Doc9

THE STATE OF OHIO,)
) SS: KEVIN CALLAHAN, J.
COUNTY OF CUYAHOGA.)

IN THE COURT OF COMMON PLEAS

SUZANNE BOYD, et al.,)
)
Plaintiffs,)
)
v.) Case No. 233783
)
BERT M. BROWN, M.D., etc.,)
et al.,)
)
Defendants.)

- - -

Deposition of VICTORIA R. ALONSO, M.D., taken by the Plaintiffs as if upon cross-examination before James M. Mizanin, a Registered Professional Reporter and Notary Public within and for the State of Ohio, at the offices of Jacobson, Maynard, Tuschman & Kalur, 3001 Lakeside Avenue, Suite 1600, Cleveland, Ohio, on Tuesday, the 31st day of August, 1993, commencing at 11:00 a.m., pursuant to notice and agreement of counsel.

- - -

APPEARANCES:

Sindell, Lowe & Guidubaldi,
By: Charles M. Young, Esq.,
and
Edward J. Galaska, Esq.,

On behalf of the Plaintiffs.

Jacobson, Maynard, Tuschman & Kalur,
By: John V. Jackson, 11, Esq.,

On behalf of Defendants Victoria R. Alonso, M.D. and Garfield Pathology Associates, Inc.

Jacobson, Maynard, Tuschman & Kalur,
BY: Patrick J. Murphy, Esq.,

On behalf of Defendants Bert M. Brown and Cleveland ENT.

- - -

STIPULATIONS

It is stipulated by and between counsel for the respective parties that this deposition may be taken in stenotypy by James M. Mizanin; that his stenotype notes may be subsequently transcribed in the absence of the witness; and that all requirements of the Ohio Rules of Civil Procedure with regard to notice of time and place of taking this deposition are waived.

- - -

INDEX

OBJECTIONS:

- - -

VICTORIA R. ALONSO, M.D.,

called by the Plaintiffs for the purpose of cross-examination, as provided by the Ohio Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, deposes and says as follows:

CROSS-EXAMINATION

BY MR. YOUNG:

Q. Dr. Alonso, would you state your name for the record, please.

A. Victoria R. Alonso.

Q. And your business address?

A. 12300 McCracken Road, Garfield Heights, Ohio, 44125.

Q. And you are a physician?

A. Uh-huh, yes.

Q. You received your undergraduate education where?

A. In the Philippines.

Q. And what institution?

A. I had one year at Letran College, and two years at the University of St. Tomas.

Q. Could you spell the college for us, please?

A. L-e-t-r-a-n.

Q. You had one year at Letran, and from there you went where?

A. University of St. Tomas.

Q. And you received your undergraduate degree in what

year?

A. 1964, '64.

Q. Okay. After you received your undergraduate degree, did you go directly on to medical school?

A. Yes.

Q. And where did you attend medical school?

A. Far Eastern University.

Q. And the Far Eastern University was located where?

A. In Manila, Philippines.

Q. And did you complete your medical degree in chronological order, you went directly through medical school?

A. Yes.

Q. You received your medical degree when?

A. 1969.

Q. And thereafter, did you serve any period of residency or internship?

A. Yes.

Q. And where did you serve that?

A. Before I came to the United States, I had, and I stayed at the same institution, Far Eastern University.

Q. At the Far Eastern Hospital?

A. Yes.

Q. You graduated from medical school in 1969, correct?

A. Yes.
Q. And you received a license to practice medicine then?
A. Yes.
Q. What type of work did you do professionally following your graduation?
A. I had residency.
Q. All right. And you served that residency at the Far Eastern University?
A. Hospital, yes.
Q. And what was the period or the term of the residency?
A. I don't know what you mean.
Q. In terms of years, how long was the residency program?
A. I had three years.
Q. A three-year residency?
A. Yes.
Q. And what was the nature of the residency program?
A. Internal medicine.
Q. And did you complete that residency program in internal medicine?
A. No.
Q. All right. For what period of time did you participate in the internal medicine residency

program?

A. What period of time?

Q. Yes.

A. From the time I graduated.

Q. You started in 7969 --

A. Towards the end of -- maybe towards the end of '69.

Q. And it was a three-year residency program?

A. They don't have a definite arogram back home. I was just waiting to come here.

Q. Okay. Well, you graduated from medical school?

A. Yes.

Q. Can you describe for me what you did professionally after you graduated while you were waiting to come here?

A. I had my residency.

Q. Okay. So you had a residency?

A. Yes.

Q. At the Far Eastern University?

A. Right.

Q. Hospital?

A. Yes.

Q. It was a three-year program which you were involved in, is that correct?

A. No. I just stayed in the residency for two years

and then I came here after another year.

Q. Okay. So you --

A. The program -- they don't -- The program, I think, is four years.

Q. It's a four-year program?

A. Yes.

Q. But after you had been involved in the program for a two years, you left the program?

A. Uh-huh, yes.

Q. Now, when you completed medical school, was it your intention to come to the United States?

A. Not solidly, not -- yes, I am saying like I didn't have a definite schedule. I was sort of engaged.

Q. Engaged io be married?

A. Well, sort of. We don't have like an engagement, formal engagement like you do here.

Q. But you had intentions to marry?

A. Yes.

Q. And was it your intention to marry another physician?

A. Yes.

Q. And what was his name or what is his name?

A. Alfredo, my husband.

Q. And he is still your husband today, is he not?

A. Yes.

Q. And he practices here in the United States as well?
A. Yes.
Q. Can you tell me roughly when he would have completed medical school?
A. We completed at the same time.
Q. At the same time. And it was your intention to come here together to practice medicine, is that correct?
A. Yes, to train.
Q. You applied for a four-year residency program at the medical school, but you completed only two years of that program?
A. Yes.
Q. All right. When you were involved in the residency program, did you have a supervisor there?
A. Yes.
Q. And who was that?
A. I don't think I can remember his name anymore. I could not remember anymore.
Q. All right. When you left that residency program, did you come directly to the United States?
A. No.
Q. Okay. Where did you go?
A. I rotated a few months in obstetrics.
Q. Where?
A. In the same hospital.

Q. All right. What was your reason for leaving the internal medicine program and rotating in obstetrics?

A. It was like you are seeing the same cases all the time.

Q. In internal medicine?

A. in internal medicine, and so I like OB -- I mean, I like the obstetrics. It's a small hospital.

Q. Was it a small hospital in which you were doing your residency in internal medicine?

A. Yes.

Q. All right. Now, is that residency program one where each year the institution has the option of renewing for the following year for the completion of the program?

A. Yes.

Q. In other words, you have to successfully complete one year before you can move on to the other?

A. Yes.

Q. Had you successfully completed the two years of residency at the time you chose to leave it?

A. Yes, I would say so. Because they would not accept you if you did not.

Q. That was my question. It wasn't that you were not extended for the third year?

A. No.
Q. You chose voluntarily to leave the internal medicine?
A. Yes.
Q. And was it your intention then to practice obstetrics?
A. I didn't know yet. I was still young and I didn't know what -- I must have been thinking about it. That's why I moved into obstetrics.
Q. Did you enter a residency program?
A. Yes.
Q. And that was an obstetrical residency program?
A. Yes.
Q. Fur what period of time did you remain in that program?
A. I don't exactly remember. A few months.
Q. Was that also a four-year program'?
A. I think so, yes.
Q. All right. And you remained in that for a few months?
A. Yes.
Q. Less than six months?
A. I cannot exactly remember.
Q. All right. And did you voluntarily choose to leave that program as well?

A. Yes.
Q. When you did, what did you do professionally?
A. Well, I applied to come here.
Q. And when you say you applied to come here, what was the nature of your application to come here?
A. Internship.
Q. In other words, you were applying to various institutions here in an attempt to gain an internship in the United States?
A. I just applied to one institution.
Q. Which institution was that?
A. Marymount Hospital.
Q. All right. And at the same time was your husband applying to come here as well?
A. Not yet, not really. He did not plan that,
Q. Did you come io the United States before he did?
A. We came at the same time. He finally proposed marriage when E decided to leave.
Q. When you were leaving, he decided he would get married and he moved along with you, is that right?
A. Yes.
Q. All right. At that time you had already been accepted by Marymount into a program there?
A. Yes.
Q' But he had not yet been accepted into a program, I

assume?

A. No.

Q. What is the nature of his specialty?

A. Anesthesia.

Q. Anesthesia. And he practices where?

A. At MetroHealth.

Q. Now, when you came here, you had been accepted into a program at Marymount Hospital, is that correct?

A. Yes.

Q. And what was the nature of that program?

A. Rotating internship.

Q. It was an internship at that time?

A. Yes. That's how we have to start.

Q. And what was the term or the period of time of the internship?

A. One year.

Q. One year. And was there a specialty involved, or was it a general rotating internship?

A. I don't remember the terminology, but I ended up doing more pathology than -- I decided to do more pathology than other fields.

Q. There in the first year you decided you would like to work in pathology?

A. Yes.

Q. Did you aiso work in other departments at Marymount

when you first entered the program?

A. Yes.

Q. What other departments did you work in?

A. Medicine and OB, obstetrics.

Q. And essentially you elected to become involved in pathology?

A. Yes.

Q. In addition to that one year of internship, have you served any period of residency thereafter?

A. Yes.

Q. All right. And did that immediately follow the one-year internship?

A. Yes.

Q. And where was the residency?

A. I had two years at Marymount, and then we moved to Chicago and after six months I started to work again.

Q. All right. Now, when you were accepted into a residency program at Marymount following the completion of your internship, what type of residency program were you involved in?

A. It's general pathology.

Q. Pathology?

A. Yes.

Q. And you worked there for two years. What was the

intended term of the residency program?

A. Four years.

Q. Four years. You completed two years of that?

A. Yes.

Q. You moved to Chicago with your husband I assume?

A. Yes.

Q. And for six months you did not work, is that correct?

A. Yes.

Q. After that six-month period of time, what type of work did you do?

A. I continued pathology.

Q. In Chicago?

A. Yes.

Q. And was that in a residency program?

A. Yes.

Q. With what institution?

A. Michael Reese Medical Center.

Q. And when you say Michael Reese --

A. R-e-e-s-e.

Q. Michael Reese Medical Center in Chicago.

And you were admitted into a pathology residency program there, correct?

A. Yes.

Q. When you applied for residency there, did you have

to start all over in a four-year program or did you get credit for your first two years?

A. I had credits for my two years.

Q. And for what period of time did you remain in that program?

A. Two years.

Q. You completed the residency in pathology?

A. Yes.

Q. Following your completion of that, what did you do professionally?

A. I joined Marymount Pathologists.

Q. You came back to Marymount?

A. Yes.

Q. During this period of time had your husband moved to Chicago with you?

A. He moved before I did.

Q. All right. You moved there to join him?

A. Yes.

Q. And when you came back to Marymount, did he return to the area with you?

A. Yes.

Q. And during this period of time I assume he was also serving residency programs and becoming involved in anesthesiology, is that correct?

A. He did not work fur maybe two months. He was

waiting for the results of his test. I took my test before he did.

