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

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IN THE COURT OF COMMON PLEAS

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VERONICA FERRETTE, ET AL.,	)	
Plaintiffs,	)	
-v-	)	Case Number 370938
THERESA KOWALCYK, ET AL.,	)	Judge William J. Coyne
Defendants.	)	

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DEPOSITION OF SUZANNE E. KIMBALL, D.O.
Wednesday, September 20, 2000

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Deposition of SUZANNE E. KIMBALL, D.O., called by the Plaintiffs for direct examination under the Ohio Rules of Civil Procedure, taken before me, the undersigned, Gerald Abbadini, Registered Professional Reporter, a Notary Public in and for the State of Ohio, at the office of the deponent, 6803 Mayfield Road, Suite 309, Mayfield Heights, Ohio 44124, commencing at 11:32 a.m. the day and date above set forth.

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CORSILLO & GRANDILLO COURT REPORTERS
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Cleveland, Ohio 44114
216-523-1700

APPEARANCES:

On Behalf of the Plaintiffs:

William Hawal, Esquire
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Cleveland, Ohio 44114

George J. Argie, Esquire
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On Behalf of Defendant Theresa Kowalcyk:

Walter H. Krohngold, Esquire
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On Behalf of Defendant Fireman's Fund Insurance Company:

Henry A. Hentemann, Esquire
Davis & Young
1700 Midland Building
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ALSO PRESENT:

John Stringer, Videographer

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THE VIDEOGRAPHER: It is Wednesday, September 20, 2000, 11:32 a.m. We are now on the record.

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SUZANNE E. KIMBALL, D.O.

called by the Plaintiffs for direct examination under the Ohio Rules of Civil Procedure, after having been first duly sworn, as hereinafter certified, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HAWAL:

Q Doctor, would you please tell us your full name and your business address?

A Suzanne Evelyn Kimball. Business address is 6803 Mayfield Road, Suite 309.

Q Doctor, what kind of physician are you?

A I am a general internist.

Q And the reason we are here today in your office this morning is to ask you some questions about your care and treatment of Veronica Ferrette. Before I do that, I would like to ask you some questions about your medical education and training.

Would you briefly tell the ladies and

gentlemen of the jury where it was that you obtained your medical education and your training in internal medicine?

A I completed the first four years of medical school at Ohio University College of Osteopathic Medicine. I had a rotating internship at Richmond Heights General Hospital here in Cleveland, followed by three years of internal medicine residency at St. Luke's Hospital, also here in Cleveland.

Q Did you have any additional postgraduate training since the training you described here in Cleveland?

A Yes, I had a year of non-invasive cardiology fellowship at Spaulding Rehabilitation Hospital which is part of Mass General in Boston.

Q Are you board certified in internal medicine?

A Yes, I am.

Q When did you pass your board examination?

A 1988.

Q When were you licensed to practice medicine in Ohio?

A 1980.
Q Doctor, what hospitals in the Cleveland area are you affiliated with, where you see patients?
A I'm on the active staff at Hillcrest Hospital, associate staff at Euclid, courtesy at University Richmond Heights I believe is what it's called right now, and I am on the active staff at Lake County West.
Q Doctor, during the course of this deposition, it may become necessary for you to express your professional medical opinions. Will you agree to restrict your opinions to those which you can state to a reasonable degree of medical probability?
A Yes.
Q And if at any time you need to refer to your medical records or your medical chart on Veronica, please feel free to do so. Defense counsel is looking through it as we speak, but if you need it, you can ask for it.
When did you first see Veronica as a patient?
A I first saw her on the 22nd of May in 1998. I'm having to do this from memory

because he has the chart.

MR. KROHNGOLD: Here, Doctor.

A As a follow-up visit from her visit to the emergency department at Hillcrest across the street.

Q Do you continue to see her presently as a patient?

A Yes.

Q How was it that she became your patient back in May of 1998?

A After she was seen in the emergency department and treated, then she was referred to my office by the emergency room physician there.

Q When you first saw Veronica, did you obtain information about her medical condition and problems, I guess we commonly refer to them in your profession as a history?

A Yes.

Q What information were you provided at that time?

A At that time we had a copy of the emergency room report, at least the initial report, stating that she had been brought by

rescue squad. Had been unconscious prior to transport. Had been given oxygen and had a very high level of blood carbon monoxide. She had also had such an elevated level that they felt it necessary to transport her to St. Vincent Charity Hospital for hyperbaric oxygen treatment, which she did receive prior to discharge from the hospital.

Q Is that something that is not available at Hillcrest Hospital?

A We don't have that here, no.

Q Is that treatment that is commonly utilized if someone is exposed to high levels of carbon monoxide?

A It can be used as one attempt to try to minimize the damage.

Q What were Veronica's initial complaints when you saw her the first time?

A When I first saw her, she was complaining of headaches, difficulty walking, difficulty concentrating, memory difficulties, difficulty seeing, pain in her lower back, shortness of breath, fatigue and chest pains.

Q Did you conduct a physical examination

at the time of the first visit?
A Yes, I did.
Q Did you note any abnormalities during the course of that physical examination?
A I noted that she was having difficulty ambulating and she was ataxic.
Q What does that mean?
A Staggering. The kind of thing you would see in someone who was intoxicated with alcohol.
Q As a result of your initial visit with Veronica, did you have any recommendations or treatment that you discussed with her or initiated at that point?
A Yes. I recommended that she undergo full laboratory work-up. I also recommended that she see Dr. Harold Mars, who is a neurologist colleague of mine, in consultation.
Q And did that consultation take place?
A Yes, it did.
Q Did Veronica continue to see Dr. Mars on more than a one-time basis?
A Yes, she did.
Q During the course of your treatment of

Veronica, have you and Dr. Mars continued to communicate about Veronica's progress and her treatment?

A Yes, we have.

Q Did you continue to see Veronica on a regular basis after the initial visit in May of 1998?

A Yes.

MR. HENTEMANN: May I just, for the record, I think she said her first visit was May 22. I think it's May 18, was it not?

Q You didn't have your records in front of you at the time?

A No, I did not. Let me see what the date on the physical is, then I can tell you.

MR. HAWAL: I think the record indicates that it was May 18.

MR. HENTEMANN: She didn't have the records in front of her at the time.

A Thank you.

Q You indicated that you have continued to see Veronica on a regular basis since that time?

A Yes.
Q Can you give us a sense of how frequently you would see her over this period of time between then and now?
A Initially I was seeing her more frequently because it was unclear what was evolving, what process was evolving, and she needed to go for additional studies. And her symptoms continued to be a problem.

