

11/14/03 JORDAN et al. vs. SUSAN TURNER-BEUTEL

CIVIL ACTION

DOCKET 282

SEPTEMBER 2000

| | | |
|----------------------|---|---|
| Chris A. Pentz, Esq. | RODNEY JORDAN and JUDITH JORDAN, husband and wife | <p>✓ <u>SEPTEMBER 15, 2000, PRAECIPE FOR WRIT OF SUMMONS</u>, filed by Chris A. Pentz, Esq., Attorney for the Plaintiff</p> <p>Please issue a Writ of Summons against the following individual: Susan Turner-Betts. /s/Chris A. Pentz</p> <p>✓ <u>SEPTEMBER 15, 2000, WRIT OF SUMMONS ISSUED TO ATTORNEY FOR SERVICE</u></p> <p>✓ <u>SEP. 27, 2000, PRAECIPE FOR ENTRY OF APPFARANCE</u>, filed by s/JAMES M. HORNE, FSQ.</p> <p>✓ <u>OCTOBER 4, 2000, SHERIFF RETURN, SUMMONS ON DEFENDANT</u></p> <p><u>BY PERSONAL SERVICE, SEPTEMBER 25, 2000, SO ANSWERS,</u></p> <p>CHESTER A. HAWKINS, SHERIFF by s/Marilyn Hamm</p> |
| James M. Horne | SUSAN TURNER-BETTS | |
| | Pro BY ATTY 80.00 | <p>PLEASE REFER TO COMPUTER FOR FURTHER ENTRIES</p> |

FILED

SEP 15 2000
10:47 AM
City, Pentz
William A. Shaw
Prothonotary
Writ Summons
to Atty. Pentz

----- Fold Here -----

CHRIS A. PENTZ
ATTORNEY AT LAW
211 1/2 EAST LOCUST ST. P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

84 RODNEY JORDAN and 84 JUDITH
JORDAN, husband and wife,
Plaintiffs

vs

84 SUSAN TURNER-BETTS,
Defendant

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*
*
* No. 00-1148 -CD
*
*
* Type of Case: Civil
*
*
* Type of Pleading: Praeclipe for
* Writ of Summons
*
*
*
* Filed on Behalf of: Plaintiffs
*
*
*
* Counsel of Record for this Party:
* CHRIS A. PENTZ, ESQUIRE
*
* Supreme Court I.D. # 39232
* 211 1/2 East Locust Street
* P. O. Box 552
* Clearfield PA 16830
* 814 765-4000

FILED

SEP 15 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and JUDITH
JORDAN, husband and wife,
Plaintiffs

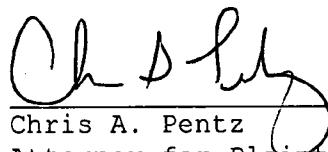
vs. * No. 2000 - - C.D.

SUSAN TURNER-BETTS,
Defendant *

PRAECIPE FOR WRIT OF SUMMONS

Please issue a Writ of Summons against the following
individual:

Susan Turner-Betts
R. D. # 1 Box 404A
Morrisdale PA 16858



Chris A. Pentz
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

COPY

Plaintiff(s)

S U M M O N S
No: 00-1148-CD

vs.

SUSAN TURNER-BETTS,

Defendant(s)

To the above named Defendant(s) you are hereby notified
that the above named Plaintiff(s), has/have commenced a Civil Action
against you.

Date September 15, 2000

William A. Shaw, Prothonotary

Issuing Attorney:

Chris Pentz, Esquire
211 1/2 East Locust Street
P.O. Box 552
Clearfield, PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00-1148-C.D.

Plaintiffs,

v.

SUSAN TURNER-BETTS,

Defendant.

TYPE OF PLEADING:
**PRAECIPE FOR ENTRY OF
APPEARANCE**

TYPE OF CASE: CIVIL
FILED ON BEHALF OF:
DEFENDANT

COUNSEL OF RECORD FOR
FOR THIS PARTY:
JAMES M. HORNE, ESQ.
I.D. NO. 26908
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
PH# (814) 238-4926
FAX#(814) 238-9624

FILED

SEP 27 2000
M/12/06/00
William A. Shaw
Prothonotary
no c/c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife,

Plaintiffs,

v.

SUSAN TURNER-BETTS,

Defendant.

PRAECIPE FOR ENTRY OF APPEARANCE

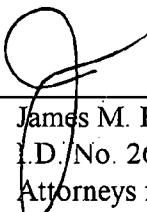
TO THE PROTHONOTARY:

Please enter our appearance on behalf of the Defendant, SUSAN TURNER-BETTS, in
the above-captioned matter.

We are authorized to accept service on her behalf.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

Dated: September 26, 2000

By: 

James M. Horne, Esquire
I.D. No. 26908
Attorneys for Defendant
811 University Drive
State College, PA 16801
(814) 238-4926

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife,

Plaintiffs,

v.

SUSAN TURNER-BETTS,

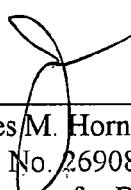
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of our Praeclipe for Entry of Appearance on behalf the Defendant, in the above-captioned matter was mailed by U.S. 1st Class Mail, postage prepaid, on this 26th day of September, 2000, to the attorney of record:

Chris A. Pentz, Esquire
211½ East Locust Street
P.O. Box 552
Clearfield, PA 16830
(Attorney for Plaintiffs)

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

James M. Horne, Esquire
I. D. No. 26908
Attorneys for Defendant
811 University Drive
State College, PA 16801
(814) 238-4926

In The Court of Common Pleas of Clearfield County, Pennsylvania
Sheriff Docket # 10194

JORDAN, RODNEY & JUDITH

VS.

TURNER-BETTS, SUSAN

00-1148-CD

SUMMONS

SHERIFF RETURNS

NOW SEPTEMBER 25, 2000 AT 1:36 PM DST SERVED THE WITHIN SUMMONS ON
SUSAN TURNER-BETTS, DEFENDANT AT RESIDENCE P.O. BOX 190, HAWK RUN,
CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO DANIEL BETTS, HUSBAND A
TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HIM
THE CONTENTS THEREOF.

SERVED BY: NEVLING/MARSHALL

Return Costs

| Cost | Description |
|-------|-----------------------------|
| 34.45 | SHFF. HAWKINS PAID BY: ATTY |
| 10.00 | SURCHARGE PAID BY: ATTY |

FILED

OCT 04 2000

01343

William A. Shaw
Prothonotary

EJK

Sworn to Before Me This

4th Day Of October / 2000

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co., Clearfield, PA.

So Answers,

Chester A. Hawkins
by Marly Hays
Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife,

Plaintiffs,

v.

SUSAN TURNER-BETTS,

Defendant.

TYPE OF PLEADING:
**PRAECIPE TO WITHDRAW/ENTER
APPEARANCE**

TYPE OF CASE: CIVIL
FILED ON BEHALF OF:
DEFENDANT

COUNSEL OF RECORD FOR
FOR THIS PARTY:
KATHERINE V. OLIVER, ESQ.
I.D. NO. 77069
JAMES M. HORNE, ESQ.
I.D. NO. 26908
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
PH# (814) 238-4926
FAX#(814) 238-9624

FILED

JAN 11 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife, :
Plaintiffs, :
v. :
SUSAN TURNER-BETTS, :
Defendant. :
:

PRAECIPE TO WITHDRAW/ENTER APPEARANCE

WITHDRAW OF APPEARANCE

TO THE PROTHONOTARY:

Please withdraw my appearance on behalf of the Defendant, Susan Turner-Betts, in the above-captioned matter.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____

James M. Horne
I.D. No. 26908
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: January 10, 2001

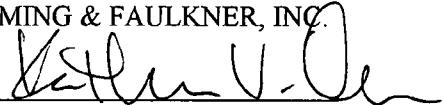
ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of the Defendant, Susan Turner-Betts, in the above-captioned matter.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver
I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926
Attorneys for Defendant

Dated: January 10, 2001

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife,

Plaintiffs,

v.

SUSAN TURNER-BETTS,

Defendant.

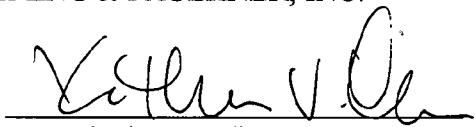
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of our Praeclipe to Withdraw/Enter Appearance on behalf the Defendant, in the above-captioned matter was mailed by U.S. 1st Class Mail, postage prepaid, on this 10th day of January, 2001, to the attorney of record:

Chris A. Pentz, Esquire
211½ East Locust Street
P.O. Box 552
Clearfield, PA 16830
(Attorney for Plaintiffs)

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By:


Katherine V. Oliver

I. D. No. 77069

Attorneys for Defendant

811 University Drive

State College, PA 16801

(814) 238-4926

FILED

JAN 11 2001
M 111.43 NOCC
William A. Shaw
Prothon
CAB

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

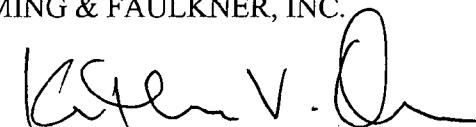
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve Subpoenas to Produce Documents and Things in Discovery Pursuant to Rule 4009.21 in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 22nd day of January, 2001 to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

JAN 23 2001

William A. Shaw
Prothonotary

FILED

JAN 23 2001

M.F.A. REC
William A. Shaw
Prothonotary

Ernest

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

: vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of Records Deposition Directed to Nationwide Mutual Insurance Company in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

: vs.

SUSAN TURNER-BETTS,

: Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of Records Deposition Directed to U.S. Postal Service in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

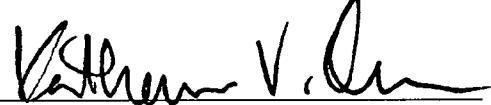
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of Records Deposition Directed to Penn Central Physical Therapy, Inc. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

... : No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of Records Deposition Directed to Dubois Regional Medical Center in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

FILED
FEB 13 2001

NO
cc
SPT

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of Records Deposition Directed to Carol Elkins, M.D. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of Records Deposition Directed to George M. Kosco, M.D./Dubois Magnetic Imaging Center in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

FILED

FEB 13 2001

William A. Shaw
Prothonotary

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED
11/13/01
FFB

No CC
SAC

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of Records Deposition Directed to P. J. Valigorsky II, M.D. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of Records Deposition Directed to Martin A. Schaeffer, M.D./Liberty Medical Associates, P.C. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

FILED

FEB 13 2001

11:17 AM
NO CC

GS

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of
Records Deposition Directed to Stanley Lang, M.D./Primary Care Associates - Liberty Blvd. in
the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State
College, Pennsylvania, on this 12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

FILED

2001-17821
FEB 13 2001

NO
CC
S
2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of Records Deposition Directed to Franko Stepcic, M.D. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of
Records Deposition Directed to Bonny L. Beck, M.D. in the above-captioned matter was mailed
by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day
of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of Records Deposition Directed to A. Glenn Williams, D.C. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of
Records Deposition Directed to Edward J. McVay, M.D. in the above-captioned matter was
mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this
12th day of February, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 13 2001

William A. Shaw
Prothonotary

FILED
FEB 17 2001 NO
FEB 13 2001 NO
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

: vs.

SUSAN TURNER-BETTS,

Defendant.

**CERTIFICATE PREREQUISITE TO SERVICE
OF SUBPOENAS PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoenas for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a Notice of Intent to Serve the Subpoenas with a copy of the subpoenas attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoenas are sought to be served;
- (2) a copy of the Notice of Intent, including the proposed subpoenas, is attached to this Certificate;
- (3) no objections to the subpoenas have been received; and,
- (4) the subpoenas which will be served are identical to the subpoenas which are attached to the Notice of Intent to Serve the Subpoenas.



Katherine V. Oliver
Attorney for Defendant
SUSAN TURNER-BETTS

Dated: 2/12/01

FILED

FEB 13 2001

William A. Shaw
Prothonotary

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.
Susan Turner-betts
Defendant(s)

*
*
*
No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: Nationwide Mutual Insurance Company
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce
the following documents or things:
see attached paper

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this
subpoena, together with the certificate of compliance, to the party making this request at the address
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days
after its service, the party serving this subpoena may seek a court order compelling you to comply with
it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V Oliver Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID #: 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001
Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.


Deputy

Nationwide Mutual Insurance Company

DOCUMENTS TO BE PRODUCED

The entire file on Rodney Jordan and Judith Jordan including the first party file and all property damages claim(s) and/or third party file regarding an automobile accident which occurred on January 2, 1997

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

No. 2000-01148-CD

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: U.S. Postal Service

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

see attached paper

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

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THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001

Seal of the Court


WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

Deputy

U.S. Postal Service

DOCUMENTS TO BE PRODUCED

The entire employment file on Judith Jordan including but not limited to employment application, background information, merit evaluations, work schedule, vacation/sick/personal days taken and dates of same, salary/wage schedule, any and all information/documents pertaining to any Workers' Compensation claims filed, etc.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

*

No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: Penn Central Physical Therapy Inc.
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:
see attached paper

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

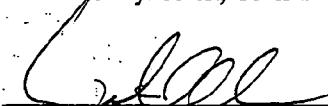
BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001
Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

Deputy



Penn Central Physical Therapy, Inc.

DOCUMENTS TO BE PRODUCED

Any and all medical records from as far back as your office has pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/ occupational/rehabilitation therapy progress notes, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

*

No. 2000-01148-CD

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: Dubois Regional Medical Center
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce
the following documents or things:
see attached paper

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this
subpoena, together with the certificate of compliance, to the party making this request at the address
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days
after its service, the party serving this subpoena may seek a court order compelling you to comply with
it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division



DATE: Thursday, January 18, 2001
Seal of the Court

Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

Dubois Regional Medical Center

DOCUMENTS TO BE PRODUCED

Any and all medical records from as far back as your facility has pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/ occupational/rehabilitation therapy progress notes, emergency room records, outpatient diagnostic studies, outpatient surgery records, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan

Judith Jordan

Plaintiff(s)

Vs.

Susan Turner-betts

Defendant(s)

*

No. 2000-01148-CD

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: Carol Elkins, M.D./Primary Care Associates
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

see attached paper

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire

ADDRESS: 811 University Drive
State College, PA 16801

TELEPHONE: 814-238-4926

SUPREME COURT ID # 77069

ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001

Seal of the Court


William A. Shaw
Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

Carol Elkins, M.D.

DOCUMENTS TO BE PRODUCED

Any and all medical records from as far back as your office has pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/ occupational/rehabilitation therapy progress notes, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

No. 2000-01148-CD

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: George M. Kosco.. M.D./Dubois Magnetic Imaging Center
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

see attached paper

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University
State College, PA 16801
TELEPHONE: 814-238 4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001
Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

Deputy

George M. Kosco, M.D./Dubois Magnetic Imaging Center

DOCUMENTS TO BE PRODUCED

Any and all medical records from as far back as your office has pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/ occupational/rehabilitation therapy progress notes, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*
*
*
No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: P. J. Valigorsky, M.D.
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:
see attached paper

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

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THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver Esquire
ADDRESS: 811 University Drive
State College PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001
Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.


Deputy

P. J. Valigorsky, M.D.

DOCUMENTS TO BE PRODUCED

Any and all medical records from as far back as your office has pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/ occupational/rehabilitation therapy progress notes, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan

Judith Jordan

Plaintiff(s)

Vs.

*

No. 2000-01148-CD

Susan Turner-betts

Defendant(s)

*

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: Martin A. Schaeffer, M.D./Liberty Medical Associates P.C.

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

see attached paper

(Address)

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THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire

ADDRESS: 811 University Drive

State College, PA 16801

TELEPHONE: 814-238-4926

SUPREME COURT ID # 77069

ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001

Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires 1st Monday in Jan. 2002
Deputy
Clearfield Co. Clearfield, PA.



Martin A. Schaeffer, M.D./Liberty Medical Associates

DOCUMENTS TO BE PRODUCED

Any and all medical records from as far back as your office has pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/ occupational/rehabilitation therapy progress notes, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

No. 2000-01148-CD

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: Stanley Lang, M.D./Primary Care Associates - Liberty Blvd.
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

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(Address)

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THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver
ADDRESS: 811 University Drive
State College PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001

Seal of the Court


WILLIAM A. SHAW
Prothonotary Deputy
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

Stanley Lang, M.D./Primary Care Associates - Liberty Blvd.

DOCUMENTS TO BE PRODUCED

Any and all medical records from as far back as your office has pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/ occupational/rehabilitation therapy progress notes, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

No. 2000-01148-CD

*

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: A. Glenn Williams, D.C.

(Name of Person or Entity)

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NAME: Katherine V. Oliver, Esquire

ADDRESS: 811 University Drive
State College, PA 16801

TELEPHONE: 814-238-4926

SUPREME COURT ID # 77069

ATTORNEY FOR: Defendant

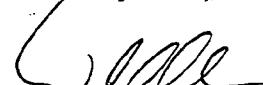
BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001

Seal of the Court

WILLIAM A. SHAW
Prothonotary Deputy
My Commission Expires 1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.



A. Glenn Williams, D.C.

DOCUMENTS TO BE PRODUCED

Any and all medical records from as far back as your office has pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/ occupational/rehabilitation therapy progress notes, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

No. 2000-01148-CD

*

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: Franko Stepcic, M.D.

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

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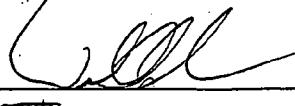
NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001

Seal of the Court


WILLIAM A. SHAW Deputy

Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

Franko Stepcic, M.D.

DOCUMENTS TO BE PRODUCED

Any and all medical records from as far back as your office has pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/ occupational/rehabilitation therapy progress notes, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

No. 2000-01148-CD

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: Bonny L. Beck, M.D.
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

see attached paper

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

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THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001
Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

Deputy

Bonny L. Beck, M.D.

DOCUMENTS TO BE PRODUCED

Any and all medical records from as far back as your office has pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/ occupational/rehabilitation therapy progress notes, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*
*
*
No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: Edward J. McVay, M.D.
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce
the following documents or things:
see attached paper

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this
subpoena, together with the certificate of compliance, to the party making this request at the address
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days
after its service, the party serving this subpoena may seek a court order compelling you to comply with
it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

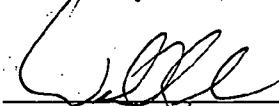
NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001

Seal of the Court



WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

Deputy

Edward J. McVay, M.D.

DOCUMENTS TO BE PRODUCED

Any and all medical records from as far back as your office has pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/ occupational/rehabilitation therapy progress notes, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

FILED NO
FEB 14 2001 CC
FEB 13 2001 ED
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

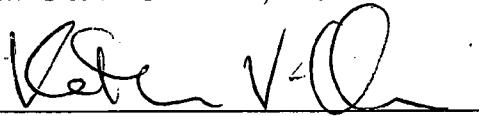
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve a Subpoena to Produce Documents and Things in Discovery Pursuant to Rule 4009.21 in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 22nd day of February, 2001 to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By:



Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 23 2001

William A. Shaw
Prothonotary

FILED

FEB 23 2001
M 13 NOCC
William A. Shaw
Prothonotary
EAS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

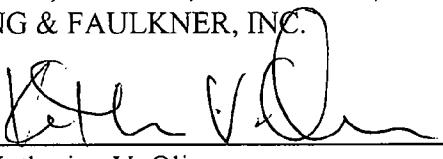
RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve a Subpoena to Produce Documents and Things in Discovery Pursuant to Rule 4009.21 in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 13th day of March, 2001 to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

MAR 14 2001

William A. Shaw
Prothonotary

FILED

MAR 14 2001
100
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

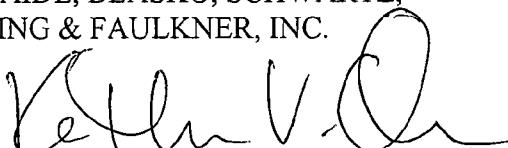
RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of
Records Deposition Directed to Bureau of Employees' Compensation in the above-captioned
matter was mailed by regular mail, postage prepaid, at the Post Office, State College,
Pennsylvania, on this 14th day of March, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

MAR 15 2001

William A. Shaw
Prothonotary

FILED

MAR 15 2001
113210 CC
William A. Shaw
Prothonotary

605

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

Plaintiffs,

No. 00-1148-CD

vs.

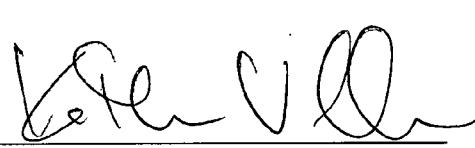
SUSAN TURNER-BETTS,

Defendant.

**CERTIFICATE PREREQUISITE TO SERVICE
OF SUBPOENA PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a Notice of Intent to Serve a Subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoena is sought to be served;
- (2) a copy of the Notice of Intent, including the proposed subpoena, is attached to this Certificate;
- (3) no objection to the subpoena has been received;
and,
- (4) the subpoena which will be served is identical to the subpoena which is attached to the Notice of Intent to Serve the Subpoena.


Katherine V. Oliver
Attorney for Defendant
SUSAN TURNER-BETTS

Dated: 3-14-01

FILED

MAR 15 2001

William A. Shaw
Prothonotary

DOCUMENTS TO BE PRODUCED

Any and all documents pertaining to EACH and EVERY Workers' Compensation claim which has been filed by Judith A. Jordan, regardless of the date of filing same, including but not limited to Employer's Report of Occupational Injury or Disease, Notice of Compensation Denial, Notice of Compensation Payable, Claim Petitions, Answer to Claim Petition, Statement of Wages, Judge's Decisions, etc. Ms. Jordan's social security number is 050-50-5631.

FILED

MAR 15 2001

WILLIAM A. SHAW
Prothonotary

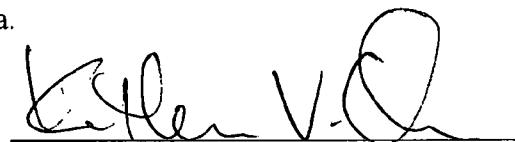
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

**CERTIFICATE PREREQUISITE TO SERVICE
OF SUBPOENA PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a Notice of Intent to Serve the Subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoena is sought to be served;
- (2) a copy of the Notice of Intent, including the proposed subpoena, is attached to this Certificate;
- (3) no objection to the subpoena has been received;
and,
- (4) the subpoena which will be served is identical to the subpoena which is attached to the Notice of Intent to Serve the Subpoena.



Katherine V. Oliver
Attorney for Defendant
SUSAN TURNER-BETTS

Dated: 4-3-01

FILED

APR 04 2001

William A. Shaw
Prothonotary

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

No. 2000-01148-CD

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: The Hartford Accident and Indemnity Insurance Company
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

see attached paper

McQuaide Blasko Law Office, 811 University Drive, State College, PA 16801
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State Collecte, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant Susan Turner-Betts

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001
Seal of the Court

Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

Hartford Accident and Indemnity Insurance Company

DOCUMENTS TO BE PRODUCED

The entire file on Rodney Jordan and Judith Jordan including the first party file and all property damages claim(s) and/or third party file regarding an automobile accident which occurred on January 2, 1997. (Claim No: 787AL43065)

FILED

APR 04 2001
M 1108 1108
William A. Shaw
Prothonotary

SA

SA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

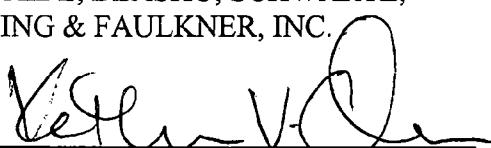
RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of
Records Deposition Directed to Hartford Accident & Indemnity Insurance Company in the
above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State
College, Pennsylvania, on this 3rd day of April, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

APR 04 2001

William A. Shaw
Prothonotary

FILED

APR 04 2001

7/11/08/2001

William A. Shaw

Prothonotary

ES

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve a Subpoena to Produce Documents and Things in Discovery Pursuant to Rule 4009.21 in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 1st day of May, 2001 to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

MAY 02 2001
11:45 pm nocc
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

**CERTIFICATE PREREQUISITE TO SERVICE
OF SUBPOENAS PURSUANT TO RULE 4009.22**

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a Notice of Intent to Serve the Subpoenas with a copy of the subpoenas attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoenas are sought to be served;
- (2) a copy of the Notice of Intent, including the proposed subpoenas, is attached to this Certificate;
- (3) no objection to the subpoenas have been received; and,
- (4) the subpoenas which will be served are identical to the subpoenas which are attached to the Notice of Intent to Serve the Subpoenas.



Katherine V. Oliver
Attorney for Defendant
SUSAN TURNER-BETTS

Dated: 5-21-01

FILED
MAY 22 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

**NOTICE OF INTENT TO SERVE SUBPOENAS TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT
TO RULE 4009.21**

Defendant SUSAN TURNER-BETTS intends to serve subpoenas identical to the ones that are attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objections to the subpoenas. If no objections are made, the subpoenas may be served.



Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 5-21-01

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*
*
No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: University of Pittsburgh Medical Center Pain Clinic
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

see attached

McQuaide Blasko Law Office, 811 University Drive, State College, PA 16801
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

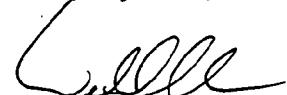
If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division


Deputy

DATE: Thursday, January 18, 2001
Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan: 2002
Clearfield Co. Clearfield, PA.

University of Pittsburgh Medical Center Pain Clinic

DOCUMENTS TO BE PRODUCED

Any and all medical records from **as far back as your facility has** pertaining to Judith Jordan, including but not limited to history/physical examination, discharge summary/note, office progress notes, treatment records, consultation reports, x-ray reports, MRI reports, CT scan reports, laboratory test results, electrodiagnostic study results, physical/occupational/rehabilitation therapy progress notes, outpatient diagnostic studies, prescription records, work restriction records, any and all correspondence pertaining in any way to Ms. Jordan's health status, as well as any documents in the file which may not have been specified hereinbefore.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

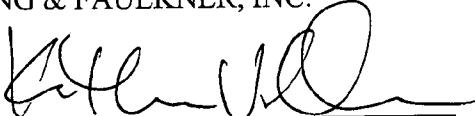
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of Records Deposition Directed to University of Pittsburgh Medical Center Pain Clinic in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 21st day of May, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED
MAY 22 2001

No cc
EKK

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

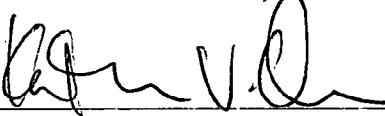
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Deposition Directed to Judith Jordan in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 28th day of August, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

AUG 29 2001

**William A. Shaw
Prothonotary**

U. S. ATTORNEY'S OFFICE

W. Va. Div.

FILED NO. 1

Aug 29 2001

cc

William A. Stratton
Photography

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

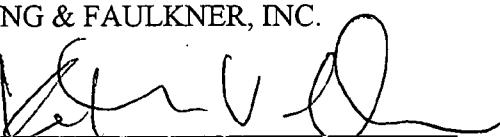
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Deposition Directed to Rodney Jordan in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 28th day of August, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

AUG 29 2001

William A. Shaw
Prothonotary

FILED NO cc
1:20-cv-01447
AUG 29 2001
KAT

William A. Shaw
Clerk/Recorder

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

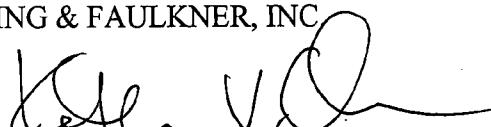
RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve Subpoenas to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 6th day of November, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN J. TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 07 2001

William A. Shaw
Prothonotary

FILED

NO
cc

NOV 12 2001
07 2001

eff

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

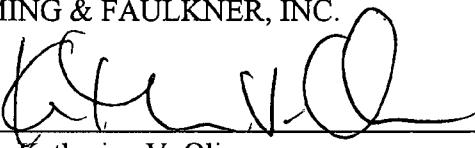
RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve a Subpoena to Produce Documents and Things in Discovery Pursuant to Rule 4009.21 in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 8th day of November, 2001 to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 09 2001

Wm A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

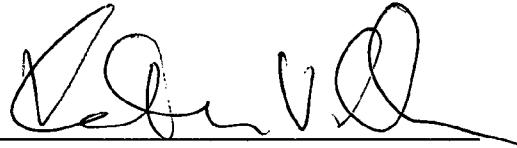
Defendant.

PRAECIPE FOR A RULE TO FILE A COMPLAINT

TO THE PROTHONOTARY:

Please issue a Rule on Plaintiffs to file their Complaint within twenty (20) days from service thereof or suffer a judgment of non pros against them.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: November 16, 2001

FILED

NOV 19 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

RULE

To: RODNEY and JUDITH JORDAN
c/o Chris A. Pentz, Esquire

YOU ARE HEREBY RULED to file a Complaint in the above captioned matter within twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

S/ William A. Show
Prothonotary

Dated: Nov. 19, 2001

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

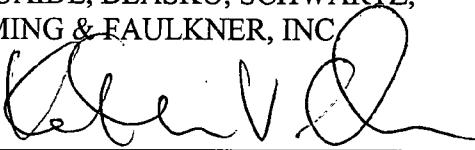
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Praeclipe for Rule to File a Complaint, in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 16th day of November, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, :
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
No. 00 - 1148 - CD

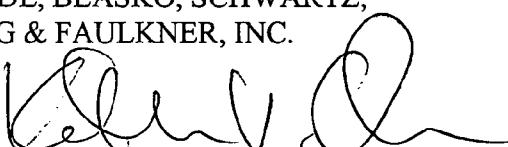
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Praeclipe for Rule to File
Complaint, in the above-captioned matter was mailed by regular mail, postage prepaid, at the
Post Office, State College, Pennsylvania, on this 16th day of November, 2001,, to the attorney(s)
of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 19 2001

11:10 AM

William A. Shay

Prothonotary

No Cents.

RULE TO ATTY.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

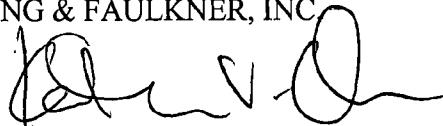
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Second Request For Production of Documents and Tangible Things Directed to Plaintiffs in the above-referenced matter was mailed by U.S. First Class Mail, postage paid, this 16th day of November, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211 ½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC

By: 

Katherine V. Oliver
I.D. No. 77069
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 19 2001
m/11:16 AM
John A. Shaw
prothonotary
No. 4/C

FILED

NOV 19 2001

A. Shaw
monetary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

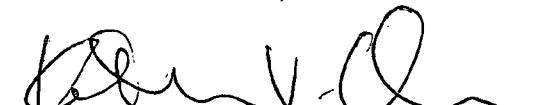
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Interrogatories and Request for Production of Documents Directed to Plaintiff (Set One) in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 16th day of November, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211 ½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 19 2001
m/l:lo/lw
William A. Shaw
Prothonotary
No. 4/c

U.S. POSTAL SERVICE
Delivery Confirmation

Delivery Confirmation

Delivery Confirmation

FILED
NOV 19 2001
John A. Shaw
Postmaster

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve a Subpoena to Produce Documents and Things in Discovery Pursuant to Rule 4009.21 in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 16th day of November, 2001 to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 19 2001

William A. Shaw
Prothonotary

FILED

NOV 19 2001

m/1:451/mj

William A. Shaw

Prothonotary

Mo: C/C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

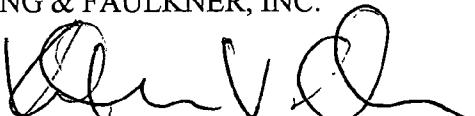
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Rule to File a Complaint in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 21st day of November, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 26 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

Plaintiffs, : No. 00 - 1148 - CD

vs.

SUSAN TURNER-BETTS,

Defendant.

RULE

To: RODNEY and JUDITH JORDAN
c/o Chris A. Pentz, Esquire

YOU ARE HEREBY RULED to file a Complaint in the above captioned matter within
twenty (20) days from service hereof, or a judgment of non pros may be entered against you.



Prothonotary

Dated: Nov. 19, 2001

ROBERT J. SPARROW
PROTHONOTARY

FILED

m112161 NO
NOV 26 2001 cc
E
Kot

William A. Shaw
Prothonotary

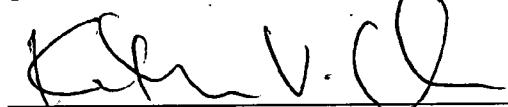
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, :
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE PREREQUISITE TO SERVICE
OF SUBPOENAS PURSUANT TO RULE 4009.22

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a Notice of Intent to Serve the Subpoenas with a copy of the subpoenas attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoenas are sought to be served;
- (2) a copy of the Notice of Intent, including the proposed subpoenas, is attached to this Certificate;
- (3) no objection to the subpoenas have been received; and,
- (4) the subpoenas which will be served are identical to the subpoenas which are attached to the Notice of Intent to Serve the Subpoenas.



Katherine V. Oliver
Attorney for Defendant
SUSAN J. TURNER-BETTS

FILED

Dated: November 26, 2001

NOV 27 2001
m/3/01/ncc
William A. Shaw
Prothonotary

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

*

No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: BERG ELECTRONICS

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

SEE ATTACHED

McQuaide Blasko Law Office, 811 University Drive, State College, PA 16801
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire

ADDRESS: 811 University Drive
State College, PA 16801

TELEPHONE: 814-238-4926

SUPREME COURT ID # 77069

ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001

Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002 Deputy
Clearfield Co. Clearfield, PA.

Berg Electronics

DOCUMENTS TO BE PRODUCED

Any and all personnel/employment records on Judith A. Jordan (SS#: 050-50-5631, date of birth: January 10, 1954) including but not limited to, application for employment, pre-employment physical examination, annual evaluations, wage scale, hours worked, absences due to sickness, absences due to vacations, absences for other reasons, sick days accumulated/used, vacation days accumulated/used, any and all correspondence pertaining to Judith A. Jordan, and any and all Workers' Compensation documents, etc.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

*

No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: CLARK E. RICH, D.C./RICH CHIROPRACTIC CENTER
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

see attached

McQuaide Blasko Law Office. 811 University Drive, State College, PA 16801
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

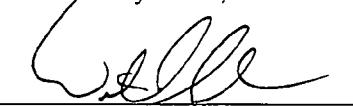
BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001

Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires Deputy
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.



Clark E. Rich, D.C./Rich Chiropractic Clinic

DOCUMENTS TO BE PRODUCED

Any and all medical records, **for as long as you retain same**, pertaining to Judith A. Jordan (SS#: 050-50-5631; date of birth: January 10, 1954), including but not limited to history/physical examination, initial patient evaluation, patient questionnaires, progress notes, discharge summary/note, x-ray/CT scan/MRI reports, consultation reports, physical/occupational/rehabilitation therapy progress notes, any and all correspondence (regardless of source) pertaining to patient's health status, any and all Workers' Compensation documents pertaining to patient for any claimed work related injuries, etc.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-betts
Defendant(s)

*

*

No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: MANPOWER TEMPORARY SERVICES
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

see attached

McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 18, 2001

Seal of the Court


William A. Shaw
Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

Manpower Temporary Services

DOCUMENTS TO BE PRODUCED

Any and all personnel/employment records on Judith A. Jordan (SS#: 050-50-5631, date of birth: January 10, 1954) including but not limited to, application for employment, pre-employment physical examination, job descriptions, annual evaluations, wage scale, hours worked, absences due to sickness, absences due to vacations, absences for other reasons, sick days accumulated/used, vacation days accumulated/used, any and all correspondence pertaining to Judith A. Jordan, and any and all Workers' Compensation documents, etc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

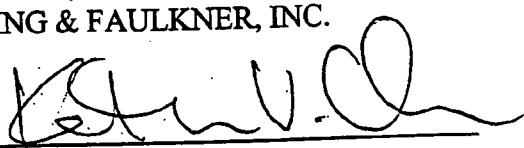
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to
Manpower Temporary Services in the above-captioned matter was mailed by regular mail,
postage prepaid, at the Post Office, State College, Pennsylvania, on this 26th day of November,
2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN J. TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

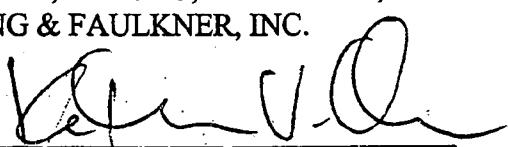
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to
Berg Electronics in the above-captioned matter was mailed by regular mail, postage prepaid, at
the Post Office, State College, Pennsylvania, on this 26th day of November, 2001, to the
attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN J. TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

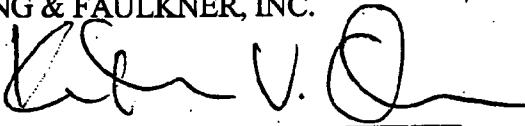
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to
Clark E. Rich, D.C./Rich Chiropractic Clinic in the above-captioned matter was mailed by
regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 26th day of
November, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN J. TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

**CERTIFICATE PREREQUISITE TO SERVICE
OF SUBPOENA PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a Notice of Intent to Serve the Subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoena is sought to be served;
- (2) a copy of the Notice of Intent, including the proposed subpoena, is attached to this Certificate;
- (3) no objection to the subpoena has been received;
and,
- (4) the subpoena which will be served is identical to the subpoena which is attached to the Notice of Intent to Serve the Subpoena.



Katherine V. Oliver
Attorney for Defendant
SUSAN J. TURNER-BETTS

Dated: November 28, 2001

FILED

NOV 30 2001

m/132-ncc
William A. Shaw
Prothonotary
924

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-Betts
Defendant(s)

*

*

No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: PARIS UNIFORM RENTAL & SUPPLY COMPANY
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

see attached

McQuaide Blasko Law Office, 811 University Drive, State College, PA 16801
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, November 07, 2001
Seal of the Court

William A. Shaw
Deputy

Paris Uniform Rental & Supply Company

DOCUMENTS TO BE PRODUCED

Any and all personnel/employment records on Judith A. Jordan (SS#: 050-50-5631, date of birth: January 10, 1954) including but not limited to, application for employment, pre-employment physical examination, job descriptions, annual evaluations, wage scale, hours worked, absences due to sickness, absences due to vacations, absences for other reasons, sick days accumulated/used, vacation days accumulated/used, any and all correspondence pertaining to Judith A. Jordan, and any and all Workers' Compensation documents, etc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

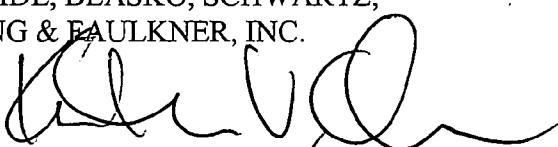
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to Paris Uniform Rental & Supply Company in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this ^{29th} ~~28th~~ day of November, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN J. TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 30 2001

11/30/01 NOCC

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

: vs.

SUSAN TURNER-BETTS,

: Defendant.

**CERTIFICATE PREREQUISITE TO SERVICE
OF A SUBPOENA PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a Notice of Intent to Serve a Subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoena is sought to be served;
- (2) a copy of the Notice of Intent, including the proposed subpoena, is attached to this Certificate;
- (3) no objection to the subpoena has been received;
and,
- (4) the subpoena which will be served is identical to the subpoena which is attached to the Notice of Intent to Serve a Subpoena.



Katherine V. Oliver
Attorney for Defendant
SUSAN J. TURNER-BETTS

Dated: December 6, 2001

FILED

DEC 07 2001
m/1:35/2001
William A. Shaw
Prothonotary
no c/c 

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-Betts
Defendant(s)

*

*

No. 2000-01148-CD

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: STANLEY LANG, M.D./PRIMARY CARE ASSOCIATES - LIBERTY BOULEVARD

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:
see attached

McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire

ADDRESS: 811 University Drive
State College, PA 16801

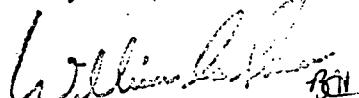
TELEPHONE: 814-238-4926

SUPREME COURT ID # 77069

ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division



Deputy

DATE: Wednesday, November 07, 2001

Seal of the Court

Stanley Lang, M.D.

DOCUMENTS TO BE PRODUCED

Any and all medical records, **from February 1, 2001 to the present**, pertaining to Judith A. Jordan (SS#: 050-50-5631; date of birth: January 10, 1954), including but not limited to history/ physical examination, initial patient evaluation, patient questionnaires, progress notes, discharge summary/note, x-ray/CT scan/MRI reports, consultation reports, physical/ occupational/rehabilitation therapy progress notes, recommendations for treatment, prognosis, any and all correspondence (regardless of source) pertaining to patient's health status, etc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

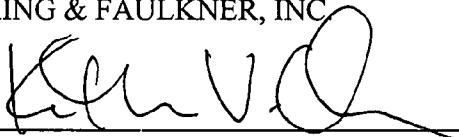
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to
Stanley Lang, M.D./Primary Care Associates - Liberty Blvd. in the above-captioned matter was
mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this
6th day of December, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN J. TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

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William A. Shaw
Prothonotary
no c/c



FILED

DEC 07 2001

**William A. Shaw
Prothonotary**

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connection

FILED

DEC 11 2001
0114911cc atty Pentz
William A. Shaw
Prothonotary
Pentz

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CHRIS A. PENTZ
ATTORNEY AT LAW
211 1/2 EAST LOCUST ST. P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and
JUDITH JORDAN,
Husband and wife,
Plaintiffs

vs

SUSAN TURNER-BETTS,
Defendant

*
*
*
*
*
* No. 00-1148-C.D.

* Type of case: Civil

* Type of Pleading: Complaint

* Filed on behalf of: Plaintiffs,
* Rodney Jordan and Judith
* Jordan

* Counsel of Record for these
* Parties:

* CHRIS A. PENTZ, Esquire

* Supreme Court I.D. # 39232
* 211½ East Locust Street
* PO Box 552
* Clearfield, PA 16830
* 814 / 764 - 4000

FILED

DEC 11 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and
JUDITH JORDAN,
Husband and wife,
Plaintiffs

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*
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*
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*
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vs

* No. 00-1148-C.D.

SUSAN TURNER-BETTS
Defendant

*
*
*
*

NOTICE

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR ATTORNEY AT ONCE. IF YOU DO NOT HAVE AN ATTORNEY OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET HELP.

Prothonotary Office
Clearfield County Courthouse
Clearfield, Pennsylvania 16830
(814) 765-2641

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and
JUDITH JORDAN,
Husband and wife,
Plaintiffs

*
*
*
*
*
* No. 00-1148-C.D.

vs
SUSAN TURNER-BETTS,
Defendant

*
*
*

COMPLAINT

1. The Plaintiffs are Rodney Jordan and Judith Jordan, husband and wife, *sui juris*, who reside at RD #1, Box 484, Curwensville, Pennsylvania 16833.

2. The Defendant is Susan Turner-Betts, *sui juris*, who resides at RD #1, Box 404A, Morrisdale, Pennsylvania 16858.

3. On September 19, 1998, the Defendant did own a certain vehicle being a 1992 Mercury Topaz bearing Pennsylvania registration # TBW 990.

4. On September 19, 1998, the Plaintiffs, did own a certain vehicle being a 1998 Subaru Legacy bearing Pennsylvania registration # BBG 8555.

5. On the date aforesaid at approximately 3:30 p.m. the Defendant was operating her vehicle on State Route 970 in a northerly direction in the Township of Bradford, County of Clearfield, Pennsylvania.

6. On the date and the time aforesaid, the Plaintiff, Judith Jordan, was lawfully operating her vehicle on Pennsylvania State Route 970 in a northerly direction in the Township of Bradford, County of Clearfield, Pennsylvania and was at a complete stop attempting to make a left-hand turn.

7. When the vehicle of the Defendant approached the Plaintiffs' vehicle as referred to in Paragraph 6 above at the place, date and time aforesaid struck the rear of Plaintiff's vehicle.

8. The above referred to collision was the direct and proximate result of the negligence and carelessness of the Defendant, Susan Turner-Betts and consisted of:

- a. Failing to maintain a lookout for other vehicles.
- b. Failing to maintain a vehicle under proper control.
- c. Careless driving.

9. As a result of the referred to collision, Plaintiff, Judith Jordan, suffered a cervical strain/sprain.

10. Plaintiff, Judith Jordan, suffered permanent physical impairment in the nature of chronic neck pain, chronic shoulder pain, numbness in left arm and left hand and chronic post-traumatic headaches.

11. The Plaintiff, Judith Jordan, claims a reasonable amount for the following:

- a. Pain and suffering
- b. Privation and inconvenience
- c. Permanent physical impairment
- d. Medical expenses
- e. All other damages allowable by law.

WHEREFORE, the Plaintiff, Judith Jordan, claims damages from the Defendant in excess of \$20,000.00. Jury trial demanded.

Count II
Loss of Consortium

12. The paragraphs 1 through 11 above of this Complaint are incorporated herein by reference.

13. The Plaintiffs were husband and wife at all times relevant to this cause of action.

14. The Plaintiffs as a result of the injuries set forth in this Compliant, were denied the full consort, society, companionship, and affection of their spouse.

WHEREFORE, Plaintiffs demand judgement in excess of \$20,000.00 together with costs and such other relief as the Court deems appropriate. Jury trial demanded.

Respectfully submitted this 11 day of Dec., 2001.



Chris A. Pentz, Esquire
Attorney for Plaintiffs

VERIFICATION

I, Rodney Jordan, verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

x 12/11/01
Date

Rodney S. Jordan
Rodney Jordan

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

NOTICE TO PLEAD

TO: RODNEY and JUDITH JORDAN
c/o Chris A. Pentz, Esquire

YOU ARE HEREBY notified to file a written response to the enclosed Answer
and New Matter within twenty (20) days from the date of service hereof or a judgment may be
entered against you.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver
Attorney for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: December 26, 2001

FILED

DEC 27 2001

7/11/2002
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, : : : : :
Plaintiffs, : : : : :
vs. : : : : :
SUSAN TURNER-BETTS, : : : : :
Defendant. : : : : :

No. 00 - 1148 - CD

**DEFENDANT'S ANSWER WITH NEW MATTER
TO PLAINTIFFS' COMPLAINT**

AND NOW COMES Defendant, Susan Turner--Betts, by and through her attorneys, McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc., and files the following Answer with New Matter to Plaintiffs' Complaint:

1. Admitted on information and belief.
2. Denied. Defendant now resides at PO Box 190, Hawk Run, Pennsylvania 16840.
3. Admitted.
4. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 4. The same are therefore denied and strict proof thereof demanded.
5. Admitted.
6. Admitted in part and denied in part. It is admitted that Plaintiff was operating her vehicle on Route 970 at the time and place identified in Plaintiffs' Complaint. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remainder of the averments of Complaint paragraph 6, particularly with respect to

Plaintiff's intentions and whether Plaintiff was at a complete stop and/or lawfully operating her vehicle at all times. The same are therefore denied and strict proof thereof demanded.

7. Admitted in part and denied in part. It is admitted that Defendant's vehicle came into contact with the rear of Plaintiffs' vehicle as Defendant was traveling north on State Route 970 in the Township of Bedford, County of Clearfield, Pennsylvania. It is further admitted that the accident occurred at approximately 3:30 p.m. By way of further response, after reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments regarding whether Plaintiff was at complete stop and whether Plaintiff was attempting to make a left hand turn at the time of the collision, and whether Plaintiff was "lawfully" operating her vehicle in all respects at that time. The same are therefore denied and strict proof thereof demanded.

8. Denied. The averments of Complaint paragraph 8 are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

9. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 9. The same are therefore denied and strict proof thereof demanded.

10. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 10. The same are therefore denied and strict proof thereof demanded.

11. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 11. The same are therefore denied and strict proof thereof demanded. By way of further response, it is denied that Plaintiffs are entitled to all items of damages as alleged in paragraphs

11(a)-(e).

WHEREFORE, Defendant, Susan Turner-Betts, respectfully requests that Plaintiffs' Complaint be dismissed, with prejudice, and costs of suit.

COUNT II
Loss of Consortium

12. The averments of paragraphs 1 through 11 above, inclusive, are incorporated herein by reference as though set forth at length.

13. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph

13. The same are therefore denied and strict proof thereof demanded.

14. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph

14. The same are therefore denied and strict proof thereof demanded.

WHEREFORE, Defendant, Susan Turner-Betts, respectfully requests that Plaintiffs' Complaint be dismissed, with prejudice, and costs of suit.

NEW MATTER

15. The averments of paragraphs 1 through 14 above, inclusive, are incorporated herein by reference as though set forth at length.

16. To the extent Plaintiffs selected and/or were insured under a policy of insurance bearing a limited tort option, Plaintiffs' claims herein are barred or reduced accordingly.

17. To the extent Plaintiffs' medical expenses and/or wage losses were paid or are payable under a policy of insurance, the same may not be plead, proven or recovered in the instant action.

18. Defendant hereby raises and asserts all those defenses and/or limitations of

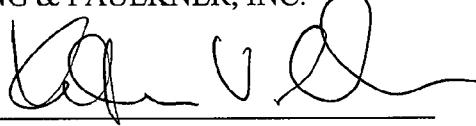
damages available to her by reason of the terms and provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended.

19. Defendant hereby raises the defenses of comparative and/or contributory negligence.

WHEREFORE, Defendant, Susan Turner-Betts, respectfully requests that Plaintiffs' Complaint be dismissed, with prejudice, and costs of suit.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

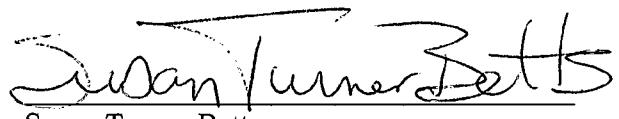
By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 23809624

Dated: December 26, 2001

VERIFICATION

The undersigned verifies that she is authorized to make this verification on her own behalf; and that the statements made in the foregoing **DEFENDANT'S ANSWER WITH NEW MATTER TO PLAINTIFFS' COMPLAINT** are true and correct to the best of her knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. §4904, related to unsworn falsification to authority.



Susan Turner-Betts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Answer with New Matter to Plaintiffs' Complaint in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 26th day of December, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Fold Here

CHRIS A. PENTZ
ATTORNEY AT LAW

211 1/2 EAST LOCUST ST. P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and
JUDITH JORDAN,
Husband and wife,
Plaintiffs

vs

* No. 00-1148-C.D.

SUSAN TURNER-BETTS,
Defendant

* Type of case: Civil

- * **Type of Pleading:** Reply to New Matter

- * **Filed on behalf of:** Plaintiffs,
- * Rodney Jordan and Judith
- * Jordan

* Counsel of Record for these
* Parties:

* CHRIS A. PENTZ, Esquire

* Supreme Court I.D. # 39232
* 211½ East Locust Street
* PO Box 552
* Clearfield, PA 16830
* 814 / 764 - 4000

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FILED

JAN 18 2002

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William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and
JUDITH JORDAN,
Husband and wife,
Plaintiffs

vs

SUSAN TURNER-BETTS,
Defendant

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*
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* No. 00-1148-C.D.
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REPLY TO NEW MATTER

Paragraph 15. Averment to Paragraphs 1 through 14 of the Complaint are incorporated herein and by reference to those set forth at length.

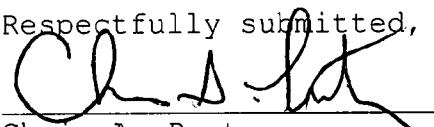
Paragraph 16. The Plaintiffs were not insured under a policy of insurance bearing a limited tort option.

Paragraph 17. Conclusion of law to which no response is required.

Paragraph 18. Not an allegation of fact and therefore no response required.

Paragraph 19. Not an allegation of fact and therefore no response required.

WHEREFORE, the Plaintiffs, Rodney Jordan and Judith Jordan, husband and wife, respectfully request judgment as claimed in their Complaint.

Respectfully submitted,

Chris A. Pentz
Attorney for Plaintiffs

VERIFICATION

I, Judith Jordan, verify that the statements made in this Reply to New Matter are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

12-31-01
Date

Judith L. Jordan
Judith Jordan

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

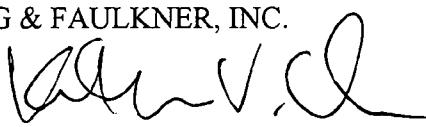
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve a Subpoena to Produce Documents and Things in Discovery Pursuant to Rule 4009.21 in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 24th day of May, 2002, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

MAY 28 2002
M11321n0CC
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

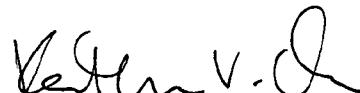
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve a Subpoena to Produce Documents and Things in Discovery Pursuant to Rule 4009.21 in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 30th day of May, 2002, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

MAY 31 2002

mjl:23/ncc
William A. Shaw
Prothonotary *gol*

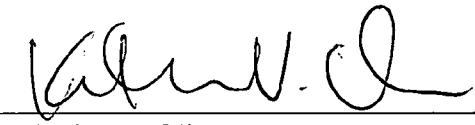
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE PREREQUISITE TO SERVICE
OF A SUBPOENA PURSUANT TO RULE 4009.22

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a Notice of Intent to Serve a Subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoena is sought to be served;
- (2) a copy of the Notice of Intent, including the proposed subpoena, is attached to this Certificate;
- (3) no objection to the subpoena has been received;
and,
- (4) the subpoena which will be served is identical to the subpoena which is attached to the Notice of Intent to Serve a Subpoena.



