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IN THE STATE OF SOUTH CAROLINA
In the Supreme Court

S.C. Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Edward W. Miller, Circuit Court Judge

Barbara Gaines.....Petitioner,

v.

Joyce Ann Campbell.....Respondent.

Opinion No. 2015-UP-432 (S.C. Ct. App. Filed August 19, 2015)

**APPENDIX TO
PETITION FOR CERTIORARI
VOLUME II**

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INDEX

Order Denying Petition for Rehearing.....1
Respondent’s Petition for Rehearing.....2
Respondent’s Memorandum in Support of Respondent’s Petition for Rehearing.....4
Court of Appeals Unpublished Opinion No. 2015-UP-432, filed August 19, 2015.....12
Appellant’s Brief.....22
Respondent’s Final Brief.....48
Appellant’s Reply Brief.....65
Record on Appeal in Court of Appeals.....86

EXHIBITS

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CURRICULUM VITAE

CHRISTIE B. MINA, M.D.

PERSONAL DATA:

Address: 4 Terra Lane
Greenville, SC 29615
Phone: (864) 268-6226

EDUCATION:

Erskine College, BA, 1987-1991
Mansfield College, Oxford University, Junior Year Abroad, Oxford, England, 1989-90
Medical University of South Carolina, M.D., 1991-1995

POST DOCTORAL TRAINING:

Neurosurgical Residency, University of Tennessee, 1995-2001
Fellowship in Complex Spine Surgery, University of Tennessee, July-November 2000

MEDICAL LICENSURE:

2000 Passed USMLE Step 3 – SC State Licensure 2001

BOARD CERTIFICATION:

Board Certified 2006 American Board of Neurological Surgery

SPECIAL CERTIFICATIONS:

1997 Frameless Stereotaxy, Hands-On Stealth Station System Workshop
1997 Midas Rex Hands-On Workshop
1997 Microendoscopic Discectomy Training, Hands-On Anatomic Workshop
2005 Charite` Artificial Disc Training and Certification
2006 X-Stop Training and Certification

ORGANIZATIONS AND OFFICES:

South Carolina Association of Neurological Surgeons- President 2011-2013, Vice President 2009-2011, Secretary-Treasurer 2007-2009
American Association of Neurological Surgeons – Active member
MUSC Alumni Association, 1995
Vice-President, Senior Class, Medical University of South Carolina, 1994
Alpha Omega Alpha Medical Honor Society, 1993
Secretary-Treasurer, Sophomore Class, Medical University of South Carolina, 1992
Secretary-Treasurer, Freshman Class, Medical University of South Carolina, 1991

PRESENTATIONS:

Overview of Stereotactic Neurosurgery In Parkinson's Disease
Overview of Carpal Tunnel Syndrome
Poster: Use of Somatosensory Evoked Potentials in Placement of Dorsal Column Stimulators



414

COURT'S
 EXHIBIT NO. 5
 IDENTIFICATION NUMBER
 DKT.# 188
 DATE: 8-7-13

STATE OF SOUTH CAROLINA }
 COUNTY OF GREENVILLE } IN THE COURT OF COMMON PLEAS

Examination by Mr. Pease 5
 Examination by Mr. M... .. 27
 Barbara Gaines, 64
 Re-Examination by Mr. Pease 73
 Plaintiff,
 Re-Examination by Mr. M... .. 76
 -VS- C.A. No. 2012-CP-23-1971
 Court case of No. any
 Joyce Ann Campbell,
 Defendant.

DEPOSITION OF LISA G. HARDING, M.D.

PURSUANT to Notice and/or agreement between the parties, the deposition of LISA G. HARDING, M.D., was taken at the offices of Foothills Internal Medicine, 1648 Gentry Memorial Highway, Easley, South Carolina, on Tuesday, July 30, 2013, commencing at the hour of approximately 3:42 p.m.

CARLENE V. CAMPBELL, REPORTER

CAMPBELL/HADAWAY & ASSOCIATES
 Deposition and Court Reporters
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INDEX

	Page
Appearances and Notations	3
Examination by Mr. Peace	5
Examination by Mr. McGarr	27
Re-Examination by Mr. Peace	68
Re-Examination by Mr. McGarr	73
Certificate of Notary Public	76

417

APPEARANCES:

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..... on behalf of the Plaintiff

MARCUS K. McGARR, ESQUIRE
LAW OFFICES OF MARCUS K. McGARR
108 Whitsett Street
Greenville, South Carolina 29601

..... on behalf of the Defendant

ALSO PRESENT:

Cliff Williams, Videographer
Barbara Gaines, Plaintiff; Joy Gaines

STIPULATIONS:

1. The deposition is taken pursuant to the South Carolina Circuit Court Rules of Civil Procedure.
2. The reading and signing of the deposition transcript by the deponent are expressly waived.

EXHIBITS:

None marked.

1 VIDEOGRAPHER:

2 We're going on the record at camera time 1542. This
3 is the video deposition of Dr. Lisa Harding, M.D.,
4 taken by the plaintiff, in the matter of Barbara
5 Gaines, the Plaintiff, vs. Joyce Ann Campbell, the
6 Defendant. The case number is 2012-CP-23-1971, in the
7 Court of Common Pleas, Greenville County, South
8 Carolina. Today is Tuesday, July 30, 2013. We are in
9 Easley, South Carolina.

10 The court reporter is Carlene Campbell from the firm
11 of Campbell/Hadaway & Associates; the videographer is
12 Cliff Williams from the firm of Argyle Multimedia,
13 LLC. Will counsel present please introduce themselves
14 for the record?

15 MR. PEACE:

16 Yes, my name is John Peace, and I'm here on behalf of
17 Barbara Gaines.

18 MR. MCGARR:

19 And I'm Mark McGarr, here on behalf of Ms. Campbell.

20 VIDEOGRAPHER:

21 And would the court reporter please swear the witness?
22 -----

23 LISA G. HARDING, M.D.

24 being first duly sworn was examined and testified as
25 follows:

1 EXAMINATION BY MR. PEACE:

2 Q. Dr. Harding, we're here at your offices at Foothills
3 Internal Medicine in Easley to take your deposition.
4 We're going to record this on video and we're going to
5 play it for the jury at trial just as though you're
6 sitting in a courtroom, so, if you would, of course,
7 address the camera because that's the jury here for us

8 --

9 A. Okay.

10 Q. -- today. I'm going to ask you questions, and if you
11 would please verbalize your responses for the jury.
12 Doctor, if we could start with your educational
13 background, can you tell the jury about where you went
14 to school?

15 A. I graduated from Southern Wesleyan University in 1988,
16 and then I graduated from the University of Kentucky
17 College of Medicine; and then I did my residency
18 training at U.K. in the Chandler Medical Center, in
19 the Department of Internal Medicine.

20 Q. And what degree do you hold from the University of
21 Kentucky Medical School?

22 A. An M.D.

23 Q. And are you licensed to practice medicine in both
24 North and South Carolina?

25 A. I'm still licensed in South Carolina but no longer

420

- 1 North Carolina.
- 2 Q. When were you licensed in South Carolina?
- 3 A. In 2004.
- 4 Q. And when you finished your medical training, did you
- 5 then go on and perform a residency?
- 6 A. I did.
- 7 Q. Can you tell the jury what a residency is?
- 8 A. A residency is where you further train under the care
- 9 of more experienced physicians, so that you're
- 10 actually prepared to go out on your own and practice
- 11 as a physician.
- 12 Q. And what sort of residency did you do?
- 13 A. General internal medicine.
- 14 Q. And what sorts of things did you do during your
- 15 residency?
- 16 A. I did hospital care, did primary care in outpatient
- 17 clinics. I did some surgery rotations. Basically
- 18 took care of chronic medical problems and took care of
- 19 patients that were hospitalized with those chronic
- 20 medical problems.
- 21 Q. Dr. Harding, how long did your residency last?
- 22 A. It was three years.
- 23 Q. And when you finished your residency, what did you do
- 24 next?
- 25 A. I got a job in a family practice clinic in North

- 6 -

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421

509

1 Carolina.
2 Q. And are you board-certified as an internal medicine
3 physician?
4 A. Yes.
5 Q. Can you tell the jury what board certification means?
6 A. It means that you have to study long and hard, and
7 take an extensive test and pay a lot of money; and I
8 did that right after residency, and then I recertified
9 this past fall.
10 Q. How often do you have to recertify for board
11 certification?
12 A. Every ten years.
13 Q. And are you board-certified with regard to internal
14 medicine?
15 A. Yes.
16 Q. So that testing was specifically directed to you as an
17 internal medicine physician?
18 A. Correct.
19 MR. PEACE:
20 At this time we'd offer Dr. Lisa Harding as an expert
21 in internal medicine.
22 MR. MCGARR:
23 Without objection.
24 EXAMINATION CONTINUES BY MR. PEACE:
25 Q. Dr. Harding, how long have you been Barbara Gaines'

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1 family doctor?

2 A. I think since 2006. Let me check that. Maybe it was
3 2009. I was looking at somebody else today. 2009 I
4 think is the first time we met each other.

5 Q. And how often do you see Barbara Gaines?

6 A. About every six months. Sometimes more often if she
7 needs other attention.

8 Q. Can you tell us just generally about Barbara Gaines'
9 primary medical issues that you see her for?

10 A. She has diabetes, high cholesterol; she also has acid
11 reflux and allergies. She has some anxiety issues,
12 and for that reason we check up on each other. I
13 check up on her every six months.

14 Q. And are you -- do your records reflect her surgical
15 history?

16 A. Yes.

17 Q. Can you tell us about the surgeries she's had over the
18 years?

19 A. Let's see here. She had her appendix out in 1971; had
20 her gallbladder out also in 1971, or thereabouts. Had
21 her tubes tied in the '70s. She had bilateral carpal
22 tunnel surgery in 2001, 2002. Had cataract surgeries.
23 Also had shoulder surgery in 2007, and had sinus
24 surgery in 2008, and then she had a cervical vertebral
25 fusion in 2011.

