IN THE COURT OF COMMON PLEAS

OF CUYAHOGA COUNTY, OHIO

CHERYL OLA AND KENNETH OLA,

Plaintiffs,

vs. Case No.

MICHAEL MACFEE, M.D., 152815

MAC DONALD ASSOCIATES, INC.,

T. HEYMAN, M.D., and UNIVERSITY

HOSPITALS,

Defendants.

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Deposition of MICHAEL MACFEE, M.D., the Defendant herein, called by the Plaintiffs for examination under the statute, taken before me, Vivian L. Gordon, a Registered Professional Reporter and Notary Public in and for the State of Ohio, pursuant to agreement of counsel, at the offices of Don C. Iler, Esq., 1640 Standard Building Cleveland, Ohio, on Thursday, February 1, 1990 at 3:00 o'clock p.m.

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APPEARANCES:

On behalf of the Plaintiffs:

DON C. ILER, ESQ.

NANCY ILER, ESQ.

1640 Standard Building

Cleveland, Ohio 44113

696-5700

On behalf of the Defendant Macfee and MacDonald Associates:

Jacobson, Maynard, Tuschman & Kalur, by, SUSAN M. REINKER, ESQ.

100 Erieview Plaza - Fourteenth Floor

Cleveland, Ohio 44114

621-5400

On behalf of the Defendants Heyman and University Hospitals:

Reminger & Reminger, by

THOMAS KELLY, ESQ.

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PG LN [Ngl]OLA-MACFEE 2-1-90 VG **---COMPUTER INDEX---**

PG LN BY-M*

3 7 MICHAEL MACFEE, M.D. **BY-MR.** ILER: MR. ILER:

PG LN MARK'D

4 22 Exhibits 1 and 2 were mark'd for purposes of
23 23 Exhibit 3 was mark'd for purposes of
74 9 Exhibit 4 was mark'd for purposes of
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107 24 Exhibit 9 was mark'd for purposes of

PG LN AFTERNOON-SESSION

PG LN **---THIS INDEX IS RESEARCHED** BY COMPUTER---

MICHAEL MACFEE, M.D., of lawful age, called for examination, as provided by the Ohio Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, deposed and said as follows:

EXAMINATION OF MICHAEL MACFEE, M.D.

BY-MR. ILER:

MR. ILER: Let the record reflect that we are taking the deposition of Dr. Macfee by agreement. The deposition is being taken as on cross-examination, All the parties to the deposition have been notified.

Q. Doctor, for purposes of the record, will you give us your full name and spell your name for us.

A. Michael, M I C H A E L, Scott, S C O T T, Macfee, M A C F as in Frank E E, small F.

Q. And may I have your residence address, Dr. Macfee?

A. 150 Aspenwood Drive, Morel-and Hills.

Q. Okay? And do you maintain a private office where you see your patients?

A. I work for University OB/GYN

Specialists as a private office.

Q. And you keep your office at the hospital, I assume?

A. Yes.

Q. You do not have another office with other physicians at another location?

A. No.

Q. All the patients that you see as a specialist in OB/GYN are seen at University, at your office at University Hospitals; is that correct?

A. I do see some patients at the Green Road facility also, University Physicians.

Q. And do you share office space there with anybody?

A. No, it's in the Ireland Cancer Center.

Q. Okay.

(Discussion off the record.)

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(Thereupon, MACFEE Deposition Exhibits 1 and 2 were mark'd for purposes of identification.)

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Q. Dr. Macfee, I had your curriculum

vitae marked as Deposition Exhibit Number 1. Have you had an opportunity to loolc it over? Does it seem to be up-to-date for you?

A. Yes.

Q. Is there any additions that you would like to make to your curriculum vitae, either teaching appointments, articles you have written or any other appointments you may have had since its printing?

A. No.

Q. Then we will have this marked as an exhibit to the deposition. I will not take time to run through your entire medical. education, not that I am slighting your background. I think the curriculum speaks for itself really. If that's okay with you I will just move along.

You are a specialist in the field of medicine, am I correct?

A. Yes.

Q. And just for purposes of the record, tell us what is your specialty? What do you practice?

A. I am a gyn oncology gynecologist.

Q. And what is that?

A. The treatments of cancer of the female reproductive tract..

Q. Does that include the entire reproductive tract?

A. Not including breasts.

Q. How long have you been practicing and treating patients in that specialty?

A. Since 83.

Q. Okay. Are you board certified?

A. Yes.

Q. What is your certification in?

A. I am board certified in obstetrics and gynecology and board certified in gynecologic oncology.

Q. You are presently employed by University Hospitals of Cleveland?

A. No.

Q. Can you tell me who you are employed by?

A. I am employed by University OB/GYN Specialists.

Q. Is that a private corporation of physicians?

A. Yes.

Q. Are you an officer in the

corporation?

A. No.

Q. And who is the president of the corporation?

MS. REINKER: Objection.

A. I don't know.

Q. Do you know any of the officers just by name?

A. I think Dr. Utian is the president.

MS. REINKER: Objection"

A. But I don't know that for sure.

Q. Do you receive a compensation from them on a weekly or monthly basis?

A. Yes.

Q. Okay. Can you tell me how that group, University OB/GYN, interplays with University Hospitals in treating patients?

A. Well, the practice is centered around University Hospitals and the majority of our patients are admitted to University Hospitals.

Q. By other physicians?

A. By myself and by the physicians in that practice.

Q. Okay. Is there any relationship

between the group that you practice with and University Hospitals? Is there an agreement, for example, that you may know about?

A. To my knowledge there is an agreement, but I have no idea what the details of the agreement are.

Q. Okay. And I understand that you maintain an office at University Hospitals for seeing patients; am I correct?

A. Yes.

Q. And can you tell me where it's located in the building or what building, please?

A. I see patients at two locations in University Hospitals. I see patients in the Ireland Cancer Center which is in the basement of the Bowell Health Building and I see patients at the Cornell Road office which is at 2027 Cornell Road.

Q. Okay. Insofar as the space is concerned, where you see your patients, is the space, your office space provided to you by University Hospitals; do you know?

A. I don't understand.

Q. Okay.

A. What you mean by provided for?

Q. In other words, do you know whether or not -- you don't pay any rent to University Hospitals for the office space, the examining table, the examining equipment and all that?

MS. REINKER: Objection.

A. I personally don't,

Q. No. Do you know whether or not your group does or not?

A. No.

Q. You don't know that?

A. No, I don't.

Q. Is there somebody at the group that I could contact without disturbing everybody in the group who would know those kind of details?

MS. REINKER: Objection.

A. Well, I am sure one of the officers of the corporation knows those details.

Q. Can you suggest somebody to me if I need those details?

MS. REINKER: Like he said, he didn't know who the officers were.

A. I don't specifically know who the officers are.

Q. How long have you been working for the group?

A. The group was just established January 1.

Q. Okay. And prior to that time, were you affiliated with. University Hospitals or employed by them?

A. I was employed by MacDonald Hospital Associates.

Q. Okay. And was that true at the time you saw Cheryl Ola in 1986?

A. Yes.

Q. What kind of a group was at MacDonald Hospitals Associates?

A. It was a separate corporation that was affiliated with University Hospitals.

Q. And were you an officer of that group? By that I mean secretary, treasurer --

A. No. I don't think I was an officer. I have no idea.

Q. Okay. And do you know who headed that particular group, which doctor headed that?

A. Dr. Speroff.

Q. Speroff?

A. Yes.

Q. Okay. And at the time you saw Cheryl Ola you received compensation for your medical services from whom, may I ask?

A. Who was I paid by?

Q. Yes.

A. The group.

Q. By the group, University Hospitals Associates Inc.?

A. Yes.

MS. REINRER: Back in 86 you're talking about?

A. In 86 I was paid partly by MacDonald Hospitals Associates and partly by Case Western Reserve University.

Q. How is that? How come Case Western Reserve paid you?

A. I have no idea how it worked.

Q. Did you have to do something for Case Western Reserve to get the compensation?

A. I am on the full-time faculty.

Q. You had to do some teaching, I assume?

A. Yes.

Q. Residents?

A. Yes.

Q. Interns?

A. Yes.

Q. Olcay. Rid you do any other teaching back in 86 aside from the Case Western Reserve Medical School, Cleveland Metropolitan Hospital, Lutheran or any other place?

A. I gave various lectures,

Q. Okay. Can you tell me, if you know, doctor, for Cheryl Ola's medical services that you provided, a bill was sent, I assume, for your medical care and treatment?

A. I don't know.

Q. Okay. Who got paid for Cheryl. Ola's medical care and treatment that you provided?

A. I'm not sure, but I would, I suspect that MacDonald Hospital.

MS. REINKER: Do you know? If you don't know --

A. I don't know.

Q. Well, do you have to turn -- you did a hysterectomy on Cheryl Ola. We Icnow that?

A Yes.

Q. And so when you finished a hysterectomy sometime after that, do you have to fill out a form that says I performed a hysterectomy on Cheryl Ola on November 17 of 86?

A. No.

Q. So I think what your testimony is, is you're not sure how the medical services for Cheryl Ola were billed?

A. Or paid for.

Q. Or paid for or who billed her?

A. No, I don't know.

Q. Okay. Was there a procedure followed at that time that you had to follow insofar as billing for patients that you saw?

A. Patients in the office, yes, there was a procedure,

Q. And what would that procedure be?

A. There was a billing form and you checked a little box what you did and wrote the diagnosis in.

Q. And was the form from MacDonald Associates Inc.?

A. Yes.

Q. Okay. And that would be the last.

you would see of the bill?

A. Uh-huh.

Q. Or the billing procedure?

A. Yes.

Q. Okay. Awhile back I had filed a notice duces tecum to take your deposition. What that means is when we were arranging to have your statement made, given today, I asked for certain things concerning the patient Cheryl Ola and what I asked for was any and all. medical records concerning the care and treatment of Cheryl Ola.

Did you happen to bring those with you?

MS. REINKER: He brought with him the original office chart on the patient. Those were the only things he would have access to.

Q. If that's all you have, I would be glad to take a look at them, if you would, please, doctor.

(Discussion off the record.)

a. Earlier, doctor, you mentioned to me that from time to time you will see patients at the Green Road office, do you recall that?

A. Yes.
Q. It would be University Suburban Health Care Center?
A. Yes.
Q. What office do you use to see patients there?
A. The Ireland Cancer Center offices.
Q. Who owns that or operates that; do you know?
A. I don't know.
Q. And how does that play a part in your practice? Is that part of your assignment to go there periodically or see patients there? How does that work?
A. I see patients there on Wednesday mornings.
Q. And are those patients somebody else's that are referred to you?
A. Yes.
Q. And who refers those patients to you?
A. Other doctors in the community. A patient may be self-referred.
Q. Okay. Before you came here for your deposition today, you met with your

counsel, Susan Reinker?

A. Yes.

Q. And can you tell me what you looked at, what you reviewed concerning the care of Cheryl Ola before coming here today? For example, did you read the complete University Hospitals charts for her admission?

A. Yes, I looked at her chart. I can't say I read the complete chart.

Q. All right. Did you also have an opportunity to read the correspondence from Dr. Sami Harik, the neurologist?

MS. REINKER: There is a letter in his own chart. Are you talking about that?

MR. ILER: Yes.

THE WITNESS: Is that from Harik?

MS. REINKER: I think it was.

Q. Hang on a minute, I will get it for you. I don't want you to testify on something you're not sure about.

What 3 am trying to do is run down all the things you reviewed getting ready for this deposition today so I have an idea..

A. Okay.

Q. And did you have an opportunity to

look at any expert reports Dr. Katirji's report, for example? Did you ever see his reports?

A. I don't know,

Q. Okay. Did you take a loolc at any medical literature, either from textbooks or from medical articles concerning the procedures that were performed on Cheryl Ola?

A. No.

Q. Okay. Did it ever come to your attention that after the suit was filed that what was claimed here was Cheryl Ola was saying that she had a femoral neuropathy as a result of a hysterectomy that was performed? You knew that, of course?

A. I don't know what Cheryl Ola is claiming.

Q. Did you ever see the complaint that was filed, the lawsuit that was filed?

A. I don't remember if I have or not.

Q. Did anybody ever explain to you what this lady is claiming?

MS. REINKER: Objection. 7'm having a hard time myself knowing what this lady is claiming.

A. I don't have a good understanding what she is claiming, no.

Q. Today, this very day, do you have any understanding of why this suit was brought by her against you?

MS. REINKER: Objection.

A. No.

Q. Well, do you think it was because of your care and treatment of her that you gave to her? Do you think that might have been it?

A. I don't know. I don't know why.

Q. Do you know what injury she has claimed?

MS. REINKER: Objection.

A, Not specifically, no,

Q. What about generally? What does she say is wrong with her?

MS. REINKER: Objection. Don, the doctor has no knowledge of these things. This is between you and your client. You have not answered interrogatories yet. How do we know what she is claiming?

A. I don't know.

Q. Pardon me?

A. I don't know what she is claiming.

Q. You don't know?
A. No.
Q. Is it your sworn testimony under oath today, Dr. Macfee, that you don't know what Cheryl Ola is saying; that she had a femoral neuropathy?
A. I am saying that I haven't received anything that I know of that I can remember that I read that on, no, I don't.
Q. Anybody ever tell you this lady is claiming that she has a femoral neuropathy?
MS. REINKER: Objection.
A. I don't specifically recall. anybody ever telling me that the reason I was being sued by Cheryl Ola was because she had a femoral neuropathy, no, I don't remember that.
Q. Is this the first time that you have met with your attorneys?
MS. REINKER: Objection. Dot), would you please proceed to the issues that we are here about today. I mean this is cidiculous. You have not answered interrogatories and you are grilling the doctor because you are --
Q. This is unbelievable to me that the

attorneys that represent you have never told you and you do not know what the basis for this lady's claim is. I mean, I am stunned to hear that as a physician you are telling me that nobody has ever advised you that Cheryl Ola is claiming that she received a femoral neuropathy during the time of the vaginal hysterectomy you performed on November 17, 1986.

MS. REINRER: Objection. Instruct the witness not to answer.

Q. I mean, that's what you are telling me?

MS. REINKER: Instruct the witness to answer, please. bet's move on.

MR. ILER: I want an instruction that the doctor answer that,

MS. REINKER: The doctor has been instructed by his counsel not to answer. If you want to terminate the deposition over that, Line, or move on.

MR. ILER: Would you instruct the doctor to answer that.

THE NOTARY: You are instructed to answer the question.

A. On the advice of my counsel, I

won't answer the question.

Q. Rid you ever receive a copy of the complaint in this case? Do you know what I mean by a complaint?

A. I don't know what you mean by a complaint.

Q. Do you know what suit papers are, lawsuit papers are?

A. I suppose they say lawsuit on the top of them.

Q. Right. You guessed right.

And do you ever recall receiving those papers?

A. I don't specifically recall receiving them, no.

Q. Have you ever been sued before, doctor?

A. Yes.

MS. REINKER: Objection.

Q. And do you remember receiving suit papers then?

A. Yes.

Q. How many times have you been sued before?

MS. REINKER: Note a continuing

objection to this line of questioning,

A. I believe twice,

Q. In this county, Cuyahoga County?

A. Yes.

Q. Are they still pending suits?

A. I believe one is.

Q. Okay. Did you discuss this case before your deposition today with Dr. Sami Harik?

A. I don't know who Dr. Sami Harik is right now.

Q. Okay. Did you ever discuss this case with Dr. Katirji at University Hospitals?

A. I don't recall who Dr. Katirji is either. I don't know.

Q. Did you ever discuss this case, Cheryl Ola's case that's been filed against you with anybody other than your attorney?

A. No.

Q. Did you ever make up a summary of what you believed your care and treatment was of Cheryl Ola outside and in addition to the hospital records?

MS. REINKER: Objection.

A. No.

Q. I notice from your curriculum vitae, doctor, that you have written, you have given some lectures and you have listed those. Have you ever contributed to the medical literature?

A. Yes.

Q. And insofar as your publications are concerned, did any of your publications concern vaginal hysterectomies?

A. I don't think so for sure. There may be a reference, a number eight under publications, there may be a comment about vaginal hysterectomy in that, I don't recall.

Q. Okay. In number eight, are you the author of the Primary Care of Cancer Handbook?

A. No, only one chapter.

Q. Okay. Doctor, can we turn and I will have this marked. I have had your office records photographed and if you can mark those as Exhibit 3.

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(Thereupon, MACFEE Deposition Exhibit 3 was mark'd for purposes of identification.)

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Q. Doctor, I have copied your office records and they are Exhibit Number 3. They run from 3 to 3-V.

And are these all the records that you have in your possession concerning the care and treatment of Cheryl- Ola?

