IN THE COMMON PLEAS COURT OF BELMONT COUNTY, OHIO

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LISA A. BEALS,)

PLAINTIFF,)

-vs-) CASE NO. 04 CV 159

DAWN M. PAVELKEY, ET AL.,)

DEFENDANTS.)

- - -

VIDEOTAPED DEPOSITION of DR. ROBERT J. THOMPSON, a Witness herein, called by the Defendants for examination under the statute, taken before me, Debbie M. Bobo, Registered Professional Reporter, Notary Public in and for the State of Ohio, pursuant to the stipulations of counsel hereinafter set forth at 945 Bethesda Drive, Zanesville, Ohio, on Wednesday, December 21, 2005, beginning at 4:15 p.m.

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ON BEHALF OF THE PLAINTIFF:

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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 DR. ROBERT J. THOMPSON, a Witness herein, called for examination by the Defendants under statute, may be taken at this time by the Notary and 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 signature of the said witness to the transcript of the 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.

INDEX OF EXAMINATION

INDEX OF EXHIBIT

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(Defendant's Exhibit A marked.)

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DR. ROBERT J. THOMPSON

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

DIRECT EXAMINATION

BY MR. CAREY:

Q. Sir, please sate your name and professional address for the jury.

A. Robert Jordan Thompson, 945 Bethesda Drive, Zanesville, Ohio.

Q. Are you a licensed medical doctor in the State of Ohio?

A. Yes.

Q. When did you receive your license?

A. 1976.

Q. Could you tell the members of the jury your educational training?

A. I graduated from the University of Pittsburgh with a BS 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 Montefiore Hospital in Pittsburgh 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. When you say board certified, what does that mean?

A. Once he or she completes a training program one then 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. How long have you been board certified?

A. Since 1977.

Q. And what specialty are you certified in?

A. Neurology.

Q. Can you tell the members of the jury what's encompassed in that specialty?

A. Neurology is a subspecialty of medicine that deals with diseases and injuries of the nervous system, including the brain, spinal cord, nerves, muscles, and those supporting structures, including the spine.

Q. Dr. Thompson, do you treat people who have been involved in automobile accidents?

A. Yes.

Q. How do those kinds of people or how -- get involved with a neurologist such as yourself?

A. I have a very busy practice, both in the office and the hospital, seeing many different types of

injuries. I'm also the medical director of the inpatient rehabilitation program here in Zanesville, in which we see a lot of people with auto accidents. I'm also the medical director of the chronic pain management program in which we see people who suffer from spine problems.

Q. Dr. Thompson, at my request did you conduct an examination of Lisa Beals on July 29, 2005?

A. Yes.

Q. Could we tell the jury how these medical exams are set up through your office?

A. In a case like this -- this was an independent medical exam in which an attorney, such as yourself, calls the office and asks me to examine the patient on a one-time basis, take a history from the patient, examine them, review medical records, and then issue a report regarding opinions on the diagnosis, prognosis, appropriateness of treatment and the need for future treatment. In a case like this I am not the treating physician and I only see the patient on one occasion.

Q. Doctor, you say you've prepared a -- a re -- you typically prepare a report on your examination of -- of the patient?

A. Yes.

Q. And did you prepare such a report in this

case?

A. Yes.

Q. I'm handing you what's marked Defendant's Exhibit A. Is that a copy of the report you prepared on Lisa Beals?

A. Yes.

Q. Okay. Doctor, feel free, if you need to, to refer to your report in the rest of your testimony.

Doctor, we're here for a -- a deposition. Is it something that you have done in the past?

A. Yes.

Q. Do you give deposition testimony whether you're an examining physician, such as you're hired for in this case, or a treating physician?

A. Yes.

Q. Are you able to estimate for us the number of depositions you've given over the last 10 years in which you've been the treating physician?

A. Usually -- I -- I would estimate I do between 25 and 30 depositions a year, and in the vast majority of those I am not the treating physician.