Q. What type of a test did you have to take?

A. I took -- Well, from the Philippines we had to take the ECFMG.

Q. And you took that while you were still in the Philippines?

A. Yes.

Q. And passed it and that gave you the ability io come here and get a license?

A. Not license, but train.

Q. To train. After you came here, what other tests were you required to take?

A. I took the so-called Flex examination, which is the licensing examination, and I passed it.

Q. And you have been licensed to practice in Ohio since what year?

A. 1978, I think. I'm not --

Q. '77 or '78?

A. Something like that.

Q. And are you also licensed to practice in other states?

A. I was licensed originally in Illinois.

Q. In Illinois?

A. But I don't renew my license.

Q. Now, you came here after completion of that residency program in pathology and you joined Garfield Pathology Associates?

A. Yes.

Q. Incorporated, correct?

A. Yes.

Q. Can you tell me what Garfield Pathology Associates, Incorporated is? A group of professional --

A. Yes.

Q. -- physicians?

A. Yes, a group of three pathologists. I'm not in the corporation. I'm employed by the corporation.

Q. There were three pathologists at the time you joined it?

A. There were two. I was the third.

Q. Two at that time and there are three now. And there are three who are principals or who own stock, and you are an employee of the company, correct?

A. I don't know who owns the company aside from my boss, but as far as I know, the other two pathologists are employees.

Q. Does Garfield Pathology hold contracts to do pathology work with various hospitals?

A. No, not that I know of.

Q. What offices does it staff?

A. Just the Marymount 1aboratory.

Q. Just Marymount?

A. Yes.

Q. Et does not have any involvement with any other hospitals to your knowledge?

A. Not that E know of.

Q. And the only work that you *do* comes from Marymount or from various private physicians in the area, is that correct?

A. Yes.

Q. You don't take in other work for other hospitals?

A. No.

Q. Is there only one office for Garfield Pathology Associates?

A. Our only office is really the one at Marymount.

Q. And it is in the hospital, correct?

A. *Yes.*

Q. To your knowledge does the company have a contract *to* perform work with Marymount Hospital, to your knowiedge?

A. What does that mean? I don't know what that means.

Q. Does Garfield Pathology Associates have a written agreement on what it's to do at Marymount and how it's to perform its services?

A. I think so. I don't know what the details are.

Q. But you've been an employee all along of the company?

A. Yes.

Q. Any work that you, do you do for the company?

A. Sort of. They are the ones who pay me.

Q. That's my question. That's the next question.

A. But we do not -- I do not feel that I am employed by them. I feel that I service the physicians and patients.

Q. Right. Of course. But the company, Garfield Pathology Associates, *is* the group that pays you, correct?

A. Yes.

Q. And do they pay you on a salary basis?

A. Yes.

Q. They don't pay you on the number of patients that you are involved with or anything of that nature?

A. No.

Q. And there is no incentive for reading X number of slides per year or anything of that nature?

A. NO.

Q. It's a straight salaried basis?

A. Yes.

Has it been that since you first became employed by them?

A. Yes.
Q. It remains that today and that's the way it was in 1989?
A. Yes.
Q. Are you actually on the staff of Marymount Hospital? Are you a member of the medical staff there?
A. Yes.
Q. Are you a member of any other medical staffs?
A. No.
Q. Do you serve on any committees at Marymount?
A. Yes.
Q. What committees do you serve on?
A. OB/GYN, Utilization Review Committee, and Patient Care Utilization, Institutional Review Board.
Q. Ana we are here concerning a biopsy and an analysis of that biopsy that was done in November of 1989. Essentially at that point in time you were an employee of Garfield Pathology Associates, correct?
A. Yes.
Q. And any work that you did in connection with reading a slide or a specimen at Marymount at that point in time you were doing as an employee of that company, is that correct?
A. I would say yes. I don't know how to answer that.
Q. A17 right. Since the time that you were involved in

November of 1989 in the reading of these slides, have you reviewed any materials whatsoever concerning Allan Boyd?

MR. JACKSON: You mean in preparation for the deposition?

MR. YOUNG: Or at any point in time since the dictation of the report.

A. Only when I got back the slides that the lawyers wanted.

Q. (BY MR. YOUNG) Okay. Now, let's go back to November of 1989. You did your work then and you dictated the report. Since then you have had the opportunity to review some materials concerning Allan Boyd?

A. Yes.

Q. Okay. What materials have you seen concerning him?

A. Just the report and the slides.

Q. The report being your report on it?

A. Yes.

Q. And you've seen the slides as well?

A. Yes.

Q. And are we talking about the original slides that were prepared or other slides prepared since the date of the biopsy?

A. The original slides and the recut that we sent to

you.

Q. And when you say that you sent to me, you are talking about the slides that I actually have in my possession versus other slides that would have been prepared?

A. I don't know what you have in your possession, so I cannot tell you.

Q. Right. Well, what I'm looking for is in November of 1989 you prepared some slides?

A. Yes.

Q. Are those the only slides that you have reviewed since the date of your report?

MR. JACKSON: Let me clarify something. The doctor doesn't actually prepare the slides. She interpreted some slides, so I don't want to get caught in --

MR. YOUNG: We will talk about that.

MR. JACKSON: -- in semantics there.

MR. YOUNG: We will talk about that shortly, of course.

Q. (BY MR. YOUNG) In November of 1989 you interpreted some slides concerning Allan Boyd, correct?

A. Yes.

Q. And you have had the opportunity to review those

slides since the dictation of your report?

A. Yes.

Q. All right. Have you seen any other slides that would have been prepared since November of 1989?

A. Yes.

Q. All right. What slides have you seen?

A. Slides of the same material that were cut for you, per your request. We were afraid to lose slides during transport and so we had them recut for you.

Q. Okay. Now -- Well, we will get into that shortly. Other than that, have you reviewed any other materials or any other records?

A. No.

Q. Just your report and just slides, correct?

A. Yes. I have seen the report from the Clinic this morning.

Q. The Cleveland Clinic?

A. Yes.

Q. All right. In preparation for your deposition you had the opportunity to review The Cleveland Clinic report concerning these slides, correct?

A. Yes.

Q. Any other information that you have seen'?

A. NO.

Q. Have you ever seen Dr. Brown's original records or

copies of those records?

A. No.

Q. Have you had the opportunity to review any depositions that were taken in this case?

A. No.

Q. Have you reviewed Dr. Brown's deposition or been told that to which Dr. Brown testified in his deposition?

MR. JACKSON: Well, anything that she and I discussed she is not going to comment upon, whether that included Dr. Brown or not. She's answered you as it relates to reviewing Dr. Brown's deposition.

Q. (BY MR. YOUNG) That's fine. Let's ask it *this* way. Are you aware of any of Dr. Brown's testimony?

A. Not really.

Q. All right. Wave you had the opportunity to review any records out of the Medina Hospital concerning Allan Boyd?

A. Not -- no. All I saw is that the slides at The Clinic were from Medina, that's all.

Q. Since the date of this report, have you had the opportunity to discuss Allan Boyd or this matter with any other physicians?

A. Just with Dr. Garewal, my boss.
Q. Doctor who?
A. Garewal.
Q. Spell his name.
A. G-a-r-e-w-a-l.
Q. When did you talk to Dr. Garewal about the matter?
A. When the slides were sent to The Clinic. I didn't know they were sent to The Clinic. He must have reviewed the slides because it's our practice to review the slides to make sure they are the correct slides that go to the other parties.
Q. All right.
A. And then I did not know that the slides wen, out until we heard from the lawyer, from you, and he said that he had sent the slides.
Q. All right. To your knowledge did Dr. Garewal review the slides?
A. At that time when he sent them, yes.
Q. And that would be at the time that they were sent to The Cleveland Clinic?
A. Yes.
Q. Or to Medina for review, correct?
A. Yes.
Q. And d id you discuss with him his interpretation of the slides?

A. I asked him what did you think, and he said he concurs with my interpretation.
Q. He concurred with your interpretation?
A. Yes.
Q. To your knowledge --
A. He did not see anything wrong with my interpretation. I don't remember which one it was.
Q. Did he discuss with you when these slides were sent either to Medina or to The Cleveland Clinic, the presence of what he interpreted as squamous cell carcinoma?

MR. JACKSON: Excuse me. You are suggesting that he has interpreted squamous cell carcinoma in those slides?

MR. YOUNG: No.

Q. (BY MR. YOUNG) I'm asking you, did he discuss with YOU?
A. What do you mean? I don't understand the question.
Q. Dr. Garewal reviewed the slides at the time that they were sent to The Cleveland Clinic, correct?
A. Yes.
Q. And did he concur totally with your interpretation?
A. He said that he did not see any problem with my report, that my interpretation is what he would --
Q. All right. Did he discuss with you in any way the

possible presence of squamous cell carcinoma in those cells at that time?

A. Repeat that again for me, please.

Q. Yes. He concurred with your written report?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Did he discuss with you the possible presence of squamous cell carcinoma or that these cells would have been suspicious for the presence of squamous cell carcinoma?

MR. JACKSON: Objection, but go ahead. Go ahead and answer.

A. He said he did not see -- if I remember right, he did not see a carcinoma.

Q. (BY MR. YOUNG) Now, since that time --

A. Even when I probed him, "Are you sure?"

Q. Since that time have you had the opportunity to review it with any other physicians, and by it, I'm talking about this matter in any way?

A. No.

Q. So you have had that one conversation with Dr. Garewal concerning the matter. Have you had no conversations with any other physician at any time concerning the matter?

A. No.

Q. Doctor, just in general, in your practice at Marymount Hospital, when you receive a request for an examination, how do you receive the request?

A. Usually it comes with a -- like a half sheet three-page form, maybe three or four, I'm not sure. And it would be like -- it would be similar to this form, about this part of the form, and the physician's signature will be at the bottom.

Q. Okay. Now, we are referring to what's been marked for identification as Bert Brown, M.D. Deposition Exhibit 4, and what you are saying, as I understand it, is you receive a request form, it is not as large as this, and it would be down to the last fine, typed line on the form?

A. Yes. There may be a date. There may be a date from them but this date is not their date.

Q. But it's a form which is similar to the top of what's been marked for identification as Brown Exhibit 4, correct?

A. Yes.

Q. And the information that that would have on it would be the physician's name who made the request?

A. Yes.

Q. And what other information?

A. And whatever is typed here.
Q. Okay. And that being an identification of the specimen?
A. Yes.
Q. And clinical history?
A. Clinical history.
Q. And a pre-op and post-op diagnosis?
A. Yes.
Q. Any other information?
A. That's about it.
Q. Now, when you say that's a three or four-page form, do you mean that it's a carbonized form so that the same writing that appears on the top sheet appears on all sheets?
A. Most likely. Some I think are for bidding purposes. I don't know.
Q. All right. You receive that request and you receive the specimen, correct?
A. Correct.
Q. And the specimen is contained in what form?
A. It's in a clear bottle with the label outside, maybe whatever is written.
Q. Identifying it as a part of --
A. Where it came from. We make sure that the label has the same name as the request.

