STATE OF OHIO)
)
CUYAHOGA COUNTY)

SS: IN THE COURT OF COMMON PLEAS

CASE NO. 350062

JAN S. GLASSER

PLAINT1FF,

VS.

NOEL ABOOD, D.C.

DEFENDANT.

VIDEOTAPE DEPOSITION

OF

RANDY REED, D.C.

JUDGE

VIDEOTAPE DEPOSITION taken before Jim Torok, a Notary Public within and for the State of Ohio, pursuant to Notice and taken on November 5, 1998 at the office of Randy Reed, D.C., 33355 Station Street, Solon, OH. Said deposition taken of Randy Reed, D.C. is to be used as evidence on the behalf of the plaintiff in the aforesaid cause of action, pending in the Court of Common Pleas, within and for the County of Cuyahoga, for the State of Ohio.

APPEARANCES:

MR. MARK RUF,

On Behalf of the Plaintiff,

MS. VICTORIA VANCE,

On Behalf of the Defendant.

JAN S. GLASSER VS. NOEL ABOOD, D.C.
CASE NO. 350062
WITNESS: RANDY REED. D.C.

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OPERATOR: We're on the record.
Doctor, would you raise your right hand, please? Do you swear the testimony that you are about to give will be the truth, the whole truth, and but the truth, so help you, God?
DR. REED: I do.
OPERATOR: Thank you.

DURING DIRECT EXAMINATION BY MR. MARK RUF:

Q Doctor, could you please introduce yourself?
A Randy B. Reed, Doctor of Chiropractic,
Q And what is your professional address, Doctor?
A 33355 Station Street, here in Solon, Ohio.
Q What is your profession?
A Doctor of Chiropractic.
Q Are you licensed to practice chiropractic medicine in the state of Ohio?
A Yes.
Q When did you obtain your license?
A In 1986.
Q Have you been practicing chiropractic medicine since 1986?
A Yes.
Q Is more than 50 percent of your time spent in the active, clinical practice of chiropractic medicine?

MS. VANCE: Objection. Let me object now and make a statement on the record. This deposition was Noticed as a deposition of Dr. Reed by Mr. Ruf on behalf of the plaintiff. The defense has put the plaintiff on notice that this is to be a deposition as a fact witness only. Dr. Reed has not yet been identified as a expert witness pursuant to the rules of court and the local rules. This deposition is therefore not to be taken as an expert deposition. The defense has made Mr. Ruf aware of its specific objection to having any testimony be elicited from Dr. Reed at this juncture in the case that would have him be offering expert testimony. That's not to say that at a later point in time this witness will be perfectly well qualified as an expert, but at this point in the case Dr. Reed has not prepared an expert report. Dr. Reed has not

been identified as an expert on behalf of the plaintiff, and therefore taking this deposition at this time for the purpose of qualifying Dr. Reed as an expert, or attempting to elicit from him any expert opinions is inappropriate and has been objected to by the defense. I'm making this statement now so I don't have to interrupt the deposition repeatedly. I'll have a continuing objection, Mr. Ruf, as to this point. It's a procedural point. It's a legal point and we have correspondence to this effect that would also be offered to the court if need be in support of a motion to proclude this deposition from being played to the jury as expert testimony. Thank you.

MR. RUF: Thank you, Counsel.

Q Doctor, do you spend more than 50 percent of your professional time in the active, clinical practice of chiropractic medicine?

A Yes.

Q Could you tell us about the type of practice that you have, Doctor?

A Primarily biomechanical musculoskeletal practice with a specialty in sports injury type, treatment of sports injuries.

Q Approximately how many patients do you see per week?

A About 200 patient visits a week.

Q Could you explain to us what chiropractic medicine is?

A Chiropractic medicine is dealing with manipulation, types of physical therapy. We are allowed to by law do certain types of physical rehab. Our scope of practice is limited and we don't do pharmological, or pharmacogical things. No prescription drugs, those type of things.

Q Do you limit your treatment to a certain area of the body?

A No.

Q Do you mainly deal with the spine or with other parts of the body as well?

A Probably 70 percent of mine are spine related, yes.

Q Are there any medical authorities that are recognized as authoritative in chiropractic medicine?

MS. VANCE: Objection.

A There are through our educational process cross over between orthopedics and chiropractic and sports injury and those things. There are books like Poinjaby & White, diagnostic books, testing like Hoppenfeld and those type of, types of treatment that we are educated on.

Q Are you familiar with the medical textbook, Conservative Care of Low Back Pain, by White?

