BYROM, ET AL. V. SCHNEIDER NATIONAL CHRISTOPHER LAYNE, PH.D., 9-1-94

PAGE 1 TO PAGE 107

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	BYROM, LINE				
	Page 1	<u> </u>			
841	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO				
(2)	JOHN BYROM, et al.,	1			
(*))				
(7)	Plaintiff,)				
1-1	vs.) No. 3:91-CV-7111				
, a i	SCHMEIOIR NAIIONAL) Judge Avern Cohn CARRIERS, INC., et al.,)				
(16)	}				
(19) (11)	Defendant.)	(1			
(++)	DEPOSITION OF CHRISTOPHER LAYNE, PH.D	r) (1			
(14) (15)	DATE: September 1, 1994 at 12:41 p.m. PLACE: 2800 West Central Avenue	(1			
(15)	Suite A Toledo, Ohio	(1			
(17)	REPORTER: Tracy L. Sport, RPR	0			
	Notery Public ?age 2	(1			
(1)	INOEX	(1			
121	Attorney Page	12			
(2)	Mr. Borell	(2			
(4)	Direct Examination	2			
ISI (5)	EXHIBITS	19.62			
(7)					
	Defendant's Exhibit 1	4			
(8)	Personality Assessment Inventory Results				
(9)	Defendant's Exhibit 2 5 HMPI Results				
(10)	• Mr. Byrom's unrelated stressors				
(12)	OBJECTIONS	(
		(
(13)	Attorney Page Line	(1			
(14)	Mr. Scott	(1			
(:5)	Mr. Scott 12 2 Mr. Scott	(1			
(15)	Mr. Scott 17 17	(1)			
(17)	Mr. Scott	(1			
(31)	Mr. Scott	(1)			
(19)	Mr. Scott	(†			
	Mr. Borell 54 2:	(1)			
(20)	Mr. Borell	(2)			
(2:)	Mr. Borell	2			
(22)	Mr. Borell	(2)			
(23)	Mr. Barell	12			
(24)	Page 3	\dashv ,			
(1) (2)	APPEARANCES: On behalf of the Plaintiff:	(
(3)	WILLIAMS, JILEX, LAFFERTY 6 GALLAGHER: Robert M. Scott	¢.			
(4)	500 Toledo Legal Building	6			
(5)	416 North Erie Str ec t Toledo, Otic 43624-1601	(6			
	(419) 241-2122 On behalf of the Defendant:	6			
(8)	DOYLE, LEWIS 6 WARNER: John Sorell	្រុ ស្រុ			
	202 North Erie Street	(10			
(9)	Р.О. вох 2168 Toledo, Ohio 43603-2168	(1			
(10) (11)	(=19) 248-1500	(12			
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	Paoe 4
(1)	(Court Reporter marked Defendant's
(2)	Exhibits 1 through 3.)
P! (4)	CHRISTOPHER LAYNE. PH D ,
(5)	A Witness herein, called by the Defendant as if upon
(6)	Direct Examination, was by me first duly sworn, as
(7)	hereinafter certified, deposed and said as follows.
(8)	DIRÉCT EXAMINATION
(9)	BY MR BORELL.
(10) (11)	O. Doctor, would you please give us your name and professional address.
(12)	A. Christopher Layne, 2800 West Central Avenue,
(13)	Toledo.
(14)	Q. What is yourprofession?
(15)	A. Clinical psychologist.
(16) (17)	O. Are you licensed as a clinical psychologist in Ohio?
(18)	A. Yes.
(19)	Q. How long have you Seen licensed?
(20)	A Since 1980.
(21)	O.And how long have you been ai your present
(22) (23)	address? A. I've been at this address for about one
(24)	week; we just moved.
	Page 5
(1)	O.And prior to moving here what was your
(2) (3)	professional address? A. It was 3450 West Central, about four blocks
(3) (4)	from here.
ත	O.Doctor, would you please give the Court a
(6)	description of your educational background. and could you
\mathcal{O}	please begin with your undergraduate work
(8) (8)	A Igot a bachelor's degree with honors from
(9) (10)	the College of William and Mary, then I got my master's degree and Ph.D. from the University of Alabama. I took
(11)	an internship at the University of Alabama Medical Center
(12)	In Birmingham, and then went on to teach at universities
(13)	and get involved in private practice.
(14)	O. Do you hold any certifications in
(15)	psychology?
(16) (17)	A. Yes. Besides my licensure I am board certified In clinical psychology from the American Board
(18)	of Professional Psychology.
(19)	O. And would you please explain to the Court
(20)	how a psychologist becomes board certified.
(21)	A That's the advanced certification in our
(22)	field. After five years you quality to attempt to get certification; you submit your credentials, and you also
(23) (24)	submit an extensive sample of your work if you pass that
<u>(2 4)</u>	Page 6
(1)	phase of the exam, then you are examined all day long by
(2)	three board certified clinic21 psychologists. On the
(3)	basis of all of that they determine whether or not you get certified.
(4) (5)	Q. When did you become certified?
(6)	A. 1980.
3	O.Are you associated with any universities?
(8)	A Yes, I'm a tenured professor at the
(9)	University of Toledo in the psychology department
(10)	O. How long have you been associated with the University of Toledo?
(1 1) (12)	A. Since 1980,
(13)	Q. Do you also maintain a private practice?
(14)	A. Yes, I do.
(15)	Q. How long have you maintained the private
(15)	practice?
(17) (18)	A Since 1970. Q. How much of your professional time. Doctor,
(18) (19)	in psychology is devoted to litigation matters such as is
(20)	the reason we're here today?
(21)	A If you take into account my university work
(22)	and then also my patient contact, probably one-tenth,
(23)	maybe one-eighth of my work is lkigation-related.
(24)	Q. Thank you. Have you published any books?

BYROM, ET AL. V. SCHNEIDER NATIONAL CHRISTOPHER LAYNE, PH D , 9-1-94

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¢ .	Page 7		PapiD
(!)	A. Yes; two.	(1)	the left leg, and a physician pronounced him ten percent
(2)	O Whaf are the titles of those books?	(2)	disabled. That's important because after the accident he
(3)	A. One was "Know your Psychological Experts,"	(3)	would be pronounced as six percent disabled, and so
(4)	and the second was a psychological torts manual.	(4)	roughty - I think it's fair to say that his level of
(5)	O. Thosetwo boob sound related to litigation,	(5)	disability didn't go up after the accident. One could
(6)	is that true?	(6)	argue that it went down from ten to six percent, but I
(7)	A. That's correct.	(7)	suppose that's quibbling.
(8)	O. Have you also published any articles?	(8)	MR_SCOTT_UI object and move to
(9)	A Yes, Ipublished about 40 in internationally	(9)	strike as to his disability being outside
10)	circulated Journals;those are on psychologicaltesting,	(10)	this witness's expense
11)	depression and children.	(11)	Q Is a there a psychological significance to
12)	Q. Are those related to litigation in any way?	(12)	the ievel of disability?
13)	A. No.	(13)	A. Sure. The psychologists in this case are
14)	O. Doctor, at the requesi of the attorneys for	(14)	battling to some extent over the notion that physical
15)	the defendant did you examine the plaintiff in this case,	(15)	disability causes mental illness. I believe Mr. Byrom
6)	John Byrom?	(16)	would argue that his psychological problems are the resu
17)	A. Yes, I did.	(17)	of what he believes are physical disabilities caused by
18)	Q. And when did you conduc: that examination?	(18)	the accident. So it's important for me not to ignore what
19)	A. September 3rd, 1993.	(19)	the physicians are saying in this case.
20)	Q, Where did that examination take place?	(20)	Q. So using that type of information, is that
21)	A. At my former office on Central Avenue.	(21)	unusual in your field?
22)	O. And a? the time of the examination did you	(22)	A. It's not only not unusual, we're really
23)	take a history from Mr. Byrom?	(23)	required to use it. We would be remiss if we didn't take
24)	A. Yes.	(24)	the opinions of physicians into account.
	Page 8		Page 11
(1)	O. Would you relate to the Court, please, the	(1)	O. Continue on with the history that he gave
2)	history that Mr. Byrom gave you.	(2)	you, Doctor.
(3)	A. Yes. In relating this I'll be referring to	(3)	A. Okay. He had two other stressors in his
4)	a mental heakh problem that I will call a hypochondriacal	(4)	life besides the hard work and the physical problems,
5)	problem, and so that might help us to organize the history	(5)	particularly being shot and getting ten percent disabled
(5)	•that I'm about to talk about.	(6)	in Korea. His third sort of cluster of stresses were two
7	I reviewed about 50 pages of documents and	Ø	divorces.' He married in 1954, but the marriage turned
8)	then interviewed him, and on the basis of that information	(8)	sour, and he was divorced relatively quickty, and then
(9)	I discovered that he had the history, the childhood	(9)	lost touch with his daughters entirely. Then had a second
0)	experiences of a person that was going to become a	(10)	marriage about a year later and zigzagged in and out of
11)	hypochondriac, essentially. His father forced him to work	(11)	this relationship right around the time of his accident,
2)	so hard that his siblings realty thought it was nearly	(12)	and I mean only a month or two before he separated from
13)	abusive. He worked about four hours everyday when he	(13)	his wife, and months after the accident he divorced his
vent		(14)	second wife. So that was a major stressor occurring all
(4)	to school, and when he wasn't going to \mathfrak{school} he was	(15)	around this accident.
5)	working about 11 hours a day, and this was when he was age	(16)	And that realty concludes the major points
6)	six. He managed to get through school up to the 11th	(17)	of this fellows life before the accident, and the next
17)	grade, at which point he quit and entered the Army. Mer	(18)	part of his history involves the accident itself,
18)	he got his GED, though. He then went off to Korea, and	(19)	O.And did he describe the accident to you?
19)	then after coming back from the Korean conflict he worked	(20)	A. Yes, he did, and I also looked at records on
	a whole of manual, routinized jobs for pretty much the	(21)	the accident Four years ago he was sleeping in his truck
0)	rest of his life up until recently. And the reason I	(22)	when he was rear-ended or at least hit by some other
(1)	bring that up is that often hypochondriacal people have a		truck He described the accident as one that threw him
2)		(23)	
3)	history of fairly simple but grueling work requirements.	(24)	around, but I noted that he didn't act injured after the
4>	Okay So that's his work history	_	Page 12
	Page 9	(1)	accident; he didn't even act dazed. Instead, what he did
1)	Now let's look for a minute at hts physical	(2)	was something that was quite alert and adaptive; he rush
2)	disabilities before this accident.	(3)	out of his truck in order to catch the other driver. He
3)	O. You'recontinuing on with your history now?	(4)	had a suspicion that maybe the other driver would leave,
a)	A. That's right. I'm continuing with the	(5)	so he decided to go out to catch the person who had hit
s)	history.	(5)	him. He found the other truck driver. The other driver
5)	O. This is information Mr. Byrom gave you?	(7)	called the police, and Mr. Byrom went back Into his truck
\dot{n}	A. Correct, or I got from the documents.	(3)	and got dressed. Again. rational, physically competent
8)	Before the accident he had a brief brush	(9)	behavior.
3)	with death when he was about two; that's probably not	(10)	When the police arrived he did complain of
0)	terribly important now, but what is important is that at	(**)	some pain, but he refused to go to the hospital and
t)	age three his parents got him to start smoking; by age six	1 :12,	instead went right back to work. He got his truck fixed,
2)	he was clearly addicted to nicotine and was smoking about	(13)	phoned his employer and his insurance company, took so
3)	a pack a day.	(14)	Tylenol, and then drove 500 miles. That driving stint
4)	O.Why is that significant?	(*5)	lasted trom 9:00 a.m. until midnight. Now, I need to
5)	A. Well, because later he developed emphysema.	(15)	emphasize that particular window of events. This was an
6) 6)	and a lot of his problems now, I think. are related to	(* T)	accident wherein which after the accident he responded
7) 7)	that fairly harrowing diagnosis and the problem of	(13)	immediately with adaptive behavior. catching the other
8)	emphysema; realty. it's roots were laid in a fellow that	(19.	driver, then getting dressed, then refusing to go to the
9)	started smoke at age three.	21	hospital, then working all day in a sitting position
0)	MR. SCOT Impoing to polect and	~.	driving a heaw truck- There's several conclusions we can
1)	move to strike the last part The Rs	1 62	draw from that: the main one that is clearly within my
	outside this doctor's expertse	<u>ר</u> ק	area of expertise -
			MR SCOTT Eefore we get to this Im
?,	A The most Important piece of his health		

