

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY

IN RE: THE GUARDIANSHIP OF :
THERESA MARIE SCHIAVO, :
Incompetent. :

ROBERT AND MARY SCHINDLER, :
 :
Petitioners, :
vs. : Case No. 90-2908-GD

MICHAEL SCHIAVO as Guardian of :
the Person of THERESA MARIE :
SCHIAVO, :
 :
Respondent. :

DEPOSITION OF: MICHAEL SCHIAVO

TAKEN: Pursuant to Notice
Instance of Petitioners

DATE: November 19, 1993

TIME: Commencing at 1:20 p.m.

PLACE: Steven Nilsson, Esquire
2471 McMullen Booth
Oakbrook Plaza
Suite 308
Clearwater, Florida

BEFORE: DEVERAH BIANCO
Stenographic Court Reporter
and Notary Public - State

of Florida at Large

APPEARANCES

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Oakbrook Plaza
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Attorney for Petitioners

JAMES SHEEHAN, ESQUIRE
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Attorney for Respondent

ALSO PRESENT: Terese Malley
Robert Schindler

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1 MICHAEL SCHIAVO,
2 the Deponent herein, having been first duly sworn, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. SHEEHAN:

6 Q Would you state your name for the record, please?

7 A Michael Schiavo.

8 Q And, Mr. Schiavo, where do you presently reside?

9 A 12190 66th Avenue North.

10 Q And is that a --

11 A Seminole. It's a house. I live with my parents.

12 Q Are you presently -- you're married to Terry

13 Schiavo, correct?

14 A Yes, I am.

15 Q Are you presently involved in a romantic
16 relationship with anyone?

17 A Yes, I am.

18 Q And who is that?

19 MR. NILSSON: I'll instruct the witness not to
20 answer that in terms of identification. If you have
21 other questions about the relationship, though,
22 please ask.

23 MR. SHEEHAN: What is the basis?

24 MR. NILSSON: Just right of privacy.

25 MR. SHEEHAN: Whose right of privacy?

4

1 MR. NILSSON: That individual's.

2 BY MR. SHEEHAN:

3 Q Okay. Can you at least tell me her first name?

4 MR. NILSSON: I'm going to instruct the witness
5 not to answer that either, but if you have questions
6 about the relationship, other than her name, ask him
7 and they'll be answered.

8 BY MR. SHEEHAN:

9 Q Okay. Tell me about the relationship. How long
10 has it been going on?

11 MR. NILSSON: Objection.

12 BY THE DEPONENT:

13 A We just met approximately three months ago.

14 BY MR. SHEEHAN:

15 Q How often do you see each other?

16 A Weekends, once twice during the week.

17 Q Do you have any future plans involving this
18 person that you're seeing?

19 A We just met.

20 Q Do you have any future involving this person?
21 What do you anticipate?

22 A At the present I have no idea.

23 Q Are you involved in an intimate relationship with
24 this person?

25 A Yes, I am.

5

1 Q Does this person reside with you --

2 A No.

3 Q -- or does she have her own apartment or house?

4 A She resides by herself.

5 Q Do you stay at her place?

6 MR. NILSSON: Has he ever stayed at her place
7 overnight? Is that what you're asking?

8 MR. SHEEHAN: Yes.

9 BY THE DEPONENT:

10 A Yes.

11 BY MR. SHEEHAN:

12 Q Do you stay there often?

13 A No

14 Q Can you tell me approximately how often you stay
15 there.

16 MR. NILSSON: Objection. Vague. Do you mean how
17 often he spends the night there?

18 MR. SHEEHAN: Uh-huh.

19 BY THE DEPONENT:

20 A Twice a week maybe.

21 BY MR. SHEEHAN:

22 Q How old are you?

23 A I'm sorry?

24 Q How old are you?

25 A Thirty.

1 Q How old is your companion?

2 A Twenty-eight.

3 Q Is this the first relationship that you've been
4 involved in since your wife has been in a coma?

5 A No.

6 Q How many other relationships have you been
7 involved in?

8 MR. NILSSON: Objection. Vague and ambiguous as
9 to what the relationship is.

10 MR. SHEEHAN: Romantic.

11 MR. NILSSON: Same objection. Vague and
12 ambiguous.

13 BY MR. SHEEHAN:

14 Q You can answer.

15 BY THE DEPONENT:

16 A I was in one other relationship.

17 Q Was this with a person named Cindy?

18 A Yes.

19 Q How long did that relationship last?

20 A Yes. About eight months, approximately, give or
21 take.

22 Q Was it an intimate relationship?

23 A Yes.

24 Q Did you and Cindy ever live together?

25 A No.

7

1 Q Is it true that you and Cindy shared adjoining
2 apartments?

3 A No

4 Q When you become involved in these relationships
5 -- the two relationships that you are describing -- one
6 lasted eight months. Was it an exclusive relationship,
7 the one with Cindy?

8 A What do you mean by exclusive?

9 Q I mean was she the only person you were seeing at
10 the time?

11 A Yes.

12 MR. NILSSON: Objection, other than his wife
13 Terry, you mean.

14 BY MR. SHEEHAN:

15 Q Other than his wife Terry.

16 A Other than my wife Terry, yes, she was the only
17 one.

18 Q And did you see her, like, on weekends like your
19 present relationship?

20 A Yes.

21 Q What -- you've been involved in a relationship
22 for eight months and now you are going in another one for
23 three months, what is your anticipation where the
24 relationships are going to go or do you think about it at
25 all?

8

1 MR. NILSSON: Objection. Overly broad, vague and
2 ambiguous. Do the best you can.

3 BY THE DEPONENT:

4 A I don't anticipate anything.

5 BY MR. SHEEHAN:

6 Q Do you anticipate that if the relationship
7 continues that you may eventually want to divorce Terry
8 and remarry?

9 MR. NILSSON: Objection. Asks for speculation.

10 BY MR. SHEEHAN:

11 Q You can answer.

12 MR. NILSSON: Just a second. If you --

13 BY THE DEPONENT:

14 A I have no plans of abandoning Terry.

15 BY MR. SHEEHAN:

16 Q My question is not whether you have any plans of
17 abandoning Terry. My question is: Do you anticipate, if
18 this relationship continues, that at some time you may
19 want to divorce Terry and remarry? That was my question.

20 Q What is your understanding of your wife's present
21 medical condition?

22 A As far as overall?

23 Q Overall.

24 A Terry, right now, is in stable condition. She

9

1 has no skin problems. She gets to the doctor regularly.

2 Q Now --

3 MR. NILSSON: Wait. Please give the witness a
4 chance to finish the question. And I want to make
5 some objections to the question right now. The
6 question is overly broad and assumes this witness is
7 qualified to state every aspect of her medical
8 condition.

9 Please let him finish his answer. You asked a
10 question that has a whole lot of different aspects to
11 it in terms of her condition, mental condition,
12 physical condition. And I would appreciate it if you

13 would let him finish the answer.

14 MR. SHEEHAN: I thought he was finished.

15 BY THE DEPONENT:

16 A Could you repeat the question again now?

17 BY MR. SHEEHAN:

18 Q I was asking you to tell me what her present
19 medical condition was. You indicated that she was stable,
20 that she had no skin problems, that she was seeing a
21 doctor regularly and your attorney object at that point.
22 Was there anything else that you wanted to add?

23 MR. NILSSON: Same objection.

24 BY THE DEPONENT:

25 A She's well taken care of at the present time.

—

10

1 That's all I can think of right now. Depends on what else
2 you'd like to know.

3 Q What is your -- or how do you perceive your
4 responsibility as far as her medical treatment?

5 A Rephrase your question, please.

6 Q Well, my question is: What do you perceive your
7 responsibility as as her guardian with regard to her

8 medical treatment?

9 MR. NILSSON: Objection to the extent requires a
10 legal analysis as to what his legal responsibility
11 is. To the extent you have some understanding of
12 what you perceive your responsibility to be, you
13 know, you can answer that, if you can.

14 MR. SHEEHAN: Before you answer it, let me just
15 say that your objections are preserved, other than to
16 the form of the question. If you want to object to
17 every question, it's certainly your right, but it's
18 unnecessary to do.

19 MR. NILSSON: Jim, I know exactly what that rule
20 says. I've certainly argued it many times in trial.
21 And if I feel like I need to make an objection other
22 than relevancy, I feel that I am entitled --

23 MR. SHEEHAN: I will stipulate that your
24 objections are preserved.

25 MR. NILSSON: Well, I'll still make my objections

11

1 where I think they're appropriate. I appreciate the
2 offer, though.

3 MR. SHEEHAN: Okay.

4 MR. NILSSON: Well, you're asking him for,
5 basically a legal conclusion.

6 MR. SHEEHAN: No, I'm asking him for his
7 perception of what, and that is a fact question, what
8 he perceives his job is as far as her medical
9 treatment.

10 MR. NILSSON: I want to make it clear you're not
11 asking for a legal analysis?

12 MR. SHEEHAN: Right.

13 MR. NILSSON: That's what my objection was
14 designed to do.

15 BY MR. SHEEHAN:

16 Q You can answer.

17 A My job is to take care of Terry and meet all of
18 her medical needs, to make decisions based on what Terry
19 would want. I'm still vague on your question of what you
20 would want out of that question.

21 Q How often do you meet with the doctor? Do you
22 meet with him on a regular basis?

23 A Terry goes every two months, unless there is
24 something else that comes up, and we take her over there.

25 Q Do you, yourself, meet with the doctor?

1 A Yes, I do.

2 Q Do you discuss with him such things as what type
3 of treatment he's providing, what type of medication he's
4 providing?

5 A Yes, I do.

6 Q Do you give him direction as to what steps he
7 should take or what things he should or shouldn't do in
8 the future?

9 MR. NILSSON: Objection. Compound. Answer to
10 the best of your ability.

11 BY THE DEPONENT:

12 A I don't tell the doctor what to do. He's gone to
13 school for that.

14 BY MR. SHEEHAN:

15 Q Uh-huh. Have you taken any steps or given any
16 direction to the doctor or the nursing home, and I'm
17 particularly concerned with the area of July and August of
18 this year, with regard to your wife's care or treatment/

19 MR. NILSSON: Objection. Overly broad. Vague
20 and ambiguous. If you can answer it, do so to the
21 best of your ability. Meaning what? Is there
22 something specific you would like to --

23 BY MR. SHEEHAN:

24 Q You know, unfortunately, this is a discovery
25 deposition and the purpose of my questions is to find out

13

1 what. I can give you a little factual scenario and see if
2 that will help you?

3 A I'm -- I'm --

4 Q See if that will help you in answering the
5 question. We were contacted -- my office was contacted by
6 the nursing home and they indicated that something had
7 changed as far as the treatment of Terry in July and
8 August and the change had something to do with the
9 direction that you had made, either to the nursing home or
10 to the doctor.

11 My question to you is: Did you -- did you change
12 any directions that you had given to the nursing home or
13 to the doctor prior to that or did you do anything that
14 you're aware of?

