IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

DEBBIE MISTERKA, et al.,
Plaintiffs,
vs
Case No. 377206
COLUMBIA - SAINT LUKE'S MEDICAL CENTER, et al.,
Defendants.

- - - - -

DEPOSITION OF MIKHAEL ABOURJEILY, D.O.

FRIDAY, OCTOBER 8, 1999

- - - - -

The deposition of MIKHAEL ABOURJEILY, D.O., the Witness herein, called by counsel on behalf of the Plaintiff for examination under the statute, taken before me, Vivian L. Gordon, a Registered Diplomate Reporter and Notary Public in and for the State of Ohio, pursuant to agreement of counsel, at the offices of Buckingham, Doolittle & Burroughs, One Cleveland Center, Cleveland, Ohio, commencing at 10:00 o'clock a.m. on the day and date above set forth.

APPEARANCES:

On behalf of the Plaintiffs
Becker & Mishkind
BY: HOWARD D. MISHKIND, ESQ.
1660 2nd Avenue
Skylight Office Tower Suite 660
Cleveland, Ohio 44113

On behalf of the Witness and Defendant St. Luke's Emergency Physicians Associates
Buckingham, Doolittle & Burroughs
BY: DIRK E. RIEMENSCHNEIDER, ESQ.
1375 E. 9th Street
One Cleveland Center
Cleveland, Ohio 44114

On behalf of the Defendant Columbia-St. Luke's Medical Center
Buckingham, Doolittle & Burroughs
JEFFREY E. SCBOBERT, ESQ.
P. O. Box 35548
3721 Whipple Avenue
Canton, Ohio 44735-5548

On behalf of the Defendant Geauga Hospital
Davis & Young
KEVIN M. NORCHI, ESQ.
Midland Building
Cleveland, Ohio 44115

On behalf of the Defendants Wilder and Maxey
Mazanec, Raskin & Ryder
COLLEEN PETRELLO, ESQ.
100 Franklin's Row
5305 Solon Road
Solon, Ohio 44139

- - - - -

MIKHAEL ABOURJEILY, D.O., a witness herein, called for examination, as provided by the Ohio Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, was deposed and said as follows:

EXAMINATION OF MIKHAEL ABOURJEILY, D.O.

BY-MR. MISHKIND:

a. Would you please state your name for the record.

A. Michael Abourjeily.

Q. Dr. Abourjeily, my name is Howard Mishkind and I represent the plaintiff, Debbie Misterka, in a lawsuit that has been filed.

I am going to be asking you some questions this morning concerning a little bit of background information on you and then your treatment of Debbie at St. Luke's back in September of 1997.

Should I ask you anything that is in any way confusing, tell me you don't understand it and I will attempt to rephrase it in a manner that is understandable. Okay?

A. Fair enough.

a. Wait until I am done, also, before you start answering the question just so we don't have a cross over, because that sort of leads to your

answering something that maybe I am not intending to ask you.

A. Okay.

Q. Have you had your deposition taken before, sir?

A. Yes, once before.

Q. How long ago was that?

A. Four or five years ago.

Q. Were you named as a party in the case that caused your deposition to be taken?

MR. RIEMENSCHNEIDER: Objection. Just note a continuing objection. Go ahead, doctor.

A. Yes.

Q. What was the caption or the name of the case, the plaintiff's name in that case?

A. I don't recall.

Q. Were you the -- was it so-and-so versus Dr. Abourjeily or were there other parties named in that case, as well?

A. There were other parties.

Q. Was the case filed in Cuyahoga County?

A. I believe so.

Q. Did it have to do with something that occurred at St. Luke's out in Solon?

A. No.
Q. Which hospital?
A. It was done in Akron General Hospital.
Q. Did that case proceed to trial?
A. No.
Q. So your deposition was taken and then did the case, to your knowledge, get resolved in some manner or is it still open?
A. No, it's closed.
Q. Were you an emergency room doctor?
A. I was a resident.
Q. A resident in emergency medicine?
A. Correct.
Q. At Akron General Hospital?
A. Rotating through Akron General.
Q. What year in your residency were you, sir?
A. Second year in my residency.
Q. And very, very briefly, just tell me the subject matter. What was the medical condition of this patient that was in issue in the case?
A. Delayed diagnosis.
Q. Of what?
A. Of pulmonary embolus.
Q. Did the patient die?
A. Yes.

