DOC. 223

IN THE COURT OF COMMON PLEAS

LAKE COUNTY, OHIO

MARK E. PARTST, et al., Plaintiffs,	)	
vs.	)	Case No. 92 CV 001580
RALF W. CASWELL, et al., Defendants.	)	JUDGE JACKSON

DEPOSITION OF RICHARD S. KAUFMAN, M.D.
MONDAY, MAY 16, 1994

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Deposition of RICHARD S. KAUFMAN, M.D., taken as if under direct examination before Catherine Radie, a Notary Public within and for the State of Ohio, and by videotape, at the offices of Beachwood Orthopedic Associates, 23250 Mercantile Road, Beachwood, Ohio 44022, at 5:00 P.M., Monday, the 16th day of May, 1994, pursuant to notice and stipulations of counsel, on behalf of the Defendants, to be read into evidence at the trial of the above-captioned case.

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OBJECTIONS INDEX

OBJECTIONS:	Page	Line
By Mr. Hackenberg	26	4
	26	13
	46	21
	52	1
	54	17
	59	14

APPEARANCES:

Walter Mahle Co., L.P.A., by
Mr. Walter P. Mahle,
and
Dray, Powers & Lawson Co., L.P.A., by
Ms. Sandra A. Dray,

On behalf of the Plaintiffs:

Baker, Hackenberg & Collins Co., L.P.A., by
Mr. T. James Hackenberg,

On behalf of the Defendants.

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STIPULATIONS

It was stipulated by and between counsel for Plaintiffs and Defendants that this deposition may be taken in stenotypy by Catherine Radie; that said stenotype notes may be subsequently transcribed into typewriting in the absence of the witness, and that the reading and signing of the deposition by the witness are waived.

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RTCHARD S. KAUFMAN, M.D., of lawful age, called by the Defendants for. the purpose of direct. examination, as provided by the Ohio Rules of Civil Procedure, being by me first. duly sworn, as hereinafter certified, deposed and said as follows:

DTRECT EXAMTNATTON OF RTCHARD S. KAUFMAN, M.D.

BY MR. HACKENBERG:

Q. Doctor, would you tell the jury your full name and your office address?

A. Richard S. Kaufman, M.D. My office is at 23250 Mercantile Road, Beachwood, Ohio.

Q. And M.D. stands for Medical Doctor, does it. not,?

a. T'm A Medical Doctor, that's right..

Q. Would you tel1 us your educationa1 background?

A. T received my B.A. degree summa cum laude from Yale University in 1952, and my M.D. degree from Columbia University in 1956.

Q. And then after your Columbia University M.D., Doctor, what. did you do by way of your medical training?

A. T then had five years of postgraduate training:

A year of internship at Mt. Sinai Hospital in Cleveland; a year of surgical residency at University Hospitals in Cleveland; two years of orthopedic surgery residency at Mt. Sinai Hospital; and a year of orthopedic surgery residency at Indiana University Medical Center in Indianapolis.

Q. That totals five years of --

A. Five years.

Q. -- postgraduate training; is that right?

A. That's right.

Q. Doctor, when did you complete your training?

A. In July 1961.

Q. And since 1961, have you practiced medicine on a full-time basis?

A. Yes. I've been in the private practice of medicine full-time since then.

Q. Do you limit your practice to any specific specialty?

A. I specialize in the field of orthopedic surgery.

Q. And, obviously, Doctor, are licensed to practice in the State of Ohio?

A. Since 1956, that's correct.

Q. Are you licensed to practice in any other states?

A. T'm also licensed to practice in Indiana and California.

Q. Are you affiliated with any hospitals at. the present. time?

A. T'm on the active staff at Suburban Community Hospital, where T've been the Chief of Orthopedic Surgery for the last, 27 years; Mt. Sinai Hospital; Hillcrest Hospital; T was the Chief of Orthopedics at. Women's General Hospital for 23 years, until it. closed; and T'm the orthopedic consultant to the Arthritis Clinic at. Cleveland Metropolitan General Hospital or Metrohea1t.h, as it.'s now ca11ed.

Q. Doctor, do you hold or have you held any teaching positions?

A. Yes. T'm a clinical instructor in orthopedic surgery at Case Western Reserve University Medical School for the last, 29 years, and T was a professor for 20 years at. the Ohio College of Podiatry.

Q. Have you ever published or delivered any papers reiating to the fie1d of orthopedic surgery?

A. Yes. T've written a few papers dealing primarily with the healing of fractures or broken bones, and T've given innumerable papers

at, various meetings. T was invited t.o present. a paper at Orthopedic Grand Rounds at. Harvard University Medical School in Boston. T gave the Harold Cummins Lectureship at. Tulane University in New Orleans. T was invited to participate in a symposium on fracture healing at the Mid-America Orthopedic Meeting at. Colorado Springs, and T gave the Dr. Russell Rizzo Memorial Lectureship here in Cleveland.

Q. Doctor, do you belong to any professional associations?

A. Yes. T'm a member of the Cleveland Orthopedic Society, the Ohio State Orthopedic Society, the Great Lakes Orthopedic Club, the Mid-America Orthopedic Society, the Clinical Orthopedic Society, the Aioelectric Repair and Growth Society. T'm a Fellow of the American College of Surgeons, a Fellow of the American Academy of Orthopedic Surgeons, and a Diplomate of the American Board of Orthopedic Surgery.

Q. Doctor, we talk about someone being board certified; woiild you tell us what. that means?

A. Well, when T became board certified, T hail t.o have four years of college, four years of medical school, five years of postgraduate

training. When T finished that, T took a three-day series of written and oral examinations, which T passed the first. time.

T then had to be in practice for two and a half years and take a second set of written and oral examinations, which T also passed the first. time, and was certified hy the American Board of Orthopedic Surgery as a fully-trained and competent specialist.

Q. Doctor, how long have you been a hoard certified orthopedic surgeon?

A. T was board certified in 1963, so that would he 31 years.

Q. Doctor, tell the jury just. what the field of orthopedic surgery encompasses.

A. Orthopedic surgery is the branch of medicine that deals with the diagnosis and treatment, both medically and surgically, of diseases and injuries to what. we might call the locomotor system, the parts of the body that move you about, primarily the hones and joints, but also the ligaments and muscles and tendons and nerve vessels -- nerves and blood vessels, to the spine and the arms and legs.

Q. Now, Doctor, et. my request,, did you see one

Mark Parisi?