15 A Yes.

16 MR. NILSSON: Let me make my objections for the
17 record again. The question is improper. It's a
18 summary. It's a portion of testimony by the person
19 asking the question. It's compound. If you have

20 information that you think answers the question,
21 state it.

22 BY MR. SHEEHAN:

23 Q You said yes?

24 A Yes.

25 Q What did you do or what did you not do?

14

1 A I put a -- after speaking with my doctor, I gave
2 an order not to treat a bladder infection Terry had.

3 Q Who was the doctor you spoke with?

4 A Mulroy.

5 Q And Mulroy is your doctor or Terry's doctor?

6 A Terry's doctor.

7 Q Tell me about the conversation you had with
8 Mulroy.

9 A I talked to him about what he felt Terry's future
10 was. And he told me that Terry is basically going to be
11 like this for the rest of her life and I was trying to
12 make decisions on what Terry would want.

13 Q What was her bladder condition?

14 A She had UTI.

15 Q Excuse me?

16 A She had a UTI.

17 Q What is that?

18 A Urinary tract infection.

19 Q What -- did the doctor tell you what the

20 treatment for that would be?

21 A Antibiotic usually.

22 Q And did he tell you what would occur if you

23 failed to treat that infection.

24 A Yes.

25 Q What did he tell you?

15

1 A That sometimes urinary tract infections will turn

2 to sepsis.

3 Q And sepsis is what?

4 A And infection throughout the body.

5 Q And what would the result of untreated sepsis be

6 to the patient?

7 A The patient would pass on.

8 Q So when you made the decision not to treat

9 Terry's bladder infection you, in effect, were taking a

10 decision to allow her to pass on?

11 A I was making a decision on what Terry would want.

12 Q I don't think you answered my question. Could
13 you repeat the question?

14 (Whereupon, the pertinent portion of the Record was read
15 back by the Court Reporter.)

16 MR. NILSSON: Let me make an objection that that
17 question seeks a medical opinion, and there's been no
18 testimony that this person's qualified to give a
19 medical opinion that if, in fact, the bladder
20 infection weren't treated, that Terry would die.
21 Answer to the best of your ability.

22 BY THE DEPONENT:

23 A That's what would happen. That's what would
24 happen.

25 BY MR. SHEEHAN:

16

1 Q Has the bladder condition been treated?

2 A Yes.

3 Q And was -- what was the reason that the bladder
4 condition was treated?

5 A Sable Palms Nursing Home said they could not do

6 that by some Florida law which wasn't stated.

7 Q But you didn't change your opinion or your

8 decision to not treat the bladder condition?

9 A We did change it.

10 MR. NILSSON: Objection. Asked and answer.

11 BY MR. SHEEHAN:

12 Q Correct?

13 A Repeat your question.

14 Q You did not change your decision not to treat the

15 bladder condition, correct?

16 A I had to change my decision.

17 Q Sable Palms changed it for you?

18 MR. NILSSON: Objection. Arguing with the
19 witness. He said he had to change it based on what
20 Sable Palms position was.

21 BY MR. SHEEHAN:

22 Q Okay. Is there any reason that you would not
23 make the same decision that you previously made if the
24 problem came up again?

25 A Repeat your question again, your losing me here.

17

1 Q Let me be more specific. If you're wife

2 developed another condition that could result in her
3 death, is there any reason that you would not take the
4 position that you're not going to treat that condition and
5 you're going to instruct the doctor not to treat that
6 condition?

7 A I wouldn't instruct anybody, no.

8 Q You instructed the doctor not to treat the
9 bladder condition, correct?

10 MR. NILSSON: Objection. Vague. You're talking
11 about the matter he's already told you about or are
12 you speculating --

13 MR. SHEEHAN: Right, I'm going back to --

14 MR. NILSSON: You're trying to summarize what he
15 already testified to.

16 MR. SHEEHAN: I'm not trying to summarize. I'm
17 asking a question.

18 BY MR. SHEEHAN:

19 Q You did instruct the doctor not to treat her
20 bladder condition correct?

21 A Uh-huh, yes.

22 Q If a similar condition arose in the future,
23 would you do the same thing?

24 MR. NILSSON: Objection. Asked and answered. He
25 just told you he wouldn't instruct anybody to do

1 anything.

2 MR. SHEEHAN: I don't think he did.

3 BY THE DEPONENT:

4 A I'm thinking.

5 BY MR. SHEEHAN:

6 Q Take your time.

7 A I probably wouldn't instruct the doctor to do it.

8 Q So you've changed your opinion?

9 A Sort of, yeah.

10 Q Why have you changed your opinion?

11 A Because evidently there is a law out there that
12 says I can't do it.

13 Q Is that the only reason?

14 A Basically, maybe.

15 MR. NILSSON: Move to strike the witness'
16 statement, saying there being a law that says he
17 couldn't do it. The witness is not qualified to say
18 what the law is.

19 MR. SHEEHAN: He's qualified to say what his
20 reasons are. What the law is something that will be
21 decided by the court.

22 MR. NILSSON: I move to strike his statement as
23 to there being a law that prohibits it. I'm not
24 aware of it. You're not aware of it. And this
25 witness has not been shown to be qualified to make

19

1 the statement about a law that doesn't exist.

2 MR. SHEEHAN: He's talking about his perception.
3 He's qualified to state what his reasons are and what
4 his perceptions are. The law will take care of
5 itself.

6 MR. NILSSON: But none the less, I can move to
7 strike his statement of what the law is. I've done
8 it.

9 BY MR. SHEEHAN:

10 Q What you're telling me is, is that there is
11 nothing in your belief or feelings that have changed. The
12 only thing that has changed is the fact that you perceived
13 the law prevents you to do what you intended to do?

14 A Correct.

15 Q Okay. Are you presently employed?

16 A No, I'm not.

17 Q What was the last job that you held?

18 A I worked for, Augustinos Restaurant.
19 Q When was that, do you know?
20 A I've been gone from there for four years now.
21 Q And what did you do at Augustinos?
22 A I was the manager.
23 Q What -- why did you leave?
24 A 'Cause of Terry.
25 Q And you haven't worked in four years?

20

1 A Nope. No.
2 Q Have you looked for work?
3 A No, I go to school.
4 Q Where do you go to school?
5 A St. Pete J.C.
6 Q How long have you been going to school?
7 A Two, almost two and-a-half years now.
8 Q What subjects or what course of study are you
9 doing?
10 A Medical.
11 Q Is that nursing school?
12 A Um, I just graduated EMT school, and I'm starting

13 in August of '94, I'm going into the respiratory program.

14 Q What do you anticipate getting your degree in,

15 and what profession do you anticipate --

16 A Respiratory therapy.

17 Q Where did you work before Augustinos?

18 A Feather Sound Country Club.

19 Q What do you do there?

20 A I was the assistant food and beverage manager.

21 Q How long did you work at Augustinos?

22 A Three years, maybe; two and-a-half years, three
23 years.

24 Q Did you leave right after Terry went into a coma?

25 A Shortly after, yes.

21

1 Q And how long did you work at Feather Sound?

2 A A month.

3 Q What happened there?

4 A I was offered the job at Augustinos.

5 Q Where did you work before Feather Sound?

6 A I opened the Columbia at the pier.

7 Q You say you opened it, were you the manager of
8 the Columbia?

9 A I was one of the managers.

10 Q How long did you work there?

11 A Approximately a year and-a-half.

12 Q What was your reason for leaving there?

13 A Lots of hours, wasn't able to see Terry.

14 Q So you quit?

15 A Uh-huh.

16 Q And before the Columbia?

17 A I worked for Dolphin Beach Resort for a couple of

18 weeks.

19 Q And what did you do there?

20 A Food and beverage manager.

21 Q How long did you work there?

22 A About a month or so.

23 Q And what was your reason for leaving?

24 A I was offered the job at the Columbia.

25 Q Prior to the Dolphin Beach?

1 A I'm sorry.

2 Q Prior to the Dolphin Beach?

3 A I worked for Breckenridge Resort and Hotel.

4 Q Out on St. Pete Beach?

5 A Yes.

6 MR. NILSSON: Can we have a time frame at this
7 point?

8 BY MR. SHEEHAN:

9 Q What year was that?

10 A Um, trying to think when I moved there. 1986,
11 approximately '86, '87, something like that.

12 Q Was that your first job in Florida?

13 A No.

14 Q What was your first job?

15 A Olga's Kitchen.

16 Q What did you do there?

17 A Manager.

18 Q How long did you work there?

19 A Year.

20 Q And what was your reason for leaving?

21 A I believe I went to the Breckenridge.

22 Q So you were offered the job at the Breckenridge
23 and you left?

24 A I'm not very sure how that happened. I think
25 that's the way it worked.

1 Q And you worked at Breckenridge for how long?

2 A I was there for a while, a year and-a-half.

3 Q And your reason for leaving the Breckenridge?

4 A They hired a management company. They brought
5 their own people in.

6 Q Now, when you left Augustinos to take care of
7 Terry, what -- was there a need at that time for you to be
8 a caretaker full time?

9 A My own personal need, yes.

10 Q What was happening at that time?

11 MR. NILSSON: Objection. Overly broad. Vague
12 and ambiguous in politics, in the world, what?

13 BY MR. SHEEHAND:

14 Q With the treatment of your wife.

15 A Terry was basically still on life supports when I
16 left Augustinos.

17 Q Was she at home? Was she in the hospital?

18 A No, she was still in the hospital.

19 Q What hospital was she in?

20 A Human Northside.

21 Q How long was she at Humana Northside?

22 A She was there for a good two and-a-half, three
23 months.

24 Q How long after she left Humana Northside did you

25 take her to California?

24

1 A Had to be maybe -- I don't know, don't hold me to
2 dates or times -- six, eight months later.

3 Q And what was the purpose of taking her to
4 California?

5 A There was some experimental surgery that I heard
6 about.

7 Q Do you remember the doctor you went to see out
8 there?

9 A Doctor Yoshio Hosobuchi.

10 MR. NILSSON: Can you spell that name?

11 THE DEPONENT: If I had a piece of paper I can.

12 BY MR. SHEEHAN:

13 Q Prior to her -- to Terry going to see Doctor
14 Hosobuchi, who was her main treating physician here?

15 A At that time?

16 Q Yeah.

17 A Before she left it was -- well, there was so
18 many. She had Doctor Shamir Shaw was still seeing her
19 when she was at College Harbor.

20 Q She didn't have, like, one main treating
21 physician?

22 A Doctor Barras, David Barras would probably be --
23 she went to Bayfront.

24 Q Does Doctor Barras still see her?

25 A No.

25

1 Q Is there a reason that he doesn't see her
2 anymore?

3 A I think his last words were, awhile ago, that
4 there is nothing more he could do for her.

5 Q Okay. Tell me about Doctor Hosobuchi and his
6 treatment of Terry?

7 A Well, the basic thing was we took her to
8 California. He had some experimental stimulators that he
9 was placing in peoples' heads. There were some people
10 that woke up.

11 It's a whole protocol on it. I don't have it
12 with me. But it would be very experimental. He put it
13 in. He did some testing. There was no evidence of it
14 working with Terry.