Q. And it's placed on the bottle by whom, if you know?
A. By the physician, or the office.
Q. And the request form is prepared by the physician as well?
A. Yes.
Q. Now, at the upper right-hand corner of what's been marked for identification purposes as Brown Deposition Exhibit 4, we have a pathology number?
A. Yes.
Q. That pathology number I assume is assigned by your department in some way?
A. Yes.
Q. And that is assigned at the time that you receive the tissue specimen?
A. Yes.
Q. And I see from the number on this report it's been marked 589-5227?
A. Yes.
Q. Is there any relevance to the letter S?
A. That's just surgical,
Q. All right. 89 refers to the year that it's received?
A. Year.
Q. And can you identify for me the relevance behind 5227?

A. That means that's the five thousand and two hundred twenty-seventh specimen we received for that year.
Q. We start with number one and go through numerically the number of specimens?
A. Yes.
Q. Now, how many pathologists actually staff this office in which you are involved?
A. Three.
Q. Three pathologists?
A. Yes.
Q. And who are they? Dr. Garewal --
A. At that time Dr. Garewal and Or. Sattosh.
Q. And that was the number and the identity of the people in 1989, correct?
A. Yes.
Q. Now, when the specimen and the request form are received, can you follow generally a tissue specimen for me in your office and what's done?
A. Okay. They give the specimen -- This number is transferred to the specimen container and we describe the specimen. First it's typing the number of the specimen and the specimen is described as a type here (indicating) and it means all two pieces that we received were put into a container and one block, hooked together in one cassette.

Q. Let me follow this so I understand. When you receive a specimen, it is in a bottle but it has not been placed in a block in any manner?

A. Correct.

Q. It's just in a bottle of preservative?

A. Yes.

Q. And there is a gross description which is assigned to the specimen?

A. Yes.

Q. And who assigns that gross description?

A. We do. I mean, the pathologist who is doing the case.

Q. Now, does one pathologist do a particular case?

A. Most of the time. Here my initial is, there, indicating I did it all by myself.

Q. Where is your initial?

A. On the bottom in the corner.

Q. You are indicating half way down there is a VA/CP and that indicates that you yourself did it?

A. Yes,

Q. If someone else participated with you --

A. The initial of the pathologist will be there.

Q. Additional initials would be there if there is more than one pathologist involved?

A. If the other pathologist did the gross description,

it will be their initials, her initials, his initials.

Q. Now, when you received the specimen, I assume that you -- someone else in your office assigns the pathology number?

A. Yes.

Q. And it is placed on the bottle?

A. Yes.

Q. You remove the contents from the bottle and you perform an examination and define the gross description, correct?

A. Yes.

Q. And you measure it?

A. Yes.

Q. And identify it or describe it physically for the report, correct?

A. Yes.

Q. Are you dictating these reports as the examination is made?

A. Yes.

Q. So that you dictate rather than take written notes concerning your work?

A. Yes, we dictate.

Q. Do you also keep written notes concerning an examination?

A. Sometimes. Not for this. Sometimes if it's a big specimen, we have special notes you might draw to help us go back.

Q. And dictate your findings?

A. We dictate them but we still write to make sure that we -- that the dictation is clear as to how it should look.

Q. As I understand it, when you are dealing with a small specimen such as this, handwritten notes would not have been made, is that correct?

A. No, we don't.

Q. So as you are examining the specimen, you are simply dictating your findings?

A. Yes.

Q. Once you have made the gross description of the specimen, what do you do?

A. They are put into -- they are wrapped in paper. For this size, it would have been wrapped in very thin paper, so you don't lose the specimen, and then they are put in little capsules which have holes in them, and they are covered so they are tight. And then they are put into more fixative and at the end of the day when all this is done, these are put into an automated machine and they go through a series of solutions.

Q. What is the purpose behind placing them through the series of solutions?

A. To make the tissue last forever and ever, fix them properly.

Q. Preserve them?

A. Hydrate them.

Q. And there are a series of solutions that are used, it is mechanized, and the purpose is to preserve the specimen?

A. Yes, and for cutting purposes, for all this.

Q. Do I understand that when the specimen comes in then, the pathologist who is responsible for that specimen or that report examines it, dictates a gross description, and does the pathologist place it in the container which goes through the solution?

A. We have a rack or a basket and they are placed in there. We have an assistant --

Q. So you wrap it, the pathologist wraps it in paper?

A. Yes.

Q. And it's then given to the assistant?

A. No. We place them directly into the capsule, which is labeled with this number.

Q. And that is then given to the assistant?

A. Yes, who puts a lid -- they just put the lid and put it in the rack.

Q. And it, it being the specimen, is placed in the preservative overnight?

A. Um-huh.

MR. JACKSON: Say yes or no rather than um-huh or uhn-uhn so he can record it, okay?

A. Not just a preservative. It's a series of solutions which process the tissue for additional processing.

Q. (BY MR. YOUNG) As a pathologist with Garfield Pathology Associates, do you work a scheduled shift?

A. Yes. Not a fixed schedule. We have sort of a schedule.

Q. When you say sort of a schedule, what do you mean by that?

A. We usually work from 8 to 4:30 or 9 to 5:30. We make a schedule among ourselves.

Q. So you rotate responsibility among the three physicians who were there in 1989 but essentially the hours are from 8 to 5:30 roughly?

A. Yes.

Q. And the work that is performed is performed during those hours by the physicians?

A. Yes.

Q. Now, the tissue specimen is left overnight in this series of solutions. What next happens to it?

A. In the morning a technician will take them out of the machine and transfer the tissue into so-called -- into a mold, a metal mold, and they are put in a metal mold and put in paraffin, liquid paraffin. And the capsule which is labeled is placed over the mold and this thing is now refrigerated or chilled. Then the tissue remains in the paraffin with the labeled capsule and the mold is reuseable.

Q. And then what is done?

A. Then when it's already chilled, they cut it.

Q. The technician cuts the tissue specimen?

A. Yes.

Q. All right.

A. And then they cut it and make sections and put them on the slides.

Q. A technician actually prepares the slides?

A. Yes.

Q. Which are reviewed by the physician?

A. Yes.

Q. All right. And when the slide has been prepared, what is done?

A. They go through a series of solutions for staining, and then when it's all finished, they put the label, which is the original number, and then they are handed to us with the request.

Q. All right. And you examine and --
A. Then we examine the slide with the request and make our report.
Q. Is there any predictable number of examinations or interpretations which you make in a day?
A. No, there is no fixed. It varies from day to day.
Q. And is there any record which is kept of the number of inspections or examinations that are made by you in a given day?
A. I don't think so. I don't know what you mean by that.
Q. Well, if I were to ask you how many examinations or interpretations you made on November lst, 1989, would there be a record from which we could retrieve that?
A. I don't think so. You can just go by the day.
Q. By the day of the dictation?
A. Sort of.
Q. When you say we could go by the day, how could we go by the day to interpret that or to determine that?
A. Well, it's not even precise because there are cases which are kept longer and are not done the next day. We rotate on a day -- like I work Tuesday and Friday, and the other pathologist does Monday and Thursday and the other one does Wednesdays, so we

have like more or less that kind of a schedule.

Q. So that generally one pathologist is scheduled on any given day, correct?

A. Yes.

Q. And do you work full time with the Garfield Pathology Associates?

A. Yes.

Q. And Row many hours per week would you have been working in 1989?

A. Like 40 hours.

Q. Did you hold any other positions with anyone else at that point in time?

A. No.

Q. I assume that once a pathology report has been dictated, your group bills for it in some manner, correct?

A. Yes.

Q. Is there a billing record which goes to a billing service for the preparation of that bill?

A. There is, but I don't know anything about it.

Q. All right. Do you do anything yourself to initiate the preparation of a bill?

A. No.

Q. Can you tell me who in your office actually performs that function or who did in 1989?

A. I think the secretaries do part of it and Dr. Garewal does part of it. I don't know exactly.
Q. Dr. Garewal would be more familiar with that?
A. I think so.
Q. Are you, yourself, involved in any part of the billing process?
A. I don't know. I don't think so.
Q. Okay. Do you, for instance, review any computerized statement concerning a bill before it goes out?
A. No.
Q. Lawyers would call it a pre bill. You take a look at it and approve it --

MR. JACKSON: Some lawyers would. Apparently he does.

Q. (BY MR. YOUNG) -- and approve it before it goes out. You don't have any function in billing?
A. No.
Q. Let me show you the slides that have been given to me in connection with this case and ask you if these are the slides, the actual slides prepared in November of 1989 which gave rise to the report which you dictated concerning this matter?
A. This is the recut. This is the original set.

MR. JACKSON: That's a recut also.

A. Yes, recut but on the same year -- on the same

period of time

MR. JACKSON: Okay.

Q. (BY MR. YOUNG) Okay. Now, you have before you five slides ana they have been marked, if I can read over your shoulder -- We will do this for the record. They have been marked with the control number, S89-5227, correct?

A. Yes.

Q. And there are various other markings on these slides as well. If we start to the left-hand corner, we see that one is marked "recut", correct?

A. Yes.

Q. You believe this to have been a recut that was performed in November oh 1989?

A. Yes.

Q. All right. How are you able to distinguish between that recut and the recut which you have segregated here on the table?

A. The writing is the same, and this technician has left our institution.

Q. All right. Now --

A. I know her writing.

Q. This handwriting is not in your handwriting, currect?

A. No.

Q. It was prepared by another technician?
A. Yes.
Q. Or a technician. And that technician was who, if you know?
A. Joanne Robinson.
Q. Joanne Robinson was employed by Garfield Pathology Associates in November of 1989?
A. She was employed by Marymount Hospital.
Q. Are the technicians who work in your department employed by Marymount?
A. Yes.
Q. Are any of the technicians or administrative help or secretarial help actually employed by Garfield Pathology Associates?
A. No.
Q. Now, this woman who prepared these slides, which you have segregated, was employed but has left Marymount's employ, can you tell me when she left?
A. I cannot remember.
Q. Can you approximate it for me, whether it was recently or --
A. A few years ago already. They moved to England.
Q. They moved to England?
A. Yes. Her husband was transferred there.
Q. And her name again was?

A. Joanne Robinson.
Q. And do you know who she was married to?
A. No.
Q. Now, we see dates or what appears to be dates written on these slide captions as well, do we not?
A. Yes.
Q. On the right slide, as you have them arranged on the table before you --

MR. JACKSON: Let's make it easier for them. These are numbered. Someone numbered these one, two, three, Four, Five. Why don't we refer Po them by those numbers and make it easier.

Q. (BY MR. YOUNG) All right. On slide number one we have what is 3-18, right?
A. Yes.
Q. What does 3-18 indicate to you, if anything?
A. It means when the technician is cutting the block, this three first, they are called ribbons. Every time the block goes through the blade, it's a ribbon. This is ribbon 3, 6, 9, 12, 15. Every third ribbon.
Q. Okay. And 3-30 then on slide number two indicates what?
A. Additional ribbons, three, and six -- She might have

made a mistake.

