Ja Mirra Heasley, etc., et al.
vs.
St. Joseph Health Center, et al.

Trumbull Court of Common Pleas

Case No. 00 CV 969

Deposition of Stephen H. Lacey, M.D.
Thursday, August 8, 2002

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IN THE COURT OF COMMON PLEAS

TRUMBULL COUNTY, OHIO

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JA MIRRA HEASLEY,)
etc., et al,)
Plaintiffs,)
vs.)Case No. 00 CV 969
ST. JOSEPH HEALTH)
CENTER, et al.,)
Defendants.)

- - -

Deposition of STEPHEN H. LACEY, M.D., a Witness herein, called by the Defendants for cross-examination pursuant to the Ohio Rules of Civil Procedure, taken before me, the undersigned, Eric G. Smead, an RPR and Notary Public in and for the State of Ohio, at the offices of Stephen H. Lacey, 1611 South Green Road, South Euclid, Ohio, on Thursday, the 8th day of August, 2002, at 11:25 o'clock a.m.

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I N D E X

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APPEARANCES:

On Behalf of the Plaintiffs
(Via Telephone):

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By: John W. Burnett, Attorney at Law
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On Behalf of the Defendant Dr. Brennan:

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By: Thomas A. Treadon, Attorney at Law
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On Behalf of the Defendants St. Joseph Health Center, Womens Care Center and Dr. Lee:

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By: Margo Stoffel, Attorney at Law
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On Behalf of Stephen H. Lacey, M.D.:

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STEPHEN H. LACEY, M.D.

of lawful age, a Witness herein, called for examination, as provided by the Ohio Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, deposed and said as follows:

CROSS-EXAMINATION

BY MR. TREADON:

Q. Sir, would you state your name, please?
A. Stephen Henderson Lacey.
Q. And, Dr. Lacey, my name is Tom Treadon. I represent Dr. Brennan and his group -- Dr. Brennan is a radiologist -- and I have some questions today with regard to your treatment of Ja Mirra Heasley, and if I don't make myself clear, please ask me to repeat my question or clarify, would you do that?
A. Yes.
Q. Have you been deposed before?
A. Yes.
Q. So you know what the drill is, pretty much?
A. Pretty much.
Q. Okay. Can you tell me what your occupation is, please?

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A. I'm an orthopedic surgeon specializing in hand surgery.
Q. And just briefly from college forward could you tell me about your educational background and your training?
A. I went to Yale University, graduated in 1964. Then I went to Ohio State Medical School and graduated in 1969. Then I came to Cleveland and took a surgical internship and an orthopedic residency and finished that in 1974.
Q. Where did you take that, University Hospitals?
A. University Hospitals of Cleveland. And then went into the Army for two years and served at Fort Campbell and then took a fellowship in hand and upper extremity surgery in Hartford, Connecticut at Yale University and finished that in 1977; then came to Cleveland in 1977 and essentially have been here ever since specializing in hand and upper extremity and orthopedic surgery.
Q. You're licensed in what states?
A. I'm licensed in Ohio, Connecticut, Massachusetts.
Q. And you're board certified?

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A. Yes.
Q. And when did you become board certified and what is the certification?
A. I'm board certified in orthopedic surgery, having been certified in 1975. I am -- I also have a certificate of added qualifications in upper -- hand and upper extremity surgery, and I have just been recertified in that two years ago.
MR. BURNETT: Doctor, if you can direct your voice towards the speaker phone, I would appreciate it.
MR. TREADON: I will move it a little bit so you can hear better.
THE WITNESS: And what is board certification, was that your other question?
BY MR. TREADON:
Q. No, I didn't ask any other questions. Do you treat adults and children?
A. Yes.
Q. And what percentage of your time is devoted to the act of clinical practice of orthopedic surgery, approximately?
A. 90 percent.
Q. And do you teach?