Q. Okay.

A. So -- and occasionally I'll be the treating physician, but usually I am not.

Q. You've mentioned as -- as part of your

preparation in this case you reviewed some medical records; is that right?

A. Yes.

Q. And those are records that I sent to you?

A. Yes.

Q. And I believe they were eight sets of records, and I'm going to read them, and I just wonder if this corresponds with what you received from me.

First, the emergency room records of the accident of May 3, 2002?

A. Yes.

Q. Second, the records of Dr. Joseph Williams from January 17, 1992, through May 6th, 2003?

A. Yes.

Q. Next, an MRI of November 7, 2002?

A. Yes.

Q. Next, emergency room records of another visit of September 12th, 2002?

A. Yes.

Q. Next, physical therapy records from the Belmont Community Hospital from November 27th, 2002 through April 3, 2003?

A. Yes.

Q. Next, some records of a Dr. Charles Geiger from July 2003 through January 19, 2004?

A. Yes.

Q. Next, an EMG of August 16, 2003?

A. Yes.

Q. And finally, a report of a Dr. Liebeskind dated August 3, 2004, plus two progress notes from Dr. Liebeskind of August 17 and September 7, 2004?

A. Yes, I did review all those records.

Q. Okay. After the records review you conducted, Doctor, did you also examine Lisa here at the office?

A. Yes.

Q. As part of that examination did you take a history from her?

A. Yes.

Q. What do you mean by taking a history? Is that just asking her what her problems are?

A. A history is a story in the patient's own words as to the nature of the accident, what symptoms they're experiencing, how those symptoms effect their life, what treatment they're receiving, whether there's any past history of any similar problems.

Q. Doctor, in this case Lisa Beals was in an automobile accident. What did she tell you about the automobile accident when you treated her in the office -- or saw her in the office on July 29, 2005?

A. She told me she was the restrained driver of a

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.

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

Q. Doctor, did Ms. Beals tell you about her work history around the time of the accident and afterwards?

A. Yes. At the time of the accident she was working in a restaurant, the Union Street Station, as a dish washer, about 35 hours a week. She was also working at the Blair Clinic about 20 hours a week doing cleaning. She states that she did miss some work as a result of her injuries, but then she then quit both of

these jobs at some point after the accident.

She subsequently went to work on August 26th of '04 at Cabela's and she is currently working there about 4 -- 40 hours a week picking orders. Her job does entail a lot of bending or lifting, and she is working regularly and has not missed any work at Cabela's as a result of her symptoms.

Q. What was her household situation as she told you in the office?

A. She currently lives in a house with her husband and two children, ages 19 and 23. She's independent with dressing herself, bathing, grooming, feeding. She's able to clean the house. She's able to do the cooking and shopping. She's able to drive and did drive to the exam on the day that I saw her. She is able to do her own laundry. She stated that she was not able to do the yard work anymore.

I asked her if she engaged in any type of athletic activity, and she denied that she engaged in any type of athletic activity, either prior to the accident or subsequent to the accident. And she does not have any hobbies of any kind.

Q. Doctor, did she tell you about any similar problems she had had before the accident involving her neck and shoulder?

A. She denied to me that she'd ever had any problems with her neck or shoulder prior to this accident.

Q. Doctor, did you then conduct a physical examination of Ms. Beals?

A. Yes.

Q. By the way, Doctor, how much time did you spend with Ms. Beals in this examination at your office?

A. On medical/legal cases I'm often asked that, so I did write down the times that I saw her. And I went in to see her at 10:20 in the morning and left the room at 10:52. So I spent approximately a half an hour with her face-to-face. During that time, the whole time was spent taking her history, and it would take me about 10 or 15 minutes to examine her neck and back and reflexes. So all told, I spent about 32 minutes with her face-to-face.

Q. Doctor, let's go to the actual physical exam you conducted. Tell us what you did and what you were looking for and what you found.

A. She was five-foot, two, weighed 104 pounds. She was examined in a disrobed state with an examination gown on in the presence of her husband. She was very pleasant. She was alert. There was no

memory loss or speech impairment. I did watch her walk in the exam room. Her walking was normal. She did not limp. She was able to walk on her toes and heels well.