A. Yes.

Q. And would you tell the jury when you saw him?

A. September 17th, 1993.

Q. And he appeared here at your offices in Beachwood?

A. Yes.

Q. When you first met him, Doctor, what did you do?

A. Well, I introduced myself, and then I took a history, which is his story, as he tells it to me. Whatever he says, I put down.

Q. And Doctor, what did he tell you?

A. He said that he was injured October 14th, 1990, when the car he was driving was involved in a collision from the front with a car, which he said, pulled out in front of him. He was not wearing a seat belt, he said his right knee hit the console.

Apparently, he sustained an undisplaced fracture of the lateral tibial plateau. Let me say that in English. Undisplaced means that it just cracked, that the pieces were not out, of line or moved at all, the fracture pieces were in normal position. Fracture is the same thing as a break or a broken bone!. The tibial plateau

-- this is a model of the knee!, this is the thigh hone or the femur, this is the shin hone or the tibia, and the plateaus are the top of this part. of the bone, the top of the tibia, that. the femur rests on. And he had a fracture through the lateral tibial plateau. Tt was a crack that was undisplaced.

He was treated by Dr. Convery with a cylinder cast., which is a cast that. goes from the upper thigh t,o the ankle, for six weeks and then a hinge cast. for. another month. After this, he said he did exercises at home. He said that he continued t.o have some knee pain, and had an MRT, which is a magnetic resonance imaging.

That's a test in which the person is placed in a large magnetic field and the magnetic field is changed and then it's spun back again, and the molecules and atoms disturb the magnetic field as it moves, and the whole thing is fed into a computer and it. comes up with an X-ray or picture that shows not. only the bone, but it. shows the soft. tissues, shows the 1igaments, and it shows the cartilages, these cartilages that we call the menisci inside the joint that. we actually walk on.

And he had an MRT of the knee, which we said, that. shows some degeneration of the medial and lateral menisci, that is, the medial means the one on the inner side -- that would be this one -- and ?.he one on the outer side, which would he this one, the lateral. That's what, the medial and lateral means.

And there was some degeneration, but there was no tears, they weren't torn. Torn cartilage is the kind you get when you have a locked knee, that. sort. of thing.

He continued to have pain and swelling, and in September of 1992, he had an arthroscopy. An arthroscopy is a procedure in which a little telescope, about as round as a pen, is placed into the joint, and you can look around, using a television camera. You can make a great. big image, you don't. have to look down the little telescope. And they have a very small television camera, it's about. an inch square, and it goes up on a hig television screen and you can see what's going on inside the joint, and you can often then introduce instruments into the joint. and look at. them with the arthroscope and perform procedures, without

actually opening up the joint.. And this was done.

And chondromalacia -- chondromalacia is translated from the Greek. Chondro means cartilage and malacia means softening. So it's a softening of the cartilage, in the right. lateral femora7 and tibia7 condyles, that, is, the outer side of the knee joint., where his fracture had been, there was some softening of the cartilage, of the joint cartilage.

This was smoothed down. You can introduce a smoothing instrument that smooths down the roughened cartilage, and that was what. was done. The patient said that he felt., quote, "Felt. fine," unquote, after this. After the surgery he felt. fine, and he returned to work two or three weeks after the operation.

That. was a week -- a year before I saw him. He said that at. the time I saw him, the right. knee pain had improved after the surgery, but had suddenly increased two and a half weeks prior to the time I saw him. He'd been doing well up to the time he saw me. And he said that when he saw me, the pain was as severe as it. hail been before the surgery, He said the pain was

located along the outer side of the knee, along the joint line, that is, the place where the joint comes together, and also along -- it would be on this side, the outer side of the joint, and on the outer side of the joint itself. We said it would come and go and was mild to moderate in degree.

He said he was having pain at the time of -- that I saw him, because the pain came and went. So I asked him whether he was having it then, and he said, "Yes." The pain was said to be made worse by cold and damp weather and when he was on his feet more than two to three hours, and he said it was relieved by rest and the use of ice.

He said that he had experienced symptoms of intermittent swelling at times. The last time the knee had been swollen was two days before I saw him. So it wasn't swollen then. There was no history of any giving way or locking. Giving way is when the knee just suddenly gives out, so-called trick knee, and locking is when something gets caught in the joint and you can't move it because it's too painful. But he didn't have either of these symptoms.

His occupation was as a police officer. He said he returned to regular work after about three months. He said there had been periodic loss of time from work because of symptoms prior to the surgery, but he said that following the surgery, he had lost. no time from work at all.

There had heen no previous or subsequent injuries or symptoms in his knee, he had been in good health, with no serious illnesses or operations. He had taken no medication, on the day T SAW him, which would affect. his symptoms.

Q. Was that. the extent of the history that you took from him?

A. Yes, it. was,

Q. And after then taking the history, what did you next do?

A. I did a physical examination of his knee.

Q. And would you tell the jury of whet. that consisted?

A. Well, it. consisted really of examination of only the knee, because that's the only part that, bothered him.

On examination, he appeared to be in no discomfort, that is, just. looking at. him, he certainly did not. appear to be in any pain. He

was instructed to let me know if anything caused him pain during the examination.

His gait, the way he walked, was normal. He walked without a limp, he moved about easily. He could walk on his heels and toes easily, which indicated that he had good control of his legs and particularly his knees.

Examination of his right knee showed no swelling, that is, the joint itself wasn't swollen, there was no fluid in the joint. There was no instability of the ligaments of the joint, that is, the ligaments that hold it in place were all nice and tight. There was no redness or heat or any evidence that the joint was inflamed. There was no skin discoloration, that is, black-and-blue or redness or anything like that.

Range of motion in his knee was normal, without any pain. No crepitus could be felt on motion of the right knee. Crepitus is a feeling, a sort of sandpapery feeling, when two rough surfaces -- one moves against the other, or a sort of a rough, sandpapery feeling you can feel when you put your hand over the joint, as it's moving. This was not present in his

right knee.

However, there was severe crepitus felt on motion of his left knee. That's the one he did not, injure in this accident. He apparently had considerable previous injuries to his left, knee and there was a lot of crepitus in that knee, but not in his right..

Q. Doctor, what's the significance of crepitus?

A. In the case of the joint surfaces wearing out. and it's rough, the one rough surface is moving on another, what. we would call arthritis or degenerative or traumatic arthritis.