So I was seeing her, I saw her about two, three weeks after the initial visit for her follow-up at that time. She continued to complain of headaches and fatigue and difficulty ambulating. She was referred for an MRI scan and had not seen Dr. Mars initially in her first visit with him.

She was seen a week after that complaining of pains in the chest. Was brought in by her father. She was to get her MRI done. In fact, she was scheduled for that on the 18th, then was followed up with me about 10 days after that time.

Again, she had continuing problems with her memory, difficulty remembering how to perform simple acts like tying her shoes or

getting dressed. She apparently had what sounded to me like a gran mal seizure, it was reported on that visit on the 29th.

MR. KROHNGOLD: Objection.

Q Doctor, in addition to these complaints and symptoms that you have just described as being evident during the early part of your involvement with Veronica's care, has she developed any further problems or difficulties that you needed to direct your attention to over the intervening time period?

A Oh, she's had irregularities with autonomic symptoms. She's had some difficulty with night sweats. Her periods are no longer regular. Inappropriate sensations or paresthesias that she's developed. I believe those are the additional ones.

Q What have you observed to be her most persistent and Troubling difficulties over the time that you have been treating her as her physician?

A Difficulty concentrating. Inability to remember how to perform simple tasks. She's

had a lot of difficulty with short-term memory. She has difficulty reading. She requires other people to help her with her activities of daily living. She can't do her own laundry, has trouble cooking. Difficulty living by herself, taking care of herself.

Q Has there been any appreciable change or improvement in Veronica's condition over the period of time that you have been seeing her?

A I don't believe that she's improved significantly since she first started coming to see me.

Q Have these problems that you have discussed been disabling to Veronica as a consequence of what you have described as the difficulty she's been having?

MR. KROHNGOLD: Objection.

Q You may answer.

A Yes, I believe they have been. She hasn't been able to hold down a job or find employment.

Q Have you or any of her other doctors been able to do anything or offer any recommendations as to any medical treatment

that you believe will offer her any improvement?

MR. KROHNGOLD: Objection.

A She has been placed on anti-seizure medication by Dr. Mars, which has been adjusted. We feel it may be decreasing the incidence of these seizures, but her abilities to function really haven't improved even with the medication.

She's also seeing a Dr. Iahn for psychiatry and has had her medications adjusted there. The mood seems slightly improved, but her underlying problems with trying to concentrate and to perform tasks have not really improved.

Q Have you noticed in your interactions with Veronica an effect of these underlying problems upon her mood and personality?

A Yes.

Q Is there any question in your mind, Doctor, that these complaints and difficulties that you have described Veronica as having, that she's exhibited are in fact real?

A There is no doubt in my mind these are

real.
Q You mentioned that Veronica has had an MRI of her head. Has she had any other diagnostic studies in terms of any radiographic tests such as an MRI?
A She's had a CAT scan.
Q Are you aware of the results of those two studies?
A Right. The CAT scan did not show any anatomic abnormalities. The MRI also did not show anatomic abnormalities.
Q Was that in any way surprising to you based upon the history that you obtained as to the circumstances of her carbon monoxide poisoning and the problems that you described that she was having?
A No.
Q Have you referred Veronica for any neuropsychological testing?
A Yes, actually with the assistance of Dr. Mars, she was referred to the unit at Metro General.
Q Why did you do that?
A They are the best unit in town for head injury, brain injury, and we wanted someone

who had a lot of experience in working with these people.

Q Have you seen those results?

A Yes, I have.

Q Has that provided you with any objective confirmation of Veronica's injuries?

MR. KROHNGOLD: Objection.

A Yes, it does.

Q Doctor, what has been your working diagnosis as far as the various medical problems that you have described Veronica as having that you diagnosed?

MR. KROHNGOLD: Objection.

A The working diagnosis is carbon monoxide encephalopathy.

Q What is encephalopathy?

A Encephalopathy means that there is damage to the brain, that it's not functioning appropriately.

Q And Doctor, have you come to a conclusion as to the cause of these medical problems that you have described, including the encephalopathy?

MR. KROHNGOLD: Objection.

A well, the conclusion is that she had significant carbon monoxide poisoning with microscopic damage that appears to be pretty much global. There are specific areas functionally that are impaired.

Q Your records reflect a carbon monoxide blood level of 39.9 when you were seeing Veronica early on in the course of your treatment. What is the significance of that blood level of carbon monoxide?

MR. KROHNGOLD: Objection.

A A level that high indicates that the patient had a significant exposure to carbon monoxide and she had suffered decreased oxygenation to parts of the brain. It would be classified technically as a moderate to severe poisoning.

MR. KROHNGOLD: Objection.

Q Does this level of 39.9 reflect what her carbon monoxide blood level was immediately after her exposure?

A The one immediately after would have been higher.

Q Doctor, do you have an opinion as to whether her encephalopathy and her resulting

medical problems and disabilities that you have described are permanent?

MR. KROHNGOLD: Objection.

MR. HAWAL: Can I have a basis for your objection in case I can correct it, cure it?

MR. KROHNGOLD: I don't think there is any indication in the medical report on the issue of permanency.

Q You can answer, Doctor.

A Could you restate the question?

Q Sure. Do you have an opinion as to whether or not her encephalopathy and resulting medical problems and disabilities are permanent?

MR. KROHNGOLD: Objection.

A I believe that they are. She's failed to improve over the preceding two years. We usually can see some improvement, if we see anything in two years following an incident like this.

Q Have you arrived at any conclusion about Veronica returning to any form of meaningful employment in the future?

MR. KROHNGOLD: Objection.
A It would be extremely difficult for her to be employed. She has difficulty carrying out physical tasks. With the impaired concentration, difficulties with reading and mathematics that were well documented in the neuropsychology report, it would make it very difficult for her to do much of anything.
MR. KROHNGOLD: Move to strike.
MR. HAWAL: Basis?
MR. KROHNGOLD: Same.
Q Doctor, do you expect to see Veronica in the future relating to the injuries that she sustained as a result of her carbon monoxide poisoning?
A Yes.
Q What is the frequency with which you believe you will need to follow with Veronica?
MR. KROHNGOLD: Objection.
A The frequency is difficult to set. Usually with seizure patients, we see them about every six months. However, if she develops other problems, she's been informed by my office that she is to come in whenever

she has a difficulty so that we can try and prevent her from having further difficulties.

