paul, a Notary Public  
7 within and for the State of Ohio, duly  
8 commissioned and qualified, do hereby certify  
9 that the within named witness, GARY I. KATZ,

10  
11 truth, the whole truth and nothing but the  
12 truth in the cause aforesaid; that the  
13 testimony then given by the above-referenced  
14 witness was by me reduced to stenotypy in the  
15 presence of said witness; afterwards  
16 transcribed, and that the foregoing is a true  
17 and correct transcription of the testimony so  
18 given by the above-referenced witness.

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

1 I do further certify that I am not  
2 a relative, counsel or attorney for either  
3 party, or otherwise interested in the event of  
4 this action.

5 IN WITNESS WHEREOF, I have hereunto  
6 set my hand and affixed my seal of office at  
7 Cleveland, Ohio, on this 5<sup>th</sup> day of  
8 May, 1993.

9  
10  
11  
12  
13 Kerry L. Paul

14 Kerry L. Paul, Notary Public

15 within and for the State of Ohio

16  
17 My commission expires October 12, 1993.  
18  
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