Q. You found none in the right. knee?

A. No, none at all.

Q. Okay.

A. Moderate tenderness was said to he present. along the outer side of the knee cap on the right. knee, but it was not. present. over the joint line, just along the outer side of the knee cap.

Q. What's the significance of that, Doctor?

A. Actually, what, they found at. the time of arthroscopy was some roughening in the joint.. But where he said he had pain was along here, along the edge of the knee cap, which is not.

where they found things to he wrong at. the time he had his arthroscopy.

Measurement of the muscles, the big quadriceps muscles in the thigh, snowed the muscles to be -- the quadriceps muscles to he equal, indicating normal use of the knee.

Actually, *if* you start to favor a *joint.*, the knee joint, the muscle would begin to waste away very quickly, within a matter of a few days. And the measurement of the muscles, the big thigh muscles, indicated that they were both the same and that. would indicate he had normal use of the right. knee, He was not, favoring it..

Q. Doctor, would you explain t.o the jury Ghat. you mean by "within a few days," if you favor a leg muscle?

A. Tt's been shown that, you can measure a difference in the quadriceps muscles within four days, if you start t.o favor the joint. and not, use it. normally. That. muscle wastes away very quickly.

The right, knee was actually one inch smaller than the left knee. The left, knee vas the one which he had previous surgery on and had had some ligament repairs.

Q. What's the significance of the right knee being smaller than the left knee?
A. Well, the left, knee was the one that really had all the injury in it. He had the crepitus and he had the -- the knee was swollen from all the previous surgery that he had.
Q. I see.
A. That was the physical exam.
Q. Doctor, now, based upon your experience, training, education, the history that you took from Mr. Parisi and your examination, did you come to any conclusions or opinions based upon reasonable medical certainty?
A. Yes.
Q. And what opinions or conclusions did you arrive at?
A. It was my opinion that Mr. Parisi had a healed fracture of the lateral tibial condyle, which is what I showed on the model, he has complete healing of it. The X-ray shows it completely healed, and there's no evidence of any residual disability at the time I examined him.
Q. Doctor, what do you mean by "residual disability"?
A. Well, there was no evidence that there was

anything further wrong in the joint,.

Q. Doctor, did you cause X-rays to be taken of the knee?

A. Yes.

Q. And did you read those X-rays?

A. Yes, I did.

Q. Or review those X-rays, I should say?

A. Yes.

Q. Again, what. did those X-rays indicate to you?

A. The X-rays showed the fracture was completely healed and that there was maintenance of a -- what. we call a good joint. space.

On the X-ray, there appears to be a space between the hones because there is cartilage there, the kind of cartilage that you walk on. And you can't. see the cartilage, you can see the bones, and there is a space between them. But the thickness of that. space gives a good indication as t.o whether the amount of the cartilage on the bones is of normal thickness. And in this case, it. is of normal thickness. .

Q. And what, is the significance, Doctor, of the cartilage being of normal thickness?

A. It indicates that there is no apparent. wear and tear, wearing it down.

Q. Now, Doctor, you examined Mr. Parisi when, did you say?
A. September 17th, 1993.
Q. Now, apparently, Doctor, in November of 1993, Mr. Parisi had a second MRT of his knee!. Of course, you didn't know that at the time you examined him.
A. No.
Q. You examined him before that. But T'm handing you what we will mark Defendants' Deposition Exhibit. 1 -- or A, we'll mark it later on -- would *yon* review that,, Doctor?
A. Yes.
Q. And would you tell the jury what. that. is, that exhibit?
A. This is an MRT report.. MRT, again, is the magnetic resonance imaging *of* the right. knee *of* Mr. Parisi that was -- yeah, Mr. Parisi -- done 31/8/93.
Q. Okay. And Doctor, that report, *is* written by who?
A. Cheryl Petersilge. I'm sorry, no. There is also -- there is a Jonathan Lock's name on it, too, so I don't know which one it was.
Q. That. would he, obviously, be a radiologist. that

performs the MRI?

A. Or two radiologists who read them, that's right.

Q. Would you tell the jury what. the report. indicates relative to the right, knee?

A. Well, it. says a signal abnormality in the mid-portion of the lateral tibial plateau.

Now, again, the lateral tibial plateau, this is the outer side of the leg, the right knee, so the lateral tibial plateau would be this one. And in the middle of the lateral tibial plateau, they didn't see anything particularly abnormal in terms of the structure, but the signal that came hack from this spinning of the electrons was different, than the other area.

And so they describe it, as a signal abnormality, as described above, which falls in the realm of an occult., which means something you can't, really tell , but which you come upon through some other means. Occult. osteochondral lesion, which means something going on in the cartilage of the knee joint,, which may be post-traumatic, which we know it is, because that's where he had the -- had his fracture, or degenerative in nature. Tt probably is post-traumatic, because that's where he had his

fracture.

Q Doctor, is that significant, based upon the injury that this man received?

A Certainly it's consistent with the fact that he has a healed fracture of that area. That's all it says. Everything else about the joint was normal.

Q Other than he has a healed fracture of the area?

A That's right.

Q And that's what the MRI report indicates?

A It indicates he's got a signal abnormality, which would be consistent with the healed fracture.

THE WITNESS: Can we go off the record for a moment?

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

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THE WITNESS: I'm sorry. Go ahead.

Q. Doctor, it would appear that this MRI of November the 8th, 1993, was ordered for the purpose of determining whether or not there was a tear, it says RO tear?

an

A. Rule out tear. And that means a torn cartilage or torn meniscus.

These C-shaped structures in the joint, these are the menisci. And they weren't. torn at, the time they did the arthroscopy, and the MRT didn't show any tear on them either.

Q. Doctor, is that a common procedure, whereby an MRT would be used to diagnose whether or not., in fact, someone has a tear of the medial or --

A. Or lateral.

Q. -- or lateral meniscus?

A. Yes, it, would he-

Q. And there was no tear, apparently?

A. No, no. Tt. was normal.

Specifically, they say there is no tear.

Q. Now, Doctor, again, based upon your education, experience, training, history you took, your examination of this gentleman, do you have an opinion based upon reasonable medical certainty as to whether Mr. Parisi suffers from any residual disability as a result of this injury?

A. Yes.

Q. And what, is your opinion?

A. Tt's my opinion that. T found no evidence of any residual disability.

MR. HACKENRERG: That's all T have.

Do you want. to go *off* the record for a while, Walter?

MR. MAHLE: Whatever. Let's continue, and if anybody needs to take a break, we can.