- 1 Q. Dr. Harding, based on your years as her primary care
2 doctor, is it your opinion that Barbara Gaines has
3 been truthful with you about her medical issues?
4 A. Yes.
5 Q. Do you have any doubts about the accuracy or
6 truthfulness of the information that Barbara Gaines
7 has provided to you when she's come to your office for
8 treatment?
9 A. I have no doubt.
10 Q. Before January, 2010, did Barbara Gaines report severe
11 neck pain to you?
12 A. No.
13 Q. Before January, 2010, did Barbara Gaines report neck
14 pain running down into her right arm?
15 A. No.
16 Q. Before January, 2010, did you diagnose Barbara Gaines
17 with C5-C6 radiculopathy?
18 A. No.
19 Q. All right. Let's talk about after January 8, 2010.
20 When did Barbara Gaines first tell you about the wreck
21 that happened in January of 2010?
22 A. I saw her for a physical after that wreck. It was
23 February 8, 2010.
24 Q. And, Dr. Harding, do you have the note from that
25 physical in front of you in your computer?

1 A. I do.

2 Q. Let's see, was -- you noted -- let's see. Can you
3 just read for the jury your notes, begins -- let's see
4 -- "Past medical history is significant ..." and just
5 read that paragraph for us?

6 A. "Past medical history is significant for diabetes,
7 anxiety disorder, hypertension. Was in a recent motor
8 vehicle accident on January 8, 2010. Was rear-ended
9 at that time." And then in quotes, "I've been kind of
10 shaky since then," end quote. "Had back and neck
11 X-rays in the emergency room, which were fine outside
12 of arthritis. Has had an MRI of her neck in the
13 past."

14 Q. And did you -- she was here for a full physical --

15 A. Correct.

16 Q. -- on that date, correct? Did you examine, did you
17 examine her neck as part of her physical?

18 A. I did.

19 Q. And what did you find when you examined her neck?

20 A. She had decreased range of motion, spasm in both of
21 her trapezius muscles on her cervical spine exam. And
22 when I did the neuro exam, she also had decreased
23 strength in her right arm, and then a diminished
24 reflex in her right arm.

25 Q. And, Doctor, can you show the jury just by

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- 1 demonstrating where the trapezius is?
- 2 A. It's these two bands of muscles leading from the base
3 of the head all the way down to the shoulder blades
4 into the upper thoracic spine.
- 5 Q. Doctor, when had you seen her prior to -- when was the
6 last time you saw her before the February 8, 2010,
7 office visit?
- 8 A. She had a lab visit on the 28th. I did not see her
9 then. It looks like I saw her November 30, 2009. And
10 that was her regular follow-up for her diabetes.
- 11 Q. Was she having any problems with her neck on November
12 30, 2009?
- 13 A. No.
- 14 Q. Was she having any neck pain, running down into her
15 right arm, on November 30, 2009?
- 16 A. No.
- 17 Q. Okay. And did you diagnose her with C5-C6
18 radiculopathy in November of 2009?
- 19 A. No.
- 20 Q. If we could fast-forward back to the February 8, 2010,
21 office visit?
- 22 A. Okay.
- 23 Q. Near the bottom of the note -- and I'm looking at hard
24 copies, I think, of what you're looking at on your
25 screen -- there's a paragraph beginning, "Note: Will

- 1 refer to P.T. for shoulder pain ..."
- 2 A. Okay.
- 3 Q. Can you read that paragraph for the jury?
- 4 A. Sure. "Will refer for P.T. [which is physical
5 therapy] for shoulder pain, neck pain and low back
6 pain [lumbago]. Concerned about HNP [which is a
7 herniated nucleus pulposus] in her cervical spine
8 after motor vehicle accident. Will discuss imaging
9 results over the phone. Follow-up as above or
10 earlier, if needed. Will come in fasting at those
11 appointments. Will discuss cath results over the
12 phone. Is doing fairly well as far as her chronic
13 medical issues are concerned. Diet, exercise and
14 weight loss emphasized. Vitals look good outside of
15 weight."
- 16 Q. And you told us what HNP stands for, but can you
17 explain to the jury just in laymen's terms what a
18 herniated nucleus pulposus is?
- 19 A. I was concerned that one of her discs was pressing out
20 from her spine and impinging on one of the nerves.
- 21 Q. And based on this exam, did you order any diagnostic
22 studies?
- 23 A. I did. I ordered an MRI of her cervical spine.
- 24 Q. And what was the purpose of ordering that MRI of her
25 cervical spine?

- 12 -

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- 1 A. To determine whether or not she did in fact have a
2 disc that was impinging on a nerve root.
- 3 Q. And did you get the results of the MRI?
- 4 A. I did.
- 5 Q. After you got the MRI results and after this
6 examination, you've already told us you referred her
7 to physical therapy. What else did you do?
- 8 A. I also referred her on to a neurosurgeon. I referred
9 her to Dr. Mina, and that was, I believe, on the 16th
10 of February that I referred her. Let me see what this
11 is here. And what was the question, I apologize?
- 12 Q. I just asked you what -- after you got the MRI results
13 and examined her, what you did, and I believe you told
14 me you referred her to, I guess, Piedmont
15 Neurosurgical Group.
- 16 A. Correct.
- 17 Q. What was the purpose of that referral?
- 18 A. I was concerned that she might have a surgical issue,
19 based on the findings on the MRI, and so I wanted her
20 to get some help.
- 21 Q. And have you referred her to other specialists in the
22 past for particularized medical care?
- 23 A. Yes, I have.
- 24 Q. And as her primary care physician, is that part of
25 your role, to help --

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- 1 A. Yes.
- 2 Q. -- her get to doctors that are specialized in treating
3 areas that she may need specialized care in?
- 4 A. Yes.
- 5 Q. After the February 8, 2010, visit, when did you next
6 see her in your office?
- 7 A. I saw her on March 8th.
- 8 Q. How was -- and on the -- under "History of Present
9 Illness" at the top of the records, --
- 10 A. Uh-huh (affirmative).
- 11 Q. -- it mentions an Allison Mickler. Who is she?
- 12 A. She is the nursing assistant that works with me on a
13 regular basis.
- 14 Q. Would she have taken a history --
- 15 A. Correct.
- 16 Q. -- from her? And so is this her --
- 17 A. Yes, uh-huh (affirmative).
- 18 Q. -- product, work product, here? Can you tell us what
19 Ms. Mickler wrote in the History of Present Illness?
- 20 A. Is that on the 8th, March 8th?
- 21 Q. Yes, ma'am.
- 22 A. Let's see here. I don't see Allison Mickler. I'm
23 hoping we're in the right place.
- 24 Q. March 8, 2010.
- 25 A. Huh. Okay. She was there for a hospital follow-up.

- 14 -

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429

- 1 Was in for a virus, still weak, still has nausea,
2 eating okay. Hospital had messed up blood sugar
3 medication, and she is here to follow up on that. And
4 then underneath that, she was signed out before being
5 discharged. Was told likely viral. Work-up was
6 essentially unremarkable.
- 7 Q. And I notice that it says here, "Patient's words. 1
8 month follow-up. Patient is starting physical therapy
9 on [her] neck today." Is that on your --
- 10 A. No, I think we've got a different ...
- 11 Q. Here, I can hand you ...
- 12 A. That's interesting. Yes. "Patient is starting
13 physical therapy on her neck today."
- 14 Q. And the only reason I bring that up was to ask if
15 that's the physical therapy you referred her for for
16 her neck problems?
- 17 A. Uh-huh (affirmative), this is it.
- 18 Q. And then going down further in the exam, I see what
19 for me is near the bottom of page 43 of 87, it says,
20 "Musculoskeletal: Present - Neck Pain."
- 21 A. Correct. I was on the -- I was in the wrong year. I
22 was in 2013. Sorry about that.
- 23 Q. Oh, that's okay.
- 24 A. All right, and again, start me out where you want me
25 to be?

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518

- 1 Q. March 8, 2010, I see a "Review of Systems (Lisa G.
2 Harding, MD) ..."
- 3 A. Okay.
- 4 Q. And then under "Musculoskeletal?"
- 5 A. "Neck Pain."
- 6 Q. How do you determine that she has neck pain when she
7 comes in to see you in the office?
- 8 A. I ask. On the Review of Systems, basically we ask the
9 question.
- 10 Q. And then moving on down that same note, under
11 "Assessment and Plan," it says, "(Lisa G. Harding),"
12 and then it says, "Cervical radiculopathy, --
- 13 A. Uh-huh (affirmative).
- 14 Q. -- (Working Diagnosis.)" Can you tell the jury what
15 cervical radiculopathy means?
- 16 A. It means an inflamed cervical nerve running out of the
17 cervical spine, causing pain or weakness.
- 18 Q. And the radiculopathy, what does that term mean?
- 19 A. The radiculopathy simply means that there is a nerve
20 that's inflamed and it's affecting the muscles that
21 are innervated by that nerve.
- 22 Q. Under that, it looks like you've noted, "Reviewed
23 records from Dr. Russell. Is scheduled to follow up
24 in six weeks. Right now is undergoing PT."
- 25 A. Correct.

- 1 Q. And is that, is that your observation --
- 2 A. Yes.
- 3 Q. -- from the office visit?
- 4 A. Uh-huh (affirmative).
- 5 Q. Okay. And then down at the very bottom, just above
- 6 your signature, it says, "Note: Urged her to maintain
- 7 follow-up with her neurosurgeon."
- 8 A. Correct.
- 9 Q. And can you tell us what you're referring to there and
- 10 what you were urging her to do?
- 11 A. I wanted her to make sure that she followed through
- 12 with all the physical therapy and the recommendations
- 13 from the neurosurgeon.
- 14 Q. Dr. Harding, when did you next see her? And according
- 15 to the notes I have, it looks like April 16, 2010.
- 16 A. Okay, I've got June -- let me look back here.
- 17 Q. June 7, 2010?
- 18 A. April 16th? Yeah, I've got June 7th. What do you
- 19 have on April 16th?
- 20 Q. April 16, I have a "History & Physical Report #4,"
- 21 that says -- you're welcome to look at it, but it
- 22 looks like "Screening for Osteoporosis."
- 23 A. Oh, she had a bone density on that day.
- 24 Q. Okay, so that was an in-office test?
- 25 A. Correct.

