

CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
STATE OF FLORIDA IN AND FOR PINELLAS COUNTY
PROBATE DIVISION
CASE NO. 90-2908-GD3

IN RE: THE GUARDIANSHIP OF
THERESA MARIE SCHIAVO,

Incapacitated.

MICHAEL SCHIAVO, AS GUARDIAN OF THE
PERSON OF THERESA MARIE SCHIAVO,

Petitioner,

APPEAL

vs.

ROBERT SCHINDLER AND MARY SCHINDLER,

Respondents.

BEFORE: GEORGE W. GREER
Circuit Court Judge

PLACE: Clearwater Courthouse
Clearwater, FL 33756

DATE: January 25, 2000

TIME: 1:00 p.m.

REPORTED BY: Beth Ann Erickson, RPR
Court Reporter
Notary Public

TRIAL

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ORIGINAL

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P-R-O-C-E-E-D-I-N-G-S

THE BAILIFF: All rise.

THE COURT: Be seated, please.

THE BAILIFF: Circuit court is back in session.

THE COURT: Ms. Campbell, are respondents ready to proceed?

MS. CAMPBELL: Thank you very much. Your Honor, I first would like to call Mary Schindler to the stand.

THE BAILIFF: Stop right here. Face the judge. Raise your right hand to receive the oath.

(THEREUPON, THE WITNESS WAS SWORN ON OATH BY THE COURT.)

THE COURT: Thank you, ma'am. Have a seat here.

THE BAILIFF: Be seated in the witness box, please.

MS. CAMPBELL: I've taken the liberty of moving the TV/VCR here, rather than have it lugged in at the appropriate time. Does that block any of your view? Should I move it back?

MR. FELOS: No.

MS. CAMPBELL: It will save the time of getting it lugged in.

1 THE COURT: Fine.

2 DIRECT EXAMINATION

3 BY MS. CAMPBELL:

4 Q Please state your full name.

5 A Mary Schindler.

6 Q What is your address?

7 A 6372 Palma Del Mar, St. Pete.

8 Q You have a soft voice. You need to
9 speak up.

10 A Okay.

11 Q How long have you lived at that address?

12 A Six years.

13 Q Are you married to Bob Schindler?

14 A Yes. I am.

15 Q How long have you been married?

16 A Thirty-seven years.

17 Q Do you have children?

18 A Yes.

19 Q What are their names and ages?

20 A Terri is 36, Bobby is 35, and Suzanne is
21 31.

22 Q Do they all live here in the area?

23 A Yes.

24 Q Where did you raise your family?

25 A In a suburb of Philadelphia.

1 Q How would you describe the children
2 growing up?

3 A They were happy, healthy, normal
4 children.

5 Q What was your family life like? What
6 kind of activities did you do?

7 A We used to go on vacations together. We
8 used to go to the zoo. Used to take them on
9 trips.

10 Q Did you work outside the home?

11 A No. I did not.

12 Q Did you -- were you active in any church
13 activities?

14 A I used to help with the school that the
15 kids used to go to called Our Lady of Good
16 Counsel. I used to help up there during the week.

17 Q Are you currently employed?

18 A Yes.

19 Q Where are you employed?

20 A I manage a Hallmark store on St. Pete
21 Beach.

22 Q When the children were growing up, was
23 your husband, Bob, employed?

24 A Yes.

25 Q What did he do?

1 A He was a salesman for his brother for a
2 while. Then he owned his own business.

3 Q What kind of business was that?

4 A A material handling business.

5 Q What was Terri like as a child?

6 A Terri was a little bit heavy. She was
7 happy. She loved to do things. She was a little
8 bit shy, but all in all she was a great child.

9 Q Did she have any unusual illnesses?

10 A She used to have allergies a lot growing
11 up. Little rashes.

12 Q Where did she go to high school?

13 A High school she went to Arch Bishop Boyd
14 for Girls in Warminster, Pennsylvania.

15 Q Did she go to college?

16 A Not right after she graduated. I think
17 she went to two years at Bucks County Community
18 College.

19 Q When did she meet Michael Schiavo?

20 A I guess in about '82.

21 Q Was she going to Bucks Community?

22 A Yes. She met him there.

23 Q Did you like Michael?

24 A Yes.

25 Q When did they get married?

1 A November 10, 1984.

2 Q What kind of wedding was it?

3 A A very large wedding. Very happy.
4 Terri, that was her dream wedding. She always
5 wanted a big wedding.

6 Q Where was she married?

7 A The church was Our Lady of Counsel.
8 Then we had at reception at a restaurant in South
9 Hampton.

10 Q Did they go on a honeymoon?

11 A Yes.

12 Q Where?

13 A St. Petersburg, Florida.

14 Q Where did they stay?

15 A At our condo.

16 Q Did you live in the condo in
17 St. Petersburg?

18 A No. We didn't live there then.

19 Q What was the purpose of your owning the
20 condo?

21 A We used to use it for vacations.

22 Q Do you know how they got to Florida?

23 A They flew.

24 Q How long was their honeymoon?

25 A A week.

1 Q Was Terri employed at the time?

2 A Yes.

3 Q Where?

4 A Prudential Insurance.

5 Q What did she do there?

6 A She helped to -- they took care of the
7 salesmen. Each salesman had different girls that
8 would help them. Like a secretary.

9 Q Was Michael employed at the time?

10 A Yes.

11 Q What was he doing?

12 A He worked at McDonald's.

13 Q How often did you come to your
14 condominium in St. Petersburg?

15 A On vacation. Holidays. Easter.
16 Christmas. Summers.

17 Q The year after they were married, 1985,
18 did you come to the condo in St. Petersburg during
19 that year?

20 A Did I come? No.

21 Q Did Terri or Michael come to the condo
22 in 1985?

23 A Yes.

24 Q Do you recall when?

25 A October.

1 Q Did they come at any other time during
2 1985?

3 A February.

4 Q How was it that you remember those
5 dates?

6 A Well, the October date they came, my
7 mother-in-law was in the hospital in October. But
8 she just went in for, I think she had a problem
9 with electrolytes. She went in then. Terri asked
10 if it was -- I thought it was okay. I said yeah.
11 That's fine. Mom is not really, really sick. So
12 they came down by train. Terri, Michael, and
13 Michael's brother, Brian.

14 Q That was October of 1985?

15 A Yes.

16 Q Who is Catherine Schindler?

17 A Catherine Schindler was my husband's
18 mother.

19 Q Where did she live during that time?

20 A She used to live in Philadelphia in the
21 city, but in 1969 when Bob's brother's wife and
22 child got killed by a train, she moved in with my
23 brother-in-law to help take care of the two girls
24 that he still had at home, and him.

25 Q So at the time in October of '85, she

1 was living close to you?

2 A Yes.

3 Q Were you close with Mrs. Schindler?

4 A Yes.

5 Q Was Terri close with Mrs. Schindler?

6 A Yes.

7 Q Can you elaborate on the hospital visit
8 Mrs. Schindler had in October of '85?

9 A The visit, she just went in to have some
10 tests done because she was not feeling well and
11 they said her electrolytes were a little off. So
12 I think three or four days. Two or three days.
13 Somewhere.

14 Q Was it a serious condition?

15 A No.

16 Q When did Mrs. Schindler die?

17 A She died in March of '86.

18 Q The following year?

19 A Yes.

20 Q How long was she in the hospital before
21 she died for her last illness?

22 A Two weeks. About two weeks.

23 Q Do you know what was wrong with her?

24 A When she went in, she had pneumonia.
25 Then just things started happening to her. Things

1 starting to shut done.

2 Q Was she on any life support?

3 A Toward the end she was.

4 Q What type of life support?

5 A She was on a ventilator.

6 Q Were you there when she passed away?

7 A Yes.

8 Q Was Terri there when she passed away?

9 A Yes.

10 Q You mentioned Bob's brother?

11 A Yes.

12 Q What is his name?

13 A Fred.

14 Q Fred Schindler?

15 A Yes.

16 Q Tell us about Fred Schindler.

17 A Fred had a business. In 1980, he had a
18 car accident and he was, he was in a coma for a
19 few days and he had some brain damage, a little
20 brain damage, and his right side was paralyzed.
21 And he went to a rehab center in Colorado and had
22 some rehab done. Then he came home.

23 Q Do you recall how long he was in the
24 hospital?

25 A When he had the accident?

1 Q Yes.

2 A Maybe three weeks.

3 Q Did he have any permanent damage?

4 A Yes. His right side was paralyzed, but
5 he could still walk. In the beginning, he used a
6 cane after he came back from Colorado. And for a
7 little while, he used to drag his foot a little
8 bit, but then that stopped. He drove a car. He
9 ran his own business.

10 Q So you are not aware of anybody having
11 to step in and take care of him from a physical
12 standpoint?

13 A No. He lived by himself after my
14 mother-in-law died.

15 Q When did Terri and Michael move to
16 Florida?

17 A I think it was in the spring of '86.

18 Q Was it after your mother-in-law died?

19 A Yes.

20 Q Where did they live?

21 A They lived in our condo in Isla.

22 Q How did that come about?

23 A Terri asked her dad if they moved down,
24 if before they got, you know, before they looked
25 for a job, if they could spend some time living in

1 the condo. And her dad said yes.

2 Q Were you making arrangements to move to
3 Florida at that time, too?

4 A Yes.

5 Q When did you move to Florida?

6 A We moved in June of '86.

7 Q The same year?

8 A Yes.

9 Q Did anyone move with you?

10 A My daughter, Suzanne.

11 Q And your husband?

12 A Yes.

13 Q Where did you all live?

14 A Because Michael and Terri were living in
15 the condo, we rented a townhouse in Tierra Verde.

16 Q How long did you live there?

17 A About a year.

18 Q Were you employed when you moved to
19 Florida?

20 A No. Not in the beginning.

21 Q Was your husband, Bob, employed?

22 A No.

23 Q Was Terri employed after she moved to
24 Florida?

25 A Not for a while. She finally did get a

1 job at Prudential. They like transferred her from
2 Philly to Florida.

3 Q Was your mother living with you at that
4 time?

5 A My mother was living with me after I
6 moved from the Tierra Verde house.

7 Q Where did you move after the Tierra
8 Verde house?

9 A We lived in a house on 55th Street on
10 St. Pete Beach.

11 Q What is your mother's name?

12 A Cecilia Tomarro (phonetic).

13 Q What was her condition at the time she
14 was living with you?

15 A At the time she was living with me, she
16 had had a stroke. She was in a wheelchair. She
17 had a mastectomy and she was starting with
18 Parkinson's disease.

19 Q Did she require medical assistance?

20 A I could handle her for -- I could take
21 care of her for a little while, but it got to be a
22 little hard for me to do it.

23 Q Did you have a nurse come in to assist
24 you?

25 A No.

1 Q When it became difficult for you, what
2 happened at that time, with your mother?

3 A Then my brother, who does not live in
4 Florida, I consulted him and we decided we better
5 put her in a nursing home.

6 Q Where did you move her to?

7 A Majestic Towers.

8 Q When was that?

9 A I think it was '87.

10 Q Was Terri close to your mother?

11 A Yes. Very close.

12 Q Would you ever go and visit your mother
13 at Majestic Towers?

14 A Yes. I would go. Terri would go. We
15 would go together.

16 Q How often would you go?

17 A I would go everyday. Sometimes she'd
18 stop after work. Most of the time she went on
19 weekends.

20 Q Describe the residence at Majestic
21 Towers.

22 A The residence was a nursing home. They
23 had some people that could do some stuff for
24 themselves and there was people on ventilators.
25 There was people on feeding tubes. There was

1 people in wheelchairs. All kinds of people.

2 Q Did you also work at Majestic Towers?

3 A Later on, I think a year-and-a-half, two
4 years later, I helped the activities director. I
5 started working there.

6 Q Did you have any special training to
7 assist the activities director?

8 A No. I did not. She did.

9 Q The activities director?

10 A Right.

11 Q What type of training did the activities
12 director have?

13 A They have to go through two courses. I
14 think a year-and-a-half, two year course, to be an
15 activity director in a nursing home.

16 Q What kind of responsibility did you have
17 as assistant?

18 A I used to help with patients taking them
19 to activities, like cards. We played cards.
20 Bingo. We used to have parties. Birthday
21 parties. At Christmas time we had celebrations.
22 All different things.

23 Q Did Terri assist you with any of those?

24 A A lot of the times, yes. She used to
25 come with me. Help me.

1 Q When did your mother pass away?

2 A My mom passed away in '94. April of
3 '94.

4 Q So was your mother still living at
5 Majestic Towers at the time of Terri's accident?

6 A Yes.

7 Q During these early years in Florida,
8 describe your relationship with Terri.

9 A Terri and I were very close. She used
10 to call me after work. I would see her almost
11 every weekend.

12 Q How often would you talk to her on the
13 phone on a weekly basis?

14 A Every night.

15 Q How often would you see her?

16 A Most of the times on the weekends.
17 Saturdays and Sundays.

18 Q Was there any particular reason for
19 that?

20 A No. We were just close and just spent
21 time together.

22 Q What was your relationship with Michael
23 like at that time?

24 A It was fine. We had a good
25 relationship.

1 Q Would Terri often visit your house with
2 Michael?

3 A Yeah. Sometimes if Mike was not
4 working.

5 Q When did Terri and Michael move out of
6 your condominium?

7 A They moved out in, I think it was around
8 in '88, 1989. Somewhere around there.

9 Q Can you have a time frame in reference
10 to the accident?

11 A Maybe about -- moved out of my
12 condominium?

13 Q Um-hmm.

14 A Maybe about two years before her
15 accident.

16 Q Was there any particular reason why they
17 moved out of the condominium?

18 A Well, we were having some financial
19 problems and we had to move back into our condo..
20 My husband asked, said they should try to find
21 their own apartment.

22 Q What kind of financial difficulties were
23 you having?

24 A We had just went through a bankruptcy.
25 We were having some problems, so we had to move

1 back into the condo because we could not do, pay
2 two mortgages.

3 Q Did Terri and Michael pay you rent for
4 living in the condominium?

5 A Um, in the beginning.

6 Q Who basically handled the finances in
7 your family?

8 A My husband.

9 Q Were you working in 1989?

10 A Yes. I was working at a place called
11 Gigi's. After our furniture business went under,
12 then I went and worked at a dress shop on St. Pete
13 Beach.

14 Q After Terri and Michael moved into their
15 own apartment, did that change your relationship
16 with Terri?

17 A No.

18 Q You still continued to see her the same
19 amount of time?

20 A Yes.

21 Q Did you do anything particular on the
22 weekends with Terri?

23 A Well, Saturdays we went to mass. She
24 used to go with us. After mass, we maybe went to
25 dinner. Sundays, not really. Sometimes visit *

1 some people or just maybe go to a movie.

2 Q Where did you go to mass?

3 A St. John's on St. Pete Beach.

4 Q Would you take communion?

5 A Yes.

6 Q Did you participate in confession?

7 A Yes.

8 Q Did Terri ever talk with you about her
9 relationship with Michael?

10 A A little.

11 Q Do you recall any of the specific
12 conversations?

13 MR. FELOS: Your Honor, I object.
14 Number one, as to relevance. And I'm citing from
15 the Browning case at 568 So.2d 16. It says
16 because the only issue before the court is a
17 determination of the patient's wishes, challenges
18 generally will be limited to that issue. Evidence
19 on other issues, generally, would have been
20 irrelevant to the only issue to be decided, the
21 patient's wishes.

22 That is what we are here about. There
23 are certainly some issues of credibility of
24 witnesses, but I don't see how this line of
25 questioning is relevant to the case.

1 THE COURT: Ms. Campbell?

2 MS. CAMPBELL: We believe it is very
3 relevant to the case. Some of the underlying
4 issues to the whole case are motivation of why
5 this is coming about and the credibility of Mr.
6 Schiavo. I think her testimony, as well as the
7 testimony from other witnesses, will corroborate
8 the fact that their relationship was not as solid
9 as one may believe.

10 Since it's concerning specifically to
11 the Browning case, Mr. Felos's argument throughout
12 this whole trial I think is that there are
13 different types of hearsay problems and
14 potentially a Dead Man's Statute problem.
15 Especially in this case, and in light of the
16 Browning decision, we believe that it's within the
17 purview of the Court to hear the different
18 information, since this is a matter of the judge's
19 and not a jury's decision, to determine the
20 information based on the credibility of the
21 witnesses.

22 There is a case, Old Republic Surety
23 Bank. I don't see the cite here. I have it. It
24 basically stands for the point that this different
25 kind of information can come in on hearsay,

1 specifically pertaining to the Dead Man Statute.
2 We believe some of these conversations on these
3 issues would be relevant as to the intent of Terri
4 and specifically as to her state of mind going
5 into some of this and making the decision made.

6 MR. FELOS: I agree with counsel that
7 there are hearsay implications to the questions as
8 well. But Your Honor, I still didn't see how the
9 issue of the status of the marriage eleven years
10 ago would shed light on what Theresa Schiavo's
11 intent was regarding the issue of continued
12 medical treatment or provision of artificial life
13 support.

14 THE COURT: I'm not sure it's relevant,
15 but I'm equally not sure it's not. We have
16 testimony from the petitioner as to things that
17 were said to him by her. Conceivably, this might
18 shed some light on that, so it's a close question
19 and I'm going to rule that the question is
20 permissible and the objection will be overruled.

21 Q (By Ms. Campbell) Thank you. Did she
22 have conversations with you about her relationship
23 with Michael?

24 A Yes.

25 Q Do you recall any of those

1 conversations?

2 A Yes. She was concerned that Michael had
3 problems with jobs. He had one job, then
4 another. She would get upset because he would
5 call her at work and complain about his job, if he
6 was working. She would also get upset with -- he
7 was lazy she said. She just could not get him to
8 do things. That is about it right now.

9 Q Did you and Terri ever have
10 conversations about she wanting to have children?

11 A I really didn't have any conversations
12 with her about children.

13 Q Did you know that she was going to a
14 gynecologist?

15 A I knew she was, because Terri has always
16 had problems with her period, but as far as
17 children, no. I did not know that.

18 Q Tell the Court what happened on
19 February 25, 1990.

20 A Around 5:30 in the morning, I got a
21 phone call from Michael. He had said that Terri
22 had fainted and he didn't know what he was going
23 to do. So he called, I guess he was taking her to
24 the hospital. Would we meet him at Humana
25 Northside. I said, you know, yes. That we would

*

1 be right there.

2 Q Did you go to Northside Hospital?

3 A Yes.

4 Q What happened?

5 A Well, when we got there, they already
6 had taken Terri back to the emergency room. So I
7 had not seen her. I didn't see her. We didn't
8 see her. I guess they worked on her for a while
9 and they just could not bring her around.

10 Q How long was she at Northside Hospital?

11 A I guess about four months.

12 Q Were you there during that time frame?

13 A Yes. My husband was there. I was
14 there. Suzanne was going to college at the time
15 in Central Florida. She quit. She came down. We
16 all were at the emergency room or the waiting room
17 as long as she was in there.

18 Q Were you working at the time?

19 A No. I was not.

20 Q Was your husband working at the time?

21 A He had just gotten a job about a week
22 before that in Tampa.

23 Q So was he able to spend as much time
24 there as you were?

25 A No. He spent some time there, but not

1 as much as me or Suzanne.

2 Q Where did Terri go after Northside?

3 A After Northside, she went to College
4 Harbor.

5 Q Was she there for very long?

6 A No. Just for a few months. After that,
7 she went to Bayfront for some rehab.

8 Q When she was at College Harbor, would
9 you visit her there?

10 A Yes. Every day.

11 Q Was Michael visiting her there?

12 A Yes.

13 Q How would you describe your and
14 Michael's relationship during this time frame?

15 A Her and Michael's?

16 Q Your and Michaels.

17 A My and Michael's relationship was very
18 good. We did everything together. Wherever he
19 went, I went. I went everywhere with him. Did
20 everything together.

21 Q You said she went from College Harbor to
22 Bayfront Hospital?

23 A Yes.

24 Q What was she having at Bayfront?

25 A There was a doctor there, Dr. Baras,

1 that did some rehab on her to see if it would help
2 her.

3 Q Did you assist with any of that?

4 A Yes. Later on, they taught us what to
5 do.

6 Q Describe what you would do.

7 A Go in the rehab center with her. Show
8 us how to work her arms and legs. Show us how to
9 transfer her from the bed to the wheelchair.
10 Wheelchair to the bed. Different things we have
11 to know how to do.

12 Q Where did she go from Bayfront Rehab?

13 A I think we took her home.

14 Q Where were you living at the time?

15 A We were living at a house on West Vina
16 on St. Pete Beach.

17 Q Who was living in the house?

18 A I was, my husband, and Michael.

19 Q How long was she there?

20 A Maybe three months. Two months.

21 Q Who was taking care of her?

22 A Michael and I.

23 Q Did you have any outside help coming in?

24 A I'm not sure if it was there. I think
25 in the beginning we had, once or twice, a nurse.

1 For most of the time, Michael and I used to take
2 care of her.

3 Q Did she continue to stay in your house?

4 A No.

5 Q Why not?

6 A She was getting -- she had a lot of
7 problems. They would take her from the hospital
8 to the house. It was hard for Michael and I to
9 take care of her. We decided to move her back to,
10 I think it was College Harbor.