Katherine V. Oliver
Attorney for Defendant
SUSAN J. TURNER-BETTS

FILED

Dated: June 14, 2002

JUN 17 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

: vs.

SUSAN TURNER-BETTS,

Defendant.

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT
TO RULE 4009.21**

Defendant SUSAN TURNER-BETTS intends to serve a subpoena identical to the one that are attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoena. If no objection is made, the subpoena may be served.



Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: May 24, 2002

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-Betts
Defendant(s)

*

*

No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: WALTER P. THORP, III, D.C.

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

SEE ATTACHED

McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

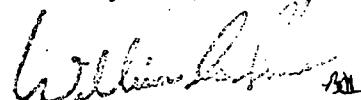
If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division



Deputy

DATE: Wednesday, November 07, 2001

Seal of the Court

Walter P. Thorp, III, D.C.

DOCUMENTS TO BE PRODUCED

Any and all medical records pertaining to Judith A. Jordan (SS#: 050-50-5631; date of birth: January 10, 1954), including but not limited to history/ physical examination, initial patient evaluation, patient questionnaires, progress notes, discharge summary/note, x-ray/CT scan/MRI reports, consultation reports, physical/ occupational/rehabilitation therapy progress notes, recommendations for treatment, prognosis, any and all correspondence (regardless of source) pertaining to patient's health status, etc

FILED No
cc
M 13068
JUN 17 2002

William A. Shaw
Prothonotary

WAS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

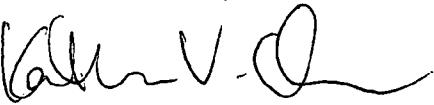
RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to
Walter P. Thorp, III, D.C. in the above-captioned matter was mailed by regular mail, postage
prepaid, at the Post Office, State College, Pennsylvania, on this 14th day of June, 2002, to the
attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN J. TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

JUN 17 2002

William A. Shaw
Prothonotary

FILED

311:36cc
JUN 17 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

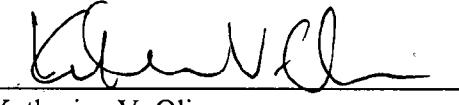
SUSAN TURNER-BETTS,

Defendant.

**CERTIFICATE PREREQUISITE TO SERVICE
OF SUBPOENAS PURSUANT TO RULE 4009.22**

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a Notice of Intent to Serve Subpoenas with a copy of the subpoenas attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoenas are sought to be served;
- (2) a copy of the Notice of Intent, including the proposed subpoenas, is attached to this Certificate;
- (3) no objections to the subpoenas have been received; and,
- (4) the subpoenas which will be served are identical to the subpoenas which are attached to the Notice of Intent to Serve Subpoenas.


Katherine V. Oliver
Attorney for Defendant
SUSAN J. TURNER-BETTS

FILED

Dated: June 25, 2002

JUN 25 2002

M11031ncc
William A. Shaw
Prothonotary


IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

: vs.

SUSAN TURNER-BETTS,

Defendant.

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT
TO RULE 4009.21**

Defendant SUSAN TURNER-BETTS intends to serve a subpoena identical to the one that are attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoena. If no objection is made, the subpoena may be served.



Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: May 30, 2002, 2002

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan and
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-Betts
Defendant(s)

*

*

No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: JFC STAFFING ASSOCIATES

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

SEE ATTACHED

McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire

ADDRESS: 811 University Drive
State College, PA 16801

TELEPHONE: 814-238-4926

SUPREME COURT ID # 77069

ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, May 29, 2002

Seal of the Court

William A. Shaw
Deputy

JFC Staffing Associates

DOCUMENTS TO BE PRODUCED

Any and all personnel/employment records on Judith A. Jordan (SS#: 050-50-5631, date of birth: January 10, 1954) including but not limited to, application for employment, pre-employment physical examination, job descriptions, annual evaluations, wage scale, hours worked, absences due to sickness, absences due to vacations, absences for other reasons, sick days accumulated/used, vacation days accumulated/used, any and all correspondence pertaining to Judith A. Jordan, and any and all Workers' Compensation documents, etc.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan and
Judith Jordan
Plaintiff(s)

Vs.
Susan Turner-Betts
Defendant(s)

*

*

No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: ROBERT J. MOLLICA, P.T.

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

See attached

McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire

ADDRESS: 811 University Drive
State College, PA 16801

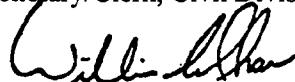
TELEPHONE: 814-238-4926

SUPREME COURT ID # 77069

ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division



Deputy

DATE: Wednesday, May 29, 2002
Seal of the Court

Robert J. Mollica, P.T.

DOCUMENTS TO BE PRODUCED

Any and all medical records pertaining to Judith A. Jordan (SS#: 050-50-5631; date of birth: January 10, 1954), including but not limited to history/ physical examination, initial patient evaluation, patient questionnaires, progress notes, discharge summary/note, x-ray/CT scan/MRI reports, consultation reports, physical/ occupational/rehabilitation therapy progress notes, recommendations for treatment, prognosis, any and all correspondence (regardless of source) pertaining to patient's health status, etc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

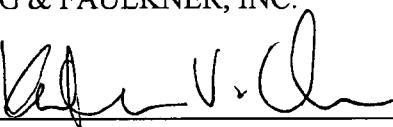
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to
Robert J. Mollica, P.T. in the above-captioned matter was mailed by regular mail, postage
prepaid, at the Post Office, State College, Pennsylvania, on this 26th day of November, 2001, to
the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN J. TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

JUN 25 2002

7/1 1:03

William A. Shaw
Prothonotary

E
EFD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

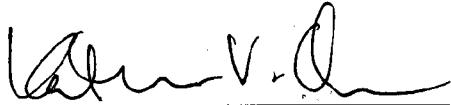
RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to JFC Staffing Associates in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 26th day of November, 2001, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN J. TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

JUN 25 2002

7-11:03 ~ ~
William A. Shaw
Prothonotary *E. G. P.*

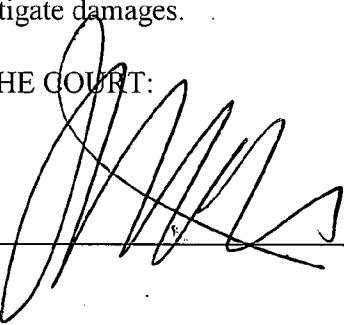
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

ORDER

AND NOW, this 25th day of October, 2002, upon consideration of
Defendant Susan Turner-Betts' Motion for Leave to Amend Answer with New Matter to Assert
the Defense of Failure to Mitigate Damages and Plaintiffs' response thereto, it is hereby
ORDERED that Defendant's Motion is GRANTED, and leave is given for Defendant to amend
her New Matter to aver the defense of failure to mitigate damages.

BY THE COURT:



J.

FILED

OCT 28 2002

William A. Shaw
Prothonotary

FILED

2002
09-36-51
OCT 28 2002 Ag Oliver

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

FILED

vs.

SUSAN TURNER-BETTS,

OCT 24 2002

Defendant.

William A. Shaw
Prothonotary

MOTION FOR LEAVE TO AMEND NEW MATTER
TO ASSERT DEFENSE OF FAILURE TO MITIGATE DAMAGES

AND NOW COMES Defendant, Susan Turner-Betts, by and through her attorneys, McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc., and files the following Motion for Leave to Amend New Matter to Assert Defense of Failure to Mitigate Damages. In support of her Motion, Defendant avers as follows:

1. Plaintiffs filed the above captioned motor vehicle negligence action via Writ on September 15, 2000, and thereafter filed a Complaint on or about December 11, 2001.
2. Plaintiffs' Complaint alleges that Plaintiff Judith Jordan was injured as a result of an automobile accident with Defendant on September 19, 1998 on SR 970 in Bradford Township, Clearfield County, Pennsylvania. (See Complaint generally).
3. Plaintiff claims permanent physical impairment in the nature of chronic neck pain and headaches, inter alia. (See Complaint). Plaintiff testified in her deposition that she has seen various medical providers, and that her pain complaints continued nonetheless.
4. Plaintiff Husband makes a claim for loss of consortium.

5. Defendant's Answer with New Matter was filed on December 26, 2001, and Plaintiffs' reply thereto was filed on January 21, 2002.

6. During discovery of this matter, Defendant learned that Plaintiff Judith Jordan did not follow various treatment recommendations made by her medical providers, such that the defense of failure to mitigate damages might apply to bar or reduce Plaintiffs' claims.

7. For example, in response to a Request for Production of Documents, Plaintiff produced at her deposition a letter from the University of Pittsburgh Medical Center Pain Clinic recommending that Plaintiff begin a pain rehabilitation program at the UPMC Pain Clinic (See Exhibit "A" hereto).

8. Likewise, Plaintiff's medical records reveal that various medical providers recommended that Plaintiff pursue trigger point injection therapy. It appears that Plaintiff did not fully follow her doctor's recommendations in this regard, and did not pursue the recommended therapy at the time and in the manner recommended by her doctors.

9. Defendant believes, and therefore avers, that further investigation may also reveal other instances of Plaintiff's failure to follow advise of her physicians and other providers despite her allegedly continuing and unrelenting pain complaints.

10. Accordingly, Defendant wishes to amend her Answer with New Matter to assert the defense of failure to mitigate damages in this action. A copy of Defendant's proposed Amended New Matter is attached hereto as Exhibit "B". (See specifically, paragraphs 20-22 for proposed amendments).

11. Plaintiffs will not be unduly prejudiced or surprised by the proposed Amendment, especially given that the facts giving rise to the failure to mitigate damages defense have at all

times been known to Plaintiffs.

12. Defendant sought agreement of Plaintiffs' counsel to the Amendment proposed herein. Plaintiffs' counsel has not consented to the amendment, and Defendant therefore assumes that Plaintiffs do not consent to the proposed amendment. (See correspondence of counsel, attached hereto as Exhibit "C").

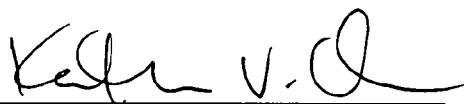
13. Accordingly, Defendant has been forced to file the instant Motion to Amend pursuant to Pennsylvania Rule of Civil Procedure 1033.

WHEREFORE, Defendant, Susan Turner-Betts, respectfully requests that the Court enter an Order allowing Defendant to amend her New Matter to assert Plaintiffs' failure to mitigate damages by failing to follow treatment recommendations of her physicians in defense of Plaintiffs' claims.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By:



Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 23809624

Dated: 10-23-02



University of Pittsburgh Physicians

Division of Pain Medicine

Part of
UPMC Health Syst.

Pain Evaluation and Treatment

Institute

Rehabilitative Services September 1, 2000
4601 Baum Blvd.
Pittsburgh, PA 15213
412-578-3100
Fax: 412-682-6214

UPMC St. Margaret
Invasive Services
815 Freeport Road
Pittsburgh, PA 15215
412-784-5119
Fax: 412-784-5288

Doris K. Cope, MD
Clinical Director
Professor of Anesthesiology

Ronald Glick, MD
Assistant Professor of
Anesthesiology

Dawn Marcus, MD
Associate Professor of
Anesthesiology

Nashaat N. Rizk, MD
Assistant Professor of
Anesthesiology

Ms. Judith Jordan DCPB - 1/10/59
R.r. #1, Box 484
Curwensville, PA 16833

Dear Ms. Jordan:

The team of specialists that you have seen for evaluation of your pain problem has had the opportunity to discuss your case.

Based on our combined findings, it is clear that we can be of help to you. We have decided on a treatment approach that we believe will help you to achieve optimum improvement. The treatment approach that we recommend is the Intensive Pain Rehabilitation Program pending an evaluation by the occupational therapist.

Our treatment is designed to provide you with new information, ideas, skills, and improved physical health that can reduce your pain and help you reclaim activities, roles and responsibilities that are important to your life satisfaction. To achieve such goals, there are no quick fixes but your working and learning with us can get you to a much improved and satisfying level of function.

Enclosed with this letter is a description of the treatment we have recommended. Please read this and contact us if you have any questions.

You will receive a telephone call in a few days from our Case Coordinator, Stacy Clever, to schedule your treatment. If you have any questions, please contact any of us. We can be reached at 578-3100.

We thank you for your interest in coming to the Pain Institute. We hope your experience with us has been informative and helpful. We look forward to working with you in the near future.

Sincerely,

Bob McConnell

Bob McConnell, P.T.
Physical Therapist

Jennifer Markham

Jennifer Markham, Ph.D.
Licensed Psychologist

Ronald Glick

Ronald Glick, M.D.
Clinical Director – Chronic Pain Rehabilitation

Enclosure

PAIN EVALUATION AND TREATMENT INSTITUTE
Presbyterian University Hospital
UPMC HEALTH SYSTEM

INTENSIVE PAIN REHABILITATION PROGRAM

The Intensive Pain Rehabilitation Program is an integrated program conducted by a clinical team consisting of physicians, physical therapists, nurses, occupational therapists and psychologists all of whom will work with you to *achieve three primary goals*:

1. Decrease your pain.
2. Improve your physical and functional abilities.
3. Reduce your feelings of frustration, worry and depression

The Intensive Pain Rehabilitation Program includes twelve full days of treatment (9:00 a.m. to 4:00 p.m.), Monday through Friday the first week, Monday through Wednesday the second week and Monday through Thursday the third week. During your participation in this program, you will be part of a small group with others learning to deal with chronic pain.

A schedule of activities is set for each day that includes a combination of:

- * Stretching and aerobic exercises designed to increase your flexibility and endurance,
- * Use of proper body mechanics (ways to move and to lift) to prevent or reduce pain,
- * Stress, mood and pain management techniques to help you cope with discomfort and problems related to your pain,
- * Effective ways to deal with the impact of your pain on your family and other people important to you.

This program is *flexible* and is designed to meet your special needs. The exercises and skills training progresses gradually and are planned so that they can be easily learned and tolerated by each member of the group. You have been selected for the program that best fits your problem with chronic pain. This program is not offered or appropriate for everyone that has been evaluated at the Pain Institute. We only offer this program to people whose best chance for success is through such a program. To succeed, however, you will need to work with the clinical team. Your active involvement in all aspects of treatment is essential to ensure success.

If you are ready to work with us, ready to learn different ways to manage your pain and improve your quality of life, then we are confident that we can help you!



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

NOTICE TO PLEAD

TO: RODNEY and JUDITH JORDAN
c/o Chris A. Pentz, Esquire

YOU ARE HEREBY notified to file a written response to the enclosed Answer
and New Matter within twenty (20) days from the date of service hereof or a judgment may be
entered against you.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____

Katherine V. Oliver
Attorney for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

DEFENDANT'S ANSWER WITH AMENDED NEW MATTER
TO PLAINTIFFS' COMPLAINT

AND NOW COMES Defendant, Susan Turner-Betts, by and through her attorneys, McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc., and files the following Answer with New Matter to Plaintiffs' Complaint:

1. Admitted on information and belief.
2. Denied. Defendant now resides at PO Box 190, Hawk Run, Pennsylvania 16840.
3. Admitted.
4. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 4. The same are therefore denied and strict proof thereof demanded.
5. Admitted.
6. Admitted in part and denied in part. It is admitted that Plaintiff was operating her vehicle on Route 970 at the time and place identified in Plaintiffs' Complaint. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the

truth of the remainder of the averments of Complaint paragraph 6, particularly with respect to Plaintiff's intentions and whether Plaintiff was at a complete stop and/or lawfully operating her vehicle at all times. The same are therefore denied and strict proof thereof demanded.

7. Admitted in part and denied in part. It is admitted that Defendant's vehicle came into contact with the rear of Plaintiffs' vehicle as Defendant was traveling north on State Route 970 in the Township of Bedford, County of Clearfield, Pennsylvania. It is further admitted that the accident occurred at approximately 3:30 p.m. By way of further response, after reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments regarding whether Plaintiff was at complete stop and whether Plaintiff was attempting to make a left hand turn at the time of the collision, and whether Plaintiff was "lawfully" operating her vehicle in all respects at that time. The same are therefore denied and strict proof thereof demanded.

8. Denied. The averments of Complaint paragraph 8 are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

9. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 9. The same are therefore denied and strict proof thereof demanded.

10. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 10. The same are therefore denied and strict proof thereof demanded.

11. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph

11. The same are therefore denied and strict proof thereof demanded. By way of further response, it is denied that Plaintiffs are entitled to all items of damages as alleged in paragraphs 11(a)-(e).

WHEREFORE, Defendant, Susan Turner-Betts, respectfully requests that Plaintiffs' Complaint be dismissed, with prejudice, and costs of suit.

COUNT II
Loss of Consortium

12. The averments of paragraphs 1 through 11 above, inclusive, are incorporated herein by reference as though set forth at length.

13. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 13. The same are therefore denied and strict proof thereof demanded.

14. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 14. The same are therefore denied and strict proof thereof demanded.

WHEREFORE, Defendant, Susan Turner-Betts, respectfully requests that Plaintiffs' Complaint be dismissed, with prejudice, and costs of suit.

NEW MATTER

15. The averments of paragraphs 1 through 14 above, inclusive, are incorporated herein by reference as though set forth at length.

16. To the extent Plaintiffs selected and/or were insured under a policy of insurance bearing a limited tort option, Plaintiffs' claims herein are barred or reduced accordingly.

17. To the extent Plaintiffs' medical expenses and/or wage losses were paid or are payable under a policy of insurance, the same may not be plead, proven or recovered in the instant action.

18. Defendant hereby raises and asserts all those defenses and/or limitations of damages available to her by reason of the terms and provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended.

19. Defendant hereby raises the defenses of comparative and/or contributory negligence.

20. Plaintiff failed to follow treatment recommendations of various physicians and providers from whom she sought treatment for injuries allegedly related to the September 19, 1998 accident.

21. Defendant believes and therefore avers that some or all of Plaintiff's alleged damages could have been avoided if Plaintiff Judith Jordan had followed the recommendations of her physicians and other providers.

22. Defendant raises Plaintiff Judith Jordan's failure to mitigate damages in defense of Plaintiffs' claims.

WHEREFORE, Defendant, Susan Turner-Betts, respectfully requests that Plaintiffs' Complaint be dismissed, with prejudice, and costs of suit.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 23809624

Dated: _____



MCQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
600 Centerview Drive, Suite 5103, Hershey, Pennsylvania 17033-2903

(814) 238-4926 FAX (814) 234-5620
(717) 531-1199 FAX (717) 531-1193
www.mcquaideblasko.com

August 28, 2002

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

In re: Rodney and Judith Jordan vs. Susan Turner-Betts
Docket No: 00 - 1148 C.D. (Clearfield County)

Dear Mr. Pentz:

In follow-up to our recent telephone conversation, would you kindly advise as to whether Plaintiffs will consent to the filing of an Amended Answer with New Matter to raise the defense of failure to mitigate damages based on Plaintiff's failure to follow medical advise and/or recommendations of her providers? Obviously, I am not asking you to admit the truth or applicability of any averments in that regard, but simply to consent to the amendment pursuant to Pennsylvania Rule of Civil Procedure 1033.

If Plaintiff will consent to the amendment, please sign the enclosed Consent to Amend form and return it to me in the enclosed self-addressed envelope. If Plaintiff is not willing to consent to the amendment, I would appreciate being advised of this fact as well. In the event that I do not hear from you within the next ten days regarding the proposed amendment, I will assume that Plaintiff will not consent and will proceed with filing a motion to amend.

Thank you for your time and attention to this matter.

MCQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC.

John W. Blasko Thomas E. Schwartz Grant H. Fleming R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Daryl R. Slimak Mark Righter Daniel E. Bright
Paul J. Tomczuk Janine C. Gismondi Maureen A. Gallagher John A. Snyder April C. Simpson Allen P. Neely Charles Eppolito, III Katherine V. Oliver Katherine M. Allen
Wayne L. Mowery, Jr. Pamela A. Ruest Michelle S. Katz Ashley Himes Kranich Chena L. Glenn-Hart Richard K. Laws John H. Taylor Michael J. Mohr Livinia N. Jones

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

MCQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
600 Centerview Drive, Suite 5103, Hershey, Pennsylvania 17033-2903

(814) 238-4926 FAX (814) 234-5620
(717) 531-1199 FAX (717) 531-1193
www.mcquaideblasko.com

Chris A. Pentz, Esquire

August 28, 2002

Page 2

Very truly yours,

MCQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By:



Katherine V. Oliver

KVO/klb

cc: Howard C. Shaffer - State Farm (38-J082-888) w/enc

MCQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC.

John W. Blasko Thomas E. Schwartz Grant H. Fleming R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright
Paul J. Tomczuk June C. Gismondi Maureen A. Gallagher John A. Snyder April C. Simpson Allen P. Neely Charles Eppolito, III Katherine V. Oliver Katherine M. Allen
Wayne L. Mowery, Jr. Pamela A. Ruest Michelle S. Katz Ashley Himes Kranich Chena L. Glenn-Hart Richard K. Laws John H. Taylor Michael J. Mohr Livinia N. Jones

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00-1148-CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CONSENT TO AMEND ANSWER WITH NEW MATTER

This ____ day of _____, 2002, on behalf of Plaintiffs, Rodney Jordan and Judith Jordan, consent is given to the Defendant to file an Amended Answer with New Matter to raise the defense of failure to mitigate damages. This consent does not constitute an admission that the defense is applicable, and is made solely to satisfy the requirements of Pennsylvania Rule of Civil Procedure 1033.

By: _____

Chris A. Pentz
Attorney for Plaintiffs
RODNEY and JUDITH JORDAN
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

Dated: _____

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

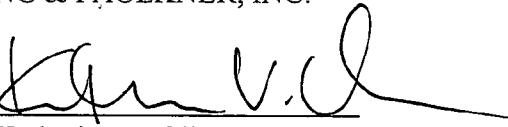
RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the **MOTION FOR LEAVE TO
AMEND NEW MATTER TO ASSERT DEFENSE OF FAILURE TO MITIGATE
DAMAGES** in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 23rd day of October, 2002, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED
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William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

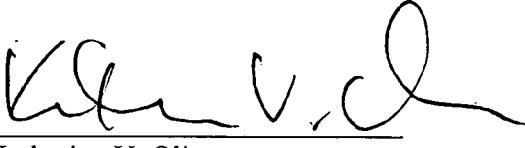
RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

NOTICE TO PLEAD

TO: RODNEY and JUDITH JORDAN
c/o Chris A. Pentz, Esquire

YOU ARE HEREBY notified to file a written response to the enclosed Answer
with Amended New Matter within twenty (20) days from the date of service hereof or a judgment
may be entered against you.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorney for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 04 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

**DEFENDANT'S ANSWER WITH AMENDED NEW MATTER
TO PLAINTIFFS' COMPLAINT**

AND NOW COMES Defendant, Susan Turner-Betts, by and through her attorneys, McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc., and files the following Answer with New Matter to Plaintiffs' Complaint:

1. Admitted on information and belief.
2. Denied. Defendant now resides at PO Box 190, Hawk Run, Pennsylvania 16840.
3. Admitted.
4. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 4.

The same are therefore denied and strict proof thereof demanded.

5. Admitted.
6. Admitted in part and denied in part. It is admitted that Plaintiff was operating her vehicle on Route 970 at the time and place identified in Plaintiffs' Complaint. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the

truth of the remainder of the averments of Complaint paragraph 6, particularly with respect to Plaintiff's intentions and whether Plaintiff was at a complete stop and/or lawfully operating her vehicle at all times. The same are therefore denied and strict proof thereof demanded.

7. Admitted in part and denied in part. It is admitted that Defendant's vehicle came into contact with the rear of Plaintiffs' vehicle as Defendant was traveling north on State Route 970 in the Township of Bedford, County of Clearfield, Pennsylvania. It is further admitted that the accident occurred at approximately 3:30 p.m. By way of further response, after reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments regarding whether Plaintiff was at complete stop and whether Plaintiff was attempting to make a left hand turn at the time of the collision, and whether Plaintiff was "lawfully" operating her vehicle in all respects at that time. The same are therefore denied and strict proof thereof demanded.

8. Denied. The averments of Complaint paragraph 8 are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

9. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 9. The same are therefore denied and strict proof thereof demanded.

10. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph 10. The same are therefore denied and strict proof thereof demanded.

11. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph

11. The same are therefore denied and strict proof thereof demanded. By way of further response, it is denied that Plaintiffs are entitled to all items of damages as alleged in paragraphs 11(a)-(e).

WHEREFORE, Defendant, Susan Turner-Betts, respectfully requests that Plaintiffs' Complaint be dismissed, with prejudice, and costs of suit.

COUNT II
Loss of Consortium

12. The averments of paragraphs 1 through 11 above, inclusive, are incorporated herein by reference as though set forth at length.

13. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph

13. The same are therefore denied and strict proof thereof demanded.

14. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraph

14. The same are therefore denied and strict proof thereof demanded.

WHEREFORE, Defendant, Susan Turner-Betts, respectfully requests that Plaintiffs' Complaint be dismissed, with prejudice, and costs of suit.

NEW MATTER

15. The averments of paragraphs 1 through 14 above, inclusive, are incorporated herein by reference as though set forth at length.

16. To the extent Plaintiffs selected and/or were insured under a policy of insurance bearing a limited tort option, Plaintiffs' claims herein are barred or reduced accordingly.

17. To the extent Plaintiffs' medical expenses and/or wage losses were paid or are payable under a policy of insurance, the same may not be plead, proven or recovered in the instant action.

18. Defendant hereby raises and asserts all those defenses and/or limitations of damages available to her by reason of the terms and provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended.

19. Defendant hereby raises the defenses of comparative and/or contributory negligence.

20. Plaintiff failed to follow treatment recommendations of various physicians and providers from whom she sought treatment for injuries allegedly related to the September 19, 1998 accident.

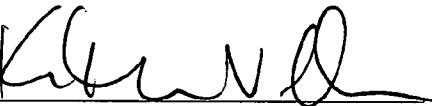
21. Defendant believes and therefore avers that some or all of Plaintiff's alleged damages could have been avoided if Plaintiff Judith Jordan had followed the recommendations of her physicians and other providers.

22. Defendant raises Plaintiff Judith Jordan's failure to mitigate damages in defense of Plaintiffs' claims.

WHEREFORE, Defendant, Susan Turner-Betts, respectfully requests that Plaintiffs' Complaint be dismissed, with prejudice, and costs of suit.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 23809624

Dated: 11-1-02

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

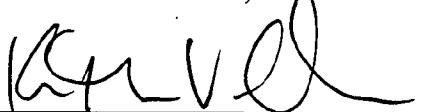
RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Answer with Amended
New Matter to Plaintiffs' Complaint in the above-captioned matter was mailed by regular mail,
postage prepaid, at the Post Office, State College, Pennsylvania, on this 1st day of November
2002, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

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William A. Shaw
Prothonotary

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William A. Shaw
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William A. Shaw
Prothonotary

Fold Here _____

CHRIS A. PENTZ
ATTORNEY AT LAW
211 1/2 EAST LOCUST ST. P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and
JUDITH JORDAN,
Husband and wife,
Plaintiffs

vs

* No. 2000-1148-C.D.

SUSAN TURNER-BETTS,
Defendant

* Type of Case: Civil

* Type of Pleading: Reply to
* New Matter

* Filed on Behalf of: Plaintiffs

* Counsel of Record for this Party:
* CHRIS A. PENTZ, Esquire

* Supreme Court I.D. # 39232
* 211 1/2 East Locust Street
* P. O. Box 552
* Clearfield PA 16830
* 814 765-4000

FILED

NOV 22 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and *
JUDITH JORDAN, *
Husband and wife, *
Plaintiffs *

vs * 2000-1148-C.D.

SUSAN TURNER-BETTS, *
Defendant *

*

REPLY TO NEW MATTER

15. The averments of paragraphs 1 through 14 of the Complaint are incorporated herein by reference as though set forth in full.

16. Paragraph 16 - No response required.

17. Paragraph 17 - No response required.

18. Paragraph 18 - No Response required.

19. Paragraph 19 is denied. The Plaintiff, Judith Jordan, did not commit any acts or omissions in reference to the cause of action which would result in a defense of comparative and/or contributory negligence.

20. Paragraph 20 is denied. The Plaintiff, Judith Jordan has completed all reasonable medical treatment recommended by her physicians.

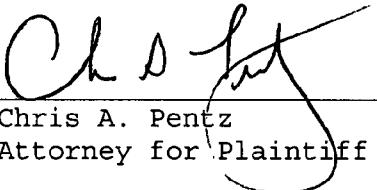
21. Paragraph 21 is denied. The Plaintiff, Judith Jordan has complied with all reasonable medical recommendations and is

unaware of any treatment which would lessen her injuries.

22. Paragraph 22 is denied. Paragraphs 20 and 21 above are incorporated herein by reference.

WHEREFORE, the Plaintiffs, Rodney Jordan and Judith Jordan, respectfully request Your Honorable Court to grant the relief requested in their Complaint.

Respectfully submitted this 22 day of November, 2002.



Chris A. Pentz
Attorney for Plaintiff

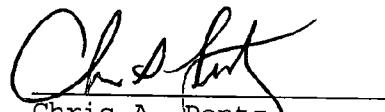
VERIFICATION

I, Chris A. Pentz, have read the foregoing Reply to New Matter. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to penalties of 18 Pa. C.S. §4904 relating to unsworn falsifications to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

I am authorized to make this verification on behalf of Plaintiffs because of my position as counsel of record.

Dated: 1/22-07



Chris A. Pentz
211 1/2 East Locust Street
Clearfield PA 16830
814 765-4000
I. D. # 39232

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

REQUEST FOR STATUS CONFERENCE

AND NOW COMES Defendant, Susan Turner-Betts, by and through her attorneys, McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc., and respectfully requests that a status conference be scheduled in the above matter in accordance with Clearfield County Rule 212.1. More than sixty days have passed since the filing of Plaintiff's Complaint.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 23809624

Dated: 3-18-03

FILED

MAR 20 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

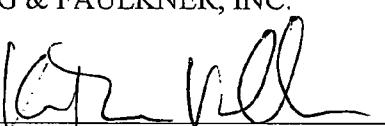
RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Request for Status Conference in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 18th day of March, 2003, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

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William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

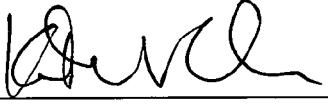
RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve a Subpoena
Directed to Johns Hopkins Hospital in the above-captioned matter was mailed by regular mail,
postage prepaid, at the Post Office, State College, Pennsylvania, on this 29th day of April
2003, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

APR 30 2003

William A. Shaw
Prothonotary

FILED

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William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

RODNEY JORDAN and JUDITH : :

JORDAN, husband and wife : :

-vs- : No. 00-1148-CD

SUSAN TURNER-BETTS : :

ORDER

NOW, this 20th day of May, 2003, following status conference into the above-captioned matter, it is the ORDER of this Court that Plaintiff shall submit to counsel for Defendant, within 90 days from date hereof, all expert reports of witnesses he intends to call at trial. At the expiration of said 90 days, no further expert reports or witnesses will be received or permitted to testify. This to specifically include the report of Barbara Swan, M.D. whose address is Allegheny Professional Building, 490 East North Avenue, Suite 500, Pittsburgh, PA 15212. The Court Administrator is directed to place this matter on the first call of the civil list in 2004.

By the Court,

President Judge

FILED

MAY 20 2003

William A. Shaw
Prothonotary

FILED ICC Atty Pentz
13:32 PM MAY 20 2003 ICC Atty Oliver
William A. Shaw
Prethonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve a Subpoena
Directed to Barbara Swan, M.D. in the above-captioned matter was mailed by regular mail,
postage prepaid, at the Post Office, State College, Pennsylvania, on this 11 day of June
2003, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

JUN 12 2003

William A. Shaw
Prothonotary

FILED

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William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, : No. 00 - 1148 - CD
Plaintiffs, :
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

**CERTIFICATE PREREQUISITE TO SERVICE
OF A SUBPOENA PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant certifies that:

1. a Notice of Intent to Serve the Subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoenas are sought to be served;
2. a copy of the Notice of Intent, including the proposed subpoena, is attached to this Certificate;
3. no objection to the subpoena has been received; and,
4. the subpoena which will be served is identical to the subpoena which is attached to the Notice of Intent to Serve the Subpoena.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 6-11-03

FILED

JUN 12 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT
TO RULE 4009.21**

Defendant intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoena. If no objection is made, the subpoena may be served.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 4-29-03

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan and

Judith Jordan

Plaintiff(s)

Vs.

*

No. 2000-01148-CD

Susan Turner-Betts

Defendant(s)

*

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: JOHNS HOPKINS HOSPITAL

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: SEE ATTACHED.

811 UNIVERSITY DRIVE, STATE COLLEGE, PA 16801

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: KATHERINE V. OLIVER, ESQUIRE

ADDRESS: 811 UNIVERSITY DRIVE

STATE COLLEGE PA 16801

TELEPHONE: (814) 238-4926

SUPREME COURT ID # 77069

ATTORNEY FOR: DEFENDANT

BY THE COURT:

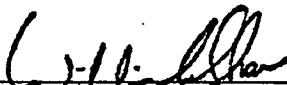
William A. Shaw

Prothonotary/Clerk, Civil Division

DATE: Wednesday, May 29, 2002

Seal of the Court

Deputy



Johns Hopkins Hospital

DOCUMENTS TO BE PRODUCED

Any and all medical records for as long as you retain same and regardless of treating physician on Judith Jordan, (SS# 050-50-5631; DOB: January 10, 1954), including but not limited to, treatment invoices and/or payment ledgers, treatment notes, reports, history/physical examination, progress notes, laboratory reports, x-ray/CT scan/MRI reports, consultation reports, physical/occupational/rehabilitation therapy progress notes (inpatient and outpatient), prognosis for future care and treatment, prescription records, any and all correspondence pertaining to Judith Jordan's health status (regardless of source), etc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Certificate Prerequisite to Service of a Subpoena Directed to Johns Hopkins Hospital in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 11th day of April, 2003, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver

Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

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William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

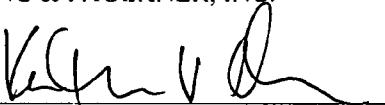
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to Johns Hopkins Hospital in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 11th day of June, 2003 to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926

FILED

JUN 12 2003

William A. Shaw
Prothonotary

FILED

11-2584 NO
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William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,
Plaintiffs,

No. 00 - 1148 - CD

vs.

SUSAN TURNER-BETTS,
Defendant.

CERTIFICATE PREREQUISITE TO SERVICE
OF A SUBPOENA PURSUANT TO RULE 4009.22

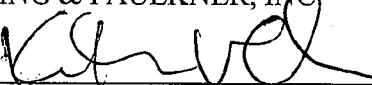
As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant certifies that:

1. a Notice of Intent to Serve the Subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoenas are sought to be served;
2. a copy of the Notice of Intent, including the proposed subpoena, is attached to this Certificate;
3. Plaintiff's attorney has waived the 20 day notice period; and
4. the subpoena which will be served is identical to the subpoena which is attached to the Notice of Intent to Serve the Subpoena.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By:


Katherine V. Oliver

Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 6-16-03

FILED

JUN 17 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00-1148-CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

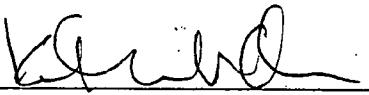
Defendant.

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT
TO RULE 4009.21**

Defendant intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoena. If no objection is made, the subpoena may be served.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 6-11-03

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan and
Judith Jordan
Plaintiff(s)

Susan Turner-Betts
Defendant(s)

Vs.

*

No. 2000-01148-CD

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: BARBARA SWAN, M.D.

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: SEE ATTACHED, to the offices of McQuaide Blasko, 811 University Drive, State College, PA 16801.

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College PA 16801
TELEPHONE: (814) 238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, May 29, 2002
Seal of the Court



Deputy

Barbara Swan, M.D.

DOCUMENTS TO BE PRODUCED

Any and all medical records for as long as you retain same and regardless of treating physician on Judith Jordan, (SS# 050-50-5631; DOB: January 10, 1954), including but not limited to, treatment invoices and/or payment ledgers, treatment notes, reports, history/physical examination, progress notes, laboratory reports, x-ray/CT scan/MRI reports, consultation reports, physical/occupational/rehabilitation therapy progress notes (inpatient and outpatient), prognosis for future care and treatment, prescription records, any and all correspondence pertaining to Judith Jordan's health status (regardless of source), etc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00-1148-CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

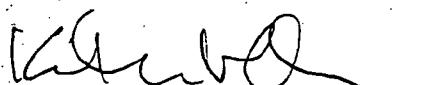
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve a Subpoena
Directed to Barbara Swan, M.D. in the above-captioned matter was mailed by regular mail,
postage prepaid, at the Post Office, State College, Pennsylvania, on this 17 day of June
2003, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Certificate Prerequisite to Service of a Subpoena Directed to Barbara Swan, M.D. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 16th day of June, 2003, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

111-10-1504
JUN 17 2003

NO
cc

JKL

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to Barbara Swan, M.D. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 16th day of June, 2003 to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926

FILED

JUN 17 2003

William A. Shaw
Prothonotary

FILED

NO

MI:IO 6/17/03
cc
JUN 17 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve Subpoenas
Directed to Debra Chambers, M.D. and Thomas Freenock, M.D. in the above-captioned matter
was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on
this 6th day of August, 2003, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED NO
m11:08/07/03
AUG 07 2003
will
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, : No. 00 - 1148 - CD
Plaintiffs, :
: vs. :
: :
SUSAN TURNER-BETTS, :
Defendant. :
:

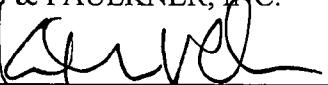
CERTIFICATE PREREQUISITE TO SERVICE
OF SUBPOENAS PURSUANT TO RULE 4009.22

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendant certifies that:

1. a Notice of Intent to Serve Subpoenas with copies of the subpoenas attached thereto was mailed or delivered to each party at least 20 days prior to the date on which the subpoenas are sought to be served;
2. a copy of the Notice of Intent, including the proposed subpoenas, are attached to this Certificate;
3. Plaintiff's attorney has waived the 20 day notice period; and
4. the subpoena which will be served are identical to the subpoenas which is attached to the Notice of Intent to Serve Subpoenas.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 8-13-03

FILED

AUG 14 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00-1148-CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

**NOTICE OF INTENT TO SERVE SUBPOENAS TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT
TO RULE 4009.21**

Defendant intends to serve subpoenas identical to those that are attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoenas. If no objection is made, the subpoenas may be served.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 8-6-03

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-Betts
Defendant(s)

*
*
*
No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: DEBRA CHAMBERS, M.D.

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: SEE ATTACHED; to the offices of McQuaide Blasko, 811 University Drive, State College, PA 16801

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College PA 16801
TELEPHONE: (814) 238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, July 16, 2003

Seal of the Court

Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

Debra Chambers, M.D.

DOCUMENTS TO BE PRODUCED

Any and all medical records for as long as you retain same and regardless of treating physician on Judith Jordan, (SS# 050-50-5631; DOB: January 10, 1954), including but not limited to, treatment invoices and/or payment ledgers, treatment notes, reports, history/physical examination, progress notes, laboratory reports, x-ray/CT scan/MRI reports, consultation reports, physical/occupational/rehabilitation therapy progress notes (inpatient and outpatient), prognosis for future care and treatment, prescription records, any and all correspondence pertaining to Judith Jordan's health status (regardless of source), etc.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Rodney Jordan
Judith Jordan
Plaintiff(s)

Vs.

Susan Turner-Betts
Defendant(s)

*
*
*
No. 2000-01148-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: Thomas Freenock, M.D.

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: See attached; to the offices of McQuaide Blasko, 811 University Drive, State College, PA 16801

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: (814) 238-4926
SUPREME COURT ID # 77069
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, July 16, 2003
Seal of the Court

Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

Thomas Freenock, M.D.

DOCUMENTS TO BE PRODUCED

Any and all medical records for as long as you retain same and regardless of treating physician on Judith Jordan, (SS# 050-50-5631; DOB: January 10, 1954), including but not limited to, treatment invoices and/or payment ledgers, treatment notes, reports, history/physical examination, progress notes, laboratory reports, x-ray/CT scan/MRI reports, consultation reports, physical/occupational/rehabilitation therapy progress notes (inpatient and outpatient), prognosis for future care and treatment, prescription records, any and all correspondence pertaining to Judith Jordan's health status (regardless of source), etc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

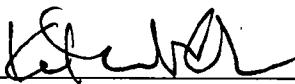
RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Certificate Prerequisite to Service of
Subpoenas Directed to Debra Chambers, M.D., and Thomas Freenock, M.D. in the above-
captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College,
Pennsylvania, on this 13th day of August, 2003, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver

Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED
m/14/2003
AUG 14 2003
cc
Clerk

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

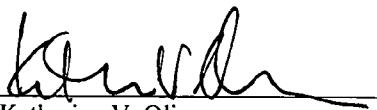
RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to Thomas Freenock, M.D. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 13th day of August, 2003 to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926

FILED

AUG 14 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED no
cc
AUG 14 2003
S. C. B.
S. C. B.

William A. Shaw
Prothonotary/Clerk of Courts

Shaw

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to Debra Chambers, M.D. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 13th day of August, 2003 to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926

FILED

AUG 14 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED NO
11-2784 CC
AUG 14 2003
SAC

William A. Shaw
Prothonotary/Clerk of Courts

Prothonotary/Clerk of Courts
William A. Shaw

AUG 18 2003

FILED

Fold Here

CHRIS A. PENTZ
ATTORNEY AT LAW
211 1/2 EAST LOCUST ST. P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and JUDITH
JORDAN, Plaintiffs

VS

* No. 00- 1148 -C.D.

SUSAN TURNER-BETTS,
Defendant

* Type of Case: Civil

* Type of Pleading: Petition to
* Extend Time

* Filed on Behalf of: Plaintiffs

* Counsel of Record for this Party:
* CHRIS A. PENTZ, Esquire

* Supreme Court I.D. # 39232
* 211 1/2 East Locust Street
* P. O. Box 552
* Clearfield PA 16830
* 814 765-4000

FILED

AUG 18 2003

8/2051u

William A. Shaw

Prothonotary/Clerk of Courts

2 CENTS TO FILE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and JUDITH
JORDAN, Plaintiffs

vs

* No. 00- 1148 -C.D.

SUSAN TURNER-BETTS,
Defendant

PETITION TO EXTEND TIME

1. The Petitioner is Chris A. Pentz, Attorney for Plaintiffs.
2. Your Honorable Court by Order dated May 20th, 2003 directed Plaintiffs to provide Defendant with all expert reports within ninety (90) days.
3. Petitioner obtained a release from plaintiff Judith Jordan and mailed the release to Dr. Barbara Swan with a request for a Medical Report on June 18, 2003.
4. After several phone calls by Petitioner to Dr. Swan's Office and receiving no response, Petitioner mailed a request for Medical Report to Dr. P. J Valigorsky on July 21, 2003.
5. Petitioner continued to contact Dr. Swan's Office by phone until the beginning of July 2003 when Petitioner received a call from Dr. Swan's Office advising that Petitioner would be hearing from the Office in the near future concerning the report.

6. Petitioner received a letter from Dr. Swan's Office dated July 22, 2003 requesting advanced payment and advising that the report would be received within four weeks of payment.

7. Payment was sent to Dr. Swan's office by letter dated August 1st, 2003.

8. As of the date of this Petition, the report of Dr. Swan has not been received and Petitioner has not had any response from Dr. Valigorsky.

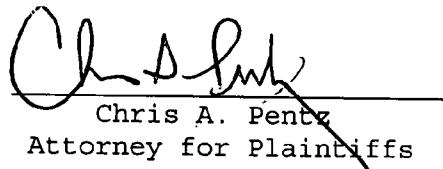
9. Petitioner requires additional time to provide expert reports to Defendant.

10. Petitioner believes and therefore avers that an additional thirty days is needed to obtain the medical reports.

11. Petitioner believes and therefore avers that Defendant would not be prejudiced by the requested extension.

WHEREFORE, Petitioner respectfully request Your Honorable to grant the requested extension.

Respectfully submitted this 18th, day of August, 2003.

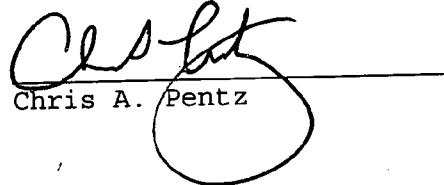

Chris A. Pente
Attorney for Plaintiffs

VERIFICATION

I, CHRIS A. PENTZ, verify that the statements made in this Petition to Extend are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

8-18-03

Date


Chris A. Pentz

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and JUDITH *
JORDAN, Plaintiff *

vs * No. 00-1148-C.D.

SUSAN TURNER-BETTS,
Defendant *

RULE TO SHOW CAUSE WHY PETITION TO EXTEND
TIME SHOULD NOT BE GRANTED

AND NOW this 20th day of August, 2003, upon
consideration of the within Petition and upon motion of Chris A.
Pentz, Esquire, Attorney for Petitioner, a Rule is hereby issued
upon the Respondent to show cause why the Petition to Extend Time
should not be granted.

Rule Returnable the 10 day of September, 2003, for filing
a written response.

NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT.
IF YOU WISH TO DEFEND AGAINST ANY CLAIMS SET FORTH IN THE
FOLLOWING PETITION, YOU MUST TAKE ACTION BY ENTERING A WRITTEN
APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH
THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH
AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE
MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU
BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE
PETITIONER OR MOVANT. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF
YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE
THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL
HELP.

Court Administrator
Clearfield County Courthouse
Clearfield PA 16830
(814) 765-2641, Ext. 88-89

BY THE COURT

FILED

AUG 21 2003

William A. Shaw
Prothonotary

FILED

0 10:58 AM 2003
AUG 21 2003
SAC

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and JUDITH JORDAN : NO. 00-1148-CD
V. :
SUSAN TURNER-BETTS :
:

ORDER

AND NOW, this 23rd day of January, 2004, following Pre-Trial Conference, upon agreement of the Parties through Counsel, it is the ORDER of this Court that this matter shall be continued until April 1, 2004. It is the further ORDER of this Court that all Depositions shall be completed and provided to opposing counsel by no later than April 1, 2004.

No further continuances will be granted.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

JAN 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

cc Atty Bentz

JAN 13 2004

cc Atty Oliver

William A. Shaw

Prothonotary/Clerk of Courts

900

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and :
JUDITH JORDAN, husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
TYPE OF PLEADING:
Certificate of Service
SUSAN TURNER-BETTS, :
Defendant. : TYPE OF CASE: Civil
FILED ON BEHALF OF:
DEFENDANT
COUNSEL OF RECORD FOR
FOR THIS PARTY:
KATHERINE V. OLIVER, ESQ.
I.D. NO. 77069
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
PH# (814) 238-4926
FAX#(814) 238-9624

FILED

MAR 12 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Notices of Videotaped Depositions of Stuart M. Olinsky, M.D. and Michael G. Moncman, D.O. in the above-captioned matter was mailed via U.S. 1st Class Mail, on this 11th day of March, 2004, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
P.O. Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

Katherine V. Oliver
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
SUSAN TURNER-BETTS

FILED
M 10:56 AM
MAR 12 2004
SFC
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and : NO. 00-1148-CD
JUDITH JORDAN :
V. :
SUSAN TURNER - BETTS :
.

ORDER

AND NOW, this 16TH day of April, 2004, following Pre-Trial Conference, it is
the ORDER of this Court:

1. The deadline for providing any and all outstanding discovery shall be by and no later than May 15, 2004.
2. Suggested Points for Charge shall be submitted to the Court by and no later than twenty (20) days from the date of this Order.
3. Jury Selection in this matter is scheduled for April 29, 2004, at 9:00 o'clock A.M. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
4. Trial in this matter is scheduled for June 9, 10, 11, 2004 at 9:00 A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
5. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

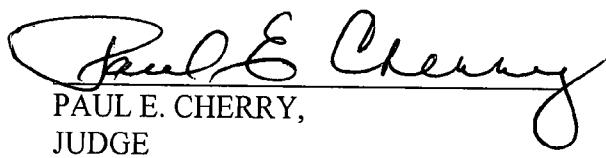
It is the further ORDER of this Court that hearing with regard to Objections to Depositions shall be heard before this Honorable Court on Monday, May 17, 2004, beginning at 1:00 o'clock P.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

FILED

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11:50 AM
William A. Shaw
Prothonotary/Clerk of Courts

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PAUL E. CHERRY,
JUDGE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

FILED

MAY 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Special Points for Charge
and Special Verdict Questions Proposed by Defendant in the above-captioned matter was mailed
by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 6th
day of May, 2004, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED NO
Q15-04-14
MAY 06 2004
[Signature]

William A. Shaw
Prothonotary/Clerk of Courts

4

MCQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
Additional offices in Hershey and Hollidaysburg

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June 7, 2004

Clearfield County Courthouse
Attention: David S. Meholic
Court Administrator
230 East Market Street
Clearfield, PA 16830

Re: Rodney Jordan and Judith Jordan v. Susan Turner-Betts
Clearfield County No. 00-1148-CD

Dear Mr. Meholic:

Enclosed please find Defendant's Trial Brief with regard to the above-captioned matter.
Trial is scheduled to begin on Wednesday, June 9, 2004 with Judge Cherry presiding.

If you should have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

McQUAIDE BLASKO

By:



Katherine V. Oliver

KVO/nlc
Enclosure

cc: Chris A. Pentz, Esquire
Gloria Gladd #38-J082-888

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JUN 07 2004

COURT ADMINISTRATORS
OFFICE

MCQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC.

State College Office: John W. Blasko Thomas E. Schwartz R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright Paul J. Tomeczuk Janine C. Giswoldi John A. Snyder April C. Simpson Allen P. Neely Pamela A. Ruest Katherine V. Oliver Katherine M. Allen Wayne L. Mowery, Jr. Ashley Himes Krunich Chenia L. Glenn-Hart Livinia N. Jones Cristin R. Barnes Matthew T. Rogers Frederick R. Battaglia Anthony A. Simon Russell A. Ventura

Hershey Office: Grant H. Fleming Maureen A. Gallagher Michael J. Mohr Jonathan B. Stepanian Britt D. Russell

Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

DEFENDANT'S TRIAL BRIEF

I. BACKGROUND

The motor vehicle accident giving rise to this action occurred on September 19, 1998 in Bradford Township, Clearfield County, Pennsylvania. Plaintiff Judith Jordan (hereinafter "Plaintiff") was stopped on SR 970 to make a left hand turn when Defendant's vehicle hit her from the rear. Plaintiff is a postal carrier, and was working at the time of the accident. Plaintiff did not suffer any apparent injury, refused medical treatment at the scene, and finished her postal route that day.

Plaintiff treated with various different doctors after the accident, and now claims that she suffers a chronic condition called myofascial pain syndrome, in other words muscle pain, as a result of the accident. Plaintiff's claims are subjective in nature, and various tests performed over the years failed to show any indicia of an accident-related injury. Plaintiffs will present the

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OFFICE**

deposition testimony of Dr. Barbara Swan in an attempt to support her claims of ongoing neck and shoulder pain.

Although there is no dispute as to liability for causing the accident, Defendant Susan Turner-Betts denies that Plaintiff suffered the injuries she claims and denies that her symptoms are related to the motor vehicle accident. Defendant will present video deposition testimony from Dr. Michael Moncman regarding an independent medical examination he performed and his opinions after reviewing records subsequently made available that Plaintiff's condition is not related to the motor vehicle accident at issue. Defendant will also present video deposition testimony from Dr. Stuart Olinsky regarding his opinion, based on a review of records pertaining to both before and after the accident, that although Mrs. Jordan may have had a very temporary whiplash injury characterized by symptoms of stiffness and aches within the first weeks after the accident, the symptoms she has complained of thereafter are not related to the accident.

