IN THE COMMON PLEAS COURT OF BELMONT COUNTY, OHIO

RONDA MEEKS, ET AL.,)
PLAINTIFFS,)
-vs-) CASE NO. 04 CV 395
MATTHEW J. STEWART, ET AL.,)
DEFENDANTS.)

VIDEOTAPED DEPOSITION of ROBERT J. THOMPSON, M.D., a witness herein, called by the Defendants for direct examination under the statute, taken before us, Kathy J. McGlaughlin, Professional Reporter, and Terry L. Tahyi, Certified Legal Video Specialist, and Notaries Public in and for the State of Ohio, pursuant to the stipulations of counsel hereinafter set forth at offices of the deponent, 945 Bethesda Drive, Zanesville, Ohio, on Wednesday, November 15, 2006, scheduled for 4:15 p.m.

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S T I P U L A T I O N S

It is stipulated by and between counsel for the respective parties that the deposition of ROBERT J. THOMPSON, M.D., a witness herein, called for direct examination by the Defendants under the statute, may be taken at this time by the Notary by agreement of counsel without notice or other legal formality; that said deposition may be videotaped and reduced to writing in stenotype by the Notary, whose notes may thereafter be transcribed out of the presence of the witness; that proof of the official character and qualification of the Notary is waived; that the viewing of the videotape and the reading and signature of the said witness to the transcript of his deposition are expressly waived by counsel and the witness; said deposition to have the same force and effect as though signed by the said witness; that the exhibits referenced herein will remain in the possession of Attorney Boetcher.

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4:24 p.m., Wednesday,
November 15, 2006.

THE VIDEOGRAPHER: Dr. Thompson, would you raise your right hand for me please?

Do you swear the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth so help you God?

THE WITNESS: Yes.

THE VIDEOGRAPHER: Thank you very much.

Go right ahead.

ROBERT J. THOMPSON, M.D.,

being first duly sworn, as hereinafter certified, deposes and says as follows:

DIRECT EXAMINATION

BY MR. BOETCHER:

Q. Dr. Thompson, my name is Marty Boetcher and I represent the Defendant, Matthew Stewart. I'm going to be asking you some questions today about your examination of the Plaintiff, Rhonda Meeks, as well as your review of some medical records.

Before we get to that, could you please tell the ladies and gentlemen of the jury your full name?

A. Robert Jordon Thompson.

Q. And, Dr. Thompson, could you tell the ladies and gentlemen of the jury what your occupation is?

A. I am a neurologist.

Q. And where do you practice at, Doctor?

A. 945 Bethesda Drive, Zanesville, Ohio.

Q. Is that at the Physicians Pavilion attached to Bethesda Hospital here in Zanesville?

A. Yes.

Q. Okay. And how long have you been in private practice, Doctor?

A. Thirty years, since 1976.

Q. Now you've told us that you are a neurologist. Could you explain to the jury what a neurologist is and does?

A. A neurologist is a physician who specializes in diseases and injuries of the nervous system; including the brain, spinal cord, nerves, muscles, and those supporting structures, including the spine.

Q. Before we get into some of the questions about your exam of Mrs. Meeks, could you tell -- tell us where you went to medical school at?

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A. Yes, I graduated from the University of Pittsburgh with a B.S. Degree in chemistry in 1968. I subsequently graduated from the University of Pittsburgh School of Medicine with an M.D. Degree in 1972. I completed a medical internship at Montifior Hospital in Pittsburg in 1973. I then completed a three-year residency in neurology at the University of Pittsburgh in 1976, and I have been board certified in neurology since 1977.

Q. You are a medical doctor; correct?

A. Yes.

Q. And you indicated that you were board certified in neurology. Is this in addition to getting your medical degree?

A. Yes.

Q. To become board certified in neurology, do you have to pass some type of additional testing?

A. Yes. Once he or she completes a residency program, one sits for a one-day written examination and a two-day oral examination. If those examinations are successfully passed, one is said to be board certified.

Q. And are you currently board certified in neurology?

A. Yes.

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Q. Are you licensed to practice medicine in the State of Ohio?

A. Yes.

Q. Do you have any type of hospital privileges?

A. Yes, I am on the staff of Bethesda and Good Samaritan Hospital in Zanesville, Ohio.

Q. Okay. Do you have any type of medical appointments at Good Samaritan or Bethesda here in Zanesville?

A. Yes, I've been the Medical Director of the Inpatient Rehabilitation Unit at Bethesda and Good Samaritan for almost 30 years. I've been the Medical Director of the Chronic Pain Management Program for the last 15 years. I also have privileges to do official interpretations of CAT scans and MRI scans of the brain and spine in the hospitals here.

Q. As a neurologist and as your involvement in the Rehabilitation Unit and the Chronic Pain Unit at Good Samaritan Hospital in Zanesville, does your practice put you in contact with patients that have problems with their neck and their back?

A. Yes, every day.

Q. My partner, Harry Conn, earlier on asked you to review some records on Ronda Meeks; is that

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correct?
A. Yes.
Q. Okay. I'm going to hand you some records and ask, first, whether you -- tell me whether or not you have had a chance to review these records. The first is a record that I marked as Defendant's Exhibit No. 1, which is the chiropractic records of Dr. DeGameaux. Have you reviwed those records?
A. Yes.
Q. I'm going to hand you what's marked as Defendant's Exhibit 2, which are some rehabilitation medical records from Wheeling Hospital. Have you reviewed those?
A. Yes.
Q. I'm going to hand you what I marked as Defendant's Exhibit 3, which are medical records of an Dr. Charla Anderson. Have you reviewed those records?
A. Yes.
Q. And I'm going to hand you what I have marked as Defendant's Exhibit No. 4, which are some physical therapy records from Wheeling Hospital. Have you had a chance to review those, Doctor?
A. Yes.
Q. I'm going to hand you what I've marked as Defendant's Exhibit No. 5, which are medical records

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of Dr. Mark LoDico at Advanced Pain Medicine. Have you had a chance to review those?
A. Yes.
Q. I'm going to hand you what I marked as Defendant's Exhibit No. 6, which are the medical records of Dr. Matt El-Kadi at Tri-State Neurosurgical Associates. Have you had a chance to review those?
A. Yes.
Q. I'M going to hand you what I have marked as Defendant's Exhibit No. 7, which is a lumbar X-ray report from June 8th of 1993. Have you had a chance to look at that?
A. Yes.
Q. I'm going to hand you what's marked as Defendant's Exhibit No. 8, which is a prior lumbar MRI -- lumbar MRI report of June 12th, 1993. Have you reviewed that?
A. Yes.
Q. I'm going to hand you a cervical MRI report of December 4, 2002, marked as Defendant's Exhibit 9. Have you reviewed that?
A. Yes.
Q. I'm going to hand you Defendant's Exhibit No. 10, which is a cervical CT scan of April 4th, 2003. Have you reviewed that?

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A. Yes.
Q. I'm going to hand you Defendant's Exhibit 11, which a cervical MRI report of April 4th, 2003. Have you reviewed that?
A. Yes.
Q. I'm going to hand you a cervical CT scan of November 12th, 2003, marked as Defendant's Exhibit 12. Have you reviewed that?
A. Yes.
Q. And I'm going to hand you what I have marked as Defendant's Exhibit No. 13, which is a cervical myelogram report of November 12th, 2003. Have you reviewed that?
A. Yes.
Q. I'm going to hand you Defendant's Exhibit 14, which is a cervical X-ray report of November 23rd, 2002. Have you reviewed that?
A. Yes.
Q. I'm going to hand you a thoracic X-ray report of November 23rd, 2002, which is the same date, marked as Defendant's Exhibit No. 15. Have you reviewed that?
A. Yes.
Q. I'm going to hand you what's marked as Defendant's Exhibit No. 16, which is the MRI of the

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brain on June 9th, 2004. Have you reviewed that?
A. Yes.
Q. I'm going to hand you what's marked as Defendant's Exhibit 17, which is an MRI close to that time of the orbits of June 19, 2004. Have you reviewed that?
A. Yes.
Q. I'm going to hand you what's marked as Defendant's Exhibit 18, which is the EMG report of December 16, 2003. Have you had the opportunity to review that, Doctor?
A. Yes.
Q. I'm going to hand you what's been marked as Defendant's Exhibit 19, which is the medical records of Dr. Joseph Imbriglia. Have you had a chance to review those, Doctor?
A. Yes.
Q. And I'm going to hand you what's been marked as Defendant's Exhibit 20, which is the emergency room visit at Wheeling Hospital on October 23rd, 2003. Have you had the opportunity to review that?
A. Yes.
Q. And I'm going to hand you what's been marked as Defendant's Exhibit 21, which are the

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medical records of Dr. Sakla at Ohio Valley Pain Management. Have you had the opportunity to review that?

A. Yes.

Q. And I'm going to hand you what have been marked what I've marked as Defendant's Exhibit 22, which are the medical records of Dr. Liebeskind. Have you had a chance to look at those?

A. Yes.

Q. I'm going to hand you what's been marked as Defendant's Exhibit No. 23, which are the medical records of Dr. Voelker at the West Virginia Department of Neurosurgery. Have you had an opportunity to look at those, Doctor?

A. Yes.

Q. You also had the opportunity to review the deposition of Ms. Ronda Meeks?

A. Yes.

Q. In addition to the medical records, did you also have the opportunity to look at some cervical MRI films and myelograms done November 12th of 2003 as well as a cervical CT scan and cervical myelogram -- excuse me, cervical MRI done April 4th, 2003?

A. Yes.

Q. Okay. Doctor, let's go back to the date of this accident, auto accident, on November 18th, 2002. What's your understanding of the -- of the facts of this accident?

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A. Ms. Meeks informed me, when I saw her on November 21st of 2005, that she was the restrained driver of a vehicle that was rear-ended by another vehicle traveling approximately 40 miles per hour. She was driving a delivery van.

She told me she experienced some head and neck pain at the scene, but her body did not hit anything inside the van. She told me she was able to drive approximately 30 minutes from the scene and she worked for another two days after the accident doing deliveries. She did not have to seek any emergency medical attention at the time of the accident.

Q. What is your understanding of when Ms. Meeks first sought some type of treatment following this accident?

A. She informed me that it was two or three days after the accident.

Q. What is your understanding of what treatment Ms. Meeks received following this accident?

A. She received some rhizatomies, which is a procedure where there's either a nerve block or a partial destruction of some of the nerves that go to part of the spine. She received some chiropractic treatment. She received some physical therapy. She had some diagnostic testing, including X-rays, MRI scans, and EMGs. She had some consultations with several neurosurgeons, but no surgery was recommended. She had a few trigger point injections by a Dr. Liebeskind. She saw Dr. Sakla, who attempted to do an epidural injection, but she had a reaction to that; and she subsequently had some more cervical epidural injections by Dr. LoDico. And I believe that's pretty much the treatment and evaluations that she had.