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A. Yes.
Q. Where?
A. I teach at University Hospitals and at MetroHealth Medical Center.
Q. And this is, I assume, residents?
A. Orthopedic residents and medical students.
Q. Why don't you tell me just generally, Doctor, about your practice, what do you do on a daily basis --
A. Well, I usually operate --
Q. -- aside from giving depositions?
A. I usually operate in the morning except on Fridays. Every Friday I just see patients all day, but every other day of the week I'm usually in the operating room until noon or so, and then in the afternoon I will see patients.
Q. You do hand surgery and upper extremity surgery. Does that mean -- can you define what that means?
A. Well, hand surgery is a broad subject now. My specialty goes as far proximal as the shoulder, and I used to do, oh, I'd say 60 to 70 percent hand surgery, and now I do about 90 percent hand surgery, meaning upper extremity

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surgery. I should clarify that.
Q. And upper extremity surgery means everything from the tips of the fingers to the shoulder, pretty much?
A. Yes.
Q. That includes the shoulder, elbow, wrist, hand?
A. Correct.
Q. Okay. I'm going to ask you some opinions today as we go through Ja Mirra Heasley's chart, and if you could answer those questions only to a reasonable degree of medical probability, that is more likely than not, in other words, I'm going to ask you for some opinions and if you could answer your questions based upon that premise, would you do that --
A. Yes.
Q. -- rather than repeating that each time I ask you an opinion?
A. Yes.
Q. I would like to turn, if you would, to your progress notes and ask you when you first saw Ja Mirra Heasley and how is it that you came to see her?

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A. I first saw her on November 15th, 1999. She was referred to me by Dr. Haber, who's a pediatric orthopedic surgeon in Youngstown, and he had been following her for a brachial plexus injury. When I first saw her she was 11 months old. Unfortunately whoever transcribed this note put in he instead of she.
Q. Yes.
A. But I know very well it's a she. And Dr. Haber just sent her to me because he thought I ought to take a look at her and evaluate her upper extremity and see if anything could be done to improve the situation.
Q. You did a physical examination?
A. Yes.
Q. And could you tell me what you found in your examination that was abnormal?
A. The abnormal finding, most striking finding was the internal rotation of the shoulder. This child had very poor external rotation, in other words, she was unable to rotate her shoulder out from her body, her arm out from her body.
Q. You mean laterally?

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A. It's hard to describe this but --
Q. Maybe you can demonstrate.
MR. TREADON: You can't see it, John, but --
THE WITNESS: He can't see it. If you can imagine your hand on your stomach and you take your hand off of your stomach and rotate it out to the side, she was unable to do that (indicating). This is a very common problem in this type of what we call Erb's palsy. This is very common.
BY MR. TREADON:
Q. Okay. Any other abnormality? You say internal rotation of shoulder or did you mean external?
A. She was unable to externally rotate, and she positioned her shoulder in internal rotation.
Q. I see. Any other abnormalities?
A. She had a slight flexion contracture of the elbow which is another common finding in Erb's palsy.
Q. And what does that mean?
A. Well, there is some argument about why that occurs. There probably is some weakness

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of the triceps muscle, which extends your elbow, and there is some over-pull from the muscles in the arm that flex your elbow.
Q. Does it ultimately mean she cannot fully extend her arm into a straight line, is that what that means?
A. No, because she can.
Q. Okay.
A. She could at that time. One, it's just that they position their elbow in slight flexion. For another reason, two, it's to position the hand away from the front of the body. It's sort of a habit they get into, so there is really two reasons for that.
Q. You mentioned two things, brachial plexus injury and Erb's palsy. How do you define a brachial plexus injury?
A. The -- you define it by doing a physical examination and determining which muscles are weak or paralyzed, and then you extrapolate that back to the nerves which supply those muscles, and then you can determine what part of the brachial plexus has been injured.
Q. And that's a bundle of nerves, as I understand it?

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A. It's a -- yes, that's the best way to describe it.
Q. And that was your diagnosis back in November of 1999, brachial plexus injury?
A. Yes.
Q. Distinguish that from what you term Erb's palsy.
A. That's the same thing.
Q. Okay.
A. Erb's palsy is just another term used to describe birth injury of the brachial plexus. It's one type of birth injury. Erb's palsy refers to injury to the upper portion of the brachial plexus. There is another type called Klumpke's, and that refers to the lower portion of the brachial plexus, but in her case it was just the upper portion.
Q. Is this a problem, Erb's palsy and brachial plexus injuries, that you treat routinely?
A. Yes.
Q. Do you have any estimate as to how many per year, for instance, you might treat?
A. I see about three or four.
Q. A year?

