1	IN THE COMMON PLEAS COURT OF BELMONT COUNTY, OHIO
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3	LISA A. BEALS,
4	PLAINTIFF, >
5	-vs-) CASE NO. 04 CV 159
6	DAWN M. PAVELKEY, ET AL.,)
7	DEFENDANTS.)
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10	VIDEOTAPED DEPOSITION of DR. ROBERT J. THOMPSON, a
11	Witness herein, called by the Defendants for examination
12	under the statute, taken before me, Debbie M. Bobo,
13	Registered Professional Reporter, Notary Public in and
14	for the State of Ohio, pursuant to the stipulations of
15	counsel hereinafter set forth at 945 Bethesda Drive,
16	Zanesville, Ohio, on Wednesday, December 21, 2005,
17	beginning at 4:15 p.m.
18	TAHYI VIDEO & COURT REPORTING, LTD.
19	334 Main Street P.O. Box 935
20	Zanesville, Ohio 43702-0935 (800) 526-6508
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1	APPEARANCES:
2	ON BEHALF OF THE PLAINTIFF:
3	Dichard Longione Egg
4	Richard Lancione, Esq. LANCIONE & LLOYD LAW OFFICE, LPA 3800 Jefferson Street
5	P.O. Box 560
6	Bellaire, Ohio 43906
7	ON BEHALF OF THE DEFENDANTS:
8	Thomas G. Carey, Jr., Esq.
9	HARRINGTON, HOPPE & MITCHELL, LTD. 108 Main Avenue SW
10	Suite 500 P.O. Box 1510
11	Warren, Ohio 44482
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1	STIPULATIONS
2	It is stipulated by and between counsel for the
З	respective parties that the deposition of DR. ROBERT J.
4	THOMPSON, a Witness herein, called for examination by the
5	Defendants under statute, may be taken at this time by the
6	Notary and by agreement of counsel without notice or other
7	legal formality; that said deposition may be reduced to
8	writing in stenotype by the Notary whose notes may
9	thereafter be transcribed out of the presence of the
10	witness; that proof of the official character and
11	qualification of the Notary is waived; that the reading and
12	signature of the said witness to the transcript of the
13 _	deposition are expressly waived by counsel and the witness;
14	said deposition to have the same force and effect as though
15	signed by the said witness.
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1	INDEX OF EXAMINATION
2	DIRECT EXAMINATION BY MR. CAREY:
3	REDIRECT EXAMINATION BY MR. CAREY:
4	RECROSS-EXAMINATION BY MR. LANCIONE:
5	INDEX OF EXHIBIT
6	Exhibit A:
7	Medical report.
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
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2	(Defendant's Exhibit A marked.)
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4	DR. ROBERT J. THOMPSON
5	being by me first duly sworn, as hereinafter
б	certified, deposes and says as follows:
7	DIRECT EXAMINATION
8	BY MR. CAREY:
9	Q. Sir, please sate your name and professional
10	address for the jury.
11	A. Robert Jordan Thompson, 945 Bethesda Drive,
12	Zanesville, Ohio.
13	Q Are you a licensed medical doctor in the State
14	of Ohio?
15	A. Yes.
16	Q. When did you receive your license?
17	A. 1976.
18	Q. Could you tell the members of the jury your
19	educational training?
20	A. I graduated from the University of Pittsburgh
21	with a BS degree in chemistry in 1968. I subsequently
22	graduated from the University of Pittsburgh School of
23	Medicine with an M.D. degree in 1972. I completed a
24	medical internship at Montefiore Hospital in Pittsburgh
25	in 1973. I then completed a three-year residency in

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1	neurology at the University of Pittsburgh in 1976. And
2	I have been board certified in neurology since 1977.
3	Q. When you say board certified, what does that
4	mean?
5	A. Once he or she completes a training program
6	one then sits for a one day written examination and a
7	two-day oral examination. If those examinations are
8	successfully passed one is said to be board certified.
9	Q. How long have you been board certified?
10	A. Since 1977.
11	Q. And what specialty are you certified in?
12	A. Neurology.
13	Q. Can you tell the members of the jury what's
14	encompassed in that specialty?
15	A. Neurology is a subspecialty of medicine that
16	deals with diseases and injuries of the nervous system,
17	including the brain, spinal cord, nerves, muscles, and
18	those supporting structures, including the spine.
19	Q. Dr. Thompson, do you treat people who have
20	been involved in automobile accidents?
21	A. Yes.
22	Q. How do those kinds of people or how get
23	involved with a neurologist such as yourself?
24	A. I have a very busy practice, both in the
25	office and the hospital, seeing many different types of

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1	injuries. I'm also the medical director of the
2	inpatient rehabilitation program here in Zanesville, in
3	which we see a lot of people with auto accidents. I'm
4	also the medical director of the chronic pain
5	management program in which we see people who suffer
6	from spine problems.
7	Q. Dr. Thompson, at my request did you conduct an
8	examination of Lisa Beals on July 29, 2005?
9	A. Yes.
10	Q. Could we tell the jury how these medical exams
11	are set up through your office?
12	A. In a case like this this was an independent
13	medical exam in which an attorney, such as yourself,
14	calls the office and asks me to examine the patient on
15	a one-time basis, take a history from the patient,
16	examine them, review medical records, and then issue a
17	report regarding opinions on the diagnosis, prognosis,
18	appropriateness of treatment and the need for future
19	treatment. In a case like this I am not the treating
20	physician and I only see the patient on one occasion.
21	Q. Doctor, you say you've prepared a a re
22	you typically prepare a report on your examination
23	of of the patient?
24	A. Yes.
25	Q. And did you prepare such a report in this

