

1 The State of Ohio,)
2) SS:
3 County of Lorain.)

4 IN THE COURT OF COMMON PLEAS

5 Robert Ray Lee, et al,

6 Plaintiffs,

7 vs.

Case No. 00CV125489

8 Glen Whitted, M.D., et al,

9 Defendants.

10 * * *

11 Deposition of a Defendant, GLEN WHITTED, M.D.,
12 called by the Plaintiffs as upon cross-examination,
13 taken before Kathleen A. Hopkins Durrant, a Notary
14 Public within and for the State of Ohio, at the
15 Offices of Kolczun & Kolczun Orthopaedics, 5800 Cooper
16 Foster Park Road, Lorain, Ohio, on Thursday, the 9th
17 day of November, 2000, at 6:15 p.m., pursuant to
18 agreement of counsel.

19 * * *

1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 Howard Mishkind
4 Becker & Mishkind Co., LPA
5 Skylight Office Tower
1660 West Second Street
Cleveland, Ohio 44113-1454

6 On behalf of the Defendants:

7 Forrest A. Norman, III
8 Weston, Hurd, Fallon, Paisley & Howley LLP
2500 Terminal Tower
50 Public Square
9 Cleveland, Ohio 44113-3241

10 * * *

11 * * *

12 CURRICULUM VITAE MARKED PLAINTIFF'S EXHIBIT 1
13 FOR IDENTIFICATION.

14 MRI INTERPRETATION MARKED PLAINTIFF'S EXHIBIT 2
15 FOR IDENTIFICATION.

16 OPERATIVE REPORT MARKED PLAINTIFF'S EXHIBIT 3
17 FOR IDENTIFICATION.

18 PHOTOS MARKED PLAINTIFF'S EXHIBIT 4 THRU 11 FOR
19 IDENTIFICATION.

20 * * *

21

22

23

24

25

1 GLEN WHITTED, M.D.,
2 of lawful age, a Defendant herein, called
3 by the Plaintiffs for the purpose of
4 cross-examination as provided by the Ohio Rules
5 of Civil Procedure, being by me first duly
6 sworn as hereinafter certified, deposed and
7 said as follows:

8 CROSS-EXAMINATION OF GLEN WHITTED, M.D.

9 BY MR. MISHKIND:

10 Q. State your name for the record, please.

11 A. Glen Whitted, M.D.

12 Q. Dr. Whitted, my name is Howard Mishkind. We
13 were just introduced before the deposition started.
14 As you know, I represent Mr. Lee in connection with
15 the lawsuit that is pending against you.

16 I'm going to ask you some questions and the
17 Court Reporter is going to take your answers down.
18 The fact that it's about 20 after 6:00 now, let's both
19 do the courtesy to each other in terms of I'll wait
20 until you're done with your answer, wait until I'm
21 done with my question. Even though we may both be
22 tired, we'll resist the urge to cut off each other.
23 Fair enough?

24 A. That's fair enough.

25 Q. Okay. Before I start questioning you what I'd

1 like to do is just take a moment to go off the record
2 and take a look at the original of the chart that you
3 have there. That is your original chart on Mr. Lee?

4 A. This is a copy for the --

5 THE WITNESS: This is not your
6 copy?

7 MR. NORMAN: That's my copy.

8 A. Yeah, okay.

9 Q. Where would the original be?

10 A. It's probably with Mrs. Schoop. Let me see.

11 * * *

12 (Thereupon, a discussion was had off the record.)

13 * * *

14 Q. Okay. Doctor, I'm going to hand you what I've
15 had marked for identification as Plaintiff's Exhibit
16 1. Would you take a look at that and tell me what
17 that is?

18 A. This is my curriculum vitae.

19 Q. Two pages, true?

20 A. Yes.

21 Q. Is that a current and updated version of your
22 CV?

23 A. Yes.

24 Q. Anything that needs to be added or corrected to
25 make it entirely current and updated?

1 A. Not material.

2 Q. When you say not material, is there something
3 immaterial that should be added?

4 A. Not that would substantially change the
5 information in it, no.

6 Q. Let's come at it from a different way. What is
7 different about the CV, whether it's insubstantial or
8 otherwise?

9 A. Oh, I might list other employments and other
10 hospital staff appointments.

11 Q. What are they?

12 A. Fisher-Titus Medical Center, Elyria Memorial
13 Hospital, the Cleveland Clinic Foundation. And the
14 name of a hospital listed here has changed, so that
15 would be Community Health Partners Hospital.

16 Q. Any other changes, whether they're material or
17 immaterial?

18 A. No.

19 Q. Are you an employee of the Cleveland Clinic
20 Foundation?

21 A. Yes.

22 Q. How long have you been an employee of Cleveland
23 Clinic?

24 A. Nearly two years.

25 Q. In looking at your CV, I'm curious with regard

1 to your medical education. You started your medical
2 education in Germany, true?

3 A. Yes.

4 Q. And then came back to the U.S. and obtained a
5 medical degree from the Medical College of Ohio, true?

6 A. That's true.

7 Q. Why did you go to medical school in Germany
8 initially?

9 A. Well, I happened to be working as a technical
10 translator in Germany at the time and I had wanted to
11 go to medical school, had been a goal before, but
12 while living overseas and being bilingual, I helped a
13 friend of mine who is an upper level management
14 employee at the Porsche Company get admission to the
15 business school at the University of Virginia, and he
16 then said he would help me fill out applications for
17 medical school in Germany. And both of us were
18 accepted to school.

19 Q. Did you apply to medical schools in the states
20 prior to pursuing application in Germany for medical
21 school?

22 A. Yes, but I had made plans by that time to live
23 overseas and considered postponing my medical studies
24 for a period of time due to the opportunity that had
25 arisen.

1 Q. You were in medical school in Germany, it looks
2 like from 1980 through 1982?

3 A. That is right. From the beginning of, about
4 the beginning of 1980, February, I think.

5 Q. When you applied to medical schools in the
6 United States, were you accepted to any of the medical
7 schools that you applied to back in 1980?

8 A. I think I first applied to medical schools in
9 nineteen seventy-five or six, before planning to go
10 overseas, and I interviewed, but I was not accepted
11 because I notified the admissions board that I had
12 made plans to study overseas.

13 Q. How many medical schools had you applied to
14 before you made the decision to study overseas?

15 A. I think it was five or six.

16 Q. And the five or six that you applied to, you
17 were not accepted to any of them, true?

18 A. Right. I declined to pursue the acceptance or
19 the admission process at any of those schools.

20 Q. So technically all of the schools that you had
21 applied to you were not admitted to during that first
22 go around, true?

23 A. Yes, on having withdrawn my application, then I
24 was no longer considered.

25 Q. Now, when you decided to pursue education back

1 in the U.S., that would have been at the Medical
2 College of Ohio, and were you accepted on your first
3 application to the Medical College of Ohio?

4 A. Yes.

5 Q. Are you Board certified?

6 A. Yes.

7 Q. I don't see the Board certification referenced,
8 or at least the specific date. When did you become
9 Board certified?

10 A. July 1995.

11 Q. And how many occasions did you sit for the
12 Boards before successfully completing the requirements
13 and successfully passing the Boards?

14 A. I took the written Board examination twice and
15 the oral Board examination once.

16 Q. Did you have to pursue any further training in
17 order to take the Boards again?

18 A. No. It's a requirement of the Board that in
19 order to complete the certifying process that you pass
20 the written examination and then have two full years
21 of practice in one location before taking the written
22 or, excuse me, the oral Boards to be eligible for
23 certification.

24 Q. You published two articles that are referenced
25 in your CV, true?

1 A. Yes.

2 Q. Have you ever submitted any other articles,
3 book chapters, anything else to the, for publication
4 in the medical literature?

5 A. No.

6 Q. Have you ever had you license suspended or
7 revoked or limited in any way?

8 A. No.

9 Q. Have you ever been denied privileges at any
10 hospitals?

11 A. No.

12 Q. You are an orthopedic surgeon, true?

13 A. Yes.

14 Q. Do you have an area that you specialize in?

15 A. Joint replacement surgery I would say is my
16 specialty.

17 Q. Do you have any specific subspecialty training
18 in joint replacement?

19 A. Yes.

20 Q. From where?

21 A. From the Central Dupage Hospital in suburban
22 Chicago.

23 Q. When was that?

24 A. In 1992.

25 Q. You have had your deposition taken before,

1 true?

2 A. Yes.

3 Q. You have had you deposition taken both as a
4 defendant as well as a treating doctor, true?

5 A. Yes.

6 Q. Tell me just in general numbers on how many
7 occasions have you had your deposition taken as a
8 treating physician testifying as it relates to the
9 care provided to one of your patients?

10 A. I believe about four or five times.

11 Q. Have you had your deposition taken in that
12 capacity, as a treating doctor, in the year 2000?

13 A. No.

14 Q. How long ago would you say it's been since
15 you --

16 A. Oh, I'm sorry, I have to, I have to think.

17 Yes, I think I have been deposed in the year
18 2000, on a shoulder surgery.

19 Q. Was it an injury that your patient had and some
20 lawsuit was filed relative to the situation that
21 caused the shoulder injury?

22 A. I think, no. I think there was a disability
23 question involved in a young person with an unusual
24 type of shoulder problem.

25 Q. Let's put aside the depositions that you have

1 given in connection with your patients as the treating
2 physician. Let me start out first and work down.

3 How many times have you been named as a
4 defendant in a medical negligence case?

5 A. I believe four times.

6 Q. Is this the fifth?

7 A. No, this would be the fourth. Although not
8 chronological in terms of how they have been dealt
9 with, this is the fourth.

10 Q. Are any of the cases still pending?

11 A. No.

12 Q. This is the only malpractice case that you have
13 against you to your knowledge that's pending in a
14 Court?

15 A. Yes.

16 Q. Have any of the cases against you in the past
17 dealt with issues relative to a surgical repair of a
18 knee?

19 A. No.

20 Q. Have you ever served as an expert witness
21 either on behalf of an orthopedic surgeon or on behalf
22 of a patient bringing a claim against another doctor?

23 A. No.

24 Q. The other cases that were filed against you
25 were all in Lorain County, true?

- 1 A. Yes.
- 2 Q. You and I have never met before, have we?
- 3 A. No.
- 4 Q. You have met my partner, Mike Becker?
- 5 A. Yes.
- 6 Q. He took your deposition on a past occasion?
- 7 A. Yes.
- 8 Q. Is that one of the cases that you were named as
- 9 a defendant?
- 10 A. Yes.
- 11 Q. Do you remember the subject matter of that
- 12 case?
- 13 A. I do.
- 14 Q. What type of injury or what type of surgical
- 15 procedure was that case?
- 16 A. It was a revision hip replacement.
- 17 Q. Do you do any teaching to residents or to
- 18 medical students?
- 19 A. No.
- 20 Q. Have you at any time in your career been an
- 21 assistant, an associate or a full professor at any
- 22 university or medical school?
- 23 A. No.
- 24 Q. Let me ask you whether you remember Mr. Lee, so
- 25 that I can determine the scope of my questions. Do

1 you remember the patient?

2 A. Yes.

3 Q. When is the last time you saw Mr. Lee?

4 A. I believe it would be at his last office visit
5 of September 4th, 1996.

6 Q. You have not seen him out in the community
7 since then?

8 A. No.

9 Q. You know Dr. Williams, Dr. James Williams?

10 A. Yes.

11 Q. You are aware that Dr. Williams has provided
12 treatment to Mr. Lee since you last treated him?

13 A. No, I wasn't aware.

14 Q. That wasn't brought to your attention by your
15 attorney?

16 A. No.

17 MR. NORMAN: Objection to what we
18 discussed.

19 Q. I take it you have not had an occasion then to
20 talk to Dr. Williams concerning Mr. Lee?

21 A. No.

22 Q. All right. If appropriate, if necessary when
23 we get to Dr. Williams' treatment, I will be happy to
24 show you the operative report for the two surgeries
25 that he's performed and give you an opportunity to

1 take a look at them. If you can answer questions that
2 relate to what he's done and the significance of your
3 treatment then, fine. If not, and you need to study
4 his operative report to respond to those particular
5 questions, when we get to that we'll adjourn and
6 revisit those issues at another time, okay?

7 A. All right.

8 Q. But before we get to that point, let's talk
9 about Mr. Lee and the treatment that you provided to
10 him.

11 Aside from the records that you have in front
12 of you, Doctor, is there anything else that you have
13 reviewed in preparation for today's deposition?

14 A. No.

15 Q. Have you reviewed any medical literature as it
16 relates to the treatment of the knee for purposes of
17 this deposition?

18 A. No.

19 Q. Are there any authoritative texts or
20 authoritative journals that you believe support the
21 treatment plan in terms of the approach to the
22 suspected anterior cruciate ligament and then the
23 chondroplasty and the notchplasty procedure that you
24 did back in 1996, any literature that you could direct
25 me to that would suggest that the manner in which you

1 treated Mr. Lee was an accepted mode of therapy?

2 MR. NORMAN: Objection. Go ahead
3 and answer.

4 A. None which in an analogous manner to finding a
5 precedent case which we might use as the basis of a
6 legal discussion that I could quote to you saying,
7 this is a cookbook description of a problem for which
8 we have this kind of treatment.

9 Q. I'm not suggesting necessarily a cookbook
10 treatment, but I guess in performing an anterior
11 cruciate ligament repair, frequently notchplasties are
12 done in association with an anterior cruciate ligament
13 repair, true?

14 A. In our country it is almost the rule.

15 Q. Okay. Where an anterior cruciate ligament
16 surgery is not necessary after doing a diagnostic
17 arthroscopy, are there any studies, journal articles,
18 book chapters that you can cite me to that would
19 suggest performing a notchplasty in the face of a
20 nondisrupted anterior cruciate ligament is within the
21 standard of care?

22 A. I'm not sure such literature exists, because
23 it's almost certain that it hasn't been the confined
24 subject of a single study intended to bring about a
25 conclusion on a question arising from that issue.

1 Q How were you performed a notchplasty when
2 have gone in and done a diagnostic arthroscopy and
3 found that the anterior cruciate ligament was not
4 disrupted or torn?

5 A On Mr. Lee.

6 Q Aside from Mr. Lee, on any other patient?

7 A Not that I can recall. Because the indication
8 wouldn't exist that I can bring to mind

9 Q. Let's talk about -- I'm sorry, did I interrupt
10 you?

11 A. No.

12 Q. I thought you were close to done. But your limbs
13 were still moving, so I will reiterate back to what I
14 promised you I wouldn't do at the very beginning

15 I want to talk a little bit about your surgical
16 experience You told me at the very beginning that
17 you have a special interest in joint replacement

18 In terms of the knee and surgical techniques on the knee.
19 obviously the knee is a joint, is it not?

20 A Yes.

21 Q How many surgical procedures have you performed
22 over the course of your career in approaching a knee
23 or a problem with a knee?

24 A Over two thousand.

25 Q And of those two thousand cases, Mr. Lee's is

1 unique in terms of doing a notchplasty where a patient
2 did not have a disruption or a tear in the anterior
3 cruciate ligament, true?

4 A. Yes, I would have to say that's true.

5 Q. I want to ask you some questions about some of
6 your initial visits with Mr. Lee before the surgery,
7 so please use your notes or your memory before I get
8 into the specifics.

9 Let me ask you this, you mentioned to me a
10 moment ago that do you remember Mr. Lee?

11 A. Yes.

12 Q. Can you tell me globally, and I understand this
13 may be too broad of a question, but how would you
14 describe the physician/patient relationship that you
15 had with Mr. Lee?

16 A. Gosh, I think that's too broad a question.

17 Q. Fair enough. Let me try to break it down.

18 Did you feel at any time during the
19 physician/patient relationship with Mr. Lee that he
20 was noncompliant in any respect?

21 A. No, I feel that he tried his best to perform
22 everything that was asked of him.

23 Q. Did there come a time during your relationship
24 where you suspected that Mr. Lee was less than
25 confident in the care that you were providing to him?

1 A. Yes.

2 Q. Was this toward the end or can you point me to
3 a phase in the treatment?

4 A. I think it might have been, if I can recall
5 correctly, after his first surgery when it seemed that
6 his marital problems were more important than his
7 physical problems at the time, that his anxiety and
8 concerns about his wife's expectations for his earning
9 ability and so forth were upfront, and also their
10 troubled relationship on other issues.

11 Q. Do your records reflect anything as it relates
12 to the marital problems or these troubled issues?

13 A. I would never commit a nonmedical discussion
14 except in a fleeting reference to the medical chart,
15 because it wouldn't impact really on my treatment or
16 recommendations for the patient.

17 Q. This falls in the category of, these are some
18 of the things that I remember about Mr. Lee
19 independent of the office records?

20 A. Yes.

21 Q. Okay. Because I don't have the benefit of
22 anything noted in the record, whether it should or
23 shouldn't be there, tell me what you remember about
24 the marital problems and these troubled issues that
25 were shared with you by Mr. Lee?

1 A. I think it seemed, and I got the impression
2 from Mr. Lee, that he was afraid that his wife might
3 either have him move out or she would be leaving. And
4 that although we didn't discuss it in detail, I didn't
5 pursue it much. I let him explain to me that
6 underlying issues for him were his, the integrity of
7 his family during this time of problem that he was
8 having with his knee.

9 Q. I take it from what you're telling me that Mr.
10 Lee was confiding in you on matters that obviously
11 fell outside of your area of expertise?

12 A. Yes.

13 Q. So you had somewhat of a friendship, perhaps
14 more than just a physician/patient relationship?

15 A. No, not really. I felt as though he might be
16 hinting that there were financial issues involved in
17 either supporting his family and maybe not being able
18 to because of his disability from injury. Or that
19 something along the lines that his wife might not
20 think much of him if he couldn't hold a job and bring
21 in an income.

22 Q. Was this a conversation that was repeated on
23 more than one occasion?

24 A. Yes, as I recall.

25 Q. Was it a conversation that occurred almost

1 continuously on office visits or was it limited to a
2 select group of office visits? I'm just trying to get
3 a sense of whether it was a continuous process or
4 whether it sort of stopped?

5 A. Well, if I could limit it, I might say that
6 toward the middle third of our period of interaction
7 it seemed to be a recurrent, compelling issue at each
8 office visit.

9 Q. And Mr. Lee would tell you that he was
10 continuing to have marital problems, is that part of
11 the conversation?

12 A. As I recall he would bring up that these fears
13 still were upfront for him.

14 Q. Fears that physically he couldn't support his
15 family, that the marriage would fall apart?

16 A. More fears that he wouldn't be able to get back
17 to the work that he was doing before, because I think
18 he liked it and did well at it. And fears that, for a
19 lot of reasons I don't believe he was explaining to
20 me, that his wife might leave him. And those were
21 really the two things I got out of his discussions
22 with me.

23 Q. Did you ever meet his wife?

24 A. No. I actually, I can't recall that I did.
25 It's possible that I did on one occasion, but it's

1 been quite sometime and I don't have a distinct
2 recollection of meeting her.

3 Q. Now, this whole conversation about marital
4 problems started when I asked you about whether he,
5 whether there was a sense that you got from him that
6 he questioned the quality or the type of care that he
7 was receiving, and you brought up the issue of the
8 marital. Did he say something to you that caused you
9 to believe that he was losing confidence in you as a
10 physician?

11 A. No. I think he was getting very discouraged
12 that he wasn't getting better, and I think he was very
13 discouraged. And really along those lines, I wanted
14 him to hear from other doctors about his problem and
15 his progress and I wanted him to get a second opinion
16 with Dr. Hritz for that reason.

17 Q. Did you refer him to any other doctors for
18 second opinions other than Dr. Hritz?

19 A. I don't recall, but I don't believe so.

20 Q. Did you ever refer him to a marriage counselor
21 or anybody along those lines based upon some of these
22 conversations you were having with him?

23 A. No, I didn't feel competent really to advise or
24 delve into those problems, but I listened and I tried
25 to be sympathetic.

1 Q. Aside from medical issues and those things that
2 are reflected in the record, do you remember topics of
3 conversation that you had with Mr. Lee on, on matters
4 going on in his life, for example, you told me about
5 the concerns he had about his ability to work and the
6 impact that would have on the marriage, any other
7 topics that were discussed between you and him that
8 aren't otherwise reflected in the records?

9 A. I don't have a clear recollection, no.

10 Q. Again, before we delve into the specifics of
11 the office visits, I failed to ask you, what
12 orthopedic textbooks do you own?

13 A. You would like a bibliography of them or --

14 Q. Give me the, I guess, the top shelf ones that
15 you own and have occasion to refer to from time to
16 time.

17 A. Well, it's really quite a lot of them.

18 I refer to Campbell's Orthopaedics in general,
19 and Rockwood and Green fracture textbook. And a long
20 lineup of books on arthroplasty, which is joint
21 replacement and arthroscopy, which is probably the
22 biggest volume area of my surgery.

23 Q. Is there a textbook called arthroscopy?

24 A. No.

25 Q. There are topics, there are chapters on

1 arthroscopy in Rockwell and Green and Campbell's,
2 true?

3 A. In Campbell's, yes.

4 Q. And Campbell's is a well respected treatise in
5 the area of orthopedic surgery, true?

6 A. I believe so, yes.

7 Q. Rockwood and Green also is a well respected
8 treatise in the area of orthopedic surgery?

9 A. In the care of fractures, yes.

10 Q. If one was looking at the most reliable and
11 authoritative texts or journals dealing with
12 arthroscopy, what would you, what would you refer to?