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A. A year.
Q. Are you able or is it appropriate to classify the brachial plexus injury as mild, moderate, severe or is that something you don't do?
A. Yes, I can -- I can classify those based on a simple system like that, yes.
Q. Okay. Can you do it in a case of Ja Mirra Heasley when you first saw her in November of 1999?
A. Yes. Compared to many cases of Erb's palsy that I have seen, I would say that she has a moderate palsy, and the reason I say that is because she is -- she was lacking a considerable amount of external rotation strength in her shoulder that required, in my estimation, required a tendon transfer to improve. If she had been mild, I wouldn't have recommended a tendon transfer.

Now, the other thing was that she -- she did not have much involvement of her hand and wrist. She had really very good function of her hand and wrist and fingers and had she been a severe Erb's palsy she would have had difficulty down there, so I would put her in

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the moderate category.
Q. That was your -- that would be your initial assessment?
A. Yes.
Q. What was your plan of treatment?
A. I felt that -- well, you have to realize that patients with this type of problem, the biggest problem they have is they grow in their shoulder.

The difficulty in positioning their hand in space is all due to the problems in the shoulder, and so my plan of action was to try to improve the motion in her shoulder and to try to give her better strength to externally rotate the shoulder, and I talked to her mother about doing a tendon transfer, which is a common thing that is done for this particular problem.
Q. And I see that your next visit was approximately maybe four months later in March of 2000 and what was done at that time?
A. I just looked at her again. I was thinking that perhaps there might be some more improvement over the intervening four months, but I did not see any evidence of improvement.

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Usually that doesn't happen after -- after a year.
Q. Okay. So your plan at that point was what?
A. My plan at that point was to reconstruct the shoulder with the tendon -- with the shoulder release and the tendon transfer.
Q. And can you explain in layman's terms what that means, what you physically do in the operation?
A. What's done is we take a muscle, very strong muscle, people may have heard of this. They're called the lats. You will see these in weightlifters when they make a muscle.

Latissimus dorsi or the lat is transferred to another part of the shoulder to give more strength to provide external rotation. That's basically what the procedure is. I also took another muscle, which really isn't important, but it's to take a strong muscle that is working and making it more useful for the shoulder.
Q. And you did that procedure in, according to my review of your records, in July of 2000?
A. Yes.

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Q. And was that procedure successful?
A. Yes.
Q. And how do you define success?
A. The -- this child as I followed her along developed very, very good external rotation strength of her shoulder, improved the -- well, began to get rid of this tendency to internally rotate the shoulder and hold the hand in front of the body and, of course, this is something that takes a long time to develop -- to improve and to adjust to, but she really came along very well with external rotation and improved this quite a bit.
Q. And so this tendency for her to hold her hand over her abdomen was alleviated --
A. I think --
Q. -- is that fair?
A. -- for the most part, although she still does that a little bit. I think the last time I saw her she was still wanting to do that, but when you really test her she has markedly improved external rotation strength.
Q. Rather than me ask questions, why don't we go from your notes from the point of surgery on and define her progress for us.

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Let's start with the visit, if you would, of July 24th, 2000.
A. Just checked the -- on July 24th I just checked her dressing to make sure she was still in the proper position. The position she was in, this thing called the shoulder spica, was the position that I was just in when I was swearing to tell the truth. That's the position she was in.
We kept her in that position for, let's see, about six weeks, as I recall, and then she came along all right. I noticed when she came in on November 20th that she had weakness of her triceps muscle, and she was unable to extend the elbow against gravity, and I was concerned about that thinking that might have been just from positioning her in that position for so long. But this cleared. So that all improved. It might have been simply from positioning.
By February 19th of 2001 she had definite improvement in triceps function, and she was able to bring her hand to her mouth in a much better position, and then there were a couple visits that were missed in there.

