

IN THE COMMON PLEAS COURT OF BELMONT COUNTY, OHIO

-----

RUTH ANN REGOLI, ET AL., )

PLAINTIFFS, )

-vs- )

CASE NO. 99-CV-147

SARA M. MLYNEK, )

DEFENDANT. )

-----

DEPOSITION of ROBERT J. THOMPSON,  
M.D., a witness herein, called by the Plaintiffs for  
cross-examination under the statute, taken before me,  
Kathy J. McGlaughlin, Professional Reporter, and  
Notary Public in and for the State of Ohio, pursuant  
to the stipulations of counsel hereinafter set forth  
at the offices of the deponent, 945 Bethesda Drive,  
Zanesville, Ohio, on Friday, December 8, 2000,  
beginning at 3:15 p.m.

-----

TAHYI VIDEO & COURT REPORTING, LTD.

334 Main Street

P.O. Box 935

Zanesville, Ohio 43702-0935

(740) 454-7157

(800) 526-6508

## APPEARANCES:

ON BEHALF OF THE PLAINTIFFS

SCOTT S. BLASS  
Attorney at Law  
Bordas, Bordas & Jividen  
1358 National Road  
Wheeling, West Virginia 26003

ON BEHALF OF THE DEFENDANT

RICK E. MARSH  
Attorney at Law  
Lane, Alton & Horst  
175 South Third Street  
Columbus, Ohio 43215

## 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 cross-examination by the Plaintiffs 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 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 reading and the 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.

ROBERT J. THOMPSON, M.D.,

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

CROSS-EXAMINATION

BY MR. BLASS:

Q. Dr. Thompson, we have met before. My name  
is Scott Blass and I am here to ask you some questions  
today in respect to a case in which I represent the  
Plaintiffs, Ruth Regoli and her husband Virgil. It's  
a lawsuit that's pending in Belmont County, Ohio, in  
which you have been named as a witness on behalf of  
the defense.

If I ask you any question today that you  
don't understand, if it is confusing, if I use a term  
or a phrase that you are uncomfortable with, just let  
me know. I'll be happy to rephrase the question or  
restate it to make sure the question is in a form that  
you understand and you are comfortable answering.

Okay?

A. Yes.

Q. Do you have in front of you the entire file  
that you have either generated or been provided with  
respect to your involvement in this case?

A. Yes.

Q. Has anything been removed from that file?

1 A. Not to my knowledge.

2 Q. Would all of the documents that are in that  
3 file be documents either that you prepared yourself or  
4 that were provided to you?

5 A. Yes.

6 Q. May I take a look at what you have there?  
7 I think I have a copy of everything that's in there.

8 A. Yes.

9 Q. But just to make sure.

10 Okay. From reviewing your file, it appears  
11 as if you were first contacted about this case in mid  
12 January, 2000; is that right?

13 A. Let me just check the back. Sometimes we  
14 get a phone call before then. They usually make out  
15 this little blue slip in the back when they first  
16 contact us.

17 That's not dated, so on or around -- I  
18 would have to say on or around January 19th, yes,  
19 2000.

20 Q. The first written correspondence you have  
21 from Mr. Marsh's office is dated January 19th, 2000;  
22 is that correct?

23 A. Correct. It is possible that there could  
24 have been a phone call before then, but we don't have  
25 a record of it.

1 Q. And you were asked to do an examination of  
2 Mrs. Regoli and to evaluate her condition as it may or  
3 may not pertain to an automobile accident that  
4 occurred on May 20th, 1997; correct?

5 A. Yes.

6 Q. And you were asked specifically to give an  
7 opinion regarding whether or not it was necessary for  
8 Mrs. Regoli to decrease her work schedule from 35 to  
9 40 hours per week to six days per month because of any  
10 injuries she may have sustained in the May, '97 auto  
11 accident; correct?

12 A. Yes.

13 Q. When was your understanding of -- or what  
14 was your understanding of when she decreased her work  
15 schedule?

