In the Superior Court of the State of Washington In and for the County of Benton

LYNN CROOK, Plaintiff, vs. BRUCE MURPHY and LUCILLE MURPHY, and the marital community composed thereof, Defendants

No. 91-2-0011-2-5 VERBATIM REPORT OF PROCEEDINGS

Proceedings had before the HONORABLE DENNIS D. YULE, Superior Court Judge, in and for the County of Benton, on the 4th day of March, 1994, at Kennewick, Washington.

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March 4, 1994
Kennewick, Washington

(The following proceedings were had in open court, to wit:)

THE COURT: Good afternoon.

Well, Counsel, this I think represents almost a complete tour of the courtrooms in Benton and Franklin Counties now.

We only do that because Seattle lawyers are here so we can kind of keep you off balance. Any post-trial motions will be heard in Prosser.

Counsel, I want to reiterate again what I said when we were together Tuesday, convey to you, once again, my profound appreciation for your excellent work in this case.

I have worked hard on this case myself as well, and in the course of rereading the testimony it reminded me again of your excellent work, and I really comment you for your professionalism in this case, through a long trial with a number of moves, your good humor and patience and courtesy, both to the Court and to each other. That has made an extraordinarily difficult trial much easier, I think, for all of us.

This is a difficult trial, and it is a trial in which we have spoken the unspeakable, not only incest but incest in its most egregious conceivable form.

When I became a judge, I was given some advice by one of the justices of the Supreme Court. He told me that there would be occasions as a judge when I would be hearing a matter and it would cause me to ask myself, what am I doing here? Who am I to be deciding this case? Who am I to be deciding this issue?

I know that this has been a terribly difficult case for all of you and your families. And I want you to know that I have shared at least some of your discomfort. While I am certainly accustomed as a judge to hearing some rather intimate details in the lives of stranger, I have not had any trials comparable to this one.

And there have been points throughout this trial where I have really felt like I was an intruder, like I was listening to things and hearing things and you were saying things in court that I really didn't have any right to hear.

Let me remind you that the standard in this case, the standard by which the Court has decided each of the issues is what is known as the preponderance of the evidence. What that means in simple terms is the greater weight of the evidence. As I generally explain that standard to jurors, it is whether any given proposition is more likely to be true than not true. That is the standard in this case.

Several witnesses in this trial have had the luxury of indicating to the Court that a decision, the ultimate issue here, whether there has been—whether it is more probably than not that there has been sexual abuse, is an issue which they cannot and need not decide. That is not a luxury that the court has.

But I want you to bear in mind that each of the issues decided by the Court are decided on that standard, whether it is more probable, considering all of the evidence, than not that the proposition is true. And I want also to tell you that there are doubts in my mind. There will always be doubts in my mind.

This is a case in which I left the courtroom after the very able closing arguments of counsel without any clear feeling of the ultimate decision that I would come to. And that is frequently not the case. Frequently by the time Court has heard all of the evidence, it has a pretty good mind for what the final outcome will be. That has not been the case in this trial.

I have found that the decision has required very, very careful and thorough deliberation of all the evidence that was presented.

Perhaps the first question that the Court should address is whether there is any evidence that the plaintiff, Lynn Crook, is intentionally fabricating her memories. Although that would seem to be a fundamental question in this case, it is one as to which there is really little or no dispute. Certainly none of the expert witnesses in this case suggested or expressed the opinion that the plaintiff had intentionally and willfully created false memories.

Dr. Loftus indicated that she had no evidence of intentional fabrication and noted that in a majority of such cases the memories are sincerely held. Dr. Ofshe indicated that he thought that the plaintiff was sincere in her belief, in her memories, and that he had no reason to think otherwise.

Dr. Harris said that he was not suggesting that the plaintiff intentionally fabricated her memories.

Although there was some discussion in the course of this trial about possible secondary gain, Dr. Harris alluded to that, for example, neither Dr. Harris nor any of the other witnesses in this trial presented any evidence to indicate a secondary gain.

Let me just briefly comment on the two categories that were mentioned in the course of the trial. One was monetary award, a potential monetary award in this suit. That does not appear to the Court to be consistent with the evidence as to the kind of person that the plaintiff is, the kind of relationship that she has had with her family, her personal history. It is not consistent, given that information, to conclude that she would bring to this public forum knowingly false allegation of such egregious sexual abuse for the uncertain opportunity to obtain a judgment in any amount.