A. Yes.

Q. Okay, And where was this record kept, this file kept for Cheryl Ola?

A. It was kept in my academic office at University Hospitals,

Q. Okay. When did you first see Cheryl Ola?

A. October 14, 1986.

Q. And was she referred to you?

A. I don't recall.

Q. And what was the purpose of her calling you?

A. She came because she thought that she had cancer of the cervix,

Q. Who told her that?

A. I don't know who told her that.

Q. Do your records reflect who the referring physician was?

A. Yes. She was referred by Dr.

Berger.

Q. B E R?

A. No, B U R G E R.

Q. Do you know him?

A. I think it's -- I'm not sure of the spelling. Dr. Berger is the head of the Ireland Cancer Center at University Hospitals.

Q. And then is it my understanding that Dr. Berger then referred her to you?

A. Yes.

Q. Okay.

A. According to my note.

Q. If you want to refer to your notes at any time go ahead and do that,

A. Okay.

Q. And so was a history taken? Did you see this lady then in October?

A. Yes.

Q. And you took a history of her?

A. Yes.

Q. What was your history? What did it consist of?

A. Well, I took a history of her recent surgery and of her period of abnormal PAP smears and a review of her past medical.

history, surgical history, allergies, any medicine that she was on.

Q. What surgery did she just have?

A. She had on 10/7/86, she had a dilatation and curettage in the cervical biopsy.

Q. Okay. And was there something in the cervical biopsy which you understood alerted her to a problem?

A. She said that it showed cancer in the cervical biopsy.

Q. Do you know where that D&C biopsy was done?

A. I believe it was done at St. Alexis, east side.

Q. Okay. And from what I see of your note, which is 3-E for me -- it's this page.

A. Right, I have got it.

Q. I'm looking at it and it says weight 123, BP blood pressure 114 over 78, last LMP menstrual period, and surgery, 10/7/86, still bleeding?

A. Yes.

Q. And did you ever see the biopsy that was taken at St. Alexis Hospital?

A. I never saw the biopsy.

Q. Never seen the biopsy slides?

A. I never saw the slides, no.

Q. A record?

A. Not that I recall the slides. I have seen the report, yes.

Q. What did the record show? Do you have a record here?

A. The report shows a cervical cone showing dysplasia. Focal carcinoma in situ, secratory endometrium.

Q. I am trying to find that, doctor.

MS. REINKER: I think it's only a few pages back. It is the third or fourth page.

Q. And then you conductsed an examination of her and after the examination did you reach a conclusion? Was there a diagnosis?

A. She didn't have a pathology report at that time.

Q. Olcay.

A. With her. And so I asked her to get a copy of her pathology report and send it to me.

Q. And did she do that?
A. Yes.
Q. And she sent you back a pathology report that you just discussed from St. Alexis Hospital?
A. Yes.
Q. And that would be the report, 3-G and it's dated, I believe the date was 10/7/86?
A. Yes.
Q. And it was under the service of Dr. Lee?
A. Uh-huh.
Q. Okay. And what did that -- after you saw this report, you read it and what was your mind set on that? What did you think about it?
A. Well, I thought that she had carcinoma in situ.
Q. Go ahead.
A. And not "cancer".
Q. Say that again,
A. Not cancer.
Q. Noncancerous?
A. No. When she came in she said that she had cancer on her cervical biopsy and there

is a difference between carcinoma in situ and invasive cancer.

Q. And after you read the report you decided she did not have invasive cancer?

A. Yes.

Q. What is carcinoma in situ?

A. Carcinoma in situ is an intraepithelial abnormality where the epithelial cells lose the ability to mature, and it is a neoplastic process in the sense that it grows, but it does not invade.

Q. Is that intraepithelial abnormality sometimes just sluffed of€ without surgery?

A. No.

Q. Okay. After you read the report, did you do anymore testing of her?

A. Not that I recall, no.

Q. Olcay. Can you tell me after you saw this report of St. Alexis Hospital on 10/7/86 what was your diagnosis, CIS?

A. Yes.

Q. What was your treatment? What did you decided to?

A. I called Cheryl back into the office and we talked about what the treatment

options were.

Q. Was she outside waiting while you read it?

A. No.

Q. Just made an appointment for her to come in?

A. Right.

Q. Does your record show when that appointment was made?

A. It was on November 4, 1986.

Q. Okay. And do your notes reflect in any way what you and she discussed?

A. Yes.

Q. And would that be on 3-C of your record?

A. Yes.

Q. Okay. And this is a typewritten note. Cheryl Ola comes back today, She does have a pathology report with her which shows a focal carcinoma in situ. I discussed options of treatment with Mrs. Ola and she requested a vaginal hysterectomy at this time, despite the fact that I told her that there is very little difference in recurrence rate. She is scheduled for a vaginal hysterectomy on J1/37.

That's your note?

A. Yes.

Q. Aside from this note that we have read, which has been marked as 3-C exhibit, were there any other notes about what you and she discussed?

A. Not that I know of.

Q. Can I take you to the note itself that apparently was dictated by you, I assume.

A. The one on 3-C?

Q. Yes.

A. Yes.

Q. And cain we rely on the fact that the note was made by you on 11/4/86?

A. No, I don't know what date I dictated it.

Q. Is it your practice after seeing a patient such as Cheryl to dictate the note as opposed to writing it in longhand?

A. Not necessarily.

Q. Do you know why this was typewritten as opposed to a long hand note?

A. No.

Q. Okay. Underneath the note there appears to be something in a circle that I

cannot make out. Is that your handwriting?

A. Yeah, that's my initial and I initialed the note.

Q. And underneath it says to PT?

A. Yes.

Q. What does that mean?

A. Well, I can't remember but I believe that this second scribble down here was written when Cheryl came for a postoperative check. It says to PT like in physical therapy, back pain, left leg pain.

Q. Okay, And the 11/4/86 note, you have written down she was back today, she does have a pathology report with her and I assume that's the one from St. Alexis then?

A. Yes.

Q. And I discuss options of treatment with Mrs. Ola. What options did you discuss with her?

A. We discussed, the best that I recall, we discussed the fact that she had already been treated by her cone biopsy and that she didn't need further treatment or that vaginal hysterectomy.

Q. And when you say she didn't need

any further treatment, you are you saying that. the cone biopsy itself was sufficient treatment?

A. I thought the cone biopsy may be therapeutic.

Q. It was your medical opinion at that time that she didn't need anymore treatment for the CIS?

A. I told her that the recurrence rate after the cone biopsy was very close to the recurrence rate after the vaginal- hysterectomy. That means the chances of the carcinoma in situ is about as equivalent if you have a cone biopsy or if you have a vaginal hysterectomy.

Q. Which is zero?

A, No, it's not zero,

Q. Well, is there a percentage?

A. The percentage are about three percent for a cone biopsy and about a half percent for a hysterectomy.

Q. You told her that?

A. Yes, to the best of my recollection I told her.

Q. Okay. Let me put it this way. If you had to say under oath exactly what you told

Cheryl, you would be unable to do that with exactitude, but you think that's what you discussed with her?

A. Yes.

Q. Is that about right?

A. I think so.

Q. All right. And after you discussed the options, treatment, your note goes on and says she requests a vaginal hysterectomy at this time?

A. Uh-huh.

Q. Do I understand from that, you correct me, that after you explained to her the recurrence rate as you have described to us, recurrence rate for cone biopsy, recurrence rate for hysterectomy, she chose the hysterectomy?

A. Yes.

Q. At this time, today, is there any reason you can recall why she chose surgery in the light of what appears to be very good statistics for no further treatment?

A. I don't recall the exact words that she used. As I recall the discussion was something about not wanting anymore kids and

providing sterilization.

Q. Okay. Anywhere in the notes that you have those thoughts reflected in writing anywhere by you or is this just a memory that you have?

A. I don't think they are specifically written by me and it may be --

Q. See if you can find anything in your records which might refresh you as to where that information about her choice, especially the sterilization choice might be found.

MS. REINKER: In his office chart now?

MR. ILER: Yes.

A. Here it says under birth control October 14, 1986 on the original thing.

Q. Hang on, doctor, I will find it.

(Pause.)

Q. That would be 3-E?

A. Okay.

Q. Okay, doctor, go ahead.

A. Under birth control it says and doesn't want any. She doesn't want any kids.

Q. Okay. And that would be 3-C, don't

want any?

A. Uh-huh.

Q. That's done in your handwriting?

A. Yes.

Q. How many children had she had by the time she came to you?

A. She had one child.

Q. Aside from the choices on hysterectomy, are there any other choices for sterilization?

A. Yes

Q. What would those be?

A. Tubal ligation.

Q. Okay. Are those reasonably successful?

A. Yes.

Q. You performed them?

A, Yes.

Q. Any other choices for sterilization aside from a hysterectomy?

A. Besides tubal ligation?

Q. Yes. Contraceptives, of course. Is that a form of --

A. It's not a form of sterilization, no.

Q. Birth control, birth prevention?
A. Birth control, there are other types of birth control, yes.
Q. IUD's?
A. There are a lot of types of birth control.
Q. Did you discuss those with her, birth control devices or techniques?
A. I don't specifically recall..
Q. When you discussed hysterectomy with her, did you explain that this was a surgical procedure?
A. Yes.
Q. And she would be placed under general anesthesia?
A. I don't recall specifically telling her general anesthesia,
Q. Okay. During your examination of the University Hospitals records where the hysterectomy was performed by you, when you went through that, did you find a consent form signed by her?
(Pause.)
A. Yes,
Q. Okay. May I see it.

Insofar as the consent form is concerned, we are looking at some hospital records I cannot read real clearly. I think that's in your handwriting. Am I correct?

A. No.

Q. It's not?

A. No.

Q. Do you know what that says?

A. To the best of my ability to read it it says I hereby authorize Dr. Macfee with associates or assistance to perform the following surgical diagnostic or medical. procedure on myself as we have agreed upon. Total vaginal hysterectomy, possible salpingo-oophorectomy, exploratory laparotomy. I can't read the last word here.

Q. Okay.

A, Or words.

Q. And is it your testimony you discussed a possible salpingogram with her and laparotomy?

A. Not a salpingograrn, no.

Q. Okay.

A. Possible salpingo-oophorectomy.

Q. Did you discuss that with her?

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A. Yes.
Q. Did you explain that to her?
A. Yes.
Q. What was your reason for thinking in those terms?
A, To the best of my recollection, I explained that to her.
Q. And how about the other procedure that was mentioned there?
A. Exploratory laparotomy?
Q. Yes.
A. Yes.
Q. What was the reason for that suggestion or thought in your mind?
A. Because whenever you do a vaginal hysterectomy you can't guarantee that the procedure will be completed through the vagina, and if there is a problem then you have to make an incision or exploratory laparotomy to complete the procedure properly.
Q. In removing the uterus?
A. To remove the uterus or control bleeding.
Q. Okay, And what was the date of the consent form?

A. I don't see a date on it.

Q. Can we conclude that there is no date on the consent form for the procedures that you have spoken about?

MS. REINRER: It is stamp dated.

A. Just a stamped date on it 11/17/86.

Q. May I see it for a minute, doctor.

Who is the physician that signed, the signature of physician?

A. I believe that's Steven Waite.

Q. Who is he?

A. Dr. Waite was a resident at that time.

Q. Apparently the consent form has a stamp up on top and it's got the patient's number and then the date is 11/17/86; is that right?

A. Yes,

Q. Okay. Prior to performing the hysterectomy on Cheryl Ola, can we agree to the following statements: That prior to your performing the vaginal hysterectomy, Cheryl Ola had no difficulty with her right or left leg of a neurological nature that you knew about?

MS. RELNRER: Objection.

A. To the best of my knowledge, she did not.

Q. To the best of your knowledge, Cheryl Ola had no femoral neuropathy in either leg prior to the hysterectomy of November 17, 1986; is that true?

MS. REINKER: Objection.

A. That's true. However, there is an interval of time in there which I don't know.

Q. Okay. Can you help me out with that. What do you mean by that?

A. Well, there is an interval of time from the last time I saw Cheryl until I saw Cheryl on the operating table that I have no idea what went on during that interval of time.

Q. What interval would that he from; November 4 until the date of the surgery?

A. I don't specifically remember --

Q. Okay.

A. -- if I saw her on the floor that morning before surgery or not.

Q. Okay. Well, let's take it up to these points in time.

Do you have any reason to believe that from the time that you last saw Cheryl in

the office and discussed with her these options to the hysterectomy until the time yoii performed the surgery, do you have any knowledge that she had an injury or any damage to her femoral nerve?

A. I don't have any knowledge of that, no.

Q. Can we exclude it as a possibility in this case?

MS. REINKER: Objection.

MR. KELLY: Objection.

A. No.

Q. Okay. Do you seriously believe as a physician, doctor, that during the interval of your last visit with Cheryl in November until the time that you performed a vaginal hysterectomy she suffered some kind of an injury to her femoral nerves?

A. I have no data on which to base any reason that she would or would not have.

Q. Okay.

A. To the best of my knowledge.

Q. When you took a history of her did you ever have an lcnowledge of trauma or injury to her right or left legs?

A. No.
Q. Do you know Dr. Tonya Heyman?
A. Yes.
Q. Is she still at the hospital., do you know?
A. I think she is has privileges at University Hospitals.
Q. Okay. Do you know where slie is practicing now?
A. I believe slie is practicing in a small private practice.
Q. In the county?
A. Yes.
Q. Did you read her deposition that we took?
A. Yes.
Q. Do you remember in her deposition she spoke about some medical articles that slie reviewed while Cheryl was in the hospital. and had complained about some femoral problems?
A. Not specifically. Do we have a copy of her deposition?
MS. REINICER: We don't need to.
Q. What I am trying to determine, after reading Tonya Heyman's deposition where

she remarks about literature that she reviewed whether or not she gave you that literature or somebody else gave you that literature to review?

A. Nobody gave it to me, no.

Q. Did you ever review any literature?

A. I have, yes.

Q. Can you tell me what you reviewed, please?

MS. RELNKER: Objection..

A, I don't specifically recall.. the authors of the articles that I reviewed, no.

Q. What was the substance of them?

A. The substance of the articles'?

Q. Yes.

A. Well, I think that the overall. substance of the articles was case reports of femoral neuropathy after a hysterectomy.

Q. Okay, Insofar as the material, was it more than one article, do you remember?

A. Yes.

Q. After reading those articles, did you reach a conclusion from the medical literature about a femoral neuropathy following a vaginal hysterectomy?

MS. REINKER: Objection.

A. I'm not sure what you mean by did I reach a conclusion.

Q. Yes. After reading these articles, did you come up with any medical- conclusion of femoral neuropathy and vaginal- hysterectomy?

MR. KELLY: Objection.

A. I came up with a conclusion that it is a very unusual occurrence.

Q. It is.

A. Yes.

Q. Okay. I assume you have done prior to Cheryl Ola vaginal hysterectomies?

A. Yes.

Q. A lot of vaginal hysterectomies?

A. Yes.

Q. Can I say a couple hundred, 300, 400?

A. I would suspect more in the order of 200.

Q. 200? And those are vaginal hysterectomies which you performed?

A. Yes.

Q. Am I correct?

A. Yes.

Q. And during the course of those vaginal hysterectomies, have you ever had a patient who after a vaginal hysterectomy ended up with a femoral neuropathy?

A. No.

Q. And in addition to the vaginal. hysterectomies that you performed, you also performed salpingograms, I'm sure?

A. Salpingo-oophrectomies?

Q. Yes.

A. Yes.

Q. How insofar as the -- may I ask --

A. Not on all the vaginal hysterectomies. Let me clear that up. Some of them.

Q. Separately, some you did and some you didn't?

A. Yes.

Q. After you read the medical literature, you know, about the relationship or the incidence frequencies, if you will, of femoral neuropathies as opposed to hysterectomies, was that review of the literature, those articles, was that looked at by you and read by you after the lawsuit was

filed?

A. I can't recall if I read them before the lawsuit was filed or not.

Q. Okay.

A. I suspect that I did read some of them before the lawsuit was filed.

Q. Okay. I am going to take you now to the care and treatment of Cheryl, the hysterectomy, I am going to take you through your procedure.

A. Fine.

Q. I am going to take you through the post-op complaints, take you through the neurology and take yoii through neurology findings and then we will pretty well have concluded. We will follow it chronologically, okay.

A. All right.

Q. I understand from review of the medical records that the vaginal hysterectomy was performed by you as her treating physician on November 17, 86 at University Hospitals?

A. Yes. November 17? Yes, I was the surgeon on the case on the 17th.

Q. Okay. And the choice of vaginal,

why did you choose the vaginal approach to her hysterectomy?

morbidity with the vaginal hysterectomy and the convalescence period is shorter.

Q. You were the treating physician, am I correct, on the surgery?

A. Yes.

Q. And Dr. Tonya Heyman, according to the record, was an assistant here?

A. Yes.

Q. And insofar as the performance of the hysterectomy itself, you were the physician in charge of performing Cheryl Ola's hysterectomy, am I correct?