16 A. Mrs. Regoli told me that she missed about  
17 three days of work after the accident, and then that  
18 she missed off and on after that because of her neck  
19 pain, and that at the present time she missed about  
20 five days a month because of the neck pain.

21 But after I saw her in the office -- I  
22 assumed she was still working full-time from what she  
23 told me, but I understand -- I understand from Mr.  
24 Marsh, from a meeting I just had with him before we  
25 started this deposition today, that she did cut her

1 work schedule back to less hours, but I was not aware  
2 of that after speaking with Mrs. Regoli.

3 Q. All right. Let's take a look at your --  
4 Mr. Marsh indicated in his letter to you dated January  
5 19, 2000, that at the time of the accident Mrs. Regoli  
6 was employed as a registered nurse at Ohio Valley  
7 Medical Center and worked 35 to 40 hours per week;  
8 correct?

9 A. Yes.

10 Q. And that in January of '98, Mrs. Regoli  
11 reduced her work schedule to six days per month;  
12 correct?

13 A. Yes.

14 Q. You have some notes here, I think, that  
15 reflect that as well, unless I am misreading those.  
16 Can you tell me what those notes say there,  
17 (indicating)?

18 A. These notes state that she worked in the  
19 orthopedic unit as a nurse when she was first hired;  
20 her date of employment was 1975; and that she was  
21 working full-time at the time of the accident; and  
22 that she missed three days of work after, immediately  
23 after the accident; and then she missed some work off  
24 and on after the accident; and then was missing about  
25 five days per month because of the accident. I was

1 under the impression that she was still working  
2 full-time, but I very well could have misunderstood  
3 what she was telling me. I thought she was still  
4 working full-time and was just missing about five days  
5 a month.

6 Q. So, as of the time you saw her and prepared  
7 your report, it was your understanding she was working  
8 full-time?

9 A. Yes.

10 Q. And missing sporadically because of  
11 occasional flare-ups with her neck pain?

12 A. Yes.

13 Q. And that your -- the information that you  
14 received just within the last hour from your meeting  
15 with Mr. Marsh was the first occasion you had to  
16 realize that in January of 1998, she reduced her work  
17 schedule to part-time?

18 MR. MARSH: I am going to object to  
19 that, because the letter says to the contrary.

20 Q. But as far as you were aware of, that was  
21 the first time you were aware of it; correct?

22 A. Yes, because I would tend to take what the  
23 patient told me as -- or at least what I understood  
24 she was telling me, as what was going on.

25 Q. Can you read for me what the rest of the



1 progress notes that you have on that page say?

2 A. You want me to read them verbatim or what  
3 my interpretation is?

4 Q. You can read them verbatim and then give me  
5 your interpretation of them?

6 A. "ADL - Y" means that she was independent  
7 with dressing, grooming, feeding and bathing.

8 "House - husband" means that she's living in a house  
9 with her husband. "Cook - Y" means she's able to do  
10 the cooking. "Drive - Y" means she is able to drive.  
11 And then "N" means no, she didn't drive here today.  
12 And then, parentheses, "husband," she said her husband  
13 drove her here today.

14 "Hobbies - include cooking, sewing, and  
15 shopping." And then down in the right-hand bottom of  
16 the page where I wrote "No," that just means that  
17 there's no activities that she's had to completely  
18 give up as a result of injuries sustained in this  
19 accident; that she's been able to resume all of her  
20 regular activities. But then, on the left-hand side  
21 of the page where there's an arrow pointing down, this  
22 is activities that she's not able to do as vigorously;  
23 and that includes housework, including sweeping and  
24 scrubbing and laundry. So, basically, from -- she's  
25 resumed all of her regular activities, but she's not

1       able to be quite as vigorous with some of her  
2       housework and laundry.

3       Q.           Would it be fair to say that since at the  
4       time you examined Mrs. Regoli you were not aware that  
5       she was working part-time, you did not get into an  
6       in-depth questioning of her with regard to her  
7       responsibilities at work and her job duties?