11 Q How were all her bills paid during this
12 time frame?

13 A When we moved to Vina Del Mar, there was
14 some people that we knew. We started talking.
15 Particularly this one lady was really, really good
16 to us. She started everything rolling. She got
17 these fund raisers. She went to the man that
18 owned the Hurricane Restaurant, Bruno, and got him
19 involved and his brother.

20 We had fund raisers. We had sold
21 different things on the beach. We sold pretzels.
22 We had a thing set up at one of the shopping
23 centers. Donations came in. Prudential had a big
24 thing. They had, all over the country they got*
25 their offices to donate. Just a lot of people

1 pitched in.

2 We had a Valentine's dance. We had a
3 lot of people that were just really good at that
4 time that helped us.

5 Q How were people learning about Terri's
6 cause?

7 A Just by us and everything like in
8 businesses and stuff. They had it in the paper.
9 Just people that would, you know, tell different
10 people. It would just travel.

11 Q Did you ever handle any of the
12 accounting part for this money?

13 A No. I did not.

14 Q What happened to the money?

15 A Well, we gave it to Michael. He put it
16 in a trust -- I don't know if it was a trust, but
17 the bank. First Union Bank.

18 Q Did you ever see an accounting of the
19 money?

20 A No.

21 Q Do you know how much was raised?

22 A I think around 50,000.

23 Q Where did she go from College Harbor?

24 A To California.

25 Q Explain what happened in California.

1 Did you go on that trip?

2 A No. I did not go. Just Michael and
3 Terri. I think a nurse.

4 Q What was the purpose of going to
5 California?

6 A Michael learned about this doctor, a
7 Dr. Hoshibushi, that was doing some experimental
8 work in the brain and he had -- he talked to him.
9 He said yes, he would take Terri. He went out to
10 the University of California at San Francisco, I
11 think it was. That is where they did that.

12 Q How long was she in California?

13 A Well, maybe two months. Two-and-a-half.

14 Q Did you talk to Michael during that time
15 frame?

16 A Yes. I did. He used to keep us
17 informed on what was going on out there.

18 Q How often would you talk to him?

19 A Maybe every other night.

20 Q When they came back from California, was
21 there ever any follow up with those physicians?

22 A A year later.

23 Q What happened?

24 A One year later, when Terri was in
25 Mediplex in Bradenton, Dr. Hoshibushi sent

1 Dr. Yinghling to Bradenton to follow up on Terri.
2 They usually like to bring the patient back, but
3 because of Terri's condition they sent Dr.
4 Yinghling out and he did the examination there at
5 Mediplex.

6 Q Were you there with Dr. Yinghling?

7 A Yes.

8 Q Was there any improvement from the
9 electrodes?

10 A Dr. Yinghling said that he --

11 MR. FELOS: I Object. Hearsay. She is
12 testifying to what Dr. Yinghling said. He is not
13 available to cross-examine.

14 THE COURT: Sustained.

15 Q (By Ms. Campbell) What was your
16 impression of Terri's condition? Did you see any
17 improvement?

18 A I thought I did.

19 Q Could you describe what type of
20 improvement?

21 A Terri was, from what she was before she
22 went to California, she was sitting up in her
23 chair. She was, her arms were, you know, better.
24 Her hands were better. Just her overall
25 appearance from when she came back. How she was

1 acting. I just, I saw an improvement when she
2 went to California.

3 Q Were there any other improvements you
4 believed could be made?

5 A We thought maybe, you know, if she had
6 some other tests done, then we could see if there
7 was any improvement from the time she went to
8 California to now to when she came back.

9 Q Were you aware of any other facilities
10 that could have assisted Terri?

11 A Yes. There was a hospital in
12 Gainesville called Shands Hospital that she could
13 have been taken to.

14 Q Was Terri ever taken there?

15 A No. Not to my knowledge.

16 Q How long do you believe she was at
17 Mediplex?

18 A Six or eight months.

19 Q What was the purpose of the Mediplex?

20 A Well, it was a brain stem place where
21 they thought -- hospital and rehab hospital where
22 they worked with people that had brain damage.
23 Strokes. And they thought it would be good for
24 Terri to go there.

25 Q After she left Mediplex, where did she

1 go?

2 A To Sabal Palms.

3 Q How long was she in Sabal Palms?

4 A Maybe a year-and-a-half.

5 Q How was your financial situation during
6 this time frame? The initial days of Sabal Palms?

7 A My financial situation was not good.

8 Q Why?

9 A I was not working. Bob just started a
10 brand new job, and we were still trying to
11 recover.

12 Q Was Michael working then?

13 A No.

14 Q Were you all still living together?

15 A No.

16 Q Why not?

17 A Well, when we moved, we went to another
18 house in Vina Del Mar, it was on Hemosita, we
19 lived there I guess with Michael, Bob and I, for
20 maybe about I guess a year. A little over a
21 year. Then one day Michael came and said he
22 thought it was time that he moved out, and that we
23 supported him. We said okay. You know, that if
24 he wanted to move out, that was fine.

25 Q Was this an amicable separation?

1 A Yes. It was.

2 Q Why did Michael leave? Move out?

3 A He said he wanted to get on with his
4 life.

5 Q Were there any discussions then about
6 the financial circumstances then that you or
7 Michael were having?

8 A Michael would always talk to me about
9 that. You know, first of all, we were all in this
10 together. We all had financial problems.
11 Michael, Bob. We all did. It was a very
12 stressful time. It was a very financially
13 difficult time. He used to say, "Don't worry,
14 mom. If I ever get any money from the lawsuit,
15 I'll help you and dad."

16 Q Do you know what he meant by that?

17 A Well, we -- not we. I'm sorry. Michael
18 sued doctor, two doctors for Terri, a malpractice
19 case, and Terri got an award and so did Michael.

20 Q Were you a part of the malpractice
21 lawsuit?

22 A No. I was not.

23 Q Were any promises ever made?

24 A Yes.

25 Q What is your understanding of the

1 promises?

2 A Well, Michael owes us some money from
3 the condominium. The rent. Moving expenses.
4 Different things. He always told us he would pay
5 us back. He always said that if anything ever
6 came of his award, that we could -- he would help
7 us out.

8 Q Were there ever discussions about
9 Terri's future medical slash housing arrangements?

10 A Yes. He said -- well, we thought about
11 buying a house, bringing Terri home, so Bob and I
12 could be with her. Take care of her for ever how
13 long she had to live.

14 Q So when did you and Michael, you and Bob
15 and Michael separate?

16 A I think it was around '93.

17 Q Was it after the malpractice trial or
18 before?

19 A No. No. It was after. Yeah, it was
20 after.

21 Q Did you attend the trial for Terri's
22 malpractice case?

23 A Yes. I did.

24 Q When was that?

25 A It was I think November of '92.

1 Q Was it before a jury?

2 A Yes.

3 Q Did the jury find in Terri's favor?

4 A Partially.

5 Q What do you mean?

6 A She was -- I'm not even sure. She was
7 30 percent or 60 percent to blame and the doctor
8 was the rest to blame.

9 Q Do you remember the award?

10 A All I remember is 1.2. That is all I
11 remember.

12 Q Do you know when this money was
13 distributed?

14 A Sometime in January of '93, I think.

15 Q Do you recall any kind of disagreement
16 with Michael over the money?

17 A It was over the money. It was also over
18 after Terri got the money, we wanted to take her
19 to the hospital and it was over his award and
20 because he would not do anything for her after she
21 got the award.

22 Q Which hospital are you referring to?

23 A Shands in Gainesville.

24 Q Was there one particular discussion or
25 continual discussions?

1 A It was one particular discussion. We
2 were in Sabal Palms. We had gone up to see Terri
3 on the 14th of February. We had gone in. Michael
4 was sitting there studying. We were talking about
5 the money and about his money. That with his
6 money and the money Terri got, now we could take
7 her to Shands or get some testing done. Do all
8 this stuff. He said he was not going to do it.

9 Q Was there any reason?

10 A He didn't feel anything else could be
11 done for her. So we kept talking. He got mad.
12 He took his book and threw it against the wall.
13 He took the table. It went against the wall.

14 Then we came out. We started walking
15 out of the room and my husband and him were both
16 yelling. I just stood in the middle. I said
17 that's enough. He says, you'll never see your
18 daughter again. I said okay. I said, we're
19 getting out of here. Let's go.

20 I really didn't want anything to
21 happen. So I took my husband by the arm and I
22 pulled him out. We went out the door. We went
23 down the hallway and he says, I'm on the phone to
24 my lawyer.

25 Q Who said that?

1 A Michael.

2 Q What did you gather from that?

3 A I gathered that Terri was not going to
4 have any kind of medical attention. That we were
5 not going to get any of whatever he got for his
6 award.

7 Q Were you ever paid back any of the money
8 that was owed?

9 A No.

10 Q Did Michael then prevent you from seeing
11 Terri after that?

12 A No. We could go and see her. We could
13 go see her, but we could not find out anything
14 about her.

15 Q How was that information withheld from
16 you?

17 A There was a paper, I guess, on top of
18 the book from the nursing home. It said we were
19 not to be told anything about Terri.

20 Q This was at which nursing home?

21 A Sabal Palms.

22 Q Were you ever aware of Michael
23 attempting to withhold treatment for an infection
24 of Terri's?

25 A Yes.

1 Q How do you learn about that?

2 A A nurse told me from Sabal Palms when we
3 went to visit her one day.

4 Q Was it your understanding the nurse was
5 allowed to discuss Terri's medical condition?

6 A No. But I said to her -- we were in the
7 waiting room. We had Terri out in the room. I
8 said, "She looks terrible. Her face is white."
9 She said she just came back from the hospital. I
10 said, "The hospital?" And she said yeah. She had
11 her gallbladder out.

12 I said I didn't know that. She said
13 yeah. She said also, she says to me also, she
14 almost did not get any antibiotics. I said, "For
15 what?" She said she had a urinary tract infection
16 or some kind of infection. I said, "Is she
17 getting them now?" She says yes. Now she is.
18 She said the nursing home is giving them to her.
19 I said to Bob, "We have to do something."

20 Q What did you do?

21 A We went to see a lawyer.

22 Q What was the purpose of the visit?

23 A To try to get guardianship of our
24 daughter.

25 Q Did you want to become the guardian of

1 Terri?

2 A Yes.

3 Q Did you file a petition to have Michael
4 removed as guardian?

5 A Yes. I did.

6 Q What came of the petition?

7 A As far as?

8 Q As far as --

9 A As far as we are concerned, nothing.
10 The court appointed a guardian ad litem and the
11 guardian ad litem ruled in favor of Michael. I --
12 for us to pursue it, it would have been a
13 financial problem for us. So at that time, we
14 just, we just did not do anything.

15 Q Were there depositions taken?

16 A Yes.

17 Q Who was the attorney representing you at
18 the time?

19 A Jim Sheehan.

20 Q Were the depositions friendly?

21 A No.

22 Q How would you describe the deposition
23 process?

24 MR. FELOS: Your Honor, I object. What
25 is the relevance of how the witness found a

1 deposition process?

2 THE COURT: What is the relevance?

3 MS. CAMPBELL: It goes to, also in
4 anticipation of what Mr. Felos is going to, I
5 imagine, on cross-examine, some information he
6 already admitted to the petition -- or the
7 dismissal with prejudice. I'm getting as to she
8 will testify as to what led up to the dismissal
9 process.

10 THE COURT: I heard the lawyer talk
11 about that last week. What is in that dismissal
12 with prejudice that is at issue perhaps today?

13 MR. FELOS: Your Honor, if I may, the
14 basis of Mr. and Mrs. Schindler's petition to
15 remove Michael as a guardian in '93, and amended
16 in '94, was that he was not caring for Terri.
17 That he had a financial conflict of interest
18 because he was the heir at law. That he was
19 involved in a relationship with another woman, so
20 he was not fit to be guardian. And that he was
21 abusing Terri in some way by withholding
22 treatment.

23 It is very relevant, the type of
24 dismissal, because in essence the respondents are
25 regurgitating many of those claims in this

1 proceeding.

2 THE COURT: I have not researched the
3 dismissal with prejudice. They go to the cause of
4 action. Also, the facts that are alleged. Are
5 you suggesting a dismissal with prejudice and
6 everything alleged in the petition and complaint
7 are false?

8 MR. FELOS: No. What I'm saying is that
9 I believe a collateral estoppel applies to a party
10 when they have dismissed with prejudice issues
11 that they have litigated before that it estops
12 them from raising them in a new proceeding. That
13 is from a legal point of view.

14 As a point of view in credibility,
15 Your Honor, did the Schindler's position, is it
16 that these things are important enough to them to
17 be raised in this proceeding, or as Mr. Schindler
18 stated in his deposition, he would do anything to
19 keep his daughter alive. Then I think it is very
20 relevant to that credibility as to why they
21 dismissed with prejudice in essence these same
22 claims four years ago.

23 THE COURT: But again, I'm not sure what
24 you are attempting to accomplish with the
25 dismissal with prejudice. The issue, as I

1 understand it, is what would the ward wish to
2 happen given these circumstances, and collaterally
3 I guess since we have a lot of testimony about it,
4 there is some attack on whether or not she is
5 terminal. What does a dismissal with prejudice
6 have to do with either of those?

7 MR. FELOS: The respondents are saying
8 as to the ward's intent, you can't believe what
9 Michael is telling you because he is involved with
10 another woman. You can't believe what he is
11 telling you about Theresa's intent because he is
12 the heir at law. So their attack on his
13 credibility goes to his credibility as to the
14 statements of Theresa's intent.

15 All we are saying is that Mr. and Mrs.
16 Schindler raised those fact issues and dismissed
17 those with prejudice, which is very relevant.

18 THE COURT: It's relevant as to the
19 ruling of the guardian and not relevant as to
20 anything else, is it? The dismissal?

21 MR. FELOS: I think this collaterally
22 estops, Your Honor. You don't have to have a suit
23 brought on the same cause of action, but if the
24 issues in a prior litigation are similar to the
25 issues in a subsequent litigation, the doctrine *

1 applies.

2 THE COURT: I understand as to issue. I
3 think we are talking now about facts. Facts used
4 to support that claim. This claim.

5 MR. FELOS: I think they are relying on
6 the same facts.

7 THE COURT: But cannot facts be used to
8 support more than one claim? You run a red light.
9 Hit two cars. One sues you for running a red
10 light. The other sues you for running a red
11 light. One sues you for personal injury and comes
12 back in a year to fix the car. Same facts.

13 MR. FELOS: But different parties,
14 Your Honor.

15 THE COURT: Same parties. If you get
16 sued twice by the same person, I don't know what
17 the dismissal with prejudice has to do -- to me,
18 we are getting pretty collateral in lots of things
19 for how it's going to assist me in arriving at
20 this decision. But it almost seems premature that
21 you're attacking. You are anticipating. Is that
22 what you are doing?

23 MS. CAMPBELL: Yes, Your Honor. He
24 raised it in the whole issue that we had at the
25 hearing.

*

1 THE COURT: He has not raised it in
2 trial.

3 MS. CAMPBELL: Well, on his list for
4 rebuttal witnesses is Jim Sheehan. So based on
5 the hearing we had last week, that is the only
6 reason I'm getting into this as to give their
7 reasoning as to why they had the dismissal with
8 prejudice.

9 THE COURT: Well, for what limited
10 purpose it will serve, I will let you go down that
11 road. Again, I'm not convinced that the dismissal
12 is part of why we are here. I thought why we are
13 here is to decide today how this lady felt prior
14 to February 25, 1990. What happened in the mid
15 nineties should have little or no bearing on that.

16 But you all are the lawyers and know
17 more about your case than I do because I have not
18 heard your case. I'll let you go down the road,
19 but I don't know if I agree with you.

20 MS. CAMPBELL: I am just anticipating
21 what I believe is coming next.

22 THE COURT: Okay.

23 Q (By Ms. Campbell) I was asking you,
24 Mrs. Schindler, about the depositions. You had
25 depositions in that case?

1 A Yes.

2 Q Describe the depositions.

3 A My deposition?

4 Q Just your deposition in general.

5 A It was a little hostile. It was
6 difficult. It was --

7 Q Lots of arguing?

8 A Arguing from my lawyer with Michael's
9 lawyer. Different objections. Just a lot of back
10 and forth.

11 Q A lot of time being spent on this?

12 A Yes.

13 Q Was it expensive?

14 A Very expensive. Yes.

15 Q Was there any arrangements made in the
16 dismissal with prejudice as to the financial part
17 of it?

18 A The only thing, if we wanted to go on,
19 we had to pay all the expenses for whatever they
20 wanted to do, if we wanted to go further. So it
21 was decided that we were not going to go any
22 further.

23 Q At this time frame, '93/'94, were you
24 receiving information about Terri's medical
25 condition during that time?

1 A No.

2 Q When did you start receiving medical
3 information about Terri?

4 A I really have not received very much
5 medical information to this day. Maybe she's
6 okay. Maybe she is doing well. That is about it.

7 Q Did you hire an attorney to try to get
8 medical information?

9 A Yes. I did. I think it was '95/'96.
10 Somewhere in '96. Yes. We hired Mr. Gross to
11 obtain medical information, and I thought we got
12 it. I thought it was settled and everything was
13 okay. I still, when I call, they are very
14 hesitant about giving me any kind of information.

15 Q Do you receive annual reports from the
16 guardianship as to her physical condition?

17 A No.

18 Q Do you receive any annual reports as to
19 the property?

20 A I received a couple. I think I had
21 three.

22 Q Do you receive reports as to Terri's
23 finances?

24 A No.

25 Q That is what I mean when I say property.

1 A No. I thought you meant her -- no. I
2 don't get that.

3 Q What kind of reports, what kind of
4 information is contained in the reports you get?

5 A It is just a guardian's report I
6 received. I think about three of them I have
7 gotten.

8 Q Did Terri ever discuss her thoughts
9 with you concerning any advanced directives such
10 as a living will?

11 A No.

12 Q Did Terri tell you what she would want
13 done if she were on a ventilator?

14 A No.

15 Q If she were on a feeding tube?

16 A No.

17 Q During the time Terri's grandmother,
18 Mrs. Schindler, was on a ventilator, were there
19 any discussions with you, between you and Terri,
20 as to Terri's thoughts of her being on a
21 ventilator at that time?

22 A No. But she was just very, very
23 supportive of us, her dad and us, with my
24 mother-in-law. Whatever we had to do.

25 Q During the time in early 1990, after

1 Terri's incident, did anyone ever come to you and
2 say they know Terri would not want to live like
3 that?

4 A No.

5 Q Did Michael ever tell you that?

6 A No.

7 Q Did Scott Schiavo ever tell you that?

8 A No.

9 Q Joan Schiavo?

10 A No.

11 Q During the late 1970s, when the Karen
12 Ann Quinlan case was in the news, did you and
13 Terri ever discuss that case?

14 A Yes. We did. We used to watch it on
15 television. The scenes on television.

16 Q Like what kind of proceedings?

17 A Well, all the films of her. They used
18 to have it on television. What she was going
19 through.

20 Q Do you recall what she was going
21 through?

22 A I think she was on a ventilator and they
23 were going to take her off.

24 Q Do you recall, did Terri make any
25 comments about that?

1 A She said just leave her alone. Leave
2 her. If they take her off, she might die. Just
3 leave her alone and she will die whenever.

4 Q Do you know anyone else that she ever
5 had any conversations with concerning the Karen
6 Ann Quinlan case?

7 A Yes. A girlfriend of hers from
8 Philadelphia.

9 Q Who was that?

10 A Her name is Diane Meyer.

11 Q How do you know about that conversation?

12 A Because Diane told me.

13 Q When did she tell you?

14 A About two years ago.

15 Q During the days at Majestic Towers, did
16 Terri ever make any comments to you concerning a
17 feeding tube, ventilator, or anything like that
18 pertaining to the people that she saw?

19 A No. .

20 Q Was Terri comfortable at Majestic
21 Towers?

22 A Yes.

23 MR. FELOS: Your Honor, that calls for a
24 conclusion on the part of the witness.

25 THE COURT: It does. Sustained.

1 Q (By Ms. Campbell) When Terri would go
2 to Majestic Towers, was she uncomfortable there
3 do you know?

4 A No.

5 MR. FELOS: Same objection.

6 THE COURT: Just ask it a different way,
7 Ms. Campbell.

8 Q (By Ms. Campbell) Did Terri ever
9 hesitate, to your knowledge, about not wanting to
10 go with you to Majestic Towers?

11 A No.

12 Q Ever make a comment about not wanting to
13 go there?

14 A No.

15 Q Were you aware of the residents there on
16 feeding tubes or ventilators?

17 A Yes.

18 Q Did you and Terri ever discuss any of
19 those particular patients specifically?

20 A No.

21 Q Do you know of anyone else that she may
22 have had conversations with regarding her
23 intentions?

24 A No.

25 Q Do you remember Mr. Felos taking your

1 deposition August 12, 1999?