Plaintiff has stipulated that there will be no claim made for medical expenses and no claim made for wage loss, past, present or future. This case involves claims for alleged pain and suffering damages of Plaintiff Judith Jordan and alleged loss of consortium on behalf of Plaintiff Rodney Jordan.

II. LEGAL ISSUES

A. Burden of Proving Injury Claims

Personal injury plaintiffs must prove the existence of a causal relationship between the alleged injuries and the negligent act in order to recover for such injuries. See Holland v.

Zelnick, 478 A.2d 885, 887 (Pa. Super. 1984); Lattanze v. Silverstrini, 302 Pa. Super. 217, 223, 448 A.2d 605, 608 (1982); McArdle v. Panzek, 262 Pa. Super. 88, 396 A.2d 658 (1978). It is incumbent upon a personal injury plaintiff to prove that the accident in question was a substantial factor in causing each item of injury and damage claimed. See, e.g., Watkins v. Hospital of the University of Pennsylvania, 737 A.2d 263 (Pa. Super. 1999). The defense bears no burden, and therefore is not required to come forward with evidence to rebut the plaintiff's claims or prove some alternate cause of the injuries claimed. Kennedy v. Sell, 816 A.2d 1153 (Pa. Super. 2003).

Where the causal relation between a claimed injury and the incident in question is not obvious, a plaintiff must present unequivocal medical testimony to establish the causal nexus. Smith v. German, 434 Pa. 47, 253 A.2d 107 (1969). Although lay testimony is sufficient when there is an obvious causal relationship between the alleged injuries and negligent conduct, the two must be "so closely connected and so readily apparent that a layman could diagnose (except by guessing) the causal connection..." Lattanze, 302 Pa. Super. at 223, 448 A.2d at 608 (citations omitted). An obvious causal relation exists only where the injuries are the "immediate and direct" or "natural and probable" consequence of the allegedly negligent conduct. Id. In this vein, the Pennsylvania Supreme Court previously recognized:

[I]t is generally acknowledged that the complexities of the human body place questions as to the cause of pain or injury beyond the knowledge of the average layperson. . . . For a plaintiff to make out his cause of action in such a case, therefore, the law requires that expert medical testimony be employed. . . . [S]uch testimony is needed to establish that the injury in question did, with a reasonable degree of medical certainty, stem from the negligent act alleged.

Hamil v. Bashline, 481 Pa. 256, 267, 392 A.2d 1280, 1285 (1978) (citations omitted) (emphasis added).

These principles have been consistently applied by Pennsylvania courts. For example, in Yoworsky v. Charles Stores Co., 404 Pa. 643, 172 A.2d 822 (1961), the Pennsylvania Supreme Court affirmed the trial court's grant of a new trial in favor of the defendant because the plaintiff's expert had not testified that the plaintiff's aggravated injuries were caused by the slip and fall in question. Id. In that case, the plaintiff went to see her physician two days after she slipped and fell in the defendant's store, sustaining injury in various places on her right leg. At trial, her physician testified that he had been treating the plaintiff for progressive arthritis for several years prior to the accident, and that, after the accident, the stiffness and weakness in the plaintiff's right leg had gotten progressively worse and resulted in restricted motion of the plaintiff's right leg. 404 Pa. at 645, 172 A.2d at 823. The plaintiff's physician failed, however, to testify that the plaintiff's aggravated arthritic condition was caused by the accident in question. The Yoworsky court rejected the plaintiff's argument that her injuries were so "immediate and closely connected with the accident, that no medical testimony was necessary to prove that the fall aggravated the preexisting condition." 404 Pa. at 646, 172 A.2d at 823-24. Thus, because the plaintiff had failed to prove the requisite causal connection as to those injuries, the Court affirmed the trial court's grant of a new trial on the ground that the damages awarded the plaintiff were excessive. 404 Pa. at 647, 172 A.2d at 824.

In a more recent case, the Superior Court held that the plaintiff had not met his burden of proving the requisite causation to recover under an informed consent theory when the plaintiff had failed to present expert testimony that his allegedly disabling back pain was caused by the back surgery he had undergone. Maliszewski v. Rendon, 374 Pa. Super. 109, 542 A.2d 170

(1988), appeal denied, 520 Pa. 617, 554 A.2d 510 (1989). The Maliszewski plaintiff testified that he did not suffer from back pain at the time he was admitted to the hospital, and that after the back surgery he suffered a great deal of back pain. In concluding that this testimony was insufficient to establish the requisite causal connection, the court concluded as follows:

..The cause of appellant's back pain was a disputed issue and far from obviously caused by the back surgery itself. Without medical expert testimony establishing the causative element, any jury award would have been speculative and improper.

Maliszewski, 374 Pa. Super. at 115, 542 A.2d at 173 (emphasis added). Accordingly, because the Maliszewski plaintiff had failed to satisfy his burden of proof on the necessary element of causation, the Superior Court affirmed the summary judgment which had been entered in favor of the defendant.

In this case, where Plaintiff Judith Jordan's claims are comprised of various subjective symptoms, it bears repeating that Pennsylvania law requires competent proof, i.e. expert proof, to demonstrate the causal nexus between each aspect of damages claimed and the September 19, 1998 car accident at issue. See Watkins v. Hospital of the University of Pennsylvania, 737 A.2d 263 (Pa. Super. 1999). In Watkins, the Pennsylvania Superior Court reversed in part and affirmed in part the trial court's grant of summary judgment in favor of the defendant hospital where the plaintiff's proof supported the requisite causal relationship between some, but not all, of the injuries claimed. The plaintiff in Watkins brought suit against the defendant sounding in negligence and lack of informed consent. The plaintiff claimed that, during a craniotomy procedure performed by the defendant hospital, the hospital had failed to preserve a piece of bone flap that had been removed from the plaintiff's skull with the intention of replacing it after the

craniotomy procedure. Because the bone flap was not appropriately preserved, wire mesh had to be substituted in its place, and the result was a depression to the plaintiff's skull. The plaintiff, who had a substantial pre-existing medical history which included a rare genetic disorder which produced malignant tumors, claimed that he suffered permanent disfigurement, pain, depression, and a pathological fear of brain injury as a result of the defendant's conduct in failing to preserve the bone flap. Watkins, 737 A.2d at 265.

In analyzing the propriety of the lower court's summary judgment ruling, the Watkins court reviewed each element of damage claimed by the plaintiff as a separate and distinct inquiry, and demanded that the plaintiff meet his burden of proof with respect to each item of damage claimed. Id. at 266-268. The Watkins court determined that plaintiff had met his burden of proof with respect to some of the damages alleged, and, thus, reversed in part the summary judgment entered in favor of the defendant. Significantly, however, the court also determined that the plaintiff had failed to meet his burden of proof with respect to proving the required causal nexus between other of the injuries claimed, and so affirmed the summary judgment in favor of the defendant as to those items of damages. Id. at 268. In so concluding, the Watkins court stated as follows:

The pain and fear of which Appellant complains, while also believable, are different matters altogether in terms of his prima facie case. There is no reference in the expert's report to any etiology for either of these conditions; indeed only the presence of Appellant's discomfort is mentioned. The pain and fear are not necessarily linked either to replacement of the bone flap with mesh or with the depression, either as causes or effects. There is, in fact, nothing supplied to counter the possible alternatives: the surgery itself, the remaining tumors, or the effects of radiotherapy. Unsupported assertions simply do not create genuine issues of material fact. Accordingly, summary judgment was properly entered on these elements of Appellant's case.

Id. (emphasis added). Thus, because the Watkins Plaintiff had not met his burden of proving a causal nexus between the defendant's negligent conduct and the pain and fear claimed as items of injuries, the court affirmed summary judgment in favor of the defendant with respect to claims for those particular injuries. Id.

In the instant action, the relationship between the various ongoing symptoms complained of by Plaintiff Judith Jordan and the September 19, 1998 car accident is far from obvious. Consequently, Plaintiffs must be held to their burden of proving, via expert testimony, the alleged causal nexus between each of the injuries claimed and the accident at issue. Furthermore, pursuant to Watkins, supra., Defendant is entitled to judgment as a matter of law with respect to any purported injury for which Plaintiffs fail to provide expert testimony linking the alleged injury to Defendant's conduct, and any injury claims for which Plaintiffs fail to meet their burden of proof in this regard may not be submitted to the jury.

Finally, the award of damages in any personal injury action is limited to compensation for the actual injuries sustained. Incollingo v. Ewing, 444 Pa. 263, 307, 282 A.2d 206, 228 (1971); see also, Moorhead v. Crozer Chester Medical Center, 765 A.2d 786, 790 (Pa. 2001). The loss sustained should be compensated with the least burden to the defendant, consistent with the idea of fair compensation to the injured. Incollingo, 444 Pa. at 307, 282 A.2d at 229. Even when an injury is demonstrated, whether the injury is compensable is a question for the jury. Majczyk v. Oesch, 789 A.2d 717 (Pa. Super. 2001). Thus, it is entirely proper for a jury to award no damages at all where a minor injury is undisputed and the jury does not believe that compensable

pain and suffering resulted. See e.g., Smith v. Putter, 832 A.2d 1094, 1099-1100 (Pa. Super. 2003).

B. Causation--Jury Charge

Defendant anticipates that Plaintiffs might request that the Court follow the most recent set of Suggested Jury Instructions on the issue of causation. These suggested instructions propose a fundamental departure from the long and well established requirement under Pennsylvania law that an essential element of a plaintiff's negligence case is that of proving that the defendant's conduct was a substantial factor in bringing about the harm claimed by the plaintiff. To the best of Defendant's knowledge, no Pennsylvania case, particularly at an appellate level, has accepted this radical proposal. Indeed, Defendant submits that charging under the new suggested instruction would be contrary to current authority. As such, Defendant submits that the only correct course of action is to charge in accordance with the long held law in this area.

The Subcommittee note to Pa. SSJI (Civ) 3.00 (Modified) clearly recognizes that the proposed charge represents a departure from the substantial factor charge which has long been a part of Pennsylvania jurisprudence. While the Subcommittee attempts to say that the new language is not intended to "make new law," this is indeed precisely what it is proposing. With all due respect, given the plaintiff oriented composition of the committee, it is not surprising that the proposed charge is clearly one which favors the plaintiff and seeks to reduce the plaintiff's burden of proof. Unless and until the appellate courts embrace the new charge, this Court should follow existing law and hold Plaintiffs in this case to their well established burden of proving

that the Defendant's conduct was a substantial factor in causing the injuries claimed by Judith Jordan.

It is well established that the Standard Jury Instructions are guides only, and are in no way binding on the trial court. See, Smith v. Stribling, 168 Pa. Cmwlth. 188, 649 A.2d 1003 (1994), appeal denied, §40 Pa. 652, 659 A.2d 990 (1995); Butler v. Kiwi, S.A., 412 Pa. Super. 591, 604 A.2d 270 (1992), appeal denied, 581 Pa. 650, 613 A.2d 556 (1992); City of Philadelphia v. Duda, 141 Pa. Cmwlth. 88, 595 A.2d 206 (1991), appeal denied, 532 Pa. 658, 615 A.2d 1314 (1992); Mackowick v. Westinghouse Electric Corp., 373 Pa. Super. 434, 541 A.2d 749 (1988), aff'd., 525 Pa. 52, 575 A.2d 100 (1990). As stated in Mackowick, supra., 541 A.2d at 752: "These instructions are guides only and the trial judge is free to deviate from them or ignore them entirely. What is important is whether the charge as a whole provides a sufficient and correct legal basis to guide the jury in its deliberations." This is true even where a party specifically requests the trial court to utilize a standard instruction. Butler, supra.

It cannot seriously be disputed that Pennsylvania has long required that in a negligence action, the plaintiff must demonstrate that the defendant's wrongful conduct was the proximate cause of plaintiff's harm. Proximate cause, in turn, is premised upon a finding that the wrongful conduct was a substantial factor in bringing about the plaintiff's injury. As long ago as 1965, the Supreme Court stated: "It is well established in Pennsylvania that in order to find that defendant proximately caused an injury it must be found that his allegedly wrongful conduct was a substantial factor in bringing about the plaintiff's injury even though it need not be the only factor." Majors v. Brodhead Hotel, 416 Pa. 265, 271, 205 A.2d 873, 877 (1965). Since then, the

appellate courts have repeatedly reaffirmed the necessity for a finding that the defendant's conduct was a substantial factor in bringing about the plaintiff's harm. See, e.g., Zieber v. Bogert, 2000 Pa. Super. 24, 747 A.2d 905 (2000), aff'd., 565 Pa. 376, 773 A.2d 758 (2001); Frangis v. Duquesne Light Co., 232 Pa. Super. 420, 335 A.2d 796 (1975); Dornon v. Johnston, 421 Pa. 58, 218 A.2d 808 (1966). Indeed, a recent Superior Court decision reaffirmed the need for a substantial factor finding, and in so doing rejected the idea as proposed by the new suggested jury instructions that a finding of factual causation is sufficient. As explained in Gutteridge v. A.P. Green Services, Inc., 804 A.2d 643, 655 Pa. Super. (2002), appeal denied, 574 Pa. 748, 829 A.2d 1158 (2003):

To recover damages in a negligence action . . . a plaintiff must establish that a particular defendant's negligence was the proximate cause of his or her injuries. 'Cause in fact' or 'physical cause' is not the same thing as 'proximate cause' or 'legal cause'. Proximate causation is found when wrongful conduct is a 'substantial factor' in bringing about the specific harm incurred. Whether a party's conduct has been a substantial factor in causing injury to another is ordinarily a question of fact for the jury.

Id.

Accordingly, Defendant urges the Court to reject any proposal that the Court disregard decades of clear precedent with respect to the proper charge on the issue of causation and instead follow a committee's suggestion that has yet to receive the endorsement of any appellate decision in the Commonwealth. The new instruction is nothing more than a proposal, and the Court is in no way bound by this recommendation. The Court is, however, bound by numerous decisions which through the years have confirmed the central place which the concept of substantial factor has in our jurisprudence. It is respectfully submitted that the Court should follow this sound

judicial precedent, as opposed to following a committee recommendation that faces a highly uncertain future.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Attorneys for Defendant
SUSAN TURNER-BETTS

Dated: June 7, 2004

Delivery

Date: June 7, 2004

Deadline (date & time): June 7, 2204

From: Katherine V. Oliver

Client-Matter #: 2100-2229

Item: Trial Brief

Location: Clearfield County Courthouse
Court Administrator's Office

Contact: David S. Meholick

Special Instructions: Just drop off. Thanks!!



(1)

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ATTORNEYS AT LAW

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Additional offices in Hershey and Hollidaysburg

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www.mcquaideblasko.com

April 7, 2004

David S. Meholic
Court Administrator
Clearfield County Courthouse
230 East Market Street
Suite 228
Clearfield, PA 16830

**In Re: Rodney Jordan and Judith Jordan v. Susan Turner-Betts
Clearfield County No. 00-1148-CD**

Dear Mr. Meholic:

Enclosed please find an original Supplemental Pre-trial Memorandum of Defendant Susan Turner-Betts for filing in the above-referenced matter. Kindly return a time-stamped copy in the enclosed envelope.

Thank you for your attention to this matter.

Very truly yours,

McQUAIDE BLASKO

By:


Katherine V. Oliver

KVO/nlc
Enclosures

cc\Enc.: Chris A. Pentz, Esquire
Gloria Gladd #38-J082-888

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Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife, :
Plaintiffs, : TYPE OF PLEADING:
v. : **SUPPLEMENTAL PRE-TRIAL**
: **MEMORANDUM**
SUSAN TURNER-BETTS, : TYPE OF CASE: CIVIL
Defendant. : FILED ON BEHALF OF:
: **DEFENDANT**
:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926
: FAX#(814) 238-9624

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**COURT ADMINISTRATOR'S
OFFICE**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

**SUPPLEMENTAL PRE-TRIAL MEMORANDUM
OF DEFENDANT SUSAN TURNER-BETTS**

I. PROCEDURAL HISTORY

At Plaintiffs' request, this case was continued from the winter 2004 term by Order of the Honorable Paul E. Cherry dated January 26, 2004. Since that time, the deposition of Plaintiffs' sole medical expert/trial physician has been taken, along with one of the defense experts, Dr. Michael-Girard Moncman. The final defense expert deposition for trial will be completed on April 8, 2004. Otherwise, the procedural history of this matter is adequately set forth in Defendant's Pre-trial Memorandum dated January 13, 2004, incorporated herein by reference as though set forth in full. (A copy of Defendant's previous Pre-trial Memorandum and attachments thereto are attached hereto as Exhibit "A" for ease of reference).

The case is scheduled for a pre-trial conference before the Honorable Paul E. Cherry on April 15, 2004 at 9:00 a.m.

II. FACTUAL BACKGROUND

Please see Pre-trial Memorandum dated January 13, 2004, attached hereto as Exhibit "A".

III. UNUSUAL LEGAL ISSUES

None anticipated.

IV. WITNESSES

Please see Defendant's Pre-trial Memorandum dated January 13, 2004, attached hereto as Exhibit "A".

V. EXHIBITS

Please see Defendant's Pre-trial Memorandum dated January 13, 2004, attached hereto as Exhibit "A".

VI. STIPULATIONS

Please see Defendant's Pre-trial Memorandum dated January 13, 2004, attached hereto as Exhibit "A". No items of special damage are at issue, and Defendant requests a stipulation to that affect.

VII. ESTIMATED TRIAL TIME

Two and 1/2 days.

VIII. SETTLEMENT NEGOTIATIONS

Defendant offered Plaintiffs \$25,000 in settlement of their claims in February of 2002.

Plaintiffs did not respond to this offer until the time of the last pre-trial conference in January of 2004, at which point they made a demand of \$80,000. No subsequent settlement negotiations have taken place.

IX. SPECIAL POINTS FOR CHARGE

See points for charge attached to Defendants first Pre-trial Statement, attached hereto as Exhibit "A". Defendant also reserves the right to file supplement Special Points for Charge before closing statements of the parties.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Attorneys for Defendant
SUSAN TURNER-BETTS

Dated: April 7, 2004

EXHIBIT “A”

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife,

Plaintiffs,

: TYPE OF PLEADING:
PRE-TRIAL MEMORANDUM

v.

SUSAN TURNER-BETTS,

Defendant.

: TYPE OF CASE: CIVIL
FILED ON BEHALF OF:
DEFENDANT

: COUNSEL OF RECORD FOR
FOR THIS PARTY:
JAMES M. HORNE, ESQ.
I.D. NO. 26908
KATHERINE V. OLIVER, ESQ.
I.D. NO. 77069
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
PH# (814) 238-4926
FAX#(814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

PRE-TRIAL MEMORANDUM OF DEFENDANT
SUSAN TURNER-BETTS

I. PROCEDURAL HISTORY

This motor vehicle negligence action was filed via Writ of Summons on September 5, 2000. After being ruled to do so, Plaintiffs filed a Complaint on December 11, 2001. An Answer with New Matter was filed on December 26, 2001, and Plaintiffs filed a Reply thereto. On October 23, 2002, Defendant filed a Motion to Amend Answer with New Matter to raise the defense of failure to mitigate damages. The Motion was granted, and Defendant's Amended Answer was filed of record. Plaintiffs filed a Reply to the Amended Answer with New Matter on or about November 22, 2002, thereby closing the pleadings.

By way of discovery, Defendant served written discovery, to which responses were filed. Defendant subpoenaed medical records from various providers identified during the discovery process. Plaintiffs' depositions were taken on October 30, 2001.

Before suit was filed, an independent medical examination was conducted by Dr. Michael Moncman, and a report was issued based on information then available. Records subsequently obtained through discovery revealed that the information presented by Ms. Jordan and relied upon by Dr. Moncman at the time of the IME was inaccurate. Dr. Moncman was therefore requested to review the newly acquired information, after which he issued a supplemental report. Both reports have been produced to Plaintiffs, and are attached hereto as Exhibits A and A-1.

A status conference was held before the Honorable John K. Reilly, Jr. on May 20, 2003. Judge Reilly ordered that the case be placed on the first call of the 2004 civil list, and set a deadline for Plaintiff to identify medical experts and serve expert reports. (See Court Order of May 20, 2003.). Plaintiff thereafter sought an extension of the deadline, which Defendant opposed. Plaintiff served a report from Dr. Barbara Swan on September 19, 2003. Defendant served the report of Dr. Stewart Olinsky on December 22, 2003. A copy of Dr. Olinsky's report is attached hereto as Exhibit B.

The case has been scheduled for pre-trial conference before the Honorable Paul E. Cherry on January 22, 2004 at 10:30 a.m.

II. FACTUAL BACKGROUND

The motor vehicle accident giving rise to this action occurred on September 19, 1998 in Bradford Township, Clearfield County, Pennsylvania. Plaintiff Judith Jordan (hereinafter "Plaintiff") was stopped on SR 970 waiting to make a left hand turn when Defendant's vehicle hit her from the rear. Plaintiff is a postal carrier, and was working at the time of the accident.

Plaintiff did not suffer any apparent injury, refused medical treatment at the scene, and finished her postal route that day.

Sometime after the accident, Plaintiff began to experience symptoms of neck pain and stiffness and headache. She reported to Dubois Regional Medical Center ten days later. Cervical spine x-rays were normal.

Plaintiff Judith Jordan presented to numerous different providers for evaluation and/or treatment after the accident, including Dr. Edward McVay, Dr. Martin Schaeffer, Dr. A. Glenn Williams, University of Pittsburgh Medical Center, and her family doctor--Stanley Lang, among others. Various objective studies were done shortly after the accident, with no evidence of any acute abnormality.

Nine months after the accident, an EMG was performed and interpreted as showing nerve root irritation but not full fledged radiculopathy. The last physician Plaintiff consulted with, Dr. Barbara Swan, documented her opinion that Plaintiff did not suffer an accident-related radiculopathy. Various diagnoses appear throughout Plaintiff's records at different times. It is not clear which, if any, of these diagnoses Plaintiffs claim are related to the motor vehicle accident at issue in this case. Various treatment recommendations are also documented, although Ms. Jordan failed to follow through on many of the recommendations.

Plaintiff's records document pertinent pre and post accident conditions independent from any motor vehicle complaints. Even before the accident, Plaintiff had treated on and off for several years for problems with neck pain and headaches. She has also suffered the loss of a son

in the months just before the accident. Records from after the accident document that Plaintiff was diagnosed with severe osteoporosis in her left arm, lumbar spine and left hip area.

As of the time of her deposition in October of 2001 and her subsequent interrogatory answers in April of 2002, Plaintiff was not treating for accident related complaints, and her last treatment/consultation had been with Dr. Martin Schaeffer in February of 2001, after which she was discharged. Subsequently, after a period of almost two years of no treatment, Plaintiff went to see Dr. Thomas Freenock for neck and arm pain complaints. Dr. Freenock referred her to Allegheny General Hospital Spine Screening Clinic for further evaluation and possible treatment. Plaintiff was seen there by Dr. Barbara Swan. Records subpoenaed by Defendant document three consultations with Dr. Swan, with the last visit in May of 2003.¹

As noted above, Dr. Swan issued a report outlining her opinions. She diagnosed Plaintiff with chronic left shoulder girdle myofacial pain, sleep disturbance, and cervical spondylosis in no way related to her injury. Plaintiff's treatment consisted of exercises and sleep medications. Dr. Swan noted that Plaintiff's symptoms should not significantly effect her functional status and that an increase or progression of symptoms would not be expected.

Dr. Stewart Olinsky, the defense expert, performed a records review. Dr. Olinsky's report documents his opinion that Plaintiff did not suffer anything more than a temporary whiplash-type injury in the accident, and that the medical evidence does not support her claims of continuing accident-related symptoms.

¹ On careful inspection of Dr. Swan's report submitted by Plaintiffs in response to their expert deadline, it appears that Plaintiff was also seen in July of 2003. Defendant was not provided with this record, and intends to issue a follow-up subpoena for the same and any other updated records.

Because Plaintiff was working at the time of the accident, a worker's compensation lien has been asserted. Defendant understands that this lien is in the \$12,000 range. Despite Plaintiff Judith Jordan's continuing subjective complaints, she has maintained a physically strenuous job as a postal carrier, and even increased from part time to full time work. Discovery responses confirm that there is no wage loss claim at issue.

III. UNUSUAL LEGAL ISSUES

This case presents general issues of negligence liability, particularly with respect to causation and damages. No unusual legal or evidentiary issues are anticipated at this time.

IV. WITNESSES

Defendant reserves the right to call the following witnesses:

1. Plaintiff Judith Jordan-as on cross
2. Plaintiff Rodney Jordan--as on cross
3. Defendant Susan Turner Betts
4. Dr. Edward McVey
5. Dr. Martin Schaeffer
Liberty Medical Associates
6. Dr. Glenn Williams
Curwensville, PA
7. Dr. Ronald Glick
UPMC Pain Evaluation and Treatment Clinic
8. Dr. Stanley Lang
DuBois Regional Medical Center

9. Dr. Barbara Swan
Allegheny General Hospital Spine Clinic
10. Dr. Michael Moncman (medical/damages)--see attached report
11. Dr. Stewart Olinsky (medical/damages)--see attached reports
12. Records custodians from any and all medical providers identified above
13. Any other witness identified in discovery or in Plaintiff's pre-trial statement

V. EXHIBITS

Defendant reserves the right to introduce any of the following exhibits at trial:

1. Medical/treatment records from the following:
 - a. Dubois Regional Medical Center
 - b. Dr. Bonny Beck
 - c. Dr. Carol Elkins
 - d. Dr. McVey
 - e. Dr. Schaeffer--Liberty Medical Associates
 - f. Dr. Stepcic
 - g. Penn Central Physical Therapy
 - h. Bob Mollica Physical Therapy
 - i. Glenn Williams, D.C.
 - j. UPMC Pain Evaluation and Treatment Institute
 - k. Dr. Thomas Freenock
 - l. Dr. Barbara Swan--Allegheny General Hospital Spine Clinic

- m. Dr. Stanley Lang--Primary Care Associates
- n. Dr. Chambers
- 2. Records of Dr. Michael Moncman IME, including IME Health History Form
- 3. Employment records--USPS and Paris Uniform Rentals
- 4. Plaintiff's Complaint
- 5. Plaintiff's interrogatory responses
- 6. Plaintiff's calendars
- 7. Plaintiff's diary
- 8. Any documents identified in discovery or Plaintiff's pre-trial statement

VI. STIPULATIONS

Defendant requests a stipulation that Plaintiff is not making a claim for wages or impairment of earning capacity, past, present or future.

Defendant requests a stipulation as to the authenticity of Plaintiff's medical and employment records so as to avoid the necessity of calling records custodians at trial.

VII. ESTIMATED TRIAL TIME

Two days.

VIII. SETTLEMENT NEGOTIATIONS

Defendant offered Plaintiffs \$25,000 in settlement of their claims in February of 2002, but Plaintiffs have never responded to Defendant's offer.

IX. SPECIAL POINTS FOR CHARGE

See attached Exhibit C. Defendant reserves the right to file supplemental Special Points for Charge before closing statements of the parties.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Attorneys for Defendant
SUSAN TURNER-BETTS

Dated: January 13, 2004

EXHIBIT A

Michael Gerard Moncman, DO, MSc, FACOS
Neurosurgeon • Board Certified

814-944-7810 • Fax 814-944-5327
cpnaltd@aol.com

Central Pennsylvania Neurosurgical
Associates LTD

May 22, 2002

Kathryn V. Oliver, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

RE: JUDITH A. JORDAN

Dear Ms. Oliver:

I recently reviewed a packet of records that you provided regarding Judith Jordan. These records included records from Dr. A. Glenn Williams and Dr. Stanley Lang as well as records from the DuBois Regional Medical Center Emergency Department.

It is clear that Ms. Jordan has had neck and upper extremity and upper back complaints for a prolonged period of time. It is also clear that she failed to provide an accurate history to me regarding those complaints for reasons best known to her.

In light of the longstanding nature of the complaints involving her neck and upper extremity and upper back, I could no longer state with reasonable medical certainty that this woman's complaints are an outgrowth of the road traffic accident in question. It is clear that she has longstanding complaints of cervical pain and discomfort and cervical somatic dysfunction and upper dorsal somatic dysfunction and, further, I do not believe that the road traffic accident in question changed her anatomy, caused the underlying chronic conditions to progress or worsen, or that in any way materially affected her. Her complaints as provided to me would seem to be the complaints as provided to the other practitioners over a long period of time.

Contact me if you have any further questions or comments. My opinions are stated with reasonable medical certainty.

Sincerely,



Michael-G. Moncman, DO, MSc, FACOS
MGM/ls
D 05/16/02
T 05/22/02

1701 12th Avenue
Suite F
Altoona, PA 16602

Cove Medical Center
Suite 4 - Nason Drive
Roaring Spring, PA 16673

2437 E. College Avenue
Suite 1
State College, PA 16801

EXHIBIT A-1

Michael-Gerard Moran, DO, MSc
Neurosurgeon • Board Certified

Central Pennsylvania Neurosurgical
Associates LTD

August 14, 2000

RECEIVED

AUG 16 2000
STATE COLLEGE FCO

State Farm Insurance Companies
Attention: Chuck Warren
State College Service Center
383 Rolling Ridge Drive
State College, PA 16801-7676

RE: JUDITH JORDAN
CLAIM NO: 38-JO82-888
DATE OF IME: AUGUST 8, 2000

Dear Mr. Warren:

At your request I performed an Independent Medical Evaluation on Judith A. Jordan.

All of my opinions are expressed with reasonable medical certainty. Since this was an Independent Medical Evaluation, no care was rendered and no follow up was arranged. I made it clear to Ms. Jordan that no physician-patient relationship should be deemed to exist or implied to exist based on this contact.

I am enclosing a copy of a form entitled IME Health History that Ms. Jordan completed. I am also enclosing a copy of a pain map that she completed.

I reviewed the records that were provided. These included records from Dr. McVay, Dr. Stepcic, Dr. Schaeffer, records from DuBois Regional Medical Center Emergency Department, records from chiropractor A Glen Williams, records from Penn Central Physical Therapy in Clearfield and Orbisonia. I reviewed CT scan and MRI films of the cervical spine.

This is a 46-year-old right-handed female who was involved in a road traffic accident on September 19, 1998. At that time she describes being at a halt, waiting to make a turn, and having her vehicle struck from behind. She was not restrained. She did not lose

1701 12th Avenue, Suite F
Altoona, PA 16601
814-944-7810
Fax 814-944-5327
cpnaltd@aol.com

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RE: JUDITH JORDAN

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AUG 16 2000
STATE COLLEGE HCO

consciousness. She was able to extricate herself from the car under her own power. Within one hour she complained of some neck stiffness and she awoke that night from a sound sleep because of a "pounding headache". She had headaches continuously for some time. She presents now with headaches that are episodic occurring anywhere from every 4-8 weeks. She does complain of aching pain in her neck and also complains of pain in the left trapezius region and left levator scapula region. She complains of discomfort through the left arm and numbness in the left thumb, long, and ring fingers. Using her left arm seems to worsen those complaints. Left shoulder range of motion is described as painless.

This lady denies any history of neck pain or upper extremity discomfort prior to the road traffic accident. She admits to a childhood history of migraine but states that these headaches after the road traffic accident are different.

This lady works for the United States Postal Service and was delivering mail when she was struck. She describes having her head move forward and to the left and then backwards.

Currently this lady uses Depakote, Celebrex, Advil, and Estratest routinely. In the past her medications have included Ibuprofen, Naproxen, Elavil, Trazodone, Diclofenac, Daypro, Nortriptyline, Lodine XL, Serzone, Paxil, Baclofen, Ultram, and a different strength of Celebrex.

This lady tells me that she had treated with a chiropractor in the past for low back discomfort and discomfort at about the bra line. She tells me that the chiropractor never treated her neck prior to the road traffic accident.

I reviewed both CT scan and MRI studies. The December 7, 1998 CT scan of the cervical spine was unremarkable. The MRI of the cervical spine that I reviewed (November 11, 1998) was impressive for tiny spurs at C4-5, C5-6, and C6-7. The discs do not bulge and are not herniated. The nerve roots appear normal in caliber and trajectory. Reportedly, the MRI of the brain is unremarkable. X-rays of the cervical spine are unremarkable. Dr. Schaeffer in June 1999 diagnosed this lady with a "left-sided mid cervical nerve root irritation".

This lady is working at this time.

PHYSICAL EXAMINATION:

This woman is 5 feet 6 inches tall and weighs 130 pounds. Blood pressure is 106/62. Vital signs are stable. She is awake and alert. She is affable and cooperative. She is a good historian. Higher cognitive functions are intact. Language and memory functions are preserved. No cranial neuropathies are apparent. Motor and sensory examinations

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AUG 16 2000
STATE COLLEGE FCO

PAGE 3
RE: JUDITH JORDAN

are full throughout. Cerebellar functions were performed normally. Muscle stretch reflexes are equal and symmetric. She has a normal gait pattern. She complains of pain diffusely with left shoulder range of motion. There is left trapezius spasm. She is exquisitely tender to palpation over the left greater occipital nerve and in the left trapezius and in the left levator. Spinal curves are physiologic. Lateral rotation and side bending in the cervical region are diminished. Lumbar ranges of motion are full. She does not respond to tests for symptom magnification. Her constitutional examination appears unremarkable.

IMPRESSION:

1. With reasonable medical certainty, this lady suffered a cervical sprain/strain injury in the road traffic accident; by description of her mechanism of injury, she likely suffered a whiplash-type injury.
2. This lady currently suffers from posttraumatic greater occipital neuralgia.
3. This lady currently suffers from posttraumatic cervical and dorsal somatic dysfunction.

Treatment to date is consistent with the documented conditions. The etiology of the conditions, with reasonable medical certainty, is the road traffic accident of September 19, 1998. The type, intensity, frequency, and duration of the treatments/services are consistent with these diagnoses.

Prognosis is guarded. I do not believe that the patient suffered a permanent impairment but she has certainly reached maximum medical improvement absent further therapy. Her condition does not prevent her from working and she is encouraged to do so. She has not reached a pre-injury status.

My recommended future treatment plan would include trigger point injections over the greater occipital nerves and in the trigger points in the left trapezius and left levator muscles.

Finally, I do not have any evidence to suggest that there are preexisting or concurrent medical or psychological conditions affecting this lady's recovery.

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AUG 16 2000
STATE COLLEGE FCO

PAGE 4
RE: JUDITH JORDAN

Thank you for seeking my opinion. Contact me if you have any questions or comments.

Sincerely,



Michael-G. Moncman, DO, MSc, FACOS
MGM/Is

Enclosure: IME Health History
Pain Map

D 08/10/00
T 08/14/00

EXHIBIT B

West Branch Neurology Associates P.C.

1824 East Third Street
Williamsport, PA 17701

Telephone: (570) 322-0990
Fax: (570) 322-6087

**Stuart M. Olinsky, M.D. • David P. Roeltgen, M.D.
Amanda M. Jones - Sutliff, PA-C.**

December 2, 2003

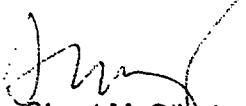
Independent medical review of charts

At the request of Katherine Oliver I reviewed numerous medical records of Judith Jordan including records of a Dr. B Beck, Dr. Chambers, DuBois magnetic imaging center and regional medical center, Dr. Elkins, Dr. Moncman, Dr. McVay, R. Mollica, Dr. Shaeffer, Dr. Stepsic, Dr. Swan, Dr. Williams and UPMC pain treatment Institute. A basic summary of these records show that this patient was involved in a motor vehicle accident on September 19, 1998. She was the unrestrained driver of a United States postal truck. She was at a stop ready to turn when she was hit from behind by another driver perhaps driving as fast as 45 mph. The patient never struck her head or loss consciousness but did suffer what appear to be a whiplash injury. The patient was able to exit her car on her own. The reported onset of neck pain and headache pain vary but it appears that this did not occur immediately and she did not seek specific medical help by documentation until approximately 10 days later of the September 29, 1998. Throughout these multiple and many records her complaints consist of headaches which at times were constant but eventually improved and became intermittent varying between 2x/week and perhaps as little as 2x/month. However she continued to have neck pain and left shoulder pain with some variable radiation into the left arm and variable numbness which was very nonspecific in the left arm and hand. The numbness complaints were not documented until much later in the process. In records from a chiropractor, Dr. waves from 1990 and again in 1992 x 2, 1994 x 3 and multiple visits in 1995 the patient had complaints of headaches and neck pain. In addition she was involved in another motor vehicle accident where she was struck from behind by a car driving at low speeds and was seen at the hospital in Clearfield PA on the same day as the accident for neck and shoulder pain on the right side and sent home with a cervical collar, Naprosyn and application of warm compresses and was seen to have straightening of the cervical spine on x-ray. Yet on a number of different evaluations the patient told the different physicians that she had never had neck pain or headaches. Nonetheless this patient underwent numerous neurodiagnostic tests and other diagnostic testing including CT scan of the cervical spine on 12/7/98 which was read as normal other than nonspecific hemangiomas of the C7 and T1 vertebrae. Cervical spine x-ray which was normal on 9/29/98. Numerous cervical MRIs including 11/11/98, 8/27/99 and 6/29/99 which showed no significant stenosis or disc herniations. She also had E.M.G./N.C.V. twice on 6/8/99 and 11/14/00 and these showed some nonspecific minimal fibrillation potentials in the C6-C7 paraspinal muscles only. This is very nonspecific and certainly does not make a diagnosis of radiculopathy. The patient also had a brain MRI on 11/11/98 which was normal. Over the years the patient was tried on numerous treatment regimens including medication such as multiple nonsteroidal anti-inflammatories, multiple antidepressant medications, muscle

relaxants, analgesics, one of which effectively helped the neck and shoulder pain but Depakote did appear to decrease the headaches. The patient also was treated with numerous different trigger point injections most of which were ineffective and at times even worsened some of her symptoms. The patient also was treated with a tens unit unsuccessfully. She also had occipital nerve block which at least initially appear to be helpful but eventually was unhelpful. She also underwent numerous treatments with physical therapy although she never seemingly consistently followed up with the sessions and these were never effective. She also was treated with myofascial release unsuccessfully. She was offered Botox therapy but refused this. She was never treated with neuroleptic medications. Her various diagnosis throughout these many years were uncontrolled headaches, some people felt she had fibromyalgia and no one thought she ever had a definite radiculopathy. Eventually she was also diagnosed chronic left shoulder girdle mild fascial pain syndrome and headaches. At one time during her workup at the pain clinic at Pittsburgh she had a psychological evaluation which suggested she had an apathetic mood, was depressed and was still grieving the death of her son from a motor vehicle accident that occurred in July, 1998. She never did follow-up as directed at the pain clinic. Once again at times she has refused different therapeutic modalities. In addition the patient was diagnosed with osteoporosis involving the lumbar spine and femoral neck and intratrochanteric areas in 2000.

After reviewing these multiple records but without having taken a history from the patient herself or examining the patient I have reached an opinion regarding this case. The patient's major complaints did start after an apparent whiplash injury occurring during the motor vehicle accident of September, 1998 but unequivocally there is documentation of previous similar complaints and treatment for headaches and neck pain. In addition at no time has there been any documented evidence through multiple diagnostic tests to suggest any objective structural problems that occurred secondary to this September, 1998 accident. Whiplash injuries are well known to be a transient problem that should heal easily and fairly quickly. Certainly studies in multiple other cultures have revealed that whiplash injury complaints rarely last more than 10 days. In addition fibromyalgia is not a diagnosis that specifically occurs secondary to trauma. Certainly patients with migraine headaches can worsen after a whiplash injury and not surprisingly this is the symptom that has responded best to treatment. Almost always post traumatic worsening of headaches improve with time and treatment. In addition her osteoporosis has no relationship to the motor vehicle accident of September, 1998. At this time I believe her diagnosis is most consistent with a nonspecific chronic pain syndrome without objective abnormalities by diagnostic testing or examination and with probable underlying emotional factors as discussed in reports from UPMC in 2000. Certainly there is nothing from the history or repetitive examinations or lack of treatment responses to support her claims that the severe pain since the accident is actually related to the accident.

Sincerely,



Dr. Stuart M. Olinsky

c.c. Katherine Oliver

McQuaide Blas...
811 University Drive
State College PA 16801-6699

EXHIBIT C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :

DEFENDANT'S SPECIAL POINTS FOR CHARGE

KATHERINE V. OLIVER
I.D. No. 77069
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
SUSAN TURNER-BETTS

Defendant's Proposed Point for Charge #1:

Under all the law and the evidence, you must return a verdict in favor of the Defendant Susan Turner-Betts and against the Plaintiffs.

Given

Refused

Modified

Defendant's Proposed Point for Charge #2:

The Plaintiffs, Rodney and Judith Jordan, have the burden of proving by a preponderance of the evidence that a causal relationship exists between the automobile accident of September 19, 1998 and the injuries alleged by Ms. Jordan. In order to meet that burden, the Plaintiffs must introduce unequivocal expert medical testimony that such a relationship exists. If you find that the Plaintiffs have not met that burden with respect to any of the claimed injuries, then you should not include any compensation for such injuries in your verdict.

McArdle v. Panzek, 262 Pa. Superior Ct. 88, 396 A.2d 658 (1938); Albert v. Alter, 252 Pa. Superior Ct. 203, 381 A.2d 459 (1977); Stathas v. Wade Estate, 251 Pa. Superior Ct. 269, 380 A.2d 482 (1977); Smith v. German, 434 Pa. 47, 253 A.2d 107 (1969); Florig v. Sears Roebuck & Co., 388 Pa. 419, 130 A.2d 445 (1957).

 Given

 Refused

 Modified

 Refused, as covered in the general charge

Defendant's Proposed Point for Charge #3:

The fact that the Defendant, Susan Turner-Betts, was negligent, and responsible for the occurrence of the accident, does not in and of itself prove that the Plaintiffs are entitled to the recovery of any damages. Plaintiffs must still prove that this negligence was a substantial factor in bringing about Judith Jordan's injuries.

Gigliotti v. Machuca, 409 Pa. Superior Ct. 50, 597 A.2d 655 (1991).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #4:

The Plaintiffs have the burden of proving each and every element of damage which they seek. It is not up to the Defendant to disprove an element of damage.

Kmiotek v. Anast, 350 Pa. 593, 39 A.2d 923 (1944).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #5:

The issues of whether the Plaintiffs have really suffered or sustained any of the damages they claim, and whether any of these damages were actually caused by the Defendant, is for you, the jury, to decide.

Holland v. Zelnick, 329 Pa. Superior Ct. 469, 478 A.2d 885 (1984); Broadhead v. Brentwood Ornamental Iron Company, Inc., 435 Pa. 7, 255 A.2d 120 (1969); Morgan v. Philadelphia Electric Co., 299 Pa. Superior Ct. 545, 445 A.2d 1263 (1982).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #6:

You may not award damages based on guess, speculation, or conjecture, or on the possibility that there may or could have been harm in the past. Only damages that are proven with reasonable certainty are recoverable.

Kearns v. Clark, 343 Pa. Superior Ct. 30, 493 A.2d 1358 (1985).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #7:

The Plaintiffs must prove that each of their injuries and damages were with reasonable certainty caused by the Defendant's negligence. The mere "possibility" that the claimed injuries and damages could be related to the Defendant's negligence is not sufficient proof of causation. In such a situation, the Plaintiffs have not met their burden of proof on the item of injury or damage at issue, and you may not award Plaintiffs any damages for such items.

Gordon v. Trovato, 234 Pa. Superior Ct. 279, 338 A.2d 653 (1975); Rice v. Hill, 315 Pa. 166, 172 A. 289 (1934); Lorch v. Eglin, 369 Pa. 314, 85 A.2d 841 (1952); Baccare v. Mennella 246 Pa. Superior Ct. 53, 369 A.2d 806 (1976); American Air Filter Co., Inc. v. McNichol, 527 F.2d 1297 (3rd Cir. 1975).

 Given

 Refused

 Modified

 Refused, as covered in the general charge

Defendant's Proposed Point for Charge #8:

A person, even if injured by another's negligence, is not entitled to recover damages for any harm that he could have avoided by the use of reasonable effort or expenditure after the negligence was committed.

See Restatement (Second) Torts, § 918(1);
Downs v. Scott, 201 Pa. Superior Ct. 278, 191
A.2d 908 (1963).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #9:

An injured plaintiff has a duty to minimize her damages. Accordingly, when determining the amount of damages to which a plaintiff is entitled for personal injuries, if any, you should consider the plaintiff's failure to do those things, including following the instructions of her physicians, which a reasonably prudent person would have done under the circumstances in an effort to better her condition.

Hilscher v. Ickinger, 194 Pa. Super. 237, 166 A.2d 678, affirmed, 403 Pa. 596, 170 A.2d 595 (1961); Yost v. Union Railroad Co., 380 Pa. Super. 236, 551 A.2d 317 (1988), appeal denied, 562 A.2d 817 (1989).

Given

Refused

Modified

Refused, as covered in the general charge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,
Plaintiffs,
vs.
SUSAN TURNER-BETTS,
Defendant.

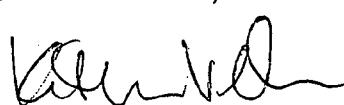
No. 00-1148-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Susan Turner-Betts' Pre-trial Memorandum in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 13th day of January, 2004, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
P.O. Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Attorneys for Defendant
SUSAN TURNER-BETTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Supplemental Defendant Susan Turner-Betts' Pre-trial Memorandum in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 7th day of April, 2004, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
P.O. Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Attorneys for Defendant
SUSAN TURNER-BETTS



MCQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
Additional offices in Hershey and Hollidaysburg

(814) 238-4926 FAX (814) 234-5620
www.mcquaideblasko.com

January 13, 2004

RECEIVED

David S. Meholick, Court Administrator
Clearfield County Courthouse
P.O. Box 549
230 East Market Street
Clearfield, PA 16830

JAN 14 2004

COURT ADMINISTRATOR'S
OFFICE

Re: Rodney Jordan and Judith Jordan v. Susan Turner-Betts
No. 00-1148-C.D.
d/o/l 9/19/98

Dear Mr. Meholick:

Enclosed please find Defendant's Pre-Trial Memorandum, together with Certificate of Service in the above-referenced matter.

Thank you for your attention to this matter.

Very truly yours,

McQUAIDE BLASKO

By:

Katherine V. Oliver

KVO/sap
Enclosure

cc/Enc.: Chris A. Pentz, Esquire
Howard C. Shaffer, Claim Specialist (#38-J082-888)

MCQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC.

State College Office: John W. Blasko Thomas E. Schwartz R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright Paul J. Tomczuk Janine C. Gismondi John A. Snyder April C. Simpson Allen P. Neely Pamela A. Ruest Katherine V. Oliver Katherine M. Allen Wayne L. Mowery, Jr. Ashley Himes Krueich Chena L. Glenn-Hart Richard K. Laws Livinia N. Jones Cristin R. Barnes Matthew T. Rogers Frederick R. Battaglia Anthony A. Simon

Hershey Office: Grant H. Fleming Maureen A. Gallagher Michael J. Mohr Jonathan B. Stepanian Britt D. Russell

Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife, :

Plaintiffs, : TYPE OF PLEADING:
:

v.

SUSAN TURNER-BETTS, : TYPE OF CASE: CIVIL
:

Defendant. : FILED ON BEHALF OF:
:

DEFENDANT

:

: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926
: FAX#(814) 238-9624

RECEIVED

JAN 14 2004

COURT ADMINISTRATOR'S
OFFICE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

PRE-TRIAL MEMORANDUM OF DEFENDANT
SUSAN TURNER-BETTS

I. PROCEDURAL HISTORY

This motor vehicle negligence action was filed via Writ of Summons on September 5, 2000. After being ruled to do so, Plaintiffs filed a Complaint on December 11, 2001. An Answer with New Matter was filed on December 26, 2001, and Plaintiffs filed a Reply thereto. On October 23, 2002, Defendant filed a Motion to Amend Answer with New Matter to raise the defense of failure to mitigate damages. The Motion was granted, and Defendant's Amended Answer was filed of record. Plaintiffs filed a Reply to the Amended Answer with New Matter on or about November 22, 2002, thereby closing the pleadings.

By way of discovery, Defendant served written discovery, to which responses were filed. Defendant subpoenaed medical records from various providers identified during the discovery process. Plaintiffs' depositions were taken on October 30, 2001.

Before suit was filed, an independent medical examination was conducted by Dr. Michael Moncman, and a report was issued based on information then available. Records subsequently obtained through discovery revealed that the information presented by Ms. Jordan and relied upon by Dr. Moncman at the time of the IME was inaccurate. Dr. Moncman was therefore requested to review the newly acquired information, after which he issued a supplemental report. Both reports have been produced to Plaintiffs, and are attached hereto as Exhibits A and A-1.

A status conference was held before the Honorable John K. Reilly, Jr. on May 20, 2003. Judge Reilly ordered that the case be placed on the first call of the 2004 civil list, and set a deadline for Plaintiff to identify medical experts and serve expert reports. (See Court Order of May 20, 2003.). Plaintiff thereafter sought an extension of the deadline, which Defendant opposed. Plaintiff served a report from Dr. Barbara Swan on September 19, 2003. Defendant served the report of Dr. Stewart Olinsky on December 22, 2003. A copy of Dr. Olinsky's report is attached hereto as Exhibit B.

The case has been scheduled for pre-trial conference before the Honorable Paul E. Cherry on January 22, 2004 at 10:30 a.m.

II. FACTUAL BACKGROUND

The motor vehicle accident giving rise to this action occurred on September 19, 1998 in Bradford Township, Clearfield County, Pennsylvania. Plaintiff Judith Jordan (hereinafter "Plaintiff") was stopped on SR 970 waiting to make a left hand turn when Defendant's vehicle hit her from the rear. Plaintiff is a postal carrier, and was working at the time of the accident.

Plaintiff did not suffer any apparent injury, refused medical treatment at the scene, and finished her postal route that day.

Sometime after the accident, Plaintiff began to experience symptoms of neck pain and stiffness and headache. She reported to Dubois Regional Medical Center ten days later. Cervical spine x-rays were normal.

Plaintiff Judith Jordan presented to numerous different providers for evaluation and/or treatment after the accident, including Dr. Edward McVay, Dr. Martin Schaeffer, Dr. A. Glenn Williams, University of Pittsburgh Medical Center, and her family doctor--Stanley Lang, among others. Various objective studies were done shortly after the accident, with no evidence of any acute abnormality.

Nine months after the accident, an EMG was performed and interpreted as showing nerve root irritation but not full fledged radiculopathy. The last physician Plaintiff consulted with, Dr. Barbara Swan, documented her opinion that Plaintiff did not suffer an accident-related radiculopathy. Various diagnoses appear throughout Plaintiff's records at different times. It is not clear which, if any, of these diagnoses Plaintiffs claim are related to the motor vehicle accident at issue in this case. Various treatment recommendations are also documented, although Ms. Jordan failed to follow through on many of the recommendations.

Plaintiff's records document pertinent pre and post accident conditions independent from any motor vehicle complaints. Even before the accident, Plaintiff had treated on and off for several years for problems with neck pain and headaches. She has also suffered the loss of a son

in the months just before the accident. Records from after the accident document that Plaintiff was diagnosed with severe osteoporosis in her left arm, lumbar spine and left hip area.

As of the time of her deposition in October of 2001 and her subsequent interrogatory answers in April of 2002, Plaintiff was not treating for accident related complaints, and her last treatment/consultation had been with Dr. Martin Schaeffer in February of 2001, after which she was discharged. Subsequently, after a period of almost two years of no treatment, Plaintiff went to see Dr. Thomas Freenock for neck and arm pain complaints. Dr. Freenock referred her to Allegheny General Hospital Spine Screening Clinic for further evaluation and possible treatment. Plaintiff was seen there by Dr. Barbara Swan. Records subpoenaed by Defendant document three consultations with Dr. Swan, with the last visit in May of 2003.¹

As noted above, Dr. Swan issued a report outlining her opinions. She diagnosed Plaintiff with chronic left shoulder girdle myofacial pain, sleep disturbance, and cervical spondylosis in no way related to her injury. Plaintiff's treatment consisted of exercises and sleep medications. Dr. Swan noted that Plaintiff's symptoms should not significantly effect her functional status and that an increase or progression of symptoms would not be expected.