8       A.           Well, she told me she worked as a nurse on  
9       the orthopedic unit, and being a doctor working in a  
10      hospital, I thought I had a pretty good idea of what  
11      that was, so I did not ask her for a detailed  
12      description.

13     Q.           Would it be fair to say you didn't ask her  
14     about how she felt the first six months after the  
15     accident when she was working full-time?

16     A.           She told me that since the accident, she's  
17     had persistent pain in her neck radiating down into  
18     her back. As the time has gone on, that has gotten  
19     slowly better.

20     Q.           But what I am saying is: You didn't direct  
21     any of your inquiries to her to determine whether or  
22     not the work that she was actually doing in the six  
23     months following the accident was causing her  
24     symptomatology to be exacerbated. Did you ask her  
25     anything about that?

1 A. Yes, and she told me that she did miss some  
2 work after that, off and on, and then it was my  
3 understanding from what she told me that she was  
4 eventually able to go back to work full-time but still  
5 had to take some days off periodically because of her  
6 discomfort.

7 Q. Did you ask her about the specific job  
8 duties and responsibilities that she had that  
9 exacerbated her symptoms?

10 A. No.

11 Q. Did you talk to her about whether or not  
12 her symptomatology decreased after she went to  
13 part-time?

14 A. No, because I wasn't aware she had gone to  
15 part-time.

16 Q. The initial comprehensive exam form that  
17 you have here, would you also read your notes there  
18 and give an explanation as to what they mean?

19 A. Under "History of Present Illness," the  
20 accident occurred on 5-28-97 at 7 a.m. She was -- she  
21 was the driver and had a seat belt on. She was  
22 rear-ended and I believe her car hit a truck in front  
23 of her. I am sorry, she was struck -- a car hit a  
24 truck behind her and then the truck hit her.

25 She did not have any symptoms at the time

1 of the accident. She was able to drive her car from  
2 the scene. Her body did not strike anything inside  
3 the car. Even though she didn't have -- even though  
4 she did not have any pain at the time of the accident,  
5 she had pain later that day.

6 She feels that she is improving, but she  
7 still has neck pain radiating down between her  
8 shoulder blades. She told me that today was a bad day  
9 for her. She said she went to the emergency room the  
10 day after the accident, she saw Dr. Bhullar for some  
11 treatment, but did not see any other doctors. She's  
12 on some Tylenol that she takes for pain.

13 She denied that she had any trouble with  
14 her memory, jaw pain, emotional problems, or any type  
15 of problems with her thinking as a result of the  
16 accident.

17 I asked her if we had covered everything as  
18 to how the accident had affected her and she indicated  
19 that she thought we had covered everything.

20 I asked her about per past medical history  
21 and she told me she had high blood pressure, had a  
22 hysterectomy. She denied any past history of any neck  
23 problems; denied any auto accidents, chiropractic  
24 treatments, or Workmen's Compensation claims. She  
25 stated that she did strain her low back several years

1           ago at work but there was no Workmen's Compensation  
2           claim filed.

3           Q.           Where on your notes does it indicate, if  
4           anywhere, that she denied having headaches?

5           A.           I don't have it written in my notes.

6           Q.           When -- is that something you would write  
7           in this area where you have written "No memory, jaw  
8           --" generally, if that was something that was denied?

9           A.           Generally, unless I remembered that she  
10          denied it. I don't write everything down on my notes.

11          Q.           But, generally, if a person who comes to  
12          you in this type of setting denies, specifically, a  
13          complaint, is this the area of your progress sheet  
14          where you would make that handwritten notation?

15          A.           That is where I may write it, but just  
16          because it's not there doesn't mean I didn't ask.

17          Q.           Is there anything in your other handwritten  
18          notes that indicates that you made a notation that she  
19          denied having headaches?

20          A.           Just in my notes of reviewing her records.  
21          When she saw Dr. Bhullar the day after the accident,  
22          she stated that her headaches were improved. And I  
23          don't have anything else in my notes from my review of  
24          records that she had complaints of headaches.