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Q. Is it your understanding that the first health care provider that she saw after this accident was her chiropractor, Dr. DeGameaux, on November 22nd, 2002, which would have been four days after the accident?

A. Yes.

Q. I'm going to hand you, and ask you to take a look at what's marked as Defendant's Exhibit No. 14, which is the X-ray of the cervical spine or neck done, it looks like, five days after the accident. It's in your report as No. 10, Doctor.

A. Yes.

Q. And, first of all, when we use the term cervical spine, are we talking about the neck region?

A. Yes.

Q. Okay. What's your understanding of what that X-ray of the cervical spine showed five days after the accident?

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A. It showed some arthritis in the neck and some narrowing of the disk spaces in the neck consistent with degenerative disk disease. There was no evidence of a fracture, or a dislocation, or anything that could be related to an injury.

Q. When you use the term degenerative disk disease, what do you mean by degenerative disk disease?

A. In the spine -- the spine is made up of a series of bones called vertebrae that sit on top of one another and in between each one of those bones is a little cushion called a disk.

As people get into their 30s, 40s, and 50s, they start to lose the water content in the disk and the soft spongy aspect of the disk, and we call that degenerative disk disease. It's very common in the general population.

Q. And you're aware that she also had an MRI of the cervical spine done December 4th, 2002; is that correct?

A. Yes.

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Q. **Okay. Could you tell us what that MRI scan of the neck showed?**
A. At that time it was reported that she had a herniated disk at C5-6 and a -- and a second small herniated disk at C6-7.
Q. **Were there some later MRIs and CAT scans done of Ms. Meeks' neck which differed from that initial MRI of the neck on December 4th, 2002?**
A. Yes.
Q. **Could you tell the jury what those were?**
A. She subsequently had a cervical myelogram and a post-myelogram CAT scan. A myelogram is a test where X-ray dye is injected into the spine and run up into the neck and it's more sensitive than an MRI for detecting a herniated disk, and that test showed some mild arthritis and degenerative disk disease at C5-6 and C6-7, but there was no evidence of a disk herniation as was reported on the original MRI scan in December of 2002.
She also had a repeat MRI scan of the neck in April of '03, about five months after the original one, and the interpretation of that one was that there was some disk bulging, which is consistent with degenerative disk disease, but nothing that could be related to an injury.

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Q. **Doctor, did Ms. Meeks later have what we call an EMG test -- first of all, before we get to that, what is an EMG study?**
A. An EMG is a test where a teeny -- a little tiny needle is put into some of the muscles in the arm and neck and the electrical activity in those muscles are measured. If someone has a pinched nerve in the neck, abnormalities will be seen on the EMG. But that test did not show any evidence of a pinched nerve in the neck.
Q. **Doctor, what's your understanding as to what Mrs. Meek's condition was before the November 18, 2002 accident based upon your review of her records, including those of Dr. Anderson and the other doctors that we spoke about earlier?**
A. Ms. Meeks informed me that she had received chiropractic treatment years -- for some years prior to the accident for low back pain, but she denied that she had ever been treated for neck pain. She stated that in 1984 she had been in an auto accident in which she broke her leg, but that she did not have any head or neck injuries in that accident.
In reviewing the medical records, in 1993, about nine years before the accident, she did have X-rays and an MRI scan of her low back, which did show

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arthritis and degenerative disk disease and a herniated disk in her low back.
MR. MYERS: I'm going to interpose an objection with respect to the evaluations of the low back in 1993 as being unrelated to any -- any matters related in this case.
BY MR. BOETCHER:
Q. **Doctor, before the accident of November 18th, 2002, were there ever any reports in the medical records of problems with the neck or shoulders or headaches?**
A. Yes. I reviewed the records of Dr. Charla Anderson, who saw her on at least seven occasions in the year or so -- about a year and a half prior to the accident, at which point there were multiple references to recurrent headaches, pain in multiple joints, pain in the trapezius area, which is the muscles just adjacent to the neck and shoulder.
Just 12 days before the November 18th, accident, on November 6th of '02, Ms. Meeks complained to Dr. Anderson of chronic headaches, muscle tension, mainly in the occipital region, which is the back of the head which attaches to the neck. She complained of muscle tightness at the top of her shoulders and indicated that she had to take a hot shower and

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massage these areas to get relief.
Q. **Doctor, what are trigger points? When you hear the term trigger points, what is that?**
A. Trigger points are small areas of muscle spasm that the doctor can actually palpate with his or her thumb when we palpate various muscles in the body, and they -- they feel like a hard -- hard nodule in the muscles.
Q. **In the medical records that you reviewed, were there -- was there ever any indication that Ms. Meeks had any type of trigger points before the accident of November 18, 2002; and, if so, at what part of her body?**
A. Yes. Dr. Anderson noted on May 10th of 2001, about a year and a half prior to this accident, that Ms. Meeks did have some positive trigger points in the trapezius muscles and in the occipital areas. The trapezius muscles are the muscles that are at the base of the neck, between the neck and shoulder, and the occipital area is where the neck muscles attach to the base of the skull.
Q. **Now, in addition to the review of the medical records from before and after the November 18th, 2002 accident, did you also do a medical examination of Ms. Meeks at my partner Harry Conn's**

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request?
A. Yes.
Q. And when was that examination performed?
A. November 21st of 2005.
Q. Could you describe for the jury what your medical examination consisted of and what your findings were on your medical examination of Ms. Meeks at that time?
A. Yes. She was five foot five and weighed 215 pounds. She was examined in a disrobed state with an examination gown on. She was very pleasant. She had excellent memory of the accident. There was no evidence of any language dysfunction. Her gait and station was normal. That is, watching her walk in the exam room, she was able to walk normally with no evidence of a limp. She was able to walk on her toes and heels well. In people who have had an injury to the spinal cord or the nerves in the neck or low back, they may have weakness in their legs, but there was no evidence of that.

I checked her low back by having her bend over and touch her toes and bend from side to side and back as far as she could, and that was normal. She was able to get up from a laying to a sitting position with no difficulty. The straight-leg

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raising test was normal. That's a test with the person laying on their back, the doctor will lift their leg straight up in the air, and if they have a pinched nerve in the back, they will experience some discomfort. But that test was normal.

I checked the range of motion of her neck by having her put her chin over toward each shoulder as far as she could and down on her chest and as far up as she could, and that was reduced to about 50 percent of normal in all directions.

She had a little bit of tenderness in her right upper thoracic area, which is the area just below the neck, between the shoulder blades, but there was no -- there was no muscle tenderness in the neck. There was no muscle spasm.

I did a complete trigger point examination and there was no evidence of any trigger points.

I did -- there was no evidence of any muscle weakness, atrophy, or muscle fasciculations. Fasciculations are little twitches that they can see in the muscles in people who have had nerve damage in the neck, but there was no evidence of any muscle weakness that we would see with any type of a pinched nerve.

Also, there was no loss of sensation.

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Again, in someone who has a pinched nerve in the neck, they may have loss of sensation in their arms or hands, but she did not have any sensory loss.

Also, all of her deep tendon reflexes were normal. We check that with a reflex hammer, where we tap over the reflex -- the tendons in the arms and legs and, again, if someone has a pinched never in the neck or back they will either have an absent or diminished deep tendon reflex; but that was normal.

And that completed my exam of Ms. Meeks.
Q. Now, you indicated that you -- that part of your examination was to check to see if she had muscle atrophy. First of all, what is atrophy?
A. Atrophy is when a muscle gets smaller. Like when someone has worn a cast on their arm or leg for a period of time, the muscles will actually get smaller. If someone has a pinched nerve in the spine, very often the muscles that that nerve supplies will get smaller or atrophy.
Q. In your examination of Ms. Meeks, was there any evidence of any type of muscle atrophy?
A. No.
Q. Okay. Doctor, I'm going to be asking you some questions and asking for some opinions. I would

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ask that your answers to my questions be to a reasonable degree of medical certainty and medical probability and that your answers be based upon your examination of Ms. Meeks and her records, her medical records, as well as your education, training, and experience as a physician and neurologist for over 30 years.

Will you give your answers to a reasonable degree of medical certainty and probability?
A. Yes.
Q. Okay. Do you have an opinion to a reasonable degree of medical certainty and probability as to what injuries Ronda Meeks sustained in the accident of November 18th, 2002?
A. Yes.
Q. And what is that opinion?
A. As a result of this accident, I believe Mrs. Meeks did suffer a mild strain to the muscles in her neck.
Q. When you say a strain to the muscles in the neck, what do you mean by that?
A. A strain is a stretching of the muscles to the point where pain is produced.
Q. Other than the -- the strain to the muscles in the neck, do you have an opinion as to whether Ms.

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Meeks sustained any other injuries as a result of the November 18, 2002 accident?
A. No.
Q. **Do you have an opinion to a reasonable degree of medical certainty and medical probability as to whether Ms. Meeks has a condition called cervical degenerative disk disease and osteoarthritis?**
A. Yes.
Q. **And what is that opinion?**
A. This condition does exist, but it is not related to nor was it permanently worsened by this accident.
Q. **And why do you say that?**
A. Arthritis and degenerative disk disease are degenerative conditions unrelated to trauma. They preexisted the accident. Also, thse conditions are never permanently aggravated by trauma unless there's significant injury to the spine, such as a fracture or dislocation, which was not the case here.

Also, X-rays of her neck five days after the accident did show arthritis and degenerative disk disease at C5-6 and C6-7, and these X-ray changes take years to develop. So, these are not recent X-rays.

Also, Ms. Meeks had a long history, ten years prior to the accident, of arthritis and

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degenerative disk disease in her lumbar spine, and we know that arthritis is not just limited to one part of the spine. If somebody has it in the low back, the odds are overwhelming that they will have it throughout their spine.
Q. **You may have already answered this. When you say the lumbar region, are you speaking about the low back region?**
A. Yes.
Q. **Okay. Do you have an opinion to a reasonable degree of medical certainty and medical probability as to whether Ms. Meeks has a condition called cervical disk herniations at the C5-6 and C6-7 disk levels?**
A. Yes.
Q. **And what is that opinion?**
A. After reviewing her records and her X-ray and MRI films, I do not think that she had a disk herniation as a result of this accident.
Q. **Okay. And why is that your opinion?**
A. Number one, in order to have an injury severe enough to cause a herniated disk, one has to tear the tough outer layer of the disk called the annulus fibrosis. This would produce immediate discomfort. Ms. Meeks reported to the investigating

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officer at the scene that she did not have any injury or pain of any kind, continued to drive and work for several more days. Certainly with a mild muscle strain, there may be a delay in the onset of the symptoms until the next day; but with a herniated disk, the symptoms would be immediate.

I realize that she did have an MRI scan dated December 4th of '02 which reportedly showed disk herniations at C5-6 and 6-7, but Dr. Voelker, a neurosurgeon, subsequently reviewed this MRI scan and opined that there was no evidence of a disk herniation.