The other secondary gain that was referenced in the course of the trial was revenge or exposure of the defendants. And, again, the picture that the evidence paints of the plaintiff, her background, personality, her history, her family, and her relationship to it, does not lead the Court to conclude that a motivation of revenge exists here.

I don't see what the revenge would be for. It would seem more probably that revenge, were it a motivation for the plaintiff's bringing this action, would be the consequence of plaintiff's having been abused than the cause of plaintiff's willfully fabricating accounts of such abuse.

So I conclude that there is no evidence that the plaintiff intentionally or willfully has created false or fabricated memories.

The Court's inquiry then must be directed to whether the plaintiff's memories, although genuinely believed by her to be true, are sufficiently reliable mental records of actual past occurrences to warrant the conclusion that it is more probably than not that the plaintiff was sexually abused by the defendants.

The first part of that inquiry goes to the capacity of the human mind. A lot of this trial has been about looking into the impenetrable regions of the human mind. Is the human mind capable in some way of storing data relating to a childhood of sexual abuse that is not accessible to conscious memory for a period of many years and then releasing that data in a reliable form to the conscious memory?

To some extent, the legislator—legislature, I should say, has already given a partial answer to that question implicit in its enactment of the statute of limitations applicable to actions such as this. That represents at least some indication by the legislature of its acceptance of the notion of recovery of repressed memories.

The testimony of the experts in this case reflect the debate that rages among mental health professionals, therapists, and academics.

The empirical experience of all of the therapists or clinical witnesses supports the possibility, at least, of the recovery of repressed memories. Dr. Conte, a part-time therapist and teacher of psychotherapy, focuses on research, focuses his research on the sexual abuse of children. And it was his testimony that many mental processes become better with practice and experience.

Dr. Feldmann-Summers, a therapist, a past teacher, indicates that based upon the scientific literature and her clinical experience, a series of traumatic events over time can be locked away.

Dr. Harris, a therapist, 20 percent of whose time is devoted to issues relating to child sexual abuse, refers to an emerging clinical entity of the recovery of repressed memories and acknowledges a broadly held view that trauma can result in the destruction of memory.

He also noted that though amnesia is more often associated with sudden singular trauma, he could not make a blanket statement that it cannot exist for long periods of trauma. And in his testimony, Dr. Harris implicitly recognizes the possibility when he addressed two possibilities to the Court: either that this was a case of what he referred to as therapy gone wild or it was a case in which the plaintiff in fact has been sexually abused by her father and that he could not conclude which was the case.

Dr. Loftus, a psychologist of some considerable experience in memory and memory distortion, is cautious in her testimony. She testified that there is no cogent expression, there is no cogent scientific evidence that long term repression of a series of traumas and retrieval years later in any reliable form is possible. And she points to the diminishing reliability of memory with the passage of time.

Dr. Ofshe, a social psychologist and an expert on influence on memory and beliefs, testified that no scientific basis or substantiation existed for the phenomenon of repressed memories and characterized it as being used torationalize what were products of influence.

Although there may indeed by no studies of trauma that conclusively demonstrate such a psychological phenomenon, the Court cannot so easily dismiss the numerous reports of its occurrence in the clinical experience.

Dr. Feldmann-Summers testified that scientific literature and the experience she has a clinician indicates a substantial body of information that supports such forgetting, as she terms it.

The Court finds persuasive the explanation for the hypotheses of repressed memory provided in the testimony of both Dr. Feldmann-Summers and Dr. Conte. As they cogently testified, the trauma, particularly to a defenseless young child from sexual abuse, particularly by that child's parent, is so confusing, so threatening, that the instinct for survival requires an extraordinary psychological defense.

Just as the body's physiological systems seek to protect it from infection by encapsulating invading bacteria, so does the mind seek to protect itself from the unthinkable, the unbearable, by forgetting it.

It is, incidentally, a phenomenon which Justice Pierson discussed in some detail and with considerable eloquence in his dissent, his rather lengthy dissent in the Tyson case.

I conclude from the evidence that there is a substantial basis for finding that it is possible for memories of a series of traumatic events to be removed from the conscious memory and retrieved years later.

The second part of the Court's inquiry was to the reliability of the plaintiff's memories goes to the nature of her memories and to the process by which they were revealed.