25          Q.           Would it be fair to say that your progress

1 notes that you have here -- you would at least make a  
2 handwritten note of the things that were -- you  
3 considered noteworthy?

4 A. Not necessarily, because I remember a lot  
5 of the -- I remember a lot of the aspects of the  
6 history and these notes are just a crutch to help me  
7 in preparing the report.

8 Q. The reason I ask, Mr. Marsh told you in his  
9 January 19th letter, less than a month before you did  
10 the exam, that Mrs. Regoli's current complaints  
11 include neck pain and headaches.

12 A. Yes.

13 Q. Apparently on your report, she denied to  
14 you that she had headaches. Those are pretty  
15 inconsistent --

16 A. Yes.

17 Q. -- what Mr. Marsh told you and what,  
18 according to your report, my client told you.

19 A. Yes.

20 Q. There's nothing to reflect that she told  
21 you that in your notes and I am wondering --

22 A. Under my -- in my handwritten notes on the  
23 day that I saw her, I always ask them what symptoms  
24 they are having and she asked me -- she said she was  
25 having neck pain. That was her complaint. And then

1 later on in the history, I go through a list of things  
2 that people frequently complain of after accidents of  
3 this nature, including headaches, jaw pain, memory,  
4 and -- I don't have headaches down -- listed. I don't  
5 have it listed as a negative, but I don't have it  
6 listed as a positive, and I would have asked her that.  
7 I don't believe, at least at the time I saw her,  
8 headaches were a prominent symptom.

9 Q. Well, was it your understanding she had no  
10 headaches after the accident or she had some and they  
11 were better?

12 A. It was my understanding that at no time  
13 after the accident was headache a prominent symptom,  
14 or at least she denied that to me. Now, maybe she had  
15 them and forgot and didn't mention it.

16 Q. She denied that to you according to your  
17 memory, because it's not in your handwritten notes?

18 A. Yes, but that's something I would always  
19 ask someone.

20 Q. So, at least she denied it according to  
21 your memory, but you don't have it written anywhere in  
22 your notes that she denied that?

23 A. But that's a question I always ask.

24 Q. I understand, but you didn't write down in  
25 your handwritten notes that she denied that?

1 A. No.

2 Q. You treat people with chronic pain;  
3 correct?

4 A. Yes.

5 Q. Are you still the director of the chronic  
6 pain clinic?

7 A. Yes.

8 Q. Are you familiar with any studies, or have  
9 you done any yourself, dealing with the effect of  
10 chronic pain on hypertension?

11 A. I have not done any studies myself on the  
12 effect of chronic pain with hypertension and I am not  
13 aware of any conclusive studies of the effect of  
14 chronic pain on hypertension. There are some studies  
15 that are suggestive, but it's still a controversial  
16 issue in the medical community.

17 Q. Some studies suggestive of what?

18 A. There are studies that have been done  
19 studying the effect of chronic pain on hypertension,  
20 but I don't think there's been any consensus drawn  
21 within the medical community about that.

22 Q. There have been studies that suggest that  
23 individuals with chronic pain exhibit an increase in  
24 blood pressure; is that correct?

25 A. There are some studies, but, again, it's



1 not -- not everyone agrees that that's true yet.

2 Q. Individuals that have chronic pain as a  
3 result of a cervical strain are, to some extent,  
4 limited in their ability to do certain activities that  
5 involve bending and lifting; is that true?

6 A. Temporarily they may be, but the vast  
7 majority of the patients with neck strains recover  
8 within a short period of time.

9 Q. But those people who don't recover, who  
10 develop chronic problems, who are not -- don't fall --  
11 aren't fortunate enough to fall within that vast  
12 majority, who develop chronic pain as a result of the  
13 cervical injury, are limited in their ability to do  
14 things that involve lifting and bending?

15 A. Again, patients that suffer from neck pain  
16 for any reason may be limited, but the vast majority  
17 of people with muscle strains recover completely.

18 Q. I understand that, but my question --  
19 people who don't recover completely are limited in  
20 their ability to engage in activities that involve  
21 lifting and bending; are they not?