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1	case?
2	A. Yes.
3	Q. I'm handing you what's marked Defendant's
4	Exhibit A. Is that a copy of the report you prepared
5	on Lisa Beals?
6	A. Yes.
7	Q. Okay. Doctor, feel free, if you need to, to
8	refer to your report in the rest of your testimony.
9	Doctor, we're here for a a deposition. Is
10	it something that you have done in the past?
11	A. Yes.
12	Q. Do you give deposition testimony whether
13	you're an examining physician, such as you're hired for
14	in this case, or a treating physician?
15	A. Yes.
16	Q. Are you able to estimate for us the number of
17	depositions you've given over the last 10 years in
18	which you've been the treating physician?
19	A. Usually I I would estimate I do between
20	25 and 30 depositions a year, and in the vast majority
21	of those I am not the treating physician.
22	Q. Okay.
23	A. So and occasionally I'll be the treating
24	physician, but usually I am not.
25	Q. You've mentioned as as part of your
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l	preparation in this case you reviewed some medical
2	records; is that right?
3	A. Yes.
4	Q. And those are records that I sent to you?
5	A. Yes.
6	Q. And I believe they were eight sets of records,
7	and I'm going to read them, and I just wonder if this
8	corresponds with what you received from me.
9	First, the emergency room records of the
10	accident of May 3, 2002?
11	A. Yes.
12	Q. Second, the records of Dr. Joseph Williams
13	from January 17, 1992, through May 6th, 2003?
14	A. Yes.
15	Q. Next, an MRI of November 7, 2002?
16	A. Yes.
17	Q. Next, emergency room records of another visit
18	of September 12th, 2002?
19	A. Yes.
20	Q. Next, physical therapy records from the
21	Belmont Community Hospital from November 27th, 2002
22	through April 3, 2003?
23	A. Yes.
24	Q. Next, some records of a Dr. Charles Geiger
25	from July 2003 through January 19, 2004?
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1	A. Yes.
2	Q. Next, an EMG of August 16, 2003?
3	A. Yes.
4	Q. And finally, a report of a Dr. Liebeskind
5	dated August 3, 2004, plus two progress notes from
6	Dr. Liebeskind of August 17 and September 7, 2004?
7	A. Yes, I did review all those records.
8	Q. Okay. After the records review you conducted,
9	Doctor, did you also examine Lisa here at the office?
10	A. Yes.
11	Q. As part of that examination did you take a
12	history from her?
13	A. Yes.
14	Q. What do you mean by taking a history? Is that
15	just asking her what her problems are?
16	A. A history is a story in the patient's own
17	words as to the nature of the accident, what symptoms
18	they're experiencing, how those symptoms effect their
19	life, what treatment they're receiving, whether there's
20	any past history of any similar problems.
21	Q. Doctor, in this case Lisa Beals was in an
22	automobile accident. What did she tell you about the
23	automobile accident when you treated her in the
24	office or saw her in the office on July 29, 2005?
25	A. She told me she was the restrained driver of a

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vehicle that was broadsided on the rear passenger side of her car on May 3rd of 2002. She did experience some pain in her neck, right knee, and headache at the scene, but she was able to drive her car home.

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I asked her if she was still experiencing 5 6 symptoms over three years later and she indicated she was still having some pain on the left side of her 7 head, some neck pain and some left shoulder pain. She 8 stated that the severity of her symptoms would vary 9 from day to day, but that overall her symptoms have 10 basically plateaued and were not getting worse as time 11 12 went by.

I did ask her if on the day I was seeing her was a good day or a bad day, and she indicated the day I saw her was a bad day for her. She had -- she did -had recovered from the bruise to her right knee by the time I saw her.

18 Doctor, did Ms. Beals tell you about her work Q. 19 history around the time of the accident and afterwards? At the time of the accident she was 20 Α. Yes. 21 working in a restaurant, the Union Street Station, as a dish washer, about 35 hours a week. She was also 22 working at the Blair Clinic about 20 hours a week doing 23 cleaning. She states that she did miss some work as a 24 result of her injuries, but then she then quit both of 25

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1 these jobs at some point after the accident. She subsequently went to work on August 26th 2 3 of '04 at Cabela's and she is currently working there about 4 -- 40 hours a week picking orders. Her job 4 5 does entail a lot of bending or lifting, and she is 6 working regularly and has not missed any work at 7 Cabela's as a result of her symptoms. What was her household situation as she told 8 0. 9 you in the office? 10 Α. She currently lives in a house with her 11 husband and two children, ages 19 and 23. She's independent with dressing herself, bathing, grooming, 12 feeding. She's able to clean the house. She's able to 13 do the cooking and shopping. She's able to drive and 14 did drive to the exam on the day that I saw her. 15 She is able to do her own laundry. She stated that she was 16 17 not able to do the yard work anymore. I asked her if she engaged in any type of 18 athletic activity, and she denied that she engaged in 19 20 any type of athletic activity, either prior to the accident or subsequent to the accident. And she does 21 not have any hobbies of any kind. 22 Doctor, did she tell you about any similar 23 Ο. problems she had had before the accident involving her 24 neck and shoulder? 25

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1	A. She denied to me that she'd ever had any
2	problems with her neck or shoulder prior to this
3	accident.
4	Q. Doctor, did you then conduct a physical
5	examination of Ms. Beals?
6	A. Yes.
7	Q. By the way, Doctor, how much time did you
8	spend with Ms. Beals in this examination at your
9	office?
10	A. On medical/legal cases I'm often asked that,
11	so I did write down the times that I saw her. And I
12	went in to see her at 10:20 in the morning and left the
13	room at 10:52. So I spent approximately a half an hour
14	with her face-to-face. During that time, the whole
15	time was spent taking her history, and it would take me
16	about 10 or 15 minutes to examine her neck and back and
17	reflexes. So all told, I spent about 32 minutes with
18	her face-to-face.
19	Q. Doctor, let's go to the actual physical exam
20	you conducted. Tell us what you did and what you were
21	looking for and what you found.
22	A. She was five-foot, two, weighed 104 pounds.
23	She was examined in a disrobed state with an
24	examination gown on in the presence of her husband.
25	She was very pleasant. She was alert. There was no
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1	memory loss or speech impairment. I did watch her walk
2	in the exam room. Her walking was normal. She did not
3	limp. She was able to walk on her toes and heels well.
4	We we have people walk on their toes and
5	heels because people who have a pinched nerve in the
6	back or spinal cord problems may have weakness when
7	they walk on their toes or heels, but there was no
8	evidence of that.
9	I checked the range of motion of her low back
10	by having her bend over and touch her toes, bend from
11	side to side as much as she could, and then bend back
12	as much as she could. And that was excellent. She was
13	able to get up independently from a laying down to a
14	sitting position. The straight leg raising test was
15	negative. That's a test where with the person
16	laying on their back the doctor will lift their legs
17	straight up, and if they have a pinched nerve in the
18	back they may experience some pain. But that test was
19	normal.
20	Q. Doctor, I think Ms. Beals was complaining
21	of of neck problems. Did you examine her neck in
22	the office?
23	A. Yes. I did check the range of motion of her
24	neck by having her put her chin over on her each
25	shoulder, down on her chest, and then as far back as
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1 she could, and the range of motion of her neck was full. 2 3 There was no evidence of any spasm in any of the muscles of her neck. There were no -- there was no 4 5 trigger point tenderness. Trigger points are little 6 areas of spasm and tenderness that the doctor is able 7 to feel when -- with -- when pushing with his thumb on 8 the muscles. But there was no evidence of any trigger 9 point tenderness anywhere. 10 She did have some slight tenderness, some 11 slight subjective tenderness of some of the muscles on 12 the left side of her neck. 13 I checked range of motion of both shoulders by 14 having her put her hand -- arms over her head as far as 15 she could and as back as far as she could, and that was 16 normal. 17 There was no evidence of any muscle weakness, atrophy, or muscle fasciculations. Again, in patients 18 19 who have a pinched nerve in the neck we can usually 20 find evidence of either weakness of the muscles or little twitching in the muscles, called fasciculations, 21 22 or the muscle may actually get smaller if there's any 23 evidence of nerve injury in the neck. But in her case there was no evidence of that. 24 25 There was no loss of sensation. Again, if