We -- we have people walk on their toes and heels because people who have a pinched nerve in the back or spinal cord problems may have weakness when they walk on their toes or heels, but there was no evidence of that.

I checked the range of motion of her low back by having her bend over and touch her toes, bend from side to side as much as she could, and then bend back as much as she could. And that was excellent. She was able to get up independently from a laying down to a sitting position. The straight leg raising test was negative. That's a test where -- with the person laying on their back the doctor will lift their legs straight up, and if they have a pinched nerve in the back they may experience some pain. But that test was normal.

Q. Doctor, I think Ms. Beals was complaining of -- of neck problems. Did you examine her neck in the office?

A. Yes. I did check the range of motion of her neck by having her put her chin over on her -- each shoulder, down on her chest, and then as far back as

she could, and the range of motion of her neck was full.

There was no evidence of any spasm in any of the muscles of her neck. There were no -- there was no trigger point tenderness. Trigger points are little areas of spasm and tenderness that the doctor is able to feel when -- with -- when pushing with his thumb on the muscles. But there was no evidence of any trigger point tenderness anywhere.

She did have some slight tenderness, some slight subjective tenderness of some of the muscles on the left side of her neck.

I checked range of motion of both shoulders by having her put her hand -- arms over her head as far as she could and as back as far as she could, and that was normal.

There was no evidence of any muscle weakness, atrophy, or muscle fasciculations. Again, in patients who have a pinched nerve in the neck we can usually find evidence of either weakness of the muscles or little twitching in the muscles, called fasciculations, or the muscle may actually get smaller if there's any evidence of nerve injury in the neck. But in her case there was no evidence of that.

There was no loss of sensation. Again, if

someone has a pinched nerve in the neck we may see areas of loss of sensation. But there was no evidence of that in Ms. Beals.

All of her deep tendon reflexes were present and symmetrical. Deep tendon reflexes are checked with a reflex hammer just tapping on the tendons and the arms and legs. And again, if someone has sign -- a pinched nerve in the neck we may see an absent or diminished reflex, but they were all present. And -- so, essentially her exam was normal, with the exception of some subjective tenderness in the muscles of her left side of her neck.

Q. Doctor, I'm going to ask you in a little bit about your diagnosis on that day. But before I do that, could you run us through a review of the pertinent medical records that I provided you with respect to Ms. Beal's complaints regarding the automobile accident?

A. Yes. I did --

Q. Let's start -- let's start with the family doctor, Dr. Williams. Okay?

A. I did review the records of Dr. Williams. The first time he saw her after the accident was July 30th, almost two months later, at which point she was still having some neck pain and numbness in her shoulders.

When he examined her she had full range of motion of the head and neck. She had normal strength and reflexes, similar to my exam. And his diagnosis was cervical strain.

Q. What's a cervical strain?

A. A pulling of the muscles in the neck causing discomfort.

He saw her on a number of other times after that. On August 2nd of '02 her neck was summed better. She had some limitation of range of motion of the neck, but it was not as severe. Reflexes were normal. By August 20th of '2 -- of '02 there was almost normal range of motion of the neck and her neurologic exam was normal.

By September 10th of '02 her neck pain was coming and going. She had good range of motion of the head and neck. On September 16th of '02 she did complain of some swelling and numbness in her neck, but there was no objective findings. By October 8th of '02 her neck was feeling better. She was working at two jobs. By November 15th -- by November 5th of '05 --

Q. November 5th of which year, Doctor?

A. I'm sorry. By November 5th of '02 she was still having some neck pain. By November 15th of '02 she was having neck pain but was working three jobs.

Again, she had good range of motion of the head and neck.

She had an MRI scan of the neck, which is a test where they use magnetic rays instead of X-rays to give us pictures of the spine, so we cannot only see the bones, but we can see the nerves and the spinal cord and the discs and the muscles and ligaments. And that test was perfectly normal.

