DEPOSITION OF EDMOND A. PROVDER; 1996 Depo. Trans. LEXIS 3908

Circuit Court of Illinois, Cook County, County Department, Law Division

No. 95-L-10979

July 22, 1996

Reporter
1996 Depo. Trans. LEXIS 3908 *

THERESA ROMPA and JOHN ROMPA, Plaintiffs, vs. SWEDISH COVENANT HOSPITAL, DR. JOREG BUSSE, DR. NORMAN OLSEN, DR. GARRY MELHICK, and DR. PAUL LARSON, Defendants.

Expert Name: Mr. ALAN PROVDER, C.R.C., C.L.C.P., Ph.D.

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Counsel

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FOR DEFENDANT SWEDISH COVENANT HOSPITAL: LOWIS & GELLEN, ESQS., BY: VITO M. MASCIOPINTO, ESQ., Chicago, Illinois.

FOR DEFENDANT DR. JOREG BUSSE: CASSIDAY, SCHABE & GLOOR, ESQS., BY: ROBERT S. BURTKER, ESQ., Chicago, Illinois.

FOR DEFENDANTS DR. NORMAN OLSEN and DR. PAUL LARSON: RUFF, WEIDENAAR & REIDY, LTD., BY: TODO M. PORTER. ESQ., Chicago, Illinois.

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E X H I B I T S
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Qualifications of Mr. Provder
Provder-2 Copy of Preliminary Life Care 4
Costs for Theresa Rompa
Provder-3 Copy of 6/11/96 Life Care Plan 4
for Theresa Rompa
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Provder-5 Copy of Life Care Cost Plan 92
(16)
(Retained)
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(1) E D M O N D A. P R O V D E R,
(2) having been duly sworn, was
(3) examined and testified as follows:
(5) (Provder-1, Copy of Professional
(6) Qualifications of Mr. Provder is marked for
(7) Identification.)
(8) (Provder-2, Copy of Preliminary Life Care
(9) Costs for Theresa Rompa is marked for
(10) Identification.)

(11) **[*3]** (Provder-3, Copy of 6/11/96 Life Care
(12) Plan for Theresa Rompa is marked for
(13) Identification.)
(15) DIRECT EXAMINATION BY MR. MASCIOPINTO:
(16) MR. MASCIOPINTO: Let the record reflect
(17) this is the discovery deposition of Edmond
(18) Provder taken pursuant to notice and the
(19) applicable Illinois Rules of Civil Procedure

(20) and supreme court rules.
(21) Q Mr. Provder, my name is Vito Masciopinto. I
(22) represent Swedish Covenant Hospital. I'm going to be asking
(23) you questions today regarding your life care plan that you
(24) created in this case.
(25) If at any time you don't understand any of the
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(1) questions, please tell me so and I'll be happy to rephrase
(2) them or clarify them. If you do answer any of my questions,
(3) it will be my understanding and our understanding that you
(4) understood the question as it was asked. Is that okay?
(5) A Yes.
(6) Q Also, please keep your answers audible so that
(7) the court reporter can take everything down. And if at any
(8) time you need a break or anything, please let me know and
(9) I'll be happy to halt the deposition for that purpose.
(10) Okay? **[*4]**
(11) A No problem.
(12) Q Mr. Provder, I pre-marked as Exhibit 1 a
(13) document. Could you identify it for me?
(14) A Yes. This is my professional qualifications.
(15) Q Is that document current and up to date?
(16) A No; there are several additions to it.
(17) Q Why don't you tell me what those additions are?
(18) A Yes. Since this document was created my
(19) company Occupational Assessment Services has been approved
(20) as a vendor by the New Jersey State Division of Vocational
(21) Rehabilitation, as well as the New Jersey Commission for
(22) the -- New Jersey State Division for the Visually
(23) Handicapped and Blind, as well as the New York State
(24) Commission for the Visually Handicapped and Blind. Which
(25) means that the state refers clients to us for vocational
Page 6
(1) evaluation and testing.
(2) In addition, we currently are working with the
(3) federal government Internal Revenue Service to provide
(4) vocational consultation for employees of the IRS who are
(5) blind and hard of hearing.
(6) Q And when was that document last revised?
(7) A This is probably about three years ago.
(8) **[*5]** Q So both those things you just described
(9) happened been the last two years?

A Last three years, yes.
Q Last three years.
You have a B.S. and masters in rehabilitation
counselling?
A Bachelor of science and masters of
rehabilitation counselling.
Q What does rehabilitation counselling encompass?
A Rehabilitation counselling is an area of
expertise that involves counselling, psychology, sociology,
education, occupational information, as well as medical
knowledge in order to perform two particular job functions
or duties. The first job function deals with working with
people that are catastrophically injured. And essentially
providing case management services to those individuals.
Making sure that they receive the proper medical care,
therapy, equipment and supplies, and home care that is
Page 7
required in order to assist them in coping or dealing with
their disability.
In medical rehabilitation the rehabilitation
counselor acts as the case coordinator. And in private
practice, such as I have, we act as case managers or case
[*6] coordinators for people that are disabled.
Our second role is vocational in nature; meaning that
we work with people that have a variety of different
disabilities. These could be people with physical
disabilities, people with emotional disabilities, people
that have cognitive limitations, brain damage, developmental
disabilities. And we interview them, test them
vocationally, counsel them, and assist them in trying to
locate some type of work they could perform given their
various capabilities.
Q Would you agree that between 1973 and 1981 most
of your job function was devoted to vocational type of
counselling?
A No.
Q Okay. Why is that an incorrect statement?
A Because rehabilitation counselling as a
function always has some case management component.
For example, the reason I was selected to have my
first job was that I had done an internship at Moss
Rehabilitation Hospital in Philadelphia, which is similar to

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(1) the Rehabilitation Institute of Chicago, and provided case
(2) management services in that setting. And I provided the
(3) **[*7]** same services to a population of disabled individuals who
(4) were essentially, quote, home bound, unquote. These were
(5) simply disabled persons. So in that instance I was
(6) providing case management services.
(7) Q Could you break down how much of your job
(8) between 1973 and 1981 was devoted to case management
(9) services and how much to vocational type purposes?
(10) A Yes. Want to do a job to job? Because it
(11) varies.
(12) Q If that's the easiest way, that's fine.
(13) A Yes, it is. Federation of Handicap, I'd say 30
(14) percent is case management. Was case management.
(15) Q I'm sorry to interrupt you, but was that for
(16) handicapped individuals?
(17) A I've only worked with physically disabled,
(18) emotionally disturbed, or some type of disability all of my
(19) work life. So everybody that I've worked with have been
(20) disabled in some manner. That's the area of expertise.
(21) We do work with people that are non-disabled, also.
(22) But in each one of these jobs I worked exclusively with
(23) people that were disabled.
(24) Q But would that first job be mentally disabled
(25) as compared to **[*8]** physically disabled?

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(1) A Everybody in that program had a physical
(2) disability. On top of their physical disability some of
(3) them had developmental disabilities.
(4) Q I'm sorry to interrupt you.
(5) A No problem.
(6) Mount Sinai Hospital, I say about 15 percent was case
(7) management services. That brings you to 1981.
(8) Q You did some work for the Social Security
(9) Administration?
(10) A Yes.
(11) Q What did that consist of and when did that
(12) occur?
(13) A Occurred from October of '77 to September of
(14) '85. And I served as a vocational expert, office of
(15) appearance and appeals, Social Security Administration,

(16) being called in by the federal administrative law judges to
(17) render opinions as to the employment ability of individuals
(18) seeking disability benefits. In that capacity I was called
(19) in approximately 2,000 times as an expert by the government.
(20) Q And the purpose of your function was to
(21) determine if they should receive more benefits?
(22) A No. These were people seeking benefits. The

(23) purpose of the function was to assist the administrative **[*9]** law
(24) judge in rendering an opinion as to whether somebody met the
(25) guidelines of and definition of disability.

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(1) Part of that definition deals with whether somebody
(2) has -- I'm sorry, type of work a person has done in the
(3) past, whether they have any transferable skills, and whether
(4) they have unique knowledge or education that would allow
(5) them to be employed in a capacity usually requiring less
(6) physical demands than the prior job.
(7) Q You were independent in your decision making in
(8) that capacity?
(9) A Correct.
(10) Q And can you give me any kind of approximation
(11) of how many times you ruled that the person should receive
(12) benefits as compared to when they should be denied benefits?
(13) A I didn't rule on anything. The administrative
(14) law judge rules to that effect.
(15) Q Let me rephrase. How many times was your
(16) opinion that the person should receive benefits as opposed
(17) to they --
(18) A Again, those opinions are held by the
(19) administrative law judge. I only answered hypothetical
(20) questions pondered to me by the administrate law judge or

(21) **[*10]** posed to me.
(22) Q So you did not make any type of recommendation
(23) to the administrative law judge?
(24) A I don't know what you mean by any type of
(25) recommendation.

Page 11

(1) Q Well, did you make any recommendation to the
(2) administrative law judge whether the person should be denied
(3) or given benefits?
(4) A Again, that's a decision made by the
(5) administrative law judge.

(6) Q Well, I know the decision is made ultimately by
(7) the administrative law judge; but did you make any type of
(8) recommendation to the administrative law judge?
(9) A It's not our role.
(10) Q Okay. You did not then? Is that true?
(11) A That's correct. That's not the role of
(12) vocational expert in that proceeding.
(13) Q And from 1981 to the present you are associated
(14) with company called OAS. Is that correct?
(15) A Yes.
(16) Q And can you describe to me what OAS is?
(17) A OAS is a private for-profit rehabilitation
(18) company that provides vocational rehabilitation services and
(19) case management services to individuals that are either

(20) physical disabled, emotionally **[*11]** disabled and/or cognitively
(21) disabled. People that have brain injury, cognitive
(22) limitations, as well as individuals that are visually
(23) handicapped and/or blind.
(24) Q And who owns OAS?
(25) A Myself.

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(1) Q How many employees do you have?
(2) A Ten.
(3) Q And how many clients does OAS currently have?
(4) A I don't know what you mean by clients.
(5) Q Can you answer it that way?
(6) How many individuals are you assisting either with
(7) case management or vocational functions at the present time?
(8) A Rehabilitation clients? Is that the question?
(9) Q Yes.
(10) A We currently work with approximately -- we have
(11) 15 rehabilitation clients at that current time. That's
(12) about an average that we try to maintain.
(13) Q And could you break down the job duties of the
(14) 10 employees you currently have?
(15) A One other is a rehabilitation counselor; the
(16) rest are clerical staff.
(17) Q And what's the name of the other rehabilitation
(18) counselor?
(19) A Andrew Pasternack.
(20) Q And have you always been the sole owner of OAS?

(21) **[*12]** A Correct.

(22) Q Did you file --
(23) A Well, I'm sorry.
(24) Q You can amend that.
(25) A That's not true. I'm sorry. Initially OAS had
Page 13
(1) two other owners.
(2) Q And who were they?
(3) A They were Arthur Bierman and William Mooney.
(4) Q And what was their role with OAS?
(5) A They were founders.
(6) Q Were they also rehabilitation counselors?
(7) A Correct.
(8) Q And how was OAS set up at that time?
(9) A Corporation.
(10) Q And were they shareholders of the corporation?
(11) A Yes.
(12) Q They are no longer shareholders of the
(13) corporation?
(14) A They were only shareholders in the corporation
(15) for a short period of time, and then withdrew from the
(16) corporation in mid to late '81. The corporation was founded
(17) in August of '81.
(18) Q What was their reason for leaving the
(19) corporation?
(20) A Both individuals were experts with the federal
(21) government at that time, just as I was. And the federal
(22) government did not like the idea that their top three
(23) rehabilitation vocational experts had formed a corporation
(24) **[*13]** and would be available to testify against the government.
(25) So they put pressure on those two individuals to withdraw
Page 14
(1) from the corporation.
(2) Q Might be more curiosity, but what kind of
(3) pressure did they put on these individuals?
(4) A Each individual was earning a considerable
(5) amount of money as contract employee from the government,
(6) and they basically said they were not going to renew their
(7) contract if they continued with the corporation. And both
(8) individuals were at that point in time, what I felt,
(9) elderly. I don't find them so elderly anymore. But they
(10) were in their -- one gentleman was in the beginning 50s and
(11) the other was in the beginning 60s. And this was their

(12) prime source of income. And the government put pressure on
(13) them to withdraw.
(14) Q Suffice to say it was financial?
(15) A Financial decision. And the corporation was
(16) just in its infancy at that point in time.
(17) Q Has there ever been any other owner of OAS?
(18) A No.
(19) Q You're the sole shareholder of OAS at the
(20) present time?
(21) A Correct.

(22) Q And during **[*14]** your career at OAS how many life
(23) care plans have you developed?
(24) A It's hard to say. How about over the past
(25) couple years? You'll take that as a --
Page 15
(1) Q Okay. That's fine.
(2) A Okay. Probably average anywhere from 30 to 35
(3) per year.
(4) Q And what percentage of your role as a
(5) rehabilitation counselors is devoted to the creation of life
(6) care plans for individuals?
(7) A Can you just repeat the question? I'm not sure
(8) I understand it totally.
(9) Q Sure. What percentage of your job duties as a
(10) rehabilitation counselors are devoted to the creation of
(11) life care plans for individuals?
(12) A Approximately 20 percent.
(13) Q And can you break down the remaining percentage
(14) of what OAS does?
(15) A That's not the question you asked me. I'm
(16) sorry. It's not clear.
(17) Q Could you answer it if I said could you break
(18) down what the percentage of working you do as rehabilitation
(19) counselor is besides creation of life care plans?
(20) A I think that would be unclear also.
(21) Q Do you agree that you answered that 20 percent

(22) **[*15]** of what you do as a rehabilitation counselor is the creation
(23) of life care plans for individuals?
(24) A Yes.
(25) Q Can I ask what the remaining 80 percent is
Page 16
(1) involved with?

(2) A Of my time?
(3) Q Yes.
(4) A Thirty percent of the time is devoted to
(5) providing direct rehabilitation services, of which I
(6) consider life care plans to be part of. As well as case
(7) management services. So that means I'm providing
(8) interviewing, testing, evaluation, counselling services and
(9) consultation services to people that are disabled.
(10) The balance of my time, approximately 40 to 50
(11) percent, is involved in evaluating individuals for legal
(12) matters.
(13) Q So about 40 to 50 percent of your work is
(14) directly related to work for attorneys?
(15) A Correct.
(16) Q Do you do work for both plaintiff and defense
(17) attorneys?
(18) A Correct.
(19) Q Can you break down how much is for plaintiff,
(20) how much is for defendant?
(21) A Sixty-five percent plaintiff, 35 percent
(22) defendant. At the present time.

(23) Q Do you do an evaluation of an individual **[*16]** before
(24) you create a life care plan?
(25) A I'm not sure I understand your question.
Page 17
(1) MS. STEVENS: You meet with the
(2) individuals? Is that what you're asking him?
(3) MR. MASCIOPINTO: Yes.
(4) A Yes.
(5) Q And how long do you need to meet with an
(6) individual to be able to create a life care plan document?
(7) A Depends on the individual and the disability,
(8) and the propensity of the case.
(9) Q Can you give any kind of range that it would
(10) vary from? From simple to complex?
(11) A Yes. Anywhere from two to four hours.
(12) Q So a simple case could be as little as two
(13) hours, and complex case as long as four hours for the
(14) meeting with the individual?
(15) A The less complex could be two hours, yes.
(16) Q And the more complex case would be up to four
(17) hours?

(18) A Yes.
(19) Q Have you ever authored any articles?
(20) A I'm not sure I understand your question.
(21) Q Have you ever had any article published?
(22) A Yes.
(23) Q Is that article contained on your professional
(24) qualifications?
(25) A No.

Page **[*17]**
(1) Q What is that article?
(2) A I authored several articles. Try to work back.
(3) Last article that I published was published, I
(4) believe, in December of 1993. And I don't have the exact
(5) title, but I'm going to paraphrase it. Something like "The
(6) Evaluation of Loss of Earning Capacities of Children."
(7) Q To maybe save some time, do you have your
(8) articles listed anywhere?
(9) A Yes, I do.
(10) Q Could you provide through Ms. Stevens a copy of
(11) those articles?
(12) A No problem.
(13) Q Again, to short circuit this a little, are
(14) there any articles that you feel are germane to the work
(15) that you did on this case?
(16) A Yes.
(17) Q Could you just tell me generally what type of
(18) titles these articles are?
(19) A There was an article on life care planning.
(20) Q And when did you author that article?
(21) A 1992.
(22) Q And where does that article appear?
(23) A It's a publication called The Journal of Trial
(24) Advocacy.
(25) Q Do you have a copy of the article?
Page 19
(1) A No.
(2) Q Do you know the title of that **[*18]** article?
(3) A I think it's something like "Life Care Planning
(4) with Catastrophically Injured Persons." Again, another
(5) paraphrase.
(6) Q But again, you do have this title listed
(7) somewhere that you can provide to me?

A It's based on the federal court order, court regulations in that area. I have a listing of publications that Ms. Stevens will provide to you.
Q Very good. Any other articles that you feel are pertinent to the work you did in this case?
A No.
Q Have you given any presentations about life care plans?
A No.
Q Have you ever had your deposition taken before?
A Yes.
Q Can you give me an estimate how many times?
A I average about six to eight times per year.
Q When you've given a deposition has it always been in association with OAS?
A Yes.
Q Have you ever testified in court before?

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A Yes.
Q How many times?
A Past four years, anywhere from 14 to 21 times, per year.
Q So for the past four years you've testified **[*19]** in court anywhere from 14 to 21 times a year?
A Correct.
Q How about before that?
A Less frequency.
Q And has your testimony been in various jurisdictions throughout the country?
A Correct.
Q Have you testified in the Cook County court system before?
A Correct.
Q How many times have you testified in the Cook County court system?
A Three.
Q Do you know the names of the attorneys that you testified on behalf of?
A I could give you the name of one attorney that I testified on two occasions with. I cannot give you the third one.