Q Doctor, the billing statements that you have provided for medical treatment between May of 1998 until the present time for Veronica Ferrette, are those medical bills which were incurred as a direct and proximate result of her carbon monoxide exposure in May of 1998?

A Yes.

Q Doctor, at the conclusion of this deposition, what I'm going to ask is the court reporter make arrangements to mark your medical file on Veronica as Exhibit A for purposes of your deposition and make a copy of it and append it to the deposition.

Is the record that you have in front of you that consists of your file on this patient a true and accurate copy of the medical record that you have generated as a result of your care and treatment of Veronica Ferrette?

A Yes.

MR. HAWAL: Thank you, Doctor. I have no further questions.

MR. KROHNGOLD: Off the record, please.

(Discussion off the record.)

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CROSS-EXAMINATION

BY MR. KROHNGOLD:

Q Good morning, Doctor, at least it's morning for another couple minutes. My name is Walter Krohngold. I represent the defendant in this case, Theresa Kowalcyk. I would like to ask you some questions today based on the information you gave to opposing counsel, as well as some of the information contained in your chart.

You indicated you were an internist by training, correct?

A Urn-hum.

Q Now, that's not -- that is different than a neurologist or a psychologist, correct?

A Correct.

Q And different certainly than a neuropsychologist, right?

A Urn-hum.

Q For her neurological treatment, you

referred her over to Dr. Mars who monitored that aspect of her condition, correct?
A Correct.
Q And did he also make all the changes in her medication levels regarding her seizure medication?
A Yes.
Q And for her neuropsychological assessment, you sent her over to Metro Hospital and let them handle that, correct?
A Correct.
Q Let me just go through some of the information in your chart if I could. The first day you saw her, I believe we agreed, is May 18 of '98, correct?
A Correct.
Q At that time, you had given her it looks like a patient medical history questionnaire?
A Um-hum.
Q I think I might have put a little tag there in the file. And that is a questionnaire you give to all of your patients, asking about pertinent medical history and their current condition?

A Yes.
Q Was this filled out by Ms. Ferrette herself?
A Some of it has been filled out by Ms. Ferrette and then I added some other notations to it.
Q Is there a way to tell what she filled out and what you filled out?
A By the handwriting.
Q If I were to look at the first page, and perhaps we can have this marked as a defense exhibit after the deposition is over, it appears to be four pages long, Doctor?
A The history portion?
Q Yes, the questionnaire itself?
A Yes.
Q And it's dated 5-18-98?
A Um-hum.
Q The first page with the name, the address, the complaints, and the past medical history, was that all in her handwriting?
A All except for several items in the past medical history.
Q Just so I know if I look at it, can you tell me what your handwriting -- is it the

cursive handwriting?
A I can tell you what items I added. February of '96, she had a submucous resection. March of '97 she had left sinus surgery, and 1996, was seen by a Dr. Iahn for depression.
Q Was the information you added based on your conversations with her at that time?
A Yes.
Q Was all of the information obtained in this questionnaire either filled in by Ms. Ferrette or done by you on the first visit based on information provided by her?
A Right.
Q And she was able to describe exactly what was going on with her and what conditions gave her problems and what conditions did not give her problems by that checklist, correct?
A Right.
Q I assume you sat down and interviewed her at that time, as well?
A Yes.
Q Before we go on, you indicated to opposing counsel that her CO2 level of 39.9

was sometime after the actual exposure?
A Yes.
Q I think the actual blood test was run about 3 or 4 in the morning that evening, correct?
A Um-hum.
Q Is there any way to tell how much higher than that it would have been upon initial exposure? Are you talking a point or two? If you have the knowledge to say.
A It would be very difficult to say what her initial level was.
Q At least that test was relatively close to the exposure time, correct?
A Yes, but it's the nature of that test to be -- those levels can change very quickly.
Q All right. On your initial examination, you did conduct a physical examination of her?
A Yes.
Q And I see that pretty much your entire physical examination was normal at least until we get down to the last element, the psychiatric aspect, would that be a fair

assessment?
A There is some minor things, but it would be neuropsychiatric, yes.
Q But it looks like most -- by and large, the exam was normal until we get to the psychiatric portion of it?
A To the last portion.
Q And the psychiatric, it appears to be four different categories which you assessed, correct?
A Um-hum.
Q The first one, if I am reading it right because my copy is relatively poor, is description of patient's judgment and insight?
A Um-hum.
Q You indicated was normal?
A Um-hum.
Q What did you mean by that, Doctor? How did you assess that?
A She knew where she was. She was oriented to person, place and time. It's a very superficial assessment. I don't do a detailed assessment. That's more the province of a neurologist or psychiatrist or

psychologist.
Q I understand, it's more of an overview?
A Right.
Q The next line which says orientation to time, place and person which you have just described to us?
A Right, she's there.
Q And recent and remote memory, you indicated that was normal?
A At that time.
Q Was that at least substantiated in part by her ability to recall her medical history and what was going on with her over the past couple weeks and describe her complaints?
A Yes.
Q And the mood and affect, you indicated there was some ataxia which you described as some staggered walking?
A Right.
Q And you said cephalgic, is that headaches?
A Headaches.
Q And chest pain?
A Right.
Q Those were her descriptions of her

problems to you, correct?
A Well, the ataxia is an objective finding. This is the impression that you are reading off the bottom. The difficulty with this form, and I'm no longer using it, is it didn't give me any room to put my impressions down and my plans. So I had to jam them in underneath the psychiatric section.
Q But at least the only objective finding you had in that category was just the ataxia?
A She was ataxic. She complained of cephalgia. She complained of chest pains and she had moderate to severe carbon monoxide poisoning as a history which was confirmed by the blood levels, and the emergency room reports.
Q There is a note down in the lower left-hand corner which I can't read very well. Could you tell me what that says?
A She had quit working in the sleep lab.
Q Did she say when that was?
A No.
Q Then under that there is something else?
A "Sleep lab at Hillcrest, burnout - now

waitress at Charley's Crab."
Q From your recollection, did she indicate she got too burned out working at the sleep lab, she quit there and was working as a waitress? It seems suggested by your note. I'm wondering if you have any further recollection of that?
MR. HAWAL: Objection to counsel's commentary on what the note may seem to suggest.
A Well, also if you read the rest of it, it also says wants to start her own business.
Q But at least at the time she came to see you, she indicated something to the effect that she had stopped working at the sleep lab because she just got too tired or burned out doing it?
A She was unable to do it. She couldn't concentrate. Couldn't do the job.
Q Did she say when she quit the sleep lab?
A No.
Q But there is the suggestion of burnout there, right?
A Um-hum. The word is there.