- 17 -

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432

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- 1 Q. And does she also suffer from osteoporosis?
- 2 A. Not based on her last bone density, no.
- 3 Q. It looks like the next note would be June 25, 2010.
- 4 A. Okay.
- 5 Q. And is that the next note you see on your chart?
- 6 A. Yes.
- 7 Q. Can you read the paragraph, we've got "History of
8 Patient [sic] Illness," and then it looks like you
9 have, "Has been on Cymbalta for awhile." If you could
10 read that paragraph for us?
- 11 A. "Has been on Cymbalta for awhile. Is sleeping too
12 much. Is walking 2 days a week on her treadmill.
13 Notes that her tremor is worse if she exercises. Dr.
14 Russell advised her to return as needed for repeat
15 injections. She was evidently left with the
16 impression that there are no other options related to
17 her cervical spine."
- 18 Q. And then going down that same note, I see under
19 "Assessment and Plan," we still have "cervical
20 radiculopathy ... working diagnosis."
- 21 A. Uh-huh (affirmative).
- 22 Q. Was -- you were still working with the same diagnosis,
23 which was cervical radiculopathy?
- 24 A. Correct.
- 25 Q. And that's the same diagnosis you've already explained

1 to the jury here today?
2 A. Correct.
3 Q. And it looks like down on your note at the bottom, it
4 says, "Records from Dr. Russell were reviewed?"
5 A. Uh-huh (affirmative).
6 Q. Were you getting regular updates from Piedmont Spine?
7 A. Yes.
8 Q. Okay, what's the purpose of getting those follow-up
9 records from the specialist?
10 A. So I can ensure that my patients are getting the care
11 that they hope to and that I want them to.
12 Q. And were you pleased with the treatment that she was
13 receiving at Piedmont Neurosurgical?
14 A. I was.
15 Q. When did you next see her after that June, 2010,
16 visit?
17 A. I saw in July, July 9, 2010.
18 Q. We've got a history that it was taken by, it looks
19 like, Peggy Noblitt?
20 A. She's also a CNA.
21 Q. And then we've got "Patient's words." Can you read
22 for us what Ms. Noblitt recorded there?
23 A. Not as sleepy since med changes. She complains of
24 numbness and pain off and on times 2 days in her right
25 arm. Some relief with Bio-Freeze and physical

- 19 -

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434

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522

- 1 therapy.
- 2 Q. And with the cervical radiculopathy, was that
3 radiating into her right arm?
- 4 A. Yes.
- 5 Q. And is that consistent with what you'd seen before?
- 6 A. Yes.
- 7 Q. Did you keep cervical radiculopathy as your working
8 diagnosis? And specifically, I'm looking in the next
9 list. It says, "Problem List/Past Medical" History,
10 and Ms. Noblitt had put in a note, and "Cervical
11 radiculopathy." It's about four lines down.
- 12 A. Yes, it's in the Past Medical History, the Problem
13 List.
- 14 Q. And then at the bottom of that note it says -- if you
15 could just the read the note -- down at the bottom
16 under "Long-Term (current) use of other medications,"
17 then there's a note.
- 18 A. "Will refer for PT for neck and shoulder. Contact our
19 office if worse or no better in the next 2 weeks. Try
20 the above. Is doing some better as far as fatigue is
21 concerned. Would like for her to continue her current
22 medication regimen. Has an appointment in the future.
23 Follow-up as previously scheduled or earlier if
24 needed."
- 25 Q. Dr. Harding, when did you next see her? It looks like

- 20 -

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- 1 the next note I have is August 19, 2011 -- no, I'm
2 sorry, I've jumped ahead.
- 3 A. That's okay. I've got August 16, 2010.
- 4 Q. All right. And if you could, give us the "History of
5 Patient [sic] Illness." It says, "(Lisa G. Harding,
6 MD.)"
- 7 A. Neck pain. The patient complains of neck pain for one
8 week. Some relief with Bio-Freeze. Right upper arm
9 pain. Patient complains of back pain that radiated
10 into her right leg with numbness for one day. "Notes
11 worsening depression related to worsening pain. Was
12 told by neurosurgeon to contact office if she needed
13 another shot. Evidently her daughter called last
14 week. It is unclear whether or not an appointment was
15 made. Notes that physical therapy is no longer
16 helping her pain symptoms."
- 17 Q. Then moving to the bottom of that note, there's, as
18 before, a note. I wonder if you could read for the
19 jury what you put in your note at the bottom?
- 20 A. "Will hold off on PT since this is not currently
21 benefitting her. Advised trying the above to help
22 control her pain. Will maintain close follow-up due
23 to emotional distress related to her pain. No doubt
24 [her pulse rate] was elevated today due to anxiety
25 related to her pain. Follow-up as" -- earlier -- "as

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- 1 above or earlier if needed. Knows to contact the
2 office if she is spiraling downward emotionally."
- 3 Q. So it appears from this note that she's experiencing
4 pretty significant pain?
- 5 A. Yes.
- 6 Q. And, again, is that pain from her neck, radiating into
7 her right arm?
- 8 A. Yes.
- 9 Q. Is that consistent with the pain that she had reported
10 to you previously?
- 11 A. Yes.
- 12 Q. Okay, when did you next see her after that August,
13 2010, visit?
- 14 A. August 30th.
- 15 Q. And, let's see, if you could read -- it looks like
16 there's a "History of Present Illness (Lisa G.
17 Harding, MD)." Can you read what you wrote there?
- 18 A. Two weeks follow-up, hot flashes worse for two weeks,
19 legs cramps times one week. "Notes that since getting
20 an injection in her neck four days ago her pain has
21 markedly improved. Has some sinus congestion and
22 drainage."
- 23 Q. Okay, when did you next see her after that August 30,
24 2000 [sic] visit?
- 25 A. Let me see here. I think it was October 26, 2010.

- 1 Q. Okay, how was she doing then per her history?
2 A. She was feeling a lot better.
3 Q. And then when did you see her again after the October
4 26, 2010, visit?
5 A. It looks like I saw her in February of 2011 for her
6 physical.
7 Q. Okay, and -- okay, so we're back around to her annual
8 physical --
9 A. Correct.
10 Q. -- at this point. If you could tell the jury what
11 you've got for "History of Present Illness (Lisa G.
12 Harding, MD)"?
13 A. "Past medical history is significant for her
14 [diabetes], anxiety, cervical radiculopathy. Had
15 injections the end of December that were ineffective.
16 Is still seeing Dr. Russell. They are considering
17 surgery on her."
18 Q. And then when we go down on that same note, as part of
19 your physical do you routinely perform a
20 musculoskeletal examination?
21 A. I do.
22 Q. And if you could go to that section of your physical
23 report and tell us how her cervical spine was
24 according to your records?
25 A. The cervical spine, there was no deformities, the

- 23 -

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038

438

526

- 1 movements were painful. She had bilateral trapezius
2 spasm.
- 3 Q. And then under "Movements," it looks like you recorded
4 right and left. Oh, I guess that's under "Shoulder."
- 5 A. Yeah. Right shoulder movements are painful, and
6 external rotation is painful. "No decrease in range
7 of motion." And the reflexes, which were a part of
8 that spine exam, were diminished on the right in
9 comparison with the left.
- 10 Q. And how do you measure reflexes, right versus left?
- 11 A. There is a bicep tendon in the antecubital fossa, and
12 you simply hit it with a reflex hammer, and if --
13 there's a certain level that's acceptable. If it's
14 less than that, then you grade it down from one to
15 five. Five is way too brisk; two is usually a normal
16 reflex. Hers was, left -- was one on the right, and
17 on the left it was two over two, so that was normal.
- 18 Q. So she had diminished reflexes on the right side?
- 19 A. Correct.
- 20 Q. And is that something that you attribute to her C5-C6
21 radiculopathy?
- 22 A. Yes.
- 23 Q. Is that something that someone, if they were
24 attempting to fake an injury, is that something that
25 they could fake?

- 1 A. No.
- 2 Q. And why is that?
- 3 A. The reflex is something that stems from the spinal
4 cord, and it's just something that cannot be
5 reproduced.
- 6 Q. So the reflex reaction is an involuntary response?
- 7 A. Correct.
- 8 Q. When did you next see her after that visit?
- 9 A. Let's see here. It looks like I saw her again August
10 19, 2011.
- 11 Q. Okay. And according to the "History of Present
12 Illness," it looks like you took that yourself. How
13 is she doing, according to her?
- 14 A. She had neck surgery. Shoulder is stiff. "Is doing
15 very well after her surgery."
- 16 Q. And then under your "Assessment and Plan," on down the
17 note, I see "Cervical radiculopathy."
- 18 A. Uh-huh (affirmative).
- 19 Q. If you could read what is written after that,
20 including your Impression?
- 21 A. I said that the status of it was now inactive. It was
22 "much improved since having surgery."
- 23 Q. And when did you next see Ms. Gaines after the August
24 19, 2011, visit?
- 25 A. I think that was January 31, 2012.

440

1 Q. Did she make any complaint about her neck or cervical
2 radiculopathy or right arm pain when you saw her in
3 January, 2012?

4 A. She did not.

5 Q. Doctor, to a reasonable degree of medical certainty,
6 based on a review of the medical information that
7 we've just discussed, as well as the diagnostic
8 testing in your chart regarding Barbara Gaines' injury
9 and treatment, did Barbara Gaines sustain an injury to
10 her neck at C5-C6 in a motor vehicle collision on
11 January 8, 2010?

12 A. Yes.

13 Q. And also to a reasonable degree of medical certainty,
14 following the motor vehicle collision on January 8,
15 2010, did Barbara Gaines suffer from neck pain,
16 radiating into the right C6 distribution?

17 A. Yes.

18 Q. Did you refer Barbara Gaines to Piedmont Neurosurgical
19 for evaluation and treatment of neck injuries that she
20 sustained in the January 8, 2010, car wreck?

21 A. Yes.

22 MR. PEACE:

23 Okay. Dr. Harding, that's all the questions I have
24 for you. Please answer any that Mr. McGarr may want
25 to ask.

441

1 WITNESS:

2 Okay.

3 EXAMINATION BY MR. MCGARR:

4 Q. Dr. Harding, what was your understanding of Ms. Gaines
5 -- the situation with Ms. Gaines' neck prior to the
6 automobile accident? Were you aware that she had --
7 or did you know if she had, had ever had neck problems
8 before?