A Arthur White?

Q Yes.

A Yes, yes.

Q Do you consider that to be authoritative?

MS. VANCE: Objection.

A It's pretty good.

Q As a chiropractor, how do you evaluate whether or not your treatments are effective?

A Based on the differential diagnosis that you have of the patient; how the patient responds to certain types of treatment; whether they have good reactions or adverse reactions generally are the primary ways we evaluate whether a treatment, a treatment plan or goal is going along the way it should be.

Q When do you stop manipulating a patient?

MS. VANCE: Objection.

A If, first of all, if the patient doesn't need to be manipulated anymore and they've reached maximum medical improvement for what we do the manipulation for them; we stop then. Or if it's not indicated, or it's not working, or it's contraindicated to do at that time.

Q If a patient is getting worse with chiropractic manipulations, is that an indication for stopping?

MS. VANCE: Objection.

A If a patient is not responding the way I would like them too with the manipulation I would definitely try to go to something else to try to achieve the result that we want, the treatment goal.

Q Do you know Dr. Abood?

A Yes.

Q How do you know Dr. Abood?

A His practice is less than a block away from me and we've known each other ever since he's been in town.

Q Does Dr. Abood refer patients to you?

A Yes, occasionally, yes.

Q Does Dr. Abood's practice differ from your practice?

A I'm not sure of everything that he does in his practice, but in our practice we use quite a bit of physical therapy, or physical modalities in our office

and I know that he does not do a lot of that in his office.

Q As far as chiropractic treatment goes are there certain areas, are there different areas; you've mentioned physical therapy and manipulation, are those different areas of chiropractic medicine?

A Again, under the laws of the state there are certain things that you can do and you can choose whether or not to do them. Like, we do a lot of exercise rehab and we do physical modalities and we do manipulation and we do some forms of traction and water therapy, we send them up to Rebilatex for some water therapy up there.

Q Does Dr. Abood send you patients for you to perform physical therapy on those patients?

A There are times when we, he has a patient that he would like to consult with me about and we talk about those and we talk about whether certain forms of physical therapy might help or not, yes.

Q If a patient has a herniated disk in the lumbar spine, is the appropriate treatment physical therapy or chiropractic manipulation?

MS. VANCE: Objection. I don't think an adequate foundation has been raised. This is a line of

questioning that again goes to the heart of expert testimony and now that we're getting into issues that are of, directly at the heart of this litigation I again renew all of the objections to having this deposition be taken at this time. The defense has not been given any fair and adequate warning of what Dr. Reed's opinions will be on any of these topics. It's a deposition by ambush and especially from a standpoint of formality and procedure it appears that we're conducting this deposition on videotape only. We don't even have a court stenographer. So everything about this is irregular under the local rules and the rules of court.

MR. RUF: Well, I'd like to put on the record that the expert deadline has not yet passed. Also I will not object to an additional deposition in the future of Dr. Reed and I'm willing to cooperate if you'd like

to schedule another deposition.

MS. VANCE: We may well end up doing that, but my objection stands that this particular transcript ought not to be ever shown in court insofar as it's being conducted and the witness is being questioned before the defense has had adequate notice of Dr. Reed's opinions.

Q Doctor, if a patient has a herniated disk in the lumbar spine, could you state whether that patient should be treated with physical therapy or adjustments?

A It would depend on size, location, severity, those type of things. Yes, I, lumbar disks in my office are treated with physical therapy, yes.

Q As opposed to chiropractic manipulation?

MS. VANCE: Objection.

A Sometimes with chiropractic manipulation, sometimes without, sometimes just physical therapy alone, sometimes only exercise alone.

Q When would you not adjust a patient's lumbar spine when they had a herniated disk?

MS. VANCE: Objection.

A Again, if the size of the disk, if you had a relatively good idea about where the disk was located,

whether it was central, or whether it was lateral, whether the disk was way beyond its normal limits, judged on an MRI or something that has a measurement of that particular type. You know, you would have to know exactly where that disk was before you...There are certain times when you wouldn't, I would not want to manipulate someone. If it was large enough and it was close to the spinal cord I think I would hesitate on doing any kind of manipulation until we reduced that size of that disk.

Q Was Jan Shane Glasser a patient of yours?

A No.

Q Have you seen Jan Glasser in this office?

A Yes.

Q Why did you see her in this office?

a I received a call from Dr. Abood and he asked me if I would talk to Jan, or take a look at Jan. He had been treating her for low back pain and he wondered at that time if there, my opinion as to what I thought it was and also if there would be some physical therapy maybe that would help her.