2 A Yes.

3 Q Describe your feelings on that day.

4 A Upset. Nervous. Concerned. Just
5 wanting it over.

6 Q Do you recall your thoughts ahead of
7 that deposition? Was there any message or
8 anything you were trying to tell Mr. Felos?

9 MR. FELOS: Your Honor, again, what is
10 the relevance about how the witness felt about my
11 taking her deposition?

12 THE COURT: What is the relevance?

13 MS. CAMPBELL: The relevance goes to
14 some of the answers we are about to get to that
15 she testified to. Some of the answers she has
16 given to the questions.

17 THE COURT: It's a little late to give
18 an alternate answer from August.

19 MS. CAMPBELL: I don't know that they
20 are alternate answers. I think it explains some
21 of the answers she has given.

22 THE COURT: Well, it's like testimony.
23 I'll allow. Did she read and sign?

24 MS. CAMPBELL: She's not signed it.

25 MR. FELOS: But she did read it.

1 Q (By Ms. Campbell) Mrs. Schindler, did
2 you read your deposition?

3 A Yes.

4 THE COURT: Well --

5 MS. CAMPBELL: I don't believe she's
6 changing her testimony.

7 THE COURT: Okay. If she's going to
8 change it, I guess we'll get the court reporter in
9 here.

10 MS. CAMPBELL: I say I don't believe
11 she's changing it.

12 THE COURT: All right.

13 Q (By Ms. Campbell) Do you remember Mr.
14 Felos asking you various questions about your
15 thoughts pertaining to the end of death situation?

16 A Yes.

17 Q Pertaining to gangerine? Pertaining to
18 life without limbs?

19 A Yes.

20 Q When you answered those questions, were
21 you answering them truthfully?

22 A I thought I was. I was so upset and
23 nervous. I didn't want to say in that --

24 MR. FELOS: Your Honor, if the witness
25 intends to recant her testimony, her opinions,

1 that is one thing. Counsel said the witness is
2 not altering. That is not what it sounds like to
3 me.

4 MS. CAMPBELL: She is stating her state
5 of mind at the time she was giving her testimony.

6 THE COURT: She said I thought I was
7 telling the truth then, which tells me it's not
8 the truth. I don't know anything closer to
9 recantation than saying I didn't tell you the
10 truth I swore in August. I'll tell you the truth
11 now. I will not let her go there.

12 MS. CAMPBELL: Okay.

13 THE COURT: That is unfair surprise.
14 That is certainly -- had plenty of opportunity to
15 get to that. She has had the deposition. She
16 read it. Admitted reading it. This is the second
17 day of trial. That's not appropriate.

18 MS. CAMPBELL: That is not appropriate.
19 Thank you.

20 Q (By Ms. Campbell) Mrs. Schindler, how
21 often do you see Terri now?

22 A On the weekends.

23 Q How long have you been seeing her that
24 often?

25 A Most of the time.

1 Q Describe a typical visit with Terri.

2 A Go in. We talk. We watch television.

3 Q How long are you usually there?

4 A Um, about an hour, hour-and-a-half
5 sometimes.

6 Q Does anyone go with you?

7 A My husband. My daughter.

8 Q When you say you talk, what do you mean
9 by that?

10 A I talk to her. I tell her what is going
11 on. I tell her things that have happened during
12 the week. I tell her about my granddaughter. I
13 tell her what happens at the store. I just tell
14 her things that happen during the day. The whole
15 week of what I do. What her dad is doing.

16 Q Does she respond to you?

17 A Yes.

18 Q Does she make any verbal response to
19 you?

20 A Sometimes she laughs a lot. She will
21 cry. She just looks at me. She's just -- I
22 believe she understands. I believe that she knows
23 that I'm there.

24 Q When you say she makes these responses,
25 how often does she make these kind of responses in

1 a given month out of the four visits?

2 A All four visits.

3 Q Does she turn her head and look at you
4 when you enter the room?

5 A Yes.

6 Q Do you believe that she sees you or do
7 you believe more of her hearing you?

8 MR. FELOS: Your Honor, I object to this
9 line of questioning in the form of "do you
10 believe". I think it is appropriate to ask Mrs.
11 Schindler what she observed, but to just ask her
12 what she believes, I think, is improper
13 foundation.

14 THE COURT: Questions about perception,
15 I'm not sure how that translates into these
16 answers. I think this testimony is probably
17 better what she sees. She certainly can't tell
18 what it appears. Visualizes. Leave that for
19 somebody that --

20 MS. CAMPBELL: I believe my question was
21 what does she believe her perception was?

22 THE COURT: I understand. I'm not
23 sure. As I say, we talked about perception. The
24 perception was they see things. They perceive it
25 occurring to them. I think you might be better

1 suited on this to ask her what she sees. Maybe
2 ask how she perceived all that.

3 Q (By Ms. Campbell) Please describe what
4 you observe when you enter Terri's room.

5 A When I enter her room, she is usually
6 laying there looking around. Maybe listening to
7 the radio. I will go over to her and I will say,
8 "It's mommy". I hug her and kiss her. She
9 laughs. Sometimes she cries. I comfort her. If
10 she laughs, I just let her laugh. If she cries, I
11 try to, you know, comfort her until she stops.
12 Then we talk. I really and truly believe that she
13 knows who I am.

14 Q When you enter, do you always approach
15 her on the same side of the bed?

16 A No.

17 Q Is she always in her room when you go to
18 see her?

19 A No.

20 Q Where is she usually?

21 A Sometimes she's in her wheelchair out by
22 the nurse's station. Sometimes she's in her bed.

23 Q Does it depend on the time of day when
24 you go to visit?

25 A Yes.

1 Q Do you know what her schedule is as far
2 as being in the room versus by the nurse's
3 station?

4 A Yes. Usually.

5 Q What would that schedule be?

6 A She's usually in her chair till about
7 2:00. Then she goes back to bed. Sometimes they
8 get her up after 2:00, but sometimes they will
9 leave her in bed.

10 Q If you move from one side of the bed to
11 the other, or from one side of the wheelchair to
12 the other, does she follow you with her eyes or
13 does her head turn?

14 A Sometimes her eyes. Like if I go one
15 side to the other, she will follow me. Her head,
16 not all the time.

17 Q Did you bring anything with you today to
18 demonstrate a typical visit with Terri?

19 A Yes. I brought a short video.

20 Q When was this video made?

21 A Saturday.

22 Q This past Saturday?

23 A Yes.

24 Q About how long is it?

25 A Maybe four minutes. Five minutes.

1 Q Who made this video?

2 A A friend of the family.

3 Q Is he a professional person at making
4 videos?

5 A No.

6 Q Was it just a personal video camera that
7 was used?

8 A Yes.

9 Q To your knowledge, has this videotape
10 been altered in any way?

11 A No.

12 Q After the videotape was made, what
13 happened to it?

14 A I brought it home. Then we gave it to
15 you.

16 Q Have you seen this video?

17 A No. I have not seen it yet.

18 MS. CAMPBELL: Your Honor, at this time,
19 I would like to play the video for the Court.

20 MR. FELOS: Your Honor, I object on a
21 number of grounds. The first ground is surprise.
22 I was told by Ms. Campbell yesterday that she had
23 a video, but that she had one copy and did not
24 have a copy for me. I was given a copy today at
25 the end of the morning recess and watched this for

1 the first time at 11 o'clock or after 11 o'clock.

2 So number one, I have not had the
3 opportunity to show the video to our expert
4 witnesses and have our expert witnesses have the
5 benefit of their expertise in order to prepare a
6 cross-examination. That is number one.

7 Number two, this should be brought out,
8 on voir dire as to the authenticity of the tape.
9 Mrs. Schindler just testified that her typical
10 visit is about 30 minutes, yet there is a three
11 minute video, which leads me to suspect that there
12 may have been other portions of the visit which
13 might not have been favorable to the respondent's
14 position that is not included.

15 Also what concerns me is there seems to
16 be a gap or break in the video from when it starts
17 to when it finishes. So there are, I think there
18 are problems with authenticity. There are
19 problems with surprise. The other thing,
20 Your Honor, is something we talked about at the
21 status hearing. How is the Court to interpret
22 what that video means?

23 The Court, not being a neurologist or
24 expert in that area, what benefit or relevance *
25 would it be for the Court to try to interpret what

1 the video means, which was the same question the
2 Court raised as to the Court visiting Theresa.

3 So on all those grounds, Your Honor, we
4 object to the playing of the video and the
5 introduction.

6 THE COURT: Ms. Campbell?

7 MS. CAMPBELL: As to the surprise issue,
8 last Wednesday we had our hearing. Wednesday,
9 right prior to 5 o'clock, I received a fax from
10 Mr. Felos concerning who his witnesses were and
11 his exhibit list confirming in his fax to me that
12 the only evidence I would be bringing was Mr.
13 Pearse's report. I got that fax early the next
14 morning, Thursday morning.

15 I sent him a reply fax Thursday morning
16 that said, I believe it said something about I
17 already told him all the witnesses, but as to the
18 evidence, I believe we may have a video and some
19 photographs. Otherwise, he was correct in just it
20 was Mr. Pearse's report.

21 I told Mr. Felos on Monday that we would
22 have a video. This was yesterday. But I did not
23 have an extra copy and I did not want to give him
24 my only copy. It is a very short video. I was
25 hoping there would be time for Mr. Felos prior.

1 He has observed it prior.

2 I am not aware of any gap in the video.
3 It is an amateur video that has been done. I
4 don't know. It is maybe that or the quality of
5 the copy. The copy was made from one VCR to
6 another. It was not, the copy was not made
7 professionally. Maybe the original would be
8 different for him, but I don't believe so.

9 As to how the Court is interpreting
10 this, Dr. Barnhart (sic) yesterday testified that
11 potentially there could be other cognizance, but
12 he was not aware of it. It is true, he has not
13 seen this video. None of the experts have. I was
14 not aware of who he was going to call to trial
15 until last Wednesday evening or last Thursday
16 morning.

17 THE COURT: Two things concern me.
18 Number one, there is nobody in this courtroom whom
19 I am aware can authenticate the video. The
20 witness has not seen it. How can she say this is
21 a true copy of what it purports to be?

22 The other thing that concerns me is that
23 over a ten-year period of time, we get three
24 minutes, and based on the testimony that I heard
25 yesterday and today that this lady can appear to

*

1 be responsive based upon brain stem activity, how
2 in the world am I supposed to tell in a three to
3 five minute snippet what has gone on before?

4 Is she feeling anything? Is there
5 any -- I don't know. I'm talking about feeling
6 anything from sensation wise. Stimuli given to
7 her. I just don't know. So I don't know how it
8 helps me. I guess the basic evidentiary thing is
9 that I am a little reluctant to receive
10 unauthenticated evidence. That is what you are
11 asking me to do.

12 MS. CAMPBELL: My thought was that after
13 Mrs. Schindler saw this video, she can testify as
14 to was she there. Is this what it looked like.

15 The reason for the brevity part is not
16 to demonstrate the full length of a visit. It was
17 really more of the specific reaction that Mrs.
18 Schindler has been testifying to as to the
19 laughter and crying.

20 MR. FELOS: That is the exact point,
21 Your Honor, as to this video. If Mrs. Schindler
22 said "Terri, I'm here," ten times and one time
23 Terri turned her head and they took a picture of
24 the one time Terri turns her head, that does not
25 give, is not helpful to the Court and does not

1 accurately portray or is not relevant to the issue
2 of whether Terri Schiavo is responsive in any way.

3 THE COURT: Let's get down to something
4 a little more basic. Is it not agreed that she is
5 in a persistent vegetative state?

6 MS. CAMPBELL: Mr. and Mrs. Schindler
7 agree, yes, the medical records show she's in a
8 vegetative state. They do believe that she has
9 some cognitive awareness. Dr. Barnhart (sic)
10 testified yesterday to the ribbon of brain matter
11 when he was reviewing the CAT scan.

12 Mr. and Mrs. Schindler don't know. We
13 have not had physicians come in, neurologists come
14 in of their own, to examine Theresa to determine
15 exactly what it is, if any.

16 MR. FELOS: On that point, we are years
17 into this litigation. There is a procedural rule,
18 Ms. Campbell, in this case. The respondents have
19 had two years to file a motion or request the
20 Court to appoint, to allow them to have an
21 independent examination of the ward, but they did
22 not. By definition, a persistent vegetative state
23 is absence of cognitive activity.

24 MS. CAMPBELL: I believe Dr. Barnhart
25 (sic) testified yesterday that he did not believe

1 she did, but it is potentially possible she could
2 have some. Whether it is reflex, we don't know.

3 THE COURT: That is my point. Is it
4 Barnhart or Barnhill?

5 MS. FELOS: It is Barnhill.

6 MS. CAMPBELL: I'm sorry.

7 MR. FELOS: I believe, in answer to your
8 question that there is an admission, this is the
9 deposition of Mary Schindler taken on August 12th
10 on Page 35, Line 22.

11 Question. In your opinion, is Terri in
12 a vegetative condition now?

13 Answer. Yes. That is what they call
14 it.

15 THE COURT: And I wrote down in my notes
16 from arguments it's agreed that she's in a
17 permanent vegetative state. By definition, does
18 not that exclude cognitive brain activity?

19 MR. FELOS: It does, Your Honor.

20 MS. CAMPBELL: We don't know the limit
21 of the cognizance. From all the medical
22 information that we have seen, that we have been
23 provided, it does appear she's in a vegetative
24 state. I don't know that the Schindlers are
25 contesting that, but they do believe that she has

1 some limited ability, especially in the
2 recognition of her mother, and in this reaction
3 she has mainly to her mother and hardly anybody
4 else.

5 I have been informed that the person
6 that created this video is here and we would be
7 able to call him in, if so permitted.

8 MR. FELOS: Your Honor, the two things
9 are mutually exclusive. I can't see how the
10 respondents can admit their daughter is in a
11 persistent vegetative state, which includes
12 unconsciousness, and then say but she has
13 consciousness.

14 THE COURT: Ms. Campbell, I'll not
15 permit this witness to -- I'm not going to permit
16 the tape to come in on this witness. You may be
17 able to take it on another witness, but I would
18 expect some realistic voir dire on the part of Mr.
19 Felos to try and get at those matters. If you're
20 talking about an hour to an hour-and-a-half
21 visit -- but this is only five minutes. In those
22 kind of issues.

23 So you would not be offering the
24 gentleman, I assume a gentleman, I think you said
25 "he", as an expert, but I would treat the

1 surroundings in a similar manner and allow Mr.
2 Felos to certainly inquire before that comes into
3 evidence.

4 MS. CAMPBELL: He was not listed on my
5 witness list. Would the Court grant me permission
6 to add him at this point for that limited
7 testimony?

8 THE COURT: Well, I think if you can get
9 by the voir dire issues of why this, why not five
10 minutes before, those kind of issues, I probably
11 will let it in. I'm not sure to what extent. I
12 have not seen it, so I have no idea what I'm going
13 to see and how it fits into the testimony I heard
14 yesterday -- the CAT scan, the matters in
15 evidence -- which basically tell me it cannot be
16 cognitive.

17 I don't know what your evidence is going
18 to show me, so I'm not ruling, but let's move on
19 with Mrs. Schindler and come back.

20 Q (By Ms. Campbell) Mrs. Schindler,
21 during your normal visit with Terri, how long did
22 you say those general visits last?

23 A About an hour.

24 Q Sometimes more? Sometimes less?

25 A Sometimes more. Sometimes less.

1 Q Please describe what -- you have
2 described how Terri responds when you first walk
3 into the room. Does that laughter continue
4 throughout your visit?

5 A She stops. Then if, then if I just talk
6 to her and if I go up to her again, she will maybe
7 start up again. Yeah. She starts up again.
8 We'll talk some more. Listen to the radio. And
9 then I always, you know, hug her and kiss her
10 before I leave.

11 Q The reaction that you believe Terri
12 demonstrates, this laughter and/or crying,
13 generally how long does a specific episode of
14 laughter and/or crying last before she calms back
15 down?

16 A Well, the crying can last a little bit
17 longer. Like a couple of minutes, three minutes,
18 you know. But the laughing, it all depends. If
19 her father talks to her, sometimes he will tell
20 her something and she will laugh and stop. If I
21 go up to her and say "Terri, it's mommy," she'll
22 laugh again. Like she's listening to what I'm
23 saying. Like if you tell somebody something and
24 they laugh.

25 Q Do you recall the incident when the

1 video was made?

2 A Yes.

3 Q Do you know when the video was started
4 and when the video was stopped?

5 A Yeah. It started when we got there.
6 She was laying in bed. I went up to her. I was
7 talking to her. She started, you know, like
8 whatever she starts. Sometimes right away when I
9 talk to her. First it was a slow smile on her
10 face. All of a sudden, she started crying, maybe,
11 and she just, I think they told us that she -- I
12 don't know. Just looked like she was just trying
13 to cry. Trying to laugh. Trying to do both.

14 Q Are you referring to the specific visit
15 on Saturday?

16 A Yes. She was really loud. I just kept
17 talking to her. I guess in about four or five
18 minutes -- I kept stroking her head. Rubbing her
19 face. Telling her to calm down, and she did.

20 Q Is it your understanding then that the
21 video was stopped?

22 A Yep.

23 Q What would have happened? What did
24 happen after the video stopped?

25 A We just left. My husband and I stayed

1 for a little while. You know, just stayed with
2 Terri. Then we went home.

3 Q Why did you make this video?

4 A Because I wanted people to see, the
5 Court to see what I see. I think that she's -- I
6 think she understands. I think she knows I'm
7 there. She's just -- I just want her to live.

8 Q Have you seen Terri react similarly with
9 other visitors?

10 A Sometimes with her sister. Sometimes
11 with her dad. But her dad always teases her.
12 Sometimes with Suzanne.

13 Q Do you know of any other people from the
14 nursing home that they have come by and talked to
15 you about Terri's laughter?

16 A There was a lady that --

17 MR. FELOS: I object. This looks like
18 we're heading toward hearsay testimony.

19 THE COURT: Until it gets there, it's
20 okay. Overruled as long as she just answers the
21 question.

22 A There was a lady at the nursing home
23 that used to take care of one of the residents
24 there. She used to stop by to see Terri all the
25 time.

*

1 Q (By Ms. Campbell) When you were there?

2 A When I was there? When I was not there.

3 But when I would see her she would say to me --

4 MR. FELOS: Your Honor, I object.

5 THE COURT: Sustained.

6 Q (By Ms. Campbell) When you would be
7 there -- what was this lady's name?

8 A Her name was Rogene Baker.

9 Q Were there times when you would see Mrs.
10 Baker there at the same time you were there?

11 A Yes.

12 Q Would you see Terri exhibit this same
13 behavior?

14 A Yes.

15 Q Do you know whether or not Rogene Baker
16 is still coming to the nursing home?

17 A No. I don't.

18 Q Do you see her there anymore currently?

19 A I have not seen her there for a while.

20 Q This time of reaction of the laughter
21 and crying, has she reacted in this similar way
22 throughout the last ten years?

23 A No.

24 Q When did this start?

25 A About a year ago.

1 Q Do you know why?

2 A No.

3 Q Do you believe that Terri is in any
4 pain?

5 A No. Not now. I don't think she is in
6 any pain. Maybe when she gets her period, you
7 know, or I think she is in pain then. But I don't
8 think she is in pain now.

9 Q What observations do you have that would
10 lead you to believe that she is in pain?

11 A Sometimes her moaning. She gets her
12 period really, really bad and they have to give
13 her pain pills and stuff sometimes. That way she
14 is just like any other woman. She still has that
15 problem. Other than that, you know.

16 Q Do you believe that Terri is suffering?

17 A No.

18 MS. CAMPBELL: I have no further
19 questions at this point.

20 THE COURT: Thank you. It's been an
21 hour-and-a-half. My guess is that your cross will
22 take a similar length of time?

23 MR. FELOS: At least an hour,
24 Your Honor.

25 THE COURT: In an abundance of caution,

1 let's take a five minute break. Mrs. Schindler,
2 ma'am, you are still on the stand. Please talk to
3 no one, except maybe court personnel.

4 (THEREUPON, A RECESS WAS HAD FROM 2:30 - 2:40
5 P.M.)

6 THE BAILIFF: All rise. Circuit court
7 is back in session.

8 THE COURT: Mrs. Schindler, take your
9 seat in the witness stand.

10 MR. FELOS: Approach the bench?

11 THE COURT: Approach.

12 (THEREUPON, THE FOLLOWING PROCEEDINGS WERE
13 HAD AT THE BENCH.)

14 MR. FELOS: I have received information
15 during the break that was relayed to me that there
16 is a young lady in the courtroom who has been
17 taking notes, and then on the last recess, went
18 outside the courtroom and started telling one of
19 our witnesses, who is under the rule of witnesses,
20 what is occurring in the proceedings and what the
21 witness, the current witness, is testifying to.