9 A. No, I did not know.

10 Q. So -- and did she tell you she had had neck problems
11 before?

12 A. I think the day that she came in for that physical
13 after the accident, I knew that she had had some prior
14 problems.

15 Q. Are you aware that she had has chronic longstanding
16 neck problems?

17 A. No, I did not.

18 Q. She didn't tell you that?

19 A. Not that I'm aware of.

20 Q. What were -- what was your understanding of her back
21 issue prior to this automobile accident, her low back
22 issue?

23 A. I'll have to review, if you'll give me a second.

24 Q. Yes, ma'am.

25 A. I don't have any documentation of chronic back or neck

442

1 issues.
2 Q. So you're -- would it be fair to say that you're
3 testifying here today without any knowledge of her
4 prior chronic conditions with her neck or low back?
5 A. Correct.
6 Q. Let me give you some documents.
7 A. Okay.
8 MR. MCGARR (to reporter):
9 If you'd just pass those over?
10 REPORTER:
11 (Complies)
12 EXAMINATION CONTINUES BY MR. MCGARR:
13 Q. And I'm not going -- this has been handled a different
14 way. I'm not going to go into the degree of
15 chronicity -- chronicity of those problems, but does
16 it appear that Ms. Gaines went to Adult Medicine
17 Specialists of Easley on 7/01 of 2008, and one problem
18 was no energy, another problem was neck pain?
19 A. Yes.
20 Q. And it was on the right side, the --
21 A. Yes.
22 Q. -- neck pain?
23 A. Uh-huh (affirmative).
24 Q. And that would be an area where she would be
25 complaining of neck pain that's going down the right

- 28 -

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443

443

531

- 1 side; is that correct?
- 2 A. Uh-huh (affirmative).
- 3 Q. And then does it appear on the next document that she
- 4 -- you'll have to go to the last page of it -- that
- 5 she had switched groups and she was now with Dr.
- 6 William M. Scott, and that he listed -- and did she go
- 7 to see him on 5/05 of 2009?
- 8 A. Yes.
- 9 Q. And he lists as part of her problem list that she had
- 10 arthritis as far back at 11/03 of '08? It'll be on
- 11 the first page, I apologize.
- 12 A. That's okay. Yes.
- 13 Q. And then her list of medications, does he list one of
- 14 the medications as being Cymbalta?
- 15 A. Yes.
- 16 Q. That had begun on 7/30 of 2008?
- 17 A. Uh-huh (affirmative).
- 18 Q. And Cymbalta, would you agree, is a medication that
- 19 treats nerve pain, muscle pain and those types of
- 20 things?
- 21 A. Yes.
- 22 Q. And does it also appear, going to the second page of
- 23 that document, that he has placed her on Tylenol
- 24 Arthritis?
- 25 A. Yes.

444

- 1 Q. So does it appear that she was taking medications for
2 arthritic pain, nerve pain and muscle pain as early as
3 -- from these records, at least -- as early as
4 5/05/09?
- 5 A. Yes.
- 6 Q. Going to the next document in that set of documents,
7 is this a document of yours indicating the first
8 encounter date you had with her up to the 7th?
- 9 A. It appears so, yes.
- 10 Q. Can you confirm that for me on your computer? And
11 actually, Doctor, while you're doing that, can you
12 give me that stack back unless you --
- 13 A. Sure. Do you want the whole stack?
- 14 Q. Yes, ma'am.
- 15 A. (Returns documents) That first date was actually not
16 an encounter. That was just gathering information and
17 putting it into the computer. The first encounter was
18 on September 11, 2009.
- 19 Q. And those -- I'm going to give this back to you.
- 20 A. Okay.
- 21 Q. In the written documents portion of this, does this
22 document appear -- or does it say at the bottom that
23 this is the 33rd page of 146 pages? It's on the hard
24 copy.
- 25 A. Yes, it does.

- 30 -

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445

445

533

- 1 Q. And in reality these print out as separate pages, and
2 this is just a page in and of itself; is it not?
3 A. Yes.
4 Q. And does it appear that she had an encounter date with
5 you, or a 'get to know everyone' date on 8/27 of 2009?
6 A. She -- she didn't see me then, but that information
7 was entered in at that point. If that makes any sense
8 to you.
9 Q. On the first encounter, would you agree that they're
10 entering in stuff?
11 A. Yes.
12 Q. And then there's a second encounter on 8/27 of '08
13 [sic], and I'll get to that one in a moment.
14 A. Okay.
15 Q. But does it appear that she first came to your office
16 on 8/27 of 2009?
17 A. It appears so.
18 Q. And that she then returned to your office on 9/11 of
19 2009?
20 A. Uh-huh (affirmative).
21 Q. Returned to your office yet again on 9/25 of 2009?
22 A. Uh-huh (affirmative).
23 Q. Returned to your office yet again on 11/30 of 2009?
24 A. I'm not sure that's accurate because I actually didn't
25 see her on the 27th. I saw her for the first time on

- 1 the 11th, and if you'll be patient with me I'll get it
2 up here. I did see her on the 11th, and then I saw
3 her on the 25th of September in follow-up. And I do
4 that frequently when patients are new to me, when I
5 don't know them.
- 6 Q. But does it appear that we have encounter dates where
7 something's going on with Ms. Gaines beginning on 8/27
8 of 2009, continuing on 9/11/2009, and again on 9/25 of
9 2009, and then again on 11/30 of 2009, and then again
10 on 12/03 of 2009, and then again on 12/22 of 2009?
- 11 A. I'm not sure what you're --
- 12 Q. I mean, something, something is being entered in her
13 charts during those time --
- 14 A. Yes.
- 15 Q. -- frames; is that correct?
- 16 A. Right.
- 17 Q. Going to the next document in that set of documents --
- 18 A. All right.
- 19 Q. And again, there's been some argument, when your
20 records say page 3 of 146, it doesn't mean that those
21 necessarily -- that there are 146 pages of information
22 on one date; on one visit date; does it?
- 23 A. Correct.
- 24 Q. It just means that this is a part of a batch?
- 25 A. Right.

- 32 -

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447

535

1 Q. Okay. Going to that next document, does it appear
2 that she was actually seen on 8/27 of 2009?

3 A. No, this is just entered information.

4 Q. And so it is entered information through, through
5 Sherry Tallman; is that --

6 A. Correct.

7 Q. -- my understanding?

8 A. Uh-huh (affirmative). She's our transcriptionist.

9 Q. She may have been here that day, giving them
10 information that then got entered somehow?

11 A. Or she could have mailed it to the office.

12 Q. And at that point, would you agree, again, that
13 there's a page issue where this is actually a two-page
14 document if you print it out, but the computer says
15 that it's the 65th page of a 146-page document; is
16 that correct?

17 A. Yes.

18 Q. And that's not accurate. In reality, it's a two-page
19 document.

20 A. Okay.

21 Q. Is that correct?

22 A. Yes.

23 Q. Does it appear that on this visit that she is listed
24 as being on Cymbalta and Tylenol Arthritis Pain?

25 A. Yes.

- 1 Q. And that would be fixing problems associated with
2 muscle pain, nerve pain and arthritic pain; would it
3 not?
4 A. Yes.
5 Q. Or to treat those problems?
6 A. It could treat those problems as well as depression
7 and anxiety.
8 Q. Going to the -- but she's also on anxiety medications,
9 Trozodone [sic] --
10 A. The Trazodone is for sleep, and then the Chlorazepate
11 is for anxiety or additional help with sleep.
12 Q. Correct. So she's got a sleep aid, an anxiety aid,
13 Cymbalta, which is typically used for nerve and muscle
14 pain.
15 A. Not typically. It has an indication for that, but it
16 is primarily used for depression and anxiety.
17 Q. But they advertise it all the time on television as
18 great for fibromyalgia.
19 A. Yes, but its primary indication is for depression and
20 anxiety. We use it in folks who have osteoarthritis
21 because it has an indication for pain control.
22 Q. And so she's on those two medications, at least, and
23 they can be used for muscle pain, nerve pain and
24 arthritic pain, or just different types of pain; is
25 that correct?

- 34 -

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449

449

537

1 A. Correct.

2 Q. Going to the next document in that set of documents --
3 and again, just because this has become an issue,
4 would you agree that it's technically saying that this
5 is page 62 of a 150 -- of a 146-page document when in
6 reality this is just a three-page document?

7 A. Yes.

8 Q. When she came to see you on that date, did she
9 indicate that she had fallen about five weeks earlier?

10 A. Yes.

11 Q. But her biggest concern were her blood sugars?

12 A. Yes.

13 Q. And again, she was on the Cymbalta and she was on the
14 Tylenol Arthritis; is that correct?

15 A. Correct.

16 Q. And going to the second page of that document, does it
17 appear that at that point when you were checking her
18 musculoskeletal system out, you found that she had
19 joint pain?