Dr. Stewart Olinsky, the defense expert, performed a records review. Dr. Olinsky's report documents his opinion that Plaintiff did not suffer anything more than a temporary whiplash-type injury in the accident, and that the medical evidence does not support her claims of continuing accident-related symptoms.

¹ On careful inspection of Dr. Swan's report submitted by Plaintiffs in response to their expert deadline, it appears that Plaintiff was also seen in July of 2003. Defendant was not provided with this record, and intends to issue a follow-up subpoena for the same and any other updated records.

Because Plaintiff was working at the time of the accident, a worker's compensation lien has been asserted. Defendant understands that this lien is in the \$12,000 range. Despite Plaintiff Judith Jordan's continuing subjective complaints, she has maintained a physically strenuous job as a postal carrier, and even increased from part time to full time work. Discovery responses confirm that there is no wage loss claim at issue.

III. UNUSUAL LEGAL ISSUES

This case presents general issues of negligence liability, particularly with respect to causation and damages. No unusual legal or evidentiary issues are anticipated at this time.

IV. WITNESSES

Defendant reserves the right to call the following witnesses:

1. Plaintiff Judith Jordan-as on cross
2. Plaintiff Rodney Jordan--as on cross
3. Defendant Susan Turner Betts
4. Dr. Edward McVey
5. Dr. Martin Schaeffer
Liberty Medical Associates
6. Dr. Glenn Williams
Curwensville, PA
7. Dr. Ronald Glick
UPMC Pain Evaluation and Treatment Clinic
8. Dr. Stanley Lang
DuBois Regional Medical Center

9. Dr. Barbara Swan
Allegheny General Hospital Spine Clinic
10. Dr. Michael Moncman (medical/damages)--see attached report
11. Dr. Stewart Olinsky (medical/damages)--see attached reports
12. Records custodians from any and all medical providers identified above
13. Any other witness identified in discovery or in Plaintiff's pre-trial statement

V. EXHIBITS

Defendant reserves the right to introduce any of the following exhibits at trial:

1. Medical/treatment records from the following:
 - a. Dubois Regional Medical Center
 - b. Dr. Bonny Beck
 - c. Dr. Carol Elkins
 - d. Dr. McVey
 - e. Dr. Schaeffer--Liberty Medical Associates
 - f. Dr. Stepcic
 - g. Penn Central Physical Therapy
 - h. Bob Mollica Physical Therapy
 - i. Glenn Williams, D.C.
 - j. UPMC Pain Evaluation and Treatment Institute
 - k. Dr. Thomas Freenock
 - l. Dr. Barbara Swan--Allegheny General Hospital Spine Clinic

- m. Dr. Stanley Lang--Primary Care Associates
- n. Dr. Chambers

- 2. Records of Dr. Michael Moncman IME, including IME Health History Form
- 3. Employment records--USPS and Paris Uniform Rentals
- 4. Plaintiff's Complaint
- 5. Plaintiff's interrogatory responses
- 6. Plaintiff's calendars
- 7. Plaintiff's diary
- 8. Any documents identified in discovery or Plaintiff's pre-trial statement

VI. STIPULATIONS

Defendant requests a stipulation that Plaintiff is not making a claim for wages or impairment of earning capacity, past, present or future.

Defendant requests a stipulation as to the authenticity of Plaintiff's medical and employment records so as to avoid the necessity of calling records custodians at trial.

VII. ESTIMATED TRIAL TIME

Two days.

VIII. SETTLEMENT NEGOTIATIONS

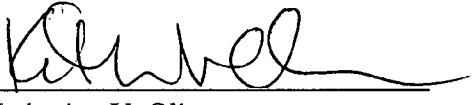
Defendant offered Plaintiffs \$25,000 in settlement of their claims in February of 2002, but Plaintiffs have never responded to Defendant's offer.

IX. SPECIAL POINTS FOR CHARGE

See attached Exhibit C. Defendant reserves the right to file supplemental Special Points for Charge before closing statements of the parties.

Respectfully submitted,

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Attorneys for Defendant
SUSAN TURNER-BETTS

Dated: January 13, 2004

EXHIBIT A

Michael-Gerard Moncman, DO, MSc, FACOS
Neurosurgeon • Board Certified

814-944-7810 • Fax 814-944-5327
cpnalt@aol.com

*Central Pennsylvania Neurosurgical
Associates LTD*

May 22, 2002

Kathryn V. Oliver, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

RE: JUDITH A. JORDAN

Dear Ms. Oliver:

I recently reviewed a packet of records that you provided regarding Judith Jordan. These records included records from Dr. A. Glenn Williams and Dr. Stanley Lang as well as records from the DuBois Regional Medical Center Emergency Department.

It is clear that Ms. Jordan has had neck and upper extremity and upper back complaints for a prolonged period of time. It is also clear that she failed to provide an accurate history to me regarding those complaints for reasons best known to her.

In light of the longstanding nature of the complaints involving her neck and upper extremity and upper back, I could no longer state with reasonable medical certainty that this woman's complaints are an outgrowth of the road traffic accident in question. It is clear that she has longstanding complaints of cervical pain and discomfort and cervical somatic dysfunction and upper dorsal somatic dysfunction and, further, I do not believe that the road traffic accident in question changed her anatomy, caused the underlying chronic conditions to progress or worsen, or that in any way materially affected her. Her complaints as provided to me would seem to be the complaints as provided to the other practitioners over a long period of time.

Contact me if you have any further questions or comments. My opinions are stated with reasonable medical certainty.

Sincerely,



Michael-G. Moncman, DO, MSc, FACOS
MGM/ls
D 05/16/02
T 05/22/02

1701 12th Avenue
Suite 7
Altoona, PA 16602

Cove Medical Center
Suite 4 - Nason Drive
Roaring Spring, PA 16673

2437 E. College Avenue
Suite 1
State College, PA 16801

EXHIBIT A-1

Michael-Gerard Mancman, DO, MSc
Neurosurgeon • Board Certified

Central Pennsylvania Neurosurgical
Associates LTD

August 14, 2000

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AUG 16 2000
STATE COLLEGE FCO

State Farm Insurance Companies
Attention: Chuck Warren
State College Service Center
383 Rolling Ridge Drive
State College, PA 16801-7676

RE: JUDITH JORDAN
CLAIM NO: 38-JO82-888
DATE OF IME: AUGUST 8, 2000

Dear Mr. Warren:

At your request I performed an Independent Medical Evaluation on Judith A. Jordan.

All of my opinions are expressed with reasonable medical certainty. Since this was an Independent Medical Evaluation, no care was rendered and no follow up was arranged. I made it clear to Ms. Jordan that no physician-patient relationship should be deemed to exist or implied to exist based on this contact.

I am enclosing a copy of a form entitled IME Health History that Ms. Jordan completed. I am also enclosing a copy of a pain map that she completed.

I reviewed the records that were provided. These included records from Dr. McVay, Dr. Stepcic, Dr. Schaeffer, records from DuBois Regional Medical Center Emergency Department, records from chiropractor A Glen Williams, records from Penn Central Physical Therapy in Clearfield and Orbisonia. I reviewed CT scan and MRI films of the cervical spine.

This is a 46-year-old right-handed female who was involved in a road traffic accident on September 19, 1998. At that time she describes being at a halt, waiting to make a turn, and having her vehicle struck from behind. She was not restrained. She did not lose

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RE: JUDITH JORDAN

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consciousness. She was able to extricate herself from the car under her own power. Within one hour she complained of some neck stiffness and she awoke that night from a sound sleep because of a "pounding headache". She had headaches continuously for some time. She presents now with headaches that are episodic occurring anywhere from every 4-8 weeks. She does complain of aching pain in her neck and also complains of pain in the left trapezius region and left levator scapula region. She complains of discomfort through the left arm and numbness in the left thumb, long, and ring fingers. Using her left arm seems to worsen those complaints. Left shoulder range of motion is described as painless.

This lady denies any history of neck pain or upper extremity discomfort prior to the road traffic accident. She admits to a childhood history of migraine but states that these headaches after the road traffic accident are different.

This lady works for the United States Postal Service and was delivering mail when she was struck. She describes having her head move forward and to the left and then backwards.

Currently this lady uses Depakote, Celebrex, Advil, and Estratest routinely. In the past her medications have included Ibuprofen, Naproxen, Elavil, Trazodone, Diclofenac, Daypro, Nortriptyline, Lodine XL, Serzone, Paxil, Baclofen, Ultram, and a different strength of Celebrex.

This lady tells me that she had treated with a chiropractor in the past for low back discomfort and discomfort at about the bra line. She tells me that the chiropractor never treated her neck prior to the road traffic accident.

I reviewed both CT scan and MRI studies. The December 7, 1998 CT scan of the cervical spine was unremarkable. The MRI of the cervical spine that I reviewed (November 11, 1998) was impressive for tiny spurs at C4-5, C5-6, and C6-7. The discs do not bulge and are not herniated. The nerve roots appear normal in caliber and trajectory. Reportedly, the MRI of the brain is unremarkable. X-rays of the cervical spine are unremarkable. Dr. Schaeffer in June 1999 diagnosed this lady with a "left-sided mid cervical nerve root irritation".

This lady is working at this time.

PHYSICAL EXAMINATION:

This woman is 5 feet 6 inches tall and weighs 130 pounds. Blood pressure is 106/62. Vital signs are stable. She is awake and alert. She is affable and cooperative. She is a good historian. Higher cognitive functions are intact. Language and memory functions are preserved. No cranial neuropathies are apparent. Motor and sensory examinations

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RE: JUDITH JORDAN

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are full throughout. Cerebellar functions were performed normally. Muscle stretch reflexes are equal and symmetric. She has a normal gait pattern. She complains of pain diffusely with left shoulder range of motion. There is left trapezius spasm. She is exquisitely tender to palpation over the left greater occipital nerve and in the left trapezius and in the left levator. Spinal curves are physiologic. Lateral rotation and side bending in the cervical region are diminished. Lumbar ranges of motion are full. She does not respond to tests for symptom magnification. Her constitutional examination appears unremarkable.

IMPRESSION:

1. With reasonable medical certainty, this lady suffered a cervical sprain/strain injury in the road traffic accident; by description of her mechanism of injury, she likely suffered a whiplash-type injury.
2. This lady currently suffers from posttraumatic greater occipital neuralgia.
3. This lady currently suffers from posttraumatic cervical and dorsal somatic dysfunction.

Treatment to date is consistent with the documented conditions. The etiology of the conditions, with reasonable medical certainty, is the road traffic accident of September 19, 1998. The type, intensity, frequency, and duration of the treatments/services are consistent with these diagnoses.

Prognosis is guarded. I do not believe that the patient suffered a permanent impairment but she has certainly reached maximum medical improvement absent further therapy. Her condition does not prevent her from working and she is encouraged to do so. She has not reached a pre-injury status.

My recommended future treatment plan would include trigger point injections over the greater occipital nerves and in the trigger points in the left trapezius and left levator muscles.

Finally, I do not have any evidence to suggest that there are preexisting or concurrent medical or psychological conditions affecting this lady's recovery.

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AUG 16 2000
STATE COLLEGE FCO

PAGE 4
RE: JUDITH JORDAN

Thank you for seeking my opinion. Contact me if you have any questions or comments.

Sincerely,



Michael-G. Moncman, DO, MSc, FACOS
MGM/ls

Enclosure: IME Health History
Pain Map

D 08/10/00
T 08/14/00

EXHIBIT B

West Branch Neurology Associates, P.C.

1824 East Third Street
Williamsport, PA 17701

Telephone: (570) 322-0990
Fax: (570) 322-6087

**Stuart M. Olinsky, M.D. • David P. Roeltgen, M.D.
Amanda M. Jones - Sutliff, PA-C.**

December 2, 2003

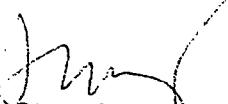
Independent medical review of charts

At the request of Katherine Oliver I reviewed numerous medical records of Judith Jordan including records of a Dr. B Beck, Dr. Chambers, DuBois magnetic imaging center and regional medical center, Dr. Elkins, Dr. Moncman, Dr. McVay, R. Mollica, Dr. Shaeffer, Dr. Stepsic, Dr. Swan, Dr. Williams and UPMC pain treatment Institute. A basic summary of these records show that this patient was involved in a motor vehicle accident on September 19, 1998. She was the unrestrained driver of a United States postal truck. She was at a stop ready to turn when she was hit from behind by another driver perhaps driving as fast as 45 mph. The patient never struck her head or loss consciousness but did suffer what appear to be a whiplash injury. The patient was able to exit her car on her own. The reported onset of neck pain and headache pain vary but it appears that this did not occur immediately and she did not seek specific medical help by documentation until approximately 10 days later of the September 29, 1998. Throughout these multiple and many records her complaints consist of headaches which at times were constant but eventually improved and became intermittent varying between 2x/week and perhaps as little as 2x/month. However she continued to have neck pain and left shoulder pain with some variable radiation into the left arm and variable numbness which was very nonspecific in the left arm and hand. The numbness complaints were not documented until much later in the process. In records from a chiropractor, Dr. waves from 1990 and again in 1992 x 2, 1994 x 3 and multiple visits in 1995 the patient had complaints of headaches and neck pain. In addition she was involved in another motor vehicle accident where she was struck from behind by a car driving at low speeds and was seen at the hospital in Clearfield PA on the same day as the accident for neck and shoulder pain on the right side and sent home with a cervical collar, Naprosyn and application of warm compresses and was seen to have straightening of the cervical spine on x-ray. Yet on a number of different evaluations the patient told the different physicians that she had never had neck pain or headaches. Nonetheless this patient underwent numerous neurodiagnostic tests and other diagnostic testing including CT scan of the cervical spine on 12/7/98 which was read as normal other than nonspecific hemangiomas of the C7 and T1 vertebrae. Cervical spine x-ray which was normal on 9/29/98. Numerous cervical MRIs including 11/11/98, 8/27/99 and 6/29/99 which showed no significant stenosis or disc herniations. She also had E.M.G./N.C.V. twice on 6/8/99 and 11/14/00 and these showed some nonspecific minimal fibrillation potentials in the C6-C7 paraspinal muscles only. This is very nonspecific and certainly does not make a diagnosis of radiculopathy. The patient also had a brain MRI on 11/11/98 which was normal. Over the years the patient was tried on numerous treatment regimens including medication such as multiple nonsteroidal anti-inflammatories, multiple antidepressant medications, muscle

relaxants, analgesics none of which effectively helped the neck and shoulder pain but Depakote did appear to decrease the headaches. The patient also was treated with numerous different trigger point injections most of which were ineffective and at times even worsened some of her symptoms. The patient also was treated with a tens unit unsuccessfully. She also had occipital nerve block which at least initially appear to be helpful but eventually was unhelpful. She also underwent numerous treatments with physical therapy although she never seemingly consistently followed up with the sessions and these were never effective. She also was treated with myofascial release unsuccessfully. She was offered Botox therapy but refused this. She was never treated with neuroleptic medications. Her various diagnosis throughout these many years were uncontrolled headaches, some people felt she had fibromyalgia and no one thought she ever had a definite radiculopathy. Eventually she was also diagnosed chronic left shoulder girdle mild fascial pain syndrome and headaches. At one time during her workup at the pain clinic at Pittsburgh she had a psychological evaluation with suggested she had an apathetic mood, was depressed and was still grieving the death of her son from a motor vehicle accident that occurred in July, 1998. She never did follow-up as directed at the pain clinic. Once again at times she has refused different therapeutic modalities. In addition the patient was diagnosed with osteoporosis involving the lumbar spine and femoral neck and intratrochanteric areas in 2000.

After reviewing these multiple records but without having taken a history from the patient herself or examining the patient I have reached an opinion regarding this case. The patient's major complaints did start after an apparent whiplash injury occurring during the motor vehicle accident of September, 1998 but unequivocally there is documentation of previous similar complaints and treatment for headaches and neck pain. In addition at no time has there been any documented evidence through multiple diagnostic tests to suggest any objective structural problems that occurred secondary to this September, 1998 accident. Whiplash injuries are well known to be a transient problem that should heal easily and fairly quickly. Certainly studies in multiple other cultures have revealed that whiplash injury complaints rarely last more than 10 days. In addition fibromyalgia is not a diagnosis that specifically occurs secondary to trauma. Certainly patients with migraine headaches can worsen after a whiplash injury and not surprisingly this is the symptom that has responded best to treatment. Almost always post traumatic worsening of headaches improve with time and treatment. In addition her osteoporosis has no relationship to the motor vehicle accident of September, 1998. At this time I believe her diagnosis is most consistent with a nonspecific chronic pain syndrome without objective abnormalities by diagnostic testing or examination and with probable underlying emotional factors as discussed in reports from UPMC in 2000. Certainly there is nothing from the history or repetitive examinations or lack of treatment responses to support her claims that the severe pain since the accident is actually related to the accident.

Sincerely,



Dr. Stuart M. Olinsky

c.c. Katherine Oliver

McQuaide Blasko
811 University Drive
State College PA 16801-6699

EXHIBIT C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :

DEFENDANT'S SPECIAL POINTS FOR CHARGE

KATHERINE V. OLIVER
I.D. No. 77069
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
SUSAN TURNER-BETTS

Defendant's Proposed Point for Charge #1:

Under all the law and the evidence, you must return a verdict in favor of the Defendant Susan Turner-Betts and against the Plaintiffs.

Given

Refused

Modified

Defendant's Proposed Point for Charge #2:

The Plaintiffs, Rodney and Judith Jordan, have the burden of proving by a preponderance of the evidence that a causal relationship exists between the automobile accident of September 19, 1998 and the injuries alleged by Ms. Jordan. In order to meet that burden, the Plaintiffs must introduce unequivocal expert medical testimony that such a relationship exists. If you find that the Plaintiffs have not met that burden with respect to any of the claimed injuries, then you should not include any compensation for such injuries in your verdict.

McArdle v. Panzek, 262 Pa. Superior Ct. 88, 396 A.2d 658 (1938); Albert v. Alter, 252 Pa. Superior Ct. 203, 381 A.2d 459 (1977); Stathas v. Wade Estate, 251 Pa. Superior Ct. 269, 380 A.2d 482 (1977); Smith v. German, 434 Pa. 47, 253 A.2d 107 (1969); Florig v. Sears Roebuck & Co., 388 Pa. 419, 130 A.2d 445 (1957).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #3:

The fact that the Defendant, Susan Turner-Betts, was negligent, and responsible for the occurrence of the accident, does not in and of itself prove that the Plaintiffs are entitled to the recovery of any damages. Plaintiffs must still prove that this negligence was a substantial factor in bringing about Judith Jordan's injuries.

Gigliotti v. Machuca, 409 Pa. Superior Ct. 50, 597 A.2d 655 (1991).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #4:

The Plaintiffs have the burden of proving each and every element of damage which they seek. It is not up to the Defendant to disprove an element of damage.

Kmiotek v. Anast, 350 Pa. 593, 39 A.2d 923 (1944).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #5:

The issues of whether the Plaintiffs have really suffered or sustained any of the damages they claim, and whether any of these damages were actually caused by the Defendant, is for you, the jury, to decide.

Holland v. Zelnick, 329 Pa. Superior Ct. 469, 478 A.2d 885 (1984); Broadhead v. Brentwood Ornamental Iron Company, Inc., 435 Pa. 7, 255 A.2d 120 (1969); Morgan v. Philadelphia Electric Co., 299 Pa. Superior Ct. 545, 445 A.2d 1263 (1982).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #6:

You may not award damages based on guess, speculation, or conjecture, or on the possibility that there may or could have been harm in the past. Only damages that are proven with reasonable certainty are recoverable.

Kearns v. Clark, 343 Pa. Superior Ct. 30, 493 A.2d 1358 (1985).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #7:

The Plaintiffs must prove that each of their injuries and damages were with reasonable certainty caused by the Defendant's negligence. The mere "possibility" that the claimed injuries and damages could be related to the Defendant's negligence is not sufficient proof of causation. In such a situation, the Plaintiffs have not met their burden of proof on the item of injury or damage at issue, and you may not award Plaintiffs any damages for such items.

Gordon v. Trovato, 234 Pa. Superior Ct. 279, 338 A.2d 653 (1975); Rice v. Hill, 315 Pa. 166, 172 A. 289 (1934); Lorch v. Eglin, 369 Pa. 314, 85 A.2d 841 (1952); Baccare v. Mennella 246 Pa. Superior Ct. 53, 369 A.2d 806 (1976); American Air Filter Co., Inc. v. McNichol, 527 F.2d 1297 (3rd Cir. 1975).

 Given

 Refused

 Modified

 Refused, as covered in the general charge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

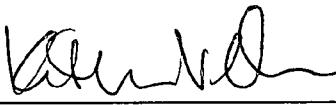
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Susan Turner-Betts' Pre-trial Memorandum in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 13th day of January, 2004, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
P.O. Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Attorneys for Defendant
SUSAN TURNER-BETTS

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

RODNEY JORDAN and :
JUDITH JORDAN, :
Plaintiffs, :
v. : Civil Action - Law
SUSAN TURNER-BETTS, : No. 00-1148-CD
Defendant. :
:

VIDEOTAPED
DEPOSITION OF: STUART M. OLINSKY, M.D.
TAKEN BY: DEFENDANT
BEFORE: LISA J. BERKE, RPR
NOTARY PUBLIC
DATE: APRIL 8, 2004, 2:05 P.M.
PLACE: WEST BRANCH NEUROLOGY
1824 EAST THIRD STREET
WILLIAMSPORT, PENNSYLVANIA 17701

APPEARANCES:

CHRIS PENTZ, ESQUIRE
315 East Locust Street
Clearfield, Pennsylvania 16830
FOR - PLAINTIFFS

MCQUAIDE, BLASKO LAW OFFICES
BY: KATHERINE OLIVER, ESQUIRE
811 University Drive
State College, Pennsylvania 16801
FOR - DEFENDANTS

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1 STIPULATION

2
3 It is hereby stipulated by and between counsel
4 for the respective parties that reading, signing,
5 sealing, certification, and filing are waived, and that
6 all objections will be made on the record for ruling by
7 the court.

8
9 THE VIDEOGRAPHER: Good afternoon. My name
10 is Thomas Blanchard of Blanchard's Video Service,
11 Towanda, Pennsylvania. Today's date is April 8th,
12 2004, and the time is 2:05 p.m. We are located at
13 the office of Dr. Olinsky, 1824 East Third Street,
14 Williamsport, Pennsylvania.

15 This deposition is being taken on behalf of
16 the Defendant for use of play back at the time of
17 trial in the case of Rodney and Judith Jordan versus
18 Susan Turner-Betts. Would the attorneys present
19 please introduce themselves and the clients they
20 represent?

21 MS. OLIVER: My name is Katherine Oliver
22 and I represent Susan Turner-Betts.

23 MR. PENTZ: My name is Chris Pentz and I
24 represent Mr. and Mrs. Jordan.

25 THE VIDEOGRAPHER: The name and the address

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3 BY DEFENDANT DIRECT CROSS REDIRECT RECROSS

4 STUART M.
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1 of the attorney taking the deposition is Katherine
2 Oliver, 811 University Drive, State College,
3 Pennsylvania. The name of the witness is Dr. Olinsky.
4 Would the court reporter please swear the witness?

5
6 STUART M. OLINSKY, M.D., called as a
7 witness, being sworn, testified as follows:

8
9 THE VIDEOGRAPHER: You may proceed.

10 DIRECT EXAMINATION

11 BY MS. OLIVER:

12 Q. Doctor, would you please introduce yourself
13 to the jury and tell them what it is that you do for a
14 living?

15 A. Yes. I'm Stuart Olinsky. I'm a
16 neurologist in Williamsport, Pennsylvania.

17 Q. And you said you're a neurologist. Is that
18 a medical doctor?

19 A. Yes, it is.

20 Q. And could you explain for us, please, what
21 the field of neurology entails?

22 A. Neurology entails the practice of seeing,
23 examining, diagnosing and treating medical

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| <p style="text-align: center;">5</p> <p>1 neurological diseases, such as seizure, headaches, 2 Parkinson's disease, multiple sclerosis, stroke. We 3 do not do neurosurgical procedures. We do all medical 4 diagnosis and treatment.</p> <p>5 Q. And as a -- as a neurosurgeon what does a 6 typical workday consist of for you, if you can say 7 that?</p> <p>8 A. Neurologist.</p> <p>9 Q. Or, I'm sorry, a neurologist. What does a 10 typical workday consist of for you?</p> <p>11 A. It mainly consists of office follow-ups and 12 evaluations for new consultations, and then going to 13 the hospital afterwards for further follow-ups and 14 consultations.</p> <p>15 Q. And those follow-ups and consultations, are 16 those with patients, I take it?</p> <p>17 A. Yes, they are.</p> <p>18 Q. And how long have you been a neurologist, 19 Dr. Olinsky?</p> <p>20 A. It depends how you just look at it. I've 21 been a neurologist, if you count neurology residency, 22 25 years, but I've been in practice 22 years.</p> <p>23 Q. And over those 22 years has it been fairly 24 routine for you to see patients who have symptoms such 25 as neck pain, shoulder pain, headaches, those kinds of</p> | <p style="text-align: center;">7</p> <p>1 you -- you're referring to a document in front of you; 2 is that right?</p> <p>3 A. For the dates, I looked at them.</p> <p>4 Q. And what is the document you're referring 5 to, Dr. Olinsky?</p> <p>6 A. This is my curriculum vitae.</p> <p>7 MS. OLIVER: And we'll mark that as defense 8 Exhibit 12. 9 (Defendant's Exhibit No. 12 was marked for 10 identification.)</p> <p>11 BY MS. OLIVER:</p> <p>12 Q. Are you -- do you have what's called a 13 board certification, Dr. Olinsky?</p> <p>14 A. Yes, I do.</p> <p>15 Q. And could you just explain very briefly 16 what that is?</p> <p>17 A. After you've been out of your residency 18 program for one year, you're then required to take a 19 written examination, and if you pass the written 20 examination, within the next six months you're 21 required to take an oral examination, and I did that 22 in 1982, I believe, and then I passed on both -- both 23 the first try and then you become board certified.</p> <p>24 Q. And just to be clear, you hold a medical 25 license in Pennsylvania; correct?</p> |
| <p style="text-align: center;">6</p> <p>1 issues?</p> <p>2 A. We see -- we see those a lot.</p> <p>3 Q. And again, your job entails seeing patients 4 on a daily basis; is that right?</p> <p>5 A. Yes.</p> <p>6 Q. And would you please give us a brief 7 description, if you can, of your educational 8 background and any training leading to your becoming a 9 practicing neurologist?</p> <p>10 A. Sure, sure. I graduated from Rutgers 11 University with a B.A. in 1972. I graduated from the 12 College of Medicine & Dentistry in New Jersey which, 13 really, by the time I graduated really became the 14 University of New Jersey, and that was in 1976. I did 15 a year of internal medicine practice the next year. 16 That was up until 1977.</p> <p>17 I then didn't know what I wanted to be when 18 I grew up, so I took a year off and worked in the 19 emergency room at Nyack, New York. That was in 1978. 20 I then returned to a neurology residency program, 21 which ended in 1981. And basically, from that program 22 I came to Williamsport and set up a private practice, 23 solo at that time, and then ended up taking in a 24 partner some eight, nine years ago.</p> <p>25 Q. And did you have that all memorized, or are</p> | <p style="text-align: center;">8</p> <p>1 A. Yes, I do.</p> <p>2 Q. Are there any hospital affiliations that 3 you have in addition to your own private practice 4 you've talked about?</p> <p>5 A. Yes. We are affiliated with the 6 Williamsport Hospital, which now really is the 7 Susquehanna Health System. So what used to be 8 Williamsport and Divine Providence Hospital, that's 9 our main setting, but we also go to Jersey Shore 10 Hospital and Muncy Valley Hospital. We used to go 11 down to Evangelical, but because they have two 12 neurologists down there, that seemed to be a little 13 extra traveling for nothing at this point, so . . .</p> <p>14 Q. And I noticed from your C.V. that you -- 15 you are an instructor for the Williamsport Hospital 16 family practice residency program?</p> <p>17 A. Yes. We have -- we have given -- actually, 18 last year was the first year that we did not have 19 people coming to our office, and that's only because 20 we took in a P.A. and we felt that we had to really 21 get that set up, but we're going to be doing that 22 again. But we do lecture them. They typically rotate 23 through our office.</p> <p>24 Q. So are you teaching -- teaching students to 25 become doctors, or teaching doctors to --</p> |

1 A. No, no. Actually, what we're trying to do
 2 is raise their awareness of neurology and what they
 3 should be looking for and not looking for, and
 4 hopefully teaching them when they need us and when
 5 they don't need us. So basically it's a rotation they
 6 go through because family docs have to take care of
 7 everything, so that's why they come here.

8 Q. And would it be fair to say that both your
 9 practice and seeing patients and the instructor
 10 position, if you will, you've just described requires
 11 you to keep current and abreast of any changes and
 12 developments in the field of neurology?

13 A. Yes, it does.

14 MS. OLIVER: Any questions on cross?

16 CROSS EXAMINATION ON QUALIFICATIONS

18 BY MR. PENTZ:

19 Q. Doctor, my name's Chris Pentz and I just
 20 have a couple questions in this area. I know that
 21 there has been a suit by a Meredith L. Powell filed
 22 against you.

23 MS. OLIVER: Objection.

24 THE VIDEOGRAPHER: Off the record 2:11.

25 (Discussion off the video record.)

1 that area for purposes of however the judge rules on
 2 this part of the deposition so we can clean it up.

3 MS. OLIVER: And so just going forward, so
 4 we're clear, any questions along this line, my motion
 5 to strike is moving forward and my objections moving
 6 forward so I don't have to interrupt.

7 MR. PENTZ: Absolutely.

8 THE WITNESS: Can I ask a question?

9 MS. OLIVER: Let's go off the record for a
 10 minute.

11 (Discussion off the record.)

12 MS. OLIVER: As I understand it, we've had
 13 an off-the-record discussion. Dr. Olinsky is
 14 extremely offended by the line of questioning, which
 15 is understandable, and there will be one follow-up
 16 question by Attorney Pentz which we have agreed
 17 beforehand I have a motion to strike about and I have
 18 objected to as being, you know, just not at all
 19 permissible and extremely prejudicial.

20 THE VIDEOGRAPHER: On the record 2:16.

21 BY MR. PENTZ:

22 Q. Doctor, my question is: Has there been any
 23 actions, disciplinary actions, taken against you as a
 24 result of that suit?

25 A. No, there has not.

1 MS. OLIVER: I guess I want an offer of
 2 proof on this because if you're going to be talking
 3 about lawsuits involving Dr. Olinsky, it's, number
 4 one, depending on what your offer is, but I'm going to
 5 say not at all within the scope of permissible cross
 6 examination, not pertinent to show bias, impeachment,
 7 et cetera, and very prejudicial to the defense, so I
 8 move to strike.

9 MR. PENTZ: My purpose is going to be to
 10 see if there was any disciplinary actions that were
 11 taken against the Doctor by any licensing board or
 12 anything of that nature. That's the purpose of it.

13 MS. OLIVER: Well, why do you need to be
 14 talking about a lawsuit filed against him?

15 MR. PENTZ: Well, I was wondering whether
 16 one was generated as a result of this lawsuit, which
 17 would go to qualifications. If you want me to, I can
 18 ask it in some other area. It doesn't matter.

19 MS. OLIVER: Well, again, unless you have
 20 some evidence or indication to share with us that
 21 there has been a disciplinary action and sanction, I'm
 22 going to object to any questioning along those lines
 23 as extremely prejudicial and beyond any permissible
 24 impeachment purposes.

25 MR. PENTZ: Okay. I'll keep it brief in

1 MR. PENTZ: I have no further questions.
 2 Thank you.

3 MS. OLIVER: At this point we'd offer
 4 Dr. Olinsky as a medical expert, particularly in the
 5 subfield of neurology.

6 MR. PENTZ: No objection.

7 CONTINUED DIRECT EXAMINATION

9 BY MS. OLIVER:

11 Q. Dr. Olinsky, at my request did you review
 12 various medical records regarding Judith Jordan, the
 13 Plaintiff in this case?

14 A. Yes, I did.

15 Q. And do you have -- it looks like you have a
 16 stack of records in front of you. Is that
 17 representative of the records that you have reviewed?

18 A. Yes, they are.

19 MS. OLIVER: And are you able to -- to kind
 20 of focus in on that for a moment, just so the jury can
 21 see the breadth of those records?

22 BY MS. OLIVER:

23 Q. Dr. Olinsky, you did not examine
 24 Mrs. Jordan, did you?

25 A. I did not.

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| <p style="text-align: center;">13</p> <p>1 Q. And you are not here, are you, to comment 2 or offer opinion on whether or not Mrs. Jordan 3 actually experiences any of the complaints or symptoms 4 that she is claiming in this lawsuit, are you?</p> <p>5 A. I am not.</p> <p>6 Q. In addition to various medical records 7 pertaining to Mrs. Jordan, did you also have available 8 for your review prior sworn testimony by Mrs. Jordan 9 that she gave in a deposition in this lawsuit?</p> <p>10 A. I do.</p> <p>11 Q. And had I asked you to review Mrs. Jordan's 12 records for the purpose of analyzing whether, in your 13 best medical judgment, the -- the pain complaints that 14 Mrs. Jordan claims or brings were the result of a car 15 accident that took place on September 19th, 1998?</p> <p>16 A. Yes.</p> <p>17 Q. And by the way, Doctor, were you 18 compensated for your time and expertise in evaluating 19 this case and reviewing all these records?</p> <p>20 A. I was.</p> <p>21 Q. Did the records that you reviewed include 22 records of Mrs. Jordan's health history from both 23 before and after the car accident of September 1998?</p> <p>24 A. Yes.</p> <p>25 Q. And we're here today because Mrs. Jordan</p> | <p style="text-align: center;">15</p> <p>1 suffered what we would call a whiplash injury. 2 Whiplash injuries are usually forward flexion, rapid 3 extension backwards, and leads to often neck 4 complaints and sometimes even can cause headaches, 5 both of which she had.</p> <p>6 But whiplash injuries are transient 7 problems that heal on their own and certainly heal 8 with appropriate therapy, both of which she had, and 9 instead of healing, they have not improved at all.</p> <p>10 Well, that's not true. The headaches have improved, 11 but the neck pain hasn't improved.</p> <p>12 Q. And you said -- let me just back up -- 13 whiplash injuries are transient problems. What did 14 you mean by transient?</p> <p>15 A. What I mean is that if you have an accident 16 and you do not suffer a specific injury, such as a 17 fracture, dislocation of the neck, or a skull 18 fracture, or something to that extent, or a herniated 19 disk, whatever, then a whiplash injury tends to be 20 something that actually will heal by itself, and 21 certainly will heal even faster with appropriate 22 therapeutic options.</p> <p>23 And that has been shown to be the case in 24 numerous studies in many different areas. And the 25 less you can show a specific objective problem by any</p> |
| <p style="text-align: center;">14</p> <p>1 claims that she suffered an injury in that car 2 accident that continues to cause her pain in her neck 3 and left arm and shoulder area. And again, you're not 4 here to comment on whether she actually feels that 5 pain subjectively, are you?</p> <p>6 A. No.</p> <p>7 Q. And after reviewing all of the available 8 medical records from both before and after the 9 accident, and based on your years of experience in 10 treating patients and in dealing with patients with 11 pain complaints like those asserted by Mrs. Jordan, 12 did you form an opinion as to whether Mrs. Jordan's 13 continuing, kind of long-standing, if you will, 14 complaints can be attributed to the car accident that 15 this lawsuit is about?</p> <p>16 A. I felt that from reviewing the records, 17 both before and after the accident, I did not believe 18 that the continued complaints that she had were 19 directly related to the accident from 1998.</p> <p>20 Q. And when you reviewed those records, did 21 you form any opinion as to whether there had been any 22 type of injury to Mrs. Jordan in the car accident of 23 September 1998?</p> <p>24 A. Yes. It seems as if, from the accident 25 report, from the records I read, is that she probably</p> | <p style="text-align: center;">16</p> <p>1 means of neurodiagnostic testing or others, then it 2 tends to be something that heals on its own and not 3 something that should give you a long-term problem.</p> <p>4 Q. So just to be clear, as far as the whiplash 5 injury, is that something you believe would have 6 resolved in Mrs. Jordan?</p> <p>7 A. It should have resolved, yes.</p> <p>8 Q. In forming your conclusion that 9 Mrs. Jordan's long-standing complaints are not related 10 to the September 1998 car accident, did you review and 11 rely on documents relating to Mrs. Jordan's medical 12 history as it were even before the car accident that 13 this lawsuit is about?</p> <p>14 A. Yes.</p> <p>15 Q. Did you also rely on documents showing care 16 and treatment patterns from after the car accident?</p> <p>17 A. Yes.</p> <p>18 Q. And are records of other medical providers 19 the type of information that is reasonably relied upon 20 by doctors in your field in treating patients and 21 forming conclusions?</p> <p>22 A. It's quite helpful.</p> <p>23 Q. And did you also, in analyzing the records 24 available to you, rely on your own medical expertise 25 and training and your years of treating patients to</p> |

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| <p>1 appropriately analyze that information?</p> <p>2 A. Basically that's what I did. I went back 3 and read the reports, both subjective, their objective 4 examinations, then I read about their treatment and 5 her response to it and all the neurodiagnostic tests, 6 and by analyzing all of those factors, I came to my 7 conclusion at this time, you know.</p> <p>8 Q. And did you, Dr. Olinsky, write a report 9 setting forth your conclusions at my request?</p> <p>10 A. Yes, I did.</p> <p>11 (Defendant's Exhibit No. 13 was marked for 12 identification.)</p> <p>13 BY MS. OLIVER:</p> <p>14 Q. I'm going to hand you Defendant's Exhibit 15 13 and ask you to identify that, please?</p> <p>16 A. That's the report that I generated from my 17 review which I had done on December 2nd, 2003.</p> <p>18 Q. Now, you just mentioned having reviewed 19 various tests, I believe, in -- in coming to your 20 conclusions. Could you explain for the jury the kinds 21 of tests that were done and that you looked at, along 22 with the results that were documented?</p> <p>23 A. Sure. She had a number of tests done. She 24 had the prototypical routine cervical spine x-ray 25 which was done on September 29, 1998, and was reported</p> | <p>17</p> | <p>1 spinal cord, and if you have stenosis, that can also 2 cause problems. And she had no disk herniations 3 either.</p> <p>4 Q. What's the significance of that?</p> <p>5 A. Disk herniations are -- the spine is 6 buffered in between by disks that are -- should be in 7 alignment with the spine, and not having part of that 8 disk, which is what's called the nucleus pulposis, 9 herniating outwards.</p> <p>10 And lots of people have that for lots of 11 reasons, aging, injury, whatever reason, and if it 12 herniates and sits on the spinal nerve, it causes pain 13 and that's what everybody hears about radicular pain.</p> <p>14 If it herniates large amounts and it presses on the 15 spinal cord, you can get a spinal cord problem. So 16 very often you can get neurological syndromes and pain 17 syndromes from a herniated disk.</p> <p>18 Q. But am I correct that that's not something 19 that Mrs. Jordan had? She did not have a herniated 20 disk?</p> <p>21 A. No, she did not have those, not at all. So 22 those -- and that was true of all three of those 23 different MRIs done basically over a six-month -- 24 six-month period of time.</p> <p>25 Q. Did the MRIs that you reviewed, any of the</p> | <p>19</p> |
| <p>1 as normal.</p> <p>2 Q. And that would be ten days later?</p> <p>3 A. Ten days later, yes.</p> <p>4 Q. Thank you.</p> <p>5 A. I should mention here again, I did not see 6 any of the actual reports -- I mean, the actual films 7 or whatever. These are all reports. Okay. She also 8 underwent a CT scan of the cervical spine. That was 9 on December 7th, 1998. That would be approximately 10 four months afterwards, and that also was read as 11 normal, other than what I call a nonspecific 12 hemangiomas of the C7 and T1 vertebrae, and that's a 13 very common finding that really has no major clinical 14 significance, but we do see that a lot.</p> <p>15 Q. Is that something that is related to the 16 car accident?</p> <p>17 A. That has no relationship to the car 18 accident whatsoever. She also had numerous cervical 19 MRIs. The dates of those were November 11th, 1998, 20 August 27, 1999, and June 29, 1999, and these showed 21 no significant stenosis.</p> <p>22 Stenosis, by definition, if I can interject 23 right here, is just a narrowing of the spinal canal. 24 The spinal canal is basically made up of the spine 25 itself and you have a certain amount of room for your</p> | <p>18</p> | <p>20</p> <p>1 MRIs, show any degenerative changes, or what we might 2 think of as arthritis changes?</p> <p>3 A. I'd have to go back and look at that, but I 4 believe that the answer was yes, and I -- because I 5 know they did have some degenerative changes, but I 6 didn't mention that specifically in the report because 7 I was thinking more along neurological diseases.</p> <p>8 Q. Let me hand you a copy of what's been 9 marked as Defendant's Exhibit 7 -- one moment, 10 please -- and ask you to identify that, please?</p> <p>11 A. Yes, I will. It's an MRI of the cervical 12 spine -- I'm looking for the date and it's hard to 13 find -- from November 11, '98, and it does say minimal 14 posterior spurring. Spurring is another way of saying 15 some arthritis changes, and it's -- it's at multiple 16 levels from C4 through C7.</p> <p>17 Q. And would those arthritis changes have been 18 related to the car accident this lawsuit is about?</p> <p>19 A. No.</p> <p>20 Q. You've mentioned now, I think, some MRIs, 21 an x-ray, a CAT scan. Were there other tests that you 22 looked at as well?</p> <p>23 A. Yes. There was also an MRI of the brain 24 and that was done on 11/11/98, and that was reported 25 as normal as well. She also had an EMG/nerve</p> | <p>20</p> |

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| <p>21 1 conduction velocity done, and that was done twice, 2 one -- 3 Q. What is that? 4 A. Okay. That's an electrophysiological test, 5 and basically what they do is they stimulate the 6 nerves with a shock to see if your nerves are 7 functioning normally, and the EMG part of that is to 8 -- is to test the muscle and its response to the 9 nerves, although on occasion, depending on what you're 10 looking for and why you're doing the test, you can 11 actually have a primary muscle disease, but in her 12 case that's not what they were looking for. They were 13 looking for a response to the nerves, and that can be 14 done in a lot of different areas. 15 Q. And from your review of those EMG/nerve 16 conduction studies, what were the -- what was your 17 conclusion based on those reports? 18 A. Well, that the -- the study did not show 19 anything to suggest a definite radiculopathy. She had 20 some -- what was called minimal fibrillation 21 potentials at the C6-C7 area of the paraspinal 22 muscles, and those are the muscles that run right 23 along the spine itself. And that is very nonspecific, 24 for a couple of reasons. One, if you do have 25 arthritis changes, that could be related somewhat to</p> | <p>23 1 muscles of the extremities. 2 Q. And you keep referring to radiculopathy and 3 radicular problem. What is that? 4 A. The most common cause of radicular 5 complaints in people is a herniated disk that comes 6 out at a certain level, tends to go off to the side 7 laterally, and as it does so, it presses on the nerve 8 root that's exiting from the spinal cord, through the 9 foramina of the spine, and then going out to where 10 it's supposed to go, and that can be a very painful 11 process. 12 Sometimes if you have bad arthritis over 13 the years, you know, the arthritis can actually 14 encroach on the opening, therefore, put pressure on 15 the spine -- on the nerve roots as well and that, too, 16 can give you a radicular quality. 17 And that just means that when you take the 18 history, the pain is going to follow the distribution 19 of the nerve. So that, you know, a C4-5 radiculopathy 20 is going to sound a little bit different than a C5-6 21 and a C6-7, a C7-8, T1. And so that's what I mean by 22 radicular; that it travels down the appropriate 23 extremity in the distribution of the nerve root that's 24 being compromised. 25 Q. And again, looking at the EMG/nerve</p> |
| <p>22 1 the afferent dorsal nerves. But number two -- 2 Q. And what are dorsal nerves? 3 A. They're -- when the nerves come out, they 4 have different branches. Some go around the back of 5 the spine and some come out through the spine and go 6 out to your -- your muscles of your arms and legs and 7 thorax. 8 But they're also notoriously difficult to 9 obtain, harder to relax them. It's more difficult to 10 read whether this is a real finding or not real 11 finding, and almost always they are done in 12 association with the rest of the examination to see 13 that, aha, it's C6-C7 paraspinal muscles. Oops, let's 14 go look at the C6-7 muscles of the arm, which would be 15 the biceps and the deltoids, et cetera. They should 16 also be having abnormalities if there's really a 17 problem, from a radicular point of view, and they did 18 not. So I think it was a very nonspecific finding. 19 Q. I'm sorry. To be clear again, you're 20 saying they did not show any -- 21 A. Right. 22 Q. -- radicular problem? 23 A. Well, what happens is there was no, what we 24 would call, denervation potentials or fibrillation 25 potentials or positive sharp waves in the C5-C6</p> | <p>24 1 conduction studies, did those show any indication or 2 any objective evidence that Mrs. Jordan had that kind 3 of radicular pain pattern or radiculopathy you've just 4 talked about? 5 A. No, they did not. I think those were the 6 main -- the main studies. 7 (Defendant's Exhibit Nos. 14 and 15 were 8 marked for identification.) 9 BY MS. OLIVER: 10 Q. I'm going to ask you to -- we'll try to do 11 this together to save some time -- look at exhibits -- 12 defense Exhibits 14 and 15 and to identify those, 13 please? 14 A. This is a cervical spine x-ray. It's just 15 a routine x-ray, and this was done 9/29/98. I think 16 this was the one I referred to that occurred ten days 17 or so after the accident, and the impression was 18 normal cervical spine. 19 Q. And then Exhibit 15, is that the CT scan 20 you had referred to that was also normal? 21 A. Yes. This was the one done 12/7/98 and 22 this was considered normal. 23 Q. So in sum, Doctor, as far as these tests 24 that you looked at, would it be fair to say that none 25 of those tests showed any evidence of an injury</p> |

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| <p>25 related to the September 1998 car accident we're here 2 about?</p> <p>3 A. Yes, that's true.</p> <p>4 Q. And did you also, in reviewing 5 Mrs. Jordan's various records, review documentation of 6 physical examinations conducted by different doctors 7 over the years?</p> <p>8 A. Yes, I did.</p> <p>9 Q. And in reviewing those physical 10 examinations, was there anything that pointed to some 11 injury that was related to the car accident of 12 September 1998?</p> <p>13 A. Can I ask you to refine that? In other 14 words, you're asking if there was an objective finding 15 on exam?</p> <p>16 Q. I am. Beyond Mrs. Jordan's -- let me back 17 up. That's a good point. Beyond the pain complaints 18 that Mrs. Jordan would -- would make, did -- was there 19 anything found on physical examination that you 20 believe showed indicia of an injury related to the car 21 accident of September 1998?</p> <p>22 A. No. There was really -- in looking back 23 over the multiple examinations, there was really no 24 objective abnormalities to suggest any type of major 25 injury.</p> | <p>27 similar complaints when you -- especially when you 2 review Dr. Williams', the chiropractor, notes. I have 3 from 1990, '92, '94, and multiple visits in 1995. If 4 you look at his primary complaint, it's headaches and 5 neck pain.</p> <p>6 Q. I'm going to hand you a copy of Defendant's 7 Exhibit 8 and ask if you would identify that, please?</p> <p>8 A. Yes. This is -- this is the record -- 9 these are records of visits, multiple visits, of the 10 patient to Dr. Williams.</p> <p>11 Q. And does that Exhibit 8 include 12 Dr. Williams' visits from after the car accident we're 13 here about, or is that kind of limited to the 14 preaccident complaints?</p> <p>15 A. The ones you're showing me right now --</p> <p>16 Q. Yes.</p> <p>17 A. -- are preaccident.</p> <p>18 Q. Thank you. Based -- from -- from reviewing 19 the records, again, do you know, or are you able to 20 tell whether Mrs. Jordan had been reporting to the 21 doctors she went to see after the -- the September '98 22 car accident, whether she had been telling them about 23 the past complaints and treatment history of her neck 24 and headaches complaints?</p> <p>25 A. Yes, and not -- not only does she tell him</p> |
| <p>26</p> <p>1 Q. And in more general terms, of what 2 significance were those various test results that we 3 just talked about to your ultimate conclusion that 4 Mrs. Jordan's long-standing complaints are not related 5 to the car accident that we're here about?</p> <p>6 A. I think what those tests show is that there 7 is no objective changes, certainly in a neurological 8 system or muscle system, that is permanent or 9 objective to suggest that the accident did anything 10 structurally. There was no -- there is no 11 dislocations, there is no fractures, there is no 12 herniations, there is no stenosis, there is -- there's 13 no muscle damage or nerve damage on EMGs, there's no 14 brain MRI abnormalities that suggest there's anything 15 in the brain going on. And so what happens is, is by 16 examination and by history and by neurodiagnostic 17 testing, her complaints remain totally subjective.</p> <p>18 Q. And in reviewing the -- the records from 19 Mrs. Jordan's care, those records that are available, 20 you also reviewed records regarding Mrs. Jordan's 21 medical history from before the car accident; right?</p> <p>22 A. Yes, I did.</p> <p>23 Q. And what, if anything, did you find to be 24 pertinent in those records?</p> <p>25 A. Well, I found that the patient did have</p> | <p>28</p> <p>1 about these, but there are at least a couple of times 2 where she -- where -- excuse me -- doctor -- 3 Dr. Williams? I don't know if a chiropractor is -- 4 Mr. Williams. I'm not sure. But the chiropractor has 5 mentioned that there -- these pains are just coming 6 on, no trauma, no injury, no triggering event, comes 7 in just with the same complaint. And if you read it 8 each time, it's headache, neck and right upper dorsal 9 pain, which is shoulder. I mean, it's just 10 consistently the same complaint.</p> <p>11 Q. Do you -- from reviewing the records of 12 Mrs. Jordan's care after the accident though, do you 13 know whether she had been telling her -- her doctors, 14 not the chiropractor, but her medical doctors, that 15 she had had that past history?</p> <p>16 A. No. On a number of occasions the history 17 was that there was no past, previous problems similar 18 to what she was complaining about.</p> <p>19 Q. I'm going to hand you what's been marked as 20 Defendant's Exhibit 9 and ask you to identify that, 21 please?</p> <p>22 A. Okay. This is a Regional Medical Center -- 23 I believe it's the emergency room record.</p> <p>24 Q. Is that from after the car accident we're 25 here about, or is that from a different time?</p> |