15 The only thing it would do, when he turned it up

16 passed a certain point Terry would just sit up, which was
17 just motor response. She would just get real bright eyed
18 because things were being stimulated. He wasn't thrilled
19 about it because he didn't see any positive signs.

20 Q Was -- did he implant anything into her? Did he
21 put anything in her head that remained?

22 A Yes.

23 Q Are they still?

24 A Yes.

25 Q What are they?

26

1 A Electrodes. They're platinum electrodes.

2 Q Did he suggest any future treatment that was
3 experimental --

4 A Treatment for what?

5 Q -- in California. Diagnostic testing, anything
6 of that nature?

7 A No. When Doctor Yingling was here, he came out
8 and, basically, if it didn't work within --

9 MR. NILSSON: The question is with whoever the
10 doctor was in California.

11 MR. SHEEHAN: Is there an objection? He's
12 answering the question.

13 MR. NILSSON: I'm going to ask the witness to be
14 responsive. You're asking about a different doctor
15 than Yingling. Your question was about the doctor in
16 California.

17 MR. SHEEHAN: I think his answer is responsive to
18 my question. Just the fact that there is another
19 doctor involved, let him answer.

20 MR. NILSSON: I want the witness to be responsive
21 to the question. If you're asking about the doctor
22 in California, that's what I want the witness to tell
23 you about to the extent he has knowledge.

24 MR. SHEEHAN: If he's not responding to my
25 question, I think that's my objection.

27

1 MR. NILSSON: Well, it's my objection.

2 MR. SHEEHAN: We can do this all day.

3 BY MR. SHEEHAN:

4 Q You started to --

5 A Repeat your question.

6 Q My question was: Was there a suggestion of

7 further diagnostic testing or procedures after the
8 treatment by Doctor Hosobuchi in California?

9 MR. NILSSON: Objection. Overly broad. Vague
10 and ambiguous.

11 BY THE DEPONENT:

12 A As far as I can remember --

13 MR. NILSSON: Are you talking about a suggestion
14 by that doctor in California? Jim, I don't mean to
15 be funny with you, but there's lots of doctors. Are
16 you asking about all the doctors; any treatment after
17 that?

18 MR. SHEEHAN: I'll tell you what -- I will tell
19 you what, if you want to play this game, I'm going to
20 ask him about Doctor Hosobuchi, and then my next
21 question is going to be about Doctor Yingling.
22 Eventually, we're going to get to it.

23 MR. NILSSON: Okay. That's fine. But for you to
24 ask any suggestion of further analysis after some
25 event in California when that could have happened a

1 dozen times, to me, it's overly broad, vague and

2 ambiguous.

3 Now, if you got the doctor in California and want
4 to know what the doctor said, ask him that question
5 and if you don't, I'm going to object.

6 BY MR. SHEEHAN:

7 Q Did Doctor Hosobuchi, after he saw Terry,
8 recommend any further diagnostic procedures?

9 A He recommended that Doctor Yingling would be
10 doing it.

11 Q So did she see Doctor Yingling?

12 A She -- Doctor Yingling came out here, I believe,
13 a year later.

14 Q And that was at the suggestion of Doctor
15 Hosobuchi?

16 A That, I have no idea.

17 Q Okay. What did Doctor Yingling say or do, to
18 your knowledge?

19 A He came out -- Terry was at Mediplex -- he came
20 out and did some testing, and he needed a CP-900 machine
21 or something from Shands, and it wasn't available, and he
22 said it wasn't no big deal.

23 He told me he had -- he didn't see any evident
24 sign that the stimulator was working, did some tests with
25 Terry. Nothing was new with her from the time he had last

1 seen her. And that was basically it. We took him out to
2 dinner and he had loads of wine and that was it. He
3 spilled it all over our couch.

4 Q Other than the Doctor Hosobuchi and Doctor
5 Yingling -- was Doctor Yingling also from California?

6 A Yes.

7 Q And he was somebody that Doctor Hosobuchi
8 suggested see Terry?

9 A He was Hosobuchi's assistant.

10 Q Has she seen any other experts since that time?

11 MR. NILSSON: Objection. Overly broad and
12 ambiguous.

13 BY THE DEPONENT:

14 A What type of experts?

15 BY MR. SHEEHAN:

16 Q Since Doctor Yingling saw her, what physicians
17 have seen her?

18 A She's seen Doctor Lyles.

19 Q And who is Doctor Lyles?

20 A He's a physiatrist -- I don't know how to say
21 that --

22 Q Physiatrist?

23 A Yeah -- at Health South. She has seen Doctor
24 Becker for gastrostomy problems. Doctor Mina Chang for
25 gynecology. Doctor Porter for her teeth. Doctor Harrison

30

1 for neurology. Doctor Mulroy.

2 Q What is Mulroy's specialty?

3 A He's an internist. Doctor Joan Brown,
4 podiatrist. Um, there is a GI doctor and I can't remember
5 his name. I'm sure there is a couple of other doctors
6 she's seen, I just can't remember their names.

7 Q Okay. How often does Doctor Harrison see her, do
8 you know?

9 A He's seen her --

10 MR. NILSSON: You're talking right now, as we
11 sit?

12 BY MR. SHEEHAN:

13 Q Yeah. I mean does he see her on a regular basis
14 now?

15 A No.

16 Q When was the last time he saw her?

17 A Yesterday.

18 Q When was the last time before that?

19 A She didn't.

20 Q So Doctor Harrison saw her for the first time

21 yesterday?

22 A Yes, on the advice of Doctor Lyles to go see her
23 or him.

24 Q Okay. When was the last time Terry had seen a
25 neurologist?

31

1 A I'd have to look up some records. I don't
2 remember.

3 Q Has it been years?

4 A No, I don't think it's been years.

5 Q Has a neurologist seen her since Doctor Yingling
6 saw her?

7 A I don't recall.

8 Q Have any diagnostic tests been performed since
9 Doctor Yingling saw Terry?

10 MR. NILSSON: Objection. Overly broad,
11 ambiguous. You mean of the neurology strain?

12 BY MR. SHEEHAN:

13 Q Okay. Of a neurology strain.

14 A I don't recall. There could have been. I don't
15 recall.

16 Q Now, you said Doctor Lyles had referred Terry to
17 Doctor Harrison?

18 A Uh-huh.

19 Q And when did Doctor Lyles suggest that Terry see
20 Doctor Harrison?

21 A We had Terry over there last week, I believe.
22 And he suggested it then.

23 Q What was the purpose of bringing Terry to see
24 Doctor Lyles last week?

25 A We -- to get Theresa off medication called

32

1 Tegratol, which is for seizures.

2 Q Who put her on Tegratol?

3 A Doctor Hosobuchi.

4 Q So she had been on Tegratol for quite awhile?

5 A Uh-huh, yes.

6 Q And was it your decision that you wanted to have
7 her taken off the medication?

8 A It was my and Doctor Lyle's decision.

9 Q Well, you indicated that the purpose of taking
10 her to Doctor Lyles was to have her taken off Tegratol?

11 A No, I didn't say that.

12 Q What was the purpose of taking her to Doctor
13 Lyles?

14 A 'Cause he was looking at her hip.

15 Q Uh-huh. What happened to her hip?

16 A It was starting to turn out and turned out it was
17 just tone; they were trying to correct the problem.

18 Q So the purpose of taking her to see Doctor Lyles
19 was really for treatment of her hip?

20 A Uh-huh.

21 Q And at that time --

22 A He -- go ahead.

23 Q -- he suggest that you take her off Tegratol?

24 A The Tegratol subject came up.

25 Q How did it come up?

33

1 A He had seen her before and Terry's Tegratol level
2 has been real high and he was kind of concerned because
3 she was lethargic. And I mentioned about the Tegratol and
4 she's still real lethargic. He told me the best thing for

5 us to do was take her over to Doctor Harrison.

6 Q What did Doctor Harrison say?

7 A That there is no seizure activity and probably
8 wouldn't present a problem taking her off that.

9 MR. NILSSON: Are you asking for everything
10 Doctor Harrison said to him?

11 BY MR. SHEEHAN:

12 Q Yeah.

13 A Doctor Harrison sent to me, when the EEG was
14 done, sat me down in the office and he says that her EEG
15 is so depressed and why do you let her live. And he said
16 to me that this woman died four years ago, and it's such a
17 tragic thing. And he said to me, I noticed you've taken
18 her to Largo Medical Center for some treatments and he
19 says that next time she gets an infection, not to treat
20 it.

21 And then we started talking about -- he said,
22 remove the feeding tube. And I told him I couldn't do
23 that to Terry. And then he says -- then he said to me,
24 well --

25 Q Go ahead.

1 A There is no seizure activity, so it wouldn't
2 present a problem of taking her off the Tegretol.

3 Q Was it Doctor Harrison's suggestion the feeding
4 tube be removed?

5 A It wasn't a suggestion, it was just talk. He
6 just mentioned it.

7 Q How did he mention it? What did he say?

8 A He was talking about removing the feeding tubes,
9 and I said I couldn't do that to Terry.

10 Q Was this the first -- this was the first time she
11 had seen Doctor Harrison?

12 A Yes, it was.

13 Q Do you know Doctor Harrison at all?

14 A No, I do not.

15 Q Other than a referral from Doctor Lyles?

16 A Just a referral from Doctor Lyles.

17 Q The things that Doctor Harrison said to you
18 yesterday, have they ever been said to you by another
19 physician?

20 MR. NILSSON: Objection. Overly broad and vague.
21 Compound. Ambiguous. Is there any aspect of what
22 was said of the many things that you are curious
23 about?

24 MR. SHEEHAN: He just testified that the doctor

25

said her EEG is so depressed, why do you let her

35

1 live. This woman died four years ago. Next time she
2 has an infection, don't treat it. There is no
3 seizure activity. Those were the things he testified
4 to.

5 I asked him the things that the doctor told you,
6 has any other physician ever told you that.

7 MR. NILSSON: Jim, let me make my objection to
8 you. There are a whole lot of things that Harrison
9 said, not just the things you just stated, those were
10 stated, but many other things, too.

11 If you have a particular point of interest, such
12 as taking the feeding tube or lack of EEG response,
13 or any of those things, why don't you just ask him
14 that specifically. And ask him if any of the other
15 doctors have discussed those points with him as
16 opposed to giving him ten unknown things to try --
17 given by all the doctors, you know, it's just overly
18 broad. That's my objection.

19 Let the question stand if you want, subject to my
20 objection. He can do the best he can to answer.

21 BY MR. SHEEHAN:

22 Q Do you understand my question?

23 A I don't recall speaking of it with any other
24 doctor.

25 Q So when you made the decision on your own not to

36

1 treat or instructed the doctor not to treat Terry's
2 infection -- her bladder infection, no physician had made
3 the statements that Doctor Harrison had made to you at
4 that time, did they?

5 MR. NILSSON: You're going not from this
6 conversation with Harrison, but back to a time when
7 he had testified previous about don't treat the
8 bladder infection. You're asking if he had a
9 conversation with a doctor about that?