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BYROM, ET AL V. SCHNEIDER NATIONAL	CHRISTOPHER LAYNE, PH.D., 9-1-94	

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BSA	BYROM, ET AL V. SCHNEIDER NATION	IAL	CHRISTOPHER LAYNE, PH.D., 9-1-94
(4)	Page 13	t	Page 16
(1) (2)	going to object just so you "now oir the record	(1) (2)	different kinds of scales. One scale that we can use is the famous Holmes & Ray scale; that's the first column
(°)	MR BORELL What's your objection	(3)	thetable.
(4)	going to be?	(4)	O. Jus! briefly explain to the Court what you
(5)	MR SCOT Obviously theres no	(5)	mean by the Holmes scale.
(6)	question as to opinions yet, conclusions that may be drawn or may not be drawn. We	(5)	A. Actually, It's been popularized, and that's
(7) (5)	need to get to the right form. I think	(7) (5)	sort of unfortunatebecause it's actually a very good and precise scale, and it's been popularized, and so many of
(2)	BYMR BORELL	(3) (9)	us have seen this in magazines. You rate your stressors.
(10)	Q. Doctor, during your testimony today I may	(10)	and people will - jokingly people will say. I have had
(11)	ask you some questions for you to give an opinion or a	(11)	250 points or I had 300 points during this last five
(12)	conclusion. or you may on your own render a conclusion or	(12)	years, or whatever. And magazines will urge you to rate
(13) (14)	an opinion. Would you please make all of those opinions - would you please express them to 2 reasonable	(13) (14)	your stress level. But the scale itself is really a quite reliable and good scale. And I have rated his stressors
(15)	degree of psychological certainty.	(14)	on or near the accident in time, and I've come up with on
(16)	A. okay.	(16)	the Holmes scale a divorce is 73 points, separation is
(17)	Q. So anytime you give an opinion or	نبله وي	another 65 points, a job loss and a new job is 47 points,
(18)	conclusion, it nus! be to a reasonable degree of	(18)	the diagnosis of emphysema is 53 points, broken ankle is
(19) (20)	psychological certainty A. Okay. All right.	(to) (20)	another 53 points. and if he were - , if he had been physically Injured in the accident of April '89, if he
(21)	O. Wouldyou then continue on, Doctor.	(20)	were physically injured, then he would get another 53
(22)	A. Sure. The relevance of all of that behavior	(22)	points for that. And so my overall point is that on the
(23)	Is this, That it is my opinion to a reasonable degree of	(23)	Holmes scale his total unrelated stressors come to 291
(24)	psychological certainty this is not behavior of a person	(24)	points whereas the stressor of the accident of April
(1)	Page 14 that suffered brain damage; this is not behavior of a	(1)	Page 17 '89 - again, assuming that he was physically injured in
(2)	person that suffered from a trauma that was so	(1) (2)	that accident, a dubious assumption
(3)	psychologically damaging that later it would cause some	(3)	MR. SCOTT: Objection. Move to
(4)	kind of mentaliliness. It is instead the behavior of a	(4)	strike.
(5)	person who is reacting normally and adaptively to a minor	(5)	A = but assuming that, he gets another 53
(6) (7)	 trauma:-getting dressed, looking for the other driver, going on back to work. Okay. 	(6)	points for that. Q. Doctor, would you explain to the Court !he
(7) (8)	O.Does that conclude the history portion that	(7) (6)	psychological significance of the scores that you just
(2)	you took during the exam?	(9)	related to us remembering, again, that any opinion or
(10)	A That concludes the history up to and	(10)	conclusion that you give must be to a reasonable degree of
(11)	Including the accident, but then there's more history	(11)	psychological certainty.
(12) (13)	after the accident, <i>what</i> happened to him after the accident.	(12) (13)	A. To a reasonable degree of psychological certainty I can say that Mr. Byrom's stresses on or near
(14)	Q, Okay. Then continue on with that history as	(13) (14)	the accident were primarily unrelated to the accident and
(15)	it relates to after the accident.	(15)	that at its worst the stress levels caused by the accident
(16)	A. When he finished his day's work, fairly	(16)	are fairly insignificant.
(17)	grueling day's work. he did complain of more pain. He	(17)	MR, SCOTT: Objection, Move to
(18) (19)	went home but still waited two days before he even called a physician at all. He never went to the hospital during	(18) (19)	strike. Q. You <i>also have a second set</i> of <i>numbers called</i>
(20)	these early days after the injury. After the accident the	(20)	a DSM scale.
(21)	stressors that had begun to emerge before the accident,	(21)	A Right
(22)	that is to say unrelated stressors, increased.	(22)	Q. Would you explain to the Court what the DSM
(23)	O. You have used the term stressors Could you	(23)	scale is.
(24)	explain to the Courtwhat you mean by that? Page 15	(24)	A. Well, it is just another way to rate the Page 18
(1)	A. Yeah. I just mean traumatic or stressful,	(1)	stressors. It's similar to the Holmes-scale in that it is
(2)	emotionally stressful events, events that muse emotional	(2)	a quantification of stress levels. It doesn't agree
(3)	distress. Again, it's relevant here because this case in	(3)	perfectly with the Holmes scale, but on the other hand
(4)	my mind revolves around the question of the psychological	(4)	agrees reasonably well. And that scale is found in the
(5)	significance of the accident as opposed to, of course!	(5)	DSM-III-R, the diagnostic and statistical manual that we all use. Under that stress scale his accident at its
(හි (7)	other stressors in his life. Within 16 months of this accident on one side or the other he was separated from	(6)	worst would give him five stress points, f i e points of
(5)	his wife; he got a new job at a new trucking company;	(7) (a)	stress, and his other stressors would give him 20. So it
(9)	emphysema was diagnosed - and by the way, he kept right	(9)	doesn't matter which stress scale we look at, in either
(10)	on smoking; he endured his second diorce; he got	(10)	case to a reasonable degree of psychological certainty the
(11)	irritated with his former lawyer; he broke his ankle and	(11)	accident is relatively less stressful than the cumulative
(12)	was in a cast for six weeks. Again, my point here is that those are all individually fairly important stressors.	(12)	effect of his other stressors in his life. O. Doctor, as part of your examination did Mr.
(13) (14)	And I have? In tact, a chart that Illustrates that.	(13) (14)	Byrom also relate some physical complaints to you?
(15)	Q. Let me hand you, Doctor, what's been marked	(15)	A Yes. Investigatinghis history he first
(16)	Defendant's Exhibit 3. Do you recognize that?	(*5)	told me about and confirmed what the physicians records
(17)	A. Yes, that's from my report.	(71)	had already suggested to me, and that is that he had
(18)	Q. Would you explain to the court what that	(18)	compiained right after right after his accident he complained f several odd problems and some other
(19) (20)	chart is or what Defendant's Exhibit 3 is. A. Yes. This is, again a chart from my	(19) prot	blems
(20) (21)	report. And what it does is it makes the point, the	(20)	that would make a little more sense.
(22)	overall point that stressors can be rated on a scale. We	(21)	Q. Before you continue on with his physical
(23)	don't have to <i>list</i> stressful events and then speculate	(22)	problems, is Ihe-e a psychological reason why you would
(24)	about them: we can rate the intensity using one of two	(23)	ask him his medical problems? A. Once again, I'm basically required to do
		<u>(</u> 24)	

	BYROM, ET AL. V. SCHNEIDER NATION	Δ1	CHRISTOPHER LAYNE, PH.D., 9-1-94
e54	Page 19	···	
(1)	that. I would be remiss in my duties as a psychologist to	(1)	A. Correct. Correct. A therapist named
(2)	ignore the opinions of physicians. So what I try to do in	(2)	Hatfield noted muscle spasms and range of motion
(3)	my report and here today what I tried to do is to make	(3)	contractures. A Dr. Stein diagnosed a possible nerve root
(4)	clear that when Italk about physical illnesses, I'm	(4)	impingement. The point is that I could find no consistent
(5)	talking really about the opinions of physicians, not my	(5)	medical diagnosis.
(5)	own opinion.	(5)	Q. And what is the psychological significance
3	Ø. You, of course, did not reach any medical	. 0	of that inconsistent medical diagnosis?
(2)	conclusions yourself?	(8)	A. Well, then I'm led -
(9)	A No. And I make that statement in the report	(9)	MR. SCOTT Before you get to that,
(10)	quite carefully. I make no medical opinions in the	(10)	I'm going to object again and move to strike
(11)	report.	(11)	because I don't think this witness has the
(12)	O.An / correct that you're using medical	(12)	expertise ${f m}$ comment on the orthopedic
(13)	diagnosis b reach a psychological conclusion7	(13)	surgeons involved in this case or whether
(14)	A That is correct. I want to emphasize would be remiss to do otherwise. k would be downright	(14)	their separate diagnoses are consistent or
(15)	foolish for me to take the position that akhough he's	(15)	not. MR. BORELL: Go ahead, Doctor.
(15) (17)	been seen by physicians and although there are physicians'	(16) (17)	A A set of diagnoses that are not consistent;
(17) (18)	records available, I Will ignore those records. That	(13)	that is to say they're not the same words, not the same
(19)	would be a foolish position for me to take.	(19)	diagnostic category, increases the probability that the
(20)	Q. Wouldyou continue then, coctor, and relate	(20)	person has a hypochondriacal problem; ± decreases the
(21)	to the Court the physical complaints that Mr. Byrom	(21)	probability that it's a genuine physical problem. For
(22)	related to you.	(22)	example, if he were diagnosed consistently with a broken
(23)	A. Yes. Not only the ones he related to me,	(23)	spine after the accident, if everybody who saw him saw a
(24)	but what the record said. He complained of cervical pain,	(24)	spinal fracture, that would then give much more credence
	Page 20		Page 23
(1)	neck pain in general. stiffness, a numb right shoulder,	(1)	to his real physical complaints. But that's not what I'm
(2)	tingling right fingers. Then he complained of headaches,	(2)	seeing here.
(3)	more neck stiffness. Then he complained of ringing in his	(3)	Q. Doctor, are psychologists trained to make
(4)	ears. And then he complained of problems urinating. And	(4)	psychological conclusions of evaluations based on medical
(5)	then much later, over two years after his accident, he	(5)	diagnosesthat are made by other people?
(6)	-began to complain of blacking out and passing out, and	(6)	A. Yes. And nut only are we trained to pay
(7)	those problems really emerged over two years after the	(7)	attention to what physicians diagnose, but as Isaid, in
(8)	accident.	(8)	addition, it goes much farther than that; we must pay
(9)	G. Go these physical complaints and the time	(9)	attention to those variables. We would be negligent if we
(10)	frame in which they appear that Mr. Byrom related to you	(10) 	did not.
(11)	of that appear in the medical records, do they have a	(11)	O.When you say 'must,' would you explain to
(12)	psychological significance?	(12)	the Court what you mean by that.
(13)	A. Yes, particularly the blackouts and passing	(13)	A Yes. Maybe can do it by use of an
(14)	out two years after an accident where even at the rime he	(14)	example. If someone came in and said that he feit nervous
(15)	didn't lose consciousness. O.What is the psychological significance of	(15)	and sleepless, and then he also mentioned that he had been
(15)	these complaints?	(16)	diagnosed with hyperthyroidism, it would be foolish for me
(17)	A. Many people with hypochondriacal disorders	(17)	to diagnose anxiety without first confirming that he had, indeed, received a diagnosis of hyperthyroidism. The
(18) (19)	claim that they blackedout or that they black out. R's) (18) (19)	reason is the hyperthyroidismcan cause anxiety symptoms
(20)	a sort of typical hypochondriacal complaint that goes	(20)	and sleeplessness. So I am required to pay attention to
(21)	right back to our stereotypical southern belles who get a	(21)	<i>what</i> the physicians diagnose. There's so many other
(22)	<i>case</i> of the vapors and have to sit down and swoon. It has	(22)	examples of drug side effects or medical problems that
(23)	about k a hypochondriacal quality. As I mentioned	(23)	mimic the symptoms of depression or psychosis or anxiety.
(24)	earlier, I would be remiss in not noting that his medical	(24)	G. So as a psychologis: the:! you have some
<u>(/</u>	Page 21	<u> </u>	Page 24
(1)	tests were normal. The physicians' reports, x-rays and	(1)	training in understanding medical diagnoses, at least how
(2)	spine MRIs and neurological exams were all in the normal	(2)	they interrelate with psychological problems?
(3)	range. It's important. I think. for me to pay attention	(3)	A. Correct. Yes. Yes, But we don't offer any
(4)	to those findings of physicians given the tact that here	(4)	opinions a b u t the medical problems; instead, we rely on
(5)	we have somebody that's complaining of a disabling	(5)	the opinions of physicians. And all I'm saying here is
(6)	physical problem, and yet medical tests are normal.	(5)	the physician opinion is that medical tests are normal;
(7)	Q. Would you explain to the Court how that has	m	the physician opinion is that there are a number of
(8)	a psychological significance.	(8)	complaints. And when it comes to the diagnostic
(9)	A. That is almost the definition of a	(9)	categories, they are not consistent in the sense that the
(10)	hypochondriacalperson. I say almost the definition of a	(10)	physicians are using different words to describe this
(11)	hypochondriacalperson, that they complain of physical	(11)	person's diagnosis.
(12)	problems but there are no objective signs of physical	(12)	Q. And your comments and testimony on the
(13)	disease or physical disability. The diagnoses of him, I	(13)	physicians' diagnoses are related then just to the
(14)	tried to pay attention to those physicians' diagnoses, but	(14)	psychological impact of that?
(15)	the problem is that they Seem to disagree one with the	(15)	A Right. Right.
(15)	other, which leaves me in a kind of quandary. Dr. Simon	(*5) (~~	Q You have not made any independent medical diagnosis?
(17)	diagnosed cervical strain; sexual dysfunction; and of	(17)	diagnosis?
(18)	course the ankle fracture later, and that was an unrelated problem. Dr. Rogers diagnosed what's called cervical pain	(18)	A. Not at all. I have never made an independent medical diagnosis and would not do that. That
(19)	syndrome, which as i understood Dr. Rogers' report of May.	(19) (19)	wouldn't be a correct thing to do.
(20) (21)	1989, cervical pain syndrome means that this man	(20) (21)	<i>O During your examination of Mr. Byrom did he</i>
(21) (22)	complaints of a lot of pain around his cervix.	(21) (22)	mention an impotence problem to you?
(22) (23)	Q That's your understanding of Dr. Popersi	.23)	A. Yes.
(24)	diagnosis?	(24)	Q. And what did he tell you about that?
		· <u>· · · · · · · · · · · · · · · · · · </u>	

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e54	BYROM, ET AL. V. SCHNEIDER NATIONA	۱L
-	Page 25	
(1)	A. He said that that problem emerged a bit	(1)
(2)	later after the accident, and he told me that at the time	(2)
(3)	of my Interview that his impotence was by far his major	(3)
(4)	problem, that he had gotten over his depression.	(4)
(5)	O.Mr. Byrom then also discussed depression	(5)
(5)	with you?	(6)
(ii)	A. Right- He said that he had gotten sort d	(7)
(8)	depressed earlier but that the depression had gone away	(8)
(9)	since then.	(9)
(10)	Q And I'm no: sure I asked you this, but what	(10)
(11)	was the date of your examination of Mr. Byrom?	(11)
(12)	A. September 3rd, 1993.	(12)
(13)	O. Did you also have a:: opportunity during your	(13)
(14)	examto observe Mr. Byrom s behavior?	(14)
(15)	A. Yes.	(15)
(15)	O. And as a psychologist are you trained to	(16)
(17)	observe the behavior of a person then make a ,psychological	(17)
(18)	interpretation or diagnosis of that behavior?	(18)
(19)	A. Yes.	(19)
(20)	O. What behavior did you observe from Mi.	(20)
(21)	Byrom?	(21)
(22)	A The <i>two</i> most important things were that,	(22)
(23)	number one, he just didn't look depressed; he never cried;	(23)
(24)	he never appeared sad; he didn't hang his head; his voice Page 26	(24)
		10
(1)	was s ufficl en tly loud; his gestures were animated; he sniled; he laughed a t jokes; he was cordial. He showed	(1)
(2)	none of the typical face-to-face symptoms of depression.	(3)
(3)	O.And as a psychologis! you have been trained	(4)
(4) (5)	to recognize physical symptoms of depression?	(5)
(6)	A.Yes. Behavioral symptoms too.	(6)
(3) (7)	Q. Behavioral symptoms, are those the symptoms	(7)
(8)	you just mentioned?	(8)
(9)	A. That's correct, Yeah. On the other hand	(9)
(10)	his behavior conformed quite nicely to a diagnosis of a	(10)
(11)	hypochondriacal problem. People who have these kinds of	(11)
(12)	problems are typically breezy; they're sort of defensive,	(12)
(13)	that is to say they realty don't want to talk about their	(†3)
(14)	emotional problems very much.	(14)
(15)	O.You've used the tern "hypochondriacal"	(15)
(15)	several times. Why don't we bke a moment - I know	(16)
(17)	you'll talk about it later - to explain to the Court what	(17)
(13)	that tern means.	(18)
(19)	A. There is a real mental illness <i>out</i> there	(19)
(20)	suffered by a substantial portion of mentally ill people	(20)
(21)	that consist of exaggeration of physical problems. The	(21)
(22)	mechanism whereby the mental illness comes into being is	(22)
(23)	really explained by the term "secondary gain." What it	(23)
(24)	all means is that if I have a hard life, if I have to work	(24)
	Page 27	
(1)	very hard, if I'm pushed to work hard by my father, then I	(1)
(2)	undergo a io?of stress, I begin to want to escape from	(2)
(3)	It. I have Several choices; normal people go out and	(3)
(4)	attack the stressors and modify them or change them or get	(4)
(5)	rid of them. Other people react by withdrawing in one way	(5)
(6)	or another; they get drunk a lot and the booze takes away	(6)
(7)	the stress, at least temporarily. Other people imagine	(7)
(8)	that they have physical illnesses because by doing that	(8)
(9)	they get a break they don? have to work anymore: they	(9)
(10)	get sympathy from their family; they develop what's called	(10)
(11)	a sick role so people treat them with lots more respect and lots more indulgence; they don't get many demands; and	(11)
(12)	if somebody does dare to demand something from them, they	(12)
(13)	say. Look, I can't do it because I'm sick. I'm physically	(13) (14)
(14)	sick So the claim of physical illness is not a lie; it's	(14)
(15) (15)	a coping technique much like getting drunk is or becoming	(15)
(16)	an alcoholic whereby the person avoids responsibility and	(15)
(17)	gets rest; they get to go to physicians and get medicine	(18)
(18) (19)	and all sorts of things. So that's the mental illness	(10) (19)
(19) (20)	that I call hypochondriacal.	(120)
	O That is a psychological illness?	(21)
(21) (21)	A Right Now, the technical term that we	(22)
(22)	should be using here is <i>somatdorm</i> pain disorder. and I'll	(22)
(23) (24)	talk about that later. But a somatoform pain disorder is	(24)
(24)		<u>1/</u>

Page 20

XMAX(5)