She subsequently had a CAT scan of the cervical spine and a myelogram which showed degenerative disk disease and arthritis, but no evidence of a herniation.

And she also had an EMG, which showed no evidence of any nerve damage. The way disk herniations cause pain is by putting pressure on the nerve and the EMG showed absolutely no evidence of any nerve involvement and at no time on my exam or any other doctor's exam was there any evidence of muscle weakness, reflex changes, or anything to suggest significant nerve injury as would be expected with a disk herniation.

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Q. **Now, Doctor, you said that initially she had a -- a cervical or a neck MRI which seemed to indicate a disk herniation, but she later had a cervical CAT scan and cervical myelogram. Have you reviewed those cervical CAT scans and myelograms yourself?**
A. Yes.
Q. **Okay. And in your opinion, does -- do those films -- these later films done later on, do those show disk herniations?**
A. No.
Q. **Is there a difference between what we call a disk herniation and, let's say, a disk bulge or protrusion?**
A. Yes. A disk bulge is a common finding in the general population and also in people that have degenerative disk disease. So, many, many normal people who have no neck problems at all could have neck -- disk bulges.
Q. **Now, you had mentioned before something about an EMG test, and I think that you explained that the purpose of doing the EMG test is to see whether or not a -- a herniated disk or a bulging disk is pressing on a nerve; is that correct?**
A. Yes.

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Q. And Ms. Meeks did have an EMG test done in this case, is that correct, on September 16th, 2003?
A. Yes.
Q. And did that EMG test reveal any type of nerve -- excuse me, disk pressing on any nerves as a result of that test?
A. No.
Q. Is that what we call cervical radiculopathy? Is that the term?
A. The term cervical radiculopathy just means that there's something wrong with the nerve as it comes out of the hole in the neck to go down to the arm. There's a lot of things that can cause cervical radiculopathy, the most common of which is a herniated cervical disk.
Q. And this EMG done September 16th, 2003 did not indicate any evidence of cervical radiculopathy?
A. Yes, that's correct.
Q. Now, you had indicated earlier when Ms. Meeks came to your office and had an examination that she did report to you that she was in a prior accident sometime in the 19 -- 1980s; is that correct?
A. Yes.
Q. And I think she indicated that there wasn't any type of head injury in that accident. Was there

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anything in the medical records that indicated that she may have had some type of head trauma in a prior accident?
A. Yes. The records of Ohio Valley Asthma and Allergy on October 31st of '01 indicate that she had been in a vehicle accident in 1984 and had had a head injury. And I believe there was another reference to it that I can't put my finger on right at this second, but I could look for it.
MR. BOETCHER: Off the record.
THE VIDEOGRAPHER: We're going off the record at 4:55:20.
(OFF THE RECORD.)
THE VIDEOGRAPHER: We're going back on the record at 4:55:52.
Go right ahead.
BY MR. BOETCHER:
Q. Doctor, I'm going to hand you what's been marked as Defendant's Exhibit No. 3, which are the medical records Dr. Charla Anderson. Contained within those records is there a report from the Allergy and Asthma Institute?
A. Yes.
Q. Okay. And does that indicate that she reported at that time that approximately ten years ago

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she had been in an auto accident and had some type of head trauma?
A. Yes.
MR. BOETCHER: Off the record.
THE VIDEOGRAPHER: We're going off the record at 4:56:29.
(OFF THE RECORD.)
THE VIDEOGRAPHER: We're going back on the record at 4:57:13.
Go right ahead.
BY MR. BOETCHER:
Q. Doctor, you indicated that in your opinion Ms. Meeks sustained a mild cervical strain as a result of the accident of November 18th, 2002. What is the typical recovery time for someone who has suffered a mild cervical strain in a motor vehicle accident, if there is a typical recovery time?
A. Four weeks or less.
Q. In your opinion, what was the recovery time of Ms. Meeks in this case to recover from the cervical strain in this case?
A. I did not see any evidence of any injury in this accident that would have required more than four weeks to recover.
Q. And why is that your opinion?

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A. Number one, the natural history of recovery from mild muscle strains is for complete recovery within four weeks.
Number two, this was a mild strain. People who get severe muscle strains will have pain immediately. They won't, you know, report they have no symptoms and continue to work. Also, there was no definite evidence of any more serious injury, such as disk herniation, cervical radiculopathy, fracture, dislocation, or any other injury that would be expected to cause symptoms beyond four weeks. Ms. Meeks herself reports that she was able to drive some 30 minutes from the scene and work for another two days after the accident, which, again, is consistent with the behavior of someone who had a mild muscle strain.
My exam of Ms. Meeks on November 21st of '05 revealed no objective abnormalities. The Ohio Crash Report on the day of the accident, Ms. Meeks indicated in her signed statement that she denied any injuries at the scene and had no symptoms. Again, consistent with a mild strain.
Dr. Anderson, who examined her on March 18th of '03, about four months after the accident, found her to be in, quote, no acute distress, unquote,

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with full range of motion of the neck and no neurologic findings.

Dr. Voelker, a neurosurgeon who examined her on April 29th of '03, found no objective abnormalities. Dr. Voelker agreed that -- agreed with me that she was was suffering from cervical strain and had arthritis with degenerative disk disease, but no evidence of nerve root compression or any injury that would be expected to cause symptoms beyond four weeks.

A second neurosurgeon, Dr. El-Kadi, who examined her on August 26th of '03, found no objective abnormalities on exam. He found that she had cervical degenerative disk disease but with no significant pressure on the exiting nerve roots or on the spinal cord. Also, a repeat exam by Dr. El-Kadi on November 25th of '02 revealed no objective abnormalilties.

EMGs performed on September 16th of '03 revealed no evidence of nerve damage in the neck, nor was there any evidence of muscle spasm.

In a patient questionnaire filled out by Ms. Meeks on 10-1-03, she indicated that she was able to carry heavy objects, do her housework and yard work, although with some difficulty.

Dr. Sakla's exam on October 13th of '03 revealed no objective abnormalities. He reported that

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her neck was soft with no tenderness.

Exam by another physician in the emergency room on October 23rd of '03 revealed full range of motion.

Exam by Dr. LoDico on February 17th of '04 found her to be in no acute distress and, again, there was no evidence of muscle spasm or trigger point tenderness.

So, for all of these reasons, I would have expected full recovery from these muscle strains within four weeks at the most.

Q. Doctor, you have given an opinion that, in your opinion, Ms. Meeks had sustained a cervical strain as a result of this accident. In your opinion to a reasonable degree of medical certainty and probability what -- what was the appropriate amount of treatment for that type of injury?

A. Cerainly someone may require pain medications, chiropractic treatment, physical therapy, and rest for those type of injuries.

Q. Ms. Meeks later had some additional treatment, including treatment by some of the other folks, after that four-week period. Do you relate that treatment as being necessitated as a result of the accident of November 18th, 2002?

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A. No.

Q. And why is that?

A. For the same reasons that I've already stated in my previous testimony as to why she should have recovered within four weeks.

Q. You also indicated that she had some other treatment, including injections in the neck and a rhizatomy later on down the line, I think a couple years later. In your opinion, to a reasonable degree of medical certainty and probability, was that type of treatment necessitated from injuries sustained in the accident of November 18th, 2002?

A. No.

Q. And why is that your opinion?

A. Muscle strains -- rhizatomies are procedures where there's injections into the nerves that go to the facet joints in the neck. There's absolutely no evidence in this accident that she injured any of the joints in her spine. She did suffer some muscle strains, but nothing that would have necessitated injections into the spine.

Q. Doctor, do you have an opinion to a reasonable degree of medical certainty and medical probability as to whether or not Mrs. Meeks sustained any type of permanent injury in the accident of

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November 18th, 2002?

A. Yes.

Q. And what is that opinion?

A. There are no objective findings on examination or any of the diagnostic testing of any injury related to this accident that would have caused any permanent problems beyond four weeks.

Q. To a reasonable degree of medical certainty and probability, will Ms. Meeks need any future treatment, in your opinion, for injuries sustained in the accident of November 18th, 2002?

A. No. Again, there are no objective findings on examination or any of her testing of any injury related to this accident that would require any future medical, chiropractic, or surgical treatment.

Q. In your opinion to a reasonable degree of medical certainty and probability, does Ms. Meeks have any type of physical restrictions as a result of injuries sustained in the November 18th, 2002 accident?

A. No.

Q. And why is that your opinion?

A. Again, I would have expected complete recovery from mild muscle strains within four weeks for the reasons I've already stated.

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Q. Now, in this case Ms. Meeks is claiming that after she worked a couple days at her job as a delivery person that she had to quit that job because she was physically unable to continue as a result of injuries related to the accident.

Do you have an opinion to a reasonable degree of medical certainty and probability as to whether or not Ms. Meeks was physically able to continue her job as a delivery person, or whether or not the injuries from the accident prevented her from performing her duties as a delivery person?

A. Yes.

Q. And what is that opinion, Doctor?

A. Again, there is no evidence of any injury related to this accident that would have impaired her ability to work as a delivery person beyond four weeks after the accident.

Q. Did you see any notations in the records as to -- strike that.

MR. BOETCHER: Doctor, that's all the questions that I have for you right now. I am sure Mr. Myers has some questions.

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CROSS-EXAMINATION

BY MR. MYERS:

Q. Thank you. Good afternoon, Dr. Thompson. My name is Thomas Myers and I represent Ronda Meeks and Mark Meeks in this action.

Before we begin talking about the specifics of your evaluation of Ms. Meeks and her condition and your opinions with regard to that, I'd like to ask you some questions about your practice in general, if I could, please.

It's my understanding in that regard that you are a doctor who does hold himself out to perform examinations in situations where you do not treat individuals; is that correct?

A. Yes.

Q. And it's my understanding that you do -- and this is based on a prior deposition in which I had an opportunity to speak to you before -- you do, at least at that time, anywhere from three to five of these independent examinations per week; is that correct?

A. Yes.

Q. Okay. And has that changed any -- what's it been in the last, say, six months to a year, have you been doing more defense medical examinations than

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in the past?

A. I would estimate that when I'm in town, when I'm working, I do about three to five per week. About 80 percent of those are at the request of defense attorneys and about 20 percent at the request of plaintiffs attorneys.

Q. Okay. And that 80 percent that is requested by defense attorneys, have you ever been requested to do a similar examination on another individual by this particular law firm, Harrington, Hoppe, and Mitchell?

A. Yes. This is the first time I've ever met this particular attorney, but I have been asked by their firm to do previous exams.

Q. And how many of those exams have you done by this firm?

A. I -- I couldn't even venture -- occasionally. Not often, but occasionally.

Q. Okay.

THE WITNESS: Where is your firm? I forget.

MR. BOETCHER: It's in Youngstown.

THE WITNESS: Oh, yeah.

Occasionally. I'm pretty far from Youngstown.

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BY MR. MYERS:

Q. And do you perform basically the same type of procedure; you review medical records, conduct an examination of the individual, and then provide a report of your findings?