22 The person who allegedly is doing this
23 was communicating this information to Robert
24 Schindler, Jr., one of respondent's witnesses. I
25 know the Court has invoked the rule and I am

1 concerned about the possibility that the rule is
2 not being followed because a spectator in the
3 courtroom is providing testimony of the witness to
4 a witness waiting to be called.

5 THE COURT: Do you know who that person
6 is, Ms. Campbell?

7 MS. CAMPBELL: I see his girlfriend
8 there in the audience. I'm not sure if she is
9 doing that or not.

10 MR. FELOS: That is who it was, it was
11 told to me, was the girlfriend of the witness
12 taking notes and telling him.

13 THE COURT: Do you want me to announce
14 that the rule applies to everybody?

15 MR. FELOS: Certainly caution any
16 spectators.

17 THE COURT: I'll do that.

18 MS. CAMPBELL: I'm sorry.

19 (THEREUPON, THE BENCH CONFERENCE ENDED.)

20 THE COURT: It has been brought to the
21 Court's attention that a spectator or spectators
22 may be taking information from the courtroom and
23 discussing testimony with potential witnesses.
24 The rule has been invoked. That applies to
25 everyone. Witnesses are not to talk to anybody

1 about their testimony or any other testimony in
2 this case.

3 So if any spectator chooses to disregard
4 the communique of the Court, that you do not
5 discuss anything out of this courtroom with a
6 witness, sanctions will be imposed. Thank you.
7 Mr. Felos, you may proceed.

8 MR. FELOS: Just one moment, Your
9 Honor.

10 THE COURT: Yes sir.

11 CROSS-EXAMINATION

12 BY MR. FELOS:

13 Q Mrs. Schindler, I wrote down in my notes
14 while you were talking, "I just want her to live."
15 Is that basically how you feel about this
16 situation? You just don't want your daughter to
17 die?

18 A Yes.

19 Q You have been in court and I have read
20 portions of your deposition. Do you recall the
21 portion when I asked you, let's assume
22 hypothetically Terri had said I don't want to be
23 kept artificially alive, and I asked you does that
24 change your position in this case. And you
25 answered no.

1 Is that why? Because you just don't
2 want your daughter to die?

3 A I don't think Terri would have said
4 that.

5 Q Excuse me?

6 A I don't think Terri would have said
7 that.

8 Q That is not my question, what you think
9 Terri would say. I asked you hypothetically Terri
10 said that. I don't want to be kept alive
11 artificially. I asked you would that change your
12 position in this case. You said no.

13 Is that why you would disregard your
14 daughter's intent because you just don't want her
15 to die?

16 A I don't want her to die.

17 Q Is it your testimony here today that the
18 responsiveness that you believe Terri has to you
19 has only been occurring for one year?

20 A As much as she's been doing, yes.

21 Q You mentioned your 1993 deposition. You
22 described a little bit about that process. Wasn't
23 it your position -- didn't you have the same
24 position in 1993?

25 A Yes.

1 Q That Terri had some sort of awareness of
2 your presence and made these responsive -- or made
3 these responsive actions?

4 A Yes.

5 Q So that just has not happened in the
6 last year, but according to your testimony in '93,
7 you believed it was happening back then?

8 A Yes.

9 Q You made reference to Rogene Baker, a
10 nursing home aide, who you believe saw the same
11 thing you see about Terri?

12 A Yes.

13 Q Do you know why your attorney removed
14 Rogene Baker from her witness list?

15 A No.

16 Q Is it your testimony that your daughter
17 responds to your voice?

18 A Yes.

19 Q And I believe you were describing what
20 is on the tape?

21 A Yes.

22 Q You said that Terri was crying in the
23 tape?

24 A Yes.

25 Q Do you believe that she started crying

1 in response to your voice?

2 A Yes.

3 Q You are sure of that?

4 A Yes.

5 Q Okay. When you go to the nursing home,
6 do you bring anything with you?

7 A Not all the time.

8 Q What things might you bring with you
9 when you visit Terri at the nursing home?

10 A During the holidays, I decorate her
11 room. We bring tapes. Easter, I bring, I bring a
12 plant. I'll bring a poinsettia. Just different
13 things with me. Not all the time.

14 Q Do you bring a radio with you when you
15 go to the nursing home?

16 A Sometimes.

17 Q Is there a radio in Terri's room?

18 A There used to be.

19 Q There is not a radio now; is there?

20 A No.

21 Q I also wrote down, while in your
22 examination, you said sometimes Terri cries in
23 response to you?

24 A Yes.

25 Q Then again sometimes she doesn't?

1 A Right. Yes.

2 Q I also wrote down that you said "I
3 believe she understands"?

4 A Yes.

5 Q So you believe Terri has some cognizance
6 of what's going on?

7 A I believe she -- I believe she
8 understands that I'm there.

9 Q How would you know if Terri has a
10 response, whether she knows that a person is
11 there, as opposed to you or your husband or
12 someone else?

13 A I truly believe that she knows my voice.

14 Q That is what we would see on this
15 tape? Her response to your voice?

16 A Yes.

17 Q Do you believe she has any understanding
18 of her situation?

19 A I don't know that.

20 Q Would you agree that if she did, it
21 would be a torment?

22 A I don't know that.

23 Q There was some testimony about
24 ventilators and feeding tubes at the nursing home
25 your mom was in?

1 A Yes.

2 Q Isn't it true that Mike Schiavo visited
3 your mom there on numerous occasions?

4 A He used to go see her.

5 Q And you know he's a licensed respiratory
6 therapist?

7 A I understand that.

8 Q Would you dispute the fact that -- what
9 is the name of that nursing home, by the way?

10 A It used to be Majestic Towers. I don't
11 know what it is now.

12 Q Would you dispute the fact that Majestic
13 Towers at the time was not licensed to care for
14 ventilated patients?

15 A Well, there was a couple there.

16 Q Now you mentioned patients with feeding
17 tubes. You never worked with patients with
18 feeding tubes; did you?

19 A I never worked with any of the
20 patients. I just did activities with them.

21 Q You did not do activities with patients
22 with feeding tubes; did you?

23 A Yes. It was called stimulation
24 activity.

25 Q Your mom -- or let me backtrack. Do

1 you think that Terri should have a Do Not
2 Resuscitate order? Do you know what a DNR order
3 is?

4 A Yes.

5 Q Do you agree or disagree? What's your
6 position? Should Terri be resuscitated if her
7 heart stops?

8 A Yes.

9 Q Now you were involved with your mom's
10 care before she passed away; were you not?

11 A Yes.

12 Q You were also involved in the decision
13 making process for your mother?

14 A Yes.

15 Q When your mom was admitted to the
16 nursing facility, she was able to walk; was she
17 not?

18 A No.

19 Q Was she mentally competent?

20 A Yes.

21 Q When your mom was admitted to the
22 nursing home, why did you agree at that time it
23 was appropriate for your mom not to have a DNR
24 order on her chart?

25 A Not to?

1 Q Yeah. Was it appropriate for your mom
2 to have a Do Not Resuscitate order?

3 A I don't know that she did.

4 Q Do you recall that I took your
5 deposition back on August 12, 1999?

6 A Yes.

7 Q I'd like to read you your testimony from
8 Page 13, Line 5.

9 Question. Was there a Do Not
10 Resuscitate order entered on your mother's chart?

11 Answer. Yes.

12 Question. Were you involved in your
13 mother's care in her last years of life?

14 Answer. Involved?

15 Question. Well, did you help her make
16 decisions? Did you participate in the decision
17 making process with her?

18 Answer. Yes. I did.

19 Question. Tell me how it came about
20 that a Do Not Resuscitate wish was made.

21 Answer. When she entered the nursing
22 home, we sat down with the people there. Yeah. I
23 guess we did decide at that time not to do that,*
24 you know, or not to have -- to have the Do Not
25 Resuscitate.

1 Now if you were involved in your
2 mother's care, why was it appropriate for your mom
3 to have a Do Not Resuscitate order when she was
4 mentally competent, could converse, had a much
5 higher quality of life than Theresa, but it's not
6 appropriate for Theresa to have a Do Not
7 Resuscitate order?

8 A Well, maybe my mother made that decision
9 herself. My brother was also involved in my
10 mother's decision making, too.

11 Q Well, you are saying maybe it was your
12 mother's wish?

13 A Maybe. I absolutely don't remember.

14 Q Well, again in your deposition on Page
15 13, Line 20. After you say I guess we did decide
16 at that time not to do that, you know, or not to
17 have that, to have the Do Not Resuscitate, I asked
18 you the question, what do you recall of that
19 conversation?

20 I don't remember ever talking alone with
21 my mom about that. It was the man at the nursing
22 home, my mom and I, and we just discussed it. The
23 three of us. That was it.

24 Are you saying that you did not
25 participate in that decision?

1 A Um, I must have, but my mother must have
2 made the final decision.

3 Q Do you think that was appropriate for
4 your mother not to have a Do Not Resuscitate
5 order?

6 A If that is what she wished.

7 Q In your testimony, prior testimony, did
8 you not say anything that you disagreed with
9 that? According to your testimony, you were
10 involved in the decision making process with your
11 mother.

12 A But my mother was -- her mind was okay.
13 She knew about that, too. Maybe she is the one
14 that did not want it, and I went along with her.

15 Q You feel strongly about this subject;
16 don't you? You believe that all medical treatment
17 should be used to keep someone alive?

18 A Yes. I do.

19 Q Including artificial life support?

20 A Yes.

21 Q You feel strongly about that?

22 A Yes.

23 Q Did you speak up and mention that to
24 your mother? Try to talk her out of it?

25 A I don't remember if I talked to my

1 mother about that or not.

2 Q But would you say it was your mother's
3 decision to make?

4 A At that time, she was mentally
5 competent. She could make that decision by
6 herself.

7 Q So your mom's intent mattered?

8 A If that is what she wanted.

9 Q So why doesn't Terri's intent matter, if
10 hypothetically, that is what Terri wants?

11 A I don't want -- I don't know that to be
12 true.

13 Q But that is not my question. I asked
14 you hypothetically, if Terri said I don't want to
15 be kept alive by artificial means, would that make
16 a difference to you. You said no.

17 My question to you is why doesn't
18 Terri's intent matter?

19 A I don't know if that is Terri's intent.

20 Q Let me ask it this way. Does what Terri
21 wants matter to you regarding a decision to remove
22 artificial life support?

23 A Um, she's not in that position to make
24 that now.

25 Q That was not my question. My question

1 is does Terri's intent matter to you? Or is it,
2 in your mind, you just want your daughter not to
3 die for whatever reason?

4 A I would like my daughter to live until
5 it's -- she dies when God is ready for her.

6 Q You were here during Father Murphy's
7 testimony?

8 A Yes. I was.

9 Q How does anyone know when God is ready
10 for someone?

11 A They don't.

12 Q But to you, so I understand how you
13 feel, that whether or not somebody wants medical
14 treatment, they should have it?

15 A Yes.

16 Q Because God might not be ready for them?

17 A Yes.

18 Q I would like to talk to you about, I
19 think you mentioned the Karen Ann Quinlan case?

20 A Yes.

21 Q How old was Terri, do you recall, when
22 you had these conversations with her?

23 A Seventeen, eighteen, twenty. In her
24 teens.

25 Q I believe you testified that the time

1 period that these conversations were occurring was
2 when Karen Ann Quinlan's parents were attempting
3 to remove the respirator?

4 A Yes.

5 Q It was on television? It was
6 newsworthy?

7 A Yes.

8 MR. FELOS: One moment, Your Honor.
9 Your Honor, if I may, what number are we up to in
10 identification?

11 THE COURT: The next exhibit would be
12 Exhibit Number Eight.

13 Q (By Mr. Felos) Ma'am, I'd like to show
14 you Petitioner's Number Eight marked for
15 identification. These are newspaper pages from
16 the St. Petersburg Independent dated September 13,
17 1975; September 18, 1975; April 1, 1976 and May
18 24, 1976, regarding the Karen Ann Quinlan case.

19 The first one, September 13, 1975, has
20 the headline regarding the case, "Father Asks The
21 Judge To Let His Daughter Die." What was Terri's
22 birthday?

23 A 12-3-63.

24 Q December of 1963?

25 A Yes.

1 Q Well, when this headline broke, Terri
2 would have been 11 years old. And she also would
3 have been, in the next headline September 18 --
4 September 23, 1975, Your World Today, about the
5 Karen Ann Quinlan case, "To Live Or Die", Terri
6 would have been 11 at that time.

7 Then I would like to bring your
8 attention the front page of the St. Pete Times.
9 Terri would have just turned 12 years old, which
10 has on the front page, "Quinlan Has Right To Die",
11 which is when the Supreme Court of New Jersey
12 ruled in favor of the parents to remove the
13 ventilator.

14 And the last one in May of 1976, again
15 front page of the St. Pete Times, "Quinlan
16 Respirator Turned Off". Now you mentioned you
17 had these conversations with Terri in response to
18 the Karen Ann Quinlan case as the parents were
19 trying to remove the respirator, but Terri was not
20 17 or 18 years old at the time; was she?

21 A No.

22 Q At that time, Terri was 11 years old?

23 A Yes.

24 Q Is it your testimony that you had
25 conversations with your 11-year-old daughter

1 regarding artificial, removal of artificial life
2 support?

3 A But the Karen Ann Quinlan case went on
4 for years.

5 Q Ma'am, your testimony was that you had
6 these conversations with your daughter when it was
7 front page in the newspaper when it was
8 newsworthy, and when the parents were trying to
9 remove the respirator. The respirator was removed
10 in May of 1976, when your daughter was 12.

11 My question is, are you saying that you
12 had conversations with your daughter, the
13 conversations that you alluded to with your
14 daughter, occurred when she was 11 and 12 years
15 old? You have to speak out loud so the court
16 reporter can hear you.

17 A Yes.

18 Q Well now, again, what do you say that
19 Theresa said about the Karen Ann Quinlan case to
20 you?

21 A Just leave her alone.

22 Q Now I took your deposition again last
23 August and on Page 28, Line 1, I asked you, now
24 did you discuss with Terri the issue of whether
25 the respirator should be removed? We were talking

1 about the Karen Ann Quinlan case.

2 I really don't remember. I just
3 remember talking about her. I don't remember
4 exactly what was said.

5 A Yes.

6 Q Okay. Was that testimony you gave in
7 your deposition truthful? That you don't exactly
8 remember what was said?

9 A Yes.

10 Q Now you had a conference in this case
11 with Mr. Pearse, the guardian ad litem?

12 A Yes.

13 Q Do you know who Richard Pearse is?

14 A Yes.

15 Q And you knew before the conference with
16 Mr. Pearse that he would be issuing a report and a
17 recommendation to the Court on the question of
18 whether Terri's life support should be removed.
19 You knew that; didn't you?

20 A Yes.

21 Q Is it fair to say that you would tell
22 Mr. Pearse any information that you thought would
23 be helpful to your position in the case?

24 A I told Mr. Pearse the truth.

25 Q You told him the truth?

1 A Yes.

2 Q But that was not my question. My
3 question was, is it fair to say you would tell Mr.
4 Pearse any information you had which would help
5 your position in the case?

6 A I told Mr. Pearse -- the questions he
7 asked me, I answered them.

8 Q Are you saying that -- is your testimony
9 now that you only would tell Mr. Pearse what he
10 asked you and you would not add information if it
11 was helpful to your case, if he did not ask it
12 specifically?

13 A I -- yes. Maybe, you know, answer, but
14 I told Mr. Pearse whatever he asked.

15 Q Well, in your deposition, Page 45, Line
16 21, I asked you, question, you were talking about
17 Mr. Pearse, and is it fair to say you would
18 endeavor to tell him any information you would
19 think would be helpful to your position in this
20 case?

21 You answered probably. Yeah. Yes.

22 A Yes.

23 Q So now that we have straightened that
24 out, you would have told Mr. Pearse anything that
25 would help your position in the case; is that

1 correct?

2 A Yes.

3 Q Why didn't you tell Mr. Pearse that you
4 had a conversation with your daughter about the
5 Karen Ann Quinlan case in which she said let her
6 live?

7 A I don't remember. I don't remember. It
8 never came up. He didn't ask me. I didn't think
9 about it.

10 Q I think you also stated on your direct
11 examination that you knew of a friend of Terri's,
12 Diane Meyer, I believe you mentioned was her name?

13 A Yeah.

14 Q In which you believe that Terri had a
15 conversation with Diane also about the Karen Ann
16 Quinlan case; is that correct?

17 A Yes.

18 Q You learned of that information about
19 two years ago?

20 A Yes.

21 Q By the same token, in your conversation,
22 your meeting with Mr. Pearse, why didn't you tell
23 him about Diane Meyer?

24 A I don't know.

25 Q You talked about the dismissal of your

1 prior lawsuit. Do you understand that your
2 lawsuit was dismissed with prejudice?

3 A That is what it said. I didn't
4 understand it.

5 Q In the pleadings in this case, in Mr.
6 Schiavo's petition, there is an allegation that
7 you dismissed the lawsuit with prejudice. In your
8 answer, in your answer you deny that allegation.
9 Do you know why that allegation was denied in your
10 answer?

11 A I don't understand the question.

12 Q Okay. You are aware that Mr. Schiavo
13 filed a petition with this court -- let me get to
14 it. Petition for Authorization to Discontinue
15 Artificial Life Support.

16 A Yes.

17 Q Are you aware of that petition?

18 A Yes.

19 Q In paragraph thirteen of the petition it
20 states, the ward's parents have previously claimed
21 before this court that petitioner has a conflict
22 of interest because he has been involved in a
23 relationship with a woman other than his wife and
24 that petitioner stands to inherit the ward's
25 estate. Is that true? Is that statement true?

1 A Yes.

2 Q And it says, the ward's parents
3 subsequently dismissed their claim with prejudice.
4 Is that true?

5 A Yes. That is what is in there. I did
6 not understand it.

7 Q My question is is that true?

8 A Yes.

9 Q In the answer you filed to the petition
10 regarding paragraph thirteen that I just read your
11 answer is denied.

12 A Yes.

13 Q My question is, since the allegations
14 are true, why is it that you denied it in your
15 answer?

16 A Denied?

17 Q Yes.

18 A Denied what?

19 Q The statement in Mr. Schiavo's petition
20 you said is true. My question is why in your
21 answer did you deny the truth of the statement?

22 A I'm sorry. I really don't understand
23 what you are trying to -- I don't understand.

24 Q Okay. Let me show you the answer filed
25 on your behalf. You talked about -- you also --

1 and I wrote this down -- you said you dismissed
2 your claim with prejudice or you decided to
3 dismiss your claim because we had to pay the
4 expenses for what they wanted to do. Do you
5 recall saying that?

6 A Yes.

7 Q Can you explain to me what that means?

8 A For another court hearing.

9 Q So in other words, you were under the
10 belief that you had to pay some court costs?

11 A Yes.

12 Q Were you under the belief that you had
13 to pay attorney's fees?

14 A Yes.

15 Q And it was your understanding that by
16 dismissing this, you would not have to pay the
17 fees and costs?

18 A Yes.

19 Q Is the real reason you dismissed this
20 claim with prejudice was to save fees and costs?

21 A Yes.

22 Q Now your -- let me ask you this. In
23 your husband's deposition -- in your deposition
24 you state that this claim was dismissed with
25 prejudice by your attorney without your knowledge

1 and consent. Are you retracting that? Is that
2 not true?

3 A I didn't understand what it meant.

4 Q Well, that's something different. You
5 didn't understand what it meant. My question is
6 are you still claiming that your attorney
7 dismissed your suit with prejudice without your
8 consent?

9 A If he dismissed it, all I can say is I
10 did not understand what it meant.

11 Q Okay. Now we know today that the reason
12 you dismissed it is so you did not have to pay
13 fees and costs; correct?

14 A Yes.

15 Q At that time, you made the charges in
16 that suit that Mr. Schiavo was abusing Terri by
17 not treating an infection; is that correct?

18 A Yes.

19 Q Back then I would assume that your
20 daughter's life was important to you as well?

21 A Yes.

22 Q Why didn't you proceed? Why didn't you
23 proceed to remove Mr. Schiavo with your suit to
24 remove Mr. Schiavo as guardian so you would know
25 that would never happen again?

1 A Just repeat that please for me.

2 Q Why didn't you go ahead with that
3 lawsuit to have Mr. Schiavo removed so you would
4 know that not treating Terri would not happen
5 again?

6 A Because when we went to the hearing, the
7 guardian ad litem report said that everything was
8 okay, and I thought that was it.

9 Q We were talking before about your answer
10 to Mr. Schiavo's petition. Let me show you the
11 answer. Are you familiar with what I'm talking
12 about now when I say your answer to the petition?

13 A What is my answer? Which one?

14 Q My question was --

15 THE COURT: Mr. Felos uses the word
16 answer. The word "answer" means something
17 different to us than it does to a lay person.
18 Mrs. Schindler, answer means your response to your
19 son-in-law's petition. Does that help? I guess
20 not. I'm sorry.

21 Q (By Mr. Felos) Ma'am, my question was
22 in the answer filed by Ms. Campbell to Mr.
23 Schiavo's petition, you deny the truth of
24 paragraph thirteen of his petition. That is the
25 paragraph I read to you which you said was true.