- a hypochondriacal disorder.
- (2)O. Doclor, as part of your evaluation of Mr. (3)
 - Byrom did you examinetests that were performed by a Dr. Copple in Tennessee?
- (4)
- (5) A. Yes. (6)
- O. Do you know when those tests were performed? (7)
 - A. Yes, Dr. Copple performed the test MR.SCOTT: It's Copple A. I'm sorry. in October of '91.
- O. What test did he administer Dr Copple? (10)
- A He administered two tests. both of which are (11)very good tests. One is the Beck Depression Inventory, (12)(13) and the other is the Minnesota Mukiphasic Personality (14) Inventory, which is called the MMPI.
- (15) 0 .Would you explain to the Court what the
 - Beck's Depression is i! Inventory3
- (16)(17) Uh-huh.
- (18) O. Would you explain to the Court what that is.
 - A. It was a good test to administer to Mr. Eyrom because the question is, Is he depressed. The Beck
 - Depression Inventory is a test that **specifically** measures depression, and so it was a good choice.
- (23) OAnd did you review that tes: as it was
- administered by Dr. Copple? (24)

Page 29

(1)A, Yes. Q. And you have several documents or several (2)exhibits in front of you. One is labeled Defendant's (3) Exhibit 1. (4) A. Uh-huh. (5) O. Would you explain to the Court what (6) Defendant's Exhibit 7 is, the lop chart. (7)A. Yes. tt is -well. Defendant's Exhibit 1 (6) (9) is my administration of the personality assessment (10) inventory. O.What is Defendant's Exhibit 2? (11) (12) A. Exhibit 2 is a combination of two MMPIs, the one they administered and also the one that Copple (13) (14) administered earlier. Now, what is not on either one of these two exhibits, what is not on either one of those is (15) the Beck Depression Inventory. (16) (17) Ο What were the results of the Beck Depression (18) Inventory as administered by Dr. Copple? A. He, Mr. Byrom. scored normal on the Beck (19) Depression Inventory; the significance of that I cannot (20) (21) overstate. Apparentty Dr. Copple went into this test wondering if Mr. Byrom was depressed; he therefore wisely (22) chose the Beck Depression Inventory. What he found with (23) this inventory was that Mr. Byrom is not depressed. I (24) Page 30 think that's significant and interesting. You have to (1)(2) keep in mind I did not diagnose depression because I take this test seriously. (3) Q. How is the Beck's Depression Inventory rated (4)or analyzed? How does one do that? $(\overline{2})$ It's really quite simple; the test taker (6) (7)responds to a number of questions about depression, and then his responses are added up. And Mr. Byrom scored (8) six, which is clearly in the normal range. (9) O And the six was the score that Dr. Copple (10) (11) attributed to the test? A. That's right. That was Cr. Copple's (12)(13) discovery, not mine. O. Now, there was a second test that was (14) administered by Dr. Copple, and that was the MMPI? (15) (15) A. Correct. (17) Q. And, of course, you also administered an MMPI; is that correct? (18) A. That's correct. (19) (20) O. Would you explain to the Court what an MMPI (21) A. Yeah. tt's an objective inventory. The (22) (23) important point that the Court should be aware of is that there's several ways for us to evaluate Mr. Byrom; we can (24)

XMAX E)

BSA		<u></u>	CHRISTOPHER LATINE, PH D, 9-1-94	XMAX
(1)	ੋੜਰੁਵ 31 talk to him and get a kind of intuitive feel for the way		Page 3: A. Y es , they certainly have.	
(2)	he acts; we can review his records and his history and get	(1) (2)	Q. The Defendant's Exhibit 2, the second	
(3)	some kind of a feel for what his psychological problems	(3)	heading under "lie" is "fake bad "	
(4)	are based on his history: and in independence of those	(4)	A. Right.	
(5)	other two methods, we can test him, we can give him	(5)	O.As I recall from Dr Coople's testimony he	
(6)	psychological tests.	(6)	disagreed that that was a proper tern to use. Have you	
Ő	Of the three methods: history.behavior and	0	reviewed Dr. Copple's testimony?	
(8)	testing, by far the most accurate is testing. The reason	(8)	A. Yes. I have.	
(9)	testing is the most accurate is that it doesn't depend on	(9)	O. Would you agree with that portion of his	
(10)	my intuitions or Dr. Copple's intuitions, instead it's an	(10)	testimony?	
(11)	objective set of indicators.	(11)	A. No.	
(12)	Now, the Beck is objective, and the MMPI is	(12)	O. Would you explain to us with not.	
(13)	objective. In the case <i>d</i> the MMPI, it's about 560	(13)	A Well, the books that I talked about earlier,	
(14)	questions; they're all true/faise. Mr. Byrom sat down and	(14)	the atlases of profile, routinely refer to the second	
(15)	answered each of these 560 questions either true or false.	(15)	scale as a 'fake bad' scale, or they will say that the	
(16)	He put his graphite from his pencil into a true or false	(15)	scale detects faking bad. It's in the literature all over	
(77)	column in every case. And then it was the job of Dr.	(17)	the place.	
(18)	Copple and I to simply add up his trues and fakes in	(18)	Q. Sa the term 'fake bad' is not your term?	
(19)	different combinations to come up with these scales. So	(19)	A. No.	
(20)	the graphs that you see in Exhibit 2 are not some	(20)	Q. It's something that you receive from the	
(21)	intuitive concoction on the part of Dr. Copple or myself;	(21)	atlases or the manuals that you described?	
(22)	Insteadthey are graphs that are objective, really	(22)	A. Correct. Yes. Yes.	
(23)	generated by the test. And then the interpretation should	(23)	O. Now, have you given us all your conclusions	
(24)	be quite objective because the Interpretation should be	(24)	or all the findings from the MMPI that were administered	
	Fage 32	1	Page 35	
(1)	based on atlases of MMPI profiles that are available to	(1)	both by you and Dr. Copple?	
(2)	all psychologists. And that's what I did; I simply go to	(2)	A. Well, let me just emphasize that both Dr.	
(3)	the book or the books and look up what the profile means,	(3)	Copple and myself found profiles where the peak was	
(4)	and that's what I did in my report.	(4)	hypochondriasis. There is one more - really <i>two</i> more	h i a
(5)	Q. And Defendant's Exhibit 1 is the scores that .Mr. Byrom – the results are Mr. Byrom's?	5	points worth making, and they are that this shows that h	
(6) (ල	primary problem is not depression; the Beck Depressio	
(7) (8)	A. Exhibit 1 is Mr. Byrom's profile on another personality test called the Personality Assessment	(7)	Inventory had confirmed that already. His primary prob is this hypochondriacal problem.	Jem
(8) (9)	Inventory. I don't have these profiles labeled, and	(8)	The second point that's very important is	
(10)	that's the problem. I should have labeled them, and I	(9) (10)	that this, indeed, is a valid scale of a psychological	
(11)	didn't.	(10)	problem called hypochondriasisor somatoform pain	
(12)	Q. Explain to the Court then what Defendant's	(12)	disorder. Obviously this scale is not a scale that	
(13)	Exhibit 2 is.	(13)	detects real physical ilnesses. Obviously the	
(14)	A Defendant's Exhibit 2 are two MMPI profiles,	(14)	constructors of this scale were very concerned about the	nis
(15)	those of Dr, Copple and myself. The striking thing about	(15)	scale not being a measure of real physical illnesses but	
(16)	these profiles is that although the <i>tests</i> were	(15)	infact, being a measure of hypochondriacalproblems,	
(17)	administered three years apart. they are remarkably	(17)	so soon after the Scale was constructed researchers we	
(18)	consistent. Administered three years apart and by two	(18)	into hospitals and found people who were really physic	
(19)	different psychologists, and yet if you look at them,	(19)	ill and gave them the MMPI, and they found that these	,
(20)	they're pretty much in lock step one with the other; I	(20)	really physically ill people scared normally on the	
(21)	believe that there's not a dime's worth of difference	(21)	hypochondriasis scale. The notion that some people ha	ave,
(22)	between those two profiles. And Dr. Copple's deposition	(22)	the notion that when you get more and more physically	
(23)	also suggests that; the profiles for all purposes are	(23)	you look more and more hypochondriacal on that scale	
(24)	identical.	(24)	quite naive. The test constructors weren't so foolish as	
·····	Page 33	┤ —	Page 36	
(1)	Q. Wouldyou explain to the Court what that	(1)	to make a test scale, call it hypochondriasis, but then	
(2)	chart means? What are the findings as a result of that	(2)	turn around and have the scale go up when the person	is
(3)	test?	(3)	really physically ill. That would be a terrible scale.	
(4)	A. It shows roughly over a three-year period	(4)	0.Dol understand hypochondriasis as that term	
(5)	this man has scored a peak on a scale called	(5)	is used in the MMPI and as it appears on Exhibit 2, a n I	
(6)	hypochondriasis. Now, just as a side matter, the first	(6)	correct that it does no! measure real physical pain?	
$\overline{\mathcal{O}}$	three scales, the three scales at the top of that chart,	0	A. Correct	
(8)	are called the validity scales, and they ask the question,	(8)	O .What does it specifically measure?	
(9)	Well is this profile valid: does this profile really tell	(9)	A. The exaggeration of physical pain or the	
(10)	us what Mr. Byrom is like. And the answer is that, Yes,	(10)	confabulation of physical pain, the taking of physical	
(11)	he scored In the normal range. These three scales - the	(11)	pain.	
(12)	normalrange, by the way, is the shaded portion of this	(12)	Q. Youtell us then, What is the significance	
(13)	graph, and that's true for the other - for Exhibit Number	(13)	of both your test results and the test results by Dr.	
(14)	t as well. So my point is that he scored in the normal	(14)	Copple?	
	rage of the validity scale, so we can trust the rest of	(15)	A. Yeah. To a reasonable degree of	
(15)	the profile, and the rest d the profile is quite clear:	(15)	psychological certainty this is the profile of a person	
(15) (16)		(17)	with a hypochondriacal problem, a mental problem; it is	3
	he scores a $peak$ on the hypochondriasis scale.	17		
(16)	he scores a peak on the hypochondriasis scale. O.I remind you. Doctor, when you express any	(1S)	consistent with normal medical tests, a wide range of	
(16) (17)	he scores a peak on the hypochondriasis scale. O.I remind you. Doctor, when you express any opinions they must be to a reasonable degree of		unusual complaints like blackouts; it is consistent with a	
(16) (17) (18)	he scores a peak on the hypochondriasis scale. O.I remind you. Doctor, when you express any opinions they must be to a reasonable degree of psychological certainty	(15)	unusual complaints like blackouts; it is consistent with a person who at the time of the accident acted normally a	
(16) (17) (18) (19)	he scores a peak on the hypochondriasis scale. O.I remind you. Doctor, when you express any opinions they must be to a reasonable degree of psychological certainty A. Yes.	(1S) (19)	unusual complaints like blackouts; it is consistent with a person who at the time of the accident acted normally a yet later claims that It was a disabling injury. It's	
(16) (17) (18) (19) (20)	 he scores a peak on the hypochondriasis scale. O.I remind you. Doctor, when you express any opinions they must be to a reasonable degree of psychological certainty A. Yes. Q And have all your opinions and conclusions 	(19) (19) (20)	unusual complaints like blackouts; it is consistent with a person who at the time of the accident acted normally a yet later claims that it was a disabling injury. It's consistent with all of that.	
(16) (17) (18) (19) (20) (21)	he scores a peak on the hypochondriasis scale. O.I remind you. Doctor, when you express any opinions they must be to a reasonable degree of psychological certainty A. Yes.	(19) (19) (20) (21)	unusual complaints like blackouts; it is consistent with a person who at the time of the accident acted normally a yet later claims that It was a disabling injury. It's	