22 A. Yes.

23 Q. All right. Now, your familiarity with the  
24 type of work that an orthopedic R.N. has to do would  
25 allow you to recognize that that type of work involves.

1 lifting and bending, helping patients in and out of  
2 bed, lifting patients from one bed to another, and  
3 things of that nature?

4 A. Yes.

5 Q. If you had a patient who had a cervical  
6 strain that was not improving, was causing severe  
7 headaches, and the symptomatology was being  
8 exacerbated because of the work schedule, would you  
9 recommend a trial of rest off of work?

10 A. Yes. I think people with an acute cervical  
11 strain may have to take some time off work for a  
12 period of time.

13 Q. And if the individual took some time off  
14 work and then returned to work and found that the type  
15 of work they were doing caused the symptoms to recur  
16 and to exacerbate, would it be appropriate to tell the  
17 person they needed to cut back on their work schedule?

18 A. If a person thought that their work was  
19 making their pain worse, it may be necessary for them  
20 to cut back on their schedule, yes.

21 Q. Do you know whether or not that's what Dr.  
22 Bhullar did with respect to Mrs. Regoli's case?

23 A. Obviously, as I testified, I was not aware  
24 of the fact that she had cut back permanently on her  
25 work schedule. I thought it had just been temporarily

1 and periodically.

2 Q. Well, I am going to represent to you that  
3 it is, in fact, what Dr. Bhullar did. He followed her  
4 for approximately six months. She took some time off  
5 work after the accident, then attempted to return;  
6 continued to work full-time. It accelerated her  
7 symptoms and he recommended to her that she consider  
8 going to part-time in light of the exacerbation of her  
9 symptoms.

10 That being said, would that be appropriate  
11 advice for Dr. Bhullar to give her?

12 A. Well, again, the vast majority of patients  
13 with strains recover and we -- the doctor should go to  
14 every effort to get the patient to go back to their  
15 regular work. If the patient's subjective complaints  
16 are so severe that that patient feels they cannot  
17 continue to work at that kind of job, then the doctor  
18 may have to give them an off-work slip, but -- yes.

19 Q. So, if Mrs. Regoli has indicated that she  
20 made every effort to work full-time and the records  
21 reflect that she did, in fact, continue to attempt to  
22 work full-time for six months after this accident and  
23 that her symptoms were so severe while working that  
24 she simply couldn't tolerate it and that Dr. Bhullar  
25 told her, "Well, you might as well consider going

1 part-time," and that she went part-time and her  
2 symptoms subsided, would you consider that to be an  
3 appropriate recommendation by Dr. Bhullar?

4 A. I think the doctor -- well, yes, I think  
5 the doctor is kind of stuck. There's not much more  
6 that the doctor can do if the patient still has  
7 subjective complaints of pain.

8 Q. Were you given any information with regard  
9 to the types of vehicles involved in the collision?

10 A. I know that she was in a car and that the  
11 truck behind her was hit and then the truck hit her.  
12 I don't know what types of vehicles they were other  
13 than cars and trucks.

14 Q. Any information on the speeds of the  
15 vehicles?

16 A. No.

17 Q. The damage done to the vehicles?

18 A. No. Well, I am sorry, yes, she told me she  
19 was able to drive her car from the scene, so I know  
20 her car wasn't terribly damaged.

21 Q. It was operable?

22 A. It was operable, yes.

23 Q. Have you been given any evidence by anyone  
24 that Mrs. Regoli had any problems with her -- symptoms  
25 with her neck prior to the collision of May 28, 1997?

1 A. No.

2 Q. Did you find Mrs. Regoli to be cooperative?

3 A. As far as giving me a history and allowing  
4 me to examine her, yes.

5 Q. Did you have any reason to question her  
6 truthfulness or veracity?

7 A. The only thing that I would question is the  
8 fact that she was still having symptoms three years  
9 after a mild cervical strain; but other than that, I  
10 didn't find any discrepancies in her history.