13 MR. NORMAN: Objection.

14 A. If I were trying to research an issue, I might
15 look into the journal literature, and Arthroscopy
16 would probably be the first choice.

17 Q. There is a journal, a journal called
18 Arthroscopy or Journal of Arthroscopy?

19 A. Yes, yes.

20 Q. What's it called?

21 A. I believe it's Journal of Arthroscopy.

22 Q. I had a feeling it was something like that.

23 MR. NORMAN: Doctors are very
24 imaginative in naming their journals.

25 Q. In any event, you have not looked at

1 Campbell's, Rockwood or Green or the Journal of
2 Arthroscopy in preparation for this deposition, true?

3 A. No.

4 Q. But they would be good and reliable sources for
5 information relating to surgery on the knee, whether
6 it be anterior cruciate ligament or diagnostic
7 arthroscopies and the indication for various
8 surgeries, true?

9 A. These named books and journals would probably
10 provide the compendium of references on the published
11 information about most issues concerning knee surgery,
12 yes.

13 Q. Sources you would deem reasonably reliable and
14 authoritative, true?

15 A. Always remembering that journal literature is
16 up-to-date scientific study and is not necessarily
17 accepted as practice reliable, but basically the
18 offering of findings done under controlled conditions
19 for problems that we recognize as surgical issues for
20 the arthroscopist.

21 Q. Rather artfully put, but I'm not sure that I
22 followed you entirely. The sources that you --

23 A. You would never -- pardon me for interrupting.
24 Go ahead.

25 Q. The sources you are referring to, and obviously

1 you look to journal articles for the most up-to-date
2 references on techniques and studies dealing
3 especially in your area of joint replacement and joint
4 surgery, you would look to journal articles before you
5 would look to textbooks, true?

6 A. Not for authoritative information, no.

7 Q. Where would you look for authoritative
8 information?

9 A. Textbooks.

10 Q. So Campbell's would be the top shelf, Rockwood
11 and Green right up there as well?

12 A. For each of their respective areas of
13 application, yes.

14 Q. And specifically when we're talking about the
15 knee and surgery on the knee, would that be, would
16 those two texts be reliable sources for information as
17 it relates to surgical, standard surgical texts,
18 standard surgical procedures in this area?

19 MR. NORMAN: Objection

20 A. Not necessarily for arthroscopy, no.
21 Especially not Campbell's.

22 Q. Where would we, where would you suggest that
23 one look for reliable and authoritative information on
24 arthroscopy?

25 MR. NORMAN: Objection. I think

1 this has already been addressed.

2 A. The medical library.

3 Q. And where would you, if you were going to the
4 medical library, where would you go in the medical
5 library for reliable sources on arthroscopy?

6 A. Well, I would say my favorite text to refer to
7 might be a book by Dr. Andrews on arthroscopy.

8 Q. Is it called arthroscopy?

9 A. I don't recall the title. I own it. I
10 wouldn't look in the library.

11 Q. You don't need to go to the library since you
12 own it?

13 A. That's right.

14 Q. And I presume you refer to it from time to
15 time?

16 A. Yes.

17 Q. Consider it to be a reliable source of
18 information in the area of arthroscopy, true?

19 A. Yes.

20 Q. Dr. Andrews you consider to be an expert in the
21 area of arthroscopy?

22 A. Unquestionably.

23 Q. And his book is certainly in your mind an
24 authoritative text, true?

25 MR. NORMAN: Objection. Go

1 ahead.

2 A. I will just answer by saying, I'm always
3 looking for good ideas, and Dr. Andrews is an
4 outstanding source of sometimes even controversial
5 ideas.

6 Q. You certainly consider Dr. Andrews and his book
7 to be a source of reliable informational, be it
8 perhaps at times controversial?

9 MR. NORMAN: Objection. Howard,
10 can we move along?

11 MR. MISHKIND: We will.

12 A. Yes.

13 Q. Your answer is yes?

14 A. Yes.

15 Q. Okay. Thank you.

16 Mr. Lee had been a patient of this office
17 before April of 1996, true?

18 A. Yes.

19 Q. Had he been your patient?

20 A. No.

21 Q. Who had he been a patient of?

22 A. He had seen Dr. Kolczun and Dr. Treuhaft.

23 Q. You met him then for the very first time in
24 April of 1996, true?

25 A. Yes.

1 Q. Where did you obtain the history in April of
2 '96 that he had sustained this injury on a trampoline?

3 A. I interviewed the patient.

4 Q. Do you have a written note for April 22, 1996?

5 A. No.

6 Q. Do you have a dictation machine that you keep
7 with you at the time of office visits?

8 A. Yes.

9 Q. So your dictation would have been at or near
10 the time of the office visit, true?

11 A. Yes.

12 Q. And, in fact, do you dictate your office note
13 right with the patient present or do you normally wait
14 until the patient has left?

15 A. No, I think it's rude to dictate in front of a
16 patient so I wait until they've left.

17 Q. So your recollection of the history then would
18 have been shared with your dictation machine shortly
19 after Mr. Lee left, true?

20 A. Following the logical extension of that
21 thinking, yes.

22 Q. Well, I try to be logical every once in a
23 while.

24 MR. NORMAN: He didn't dictate it
25 before he saw the patient.

1 Q. And I, my curiosity in terms of the trampoline
2 is only based upon the fact that I'm advised by Mr.
3 Lee that the injury did not occur on a trampoline, so
4 I'm just, I'm wondering on what were you basing that
5 statement of sustaining an injury on a trampoline.
6 And it's as you just stated, you believe that's what
7 he told you and you dictated it after he left?

8 A. Yes.

9 Q. Okay. No other source for that that you are
10 aware of?

11 A. No.

12 Q. Okay. Would you explain briefly to me the
13 Lachman test?

14 A. Lachman test is a knee examination test
15 performed with the knee in slight flexion, 20 degrees
16 or so, which the upper part of the leg, the thigh, is
17 stabilized with one hand, and the lower part of the
18 leg is shifted forward to test for looseness of the
19 ligaments inside the knee.

20 Q. It's used, is it not, to aid in the diagnosis
21 of the rupture of an anterior cruciate ligament?

22 A. Yes.

23 Q. And you had a one plus result on the test?

24 A. Yes.

25 Q. And what did that indicate to you?

1 A. That there was a, the feel of a, an abnormal
2 amount of travel with the provocative part of the
3 test.

4 Q. There was some opening or movement within the
5 joint based upon your examination?

6 A. Yes, that the lower leg moved forward with my
7 provocation perhaps a little bit more than might be
8 considered normal. And I stated in the notes, with an
9 indistinct end point.

10 Q. And one plus result indicates what, about five
11 millimeters or less of joint opening?

12 A. I would agree with that.

13 Not joint opening, but of translation of
14 sliding forward.

15 Q. What was within your differential on April 22
16 based upon the history that he provided to you and
17 your physical examination?

18 A. Torn meniscus.

19 Q. I'm sorry.

20 A. Torn medial meniscus.

21 Q. Okay.

22 A. And torn anterior cruciate ligament.

23 Q. Nothing else in your differential at that time?

24 A. No.

25 Q. Did you consider a subluxed patella within your

1 differential?

2 A. Not initially.

3 Q. Did you at sometime prior to surgery, surgery
4 number one, consider subluxed patella within your
5 differential?

6 A. I don't recall that I did, no.

7 Q. Mr. Lee was unable to cooperate with the
8 McMurray's test due to the pain that he was
9 experiencing?

10 A. Yes.

11 Q. When you refer to an indistinct end point, help
12 me out with what that means?

13 A. Well, what you're testing is the tightness of
14 the knee in general terms, and so if you try to make
15 the knee slide in an unnatural way and it won't slide
16 much, number one, and it stops abruptly when the
17 ligaments that you are testing are tensioned, then you
18 have not much travel and a firm end point.

19 And in his knee he had a little bit of travel,
20 which could be considered abnormal, and kind of a
21 mushy feel at the end, not a firm stop.

22 Q. In order to arrive at a more definitive
23 diagnosis you recommended an MRI, true?

24 A. That is right.

25 Q. And the MRI was done at Drs. Russell-Berkebile

1 and Associates, is that true?

2 A. Yes.

3 Q. Northern Ohio Imaging Center?

4 A. Yes, that's true.

5 Q. And Plaintiff's Exhibit 2 is a copy of the
6 report from that MRI?

7 A. Yes.

8 Q. You would have received the MRI report back
9 before preceding to the diagnostic arthroscopy on May
10 3, 1996, true?

11 A. At the very latest, just prior to the patient's
12 office visit, yes.

13 Q. And in fact when we move to the next office
14 visit of April 25th, 1995, you indicate that you
15 discussed the findings from the MRI with Mr. Lee,
16 correct?

17 A. Yes.

18 Q. Okay. Now, I have some specific questions for
19 you relative to that office visit.

20 You indicate that, quote, I feel that for his
21 career aspirations and current job requirements, he
22 should have arthroscopic treatment including ACL
23 reconstruction, end quote.

24 First, did I read that accurately?

25 A. Yes.

1 Q. Actually the sentence started with, I discussed
2 these findings with him, and then what I just read,
3 true?

4 A. I'm not sure you read the words treatment
5 including ACL reconstruction, but, but yes.

6 Q. Okay. What career aspirations were you
7 referring to in connection with that statement?

8 A. As I recall, Mr. Lee had a position with the
9 Sheriff's Department in some capacity and was thinking
10 of moving up the ladder a bit.

11 Q. Given those career aspirations, how would that
12 impact the treatment, the course of treatment that you
13 were recommending to him?

14 A. Well, first, a middle aged person with this
15 injury would have to qualify as a surgical candidate
16 by physical demands that might be expected to be
17 placed on the knee, because a middle aged person with
18 this injury and very few physical demands in job or
19 recreation might actually do well with rehabilitation
20 alone.

21 Q. So someone that needed to be more active and
22 physically involved, surgical correction of an ACL is
23 preferable over someone who is more sedentary and less
24 physically active that can get by with a conservative
25 modality?

1 A. In almost every way

2 Q. Okay. When you say we discussed the surgical
3 rationale, is that basically what we have just talked
4 about in terms of providing him with the best
5 likelihood of being able to physically be active and
6 handle the demands of an active life-style, or is
7 that, did you mean something different by surgical
8 rationale?

9 A. Well, it's my way of saying that I discussed
10 the proposed techniques of surgery and why we do them,
11 with all the considerations, life-style included.

12 Q. All right. What I want you to tell me so that
13 I don't misinterpret anything in your note, I take it,
14 first, you don't remember specifically this office
15 visit of April 19, 1996, true?

16 A. No.

17 Q. But you use in many cases similar language in
18 office notes to describe what you discuss with
19 patients, perhaps as part of your custom and practice,
20 true?

21 A. Yes.

22 Q. So that when you see a statement in terms of
23 surgical rationale, the technical details, et cetera,
24 you have a fairly common routine that you follow,
25 true?

1 A. Yes.

2 Q. While you can't remember this particular office
3 visit, if you followed your normal rationale, your
4 normal routine, you should be able to tell me what you
5 probably said to Mr. Lee even though you don't
6 remember the specific details, true?

7 MR. NORMAN: I'm going to object
8 a little bit, because I think he's already testified
9 as to some recollections based upon these visits.

10 MR. MISHKIND: When we talked
11 about that, but I have also asked him whether or not
12 he remembered this particular office visit.

13 Q. And I think you told me that you did not?

14 A. I can't recall this specific encounter,
15 anything in particular, except that we had this
16 discussion, yes.

17 Q. Okay. Now, tell me what would you have told
18 Mr. Lee or, and if you remember specifically telling
19 him this, tell me I remember specifically telling him,
20 but if you don't, tell me what you would have told him
21 as to the technical details of this anticipated
22 surgery. Do you follow me?

23 A. Yes. I don't recall very specific details of
24 our actual discussion. I do remember realizing that
25 my suspicions as far as his knee injuries were

1 corroborated by the MRI findings, and we had a
2 discussion about the fact that he should have knee
3 reconstruction in order to have the best result.

4 Q. Technical details of the surgery, what would
5 you, do you remember telling him or what would you
6 likely have told him?

7 A. I don't remember specifically what I told him,
8 but what I likely would have told him and is my usual
9 practice so long as the patient cares to hear the
10 details and is not offended by the description of the
11 actual surgical treatment, I tell people that it is my
12 teaching and practice to take a small part of the
13 tendon below the kneecap to use as a graft for the
14 torn ligament, to replace that in the reconstruction
15 process of the knee. And that the operation is
16 performed mostly arthrosocpically, with a small
17 incision to harvest the graft and for insertion of the
18 graft.

19 Q. And you have no reason to believe that you
20 would have told Mr. Lee anything different than what
21 you have just described a moment ago, true?

22 A. No, that's true, not regarding that particular
23 operation, no.

24 Q. Okay. What are the risks and problems of this
25 type of operation that you told Mr. Lee about?

1 A. Well, the risks involve the general and
2 specific risks of orthopedic operations, and this
3 particular one in terms of bleeding, infection,
4 swelling, stiffness, blood clots, pain, and the
5 problems being failure of fixation, poor tissue
6 quality, unreconstructable injury, things of that
7 nature.

8 Q. Correct me if I'm wrong, but you don't remember
9 specifically having a conversation with Mr. Lee about
10 the risks, what you just told me was what your normal
11 routine and practice is?

12 A. Yes, that is my usual patter as far as a
13 discussion about this kind of surgery, yes.

14 Q. I see the use of the term obligatory on more
15 than one occasion. When you say the obligatory
16 postoperative rehabilitation, what would be your
17 standard and routine practice as it relates to the
18 explanation of that process?

19 A. Where is the, other than that, the other
20 occurrence of the word obligatory? You mean only with
21 regard to postoperative rehabilitation?

22 Q. I believe I have seen the use of the term
23 obligatory somewhere else. I may be mistaken.

24 A. With regard to postoperative rehabilitation, I
25 use that word to remind myself that I had a discussion

1 with the patient about the individual responsibilities
2 of the person undergoing this operation to achieve
3 their own improvement by the investment of their own
4 time and motivation into the healing process. In
5 other words, attending physical therapy faithfully and
6 regularly.

7 Q. So the obligatory postoperative rehabilitation
8 is the obligation of the patient to be a compliant
9 patient in the postoperative period?

10 A. Yes.

11 Q. And you've already told me you have no basis to
12 say that Mr. Lee was not compliant, true?

13 A. Yes.

14 Q. You noted that he understands and wishes to
15 proceed. You wouldn't have put that down if you
16 didn't feel that he understood what you explained to
17 him, true?

18 A. Yes.

19 Q. You certainly have an obligation as the surgeon
20 to explain to the patient the material risks and
21 potential complications associated with the
22 contemplated surgery, true?

23 A. Yes.

24 Q. And you have an obligation to explain to the
25 patient the alternatives to the recommended surgical

1 approach as it would relate to the treatment of his
2 condition, true?

3 A. It's my standard practice to do that.

4 Q. In this operation, and jumping ahead to the
5 subsequent operation, did you have the patient sign
6 any type of a written informed consent?

7 A. I recall that the patient signed an informed
8 consent paper for the hospital's purposes.

9 Q. The general consent form for the hospital, but
10 you didn't have a specific informed consent as it
11 relates to the surgery, setting forth what you were
12 going to do with the material risks and complications
13 per se, true?

14 A. Right.

15 Q. The MRI that you have, Exhibit 2 that's in
16 front of you, the interpretation --

17 A. Yes.

18 Q. -- was the MRI that was done on, is that April
19 24th?

20 A. Yes.

21 Q. Was that correctly interpreted?

22 MR. NORMAN: Objection. Answer
23 to the best of your ability.

24 A. From my understanding of the technology and the
25 way in which the images are constructed, I believe

1 that it was accurately interpreted, yes.

2 Q. At the time that you operated on Mr. Lee, you
3 did not discover a torn anterior cruciate ligament,
4 true?

5 A. I discovered that the anterior cruciate
6 ligament was not torn.

7 Q. The MRI had at least suggested from a
8 diagnostic standpoint that there was a torn anterior
9 cruciate ligament, true?

10 A. More than suggesting, Dr. Dengel said that it
11 was the most significant finding on the scan, that it
12 was torn.

13 Q. And you proceeded with the surgery anticipating
14 a high likelihood of finding a torn anterior cruciate
15 ligament, true?

16 A. Absolutely.

17 Q. And when you did your diagnostic arthroscopy
18 you discovered, as happens on occasion, that there was
19 not a disruption or a torn anterior cruciate ligament,
20 true?

21 A. Yes.

22 Q. Okay. If I could have Exhibit 2 back for a
23 moment. Thank you.

24 Exhibit 3 is a copy of the operative report
25 from May 3, 1996, is that correct?

1 A. Yes.

2 Q. I'm going to ask you -- do you have a copy of
3 it in your file there?

4 A. Yes, I believe I do.

5 Q. Okay. At the time of your surgery, Doctor, on
6 May 3, 1996, your diagnostic arthroscopy detected
7 chondromalacia of the medial femoral condyle, true?

8 A. Yes.

9 Q. Grade 3 chondromalacia?

10 A. Yes.

11 Q. There is a notation that the anterior cruciate
12 ligament was not torn but a longitudinal disruption
13 was found, is that correct?

14 A. Yes.

15 Q. Is that a strain of the anterior cruciate
16 ligament?

17 A. Yes.

18 Q. Now, you did not repair or reconstruct the ACL,
19 did you?

20 A. No.

21 Q. You performed a chondroplasty, presumably to
22 treat the chondromalacia of the medial femoral
23 condyle, true?

24 A. No.

25 Q. Why did you do a chondroplasty?

1 A. Oh, I'm sorry, I misunderstood the question.
2 Can you ask it again?

3 Q. Sure. I understand it's late.

4 A. I thought you said notchplasty.

5 Q. No, chondroplasty.

6 The chondroplasty was to treat the
7 chondromalacia of the medial femoral condyle?

8 A. Yes.

9 Q. What was the cause of the chondromalacia of the
10 medial femoral condyle?

11 A. Weight bearing shear force applied to the
12 surface.

13 Q. Was this an acute process or was this something
14 based upon the grade of the chondromalacia that was
15 more of a long standing phenomenon?

16 A. Well, it could be either, but it, the degree of
17 chondromalacia doesn't reflect much on the time course
18 of the lesion.

19 Q. Can you have an acute injury to the knee
20 similar to what Mr. Lee had described as the onset of
21 his symptoms, trampoline or whatever it was that
22 brought him to your office, and within that ten day
23 period or two week period when you go into to do
24 diagnostic arthroscopy you can see chondromalachia of
25 a Grade III or Grade IV within that period of time?

1 My question may not have been artfully put, but
2 hopefully you --

3 A. The time period doesn't impact much on the
4 degree of injury. If it is recognized as an injury,
5 chondromalacia grading for the old style of the
6 literature description of the grading system, it was
7 intended basically to reflect on the physiologic
8 health of the cartilage layer covering bone. But in
9 actual fact, most surgeons would understand a grading
10 system for chondromalacia lesions represents the
11 presence of certain physical characteristics and the
12 depth of penetration of the injury to the cartilage
13 layer.

14 Q. So certainly an acute injury of a significant
15 nature can cause a Grade III or a Grade IV
16 chondromalacia?

17 A. Yes, and even to the point of being though
18 extensive and deeply penetrating, subtle and not even
19 overtly apparent.

20 Q. Okay. Nonetheless, the findings on MRI are not
21 consistent with the findings that you made on your
22 diagnostic arthroscopy of the chondromalacia of the
23 medial femoral condyle, true?

24 A. I don't recall that the MRI scan reflected on
25 the issue of chondromalacia of the medial femoral

1 condyle. Can I see that report?

2 Q. Yeah, go right ahead. Absolutely.

3 A. No, there is no reference, and it is my
4 understanding that though things may have changed
5 somewhat in the interim, most interpreting
6 radiologists at that time would not have reflected on
7 chondromalacia as an MRI finding because I'm not
8 certain everyone would agree that it was within the
9 resolution of MRI scanning to determine a specific
10 type of chondromalacia existing.

11 And in fact, Dr. Dengel remarks that he sees no
12 specific abnormality in the patella femoral
13 articulation for instance.

14 Q. Okay.

15 A. That's an example.

16 Q. In any event, you did do your diagnostic
17 arthroscopy, you are pleased to see that there is no
18 tear or rupture of the anterior cruciate ligament,
19 true?

20 A. Yes.

21 Q. You discover that there is a Grade III
22 chondromalacia of the medial femoral condyle?

23 A. Right.

24 Q. And you proceed to perform a chondroplasty to
25 treat that condition?

1 A. Yes.

2 Q. And you also perform a notchplasty, true?

3 A. Yes.

4 Q. You did not seek any further consent or
5 permission from the patient prior to performing the
6 notchplasty or the chondroplasty, did you?

7 A. No, it would never have been my practice to
8 wake the patient to explain the circumstances of the
9 injury and the associated findings or to make a second
10 surgical intervention as a plan to deal with an issue
11 associated with the injury findings as a separate
12 consent.

13 Q. However, and I understand what you're saying,
14 you had not discussed with the patient during this
15 conversation back in the office when you reviewed the
16 MRI findings, the concept of performing a notchplasty
17 or a chondroplasty, true?

18 A. True. This would presuppose that it might be a
19 plan in the treatment as a, as an individual
20 undertaking for the problem at hand, which it is not,
21 which they are not chondroplasty and notchplasty.