Q. Just again, that's the third block and indicates the same thing?

A. Yes.

Q. Now, on slide number five we have Gridley control written, is that correct?

A. Yes.

Q. And is that a date that's indicated on that?

A. Yes.

Q. What does that date, 11-27-69, indicate to you?

A. That is the date when she did the Gridley stain.

Q. Would that date also correspond with the date on which she prepared slides one and two?

A. Not necessarily. I don't know. The only date is the special stains. These are called special stains.

Q. Now, we have on slide number four, the word recut, correct?

A' Yes.

Q. And what does that indicate to you?

A. It means I asked the technician to cut the block again.

Q. Okay. Do you know when you asked the technician to cut the block again?

A. I can't remember.

Q. Do you know why you asked the technician to cut the block again?

A. When we think we are not seeing the exact depth of the tissue or we want to see more of it.

Q. So there was some question concerning the slides that you had prior to that time and the depth of the tissue?

MR. JACKSON: I'm going to object to that characterization. I think that's not what she said, but go ahead and answer.

A. Repeat the question. I didn't understand

MR. JACKSON: He wants to know why you would have asked her to do a recut.

A. We ask for recuts for different reasons.

Q. (BY MR. YOUNG) All right. In general --

A. In general.

Q. -- why do you ask for a recut?

A. I just want to see more of a tissue.

Q. Specifically concerning this recut, do you know why you asked for it?

A. Maybe because of my suspicion of the viral infection, I wanted to see inclusions, viral inclusions, or some changes indicative of viral infection.

Q. We have a recut or a slide marked recut which bears the number, I believe, three, is that correct?

A. Yes.

Q. Do you know why that recut was made?

A. It was made to send to you.

Q. And can you tell me approximately when that would have been made? Do you have any way of knowing?

A. Maybe last year. I'm not sure. Maybe last year or whenever you -- if you have a record of whenever you received it, about that time.

Q. To your knowledge have any other slides been prepared from this tissue specimen?

A. No.

Q. Do you have any independent recollection of this examination or this matter other than the written record which is set forth before you?

A. I don't know what you mean. Like what?

Q. You do not remember actually examining these slides in November of 3989, do you?

A. I don't know how to answer that because we see slides.

Q. We see slides and we see a written report so that we know it was done, correct?

A. Yes.

Q. There is nothing in your mind which separates this

interpretation from other interpretations that were made, is there?

A. Do you mean could this be an interpretation of another case?

Q. NO. I mean, do you specifically recall sitting down in November of 1989 and looking at these slides?

A. I think so. This would indicate so. I don't know.

Q. This being the written record that you have before you and the slides that are before you, correct?

A. Yes.

Q. In other words, you are able to tell that you did do the work?

A. Yes.

Q. You don't specifically as you sit here today remember doing the work?

A. This is our standard practice so I cannot be precise, exact.

Q. All right. Well, what I'm looking for is as you testify here today, we know that a recut was performed at your request.

A. Yes.

Q. You don't specifically recall asking for that recut, do you?

A. I cannot tell you the exact time, date, or what, but if it was recut, then I ordered a recut.

Q. I understand, but you don't remember doing that?
A. Well, I don't know how I can separate that from the other orders.
Q. That's my point. Do you remember discussing this matter with Dr. Brown in any way as you sit here today?
A. In a way, yes.
Q. In what way?
A. When we have cases like this, we call the physicians. When I have cases like this.
Q. But you don't remember specifically calling him?
A. Not exactly, but I would have called him.
Q. Okay. You see, what I'm trying to understand is if we can separate the two, the difference between your standard practice and what you specifically remember. We know that if it's your standard practice to call in connection with cases like this, you generally would have called, but you don't recall speaking to him that day?
A. The only thing that -- I remember calling him only because of the viral infection or the atypical changes that I have. I remember that, and he had asked me, "What do you mean?"
Q. Do you remember him asking that, "What do you mean?"
A. Something like that.

Q. This specific case in 1989 you remember in some way the conversation?

A. Not the details. I cannot be exact, but we do not call a lot, you know, every day or five times a day.

Q. All right. When you call, why do you call, in general?

A. Because there are Findings that are not typical. First, he was looking for candida, and so I told him there was no fungus.

Q. Okay.

A. And then I would have told him that there are atypical changes and I don't know exactly what they mean. Something like that. Not exactly like that but something like that.

Q. We know that there was a recut made at your request in November of 1989. You are able to draw some conclusions based on the fact that that recut was done?

A. Yes.

Q. What conclusions are you able to reach as you sit here today from the existence of that recut?

A. One *is*, is there any difference between the original and the recuts. That's one thing. And I do not see -- I don't remember seeing significant change -- difference, I should say.

Q. Was there something missing specifically that you were looking for, if you know?

A. Well, from my report it says I was looking for viral inclusions to explain all these changes and I did not see them.

Q. As I understand your testimony then, in your examination of the original slides that were done, you were unable to identify the cause for the inflammation or the condition that you saw and you would have asked for a recut in an attempt to identify the cause, is that fair?

MR. JACKSON: Objection, but you may answer.

A. Would you say it again?

Q. Right. When you had the original slides, you saw an inflammation, a condition that you have described here, but you were unable to determine the cause for that condition, correct?

A. Um-huh.

Q. And when you asked -- You will have to answer verbally there. Was that yes?

A. Let's start all over again.

Q. When you had the original slides and you examined those, you were able to see a condition, an inflammation and other condition which you describe

in your report, but you were unable to identify the cause for that condition, correct?

A. I couldn't identify a specific cause.

Q. All right. And so you asked for a recut in an attempt to identify a specific cause, is that fair?

A. And that's to find out the fungus, too, because things may nor show at one section or two sections, so I was looking at it in different perspectives.

Q. Specifically whar were you looking for, if you know? The presence of a fungus?

A. Fungus and viral infections or something else that might show up.

Q. You suspected that a recut might show that?

A. Yes.

Q. You were satisfied, however, that the recut essentially was consistent with the previous slides, is that correct?

A. Yes.

Q. As I understand your testimony, as a result of that you believe you contacted Dr. Bert Brown by telephone, correct?

A. Yes.

Q. And essentially that was to tell him that you didn't find any virus?

A. No, I don't remember what I told him, but one, I --

Q. Let me back up then. We do know that you contacted Dr. Bert Brown by telephone, correct?
A. Yes.
Q. We know that because -- why? How do you know that?
A. Because this case is not a simple case, so I have to tell him what I see.
Q. But as you sit here today, how do you know that you did in fact call him?
A. I think you told me Dr. Brown had said --
Q. All right. Essentially from Dr. Brown's testimony and that would be consistent with what you see before you on your record, correct?
A. Yes.
Q. You don't have any record yourself of the telephone conversation, do you?
A. No.
Q. Have you seen Dr. Brown's records concerning that telephone conversation?
A. No.
Q. Showing you what's been marked for identification purposes as Brown Deposition Exhibit 6, that would appear to be a record of a telephone call from you to him on November 28th, 1989, correct?
A. Yes.
Q. And if we look at what's been marked for

identification purposes as Brown Deposition Exhibit 11, we see a notation on his record of a conversation with pathology that day, correct?

A. Yes.

Q. And you believe that that conversation, if in fact it's accurate, would have been with you?

A. Yes.

Q. Are you able to tell me what you would have told Dr. Brown on November 28th, 1989 in that telephone call?

A. Basically what is written here, and it shows he had noted some of them.

Q. And he has written hyperkeratosis?

A. Yes.

Q. And mild dysplasia, correct?

A. Yes.

Q. Is that consisrent, those notations, is it consistent with wkat you would have told him?

A. It's not complete, but it has some of it.

Q. In your opinion what other information do you believe you would have given him on November 28th, 1989?

A. More details of the things that he had written down.

Q. More detail that is actually contained in the written report that you have before you?

A Yes.

Q. So you think you would have given him more detail?
A. Yes.
Q. Concerning the matter.

Is there anything specifically that you would have told him which would have prompted the telephone conversation?

A. Say it again?

MR. JACKSON: What do you mean by that?

Q. (BY MR. YOUNG) Well, you have before you a written report which you were in the process of sending off to Dr. Brown.
A. Yes.
Q. Why would you have called him rather than simply wait for him to receive the written record?
A. To relate to him what I see so that he will pay attention to the report.
Q. All right. What is it about the report that you believe prompted or required you to call him directly by telephone?
A. There is atypia and I don't know the exact cause of this, and should probably be followed up closely or removed completely, something like that.
Q. So you believe you called him from a concern arising from what you identify as this atypia, is that

correct?

A. I believe so.

Q. And you believe you called him in order to initiate or to prompt some closer follow up concerning this patient, is that accurate?

A. I think so.

Q. We know that you apparently called him on November 28th, 1989. Are we able to identify when you first would have looked at slides concerning Allan Boyd?

A. Not by dates, but usually we look at the slides the next day unless it's a Sunday.

Q. By the next day, you mean the day after --

A. The day after they come. I mean, if they come on the 24th, then unless the 25th is a Saturday or Sunday, I may have looked on that date, the following date.

Q. Do we know that this tissue specimen was actually received by your department or your office on November 24th, 1989?

A. They are dated when we received them.

Q. And when you say they are dated, they being the tissue specimen?

A. Yes.

Q. And where do we see that date so that we can verify that it would have been received on the 24th?

A. Here, this one.
Q. So the date that is placed at the top of the report, in this case November 24th, 7989, would have been the date the specimen is initially received, correct?
A. Yes.
Q. You believe generally you look at the specimen on the date that it's received to provide the gross description, correct?
A. Yes.
Q. That it's prepared overnight and generally it is your practice to look at those slides on the next day?
A. Yes.
Q. So we believe that generally, unless it's a Saturday or Sunday, you would have examined that slide on November 25th?
a. Yes.
Q. Does this report indicate when the report was actually dictated?
A. Usually maybe the day before, or maybe the day before that, or when I called him. I don't know exactly.
Q. So we are unable to conclude when the report was actually dictated?

A. Either the 28th -- most likely the 28th.
Q. Let me back up then. The report bears the date November 29th, 1989. What does that date indicate?
A. When it was typed.
Q. Now, we know that the day before you actually talked with Dr. Brown, correct?
A. Uh-huh.
Q. Are we able to identify from the slides or from any other source when any part of the work actually would have been done in your office?
A. Say it again.
Q. Between the 24th when you received the tissue specimen and the 28th when you called Dr. Brown, are we able to identify when any part of the slides would have been reviewed?
A. When we have -- Like I said, I don't remember exact dates, but the microscopic description may have been roughly written beforehand and completed the day of the 28th when i received the Gridley stain, finalized or okayed for typing.
Q. Let me understand your testimony then. Initially you believed this was a case where no handwritten notes were prepared -- Go ahead.
A. The microscopic I write. I don't dictate them. I write them down so I can correct grammar and all

that stuff. They are handwritten, but this is done differently from the gross.

MR. JACKSON: She was discussing the gross earlier when she said drawings and notes are sometimes made on large specimens.

Q. (BY MR. YOUNG) A71 right. With regard to the microscopic description, that is an item where you always take notes, handwritten notes?