1 My only question is, if what Mr. Schiavo
2 says in paragraph thirteen in his petition is
3 true, that you dismissed that case with prejudice,
4 why did you deny that?

5 A Mr. Felos, I didn't understand what
6 prejudice meant. That is all I can say.

7 Q Okay. When you found out -- you
8 testified that you found out from a nurse at Sabal
9 Palms that Terri was not being treated for an
10 infection?

11 A Yes.

12 Q And that is when she came back from the
13 hospital for having her gallbladder removed?

14 A Yes.

15 Q Do you dispute the gallbladder did not
16 occur in Sabal Palms, but it occurred at Palm
17 Gardens?

18 A No. I didn't know that. The nurse told
19 me it was her gallbladder. That's all I know.

20 Q Would you dispute Mr. Schiavo's -- would
21 you dispute a statement by Mr. Schiavo which says
22 Terri had her gallbladder removed while she was
23 residing at Palm Gardens?

24 A I don't know that.

25 Q I wrote down in your direct examination

1 that as a result of your conversation with this
2 nurse at Sabal Palms you believe that Terri was
3 not going to get any care. Now that opinion of
4 yours, the guardian ad litem who was appointed
5 reached a different opinion; didn't he?

6 A Yes.

7 Q In fact, you heard us read his report
8 that although Michael may be vocal at times, that
9 because of his vocal nature he got more care for
10 Terri than she otherwise would have gotten. Do
11 you remember that?

12 A I heard that.

13 Q Do you dispute that?

14 A I don't know that.

15 Q My question was do you dispute that?

16 A I don't know about that.

17 Q Well, up to the time that you and Mr.
18 Schiavo had a falling out, didn't Michael do
19 everything in his power to see that Terri's daily
20 needs were cared for?

21 A Yes.

22 Q I heard you say you were not part of the
23 malpractice case; is that correct?

24 A Yes.

25 Q You did testify as a witness though;

1 didn't you?

2 A Yes.

3 Q You also testified that Michael moved
4 out of your house because he said -- or moved out
5 of the house you and he were living in because he
6 wanted to move on with his life?

7 A Yes.

8 Q Isn't the real reason he moved out is
9 that his parents moved down to Florida, so he
10 decided to move in with his parents?

11 A Not at that time.

12 Q You dispute that he moved from the house
13 you were living in together into his parent's
14 home?

15 A Yes.

16 Q Now there were two residences in which
17 you and Mr. Schiavo, you and your husband and Mr.
18 Schiavo lived in together?

19 A Yes.

20 Q Is it correct that in the first
21 residence both -- that was a residence leased both
22 by you and Mr. Schiavo?

23 A No.

24 Q Whose house was it?

25 A It was in Michael's name, but we shared

1 everything.

2 Q So the house was Michael's, and you
3 lived in his house and shared expenses?

4 A Right. Yes.

5 Q You mentioned something about your
6 financial condition. You mentioned about your
7 financial condition at Sabal Palms. I think I
8 wrote in my notes that your personal financial
9 situation was not good?

10 A That's right.

11 Q Was that around -- were you referring to
12 the time that Mr. Schindler and Mr. Schiavo had
13 that fight or dispute at the nursing home?

14 A Yes.

15 Q That was around the time period just
16 after the trial; was it not?

17 A Yes.

18 Q In your deposition in August, I asked
19 you on Page 69, Line 2, Question. Did you have,
20 around the time period after the trial, did you
21 have a financial need?

22 Answer. No.

23 Question. For funds?

24 No.

25 Then I asked you on line 25. Question.

1 What would you estimate your net worth and that of
2 your husband was in February of 1993?

3 Answer. I don't remember. I really
4 don't remember.

5 Question. Did you consider yourself
6 well off at that time?

7 Answer. We were comfortable.

8 Now your statement, your testimony in
9 your deposition approximately seven months ago, or
10 less than that, five months ago or so, was that
11 you had no need for funds and your financial
12 position was comfortable.

13 You stated today in your testimony that
14 at that time your financial situation was not
15 good. Can you explain the difference in these two
16 testimonies? Your testimony here today and your
17 testimony a few months ago?

18 A We were comfortable, but still trying to
19 recover.

20 Q So your testimony is, I gather you had
21 no need for funds, but your financial situation
22 was not good; is that correct?

23 A We were comfortable --

24 Q Did you have a need for --

25 A -- but our financial situation was not

1 wonderful.

2 Q You also testified on direct
3 examination about the trust fund or account that
4 was set up for the money that was being raised for
5 Terri's care was deposited in an account at First
6 Union?

7 A Yes.

8 Q Isn't it a fact that your name was on
9 that account along with Michael's?

10 A Yes.

11 Q Did I get your testimony right on direct
12 that you didn't know that Terri wanted to get
13 pregnant and wanted to have children?

14 A I don't remember her telling me that.

15 Q Did you consider yourself having a close
16 relationship?

17 A Yes.

18 Q Now in the deposition of, I believe both
19 of your siblings, they make mention of Terri
20 telling them that?

21 A Well, maybe she told them.

22 Q But that is not something you recall
23 Terri telling you?

24 A We never discussed that that much.

25 Q How long did Michael work at Agostino's

1 restaurant?

2 A Maybe a year prior to Terri's -- a year,
3 year-and-a-half.

4 Q Year-and-a-half?

5 A Prior to Terri's problem. Prior to
6 Terri's problem.

7 Q Was Michael unemployed for long periods
8 of time?

9 A Yes.

10 Q When was that?

11 A Between jobs.

12 Q How much time would you consider long?
13 A couple weeks? A month?

14 A No. Longer than that.

15 Q Do you know how many hours Michael
16 worked at Agostino's?

17 A Um, no. Not really.

18 Q Do you know that he worked till closing
19 and closed the restaurant?

20 A Yes.

21 Q He worked on weekends?

22 A Yes.

23 Q Does that sound like being lazy to you?

24 A I'm not talking about that.

25 Q At the nursing home where you worked,

1 your work was doing activities with people?

2 A Yes.

3 Q But did you or did you not work with
4 patients who were intubated?

5 A Yes.

6 Q In your deposition on Page 10, Line 2 --
7 Line 7, I asked you, question, we were talking
8 about your work at the nursing home. Did you work
9 with any patients at that time who were
10 intubated?

11 Answer. No.

12 Can you please explain why six months
13 ago or five months ago under oath you said you did
14 not work with intubated patients and now today you
15 say you did?

16 A All I know is that when we used to have
17 -- I didn't work with them, per se. They used to
18 come into the rooms. They would be there for
19 activities. I never -- I used to read to them. I
20 never worked with them. They would come into the
21 room when we had activities. They would listen to
22 the music. They would be there in the room with
23 us.

24 Q But your work was reading to them? You
25 got paid for this; did you not?

1 A Yes.

2 Q Isn't it a fact that you don't, don't
3 know for a fact what qualifications, if any, a
4 person needs to be an activities director of a
5 nursing home?

6 A I don't know it, but they told me when I
7 started there in order to be a director, an
8 activities director, you had to go for schooling
9 at least two years.

10 Q So you received some hearsay information
11 from somebody. This is what somebody told you?

12 A From the director of the nursing home.

13 Q But you don't know that for a fact?

14 A No. I don't.

15 Q But certainly you did not need any
16 special training or license or education for your
17 position as an assistant activities director; did
18 you?

19 A No.

20 Q You had testimony about your husband's
21 brother. I believe you mentioned his name is Fred
22 Schindler?

23 A Yes.

24 Q He was in that accident in 1980?

25 A Yes.

1 Q He was in a coma for a while?

2 A Yes.

3 Q Right side paralysis?

4 A Yes.

5 Q He still has paralysis; doesn't he? I
6 believe you said it was permanent?

7 A Yes. But it got better after he went to
8 rehab in Colorado.

9 Q He improved, but after his improvement,
10 he still is permanently impaired; wasn't he?

11 A No. He wasn't. Well, permanently
12 impaired?

13 Q Um-hmm.

14 A How do you mean?

15 Q In 1986 was your husband's brother,
16 Fred, impaired? Paralyzed partially?

17 A Yes. In '80.

18 Q I asked you in 1986?

19 A Yes.

20 Q Yes. So at the time period Mr. Schiavo
21 says he had a conversation with Terri about her
22 uncle in '86, the uncle was paralyzed, partially
23 paralyzed?

24 A Partially.

25 Q And he lived with Mr. Schindler's mother

1 at that time; didn't he?

2 A No.

3 Q Didn't you testify on direct that he
4 lived with Mr. Schindler's mother until her death?

5 A She lived with him. It was his house.

6 Q Excuse me. They lived together?

7 A She moved in there to take care of his
8 children.

9 Q Is it your testimony that -- was it your
10 testimony that Terri was present for her
11 grandmother's death? Mr. Schindler's mother's
12 death?

13 A Yes.

14 Q Isn't it a fact that she was in Florida
15 with Michael --

16 A No.

17 Q -- when the grandmother died?

18 A No.

19 Q You mentioned, you were very specific
20 in your direct examination, very specific that the
21 grandmother had two hospitalizations?

22 A Yes.

23 Q One in October of 1985 and one later on.
24 I believe you said she died in March 1986?

25 A Yes.

1 Q Are you sure of that, or perhaps there
2 was one hospitalization, she was in the hospital
3 for awhile, and it resulted in her death?

4 A No.

5 Q Do you have a clear recollection of the
6 events regarding your mother-in-law's death?

7 A Yes.

8 Q In your deposition last August, on Page
9 47 and 48, we were talking about the illness of
10 your mother-in-law and your mother-in-law being on
11 a respirator, and also the conversation that you
12 said the family had that your husband decided to
13 put his mother on a respirator^a and the family
14 supported him. Do you recall that?

15 A Yes.

16 Q The family supported him. Do you recall
17 that?

18 A Yes.

19 Q I asked you on Page 27, Line 21,
20 Question. When and where did this conversation
21 occur?

22 Answer. Probably after we came back
23 from visiting my mother-in-law.

24 Question. When you came back?

25 Answer. Probably when we all came back^e

1 from visiting my mother-in-law. This is before we
2 moved to Florida, though.

3 Question. Okay. So prior to 1986,
4 that's when Terri moved to Florida?

5 Answer. Uh-huh.

6 Question. So prior to 1986 you and
7 Terri visited your mother-in-law?

8 Answer. All of us did.

9 Question. Okay. Do you know what the
10 year was? Okay. Do you know what year this was?

11 Answer. No. I don't remember when she
12 was in the hospital.

13 Question. Was it before Terri married
14 and left the home?

15 Answer. Yes. It had to be. It had to
16 be.

17 Question. Okay. What life support was
18 your mother-in-law on?

19 Answer. She was on a respirator.

20 Ma'am, in your deposition five months
21 ago, you stated that your mother-in-law was on a
22 respirator; the conversation between the family
23 before her death about putting her on a respirator
24 all occurred before Terri married and left the
25 home. Now Terri married in November of 1984?

1 A Yes.

2 Q Can you explain why you couldn't even
3 remember the year that this occurred, but now you
4 know not only the year but the exact month this
5 conversation occurred?

6 A Well, because I got the dates mixed up.
7 She died in '86 in March. Terri was married in
8 '84. So it had to have been after Terri got
9 married.

10 Q Isn't it true that you don't remember,
11 you don't remember exactly when Terri and Michael
12 took a trip to Florida?

13 A No.

14 Q You mentioned that back in Philadelphia
15 Mike worked at a McDonald's?

16 A Yes.

17 Q Isn't it true that he was the manager of,
18 the McDonald's?

19 A Yes.

20 Q Do you recall Mike, Mr. Schiavo, ever
21 being in an automobile accident while he was
22 visiting in Florida?

23 A Yes.

24 Q Don't you recall that when he called
25 home and you were told about that, you informed

1 him that Mr. Schindler's mother died?

2 A No.

3 Q You sure that was not the time?

4 A No.

5 Q Do you think whether the patient
6 experiences pain should be a factor in whether to
7 remove life support?

8 A Everybody experiences pain at some time.

9 Q But isn't it true that it is your
10 position that the degree of pain experienced by
11 someone should not be a factor in considering
12 whether or not to remove artificial life support?

13 A Yes.

14 Q Isn't what you would like to see happen,
15 Mrs. Schindler, is to have Mr. Schiavo remarry,
16 divorce Terri, then have Terri's care left to you
17 and your husband? Isn't that what you would like
18 to see happen?

19 A Yes.

20 Q And is it fair to say that what we might
21 expect for Terri in the future regarding medical
22 treatment and medical procedures is what you have
23 stated already?

24 A I don't know that.

25 Q That every possible medical treatment

1 should be used to keep her alive? Isn't that what
2 we would expect?

3 A Yes.

4 Q Isn't it true that we could expect that
5 for Terri because that is what you would want for
6 yourself?

7 A I want it for my daughter.

8 Q Is the reason you want it for your
9 daughter because that is what you would want for
10 yourself?

11 A Yes.

12 Q Mrs. Schindler, are you aware if you
13 prevail in this case that there is a possibility
14 you could gain a substantial amount of money?

15 A Yes.

16 Q Is that yes?

17 A Yes.

18 Q Wasn't it the issue of finances that
19 caused the rift between you and your husband and
20 Mr. Schiavo?

21 A That had nothing to do with Terri's
22 money.

23 Q Weren't you upset over the fact that
24 Mr. Schiavo would not share his award with you?

25 A His award, yes.

1 Q If the money did not matter, why were
2 you upset that he would not share his award?

3 A Because at the time of the trial,
4 Michael kept saying that he would.

5 Q You heard Mr. Schiavo's testimony that
6 the first facility that your daughter went to was
7 Northside Hospital --

8 A Yes.

9 Q -- after her incident. She was there
10 about 3-and-a-half months?

11 A Yes.

12 Q Do you dispute his testimony that he
13 stayed there day and night for sixteen days with
14 her?

15 A We all did.

16 Q You don't dispute his testimony?

17 A No.

18 Q Is it fair to say that in the first few
19 months while Terri was at Humana Northside that
20 she did not exhibit any of the responses she
21 exhibits today?

22 A Yes.

23 Q Yes. It's fair to say that?

24 A Yes. It's fair to say that.

25 Q She was basically unresponsive those

1 first three months?

2 A Yes.

3 Q Isn't it true that Terri's arms and legs
4 move?

5 A Yes.

6 Q But isn't it true that you have no idea
7 whether it's a reflexive action or voluntary
8 action?

9 A I don't know.

10 Q One of the signs that you take that
11 Terris is aware of your presence is because her
12 head will follow your voice?

13 A Yes.

14 Q But that does not occur all the time;
15 does it?

16 A No.

17 Q Is it true you desperately want to
18 believe that your daughter is aware of your
19 presence?

20 A Yes.

21 MR. FELOS: I have no other questions,
22 Your Honor.

23 THE COURT: Redirect?
24
25

REDIRECT EXAMINATION

BY MS. CAMPBELL:

Q Thank you. Mrs. Schindler, do you know Theresa's intent as to what she would want to do regarding the feeding tube?

A No. No. I don't.

Q You have heard many times through this Mr. Schiavo's stories about Terri telling him that she would not want to be kept alive like this on the train trip?

A Yes.

Q Do you believe that story?

A No.

Q Why don't you believe that story?

MR. FELOS: Your Honor, it's for the Court to determine whether witnesses are believed or not. Whether Mrs. Schindler believes Mr. Schiavo's story is not relevant.

THE COURT: I don't think, phrased that way, it's relevant. Why she believes. Why would it be relevant?

MS. CAMPBELL: In the earlier part of Mr. Felos's cross-examination, he was asking her about Theresa's intent as expressed to Michael. Mrs. Schindler testified that she did not believe

1 it. It was pressed as to why wouldn't she accept
2 Theresa's intent.

3 I think that Mrs. Schindler, there's a
4 reason why she does not believe Michael's story
5 and that is why she did not believe Theresa's
6 intent. That is why I believe it's relevant.

7 MR. FELOS: The questions on cross had
8 to do with a hypothetical question. Assume that
9 Terri said this, this was her intent. Does that
10 change her position? She said, well, I don't
11 think it does. I said assume it does. Does that
12 change your position? She said no.

13 I could ask every witness whether they
14 believe the other witness's testimony, but it's
15 not relevant or proper.

16 THE COURT: She's doing more than that.
17 She's asking the reasons why she might not believe
18 it. For whatever it's worth, I'll allow it.

19 Q (By Ms. Campbell) Mrs. Schindler, why
20 do you not believe Michael's statement?

21 A Because I don't believe Terri would ever
22 say anything like that.

23 MR. FELOS: I object. Move to strike
24 the answer. That is completely without foundation
25 as to her belief of what somebody else might say.

1 THE COURT: Well, I allowed the
2 question. I guess we're stuck with the answer.

3 MS. CAMPBELL: I'll move on. Thank you.

4 Q (By Ms. Campbell) Mrs. Schindler, since
5 the time of the deposition that was taken by Mr.
6 Felos in August of 1999, have you had more time to
7 think about the time frame and sequence of events
8 pertaining specifically to the '85/'86 time frame
9 of the train trip?

10 A Yes.

11 Q Was there anything that you had at home
12 maybe that helped you to remember any of those
13 dates?

14 A Yes. We had found a calendar.

15 Q What did the calendar reveal to help you
16 refresh your memory?

17 A It had the times that my husband and the
18 times that Terri and Mike took their trips to
19 Florida.

20 Q Why was the calendar kept?

21 A My husband kept it for tax purposes for
22 our condo, and he was coming down periodically to
23 look for work, so he kept it.

24 Q And he would stay in the condo when he
25 came to St. Petersburg?

1 A Yes.

2 Q Are you aware of how many times Theresa
3 took a train trip, specifically from Pennsylvania
4 to Florida, between 1985 and 1986?

5 A Once.

6 Q You are not aware of any other times;
7 right?

8 A The train trip?

9 Q Right.

10 A No.

11 Q Why is it then in your mind that you
12 remember October for the train trip as opposed to
13 the following year when Mrs. Schindler died?

14 A Because when they came down on the train
15 it was Michael, Terri, and Brian. And my husband
16 was already down there.

17 Q Down there meaning Florida?

18 A In Florida.

19 Q That was prior to the death of
20 Mrs. Schindler?

21 A Yes.

22 Q Do you recall watching the movie about
23 Karen Ann Quinlan?

24 A The movie? No. I don't think I watched
25 it.

1 Q Just a minute ago you were talking to
2 Mr. Felos regarding the distinction between
3 Michael's award and Theresa's award. Can you
4 explain what you mean by that?

5 A Well, when they had the trial for
6 Terri's malpractice, Terri got an award from the
7 doctor. Then she got two awards. One from the
8 doctor from his insurance. Then the other doctor
9 did not settle, and the gynecologist, and they
10 sued him and she got an award from him. Then they
11 gave Michael an award for, I think it was loss of
12 consortium.

13 Q In your discussions with Michael about
14 sharing in any award, did you ever believe that
15 was sharing in any award of Terri's?

16 A No.

17 Q What did that sharing in award mean to
18 you?

19 A It meant if Michael received anything in
20 the lawsuit we would, you know, he would maybe
21 share some of that money. Terri's money was for
22 her. To take care of her.

23 Q What was -- the sharing of the money,
24 what were your plans for that money?

25 A We were going to take her to doctors.

1 We were going to do tests on her. Maybe buy a
2 house. Bring her home so she would not be in a
3 nursing home anymore. We could live there. We
4 could have nursing. Things to help her.

5 MS. CAMPBELL: Thank you. No further
6 questions.

7 THE COURT: Anything further,
8 Mr. Felos?

9 MR. FELOS: Yes, sir.

10 RECROSS-EXAMINATION

11 BY MR. FELOS:

12 Q Do you have that calendar with you?

13 A No. I don't.

14 Q Now I believe you were asked after the
15 deposition whether you had an opportunity to
16 review dates, get information, more information
17 about things; is that correct?

18 A Yes.

19 Q Well, are you saying that you received
20 no instructions from anyone before your deposition
21 to think about these things beforehand?

22 A Instructions about what, Mr. Felos?

23 Q You knew in August that your deposition
24 was being taken in this case?

25 A Yes.

1 Q You knew all about what the case was
2 about. You knew the things that, the general area
3 of subjects that you would be asked about?

4 A Yes. But I did not know what questions
5 you would ask me.

6 Q Well, not specific questions. Were you
7 told to review dates and prepare for your
8 deposition beforehand?

9 A I was told to think about dates and
10 stuff. Yes.

11 MR. FELOS: And -- that's all, Your
12 Honor.

13 THE COURT: Thank you. Ms. Campbell,
14 anything further?

15 MS. CAMPBELL: No, Your Honor.

16 THE COURT: Thank you, ma'am. You may
17 step down. Let's take five minutes and call your
18 next witness.

19 MS. CAMPBELL: That's fine.

20 (THEREUPON, A RECESS WAS HAD FROM 4:10 P.M.
21 - 4:15 P.M.)