December 10th of '02 she had good range of motion of her neck. January 3rd of '03, good range of motion of the head and neck. January 24th of '03, physical therapy had helped her. And again, she had good range of motion of the neck.

He continued to see her over -- up until about a year after the accident. And again, by May 6th of '03 he still noted there were no objective findings on exam.

Q. Doctor, did you also look at the emergency room records on the day of the accident, May 3, 2002?

A. Yes.

Q. What did those show?

A. She was complaining of pain in the head, neck and shoulder. The emergency room doctor felt that she did have a muscle strain in the neck. There was no loss of consciousness. Her symptoms were listed as

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A. Yes.

Q. What did those show?

A. She was complaining of pain in the head, neck and shoulder. The emergency room doctor felt that she did have a muscle strain in the neck. There was no loss of consciousness. Her symptoms were listed as

mild. The doctor noted she was in no -- no distress. She had normal gait and strength, although did have a little bit of spasm in the muscles, as would be expected from a muscle strain.

She had some decrease in range of motion of the neck, again, which is what we would expect with a muscle strain. It was noted that the accident was at, quote, low speed, unquote, and her head did not hit anything.

The nurse's notes indicate that she had full range of motion of her head and left arm, and X-rays of the neck were normal.

Q. And, Doctor, did you look at the records from the -- from Dr. Geiger beginning in July of '03?

A. Yes. Dr. Geiger saw her -- started to see her a little bit more about a year after the accident. He first saw her on July 17th of '03. He noted on exam she was in no acute distress. She had no -- normal range of motion of the extremities, and no abnormalities of the neck were described.

On August 28th of '03 he noted she was in no acute distress. On 10-27-03, in a summary letter, I don't believe he saw her that date, but in a summary letter he noted that she had had an EMG done.

Q. What's that, Doctor? What's an EMG?

A. An EMG is a test to check for a pinched nerve in the neck. And that test did not show any evidence of muscle spasm or a -- a pinched nerve in the neck.

And again, he saw her on January 19th of '04 and September of '04, and again, which there was no objective findings noted.

Q. Doctor, did she eventually come under the care of a Dr. Liebeskind?

A. Yes.

Q. What's -- do you know what specialty Dr. Liebeskind practices?

A. No.

Q. Okay. What do his notes say that he did for her?

A. He first saw her on August 3rd of '04, and he noted that she -- she -- she had discomfort in her neck only on extremes of range of motion. Again, indicating she had full range of motion. There was no spasm. There was no motor weakness, sensory loss, or reflex changes. So again, his exam was very similar to mine.

Q. Doctor, based on your education, training, and experience as a neurologist, and based further on the medical records you reviewed, and further, based on your examination of Lisa Beals in the office, do you have an opinion that you can state within a reasonable

medical certainty as to the physical condition of Lisa Beals as it relates to the injuries she suffered in the automobile accident of May 3, 2002?

A. Yes.

Q. What is that opinion, Doctor?

A. In my opinion I feel that Ms. Beals did suffer several injuries as a result of this accident, including a mild cervical muscle strain, a strain to the muscles in the left shoulder, and a contusion or a bruise of the left knee.

Q. Doctor, you've diagnosed Lisa Beals then with a cervical strain, a shoulder strain, and a left knee contusion as a result of the automobile accident. Do you have experience in treating patients with those types of problems?

A. Yes.

Q. What is the ordinary prognosis for patients in those conditions?

A. I would expect complete recovery from these type of injuries within four weeks at the most.

Q. Is there any support for that four-week course that you find in the treatment records of Lisa Beals in this case?

A. Yes. Number one, these were very minimal injuries. She was able to drive her car home. She was

subsequently able to return to work and is currently working 40 hours a week at a job that requires a lot of bending and lifting. She's not missed any work recently because of her symptoms.