(24) (There is a discussion held off the
(25) record.)
Page 21
(1) (Mr. Porter and Mr. Burtker present.)
(2) MR. MASCIOPINTO: Back on.
(3) Q Before we broke for a minute I think I asked
(4) you what attorneys had asked that you testify for them in
(5) the Cook County court system.
(6) A Yes.
(7) Q Can you identify them?
(8) A Yes. As I indicated, there is one gentleman
(9) which I testified twice for in the past couple years. His
(10) **[*20]** name is Sam Briones in Chicago Heights.
(11) Q Do you know the name of the other attorney?
(12) A Many, many years ago. I cannot recall. Sorry.
(13) Some time in, I'd say, the late 80s.
(14) Q When was the last time you testified in the
(15) Cook County court system?
(16) MS. STEVENS: You talking about
(17) deposition and trial?
(18) MR. MASCIOPINTO: No.
(19) MR. MASCIOPINTO: No, I'm talking about
(20) trial.
(21) A Probably about a year ago.
(22) Q And what was that case about?
(23) A That was a vocational case, vocational
(24) evaluation.
(25) Q How about the other time you testified for Mr.
Page 22
(1) Briones?
(2) A Another vocational evaluation.
(3) Q And the third case you testified about?
(4) A That was a life care plan.
(5) Q And what did that case involve?
(6) A It's a long time ago. Best of my recollection
(7) was a brain damaged baby.
(8) Q Do you remember the name of the case?
(9) A Not the slightest. I wish I could recall what
(10) happened 10 years ago. I'm sorry.
(11) Q Do you have a list of the cases that you've
(12) worked on?
(13) **[*21]** A Not that far back, no. I don't keep a running

(14) list, no.
(15) Q Do you remember the names of any of the
(16) attorneys involved in that case?
(17) A No. Sorry.
(18) Q As a rehabilitation counselor do you receive
(19) any sort of professional certification?
(20) A Yes.
(21) Q What is that certification called?
(22) A Certification is called a Certified
(23) Rehabilitation Counselor.
(24) Q What year did you receive that?
(25) A First year of certification some time in the
Page 23
(1) mid 70s.
(2) Q And what do you need to obtain that
(3) certification?
(4) A Graduate of a masters degree rehabilitation
(5) counselling program. Number of years cert -- I'm sorry.
(6) Number of years supervised by a Certified
(7) Rehabilitation Counselor, a number of professional
(8) references, and successful completion of an examination that
(9) measures your knowledge in the field of rehabilitation
(10) counselling.
(11) Q Does that certification have to be renewed at
(12) all?
(13) A Yes.
(14) Q When is that?
(15) A Every five years.
(16) Q Have you successfully renewed your
(17) **[*22]** certification?
(18) A Yes. I renewed in through examination, the
(19) last being March of 1995.
(20) Q And I saw from your professional qualifications
(21) that you at least took some courses toward a doctorate in
(22) rehabilitation counselling?
(23) A Correct.
(24) Q Did you ever obtain a doctorate?
(25) A No.
Page 24
(1) Q Do you have an intention to obtain a doctorate
(2) in rehabilitation counselling?
(3) A Not at this time, no.

(4) Q Are there any treatises, articles or books in
(5) your profession which you believe are authoritative?
(6) A No.
(7) Q Are there any books, articles or treatises
(8) which you relied on in creating the life care plan that you
(9) developed in this case?
(10) A No.
(11) Q Are there any books or treatises or articles
(12) that you used for the development of the life care plan in
(13) this case?
(14) A I'm not sure I understand that question as
(15) opposed to the last one; but the answer is no.
(16) Q Well, I noticed in the life care plan there are
(17) certain books that are referenced. Is that correct?

(18) A There's only one book **[*23]** that's referenced, I
(19) believe.
(20) Q Well, what book is that?
(21) A Guide to Rehabilitation.
(22) Q So you would agree that that is a book that was
(23) used in some way for development of Theresa Rompa's life
(24) care plan. Correct?
(25) A It wasn't used in development of the plan, no.

Page 25

(1) Q What was it used for?
(2) A It was used for the format of the charts that
(3) were used in the plan.
(4) Q Does that book contain guides as to separate
(5) categories that should be evaluated in the creation of the
(6) life care plan?
(7) A Not sure I understand your question.
(8) Q What don't you understand about it?
(9) A The whole question. I don't know what you mean
(10) by guides.
(11) Q Well, are there categories that are contained
(12) in the book that are to be evaluated for individuals that
(13) you're doing a life care plan for?
(14) A Again, I'm not sure what you mean by categories
(15) or guides. You saying is there a checklist?
(16) Q If you want to call it -- is there a checklist?
(17) A No.
(18) Q What exactly did you use the book for?

(19) **[*24]** A Again, as I explained, that initial time that

(20) book was published was the first time that anybody
(21) systematically used a -- designed a format for the inclusion
(22) of various information developed by rehabilitation
(23) counselors and used in case management and formalized it and
(24) used the term, quote, life care planning, unquote.
(25) So the book was used only for the use of those
Page 26
(1) charts. That's it.
(2) Q What's contained on those charts?
(3) A The charts contain information when -- well,
(4) the format is what was used, which is basically the type of
(5) service or equipment required, the time it should begin, the
(6) time it should end, and the cost of the particular item, and
(7) the frequency of the use of the item.
(8) Q And you adapted that format for use in Theresa
(9) Rompa's life care plan?
(10) A Yes.
(11) Q Did you adapt anything else from the book for
(12) use in the life care plan?
(13) A No.
(14) I'm sorry. I have misspoken regarding the use of
(15) another book or article in the development of a life care.
(16) Q Was there another book or article used in the

(17) development **[*25]** of the life care plan?
(18) A Yes.
(19) Q What book or article was that?
(20) A I have to have my life care plan.
(21) A book called Rehabilitation Consultants Handbook,
(22) 1994.
(23) Q And what was that book used for?
(24) A Contained in that book is a series of tables
(25) called "Activities of Daily Living" developed by a gentleman
Page 27
(1) called Roger Weed.
(2) Q And I take it from what you just stated that
(3) that book contains a list of various activities for daily
(4) living. Right?
(5) A That's correct. Five pages of daily living
(6) activities.
(7) Q Did you adapt that in its entirety for use in
(8) the life care plan?
(9) A Pretty much in its entirety, yes.

(10) Prior to me using this document in a general fashion,
(11) I spoke with the author of the document, Roger Weed, and
(12) discussed its use and how he utilizes it. And I decided
(13) that it would be of assistance to me to utilize it in the
(14) manner which I utilize it as part of my life care plan.
(15) Q Had you ever used that table before in creation
(16) of any other life care plans that you've developed?

(17) **[*26]** A Of course.
(18) Q Okay. How many times did you previously used
(19) it?
(20) A I have used this particular series of activity
(21) of daily living charts since 1994.
(22) Q And when did you speak with Mr. Weed?
(23) A Some time in '94 when I received this
(24) publication.
(25) Q So he gave you permission to use those tables
Page 28
(1) for an indefinite period, or did you have to contact him
(2) prior to using it?
(3) A No; indefinite period. He's somebody that I
(4) know.
(5) Q When were you first contacted by Ms. Stevens
(6) for work in this case? Do you need your notes?
(7) A I need my notes. They're sitting on the floor.
(8) May 15th, '96. Some time around there.
(9) Q Did you mean 1995, Mr. Provder?
(10) A I'm sorry. June 22nd, '95. I misspoke.
(11) Q And were you contacted by phone?
(12) A Yes, I believe I was.
(13) Q Had you ever met or spoken with Ms. Stevens
(14) prior to that time?
(15) A No.
(16) Q And what was said during that conversation with
(17) Ms. Stevens?
(18) A That she wanted to refer a client to me,

(19) Theresa Rompa, who had been paralyzed, **[*27]** or who was paralyzed.
(20) Q And did she describe what type of work she
(21) wanted you to do?
(22) A Initially she wanted me to develop a
(23) preliminary series of numbers looking at the cost of care
(24) that Ms. Rompa would require over her lifetime.
(25) Q And was anything else discussed during this

Page 29

(1) conversation?
(2) A No.
(3) Q Was your fee discussed during this
(4) conversation?
(5) A It may have been. I don't recall.
(6) Q You weren't going to do it for free?
(7) A No.
(8) Q Do you know if some type of arrangement
(9) regarding your fee was arrived at during that first
(10) conversation?
(11) A No. What was discussed was the retainer
(12) amount.
(13) Q And what was the retainer amount?
(14) A $ 3,000.
(15) Q And what was the next contact you had with Ms.
(16) Stevens or anyone from Clancy and Stevens' office?
(17) A That I personally had?
(18) Q Yes.
(19) A I don't believe I had a contact with them until
(20) some time, I believe, in late April, early May of '96.
(21) Q At some point did you perform an initial
(22) evaluation of Theresa **[*28]** Rompa?
(23) A I'm not sure what you mean by "initial
(24) evaluation."
(25) Q At some point did you come up with a

Page 30

(1) preliminary life care plan?
(2) A I came up with some preliminary numbers at a
(3) point in time, yes, soon after the initial contact.
(4) Q Can you approximate when you came up with these
(5) numbers?
(6) A Some time around June of 1995. June 27th my
(7) report is dated, or my letter is dated.
(8) Q And did you have any contact with Ms. Stevens
(9) at that point?
(10) A Not that I can recall.
(11) Q Did you simply send the numbers to her?
(12) A Correct.
(13) Or my office did.
(14) Q I'm showing you what's been pre-marked as
(15) Provder Exhibit No. 2.

A Yes.
Q Is that the letter you're referring to that you sent to her?
A Yes.
Q Did you have any other correspondence or communication with Ms. Stevens up to that point in time?
A No.
Q What information did you use to come to the figures that you did in the June 27th, 1995 correspondence?
A I'm not sure whether I had the Swedish Covenant

Page **[*29]**
records at that point in time or not. I'm sorry, I can't recall.
Q Would you have been able to create the document marked as Provder No. 2 without the Swedish Covenant records?
A I could have.
Q Did you receive all the information that you used to come up with the numbers stated in Provder No. 2 during that initial conversation with Ms. Stevens, June 22nd, 1995?
A I don't understand the question.
Q Where did you get the information to come up with the numbers contained in Provder Exhibit No. 2?
A Again, I'm not sure I understand your question.
Q How did you create Provder Exhibit 2?
A I researched the cost of each of these items in the Chicago area.
Q Do you have any type of work papers from calculations which set forth the basis of those costs?
A No.
Q Did you at any point in time have any such documents?
A I may have. It's a year ago. I can't recall.
Q How were you aware of what level of nursing care or medical care that she needed at that point in time

Page **[*30]**
when you created Provder Exhibit No. 2?
A Either through the records that I had in my possession or from information given to me earlier by Ms. Stevens.
Q And you don't know what records, if any, you

(6) had in your possession at that time. Is that true?
(7) A The only record that I could have had was,
(8) based on the date, was the Swedish Covenant Hospital record.
(9) Q And for the remainder of the costs, they would
(10) have been determined by phoning various providers in the
(11) Chicago area?
(12) A Yes.
(13) I may have misspoken. I see that dated letter that I
(14) have in my file June 22nd, '95, that I did have in my
(15) possession the Swedish Covenant records in my possession.
(16) Q Do you have a copy of your preliminary life
(17) care plan that you created in front of you?
(18) A The costs?
(19) Q Yes.
(20) A Yes.
(21) Q Now, did you actually create a plan that
(22) accompanied the costs?
(23) A Such as I did in Provder-3?
(24) Q Correct.
(25) A No.

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(1) Q And the first listing under costs is for
(2) inpatient spinal cord injury **[*31]** center, 42 days?
(3) A Yes.
(4) Q How did you arrive at the cost for the
(5) inpatient spinal cord injury center?
(6) A Speaking to the people at the Rehabilitation
(7) Institute in Chicago and having them give me an idea of the
(8) average stay of somebody of Mrs. Rompa's age and level of
(9) spinal cord injury.
(10) Q So the 42 days is just based on some average
(11) number that was provided to you by the R.I. V.?
(12) A Correct.
(13) Q And how did you reach your conclusion on costs
(14) for therapies including initial evaluations?
(15) A Cost on therapies was again setting out what I
(16) felt would be the frequency and number of therapies that she
(17) would require and the types of therapies, and then
(18) researching each of those areas to find out what the cost
(19) would be in the Chicago area.
(20) Q And what therapies were included under the
(21) heading "therapies?"

(22) A Essentially the same thing as we have in
(23) Provder-3.
(24) Q So that would be OT, PT?
(25) A Yes.
Page 34
(1) Q Any other therapies?
(2) A Psychological counselling.
(3) Q Okay. And you **[*32]** can't tell me anyone -- or who
(4) did you contact for the basis of determining the cost for
(5) therapies?
(6) A I've got people listed in my book. I believe
(7) we updated everything to the '96 figure.
(8) Q And when you refer to your book, what do you
(9) mean by that?
(10) A We haven't marked this yet, but this is a book
(11) that contains my research in this area, as well as pertinent
(12) documents regarding this case.
(13) MR. MASCIOPINTO: Well, why don't we mark
(14) those Provder Exhibit No. 4.
(15) (Provder-4, red three-ring binder
(16) containing Mr. Provder's file is marked for
(17) Identification.)
(18) Q Again, could you, for the record, describe what
(19) Provder Exhibit 4 is?
(20) A Yes. It contains a copy of my life care plan,
(21) a document that we've been discussing, Provder -- I don't
(22) know what the name of it is.
(23) Provder-2. Swedish Covenant Hospital records, and
(24) all of the research conducted by myself in order to
(25) formulate the cost of the life care plan noted as Provder-3.
Page 35
(1) Q Besides Provder-3 and the materials provided to
(2) you by Ms. Stevens' office, **[*33]** does that folder, Provder-4,
(3) contain all of your work product involved in this case?
(4) A To formulate Provder-3, yes.
(5) Q And is it your testimony that the cost that you
(6) reach for creating Provder-2 were determined by contacting
(7) various providers which you have contained in your book
(8) marked Provder-4?
(9) A Correct.
(10) Q For the last category is listed as nursing
(11) care. Could you describe what kind of nursing care that

(12) refers to?
(13) A This could -- let me just take a look.
(14) Yes. This refers to registered nursing care.
(15) Q And that would be full-time, 24-hour-a-day
(16) registered nursing care?
(17) A Yes.
(18) Q Then there's an asterisk on Provder-2, "figures
(19) are midpoint costs in Chicago area using a future life
(20) expectancy of nine or more years."
(21) A Yes.
(22) Q How did you arrive at the nine years as her
(23) estimated life expectancy or future life expectancy?
(24) A A little out of my area of expertise. So what
(25) I did was I contacted one of the economists and they gave me
Page 36
(1) a figure.
(2) Q Could you tell me the **[*34]** name of the economist?
(3) A I can't recall. I work with dozens of
(4) economists. I don't know which one I called.
(5) Q Would that be a standard figure that if I
(6) called any economist, they would give me the same life
(7) expectancy?
(8) A I would assume.
(9) Q Do you know if they use any type of table of
(10) life expectancy in terming what one's --
(11) A I assume they use the, I'm sorry, life
(12) expectancy tables published by the United States government.
(13) Q And is there any reason you don't just use a
(14) copy of those tables yourself, and you go through the
(15) trouble to contact an economist?
(16) A I don't have those tables in my possession.
(17) Q So for the life expectancy you relied on the
(18) economist's number that he gave you. Is that correct?
(19) A Yes.
(20) Q Can you tell me specifically who you consulted
(21) for the cost of nursing care in Provder-2?
(22) A Probably have that in my book. As I said,
(23) Provder-4 contains updated material, so I assume I contacted
(24) the same people.
(25) Nursing care was the question?
Page 37
(1) Q Yes.

(2) **[*35]** A A company called First Choice, Caring
(3) Companions, Health Connections, Alpha Home Health Care.
(4) Q And those are all companies in the Chicagoland
(5) area?
(6) A Yes.
(7) Q Would you agree that Provder-2 is just one
(8) option of several type of life care plans that could have
(9) been created for Theresa Rompa?
(10) A I'm not sure I understand your question.
(11) Q Well, you agree there are other options for her
(12) life care than what is contained in Provder-2. Is that
(13) correct?
(14) A Again, I don't know what you mean by options.
(15) If you give me an example, maybe I'll understand the
(16) question better.
(17) Q Okay. For example this option has her housed
(18) in a home with full-time nursing care. Correct?
(19) A Yes.
(20) Q That's not the only way she could live out the
(21) rest of her life. Is that true?
(22) A That's true.
(23) Q There are other options for her life care. Is
(24) that correct?
(25) A Correct.

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(1) Q And so this is just one of several types of
(2) options for her life care. Is that correct?
(3) A It's an alternative.
(4) **[*36]** Q Thank you.
(5) And I noticed in Provder-4 there's one other document
(6) that says "Preliminary life care plan Costs" that's dated
(7) June 17th, 1996?
(8) A Correct.
(9) Q And could you describe what that document is
(10) and when it was created and for what purpose it was created?
(11) A Created June 17th, '96 based on the life care
(12) plan marked Provder-3. And it was created at Ms. Stevens'
(13) request to give her a general idea of the cost of the
(14) services placed in the life care plan Provder-3.
(15) Q And could you just read to me the bottom line
(16) total?
(17) A 2,531,314.

(18) Q Could you read the bottom line total on Provder
(19) Exhibit No. 2?
(20) A 4,171,484.
(21) Q So there's a fairly large variance between the
(22) two bottom line figures in life care plans. Is that
(23) correct?
(24) A Correct.
(25) Q Could you describe why there is that variance?