A. Yes.

Q. And the amount of money which you make doing this, on an annual basis, is somewhere between 200 and 250 thousand dollars a year; is that correct?

A. Yes.

MR. BOETCHER: Objection; move to strike.

BY MR. MYERS:

Q. You are paid for your services when you do these examinations at the request of defense counsel; is that correct?

A. Yes.

Q. And how much do you charge for -- let's say in this particular circumstance, to review the medical records of Ms. Meeks, conduct an examination of her, and then provide a report?

MR. BOETCHER: Continuing objection.

A. Well, in this case, I spent about half an hour face-to-face with Ms. Meeks. I spent approximately four hours reviewing extensive medical

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records, both before and after the accident. I reviewed various diagnostic studies. So, alltold, I spent about five hours on this case and I charged $1800.

Q. Thank you, Doctor.

Now, did you review the records of Ms. Meeks prior to conducting the examination which you did on November 21st, 2005, or after?

A. After.

Q. Is that your standard practice, to look at the records after you conduct the examination?

A. Yes. I might thumb through the records while the patient's in the room, but the -- the vast amount of time I spend looking through the records is after the patient has left.

Q. Now, when you indicated you took a history from Ms. Meeks -- and I believe you testified -- and I think you -- a lot of your testimony is incorporated in your November 23rd, 2005 report; is that correct?

A. Yes.

Q. Because I've seen you've been using that report to testify in response to some of the questions asked by counsel. So is it safe to assume that you don't have an independent recollection of your examination and review of all the records of Ms. Meeks

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at this time?

A. Yes.

Q. And that is why you are reviewing your report in that regard; is that correct?

A. Yes.

Q. Now, in looking at your narrative report in that portion of it where you indicated you took a history of this lady, she indicated that she was rear-ended on November 18th, 2002; is that correct?

A. Yes.

Q. By a vehicle traveling approximately 40 miles per hour; correct?

A. Yes.

Q. Now, your exam of Ms. Meeks was conducted three years and three days after the date of injury; is that correct?

A. Yes.

Q. And after she had received various modalities of treatment; i.e., chiropractic treatment, physical therapy treatment, epidural injections, cervical facet blocks, and rhizatomies; is that correct?

A. Yes.

Q. And in reviewing the information that you took from her about driving a delivery van, did you

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understand what type of delivery van she drove or what type of products she delivered?

A. No.

Q. So, you don't know whether she was required to lift heavy objects or no lifting at all; is that correct?

A. No, I don't know exactly what she had to lift.

Q. Now, you also indicate in your report that she did not tell the arresting officer that she was injured; is that correct?

A. Yes.

Q. And I believe you had a notation -- you actually quoteed from the Ohio State accident report; is that correct?

A. Yes.

Q. Okay. Were you aware of the fact that that arresting officer was actually at the scene at the time the accident occurred?

A. I'm sorry, repeat the question.

Q. Were you aware of the fact that the arresting officer was in and around the scene of the accident at the time that it occurred?

A. No.

Q. So, you were unaware of the fact that the

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officer, when he questioned Ms. Meeks about the extent of her injuries, asked her that within minutes or more than a couple minutes after the impact took place?

A. No.

Q. And at that time she indicated that asked her, are you injured, she said: I don't think so; I am fine. Isn't that -- wasn't that her words at the time?

A. Yes.

Q. Okay. And then you indicated that she drove from that -- from the scene then. You said she was able to drive 30 minutes from the scene?

A. Yes.

Q. Okay. Where did you get the idea that she drove 30 minutes? Did she tell you that?

A. That's what she told me, yes.

Q. And would that be unusual for someone who has just been rear-ended at 40 miles an hour and having complaints of neck pain at the scene, to be able to drive to their home?

A. In someone who had a relatively mild injury to the spine, I would certainly expect them to be able to drive from the scene. In someone who had had a more serious injury, such as a fracture or a herniated disk, it would be less likely that they would be able

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to drive from the scene.
Q. So, it would be your opinion that people who experience herniated disks are unable to drive?
A. I said it would be less likely that they would be able to drive. They would experience significant pain. The disk is surrounded by a tough outer envelope called the annulus fibrosis and in order to have an injury that would subsequently result in a herniated disk, one has to tear that annulus fibrosis, which would produce immediate pain. The pain would subsequently improve, but at least the pain would be immediate at the time of the incident.
Q. But my question is though, your suggestion is that she would have had to have had a herniated disk and if she did, she would most likely be unable to drive from the scene; is that correct?
A. No. It's possible you could tear your annulus fibrosis and not have herniated disk at that point. It could develop later.
Q. But you've seen plenty of people who have had herniated disks, right, and they drive all the time; correct?
A. Yes. In fact, some people have herniated disks and don't even know it, because the way herniated disks cause pain is by pushing on the nerve,

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and if you have a herniated disk that's not pushing on a nerve, you may not even have any symptoms.
Q. Thank you.
Now, you indicated that she was also -- in addition to being able to drive from the scene, she worked for another two days doing deliveries; correct?
A. Yes.
Q. Do you know whether those were two consecutive days or whether or not she had a day off in between, at which time she rested and was able to self help herself in that regard, like heating pads and laying down and taking over-the-counter medications?
A. She told me that she worked for two more days. I did not ask her whether it was -- whether it was in --I assumed it was two more days after the accident, but I didn't specifically -- I assumed from the way she said it that it was the next two days, but I did not specifically ask her that.
Q. Okay. Well, would that make a difference if she had worked the next day and then had a day off and then worked on the following day, which would have been a Thursdays, that she would have had a little bit of rest in between the first day of work and the second day of work so that she would be able to do

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that?
A. Would it -- would it have made a difference as far as what?
Q. In your opinion. You somehow think the fact that she was able to drive 30 minutes and work the next two days that that's indicative somehow that she only sustained a mild cervical strain.
A. Yeah. People who have severe muscle strains would not be able -- I would not expect them to be able to continue to work for the next two days because the pain -- you know, the pain is usually pretty bad when you have a severe cervical strain. If it's a mild cervical strain, I would expect you to be able to continue to work, yes.
Q. But people respond to trauma differently; do they not, Doc?
A. Well, again, I'm talking within reasonable medical probability and what we would normally expect to see; but, of course, anything is possible.
Q. But, I mean, some people could have better tolerance to pain and they might have a job that presses them so they would naturally -- necessarily go to work despite the fact that they're suffering significantly from an injury they just had the night before.

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A. Again, in someone who has had a mild cervical strain, I would expect them to be able to continue to work for the next -- for another couple days, yes.
Q. And you agree Ms. Meeks sustained a mild cervical strain; is that correct?
A. Yes.
Q. What other objective findings would you expect to see if that would -- if that would have been a serious cervical strain?
A. With a serious cervical strain, you may see muscle spasm, severe decrease in a range of motion. If there's torn muscles, you may actually see visible swelling or even some discoloration under the skin. With severe muscle -- severe muscle strains, there can be actually bleeding and black and blue marks appear under the skin, under the severe strains.
Q. So, you would expect to see some muscle spasms, some decrease of range of motions; is that correct? You indicated both of those things would be more prevalent in a serious cervical strain.
A. They'd be more prevalent. They could -- they could also be present for, you know, a short period of time with a mild strain, yes.
Q. How about loss of lordosis in the curvature

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of the spine?
A. That's a common finding, especially in females, and is not really a reliable thing. Now, an EMG is an objective way of seeing muscle spasm, but -- but that was not apparent with her.
Q. Doctor, I'd like to bring your attention to at least a deposition that you gave in another case, the case of Sabine Young versus Veda Harper, and in that deposition you were asked a couple questions about -- in a very similar circumstances with an individual who had, perhaps had an injury, and you were discussing the difference between cervical strain being mild or serious. And if I could --
MR. MYERS: I don't know how, Marty, you want to proceed, but I would like to ask him a couple questions about his previous testimony in that deposition.
BY MR. MYERS:
Q. And in this particular case, Doctor, you were asked: "Doctor, the cervical or neck sprain that you felt occurred to Ms. Young, in terms of levels of severity, how would you characterize it?"
You answered: "I would characterize it as a mild sprain."
Question: "Okay. And how do you

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differentiate between mild versus more serious neck strains?"
Your answer: "With severe strains, the pain is immediate and severe. When the patient is examined there is -- there can be muscle spasm, and certainly will be decrease in range of motion of the neck. Sometimes on X-ray of the neck, there may be some loss of normal curve of the neck. With mild sprains, range of motion may be normal. There may be nothing more than just some tenderness over the muscles."
So, at least in that prior deposition, Doctor, you characterize evidence of severe strain as being muscle spasms and certainly decrease in range of motion in the neck, and sometimes X-ray evidence of loss of normal curvature in the neck; correct?
A. Yes, but in that testimony I'm talking about the exam immediately after the accident.
Q. Okay. I'd like to turn your attention now to the exam that took place closest in time to the accident, and that would be the evaluation conducted by Dr. DeGameaux, and you've indicated that you have reviewed Defendant's Exhibit No. 1, which are Dr. DeGameaux's office records; is that correct?
A. Yes.

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Q. And in looking at the first record of 11-22-02, as Mr. Boetcher had indicated that was four days after the original -- after the incident, it notes in that report that she was in a motor vehicle accident Monday, 11-18-02, entrance ramp over in Ohio returning from her delivery in Cleveland. Impact to vehicles, whiplash, no treatment to date.
Would you agree with me that's how that reads? It's a little hard to read, but --
A. Yes.
Q. Okay. It reads: Today, very sore, slash, antalgic to the cervical spine."
What does antalgic mean?
A. Antalgic means slowness of movement due to pain.
Q. So it would be a decrease in the range of motion?
A. Yes.
Q. Okay. And he says: "Very limited ROM --" that's range of motion "-- in all modes;" correct?
A. Yes.
Q. Okay. So, she has a decrease in her range of motion in lateral flexion and extension and rotation; is that correct?
A. Yes.

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Q. Okay. Again, range of motion, that loss of range of motion was one of those things you indicated you would see in a more severe strain; correct?
A. In that -- in that --
Q. Just answer yes or no first, and then if you want to explain, you can.
A. Yes. May I explain?
MR. BOETCHER: He said you could.
Q. Yes, go ahead. Sure.
A. What I was referring to in that previous deposition is the examination immediately after the injury. Certainly with muscle strains and even with mild muscle strains, I would not be at all surprised for someone to have decreased range of motion, muscle tenderness, as -- these findings are very consistent with a mild muscle strain in the days after the injury. And I said it takes up to four weeks to recover from a mild muscle strain.
Q. But in four weeks, Mrs. Meeks wasn't better; was she?
A. No, she's still complaining of pain three years later.
Q. Right. So, then, your belief that she should have gotten better in four weeks did not occur in this particular case; is that correct?