Q I don't want to go through each and every visit, Doctor, because you have seen her a number of times. But just to review your records, there were a number of visits you had seen her for problems she was having with her sinuses, correct?
A Um-hum.
Q You had treated that aspect of her condition, right?
A Right.
Q That was a condition she had even before this incident happened, right?
A Um-hum.
Q You were medicating that and I note that certainly on a few visits, they were related to treatment for a sinusitis, sinus infection, you even had some tests run for her sinus problems?
A Yes.
Q Those visits would not be related to this incident, would it?
A No, they wouldn't be.
Q You also indicated that she had a normal CT of the brain, I think there were actually two of them. One you ordered fairly

early on, I think you told us, and that was done in August of '98?
A Um-hum.
Q Was that to see if there was any organic condition going on with her brain at that time?
A Correct.
Q Then there was a subsequent one that was ordered I believe in January of '99, another CT?
A Um-hum.
Q That was also negative?
A Yes.
Q You also mention an MRI. Do you know when that was taken, Doctor?
A That would have been in June of '98 and that report is in the correspondence section.
Q Was that ordered by you or was that ordered by Dr. Mars?
A That was Dr. Mars.
Q That was likewise normal?
A Did not show anatomic abnormality.
Q One of the notes that I saw was an incident that happened back in January of 1999. She was apparently assaulted by her

boyfriend?
A Urn-hum.
Q As far as I can read your notes, it looks like on January 12 it said hit, is it occiput? Am I reading it right? I'm looking at the January 12 notes.
A Yes.
Q The occiput is a part of the head, correct?
A Urn-hum.
Q What part of the head would that be?
A Back here.
Q She said she was struck by her boyfriend there?
A She was pushed against the wall.
Q She was complaining at that time of pain in her shoulders and soreness?
A Um-hum.
Q You diagnosed a concussion, correct?
A Um-hum.
Q What is a concussion?
A A concussion is when the head has been struck and the force of the blow is transmitted through to the brain.
Q Can that have an effect on the brain?

A It can.
Q I believe you also had written a note in the chart, which I put a little tag by, regarding that incident. I'm not sure who the note was written to, if you could please refer to it. It's a typewritten note. I might have stuck a little piece of paper in the corner there. If you want, I can go and look for it off the record, Doctor. It may not have made it over by the time I handed the file back to you.
A Things have migrated around, unfortunately.
MR. KROHNGOLD: Let me go off the record for just a moment. I can try to locate it for you.
(Discussion off the record.)
Q Do you have that letter now, Doctor?
A Yes, I do.
Q I believe that was written on January 12 of '99, the same date as the examination?
A Um-hum.
Q You indicated that she was thrown against the wall I think and struck her head, something to that effect?

A Her boyfriend struck her, threw her against the wall and threw a vacuum cleaner at her.
Q And you indicated in I believe the second paragraph that she was a little more, was it lightheaded than usual? I forgot the exact wording and please feel free to read it.
A She complained of headaches, lightheaded, dizzy and pain when moving her eyes up and to the left. She had bruises over the posterior aspect of her right shoulder. A little more slowed than usual in her thinking, but was still oriented to person, place and time. CAT scan that day that was done was normal. Facial bones in the left orbit X-ray showed no apparent fracture. An incidental finding with some mucosal thickening consistent with chronic maxillary sinusitis.
Q When you said she was a little more slow than normal in her thinking, do you recall how you made that assessment?
A It took her longer to answer questions than usual.

Q Do you have any recollection as to how long that condition lasted, where her thinking was a little more slowed down, or whether it continued to last for even up until now?
A She was seen more than once for this.
Q I think she was seen a couple days later on the 14th.
A Right. As I recall -- when I saw her on the 14th, she was better. My biggest concern was the bruising -- the difficulty around her eye and that's when I ordered orbital X-rays, to be sure since he had hit her in the eye, to be sure she didn't have what is called a blowout fracture.
Q You sent her out for some more X-rays?
A Plain films of the eye, facial bones.
Q At least on the 14th, she was still complaining of lightheadedness and dizziness, right?
A Um-hum.
Q Just by way of example, if you will turn to the next page, February 2, that appears to be a visit regarding her sinus problems, correct?

A Um-hum.
Q And the llth, as well?
A Yes.
Q And March llth, as well? Would that visit be primarily for other conditions, colds, sore throats and the like?
A Yes.
Q There was a note from January of this year, January 4. She indicated she was feeling better. Do you recall what exactly you meant by that? Because you put it in quotes.
A That's not my note. That's my assistant's note. The patient called and canceled her appointment and told the assistant that she couldn't afford to pay for the visit, and then the assistant put down exactly what the patient said.
Q So you don't know exactly what's meant by that from the patient?
A No.
MR. KROHNGOLD: Let's go off the record for just a minute, please.
(Discussion off the record.)
MR. KROHNGOLD: Doctor, at this

time I don't have any further questions. Mr. Hentemann may want to ask you something further.

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CROSS-EXAMINATION

BY MR. HENTEMANN:

Q Dr. Kimball, my name is Hank Hentemann, Henry Hentemann. I represent the intervening defendant, Fireman's Fund Insurance Company in this particular case. I have got a couple questions I would like to ask you to clarify some matters.

You mentioned that your records reflect that she quit her job in the sleep lab over at one of the hospitals. Was that University?

A No, it was Hillcrest.

Q Hillcrest, because one of the problems she has was she couldn't concentrate well, is that correct?

A Um-hum.

Q You don't know when she quit the job over at Hillcrest Hospital?

A She didn't share that with me.

Q But at that particular time, however,

she was having trouble concentrating?
A Yes.
Q You rendered a diagnosis of carbon monoxide encephalopathy, is that correct?
A Yes.
Q The carbon monoxide encephalopathy is damage to the brain, is that correct?
A Yes.
Q The question is whether the carbon monoxide caused the problem with the brain, as far as I'm concerned, maybe you don't, but the question I have is on what facts did you rely upon in rendering your opinion that it was carbon monoxide encephalopathy?
A The carbon monoxide level, the history from the emergency department, the findings, the neurological findings that Dr. Mars found.
Q Those were not findings that you found, but findings --
A Findings that he was able to find. Also the psychology report, the negative MRI initially and the negative CT initially would support C02 encephalopathy.
Q With carbon monoxide, doesn't -- if

there is an encephalopathy from the carbon monoxide, that there is some damage shown on the MRI or the EEG or the CT scan?