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And then the final visit was in March of 2002, and at that point I thought that her rotation -- her external rotation was much improved. Her triceps had returned, and I thought perhaps in the future we might do something more to fine tune this, but I didn't really have any suggestions for further surgery at that time.
Q. When you say "fine tune," you mean the problem with the elbow flexion -- or excuse me, the elbow function posturing?
A. Yes.
Q. That means the tendency to keep the elbow flexed as opposed to straight?
A. Yes. That's -- that's just a persistent problem in kids with Erb's palsy.
Q. And then in February of -- there was a missed appointment, February 2002. Another one in January of 2002, and then your last visit as you just alluded to was March of this year?
A. Yes.
Q. Do you have any plans to see her again?
A. I wanted to see her in a year, so next March.
Q. You have no -- would it be fair to say

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you don't have any specific plans for definitive treatment at this point?
A. Correct.
Q. Have you prescribed rehabilitation, physical therapy for this child?
A. I think we did. Her mother had us -- as I recall, we did something through her school or something. Maybe that is somebody else. Let me just check here. Usually in children -- here we go -- no, that is something else.
In children we just let them play and follow along and show the parents what to do, but as I recall she did -- I just don't have any notes in here from therapy that she was receiving that, but I thought she was through some sort of program they have down in her hometown.
Q. Would you typically have the mother or the caretaker do home exercises or therapies?
A. Yes, generally. I showed her some general stretching exercises, but mostly kids this age you can't really get them to cooperate with too much of a therapy program.
Q. Would it be fair to say you're pleased with the results you have obtained over the

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couple years you have treated this little girl?
A. Yes.
Q. What is her prognosis in your view?
A. Her prognosis is pretty good. The elbow may be a problem, and sometimes that's due to some subtle changes in the shoulder.
As she grows older we have to watch this to see -- we have to watch her shoulder very carefully to determine whether there is a problem with dislocation. This is one of the biggest problems we have in these kids, and we will have to follow that along and see if the shoulder starts to ride out, in other words, if it starts to dislocate out the back or sublux out the back. Then we have to do something to counteract that.
So that's -- in terms of a prognosis it's pretty good. So far I have not seen any problem with her shoulder as far as dislocating, so I think her prognosis is pretty good.
Q. Rather than talk about disabilities, what are in your view her abilities, I mean, as far as daily living, and what does the future hold as far as her being able to function

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independently?
A. Oh, I think she is going to be able to function independently without any problem. She will have to make some compromises to the shoulder -- to the shoulder motion.
This is just a persistent problem in kids like this. So she is not going to have a normal upper extremity by any means, but she will be able to function in society very well.
Q. And living independently?
A. And live independently.
Q. Do you see any significant limitations on her abilities to work or be employed? That's a very broad question and I understand that.
I recognize that she may not be able to lift very heavy objects. Of course, she may not be able to do that whether she had the problems with her shoulder or not, but do you see any significant limitations on the kinds of employment she could pursue?
A. I think doing heavy labor would be -- would be pretty much out of the question. She should be able to do any sort of clerical or secretarial work no problem at all with that.

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She has -- her hand is pretty much normal, so anything that would require strength of the shoulder would be out, but everything else I think she would be able to function well.
Q. She can handle objects?
A. She can handle objects. She can position them in space reasonably well.
Q. She can reach?
A. She can reach.
Q. She can feel?
A. Yes.
Q. There is no problems with sensation?
A. No, there is no sensory problem.
Q. If this is not a fair question, tell me. Can you quantify by percentages her disability or is that something that you would rather not do?
A. Boy, I would rather not do that.
Q. That's --
A. It's difficult in a three-year-old child anyway.
Q. If she keeps at it and keeps doing her exercises and living her life, do you expect she can have a relatively normal existence --

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A. Yes.
Q. -- assuming everything else being equal?
A. Yes.
Q. And any future surgical or definitive treatment we're looking how far down the road, number of years, assuming everything -- maybe a better way to put it is when would you anticipate any further definitive treatment or is that difficult to say?
A. It's difficult to say. It would depend on what happens with the shoulder. Sometimes we have to do what I said, an osteotomy, change the direction of the bone, but so far I don't see any need for that.
Q. Her right hand, fine motor skills, are they intact?
A. Yes.
MR. BURNETT: I'm sorry. What was the question?
MR. TREADON: Her fine motor skills in her right hand are intact.
MR. BURNETT: Okay.
MR. TREADON: And the answer was yes.
BY MR. TREADON:

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Q. You agree with the statement that she will in your view to a reasonable degree of medical probability be able to live totally independently in daily activities?
A. Yes. She will do them differently. I hate to volunteer information, but --
Q. That's okay. Go ahead. That's why we are here. We are here to get information.
A. She will do things differently from the way other children do them, but she will -- she finds a way. These kids find a way to do things. It doesn't fit the customary way of doing things, but they find a way.
MR. TREADON: That's all the questions I have.
- - -
BY MS. STOFFEL:
Q. Dr. Lacey, my name is Margo Stoffel. I met you a little bit earlier. I represent St. Joseph Health Center and Dr. Lee as well as the Womens Care Center. I just have a few questions for you.
I know you were faxed Dr. Lynn Mikolich's report. Have you had an opportunity to review that report?

