

NO. 2005-PC-0843

GUARDIANSHIP OF) IN THE PROBATE COURT
)
 LILLIAN GLASSER) NUMBER ONE OF
)
 AN INCAPACITATED PERSON) BEXAR COUNTY, TEXAS

VIDEO/ORAL DEPOSITION OF
 MICHAEL LICHTENSTEIN, M.D.

FEBRUARY 4, 2006

VOLUME 2 OF 2

CONFIDENTIAL

VIDEO/ORAL DEPOSITION of MICHAEL LICHTENSTEIN,
 M.D., produced as a witness at the instance of the
 GUARDIAN AD LITEM OF LILLIAN GLASSER, and duly sworn,
 was taken in the above-styled and numbered cause on
 the 5th day of February, 2006, from 8:30 a.m. to
 3:28 p.m., before Monique M. Hinchcliff, CSR in and
 for the State of Texas, reported by machine shorthand,
 at the office of DAVIS, CEDILLO & MENDOZA
 INCORPORATED, 755 East Mulberry Avenue, Suite 500, San
 Antonio, TX 78212-3149, pursuant to the Texas Rules
 of Civil Procedure and the provisions stated on the
 record or attached hereto.

1 tecum, is it?

2 A. The -- I mean, some of the things that you
3 asked me about -- I mean, the literature I got no
4 problem with the literature, okay? It was some of the
5 things that I didn't think were related to the case at
6 all.

7 Q. Well, your involvement in groups that may
8 have positions on elder abuse would certainly be
9 relevant, would it not?

10 A. But the -- the -- the groups that you were
11 asking me about I don't think have a position on elder
12 abuse.

13 Q. Do you know if I would know that necessarily?

14 A. If -- I mean, it's easy to find out.

15 Q. Well, one of the ways is to find out through
16 the subpoena duces tecum, true, to find out your --
17 your involvement in -- in those groups of elder abuse?

18 A. Okay.

19 Q. Doctor, with regard to being upset, an issue
20 has come up about sparing Lillian Glasser anxiety and
21 stress and agitation from situations that would cause
22 her to be upset. You agree that's a desirable end
23 with elderly people, true?

24 A. That's correct.

25 Q. Do you believe that it was causing her to be

1 was a victim of psychological torture when she was
2 kept against her will in Texas?

3 MS. GARDNER: Objection; form.

4 THE WITNESS: I do not.

5 Q. (BY MS. MALONEY) Do you have an opinion
6 about whether or not she experienced agitation and
7 anguish as a result of being kept against her will in
8 Texas?

9 A. Yes, I do.

10 Q. And what's that opinion?

11 A. That she did experience that.

12 Q. Would that be good for her blood pressure?

13 A. No.

14 Q. Would it be better for her blood pressure to
15 be in an environment where she was happy?

16 A. Yes.

17 Q. Would it be better for her blood pressure to
18 be around friends that she wants to be around even if
19 they stayed a little long, even if they brought too
20 big a basket of fruit as opposed to having every phone
21 call monitored in a gestapo setting in an environment
22 where she doesn't want to be?

23 MS. GARDNER: Objection; form.

24 THE WITNESS: Would you please restate
25 the question?

1 agitated and upset and tearful and unhappy for the
2 months that she was kept in captivity in Texas?

3 MS. GARDNER: Objection; form.

4 THE WITNESS: Yes.

5 Q. (BY MS. MALONEY) And so we're very clear,
6 captivity means being kept against your will, true?

7 MS. GARDNER: Objection; form.

8 THE WITNESS: Yes.

9 Q. (BY MS. MALONEY) And was she kept in
10 captivity in Texas?

11 MS. GARDNER: Objection; form.

12 THE WITNESS: Yes.

13 Q. (BY MS. MALONEY) And is captivity a form of
14 psychological torture?

15 MS. GARDNER: Objection; form.

16 THE WITNESS: I don't know what the
17 definitions are of psychological torture. I mean,
18 could you --

19 Q. (BY MS. MALONEY) You know Dr. Gerta in this
20 case used that term?

21 A. She did.

22 Q. Have you followed any of the literature on
23 psychological torture?

24 A. I have not.

25 Q. You don't know whether or not Lillian Glasser

1 Q. (BY MS. MALONEY) Surely. Which do you think
2 would be more upsetting to an elderly person with some
3 dementia? Friends come over, they stay a little long,
4 they talk a little loud, they discuss some gossip and
5 it's something that this elderly person has been
6 enjoying and fighting over and going through all the
7 ups and downs of regular life her whole life, have
8 that pattern continue or to have alternatively a
9 pattern where she has an environment where it is
10 regulated that her visits must last X number of
11 minutes, that they must have within eyesight and
12 earsight a witness surveilling her, writing down
13 what's being said, monitoring her phone calls. Which
14 do you think would be more agitating for an elderly
15 person with a little bit of dementia?