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| | <p>29</p> <p>1 A. This is from 1/3/97.</p> <p>2 Q. So --</p> <p>3 A. So that would have been pre -- preaccident.</p> <p>4 Q. Okay. And by the way, did Mrs. Jordan even</p> <p>5 go to the emergency room on the day of the accident</p> <p>6 that we're here about today?</p> <p>7 A. No, she did not. My -- my -- my review of</p> <p>8 the records suggested that the first documentation of</p> <p>9 the complaint was September 29, 1998.</p> <p>10 Q. So in looking at that emergency room visit</p> <p>11 from 1997, which is sometime during the year before</p> <p>12 the car accident this lawsuit is about, are there any</p> <p>13 -- what on there, if anything, is significant as far</p> <p>14 as the past medical history?</p> <p>15 A. Well, she was in a car accident, it states</p> <p>16 here, on 1/2/96, and it says here she was unrestrained</p> <p>17 and she was given a collar because of neck complaints,</p> <p>18 in this case right-sided neck -- I'm trying to look at</p> <p>19 the exact word here. I can't really say exactly what</p> <p>20 the word is. This is all handwritten, so you have to</p> <p>21 forgive me.</p> <p>22 And she also -- oh, here it is. Right</p> <p>23 shoulder and right arm, and it says, pain and some</p> <p>24 pins and needles sensations as well, especially when</p> <p>25 turning her head to the left side.</p> |
| | <p>30</p> <p>1 Q. And you -- you stumbled there on the date.</p> <p>2 Do some of those records actually suggest that it was</p> <p>3 a 1996 accident and others a '97 accident?</p> <p>4 A. Yes. I suspect that the written is wrong.</p> <p>5 I suspect that it's wrong because the typed in is</p> <p>6 1/3/97 and the written says 1/2/96.</p> <p>7 Q. In looking through Exhibit --</p> <p>8 A. And I'm not --</p> <p>9 Q. -- 9, is there -- is there an x-ray report</p> <p>10 within that exhibit as well?</p> <p>11 A. In fact, here's a -- here's an easy one to</p> <p>12 read. Sorry. There is an x-ray report and that is</p> <p>13 from 1/3/97.</p> <p>14 Q. Okay. And what were the findings from that</p> <p>15 x-ray report?</p> <p>16 A. That one shows straining of the cervical</p> <p>17 spine, suggesting muscle spasm. .</p> <p>18 Q. Dr. Olinsky, what -- what significance do</p> <p>19 these documents showing that Mrs. Jordan actually had</p> <p>20 past problems with neck and arm pain and headaches</p> <p>21 have, if any, to your ultimate judgment that her</p> <p>22 continuing complaints aren't related to the car</p> <p>23 accident this lawsuit is about?</p> <p>24 A. I think -- I think they -- they -- a couple</p> <p>25 things. Number one, that the patient certainly did</p> <p>31</p> <p>1 not appear to be totally forthcoming in talking to</p> <p>2 many of her doctors about her previous problems and</p> <p>3 previous similar complaints.</p> <p>4 Number two, it suggests that she has had on</p> <p>5 and off problems that resolve with chiropractic</p> <p>6 manipulation, perhaps even resolve spontaneously.</p> <p>7 That the car accident, even if it did cause a whiplash</p> <p>8 injury, should again, once again, be transient since</p> <p>9 no definitive or structural or objective abnormalities</p> <p>10 have ever been found, and she should have gotten</p> <p>11 better from this like she got better from her other</p> <p>12 problems. And I think that you put it altogether and</p> <p>13 that's what should have been a very logical</p> <p>14 explanation or -- or outcome.</p> <p>15 Q. And, Dr. Olinsky, in patients you've seen</p> <p>16 over the years with pain complaints, and perhaps even</p> <p>17 with degenerative or arthritis changes, is it unusual</p> <p>18 for those kinds of patients to present to you with</p> <p>19 symptoms that are kind of on and off at different</p> <p>20 times?</p> <p>21 A. Good days, bad days. And, you know,</p> <p>22 arthritis exists, arthritis causes pain. The cervical</p> <p>23 neck is another joint. It's not a really -- like a</p> <p>24 finger joint or a knee joint or a hip joint, and</p> <p>25 certainly you're going to have good days and bad days.</p> <p>32</p> <p>1 And I'm not here to say that the whiplash</p> <p>2 injury didn't initiate a little worsening of her</p> <p>3 arthritic complaints, just because if you strain your</p> <p>4 shoulder playing basketball and you had some</p> <p>5 arthritis, you know, you're going to take some extra</p> <p>6 Bextra and you're going to do some minor exercises</p> <p>7 with it and it gets better. There's just nothing to</p> <p>8 suggest that this patient, here we are six years</p> <p>9 later, should be having continuous pain complaints</p> <p>10 because of that accident.</p> <p>11 Q. Is it also true that with the nature of</p> <p>12 arthritis type complaints that that's something you</p> <p>13 would expect to get worse over time and as somebody</p> <p>14 gets older, and not better?</p> <p>15 A. Well, that's -- that's -- certainly the</p> <p>16 arthritic changes on x-ray are going to worsen with</p> <p>17 time, and if it worsens with time and she's already</p> <p>18 had a history of intermittent neck complaints and</p> <p>19 shoulder complaints and headache complaints, then</p> <p>20 they're going to be referable back to the arthritis,</p> <p>21 that you suspect it will get worse with time and that</p> <p>22 the -- she will have more and more episodes. That's</p> <p>23 true.</p> <p>24 Q. In addition to those records that show us</p> <p>25 all this -- this history of pre-existing or</p> |

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| <p style="text-align: right;">33</p> <p>1 preaccident complaints, did you also review records 2 pertaining to Mrs. Jordan's care and doctor visits 3 after the September 1998 car accident?</p> <p>4 A. Yes, I did.</p> <p>5 Q. And I believe you already have alluded to 6 the fact that it was at least ten days or so before 7 Mrs. Jordan went to see any doctors after the 8 September '98 accident?</p> <p>9 A. That's true.</p> <p>10 Q. I'm going to hand you a copy of Defendant's 11 Exhibit 3 and ask you to identify that, please?</p> <p>12 A. This is a -- what appears to be a history 13 and physical by a Dr. Edward McVay, Occupational 14 Health Center. I can't tell you where the 15 Occupational Health Center is.</p> <p>16 Q. In looking at that record, Doctor, does 17 that appear to be the initial visit that Mrs. Jordan 18 had after her September '98 car accident?</p> <p>19 A. I have to tell you, from looking at this, 20 I'm not totally sure this is the one, only because I 21 have it written down as September 29 and this is -- 22 this says October 2.</p> <p>23 Q. Might I see that for just a moment, Doctor?</p> <p>24 A. Sure, sure.</p> <p>25 Q. Thank you. I'll hand that back. Can you</p> | <p style="text-align: right;">35</p> <p>1 migraine, and she denies any previous or prior history 2 of neck pain.</p> <p>3 Q. Dr. Olinsky, Mr. Pentz had asked questions 4 of other witnesses as to whether Mrs. Jordan's 5 complaints after the accident had all been limited to 6 either the left side or the right side. In reviewing 7 Mrs. Jordan's records, do you know whether there's 8 documentation of pain complaints on both sides after 9 the accident?</p> <p>10 A. I have to look that back up. I really 11 would. I can't remember that specifically.</p> <p>12 (Defendant's Exhibit No. 24 was marked for 13 identification.)</p> <p>14 BY MS. OLIVER:</p> <p>15 Q. I'll hand you copies of what I've marked -- 16 we'll start with defense Exhibit 24.</p> <p>17 A. Okay.</p> <p>18 Q. And can you identify what that is, please?</p> <p>19 A. Again, this is from Dr. McVay.</p> <p>20 Q. And the date of the record, please?</p> <p>21 A. The date of the record is October 12, 1998.</p> <p>22 Q. And if you go down to the physical 23 findings, what -- what would normally be in the 24 physical findings part of a record?</p> <p>25 A. The physical findings would be, in this</p> |
| <p style="text-align: right;">34</p> <p>1 read the first sentence there, or perhaps first two 2 sentences from that record, please?</p> <p>3 A. Okay. It says that this was initial 4 evaluation concerning neck pain following motor 5 vehicle accident on 9/19/98.</p> <p>6 Q. And then if you go down a little further, 7 is there any indication, just before you get into the 8 -- the history section, as to whether she had had any 9 treatment before that visit?</p> <p>10 A. There's a line here that says Mrs. Jordan 11 declined any treatment at that point, referring to the 12 time of the accident, and was concerned about 13 completing her job tasks.</p> <p>14 Q. If you look, Doctor, I don't -- right above 15 the past medical history section on that record.</p> <p>16 A. Oh, here it is, yes. That's far down.</p> <p>17 Okay. Yes, there's a line that says, "She has not 18 sought any medical attention until now."</p> <p>19 Q. And in that -- while we're on this record 20 in that past medical history section, is there -- what 21 does it say about whether she had had any prior 22 history of neck pain?</p> <p>23 A. What it says is that she had a childhood 24 history of migraine and she has -- that the current -- 25 the current headaches are different than her previous</p> | <p style="text-align: right;">36</p> <p>1 particular case, an examination of the neck, 2 shoulders, strength, coordination, outward pain.</p> <p>3 Q. Is there any indication in the physical 4 findings as to whether Mrs. Jordan had pain complaints 5 specific to either the right side or the left side, or 6 whether --</p> <p>7 A. Okay. Now, I'm just going to -- that's 8 history.</p> <p>9 Q. Okay.</p> <p>10 A. Okay. She -- if the patient's complaining, 11 that would be history.</p> <p>12 Q. But in the physical findings on this 13 particular record, Defendant's Exhibit 24 --</p> <p>14 A. Oh, I see.</p> <p>15 Q. -- is there any statement as to whether -- 16 as to where Mrs. Jordan's pain complaints were?</p> <p>17 A. It says that she had marked pain on 18 palpation of the C2-3 and right and left paraspinal 19 regions.</p> <p>20 Q. So that would be both sides --</p> <p>21 A. Both sides.</p> <p>22 Q. -- the right and the left side? And again, 23 that's from -- what did you say -- October 12th, '98?</p> <p>24 A. 12th, 1998, yes.</p> <p>(Defendant's Exhibit No. 25 was marked for</p> |

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| | 37 | | 39 |
| 1 identification.) | | 1 the initial complaints of neck, shoulder, head, the | |
| 2 BY MS. OLIVER: | | 2 headaches did get better. | |
| 3 Q. And I'm going to hand you what's been | | 3 (Defendant's Exhibit No. 16 was marked for | |
| 4 marked as Defendant's Exhibit 25, and is that also a | | 4 identification.) | |
| 5 record from Dr. McVay's office? | | 5 BY MS. OLIVER: | |
| 6 A. Yes, it is, and that's -- that would be | | 6 Q. I'm going to hand you a copy of Defendant's | |
| 7 eight days later, on the 20th of October 1998. | | 7 Exhibit 16. Is that one of the records you reviewed | |
| 8 Q. And again, looking to the -- the physical | | 8 pertinent to Mrs. Jordan's care after the motor | |
| 9 exam section, is there any indication of whether the | | 9 vehicle accident? | |
| 10 -- where the pain was? | | 10 A. Yes. This is again from Dr. McVay. | |
| 11 A. Yeah. It says that it's both midline and | | 11 Q. And looking to the second paragraph there, | |
| 12 right and left suboccipital -- suboccipital region. | | 12 is there any indication of what Mrs. Jordan was saying | |
| 13 Q. By the way, do you see any indication in | | 13 as far as her neck complaints? | |
| 14 there, or any documentation, of a trigger point? Does | | 14 A. Yes, that she has significant improvement | |
| 15 it state in there -- | | 15 in her neck pain. | |
| 16 A. No documentation of trigger point. | | 16 Q. And reading further from that record, is | |
| 17 (Defendant's Exhibit No. 26 was marked for | | 17 there any indication of whether she was having | |
| 18 identification.) | | 18 limitation in her ability to move her neck? | |
| 19 BY MS. OLIVER: | | 19 A. Yes. It says that the range of motion is | |
| 20 Q. Okay. Thank you. I'm going to hand you | | 20 nearly intact. | |
| 21 Defendant's Exhibit 26 and ask, again, is that a | | 21 Q. So that wasn't complete at that time; | |
| 22 record of -- of treatment from Dr. McVay? | | 22 right? | |
| 23 A. A week later. | | 23 A. No, but I guess that is implying that it | |
| 24 Q. So we're still within the first six weeks | | 24 was close. | |
| 25 or so after the accident; is that right? | | 25 Q. And how long after the accident is this | |
| | 38 | | 40 |
| 1 A. Yes. | | 1 report that you're looking at, just approximately? | |
| 2 Q. And again, looking to the physical exam, | | 2 A. Approximately three weeks. | |
| 3 Dr. Olinsky, is there any notation or documentation | | 3 (Defendant's Exhibit No. 18 was marked for | |
| 4 there as to whether Mrs. Jordan had complaints on her | | 4 identification.) | |
| 5 right side or her left side, or both? | | 5 Q. And as far as -- strike that. Let me hand | |
| 6 A. It says that she had it on both right and | | 6 you, Doctor, what I've marked as Defendant's Exhibit | |
| 7 left side. | | 7 18, which is a compilation of records provided to us | |
| 8 Q. And again, looking to that record, do you | | 8 by Dr. Williams, the chiropractor. Can you tell -- | |
| 9 see documentation of trigger points at that time? | | 9 give us a sense of the time of those -- the visits | |
| 10 A. No. | | 10 documented there? | |
| 11 (Interruption.) | | 11 A. This is from November 23, 1998, through | |
| 12 THE WITNESS: Can we go off the record? | | 12 June 30, 1999. | |
| 13 THE VIDEOGRAPHER: Off the record 2:52. | | 13 Q. So those are all visits from after the car | |
| 14 (Discussion off the record.) | | 14 accident -- | |
| 15 THE VIDEOGRAPHER: On the record 2:54. | | 15 A. From after the car accident. | |
| 16 BY MS. OLIVER: | | 16 Q. -- that we're here about; right? | |
| 17 Q. Dr. Olinsky, in reviewing Mrs. Jordan's | | 17 A. Correct. | |
| 18 medical records from over the years since her | | 18 Q. In looking through the -- the records from | |
| 19 automobile accident of September '98, is there any | | 19 -- we'll take 1998, in the beginning there, is there | |
| 20 documentation to show that Mrs. Jordan experienced | | 20 any indication there as to whether Mrs. Jordan was | |
| 21 periods of improvement from the symptoms she initially | | 21 experiencing any decrease in her symptoms or -- or | |
| 22 reported after the accident? | | 22 improvement, if you will? | |
| 23 A. Yes. There were -- there were times where | | 23 A. Yes. Certainly here it strikes me pretty | |
| 24 she seemed improved, yes. And I -- and I should say | | 24 obviously, in November of 1998 reports a decrease in | |
| 25 also that the headaches did seem to get better. Of | | 25 number and severity of headaches, paresthesias, which | |

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| <p style="text-align: right;">41</p> <p>1 is another word for numbness, of left arm pretty much 2 gone.</p> <p>3 Q. And is that in quotes, that pretty much 4 gone?</p> <p>5 A. Yes, it is. Two days later, generally 6 feeling better, still gets headaches. 12 of '98, 7 generally feels pretty good, still some occasional 8 neck pain and stiffness. These are just about weekly 9 visits, if not a little less, so -- I mean, basically, 10 if you read through them, you're getting the sense 11 that she's improved and then she has a little of this, 12 and then she improves a little bit and then she's 13 back. It does vary.</p> <p>14 Q. But would it be fair to say that there is 15 improvement noted in those records at times?</p> <p>16 A. Yes, there is.</p> <p>17 Q. And then again, she does -- the complaints 18 pick up again?</p> <p>19 A. Yes, they do. Actually, as you go along 20 here, they actually get -- become worse.</p> <p>21 Q. Looking at April of 1999, is there any 22 suggestion there that there was some exacerbation of 23 Mrs. Jordan's complaints? I think the visit is April 24 12th, 1999.</p> <p>25 A. Which one?</p> | <p style="text-align: right;">43</p> <p>1 for a follow-up for neck pain; is that right?</p> <p>2 A. Correct.</p> <p>3 Q. And what -- what does the second line of 4 that indicate as to whether she had experienced any 5 improvement?</p> <p>6 A. "Making excellent improvement until this 7 past Saturday."</p> <p>8 Q. And then again, what -- she was reporting 9 increased symptoms since that past Saturday?</p> <p>10 A. Correct.</p> <p>11 Q. And do you know, Dr. Olinsky, what 12 Mrs. Jordan's job is, and was at that time as well?</p> <p>13 A. I do know that she was a postal worker.</p> <p>14 There was -- there was at least one record that 15 mentioned something about a second job, but I'm not 16 sure what that was.</p> <p>17 Q. And do you have any knowledge as to -- in 18 her job for the post office, as to whether that 19 requires her to engage in fairly strenuous activity?</p> <p>20 I know that you indicated you looked at some 21 deposition testimony from Mrs. Jordan as well. Do you 22 have any recollection of that?</p> <p>23 A. Right, but I really do not have a 24 recollection of that, to tell you the truth.</p> <p>25 Q. If we assume that Mrs. Jordan -- or the</p> |
| <p style="text-align: right;">42</p> <p>1 Q. April 12th, 1999.</p> <p>2 A. Yeah. It basically says she has neck pain 3 and headaches that seem to be secondary to twisting in 4 an automobile to reach the back seat.</p> <p>5 Q. Again, that's something that would have 6 been reported by Mrs. Jordan herself; right?</p> <p>7 A. Correct. Although he has it under 8 objective, it's really a subjective complaint.</p> <p>9 Q. Does he -- is there some indication as to 10 whether Mrs. Jordan reported that or -- or the 11 chiropractor did?</p> <p>12 A. No. It says in parentheses, Patient 13 stated.</p> <p>14 (Defendant's Exhibit No. 19 was marked for 15 identification.)</p> <p>16 BY MS. OLIVER:</p> <p>17 Q. I'm going to hand you Defendant's Exhibit 18 19 and ask you to identify that, please?</p> <p>19 A. This is Dr. McVay's note from 12/15/98.</p> <p>20 Q. So we would be just a little over two 21 months, maybe two -- two months after the accident, or 22 three months?</p> <p>23 A. Three months.</p> <p>24 Q. In looking at the second line there -- 25 well, first of all, she was coming back because of --</p> | <p style="text-align: right;">44</p> <p>1 testimony and evidence in general will bear out that 2 Mrs. Jordan had to lift anywhere from 30 to 70 pounds 3 in her job on a regular basis, had to, you know, carry 4 packages back and forth to different houses, things of 5 that nature, what -- what significance, if any, would 6 that type of activity have with respect to the kinds 7 of complaints that Mrs. Jordan has presented with over 8 the years?</p> <p>9 A. I think there's a couple of -- of 10 relationships here, and I don't know which one to take 11 first. But, for instance, I just read from the 12 chiropractor that her head and neck pain got worse by 13 twisting around to reach something in the back seat, 14 and so obviously she had some little tendency there 15 for that.</p> <p>16 And so if you think about carrying a -- you 17 know, pushing even a cart or lifting up and carrying 18 and she has some arthritis changes, she's going to be 19 -- have a tendency to have neck and shoulder pain 20 anyway.</p> <p>21 So I think that that may even go back to 22 why she used to go to the chiropractor from 1990. The 23 chiropractor never mentioned she fell down the steps 24 or that she was in -- you know, had any kind of major 25 injury. She just would show up with her neck pain.</p> |

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| <p>1 And I think that when you do a job with 2 lots of lifting and bending, and so on, neck and 3 shoulder pains are common -- a common complaint, and I 4 think she demonstrated that through the years. So I 5 think -- yeah, I think there's a relationship between 6 the on and off character of the -- of the complaint. 7 Q. And, Dr. Olinsky, we're now here in, I 8 guess, the Spring of 2004 talking about a car accident 9 that happened back in the Fall of 1998. Are you able 10 to give the jury some sense of the treatment pattern, 11 if you will, in terms of whether Mrs. Jordan 12 continuously sought medical care during that entire 13 time period, or whether there were any significant 14 gaps in treatment? 15 A. No. There appears to be some gaps. There 16 appear to be times where she was scheduled for 17 follow-up and did not follow up. There appeared to be 18 things that she refused to try. And even having said 19 all that, she certainly went through a lot of 20 therapeutic options, both medical, in terms of 21 medications, in terms of physical therapy, in terms of 22 some trigger point injections, none of which, in fact, 23 seemed to be consistently helpful over time, and some 24 of which it didn't work at all, and some of which 25 actually seemed to worsen her symptomatology.</p> | <p>45</p> <p>1 to that course, are you able to point to any follow-up 2 visits, doctor visits, treatment that Mrs. Jordan had 3 in the year 2001 after she last stopped seeing 4 Dr. Shaffer early in that year? 5 A. I can't remember that exactly. When I -- 6 and the reason -- I apologize for my lack of memory of 7 this, but when I reviewed this, I did it through a 8 sense and I did not then document date-by-date in my 9 report to you what she did and did not go through. It 10 was just more of a sense of how this happened. So 11 when you ask me a specific question like that, I can't 12 always remember. 13 Q. But -- but did you have the sense from 14 reviewing the records that there were some, what I'd 15 call, fairly significant gaps in treatment? 16 A. Yes, there were gaps in treatment. 17 Q. Sometimes many months over the period we're 18 talking about where she didn't go to see any doctors? 19 A. Yeah. Unless it's possible that there are 20 records there that I did not review, no, there would 21 be gaps. 22 Q. In looking to Defendant's Exhibit 22, how 23 many physical therapy visits were there in that 2001 24 session, if you will? 25 A. Seven.</p> <p>47</p> |
| <p>1 But I think, again, you have to appreciate 2 that her symptoms are subjective and not objective 3 and, therefore, for her to say that it hurts more, is 4 a subjective -- is a subjective complaint and there's 5 just no objective documentation that there's anything 6 particularly wrong structurally. 7 (Defendant's Exhibit No. 22 was marked for 8 identification.) 9 BY MS. OLIVER: 10 Q. I'm going to hand you what's been marked as 11 Defendant's Exhibit 22 and ask if you can identify 12 that, please? 13 A. Yeah. This is a physical therapy discharge 14 summary from DuBois Regional Medical Center, dated 15 7/6/01. 16 Q. Is that a nine, 9/6/01? 17 A. Yeah. I have bifocals. I'm going to say 18 9/6/01. 19 Q. And so we know from this -- from this 20 record -- I mean, is it fair to say that we know 21 Mrs. Jordan at least had some physical therapy in the 22 Fall of 2001; right? 23 A. She did have physical therapy, yes. 24 Q. Other than -- than that physical therapy 25 and perhaps a family doctor visit that led her to --</p> | <p>46</p> <p>1 Q. And as far as the discharge reason, can you 2 tell us why Mrs. Jordan was no longer going to 3 physical therapy at that time? 4 A. It says here the goal was not met, 5 secondary to patient refused any treatments, other 6 than -- boy, I can't -- exercise, I think it says. 7 Again, I apologize about not being able to read the 8 handwriting. Refused modalities such as massage, and 9 another type of technique, and I'm have a little 10 trouble reading it. 11 Q. During the time that Mrs. Jordan was seeing 12 doctors with some regularity following the accident, 13 do you have any sense of whether she was consistently 14 following advice or recommendations that were made to 15 her? 16 A. I can't remember specifically, but I -- my 17 sense of having read over the notes from all the 18 doctors is that there were times where she didn't -- 19 did not follow the recommendations and didn't follow 20 up. I just don't remember, but I cannot be more 21 specific than that right at this moment. 22 Q. Had there been a -- do you recall reviewing 23 records from the University of Pittsburgh Medical 24 Center? 25 A. Yes.</p> <p>48</p> |

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| 1 Q. And -- 2 A. And that I -- the timing on that was -- I 3 can't remember the time on that, though. 4 Q. Okay. If -- if I represent that that visit 5 occurred in 2000, I mean, does that refresh your 6 recollection? 7 A. That sounds about right. I mentioned it, 8 but I just didn't put the date down. 9 Q. And do you know whether the -- the doctors 10 that Mrs. Jordan saw at University of Pittsburgh 11 Medical Center had made any recommendations and 12 suggested they could help her? 13 A. Yeah. They recommended that she follow up 14 at the pain clinic and she never returned for that 15 follow-up. 16 Q. And in addition to the -- to the University 17 of Pittsburgh Medical Center recommendation that she 18 never followed through on, have you noted in your 19 report other recommendations that Mrs. Jordan didn't 20 follow up on for one reason or another? 21 A. Well, she was offered Botox therapy and had 22 refused that as well. That's at least one. 23 Q. And we've just looked at a physical therapy 24 record? 25 A. Yeah, we looked at the physical therapy, | 49 | 1 think that -- I think it was significant that -- that 2 she had a son that died in a motor vehicle accident. 3 Shortly thereafter she's in a motor vehicle accident, 4 one of which there did not appear to be any major 5 injury, and yet here it is so many years later with 6 the same complaints, having not responded to 7 appropriate treatment modalities. So I think there 8 has -- there is a certain relationship there that 9 should be explored. 10 Q. And is it -- thank you -- fair to say that 11 that's something that would have warranted further 12 evaluation had Mrs. Jordan been reporting that to her 13 various doctors over the years? 14 MR. PENTZ: Off. 15 THE VIDEOGRAPHER: Off the record 3:11. 16 (Discussion off the video record.) 17 MR. PENTZ: My objection on that area would 18 be that he has stated that he doesn't, you know, 19 possess any expertise in the area of psychiatry/ 20 psychology and that it wouldn't be an appropriate 21 question based on his qualifications. 22 MS. OLIVER: Okay. 23 BY MS. OLIVER: 24 Q. Subject to that, are you able to answer? 25 THE VIDEOGRAPHER: On the record 3:11. | 51 |
| 1 and I can't remember any of the other ones. But, 2 yeah, that did happen. 3 Q. What did happen? 4 A. And those things did happen. 5 Q. Okay. In -- in looking at the records from 6 University of Pittsburgh Medical Center was there 7 anything else potentially significant about those 8 records that factors in any manner into your opinions 9 here today? 10 A. They did do a -- a neuropsychological 11 evaluation on the patient while she was there, which 12 is certainly not unusual in a -- in a pain clinic. 13 That's often part of the process. They did find that 14 she was apathetic and depressed, which often goes 15 together, and that she was still grieving the death of 16 her son from a motor vehicle accident. 17 Q. And is there anything potentially 18 significant about the fact that Mrs. Jordan was at 19 that point grieving the death of a son, about having a 20 tragic event like that? 21 A. Yes, I think there is, and I'm not -- I'm 22 going to state right up front that I am not a 23 psychologist and I am not a psychiatrist -- 24 Q. Fair enough. 25 A. -- and that's stated up front. But, yes, I | 50 | 1 Thank you. 2 THE WITNESS: What I would say is -- not to 3 answer it truly from a psychological point of view, 4 but what I would answer is, is that I would suspect, 5 knowing pain clinics, people -- clinics that are set 6 up to deal with pain, that it's not uncommon for them, 7 when they do come back, that part of the modality of 8 treatment is consistent with sociological and -- and 9 psychological help in dealing with the pain, not just 10 a trigger point injection, not just a set of 11 exercises. 12 So my suspicion would be is that when the 13 pain clinic of Pittsburgh asked her to come back, that 14 that -- and having noted already that she had this 15 apathetic mood and had some grieving issues, that they 16 would have dealt with her, or at least tried to deal 17 with her. 18 BY MS. OLIVER: 19 Q. Now, Dr. Olinsky, we -- we talked about a 20 lot of different kinds of information that you've said 21 bear on the opinions that you're giving here today, 22 and I know you've reviewed and analyzed a lot of 23 different records. 24 Could you -- could you explain for us in 25 general terms, I guess by way of summation maybe, how | 52 |

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| <p>53 1 the factors that we've discussed are significant to 2 your opinion that Mrs. Jordan's continuing complaints 3 cannot be attributed to the car accident this 4 lawsuit's about?</p> <p>5 A. I think that this patient has some 6 arthritic findings in her neck, which certainly 7 predate the accident, that probably in some way have 8 contributed to her intermittent complaints of neck 9 pain and shoulder pain that have been treated by 10 chiropractic treatment in the past; that typical of 11 that type of problem, they come and they go. And I 12 think that when she had her accident, I would not be 13 surprised at all that it exacerbated to some extent 14 those problems. They do that.</p> <p>15 But it doesn't appear by very good 16 neurodiagnostic testing and other diagnostic testing, 17 as well as multiple examinations, that any significant 18 structural problem has occurred. And that in a 19 typical situation, this should have resolved quite 20 nicely with the appropriate treatment options that 21 were given to this lady over time.</p> <p>22 And, therefore, I do not believe that the 23 initial pain that she had is now still present six 24 years later because of that accident.</p> <p>25 MS. OLIVER: I have no further questions at</p> | <p>55 1 tell you why. 2 Q. Okay. 3 A. Because when I looked back to where it says 4 doctor -- I did it the first -- when I looked back to 5 Dr. Swan's area right here, I don't see it. 6 Q. Okay. 7 A. That's -- and then when -- and I mentioned 8 that to -- to Katherine, but what she gave me, she 9 gave me his stuff, I just -- I just -- it's not 10 underlined obviously and I -- and I presume I did it, 11 but I don't -- I couldn't find it in my pile. 12 Q. Okay. So what report specifically of 13 Dr. Swan -- you keep mentioning that -- what report is 14 that? 15 A. Well, she -- she saw the patient 16 initially -- it is a she; right? 17 Q. Yes. 18 A. Okay. She saw the patient initially on 19 February 28, 2003. That was her initial consultation, 20 I believe, and then there was also a follow-up visit 21 on April 11th, 2003, and another follow-up visit from 22 May 23rd, 2003. 23 Q. So am I understanding then, when you 24 authored this December 2nd, 2003, report, that your 25 recollection is that you did not review Dr. Swan?</p> |
| <p>54 1 this time. I'm sure there is some cross examination 2 questions.</p> <p>3 MR. PENTZ: Thank you.</p> <p>4</p> <p>5 CROSS EXAMINATION</p> <p>6</p> <p>7 BY MR. PENTZ:</p> <p>8 Q. Doctor, let's start with -- are there any 9 documents that you've reviewed here today that you did 10 not review prior to doing your December 2nd, 2003, 11 report?</p> <p>12 A. The only one, to be quite honest with you, 13 that I don't have a memory of having done specifically 14 are the ones from Dr. Swan, and that's -- but we 15 didn't do those today, so . . .</p> <p>16 Q. Okay.</p> <p>17 A. And I think, to be quite honest with you, I 18 guess that's because they're after me. They're after 19 when I saw the patient.</p> <p>20 Q. Okay. But in your report of December 2nd 21 of '03 you indicate that you reviewed some medical 22 reports, and you specifically mention Dr. Swan.</p> <p>23 A. Yeah, I do.</p> <p>24 Q. What report would that have been?</p> <p>25 A. You know, you've got me there, and I'll</p> | <p>56 1 A. I cannot say that. I suspect that I did, 2 but I don't -- do not know why I misplaced, of all 3 people, her -- her notes. 4 Q. Okay. 5 A. Because I don't -- I can't believe I would 6 have put her name down and not done it. I find that 7 hard to believe. 8 Q. Okay. And so -- I'm not sure. Are there 9 any other documents that you have first had the 10 opportunity to review them today that you did not have 11 when you did your December 2nd, 2003, report? 12 A. No, because I have those here and 13 underlined with magic marker. 14 Q. Okay. Now, you say that you relied on -- 15 reviewed records of Dr. B. Beck. What significance 16 did you attribute to those records? 17 A. I would have to go back and look at them 18 specifically. 19 MS. OLIVER: Objection. 20 THE VIDEOGRAPHER: Off the record 3:18. 21 (Discussion off the video record.) 22 MS. OLIVER: My objection just is that this 23 is not within the scope of the direct and I think 24 pertinent because the Beck records are ophthalmology 25 records and were included for completeness just</p> |

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| <p>57</p> <p>1 because your client's claims were not at that point 2 clear, so I think it's irrelevant to anything that has 3 been brought in the lawsuit. There's been no claim 4 now that she's got some vision problem related to the 5 lawsuit, and not within the scope of the direct. 6 Subject to that, go ahead.</p> <p>7 THE VIDEOGRAPHER: On the record 3:19.</p> <p>8 BY MR. PENTZ:</p> <p>9 Q. Now, Doctor, in your report of December 10 2nd, 2003 -- which I'm not sure exactly what exhibit 11 it is, but you have that report; correct?</p> <p>12 A. Correct, right here.</p> <p>13 Q. Okay. Thank you. Now, you do indicate in 14 there that you reviewed records of Dr. Beck?</p> <p>15 A. Right.</p> <p>16 Q. Did you --</p> <p>17 A. I have it highlighted. That's how I can 18 tell for sure.</p> <p>19 Q. Okay. Did that contribute anything to what 20 you've said in your report, those records of Dr. Beck?</p> <p>21 A. No.</p> <p>22 Q. Okay. And you refer to a Dr. Chambers?</p> <p>23 A. I did refer to a Dr. Chambers. I just -- I 24 will find those for you.</p> <p>25 (Brief pause.)</p> | <p>59</p> <p>1 Elkins. Sorry. That's my fault. You refer to 2 Dr. Elkins. What significance were the records from 3 Dr. Elkins in your report, if you recall?</p> <p>4 A. Offhand I cannot remember one-by-one each 5 record. I --</p> <p>6 Q. Okay.</p> <p>7 A. -- will state that up front.</p> <p>8 Q. Sorry to interrupt you, but if I would go 9 through and ask you about all these various doctors, 10 from what you're telling me, you wouldn't be able to 11 give me any specifics?</p> <p>12 A. Yes -- yes and no. What I -- what I -- 13 yeah, I mean, basically what I was trying to get was a 14 sense of what is going on, and a sense -- the sense of 15 what her major complaints were, what the findings 16 were. Here's how I did it. I knew this -- this is 17 probably what I did, I'll be honest about this, when I 18 first reported it. That's a list. Does that list -- 19 does that list correspond to my first note?</p> <p>20 Q. Let's see. I'll take a look here. Yes, it 21 says --</p> <p>22 A. So that's probably what I did as my opening 23 remark. Okay? And then when I had talked to 24 Ms. Oliver, I had asked if she wanted me to go 25 specifically one-by-one, and that's not what she</p> |
| <p>58</p> <p>1 A. Can you help me here. Tell me where -- 2 where -- I mean which doctor he is.</p> <p>3 Q. Honestly, I don't know. It's in your 4 report, and I was wondering if you -- you mention 5 Dr. Chambers and I was wondering what significance 6 Dr. Chambers had when you authored this report.</p> <p>7 A. He may not have had any. I did not go 8 page-by-page in my report and so I must have -- I must 9 have read something specifically so I put his name 10 down that I reviewed, but I cannot say with any 11 certainty that his particular interest, or whatever, 12 had any bearing whatsoever on my report.</p> <p>13 Q. All right. With Dr. Beck and Dr. Chambers, 14 would it be in the same group with Dr. Swan, in that 15 you don't recall reviewing any records at this point 16 in time?</p> <p>17 MS. OLIVER: Objection.</p> <p>18 THE WITNESS: I cannot remember 19 Dr. Chambers' specific evaluation.</p> <p>20 MR. PENTZ: Okay.</p> <p>21 THE WITNESS: If you would be happy to show 22 me something by him, I would be happy to look at them 23 one more time.</p> <p>24 BY MR. PENTZ:</p> <p>25 Q. Okay. Now, about as to Dr. Atkins -- or</p> | <p>60</p> <p>1 wanted in terms of a report. She was looking for, in 2 the report, a sense of what I felt and so that's how I 3 did the report. So when you come back now and ask me 4 specifically what did Dr. Elkins say, I can't answer.</p> <p>5 And then retrospectively I look here and I 6 don't actually see a Dr. Elkins, but I suspect my 7 initial line was just to make it easier as I was 8 dictating on the computer, looking down there and said 9 that those are the ones because the only thing I -- 10 you know, Dr. Shaffer versus Dr. Beck versus --</p> <p>11 Q. I understand that.</p> <p>12 A. Okay.</p> <p>13 Q. But, for instance, Primary Care Associates, 14 Penn Central Physical Therapy, they're on the list 15 that you provided me, but are not mentioned in your 16 December 2nd, '03, report. Is there a reason for 17 that, or you don't know?</p> <p>18 A. I left them out?</p> <p>19 Q. I call your attention to there, those 20 listings that I just referred.</p> <p>21 A. Well, I think I -- maybe I didn't put those 22 in, but I did talk about her physical therapy in here 23 and UPMC -- that's the University of Penn, isn't it, 24 Medical Center? Pain treatment, isn't that what that 25 is?</p> |

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| <p>1 Q. I think that would be University of 2 Pittsburgh Medical Center, but I don't know. 3 A. Pittsburgh. Excuse me. I send all my 4 patients to Penn. University of Pittsburgh Medical 5 Center, and I do have that listed. 6 Q. Okay. And then how about Primary Care 7 Associates and Penn Central PT is not mentioned up in 8 this in the beginning? 9 A. Not in the beginning, no. 10 Q. Okay. The -- now, the opinions you've 11 given here concerning Ms. Jordan, they've been given, 12 I assume, within a reasonable degree of medical 13 certainty? 14 A. Yes. From reviewing the records, yes. 15 Q. And is it -- is it -- would it be fair for 16 me to say that, you know, reasonable doctors could 17 differ from -- as to Mrs. Jordan's conditions and what 18 caused them? 19 A. I think that's true. 20 Q. Okay. And have you ever heard the -- the 21 statement that a doctor doesn't treat x-rays, he 22 treats patients? 23 A. Of course. 24 Q. Okay. Now, with that in mind, I notice you 25 never had any contact with Mrs. Jordan?</p> | <p>61</p> | <p>1 MS. OLIVER: Well, I'd like you to respond, 2 but the judge is going to resolve them. 3 MR. PENTZ: Okay. My position is that it 4 is in the report that was made part of -- that he 5 identified as his own and was marked as an exhibit for 6 purposes of his testimony, and I certainly understand 7 that my questioning would be subject to the judge's 8 review. 9 THE VIDEOGRAPHER: On the video record 10 3:28. 11 BY MR. PENTZ: 12 Q. Now, Doctor, in your report it says, "She 13 was at a stop ready to turn when she was hit from 14 behind by another driver, perhaps driving as fast as 15 45 mph," which I guess is miles per hour. How did you 16 determine that? 17 A. I -- I got that from reading reports which 18 were basically from history taking. So in other 19 words, a patient -- that would be a patient's account 20 to the physician she was talking to. 21 Q. And if I would ask you where specifically 22 did you find this reference, would you be able to tell 23 me that today? 24 A. No. 25 Q. In the -- on through your report you have</p> | <p>63</p> |
| <p>1 A. Absolutely, I did not. 2 Q. Okay. So I would take it that you're not 3 giving any opinions in here about how she should be 4 treated? 5 A. No, I did not give any opinions about that. 6 Q. Okay. And the -- you have in here that -- 7 that -- in your report that you determined that -- it 8 says, "She was at a stop ready to turn when she was 9 hit from behind by another driver, perhaps" -- 10 MS. OLIVER: Objection. 11 THE VIDEOGRAPHER: Off the record 3:27. 12 (Discussion off the video record.) 13 MS. OLIVER: I'm going to object to your 14 getting into the speed of the vehicle to the extent 15 that, first of all, again, this whole area is beyond 16 the scope of the direct. We didn't talk at all about 17 the accident, and the only possible source of that 18 vehicle speed would be hearsay. That wouldn't fit 19 within the exception to the rule, so I'm going to 20 object on that basis to your talking about the vehicle 21 speed at all during your cross. 22 MR. PENTZ: As I understand, counsel, we're 23 going to resolve our objections later. You don't want 24 me to take up a whole bunch of time responding to them 25 at this point.</p> | <p>62</p> | <p>1 in there that -- about chiropractic visits by 2 Ms. Jordan, and that in '95 there was -- there would 3 have been multiple visits? 4 A. Uh-huh. 5 Q. Okay. How would you describe -- how many 6 visits in '95 are you referring? 7 A. I'd have to go back and look. I -- I 8 mention specifically that there was two in '92, three 9 in '94, and so I presume there were more than three in 10 1995. 11 Q. Okay. Would you be able to agree that 12 there was one, two, three, four in '95? 13 MS. OLIVER: Perhaps if you show him the 14 record you're referring to. 15 BY MR. PENTZ: 16 Q. I'm going to try to pull up the -- 17 A. I'm going to trust that your records are 18 accurate. Yes, four would be -- four -- I could have 19 put four down. 20 Q. Okay. I show you Exhibit 8. 21 A. Yes, there were four documented. 22 Q. Okay. And then how would you describe the 23 visits that took place subsequent to 1995 with the -- 24 it would have been Dr. Williams, the chiropractor? 25 And it's Exhibit 18, I think it is.</p> | <p>64</p> |

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| 1 | A. Right. | 1 | finding. And really, that's all -- if you read it, |
| 2 | Q. How would you describe how many had took | 2 | that's what it says. |
| 3 | place? You said there was multiple in '95. How would | 3 | Q. So -- |
| 4 | you describe the visits in '98 after the accident? | 4 | A. One after another. And so, you know, |
| 5 | A. They were multiple and plentiful. | 5 | that's all -- that's what I'm going to say. I mean, |
| 6 | Q. Okay. Because I'm seeing one, two, three, | 6 | if you look at objective findings, objective exams of |
| 7 | four, five, six, seven in '98, which would be from | 7 | other peoples' examinations, it's a little bit more |
| 8 | like the eleventh month, until December in '98, in two | 8 | than that. |
| 9 | months; correct? | 9 | Q. And so he's not taking any -- testing any |
| 10 | A. Uh-huh, correct. | 10 | reflex or any things of that nature? |
| 11 | Q. And then in '99 there was one, two, three, | 11 | A. No, and -- and if you -- if you read it, |
| 12 | four, five, six, seven, eight, up until June of '99; | 12 | it's -- it's the exact same thing just about time |
| 13 | correct? | 13 | after time after time after time again. |
| 14 | A. Correct. | 14 | Q. Now, as part of that Exhibit 18 there's a |
| 15 | Q. So there was a significantly greater amount | 15 | November 28th, 1998, report from Dr. Williams. |
| 16 | of treatment by the chiropractor after the accident | 16 | A. Say again. Which number? |
| 17 | than there was before? | 17 | Q. It's Exhibit 18 to which we're talking. |
| 18 | A. Correct. | 18 | A. You said a specific date? |
| 19 | Q. Now, does that have any significance to you | 19 | Q. There's a November 28, 1998, report. |
| 20 | when you're doing a records review? | 20 | A. Oh. |
| 21 | A. It basically says that she's complaining | 21 | Q. Okay? |
| 22 | about pain more often than she had not been before, | 22 | A. Okay. |
| 23 | yes. | 23 | Q. Now, you've indicated to me from my |
| 24 | Q. Okay. And you indicated that, I think, | 24 | questioning that he was not testing reflexes. Do you |
| 25 | when there's an O in the chiropractor's report, that | 25 | know what -- one, two -- the third paragraph down, |
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| 1 | there -- that would be objective findings? | 1 | where it says, "16 degrees DT reflexes at triceps, |
| 2 | A. Correct. | 2 | biceps, wrists were shallower on the left." |
| 3 | Q. Okay. And then -- | 3 | A. Okay. |
| 4 | A. What he considers objective findings. | 4 | Q. Okay. Now, in layman's eyes, to me it |
| 5 | Q. Correct. | 5 | looks like he's testing reflexes, but you told me that |
| 6 | A. Okay. | 6 | he doesn't. Can you explain that? |
| 7 | Q. And at least what he considered objective | 7 | A. Okay. So he did it that time, and then he |
| 8 | findings, he finds them in all of those visits? After | 8 | uses the word shallower, which doesn't even exist or |
| 9 | the accident he makes objective findings; correct? | 9 | explains what a reflex is. So it tells me -- it tells |
| 10 | A. We're going to have a little problem here. | 10 | me that he doesn't know -- know all that much about |
| 11 | Q. Okay. | 11 | reflexes. Reflexes aren't shallower. I mean, it's |
| 12 | A. Only -- only because he -- he talks only | 12 | the wrong -- I don't know -- he says they're less on |
| 13 | about range of motion, is all he mentions, or he tries | 13 | the left side, and if you go back through everybody |
| 14 | to mention here with all his objectives, so he doesn't | 14 | else's, no one else has found that. |
| 15 | examine much more than that, and I'm not sure -- and I | 15 | Q. This -- these documents that make up |
| 16 | will say this right up front so no one has any | 16 | Exhibit 18, are these the kind of documents that you |
| 17 | questions about my veracity. Okay? | 17 | would review and rely upon in forming an opinion? |
| 18 | I'm not sure -- I'm not sure that his | 18 | A. Yes, but I don't put my biggest stock on |
| 19 | objective findings are full objective findings. And | 19 | chiropractic notes. |
| 20 | it's not that -- and I'm not impinging -- impugning, | 20 | Q. Why is that? |
| 21 | excuse me, him. It's just that he's doing a very | 21 | A. Because I don't think they're always that |
| 22 | limited examination and so he's really not testing | 22 | accurate. I don't think -- I think chiropractors have |
| 23 | reflexes, he's really not looking for other signs. | 23 | a -- have a position which is fine. I do have a bias |
| 24 | He's saying if I put the neck this way, she says it | 24 | against chiropractors touching peoples' necks, mainly |
| 25 | hurts. That's what -- he's calling that an objective | 25 | because I've seen five cases of chiropractic induced |

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| <p style="text-align: right;">69</p> <p>1 stroke, so I have a little bit of a -- of a negativity 2 about it.</p> <p>3 I used -- I used the chiropractic notes 4 mainly to predate the fact that she had told other 5 people that she never had problems like this before, 6 and yet let alone she's been seen 1990 through 1995 7 for the exact same complaint.</p> <p>8 Is it true he's seen her more often; yes. 9 Do I think that his one note here saying that -- 10 shallower reflexes on the left side, which is not a 11 word in terms of -- in terms of a description of 12 reflexes, is that meaningful; I'm going to answer the 13 question -- answer to that no.</p> <p>14 Q. Okay. In your testimony right now you said 15 that you were checking to see whether she had 16 complained of pains similar to what she has now, or 17 like she has now?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. Now, to me, when you say like she 20 has now, it means you're talking about the kind of 21 pain that she had after the accident?</p> <p>22 A. No. I mean that she has complaints -- she 23 has headache complaints documented, she has neck 24 complaints documented, she has shoulder complaints 25 documented, prior to the accident.</p> | <p style="text-align: right;">71</p> <p>1 certainly not unusual, certainly with chiropractors. 2 That's for sure, too. I mean, I have patients go to 3 chiropractors eight times a month, 16 times a month. 4 You know, I -- you know, I'm not sure what that means. 5 What I do -- what I did -- took away from that again 6 is the fact that subjectively the complaints were of 7 the same nature prior to the accident as they were 8 after the accident.</p> <p>9 Q. And just so that I'm understanding you, 10 when you say complaints of the same nature --</p> <p>11 A. Right.</p> <p>12 Q. -- do you mean in the same area of the 13 body, or the same type of pain in a certain area?</p> <p>14 A. He doesn't necessarily document the type of 15 pain --</p> <p>16 Q. Correct.</p> <p>17 A. -- so I couldn't make that judgment anyway.</p> <p>18 Q. All right.</p> <p>19 A. But certainly the complaint. If you come 20 to my office with a headache and I know you're coming 21 to my office with a headache, before you get to my 22 office you get a four-page documentation to fill out.</p> <p>23 Q. Correct.</p> <p>24 A. Okay. Well, excuse me, four pages of 25 documentation will tell me what kind of headaches you</p> |
| <p style="text-align: right;">70</p> <p>1 Q. Okay.</p> <p>2 A. And putting that into relationship with the 3 fact that she told numerous other doctors, when asked 4 specifically have you had previous similar history, 5 she said no.</p> <p>6 Q. Okay.</p> <p>7 A. And then putting that further together in a 8 situation where test after test after test were 9 negative, and -- and then second -- thirdly, putting 10 together treatment modalities one after another after 11 another which has not led to any improvement, is how I 12 put all that together.</p> <p>13 Q. So when -- when you're reviewing the 14 records, you are making no distinction about whether 15 the pain was of the same nature before or after the 16 accident? My understanding is that you're saying did 17 she have pain in the same area. Is that what you're 18 telling me, the same area?</p> <p>19 A. Yes. I mean, it seems obvious -- I have to 20 admit that she seems like she's complaining more.</p> <p>21 Q. Uh-huh.</p> <p>22 A. That's true.</p> <p>23 Q. Sure.</p> <p>24 A. Okay. That I'm, you know -- the other -- 25 you know, she went to visit more often. That's</p> | <p style="text-align: right;">72</p> <p>1 have. If you want that answer, show it to me.</p> <p>2 Q. Okay.</p> <p>3 A. But otherwise, all you're saying is -- all 4 I'm saying is, is prior to 1998 this woman said I have 5 headaches. She says I now have headaches. Before 6 1998 she said I have neck pain. Right now she says I 7 have neck pain. Before 1998 she said I have shoulder 8 pain. She now has shoulder pain.</p> <p>9 Q. Okay.</p> <p>10 A. Okay. And if it was me asking all the 11 questions, it would have been an entirely different 12 evaluation you would have received in the beginning.</p> <p>13 Q. Okay.</p> <p>14 A. Okay. And so I cannot answer that specific 15 question. All I can say is, yes, it's true she went 16 to the chiropractor more after the accident than she 17 did prior to the accident. Well, she certainly went, 18 to the chiropractor for the same complaints prior to 19 the accident, and not only prior to the accident, 20 eight years prior to the accident. That's all I'm 21 saying.</p> <p>22 Q. Okay. Now, when you say the same 23 complaint, I notice in Exhibit 18 that Dr. Williams -- 24 and it specifically refers to conditions that came 25 about after the automobile accident. Specifically,</p> |

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| <p>73</p> <p>1 I'm looking at the November 28th, 1998, report.</p> <p>2 A. Say it again. November --</p> <p>3 Q. His November 28th, 1998, report.</p> <p>4 A. Okay.</p> <p>5 Q. It talks in here -- the first paragraph, it</p> <p>6 says, "Complains of daily headaches, often severe."</p> <p>7 And was it paresthesia?</p> <p>8 A. Paresthesias.</p> <p>9 Q. Which is what, numbness?</p> <p>10 A. Numbness, tingling.</p> <p>11 Q. Okay. ". . . of the left arm of an</p> <p>12 intermittent nature since being involved in an</p> <p>13 automobile accident on 9/19/98."</p> <p>14 A. Right.</p> <p>15 Q. So when you read that --</p> <p>16 A. It doesn't -- I'll tell you what. Again,</p> <p>17 it doesn't impress me, and the reason why, once</p> <p>18 again --</p> <p>19 Q. Okay.</p> <p>20 A. Okay. This is why it doesn't impress me.</p> <p>21 You complain to me about paresthesias. I'm listening.</p> <p>22 Q. Okay.</p> <p>23 A. Okay. I then start to ask questions to</p> <p>24 tell me whether that paresthesia has any bearing on</p> <p>25 anything whatsoever. If I dropped a hammer on your</p> | <p>75</p> <p>1 complained about previously, no.</p> <p>2 Q. Okay. So the -- you're talking about</p> <p>3 objective versus subjective findings; correct?</p> <p>4 A. Correct, uh-huh.</p> <p>5 Q. Can you just give me that in layman's</p> <p>6 terms, what that means?</p> <p>7 A. Okay. Simple. Okay. If I come into the</p> <p>8 office and I say I have a new onset headache and my</p> <p>9 left side is now weak, okay, and I examined the person</p> <p>10 and not only did they have a headache on the right</p> <p>11 side, but now the left side does show specific paresis</p> <p>12 and an upgoing toe, which is an abnormal reflex, I'm</p> <p>13 concerned that that person has a right hemispheric</p> <p>14 problem and I'm going to find something on CAT scan or</p> <p>15 MRI. Okay?</p> <p>16 Q. All right.</p> <p>17 A. If the same person comes in and says</p> <p>18 whenever I get my headache, not only do I have a</p> <p>19 headache, but I have visual blurriness, I get a little</p> <p>20 dizzy, I feel weak all over, I'm not concerned. I'm</p> <p>21 concerned only because the headache is bothering him,</p> <p>22 but I know now that that's just part of the headache</p> <p>23 syndrome, okay, and that's his -- his subjective</p> <p>24 awareness of how he feels, but I'm not going to find a</p> <p>25 darn thing on him objectively.</p> |
| <p>74</p> <p>1 foot, okay, and as soon as we're done I said to you</p> <p>2 what are you feeling, part of what you may even feel</p> <p>3 is a paresthesia. That doesn't really excite me too</p> <p>4 much. It doesn't have any major thing. It's going to</p> <p>5 go away. I understand what that is. It's going to go</p> <p>6 away.</p> <p>7 No one -- other than saying she has some</p> <p>8 paresthesias, he didn't really document much about it.</p> <p>9 But what makes it not too worrisome, okay, is that you</p> <p>10 then go ahead and do all the testing that should show</p> <p>11 that she has an objective problem causing a</p> <p>12 paresthesia, such as the EMGs and the nerve conduction</p> <p>13 velocities and the cervical MRIs, times three, and --</p> <p>14 and cervical CT scan, times one, and x-rays, times</p> <p>15 one, and nothing shows up.</p> <p>16 Okay. So if you talk to people who, for</p> <p>17 instance, have headaches, they'll say, jeez, my head</p> <p>18 tingles, too. That doesn't make it any worse or</p> <p>19 better than the person who doesn't have the</p> <p>20 paresthesias with their headaches.</p> <p>21 So to have a couple complaints of</p> <p>22 paresthesias here, wasn't even consistently there, you</p> <p>23 know -- in fact, in 11/25/98 the paresthesias, left</p> <p>24 arm, pretty much gone. Okay. So, no, I don't think</p> <p>25 that that makes it a major change from what she's</p> | <p>76</p> <p>1 His reflexes are going to be normal, his</p> <p>2 strength is going to be normal, his coordination is</p> <p>3 going to normal, his visual fields are going to be</p> <p>4 normal, his facial symmetry is going to be normal, and</p> <p>5 all the things that neurologists do to make sure that</p> <p>6 those complaints have no objective correlate will be</p> <p>7 done.</p> <p>8 So a paresthetic complaint on its own</p> <p>9 without any neurodiagnostic abnormalities to support</p> <p>10 it has no specific bearing on making this a majorly</p> <p>11 different complaint.</p> <p>12 Q. Okay. And do you recall -- and just maybe</p> <p>13 -- I'm going to ask about that Dr. Swan report.</p> <p>14 A. Okay.</p> <p>15 Q. You don't have any recollection about that</p> <p>16 report at all? I don't want to --</p> <p>17 A. I mean, I have to be honest with you. You</p> <p>18 know, a couple -- and I'll be honest with you upfront</p> <p>19 because I'm not here -- I'm not here to get anybody.</p> <p>20 This is terrible. I just lost two secretaries within</p> <p>21 a week of each other. Okay. We have temps out there</p> <p>22 because other people can't come to work for us, and</p> <p>23 all I'm saying is that they didn't give this to me to</p> <p>24 review before today.</p> <p>25 Typically what I would have done, knowing</p> |

1 that I was doing this, is I would have gone through
 2 the whole darn thing again. Of course, it would have
 3 cost Katherine more money because I would have done
 4 that, but I would have done that so that when you were
 5 asking me this, I would have had a better handle on
 6 each specific one.