Q. Male or female?
A. Female.
Q. Was that the only time prior to the day that your deposition had been taken?
A. Yes.
Q. And as we have been talking about the fact that it was a female, delay of diagnosis of a pulmonary embolism, does the name of the patient come back to you at all?
A. No.
Q. Don't concentrate on it, but should it came back during the deposition, would *you* please let me know?
A. Sure.
Q. Where is your professional office or what is your professional address?
A. I don't have a professional address. I am an emergency room physician, so wherever 1 am working is the hospital that I am working with.
Q. Who are you employed by?
A. Right now MedPartners/EPS.
Q. EPS?
A. Correct.
Q. And how long have you been employed by that entity, MedPartners/EPS?

A. It will be one year next month.
Q. Who was your employer before November of '98?
A. St. Luke's Emergency Physicians Associates.
Q. You are an osteopathic physician; correct?
A. Correct.
Q. And you went to what college? What medical school?
A. University of New England College of Osteopathic Medicine.
Q. Are you an American citizen?
A. Yes.
Q. When did you become an American citizen?
A. You had to ask that. Three years ago.
Q. And as I understand it, you were born in Lebanon?
A. Correct.
Q. On September 9, 1997, when Debbie Misterka was seen at St. Luke's Medical Center in Solon, was your employer St. Luke's Emergency Physicians Associates?
A. Correct.
Q. What was your official position within that group?
A. A member of the group.

Q. Who was the director or the head of the group?
A. Mike Meloni.
Q. Would you spell that.
A. M-E-L-O-N-I.
Q. Does St. Luke's Emergency Physicians Associates to your knowledge still exist?
A. No.
Q. Is it now part of this MedPartners/EPS?
A. No.
Q. Can you explain to me, if you know, what happened to St. Luke's Emergency Physicians Associates?
MR. RIEMENSCHNEIDER: Objection as to relevance. Go ahead.
A. It dissolved.
Q. Did it dissolve in November of 1998?
A. It dissolved the 1st of October of '98.
Q. Is Dr. Meloni associated with MedPartners/EPS?
A. I don't know.
Q. On September 9, 1997, what were your hours that you were working? Actually what I should say is September 8, 1997 into September 9, 1997.
A. 6:30 in the evening until 6:30 in the

morning.
Q. 6:30 in the evening on September 8th until 6:30 in the morning on September 9th?
A. Correct. Wait. This lady was seen on the 8th; is that what it is? Yes, right.
Q. What time do your records show that she first presented to the secretary or presented to some personnel at the hospital in September?
A. 1:40 a.m.
Q. And that's 1:40 a.m. on September 9; correct?
A. Correct.
Q. And how did she come into the emergency room?
A. By ambulance.
Q. Does the record reflect which ambulance service it was?
A. Aurora Fire Department.
Q. Doctor, let me back up for just one second relative to your training.
Are you board certified in emergency medicine?
A. No, I am board eligible,
Q. Have you taken the boards?
A. No.

MR. RIEMENSCHNELDER: You are talking about the emergency room boards?

MR. MISHKIND: Right.

Q. Any portion of the emergency boards?

A. No.

Q. Are you board certified or board eligible in any other area of medicine?

A. Yes. Board certified in family practice.

Q. And when were you board certified in family practice?

A. '91, I believe,

Q. Have you worked as a family practice physician?

A. No.

Q. Tell me, aside from the emergency room record for St. Luke's on September 9, 1997, have you reviewed any other records concerning Debbie Misterka?

A. No.

Q. Have you at any time been presented with a summary or given an opportunity to look at any of the records for any of her treatment after September 9, 1997?

A. No.

Q. As you sit here right now, do you know what

treatment Debbie had for any back or neck-related problems after she left the emergency room on September 9, 1997?

A. No.

Q. But if I tell you to assume hypothetically that she was seen the end of September and the early part of October in the emergency room at Geauga Hospital, would you be able to confirm that as a fact?

a. No.