CROSS EXAMTNATTON *OF* RTCHARD S. KAUFMAN, M.D.

RP MR. MAHLE:

Q. Wow, Doctor, my name is Walter Mshle. T represent, Mark Parisi in this action.

Can you tell me when your exam *of* Mr. Parisi was scheduled?

A. Do you mean when *the* appointment was made?

Q. *Right..*

A. No, T don't know.

@- Could yo11 tell me who it. was scheduled by?

A. *No.*

Q. Pardon?

A. T don't know.

Q. Was it. scheduled by Mr. Hackenberg's office?

A. I don't. know. T don't. know who called the *office.*

T don't. take the call. My appointment scheduler takes the call.

Q. Would you look in your file and see if there is a letter in there from Mr. Hackenberg?

A. Sure. Yes, there is one from Mr. Hackenberg, dated September 14th.

Q. And J believe -- would you read the date scheduled *for* the examination?

A. The date that it was scheduled is September 17t.h.

Q. Okay. What. time *of* day was it.?

A. Says nine o'clock.

Q. Wine o'clock in the morning?

A. Yes.

Q. Okay. And would it, be fair to characterize this

A: Tt's an independent medical examination.

Q. All right., let's clear that up, Doctor.

A. T didn't know there was anything to clear up.

Q. Independent means that you have no responsibi1ity to *e*ither party in this litigation --

A. That.'s true.

Q. -- and that's not. quite true, is it.?

A. T have no responsibility to either party in this

litigation. No, sir, T do not..

Q. I mean, your only responsibility is to give the testimony that is favorable to Mr. Hackenberg?

MR. HACKENRERG: Objection.

A. Oh, that's ridiculous, and T think it's an insult.

Q. All right., all right..

A. Well, I don't think it's all right, sir. T think you should apologize.

Q. All right., I apologize.

A. Thank you, sir.

Q. We'll let people draw their own conclusions.

MR. HACKENRERG: Objection.

Q. Let me ask you, how many -- or how much do you charge Mr. Hackenherg for this report.?

A. The examination report. is $350.

Q. And how many medical exams do you perform on an average, per week, in order to testify at trial?

A. T don't. know how many I do for that purpose.

About -- T do maybe six consultations a week, which are people who T examine just for the purpose of examining the patient. and sending a report. to somebody, either a plaintiff's attorney or defense attorney or a third party.

I don't, know how many of those actually are

350 x 6 = 2100.

ones which will eventually get. to trial.

Q. Now, you had no responsibility to Mark Parisi to treat. him or provide him with medical service --

A. No, sir.

Q. -- did yoii? So that is different than what we're talking about.. I'm talking about --

A. What are you talking about?

Q. T'm talking about. you examine an individual specifically for the purpose of testifying at. trial.

A. T just. answered that, question, sir.

Q. All right.. Where you are not. a treating physician.

A. I think T just. answered that question.

Q. All right.. And so you say how many a week?

A. T'd say, maybe six.

Q. Six a week. Do you charge $350 for all of them?

A. Yes, sir.

Q. And so then that. would --

A. That.'~for all of them, whether they're plaintiffs or defense or third party or second opinion, whatever the examination is. That.'s right.

Q. So that woiild be about 312 a year, then, is that, correct., approximately?

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.6
2100

A. No.
Q. If you did six a week €or 52 weeks --
A. I don't work 52 weeks a year.
I don't think you do, either.
Q. Well, I do, hut I shouldn't.
But, Doctor, how many weeks do you work, then?
A. About 46.
Q. Forty-six. And you charge $350 for each of these, right.?
A. Yes, sir.
Q. And how many times -- okay, now, Doctor, wouldn't it he true then that. that. represent.~ quite a hit. of income to you in A year's time?
A. I don't know what you consider quite a hit..
Q. That's true.
A. It only represents about five percent. of the people that. T see. T see many, many more people that T treat..
Q. How long have you been performing defense or other medical examinations, plaintiff or defense?
A. Probably 30 years. T don't know if it's as many as six a week, when I was first in practice. I didn't, see nearly as many patients then as we do

a 1100 × 46 = $6,000.0

now in a week's time, so that T don't. think it was nearly that many.

But I believe that probably 30 years, both plaintiffs and defense, yes.

Q. And how many times have you testified in cases over the past year?

A. Oh, I don't know. I don't keep track of it..

Q. You have no idea?

A. No, sir.

Q. How many times do you give depositions like this for use in trial?

A. Oh, T don't, know. T don't. keep track of those either.

Q. You have no idea?

A. That's what. I just finished saying.

850. X 12 10200 96000. 062000.

Q. And what: do you charge for deposition testimony?

A. $850.

Q. Would that be more than one a month?

A. Yes, more than once a month, yes.

Q. Would it be twice a month?

A. I said -- what. I've testified t.o this evening, T'm sure *of*, I don't know how many T do. I keep telling you that..

Q. All right.. Now, what. medical information was provided to you by Mr. Hackenberg before you

examined MI-. Parisi?

A. T have what appears to be an accident report, police accident report., emergency room report, X-ray report. taken 10/14/90. T can't, quite see it -- Lake Hospital -- a hospital record for the arthroscopy done 9/14/92, including the operative report. and some other hospital records, pathology report, hospita1 notes. There's some -- what. appears t.o he office notes of Dr. Convery, another X-ray report of the knee taken November 7th of 1990, another X-ray report. taken 1/9/93, 10/17/91 X-ray report, 6/12/92 X-ray report, 1/26/91, 10/9/91, 12/12/90, January 9th, '91.

Q. Doctor, do you receive the hospital admission at the time arthroscopy was completed?

A. Yes. T've got. some of it., yes. T've got. --

Q. no you have the operative records?

A. Yes, I have the operative report,.

Q. Do you have the pathology report,?

A. Yes.

Q. Now, Doctor, how long did your examination, the actual -- or pardon me, how long did the history -- did it take you to obtain the history from Mark Parisi?

A. J don't, know. T go In, T do a history and physical examination and T leave, and T don't. keep track of the time. I have no idea.

Q. You have no idea?

A. No, sir.

Q. Would you disagree with me if I were t.o tell you that. it was less than five minutes?

A. T would very strongly disagree with you, but T don't know how long it took. What. T've testified to, as T said, I'm sure of. T don't. know how long it took, I'm sure it. took more than five minutes.