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someone has a pinched nerve in the neck we may see 1 areas of loss of sensation. But there was no evidence 2 of that in Ms. Beals. 3 All of her deep tendon reflexes were present 4 5 and symmetrical. Deep tendon reflexes are checked with a reflex hammer just tapping on the tendons and the 6 7 arms and legs. And again, if someone has sign -- a 8 pinched nerve in the neck we may see an absent or 9 diminished reflex, but they were all present. And --10 so, essentially her exam was normal, with the exception 11 of some subjective tenderness in the muscles of her 12 left side of her neck. Doctor, I'm going to ask you in a little bit 13 Ο. 14 about your diagnosis on that day. But before I do 15 that, could you run us through a review of the 16 pertinent medical records that I provided you with 17 respect to Ms. Beal's complaints regarding the automobile accident? 18 I did --Α. Yes. 19 Let's start -- let's start with the family 20 Ο. doctor, Dr. Williams. Okay? 21 I did review the records of Dr. Williams. 22 Α. The first time he saw her after the accident was July 30th, 23 24 almost two months later, at which point she was still having some neck pain and numbness in her shoulders. 25

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1 When he examined her she had full range of motion of 2 the head and neck. She had normal strength and 3 reflexes, similar to my exam. And his diagnosis was cervical strain. 4 5 What's a cervical strain? Ο. A pulling of the muscles in the neck causing 6 Α. 7 discomfort. He saw her on a number of other times after 8 9 that. On August 2nd of '02 her neck was summed better. 10 She had some limitation of range of motion of the neck, 11 but it was not as severe. Reflexes were normal. By August 20th of '2 -- of '02 there was almost normal 12 13 range of motion of the neck and her neurologic exam was normal. 14 15 By September 10th of '02 her neck pain was coming and going. She had good range of motion of the 16 17 head and neck. On September 16th of '02 she did 18 complain of some swelling and numbness in her neck, but there was no objective findings. By October 8th of '02 19 20 her neck was feeling better. She was working at two jobs. By November 15th -- by November 5th of '05 --21 November 5th of which year, Doctor? 22 Q. I'm sorry. By November 5th of '02 she was 23 Α. still having some neck pain. By November 15th of '02 24 25 she was having neck pain but was working three jobs.

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Again, she had good range of motion of the head and 1 neck. 2 3 She had an MRI scan of the neck, which is a test where they use magnetic rays instead of X-rays to 4 5 give us pictures of the spine, so we cannot only see 6 the bones, but we can see the nerves and the spinal 7 cord and the discs and the muscles and ligaments. And 8 that test was perfectly normal. 9 December 10th of '02 she had good range of 10 motion of her neck. January 3rd of '03, good range of 11 motion of the head and neck. January 24th of '03, 12 physical therapy had helped her. And again, she had 13 good range of motion of the neck. He continued to see her over -- up until about 14 15 a year after the accident. And again, by May 6th of 16 '03 he still noted there were no objective findings on 17 exam. 18 Q. Doctor, did you also look at the emergency room records on the day of the accident, May 3, 2002? 19 20 Α. Yes. 21 Q. What did those show? 22 She was complaining of pain in the head, neck Α. 23 and shoulder. The emergency room doctor felt that she 24 did have a muscle strain in the neck. There was no 25 loss of consciousness. Her symptoms were listed as

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1 Again, she had good range of motion of the head and 2 neck. She had an MRI scan of the neck, which is a 3 4 test where they use magnetic rays instead of X-rays to give us pictures of the spine, so we cannot only see 5 the bones, but we can see the nerves and the spinal 6 7 cord and the discs and the muscles and ligaments. And that test was perfectly normal. 8 December 10th of '02 she had good range of 9 10 motion of her neck. January 3rd of '03, good range of 11 motion of the head and neck. January 24th of '03, 12 physical therapy had helped her. And again, she had good range of motion of the neck. 13 14 He continued to see her over -- up until about 15 a year after the accident. And again, by May 6th of 16 '03 he still noted there were no objective findings on 17 exam. 18 Ο. Doctor, did you also look at the emergency 19 room records on the day of the accident, May 3, 2002? 20 Α. Yes. 21 0. What did those show? 22 She was complaining of pain in the head, neck Α. 23 and shoulder. The emergency room doctor felt that she did have a muscle strain in the neck. There was no 24 25 loss of consciousness. Her symptoms were listed as

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1	mild. The doctor noted she was in no no distress.
2	She had normal gait and strength, although did have a
3	little bit of spasm in the muscles, as would be
4	expected from a muscle strain.
5	She had some decrease in range of motion of
6	the neck, again, which is what we would expect with a
7	muscle strain. It was noted that the accident was at,
8	quote, low speed, unquote, and her head did not hit
9	anything.
10	The nurse's notes indicate that she had full
11	range of motion of her head and left arm, and X-rays of
12	the neck were normal.
13	Q. And, Doctor, did you look at the records from
14	the from Dr. Geiger beginning in July of '03?
15	A. Yes. Dr. Geiger saw her started to see her
16	a little bit more about a year after the accident. He
17	first saw her on July 17th of '03. He noted on exam
18	she was in no acute distress. She had no normal
19	range of motion of the extremities, and no
20	abnormalities of the neck were described.
21	On August 28th of '03 he noted she was in no
22	acute distress. On 10-27-03, in a summary letter, I
23	don't believe he saw her that date, but in a summary
24	letter he noted that she had had an EMG done.
25	Q. What's that, Doctor? What's an EMG?