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(1) A Yes.
(2) On the June 17th, '96 document the level of care has
(3) been reduced from a registered nursing to licensed practical
(4) nursing. And in addition, the amount and frequency of
(5) therapies **[*37]** has been reduced considerably. It's been reduced.
(6) Q Can you tell me what the basis in the reduction
(7) of therapies, why was that done?
(8) A Well, Provder-3 was created in conjunction with
(9) discussions that I had with Dr. Young where we both
(10) discussed our impressions of Ms. Rompa and what our feelings
(11) were in the areas of the life care plan. And we
(12) discussed -- each of us discussed our thoughts and came to a
(13) consensus as to the level of care and amount of therapies
(14) required.
(15) MR. BURTKER: Can you please read back
(16) his answer?
(17) (The last answer is read back by the
(18) reporter.)
(19) Q And when did you --
(20) THE WITNESS: Am I talking too low?
(21) MR. BURTKER: No. You're okay.
(22) Q When did you first speak with Dr. Young?
(23) A Some time in June of 1996.
(24) Q And who contacted whom?
(25) A Dr. Young contacted me.

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(1) Q And why did he say he was contacting you?
(2) A He had been retained by Ms. Stevens' firm.
(3) Q And what was the purpose of your discussion?
(4) A He indicated to me that he had examined Ms.
(5) **[*38]** Rompa and wanted to give his impressions of her capability
(6) so that we could have a mutual discussion and come to a
(7) consensus as to the level and type of care that she would

(8) require.
(9) Q And what were his thoughts in regard to Mrs.
(10) Rompa?
(11) A I'm not sure I understand your question.
(12) Q Well, what did he tell you his impressions were
(13) of Mrs. Rompa?
(14) A Well, we discussed part by part on the life
(15) care plan and what his impressions were in certain areas,
(16) what my impressions were. Again, as I indicated, we came to
(17) a consensus as to the level of care and the types of care
(18) she would require.
(19) Q Okay. Why don't you tell me what he said to
(20) you?
(21) A I don't know if I could recreate the whole
(22) discussion because I had several discussions with him.
(23) Q I'm talking just about this first one.
(24) A We went over some of his impressions regarding
(25) her capability, and my impressions regarding her capability.
Page 41
(1) And we discussed some of the areas of the activities of
(2) daily living. What she could or could not do.

(3) We also discussed **[*39]** the level of care, his opinion
(4) being that she would require licensed practical nursing
(5) care.
(6) We also discussed the level of therapies, and it was
(7) his opinion that two visits a week for physical and
(8) occupational therapy would be adequate.
(9) Q And you said earlier he discussed his
(10) impressions with you. What were his impressions of Mrs.
(11) Rompa?
(12) A It was his impressions dealing with the
(13) activities of daily living; what he felt she could do as
(14) opposed to what I felt she could do based on my interview
(15) with her.
(16) Q And how did they differ, if at all?
(17) A They didn't necessarily differ. There was some
(18) clarifications, and they are reflected in life care plan
(19) charts themselves.
(20) Q Well, what I specifically want to know is what
(21) his thoughts were and what your thoughts were.
(22) MS. STEVENS: If you can tell him anymore
(23) specifically. If what you're telling us is all

(24) you can recall, just tell him that.
(25) A That's about all I recall.
Page 42
(1) I remember that we had -- that we particularly
(2) discussed the level of care, licensed **[*40]** practical nurse. We
(3) also discussed the activities of daily living charts in
(4) detail. And we also discussed the therapies.
(5) Q Well, Mr. Provder, you said that you had some
(6) discussion which caused you to modify some of your thoughts
(7) on what her activities of daily living that she could do as
(8) compared to what Dr. Young thought she could do. That's
(9) what I'm interested in finding out; what differences that
(10) you had in regard to what activities of daily living she can
(11) perform.
(12) A I'm going to look at P-3 and just see if any of
(13) this refreshes my memory.
(14) I remember there was some focus regarding the
(15) information on A-1 of P-3 where we discussed dependency,
(16) meaning her dependency now as opposed to independency if she
(17) was given a wheelchair accessible environment.
(18) Q And what were those thoughts?
(19) A Well, they're reflected in A-1 where I have
(20) dependency. And him and I discussed it where she would be
(21) independent. That's reflected on A-1 of activities of daily
(22) living.
(23) Q So it's your testimony that Dr. Young believed
(24) she would be independent **[*41]** in wheelchair living in a
(25) wheelchair accessible environment?
Page 43
(1) A Kitchen. She could do certain things in a
(2) wheelchair accessible kitchen.
(3) Q Anything else that you discussed in that first
(4) conversation that you can recall?
(5) A We also reflect -- we also discussed the
(6) frequency of physiatrists. And he -- it's his opinion that
(7) a physiatrist would be adequately -- would be adequate at
(8) three times a year, as opposed to my own opinion of four
(9) times per year.
(10) Also he felt that a urologist would be -- could be
(11) reduced after the first year to two times a year, which in
(12) my opinion should remain at four times a year.
(13) Also we discussed the home and architectural

(14) renovations. He believed that she could function better in
(15) a home that was built for her, custom-made home. I felt at
(16) her age that really wasn't feasible, and that she could
(17) modify an existing structure that was of a ranch type.
(18) Q Anything else?
(19) A I think we basically discussed all the areas.
(20) Q Do you have any type of medical training, Mr.
(21) Provder?

(22) A Such **[*42]** as a physician?
(23) Q Such as a physician.
(24) A No.
(25) Q Do you have any type of psychological training,
Page 44
(1) such as a psychologist?
(2) A No. Not a psychologist.
(3) Q You defer to the doctor's opinions as to any
(4) medical issues?
(5) A I'm not sure I understand what you mean by
(6) "medical issues."
(7) Q As to issues regarding her medical treatment.
(8) A Again, I'm not sure whether I understand your
(9) question.
(10) Q What part don't you understand?
(11) A What you mean by "medical treatment."
(12) Q Treatment that would be provided to her by a
(13) doctor.
(14) A Again, I'm not sure that I understand your
(15) question. As to the frequency of care that she will
(16) require? Is that what you're asking me?
(17) Q I'll ask that as a sub-part of the question.
(18) A I don't defer to anybody. I have 20 some years
(19) experience working with catastrophically injured.
(20) Physicians look at a case sometimes a little differently
(21) than I do. They may have their opinion, I may have my
(22) opinion.
(23) Q How about as to the type of treatment an

(24) **[*43]** individual should receive?
(25) A I'm not sure what you mean by "type." Whether
Page 45
(1) they should receive physical therapy or occupational therapy
(2) or -- again, would be the same answer.
(3) Q How about if someone requires a type of medical

(4) or surgical procedure?
(5) A Surgical procedure?
(6) Q Yes.
(7) A Absolutely, I would defer to a physician.
(8) Q And you stated you had other conversations with
(9) Dr. Young?
(10) A I know I had one other conversation with him.
(11) Q Okay. When did that take place?
(12) A After the formalization of P-3.
(13) Q And how long did that conversation take?
(14) A Fifteen, twenty minutes.
(15) Q And what was said during that conversation?
(16) A It dealt with the home and architectural
(17) renovations?
(18) Q What specifically was discussed about the home
(19) and architectural renovations?
(20) A Same thing: He felt that a customized home to
(21) be built would be the best for her. Again, I said I did not
(22) believe that was feasible. And we basically discussed the
(23) pros and cons.

(24) Q Why did he think a **[*44]** customized home was better
(25) for her?

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(1) A I guess he thought it would meet her particular
(2) needs. My opinion was at her age --
(3) MS. STEVENS: The question is what did
(4) Dr. Young tell you was his reason, if he told
(5) you anything. Listen carefully to the
(6) question.
(7) THE WITNESS: Okay. Sorry.
(8) Q Did he say anything more specific than it would
(9) meet her particular needs?
(10) A No.
(11) Q And what was your opinion in that regard?
(12) A I was against it. I felt that, again, a ranch
(13) house modified to her specifications could be at her
(14) disposal quicker than having a customized home built at age
(15) 81.
(16) Q Was cost any type of consideration in that
(17) discussion?
(18) A No.
(19) Q Did you have any other conversations with Dr.

(20) Young?
(21) A No.
(22) Q Did you have any other discussions with any
(23) other doctors regarding Theresa Rompa --
(24) A No.
(25) Q -- at any time?
Page 47
(1) A No.
(2) Q How about with any other individuals besides
(3) Ms. Stevens?
(4) A No.

(5) Q And up to this time **[*45]** do you know how much you
(6) billed for your services provided in this case?
(7) A Can't recall. It's in excess of -- total of
(8) about $ 7,000 would be any guesstimate.
(9) Q Do you have any type of records or bills that
(10) you sent?
(11) A I have invoices.
(12) Q Where are those contained?
(13) A My main office in New York.
(14) Q How many offices does OAS have?
(15) A Three.
(16) Q Where is the other one located?
(17) A Cherry Hill, New Jersey.
(18) Q Have you ever had the opportunity to see
(19) Theresa Rompa?
(20) A Yes.
(21) Q When did that take place?
(22) A I saw her on May 14th, '96.
(23) Q And where did you see her at?
(24) A At the Villa Scalabrini Nursing Home.
(25) Q How long did that visit last?
Page 48
(1) A Approximately two and a half hours.
(2) Q Who was present during that meeting?
(3) A Ms. Rompa and Ms. Stevens.
(4) Q Was Mr. Rompa present?
(5) A No, he was not.
(6) Q And did you form any type of impression of Mrs.
(7) Rompa during that meeting?
(8) A Not sure I understand your question.

(9) **[*46]** Q Did you have any type of general impression of

(10) Mrs. Rompa?
(11) A Again, I don't understand your question. What
(12) do you mean by "general impression"?
(13) Q Did you take a history?
(14) A Yes.
(15) Q Where did you receive the information from that
(16) constituted your history?
(17) A Ms. Rompa.
(18) Q Any other sources?
(19) A No.
(20) Q Did you speak to anyone from Villa Scalabrini
(21) during your visit to Chicago?
(22) A Not any of substance.
(23) Q Nothing about Theresa Rompa?
(24) A Correct.
(25) Q Referring now to your life care plan which
Page 49
(1) we've marked as Provder Exhibit No. 3; one of the categories
(2) you have is physical limitations. Is that correct?
(3) A Yes.
(4) Q And in the second paragraph you note, "she is
(5) able to sit for about nine to ten hours in a wheelchair."
(6) And then the next sentence states "this increases her risk
(7) of having further skin breakdowns."
(8) A Yes.
(9) Q Is that your opinion?
(10) A That's my opinion, yes.
(11) Q And what's the basis for that opinion?

(12) A Well, Ms. Rompa **[*47]** becomes fatigued after a couple
(13) of hours. Most or some spinal cord injury people can give
(14) themselves what's called weight lifts, which means able to
(15) lift their body or shift the weight off the rump so they
(16) won't have constant pressure of the skin against the
(17) wheelchair cushion. Consequently, because she's unable to
(18) do that, she's really in danger of having skin breakdowns.
(19) And, in fact, at one time she did have to keep an eye also
(20) on her buttocks and also right heel.
(21) Q You stated she's able to sit for nine to ten
(22) hours in her wheelchair. Does that mean that she has to sit
(23) for nine to ten hours in the wheelchair? Is that what you
(24) meant by the statement?
(25) A Correct. Yes.

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Q And why can't she lay in a bed during that time?

A Well, it's not -- she should be sitting in a wheelchair for part of the day. But because the hospital is short staffed, I mean, the nursing home is short staffed, they can't keep putting her in and out of bed. So what they do is put her in the wheelchair, and she stays in the wheelchair all day until she's **[*48]** ready to go into bed at night.

Ideally she should be out of the wheelchair for a period of time, usually midday, and be able to go back in the wheelchair. She shouldn't be sitting continuously for that length of time.

Q Where would she be during these periods of time?

A She could be laying in bed. She could be laying on her side. She doesn't have to have the direct pressure of her buttocks up against the wheelchair or the wheelchair cushion.

Q Is it your opinion that Villa Scalabrini is understaffed?

A I don't have enough information to formulate that opinion, and I'm not sure that I'm an expert in the level of staffing required in a nursing home. All I know is that she indicated to me that she has

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to remain in the wheelchair for that period of time. That they don't have the staff to change her back and transfer her back into bed.

And also, realize that the level of transfer required of her, in order for her to be transferred she requires two aides and a Hoyer lift to transfer her from her bed to a wheelchair. **[*49]** That's a pretty significant operation. I'm sure that's one of the reasons they don't put her back in the bed; due to the amount of people required to do the transfer.

Q And your only basis for the information that she has to stay in the wheelchair for nine to ten hours is Theresa Rompa herself. Correct?

A Yes.

So I -- could I interject something to further answer

(16) that question?
(17) Q If you don't feel you completed your answer you
(18) may.
(19) A The other thing is that she is -- when she's in
(20) the wheelchair, she wears Attends, which are diapers. And
(21) the diapers are only changed when she's out of the
(22) wheelchair. So that if she has a -- does a bowel movement,
(23) she has to sit in that during the day.
(24) Again, that's another precipitating factor for
(25) decubital ulcers.
Page 52
(1) Q Do you know if she has a bowel movement if a
(2) nurse will come along and/or someone will come along and
(3) change her during the day?
(4) A History she gave me is that she's not -- her
(5) Attends are not changed during the day. I did not
(6) independently verify this **[*50]** with any nurse.
(7) Q And again, so that information is solely from
(8) Theresa Rompa. Is that correct?
(9) A Correct.
(10) MR. SMITH: Off the record.
(11) (There is a discussion held off the
(12) record.)
(14) CONTINUED BY MR. MASCIOPINTO:
(15) Q Also under that physical limitations section,
(16) Mr. Provder, it states that she notes "having tremors in
(17) this hand since her accident." Is that from your
(18) observation or from history from Theresa Rompa?
(19) A Just one minute. Let me get the right page.
(20) Q Sure.
(21) A Her observation.
(22) Q So that was your observation that-
(23) MS. STEVENS: He said her observation.
(24) A To the best of my knowledge I don't recall
(25) seeing a tremor.
Page 53
(1) Q And also in that same paragraph it says "she is
(2) unable to use a knife and fork in tandem due to a lack of
(3) strength in her right upper extremity."
(4) What's your understanding of the reason for the lack
(5) of strength in her upper extremity?
(6) A She had a fracture, I believe, prior, or injury

(7) to the right upper extremity prior to this particular

(8) **[*51]** incident.
(9) Q Under activities of daily living it says "in
(10) the nursing home Mrs. Rompa is cared for by a nurses' aide.
(11) Where did you derive that information from?
(12) A Ms. Rompa.
(13) Q What does it mean in the next paragraph where
(14) it states "all activities of daily living are performed with
(15) the assistance of the nurses' aide?
(16) A Her ability to dress, wash herself.
(17) Q Are there any activities of daily living that
(18) are not performed with the assistance of a nurses' aide?
(19) A Feeding.
(20) Q Any other activities?
(21) A She could brush her teeth. She could also comb
(22) her hair.
(23) Q So you agree she is independent in some
(24) activities of daily living. Correct?
(25) A Yes. Some minimal activities of daily living,

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(1) yes.
(2) Q Are you aware if Theresa Rompa is on any type
(3) of bowel program?
(4) A Well, she wears Attends for her bowel
(5) maintenance. That's it. She does take Senokot, two tablets
(6) and Peri-Colace caps.
(7) Q Have you dealt with other individuals who have

(8) similar type of paralysis as Theresa Rompa? **[*52]**
(9) A I'm not sure what you mean by "similar type of
(10) paralysis."
(11) Q What's your understanding of the type of
(12) paralysis Theresa Rompa has?
(13) A At the same level of Theresa Rompa's paralysis,
(14) T-10?
(15) Q That's not my question.
(16) MS. STEVENS: What is your question?
(17) He's trying to help you out.
(18) Q I said what's your understanding of the type of
(19) paralysis.
(20) A T-10 para, paralyzed from the waist down.
(21) Q Have you ever dealt with a similar type of
(22) patient, similar type of paralysis as Theresa Rompa?

(23) A You have two questions there. Similar type of
(24) patient or similar level of paralysis?
(25) Q Let's say a similar level of paralysis.
Page 55
(1) A Yes.
(2) Q About how many?
(3) A Couldn't give you an estimate. Probably -- I
(4) don't know.
(5) MS. STEVENS: You mean you can't give a
(6) number, you're going to give an estimate?
(7) A I cannot give you a precise number. I can give
(8) you probably an estimate as the number of paras that I have
(9) probably seen in the past couple of years. Not today.

(10) **[*53]** Q Please do so.
(11) A I'd say probably anywhere from 25 to 30 in the
(12) past three years.
(13) Q And how many in Theresa Rompa's age group,
(14) which I'll define for you as over 75 years old.
(15) A Can't recall in prior years, but this year I've
(16) seen three, not including her.
(17) Q Do you have an understanding if patients that
(18) have T-10 paralysis can achieve any type of fecal contents?
(19) A Is it a general statement or particular to
(20) people of her age?
(21) Q As a general statement.
(22) A Individuals that have -- that are paraplegics
(23) can have a bowel regime so that their bowel can be
(24) controlled, the bowel movements can be controlled by a
(25) regime.
Page 56
(1) Q What is a straight catheterization?
(2) A It's a catheterization used for her urine, to
(3) remove her urine.
(4) Q I'm sorry. I didn't hear that.
(5) A It's a catheterization used to remove her
(6) urine.
(7) Q What's the difference between a straight
(8) catheterization and a regular catheterization?
(9) A Well, the catheterization that she uses

(10) requires a certain -- let me just **[*54]** get the --
(11) (There is a pause in the proceedings.)
(12) Q Mr. Provder, can you explain what a --

(13) A Yes. I'm going to do that in a minute.
(14) Q Just generally can you explain?
(15) A There's two types. They use a straight
(16) catheter which directly removed the urine from her bladder
(17) prior, and this is done on an intermittent basis.
(18) The other option is to have her have an in-dwelling
(19) catheter, which is not changed. It's changed on some
(20) different frequency. And the urine drains into what's
(21) called a bag or night drainage bag. Because of her urinary
(22) tract infections, they've gone to --
(23) Q One of the purposes is to help reduce the risk
(24) of urinary tract infections. Is that correct?
(25) A That's correct. Yes.