11 Q. The fact that she's still having symptoms  
12 causes you to question her truthfulness?

13 A. Yes.

14 Q. You think she's lying about -- she may be  
15 lying about her continued symptoms with her neck?

16 A. I don't know for certain. Anything is  
17 possible. But it just would be highly unlikely for  
18 someone who had a mild cervical strain to still be  
19 having symptoms three years later.

20 Q. You indicated she had a mild cervical  
21 strain as a result of this accident; correct?

22 A. Yes.

23 Q. Of course, you didn't see her until nearly  
24 three years after the accident; correct?

25 A. No.

1 Q. Is that correct?

2 A. Yes, that's correct.

3 Q. And, so, your diagnosis of mild cervical  
4 strain is made exclusively on what you were told by my  
5 client and what you read in her medical records?

6 A. Yes.

7 Q. You didn't contact any of her physicians or  
8 anything like that to review their diagnoses; correct?

9 A. That's correct, yes.

10 Q. You're aware that there was an indication  
11 of straightening of her lordotic curve immediately  
12 after the accident indicative of spasm in her neck the  
13 day after the accident?

14 A. Yes.

15 Q. That's indicative of a more severe strain;  
16 is it not?

17 A. No, not necessarily.

18 Q. The presence of spasm in the cervical  
19 region is not indicative of a more severe strain?

20 A. No. The presence of straightening on an  
21 X-ray is not more indicative of a severe cervical  
22 strain, because this can be a normal variant,  
23 especially in females, and can be seen even with  
24 milder strains.

25 Q. Is the presence of spasm after a cervical

1 strain in the cervical region indicative of a more  
2 severe strain?

3 A. If it's present right away, yes.

4 Q. You don't know if it was present right away  
5 or not, because you didn't see her; correct?

6 A. I know it was not present right away  
7 because in reviewing Dr. Bhullar's record, he examined  
8 her the day after the accident and found a near normal  
9 range of motion, which would be impossible in someone  
10 who had spasm.

11 Q. Based on your review of the records, you  
12 conclude that there was no spasm present; correct?

13 A. Yes.

14 Q. You obviously didn't examine her, so you  
15 can't say that she didn't have spasm and you can't say  
16 she did even if the record says she had spasms?

17 A. Yes, I am relying on Dr. Bhullar's exam the  
18 day after the accident.

19 Q. Is it appropriate for patients to follow  
20 their doctor's advice and recommendations?

21 A. Yes.

22 Q. Do you have any information that leads you  
23 to believe that Mrs. Regoli did anything other than  
24 follow her doctor's advice and directions in this  
25 case?

1 A. No.

2 Q. According to your records, you spent  
3 approximately 30 minutes face-to-face with Mrs.  
4 Regoli; is that right?

5 A. Yes.

6 Q. And you would have spent some time  
7 reviewing her records after your exam; is that right?

8 A. Yes.

9 Q. How much time have you spent on the case to  
10 date?

11 A. Approximately two hours.

12 Q. In your report, do -- have you had an  
13 opportunity to review your report before your  
14 deposition?

15 A. Yes.

16 Q. Did you find any errors in it, or mistakes?

17 A. The only mistake that I am aware of is in  
18 paragraph three on the first page where I imply that  
19 she's been working full-time and just missing five  
20 days a month and I have been made to understand that  
21 she only went back to work part-time. I am not aware  
22 of any other significant mistakes.

23 Q. Under your opinions on "Diagnosis and  
24 Causation," you have that -- "Mild cervical strain:  
25 Mrs. Regoli does suffer from this condition." You see



1           that?

2           A.           Yes.

3           Q.           Does that indicate that as of February 15,  
4           2000, she was suffering from symptoms associated with  
5           a mild cervical strain in your opinion?

6           A.           No. I think she did suffer from that  
7           injury as a result of the accident, but that --

8           Q.           That's a mistake as well?

9           A.           No, because under prognosis I later said  
10          that she had recovered. I said does suffer from it; I  
11          mean that she did suffer from it. It should have been  
12          "did suffer from it as a result of the accident."