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1	A. An EMG is a test to check for a pinched nerve
2	in the neck. And that test did not show any evidence
3	of muscle spasm or a a pinched nerve in the neck.
4	And again, he saw her on January 19th of '04
5	and September of '04, and again, which there was no
6	objective findings noted.
7	Q. Doctor, did she eventually come under the care
8	of a Dr. Liebeskind?
9	A. Yes.
10	Q. What's do you know what specialty
11	Dr. Liebeskind practices?
12	A. No.
13	Q. Okay. What do his notes say that he did for
14	her?
15	A. He first saw her on August 3rd of '04, and he
16	noted that she she she had discomfort in her neck
17	only on extremes of range of motion. Again, indicating
18	she had full range of motion. There was no spasm.
19	There was no motor weakness, sensory loss, or reflex
20	changes. So again, his exam was very similar to mine.
21	Q. Doctor, based on your education, training, and
22	experience as a neurologist, and based further on the
23	medical records you reviewed, and further, based on
24	your examination of Lisa Beals in the office, do you
25	have an opinion that you can state within a reasonable

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21 medical certainty as to the physical condition of Lisa 1 Beals as it relates to the injuries she suffered in the 2 3 automobile accident of May 3, 2002? Α. Yes. 4 5 Ο. What is that opinion, Doctor? In my opinion I feel that Ms. Beals did suffer 6 Α. several injuries as a result of this accident, 7 including a mild cervical muscle strain, a strain to 8 the muscles in the left shoulder, and a contusion or a 9 bruise of the left knee. 10 Doctor, you've diagnosed Lisa Beals then with 11 Q. 12 a cervical strain, a shoulder strain, and a left knee contusion as a result of the automobile accident. Do 13 14 you have experience in treating patients with those types of problems? 15 16 Α. Yes. What is the ordinary prognosis for patients in 17 Ο. those conditions? 18 I would expect complete recovery from these 19 Α. 20 type of injuries within four weeks at the most. Is there any support for that four-week course 21 Q. that you find in the treatment records of Lisa Beals in 22 23 this case? Yes. Number one, these were very minimal 24 Α. 25 injuries. She was able to drive her car home. She was

1 subsequently able to return to work and is currently 2 working 40 hours a week at a job that requires a lot of 3 bending and lifting. She's not missed any work 4 recently because of her symptoms. 5 In addition to working, she's able to clean 6 her house and do the cooking and shopping. She's 7 resumed all of her regular activities, except for 8 running the lawnmower and doing yard work. Also, there 9 was no evidence of any more serious injuries, such as 10 fractures, dislocations --11 Ο. How do you know that, Doctor? 12 Α. -- disc herniations, or anything that would be 13 expected to cause symptoms beyond four weeks. 14 And the reason I know that is because X-rays of her neck, EMGs, and MRI scans of her neck were all 15 16 totally normal. 17 Also, in reviewing the records of her family 18 doctor, Dr. Williams, who examined her on several 19 occasions after the accident, he found no 20 abnormalities -- no objective abnormalities. 21 On July 30th of '02 she had full range of 22 motion of the neck. On August 20th of '02 there were 23 no objective abnormalities. By October 8th of '02 he 24 again noted that there was a slight decrease in range 25 of motion, but no objective abnormalities, and she was

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actually working two jobs.

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By November 15th of '03 Dr. Williams noted she 2 was working three jobs and had good range of motion of 3 the neck. By May 6th of '03 he again noted that there 4 were no objective findings. 5 Also, she was examined by another physician 6 about four months after the accident. On 7 September 12th of '02, no abnormalities were noted on 8 9 exam. Also, Dr. Geiger's exam in July of '03 revealed normal range of motion of the extremities and no 10 abnormalities of the neck. 11 12 There was a note that she had spasm in the muscles of the neck in January of '04, but this was not 13 noted on the EMG test. And the EMG test is very 14 15 sensitive for picking up spasms. Also, Dr. Liebeskind, who examined her, noted 16 full range of motion of the neck with no spasm. 17 And also, my exam was totally normal with no objective 18 19 findings. 20 MR. CAREY: Dr. Thompson, I don't have any 21 other questions. Thank you. 22 MR. LANCIONE: Could we go off the record 23 for a minute, please. VIDEOGRAPHER: Off the record. 24 25

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Off the record.
VIDEOGRAPHER: Back on the record.
CROSS-EXAMINATION
BY MR. LANCIONE:
Q. Dr. Thompson, my name is Richard Lancione and
I represent Lisa Beals regarding the lawsuit that she
has filed against Mr. Carey's client. And I have a few
questions for you relative to your exam of Lisa Beals.
You already stated that this was an
independent medical exam. For the jury, that simply
means it doesn't mean that that you weren't hired
by the defendant to do this examination, it just means
that she never became a patient of yours, doesn't it?
A. That's correct.
Q. And I have looked at your file and and
have your notes here in front of me. I see that you
did keep track of the time. At the top of the report
you put 10:20 - 10:52. That's the amount of time that
you spent with Mrs. Beal?
A. Yes. I spent about half an hour with her
face-to-face, and then I spent about two hours
reviewing the records and preparing the reports. So,
all told, about two-and-a-half hours.

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1	Q. And on the upper right-hand side, Doctor,
2	there's a figure \$1200. Is is that your charge for
3	the exam and issuing your report?
4	A. Yes.
5	Q. And then you did the deposition today. What
6	was your examination for what's what's the charge
7	for your giving your deposition today?
8	A. \$900 for the first one hour, and \$400 for
9	every hour after that.
10	Q. And you previously testified you do about 25
11	depositions a month?
12	A. A year.
13	Q. Oh, a year. I'm sorry.
14	A. Yes.
15	Q. Oh, okay. Well, that would have been pretty
16	busy, 25 a month. I'm sorry. I misunderstood you,
17	Doctor.
18	25 depositions a year, mostly for the defense
19	side?
20	A. Yes.
21	Q. You do a lot more exams, though. The last
22	time we talked I think you were doing about three a
23	week?
24	A. I would estimate I do about three to four
25	exams a week at the request of attorneys, yes.
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1	Q. That's the same type of exam we're talking
2	about here today?
3	A. Yes.
4	Q. You were talking about the doctors who she
5	seen and making reference to their not finding any
6	subjective symptoms. The first one we talked about I
7	think was Dr. Williams. But as I'm looking at
8	Dr. Williams' notes and and he didn't see her
9	until you thought she would naturally have had a
10	recovery within about four weeks. He didn't see her
11	until about 10 weeks after the accident, if I'm reading
12	that correctly. And and he continued to diagnose
13	her with cervical strain/sprain and talk about her neck
14	pain increasing on activity. He talked about
15	exacerbation of cervical strain, how her neck would
16	hurt more when she was working and doing lifting. Is
17	that correct?
18	A. Yes.
19	Q. And and do you disagree with his diagnosis
20	during those visits he had with her?
21	A. Well, the only person who knows if Ms. Beals
22	was having pain is Ms. Beals herself. He's just
23	relating what symptoms that she what she had.
24	Q. Well, I I appreciate that answer, but my
25	question is, do you disagree with his diagnosis that