10 MR. SHEEHAN: I'm asking him if any physician
11 made the statements that Harrison made to him prior
12 to the time that he made the decision not to treat
13 Terry's bladder infection.

14 MR. NILSSON: Well, I agree that was your
15 question, and I had four or five different objections

16 I made to it, all of which I think are proper. You
17 know, and I think -- I really think the witness was
18 mislead. If you have a specific question -- if you
19 want to ask about the --

20 MR. SHEEHAN: That was my question.

21 MR. NILSSON: I have the same objection. Overly
22 broad. It's vague. It's ambiguous. It's compound.
23 It covers a lot of different things that we talked
24 about Harrison, none of which this witness can hold
25 in his mind for one moment and give you a direct

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1 response. And it's very unfair to this witness.

2 If you want to ask about prior treatment, if he
3 ever talked to a doctor about it, ask him that, Jim,
4 and he'll tell you. But, you know, to throw
5 everything in one bag and hope he picks the right
6 thing, I think is unfair and improper.

7 BY MR. SHEEHAN:

8 Q Let me see if we can start over again in all
9 fairness to the witness.

10 Prior to your making -- you know, the decision
11 that we're talking about, the decision that you made not

12 to treat your wife's bladder infection --

13 A Uh-huh.

14 Q Okay?

15 A Yes.

16 Q Prior to your making that decision, had any
17 physician ever suggested to you that if she has an
18 infection in the future, that you don't treat it or that
19 you allow her to die?

20 MR. NILSSON: Compound.

21 BY THE DEPONENT:

22 A Well, I went and talked to Doctor Mulroy about
23 it.

24 BY MR. SHEEHAN:

25 Q And what was Doctor Mulroy's advice to you, if

—

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1 any?

2 A Not to treat the infection.

3 Q Okay. That was his advice?

4 A Uh-huh.

5 Q So your answer is yes, Doctor Mulroy had advised
6 you the same as Doctor Harrison advised you?

7 A (Nodding affirmatively.)

8 MR. NILSSON: Objection.

9 BY MR. SHEEHAN:

10 Q As to not treating the infection?

11 MR. SHEEHAN: How's that? Strike the question.

12 I'd like to take a little break at this point.

13 MR. NILSSON: That's fine.

14 (Whereupon, there was a short recess held.)

15 BY MR. SHEEHAN:

16 Q Do you know if your wife, Terry, has a living
17 will?

18 A No.

19 Q No, she doesn't?

20 A She doesn't have a living will.

21 Q When you say that you've taken some action based
22 on what she would have wanted, is that based on what you
23 think she would have wanted?

24 A It's based on what she would want.

25 Q How do you determine what she would want?

1 A She was my wife. I lived with her. We shared
2 things. We shared a bed. We shared our thoughts. And

3 one incident in particular, a few years back when her
4 grandmother was -- Grandmother Shindler -- she was in and
5 out of a coma. She was in. She was out. She was real
6 sick. And we'd go see her, and we had a vacation planned,
7 to come here to Florida; myself, my brother and my wife.

8 So when we left, her grandmother was still
9 critical. We left, got on the train, and we had this
10 conversation about her grandmother and things like that.
11 And we started talking about her uncle, her uncle Fred,
12 who had lost his wife and child tragically in a train
13 wreck. And he was on an emotional roller coaster. He was
14 a very distraught person, agreeably, after losing your
15 wife and child on a train wreck.

16 And, I guess, I believe he went out one night had
17 a few drinks and wrapped his car around a telephone pole.
18 And her uncle was in a coma for awhile and emerged a man
19 that she never knew anymore. He was disabled. He can't
20 walk. He can't do things for himself. His kids are his
21 Power of Attorney now. We got into discussion about that
22 and she said to me, I would never want to live like that.
23 I would want to just die.

24 Q So what you're saying is from that conversation,
25 you have determined that you know what she would want in

1 these circumstances?

2 MR. NILSSON: Objection. Argumentative.

3 Misstates the testimony which was other things beyond
4 that conversation, but that was the main thing.

5 BY THE DEPONENT:

6 A I'm sorry?

7 MR. SHEEHAN: Can you repeat the question.

8 (Whereupon, the pertinent portion of the Record was read
9 back by the Court Reporter.)

10 BY THE DEPONENT:

11 A Yes.

12 BY MR. SHEEHAN:

13 Q And you think that she would have wanted to die?

14 A Yes.

15 Q Have you made the statement that at any time, to
16 the Schindler's or -- to the Schindler's, that you didn't
17 want Terry to come out of the coma because it would not be
18 in her better interest?

19 A I made that comment, yes.

20 Q Tell me what you meant by that comment.

21 A At the point of the coma that Terry's in now,
22 she's a total quadriplegic. Okay? In my own feelings, if

23 Terry were to wake up and see herself the way she is now,

24 she wouldn't even want to live like that.

25 Q Who has told you that she is a total

—

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1 quadriplegic?

2 A I can't remember the doctor's name, but back in
3 probate, when I was -- the doctor was testifying in front
4 of the judge, he mentioned that Terry was a total
5 quadriplegic. You'd have to pull records on that one.

6 Q Has a physician told you that even if she comes
7 out of the coma that she will be a total quadriplegic?

8 A I believe Doctor Barras said that to me once.

9 Q And that's the basis for your statement that
10 she'd be better off not coming out of the coma?

11 MR. NILSSON: Objection, misstates. Vague and
12 ambiguous. As to what, the statement of Doctor
13 Barras? The question is vague as to what you infer,
14 in fact, was the basis.

15 MR. SHEEHAN: I'll withdraw the question.

16 BY MR. SHEEHAN:

17 Q Did Doctor Yingling -- when he was here in
18 Florida seeing Terry -- did he ever suggest that she be

19 taken to Shands Clinic in Gainesville for neurological
20 testing?

21 A No.

22 Q Was she ever taken to Shands for neurological
23 testing?

24 A No.

25 Q Did Doctor Yingling find any change whatsoever in

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1 Terry's condition from the findings of Doctor Hosobuchi?

2 MR. NILSSON: Objection to the extent you're
3 asking what the doctor found. The doctor is the one
4 who has knowledge of it. This witness hasn't been
5 shown to have knowledge of it. You're asking what
6 the doctors told this witness?

7 BY MR. SHEEHAN:

8 Q To your knowledge; to your knowledge?

9 A To my knowledge?

10 Q Uh-huh.

11 A He found no change.

12 Q You did discuss that with him, didn't you?

13 A Oh, of course, my mother-in-law was there.

14 Q You asked him specifically was there any change
15 from when Doctor Hosobuchi saw her the previous year?

16 A Uh-huh, yes.

17 Q He replied that there wasn't?

18 A There was, I believe -- and don't hold me to his
19 exact words -- there was minimal change. Nothing
20 significant. Nothing consistent.

21 Q Did you ask him if he had any suggestions for
22 treatment?

23 A I don't recall asking him that.

24 Q Was there any discussions between yourself and
25 the doctor about treatment?

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1 A I don't recall. It was two years ago when he was
2 here.

3 Q You don't recall whether he suggested that she
4 have any further treatment?

5 A I think what he wanted to do at the time was get
6 the CP-900 machine from Shands, and it couldn't be done,
7 and it was left at that.

8 Q Explain that to me. He wanted a machine brought
9 down to St. Petersburg --

10 A Uh-huh.

11 Q -- from Shands?

12 A That's what I believe he wanted done, yes.

13 Q Was there any problem with taking Terry to Shands
14 rather than having the machine transported?

15 A I think my biggest problem was money.

16 Q Was there -- at least there was a suggestion by
17 the doctor that she be tested neurologically with this
18 machine?

19 A I don't recall if that was a suggestion or not.
20 I think -- I think he was trying to work on getting
21 Mediplex's machine when she was admitted to Mediplex.

22 Q Tell me about this machine. What do you know
23 about it?

24 A Nothing.

25 Q Do you know what the purpose of the testing was?

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1 A Brain waves. I believe it was to see what the
2 stimulator was doing.

3 Q Okay. Did the doctor think that this was
4 something that should have been done?

5 MR. NILSSON: Objection as it to what the doctor
6 thought. You can say what the doctor told you.

7 BY MR. SHEEHAN:

8 Q Okay. Fair enough. Did the doctor tell you that
9 he thought this was something that should be done?

10 A Um, I don't recall whether he said that or not.

11 Q Okay. But your recollection is that he wanted
12 the machine to come to St. Petersburg to test Terry?

13 A My recollection is, yes.

14 Q And that didn't happen because?

15 A If I remember correctly, the machine wasn't even
16 at Shands and nobody knew where it was.

17 Q Okay. And you couldn't transport Terry to Shands
18 because you didn't have the money at the time?

19 A Correct.

20 Q You do have the money now?

21 A That's none of your business.

22 MR. NILSSON: Well --

23 BY MR. SHEEHAN:

24 Q It is my business.

25 MR. NILSSON: Are you asking about his personal

1 funds or the guardian funds for his wife?

2 MR. SHEEHAN: I'm asking him if he has the money
3 to transport his wife.

4 MR. NILSSON: If he personally has money?

5 MR. SHEEHAN: No, he's the guardian and there are
6 guardianship funds. He may not be the trustee, but
7 there is money available.

8 BY MR. SHEEHAN:

9 Q That's my question. There is money available now
10 to transport her to Shands to have that testing done,
11 isn't there?

12 A Yes.

13 Q But that has not been done?

14 A No.

15 Q Is there a reason why that hasn't been done?

16 A I haven't talked to Doctor Yingling in a year and
17 a half.

18 Q Do you have any reason to believe that Doctor
19 Yingling's opinion has changed?

20 A I have no idea what his opinion is.

21 Q Okay. There was some testimony the other day at
22 Mr. Schindler's deposition that you lived with the
23 Schindler's for a period of time. Is that correct?

24 A The Schindler's lived with me in my house.

25 Q Okay. When was that?

1 A The year?

2 Q Yeah.

3 A It's '93 now, maybe '92.

4 Q And approximately how long did you and the
5 Schindler's live together?

6 A We lived at Hermacida approximately a year. We
7 lived at the other house approximately four to six months.

8 Q Can you describe, in general terms, what your
9 relationship with the Schindler's was at that time?

10 A Relationship was fine. They did their thing; I
11 did my thing.

12 Q Were you all working closely together to deal
13 with Terry's treatment?

14 A I think my mother-in-law and I were the only ones
15 that did it. She could do it anyway because if I wasn't
16 there, she didn't get anywhere.

17 Q There was a statement that you and her worked
18 very closely together during this time. Is that a true
19 statement?

20 A For the most part we worked closely.

21 Q What was the purpose of everybody living in the
22 same house?

23 A Well, the suggestion came from my father-in-law.

24 Q And what was the purpose of it?

25 A I believe because he was having financial

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1 difficulties and he wanted to get a house together.