Q. Are you aware of the fact that Debbie Misterka was ultimately diagnosed with a spinal epidural abscess?

MR. RIEMENSCHNEIDER: Objection as to anything that I have talked to him about.

MR. MISHKIND: Sure.

Q. Other than from what Mr. Riemenschneider may have told you.

A. No.

Q. Have you requested any records to review that have not been provided to you?

A. No.

Q. Let's talk about September 9, 1997. Who was the triage nurse when Debbie presented?

A. According to the chart, Maureen Kratovich.
Q. Could you help me out with the last name?
A. K-R-A-T-O-V-I-C-H, I believe --
Q. We will do it one more time and bounce back to something I forgot to ask you, and I promise I won't go back and forth with you, at least not intentionally.
A. No problem.
Q. Currently, what hospitals do you work at?
A. Trumbull Memorial Hospital.
Q. Do you spend all your time at Trumbull?
A. Correct.
Q. In the emergency department?
A. Correct.
Q. When was the last time that you worked at St. Luke's out in Solon?
A. The last week of September of last year.
Q. September of '98?
A. Correct.
Q. How long have you been working at Trumbull on a full-time basis?
A. I started there November 1st of '98.
Q. Have you ever had your privileges at any hospital suspended or revoked?
A, No.

Q. Have you ever applied for privileges at a hospital and been denied?
A. No.
Q. I am done going back, okay?
A. Okay.
Q. Were there other emergency room doctors during your shift from 6:30 p.m. on September 8th to 6:30 a.m. on September 9th?
A. No.
Q. Do you happen to recall what day of the week this was?
A. No, not a clue. I suppose we can get a calendar.
MR. RIEMENSCHNEIDER: Just answer the question.
Q. Do you remember Debbie Misterka?
A. No.
Q. Do you remember the individual that accompanied her to the emergency room?
A. No.
Q. So for me to ask you whether you have any recollection of any conversations with Debbie, or with this individual, in all honesty, you would have to say that you assumed you had conversations but you just don't remember one way or another

what was discussed?
A. I don't remember the face, if that's what you are asking.
Q. Do you remember any conversations that you had with the patient?
A. Not particularly, except what I --
Q. Other than what is reflected in the record?
A. No.
Q. So that there is nothing that you say, oh, yes, I remember -- in addition to this, I remember her saying this or I remember seeing her move in a particular way or something that isn't reflected in the record?
A. Correct.
Q. Okay. What time did you first see the patient?
A. According to the record, 1:55.
Q. What had been done for the patient prior to your first interaction with her?
A. It looked like she had been triaged by the nurse.
Q. So vital signs had been taken?
A. Correct.
Q. Anything else?
A. The nurses notes.

Q. So the initial assessment and history?
A. Correct.
Q. So the emergency service nurses notes, which has a 05-002 across the bottom, that information would have been filled out and available to you at the time that you saw the patient?
A. Correct.
Q. Okay. And then --
A. The first page only.
Q. The first page only. I was going to say, the next page then is a continuation of the nurses notes and another set of vital signs, but that would have been taken -- actually the additional vital signs would have been taken after you had seen her; correct?
A. Those particular vital signs, yes.
Q. Okay. Would you slowly for my benefit read out loud what history you obtained concerning the

relieved with nonsteroidal antiinflammatory drug and Flexeril.

Denies any vomiting or diarrhea, no chest pain or shortness of breath. Awake, alert, oriented times three. Mild discomfort, dehydrated, neck supple, positive vitiligo, mucous membrane dry, HEENT unremarkable, cardiovascular regular rate rhythm. Lungs are clear, abdomen distended, tympanic, bowel signs times four, no guarding, no rigidity, no rebound, femoral pulses are intact, positive right inguinal hernia, no bruits, extremities without any edema. Positive straight leg raising, DTR equal plus two over four, neuro intact.

Q. Okay. Did you obtain from the patient any further history as to the cause of her pain in the lumbosacral area?

A. I don't recall that.

Q. It's not reflected in your notes, is it?

A. Right, no, it's not.

Q. Okay. Was there anything that you were able to derive from the nurses notes that gave you any further history as to the cause of the patient's low back pain?