20 A. Yes.

21 Q. But what was not present is claudation [sic], joint
22 swelling and/or myalgia; is that correct?

23 A. Correct.

24 Q. And does it appear that you prescribed her Ultram at
25 that point? Here at the very bottom.

- 1 A. Yes.
- 2 Q. And Ultram would be a relatively strong synthetic
3 opiate or painkiller?
- 4 A. Yes, it's not an opiate but it is a painkiller.
- 5 Q. Sort of a synthetic opiate?
- 6 A. It acts on the opiate side, but we don't classify it
7 the same --
- 8 Q. It's not -- I know it's not an opiate; it's sort of --
9 it's a manmade creation that's similar -- that acts
10 similar to an opiate; does it not?
- 11 A. Similar.
- 12 Q. Kind of like Ultram? It's kind of like Darvocets and
13 so forth and so on?
- 14 A. Yes.
- 15 Q. And so does it appear that by 9/11 of 2009 she was on
16 a nerve/muscle medication, or one that can be used for
17 nerves and muscles? She was also on an arthritic
18 medication, and now she was being put on the
19 equivalent of an opiate type pain medication?
- 20 A. She was placed on a pain medication, yes.
- 21 Q. And then did you see her -- does it appear that you
22 saw her again on 11/30 of 2009?
- 23 A. Yes.
- 24 Q. And again, the page issue, it pretends like it's page
25 56 of a 146-page document, when in reality it's a

- 1 three-page document; is that correct?
- 2 A. Yes, that's correct.
- 3 Q. And at that point was she complaining of dry patches
- 4 on her legs, "Patient complains with some depression,
- 5 patient complains with some depression, patient is
- 6 awaiting a report on her kidney?"
- 7 A. Yes.
- 8 Q. Does it state that she was not feeling well and had
- 9 decreased energy?
- 10 A. Yes.
- 11 Q. And when it listed her medications, did it list her as
- 12 being on Tylenol Arthritis Pain?
- 13 A. Yes.
- 14 Q. Did it list her as having the Ultram or that synthetic
- 15 opiate?
- 16 A. Uh-huh (affirmative).
- 17 Q. And did it list her as having the Cymbalta?
- 18 A. Yes.
- 19 Q. Going to the next page of that document, does it
- 20 appear that on that date her psychiatric issues were
- 21 that she had worries, anxieties and insomnia?
- 22 A. Yes.
- 23 Q. Going to the next document in that set of documents,
- 24 it appears that after this visit -- and let me, let me
- 25 do -- go back to that document for one moment.

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- 1 A. Okay.
- 2 Q. You indicated that at some point her pain was becoming
3 so difficult that it was causing her pulse rate to
4 rise; is that correct?
- 5 A. Are you talking about this, this --
- 6 Q. Not, not that document, no, ma'am. During your course
7 of treatment she ultimately ended up having pain that
8 was significant enough to make her pulse rate go up?
- 9 A. Yes.
- 10 Q. Looking at this document, being the visit with you,
11 does it appear that her pulse rate was 98?
- 12 A. Yes.
- 13 Q. And her respiration rate was 16?
- 14 A. Uh-huh (affirmative).
- 15 Q. And pulse rates in particular -- pulse rates and
16 respiratory rates can go up, like you've described, if
17 you're having severe pain.
- 18 A. Yes.
- 19 Q. So it's not something you consciously do; it's just
20 your body does it for you.
- 21 A. Correct.
- 22 Q. And so when we go to the next document in this set of
23 documents, --
- 24 A. Uh-huh (affirmative).
- 25 Q. -- again, and it's being listed as page 3 of 41, but

- 38 -

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US3

453

541

- 1 it's an ER visit.
- 2 A. Okay.
- 3 Q. In reality it's a three-page document. Going to the
- 4 second page of that document, --
- 5 A. Uh-huh (affirmative).
- 6 Q. -- would you agree that her respiratory rate while at
- 7 the hospital was a 76?
- 8 A. Her pulse rate was 76.
- 9 Q. I'm sorry, pulse rate was 76. And for the jurors'
- 10 purposes, that means her heart was beating 76 times a
- 11 minute?
- 12 A. Correct.
- 13 Q. And her respiratory rate was 16; is that correct?
- 14 A. Yes.
- 15 Q. And that means that she's breathing in and out in a
- 16 given minute 16 times?
- 17 A. Correct.
- 18 Q. So would you agree with me, if you compare her pulse
- 19 rate and her respiratory rate when you saw her on
- 20 11/30 of 2009, that their -- actually her pulse rate
- 21 was lower and her respiratory rate was identical when
- 22 she was at the emergency room after the accident; is
- 23 that correct?
- 24 A. Yes.
- 25 Q. So it doesn't appear that this accident was enough --

- 39 -

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454

542

1 or the injuries suffered from this accident were
2 enough to actually make her pulse rate go up. In
3 fact, it's gone down from your last visit; is that
4 correct?
5 A. It has gone down from the last visit.
6 Q. And her respiratory rate has stayed identical to what
7 it was with your last visit; is that correct?
8 A. Correct.
9 Q. So if there are -- if there's significant pain, we
10 should see an up-tick, not a down-tick or an even
11 tick. We should see some difference in those rates;
12 should we not?
13 A. Yes, you would expect to see a difference.
14 Q. And we don't, and that could be indicative of someone
15 who's not in a great deal of pain.
16 A. It could be.
17 Q. Going to the first page of that document, again as
18 being the ER visit, --
19 A. Uh-huh (affirmative).
20 Q. -- does it appear that her chief complaint was that
21 she was rear-ended this p.m., "Patient complains of
22 low back pain and headaches. Complains of nausea
23 also?"
24 A. Correct.
25 Q. And when they were getting into it it says, "The

1 patient presents following a motor vehicle accident
2 collision. The onset was just prior to arrival. The
3 collision was rear impact. The patient was the
4 driver. There were safety mechanisms, including
5 seatbelts. Location:" -- which is the location of
6 pain -- "head and neck." The degree of pain at that
7 point was described as severe. The degree of bleeding
8 was none. Risk factors consist of age. Therapy today
9 was none. And then the associated symptoms were
10 nausea, headache, but she denied shortness of breath;
11 did she not?
12 A. Correct.
13 Q. She denied chest pain; did she not?
14 A. Uh-huh (affirmative).
15 Q. She denied abdominal pain; did she not?
16 A. Correct.
17 Q. Denied vomiting; did she not?
18 A. Yes.
19 Q. Denied low back pain?
20 A. I -- yes.
21 Q. And was in no altered state of consciousness?
22 A. Correct.
23 Q. Meaning she was acting normal?
24 A. Correct.
25 Q. And denied being dizzy?

- 41 -

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456

456

544

- 1 A. Uh-huh (affirmative).
- 2 Q. And denied having been knocked out or being passed
3 out?
- 4 A. Correct.
- 5 Q. And then when they were doing an ear, nose, mouth and
6 throat exam, they said it was negative except as
7 documented in the History of Past Illness, the things
8 that we just discussed above; is that correct? That's
9 still on the first page. Review of Systems.
- 10 A. Oh, I thought you said exam. Yes, negative.
- 11 Q. Except for what's stated above, and there's really
12 nothing stated above with regard to her ear, nose,
13 mouth and throat because she's not dizzy, she's not
14 passing out, she's not having an altered level of
15 consciousness; is that correct?
- 16 A. Correct.
- 17 Q. And then her neurologic symptoms were negative except
18 for what's set forth above, and, quite frankly, we're
19 not really -- they're not describing any neurologic
20 symptoms at that point.
- 21 A. Correct.
- 22 Q. Going to the next page in that set of documents, --
- 23 A. Uh-huh (affirmative).
- 24 Q. -- does it appear that when they actually did a
25 physical exam of her while at the hospital, that her

- 1 neck was supple?
- 2 A. Yes.
- 3 Q. And that would mean that she has a neck that is not,
4 is not revealing the muscle spasms that you saw --
- 5 A. Correct.
- 6 Q. -- a month or two later; is that correct?
- 7 A. Correct.
- 8 Q. So they're not finding any muscle spasms in her neck;
9 are they?
- 10 A. Uh-huh (affirmative), correct.
- 11 Q. They're finding no step-offs; are they?
- 12 A. Correct.
- 13 Q. And for lay people terms, that just means that one
14 bone's dramatically less aligned with the other?
- 15 A. Correct.
- 16 Q. Which could mean that you're in big trouble?
- 17 A. Uh-huh (affirmative).
- 18 Q. They didn't find that?
- 19 A. No.
- 20 Q. Wouldn't expect them to. There was no stiffness?
- 21 A. Correct.
- 22 Q. Which would be, again, an indicator that we're not
23 showing any indications of muscle spasms?
- 24 A. Uh-huh (affirmative).
- 25 Q. She did have painful range of motion, but it was mild;

- 1 is that correct?
- 2 A. Correct.
- 3 Q. And then they checked to see if there was any blood in
4 her tissue, and that came back normal.
- 5 A. Correct.
- 6 Q. And then they did say that she was -- tenderness in
7 her neck; is that correct?
- 8 A. Yes.
- 9 Q. But the tenderness is something that she tells them
10 she has.
- 11 A. Correct.
- 12 Q. And you can say, I have tenderness, and they'd put it
13 down; or you can say, I don't have tenderness, and
14 they would say, no tenderness.
- 15 A. Correct. But you, you elicit it through examination,
16 by pressing on the muscles or pressing on the spine.
- 17 Q. And they say, that's tender or this is tender or
18 that's not tender, --
- 19 A. Right.
- 20 Q. -- but they control whether it's -- their accuracy is
21 based upon their controlling it.
- 22 A. Correct.
- 23 Q. These other things, where you're actually finding no
24 muscle spasms, no step-offs, no stiffness, no blood in
25 the tissue, those are things that they can't control.

- 44 -

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USA

459

547

1 You see those independently and they can't make those
2 happen.

3 A. Correct.

4 Q. And those are essentially -- so other than her
5 complaint of -- that moving my neck is mildly painful,
6 and I'm having tenderness, and those are things that
7 she had that you have to rely on her saying, her neck
8 exam is essentially pretty normal; is it not?

9 A. Correct.

10 Q. And would you agree when we got to her low back, that
11 it was non-tender and had normal alignment?

12 A. Yes.

13 Q. And when we got to her musculoskeletal system, she had
14 normal range of motion and no deformity.

15 A. Correct.

16 Q. And then when we got to her neurologic system, they
17 found no focal neurologic deficit was observed.

18 A. Correct.

19 Q. So when they're checking her out, other than her
20 saying, my range of -- when you move my neck it's
21 mildly painful and I'm tender when you touch me in
22 certain places, in reality her neck exam, her low back
23 exam, her range of motion exam with regard to her
24 muscles, and her neurologic exam, meaning is there a
25 pinched nerve somewhere, is coming back normal; is

1 that correct?

2 A. Correct. Although they did not mention reflexes.

3 Q. But if they say "no focal neurologic deficit," that
4 means if I, if I take the hammer and bop me on the
5 knee and my, my leg doesn't kick, then that is by
6 definition a neurologic deficit; is that correct?

7 A. Correct.

8 Q. And they're saying they don't see any evidence of that
9 at that time; do they?

10 A. Correct. But no focal neurological deficit can also
11 mean I looked at this patient and they were moving
12 everything, so I can't speak for the examiner.