22 Q. Well, can we certainly agree, Doctor, to maybe
23 make this a little more fluent, is that the treatment
24 of the chondromalacia by a chondroplasty did not
25 mandate that you perform a notchplasty as well, true?

1 mandate that you perform a notchplasty as well, true?

2 A. The two are mutually, they are completely
3 unrelated, yes.

4 Q. So you could have, in discovering the
5 chondromalacia, the Grade III chondromalacia of the
6 medial femoral condyle, regardless of whether you had
7 received consent from the patient to perform that
8 procedure, you could have done the chondroplasty and
9 ended the procedure without performing a notchplasty,
10 true?

11 MR. NORMAN: Objection. Go ahead.

12 A. Yes, to what end?

13 Q. Well, to --

14 MR. NORMAN: Do you understand
15 his question?

16 A. Not really.

17 Q. Yeah, let me, if you don't --

18 A. I'm just, maybe I can ask a clarifying question
19 from my side.

20 Q. And I will try to answer it for you.

21 A. If, if it can't be predetermined that certain
22 associated lesions seen with injuries of specific
23 types might actually exist, then on the one hand I
24 wouldn't specifically consent the patient for a
25 specific stepwise undertaking in a surgical procedure.

1 And if that's the nature of the question, if it's
2 about the consent, then I wouldn't have listed
3 chondroplasty separately.

4 The second question I'd ask, if there is a plan
5 to fix a problem in the knee and we're approaching it
6 with a cookbook idea of how it will go, can we not on
7 finding unexpected circumstances or additional injury
8 add to or deviate from the plan? That would be my
9 question, because if we can not at surgery, then we
10 can't be thinking about the injury, we have to just be
11 robotically progressive in performing the operation by
12 plan.

13 Q. Let me try to address what I think you have
14 just said to me. I'm not suggesting that you perform
15 as a robot or that you do orthopedic surgery by
16 cookbook. My questions are only geared toward
17 establishing several things.

18 And number one is that in treating the medial
19 femoral condyle with the chondromalacia that was
20 discovered at that time, you did not need to do a
21 notchplasty to be successful in treating the
22 chondromalacia, true?

23 A. That's true, because they're unrelated in their
24 indications.

25 Q. Okay. And you've already told me that in

1 to do a notchplasty in conjunction with an ACL repair,
2 true?

3 A. That's true.

4 Q. It is much less common to do a notchplasty
5 where there isn't a disruption or a tear of an
6 anterior cruciate ligament, true?

7 A. Yes.

8 Q. And we talked before that Mr. Lee is, of the
9 thousand or couple thousand dollars, couple thousand
10 dollars, couple thousand --

11 MR. NORMAN: You plaintiffs'
12 lawyers are always thinking in money terms.

13 Q. Couple thousand knee surgeries, I think that's
14 what you said?

15 A. Oh, you meant in two thousand knee surgeries,
16 I'm including of course knee replacements and other
17 operations that no notchplasty would ever be part of
18 the procedure anyway so --

19 Q. But in the total universe of knee surgeries
20 that you've done --

21 A. Let's compare apples to apples. In the total
22 universe of knee arthroscopies where notchplasty would
23 be a consideration as a treatment, the denominator is
24 much smaller, so probably --

25 Q. Denominator in terms of your surgeries?

1 Q. Denominator in terms of your surgeries?

2 A. The denominator in terms of the number of the
3 knee arthroscopies where notchplasty might be a
4 consideration would never be two thousand, no.

5 Q. Okay. Whatever that number is, you'd never
6 done, nor have you since done, a notchpiasty on any
7 patient where they didn't have an anterior cruciate
8 ligament tear, true, Mr. Lee aside?

9 MR. NORMAN: I think he said
10 earlier that he didn't recall.

11 A. I think that's true. I can't recall, no.

12 Q. Okay. Now, at the time of your surgery in May,
13 do you make any mention of any chondromalacia, do you
14 make any mention of chondromalacia of the trochlear
15 surface of the femur at the time of your May 1995
15 surgery?

17 A. No, I made mention only of the significant
18 positive findings.

19 Q. Can I presume from that that at the time of
20 your diagnostic arthroscopy that if you saw evidence
21 of chondromalacia of the trochlear surface of the
22 femur you would have noted it?

23 A. It is my common practice to do so, yes.

24 Q. Can we further conclude that more likely than
25 not there was no evidence of chondromalacia of the

1 trochlear surface of the femur in May of 1996?

2 A. There was no visible surface detectible
3 information that could be obtained arthroscopically
4 which would indicate a chondromalacia lesion of the
5 femoral trochlea on the May 3rd, 1996 operation.

6 Q. A notchplasty increases the width of the
7 intercondylar space?

8 A. Yes.

9 Q. And that's why notchplasty is frequently done
10 in combination with an ACL reconstruction, to prevent
11 the graft from impingement, is that true?

12 A. Yes.

13 Q. Impingement within the notch, true?

14 A. Right.

15 Q. When one does a notchplasty, is there any
16 potential trauma to the trochlear surface of the
17 femur?

18 A. There is potential trauma, yes.

19 Q. Let me jump ahead to the subsequent surgery
20 just for a moment to see, maybe I can save some time.

21 We know that when you went back in for surgery
22 number two there was a Grade IV chondromalacia of the
23 trochlear surface?

24 A' Yes.

25 Q. What's your opinion as to the cause of the

1 Grade IV chondromalacia of the trochlear surface?

2 A. Being as extensive as it was and as distant as
3 it was from the intercondylar notch, it was my feeling
4 that probably the patient had had a patellar
5 subluxation as an underlying cause, and another
6 potential cause actually being the patella forced into
7 the femoral trochlea under flexion pressure.

8 Q. And so there is a two --

9 A. Two potential mechanisms.

10 Q. One being the subluxation?

11 A. Yes.

12 Q. And what likely causes, if in fact --

13 A. That's the mechanism.

14 Q. That's the mechanism, what caused the
15 subluxation?

16 A. The twisting of the knee.

17 Q. At what point?

18 A. In the patient's weight bearing injury.

19 Q. Okay. So the injury that occurred ten days
20 before he came to you initially?

21 A. Yes.

22 Q. And why wasn't that discovered by you at the
23 time of your diagnostic arthroscopy?

24 A. It most likely wasn't evident. In other words,
25 if the lesion existed, and it can be shown, for

1 instance, in cases where there is underlying disease
2 or injury to condylar bone of the femur for instance
3 that appears to show the bone dissolving in an area of
4 the weight bearing portion of the femoral condyle,
5 that the arthroscopic appearance of the cartilage in
6 this area may actually be completely normal, where
7 with our thinking we might say, since the bone is the
8 infrastructure supporting the cartilage surface that
9 with this bone dissolving or melting away here, one
10 would think that the appearance in the area of
11 radiographically definable bone trouble, that the
12 outward appearance of the overlying cartilage would
13 show damage. And this is not the case.

14 What I'm suggesting as a possibility here is
15 that even in the absence of MRI findings of
16 patellofemoral abnormality, that probably, especially
17 in the long central portion of the groove where this
18 chondromalacia lesion exists and distant to the notch,
19 that the cartilage attachment to the underlying bone
20 was insecure, since it's a Grade IV lesion and it's
21 the full thickness of the cartilage itself.

22 And two and one-half months have elapsed since
23 initial evaluation of this portion of the knee, and
24 now the arthroscopic finding that there is not only a
25 cartilage surface defect but scar tissue grown over

1 the injury much preceded its discovery in this form
2 arthroscopically.

3 Q. Before we talk about the other possibility, can
4 a Grade IV chondromalacia of the trochlear surface be
5 caused by surgical intervention itself?

6 A. No.

7 Q. You indicated that the, that the, where you
8 performed the notchplasty would be distal from the
9 trochlear surface or would it --

10 A. Well, distal is maybe not the best description.
11 I use the word distant, but the two areas, that the
12 area of the chondromalacia lesion is not proximately
13 related to the notch. It's more upward into the
14 groove.

15 Q. Is the, the notch from a terminology
16 standpoint, can one use the term tuberosity in the
17 same manner?

18 A. As notch?

19 Q. Yes.

20 A. No.

21 Q. How would that differ?

22 A. The tuberosity is a bump. A notch is a hole.

23 Q. You don't mention the medial meniscus in the
24 photos or in your office notes at the time of the
25 original surgery, do you?

1 A. Yes.

2 Q. You do?

3 A. I do, uh-uh.

4 Q. In the photos?

5 A. In the photos? Well, I would only mention my
6 finding if it's significantly negative or positive in
7 the operative report itself.

8 Q. Okay.

9 A. Our suspicion preoperative of meniscal tear was
10 not born out by the arthroscopy finding, as was the
11 ACL injury not. And so the issue wouldn't necessarily
12 be in an office visit, for instance, that I would
13 discuss the medial meniscus necessarily. I gave no
14 treatment for that.

15 Q. Fair enough.

16 The other possibility that we talked about in
17 terms of the cause of the Grade IV chondromalacia of
18 the trochlear surface, remind me again what that was?

19 A. Which one had we discussed? Subluxation.

20 Q. Subluxation was one cause?

21 A. One mechanism.

22 Q. Okay. And what was the other mechanism?

23 A. Forced pressure of the central crest of the
24 kneecap or the patella, into the trochlear groove with
25 the knee flexion and weight bearing.

1 Q. And your opinion is that either one of those
2 would be related to the original injury ten days prior
3 to his office visit?

4 A. Yes.

5 Q. And if that's the case and either one existed,
6 you are comfortable in suggesting that such a
7 phenomenon could be present yet not picked up on the
8 original diagnostic arthroscopy?

9 A. Oh, yes, because my description of
10 systematically examining the knee always follows the
11 same pattern. We walk the same path to the house
12 every time. So I look at that and if I see it as an
13 injury or a problem, and if I inspect it, then it's
14 either damaged or not. And I don't record it as being
15 a damaged part on the first operation.

16 Q. So the fact that you do not record it as a
17 damaged part, you're suggesting that it was not --
18 that it was obscured?

19 A. That it was not discernable by arthroscopic
20 inspection.

21 Q. Showing you Plaintiff's Exhibit 5 and 6, are
22 these arthroscopic photos from surgery number one?

23 A. Yes.

24 Q. The first, which is Exhibit 5, are color
25 photos, and then the Exhibit Number 6 is a black and

1 white, but are they both from the same surgery or have
2 I mixed them up in any way?

3 MR. NORMAN: You're back looking
4 at what is Bate Stamped 212 and 213, correct?

5 THE WITNESS: Yes.

6 Q. Those are both from the May surgery, true?

7 A. Yes.

8 Q. I guess.

9 MR. NORMAN: Let me just for the
10 record, can I, I mean, if I could clarify, 5, Exhibit
11 5 is Bate Stamped 212?

12 THE WITNESS: Yes. I didn't know
13 you were asking me.

14 MR. MISHKIND: I let him ask
15 questions every once in a while.

16 MR. NORMAN: I appreciate that.

17 THE WITNESS: They only come from
18 him.

19 MR. NORMAN: No, go ahead, I'm
20 sorry. I just wanted to make sure, because we're
21 dealing with several different reproductions and we
22 may as well keep it simple.

23 MR. MISHKIND: Fair enough.

24 Q. Why is one set color and one black and white?

25 A. I don't know.

1 Q. When the photos are taken in the, when the
2 diagnostic arthroscopy is done, the images are
3 colored, true?

4 A. Yes.

5 Q. Can you --

6 MR. NORMAN: Just maybe we should
7 go off the record and try to clear something up.

8 * * *

9 (Thereupon, a discussion was had off the record.)

10 * * *

11 MR. MISHKIND: Let's go back on
12 the record.

13 Q. Our discussion off the record indicated that
14 the diagnostic arthroscopy photos are generated in
15 color, true?

16 A. Yes.

17 Q. And that for some reason innocently the photos
18 that I presented to you, one is in color and one is in
19 black and white, true?

20 A. Yes.

21 Q. And we have just indicated when the photos were
22 reproduced when Mr. Norman provided me with a copy,
23 apparently the copy people may have done less than an
24 optimal job in providing us with the duplications.

25 MR. NORMAN: I hope they didn't

1 charge me for it though.

2 MR. MISHKIND: Yeah, right.

3 Q. We're looking at photos from the May '96
4 surgery that would show the area of surgical
5 attention, true?

6 A. Yes.

7 Q. And if we were looking for the area where the
8 trochlear groove would be located, would you be able
9 to circle an area on any of those photographs that
10 would show us the trochlear groove?

11 A. Only marginally.

12 a. Okay. Well, I will accept that.

13 Perhaps this black pen.

14 MR. NORMAN: Let's do that with a
15 red pen.

16 a. Okay. On Exhibit 6, just for the record, you
17 have marked down the words trochlear groove and have
18 made a circle reflecting the area that marginally
19 would reflect the trochlear groove?

20 A. Yes, it's only the edge, Mr. Mishkind.

21 Q. Okay. And are you suggesting on the record
22 that Exhibit 6 at the time of your surgery did not
23 reveal any evidence of, any discernible evidence of a
24 Grade IV or any chondromalacia in the trochlear
25 groove?

1 A. Yes. I didn't record it in the pictures, and
2 on my inspection I found nothing of significance to
3 record at that point.

4 Q. Grade IV chondromalacia indicates severe
5 degeneration of the articular cartilage, true?

6 A. Degeneration may, again in the old style of
7 distinction, signify the quality of the tissue rather
8 than the depth of the injury. Grade IV chondromalacia
9 in most accepted terms means a full thickness
10 cartilage defect.

11 Q. With exposed subchondral bone?

12 A. Ordinarily, yes.

13 Q. Yet that's not even suggested or raised as a
14 possible pathology at the time of your initial
15 surgery?

15 A. That's true.

17 Q. Did you at any time discuss with Mr. Lee after
18 the original surgery that you did a notchplasty and a
19 chondroplasty when you did not find an anterior
20 cruciate ligament tear?

21 A. I believe that I did, yes.

22 Q. Do you remember what Mr. Lee's reaction was
23 when you told him what you had done and what you had
24 found and not found?

25 A. I recall that he seemed puzzled that if the

1 injury suspected by my examination preoperatively in
2 view of his injury and corroborated on MRI was not the
3 present injury in the knee, then what could the origin
4 of his problem be that he was having so much trouble
5 with.

6 Q. What did you explain to him?

7 A. I don't recall exactly making a specific
8 explanation for the origin of his knee problem at that
9 time. I remember discussing the findings at surgery
10 and the treatment performed, because ordinarily I
11 would do that and often with the arthrosocpic
12 photographs themselves.

13 Q. Is it your opinion that this Grade IV
14 chondromalacia as well as, of the trochlear groove, as
15 well as the Grade III chondromalacia of the medial
16 condyle were both caused by the original injury ten
17 days before your April '96 visit?

18 A. It's my thinking that almost certainly the
19 Grade IV chondromalacia injury was caused by the
20 original injury by one of the mechanisms we discussed,
21 and that very likely the weight bearing medial
22 condylar Grade III chondromalacia lesion was also
23 caused by the injury.

24 Q. Why didn't you consider a subluxed patella from
25 the get go?

1 A. The biggest reason would be that in the absence
2 of a grossly unstable knee such as a two plus Lachman
3 finding and obvious pivot shift, that the patella is
4 not normally involved in the instability process with
5 an injury like this as demonstrably in an athletic
6 male as it would be, for instance, in a female, for
7 anatomic reasons.

8 Q. Okay.

9 A. And, therefore, with a male patient with this
10 injury and not a big degree as to make gross
11 instability, I might surmise later by observations
12 within the knee that the patella had been incidentally
13 involved, but it would not be a key point in my
14 evaluation with a lesser injury, especially in a male.

15 Q. Okay. Can chondromalacia be treated
16 conservatively?

17 A. Yes. Not often successfully.

18 Q. What's the therapy for a conservative regimen
19 of treatment for chondromalacia?

20 A. The premise of that question is extremely
21 broad, because it depends very much on the degree of
22 chondromalacia and the location in a given joint.

23 Q. Well, let's take the chondromalacia of the
24 medial femoral condyle as discovered by you in May
25 of '96.

1 A. As an isolated and proven lesion existing only
2 and by itself in a knee, in a middle aged person and
3 not the elderly, probably -- a symptomatic lesion is
4 what we're speaking about, right? In a symptomatic
5 lesion where it can be documented that it exists as
6 shown here arthroscopically, a conservative treatment
7 might involve protective weight bearing, exercise to
8 maintain mobility of the knee, use of antiinflammatory
9 medication, and consideration of pain medication.

10 Q. What is the documented success of a
11 conservative regimen for the type of lesion that we
12 see on the arthroscopic photographs?

13 A. In the younger active patients, extremely poor.

14 Q. What kind of statistics are you referring to?

15 A. Gosh, I'm not certain that a specifically
16 directed scientific study in this age group for this
17 isolated lesion actually exists in print in the
18 orthopedic literature, but it's the common anecdotal
19 finding of the experienced knee surgeon evaluating
20 people in this age group for this problem, surgically
21 and nonsurgically, that younger active people with
22 obvious or surmised chondromalacia of moderate to
23 severe degree will probably routinely do poorly
24 because of their activity demands on a weight bearing
25 abnormal surface.

1 Q. We can certainly agree that Mr. Lee deserved
2 the right to make an informed decision on what type of
3 therapy he wanted for the diagnosed injuries to his
4 knee, true?

5 A. That's true. And that's the basis of the
6 discussion of alternative treatment, meaning
7 conservative versus, conservative nonsurgical versus
8 arthroscopic surgical treatments, which were the
9 issues at discussion.

10 Q. In doing a diagnostic arthroscopy one doesn't
11 automatically have to go ahead and do further
12 interventions, true?

13 A. If diagnostic arthroscopy is the sole
14 undertaking, then this would mean only that the
15 surgery is a fact finding mission.

16 Q. Well, don't misunderstand my question. I'm not
17 saying to you that -- I understand that diagnostic
18 arthroscopy frequently will lead to intervention once
19 the fact finding has taken place, but one can do a
20 diagnostic arthroscopy without further interventions
21 being performed, true?

22 A. That's true. I might add only that it's
23 probably exceedingly uncommon to do this in our time.

24 Q. Okay. Let's talk about the -- let me have that
25 photo back.

1 You have in Plaintiff's Exhibit 5 in the upper
2 right hand corner what you describe as a crowded
3 notch, true?

4 A. Yes.

5 Q. And what in your opinion caused the crowded
6 notch?

7 A. This is the anatomic endowment of the patient.

8 Q. That condition essentially existed in this man
9 long before he had had his injury, true?

10 A. Yes.

11 Q. Okay. And may go back to perhaps a congenital
12 abnormality or something that certainly had existed
13 for years?

14 A. I would say it's an anatomic variant.

15 Q. Okay. Something that was most likely
16 asymptomatic in this patient, true?

17 A. In the absence of injurious force, it would
18 probably always be asymptomatic.

19 Q. Is there any evidence that the crowded notch
20 was causing any symptomatology in this patient as a
21 consequence of the injury that he sustained in April
22 of 1996?

23 A. Yes.

24 Q. And what, what was it that you believe the
25 crowded notch was precipitating?

1 A. The crowded notch has a more defineably A-frame
2 appearance versus a more oval and open structure and
3 as such, with the knee in flexion and weight bearing
4 with slight pivoting, the notch acts like a frame,
5 like a shear, and scissors against the structures that
6 it encloses, and that would account for the effusion
7 as a response to injury, the laxity as a presumed
8 disruption of the ligament and the MRI findings
9 indicating the disruption of the ligament associated
10 with that.

11 Q. A subluxed patella can cause the effusion,
12 true?

13 A. That is also true, yes.

14 Q. A subluxed patella can cause the laxity?

15 A. No. If the patella returns to its anatomic
16 position in the groove, then laxity of the kind we
17 look for in ligamentous disruption won't exist.

18 Q. In performing the notchplasty was there any
19 disruption to the anterior cruciate ligament?

20 A. I'm not sure I understand your question. As a
21 consequence of the procedure was there a disruption of
22 the ligament?

23 Q. Yes.

24 A. No.

25 Q. In performing the notchplasty what are the

1 risks inherent in doing that type of procedure where
2 one is not also repairing or treating a torn or
3 disrupted anterior cruciate ligament?

4 A. Provided the correct instruments are used,
5 there is a very limited potential for injury to the
6 enclosed ligaments and to the adjacent articular
7 surfaces.

8 Q. Assuming the notchplasty is done other than by
9 standard and accepted technique, what are some of the
10 potential complications associated with doing such a
11 procedure where anterior cruciate ligament repair is
12 not also being performed?

13 MR. NORMAN: Objection. Can you
14 read that back, please?

15 (Notary read back last question.)

16 Q. Do you understand the question, Doctor?

17 MR. MISHKIND: Forrest, you're
18 hesitating.

19 MR. NORMAN: Yes, I'm hesitating.
20 I'm not sure that -- can you rephrase that? Can you
21 go about that from another way? I think that might be
22 objectionable and I, depending on what you're trying
23 to get at, maybe if you come at it from another angle
24 you will put me at ease.

25 MR. MISHKIND: Well, I want to

1 put you at ease and I always aim to do that.

2 Q. But before I do that, do you understand my
3 question? If you don't, Doctor, I will try to --

4 A. I don't really.

5 Q. I asked you initially in terms of what are some
6 of the potential complications associated with
7 performing a notchplasty, and you indicated to me that
8 if done with the appropriate instruments basically
9 there is no potential complications associated with
10 notchplasty.