A CT scan doesn't have sufficient resolution to show much. MRI, you are looking at anatomic findings. She may have small vessel damage or cellular damage without abnormality on MRI, and I defer to Dr. Mars on that matter.

Q with respect to the encephalopathy, there was no objective evidence on any test you performed to indicate there was any organic damage to the brain, is that a fair statement?

A Repeat the statement again, please.

(Last question read.)

A I would have to disagree with it, because the patient was ataxic on physical exam, on presentation.

Q That's what, staggering?

A That's staggering. That's a physical finding. That's an objective finding.

Q Did you ever consult with Dr. Iahn, I believe his name is, the psychiatrist that the plaintiff, Mrs. Ferrette, had been going

to before this incident occurred?
A No.
Q Did you ever consult with any other doctors? I'm not sure whether Dr. DeJoseph saw her or not. Did you ever discuss her condition prior to this incident with Dr. DeJoseph?
A No.
Q With respect to comments in the record about seizures, there is no evidence of any seizure, was there?
A There is a description of behavior that would be consistent with a seizure.
Q By her?
A By her and by family members.
Q Do you know of any witness to any of her so-called seizures?
A I would have to review the record, but I believe there had been family members present --
Q As you sit here right now, you cannot recall any witness to any seizure that she claims she had?
A I have not witnessed any seizures. That doesn't mean to say someone else hasn't.

Q If you have a seizure, wouldn't that have caused damage to the brain?
A If they are uncontrolled.
Q And if she says they were uncontrolled seizures that she had, wouldn't that have had a residual effect on the brain in the sense of showing some organic damage?
A You would expect to see abnormalities on the electroencephalogram.
Q And there were no abnormalities found on any electroencephalogram that was performed on her?
A That I am aware of.
Q Did she ever tell you that she was under the care of a Dr. Iahn, the psychiatrist, before this incident occurred?
A Yes.
Q Did she tell you that she had suffered from I believe chronic depression?
A Yes.
Q Does chronic depression have symptoms similar to those symptoms that she was having or she related to you when she saw you in your office?
A Only to some of them.

Q Some of them are the same as you have experienced?
A They could be the same.
Q And she was suffering from chronic depression, I believe, did she tell you, from 1987?
A According to her history and physical examination and her initial past medical and surgical history, the information that she gave me on her initial visit, she clearly stated she had seen Dr. Iahn in 1996 for depression.
Q You didn't check with Dr. Iahn, however, did you?
A No.
Q She was also suffering from and was treated by Dr. Iahn before this incident for generalized anxiety disorder, is that correct?
A Yes.
Q Were some of the symptoms from a generalized anxiety disorder similar to the symptoms that she expressed to you when she came to your office?
A They could be, but generalized anxiety

does not cause ataxia.
Q But as far as other symptoms, they could be related to --
A Some of the other symptoms could be.
Q And the memory loss which caused her to stop working as a -- in the sleep lab at Hillcrest Hospital, that was something she was suffering from before this incident, too?
A No.
Q If she was suffering at the time she lost her job or at the time she left her job at the sleep lab at Hillcrest Hospital, the reasons she gave to you were the loss of short-term memory?
A Yes.
MR. HAWAL: Objection.
Q And loss of concentration, is that correct?
MR. HAWAL: Objection.
A Could you read back the last, please.
(Record read on page 42, lines 10 through 18.)
A Yes.
Q At the time of this incident, she was taking medications for the generalized

anxiety disorder, was she not, as well as the chronic depression?

A When she presented to me, she was taking one medication.

Q What was that?

A Pamelor, nortriptyline, 75 milligrams.

Q Did she tell you she was also taking Ativan, A-t-i-v-a-n?

A It's not listed in the record here.

Q Are you familiar with -- if she were taking Ativan -- you are looking at a different record right now?

A I'm seeing what I prescribed. In her initial sign-in sheet, she mentioned she was taking Norlestrin, which is a birth control pill. Which is not uncommon for people to forget that that's a medication.

Q She was taking Pamelor?

A Yes.

Q She admitted that for what, the anxiety or the depression?

A Um-hum.

Q Is that correct?

A For depression.

Q Are you familiar with the adverse

effects of Pamelor on patients who take that medication?

A Yes.

Q Isn't one of those ataxia?

A It would be a very high dose to become ataxic. 75 milligrams isn't very high.

Q Is it one of the adverse effects that one can experience from taking Pamelor?

A If you are taking enough, but at 75 milligrams, I would not expect to see somebody become ataxic.

Q She was taking Pamelor before you saw her?

A According to what she told me.

Q I just would like to touch on the seizure history that she gave. You know of no witness to the seizures, but did you review the EMS records, the people that picked her up from her home?

A The run sheet.

Q Is that what they call it, the run sheet?

A It's called the run sheet. I have an emergency room sheet. I don't know that they gave me a run sheet, That's not always

included in the ER record.

I don't believe I have that document.

Q Did you review it, though, I believe, before you testified here today?

A I reviewed the emergency room record. I don't have the squad run sheet. They don't always routinely include that as part of the record. We have the nursing notes from the emergency department.

Q Doctor, is it fair to state that the emergency run people that go to the house when there is a crisis like this, that especially with C02 or carbon monoxide involved, that if there were comments made or if anyone were experiencing seizures, that certainly would be a significant matter that they would include on their report?

MR. HAWAL: Objection.

A I would hope they would put it on there.

Q Do you have the report there?

A No, I have the nurses notes and I have the emergency room report, that's what I have.

a When she arrived at the emergency room,

being brought there by the EMS people, she was awake and alert, is that correct, and oriented?

A The note that I have from the emergency room physician was that the patient went to bed at 11 p.m., was unconscious on the scene, but responded immediately when oxygen was applied.

Q And she was awake when she got to the emergency room?

A According to their -- what I can read of their notes. According to what I can read from the emergency room record, she was responsive on arrival in the emergency department.

Q There were no abnormal findings neurologically, were there?

A According to the sheet that I have here from St. Vincent's, "Motor power symmetrical plantar stem going, patient oriented."

Q In other words, there were no abnormal neurological findings, were there?

A No gross abnormal neurological findings. The emergency department, again, you make sure they can talk to you and move

all four extremities. There is no detailed neurological exam here. But to the level that they were able to examine her, they didn't find anything.

Q Did you perform a detailed neurological exam and find anything wrong with Veronica Ferrette?

A I found her gait was abnormal, was the initial impression that I got, and for a detailed neurological examination, to go into great detail, I have to rely on a neurologist who can take the time and has the equipment to do that.