Q. You're sure? Do you think it took ten minutes?

A. T'm not. going to guess, sir. T'm sure of what. T testified to; T'm not. going to start guessing.

Q. Did you -- would it he a fair statement that, the physical exam only required about five minutes?

A. T don't. know how long it took.

It doesn't take long when there is nothing wrong, but T don't know how long it took.

Q. And of course, you concluded there was nothing wrong?

A. After I finished examining him, T could not find anything.

Q. Doctor, going to your report. that you wrote to

Mr. Hackenberg, I see in the first -- second line, there is a typographical error?

A. Yes. Should he October 14th, not October 4t.h.

Q. And now, Mark Parisi's knee, I believe you indicated it had bit the console?

A. He indicated. That's what. he told me.

Q. Okay, And I believe Mr. Hackenberg sent, you the police report,, didn't he?

A. Yes.

Q. Okay. And did the police report reflect that Mark Parisi's car was thrown to the left. by the impact?

A. I don't. know. T was treating him, not his car, but --

I don't see where it. talks about a car being thrown to the left.. No, sir, I do not..

Q. The diagram on the police report shows his car was spun around counterclockwise.

MR. HACKENBERG: Are *you* telling him that,, or are you asking him that.?

MR. MAHLE: Well, he has the police report. that you sent him,

A. The police report doesn't say anything about the car being spun around counterclockwise. And I can't. guess --

Q. The diagram.
A. I'm sorry, I can't guess at his diagrams. I'm just going by the written part..
Q. I want you to assume that he was traveling westbound, that following the impact he was traveling east-bound, that the front of his car was swerved to the left. until it was going in the opposite direction of what it was going, and that. his knee hit the console.

Isn't that clinically significant in evaluating a lateral fracture of the tibial condyle?

A. No.
Q. Wouldn't that be consistent. with a blow from the right,, where it. hit. the console?
A. Oh, yes, that, would he consistent, yes.

The fact that. the car turned around would not. have any effect on the Fact that he hail undisplaced fracture of his condyles, no.

Q. But that *he* struck his leg on the console to his right,?
A. That, would be consistent, with the fracture.
Q. Now, you, Doctor, do you have in your records the emergency room X-rays -- in fact, I will hand you --

A. I've got one.
Q. These were marked as Plaintiffs' Exhibit 2-C. Now, in your description of the injury, you indicated that there was an undisplaced fracture of the right lateral tibial plateau; is that correct?
A. Yes.
Q. And the X-ray report., would you read the summary in that, X-ray report.?
A. It says nondepressed, which means undisplaced, vertical fracture, which means up and down fracture, of the tibial plateau communicating with the articular surface.
Q. Now, Doctor, would you agree that this actually -- the fracture went into the articular surface?
A. Apparently.
Q. All right. And would that he clinically significant in evaluating Mark's injury?
A. Yes.
Q. And you didn't mention anything about. the hospital record reflecting that the fracture extended into the articular surface?
A. Well, an undisplaced fracture of the tibial plateau would extend into the articular surface, plateau fractures do.

Q. But the "into the articular surface," that, is clinically significant. in evaluating the degree of pain, suffering, and future disability he might. have from that., is it not.?

A. You asked three questions. Which one do you want, me to answer?

Q. Okay. That is clinically significant,, isn't it, Doctor?

A. It might, be, yes.

The fact, that it's undisplaced, the tibial plateau fracture would normally go into the articular surface.

Q. But the damage to the articular surface is more serious than just fracture of the bone, isn't it.?

A. Yes, it can he. Tf it's displaced, it certainly can be.

Q. And that may he important in arriving at a prognosis as to future problems he might, have with that knee?

A. It might. be.

Q. Now, you said that. the MRT revealed degeneration.

Can you explain degeneration, what is degeneration?

A. Which MRT?
Q. T'm reading from your report.
A. Oh, the degenerative changes
Q "Was said to show degeneration." T'm reading from your report, Doctor.
A. Okay, I'm sorry. He had two MRI's.
Q. Right, hut one of them was after your examination.
A. That's right.. I didn't. know what. you were talking about.

Okay. The MRI was said to show degeneration of the medial lateral menisci.

Q. Can you tell the jury what. "degeneration" means?
A. Wear and tear.
Q. And may that form a sandpaper-like effect, as a result *of* degeneration?
A. Of a menisci?
Q. No.
A. What. were you talking about, then?
Q. Okay. Let's talk about degeneration of the tibial plateau.
A. You talked about, degeneration of menisci a moment. ago.
Q. Right., Well, T'm --
A. You're confusing me.

Q. I just, asked what degeneration involves in a joint,.

A. It means wear and tear.

Q. And may that result. in pain with degeneration?

A. May or may not; all depends.

Q. But he continued to have knee pain. Now, T want you to read, if you would, Doctor, from Dr. Convery's operative report., And starting where it says "immediately" -- and just, to save some time, right here.

Would you read that, please? T would like you to explain it,.

A. This was after he inspected a joint and found the other parts of it normal. Then he says, "The arthroscope was manipulated in the lateral joint compartment- Tmmediately, it was noted that. there was marked chondromalacia of the lateral tibial plateau. There were multiple fissures and crevices in the joint. surfaces of the lateral tibial plateau" -- jnint surface, singular -- "of the lateral tibial plateau was markedly roughened."

Q. Could you point. out those areas nn this knee joint that you have here?

A. Sure. Tt would be -- the lateral tibial plateau

would be over here.
Q. And the femoral condyle?
A. Would be here.
Q. And those two items go together --
A. That,'s correct..
Q. -- do they not,?
And is chondromalacia of the bone the same thing as degeneration?
A. No. It's not. the same thing.
Q. What, is the chondromalacia that, the doctor refers to?
A. Chondromalacia, translated from the Greek, chondro means cartilage and malacia means softening, so it's a softening of the cartilage.
Q. Okay. It stated there that. there were multiple fissures and crevices of the ~~joint~~ line -- the joint surface at. the lateral tibial plateau, right,?
A. That's what it says, yes, sir.
Q. Do you have any reason to doubt that?
A. No.
Q. And the crevices refers to the joint surface, not the ligaments or the menisci, right.?
A. That's correct-.
Q. Okay. And --

A. Those were normal.
Q. Pardon?
A. Those were normal, apparently.
Q. Right. The joint surface, is that below the articular surface?
A. No. It is the articular surface!.
Q. How thick is the articular surface?
A. Depends on the joint.
Q. In the knee, I'm talking specifically now.
A. Oh, about. a good quarter of an inch, three-eighths of an inch.
Q. And woiild this involve the bone, also?
A. Oh, no, no. That doesn't. even involve the entire joint thickness.