A. I don't specifically recall the entire operation, no.

Q. I understand. Let me start with that. As we are here today, you don't remember the exact procedures followed and the exact, techniques used in Cheryl's case because of the lapse of time?

A. That's true,

Q. But insofar as the medical. records are concerned, you have had an opportunity to

read the operative record?

A. Yes.

Q. Okay. And insofar as the physician in charge of the surgery, it certainly was not Tonya Heyman who was in charge of performing the vaginal hysterectomy, am I correct?

A. Well, insofar as the medical records show, I was the surgeon on the case.

Q. That would be the doctor in charge?

MS. REINKER: Don, are you asking as to who did what? What are you getting at here?

Q. Let me help you. If you don't understand, you tell me.

A. Okay. Good, I don't understand what you mean by in charge,

Q. Okay. I am saying that did you instruct Tonya Heyinan on how to do it or did Tonya tell you how to do the vaginal hysterectomy? Who is in charge of this lady's vaginal hysterectoiny, medically speaking?

A. I would instruct Dr. Heyman.

Q. Okay. She was a resident, I believe?

A. Yes.

Q. Do you recall the year of her residency?

A. She is a chief resident, fourth year resident.

Q. Fourth year, an OB/GYN?

A. Yes.

Q. Okay. And so you and she acted as a team in the performance of Cheryl Ola's hysterectomy?

A. Yes.

Q. You told her what to do whenever you wanted something done and she followed your order, am I correct?

MS. REINKER: Objection.

A. As far as I recall- she did.

Q. Well, that's how it's supposed to have gone, I assume?

A. Yes.

Q. All. right. Insofar as the Dr. Heyman's participation in the vaginal. hysterectomy oE Mrs. Ola is concerned, what did she do? How did she help you with this procedure?

A. I don't remember.

MS. REINKER: Objection.

Q. Is there a way from your knowledge and your training, your teaching and working with residents before as to what they would usually do in such a case? Would they assist, for example, in passing you instrumentation? Would it be an educational thing where as yoii are performing the procedure you explain what you are doing to her? How does that go?

A. It may be a myriad of things depending on the resident or the resident in training, how much experience they have.

Q. Would the fourth year resident such as Dr. Heyman, what would her usual. participation be in such a case as Cheryl Ola?

MR. KELLY: What would her usual participation be for fourth year residents?

A. I can't tell you what Dr. Heyman did at that operation.

Q. I understand that point.

A. Okay?

Q. My question to you is what usually would a fourth year resident student; and fourth year resident in OB/GYN what would they do different than a first year resident would do?

A. Well, they would obviously scrub on

the case and they may first assist, they may do part of the case. They may do none of the case. It depends entirely on the resident.

Q. Okay. From reading Dr. Heyman's deposition testimony, when we asked her how she participated -- you probably read some of that -- I understand from her she assisted you and you both were doing the vaginal hysterectomy. Is she mistaken on that point?

A. To the best of my recollection, that's right.

Q. She said you were both present and in between Mrs. Ola's legs while this procedure was going on. That's true?

You have to answer rather than nod.

A. I am sorry.

Q. Yes?

A. Yes, as best -- and I don't remember the specific operation.

Q. Okay. Insofar as the hysterectomy is concerned, doctor, the patient -- and I want to start from the beginning and give you the best recall you have in the procedures that are usually followed. It would be good if you just

tell me that.

Cheryl comes to the hospital.. and she entered, from what the records show, on November 16 and there was a preoperative exam made for the lady; is that correct?

A. I'm sorry, what date is that?

Q. Look at November 16 of 86.

MS. REINKER: What part of the chart are you looking at, Don?

A" Yes.

Q. You have it. It's the surgical service, the patient history.

And as you loolc at the surgical-service record, patient history on 11/16/86, and you look that over, are there any complaints or any evidence whatsoever that this lady had any difficulty with her femoral- nerve or any leg pain or problems with her legs?

(Pause,)

A" May I hear the question again, please.

(Record read.)

A. No, I don't specifically see anything in here that relates to her femoral nerve or pain in her legs.

Q. Can we conclude, then, doctor, that as of November 16, 1986 Cheryl Ola came to the hospital without any leg problems whatsoever'?

MS. REINKER: Objection. We only know --

A. No, we can conclude that all we have is in the chart and that's not specifically there, but we can't conclude that there wasn't a problem there.

Q. Okay. You have had your deposition taken before in the other two cases, have you not?

A. Not in two cases. In one case.

Q. One case.

A, Yes.

Q. Let me ask you, doctor, based upon your experience as a physician and your training as a physician, and based upon reasonable medical certainty, do you have any information or medical opinion that Cheryl Ola had any problems with her Legs, any pain in her legs, any symptoms with the legs or any femoral nerve problems with her leg before November 16, 1986?

MR. KELLY: Objection.

MS. REINKER: Objection.

A. What does reasonable medical certainty mean?

Q. More likely than not.

MS. REINKER: I think it's been answered already.

A. I mean, I don't, I don't have any data here that said she had any problem with her legs. I also don't have any data that said she didn't have any trouble with her legs.

Q. Okay. See, the reason I am mentioning that, my reason for the question is this. Assume we can't get this matter resolved and we have to go to trial and you have to testify. Just assume that. I don't want to hear at the trial of the case while you are on the stand that you say she had a femoral nerve problem before the vaginal hysterectomy you performed or you give me some medical reason on why you think she had a femoral nerve problem before she came to you. See, I prefer to know that now because I don't want to be surprised at trial if you come up with a medical reason or some opinion that says, no, I think she had this problem before she even came to me. See?

That's the reason for my question of you.

MS. REINRER: There is no question now.

Q. Okay. Understanding that and with that explanation I have given to you, I ask you now, do you have any medical evidence at all that Cheryl Ola had a femoral nerve problem or leg problem before you performed the vaginal hysterectomy?

MS. REINKER: You're talking as of right now what he knows sitting here today?

MR. ILER: Yes. That's right.

A. I have no data in the chart that would indicate that she had a femoral nerve problem.

Q. Okay. Outside of the chart, and away from the chart, do you have any medical opinion that says she had a femoral nerve problem before you performed a vaginal hysterectomy on her on November 17, 1986?

MS. REINKER: That she did or didn't, either way? I think his testimony earlier was there is no evidence either way in the chart.

MR. ILER: Okay.

Q. Is that right?

A. I don't have data either way and I don't believe that the specific question was ever asked of Cheryl,

Q. Okay.

A. If she had a problem with the femoral nerves.

Q. Okay. If she had a problem with her femoral nerves, hypothetically speaking, would you still perform the vaginal hysterectomy?

A. I may or may not,

Q. What would you want to know and what would you need to know before you agreed as a physician to perform a vaginal.. hysterectomy on Cheryl Ola if you thought she had a femoral nerve problem?

A. It would depend on what her femoral nerve problem was from, and it would depend on

yes.

Q. Okay. Let's go back now to the chronology of events. The 16th she is in, you do a preoperative exam and was that done in your handwriting or did one of the residents do it for you?

A. No, this is not my handwriting. I believe it's signed by Paul somebody, a junior medical student.

Q. Okay. Well, notice under the surgical service part of her preexam on November 16, there is a section where it says back and extremities, do you see that?

A. Uh-huh.

Q. Under extremities, what does it say there?

A. Under extremities it says normal range of motion.

Q. Now, what does that mean?

A. It means that she apparently moved her extremities normally.

Q. That would mean her legs and her arms?

A. There was no apparent cestriction from his examination.

Q. That would be of her arms and legs, is that what extremities mean?

A. Yes.

Q. Okay. And insofar as on the 16th of November, 1986, Cheryl Ola also underwent a neurological examination and I see here on the the surgical service report of November 16 that the neurological section is marked how?

A. It says oriented times three, cranial nerve grossly intact.

Q. What does oriented times three mean? That's all right. It's a neurological term?

A. Yeah. I think it's time, place, and person; person, place and time,

Q. Okay. And central nervous system seemed to be grossly intact?

A. No. CN stands for cranial nerves.

Q. I am sorry. Those would be the first eight nerves?

A. 12.

Q. 12, I'm sorry. Thank you. So now we are finished with her preoperative examination. And on the 17th is when you performed the vaginal hysterectomy, am I

correct, doctor?

A. Yes.

Q. On the bottom of my copy of the records it appears a handwritten 14. Is that what you have on yours too?

A. Yes.

Q. And this is a record that was signed by you, am I correct, or is it by Dr. Heyman?

A. Both of us.

Q. And why does this operative record have to be signed by you? Is that a rule there at the hospital?

A. Yes. I am the attending physician.

Q. And apparently Dr. Heyman also signed it?

A. Yes.

Q. Does that mean that it's accurate, this signing by you?

A. No.

Q. It does not?

A. Not necessarily.

Q. You just sign these routinely and they either are or they can be inaccurate?

A. It could be inaccurate,

Q. Why do you sign them then?

A. Well, I sign them, they have to be signed and I sign then but my signing them does not guarantee the accuracy of the report.

Q. How are patients and their representatives, lawyers, to understand then that when a report such as the one that has been dictated on Cheryl Ola is accurate. How are we supposed to rely on that?

A. Well, I think that it's the best data that you have to rely on.

Q. You as the signing physician by making a signature such as you have, are you saying to the public and to the patient I have read these notes of the surgical procedure on you, Mrs. Ola, and they are accurate or I am just signing them because I have to sign them?

A" Well, it says that I reviewed the surgical. report the dictated report and I have signed it as representative of the procedure that took place.

Q. Then when these records of surgeries performed at University Hospitals, they are compiled in a big computer, aren't they?

A. I'm sorry.

Q. Aren't statistics kept by University Hospitals, the Federal Government, and people who pay hospital bills, aren't these records relied upon by them as to their accuracy and procedures that were done?

MS. REINKER: Objection.

MR. KELLY: Objection.

Q. Do you know?

A. I have no idea.

Q. Okay. That --

MS. REINKER: There is no question right now.

a. If you want to add something --

MS. REINKER: No.

Q. Have you completed your answer?

A. Yes.

Q. And now, from what I have been able to see from the medical records, doctor, what time did Cheryl arrive in the operating room on November 17 for her vaginal hysterectomy?

A. According to the operating room nursing notes --

Q. What page?

A. On page 51.

Q. Thank you.
A. She entered the room at 11:40 a.m.
Q. Okay. And the record also shows you, Macfee, as the doctor. And does this record show what time she left the operating room?
A. This specific page?
Q. Yes.
A. Page 51 here?
Q. Yes.
A. On page 52 it says time patient discharged from the OR 13:25.
Q. When they discharged from the OR, does that mean when the patient is wheeled out of the operating room?
A. I think it does.
Q. Okay. So she was in the operating room then, Cheryl was, for approximately how long would you say from these records, doctor?
A. From 11:40 a.m. to 13:25.
Q. So about two hours and --
A. No, let's see. 12 to -- that's an hour 25 plus 20 is an hour and 45 minutes.
Q. Is that about the usual time for performing a vaginal hysterectomy with no

problems during it?

MS. REINKER: You mean to be --

A. No, this is only the time the patient was in the room. That has nothing to do with the time of the operation.

Q. Okay. Now, is there, when Cheryl comes into the operating room for the vagina!. hysterectomy, are you usually there when she comes in or does Dr. Heyman handle some of the early details of preparation for the vaginal hysterectomy?

A. I may or may not be there when the patient comes into the room.

Q. Was Cheryl comatose, was she awake?

A. She was awake. I mean, to the best of my knowledge she was awake.

Q. Do the anesthesia records show or any other records show that she received any premedication?

A. It says she was alert, oriented and apprehensive on page 51.

Q. Okay. And do you prescribe or does anybody prescribe preoperative medication to sedate her, to quiet her?

A. Anesthesia prescribes preoperative

medication.

Q. Was that done in this case?

A. Wait. The anesthesia records.

Q. What page are we looking at? 16?

A. Yes.

Q. Okay.

A. On page 16 at the bottom under special notes.

Q. Yes, she got some Valium?

A. But it says 9:00 o'clock but it doesn't say what day.

Q. Well, what do you think?

A. E would assume that was the morning of the surgery.

Q. Okay. And then when she --

A. Here it is. Page 16, over here on the right-hand column Valium 10 poq 11/17.

Q. And then Cheryl is brought to the operating room and we know the anesthesiologist was there. She was given general anesthesia?

A. Well, she was given -- I'm not sure what you mean by general anesthesia.

Q. Can you tell me what kind of anesthetic was used during her vaginal. hysterectomy?

MS. REINKER: Are you asking the names of the medications? I think that's what he is trying to figure out here.

A. It looked like she had a combination of intravenous sedation and an inhalation agent.

Q. Okay. And insofar as Cheryl is concerned, when she comes in, what is the procedure that is followed. Is she put right on the surgical table and then put up in stirrups?

A. I don't recall specifically what happened in her case. Generally the patient is brought to the room on a gurney and transferred from the gurney on to the operating table.

Q. Okay.

A. It depends. Sometimes they don't have an IV started yet and anesthesia usually does all their things.

Q. Okay.

A. They place the EKG electrodes, take blood pressure, vital signs. They may give the patient some additional IV sedation. Then --

Q. Is she given sedation before she is put up in the stirrups or after?

A. Generally patients are not put- up on stirrups until they are sedated.

Q. And what is the reason for that or is it just a procedure that has been found to be --

A. I don't know the specific reason for that. Some patients are put up before.

Q. Is there a preference for you or do you follow the protocol?

A. I think that depends on the patient.

Q. In this case do you know whether Cheryl was put up in stirrups before anesthesia or after the anesthesia? Was she unconscious at the time she was put up in stirrups, is what- I'm asking?

A. I'm not an anesthesiologist but I can make some -- based on the timing of the anesthesia record I would say she was put up into stirrups after she had anesthesia.

Q. And from the anesthesia record I concluded that that would probably be around 9:30 or 10:00 o'clock. Strike that.

Would be around 11:30, 11:45 for what?

Q. Being put up in stirrups after anesthesized?

A. No. I would say from my reading of the record, I would say she probably was put up in stirrups around -- I am having trouble reading the entire record but I would say around 12:05.

Q. Okay. I see there. And when was she removed from stirrups, according to the anesthesia record or you can't tell?

MS. REINRER: From the anesthesia record?

MR. ILER: Yes.

A. Well, I don't think I can specifically tell. It says that the operation time was to 13:20. I would surmise if you look back on page 51 again of the nursing notes, that the electrocautery plate was removed at 13:15 hours and that's generally taken off at the time that the patient's Legs are brought down out of the stirrups. So I would say she was in stirrups from 12:05 to 13:15.

Q. Which would be about --

A. About.

Q. Okay. Now, doctor can you tell

us -- strike that.

(Discussion off the record.)

Q. Now, based upon your experience, doctor, in performing the vaginal hysterectomies and applying your knowledge and your experience or whatever help you can get from the medical records on Cheryl Ola, what is the standard procedure in placing Cheryl Ola in stirrups?

Can you tell me how it's done, what standards or procedures you like done, you want done or you think should be done?

A. I can tell you how it's done in most patients. I can't remember specifically how it's done in Cheryl's case.

Q. What do you insist on as a treating physician? How do you want it done?

A. Well, in general, their legs are together and you flex their knees up together and you flex their hips up together and then you abduct, AB duct, their legs and put their feet in the stirrup hole.

Q. Okay. And I assume you move the butt of the patient -- do you prefer to have the butt of the patient such as Cheryl. in this

kind of surgery on the edge of the table or is there any preference that you have?

A. The stirrup holders need to be all the way at the end of the table so that they are basically parallel, the butt at, the edge of the table.

Q. Okay. Insofar as the abduction is concerned, I think from abduction what we are talking about is spreading Cheryl's legs outward; is that it?

A. Yes.

Q. Okay. And what is your technique? What do you want done with your patients? How far do you like to have that abduction done?

A. In degrees?

Q. Yes or any way you wish to describe it.

A. Well, generally they are about, the knees are about this far apart, which would make an angle of 45 degrees.

Q. Okay. All right.

MS. REINKER: Just a guess the record should show.

MR. ILER: I understand.

Q. So now we have abduction or

Cheryl's legs at approximately 45 degrees, her knees are bent and they are put into stirrups; is that correct?

A. Yes, I am sorry, what do you mean her knees are bent and put into stirrups?

Q. Her legs are not extended straight out in stirrups, are they?

A. No.

Q. So her knees are bent but abducted or turned outward; true?

A. In relation, her knees in relation to the rest of her leg are not abducted.

Q. Okay. Let me ask you this. Could you draw me that, even though it's not to scale, the position of the patient on the table with her knee position. It doesn't have to be --

A. Do you want a lateral view?

Q. A lateral view and a top view, whatever, sure, that would be fine.

MS. REINICER: I'm going to object to the doctor trying to diagram as to what position this patient was in.

