

1 IN THE COURT OF COMMON PLEAS

2 OF LAKE COUNTY, OHIO

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4 CAROL A. ZOELBEL,
5 Executrix of the
6 Estate of LORNA MOELLER,

SCANNED
11-23-04

7 Plaintiff,

8 vs Case No. 01CV001107

9 LAKE EAST HOSPITAL, et al.,

10 Defendants.

11 - - - - -

12 DEPOSITION OF ARTHUR M. AMDUR, D.O.

13 MONDAY, MAY 6, 2002

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15 Deposition of ARTHUR M. AMDUR, D.O., a
16 Witness herein, called by counsel on behalf of
17 the Plaintiff for examination under the statute,
18 taken before me, Vivian L. Gordon, a Registered
19 Diplomate Reporter and Notary Public in and for
20 the State of Ohio, pursuant to agreement of
21 counsel, at the offices of Ulmer & Berne, Penton
22 Media Building, Cleveland, Ohio, commencing at
23 3:00 o'clock p.m. on the day and date above set
24 forth.

25 - - - - -

1 APPEARANCES:
2 On behalf of the Plaintiff
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4 JEANNE M. TOSTI, ESQ.
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9 On behalf of the Defendant Jeromin, M.D.
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15 On behalf of the Defendant Amdur, D.O
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21 On behalf of the Defendant Eastwood Residential
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On behalf of the Defendants Oh, Kessler, Heng,
Prime Health,
Reminger & Reminger
ANDREW D. JAMISON, ESQ. ESQ.
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On behalf of the Defendants Lake East Hospital,
Lake Hospital Systems, Inc.
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- - - - -

1 ARTHUR M. AMDUR, D.O., a witness herein,
2 called for examination, as provided by the Ohio
3 Rules of Civil Procedure, being by me first duly
4 sworn, as hereinafter certified, was deposed and
5 said as follows:

6 EXAMINATION OF ARTHUR M. AMDUR, D.O.
7 BY MS. TOSTI:

8 Q. Doctor, would you please state your
9 full name for us.

10 A. Arthur Mark Amdur, A-M-D-U-R.

11 Q. What is your home address?

12 A. 38885 Chagrin Boulevard, Moreland
13 Hills, Ohio, 44022.

14 Q. Is that a single-family home?

15 A. Yes.

16 Q. What is your current business
17 address?

18 A. It's University Mednet. I might have
19 it with me.

20 (Pause.)

21 A. I don't.

22 Q. Is there a location in which you
23 currently work out of with University Mednet?

24 A. Right. There is two locations. One
25 in Euclid on Lake Shore Boulevard, and the other

1 on Route 20 in Mentor, Ohio.

2 Q. In February of 2000, what was your
3 business address?

4 A. That was Madison, Ohio, 6270 North
5 Ridge Road, Madison, Ohio. Zip code I believe
6 was 44057.

7 Q. And your current employer is
8 University Mednet; is that correct?

9 A. Right.

10 Q. Aside from the professional services
11 that you provide for University Mednet, do you
12 provide professional services for any other
13 entity currently?

14 A. No.

15 Q. How about in February of 2000, who
16 was your employer?

17 A. I was an independent contractor.

18 Q. Who were you contracted to?

19 A. That would be Lake Urgent Care
20 Centers, an affiliate of Lake Hospital Systems.

21 Q. And aside from your contract with
22 Lake Hospital Systems and the Lake Urgent Care,
23 did you provide professional services for any
24 other entity in February of 2000?

25 A. No.

1 Q. In February of 2000, were you
2 practicing solely from the Madison -- is that
3 the Madison Medical Center? Is that where the
4 Urgent Care Center is located?

5 A. I think it was after the move. I
6 think it was Madison Medical Campus.

7 Q. Medical Campus, okay. And in
8 February of 2000, were you providing all of your
9 services at the Madison Medical Campus?

10 A. I believe I was. Prior to that, I
11 would spend time at the other two urgent care
12 sites affiliated with Lake Urgent Care Systems.

13 Q. To the best of your recollection, in
14 February of 2000, you were chiefly at the
15 Madison Campus?

16 A. Correct.

17 Q. Have you ever had your deposition
18 taken before?

19 A. No.

20 Q. Well, I'm going to go over some of
21 the ground rules. I am sure counsel has had a
22 chance to talk to you. This is a question and
23 answer session. It's under oath. It's
24 important that you understand my questions. If
25 you don't understand them, let me know and I'll

1 be happy to rephrase the questions or to restate
2 it. Otherwise, I'm going to assume that you
3 understood the questions that I have asked you
4 and that you are able to answer them.

5 If at any point you would like to
6 refer to the medical records that you have in
7 front of you, please feel free to do so.

8 During the course of this deposition,
9 any one of these defense counsel may chose to
10 enter an objection. You are still required to
11 answer my question unless your counsel tells you
12 not to do so.