In addition to working, she's able to clean her house and do the cooking and shopping. She's resumed all of her regular activities, except for running the lawnmower and doing yard work. Also, there was no evidence of any more serious injuries, such as fractures, dislocations --

Q. How do you know that, Doctor?

A. -- disc herniations, or anything that would be expected to cause symptoms beyond four weeks.

And the reason I know that is because X-rays of her neck, EMGs, and MRI scans of her neck were all totally normal.

Also, in reviewing the records of her family doctor, Dr. Williams, who examined her on several occasions after the accident, he found no abnormalities -- no objective abnormalities.

On July 30th of '02 she had full range of motion of the neck. On August 20th of '02 there were no objective abnormalities. By October 8th of '02 he again noted that there was a slight decrease in range of motion, but no objective abnormalities, and she was

actually working two jobs.

By November 15th of '03 Dr. Williams noted she was working three jobs and had good range of motion of the neck. By May 6th of '03 he again noted that there were no objective findings.

Also, she was examined by another physician about four months after the accident. On September 12th of '02, no abnormalities were noted on exam. Also, Dr. Geiger's exam in July of '03 revealed normal range of motion of the extremities and no abnormalities of the neck.

There was a note that she had spasm in the muscles of the neck in January of '04, but this was not noted on the EMG test. And the EMG test is very sensitive for picking up spasms.

Also, Dr. Liebeskind, who examined her, noted full range of motion of the neck with no spasm. And also, my exam was totally normal with no objective findings.

MR. CAREY: Dr. Thompson, I don't have any other questions. Thank you.

MR. LANCIONE: Could we go off the record for a minute, please.

VIDEOGRAPHER: Off the record.

- - -

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.

Q. And on the upper right-hand side, Doctor, there's a figure $1200. Is -- is that your charge for the exam and issuing your report?

A. Yes.

Q. And then you did the deposition today. What was your examination for -- what's -- what's the charge for your giving your deposition today?

A. $900 for the first one hour, and $400 for every hour after that.

Q. And you previously testified you do about 25 depositions a month?

A. A year.

Q. Oh, a year. I'm sorry.

A. Yes.

Q. Oh, okay. Well, that would have been pretty busy, 25 a month. I'm sorry. I misunderstood you, Doctor.

25 depositions a year, mostly for the defense side?

A. Yes.

Q. You do a lot more exams, though. The last time we talked I think you were doing about three a week?

A. I would estimate I do about three to four exams a week at the request of attorneys, yes.

Q. That's the same type of exam we're talking about here today?

A. Yes.

Q. You were talking about the doctors who she seen and making reference to their not finding any subjective symptoms. The first one we talked about I think was Dr. Williams. But as I'm looking at Dr. Williams' notes -- and -- and he didn't see her until -- you thought she would naturally have had a recovery within about four weeks. He didn't see her until about 10 weeks after the accident, if I'm reading that correctly. And -- and he continued to diagnose her with cervical strain/sprain and talk about her neck pain increasing on activity. He talked about exacerbation of cervical strain, how her neck would hurt more when she was working and doing lifting. Is that correct?

A. Yes.

Q. And -- and do you disagree with his diagnosis during those visits he had with her?

A. Well, the only person who knows if Ms. Beals was having pain is Ms. Beals herself. He's just relating what symptoms that she -- what she had.

Q. Well, I -- I appreciate that answer, but my question is, do you disagree with his diagnosis that

she still was suffering from this condition during the time he was treating her?

A. My opinion is that she did suffer from a muscle strain to the injuries in her neck, but that I would have expected her to have recovered within four weeks at the most.

Q. Well, I guess that's -- that's -- once again, I appreciate that answer, but it doesn't really -- it seems to me that you're saying you do disagree with this diagnosis?

A. No, I agree with his diagnosis. I think she did have a cervical muscle strain. But as far as recovery, I would have expected her to have recovered within four weeks, at the most.

Q. Okay. And he was treating her long after four weeks and still had that same diagnosis. So at the time he was treating her, into even 2003, as I'm reading his notes, he continued to diagnose her as suffering with pain from this cervical strain?

A. Yes.

Q. And -- and what -- what is -- what -- how do you feel about him continuing to treat her and diagnose her with cervical strain after that length of time after the accident?