MR. ILER: I'm not asking him that. I am asking for his preferred way of

doing it. I don't want to misconstrue what; the man is saying.

MS. REINICER: Note my objection. It's so hard to diagram these things, Don, I think there are probably better ways to do this.

MR. ILER: See how he does.

Q. Just label what you have here. What is that you have drawn?

A. A table.

Q. That's fine, thank you.

MS. REINICER: So far so good.

A. The patient's head is up here.

Q. Okay. You have her laying down now?

A. Yes. The table folds at this point here.

Q. Put an arrow down.

A. It retracts down like this.

Q. Okay.

A. The legs are up.

Q. Okay. That's good. May I just:, if you would help me.

MS. REINKER: Note an objection.

MR. ILER: That's all right.

Q. Let me ask you this. You indicated this part of the table with the arrow comes down and the patient's butt is just about; at the end of the table?

A. Yes.

Q. And what we have here, what you have down for us is a lady now with her knees up. And is that, what you have drawn for us, is that a position in the stirrups?

A. Well, that's sort of a representation of what it's like from a side view, yes.

Q. Give us a top view. We are looking down at this patient. What do we see now?

MS. REINRER: Note a continuing objection.

MR. ILER: Sure.

A. And I don't specifically recall if Cheryl's arms were out or tucked at her side.

Q. I understand.

(Pause.)

Q. That's fine. Doctor, we have two diagrams then that are made. One shows a side view and one shows a view, the second, on top looking down on the patient,

Is this a description of a lithotomy position?

A. A dorsal lithotomy position.

MR. ILER: Would you mark that as an exhibit and we will make a copy.

MS. REINKER: Note my objection.

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(Thereupon, MACFEE Deposition Exhibit 4 was mark'd for purposes of identification.)

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Q. If at any time, doctor, you want to use this diagram, even though it's a rough sketch, for any reason at all during your testimony, take it and use it.

Now, insofar as the stirrups that are usually used, can you describe those for us?

A. They are sort of like a big shepherd's cane, straight up and they have a curve at the top and then there is the set of cloth stirrups that hang from the curve.

Q. Can you draw that for me?

A. Can I draw it on the same thing?

Q. Oh, yes, sure.

A" If you look at it from the side, this would look like -- and there is a little metal ring here and then there is two cloth stirrups that hang off the ring.

Q. Okay. Would you just marl.; that. stirrup for us so we would know what it was.

A. How do you spell it? R R?

Q. Yes. And where does the patient's legs fit into that from the hip area, the thigh, the upper thigh, the back of the thigh, all the way up to the top of her leg?

A. No. The only part of the patient that's hooked to the stirrup is her foot or ankle actually.

Q. And what supports the rest of her leg and her thigh?

A. I guess gravity --

Q. Okay.

A. -- holds it.

Q. Okay. So the only thing that's holding up, that is supporting the patient's calf and leg from the knee to the foot is what?

A. There is nothing supporting her calf and her leg.

Q. Okay. And is there anything

supporting her thigh from her knee to her hip?

A. I am sorry, from her knee to her hip? No.

Q. And where is the stirrup connected to? Is it connected to the table?

A. To the table.

Q. And at approximately what position is it connected?

A. Right here.

Q. And that would be, can you mark that underneath that stirrup connection or whatever you wish.

And these things, just because we don't have one here and I am trying to get an accurate description as I can of the stirrups, these, there is no support for the patient's leg excepting at the foot connection where these straps are?

A. That's correct.

Q. And are those stirrups still in use at University Hospitals now?

A. They are the stirrups in use at University Hospitals, yes.

Q. In all the rooms or in separate rooms?

MS. REINKER: Objection,

A. Well, not all the rooms require them to have them.

Q. Okay. What rooms would have them? Are they designated?

A. Any room that you were going to put anybody in dorsal lithotomy and you want to use that kind of stirrups that is the room it would be in.

Q. Who gets that equipment prepared once the surgery has been scheduled? Does the nursing staff get the stirrups prepared?

A. You mean get them together and. get them in the room?

Q. Yes.

A. Yes.

Q. They do that?

A. Yes.

Q. I want to talk about Mrs. Ola. Was Mrs. Ola, Cheryl, put into the kind of stirrups that you have described for us with your diagram? And was she also put into a dorsal lithotomy position?

A. Based on the operative records, yes, she was put in a dorsal lithotomy position

and I cannot -- I can't tell you that she was put in that kind of stirrup specifically. It doesn't say.

Q. Okay. But we do --

A. To the best of my recollection, she was.

Q. There is no question that she was placed in some kind of stirrup lor the hysterectomy, am I correct?

A" Yes.

Q. Okay. Is this true or not? If the position of Mrs. Ola's legs were proper and according to the procedures that should be followed she should not have any femoral damage to her femoral nerve because of any pressure, is that true?

MS. REINKER: Objection.

A. Would you repeat that for me, please.

(Record read.)

A. I am sorry, I get real confused by that. I sort of hear a double negative in it and it's confusing me. Can you say it a different way?

Q. Sure, I will try it again.

If Cheryl Ola was placed in a dorsal lithotomy position correctly in the proper way and she was placed in stirrups in a proper way, in the correct way, then there should be no pressure placed on her femoral nerve during the period of time that. she is in those stirrups; is that true?

MS. REINKER: Objection.

A. That's not necessarily true, no.

Q. Okay. Is it your testimony then that even if Cheryl Ola was placed in the stirrups in a proper manner the way you have described for us, she could still be in a proper position in her stirrups and still suffer femoral nerve damage? Is that your testimony?

A. Yes, it's possible. Let me clarify that a minute. When you say still suffer femoral nerve damage, I want to know what is the time frame of still suffer femoral nerve damage. You mean from being placed on the stirrups?

Q. Yes.

A. It's possible.

Q. So is it your professional medical

opinion that Cheryl- Ola could have suffered femoral nerve damage whether or not the position of her legs was correct while she was in the stirrups during the vaginal-hysterectomy?

MS. REINKER: Objection.

MR. KELLY: Objection.

MS. REINKER: Are you asking him to assume there was femoral nerve damage?

MR. ILER: Yes, that's a good point.

Q. I want you to assume. Let me start all over again.

Let us assume, doctor, that during the period of time that Cheryl Ola was in the stirrups during the vaginal hysterectomy that you performed that she was placed in the proper lithotomy position and placed in the stirrups correctly so that there was no undue pressure on her legs. Assume that, okay?

A. Okay.

Q. Is it your professional medical. opinion that she still could have suffered a femoral neuropathy under those circumstances?

MS. REINKER: Objection,

A. Yes, it's possible.
Q. And bow would that happen?
MS. REPNKER: Objection.
A. Well, there are many etiologies of femoral neuropathies.
Q. Okay.
A. She could have suffered any one of those.
Q. What are those?
MS. REPNKER: Well, hold on a second.
A. Again, you're assuming that she had a femoral neuropathy. You are not asking him to agree she had a femoral neuropathy?
MR. ILER: Right.
MS. REINKER: So that's clear.
A. Well, I am not a neurologist. I certainly don't think that neurology is one of my areas of expertise, but some of the things that can cause femoral neuropathies are a mass lesion.
Q. A mass lesion of what?
A. From like a tumor or a hematoma or even edema marks, which is swelling.
Q. Okay.

A. There are vascular accidents.
Q. What does that mean?
A. Where the blood supply could be cut off to a portion of the nerve from like a stroke that happened in the nerve, not in the brain.
Q. Okay.
A. There are some metabolic defects such as diabetes that cause people to he very susceptible to femoral neuropathies. That is sort of all I can think of right now.
Q. Okay. If you think of any others before the trial time, would you please advise counsel about that and let me know about it so I'm not surprised at trial that there is a fifth?
MS. REINKER: Bad discs?
MR. ILER: I am sorry, counsel told you bad discs?
MS. REINKER: I am wondering.
MR. ILER: Your counsel wants to know, she is suggesting perhaps bad discs. Do you agree? That's all right, she can suggest things.
A. Absolutely a bad disc could

cause --

Q. Would there be a particular disc, L-5, s-l?

A* It would have to be -- I can't tell you that specifically.

Q. All right.

A. Exactly which one.

Q. Anything else? Do you want. to ask your counsel if there is anything else, that you can remember --

MS. REINRER: If you are going to ask him to call me every time he thinks of something?

Q. __ I have no objection to it, doctor. I have no problem with that.

MS. REINKER: Why don't you proceed. I know Dr. Tucker thought it was a disc.

MR. ILER: Whatever. We will get to all of that.

A. I don't,. Nothing comes to me right now.

Q. Okay. Now, do you agree to this. That if Mrs. Ola was placed improperly in the stirrups during the period of time of the

vaginal hysterectomy she could also have suffered a femoral nerve neuropathy?

MR. KELLY: Objection.

MS. REINKER: Objection. You are asking about this specific patient?

MR. ILER: That's right.

A. It's hypothetical from the standpoint of if.

Q. Okay. Yes. But do you agree on this as a matter of medicine that if a patient is improperly placed in stirrups she can suffer a femoral neuropathy?

A. Well, I can't say that specifically for Cheryl Ola. I can say that some people when placed in stirrups will suffer a femoral. neuropathy.

Q. Why?

MS. REINKER: Objection. Asked and answered.

A. Nobody knows all of the exact ways of being placed in stirrups that can cause femoral- neuropathy, but commonly recognized is pressure from the inguinal ligament.

Q. And what happens there is if a patient is placed in an improper position,

while in stirrups, you will find that the inguinal- ligament puts some pressure on the femoral nerve, am I correct?

A. It doesn't necessarily have to be an improper position to cause pressure on the femoral nerve.

Q. I want you to assume that there is improper position then in that event.

A. It is possible to put pressure on the femoral nerve from the inguinal ligament with improper position.

Q" And that's because the improper position would cause some pressure on the femoral- nerve?

A. Not directly on the femoral nerve but relayed through other structures.

Q. And which causes -- what does the pressure do? Cause a decrease in circulation of blood flow?

MS. REINKER: Objection.

A, I'm not an expert to define the mechanism of the injury,

Q. Can we agree you can have a femoral neuropathy while the patient is in a lithotomy position such as Mrs. Ola was, in two ways:

One, if she is put in her stirrups improperly, and two, if she is put in the stirrups improperly; is that correct?

MS. **REINRER:** Objection. In addition to the other things he listed before?

MR. ILER: Yes.

MR. KELLY: Objection.

A. A femoral neuropathy can occur if the patient is put in the stirrups properly os improperly.

Q. Okay. So have you ever seen a patient who was put in a stirrup improperly during a vaginal hysterectomy?

A. Not that I recall, no.

Q. If a person is placed, based on your experience, doctor, in the stirrups improperly, are there some pressure points which would leave some marks on the patient's legs or something?

A. I think that would depend on what kind of stirrup you were using..

Q. Okay. What does that mean? Can you explain that for me, please,

A. Well, in the kind of stirrup that. I diagramed earlier, there are no, there is no

pressure point on the leg itself, so one wouldn't see any pressure points. There may be marks on the heel or the bottom of the foot where the straps went around.

Q. Okay. But in the other kind of stirrup there would be some pressure points?

A. There are other kinds of stirrups in which you could see pressure points, yes,

Q. And is that because the stirrup is sort of like a gutter type thing, shape where the lady's leg is laid in there?

MS. REINKER: Objection.

where the leg, the woman's leg is laying in this gutter type stirrup?

MS. REINRER: Objection. You are getting awfully far afield here, Don.

MR. ILER: That's okay. Go ahead, doctor.

MS. REPNKER: Note an objection.

A. The most common place of injury from those kinds of stirrups is on the medial. aspect of the knee.

Q. Okay. Is there anything in the medical records for Cheryl Ola which indicates the kind of stirrups that she was placed in on November 17 of 1986?

A. I would have to review this entire chart to tell you that.

Q. Okay. I have to know.

(Recess had.)

(Record read.)

Q. Doctor, have you had an opportunity now to review the medical records, University Hospitals records for Cheryl Ola?

A. Yes.

Q. And is there any indication from the records you reviewed as to the type of stirrups that were used in Mrs. Ola's vaginal hysterectomy?

A. Not that I can find at this time. However, I cannot decipher all of the writing in the chart.

Q. Okay. with the making an assumption, which may or may not he true, but I will just make an assumption. You know what I mean by that?

A. Yes.

Q. In looking at the stirrup that you have drawn for us on Exhibit Number 4 -- do you see that one you have drawn?

A. Yes,

Q. Now, this stirrup that you have described that has two cloth rings on the end of them where Cheryl's foot, if she had that on her, would be held up, that's what those two cloth circles mean, right?

A. Yes.

Q. And this rod that comes out, is that just a quarter inch metal piece or how thick would this rod be that these two stirrups or straps are held at?

A. It's about an inch, inch and a half in diameter.

Q. Would you mark that on this diagram for me, just an inch and a half or whatever you say it is.

MS. REINKER: Objection, again.

MR. ILER: Whatever it is.

Q. So the stirrups that you have described for us on Exhibit 4 are metal rods about an inch and a half in diameter'?

A. Yes.

Q. They extend out, right?

A. No.

Q. They don't. How are they?

A. They extend straight up to the table. They are perpendicular to the table.

Q. 90 degrees from the table?

A. Yes.

Q. And then her foot would rest?

A. There is an adjustment bracket so that the stirrup can be angled that more or less than 90 degrees.

Q. Okay. Do you still have these stirrups -- strike that.

I think you mentioned to us earlier that University Hospitals does have the type of stirrups that you have drawn in this diagram, right?

A. Yes.

Q. Okay. When you're looking at the table that you have drawn for us in Exhibit Number 4, can you draw for us with a red pencil how these stirrups, if these were the ones that were used, would be positioned for Cheryl Ola. If I gave you a pen, could you do that?

A. Approximate it.

(Recess had.)

MR. KELLY: We have agreed that this drawing is not to scale.

MR. ILER: Okay.

MS. REINKER: It is not an accurate depiction of this particular case.

MR. ILER: Right.

MS. REINKER: The doctor indicated that he would be embarrassed if we ever published this in any way, shape or form.

Q. Doctor, taking this red pen now and using diagram number 4, would you do the best you can to draw us how the stirrups that you also put on 4 with the two straps would be positioned on the diagrams that you have made for us.

A. They are positioned approximately here.

Q. Okay. And what direction do they go?

A. Up.

Q. Straight up. Okay.

A. Well, they go up at a little hit of an angle.

Q. And then would you draw the straps

in red. Just draw the stirrups.

A. it's kind of hard to.

Q. Yes. Okay. Now, insofar as the stirrups that you have diagramed for us, doctor, how are they maintained in the approximate 45 degree abduction position?

A. It's a function of the width of the table and of the rotation of the stirrup.

Q. Okay. So if you rotate the stirrup, the end piece, then you can adjust how far out the lady's legs will be?

A. To a certain degree, yes.

Q. Okay. Looking at the diagram that; you drew on diagram number 4 and looking at the top view down, would you draw in red how this stirrup would appear there in that diagram, or can't you?

A. I'm assuming the edge of the table is about here and it comes straight up and then the bend is like this, the straps go like this.

Q. Okay. And who adjusts the angle of abduction or outward direction of the patient's legs? Who determines that?

A. Maybe various people.,

Q. In this case, who would usually

make that adjustment?

A. I don't recall who it was in this case.

Q. Is it your routine when a patient is placed in a dorsal lithotomy position for a vaginal hysterectomy such as done on Mrs. Ola, is it your practice to check the angle of abduction and check the position of the patient on the table?

A. In general I would say yes.

Q. Okay. Doctor, insofar as the complaints that Mrs. Ola made -- strike that.

Would you say that the hysterectomy that was performed on Cheryl Ola went without any adverse problems insofar as the surgical procedure is concerned?

A. To the best of my recollection, there were no problems.

Q. Okay. Insofar as after Cheryl was -- strike that.

After Cheryl was taken from the surgical room, -- strike that.

I read over your surgical record on page 14 of the chart. In it you say there was an estimated blood loss of 60 cc's;

complications, none and the specimens sent to the pathology department included uterus, right?

A. That's true. Dr. Heyman dictated this report.

Q. Okay. And you read it over?

A. Yes.

Q. Okay. And insofar as the procedures that were followed in Cheryl Ola's, vaginal hysterectomy, did you read this over'?

A. Yes, I have read it over.

Q. Is that correct? Is that what happened?

A. Yes.

Q. The techniques and the procedures that are followed by you during her vaginal hysterectomy, are those contained in page 14 and 15 of the surgical record, I assume?

A. Let me reread it quickly.

Q. Sure.

(Pause.)