22 THE BAILIFF: All rise. Circuit court
23 is back in session.

24 THE COURT: All right. Be seated,
25 please. Call your next witness.

1 MS. CAMPBELL: I would like to call
2 Michael Vitadamo.

3 THE BAILIFF: Please stand here, sir.
4 Face the Court. Raise your right hand to be
5 sworn.

6 (THEREUPON, THE WITNESS WAS SWORN ON OATH BY
7 THE COURT.)

8 THE BAILIFF: Have a seat in the
9 witness stand and speak in a loud and clear voice
10 for the Court.

11 DIRECT EXAMINATION

12 BY MS. CAMPBELL:

13 Q Mr. Vitadamo, state your name and spell
14 your last name for the Court.

15 A Michael Vitadamo, V-i-t-a-d-a-m-o.

16 Q What is your occupation, please?

17 A Self-employed.

18 Q What do you do?

19 A I have a janitorial service.

20 Q Where do you live?

21 A St. Petersburg.

22 Q Do you recognize this package?

23 A Yes.

24 Q What does this package look like to you?

25 A That is a VHS cassette tape package.

1 Q This box contains the video?

2 A Yes.

3 Q Last Saturday, what were you doing on
4 Saturday?

5 A I guess Bob asked me to go to Palm
6 Gardens. Met them up there. This was about 10:30
7 in the morning.

8 Q Bob who?

9 A Bob Schindler.

10 Q How do you know Mr. Schindler?

11 A Suzanne and I know each other from
12 working out at the gym.

13 Q Suzanne is Suzanne Carr, Mr. Schindler's
14 daughter?

15 A Yes. I'm sorry.

16 Q And you were requested to do what now?

17 A Bob asked me to go up and videotape some
18 of Terri's activities, because I have a video
19 camera and they did not have one. So I said sure.

20 Q Have you been to visit Terri before?

21 A I had seen her on, I think two other
22 occasions.

23 Q On that Saturday, could you please
24 describe when you went to the nursing home what
25 happened?

1 A I walked in with Suzanne Carr and I
2 loaded the camera up. I looked for a plug and I
3 could not really find anywhere to plug it in. I
4 guess I went along the right side of Terri's bed
5 and found a plug and plugged it in. I put the VHS
6 tape in there. Mary had walked in and around
7 while I was doing that. I pointed the camera at
8 her. I pressed record to make sure it was
9 working.

10 I saw that in fact it was working. I
11 shut it off. I said, "Okay. Mary, what do you
12 want me to do?" She said just go ahead and I'll
13 ° talk to Terri. Go ahead and record it. That is
14 what I did.

15 Q How much of a length of time before
16 your started recording?

17 A Fifteen seconds. Ten seconds.

18 Q Was there any reason as to why you did
19 the videotape for a short amount of time versus
20 the entire visit?

21 A As I said before, I am self-employed. I
22 was working. I had a very short amount of time.
23 I went in there, did what they asked me to do, and
24 I just left.

25 MS. CAMPBELL: Your Honor, I now would

1 like to enter this videotape into evidence to show
2 Mr. Vitadamo -- make sure this is the same
3 videotape he took on that day.

4 THE COURT: Do you wish to voir dire,
5 Mr. Felos?

6 MR. FELOS: Yes, Your Honor.

7 VOIR DIRE EXAMINATION

8 BY MR. FELOS:

9 Q Is it Mr. Vitadamo?

10 A Yes.

11 Q Mr. Vitadamo, I am George Felos,
12 attorney for Michael Schiavo. Do you own a
13 janitorial service?

14 A Yes.

15 Q How long have you owned that business?

16 A About sixteen years.

17 Q When you say you know Bob Schindler, are
18 you referring to Robert Sr. or Jr.?

19 A Actually, both.

20 Q How long have you known Mr. Schindler,
21 Sr.?

22 A About five years. Four-and-a-half.

23 Q And Mr. Schindler, Jr.?

24 A The same.

25 Q Who actually called you to ask if you

1 had a video camera and could tape something?

2 A I think Suzanne asked me. Suzanne Carr
3 asked me for her dad.

4 Q Um-hmm.

5 A And I told her yes.

6 Q You mentioned that you met Suzanne at
7 the gym?

8 A Yes.

9 Q Are you in any -- do you see each other
10 often outside of the gym?

11 A Outside? Occasionally.

12 Q Do you date at all?

13 A We go out sometimes. Sure.

14 Q Is it a romantic relationship?

15 A No.

16 Q Why is it -- prior to this Saturday,
17 when is it that you visited Theresa Schiavo?

18 A Um, I don't -- I honestly don't recall.

19 Q Would it be days, weeks, months?

20 A God, it was probably a year or more.

21 Q Who did you go to the nursing home with?

22 A I met the Schindlers there.

23 Q So you drove by yourself?

24 A Yes.

25 Q Which of the Schindlers were there at

1 the nursing home?

2 A Bob. Mary. Suzanne Carr and her
3 daughter, Alex.

4 Q Where did you see them when you arrived
5 at the nursing home?

6 A The front of the building.

7 Q Did all five of you then enter the
8 nursing home together?

9 A No.

10 Q Did some of you go in first?

11 A Suzanne and I went in and Mrs. Schindler
12 was right behind us

13 A How about Mr. Schindler?

14 A He, I believe he waited outside with his
15 granddaughter.

16 Q When you went into the nursing home, is
17 there a reception desk, I believe, there?

18 A Yes.

19 Q Was there anyone at the desk?

20 A I honestly don't recall.

21 Q Did you inform any of the nursing home
22 administrative personnel that you were there to
23 take a videotape of one of their patients?

24 A No.

25 Q Did you ask for permission of any

1 nursing home personnel to do that?

2 A No.

3 Q Were you told or did you ask or told
4 what the purpose of this videotape was?

5 A Very vaguely. Just that they wanted to
6 capture some of Terri's activities.

7 Q Did you know the Schindlers were going
8 through a trial at this time?

9 A Suzanne talked to me a little bit about
10 it. Not in any depth.

11 Q Did you know there was a trial going on
12 at this time?

13 A Yes.

14 Q Were you told or explained that the tape
15 that you were making would be shown at trial or
16 might be shown at trial?

17 A I did not ask. They did not offer.

18 Q So you didn't know?

19 A No.

20 Q On that visit to the nursing home last
21 Saturday, when is the first time that you actually
22 saw Theresa? Where was she?

23 A I think she was in bed. In her bed.

24 Q Are you sure?

25 A Yes. She was in bed.

1 Q What was she wearing?

2 A I don't know.

3 Q When you entered the -- did you go to
4 Theresa's room along with Suzanne and Mrs.
5 Schindler? Did all three of you go together?

6 A Yes. Mrs. Schindler was right with us.
7 We kind of walked in together.

8 Q Once you entered the room, how much time
9 elapsed before you actually started videotaping?

10 A As long as it took me to plug in my
11 recorder and place the VHS cassette in. Two
12 minutes.

13 Q As you entered the room, did you hear
14 Terri moaning?

15 A No.

16 Q Did you hear Terri moaning at all?

17 A Yes.

18 Q Or making a sound at all through the
19 time you were there?

20 A Yes.

21 Q When did that start?

22 A Pretty sure after Mary had said, "Hello
23 Terri, mommy is here." Something to that effect.

24 Q Did you decide to stop taping yourself
25 or were you instructed by somebody to stop the

1 tape?

2 A Well, Bob had told me that once Terri
3 was aroused in that way that after she had
4 interaction with Mary Schindler, once she calmed
5 down, it could be hours before she had any
6 activity again. It could be 15 minutes. Could be
7 an hour. So I was, being on a time restraint, I,
8 had to leave.

9 Q So is it your testimony that it was you
10 who said we need to stop the tape now?

11 A Um, no. I believe Mary told me that was
12 enough.

13 Q So Mrs. Schindler instructed you?

14 A Yes. Because I guess --

15 Q I'm not asking you to guess.

16 A Okay. I'm sorry. Once Terri calmed
17 down, Mary said that is enough.

18 Q So you stopped taping because Mrs.
19 Schindler instructed you to?

20 A Yes.

21 Q Now you mentioned that there was a small
22 gap in the tape?

23 A Yes.

24 Q As I understand it, you put the tape in
25 and you started recording to see if it was working

1 all right?

2 A Yes.

3 Q How did you determine the tape was
4 working?

5 A I turned it on. Hit record. Saw Mary
6 up in the little whatever, viewer.

7 Q Is it one of those recorders that has
8 like the liquid digital display?

9 A It is very old. I purchased it in
10 1988. It is very old.

11 Q In other words, you see a picture of
12 what you are recording?

13 A Yes.

14 Q That is how you know it is working?

15 A Yes.

16 Q Well, when you started recording and you
17 saw the picture and knew that it was recording,
18 why did you shut it off?

19 A Because I wanted -- I didn't have a
20 tripod, so I wanted to make sure I positioned
21 myself in a place where I could focus on Theresa
22 and Mrs. Schindler and I would not have to move
23 anymore. That is why I stopped.

24 Q So let me understand, did you have a
25 tripod with you?

1 A No. I did not.

2 Q So you stopped the tape to position
3 yourself?

4 A Yes. So there would not be -- once I
5 determined it was working, I put it where I was
6 supposed to be recording and left it there.

7 Q Okay. Had Mrs. Schindler asked you --
8 had Mrs. Schindler not asked you to stop
9 recording, would you have recorded more?

10 A Honestly, probably not that much longer.

11 Q What would you estimate the time was in
12 between when you stopped recording the tape,
13 positioned yourself, and started recording again?

14 A Ten or fifteen seconds.

15 Q That is the time period -- is it fair to
16 say in that 10 or 15 second interval is when Mrs.
17 Schindler walked over to Terri, sat down, and then
18 you started taping?

19 A Yes. She was literally standing two
20 feet away from the bed.

21 Q So it would have been possible at that
22 time -- was Terri facing -- was her head turned to
23 one side or the other?

24 A I honestly don't recall.

25 Q Assuming her head was turned to one

1 side, is it possible Mrs. Schindler may have
2 walked to the side of Terri's bed where her head
3 was not turned, started talking, and then moved
4 back to the other side? Do you see what she was
5 doing?

6 A No. I honestly focused the camera where
7 it was supposed to be. I kind of positioned
8 myself near the window where there was some
9 sunlight coming in.

10 Q So you were busy doing that? Positioning
11 yourself?

12 A Yes. I'm not a professional, so it was
13 the best I could.

14 Q You don't know whether Mrs. Schindler or
15 anyone else took those 10 or 15 seconds to test
16 Terri's responses at all; do you?

17 A No.

18 MR. FELOS: No further questions,
19 Your Honor.

20 THE COURT: Thank you, Mr. Felos.

21 MR. FELOS: If there is no redirect --
22 if I may, Your Honor, just one more question?

23 THE COURT: Yes sir.

24 Q (By Mr. Felos) Where was Ms. Carr and
25 Mr. Schindler and the granddaughter at the time

1 you were taping?

2 A Suzanne, I believe, was to my right.
3 Mr. Schindler was outside with his granddaughter.

4 Q Have you seen the videotape?

5 A Um, I checked the viewer to make sure it
6 recorded, then I --

7 Q But you did not view the tape?

8 A Yes. I checked it through the viewer.
9 Yes.

10 MR. FELOS: Your Honor, I renew my
11 objections, all the previous objections I raised
12 to the tape, and in addition to that, also raise
13 the objection that we do have a period in this
14 tape that at least the maker of this tape cannot
15 account for. Cannot account to what the
16 participants were doing in this tape.

17 We don't know whether Mrs. Schindler or
18 anyone else, you know -- there is moaning on the
19 tape -- whether they pinched Terri; tried to
20 provoke a response. Asked a question on one side;
21 got a response. Did not get a response. Asked a
22 question on the other side.

23 If this were a tape, Your Honor, of the
24 entire visit, or 30 minutes or something like that
25 to give us a broad sample of the responses of

1 Theresa Schiavo that initial gap may not be
2 important, but given the brevity of this tape, it
3 may have great importance as to how the brief tape
4 would be interpreted.

5 THE COURT: Mr. Felos, you are giving me
6 an argument on my going out to the nursing home;
7 which you argued against last week, and I denied
8 without prejudice Ms. Campbell's request. I don't
9 know what this is going to show me. I don't know
10 what a snippet from this lady's day will tell me
11 but out of -- I really don't feel good about
12 seeing it. I will say that. Because of the fact
13 that I don't know what occurred prior.

14 But with all those reservations, I think
15 I would be remiss if I did not see it. There is
16 so much at stake in this case, that I'm not going
17 to hold quite as firm to the proffer of Erhardt in
18 cases that have been ruled on. So I'll see it.

19 And let me suggest this to you. We
20 probably ought to turn the television facing the
21 windows over here because there is more people on
22 this side that need to be relocated. The ones on
23 your side may or may not need to see it, because
24 it is being offered in your behalf, and I'll walk
25 around and stand by the railing. That way I think

1 is best.

2 The tape, itself, will be in evidence.
3 I assume there is audio on the tape?

4 MS. CAMPBELL: Yes.

5 THE COURT: The audio on the tape, madam
6 reporter, will suffice, unless there is an
7 objection. Mr. Felos, do you wish the reporter to
8 attempt to transcribe what is on the tape?

9 MR. FELOS: No, Your Honor. I think the
10 audio is enough.

11 THE COURT: Ms. Campbell, is that
12 sufficient?

13 MS. CAMPBELL: That is sufficient.

14 MR. FELOS: Your Honor, I would like to
15 ask a couple of questions. Whether opposing
16 counsel intends to bring Mrs. Schindler back on
17 the stand to testify to the contents of the tape.

18 MS. CAMPBELL: Yes, Your Honor.

19 MR. FELOS: Because my request is to
20 renew my cross of Mrs. Schindler, now having seen
21 the tape.

22 THE COURT: Well, you've got an
23 affirmative answer, Mr. Felos. Is that the best
24 angle to prevent glare or should it be more facing
25 directly?

1 MR. FELOS: Your Honor, I would also
2 request, having viewed this tape myself, that the
3 Court view it at least, at least two or three
4 times. My experience has been, in reviewing
5 these, that the more -- the more times you view
6 it, the more you see. I request that the Court
7 view it more than once.

8 THE COURT: It's going to be in
9 evidence. I'll review it like I review any other
10 evidence I have -- review affidavits, report from
11 that national center.

12 (THEREUPON, THE VIDEOTAPE WAS PLAYED FROM
13 APPROXIMATELY 4:32 - 4:34 P.M.)

14 MS. CAMPBELL: That is the end of the
15 videotape. Do you want to see it a second time
16 now?

17 THE COURT: No, ma'am. Not this
18 afternoon.

19 MS. CAMPBELL: Thank you.

20 MR. FELOS: Your Honor, can this
21 television remain here? I would request it remain
22 through the balance of the trial, as the tape may
23 be used in the examination of witnesses,
24 certainly on rebuttal.

25 THE COURT: We certainly can retain

1 that. I don't think that is in the way.

2 MS. CAMPBELL: I believe, Your Honor,
3 that the equipment is available here in the
4 courthouse. They brought it in this morning for
5 us. I think it is a matter where it is being used
6 at the time in the courthouse.

7 THE COURT: Let's keep it here. If
8 somebody needs it, we are in somewhat control.
9 Does that make sense, Mr. Sheriff?

10 DIRECT EXAMINATION CONTINUED

11 BY MS. CAMPBELL:

12 Q Mr. Vitadamo, this is the videotape you
13 took last Saturday?

14 A Yes. It is.

15 Q After the videotape was concluded, after
16 you stopped it, did anything else occur after that
17 while you were there?

18 A I just left. I turned the video off,
19 gave the tape to Suzanne, and immediately just
20 left.

21 MS. CAMPBELL: Thank you. No further
22 questions of Mr. Vitadamo.

23 THE COURT: Any further questions,
24 Mr. Felos?

25 MR. FELOS: Yes.

1 THE COURT: Do you wish to admit the
2 tape?

3 MS. CAMPBELL: Yes.

4 THE COURT: I believe it is your first.

5 MS. CAMPBELL: Yes. Number one.

6 THE COURT: The record will note this is
7 still over Mr. Felos's objection.

8 (THEREUPON, RESPONDENT'S EXHIBIT 1 WAS
9 RECEIVED IN EVIDENCE.)

10 CROSS-EXAMINATION

11 BY MR. FELOS:

12 Q Mr. Vitadamo, I recall you testifying
13 that Terri was not moaning as you entered the
14 room, but was moaning, started moaning when her
15 mother started talking to her. Is that what you
16 testified?

17 A Yes.

18 Q Correct me from what -- if I am wrong.
19 From what I saw on this tape, when the tape
20 started, Mrs. Schindler was not next to Terri, she
21 was still entering the room where she was standing
22 up?

23 A She was standing, like I said, two feet
24 away from the bed. Three feet.

25 Q Isn't the first thing we hear on the

1 tape moaning?

2 A Yes.

3 Q So Theresa Schiavo did not start moaning
4 when her mother sat down and talked to her, she
5 was moaning the instant this tape started; isn't
6 that correct?

7 A To the -- viewing it this time, it
8 sounded that way. Saturday, I was just
9 concentrating on the camera. I couldn't have
10 sworn to it then.

11 MR. FELOS: Thank you. No other
12 questions.

13 THE COURT: Any redirect?

14 MS. CAMPBELL: No, Your Honor.

15 THE COURT: You may stand down, sir.

16 MS. CAMPBELL: I now would like to
17 recall Mrs. Schindler to the stand.

18 THE COURT: Ma'am, you are still under
19 oath.

20 MRS. SCHINDLER: Yes, Your Honor.

21 FURTHER REDIRECT EXAMINATION

22 BY MS. CAMPBELL:

23 Q Mrs. Schindler, now that you have
24 watched this videotape, is that a depiction of
25 what occurred on Saturday?

1 A Yes.

2 Q Can you please describe what happened
3 prior to that videotape beginning?

4 A We went in. Mr. Vitadamo set up. I was
5 standing. Terri was here in bed. I was standing
6 against the -- over by the window. I waited for
7 him to start the tape. Then I walked over.

8 Q Did you call out to Terri in any manner
9 prior to the videotape beginning?

10 A No.

11 Q Did you pinch Terri in any way?

12 A No.

13 Q Do anything else to startle her or to
14 cause her to make the moaning or laughing sound?

15 A No.

16 Q Please describe your interpretation of
17 Terri's actions. Or what are your observations of
18 Terri in the beginning of this videotape?

19 A When I started talking to her, it looked
20 like she smiled. Then she started crying. Then I
21 just kept talking to her and talking to her until
22 she just calmed right down, which is not -- she's
23 done it before.

24 Q Done what before?

25 A Like she laughed or cried a lot, and I

1 tried to calm her down, and she calms down.

2 Q This smile that you believe you saw in
3 the beginning part, is that the way she would
4 generally smile with you on other visits?

5 A Yes.

6 Q Is it always a pattern of smile, then
7 crying?

8 A No.

9 Q Is there a pattern to how she reacts
10 the same each time?

11 A No.

12 MR. FELOS: Your Honor, I object to the
13 form of that question. Is there a pattern to the
14 way she reacts the same each time.

15 MS. CAMPBELL: Let me redo this.

16 Q (By Ms. Campbell) Mrs. Schindler, you
17 stated Terri reacts most of the time when you
18 visit with Terri?

19 A Yes.

20 Q Is this reaction typical of how she has
21 reacted with you in the past?

22 A No.

23 Q How is it different?

24 A Most of the time I get laughter. She
25 laughs. She smiles. Most of the time it is

1 laughing. Once in a while she will cry like this.
2 If I just talk to her and talk to her, she stops.

3 Q So you are saying if you talk to her and
4 talk to her, you are referring to when she is
5 crying?

6 A When she is crying, I can calm her down.

7 Q After the videotape stopped, then what
8 occurred in the room?

9 A Then Michael left. Suzanne and I stayed
10 there for a little while, and Bob came in to see
11 her.

12 Q Was there any other reaction, or were
13 you continuing to talk to Terri after the
14 videotape was turned off?

15 A Yes.

16 Q Did Terri have any other smiling or
17 laughing, or crying, any other type of reaction
18 after that? After this videotape was turned off?

19 A Not anything vocal, but when we were
20 leaving, she smiled.

21 MS. CAMPBELL: Okay. No further
22 questions.

23 THE COURT: Mr. Felos?

24 MR. FELOS: If I may, Your Honor.

25 THE COURT: Yes, sir.

FURTHER RECROSS EXAMINATION

BY MR. FELOS:

Q Mrs. Schindler, you just viewed this tape?

A Yes.

Q When the tape starts, Terri is moaning?

A When the tape started?

Q Yes.

A I didn't hear her.

Q Well, we'll play the tape again in just a moment. When we talked about this tape, when I cross-examined you before, I asked you specifically did Terri start moaning or crying in response to your voice, and you said yes. I said, I asked you, were the sounds Terri was making in response to your voice. You said yes. I asked you are you sure. You said yes.

As I see this tape, when you are -- and we will see it and maybe your recollection is better than mine -- Terri is moaning when the tape is on. There is a break in the tape. You are seated next to her. There is no sound coming from Terri. You spoke to her. Terri does not respond vocally. You put your hand under her neck and give her stimulation. That is when she starts to

1 moan.