With respect to application of the statute of limitations, let me address that as a preliminary matter. It is clear from the evidence that the first memories of sexual abuse as a child were revealed to the plaintiff in February of 1989, within the timeframe of the statute of limitations applicable to this action.

The Court can certainly identify with the response of Dr. Morton to the plaintiff's memories as absolutely unbelievable. I would expect that most people, and certainly most parents, would find the events that the plaintiff remembers so ut6terly contrary to the norms of human behavior and propriety as to defy their belief.

But the very notion of incestual abuse would, I assume, be difficult for most of us to believe. Tragically, however, most would also recognize that it indeed exists.

Although I found rather astounding Dr. Harris' suggestion that child sex abuse may not represent an event not in the normal course of human experience for purposes of post-traumatic stress disorder diagnosis under DSM III criteria, I noted his reason for that suggestion, that 20 to 30 percent of the population is in some way involved in child sex abuse. Dr. Harris also agreed that perhaps one in every four females experienced some sex abuse as they are growing up.

So while the acts which the plaintiff recalls may be repugnant, incest is a fact of life in our society, and the Court must very carefully consider the reasons that the plaintiff sincerely believes those memories, abhorrent though they may be, to have actually occurred. The evidence in this case presents two alternative reasons as Dr. Harris testified for those memories. The plaintiff is the victim of therapy gone wild, to use his term, that accompanied by influences exerted by the environment in which the plaintiff found herself caused the distortion of mental processes that subconsciously implanted so deeply in her mind wholly fabricated thoughts that she came to see them as true memories or the plaintiff was the victim of the unspeakable acts she now remembers and survived the trauma of those acts by repressing them from her conscious memory until, from the distance of more than 40 years, her mind permitted those buried memories to begin to be resurrected into consciousness.

That has been the Court's agonizing quandary throughout this trial. What could cause the plaintiff, such an apparently bright, successful, high achieving, resourceful, caring woman to attribute such reprehensible, devastating actions to her parents, such apparently bright, successful, respected people?

Four of the five therapists testifying in this case, two of whom treated the plaintiff for a substantial period of time and two of whom personally interviews her, concluded that at least some of her memories, more probably than not, represent long repressed memories of acts of sexual abuse of the plaintiff by her parents.

Their conclusions are based upon their acceptance of the psychological phenomenon of repression of memory of a protracted series of traumas, and their evaluation of—to borrow a legal term—the totality of the circumstances of the plaintiff, included her array of psychological symptoms, which lead them to diagnose her as suffering from post-traumatic stress disorder and which are consistent with the course of childhood sexual abuse, lack of other causative factors to account for the collection of symptoms, and in direct corroboration, memories of two of the plaintiff's sisters of Dr. Murphy's sexual abuse of them as children, by improprieties as they refer to them, boundary violations by Dr. Murphy, and by the responses by the defendants to the plaintiff's claims. The fifth therapist, Dr. Harris, who also interviewed the plaintiff, concluded that a mental health professional could not say on a more-probable-than-not basis that plaintiff's memories are historically true memories of actual sexual abuse of the plaintiff by her parents. Although Dr. Harris recognizes the existence of repressed memories and said he could not make a blanket statement that amnesia cannot exist for long periods of traumatic events, he concluded that the symptoms the plaintiff presented could result from any number of causes, including anxiety and depression and do not support a diagnosis of post-traumatic stress disorder. He also agreed with Drs. Loftus and Ofshe that there was a substantial possibility of influence and suggestion from the plaintiff's therapy and from her contacts with the sexual assault center. Finally Dr. Harris found no significant corroboration of sexual abuse. Two non-therapists, Dr. Loftus and Dr. Ofshe, reject the concept of repression of memory of a protracted period of traumatic events and their recovery years later. And these two doctors conclude it is probably that suggestion and influence are responsible for the creation of the plaintiff's memories and that the memories are, therefore, false.

As I have already indicated, the Court concludes that the concept of repression of child sex abuse memories and retrieval years later of memories is a valid hypothesis accepted by a substantial segment of the mental health community.

The focus then of the Court's inquiry is directed at whether the plaintiff's memories are factually real or the result of some other cause, namely influence and suggestion.

Dr. Feldman-Summers rather summarily concludes that there is absolutely no evidence by anybody that Eric Harting or Deena Evans-Smith engaged in suggestion. Dr. Ofshe, on the other hand, sees both therapists as driven by incompetence and aberrance, who apply unrelenting pressure on the plaintiff to have memories of six abuse.