A. Can I hear the question again.

(Record read.)

A. Yes.

Q. Okay. From looking at the record,

what was the last thing that was done to Cheryl before she left the surgical room?

MS. REINKER: You mean looking at all the surgical records, not just the report?

MR. ILER: Sure.

A. The last thing that was done before she left the surgical suite?

Q. Yes.

A. I don't know. It's hard to say what the last thing was that was done.

Q. Okay. Then if you don't know I don't want you to guess, but then tell me what would be the last thing to be done before her feet, her legs are put down from the stirrups. When would her legs be taken down?

A. Generally the drapes are taken off and the legs are taken down and the Bovie pads are removed from the leg.

Q. And what point in the procedure would that be done?

A. At the very, very end.

Q. At the very, very end?

A. When the procedure is over

Q. Okay. And did you say the Bovie pads?

A. I said in general when the procedure is over, the drapes are taken off, the patient's legs are brought down out of the stirrups, the Bovie pad removed.

Q. What is a Bovie pad?

A. The grounding pad for the electrocautery.

Q. Okay.

A. The patient is covered with a blanket.

Q. And then just taken out?

A. Well, it depends on the case. Sometimes they are taken out asleep, sometimes they are taken out awake.

Q. Okay. In this case, is there any way to know whether she was awake or she was sent to recovery in still a comatose state?

A. She was awake, it looks like, on page 18.

Q. Okay. She was awake at --

A. Well, I can't really tell.

Q. You can't tell. I am looking at the postoperative note and it says status awake, exhausted?

A. I don't know if that's a recovery

room note or OR.

MS. REINKER: I don't know that that's exhausted.

MR. ILER: Extubated. There was an endotracheal intubation, I assume, here?

A. Yes.

Q. Okay, doctor. Now, let us continue on.

Do you agree, doctor, that after the vaginal hysterectomy was performed on Cheryl Ola she had a femoral neuropathy?

MS. REINKER: Objection.

A. No, I think it's fair to say that she had symptoms that may be compatible with a femoral neuropathy.

Q. Okay. But is it your opinion that she did not, NOT, have a femoral neuropathy after your vaginal hysterectomy?

A. Well, it's not my field of expertise, and according to the attending neurologist, the diagnosis of femoral neuropathy was entertained or suspected.

Q. And who would that be?

A. I can't read his name.

Q. Okay. But what page of the

hospital- chart would you be looking at?

A. 11.

Q. All right. And what is the date of the neurologist's note?

A. Something 1986.

Q. Okay.

A. 10:00 o'clock in the morning.

Q. Okay. And this would be the day after or two days after your surgery?

A. Yes,

Q. And who called the neurologist to attend here? Do you know what were the circumstances of that?

A. Specifically who wrote the order?

Q. Well, why did a neurologist come to see her? Did you ask that a neurologist see her?

A" It's in the chart. Doctor, I believe this is Dr. Fiske, neuro called.

Q. And what page would that be, sir?

A. 10.

Q. Okay.

A. I'm not sure if that's Dr. Fiske's signature or not. I think it was.

Q. This was your patient, was it not,

Cheryl Ola?

A. Yes.

Q. And did you ask for Dr. Fiske to see her or what?

A. To the best of my recollection, I told him to get a neurologist consult-.

Q. And what caused you to ask for a neurology consult?

A. As I recall, the residents told me that she was having problems raising her right leg and that she had fallen that morning.

Q. What kind of problems was she having? Did you ever get a description of those?

A. I don't recall the specific problem.

Q. And insofar as your opinion is concerned, you will not agree that Cheryl Ola had a femoral neuropathy after your vaginal hysterectomy, am I correct in that?

A. Well, I will agree that slie had symptoms compatible with femoral neuropathy but I don't think she had the definitive test to say that it was a femoral radiculopathy.

Q. And what test would that he?

A. Once again I am not a neurologist but I believe it is an EMG.

Q. Okay. And did you order an EMG?

A. No.

Q. And then, doctor, when is the first time, when was the first time you are advised, based on the records, that Cheryl had some problem with one or both of her legs?

A. When was the first time?

Q. Yes.

A. The morning of the -- there is no note of it here that I know of, but I believe it was the morning of the 18th.

Q. Okay, And what occurred then that led you to suspect she had a problem?

A. Well, I can't recall the exact events in the morning. I do vaguely remember being paged and being told that Cheryl had fallen and that she was having some problem with her right leg.

Q. Okay. And did you go to *see* your patient?

A. Yes, I did.

Q. And did you examine her?

A. I don't specifically remember

examining her.

Q. Do you remember talking to Cheryl Ola after she fell down and before she was discharged from the hospital?

A. I don't remember what I said to her, yes.

Q. Do you recall ever saying to Cheryl Ola that the reason she was having trouble with her leg after vaginal hysterectomy is because the stirrups were misplaced and placed too tight?

MS. REINRER: Objection.

MR. KELLY: Objection,

A. No, I don't remember anything like that at all.

Q. Will you deny that you ever said that or are you telling me that you don't recall saying that?

A. I answered that I don't remember saying that.

Q. I want to hand --

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(Thereupon, MACFEE Deposition Exhibits 5 through 8 were mark'd for purposes of identification,)

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Q. Doctor, after you were advised that Cheryl had fallen down, I believe was going to the bathroom from what I remember, am I correct?

A. To the best of my recollection, yes.

Q. Okay.

A. Then you asked for the neurology consult, as you have indicated to us. And after the consult was made by the doctor, the neurologist on page 11, did you ask him to report back to you as to what his findings were or what he thought about her condition?

A. I don't believe that the note on page 11 is the consult.

Q. Okay. But insofar as the note on page 11 dated 11/19/86, were those notes on top -- it says neurology attending note. Is that correct?

A. Yes.

Q. Do you know what physician that would be, who would that be?

A. No, I can't read the signature.

Q. Did you see in the portion of that

report he has marked that this could be related to the surgical procedure? Do you see that part of the note?

A. I think that's what it says.

Q. Okay. Do you agree with that?

MS. REINRER: Does he agree that's what it says?

MR. ILER: Does he agree with what that means.

A. I don't agree that that's what it says, I don't agree that that could be related to the surgical procedure.

Q. Why do you say that her femoral problem that the doctor wrote here on 11/19 was not related to the surgical procedure? What are your reasons for that, doctor?

A. Well, first of all, it depends on how you define surgical procedure.

Q. Well, she only had one that you were involved with, is that true?

A. That's true. She had a vaginal hysterectomy.

Q. Let's assume that's the surgical procedure, okay. Why are you saying that the femoral neuropathy problem she had is not

connected to that surgical procedure you performed? Can I have your reasons or are you willing to agree that --

A. No, the surgical procedure itself, vaginal hysterectomy, in and of itself does not cause femoral neuropathy.

Q. But are we playing word games. This lady's legs were up in stirrups and she was --

That's why I want to know what you mean by surgical procedure because that's what I don't understand.

Q. Included in what I think this doctor is saying, surgical procedure, he means the whole thing including her legs up in stirrups in an abducted position. Assume that.

A. Okay, I'll assume that.

Q. Now, would you agree with this fellow's opinion that there is a, this femoral problem she had could be caused by that positioning of her legs in stirrups?

MS. REINKER: Objection. I don't think that that's what he says at all, that it could be caused by putting the legs in

stirrups.

MR. ILER: As long as -- I don't care.

MS. REINKER: I don't think that's fooling around. The statement in the chart is this could be related to the surgical procedure. That's all he says.

MR. ILER: Okay.

Q. I want you to assume that what he means by surgical procedure is also having Mrs. Ola having her legs up in stirrups as part of the surgical procedure, okay?

MS. REINKER: Objection.

MR. KELLY: Objection.

A. Okay, I'll assume that.

Q. Assume that. Now, would you agree that that portion of the surgical procedure, that is where Cheryl had her legs up in stirrups, could be the cause of her femoral problem? Do you agree with that?

MS. REINKER: Objection.

MR. KELLY: Objection.

A. I would say that there is some possibility; however I think there are many other possibilities why Cheryl.. could have those

symptoms.

Q. Okay. And did you ever talk with the doctor that wrote this note about the meaning of that note?

A. I can't recall and I don't know who wrote the note.

Q. Okay. But I mean, here you have a patient in the hospital. After your surgery she has fallen down, you call in a neurological consult, and do I understand you talk with this fellow? Did you ever ask him what he meant by this could be related to the surgical procedure?

A. I don't think I specifically asked him that, no.

Q. Then after this note was written, did you continue to see Cheryl while she was in the hospital?

A. Yes.

Q. And did she continue to complain to you about pain or any difficulty with her legs?

A. To the best of my recollection, she complained of numbness in her leg.

Q. Okay. And what did you do about that? Did you ask her for another consult,

neurological consult or what?

A. As I recall, we started physical therapy at the recommendation of the neurologist.

Q. Who recommended that?

A. Pardon?

Q. Who was the neurologist that recommended that?

A. The one whose name I can't read.

Q. Okay. Do you know a. Dr. Sami Harik?

A. Not personally.

Q. Do you know who he is?

A. Yes.

Q. Who is he?

A. He is a neurologist -- he is a professor of neurology and pharmacology at University Hospitals.

Q. And he wrote to you concerning your patient, did he not?

A. Yes, he did.

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(Thereupon, MACFEE Deposition Exhibit 9 was marl.;'d for purposes of identification.)

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Q. Handing you what has been marked as Plaintiff's Exhibit 9, take a look at that. He writes to you, Dr. Macfee, on January 5 of 1987, am I correct?

A. Yes.

Q. Okay. And he says, thank you for referring this pleasant woman for neurological evaluation. I assume you did do that?

A. Yes.

Q. Okay. And what does he say was her problem?

MS. REINRER: You want him to read the entire letter, Don? If you have a specific' question, ask it, He talks about a lot of things in here.

Q. Okay. What does he say is the cause of her foot problem, her leg problem?

First of all, let me interrupt yoii, doctor. He calls this, Dr. Harik, the specialist in neurology, he calls this a femoral neuropathy, right?

A. No.

MS. REINKER: Objection.

A. Where are you speaking?

Q. It says neurological consultation was sought and a diagnosis of a femoral neuropathy was entertained based on the neurological exam.

A. Right.

Q. First paragraph.

A. Right.

Q. You agree with that?

A. Right. The diagnosis of femoral neuropathy was entertained.

Q. And where do you think she got this femoral neuropathy?

MS. REINKER: Objection.

MR. KELLY: Objection.

A. The diagnosis was entertained. The diagnosis was not made.

Q. All right. And what else does Dr. Harik allay her leg problems to?

A. He says, well, this whole paragraph down here he says --

Q. The last paragraph?

A. No, the next to the Last paragraph. This says, in summary, J believe this patient is recovering well from her femoral neuropathy and thus far I have little

explanation for the headaches and the low back pain. I suspect the patient is going through A situation of depression and have advised her to take Elavil in a dose of 25 mg. p.o.q. at night. I have also advised her to have CT scan of lumbosacral spine and MRI of that region to rule out herniated nucleus palposus.

Q. Dr. Harik is a neurologist and you are not?

A. That's true.

Q. You are not going to give a neurological opinion in this case, are you?

A. No.

Q. Would you prefer to defer the neurological diagnosis to Dr. Harik or another neurologist?

A. Yes, I would think that a neurologist, that Dr. Harik is more qualified than I am to make a neurological diagnosis.

Q. And his diagnosis was that this woman had a femoral neuropathy, am I correct?

MS. REINKER: Objection.

Q. That's what he wrote in his letter, didn't he?

MS. REINKER: Where?

A. No, he said she is recovering.
Q. From a femoral neuropathy?
A. He did not make the diagnosis of femoral neuropathy,
Q. Does he agree that there is a femoral neuropathy there?
MS. REINKER: Objection, Don. Why don't you ask him that. Objection.
MR. ILER: I know you are objecting for the record.
Q. Do you agree with Dr. Harik's statement, in summary I believe this patient is recovering well from a femoral neuropathy?
A. I think that if you read the entire letter, and don't take this out of context, that she did have some findings that were suggestive of femoral neuropathy but that he suggested further tests to ascertain the exact diagnosis.
Q. And did you ever -- this is your patient he is talking about, right?
A. Yes.
Q. And he suggested an MRI, did he, and a CAT scan?
A. Yes.

Q. And were those done?
A. Not to my knowledge.
Q. And you insisted they be done then for your patient?
MS. REINRER: Well, objection. He is not going to order neurological studies.
Q. I'm sorry, is your lawyer right; you are not going to order any neurological studies? Is she right?
A" If Dr. Harik had called me and said would you please schedule them, I probably would have scheduled them for him.
Q. Do you think she had a herniated disc?
A. I had no idea what she had. I have no idea if she had a herniated disc or not.
Q. To this day do you think she has a herniated disc?
A. To this day I don't know if she has a herniated disc or not.
Q. Doctor, I am handing you what has been marked as Exhibit Number 6. Would you look at that. What is this document number 6?
A. It's a discharge summary sheet.
Q. And from the University Hospitals?

A. Yes.

Q. And who is it signed by?

A. Me.

Q. And where does your signature appear?

A. On the bottom right-hand corner over attending physician's signature.

Q. Above that signature it says as follows: I certify that the narrative description of the principal and secondary diagnoses and major procedures performed are accurate and complete to the best of my knowledge. And you signed, that's your signature there, right?

A. Yes.

Q. And you will notice that the additional diagnosis in Cheryl Ola's case on discharge was what?

A. It says that I certify that the narrative description of those is normal., not that this is right.

Q. Okay. So let's get down to the main point. First of all your testimony is that the additional diagnosis contained in this exhibit is what, doctor?

A. Bilateral femoral neuropathy.

Q. And is that a neurological diagnosis, to your judgment?

A. Yes.

Q. And you are telling us under oath that you do not agree with that or you do agree with that?

A. No. I am telling you that I did not make the diagnosis of femoral neuropathy on this lady.

Q. And then why did you certify it as being accurate as a diagnosis?

A. Well, first of all, I can't even guarantee that that was on that chart when I signed it.

Q. Then you are saying that, your testimony is that it may not have been on the chart when you signed it?

A. It's possible.

Q. How would it be possible? Can you explain that to us?

A. Yeah, because these are signed at the time of discharge so the hospital can bill the patient and then medical records people fill this top part out and often times they are

not complete.

Q. So what you are telling us is that you may have signed this certification portion of Exhibit Number 6, and at the time you signed it you are saying that the additional diagnosis of bilateral femoral neuropathy may not have been on the record?

A. I don't know. It's possible. I don't know if it was or not.

Q. Okay. Would you look at page number 2 of the medical records. It's called the patient instructions. It's here.

A. I have it,

MS. REINKER: Discharge summary.

Q. Discharge summary. Did you sign the discharge summary?

A. Yes, I did,

Q. And when you sign it, what are you -- aren't you attesting to the discharge condition of your patient when you sign it?

A. Yeah, I am attesting to -- yes.

Q. And will you notice on the page that you signed under attending -- strike that.

Do you see where it says signature of attending physician on the bottom of page

two?

A. Yes.

Q. That's your signature?

A. Yes.

Q. And up in the last paragraph it says postoperative course. Do you see that?

A. Yes.

Q. Postoperative course was remarkable for some complaints of weakness in her right leg with difficulty straightening that leg. You read that before you signed it, did you not?

A. Well, I mean, I don't specifically -- I can't tell you that I specifically sat there and I don't remember specifically reading that sentence, no.

Q. Do you remember reading the following?

A. Neurology was consulted and the feeling was that she probably had a bilateral femoral neuropathy with the right being greater than the left.

Do you remember reading that before you signed Cheryl Ola's discharge summary?

A. I mean, I don't remember reading

the summary.

Q. Do you remember reading the following thing, that this could have been related to the surgical procedure and was improving rapidly.

Do you remember reading that before you signed Cheryl Ola's discharge summary, page two?

A. No, I don't remember reading Cheryl Ola's discharge summary.

Q. Handing you what has been marked as Plaintiff's Exhibit Number 5, that is the page that I have been reading from, have I not, in the discharge summary?

A. Yes.

Q. Okay. Thank you.

Doctor, would you turn to page 19 of the hospital records. It would be the consultation sheet. It's called the neurology consultation sheet.

Am J correct the date of it is 11/18/86? Am I correct?

A. Yes.

Q. Do you know which neurologist wrote this report?

A. The neurologist didn't write it. It was written by a medical student.

Q. Where it says patient is being referred for, do you see that section?

A. Yes.

Q. And what does RO mean?

A. Rule out.

Q. Femoral what?

A. Loolcs like femoral nerve palsy.

Q. And what is S/P?

A. Status post,

Q. And read the --

A. Status post vaginal hysterectomy and lithotomy -- I don't know if that's lithotomy or not, Position times about two hours.