2 I want you, as we replay the tape, to
3 look at that to see whether Terri responded to
4 your voice or she responded to your touch, if we
5 may play this again, Your Honor.

6 THE COURT: Let's just leave it where it
7 is.

8 Q (By Mr. Felos) Can you see that all
9 right?

10 A Yes.

11 (THEREUPON, THE VIDEOTAPE IS STARTED.)

12 MS. FELOS: We have to go back to the
13 beginning with the sound. That is the issue.

14 THE BAILIFF: Go back to the beginning?

15 MS. FELOS: Yes. That is the issue.
16 With the sound.

17 THE BAILIFF: Now it should be okay.

18 (THEREUPON, THE VIDEOTAPE IS RESTARTED.)

19 MR. FELOS: Let's stop it one second, if
20 we can.

21 Q (By Mr. Felos) Would you agree, Mrs.
22 Schindler, that as the tape starts, Terri is
23 moaning and you have not gone to her yet?

24 A Yes.

25 Q I want you to watch carefully when you

1 sit down and start talking to her. Is she moaning
2 now?

3 A (No response.)

4 MR. FELOS: Stop that, if we can. Turn
5 the sound down.

6 Q (By Mr. Felos) When the tape starts,
7 before you go over to Terri's bed, Terri is
8 moaning; is that correct?

9 A Yeah.

10 Q When you are by Terri's bedside, she's
11 not moaning; is she?

12 A She is making some kind of a noise.

13 Q Well, we can play it again.

14 A She is making some kind of a noise.

15 Q Ma'am, you start speaking with Terri.
16 Then you place your hand under her neck?

17 A Yes.

18 Q And when you place your hand under the
19 neck --

20 A Yes.

21 Q -- and there is bodily stimulation,
22 she -- that is when she starts moaning; isn't it?

23 A Yes.

24 Q Okay. Mrs. Schindler, although you
25 testified before we saw the tape that you were

1 sure that Terri responded with a moan, she
2 responded vocally to your voice, and I
3 specifically asked you that a couple of times and
4 you said I'm sure it is my voice that she
5 responded to. Doesn't this tape show that it was
6 your hand, putting your hand on the back of the
7 neck and stimulating the muscles, which caused
8 Terri to start moaning?

9 A No.

10 Q Shall I play the tape again?

11 A No. I am not sure if it was my hand,
12 my voice. I don't always touch Terri when I go up
13 there.

14 Q Let me ask it another way. When you are
15 by Terri's bedside, is she moaning?

16 A This one, yes.

17 Q When you went to her bedside and started
18 talking to her, was she moaning?

19 A Yes.

20 Q Ma'am, I'll play the tape for you one
21 more time.

22 A I don't need to see the tape again.

23 Q Ma'am, as I see this tape -- and we will
24 play it one more time -- because my perceptions
25 and faculties are subject to certainly not 100

1 percent reliable, then I want you to watch it very
2 carefully again.

3 A I don't need to. I know it was my hand
4 under her head.

5 Q Ma'am, you are talking to your daughter
6 by her bedside. I don't hear any sounds on this
7 tape. When you put your hand under her neck and
8 touch her neck, she starts moaning?

9 A And then my voice starts.

10 Q Your voice started. Did you start
11 talking to her at her bedside before you put your
12 hand under her neck?

13 A No.

14 Q I wil play it one more time.

15 A I don't need to see the tape.

16 THE COURT: I don't want her to say she
17 was wearing a red dress. If it was on the tape
18 and in evidence -- I mean, we will play it, if you
19 want to. I don't think you are going to change
20 her answer. She does not know if it was the hand
21 or voice is the last answer I heard. I don't
22 think playing it again is going to change that.

23 Q (By Mr. Felos) Let me ask you, Mrs.
24 Schindler, if on the tape there is no moaning
25 coming from Terri as you are speaking to her and

1 the moaning starts -- let me backtrack.

2 As you view this tape, as you are
3 speaking to Terri by her bedside, is it correct
4 that she is not moaning and she does not start
5 moaning until you put your hand under her neck?

6 A And she heard my voice. Yes.

7 Q Ma'am, let me ask -- that is not
8 responsive to the question. Will you agree that
9 this tape shows that when you come to Terri's
10 bedside and you start talking to her, she did not
11 start moaning until you put your hand under her
12 neck?

13 A Yes. Then I talked to her.

14 MR. FELOS: I have no other questions.
15 Thank you.

16 THE COURT: Anything further?

17 MS. CAMPBELL: No, Your Honor.

18 THE COURT: Thank you, Mrs. Schindler.
19 You may step down.

20 MS. CAMPBELL: Seeing it is ten to 5:00,
21 I think I would like to start tomorrow morning
22 with Mr. Schindler. He is my next witness.

23 THE COURT: All right, ma'am. Not to
24 hold you to it, but for my time management
25 prospective, I believe you said you had six

1 witnesses. I don't know if you were counting the
2 video man or not. That seems to me, five
3 witnesses included Mr. Schindler Sr., Jr., and the
4 daughter. That makes three.

5 MS. CAMPBELL: I forgot about Mr.
6 Pearse. Suzanne, the daughter. Bob Jr. and
7 Jackie Rhodes. Diane Meyer and Richard Pearse.
8 Five more. Are you asking for time as far as
9 tomorrow?

10 THE COURT: No. I'm just wondering if
11 we can do all those tomorrow. I don't know if we
12 can or not. We will do the best we can.

13 MS. CAMPBELL: I believe they are all
14 relatively short, except for Mr. Pearse. I am not
15 sure of how lengthy on cross for Mr. Pearse, but
16 he is probably more lengthy than the rest. The
17 others are relatively short.

18 THE COURT: We will start again at 9:00
19 in the morning, if that works for everyone. I
20 have a rotary meeting at noon. Hopefully, we can
21 do the noon hour on time and see where we go from
22 there. Okay. The courtroom will be secured.

23 THE BAILIFF: All rise. Court is in
24 recess until 9:00 a.m. by the judicial watch.

25 (THEREUPON, COURT RECESSED AT 4:50 P.M. ON

1 1-25-00 AND RECONVENED ON 1-26-00 AT 9:00 A.M.)

2 THE BAILIFF: All rise. Circuit court
3 is back in session. Be seated, please.

4 THE COURT: Ready to proceed?

5 MS. CAMPBELL: Yes, Your Honor. I am.
6 I would like to call Bob Schindler, Jr. to the
7 stand, please.

8 THE BAILIFF: Stand right here and face
9 the judge and raise your right hand, please.

10 (THEREUPON, THE WITNESS WAS SWORN ON OATH BY
11 THE COURT.)

12 THE COURT: Thank you. Have a seat in
13 the chair.

14 DIRECT EXAMINATION

15 BY MS. CAMPBELL:

16 Q Good morning.

17 A Good morning.

18 Q Would you please state your full name?

19 A Robert Schindler, Jr.

20 Q Where do you live?

21 A 2906 Spanish Circle, Tampa, Florida.

22 Q How old are you?

23 A Thirty-five.

24 Q Is Terri Schindler your sister?

25 A Yes.

1 Q How much age difference is there between
2 the two of you?

3 A Thirteen months.

4 Q Can you please give me a brief history
5 of your educational background?

6 A I have a BS in Marketing from LaSalle
7 University in Philadelphia in '87. A BS in
8 Meteorology from Florida State in 1996.

9 Q Are you currently employed?

10 A I'm a teacher at Tampa Catholic High
11 School.

12 Q What do you teach?

13 A Math and science.

14 Q Where were you raised?

15 A Philadelphia. Just outside of.

16 Q Could you describe your family growing
17 up?

18 A Sure. It was a typical family. Very
19 close. We spent quite a lot of time together.
20 The easiest way to explain our family is very
21 typical. Very strong as far as closeness in
22 relationship to each other.

23 Q Did you attend church?

24 A Yes.

25 Q What church did you attend?

1 A Our Lady of Good Counsel.

2 Q Did you go regularly as a family?

3 A Yes.

4 Q When did you move to Florida?

5 A I moved in '87.

6 Q Where did you move?

7 A To St. Petersburg, Florida.

8 Q In between all that time, did you live
9 in Florida -- did you live anywhere else in
10 Florida?

11 A In between?

12 Q From '87 forward?

13 A Yes.

14 Q Where else?

15 A Tallahassee, Florida.

16 Q What were you doing in Tallahassee?

17 A Attending Florida State University.

18 Q How old were you when you moved to
19 Florida?

20 A In '87 I was 22.

21 Q Were Terri and Mike already in Florida
22 when you came?

23 A Yes.

24 Q Where did you live then when you first
25 came down?

1 A I lived with my parents.

2 Q In St. Petersburg?

3 A Correct.

4 Q What was your relationship with Terri
5 like then?

6 A We had started to become closer, years
7 prior to her moving to Florida, and then when I
8 moved to Florida, we continued to become stronger.

9 Q How often would you see Terri?

10 A Quite a bit. We would spend weekends
11 together regularly. Quite a bit during the week.
12 We lived, closer to the accident, we had lived in
13 the same apartment complex. In distance, we were
14 very close, too. I would spend a lot of time with
15 her.

16 Q How was your relationship with Michael?

17 A Um, can you repeat that? Like in what
18 way?

19 Q Were you and Michael close?

20 A No.

21 Q The times you would spend with Terri,
22 was Michael always there?

23 A Not always there.

24 Q Generally, the times you spent with
25 Terri, was it more with her by herself or with

1 them as a couple?

2 A Probably more by herself. There was
3 more just her and I. Michael -- Terri would work
4 during the day. Michael would work at night. So
5 I would -- I was working during the day as well.
6 So at night when Michael was working is many of
7 the times when we would spend time together.

8 Q What kind of things would you and Terri
9 do?

10 A A lot of times just go over and see how
11 the day went. Other times, social time together.
12 Go out together on the weekends. It became
13 regular once I moved to Florida.

14 Q What kind of social activities were you
15 doing?

16 A I remember going to the beach with her
17 on weekends. We'd spend time going to the clubs
18 on the weekends, as well as at night.

19 Q Did you and Terri ever discuss or
20 confide in each other about certain things?

21 A Well, sure.

22 Q Give me an example.

23 A As far as you mean?

24 Q Did Terri talk to you about wanting to
25 get pregnant?

1 A We never talked about it in depth. It
2 was mentioned. If the question is do you mean did
3 we talk about her relationships or things in
4 general?

5 Q Let me be more specific.

6 A Okay.

7 Q Did you talk to her about her
8 relationship with Michael?

9 A We didn't specifically talk about her
10 relationship with Michael or not. I don't know if
11 that was on purpose. I had an overall impression
12 of her relationship with Michael.

13 Q What was your impression based on?

14 A Her general mood while she was involved
15 with Michael in the relationship.

16 Q How would you describe her general mood?

17 MR. FELOS: Your Honor, I object on two
18 grounds. First, on the realm of speculation. He
19 said he did not talk to his sister about the
20 subject, but a general impression from her mood.
21 That would call for subjective speculation on the
22 part of the witness, number one. So I object on
23 those grounds. I also renew my objection as to
24 relevance.

25 THE COURT: Ms. Campbell?

1 MS. CAMPBELL: I think I can reword the
2 question to ask him to describe differences. As
3 far as speculation, that part, I believe it is
4 relevant as we discussed yesterday on similar type
5 argument. I think the issue is releveant as to
6 the relationship between Terri and Michael.

7 THE COURT: No question I ruled that he
8 has no earthly idea the lady was going to a
9 doctor, trying to get pregnant, heard she was
10 battling weight. So as far as a mood change, it
11 would be utter speculation as to why.

12 So while conversations about
13 relationship I will allow in, I will not let this
14 witness talk about a situation and say, gee, in my
15 opinion I think it had to do with X, Y, Z. The
16 objection is sustained.

17 Q (By Ms. Campbell) Did you and Terri
18 discuss her thoughts concerning end of life
19 issues?

20 A No.

21 Q Were you close with your grandmother
22 Schindler?

23 A Yes.

24 Q Where were you when your grandmother
25 Schindler passed away?

1 A I was in Philadelphia.

2 Q Do you recall the year?

3 A 1986.

4 Q So this was prior to you moving to
5 Florida?

6 A Correct.

7 Q Was Terri in Philadelphia at that time,
8 too?

9 A Yes. She was.

10 Q Was she living there?

11 A I believe so.

12 Q Did Terri ever make any comments to you
13 concerning Mrs. Schindler's death or condition
14 prior to death?

15 A None. None whatsoever.

16 Q Do you remember where you were February
17 25, 1990?

18 A Yes.

19 Q Where?

20 A I was in St. Petersburg in my apartment.

21 Q Do you recall what happened on that day?

22 A Sure.

23 Q Can you please tell the Court?

24 A I received a phone call. Not sure
25 quite. It was early in the morning. It was a

1 call from Michael saying Terri had passed out,
2 for me to come over. Since I live in the same
3 complex, I was there within a minute's time.

4 When I got there, Terri was laying face
5 on the ground. I thought she had just passed
6 out. I think we actually tried to shake her a
7 couple times. She was breathing heavily. At that
8 time, Michael said he called 911 and the
9 paramedics were on the way.

10 Q Did you go to the hospital with them?

11 A Yes.

12 Q Were you working at the time?

13 A Yes. I was.

14 Q Where were you working?

15 A For a snack food company.

16 Q Did you assist with Terri's care during
17 those early times?

18 A No.

19 Q Why were you not involved?

20 A Because of the closeness of my sister,
21 it was difficult for me to see her in that
22 condition.

23 Q Did you assist with fund raisers for
24 Theresa?

25 A I believe so.

1 Q Do you recall what you did specifically?

2 A Just general help with the family during
3 the events.

4 Q How often would you see Terri back then
5 in the earlier days?

6 A From her accident?

7 Q Um-hmm.

8 A It's hard to say. I was in and out with
9 the family at times. Less than what my parents
10 were seeing her, but quite a bit.

11 Q How often do you see Terri now?

12 A Probably on average two, three, four
13 times a year.

14 Q Does she ever react to you?

15 A Not every occasion I go in there. There
16 are times I'll go in there and I'll hear her
17 making noises. Her eyes are always open when I go
18 in. Sometimes she looks like she's cranky or
19 uncomfortable, but specifically when I walk into
20 the room, I don't see any kind of that type
21 reaction, no.

22 Q Do you go to the nursing home by
23 yourself?

24 A Yes.

25 Q Have you also been there with your

1 parents?

2 A Not in quite some time.

3 Q Do you recall ever being there with your
4 mother or father in the last year?

5 A Not within the last year. No.

6 Q Have you observed Theresa having any
7 reactions to other people?

8 A On occasion, I guess when I have gone
9 with my mom, I see more of a reaction from her.
10 Yes.

11 Q Is there any way that -- can you tell
12 whether there is any improvement in Terri from
13 earlier to the last time you saw her?

14 A It's been consistent. I don't think
15 it's gotten worse. I don't know if it's gotten
16 better, either.

17 Q Have you lost hope of Terri receiving
18 improvement?

19 A At did at one time. This has always
20 been very difficult for me. Recent happenings
21 have enabled me to have hope for her to maybe some
22 day coming out of this.

23 Q What's resently happened that restored
24 your hope?

25 A I believe on Christmas Eve, 1999, there

1 was a woman who was, by my reading, was very
2 similar to my sister, the state she's in. After
3 sixteen years, she has come out of her coma quite
4 miraculously.

5 Q What were you reading?

6 A I called the Albuquerque Journal, I
7 believe is where this happened, and spoke to the
8 reporter about this. She faxed me the articles
9 explaining about this woman. Also, the doctors
10 explanation of this as well. It is quite
11 fascinating actually.

12 Q What is it about that particular case
13 that has given you hope?

14 A You could put my sister's name on this
15 lady's name as far as her state. Everything that
16 was said about this lady being eye tracking. I
17 don't remember specifically what was said. I have
18 the article. But a very, very similar situation
19 to what my sister is in.

20 No medical explanation was given, and
21 this lady on Christmas Eve woke up. She vowed she
22 is going -- they bought her running shoes. She
23 vowed she was going to run again.

24 Q What are your personal thoughts on end
25 of life decisions?

1 A Well, as far as my sister, I don't --

2 Q Your personal thoughts.

3 A It is something that I never really
4 thought about. If it's a decision I'm going to
5 make, I'll sit down and take time in making it.

6 Q What if it happened to you? Sitting
7 down making those kind of decisions?

8 A Well, then I want to be kept alive until
9 I go naturally.

10 Q Why is that?

11 A Because I don't believe in this. I
12 don't believe in starving someone. I believe this
13 is inhumane.

14 Q Have you learned or gained experience
15 from this situation with Terri?

16 A I'd like to think so. When this whole
17 thing occurred, I guess within the first couple
18 years, I didn't understand why at first. I lost
19 my faith. I was brought up in Catholicism and a
20 strong faith in belief of God. I really
21 questioned that. In fact, it kind of pulled me
22 away from the church. I was very bitter toward
23 God.

24 Then when Michael won the malpractice
25 suit and after I saw what he did to my parents at

1 that time --

2 MR. FELOS: Your Honor, I object and
3 move to strike that. That is a subjective
4 conclusion on the part of the witness as to what
5 Michael did.

6 THE COURT: Granted. Strike the part
7 of what he did to -- what Michael did to his
8 parents.

9 Q (By Ms. Campbell) You can continue.

10 A After the malpractice suit, I became
11 very angry at Michael. I didn't understand what
12 was happening was happening. I had to deal with
13 that. Because if I did not deal with it, I don't
14 know what path it was going to take me down. So
15 that is something I needed to deal with.

16 I have. Since then, I have done a lot
17 of work on myself. In so doing, I have dealt a
18 lot with the anger that I have accumulated because
19 of what's happened in the beginning.

20 Q Does any of that have anything to do
21 with why you are working at Tampa Catholic?

22 A Sure.

23 Q How has your relationship with God
24 changed or has it changed since your employment at
25 Tampa Catholic?

1 MR. FELOS: I object as to the relevancy
2 of that question.

3 THE COURT: What is the relevancy,
4 please?

5 MS. CAMPBELL: At this time, it is
6 because I think it establishes that other things
7 happen when bad things happen to people and it's
8 not necessarily the quality of life of Terri and
9 Terri's personal standpoint, it's the cause and
10 effect of that, that it has on Terri and on other
11 people.

12 THE COURT: How does that assist me in
13 making a decision?

14 MS. CAMPBELL: I think it also goes to
15 show the type of upbringing. He is very close to
16 age in Terri. Same type of family unit. I think
17 it may give you insight as to Terri's thoughts.
18 How she would be thinking about this currently.

19 MR. FELOS: That is highly speculative,
20 Your Honor, to say this gentleman's experience in
21 teaching high school, how that has affected,
22 teaching in a Catholic high school, how that has
23 affected his relationship with God. I can't see
24 any relevance or connection as to what Theresa
25 Schiavo may be thinking.

1 THE COURT: I'm delighted he has gotten
2 closer to God, but I think it is a little far
3 afield. I will sustain the objection.

4 Q (By Ms. Campbell) Thank you. Mr.
5 Schindler, do you have anything else to tell the
6 Court to aid in Theresa's intent as to withdrawal
7 of the feeding tube?

8 A I think if Terri knew if it brought my
9 parents joy, the state she is in, I think she's
10 perfectly happy being in that state.

11 MR. FELOS: I move to strike that. That
12 is speculation as to his belief as to what Terri
13 would do if she knew a certain fact. He can
14 testify as to what she said and what she didn't
15 say. He has already testified they never had a
16 conversation about her intent. His belief as to
17 what her belief would be under certain
18 circumstances is speculation.

19 THE COURT: I think it is probative
20 speculation.

21 THE WITNESS: It's not speculation. I
22 knew my sister for 24 years. I know how she's --
23 how close she was with my parents. My parents
24 brought her up for 20 -- whatever age she was when
25 this happened. Twenty-seven at the time or

1 six when this occurred. My parents and her were
2 very, very close.

3 It is not speculative to say if Terri
4 knew that it was bringing my parents an ounce of
5 joy in her life she would want to be like this. I
6 know for one thing that if she knew what was
7 happening because of this --

8 MR. FELOS: Your Honor, I object. This
9 is speculation. If she would know what is
10 happening. She does not know what is happening.
11 This Court deals in facts. We are straying far
12 from fact.

13 THE COURT: Yes. He is getting well
14 away. Well away.

15 Q (By Ms. Campbell) Growing up, did Terri
16 try to please your parents?

17 A Sure.

18 Q Would she do anything specific trying to
19 please her parents?

20 A I mean, I know for one thing which
21 always stood out in my mind is that my grandmother
22 was in a nursing home. I don't think I'm wrong.
23 She would go at least a couple times a week to see
24 my grandmother. It was not on her way, either.

25 Q Which grandmother is this?

1 A . My mother's mother.

2 Q At Majestic Towers?

3 A Yes. She came over to my parents
4 regularly. They live quite a distance apart. She
5 spent a lot of time with my parents. Spent a lot
6 of time with me. I think, just being a daughter
7 in the normal sense of what a daughter is brought
8 joy to my parents.