The Court, probably not surprisingly, finds that the truth is somewhere between those two positions. Dr. Feldman-Summers does not afford due consideration, it seems to the Court, to

both Mr. Harting's and Ms. Evans-Smith's connections to the sexual assault center in which the plaintiff was deeply involved to their regular treatment of clients who have recovered memories of past sex abuse to their general orientation toward childhood experiences a influencing adult symptoms to the rather rapid progression in four sessions with Mr. Harting to the first memory of sexual abuse.

The evidence suggests the potential for at least subtle influence by the two treating therapists. Dr. Ofshe, however, sees a sinister symbioses [sic] at work between the plaintiff and Eric Harting that leads inexorably to fabricated memories. While Dr. Ofshe was clearly established during this trial as an expert of considerable renown and productivity in the area of influenced or false memories, the Court, frankly, found his credibility to be limited by his stridency.

The evidence in this case indicates that substantial segment of practicing clinicians in mental health subscribe to the theory of repressed memories of sexual assault trauma.

Dr. Ofshe denigrates that segment by repeatedly in his testimony referring to them as part of a "subculture" and as "pop psychologists." Dr. Loftus was quite right, it seems to me, in her observation that Dr. Ofshe is not afraid of being rude in expressing his opinions. Unfortunately, in a court of law, it is my experience that heat tends to diminish light. Well, as the finder of fact, I have endeavored to ignore the heat in his testimony that Dr. Feldmann-Summers has "virtually no understanding of what is written in English" in his paper on the Ingram case or in his comment that Mr. Harting, asking the plaintiff how her boss reminded her of her father was "a strategy for lengthening therapy," or that Harting had turned the plaintiff into a "cash cow," unavoidably detracts from his credibility as a thoughtful and reasoned expert. Dr. Ofshe describes the plaintiff as having been immersed in the subculture of the sexual assault center which primed her to find sexual abuse. He testified that she selected Mr. Harting as a known sex abuse counselor who saw her desire to recover memories of her childhood as a sign of past sexual abuse. He describes the plaintiff's narrative, Life with Father, as a knowing invitation to Mr. Harting that she knows will provoke him to suspect sexual abuse.

I do not find that the evidence supports such a cynical characterization. While the evidence does suggest openness, if not predilection by both Mr. Harting and Ms. Evans-Smith toward the recovery of repressed memories of sex abuse, it does not suggest to the Court anything in their therapy of sufficient potency to cause the plaintiff to fabricate the memories she began having in February of 1989 involving her own parents.

I find persuasive Dr. Conte's assertion that psychotherapy, at least in this case, is not powerful enough to manufacture out of nothing the sort of memories which came to the plaintiff. The evidence does not show a highly suggestive therapy run wile, as Dr. Harris put it. The plaintiff initiated therapy with Harting for the limited and immediate purpose of resolving a conflict with her supervisor at work. The evidence indicates that it was the plaintiff, not Mr. Harting, who drew the parallel between her relationship with her employer and her relationship with her father.

Dr. Harris testified that Harting's suggestion that the plaintiff write about her childhood in the second or third session was not inappropriate. While the reference in the plaintiff's narrative, Life with Father, to being in the shower with her father raised a suspicion in Harting's mind of

possible sexual abuse, he did not express that to the plaintiff. Both the plaintiff and Mr. Harting initially expected that there would only be one or two sessions of therapy.

Although there is some confusing use in the testimony of several of the witnesses of the word hypnosis, the only technique which either therapist introduced the plaintiff to was a relaxation technique, one attempt by Mr. Harting to recover positive childhood memories by hypnosis and one guided visualization by Ms. Evans-Smith.

There is no evidence that any of those procedures elicited any memories. Drs. Harris, Loftus, and Ofshe also point to what I would term environmental influences from Lynn Crook's involvement in the sexual assault center and victim advocacy and from her exposure to various reading materials. Dr. Ofshe's rhetoric notwithstanding, the evidence demonstrates a possibility of influence from the plaintiff's work with the sexual assault center. Plaintiff testified that she took 40 hours of training as a volunteer advocate in the fall of 1988 and met with clients for a four-month period before becoming an education coordinator.