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(1) Q And who performs the catheterization when a
(2) straight catheterization is used?
(3) A Registered nurse. Registered nurse should be
(4) performing that procedure.
(5) Q Can a CNA perform a straight catheterization?
(6) A Under what position? Under what situations?
(7) Q Under any situation.
(8) A Not according to the **[*55]** Nursing Practices Act in
(9) the state of Illinois.
(10) Q And what does the Nursing Practices Act state
(11) in regard to performance of catheterizations?
(12) A Must be done by a nurse, LPN or RN.
(13) Q LPN or RN?
(14) A Correct.
(15) Q Are you aware of any situations for a patient
(16) with home health care where either a non -- or a non-LPN or
(17) non-RN performs straight catheterizations?
(18) A Not sure I understand your question.
(19) Q Are you aware of any situations in your
(20) experience where a non-professional individual, meaning a
(21) non-LPN or non-RN performs the straight catheterization for
(22) home health care individual?
(23) A Yes.
(24) Q Under that activities of daily living category,
(25) maybe about five paragraphs up from the bottom it says "she

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(1) reports having many bowel accidents during the day if she
(2) eats the wrong food and has diarrhea." What do you mean by

(3) bowel accidents?
(4) A That she makes in her diaper, or Attends.
(5) Q So I'm just trying to get an understanding. So
(6) was it your understanding that sometimes she did use a
(7) bedside **[*56]** commode and other times just used Attends?
(8) A Give me a second.
(9) Q Sure.
(10) A I do not believe at this point she's
(11) transferred at this point in time to a commode. I believe
(12) the bowel movements are done while she is in bed in the
(13) morning or in the evening.
(14) Q With a bed pan?
(15) A Or on a Chux.
(16) Q Can you describe what that is?
(17) A That's a bed protector. It measures
(18) approximate 30 inches by 24 inches.
(19) Q Do you have an understanding of what Theresa
(20) Rompa's activities of daily living were before her paralysis
(21) took place.
(22) A I did not take such a history.
(23) Q Do you know if they still have a lease to the
(24) apartment where they lived prior to Theresa Rompa's
(25) paralysis?

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(1) A I'm not sure I understand your question.
(2) Q Are you aware they were living in an apartment
(3) at some point?
(4) A Yes.
(5) Q Do you know if they still maintained a lease to
(6) that apartment?
(7) A I didn't inquire to that.
(8) Q Do you know where their personal possessions
(9) remain today?
(10) A **[*57]** No, I do not.
(11) Q Do you have any opinion if Theresa Rompa would
(12) have required some sort of assisted living arrangement even
(13) if she did not become paralyzed?
(14) A Again, I didn't take a history of that.
(15) Q So you have no opinion in that regard?
(16) A That would be correct.
(17) I was aware that she did receive some home care
(18) assistance at some frequency prior to the incident.

(19) Q But my question is: Do you have any opinion if
(20) Theresa Rompa would have required assisted living even if
(21) she had not become paralyzed?
(22) A No opinion.
(23) Q Do you have knowledge if she can visit her
(24) husband while she's staying at Villa Scalabrini?
(25) A I believe that she's able to propel her
Page 60
(1) wheelchair, motorized wheelchair to see her husband, yes.
(2) Q And he is, of course, able to visit her.
(3) Correct?
(4) A Yes.
(5) Q I think your last paragraph under living
(6) environment says "prior to her incident they were both
(7) independent in their activities of daily living."
(8) That's not really true that they were totally
(9) independent, is it?

(10) **[*58]** A Well, activities of daily living means the
(11) person's ability to wash, dress and bathe themselves.
(12) Doesn't necessarily mean independence in home-making
(13) activities.
(14) It was my impression she had the home care person
(15) prior to this incident for that particular purpose. And
(16) such a short duration that it could only be for that
(17) purpose.
(18) Q Well, do you know if she was independent in her
(19) activities of daily living prior to her paralysis?
(20) A That was the history she gave me.
(21) Q And by her giving you that history, it would be
(22) your understanding that she was able to wash, dress, and
(23) bathe herself prior to her paralysis?
(24) A Yes.
(25) Q Would preparation of meals be part of daily
Page 61
(1) activity of living?
(2) A Yes, they are part of activities of daily
(3) living. But when people talk about ADL, they're usually
(4) talking about a person's ability to wash, dress and bathe
(5) themselves.
(6) Q And that's why I ask the question. I want to
(7) know if you distinguish that in your profession. When you

(8) use the sentence "activities of daily living," I **[*59]** want to

(9) know exactly what you mean by that.
(10) A That's what I mean by that. Home-making
(11) activities are some other thing.
(12) Q That's a separate category; home-making
(13) activities. Correct?
(14) A Yes.
(15) Q Would you agree that Theresa Rompa currently
(16) does not have any major medical problems that she needs to
(17) see a physician on a regular basis?
(18) A I don't know what you mean about current
(19) medical problems. She's paralyzed. That itself creates a
(20) number of medical problems, as we've already discussed.
(21) MS. STEVENS: That necessitate seeing a
(22) physician?
(23) A I don't know what you mean about current
(24) medical problems. If you mean her T-10 paralysis, that's a
(25) medical problem and certainly she should see a whole number
Page 62
(1) of physicians that I've indicated in my report P-3.
(2) Q That's what I was saying. Part of your
(3) evaluation was to determine what type of medical problems
(4) she needs to see a physician for. Is that correct?
(5) A She has a medical problem already. She has
(6) T-10 paralysis which is a very significant medical problem. **[*60]**
(7) And the purpose of the life care plan is to prevent any
(8) complications that could stem from that medical problem,
(9) such as urinary tract infections, decubital ulcers. A whole
(10) list of other things.
(11) So the plan is designed to prevent these
(12) complications by having the individual examined by a number
(13) of physicians on a periodic basis throughout her lifetime.
(14) Q I think my question was: Is she seeing any
(15) physician now for any medical problems?
(16) A She is being seen by a family practitioner on a
(17) once-per-month basis.
(18) Q And do you know if she's being seen just for
(19) routine checkups to see how she's doing, or if she has any
(20) medical problems that she's being treated for by that
(21) physician?
(22) A I'd have to look at the records. Do you want
(23) me to go look at --
(24) Q You'd have to?
(25) A -- the Villa Scalabrini records? I assume

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(1) that's where it would be.
(2) Q Well, you can't answer that question without
(3) looking at records?
(4) A We have records that are about almost two feet
(5) thick. I don't think I can have them totally memorized. **[*61]**
(6) I'm sorry.
(7) Q Just trying to get your understanding at this
(8) time. I just want to know what your knowledge is.
(9) What is your opinion, if any, of her willingness to
(10) do physical therapy?
(11) A Be my opinion that she would be motivated to do
(12) physical therapy. She's receiving some range of motion
(13) exercises now.
(14) Q So is your opinion after evaluating Theresa
(15) Rompa that she was motivated to do physical therapy?
(16) A Yes.
(17) Q What is your opinion of her willingness to go
(18) through with occupational therapy?
(19) A Same response.
(20) Q What type of benefits do you believe she'll
(21) gain from occupational therapy?
(22) A Increased function of her upper extremity,
(23) right upper extremity. As well as possibly increasing
(24) activities of daily living capability.
(25) Q And what type of increase in activities of

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(1) daily living could she achieve?
(2) A It would depend. Depend on what effect the
(3) therapy has on her ability to function.
(4) She could maybe assist more on transfers. She may be
(5) able to more fully dress herself. Variety of **[*62]** different
(6) things.
(7) If she moves to a wheelchair accessible environment,
(8) there may be things she could do than the type of
(9) environment that she's in now she can't necessarily perform
(10) now. We wouldn't know until she has a period and see where
(11) she's at.
(12) Q From your evaluation you can't tell if she
(13) would make any gain or make significant gains? It's all to
(14) be speculation. Is that correct?
(15) A You would hope that she would make some gain in

(16) the use of her right upper extremity. That would be the
(17) primary gain.
(18) Q That would only be what you would hope she
(19) would achieve. Is that true?
(20) A Yes.
(21) Q You don't know if she would achieve any gain.
(22) Is that true?
(23) A Nobody has that crystal ball to tell that.
(24) Q Do you have an opinion that Theresa Rompa
(25) requires a full-time licensed practical nurse 24 hours a
Page 65
(1) day?
(2) A Yes.
(3) Q What's the basis of that opinion?
(4) A Fact that she is a T-10 para who requires
(5) catheterization throughout the day that has to be performed
(6) by that level of nursing.

(7) **[*63]** Q Absent the catheterization could a nurses' aide
(8) provide her care?
(9) A If she did not have to be catheterized, yes.
(10) 24 hour awake nursing, attended care.
(11) Q Could any other type of individual provide care
(12) to her?
(13) A I don't know what you mean by any other type of
(14) individual.
(15) Q Are there other levels of nursing care
(16) available besides a nurses' aide an LPN or RN?
(17) A No.
(18) Q Have you ever heard of like a home health
(19) sitter?
(20) A I don't know what a home health sitter is.
(21) Like a companion?
(22) Q I'm just asking if --
(23) A I don't know what that is, no.
(24) Q Theresa Rompa currently has a motorized
(25) wheelchair. Is that correct?
Page 66
(1) A Yes.
(2) Q Do you know if she owns that wheelchair?
(3) A I believe she does.
(4) Q And is that an adequate type of wheelchair for
(5) her to use?

(6) A Yes.
(7) Q And under the column records review in the life
(8) care plan you created, is that a complete listing of all the
(9) records that you reviewed?
(10) A Yes.

(11) Q And are the dates that **[*64]** accompany those records
(12) dates that you received those records?
(13) A No. Those are dates --
(14) Q Those are the admission dates of those records.
(15) Correct?
(16) A Yes.
(17) Q Do you have correspondence from Ms. Stevens as
(18) to when you received those records?
(19) A Yes.
(20) Q Could you just tell me when you received the
(21) records?
(22) A May 15th, '96.
(23) Q Did you have any records before May 15th, 1996?
(24) A Swedish Covenant records.
(25) Q And when did you receive those?
Page 67
(1) A June 22nd, '95. Or about there.
(2) Q And how did you receive those records?
(3) A Which records are we talking about?
(4) Q The ones you just referred to.
(5) A From Ms. Stevens.
(6) Q Were they sent to you?
(7) A Yes.
(8) Q Did you review all the records that you
(9) received?
(10) A Yes.
(11) Q Were there any specific records that you
(12) requested?
(13) A Yes.
(14) Q What records were those?
(15) A I requested records from -- for care that she
(16) received prior to the incident.

(17) Q Did you ever receive **[*65]** those records?
(18) A Yes.
(19) Q Where were those records from? What doctor
(20) or --
(21) A Swedish Covenant Home Health Care nursing

(22) records, outpatient, for 6/95-7/95.
(23) Q And I apologize if I'm not following this, but
(24) I'm sorry. I do see those -- strike that.
(25) Were there any other records you plan on reviewing or
Page 68
(1) have requested to review at this time?
(2) A I plan on reviewing Dr. Young's deposition.
(3) Q I want to refer you to under the life care plan
(4) description.
(5) What's your basis for the opinion that a
(6) rehabilitation counselor is recommended to assist Mrs. Rompa
(7) in the management of her care?
(8) A Based on my experience as a rehabilitation
(9) counselor and a case manager, it's my opinion that she
(10) requires somebody to assist her in the management of the
(11) type of care and level of care that she needs over her
(12) lifetime that should be done on a once-per-month basis.
(13) Q Is a rehabilitation counselor/team leader the
(14) same as case manager?
(15) A Yes.
(16) Q Have you been hired as or agreed to be the case
(17) manager **[*66]** for Theresa Rompa?
(18) A No.
(19) Q Do you hold the opinion that Mrs. Rompa should
(20) receive physical therapy three times a week?
(21) A I believe that may be a misprint, typographical
(22) error. I believe it should be twice a week.
(23) Q Do you hold the opinion that Mrs. Rompa should
(24) receive physical therapy two times a week?
(25) A Yes.
Page 69
(1) Q And what's the basis of that opinion?
(2) A Based on her paralysis and the requirements of
(3) her to receive range of motion exercises and exercises of
(4) the lower extremities to prevent atrophy and contractures
(5) that she requires this therapy on this level of frequency.
(6) Q And is that based solely on your own
(7) experience?
(8) A That's based on my experience, as well as this
(9) was, again, a consensus, number of therapeutic visits per
(10) week, that was agreed upon between myself and Dr. Young.
(11) Q Do you know if Dr. Young has seen Theresa Rompa

(12) as a patient?
(13) A I'm not sure I understand when you say "as a
(14) patient."
(15) Q Okay. Is it your opinion that Theresa Rompa

(16) should receive occupational **[*67]** therapy on a three-time-per-week
(17) basis?
(18) A Again, I think that's a typo. It should be two
(19) times a week.
(20) Based on that, yes. And I think we've discussed some
(21) of the reasons in prior questioning.
(22) Q Do you have the opinion that she has to have
(23) twice yearly occupational and physical evaluations to assess
(24) her progress and monitor her need for additional formal
(25) sessions?
Page 70
(1) A Yes.
(2) Q And could those evaluations result in a
(3) reduction in the amount of OT and PT therapies that she has?
(4) A Possible.
(5) Q And who would be responsible for doing those
(6) evaluations?
(7) A Therapist.
(8) I usually like to have an outside therapist as
(9) opposed to the treating therapist.
(10) Q Would it be possible for the treating therapist
(11) to do these evaluations on an ongoing basis?
(12) A Yes.
(13) Q Is it your opinion that Mrs. Rompa is depressed
(14) and requires psychological counselling on a weekly basis?
(15) A It's my opinion that she is depressed and she
(16) will require psychological counselling on a weekly basis for

(17) the first **[*68]** three months, and then at subsequent durations
(18) thereafter as related in page B-2 of my evaluation.
(19) Q And what's your basis for your opinion that
(20) she's depressed?
(21) A Speaking with her, observing her, knowing the
(22) impact of a spinal cord injury on a person's ability to
(23) function both from a psychological standpoint.
(24) I've built into the life care plan several periods of
(25) psychological intervention to assist her in coping with her
Page 71
(1) disability.

(2) Q Would you agree that depression is a
(3) psychiatric diagnosis?
(4) A Depression does make up some of the diagnoses
(5) indicated in the DSM diagnostic treatise used by
(6) psychologists and psychiatrists. I don't believe there is
(7) essential diagnosis of depression per se.
(8) Q Do you agree that psychologist or psychiatrist
(9) would be better able to determine if Theresa Rompa is
(10) depressed than yourself?
(11) A Yes. I cannot make such a diagnosis in regard
(12) to placing a diagnostic name on her condition. You have to
(13) be a psychologist or a psychiatrist.
(14) Q And, in fact, you can't make a diagnosis at

(15) **[*69]** all, can you, Mr. Provder?
(16) A I'm not a psychologist or a psychiatrist.
(17) Q And would you agree that depression is a
(18) psychological diagnosis?
(19) A No.
(20) MS. STEVENS: I think he just answered
(21) that.
(22) Q Do you know if a psychologist or psychiatrist
(23) has seen Theresa Rompa?
(24) A To the best of my knowledge she has not been
(25) seen by a psychologist or a psychiatrist.

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(1) Q Would you agree that a psychiatrist or
(2) psychologist would be better able than yourself to determine
(3) if a person needed psychological counselling or the
(4) frequency of that counselling?
(5) A Same answer I gave you regarding the other
(6) aspects: Based on my experience, I have an opinion as to
(7) the type of level of service she requires. A psychologist
(8) and psychiatrist may have a different opinion.
(9) Q And would you --
(10) A But based as an expert in the field of
(11) rehabilitation and working with catastrophic injured for 23
(12) plus years, I think I'm entitled to an opinion, and that's
(13) my opinion.
(14) Q Would you defer to a psychiatrist's or

(15) psychologist's **[*70]** opinion in regard to whether Mrs. Rompa
(16) required treatment for or had depression?
(17) A I would defer to their diagnostic impression as

(18) to her condition. I think that based on my interview with
(19) her and her verbalizations of having depression speaks for
(20) itself. And given her situation being spinal cord injured
(21) at age 80, she has all sorts of reasons to be depressed.
(22) Q If hypothetically a psychologist evaluated
(23) Theresa Rompa and found that she was not depressed, would
(24) you still have the same opinion that she needs treatment for
(25) depression?

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(1) A I would consider that doctor's opinion and
(2) formulate my own, just as I've done here.
(3) Also, I don't know if I'm making myself clear: Dr.
(4) Young and myself discussed each of these areas, and both
(5) concurred with the frequency and the need for each service.
(6) So it wasn't just my opinion, but it was also his opinion
(7) being a physician.
(8) Q Do you know if Dr. Young is a psychiatrist or
(9) psychologist?
(10) A No, he's not.
(11) Q Okay. You know he's not?
(12) A That's correct.

(13) Q Under medical **[*71]** care did you form the opinions
(14) stated in the first paragraph by yourself?
(15) A No. In conjunction with Dr. Young. And we
(16) concurred that three psychiatric evaluations or treatments
(17) per year would be the recommended level, as reflected on
(18) page B-3.
(19) MR. MASCIOPINTO: Just want to state for
(20) the record, in our 213 we asked for the
(21) opinions and the bases, and clearly at least
(22) some of basis for Mr. Provder's opinions are
(23) that of Dr. Young's, and that wasn't disclosed
(24) prior to this deposition.
(25) So to the extent that we feel it's

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(1) necessary, we reserve the right to re-depose
(2) Mr. Provder regarding those issues.
(3) Q So can you separate out which are your opinions
(4) under medical care and which are actually that of Dr.
(5) Young's?
(6) A We came to a consensus.
(7) Q So is the answer that you cannot?

(8) A Correct. We came to a consensus. We discussed
(9) each of these areas. I verbalized what my feelings were, he
(10) verbalized what his feelings were.
(11) Q Do you know why Mrs. Rompa would require
(12) medical services by a neurologist?