13 Q. But nonetheless, based upon what we see here, they're
14 saying, we're not having -- we're not showing evidence
15 of a pinched nerve, we're not showing evidence of any
16 problems in the back, we're not showing any evidence
17 with musculoskeletal range of motion, she has no
18 spasms in her neck, no stiffness in her neck, no blood
19 in her tissue. She does say that she has some mild
20 problems when you're moving your neck, and she does
21 say that she's tender; is that correct?

22 A. Correct.

23 Q. But essentially all of the other exams are coming back
24 normal.

25 A. Correct.

1 Q. And going back again to the pulse rate and the
2 respiratory rate, this is not indicative of someone
3 who is in a great deal, or any pain.

4 A. Correct.

5 Q. But going to the next document in the set of
6 documents, they went ahead anyway, did they not, and
7 took an X-ray of her neck, --

8 A. Uh-huh (affirmative).

9 Q. -- or cervical spine. And again, this thing is saying
10 it's 16 pages out of 41, and in reality it's a
11 two-page document; is it not?

12 A. Correct.

13 Q. Which is --

14 MR. PEACE:

15 Mark, I don't believe I have a copy of that one. I've
16 got the ED visit note 1/08/10, and the next thing I
17 have is History and Physical Report No. 8, which I
18 believe is from Dr. Harding's office.

19 MR. MCGARR:

20 Can we give you hers in just two seconds, because I
21 don't know how that happened. Can you look underneath
22 there and see if it pops up?

23 MR. PEACE:

24 No, the next one is Dr. Harding's Physical Report
25 2/18/10.

1 MR. MCGARR:

2 Okay, it's not.

3 MR. PEACE:

4 The MRI is after that. And after that, some physical
5 therapy records.

6 MR. MCGARR:

7 I'll get her to share in just a moment.

8 EXAMINATION CONTINUES BY MR. MCGARR:

9 Q. But does it appear that Palmetto Back of Easley
10 actually did go forward, even with the exam as it was,
11 and have X-rays done of her neck?

12 A. Yes.

13 Q. And when they did, the radiologist came back and said
14 that she had severe degenerative changes?

15 A. Yes.

16 Q. And that would be indicative of someone who's had
17 longstanding problems in that neck --

18 A. Correct.

19 Q. -- and they're severe in nature.

20 A. Correct.

21 Q. Meaning it's a bad problem that's been there for a
22 long time.

23 A. Correct.

24 Q. And he went on to say that there were "no acute
25 abnormalities are identified on plain film."

- 1 A. Correct.
- 2 Q. Meaning he's not finding anything that's changed as a
3 result of this incident; he's just finding severe
4 old-time problems in this lady's neck.
- 5 A. Correct.
- 6 Q. They weren't coming from the automobile accident
7 because acute means it happened now.
- 8 A. Correct.
- 9 Q. So he's finding old problems, and severe old problems
10 that have taken years to develop, but he's not finding
11 anything associated with this automobile accident that
12 has made a difference.
- 13 A. Correct.
- 14 Q. Does it appear that -- can you give that to Mr. Peace?
- 15 A. Sure.
- 16 MR. PEACE:
17 Are you going to ask her anything else about it?
- 18 MR. MCGARR:
19 I may, so you just, you may want to just look at it
20 real quick.
- 21 EXAMINATION CONTINUES BY MR. MCGARR:
- 22 Q. The next document in the set of documents, does it
23 appear that she was in the office on 1/28/2010 --
- 24 A. For labs. She came in for blood work.
- 25 Q. And that was roughly 20 days after the accident?

- 1 A. Yes.
- 2 Q. If she were having severe problems, would you guys
3 have seen her on that day? Would there have been any
4 reason not to?
- 5 A. It just depends; some people prefer to wait until
6 their scheduled appointment.
- 7 Q. But, I mean, you can do work-ins if they have --
- 8 A. Yes.
- 9 Q. -- severe problems; can you not?
- 10 A. Correct.
- 11 Q. And she was obviously here doing blood work, but no
12 one did a work-in on that date; did they?
- 13 A. Correct.
- 14 Q. And then on the next document, that would be the first
15 document where you're seeing her after this automobile
16 accident; is that correct? It'll be the 2/08/2010 --
- 17 A. Yes, that's correct.
- 18 Q. And again, it's pretending like it's the 48th page of
19 146 pages, but in reality it is a five-page document;
20 is --
- 21 A. Correct.
- 22 Q. -- that correct? And when she came to see you on that
23 date, she was coming to see you -- what is a new CMW?
24 I just don't know what that is.
- 25 A. It's a new Complete Medical Work-Up.

- 50 -

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465

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- 1 Q. So when she came in, her complaints were hot flashes
2 -- that was the first one.
3 A. Uh-huh (affirmative).
4 Q. Second one was skin problems.
5 A. Uh-huh (affirmative).
6 Q. Third one was moles.
7 A. Uh-huh (affirmative).
8 Q. And the fourth one was right arm pain; is that
9 correct?
10 A. Yes.
11 Q. And she told you at that point that she had been
12 involved in a motor vehicle accident where she was
13 rear-ended, and she had been kind of shaky since then.
14 Had back and neck X-rays done at the E.R., which were
15 fine outside of arthritis. Does that appear to be
16 true, that she had severe arthritis but otherwise they
17 were fine?
18 A. Correct.
19 Q. Does it say later on that she's had an MRI done of her
20 neck in the past?
21 A. Yes.
22 Q. But does she tell you that she had had a multiple,
23 multiple, multiple, multiple year history of neck
24 problems, or did she just tell you that she had had an
25 MRI in the past?

- 51 -

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- 1 A. I don't know. You know, that's what I documented, so
2 that's what I can recall.
- 3 Q. And at that point does it say that she was feeling
4 well with minor complaints, had good injury -- energy,
5 and is sleeping well?
- 6 A. Yes.
- 7 Q. And yet when you started doing an exam of her, --
- 8 A. Uh-huh (affirmative).
- 9 Q. -- her neck was essentially normal. With regard to
10 where the neck issue is there.
- 11 A. Correct. This is -- this would be the anterior neck,
12 which would mean the thyroid, lymph and -- her lymph
13 glands, that type of thing.
- 14 Q. Her musculoskeletal system revealed joint pain but did
15 not have the claudation [sic] or the joint swelling or
16 the myalgia; is that correct?
- 17 A. You're talking about the Review of Systems?
- 18 Q. Yes, ma'am, the Review --
- 19 A. Correct; uh-huh (affirmative).
- 20 Q. And that's the same findings that you had seen when
21 you saw her on 9/11 of 2009; is that correct?
- 22 A. Yes, that's correct.
- 23 Q. So what we're seeing there was before this accident
24 ever took place.
- 25 A. Correct.

- 52 -

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467

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1 Q. What we are seeing different is that she's now having
2 some numbness and weakness in that right arm; is that
3 correct?

4 A. Yes.

5 Q. And when we go to, I think, page 4, would you agree
6 that you are an internal medicine doctor; is that
7 correct?

8 A. That's correct.

9 Q. And yet you were quite capable of -- you're not a
10 neurosurgeon?

11 A. No, I am not.

12 Q. But you were quite capable of pointing out just by
13 doing neurologic tests that on this visit she is now
14 showing a problem that is at the C5-6 level that goes
15 out of the C6 area; is that correct?

16 A. Correct.

17 Q. C5 is a bone in your neck, then there's a disc, then
18 there's a C6, which is a bone just below that; is that
19 correct?

20 A. Correct.

21 Q. And the nerve that comes out, they call the C6
22 distribution.

23 A. Correct.

24 Q. You don't have to be a neurosurgeon to figure out
25 where a nerve problem is because you guys do that

U128

1 early on in school; is that correct?

2 A. Correct.

3 Q. And you do it by dermatomes, figuring out where the
4 problem is. And you came to the conclusion that she's
5 got a problem at C5-6, at C5 dash 6, without the first
6 X-ray.

7 A. Correct.

8 Q. And that it was actually -- and I'm going to use lay
9 people terms. You actually came to the conclusion
10 that that C5-6 nerve was being pinched.

11 A. Correct.

12 Q. And that would fit with these findings; would it not?

13 A. Yes.

14 Q. So having not been a neurologist or a neurosurgeon,
15 you're capable, just like the emergency room doctors
16 would be capable, of finding a C5-6 problem when
17 you're looking for it.

18 A. Correct.

19 Q. And ER doctors, if you come in saying you're having
20 neck pain, one of the reasons they're doing the
21 stepdown and doing all these check-ups is they're
22 wanting to see, are we having these types of problems.

23 A. Right.

24 Q. Because if a nerve problem that is a severe nerve
25 problem, if not taken care of can kill the nerve, and

469

- 1 nerves don't come back to life.
- 2 A. Correct.
- 3 Q. So they could diagnose a problem with her nerves if
- 4 they wanted to.
- 5 A. Correct.
- 6 Q. And you could diagnose and did diagnose a problem with
- 7 her nerve, and you were spot on; am I correct?
- 8 A. Correct.
- 9 Q. They're an ER physician; you're a family physician.
- 10 A. Right.
- 11 Q. As a result of your testing her, would you agree that
- 12 you sent her off for an MRI just to confirm what your
- 13 concerns were?
- 14 A. Yes.
- 15 Q. And if we could, in that next document you'll get to
- 16 the Easley MRI.
- 17 A. Uh-huh (affirmative).
- 18 Q. The radiologist was told that he was -- was told that
- 19 an order had been placed for an MRI of her spine
- 20 without contrast, and that the reason for the exam was
- 21 right arm weakness and numbness; is that correct? Or
- 22 numbness and weakness; is that correct?
- 23 A. Correct.
- 24 Q. So that's what the MRI -- that's what the radiologist
- 25 is aware of when he's reading this report; is --

- 55 -

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470

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- 1 A. Yes.
- 2 Q. -- that correct? And going to the second page, when
3 he finished with that MRI, did he find that this lady
4 had severe bone spurring?
- 5 A. I'm sorry. The second page?
- 6 Q. The second page, last entry.
- 7 A. Yes.
- 8 Q. And that she had a congenitally small canal, meaning
9 that she was born with a skinnier area where your
10 spinal column runs through it to begin with? Do you
11 see the "Developmental --"
- 12 A. Uh-huh (affirmative).
- 13 Q. And that's something she's born with, it's not caused
14 by an accident; is that correct?
- 15 A. Correct.
- 16 Q. And the bone spurs are something that took place long,
17 long, long before this -- it took years before this
18 accident to create those.
- 19 A. Correct.
- 20 Q. And they're severe; is that correct?
- 21 A. I don't see the word, severe. I see "severe spinal
22 canal stenosis."
- 23 Q. And that, again, is something that you develop over
24 time; and again, that's not related to an automobile
25 accident.