11 A. No, I didn't say that.

12 Q. Okay. Maybe I misunderstood you then.

13 A. I listed two complications.

14 Q. What were the two complications? Perhaps I
15 dozed off.

16 A. Done with the correct instrumentation, I mean,
17 I can't precisely quote myself on the prior existing
18 record, but I am assuming I said, using the correct
19 instrumentation there is a very limited risk of injury
20 to the enclosed ligaments in the notch and the
21 adjacent articular surfaces.

22 Q. Okay. And the adjacent articular surface,
23 would that include the trochlear groove?

24 A. Yes.

25 Q. Okay. And the adjacent, the adjacent articular

1 surfaces and the --

2 A. Enclosed ligaments in the notch.

3 Q. And the enclosed ligaments, okay.

4 And the enclosed ligaments would be the
5 anterior cruciate?

6 A. And the posterior cruciate ligament.

7 Q. Okay. At their, their crossroads, if you will?

8 A. Uh-huh.

9 Q. That's a yes?

10 A. Yes.

11 Q. Okay. So we can agree that by performing the
12 notchplasty in this case, one of the risks was that
13 there would be injury to the trochlear groove?

14 A. It would have a very limited risk as I
15 explained, yes. And as documented in the photographs,
16 the notchplasty is confined and distant to the later
17 discovered chondromalacia lesion.

18 Q. The later discovered Grade IV chondromalacia of
19 the trochlear groove?

20 A. Yes.

21 Q. Describe for me patellar tracking syndrome?

22 A. Patellar tracking syndrome is a general term to
23 describe the subjective complaints of a person who has
24 pain in the front of the knee due to the kneecap not
25 engaging in the groove with completely normal

1 mechanics.

2 Q. Did Mr. Lee develop patellar tracking syndrome?

3 A. Yes.

4 Q. Did the patellar tracking syndrome result from
5 the chondromalacia of the trochlear groove?

6 A. It would appear.

7 Q. What caused this?

8 A. This was the prior question that you asked
9 about the cause of the chondromalacia lesion?

10 Q. Well, no, I guess it, I'm taking it one step
11 further.

12 The patellar tracking syndrome was caused by
13 the chondromalacia of the trochlear groove, true?

14 A. Yes.

15 Q. Okay. And the trochlear, the chondromalacia of
16 the trochlear groove, it is your opinion was caused by
17 the initial injury that he sustained?

18 A. Right.

19 Q. Now, he didn't have patellar tracking syndrome
20 at the time of your first surgery, did he, or evidence
21 of it I should say?

22 A. It was not part of his description of knee
23 problems, remembering that patellar tracking syndrome
24 is subjective.

25 Q. Well, when did you first discover evidence to

1 support a diagnosis of patellar tracking syndrome?

2 A. Upon recording the patient's complaints after
3 the second surgery in which the chondromalacia lesion
4 was identified.

5 Q. If you had performed the notch, the
6 chondroplasty and not the notchplasty, just the
7 chondroplasty for the Grade III chondromalacia, would
8 that have been an acceptable form of surgical
9 intervention for this patient?

10 MR. NORMAN: Objection. Go ahead
11 and answer.

12 A. I believe that for the chondromalacia on the
13 medial femoral condyle that was discovered, that
14 chondroplasty would be an acceptable treatment and
15 after which I feel that the patient would have
16 developed his symptoms of patellar tracking syndrome
17 with the presence of an undiscerned lesion of
18 chondromalacia in the femoral trochlea.

19 Q. Well, let's approach it from this vantage
20 point.

21 Had you done just the chondroplasty and not the
22 notchplasty, what you're saying to me is that the
23 chondromalacia of the trochlear groove would have
24 surfaced so to speak irrespective of what you'd done
25 at the time of the first surgery, correct?

1 A. Yes.

2 Q. And that the performance of the notchplasty did
3 not in any way enhance or increase the likelihood of
4 developing a Grade IV trochlear chondromalacia, Grade
5 IV trochlear chondromalacia?

6 A. That's true.

7 And based on evidence of many other
8 notchplasties I have performed in which a Grade IV
9 chondromalacia lesion as a consequence has never been
10 documented.

11 Q. But, again, those notchplasties that you have
12 done have been in combination with an ACL repair,
13 true?

14 A. And totally unrelated to patellar maltracking
15 or to chondromalacia lesions of the groove.

16 Q. Are you saying that you have discovered
17 trochlear lesions subsequent to the repair of an ACL?

18 A. No, I'm saying in fact the opposite, that
19 chondromalacia lesions of the trochlear groove where
20 none existed before do not surface after performing
21 notchplasties under any other circumstances as I can
22 document from my own patients' treatment.

23 Q. Okay.

24 * * *

25 Thereupon, a short recess was had.

1 Thereupon, the deposition was continued
2 pursuant to recess.

3 * * *

4 Q. Going back to the photographs, the photographs
5 from the May surgery, do we have documented the notch
6 before and after the notchplasty?

7 A. Yes.

8 Q. Okay. Can you perhaps point to me what the
9 appearance of the notch was before?

10 A. This is the notch before.

11 Q. Okay.

12 A. And this is the notch after.

13 Q. All right. So on Exhibit 5, the upper right
14 hand corner of the four groupings was the notch
15 before, the lower left hand corner on Exhibit 5 is the
16 notch after the procedure?

17 A. Yes.

18 Q. Okay. Is it your opinion that the crowded
19 notch was causing some of Mr. Lee's symptoms?

20 A. No.

21 Q. Mr. Lee's symptoms were caused by what?

22 A. Mr. Lee's symptoms were caused by the ACL
23 sprain which was due to the shape of his notch
24 shearing the anterior cruciate ligament with the
25 injury he described.

1 Q. Exhibit 6, lower left, lower right-hand corner
2 you have ACL sprain. Is that the shearing that you
3 are referring to?

4 A. No, it's the result of shear.

5 Q. Okay. Do you have an opinion as to what the
6 outcome would have been with regard to the ACL had you
7 not performed the notchplasty?

8 A. Yes.

9 Q. What's your opinion?

10 A. That with a later similar incident, he most
11 likely would have ruptured the anterior cruciate
12 ligament.

13 Q. And on what do you base that?

14 A. Because the crowded notch and A-frame anatomy
15 predisposed this ligament to that injury with that
16 force.

17 Q. Which was more a cause of the patient's
18 symptoms in May of '96, the chondromalacia or the
19 injury to the anterior cruciate ligament?

20 A. I don't have an opinion about that.

21 Q. Isn't it just as likely that with the treatment
22 of the chondromalacia and conservative treatment of
23 the ACL sprain without performance of notchplasty that
24 Mr. Lee would have done just fine?

25 A. No, not necessarily. Particularly given the

1 finding of a well developed medial synovial plica with
2 demonstrated frictional contact on the ridge of the
3 medial femoral condyle also making chondromalacia

4 Q. Was that in the May surgery?

5 A. Those are, that finding is documented on
6 Plaintiff's Exhibit 6.

7 Q. And of what significance is that, Doctor?

8 This is in the upper left-hand corner of
9 Plaintiff's Exhibit 6, true?

10 A. Yes.

11 Q. Of what significance is that in terms of the
12 causative components that we talked about?

13 A. If we presuppose that chondromalacia would be a
14 source of his symptoms, then the demonstrable
15 frictional contact of a synovial fold on the ridge of
16 the medial femoral condyle making chondromalacia as
17 seen here would be a source of pain, not treated. And
18 we were saying that treating the chondromalacia with
19 chondroplasty and the performance of no other
20 procedure would have left the patient with a result
21 that was, I believe you said fine.

22 Q. And you dispute that?

23 A. Yes, because it's my experience that people who
24 have a large well developed medial synovial plica
25 making frictional contact on the ridge of the medial

1 femoral condyle resulting in chondromalacia have pain
2 from this source as well.

3 Q. How do you treat the medial plica as well as
4 the, we talked about the chondromalacia, but how do
5 you treat the medial plica?

6 A. One might resect the medial plica to remove the
7 frictional contact.

8 Q. Did you do that in this case?

9 A. I don't record that I did.

10 Q. Wouldn't that have been a reasonable and
11 prudent thing to have done?

12 A. In the weighting of importance of the injuries
13 I identified in the knee this seemed to be of the
14 least importance of all. And especially considering
15 that even if the irritating factor of the medial plica
16 were removed, that the chondromalacia would still
17 exist as a source of pain, without further irritation
18 on the ridge of the medial femoral condyle.

19 Q. But you addressed the chondromalacia on the
20 medial femoral condyle at the time of your surgery?

21 A. But not on the ridge of the groove where the
22 plica made frictional contact. This is the weight
23 bearing area of the condyle which is a central
24 articular surface. This is of the very edge and a
25 nonweight bearing surface.

1 Q. So the medial plica was of less significance,
2 true?

3 A. Of minor significance.

4 Q. And probably not productive of any
5 symptomatology in the patient?

6 A. I disagree with that.

7 Q. Then why not address it at the time that you're
8 doing the Grade III chondroplasty?

9 A. Remembering that we don't want to do more than
10 is necessary, the treatment of this has a very small
11 contribution to the problem in the knee would not have
12 resulted in much symptomatic improvement, believing of
13 course that most of his symptoms come from elsewhere
14 and would have been like a long run for a short slide.

15 Q. What type of symptomatic improvement were you
16 anticipating obtaining by doing a notchplasty?

17 A. That treatment was not indicated for
18 symptomatic improvement. Notchplasty is performed
19 based on an anatomic variant predisposing to ACL
20 injury for the purpose of removing the potential for
21 later injury, not as a symptomatic treatment.

22 Q. So you were doing this sort of in a
23 prophylactic manner to prevent further injury to the
24 anterior cruciate ligament, true?

25 a. Yes, since the weighting in that issue is

1 extreme, given that the anterior cruciate ligament is
2 a major supporting structure of the knee.

3 Q. What caused Mr. Lee's persistent popping and
4 snapping in the knee and his inability to progress
5 with the quadriceps conditioning?

6 A. There are two issues there, the popping and
7 snapping occurred with the patella, the kneecap,
8 nesting into the defect, which was the chondromalacia
9 lesion, in the femoral trochlea with motion of the
10 knee.

11 Q. Okay,

12 A. And the second is, the inability to progress
13 with quadriceps strengthening was likely due to what
14 might be described as reflex inhibition due to pain.
15 In other words, the kneecap painfully grinding across
16 an irregular surface in the groove of the femur might
17 send pain signals to the brain where the response
18 would be to lower the nerve signals or voltage if you
19 will to the quadriceps musculature and not allow it to
20 be trained or built up.

21 Q. Did you feel and do you feel as you sit here
22 right now, that the surgery that you performed in May
23 of 1996 was successful?

24 A. No, I don't feel that it was successful for the
25 reason that the patient had other and worsening

1 symptoms requiring reoperation.

2 Q. Why wasn't the surgery successful?

3 A. A separate and subsequent problem came to
4 light, namely the development or the appearance of a
5 chondromalacia lesion in the femoral trochlea.

6 Q. This lesion of which you feel existed but yet
7 was not discernible?

8 A. Yes.

9 Q. A lesion of which you feel was not precipitated
10 by your original surgery, true?

11 A. Most definitely.

12 Q. You eventually referred Mr. Lee to Dr. Hritz
13 for a second opinion, true?

14 A. Yes.

15 Q. How frequently do you refer patients to Dr.
16 Hritz for second opinions?

17 A. Rarely.

18 Q. Why did you choose Dr. Hritz for Mr. Lee?

19 A. Because the potential treatment which might be
20 considered as more definitive for the patient's
21 continuing problems involved an operation which in our
22 area would only commonly be performed, other than
23 myself, by Dr. Hritz.

24 Q. What type of expertise does he have that --

25 A. Dr. Hritz has experience in this technique.

1 Q. Is this the, for the patellar tracking
2 syndrome?

3 A. Well, for the finding of advanced patellar,
4 patellofemoral gonarthrosis, which is the defective
5 chondromalacia making pain with patellar maltracking.

6 Q. Even after your second surgery he continued to
7 have the maltracking problem, true?

8 A. Yes.

9 Q. And for the record, Exhibit 4 is a copy of the
10 operative report from surgery number two?

11 A. That's correct.

12 Q. Okay. And again I'm going to try to abbreviate
13 this only because of the hour, but what did you, what
14 were you attempting to accomplish in performing
15 surgery number two?

16 A. Number one, was to discover the source of his
17 pain.

18 Q. Okay. Anything else?

19 A. Well, in the potential discovery of a source of
20 pain to determine whether this might be treatable.

21 Q. What did you discover at the time of your
22 surgery number two?

23 A. I discovered that he had a significant
24 chondromalacia lesion in the femoral trochlea.

25 Q. The atrophy that he was developing in the

1 quadriceps was, I think it was described as marked,
2 was it not?

3 A. Yes.

4 Q. Very concerning, true?

5 A. Yes.

6 Q. That wasn't due to any failure on the part of
7 the patient to do that which he was obligatorily
8 required to do, true?

9 A. That's true.

10 Q. Was this more a component of the mal,
11 malfunctioning of the knee joint?

12 A. Yes.

13 Q. You performed a procedure -- if I could have
14 the operative report back a second. Was your second
15 procedure essentially a chondroplasty of the trochlear
16 surface?

17 A. Yes.

18 Q. No other interventions at that time from a
19 therapeutic standpoint I should say?

20 A. No.

21 Q. You saw him after his surgery in August, yet he
22 continued to have the painful snapping in the mid
23 range of active extension, true?

24 A. Yes.

25 Q. There was a discussion sometime in August, I

1 believe, of performing a Maquet, M-A-Q-U-E-T,
2 procedure?

3 A. Maquet.

4 Q. Maquet.

5 MR. NORMAN: I used that
6 pronunciation earlier. He corrected me too.

7 A. He's a Belgium surgeon of, must be of French
8 extraction.

9 MR. MISHKIND: Off the record.

10 * * *

11 (Thereupon, a discussion was had off the record.)

12 * * *

13 MR. MISHKIND: Back on the
14 record.

15 Q. Why the Maquet procedure?

16 A. Maquet procedure is an operation performed to
17 slightly lift the kneecap out of the joint, out of the
18 groove, so that the usual firm nesting pressure of the
19 kneecap in the groove does not come to bear on rough
20 surfaces, such as the chondromalacia lesion that he
21 had developed.

22 Q. Did you recommend that procedure to him?

23 A. I told him that it was a possibility as a pain
24 relieving measure, but that it was a very drastic
25 procedure and considered more a salvage operation.

1 Q. He was continuing to have painful
2 patellofemoral mechanics?

3 A. Right.

4 Q. He had patellar shift, true?

5 A. Yes.

6 Q. Loud snapping with knee motion, true?

7 A. Yes.

8 Q. Why wasn't this addressed at the time of your
9 second surgery?

10 A. It was addressed. In fact, my operative
11 comments are that the shifting and snapping could not
12 be reproduced in the absence of normal muscle tone
13 with the patient being asleep. But that it was
14 obvious by the presence of such a large lesion
15 centrally in the main groove where the kneecap tracked
16 that this was the source of his problem of maltracking
17 seen in the office examinations.

18 Q. What else could you have done at the time of
19 your second surgery to increase the likelihood of a
20 more favorable outcome?

21 A. It might be argued as a point that a lateral
22 retinacular release could be considered, but this
23 presupposes since a retinacular release actually
24 divides intact tissue that surrounds the knee and is
25 attached to the kneecap tracking mechanism, that the

1 kneecap tracking mechanism is actually excentric or
2 out of kilter to one side and, therefore, we release
3 on the side where the mechanism is tracking wrongly.

4 However, I documented by placement of the
5 arthroscope at an accessory portal to evaluate the
6 actual tracking of the patella, that the patellar
7 mechanism was nicely centralized with motion of the
8 knee and therefore did not drift to either one side or
9 the other and wouldn't in my view of the understanding
10 of lateral retinacular release justify any
11 intervention of that type.

12 Q. Were you satisfied with the outcome from the
13 second surgery?

14 A. No. Because I realized that I had identified a
15 new lesion in the patient for which we don't have,
16 even to this day, very satisfying treatment.

17 Q. Is an osteoarticular bone graft transplantation
18 an accepted treatment for Grade IV trochlear lesions?

19 A. Yes. And this is an unusual procedure
20 performed, not commonly performed, nor widely
21 performed, and also does not have the longevity of
22 good outcome performance that other procedures do.

23 Q. Such as?

24 A. The Maquet.

25 Q. Okay. Would you have recommended performing

1 the osteoarticular bone graft transplantation?

2 A. It certainly might have been considered as a
3 possibility, but knowing, especially at that time,
4 that this procedure was much less common and with a,
5 not nearly the long documentation of successful
6 outcome of other procedures, I would not have made it
7 a recommendation except to consider it as a possible
8 experimental undertaking only at the hands of an
9 experienced surgeon.

10 Q. I take it you didn't have the kind of
11 experience that was necessary to undertake that type
12 of surgery?

13 A. In fact, I couldn't have identified anyone in
14 our community who did.

15 Q. What about Dr. Williams?

16 A. Dr. Williams is not in our community, nor would
17 I say that he might be recognized as someone who has
18 or who had at that time the commonly recognized
19 experience to perform that procedure. The knowledge
20 of which we all understand about how to perform it,
21 but the experience and personal patient population
22 documenting the good outcome wouldn't have necessarily
23 been known to the orthopedic community as indicating
24 Dr. Williams being the experienced doctor for this
25 procedure.

1 Q. Have you ever worked with Dr. Williams on any
2 cases?

3 A. No.

4 Q. Do you have an opinion as to his standing in
5 the orthopedic community?

6 A. Oh, yes.

7 Q. What is that?

8 A. It's a good one. He's a well trained
9 orthopedic surgeon with, I think, good judgment, who I
10 have shared mutual patients with, who as I recall have
11 not required surgery from my referrals, but with very
12 good treatment at his hands.

13 Q. Doctor, I'm going to show you Exhibit 7 through
14 11, which I believe are pictures from the arthroscopy
15 in July of 1996. And I guess I would ask you first to
16 take a look at them, confirm that they are what I have
17 just said. Do that first silently.

18 Are Exhibit 7 through whatever, 7 through 11
19 from your July 1996 surgery?

20 A. Yes, with the addition of some enlargements of
21 a few of the photographs and missing an enlargement of
22 one of the photographs.

23 Q. Okay. Are any of those photographs or sections
24 of the photographs demonstrative of what you found
25 relative to the trochlear lesion at the time of your

1 July '96 surgery?

2 A. Yes.

3 Q. Which ones?

4 A. They all appear to be demonstrative of my
5 arthroscopic findings at the July surgery.

6 Q. All demonstrating Grade IV chondromalacia?

7 A. No.

8 Q. Which ones demonstrate?

9 A. Well, there are various features demonstrated
10 since there are numerous pictures. But the Grade IV
11 chondromalacia lesion is demonstrated in a few of the
12 pictures among these.

13 Q. Identify which exhibits we're referring to.

14 A. Exhibit 8, the upper left and upper right
15 pictures, both demonstrate the lesion.

16 MR. NORMAN: Again for the record
17 8 is Bate Stamped which number?

18 THE WITNESS: 211.

19 A. And then Exhibit 9, I would say all of those
20 photos show the chondromalacia lesion.

21 And of Exhibit 11, the upper left and upper
22 right show the chondromalacia lesion.

23 And Exhibit 10, the three enlargements depicted
24 each show the chondromalacia lesion.

25 Q. What did you explain to Mr. Lee following this

1 diagnostic arthroscopy and in the procedure that you
2 did in July of '96 as to the, your findings?

3 A. I don't recall specifically our discussion, but
4 my record shows that on follow-up evaluation that we
5 discussed the findings at arthroscopy and that a
6 chondromalacia lesion existed in the groove of the
7 femur. And that I explained this as the source of his
8 painful popping.

9 Q. Did you indicate to him that you were or were
10 not able to do anything to try to resolve this painful
11 popping?

12 A. I don't recall our specific discussion. I do
13 know that for the treatment I rendered that my
14 explanation to patients is that the technique is to
15 try to bevel the margins of the lesion so that the
16 interface between normal and abnormal tissue is a
17 smoother transition and hopefully will make tracking
18 less irregular and less painful.

19 Q. Did you eventually recommend to Mr. Lee that he
20 pursue a disability claim through Social Security?

21 A. I don't recall specifically advising him to
22 pursue disability. I do remember saying that it
23 appeared by the situation that he had come into that
24 probably he would not be able to return to the work
25 that he had done previously.

1 Q. And if it was going to be a job involving a
2 nonsedentary position, that he would likely not be
3 able to accomplish that position given the problem
4 with his knee, true?

5 A. Yes.

6 Q. And if that were the case that do you recall
7 indicating to him that you would suggest that he
8 consider pursuing a disability claim?

9 A. No, I don't remember advising him to pursue a
10 disability claim.

11 Q. Or pursuing Social Security because of his
12 inability to return to the type of gainful employment
13 that he had previously?

14 A. No, I seem to recall that we had a discussion
15 about alternative work and for the department that he
16 had worked in previously, whether or not there was
17 more sedentary work available.

18 Q. Can patients with chondromalacia, even of the
19 trochlear groove, be treated and benefit from
20 nonoperative treatment?

21 A. I'm sorry, can you read that back to me?

22 Q. I'll rephrase it.

23 Can patients that have chondromalacia of the
24 trochlear groove benefit from a period of nonoperative
25 treatment?

1 A. Yes, knowing that the benefit during that
2 period might come, depending on the nature and extent
3 of the lesion, be variable.