16 MS. GARDNER: Objection; form.

17 THE WITNESS: It depends on what those
18 interactions are. If the friends came over and she
19 was enjoying it and was fine and wasn't becoming
20 agitated, that's great. If the friends come over and
21 talk to her and she gets agitated, that's not so
22 great. The same thing about a controlled environment.
23 If she gets unhappy in that kind of controlled
24 environment, that's not good, but if that controlled
25 environment also allows her to be calmer, then that's

1 somebody makes a mistake and prescribe -- and -- and
2 prescribes 500 milligrams really intending to
3 prescribe 50, and let's say the person's taking that
4 medication and feels that it's excessive and feels
5 like she's being poisoned. Does it require that she
6 think the other person was trying to kill her, or can
7 it just think -- can she just think that it's going to
8 do her harm?

9 A. The word poison for me, for somebody to be
10 poisoned means that there's an intent to it. If
11 somebody takes an overdose, they've taken an overdose
12 and they have an adverse reaction from too much of
13 the -- the medication. But the intent was not to, you
14 know, even with an incident, to -- to poison them.

15 Q. If you go to a restaurant and you get bad
16 food and you get food poisoning, are you presuming the
17 restaurant had ill intent and was trying to poison
18 you, or do you -- did you just get poisoned?

19 A. I think that the word food poisoning then,
20 that's being used in a different context.

21 Q. So you feel that if Lillian Glasser felt that
22 that 500 milligram dose of Seroquel which she
23 self-stopped, according to your testimony in
24 September, if she felt that that was poisoning her,
25 you feel she didn't have the right to feel that that

1 she's been on Seroquel, true?

2 A. Correct.

3 Q. And for the majority of it, she will have
4 been on doses of 200 to 500 milligrams, true?

5 A. That's correct.

6 Q. And so all of this time that we're going
7 through depositions and there are hearings and there
8 are issues about guardianship, nobody has been out
9 there advocate -- nobody that we know of right here in
10 Texas has been out there advocating to get her off
11 that medication now.

12 MS. GARDNER: Objection; form.

13 Q. (BY MS. MALONEY) As opposed to making her
14 wait for some abstract trial date in the future.

15 MS. GARDNER: Objection; form.

16 Q. (BY MS. MALONEY) Is that true?

17 A. That's correct.

18 Q. Everyone's tying Lillian Glasser's time to
19 start tapering her Seroquel to some abstract date in
20 the future that isn't certain because courts always
21 change their dates, don't they?

22 MS. GARDNER: Objection; form.

23 Q. (BY MS. MALONEY) That happens a lot, doesn't
24 it?

25 A. Dates change.

1 medication, without attributing it to who was
2 prescribing it, just the medication itself was
3 poisoning her, was causing her harm?

4 MS. GARDNER: Objection; form.

5 THE WITNESS: You know, it may -- it may
6 be an issue of semantics here. If she felt badly on
7 it and used the adjective that she felt like she was
8 being poisoned, that's how she felt.

9 Q. (BY MS. MALONEY) And that's acceptable, to
10 feel like you're being poisoned by a medication if you
11 feel like the medication's bad for you?

12 MS. GARDNER: Objection; form.

13 THE WITNESS: If -- if that's -- if
14 that's the adjective that that individual uses to
15 describe it, that's appropriate for that person.

16 Q. (BY MS. MALONEY) And so, in fact, if the --
17 the medication is causing Lillian Glasser harm, that
18 would be a justified feeling on her part.

19 A. In -- for her, yes.

20 Q. And so that we're very clear for the judge
21 and jury, since March, we're deal -- we're 11
22 months -- we're -- we're short -- by time of trial,
23 we're going to be over a year from the time that
24 Lillian Glasser was started on Seroquel and held in
25 captivity against her will. For that entire year,

1 Q. Surely. And so her fate and her life and her
2 well-being before a medication known to be dangerous
3 in the elderly, at high doses particularly, we're
4 waiting to taper that until after a trial setting.

5 MS. GARDNER: Objection; form.

6 Q. (BY MS. MALONEY) That's the decision that
7 you made and that Dr. Freedman made and that her new
8 doctor is respecting because he's talked to you; isn't
9 that true?

10 MS. GARDNER: Objection; form.

11 THE WITNESS: He's respecting for the
12 time being, yes.

13 Q. (BY MS. MALONEY) Okay. And for the time
14 being, we're not talking about a -- a commodity that's
15 sitting there like a crate of marbles, we're talking
16 about a human being who every day her life is ticking
17 away on a medication that is known to harm her and
18 nobody has changed that medication while we're waiting
19 for trial.

20 MS. GARDNER: Objection; form.

21 Q. (BY MS. MALONEY) True?

22 MS. GARDNER: Objection; form.

23 THE WITNESS: I don't believe that the
24 medication -- my monitoring of her has harmed her.

25 Q. (BY MS. MALONEY) But you never monitored her