2 Q Prior to that you lived in a condo that he
3 owned?

4 A Yes, I did.

5 Q And how long did you live there?

6 A I don't remember, approximately a year maybe.

7 Q Okay. Did you always pay your rent?

8 A Not always.

9 Q Were there times that you didn't pay the rent and
10 your father-in-law let you slide?

11 A Sure.

12 Q There came a time when your relationship with
13 Mary and Bob Schindler deteriorated, is that correct?

14 A Right. Correct.

15 Q And can you pinpoint when that happened?

16 A February 14.

17 Q 1993?

18 A Yes, '93.

19 Q Tell me what happened.

20 A I was sitting in the room doing my studies for
21 EMT.

22 Q What room?

23 A Terry's room. She was sitting in front of me in
24 her chair. I was sitting there studying, and they came in
25 late and I was studying and --

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1 Q Was this at the nursing home?

2 A Uh-huh.

3 Q Okay.

4 A And my father-in-law's usual question to me was,
5 how much money am I going to get, is what he said to me.
6 And I said, nobody was going to get any money right now.
7 And he said what do you mean, this is my daughter. And he
8 just went on. And to shut him up, I said, look, I gave
9 all my money to Terry. I don't have any money.

10 He looked at me, pointed his finger at me and
11 then pointed his finger at Terry and said, how much money

12 is she going to give me. I said to him, you'll have to
13 call the guardianship. I'm not the guardian over her
14 property. You'll have to get in touch with the bank.

15 He goes off and says, I'm getting on this
16 guardianship and tell you how to do this. And he walked
17 out of the room and called me a fucking jerk off. That's
18 when I got up, I pushed the bedside table aside. He shut
19 the door. My mother-in-law ran over to the door in
20 between me and the door.

21 I opened the door, and he's standing outside and
22 we went face to face. And he started saying that this is
23 his daughter morally and I said, that's great. He's going
24 to get a lawyer, and he started coming down on me. He's
25 going to get a lawyer. I said, fine, let's get a lawyer.

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1 And I walked down the hallway and I called my lawyer.

2 And I said to him that if he didn't like me
3 making decisions to leave. You own this nursing home now.
4 That's when I went down and called my lawyer.

5 Q Anything else that you recall?

6 A Not at the present time.

7 Q Okay. Did you ever tell Mr. and Mrs. Schindler

8 that they could not come to the nursing home?

9 A I never told them that.

10 Q Did you ever instruct anybody at the nursing home
11 not to provide any information about her -- about Terry's
12 medical condition to the Schindler's after that?

13 A I instructed the nursing home not to give out any
14 information about Terry's medical condition to anybody but
15 me or the doctor.

16 Q When did you make that?

17 A It happened a few weeks after Terry -- or maybe a
18 week after Terry came out of Largo Medical Center.

19 Q Which was when?

20 A It was in March, I believe.

21 Q March of '93?

22 A Yes. Yes, '93.

23 Q Okay. Prior to this altercation -- we will call
24 it an altercation -- of February 14, the relationship that
25 you had with the Schindler's was fairly amicable?

—

1 A Yeah, I believe.

2 Q And they -- prior to that time they had access to

3 the medical records and they could talk to the physicians
4 and the nursing home people about their daughter, is that
5 correct?

6 A Correct.

7 Q Okay. And after that period of time that
8 changed, didn't it?

9 MR. NILSSON: Objection. Overly broad and
10 ambiguous. Are you talking about the access to the
11 daughter, are you talking about medical information?

12 MR. SHEEHAN: I'm talking about the previous
13 question. Everybody in this room understands it.

14 BY THE DEPONENT:

15 A I don't.

16 BY MR. SHEEHAN:

17 Q I figured you wouldn't?

18 A Why do you say that?

19 MR. NILSSON: Let him rephrase it or whatever. I
20 won't argue with you. I'll make my objection. Ask
21 him understandable questions and I won't object.

22 BY MR. SHEEHAN:

23 Q All right. After the altercation on February 14,
24 1993, the Schindler's were not allowed any information
25 concerning their daughter's immediate condition, is that

1 correct?

2 A The order was given not to give out any
3 information to anybody but myself or the doctor.

4 Q Okay. And what was -- why was that order given?

5 A Because I figured that -- the nursing home was
6 having problems, first off, with the certified nurses aids
7 giving wrong information out over the phone -- information
8 to family. And second of all, since my in-laws showed no
9 care about showing up or calling me when Terry was in the
10 hospital, I figured they didn't care.

11 Q Explain that. The Schindler's showed no care
12 about what?

13 A Terry being in the hospital in March.

14 Q Are you saying that you didn't think they cared
15 about their daughter at all?

16 A They never showed up.

17 Q So the reason that they were not at the hospital
18 -- because they were not at the hospital in March you
19 decided that they should not ever have any access to her
20 medical records or medical treatment again?

21 MR. NILSSON: Objection. Misstates and
22 missummarizes the witness's prior testimony about all
23 the events leading up to that point in time.

24 MR. SHEEHAN: Is that right?

25 MR. NILSSON: If you agree with exactly what he

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1 said, say it. If you disagree, say it.

2 BY THE DEPONENT:

3 A I agree.

4 BY MR. SHEEHAN:

5 Q When you made the decision that you were not
6 going to treat Terry's infection and you were going to in
7 effect allow her to die, did you think that you had any
8 obligation to tell her parents?

9 MR. NILSSON: Objection to the extent it calls
10 for a legal conclusion, what the law is and
11 everything like that.

12 BY MR. SHEEHAN:

13 Q I'm not asking for legal conclusion.

14 A To answer the question, I probably would have let
15 them know sooner or later.

16 Q You never did let them know, though, did you?

17 A No.

18 Q When you say you would probably would have let

19 them know sooner or later, were you contemplating a
20 certain time frame when you would let them know?

21 A I don't know what my thoughts were right then.

22 Q Okay. What was the -- what is the name of the
23 nursing home where Terry is presently residing?

24 A Sable Palms Health Care Center.

25 Q And how long has she been there?

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1 A Two years, three months.

2 Q Are you satisfied with the treatment she's been
3 given there?

4 A Not all the time.

5 Q Have you had any particular problems at the
6 nursing home?

7 A I've had quite a few particular problems.

8 Q Can you tell us what those problems are?

9 MR. NILSSON: Let me raise this objection, Jim,
10 you know, looking at the pleadings in your petition,
11 and I've been trying to certainly give you leeway to
12 cover the things that you've alleged, you've not
13 alleged; directly or indirectly, that I can see any
14 problem may exist on the nursing home.

15 I know on the notice you invited a person from
16 the nursing home personnel to be here to sit at this
17 deposition. This is my position. It's not alleged
18 in the petition, and I don't want to go into it,
19 because I think it's outside the scope of what the
20 pleadings allege.

21 It's not directed, that I can see, to obtain
22 relevant information. It's not reasonably calculated
23 to lead to admissible evidence.

24 If you want to make an allegation that somehow
25 this is relevant to what you're seeking, or if the

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1 nursing home wants to do something, then it's seems,
2 to me, we can get into all those things.

3 As the pleadings stand, I really don't see it.
4 Right now I'm about to instruct the witness not to
5 answer. But I'm certainly willing to listen to what
6 you have to say.

7 MR. SHEEHAN: Let me just say a few things.

8 MR. NILSSON: Okay.

9 MR. SHEEHAN: This is discovery. I'm entitled to

10 ask any questions which may reasonably be calculated
11 to lead to discoverable evidence. Certainly the
12 relationship between the guardian and the nursing
13 home and what occurs at the nursing home is
14 discoverable in determining the fitness of the
15 guardian, whether there is an allegation about it or
16 not because this is discovery.

17 And the question overall here concerns the
18 ability of the guardian to remain as guardian. Also,
19 you can place an objection as to relevancy and
20 materiality, but you cannot instruct the witness not
21 to answer unless there is a ground privilege. Your
22 objection is noted. I'm entitled to inquire.

23 MR. NILSSON: The Second D.C. case is right on
24 point. It says if it's outside what's reasonable may
25 be evidence in this case, and this is over and above

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1 what the rule says, you can't get it.

2 I'll get the case out right now and give it to
3 you if you want me to do that. Your pleadings state
4 what your case is and, you know, I'm not saying
5 you're sitting here trying to get in --

6 MR. SHEEHAN: I can amend my pleadings any time,
7 I'm in discovery. If I file a complaint, I'm allowed
8 to inquire about all events surrounding the subject
9 matter of my complaint, even though it's not
10 specifically stated in my complaint.

11 And if after further discovery, I need to amend
12 my complaint at a later time, I can do that. You
13 cannot tell me that because something's not in my
14 complaint, that I can't ask about it and amend my
15 pleadings later. That's ridiculous.

16 MR. NILSSON: I think I can. How is it relevant
17 to what you've got plead?

18 MR. SHEEHAN: You've got to decide whether you're
19 going to instruct the witness not to answer or not.
20 I think it's certainly relevant. His relationship
21 with the nursing home is certainly relevant.

22 MR. NILSSON: I'm going to instruct him not to
23 answer, for the reasons stated. If you want to
24 allege that he has some problem with the nursing home
25 that keeps him discharging his duties, alleged, if

1 you want to make them right now into the record, I'll
2 let you make the amendment and you can get into it.
3 Without the allegation, I'm not going to let you go
4 fishing for things. I'm just not.

5 MR. SHEEHAN: Well, I will say this on the
6 record. Evidence has appeared, has come to me, that
7 there may be a problem, and I think I have a right to
8 inquire about it. For me to say absolutely there is
9 problem, without inquiring about it, I think is
10 something that I should not do.

11 MR. NILSSON: I appreciate that, but for me to
12 have my witness exposed to, you know, who knows what,
13 without him being fairly on notice from the pleading,
14 I think is not right either.

15 MR. SHEEHAN: I'll put you on notice right now
16 there has been statements made to me that there is a
17 problem with his relationship with the nursing home.
18 What that is specifically, I don't know.

19 That's why we have the depositions set of the
20 nursing home people, and that's why we have Mike
21 Schiavo's deposition set. And I don't know what
22 those problems are, but I'm entitled to inquire about
23 them, because they affect the specific issue of
24 whether he's qualified to be a guardian.

25 Now there may be an allegation. I'll make an

1 allegation right now to solve your dilemma. I'm
2 alleging right now that he's not qualified to be
3 guardian for, not only the reasons expressed in the
4 petition, but because he his having problems at the
5 nursing home and because of his relationship and his
6 nature with the nursing home people, it effects his
7 ability --

8 MR. NILSSON: To properly care for his wife?

9 MR. SHEEHAN: -- to properly care for his wife.

10 MR. NILSSON: Okay. Subject to that allegation
11 that you have amended, it's appropriate form to put
12 it in writing, but with it having been stated, ask
13 him.

14 MR. SHEEHAN: Let me say this, if the facts don't
15 bear that out, I'm not going to amend.

16 MR. NILSSON: I don't think they will, but go
17 ahead. That's fine. Restate it.

18 BY MR. SHEEHAN:

19 Q Okay. Now you indicated that you have had
20 problems at the nursing home from time to time, and I
21 think my last question to you is: What problems have you

22 had?