As educational coordinator, she gave numerous presentations on abuse, including child sex abuse. She testified that during those presentations he had thoughts about whether she had been sexually abused. Clearly her association with the sexual assault center sensitized her to the existence of sexual abuse and the plight of its victims. The potential for influence is manifest. Although there was little specific evidence about the reading materials available at the sexual assault center, there was evidence that some materials were available. Such general information is not sufficient, however, to support the conclusion that it represented a source of any significant influence.

There is also evidence that plaintiff's periodic—that plaintiff periodically read erotic literature during sexual relations with her husband. There was indication, at least by Dr. Loftus, that sexual fantasies described such erotica could influence at least some of the plaintiff's memories or visualizations.

I am not persuaded, however, that such environmental influences would be sufficient to prompt a woman of the plaintiff's intelligence, education, and personality to fashion out of whole cloth the memories that have come to her.

I have also considered the cumulative or compounding effect of both therapeutic suggestion or influences and environmental influences as I have just described, but I am led to the same conclusion. There is simply not sufficient evidence before the Court to find an atmosphere of suggestion, influence, or pressure surrounding the plaintiff that would explain her formulation of false memories.

Drs. Harris, Loftus, and Ofshe also point to what might be described, I suppose, as victims movement books that the plaintiff reviewed in the Tri-City Herald and to the plaintiff' participation in group therapy. Assuming thebooks to be as inflammatory as the defense suggests, however, the evidence is that the plaintiff did not read any of the books until after she had the dozen or so memories which she reported at the June, 1989 meeting with her sisters.

Similarly, the plaintiff's participation in a therapy group of female adult survivors of child sexual abuse began in early 1990, at least ten months subsequent to the time that her memories began. The defendants, primarily through the testimony of Dr. Ofshe, have raised some troubling questions about several of the plaintiff's specificmemories.

Some of those memories, the one involving her mother changing her diaper in particular, the plaintiff insists occurred when she was about two years old, an age at which the experts all agree a child is not generally capable of cognitive memory. Dr. Feldmann-Summers' explanation is that it represents a memory that is metaphorical and/or not fully explored. A considerable amount of attention has focused on the plaintiff's memory of an event in Dr. Murphy's office involving a bright light and a shiny instrument which the plaintiff thought involved his cutting of her hymen.

Other evidence, including Dr. Morton's examination of the plaintiff when she was 17 years old and her own recollection that she bled when she first had intercourse establish that her hymen was in fact intact throughout her childhood. The defendants also point out several other memories that involve activities which would arguably have ruptured her hymen.

The plaintiff's testimony about the memory of her father doing something to her in his office is contradictory. She testified that her father told her he had cut the hymen of an eight year old and she connected that statement to her memory, yet she also testified that she had always remembered Dr. Morton's exam and his report that her hymen was intact and also recalled that she bled when she first had intercourse. The plaintiff frankly admits that she cannot explain the contradiction. At the least, it casts some doubt on the accuracy of her other memories. Although other memories involve activity which could have resulted in rupture of her hymen, it is conceivable they could have occurred without sufficient penetration to tear the hymen.

Dr. Ofshe notes memories that indicate an awareness by Lynn Crook, the child—Lynn Murphy, the child—that abuse is occurring and argues that such awareness is not compatible with the concept of repression of memory. However, there is a dearth of evidence in the record in this case as to how and when memories in a series of traumatic memories are repressed. Dr. Ofshe also addresses other challenges to the manner in which the plaintiff visualizes the memories by seeing herself, and he points to the absence of any memories by the plaintiff's sisters of those events which the plaintiff remembers them as being a part of. The Court finds Dr. Feldmann-Summers response in the balance to be more persuasive.

The defense argues that the plaintiff's vision of a co-worker's exposed penis draws in question the reliability of her memories. In other words, if current stimuli can cause her to visualize a co-worker's penis, why can't they cause her to visualize an event 40 years ago that is equally untrue.

That seems to the Court to be a valid point that I am not satisfied that either Dr. Conte of Dr. Feldmann-Summers fully answered. Both characterize the vision of the exposed penis as a momentary dissociative experience. Dr. Conte dismisses it as a visual symptom of anxiety. Finally, Dr. Ofshe characterizes the plaintiff's memories as a progress toward ritual, satanic cult images, which he states fits a pattern he has observed of false memories.