(13) **[*72]** A Yes. Because she is a spinal cord injured
(14) individual. Spinal cord --
(15) Q What would --
(16) A -- which is a neurological condition that
(17) should be evaluated by a neurologist.
(18) Q To make sure she stays the same?
(19) A Hopefully that she stays the same and doesn't
(20) get any worse.
(21) Q What about an orthopedist?
(22) A The fact that she's in a wheelchair affects her
(23) bone structure. And she doesn't stand, she's not in a tilt
(24) table or prone any period of time affects her from a
(25) musculoskeletal point. And that's why she should be seen by
Page 75
(1) an orthopedist.
(2) Q Why are pediatrist services required?
(3) A One of the consequences of having paralysis is
(4) in-grown toenails, and this prevents that. Good foot care
(5) is very important. Also, it's not unusual for an individual
(6) to develop decubital ulcers on the feet as she has on a
(7) heel. This evaluates for that.
(8) Q And what about for a urologist to examine her
(9) four times per year?
(10) A Urinary tract infections.
(11) Q Could that be evaluated by testing her urine on

(12) a regular **[*73]** basis?
(13) A We have that down there, too.
(14) Q Why is a urologist needed in addition to
(15) testing her urine?
(16) A Again, to follow her urologically to make sure
(17) she doesn't have urinary tract infections, and to monitor
(18) her condition. I have it down four times for the first year
(19) and twice thereafter.
(20) Q Do you know if other methods to detect urinary
(21) tract infections besides testing urine?
(22) A It's the only one I know of.
(23) Q Where did you determine her medication needs?

(24) A Taken from her medications at the time that I
(25) saw her.
Page 76
(1) Q Do you have any knowledge of whether she will
(2) need to continue on all of the medications that are listed
(3) here?
(4) A I can only speak for the ones dealing with
(5) bowel program. Certainly she would have to continue with
(6) those. The rest I'd have to defer to a medical physician.
(7) Q I want to refer you to one of the appendixes to
(8) your life care plan. If you could look at Appendix B, page
(9) one.
(10) A Yes.
(11) Q Okay. I just want -- for an example, looking
(12) at physical therapy **[*74]** there's a base cost per year, and
(13) correct me if I'm wrong, it appears there's a low range and
(14) high range. Would that be correct?
(15) A Yes.
(16) Q If you can generally, can you just describe how
(17) you went about determining the base cost per year not only
(18) for items listed on page B-1, but generally for all the
(19) costs that you derived?
(20) A Yes. As you'll see in Provder-4, I researched
(21) each of the specialties and equipment and supplies and
(22) whatever services that Ms. Rompa would require by contacting
(23) at least three providers of each service in the Chicago area
(24) and getting their base cost for the service. If it's a
(25) therapy, what their evaluative cost would be. If it's a
Page 77
(1) medical care provider, what evaluative, as well as ongoing
(2) cost of service. So in everything I present, for the most
(3) part we have a high and we have a low.
(4) Q And these were all for providers or vendors
(5) within the Chicago area?
(6) A Yes. I believe all Cook County I used.
(7) Q And what was your source for finding either
(8) medical providers or vendors?
(9) A I have many **[*75]** sources. The sources are listed in
(10) the items that we have. In each sheet I think the source is
(11) pretty much listed, but I'll go through some of them.
(12) Q Maybe my question was unclear. I don't mean
(13) specific vendor or provider. How did you derive the names

(14) of vendors or providers? Did you use the yellow pages, for
(15) example? Or what was your research mechanism?
(16) A I have a lot of different resource books at my
(17) disposal in my office. The yellow pages is one of them. I
(18) also have a book called Case Manager Resources, I think it
(19) is. I also have the A.M.A. directory. I have a directory
(20) of hospitals. Also there are some names that I'm familiar
(21) with from my work in the Chicago area. Certainly facilities
(22) such as the Rehabilitation Institute of Chicago. Schwab
(23) (phonetic) is another rehabilitation hospital. So a variety
(24) of different sources.
(25) Q What's the book Case Manager? What's contained
Page 78
(1) in that book?
(2) A Listing of all sorts of services that case
(3) managers could use. They could be -- I think it's medical
(4) facilities as well as nursing agencies.

(5) **[*76]** Q Would you be able to get the specific author
(6) and title of that book if asked to?
(7) A Sure.
(8) MR. MASCIOPINTO: I'd ask that that also
(9) be provided.
(10) Q When you call a specific vendor, what types of
(11) questions do you ask them?
(12) A First I give them a brief background of the
(13) client. And then I ask them the cost of their services, the
(14) cost of providing their services to this particular client
(15) both on a consultation basis or ongoing basis, if it's a
(16) medical vendor.
(17) Q What about if it's a product vendor?
(18) A Well, if it's like, for example, her
(19) medications, I knew what her medications are, or were. And
(20) you'll see that I type a list of medications and go through
(21) each item with a particular vendor as to the quantity and
(22) frequency required of that medication.
(23) Q Did you ever inquire to any vendor as to
(24) discounts that might be available because they're providing
(25) materials on a long-term or -- a long-term basis?
Page 79
(1) A Not usually to a vendor. In this particular
(2) case I inquired as to the nursing agencies whether they

(3) **[*77]** would provide some lower cost because of Ms. Rompa's ability

(4) to theoretically require the services on a regular basis and
(5) be able to fund them on that type of basis.
(6) Q Are you aware if any product vendors do offer
(7) discounts?
(8) A I'm sure there are. I don't know of any off
(9) the top of my head.
(10) I think that's one of the reasons that I provide you
(11) with a high and low range for that service.
(12) Q Why do you provide a high and low range?
(13) A Because some people's prices are less than
(14) other individuals. That's why I don't select one vendor; I
(15) select a number of different vendors. And as you'll see,
(16) there could be any many as five or six vendors.
(17) Q In your profession is there any standard number
(18) of vendors or providers that you're to contact in order to
(19) come up with a base cost?
(20) A You should have three. That seems to be the
(21) consensus. I've seen people do it with one, but three seems
(22) to be the standard. I've rarely seen anybody do more than
(23) three, but I do. I try to get as many as I can.
(24) Q And you'd agree that varies depending on

(25) **[*78]** probably the importance or cost of the items?
Page 80
(1) A Yes. For example, nursing agencies, which is
(2) an important cost, you'll see I contacted, I think, probably
(3) eight or nine different nursing agencies.
(4) It would depend on the locale. If you were in a
(5) rural locale and only five nursing agencies, you'd want to
(6) contact every nursing agency.
(7) Q If you won't mind turning to page B-6. Again,
(8) just so I understand your methodology: Under base cost and
(9) vendor, that's a listing of the high and low costs that you
(10) were quoted. And then underneath that is a list of the
(11) vendors you contacted. Is that correct?
(12) A Yes. It's not an inclusive list. It's just a
(13) sample of some of the people I contacted.
(14) Q Do you make any type of assessment of the
(15) quality of the services or materials being provided by the
(16) vendor?
(17) A Talk about the quality of the items. There are
(18) certain items that I believe, based on my experience, are
(19) more durable than other items, and consequently tend to use

(20) them.
(21) For example, electric wheelchairs are very finicky

(22) items. **[*79]** And you want to try to stick with a name brand
(23) wheelchair like she has now. Power wheelchairs breakdown
(24) frequently. You want to be able to get parts.
(25) And so I tend to shy away from any non-standard name
Page 81
(1) on wheelchairs. And it's same with some of the other items,
(2) too.
(3) Q Would you agree that you at least use your best
(4) efforts to contact reputable vendors?
(5) A Yes.
(6) Q Would the same be true as to health care
(7) providers?
(8) A Yes.
(9) Q And if you'd look at page B-7. And in regard
(10) to the wheelchair, are you familiar with the standard type
(11) of warranty that is offered on wheelchairs, power
(12) wheelchairs?
(13) A Usually a year.
(14) Q Does that include parts and servicing?
(15) A Usually, yes.
(16) Q Do you inquire as to the warranty program of
(17) the specific vendors you contact?
(18) A Yes.
(19) Q Do you know if any vendors that you contact in
(20) regard, let's say, with wheelchairs offer any type of
(21) extended warranties?
(22) A I didn't inquire to that, no.
(23) Q And what was your basis for coming up with the

(24) **[*80]** replacement schedule for the wheelchair?
(25) A Speaking to the various vendors, if I could
Page 82
(1) just explain: Every year I attend what's called a Home
(2) Health Care Show which is held in Atlanta. Actually it's
(3) held where the Olympics are at the World Congress Center.
(4) And every vendor of wheelchairs and supplies and equipment
(5) are there, so I'm able to discuss with these vendors as to
(6) the durability and their experience in the durability and
(7) replacement of each of the items.
(8) So that's what it's based on. I do that on a yearly
(9) basis, as well as my own experience. I mean, I speak with

(10) clients and they tell me this wheelchair only lasts such a
(11) period of time, and this has a defect, or whatever it is.
(12) So I learn as I go. But I do speak to the vendors on a
(13) yearly basis.
(14) Q I take it none of the wheelchair vendors told
(15) you that the chairs broke down within one year?
(16) A No, but it does happen. If you have somebody
(17) who is quadriplegic and they live in a semi-rural community
(18) or going to college, wheelchairs can break within a year.

(19) Q I have no doubt **[*81]** about that, as brand new cars
(20) break down within a year, too.
(21) My question was: No vendor told you that their
(22) wheelchair breaks down within one year, I take?
(23) A No. I don't think they'd be in business very
(24) long.
(25) I try to give the vendors the benefit of the doubt,
Page 83
(1) because everybody's wear and tear on the chairs differs.
(2) Q So again, your replacement schedule at least
(3) with regard to wheelchairs from what you perceive is the low
(4) range to high range?
(5) A Yes. I have it down every five years as a
(6) replacement on the motorized wheelchair. That's pretty
(7) standard situation.
(8) Q Is that a total replacement or just replacement
(9) of the motor?
(10) A Total replacement, because what happens is
(11) frames tend to go.
(12) Q Okay. If you'd flip the page over to page B-8,
(13) and I'll ask you a few things about the transportation that
(14) you selected.
(15) A Yes.
(16) Q First of all, the Ford van with raised roof, I
(17) take it that's one of the vans that is often fitted for
(18) wheelchair accessibility?
(19) A Yes.

(20) Q Are there other **[*82]** types of makers of such vans?
(21) A Chrysler. Yes.
(22) Ford is -- again, back to what we talked about: I
(23) try to stay with the standard, and Ford is the standard.
(24) There are Chryslers and there are mini-vans, also. But they
(25) aren't as widely used.

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Q You didn't evaluate if there were any used -- what the used van market would be in the Chicago area, did you?

A No, I did not.

Q And again, could I ask your basis for the replacement schedule on the Ford van of being one to five to seven years?

A Seems to be a standard period of time that even regular vehicles are replaced during that period.

Q And I take it you'd agree that would depend on the amount of mileage that's driven on the vehicle each year?

A Yes.

Q And also the quality of maintenance provided to the vehicle?

A Yes.

Q So you admit that if the Ford -- brand new Ford van was not used very often, it could last well in excess of five to seven years. Is that correct?

A It could last past -- in excess of seven years, yes. **[*83]**

Q And you also have down the wheelchair lift and wheelchair tie-downs.

A Yes.

Q And that's the mechanism for lifting the

Page 85

wheelchair into the van. Is that correct?

A Yes.

Q How many people does it take to operate that?

A One. If everything is working properly.

Q And that's a person other than the person in the wheelchair?

A Not necessarily.

Q The person in the wheelchair can learn to use it themselves so that they can get themselves from the ground into the van?

A Yes.

Q And then once they' re in the van, they need to tie the wheelchair down?

A Yes. She cannot do that herself.

Q That would require the assistance of another

(16) person?
(17) A Yes.
(18) Q And when you consider the transportation
(19) options, did you also consider who would be the transporter?
(20) A Yes.
(21) Q Who was your assumption and who would that be?
(22) A Whoever provides her with home care.
(23) Q And the portable ramps, how do they come into
(24) play in regard to transportation? **[*84]**
(25) A Portable ramps are made of plastic or aluminum.

Page 86

(1) They sit in the back of the van and they could be used to
(2) overcome architectural barriers if they're encountered, such
(3) as a curb or small stairs. They could be placed up and she
(4) could propel herself into that area.
(5) Q Can you get along without having the wheelchair
(6) lift and just using the portable ramps?
(7) A Difficult.
(8) Q Why is that?
(9) A The portable ramps are made for a particular
(10) item. They're made for being able to overcome architectural
(11) barriers as opposed to going up into the van itself.
(12) Q Is it possible there's already -- there's a
(13) used market for vans in the Chicago area that are already
(14) adjusted for wheelchair use?
(15) A It's possible.
(16) Q Now, if you could turn to page B-9 in regard to
(17) the house and architectural renovations. What was the basis
(18) of your cost and assessment on this page?
(19) A Which ones? There are two costs and
(20) assessments made.
(21) Q As to housing.
(22) A The housing itself?
(23) What I did was -- and you'll see from the material, **[*85]** I
(24) contacted a number of realtors and they gave me a list of --
(25) sampled listing.

Page 87

(1) As luck would have it, I have a friend of mine who's
(2) a realtor in Chicago, and she ran off the averages on her
(3) computer of the cost of real estate meeting these particular
(4) needs in three different areas. And that's what I provide
(5) you with, the range.

(6) And she came by the cost by looking at everything
(7) that was available. They're able to compute what the
(8) average was. So I had a pretty good idea of what it is.
(9) You'll see that in P-4 there are many other listings that
(10) are much more expensive.
(11) Q Did you do any research on apartments in the
(12) Chicagoland area that are wheelchair accessible?
(13) A No, I did not.
(14) Q And did you contact an architect to determine
(15) the adaptation cost?
(16) A No. That's a general cost used in the field to
(17) give a range as to the amount and cost of doing some
(18) architectural renovations in a house. Could go from the low
(19) end to the high end depending on the structure.
(20) Many structures, if they are older, will require more

(21) than **[*86]** that range. But that's general ballpark figure. We
(22) don't know what house. We don't know where it is. We don't
(23) know what it's going to need. So I'm giving you a ballpark
(24) idea of what it usually costs.
(25) Q What's the basis of your ballpark estimate?
Page 88
(1) A Research done by the Spinal Cord Injury Center.
(2) Q And where did you receive that research from?
(3) A I can give you the citation from that, if you
(4) want it.
(5) Q Did you get that research in conjunction with
(6) this case?
(7) A No.
(8) Q Something you had used on prior cases?
(9) A Yes.
(10) Q Page B-10 it contains the life care plan for
(11) home care/facility care. At this point why don't you tell
(12) me what you did in regard to creating option one and option
(13) two?
(14) A Okay. The two options for Ms. Rompa are that
(15) she be taken out of the nursing home and given a greater
(16) quality of life by going into her own home, just as she
(17) existed prior to this incident, so that she can reside with
(18) her husband.
(19) And in order for her to do that, due to the

(20) catheterization required, she **[*87]** needs a licensed practical
(21) nurse 24 hours a day, seven days a week. This has to be

(22) awake care, as she is unable to turn herself at night. So
(23) in order to prevent decubital ulcers, she has to be turned
(24) at night, so the staffing has to be awake.
(25) I contacted various home care agencies, and found out
Page 89
(1) the cost of care for the provision of such services. In
(2) addition, I did -- and I don't think I answered this
(3) question before, I meant to, that I did ask the agencies
(4) whether they would provide a discount or a lower rate if it
(5) was on a long-term basis, and that's what we have here. I
(6) did --
(7) Q And what was the agency's response to that
(8) inquiry?
(9) A Many of them said that they had given me the
(10) lowest rate already. So it was my impression nobody was
(11) making a deal.
(12) But we do have a pretty low rate at 18.50. So that
(13) was the low rate. That was the low rate.
(14) Q And the second option was that she remain in
(15) the nursing home?
(16) A Yes.
(17) Q And do you know if that's an inclusive list of
(18) the nursing homes you contacted?

(19) A **[*88]** I don't know. We have it in the file. I think
(20) it's five or six that I contacted.
(21) Q What was your reason for contacting the nursing
(22) homes that you did?
(23) A Provide another option. I always provide an
(24) option, if feasible, one option being the person remains at
(25) home or is placed in a home, which I always think is the
Page 90
(1) better environment for them. The other option is for them
(2) to be in a nursing home.
(3) Q How did you select the nursing homes you
(4) contacted?
(5) A Well, obviously I selected one she was in
(6) already. And I believe I selected ones in a similar
(7) locality.
(8) Q They were selected by you, though?
(9) A Yes.
(10) Q They weren't names given to you by anyone else?
(11) A No.

(12) Q And what are the advantages of her remaining in
(13) the nursing home?
(14) A I don't know what you mean by "advantages."
(15) Q Are there any advantages to her remaining in
(16) the nursing home?
(17) A The only advantage would be cost.
(18) Q That's the only advantage?
(19) A To my knowledge, yes.

(20) Q And are there any disadvantages **[*89]** to her living
(21) in a home?
(22) MS. STEVENS: Referring to independent
(23) home, like her own single-family dwelling?
(24) A There would be no disadvantages if she was
(25) given the service as noted in the life care plan P-3.
Page 91
(1) Q And could you list the entirety of services
(2) that you're referring to?
(3) A Yes. Starting out, licensed practical nurse,
(4) 24 hours a day, awake status. Having the proper physical
(5) and occupational therapy evaluations. Having a case manager
(6) to assist her in receiving the services required. Having
(7) her receive occupational and physical therapy on a
(8) twice-a-week basis. Having her receive a short period of
(9) psychological counselling. Having her on a regular basis
(10) being treated by a number of physicians as noted in B-3 of
(11) my report.
(12) Obviously she would continue with her medications,
(13) and would require the same bowel and bladder supplies. She
(14) would also require similar home furnishings and accessories
(15) which we've already discussed before. Her wheelchair would
(16) remain the same. She would need some mode of

(17) transportation. You don't **[*90]** want to place her in a home and
(18) then make her home-bound. You want her to be out into the
(19) community. That the house would be properly modified. And
(20) again, that she would receive the proper nursing service.
(21) Q And in regard to the doctors seeing her, the
(22) physical therapy and occupational therapy, they would either
(23) have to come to the house or she would have to get to the
(24) therapist or other medical care providers. Correct?
(25) A Yes. It would be a benefit for her to go out
Page 92
(1) of the house to receive the services, for socialization

(2) reason.
(3) Q Just want to ask you about -- back to, I think
(4) it was B -- the transportation page which is B-8.
(5) Is that a one-time cost for the cellular phone?
(6) A That's a usage cost, a yearly usage cost.
(7) Q Between $ 1300 and $ 1900?
(8) A Yes.
(9) Q You got a bad quote on that one.
(10) Did you ask about one of the more inexpensive
(11) packages I hope?
(12) A Yes, I did.
(13) Q And that was what they quoted you?
(14) A That's what I got. I'm sure there are less
(15) expensive ones than this one.