It's just. the surface of it. that he's talking about.

Q. All right. And what, is the function of the surface, the articular surface?
A. It performs a smooth gliding surface for the joint. t.o move.
Q. And if the joint is roughened, then would that cause pain?
A. It might..
Q. Would it. cause swelling?
A. Possibly; not. necessarily.

Q. And Mr. Parisi gave you a history that he had swelling of his knee two days before your examination, I believe?
A. That's what, he said.
Q. Do you have any reason to doubt that?
A. Yes. I didn't find any.
Q. But this was two days before, Doctor.
A. Well, I'm just saying, I didn't find any evidence of anything that would cause swelling in his knee, and I see no -- you asked me the question. All I can say is I saw no reason for him to have had swelling two days previously.
Q. So then you believe that he was not telling the truth?
A. No, I didn't say that; you did. I didn't even bring up the possibility that he wasn't telling the truth; you did.
Q. All right. But you believe that he did not have swelling two days before that?
A. I didn't say that, either.
Q. Do you think that he did have swelling?
A. All I can tell you is that he told me he did.
Q. All right. And what did the doctor do, reading on from his operative report?
A. The arthroscopic shaver was then manipulated

into the lateral joint. compartment.. This is a thing that goes around and it's got a little blade on it., and it's very thin shavings.

And the chondromalacia of the lateral tibial plateau and the lateral femoral condyle was debrided, which means to clean off the surface, down to a smooth surface using the arthroscopic shaver. So they took the rough surface and just smoothed it. down.

Q. All right. And then, Doctor, would you refer to the pathology report.?

A. Okay.

Q. That. is identified as Plaintiffs' Exhibit 4-R. Doctor, would you read what. the diagnosis was there?

A. Tissue clinically from right knee, pieces of degenerate hyaline cartilage, chronic synovitis.

Q. Could you -- what is hyaline cartilage?

A. Hyaline cartilage is the type of cartilage that is the surface of joints.

Q. And that indicated that. there was degenerate hyaline cartilage, would that be consistent with your -- would you believe that, is appropriate?

A. Yes.

Q. Okay. And what. is chronic synovitis?

A. Synovitis is an inflammation of the lining of the joint. Chronic means over a period of time.
Q. And Doctor, if you have synovitis -- that, is an inflammation, T believe you indicated, of the synovial tissue?
A. Yes.
Q. And *that* causes swelling, does it not?
A. 'it. might..
Q. And it was found a year before you examined him that. he had degenerative hyaline cartilage and chronic synovitis?
A. Yes. There is nothing in the operative note about the synovitis, but that's what the pathology report, says, yes.
Q. And then synovitis, if the patient had chronic synovitis, it, could cause periodic swelling?
A. We're not talking about him, we're talking about people generally?
Q. Right,.
A. Pes, *that's* possible.
Q. And the hyaline cartilage, then, is the same as the articular joint surface, I believe?
A. Yes, that's correct.
Q. Now, in your letter you indicated that Mark told you that his pain had increased two and a half

weeks prior to examination and is now as severe as it, was before this surgery?

A. That's what he told me.

Q. Okay. And it was your understanding, from what he told you, that that was during this two-and-a-half-week period?

A. Yes.

He apparently did well until, suddenly, two and a half weeks before he saw me, his knee got bad again.

Q. Now, you indicated that he -- when you examined him, there was pain here at this area, beside the patella or the knee cap?

A. On the outer side of the knee cap, that's correct,.

Q. And you said that would be a different area, I believe, than where he had the fracture, or, I mean, where he had the fracture --

A. That,'s correct..

B- -- in the articular surface.

Doctor, wasn't, the fracture right< here?

A. I'm sorry, where is "here"?

Q. Right. here.

A. The fracture was here, and he -- was here. And he indicated here is where he was having his

pain.

Q. And that is where -- that is the area where the femur and the lateral tibia plateau come together?

A. No. It was the outer surface of the knee cap, not the joint line, specifically, not the joint line.

The joint line is where the femur and the tibia come together, and where he indicated that his pain was, was not, the joint line, but along the edge of the knee cap.

Q. All right. Could you find me that in your notes, Doctor?

A. Certainly.

Q. I mean -- no, I mean in your handwriting. I tried to read it, and I can't,.

A. The lateral edge of patella but not over joint line.

Would you like to see it again?

Q. No. I can see it now --

A. Good.

Q. -- that you read it to me. Okay. And how many pages of material do you have there, Doctor?

A. I'm sorry, counting what?

Q. No; I mean of your notes.

A. Of my notes of him?
Q. Right..
A. Of my examination of him?
One, two, three, four.
Q. Four pages, and you obtained that information during the time of your examination and -- during your examination and the history you obtained?
A. That,'s correct..
Q. You recorded those four pages. And Doctor, did you ask Mr. Parisi -- he said -- "is said t.o be intermittent and mild to moderate in degree,"
Did you ask him, did you give him choices, mild, severe, moderate, or did he say, "My pain is moderate, mild t.o moderate"?
A. I probably asked him specifically, "How much pain do you have? Is it mild, moderate, severe, what sort of pain do' you have?"
And he said, "Mild to moderate."
Q. Okay. You didn't have to explain what. mild to moderate meant.?
A. He didn't ask.
Q. Did you --
A. You know, small, medium or large, some idea.
Q. But these are actually, then, the words that yo11

had put to him?

A. Probably. Those are the ones he picked.

Q. Now, he indicated it was made worse in cold and damp weather?

A. That's what he said.

Q. And would that. he consistent with an injury of this type, to be worse in cold and damp weather?

A. It's possible..

Q. And it. was not. a cold, clamp day, when you examined him on September --

A. T don't remember.

Q. Pardon?

A. T don't, remember whether September 17th of 1993 was cold or damp. Certainly, it's now May 16th, and it's cold and damp today, so T don't know what it. was like in September.

Q. Okay. Tf tho weather report reflected the temperature was 66 degrees on that day and there was no precipitation, would you disagree with that.?