Q How many times did you see Jan Glasser in this office?

A. I'm going to say three or four, probably. They were brief encounters during the day while she was

working and once on a weekend. It was over...It was three times I think in a four day period that we looked at her and we did some interferential to her just as a pallative type of maneuver to try to help control some of the muscle spasms she was having.

Q When she came in to your office, how did she look? What was her physical appearance?

A She was in some distress. She was antalgic, forward lean. And her gait was not real, real steady. I mean, she wasn't stumbling or falling over but she was obviously laboring in her gait.

Q Was it obvious to you that she was in pain?

MS. VANCE: Objection.

A She appeared to be in a lot of pain.

Q During the time you saw her did her condition get worse or did it get better?

A I would say that it got worse in the four days that I saw her, over the three day period, yes.

Q Did you perform any chiropractic adjustments on Jan Glasser?

A No.

Q Why not?

MS. VANCE: Objection.

A At the time I saw her she was in a great amount of stress. Like I said her gait was real bad and

the limited orthopedic exam we did she appeared to have a disk problem. It seemed to be at that time that it was, based on what she had told me, it had been happening to her, her symptoms over the past few weeks, That she was struggling and it was getting worse At that particular time I just didn't feel it was prudent to manipulate her and Dr. Abood had been treating her, so at that time I just thought physical therapy probably was the best for her.

Q What was your concern about manipulating her with a herniated disk?

MS. VANCE: Objection. That's not what he said.

A At the time I saw her I was concerned about, I didn't have any idea about how big the disk was. She had mentioned that she had a disk diagnosis from before. She was not anywhere able to relate to me how big it was, or where it was, or anything like that. I know that, you know, she had some antalgic problems and I was concerned with how the size was. And not knowing where it was exactly I just didn't feel comfortable with doing any manipulation on her.

Q What do you mean by antalgic problems?

A She had a forward lean and she was trying to lean away from her left side which she was complaining

about severe left leg pain.

Q Were you concerned that if you performed manipulations it would worsen her condition?

MS. VANCE: Objection. Form of question.

A I didn't think at this particular time that it was prudent that we do that. I was concerned 'chat that might, might hurt her more or...I didn't feel that she was being very receptive in the condition she was, that I saw her, she wouldn't be very receptive to the adjustment. It would be a difficult thing for her.

Q Did you examine Jan Glasser before you treated her?

A I did just a limited exam. We talked about the history. We did a few orthopedic tests, straight leg raise, Braggart's tests, Bechterew's. She complained of coughing and sneezing and having a difficult time going to the bathroom. It gave her extra leg pain when she had that sometimes. She, in talking to her with that history, all those tests were positive that I did and I just felt we were certain that it was a disk based on how she presented and what she said and how she was.

Q What is the importance of conducting a physical examination before treating a patient?

MS. VANCE: Objection. (vo)

A Well, it's very...It's a...Before you treat them you have to have an idea about what you think it is and to do that the physical exam leads you down that road of evaluating what condition you're treating. Most of the time you come up with one specific thing you think, but you have a differential diagnosis where you have a couple others that it possibly could be. And the exam is the, and the history, the exam and the history are the two primary things that do that.

Q As a result of your history and physical examination, did you reach a diagnosis for Jan Glasser?

A I felt at that time she probably had a large herniated disk. And that is what I felt as soon as I saw her after the exam and the history. When she left my office I think pretty quick after that I tried to relate that to Dr. Abood. Because she was just asking what I thought, it was an opinion. It was more of a consultation type thing that day and we did a little electric stim to her, a little interferential therapy to try to sedate the muscles in the back and that's really all we did.

Q What was it in the history and physical examination that supported your diagnosis of a herniated disk in the lumbar spine?

A Again, primarily the straight leg raise. There was another one Soda Hall, which you put your head up, and that usually means that you have a space occwp...a lesion around the spinal cord or around the nervous system. Dejernes, Valsalva, when she takes a deep breath and she holds it in and she pushed down she felt pain in her back and her leg then. And Bechterew's. There were four or five tests that we did and they were all positive.

Q Did you tell Jan or her husband David whether she should be manipulated at that time?

MS. VANCE: Objection, leading.

A I don't remember telling them that. I remember if I said anything it was, to the best of my recollection I said that I would not adjust her right now. Based on the way she was right at that moment that I just didn't want to do that.