(16) **[*91]** (There is a discussion held off the
(17) record.)
(18) (Provder-5, Copy of Life Care Cost Plan
(19) is marked for Identification.)
(20) Q Mr. Provder, would you agree that any therapies
(21) that would be of value to Theresa Rompa in the future would
(22) depend on her wanting to go through with those therapies?
(23) A Of course. I think I've already testified to
(24) this.
(25) MR. BURTKER: I'm sorry. The answer was
Page 93
(1) what?
(2) THE WITNESS: Of course.
(3) MS. STEVENS: Yes.
(4) Q I'm showing you a document that's been marked
(5) as Provder-5. Could you explain to me what that document
(6) is?
(7) A Yes. This is a document that Ms. Stevens asked
(8) me to prepare to give her a gross idea as to the dollar
(9) amounts involved in my life care plan.
(10) Q And how did you derive those calculations?
(11) A I take -- well, essentially by taking the
(12) midpoint of the items listed in the Appendix B of my life
(13) care plan and multiplying it by her life expectancy, which I
(14) used the nine years. And for equipment and supplies, I took

(15) a per year weighted amount for each of those and **[*92]** multiplied
(16) it by nine, when necessary.
(17) Q So each of the costs derived on Provder-5 are

(18) from the life care plan marked as Provder-3?
(19) A Correct.
(20) Q If asked to testify at trial as to the cost of
(21) her life care plan, are the figures listed on Provder-5 the
(22) figures that you would give during that testimony?
(23) A I'm not sure I understand your question.
(24) Q If you were asked as to the total cost of the
(25) life care plan, would the figure stated in Provder-5 be the
Page 94
(1) figure that you would give if asked at trial?
(2) A That would be out of my area of expertise.
(3) Q Why is that?
(4) A Because in order for those figures to be
(5) meaningful, an economist -- usually an economist or somebody
(6) such as an economist would have to take a look at those
(7) figures.
(8) Those are just raw figures based on the total amount
(9) of the life care plan, nothing taking into any other
(10) factors.
(11) Q So it would be out of your expertise to testify
(12) as to the total cost of --
(13) A Yes. Usually what I do is I talk about the
(14) cost per year as noted **[*93]** in the B charts and what those costs
(15) are.
(16) Q Would you be the person expected to talk to an
(17) economist prior to testimony at trial?
(18) A I'm not sure I understand your question.
(19) Q Do you have any plans to speak to an economist
(20) who is to testify at trial as to the cost of Theresa
(21) Rompa's --
(22) A I haven't been asked at this point to do such a
(23) thing.
(24) Q Have you been asked to do any other work on
(25) this case?
Page 95
(1) A No.
(2) Q Do you plan to do any other work on this case?
(3) A Other than reviewing Dr. Young's deposition,
(4) no.
(5) Q Are all the costs necessary for Theresa Rompa's
(6) life care contained in the life care plan marked as Provder
(7) Exhibit 3?

(8) A Yes.
(9) Q Are there any other opinions regarding Theresa
(10) Rompa that you have that you have not stated today?
(11) A Or stated in Provder-3.
(12) Q Okay. Or that have not been stated in your
(13) life care plan?
(14) A No.
(15) MR. MASCIOPINTO: That's all I have for
(16) now. If anyone else wants to jump in.
Page 96

(2) CROSS-EXAMINATION BY MR. **[*94]** BURTKER:
(3) Q Mr. Provder, I represent Dr. Busse.
(4) So far your fees have been paid by Ms. Stevens or her
(5) law firm, have they?
(6) A I think they have, yes.
(7) Q You haven't received any money from Mrs. Rompa
(8) or any member of her family, have you?
(9) A No, I have not.
(10) Q With respect to the report that was prepared on
(11) June 27, 1995, that's Provder-2?
(12) A Yes.
(13) Q You prepared that for Ms. Stevens, did you?
(14) A Yes.
(15) Q And that was at her request, was it?
(16) A Yes.
(17) Q And after you prepared that report you sent her
(18) a copy, did you?
(19) A Yes.
(20) Q And you expected her to rely on it to some
(21) degree, did you?
(22) A I don't know what you mean by "rely on it." It
(23) speaks for itself.
(24) Q Did you know what Mrs. Stevens was going to do
(25) with it after you sent it to her?
Page 97
(1) A She had indicated that she wanted some idea of
(2) what the costs of a life care plan needs for Mrs. Rompa
(3) would be, and I provided her with such.
(4) Q Did she tell you that she was going to send it

(5) to **[*95]** the attorneys for the defendants in this case?
(6) MS. STEVENS: I'm going to object. That
(7) wasn't what was done. It was part of the

(8) settlement proposal, and you know it. It was
(9) not ever used with the attorneys in this case.
(10) Q Can you answer my question?
(11) A No, I did not.
(12) Q You did not know that she was going to send it
(13) to the attorneys? She never told you that?
(14) A No.
(15) Q Did she tell you what she was going to do with
(16) it other than use it with respect to perhaps discussions
(17) regarding settling the case?
(18) A To my understanding and the best of my
(19) recollection, that was what its purpose was.
(20) Q Did she tell you that she was going to produce
(21) it to the attorneys representing the defendants in this case
(22) in response to a request for production of documents?
(23) A No.
(24) Q You prepared that report before having a chance
(25) to speak with Mrs. Rompa, did you?

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(1) A P-2 we're talking about?
(2) Q Yes.
(3) MS. STEVENS: You mean Exhibit 2?
(4) A Because I don't consider that a report.

(5) Okay. Yes, that **[*96]** was prepared prior to me
(6) interviewing or examining Ms. Rompa.
(7) Q And before visiting Villa Scalabrini?
(8) A Yes.
(9) Q And before reading any of the depositions of
(10) the defendants in this case?
(11) A Yes. I still have not read any of the
(12) depositions of the defendants in this case.
(13) Q To this day?
(14) A Correct. Yes.
(15) Q Before looking at the records of the
(16) Rehabilitation Institute of Chicago?
(17) A Yes. Obviously she was not at that facility.
(18) Q In fact, that's correct, isn't it?
(19) A Yes.
(20) Q Before looking at records of the Ballard
(21) Nursing Home?
(22) A Yes.
(23) Q Before looking at the records of any other

(24) treating physician. Is that true?
(25) A True.
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(1) Q Other than those individuals who were involved
(2) in her care at Swedish Covenant Hospital?
(3) A That's correct. I understand.
(4) Q I take it you didn't think it was important to
(5) speak with Mrs. Rompa before you prepared that report, did
(6) you?
(7) A I did.
(8) Q You did think it was important?
(9) A Absolutely. **[*97]**
(10) Q But you didn't speak with Mrs. Rompa before you
(11) prepared the report?
(12) A No, I did not.
(13) Q Did you think it was important to speak with
(14) any of the physicians who were involved in her care before
(15) you prepared that report?
(16) A I don't know whether I considered that or not.
(17) I can't recall.
(18) Q Do you know the names of her two daughters?
(19) A Yes; Elizabeth Witt and Joyce Stamer.
(20) Q Do you know if they had been deposed?
(21) A Not that I know of. I haven't reviewed their
(22) depositions if they have been.
(23) Q That was actually my next question: You have
(24) not read Joyce's deposition?
(25) A Correct.
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(1) Q Did you ask Ms. Stevens for those?
(2) A No, I did not.
(3) Q I take it you didn't think it was important to
(4) read those then?
(5) A First I'd have to know that they were deposed,
(6) which I didn't know before.
(7) Q You didn't think it was important to ask Ms.
(8) Stevens whether or not they had been deposed. Is that true?
(9) A I didn't ask her.
(10) Q You did not have any information from **[*98]** Dr. Young
(11) when you prepared the preliminary life care plan?
(12) A P-2?
(13) Q Yes.

A I don't even consider that a life care plan.
That's an estimate of costs. I did not speak to Dr. Young.
Q I just want to make sure you and I are talking
about the same document. I'm referring to a document that's
I think been marked as Exhibit No. 2 with today's date.
It's captioned "Preliminary Life Care Plan Costs."
A That's the same document, yes.
Q Before you prepared that did you speak with Dr.
Young?
A No.
Q Did you think it was important to have the
input of anyone with the qualifications of Dr. Young before

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you prepared the report?
A Not at that time, no.
Q So you prepared the report without any input
from Dr. Young, or without asking Ms. Stevens to obtain the
assistance of someone like Dr. Young, or a person with his
qualifications before you prepared that particular document?
A I didn't ask Ms. Stevens to retain a
physiatrist at that point in time, no.

Q I think you said you had **[*99]** not visited Villa
Scalabrini when you prepared that. Is that true?
A Still talking about P-2?
Q Yes.
A Of course. She was not in Villa Scalabrini at
that point in time.
Q Have you been to Villa Scalabrini now?
A Yes.
Q And I believe you said you spent about two and
a half hours there?
A Yes.
Q Do you know who the administrator is there?
A Not off the top of my head, no.
Q You can't tell me the person's name?
A No.
Q And the contact that you had with any
representative of Villa Scalabrini was limited? Would that

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be a fair statement?
A Yes.
Q Wasn't anything in specific with respect to

(4) Mrs. Rompa?
(5) Bad question. Let me ask it over again.
(6) You didn't have a discussion with the administrator
(7) at Villa Scalabrini concerning any of the specifics of Mrs.
(8) Rompa's care or treatment. Is that true?
(9) A That's true. I already testified to that.
(10) Q Did you speak with any of the nurses or the

(11) nurse's aides or the therapists who were involved in **[*100]** her
(12) care or treatment at Villa Scalabrini when you visited out
(13) there?
(14) A Again, I already testified to this: The answer
(15) is no.
(16) Q Have you made a telephone call out there since
(17) visiting to speak with any of the nurses or LPNs or
(18) therapists involved in her care?
(19) A No.
(20) Q I take it you didn't think that was important
(21) either?
(22) A Correct.
(23) Q If you did think it was important you would
(24) have done it?
(25) A Yes.

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(1) Q Do you have any printed material from Villa
(2) Scalabrini? And what I'm looking for is brochure or a
(3) pamphlet or anything like that that you might have picked up
(4) when you were out there.
(5) A I did request such information. I'm not sure
(6) whether I ever received it.
(7) Q Okay. Have you met Mr. Rompa?
(8) A No, I did not.
(9) Q The nursing home that he stays at is actually
(10) physically attached to Villa Scalabrini. Is that fair to
(11) say?
(12) MS. STEVENS: I'm going to object. He
(13) doesn't stay in an nursing home. He stays in
(14) an independent apartment building.

(15) **[*101]** Q You can answer the question.
(16) A Which question? Clarify the question.
(17) Q Sure. I'll clarify it. Is the independent
(18) apartment building that Mr. Rompa stays at physically
(19) attached to the Villa Scalabrini Nursing Home?

(20) A I believe it's in the same complex, same
(21) geographical area. I don't know if it's physically attached
(22) to it, but it's in close proximity.
(23) Q Did you walk over and see the unit where Mr.
(24) Rompa resides when you were visiting out there?
(25) A No, I did not.

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(1) Q You have not had a telephone conversation with
(2) him right up to today's date?
(3) A Correct.
(4) Q Did you think it was important in preparing
(5) either the preliminary life care plan or the life care plan
(6) that was prepared after your visit to Villa Scalabrini to
(7) speak with Mr. Rompa?
(8) A No.
(9) Q Do you know if he's able to live on his own in
(10) an apartment?
(11) A By himself?
(12) Q Yes.
(13) A Well, he resides in a small four-room apartment
(14) in Casa San Carlo. I'm not sure whether I inquired as to
(15) whether he was independent **[*102]** in activities of daily living.
(16) My impression is he was pretty much independent.
(17) Q The building where he resides, do you know if
(18) there is security for that particular facility?
(19) A No. Such as a security guard or
(20) Q Yes.
(21) A No.
(22) Q Do you know whether there's nursing care
(23) available at any time during the care for that particular
(24) facility?
(25) A No, I'm unaware of that.

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(1) Q In preparing Exhibit No. 2 you did not have the
(2) input of an LPN or RN. Is that true?
(3) A True.
(4) Q Or a, say, psychologist or psychiatrist?
(5) A No. True.
(6) Q Or an M.D.?
(7) A True.
(8) Q You have had the input of an M.D. in preparing
(9) the current life care plan. Is that true?

(10) A P-3, yes.
(11) Q P-3. That would be Dr. Young?
(12) A Yes.
(13) Q Have you had the input of any other health care
(14) provider in preparing Exhibit No. 3?
(15) A No.
(16) Q With respect to Exhibit No. 2, can you tell us
(17) why there was no detailed information included in that

(18) particular document such as there is included **[*103]** in Exhibit No.
(19) 3?
(20) A Wasn't requested.
(21) Q Can you tell me what was requested?
(22) A P-2?
(23) Q Yes.
(24) A That's what was requested.
(25) Q Well, that's just a piece of paper.
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(1) A Assessment of the costs that Mrs. Rompa would
(2) require over her lifetime, which is noted in P-2.
(3) Q I think you mentioned that you have a friend
(4) who's in real estate in the Chicago area?
(5) A Yes.
(6) Q And you were sent some listings for dwellings
(7) in the Chicago area?
(8) A That's different than my friend.
(9) Q Okay.
(10) A You'll see there's a number of listings that
(11) are there from various brokers in the Chicago area.
(12) Q When were those sent to you, do you know?
(13) A I know that I had my friend's about the time
(14) that we did the life care plan.
(15) We have some of them that were sent June 13th.
(16) Q 1996?
(17) A Correct, yes. They're all in '96.
(18) Q Were you sent any individual listings in 1995?
(19) A No.
(20) Q The information that is contained in Exhibit

(21) No. 2 with respect to housing, and **[*104]** specifically referring to
(22) the number 2000, that was obtained from where?
(23) A Only give you an estimate of how I did this, to
(24) the best of my recollection. If that would suffice, I'll be
(25) glad to tell you how I did it.

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(1) I think that this represents -- just think about
(2) this.
(3) I'm sorry, I can't tell you what this figure
(4) represents. I thought it represented something else, but I
(5) can't recall exactly how I got to this figure at this point
(6) in time.
(7) Q Were you provided with information in preparing
(8) Exhibit No. 3 with respect to transportation costs from
(9) local transportation companies in the --
(10) A Ambulette services.
(11) Q Yes. When was that done?
(12) A Looking for exact date or you looking for just
(13) a general?
(14) Q General.
(15) A June of '96.
(16) Q Can you tell me how you reached, with respect
(17) to Exhibit No. 2, a number 60,867 with respect to
(18) transportation cost?
(19) A The same way: Contacted vendors and obtained
(20) information.
(21) Q You did that work before you prepared Exhibit
(22) No. 2?
(23) A Yes. **[*105]** There's a whole series of work that was
(24) done prior to that.
(25) Q Was that also done with respect to home

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(1) maintenance care in Exhibit No. 2?
(2) A Yes.
(3) Q Does the term "per diem" have a term-of-art
(4) significance with respect to placing an individual like Mrs.
(5) Rompa in a nursing home?
(6) A Yes; per day cost.
(7) Q And that includes what?
(8) A Depends on the facility. It could include --
(9) usually includes nursing care, room and board. Usually is
(10) the minimum.
(11) Q Any adaptive equipment?
(12) A Some places, yes.
(13) Q Therapy?
(14) A Some places, yes.
(15) Q How about Villa Scalabrini, do you know?

A Room and board, three meals a day, laundry
service, 24-hour nursing.
Q And the per diem charge is what?
A 98 to 110, per day.
Q Does the Villa Scalabrini per diem charge
include any type of therapy?
A Not from my research.
Q Any type of adaptive devices?
A Not from my research.
Q So it's easier for both of us, why don't you

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take out the entire **[*106]** life care plan. Is that Exhibit 3? So
that you and I are together.
A This document?
Q Yes. Follow along with each other.
All right. With respect to the first page of text,
under general description, there's an indication that Joyce,
age 47, resides in Chicago only six blocks from the villa.
Do you see that?
A Yes.
Q Six blocks is walking distance, is it?
A Yes.
Q And on the next page under chief complaints
with respect to the use of a Hoyer lift and the use of two
aides to transfer Mrs. Rompa from her bed to a wheelchair,
do you know why two aides are required?
A Yes.
Q Why?
A Combination of factors. One is that she's
unable to assist them in the transfer due to her right upper
extremities limitations. And secondly, because of her
weight.
Q Is the necessity of two aides assisting her in
transfer from her bed to her wheelchair or from her
wheelchair back to her bed, is that reflected in the records
of Villa Scalabrini?

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A I can't recall.
Q Is that information **[*107]** that she gave you when you
spoke to her?
A Yes.
Q And with respect to the paragraph that's headed

(6) activities of daily living, in the first sentence it
(7) indicates that Mrs. Rompa is cared for by a nurses' aide.
(8) Do you see that?
(9) A Yes.
(10) Q Are the nurses' aides on the floor at Villa
(11) Scalabrini 24 hours a day?
(12) A I would assume, yes.
(13) Q Did you ask anyone?
(14) A No, I would assume being a nursing home they
(15) would have nurses' aides.
(16) Q You also indicate there's a registered nurse on
(17) the floor. Do you know if there's a registered nurse
(18) available in the facility 24 hours a day?
(19) A Would have to be.
(20) Q Why is that?
(21) A By law.
(22) Q And in the next paragraph down you indicate all
(23) activities of daily living are performed with the assistance
(24) of a nurses' aide. I think you told us what this meant once
(25) before, but I just want to be sure I heard it correctly.