4 Q. When you went in in July, did you do basically
5 a shaving or a curettage to remove the diseased
6 cartilage?

7 A. That would be a crude description, yes.

8 Q. Well, I'm a lawyer, I'm not a doctor, but
9 basically is that what you did?

10 A. Yes, electronically.

11 Q. While leaving as smooth a chondral surface as
12 possible?

13 A. Yes,

14 Q. Doctor, I want you to assume that Dr. Williams
15 in April of 1997, did perform an osteoarticular bone
16 graft transplantation due to Mr. Lee's repeated pain
17 and clicking and problems in the knee. Assuming that
18 to be the case, and again in April of 1997, so roughly
19 seven months, ten months after your last surgery,
20 would that be a reasonable approach to trying to
21 resolve Mr. Lee's ongoing disability with the knee?

22 MR. NORMAN: Objection.

23 A. I think in the right hands for the correct
24 problem doing it would be a reasonable consideration.

25 Q. Do you have any reason to believe that in April

1 of 1997, Dr. Williams did not have the knowledge or
2 training and experience to perform an osteoarticular
3 bone graft transplantation?

4 MR. NORMAN: Objection. Go
5 ahead.

6 A. No, in fact I don't have any information that
7 would lead me to believe that he did have the skills.

8 Q. Well, a moment ago you said in the right hands.
9 What did you mean by that?

10 A. The person trained in the procedure with the
11 experience and the acknowledgement of others that this
12 is a procedure that's performed for that reason and
13 that they have performed previously with success.

14 Q. And does Dr. Williams meet that criteria?

15 A. I think I just remarked that I didn't have any
16 information to indicate that he did have those
17 qualifications. I don't have that information.

18 Q. Am I to conclude that you are suggesting that
19 he did not have those qualifications or were you --

20 A. No, I think I only said that I didn't have the
21 information that this doctor that you're querying
22 about had those qualifications.

23 Q. You are not trying to suggest by that, and I
24 guess it's a question of my not understanding your
25 verbiage, that he was unqualified, it's just that you

1 don't know one way or another whether --

2 A. I don't think --

3 MR. NORMAN: He's not offering an
4 opinion on the qualifications.

5 A. No, I don't know anything about this Doctor's
6 qualifications to perform that operation. That would
7 summarize my thinking on the issue.

8 Q. Okay. Doctor, let me just check my notes. I
9 may be done.

10 Unfortunately, I have some more questions for
11 you.

12 An abrasion chondroplasty that removes
13 excessive cartilage can cause joint incongruities,
14 true?

15 A. Yes, performed as an intentional procedure for
16 a given reason, that might be the result.

17 Q. When you did the chondroplasty in July, was it
18 an abrasion chondroplasty?

19 A. Oh, no, this is performed with very specific
20 instruments of which I made no use.

21 Q. What type of instruments would you need to use
22 to cause an abrasion chondroplasty?

23 A. Abrasion is caused with the use of an abrader,
24 which is a burr like instrument.

25 Q. What did you use for your chondroplasty?

1 A. I used an electronic device which is a cluster
2 electrode that vaporizes free tissue.

3 Q. It does not lead to any potential for abrasion?

4 A. No. Abrasion is not part of its mechanism.

5 Q. Mr. Lee did not have any abnormal articulation
6 between the patella and the femur prior to your first
7 surgery, did he?

8 A. I did not know the patient prior to that time.

9 Q. Well, on physical examination did you see any
10 evidence of any abnormal articulation between the
11 patella and the femur?

12 A. I did not document any, no.

13 Q. At the time of your second surgery did you do
14 patellar tracking?

15 A. I'm afraid I don't understand the question.

16 Q. Did you evaluate the patellar tracking at the
17 time of the second surgery?

18 A. Yes.

19 Q. And what was causing the abnormality in the
20 patellar tracking at that time?

21 A. It was my judgment based on the findings that
22 the trochlear chondromalacia lesion was the cause of
23 the maltracking.

24 Q. Doctor, if you were to do this all over again,
25 approach this case, clean the slate and go back and

1 operate on Mr. Lee anew, would you have done anything
2 any differently?

3 MR. NORMAN: Objection. Can you
4 clarify that?

5 MR. MISHKIND: I think it was
6 pretty clear.

7 Q. You know the outcome, you know what you did.
8 If you had it to do over again would you have
9 approached the case any differently?

10 MR. NORMAN: Objection.

11 A. I would use my same skills of judgment and
12 experience in making decisions regarding how to treat
13 the findings that I could document.

14 Q. Okay. And let's try the question again, having
15 recognized that you are going to apply your
16 professional judgment, you recognize that if you apply
17 professional judgment in a substandard manner that
18 this is considered to be malpractice, true?

19 A. Yes.

20 Q. So that even though you apply judgment, if the
21 judgment is poor or below accepted standards, that's
22 not an excuse for the outcome, true?

23 MR. NORMAN: Objection.

24 A. I'm not sure I understand the form of the
25 question.

1 Q. If you apply judgment that is unacceptable or
2 below minimal standards, one cannot, one cannot just
3 excuse the outcome by saying I applied my judgment,
4 true?

5 A. True.

6 MR. NORMAN: Objection.

7 Q. Let's go back to, let's go back to the original
8 question that I had for you.

9 If you had to do the case over again, and again
10 applying your professional judgment in a reasonable
11 and prudent manner, would you have done things
12 differently in the first surgery than what you did?

13 MR. NORMAN: Objection. Don't
14 answer that as phrased. I'm not, that's, it's too
15 vague. I understand, I think, where you're trying to
16 go with this, but that's, you're not taking into
17 account what he knows at what point,

18 MR. MISHKIND: Well, number one,
19 I'm not going to sit here and have you instruct him
20 not to answer a question, but being that it is a
21 quarter after 9:00 and we started the deposition as
22 late as we did, I will rephrase the question to try to
23 get an answer from him which I'm entitled to ask him.

24 Q. But what I'm trying to find out from you,
25 Doctor, is, you had a physical exam, you did a

1 physical exam on a patient, you did an MRI, you had
2 certain information going into the first surgery, you
3 had an outcome after the first surgery which you
4 indicated to me you weren't satisfied with, true?

5 A. Yes.

6 Q. You acknowledge that it was essentially an
7 unsuccessful surgery, true?

8 A. Which?

9 Q. The first one.

10 MR. NORMAN: Objection.

11 A. No, not the first surgery.

12 Q. The second surgery?

13 A. The second surgery I believe we discussed as
14 being unsuccessful.

15 Q. Okay. All right. The first surgery you
16 weren't satisfied with the outcome, true?

17 A. That's true.

18 Q. As far as if you had to do it again, you'd go
19 back in and operate on the patient again, would you
20 have approached the surgery or done anything
21 differently with regard to the first surgery?

22 MR. NORMAN: Objection. Are you
23 asking that knowing what he knows the outcome to be.

24 MR. MISHKIND: Sure, absolutely,
25 absolutely.

1 MR. NORMAN: That's an
2 impossibility. He can't answer that, and I'm not
3 going to have him answering an impossibility.

4 MR. MISHKIND: It's not an
5 impossibility. It may be an impossibility in your
6 mind.

7 Q. But I'm asking him, knowing what you saw at the
8 time of the surgery, knowing what you did, would you,
9 if you had it to do over again, would you say to me,
10 Mr. Mishkind, I wish I had done things differently?

11 A. No.

12 Q. So you were, you are comfortable and you are
13 willing to stand on the proposition that whether it
14 was a successful result or not, what you did was an
15 acceptable means of treating this man?

16 A. Yes.

17 Q. And the surgery that you did you believe was a
18 surgery that Mr. Lee consented to and appreciated what
19 you were going to do to him?

20 A. Yes.

21 Q. Certainly if it was not a surgery that he
22 consented to and appreciated what you were going to
23 do, that would be substandard care, true?

24 MR. NORMAN: Objection.

25 A. I guess I'm not exactly certain of what the

1 precise and limited definition of substandard care
2 could actually be.

3 Q. If you --

4 A. It seems vague is my point.

5 Q. Okay. Fair enough.

6 If in fact you did not provide Mr. Lee with
7 sufficient information for him to appreciate what you
8 were going to do at the time of the surgery in May of
9 1996, can we agree that that would be below accepted
10 standard of care?

11 MR. NORMAN: Objection.

12 A. No, because I think that poses a hypothetical
13 situation that actually could not exist.

14 Q. Why is that?

15 A. Because it is often the situation, particularly
16 in view of examination findings that lead us to
17 propose surgery, based also on objective findings from
18 associated studies, that the surgery we propose may
19 often be modified from the proposal in a minor way
20 based on new findings which cannot be discerned either
21 by physical examination or other noninvasive studies
22 preoperatively.

23 Q. I take it *it's* your opinion that the
24 notchplasty that you performed was not in any way
25 causative of any of the complications which ultimately

1 then resulted in the need for the July '96 surgery,
2 true?

3 A. Yes, that is my opinion.

4 Q. Okay. From the standpoint of that which you
5 recall in terms of your interactions with Mr. Lee,
6 aside from what's documented in the records, I can
7 read the records and I can go through line by line
8 with you and we'd be here for another two hours, but
9 is there anything else from the standpoint of your
10 interactions with Mr. Lee that you recall independent
11 of the records prior to or after the first and second
12 surgery that we have not talked about?

13 A. No.

14 Q. Okay. Do you recall your conversation with Dr.
15 Hritz after the second opinion?

16 MR. NORMAN: After the second
17 operation?

18 MR. MISHKIND: After the second
19 opinion, Dr. Hritz' second opinion.

20 MR. NORMAN: Oh.

21 Q. I think there was only one second opinion.

22 A. Vaguely.

23 Q. Tell me what you recall him telling you?

24 A. I vaguely recall the gist of our conversation
25 being that this patient was not a candidate for Maquet

1 procedure in his mind and that as I had proposed in
2 referring the patient to him, that other surgery might
3 be necessary, but probably not Maquet.

4 Q. What was the other surgery?

5 A. No, that in general terms it might be said that
6 other surgery might be necessary in the future, if the
7 patient did not do well with nonsurgical treatment,
8 but that Maquet would not be Dr. Hritz'
9 recommendation.

10 Q. But, again, what would the other surgery that
11 might be necessary if conservative measures was not
12 successful, if Maquet was not the procedure?

13 A. Oh, I think he was speaking in general terms
14 and not elaborating.

15 Q. Do you know what other surgery would have
16 included if the Maquet was not in the offing?

17 A. Probably the books and journals are replete
18 with possibilities, and I'm not going to enumerate
19 them.

20 Q. Why?

21 A. They are numerous.

22 Q. What would be the most likely and the most
23 reasonable surgical intervention to try to resolve
24 this problem for Mr. Lee?

25 A. That would certainly be a matter of opinion,

1 not of fact.

2 Q. What would be your opinion as to the most
3 likely and reasonable future surgical approach to this
4 ongoing dilemma that Mr. Lee had in, after the July --

5 MR. NORMAN: How far into the
6 future?

7 Q. -- after July 1996?

8 MR. NORMAN: I'm sorry for
9 interrupting.

10 How far into the future?

11 Q. Well, we've talked about that he might need
12 future surgery other than the Maquet procedure and at
13 whatever time that surgery would be what would be the
14 most likely and reasonable surgical intervention?

15 A. It would depend very much on the patient's
16 symptoms and exam findings, his age and his
17 expectations. There might be, easily be a very long
18 list of possibilities.

19 Q. How did you leave things with Mr. Lee when you
20 last saw him?

21 A. I'm not sure how you mean that.

22 Q. Was he to come back to you, did you quit him,
23 did he fire you, what was Dr. Whitted's and Mr. Lee's
24 relationship at the last juncture?

25 A. Gosh, I don't think I can comment on our

1 relationship at the last juncture. I'm not sure I
2 look at it in those terms, but my record states that I
3 told the patient that he might return as needed for
4 reevaluation after consulting with Dr. Hritz.

5 Q. Did he come back to see you after consulting
6 with Dr. Hritz?

7 A. I don't document any further interactions in
8 our office in the chart.

9 Q. I take it then you don't have any recollection
10 of any interactions, true?

11 A. No. Yes.

12 Q. You didn't make any further attempt to
13 follow-up with him after the referral to Dr. Hritz,
14 did you?

15 A. No. Leaving it at the suggestion that he might
16 return at his leisure to me after consulting with Dr.
17 Hritz, I did not pursue him.

18 Q. Did you refer him to Dr. Hritz because you
19 realized that you no longer were able to adequately
20 resolve Mr. Lee's ongoing problems?

21 A. No. In actuality, when patients have problems
22 I have always felt that it good for the patient to
23 confer with another uninvolved surgeon to look at the
24 problem objectively and have a discussion on the
25 patient's terms about how the problem looks from that

1 doctor's perspective as a way of supporting the
2 patient and giving them the opportunity to ask
3 questions in a different environment about the same
4 problem.

5 MR. MISHKIND: Okay. Doctor, I
6 don't think I have any further questions for you.
7 Thanks for your time.

8 MR. NORMAN: We'll read.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

The State of Ohio,)
) SS:
County of Lorain.)

I, Kathleen A. Hopkins Durrant, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named witness, GLEN WHITTED, M.D., was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by him was reduced by me to stenotype in the presence of said witness, subsequently transcribed into typewriting under my direction, and that the foregoing is a true and correct transcript of the testimony so given by him as aforesaid.

I do further certify that this deposition was taken at the time and place as specified in the foregoing caption, and was completed without adjournment.

I do further certify that I am not a relative, counsel or attorney of either party, or otherwise interested in the outcome of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Elyria, Ohio, this 17th day of November, 2000.



Kathleen A. Durrant, Notary Public
My Commission expires 1-10-05
Recorded in Lorain County, Ohio

<div>-1-</div> <div>"96[8] 28:2 58:3 60:17 61:25 73:18 86:1 87:2 98:1</div> <div>-0-</div> <div>00CV125489 [1] 1:6</div> <div>-1-</div> <div>1 [2] 2:12 4:16 1-10-05 [1] 103:19 10 [1] 86:23 11 [3] 85:14,18 86:21 1660[1] 2:4 19 [1] 34:15 1980 [3] 7:2,4,7 1982[1] 7:2 1992[1] 9:24 1995[1] 8:10 1996[19] 13:5 14:24 27:17,24 28:4 32:10,14 34:15 40:25 41:6 49:14 49:25 50:4 64:22 77:23 85:15,19 97:9 100:7 1997 [3] 89:15,18 90:1</div> <div>-2-</div> <div>2 [4] 2:14 32:5 39:15 40:22 20 [2] 3:18 29:15 2000 [4] 1:17 10:12,18 103:16 211 [1] 86:18 212 [2] 56:4,11 213 [1] 56:4 22 [2] 28:4 30:15 24th[1] 39:19 2500[1] 2:8 25th[1] 32:14</div> <div>-3-</div> <div>3 [6] 2:16 32:10 40:24,25 41:6,9 3rd [1] 50:4</div> <div>-4-</div> <div>4 [2] 2:18 79:9 44113-1454 [1] 2:5 44113-3241 [1] 2:9 4th [1] 13:5</div> <div>-5-</div> <div>5 [7] 55:21,24 56:10,11 64:1 72:13,15 50 [1] 2:8 5800 [1] 1:15</div> <div>-6-</div> <div>6 [7] 55:21,25 58:16,22 73:1 74:6,9</div>	<div>6:00 [1] 3:18 6:15 [1] 1:17</div> <div>-7-</div> <div>7 [3] 85:13,18,18</div> <div>-8-</div> <div>8 [2] 86:14,17</div> <div>-9-</div> <div>9 [1] 86:19 9:00 [1] 94:21 9th [1] 1:16</div> <div>-A-</div> <div>A-frame[2] 65:1 73:14 abbreviate[1] 79:12 ability [3] 18:9 22:5 39:23 able[9] 19:17 20:16 34:5 35:4 58:8 87:10,24 88:3 101:19 abnormal [6] 30:1 31:20 62:25 87:16 92:5,10 abnormality [4] 44:12 52:15 64:12 92:19 abrader [1] 91:23 abrasion [6] 91:12,18,22 91:23 92:3,4 abruptly [1] 31:16 absence[4] 52:14 61:1 64:17 82:12 absolutely [4] 40:16 44:2 95:24,25 accept [1] 58:12 acceptable [3] 70:8,14 96:15 acceptance [1] 7:18 accepted [12] 6:18 7:6 7:10,17 8:2 15:1 24:17 59:9 66:9 83:18 93:21 97:9 accessory [1] 83:5 accomplish [2] 79:14 88:3 account [2] 65:6 94:17 accurately [2] 32:24 40:1 achieve [1] 38:2 acknowledge [1] 95:6 acknowledgement [1] 90:11 ACL [14] 32:22 33:5,22 41:18 48:1 50:9 54:11 71:12,17 72:22 73:2,6,23 76:19 action [1] 103:14 active [7] 33:21,24 34:5 34:6 62:13,21 80:23 activity [1] 62:24 acts [1] 65:4 actual [4] 35:24 36:11 43:9 83:6</div>	<div>actuality [1] 101:21 acute [3] 42:13,19 43:14 add [2] 47:7 63:22 added [2] 4:24 5:3 addition [1] 85:20 additional [1] 47:6 address [2] 47:12 76:7 addressed [4] 26:1 75:19 82:8,10 adequately [1] 101:19 adjacent [5] 66:6 67:21 67:22,25,25 adjourn [1] 14:5 adjournment [1] 103:12 admission [2] 6:14 7:19 admissions [1] 7:11 admitted [1] 7:21 advanced [1] 79:3 advise [1] 21:23 advised [1] 29:2 advising [2] 87:21 88:9 affixed [1] 103:15 aforesaid [2] 103:6,9 afraid [2] 19:2 92:15 again [18] 8:17 22:10 42:2 54:18 59:6 71:11 79:12 86:16 89:18 92:24 93:8 93:14 94:9,9 95:18,19 96:9 99:10 against [6] 3:15 11:13,16 11:22,24 65:5 age [4] 3:2 62:16,20 100:16 aged [3] 33:14,17 62:2 ago [4] 10:14 17:10 36:21 90:8 agree [6] 30:12 44:8 45:22 63:1 68:11 97:9 agreement [1] 1:18 ahead [11] 15:2 24:24 27:1 39:4 44:2 46:10 50:18 56:19 63:11 70:10 90:5 aid [1] 29:20 aim [1] 67:1 al [2] 1:4,7 allow [1] 77:19 almost [5] 15:14,23 19:25 34:1 60:18 alone [1] 33:20 along [4] 19:19 21:13,21 27:10 alternative [2] 63:6 88:15 alternatives [1] 38:25 always [7] 24:15 27:2 48:12 55:10 64:18 67:1 101:22 among [1] 86:12 amount [1] 30:2 analogous [1] 15:4 anatomic [5] 61:7 64:7 64:14 65:15 76:19</div>	<div>anatomy [1] 73:14 Andrews [4] 26:7,20 27:3,6 anecdotal [1] 62:18 anew [1] 93:1 angle [1] 66:23 answer [12] 3:20 14:1 15:3 27:2,13 39:22 46:19 70:11 94:14,20,23 96:2 answering [1] 96:3 answers [1] 3:17 anterior [31] 14:22 15:10 15:12,15,20 16:3 17:2 24:6 29:21 30:22 40:3,5,8 40:14,19 41:11,15 44:18 47:25 48:6 49:6 59:19 65:19 66:3,11 68:5 72:24 73:11,19 76:24 77:1 anticipated [1] 35:21 anticipating [2] 40:13 76:16 antiinflammatory [1] 62:8 anxiety [1] 18:7 anyway [1] 48:18 apart [1] 20:15 apparent [1] 43:19 appear [2] 69:6 86:4 appearance [6] 52:4,9 52:11 65:2 72:9 78:4 APPEARANCES [1] 2:1 appeared [1] 87:23 apples [2] 48:21,21 application [4] 6:20 7:23 8:3 25:13 applications [1] 6:16 applied [8] 7:5,7,8,13,16 7:21 42:11 94:3 apply [5] 6:19 93:15,16 93:20 94:1 applying [1] 94:10 appointments [1] 5:10 appreciate [2] 56:16 97:7 appreciated [2] 96:18 96:22 approach [6] 14:21 39:1 70:19 89:20 92:25 100:3 approached [2] 93:9 95:20 approaching [2] 16:22 47:4 appropriate [2] 13:22 67:8 April [13] 27:17,24 28:1 28:4 30:15 32:14 34:15 39:18 60:17 64:21 89:15 89:18,25 area [19] 9:14 19:11 22:22 23:5,8 25:3,18 26:18,21 52:2,5,9 53:12 58:4,7,9 58:18 75:23 78:22 areas [2] 25:12 53:11 argued [1] 82:21</div>	<div>arisen [1] 6:25 arising [1] 15:25 arrive [1] 31:22 artfully [2] 24:21 43:1 arthoplasty [1] 22:20 arthroscope [1] 83:5 arthroscopic [8] 32:22 52:4,23 55:19,22 62:12 63:8 86:5 arthroscopically [1] 50:2 arthroscopies [3] 24:7 48:22 49:2 arthroscopist [1] 24:20 arthroscopy [37] 15:17 16:2 22:21,23 23:1,12,15 23:18,18,21 24:2 25:20 25:24 26:5,7,8,18,21 32:9 40:17 41:6 42:24 43:22 44:17 49:19 51:22 54:10 55:8 57:2,14 63:10,13,18 63:20 85:14 87:1,5 arthrosocpic [1] 60:11 arthrosocpically [3] 36:16 53:2 62:6 articles [5] 8:24 9:2 15:17 25:1,4 articular [6] 59:5 66:6 67:21,22,25 75:24 articulation [3] 44:13 92:5,10 aside [6] 10:25 14:11 16:6 22:1 49:7 98:6 asleep [1] 82:13 aspirations [3] 32:21 33:6,11 assistant [1] 12:21 associate [1] 12:21 associated [9] 38:21 45:9,11 46:21 65:9 66:10 67:6,9 97:18 Associates [1] 32:1 association [1] 15:12 assume [1] 89:14 assuming [3] 66:8 67:18 89:17 asymptomatic [2] 64:16 64:18 athletic [1] 61:5 atrophy [1] 79:25 attached [1] 82:25 attachment [1] 52:18 attempt [1] 101:12 attempting [1] 79:14 attending [1] 38:5 attention [2] 13:14 58:5 attorney [2] 13:15 103:13 August [2] 80:21,25 authoritative [8] 14:19 14:20 23:11 24:14 25:6,7 25:23 26:24 automatically [1] 63:11 available [1] 88:17</div>
---	---	--	--	---