It appears to the Court, however, that in this regard, he is engaging in the same exercise for which he criticizes therapists dealing with repressed memory. Just as he accuses them of resolving at the outset defining repressed memories of abuse and then constructing them, he has resolved at the outset to find a macabre scheme of memories progressing toward satanic cult ritual and then creates them. He testified that he began his work in this case by "trying to get an idea of the progression of interest and then the initial visualizations and then the development and elaboration of the visualization."

Dr. Ofshe equates recovery of memories of early childhood sexual abuse with the recovery of past life traumas as memories of abduction of space aliens. He explains that he is the only one who has seen such progression to satanic cults because he is perhaps "the only one who studied the record to the depth that I have studied it."

In my review of the plaintiff's collection of memories, the progression is not so apparent. Although I do not conclude from the evidence that the totality of the plaintiff's memories have been fabricated by the suggestion and influence of her therapists and her environment, as I have just discussed, the evidence does raise some questions as the reliability of those memories as proof of the acts which they involve.

Those questions require a discussion of corroborative evidence. The Court ruled at the beginning of this trial that the highly aberrational nature of incest, the problems of proof peculiar to recovered memories, and the circumstance of secrecy and intimidation that surround child abuse, as the Alaska Supreme Court discussed, render evidence of the sisters' memories of childhood abuse by their father admissible and relevant. First I will address the testimony of J[redacted] B[redacted]. Her testimony reflected an intelligent, articulate, purposeful, and sincere woman. I found her testimony to be credible. I am satisfied from her testimony that she has always had a memory of being in bed with her father and of him telling her to play with his dolly, referring to his penis.

There is no evidence to suggest that she has knowingly fabricated that memory. While the fact that she had never told anyone of the memory until after the plaintiff revealed her memories to her and had discussed some of those memories with her and after she had read at least portions of Courage to Heal, although those factors raise the issue of influence or contamination, I find it certainly improbably that either factor would cause her memory to be falsely implanted in her mind. Nor do I find it probably that either would prompt her to jump to the conclusion that a previously unidentified male was her father.

Her testimony that she had always known the memory was of her and her father but that she had put the memory aside and revisited it only infrequently and had not labeled it as sex abuse, seems to the Court to be credible. As she explained, she processed that peculiar memory involving her own father not as an experienced nurse and mother but as a daughter.

M[redacted] M[redacted] can be described much as J[redacted] was. She appeared to the Court to be an intelligent, sensitive, sincere, and anguished woman. Her testimony also appeared credible. Again, I see no evidence that would lead the Court to believe that she knowingly fabricated her memories. There is however, a greater possibility of influence of contradiction or contamination of her memories. Her memory of her legs, the wooden spoon, and her father's

hand came to her while she was alone for a weekend at a friend's cabin, while she was talking on the phone to the plaintiff, several months after having heard and discussed the plaintiff's memories, and apparently at a time when she had been reading Courage to Heal.

Dr. Feldmann-Summers recognized the potential for contamination. M did not indicate when she had the memories of her father exposing himself to her in his office and of having a stain on her panties. However, the same concerns of contamination would apply to those memories as well.

M testified with considerable and genuine emotion. Both her testimony and the plaintiff's testimony indicate she has given plaintiff a lot of empathy and support. She referred to having previously been in therapy. I cannot conclude, considering all of those factors, that it is more probably than not that M 's memories were not so contaminated by both the plaintiff's experiences and her own that they are not reliable reflections of historic fact. In addition to the foregoing memories of sexual abuse, the plaintiff and her sisters J M , and K testified about instances behaviors by Dr. Murphy that are probative of an insensitivity to normal boundaries of sexual propriety. For the reasons given for admitting evidence of the sisters' memories of sexual abuse, I conclude that this evidence is relevant and admissible. J testified to Dr. Murphy's patting her buttock as an adult in a manner that made her distinctly uncomfortable. Bob Crook testified to observing Dr. Murphy pat the plaintiff on her buttock in a manner that he characterized as more like fondling and which he observed caused a physical stiffening by the plaintiff.

J remembers Dr. Murphy urinating in the bathroom while the girls were present taking a bath and testified that she knows how her father holds his penis when he urinates. J also recalls changing clothes in her bedroom closet out of concern that her father would walk in on her.