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1	she still was suffering from this condition during the	
2	time he was treating her?	
3	A. My opinion is that she did suffer from a	
4	muscle strain to the injuries in her neck, but that I	
5	would have expected her to have recovered within four	
6	weeks at the most.	
7	Q. Well, I guess that's that's once again,	
8	I appreciate that answer, but it doesn't really it	
9	seems to me that you're saying you do disagree with	
10	this diagnosis?	
11	A. No, I agree with his diagnosis. I think she	
12	did have a cervical muscle strain. But as far as	
13	recovery, I would have expected her to have recovered	
14	within four weeks, at the most.	
15	Q. Okay. And he was treating her long after four	
16	weeks and still had that same diagnosis. So at the	
17	time he was treating her, into even 2003, as I'm	
18	reading his notes, he continued to diagnose her as	
19	suffering with pain from this cervical strain?	
20	A. Yes.	
21	Q. And and what what is what how do	
22	you feel about him continuing to treat her and diagnose	
23	her with cervical strain after that length of time	
24	after the accident?	
25	A. Well, again, my testimony is that the only	

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person who knows if Ms. Beals was really having pain or 1 not was Ms. Beals. If she was having pain beyond that 2 four-week period of time I do not think it was caused 3 4 by the cervical strain, because I would have expected her to have recovered from that injury within a 5 б four-week period of time. 7 All right. I'll accept that. Q. 8 Now, she started seeing Dr. Geiger, and of course you might have the same opinion. Once again, it 9 was well over a year after the accident. She had been 10 seen by Dr. Williams and then she ended up not treating 11 with him any longer. She ended up I think seeing him 12 in May of '03, and in July of '03 she saw Dr. Geiger. 13 14 And -- and he has diagnosed her with a myofacial pain 15 If -- once again, that's the way I'm reading syndrome. his letter that you mentioned dated September the 24th, 16 17 2004. Yes, that's correct. He diagnosed her with 18 Α. that condition. 19 20 Do you disagree with that diagnosis? Ο. 21 Α. Yes. And -- and would you tell me why you disagree 22 Q. 23 with it, on what basis? 24 Α. On my exam I do not find any evidence of trigger points, which -- which must be present for this 25

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diagnosis to be made.

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Also, a consensus conference some years ago
recommended that the term posttraumatic fibromyalgia,
and in my opinion its immediate cousin, myofacial pain
syndrome, be abandoned since there's no objective way
to accurately diagnose that nebulous condition in the
posttraumatic population.

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Q. So are you saying that you don't accept that the condition myofacial pain syndrome exists? A. No, no. I treat a lot of patients with myofacial pain syndrome. I just did not find any evidence that Ms. Beals was suffering from that condition.

Q. Oh, all right. Because the way you answered that last question in -- about fibromyalgia I was getting the impression that maybe you didn't even accept the existence of the myofacial pain syndrome. That was incorrect?

A. Oh, no, I think it exists. But, again, the
recommendation from the consensus conference some years
ago was that in people that have had injuries and made
claims, that it's almost impossible to determine if
that condition exists or not.

24 Q. Well --

A. And so, it was recommended that the term be

30 abandoned because --1 2 Q. Fibromyalgia? No, the term --3 Α. Posttraumatic --4 Q. -- posttraumatic --5 Α. -- fibromyalgia? 6 Q. -- fibromyalgia, because there's no -- the 7 Α. cause of that condition is not known. 8 Do you -- did you rely on that publication in 9 Q. giving your testimony here today? 10 That was one of the publications I 11 Α. Yes. recommend -- I -- that -- that was the only publication 12 that I referenced to in my report. 13 And -- and did you -- do you have a copy of 14 Ο. that report or -- or consensus, meeting, or whatever 15 was -- you relied on? Do you have a copy of that here 16 in the office? 17 I mean, it would take me a long time to lay me 18 Α. hands on it. No, I don't have it --19 20 Q. Okay. -- readily available. 21 Α. 22 Q. All right. I -- I thought, as we were talking, you indicated that you did your examination 23 and you couldn't find any trigger points in -- in the 24 area where Mrs. Beals was complaining of pain. 25 Is --

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1	isn't that, the the presence of pig trigger	
2	points, something that you can physically feel and	
3	and determine?	
4	A. Yes.	
5	Q. And so, I mean, as far as myofacial pain	
6	syndrome's concerned, there are clinical tests that you	
7	can do to determine if that condition exists?	
8	A. There's no tests that can be done, because	
9	tests all the tests in that condition are normal.	
10	But on the physical exam we can very often feel trigger	
11	points, which are small areas of spasm with tight bands	
12	in the muscles and tissues.	
13	Q. Okay. And that's part of that. But but as	
14	far as the condition itself, when when Dr. Geiger	
15	examined her and Dr. Liebeskind examined her and	
16	they I think Dr. Liebeskind even injected some	
17	trigger points. At the time they did the	
18	examination at least they are indicating that they	
19	found trigger points.	
20	A. He stated Dr. Geiger stated he injected a	
21	trigger point, but he didn't really describe it on any	
22	of his exams. And Dr. Liebeskind also gave some	
23	trigger point injections, but again didn't describe it,	
24	that he found any on his exam.	
25	Q. Well, he couldn't have injected a trigger	

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1	point if he didn't find it, could he?
2	A. I'm just I'm just I'm referring to his
3	records. He didn't
4	Q. Okay.
5	A say he found any.
6	Sometimes people will just inject areas of
7	tenderness that aren't real true trigger points. And
8	you'll have to ask Dr. Geiger and Liebeskind, but
9	Q. Okay. Well
10	A in reviewing their records they didn't
11	really indicate anywhere that they found
12	Q. Okay.
13	A trigger points.
14	Q. I appreciate that. I mean, if if
15	Dr. Geiger did in fact find trigger points at the time
16	he examined her, would you disagree with his diagnosis
17	of myofacial pain syndrome?
18	A. The only thing I can say is his records don't
19	indicate that he found any. I didn't find any, no one
20	else found any, and the consensus conferences that
21	myofacial pain syndrome should not be attributed to
22	trauma, because nobody knows the cause of it.
23	Q. I did a a little reading on myofacial pain
24	syndrome, and and I thought what I found indicated
25	that trauma could in fact sensitize a nerve and a nerve
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1	path and and could lead to myofacial pain pain	
2	syndrome. Do you disagree with that?	
3	A. Well, the reason there was a consensus	
4	conference is that this is a very controversial area	
5	within medicine. Some people don't believe the	-
6	condition exists at all. Other people feel that there	
7	are no objective ways to diagnose it. Most people feel	
8	that the cause is unknown. And many people feel	
9	that that those trigger points don't even exist,	
10	that you can't find them in anybody. So, again, you	
11	can find anything you want in the medical literature	
12	because it's very controversial.	
13	Q. But you would agree that that there is	
14	medical literature out there that does recognize trauma	
15	as a precipitating factor to myofacial pain syndrome?	-
16	A. Yes. There's trauma there's literature out	
17	there with all kind of opinions about myofacial pain	
18	syndrome. It's very controversial.	
19	Q. Are you familiar with The Physical Medicine	
20	and Rehabilitation Book that I'm holding here, by	
21	Randall Brandon?	
22	A. No.	
23	Q. Oh, okay. Well, it's not something that you	
24	use?	
25	A. No.	