- 1 A. Unless you have something herniating into the canal
2 acutely.
- 3 Q. Yes, and he's not -- but you don't -- you'll notice in
4 a moment, he's not talking that she had a herniation.
5 He's just saying that she's got bone spurs, that she
6 has stenosis in the canals, and that she has a pinched
7 nerve but the pinched nerve is coming about as a
8 result of the bone issue; is that correct?
- 9 A. Correct.
- 10 Q. So the bone, the spurring and the narrowing of the
11 canal through arthritic changes, that from your
12 knowledge cannot be caused by an automobile accident
13 that took place about a month before this MRI was
14 done?
- 15 A. No, the arthritis and the spurs were there.
- 16 Q. And would have been there long before this automobile
17 accident.
- 18 A. That's correct.
- 19 Q. And the pinching of this nerve, based on those -- that
20 arthritic change and the spurring, that's not from
21 this automobile accident. I mean, that's something
22 that is pinched -- I mean, it's pinched because of
23 bones and it's pinched because of arthritic changes,
24 and it's severely pinched at this point; is it not?
- 25 A. Correct. But I disagree with what you said about it

- 57 -

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- 1 not being caused by the automobile accident. You can
2 have severe arthritis but not have symptoms with it
3 unless there's something that upsets the architecture,
4 as happens in a car wreck.
- 5 Q. And -- and I'll come back to that in a moment, but if,
6 for example, using this radiologist himself, he is not
7 aware that she has been involved in an automobile
8 accident; he just knows that she has a problem in her
9 right arm.
- 10 A. Correct.
- 11 Q. And he comes back and says, "multiple severe spinal
12 canal stenosis and cord compression, including the
13 C3-4 and the C4-5 levels."
- 14 A. Correct.
- 15 Q. Is that correct?
- 16 A. Uh-huh (affirmative).
- 17 Q. And he goes on to say, "An orthopaedic or
18 neurosurgical consultation may be of value, given
19 these findings."
- 20 A. Correct.
- 21 Q. So without him having any knowledge of an MR -- or of
22 an MVA whatsoever, he's saying these findings are
23 severe enough to send her off to a neurosurgeon, these
24 findings alone.
- 25 A. Correct.

1 Q. So without knowledge of an automobile accident, what
2 he's seeing, he says, is severe enough to cause the
3 problems that she has.

4 A. Correct.

5 Q. And I want to go back for a moment to the emergency
6 room visit. On that date, they're not noting
7 problems -- they're noting nowhere a problem with a
8 pinched nerve; are they?

9 A. No, they are not.

10 Q. In fact, she comes to you for blood work on 1/28/2010,
11 does not even bother to do a fill-in/work-in, and then
12 finally does appear at your office approximately one
13 month after the accident, and it's at that point that
14 we start seeing these radicular or nerve pinching
15 problems; is that correct?

16 A. Correct.

17 Q. So if we're not seeing nerve pinching problems at the
18 hospital and we have a doctor who doesn't even know
19 she's involved in -- a radiologist who doesn't even
20 know she's involved in an automobile accident, and he
21 says she needs to see a neurosurgeon, and then you see
22 her and she does have nerve pinching issues, could it
23 be, is it possible that what we've done is, we have
24 had such severe problems with that neck in the past
25 that it finally -- the bones grew and the arthritis

1 got bad enough that we started pinching sometime after
2 this automobile accident?
3 A. That's possible, yes.
4 Q. And that pinching could easily have come about,
5 whether she was involved in the automobile accident or
6 not.
7 A. This is possible, yes.
8 Q. And if that -- that being the case, it could simply be
9 that -- because she ultimately had surgery on the area
10 you diagnosed her on as having a problem; is that
11 correct?
12 A. Uh-huh (affirmative).
13 Q. And did you receive those surgical notes?
14 A. I don't believe I did; let me check.
15 Q. That's okay.
16 A. Okay.
17 Q. Go two pages down and you'll hit the, you'll hit the
18 surgical notes. The second page of that document, --
19 A. Uh-huh (affirmative)?
20 Q. -- does it appear that what they essentially did is,
21 they went in and took out those bone spurs, they went
22 in and took out all that area of arthritis; they then
23 opened up holes that may have been -- she was
24 congenitally small to begin with, and then they put a
25 disc in in the area that they were working on?

- 60 -

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- 1 A. I wasn't completely following you when you were
2 speaking --
- 3 Q. I'm sorry.
- 4 A. -- but --
- 5 Q. I'll do it again. They're not -- the MRI is not
6 showing a herniated disc problem. It's showing --
- 7 A. Yes.
- 8 Q. -- that the bones are pressing directly on this lady's
9 nerve.
- 10 A. Correct.
- 11 Q. And that alone, accident or no accident, could result
12 in the need for surgery.
- 13 A. Correct.
- 14 Q. And then when she did have the surgery, what they did
15 essentially is they had to put a disc back in, because
16 they were going to go through to clean it out, --
- 17 A. Uh-huh (affirmative).
- 18 Q. -- but in the process, what they're doing is, they're
19 cleaning up those bone spurs, that arthritis and those
20 congenitally small areas in her neck.
- 21 A. Correct.
- 22 Q. To make sure that there's enough room in there now so
23 that her nerve won't be pinched; is that correct?
- 24 A. Correct.
- 25 Q. And it worked?

- 61 -

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476

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1 A. Yes.

2 Q. And again, if the hospital is not seeing any signs of
3 nerve pinching, the issue is not significant enough,
4 even though she's here, to ask for, 'hey, I need a
5 consult now, let's work me in,' and then she does show
6 up a month after the accident, is it possible -- oh,
7 and the radiologist doesn't know she's been involved
8 in an accident, just by virtue of these bones and
9 arthritis -- or these spurs and arthritis alone, this
10 woman has a severely pinched nerve.

11 A. Uh-huh (affirmative).

12 Q. And based upon the fact that that's what they fixed.
13 They took the bone -- they took the arthritis out,
14 they took the congenitally small stuff out, and they
15 took the spurs out. That could happen just by virtue
16 of the fact that degeneration by its very nature tends
17 to get worse over time.

18 A. Correct.

19 Q. And it could be that this accident had -- could it be
20 possible that this accident, particularly with the
21 emergency room findings, had nothing to do with the
22 surgery; it's just that her bones and arthritis
23 continued to spread to the point that by the time she
24 came to see you a month after this accident, surgery
25 had to be done because there was no space left?

- 1 A. It's possible.
- 2 Q. It's also possible that the accident could have played
3 a part in her ultimate surgery.
- 4 A. Yes.
- 5 Q. And then I'm going to switch you back to a couple of
6 other things, because we're dealing at this point with
7 someone who has such severe degenerative changes that,
8 at least from the radiologist's perspective, he wants
9 to get her to a neurosurgeon; is that correct?
- 10 A. Uh-huh (affirmative), correct.
- 11 Q. If she is mulching in the yard, could that be
12 something, mulching, that could set off your nerves to
13 the point that you had to have surgery, given the fact
14 that she has such severe degenerative disease in her
15 neck?
- 16 A. It's possible.
- 17 Q. And is it possible that you could simply twist your
18 arm a certain way or get in a certain torquing
19 position and that fire that nerve off?
- 20 A. Yes.
- 21 Q. So what we have is, on a list of possibilities, it's
22 possible that if she had never been involved in this
23 automobile accident at all, particularly given these
24 findings that we've had at the hospital, the
25 radiologist's finding and so forth, and what we

1 actually did surgery on, that she could have had to
2 have had this surgery whether she had been involved in
3 an accident or not.

4 A. Correct.

5 Q. She could have had this surgery because, because she
6 was involved in an accident.

7 A. Correct.

8 Q. She could have had this surgery because she was
9 mulching.

10 A. Correct.

11 Q. She could have had this surgery because she twisted
12 her arm a certain, certain way incorrectly; is that
13 correct?

14 A. That's correct.

15 Q. And it could be any of those four things; is that
16 correct?

17 A. Yes.

18 Q. And does it strike you as a little strange that the
19 hospital is not finding evidence of a pinched nerve
20 when she came in to see them after this automobile
21 accident?

22 A. Yes.

23 Q. Because if we're going to set it off, given the
24 extreme condition of this lady's neck, we should have
25 set it off right then and there; is that correct?

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1 A. Correct.

2 Q. And it didn't happen.

3 A. No.

4 Q. So it makes it very difficult, due to what you now
5 know, to connect the automobile accident to her
6 ultimate complaints and surgery; does it not?

7 A. Yes. However, I would be interested to hear what exam
8 was performed on the patient in the emergency room.

9 Q. Yes, ma'am, but it's kind of been --

10 A. From her perspective.

11 Q. Oh, okay. And we haven't done that at this point; but
12 again, you're not a neurosurgeon and you pegged
13 exactly what area, what nerve was being pinched and on
14 what side.

15 A. Correct.

16 Q. The E.R. docs can do it just as well.

17 A. Correct, if they do the exam.

18 Q. But in all fairness, does it make any sense, given the
19 litigious environment we live in, for someone --

20 MR. PEACE:

21 Object to the form.

22 EXAMINATION CONTINUES BY MR. MCGARR:

23 Q. -- for an emergency room doctor to not test --

24 MR. PEACE:

25 This is well outside Dr. Harding's area of expertise.

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1 She's not an expert on litigiousness, nor anything
2 else about society. She's testifying as a treating
3 physician, and I object to this question.