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A. Her symptoms are still persistent three years later, but in my opinion there's no evidence of anything that could have occurred in this accident that would have caused that.
Q. Well, if her symptoms were persistent -- and they were also consistent, were they not? Each physican or practitioner she saw, she made very similar complaints; decrease in range of motion, neck pain in the shoulders and in the thoracic region?
A. No.
Q. Well, we'll go through them individually, Doctor. If you don't mind, I'd like to stick now with Dr. DeGameaux's office record there. First he said the range of motion was very limited in all modes; correct?
A. Yes.
Q. And he noted that her pain has gotten worse in the days since the accident; correct?
A. Yes.
Q. And he notes she had pain in the entire cervical spine and down into the mid dorsal. That's the -- the thoracic region; is that correct?
A. Yes.
Q. Down through -- into the middle of the back, between the shoulder blades; correct?

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A. Yes.
Q. Okay. No radiation of the upper extremities, but along the traps and rhomboids. Those are the muscles in the back of the shoulder that you referenced earlier in your testimony; is that correct?
A. Yes.
Q. Okay. He also notes: Primary pain in the cervical extension and she had a positive S/H. That's a reference to Soto Hall; is it not?
A. Yes.
Q. And CC, that's a cervical compression test; correct?
A. Yes.
Q. Those were both positive at the time Dr. DeGameaux did his examination; is that correct?
A. Yes.
Q. And it noted that she was tender to the touch in the involved IAs, that's involved areas; correct?
A. I -- you would have to ask Dr. DeGameaux that.
Q. Okay. And at that time he ordered X-rays of the cervical and dorsal spine; correct?
A. Yes.
Q. Okay. And he noted she had a headache that

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was bad since Tuesday night and that she had been taking some over-the-counter -- over-the-counter drugs with no help; is that correct?
A. Yes.
Q. And now, the cervical X-ray that you made reference to in Defendant's Exhibit 1, that was conducted the very next day and probably in -- pursuant to doctor's request that that be done; correct?
A. Yes.
Q. Because you had reviewed the X-ray that is is dated 11-23-02, both the cervical and thoracic X-rays that were done at Dr. DeGameaux's request?
A. Yes.
Q. Now, in the X-ray -- first of all, X-rays only -- only tell us about the bony structures for the most part; isn't that true?
A. No. With severe soft tissue injuries, you may see some swelling or edema in the soft tissues. But with mild soft tissue injuries, all you can really see are the bones.
Q. Now, in this particular X-ray, it noted that the curvature is straight. This is the X-ray of the cervical spine; is that correct?
A. Yes.

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Q. And one of the impressions was that she had a straight curvature; is that correct?
A. Yes.
Q. Now, a straight curvature is a long way off from what the normal lordosis of the cervical spine is; isn't that true?
A. No. Many normal people, including females, will have a straight cervical spine. But a straight curvature, again, is consistent with a mild cervical strain.
Q. And that straight -- straightening of the curvature would be due to what, to the muscle spasms that are pulling on the --
A. Muscle tightness of the spine.
Q. Because the normal lordosis of the cervical spine has a bit of a curve to do it, does it not, and the spine in general looks like sort of an elongated S-shaped form; does it not?
A. Yes. And all these things are consistent with what I've testified, that she had a cervical strain.
Q. Okay. And that also indicated that she had disk space narrowing and some spondyloarthritic changes. That's the osteoarthritic condition in the vertebrae; is that correct?

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A. That's correct.
Q. Now, if you also look at the thoracic X-ray that was done on that very same day, that thoracic X-ray noted she had some degenerative spurring in the thoracic region, but she also had some dextroscoliosis; is that correct?
A. Yes.
Q. And dextroscoliosis is where the portion of the thoracic spine is bowed, but it's not bowed in the way that you would expect in the cervical, but that's actually to the side; is it not?
A. Yes.
Q. If you were looking at the cervical -- the spinal column straight on, that means that the thoracic spine is sort of curved out to the side a little bit; is that correct?
A. Yes.
Q. Is that also consistent with a cervical strain condition that Ms. Meeks sustained --
A. Yes.
Q. -- several days before?
A. Yes.
Q. And would that dextroscoliosis and the straightening of the lordotic curvature be the result of muscle spasms that she might be experiencing would

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be pulling on those vertebral parts?
A. Well, it's really impossible to tell because, number one, those findings are commonly seen in the normal population. You would have to have an X-ray before and after. But in the case of a -- of cervical muscle strains, I would certainly not be at all surprised to see these findings due to that.
Q. So, then, she did have some muscle spasms, she did have significant loss in range of motion based on Dr. DeGameaux's initial evaluation; is that correct?
A. Yes.
Q. Okay. Now, in looking back to his next office note, Dr. DeGameaux's, he had an opportunity very -- in three days later to -- she -- and he indicated that she had a bad weekend; is that correct?
A. Yes.
Q. And he noted that he reviewed the X-rays and at that time he suspected HNPs, heriated nucleus propulsis; is that correct?
A. Yes.
Q. And he noted there were some dorsal degenerative changes. He told her to just -- he did easy manual traction in the spine and some G five traps and rhomboids and he discussed an MRI and told

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her to see a doctor for any pain meds that she might want, is that correct, and, if necessary, go to the emergency room for that?
A. Yes.
Q. Is that what his office record indicates?
A. Yes.
Q. Okay. And then shortly after the X-rays were taken and that office visit, she did have a cervical MRI which was performed on December 4th; is that correct?
A. Yes.
Q. Now, in your report, you indicate that you had not actually had a chance to review those films yourself, but you relied upon the radiologist's report and the subsequent examinations to make your opinion with regard to these findings; is that correct?
A. Yes, plus I subsequently reviewed additional MRI scans and CAT scans, myelograms, and EMGs that she had.
Q. But you have yet to see these cervical films; is that correct?
A. I never received those films; that's correct.
Q. Now, it's true, is it not, Doctor, that it's not unusual for one MRI scan done at one

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particular time to show one finding and a subsequent MRI to have a different finding; in fact, for, say, a cervical disk herniation to show up on one MRI and to then for it to show up on a later as a degenerative disk disease in terms of the findings?
A. Well, it's certainly possible, if someone has -- had a small disk herniation, it could just recover and go away, yes.
Q. And in this particular MRI reading, in addition to them finding -- the doctor finding a C5-6 disk herniation which was impinging on the subarachnoid space and the orifice of the left foramen -- is that correct?
A. That's what that radiologist reported, yes.
Q. And he also reported a C6-7 disk herniation which impinges on the same subarachnoid space; correct?
A. Yes.
Q. Also noted on that MRI though, is that it had a notation of abnormal lordosis; correct?
A. Yes.
Q. And, again, that abnormal lordosis -- when they call it abnormal, we're not just talking about some minimal variation that you might find in the population, but an abnormal lordosis -- this is

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showing the same thing that was sort of evidenced on the X-ray of the cervical region taken several days before; isn't that correct?
A. Yes.
Q. Okay. So, she was still having some lordotic problems, curvature problems as a result of the strain she sustained in the auto collision of August 18th; correct?
A. And again, this may be a normal finding in her, but it can be seen in patients that have muscle strains also.
Q. And in this particular case, there really was no evidence in any of the prior records that you've seen that showed she had any cervical injury to her neck; isn't that correct?
A. Other than the head -- head injury that supposedly occurred in the 1980s, but --
Q. And that --
A. And she complained of muscle tension in her -- the base of her skull and the top of her shoulders to her family doctor two weeks prior to the accident.
Q. But in review of all her prior records, there was no evidence of any injury to her neck; is that correct?

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A. Other than what I mentioned, was the injury back in the mid 80s.
Q. 1985, I believe, sometime in that range?
A. Yes.
Q. And did you review any records that showed she had any care and treatment between that time and the time of this particular injury?
A. Yes. Dr. Anderson's records indicate as far as back as a year and a half prior to the accident that she was having recurrent headaches, pain at the base of her skull, pain in the occipital areas, muscle tightness at the top of her shoulders, requiring relief by taking a hot shower or massaging the area.
Q. Now, you may have misunderstood me. There's no indication that Dr. Anderson was treating her for the results of the impact she had or whatever injuries she had in 1985?
A. Oh, no.
Q. Okay. Thank you.
A. No, these were just -- these were symptoms she was having prior to the accident, but Dr. Anderson did not relate them to the '85 accident.
Q. Now -- so, it's your testimony, then, that four weeks after Ms. Meeks' auto collision on November 18th, 2002, would have been the extent to which she

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should have needed any care or treatment and she should have been healed thereafter; is that correct?
A. Yes.
Q. Okay. So, in looking at Dr. DeGameaux's records, after about nine visits she should have been completely healed and totally asymptomatic and pain free? Is that your opinion?
A. As far as the mucle strains that occurred in this accident, I would have expected complete recovery within four weeks, yes.
Q. Okay. Dr. DeGameaux or Dr. Anderson also referred her to some -- for some physical therapy; is that correct?
A. Yes.
Q. And she did have physical therapy at Medical Park Hospital very close in time to the automobile collision. In fact, it was in February; is that correct?
A. Yes.
MR. MYERS: Can we go off the record a minute?
THE VIDEOGRAPHER: Sure. We're going off the record at 5:30:38.
(OFF THE RECORD.)
THE VIDEOGRAPHER: We're going back on

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the record at 5:31:30.
Go right ahead.
BY MR. MYERS:
Q. And, Doctor, the physical therapy that she had that done at Medical Park with a licensed physical therapist; is that correct?
A. Yes.
Q. Okay. And that physical therapy began on February 21st, 2003, which is, again, beyond the period of time where you thought Ms. Meeks should be complaining or having any type of care and treatment or any type of problems with regard to the mild cervical strain she sustained; is that correct?
A. Yes.
Q. In her complaints -- and I assume you've read the symptom questionnaire where she indicates why she was coming to therapy was her neck and her complaint and what she wanted to accomplish in physical therapy was to get movement back and to end the pain; is that correct?
A. Yes.
Q. And at that time, she indicated that her pain level ranged between a 4 and an 8; is that correct?
A. Yes.