Q Did you have any discussions with Dr. Abood about Jan Glasser?

A Right after she left I called Dr. Aboed and told him I thought we had, that we had a disk. It was a large disk and that, I know that Jan was in a lot of distress and she was trying to work, but that maybe a couple of days off would help her and that she definitely, probably needed an MRI to follow-up.

Because I don't know where, exactly where that's at but she's struggling in a couple different areas, especially the, straining to go to the bathroom at that time was something that wasn't very good.

Q Did you recommend that Jan Glasser have an MRI to Dr. Abood?

A I just mentioned to him I thought that would be the appropriate thing to do. At that time that's what I said that's what I would do. She should probably have an MRI.

Q Did Dr. Abood perform an MRI as a result of your recommendation?

MS. VANCE: Objection, no foundation.

A I don't believe so.

Q What is an MRI?

A It's a magnetic resonancing image. It's nuclear medicine that can actually, you can project the soft tissues areas that you cannot see in a normal x-ray. Regular skeletal x-ray just really sees bone. It can see some soft tissue but not very clearly. The MRI, or the CAT scan can do that much, much better.

Q Is a disk soft tissue or bone?

A Soft tissue.

Q Do you have a model that you could show us

where the disks are, Doctor?

MS. VANCE: Objection, again, objection to the use of models insofar as this is inappropriate for this type of examination at this stage of the case.

A We have, this is a model of the lumbar spine with the vertebrae and then the disks placed in between those vertebrae.

Q Excuse me, Doctor. The disks are the clear material?

A Yes, the clear material between the white bone, yes. And then behind that, in the back, which you can see a little bit, is the spinal cord which comes down through the bone and the side nerve roots exit right behind the disk material and they go to different parts of the body. With the three lowest ones going down the legs and so on.

Q Does that model show a herniation?

A This one, this particular model group has normal disk and this red part, or part that's stuck out there would be the herniated disk part. It's outside its normal limits. That's really what herniation means.

Q What kind of problems does a herniation cause?

A Depending on where the herniation is at again

and the size of herniation it can be from nothing to a lot of problems. If the herniation is out here into space, out this way anteriorly, it doesn't touch any nerve and really doesn't cause anything. There's several disks in the research that come out the front and really haven't caused very much. But the problem is if it comes back and bothers these nerve roots as they come out they can cause the nerve root to dysfunction similar to squeezing or pinching off the nerve root.

Q If there's compression of the nerve root in the lumbar spine, what area is effected?

MS. VANCE: Objection to the form of the question.

A There are five lumbar segments. They all go to different places. The lower segments go to the pelvic organs and the legs and the upper ones go to also the digestive system and some of the organs in the thoracic cavity.

Q During the time you saw Jan Glasser was her condition degenerating?

MS. VANCE: Objection, asked and answered.

A It had gotten, it was getting a little worse from the time I saw her 'til the last time I saw her.

Q Did you tell Dr. Abood that her condition was

getting worse?

A I think I only talked to Dr. Abood after the first day. I do not remember talking, I may have, but I don't remember talking to him after the first day.

Q Did you explain any of your positive findings to Dr. Abood?

A Just that I told him that I'd done some orthopedic tests and I don't remember if I said to him specifically straight leg raise, or any of those things. I don't remember.

Q But you did relate to him that your impression was that she had a herniated disk?

A Yes, yes. Yes, I did.

Q Doctor, I'm handing you what's been marked as Plaintiff's Exhibit 1. It's an MRI report of 7/30/94. Could you take a look at that MRI report and review it, please?

A OK.

MS. VANCE: Let me just object to the use of this particular form of exhibit insofar as it's got extraneous markings on it. I also object to any questions being put to this witness without there being any foundation laid that he has the

requisite training or experience in either performing or interpreting MRI films.

Q Doctor, are you able to read and interpret MRIs?

A Normally what I do is I use the report by the radiologist as their interpretation to go by that. I do use the MRIs to show what the radiologist is impresses, making an impression on to the patient in their education to show them exactly what's going on. In our training we obviously have to go through hours and hours of radiology and we see, we're tested on radiology and although we're not radiologists we have to be able to know what is going, what is normal and what is not normal on those films. And so we have to be able to evaluate those. I would not be required to do a...I would not do one without a radiologist's report because that's their profession and their area of expertise, but yes, we have to know what's on those and be able to interpret those.

Q Do you have education and experience in understanding the results of an MRI and treating a patient based upon those results?

A Yes.