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1	Q. All right. Then I'm not going to ask you any	
2	questions about it.	
3	MR. LANCIONE: Could we go off for a	
4	minute.	
5	VIDEOGRAPHER: Off the record.	
6		
7	Off the record.	
8		
9	VIDEOGRAPHER: Back on the record.	
10	BY MR. LANCIONE:	
11	Q. Dr. Thompson, we're back on the record, and I	
12	just have a a couple more questions for you. Do you	
13	specifically remember Lisa Beals, or is your testimony	
14	basically from your notes and and records?	
15	A. My testimony is from my notes and records.	
16	Q. And did you feel well, is there any	
17	indication in your notes or records that you felt that	
18	she was being anything but truthful with you?	
19	A. The only person who knows if Ms. Beals is	
20	really having pain is Ms. Beals herself. I have no way	
21	of of knowing that.	
22	Q. Well, there was nothing that she did or	
23	anything in your examination that indicated that she	
24	was being untruthful, that you can remember or have any	
25	notes of at this time?	

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1	A. Not that I'm aware of, no.	
2	Q. Okay.	
3	MR. LANCIONE: That's all I have.	
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5	REDIRECT EXAMINATION	
6	BY MR. CAREY:	
7	Q. Dr. Thompson, there was some discussion of a	
8	consensus conference in 1994 with respect to certain	
9	traumatic conditions. What is a consensus conference?	
10	A. A consensus conference is a conference where a	
11	number of physicians who are interested in a particular	
12	subject get together to discuss a controversial subject	
13	and come to a consensus regarding certain things about	
14	that subject. Normally in medicine we we come to	
15	the conclusions or a consensus based on scientific	
16	evidence, but in some situations there is no scientific	
17	evidence.	
18	In the For instance, in the case of this	
19	myofacial pain syndrome, there is no test that we can	
20	objectively diagnose it. X-rays are normal. MRIs are	
21	normal. EMGs are normal. Even if you biopsy the	
22	involved tissues and look at it under a microscope it's	
23	perfectly normal.	
24	So so these these doctors got together	
25	and said, well, what are we going to say regarding	

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in people who have been injured in an accident, is this 1 a legitimate diagnosis to use. And the consensus of 2 that conference was that at this time it is not, 3 because there's no objective way to accurately diagnose 4 that condition in this particular population of 5 patients who suffer an injury in an accident and then 6 they're claiming -- claiming pain. So that's a rather 7 long -- long-winded answer to your question, but I hope 8 9 it's understandable. Very good, Doctor. 10 Q. 11 MR. CAREY: I have no other questions. MR. LANCIONE: Just one follow-up, Doctor. 12 13 **RECROSS-EXAMINATION** 14 BY MR. LANCIONE: 15 That consensus meeting took place in 1994? 16 Q. 17 Α. Yes. That's about 11 years ago now, isn't it? 18 Q. 19 Α. Yes. 20 Q. Okay. 21 MR. LANCIONE: Thanks. MR. CAREY: Doctor, there are no other 22 23 questions. You have the right to review the transcript and -- as well as the videotape, or do you wish to 24 25 waive that right?

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THE WITNESS: I'll waive. MR. CAREY: Thank you. . . . THE VIDEOTAPED DEPOSITION CONCLUDED AT 5:00 P.M. - -

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State Of Ohio 1 : CERTIFICATE County Of Muskingum 2 3 I, Debbie M. Bobo, Registered Professional Reporter, Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the 4 within-named DR. ROBERT J. THOMPSON was first duly sworn to testify to the truth, the whole truth, and nothing but the 5 truth in the cause aforesaid; that the testimony then given was by me reduced to stenotype in the presence of said 6 witness; that the foregoing is a true and correct transcript of the testimony so given as aforesaid, 7 transcribed from my stenographic notes upon a computer; and that this deposition was taken at the time and place in the 8 foregoing caption specified, and was completed without adjournment. 9 I do further certify that I am not a relative, 10 employee, or attorney of any of the parties hereto, and further that I am not a relative or employee of any 11 attorney or counsel employed by the parties hereto, or financially interested in the action. I am not, nor is the 12 court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D). 13 In witness whereof, I have hereunto set my hand 14 and affixed my seal of office at Zanesville, Ohio, on this 28th day of December, 2005. 15 16 pebbye M. BObo, RPR DEBBIE M. BOBO, RPR 17 My Commission Expires NOTARY PUBLIC, STATE OF OHIO January 8, 2008 18 19 20 21 22 23 24 25

38

LISA A. BEALS -VS-AWN M. PAVELKEY, ET AL.