A. Well, again, my testimony is that the only

person who knows if Ms. Beals was really having pain or not was Ms. Beals. If she was having pain beyond that four-week period of time I do not think it was caused by the cervical strain, because I would have expected her to have recovered from that injury within a four-week period of time.

Q. All right. I'll accept that.

Now, she started seeing Dr. Geiger, and of course you might have the same opinion. Once again, it was well over a year after the accident. She had been seen by Dr. Williams and then she ended up not treating with him any longer. She ended up I think seeing him in May of '03, and in July of '03 she saw Dr. Geiger. And -- and he has diagnosed her with a myofacial pain syndrome. If -- once again, that's the way I'm reading his letter that you mentioned dated September the 24th, 2004.

A. Yes, that's correct. He diagnosed her with that condition.

Q. Do you disagree with that diagnosis?

A. Yes.

Q. And -- and would you tell me why you disagree with it, on what basis?

A. On my exam I do not find any evidence of trigger points, which -- which must be present for this

diagnosis to be made.

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.

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.

Q. Well --

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

abandoned because --

Q. Fibromyalgia?

A. No, the term --

Q. Posttraumatic --

A. -- posttraumatic --

Q. -- fibromyalgia?

A. -- fibromyalgia, because there's no -- the cause of that condition is not known.

Q. Do you -- did you rely on that publication in giving your testimony here today?

A. Yes. That was one of the publications I recommend -- I -- that -- that was the only publication that I referenced to in my report.

Q. And -- and did you -- do you have a copy of that report or -- or consensus, meeting, or whatever was -- you relied on? Do you have a copy of that here in the office?

A. I mean, it would take me a long time to lay me hands on it. No, I don't have it --

Q. Okay.

A. -- readily available.

Q. All right. I -- I thought, as we were talking, you indicated that you did your examination and you couldn't find any trigger points in -- in the area where Mrs. Beals was complaining of pain. Is --

isn't that, the -- the presence of pig -- trigger points, something that you can physically feel and -- and determine?

A. Yes.

Q. And so, I mean, as far as myofacial pain syndrome's concerned, there are clinical tests that you can do to determine if that condition exists?

A. There's no tests that can be done, because tests -- all the tests in that condition are normal. But on the physical exam we can very often feel trigger points, which are small areas of spasm with tight bands in the muscles and tissues.

Q. Okay. And that's part of that. But -- but as far as the condition itself, when -- when Dr. Geiger examined her and Dr. Liebeskind examined her and they -- I think Dr. Liebeskind even injected some trigger points. At the time they did the examination -- at least they are indicating that they found trigger points.

A. He stated -- Dr. Geiger stated he injected a trigger point, but he didn't really describe it on any of his exams. And Dr. Liebeskind also gave some trigger point injections, but again didn't describe it, that he found any on his exam.

Q. Well, he couldn't have injected a trigger

point if he didn't find it, could he?

A. I'm just -- I'm just -- I'm referring to his records. He didn't --

Q. Okay.

A. -- say he found any.

Sometimes people will just inject areas of tenderness that aren't real true trigger points. And you'll have to ask Dr. Geiger and Liebeskind, but --

Q. Okay. Well --

A. -- in reviewing their records they didn't really indicate anywhere that they found --

Q. Okay.

A. -- trigger points.

Q. I appreciate that. I mean, if -- if Dr. Geiger did in fact find trigger points at the time he examined her, would you disagree with his diagnosis of myofacial pain syndrome?

A. The only thing I can say is his records don't indicate that he found any. I didn't find any, no one else found any, and the consensus conferences that myofacial pain syndrome should not be attributed to trauma, because nobody knows the cause of it.

Q. I did a -- a little reading on myofacial pain syndrome, and -- and I thought what I found indicated that trauma could in fact sensitize a nerve and a nerve

path and -- and could lead to myofacial pain -- pain syndrome. Do you disagree with that?