9 MS. CAMPBELL: No further questions at
10 this time.

11 THE COURT: Thank you. Cross-
12 examination?

13 CROSS-EXAMINATION

14 BY MS. FELOS:

15 Q Good morning.

16 A Good morning.

17 Q Mr. Schindler, you don't attend mass
18 regularly, do you?

19 A No. Well, define regularly.

20 Q Do you go every Sunday?

21 A No.

22 Q Do you receive the sacraments?

23 A Occasionally.

24 Q When is occasionally?

25 A When I go to mass.

1 Q Do you remember when your deposition was
2 taken September 27, 1999 by Mr. Felos?

3 A Yes.

4 Q Page 76 of that deposition it said, do
5 you attend mass regularly now?

6 No.

7 When was the last time you attended
8 mass?

9 The beginning of this school year.

10 Then moving on to Page 8, Number 12. So
11 you attend mass in conjunction with your duties at
12 Tampa Catholic?

13 Yes.

14 Is that a fair estimation of how much?

15 That would be occasionally.

16 Q That is the involvement you have with
17 the Catholic church?

18 A Yes. That is correct.

19 Q So you don't go to mass on your own
20 then, you just go when it is necessary for your
21 work; is that correct?

22 A No. I do go regularly with school.
23 There are some times when I will attend mass. On
24 Christmas. Easter.

25 Q I will make reference again to your

1 deposition at the same time on Page 8 where the
2 question was, and outside of the school context,
3 would you attend mass?

4 Your answer was I don't.

5 A Um-hmm.

6 Q How do you explain that? In September
7 you said you don't, and today you say you do?

8 A Right.

9 Q Which one is right?

10 A Well, Christmas and Easter to me is
11 something that we do regardless of going every
12 Sunday. I don't go outside of the church on
13 Christmas and Easter.

14 Q But you just did not mention that on the
15 deposition?

16 A No. I did not. No.

17 Q You have no direct information with
18 respect to Terri's intent regarding artificial
19 life support; do you?

20 A No. I do not.

21 Q Is it your position that your sister
22 should be kept in the state she is because it
23 provides joy to you and your mother and your
24 father and your other sister?

25 A No. It is not.

1 Q Referring to the same deposition, Page
2 23, Line 7.

3 Now as I understand it -- this is the
4 question. You are saying you believe if Theresa
5 knew that her family derived joy from her
6 continued life, she would want to be kept alive
7 through artificial feeding?

8 The answer you made was correct.

9 In response to her intent, Page 23, Line
10 2.

11 If she knew it was providing an ounce of
12 joy or happiness to any family members being in
13 the state right now, she would go on and continue
14 to live and want to continue to live.

15 A I guess I'm a little confused by the
16 word intent. I believe yes. What I said in my
17 deposition is if my sister knew it was bringing my
18 parents any type of joy, she would want to be kept
19 alive. I also don't condone someone removing her
20 feeding tube, either.

21 Q Repeat the last few words. I could not
22 hear.

23 A I do believe my sister would believe if
24 she was providing any joy to my parents she would
25 want to remain alive. I guess I'm a little

1 confused by the word intent. I would, under no
2 circumstances, ever condone removal of her feeding
3 tube.

4 Q So it is your position that your sister
5 should be kept in the state that she is because it
6 provides joy to you? You find joy in seeing her?

7 A I don't find joy seeing her in the state
8 she is in. No.

9 Q Sorry. I'm looking at a note here.

10 A That's fine.

11 Q Well, I'll locate it in a moment. I'm
12 referring to the same deposition. Page 26, Line
13 21.

14 If Theresa, in addition to being tube
15 fed was on a respirator, would it still give you
16 joy to have her alive?

17 Answer. If she was on a respirator,
18 would it give me joy?

19 Question. Would her continued life give
20 you joy?

21 Page 27, Line 6. Yes. It would give
22 me joy. Okay.

23 A You are asking me if she is on a
24 respirator. She is not.

25 Q So if she were on a respirator, it would

1 give you joy, but it does not give you joy to see
2 her in the state she is in now?

3 A I believe at the time I was addressing a
4 hypothetical question; correct?

5 Q You stated it would give you joy to see
6 your sister on a respirator; is that correct?

7 A If I said it, it must be correct.

8 Q You just said it would not give you joy
9 to see your sister in the state she is in. How
10 does that make sense?

11 A I don't think that is what I said. What
12 I said is my sister, if she knew it was providing
13 my family joy to exist in the state that she's in,
14 that would make her happy. Okay? I would never
15 condone removing her feeding tube. I would never
16 condone it.

17 Q Fine. We understand that is what you
18 said.

19 A Does it bring me joy seeing her like
20 that? No. It does not. I have a hope maybe now
21 that she can come out of it because of the lady in
22 New Mexico. It does not bring me --

23 Q Let's move On. On Page 26 of your
24 deposition, Line 19, you say, I believe if we have
25 the means to try to keep someone living, then we

1 should try.

2 A Correct.

3 Q Moving on to Page 27, you say, Line 11,
4 seeing the joy, as I told you, that it brings my
5 parents. Then you go on to talk about me
6 personally, when this whole incident occurred, I
7 had a lot of anger inside over this whole
8 situation. You go on to talk about your
9 self-reflection.

10 A Um-hmm.

11 Q So Theresa's situation has been very
12 helpful to you; has it not?

13 A Sure.

14 Q That is probably what you mean when you
15 say it brings you joy?

16 A No. It's not. That is not what I mean
17 at all.

18 Q If your sister developed diabetes and
19 resulting gangrene and she needed to have a limb
20 amputated to keep her alive, would you be in favor
21 of that procedure?

22 A As a hypothetical situation. My sister
23 isn't in that situation.

24 Q Sir, I asked you a question.

25 THE COURT: Answer the question,

1 MS. FELOS: Please answer the question.

2 THE COURT: You need to answer the
3 question. If you need to explain your answer, you
4 will have a chance.

5 A If that situation --

6 Q (By Ms. Felos) If your sister developed
7 gangrene, if she had to have a limb amputated in
8 the state she is in now, would you be in favor of
9 that procedure to keep her alive?

10 A I have to answer this in a yes or no
11 answer?

12 THE COURT: Yes. Then explain your
13 answer.

14 A Yes.

15 Q (By Ms. Felos) So you are testifying
16 then it gives you joy to have her remain alive
17 even in that state?

18 A No. I'm not. Can I explain now, judge?

19 THE COURT: Yes, sir.

20 A If my sister developed gangrene or
21 whatever you said, first of all, it's an
22 insensitive question. I am surprised you are
23 asking me that again.

24 MR. FELOS: I move to strike the speech
25 of the witness.

1 THE WITNESS: It's insensitive, judge.

2 THE COURT: Mr. Schindler, that does not
3 explain your answer. You may explain your answer.

4 THE WITNESS: I'm sorry. I apologize.

5 THE COURT: That's all right.

6 A If that happened to my sister, I'd
7 address it at the time. Right now, she is
8 healthy. She has moments of laughter. She
9 cries. She can see. I have renewed hope that the
10 state she is in, she might end up like the woman
11 in New Mexico. If you believe in God and giving
12 us signs, okay, if you believe in that, then what
13 happened in New Mexico, as far as I'm concerned,
14 is a sign for all of us.

15 Q Thank you.

16 A You are welcome.

17 Q Reading from your deposition again,, Page
18 28, Line 17. And you are testifying with respect
19 to the diabetes, gangrene, limb amputation.

20 Question. And you are testifying it
21 still gives you joy to have her remain alive in
22 that situation?

23 Your answer on Line 20 is absolutely.
24 Sure.

25 A Right. Absolutely. Hopefully, if she

1 was in that situation, she would pass away soon.

2 Q Thank you. You have answered the
3 question.

4 A Can I finished, judge? She keeps
5 interrupting.

6 THE COURT: Sir, I'm having a problem.
7 Let me ask a question, if I might. In response to
8 a lot of her questions, you are saying it gives me
9 no joy for her to be in that condition. Now you
10 are saying it gives you joy to have her alive.
11 I'm not sure what your answer really is.

12 THE WITNESS: Judge, they are asking me
13 hypothetical questions and it's very disturbing to
14 me. They are asking if my sister, if her limbs
15 were removed. They are asking if, to keep her
16 alive under the circumstances. I would hope if
17 she's in that state, she passes away soon. I will
18 not condone the feeding tube pulling.

19 THE COURT: I guess your hangup is you
20 are used to the word "joy" with the state of
21 mind. The word joy has appeared in the
22 deposition, but you had to back away from it in
23 your testimony. I'm not sure how those two fit
24 together. That is my point.

25 I guess I'll leave it up to questions

1 and answers to see if we can sort that out at this
2 point.

3 MS. FELOS: Your Honor, I'm having a
4 very difficult time hearing you.

5 THE COURT: The acoustics in this room
6 are not good. I said that I think I understand
7 what this witness is trying to say. That is not
8 to suggest you should curtail your questioning.

9 MS. FELOS: Thank you, judge.

10 Q (By Ms. Felos) I believe when I asked
11 you before would it bring joy to you -- or let me
12 ask you this. Does it bring joy to your parents
13 to see Terri alive now in the condition she is in?

14 A I think you would have to ask my
15 parents.

16 Q So you don't know?

17 A I know they have hope.

18 Q I was asking about joy. Joy was the
19 word you used.

20 A Sure. I believe if Terri --

21 Q No. No. The question is first --

22 A Right.

23 Q Do you know whether Terri being alive
24 today in her condition brings joy to your parents?

25 A You would have to ask my parents.

1 Q You don't know; is that correct?

2 A I would think -- this whole joy thing,
3 I don't know if my parents like seeing their
4 daughter in the state she's in. But they
5 certainly get enjoyment out of walking into the
6 room and seeing their daughter. Yes.

7 Q Let me read from your deposition again
8 with respect to this.

9 A Sure. Okay.

10 Q Page 39, Line 17. This is your answer.
11 If you saw the joy it brings to my parent's face,
12 the joy that it might bring to people working in
13 the nursing home, seeing my sister on a daily
14 basis, you just don't know, Mr. Felos.

15 This was in the deposition.

16 1 A Right.

17 Q And you would concur that is your
18 feelings with respect to how you feel about
19 Theresa, your sister, staying alive in the
20 condition she is in; is that correct?

21 A Correct.

22 Q Let's talk about your viewpoints
23 regarding your own end of life care. If you were
24 in a permanent vegetative condition, you have no
25 awareness and no chance of regaining awareness,

1 and you developed gangrene -- we are going to
2 extremes -- which would or could necessitate the
3 amputation of your leg in order to remain alive,
4 is that something you would want for yourself?

5 A Yes or no response, judge? Yes. Can I
6 explain?

7 THE COURT: Yes, sir.

8 A Okay.

9 MS. FELOS: Could I refer to the
10 deposition first? There's a little different
11 answer, then he can explain the difference.

12 THE COURT: He didn't answer.

13 MS. FELOS: He answered sure. Oh, yeah.

14 THE COURT: Ms. Felos, I guess yeah is
15 different than yes, if were looking in the
16 dictionary, but it's no different in this
17 courtroom. He answered yes. And he said sure.
18 Yeah. Those are three different words, but they
19 mean the same thing.

20 MS. FELOS: Yes, they do mean the same
21 thing, and there are intentions behind them with
22 respect to how it was said that maybe he would
23 want to explain. If I say sure --

24 THE COURT: I don't find that
25 deposition answer to be inconsistent with the

1 answer he gave on the witness stand. Now you can
2 explain your answer.

3 THE WITNESS: That's fine. I'll leave
4 it at that.

5 Q (By Ms. Felos) You made a statement
6 that you found it difficult to see Terri. Why was
7 that?

8 A I remember what she was like before she
9 fell into her coma.

10 Q And you never have participated in her
11 direct care; have you?

12 A No. I have not.

13 Q You mentioned something about the
14 reactions that might be had when your mother is in
15 the room. What specific observations have you
16 made? Rather than an interpretation now, I'm
17 asking if you can give me specific observations.

18 A The time where it occurred where I was
19 in there, she seemed to track my mom from one side
20 of the room. In fact, we were doing it.

21 Q Let me ask you this. When you say
22 "track", does that mean her eyes moved to follow
23 your mother?

24 A Right.

25 Q As an object?

1 A My mom would be on one side of the bed
2 and they were showing me. They thought this meant
3 something. My mom would talk to her on one side
4 of the bed. She'd come to the other bedside and
5 talk to her. Terri slowly would move her head.
6 There was times she would smile. I have seen her
7 react to pain and also seen her cry.

8 Q Would it surprised you if a neurologist
9 said they have done testing to try to get her eyes
10 to follow and they do not, under any
11 circumstances, that any action of her eyes are
12 reflexive, would that surprise you at all?

13 A No. Not at all. But I can tell you
14 what has surprised me. I'm sorry I keep
15 elaborating on this. That lady in New Mexico
16 surprised the heck out of me. Absolutely blew me
17 away.

18 Q I suppose you have seen her CAT scans
19 and EEGs?

20 A No.

21 Q And all the blood tests?

22 A The lady in New Mexico?

23 Q Yes.

24 A No.

25 Q So you have not made a clinical medical

1 explanation?

2 A From what I understand, there is no
3 medical explanation as to why this happened. None
4 whatsoever.

5 Q Would it surprise you that a neurologist
6 might testify to a person being in a coma for a
7 long period of time might be in a catatonic state?

8 A No.

9 Q That is an explanation. The point is,
10 you don't have an explanation; isn't that correct?

11 A No. I did see a show.

12 Q You don't have an explanation; is that
13 correct?

14 A No. Can I speak?

15 Q Could you answer whether you have an
16 explanation?

17 THE COURT: Wait a minute. Wait a
18 minute. You are talking at the same time. The
19 court report there is going crazy. Let him finish
20 his answer. I will not let you tell us what you
21 saw on TV. That is hearsay. But if you wouldn't
22 step on each other lines.

23 THE WITNESS: I apologize.

24 THE COURT: That's quite all right.

25 A I have learned that we are just

1 scratching the surface on coma victims. They
2 don't know more than they do. Am I saying it
3 right?

4 MR. FELOS: I object. This witness has
5 not been qualified as an expert as to what the
6 scientific knowledge is.

7 THE COURT: Mr. Felos, your partner is
8 handling this.

9 THE WITNESS: I'm sorry.

10 MS. FELOS: I'm having a hard time
11 hearing what is going on here.

12 THE COURT: We have to put up with this
13 in this courtroom.

14 MS. FELOS: Judge, the witness is not
15 qualified to go into speculation with respect to
16 the medical condition with patients somewhere in
17 the news. I would ask the Court to strike this
18 testimony and avoid further reference to it.

19 THE COURT: Well, this evidence has come
20 in both on direct and cross. It's a little late
21 to close the door. The horse is galloping through
22 the fields as we speak. In terms of clinically
23 analyzing, I do not think the witness is capable
24 of doing that with this New Mexico situation, but
25 he has been asked his feelings by you and Ms.

1 Campbell. If that is part of his feelings, he can
2 speak to that.

3 MS. FELOS: Thank you, judge. I
4 believe, sir, those have been asked and answered.
5 So I don't think I have further questions with
6 respect to that matter.

7 THE COURT: Okay.

8 Q (By Ms. Felos) Mr. Schindler, you are
9 angry at Mike Schiavo, aren't you?

10 A No. Can I restate that? I have dealt
11 with a lot of anger. I don't like what is
12 occurring here. I question his integrity.

13 MR. FELOS: Your Honor, I object and
14 move to strike.

15 THE COURT: Mr. Felos, one lawyer
16 handles the witness now. That is the way it is
17 done.

18 MS. FELOS: Your Honor, I am just asking
19 a question as to whether he is angry. I have not
20 asked him to expound, nor have I impeached his
21 testimony in any way.

22 THE COURT: I'll allow the answer to
23 stand. It is not truly responsive, but it does
24 explain. Again, I'm not sure how all this helps
25 me make my decision.

1 MS. FELOS: Yes, judge. All right. I
2 don't have any other questions right now.

3 THE COURT: Thank you. Redirect?

4 MS. CAMPBELL: Thank you, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. CAMPBELL:

7 Q Do you have a specific recollection of
8 your deposition taken in September of 1999 by
9 Mr. Felos?

10 A Yes.

11 Q At that deposition, can you give a
12 percentage of the amount of time how much was
13 spent on hypothetical questions to you?

14 MS. FELOS: Objection, Your Honor. This
15 is totally irrelevant. I have no idea. It makes
16 no difference to anything whether or not a
17 question was hypothetical or actual.

18 THE COURT: What is the relevance of
19 that?

20 MS. CAMPBELL: Mrs. Felos has tried to
21 cross-examine and impeach Mr. Schindler on
22 portions of answers he gave during his
23 deposition. If they were portions of answers
24 rather than reading the whole deposition, I was
25 trying to cut short getting him to testify how

1 much was spent on these hypothetical questions.

2 THE COURT: I don't think that matters
3 if the whole deposition was hypothetical.
4 Nonetheless, he gave answers and nobody brought up
5 objections for me to rule on. Whether it was 1 or
6 100 percent, it makes no difference. I'll sustain
7 the objection on relevancy.

8 Q (By Ms. Campbell) Mr. Schindler, do you
9 recall there being considerable questions on
10 hypotheticals?

11 A Yes.

12 MS. FELOS: Objection. Irrelevant.

13 THE COURT: I'm not sure where she is
14 going. I will withhold ruling on that.

15 Q (By Ms. Campbell) Thank you. I would
16 like to read this part from your deposition and
17 tell me if it is accurate. Page 40, Line 20. The
18 question is, I don't have further questions.

19 In response to that on Line 21 you say,
20 Look. I'm sorry. I'm not trying to be
21 contentious with you or argue with you, but what
22 you are trying to do I don't agree with. Okay?
23 You are trying to get me to agree to something I'm
24 not going to agree to. You can give me any
25 hypothetical question you want and I'm not going

1 to agree with it.

2 Then continuing on Page 41. Question.
3 Let me understand this. Are you saying that if
4 you believe an answer to a question would help in
5 the removal of your sister's feeding tube you
6 would give me an untruthful answer?

7 Answer. No. That is not what I am
8 saying. Your purpose here is to have my sister's
9 feeding tube removed. I will not agree to that.
10 I don't believe in that. It's against my
11 beliefs. You get me all these hypothetical
12 questions to get me to agree. It's a hypothetical
13 question. I didn't feel I should answer it.

14 Did you make that statement on that day?

15 A Yes.

16 Q Mrs. Felos asked you whether it would
17 surprise you to hear the testimony from some of
18 the physicians regarding Theresa's CAT scans, et
19 cetera. Your answer was you said it would not
20 surprise you. Could you please explain why would
21 that not surprise you?

22 A Well, I'm not a doctor, so what they
23 would say.

24 MS. FELOS: Objection. Your Honor. He
25 just said he is not a doctor. This is a clinical

1 evaluation of what the doctors would say. That is
2 hearsay.

3 THE COURT: Ms. Pelos, you asked the
4 question. You got an answer. She is following up
5 on your question and his answer. No, he is not a
6 doctor, but this is perfectly permissible
7 redirect.

8 MS. PELOS: If I might, he could then
9 express his opinion. He is trying to say what
10 doctors in some other part of the country are
11 saying.

12 THE COURT: The question you asked was
13 would it surprise you as to what the neurologist
14 said. He said no. She is saying why would it not
15 surprise you. Please proceed.

16 Q (By Ms. Campbell) Please explain why
17 that would not surprise you.

18 A The doctor is trained in that area.

19 Q Is the doctor's explanation from your
20 experience --

21 A Um --

22 Q -- from what you witnessed personally
23 with Theresa?

24 A Well, I'm not exactly sure what they are
25 saying. But I see there is life in my sister, if

1 that is what you are asking me. You can see it.
2 You know, I hate to keep referring to it, but we
3 can't ignore what happened to that lady in New
4 Mexico. What if --

5 MS. CAMPBELL: Thank you very much. No
6 further questions.

7 THE COURT: Anything further, Ms. Felos?

8 MS. FELOS: No, Your Honor.

9 THE COURT: Pardon me?

10 MS. FELOS: No, Your Honor.

11 THE COURT: You may stand down, sir.

12 MS. CAMPBELL: Is it permissible for Mr.
13 Schindler to remain in the courtroom for the rest
14 of the trial?

15 THE COURT: Does either side anticipate
16 calling Mr. Schindler in rebuttal?

17 MR. FELOS: I don't. If respondents do,
18 we would like him excluded.

19 THE COURT: If he stays in, he is
20 excluded as to sur-rebuttal. With that
21 understanding, he will no longer, he will not
22 further be called to testify, you may stay in the
23 courtroom, sir.

24 The rule is still invoked, though, that
25 you would not be permitted to talk to other

1 witnesses about their testimony or other
2 testimony. You can talk to any of the three
3 lawyers, you can talk to court personnel, but not
4 about this case.
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