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(1) Activities of daily living is a term of art that refers to
(2) what?
(3) A Washing, dressing and bathing yourself.
(4) **[*108]** Q And those things she was able to do with the
(5) assistance of a nurses' aide?
(6) A Nurses' aide assists her in doing those
(7) functions, yes.
(8) Q And in the next paragraph down it talks about
(9) straight catheterization. You see that?
(10) A Yes.
(11) Q That's different than an in-dwelling catheter?
(12) A Yes.
(13) Q How often does she straight catheterize
(14) herself?
(15) A Every --
(16) MS. STEVENS: The question is herself, or
(17) how often is she straight catheterized?
(18) MR. BURTKER: That's actually a better
(19) question.
(20) Q How often is she --
(21) A Once every six hours.

(22) Q Do you know if they tried to teach her how to
(23) do that when she was at the Rehabilitation Institute of
(24) Chicago?
(25) A I don't recall.

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(1) Q Is that something some paraplegics are able to
(2) do by themselves?
(3) A Yes.
(4) Q If they have the learning capability and the
(5) physical skills, they can do that by themselves?
(6) A Yes. Paraplegic can do that.
(7) Q Do you know if Mrs. Rompa is able to do that on
(8) her own? **[*109]**
(9) A To the best of my knowledge she is not.
(10) Q Do you know what it is that prevents her from
(11) doing that on her own?
(12) A No, I do not.
(13) Q Every time a catheter is introduced into the
(14) bladder does that create some risk of infection?
(15) A Yes.
(16) Q Is an in-dwelling catheter something that needs
(17) to be changed less frequently than a straight catheter?
(18) A Yes.
(19) Q You can leave an in-dwelling catheter in for,
(20) say, 30 days without changing it?
(21) A That varies. Varies from person to person and
(22) consequence and consequence and circumstance and
(23) circumstance.
(24) Q In a person like Mrs. Rompa as you know her
(25) from what you've reviewed and having met her for some period

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(1) of time, how frequently does she need to have an in-dwelling
(2) catheter changed?
(3) A Answer that question: They moved her to
(4) straight catheter to prevent the urinary tract infections.
(5) That's why she doesn't have an in-dwelling one.
(6) Q And where did you obtain that information?
(7) MS. STEVENS: Want to take a look at the
(8) chart?
(9) **[*110]** A What was the question again?
(10) Q I think I asked you where you obtained the
(11) information that the patient was changed to a straight

(12) catheter.
(13) MS. STEVENS: That's not going to be in
(14) there. That's in the records you reviewed
(15) while you were out at the nursing home, because
(16) they weren't part of the current chart.
(17) Q Do you know?
(18) A Sorry, I don't have it. I mean, it's in
(19) records currently at the nursing home that I don't have in
(20) my possession. We can get them copied. I'm sorry.
(21) Q Do you have an opinion as to whether Mrs. Rompa
(22) requires straight catheterization as opposed to in-dwelling
(23) catheter?
(24) A Yes.
(25) Q What's your opinion?

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(1) A That she requires straight catheterization to
(2) prevent urinary tract infections.
(3) Q Are there different types of technique with
(4) respect to changing a straight catheter? And specifically
(5) I'm referring to clean technique versus sterile technique.
(6) A Yes. There are several techniques, yes.
(7) Q Can you tell us what the difference is between
(8) clean technique and sterile **[*111]** technique generally?
(9) A I know that the sterile technique has to do
(10) with everything in the kit is in one area, and it's all
(11) totally sterilized and usually done by the client or
(12) patient.
(13) Q After each catheter is removed must it be
(14) disposed of or can it be used again?
(15) A That varies.
(16) Q And if it's going to be used again, how is it
(17) cleaned?
(18) MS. STEVENS: You talking about clean
(19) technique only?
(20) MR. BURTKER: Yes.
(21) A Usually with some type of saline solution or
(22) cleaning solution.
(23) Q Do you know what technique is used at the
(24) Rehabilitation Institute of Chicago?
(25) A Not with any definitive opinion. I don't know

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(1) what they use. I would assume that they use a sterile

(2) because they helped -- one of the guys helped invent a
(3) sterile there.
(4) (There is a discussion held off the
(5) record.)
(6) Q With respect to the changing of the straight
(7) catheter that you have suggested in your report, are you
(8) assuming clean technique or sterile technique?

(9) A Sterile technique. That would be replaced **[*112]** each
(10) time.
(11) Q And are you assuming that each catheter would
(12) only be used one time?
(13) A Correct.
(14) Q If you assumed clean technique and a repeat use
(15) of each catheter after it was appropriately cleaned, would
(16) that have an effect on the dollar figures that you reached
(17) in your report?
(18) A Regarding catheterization, yes.
(19) Q Yes.
(20) If you turn to page four of your report, the third
(21) paragraph down you note that she, and I assume you mean Mrs.
(22) Rompa, would be unable to independently maintain a home. Do
(23) you see that?
(24) A Yes.
(25) Q What did you mean by that?

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(1) A That she could not do the household chores
(2) required of a home. She may, in a wheelchair accessible
(3) environment, be able to perform some of the home-making
(4) duties, such as cooking.
(5) Q Do you know if there are governmental agencies
(6) in the city of Chicago or Cook County that assist in placing
(7) wheelchair bound individuals in wheelchair accessible homes
(8) that have security and elevator service?
(9) A I don't know specifically for Chicago, but I

(10) **[*113]** would assume that they do have such service.
(11) Q They have them here -- is it Bergen County
(12) we're in?
(13) A They don't have them in Bergen County, but they
(14) do have them in New York City. And I would assume the same
(15) things in New York City that exist in Chicago; usually a
(16) waiting list to get somebody in there. But we don't know.
(17) Q You don't know how long the waiting list would

(18) be in the city of Chicago or Cook County?
(19) A Yes.
(20) Q But you are assuming that there is wheelchair
(21) accessible living quarters available?
(22) A Yes. I would say sure.
(23) Q With elevator service and with security?
(24) A Well, I'm not big on putting a wheelchair
(25) accessible person up on the 20th floor because of fire and
Page 117
(1) safety hazards.
(2) Q How about with security?
(3) A Yes, obviously with security. But again, I'd
(4) like to see people evaluating this place be on the first
(5) floor.
(6) Q Do you know what the rent would be on any unit
(7) like that in the city of Chicago or the county of Cook?
(8) A Not -- no, I do not.
(9) Q Again, on **[*114]** page four, about three quarters of
(10) the way down the page you note that Mrs. Rompa is unable to
(11) independently turn herself in bed and she is turned every
(12) two hours. Is that what the records reflect?
(13) A I believe that's what the records that I
(14) reviewed at Villa Scalabrini reflect, yes.
(15) Q That she was turned every two hours?
(16) A Yes.
(17) Q Do you know who participated in that?
(18) A Who turns her?
(19) Q Yes. That's a better question.
(20) A I assume that she's turned by an aide.
(21) Q Not an LPN?
(22) A Does not require an LPN to turn her.
(23) Q Can a nurses' aide administer medication in the
(24) state of Illinois?
(25) A No.
Page 118
(1) Q A registered nurse must do that?
(2) A Yes.
(3) Q Or physician?
(4) A Yes.
(5) Q Can a dispensing kit be prepared where a
(6) registered nurse comes by once a week, prepares the
(7) medication for the week, and then allows the patient with

(8) the assistance of a nurses' aides, if it's required, then
(9) take that medication?
(10) In other words, a registered nurse doesn't have to
(11) come **[*115]** by every day every time the patient needs to --
(12) A That's correct.
(13) Q Registered nurse can lay it out, next week's
(14) worth of medication in advance?
(15) A As long as the patient is able to take the
(16) medication herself.
(17) Q Okay. Let me back up for a minute. And this
(18) is the last time I'll probably touch on this.
(19) Do you know whether a nurses' aide can do a straight
(20) catheterization at the Rehabilitation Institute of Chicago
(21) using clean technique?
(22) A I believe I've already answered this question,
(23) but I don't know specifically in that scenario.
(24) Q Okay. Going on to page five: You noted that
(25) Mr. and Mrs. Rompa lived in an apartment on North Keystone
Page 119
(1) in Chicago for 10 and a half years?
(2) A Yes.
(3) Q Did you visit that apartment?
(4) A No, I did not.
(5) Q Did you go in the neighborhood?
(6) A No, I did not.
(7) Q And then two paragraphs down you note that
(8) prior to the incident Mrs. Rompa had used a walker for
(9) interior ambulation and a wheelchair was used for exterior
(10) mobility. What did you mean by "exterior **[*116]** mobility"?
(11) A When she went out of the house.
(12) Q She used a wheelchair when she was out of the
(13) house?
(14) A Correct.
(15) Q And within her own home she used the walker?
(16) A Correct.
(17) Q When she went out of her home did she have to
(18) go down any stairs?
(19) A Yes.
(20) Q How many?
(21) A Eleven.
(22) Q Do you know how she got down the stairs in the
(23) few months before the incident that we're here about today

(24) that occurred in May of 1995?
(25) A Not that I can recall.
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(1) Q Do you know if she had to be carried down the
(2) stairs by a team from an ambulance service?
(3) A That was part of my recollection.
(4) Q Going on to page six: In the second paragraph
(5) you note that Mrs. Rompa had occupational therapy at the
(6) Rehabilitation Institute of Chicago. What's occupational
(7) therapy?
(8) A Occupational therapy works with a person's
(9) upper extremities to increase their functioning, as well as
(10) occupational therapist improves and works with a person to
(11) increase their activities of daily living.

(12) Q This **[*117]** wasn't for the purpose of finding her
(13) employment?
(14) A Oh, no. Occupational therapist, I understand,
(15) is a misnomer. It's essentially a physical therapist who
(16) works on the upper extremities. It's doesn't have to do
(17) with finding work, no.
(18) Q Working with and assessing individuals with
(19) disabilities for the purpose of returning them to the
(20) workplace falls within the job function of a vocational
(21) therapist?
(22) A What I am, rehabilitation counselor.
(23) Q A rehabilitation counselor?
(24) A Yes.
(25) Q What is a vocational therapist?
Page 121
(1) A No such term. Vocational rehabilitation
(2) counselor.
(3) Q Okay. What does a vocational rehabilitation
(4) counselor do?
(5) A Vocational rehabilitation counselor is an
(6) individual who specializes in working with people that have
(7) become injured and assist them in returning to work.
(8) Q And that's what you are?
(9) A It's part of what I am, yes.
(10) Q Did you read Dr. Wu's deposition?
(11) A No, I did not.
(12) Q Do you know Dr. Wu?
(13) A I know him.

(14) Q Have you **[*118]** met him?
(15) A I have met him.
(16) Q Do you know him to be at the Rehabilitation
(17) Institute of Chicago?
(18) A Correct.
(19) Q Do you know his deposition was taken?
(20) A No.
(21) Q Did you ask Ms. Stevens whether or not his
(22) deposition was taken?
(23) A No. I'm not clairvoyant. I had no idea that
(24) his deposition was taken.
(25) Q Did you ask her if anyone from the
Page 122
(1) Rehabilitation Institute of Chicago's depositions were
(2) taken?
(3) A No, I did not.
(4) Q And she didn't send you a copy of his
(5) deposition transcript?
(6) A No, she did not.
(7) Q Do you know if Dr. Wu has offered any opinion
(8) regarding whether or not Mrs. Rompa requires
(9) around-the-clock care from a registered nurse?
(10) A No.
(11) Q Or a licensed practical nurse?
(12) A No.
(13) Q Going on to page seven of your report under the
(14) heading therapies: Why does Mrs. Rompa need physical
(15) therapy with respect to her lower extremities?
(16) A It's already been asked and answered.
(17) Q Can you answer it again then?
(18) A In order to prevent **[*119]** atrophy of her lower
(19) extremities, as well as to prevent any contractures.
(20) Q Do you know if she has any evidence of
(21) contractures at the present time?
(22) A No.
(23) Q Did you conduct a physical examination of her
(24) when you saw her?
(25) A No.
Page 123
(1) Q Do you ever do that?
(2) A No, I do not.
(3) Q Who does that?

A I don't know what you mean by -- a formal
physical examination, no, I do not.
Q In preparing life care plans for clients of
yours or cases that you're working on, do you ever have a
physical examination performed of the client or a the
patient?
A By a physician? Is that what you're asking?
Q No.
A By myself?
Q By anyone. I don't care whether it's a
physician or a sheet metal worker or anyone else.
A No. If there's an individual that I'm working
with that needs an evaluation dealing with the medical
condition, then I would recommend them being seen. If it's
for life care plan, usually a physiatrist.
Q Do you know if there's a social services
service available **[*120]** at Villa Scalabrini?
A I believe there is. I think I read it in some
sort of notation in the file.
Q Do you know if Mrs. Rompa has ever asked to
have the benefit or assistance of any social workers or
social services that are offered at Villa Scalabrini?

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A No, I do not.
Q Do you know whether either of her daughters
have ever asked for that?
A No.
Q Did you see anything in any of the materials
that you reviewed or in your conversation with Mrs. Rompa
regarding a request by anyone for her to be seen by a
psychologist?
A No.
Q Is there some occupational therapy that a
patient such as Mrs. Rompa can do on her own such as doing
curls with very light weights or rubber bands, stretching
her back with the assistance of a bar that hangs overhead?
A There are some clients that are able to do some
therapy on their own.
Q Having met Mrs. Rompa, is she able to do some
therapy on her own?
A Be my opinion that she would require some type
of structured situation.

(20) Q And in **[*121]** the structured situation is that
(21) something that she can be assisted in by an appropriately
(22) trained aide or a family member?
(23) A She could be.
(24) Q Doesn't by necessity require a licensed
(25) physical therapist, for example, to help her each and every
Page 125
(1) day with physical therapy or occupational therapy?
(2) A It's assumed in my life care plan that she
(3) would follow through with the therapeutic modalities for the
(4) period of time that she does not have formal.
(5) So it's not just twice a week and let's forget about
(6) the rest of the week? It's like twice a week, but during
(7) the other periods of time various exercises and therapies
(8) are performed either with the assistance of the nurse, in
(9) this particular instance.
(10) Q Does it require the assistance of a licensed
(11) practical nurse or registered nurse?
(12) A Well, the nurse in this life care plan is going
(13) to be her care giver. So assuming that the nurse is going
(14) to be her care giver, that would be the --
(15) Q Assuming that a nurse wasn't available, is it

(16) something that -- are those activities things **[*122]** that a
(17) properly trained nurses' aide or family member could do?
(18) A Well, I'm not big on having family members
(19) participate in the activity and programming of individuals
(20) to which I'm developing the life care plan due to the
(21) burn-out factor and the emotional problems that can occur.
(22) Certainly it's not unusual for a nurses' aide or care
(23) giver to assist in those activities. In fact, it's
(24) encouraged as part of the daily routine.
(25) Q Moving on to page eight of the life care plan,
Page 126
(1) directly above the heading medical care there's a reference
(2) to psychologist counselling that Mrs. Rompa requires for a
(3) period of three years. Is that right?
(4) A Yes. That's really been modified as reflected
(5) on page B-2.
(6) Q Why does it say three years on page eight?
(7) A That was my initial assessment what I felt she
(8) needed, but then in discussions with Dr. Young, we modified
(9) it.

(10) Q And it's modified how now?
(11) A Once a week for three months, once every two
(12) weeks for three months, once every six months thereafter.

(13) Q This was the consensus **[*123]** that you reached with
(14) Dr. Young?
(15) A Yes.
(16) Q Mrs. Rompa is involved in a bowel program now,
(17) is she?
(18) A Yes.
(19) Q Is that something she can be assisted in by a
(20) nurses' aide, or must, by necessity, she have the licensed
(21) practical nurse help her with that?
(22) A Depends what the bowel program is.
(23) Q The bowel program that she's on right now.
(24) A The bowel program that she's on right now can
(25) be done by a nurses' aide because there's no suppositories
Page 127
(1) or enemas or stimulation required in the bowel program. If
(2) any of those things are required, then she cannot be helped
(3) by a nurses' aide.
(4) Q Is it your opinion that if a suppository is
(5) required, then she needs a licensed practical nurse to help
(6) her with that?
(7) A Coming to gray areas. You know, what's needed,
(8) what's done, you know, the state law.
(9) Q Let me ask you a different question then: Just
(10) what exactly requires the use of a licensed practical nurse
(11) with respect to Mrs. Rompa's bowel program that you have in
(12) mind?

(13) A Well, I'm not saying **[*124]** that she needs a licensed
(14) practical nurse for a bowel program. I'm saying she needs
(15) it for catheterization. That's what requires a licensed
(16) practical nurse.
(17) The bowel program as it's set up now does not require
(18) a licensed practical nurse.
(19) Q And a bowel program that you contemplate for
(20) her with respect to your life care plan similarly does not
(21) require a licensed practical nurse?
(22) A Correct.
(23) MR. BURTKER: Could we take a short
(24) minute break?
(25) (There is a brief recess taken.)

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(2) CONTINUED BY MR. BURTKER:
(3) Q Mr. Provder, do you know what therapy is
(4) available at Villa Scalabrini to the residents there on a
(5) daily or weekly basis?
(6) A I know they have physical therapy, because
(7) she's receiving physical therapy now.
(8) Q And is that a charge separate and apart or over
(9) and above from the amount that she's paying to live there
(10) for her room and board or food?
(11) A Yes.
(12) Q Do you know if she participates in any
(13) activities at Villa Scalabrini?
(14) A Recreational activities?
(15) Q Yes.
(16) A None **[*125]** that I can recall that she told me about.
(17) Q All right. Do you know what recreational type
(18) activities are available at Villa Scalabrini for the
(19) residents there?
(20) A I know there was a list. I'm sorry, I can't
(21) recall.
(22) Q Okay. You are certified, are you, by the
(23) American Board of Vocational Experts?
(24) A Certified by the Commission on Rehabilitation
(25) Certification.