13          Q.           So, that's a mistake as well under your  
14          opinions; is that right?

15          A.           You mean the word "does"?

16          Q.           Yeah. Does -- doesn't "does" indicate to  
17          you that it's current?

18          A.           Yes, I guess the proper grammar would be to  
19          put it in the past tense, yes.

20          Q.           And under prognosis, it says "I would  
21          expect complete recovery from a mild cervical strain  
22          in four weeks;" right?

23          A.           Yes.

24          Q.           You also recognize that doesn't occur in  
25          every case?

1 A. Everything is possible, but within  
2 reasonable medical certainty, I would expect her to  
3 recover from a mild cervical strain within four weeks.

4 Q. Within reasonable medical certainty, that  
5 doesn't occur in every case. You know that for a fact  
6 because you treat people that don't recover in four  
7 weeks.

8 A. That's correct, anything is possible, but  
9 my --

10 Q. Okay.

11 A. My testimony is within reasonable medical  
12 certainty.

13 Q. Am I correct that -- not within reasonable  
14 certainty, but to absolute certainty, you are aware of  
15 the fact that people don't always recover in four to  
16 six weeks?

17 A. From mild cervical muscle strain, there may  
18 be a very rare person that might not recover in four  
19 to six weeks.

20 Q. Do you have any idea how many people suffer  
21 from cervical injuries, whiplash type of injuries,  
22 from automobile collisions in Ohio on a yearly basis?

23 A. No.

24 Q. You see people in this setting about four,  
25 five times a week, is that right, this type of

1 setting?

2 A. You mean as referred by attorneys?

3 Q. Yes.

4 A. Yes.

5 Q. And it would be fair to say a lot of those  
6 people are people who have developed what they  
7 consider to be chronic problems with a cervical strain  
8 or lumbar strain?

9 A. Yes, I would say that the vast majority of  
10 patients that I see who suffer from chronic symptoms  
11 from mild cervical strains are people that have been  
12 in auto accidents.

13 Q. Under "Miscellaneous Considerations," you  
14 have: "There is no evidence of any injury that  
15 occurred on May 20th, 1997 that should have caused  
16 Mrs. Regoli to alter her work schedule on a permanent  
17 basis." You see that?

18 A. Yes.

19 Q. Why did you put that in if you were not of  
20 the impression that she did alter her work schedule?

21 A. Well, I had a letter from Mr. Marsh and I  
22 believe one of the questions he asked me was whether  
23 it was necessary for her to decrease her work  
24 schedule.

25 Q. On May 29th, 1997, if there was spasm

1 present with respect to Mrs. Regoli's cervical spine,  
2 would you agree that that would be indicative of a  
3 more severe strain, if it was present?

4 A. No, because she had absolutely no symptoms  
5 at the time of the accident. The symptoms did not  
6 begin until the next day. So, in my opinion, it would  
7 be impossible to have a severe muscle strain with  
8 absolutely no symptoms at the time of the accident.

9 Q. Did she or did she not have spasm the day  
10 after the accident in your opinion?

11 A. No, I do not think that she had spasm the  
12 day after the accident.

13 Q. Did Dr. Bhullar believe that she had spasm  
14 the day after the accident?

15 A. In his notes, he made some reference to  
16 spasm, but I think he was referring to the X-ray  
17 finding rather than anything that he found on exam;  
18 but you would have to ask him for -- to be certain.

19 Q. What does severe headache associated with  
20 the cervical strain indicate? What does that suggest?

21 A. It's not uncommon for patients who have  
22 neck problems for any reason to experience some  
23 headache as a result of that.

24 Q. If Dr. Bhullar, having followed Mrs. Regoli  
25 for the six months after this accident, had made a

1 determination based on her representations, based on  
2 her symptomatology, and based upon his examinations --  
3 if he felt that based on all of that it was  
4 appropriate for her to reduce her work hours from  
5 full-time to part-time, would you defer to his  
6 judgment in that regard?