A. No.

Q Were X-rays ordered?
A. Yes.
Q. Were X-rays taken?
A Yes.
Q Do you have a copy of the X-ray interpretation in the records?
A. My interpretation.
Q. Okay And where is your interpretation written?
A. Right here where it says L/S negative.
Q This is on the emergency room record part two of two; correct?
A The second page, I believe, yes Yes, part two of two.
Q. Now, would you have -- this patient would have been transported from an examining room down the hall into the radiology wing of the emergency room?
A. Correct.
Q. Or would this have been a portable film?
A. No, this looks like the patient was transported.
Q. And then she would have been brought back either on the gurney or in the wheelchair back into the examining room, at which point the film

would have been presented to you for your viewing; correct?

A. Correct.

Q. Okay. And you don't have any reason to believe that that is not what occurred on that evening, do you?

A. Correct.

Q. Do you have any explanation for why there isn't an official interpretation of what you saw that early morning as part of the final record in this case?

MR. RIEMENSCHNEIDER: Just note an objection for the record. I mean, I don't have -- we haven't received one, but that's not to say one wasn't ever done.

Q. Well, have you ever seen an official interpretation from the X-ray that you saw that early morning?

A. When you say official, what do you mean by official?

Q. Where the radiologist the next morning made the reading and had a typed report.

A. No, I didn't see that, no.

Q. Just so I am clear, the normal procedure

and policy is that the X-rays are returned after they are viewed in the emergency room to the radiology department so that a radiological interpretation can be dictated by the radiologist; correct?

A. Correct.

Q. And that is standard practice in any emergency room to have a radiological interpretation dictated and then typed out following the reading done by the emergency room physician?

A. Correct.

Q. There should be one for this file on Debbie Misterka; correct?

A. Absolutely.

Q. You just have no explanation where it is, if it was, in fact, interpreted by the radiologist on September 9th or September 10th; correct?

A. I am pretty sure there is one done. I don't know what it is.

Q. Tell me why you are pretty sure, other than that's how it is supposed to be done?

A. That's it. That's how it is done.

Q. And then the only explanation if there isn't one is that someone didn't read the report,

read the film; correct?

A. No, that's not true. It could be in the file, the X-ray file jacket.

Q. Okay. Have you, since you learned of this lawsuit, have you gone back and looked at the film from that emergency room visit?

A. No.

Q. So you have not seen the film nor have you seen the typed interpretation, assuming there is one, prepared by the radiologist?

A. Correct.

Q. Okay. And you can't tell me who the radiologist is or should have been that would have interpreted that film that morning; correct?

A. The radiologist that worked at St. Luke's downtown.

Q. Do you know who that would be?

A. No.

Q. There is more than one radiologist, isn't there?

A. Seven, eight of them, I think.

Q. Okay. Now, your note says L/S negative.

A. Correct.

Q. What were you looking for with the presenting symptoms that the patient had and the

history that the patient had? What kind of things were you looking for when you looked at that film?

A. I was looking for compression fractures. Looking for herniation, disk herniation.

Q. Anything else?

A. Sometimes in these X-rays you see kidney stones.

Q. What else, if anything, would you be looking for on a lumbosacral plain film?

A. Sometimes on these X-rays you can see a bowel problem, such as an obstruction.

Q. Anything else? I am going to remain silent until you have told me you have covered --

A. I am done.

Q. I didn't want to interrupt you.

What was your final diagnosis?

A. Lumbar spasms.

Q. Did you provide any treatment to the patient during her emergency room stay?

A. Yes, I have.

Q. What treatment?

A. She got Toradol 30 milligram IV push.

Q. What is the purpose of the Toradol?

A. An antiinflammatory medication that works on muscle spasms, among other things.

Q. But it was given to treat --
A. Spasms.
Q. -- spasms?
A. Correct.
Q. When you did your examination, were you able to elicit positive evidence of spasms at that time?
A. Tenderness in her back.
Q. And was it tenderness and was that area spasmodic?
A. Yeah, when I pushed it, yes.
Q. Or was it just subjectively tender?
A. Well, when I touched the patient, she jumped.
Q. Were you able to palpate an area where you objectively could determine that there were spasms?
A. The lumbar region.
Q. Okay. Did the Toradol, based upon her condition at the time of discharge, did it resolve her symptoms? Or I guess better put, was she asymptomatic at the time of discharge?
A. According to the nurses chart, she stated that the patient states pain has eased somewhat.
Q. But she still was apparently symptomatic,

but not as bad as she had been before?