A. Usually.

Q. Do you retain those notes in any way?

A. No.

Q. They are discarded after the report is dictated?

A. Yes.

Q. We know from the records that this biopsy was taken on November 22nd, 1989, and we know from your report that it was apparently received by your department on November 24th, right?

A. Yes.

Q. We know that you contacted Dr. Srown on November 28th in the early morning hours to discuss the matter, that being at 9:12 a.m.?

A. Yes.

Q. Does the time on that telephone message form indicate anything to you as to when these slides

would have been interpreted?

A. It would mean to me that I may have started reading -- I mean, it indicates that I have seen the slide before the 28th.

Q. All right.

A. I had seen the slides.

Q. What I'm trying to understand is we know from your general practice that you generally would have seen these slides on November 25th, 1989, correct?

A. Yes.

Q. And we know that a recut was performed?

A. Yes.

Q. Do we know when it was performed?

A. Usually they are performed the day we ask them. So it may have been on the 25th.

Q. All right. So generally if you are looking at the slides and you ask for a recut, it's done at the time that you ask for it?

A. Usually.

Q. While you are addressing the matter that's before you. In other Words, she brings it to you so that you can continue your work on that case?

A. Yes.

Q. Now, are we able to draw any conclusions from the period of time between November 25th and November

28th when you called Dr. Brown? Does that cause you to draw any conclusion concerning the matter?

A. Say that again. I didn't understand it.

Q. If you were reviewing this generally on November 25th, 1989, why would it have taken you three days io call Dr. Brown, if you know?

A. We wait for These special stains, the Gridley stain.

Q. All right. And those slides were performed or prepared when?

A. The 27th or 28th. *See,* we may have made a mistake. One is the 27th, and one is the 28th.

Q. And you believe that to be a mistake?

A. Maybe. Most likely.

Q. Why do you believe that?

A. Because I called him on the 28th, so sometimes if it *is* done too late, they put the next day, because *it's* after office hours.

Q. When you -- Strike that. As I understand your testimony, you contacted Dr. Brown by telephone you believe because you were concerned that there was a need for further Follow up to determine the cause for the condition that you had found, is that correct?

MR. JACKSON: Objection. I'll object to that, That's not what she said as I

recall her testimony. Go ahead, Doctor.

A. Would you say it again?

MR. YOUNG: Yes. Would you read that back, please?

(Question read by reporter.)

A. I don't know exactly what I called him for, but I would call because of the atypia and the inflammation and all these findings that I cannot put together -- not put together like what is the cause of a13 this.

Q. (BY MR. YOUNG) All right. Well, you don't remember at all specifically, do you, making that call? You said you don't recall exactly and my question is do you remember actually talking with Dr. Brown about this case?

A. A little bit.

Q. All right. What do you remember?

A. That I would have told him about the atypia and the marked inflammation, moderate inflammation that I see, and that I did not see cancer, something like that.

Q. All right. Were you at all concerned after reviewing these slides about your inability to identify the cause for the condition that you found?

A. I'm concerned about a lot of things whenever we see

something like this.
Q. Okay. What are you concerned about?
A. What it all means, something like that.
Q. And when you say what it all means, what do you mean by that?
A. Why is there so much inflammation and why all these changes.
Q. All right. And you were unable to conclude why all of those changes had occurred, correct?
A. Sort of, yes.
Q. When you say sort of, what do you mean?
A. Like, you cannot point at a specific process, and ruled out what we were looking for.
Q. What being cancer?
A. No, candida.
Q. Candida?
A. Yas.
Q. You ruled that out as a result of this examination?
A. Yes.
Q. What other Conditions were you able to rule out as a result of this examination?
A. I did not rule out anything other than I was just looking for the cause.
Q. Other than candida, you were unable to rule out any conditions that caused the condition that you found?

Let me ask it this way. As I understand your testimony, in November of 1989 you took a look at these slides and you found an inflammatory process in this specimen, correct?

A. Yes.

Q. You found mild dysplasia and is that descriptive of the inflammatory process?

A. No. The inflammatory -- they are together, they are both in there, but the dysplasia is a different process.

Q. What is the dysplasia? Define that for me.

A. Dysplasia involves the epithelium, and it's an abnormal process of cell growth.

Q. And in addition, you found hyperkeratosis?

A. That is part of the dysplasia and the atypia.

Q. And these are findings which are brought about by some disease process but you were unable to identify what had actually caused it by examining the specimen, is rhat correct?

A. Yes.

Q. Dr. Brown had suspected that it could be candida causing the problem and he asked you to rule out candida, correct?

A. Yes.

Q. And in fact you did rule out candida, but you were

unable to identify the disease process that was causing the condition?

A. Yes, something like that.

Q. Well, when you say something like that, do you qualify that in any manner? Is that incorrect?

A. No. Say the question again so I can give you the answer.

Q. Sure. As I understand it, Dr. Brown, when he examined this patient, suspected candida, correct?

A. Yes.

Q. You were able to rule out candida by your examination?

A. Yes.

Q. But you saw a condition and you were unable to identify the cause of the condition in this gentleman's mouth, correct?

A. The cause: yes.

Q. You didn't know why this abnormal process had occurred in his mouth?

A. Yes.

Q. When I talk about an abnormal process, there is a lesion here, we know there is an inflammatory lesion but we don't know why it's there,

A. Yes.

Q. And so that is the reason that you contacted Dr.

Brown, is ehat correct?

A. It's not just the cause. It's the findings. Like we have this atypia and I don't know what exactly is this atypia. Is this just all inflammatory, and inflammatory Prom what? So that's what I mean.

Q. All right. You don't generally contact the surgeon by telephone when you do an examination, do you?

A. We don't.

Q. IS that correct, you don't generally?

A. No, not all cases.

Q. All right. You contact the surgeon in what cases?

A. One, they want to be called for whatever reason. Two, if there is a cancer and they did not expect or say cancer, or we see a process like this, an atypical process like this that I couldn't pinpoint the cause.

Q. All right. As I understand your testimony, you did not contact Dr. Brown because you needed more information to make a diagnosis, but because you felt he needed to know that you couldn't identify the cause of this condition that you had found, is that correct?

A. I don't know if I asked him for more information. I may have asked him for more information, but I don't know if I did. Maybe I asked him for more

information like how big is the lesion, and that this case is of concern and he should take it from there.

Q. All right. You yourself determined the size of the lesion that you had received, correct?

A. No, I cannot determine the size of the lesion.

Q. Why not?

A. Because from the way it looks, the piece that he incised.

MR. JACKSON: You are using lesion and specimen synonymously, I believe.

MR. YOUNG: No, I'm not.

A. They are together different.

Q. (BY MR. YOUNG) You were unable to determine from the specimen that you received --

A. The size of the lesion.

Q. -- the size of the lesion, correct?

A. Yes.

Q. Is that because the lesion that you -- Is that because the specimen that you received did not show an adequate margin surrounding the specimen?

A. No, that's *not* the reason.

Q. All right. What was the reason?

A. Because it did not look like he excized it. It looked like he incised *it* because we *got* two

different pieces.

Q. Is there anyrhing else that makes you believe that he incised this lesion rather than excised the lesion?

MR. MURPHY: Objection.

A. I don't underseand.

Q. (BY MR. YOUNG) All right. Let's define some terms here. This physician, Dr. Brown, took a biopsy of this lesion, correct?

A. Yes.

Q. Took a portion of *it* and sent it off to pathology for examination, correct?

MR. MURPHY: Objection.

A. Maybe. I don't know. I don't know if he took a portion or what. It doesn't say in the specimen.

Q. (BY MR. YOUNG) That's my question. When you receive a specimen and the specimen does not appear to have excised the entire lesion, do you inform the physician of that?

A. Repeat the question.

Q. When you receive a specimen and for one reason or another it appears that the specimen does not contain the total lesion, do you advise the doctor of that?

A. it depends.

Q. On what?
A. If it looks like an excisional tissue, then I will tell him it was not completely removed, but if it's an incisional, then I cannot tell him you did remove or did not remove. He would know more than I would.
Q. But you yourself draw the distinction as to whether it was an excisional or incisional biopsy and therefore whether to advise the physician?
A. I do not draw the conclusion. I'm just saying it from how I see the specimen.
Q. Right. So that in your opinion when you look at a specimen, if it appears to you to have been an incisional biopsy, you feel there is no need to advise him that there is not a clear margin surrounding the specimen, is that accurate?
MR. JACKSON: Objection. Go ahead and answer, Doctor.
A. Would you say that again?
Q. (BY MR. YOUNG) Yes. When you get a tissue specimen, if you believe the doctor has done an incisional biopsy, you don't feel it's necessary for him to know that he didn't get all of the lesion, correct? He knows more than you do about that.
A. Yes and no.
Q. What do you mean yes and no?

Some doctors don't want to be told. They know, so like you say, he would know.

Q. What about Dr. Brown?

A. I don't exactly know.

Q. All right.

A. He is very pleasant.

Q. As I understand your testimony, as you sit here today you conclude that you believed that this was an incisional biopsy that was performed in November of 1989 on Allan Boyd, is that correct?

MR. MURPHY: Objection.

A. You use that word conclusion, and I'm not concluding. I'm just saying it based on my material.

Q. (BY MR. YOUNG) You looked at the specimen and you determined that the specimen was filled with the condition which you describe and that there was no wide margin surrounding the specimen which had been taken by the surgeon?

A. I cannot say there is wide margin or not.

Q. You can't, from your inspection of the specimen?

A. No, because the specimen is small and thin. I cannot. It was not a single piece.

Q. You received two pieces of tissue in this specimen, correct?

A. Yes.
Q. What do you conclude from the fact that you received two pieces of tissue?
A. I'm not concluding. I'm just thinking that he just did incisional biopsy.
Q. And when you say you are just thinking, you were thinking that in November of 1989?
A. Yes.
Q. And you assume that Dr. Brown knew what he had done and that was an incisional biopsy?
MR. MURPHY: Objection.
MR. JACKSON: Objection. Don't guess what someone else thought, unless you know.
A. I'm not guessing. I cannot guess.
Q. (BY MR. YOUNG) Well, if a doctor does an excisional biopsy on a lesion, is it important for you as the pathologist to advise him whether adequate margins have been taken surrounding the lesion?
MR. JACKSON: Objection. You may answer.
A. I should answer?
MR. JACKSON: Answer the question.
A. Read it back.
BY MR. YOUNG: Read it back, please.

(Question read by reporter,)

Q. (BY MR. YOUNG) Do you understand the question?

A. No. Would you repeat it again?

Q. Let me do it again. If a surgeon does an excisional biopsy on a lesion --

A. Excisional?

Q. Excisional.

A. Okay.

Q. -- is it important for you as the pathologist to advise him an whether he has taken adequate margins surrounding the lesion?

MR. JACKSON: Objection. You may answer.

A. Is it important? Not exactly, not necessarily. If it's benign, if it's an excisional biopsy, I don't know. I would say *yes*, but I don't know exactly.