Page 129

(1) Q Can you tell me what the Vocational Evaluation
(2) and Work Adjustment Association is?
(3) A Yes. That's a division of an organization
(4) called National Rehabilitation Association, which is kind of
(5) an umbrella corporation that would be analogous to the
(6) A.B.A. and sub-divisions, one of them being evaluator.
(7) Which is made up of people who perform vocational evaluation
(8) and work adjustment services for people that are disabled.
(9) Q And you are in the job placement division?
(10) A No; that's another section. I'm also in that
(11) section, too.
(12) Q So it's two different sections, Vocational
(13) Evaluation and Work Adjustment Association, then there's a
(14) job placement **[*126]** division?
(15) A Yes.
(16) Q And NARPS is what?

(17) A National Association of Rehabilitation
(18) Professionals in the Private Sector.
(19) Q And RESNA is what?
(20) A Rehabilitation Engineering -- it's a special
(21) interest group for people who are interested in
(22) rehabilitation engineering techniques for people that are
(23) severely disabled.
(24) Q You have listed on your professional resume a
(25) number of activities that you've participated in, it looks
Page 130
(1) like beginning from March of 1973 up to the present. Is
(2) that true?
(3) A Yes.
(4) Q With respect to the activities that you were
(5) involved in from February 1975 to December of 1979 as a
(6) vocational consultant, was it?
(7) A February '75 to Decemeber '79?
(8) Q Yes.
(9) A I worked in a number of private and
(10) governmental agencies developing and administering
(11) vocational programs on a consultant basis.
(12) Q And you work at Mount Sinai Hospital as the
(13) supervisor of vocational facilities. Is that true?
(14) A Yes.
(15) Q And it looks like you did that on two different

(16) **[*127]** occasions?
(17) A Yes.
(18) Q And October of '77 to September of 1985 you
(19) worked as a vocational consultant to the Social Security
(20) Administration?
(21) A Yes.
(22) Q And August of '81 to the present we have listed
(23) vocational consultant, Occupational Assessment Services. Is
(24) that true?
(25) A Yes.
Page 131
(1) Q Can you tell me what you mean when you note on
(2) your professional resume "vocational consultant?
(3) A Yes. Essentially rehabilitation counselling.
(4) Q Why don't you say rehabilitation counselling?
(5) A Because it's both done on a direct as well as
(6) rehabilitation counselling service.

(7) Q Is there an initial physical therapy or
(8) occupational therapy assessment already completed at the
(9) Rehabilitation Institute of Chicago?
(10) A I'm sure there was.
(11) Q Why then is it necessary to have an initial
(12) assessment performed, as I believe indicated in your life
(13) care plan?
(14) A You lost me. I don't understand the question.
(15) I'm sorry.
(16) Q Are you assuming in the life care plan that

(17) you've prepared for Mrs. Rompa **[*128]** that an initial physical
(18) therapy evaluation or an initial occupational therapy
(19) evaluation will be performed?
(20) A Again, I'm not sure I understand your question.
(21) Are you referring to B-1?
(22) Q Yes.
(23) A Well, B-1 are evaluations that are done on an
(24) interim basis to assess Ms. Rompa's performance and the
(25) value of the therapy, and to modify any therapy throughout
Page 132
(1) her lifetime.
(2) Q And Mr. Masciopinto may have asked you about
(3) this: The base cost per year, 200 to $ 446, where did you
(4) get that from?
(5) A All of the costs are based on the research that
(6) I conducted. Contacting various vendors who provide this
(7) particular service, taking the high and low for each of the
(8) service.
(9) Q And do you have the names and telephone numbers
(10) of the individuals or services who you called included
(11) within the binder that you have sitting in front of you?
(12) A Yes. All contained in Provder-4.
(13) Q On page B-2 of the report I think you indicate
(14) the need for a case manager?
(15) A Yes.
(16) Q Rehabilitation counselor?

(17) **[*129]** A Yes.
(18) Q Is that necessary if Mrs. Rompa remains in the
(19) nursing home? In other words, can that function be
(20) performed by a social worker?
(21) A The answer is: The function can't be performed
(22) by a social worker. It's best to be performed by a

(23) rehabilitation professional. Whether she would need the
(24) frequency of the service if she remained in a nursing home
(25) would be determined in the future.
Page 133
(1) Q All right. On page B-3 you indicate that Mrs.
(2) Rompa needs to be seen by an internist four times a year?
(3) A Yes.
(4) Q Do you know how often she was being seen by an
(5) internist prior to the incident alleged to have resulted in
(6) her injury?
(7) A No.
(8) Q Would she need to be seen by an internist
(9) without regard for whether or not she suffered the injury
(10) that she's alleged to have sustained?
(11) A At some frequency, yes.
(12) Q Do you know the frequency?
(13) A No.
(14) Q Can an internist, as far as you know, order
(15) urinalysis?
(16) A Sure.
(17) Q Urine culture and sensitivity?
(18) A Yes.

(19) Q Prescribe **[*130]** medication for urinary tract
(20) infections?
(21) A Of course.
(22) Q She's taking Lasix now?
(23) A Yes.
(24) Q Referring to page B-4. Do you know what that's
(25) for?
Page 134
(1) A Blood pressure.
(2) Q Do you know if she had blood pressure or
(3) hypertension prior to the date of the alleged injury?
(4) A No.
(5) Q And she's taking potassium chloride at the
(6) present time?
(7) A Yes.
(8) Q That's to prevent arrhythmia because of the use
(9) of Lasix, is it?
(10) A I don't know. This is the medication she's
(11) taking.
(12) Q Is that a medication that is required by her

(13) condition of T-10 paraplegic?
(14) A I've already testified to that.
(15) Q Can you tell me what you said?
(16) A I testified that the medications due to her
(17) paraplegia are those dealing with the bowel program.
(18) Q Thank you.
(19) And with respect to the cost of the medications, do
(20) you know who you called to get those?
(21) A Same answer: All contained in Provder-4.
(22) Q With respect to the catheters that you're
(23) assuming that she's going to need, do **[*131]** you know the size of
(24) the catheter?
(25) A 14 French.

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(1) Q And the manufacturer, if you know?
(2) A We have Mentor (phonetic).
(3) Q And did you reach a conclusion as to how many
(4) she's going to need per day or per month?
(5) A I've already discussed that. Frequency is four
(6) times a day every six hours.
(7) Q For the remainder of her life?
(8) A Correct.
(9) Q And none of those are reusable?
(10) A We already discussed this. This is based on
(11) the fact that the catheters would be changed every time they
(12) were used.
(13) Q She's going to need Betadine used every time
(14) she does that?
(15) A She would need that.
(16) Q Are you assuming bottles being used or
(17) individual towelette?
(18) A Bottle.
(19) Q All right. And how many Attends does she need
(20) per day?
(21) A I believe it was five, if I remember correctly.
(22) Q And how many Chuxs per day?
(23) A I think I calculated four or five per day.
(24) Q Does Mrs. Rompa have an electric hospital bed
(25) at Villa Scalabrini?

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(1) A Yes.
(2) **[*132]** Q And an air-cushioned mattress?

(3) A Not an air-cushioned mattress. She has a
(4) regular mattress.
(5) Q How about a trapeze?
(6) A No.
(7) Q Does she have a bath/shower chair?
(8) A No.
(9) Q How does she bathe or shower?
(10) A Bed bath.
(11) Q By a nurses' aide or LPN?
(12) A Correct; nurses' aide.
(13) Q Is there a bath/shower chair available at Villa
(14) Scalabrini, do you know?
(15) A I'm sure there is.
(16) Q Do you know why she doesn't use it?
(17) A Has to do with the transfer.
(18) Q Is there a commode chair at Villa Scalabrini,
(19) as far as you know?
(20) A I'm sure there is.
(21) Q There is a Hoyer lift at Villa Scalabrini?
(22) A Yes.
(23) Q Is there a Hoyer bath seat?
(24) A I don't know what you mean by a Hoyer bath
(25) seat. Is there a replacement seat to place her into the
Page 137
(1) bath?
(2) Q I' m reading from page six of your report.
(3) A Yes. Hoyer bath seat or lift seat, yes.
(4) Q Is there one of those at Villa Scalabrini?
(5) A Yes.
(6) Q Is there an over-bed table at Villa Scalabrini? **[*133]**
(7) A Yes.
(8) Q Do you know if Villa Scalabrini has an
(9) agreement with a medi-car or cab-ulance for its residents?
(10) In other words, an agreement where they've already got an
(11) existing contract?
(12) A No.
(13) Q And for the purposes of your report, how
(14) frequently are you assuming Mrs. Rompa is going to be
(15) leaving her home by medi-car?
(16) A Three times a week.
(17) Q And you're assuming that she would go where?
(18) A Therapy. Medical appointments. Maybe a social
(19) visit.

(20) Q With respect to page B-9, if Mrs. Rompa stays
(21) at Villa Scalabrini there is no modification that needs to
(22) be made in any home or apartment?
(23) A Correct.
(24) Q If she stays at Villa Scalabrini I guess it
(25) goes without saying she does not need a home purchased for
Page 138
(1) her?
(2) A Correct.
(3) Q You would agree with me, wouldn't you, Mr.
(4) Provder, that possibility exists that Mrs. Rompa will
(5) recover nothing in this particular lawsuit?
(6) A You're asking me a legal question. I can't
(7) answer that.

(8) Q You don't have any opinion as **[*134]** you sit here
(9) today whether or not Mrs. Rompa is going to recover in the
(10) lawsuit that's pending in the circuit court of Cook County?
(11) A You're asking me to make a legal conclusion. I
(12) can't do that. That's not my area of expertise.
(13) Q So you don't have an opinion?
(14) A That's correct.
(15) Q Assuming she does not recover anything, do you
(16) know what her finances are, or her family finances at the
(17) present time?
(18) A No, I do not.
(19) Q Did you ask anyone?
(20) A No, I did not.
(21) Q Why?
(22) A Because what her finances are at this present
(23) time are irrelevant to me. What I was asked to do was do an
(24) assessment as to what her life care planning needs were in a
(25) conservative way looking at the type of care, type of
Page 139
(1) services, equipment and supplies that she's going to
(2) require.
(3) Q And just so we're clear, those are things that
(4) you were asked to do by Ms. Stevens and not Mrs. Rompa or
(5) any of her family members. Is that true?
(6) A I was asked by Ms. Stevens.
(7) Q So that is correct, isn't it?

(8) A Well, I **[*135]** don't know what communication Ms. Rompa
(9) had or family members had with Ms. Stevens. And I don't

know whether Ms. Stevens was a conduit to that information, All I know is I was asked to perform this evaluation by Ms. Stevens.

Q How would your plan change in the event that Mrs. Rompa and her husband have only, say, 518,000 a year in income to provide for her and all of her physical therapy needs? What would you do then?

A Couldn't happen. She would be unable to receive any of the services that she requires.

Q Let's say Mrs. Rompa arrived here today with her husband and her family being in the condition that you know her to be in from looking at her medical records and meeting with her, what kind of plan would you put together for her? Strike that.

You would put a plan together for her, wouldn't you?

A I'd look at what her needs were and what her

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income is, and do some sort of trade off.

Q Her needs are what they are and they don't change depending on how much money she has in her pocket. Is that fair to say?

[*136] A We start prioritizing. I mean, to me the most horrible part of this whole situation is that here's a women who's been married 50 years or some long period of time, is living away from her husband. To me that's a horrendous circumstance. And the first thing I would do is try to see whether there was some type of wheelchair accessible environment that she could reside in. That would be to me the biggest priority.

Q So if Mrs. Rompa and her husband appeared here today and their only assets, or only ability to pay was 17 or $ 18,000 in income, job one would be for you to find a way where you could place Mr. and Mrs. Rompa in a wheelchair accessible home where they could live together?

A That's correct.

Q What next?

A Set up some sort of medical care regime for them. Look at some alternative funding sources to provide the service that are required.

Q Like what?

A Maybe pick up some nursing care, nursing attendant's care or LPN care from some sort of social

Page 141

service agency. Medicade, Medicare. Something like that.

[*137] Q She's 81. Being 81 years old, she's Medicare eligible?

A Yes. I'm not an expert at third-party funding sources, but that's what I would investigate and see what they provide.

I know that this varies from state to state, and I know Chicago and Illinois is not a particular generous state. So I don't know what would be -- you know, what would be available to them.

I know that, for example, it's not unusual in the state of New Jersey for people to be provided 16 hours or 18 hours or eight hours of nursing care on a regular basis. But, in fact, I know that that's not the situation in the state of Illinois.

But I would look at alternative funding sources to see what sort of care was available to her.

Q Have you looked into what sort of services are available in Illinois?

A No. I'm not an expert in third-party funding sources. No, I did not do that.

Q Have you looked into what physical therapy/occupational therapy can be provided for a patient like Mrs. Rompa from any social service agency in the state of Illinois?

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[*138] A No, I did not. I assume that you mean on a third-party funding source payment plan. No, I did not.

No.

Q So with respect to all of the costs and recommendations that you have uncovered and included in your life care plan, you have not made any effort to determine how those things will be paid for in the event that Mrs. Rompa has only 17 or $ 18,000 a year income to pay for those things?

A Correct.

MR. BURTKER: I think that's all the questions I have. Thank you very much.

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CROSS-EXAMINATION BY MR. SMITH:

Q Sir, I just have a few questions for you, if I

(4) could.
(5) When you saw Theresa Rompa in May of this year, 1996,
(6) she complained to you of constant back pain in her lower
(7) back. Is that correct? It's under your section entitled
(8) chief complaints.
(9) A Yes.
(10) Q Did she describe that pain for you?
(11) A No. Other than it was constant and in the low
(12) back, no.
(13) Q And she is currently seen on a regular basis by
(14) a family practitioner? That was your prior testimony?
(15) A Yes.

(16) Q Do **[*139]** you have any reason to suspect that the
(17) family practitioner who is currently treating her is
(18) incapable of consulting experts from time to time as needed?
(19) A No.
(20) Q Have you met Joyce Stamer?
(21) A No.
(22) Q I know you testified that you did not plan to
(23) be her rehabilitation coordinator. Do you have any plans to
(24) play any residual role in Theresa Rompa's care and treatment
(25) after your participation in this case?
Page 144
(1) A If the family asked me to do so, I would do so.
(2) No plan to that effect at this point in time.
(3) MR. SMITH: I don't have any further
(4) questions. Thanks.
(5) MR. PORTER: I don't have any questions.
(9) REDIRECT EXAMINATION BY MR. MASCIOPINTO:
(10) Q I just have a couple follow-ups.
(11) When you contacted nursing homes in the Chicago area,
(12) about how long would you speak with each nursing home
(13) person?
(14) A Depend on how long it would take to get the
(15) rates and the information.
(16) Q Did you ascertain what services they provided
(17) at each facility?
(18) A Yes. It's contained if P-4.

(19) Q And did you visit **[*140]** any of the nursing home
(20) facilities in the Chicago area that you listed as
(21) alternatives to receive the cost figures from?
(22) Strike that.

(23) Did you visit any nursing homes in the Chicago area
(24) besides Villa Scalabrini?
(25) A No, I did not.
Page 145
(1) Q And referring to Provder Exhibit 5, did Provder
(2) Exhibit 5, the bottom line figure of $ 2,531,314 take into
(3) account option one or option two?
(4) A Option one.
(5) Q Have you attempted to come up with any total
(6) cost of a life care plan which considers option two?
(7) A No.
(8) Q Have you been asked to do so?
(9) A No.
(10) Q What did you charge on an hourly basis in
(11) creating your life care plan?
(12) A Two-hundred and fifty dollars an hour.
(13) Q And what are you charging for your deposition
(14) testimony today?
(15) A It was $ 825 for the first two hours.
(16) Q And how much for any hour afterwards?
(17) A Half of that.
(18) Q Per hour?
(19) A Yes.
(20) Q And how much will you charge for trial
(21) testimony?
(22) A I think it's approximately $ 2,500 for a full

(23) **[*141]** day.
(24) Q Regardless of how long you spend on the stand?
(25) A Yes. For the day.
Page 146
(1) Q If you have to testify two days in a row it
(2) becomes another 2500. Is that correct?
(3) A That's correct.
(4) MR. MASCIOPINTO: That's all I have.
(5) Thank you, Mr. Provder.
(9) RECROSS EXAMINATION BY MS. STEVENS:
(10) Q Mr. Provder, the document marked as Provder
(11) Exhibit 4 --
(12) MR. MASCIOPINTO: That's the book.
(13) (There is a discussion held off the
(14) record.)
(15) Q -- marked as Provder Exhibit 2, that was

(16) prepared by you at my request. That's correct?
(17) A Yes.
(18) Q It was prepared by you at my request when
(19) Swedish Covenant Hospital through Kathy Allen and Illinois
(20) State Medical contacted me and asked me for a settlement
(21) demand. Is that correct?
(22) A I understood it had something to do with
(23) settlement, yes.
(24) Q And it was done when they asked me to hold off
(25) filing the complaint until such time as we had a meeting
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(1) with them after I put together some sort of preliminary
(2) numbers, and that's why you were contacted **[*142]** and asked to do
(3) it on a very rush basis within a couple of days. Is that
(4) correct?
(5) A Yes.
(6) Q And you did accommodate me and do that within a
(7) double of days, and tell me ahead of time that if you were
(8) to put together a life care plan itself, you would need a
(9) great deal more time and an opportunity to meet with the
(10) patient?
(11) A Yes, I did. I was insistent that I meet with
(12) the client when a formal life care plan was done.
(13) MS. STEVENS: That's all I have.
(14) MR. MASCIOPINTO: Provder Exhibit 4
(15) consists of a binder containing various
(16) materials that Mr. Provder has accumulated in
(17) creating his life care plan. I ask that he
(18) keep that binder in tact as it remains now, as
(19) the parties are requesting copies of Provder
(20) Exhibit 4 as it currently exists.
(21) (Whereas the deposition is adjourned.)
(22) (Time noted: 5:30 p.m.)
(23) * * *

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