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Q. Now, there's also a -- the plan of care that was established by the physical therapist indicated that the problem was she had decreased cervical range of motion and she also had muscle spasm; isn't that correct?
A. Yes.
Q. And muscle spasm is one of the other things that you mentioned in that prior deposition that you would expect to see in a more serious cervical strain; is that correct?
A. Yes.
Q. So, then, in February, 2003, this physical therapist is diagnosing her with having muscle spasms, nothing that one of the goals was to try to increase her range of motion by 50 percent, and to minimize the muscle spasms; is that correct?
A. Yes.
Q. And that was the goal of that physical therapy?
A. Yes.
Q. And she undertook and went to approximately 14 or 15 sessions of physical therapy between February and sometime in April; is that correct?
A. Yes.
Q. Okay. If Ms. Meeks weren't continuing to

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suffer from the impact and the resultant symptoms she had at the -- in the car collision, why would she go to physical therapy two to three times a week for four weeks?
MR. BOETCHER: Objection.
MR. KEPPLE: Object.
A. The only person who knows if Ms. Meeks is having pain is Ms. Meeks herself. Certainly she had pain in her neck that she complained to her family doctor prior to this accident and she did have known arthritis in the neck. So, if Ms. Meeks was having discomfort in her neck, I certainly don't object to her getting treatment for it, it's just that in my opinion it wasn't related to anything that happned in this accident beyond four weeks after the accident.
Q. What would it have been related to?
A. Well, she had a preexisting history of similar symptoms for which she saw her family doctor a very short time prior to the accident, 12 days prior to the accident.
The X-rays of her neck and spine showed arthritis all the way from her neck down through her thoracic spine to her low back. Subsequent MRI scans, CAT scans, and myelograms showed arthritis and degenerative disk disease in her spine. So, it

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certainly, in my opinion would be related to those unrelated conditions.
Q. Well, when during the period of time between November 18, 2002, the date of her accident, and the time she saw this physical therapist in February, did she stop suffering from the cervical strain and begin suffering from the degenerative disk disease?
A. I would estimate that at the most it would have taken her four weeks to have recovered from this accient; that is, December 18th of 2002.
Q. So, after December 18th, 2002, you attribute the spasms, the decrease in range of motion to her having preexisting degenerative disk disease?
A. Yes.
Q. And isn't it correct that the injury could have easily aggravated that preexisting degenerative disk disease?
MR. BOETCHER: Objection.
A. No, arthritis and degenerative disease are never permanently aggravated by an injury unless there's significant injury to the spine, such as a fracture or a dislocation, which was not the case here.
Q. And there are though, Doctor, are there

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not, different schools of thought on that in terms of whether or not an injury can cause aggravation to preexisting degenerative conditions; is that correct?
A. I think most specialists in the areas of the spine would agree that in the absence of a fracture or dislocation or serious injury to the spine, that arthritis is never permanently aggravated. Certainly muscle strains would not cause any type of a permanent aggravation to a preexisting arthritis.
Q. So, she undertook the 14 or so visits with regard to physical therapy and at that time she noticed that her pain had -- had developed increasing neck pain since the accident. That would be up until the time he was seeing her, then, in February, is that correct? That's what she reported to the physical therapist?
A. I'm sorry?
Q. In the note.
A. I'm sorry, I'm confused as to what you're asking me.
Q. I am asking you, in February of 2001, when she saw the physical therapist, she was still reporting that she had developed increasing neck pain since the accident?
A. You mean February of 2003?

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Q. **Yes, sir.**
A. I agree that's what she reported, yes.
Q. **Okay. And her biggest complaint at that time was that she had a decrease in range of motion; is that correct?**
A. Yes.
Q. **In none of the records you saw, what you claim to be her treatment prior to this incident, was there any decrease in range of motion in Dr. Anderson's records; is that correct?**
A. Dr. Anderson did not report that she checked it. She just reported that there was tightness, muscle tension, but she didn't report on the range of motion.
Q. **Okay.**
A. Dr. Anderson did examine her after the accident, however, in February of '03, and found her neck to be soft and supple with normal range of motion.
Q. **Which is also somewhat inconsistent with some of the other practitioners who evaluated and examined her; is that correct?**
A. Well, it's different from what the physical therapist reported. Dr. Voelker said there was some derecase in range of motion. I found some decrease in

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range of motion.
Q. **Well --**
A. Dr. Liebeskind found some decrease in range of motion.
Q. **That's well beyond the four weeks that you suggest is when she should have been better or not suffering any further from this incident; is that correct?**
A. Well, again, I don't think the decrease in range of motion was related to anything that occurred in this accident, since decrease in range of motion is commonly related to arthritis and degenerative disk disease.
Q. **But she never experienced any decrease in range of motion that you can see from the prior medical records that you looked at in this case; isn't that correct?**
A. I can't find that anyone ever reported her range of motion prior to this. I'd be surprised if she had normal range of motion because of the significant arthritis that she had in her neck prior to this accident, but I can't find where anybody ever actually reported it or tried to examine her for that.
Q. **You say she had significant arthritis in her neck?**

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A. Yes.
Q. **All the diagnostic studies indicate it to be mild.**
A. Well, the X-ray of the cervical spine said arthritis with narrowing of the disk spaces at C5-6 and 6-7, and the X-ray of her thoracic spine showed some arthritic changes noted throughout the thoracic spine. With early arthritis, the X-rays are perfectly normal. You have to have had arthritis for a period of time for X-rays to show any changes.
Q. **And none of these diagnostic studies showed any chanes from the first to last; did they?**
A. Well, the -- the MRI scan of her neck in February of '02 reportedly showed a disk herniation which subsequently disappeared on a repeat MRI scan, CAT scan, a myelogram.
Q. **Right. And it was actually seen by Dr. Voelker to be disk bulging, is that correct, his interpretation of that first MRI in December?**
A. Yeah, he reported a mild disk bulging and then said he thought she was suffering from cervical strain, as I -- as I opined, and mild cervical spondylosis, which means arthritis and degenerative disk disease.
Q. **But Dr. Voelker is making that comment many**

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months after the four weeks that you say she should have been healed and better; is that correct?
A. Yes.
Q. **I would like to turn to Dr. Liebeskind for a moment, because Dr. Liebeskind is the Director of Rehabilitation Medicine and board certified in pain management and rehabilitation. Are you board certified in pain management and rehabilitation?**
A. No, I am board --
MR. BOETCHER: Objection.
A. I am board certified in neurology.
Q. **Okay. You had indicated in your report that you didn't believe any other doctor had found anything trigger points in Ms. Meeks; is that correct?**
A. I can't recall my exact testimony. I know Dr. Liebeskind reported a few trigger points --
Q. **Okay.**
A. -- and that after the accident. And that Dr. Anderson found some trigger points prior to the accident.
Q. **Dr. Liebeskind, in his June 5th, 2003 report, almost six months beyond the period of time you suggest Ms. Meeks should have been healed and cured and no longer suffering from the injuries sustained in the automobile collision, noted in his**

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history of the present illness as taken by -- from Ms. Meeks that she was injured on November 18th, 2002, she stopped at a light when she was rear-ended by another vehicle. He said at first she thought the -- she had some pain and she thought it would go away, but it persisted. It notes she went to Dr. DeGameaux, he took X-rays, had the MRI; the MRIs revealed the disk herniations that it shows at C5-6 and C6-7. Am I correct about that review of his report thus far?

A. Yes.

Q. Okay. Now, at the time Dr. Liebeskind saw her in June, she had previously already seen Dr. Voelker; is that correct?

A. Yes.

Q. Okay. And Dr. Voelker had noted in his review of this -- of Ms. Meeks' situation and as far as his review, he knew that she had had physical therapy, but Dr. Voelker recommended pain management; did he not?

A. Yes.

Q. And so his recommendation of pain management, would you agree, sort of was the precursor to the referral by Dr. Anderson of Ms. Meeks to Dr. Liebeskind for some pain management? Is that correct?

A. Yes.

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Q. Okay. And in Dr. Liebeskind's evaluation, he indicated that she had -- range of motion is globally reduced with most of her pain in left rotation. Is that correct?

A. Yes.

Q. Okay. And Dr. Liebeskind actually indicates he found well-defined trigger points over the occiput and over the trapezius and over the levitator scapula bilaterally and over C7 and T6; correct?

A. Yes.

Q. And as result of that, his diagnosis was that she had chronic cervical pain syndrome that was superimposed upon the HNP and some myofascial ligamentus component as well; is that correct?

A. Yes.

Q. And that's strain and sprain of the musculature and ligaments in the neck; is that correct?

A. Myofascial pain syndrome is a rather nebulous condition of unknown cause in which people complain of muscle pain and on exam will have some trigger points. The cause is not known.

Q. Well, Dr. Liebeskind at least felt it necessary to provide her with a regimen of trigger

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point injections due to the observations he made at that time; isn't -- correct?

A. Yes.

Q. And he did, in fact, conduct a series of three of those trigger point injections; is that correct?

A. Yes.

Q. And, again, that's treatment which, in your opinion, was not necessary to Ms. Meeks?

A. No, I never testified to that. I said that the treatment she received was not related to the November 18th of '02 incident after four weeks.

Q. But it was related to her cervical degenerative disk disease?

A. Yes.

Q. Which was unaffected by the automobile collision?

A. In my opinion, there was certainly no permanent aggravation of that preexisting condition by this accident.

Q. When you say permanent aggravation, is that distinguished from temporary aggravation?

A. Well, certainly after you have a muscle strain, there may be some temporary aggravation, but, again, I wouldn't expect it to last beyond a few

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weeks.

Q. So, temporary to you means only a few weeks, it can't be a year, six months, or anything of that sort; is that correct?

A. In the case of a mild strain, the recovery is usually within a few days to a few weeks. I said four weeks just to give her the benefit of the doubt. Many people will receover from mild strains within a few days or a few weeks.

Q. Now, after the evaluation by Dr. Liebeskind and the three trigger -- epidural trigger points that he had gave her, she was also evaluated -- had a second neurosurgical consultation with Dr. El-Kadi; is that correct?

A. Yes.

Q. And you reviewed Dr. El-Kadi's report?

A. Yes.

Q. And basically, as far as history goes, she related the same thing, that she was in motor vehicle accident November 18th of '02 and that she -- the Friday after her motor vehicle accident she went to the chiropractor, who ordered X-rays; and at that time she had denied any neck pain or arm pain before the motor vehicle accident and had never had any X-rays of her cervical or an MRI of her cervical spine before

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that; isn't that correct?
A. Yes.
Q. And at that time, her complaints to Dr. El-Kadi were headache, neck pain radiating with back -- into the back area, pain in -- bilateral in the shoulders, greater on the left than the right. He, at that time, conducted his examination and did an evaluation of her and his final recommendation, he noted that she had had mild multi-level cervical spondylosis; is that correct?
A. Yes.
Q. Cervical spondylosis, is that synonymous with cervical degenerative disk disease?
A. Cervical spondylosis means cervical degenerative disk disease and arthritis.
Q. So some impact on the vertebral bodies as well as the disks?
A. Well, it actually means the joints of - the facet joints in the spine, because arthritis is a disease of the spine. Arthritis is a disease of the facet joints and not so much of the vertebral bodies.
Q. And in looking at Dr. El-Kadi, he made an evaluation, he indicated he did not believe she had any neuro -- any need for neurosurgical intervention, but he indicated that considering her pain, he would

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refer her for pain management, for epidural injection; is that correct?
A. Yes.
Q. Okay. And he, in fact, referred her and then she went to see Dr. Sakla after that, sometime in October of 2003; would you agree?
A. Yes.
Q. And Dr. Sakla -- it appears as if Dr. Sakla did an initial evaluation and got to the point where he was going to provide her with an epidural injection, but MRS. Meeks had some -- what's called a vasovagal reaction to the treatment; is that correct?
A. Vasovagal, yes.
Q. Vasovagal reaction?
A. Yes.
Q. And what is that, Doctor?
A. She fainted or almost fainted.
Q. Those aren't necessarily -- have you ever experienced any of that in your chronic pain clinic, people just get woozey and don't like the needles and can't go through with the procedure?
A. Yes.
Q. In this case, her blood pressured dropped or her blood pressure went up and she got light-headed and all that; is that correct?