A. Correct. According to her note.

Q. Now, there is a note in the nurses note right below that, 3:50, it says patient home via ambulance due to discomfort. Is that with moving?

A. Yes, moving.

Q. And then there is a slash and I am not -- I can't interpret what that says.

A. It says family request. I'm assuming that the family requested for her to be transferred by ambulance back home.

Q. Is that your signature?

A. No.

Q. Whose signature is it at that point?

A. The nurse that triaged her, Mrs. Kratovich.

Q. The same one?

A. Right.

Q. There appears to be a different signature for a nurse for the note immediately above that. Am I correct?

A. Correct.

Q. And who would that be?

A. That's Vicki McCherry M-c-C-H-E-E-R-Y,

Q. Were those the only two nurses that had any involvement during the emergency room visit?

A. Correct.
Q. Would the discharge home by ambulance have had to have been approved by you?
A. No.
Q. Did you see any need for her, if you recall, or based upon the record, for her to be transported by ambulance?
A. I don't recall that.
Q. Okay. Now, the discharge instructions that were given and signed by you at the very bottom of the after care instructions, they have a number of recommendations, one through five. Four, lumbar spasms and constipation. --
A. Correct.
Q. -- do you see that?
Now, constipation was not part of your diagnosis, was it?
A. Not as written on the chart, but I treated the patient in the emergency room for constipation. I gave her a Dulcolax suppository at 3:40 a.m.
Q. And why did you give her a Dulcolax suppository?
A. Because on the lumbar X-rays it looked like her bowel was full of stool.

Q. The history she gave at the time of presentation would be inconsistent with her being constipated, would it not?

A. We never got a history -- she never said she was constipated, according to the chart.

Q. And on review of the systems, the first page of the nurses notes, in the area under the abdomen and then in the BM and last BM, she gave a history of normal BM and having had her last BM early a.m.

A. Correct.

Q. With that history, and without anything else, one would not arrive at a diagnosis of constipation; correct?

A. No.

Q. You arrived at a diagnosis of constipation based upon what you perceived on the X-ray?

A. Correct.

Q. Do you recall having any conversation -- and I am going to assume your answer is going to be no, but correct me if I am wrong -- with the patient about what you saw on the X-ray and your desire to give her a Dulcolax suppository for what you thought was constipation?

A. I don't recall.

Q. Okay. Is it likely that you would have explained that you see some shadows on the film that you believe are indicative that you might be a little bit backed up and this may help with your pain?

A. Yes. I would assume that. I mean, I just don't go and put suppositories in patients without telling them why I am doing it.

Q. Do you have any recollection of what Debbie said to you or how she responded to you when you said that that was what you were recommending to do?

A. No.

Q. Okay.

A. For the record, I am not the one that gave the suppository, the nurse did.

Q. Okay. Go ahead, doctor.

A. Can I stop? I want to correct the record in here. You said on the discharge instruction with my signature down there. That is not my signature.

Q. Okay. Where it says attending physician's name?

A. That's not my signature.

MR. RIEMENSCHNEIDER: The nurse

signed it?

MR. MISHKIND: Right.

Q. Okay. I stand corrected. With the after instructions with your name written there --

A. Right.

Q. -- but not signed by you?

A. Correct.

Q. And as is the normal practice, these instructions would have been reviewed with Debbie by a nurse; right?

A. Correct.

Q. But they would have only been given by the nurse after you had authorized the various instructions and made the various recommendations?

A. To the patient and to the nurse.

Q. Okay. Did you consider in your differential, when you were working Debbie up, the possibility that her back pain may be related to an epidural infection?