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AWN M. P	AVEL	ČEY. ET	'AL.				•	VI	DEO I	DEPO (OF DR. THO	MPSON
	<u> </u>		2:11		12:21	12:21	12:24	attribut	ted [1]	32:21	Cabela's [2]	12:3
-\$-		24th [2]		28:16	13:3	16:18	16:23	August	[9]	10:2	12:7	
			3:20	25:10	18:15	18:19	19:7	10:5	10:6	12:2	calls [1] 7:14	
\$1200 [1]	25:2		25:18	20.10	19:16	21:3 22:19	21:7 23:7	17:9	17:12	19:21	cannot [1]	18:5
\$400 [1] 25:8		26th [1]			21:13	27:24	28:10	20:15	22:22		caption [1]	38:8
\$900 [1] 25:8		27th [1] 9			36:1	36:6	20.10	auto [1]		<	car [3] 11:2	11:4
			38:13		accider	ts [2]	6:20	automo 10:22	10:23	6:20 16:18	21:25	
		28th [2]		38:15	7:3			21:3	21:13	10.10	care [1] 20:7	
'02 [12] 17:9	17:12		7:8	10:24	accurat	ely [2]	29:6	availab		30:21	CAREY [5] 35:6 36:11	23:20 36:22
17:15 17:17	17:19	2nd [1]		10.2	36:4			aware		35:1	35:6 36:11 37:2	30:22
17:23 17:24 22:21 22:22	18:9 22:23				action		38:12	anaroi	*1		Carey's [1]	24:9
23:8	<i>44.43</i>		-3-		activiti		22:7		-B-		case [9] 7:12	7:19
'03 [11] 18:10	18:11			0.22	activity		12:19	bad [2]		11:15	8:1 8:14	9:1
18:16 19:14	19:17		9:10 18:19	9:22 21:3	12:20						10:21 15:23	21:23
19:21 23:2	23:4		3:20	21.2	actual		13:19	bands		31:11	35:18	
23:9 28:13	28:13	30th [2] 1		22:21	acute [2]	19:18	based [- 20:22	i] 20:23	20:21 35:15	cases [1]	13:10
'04 [5] 12:3	20:4	3	13:17	<i></i> 1	19:22		22:5	basis [2		28:23	caused [1]	28:3
20:5 20:15	23:13		11:22		additio			bathing	-	12:12	causing [1]	17:6
'05 [1] 17:21				19.10	adjourn	iment [1]			12.12	certain [2]	35:8
'2 [1] 17:12		3rd [3] 1 20:15	11:2	18:10	38:9 affiliat	ed m	38:12	Beal [1] Beal's		16:17	35:13	
		20:15			affixed		38:12				certainty [1]	21:1
			-4-		aforesa		38:5	Beals [2 8:5	10:21	7:8 11:18	certified [5]	6:2
10 _[3] 8:17	13:16				aforesa 38:7	uu [2]	39:2	13:5	13:8	14:20	6:3 6:8	6:9
26:11			12:4		afterwa	ards on	11:19	16:3	20:24	21:2	6:11	38:4
10-27-03 [1]	19:22	40 [2] 1	12:4	22:2	again [2		15:18	21:6	21:11	21:22	certify [2] 38:10	30.4
104 [1] 13:22					15:25	16:7	18:1	24:8	24:10	26:21 28:2	cervical [10]	17:4
10:20 [2]	13:12		-5-		18:12	18:15	19:6	26:22 29:12	28:1 30:25	20.2 34:13	17:5 21:8	21:12
24:20		5:00 [1] 3	37:4		20:4	20:5	20:17	34:19	34:20	00	26:13 26:15	
10:52 [2]	13:13		17:21	17:22	20:20	22:24 27:25	23:4 28:9	became		24:15	27:19 27:23	28:4
24:20	18:9	17:23			27:7	27:23	31:23	beginn		19:14	changes [1]	20:20
10th [2] 17:15	18:9				33:10	£9.19	51(20	Belmo		9:21	charge [2]	25:2
11 [1] 36:18	22-0	I	-6-		against	in)	24:9	bend [3]		14:10	25:6	
12th [2] 9:18	23:8	6th [3] 9	9:13	18:15	ages [1]			14:11			Charles [1]	9:24
15 [1] 13:16	17.04	23:4			ago [3]		29:21	bendin	g [2]	12:5	check [2]	14:23
15th [3] 17:21 23:2	17:24				36:18			22:3	-		20:1	14:9
16 [1] 10:2			-7-		agree [2]27:11	33:13	better	2]	17:9	checked [3] 15:13 16:5	14:9
16th [1] 17:17		7 [2] 9	9:15	10:6	alert	13:25		17:20			chest [1] 14:25	
	10:6				almost	[3]	16:24	betwee		8:19	children [1]	12:11
17 [2] 9:13	10.0		-8-		17:12			beyond	[2]	22:13	chin [1] 14:24	
17th [1] 19:17	13.11	8	38:17		amoun	t [1]	24:20	28:2		25.01	chronic [1]	7:4
19 _[2] 9:25	12:11		38:17 17:19	22:23	answer		26:24	biopsy		35:21	Civil [1] 38:13	
1976 [1]6:1	6.10	8th [2]	17.19	22.23	27:8	36:8		bit [3]	16:13	19:3		36:7
1977 [2] 6:2	6:10		_ A		answer		29:14	19:16	11.00		claiming [2] 36:7	10.1
1992 [1] 9:13	AC 17		<u>-A-</u>		apprec		26:24	Blair		6:2	claims [1]	29:22
1994 [2] 35:8	36:16	abandon	1ed [2]	29:5	27:8	32.14		board [6:3	4] 6:8	6:2 6:9	clean [2]	12:13
19th [1] 20:4		30:1			approp	riatene	SS [1]	Bobo		38:3	22:5	12.10
		able [13]	8:16 12:13	11:4 12:14	7:18		0.33	38:17	د]	50.5	cleaning [1]	11:24
			12:15	12:14	April		9:22	bones	11	18:6	client [1]	24:9
20 [1] 11:23			15:6	21:25	area [2]		33:4	Book		33:20	Clinic [1]	11:23
2002 [7] 9:10	9:15		22:5		areas [4		16:2	brain [00.20	clinical [1]	31:6
9:18 9:21	11:2	abnorma		[7]	31:11	32:6		Brando		33:21	coming [1]	17:16
18:19 21:3			22:20	22:20	arm [1]		16.77		ided [1]		Commission	
2003 [5] 9:13	9:22		22:25	23:8	arms [2		16:7	bruise		11:16	38:17	8 [1]
9:25 10:2	27:17	23:11		16.0	asks [1]		10.10	21:10	[2]	01,11	commission	ed m
2004 [4] 9:25	10:5	absent [1	-	16:8	athleti	C [2]	12:19	busy [2	1 6.24	25:16	38:4	
10:6 28:17	10.24	29:8	9] 29:17	28:7	12:20	**	15.10	0439 [2	1 0.47	arw - 2 W	Community	rn 9:21
2005 [3] 7:8 38:15	10:24	accident		9:10	atroph	-	15:18		-C-		complain [1]	
2008 [1] 38:17			[<u>27]</u> 10:22	9:10 10:23	attorne 38:10		7:13				complaining	
2008 [1] 58:17 20th [2] 17:12	22:22		11:20	12:1	attorne		25:25	C [2]	38:1	38:1	14:20 18:22	
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AWN M. PA	A V ELK	EI, EI AL.		ancion	P. (91	23:22	may	[13] 9:10	9:1.				4:20 5:17