Q. What is your genera? practice when you receive an excisional biopsy and there is an abnormal finding when you interpret the slide?

MR. JACKSON: What is her practice regarding what?

MR. YOUNG: Regarding whether there is sufficient margin.

Q. (BY MR. YOUNG) This is not that hard. Let me ask the question this way.

MR. JACKSON: It's harder than what -- You are asking a very confusing question.

A. It's a very important question. That's why.

MR. JACKSON: It's very confusing, but go ahead.

Q. (BY MR. YOUNG) In Dr. Brown's deposition he testified that he had performed an excisional biopsy on the lesion that he found in Allan Boyd in November of 1989. From your examination of this specimen do you have reason to disbelieve that?

A. I don't know.

Q. So you can't tell from what you have here whether it was an excisional or an incisional biopsy, is that correct?

A. Yes, I think so.

Q. We further testified to the effect that if there were insufficient margins surrounding this specimen that he took when he excised the lesion, he would expect to receive that information from the pathology department. Is that a reasonable expectation in your opinion?

MR. MURPHY: Objection.

MR. JACKSON: You may answer.

A. Not with the material we received. You cannot Pel? because there were two pieces. They may have broken

apart and so you cannot tell the true margins.

Q. (BY MR. YOUNG) Okay. Do you know if you discussed in any way by telephone with Dr. Brown the question of margins surrounding the specimen?

A. No, I don't know. I don't remember. Probably it should be followed up and removed completely, something like that.

Q. You believe that you told him that by telephone?

A. I would assume -- not assume, but there is like a standard practice that I would have done.

Q. You were able to tell from this specimen that the lesion had not been removed completely, were you not?

A. I couldn't tell.

Q. You could not tell?

A. No.

Q. You found atypical cells in this tissue specimen, did you not?

A. Yes.

Q. Did those atypical cells invade the margins of the specimen that was taken?

MR. JACKSON: Go ahead and answer. I object, Doctor.

A. I don't believe they were, but I don't remember.

Q. (BY MA. YOUNG) You don't believe they were?

A. I don't remember. I did not see the slide before coming here so I don't remember anymore.

Q. Okay. If the atypical cells which you found invaded the margins of the specimen, would it have been necessary for you to alert Dr. Brown to that?

A. Whether they are in the margins or not, I alerted him about this.

Q. Okay. How did you alert him to it?

A. With the call that I found all this atypia.

Q. You did not address the question of the margins in your written report however, did you?

A. Because I couldn't tell the margins.

Q. Did you inform him that you were unable to tell the margins?

A. I don't remember.

Q. In the written report did you tell him?

MR. JACKSON: Didn't you just establish that the margins are not established in the written report?

A. I could not establish the margins, so I couldn't write it in the report.

Q. (BY MR. YOUNG) But you did not tell him in the written report that you were unable to identify the margins, did you?

A. Say that again.

MR. JACKSON: Objection. The report speaks for itself. You have been going on and on with this.

MR. YOUNG: Well, we're not getting anywhere, and we will continue to go on and on.

MR. JACKSON: You are not asking reasonable questions. That's why you are not getting anywhere.

MR. YOUNG: Well, I think they are.

MR. JACKSON: I don't.

Q. (BY MR. YOUNG) Let's go over the written report and let's take a look at what's been marked for identification purposes as Bert Brown Deposition Exhibit No. 4. We have here your microscopic description. It contains the language, "The biopsy shows a hyperplastic epithelium supported by a connective tissue core." Can you describe for me what you mean by hyperplastic epithelium?

A. It can mean different things. It means basically it's thicker than normal.

Q. The connective tissue core shows moderate chronic inflammation and fibrosis.

A. Yes.

Q. "The hyperplastic epithelium shows elongated and

bulbous rete ridges with isolated dyskeratoses." Can you describe for me what you mean by dyskeratoses and what that condition is?

MR. JACKSON: So the record is clear, that's not the complete sentence.

MR. YOUNG: Correct. It is not.

A. It means that there are atypical cells in the epithelium.

Q. (BY MR. YOUNG) Dyskeratoses, are they abnormal cells?

A. Yes.

Q. Okay. Go ahead. And what does the presence of dyskeratoses indicate to you?

A. That it's not normal cell. It's not a normal looking cell.

Q. Parakeratosis means what?

A. It means the cell is not maturing properly -- I mean, it means the cell is maturing faster.

Q. Than it should?

A. Yes, sort of. Something like that. It's not maturing -- not maturing properly.

Q. And hyperkeratosis means what?

A. There is increase of the keratin layer of the epithelium.

Q. Is there anything here in this report which

indicates that this is perhaps a cancerous lesion?
A. Say that again.
Q. Yes. Is there anything in this report which indicates that this is perhaps a cancerous lesion?
A. Is there anything in this report that may indicate this is a --
MR. JACKSON: Go ahead and answer. I'll object for the record.
A. Is there anything in this report -- Would you repeat the sentence again?
Q. Yes. Is there anything in this report that indicates that this is possibly a cancerous lesion?
MR. JACKSON: Objection, Go ahead.
A. I don't know if it's yes or no because you will find these changes in cancerous or non-cancerous. I don't know.
Q. So that the changes which you have described can arise from a cancerous lesion or from some other cause, correct?
MR. JACKSON: Objection. You may answer.
A. Not can arise, but may be seen. What was your question?
MR. JACKSON: You answered his question.

Q. (BY MR. YOUNG) Can be seen in a cancerous or a non-cancerous lesion, correct?

A. Yes.

Q. The findings which are contained in your report are consistent with having been caused by a cancerous lesion, are they not?

MR. MURPHY: Objection.

MR. JACKSON: Objection. You may answer.

MR. MURPHY: Just those findings themselves without anything else?

A. Say that again.

Q. (BY MR. YOUNG) These findings described in your report are consistent with a cancerous lesion; do not indicate that it's a cancerous lesion, but you cannot eliminate cancer as the cause from your findings in your report, can you?

MR. JACKSON: I will object.

MR. MURPHY: Objection.

MR. JACKSON: The doctor indicated at least twice to you already that she did not see cancer.

MR. YOUNG: That's not my question.

MR. JACKSON: You've been talking about possibly this and possibly that.

MR. YOUNG: That's right, possibly

MR. JACKSON: I suggest to you anything is possible.

MR. YOUNG: Well, then that's for her to testify to then.

MR. MURPHY: I need a point of clarification and I need this put on the record. You have talked about four words, I believe, hyperplastic, inflammation, dyskeratoses, parakeratosis, hyperkeratosis, that's five words, and you have asked her to define those words, and I'm not sure exactly what you asked her now, but do those findings, are they consistent with cancer? Perhaps that was your question or whatever. My question to you though is are you just talking about those words or are you talking about the entire report before she answers the question?

MR. YOUNG: Is that an objection for the record?

MR. MURPHY: I'm objecting.

Q. (BY MR. YOUNG) My question is are the findings contained in your report consistent with a cancerous

condition? Do you understand the question?

A. I think so.

MR. JACKSON: I'll object. You may answer.

A. I don't know if the word consistent is correct. If it was consistent, I would have said it as consistent with cancer.

Q. By this I mean, does your report enable the surgeon who has taken this biopsy to eliminate cancer as the cause of this lesion?

MR. MURPHY: Objection.

MR. JACKSON: You may answer.

A. Can the surgeon --

Q. (BY MR. YOUNG) Does your report enable the surgeon who has taken this biopsy to eliminate cancer as the cause *of* the lesion?

A. I don't think so. I don't think so.

Q. All right. It is possible to have these findings having been caused by a cancerous condition, but you have been unable to identify on the slides the existence *of* cancer, is that correct?

MR. JACKSON: Objection. You may answer.

A. I don't think you are right.

Q. Well, how am I wrong?

A. You are saying that having been caused.
Q. Yes.
A. I didn't say this was caused by cancer.
Q. I didn't ask you if it was caused by cancer.

MR. JACKSON: That's what you are trying to get to and she has tried to explain that to you any number of times. That's the problem we're having with your what I called unreasonable question.

Q. (BY MR. YOUNG) As I understand your testimony, these changes can occur and can co-exist with a cancerous lesion of the tongue, is that correct?

MR. JACKSON: Objection. You may answer.

A. Some of these changes may be seen, but -- it's not a correct statement. That's why I cannot say yes or no.
Q. (BY MR. YOUNG) Is there anything here in your report which indicates that Allan Boyd was suffering from a cancerous lesion?
A. I don't know. Is there anything in this report --
Q. You were unable to see any cancer in this specimen, is that correct?
A. Yes.
Q. You didn't see any cancer?

A. I did not.
Q. The conditions that you describe here were abnormal but you were unable to identify the cause of these conditions. is that correct?
A. Yes.
Q. Could the cause of the condition described by you in your report have been squamous cell carcinoma?
MR. JACKSON: Objection. You may answer.
A. Could the cause have been?
MR. MURPHY: Objection.
A. I don't know how to answer that. I'm not evading it, because it's a broad process.
Q. It is a what?
A. It's not a straightforward change, you know. It's a mixture of things in here. There is not a specific. That is why I cannot tell you it's caused by cancer.
Q. When you observed these abnormal conditions which have been described in your report, did you consider what might have caused these conditions?
A. I'm sure I did.
Q. What did you consider?
A. A whole line of causes.
Q. What were they?

A. Things that would cause this, like viral infection, chronic irritation, trauma, tobacco, dentures, injuries, or something -- that's it. I don't know if I should say cancer, because now we know the patient has cancer.

Q. Well, did you consider cancer in November of 1989 when you looked at these specimens?

A. I don't remember.

Q. Or this specimen?

A. I don't remember.

Q. In your opinion as you sit here today, could squamous cell carcinoma produce a condition as described in your report of November 1989?

MR. JACKSON: Objection. You may answer.

A. Would you say it again? I just want to make sure.

Q. (BY MR. YOUNG) Sure. As you sit here today, could squamous cell carcinoma cause the changes that you described in your report?

MR. JACKSON: Same objection. Go ahead and answer.

A. No. I don't think -- My answer is no.

MR. YOUNG: All right. We will take a break.

(Discussion was had off the record.)

Q. (BY MR. YOUNG) Doctor, as I understand your testimony, from your examination of the slides you were able to rule out candida as a cause of this lesion, is that correct?

A. Ruling it -- I did not rule out the cause as candida. I did not see candida. There is a difference there.

Q. All right. From your examination, were you able to rule out any causes for this condition?

A. Not really.

Q. You described for me various medical conditions that could have given rise to your observations or the condition here. One of those was viral, but you were unable to identify any virus, correct?

A. Yes.

Q. Trauma and tobacco. Those are things that would have to be considered clinically by the surgeon, correct?

A. Yes.

Q. Cancer would have been a possible cause for this condition, but you were unable to identify any cancer in this specimen, is that correct?

MR. JACKSON: Objection. You may answer.

A. Say that again.

Q. (BY MR. YOUNG) Yes. Cancer could have caused this condition but you were unable to see any cancer in the specimen?

EAR. JACKSON: Same objection. Go ahead. I'm sorry to interrupt.