M recalls Dr. Murphy treating her for genital warts at the age of 22 and at the time telling her that her mother only did the missionary position. The conversation, I believe, needs no further comment. However, with respect to the treatment which Dr. Murphy testified was appropriate and which Dr. Morton testified was within the standard of care, I must frankly say that I find it remarkable that a physician practicing in the Tri-Cities in the 1970's would not recognize that as a clear breach of the boundaries of privacy and propriety. Kate recalls that when she was approximately in her early teens Dr. Murphy told her to hold her knees together as she was sitting across the room from him and explained to her that otherwise it meant she wanted him. >From the Court's review of the testimony of I Murphy, M Murphy, J B , Lynn Crook, and Robert Crook, I find that I Murphy's initial response to the plaintiff's memories and M 's memories—memory was one of support and acknowledgment of their truth.

I have given considerable thought to the reaction of a parent to such allegations from a child. And I appreciate the enormous confusion, conflict of loyalties, and emotion with which any parent would respond. However, the testimony of I , of the plaintiff, of Robert Crook, and of M is that I Murphy also indicated to them that she knew the memories were true and knew some of the events described in them.

Although the evidence indicates that [redacted] Murphy went to an attorney and to counseling with Michael Henry at the suggestion of her daughters, the fact that she did so and that she continued counseling with Mr. Henry for seven months suggests that she support the plaintiff and believed her memories for a protracted period of time. It is the Court's conclusion that it is further evidenced by her letter to [redacted] of April 26th, 1990. I have read and reread her testimony that gives her interpretation of that letter, and it simply does not sound credible. I have heard no explanation why if [redacted] Murphy meant in her letter that her husband denied everything she chose to express that sentiment by writing "he"—referring to therapist Mike Henry—"said dad is in total denial, and will never change."

The final paragraph of that letter is equally puzzling. Although [redacted] Murphy explained that the comment "it's why I stayed here. Hope you can understand," is a reference to her duty to bring her husband to the Lord, that does not explain why she felt the need to explain why she remained with him if she did not put any stock in the plaintiff's memories. The tenor of the letter in its entirety does not seem to me to be consistent with a firm belief in Dr. Murphy's innocence. Finally, a brief comment on Dr. Murphy's response to the allegations by the plaintiff in his deposition, in the meeting at Mr. Harting's office, and in his testimony in this trial.

Again, it is hard to imagine the anguish that would be suffered by a parent falsely accused by a daughter of sexually molesting her. However, Dr. Murphy's responses seem strangely ambiguous and coolly clinical. Although I recognize that the plaintiff's evidence has painted a picture of a man who is authoritarian, highly controlled and controlling, not emotionally demonstrative and scientific, a response that "I don't remember any of that" or "I don't remember doing this" seems to me to be oddly detached for such an egregious accusation. His testimony as to [redacted]'s memory of the wooden spoon, a horrible abominable scene, seems to me to be equally puzzling. I don't think that it is appropriate for the Court to make too much of that. Perhaps it is just a peculiarity of Dr. Murphy's personality, but it would seem to me that a father, any father, whether a physician or not, would respond to such an accusation in far more vehement, far less clinical terms. My God, this is my daughter. This is my beloved daughter. I can't even conceive of doing such a thing. A response along those lines seems to me to be more consistent with not having committed any of the acts.

But, as I said and will reiterate, while I think that it is somewhat corroborative, it may indeed be Dr. Murphy's way of communicating, and I does not ascribe a great deal of probative value to it.

My consideration of all of the evidence in this case as I have reviewed it with you this afternoon leads me to conclude that it is more probably than not that the plaintiff was sexually abused by her father and her mother while she was a child. I find further that as a proximate consequence of such abuse, the plaintiff has suffered injuries reflected in symptoms associated with post-traumatic stress disorder, including specifically episodic anxiety, recurrent depression, poor self image, sexual dysfunction, limited range of emotional affect, and hypervigilance.

The Court also finds that the other circumstances of stress in the plaintiff's life about which there has been evidence in this trial as to moves, as to job changes, as to two miscarriages, as to

other experience in her life donot adequately account for such symptoms. As a proximate result of such injuries I find that the plaintiff has suffered past economic losses in the amount of $12,080, future economic losses of $17,500, past non-economic damages for pain and suffering of $90,000, and future non-economic damages for pain and suffering of $30,000. Accordingly, in this case the plaintiff is granted judgment in the amount of $149,580. That is the Court's decision, Counsel. I will sign the appropriate judgment upon presentation. Court will be in recess.

(The proceedings having concluded, the Court stood in recess.)