Q. Difficulty with?

A. Difficulty with right hip flexion.

Q. Okay. And the referring physician is you, right?

A. Right. But it was written by Dr. Fiske.

Q. And who is Dr. Fiske?

A. She was a resident at that time.

Q. Dr. Fiske found it important in the

patient being referred to her the fact that she was in a lithotomy position for two hours during your vaginal hysterectomy; is that correct?

A. I don't know if she did or not.

Q. She wrote it down, didn't she?

A. She wrote it down.

Q. And apparently there was some significance to her lithotomy position during your vaginal hysterectomy as to the neurological problems she was having; would you agree?

MS. REINKER: Objection.

A. No, I don't necessarily agree with that.

Q. Would you say that a neurologist such as Dr. Fiske is in a better position. than you are to make a neurological diagnosis?

A. Dr. Fislce is not a neurologist.

Q. What kind of doctor was she?

A. She was a second year OB/GYN resident.

Q. Okay. And who conducted the neurological examination that follows?

A. It looks like a senior medical

student named Casey.

Q. And what was his residency in?

A. He didn't have a residency. He is a medical student.

Q. Just a medical student?

A. Fourth year medical student.

Q. And he conducted --

A. He is not a doctor.

Q. He is not a doctor?

A. No.

Q. And when we look at Exhibit Number 7, and you are looking at that page, I think 19, right?

A. Yes.

Q. All these notes that are made here that start with what is that first word?

A. Looks like asked.

Q. To see patient for --

A. Eval.

Q. Eval. That whole thing is written by somebody who is not a doctor, am J correct?

A. Yes.

Q. And he is permitted to examine your patient and make an evaluation of Mrs. Ola?

A. He is permitted to examine my

patient, yes.

Q. And he was a third year medical. student?

A. No, I believe he was a fourth year medical student.

Q. Fourth year medical student.

And he goes on to describe what Cheryl Ola's condition is, am I correct?

A. He goes on to write what he found on examination, yes.

Q. He found some numbness over her knee, did he?

A. I don't know.

Q. Why don't you take a look at what the fourth year medical student wrote.

(Pause.)

MS. **REINKER:** Don, do you want to point out something specifically? This is a long note.

Q. I assume you read this. This guy, this doctor, is it a man?

A. I don't know.

Q. This medical student is looking at your patient. Did you read his notes while Cheryl was in the hospital?

A. I am sure I did read this note.

Q. Is it incumbent on you as her treating physician to read these notes made by this medical student?

MS. REINRER: He just said he read the note, Don.

Q. Is it incumbent? Are you supposed to do that? Are you required to read the notes of Cheryl Ola made by this medical student?

A. No.

Q. And does he, the medical student, write out that she is having any pain in her legs or she has decreased sensation or numbness?

A. Well, let's see, Says here denies changes in sensation.

Q. Okay.

A. Question numbness over knee.

Q. Yes. And then he conducted an examination, did he?

A. Yes.

Q. And what kind of an examination would you characterize it as, a neurological examination?

A. I would say that it was a -- yeah,

it's a superficial neurological- examination but it's a neurological examination.

Q. He draws a diagram of Cheryl's ley does he?

A. Looks like her lower leg and foot..

Q. And around that area, what does he report? Why is he making this diagram here? What is he trying to say to us?

A. It looks like there is a decreased sensation to pin prick over the medial- aspect of right leg.

Q. In the area of which nerve?

A. Saphenous.

Q. Is that the femoral nerve?

A. That's a branch of the femoral nerve.

Q. Okay. Anything else he writes there that you can see?

MS. REINKER: How about a specific question.. There is a lot written here that we can see. What are you Looking at?

MR. ILER: Right at the diagram of her foot.

A. It loolcs like slight decrease in it, says something distribution.

Q. Okay.

A. And I can't read that word.

Q. Now, let's look at the diagram that the medical student made. Do you see the stick figure there.

A. Yes.

Q. And after he makes the stick figure he puts an impression, right?

A. Yes.

Q. What is it? What does he mean an impression? What is that medical impression?

A. Well, it's his impression of what is going on.

Q. What does he write there?

A. Patient with post-op weakness of iliopsoas quads,

Q. I am sorry?

A. Iliopsoas.

Q. I L L E S?

A. I L I O P S O A S.

Q. Okay. Quads and adduction of right leg?

A. And sensory loss over distribution of saphenous nerve. Here it says I think that's L-3, 4.

Q. Okay.

A. In parenthesis. I don't know what those next --

Q. Probably?

A. Probably second to injury to nerve at level of inguinal ligament, however involvement of iliopsoas suggests a higher involvement, higher involvement could be secondary to a mass compressing on -- or compressing or vascular event which can, which are both unlikely in this woman.

Q. Then he goes on.

A. Yeah, I know. I can't --

Her report she has improved in the past 24 hours. All --

Q. Bilateral?

A. There is something before that. All something bilateral -- I don't know what it says. I can't read it.

Q. Okay. But it says something neuropathy to -- can't read it?

A. Something to.

Q. Then what does he recommend?

A. Physical therapy.

Q. Okay.

A. He has an in and outpatient to facilitate full recovery.

Q. And to --

A. EMG to document recovery and can't read how many weeks he said,

Q. Okay.

A. And for something residual nerve injury.

Q. Okay. Signed?

A. There is more here.

Q. Yes, go ahead, sir.

A. There is a couple more things that, I can't read.

Q. Okay.

A. And then it says we will follow with you.

Q. Okay. And then signed Casey, right?

A. Yes.

Q. And you followed his recommendations, did you, with physical therapy?

MS. REINKER: Well, there is a note.

A. I believe the attending neurologist

also recommended physical therapy.

Q. And you followed his advice for your patient in this regard?

A. Yes.

Q. Do you have any quarrel-s with what the medical student fourth year Casey has written here that we have read?

A. Well, let me just see here.

Well, I mean, what do you mean by quarrels?

Q. Any objections, any disagreements what medical student Casey has written down there?

A. Well, I mean I didn't examine Mrs. Ola at the same time he did, so I'm not sure that I can disagree with his examination.

Q. All right.

A. I also would disagree about the injury to the nerve at the level of the inguinal ligament.

Q. Why would you disagree with that, doctor?

A. Because I think she had clear evidence that the level of injury was above the inguinal ligament.

Q. And what evidence would that be?

A. Weakness of the iliopsoas muscle.

Q. But that very same muscle is compatible with femoral neuropathy due to vaginal position during a hysterectomy, correct? Do you agree with that?

A. No.

Q. Do you agree that the inguinal muscle --

A. The inguinal ligament.

Q. -- is compatible with the damage to the femoral nerve due to abduction?

MR. KELLY: Objection.

MS. REINKER: Objection.

A. I am sorry, I was thinking one question in front of that.

Q. Okay. Do you want to try it again. Let's go back to my last question and his answer and then we will go from there,

(Record read,)

Q. I will rephrase that question because I think you are having trouble with that.

What muscle does the medical-student say was involved?

A. It says there was more than one muscle.

Q. I know, but he talks about the iliopsoas.

A. The quads.

Q. Now, would the iliopsoas muscle, what part does that muscle, to your judgment, doctor, play in abduction or spreading out of the lady's legs during the vaginal hysterectomy?

A. Minor role. Plays a major role in the flexion of the hip.

Q. And if the hip is flexed incorrectly during a vaginal hysterectomy, does that not lead to a femoral neuropathy?

MS. **REINRER:** Objection.

A. Not necessarily, no.

Q. It can, though, can't it?

A. Not from the iliopsoas muscle.

Q. Okay.

A. That should not be from weakness of the iliopsoas muscle.

Q. Doctor, finally after reviewing the documents and the medical records, do you think in your medical- opinion that when Mrs. Ola was

discharged from the hospital, University Hospitals on November 21, 1986 that she had a femoral neuropathy?

MS. REINRER: Objection.

A. My opinion she had symptoms during her hospitalization that were compatible with femoral neuropathy, however the exact etiology of that is unknown.

Q. Is it your testimony that she had symptoms of a femoral neuropathy but she did not have a femoral neuropathy?

A. Well, I am saying that she had signs and symptoms, okay, of a femoral neuropathy, I said that. The etiology of that, of those signs and symptoms, okay.

Q. What caused them, these signs and symptoms?

A. What caused the signs and symptoms in the distribution of the femoral nerve was not established.

Q. Okay. And to this day you still feel the same way, that the etiology or the cause of the symptoms of a femoral neuropathy are still unknown to you this day?

A. Yes.

Q. If you ever determine what; the etiology was of the femoral neuropathy symptoms that you say she was discharged with, would you tell your counsel so she can tell me so I'm not surprised at trial if you give an opinion as to the etiology of the femoral symptomatology? Would you do that?

A. Yes.

Q. Okay. Would you look at your record -- no. One minute. I think I'm through here.

Was the vaginal hysterectomy elective surgery?

A. Yeah, I think you could say that.

Q. Mrs. Ola was not in imminent danger of death?

A. No.

Q. Was she?

A. No.

Q. Before?

A. Not that I know of.

Q. The pathology report that was clone at University Hospitals after her vaginal hysterectomy specimen, part of her organs were sent up to pathology, were they?

A. Yes.

Q. What was the result of that? What did they find with the tissue that was removed that you sent up to the lab?

A. Uterus (hysterectomy cervix) squamous metaplasia, recent surgical manipulation of transition zone with foreign body giant cell reaction. No residual dysplasia or tumor is seen. Endometrium: Secretory endometrium. Senior pathologist: Kelly Sorensen, M.D.

Q. What was the tissue reported as then? What do you conclude from that?

A. I mean that's what it was reported as.

Q. What does that mean to you?

MS. REINKER: Objection.

A. It means to me that they got a uterus with a cervix on it and the cervix had what is called squamous metaplasia on it; that it had recently had surgical manipulation to it.

Q. That would be your manipulation?

A. No.

Q. Somebody else?

A. That would probably be from your cone biopsy previously.

Q. Okay.

A. That the surgical manipulation of the transition zone had caused a giant cell reaction and there was no residual dysplasia or tumor seen in the cervix and that she had a normal secretory endometrium-

Q. Doctor, one minute and. I'm finished here.

Oh, doctor, have you retained anybody as an expert to review your care and treatment of Cheryl Ola in this case?

MS. REINKER: Objection.

A. Have I personally retained anybody?

Q. A representation. Your lawyer?

MS. REINKER: Objection.

A. I have not personally retained somebody.

Q. Do you know if your lawyers have retained somebody to be an expert on your behalf in this case?

A. Not to my knowledge.

Q. Doctor, during your care and

treatment of Cheryl Ola or any time thereafter, did you ever find that there was a mass or a lesion that occurred in Cheryl Ola? Do you remember you gave us some reasons on what could cause a femoral neuropathy. The first one you gave me as was a mass or a lesion. Do you

A. Yes.

Q. And did you ever find any evidence of a mass or a lesion that caused a femoral neuropathy or symptoms that are compatible with femoral neuropathy?

A. No, I didn't find one.

Q. Did you ever find any evidence of edema in Cheryl Ola which could account for, attributed to the symptoms of a femoral neuropathy or a femoral neuropathy?

MS. REINKER: Objection.

A. Not that I recall.

Q. Did you ever uncover a vascular accident of any kind that may be attributed according to you of causing symptoms of a femoral neuropathy or a femoral. neuropathy itself?

A. Not that I recall.

Q. Did you ever find that Cheryl Ola was diabetic or suffered from any metabolic causes or diseases which you could attribute to a femoral neuropathy or symptoms compatible with a femoral neuropathy?

A. Not that I recall.

Q. Did you ever have any information whatsoever to this day that she has a herniated disc or a disc of any kind which could be attributed to your judgment to a femoral neuropathy or the symptoms compatible with the femoral neuropathy?

A. I believe there is a report that exists that says she does not have those.

Q. Have we then, doctor, as of today eliminated every possible cause in your mind as a physician which could have caused the symptoms of a femoral neuropathy or a femoral neuropathy?

MS. REINKER: Objection.

MR. KELLY: Objection.

A. No.

Q. Could you give me any other causes that you can think of other than the five I have already gone through? We have already run

through a mass or lesion, edema, vascular accident, metabolic insufficiencies such as diabetes and a disc..

Now, what other causes do you at this time attribute to symptoms compatible with a femoral- neuropathy or with a femoral neuropathy?

A. Well, first of all, let me say that I don't think that the possibility of a herniated disc has been completely excluded.

Q. Okay.

A. And number two, as I said earlier when I answered the question the first time, that those are all the things that I can think of but that the causes of femoral neuropathy, there are many more than I have elicited to.

Q. Where can I find those?

MS. **REINKER:** Objection.

Q. I want to know what other causes you have in your mind today or I will- have to continue your deposition until you can tell me what other causes you attribute to femoral neuropathy or symptoms compatible with. femoral neuropathy.

A. I don't have any in my mind right

now but I know that there are others.

Q. Okay. But my question to you then -- then there is one cause for a femoral neuropathy that you also talked about and that was pressure. Remember that?

A. Yes.

Q. And pressure, I think you told us the pressure comes from the abduction or the spreading out of Mrs. Ola's legs?

MS. REINKER: Objection.

A. No.

Q. No?

A. I said that, as I recall what I said was that the pressure on the inguinal ligament which causes pressure on the femoral nerve is an access underneath the inguinal ligament.

Q. Is caused by what?

A. Flexion.

Q. Of what?

A. Of the hip.

Q. And during the time that Mrs. Ola would be in dorsal lithotomy position?

A. I didn't say Mrs. Ola, that specifically happened to Mrs. Ola. I said that

the theory is that that is how femoral neuropathies are caused when patients are in dorsal lithotomy positions.

Q. And that still exists in your mind; that is the pressure caused as you have described can still be a cause for her femoral neuropathy and/or symptoms of femoral neuropathy?

MS. REINKER:: Objection.

A. No, I didn't say that.

Q. Are you eliminating today pressure as you have described as being a cause for femoral neuropathy?

A. No, I am saying she had signs and symptoms that would indicate that that was not that.

Q. It was not that, okay. So that I am absolutely clear, you're saying there is nu evidence in your mind that if Cheryl Ola has a femoral neuropathy that it was caused by pressure on the inguinal ligament which then placed some pressure on the femoral nerve; correct?

A. Well, I mean I don't want to speak in absolutes, okay.

Q. Well, sure.

A. You are asking me to speak an absolute.

Q. Well, I mean I want to know from you whether you entertain pressure on the inguinal ligament which applied pressure to the femoral nerve?

A. That is possible that that could have caused some of her symptoms but it does not explain the symptoms of the higher findings from the femoral nerve.

Q. What higher findings?

A. The weakness in the iliopsoas muscle.

Q. Okay. Doctor, you saw Cheryl Ola at the hospital -- strike that.

You saw her in your office for a workup. You saw her in the hospital. for a presurgical workup, and then you saw her postsurgery, did you not?

A. Uh-huh, yes.

Q. Was Cheryl Ola cooperative with you during these periods of time when you were her physician?

A. I don't specifically remember her

being uncooperative.

Q. Did you find that Cheryl Ola was a pleasant woman as reported in the hospital-records?

A. I think I found that Cheryl was a little bit flat.

Q. Say that again,

A. Cheryl was a little bit, she has a flat effect is what I remember about Cheryl.

Q. What does that mean?

A. Sort of that she was subdued and not energetic.

Q. But in other respects, a pleasant woman?

A. Well, as I said earlier, I don't remember her being unpleasant.

Q. Okay. During your care and treatment of her, did she comply with all your instructions?

A. I don't remember.

MR. ILER: I am ready to conclude my deposition, but I make the following requests of you and of your attorney; that if you add to your opinions or to your medical. judgments or to any of your answers here today,

I request that you advise your counsel of those changes and that your counsel tell me at the earliest possible time of any changes in youc opinions concerning any of the questions I have asked you today so that I will be fully advised of any opinion you are going to give at trial. That's my request of you. I am sure counsel will supply me with that.

MS. REINKER: We are going to object. I don't think there is any obligation of us to advise you every time the doctor has a new thought about his defense of the case but it's noted on the record.

MR. ILER: I think you are right. What I am trying to ask is I am going to yive you all the opinions that we have, I am going to give you all the opinions our experts have, so that you are fully and completely advised as to where Cheryl Ola's case will be going and what opinions are going to be held. J ask if you should change your mind in any of your opinions that you have given me today that you advise me. If there are any defenses that you think about that have not been explored here today that you are going to testify to, I will

ask that you give me those in sufficient time to question you about them.

MS. REINKER: I am going to object to that, but you are on the record, Mr. Iler.

MR. ILER: And I thank you for coming. Waiver of signature?

MS. REINKER: Are you going to request this written now?

MR. ILER: I don't think so,

MS. REINKER: Doctor, you have the right to review this deposition if it is ever written up and I suggest in a medical ease you not waive signature.