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A. Yes.
Q. And that was discontinued as a result of that reaction; correct?
A. Yes.
Q. So, Dr. Sakla at that time, in October of 2003, was in the process of providing her with an epidural injection based primarily on the same complaints that she had from this accident up until the time she had seen him; correct?
A. Well, actually, Dr. Sakla spoke on the phone with Dr. Anderson on October 22nd and Dr. Anderson referred to pain prior to the accident. So, at least Dr. Anderson reported to him that there was pain even prior to the accident.
Q. And where is that notation in this report?
A. You mean on my report?
Q. Yes.
A. Page 5.
Q. No, no, I am sorry, in Dr. Sakla's notes.
A. That was on October 22nd of '03, which is several pages here.
Okay. Dr. Sakla's --
Q. Addendum?
A. -- typed note, doctor -- down at the bottom of the page, the last paragraph. I will just read it.

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"We received a phone call this afternoon from Dr. Anderson's office." And he goes on, it says: "Dr. Anderson had advised me that the patient at some point had accused her --" Dr. Anderson "-- of changing her medical records in reference to neck pain problems three years ago and the patient was in disagreement with her."
So apparently Dr. Anderson had something in her records about neck pain prior to the accident that Ms. Meeeks was -- wanted to -- wanted Dr. Anderson to change.
Q. And that was a reference -- three -- reference to -- a reference to Dr. Anderson's records of three years ago; is that correct?
A. Yes, which would have been about a year prior to the accident.
Q. Okay. Thank you.
Now, in addition to the care and treatment that had been rendered, that had -- that had been rendered by Dr. DeGameaux and the physical therapist, and Dr. Liebeskind, and the attempt by Dr. Sakla which never came through, she -- Ms. Meeks was also referred to and treated by Dr. LoDico; is that correct?
A. Yes.
Q. And, again, Dr. LoDico -- if -- you've had

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a review of his records.
A. Yes.
Q. Dr. LoDico first saw her on February 17th, 2004; is that correct?
A. Yes.
Q. And he is also a pain management practitioner; is that correct?
A. That's my understanding, yes.
Q. And then, Doctor, if I could ask you a couple questions, you indicated that you're the Director of Chronic Pain Management Program here in Zanesville?
A. Yes.
Q. Okay. And do you regularly provide your patients with epidural injections and cervical facet blocks?
A. Yes. I don't do them myself, but I refer them to the anesthesiologist to do them.
Q. You don't do them yourself. How about rhizatomies; do you do those?
A. No.
Q. Okay. In looking at the evaluation conducted by Dr. LoDico on February 17th, 2004, he notes that she's having pain throughout the entire cervical spine, through the occiput, as well as

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shoulders bilaterally and into the lateral aspects of her upper extremities bilaterally; correct?
A. Yes.
Q. And he states: This pain began after a motor vehicle accident one year and three and a half months ago, whereupon she was hit from behind. Now, the doctor -- he reviewed some of the same medical records that you did in terms of the CT scan and the MRI scans; is that correct?
A. I don't know what -- I'd have to look. Does he say that in there? I'd have to look.
MR. BOETCHER: I am going to object. He doesn't say what scans he looked at, which CT scans and MRIs.
BY MR. MYERS:
Q. The MRI of the cervical spine showed C5-6 disk herniation. Those would have been the earlier ones done in December of '02; correct?
A. Okay. We're on Dr. LoDico?
Q. Yes, sir.
A. Okay. He kind of just reiterated what tests she had had, yes.
Q. Okay. And Dr. LoDico, also similar to you, conducted a physical examination -- he made a bit of a different diagnosis, but -- you tell me if I am wrong

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about this. Pain management doctors tend to talk in sometimes different terms than other doctors do; would you agree with me there?
A. I don't know what you mean.
Q. Well, he referred to that she was having a cervical spinal pain secondary to diskogenic snydrome versus facet arthropathy, status post motor vehicle accident; correct?
A. Yes.
Q. So, that's his diagnosis that he's making as a result of the motor vehicle accident; would you agree?
A. Well, you would have to ask him that.
Q. Well, and I'm --
A. I mean, that's what it says.
Q. Okay.
A. I don't know if it's relating it to the accident or not, or whether he's just saying -- well, first of all, she told him that she had never had symptoms before the accident, but he obviously hadn't reviewed Dr. Anderson's pre-accident records that showed she had had those symptoms before.
Q. The symptoms of what, decreased range of motion and the spasms in her neck and pain in her neck?

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A. No, the record of November 6th of 2002, six -- 12 days before the accident, in which she was having chronic headaches, muscle tension, tight, mainly in the occipital regions bilateral, muscle tightness at the top of her shoulers, had to take hot showers and massage the area to get relief.
April 3rd of '02, taking Vioxx, which is a pain medicine, for headaches and joint pain.
October 15th of '01, requesting samples of Vioxx for her chronic headaches and joint pains.
Q. Joint pains, that's talking about her hands and her fingers and her --
A. Well, arthritis -- arthritis is a generalized disease. It's throughout the spine.
May 10th of '01, positive trigger points in the trapezius muscles in the occipital areas.
February 2nd of '01, long history of recurrent headaches at the top of her head, base of her skull. So --
Q. But those are the only office records you have from Dr. Anderson, those six or seven; is that correct?
A. No, I actually have some records from Dr. Anderson after the accident. Specifically --
Q. Well, I know. I was talking about the ones

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prior to the accident. Is that correct?
A. Well, I have those records and I have some records after the accident, yes.
Q. Because despite what all those records say, it doesn't appear like she's treating on a real frequent bsis with Dr. Anderson; is that correct?
A. Well, in the year and a half prior to the accident she saw her one, two, three, four, five, six -- at least seven times.
Q. In a year and a half?
A. In a year and a half.
Q. Now, in looking back at Dr. LoDico's report and his evaluation, he also noted that he felt that she would benefit from interlaminal cervical epidural steroid injections and then if that fails to give added relief, he was going to do the cervical facet nerve blocks; is that correct?
A. Yes.
Q. And the interlaminal cervical epidural injections, those are different than trigger point injections; are they not?
A. Yes.
Q. And they're a little deeper in -- through the muscle tissue and down into the area around the vertebra; is that correct?

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A. Trigger point injections are just underneath the skin. Epidural injections are actually into the spinal canal, but not going through the dura, which is the tough outer membrane surrounding the nerve roots and spinal cord. So, with -- with an epidural, you're actually putting the needle into the spinal canal.
Q. Well, there are several types of epidurals, though, right; there's interlaminal and there's also -- and a cervical facet block, for instance, is a little bit different than one of these interlaminal cervical epidural injections; is that correct?
A. Well, there's several different types of epidural injections depending what approach you take, but most people take the interlaminal approach. A facet nerve block is -- facet is the joint.
Say somebody has severe arthritis pain in a joint. You can actually do a facet nerve block or destroy or inject the nerve that goes to that arthritic joint. So -- so you're injecting different -- different areas, either the nerve going to the joint or within the spinal canal itself.
Q. Correct. And the word epidural -- dural is a reference to the dura, which is is sheath that surrounds the spinal cord; correct?

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A. Correct.
Q. And epi is just a phrase for around, so that epidural injection, it -- they inject the -- what lidocaine or the fluid into and around the dura; is that correct?
A. Correct.
Q. And if you look, Dr. LoDico actually did three interlaminal cervical epidural injections at the C4-5 level; is that correct?
A. Yes.
Q. He did the first one on February 17th. That was at C4-5. And then on March 16th he did one at the C5-6 level; is that correct?
A. Yes.
Q. And then he again did another one on -- well, he had a follow-up evaluation on June 1st. Is that your impression, that he saw her again on June 1st?
A. Yes.
Q. Okay. And he noted that his impression was that she had cervical spinal pain secondary to diskogenic syndrome versus facet arthropathy, status post motor vehicle accident. When a doctor uses a phrase status post motor vehicle accident, that -- doesn't that mean as a result of or stemming from?

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MR. KEPPLE: Objection.
A. Well, again, a doctor would normally say secondary to a motor vehicle accident or due to a motor vehicle accident.
Q. What's status post mean?
MR. BOETCHER: Objection.
A. Well, I don't know. You would have to ask Dr. LoDico.
Q. Well, isn't it common -- isn't it a commonly used medical terminology?
A. You know what, it's commonly used if the doctor is having some doubts as to whether it's related to the motor vehicle accident; otherwise they would generally use a term such as due to or secondary to. So, you would have to ask him what he -- whether he thinks it's related to the accident.
Q. And he indicates that he gave her three of those cervical epidural injections; correct?
A. Yes.
Q. And that they each helped for about a month?
A. Yes.
Q. Okay. And then he indicated that, two, she continues to have posterior neck pain that radiates into her inner scapular area, left greater than the

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right, and in the trapezius area and as a result of that he scheduled her for cervical facet nerve block; is that correct?
A. Yes.
Q. And those are, as you indicated, different than the cervical epidural injections?
A. Yes.
Q. And they're -- they are to help deaden the nerve at the facet joint; is that correct?
A. Yeah. If somebody has a problem with the facet joint, either a fracture of the facet joint or arthritis in the facet joint, facet nerve blocks can be helpful.
Q. Okay. And he gave her a series of these cervical facet nerve blocks at C3-4, 4-5, and 5-6; correct?
A. Yes.
Q. Okay. And as a result of those cervical facet blocks, tell me, Doctor, isn't it true they can be used sort of as a diagnostic tool to determine whether or not a rhizatomy may provide a little bit longer lasting benefit than the cervical facet block itself; is that correct?
A. Well, certainly if someone doesn't respond to a facet block, you would not want to go on to do a

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rhizatomy; but if someone does respond to it, then they're more likely to respond to a rhizatomy.
Q. So, if -- yeah, the outcome of a cervical facet block sort of tells the doctor whether or not he should go on and do a rhizatomy; is that correct?
A. Yeah, but I'm here to tell you it's not fool-proof. There's some people that respond to the facet block and get a rhizatomy and don't get a good result.
Q. And don't get good results.
A. So it's not fool-proof.
Q. But in this particular --
A. It's a very subjective test. You're just basically saying: Did the pain go away. So, thre's -- again --
Q. Well, do you refer people for cervical facet blocks?
A. Yes.
Q. And rhizatomies as well?
A. Yes.
Q. If they've had a positive outcome, meaning if the cervical facet block has, in fact, given them relef and deadened the nerve sufficiently; correct?
A. Cervical facet blocks, if they work temporarily, a rhizatomy could be indicated to -- to