7 But to be honest with you, I have not
 8 reviewed this specifically again since December of
 9 last year. So when you ask me specifics, I can't.
 10 Okay. If you show me a documentation, I'll be happy
 11 to respond to it though.

12 Q. Do -- do you recall from your general
 13 recollection whether Dr. Moncman found any objective
 14 findings concerning Ms. Jordan?

15 A. I -- I -- my recollection is that I can't
 16 remember anybody finding any -- any, what I would
 17 consider, obvious objective problems. If I press on
 18 your paracervical spinal muscles and you say it hurts,
 19 you're going to have to have arguments from different
 20 aspects on whether that's an objective finding or a
 21 subjective finding.

22 Trigger points themselves are arguable
 23 between a neurologist and the rheumatologist about
 24 whether that's an objective finding or a subjective
 25 finding. All right.

1 To me, objective findings are more than
 2 just that. I mean, if you -- if you find a
 3 documented, unequivocal spasm, that's an objective
 4 finding. If you say, gee, I touch my shoulder and,
 5 oh, that hurts, that falls into a very gray zone
 6 whether that's objective or subjective. Okay.

7 If you said to me, jeez, she has lost pin
 8 sensation in a C6 distribution, that's objective. If
 9 you say to me she's got an upgoing toe, that's
 10 objective. All right. But my -- my memory of having
 11 gone through all these notes, okay, is that she had no
 12 obvious objective findings on examination.

13 Q. The -- you used the word radiculopathy.
 14 A. Uh-huh.

15 Q. Now, as a layman I think radiculopathy is
 16 pain shooting down into my arm or into my leg, or
 17 something of that nature.

18 A. Correct.

19 Q. Is that -- is that -- am I on, on that?

20 A. Right. That's -- that's the usual
 21 definition. And then if you -- if you know what
 22 you're doing, you then ask some additional questions
 23 to make sure that what they're referring to is truly
 24 radicular, but that's the -- that's the general sense
 25 of a radiculopathy.

1 Q. The reports from Dr. Williams, prior to the
 2 accident, my reading of those notes would be that it
 3 was right-sided, say -- looking at Exhibit 8.

4 A. I think I don't have an eight. I only have
 5 an 18.

6 MR. PENTZ: Exhibit 8, which probably
 7 should be in here.

8 MS. OLIVER: I can provide it.

9 THE WITNESS: There we go. All right. Can
 10 we go -- can we go again with the question?

11 MR. PENTZ: Yes.

12 THE WITNESS: Okay.

13 BY MR. PENTZ:

14 Q. Looking at what would be Exhibit 8, which
 15 is the chiropractic notes prior to the accident, those
 16 notes would indicate like -- indicate right --
 17 right-sided types of complaints; correct?

18 A. I'm going to add. I think it shows -- it
 19 says three complaints. All right. It says -- it has
 20 nonspecific neck pain, right-sided neck pain --

21 Q. Okay.

22 A. -- and even, during objective examination,
 23 limitations of movements to the left. Okay. On
 24 6/30/1995, decreased left head rotation.

25 Q. Uh-huh.

1 A. Okay. So it still is documenting basically
 2 neck -- neck problems and -- that are both right and
 3 left side, although I will give you that when he does
 4 mention something as opposed to nonspecifically, he
 5 does mention right side more often.

6 Q. And when you read this report there at
 7 4/13/92, it says, "Spastic right trapezius muscle."
 8 Do you see that?

9 A. Right.

10 Q. Is that subjective or objective?

11 A. Don't know the answer to that one.

12 Q. Okay. But --

13 A. I don't know the answer to that one. I
 14 honestly don't know the answer to that one.

15 Q. Okay. And why is it you don't know the
 16 answer?

17 A. Because -- because of the word spastic.
 18 See, it's very hard. As a neurologist, I like to be
 19 specific. Okay. Trapezius muscles typically aren't
 20 spastic. They can be in spasm -- am I trying to split
 21 hairs; yes, I am. Okay. So if he said to me I
 22 palpated the right trapezius and found -- found it to
 23 be in spasm, fine. Spasticity usually refers to an
 24 upper motor neuron lesion, brain or spinal cord, that
 25 is causing spasticity of the -- of the limb examined.

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| 1 Okay. 2 And that's why, to be quite honest with 3 you, and the jury can decide this for themselves, that 4 -- that I'm not convinced that this -- these minor -- 5 and these are minor examinations and findings. I 6 mean, think about this, if you will. This man has 7 seen her how many times. 8 My follow-up reports take two pages. You 9 come to see me for headaches, it takes a whole page 10 that I send to a doctor. This man has one, two, 11 three, four, five, six, seven, eight examinations on a 12 single page. 13 You can draw whatever conclusion you want 14 from that, but the only thing I used for the 15 chiropractic, and again, the jury can do what they 16 want with this, is the fact that prior to the accident 17 she had the same complaints and after the accident she 18 had very similar complaints. He saw her more often 19 than not, but I am not going to rest my total opinion 20 on a chiropractic evaluation. I'm just not. | 81 | 1 Q. Okay. Now -- and as to treatments, 2 wouldn't you agree with me that Ms. Jordan has had -- 3 it's fair to say she had at least numerous treatments; 4 correct? 5 A. Yes, she has. 6 Q. The -- and these treatments that you have 7 reviewed, were they all medically reasonable? | |
| 8 MS. OLIVER: Objection. 9 THE VIDEOGRAPHER: Off the record 3:53. 10 (Discussion off the video record.) 11 MS. OLIVER: Unless you're going to go 12 treatment-by-treatment, I'm going to object to you 13 trying to intercede the whole issue of reasonableness 14 of treatment and reasonableness of care. 15 We've already had the opinion that the 16 continuing complaints aren't related to the car 17 accident. So, I mean, he's obviously not relating 18 them. This goes well beyond also the scope of any 19 direct exam, and I object on that basis as well. | 83 | 8 MS. OLIVER: Objection. 9 THE VIDEOGRAPHER: Off the record 3:53. 10 (Discussion off the video record.) 11 MS. OLIVER: Unless you're going to go 12 treatment-by-treatment, I'm going to object to you 13 trying to intercede the whole issue of reasonableness 14 of treatment and reasonableness of care. 15 We've already had the opinion that the 16 continuing complaints aren't related to the car 17 accident. So, I mean, he's obviously not relating 18 them. This goes well beyond also the scope of any 19 direct exam, and I object on that basis as well. | |
| 20 MR. PENTZ: All right. I believe since 21 it's part of his report, and I think there was 22 testimony he talked about -- made some comment about 23 the reasonableness of the treatment that she had 24 received. I think there was some response in that 25 area. And again, I understand it's a continuing | | | |
| 21 Q. But I understand you had no physical 22 examinations of Judith Jordan? 23 A. I did not. I did not. And -- and -- and 24 to tell you the truth, I wish I had. 25 Q. Now, in your report you mention -- you said | 82 | 82 1 down there that -- you said, "At this time I believe 2 her diagnosis is most consistent with a nonspecific 3 chronic pain syndrome." 4 A. Correct. 5 Q. Okay. So from me reading that, your 6 opinion, based on a reasonable degree of medical 7 certainty, is that Ms. Jordan is definitely having 8 some pain? 9 A. By definition, pain that lasts more -- 10 well, it depends on who you read. Okay. Some people 11 say six weeks. Others say six months. Whatever one 12 you want to take, once you get past that, if you have 13 pain that you came in with and you cannot get rid of 14 it, then you have, by definition, a chronic pain 15 syndrome. 16 Q. Does Miss -- does Ms. Jordan have that? 17 A. She does. 18 Q. So I assume to have nonspecific chronic 19 pain syndrome you have to be having pain; right? 20 A. You have to be having subjective complaints 21 of pain, yes. 22 Q. Okay. But that's what you -- you gave as 23 your diagnosis, within a reasonable degree of medical 24 certainty; correct? 25 A. Correct. | 84 1 objection and we'll allow the judge to rule on it. 2 Thank you. 3 THE VIDEOGRAPHER: On the video record at 4 3:54. 5 BY MR. PENTZ: 6 Q. Now, Doctor, these numerous treatments that 7 Ms. Jordan has had, from your review of the records, 8 were they medically reasonable treatments? 9 A. I think when a patient comes to you with 10 complaints of pain, my obligation is to try to help 11 them and, therefore, they are reasonable. They're 12 very reasonable. I think that some of them that she 13 didn't follow would have been even reasonable, and the 14 ones she didn't follow up with were reasonable. 15 Having said that, however, okay, the fact 16 that she has this chronic pain, and it is reasonable 17 to treat her as a chronic pain patient, does not 18 necessarily mean that the chronic pain is from the 19 accident. 20 Q. I understand that. 21 A. Okay. So having said that, a patient comes 22 to me and she says she has a pain syndrome, I am going 23 to treat it. And depending on what I think it's from, 24 I'm going to treat it in the appropriate manner. So 25 for her to go on Depakote, for her to get a trigger |

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| <p>85</p> <p>1 point injection if she's complaining of some 2 tenderness there, for her to go to physical therapy, 3 are all reasonable aspects.</p> <p>4 What bothers me more than anything else is 5 the fact that despite these reasonable efforts, this 6 patient has the same complaints. In fact, there -- 7 you know, to be quite honest with you, there are more 8 -- there are more possible treatments that she hasn't 9 even tried, some that she already refused, but some 10 that she hasn't even tried, and I mention that 11 actually in my -- in my note.</p> <p>12 Q. Well, which treatments should she -- which 13 treatments are you recommending that she -- that 14 either she didn't do or wasn't told?</p> <p>15 A. Well, if -- if her primary complaint now is 16 not headaches, for instance, if it's neck pain and no 17 one has any reason why she should have the neck pain, 18 then there are other treatments that you can use, 19 okay, to treat it, including something like Zanaflex. 20 Well-known to help that. Okay. No one's put her on 21 Zanaflex.</p> <p>22 Neuroleptics, which are medications 23 actually that have come out for psychiatric problems, 24 but because they -- they change dopamine receptors can 25 often be very effective in chronic pain syndromes.</p> | <p>87</p> <p>1 A. That's what I'm saying.</p> <p>2 Q. Okay. So the complaints that she has now, 3 are they indirectly related to the accident, since 4 they're not directly related?</p> <p>5 MS. OLIVER: Objection.</p> <p>6 THE VIDEOGRAPHER: Off the record 3:58.</p> <p>7 (Discussion off the video record.)</p> <p>8 MS. OLIVER: I don't even know what you 9 mean by indirectly related.</p> <p>10 MR. PENTZ: I don't know what he means by 11 directly.</p> <p>12 MS. OLIVER: Well, why don't you ask him 13 that.</p> <p>14 MR. PENTZ: I'll do that.</p> <p>15 MS. OLIVER: Your question is trying to, 16 you know, make some legal point.</p> <p>17 MR. PENTZ: I'll do it. You don't have to 18 go any further.</p> <p>19 THE VIDEOGRAPHER: On the video record 20 3:58.</p> <p>21 BY MR. PENTZ:</p> <p>22 Q. Okay. Now, Doctor, when you say they're 23 not directly related, what does -- what do you mean by 24 not directly related?</p> <p>25 A. What I mean is -- is that I do not believe</p> |
| <p>86</p> <p>1 Okay. But you have to understand that chronic pain is 2 a very, very complex issue and certainly, the 3 accident, in my opinion, is not the cause of her 4 chronic pain syndrome.</p> <p>5 Q. Okay. The -- in your testimony I think you 6 said at some point that -- that the complaints that 7 Ms. Jordan have are not directly related to the 8 accident, the automobile accident?</p> <p>9 A. Correct.</p> <p>10 Q. Okay.</p> <p>11 A. Well, the ones she has now. I mean, I -- I 12 said in my notes, and I think I even said during exam 13 -- during my answers before, that I thought her 14 headaches would easily have worsened because of the 15 accident, and not surprisingly, like most people, the 16 headaches improved over time. They should have. Okay.</p> <p>17 Did she have a whiplash and an initial, oh, 18 my neck hurt; yes, she did. What I'm saying is 19 considering everything that's been done since, 20 considering the situation, considering where she's 21 been, it's not reasonable to assume that just because 22 she had an initial neck pain from the accident, that 23 here it is six years later and it's still due to the 24 accident.</p> <p>25 Q. Okay.</p> | <p>88</p> <p>1 that the pain she is suffering right now was caused by 2 the accident.</p> <p>3 Q. Was it aggravated by the accident?</p> <p>4 A. I think -- I think her initial complaints 5 were aggravated by the accident.</p> <p>6 Q. When did those -- if you can tell me, when 7 did those initial complaints that were aggravated stop 8 being symptomatic?</p> <p>9 A. Well, they never did stop being 10 symptomatic.</p> <p>11 Q. Okay.</p> <p>12 A. But they should have been.</p> <p>13 Q. I understand that. Now, I note -- that was 14 my next point, is I've heard you say that these -- 15 this -- these symptoms should have resolved, and you 16 don't use the -- the word would have resolved. Is 17 there any significance to that, or am I just reading 18 it too closely?</p> <p>19 A. Probably reading it too closely. I think 20 that if -- again, if you refer to -- if you refer to 21 studies, at least European studies, okay, on whiplash 22 injury -- in fact, there's an amazing study of 700 23 people in Czechoslovakia who all suffered whiplash 24 injuries, so they all came to the doctor with 25 complaints of whiplash, neck pain. The longest -- the</p> |

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| 89 1 longest continuing complaint in that group of 700 2 people was ten days. 3 And so what I'm saying is if you have a 4 whiplash injury and you undergo physical therapy and 5 you go in for tests and there's nothing wrong with 6 you, you should not continue to have pain six years 7 later from that accident. 8 Now, if you said to me, jeez, this doctor 9 examined her and boy, oh, boy, her left arm is now 10 purple and then white and then cold and then swollen, 11 and now she has pitting edema and her nails have 12 changed and she's got this tremor and she's got reflex 13 sympathetic dystrophy, God bless, something more 14 happened. 15 But when you look at this examination after 16 examination after examination of this lady, no one 17 finds anything, and I -- and I -- and I think it's 18 significant that -- that she can tell people before 19 that when they asked her have you ever had similar 20 complaints and she says no, and now she still does and 21 really she did, I think you have to look at that in 22 the context of what happened. 23 She got out of her car after the accident. 24 She wasn't unconscious. She didn't hit her head. She 25 didn't get out of the car and fall down because her | 91 1 BY MR. PENTZ: 2 Q. Is it your opinion that Ms. Jordan is a 3 symptom magnifier? 4 A. I don't like the word, but what I -- or -- 5 or -- or that connotation. What I would -- what I 6 will say is that I -- I do believe that there are 7 underlying issues here that go beyond the structural 8 and the physical that make it impossible or make it 9 harder for Ms. Jordan to improve. 10 Q. To improve from what injuries? 11 A. No. To improve from her pain. 12 Q. Oh, okay. Now -- 13 A. Because -- because by definition, I don't 14 think she's had an injury. 15 Q. Oh, okay. 16 A. I mean, there hasn't been a documented 17 injury, other than an initial whiplash -- 18 Q. Okay. I understand that. 19 A. -- and that should be gone. 20 Q. Then you talked about -- in your testimony 21 about arthritis being -- being worsened by the 22 accident. Do you remember that testimony? 23 A. Yeah, yeah. 24 Q. Okay. Is there something where arthritis 25 is symptomatic and nonsymptomatic? Does that make |
| 90 1 left side was paralyzed. She had a car accident. I'm 2 not arguing that. 3 Q. Is there anything in the records that would 4 say Mrs. Jordan is a symptom magnifier? 5 A. Yes. 6 Q. Okay. Would you -- does -- specifically, 7 does Dr. Moncman find that she's a symptom magnifier? 8 A. You'll have to show me the note. Again, I 9 said that -- 10 Q. Well, I don't know -- in your report you 11 said you looked at Dr. Moncman, you relied on his 12 records, and -- 13 A. Right. And again, I also told you that -- 14 Q. Okay. 15 A. -- because of my mess up in my office, 16 which was definitely my fault, I did not review the 17 records right before this deposition, but I do know 18 that the Pittsburgh psychological evaluation reveals a 19 person who has more than just physical complaints. 20 Q. Okay. So your opinion is that from your 21 review of the records that Ms. Jordan is a symptom 22 magnifier? 23 MS. OLIVER: Objection. That's not his 24 testimony. 25 MR. PENTZ: Well, I'll restate it. | 92 1 sense? 2 A. Yeah, yeah. No, it is, and I mention that. 3 I mean, that's true for me, too. Now -- nowadays I 4 take a Bextra before I go play golf. There's no way 5 I'm walking 18 holes at 53 years of age. My feet 6 won't hold up. Okay. I used to be able to do it 7 eight years ago, can't do it now. 8 Okay. So if you have arthritic complaints, 9 whatever joint it is -- I'm going to show you another 10 joint I have. This is a swollen, red joint. Well, it 11 doesn't hurt me now, but four months from now it may 12 flare. 13 So, yeah, arthritis varies, depending on 14 what happens, and it's certainly possible that if you 15 stretch or jerk or do something, that your arthritis 16 is going to act up and it's going to hurt. We're not 17 talking six years. 18 All you have to do is a gentle exercise, a 19 little -- a little heat, take an anti-inflammatory, 20 you'll feel better. I think that -- I think that's -- 21 that's the -- I think -- I think that's the crux of 22 this -- of these issues. 23 Q. If -- let me try to state this correctly. 24 Is it -- is it my understanding that your opinion is 25 based to a great degree on the lack of objective |

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| <p>93</p> <p>1 findings?</p> <p>2 A. It's based on a large degree on that. It's 3 based on the fact that she's not the only one, you 4 know, that we do this for. It's -- it's -- it's based 5 on the -- on the fact that -- that typical modalities 6 for her complaint and her findings and her 7 neurodiagnostic setup were ineffective. Yeah, it's 8 based on a lot of that, yes.</p> <p>9 Q. And I think you also said you would have 10 liked to have had the opportunity to examine 11 Ms. Jordan?</p> <p>12 A. Yes, I would have.</p> <p>13 Q. Is it my understanding that a physical 14 examination is very important?</p> <p>15 A. Well, I don't know if you're going to like 16 my answer.</p> <p>17 Q. Okay.</p> <p>18 A. I'll give it to you anyway.</p> <p>19 Q. That's fine.</p> <p>20 A. Okay? Okay. Neurology is a very 21 interesting specialty, okay, and no one does it well, 22 except neurologists. And that's not tooting my horn, 23 to make myself out to be the most impressive doctor 24 that ever walked the earth.</p> <p>25 What it means is, however, is that it is --</p> | <p>95</p> <p>1 headache and I find some -- you don't have the 2 findings and I do a CT scan and they have a subdural 3 hematoma because they bumped their head and didn't 4 even realize it. Well, now I've made that diagnosis, 5 I'm not taking it out. They head over to the 6 neurosurgeon and he evacuates the subdural hematoma. 7 The person comes to me who has a true low 8 back pain, but they come to see me and it's a 9 radicular, it's down the right aspect of what they're 10 complaining about, it's an L5-S1, and sure enough, 11 their left ankle jerk is absent and the right one is 12 easily obtainable. And I do an M -- MRI, and sure 13 enough, they have an L4-5 or an L5-S1 disk herniated 14 off to the left side. Got the diagnosis, but I'm not 15 doing anything about it. Off to the neurosurgeon. 16 And vice versa, you know. So there is crossover. 17 But basically, we deal with the medical 18 aspects of things. We -- neurosurgeons tend not to 19 deal with chronic pain, other than after their failed 20 back syndrome, sending them to us because now they 21 don't want them. They don't -- they don't deal with 22 headaches, they don't deal with -- with MS, they don't 23 deal with -- with Parkinson's disease, they don't deal 24 with -- with seizures. We have a large amount of 25 stuff that we deal with from the medical point of</p> |
| <p>94</p> <p>1 it would have been -- I would have loved to have had a 2 chance to evaluate her neurologically to see her 3 response to my questions, to see my response to my 4 testing of her physically, to see if I found true 5 objective abnormalities, to see if I found what I call 6 embellished findings. I think all of that would have 7 been very, very interesting, yes.</p> <p>8 Q. And you are a -- a neurologist?</p> <p>9 A. Uh-huh.</p> <p>10 Q. And I think that you were asked something 11 about whether you were a neurosurgeon, I think, one of 12 the questions.</p> <p>13 A. Right, right.</p> <p>14 Q. What's the difference between the two?</p> <p>15 A. Ah, we're smarter. No. I'm sorry.</p> <p>16 Q. That was a nice answer.</p> <p>17 A. I'm sorry. It's been a long -- this has 18 been a long one. The difference is, is that we have a 19 tendency to deal with the medical aspect of 20 neurological symptomatology and findings; whereas, 21 they have -- they have to deal with the neurosurgical 22 aspect.</p> <p>23 There is crossing. For instance, like I 24 said, it's certainly not unusual for a 78-year-old 25 person to come in and say they have a new onset</p> | <p>96</p> <p>1 view.</p> <p>2 But that's the difference. If it ends up 3 being a surgical lesion or a surgical abnormality, 4 then I'm not necessarily involved, other than 5 sometimes to make the diagnosis and get them there.</p> <p>6 Q. Okay. You said they -- they cross over. 7 Is one of the crossovers the type of physical 8 examination done?</p> <p>9 A. It depends on the neurosurgeon.</p> <p>10 MR. PENTZ: Okay. No further questions.</p> <p>11 Thank you.</p> <p>12 MS. OLIVER: I'm sorry. You're through, 13 Mr. Pentz?</p> <p>14 MR. PENTZ: Yes. Thank you.</p> <p>15</p> <p>16 REDIRECT EXAMINATION</p> <p>17</p> <p>18 BY MS. OLIVER:</p> <p>19 Q. Dr. Olinsky, you were asked questions about 20 this diagnosis of nonspecific chronic pain, and I 21 think your testimony was clear, but I just want to 22 make sure. Is that something you believe is related 23 to the car accident that this lawsuit is about?</p> <p>24 A. I do not believe it's related.</p> <p>25 Q. And the nonspecific chronic pain syndrome,</p> |

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| <p style="text-align: right;">97</p> <p>1 is that characterized by subjective complaints of 2 pain?</p> <p>3 A. For greater than either six weeks to six 4 months, depending on who you read.</p> <p>5 Q. And Mr. Pentz also asked you about whether 6 -- I guess initially whether Mrs. Jordan's pain 7 complaints have been -- or pain was aggravated from 8 the accident, and I think you said initially in a 9 whiplash injury; is that right?</p> <p>10 A. Correct.</p> <p>11 Q. And then --</p> <p>12 A. Well, wait, wait, wait. Am I allowed to?</p> <p>13 Q. Yeah, go ahead, if there's -- if you want 14 to correct something.</p> <p>15 A. What I meant was, again, she has pain 16 history, neck pain history. She has arthritis, which 17 I think we're all going to agree preceded the accident 18 because no one can develop arthritic complaints within 19 days. And so if you have a whiplash and you have some 20 arthritis, just like I said before, those things can 21 get worse with stretching, pulling movements and then 22 they should subside as you treat them appropriately.</p> <p>23 So, yes, on the initial complaint, yeah, I 24 can -- it's certainly not unheard of for a person to 25 have an accident and then say, yeah, I have neck pain.</p> | <p style="text-align: right;">99</p> <p>1 that?</p> <p>2 A. Yes.</p> <p>3 Q. And you -- you had been asked, I think, 4 right at the beginning about records from a Dr. Beck 5 and records from a Dr. Swan, various -- various 6 records; right?</p> <p>7 A. Uh-huh.</p> <p>8 Q. Is it your belief that any of the records 9 you noted in your report, you actually reviewed at one 10 point? I know you didn't do it today necessarily.</p> <p>11 A. No. I re -- I re -- I believe I reviewed 12 all these, and I certainly looked through the notes 13 and there are yellow magic markers underlining, you 14 know, lots of stuff in these reports. So I 15 unequivocally reviewed these.</p> <p>16 Q. And is it your understanding that I had 17 given you a -- a set of the complete records available 18 to me, whether or not they were necessarily pertinent 19 to the complaints Mrs. Jordan has?</p> <p>20 A. Yes.</p> <p>21 Q. And I had asked you to look at all of those 22 records to get a fair and accurate picture; right?</p> <p>23 A. Yes, you had.</p> <p>24 Q. And --</p> <p>25 A. But wait. You didn't -- but you did not</p> |
| <p style="text-align: right;">98</p> <p>1 Q. And then we talked about we saw some 2 improvement in those complaints?</p> <p>3 A. Right, and there was improvement and 4 then -- it's almost as if it -- it steamrolled, you 5 know, gathered momentum on its own.</p> <p>6 Q. So when you talk about Mrs. Jordan's 7 continuing subjective complaints and this chronic pain 8 syndrome, is that something that you believe is 9 related to the car accident?</p> <p>10 A. I do not.</p> <p>11 Q. And when you were asked questions about the 12 difference between a neurologist and a neurosurgeon, 13 were -- were your responses in general terms?</p> <p>14 A. Yes, they were.</p> <p>15 Q. And, I mean, am I correct --</p> <p>16 A. I have nothing but the utmost respect for 17 the neurosurgeons. I really do. I was -- that one 18 comment was only a kidding comment.</p> <p>19 Q. Sorry. Different neurosurgeons might have 20 different practice; would that be fair to say?</p> <p>21 A. Yes.</p> <p>22 Q. If we want to know, for example, what 23 Dr. Moncman's practice is like and his patients are 24 like, he's a physician we've heard from in this case, 25 would Dr. Moncman be the best person to ask about</p> | <p style="text-align: right;">100</p> <p>1 ask me to one-by-one document each one in -- in my 2 report.</p> <p>3 Q. Sure. But I did ask you to look at all of 4 them; right?</p> <p>5 A. Yes, you did, and I -- and you asked me to 6 write a general feel of, you know, having looked at 7 all those things, what I thought was going on, yes.</p> <p>8 Q. And -- and by looking at all those, that's 9 how you were able, for example, to testify about 10 whether there were gaps in treatment or -- or -- over 11 the years?</p> <p>12 A. Correct.</p> <p>13 Q. Now, so are you telling us you didn't 14 memorize every single record that's there?</p> <p>15 A. I did not, and I also am telling you that 16 it was my fault, because -- although I can blame my 17 secretaries. I -- I most definitely, on a regular 18 basis, if I'm going to be giving a deposition, I will 19 have those -- that -- that record pulled again so I 20 can review them all again so that when you do ask me 21 questions like this, I do not sound quite so lost.</p> <p>22 Q. And you -- you, I think, had indicated to 23 Mr. Pentz several times that, well, maybe if you show 24 me a record, I can comment.</p> <p>25 A. Yes.</p> |

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| <p style="text-align: right;">101</p> <p>1 Q. Are you prepared to comment on any records 2 or combination of records that you might be asked 3 about by Mr. Pentz?</p> <p>4 A. Yes, I am.</p> <p>5 MS. OLIVER: I have no further questions.</p> <p>6 Thank you.</p> <p>7 THE VIDEOGRAPHER: Excuse me. I have about 8 one minute left on this tape. Would you like to 9 change it now or wait?</p> <p>10 MR. PENTZ: We're probably not going to 11 make it in a minute.</p> <p>12 THE VIDEOGRAPHER: Okay. This concludes 13 tape number one. Off the record at 4:13.</p> <p>14 (Off the record.)</p> <p>15 THE VIDEOGRAPHER: This is the beginning of 16 tape number two. On the record 4:15.</p> <p>17</p> <p>18 RECROSS EXAMINATION</p> <p>19</p> <p>20 BY MR. PENTZ:</p> <p>21 Q. Doctor, I made some notes when you were 22 testifying, when I was asking you some questions. I 23 may have written this incorrectly, but I thought you 24 had told me that you didn't believe that Ms. Jordan 25 suffered an injury. Do you recall that statement?</p> | <p style="text-align: right;">103</p> <p>1 think -- yes. I think whiplashes recover over three 2 weeks, four weeks. I mean, they're --</p> <p>3 Q. Okay.</p> <p>4 A. You know, it's like -- I mean, just because 5 you sprain your neck -- if I said to you, jeez, I 6 sprained my ankle, I turned it a little bit and it 7 hurts, it's not swollen, it's not all black and blue, 8 there's no fracture, there's no dislocation, and I now 9 have pain six years later, you'd be a little bit 10 surprised by that, and the neck is not a whole lot 11 different. I mean, it's -- a whiplash is -- is a -- a 12 muscular sprain and -- and a back and forth injury.</p> <p>13 Q. Okay. And the Exhibit 16, which was -- is 14 the -- is that Dr. McVay's?</p> <p>15 A. Yes, it is.</p> <p>16 Q. That's -- is that more than three weeks 17 after the accident? I don't have it in front of me 18 now.</p> <p>19 A. This would be -- no, this is -- this one --</p> <p>20 Q. Yes.</p> <p>21 A. -- is particularly -- yeah, three weeks. 22 You're right.</p> <p>23 Q. Okay.</p> <p>24 A. I'm sorry.</p> <p>25 Q. And the diagnosis is still in there as</p> |
| <p style="text-align: right;">102</p> <p>1 A. I don't know if I said it exactly that way, 2 and if I did, can I --</p> <p>3 Q. Sure.</p> <p>4 A. I'll expound. If I -- if she has a 5 whiplash, that is really an injury. Okay. I think 6 what I was probably referring to is that I don't think 7 she had any type of long-lasting structural problem, 8 when I -- when I meant that. I'm sure that's -- I'm 9 sure that's how I used it because I've already -- I've 10 already testified that I think she had a whiplash.</p> <p>11 Q. Okay.</p> <p>12 A. Okay. And I haven't argued that point at 13 all, or argued against that point. And so what it 14 probably was in reference to is -- is that I don't 15 think she has suffered an injury that should cause 16 long-lasting subjective complaints.</p> <p>17 Q. And I understand from your testimony that 18 as to specific documents, you don't have any specific 19 recollection, but you'd be willing to respond to 20 specific documents if I showed them to you; correct?</p> <p>21 A. Right.</p> <p>22 Q. Okay. The -- and I also understand that a 23 whiplash, in your opinion, would recover within ten 24 days, I thought you told me?</p> <p>25 A. Well, that's what they did in the thing: I</p> | <p style="text-align: right;">104</p> <p>1 what; a cervical strain/sprain --</p> <p>2 A. Right.</p> <p>3 Q. -- post-traumatic headaches, status post --</p> <p>4 A. No, no.</p> <p>5 MS. OLIVER: Objection. That's not --</p> <p>6 MR. PENTZ: Okay.</p> <p>7 THE WITNESS: No.</p> <p>8 MR. PENTZ: I don't have that exhibit.</p> <p>9 THE WITNESS: It's whiplash injury, severe 10 cervical sprain -- strain/sprain.</p> <p>11 MR. PENTZ: Okay, on that one.</p> <p>12 BY MR. PENTZ:</p> <p>13 Q. And then if I show you Exhibit 24, that's 14 certainly more than three weeks after the accident?</p> <p>15 A. Right.</p> <p>16 Q. And is there still a diagnosis there?</p> <p>17 A. Same diagnosis.</p> <p>18 Q. Okay.</p> <p>19 A. Plus post-traumatic headache.</p> <p>20 Q. Okay. And then on Exhibit 25, which 21 certainly is greater than three weeks --</p> <p>22 A. Same thing.</p> <p>23 Q. -- same diagnosis?</p> <p>24 A. (Nods head affirmatively.)</p> <p>25 Q. Would you agree with that?</p> |

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1 A. I agree -- am I agreeing with the diagnosis
2 as is written down?

3 Q. No. Are you agreeing that that's the
4 diagnosis in the exhibit?

5 A. Yes.

6 Q. Okay. But I would take it, based on what
7 you've said, you don't agree with -- with those
8 diagnoses?

9 A. About this time I'm starting to wonder.

10 MR. PENTZ: Okay. Nothing further. Thank
11 you.

12 MS. OLIVER: Thank you.

13 THE WITNESS: Thank you.

14 THE VIDEOGRAPHER: This concludes the
15 deposition. Off the record 4:19.

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17 (The deposition concluded at 4:19 p.m.)

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1 COUNTY OF UNION :
2 : ss.

3 COMMONWEALTH OF PENNSYLVANIA :
4

5 I, LISA J. BERKEY, RPR, Notary Public,
6 authorized to administer oaths within and for the
7 Commonwealth of Pennsylvania and take depositions in
8 the trial of causes, do hereby certify that the
9 foregoing is the testimony of STUART M. OLINSKY, M.D.

10 I further certify that before the taking of said
11 deposition the witness was duly sworn; that the
12 questions and answers were taken down stenographically
13 by the said LISA J. BERKEY, an RPR, Notary Public,
14 approved and agreed to, and afterwards reduced to
15 typewriting under the direction of the said Reporter.

16 I further certify that the proceedings and
17 evidence are contained fully and accurately in the
18 notes taken by me in the within deposition, and that
19 this copy is a correct transcript of the same.

20 In testimony whereof, I have hereunto subscribed
21 my hand this day of , 2004.

22

23

24 LISA J. BERKEY, RPR
Notary Public.

25 My commission expires
on May 20, 2007

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CA
(per Mazly)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife, :
Plaintiffs, : TYPE OF PLEADING:
v. : **DEFENDANT'S DEPOSITION**
SUSAN TURNER-BETTS, : **OBJECTIONS OF MEDICAL**
Defendant. : **WITNESSES**
: :
: : TYPE OF CASE: CIVIL
: : FILED ON BEHALF OF:
: : **DEFENDANT**
: :
: : COUNSEL OF RECORD FOR
: : FOR THIS PARTY:
: : JAMES M. HORNE, ESQ.
: : I.D. NO. 26908
: : KATHERINE V. OLIVER, ESQ.
: : I.D. NO. 77069
: : McQUAIDE, BLASKO, SCHWARTZ,
: : FLEMING & FAULKNER, INC.
: : 811 University Drive
: : State College, PA 16801
: : PH# (814) 238-4926
: : FAX#(814) 238-9624

FILED

MAY 14 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

DEFENDANT'S DEPOSITION
OBJECTIONS OF MEDICAL WITNESSES

A. **Barbara Swan - Plaintiff's Medical Witness (Exhibit "A")**

- (1) N.T. 11 - Defendant withdraws this objection as moot but requests that lines 4 - 9 not be published given that Plaintiffs' counsel rephrased the question.
- (2) N.T. 13 (lines 2 - 18) - Defendant withdraws this objection and therefore requests, *omitted* that the referenced portions of the transcript not be published to the jury.

N.T. 15 (lines 18 - 21)-same as above, as this was part of a continuing objection;.

- (3) N.T. 18 - 19 - Defendant withdraws this objection as moot but requests that N.T. 18 (beginning at line 9) through N.T. 19 (ending middle of line 3), not be published given that Plaintiffs' counsel rephrased the question.
- (4) N.T. 19 (lines 18 - 25) - Defendant withdraws this objection as moot because Plaintiffs' counsel rephrased the question, and Defendant therefore requests that N.T. 19 (lines 18 -25) not be read.

(5)
*Under
adverser
overruled*
N.T. 20 (lines 6 - 12). Defendant requests a ruling on this objection, and moves to strike the question and response, for the reasons stated at N.T. 20. The expert report submitted by Plaintiffs does not even hint that Dr. Swan would offer any opinions as to the reasonableness and/or necessity of any prior physicians' care or treatment, nor is there any indication of what prior care and treatment she could be referring to given her limited knowledge of the same. Plaintiffs' failure to address this topic in the report of Dr. Swan, or even to make cursory reference to the same, is extremely prejudicial to Defendant, in that Defendant did not have

adequate notice and opportunity to respond or prepare meaningful cross examination on the issue.

(6) N.T. 49 (lines 6 - 11) - Defendant requests that these portions of N.T. 49-50 not be published given that Defendant withdrew the objection to which it corresponded in number 2, above.

B. **Dr. Michael Gerard Moncman--defense witness (Exhibit "B")**

(1) N.T. 46 (begin line 15) through 47 (end at line 23) - Defendant requests a ruling on this objection for the reasons stated at N.T. 46 - 47.

(2) N.T. 62 (beginning at line 25) through N.T. 63 (lines 1 - 5). Defendant requests a ruling and moves to strike the referenced portions of the transcript for the reasons stated therein and also because Plaintiffs' attorney rephrased and/or withdrew the question in any event.

hectored (3) N.T. 65 (beginning at line 25) through 66 (ending at line 17) - Defendant requests a ruling on this objection for the reasons stated at N.T. 66. The question implies to the jury that the defense expert could have directly contacted the treating physicians of Plaintiff and or Plaintiff herself to "clear up" inconsistent statements made by Plaintiff, when such direct contact with a treating physician is clearly forbidden by the rules of procedure. To permit the question to be posed to the defense expert would raise the improper and prejudicial inference that these steps could have been taken, but were deliberately not. Especially given that Plaintiffs themselves will not be calling the treating physician referenced in the testimony (Dr. Williams), the question is extremely prejudicial and cannot be cured through cross examination.

(4) N.T. 78 (lines 2 - 10) - Defendant withdraws the objection as moot but requests that lines 2 - 10 not be published since Plaintiffs' counsel withdrew the question.

C. **Dr. Stuart Olinsky-Defense expert (Exhibit "C")**

hectored (1) N.T. 9 (beginning at line 19) through N.T. 12 (ending at 2) - Defendant requests a ruling for the reasons stated in the referenced portion of the transcript.

(2) N.T. 56 - Defendant withdraws this objection.

(3) N.T. 58 - Defendant requests a ruling on this objection and moves to strike lines 13 through 23 for the reason that the question posed misstated the prior testimony of Dr. Olinsky regarding the records of Dr. Swan (see N.T. 54 - 56).

overruled

- (4) N.T. 62 (beginning at line 6) through N.T. 63 (ending at line 24) - Defendant requests a ruling on this objection and moves to strike the referenced questions and responses for the reasons stated at N.T. 62.
- (5) N.T. 83 (beginning at line 6) through N.T. 86 (line 4) - Defendant requests a ruling on this objection and moves to strike the referenced testimony for the reason stated at N.T. 83.
- (6) N.T. 87 (line 2 though 19) - Defendant withdraws this objection as moot but requests that the question at lines 2-4 and objection thereto not be published, as the question was rephrased by Plaintiffs' attorney.
- (7) N.T. 90 (beginning at line 20) - Defendant withdraws the objection as moot and requests that lines 20 - 25 not be published, as the question was rephrased by Plaintiffs' attorney.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
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Dated: May 14, 2004

EXHIBIT “A”

Page 1

(1) IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
(2)
(3)
RODNEY JORDAN and JUDITH JORDAN,
(4) husband and wife,
(5) Plaintiffs,
(6) vs. No. 00-1148 CD
(7)
(8) SUSAN TURNER-BETTS,
(9)
Defendant.
(10)
(11) DEPOSITION TRANSCRIPT OF:
DR. BARBARA SWAN
(12)
(13) DEPOSITION DATE:
March 23, 2004
Tuesday, 4:23 p.m.
(14)
(15)
PARTY TAKING DEPOSITION:
Plaintiff
(16)
(17)
COUNSEL OF RECORD
FOR THIS PARTY:
Chris A. Pentz, Esq.
(19) 211 1/2 East Locust Street
Clearfield, PA 16830
814-765-4000
(20)
(21)
REPORTED BY:
G. Donavich, RPR, CRR
Notary Public
(23) AKF Reference No. 79996
(24)
(25)

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(1) DEPOSITION OF DR. BARBARA SWAN,
a witness, called by the Plaintiff for examination,
(2) in accordance with the Pennsylvania Rules of Civil
Procedure, taken by and before G. Donavich, RPR, CRR,
(3) a Court Reporter and Notary Public in and for the
Commonwealth of Pennsylvania, at 1307 Federal Street,
(4) Pittsburgh, Pennsylvania, on Tuesday, March 23, 2004,
commencing at 4:23 p.m.
(5)
(6) ----
(7)
APPEARANCES:
(8)
FOR THE PLAINTIFFS:
(9) Chris A. Pentz, Esq.
211 1/2 East Locust Street
(10) Clearfield, PA 16830
814-765-4000
(11)
(12)
(13) FOR THE DEFENDANT:
KATHERINE V. OLIVER, Esq.
(14) McQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC.
811 University Drive
(15) State College, PA 16801
814-238-4926
(16)
(17)
(18)
(19)
(20)
(21)
(22)
(23)
(24)
(25)

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(17)
(18)
(19)
(20)
(21)
(22)
(23)
(24)
(25)

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(1) DR. BARBARA SWAN,
(2) having been duly sworn,
(3) was examined and testified as follows:
(4) ----
(5) EXAMINATION
(6) ----
(7) BY MR. PENTZ:
(8) Q. Doctor, would you please state your name and
business address.
(9)
(10) A. My name is Barbara Swan. My business address
is 1307 federal Street, Pittsburgh,
(11)
(12) Pennsylvania.
(13) Q. And what is your profession?
(14) A. I'm a physician specializing in physical
medicine and rehabilitation.
(15)
(16) ----
(17) (Exhibit 1 marked for identification.)
(18) ----
(19) BY MR. PENTZ:
(20) Q. Doctor, I'm going to show you what's been
marked as Deposition Exhibit 1. Do you
(21) recognize that?
(22)
(23) A. This is a copy of my CV.
(24) Q. Okay. And what basically is set forth in the
CV?
(25)

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(1) A. My education, training, and work experience.
 (2) Q. All right. And just briefly in that area, are
 (3) you licensed to practice in any particular
 (4) states?
 (5) A. Pennsylvania.
 (6) Q. Could you give us a short version of your
 (7) educational background.
 (8) A. I did my undergraduate training at Penn State
 (9) University, my medical school training at
 (10) Jefferson Medical College, and my residency
 (11) training at the University of Cincinnati
 (12) Hospitals.
 (13) I completed my residency training in
 (14) 1984 and moved to the Pittsburgh area and have
 (15) been in practice in the Pittsburgh area since
 (16) that time initially employed by D.T. Watson
 (17) Rehabilitation Hospital and then in private
 (18) practice and since 1997 employed at Allegheny
 (19) General Hospital.
 (20) Q. And, Doctor, do you have any memberships or
 (21) board certifications?
 (22) A. I'm board certified in physical medicine and
 (23) rehabilitation and in electrodiagnostic
 (24) medicine.
 (25) Q. Do you have any hospital privileges?

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(1) A. I have attending privileges at Allegheny
 (2) General Hospital and consulting privileges at
 (3) Canonsburg – Suburban General Hospital.
 (4) Q. Would you please describe generally what your
 (5) employment presently is, what you do as far as
 (6) your practice now.
 (7) A. I do a combination of outpatient rehabilitation
 (8) working with individuals with chronic pain
 (9) problems doing some work with folks who have
 (10) had strokes or amputations.
 (11) I run a monthly amputee clinic and
 (12) then also every other week spend a fair amount
 (13) of time working with inpatient consultations at
 (14) the hospital, primarily patients who are
 (15) admitted to the trauma service after various
 (16) forms of trauma.
 (17) Q. And, Doctor, do you have any specialties?
 (18) A. I specialize in physical medicine and
 (19) rehabilitation.
 (20) MR. PENTZ: Thank you. I would offer
 (21) the doctor for cross as to qualifications.
 (22) MS. OLIVER: No questions. Thank
 (23) you.
 (24) MR. PENTZ: At this point then, I'm
 (25) going to offer the doctor as a medical expert

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(1) based on her prior testimony for
 (2) qualifications.
 (3) MS. OLIVER: No objection.
 (4) BY MR. PENTZ:
 (5) Q. Now, Doctor, do you know Judith Jordan?
 (6) A. Yes.
 (7) Q. And how is it that you know Judith Jordan?
 (8) A. She was referred to me by a Dr. Freenock, who
 (9) is a physiatrist in the Clarion area, and he
 (10) referred her to me in February of 2003.
 (11) Q. And on how many occasions have you had an
 (12) opportunity to see Judith?
 (13) A. I've seen her on four occasions.
 (14) - - -
 (15) (Exhibit 2 marked for identification.)
 (16) - - -
 (17) BY MR. PENTZ:
 (18) Q. Okay. Doctor, I'm going to show you what's
 (19) been marked as Exhibit 2. Do you recognize
 (20) that document?
 (21) A. Yes, I do.
 (22) Q. And would you please tell us what that document
 (23) is.
 (24) A. Essentially this is a narrative report
 (25) outlining my treatment of Mrs. Jordan that I

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(1) authored at your request.
 (2) Q. Have you done any histories, either medical,
 (3) physical, or personal histories?
 (4) A. You mean on Mrs. Jordan?
 (5) Q. Correct.
 (6) A. Yes, I have.
 (7) Q. Would you please tell me the results of those
 (8) histories.
 (9) A. Essentially when she first saw me February 28th
 (10) of 2003, she related a history of being in a
 (11) motor vehicle accident on September 19th of
 (12) 1998.
 (13) She was driving a mail vehicle, so
 (14) she was on the right-hand side; was not wearing
 (15) a seat belt, was stopped, was struck from
 (16) behind by another vehicle.
 (17) She reported immediate onset of neck
 (18) stiffness and pain – I'm sorry – immediate
 (19) onset of neck stiffness with neck pain coming
 (20) the following morning; and then over the
 (21) subsequent three to four weeks as she began
 (22) using her left arm more frequently, she also
 (23) began to notice aching in her left arm.
 (24) She reports her symptoms had been
 (25) fairly constant since that time with pain

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(1) radiating into the arm, down as far as the
 (2) elbow, some tingling in the upper arm on an
 (3) intermittent basis and intermittent episodes of
 (4) weakness in the left arm.
 (5) Q. Did you perform any tests or examinations in
 (6) reference to Ms. Jordan?
 (7) A. I did not --
 (8) I did do a physical examination. I
 (9) did not send her for any diagnostic tests, but
 (10) I did review some prior records that I had
 (11) available at that time.
 (12) Q. And do you know what the results of that
 (13) physical examination were?
 (14) A. Yes.
 (15) Q. Would you please tell us that.
 (16) A. She presented as a well-developed thin white
 (17) female. She was in no acute distress. Her
 (18) neck movements were full, except bending to the
 (19) right, which was limited compared to her
 (20) bending to the left; and she complained of pain
 (21) on the left side of her neck when she bent her
 (22) head to the right.
 (23) She had tenderness in the neck
 (24) muscles on the left and also in the upper
 (25) trapezius muscle, which is at the top of the

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(1) shoulder and mild tenderness in the levator
 (2) scapula, which is a muscle just above the
 (3) shoulder blade on the back part of the
 (4) shoulder.
 (5) She also did have a trigger point
 (6) that was not tender in the right upper
 (7) trapezius and a tender trigger point in the
 (8) left upper trapezius, and her neurologic exam
 (9) was within normal limits.
 (10) Q. You referred to --
 (11) You've testified about these trigger
 (12) points in a certain area. Could you, in
 (13) laymen's terms, describe what that is.
 (14) A. What a trigger point is?
 (15) Q. Correct.
 (16) A. It's a nodule that can be palpated in a muscle.
 (17) It's an area where the muscle feels somewhat
 (18) firmer than the surrounding muscle that can be
 (19) tender or nontender.
 (20) They're generally seen in individuals
 (21) who have a particular medical problem called
 (22) myofascial pain, and it's an area of increased
 (23) irritability in the muscle.
 (24) Q. And the trigger points for Ms. Jordan, what did
 (25) that relay or mean to you?

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(1) A. It's an indication of muscle irritation, and it
 (2) supports what was eventually my diagnosis of
 (3) myofascial pain.
 (4) Q. Do you recall what records you have reviewed in
 (5) this matter concerning Ms. Jordan?
 (6) MS. OLIVER: Object to the form. Do
 (7) you mean before today?
 (8) MR. PENTZ: I'll restate that for the
 (9) record.
 (10) BY MR. PENTZ:
 (11) Q. When you prepared your report of August 27th,
 (12) 2003, what records had you reviewed in
 (13) preparing that report?
 (14) A. I had records of some previous diagnostic
 (15) studies; a CAT scan of her neck was done
 (16) December of '98, which was normal; X-rays of
 (17) her neck done September of '98, which was also
 (18) normal; MRIs of her neck done November of '98,
 (19) August of '99, and June of '99, which
 (20) essentially were unremarkable, and they did
 (21) show some hemangiomas within the bone, which is
 (22) basically like a more prominent blood vessel,
 (23) but that's not a cause for concern, and is just
 (24) what we call an incidental finding.
 (25) She had an MRI of the brain November

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(1) of '98, which was normal. She had been seen at
 (2) UPMC at the Center for Pain Evaluation and
 (3) Treatment where they diagnosed myofascial pain
 (4) and occipital neuralgia.
 (5) She did have an occipital nerve
 (6) block. The occipital nerve is the nerve that
 (7) starts at the base of the skull and goes up
 (8) over the top of the head. That resulted in
 (9) moderate relief of headaches.
 (10) They did recommend participation in
 (11) their pain rehabilitation program, but she was
 (12) not able to follow through with that. The
 (13) patient reported to me that for logistical
 (14) reasons she could not follow through with that.
 (15) She had had multiple medications, saw
 (16) a neurologist, had physical therapy, and
 (17) trigger point injections.
 (18) I did review some nerve testing,
 (19) electrodiagnostic studies, specifically June of
 (20) '99 and November of 2000. These showed only
 (21) some mild abnormalities in the muscles on the
 (22) left-hand side of her neck, which is
 (23) essentially a nondiagnostic finding.
 (24) Q. And subsequent to your authoring this report of
 (25) August 27, 2003, did you have the opportunity

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(1) to review any other documents?
 (2) MS. OLIVER: Objection. I'm going to object to Dr. Swan offering any testimony or being questioned about anything beyond this August 27th, 2003, report. It's outside the scope of her report.

(7) There's been a discovery deadline in place, so I object to it as being outside the scope of the report. With that objection, I don't want to keep objecting.

(11) MR. PENTZ: Sure.

(12) MS. OLIVER: If you'll accept that objection as to continuing as to any of these questions, we can just go ahead.

(15) MR. PENTZ: Absolutely. So stipulated.

(17) THE WITNESS: Okay. So the question (18) was –

(19) BY MR. PENTZ:

(20) Q. Okay. Today you provided me with a report dated August 14th of 2000 that was an independent medical evaluation done by Dr. Moncman and also a December 2nd of 2003 medical record review done by Dr. Olinsky.

(25) Having reviewed those records to

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(1) which you just referred, does that in any way (2) change your opinion and discussion as set forth (3) in your report of August 27th, 2003?
 (4) A. The primary difference is the patient had (5) reported to me no prior history of neck or back (6) problems, and apparently she had been seen by a (7) chiropractor on several occasions prior to her (8) motor vehicle accident of September, 1998, I (9) believe twice in '92, three times in 1994, and (10) several times in 1995.

(11) ----

(12) (Exhibit 3 marked for identification.)

(13) ----

(14) BY MR. PENTZ:

(15) Q. And just so that we're talking about the same (16) report, I'm going to show you what is marked as (17) Deposition Exhibit 3. Would you please, if you (18) can, identify that.