MR. *HACKRNBERG: Objection.*

A. Why would T disagree with that,?

Q. Okay. But you have no recollection, or you made no note whether it was cold and damp in preparing your report?

4. He said he was having pain that, day, but I did not know whether it was cold or damp, no, sir.

Q. Now, ha also indicated that it is made worse when he's on his feet more than two to three hours; is that right?

A. That's what he said.

Q. Now, Doctor, did you inquire what his activities were in the eight hours prior to the time of your examination?

A. No. He said he was having pain, though, when T saw him.

a. Okay. Do you know if he was just coming off duty, or whether he was --

A. I don't know.

Q. -- or whether he had been in bed for the previous eight hours?

A. I don't have any idea.

Q. Okay. And you did not ask him, right?

A. That's just what I finished saying.

Q. Okay. He did report intermittent swelling of the knee?

A. That's what, he said.

Q. Now, Doctor, Mr. Paris5 had had no prior injuries to that knee, to your knowledge, had he?

A. That's what he said.
Q. And you had no records indicating any prior injuries to that knee?, did yoii?
A. No.
Q. And no records of any subsequent injuries to the right knee?
A. That's what he said.
Q. And Doctor, is it. your opinion then that the fracture that he had was a direct result. of the accident., and no other cause?
A. Apparently.
Q. Now, yoii asked Mr. Parisi to let you know if he had any pain during your examination. Did he evidence any pain during your exam?
A. Yes.
Q. All right. Isn't it true, Doctor, that when you palpated the area, that he winced with the pain?
A. This is the area along the edge of the knee cap, but. not. along the joint line. That's right..
Q. So there was evidence of pain during the time of the examination?
A. That's what. ha said, yes.
Q. And do you say that because the pain was here, it was or was not, related to his injury?
a. Oh, it. was not. in the area of his injury, no.

The area of his injury was down here, and it was along here that he had the -- he said he had tenderness.

Q. And that, is where the tibial plateau and femoral condyle come together, right.?

A. No. Specifically, it was not where the femoral condyle and tibial plateau come together. Specifically -- because I tested that area specifically, and he was not tender over That area. He was tender along the edge of the knee cap.

Q. Do you think that tenderness was due to this automobile accident.?

A. I don't know. I didn't find anything to substantiate why it would he tender, hut. I don't have any idea why it was tender.

Q. Do your records reflect that he reacted to pain, when you palpated the area?

A. He said it was tender, that's what he said. That's why I put it down.

Q. You didn't notice him wincing, when you pressed it?

A. I didn't make a note of whether he grimaced or screwed up his face or what he did. He said it was moderately painful, so I put it down. I put.

down everything he said.

Q. Doctor, you say that the measurements of the quadriceps muscles showed them to be equal.

Did yoii inquire of Mark Parisi whether he is right-handed or left-handed?

A. It doesn't make any difference. The quadriceps muscles are equal, anyway. Because you use one arm more than the other, but you've got to walk on the 'legs alternately.

Q. Okay. Do you think it was clinically significant that, his left. leg was also -- had been injured, I think you indicated, quite seriously some 13 years before this?

A. Well, that knee wits bigger than the other, yes.

Q. And the quadriceps muscle --

A. Rut, ha was using it normally.

Q. Wel1, .if you only have two legs, you have to use one or the other, or both of them, you have to favor both of them, if you Rave disability?

A. He wasn't favoring either one. His gait was perfectly normal.

Q. *Doctor*, you indicate that there was complete healing of this joint?

A. Of the fracture, that's correct.

Q. Of the fracture. What. ahoiit. the articular

surface?

A. You can't see that on X-ray, but there, was a -- the joint, space appeared to be normal, that is, the thickness of the cartilage appeared to be normal. And the -- so that's all you can see on a regular plain X-ray.

Q. Doctor, handing you what,'s been marked as Plaintiffs' Exhibit, 5, I wonder if you could show it. here?

Doctor, what has been marked as Plaintiffs' Exhibit 5 -- and I want you to look at. these lower four frames here on the left side -- Doctor, now, you have testified that, the MRT does reflect- tendons, ligaments, and all of the soft. tissues, basically, and including the bone?

A. The hone isn't. part. of the soft. tissue. Tn addition t.o the hone!.

Q. The bone and the soft tissue.

Doctor, looking at this, where T'm pointing here, would this, Doctor, have been the area where Mark's fracture was?

A. Probably. Tt's a11 healed, but that's where it. was.

Q. And Doctor, this surface appears t.o be eroded here, the bony surface appears to be eroded.

MR. HACKGNBERG: Objection.

A. No, it does not. Tt appears to he nice and smooth.

Q. Okay. Doctor, what is this here? The white part is the bony surface, right.?

A. Yes, sir.

Q. And this surface here is not straight?

A. That's not the surface of the joint. But these are the changes in the hone underneath the cartilage.

I don't know if you can see with the head in the way, hut. the cartilage is on top of that. This is underneath the cartilage, and these are just. the changes in the healed hone, in the healed fragment. But that. has nothing tn do with the joint surfaces. As you can see, the joint. surface is nice and smooth.

Q. Doctor, would it. be -- now, when you say that. Mark Parisi had no evidence of any disability at this time, by that you mean at. 9:30 in the morning on September 17th; is that correct?

A. That's correct-

Q. Now --

A. Whatever time it was T examined him, that's right.

Q. Right. I think that's what the record reflects.
A. I don't know. I don't know if the record reflects what time I examined him.
Q. And you don't know if Mark Parisi would have evidence of disability, if you examined him at the end of his work duties, would you?
A. Except for the fact that ha told me he was having pain at the time that T saw him, and I presume that it would be reflected -- whatever pain he was having or would have would be evident when I examined him.
Q. All right,.
A. But. I didn't. have any evidence of it.
Q. Injuries of this type are variable, T mean the symptoms are variable: wouldn't that he a fair statement?
A. Sometimes.
Q. And you've seen that in your own patients?
A. Oh, yes, sometimes.
Q. Some days they will have no problems, and the next. time they can hardly walk?
A. When they say they're having pain, T usually find evidence of it,.
T didn't., in this case.
Q. Rut. you only saw Mark for that one brief moment.

on September 17th?

A. During the examination that I did on him, that's correct..

Q. And you have no knowledge whether Mark was suffering a disability two days before you examined him, when he said he hail swelling of that. knee?

A. No. Just what he said.

He said he had pain when I examined him, and I found no evidence of that.

Q. Okay, Doctor. Dr. Convery saw Mark on 12 different occasions, and he saw him when his symptoms were variable!, He would have a better clinical history on which t.o evaluate Mark's future prognosis, having seen him when he was having more severe symptoms than you found --

MR. HACKENBERG: Objection.