jown [1]	13:24 i	independently	[1]	24:6 2	24:7	34:3	11:2	14:6	14:		nuscle [10]		8:24
rooming [1]	12:12	14:13	19:10		35:3	36:12	15:2				15:18 15 19:4 19		20:3
uess [1]	27:7		19:10	36:15	36:21		18:1 23:4				21:8 27	• -	27:12
0000 [1]		·	11:6		8:17	25:21		-	6:4		nuscles [1		5:17
-H-			32.24	29:15			mea 10:1		-	18	15:4 15	5:8 1	5:11
	24:22	34:23		laundry	F-1	12:16	31:						16:11
alf [2] 13:13	16:6		20:17	lawnmo	wer [1]	22:8		ns [2]	24:				19:3 31:12
nammer [1]	10.0	31:18		lawsuit		24:8	24:	14		1_			
land [2] 15:14	38:14		34:17	lay [1]	30:18			lical [12			Musking	ແມນເນັ່ງ. ຄ.ລະ	10.1
nanding [1]	0.0	inject [1]	32:6	laying	2]	14:13	7:4			3 1 ;16	must [1] 28	8:20 •1 •• • • •	20.14
nands [1]	50.17	injected [3]	31:16	14:16			7:1			:12	myofacia	9:9	29:11
head [9] 11:8	15:14 18:1	31:20 31:25		lead [1]			20:		-				32:17
17:2 17:17 18:11 18:22	19:8	injections [1]	31:23	least [1]	31:18		me	dical/le		1		2:23	33:1
19:11 10:22	19.0	injured [1]	36:1	left [9]	11:7	11:8	13	10	81-1		33:15 3	3:17	35:19
headache [1]	11:3	injuries [10]	6:16	13:12	15:12	16:12 21:10		dicine		15			
heels [3] 14:3	14:5	7:1 11:25	21:2	19:11 21:12	21.9	21.10	33		19 35	5:14		-N-	
14:7		21:7 21:20	21:25	ì	14:14		me	eting [2]	30):15	name [1]		24:7
helped [1]	18:12	22:9 27:4	29:21	leg [1]		36:2	36	:16			naturally	vni	26:9
hereby [1]	38:4	injury [3]	15:23	legitim		16:7	me	mbers [15	nature [1]	<i>,</i>	10:17
hereto [2]	38:10	28:5 36:6	7:2	legs [2]		27:23	me	mory [1		4:1	nebulou		29:6
38:11		inpatient [1]		length		19:24	me	ntione	d[2] 8	:25	neck [51]		11:3
hereunto [1]	38:14	instance [1]	35:18	letter [3	ij 19:22	19:24	28	3:16			11:8	12:25	13:2
herniations (1	22:12	instead [1]	18:4	28:16 Liebes	1. indice	1 10.4	mi	CTOSCO		5:22		14:21	14:21
herself [3]	12:12	interested [2]	35:11	10:6	20:8	20:11	mi	ght [1]		.8:9	14:24	15:1	15:4
26:22 34:20		38:12	6:20	23:16	31:15	31.16		Id [2] 19):1 2	1:8	1 10//	15:19	15:23 16:12
hired [2] 8:13	24:13	involved [3] 6:23 35:22	0:20	31:22	32:8			ine [1] 20				16:8 17:2	17:6
history [7]	7:15	1	12:24	life [1]	10:19			inimal		21:24		17:10	17:13
10:12 10:14	10:16	involving [1]	12.2	lift (1)	14:16		1	inute [2]		23:23		17:17	17:18
10:20 11:19	13:15	issue [1] 7:16	25:3	lifting	[[3]	12:5		4:4			17:20	17:24	17:25
hit [1] 19:8		issuing [1]	6.02	22:3	26:16		m	inutes [2]	13:16	18:2	18:3	18:10 18:22
hobbies [1]	12:22	itself [1] 31:14	1	ligame	ents [1]	18:7		3:17			18:11	18:13 19:6	19:12
holding [1]	33:20			limita	tion [1]	17:10		iss [1] 1			18:24 19:20	20:2	20:3
home [2]	11:4			· limp [m	issed [2	1	12:6	20:16	22:15	22:15
21:25		J [1] 38:4		Lisa		8:5	2	2:3		n .	22:22	23:4	23:11
hope [1] 36:8		January [7]	9:13	10:9	10:21		n	isunde	rstood	[1]	23:13	23:17	26:13
hospital [2]	6:25	9:25 18:10		21:1	21:11		1	25:16		25.11	26:15	27:4	8:7
9:21		20:4 23:13		24:8	24:10		n	ionth [2]	l	25:11	need [2]	7.18	14:15
hour [4] 13:13	3 24:22	job [2] 12:4	22:2	listed		18:25		25:16	6 3	16:24	negativ	ve [1]	14:15
25:8 25:9		jobs [5] 12:1	17:21 23:3	litera	ture [3]	33:11		10nths (23:7	2]	10.24	nerve [[10] 15:19	
hours [6]	11:22 22:2	17:25 23:1	9:12		33:16			norning		13:12	14:17 16:1	15:19	20:1
11:23 12:4 24:23 24:25		Joseph [1]	9:12 9:25		[1] 12:10			101 11 11 E 10 St [4]		27:6	20:3	32:25	
house [3]	12:10	July [9] 7:8 10:24 16:23			winde	a [1]	I	27:14	21.20	27.0	nerves		6:17
12:13 22:6		10:24 16:23 19:17 22:21		36:8		28:12		nostly		25:18	18:6	. [-]	
household		28:13		longe				notion	-1 [10]	14:9	nervo	US [1]	6:16
hurt [1] 26:1	-	jury [3] 6:13	7:10		[3] 18:1	0 19.15	י ן א	14:23	15:1	15:13	neuro	logic	1] 17:13
husband [2]		24:12		35:22		24:17	7	17:1	17:10	17:13	neuro	logist	[2] 6:23
13:24						13:21		17:16	18:1	18:10	20:22	0	
13.21		K		- 26:7	ing [2]	12.21		18:11	18:13	19:5 20:17		logy [4	4] 6:1
-1	[_	keep [1] 24:1	a		[5] 14:1	15:25	5	19:11	19:19 22:22	20.17	6:2	6:12	6:15
		kind [2] 12:2	2 33:17	16:2				20:18 23:3	23:10	23:17	never	րլ	24:1
immediate	[1] 29:4		6:22		[2] 14:5					20:19	1	[5] 9:15	5 9:17
impairmen	τ[1] 14:1	kinds [1]			[4] 17.2		1	motor (MRI [3]		18:3	9:20	9:24	1 10:2
impossible	29:22	knee [4] 11:3				M-	I	22:15	7.10		nobo	dy [1]	32:2
impression	1[1] 29:16	21:10 21:1						MRIs [11	35:20		.] 38:1	12
including	3] 6:17	knowing [1]	30:8	IVI [2				MICIS [2]		30:25	norm	nal [20]	14:
6:18 21:		known [1]			netic [IVLI S [2]	11.10	13:5	14:19	9 15:1	16 16:
incorrect []			26:21 22 34:19) maj	ority [1)	Ms [14] 13:8	14:20	16:3	17:2	17:	
increasing	[1] 26:14	28:1 32:2	SA J7.12	mar	ageme	ent [1]		16:17	21:6	26:21	17:1		
independe	nt [3]		 [7:5	-			26:22	28:1	28:2	19:12	2 19:	10 44
7:12 12:	12 24:12	·	<u></u>	—— mai	ked [1]	8:3		<u> </u>				T	ndex P
			ידמוזר ו				•					ľ	ndex

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