aware [3] 13:11,13 29:10	bump [1] 53:22	check [1] 91:8	84:4	considerations [1] 34:11
away [1] 52:8	burr [1] 91:24	Chicago [1] 9:22	commonly [3] 78:22	considered [9] 6:23 7:24
-B-	business [1] 6:15	choice [1] 23:16	83:20 84:18	30:8 31:20 78:20 81:25
base [1] 73:13	-C-	chondral [1] 89:11	community [6] 5:15	82:22 84:2 93:18
based [11] 21:21 29:2	C [2] 103:1,1	chondromalacia [1] 42:24	13:6 84:14,16,23 85:5	considering [1] 75:14
30:5,16 35:9 42:14 71:7	Campbell's [7] 22:18	chondromalacia [83] 41:7,9,22 42:7,9,14,17	Company [1] 6:14	consistent [1] 43:21
76:19 92:21 97:17,20	23:1,3,4 24:1 25:10,21	43:5,10,16,22,25 44:7,10	compare [1] 48:21	constructed [1] 39:25
basing [1] 29:4	candidate [2] 33:15	44:22 45:24 46:4,4 47:18	compelling [1] 20:7	consulting [3] 101:4,5
basis [3] 15:5 38:11 63:5	98:25	47:21 49:12,13,20,24 50:3	compendium [1] 24:10	101:16
Bate [3] 56:4,11 86:17	cannot [3] 94:2,2 97:20	50:21,25 52:17 53:4,12	competent [1] 21:23	contact [5] 74:2,15,25
bear [1] 81:19	capacity [2] 10:12 33:9	54:17 58:24 59:4,8 60:14	complaints [2] 68:23	75:7,22
bearing [10] 42:11 51:17	caption [1] 103:11	60:15,19,22 61:15,19,22	complete [1] 8:19	contemplated [1] 38:22
52:3 54:25 60:21 62:7,24	care [8] 10:9 15:21 17:25	61:23 62:22 68:17,18 69:5	completed [1] 103:11	continued [3] 72:1 79:6
65:3 75:23,25	21:6 23:9 96:23 97:1,10	69:9,13,15 70:3,7,12,18	completely [3] 46:1 52:5	80:22
Becker [2] 2:3 12:4	career [5] 12:20 16:22	70:23 71:4,5,9,15,19	68:25	continuing [3] 20:10
become [1] 8:8	32:21 33:6,11	73:18,22 74:3,13,16,18	completing [1] 8:12	78:21 82:1
beginning [4] 7:3,4	cares [1] 36:9	75:1,4,16,19 77:8 78:5	compliant [2] 38:8,12	continuous [1] 20:3
16:14,16	cartilage [12] 43:8,12	79:5,24 81:20 86:6,11,20	complications [8] 38:21 39:12 66:10 67:6,9	continuously [1] 20:1
behalf [4] 2:2,6 11:21,21	52:4,7,11,18,20,24 59:5	86:22,24 87:6 88:18,23	67:13,14 97:25	contribution [1] 76:11
Belgium [1] 81:7	59:10 89:6 91:13	92:22	component [1] 80:10	controlled [1] 24:18
believing [1] 76:12	case [15] 1:6 11:4,12	chondroplasty [25] 14:23 41:21,25 42:5,6	components [1] 74:12	controversial [2] 27:4
below [4] 36:13 93:21	12:12,15 15:5 52:12 55:5	44:24 45:6,17,21,24 46:7	concept [1] 45:16	27:8
94:2 97:9	68:12 75:8 88:6 89:18	47:2 59:19 70:6,7,14,21	concerning [3] 13:20	conversation [9] 19:22
benefit [4] 18:21 88:19	92:25 93:9 94:9	74:19 76:8 80:15 91:12	24:11 80:4	19:25 20:11 21:3 22:3
88:24 89:1	cases [8] 11:10,16,24 12:8	91:17,18,22,25	concerns [2] 18:8 22:5	37:9 45:15 98:14,24
best [5] 17:21 34:4 36:3	16:25 34:17 51:25 85:2	choose [1] 78:18	conclude [2] 49:23 90:18	conversations [1] 21:22
39:23 53:10	category [1] 18:17	chronological [1] 11:8	condition [3] 39:2 44:25	cookbook [4] 15:7,9
better [1] 21:12	causative [2] 74:12	circle [2] 58:9,18	64:8	47:5,15
between [4] 22:7 87:16	97:25	circumstances [3] 45:8	conditioning [1] 77:5	Cooper [1] 1:15
92:6,10	caused [15] 10:21 21:8	47:6 71:21	conditions [1] 24:18	cooperate [1] 31:7
bevel [1] 87:15	51:13 53:5 60:16,19,23	cite [1] 15:18	condylar [2] 52:1 60:22	copy [9] 4:4,6,7 32:5
bibliography [1] 22:13	64:5 69:7,12,16 72:21,22	Civil [1] 3:5	condyle [19] 41:7,23 42:7	40:24 41:2 57:22,23 79:9
big [1] 61:10	77:3 91:23	claim [4] 11:22 87:20	42:10 43:23 44:1,22 46:5	corner [5] 64:2 72:14,15
biggest [2] 22:22 61:1	causes [1] 51:11	88:8,10	47:18 52:3 60:16 61:24	73:1 74:8
bilingual [1] 6:12	causing [3] 64:20 72:19	clarify [2] 56:10 93:4	70:13 74:3,16 75:1,18,20	correct [12] 32:16 37:8
bit [5] 16:15 30:7 31:19	92:19	clarifying [1] 46:17	75:23	40:25 41:13 56:4 66:4
33:10 35:8	Center [2] 5:12 32:3	clean [1] 92:25	confer [1] 101:23	67:16,18 70:25 79:11
black [4] 55:25 56:24	central [4] 9:21 52:16	clear [3] 22:9 57:7 93:6	confidence [1] 21:9	89:23 103:9
57:19 58:13	54:23 75:23	Cleveland [5] 2:5,9 5:13	confident [1] 17:25	corrected [2] 4:24 81:6
bleeding [1] 37:3	centralized [1] 83:7	5:19,22	confiding [1] 19:10	correction [1] 33:22
blood [1] 37:4	centrally [1] 82:15	clicking [1] 89:17	confined [2] 15:23 68:16	correctly [2] 18:5 39:21
board [7] 7:11 8:5,7,9,14	certain [7] 15:23 43:11	Clinic [3] 5:13,19,23	confirm [1] 85:16	corroborated [2] 36:1
8:15,18	44:8 46:20 62:15 95:2	close [1] 16:12	congenital [1] 64:11	60:2
Boards [4] 8:12,13,17,22	96:25	clots [1] 37:4	conjunction [1] 48:1	counsel [2] 1:18 103:13
bone [13] 43:8 52:1,2,6,8	certainly [11] 26:23 27:6	cluster [1] 92:1	connection [3] 3:14 11:1	counselor [1] 21:20
52:10,18,25 59:11 83:17	38:19 43:14 45:22 60:18	Co [1] 2:3	33:7	country [1] 15:14
84:1 89:15 90:3	63:1 64:12 84:2 96:21	College [3] 6:5 8:2,3	consent [9] 39:6,8,9,10	County [4] 1:2 11:25
book [5] 9:3 15:18 26:7	99:25	color [4] 55:24 56:24	45:4,12 46:6,23 47:1	103:3,19
26:23 27:6	certification [2] 8:7,23	57:15,18	consented [2] 96:18,22	couple [4] 48:9,9,10,13
books [3] 22:20 24:9	certified [3] 3:6 8:5,9	colored [1] 57:3	65:21 71:9	course [5] 16:22 33:12
99:17	certify [3] 103:5,10,13	combination [2] 50:9	conservative [8] 33:24	42:17 48:16 76:13
born [1] 54:10	certifying [1] 8:19	71:12	61:18 62:6,11 63:7,7	Court [3] 1:3 3:17 11:14
brain [1] 77:17	cetera [1] 34:23	comfortable [2] 55:6	73:22 99:11	courtesy [1] 3:19
break [1] 17:17	change [1] 5:4	96:12	conservatively [1] 61:16	covering [1] 43:8
briefly [1] 29:12	changed [2] 5:14 44:4	comment [1] 100:25	consider [8] 26:17,20	crest [1] 54:23
bring [4] 15:24 16:8	changes [1] 5:16	comments [1] 82:11	27:6 30:25 31:4 60:24	criteria [1] 90:14
19:20 20:12	chapters [3] 9:3 15:18	Commission [1] 103:19	84:7 88:8	cross-examination [3] 1:12 3:4,8
bringing [1] 11:22	22:25	commissioned [1] 103:5	zonsideration [4] 48:23	crossroads [1] 68:7
broad [3] 17:13,16 61:21	characteristics [1] 43:11	commit [1] 18:13	49:3 62:9 89:24	crowded [7] 64:2,5,19
brought [3] 13:14 21:7	charge [1] 58:1	common [7] 1:3 34:24		64:25 65:1 72:18 73:14
42:22	chart [4] 4:2,3 18:14	47:25 48:4 49:22 62:18		cruciate [32] 14:22 15:11
built [1] 77:20	101:8			15:12,15,20 16:3 17:3

24:6 29:21 30:22 40:3,5,9 40:14,19 41:11,15 44:18 47:25 48:6 49:6 59:20 65:19 66:3,11 68:5,6 72:24 73:11,19 76:24 77:1	48:25 49:1 department [2] 33:9 88:15 depend [1] 100:15 depending [2] 66:22 89:2 depicted [1] 86:23 deposed [2] 3:6 10:17 deposition [13] 1:11 3:13 9:25 10:3,7,11 12:6 14:13,17 24:2 72:1 94:21 103:10 depositions [1] 10:25 depth [2] 43:12 59:8 describe [5] 17:14 34:18 64:2 68:21,23 described [5] 36:21 42:20 72:25 77:14 80:1 description [7] 15:7 36:10 43:6 53:10 55:9 69:22 89:7 deserved [1] 63:1 detail [1] 19:4 details [6] 34:23 35:6,21 35:23 36:4,10 detected [1] 41:6 detectible [1] 50:1 determine [3] 12:25 44:9 79:20 develop [1] 69:2 developed [4] 70:16 74:1,24 81:21 developing [2] 71:4 79:25 development [1] 78:4 deviate [1] 47:7 devic [1] 92:1 diagnosed [1] 63:3 diagnosis [3] 29:20 31:23 70:1 diagnostic [20] 15:16 16:2 24:6 32:9 40:8,17 41:6 42:24 43:22 44:16 49:19 51:22 55:8 57:2,14 63:10,13,17,20 87:1 dictate [3] 28:12,15,24 dictated [1] 29:7 dictation [3] 28:6,9,18 differ [1] 53:21 different [6] 5:6,7 34:7 36:20 56:21 102:3 differential [4] 30:15 30:23 31:1,5 differently [5] 93:2,9 94:12 95:21 96:10 dilemma [1] 100:4 direct [1] 14:24 directed [1] 62:16 direction [1] 103:8 disability [7] 10:22 19:18 87:20,22 88:8,10 89:21 disagree [1] 76:6 discernable [1] 55:19	discerned [1] 97:20 discernible [2] 58:23 78:7 discouraged [2] 21:11 21:13 discover [5] 40:3 44:21 69:25 79:16,21 discovered [10] 40:5,18 47:19 51:21 61:24 68:17 68:18 70:13 71:16 79:23 discovering [1] 46:3 discovery [2] 53:1 79:19 discuss [4] 19:4 34:18 54:13 59:17 discussed [11] 13:18 22:7 32:15 33:1 34:2,9 45:14 54:19 60:20 87:5 95:13 discussing [1] 60:9 discussion [18] 4:12 15:6 18:13 35:16,24 36:2 37:13,25 57:9,13 63:6,9 80:25 81:11 87:3,12 88:14 101:24 discussions [1] 20:21 disease [1] 51:25 diseased [1] 89:5 dispute [1] 74:22 disrupted [2] 16:4 66:3 disruption [9] 17:2 40:19 41:12 48:5 65:8,9 65:17,19,21 dissolving [2] 52:2,8 distal [2] 53:8,10 distant [4] 51:1 52:17 53:11 68:16 distinct [1] 21:1 distinction [1] 59:7 divides [1] 82:24 doctor [19] 4:14 10:4,12 11:22 14:12 41:5 45:22 66:16 67:3 74:7 84:24 85:13 89:8,14 90:21 91:8 92:24 94:25 102:5 doctor's [2] 91:5 102:1 doctors [3] 21:14,17 23:23 document [4] 71:22 92:12 93:13 101:7 documentation [1] 84:5 documented [8] 62:5,10 68:15 71:10 72:5 74:5 83:4 98:6 documenting [1] 84:22 doesn't [3] 42:17 43:3 63:10 dollars [2] 48:9,10 done [32] 3:20,21 14:2 15:12 16:2,12 24:18 31:25 39:18 46:7 48:20 49:5,5 50:X 57:2,23 59:23 66:X 67:8,16 70:21,24 71:12 73:24 75:11 82:18 87:25 91:9 93:1 94:11 95:20 96:10 down [5] 3:17 11:2 17:17	38:15 58:17 dozed [1] 67:15 Dr [37] 3:12 13:9,9,11,20 13:23 21:16,18 26:7,20 27:3,6,22,22 40:10 44:11 78:12,15,18,23,25 84:15 84:16,24 85:1 89:14 90:1 90:14 98:14,19 99:8 100:23 101:4,6,13,16,18 drastic [1] 81:24 drift [1] 83:X Drs [1] 31:25 due [8] 6:24 31:8 68:24 72:23 77:13,14 80:6 89:16 duly [3] 3:5 103:4,6 Dupage [1] 9:21 duplications [1] 57:24 during [6] 7:21 17:18,23 19:7 45:14 89:1 Durrant [3] 1:13 103:4 103:18	environment [1] 102:3 especially [6] 25:3,21 52:15 61:14 75:14 84:3 essentially [3] 64:8 80:15 95:6 establishing [1] 47:16 et [3] 1:4,7 34:23 evaluate [2] 83:5 92:16 evaluating [1] 62:19 evaluation [3] 52:22 61:14 87:4 event [2] 23:25 44:16 eventually [2] 78:12 87:19 evidence [9] 49:19,24 58:23,23 64:19 69:20,25 71:7 92:10 evident [1] 51:23 exactly [2] 60:7 96:25 exam [3] 94:25 95:1 100:16 examination [10] 8:14 8:15,20 29:14 30:5,17 60:1 92:9 97:16,21 examinations [1] 82:17 examining [1] 55:10 example [2] 22:4 44:15 exceedingly [1] 63:23 excentric [1] 83:1 except [3] 18:14 35:15 84:7 excessive [1] 91:13 excuse [3] 8:22 93:22 94:3 exercise [1] 62:7 Exhibit [28] 2:12,14,16 2:18 4:15 32:5 39:15 40:22,24 55:21,24,25 56:10 58:16,22 64:1 72:13 72:15 73:1 74:6,9 79:9 85:13,18 86:14,19,21,23 exhibits [1] 86:13 exist [5] 16:X 46:22 65:17 75:17 97:13 existed [7] 51:24 55:5 64:8,12 71:20 78:6 87:6 existing [3] 44:10 62:1 67:17 exists [4] 15:22 52:17 62:5,17 expectations [2] 18:8 100:17 expected [1] 33:16 experience [9] 16:16 74:23 78:25 84:11,19,21 90:2,11 93:12 experienced [3] 62:19 84:9,24 experiencing [1] 31:9 experimental [1] 84:8 expert [2] 11:20 26
--	---	--	---	---

38:20,24 45:8 60:6 86:25 explained [3] 38:16 68:15 87:7 explaining [1] 20:19 explanation [3] 37:18 60:8 87:14 exposed [1] 59:11 Extension [2] 28:20 80:23 extensive [2] 43:18 51:1 extent [1] 89:2 Extraction [1] 81:8 extreme [1] 77:1 extremely [2] 61:20 62:13	54:6,10 61:3 62:19 63:15 63:19 74:1,5 79:3 findings[22] 24:18 32:15 33:2 36:1 43:20,21 45:9 45:11,16 49:17 52:14 60:9 65:8 86:5 87:2,5 92:21 93:13 97:16,17,20 100:16 fine [3] 14:3 73:24 74:21 fire III 100:23 firm [3] 31:18,21 81:18 first [28] 3:5 7:8,21 8:2 11:2 18:5 23:16 27:23 32:24 33:14 34:14 55:15 55:24 69:20,25 70:25 85:15,17 92:6 94:12 95:2 95:3,9,11,15,21 98:11 103:6 Fisher-Titus [1] 5:12 fit [1] 52:25 five [4] 7:15,16 10:10 30:10 fix [1] 47:4 fixation [1] 37:5 fleeting [1] 18:14 flexion [4] 29:15 51:6 54:25 65:3 fluent [1] 45:23 fold [1] 74:15 follow [2] 34:24 35:22 follow-up [2] 87:4 101:13 followed [2] 24:22 35:3 following [2] 28:20 86:25 follows [2] 3:7 55:10 force [3] 42:11 64:17 73:16 forced [2] 51:5 54:23 foregoing [2] 103:8,11 form [4] 39:9 53:1 70:8 93:24 Forrest [2] 2:7 66:17 forth [2] 18:9 39:11 forward [3] 29:18 30:6 30:14 Foster [1] 1:16 found [6] 16:3 41:13 59:2 59:24,24 85:24 Foundation [2] 5:13,20 four [3] 10:10 11:5 72:14 fourth [2] 11:7,9 fracture [1] 22:19 fractures [1] 23:9 frame [1] 65:4 free [1] 92:2 French [1] 81:7 frequently [4] 15:11 50:8 63:18 78:15 frictional [5] 74:2,15,25 75:7,22 friend [1] 6:13 Friendship [1] 19:13 front [4] 14:11 28:15 39:16 68:24	full [4] 8:20 12:21 52:20 59:9 future [5] 99:6 100:3,6 100:10,12 <hr/> -G- <hr/> gainful [1] 88:12 geared [1] 47:15 general [8] 10:6 22:18 31:14 37:1 39:9 68:22 99:5,13 generated [1] 57:14 Germany [6] 6:2,7,10,17 6:20 7:1 gist [1] 98:24 given [9] 11:1 33:11 61:22 73:25 77:1 88:3 91:16 103:7,9 giving [1] 102:2 Glen [6] 1:7,11 3:1,8,11 103:5 globally [1] 17:12 goal [1] 6:11 gonarthrosis [1] 79:4 gone [1] 16:2 good [8] 24:4 27:3 83:22 84:22 85:8,9,12 101:22 Gosh [3] 17:16 62:15 100:25 grade [29] 41:9 42:14,25 42:25 43:15,15 44:21 46:4 50:21,25 52:19 53:4 54:17 58:24 59:4,8 60:13,15,19 60:22 68:18 70:7 71:4,4,8 76:8 83:18 86:6,10 grading [3] 43:5,6,9 graft [8] 36:13,17,18 50:10 83:17 84:1 89:16 90:3 Green [5] 22:19 23:1,7 24:1 25:11 grinding [1] 77:15 groove [28] 52:16 53:14 54:24 58:8,10,17,19,25 60:14 65:16 67:23 68:13 68:19,25 69:5,13,16 70:23 71:15,19 75:21 77:16 81:18,19 82:15 87:6 88:19 88:24 gross [1] 61:10 grossly [1] 61:2 group [3] 20:2 62:16,20 groupings [1] 72:14 grown [1] 52:24 guess [7] 15:10 22:14 56:8 69:10 85:15 90:24 96:25 <hr/> -H- <hr/> hand [8] 4:14 29:17 45:20 46:22 64:2 72:14,15 103:15 handle [1] 34:6 hands [4] 84:8 85:12 89:23 90:8	happy [1] 13:23 harvest [1] 36:17 healing [1] 38:4 health [2] 5:15 43:8 hear [2] 21:14 36:9 help [2] 6:16 31:11 helped [1] 6:12 hereby [1] 103:5 herein [1] 3:2 hereinafter [1] 3:6 hereunto [1] 103:15 hesitating [2] 66:18,19 high [1] 40:14 hinting III 19:16 hip [1] 12:16 history [3] 28:1,17 30:16 hold [1] 19:20 hole [1] 53:22 hope [1] 57:25 hopefully [2] 43:2 87:17 Hopkins [2] 1:13 103:4 hospital [6] 5:10,13,14 5:15 9:21 39:9 hospital's [1] 39:8 hospitals [1] 9:10 hour [1] 79:13 hours [1] 98:8 house [1] 55:11 Howard [3] 2:3 3:12 27:9 Howley [1] 2:7 Hritz [13] 21:16,18 78:12 78:16,18,23,25 98:15 101:4,6,13,17,18 Hritz' [2] 98:19 99:8 Hurd [1] 2:7 hypothetical [1] 97:12 <hr/> -I- <hr/> idea [1] 47:5 ideas [2] 27:3,5 identification [5] 2:13 2:15,17,19 4:15 identified [4] 70:4 75:13 83:14 84:13 Identify [1] 86:13 III [9] 2:7 42:25 43:15 44:21 46:4 60:15,22 70:7 76:8 images [2] 39:25 57:2 imaginative [1] 23:24 Imaging [1] 32:3 immaterial [2] 5:3,17 impact [4] 18:15 22:6 33:12 43:3 impingement [2] 50:10 50:12 importance [2] 75:12 75:14 important [1] 18:6 impossibility [4] 96:2 96:3,5,5	impression [1] 19:1 improvement [4] 38:3 76:12,15,18 inability [3] 77:4,12 88:12 incident [1] 73:10 incidentally [1] 61:12 incision [1] 36:17 include [1] 67:23 included [2] 34:11 99:16 including [3] 32:22 33:5 48:16 income [1] 19:21 incongruities [1] 91:13 increase [2] 71:3 82:19 increases III 50:5 independent [2] 18:19 98:10 indicate [6] 29:25 32:14 32:20 50:3 87:9 90:16 indicated [6] 53:7 57:13 57:21 67:7 76:17 95:4 indicates [2] 30:10 59:4 indicating [3] 65:9 84:23 88:7 indication [2] 16:7 24:7 indications [1] 47:23 indistinct [2] 30:9 31:11 individual [2] 38:1 45:19 infection [1] 37:3 information [15] 5:5 24:5,11 25:6,8,16,23 26:18 50:2 90:6,16,17,21 95:2 97:7 informational [1] 27:7 informed [4] 39:6,7,10 63:2 infrastructure [1] 52:7 inherent [1] 66:1 inhibition [1] 77:14 initial [4] 17:6 52:22 59:14 69:17 injuries [4] 35:25 46:21 63:3 75:12 injurious [1] 64:17 injury [50] 10:19,21 12:14 19:18 28:2 29:3,5 33:15,18 37:6 42:19 43:4 43:4,12,14 45:9,11 47:6,9 51:17,18 52:1 53:1 54:11 55:2,13 59:8 60:1,2,3,16 60:19,20,23 61:5,10,14 64:9,21 65:7 66:5 67:19 68:13 69:17 72:25 73:15 73:19 76:20,21,23 innocently [1] 57:17 insecure [1] 52:19 insertion [1] 36:17 inside [1] 29:19 inspect [1] 55:13 inspection [2] 55:20 59:2 instability [2] 61:4,11
---	--	--	--	--