A. NU.

Q. Did you consider in working her up that her back pain may be related to an epidural abscess?

A. No.

Q. What signs or symptoms would you expect to see in a patient in order for your differential in

a patient with back pain to include spinal infection or epidural abscess?

A. Fever, elevated white count, maybe bowel and bladder dysfunction. Difficulty walking. Nausea, vomiting.

Q. Okay.

A. That's it.

Q. Is a spinal infection or an epidural abscess a medical emergency?

A. No.

Q. Why do you say no?

A. Because an abscess is a pocket of an infection, a pocket of pus. If that pocket has not burst, it's not considered an emergency.

Q. If you suspect a spinal infection based upon the symptoms that present, would you agree that the standard of care requires that there be a surgical consult?

A. I would like to correct the record.

Q. Sure.

A. When you talk about spinal infection, we are not talking about a spinal fluid infection, because at that point we are talking about meningitis now.

Q. No. I am talking about --

A. We are talking about an abscess, a closed space --

Q. Correct.

A. -- that's what we are talking about?

Q. Correct.

A. You are saying if that was there, would I consider surgical consult?

Q. Yes.

A. Yes.

Q. Okay. So a moment ago when I asked you whether a spinal infection or a spinal abscess is a medical emergency, would you agree that it is a condition that needs to be acted upon while the patient is in the emergency room as opposed to discharging the patient?

A. No.

Q. What does the standard of care require if one suspects that the differential includes the possibility of a spinal infection or a spinal epidural abscess?

A. Refer them to a surgeon.

Q. And is that referral to a surgeon a stat referral?

A. No.

Q. How soon should the referral be done?

A. Within the next day or so.
Q. Okay. If the referral is not done within the next day or so, would that be below the standard of care?
A. No.
Q. Why do you say no?
A. Because every case is different. I mean, different abscesses, you know, they are to be ID'd immediately or the next day.
I am thinking of a pilonidal cyst, for example, an abscess in the buttock or on the buttock of the bone. You know, some of those we don't refer to surgery. We tell the patient to take a sitz bath and give it three or four days to see if it would burst by itself.
Q. Is it fair to say you have to evaluate it based upon the degree of symptoms that the patient presents with?
A. Correct.
Q. So depending upon the level of fever, the level of the leukocytosis, the level of pain, and the other findings, that will dictate how rapidly consultation is necessary?
A. Not the level of pain,
Q. Okay.

A. Every abscess hurts.
Q. Okay.
A. Every abscess hurts,
Q. What factors?
A. What you mentioned, the leukocytosis, the fever, the symptomatology. Every abscess -- certainly if you have an abscess on your finger, it hurts.
Q. Okay. Do you know Dr. Maxey or Dr. Wilder from Geauga Hospital?
A. No.
Q. If you had had evidence -- strike that.
The lab work that you did, was there any evidence of elevation in the white blood count or evidence of leukocytosis or evidence of temperature elevation?
A. No.
Q. If you had evidence of leukocytosis and elevation in temperature in this patient, what would you have done?
MR. RIEMENS~HNEIDER: Objection.
MS. PETRELLO: Objection.
MR. RIEMENSCHNEIDER: It's really a speculative type of question. If you can answer, go ahead.

A. What would I have done?
Q. Yes.
A. Probably proceeded with some other lab tests.
Q. Such as?
MS. PETRELLO: Same objection.
MR. RIEMENSCHNEIDER: Objection.
Q. You can answer the question.
(Thereupon, a discussion was had off the record.)
A. What would I have done?
Q. Yes, sir.
A. Probably would have done an abdominal CT to see what is going on here.
Q. Would you agree that an emergency MRI should be performed if the diagnosis of a spinal infection is seriously being considered?
A. No.
Q. Why do you say that?
A. Because it's not the standard of care in the emergency room.
Q. Are you telling me that that is documented in the medical literature?
A. No. That's what we as the physicians do. To me there is no stat MRI that needs to be done

in an emergency room, except for some cases. This is not one of them,

Q. Aren't epidural abscesses the most common and most important of bacterial spinal infections that need to be recognized if neurological function in a patient is going to be saved?