Q Is that something you regularly do in your

practice?

MS. VANCE: Objection.

A Yes.

Q Doctor, could you read us the impression on the MRI report from 1994?

MS. VANCE: Objection. The document speaks for itself.

A Dr. Jacobs has written here, L4, 5 posterior lateral disk herniation with disk material extending inferiorly to lie behind the L5 vertebral body.

Q Doctor, if you had either this MRI report or the MRI films before you treated Jan Glasser would you manipulate her lumbar spine?

MS. VANCE: Objection.

A I would be concerned about the material extending behind the L5 vertebral body. That's way outside its limits and right behind the body is the spinal cord. I'd be concerned about that. Manipulation wouldn't be one of my first choices of doing that and 1 would hesitate adjusting her in my office.

Q Why would you be...

MS. VANCE: Obje...I'm sorry. Objection and move to strike.

Q Why would you be concerned about manipulating the lumbar spine with that condition?

A Well, the extruded piece that is extending down below its normal limits would be exposed to a little bit more torque. In rotating the disk those types mostly do not happen. They finish off or they complete their herniation to an extruded piece or an explosion of the nucleus outside the disk with something very simple, with forward leaning, rotation, or with holding the weight, a slight weight, it could be a pencil out in front of them. The combination of the rotation and the forward leaning is very, very stressful on a large herniated disk, not on a smaller one but a large one, and an extruded piece or a piece that's coming off of that it's even more difficult for that to handle. So usually those rupture or come apart with very slight movements. All the people that we get in our office they are, they never say they do anything important. I was bending over, or I was picking up a bar of soap and they go. Well, in a manipulas side posture position on the lumbars, putting them in that flexion with forward lean, with rotation would be similar to what that person would do when they're picking up a bar of soap. So I try to keep them out of that particular thing. That's why we tell them to bend down with their knees and we do all of those things and don't bend forward when you're in this state, so...

Q Based on Plaintiff's Exhibit 1 would you classify the herniated disk at L4, 5 as a large or small herniation?

MS. VANCE: Objection, no foundation.

A A large one.

Q Doctor, when you adjust the lumbar spine with a side lying posture, does that increase the torque on the disks in the spine?

MS. VANCE: Objection.

A Yes.

Q How much does it increase the torque on the disks in the spine?

MS. VANCE: Objection.

A It can be anywhere from 30 to 40 pounds per square inch probably.

Q When is manipulative therapy contraindicated?

MS. VANCE: Objection.

A If you felt that that was going to injure the patient or aggravate the condition that would be one. A second one would be is if it, if it's not, it hasn't been effective when you've used it. If it's not helping the person it's not indicated.

Q If the patient continues to deteriorate while you're manipulating that patient, would that be a

contraindication?

MS. VANCE: Objection,

A Yes.

Q Doctor, did you tell Dr. Abood whether or not Jan Glasser should be working at that time?

A I thought it prob...I...

MS. VANCE: Objection and move to strike; form of the question. I'm sorry, Doctor.

DR. REED: That's OK.

A I, when we talked on the telephone that day I believe I said to him that I couldn't believe she was working because knowing how our chiropractic assistants have to be on their feet and in flexion all the time working with patients or working in the office, I thought it'd be difficult for her and I thought it might help her if she took a couple of days off.

Q Did you advise Jan Glasser as to whether or not she should be working?

A I told her that I thought it would be beneficial if she didn't. She wanted to work at that time and I don't know whether she did that on her own or whatever. I said to her I think it would help her. It happened to be a Friday, the first day I saw her, and she was going to be down for two days, so 1 told her to

stay off her feet as much as she could, stay out of a seated position, stay out of a flexed position and see if we could calm the disk down a little bit.

Q Doctor, can improper manipulation of the lumbar spine cause further injury to a herniated disk?

MS. VANCE: Objection to the form of the question and also given it's expert content.

A Yes, I think it can.

Q Do you agree that it's more important for a chiropractor to know when not to adjust than when to adjust a patient?

MS. VANCE: Objection; form of the question. These are all leading questions; highly improper.

A I, I think that any form of treatment that you do on a patient you have to know when you have a good chance of something being proper or benefiting the patient and you have to know when that, that is a risky situation. And that also decides in your form of treatment. Being conservative or nonconservative based on the way they are. The way they present I should say.

Q Is the tolerance of a patient to manipulative techniques important?

MS. VANCE: Objection, same

objections.