THE WITNESS: I want to review it. I don't waive signature,

MR. ILER: Let me incorporate in the deposition all the exhibits that we have and I think I have them all here.

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CERTIFICATE

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

I, Vivian L. Gordon, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, MICHAEL MACFEE, M.D., was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 6th day of February, 1990.

Vivian L. Gordon

Vivian L. Gordon, Notary Public within and for the State of Ohio

My commission expires May 22, 1994.

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UNIVERSITY HOSPITALS OF CLEVELAND

NAME	OLA, CHERYL E.			DATE OF ADMISSION	11/17/86
HOSPITAL NUMBER	1-381-887				
SEX	Female	AGE		RACE	
SERVICE	GYN	DIVISION	HH2		
ATTENDING PHYSICIAN	Dr. MacFee				
RESULT		DAYS IN HOSPITAL	5	DATE OF DISCHARGE	11/21/86

C.C. & H.P.I.: This patient was a 32 year old Gravida 2, Para 1 0-1-1 who was admitted for total vaginal hysterectomy. Five years prior the patient was evaluated by her family physician, Dr. Lee at St. Alexis Hospital who noticed an abnormal Pap: test. Patient states that she was being followed every six months by Dr. Lee for followup Paps. but did not keep her appointments. During the last six months she noticed some abnormal bleeding and she reported this to her family physician. Routine Pap. test was done and cone biopsy dilatation and curettage was also done at this time, The results of which showed carcinoma in situ at the cervix. Patient was then sent to Dr. MacFee for a second opinion and the decision to perform a vaginal, hysterectomy was made. Past medical history significant for a male infant delivered in 1977 and two subsequent dilatation and curettages in 1981 and 1986, Patient denies any allergies.

P.E.: Significant for normal vital signs. General physical examination was normal. Uterus was noted to be normal size, anteverted, anteflexed. Adnexae normal. Uterus was mobile with good descent. Patient was then prepared and taken to the operating room on 11/17. She had a vaginal hysterectomy that went without complications, Estimated blood loss during the procedure was 60 ccs. Yoatoperative course was remarkable for some complaints of a weakness in her right leg with difficulty straightening that leg. Neurology was consulted and the feeling was that she probably had a bilateral femoral neuropathy with the right being greater than the left, that this could have been related to the surgical procedure and was improving rapidly, The recommendation was for physical therapy and to followup with EMG if she did not have rapid improvement, however the patient regained full strength and was discharged on postoperative day #4 in good condition.

Postoperative diagnosis was carcinoma in situ, cervix.

Principal Diagnosis: Carcinoma in situ, cervix.

Final Diagnosis:

Dr. T. Heyman
12/12/86
MRC#30
12/15/86
cc: Dr. MacFee
cc: Dr. T. Keyman
cc: Dr. Lee, St. Alexis Hospital

4/# 12/18

DEPOSITION EXHIBIT
MacFee
5

PERCAD-Bayonne, N.J.

PATIENT INSTRUCTIONS

ACTIVITY:	MEDICATIONS
DIET:	FOLLOW-UP

SIGNATURE OF RESIDENT:	SIGNATURE OF ATTENDING PHYSICIAN:	ATTENDING PRINTED NAME

5-0280-411

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CONSULTATION SHEET

NAME: Ola, Cheryl
HOSP NO: 138 1887 / 11/18/86
SERVICE / ADM PHYS: MacFee
1801 1954

TO Neurology
Consulting Physician or Service

Date: 11/18/86

Patient is being referred for R/o femoral nerve palsy s/p vaginal in lithotomy position x ~ 20 (difficulty c̄ (R) hip flexion)

Referring Physician [illegible], M.D.

CONSULTANT'S NOTE

Fisher for MacFee

Asked to see pt for eval of difficulty in hip flexion after Vag hysterectomy. Pt is 32 yo W/F s/p Vaginal hysterectomy on 11/17 for CIS of Cx. Dx on pap of abnl cells made 5 y ago. Dx of Ca in situ made on Cone bx during 1st wk of Oct. Pt's otherwise s̄ medical problems. Hysterectomy performed on 11/17 under GET c̄ pt in lithotomy position x ~2°. On 11/18 noted pt had difficulty c̄ (R) hip flexion c̄ straight leg raise. On 11/18 pt noted going to BRm that "(R) leg gave out" in area of knee. Denies Δ's in sensation no dysthesia. ? Numbness over knee. ∅ MEDS Laboratories – nl

PE T 37 P 80 R 18 BP 110/60

MSE: A O x 3 s̄ deficits. Speech & language nl

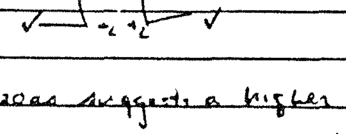
⊖ Spinal tenderness, neck c̄ full ROM ⊖ restriction in spinal ROM

Gait: slow c̄ nl base, step Motor: (L) & (R) UE 5/5 bilat nl tone, bulk

	Iliopsoas	hams	quads	add	abd	plantar	dorsif	inv	evert
(L)	5/5	5/5	5/5	5/5	5/5	5/5	5/5	5/5	5/5
(R)	-4/5	5/5	+4/5	+4/5	5/5	5/5	5/5	5/5	5/5

Sensory ↓ pinprick over  medial aspect of (R) leg in saphenous nerve distribution
sl. ↓ in lesser distribution of saphenous in (L)

Coor: FTN, HTS Romberg intact

DTR: 

CNs – s̄ deficits

Impression: Pt c̄ post op weakness of iliopsoas, quads & adductors of (R) leg & sensory loss over distribution of saphenous N (L3-4) probably 2° to injury to nerve at level of inguinal ligament however involvement of iliopsoas suggests a higher involvement. Higher involvement could be 2° to a mass compressing or vascular event which are both unlikely in this woman. Per her report she has improved in the past 24°. Dx bilat. femoral neuropathy (R) > (L)

RECOMMEND (1) Physical Therapy as in & out patient to facilitate full recovery

Signature: , M.D. Date

(2) EMG to document recovery in 3 wks and also for any residual nerve injury c̄ Nerve Cond.

Printed Name: M.D.

We will follow out [illegible]

S 0216 2(1/86)

ORIGINAL—TO MEDICAL RECORDS

UNIVERSITY HOSPITALS OF CLEVELAND

DISCHARGE SUMMARY SHEET

OLA, CHERYL E.
1381887 11 17 86 B
024 MM 002 2:28
F 1 30 1954

ADMISSION DATE:
ADM SOURCE
RE-ADMIT INDICATOR
ADM M.D.

DISCHARGE DATE: 11/21
D/C DISPOSITION: HR
D/C DESTINATION: 0001
D/C M.D.

OPTIONAL INFORMATION

				TRACER	SVC	CONSULTATIONS DATE	M.D.
1.	2.	3.	4.	BPA 5	1659	/ /	MICHAEL MS
5.	6.	7.	8.		015	/ /	NA
9.	10.	11.	12.			/ /	
13. D.A	14.	15.				/ /	

PRINCIPAL DIAGNOSIS: THE CONDITION ESTABLISHED AFTER STUDY RESPONSIBLE FOR ADMISSION OF THE PATIENT TO THE HOSPITAL FOR CARE.
ADDITIONAL DIAGNOSES: ALL CONDITIONS IN THE PATIENT'S HISTORY AND/OR COEXISTING AT THE TIME OF ADMISSION OR DEVELOPING SUBSEQUENTLY WHICH EFFECT THE PLAN OF CARE, TREATMENT RENDERED OR LENGTH OF STAY OF THE PATIENT.

DIAGNOSES

	ICD-9-CM CODE	ICD-9-CM CODE
PRINCIPAL DIAGNOSIS: ____ PENDING PATHOLOGY REPORT ____ PENDING OTHER REPORTS		
1. Carcinoma in situ of Cervix	233.1	
ADDITIONAL DIAGNOSES:		
Bil Femoral Neuropathy	355.8	

PROCEDURES

	DATE	M.D. #	ICD-9-CM CODE	ICD-9-CM CODE
PRINCIPAL PROCEDURE:				
1. Total Vaginal Hysterectomy	11/17	5/659	68.5	
ADDITIONAL PROCEDURES:				

DEPOSITION EXHIBIT
PERCIO-Byrnes, N. J.
Manfee 6

WAS AN OPERATIVE REPORT DICTATED?
☐ YES ____ DATE ☐ NO

WAS A CLINICAL RESUME DICTATED/ WRITTEN?
☐ YES ____ DATE ☐ NO

5-0103-4(3/86)

DRG

DATE CODED 11/24

MRT 12

I CERTIFY THAT THE NARRATIVE DESCRIPTION OF THE PRINCIPAL AND SECONDARY DIAGNOSES AND MAJOR PROCEDURES PERFORMED ARE ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

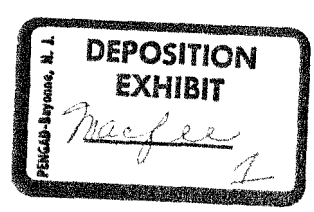
X ____ ATTENDING PHYSICIAN SIGNATURE

M.D. PRINTED NAME ____ DATE / /

CURRICULUM VITAE

MICHAEL S. MACFEE, M.D.

BUSINESS ADDRESS:	2105 Adelbert Road Cleveland, Ohio 44106
BUSINESS TELEFHONE:	(216)844-3340
HOME ADDRESS:	150 Aspenwood Drive Moreland Hills, Ohio 44022
HOME TELEPHONE:	(216)349-1711
SOCIAL SECURITY #:	570-62-7821
PLACE OF BIRTH:	Cleveland, Ohio
DATE OF BIRTH:	17 May 1945
MARITAL STATUS:	Married, wife - Rita One Child
FORMAL EDUCATION:	University of Colorado School of Medicine September 1972 - May 1976 Southern Colorado State College June 1970 - August 1.972 Alan Hancock College February 1968 - September 1968 University of Toledo September 1965 - April 1966 Depauw University September 1963 - June 1965
DEGREES:	Doctor of Medicine University of Colorado May 1976 Bachelor of Science Medical Sciences University of Colorado August 1973



HONORS :

Deans List, Southern Colorado State College (four times)

Member of Psi Chi, National Honor Society in Psychology

Psi Chi National Research Award
April 1972

PROFESSIONAL BACKGROUND:

Military Service:

United States Air Force
Corpsman
1966 - 1972

United States Navy
1972 - 1985

Internship:

Naval Regional Medical Center
San Diego, California 92134
July 1976 - June 1977

Residency:

Department of Obstetrics Gynecology
Naval Regional Medical Center
San Diego, California 92134
July 1977 - June 1980

Fellowship:

Gynecologic Oncology
University of California
San Diego, California 92103

CERTIFICATION:

Board Certified
American Board of Obstetrics
Gynecology December 1984

Diplomat National Board of Medical
Examiners July 1977

Board Certified - February 1987
Gynecologic Oncology

LICENSURE:

State of Ohio 051659
State of California #G 038510

MEMBERSHIPS:

American Board of Obstetrics Gynecology

American College of Obstetrics Gynecology

Society of Gynecologic Oncologists

Western Association Gynecologic Oncology

Eastern Cooperative Oncology Group

Cancer Control Consortium of Ohio

Gynecologic Oncology Society Mid America

APPOINTMENTS:

Director
Division of Gynecologic Oncology
MacDonald Hospital for Women
University Hospitals of Cleveland
2105 Adelbert Road
Cleveland, Ohio 44106

Assistant Professor
Reproductive Biology
Case Western Reserve University
School of Medicine
Cleveland, Ohio 44106

Assistant Professor
General Medical Sciences (Oncology)
Case Western Reserve University
School of Medicine
Cleveland, Ohio

Assistant Clinical Professor
Department Reproductive Medicine
University Hospital
225 W. Dickinson Street
San Diego, California 93103

Physician in Charge of Gyn Oncology
Department of Obstetrics Gynecology
St. Luke's Hospital
11201 Shaker Boulevard
Cleveland. Ohio 44104

Visiting Gyn Oncologist
Mt. Sinai Hospital
Cleveland, Ohio

Consultant - Gyn Oncology
Hillcrest Hospital
Cleveland, Ohio

DEPARTMENTAL APPOINTMENTS;

Co Director Residency Program
1986-1988

Chairman
Credentialing Committee

Member
MacDonald HospitalAssociates Management:

Faculty of the Year Award - 1986-87

Faculty of the Year Award - 1987-88

EDITORIAL APPOINTMENTS:

Associate Editor
OB-GYN Clinical Alert

COMMITTEE APPOINTMENTS:

Physician-in-Charge
Gynecologic Tumor Board
University Hospitals of Cleveland

Gyn Oncologist
Tumor Board
Hillcrest Hospital

Gyn Oncologist
Tumor Board
Bedford Community Hospital

Member
Oncology Council
University Hospitals of Cleveland

Member
Tissue Committee
University Hospitals of Cleveland

Member
Operating Room-Recovery Room Committee
University Hospitals of Cleveland

Member
Task Force on Antibiotic Utilization
For MacDonald Hospital

Contributor
Gyn Oncology Board Exams

PAPERS PRESENTED:

1. Macfee MS: Signal Detection Analysis of Meaningfulness on a Recognition Memory Task. Presented at Rocky Mountain Psychological Convention, May 1973.

2. Macfee MS, Donaldson R, Yon JL: Clear Cell Adenocarcinoma of the Vagina in Non-diethyl-stilbestrol Exposed Females: A Report of Two Cases. Presented at The Armed Forces District Meeting at the American College of Obstetricians and Gynecologists. May 1981.

3. Macfee MS, Byfield J, Lucas WE: Treatment of Posterior Vulvar Carcinomas with 5-FU and Radiation Therapy. Presented at the Western Association of Gynecologic Oncologists Meeting. May 1981

RESEARCH:

1. Phase II Trial of Intraperitoneal Lymphokine Activated Killer Cells and Interleukin-2 Therapy of Patients with Chemotherapy Resistent Stage III CA ovary.

2. A Randomized Multicenter Study of the Efficacy, Safety and Toleration of Fluconazole or Clotrimazole Troches in the Treatment *of* Patients with Oropharyngeal Thrush in Association with Malignancy.
   Funding - $50,000

PUBLICATIONS:

1. Gardner R, Macfee MS: Absence of Crespi Effect with Rewards of Constant Weight in Varying size. Catalog of Selected Documents in Psychology, 1972, 2, 11.

2, Gardner R, Macfee MS, Stephens R: Crespi Effect under Conditions of Constant Weight and Varying size The Journal of the Colorado Wyoming Academy of Science, 1972, 7(2-3)108.

3. Gardner R, Macfee MS: A Comparison of Binary and Rating Techniques in the Signal Detection Analvsis of Recognition Memory. Acta Psychologica 1975,39.

4. Toffle R, Macfee MS, Porreco R: The Management of Elective Repeat Cesarean Section. The Journal of Reproductive Medicine 1978, 21:377-380.

5. Toffle R, Macfee MS, Porreco R: The Management of Elective Repeat Cesarean Section. Obstetrical and Gynecological Survey, November 1979.

6. Toffle R, Macfee MS, Porreco R: The Management of Elective Repeat Cesarean Section. Yearbook of Obstetrics and Gynecology 1980, 168-170.

7. Macfee MS, McQuenn J, Strayer DE: Immunocyto chemical Localization of Prolactin in Carcinoma of the Cervix. Gynecologic Oncology PN 1579 Vol 26:3 March 1987.

8. Macfee MS: Adenocarcinoma of the Uterus. The Primary Care of Cancer (Handbook)., CWRU, 1987

9. Macfee MS: Monthly Review. OB-GYN Clinical Alert.

10. Macfee MS: Intraperitoneal Chemotherapy in the Treatment of Ovarian Cancer. Oncology On-Line vol 2 issue 3. Pub. by R. Livingston Ireland Cancer Cancer.

11. Macfee MS: Two Nonmalignant Vulvar Entities. Contemp OB-GYN, 31:113-23, April 15, 1988.

12. Macfee MS: Alcohol and Women. OB-Gyn Edition of YOUR PATIENT & FITNESS. The Physician and Sportsmedicine. Accepted for publication.

13. Macfee MS: Cytoreduction in ovarian cancer: worth the risk? Editorial. Cleve Cli J Med 55:511, 1988

LECTURES:

1. "Ovarian Cancer - Success or Stagnation"
   R. Livingston Ireland Cancer Center
   September 28, 1985.