23 A With the care of my wife.

24 Q Can you be more specific?

25 A Well, I don't have all the grievances in front of

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1 me, but let's see. Maybe, the one --

2 MR. NILSSON: Let me interject. We do have
3 grievances outside. He just referred to them in
4 advance. I'll be glad to go get them and bring them
5 in here and, maybe, give you more specific
6 information.

7 MR. SHEEHAN: Sure.

8 (Whereupon, a brief recess was taken.)

9 MR. NILSSON: Do you want me to give it to him or
10 to you?

11 MR. SHEEHAN: Well --

12 MR. NILSSON: Ask your question, see if he's
13 referred to the grievances in it.

14 MR. SHEEHAN: Can I look at them first before I
15 ask the questions?

16 MR. NILSSON: Do you have all the grievances

17 there?

18 THE DEPONENT: No, Sable Palms hasn't come up
19 with the first year's. This is '93.

20 MR. NILSSON: We've handed Mr. Sheehan a number
21 of photocopy pages of, what are they, Mike?

22 THE DEPONENT: They're called grievance
23 procedures.

24 MR. NILSSON: Okay.

25 MR. SHEEHAN: Do you think it would be okay if I

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1 got copies of these?

2 MR. NILSSON: I don't.

3 THE DEPONENT: I don't if you don't.

4 MR. SHEEHAN: If we got allegations, we will be
5 glad to provide that to you.

6 Okay. Let me just state, on the record, that
7 I've been handed a number of documents entitled
8 grievance procedures and I've gone through several of
9 them and counsel agreed to provide me a copy. At a
10 later time, after I've reviewed them, I may want to
11 continue the deposition just for the specific purpose
12 of going through these particular documents, do you

13 have any objection to that?

14 MR. NILSSON: I do. If you wanted to do a
15 subpoena duces tecum or a notice of taking deposition
16 duces tecum to Mike and have received these records
17 previously and done your deposition, you were free to
18 do that.

19 You just learned it. I'm trying to cooperate by
20 providing the records. I'm not saying I wouldn't
21 agree to it. But I'm not going to sit here and say I
22 would. It's not the easiest thing for Mike to come
23 and have to do. And I don't know if I want to put
24 him through another day of depositions.

25 MR. SHEEHAN: I understand.

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1 MR. NILSSON: Do the best you can with the
2 records right now and we'll address it.

3 MR. SHEEHAN: I understand. I just wanted to put
4 you on notice of it.

5 MR. NILSSON: Okay. Fair enough.

6 BY MR. SHEEHAN:

7 Q Mr. Schiavo, you provided me with a number of

8 documents entitled grievance procedures and, as I
9 understand it, these are grievances that you filed with
10 the nursing home regarding their -- in general, regarding
11 their failure to perform proper functions with regard to
12 your wife's treatment, is that correct?

13 A Correct.

14 Q Who at the nursing home do you deal with?

15 A I deal -- basically, I made a deal with Elaine
16 Nelson and Bev Bule (phonetic). If I had a problem I'd
17 come see them.

18 Q Anybody else?

19 A No. That was the deal I made. I'd come see Bev
20 and Elaine.

21 Q Is it your feeling that you have a personality
22 problem with some people at the nursing home?

23 A No. I don't have a personality problem with the
24 people at the nursing home.

25 Q Have you had arguments with anybody?

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1 A Oh, yeah.

2 Q Who have you had arguments with?

3 A Terry Russell.

4 Q When you said that you made --

5 MR. NILSSON: Well, let me ask that the witness
6 be allowed -- you asked him a question. He answered
7 one. He was not finished, I don't believe.

8 MR. SHEEHAN: Oh, I'm sorry.

9 MR. NILSSON: I don't want it to appear later
10 that he only said one name. If he's got additional
11 information, please let him finish.

12 BY MR. SHEEHAN:

13 Q I'm sorry were you finished?

14 A No. I've had some mild talking with Elaine
15 Nelson. I've had some mild talking with Bev Bule. And I
16 believe I had loud talking with one nurse a long time ago.

17 Q And you don't remember her name?

18 A Judy O'Brien.

19 Q Okay. When you said that now you deal with
20 Elaine Nelson and Bev Bule, is it?

21 A Uh-huh.

22 Q By agreement, are you saying that you, for some
23 reason, you and the nursing home have agreed that you're
24 not going to deal with Terry Russell anymore?

25 A I deal with Terry Russell, but Terry Russell got

1 a new job now. He's not the administrator anymore.

2 Q He's not at the nursing home anymore?

3 A He's on the third floor of the ACLF. He does
4 something else.

5 Q But the reason that you don't deal with him is
6 because he has a new job and not any --

7 A No, I usually -- go ahead and finish your
8 question.

9 Q Not any personality conflict that you had with
10 him?

11 MR. NILSSON: Are you talking about right now as
12 he sits here?

13 MR. SHEEHAN: Yes.

14 BY THE DEPONENT:

15 A No, I don't have any personality conflict with
16 Terry Russell. I've even told him that.

17 BY MR. SHEEHAN:

18 Q But the arguments that you've had at the nursing
19 home have been with Terry Russell?

20 MR. NILSSON: Objection. Misstates his
21 testimony. He mentioned several people.

22 MR. SHEEHAN: He said he had arguments with Terry
23 Russell and loud talking with these other people.

24 BY THE DEPONENT:

25 A I had one argument with Terry Russell, and the

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1 rest was loud talking.

2 Q When was the argument?

3 A The argument was back in -- don't quote me the
4 month -- but that's when I asked my mother and
5 father-in-law to come in and settle it. That's with Judy
6 O'Brien. Wife was spiking a fever. I asked her to call
7 the doctor. Judy O'Brien got in my face and I got in her
8 face. Then I went down and got loud with Terry Russell.

9 Q And then --

10 A That was the argument I had with Terry Russell in
11 the middle of the floor.

12 Q And you said that you asked the Schindler's to
13 come in and --

14 A I called my mother-in-law and I said to her, you
15 know, I can't get anything done in here. You guys come
16 and smooth this out.

17 Q Did they do that?

18 A I don't know whether they smoothed it out or not.
19 My father-in-law told me that I should start keeping notes

20 about everything that happens around here.

21 Q When was the next time you went into the nursing
22 home after that argument?

23 A The next day.

24 Q Was everything taken care of?

25 A No. I had taken Terry out into the lounge where

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1 I usually sit and we'd sit and talk. And Terry started
2 choking real bad, so Patrick, the physical therapist at
3 the time that was there, came over and said, do I need
4 help. I said, yes, please get a nurse.

5 He ran around the corner, got a nurse that
6 happened to be Judy O'Brien. Judy O'Brien came around the
7 corner, looked at me, and left. I had to wait for another
8 nurse to come up and help Terry.

9 Q So what did you do?

10 A I helped Terry as much as I could till the nurse
11 got there.

12 Q What did you do about that situation?

13 A I went and got angry about it with Bev Bule. I
14 told her, you know, she can have all the grief she wants

15 with me. She has patient care to do. That's walking away
16 from a choking patient. And Terry Russell's comment that
17 day was, if you don't like the care here, leave.

18 Q Is there any reason why you haven't left there?

19 A Because I shouldn't have to leave the nursing
20 home. I like the nursing home overall. It's a beautiful
21 place.

22 Q Has the nursing home ever had discussions with
23 you -- let me strike that. Is the reason that you don't
24 want to leave the nursing home because it is a facility
25 that adequately takes care of Terry?

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1 A That's one of the reasons adequately.

2 Q Do you think that it is the best facility in the
3 area to keep her?

4 A It's the cleanest and the brightest and the
5 prettiest facility in the area.

6 Q Are there any other facilities that you'd rather
7 see her in?

8 A No.

9 Q So you think it's the best?

10 A It's the cleanest, the brightest and it's the

11 cleanest. I didn't say it was the best.

12 Q Is there a better one that you know of?

13 MR. NILSSON: Objection. Can you clarify when
14 you say best in terms of, what, medical treatment or
15 number of nurses on staff?

16 MR. SHEEHAN: I'm talking about overall.

17 BY MR. SHEEHAN:

18 Q When you evaluate where you want somebody to be,
19 you're going to consider each and every factor to
20 determine which is the best place for her to be. That's
21 what built into my question. Do you consider that overall
22 to be the best place for her to be?

23 A Yes.

24 Q Have you had any discussions with the people at
25 the nursing home, in particular Terry Russell, Elaine

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1 Nelson, Bev Bule, in which they have indicated to you that
2 they may remove Terry from the nursing home because of
3 your behavior?

4 A I haven't had any of those, no. Matter of fact,
5 Terry Russell said, I don't want Terry to leave.

6 Q No one had indicated to you --

7 A Nobody has indicated that to me.

8 Q Okay. The lawsuit that was filed against the
9 doctor who treated your wife. When was that, when was the
10 verdict entered, do you know?

11 A When was the verdict entered?

12 Q Uh-huh.

13 A November tenth.

14 Q 1992?

15 A Uh-huh. Right.

16 Q Do you recall what the verdict was?

17 A Um, they found --

18 MR. NILSSON: Objection. Best evidence. Answer
19 to the best of your ability.

20 BY THE DEPONENT:

21 A To the best of my knowledge, and what I remember,
22 they found Terry 70 percent negligent and Igel 30 percent.

23 BY MR. SHEEHAN:

24 Q What was the total damage award to Terry? Or let
25 me ask this: What was the net damage award to Terry?

1 MR. NILSSON: Same objection. Best evidence.

2 You're saying how much money actually was going to be
3 paid to Terry or her guardianship?

4 MR. SHEEHAN: Exactly.

5 BY THE DEPONENT:

6 A After everybody else was paid off?

7 MR. NILSSON: Taking out attorneys' fees and
8 all --

9 BY THE DEPONENT:

10 A Attorneys' fees?

11 BY MR. SHEEHAN:

12 Q Yeah. No just give me the net award.

13 MR. NILSSON: What the jury awarded as a total
14 figure that was going to be paid to Terry's
15 guardianship.

16 BY THE DEPONENT:

17 A I think one point two. Don't quote me on one
18 point two.

19 BY MR. SHEEHAN:

20 Q One point two million?

21 A Don't quote me on that.

22 Q There was an award to you, also, correct?

23 A Correct.

24 Q What was the amount of that award?

25 A Um, I think before the 70 was taken out,

1 something like two point one.

2 Q Two point one?

3 A Million.

4 Q It was a personal award to you, two point one
5 million?

6 A If I'm saying that right, if I understood it
7 right, the way they did it.

8 MR. NILSSON: Same objection. Best evidence.

9 BY THE DEPONENT:

10 A I really don't know how they did the numbers.

11 BY MR. SHEEHAN:

12 Q Okay.

13 A I mean, I'm not a mathematician.

14 Q Well, what I'm asking is: How much did you
15 receive as result of this verdict? Did you receive two
16 point four million dollars?

17 A No. No. I ended up with like 300,000.

18 Q Okay. You were here at the deposition the other
19 day when Mr. Schindler had said that there was an
20 agreement that you and the Schindler's were going to share
21 whatever award you personally received as a result of that

22 lawsuit? Do you recall that testimony?