Index Page 5

mentioned ^[1] 17:9	musculature ^[1] 77:19	102:8	occasion ^[7] 12:6 13:19 19:23 20:25 22:15 37:15 40:18	oral ^[2] 8:15,22
met ^[3] 12:2,4 27:23	mushy ^[1] 31:21	Northern ^[1] 32:3	occasions ^[2] 8:11 10:7	order ^[4] 8:17,19 31:22 36:3
mid ^[1] 80:22	must ^[1] 81:7	Notary ^[4] 1:13 66:15 103:4,18	occur ^[1] 29:3	ordinarily ^[2] 59:12 60:10
middle ^[4] 20:6 33:14,17 62:2	mutual ^[1] 85:10	notation ^[1] 41:11	occurred ^[3] 19:25 51:18 77:7	origin ^[2] 60:3,8
might ^[39] 5:9 15:5 18:4 19:2,15,19 20:5,20 23:14 26:7 30:7 33:16,19 45:18 46:22 49:2 52:6 61:11 62:7 63:22 66:21 75:6 77:14,16 78:19 79:20 82:21 84:2,17 89:2 91:16 99:2,5,6,11 100:11,17 101:3,15	mutually ^[1] 46:1	notch ^[25] 50:12 51:2 52:17 53:13,15,18,22 64:3 64:6,19,25 65:1,4 67:20 68:2 70:5 72:5,9,10,12,14 72:16,19,23 73:14	occurrence ^[1] 37:20	original ^[11] 4:2,3,9 53:25 55:2,8 59:18 60:16 60:20 78:10 94:7
Mike ^[1] 12:4		notchplasties ^[4] 15:11 71:8,11,21	off ^[9] 3:22 4:1,12 57:7,9 57:13 67:15 81:9,11	Orthopaedics ^[2] 1:15 22:18
millimeters ^[1] 30:11		notchplasty ^[39] 14:23 15:19 16:1 17:1 42:4 45:2 45:6,16,21,25 46:8 47:20 48:1,4,17,22 49:2,5 50:5 50:8,14 53:8 59:18 65:18 65:25 66:8 67:7,10 68:12 68:16 70:6,22 71:2 72:6 73:7,23 76:16,18 97:24	offended ^[1] 36:10	orthopedic ^[11] 9:12 11:21 22:12 23:5,8 37:2 47:14 62:18 84:23 85:5,9
mind ^[4] 16:8 26:23 96:6 99:1		note ^[3] 28:4,12 34:13	offering ^[2] 24:18 91:3	osteoarticular ^[4] 83:17 84:1 89:15 90:2
mine ^[1] 6:13		noted ^[3] 18:22 38:14 49:21	office ^[26] 2:4 13:4 18:19 20:1,2,8 22:11 27:16 28:7 28:10,12 32:12,13,19 34:14,18 35:2,12 42:22 45:15 53:24 54:12 55:3 82:17 101:8 103:15	otherwise ^[3] 5:8 22:8 103:13
minimal ^[1] 94:2		notes ^[5] 17:7 30:8 34:18 53:24 91:8	Offices ^[1] 1:15	outcome ^[13] 73:6 82:20 83:12,22 84:6,22 93:7,22 94:3 95:3,16,23 103:14
minor ^[2] 76:3 97:19		nothing ^[3] 30:23 59:2 103:6	offing ^[1] 99:16	outside ^[1] 19:11
Mishkind ^[22] 2:3,3 3:9 3:12 27:11 35:10 56:14 56:23 57:11 58:2,20 66:17 66:25 81:9,13 93:5 94:18 95:24 96:4,10 98:18 102:5		notified ^[1] 7:11	often ^[4] 60:11 61:17 97:15,19	outstanding ^[1] 27:4
misinterpret ^[1] 34:13		November ^[1] 1:17	Ohio ^[14] 1:1,14,16 2:5,9 3:4 6:5 8:2,3 32:3 103:2 103:4,15,19	outward ^[1] 52:11
missing ^[1] 85:21		now ^[10] 3:18 7:25 21:3 32:18 35:17 41:18 49:11 52:23 69:19 77:22	old ^[2] 43:5 59:6	oval ^[1] 65:2
mission ^[1] 63:15		number ^[14] 31:4,16 47:17 49:1,4 50:21 55:22 55:25 79:10,15,16,22 86:17 94:18	once ^[4] 8:15 28:22 56:15 63:18	overlying ^[1] 52:11
mistaken ^[1] 37:23		numbers ^[1] 10:6	one ^[48] 8:21 10:9 12:8 19:23 20:25 23:10 25:23 29:17,23 30:10 31:4,16 37:3,15 46:22 47:17 50:14 51:9 52:8 53:16 54:19,20 54:21 55:1,5,22 56:24,24 57:18,18 60:20 63:10,19 66:2 68:12 69:10 75:6 79:16 83:2,8 85:8,22 91:1 94:2,2,18 95:9 98:21	overseas ^[4] 6:23 7:10 7:12,14
misunderstand ^[1] 63:16		numerous ^[2] 86:10 99:21	one-half ^[1] 52:21	oversees ^[1] 6:12
misunderstood ^[2] 42:1 67:12			ones ^[3] 22:14 86:3,8	overtly ^[1] 43:19
mixed ^[1] 56:2			ongoing ^[3] 89:21 100:4 101:20	own ^[7] 22:12,15 26:9,12 38:3,3 71:22
mobility ^[1] 62:8			onset ^[1] 42:20	
modality ^[1] 33:25			open ^[1] 65:2	
mode ^[1] 15:1			opening ^[3] 30:4,11,13	
moderate ^[1] 62:22			operate ^[2] 93:1 95:19	
modified ^[1] 97:19			operated ^[1] 40:2	
moment ^[6] 4:1 17:10 36:21 40:23 50:19 90:8			operation ^[14] 36:15,23 36:25 38:2 39:4,5 47:10 50:4 55:15 78:21 81:16 81:25 91:6 98:17	
money ^[1] 48:12			operations ^[2] 37:2 48:17	
months ^[3] 52:21 89:19 89:19			operative ^[8] 2:16 13:24 14:4 40:24 54:7 79:10 80:14 82:10	
most ^[16] 23:10 24:11 25:1 40:11 43:9 44:5 51:23 59:9 64:15 73:10 76:13 78:11 99:22,22 100:2,14			opinion ^[21] 21:15 50:24 55:1 60:13 64:5 69:16 72:18 73:5,9,20 78:13 85:4 91:4 97:23 98:3,15 98:19,19,21 99:25 100:2	
mostly ^[1] 36:16			opinions ^[2] 21:18 78:16	
motion ^[3] 77:9 82:6 83:7			opportunity ^[3] 6:24 13:25 102:2	
motivation ^[1] 38:4			opposite ^[1] 71:18	
move ^[3] 19:3 27:10 32:13			optimal ^[1] 57:24	
moved ^[1] 30:6				
movement ^[1] 30:4				
moving ^[2] 16:13 33:10				
MRI ^[19] 2:14 31:23,25 32:6,8,15 36:1 39:15,18 40:7 43:20,24 44:7,9 45:16 52:14 60:2 65:8 95:1				
Mrs ^[1] 4:10				
muscle ^[1] 82:12				

patellar [19] 51:3 68:21 68:22 69:2,4,12,19,23 70:1,16 71:14 79:1,3,5 82:4 83:6 92:14,16,20 patellofemoral [3] 52:15 79:4 82:2 path [1] 55:11 pathology [1] 59:14 patient [51] 10:19 11:22 13:1 16:6 17:1 18:16 27:16,19,21 28:3,13,14 28:16,25 36:9 38:1,8,9,20 38:25 39:5,7 45:5,8,14 46:6,23 49:6 51:3 61:9 64:7,16,20 70:9,15 74:20 76:5 77:25 80:7 82:13 83:15 84:21 92:8 95:1,19 98:25 99:2,7 101:3,22 102:2 patient's [7] 32:11 51:17 70:2 73:17 78:20 100:15 101:25 patients [10] 10:9 11:1 34:19 62:13 78:15 85:10 87:14 88:18,23 101:21 patients' [1] 71:22 patter [1] 37:12 pattern [1] 55:11 pen [2] 58:13,15 pending [3] 3:15 11:10 11:13 penetrating [1] 43:18 penetration [1] 43:12 people [5] 36:11 57:23 62:20,21 74:23 per [1] 39:13 perform [11] 17:21 44:24 45:2,25 46:6 47:13 84:19 84:20 89:15 90:2 91:6 performance [4] 71:2 73:23 74:19 83:22 performed [26] 13:25 16:1,21 29:15 36:16 41:21 53:8 60:10 63:21 66:12 70:5 71:8 73:7 76:18 77:22 78:22 80:13 81:16 83:20,20,21 90:12,13 91:15,19 97:24 performing [14] 15:10 15:19 45:5,16 46:8 47:10 65:18,25 67:7 68:11 71:20 79:14 81:1 83:25 perhaps [8] 19:13 27:8 30:7 34:19 58:13 64:11 67:14 72:8 period [9] 6:24 20:6 38:9 42:23,23,25 43:3 88:24 89:2 permission [1] 45:5 persistent [1] 77:3 person [7] 10:23 33:14 33:17 38:2 62:2 68:23 90:10 personal [1] 84:21 perspective [1] 102:1 phase [1] 18:3 phenomenon [2] 42:15	55:7 photo [1] 63:25 photographs [10] 58:9 60:12 62:12 68:15 72:4,4 85:21,22,23,24 photos [12] 2:18 53:24 54:4,5 55:22,25 57:1,14 57:17,21 58:3 86:20 phrased [1] 94:14 physical [10] 18:7 30:17 33:16,18 38:5 43:11 92:9 94:25 95:1 97:21 physically [4] 20:14 33:22,24 34:5 physician [3] 10:8 11:2 21:10 physician/patient [3] 17:14,19 19:14 physiologic [1] 43:7 physiologically [1] 52:25 picked [1] 55:7 pictures [5] 59:1 85:14 86:10,12,15 pivot [1] 61:3 pivoting [1] 65:4 place [2] 63:19 103:11 placed [1] 33:17 placement [1] 83:4 Plaintiff's [10] 2:12,14 2:16,18 4:15 32:5 55:21 64:1 74:6,9 Plaintiffs [4] 1:5,12 2:2 3:3 plaintiffs' [1] 48:11 plan [6] 14:21 45:10,19 47:3,7,11 planning [1] 7:9 plans [2] 6:22 7:12 PLEAS [1] 1:3 pleased [1] 44:17 plica [8] 74:1,24 75:3,5,6 75:15,22 76:1 plus [3] 29:23 30:10 61:2 point [14] 14:8 18:2 30:9 31:11,18 43:17 51:16 59:3 61:13 70:20 72:8 82:21 94:17 97:4 poor [3] 37:5 62:13 93:21 poorly [1] 62:23 popping [4] 77:3,6 87:8 87:11 population [1] 84:21 Porsche [1] 6:14 portal [1] 83:5 portion [3] 52:3,16,22 poses [1] 97:12 position [4] 33:8 65:16 88:2,3 positive [2] 49:17 54:6 possibilities [2] 99:18 100:18 possibility [5] 52:13 53:3 54:16 81:23 84:3	possible [4] 20:25 59:14 84:7 89:12 posterior [1] 68:6 postoperative [5] 37:16 37:21,24 38:7,9 postponing [1] 6:23 potential [13] 38:21 50:15,17 51:5,8 66:5,10 67:6,9 76:20 78:19 79:19 92:3 practice [10] 8:21 24:17 34:19 36:9,12 37:11,17 39:3 45:7 49:22 preceded [1] 53:1 precedent [1] 15:5 preceding [1] 32:9 precipitated [1] 78:9 precipitating [1] 64:25 precise [1] 97:1 precisely [1] 67:17 predetermined [1] 46:20 predisposed [1] 73:15 predisposing [1] 76:19 preferable [1] 33:23 premise [1] 61:20 preoperative [1] 54:9 preoperatively [2] 60:1 97:22 preparation [2] 14:13 24:2 presence [4] 43:11 70:17 82:14 103:7 present [3] 28:13 55:7 60:3 presented [1] 57:18 pressure [3] 51:6 54:23 81:18 presumably [1] 41:21 presume [2] 26:14 49:18 presumed [1] 65:7 presuppose [2] 45:18 74:13 presupposes [1] 82:23 pretty [1] 93:6 prevent [2] 50:9 76:23 previously [4] 87:25 88:13,16 90:13 print [1] 62:17 privileges [1] 9:9 problem [21] 10:24 15:7 16:23 19:7 21:14 45:20 47:4 55:13 60:4,8 62:20 76:11 78:3 79:7 82:16 88:3 89:24 99:24 101:24 101:25 102:4 problems [15] 18:6,7,12 18:24 20:10 21:4,24 24:19 36:24 37:5 69:23 78:21 89:17 101:20,21 procedure [30] 3:5 12:15 14:23 46:7,8,24 48:18 65:21 66:1,11 72:16 74:20 80:13,15 81:2,15,16,22 81:25 83:19 84:4,19,25	87:1 90:10,12 91:15 99:1 99:12 100:12 procedures [4] 16:21 25:18 83:22 84:6 proceed [2] 38:15 44:24 proceeded [1] 40:13 process [8] 7:19 8:19 20:3 36:15 37:18 38:4 42:13 61:4 productive [1] 76:4 professional [3] 93:16 93:17 94:10 professor [1] 12:21 progress [3] 21:15 77:4 77:12 progressive [1] 47:10 promised [1] 16:14 pronunciation [1] 81:6 prophylactic [1] 76:23 proposal [1] 97:19 propose [2] 97:17,18 proposed [2] 34:10 99:1 proposition [1] 96:13 protective [1] 62:7 proven [1] 62:1 provide [2] 24:10 97:6 provided [7] 3:4 10:9 13:11 14:9 30:16 57:22 66:4 providing [3] 17:25 34:4 57:24 provocation [1] 30:7 provocative [1] 30:2 proximately [1] 53:12 prudent [2] 75:11 94:11 Public [4] 1:14 2:8 103:4 103:18 publication [1] 9:3 published [2] 8:24 24:10 purpose [2] 3:3 76:20 purposes [2] 14:16 39:8 pursuant [2] 1:17 72:2 pursue [8] 7:18,25 8:16 19:5 87:20,22 88:9 101:17 pursuing [3] 6:20 88:8 88:11 put [6] 10:25 24:21 38:15 43:1 66:24 67:1 puzzled [1] 59:25	questions [11] 3:16 12:25 14:1,5 17:5 32:18 47:15 56:15 91:10 102:3 102:6 quit [1] 100:22 quite [2] 21:1 22:17 quote [4] 15:6 32:20,23 67:17
-R-				
R [1] 103:1 radiographically [1] 52:10 radiologists [1] 44:6 raised [1] 59:13 range [1] 80:23 Rarely [1] 78:17 rather [2] 24:21 59:7 rationale [4] 34:3,8,23 35:3 Ray [1] 1:4 reaction [1] 59:22 read [8] 32:24 33:2,4 66:14,15 88:21 98:7 102:8 realized [2] 83:14 101:19 realizing [1] 35:24 really [8] 18:15 19:15 20:21 21:13,23 22:17 46:15 67:4 reason [8] 21:16 36:19 57:17 61:1 77:25 89:25 90:12 91:16 reasonable [7] 75:10 89:20,24 94:10 99:23 100:3,14 reasonably [1] 24:13 reasons [2] 20:19 61:7 received [2] 32:8 46:6 receiving [1] 21:7 recess [2] 71:25 72:2 recognize [2] 24:19 93:16 recognized [4] 43:4 84:17,18 93:15 recollection [4] 21:2 22:9 28:17 101:9 recollections [1] 35:9 recommend [2] 81:22 87:19 recommendation [2] 84:7 99:9 recommendations [1] 18:16 recommended [3] 31:23 38:25 83:25 recommending [1] 33:13 reconstruct [1] 41:18 reconstruction [5] 32:23 33:5 36:3,14 50:9 record [25] 3:10 4:1,12 18:22 22:2 55:14,16 56:10 57:7,9,12,13 58:16,21 59:1,3 67:18 75:9 79:9				
-Q-				
quadriceps [4] 77:5,13 77:19 80:1 qualifications [5] 90:17 90:19,22 91:4,6 qualified [1] 103:5 qualify [1] 33:15 quality [3] 21:6 37:6 59:7 quarter [1] 94:21 querying [1] 90:21 questioned [1] 21:6 questioning [1] 3:25				