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BSA	BYROM, ET AL. V. SCHNEIDER NATIONA	L	CHRISTOPHER LAYNE, PH D ,9-1-94
	Page 37 also partially based on my other profile, which is the		Page 40
(1) (2)	Personality Assessment Inventory that, as you will notice,	(1) (2)	somatdorm pain disorder. now they simply call it pain disorder. The term somatoform was proliferous,
(3)	is valid.	(3)	O. What, again, was your diagnosis, Doctor?
(4)	O.Before you explain the results, why don't	(4)	A. Somatoform pain disorder.
(5)	you explain to the Court what the personality profile -	(5)	O. Will you explain to !be Court what that is.
(6)	is that the correct terminology?	(6)	A. Yes. It is, as I say in my report. a
(7) (8)	A. Personality Assessment Inventory. O. And those results are reflected in Exhibit	(7) (8)	problem of exaggeration of physical ills for the purpose of getting out of work. The person usually after a minor
(9)	1?	(9)	trauma, either at work or on the highway, the victim will
(10)	A. Correct.	(10)	begIn to claim that the trauma caused him to became
(11)	O. Would you explain to the Cour! first what	(11)	disabled and ill and specifically that the trauma caused
(12)	that test is.	(12)	the victim to feel pain, physical pain. By virtue of
(13) (14)	A It's very much like the MMPI in that it is a subjective - it is one that forces the - in this case,	(13) (14)	those pain complaints the person receives all kinds of rewards; he gets to escape from the stress, he gets to
(15)	Mr. Byrom, it forced him to make marks with a pencil in	(15)	quit working. he gets sympathy from his family members. he
(15)	certain pigeon holes. It's easy to count up his marks;	(16)	gets drugs. Pain killers can be a great relief from
(17)	it's easy to put them on the scale form and to come up	(17)	mental suffering and from stress. So they essentially get
(18)	with scale elevations or scale scores. That's all objective. Then, once again, the profile can be compared	(18)	pain pills, and so the process feeds on itself with the
(19) (20)	with the profiles of other people in order to generate a	(19) (20)	person continuing to complain of physical IIIs, getting rewards because he complains, and therefore intensitying
(21)	very objective interpretation of the profile. And in this	(21)	his physical complaints.
(22)	case Mr. Byrom scored a peak, really one and only one peak	(22)	O.Doctor, do you have an opinion - and once
(23)	among the clinical scales; it's called somatic complaints.	(23)	again to a reasonable degree of psychological
(24)	His peak was on the somatic complaints scale. And - Page 38	(24)	certainty - as to the cause of Mr. Byrom's disorder?
(1)	O.Could you explain to the Court what that is	(1)	Page 41 First, do you have a cause opinion?
(2)	or what is the significance of that?	(2)	A. Yes.
(3)	A. It's basically the same result as both of	(3)	Q. What is that opinion?
(4)	his other MMPIs , as a person with a hypochondriacal	(4)	A. To a reasonable degree of psychological
(5) (6)	tendency to exaggeration of physical pain in order to .escape from stress.	(5) (6)	certainty it was caused by his Stressorsacross his life, particularly the foundation laid by his slightly abusive
(6) (7)	Q. Wouldyou then explain to the Court what is	(7)	slave-driving father. His father iorced him to work
(8)	specifically your diagnosis of Mr. Byrom remembering again	(8)	really unconscionable hours when he was growing up.
(9)	you must express it to a reasonable degree of	(9)	Again, I repeat at age six he was working 11 hours a day
(10)	psychological certainty.	(10)	when he was off school. four hours a day when he was on
(11)	A. My diagnosis was a hypochondriacal disorder called somatoform pain disorder.	(11)	school seven days a week. That's a lot of hard work. That sets a child up for, one, he wants to escape from the
(12) (13)	O. Doctor, that term that you just used you'll	(12) (13)	work, but he's a afraid of his father and father figures,
(14)	have to help me again with what it was.	(14)	so he's afraid to simply retuse, to say, I'm not going to
(15)	A. Somatoform pain disorder.	(15)	work. He's afraid to do that because he's afraid he'll
(16)	O. Where does that tern come from, Doctor? Is	(16)	get hurt or punished. So the solution is to claim that
(17)	that a ternthal you made up? A. No. No. It comes from the Diagnostic and	(17) (18)	you're too sick to work. Q. And the stresses that you indicated are
(18) (19)	Statistical Manual, the third edition of that manual, and	(19)	those that you have previously testified to and were
(20)	the revision of that edition.	(20)	listed on Defendant's Exhibit 3?
(21)	O. Could you explain to the Court, is that	(21)	A. Right And then lo and behold much later in
(22)	commonly referred to as the DSM? A. It's the DSM-III-R.	(22)	his life he was showered with stressors, any one of which I think was more stressful than this accident, but the
(23) (24)	Q. Could you explain to us what that is.	(23) (24)	accident was the thing that allowed him to get rewards for
<u>(r +)</u>	Page39	<u>(= +)</u>	Page 42
(1)	A. At the time of the examination ± was the	(1)	claiming pain; the others he couldn't-milk
(2)	manual?he premier manual of psychological diagnosis.	(2)	O Doctor -
(3) (4)	is used by virtually all psychologists and psychiatrists to diagnose people. It is required because, of course, to	(3) (4)	MR, SCOTT: I'm going to move tu strike <i>that</i> as being totally inappropriate
(4) (5)	diagnose something you have to have the thing that you	(4)	and editorial.
(6)	diagnose be a recognized mental health problem, and the	(6)	Q. Well, when you say milk, what do you mean by
(7)	DSM-III-R is accepted the world over as the definitive	Ø	that,Doctor?
(8)	list of diagnoses.	(8)	A. Yeah, it is a, I think, a quite legitimate term used to describe a process of somatoform pain
(9) (10)	Q. Is there an agency or group that officials, sanctions or recognizes mental disorders?	(∋) (10)	disorders. I don't mean to imply that he is doing this
(11)	k Yes, virtually all psychological	(11)	consciously, that he is laughing at us and fooling us
(12)	organizations and agencies recognize ±. It was produced	(12)	consciously. He's fooling himself. And in the sense that
(13)	by the American Psychiatric Association.	(13)	the person can fool themselves and talk himself into
(14)	Q. You mentioned, you said - I think your	(14)	taking advantage of a situation, I would call that milking
(15)	words were that at the time of the exam. A. Yes.	(15) (16)	the situation. And I think that the dictionary will bear me out on the use of that term: I don't think As
(16) (17)	O. Is illno! now a d i d source to use?	(17)	entirety pejorative.
(18)	A. Well, the next edition of the manual has	(18)	<i>Q. Doctor, did you reach a conclusion - again,</i>
(19)	come out. and that's called DSM-IV, and so - but that	(19)	to a reasonable degree of psychological certainty – as to
(20)	only came <i>out</i> about two months ago.	(20)	a prognosis for Mr. Byrom?
(21)	O. Did the DSM-IV change significantly from the DSM-III in terns of the problem that Mr. Byrom hasz	(21)	A. Yes. Q. And would you tell us what that prognosis
(22) (23)	A. No. It's a slightly new set of words to	(22) (23)	is, please.
(24)	describe the same problem. They used to call it	(24)	A. If he dets the right treatment. his
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BSA	BYROM ET AL. V. SCHNEIDER NATION	AL	CHRISTOPHER LAYNE, PH.D., 9-1-94 XMAX(8
s.,	Page 43	1	Fage 46
· (1)	prognosis Is good. He's been through hypnosis for the	(1)	to be able to complete his first attempt to take the
(2)	purpose of getting rid d his depression or something;	(2)	MMPI- it would be very unusual for him to be able to do
(3)	that strikes me as a rather unusual treatment. Instead,	(3)	that in an hour and ten minutes; that would surprise me
(4)	the typical treatments for a person who exaggerates pain	(4)	greatly.
(5)	is an emotionally oriented treatment called	(5)	The second thing is that a 50-minute
(5)	client-centered therapy. It's purpose is to make him a	(6)	Interview is - while it is typical for a patient who is
(7)	little bit more aware of what he's doing to himself and	(7)	promising to come back <i>for</i> ongoing treatment; it is, I
(8)	make him more aware of the fact that he is under a lot of	(8)	think, very short when one is trying to decide a sensitive
(9)	stress and that this is not the way to deal with it. And	(9)	contested legal issue about the presence or absence of
(10)	then follow-up to that is a change in focus to what's	(10)	mental illness More and after an accident. It's an
(17)	called reality therapy, and that's an approach that	(11)	inadequateamount of time to investigatea contested issue
(12)	basically urges him to find a new solution to his stress,	(12)	like that.
(13)	one that's not quite so indirect or manipulative.	(:3)	MR.SCOT: I'm going to move to
(14)	Q. Doctor, are you familiar with the Wide Range	(14)	strike the answer as being nonresponsive ${\tt m}$
(15)	Achievement Test?	(15)	the original question.
(15)	A. Yes.	(15)	O.Doctor, you've also testified that you
(17)	O.Is that commonly referred to as the WRAT-R?	(17)	reviewed numerous records from other sources.
(18)	A. Yes.	(18)	A. Right.
(19)	Q. Wouldyou please explain to the Court what	(19)	O.All the records you reviewed, are those
(20)	the Wide Range Achievement Test is.	(20)	records customarily the kind of records that psychologists
(21)	A. It is an achievement test, meaning an	(21)	use in the practice of psychology?
(22)	academic achievement test, and its purpose is to measure	(22)	A. Yes.
(23)	the extent to which a person has learned his lessons in	(23)	Q. Doctor, you expressed numerous opinions and
(24)	school.	(24)	conclusions today. Were they all to a reasonable degree
	Page 44		Fage 47
(1)	Q. Does the test measure possible brain damage?	(1)	of psychological certainty?
(2)	A. No. While it may correlate with brain	(2)	A They were.
(3)	damage, and obviously if a person were severely brain	(3)	Mil. BORELL Thank you, Doctor; that's
(4)	damaged Isuppose that he wouldn't be able to perform on	(4)	all I have.
(5)	this test, it is by no means regarded as a test of brain	(5)	MR. SCOTT: Doctor, my name is Robert
(6)	damage. It's an achievement test.	(6)	Scott, I represent Mr. Byrom. I'm going to
(7)	Q. Doctor, when you examined Mr. Byrom and	(r)	be asking you a number of questions
(8)	tested him, how long was he here or at your office a! that	(8)	today.
(9)	time?	(9)	
(10)	A. He was with me all day, roughty seven hours	(10)	
(11)	or <i>so</i> , eight hours.	(11)	BY MR. SCOTT:
(12)	Q. Can you tell us how much of that time was in	(12)	C. First of all, you are not an orthopedic
(13)	testing and how much time was in actually interviewing	(13)	surgeon, are you, sir?
(14)	with you?	(14)	k That's correct.
(15)	A As I recall, it took him about an hour and	(15)	Q. And you are not professing any expertise
(16)	40 minutes to complete just the MMPI. That's not unusual.	(16)	today in that area of medicine, are you?
(17)	Some people in his - mentally ill people take longer.	(17)	A. That's correct.
(18)	But remember, he had already taken the test once. so I	(15)	O. You are not a physician, in fact, are you, sir?
(19)	suppose that he had become a little more speedy at it, so	(19)	
(20)	t took him about an hour and 40 minutes just to do the	(20)	A. That's correct.
(21)	MMPI. tt took him another hour to do the Personality	(21)	Q. And you have no medical training?
(22)	Assessment Inventory. Then filling out our forms probabty	(22)	A. That's no formal medical training to become
(23)	took him another hour or \mathbf{so} . And then I interviewed him	(23)	a physician, you're correct.
(24)	the rest of the time.	(24)	Q. You stated, jeez, if not once maybe three or
	Page 45		Page 48
(1)	Q. As I recall from Dr. Copple's testimony 1	(1)	four times in your direct examination that you would be
(2)	believe Mr. Byrom spent 2 total of two hours with nim 1	(2)	remiss if you did no?pay attention to the medical records
(3)	believe his testimony was an nour and ten minutes in	(3)	and particularly opinions of medical doctors.
(4)	testing and 50 minutes in - I throw he used the term	(4)	A. correct.
(5)	"historytaking." In your experience and opinion as a	(5)	Q. Are you aware of what the opinion of Dr.
(6)	psychologist is that an adequate amount of time to express	(5)	Simon is in this case?
Ő	valid results?	(7)	A. Let me look.
(8)	MR. SCOTT: Objection	(8)	O. Have you reviewed his testimony in this
(9)	A. There are -	(6)	case?
(10)	MR. BORELL: Let s put the objection on	(10)	A. I don't think that I've reviewed his
(† 1)	the record	(, ;)	testimony, no; what I have reviewed are some of his
(12)	MR, SCOTT: He has no basis for making	112)	records.
(13)	that assumption, which is what it is going to	(13)	O. Would knowing his opinions with regard to
(14)	be.	(14)	Mr. Byrom's physical injuries be important to you?
(15)	O.Answer that based on your excenence and	(15)	A. Not onty would it be important to me, but I
(15)	training.	(15)	have cited his opinions about Mr. Byrom in my report.
(17)	A 1think just to clarify, you're asking me	(17)	O. Well, you believe that you can get all of
(18)	whether or not I have any reaction whether I have any	(18)	Dr. Simon's opinions simply from reading his medical
(19)	knowledge of how long it takes to psychologically examine	(19)	records, si?
(20)	somebody?	(20)	A. The question d whether i can get all o f
	Q. &sed on your training and expenses		someone's opinions in any way is really a very difficult
(21)			one to answer.
(22)	A. 1 think that 1 do have an opinion about	: 22)	
	A. I think that I do have an opinion about that. it's really a two-part opinion the first part is that it would be very unusual for him to = lor Mr. Byrom	23	O. So would it be - A I'd have to say. No, that I can't get all of

BSA	BYROM, ET AL. V. SCHNEIDER NATION	AL	CHRISTOPHER LAYNE, PH.D., 9-1-94
	Page 49		Page 52
(1) (2)	someone's opinions really in any way. O. Otherthan listening or reading their	(1)	
(3)	testimony on that subject, correct, sir?	(2)	A. Well, again, you seem to be asking me to give you a medical opinion now.
(4)	A. I don't mean to quibble, but to claim that	(4)	Q. No , i'm asking you if the basis of your
(5)	you now have all of someone's opinions is a rather bold	(5)	psychological opinion is tha!all the medical tests were
(6)	statement to make. There's always something more that a	(6)	normal. I'm simply trying to point out to you, in fact,
(ī)	person could say, and that's what I mean. O.lsn't it equally as bold to come to opinions	(7)	you're making an invalid assumption.
(8) (9)	based Onassumptions and reading between the lines from a	(8) (9)	A. I guess I stand ready to see the document that reports an abnormal medical test; it's as simple as
(10)	medical doctor's records?	(10)	that. I haven't seen such a document.
(11)	A. I don't think that's an accurate	(11)	O. Are you aware of Or. Simon's testimony in
(12)	characterization of what I did. I think my activities	(12)	this case that Mr. Byrom was. in fact, injured in this
(13)	were much more straightforward than that. I simply read	(13)	vehicular collision in April cf 1989?
(14)	his notes and his letters on this case. O.Are you trying to tell us in this case that	(14) (15)	A. That sounds familiar.
(15) (16)	Mr. Byrom was not injured in this cmsh?	(15)	O.Are you aware that. in fact. Dr. Simon stated in his testimony that Mr. Byrom improved mildiy
(17)	A. That appears to be the case according to	(17)	over what amounted to a three-yeartime?
(18)	several physicians' tests, yes.	(18)	MR BORELL Objection. i don't think
(19)	Q. Wait a minute. According to several	(19)	that accurately characterizes Dr. Simon's
(20) (21)	physicians' tests; you're now interpreting medical tests to come to your opinion. sir?	(20)	testimony. MR. SCOTT: I believe we'll find it on
(21) (22)	A. No. No. I'm simply saying that physicians	(21)	page 25 of Dr. Simon's deposition.
(23)	have reported normal medical tests.	(23)	A. I'm not aware of that.
(24)	O. In all respects with regard to Mr. Eyrom?	(24)	Q. Are you aware Or. Simon has diagnosed Mr.
	Page 50		Fage 53
(1) (7)	A. Yeah; Isaw no evidence of tests showing any physical disorder.	(1)	Byrom as having a permanent injury as a result c this vehicular collision?
(2) (3)	O. Sir, do you know what is entailed in an	(3)	A. No: i am not aware σ that. I am aware of
(4)	orthopedic examination of a patient?	(4)	many of the things that he wrote, however.
(5)	A. No.	(5)	O.Are you aware oi the fact that Dr. Simon's
(6)	OWhat medical tests are you talking about	(6)	opinion in this case is that Mr. Byrom can no longer drive
(7) (8)	other than I thinkyou referred to an x-my and an MRI? A. RigM. Yeah. A normal x-ray, a normal	(7) (8)	a truck for a living due to his injuries? A. That sounds familiar.
(9)	spine MRI and a normal neurological exam.	(9)	Q. Are you aware - and you spoke about this on
(10)	O. Well, what do these physicians report	(10)	direct examination, disability. Do you have any idea as
(11)	concerning limited range of motion for Mr. Byrom?	(11)	to how an orthopedic surgeon or medicai doctor arrives at
(12)	A. They report that he shows a limited range of	(12)	a rating of disability?
(13)	motion. Q. Do you know what diagnostictest they	(13)	A. I have some idea, yeah.
(14) (15)	performed upon him to reach that opinion?	(14) (15)	C. And, in fact, I think in your direct examination you made mention of the fact that in your
(16)	A. No, I don't.	(16)	opinion – and I think you're making an invalid assumption
(17)	O. So it would no: be fair to say that all his	(17)	again, but in your opinion Mr. Byrom was ten percent
(18)	medical tests are normal then, are they?	(18)	disabled as a result of his Korean Wargunshot wound, but
(19)	A. Well, if you want to define, for example,	(19)	only six percent at the time Dr. Simon saw him.
(20) (21)	grasping someone's arm and rotating it and having him <i>not</i> rotate his arm fully, if you want to call that a medical	(20)	A. That is my testimony. O. And you believe that's accurate?
(22)	test, then of course I'd have to shift my answer, but I	(22)	A. Yes.
(23)	sort of regard that as an informal procedure.	(23)	O. Tell me, what is your understanding as to
(24)	Q. What did the orthopedic surgeons call them,	(24)	how an orthopedic surgeon would arrive at a disability
	Page 51		Page 54
(1) (2)	Sir? A. Idon? know.	(†) (2)	<i>ratingfora particular injury</i> ? A. Again, I want to remind you that earlier you
(3)	O. Do they not have specific names for some of	(3)	asked me if I had any idea how they come to a disability
(4)	these tests?	(4)	rating, and my answer is, Yes, Thave some idea.
(5)	A. I believe that they have specific names for	ත	O. Well, tell us your idea.
(6)	some bodily manipulations, yeah. O. What about muscle spasm; what do the recoids	(6)	A. I believe that the process is somewhat subjective. The physician examines the person's various
(7) (8)	show as to muscle spasm?	(7) (8)	body parts and functions and comes to a conclusion as to
(9) (9)	A. Well, there was one person named Hatfield	(9)	what body part - what role a body part plays in he
(10)	who, Ithink, is a physical therapist who reported muscle	(10)	overall functioning of the person and uses that to come to.
(† 1)	spasm in July of 1989.	(11)	some general estimate of the person's percentageof
(12)	O. Ŵell, in fact, isn't ± true, Doctor, that Mr. Byrom received an injection at a trigger point for	(12)	disability. tt's not <i>scientific</i> , it 'stairty subjective, although the rating itself sounds guite objective, six
(13) (14)	muscle spasm specifically?	(13)	percent, ten percent, so on.
(14)	A. Ibelieve he received an injection; I don't	(14)	O. Well, Doctor, are you unaware of the fact
(16)	recall whether it was for muscle spasm or not.	(16)	that these folks reach their ratings of disability by
(17)	Q. Do you know if muscle spasm can be faked?	(17)	usingmanuals and guidelines just like you?
(18)	A. Idon't know.	(18)	A. Usually from the Social Security
(19)	Q. Do you know if muscle spasm is associated	(19)	Administration; yes. I'm aware of that. O.Are you also aware of the fact that each and
(20)	<i>with pain?</i> A. Yes, it is associated with reports of pain.	(20)	every injury is treated separately and that a disability
(21) (22)	Q So if, in fact, muscle spasm was objectively	(21)	is looked a! for a particular part of the body as compared
(23)	found on Mr. Byrom and, in fact, he had an injection at 2	(23)	to disability oft? whole man?
(24)	bigger point for muscle spasm that would no! necessarily	(24)	MR BORELL Objection That evidence