4 EXAMINATION CONTINUES BY MR. MCGARR:

5 Q. Let me do it this way. It would be prudent for an
6 E.R. physician, when someone is saying, I've been
7 involved in an automobile accident --

8 MR. PEACE:

9 Is this framed as a question?

10 MR. MCGARR:

11 Yes. It was called, would it be prudent. Would it be
12 prudent for an emergency room physician who is seeing
13 a patient who said they've been in an automobile
14 accident and that their neck is hurt to check to see
15 if those nerves have been pinched as a result of that
16 accident?

17 A. That would be prudent, yes.

18 Q. And it would be pretty much par for their course to
19 check that.

20 A. I can't speak to that.

21 Q. But it's something that they're quite capable of
22 doing, just like you're quite capable of doing it.

23 A. Correct.

24 Q. And they're quite capable of diagnosing it and getting
25 it spot on like you did.

481

1 A. Correct.

2 Q. And they didn't find any pinching based on the tests,
3 that we know of.

4 A. Correct.

5 Q. And that's extraordinarily unusual, given the fact
6 that she had such severe problems with that neck. If
7 the pinching was going to happen, it should have been
8 going on right there.

9 MR. PEACE:

10 Object to the question. There's no evidence as far as
11 whether Dr. Harding knows what's extraordinarily
12 unusual for emergency room practice or not.

13 MR. MCGARR:

14 No, she already testified ---

15 MR. PEACE:

16 This is simply outside her area of expertise.

17 MR. MCGARR:

18 This has nothing to do with the emergency room.

19 EXAMINATION CONTINUES BY MR. MCGARR:

20 Q. If you've got this severe of neck problem and you're
21 in an automobile accident and you're complaining of
22 neck pain, you ought to start seeing some immediate
23 evidence of pinched nerves.

24 A. Potentially, yes.

25 Q. And we did not see that from the emergency room

1 report.
2 A. Correct.
3 Q. So again, that makes it very difficult to tie the
4 automobile accident to the ultimate surgery, as
5 opposed to all the other possibilities that are out
6 there; is that correct?
7 A. Correct.
8 MR. McGARR:
9 No further questions.
10 RE-EXAMINATION BY MR. PEACE:
11 Q. Dr. Harding, let's go back and take a look at some of
12 the records.
13 A. Okay.
14 Q. Looking at the emergency room records from January 8,
15 2010, --
16 A. Okay.
17 Q. -- and if you like, I can just hand you the copies --
18 A. That's --
19 Q. -- that he provided me and that will save looking.
20 What was the Final Discharge Impression Plan and
21 Diagnosis regarding Ms. Gaines' neck at the emergency
22 room?
23 A. "Cervical sprain, motor vehicle collision. Patient
24 care transitioned to ..." I don't know the discharge
25 plan.

- 68 -

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483

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- 1 Q. But she was diagnosed with cervical strain when she
2 left the emergency room, correct?
3 A. Sprain, yes, uh-huh (affirmative).
4 Q. Mr. McGarr asked you about the X-ray report that was
5 taken, this is dated apparently January 9, 2010, of
6 her cervical spine. And I'll hand that back to you,
7 --
8 A. Okay.
9 Q. -- but is an X-ray the type of test that would be used
10 to diagnose a herniated nucleus pulposus?
11 A. No.
12 Q. What type of test would be used to diagnose a --
13 A. An MRI.
14 Q. But will an HNP show up on an X-ray?
15 A. No.
16 Q. And why is that?
17 A. It's soft tissue, and we can only see bony structures
18 on an X-ray, or a plain film.
19 Q. So an HNP, if there is one, simply isn't going to show
20 up on that test; is it?
21 A. Correct.
22 Q. And Mr. McGarr also showed you the MRI report and
23 suggested repeatedly that the radiologist who read the
24 MRI was unaware that she had been in a motor vehicle
25 collision. Could you read the History section of the

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- 1 MRI report for the jury, please?
- 2 A. "Sixty-nine-year-old female with brachial neuritis or
3 radiculitis. Right arm weakness and numbness.
4 Chronic pain symptoms after a motor vehicle accident."
5 Q. So would you agree with me that the radiologist was
6 informed that Ms. Gaines was involved in a motor
7 vehicle collision before he read her MRI films?
8 A. Yes.
9 Q. Thank you. Let's see, Doctor, also with the MRI, did
10 you actually review the MRI films yourself?
11 A. No.
12 Q. You just read the MRI Report?
13 A. The report.
14 Q. And if Dr. Mina -- you understand Dr. Mina was the
15 surgeon who ultimately --
16 A. Yes, uh-huh (affirmative).
17 Q. -- performed the operation? Did you know that she
18 actually reviewed the films herself prior to
19 performing surgery?
20 A. I did not know that, but I would have been shocked if
21 she hadn't.
22 Q. Is it your understanding that a neurosurgeon would
23 typically review the particular MRI films --
24 A. Yes.
25 Q. -- rather than just relying on the radiologist's

- 70 -

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- 1 report?
- 2 A. Uh-huh (affirmative).
- 3 Q. And I'll represent to you that Dr. Mina's testified
- 4 that she's a board-certified neurosurgeon. Would you
- 5 defer to her reading of the MRI films prior to
- 6 performing the surgery that she did on Barbara Gaines?
- 7 A. Always.
- 8 Q. So whatever her opinion is, you would let her state
- 9 that opinion?
- 10 A. I trust her implicitly.
- 11 Q. Now Mr. McGarr has dreamed up a number of
- 12 possibilities that he suggests could have caused
- 13 Barbara Gaines' neck injury.
- 14 A. Correct.
- 15 Q. And I suggest that anybody in the courtroom could,
- 16 likewise, dream up numerous other possibilities that
- 17 could cause. Suppose Ms. Gaines fell down two flights
- 18 of stairs, or fell out of a second story window, or
- 19 was run over by a truck while lying in the street.
- 20 All of those things could cause C5-C6 radiculopathy;
- 21 could they not?
- 22 A. Yes.
- 23 Q. Is there any evidence that any of those things
- 24 occurred?
- 25 A. Not that I'm aware of.

- 71 -

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1 Q. Did she begin complaining of her right arm pain and
2 radiating neck pain when she first came to see you
3 following the January 8, 2010, wreck?

4 A. She did.

5 Q. I believe you've already told us that you don't really
6 doubt her veracity or the accuracy of the information
7 she's provided you as her treating physician; is that
8 correct?

9 A. Yes.

10 Q. Has anything that Mr. McGarr has suggested as
11 possibilities that could have caused Ms. Gaines' C5-C6
12 radiculopathy changed your opinion that this wreck
13 caused her neck injury?

14 A. No.

15 Q. And, likewise, has anything he has suggested here
16 today changed your opinion that you made the right
17 call in referring her to Dr. Mina for surgery?

18 A. Phrase that question again -- I made the right
19 decision to refer.

20 Q. And that was the question.

21 A. Okay.

22 Q. All right, thank you, Doctor. And regarding any
23 incident in which she might have sustained an injury
24 from mulching, did she ever come to you and complain
25 about neck pain as a result of working in the yard or

1 doing mulching or anything like that?

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

3 Q. And, likewise, did she come to you and say, I was out
4 mulching the other day and began experiencing
5 radiating pain into my right upper extremity?

6 A. No.

7 MR. PEACE:

8 Okay. All right, Doctor, that's all the questions I
9 have for you. Thank you.

10 WITNESS:

11 Okay.

12 RE-EXAMINATION BY MR. MCGARR:

13 Q. Doctor, just a few follow-up,

14 A. Uh-huh (affirmative).

15 Q. -- and it'll be very few. You go to the hospital and
16 you say, my neck hurts and I've been involved in an
17 automobile accident and it's tender here and it hurts
18 here, and all the findings come back normal, they're
19 still going to diagnose you with a neck sprain because
20 you've told them it's tender and it hurts here.

21 A. Right.

22 Q. That's what -- that's how they do that.

23 A. Correct.

24 Q. And so a diagnosis of a neck sprain doesn't change the
25 fact that their testing of her neck was essentially

1 normal.
2 A. Correct.
3 Q. And then X-rays don't pick up herniations but they do
4 pick up bony changes.
5 A. Yes, they do.
6 Q. And the X-ray that was done picked up very severe
7 changes in this lady's neck from a bone perspective.
8 A. Correct.
9 Q. And when an MRI was done, it turns out that it wasn't
10 a herniation problem; it was a bone growth problem
11 that was squishing directly on that nerve.
12 A. Correct.
13 Q. And that fits exactly with what the X-rays were
14 showing, which was severe degenerative changes, but
15 nothing that was caused from this automobile accident.
16 A. It shows severe degenerative changes, yes.
17 Q. And that's consistent with what the MRI was showing
18 also; is that correct?
19 A. Correct.
20 Q. And X-rays are great at looking bones -- looking at
21 bones.
22 A. Yes.
23 Q. And the radiologist clearly said, severe degenerative
24 changes, no acute problems, meaning nothing from this
25 automobile accident.

- 74 -

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1 A. Correct.

2 MR. MCGARR:

3 I have no further questions.

4 MR. PEACE:

5 Nothing further.

6 VIDEOGRAPHER:

7 This concludes the deposition of Dr. Lisa Harding.

8 We're going off the record at camera time 1700.

9

10 DEPOSITION CONCLUDED AT APPROXIMATELY 5:00 P.M.

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STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE } C E R T I F I C A T E

I, Carlene V. Campbell, notary public in and for the State of South Carolina, acting as court reporter, do hereby certify that pursuant to agreement and/or notice in the foregoing cause, the deposition of Lisa G. Harding, M.D., was taken by me at Easley, South Carolina, on Tuesday, July 30, 2013.

I further certify that the said Lisa G. Harding, M.D., was first duly sworn to testify as hereinabove shown, and the testimony of said deponent was reduced to writing.

I further certify that I am neither counsel nor attorney to either of the parties in said litigation nor interested in the event of the cause.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 31st day of July, 2013.

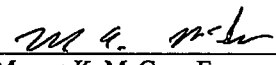
Carlene V. Campbell

Carlene V. Campbell
Notary Public for South Carolina
My Commission Expires 7/14/20

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I certify this Record on Appeal contains all material proposed to be included by the parties and not any other material. I further certify that I have redacted personal data identifiers and other sensitive information from the record as is required by the August 13, 2007 Order of the South Carolina Supreme Court.

August 25, 2014



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