(19) A. This is the independent medical evaluation (20) performed by Dr. Moncman on August 14th of (21) 2000.

(22) Q. And is this the document that you reviewed (23) today?

(24) A. That's one of the documents I reviewed today.

(25) ----

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(1) ----

(2) (Exhibit 4 marked for identification.)

(3) ----

(4) BY MR. PENTZ:

(5) Q. I'll show you what has been marked as

(6) Exhibit 4. Do you recognize that?

(7) A. This is the medical record review done by

(8) Dr. Olinsky on December 2nd of 2003.

(9) Q. Is that the other document you reviewed today?

(10) A. Yes, it is.

(11) Q. And as far as your discussion and opinions that

(12) are given in your report of August 27th, 2003,

(13) are they changed in any way by those two

(14) documents that you just referred to?

(15) A. No.

(16) Q. Now, Doctor, do you make a distinction between

(17) objective versus subjective findings?

(18) MS. OLIVER: I'm sorry. I just want

(19) to again object to that previous line of (20) testimony and move to strike. Sorry. Next (21) question.

(22) THE WITNESS: Yes. There is a (23) difference between objective and subjective (24) findings.

(25) BY MR. PENTZ:

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(1) Q. Okay. What's the distinction between an

(2) objective versus a subjective finding?

(3) A. An objective finding does not rely on the

(4) report of the patient, and it can be

(5) independently verified by somebody other than (6) the patient of.

(7) A subjective finding is basically

(8) something that the patient reports that cannot (9) be independently verified.

(10) Q. Are there any objective findings concerning

(11) Judith Jordan's condition?

(12) A. The primary objective finding is the presence

(13) of trigger points in the upper trapezius (14) muscles.

(15) Q. And are you aware of any medications that

(16) Ms. Jordan has either taken in the past or is (17) presently taken?

(18) A. She had been on multiple medications in the (19) past. At the time that I saw her, she was not

(20) taking any medications specifically for her (21) pain. I did feel that she –

(22) Well, she reported a history of poor (23) sleep, and I tried her on several medications (24) to improve that, specifically Trazodone, (25) Pamelor, and Elavil.

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(1) When I last saw her, she was taking
 (2) the Elavil, or Amitriptyline is the generic
 (3) name, either ten or fifteen milligrams at
 (4) bedtime; and I have not seen her since then to
 (5) know if she is still taking that.

(6) Q. Doctor, I'm going to ask you some questions
 (7) that I would ask that your answer be given
 (8) within a reasonable degree of medical
 (9) certainty.

(10) The first one I have is did you reach
 (11) a diagnosis as to Ms. Jordan?

(12) A. Yes, I did.

(13) Q. What is that?

(14) A. Her diagnosis is chronic left shoulder girdle
 (15) myofascial pain.

(16) Q. In laymen's terms, what would that be?

(17) A. Well, chronic means something that does not go
 (18) away. Shoulder girdle are the muscles around
 (19) the shoulder and shoulder blade, and myofascial
 (20) pain is muscle pain, irritability, and the
 (21) trigger points which cause –
 (22) The trigger points cause the
 (23) surrounding muscle to be painful and irritable.

(24) Q. Do you have an opinion as to the cause of this
 (25) diagnosis or condition?

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(1) A. Based on her history, the cause was the
 (2) whiplash injury that occurred after the motor
 (3) vehicle accident in September of 1998, which in
 (4) her case went on to become this chronic
 (5) myofascial pain.

(6) Q. Is that opinion consistent with the accident as
 (7) related to you by Ms. Jordan?

(8) A. Yes, it is.

(9) Q. And is that opinion consistent with the
 (10) documents that you reviewed at the time you
 (11) wrote your report of August 27, 2003?

(12) MS. OLIVER: Objection. Are you
 (13) talking about the documents she's already
 (14) testified about? Because I don't know –

(15) MR. PENTZ: I'm talking about the
 (16) documents she had reviewed at the time of her
 (17) August 27, 2003, report.

(18) MS. OLIVER: I guess I'm just
 (19) objecting to the form because unless you're
 (20) saying she has already testified about those,
 (21) we don't know what documents those are.

(22) MR. PENTZ: I believe the record will
 (23) show she has testified as to what she reviewed.

(24) MS. OLIVER: As long as that was your
 (25) question, yes.

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(1) THE WITNESS: Say the question again.

(2) BY MR. PENTZ:

(3) Q. I'll rephrase that for you. The cause of her
 (4) condition that you've just stated here, is it
 (5) consistent – your opinion consistent with the
 (6) documents that you reviewed and the reports you
 (7) reviewed when you authored your August 27,
 (8) 2003, letter?

(9) A. Yes.

(10) Q. Now, this condition, do you have an opinion as
 (11) to whether it's permanent?

(12) A. Yes, I do.

(13) Q. And what is your opinion in that area?

(14) A. At the time that I saw her, she had had
 (15) symptoms for five years. It is most likely
 (16) going to continue for the foreseeable future.

(17) Q. Okay.

(18) MS. OLIVER: Objection. Sorry. I move to strike. I don't think the doctor's testimony was offered with the requisite degree of certainty as far as most likely in talking about whether her condition is permanent.

(19) I know your initial question was phrased within a reasonable degree of medical certainty, but her answer made that unclear.

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(1) BY MR. PENTZ:

(2) Q. Doctor, are you able to say that this condition
 (3) is permanent with a reasonable degree of
 (4) medical certainty?

(5) A. Yes.

(6) Q. And the treatment that you have reviewed that
 (7) Ms. Jordan has received, do you have an opinion
 (8) as to whether this treatment was reasonable and
 (9) necessary?

(10) A. Yes.

(11) MS. OLIVER: Objection. Beyond the scope.

(12) BY MR. PENTZ:

(13) Q. And, Doctor, is there any –

(14) Do you have any future treatment
 (15) plans concerning Ms. Jordan?

(16) A. She was instructed to follow up with me on an
 (17) as-needed basis. She does not have an
 (18) appointment scheduled with me, and I have not
 (19) seen her since July 18th.

(20) Q. Is there any plan at this point for any future
 (21) treatment?

(22) A. No specific plans for future treatment from me.

(23) I referred her back to her primary care
 (24) physician to prescribe whatever medications she

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(1) needed.

(2) Q. And based on this diagnosis that you have given

(3) concerning Ms. Jordan, would there be any

(4) problems that Ms. Jordan would have as a result

(5) of this condition or any symptoms that she

(6) would have as a result of this diagnosis that

(7) you had given?

(8) A. Her primary symptoms will be muscle pain and

(9) increased pain with certain activities or

(10) unaccustomed activities.

(11) Q. Could you give me an idea what activities

(12) you're referring to.

(13) A. Activities that involve repeated use

(14) particularly of her left arm such as any kind

(15) of repeated reaching, lifting, prolonged

(16) carrying of heavier than she's accustomed to

(17) objects with the left arm, because that

(18) requires the muscles to contract on a long-term

(19) basis without moving, and then any unaccustomed

(20) activities.

(21) I can't give you a specific account.

(22) It depends what her usual activity is, but if

(23) she does something her body is not used to

(24) doing, she is likely to have a flare-up of

(25) pain.

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(1) Q. Again, these opinions you have given, are they

(2) within a reasonable degree of medical

(3) certainty?

(4) A. Yes, they are.

(5) MR. PENTZ: Thank you, Doctor. I

(6) have no further questions.

(7) MS. OLIVER: May I just take a

(8) minute?

(9) ----

(10) (There was a recess in the proceedings.)

(11) ----

(12) MS. OLIVER: Thank you. I appreciate

(13) that.

(14) ----

(15) CROSS-EXAMINATION

(16) ----

(17) BY MS. OLIVER:

(18) Q. Dr. Swan, just so we're clear, you're not

(19) currently treating Mrs. Jordan. Is that right?

(20) A. That's correct.

(21) Q. And you saw her a total of four times?

(22) A. That's correct.

(23) Q. After those four times, you're confident that

(24) unless she feels a need to come back or wants

(25) to call your office for some reason, you don't

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(1) need to see her back in your office. Is that

(2) right?

(3) A. That's correct.

(4) Q. And the last time you saw Mrs. Jordan or even

(5) spoke with her was almost nine months ago.

(6) Right?

(7) A. July of 2003. Eight months ago.

(8) Q. Okay. And you have no visits scheduled at this

(9) time to see her?

(10) A. That's correct.

(11) Q. When you last saw Mrs. Jordan almost eight

(12) months ago, you didn't recommend any

(13) restrictions on activities, did you?

(14) A. No, I did not.

(15) Q. And were you aware at that time that

(16) Mrs. Jordan is employed as a postal carrier?

(17) A. Yes.

(18) Q. So she delivers mail for a living. Right?

(19) A. Yes.

(20) Q. And she does that full-time.

(21) A. Correct.

(22) Q. And when you went through Mrs. Jordan's

(23) history, you talked about having seen some

(24) prior records, some prior tests. Right?

(25) A. That's correct.

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(1) Q. And when you were going through the prior tests

(2) and talking about the history, one thing you

(3) didn't mention in response to Mr. Pentz'

(4) questions was your diagnosis of cervical

(5) spondylosis.

(6) You did diagnose Mrs. Jordan with

(7) cervical spondylosis, did you not?

(8) A. Yes.

(9) Q. What is that?

(10) A. Basically wear-and-tear changes on the spine,

(11) and in the case of cervical spondylosis, it

(12) would be the neck.

(13) Q. So is cervical spondylosis something that maybe

(14) lay people would think of as arthritis? Would

(15) that be a fair way to characterize that?

(16) A. Yeah.

(17) Q. Am I also correct from reviewing your records

(18) it appears that based on your years of

(19) experience, your medical knowledge, that it's

(20) your opinion that this arthritis condition, if

(21) you will, is not something that was caused by

(22) the car accident that this lawsuit is about.

(23) Is that right?

(24) A. That's correct.

(25) Q. And the cervical spondylosis or the arthritis

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(1) Q. Is it fair to say then that we should expect
 (2) that Mrs. Jordan will continue to be able to do
 (3) all those activities we just talked about in
 (4) the future, as well?
 (5) A. That's correct.
 (6) MS. OLIVER: Subject to my objection,
 (7) Mr. Pentz, I'm going to ask a question in
 (8) follow-up to the testimony that I moved to
 (9) strike in case my objection is overruled. I
 (10) have one follow-up question on the record about
 (11) that.
 (12) BY MS. OLIVER:
 (13) Q. Dr. Swan you had testified in response to
 (14) questions from Mr. Pentz about seeing a report
 (15) from Dr. Moncman of August 14th, 2000. Right?
 (16) A. Yes.
 (17) Q. That's something Mr. Pentz just gave you today.
 (18) Right?
 (19) A. That's correct.
 (20) Q. And both those records, Exhibits 3 and 4, how
 (21) long do you think you had to review those
 (22) total?
 (23) A. Five minutes.
 (24) Q. Five minutes for both reports?
 (25) A. Yeah.

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(1) Q. Did Mr. Pentz show you reports that Dr. Moncman
 (2) wrote on May 22nd, 2002?
 (3) A. No.
 (4) MS. OLIVER: I have no further
 (5) questions. Thank you.
 (6) ----
 (7) REDIRECT EXAMINATION—
 (8) ----
 (9) BY MR. PENTZ:
 (10) Q. Doctor, the myofascial diagnosis, exactly what
 (11) is that in laymen's terms?
 (12) A. It's —
 (13) Myofascial pain is a syndrome of
 (14) chronic muscle pain. It's characterized by
 (15) irritable muscles, painful muscles, a tendency
 (16) toward muscle tightness.
 (17) These trigger points that I spoke of
 (18) earlier which are small areas of irritation
 (19) within the muscle, it can be caused by muscle
 (20) injury; it can occur spontaneously.
 (21) As far as what the underlying cause
 (22) is, that's something that's not known in
 (23) medical knowledge at this point.
 (24) Q. Is there a relationship between the cervical
 (25) arthritis and the trigger points?

granted

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(1) A. In the case of Mrs. Jordan, I don't feel there
 (2) is.
 (3) Q. And in the case of Mrs. Jordan, is there a
 (4) relationship between the chiropractic
 (5) subluxation and the trigger points response?
 (6) A. I guess you're talking about the cervical
 (7) subluxation that was diagnosed by the
 (8) chiropractor.
 (9) Q. Correct.
 (10) A. I don't know, because I do not —
 (11) I don't know how valid the diagnosis
 (12) of the cervical subluxation made by the
 (13) chiropractor is. I would question the validity
 (14) of that diagnosis.
 (15) Q. Why do you question that validity?
 (16) A. Because there's no good medical evidence that
 (17) shows that there is any consistent inter-rater
 (18) reliability, meaning that different people
 (19) examining the same neck will see the same thing
 (20) for cervical subluxation.
 (21) Q. Assuming Ms. Jordan had the loss of a son,
 (22) would that have any relationship to this
 (23) trigger point response, in your opinion?
 (24) A. It may. Stress can exacerbate myofascial pain
 (25) and increase the muscle pain that occurs from

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(1) myofascial pain.
 (2) Certainly the stress of losing a son
 (3) or subsequent depression could certainly
 (4) increase the symptoms that she was
 (5) experiencing.
 (6) Q. And after all the questioning that you've had
 (7) here by opposing counsel, have the opinions
 (8) that I've asked you to render previously within
 (9) a reasonable degree of medical certainty
 (10) changed?
 (11) A. Based on the history and my brief review of the
 (12) prior records, it does appear she had more
 (13) symptoms related to her neck before the motor
 (14) vehicle accident than I was originally aware
 (15) of.
 (16) At least from the information I had,
 (17) it does not appear they were of the same
 (18) severity as the symptoms she has had since the
 (19) motor vehicle accident, so I would still say
 (20) that there was a significant change in her
 (21) symptoms as a result of the motor vehicle
 (22) accident. Whether it was an exacerbation of a
 (23) preexisting condition or a new condition, I
 (24) can't state.
 (25) She has other mitigating

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(1) circumstances of which I was not aware such as
 (2) the loss of her son and possible depression,
 (3) which could affect her ability to recover from
 (4) the motor vehicle accident in September of '98.

(5) MR. PENTZ: Thank you. I don't have
 (6) any further questions.

(7) MS. OLIVER: I just have a couple.
 (8) I'll be brief.

(9) ----

RECROSS-EXAMINATION

(11) ----

(12) BY MS. OLIVER:

(13) Q. Mr. Pentz just asked you about the relationship
 (14) between trigger points and either the arthritis
 (15) or the car accident.

(16) Again, in forming any opinion about
 (17) those relationships, you are relying heavily on
 (18) the history as reported by Mrs. Jordan at least
 (19) as to when she had complaints, whether they
 (20) were consistent, whether they have been
 (21) constant, and reports of that nature. Right?

(22) A. Can you restate the question? You lost me in
 (23) there somewhere.

(24) Q. Sure. In forming your opinion about the
 (25) relationship between the trigger points and

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(1) either the car accident or, as you said to
 (2) Mr. Pentz, that there's not a relationship to
 (3) the arthritis, you are relying in forming that
 (4) opinion on history as reported by Mrs. Jordan.

(5) Right?

(6) A. That's correct.

(7) Q. And so if the history that she reported and
 (8) what you've testified to isn't accurate in some
 (9) respects, that may alter the opinion. Is that
 (10) right?

(11) A. It may alter the opinion as far as the motor
 (12) vehicle accident.

(13) The cervical spondylosis, that's
 (14) described as mild on the X-rays, and I would
 (15) not expect that to cause any significant pain;
 (16) so to the extent she is having pain, I don't
 (17) feel that the spondylosis is the cause of that.

(18) Q. But in relating any pain complaints to the
 (19) motor vehicle accident this lawsuit is about,
 (20) you are relying on Mrs. Jordan's history and
 (21) complaints. Is that correct?

(22) A. Right, but you also asked about the
 (23) spondylosis, so I wanted to put that in.

(24) Q. Sure. You said you would doubt or question the
 (25) validity, I think you said, of the subluxation

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(1) diagnosis from Dr. Williams.

(2) You don't doubt the validity of the
 (3) pain complaints that Mrs. Jordan reported at
 (4) that time when she was seeing him, do you?

(5) A. No.

(6) Q. Or the headache complaints or anything like
 (7) that. Right?

(8) A. No.

(9) Q. You have not actually reviewed Dr. Williams'
 (10) records, have you?

(11) A. No, I did not. I did glance in -- I guess

(12) what's a transcript from some handwritten
 (13) records from one chiropractor. I don't know
 (14) which one.

(15) MR. PENTZ: We can go off the record
 (16) here.

(17) ----

(18) (There was a discussion off the record.)

(19) ----

(20) BY MS. OLIVER:

(21) Q. When you formed your opinions, wrote the letter
 (22) to Mr. Pentz, you had not reviewed any records
 (23) from Dr. Williams, had you?

(24) A. No.

(25) Q. You had not reviewed any records about the car

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(1) accident in '97 and further ones, had you?
 (2) A. That's correct.

(3) MR. PENTZ: I move for admission of 1
 (4) and 2, Exhibit 1 and 2, and I would also move
 (5) for the admission of 3 and 4 subject to the
 (6) Court's ruling on opposing counsel's objection.

(7) MS. OLIVER: I don't have any

(8) objection to attaching these as exhibits to the
 (9) deposition, but I do object to the admission of
 (10) Dr. Swan's -- I guess Exhibit 2, the report. I
 (11) guess it's admissible as a hearsay report. We
 (12) have her testimony now. Same thing as to 3
 (13) and 4.

(14) MR. PENTZ: We'll attach them to the
 (15) deposition. We'll work out the logistics.

(16) Do you waive signature?

(17) THE WITNESS: Yes.

(18) ----

(19) (The proceedings were concluded at 5:29 p.m.)

(20) ----

(21) ----

(22) ----

(23) ----

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EXHIBIT “B”

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| <p>IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA</p> <p>RODNEY JORDAN AND JUDITH JORDAN, HUSBAND AND WIFE, : Plaintiffs, : CIVIL ACTION - LAW vs. : NO. 00-1148-CD SUSAN TURNER-BETTS, : Defendant.</p> <p>DEPOSITION OF: MICHAEL-G. MONCMAN, D.O. TAKEN BY: DEFENDANT BEFORE: LISA L. RIVERA-SMITH, RPR NOTARY PUBLIC THOMAS BLANCHARD, VIDEOGRAPHER DATE: APRIL 2, 2004; 9:17 A.M. PLACE: OFFICES OF DR. MONCMAN 1701 12TH AVENUE, SUITE F ALTOONA, PA 16601</p> <p>APPEARANCES: LAW OFFICE OF CHRIS A. PENTZ BY: CHRIS A. PENTZ, ESQUIRE 122 1/2 East Locust Street Clearfield, PA 16830 FOR - PLAINTIFFS MCQUAID, BLASKO, SCHWARTZ, FLEMING & EAULINGER, INC. BY: KATHERINE V. OLIVEN, ESQUIRE 811 University Drive State College, PA 16801 FOR - DEFENDANT MLP REPORTING, INC. (570) 748-1041</p> | <p>3 1 STIPULATION 2 3 It is hereby stipulated by and between counsel 4 for the respective parties that reading, signing, sealing, 5 certification and filing are waived; and that all 6 objections be placed on the record for later ruling by the 7 Judge. 8 9 (On camera) 10 11 MICHAEL-G. MONCMAN, D.O., called as a witness, 12 being sworn, testified as follows: 13 14 DIRECT EXAMINATION ON QUALIFICATIONS 15 16 BY MS. OLIVER: 17 Q. Good morning, sir. Will you state your name, 18 please? 19 A. Michael-Gerard Moncmam, D.O. 20 Q. And would you tell us what you do for a living? 21 A. Yes. I am a licensed physician and I'm a Board 22 Certified neurosurgeon. 23 Q. And neurosurgery, is that a specialty in 24 medicine? 25 A. Yes. It's a specialty that is involved with the MLP REPORTING, INC. (570) 748-1041</p> |
| <p>1 INDEX 2 FOR DEFENDANT DIRECT CROSS REDIRECT RECROSS 3 MICHAEL-G. MONCMAN, D.O. 3 on qualifications 4 MICHAEL-G. MONCMAN, D.O. 7 40 81 88 5 6 7 8 9 10 11 EXHIBITS 12 EXHIBIT NUMBERS MARKED 13 Defendant's Exhibit No. 1 - 6 14 Defendant's Exhibit No. 2 - 8 15 Defendant's Exhibit No. 3 - 12 16 Defendant's Exhibit No. 4 - 13 17 Defendant's Exhibit No. 7 - 25 18 Defendant's Exhibit No. 8 - 28 19 Defendant's Exhibit No. 9 - 32 20 Defendant's Exhibit No. 10 - 39 21 Defendant's Exhibit No. 11 - 16 22 Defendant's Exhibit No. 12 - 83 23 24 25 MLP REPORTING, INC. (570) 748-1041</p> | <p>2 1 diagnosis and usually surgical management of diseases of 2 the brain, the spine, the spinal cord, the peripheral 3 nerves, which are the nerves out in the limbs, the blood 4 vessels in and around the brain, the blood vessels in and 5 around the spinal cord. I treat cancer of the central 6 nervous system. We treat chronic pain and trauma to the 7 head, the brain, the spine, spinal cord. 8 Q. And so, Dr. Moncmam, do you see patients on a 9 daily basis? 10 A. I see patients in my office two and sometimes 11 three days a week. I make rounds at the hospital typically 12 two or three days a week. And when I'm on trauma call, I'm 13 probably in the hospital every day. 14 Q. And in treating patients, is it fairly routine 15 for you to see patients who have symptoms such as neck 16 pain, shoulder pain, headaches, those kinds of symptoms? 17 A. Yes. As a community-based neurosurgeon, most of 18 what I see in my private or elective practice deals with 19 pain complaints in what we call the axial skeleton, which 20 would be the -- essentially the spine; so the neck, the 21 upper back, the mid back, the low back. So those kinds of 22 complaints are very common. 23 Q. And how long have you been a neurosurgeon? 24 A. I finished my training in 1987. So I'm in my 25 17th year. MLP REPORTING, INC. (570) 748-1041</p> |

1 formed -- performed that independent medical exam to be
 2 your patient?
 3 A. Well, no. I -- I use patient because we didn't
 4 call them clients when I went to medical school. I use
 5 patient as somebody seeing a doctor, but I don't consider
 6 them my patient. I consider them a patient.

7 Q. Okay. And I assume that you're compensated to
 8 perform this independent medical exam?

9 A. Yes, sir.

10 Q. And what sort of money do you receive by way of
 11 compensation?

12 A. I believe for this evaluation -- if I can just
 13 check something here, I may be able to tell you. I believe
 14 for this evaluation I was paid \$900.

15 Q. \$900.

16 A. And that's to review records, evaluate the
 17 patient, look at the films and generate the report.

18 Q. Okay. And how long would that have taken?

19 A. I would have probably spent about 20 minutes
 20 face-to-face time with Mrs. Jordan. She would have met a
 21 member of my staff beforehand who would have gone over some
 22 history -- or historical data with her, including the forms
 23 that she filled out. And afterwards, at this point I can't
 24 tell you how long it would have taken me to review her
 25 records and generate the report. Probably, I'm going to

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 1 if Mrs. Jordan had a heart attack in front of me, I can't
 2 say well, I'm an independent evaluator, I can't treat you,
 3 or if I believe that she had some potential catastrophic
 4 illness that could threaten her life it would be my duty to
 5 inform her and whoever else I would need to inform about
 6 that.

7 Q. Okay. So you're not aware of any specific
 8 American Medical Association recommendations in this area
 9 about independent medical exams?

10 A. By nature of the last three questions you
 11 obviously are, so if you'd like to show me what you're
 12 referring to, I'll be happy to take a look at it. I don't
 13 recall that I've read anything specifically or anything
 14 recent.

15 Q. Well, I'll just ask you this, when you performed
 16 that independent medical exam, did you have any -- was that
 17 an objective examination, not taking any preference for,
 18 you know, any money you received or anything of that
 19 nature?

20 A. I believe it was because the money came in
 21 independent of my opinion. And, in fact, if you look at
 22 the results of this examination, my findings and -- excuse
 23 me, findings and conclusions at that point specifically
 24 favored Mrs. Jordan. I believe that she was injured in the
 25 accident and that all of her complaints came from the

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42
 1 guess, within an hour, roughly.

2 Q. Okay. And that money, I assume, was paid to you
 3 by someone on behalf of the Defendants; correct?

4 A. They engaged my services and this would have
 5 been a pre-paid event. So I would have had the money
 6 before I ever saw this lady.

7 Q. Okay. But you received that -- that money was
 8 paid on behalf of the Defendant?

9 A. As far as I know, yeah.

10 Q. Thank you. And when you do these independent
 11 medical exams, do you follow the AMA recommendations?

12 A. I'm not sure I understand what you mean.

13 Q. Well, does the AMA put out any recommendations
 14 about the relationship you would have with the person that
 15 you're -- upon whom you are performing the independent
 16 medical exam?

17 A. I can't say I'm specifically aware what you're
 18 referring to. My approach to this is what I understand
 19 case law in Pennsylvania says is my duty, which is to
 20 evaluate but not be part of a treating relationship. And
 21 it's my impression that since I -- since this patient
 22 doesn't come to me -- since this individual doesn't come to
 23 me of his or her own accord and my services are being
 24 engaged by a third party, that I have no specific duty to
 25 them other than to render emergency care. In other words,

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1 accident. And I think -- I think it's fair to say that
 2 that's not the sort of thing that the people who engage my
 3 services were necessarily going to be looking for.

4 Q. Did you also advise Mrs. Jordan about
 5 maintaining patient confidentiality?

6 A. Patient confidentiality rules have changed since
 7 the time that this lady was here. I made it clear to her
 8 that the people who asked for this report would get it, and
 9 she would have understood that. And we tell people if they
 10 want a copy of the report, this report gets shared with
 11 whoever engaged the services and that report can be made
 12 available from them but not from me, but other than that,
 13 the duties for confidentiality I think were met.

14 Q. Did you obtain any patient's written consent?

15 MS. OLIVER: I'm sorry, consent for what?

16 MR. PENTZ: Consent about the release of
 17 confidential information.

18 A. At that point, I don't believe I did. I don't
 19 believe that there was necessarily a duty or burden to do
 20 that.

21 BY MR. PENTZ:

22 Q. Okay.

23 A. It was not my understanding that there was.

24 Q. And with an independent medical exam, do you
 25 provide the same standard of care as with any other

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1 patient?
 2 A. I do the same examination. I take the same — I
 3 go through the same process of taking a history. I do the
 4 same process of reviewing diagnostic studies. I would ask
 5 questions the same way and do the same exam, yeah. The
 6 only thing I don't do is discuss my findings or take them
 7 into my practice to be treated. You'll note that I made
 8 recommendations about what I thought this lady might need
 9 going forward but I didn't arrange for any of that nor did
 10 I say, listen, I can give you a trigger point injection
 11 here and let's see how you do.

12 Q. So I guess the answer is no, that you don't use
 13 that same standard of care with IMEs?

14 A. Well, but see I'm not in a care relationship
 15 with an independent — in an independent evaluation.

16 Q. And did -- as part of your exam, did you inform
 17 Ms. Jordan of abnorm -- abnormalities, pardon me for
 18 butchering that word, or what you discovered as part of
 19 your examination?

20 A. Actually I didn't have to, because the
 21 abnormalities on her examination were things that she
 22 specifically was telling me about. That's what the trigger
 23 point examination is. When I touched the greater occipital
 24 nerve, the only way I knew it was — I think I
 25 characterized it as exquisitely tender was by her telling

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1 me, as well as her telling me that her shoulder ranges of
 2 motion were painful and that she had some trigger point
 3 pain in the trapezius and the levator. Had I found some
 4 egregious abnormality that I felt was yeah,
 5 life-threatening, I would have told her about it.

6 Q. So you wouldn't -- unless it was
 7 life-threatening in nature, you wouldn't discuss it with
 8 Ms. Jordan?

9 A. As I understand the way this process works, and
 10 my understanding of this actually is from counsel, I don't
 11 have a specific duty in my role as an independent evaluator
 12 to discuss those findings with her. Now, if that's
 13 erroneous, then counsel -- and I don't mean this lady
 14 sitting over here — has given me bad information.

15 Q. Have you read any reports from the Council on;
 16 Ethical and Judicial Affairs?

17 MS. OLIVER: Objection.

18 VIDEOGRAPHER: Off the record, 10:17.

19 (Off camera.)

20 MS. OLIVER: My objection is that -- I mean, I
 21 think to some extent you're entitled to delve into how Dr.
 22 Moncman sees an independent medical exam versus treating a
 23 patient, and that's fine and that's appropriate. But now
 24 you are suggesting, in essence, to the jury that what he is
 25 doing is improper, that he's done something inappropriate.

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1 And I object to that as being unfounded, as there being no
 2 basis for it and as trying to improperly influence the jury
 3 in that regard. I'm going to ask that the last question be
 4 stricken.

5 MR. PENTZ: Off the record.
 6 (Discussion held off record.)

7 MS. OLIVER: We've just had an off-the-record
 8 discussion and I understand that Attorney Pentz has one
 9 more question on this issue that I have an objection about
 10 and that he is going to proceed subject to my standing
 11 objection to ask that question. That for the sake of not
 12 going back on and off, I'm not going to lodge another
 13 objection, but I do have a motion to strike in anticipation
 14 of his next question on this line and a standing objection.
 15 Thank you. Is that agreed, Mr. Pentz?

16 MR. PENTZ: Oh, yes.

17 MS. OLIVER: Thank you.

18 VIDEOGRAPHER: On the video record, 10:19.
 19 BY MR. PENTZ:

20 Q. Doctor, before you performed this exam on Ms.
 21 Jordan, did you happen to review any AMA House of Delegates
 22 reports concerning independent medical examinations?

23 A. That I recall, no.

24 Q. Okay. And you -- as I understand it, Doctor,
 25 that you use -- you had a staff person speak with Ms.

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1 Jordan?

2 A. Yes. Somebody would have gone over the forms
 3 that she filled out with her, taken a basic history as to
 4 what happened to her and why she was here, and then I would
 5 have come in and started asking questions from there and
 6 then moving on.

7 Q. And, Doctor, were you -- would that be when
 8 the -- I think it was Exhibit 11 was completed which is
 9 that, Doctor, health history? Is that when that's
 10 completed?

11 A. Typically these are sent to the patient
 12 beforehand. Sometimes they have them filled out before
 13 they come in. Sometimes they fill them out in the waiting
 14 room, but we don't fill them out.

15 Q. So you give that to -- directly -- you would
 16 have given that directly to Ms. Jordan?

17 A. That's my standard procedure, yeah.

18 Q. Okay. The -- I know some practices will have,
 19 if there's concerns about a patient being a problem, that
 20 they'll use a buffer, somebody else in your --

21 A. Everybody who comes in sees one of my staff
 22 first. We don't specifically decide buffer or not buffer.

23 Q. You don't use that buffer method?

24 A. No. What I do is, for the sake of time
 25 efficiency, while I'm conducting an examination perhaps, I

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1 just do '98, 11/23, 11/25, 11/27. So three times just in
2 the month of November; correct?

3 A. Yes.

4 Q. And then December you have, what, the 2nd, the
5 9th, the 14th and then the 21st. One, two, three, four
6 visits in just the month of December of '98; correct?

7 A. Yes.

8 Q. And then we have treatments following up to in
9 January of '99, you have another treatment in February of
10 '99, March and April of '99, which occurred after the
11 accident?

12 A. Yes.

13 Q. So looking at the fact of the increased
14 treatment that was provided, that wouldn't suggest to you
15 that there was increased symptoms or problems?

16 A. There's an increased frequency of going to the
17 chiropractor, but if I can take a look at these --

18 Q. Sure.

19 A. Well, when I look at this, starting 11/25/98, it
20 looks like she's getting better, decrease in the number and
21 severity of the headaches, numbness and tingling sensations
22 in the left arm are related to be pretty much gone. 11/27,
23 generally feeling better, still gets headache with head
24 held in flexion. 12/2, feeling generally pretty good, had
25 trouble sleeping. 12/9, headache had subsided. Chief

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1 complaint is occasional neck pain and stiffness. 12/14,
2 still has headache but not as intense or long-lasting.
3 Let's see, one recurrence of headache. Then headache
4 feels -- headache yesterday, feels better today. That was
5 in January of '99. Slight headache February 15 of '99.
6 So it would appear to me that she's got waxing
7 and waning headaches. I don't have a specific
8 understanding as to why if she was making these
9 improvements she specifically had an increased periodicity
10 of her visits to the chiropractor.

11 Q. Okay. So the fact that she's treating much,
12 much more regularly after the accident, doesn't give you
13 any indication that she's having more problems; correct?

14 A. Well, it's not my impression that she was ever
15 pain free necessarily, and I've never stated that. And, in
16 fact, when I was giving my direct testimony, I said it's
17 likely that this lady has had neck pain and she's had neck
18 pain, as far as I can tell, going back as far as 1990, but
19 I don't believe that her complaints are due to this
20 accident, because her complaints predated this accident.

21 Q. Now, Doctor, is there some reason that you won't
22 answer that question or did you not understand it?

23 A. I answered the question perfectly. That is my
24 answer.

25 Q. So is the answer yes or no to my question?

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1 MS. OLIVER: Objection. He answered your -
2 question.

3 BY MR. PENTZ:

4 Q. Okay. Maybe I'm just not following.

5 A. Okay.

6 Q. My question is, the fact that she's having more
7 treatments and seeing the doctor -- or the chiropractor
8 substantially more after the accident, does not indicate to
9 you any increase in symptoms?

10 A. Actually she's the only one who can tell us
11 about the increase in symptoms. And Dr. Williams will have
12 to tell you why she came back more often. What it
13 indicates is that she's going to the doctor more frequently
14 after the accident, but if you read the notes that the
15 doctor writes, there are areas in there where she is
16 clearly better.

17 Q. Okay. I'll move on. The -- did you notice that
18 after the accident Dr. Williams provided a soft cervical
19 collar?

20 A. Okay. I see that.

21 Q. Would the fact that after the accident the
22 doctor -- the chiropractor gave her a soft cervical collar,
23 would that indicate to you that she's having more problems
24 with her pain and symptoms?

25 A. No, because I think soft cervical collars are

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1 more decorative than therapeutic actually.

2 Q. Now, as I understand, it was that you've relied
3 upon Dr. Williams' records to change your opinion; correct?

4 A. Yes, because of the track record of pain
5 complaints in the same region predating her accident.

6 Q. And the -- but this would be also the same
7 chiropractor that you read reports that he's saying that
8 these problems that he's treating post the accident are a
9 result of the accident; correct?

10 A. Well, you asked me that question kind of about
11 ten questions ago, and I said that my change in opinion was
12 based on the fact that I now had a clearly different
13 history and I was able to interpret some things in a
14 different light even though they come from the same doctor.
15 The records I had available to me at the time of this
16 lady's evaluation by me suggests that she was being treated
17 for a de novo incident which she claimed I never had pain
18 in my neck or any pain like this before this car crash.

19 Now, and -- in reading Dr. Williams' reports,
20 those reports, as I said, are written in such a way that it
21 is reasonable for me to assume that her history is accurate
22 and what he's telling me is accurate. He's treating her
23 for complaints of this car crash absent any other history.
24 Only later do I get records from the same practitioner
25 describing complaints going back as far as 1990 in the same

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1 region. And it's clear that what this lady told me about
 2 never having any pain in this area or never having any pain
 3 like this isn't borne out by the records, and that's why I
 4 changed my opinion.

5 Q. Well, you would certainly agree with me that Dr.
 6 Williams, when he was giving those reports and saying that
 7 these problems are a result of the accident, he certainly
 8 had her prior chiropractic history; right?

9 A. Why he decided to ignore an almost eight-year
 10 treatment history for neck and upper extremity complaints
 11 is a question you're going to have to ask Dr. Williams
 12 about.

13 Q. And I noticed when you were talking about the
 14 pain and -- that she's having prior to the -- this
 15 accident, you're using the phrase pain -- have you ever had
 16 pain like you have now before, is that what -- is that how
 17 you're phrasing it?

18 A. Have you ever had pain like this or in this
 19 area, yeah.

20 Q. Or in this area?

21 A. Uh-huh, yeah.

22 Q. Now, I assume as doing an independent medical
 23 exam, you want to get this right?

24 A. Well, yeah. I think that's a given.

25 Q. Okay. Yeah. Now, you've just told me you've

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1 A. (Witness complies.)

2 Q. And this is the -- this is the additional
 3 information?

4 A. That's all that was provided to me, yeah.

5 Q. So you didn't have any Dr. Stanley Lang
 6 documents when you did your first report?

7 A. I don't know if I did or not. Let me look. It
 8 looks like the only record I have from Stanley Lang -- I'm
 9 sorry, at the time I first saw her was a letter that Dr.
 10 Lang sent to Judith Jordan about her electrodiagnostic
 11 test.

12 Q. Okay. And that -- as I read that, that would
 13 indicate that there's some problem or some sort of symptoms
 14 with the nerves?

15 A. He told her that she had, I'll quote it, some
 16 irritation of one of the nerves in the left side coming out
 17 of the neck. The changes were relatively mild but
 18 indicating some pressure on the nerve. This was something
 19 that would justify further evaluation if the symptoms do
 20 not resolve.

21 Q. And that was the only nerve study that you
 22 received from Dr. Lang; correct?

23 A. It's the only report I have from Dr. Lang. The
 24 nerve study was done by Dr. Schaeffer.

25 Q. Okay. But that's the only report that you

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1 have --

2 A. As far as I can tell, yeah. Let's see --

3 Q. Well, then, Doctor, let's move on then. You
 4 said that when you authored your second report that you had
 5 as well as some records from the DuBois Regional Medical
 6 Center emergency department, okay. And that report I think
 7 you've discussed was about an emergency room visit for a
 8 car accident?

9 A. Car accident 199 -- I think it was -6 or -7,
 10 early January, like January 2nd.

11 Q. And did you take this report and compare it to
 12 your record that you had from the chiropractor?

13 A. I know I reviewed all the records. I don't know
 14 if I did a side-by-side comparison necessarily.

15 Q. We see this accident was 1/2 of 96; correct?

16 MS. OLIVER: That's incorrect.

17 A. I don't know. You're holding it. Well, it
 18 looks like -- well, it says MVA 1/2/96, but the date of the
 19 registration is 1/3/97. Let's see. There's something else
 20 in here where --

21 BY MR. PENTZ:

22 Q. So what was the date of the accident, if you
 23 know?

24 A. I'm going to say that it is likely 1/2/97.

25 Q. Okay. Now, did you check your records from the

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1 A. (Witness complies.)
 2 Q. And is there -- I thought there was someplace
 3 when you were talking what -- did you ever have pain like
 4 this before, where is that? Okay. So this would be before
 5 Ms. Jordan saw you this would have been completed; correct?
 6 A. Yes.
 7 Q. Okay. And the question on here says ever have
 8 any pain like you have now prior to this injury, and the
 9 answer is no; correct?
 10 A. That's correct.
 11 Q. Now, when you were taking -- when you were doing
 12 a history and talking to Ms. Jordan and you were asking her
 13 about pain in her neck and things of that nature, prior
 14 pain, did you take the time to explain to Ms. Jordan on
 15 that -- on the paper that you filled out first, it says
 16 ever have any pain like you have now prior to this injury.
 17 Did you explain to her what you were trying to find when
 18 you asked her about pain?
 19 A. Oh, these questions are very simple. The
 20 question goes something like this, have you ever had pain
 21 in your neck prior to this crash or did you ever have neck
 22 before -- neck pain before this accident.
 23 Q. Okay.
 24 A. So I don't reasonably believe that she could
 25 have misunderstood the intent of this question or anything

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1 this new information, did you take the time to call Ms.
 2 Jordan and say hey, I got this additional information, can
 3 you explain to me why you answered the way you did?
 4 A. I did not.
 5 Q. Okay. And as I understand, you said that Ms.
 6 Jordan is not a symptom -- no symptom magnification?
 7 A. Correct.
 8 Q. Okay. Laymen's terms, what does that mean?
 9 A. Laymen's terms, when I examined her, I don't
 10 believe that she was responding in a non physiological way.
 11 I don't think that she was trying to make some attempt to
 12 fool me.
 13 Q. Okay. Then there was a report about this -- it
 14 was -- of course, it's Exhibit 7.
 15 A. Next.
 16 Q. Yes, I knew that would help you a lot. It's the
 17 MRI head scan and MRI cervical spine.
 18 A. I see it. I have it.
 19 Q. Do you have that?
 20 A. Yes, sir.
 21 Q. And we talked about that spurring, which
 22 obviously you're saying has nothing to do with the
 23 automobile accident; correct?
 24 A. Correct.
 25 Q. But as I read this report, it says that it's

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1 that I would have asked her.
 2 Q. Okay. So your answer to my question then would
 3 be no, you didn't explain that you're making a distinction
 4 between what you asked her before and then what you're
 5 asking her?
 6 MS. OLIVER: Objection. That's not what he
 7 said. He gave you his answer and you might not have liked
 8 it, but you're misstating his testimony right now.
 9 MR. PENTZ: Well, I appreciate the objection.
 10 The editorial is probably not proper, but I'll move on..
 11 BY MR. PENTZ:
 12 Q. So she answered -- when you were doing your
 13 interview, did you ever ask her specifically, yourself,
 14 ever have any pain like you have now prior to this injury?
 15 A. It's likely that I did because that would be a
 16 common question.
 17 Q. Okay. And do you remember what her answer was?
 18 A. She said she did not have any pain in her neck
 19 prior to this injury. She told me that, she told Marty
 20 Schaeffer that. She -- she told McVay that.
 21 Q. Okay. And as I understand from what you told me
 22 about your independent medical exam, that you certainly
 23 want to get this right; isn't that correct?
 24 A. That's correct.
 25 Q. And in your report, did you -- once you found

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EXHIBIT “C”

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

RODNEY JORDAN and :
JUDITH JORDAN, :
Plaintiffs, :
v. : Civil Action - Law
SUSAN TURNER-BETTS, : No. 00-3148-CD
Defendant. :

VIDEOTAPED
DEPOSITION OF: STUART M. OLINSKY, M.D.
TAKEN BY: DEFENDANT
BEFORE: LISA J. BERKEY, RPR
NOTARY PUBLIC
DATE: APRIL 8, 2004, 2:05 P.M.
PLACE: WEST BRANCH NEUROLOGY
1824 EAST THIRD STREET
WILLIAMSPORT, PENNSYLVANIA 17701

APPEARANCES:

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STIPULATION

It is hereby stipulated by and between counsel for the respective parties that reading, signing, sealing, certification, and filing are waived, and that all objections will be made on the record for ruling by the court.

THE VIDEOGRAPHER: Good afternoon. My name is Thomas Blanchard of Blanchard's Video Service, Towanda, Pennsylvania. Today's date is April 8th, 2004, and the time is 2:05 p.m. We are located at the office of Dr. Olinsky, 1824 East Third Street, Williamsport, Pennsylvania.

This deposition is being taken on behalf of the Defendant for use of play back at the time of trial in the case of Rodney and Judith Jordan versus Susan Turner-Betts. Would the attorneys present please introduce themselves and the clients they represent?

MS. OLIVER: My name is Katherine Oliver and I represent Susan Turner-Betts.

MR. PENTZ: My name is Chris Pentz and I represent Mr. and Mrs. Jordan.

THE VIDEOGRAPHER: The name and the address

of the attorney taking the deposition is Katherine Oliver, 811 University Drive, State College, Pennsylvania. The name of the witness is Dr. Olinsky.

Would the court reporter please swear the witness?

STUART M. OLINSKY, M.D., called as a witness, being sworn, testified as follows:

THE VIDEOGRAPHER: You may proceed.

DIRECT EXAMINATION

BY MS. OLIVER:

Q. Doctor, would you please introduce yourself to the jury and tell them what it is that you do for a living?

A. Yes. I'm Stuart Olinsky. I'm a neurologist in Williamsport, Pennsylvania.

Q. And you said you're a neurologist. Is that a medical doctor?

A. Yes, it is.

Q. And could you explain for us, please, what the field of neurology entails?

A. Neurology entails the practice of seeing, examining, diagnosing and treating medical

1 A. No, no. Actually, what we're trying to do
 2 is raise their awareness of neurology and what they
 3 should be looking for and not looking for, and
 4 hopefully teaching them when they need us and when
 5 they don't need us. So basically it's a rotation they
 6 go through because family docs have to take care of
 7 everything, so that's why they come here.

8 Q. And would it be fair to say that both your
 9 practice and seeing patients and the instructor
 10 position, if you will, you've just described requires
 11 you to keep current and abreast of any changes and
 12 developments in the field of neurology?

13 A. Yes, it does.

14 MS. OLIVER: Any questions on cross?

16 CROSS EXAMINATION ON QUALIFICATIONS

18 BY MR. PENTZ:

19 Q. Doctor, my name's Chris Pentz and I just
 20 have a couple questions in this area. I know that
 21 there has been a suit by a Meredith L. Powell filed
 22 against you.

23 MS. OLIVER: Objection.

24 THE VIDEOGRAPHER: Off the record 2:11.

25 (Discussion off the video record.)

10 1 MS. OLIVER: I guess I want an offer of
 2 proof on this because if you're going to be talking
 3 about lawsuits involving Dr. Olinsky, it's, number
 4 one, depending on what your offer is, but I'm going to
 5 say not at all within the scope of permissible cross
 6 examination, not pertinent to show bias, impeachment,
 7 et cetera, and very prejudicial to the defense, so I
 8 move to strike.

9 MR. PENTZ: My purpose is going to be to
 10 see if there was any disciplinary actions that were
 11 taken against the Doctor by any licensing board or
 12 anything of that nature. That's the purpose of it.

13 MS. OLIVER: Well, why do you need to be
 14 talking about a lawsuit filed against him?

15 MR. PENTZ: Well, I was wondering whether
 16 one was generated as a result of this lawsuit, which
 17 would go to qualifications. If you want me to, I can
 18 ask it in some other area. It doesn't matter.

19 MS. OLIVER: Well, again, unless you have
 20 some evidence or indication to share with us that
 21 there has been a disciplinary action and sanction, I'm
 22 going to object to any questioning along those lines
 23 as extremely prejudicial and beyond any permissible
 24 impeachment purposes.

25 MR. PENTZ: Okay. I'll keep it brief in

1 that area for purposes of however the judge rules on
 2 this part of the deposition so we can clean it up.
 3 MS. OLIVER: And so just going forward, so
 4 we're clear, any questions along this line, my motion
 5 to strike is moving forward and my objections moving
 6 forward so I don't have to interrupt.

7 MR. PENTZ: Absolutely.

8 THE WITNESS: Can I ask a question?

9 MS. OLIVER: Let's go off the record for a
 10 minute.

11 (Discussion off the record.)

12 MS. OLIVER: As I understand it, we've had
 13 an off-the-record discussion. Dr. Olinsky is
 14 extremely offended by the line of questioning, which
 15 is understandable, and there will be one follow-up
 16 question by Attorney Pentz which we have agreed
 17 beforehand I have a motion to strike about and I have
 18 objected to as being, you know, just not at all
 19 permissible and extremely prejudicial.

20 THE VIDEOGRAPHER: On the record 2:16.

21 BY MR. PENTZ:

22 Q. Doctor, my question is: Has there been any
 23 actions, disciplinary actions, taken against you as a
 24 result of that suit?

25 A. No, there has not.

1 1 MR. PENTZ: I have no further questions.
 2 Thank you.

3 3 MS. OLIVER: At this point we'd offer
 4 Dr. Olinsky as a medical expert, particularly in the
 5 subfield of neurology.

6 6 MR. PENTZ: No objection.

7 8 CONTINUED DIRECT EXAMINATION

9 10 BY MS. OLIVER:

11 Q. Dr. Olinsky, at my request did you review
 12 various medical records regarding Judith Jordan, the
 13 Plaintiff in this case?

14 A. Yes, I did.

15 Q. And do you have -- it looks like you have a
 16 stack of records in front of you. Is that
 17 representative of the records that you have reviewed?

18 A. Yes, they are.

19 MS. OLIVER: And are you able to -- to kind
 20 of focus in on that for a moment, just so the jury can
 21 see the breadth of those records?

22 BY MS. OLIVER:

23 Q. Dr. Olinsky, you did not examine
 24 Mrs. Jordan, did you?

25 A. I did not.

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 1 the factors that we've discussed are significant to
 2 your opinion that Mrs. Jordan's continuing complaints
 3 cannot be attributed to the car accident this
 4 lawsuit's about?

5 A. I think that this patient has some
 6 arthritic findings in her neck, which certainly
 7 predate the accident, that probably in some way have
 8 contributed to her intermittent complaints of neck
 9 pain and shoulder pain that have been treated by
 10 chiropractic treatment in the past; that typical of
 11 that type of problem, they come and they go. And I
 12 think that when she had her accident, I would not be
 13 surprised at all that it exacerbated to some extent
 14 those problems. They do that.

15 But it doesn't appear by very good
 16 neurodiagnostic testing and other diagnostic testing,
 17 as well as multiple examinations, that any significant
 18 structural problem has occurred. And that in a
 19 typical situation, this should have resolved quite
 20 nicely with the appropriate treatment options that
 21 were given to this lady over time.

22 And, therefore, I do not believe that the
 23 initial pain that she had is now still present six
 24 years later because of that accident.

25 MS. OLIVER: I have no further questions at

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1 tell you why.

2 Q. Okay.

3 A. Because when I looked back to where it says
 4 doctor -- I did it the first -- when I looked back to
 5 Dr. Swan's area right here, I don't see it.

6 Q. Okay.

7 A. That's -- and then when -- and I mentioned
 8 that to -- to Katherine, but what she gave me, she
 9 gave me his stuff, I just -- I just -- it's not
 10 underlined obviously and I -- and I presume I did it,
 11 but I don't -- I couldn't find it in my pile.

12 Q. Okay. So what report specifically of
 13 Dr. Swan -- you keep mentioning that -- what report is
 14 that?

15 A. Well, she -- she saw the patient
 16 initially -- it is a she; right?

17 Q. Yes.

18 A. Okay. She saw the patient initially on
 19 February 28, 2003. That was her initial consultation,
 20 I believe, and then there was also a follow-up visit
 21 on April 11th, 2003, and another follow-up visit from
 22 May 23rd, 2003.

23 Q. So am I understanding then, when you
 24 authored this December 2nd, 2003, report, that your
 25 recollection is that you did not review Dr. Swan?

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1 this time. I'm sure there is some cross examination
 2 questions.

3 MR. PENTZ: Thank you.

4

5 CROSS EXAMINATION

6

7 BY MR. PENTZ:

8 Q. Doctor, let's start with -- are there any
 9 documents that you've reviewed here today that you did
 10 not review prior to doing your December 2nd, 2003,
 11 report?

12 A. The only one, to be quite honest with you,
 13 that I don't have a memory of having done specifically
 14 are the ones from Dr. Swan, and that's -- but we
 15 didn't do those today, so . . .

16 Q. Okay.

17 A. And I think, to be quite honest with you, I
 18 guess that's because they're after me. They're after
 19 when I saw the patient.

20 Q. Okay. But in your report of December 2nd
 21 of '03 you indicate that you reviewed some medical
 22 reports, and you specifically mention Dr. Swan.

23 A. Yeah, I do.

24 Q. What report would that have been?

25 A. You know, you've got me there, and I'll

1 A. I cannot say that. I suspect that I did,
 2 but I don't -- do not know why I misplaced, of all
 3 people, her -- her notes.

4 Q. Okay.

5 A. Because I don't -- I can't believe I would
 6 have put her name down and not done it. I find that
 7 hard to believe.

8 Q. Okay. And so -- I'm not sure. Are there
 9 any other documents that you have first had the
 10 opportunity to review them today that you did not have
 11 when you did your December 2nd, 2003, report?

12 A. No, because I have those here and
 13 underlined with magic marker.

14 Q. Okay. Now, you say that you relied on --
 15 reviewed records of Dr. B. Beck. What significance
 16 did you attribute to those records?