2. "Management of Ovarian Cancer"
   St. Joseph' Hospital, Lorain, Ohio
   October 25, 1985

3. "Management of Ovarian Cancer"
   Elyria Memorial Hospital
   December 4, 1985

4. "Epithelial Ovarian Cancer"
   Youngstown Gynecologic Society
   November 27, 1985

5. "Surgical Management of Ovarian Cancer - Rationale and Results"
   Surgical Grand Rounds
   University Hospitals of Cleveland
   January 4, 1986

6. "Surgical Management of Ovarian Cancer"
   Fairview Park Hospital
   January 7, 1986

7. "Germ Cell Ovarian Carcinoma"
   St. Luke's Hospital
   January 14, 1986

8. " Surgical Management of Ovarian Cancer"
   Cleveland Clinic
   March 10, 1986

9. "Do I Really Need a Pap Smear Every Year?"
   Women's Health Day
   Stouffers Inn on the Square
   April 16, 1986

10. "Pre op Work up and Staging Endometrial Cancer"
St. Joseph's Hospital, Lorain, Ohio
April 25, 1986

11. "Endometrial Carcinoma - Diagnosis and Treatment"
St. Luke's Hospital
May 13, 1986

12. "Diagnosis and Treatment of Endometrial Cancer"'
MacDonald Hospital for Women
Annual Review of Obstetrics and Gynecology
Holiday Inn, Independence
May 16, 1986

13. "Vulvar Diseases"
Workshop
MacDonald Hospital for Women
Annual Review of Obstetrics and Gynecology
Holiday Inn, Independence
May 16, 1986

14. "Ovarian Carcinoma"
Medical Grand Rounds
St. Luke's Hospital
May 28, 1986

15. "Ovarian Cancer - Surgical Management"
MacDonald Hospital for Women
October 8, 1986

16. "Management Ovarian Cancer"
Lakewood Hospital
October 15, 1986

17. "Endornetrial Evaluation and Management of Stage I Carcinoma"
Grand Rounds
St. Luke's Hospital
October 21, 1986

18. "Management of Ovarian Cancer"
Grand Rounds
Parma Community Hospital
October 28, 1986

19, Workshop on Cancer Update
Guest Lecturer
October 24, 1986
October 28, 1986
November 13, 1986

20. "Clinical Management of Endometrial Hyperplasias and Estrogen Replacement Therapy - An Oncologist's View"
OB GYN Society
Hilton Hotel South
January 21, 1987

21. "GYN Abnormalities for the General Surgeon"
General Surgery Grand Rounds
St. Luke's Hospital
March 4, 1987

22. "Minimizing your Risk for GYN Cancer"
Women's Health Day
Stouffer Inn on the Square
March 5, 1987

23. "Laser Surgery and Gyn Emergencies"
Ireland Cancer Center Lecture Series
Elyria Memorial Hospital
March 11, 1987
St. Joseph's Hospital, Lorain, Ohio
March 27, 1987

24. "Gestational Trophoblastic Neoplasia"
"Complications: Bleeding, Irradiation, Bowel"
MacDonald Hospital for Women
Annual Review of Obstetrics and Gynecology
Qufail Hollow Inn
May 14, 1987

25. "Surgical Approach to Ovarian Carcinoma for Optimal Chemotherapeutic Response"
Cleveland Society of Obstetrics Gynecology
Hilton Inn South
January 20, 1988

26, "Surgical Management of Ovarian Cancer"
Cancer in Women: Diagnosis and Management
Sponsored by: Ireland Cancer Center
February 27, 1988

27. "Gyn Update"
American Cancer Society of Lorain County
September 14, 1988

28. HPV Infections
Health Matters, WKYC TV 3
March 5, 1989

29. "Clinically Applicable Tumor Markers"
Ireland Cancer Center Leture Series
Fairview General Hospital March 7, 1989
St. Joseph Wospital, Lorain March 31, 1989
Elyria Memorial Hospital May 10, 1989

30. "HPV - Diagnosis and Treatment"
Ob-Gyn Society of Cleveland
May 17, 1989

31. "HPV and Nurse Practitioner"
Cleveland State University
April 13, 1989

32. OB-GYN Update Seminar
Director of Program
Quail Hollow
August 25 & 26, 1989

33. "Spirituality: Where and How to Find it"
Women: Health and Spirituality
Cleveland Health Education Museum
September 21, 1989

34. "Gyn Cancer: Can you prevent it?"
Tenth Annual Women's Health Day
Executive Club
October 18, 1989

35. "Ovarian Cancer Update"
Ohio State Medical Association
Dayton Convention Center
November 4, 1989

FILED

APR 11 1 53 PM '89

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, **OHIO**

CHERYL OLA, et al.

vs.

CASE NO. 152815

JUDGE TIMOTHY E. McMONAGLE

Counsel will take notice that the undersigned will take the deposition of:

Dr. Michael MacFee
MacDONALD ASSOCIATES, INC.
2027 Cornell Avenue
Cleveland, Ohio 44106

on Nay 26, 1989 at 10:00 a.m., at the law offices of:

DON C. ILER CO., **L.P.A.**
1640 Standard Building
Cleveland, Ohio 44113

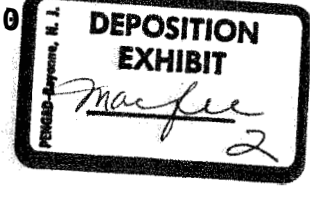
This deposition is taken pursuant to Civil Rule 30. Oral examination will continue day to day until completed, and may be used as evidence in the trial of the above-entitled matter.

DUCES TECUM

Please see attached sheet.

Respectfully submitted,

DON C. ILER
DON C. ILER CO., L.P.A.
1640 Standard Building
Cleveland, Ohio 44113
216-696-5700



DUCES **TECUM**

PLEASE PRODUCE AND BRING WITH YOU THE FOLLOWING:

1. Any and **all** medical **records** concerning the care **and** treatment of Cheryl Ola.

S E R V I C E

A copy of the foregoing Plaintiff's Notice to Take the Deposition Duces Tecum was sent by ordinary U.S. Mail on this 1 day of April, 1989 to the following counsel of record:

Susan Reinker, Esq.
100 Erieview Plaza - 14th Floor
Cleveland, Ohio 44114

Robert D. Warner, Esq.
The 113 St. Clair
Cleveland, Ohio 44113

DON C. ILER

Attorney for Plaintiff

3

UNIVERSITY HOSPITALS OF CLEVELAND

NAME	OLA, CHERYL E.				
HOSPITAL NUMBER	1-381-887			DATE OF ADMISSION	11/17/86
SEX	Female	AGE		RACE	
SERVICE	GYN	DIVISION	HH2		
ATTENDING PHYSICIAN	Dr. MacFee				
RESULT		DAYS IN HOSPITAL	5	DATE OF DISCHARGE	11/21/86

C.C. & H.P.I.: This patient was a 32 year old Gravida 2, Para 1 0-1-1 who was admitted for total vaginal hysterectomy. Five years prior the patient was evaluated by her family physician, Dr. Lee at St. Alexis Hospital who noticed an abnormal Pap. test. Patient states that she was being followed every six months by Dr. Lee for followup Paps. ,but did not keep her appointments. During the last six months she noticed some abnormal bleeding and she reported this to her family physician. Routine Pap. test was done and cone biopsy dilatation and curettage was also done at this time. The results of which showed carcinoma in situ at the cervix. Patient was then sent to Dr. MacFee for a second opinion and the decision to perform a vaginal hysterectomy was made. Past medical history significant for a male infant delivered in 1977 and two subsequent dilatation and curettages in 1981 and 1986. Patient denies any allergies.

P.E. : Significant for normal vital signa. General physical examination was normal. Uterus was noted to be normal size, anteverted, anteflexed. Adnexae normal. Uterus was mobile with good descent. Patient was then prepared and taken to the operating room on 11/17. She had a vaginal hysterectomy that went without complications, Estimated blood loss during the procedure was 60 ccs. Postoperative course was remarkable for some complaints of a weakness in her right leg with difficulty straightening that leg. Neurology was consulted and the feeling was that she probably had a bilateral femoral neuropathy with the right being greater than the left, that this could have been related to the surgical procedure and was improving rapidly. The recommendation was fer physical therapy and to followup with EMG if she did not have rapid improvement, however the patient regained full strength and was discbarged on postoperative day #4 in good condition.

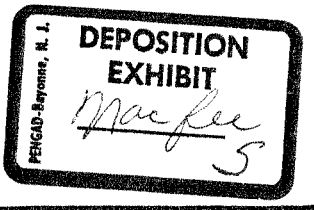
Postoperative diagnosis was carcinoma in situ, cervix.

Principal Diagnosis: Carcinoma in situ, cervix,

Final Diagnosis:

Dr. T. Heyman
12/12/86
MRC#30
12/15/86
cc: Dr. MacFee
cc: Dr. T. Neyman
cc: Dr. Lee, St. Alexis Hospital

4/# 12/18



PATIENT INSTRUCTIONS

ACTIVITY:	MEDICATIONS
DIET:	FOLLOW-UP

SIGNATURE OF RESIDENT:	SIGNATURE OF ATTENDING PHYSICIAN:	ATTENDING PRINTED NAME

2

5-0280 41

UNIVERSITY HOSPITALS OF CLEVELAND

DISCHARGE SUMMARY SHEET

OLA, CHERYL E.
1381887 11 17 86 B
024 MM 002 2:28
F 1 30 1934

ADMISSION DATE:
ADM. SOURCE:
RE-ADMIT INDICATOR:
ADM. M.D.

DISCHARGE DATE: 11/21
D/C DISPOSITION: HR
D/C DESTINATION: 0041
D/C M.D.

OPTIONAL INFORMATION

1. 2. 3. 4.
5. 6. 7. 8.
9. 10. 11. 12.
13. D.A 14. 15.

TRANSFER	SVC.	CONSULTATIONS DATE	M.D.
BPA 51659		MICHAEL MS	
	015	/ /	NA
		/ /	
		/ /	

PRINCIPAL DIAGNOSIS: ADMISSION OF THE PATIENT TO THE HOSPITAL FOR CARE.
ADDITIONAL DIAGNOSES: ALL CONDITIONS IN THE PATIENT'S HISTORY AND/OR COEXISTING AT THE TIME OF ADMISSION AND/OR DEVELOPING SUBSEQUENT WHICH EFFECT THE PLAN OF CARE, TREATMENT RENDERED OR LENGTH OF STAY OF THE PATIENT.

DIAGNOSES

	ICD-9-CM CODE	ICD-9-CM CODE
PRINCIPAL DIAGNOSIS: ____ PENDING PATHOLOGY REPORT ____ PENDING OTHER REPORTS		
1. Carcinoma in situ of Cervix	233.1	
ADDITIONAL DIAGNOSES:		
Bil Femoral Neuropathy	355.8	

PROCEDURES

	DATE	M.D. #	ICD-9-CM CODE	ICD-9-CM CODE
PRINCIPAL PROCEDURE:				
1. Total Vaginal Hysterectomy	11/17	51659	68.5	
ADDITIONAL PROCEDURES:				

DEPOSITION EXHIBIT
Mac Lee 6
PENGAD-Bayonne, N. J.

WAS AN OPERATIVE REPORT DICTATED?
☐ YES ____ DATE ☐ NO

WAS A CLINICAL RESUME DICTATED/WRITTEN?
☐ YES ____ DATE a NO

DRG ____
DATE CODED 11/24
MRT 12

I CERTIFY THAT THE NARRATIVE DESCRIPTION OF THE PRINCIPAL AND SECONDARY DIAGNOSES AND MAJOR PROCEDURES PERFORMED ARE ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

X ____ ATTENDING PHYSICIAN SIGNATURE

____ MD PRINTED NAME ____ DATE.

5-0103-4(3/86)

DISCHARGE SUMMARY SHEET

18

NAME Ola, Cheryl
HOSP NO 138 1887 / 11 18 86
ADM PHYS
SERVICE
SEX & DOB

MacFee 1801 1954

University Hospitals of Cleveland

CONSULTATION SHEET

TO Neurology
Consulting Physician or Service

Date: 11/18/84

Patient is being referred for R/O femoral nerve palsy s/p vaghyst in lithotomy position x ~ 20 difficulty c̄ (R) leg hip flexion

Referring Physician [signature], M.D.

CONSULTANT'S NOTE Fisher for MacFee

Asked to see pt for eval of difficulty in hip flexion after Vag hysterectomy. Pt is 32 yo WF s/p Vaginal hysterectomy on 11/17 for CIS of Cx. Dx on pap of abnl cells made 5 y ago. Dx of Ca in situ made on Cone Bx during 1st wk of Oct. Pt's otherwise s̄ medical problems. Hysterectomy performed on 11/17 under GET c̄ pt in lithotomy position x ~2°. On 11/18 noted pt had difficulty c̄ (R) hip flexion c̄ straight leg raise. On 11/18 pt noted going to BR that "(R) leg gave out" in area of knee. Denies Δ's in sensation no dysthesia. ? Numbness over knee. ∅ MEDS. Laboratories — nl

PE T 37 P 80 R 18 BP 110/60

MSE: A O x 3 s̄ deficits. Speech & language nl

⊖ Spinal tenderness, neck c̄ full ROM ⊖ restriction in Spinal ROM

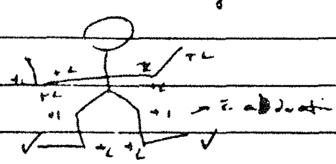
Gait: slow c̄ nl base, step. Motor: (L) & (R) UE 5/5 bilat. nl tone, bulk

	iliopsoas	hams.	quads	add.	abd.	plantr	dorsif	inv.	evert
(L)	5/5	5/5	5/5	5/5	5/5	5/5	5/5	5/5	5/5
(R)	-4/5	5/5	+4/5	+4/5	5/5	5/5	5/5	5/5	5/5

Sensory ↓ pinprick over [sketch] medial aspect of (R) leg in saphenous nerve distribution sl. ↓ in lesser distribution of saphenous in (L)

Coor: FTN, HTS Romberg intact

DTR:



CNs — s̄ deficits

Impression: Pt c̄ post op weakness of iliopsoas, quads & adductors of (R) leg & sensory loss over distribution of saphenous N (L3-4) probably 2° to injury to nerve at level of inguinal ligament however involvement of iliopsoas suggests a higher involvement. Higher involvement could be 2° to a mass compressing or vascular event which are both unlikely in this woman. Per her report she has improved in the past 24°. Ø R/O axo. bilat. femoral neuropathy 2° to lug.

RECOMMEND (1) Physical Therapy as in & out patient to facilitate full recovery

Signature: , M.D. Date

(2) EMG to document recovery in 3 wks and eval for any residual nerve injury ? Nerve [illegible]

Printed Name: M.D.

We will follow c̄ you. ? [illegible]

DEPOSITION EXHIBIT MacFee 7 PENGAD-Bayonne, N.J.

5 0216 2(1/86) ORIGINAL—TO MEDICAL RECORDS [signature] 19

CONSULTATION

Cor: RRR ē (N) (B) (R)
Neuro: Ox3, straight leg raise unchanged ē difficult flexion of rt. hip. No demonstrable sensory loss

Labs: 137 / 104 / 119 / 09 39 / 99 73 S 3 B 11 L 4 M 9 AL
4.0 / 26 / 4 254

(A) S/P TVH recovering well s̄ signs of infection
(P) 1) ~~re-start~~ DC of Heparin 5000 IU SQ BID
2) Neuro consult for Rt leg weakness
3) consider advancing diet
4) consider leaving of IV out if PO good

F. Gallo JMS

MJG

Neurology attending Note

11/19/86
11:00 AM

Case seen today and discussed. Pt has weakness of R quadriceps (4+/-) and (R) iliopsoas (4/5). Also it sensory changes in the distribution of the saphenous nerve R > L. Knee reflexes are gone but preserved in the ~~other~~ ~~reflexes~~ arms and ankles.

I suspect she has bilateral femoral neuropathy R > L, the lesion is probably proximal to the inguinal ligament (weakness of iliopsoas). This could be related to the surgical procedure. At present she is improving.

Rec: 1) Physical therapy
2) Will come back with EMG and NCV's 2-3 weeks from now
3) If she doesn't improve I will get a [illegible] CT scan.

D. [illegible]

within normal limits. Sensorywise, I find decreased sensation to all modalities in the leg distribution of the right femoral nerve. The ankle jerks were equal bilaterally and there were no pathological reflexes. Cerebellar tests were within normal limits.

Straight leg raising was negative. Internal and external rotation of the hip joints did not elicit any pain. The sciatic notches were not tender,

In summary, I believe this patient is recovering well from her femoral neuropathy and thus far I have little explanation for the headaches, and the low back pain. I suspect the patient is going through a situation of depression and have advised her ta take Elavil in a dose of 25 mg p.o. q. night. I have also advised her to have CT scan of the LS spine and MRI examination of that region *to* rule out a herniated nucleus palposus.

I thank you again for referring this pleasant woman for neurological evaluation. Should you have any questions please do not hesitate to write or call.

Sincerely yours,

Sami I. Harik, M.D.
Professor of Neurology and
Pharmacology

SH/hs