A I think if a patient is hesitant about getting adjusted, if they're afraid of getting adjusted or manipulated and you can feel that that's one that I try to back away from. Because the patient usually doesn't tolerate the adjustment very well.

Q If a patient reacts negatively to an adjustment, do you continue to perform the same adjustment on that patient?

MS. VANCE: Same objections.

A We would try to do, get range of motion or function back in the joint space in another way. Either through exercise, or a different kind of physical therapy, or traction, or something. If the manipulative, the manual manipulation that we did on them if they did not respond well to that we would go to something else to try to achieve the same treatment goals.

Q If improvement is not observed in a patient after a few treatments, should a reevaluation of the treatment be done by the chiropractor?

MS. VANCE: Same objections; form of question is leading, improper.

A I would say that the word that should be used there is reasonable. Depending on the differential

diagnosis, in your question you said few treatments, there are sometimes when that reevaluation is going to happen in weeks because the progress is going to be a lot slower. To evaluate a patient in two or three days is very difficult sometimes to do based on what their diagnosis is, but there is generally a reasonable amount of time with each diagnosis as to when you're going to reevaluate that patient.

Q How many treatments do you need to perform before you need to reevaluate that patient if the patient is getting worse?

MS. VANCE: Objection. He's just answered that.

A If the patient is not doing well in what we say...Lets say for instance if we think that they're going to be 80 percent better in a two week period; if they are having an adverse reaction to the adjustment in the first, second, third, fourth adjustment and not tolerating it very well we're going to get out of that treatment mode and go to something else, but if they are not having any adverse reactions we're going to wait until that whole two week period to evaluate what's going on with them.

Q Is surgical consultation indicated or required for a patient who is unresponsive to chiropractic care,

or who has progressive neurological problems?

MS. VANCE: Objection.

A If a person is having a progressive neurological problems I definitely want to have a consultation with a neurosurgeon or an orthopedic surgeon to find out if that in the patient's best interest is the best way for them to go.

Q Thank you, Doctor. That's all I have at this time.

MS. VANCE: Off the record.

OPERATOR: We're off the record.

OPERATOR: We're back on the record.

DURING CROSS EXAMINATION BY MS. VICTORIA VANCE:

MS. VANCE: First a statement for the benefit of the Court before I question Dr. Reed. Again, consistent with the objection I made at the outset of the deposition I consider what we've just heard on direct exam, pseudo direct exam to be both a, essentially an expert deposition of this witness without proper notification and Notice to the defense, In that regard the defense is not prepared at this time

to question Dr. Reed as an expert witness. We specifically reserve the right to reopen this deposition at a later time after Dr. Reed has presented us with an expert report if indeed he's identified as an expert so that he can be questioned on his expert opinions that he's rendered here today, To the extent that Dr. Reed is not subsequently identified as an expert then we will be objecting to those portions of the testimony that we've heard that were of an expert nature. The questioning that I'll conduct at this point will be that of a fact witness as Dr. Reed is identified at this point and we reserve the right to reopen the deposition or re-adjourn a second deposition at a later point in time to conduct more of an expert discovery deposition of this witness.

Q Dr. Reed, you indicated to us that you did have a chance to see Mrs. Glasser on a few occasions, is

that right?

Yes.

OK. You thought that there were two or three, maybe three or four different times when you saw this patient?

Correct. It was Friday and a Saturday and then I believe a Monday right in a row.

Do you know, sir, if Mrs. Glasser ever treated with Dr. Abood after your last treatment session with her?

A No, I don't.

Do you know if she treated with Dr. Abood during the course of the Friday, Saturday or Monday when you believe you saw her?

A I know that on, on Friday because Dr. Abood normally closes around noon, I know that she was going home for the weekend after that. I don't believe that she saw him over that weekend time, So Monday would have been the only first day and I don't have any idea about that.

So to your knowl...As far as you know...

A No...

...you have no knowledge as to whether...

A I don't have any knowledge of that.

...she ever went back to receive any

treatments with Dr. Abood after she finished her course of treating...

A Correct.

Q ...with you?

A I do not have any knowledge of that.

Q And you have no knowledge that she was treating with Dr. Abood concurrently during the time that you were also treating her?

A Correct.

Q OK. Dr. Reed, did you keep any written record of any of the treatments that you gave to the patient?

A No.

Q Did you make a written record of the history that you obtained from the patient?

A No, I did not.

Q Did you make a written record of the examination that you performed on the patient?

A No, I did not.

Q Do you happen to know the specific calendar date of the Friday, Saturday and Monday visits with this patient?