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help, but it doesn't always give long-lasting relief even if the nerve block gives temporary relief.
Q. But, Doctor --
A. If that answer is clear.
Q. But, Dr. LoDico, based upon the results that Ms. Meeks had from the cervical facet blocks, he went on and did rhizatomies on the right; isn't that correct?
A. Yes.
Q. And his follow-up reports indicate that she got significant relief from that; is that correct?
A. Yes.
Q. But it's your opinion that she didn't need those facet blocks or the rhizatomies in any way, shape, or form due to injuries she sustained in this automobile accident?
A. Correct. I don't object to her getting them, but I just don't think there was any injury in this accident that injured her facet joints. There was no evidence of a fracture or dislocation or anything that injured the facet joints.
Q. Well, then, why would Dr. LoDico give those to her?
A. Well, she has arthritis. I'm sure she has pain in her -- I'm sure she has pain due to arthritis,

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in which case that's -- that's the most common thing facet blocks or rhizatomies are given for, is arthritis.
Q. But it's your opinion that this injury could not have aggravated what was otherwise her preexisting osteoarthritis in her neck; is that correct?
A. Not beyond four weeks, no.
Q. Okay. And, Doctor, you've testified in many cases with regard to cervical strains and sprains; is that correct?
A. Yes.
Q. And probably more than a hundred or a hundred and fifty times; is that not correct?
A. Yes.
Q. And it's true in those cases where you, based upon your examination, review of medical records, have concluded in many of those cases that there are -- the persons have only sustained mild cervical strains; correct?
A. Well, I have testified several ways. I have testified people that have mild strains, moderate strains, or severe strains.
Q. But in all those circumstances where you have testified that the injury -- that the individual

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had mild cervical strains, it's always your conclusion that they should have had no treatment beyond the four -- say four to six week period; is that correct?
A. Yes, I have consistently testified through the years that mild cervical muscle strains should recover within four weeks.
Q. Now, Doctor, you indicated when you examined Ms. Meeks yourself -- and you say you spent how long actually with her, in her presence?
A. I spent 30 minutes with her. I can tell you exactly.
I spent 33 minutes with her face-to-face.
Q. That's certainly a lot less time than Dr. DeGameaux or Dr. Liebeskind and Dr. LoDico would have spent with her actually treating her; is that correct?
A. Well, you would have to ask them how much time they spent with her.
Q. And you didn't provide her with any advice as to treatment or modalities that you would recommend or anything of that sort; correct.
A. No.
Q. And you did not establishi a physician/patient relationship with her; is that correct?
A. Yes, that's correct.

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Q. Now, when you conducted your examination of her, first she told you that she's unable to do any yard work; is that correct?
A. Yes.
Q. Tha she is able to do the cooking and shopping, so long as someone can carry the heavier bags for her; is that correct?
A. Yes.
Q. Okay. Now, did you ask her whether or not she was ever previously precluded from doing yard work or anything like that before, say during that period of time where you suggest that Dr. Anderson is noting all these problems with her neck?
A. Yes, these are things that she indicated she could do before but could not do now.
Q. And there's no indication that she was unable to do anything of these things during the time that you made reference to Dr. Anderson's notes about her problems; is there?
A. Actually -- let me look here. I'm sorry, there was something I just wanted to check here in the records.
Actually, she did indicate on a patient questionnaire about a year after the accident that she was able to do yard work, although with some

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difficulty.
Q. Right. That was afterwards and after she had had some of the treatment; is that correct?
A. She told me she couldn't do any yard work, she indicated she could do some, although it was hard for her.
Q. Now, she also indicated to you that -- she said -- she reports that today is a bad day for her; is that correct?
A. Yes.
Q. Did you ask her why or in what respect she was having a bad day?
A. Well, on medical/legal cases, sometimes people will say: Well, you know, you saw me only -- you only saw me once and you saw me on a good day. So, I always ask people whethr it was a good day, bad day, or average day for them and she told me that -- that the day I saw her was a particularly bad day.
Q. Okay.
A. She did drive two hours to get here, or an hour and --
Q. Would you expect that the drive may have been a cause for her to indicate she's having a bad day?
A. Well, I don't know, but she --

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Q. Okay. Now, during your actual hands-on examination of Ms. Meeks, you indicated that she had -- range of motion of the cervical spine is reduced to about 50 percent of normal in all directions; is that correct?
A. Yes.
Q. And even at that time she had, you said -- indicated slight tenderness in the right upper thoracic musculature; is that correct?
A. Yes.
Q. And those were the areas where she has consistently made complaints since the accident; correct?
A. Yes.
Q. Now, when you indicated she had range of motion reduced to about 50 percent of normal in all directions, that's a fairly significant reduction in range of motion; is it not?
A. Well, in somebody who has a lot of arthritis and degenerative disk disease, that's -- you know, that's a pretty -- that's normal for someone who has those conditions.
Q. Well, could you demonstrate a normal range of motion?
A. Normal range of motion would be -- I can't

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do it because I've got some arthritis in my neck -- but being able to put your chin all the way over on your shoulder. About half way would be about to here, (indicating).

Q. And what you're doing is rotation component?

A. Rotation.

Q. Okay.

A. Extension would be -- again, I'm not normal because I've got some arthritis in my neck -- but being able to look almost all the way up; about 50 percent would be about like this, (indicating), and then flexion would be about here, (indicating).

Q. And then lateral flexion?

A. Again, if you can put your ear on your shoulder, that's normal. So about half way to your shoulder is about 50 percent.

Q. So, she had 50 percent range of motion in all directions; is that correct?

A. Yes.

Q. Okay. We talked about the difference between mild and serious cervical sprains and we looked at your testimony from a prior deposition in that regard. You also reviewed the CT cervical spine done on April 4th, 2003; is that correct?

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A. Yes.

Q. And it noted that the vertebrae were of normal height and alignment, there was no fracture in the vertebrae, but that -- that CT scan, even though the impression said no fracture or malalignment identified in the cervical psine, it did indicate there was a loss of normal cervical lordosis which be seen with neuromusculature spasm; correct?

A. Yes.

Q. So, even in April, 2003, the findings on this CT scan showed that she had a loss of the normal cervical lordosis and that it may be as a result of neuromuscular spasm in the neck; is that correct?

A. It can be, yes.

Q. Well, and that's what this radiologist said, which can be seen with neuromuscular spasm; correct?

A. Yes.

Q. And so, April, 2003, she could still have been experiencing neuromuscular spasm and a loss of cervical lordosis?

MR. BOETCHER: Objection.

A. Again, anything is possible, but if she was, I don't think it was related to anything that happened in this accident.

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THE REPORTER: Excuse me, gentlemen, but I need to change my paper, so if we can go off the record.

MR. MYERS: Okay.

THE VIDEOGRAPHER: We're going off the record at 6:07:50.

(OFF THE RECORD.)

THE VIDEOGRAPHER: We're going back on the record at 6:11:04.

Go right ahead.

MR. MYERS: Dr. Thompson, thank you, I don't have any more questions for you at this time.

MR. BOETCHER: Doctor, I have a couple follow up questions.

REDIRECT EXAMINATION

BY MR. BOETCHER:

Q. Mr. Myers asked you some questions about Ms. Meeks' condition and obviously of interest is her condition before the accident and after the accident. Is it your opinion that Ms. Meeks had arthritic or osteoarthritic changes to her neck and back, middle and low back, before the accident?

A. Yes.

Q. And is it your opinion that she had, based

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upon your review of the records, including Dr. Anderson's records, that she had prior complaints of neck tightness and headaches before the accident in May of 2001 and just a couple weeks before November of 2002?

A. Yes.

Q. And do you have an opinion to a reasonable degree of medical certainty and probability as to whether there was any type of structural change in her neck or back or spine as a result of this accident?

A. Yes.

Q. And what is that opinion?

A. There was no evidence of any significant injury to the spine itself in this accident.

Q. And is it your opinion to a reasonable degree of medical certainty and probability that Ms. Meeks did not sustain any type of herniated disk as a result of this accident?

A. Yes.

Q. And why is that your opinion?

A. Well, she did have -- again, she did not have -- she reported to the officer that she did not have any pain at the scene. In people who have herniated disks, you have to tear the tough outer layer of the disk called the annulus fibrosis and that

would produce immediate pain. The pain may subsequently get better, but you wouldn't have -- you wouldn't have no pain at all.

She subsequently had a CAT scan of her neck in April of '03 which did not show any evidence of a herniated disk. Dr. Voelker, a neurosurgeon, reviewed the MRI scan which supposedly showed a herniated disk and opined that there was no evidence of a disk herniation.

She had EMGs in September of '03 which did not reveal any evidence of a pinched nerve, and the way that herniated disks produce pain is by putting pressure on the nerve.

She also had a cervical myelogram in November of '03 which showed some degenerative disk disease and arthritis, but no evidence of a disk herniation. And a myelogram and a post-myelogram CAT scan is a more sensitive test than an MRI scan for detecting a herniated disk.

So, for this reason I do not think she had a herniated disk as a result of this accident.

Q. And is it your opinion that her mild cervical strain has resolved following this accident?

A. Yes.

Q. And is it your opinion that this cervical

strain resolved within approximately four weeks after this accident?

A. Yes.

Q. Now, a question was asked about your opinions and the fact that you didn't see Ms. Meeks until three years after. Are you basing your opinion just upon your medical exam, or are you basing it on your medical exam plus your review of all the records that you've had a chance to look at, both before and after the accident of November 18th, 2002?

A. I only saw Ms. Meeks for half an hour on one occasion, three hours after -- three years after the accident. For that reason, I am very careful to review whatever every other doctor who saw her before and after the accident found when they examined her and also reviewed the results of her -- all of her diagnostic tests that she had after the accident before coming to any opinions. So, my opinion was not just based on my, you know, one time, 30-minute encounter with her.

MR. BOETCHER: Doctor, that's all the questions that I have. Thank you.

MR. MYERS: Nothing further.

THE VIDEOGRAPHER: Dr. Thompson, you have the right to view this videotaped deposition

right now for its accuracy. You also have the right to read the typewritten transcript after its been prepared, or you can waive those rights.

THE WITNESS: I wiave.

THE VIDEOGRAPHER: Thank you very much.

(Viewing and signature waived.)

THEREUPON, THE DEPOSITION CONCLUDED AT 6:15 P.M.

State of Ohio : CERTIFICATE

County of Muskingum :

I, Kathy J. McGlaughlin, Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named ROBERT J. THOMPSON, M.D., was first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the testimony then given by him was by me reduced to stenotype in the presence of said witness; that the foregoing is a true and correct transcript of the testimony so given by him as aforesaid, transcribed from my stenographic notes; and 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, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D); that I am not a relative, employee, or attorney of any of the parties hereto and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Zanesville, Ohio, on this 30th day of November, 2006.

_____
KATHY J. McGLAUGHLIN,
NOTARY PUBLIC, STATE OF OHIO

My Commission Expires September 18, 2007.