23 MR. NILSSON: Objection. Misstates the prior

24 testimony. I think it was a commitment.

25 BY THE DEPONENT:

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1 A I don't remember it word for word.

2 BY MR. SHEEHAN:

3 Q But you do recall in general?

4 A I recall something of that, yeah.

5 Q Okay. Was there ever any type of commitment on
6 your part to the Schindler's to share your portion of any
7 award?

8 A No, there was not.

9 Q Was there ever any discussion about that, to your
10 knowledge?

11 A Of an award of money?

12 Q Yes.

13 A There was some possibilities of what we would do
14 with Terry if there was enough money there.

15 Q Tell me what those discussions were.

16 A That's was back in the Roland Lamb days, when
17 Roland Lamb had the case.

18 Q Is that the attorney with --

19 A Glen Woodworth. And Roland would tell us this
20 case was worth 15, 20 million dollars. With that we were
21 shooting around, you know, how nice Terry could live and,
22 you know.

23 And then the case went bust and belly up. And
24 Roland left, and there was no commitments. I didn't even
25 know if I was going to get any money or if Terry was going

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1 to get any money. Glen Woodworth told me that a million
2 times, don't count on anything.

3 Q Did you ever make the statement to either Bob or
4 Mary Schindler, to either of them, that if I receive my
5 money in this lawsuit, I'm going to share it with you?

6 A No.

7 Q Did you ever make a statement similar to that?

8 A No.

9 Q Were there discussions between yourself and the
10 Schindler's about using the money, if you received any
11 money from the lawsuit, to either rent or purchase a house
12 where Terry would actually live with her parents?

13 A There was discussions about that. That was back
14 in the Roland Lamb days when, you know, the 15, 20 million
15 dollars was there. and it kind of like, faded away.

16 When it came up again, my father-in-law wanted to
17 purchase a house with a separate apartment for Terry, so
18 the nurses would have a separate room for the nurses to go
19 in.

20 MR. NILSSON: Objection, unless the witness has
21 finished his answer.

22 BY MR. SHEEHAN:

23 Q Were you finished?

24 A Yeah.

25 Q What was your thoughts about that, about that

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1 arrangement, about Terry living at home with her mother
2 and father?

3 A I wasn't crazy about that. We've had Terry home
4 before, and I took care of her. My father-in-law would
5 tell me all the time that this isn't working out because
6 your mother-in-law is getting upset. She doesn't like to
7 be with Terry at home. She needs to be with professional

8 people.

9 I was the one that used to fight it. I was the
10 one that said, no, I'll take care of her. No, I'll do it.
11 I'll do it. My father-in-law never lifted one finger to
12 help out. I was the one in the -- got up in the middle of
13 the night, every night, checking on Terry. I was the one
14 that slept in her room.

15 Q How long was she at home?

16 A The first time she was home for about four months
17 with us.

18 Q And why did she go back to the nursing home?

19 A Because we could not do it. It got to be too
20 much.

21 Q But you tried it again after that?

22 A She went to Mediplex after that and came home
23 about nine days. We hired round-the-clock nurses.

24 Q After that first time, you feel that you had all
25 reached the conclusion you really couldn't handle her at

1 home?

2 A I didn't reach that conclusion. I would have

3 liked to brought her home again.

4 Q Why didn't you?

5 A Because it was too much work. I would have like
6 to brought her home, but it was too much work.

7 Q So you did reach the conclusion that it was too
8 much work?

9 A Well, yes. Yes.

10 Q When did you quit work again at Augustino's? I
11 can't remember the exact date you said.

12 A I don't remember the exact dates either. It had
13 to be maybe -- I'd stayed with Terry in ICU -- it was 16
14 days and nights before I even left ICU. Um, I think
15 maybe 15 days later I went back to work and I was with
16 them for about another month.

17 Q So it would be approximately sometime in March or
18 April of --

19 A Probably more towards the end of April.

20 Q -- of 1990?

21 A '91 it would have to be. February, March. Don't
22 hold me to the dates. I'm not good with dates.

23 Q When did you receive any money as a result of the
24 lawsuit?

25 A When?

1 Q Uh-huh.

2 A Glen Woodworth gave me a check approximately, I
3 think it was a month after.

4 Q So it would be approximately December of '92?

5 A Well, no, it had to be in January, 'cause --
6 yeah, it had to be longer than that.

7 Q What did you live on between April of '91 and
8 January of '93?

9 A Some money that I had. I collected Terry's life
10 insurance; lived on that. Terry and I had some money
11 saved. It was scrimping. My parents helped me out a
12 little bit.

13 Q What money did you use for Terry's treatment?

14 A We had fundraisers for that.

15 Q Can you tell me a little bit about those
16 fundraisers?

17 A It was a bunch of stuff went on. I sat on the
18 beach for two or three weeks selling hotdogs out of a
19 truck, raising money that way, sold pretzels at the beach
20 fest, that way.

21 I went on the T.V. and the news. We got
22 responses that way. Um, some of the neighbors pitched in.

23 We had a Valentine's Day dance for her. When I was out in
24 California, they had a, luminary-type thing, sold wax bags
25 and put sand in it and put a candle in it, stuff like

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1 that.

2 Q Do you know how much money you raised on the
3 fundraiser s?

4 A Offhand, don't hold me to it, but 20,000, maybe,
5 I'm not sure. I'd have to look at records.

6 Q Was it -- was it put in a separate trust?

7 A Uh-huh.

8 Q And who was the trustee of that trust?

9 A My mother-in-law and me, and couple of people
10 from Vina Del Mar Association had to be on it.

11 Q And where was that trust account?

12 A First Union Bank.

13 Q Did you and Terry also have a bank account,
14 separate bank accounts?

15 A Uh-huh.

16 Q Where was that at?

17 A First Union.

18 Q Did you also have a savings account?
19 A Just checking.
20 Q Okay. Did you only have one checking account?
21 A Uh-huh.
22 Q Do you know what the trust account at First Union
23 Bank was called?
24 A Theresa Schiavo Trust Fund.
25 MR. NILSSON: Let me interpose an objection to

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1 relevancy. Is this somehow tied in to the
2 allegations that he's not properly taking care of his
3 wife right now?
4 MR. SHEEHAN: What I'm trying to do is, I'm
5 trying to find out how he was living, find out if he
6 was using any of the trust funds?
7 MR. NILSSON: Does that relate to any of the
8 petitions to get her moved?
9 MR. SHEEHAN: I think that would have some
10 relation.
11 MR. NILSSON: You tell me. I don't see it at
12 all. It's not alleged and --

13 MR. SHEEHAN: Well, let me just -- we have
14 alleged that -- we have alleged that there is a real
15 potential conflict of interest and the conflict
16 involves money, it involves his relationship and, you
17 know --

18 MR. NILSSON: As an heir, that's what you say
19 specifically?

20 MR. SHEEHAN: Correct. But I think it is
21 relevant to inquire, at least to determine what his
22 motivation in the future is as to what he's done in
23 the past. That's certainly relevant.

24 MR. NILSSON: Let me think about that one for
25 just a minute.

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1 MR. SHEEHAN: I really only have one or two
2 questions.

3 MR. NILSSON: Go ahead.

4 BY MR. SHEEHAN:

5 Q Did you ever use any of the funds from the
6 Theresa Schiavo Trust Fund for your own personal living
7 expenses?

8 A Absolutely not.

9 Q When you went to California, who paid for that
10 trip?

11 A Theresa's trust fund.

12 Q And it paid for your expenses out there?

13 A Yes.

14 Q Your daily rent, food, et cetera, did the trust
15 fund pay for any of that?

16 A Yes.

17 Q So the trust fund really did pay for your
18 daily --

19 A In that instance, yes.

20 Q Okay. When you were not in California, when you
21 were at home in St. Petersburg, did that trust fund money,
22 was that used for rent or food?

23 A No, absolutely not.

24 Q What specifically was it used for?

25 A Well, it was used for the trip to California.

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1 Okay. It was used to pay College Harbor Nursing Home. It
2 was used to pay the round the clock nursing care we had

3 when I came home. It was used for some various things
4 that Terry needed. I didn't spend a dime of it on myself.

5 Q Were there any other -- was there any other
6 source of income that you or Terry was receiving at that
7 time other than the trust fund or your own personal
8 savings?

9 MR. NILSSON: Objection. The question is
10 compound. It's vague and it's ambiguous. It
11 missummarizes the prior testimony. He just testified
12 that that trust fund was not a source of income to
13 him and Terry, yet you filtered that in to your
14 question. I think the question is highly improper
15 and can even be answered by the witness. But if you
16 think you can answer it, answer it.

17 BY THE DEPONENT:

18 A There was no money spent on myself.

19 MR. SHEEHAN: That's not my question. And your
20 objection is well taken.

21 BY MR. SHEEHAN:

22 Q Were you or was your wife receiving any income at
23 that time? And I'll leave the question at that.

24 MR. NILSSON: At what time?

25 BY MR. SHEEHAN:

1 Q During the period of time from 1991 when you left
2 your employment to January of 1993?

3 MR. NILSSON: On other than what he's already
4 testified to?

5 MR. SHEEHAN: Yeah. He's testified that there
6 was a trust fund which he did not use for anything
7 other than Terry's care, that there was some funds
8 that you had saved.

9 BY MR. SHEEHAN:

10 Q Was there any other source of income?

11 MR. NILSSON: Let me raise this objection.
12 Sources of income, you know, are -- you had gainful
13 employment, so he was receiving a salary. Are you
14 talking about interest income, dividends? Are you
15 talking about the savings account. If he's got a
16 thousand dollars in savings, he pulls \$50 out, do you
17 consider that to be income?

18 MR. SHEEHAN: No. I'm talking about any income
19 from stocks, bonds --

20 MR. NILSSON: Ask him that.

21 MR. SHEEHAN: -- social security.

22 MR. NILSSON: Did you have any income from stocks

23 and bonds?

24 BY THE DEPONENT:

25 A I had social security, Terry's social security

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1 check, yes, which was given to me to help live. And this
2 -- that didn't happen for awhile because I was receiving
3 -- Terry couldn't get social security.

4 That's why she couldn't get on Medicaid or
5 Medicare because she was receiving her monthly paycheck as
6 a benefit when you become disabled, you still receive your
7 pay check. Now, I do remember that, I was receiving her
8 paycheck.

9 BY MR. SHEEHAN:

10 Q Any stocks or bonds?

11 A No. No.

12 Q So if I understand it, the only source of income
13 that you had during this period of time would have been
14 her paycheck from work for a year?

15 A Uh-huh.

16 Q Her social security check --

17 A She didn't have a social security check then.

18 Q I understand. That came about a year later?

19 A Right.

20 Q But it was during -- she was receiving some
21 social security during this period of time, 1991 to 1993?

22 A Didn't start till like nine -- middle of '92 she
23 started getting it. Like I said, she was receiving her
24 paycheck.

25 Q Her paycheck, her social security, whenever it

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1 kicked in, and whatever savings that you had?