A No, I don't. I know it was in the end of September and that is it.

a End of September of 1996?

A Correct. I believe it was '96, yes.

Q Do you have any written documentation in your office at all that would help inform you of the date when you saw the patient?

A No, I don't.

Q Was she ever scheduled in your scheduling book for example'?

A I don't believe so. She may have been put in by my staff, but, I could look to see, but...I don't believe so.

Q Did you open a formal chart for her as you would for other new patients?

A No. Correct, no I did not.

Q When you typically do see a new patient, either coming to you for the first time initially or on referral from another doctor, do you typically open a chart and create a chart for a new patient?

A Absolutely.

Q But you did not do so in this case?

A No, I didn't.

Q Excuse me. Did you take any x-rays of the patient?

A No.

Q Do you know if the patient brought with her any of her own x-rays, or radiology films?

A She did not.

Q Did you have a chance to speak with any of her other treating physicians, other than your conversations with Dr. Abood?

A No, I did not.

Q Did you see Dr. Abood's treatment records when you saw Mrs. Glasser?

A No.

Q If you wanted to see Dr. Abood's records were they available to you, a phone call away?

A I'm sure I could have gotten them, yes.

Q You indicated that there have been other occasions when Dr. Abood has referred patients to you?

A Yes.

Q And in turn, Doctor, have you had occasion to refer some of your patients to Dr. Abood?

A Yes.

Q Has Dr. Abood referred patients to you since September of 1996?

A Yes.

Q And he did so before that?

A Correct.

Q And speaking of your practice, have you also referred patients to Dr. Abood's office both before and after September of 1996?

A Correct.

Q When you're out of town, Doctor, do you sometimes arrange to have Dr. Abood's office cover your practice, or be available to see your patients?

A Yes, I do.

Q And you've done that since September of 1996?

A Correct.

Q Now you started to describe the nature of your practice here in your office. You alluded to the fact that Dr. Ree...Dr. Abood's practice maybe different than yours in terms of the types of therapy that he does or does not offer?

A Uh-huh.

Q In your experience as a chiropractor are yo familiar with the fact that there are chiropractors who do practice, as Dr. Abood does, where they do not offer or make available to their patients the full range of other modalities such as what you do?

A Absolutely.

Q And that's well regarded and well known and accepted within the profession?

A Yes, it is.

MR. RUF: I'd like to put on the record that she's now asking opinions of the doctor and so she's taking the position that's

acceptable.

MS. VANCE: I'm absolutely not doing that. I've made my point expressly clear that we are not waiving any of the objections we've stated here.

Q When Mrs. Abood came to your office that particular, on those three days did you happen to notice if she drove herself or was she accompanied by any one else?

A Ms. Vance, you said Mrs. Abood.

Q I'm sorry.

A That's OK.

Q Mrs. Glasser.

A Yes. On the Saturday date I know that she came with her husband and her husband brought her over. I am not aware of those days; only because they arrived in my office before I got there on Saturday. That's the only reason I knew that.

Q OK. I may have asked you this and if so I apologize. Did Mrs. Glasser bring with her any of her imaging films?

A No, she did not.

Q Did you ask or arrange to obtain those films during the course of your treatments with her?

A No. She was...When she arrived in my office,

again just as a consultation part, and Dr. Abood was her treating physician; she had mentioned to me that she had had a disk before and had an MRI imaging. I didn't know the date. I didn't know the results of that. She just had said she'd been diagnosed as a disk. And, I didn't do anything.

Q OK. At the point in time that she was here in your office, did you know where her prior films, her MRI films were located?

A No, I didn't.

Q OK.

A No. Nor who ordered those either.

Q And obviously you did not know what those films revealed...

A Correct.

Q ...other than what Mrs. Glasser said to you?

A Correct.

Q You've indicated that you viewed your relationship with Mrs. Glasser as that of a consultant to Dr. Abood, is that right?

A I would guess so. I mean, he just asked me for my opinion about her and would I take a look at her. We looked at her and if he felt that I thought...He said if I thought the physical therapy would help her that I could do that if we wanted too. At the time of seeing

her I just said to her that I felt you had a disk. I think we can help maybe with a little bit of muscle spasm, but the disk is going to be difficult to help in my office, so...

Q Was it your understanding that when Mrs. Glasser came to see you that she was transferring her care to you from Dr. Abood?