Q And that's Dr. Mars?

A That would be Dr. Mars.

Q And Dr. Mars did perform a detailed neurological, clinical neurological exam, did he not?

A Yes, he did.

Q And he found no abnormalities, did he?

MR. HAWAL: Objection.

A No, he found abnormalities.

Q What did he find?

A He found that the left side was weak. And if you read his letters, which I have to

find here, it was not normal.

Here we go. He found on examination, questionable Marcus Gunn on the left.

Q What is Marcus Gunn?

A Marcus Gunn is abnormal pupillary response.

Q Did that come from depression and anxiety?

A That, I would defer to Dr. Mars. This is his examination, not mine.

Q I would like to refer you to a report that Dr. Mars sent to you. I believe it's dated June 4, 1998. Got it?

A Yes.

Q On page 2, I think he's referring to his examination of May 28, which is on the first page.

MR. HAWAL: Objection.

Q In that report to you that Dr. Mars wrote regarding his examination of Mrs. Ferrette, he states that she was alert, this is on May 28, 1998, that she was -- and again, this is like 20 days after the incident, Mrs. Ferrette was alert, oriented and cooperative. Does that mean -- that says

what it says, right?
A Says what it says.
Q Blood pressure was 100 over 60. That's not an abnormality, is it?
A That's normal.
Q Speech was normal and no receptive or expressive dysphasia. Could you explain what he means by that?
MR. HAWAL: Objection.
Q Or the word dysphasia for the jury's benefit?
A Dysphasia would be difficulty expressing, difficulty speaking, difficulty understanding someone who is talking to you.
Q Wouldn't this be something you would find if you had carbon monoxide encephalopathy?
A Not necessarily.
Q Hearing was intact. Pupils were round, regular, reacting to light and accommodation. That's indicating her eye reactions and the nerves dealing with the eyes were normal?
MR. HAWAL: Objection.
Q Is that a fair statement?
A It's a gross test of the cranial nerve.

Q External ocular movements were full to confrontation testing?
A Again, you are just going through the cranial nerve.
Q Right, and this is what a good neurologist does, does he not, to test the patient to see if there is any neurological findings, is that correct?
A Um-hum.
Q Then he goes on to state that the funduscopic exam was benign. There were no exudates. Can you explain that to the jury? There were no exudates, hemorrhages or papilledema.
A Exudates would be fluid that had leaked into the retina. When you do a funduscopic examination, you are looking at the back of the eye, the back layer of the retina. Exudates. Hemorrhages are hemorrhages, it's bleeding. Papilledema would be swelling of the optic nerve head which you can examine, associated with a number of other abnormalities.
Q Her face and soft pallet were symmetrical. That deals with the --

A Again, you are looking at cranial nerves.
Q Cranial nerves were intact?
A At that point, they are intact.
Q Deep tendon reflexes were physiologic and bilaterally symmetrical?
A Um-hum.
Q That means that those reflexes, the nerves were normal, in a normal state, is that a fair statement?
A It means that those specific reflexes, those tendon reflexes, the spinal reflexes were intact.
Q Nothing abnormal?
MR. HAWAL: Objection.
A No, it says her spinal reflexes are intact. It says exactly what it says. Nothing more, nothing less.
Q But he says that, okay. Both toes were flexor in response to plantar stimulation. Can you explain that to the jury?
A If there is damage in the upper areas of the brain and it is severe enough, when you do plantar stimulation, you have an extensor response rather than a flexor

response. But there has to be enough damage and in the right areas to produce that response.

If you wish more detail on this, you really need again to talk to Dr. Mars.

Q But this is a clinical examination that a good neurologist performs to check to see if there is any lesion or any damage to the brain, is that a fair statement?

A This is the initial exam. Again, this is a level above the cursory examination that people start with. He's going a little bit further.

Q It's a level above?

A It's a level above, but it's not perfect. Which is why they have all these other ancillary tests.

Q But this is another test to see if there is any brain damage?

A Correct.

Q And this was normal, was it not?

A Yes.

Q So that indicates at least -- it does not indicate that there is a brain damage?

MR. HAWAL: Objection.

A It does not indicate -- it doesn't pick up anything at this level.
Q In addition to that, he says that the muscle strength was intact throughout. That was his examination on May 28, 1998, 20 days after this incident. So in other words, her muscle strength was intact throughout her body, is that a fair statement?
A Again, it says what it says. If you have further questions about this, you really need to direct them to the neurologist.
Q Dr. Mars --
A His report is consistent. At this point, her muscle strength is normal. Everything is normal up to that point.
Q Everything is normal from a muscular standpoint, is that a fair statement?
A That's what his report is.
Q And he's reporting to you as the doctor that referred her to him?
A Right.
Q And there were no -- there was no atrophy or vesiculations. Atrophy means a shrinkage of muscle?
A Lost muscle mass. Cells have actually

decreased in size. Vesiculations are abnormal movements.

Q None of that was found on his neurological examination of Mrs. Ferrette?

A According to his report.

Q Finger-nose-finger and fine finger movements were well done with no cerebellar dysfunction. Tell the jury what that means?

MR. HAWAL: Objection.

A Well, finger-nose-finger is you have them put their index finger out, use the other index finger to touch their finger, then touch their nose. You increase the speed, have them close their eyes, open their eyes.

Q Is that another test --

A It's another test for specific dysfunction of the cerebellum, the part of the brain that controls that.

Q So there was no evidence of any brain damage in that particular test, was there?

A According to his report.

Q Well, you expected him to tell you the truth?

MR. HAWAL: Objection. This is

getting argumentative, Hank.
Q The gait -- he noted that her gait was normal?
A Um-hum.
Q Is that what he says?
A That's what it says.
Q When he examined her. He doesn't find any ataxia, does he?
A No.
Q In addition to the clinical exam that he performed which we just went through, Dr. Mars also ordered a visual evoked potential exam?
A Um-hum.
Q Could you explain to the jury what that was, what that is?
A That's a highly specialized examination to test some of the function of the optic nerve where you are picking up microcurrents on the scalp in response to visual stimulation.
Q Is that also a test to determine whether there was any brain damage?
MR. HAWAL: Objection.
A It's a test to determine whether --

it's a test to determine whether exposure to a visual stimulus produces the expected responses.

Q But if I remember correctly, that examination turned out to be normal?

A Right, but it would also be abnormal -- the reason he asks was because he was concerned about the optic nerve. So he was looking more at the optic nerve with that particular test.