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Page 55(1)is not before the Court(2)A. I am not only aware of that, but would ware(3)to point out to the Court that Dr. Simon's of(4)rating was a six percent rating for the 'Wh(5)O. That's correct, as bearing on this injury(6)A lokay.(7)Q. What injury was Dr. Simon speaking of?(8)A. I believe it was his opinion that the truck(9)What injury was Dr. Simon speaking of?(9)A. I believe it was his opinion that the truck(9)wreck caused that six percent disability whole man to Mr. Byrom's i(11)O. But specifically he was relating that six(12)percent disability whole man to Mr. Byrom's i(13)his neck and shoulder and limited range of m(14)correct?(15)A. That was his belief, that's correct.(16)O. Now, the gunshot wound that Mr. Byrom(17)received was in his left leg?(18)A. Right. Correct.(19)O. Do you believe then or - am I missing(20)something, or do you believe now after going(21)that the gunshot wound be received in lhe Ko(22)injury to his left leg represented a disability fo(23)Byrom of ten percent whole body, and thens(24)auto accident and the six percent lealates to hPage 551A. Your question Is? I heard what you said,(24)but is there a question in there?(25)Q. Yes. I'm suggesting to you that, in fact,(26)M. BORELL. Objection	s disability (3) trying to take all of the medical opinions Into account. /hole body." (4) O.Is the answer to my question that you don't really know and that you werejust assuming when Dr. Simon came to a six percent disability fating that Mr. Byrom (7) somehowhad gone from ten percent down to six? (5) really know and that you werejust assuming when Dr. Simon came to a six percent disability fating that Mr. Byrom (7) somehowhad gone from ten percent down to six? (6) A. No. 1 don't think you're correctly reflecting my opinions here. (7) 0. Well, that's what you report states, and that's what you testified to on direct. (10) 0. Well, that's what you report states that or that 've testified to that. (11) that 've testified to that. (12) A. Idon't agree that my report states that or that 've testified to that. (14) Q. Well, let's read it (15) A. Okay. Go ahead. (16) O. You say in the last paragraph under (17) "Physically disabled before accident. Mr. Byrom's experience in Korea was the most stressful time in his (19) life. While there, enemy gunner shothim in the left leg. (20) Later physician said he was ten percent disabled' (21) MR. BORELL: Which Fage are you on? (22) MR. SCOTT: On 2. <t< th=""></t<>
 A. I am not only aware of that, but would war to point out to the Court that Dr. Simon's 4 rating was a six percent rating for the 'Wh O. That's correct, as bearing on this injury A. okay. Q. What injury was Dr. Simon speaking of? A. I believe it was his opinion that the truck wreck caused that six percent disability; th opinion. D. But specifically he was relating that six percent disability whole man to Mr. Byrom's i his neck and shoulder and limited range of m correct? A. Right. Correct. O. Now, the gunshot wound that Mr. Byrom received was in his left leg? A. Right. Correct. O. Do you believe then or - am I missing something, or do you believe now after going that the gunshot wound be received in the Ko injury to his left leg represented a disability for Byrom of ten percent whole body, and then s auto accident and the six percent Simon fract, the six percent simon initially is incorrect, that I sin suggesting to you that, in fact, the six percent but, in fact, the six percent Simon Mr. Byrom was as io his neck only and had no with his left leg. M. Your question is f Mr. Byrom had had a ten percent disability in his leg, ther either missed it or Mr. Byrom for the size anymore. A. Right. My impression is f Mr. Byrom had had a ten percent disability rating on Mr. Byrom for missed it or Mr. Byrom for the disability in his leg, ther either missed it or Mr. Byrom for the suppose that he could consistently write a report that said. I'm only going to for disability with respect to the accident, and the suppose he could do that; ±rs just I'm not doing that in this report. 	ant (2) Ior him; he's in a different field than 1. I'm simply s disability (3) trying to take all of the medical opinions Into account. /hole body." (4) O.Is the answer to my question that you don't (5) really know and that you werejust assuming when Dr. Simon (5) came to a six percent disability fating that Mr. Byrom (7) somehowhad gone from ten percent down to six? (8) A. No. 1 don't think you're correctly (9) O.Well, that's what you report states, and (11) that's what you testified to an direct. (12) A. Idon't agree that my report states that or motion, (13) that I've testified to that. (14) Q. Well, let's read it (15) (15) A. Okay. Go ahead. (16) (17) "Physically disabled before accident. Mr. Byrom's (18) experience in Korea was the most stressful time in his (19) life. While there, enemy gunner shot him in the left leg. (20) Later physician said he was ten percent disabled" (17) MR. BORELL: Which Fageare you on? (18) MR. SCOTT: On 2. (19) MR. Scott: On 2.
 (3) to point out to the Court that Dr. Simon's of rating was a six percent rating for the 'Wh (4) That's correct, as bearing on this injury (5) A. Ibelieve it was his opinion that the truck wreck caused that six percent disability; to opinion. (11) O. But specifically he was relating that six percent disability whole man to Mr. Byrom's i his neck and shoulder and limited range of m. correct? (15) A. That was his belief, that's correct. (16) Now, the gunshot wound that Mr. Byrom received was in his left leg? (17) O. Do you believe then or - am I missing something, or do you believe now after going that the gunshot wound be received in the Six percent? relates to h. Page 55 (16) A. Your question is? Theard what you said, but is there a question in there? (17) A. Your question is? I heard what you said, but is there a question in there? (18) A. Right. My impression is if Mr. Byrom dia the six percent Simon? (19) Drow as as io his neck only and had not assessment but, in fact, the six percent Simon? (10) Dr. Simon's testimony. (11) A. Right. My impression is if Mr. Byrom had had a ten percent disability in his leg, there either missed it or Mr. Byrom didn't and the would a rake info consideration the prom. (19) Dr. Simon's testimony. (11) A. No. I suppose that he could consistently write a report that said, I'm only going to f disability with respect to the accident, and fashility mating of Mr. Byrom for this automobile accident that he would a rake info consideration the prom injury to the left of the simp of the size of the simp of the percent disability in this leg. (19) A. No. I suppose that he could consistently writh respect to the accident, and fashility with respect to the accident, and fashil	s disability (3) trying to take all of the medical opinions Into account. /hole body." (4) O.Is the answer to my question that you don't really know and that you werejust assuming when Dr. Simon came to a six percent disability fating that Mr. Byrom (5) came to a six percent disability fating that Mr. Byrom (6) A. No. 1 don't think you're correctly (7) somehowhad gone from ten percent down to six? (8) A. No. 1 don't think you're correctly (7) reflecting my opinions here. (10) O. Well, that's what you report states, and (11) that's what you testified to on direct. (12) A. Idon't agree that my report states that or (13) that l've testified to that. (14) Q. Well, let's read it (15) A. Okay. Go ahead. (16) O. You say in the last paragraph under (17) "Physically disabled before accident. Mr. Byrom's (18) experience in Korea was the most stressful time in his (19) life. While there, enemy gunner shothim in the left leg. (19) Later physician said he was ten percent disabled" (19) MR. BORELL: While Hage are you on? (11) MR. BORELL:
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Page 57 (1) Q. Well, Dr. Simon didn't treat anything for	
(1) Q. Well, Dr. Simon didn't treat anything for	<u>(24)</u> Q. Yeeh, why don't we get the whole thing in Page 60
(3) injuries as a results of this auto accident.	(3) many other stressors. Decades before his 4/89 accident he
(4) A. Right.	(4) was rated as ten percent disabled. Then after the 4/89
(5) Q. So when he was asked to assess the	5 accident he complained of pain, but medical tests showed
(5) assessment of those injuries and rate them	no injuries, and his disability rating dropped to six
m disability-wise, why would be consider the lef	eft leg? (7) percent. Meanwhile mental tests
(8) MFI. BORELL Objection; speculativ	
(a) A. I think the problem here is that I want to	 "Disability rating dropped to six percent," highlighted in
(10) be a little more simplistic and state that we	
(11) here who was rated as ten percent disable	we have a man (10) VOUR report, correct?
(2) Korean War; Ithink we can agree on that.	we have a man (10) VOUR report, correct? bled during the (11) K correct
(13) six <i>percent</i> disabled after this accident. I	we have a man (10) VOUr report, correct? bled during the (11) K correct it. He was rated as (12) MR_BORELL: It's not highlighted; it's
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(19) Q. Sc if I understand you correctly, you think	we have a man (10) VOUR report, correct? bled during the (11) <i>k</i> correct it. He was rated as (12) MR BORELL: It's not highlighted; it's I find that (13) highlighted in his copy. o the (14) Mfi. SCOT: That's what I'm talking t know how he (15) about. His highlighted is what's pertinent toot have ekher been (16) to me, and ii's highlighted in his report tan Injury. Idon't (17) sitting on his lap. (18) O. And you highlighted that, correct?
(20) that more appropriately Dr. Simon should have	we have a man (10) VOUR report, correct? bled during the (11) <i>k</i> correct it. He was rated as (12) MR_BORELL: it's not highlighted; it's I find that (13) highlighted in his copy. o the (14) Mfi. SCOT: That's what I'm talking t know how he (15) about. His highlighting is what's pertinent hot have ekher been (16) to me, and ii's highlighted in his report ian Injury. Idon't (17) sitting on his lap. (18) O. And you highlighted that, correct? (19) A. Correct. And I can just add that I think
(21) ten percent disability for which he had no treat (22) Mr. Byrom and then add to that then and con	we have a man (10) VOUr report, correct? bled during the (11) <i>k</i> correct it. He was rated as (12) MR BORELL: It's not highlighted; it's I find that (13) highlighted in his copy. o the (14) Mfi. SCOT: That's what I'm talking t know how he (15) about. His highlighted in his report not have ekher been (16) to me, and ii's highlighted that, correct? (18) <i>O</i> . And you highlighted that, correct? (19) A. Correct. And I can just add that I think nave taken the 120 that statement is absolutely true.
	we have a man (10) VOUr report, correct? bled during the (11) <i>k</i> correct it. He was rated as (12) MR BORELL: It's not highlighted; it's I find that (13) highlighted in his copy. o the (14) Mfi. SCOT: That's what I'm talking it know how he (15) about. His highlighting is what's pertinent not have ekher been (16) to me, and ii's highlighted in his report wan Injury. Idon't (17) sitting on his lap. (18) <i>Q</i> . And you highlighted that, correct? (19) A. Correct. And I can just add that I think rave taken the (21) <i>Q</i> . That, in fact -
A No. Ining don't want to an applete about	we have a man (10) VOUR report, correct? bledduring the (11) <i>k</i> correct t. He was rated as (12) MR BORELL: It's not highlighted; it's I find that (13) highlighted in his copy. o the (14) Mfi. SCOT: That's what I'm talking t know how he (15) about. His highlighted in his report toot have ekker been (16) to me, and ii's highlighted in his report toot have ekker been (17) sitting on his lap. (18) O. And you highlighted that, correct? (19) A. Correct. And I can just add that I think tave taken the (21) O. That, in fact - eatment of (21) O. That, in fact - 00me up with 75 (22) A. In fact he was rated as ten percent
(26) A. NO. Taiso don't want to speculate about	we have a man (10) VOUR report, correct? bledduring the (11) <i>k</i> correct it. He was rated as (12) MR BORELL: It's not highlighted; it's I find that (13) highlighted in his copy. o the (14) Mfi. SCOT: That's what I'm talking t know how he (15) about. His highlighted in his report toot have ekher been (16) to me, and ii's highlighted in his report toot have ekher been (16) to me, and ii's highlighted that, correct? (18) <i>O</i> . And you highlighted that, correct? A. Correct. And I can just add that I think tave taken the (21) <i>O</i> . That, in fact - eatment of (22) A. In fact he was rated as ten percent (23) disabled. then he was rated as six percent disabled.

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		CHRISTOPHER LAYNE. PH.D., 9-1-94
Page 61		Page 64
from tenpercent to six percent, and you believe that's accurate?	(1)	rating?
A. Absolutely.	(2) (3)	A. No. Let me explain it another way that might make it seem clearer. Let's assume that Mr. Byrom
Q. And you believe that based upon some	(4)	has two injuries and again, this is an assumption that
assumption that you've gotten somewhere, that these two	(5)	Ireally don't go along with, but let's assume it. He has
injuries aren't to be treated separate and distinct in	(6)	two injuries; one is to the leg and one -
terms of disability rating?	(7)	Q. Well, there's really no assumption there, is
A Right. O. Okay.	(8)	
A. Yeah. It may be that when the six percent	(9) (10)	A. Well, Idon't know, and I'm not sure it's profitable to get off onto that. Let's just assume that
disability of the whole body - remember, it was a rating	(11)	he has two injuries; one to his leg and one to his cervix.
of the whole body; it may be that the physician made a	(12)	Let's also assume
mistake and that the rating should have been 16 percent;	(13)	O. You mean his cervical spine, not his cervix?
on the other hand, the physician may have been accurate in	(14)	A Okay, cervical spine. Let's also assume
rating his whole body disability as six percent 1 really am much more optimistic about the doctor and believe that	(15)	that his disability rating for his leg injury is ten percent, and that occurred during the Korean War. Years
his rating was accurate. that this person's whole body	(16) (17)	later let's assume that he had an injury to his spine and
disability rating was six percent.	(18)	that that disability rating for that injury was six
O. Doctor, isn't it true that you have no idea	(19)	percent I believe that it's fair and verbally
as to how Dr. Simon came to his disability rating?	(20)	straightforward to say that his disability injury, his
A. Well, no, i think <i>u</i> 's unfair to say I have	(21)	level of disability caused by the first injury was ten
no idea; I have some idea of how those things = Q. Well, what did Dr. Simon do in coming up	(22)	percent; his level d disability caused by the second injury was six percent, and l'further think that it's fair
with the six percent?	(24)	to say that that constitutes a drop in disability rating.
Page 62		Page 65
A. Ithink we've already gone over that; he	(1)	O.Based on what? You think it's fair based
examined Mr. Byrom, probably put him through range of	(2)	on what?
motion studies, asked him a lot of questions about his	(3)	A. I think <i>it</i> 's intuitively obvious, and I m
complaints and came up with this six percent rating probabty using some guidelines from the Social Security	(4)	not sure that Ican explain it any more clearly than that. O. It's intuitively obvious?
Administration, but I'm not sure about that.	(5) (6)	A. Uh-huh. If I had two injuries and one cost
Q. Well, then let's go back to the question I	m	me \$100 to treat and the second injury ten years later
asked you a few minutes ago. If Dr. Simon took the	(8)	$\cos t me $ 50 to treat? $t $ would be fair to say that there
cervical strain injury that Mr. Byrom suffered and used	(9)	was a drop in the price of the cost of the two injuries.
the AMA guidelines and said that cervical strain injury	(10)	And in the same way it's fair to say that a disability
bears a six percen! disability as to Mr. Byrom's whole body, you believe that to be incorrect?	(11)	rating drops from one injury to another.
A. No.	(12) (13)	O.Doctor, if you were asked what it cost to treat the second injury, and that was the question put to
O.Do you believe Dr. Simon should have gone	(14)	you, why would you bother going back to the treatment that
back and added in the ten percent from the leg injury and	(15)	cost \$100? If the question put to you is, What did that
that disability as it bears to Mr. Byrom's whale body?	(16)	second accident, what did that second injury cost you,
A. Agaln, # you're asking me what I think Dr.	(17)	wouldn't you say, \$50?
Simon should have done, I just think that's beyond my level of expertise; I'm not a physician.	(18)	A. Well?it depends on the context. If the
Q. Regardless, your assumption here is based	(19) (20)	person was claiming - if the person was claiming that the second injury was somehow so monumental that it was
upon your report that somehow Mr. Byrom's disability	(21)	disabling, if the person were saying that the second
dropped from ten to six percent in Dr. Simon's eyes?	(22)	injury was so expensive that it caused him to go bankrupt,
A. Right And Istand by that statement.	(23)	It might be Interestingto find out that he had spent lots
_ O. Although you have no idea how Dr. Simon	(24)	more on a previous injury. Remember, we've got to keep
Page 63 .` reached his disability rating?	(1)	Page 56 all this in context. We're now quibbling about six
A. As I've mentioned several times before: it	(1)	percent!ten percent disability.
is incorrect to say I have no idea. I have read Dr.	(3)	Q. İ'm not quibbling about that at all.
Simon's letters and reports.	(4)	MR. BORELL Objection. Let him
Q. Do you know if Dr. Simon took inio	(5)	finish.
consideration any injury to Mr. Byrom's left leg in reaching his disability?	(6)	MR. SCOTT: I don't think he's being real responsive to the last question at this
MR. BORELL Objection. That's	(7) (8)	point anyway, John, but -
speculative. If there's some doubt as to	(9)	MR. BORELL: Let him finish his
what that six percent represents, those	(10)	answer, we'll ie?the Judge decide.
questions should have been asked of Dr.	(† †)	A. The context is that we have a six versus a
Simon.:	(12)	ten percent disability rating. We have a person who was
MR. SCOT, I can read th you what Dr	(13)	sometime in his past rated as ten percent disabled but he
Simon says MR, BORELL: <i>Go</i> ahead and <i>answer</i> the	(14) (15)	kept working: that's probably fairly normal. If you or were ten percent disabled whole body we'd probably keep
question.	(15)	working. It sound like a low figure: it's not 50 percent.
THE WITNESS. Could you repeat the	(17)	It's not 100 percent, it's ten percent. So he did, in
question?	(18)	tact?keep working. Interesting, isn't it, that when he's
MR. SCOTT Yes.	(19)	rated a six percent disabled he doesn't work and he
	(20)	claims that he's totally disabled.
Q. Is it somehow your belief that when Dr Simon assesses the capital injury of Mr. Byrom that be	(21)	O.Well, now you find that interesting, and
Simon assesses the cervical injury of Mr. Byrom that he must include every other ailment or possible disability	(22) (23)	ycu're not an orthopedic surgeon. A. I'm a psychologist,
that Mr. Byrom has in coming up with one disability	(23) DĽ	O.And Dr. Simon testified that that six