A. Ts this a question?

Q. Yes. Would that he a fair statement?

A. No, that, would not. he a fair statement.

Q. It would not.?

A. No, sir, it. would not.

Q. You would think that you could find out as much in one examination that lasted maybe. ten -- examination history that. maybe lasted ten

minutes?

A. I don't know how long it takes. We just went over that once before.

Q. Right. We went over it twice before.

A. That's right, and you're trying to slip it in a third time.

Q. No.

A. Let's just stick to the facts, if you want. to ask questions.

Q. All right. Let's sap you saw him maybe for a half hour --

A. However long it, took to do a complete and thorough examination.

Q. My point is, Doctor, this is maybe a half hour out of Mark Parisi's life, and you have indicated you don't know what his disability was like two days before that., you have no knowledge what his condition is today; isn't that true, Doctor?

A. Yes.

Q. Would you expect Mark to have exacerbation of. his right. knee pain, disability or swelling in the future?

A. I find no evidence for it., no.

Q. Are you aware of what jobs -- or what Mark's

duties entail?

A. He's a police officer, that's all I have.

Q. Okay. Would it. he -- do you know what. a police officer is required to do, pursue people that are running from scenes of crimes, making sudden moves, would that deteriorate or cause more problems in this knee, or would it he --

MR. MAHLE: We'll strike --

A. Well, I would say -- if I get the *gist*. of your question -- that his occupation as a police officer might. cause him to reinjure his knee. He could always hurt himself again, if that's your question.

Q. But the injury that ha has, would he be mora susceptible to reinjury than if he had no injury to his right knee?

A. Well, I didn't. find any evidence for that.. The menisci are all intact, the bone is all healed. He doesn't. have any ligamentous injuries.

Actually, his other knee *is in* a lot, worse shape than this one is.

Q. How much Aid Mark Parisi weigh?

a. I don't know. I don't. have a note of that.

Q. Do you know his height.?

A. No, sir.

Q. Would that- he important, clinically, t.o evaluate the prognosis of a gentleman with a knee injury and with chondromalacia?

A. It might have been, but. he doesn't have any evidence that, he's got. any problems with it now anyway.

Q. How old is Mark Parisi?

A. He was 35, when T examined him.

Q. And he's 36 now, Doctor --

A. T would expect that, because it's been a year.

Q. No, it. hasn't, been a year, but whatever.

A. Six months.

Q. He had a birthday, anyway.

Doctor, wou1d the injury that Mark sustained, woiild that tend t.o degenerate as he ages?

A. Tt's possible, yes.

Q. And would you say it's probable that, you would have degeneration in that knee between, say, the next. 30 years, which is his working life expectancy?

A. T can't. say it's probable, no.

Q. You cannot.

Doctor, would it be beneficial to you, in arriving at. an accurate prognosis, to reexamine Mark Parisi at. this time?

A. I don't -- based on the examination which I did on him in September, I didn't find anything wrong with him at that. time, and I can't. see where it, would he any benefit. t.o see him again.

MR. MAHLE: All right..

Nothing further.

REDTRECT EXAMTWATTON OF RTCHARD S. KAUFMAN. M.D.

RY MR. HACRENRERG:

Q- Doctor, just one question. Where Mr. Parisi was complaining of tenderness was on the edge of the knee cap?

A. That.'s correct..

Q. And that was not in the area where the injury that the records indicate was that he received?

A. That's absolutely correct. He did not. have any tenderness in the area where he had previously been injured.

Q. That.'s where you would anticipate tenderness,. if, in fact, one was having residual symptoms from that. type of an injury?

A. Yes, sir.

MR. HACKENBERG: That's all I

have, Doctor.

RECROSS EXAMTNATTON OF RTCHARD S. KATJFMAN, M.D.

RY MR. MAHLE:

Q. Doctor, do you know what was causing the tenderness at. that point?

A. He just said it was present, so I put it down. I found nothing that. I could identify as the cause of it,.

Q. Okay. You do not find tenderness to make a patient wince in a noninjured knee, do you?

MR. HACKENBERG: Objection.

T don't. know where this "wince" came from. No one testified t.a him wincing.

MR. MAHLE: They will.

A. I'm sorry, what's the question?

Q. Would you expect. to *see* -- have a patient. wince on examination on a noninjured knee?

A. Not, usually.

MR. MAHLE: No further questions.

FURTHER DIRECT EXAMINATION OF RICHARD S. KAUFMAN, M.D.

BY MR. HACKENBERG:

Q- Doctor, just one more question, and I promise this is the one more question.

'In a response to a question by Mr. Mahle, you testified that five percent, of your practice is devoted to examining individuals for plaintiffs or defendants or third parties or what. have you.

Just, so there is no misunderstanding, tell us what, the other 95 percent of your practice relates to.

A. Oh, T take care of sink and injured patients, that's what T do a33 day long. I see patients in the office, I *see* patients in the hospital, 'in emergency rooms, I do surgery. This is most. of what I do. This is what. I'm trained to do.

MR. HACKENRERG: Thank you very much, Doctor.

MR. MAHLE: T have one other question.

FURTHER CROSS EXAMTNATTON OF RTCHARD S. KAUFMAN, M.D.

BY MR. MAHLE:

Q. Again!, if you made a mistake in your diagnosis or evaluation, that creates no responsibility to yoii or to anyone!, or to Mark Parisi, does it?

A. Oh, yes. I don't want. to make mistakes; nobody wants to make mistakes.

MR. MAHLE: No further questions.

THE WITNESS: I will waive viewing and I'll waive *signing.*

MR. HACKENRERG: Thank *you*, Doctor.

(Signature Waived.)

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CERTIFICATE

The State of Ohio,)
) SS:
County af Lake.)

I, Catherine Radie, a Notary Public within and for the State aforesaid, duly commissioned and qualified, do hereby certify that the above-named RICHARD S. WAUFMAN, M.D., was by me, before the giving of his deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition as above set. forth was reduced to writing by me by means of stenotypy, and was later transcribed into typewriting under my direction; that the reading and signing of the deposition by the witness were expressly waived by stipulation of counsel and the witness; that, said deposition was taken pursuant to notice and the stipulations of counsel herein contained, and was completed without adjournment; that I am not. a relative or attorney of either party or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I hereunto set. my hand and seal of office, at. Mentor, Ohio, this 17/4 day of May, A.D. 1994.

Catherine Radie, Notary Public
8547 Hilltop Drive, Mentor, Ohio 44060
My commission expires 10-19-94.