17 A. I would have to go back and look at them
 18 specifically.

19 MS. OLIVER: Objection.

20 THE VIDEOGRAPHER: Off the record 3:18.
 21 (Discussion off the video record.)

22 MS. OLIVER: My objection just is that this
 23 is not within the scope of the direct and I think
 24 pertinent because the Beck records are ophthalmology
 25 records and were included for completeness just

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1 because your client's claims were not at that point
 2 clear, so I think it's irrelevant to anything that has
 3 been brought in the lawsuit. There's been no claim
 4 now that she's got some vision problem related to the
 5 lawsuit, and not within the scope of the direct.
 6 Subject to that, go ahead.

7 THE VIDEOGRAPHER: On the record 3:19.

8 BY MR. PENTZ:

9 Q. Now, Doctor, in your report of December
 10 2nd, 2003 -- which I'm not sure exactly what exhibit
 11 it is, but you have that report; correct?

12 A. Correct, right here.

13 Q. Okay. Thank you. Now, you do indicate in
 14 there that you reviewed records of Dr. Beck?

15 A. Right.

16 Q. Did you --

17 A. I have it highlighted. That's how I can
 18 tell for sure.

19 Q. Okay. Did that contribute anything to what
 20 you've said in your report, those records of Dr. Beck?

21 A. No.

22 Q. Okay. And you refer to a Dr. Chambers?

23 A. I did refer to a Dr. Chambers. I just -- I
 24 will find those for you.

25 (Brief pause.)

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1 A. Can you help me here. Tell me where --
 2 where -- I mean which doctor he is.

3 Q. Honestly, I don't know. It's in your
 4 report, and I was wondering if you -- you mention
 5 Dr. Chambers and I was wondering what significance
 6 Dr. Chambers had when you authored this report.

7 A. He may not have had any. I did not go
 8 page-by-page in my report and so I must have -- I must
 9 have read something specifically so I put his name
 10 down that I reviewed, but I cannot say with any
 11 certainty that his particular interest, or whatever,
 12 had any bearing whatsoever on my report.

13 Q. All right. With Dr. Beck and Dr. Chambers,
 14 would it be in the same group with Dr. Swan, in that
 15 you don't recall reviewing any records at this point
 16 in time?

17 MS. OLIVER: Objection.

18 THE WITNESS: I cannot remember
 19 Dr. Chambers' specific evaluation.

20 MR. PENTZ: Okay.

21 THE WITNESS: If you would be happy to show
 22 me something by him, I would be happy to look at them
 23 one more time.

24 BY MR. PENTZ:

25 Q. Okay. Now, about as to Dr. Atkins -- or

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1 Elkins. Sorry. That's my fault. You refer to
 2 Dr. Elkins. What significance were the records from
 3 Dr. Elkins in your report, if you recall?

4 A. Offhand I cannot remember one-by-one each
 5 record. I --

6 Q. Okay.

7 A. -- will state that up front.

8 Q. Sorry to interrupt you, but if I would go
 9 through and ask you about all these various doctors,
 10 from what you're telling me, you wouldn't be able to
 11 give me any specifics?

12 A. Yes -- yes and no. What I -- what I --
 13 yeah, I mean, basically what I was trying to get was a
 14 sense of what is going on, and a sense -- the sense of
 15 what her major complaints were, what the findings
 16 were. Here's how I did it. I knew this -- this is
 17 probably what I did, I'll be honest about this, when I
 18 first reported it. That's a list. Does that list --
 19 does that list correspond to my first note?

20 Q. Let's see. I'll take a look here. Yes, it
 21 says --

22 A. So that's probably what I did as my opening
 23 remark. Okay? And then when I had talked to
 24 Ms. Oliver, I had asked if she wanted me to go
 25 specifically one-by-one, and that's not what she

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1 wanted in terms of a report. She was looking for, in
 2 the report, a sense of what I felt and so that's how I
 3 did the report. So when you come back now and ask me
 4 specifically what did Dr. Elkins say, I can't answer.

5 And then retrospectively I look here and I
 6 don't actually see a Dr. Elkins, but I suspect my
 7 initial line was just to make it easier as I was
 8 dictating on the computer, looking down there and said
 9 that those are the ones because the only thing I --
 10 you know, Dr. Shaffer versus Dr. Beck versus --

11 Q. I understand that.

12 A. Okay.

13 Q. But, for instance, Primary Care Associates,
 14 Penn Central Physical Therapy, they're on the list
 15 that you provided me, but are not mentioned in your
 16 December 2nd, '03, report. Is there a reason for
 17 that, or you don't know?

18 A. I left them out?

19 Q. I call your attention to there, those
 20 listings that I just referred.

21 A. Well, I think I -- maybe I didn't put those
 22 in, but I did talk about her physical therapy in here
 23 and UPMC -- that's the University of Penn, isn't it,
 24 Medical Center? Pain treatment, isn't that what that
 25 is?

| | | | |
|---|----|---|----|
| <p>1 Q. I think that would be University of 2 Pittsburgh Medical Center, but I don't know. 3 A. Pittsburgh. Excuse me. I send all my 4 patients to Penn. University of Pittsburgh Medical 5 Center, and I do have that listed. 6 Q. Okay. And then how about Primary Care 7 Associates and Penn Central PT is not mentioned up in 8 this in the beginning? 9 A. Not in the beginning, no. 10 Q. Okay. The -- now, the opinions you've 11 given here concerning Ms. Jordan, they've been given, 12 I assume, within a reasonable degree of medical 13 certainty? 14 A. Yes. From reviewing the records, yes. 15 Q. And is it -- is it -- would it be fair for 16 me to say that, you know, reasonable doctors could 17 differ from -- as to Mrs. Jordan's conditions and what 18 caused them? 19 A. I think that's true. 20 Q. Okay. And have you ever heard the -- the 21 statement that a doctor doesn't treat x-rays, he 22 treats patients? 23 A. Of course. 24 Q. Okay. Now, with that in mind, I notice you 25 never had any contact with Mrs. Jordan?</p> | 61 | <p>1 MS. OLIVER: Well, I'd like you to respond, 2 but the judge is going to resolve them. 3 MR. PENTZ: Okay. My position is that it 4 is in the report that was made part of -- that he 5 identified as his own and was marked as an exhibit for 6 purposes of his testimony, and I certainly understand 7 that my questioning would be subject to the judge's 8 review. 9 THE VIDEOGRAPHER: On the video record 10 3:28. 11 BY MR. PENTZ: 12 Q. Now, Doctor, in your report it says, "She 13 was at a stop ready to turn when she was hit from 14 behind by another driver, perhaps driving as fast as 15 45 mph," which I guess is miles per hour. How did you 16 determine that? 17 A. I -- I got that from reading reports which 18 were basically from history taking. So in other 19 words, a patient -- that would be a patient's account 20 to the physician she was talking to. 21 Q. And if I would ask you where specifically 22 did you find this reference, would you be able to tell 23 me that today? 24 A. No. 25 Q. In the -- on through your report you have</p> | 63 |
| <p>1 A. Absolutely, I did not. 2 Q. Okay. So I would take it that you're not 3 giving any opinions in here about how she should be 4 treated? 5 A. No, I did not give any opinions about that. 6 Q. Okay. And the -- you have in here that -- 7 that -- in your report that you determined that -- it 8 says, "She was at a stop ready to turn when she was 9 hit from behind by another driver, perhaps" -- 10 MS. OLIVER: Objection. 11 THE VIDEOGRAPHER: Off the record 3:27. 12 (Discussion off the video record.) 13 MS. OLIVER: I'm going to object to your 14 getting into the speed of the vehicle to the extent 15 that, first of all, again, this whole area is beyond 16 the scope of the direct. We didn't talk at all about 17 the accident, and the only possible source of that 18 vehicle speed would be hearsay. That wouldn't fit 19 within the exception to the rule, so I'm going to 20 object on that basis to your talking about the vehicle 21 speed at all during your cross. 22 MR. PENTZ: As I understand, counsel, we're 23 going to resolve our objections later. You don't want 24 me to take up a whole bunch of time responding to them 25 at this point.</p> | 62 | <p>1 in there that -- about chiropractic visits by 2 Ms. Jordan, and that in '95 there was -- there would 3 have been multiple visits? 4 A. Uh-huh. 5 Q. Okay. How would you describe -- how many 6 visits in '95 are you referring? 7 A. I'd have to go back and look. I -- I 8 mention specifically that there was two in '92, three 9 in '94, and so I presume there were more than three in 10 1995. 11 Q. Okay. Would you be able to agree that 12 there was one, two, three, four in '95? 13 MS. OLIVER: Perhaps if you show him the 14 record you're referring to. 15 BY MR. PENTZ: 16 Q. I'm going to try to pull up the -- 17 A. I'm going to trust that your records are 18 accurate. Yes, four would be -- four -- I could have 19 put four down. 20 Q. Okay. I show you Exhibit 8. 21 A. Yes, there were four documented. 22 Q. Okay. And then how would you describe the 23 visits that took place subsequent to 1995 with the -- 24 it would have been Dr. Williams, the chiropractor? 25 And it's Exhibit 18, I think it is.</p> | 64 |

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1 Okay.

2 And that's why, to be quite honest with
 3 you, and the jury can decide this for themselves, that
 4 -- that I'm not convinced that this -- these minor --
 5 and these are minor examinations and findings. I
 6 mean, think about this, if you will. This man has
 7 seen her how many times.

8 My follow-up reports take two pages. You
 9 come to see me for headaches, it takes a whole page
 10 that I send to a doctor. This man has one, two,
 11 three, four, five, six, seven, eight examinations on a
 12 single page.

13 You can draw whatever conclusion you want
 14 from that, but the only thing I used for the
 15 chiropractic, and again, the jury can do what they
 16 want with this, is the fact that prior to the accident
 17 she had the same complaints and after the accident she
 18 had very similar complaints. He saw her more often
 19 than not, but I am not going to rest my total opinion
 20 on a chiropractic evaluation. I'm just not.

21 Q. But I understand you had no physical
 22 examinations of Judith Jordan?

23 A. I did not. I did not. And -- and -- and
 24 to tell you the truth, I wish I had.

25 Q. Now, in your report you mention -- you said

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1 Q. Okay. Now -- and as to treatments,
 2 wouldn't you agree with me that Ms. Jordan has had --
 3 it's fair to say she had at least numerous treatments;
 4 correct?

5 A. Yes, she has.

6 Q. The -- and these treatments that you have
 7 reviewed, were they all medically reasonable?

8 MS. OLIVER: Objection.

9 THE VIDEOGRAPHER: Off the record 3:53.
 10 (Discussion off the video record.)

11 MS. OLIVER: Unless you're going to go
 12 treatment-by-treatment, I'm going to object to you
 13 trying to intercede the whole issue of reasonableness
 14 of treatment and reasonableness of care.

15 We've already had the opinion that the
 16 continuing complaints aren't related to the car
 17 accident. So, I mean, he's obviously not relating
 18 them. This goes well beyond also the scope of any
 19 direct exam, and I object on that basis as well.

20 MR. PENTZ: All right. I believe since
 21 it's part of his report, and I think there was
 22 testimony he talked about -- made some comment about
 23 the reasonableness of the treatment that she had
 24 received. I think there was some response in that
 25 area. And again, I understand it's a continuing

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1 objection and we'll allow the judge to rule on it.
 2 Thank you.

3 THE VIDEOGRAPHER: On the video record at
 4 3:54.
 5 BY MR. PENTZ:

6 Q. Now, Doctor, these numerous treatments that
 7 Ms. Jordan has had, from your review of the records,
 8 were they medically reasonable treatments?

9 A. I think when a patient comes to you with
 10 complaints of pain, my obligation is to try to help
 11 them and, therefore, they are reasonable. They're
 12 very reasonable. I think that some of them that she
 13 didn't follow would have been even reasonable, and the
 14 ones she didn't follow up with were reasonable.

15 Having said that, however, okay, the fact
 16 that she has this chronic pain, and it is reasonable
 17 to treat her as a chronic pain patient, does not
 18 necessarily mean that the chronic pain is from the
 19 accident.

20 Q. I understand that.

21 A. Okay. So having said that, a patient comes
 22 to me and she says she has a pain syndrome, I am going
 23 to treat it. And depending on what I think it's from,
 24 I'm going to treat it in the appropriate manner. So
 25 for her to go on Depakote, for her to get a trigger

1 point injection if she's complaining of some
 2 tenderness there, for her to go to physical therapy,
 3 are all reasonable aspects.

4 What bothers me more than anything else is
 5 the fact that despite these reasonable efforts, this
 6 patient has the same complaints. In fact, there --
 7 you know, to be quite honest with you, there are more
 8 -- there are more possible treatments that she hasn't
 9 even tried, some that she already refused, but some
 10 that she hasn't even tried, and I mention that
 11 actually in my -- in my note.

12 Q. Well, which treatments should she -- which
 13 treatments are you recommending that she -- that
 14 either she didn't do or wasn't told?

15 A. Well, if -- if her primary complaint now is
 16 not headaches, for instance, if it's neck pain and no
 17 one has any reason why she should have the neck pain,
 18 then there are other treatments that you can use,
 19 okay, to treat it, including something like Zanaflex.
 20 Well-known to help that. Okay. No one's put her on
 21 Zanaflex.

22 Neuroleptics, which are medications
 23 actually that have come out for psychiatric problems,
 24 but because they -- they change dopamine receptors can
 25 often be very effective in chronic pain syndromes.

1 Okay. But you have to understand that chronic pain is
 2 a very, very complex issue and certainly, the
 3 accident, in my opinion, is not the cause of her
 4 chronic pain syndrome.

5 Q. Okay. The -- in your testimony I think you
 6 said at some point that -- that the complaints that
 7 Ms. Jordan have are not directly related to the
 8 accident, the automobile accident?

9 A. Correct.

10 Q. Okay.

11 A. Well, the ones she has now. I mean, I -- I
 12 said in my notes, and I think I even said during exam
 13 -- during my answers before, that I thought her
 14 headaches would easily have worsened because of the
 15 accident, and not surprisingly, like most people, the
 16 headaches improved over time. They should have. Okay.

17 Did she have a whiplash and an initial, oh,
 18 my neck hurt; yes, she did. What I'm saying is
 19 considering everything that's been done since,
 20 considering the situation, considering where she's
 21 been, it's not reasonable to assume that just because
 22 she had an initial neck pain from the accident, that
 23 here it is six years later and it's still due to the
 24 accident.

25 Q. Okay.

1 A. That's what I'm saying.

2 Q. Okay. So the complaints that she has now,
 3 are they indirectly related to the accident, since
 4 they're not directly related?

5 MS. OLIVER: Objection.

6 THE VIDEOGRAPHER: Off the record 3:58.
 7 (Discussion off the video record.)

8 MS. OLIVER: I don't even know what you
 9 mean by indirectly related.

10 MR. PENTZ: I don't know what he means by
 11 directly.

12 MS. OLIVER: Well, why don't you ask him
 13 that.

14 MR. PENTZ: I'll do that.

15 MS. OLIVER: Your question is trying to,
 16 you know, make some legal point.

17 MR. PENTZ: I'll do it. You don't have to
 18 go any further.

19 THE VIDEOGRAPHER: On the video record
 20 3:58.

21 BY MR. PENTZ:

22 Q. Okay. Now, Doctor, when you say they're
 23 not directly related, what does -- what do you mean by
 24 not directly related?

25 A. What I mean is -- is that I do not believe

1 that the pain she is suffering right now was caused by
 2 the accident.

3 Q. Was it aggravated by the accident?

4 A. I think -- I think her initial complaints
 5 were aggravated by the accident.

6 Q. When did those -- if you can tell me, when
 7 did those initial complaints that were aggravated stop
 8 being symptomatic?

9 A. Well, they never did stop being
 10 symptomatic.

11 Q. Okay.

12 A. But they should have been.

13 Q. I understand that. Now, I note -- that was
 14 my next point, is I've heard you say that these --
 15 this -- these symptoms should have resolved, and you
 16 don't use the -- the word would have resolved. Is
 17 there any significance to that, or am I just reading
 18 it too closely?

19 A. Probably reading it too closely. I think
 20 that if -- again, if you refer to -- if you refer to
 21 studies, at least European studies, okay, on whiplash
 22 injury -- in fact, there's an amazing study of 700
 23 people in Czechoslovakia who all suffered whiplash
 24 injuries, so they all came to the doctor with
 25 complaints of whiplash, neck pain. The longest -- the

1 longest continuing complaint in that group of 700
 2 people was ten days.

3 And so what I'm saying is if you have a
 4 whiplash injury and you undergo physical therapy and
 5 you go in for tests and there's nothing wrong with
 6 you, you should not continue to have pain six years
 7 later from that accident.

8 Now, if you said to me, jeez, this doctor
 9 examined her and boy, oh, boy, her left arm is now
 10 purple and then white and then cold and then swollen,
 11 and now she has pitting edema and her nails have
 12 changed and she's got this tremor and she's got reflex
 13 sympathetic dystrophy, God bless, something more
 14 happened.

15 But when you look at this examination after
 16 examination after examination of this lady, no one
 17 finds anything, and I -- and I -- and I think it's
 18 significant that -- that she can tell people before
 19 that when they asked her have you ever had similar
 20 complaints and she says no, and now she still does and
 21 really she did, I think you have to look at that in
 22 the context of what happened.

23 She got out of her car after the accident.
 24 She wasn't unconscious. She didn't hit her head. She
 25 didn't get out of the car and fall down because her

1 left side was paralyzed. She had a car accident. I'm
 2 not arguing that.

3 Q. Is there anything in the records that would
 4 say Mrs. Jordan is a symptom magnifier?

5 A. Yes.

6 Q. Okay. Would you -- does -- specifically,
 7 does Dr. Moncman find that she's a symptom magnifier?

8 A. You'll have to show me the note. Again, I
 9 said that --

10 Q. Well, I don't know -- in your report you
 11 said you looked at Dr. Moncman, you relied on his
 12 records, and --

13 A. Right. And again, I also told you that --

14 Q. Okay.

15 A. -- because of my mess up in my office,
 16 which was definitely my fault, I did not review the
 17 records right before this deposition, but I do know
 18 that the Pittsburgh psychological evaluation reveals a
 19 person who has more than just physical complaints.

20 Q. Okay. So your opinion is that from your
 21 review of the records that Ms. Jordan is a symptom
 22 magnifier?

23 MS. OLIVER: Objection. That's not his
 24 testimony.

25 MR. PENTZ: Well, I'll restate it.

1 BY MR. PENTZ:

2 Q. Is it your opinion that Ms. Jordan is a
 3 symptom magnifier?

4 A. I don't like the word, but what I -- or --
 5 or -- or that connotation. What I would -- what I
 6 will say is that I -- I do believe that there are
 7 underlying issues here that go beyond the structural
 8 and the physical that make it impossible or make it
 9 harder for Ms. Jordan to improve.

10 Q. To improve from what injuries?

11 A. No. To improve from her pain.

12 Q. Oh, okay. Now --

13 A. Because -- because by definition, I don't
 14 think she's had an injury.

15 Q. Oh, okay.

16 A. I mean, there hasn't been a documented
 17 injury, other than an initial whiplash --

18 Q. Okay. I understand that.

19 A. -- and that should be gone.

20 Q. Then you talked about -- in your testimony
 21 about arthritis being -- being worsened by the
 22 accident. Do you remember that testimony?

23 A. Yeah, yeah.

24 Q. Okay. Is there something where arthritis
 25 is symptomatic and nonsymptomatic? Does that make

1 sense?

2 A. Yeah, yeah. No, it is, and I mention that.
 3 I mean, that's true for me, too. Now -- nowadays I
 4 take a Bextra before I go play golf. There's no way
 5 I'm walking 18 holes at 53 years of age. My feet
 6 won't hold up. Okay. I used to be able to do it
 7 eight years ago, can't do it now.

8 Okay. So if you have arthritic complaints,
 9 whatever joint it is -- I'm going to show you another
 10 joint I have. This is a swollen, red joint. Well, it
 11 doesn't hurt me now, but four months from now it may
 12 flare.

13 So, yeah, arthritis varies, depending on
 14 what happens, and it's certainly possible that if you
 15 stretch or jerk or do something, that your arthritis
 16 is going to act up and it's going to hurt. We're not
 17 talking six years.

18 All you have to do is a gentle exercise, a
 19 little -- a little heat, take an anti-inflammatory,
 20 you'll feel better. I think that -- I think that's --
 21 that's the -- I think -- I think that's the crux of
 22 this -- of these issues.

23 Q. If -- let me try to state this correctly.
 24 Is it -- is it my understanding that your opinion is
 25 based to a great degree on the lack of objective

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

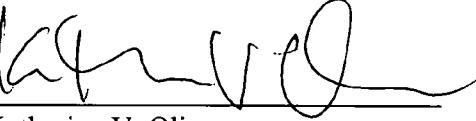
Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the DEFENDANT'S DEPOSITION
OBJECTIONS OF MEDICAL WITNESSES in the above-captioned matter was mailed by
regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 14th
day of May, 2004, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED NO
MAY 14 2004
cc
QTC

William A. Shaw
Prothonotary/Clerk of Courts

(C)

MCQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
Additional offices in Hershey and Hollidaysburg

(814) 238-4926 FAX (814) 234-5620
www.mcquaideblasko.com

May 6, 2004

(VIA HAND DELIVERY)

William Shaw, Prothonotary
Clearfield County Courthouse
P.O. Box 549
Clearfield, PA 16830

**In Re: Rodney Jordan and Judith Jordan v. Susan Turner-Betts
Clearfield County No. 00-1148-CD**

Dear Mr. Shaw:

Enclosed please find Defendant's Special Points for Charge, Special Verdict Questions
Proposed by Defendant and Certificate of Service for filing in the above-referenced matter.

Thank you for your attention to this matter.

Very truly yours,

McQUAIDE BLASKO

By:


Katherine V. Oliver

KVO/nlc
Enclosures

cc/Enc.: Chris A. Pentz, Esquire
Gloria Gladd #38-J082-888
 David S. Meholic, Court Administrator

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MAY 06 2004

**COURT ADMINISTRATOR'S
OFFICE**

MCQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC.

State College Office: John W. Blasko Thomas E. Schwartz R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slanik Mark Righter Daniel E. Bright Paul J. Tomeczuk Janine C. Gismoudi John A. Snyder April C. Simpson Allen P. Neely Pamela A. Ruest Katherine V. Oliver Katherine M. Allen Wayne L. Mowery, Jr. Ashley Himes Kranich Chemia L. Glenn-Hart Livinia N. Jones Cristin R. Barnes Matthew T. Rogers Frederick R. Battaglia Anthony A. Simon Russell A. Ventura

Hershey Office: Grant H. Fleming Maureen A. Gallagher Michael J. Mohr Jonathan B. Stepanian Britt D. Russell

Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife, :
Plaintiffs, : TYPE OF PLEADING:
v. : SPECIAL VERDICT QUESTIONS
SUSAN TURNER-BETTS, : PROPOSED BY DEFENDANT
Defendant. :
: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: DEFENDANT
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926
: FAX#(814) 238-9624

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MAY 06 2004

COURT ADMINISTRATOR'S
OFFICE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :

SPECIAL VERDICT QUESTIONS PROPOSED BY DEFENDANT

Katherine V. Oliver, Esquire
ID No. 77069
McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Attorney for Defendant Susan Turner-Betts

Answer the following questions based on the preponderance of the evidence:

QUESTION NO. 1:

Was the negligence of the Defendant, Susan Turner-Betts, a substantial factor in causing injuries to the Plaintiff, Judith Jordan?

(check one) _____ Yes
_____ No
_____ Evidence equally balanced

INSTRUCTIONS:

- (a) *If your answer to Question No. 1 is "Yes," go to Question No. 2.*
- (b) *If your answer to Question No. 1 is "No" or "Evidence equally balanced," skip the balance of the questions and return to the Courtroom.*

QUESTION NO. 2:

As to those injuries you found causally related to the accident of September 19, 1998, state the amount of damages, if any, sustained by each Plaintiff and if none, so state.

Judith Jordan: \$ _____

Rodney Jordan: \$ _____

Jury Foreperson

INSTRUCTIONS:

Return to the Courtroom.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife, :

v.

SUSAN TURNER-BETTS, : TYPE OF CASE: CIVIL
Defendant. : FILED ON BEHALF OF:
: DEFENDANT

: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926
: FAX#(814) 238-9624

RECEIVED

MAY 06 2004

**COURT ADMINISTRATORS
OFFICE**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

DEFENDANT'S SPECIAL POINTS FOR CHARGE

KATHERINE V. OLIVER
I.D. No. 77069
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
SUSAN TURNER-BETTS

Defendant's Proposed Point for Charge #1:

Under all the law and the evidence, you must return a verdict in favor of the Defendant Susan Turner-Betts and against the Plaintiffs.

Given

Refused

Modified

Defendant's Proposed Point for Charge #2:

The Plaintiffs, Rodney and Judith Jordan, have the burden of proving by a preponderance of the evidence that a causal relationship exists between the automobile accident of September 19, 1998 and the injuries alleged by Ms. Jordan. In order to meet that burden, the Plaintiffs must introduce unequivocal expert medical testimony that such a relationship exists. If you find that the Plaintiffs have not met that burden with respect to any of the claimed injuries, then you should not include any compensation for such injuries in your verdict.

McArdle v. Panzek, 262 Pa. Superior Ct. 88, 396 A.2d 658 (1938); Albert v. Alter, 252 Pa. Superior Ct. 203, 381 A.2d 459 (1977); Stathas v. Wade Estate, 251 Pa. Superior Ct. 269, 380 A.2d 482 (1977); Smith v. German, 434 Pa. 47, 253 A.2d 107 (1969); Florig v. Sears Roebuck & Co., 388 Pa. 419, 130 A.2d 445 (1957).

 Given

 Refused

 Modified

 Refused, as covered in the general charge

Defendant's Proposed Point for Charge #3:

The fact that the Defendant, Susan Turner-Betts, was negligent, and responsible for the occurrence of the accident, does not in and of itself prove that the Plaintiffs are entitled to the recovery of any damages. Plaintiffs must still prove that this negligence was a substantial factor in bringing about Judith Jordan's injuries.

Gigliotti v. Machuca, 409 Pa. Superior Ct. 50, 597 A.2d 655 (1991).

 Given

 Refused

 Modified

 Refused, as covered in the general charge

Defendant's Proposed Point for Charge #4:

The Plaintiffs have the burden of proving each and every element of damage which they seek. It is not up to the Defendant to disprove an element of damage.

Kmiotek v. Anast, 350 Pa. 593, 39 A.2d 923 (1944).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #5:

The issues of whether the Plaintiffs have really suffered or sustained any of the damages they claim, and whether any of these damages were actually caused by the Defendant, is for you, the jury, to decide.

Holland v. Zelnick, 329 Pa. Superior Ct. 469, 478 A.2d 885 (1984); Broadhead v. Brentwood Ornamental Iron Company, Inc., 435 Pa. 7, 255 A.2d 120 (1969); Morgan v. Philadelphia Electric Co., 299 Pa. Superior Ct. 545, 445 A.2d 1263 (1982).

 Given

 Refused

 Modified

 Refused, as covered in the general charge

Defendant's Proposed Point for Charge #6:

You may not award damages based on guess, speculation, or conjecture, or on the possibility that there may or could have been harm in the past. Only damages that are proven with reasonable certainty are recoverable.

Kearns v. Clark, 343 Pa. Superior Ct. 30, 493 A.2d 1358 (1985).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #7:

The Plaintiffs must prove that each of their injuries and damages were with reasonable certainty caused by the Defendant's negligence. The mere "possibility" that the claimed injuries and damages could be related to the Defendant's negligence is not sufficient proof of causation. In such a situation, the Plaintiffs have not met their burden of proof on the item of injury or damage at issue, and you may not award Plaintiffs any damages for such items.

Gordon v. Trovato, 234 Pa. Superior Ct. 279, 338 A.2d 653 (1975); Rice v. Hill, 315 Pa. 166, 172 A. 289 (1934); Lorch v. Eglin, 369 Pa. 314, 85 A.2d 841 (1952); Baccare v. Mennella 246 Pa. Superior Ct. 53, 369 A.2d 806 (1976); American Air Filter Co., Inc. v. McNichol, 527 F.2d 1297 (3rd Cir. 1975).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #8:

A person, even if injured by another's negligence, is not entitled to recover damages for any harm that he could have avoided by the use of reasonable effort or expenditure after the negligence was committed.

See Restatement (Second) Torts, § 918(1);
Downs v. Scott, 201 Pa. Superior Ct. 278, 191
A.2d 908 (1963).

 Given

 Refused

 Modified

 Refused, as covered in the general charge

Defendant's Proposed Point for Charge #9:

An injured plaintiff has a duty to minimize her damages. Accordingly, when determining the amount of damages to which a plaintiff is entitled for personal injuries, if any, you should consider the plaintiff's failure to do those things, including following the instructions of her physicians, which a reasonably prudent person would have done under the circumstances in an effort to better her condition.

Hilscher v. Ickinger, 194 Pa. Super. 237, 166 A.2d 678, affirmed, 403 Pa. 596, 170 A.2d 595 (1961); Yost v. Union Railroad Co., 380 Pa. Super. 236, 551 A.2d 317 (1988), appeal denied, 562 A.2d 817 (1989).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #10:

There has been evidence in this case that medical services were performed for Plaintiff Judith Jordan. However, you have received no evidence of the amount of medical expenses. The parties have agreed in this case that there can be no award for medical expenses. This agreement is binding on the parties.

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #11:

The parties have agreed that there can be no award for lost wages. This agreement is binding on the parties.

Given

Refused

Modified

Refused, as covered in the general charge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RODNEY JORDAN and JUDITH JORDAN,
Plaintiffs *

vs * No. 00-1148-CD

SUSAN TURNER-BETTS,
Defendant *

*

PLAINTIFFS' PRETRIAL STATEMENT

I. BRIEF STATEMENT OF THE CASE.

Plaintiffs are husband and wife. On September 19, 1998, Plaintiff Judith Jordan was operating a 1998 Subaru on Route 970 in a northerly direction in Clearfield County. While Plaintiff Judith Jordan was attempting to make a lawful left turn, her vehicle was negligently struck in the rear by a vehicle operated by Defendant. As a result of the accident Plaintiff Judith Jordan suffered permanent chronic neck pain, shoulder pain, numbness in left arm and left hand, and headaches as more specifically described on the attached medical report of Dr. Barbara A. Swan. Plaintiff Rodney Jordan suffered a loss of consortium as a result of his spouses' injuries.

II. UNUSUAL QUESTIONS OF LAW.

Outstanding Petition to Extend Time pending.

III WITNESSES.

1. Plaintiffs (liability and damages)
2. Defendant (liability)
3. Dr. Barbara A. Swan by deposition. (damages)

4. Individuals as set forth in discovery. (liability and damages)

5. Any witnesses as listed in Defendant's PreTrial Statement. (liability and damages)

IV. MEDICAL REPORTS.

Dr. Barbara A. Swan Report dated August 27, 2003.

V. EXPERT REPORTS

None.

VI. Special Damages.

None.

VII. Exhibits.

Dr. Barbara A. Swan Report

VIII Photographs, Plots or Plans.

None.

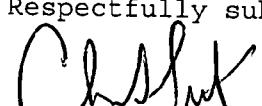
IX. Estimated Length of Time of Trial.

two (2) days.

X. List of Proposed Stipulations.

None.

Respectfully submitted,


Chris A. Pentz

Attorney for Plaintiffs



WEST PENN ALLEGHENY HEALTH SYSTEM

FEDERAL NORTH, 1307 FEDERAL STREET, SECOND FLOOR,
PITTSBURGH, PA 15212

AGH PHYSIATRY

1-877-660-6777

HUMAN MOTION CENTER

FAX: 412-359-8055

BARBARA E. SWAN, M.D.

JOHN A. MAGNOTTA, M.D.

August 27, 2003

Chris Pentz

RE: Judith Jordan
SS#: 050-50-5631

Dear Chris Pentz:

This is in response to your request for a narrative report outlining my treatment of Mrs. Jordan.

I first evaluated Mrs. Jordan on February 28, 2003. She was referred by Dr. Freenock, another physiatrist, for consultation regarding chronic neck and left arm pain after a work related motor vehicle accident on 9/19/98.

Mrs. Jordan reported she was the unstrained driver of a vehicle with a right side driver's seat, was stopped and was struck from behind by another vehicle. There was rear end damage to her vehicle and she had immediate onset of neck stiffness with neck pain the following morning. Three to four weeks later, when she began using her left upper extremity more frequently, she noted left upper extremity aching as well. The symptoms had been fairly constant since the onset. She reported pain radiating into the proximal left upper extremity, at times as far as the elbow with intermittent tingling in the left upper arm and intermittent episodes of weakness in the left arm. The pain was improved by remaining still, sitting, lying down and first thing in the morning was aggravated by bending forward or backward, coughing or sneezing, stress and was worse at night. Any lifting or turning of her head aggravated her pain.

I was able to review copies of her prior records. A CT scan of the cervical spine dated 12/7/98, was within normal limits. X-rays of the cervical spine dated 9/29/98, were normal. An MRI of the cervical spine on 11/11/98, 8/27/99 and 6/29/99, showed no stenosis, herniation or disk bulging. She did have probable

PAGE TWO

RE: Judith Jordan
SS#: 050-50-5631
Date: August 27, 2003

hemangiomas at C7 and T1. An MRI of the brain done on 11/11/98, was within normal limits. I also reviewed prior records from the Center for Pain Evaluation and Treatment at UPMC. They diagnosed myofascial pain involving the neck and shoulder girdle and left occipital neuralgia. She underwent an occipital nerve block with moderate relief of headache. They recommended participation in their pain rehabilitation program but for logistical reasons the patient reports she was not able to follow through with this. She had been followed by a neurologist, receiving multiple medications, physical therapy and trigger point injections, none of which were helpful. Electrodiagnostic studies done on 6/8/99 and 11/14/00, showed some mild abnormalities in the left mid cervical para spinal musculature. The patient reports she was working full time as a rural mail carrier for the US Postal Service. Up until a year prior to her initial evaluation she had been working part time, including at the time of her injury.

Physical examination: Showed a well developed, thin, white female, in no acute distress. Cervical range of motion is full in all directions with the exception of lateral bending to the right which was decreased when compared to the left with complaints of left sided pain. To palpation she had tenderness in the left lower cervical paraspinals and left upper trapezius muscle and mild tenderness in the levator scapulae. There was no significant tenderness in the thoracic, paraspinals or rhomboid muscles. No tenderness in the supra or infraspinatus. She had a nontender palpable trigger point in the mid portion of the right upper trapezius and a tender palpable trigger point on the left. Facetal loading was negative. Neurologic exam was within normal limits.

Impression: My impression was a chronic left shoulder girdle myofascial pain and non-restful sleep. I provided her with written information regarding myofascial pain and a self help book on pain management. I started her on trazodone 25 mg at bedtime with instructions to increase to a maximum of 100 mg as needed for sleep. She was instructed to do cervical and shoulder range of motion and shoulder rolls on a daily basis. I advised her that I saw nothing to suggest nerve injury. The patient was instructed to contact the office by phone in two to three weeks with a report on the effectiveness of the trazodone and to follow-up in the office in six weeks. I felt her prognosis for complete relief of symptoms was poor and for improved symptom management was fair to good.

The patient did call the office on March 20, reporting nausea with trazodone and inability to progress past 25 mg. We called in Pamelor 10 mg tablets, with instructions to increase up to a maximum of five per day. She then followed up in the office on April 11, 2003.

PAGE THREE

RE: Judith Jordan
SS#: 050-50-5631
Date: August 27, 2003

She then followed up in the office on April 11, 2003. She was having ongoing difficulty with sleep and reported a pain scale of 5-6/10. With the Pamelor 10 mg at bedtime, she was still awakening in the early morning and was unable to get back to sleep. She had attempted increasing to 20 mg with no improvement. She had decreased her caffeine intake to two cups per day. On that date, she also reported that without the medication she was sleeping well and feeling rested in the morning. I pointed out the discrepancy between her report on that visit and the previous visit of February 28, when she did report sleep disturbance and a feeling of fatigue in the morning. She reported that maybe she did have some difficulty with sleep. She also brought with her, on that date, a list of all the medications that she had previously tried. Her physical examination was unchanged.

I placed her on amitriptyline 10 mg at bedtime, gradually increasing to a maximum of 50 mg. Again, she was to call in three weeks with a report and follow-up in six weeks.

She did call on 5/14/03, reporting daytime drowsiness with the amitriptyline, also neck spasms and right hand shaking. She did feel however that the amitriptyline was helpful in relieving the pain in her back. She was advised to try taking the amitriptyline an hour earlier to decrease daytime side effects.

She was next seen in the office on 5/23/03. She reported a decrease in her back pain but ongoing cervical and left shoulder girdle pain. She was taking amitriptyline 10 mg about two hours before bedtime, waking up twice during the night but able to go back to sleep more easily, but still did not feel rested in the morning. She had tried increasing to 20 mg on one occasion and reported significant sedation the following day. She reported doing her home exercise program on a daily basis. Physical examination on that date showed decreased lateral neck bending to the right with complaints of pain on the left. She had tenderness in the left upper trapezius and left cervical paraspinals. She was advised to increase the amitriptyline to 20 mg two hours before bedtime and call in one week of the report on her sleep. Her home exercise program at that time consisted primarily of stretching and she was advised to gradually start doing some upper body strengthening as previously instructed from physical therapy. She was to resume the use of the TheraBands that she had at home.

The patient called the office on 6/4/03, for a refill on her amitriptyline 20 mg at bedtime. She was next seen in the office on July 18, 2003. At that time she was reporting ongoing difficulty

PAGE FOUR

RE: Judith Jordan
SS#: 050-50-5631
Date: August 27, 2003

with sleep. She reported decreased pain in the morning with Elavil 10 mg at bedtime. She tried increasing to 20 mg for three days but was sleeping through the alarm and so went back to 10 mg. Physical examination, showed full cervical range of motion and continued tenderness in the left shoulder girdle musculature. I suggested that she try one and a half amitriptyline tablets at bedtime. At that visit, I spoke with her at length about pain management strategies and the inner action between sleep and pain. She had not yet obtained a copy of the self help book on pain management and I encouraged her to do so. I did feel that she was beginning to exhibit some improved understanding of some basic pain management strategies and techniques at that visit.

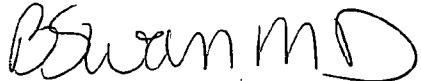
Because of the long distance that the patient traveled to my office, she is instructed to follow-up on an as needed basis. I recommended continued amitriptyline 10 to 15 mg at bedtime, and for her to obtain prescriptions from her primary care physician.

My final diagnosis for Mrs. Jordan's symptoms is chronic left shoulder girdle myofacial pain, sleep disturbance and cervical spondylosis. The cervical spondylosis is in no way related to her previous injury. Based on her history, her myofascial pain symptoms began with the motor vehicle accident of 9/19/98. However, I do not have any record dated close to the time of her injury in order to corroborate this. The only prior records that I have are her diagnostic studies as well as the records from Dr. Glick, at UPMC, where she was seen on one occasion. I do not feel that Mrs. Jordan has any cervical radiculopathy. She had some mild abnormalities on her EMG study in the cervical paraspinals only, which is non-diagnostic for radiculopathy and may represent impingement of the posterior primary rami from arthritic spurring. She has no clinical evidence to suggest a radiculopathy.

Based on the duration of her symptoms, which is now almost five years, it is unlikely that Mrs. Jordan will have complete resolution of her pain. I do expect that she will continue to manage her symptoms with a home exercise program. I do not expect them to significantly effect her functional status. She will require ongoing intermittent medical monitoring, particularly of the Elavil for sleep. She may require more involved interventions periodically should she have a flare-up of her symptomatology. Myofascial pain is not a progressive problem and I do not anticipate any increase or progression of symptomology in the foreseeable future.

I trust this information will be sufficient for your needs.

Sincerely,



Barbara E. Swan, M.D.

BES/ce

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :

JUDGMENT

AND NOW, this 1st day of July, 2004, upon Praeclipe
of Defendant, Judgment is hereby entered in favor of the Defendant and against the Plaintiffs.

William Shaw, Prothonotary
[SEAL]

FILED

JUL 01 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

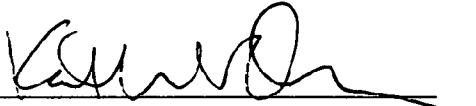
RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Praeclipe for Entry of Judgment in the above-captioned matter was served via U.S. 1st Class Mail, postage prepaid, on this 30th day of June, 2004, to the attorney of record:

Chris A. Pentz, Esquire
211½ East Locust Street
P. O. Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Attorneys for Defendant
SUSAN TURNER-BETTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :

PRAECIPE TO ENTER JUDGMENT

TO THE PROTHONOTARY:

A jury verdict having been entered in favor of the Defendant in this matter on June 10, 2004, and the time period for the filing of a Motion for Post-Trial Relief having expired, kindly enter judgment in this matter in favor of the Defendant, Susan Turner-Betts, and against the Plaintiffs, Rodney Jordan and Judith Jordan.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: June 30, 2004

Attorneys for Defendant
SUSAN TURNER-BETTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife, :

Plaintiffs, : TYPE OF PLEADING:
:

v.

SUSAN TURNER-BETTS, : TYPE OF CASE: CIVIL
:

Defendant. : FILED ON BEHALF OF:
:

DEFENDANT

:

: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
:

JAMES M. HORNE, ESQ.

:

I.D. NO. 26908

:

KATHERINE V. OLIVER, ESQ.

:

I.D. NO. 77069

:

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

:

811 University Drive

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State College, PA 16801

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Fay

FILED Atty. pd. 2000
m/11/04 2004
JUL 01 2004 Notice to
C. Pentz
William A. Shaw
(PAF)
Prothonotary/Clerk of Courts

COURT OF COMMON PLEAS, CLEARFIELD COUNTY
PENNSYLVANIA

FILED
07/3/2004
JUN 10 2004

CASE NO. 00-1148-CD

William A. Shaw
Prothonotary/Clerk of Courts

Date of Jury Selection: April 29, 2004

Presiding Judge: Honorable Paul E. Cherry

RODNEY JORDAN and
JUDITH JORDAN

Court Reporter: Tom Snyder / BARTW

VS

SUSAN TURNER-BETTS

Date of Trial: June 9 thru 11, 2004

Date Trial Ended: _____

MEMBERS OF THE JURY

1. ROBERT JACONSKI
2. PHYLLIS MURRAY
3. STANLEY SHIMMEL
4. GUY BLOOM
5. ANDREW ELENSKY
6. PAUL BRADFORD
ALT #1 GARY VANDERPOOL

7. WISA WHITE G. Vanderpool
8. ANNA MAE WHALING
9. MARY NARVEY
10. SHELDON COUDRIET
11. DIANE PAULES
12. JUDY TUBBS
ALT #2 BRENDA LEE WILLIAMS

PLAINTIFF'S WITNESSES:

1. De. Barbara Lewis - Depo
2. Judith Jordan
3. Rodney Jordan
4. _____
5. _____
6. _____

DEFENDANT'S WITNESSES:

1. Dr. Michael G. Moncman
2. Susan Betts
3. Dr. Stuart Oleskey - video Depo
4. _____
5. _____
6. _____

PLAINTIFF'S ATTY: Christopher Pentz, Esquire

DEFENDANT'S ATTY: Kathering V. Oliver,
Esquire

ADDRESS TO JURY: 2:02 PM

ADDRESS TO JURY: 1:25 PM

JUDGE'S ADDRESS TO JURY: 2:35

JURY OUT: 3:02 PM JURY IN: 3:45

VERDICT: Defense

FOREPERSON: _____

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,
Plaintiffs

v.

SUSAN TURNER-BETTS,
Defendant

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY,
: PENNSYLVANIA
:
: NO. 00-1148-C.D.
:
: CIVIL ACTION - LAW

VERDICT SLIP

FILED
03/16/04
JUN 10 2004

William A. Shaw
Prothonotary/Clerk of Courts

QUESTION NO. 1:

Was the negligence of the Defendant, Susan Turner-Betts, a substantial factor in causing
the injuries claimed by the Plaintiffs, Judith Jordan and Rodney Jordan?

(Check One) _____ Yes

X No

INSTRUCTIONS:

- (a) *If your answer to Question No. 1 is "Yes", go to Question No. 2.*
- (b) *If your answer to Question No. 1 is "No", skip the balance of the questions and return to the Courtroom.*

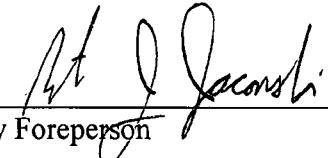
QUESTION NO. 2

2. As to those injuries you found causally related to the accident of September 19, 1998, state the amount of damages, if any, sustained by each Plaintiff and if none, so state.

Judith Jordan \$ _____

Rodney Jordan \$ _____

Date: June 10, 2004



Jury Foreperson

INSTRUCTIONS:

Return to Courtroom

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife, :
Plaintiffs, : TYPE OF PLEADING:
v. : DEFENDANT'S SPECIAL POINTS FOR
SUSAN TURNER-BETTS, : CHARGE
Defendant. :
: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: DEFENDANT
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926
: FAX#(814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

: No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

DEFENDANT'S SPECIAL POINTS FOR CHARGE

KATHERINE V. OLIVER
I.D. No. 77069
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
SUSAN TURNER-BETTS

Defendant's Proposed Point for Charge #1:

Under all the law and the evidence, you must return a verdict in favor of the Defendant Susan Turner-Betts and against the Plaintiffs.

 Given

 X Refused

 Modified

Defendant's Proposed Point for Charge #2:

The Plaintiffs, Rodney and Judith Jordan, have the burden of proving by a preponderance of the evidence that a causal relationship exists between the automobile accident of September 19, 1998 and the injuries alleged by Ms. Jordan. In order to meet that burden, the Plaintiffs must introduce unequivocal expert medical testimony that such a relationship exists. If you find that the Plaintiffs have not met that burden with respect to any of the claimed injuries, then you should not include any compensation for such injuries in your verdict.

McArdle v. Panzek, 262 Pa. Superior Ct. 88, 396 A.2d 658 (1938); Albert v. Alter, 252 Pa. Superior Ct. 203, 381 A.2d 459 (1977); Stathas v. Wade Estate, 251 Pa. Superior Ct. 269, 380 A.2d 482 (1977); Smith v. German, 434 Pa. 47, 253 A.2d 107 (1969); Florig v. Sears Roebuck & Co., 388 Pa. 419, 130 A.2d 445 (1957).

 Given

 Refused

 Modified

 X

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #3:

The fact that the Defendant, Susan Turner-Betts, was negligent, and responsible for the occurrence of the accident, does not in and of itself prove that the Plaintiffs are entitled to the recovery of any damages. Plaintiffs must still prove that this negligence was a substantial factor in bringing about Judith Jordan's injuries.

Gigliotti v. Machuca, 409 Pa. Superior Ct. 50, 597 A.2d 655 (1991).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #4:

The Plaintiffs have the burden of proving each and every element of damage which they seek. It is not up to the Defendant to disprove an element of damage.

Kmiotek v. Anast, 350 Pa. 593, 39 A.2d 923 (1944).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #5:

The issues of whether the Plaintiffs have really suffered or sustained any of the damages they claim, and whether any of these damages were actually caused by the Defendant, is for you, the jury, to decide.

Holland v. Zelnick, 329 Pa. Superior Ct. 469, 478 A.2d 885 (1984); Broadhead v. Brentwood Ornamental Iron Company, Inc., 435 Pa. 7, 255 A.2d 120 (1969); Morgan v. Philadelphia Electric Co., 299 Pa. Superior Ct. 545, 445 A.2d 1263 (1982).

 Given

 Refused

 Modified

X Refused, as covered in the general charge

Defendant's Proposed Point for Charge #6:

You may not award damages based on guess, speculation, or conjecture, or on the possibility that there may or could have been harm in the past. Only damages that are proven with reasonable certainty are recoverable.

Kearns v. Clark, 343 Pa. Superior Ct. 30, 493 A.2d 1358 (1985).

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #7:

The Plaintiffs must prove that each of their injuries and damages were with reasonable certainty caused by the Defendant's negligence. The mere "possibility" that the claimed injuries and damages could be related to the Defendant's negligence is not sufficient proof of causation. In such a situation, the Plaintiffs have not met their burden of proof on the item of injury or damage at issue, and you may not award Plaintiffs any damages for such items. *NO*

Gordon v. Trovato, 234 Pa. Superior Ct. 279, 338 A.2d 653 (1975); Rice v. Hill, 315 Pa. 166, 172 A. 289 (1934); Lorch v. Eglin, 369 Pa. 314, 85 A.2d 841 (1952); Baccare v. Mennella 246 Pa. Superior Ct. 53, 369 A.2d 806 (1976); American Air Filter Co., Inc. v. McNichol, 527 F.2d 1297 (3rd Cir. 1975).

 Given

 Refused

 Modified

X Refused, as covered in the general charge

Defendant's Proposed Point for Charge #8:

A person, even if injured by another's negligence, is not entitled to recover damages for any harm that he could have avoided by the use of reasonable effort or expenditure after the negligence was committed.

See Restatement (Second) Torts, § 918(1);
Downs v. Scott, 201 Pa. Superior Ct. 278, 191
A.2d 908 (1963).

 Given

Refused

 Modified

 Refused, as covered in the general charge

Defendant's Proposed Point for Charge #9:

An injured plaintiff has a duty to minimize her damages. Accordingly, when determining the amount of damages to which a plaintiff is entitled for personal injuries, if any, you should consider the plaintiff's failure to do those things, including following the instructions of her physicians, which a reasonably prudent person would have done under the circumstances in an effort to better her condition.

Hilscher v. Ickinger, 194 Pa. Super. 237, 166 A.2d 678, affirmed, 403 Pa. 596, 170 A.2d 595 (1961); Yost v. Union Railroad Co., 380 Pa. Super. 236, 551 A.2d 317 (1988), appeal denied, 562 A.2d 817 (1989).

X

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #10:

There has been evidence in this case that medical services were performed for Plaintiff Judith Jordan. However, you have received no evidence of the amount of medical expenses. The parties have agreed in this case that there can be no award for medical expenses. This agreement is binding on the parties.

X

Given

Refused

Modified

Refused, as covered in the general charge

Defendant's Proposed Point for Charge #11:

The parties have agreed that there can be no award for lost wages. This agreement is binding on the parties.

Given

Refused

Modified

Refused, as covered in the general charge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

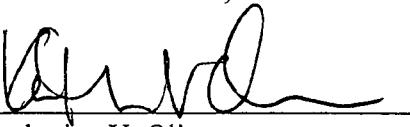
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Special Points for Charge
and Special Verdict Questions Proposed by Defendant in the above-captioned matter was mailed
by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 6th
day of May, 2004, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver
Attorneys for Defendant
SUSAN TURNER-BETTS
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and :
JUDITH JORDAN, husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
TYPE OF PLEADING:
Certificate of Service
SUSAN TURNER-BETTS, :
Defendant. : TYPE OF CASE: Civil
FILED ON BEHALF OF:
DEFENDANT
COUNSEL OF RECORD FOR
FOR THIS PARTY:
KATHERINE V. OLIVER, ESQ.
I.D. NO. 77069
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
PH# (814) 238-4926
FAX#(814) 238-9624

FILED

JUN 07 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN,
husband and wife,

No. 00 - 1148 - CD

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Trial Brief in the above-captioned matter was hand delivered on this 7th day of June, 2004, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
P.O. Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Katherine V. Oliver

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811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Attorneys for Defendant
SUSAN TURNER-BETTS

FILED NO
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JUN 07 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, : No. 00-1148-C.D.
husband and wife, :

v.

Plaintiffs, : TYPE OF PLEADING:
:

CERTIFICATE OF SERVICE

SUSAN TURNER-BETTS, : TYPE OF CASE: CIVIL
:

Defendant. : FILED ON BEHALF OF:

DEFENDANT

: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
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: State College, PA 16801
: PH# (814) 238-4926
: FAX#(814) 238-9624

FILED

JUN 04 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RODNEY JORDAN and JUDITH JORDAN, :
husband and wife, :
Plaintiffs, : No. 00 - 1148 - CD
vs. :
SUSAN TURNER-BETTS, :
Defendant. :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Deposition Transcripts of Judith Jordan, Rodney Jordan, Michael G. Moncman, M.D., and Stuart Olinsky, M.D. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 3rd day of June, 2004, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
P.O. Box 552
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

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Fax: (814) 238-9624

Attorneys for Defendant
SUSAN TURNER-BETTS

FILED

REC

10/4/04
JUL 04 2004
REC

William A. Shaw
Prothonotary/Clerk of Courts