Q So he had that test performed --

A He wanted to have the optic nerve checked and that was the way it was done.

Q That turned out to be a normal examination?

A That turned out to be normal.

Q He also on June 8 performed an EEG, electroencephalogram?

A Um-hum.

Q Is that to test the brain to see if there is any lesions or any problems with the brain?

A It looks for electrical abnormalities.

Q In the brain, though?

A In the brain.

Q And that test was normal?
A That test did not show us anything.
Q Then on June 13, 1998, he performed an MRI?
A Correct.
Q And that turned out to be normal -- that was a test to determine whether there was any brain damage?
A MRI scan is to look for anatomic abnormalities, that would be visible on MRI. Again, none of these tests are perfect.
Q None of us are perfect, either.
MR. HAWAL: Objection to counsel's gratuitous statement. Move to strike it.
Q The MRI conducted on June 13 by Dr. Mars was normal?
A It is negative.
Q Or negative, okay. How about on August 22, 1998, the CT scan, the CAT scan, did you determine whether there was any abnormalities?
MR. HAWAL: Objection, asked and answered.
A CAT scanning is, compared to -- well,

CAT scanning is very primitive.
Q He ordered -- Dr. Mars ordered it two times, did he not?
A It's a first step. The work-ups proceed in orderly fashion from the least complicated to the most sophisticated. It's a nice first step.
Q There were two CAT scans performed on Mrs. Ferrette and they were all normal or negative, is that correct?
A They failed to show pathology.
Q And on December 29 of 1999, another EEG, electroencephalogram -- is that what EEG stands for?
A Yes.
Q -- was performed by Dr. Mars and that was also negative or normal?
A It was negative.
Q So it didn't show any evidence of any brain damage?
A It was negative.
Q And it didn't show any evidence of brain damage?
A It was negative.
Q I don't mean to go through your records

all over again, but I just would like to point out that on January 12 of 1999 is when Mrs. Ferrette came in -- this would be about seven, eight months after the incident?

A Um-hum.

Q She came in and complained of being assaulted by her boyfriend?

A Um-hum.

Q That was a concussion. You gave a diagnosis of a concussion, is that correct?

A Um-hum.

MR. HAWAL: Objection, asked and answered.

Q Is a concussion also damage to the brain?

A Yes.

Q So she had damage to her brain by virtue of that incident. If you could go to that section of your records, I just would like to point out that following that incident, I think she came in for a cold on January 14?

A Um-hum.

Q She came in on February 2 for a sinus infection?

A Um-hum.
Q On February 11, she came in for a cough?
A Um-hum.
Q On March 11, 1999, she came in that her glands were swelling?
A Um-hum.
Q And that she had a sore throat?
A Um-hum.
Q I believe you performed a clinical neurological exam on that date, and there were no new findings?
A She had not changed significantly from what I remember. But remember again, I'm not the neurologist. And the focus on those visits were other problems besides --
Q And then I believe she came in August 24 for a chest cold. August 23, 1999, a sinus problem. October 14 for heartburn, and otitis, is that ear infection?
A It's an ear infection.
Q Then November 22 for sinus drainage and a chest cold. Then she came back on April 27 of 2000, I guess -- you want to go to that note. I think you referred back to the

encephalopathy then. Those colds and -- chest colds and sinus problems, they were not related to the incident of May 8, 1998, were they?

A No.

MR. HENTEMANN: I have no further questions.

MR. HAWAL: Doctor, I just have a couple follow-up questions.

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REDIRECT EXAMINATION

BY MR. HAWAL:

Q Since so much was asked about what Dr. Mars found and what he wrote to you based upon his very good and thorough neurological examinations, can you refer to his report that you were asked questions about dated June 4, 1998 where he reported to you following his neurological examination at the last paragraph. What did he report to you his diagnosis was?

MR. HENTEMANN: Objection.

A His last paragraph states, Mrs. Ferrette was diagnosed as having carbon monoxide encephalopathy and a history of gran

mal seizures.
Q Is that the current diagnosis that you understand Dr. Mars to have with regard to this patient?
A Yes.
Q And that is your diagnosis for this patient, as well?
A Yes.
Q Questions were also asked about this patient as having, whether or not she had seizures or witnessed seizures. Have you seen a report from Dr. Mars, who will be testifying as a witness in this case, dated January 5, 1999, which was shared with counsel for the defense, where he had reported that on October 29, 1998, that she had two episodes consisting of some jerking associated with urinary incontinence and one of those episodes having been witnessed by someone else? Were you aware of that history?
MR. HENTEMANN: Objection. I believe my question was whether she knew of any witness.
Q Were you aware that this history had

been obtained from the patient or anyone else with regard to her medical care, or had you yourself for that matter been informed by the patient that she had episodes of jerking and a loss of urinary continence which not only she observed, but was observed by someone other than herself?

A The jerking episodes, she had mentioned to me. Urinary incontinence, she had not reported to me.

Q Perhaps Dr. Mars will enlighten us about those episodes.

Questions were asked of you about Mrs. Ferrette's prior psychiatric care and prior psychiatric history of depression. Dr. Iahn, who is her previously and subsequently treating psychiatrist, will also be testifying in this case. Are you aware that Dr. Iahn reported that her major depression was --

MR. HENTEMANN: Hold it. I'm just going to object for the record as to reading what he says when she doesn't have anything in her records about it.

Q I understand. Doctor, were you aware that at the time that this carbon monoxide poisoning incident occurred, that Mrs. Ferrette was almost in full remission with regard to her history of depression?

MR. KROHNGOLD: Objection.

Q Are you aware of that?

A No.

Q Assuming that that is in fact going to be the testimony of her treating psychiatrist that she was almost in full remission, what significance medically do you find a past history of depression that at the time of this incident was in full remission as it relates to that depression playing any role whatsoever in her symptoms that you described as being related to her carbon monoxide poisoning and her resulting encephalopathy?

MR. KROHNGOLD: Objection.

A If her depression was in full remission, then I would not expect it to be contributing to her symptoms.

Q Doctor, were you aware that Mrs. Ferrette, Veronica, was not working at Hillcrest Hospital at the time of her carbon

monoxide poisoning incident?
A No.
Q Questions were asked about the incident, the assault incident that was reported to you on January 12, 1999 involving her boyfriend?
A Um-hum.
Q Did you determine that Veronica suffered any long-term injury as a result of this incident?
A I determined, no, that she did not have any long term.
Q Just prior to this incident, had her problems that stemmed from her carbon monoxide poisoning and her resulting brain damage, had they changed in any way or improved in any way leading up to this January 12, 1999 incident?
A I don't know that she had improved.
Q Was there any change, any worsening of her condition or complaints either before or after this concussion incident that you described?
A I didn't see a change in that. She had new complaints following the assault.