A. You don't have to have an MRI for that.

Q. What is the gold standard?

A. CT scan.

Q. Did you or did anyone from the hospital have any follow up with Debbie after her discharge from the emergency room on that day?

A. I didn't. I don't know if they did.

Q. Does the record reflect any type of a telephone call to check on how she was doing?

A. If it is, if it is, it would not be on these. The hospital has a book, if they do call somebody for, say, strep throat that was done the night before and was negative and the culture comes back positive, they call the patient and they do make a record of it on a different book.

Q. Okay. Is it fair to say that you don't recall the level of the patient's pain at the time that she was discharged from the emergency room?

A. True.

Q. Was she on a stretcher then when she was taken or did she ambulate out?
A. I didn't see her when she left.
Q. Does the record reflect, other than home via ambulance, as to how it was that she was transported out?
A. No. But I am looking at the X-rays in here and it says that she came back from X-ray via cart, so, no, that's when she came back from X-ray via cart.
Q. It doesn't tell you how she left the examining room out to the ambulance, though, does it?
A. Well, I am assuming she was on a stretcher in the ambulance. How she got to the stretcher, 1 don't know.
Q. How she got to the ambulance, you mean?
A. Right.
Q. Was her primary biliary cirrhosis, was that at all a concern to you as it relates to the patient's symptoms in the emergency room?
A. That was one of my main concerns.
Q. And tell me why it is one of your main concerns and how that influenced what you did or didn't do for her.

A. A patient with primary biliary cirrhosis could be going downhill, and I wanted to make sure that this patient doesn't have any kind of an infection. Her ascites isn't getting worse and that's what I wanted to make sure she didn't have interruption of viscus in there. That was my main concern.

Q. Based upon the lab work that you did, did you have any reason to be concerned about her biliary cirrhosis in terms of the status of it at that point?

A. Well, as noted in her liver profile, all her liver was -- enzymes were elevated, which go along with primary biliary cirrhosis. So that appears to be consistent with her history. But there was no white count. Her amylase and white counts were not elevated. Her 1249, what we call the Chem 7, was normal. So the only thing abnormal in her case was her liver profile, which is consistent with her history.

Q. But none of those liver profiles were panic values; correct?

A. Well, they are panic values, but considering that she has biliary cirrhosis, for her they are normal.

Q. Nothing that needed immediate medical or surgical consultation; correct?
A. Not for her liver.
Q. Okay. What did you have envisioned by way of follow up in the discharge instructions that yo had noted follow up with personal M.D. in a.m.? What were you looking to have accomplished?
A. Basically, looking at the chart when she first came in, I noted on the nurses chart that she was given medication via phone by her doctor, so it sounded like her doctor hadn't seen her.
And after her ER visits and after giving her the medication, by the time she was discharged, which was 4:00 o'clock in the morning, I wanted her to be rechecked by her physician to see how she was progressing.
Q. Would a copy of these records have been sent to her physician that was noted on the front of the record?
A. I don't know.
Q. Was the normal procedure in the emergency room where an attending or family physician is noted to send that physician a copy of the ER record?
A. I assume, because they put the name of the

doctor and I don't know why they wouldn't. I am assuming if Dr. Bowe's name is here, it means a call would go to Dr. Bowe.

Q. You say you **are assuming** that. Was **it**, to your knowledge, the normal operating procedure or protocol to send such information to the family doctor?

MR. SCHOBERT: Objection.

MR. RIEMENSCHNEIDER: Objection.

A. I don't know what they do up front. The secretaries, I don't know what they do,

Q. Do you know whether there are any written policies or procedures that are to be followed once a patient leaves in terms of disseminating the written record to certain doctors, including the family doctor that is noted on the record?

A. I don't know that. I know they are broken down, I don't know what they do with them after they break them down.

MR. MISHKIND: I don't **believe** I have any further questions for you.

Thank you.

MR. RIEMENSCHNEIDER: We will reserve signature.

- - - -

(Deposition concluded at 11:10 o'clock a.m.; signature not waived.)

- - - -

_____

Mikhael Abourjeily, D.O.