<u>esa</u>	BYROM, ET AL. V. SCHNEIDER NATION	<u></u>	CHRISTOPHER LAYNE, PH.D., 9-1-94 XMAX(12)
< [*]	Page 67		Page 70
- (1)	percent injury as il relates to his whole body due to his	(1)	testimony and what we are focusing on right now is whether
(2)	neck ailment is sufficient to not allow him to drive a	(2)	or not there are any medical tests that are abnormal;
(3)	truck for a living	(5)	that's what we're doing.
(4)	A. okay.	(4)	Q. Well, how do you think that Dr Simon gets
(5)	O.Don't you have to rely on the medical	(5)	to an opinion about range of motion without ,performinga
(6)	opinion? I thought you told us you'd be remiss if you	(6)	test?
(\overline{c})	didn't rely on the medical opinion.	(7)	A. Well, I'm not sure about what goes on in Dr.
(8)	A. I've gut to rely on them all. not just one	(8)	Simon's head; I do have to ask, Are we now moving away
(. .)	physician's. And when physicians contradict each other, I	(9)	from the question about whether there are negative medical
(10)	have no move -	(10)	tests or not because Im continuing to assert that the
(11)	O.Let's talk about that right now. Do you	(11)	medicaltests are normally.
(12)	h o w the difference between cervical strain, myofacial	(12)	O.I'm still trying to get an answer to that
(13)	strain, cervicitis, myofascitis? Do you know what those	(13)	question.
(14)	terms mean?	(14)	A You're looking over the records yourself. I
	A. Yes. Although they are outside my area of	(15)	assume you're also searching for a positive medical test.
(15)	expertise, I generally know what they mean.	(16)	O. No, they're here. I'm asking you to find me
(15)	Q. Are they generally equated?	(17)	one where he has said range of motion is normal.
(17)	A. Well, there are - there's some discussion		
(18)		(18)	A. Okay. But again, range of motion is normal;
(19)	in the medical literature about that. Again, this is	(19)	I can only repeat I thought that the topic that we're now
(20)	outside my area of <i>expertise</i> .	(20)	proceeding with is whether or nut h t has any positive
(21)	Q. That's my point.	(21)	medical tests.
(22)	A. Well, if you want to make the point that Im	(22)	Q. Youdon't believe that a limitation in range
(23)	not a physician, If you'd like to make that point again,	(23)	of motion for a cervical spine injury is not a positive
(24)	I'm happy to concede that point.	(24)	physical finding?
	Page 68		Page 71
(1)	Q. Well, if you're not an orthopedic surgeon,	(1)	A. Is your word "positive physical finding," or
(2)	and you haven't read the testimony of Dr. Simon and his	(2)	is your word 'test."
(3)	opinions in this case, and you're not familiar enough with	(3)	O. Look, Doctor we've already wen! through
(4)	these terns to tell us whether they're equatable or not,	(4)	this: orthopedic surgeons test people with injuries using
(5)	how can you say they don't equate?	(5)	numerous types of tests; they have names; you've conceded
(6)	A. A tew points; first -	(6)	that. That's how they test range of motion; that's how
	Q. Well, answer my question first, then you can		
(7)		(7)	they test for muscle spasm; that's how they find trigger
(8)	make whatever points you want.	(8)	points for muscle spasm.
(9)	A. I am somewhat aware of the terms that are	(9)	A. Uh-huh.
(10)	being used: I've mentioned that It's unfair -	(10)	O. Now, Dr. Simon has repeatedly reported range
(11)	O. Well, in fact, turn around to your exhibit,	(11)	of motion for Mr. Byrom as not normal.
(12)	and let's look at it.	(12)	A Okay.
(13)	A. I'd like to finish my answer.	(13)	O.He didn't just make that up; he performed a
(14)	Q. Okay. I'll turn it around while you finish	(14)	test, and those were his findings.
(15)	your answer.	(15)	A. I'm simply saying have seen no such tests.
(15)	A. I am somewhat familiar with the medical	(16)	C. Why don't you look at -
(17)	terms at issue in this case, am familiar enough with the	(17)	A. You want me to find what you assert exists?
(18)	terms to know which are different and which are similar.	(18)	I'm afraid I can't do that Go ahead and show me.
(19)	The records show that the physicians are not in agreement	(19)	Q. Didn't you rely on these records? I thought
(20)	about me physical problems in this case. What I am being	(20)	you would be remiss in not looking at these records 2nd
(21)	asked over and over now in this cross-examination is to	(21)	taking the doctors' opinions -
(22)	focus on one physician's opinions and to somehow take that	(22)	A. Let me make sure what I understand we're
	at face value while ignoring, for example, the negative	(23)	doing now. You want me to find what you assert exists and
(23)			
(24)	medical tests. So that's our problem.	(24)	what lassert does not exist? It's my responsibility to
			Page 72
(1)	O. Well, you already admitted that some of the	(1)	find your evidence?
(2)	medical tests weren't in fact, normal or negative.	(2)	C. Doctor, I think what you're doing now is
(3)	A. No, I have not conceded that,	(3)	you're beating around the bush.
(4)	O. Oh, you believe –	(4)	MR. BORELL If there's something you
(5)	A. I've invited you to produce documents.	(5)	want to show him, why don't you show it to
(6)	O. Why don't you pull out Dr. Simon's, Dr.	(6)	him.
Ő	Rogers' medical reports and tell me what they say about	0	A. Let me –
(8)	their testing in terms \pounds limited range of motion for Mr.	(8)	MR. BORELL: Doctor, we've spent a lot
(9) (9)		(9)	of time on beating a dead horse.
(*)	Byrom	1 (9)	
(10)	Byrom. A Okay Let's just look those up	(10)	Why don't you tust show him what you've
(10)	A Okay. Let's just look those up.	(10)	Why don't you just show him what you've
(11)	A Okay. Let's just look those up. Okay. I'm looking here at the x-ray of the	(11)	got, then we can get on with it.
(11) (12)	A Okay. Let's just look those up. Okay. I'm looking here at the x-ray of the cervical spine; and, of course, as I mentioned, It's	(11) (12)	got, then we can get on with it. BY MR. SCOTT:
(11) (12) (13)	A Okay. Let's just look those up. Okay. I'm looking here at the x-ray of the cervical spine; and, of course, as I mentioned, It's normal. I'm simpty looking for some evidence of some test	(11) (12) (13)	got, then we can get on with it. BY MR. SCOTT: Q. Look at the first date, April 10th, physical
(11) (12) (13) (14)	A Okay. Let's just look those up. Okay. I'm looking here at the x-ray of the cervical spine; and, of course, as I mentioned, It's normal. I'm simpty looking for some evidence of some test that is -that is abnormal. AgaIn, what we're discussing	(11) (12) (13) (14)	got, then we can get on with it. BY MR. SCOTT: O. Look at the first date, April 10th, physical exam.
(11) (12) (13)	A Okay. Let's just look those up. Okay. I'm looking here at the x-ray of the cervical spine; and, of course, as I mentioned, It's normal. I'm simpty looking for some evidence of some test that is - that is abnormal. AgaIn, what we're discussing now is whether or not any medical tests show an abnormal	(11) (12) (13)	got, then we can get on with it. BY MR. SCOTT: O. Look at the first date, April 10th, physical exam. A. The first date, April 10th.
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(11) (12) (13) (14) (15) (15) (15) (17) (18) (19)	A Okay. Let's just look those up. Okay. I'm looking here at the x-ray of the cervical spine; and, of course, as I mentioned, It's normal. I'm simpty looking for some evidence of some test that is - that is abnormal. AgaIn, what we're discussing now is whether or not any medical tests show an abnormal functioning or abnormal results? Here's an attending physician's reports that says the x-ray diagnosis is within normal limits. If eel a little odd looking for something that I don't think exists, but I will do my	(11) (12) (13) (14) (15) (15) (15) (16) (17) (16) (19)	 got, then we can get on with it. BY MR. SCOTT: O. Look at the first date, April 10th, physical exam. A. The first date, April 10th. O. I assume you're looking at Dr. Simon's records, and I assume you can find the first date of examination? A. What is the date of that particular record?
(11) (12) (13) (14) (15) (15) (15) (17) (18) (19) (20)	A Okay. Let's just look those up. Okay. I'm looking here at the x-ray of the cervical spine; and, of course, as I mentioned, It's normal. I'm simpty looking for some evidence of some test that is - that is abnormal. AgaIn, what we're discussing now is whether or not any medical tests show an abnormal functioning or abnormal results? Here's an attending physician's reports that says the x-ray diagnosis is within normal limits. If eel a little odd looking for something that I don't think exists, but I will do my best.	(11) (12) (13) (14) (15) (15) (15) (15) (16) (17) (18) (19) (20)	 got, then we can get on with it. BY MR. SCOTT: O. Look at the first date, April 10th, physical exam. A. The first date, April 10th. O. I assume you're looking at Dr. Simon's records, and I assume you can find the first date of examination? A. What is the date of that particular record? O.April 10th.
(11) (12) (13) (14) (15) (15) (15) (17) (18) (19) (20) (21)	 A Okay. Let's just look those up. Okay. I'm looking here at the x-ray of the cervical spine; and, of course, as I mentioned, It's normal. I'm simpty looking for some evidence of some test that is -that is abnormal. Again, what we're discussing now is whether or not any medical tests show an abnormal functioning or abnormal results? Here's an attending physician's reports that says the x-ray diagnosis is within normal limits. If el a little odd looking for something that I don't think exists, but I will do my best. Q. You believe that Dr. Simon never made 	(11) (12) (13) (14) (15) (15) (15) (16) (17) (16) (19) (20) (21)	 got, then we can get on with it. BY MR. SCOTT: O. Look at the first date, April 10th, physical exam. A. The first date, April 10th. O. I assume you're looking at Dr. Simon's records, and I assume you can find the first date of examination? A. What is the date of that particular record? O.April 10th. A. OI 1989?
(11) (12) (13) (14) (15) (15) (15) (15) (16) (19) (20) (21) (22)	 A Okay. Let's just look those up. Okay. I'm looking here at the x-ray of the cervical spine; and, of course, as I mentioned, It's normal. I'm simpty looking for some evidence of some test that is -that is abnormal. Again, what we're discussing now is whether or not any medical tests show an abnormal functioning or abnormal results? Here's an attending physician's reports that says the x-ray diagnosis is within normal limits. Ifeel a little odd looking for something that I don't think exists, but I will do my best. Q. You believe that Dr. Simon never made reference to muscle spasm or limited range of motion in 	(11) (12) (13) (14) (15) (15) (15) (15) (16) (19) (20) (21) (22)	got, then we can get on with it. BY MR. SCOTT: O. Look at the first date, April 10th, physical exam. A. The first date, April 10th. O. I assume you're looking at Dr. Simon's records, and I assume you can find the first date of examination? A What is the date of that particular record? O.April 10th. A Of 1989? Q. Yes.
(11) (12) (13) (14) (15) (15) (15) (17) (18) (19) (20) (21)	 A Okay. Let's just look those up. Okay. I'm looking here at the x-ray of the cervical spine; and, of course, as I mentioned, It's normal. I'm simpty looking for some evidence of some test that is -that is abnormal. Again, what we're discussing now is whether or not any medical tests show an abnormal functioning or abnormal results? Here's an attending physician's reports that says the x-ray diagnosis is within normal limits. If el a little odd looking for something that I don't think exists, but I will do my best. Q. You believe that Dr. Simon never made 	(11) (12) (13) (14) (15) (15) (15) (16) (17) (16) (19) (20) (21)	 got, then we can get on with it. BY MR. SCOTT: O. Look at the first date, April 10th, physical exam. A. The first date, April 10th. O. I assume you're looking at Dr. Simon's records, and I assume you can find the first date of examination? A. What is the date of that particular record? O.April 10th. A. OI 1989?