Q In terms of the complaints that she had before this, does she continue to have the same complaints and problems at the present time?
A Yes.
Q Doctor, does a normal CT or MRI in any way diminish your diagnosis of encephalopathy or brain damage as a result of her carbon monoxide poisoning?
A No.
Q would a patient be sent for treatment in a hyperbaric chamber from Hillcrest Hospital if there had not been a finding of significant carbon monoxide poisoning?
A No.
MR. KROHNGOLD: Objection.
Q Would you expect any physician to send a patient for hyperbaric treatment to an outside facility if there was not significant carbon monoxide poisoning?
A No.
Q With the type of encephalopathy that you diagnosed Veronica as having, and the types of symptoms and complaints that she has been consistently exhibiting since May of

1998, would you expect to find any more or additional direct evidence by way of any form of X-ray study or radiographic study to show that there is an anatomical brain injury than what you would expect to see in Veronica's case?

MR. KROHNGOLD: Objection.

A Unless there was an experimental technique, these are what are currently available.

Q Are sometimes the types of tests that are administered simply not sophisticated or sensitive enough to be able to demonstrate cellular damage caused by carbon monoxide poisoning?

A Yes.

Q Are neuropsychological tests the types of tests that you are called upon to rely upon to confirm and demonstrate direct evidence of encephalopathy caused by this type of carbon monoxide poisoning?

A We need to use those and include them, yes.

Q And have the neuropsychological tests that were shared with you by Dr. Layton, to

whom you referred Veronica, confirmed the presence of brain damage caused by her carbon monoxide poisoning?

MR. KROHNGOLD: Objection.

A They confirm profound loss of function.

MR. HAWAL: Thank you, Doctor. That's all I have.

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RECROSS-EXAMINATION

BY MR. HENTEMANN:

Q Doctor, with respect to Dr. Mars' opinion about carbon monoxide poisoning or encephalopathy, did you ever discuss with him as to how he arrived at that decision or that conclusion?

A No.

Q There is nothing in any report he sent you that shows any abnormalities found on any tests and then his clinical examination which we went through in detail did not find anything to support it?

MR. HAWAL: Objection.

A His clinical examination does mention that Marcus Gunn pupil. He also mentioned some decrease in distal peripheral sensation

on several of his examinations. Then we both defer to the neuropsychological reports.

Q So you deferred to the neuropsychologist for an opinion?

A For an opinion on some of the complaints and the ability of this lady to function.

Q In his report of June 4, Dr. Mars to you, the last paragraph on the first page says that at the time he saw her, there had been no further seizures, does he not?

A Yes.

Q Incidentally, going back to the emergency room, Mrs. Ferrette was conscious, alert I think as to, did you say person, place and time?

A According to what they sent me, they say that she was oriented.

Q And she had been exposed to carbon monoxide, correct, and they thought that the proper treatment would be this hyper --

A Hyperbaric.

Q -- hyperbaric oxygen which was over at Charity Hospital?

A Correct.

Q And she was transported to Charity Hospital by land transportation, was she not?
A Um-hum.
Q And the hyperbaric oxygen is to remove the carbon monoxide from the blood?
A Yes.
Q And it does it quickly?
A Um-hum.
Q And the object is to get it out of the system as fast as possible, is that correct?
A That's correct.
Q And they did, did they not?
A She underwent the treatment, yes.
Q And she was sent home, if I'm not mistaken, still in the morning of May 8, 1998?
A Yes.
Q On the same morning she had been there, she had received her treatment, they gave her the hyperbaric oxygen and sent her home?
A Yes.
Q And she didn't see you until 10 days later, the 18th?
A Yes.
Q Just getting back quickly to, you

talked about paresthesia and the extremities or something as one of the things you think maybe Dr. Mars relied upon. She also had a cervical degenerative disease in her cervical spine, did she not? There was some X-rays that showed that.

MR. HAWAL: Objection.

A Well, that would have been upper extremities. The complaints that she had were lower extremities. Diminution to pinprick distally. Scattered areas. He doesn't specify where those areas were.

Q Could he or do you know?

A I can't address that. I can't answer you.

MR. HENTEMANN: Okay, I have no further questions.

MR. KROHNGOLD: I just wanted to ask one last question, Dr. Kimball.

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RECROSS-EXAMINATION

BY MR. KROHNGOLD:

Q In the note that Mr. Hentemann was talking about where Dr. Mars saw her on May

28 and indicated she had not had any subsequent seizure since what apparently was the initial one at the time she was found at the house, she was not on any anti-seizure medication at that time, is that correct?

A Which date are we referring to?

Q The initial report regarding the initial exam. It's at the bottom of the first page.

A On the June 4 letter?

Q Yes. It says she is not on any medication, has not had any seizures since the initial one when she was found at the house, correct?

A Correct.

Q would you expect her -- if she was having some significant problems with seizures to manifest themselves relatively quickly after the initial episode if she was unmedicated? Would there be a good likelihood that they would show up relatively soon since there was nothing to control them?

A I don't know that that would be a realistic expectation.

Q So you don't attach any proximity of

the seizures to the time of the event, especially if there is no medication to control that?

A I don't think I could interpret that as being significant. I understand what you are trying to ask me, but the answer is no, I don't think we can say that that's significant. I can't. Perhaps Dr. Mars can help you there.

MR. KROHNGOLD: A11 right. Thank you, Doctor.

MR. HAWAL: Doctor, I have no further questions on behalf of Veronica.

You have the right to read the deposition transcript for accuracy and you have the right to view the videotape, or you can waive either one or both of those rights as you so choose.

THE WITNESS: I don't like having my picture taken, so I will pass on the tape, but 1/11read the transcript.

MR. HAWAL: Thank you, Doctor.

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(Deposition concluded at 1:06 p.m.)

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Suzanne E. Kimball, D.O.

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

I, Gerald Abbadini, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named SUZANNE E. KIMBALL, D.O. was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the testimony then given by him/her was by me reduced to stenotypy in the presence of said witness, afterwards transcribed upon a computer, and that the foregoing is a true and correct transcript of the testimony so given by him/her as aforesaid.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio on this 22nd day of September, 2000.

_____
Gerald Abbadini, Notary Public
in and for the State of Ohio.

My Commission expires 12-4-03.

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