13 Do you understand those instructions?

14 A. Yes, ma'am.

15 Q. Also, it's important that we only
16 speak one at a time and that you give all of
17 your answers verbally, because our court
18 reporter can't take down head nods or hand
19 motions.

20 A. Okay.

21 Q. Have you ever been a defendant in a
22 medical negligence case?

23 A. No.

24 Q. Have you ever acted as an expert in a
25 medical negligence proceeding?

1 A. No.

2 Q. Have you ever given any testimony in
3 a case involving issues dealing with bowel
4 obstruction?

5 A. No.

6 Q. Doctor, I have a copy of what I
7 believe is your curriculum vitae that I have
8 marked as Plaintiff's Exhibit 1. I would ask if
9 you would just look at it and identify it for
10 the record for us.

11 Is that a copy of your curriculum
12 vitae?

13 A. Yes.

14 Q. Is it current and up to date?

15 A. Again, I just wrote in the University
16 Mednet. But besides that, yes, I would say so.

17 Q. Are there any other corrections or
18 additions that you would like to make to it?

19 A. No.

20 Q. Now, you are licensed to practice
21 medicine in the State of Ohio; correct?

22 A. Correct.

23 Q. And you were also so licensed in
24 February of 2000; correct?

25 A. Correct.

1 Q. Have you ever been licensed in any
2 other states?

3 A. No, ma'am.

4 Q. Has your license in Ohio ever been
5 suspended, revoked or called into question?

6 A. No.

7 Q. Now, you completed your medical
8 school training in 1989 and then completed a
9 one-year general internship; is that correct?

10 A. A rotating internship, yes.

11 Q. And did you complete a residency
12 after your internship?

13 A. That's correct.

14 Q. Would you tell us what area of
15 medicine your residency was in?

16 A. General family practice.

17 Q. And you did that at Richmond Heights
18 Hospital; is that correct?

19 A. Yes.

20 Q. And was that a two-year residency?

21 A. Yes, ma'am.

22 Q. Following your family practice
23 residency, did you complete any further
24 training?

25 A. No.

1 Q. Are you board certified in family
2 practice?

3 A. Yes, ma'am.

4 Q. And when did you receive that
5 certification?

6 A. February of '93. 1993.

7 Q. Now, following your residency, did
8 you go into clinical practice then?

9 A. Yes.

10 Q. Would you describe for me your
11 clinical practice following your residency.

12 A. Well, it started out at Lake Hospital
13 Systems, where I was up to and including the
14 date of this incident.

15 Q. So from February -- I'm sorry,
16 from -- when did you start at the Madison
17 Campus?

18 A. I believe it was February of '92, or
19 '93. '93 it would be. Right? '92.

20 Q. You mentioned that you finished your
21 board certification in February of '93. Did you
22 go directly to Madison Campus after you
23 completed your board certification in family
24 practice?

25 A. Prior. I mean, it was in the

1 process. I took my boards and it was pending
2 the results.

3 Q. Then can you tell me approximately
4 when you think you started at Madison Campus?

5 A. I believe toward the end of '92.

6 Q. And the position that you held at
7 Madison Campus, what was it?

8 A. Urgent care physician.

9 Q. And then following your position at
10 the Madison Campus as an urgent care physician,
11 what did you do?

12 A. Could you repeat that? Once I left?

13 Q. Yes. Once you ended your
14 employment --

15 A. With Lake Hospital Systems.

16 Q. -- with Lake Hospital Systems at the
17 Madison Urgent Care, what did you do?

18 A. I worked as a physician at Twinsburg
19 Urgent and Primary Care Center.

20 Q. How long did you work for them?

21 A. That would be approximately eight
22 months.

23 Q. From there you moved to University
24 Mednet; is that correct?

25 A. That's correct.

1 Q. And what type of services are you
2 providing with University Mednet?

3 A. Urgent care physician, as well.

4 Q. Now, is your practice limited to
5 urgent care services?

6 A. Yes, currently.

7 Q. And in regard to the types of
8 patients you see, is it limited in any way? And
9 by that I mean, do you see all ages of patients?

10 A. Right, I do, yes.

11 Q. And was that also true in February of
12 2000?

13 A. Yes.

14 Q. In February of 2000, were you
15 providing primary care to patients where the
16 patients looked to you as their ongoing care
17 provider for health maintenance or follow up on
18 diagnosed conditions?

19 A. I would say no. It was strictly
20 urgent care. No follow up.

21 Q. In February of 2000, did you have
22 hospital privileges anywhere?

23 A. I think I might have had -- I mean,
24 not admitting privileges, if that's what you are
25 getting at.

1 Q. Let's start with that. Did you have
2 admitting privileges anywhere?

3 A. No. I mean, I was in the department
4 of urgent care, which is overseen by the
5 emergency department. It was just a title than
6 anything else.