A I really didn't get that opinion. I really felt that at the time, excuse me, that Dr. Abood was her treating physician. He was referring her to me to find out whether I felt, what her situation was, to evaluate her and that if the electric stim, the physical therapy that I had...I didn't think that he was referring me or turning over her chiropractic care to me. I just happened to have a modality that he thought might help her in relieving the symptoms or doing whatever.

Q And the modalities that you had here were modalities that he did not have available to himself in his office?

A Correct, correct.

Q And in your experience of taking referrals from Dr. Abood in the past you knew that he would sometimes refer patients to you if you might have some available treatments that he would not find available to himself in his office?

A Yes. Usually our relationship was this. It was that I didn't ever accept the chiropractic physician, manipulation type procedure with him. It was only that if we had physical therapy, traction, or interferential, or ultrasound, or ball exercise therapy, something; I assumed that part of that relationship with his patient. The chiropractic physician, manipulative relationship I never took over. We've never really shared that at all, except for maybe a patient when we're on vacation.

Q Did you ever have occasion to speak with any of Mrs. Glasser's physicians who cared for her in the month of October, or subsequently?

A No, I did not.

Q Have you ever seen any of her treatment records subsequently?

A No.

Q Had you...Up to this point in time have you ever seen any of her records of prior treatment other than the MRI report that was marked here as Exhibit 1?

A No.

Q And in terms of this Exhibit 1 document that was shown to you, prior to it being shown to you this morning had you ever seen this particular MRI result or report?

A Only once before.
Q And when did you see it once before?
A When Mr. Ruf contacted me about the possibility about doing this and was I aware of this and asked me about that particular document.
Q So you've only seen Exhibit 1, the July, 1994 MRI report, when it's been presented to you by plaintiff's counsel?
A Right. I've never seen any of Dr. Abood's records or anything like that, yes.
Q I have no further questions for the witness at this time.

MS. VANCE: Again, I reserve all of the objections that I've made as to the scope of Dr. Reed's testimony on direct examination and should this witness be subsequently and properly identified as an expert in accordance with all of the local rule requirements then as the local rules dictate I will have an opportunity subsequent to redepose Dr. Reed on any of his expert opinions whether they be expressed here today or subsequently in a

report or subsequently in a deposition properly Noticed and taken pursuant to the rules.

MR. RUF: I'd like to put Counsel on notice that I intend to play this tape at trial. I will not object to a subsequent deposition. If Counsel needs to prepare questions, Counsel's made a number of technical objections to avoid trying this case on the merits which is contrary to the Civil Rules of Procedure and the fundamental intent of the Ohio Supreme Court that cases should be decided on the merits.

MS. VANCE: Nothing further.

OPERATOR: Anything else, Mark?

MR. RUF: That's it.

OPERATOR: Doctor, you have the right to review this videotape in its entirety or you may waive that right?

DR. REED: I waive that.

OPERATOR: Thank you, May we also have a stipulation between Counsel

that Mirror Image Video remain custodian of this videotape until its time of playback at trial?

MR. RUF: Yes.

OPERATOR: Is that OK, Ms. Vance?

MS. VANCE: I don't have any objection if you remain the custodian. Arrangements may need to be made if the Court so orders it in terms of obtaining a proper transcript of this.

OPERATOR: Absolutely. We're off the record.

END OF TESTIMONY AS WAS GIVEN BY RANDY REED, D.C.

STATE OF OHIO)
)
CUYAHOGA COUNTY)

SS: IN THE COURT OF COMMON PLEAS

CASE NO. 350062

JAN S. GLASSER	)	
	)	
PLAINTIFF,	)	VIDEOTAPE DEPOSITION
	)	
VS.	)	OF
	)	
NOEL ABOOD, D.C.	)	RANDY REED, D.C.
	)	
DEFENDANT.	)	JUDGE

CERTIFICATION

I, James Torok, a Notary Public within and for the State of Ohio, do hereby certify that the above named witness was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the cause aforesaid.

I further certify that the testimony then given by him was transcribed to typewritten form and that the forgoing is a true and correct transcription of the testimony so given by him as aforesaid.

I do further certify that I am not counsel for or related to any of the parties involved in this action nor am I interested in the outcome of this matter. Also I am an independent videotape reporter employed on an as needed basis and not in the employ on a regular or full time basis of any of the parties involved in the aforesaid litigation.

IN WITNESS WHEREOF, I hereunto set my hand and affix my seal of office to attest these facts to be true at Stow, Ohio on this 17th day of November, 1998.

My Commission Expires: 5/19/99

James Torok, Notary Public
and Videotape Reporter