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A. I skimmed it, yes.
Q. From your brief review of that report do you have any disagreements with any of Dr. Mikolich's findings?
A. No, I really don't. I think it's a very thorough review.
Q. If you would like to take some time to read it more thoroughly, that's fine.
A. That's basically what I found. Again, it's difficult to -- for her to normally use the shoulder, but for the most part she is coming along reasonable well, and she is reasonably functional.
Q. I know that you stated that she should not have any difficulties with clerical duties, things like that. I assume that would mean using a computer?
A. Yes.
Q. You could not anticipate that Ja Mirra will have any problems using a computer?
A. She should not have any difficulty doing that.
MS. STOFFEL: I have no further questions for you.
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BY MR. BURNETT:
Q. Doctor, I have a few questions for you. This is John Burnett. Can you hear me okay?
A. Yes.
Q. Probably be helpful given the speaker phone if you wait a heartbeat after I finish my question before you begin to answer because our voices will collide in mid air, okay?
A. Got you.
Q. Mr. Treadon asked you about abilities. Let me talk to you for a minute about disabilities.
Please articulate those, what we can expect likely disabilities to be with this child and with this problem with the shoulder.
A. The disabilities. She will have difficulty -- well, let's talk first about recreational activities, okay. She will have difficulty throwing a ball, playing tennis, any sort of racquet sport.
Q. Okay.
A. I'm just sort of introducing the thing with a recreational thing.
Q. Okay.
A. That's not a disability. I realize.

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Q. That's all right.
A. As I said in the beginning, the disability is going to involve the strong use of the right shoulder and any activity that requires strength in the right shoulder. Strength in rotation, for instance, is going to be a problem to her.
Did you want me to be more specific?
Q. Yes, please, if you would.
A. What sort of disability -- I don't quite understand. Disability is a pretty broad term.
Q. Okay. I'm just trying to get an idea, for instance, will she be able to hold a mirror while she is brushes her hair?
I understand she is left hand dominant. Could she hold a mirror with her right hand and brush with her hair with the left hand, close to her face? Will she be able to hold a baby in that arm while she feeds the baby, things like that?
A. She should be able to do that.
Q. To hold the baby?
A. Eventually, yes.
Q. So why do you say "eventually"?
A. Well, she is three years old.

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Q. Aside from that?
MR. TREADON: I think the answer is obvious. I'm sorry, John.
BY MR. BURNETT:
Q. Doctor, Tom takes every chance he can to take a shot at me.
I'm just trying to understand the problems with the use of the shoulder. Again, just in caring for children, in her daily hygiene in washing her, her left arm pit, things like that, what kind of difficulty can we expect in the future?
A. Well, any activity that is directed toward the center of her body, personal hygiene, cleaning the other arm and so forth should be no difficulty whatsoever. She is very strong as far as internal rotation is concerned.
Q. Okay.
A. So she would be able to hold a baby. She would be able to hold something in front of her while she was doing something with her left arm.
Q. Okay. The disability is -- I'm just trying to think what -- I'm just interested in

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what kind of problems can we expect, what kind of limitations in daily activities can we expect with this girl.

I know if she is playing tennis or things like that you told us she will have a difficult time doing that. Will she be able to play volleyball, basketball, things like that?

A. Well, she will be able to -- these kids overcome these disabilities amazingly well, but she will have difficulty doing things like playing basketball because she won't be able to get her arm completely above her head.

Q. Okay.

A. It's the abduction and external rotation that are impaired. We have improved it, but we can't make it normal. So anything, any activity that involves external rotation, and I said throwing a ball. Playing basketball would be an example. Volleyball would be difficult. She should be able to play golf pretty well. She could accommodate to that pretty well.