A. Cancer could have caused this --

Q. (BY MR. YOUNG) The condition described in your report,

A. I don't know. I don't know the answer to that.

Q. I thought I understood your testimony when you fisted possible causes for this condition to include cancer as one of them. Was I wrong? Could cancer cause this?

A. It may be related to cancer but that it's caused by cancer, I don't know that statement.

Q. Well, how do you differentiate between may be related and may be caused by?

A. Because of the atypical changes that I see that may be present in cancer or non-cancer.

Q. All right. You were unable to rule out cancer as being related or contributing to the cause of this condition, *is* that fair?

MR. JACKSON: Objection.

MR. MURPHY: Objection.

MR. JACKSON: Go ahead, Doctor. You

may answer.

A. I'm unable to --

Q. (BY MR. YOUNG) I'm trying to understand how you are distinguishing here.

A. All right.

Q. Can cancer cause the condition which you have described in your report in your descriptive or microscopic description of this lesion?

MR. MURPHY: Objection.

Q. Can cancer cause --

A. Yes, I think. Is that correct?

MR. JACKSON: You answered. Answer as best you can, Doctor.

Q. (BY MR. YOUNG) As a result of your examination could the surgeon rule out cancer as the cause of this lesion?

MR. MURPHY: Objection.

A. Could the surgeon rule out? No. I don't know. I don't think so.

Q. (BY MR. YOUNG) Dr. Brown testified that this was a benign report. Would you agree with that?

A. I'm not saying it's a benign report. I'm saying it's not cancer. There is a difference there.

Q. How do you distinguish between the two?

A. One, I don't see cancer, and the other is I see

changes that I cannot explain altogether as to what it is, but I'm concerned about it.

Q. Is this a difficult interpretation to make?

MR. JACKSON: Is what a difficult interpretation?

MR. YOUNG: Referring to the interpretation contained in her report.

MR. JACKSON: That's a non sequitur.

Q. (BY MR. YOUNG) Was it a difficult interpretation to make?

MR. JACKSON: Based on the specimens she had, is that what you are asking?

MR. YOUNG: Yes.

A. I think so.

Q. (BY MR. YOUNG) You think so, is that your answer?

A. Yes. I read it from The Clinic, too, that they found it difficult. It was difficult.

Q. What was it about these slides that made it a difficult interpretation?

A. That there *is* hyperplasia, which I have included, and there are atypical cell changes, and it's difficult to put them all into one as to what is the basic underlying disease.

Q. All right.

A. Because there is inflammation, there is moderate inflammation.

Q. Have you yourself had the opportunity to look at these slides since you provided this report?

A. Not really, no.

Q. Do you have any reason to --

A. I saw them, correction. I saw them when they came back to us and you or he were asking for them back.

Q. All right. You looked at them then?

A. Yes.

MR. JACKSON: She already told you that earlier, I believe.

Q. (BY MR. YOUNG) Did you see The Cleveland Clinic report at any time prior to today?

A. No.

Q. When you had the opportunity to take a look at these slides again, did you find anything which was inconsistent with the report that you had made?

A. No. I tried to, but --

Q. Today as you sit here, do you believe that the slides made of the specimen taken from Allan Boyd in November of 1989 are suspicious for squamous cell carcinoma?

A. They are suspicious of a lot of things, but I cannot just use squamous cell carcinoma as the single

condition.

Q. Let me show you photographs of these slides that have been made and marked for identification purposes as V.R. Alonso, M.D. Deposition Exhibits 2 through 11 and ask you if you from these photographs --

MR. JACKSON: Are they indicated as to which slides they are?

MR. YOUNG: No, they are not.

MR. JACKSON: And you are representing that these are photographs from these slides?

MR. YOUNG: Correct.

MR. JACKSON: Do you know which ones they are from?

MR. YOUNG: Have I marked from the slide to the photograph? I have not.

Q. (BY MR. YOUNG) Are you able to identify any photographs which depict a cross section of this specimen? Look through all of them before you answer, Doctor, if it's possible to do that.

MR. JACKSON: I know you didn't mark them and correlate them to the slides, but are you able to do that?

MR. YOUNG: No, I am not. Not as I

sit here today.

A. Would you say your question again, please?

Q. (BY MR. YOUNG) Yes. Are you able to identify any photograph which depicts a cross section of the specimen?

A. Well, yes, I think so. I think so. When you are looking at the squamous cell lesion, it may look similar, but I'm just taking your word for it they were taken from these.

Q. You have identified Deposition Exhibit 6 showing a cross section. Are there any others?

MR. JACKSON: Is that your testimony, you believe that's a cross section?

A. It probably is.

MR. JACKSON: Okay. Go ahead.

A. This may be too, but I'm not sure. They may be but I don't remember because I have not seen them for more than a year. Maybe this one too, but like I say, I don't know.

Q. (BY MR. YOUNG) Take a look carefully at all of them so that we don't --

A. I cannot be exact. I cannot tell you.

Q. Are you able to look at these photographs, any of the photographs, and you can spread them out before you here. You have identified Deposition Exhibit 10

and Deposition Exhibit 6 as probably showing a cross section but you can't be certain. Spread them out, if you would, and let me ask you if you are able to identify the base of the lesion that was excised in any of these photographs? Are you from these photographs able to make such an identification?

A. The base?

Q. Yes.

A. Maybe this (indicating).

Q. Go ahead and spread these out if you would like.

A. Maybe like -- I don't know how far --

Q. I'm sorry?

A. These would indicate to me the base of the lesion, these borders here (indicating).

Q. Indicating on Deposition Exhibit 9 and Deposition Exhibit 6, the darkened portion on 9 would seem to indicate the base, and indicating this would seem to indicate the base (indicating)?

A. Yes.

Q. Are you able -- and I want you to take your time and look at these photos, if you would. Are you able to identify any squamous cell carcinoma cells depicted in these photographs?

A. Like I say, I don't know. I didn't see squamous cell carcinoma, so I don't know how I can tell

you there is squamous cell carcinoma.

Q. I understand. My question is as you sit here today and you look at these photographs, are you able now as you sit here to identify on these photographs in any way squamous cell carcinoma?

A. I don't think I can tell.

Q. Would you take a look at the photographs?

A. I've looked.

MR. JACKSON: Can I get a clarification. Would you tell us what magnification these are made on, because they apparently are different magnifications.

MR. YOUNG: They apparently are at a magnification and I can do that at a later time.

MR. JACKSON: I would like to have it now.

MR. YOUNG: I can't do it now.

MR. JACKSON: You can't tell us what the magnification is from the information you have?

MR. YOUNG: Yes, I can, but not as we sit here today.

MR. JACKSON: But you don't know --

What I'm asking you is --

MR. YOUNG: Can I tell what magnification --

MR. JACKSON: Not in any particular one but some are obviously different magnification. Some are like a hundred, some are 50. Do you know what they are?

MR. YOUNG: And I can tell you I do know. I do not have it with me today. I cannot identify these photographs at this time --

MR. JACKSON: In general --

BY MR. YOUNG: By magnification specifically.

MR. JACKSON: I know that, but I'm saying obviously this one is a higher magnification. What's the highest magnification these were taken at?

MR. YOUNG: And I'm telling you I do not know as I sit here today. I have that information available.

MR. JACKSON: Doctor, go ahead and see if you can answer his question.

A. What was the question?

Q. (BY MR. YOUNG) The question is, are you able to

identify any squamous cell carcinoma cells on any of these photographs that have been marked for identification purposes as Deposition Exhibit 2 through 11?

A. That question is unclear to me because, are you asking me is there squamous cell carcinoma or is there squamous cell carcinoma cell?

Q. I'm asking you if you are able to interpret any of these photos before you as containing squamous cell carcinoma?

A. NO.

Q. You have taken a look at them?

A. Yes.

Q. You have inspected them to your satisfaction?

A. Um-huh. I mean, yes.

Q. Is there any additional information or view that you need to understand and be able to answer that question?

A. No.

Q. All right. As you sit here today you believe that these photographs do not contain squamous cell carcinoma, is that correct?

A. Yes.

Q. Okay.

A. Are these the pictures of those slides?

MR. YOUNG: They are.

MR. JACKSON: You are going to give us, correlating with the exhibits, the slides they came from and the magnifications? You can do that?

MR. YOUNG: I can do that at another time. I don't know that it's relevant because she said there is no additional information which is necessary, that she has what she needs and that she is unable to identify any squamous cell carcinoma.

MR. JACKSON: I'm going to make a comment about that, because I think it's extremely unfair. Number one, these are photographs that we have never seen before at different magnifications and we don't know if these are the magnifications that were used or are normally used during the examination or in the process these photos were taken, so during the course of the deposition, in the third hour of a deposition to go through this kind of routine, I'm not sure is fair.

MR. YOUNG: I appreciate your objection but she testified she needs no

additional information.

MR. JACKSON: I don't care, when she is in a position of being in a deposition where I asked for information you didn't give us, but we will proceed with it known that I think this is an unfair process.

MR. YOUNG: I understand, but if she testified to that --

A. I mean to correct myself, because I don't know if this is truly the pictures of those, and like he has said, these are huge pictures.

Q. (BY MR. YOUNG) My question is not whether these are as demonstrated here. My question is when you see these photographs before you, whether they are photographs of Allan Boyd or not, are you able to identify any squamous cell carcinoma in these photographs?

A. Excuse me. See, I was answering in a different style. Let's start ail over again.

Q. As you sit here today with these ten photographs before you, are you able to identify any squamous cell carcinoma in these photos?

MR. JACKSON: Here's what we will do, and maybe this will satisfy your circumstance. She has had probably

all of a minute to examine these as you spread them out. If you want her to examine these, and we will take a break for her to do that, then she will answer that.

MR. YOUNG: Let's do that.

(Short recess taken.)

(Question read by reporter.)

MR. JACKSON: Go ahead and answer that question.

A. No.

Q. (BY MR. YOUNG) Is there any area in any photograph which you find to be suspicious for squamous cell carcinoma?

MR. JACKSON: I'm going to object to that, but go ahead and answer if you can.

A. Well, they are suspicious of everything, not just cancer. This is like a broad reaction or process that can be seen with other things. That's why I cannot --

Q. So I understand your testimony --

A. Or I cannot suspect carcinoma alone,

Q. As I understand your testimony, they are suspicious of everything that can be causing this process, not just cancer; however, cancer can be one of the

conditions which could cause this process. Do I understand your testimony correct?

MR. JACKSON: Objection. You may answer.

A. Yes.

Q. (BY MR. YOUNG) A17 right. Now, in these photographs are you able to find any areas which contained well-differentiated squamous cell carcinoma?

A. No. I don't know, because like I've said, I cannot call it -- if you are telling me to call it well-differentiated squamous cell carcinoma, I cannot.

Q. I'm not telling you what *it* is. I'm asking you as a oathologist whether you can identify, and are able to identify squamous cell carcinoma in any portion of these photographs?