7 A. That's a difficult question to answer. The  
8 treating doctor's in a little bit of a bad spot. If  
9 the patient still has subjective complaints and states  
10 that their work is making the subjective complaints  
11 worse, the treating doctor is in a little bit of a  
12 spot if he says: No, you have to continue working.  
13 But -- so, he may be forced to write a note to put her  
14 off.

15 As to whether that's right or wrong is more  
16 of a philosophical question, I guess, rather than a  
17 medical question. There's no medical reason that I  
18 can see that she would have to be put off on any type  
19 of a permanent basis because of injuries she suffered  
20 in the accident, but I think Dr. Bhullar was in a  
21 spot. Probably nothing else he could do.

22 Q. So, you would -- you would or would not  
23 defer to his judgment as to the appropriateness of  
24 that recommendation?

25 A. Well, I don't think that -- I don't think

1 the medical facts justified putting her off work from  
2 what I can see in reviewing the case, but I can  
3 understand why he was forced to do that.

4 Q. And you say he was forced to do it. Who  
5 forced him to do it?

6 A. Well, if the patients come in and say they  
7 are having subjective complaints and their work is  
8 making it worse -- I mean, what are you going to do?  
9 I mean, you have to be an advocate for your patients  
10 in some respect. She did have arthritis in the neck  
11 and there's other problems going on that could have  
12 been causing her that neck pain?

13 A. You think it might be coincidence that  
14 after she reduced her workload that her symptoms  
15 improved dramatically?

16 A. Well, again, as far as related to the  
17 accident, I don't think that the accident would have  
18 produced any injury that would cause her to have to  
19 reduce her workload. She did have other problems in  
20 her neck such as arthritis or degenerative disk  
21 disease at multiple levels, which probably could have  
22 been causing her to still have symptoms. But, for  
23 whatever reason, Dr. Bhullar was kind of in a spot, I  
24 think.

25 Q. All of those conditions that you mentioned

1 were totally asymptomatic before this accident?

2 A. That's correct.

3 Q. Would it be fair to say you think if you  
4 were put in Dr. Bhullar's position you would have done  
5 precisely the same thing and given her that  
6 recommendation?

7 A. I think in this circumstance I would have,  
8 yes.

9 MR. BLASS: Okay. I think that's  
10 all -- probably all the questions I have today.

11 MR. MARSH: I have no questions.

12 (Thereupon, the witness was advised by  
13 the reporter of his right to read and sign his  
14 deposition.)

15 THE WITNESS: I'll waive.

16 (Signature Waived.)

17 -----

18 THEREUPON, THE DEPOSITION CONCLUDED AT

19 4:10 P.M.

20 -----


1 State of Ohio : C E R T I F I C A T E

2 County of Muskingum :

3 I, Kathy J. McGlaughlin, Notary Public in  
4 and for the State of Ohio, duly commissioned and  
5 qualified, do hereby certify that the within-named  
6 ROBERT J. THOMPSON, M.D., was by me first duly sworn  
7 to testify to the truth, the whole truth, and nothing  
8 but the truth in the cause aforesaid; that the  
9 testimony then given by him was by me reduced to  
10 stenotype in the presence of said witness; that the  
11 foregoing is a true and correct transcript of the  
12 testimony so given by him as aforesaid, transcribed  
13 from my stenographic notes; and that this deposition  
14 was taken at the time and place in the foregoing  
15 caption specified, and was completed without  
16 adjournment.

11 I do further certify that I am not a  
12 relative, employee, or attorney of any of the parties  
13 hereto, and further that I am not a relative or  
14 employee of any attorney or counsel employed by the  
15 parties hereto, or financially interested in this  
16 action.

14 IN WITNESS WHEREOF, I have hereunto set my  
15 hand and affixed my seal of office at Zanesville,  
16 Ohio, on this 18th day of December, 2000.

17   
18 KATHY J. MCGLAUGHLIN,  
19 NOTARY PUBLIC, STATE OF OHIO

20 My Commission Expires September 18, 2002.  
21  
22  
23  
24  
25