Q. What about swimming?

A. She would have trouble swimming because she can't get that arm all the way up and rotate it.

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Q. How about gymnastics?

A. That would be difficult.

Q. Does she have any problems with balance because of the shoulder the way it is?

A. These kids tend to have a little bit of trouble with balance, which they adjust to as they grow older. And as I said, we follow them along and see whether any fine tuning needs to be done to try to improve that situation.

Q. How about with an automobile transmission in a car, can she reach down to the console and adjust from the park to reverse or drive?

A. She should be able to do that --

Q. Okay. How about --

A. -- in 13 years.

Q. In 13 years, right. Just give me a moment here. For instance, can she -- will she be able to use a Q-tip in her ear on the right side, to clean her ear?

A. I don't know.

Q. The impairment we are talking about to a reasonable degree of medical certainty is a permanent impairment, correct? It's the degree of impairment we don't really know a lot about; is that correct?

A. That's correct.

Q. Okay. And with regard to any potential surgery in the future, do you think it's likely she is going to need that surgery?

A. No.

Q. And if she does need the surgery, what would you expect it to -- you probably touched on this with Tom, but I think I missed it, what would you expect it to accomplish?

A. Well, I don't know what surgery she would need yet.

Q. All right. And when do you think you will know?

A. I may not know until she is ten or 11.

Q. All right. That's fair enough. So no problem with the wrist or the fingers as far as any kind of impairment. That is all intact.

What is the limitation in the elbow?

A. There really isn't much of a limitation there. It's just that she tends to hold the elbow in flexion.

Q. And that's just what you expect with this kind of impairment, correct?

A. Yes.

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Q. It's been my experience in these cases that as the children grow older when they have an Erb's palsy the hands actually -- or the arm does not actually grow with the rest of the body. It appears to be shrunken or shortened. Has that been your experience?

A. Yes.

Q. What do you expect in this case?

A. I expect it to be smaller than her other extremity.

Q. Do you hold that opinion to a reasonable degree of medical certainty that it will be smaller than the other extremity?

A. Yes.

Q. Is there any way to quantify at this point how much smaller?

A. No.

Q. Can she shovel snow, for instance, or does that probably fall in the category of heavy labor, right?

A. Yeah, I think.

MR. TREADON: Depends how deep the snow is, John.

MR. BURNETT: I'm not sure if I can shovel snow.

THE WITNESS: That kind of activity would be more difficult than a normal situation, but she might be able to do it.
BY MR. BURNETT:
Q. Okay. What about difficulties in putting on her clothes, shirts and sweaters?
A. Like I said before, she will find a way, but what she will do is she will put her right arm in the sleeve first because she can't abduct that as well as the other one and then get the sweater on or shirt on that way.
Q. All right.
A. But she will be able to do it.
Q. She won't need help, she will just do it differently than you and I do?
A. That's correct.
MR. BURNETT: Doctor, that's all I have.
- - -
BY MR. TREADON:
Q. Doctor, just to follow up on -- in a general sense would you agree with me that this little girl as she grows up will have far more abilities than disabilities, in other words, she will be able to do most things all of us do

on a daily basis with some limitations?
A. Yes, I agree with that.
Q. And those disabilities that she has in many cases she will compensate for those in some way?
A. She will find a way.
MR. TREADON: Thank you. That's all I have. Doctor, you have the right to read this transcript or you can waive that.
MR. SHROGE: It's up to you.
THE WITNESS: I waive.
- - -
(Deposition concluded at 12:03 o'clock p.m.)
- - -

C E R T I F I C A T E

STATE OF OHIO,)
) SS:
SUMMIT COUNTY.)

I, Eric G. Smead, an RPR and Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, STEPHEN H. LACEY, M.D., 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 the witness 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 transcription of the testimony so given by the witness 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, employee of or attorney for any of the parties in the above-captioned action; I am not a relative or employee of an attorney of any of the parties in the above-captioned action; I am not financially interested in the action; and I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS HEREOF, I have hereunto set my hand and affixed my seal of office at Akron, Ohio on this 12th day of August, 2002.

Eric G. Smead, an RPR and Notary Public in and for the State of Ohio.

My Commission expires January 10, 2005.

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