2 A Right.

3 Q Whatever savings you had would have been
4 reflected in your checking account at First Union Bank?

5 A Should be.

6 MR. SHEEHAN: If we can just take another quick
7 break, I think I'm just be done.

8 MR. NILSSON: Sure.

9 (Whereupon, there was a short recess held.)

10 BY MR. SHEEHAN:

11 Q What did you do with your wife's jewelry?

12 A My wife's jewelry?

13 Q Yeah.

14 A Um, I think I took her engagement ring and her --

15 what do they call it -- diamond wedding band and made a

16 ring for myself.

17 Q Okay. Anything else? Did you make any other
18 jewelry for yourself?

19 A No, just that.

20 Q What did you do with her cats?

21 A Her cats were put to sleep on the advice of my
22 mother-in-law.

23 Q Did you open a safe deposit box at First Union in
24 1992?

25 A Uh-huh.

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1 Q Did you put ten thousand dollars into that?

2 A Yes.

3 Q And where did you get that money from?

4 A That was the living needs benefit that I received
5 from Terry.

6 Q What was that life insurance?

7 A Uh-huh. It was a couple of checks, and I stuck

8 them in there for safekeeping.

9 Q Anything else that you put in there?

10 MR. NILSSON: Objection.

11 BY MR. SHEEHAN:

12 Q I'll withdraw the question.

13 It's my understanding that you, at least at one
14 time, were treating with a psychiatrist?

15 A Right.

16 Q Who is that?

17 A Doctor Peter Kaplan.

18 Q Are you still treating with him?

19 A No.

20 Q Was this something that -- I mean, the treatment
21 that you received, was this because of what happened to
22 your wife?

23 A Yes.

24 Q And was it for a temporary period of time?

25 A Yes.

1 Q How long was it for?

2 A Couple years, on, off.

3 Q And now you don't see the doctor?

4 A No. I haven't seen him in over a year.

5 Q Are you on medication?

6 A None.

7 Q At one time were you on medication?

8 A I was prescribed medication, I picked it up and
9 never took it.

10 Q What type medication were you prescribed?

11 A I was on -- I took some, Welbutron one time, some
12 Pamelor. I was on Elavil or Prozac, but I never took the
13 medication. I used to fight the doctors all the time, the
14 family doctor, Doctor Kaplan.

15 Q Let's go back over the medication again. What
16 medications were you prescribed by the doctors, if you
17 recall?

18 A Welbutron, Pamelor, Elavil, Prozac. That's all I
19 can recall. Not all at the same time.

20 Q That's my next question. Were these all
21 prescribed at different times?

22 A Yes. They're like -- maybe, he would prescribe
23 them when I got real down. I mean it's -- I'm talking
24 spans between each one.

25 Q Was there any reason why the doctor changed the

1 medication?

2 A Because a lot of it made me sick to my stomach.
3 A lot of it was clouding my thoughts and I didn't like
4 that. It's an artificial stimulant, and I didn't want to
5 be artificially stimulated.

6 Q You took at least some of it?

7 A Some, but nothing to become addicted, if you want
8 to use that word.

9 Q Did the doctor change your medication from, say,
10 Melabutron to Pamelor --

11 A Welabutron --

12 Q -- to Pamelor at your request?

13 A I called him up and told him I wasn't feeling
14 well on these pills. And he says, well, let's try this.

15 Q Is that what occurred also from, when Pamelor was
16 changed to Elavil?

17 A A lot of them were making me sick to my stomach.

18 Q What about when you were prescribed Prozac?

19 A I don't think -- I think I got the prescription
20 filled, but I don't think I ever took it.

21 Q But you did take the others?

22 A One or two pills, three maybe, never took a whole

23 prescription.

24 Q Did you ever express to Mr. Schindler or Mrs.

25 Schindler at any time that you felt like committing

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1 suicide?

2 A Oh, yeah, felt like dying lots of times. Human,
3 you know, a lot of people like to die, you know, expressed
4 that to my own parents.

5 Q When did you express that to them?

6 A When I was down and feeling low and I didn't know
7 how to handle the situation.

8 MR. NILSSON: When in terms of time frame? Can
9 you put a time frame on it?

10 BY THE DEPONENT:

11 A Probably right after this happened to Terry.

12 BY MR. SHEEHAN:

13 Q Did that feeling -- I know you said it wasn't a
14 continual feeling but occurred from time to time -- did
15 that feeling occur from time to time over a period of
16 years?

17 A Um, very long time to times.

18 Q When did you stop treating with Doctor Kaplan?
19 A It's been about eight months, nine months now.
20 Q Since you've stopped with the doctor, have you
21 ever had a feeling that you're so low that you wanted to
22 commit suicide?
23 A No.
24 Q When was the last time before you stopped
25 treating with the doctor that you had that feeling?

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1 A Long time ago. Probably -- I can't give you a
2 date or time. I haven't felt it in a very long time,
3 maybe a year, year and two months. I don't know.

4 MR. SHEEHAN: Okay. I don't have any further
5 questions.

6 MR. NILSSON: I've got just a couple questions.

7 CROSS-EXAMINATION

8 BY MR. NILSSON:

9 Q Mr. Sheehan had asked you about your wife's
10 current condition. Is she in a comatose state right now?

11 A Yes, she is.

12 Q Can she feed herself?

13 A No, she can't.
14 Q Can she clothe herself?
15 A No, she can't.
16 Q Can she take a bath by herself?
17 A No, she can't.
18 Q Can she wash herself?
19 A No, she can't.
20 Q Can she maintain her own personal hygiene?
21 A No, she can't.
22 Q Can she go to the toilet by herself?
23 A No, she can't.
24 Q Can she speak?
25 A No, she doesn't.

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1 Q Have you ever discussed with any doctor the use
2 of a do not resuscitate order --
3 A Yes.
4 Q -- concerning your wife?
5 A Yes.
6 Q Which doctor did you discuss that with?
7 A Doctor Mulroy.

8 Q And what did Doctor Mulroy say about that?

9 A Um, that it was feasible to do in her condition.

10 Q Did he say whether, in his opinion, it should be
11 done in her condition?

12 A Yes.

13 Q What did he say?

14 A Just said, you know, somebody in Terry's
15 condition, if she were to have a heart attack, they should
16 let it go through the steps without resuscitating.

17 Q Was there a D and R order ever given for Terry?

18 A Yes.

19 Q As a result of that conversation with Doctor
20 Mulroy?

21 A Yes.

22 Q When was that?

23 A The same time the order was given for no
24 treatment.

25 MR. NILSSON: No further questions.

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1 REDIRECT EXAMINATION

2 BY MR. SHEEHAN:

3 Q Was that order given by you?

4 A Given by the doctor.

5 Q At your instructions to the doctor?

6 A Yeah. More like not at my instruction as what we
7 were talking about.

8 Q As the guardian, you gave the doctor permission
9 to give that instruction?

10 A Uh-huh, yes.

11 Q You were just talking about Terry's condition.
12 And I want to ask you a question about her response or
13 reaction. Does she know when you are in the room or is
14 there any way that you can tell that she responds to
15 somebody being in the room?

16 MR. NILSSON: Objection. Compound. When you
17 say, does she know if someone's in the room, or do
18 you know if she knows? There's two different points
19 and you're asking the same thing.

20 BY MR. SHEEHAN:

21 Q Let me rephrase it. From your own perceptions,
22 do you think that Terry can perceive when you are in the
23 room or is aware in any way of what's going on around her?

24 A Um, Terry, in my own opinion, has no idea of
25 what's going on.

1 Q There is no expression or any other indication
2 from her movements that she's aware of anything, is that
3 what you're saying?

4 A Right. The expression that she shows, which God
5 left her with, was the expression of pain, and that has
6 been since Terry's been in the coma. Terry -- they know
7 Terry can feel pain.

8 Q They know she can feel pain?

9 A Oh, yes.

10 Q Who has told you that?

11 A Many of the doctors.

12 Q Has Doctor Mulroy told you that?

13 A Sure.

14 Q Just one final question. What was your
15 relationship with your wife before she went into a coma?

16 A Our relationship was great.

17 Q Did you ever have any problems? Did you ever
18 discuss divorce at any time?

19 A We never discussed divorce. There was no need to
20 discuss it.

21 MR. SHEEHAN: Okay. I have nothing further.

22 MR. NILSSON: No questions. We will read.

23 MR. SHEEHAN: I'm not going to order it.

24 MR. NILSSON: I won't order it either.

25 (Whereupon, the deposition was concluded at 3:43 p.m.)

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2

STIPULATION

3 It was stipulated by and between counsel and the deponent

4 that the reading and signing of the deposition not be

5 waived.

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13 _____/ _____/ _____/

14 _____

15 MICHAEL SCHIAVO

16

17 STATE OF FLORIDA

18 COUNTY OF PINELLAS

19 I DO HEREBY CERTIFY THAT MICHAEL SCHIAVO appeared
20 before me and stated that he has read his deposition;
21 further, that this Errata Sheet was signed in my presence on
22 the ____ day of _____, 1994.

23 _____

24 Notary Public

25

—

1 STATE OF FLORIDA

2 COUNTY OF PASCO

3 I, DEVERAH BIANCO, Court Reporter and Notary Public
4 in and for the State of Florida at Large, DO HEREBY
5 CERTIFY that MICHAEL SCHIAVO was duly sworn by me.

6 WITNESS MY HAND AND SEAL this 15th day
7 of February, 1994, in the City of the New Port Richey, County

8 of Pasco, State of Florida.

9

<signed>

10

11

Deverah Bianco

12

Notary Public – State of Florida

13

My Commission No.

14

15

<Notary Seal DEVERAH BIANCO>

16

<MY COMMISSION # CC 179034

EXPIRES>

< MARCH 17, 1996 >

17

<BONDED THRU TROY FAIN

INSURANCE, INC.>

18

19

20

21

22

23

24

25

2 COUNTY OF PASCO

3 I, DEVERAH BIANCO, Court Reporter, DO HEREBY CERTIFY
4 that the foregoing deposition was taken before me at the
5 time and place therein designated; that my shorthand notes
6 were thereafter transcribed into this computer-assisted
7 transcript under my supervision; and the foregoing pages
8 numbered 1 through 91, inclusive, constitute a true and
9 correct record of the testimony given by the deponent.

10 I FURTHER CERTIFY that I am not a relative, employee,
11 attorney or counsel of the parties, nor financially
12 interested in the foregoing action.

13 DATED this 15th day of February, 1994

14

<signed>

15

16

DEVERAH BIANCO

17

18 SWORN TO AND SUBSCRIBED BEFORE ME this 15th day of
19 February, 1994, by DEVERAH BIANCO, who is personally
20 known to me.

21

<signed>

22

23

Notary Public - State of Florida

24

My Commission No. <OFFICIAL NOTARY

SEAL>

< WENDY A LOKAN

>

25

<NOTARY PUBLIC

STATE OF FLORIDA>

CC103875>

EXP. APR. 29, 1995>

<COMMISSION NO

<MY COMMISSION