81:9,11,14 86:16 87:4 101:2 Recorded [1] 103:19 recording [1] 70:2 records [7] 14:11 18:11 18:19 22:8 98:6,7,11 recreation [1] 33:19 recurrent [1] 20:7 red [1] 58:15 reduced [1] 103:7 reevaluation [1] 101:4 refer [10] 21:17,20 22:15 22:18 23:12 26:6,14 31:11 78:15 101:18 reference [2] 18:14 44:3 referenced [2] 8:7,24 references [2] 24:10 25:2 referral [1] 101:13 referrals [1] 85:11 referred [1] 78:12 referring [6] 24:25 33:7 62:14 73:3 86:13 99:2 reflect [4] 18:11 42:17 43:7 58:19 reflected [4] 22:2,8 43:24 44:6 reflecting [1] 58:18 reflex [1] 77:14 regard [5] 5:25 37:21,24 73:6 95:21 regarding [2] 36:22 93:12 regardless [1] 46:5 regimen [2] 61:18 62:11 regularly [1] 38:6 rehabilitation [5] 33:19 37:16,21,24 38:7 reiterate [1] 16:13 relate [2] 14:2 39:1 related [2] 53:13 55:2 relates [6] 10:8 14:16 18:11 25:17 37:17 39:11 relating [1] 24:5 relationship [7] 17:14 17:19,23 18:10 19:14 100:24 101:1 relative [5] 10:20 11:17 32:19 85:25 103:13 release [4] 82:22,23 83:2 83:10 reliable [9] 23:10 24:4 24:13,17 25:16,23 26:5 26:17 27:7 relieving [1] 81:24 remarked [1] 90:15 remarks [1] 44:11 remember [20] 12:11,24 13:1 17:10 18:18,23 22:2 34:14 35:2,6,18,19,24 36:5,7 37:8 59:22 60:9 87:22 88:9 remembered [1] 35:12 remembering [3] 24:15	69:23 76:9 remind [2] 37:25 54:18 remove [2] 75:6 89:5 removed [1] 75:16 removes [1] 91:12 removing [1] 76:20 rendered [1] 87:13 reoperation [1] 78:1 repair [8] 11:17 15:11,13 41:18 48:1 66:11 71:12 71:17 repairing [2] 47:25 66:2 repeated [2] 19:22 89:16 rephrase [3] 66:20 88:22 94:22 replace [1] 36:14 replacement [6] 9:15 9:18 12:16 16:17 22:21 25:3 replacements [1] 48:16 replete [1] 99:17 report [10] 2:16 13:24 14:4 32:6,8 40:24 44:1 54:7 79:10 80:14 Reporter [1] 3:17 represent [1] 3:14 represents [1] 43:10 reproduced [2] 57:22 82:12 reproductions [1] 56:21 required [2] 80:8 85:11 requirement [1] 8:18 requirements [2] 8:12 32:21 requiring [1] 78:1 research [1] 23:14 resect [1] 75:6 residents [1] 12:17 resist [1] 3:22 resolution [1] 44:9 resolve [4] 87:10 89:21 99:23 101:20 respect [1] 17:20 respected [2] 23:4,7 respective [1] 25:12 respond [1] 14:4 response [2] 65:7 77:17 responsibilities [1] 38:1 result [8] 29:23 30:10 36:3 69:4 73:4 74:20 91:16 96:14 resulted [2] 76:12 98:1 resulting [1] 75:1 retinacular [3] 82:22,23 83:10 return [4] 87:24 88:12 101:3,16 returns [1] 65:15 reveal [1] 58:23 reviewed [3] 14:13,15 45:15 revision [1] 12:16	revisit [1] 14:6 revoked [1] 9:7 ridge [5] 74:2,15,25 75:18 75:21 right [27] 7:3,18 13:22 14:7 25:11 26:13 28:13 31:24 34:12 39:14 44:2 44:23 50:13 58:2 62:4 63:2 64:2 69:18 72:13,13 77:22 82:3 86:14,22 89:23 90:8 95:15 right-hand [1] 73:1 risk [2] 67:19 68:14 risks [8] 36:24 37:1,2,10 38:20 39:12 66:1 68:12 Road [1] 1:16 Robert [1] 1:4 robot [1] 47:14 robotically [1] 47:10 Rockwell [1] 23:1 Rockwood [4] 22:19 23:7 24:1 25:10 rough [1] 81:19 roughly [1] 89:18 routine [4] 34:24 35:4 37:11,17 routinely [1] 62:23 rude [1] 28:15 rule [1] 15:14 Rules [1] 3:4 run [1] 76:14 rupture [2] 29:21 44:18 ruptured [1] 73:11 Russell-Berkebile [1] 31:25 -S- salvage [1] 81:25 satisfied [3] 83:12 95:4 95:16 satisfying [1] 83:16 save [1] 50:19 saw [6] 13:3 28:25 49:19 80:21 96:7 100:20 scan [2] 40:11 43:24 scanning [1] 44:9 scar [1] 52:24 school [8] 6:7,11,15,17 6:18,21 7:1 12:22 schools [7] 6:19 7:5,7,8 7:13,19,20 Schoop [1] 4:10 scientific [2] 24:16 62:16 scissors [1] 65:5 scope [1] 12:25 se [1] 39:13 seal [1] 103:15 second [25] 2:4 21:15,18 45:9 47:3 70:3 77:12 78:13,16 79:6 80:14,14 82:9,19 83:13 92:13,17 95:12,13 98:11,15,16,18	98:19,21 sections [1] 85:23 Security [2] 87:20 88:11 sedentary [2] 33:23 88:17 see [12] 4:10 8:7 34:22 37:14 42:24 44:1,17 50:19 55:12 62:12 92:9 101:5 seek [1] 45:4 seem [1] 88:14 sees [1] 44:11 select [1] 20:2 send [1] 77:17 sense [2] 20:3 21:5 sentence [1] 33:1 separate [2] 45:11 78:3 separately [1] 47:2 September [1] 13:5 served [1] 11:20 set [2] 56:24 103:15 setting [1] 39:11 seven [1] 89:19 seventy-five [1] 7:9 several [2] 47:16 56:21 severe [2] 59:4 62:23 shape [1] 72:23 shared [3] 18:25 28:18 85:10 shaving [1] 89:5 shear [3] 42:11 65:5 73:4 shearing [2] 72:24 73:2 shelf [2] 22:14 25:10 Sheriff's [1] 33:9 shift [2] 61:3 82:4 shifted [1] 29:18 shifting [1] 82:11 short [2] 71:25 76:14 shortly [1] 28:18 shoulder [3] 10:18,21,24 show [9] 13:24 52:2,12 58:4,10 85:13 86:20,22 86:24 Showing [1] 55:21 shown [2] 51:24 62:6 shows [1] 87:4 side [4] 46:18 83:2,3,8 sign [1] 39:5 signals [2] 77:17,18 signed [1] 39:7 significance [6] 14:2 59:2 74:7,11 76:1,3 significant [4] 40:11 43:14 49:16 79:23 significantly [1] 54:6 signify [1] 59:7 silently [1] 85:17 similar [3] 34:17 42:20 73:10 simple [1] 56:22 single [1] 15:24 sit [3] 8:11 77:21 94:19	situation [4] 10:20 87:23 97:13,15 six [3] 7:9,15,16 skills [2] 90:7 93:11 Skylight [1] 2:4 slate [1] 92:25 slide [3] 31:15,15 76:14 sliding [1] 30:14 slight [2] 29:15 65:4 slightly [1] 81:17 small [3] 36:12,16 76:10 smaller [1] 48:24 smooth [1] 89:11 smoother [1] 87:17 snapping [5] 77:4,7 80:22 82:6,11 Social [2] 87:20 88:11 sole [1] 63:13 someone [3] 33:21,23 84:17 sometime [3] 21:1 31:3 80:25 sometimes [1] 27:4 somewhat [2] 19:13 44:5 somewhere [1] 37:23 sorry [7] 10:16 16:9 30:19 42:1 56:20 88:21 100:8 sort [2] 20:4 76:22 source [12] 26:17 27:4,7 29:9 74:14,17 75:2,17 79:16,19 82:16 87:7 sources [6] 24:4,13,22 24:25 25:16 26:5 space [1] 50:6 speak [1] 70:24 speaking [2] 62:4 99:13 special [1] 16:17 specialize [1] 9:14 specialty [1] 9:16 specific [15] 8:8 9:17 32:18 35:6,14,23 37:2 39:10 44:9,12 46:21,24 60:7 87:12 91:19 specifically [10] 25:14 34:14 35:18,19 36:7 37:9 46:23 62:15 87:3,21 specifics [2] 17:8 22:10 specified [1] 103:11 sprain [3] 72:23 73:2,23 Square [1] 2:8 SS [2] 1:1 103:2 stabilized [1] 29:17 staff [1] 5:10 Stamped [3] 56:4,11 86:17 stand [1] 96:13 standard [7] 15:21 25:17 25:18 37:17 39:3 66:9 97:10 standards [2] 93:21 94:2 standing [2] 42:15 85:4 standpoint [5] 40:8 53:16 80:19 98:4,9
--	--	---	---	--

start [2] 3:25 11:2 started [5] 3:13 6:1 21:4 33:1 94:21 State [5] 1:1,14 3:10 103:2,4 statement [3] 29:5 33:7 34:22 states [3] 6:19 7:6 101:2 statistics [1] 62:14 stenotype [1] 103:7 step [1] 69:10 stepwise [1] 46:24 stiffness [1] 37:4 still [4] 11:10 16:13 20:13 75:16 stop [1] 31:21 stopped [1] 20:4 stops [1] 31:16 strain [1] 41:15 Street [1] 2:4 strengthening [1] 77:13 structure [2] 65:2 77:2 structures [1] 65:5 students [1] 12:18 studies [5] 6:23 15:17 25:2 97:18,21 study [6] 7:12,14 14:3 15:24 24:16 62:16 style [2] 43:5 59:6 subchondral [1] 59:11 subject [2] 12:11 15:24 subjective [2] 68:23 69:24 subluxation [5] 51:4,9 51:14 54:19,20 subluxed [5] 30:25 31:4 60:24 65:11,14 submitted [1] 9:2 subsequent [4] 39:5 50:18 71:17 78:3 subsequently [1] 103:8 subspecialty [1] 9:17 substandard [3] 93:17 96:23 97:1 substantially [1] 5:4 subtle [1] 43:18 suburban [1] 9:21 success [2] 62:10 90:13 successful [7] 47:20 77:23,24 78:2 84:5 96:14 99:12 successfully [3] 8:12 8:13 61:17 such [8] 15:22 55:6 61:2 65:3 66:10 81:20 82:14 83:23 sufficient [1] 97:7 suggest [5] 14:25 15:19 25:22 88:7 90:23 suggested [2] 40:7 59:13 suggesting [8] 15:9 40:10 47:13 52:13 55:6 55:17 58:21 90:18	suggestion [1] 101:15 summarize [1] 91:7 support [3] 14:20 20:14 70:1 supporting [4] 19:17 52:7 77:2 102:1 surface [21] 42:12 49:14 49:20,25 50:1,15,22,25 52:7,24 53:4,9 54:18 62:25 67:22 71:20 75:24 75:25 77:16 80:16 89:11 surfaced [1] 70:24 surfaces [4] 66:7 67:21 68:1 81:20 surgeon [8] 9:12 11:21 38:19 62:19 81:7 84:9 85:9 101:23 surgeons [1] 43:9 surgeries [7] 13:24 16:18 24:8 48:13,15,19,25 surgery [90] 9:15 10:18 15:16 17:6 18:5 22:22 23:5,8 24:5,11 25:4,15 31:3,3 34:10 35:22 36:4 37:13 38:22 39:11 40:13 41:5 47:8,14 49:11,15 50:18,20 53:25 55:22 56:1 56:6 58:4,22 59:15,18 60:9 63:15 69:20 70:3,25 72:5 74:4 75:20 77:22 78:2,10 79:6,10,15,22 80:21 82:9,19 83:13 84:12 85:11,19 86:1,5 89:19 92:7,13,17 94:12 95:2,3,7 95:11,12,13,15,20,21 96:8 96:17,18,21 97:8,17,18 98:1,12 99:2,4,6,10,15 100:2,13 surgical [24] 11:17 12:14 16:15,21 24:19 25:17,17 25:18 33:15,22 34:2,7,23 36:11 38:25 45:10 46:24 53:5 58:4 63:8 70:8 99:23 100:3,14 surgically [1] 62:20 surmise [1] 61:11 surmised [1] 62:22 surrounds [1] 82:24 suspected [3] 14:22 17:24 60:1 suspended [1] 9:6 suspicion [1] 54:9 suspicious [1] 35:25 sustained [3] 28:2 64:21 69:17 sustaining [1] 29:5 swelling [1] 37:4 sworn [2] 3:6 103:6 sympathetic [1] 21:25 symptomatic [6] 62:3,4 76:12,15,18,21 symptomatology [2] 64:20 76:5 symptoms [10] 42:21 70:16 72:19,21,22 73:18 74:14 76:13 78:1 100:16 syndrome [10] 68:21,22	69:2,4,12,19,23 70:1,16 79:2 synovial [3] 74:1,15,24 system [2] 43:6,10 systematically [1] 55:10 -T- T [2] 103:1,1 taking [3] 8:21 69:10 94:16 teaching [2] 12:17 36:12 tear [6] 17:2 44:18 48:5 49:7 54:9 59:20 technical [4] 6:9 34:23 35:21 36:4 technically [1] 7:20 technique [3] 66:9 78:25 87:14 techniques [2] 25:2 34:10 technology [1] 39:24 telling [5] 19:9 35:18,19 36:5 98:23 ten [5] 42:22 51:18 55:2 60:16 89:19 tendon [1] 36:13 tensioned [1] 31:17 term [4] 37:14,22 53:16 68:22 Terminal [1] 2:8 terminology [1] 53:15 terms [22] 3:19 11:8 14:21 16:18 17:1 29:1 31:14 34:4,22 37:3 48:12 48:25 49:1 54:17 59:9 67:5 74:11 98:5 99:5,13 101:2,25 test [7] 29:13,14,14,18,23 30:3 31:8 testified [1] 35:8 testify [1] 103:6 testifying [1] 10:8 testimony [2] 103:7,9 testing [2] 31:13,17 text [2] 26:6,24 textbook [2] 22:19,23 textbooks [3] 22:12 25:5 25:9 texts [4] 14:19 23:11 25:16,17 Thank [2] 27:15 40:23 Thanks [1] 102:7 themselves [1] 60:12 therapeutic [1] 80:19 therapy [4] 15:1 38:5 61:18 63:3 therefore [3] 61:9 83:2,8 Thereupon [5] 4:12 57:9 71:25 72:1 81:11 they've [1] 28:16 thickness [2] 52:20 59:9 thigh [1] 29:16	thinking [7] 28:21 33:9 47:9 48:12 52:6 60:18 91:7 third [1] 20:6 thought [2] 16:12 42:4 thousand [9] 16:24,25 48:9,9,9,10,13,15 49:3 three [1] 86:23 through [6] 7:2 85:13,18 85:18 87:20 98:7 Thursday [1] 1:16 tightness [1] 31:13 times [4] 10:10 11:3,5 27:8 tired [1] 3:22 tissue [6] 37:5 52:24 59:7 82:24 87:16 92:2 title [1] 26:9 today's [1] 14:13 tone [1] 82:12 too [4] 17:13,16 81:6 94:14 took [2] 8:14 12:6 top [2] 22:14 25:10 topics [3] 22:2,7,25 torn [13] 16:4 30:18,20,22 36:14 40:3,6,8,12,14,19 41:12 66:2 total [2] 48:19,21 totally [1] 71:14 toward [3] 18:2 20:6 47:15 Tower [2] 2:4,8 tracked [1] 82:15 tracking [18] 68:21,22 69:2,4,12,19,23 70:1,16 79:1 82:25 83:1,3,6 87:17 92:14,16,20 trained [3] 77:20 85:8 90:10 training [3] 8:16 9:17 90:2 trampoline [5] 28:2 29:1 29:3,5 42:21 transcribed [1] 103:8 transcript [1] 103:9 transition [1] 87:17 translation [1] 30:13 translator [1] 6:10 transplantation [4] 83:17 84:1 89:16 90:3 trauma [2] 50:15,17 travel [3] 30:2 31:18,19 treat [6] 41:22 42:6 44:25 75:3,5 93:12 treatable [1] 79:20 treated [5] 13:12 15:1 61:15 74:17 88:19 treating [9] 10:4,8,12 11:1 47:17,20 66:2 74:18 96:15 treatise [2] 23:4,8 treatment [39] 13:12,23 14:3,9,16,21 15:8,10 18:3	18:15 32:22 33:4,12,12 36:11 39:1 45:19,23 48:23 54:14 60:10 61:19 62:6 63:6 70:14 71:22 73:21 73:22 76:10,17,21 78:19 83:16,18 85:12 87:13 88:20,25 99:7 treatments [1] 63:8 Treuhaff [1] 27:22 tried [2] 17:21 21:24 trochlea [6] 50:4 51:6 70:18 77:9 78:5 79:24 trochlear [34] 49:13,20 49:25 50:15,22,25 53:4,9 54:18,24 58:8,10,17,19 58:24 60:14 67:23 68:13 68:19 69:5,13,15,16 70:23 71:4,5,17,19 80:15 83:18 85:25 88:19,24 92:22 trouble [2] 52:10 60:4 troubled [3] 18:10,12,24 true [110] 4:19 6:2,5,6 7:17,22 8:25 9:12 10:1,4 11:25 15:13 17:3,4 23:2,5 24:2,8,14 25:5 26:18,24 27:17,24 28:10,19 31:23 32:1,4,10 33:3 34:15,20 34:25 35:6 36:21,22 38:12 38:17,22 39:2,13 40:4,9 40:15,20 41:7,23 43:23 44:19 45:2,17,18,25 46:9 47:21,22 48:2,3,6 49:7,10 50:10,12 56:6 57:3,15,19 58:5 59:5,16 63:4,5,12,21 63:22 64:3,9,16 65:12,13 69:13 71:6,13 74:9 76:2 76:24 78:10,13 79:7 80:4 80:8,9,23 82:4,6 88:4 91:14 93:18,22 94:4,5 95:4,7,16,17 96:23 98:2 101:10 103:8 ruth [3] 103:6,6,6 ry [13] 17:17 28:22 31:14 46:19 47:12 57:7 67:3 79:12 87:10,15 93:14 94:22 99:23 rying [7] 20:2 23:14 66:22 89:20 90:23 94:15 94:24 uberosity [2] 53:16,22 uice [1] 8:14 wisting [1] 51:15 wo [26] 4:19 5:24 8:20 8:24 13:24 16:24,25 20:21 25:16 42:23 46:1 48:15 49:3 50:21 51:7,8 52:21 53:11 61:2 67:13,14 77:6 79:10,15,22 98:8 ype [16] 10:24 12:14,14 21:6 36:25 39:6 44:10 62:11 63:2 66:1 76:15 78:24 83:11 84:11 88:12 91:21 ypes [1] 46:22 ypewriting [1] 103:8 -U- U.S [2] 6:48:1
---	---	---	---	---

ultimately ^[1] 97:25	variable ^[1] 89:3	58:17 77:15
unable ^[1] 31:7	variant ^[2] 64:14 76:19	worked ^[2] 85:1 88:16
unacceptable ^[1] 94:1	various ^[2] 24:7 86:9	worsening ^[1] 77:25
uncommon ^[1] 63:23	verbiage ^[1] 90:25	written ^[5] 8:14,20,21
under ^[4] 24:18 51:6	version ^[1] 4:21	28:4 39:6
71:21 103:8	versus ^[3] 63:7,7 65:2	wrong ^[1] 37:8
undergoing ^[1] 38:2	view ^[3] 60:2 83:9 97:16	wrongly ^[1] 83:3
underlying ^[5] 19:6 51:4	Virginia ^[1] 6:15	
51:25 52:18,25	visible ^[1] 50:1	
understand ^[13] 17:12	visit ^[12] 13:4 20:8 28:10	-Y-
42:3 43:9 45:13 46:13	32:12,14,19 34:15 35:3	year ^[2] 10:12,17
63:17 65:20 66:16 67:2	35:12 54:12 55:3 60:17	years ^[3] 5:24 8:20 64:13
84:20 92:15 93:24 94:15	visits ^[6] 17:6 20:1,2	yct ^[4] 55:7 59:13 78:6
understands ^[1] 38:14	22:11 28:7 35:9	80:21
understood ^[1] 38:16	vitae ^[1] 4:18	young ^[1] 10:23
undertake ^[1] 84:11	VITATE ^[1] 2:12	younger ^[2] 62:13,21
undertaking ^[4] 45:20	voltage ^[1] 77:18	
46:24 63:14 84:8	volume ^[1] 22:22	
undiscerned ^[1] 70:17	vs ^[1] 1:6	
unexpected ^[1] 47:6		
Unfortunately ^[1]	-W-	
91:10	wait ^[4] 3:19,20 28:13,16	
uninvolved ^[1] 101:23	wake ^[1] 45:8	
unique ^[1] 17:1	walk ^[1] 55:11	
United ^[1] 7:6	week ^[1] 42:23	
universe ^[2] 48:19,22	weight ^[9] 42:11 51:17	
university ^[2] 6:15	52:3 54:25 60:21 62:7,24	
12:22	65:3 75:22	
unnatural ^[1] 31:15	weighting ^[2] 75:12	
unqualified ^[1] 90:25	76:25	
Unquestionably ^[1]	West ^[1] 2:4	
26:22	Weston ^[1] 2:7	
unreconstructable ^[1]	WHEREOF ^[1] 103:15	
37:6	white ^[3] 56:1,24 57:19	
unrelated ^[3] 46:2 47:22	Whitted ^[7] 1:7,11 3:1,8	
71:14	3:11,12 103:5	
unstable ^[1] 61:2	Whitted's ^[1] 100:23	
unsuccessful ^[2] 95:7	whole ^[2] 21:3 103:6	
95:14	widely ^[1] 83:20	
unusual ^[2] 10:23 83:19	width ^[1] 50:5	
up ^[8] 20:12 21:7 25:11	wife ^[4] 19:2,19 20:20,23	
33:10 55:7 56:2 57:7	wife's ^[1] 18:8	
77:20	Williams ^[11] 13:9,9,11	
up-to-date ^[2] 24:16	13:20 84:15,16,24 85:1	
25:1	89:14 90:1,14	
updated ^[2] 4:21,25	Williams' ^[1] 13:23	
upfront ^[2] 18:9 20:13	willing ^[1] 96:13	
upper ^[9] 6:13 29:16 64:1	wish ^[1] 96:10	
72:13 74:8 86:14,14,21	wishes ^[1] 38:14	
86:21	withdrawn ^[1] 7:23	
upward ^[1] 53:13	within ^[12] 1:14 15:20	
urge ^[1] 3:22	30:4,15,25 31:4 42:22,25	
used ^[4] 29:20 66:4 81:5	44:8 50:12 61:12 103:4	
92:1	within-named ^[1] 103:5	
using ^[1] 67:18	without ^[5] 46:8 63:20	
usual ^[3] 36:8 37:12	73:23 75:17 103:11	
81:18	witness ^[9] 4:5 11:20	
	56:5,12,17 86:18 103:5,7	
-V-	103:15	
vague ^[2] 94:15 97:4	wondering ^[1] 29:4	
vaguely ^[2] 98:22,24	word ^[3] 37:20,25 53:11	
vantage ^[1] 70:19	words ^[5] 33:4 38:5 51:23	
vaporizes ^[1] 92:2		