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	Page 73	
(1)	Q. Do you see "physical exam"? Do you see	(:
(2) (3)	where it says he cannot rotate to the right or left or lateral bend?	12
(4) (4)	A "Physical exam;" now, let's just stop right	(3 (4
(5)	there. Are you going to - I hope you're going to ask me	15
(5)	whether it is my sense that a physical exam is a medical	(5
(7)	test; is that what we're doing here?	17
(8)	O You don? think that the orthopedic surgeon	(8)
(9)	performs testing during his physical exam of a patient?	(e)
(10)	A. Well, gee. we're getting all balled up here, aren't we?	(10)
(11) (12)	MR. BORELL: I hope this isn't all over	(11) (12)
(13)	the word "test,"	(12)
(14)	Q. I'm trying to figure out what you think goes	(14)
(15)	on in an orthopedic surgeon's office when a patient walks	(15)
(16)	in with complaints like Mr. Byrom. We've already	(16)
(17)	discussed these tests that orthopedic surgeons do that you	(17)
(18)	admit have names, that they perform this testing on patients to find things like range of motion.	(18)
(19) (20)	A Yeah.	(19)
(20)	O.Now you've asked me to find a spot where	(20)
(22)	range of motion is reported.	(22)
(23)	A That's not true: you're mischaracterizing	(23)
(24)	what I've asked-for.	(24)
	Page 74	
(1)	Q. Well, here's what I'm asking you; Does it not say. "April 10th, 1989; he cannot rotate to the right	(1)
(2)	or left or lateral bend"?	(2)
(3) (4)	A. That, it says.	(3) (4)
(5)	Q. Okay.	(5)
(5)	A. The question is whether that's a medical	(6)
(7)	test.	0
(8)	O. Next we have the 19th of April, 1989; Dr.	(8)
(9)	Simon actually prescribes physical therapy or is going to	(9)
(10) (11)	start physical therapy only he hasn't started at this point.	(10) (11)
(12)	A. Okay. He's doing therapy.	(12)
(13)	O. To reduce spasm and increase mobility,	(13)
(14)	correct?	(14)
(15)	A. Where is that again?	(15)
(16)	0. On the 19th.	(16)
(17)	A. The 19th of April, Is that -	(17)
(18) (19)	O. That's what it appears to me to be. A. Iguess – there you go. Okay. Cervical	(18) (19)
(20)	strain, a lot of pain.	((3)
(21)	MR. BORELL: Just so we avoid future	(21)
(22)	probiems, <i>the</i> copy of Dr. Simon's records we	(22)
(23)	have, some of the months were cut off the	(23)
(24)	thing, so you may have a better mpy than we	(24)
	?ace 75	
(1)	have. It was a problem-when I reviewed	(1)
(2)	them. A Okay. Your point is that on April 19th	(2)
(3) (4)	indeed the physician is saying that this man is continuing	(3)
(4) (5)	to complain of pain?	(4) (5)
(5)	O. Well, and he obviously has decreased	(6)
$\overline{(7)}$	mobility because the doctor's going to try to increase it,	0 0
(8)	isn't he?	(8)
(9)	A. Yes. Yes. What that means is	(9)
(10)	O. Well, wait a minute. Wha!it means is	(10)
(11)	whatever Dr. Simon means.	(11)
(12) (13)	A Yeah, Icompletely agree with that. I'm still looking for a medical test, but go ahead.	(12) (13)
(13)	Q. You don't know - is it fair to say you	(13)
(15)	don't know what testing Dr. Simon did to check range of	(14)
(16)	motion or mobility of he neck?	(16)
(17)	A. That would not be fair. For example, here's	(17)
(18)	a statement back in the earlier April 10th note, C-spine	(* 5)
(19)	films were done in the Manchester office, blah, blah,	(19)
(20)	blah, and it says that they're normal. O. You think that's the only thing he did?	(20)
(21) (22)	A. No, but what I'm saying is I think you and I	(21) (22)
(23)	and the Court will agree that that's a medical test	(22)
(24)	Q. Sure	(24)
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	Paçe 76
(*)	A. I'm just looking tor one that's abnormal;
(2)	that's all. I want to continue to assert I am aware of no
(3)	positive medical tests.
(4)	O. Look down here al the bottom of the next
(5)	page, and my copy is cut off, so I can'ttell you what it
(6)	IS .
(7)	A. <i>what</i> date is that?
(8)	O. There is no date, it's cut off or my copy,
(9) (10)	so I can'ttell you what date that is.
(10)	A Does it have Elavil as the first word? <i>O</i> . Yes.
(11) (12)	A. Yes. Igotyou.
(12)	Q. Now, I suppose -
(14)	A. MRI was negative.
(15)	O. Well, let me ask you this question. You see
(16)	in the middle of the paragraph where it says, "However,
(17)	his flexion and his turning to the left are within normal
(18)	limits"?
(19)	A. Yes.
(20)	O. You like that; you say that's a normal 🎽
(21)	finding, a normal test result?
(22)	A. No, I would not characterize that as a test.
(23)	To say that his flexion and turning to the left are within
(24)	normal limits, I wouldn't call that a test.
	Page 77
(1)	Q. Well, how does the orthopedic surgeon test
(2)	that then? I mean, how does he state that?
(3)	A. Ithink the patient tells him 1 think the
(4)	patient comes in and tells him, I'm having trouble moving.
(5)	O. So Vat's your assumption?
(6) (A Yes, and that's an assumption. O. It certainly is.
(7) (1)	A. On the other hand there -
(8) (9)	Q. You've answered my question. I've got you,
(9) (10)	You say you've assumed. I understand what you're saying
(11)	now. You assume that that's just the patient telling the
(12)	doclor that, Yeah. my neck won't tum, correct?
(13)	A. Yeah.
(14)	O. Okay.
(15)	(A discussion was had off the record.)
(15)	O. What age was Mr. Eyrom when this crash
(17)	occurred?
(18)	A. Let me look. I think he was in his - let
(19)	me look.
(20)	A. Hewas born in 1932; his accident was in
(21)	1989, and <i>so</i> by sheer subtraction I come up with his being
(22)	57 years old. The reason i'm a little confused about that
(23)	is that he was described by some of the physicians 2s
(24)	being 53, but it looks like he was 57.
	Page 78
(1)	O. Okay. And throughout his life up to the
(2)	time of this crash wouldn't you say that his employment
(3)	history was good?
(4)	A. Ithink ± was adequate. He had five jobs over the lifetime c his career. That's fine.
(5)	O.In fact more importantly he was
(6) (6)	continuously essentially employed from the time he left
(7) (7)	Korea until the time of this crash, correct?
(8) (0)	A. Yes, Ibelieve that's true.
(9) (10)	0. Those stressors you talked about, how many
(10) (11)	of them pre-date this auto accident?
(12)	A. Well, they surround the accident.
(13)	O. I'masking for the ones that pre-date.
(14)	A. Okay. The marital separation was, I
(15)	believe, before the accident.
(16)	O. When? How long before?
(17)	A. Several months. The Jobloss and the new
(* 8)	job predated the accident
(19)	O. Well, in fact, there was no job loss.
(20)	Didn'tMr. Byrom simply change jobs because he wanted a
(21)	shorter route?
(22)	A. Okay.
(23)	O. He wasn't fired or terminated?

O. He wasn't fired or terminated?
 A. Ididn't sav he was fired or terminated.

BSA.	BYROM, ET AL. V. SCHNEIDER NATION	AL.	CHRISTOPHER LAYNE, PH.D., 9-1-94 XMAX, 14)
• 	Page 79		Page 82
(1)	O.He didn't lose a job; what he did was change	(")	related to this accident. Your statement is
(2)	jobs?	(2)	not incorrect. it's j u s incomplete
(3)	A. Okay. We can call it a job change; he left	(3)	MR SCOTT Oh, no, I simply asked
(4)	one job and started another.		this doctor is it his opinion Mir. Byrom does
(5)	O. And that was before the accident7	(5)	not and has never suffered from depression.
(5)	A. Right. So that would be two stressors. His	(6)	And the answer was. That's correct, I don't
(\vec{r})	emphysema, though diagnosed. I think, after the accident	0	believe he ever has
(8)	was obviously - it's obviously a chronic condition that	(8)	Q. Right?
(9)	existed before.	(9)	A. That's correct.
(10)	O. The broken ankle was after, correct?	(10)	MR. BORELL: My objection is not to
(11)	A. Correct	(11)	his answer but to h e way you characterized
(12)	Q. Now, when was Mr. Byrom referred by Dr.	(12)	the question Your statement was true; I
(13)	Simon lor this first time for psychological help?	(13)	would only object it was incomplete in that
(14)	A. I am not sure when the referral was made. I just am not sure, but Ido know that it was months after	(14)	you left out the lack of causal connection. But let's move on.
(15)	the accident in November of '89 that Mr. Byrom first	(15)	
(15)	wanted a psychiatrist because of what he called	(16) (17)	MR. SCOT: Okay. I'm not sure s understand that, but okay
(17)	depression.	(18)	BY MR. SCOTT:
(18)	O. So you don't know when Mr. Byrom first saw a	1	O.But, Doctor, you described Mr. Byrom as
(19)	psychiatrist in relation to some of those stressors that	(19)	slightly depressed on your examination of him.
(20)	occurater ?heaccident?	(20)	A. Well, you'll have to show me where that is.
(21)	A. Well, I think that I can dig that out. Hang	(21)	O. Sure. Look ai footnote 47.
(22)	a. I have him in treatment in November of 1989. Yeah.	(22)	A Okay. Let's see what the <i>context</i> of <i>that</i>
(23) (24)	So it looks like he got treatment roughly seven months	(23) (24)	footnote is.
(24)	Page 80	(24)	Page 83
(1)	after the accident, probably when most of the stressors	(1)	Okay, That footnote number 47 is a
(2)	had taken place and were taking place.	(2)	description of some of the features of people whose score
(3)	O. Well, when was the diagnosis of emphysema	(3)	peaks on what's called the low back pain scale. In other
(4)	made?	(4)	words, that footnote relates to his score on one obscure
(5)	A. November of 1989.	(5)	scale in the MMPI; that scale is the low back pain scale,
(6)	O. Before or after the psychological help?	(6)	which is a kind of hypochondriacal indicator. The
(7)	A. It looked like it would be pretty much	(7)	footnote-
(8)	concurrent with it. Maybe I should rephrase that; <i>that</i> is	(8)	@. Well, let's read ?hefootnote.
(9)	the time when it was noted; I just don't recall exactly	(9)	A. Okay. Well, let me just finish my answer.
(10)	when the emphysema diagnosis was made other than it was	(10)	What that footnote is saying is that the primary problem
(11)	made sometime in the months after the accident. I just	(1I)	with this guy is a hypochondriacal exaggeration of back
(12)	don't recall.	(12)	pain. In addition to that, it's not unusual for people
(13)	O. Doctor, how much do you charge for these	(13)	with hypochondriacal problems to complain of depression.
(14)	evaluations?	(14)	They're wrong to diagnose themselves as depressed, but
(15)	A \$100 an hour for interviewing and report	(15)	they do complain of depression.
(15)	writing, \$40 an hour for records reviewed.	(15)	O. Doctor, footnote 47, the firs?sentence
(17)	Q. So how much have you charged Mr Borell so	(in	reads – and his is you talking, right? This is your
(18)	far in this case up to today?	(18)	footnote?
(19)	A. Ijust don't know, but my guess is that it's	(19)	A. No, that is not correct
(20)	a b u t \$1,000 or so. O. You have no standard charge for a report?	(20)	O. Mr. Byrom seems restiess and slightly
(21)		a:)	depressed but denies geting angry and rarely expresses an
(22)	A. Well, i just described it, it's on an hourly	(22)	opinion.'
(23)	basis.	(23)	A. A is not correct to say that those are my
(24)	O. How much of your income is derived from	(24)	words; it is more correct to say that this is <i>what</i> the
	Page 81	1	Page 34
(1)	evaluations for attorneys?	(1)	book says is associated with that particular scale. O Walt 2 minute: this is what the Sook says.
(2)	A l'd say a b u t an eighth or so .	(12)	
(3)	O.An eighth?	(3)	Mr. Byrom -
(4)	A Uh-huh. This takes into account the fact	(4)	A. Yeah.
(5)	that I'm a university professor, full-time tenured	(5)	Q is like?
(6)	university professor.	(6)	A. No, it doesn't use the word Mr. Byrom.
3	Q. You think an eighth of your income comes	l 0	O. Well, you used that word then, correct?
(8)	from the evaluation of cliams such as this?	(8)	A. Right
(9)	A. Right 'That's of my total income, that's	(9)	O. You used "Mr. Byrom -
(10)	right.	(10)	A. RigM
(11)	O. Was A ever larger than that?	(11)	O seems restless and slightly depressed but
(12)	A. No.	1:2/	denies getting angry and rarely expresss an opinion"? You
(13)	O. Okay. Doctor, do you claim in the cese	(13;	wrote that?
(14)	that Mr. Byrom does not suffer ana has never suffered from	(14)	A. Yeah, but I got it from the book that
(15)	depression?	(*5)	describes that particular scale. The overriding point is
(16)	A. Right. That seems to be clear based on	05	that I don't deny that Mr. Byrom complains of depression;
(17)	testing done by other psychologists and based on my own		he told me during the Interview that he was depressed a
(18)	testing, for example.	(18.	month ago or years ago. The problem is that
(19)	O. Well, another psychiatrist in this case did	(13)	hypochondriacs often report depression.
(20)	diagnose depression for Mr. Byrom after this crash. didrit	60	O. Well, you wrote that.
(21)	he?	~	A. They're not depressed. but they report it. Q You wrote. Doctor, "Mr Byrom seems restless
(22)	A. Yes.	62) (12)	and slightly depressed "
(23)	MR BORELL Objector Whee mats	روی اوی	A. Yeah, and I stand by that: he seems that
(24)	true Mickey, that doctor did not cause it	24	אין איזא איזא איזא איזא איזא איזא איזא א