A. No, not exactly.

Q. When you say not exactly, you are qualifying it in some manner. How are you qualifying it?

A. That these changes can be seen in a variety of conditions. That's why.

Q. All right. But these changes do not enable you to identify squamous cell carcinoma or the cause of the condition, is that correct?

A. Repeat that again.

Q. Yes. These photographs do not enable you to identify specifically squamous cell carcinoma?
A. Do not enable me?
Q. Right. You can't see any squamous cell carcinoma specifically in these photographs, is that correct?
A. Yes.
Q. All right. Do you need additional time to review these photographs to draw that conclusion?
A. Not necessarily.
Q. Have you taken enough time to look at them?
A. I think so.
Q. Do you need any additional --
A. It's not a simple case.
Q. Go ahead.
A. It's not a simple case that, as I've said, you can call it straightforward this or that. You have to look at it and consider a13 kinds of conditions.
Q. All right.
A. That's what I mean.
Q. All right. And is that the reason that you contacted Dr. Brown by telephone?

MR. MURPHY: Is what the reason?

A. Partly, maybe.
Q. (BY MR. YOUNG) Do you know if that's the reason you contacted Dr Brown?

MR. JACKSON: Let me say you have been through that topic at least three times.

MA. YOUNG: I have been.

MR. JACKSON: And I'm not going to let you go through it. She has explained why she called Dr. Brown to describe her findings and the reason it's going to take hours is because you have continually asked the same questions over and over despite the answers given to you. You may not be getting the answers you want, but that doesn't mean you are going to be able to continue to ask the same questions.

Q. (BY MR. YOUNG) You have just described for me a process that is consistent with many causes or many conditions, correct?

A. That may be seen with other conditions, yes.

Q. Do you believe that you told Dr. Brown that in your telephone conversation?

MR. MURPHY: Objection.

MR. JACKSON: Told him what?

A. Can I answer?

MR. JACKSON: I want to know what he is talking about. Told him what?

MR. YOUNG: That this is a process

that can be present, just as she testified.

Q. (BY MR. YOUNG) Do you believe you told Dr. Brown that in the telephone call that you initiated?

MR. MURPHY: Objection.

MR. JACKSON: You may answer.

A. Yes -- I don't know. Sometimes I don't know because if I didn't know exactly what this process a is, I would not tell him one condition. I would tell him -- I would have told him, follow it up, remove it, or study the case more.

Q. (BY MR. YOUNG) Bo you believe that you told him follow *it* up more closely or remove it completely?

MR. MURPHY: Objection.

A. I don't remember. I may have, but I don't remember. I'm not being uncooperative. I'm just --

MR. JACKSON: Do you have copies of these that we can have?

MR. YOUNG: I do.

Q. (BY MR. YOUNG) When did you first become aware of the fact that Allan Boyd had cancer?

A. I think after we received the letter from you.

Q. When the request was made for these slides to be sent on to The Cleveland Clinic, do you know who made the request?

A. No.

Q. Do you know what information your office gained when the request was made?
A. No.
Q. Do you know why Dr. Garewal examined the slides before they were sent out?
A. I must have been away so he got to look at the slides. If he was the one there, he looked at them. I think they went to Medina and then there.
Q. All right. Let me show you what's been marked for identification purposes as V.R. Alonso, M.D. Deposition Exhibit 1, that being a letter and report of The Cleveland Clinic. Is that what you have had the opportunity to see today before your deposition?

MR. JACKSON: The doctor did not see the Setter attached but she did see the copies of the other two sheets at the same time.

A. Can I read it?

MR. YOUNG: Of course.

Q. (BY MR. YOUNG) Do you know Dr. Nunez?
A. Not personally. I know of him.
Q. You have not discussed this case with either he or Jain, have you?
A. No.
Q. Dr. Nunez in reaching his conclusions in this case,

has examined those photographs or those slides from Marymount to which we have been referring, has he not?

A. Yes.

Q. When we talk about two slides labeled S 89-5227, those are the slides which have been referred to that gave rise to the writing of your report, right?

A. Yes.

Q. You have had an opportunity to review the report dated January 14, 1991 of Dr. Nunez?

A. Yes,

Q. Does this report differ from the report that you gave concerning these slides?

A. No.

Q. De you Find it to be consistent?

A. Yes.

Q. Dr. Nunez concludes, final pathological diagnosis number one, in reference to the two slides from Marymount, tongue lesion, biopsy A, suspicious for well-differentiated squamous cell carcinoma. Do you agree with that statement?

A. I will not disagree with it. But I will not agree with if because he himself had contradicted himself.

Q. How did he contradict himself?

A. He said in the letter the main differential

diagnosis will be pseudo epitheliomatous hyperplasia.

Q. Essentially in his letter of 1-16-91 to Jain, he states, "These slides are rather difficult to interpret. The findings in this biopsy are highly suspicious for a weil-differentiated squamous cell carcinoma; however, I cannot be a hundred percent positive by looking at this biopsy."

A. Right. So he knows there is. So calling it a squamous cell carcinoma is easy once he knows it's squamous cell carcinoma.

Q. And my question is did you find in your interpretation of these slides that they were highly suspicious for well-differentiated squamous cell carcinoma?

MR. JACKSON: We have been through that Row many times now?

A. I'm not saying highly suspicious. Like I said before, they are suspicious.

Q. (BY MR. YOUNG) They are suspicious for squamous cell carcinoma?

A. And other things.

Q. And other conditions. Did your report alert, and by that I mean your written report, did your written report alert Dr. Brown that these slides were highly

suspicious, or in your words, suspicious for squamous cell carcinoma?

MR. MURPHY: Objection.

A. Indirectly --

MR. JACKSON: Go ahead. Answer.

A. -- it alerted him of diseases, but not specifically one disease. So it should alert him to follow up the disease.

Q. (BY MR. YOUNG) How should it alert him to do that?

MR. MURPHY: Objection.

A. Because it's atypical, it's not normal, and I have all those findings that are not normal, but it's not specific for one condition.

Q. (BY MR. YOUNG) Is it your opinion that upon receipt of the written report alone, without further verbal clarification in that telephone call, Dr. Brown should have been aware of the possible causes for this condition described in your report?

MR. JACKSON: Objection.

MR. MURPHY: Objection.

MR. JACKSON: You may answer.

A. I think so. Even without a call, you mean?

Q. Yes.

A. Yes.

Q. So it's your position that the written report alone,

standing alone without the telephone call, should have alerted him *to* the need for totally eliminating the condition or most closely following the condition?

MR. MURPHY: Objection

MR. **JACKSON:** Objection. You may answer.

A. Yes.

Q. (BY MR. YOUNG) Are you able to draw an opinion concerning whether the tongue lesion which was biopsied in 1989 was the primary site of the cancer which caused Allan Boyd's death?

A. **No.**

Q. You don't have the sufficient information to determine that? do you?

A. No.

Q. And you have no ooinion?

A. **No,** I don't. I don't think so.

Q. A11 right. Are you aware of any other physicians with opinions concerning that issue?

MR. **JACKSON:** You don't have to answer that question.

A. I didn't understand the question.

MR. **JACKSON:** You don't have to answer that question.

MR. YOUNG: On what basis? You can state the objection for the record if you have an objection.

MR. JACKSON: I have an objection.

MR. YOUNG: What is it?

MR. JACKSON: If there is expert testimony to be given in this case and I've discussed that with the doctor, that's not something that's discoverable with this doctor at all, discoverable by you at all.

MR. YOUNG: That's correct, but --

MR. JACKSON: On how many occasions have we discussed over the last three hours what she reviewed, who she talked to on this case, et cetera?

MR. YOUNG: And very simply, she can say no.

MR. JACKSON: The answer may be yes or may be no or some other answer, but you are exploring areas that go to attorney/client privilege and I'm not going to let her answer that kind of a question.

MR. YOUNG: I'm not exploring areas rhat enter into the attorney/client privilege.

MR. JACKSON: She told you who she talked to, what she looked at as it relates to this case. Now, if you want to go along with those, fine. But as far as any communications I have had with this doctor --

MR. YOUNG: I have not asked her anything concerning your communication with this doctor.

MR. JACKSON: Go ahead and ask your question,

Q. (BY MR. YOUNG) To your knowledge are you aware of any physicians who have an opinion concerning the primary site of the cancer which caused Allan Boyd's death?

A. No.

Q. And you have not yourself discussed that issue with any physicians, is that correct?

A. Right.

Q. All right. The original tissue specimen is still held at Marymount, is it not?

A. I think so. I'm not sure.

Q. Other than the report to which we have referred, your written report, is there any correspondence or other information in your department or your office

pertaining to this case? By that I mean cover letters to The Cleveland Clinic, records of communications in any way?

A. No.

Q. When the tissue slides would have been requested by another physician, would a notation of that have been made in your department?

A. Secretaries record whatever goes on.

Q. Do you retain any case files, patient files, in any way separate and apart from the tissue specimen, copies of the report, and the slides?

A. Say that again.

Q. Yes. In addition to copies of the written report, which we have identified here, and the slides, and the original tissue specimen, are there any records that are retained by your office concerning a case at any time?

A. Only if we have consultation reports or like this. We did not get this.

Q. Okay. What I'm looking for is whether there are times when you retain correspondence or communication?

A. We retain all correspondence.

Q. And records of communications with other physicians?

A. Yes.

Q. They are retained in what form, in a patient file?

A. They are filed with the patient report.

Q. Patient reports are kept how, numerically?

A. Numerically.

Q. In a separate file and all matters, communications pertaining to that file are retained in that file?

A. Yes.

Q. And that's identified by the pathology number that we have identified?

A. Yes.

MR. YOUNG: I have nothing further at this time.

MR. JACKSON: Are those copies --

MR. MURPHY: Make a note I'm just going to reserve my right on behalf of Dr. Brown. Dr. Parsanko's attorney asked me to do the same for him.

MR. YOUNG: Would you like to read it, I would think?

MR. JACKSON: Yes.

MR. YOUNG: You don't want to waive signature.

- - -

(Deposition concluded at 1:49 p.m.)

- - -

I have read the foregoing transcript of my deposition taken on Tuesday, August 31, 1993 from page 1 to page 111 and note the following corrections:

PAGE:	LINE:	CORRECTION:	REASON:

VICTORIA R. ALONSO, M.D.

THE STATE OF OHIO,)
) SS: CERTIFICATE
COUNTY OF CUYAHOGA.)

I, James M. Mizanin, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that VICTORIA R. ALONSO, M.D. was by me, before the giving of her deposition, first duly sworn to testify the truth, the whole truth and nothing but the truth; that the deposition as above set forth was reduced to writing by me by means of Stenotype and was subsequently transcribed into typewriting by means of computer-aided transcription under my direction; that said deposition was taken at the time and place aforesaid pursuant to notice and agreement of counsel; that the reading and signing of the deposition by the witness were expressly waived; and that I am not a relative or attorney of either party or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I hereunto set my hand and seal of office at Cleveland, Ohio, this 15th day of September, 1993.

James M. Mizanin, RPR, CM, Notary Public
Within and for the State of Ohio
444 Terminal Tower
Cleveland, Ohio 44113

My Commission Expires: January 25, 1998.