A. Well, the reason there was a consensus conference is that this is a very controversial area within medicine. Some people don't believe the condition exists at all. Other people feel that there are no objective ways to diagnose it. Most people feel that the cause is unknown. And many people feel that -- that those trigger points don't even exist, that you can't find them in anybody. So, again, you can find anything you want in the medical literature because it's very controversial.

Q. But you would agree that -- that there is medical literature out there that does recognize trauma as a precipitating factor to myofacial pain syndrome?

A. Yes. There's trauma -- there's literature out there with all kind of opinions about myofacial pain syndrome. It's very controversial.

Q. Are you familiar with The Physical Medicine and Rehabilitation Book that I'm holding here, by Randall Brandon?

A. No.

Q. Oh, okay. Well, it's not something that you use?

A. No.

Q. All right. Then I'm not going to ask you any questions about it.

MR. LANCIONE: Could we go off for a minute.

VIDEOGRAPHER: Off the record.

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Off the record.

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VIDEOGRAPHER: Back on the record.

BY MR. LANCIONE:

Q. Dr. Thompson, we're back on the record, and I just have a -- a couple more questions for you. Do you specifically remember Lisa Beals, or is your testimony basically from your notes and -- and records?

A. My testimony is from my notes and records.

Q. And did you feel -- well, is there any indication in your notes or records that you felt that she was being anything but truthful with you?

A. The only person who knows if Ms. Beals is really having pain is Ms. Beals herself. I have no way of -- of knowing that.

Q. Well, there was nothing that she did or anything in your examination that indicated that she was being untruthful, that you can remember or have any notes of at this time?

A. Not that I'm aware of, no.

Q. Okay.

MR. LANCIONE: That's all I have.

REDIRECT EXAMINATION

BY MR. CAREY:

Q. Dr. Thompson, there was some discussion of a consensus conference in 1994 with respect to certain traumatic conditions. What is a consensus conference?

A. A consensus conference is a conference where a number of physicians who are interested in a particular subject get together to discuss a controversial subject and come to a consensus regarding certain things about that subject. Normally in medicine we -- we come to the conclusions or a consensus based on scientific evidence, but in some situations there is no scientific evidence.

In the -- For instance, in the case of this myofacial pain syndrome, there is no test that we can objectively diagnose it. X-rays are normal. MRIs are normal. EMGs are normal. Even if you biopsy the involved tissues and look at it under a microscope it's perfectly normal.

So -- so these -- these doctors got together and said, well, what are we going to say regarding --

in people who have been injured in an accident, is this a legitimate diagnosis to use. And the consensus of that conference was that at this time it is not, because there's no objective way to accurately diagnose that condition in this particular population of patients who suffer an injury in an accident and then they're claiming -- claiming pain. So that's a rather long -- long-winded answer to your question, but I hope it's understandable.

Q. Very good, Doctor.

MR. CAREY: I have no other questions.

MR. LANCIONE: Just one follow-up, Doctor.

RECROSS-EXAMINATION

BY MR. LANCIONE:

Q. That consensus meeting took place in 1994?

A. Yes.

Q. That's about 11 years ago now, isn't it?

A. Yes.

Q. Okay.

MR. LANCIONE: Thanks.

MR. CAREY: Doctor, there are no other questions. You have the right to review the transcript and -- as well as the videotape, or do you wish to waive that right?

THE WITNESS: I'll waive.

MR. CAREY: Thank you.

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THE VIDEOTAPED DEPOSITION CONCLUDED AT 5:00 P.M.

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State Of Ohio : C E R T I F I C A T E
County Of Muskingum :

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 within-named DR. ROBERT J. THOMPSON 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 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 as aforesaid, transcribed from my stenographic notes upon a computer; 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 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 the action. I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

In witness whereof, I have hereunto set my hand and affixed my seal of office at Zanesville, Ohio, on this 28th day of December, 2005.

Debbie M. Bobo, RPR

My Commission Expires
January 8, 2008

DEBBIE M. BOBO, RPR
NOTARY PUBLIC, STATE OF OHIO