BSA	BYROM, ET AL. V. SCHNEIDER NATIONA		CHRISTOPHER LAYNE, PH.D., 9-1-94 XMAX(15)
	Page 85		Page 88
(1)	way. That's a far cry from being that way or from having the diagnosis of depression.	(1)	the defense?
(2) (3)	 Isn't it a far cry from how you described 	(2) (3)	 A. Of the seven?prokabty five defense and two plaintiffs.
(4)	him earlier?	(a)	Q. Of the five defense cases, on how many did
(5)	A. No.	(5)	you reach a diagnosis of somatoform pain disorder or pain
(6)	O. You descnbed him as very happy, laughed at	(6)	disorder?
(?)	your jokes, whatever.	0	A. I don't really know. You're now asking for
(8)	A. Right.	(8)	a highty specific set of information. I can say this,
(9)	O. Then in footnote 47 you tell us he seems	(2)	that 1 probably diagnosed it in least some of the - I
(10) (11)	restless 2nd slightly depressed. A. Right. But as I told you, that footnote	(10) (11)	mean, I diagnose that fairly frequently, and the reason is that often in litigation the whole issue is whether or not
(12)	relates to his score on one subscale of the MMPI; that's	(12)	the person is being hypochondriacal. That's really the
(13)	clear If you have the report in front of you. The	(13)	dispute. So the number of people that have
(14)	footnote -	(14)	hypochondriacaldisorders in the population of litigants
(15)	Q. It's not clear. You write "Mr. Byrom seems	(15)	Is really quite high.
(16)	restless and slightly depressed but denies getting angry	(16)	O. Let me ask you another question about the
(17) (19)	and rarely expresss an opinion." Now, did you get that fromhim, or did you ge! that in a combination from asking	(17)	evaluation that you did. Are you claiming, jus! so I understand <u>#</u> correctly, that Mr. Byrom suffers from some
(18) (19)	him questions and observing him?	(18) (19)	psychological disorder that you call somatoform pain
(20)	A. Maybe the answer to that question would be	(20)	disorder?
(21)	made clearer it we just read on on the footnote. If we	(21)	A Correct. Well, I don't call it that, the
(22)	continue to read on the footnote it says, 'Often Mr. Byrom	(22)	DSM calls it that.
(23)	tries to cover up inadequacies and insecurities." Then I	(23)	Q. But you've called it that for us today;
(24)	put, "An MMPI expert summarized that, 'a high low-back	(24)	that's your diagnosis?
/45	Page 85 pain sco re suggests psychologicalfactors may be	/45	Page 89 A. It is my diagnosis drawn from the manual,
(1) (2)	preeminent in reported low back pain."	(1) (2)	that's right.
(3)	O.I understand all that.	(3)	Q. And you believe that the cause of that
(4)	A. okay.	(4)	condition is Mr. Byrom's childhood?
(5)	Q. Explain to me why you wrote "Mr. Byrom seems	(5)	A Yes, and his stressors surrounding this
(6)	restless and slightly depressed but denies getting angry	(5)	accident.
(7) (8)	and rarely expresss an opinion." You wrote that? A. You are correct that I wrote that. I took	(7) (8)	O. Obviously ?heaccident is one of those stressors?
(8) (9)	it from a book that describes his scale score on one	(9)	A. Well, Idon't know that that's obvious. We
(10)	obscure scale on the MMPI. The report makes that clear.	(10)	have a man who was in an accident, got out of his truck,
(11)	Q. Well, why would you write that Mr. Byrom	(11)	looked around for the driver, changed his clothes, drove.
(12)	seems restless and slightly depressed if you didn't feel	(12)	At worst it was a minor stressor.
(13)	that was true?	(13)	C. Well, you listed it as a stressor.
(14)	A Because i did feel that it was true. But	(14)	A. Well , I have said over and over that even
(15)	it's a tar cry from diagnosing depression to say that	(15)	assuming that he really was injured, it's not much of a stressor. And as I've said before, that's a dubious
(16) (17)	someone seems slightly depressed. That's not a diagnosis d depression.	(16) (17)	assumption.
(15)	Q. No! only is it not a diagnosis, I guess, but	(18)	O. Well, let's thinkabout that for a second.
(19)	It's wholly contradictory from what you've written	(19)	First of all, you've got a fellow who's on a new job,
(20)	earlier.	(20)	right?
(21)	A. The Court will have to decide it I described	(21)	A. Uh-huh.
(22)	some person as seeming slightly depressed, the Court will	(22)	0. Somebody crashes into his company'struck.
(23)	have to decide whether that is tantamount to diagnosing	(23)	A. Okay. C. Is that a stressor?
(24)	them with a mental illness of depression. Page 87	(24)	Page 90
(1)	O.Let's look at your MMPI scale.	(1)	A. Yes, it's somewhat stressful.
(2)	A. Okzy.		O. He gc! hurt.
(3)	Q. Go to that graph where you have both yours	(3)	A. <i>That's</i> a dubious assumption.
(4)	and Dr. Copple's.	(4)	O. That's Dr. Simon's opinion, he got hurt
(5)	A Okay. I've got it right here.	(5)	A. Okay.
(6) (7)	Q. Results. You're now looking at if? I see in both instances a score on depression greater than	(6)	Q. I thought we would be remiss if we didn't take into consideration the medical doctors' opinions.
(7) (8)	normal range.	(7) (8)	A. That is correct; we would be remiss it we
(0) (9)	A. True.	(9)	focused on one physician's opinion and ignored the medical
(10)	O. You scored Mr. Byrom greater than normal	(10)	tests, for example, and ignored the other opinions. We
(11)	range on depression as well as Dr. Copple, correct?	(11)	would be remiss if we did not do that
(12)	A. That's correct. And there's one scale	(12)	O.What medical doctor ever said Mr. Byron
(13)	higher than those, and that is hypochondriasis.	(13)	wasn't hurt in this accident? A. Well, while it is difficult to answer that
(14)	O. How many cases this year, let's say this past year, a year from today back, have you reviewed?	(14) (15)	question because I suppose you'll ask me to come up with a
(15) (15)	Legal claims like this	(15)	"medical test" showing no injuries, and so that would be
(15) (17)	A. During the year 1994, maybe eight. No,	(17)	an example of a physician's failure to find an injury.
(18)	maybe ten, 15, something like that.	(18)	O.Eo you know what a sol tissue injury is?
(19)	Q. How many of them have Seen personal injuries	(19)	A. Yes.
(20)	like this? Is that the eight or tenyou're talking about?	(20)	Q. Do you know tha!, for example, an x-ray will
(21)	A. Most of them, say = let's settle on the	(21)	no! show a so:! tissue injury?
(22)	figure of 12, then I'll say that maybe seven of those are	(22)	A. Yes. O. Do you know that orthopedic surgeons will
(23) (24)	personal injury cases. O Of those seven, how many were you hired by	(23) (24)	0, Do you know that orthopeans surgeons will routinely say, It is d no significance to me that this
<u>(2</u> 4),	o or mose outon, not many word you meet by	12.4)	requirer day, it is at the digrandation to the diate this

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 (15) MMPI and Dr. Copple's results on MMPI, is it no! true that (15) Dr. Copple's finding and opinions are entirely (17) supportable? (17) supportable? (17) supportable? (17) copple's findings on MMPI and (17) gover support and round about the fact that in my opinion accident was not a stressor - (18) A. Would you ask that question again. please. (19) Q. Yes. Dr. Copple's findings on MMPI and (19) yours were quite similar? (20) A. That is correct (21) A. That is not true that Dr. Copple's findings 			1	
(15) Dr. Copple's finding and opinions are entirely (15) occurred, it just seems to me that the accident pales in comparison with the other stressors at work. But we've gone round and round about the fact that in my opinion accident was not a stressor - (17) Q. Yes. Dr. Copple's findings on MMPI and yours were quite similar? (15) gone round and round about the fact that in my opinion accident was not a stressor - (20) Yours were quite similar? (21) A. That is correct (21) A. That is correct (21) (22) Q. Is it not true that Dr. Copple's findings (12) (22) Well, I've said over and over, looking at it				
(17) supportable? (17) comparison with the other stressors at work. But we've (18) A. Would you ask that question again. please. (15) gone round and round about the fact that in my opinion (19) Q. Yes. Dr. Copple's findings on MMPI and (19) accident was not a stressor = (20) yours were quite similar? (20) O Well, you've hsted i! as one (21) A. That is correct (21) A That is not true that Dr. Copple's findings (22) Q. Is it not true that Dr. Copple's findings (22)				
(18) A. Would you ask that question again. please. (13) gone round and round about the fact that in my opinion accident was not a stressor - (19) Q. Yes. Dr. Copple's findings on MMPI and yours were quite similar? (19) accident was not a stressor - (20) yours were quite similar? (20) O Well, you've hsted il as one (21) A. That is correct (21) A -that was significant (22) Q. Is it not true that Dr. Copple's findings (22)			1	
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(21) A. That is correct (2) A - that was significant (22) Q. Is it not true that Dr. Copple's findings (2) Well, I've said over and over, looking at it			1	
22) Q. Is it not true that Dr. Copple's findings Well, I've said over and over, looking at it			1 1 1	
(23) and opinions are, in radi, dure sublivitable from the state state in the worst light, even if he were injured, it still		and opinions are. In fact, quite supportable from the	22	In its worst light, even if he were injured, it still
(23) and opinions are, in fact, quile supportable from the construction of the worst light, even if the were injured, it still (24) record?	(24)			

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	Page 97	Page 100
* (*)	Q. Well, you keep coming back to "Even if he	(1) A That's right. That's <i>what</i> hypochondriasis
(2)	were injured,* yet you-have the only testimony in this	
		(2) Is.
(3)	case and, in fact, you have the diagnoses listed in your	(3) O.It isn't that he may feel he s hurt worse
(4)	report; everyone, every medical doctor who saw him after	(4) than he really is?
(5)	this accident (elt he was injured, correct?	(5) A. You can also have a hypochondriacal
(6)	A. I think so. I think they diagnosed - well,	(6) problem –
$\overline{(7)}$	they give him a physical diagnosis, that's for sure.	σ O. Which is it /or him -
(8)	O.Of an injury?	(8) A. – following that.
(9)	A. Some kind of problem, chronic pain or	(9) Q. Which is it for him given the fact that we
(10)	whatever.	(10) know the medical doctors felt he was injured?
(11)	0. And they began treating it?	(11) A. ft's hard to say. There is contradictory
(12)	A. Yes.	(12) physical evidence with physicians giving different
(13)	O.Now, in terms of this accident, jus! having	(13) diagnoses and medical tests being normal. We've gone
(14)	the accidentitself was a stressor, starting this new job.	(14) round and round about that. So I'm left realty not
(15)	somebody crashes into the company's truck, correct?	(15) entirely sure whether or not he was physically injured,
(16)	A. Well, yeah. I mean, It's not stress-free.	(16) and If so, what the extent was. But it's clear to me that
(17)	It's not a significant stressor.	(17) regardless of that issue, he does have hypochondriacal
(18)	Q. The injury is a stressor?	(18) problems, and that those are the primary influence on his
(19)	${f A}$. If there were an injury, that would be a	(19) disability now; they are big problems. Let me put it to
(20)	stressor.	(20) you another way; I continue to assert that all medical
(21)	Q. The treatment in going to the doctors all	(21) tests that I'm familiar with are normal. I also want to
(22)	the time is a stressor?	(22) compare that with these issues here, with these tests
(23)	A. For him, I don't think <i>so</i> .	(23) results here, the psychological tests, and assert that
(24)	Q. The inability to work is a stressor?	(24) these are clearly abnormal. The testing shows a clear
(24)		
	Page 98	Page 101
(1)	A. For him, I don't think so .	(1) psychological problem; medical tests don't show a clear
(2)	O. Failing financial condition is a stressor;	(2) do not show a clear physical problem. So we know he's got
(3)	is it not?	(a) a psychological problem, and we know what that problem is.
(4)	A. That could be, yeah, as a result of not	(4) O. In fact, he's elevated in three different
(5)	working.	(5) levels: depression, hysteria and hypochondriasis?
(5)	Q. All those things stem from this auto	(5) A. With hypochondriasis as a peak. That's true
(7)	accident?	(7) for the two MMPIs and for the Personality Assessment
(8)	A. Well -	(8) Inventory. His sole elevation is somatic complaints,
(9)	MR. BORELL: Objection. That is nut	(9) which is a hypochondriacal scale, and keeping in mind he
(10)	the testimony, but go ahead and answer.	(10) does not have depression.
	A. L is not my testimony. When you -	
(11)		(11) Q. Don?you as a psychologist have to rely
(12)	hypochondriacs don't become hypochondriacs because of an	(12) upon the diagnoses and opinions of the medical doctors in
(13)	accident.	(13) this case?
(14)	O. Well, I thought you told us that Mr. Byrom	(14) A Yes. My trouble is I don't know which one
(15)	truly belleves he's injured.	(15) to rety on. They disagree, so I'm left at a loss.
	A. Right	
(16)		
(17)	O. That's the nature of hypochondnasis?	(17) injury with some residuals 2s a result of this automobile
(18)	A. RigM Correct.	(18) accident.
(19)	O.And, in fact, the medical doctors in this	(19) A That is one d the things he's claiming.
(20)	case have testified that Mr. Byrom was injured.	(20) He's also claiming that the automobile accident caused him
(21)	A. Having not seen their testimony, you know, I	(21) to begin to faint two years after the accident.
	don't know what to make of that statement.	
(22)		
(23)	O. Well, do you want to read it?	(23) A Ibelieve so.
(24)	A. I will read if it you would like for me to.	24) Q. You believe tha! his urological complaints
	Page99	Page 102
(4)	Q. I thought we already wen! through that.	(1) and sexual dysfunction, Youthink he relates that to his
(1)	Were you aware Dr. Simon testified he was injured, that	
(2)		(2) automobile accident?
(3)	his injury was permanent? Certain& you know we Le	(3) A. Yes. In fact, <i>that's</i> what he told me
(4)	discussed the percentage of disability.	(4) during -
(5)	A Lord, yes.	(5) O. Where does it say that in any of your
	Q. So Dr. Simon must obviously believe there	(5) records?
(6)		
Ś	was an injury there, doesn't he?	(A brief recess was taken.)
(8)	A. Well, you're asking me to – your question	(8) O. The last question was where in your - in
(9)	asks me, Do I accept his description or his testimony.	(9) fact you have no notes, do you, Doctor? You have this
(10)	I'm a little at a loss how to respond to <i>that</i> I have not	(10) <i>report?</i>
	read his testimony; I'm not aware of it.	(1) A. The report is the notes. I took the
(11)		
(12)	Q. Doctor, areyou aware Dr. Simon felt	(12) information directly into the report. <i>That's</i> part of our
(13)	certainty that Mr. Byrom was injured, and you're certainly	(13) new computer age.
(14)	aware he assessed a disability rating to Chat injury?	(14) O. Where, anywhere in here does Mr. Byrom
(15)	A. Yes, based on the record of him I got	(15) relate either of those two injuries we just discussed, the
	O. You used those -	(15) urological problems or the fainting problems, to this
(16)		
(17)	A. Yes.	(T) incident?
(18)	Q. – in part for your evaluation?	(18) A Remember what I said was that that's what
(19)	A. Yes.	(19) he - he related these problems to - when he was talking
(20)	O.Correct?	(20) with me, he related them to the accident. And so I'm not
(21)	A. Lunderstand that.	(21) sure how to answer that question other than to say that
(22)	Q. Are you telling us that in your opinion the	
(23)	hypochondriasis is something that wherebyMr Byrom really	(23) O But theres no note of that anywhere here,
(24)	wasn't hurt but thinks he is7 .	(24) is there?
A /		

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Page 107

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	Page 103	(22)
(†)	A. Well, at the beginning of the report I state	
(2)	that Igot his - I got the information about his history	(23)
(3)	from two Sources , and they are the documents and <i>what</i> he	(24) My commission e
(4)	told me.	() , .
(5)	Q. But you're claiming now even though it's not	
(5)	in your report that you believe Mr. Byrom is relating	
	those two problems to this accident?	
(M)	· · ·	
(8)	A Yeah, that was my recollection. I mean,	
(9)	it's not an important point; whether he did or he didn't	
(10)	is not important He is complaining of blacking out two	
(11)	years after the accident The complaints seem to be	
(12)	expanding and increasing in odd ways, which is fairly	
(13)	typical of a hypochondriacal problem. But As not that	
(14)	Important whether he relates it to the accident or not.	
(15)	O.How old is Mr. Byrom now?	
	A. Well, having been born -	
(16)	Q. Sixty-three?	
(17)		
(18)	A in 1932 - yeah, it sounds like he would	
(19)	be about 63. Yeah.	
(20)	Q. Isn't it true that you're the only person	
(21)	testifying in this Case concerning Mr. Byrom's	
(22)	psychological condition that is going to say he's not	
(23)	suffered from depression?	
(24)	MR. BORELL: is that limited just to	
(****)	Page 104	4
(1)	psychologists?	
(2)	MR. SCOTT: Yes.	
(3)	MR. BORELL The two of them?	
(4)	MR. SCOTT: Yeah.	
(5)	A. That appears to be true, yeah, me versus	
(6)	-some other guy.	
(7)	O. Well, actually, Dr. Craig diagnosed	
(8)	depression.	
(9)	A. It often happens with people that have	
(io)	hypochondriacalproblems.	
(11)	O. Well , he's a psychiatrist.right?	
(12)	MR. BORELL: He's a psychiatrist.	
(13)	Q. Doctor, has your license to practice	
(14)	psychology ever been revoked, restricted in any way?	
(15)	A No.	
	Q. Has the Ohio State Board of Psychology ever	
(16)		
(17)	investigated you in your license?	
(18)	A. No.	
(19)	O. Do you know if you're presently under	
(20)	investigation?	
(21)	\mathbf{A} have no such knowledge.	
(22)	MR SCOTT : Okay. <i>That's</i> all have.	
V3i	MR. BORELL: Doctor, when this is	
(24)	transcribed you have the right to review it	
	Page 105	
(†)	and sign it can tell you there won't be	
(2)	time to do that, but you do have the right	
(3)	to waive it also .	
(4)	ME WITNESS: I waive.	
(5)	(Deposition concluded and witness	
(6)	excused at 2:56 p.m.)	
m		
(17)	(Signature Waived)	4
	Page 106	
(1)	CERTIFICATE	
(2)	I, Tracy L. Spore, a Notary Public and Registered	
	Potessional Reporter within and for the State of Ohio,	
	duly commissioned and qualified, do hereby certify that	
	the within-named witness, was first duly sworn to testify	
(5)	the truth, the whole truth and nothing but the truth in	
	the cause aforesaid; that the testimony then given was by	
	me reduced to stenotype in the presence of said witness	
	and afterwards transcribed; that the foregoing is a true	
	and correct transcription of h e testimony so given as	
• •	aforesaid.	
(12)	I do further certify that this deposition was taken	
	at the time and place in the foregoing caption specified.	
(14)	I do further certify that I am not a relative,	
	counsel or attorney of any party, or otherwise interested	
(16)	in the event of this action	
(17)	IN WITNESS WHEREOF, I have hereunm set my	
hanc	1 and	
(18)	affixed my seal of office a; Toledo. Ohio, on this	
• •	day of 1994	
(21)		

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