7 Q. Do you have admitting privileges any
8 place now?

9 A. No.

10 Q. Do you have any publications, doctor?

11 A. No.

12 Q. Tell me what you have reviewed in
13 preparation for this deposition.

14 A. The chart.

15 Q. And when you are referring to the
16 chart, could you describe in a little more
17 detail what you are referring to?

18 Are you referring to the medical
19 records from Lorna Moeller's visit to the urgent
20 care?

21 A. Correct.

22 Q. On what date was that visit?

23 A. 2-1-2000.

24 Q. Have you referred to any textbooks,
25 journal articles, or medical literature in

1 preparation for this deposition?

2 A. No.

3 Q. Have you seen any of the other
4 medical records of Lorna Moeller?

5 A. No.

6 Q. Since the filing of this case, have
7 you discussed this case with any physicians?

8 A. Yes.

9 Q. Who have you discussed it with?

10 A. I gave Dr. Jeromin a call once I was
11 served with a summons.

12 Q. What did you discuss with him?

13 A. Just to see if he was served, as
14 well; if he recalled the case, and what happened
15 to the patient in question, if he recalled.

16 Q. And did he recall?

17 A. No. And he wasn't served either at
18 that time.

19 Q. Did you discuss any of the medical
20 findings --

21 A. No.

22 Q. -- from either your assessment or his
23 assessment?

24 A. No. That was the end of the
25 conversation.

1 Q. Have you ever met Dr. Heng,
2 Dr. Kessler, or Dr. Oh?

3 A. When you say met, I mean, I can't say
4 I have really had conversations with them. I
5 passed them in the hall, maybe exchanged
6 pleasantries, but that's the extent of it.

7 Q. Have you met Dr. Jeromin?

8 A. Dr. Oh I never met. So that would
9 just be Dr. Kessler and Dr. Heng.

10 Q. So you know them on sight, but you
11 don't have any type of a frequent relationship
12 with them?

13 A. Not at all.

14 Q. Have you met Dr. Jeromin
15 face-to-face?

16 A. Never.

17 Q. And since this case was filed, have
18 you had any conversations with Dr. Heng or
19 Dr. Kessler about the case?

20 A. No.

21 Q. Other than with counsel, have you
22 discussed it with anyone else?

23 A. No.

24 Q. Aside from what documentation there
25 is in the Madison Medical Campus urgent care

1 records, do you have any other notes or personal
2 file on this case?

3 A. No.

4 Q. Have you ever produced any such
5 notes? You don't have them now, but have you
6 ever in the past had such notes, aside from what
7 is in the medical records?

8 A. No.

9 Q. The Urgent Care Center that was at
10 the Madison Medical Campus, what type of
11 services were provided at that campus?

12 A. Well, a variety. Whatever.

13 Q. Let me rephrase the question.

14 A. It's pretty general.

15 Q. There were urgent care services
16 provided at the Madison Medical Campus; correct?

17 A. Correct.

18 Q. In addition to the urgent care
19 services, were there any other type of medical
20 services that were available at the Madison
21 Medical Campus?

22 A. I think there was a pediatric
23 department there, as well as family practice.

24 Q. Would these be primary care physician
25 offices that you are speaking of?

1 A. Yes.

2 Q. Were there any type of diagnostic
3 services there? Lab, x-ray?

4 A. Yes.

5 Q. What type of diagnostic services?

6 A. Lab, x-ray, physical therapy. That
7 pretty much covers it.

8 Q. Now, in February of 2000, did you as
9 an independent contractor, or to your knowledge
10 the Lake Hospital Systems, have any agreement to
11 provide medical services to Eastwood Residential
12 Living Residence?

13 A. You said contract; is that correct?

14 Q. Yes. You had informed me that you
15 were an independent contractor.

16 A. Right.

17 Q. And my question is, did you have an
18 agreement, or to your knowledge did Lake
19 Hospital Systems have an agreement to provide
20 medical services to Eastwood Residential Living?

21 MR. SCOTT: Objection.

22 MR. MERRIAM: There is two parts to
23 the question, so break it down.

24 A. I had no contract.

25 Q. To your knowledge, did Lake Hospital

1 Systems have any agreement to provide medical
2 services to residents of Eastwood Residential
3 Living?

4 A. I'm not aware.

5 Q. In February of 2000, what was your
6 usual clinical work schedule?

7 A. Can you be more specific? On a daily
8 or weekly basis?

9 Q. Well, what I am trying to get to is
10 what type of hours you normally worked, if there
11 was a particular shift, if you put in a certain
12 number of hours a week. I would defer to you as
13 to how it would be most convenient to break that
14 down.

15 Did you work a particular shift --
16 let's start with that -- that began at a certain
17 time and ended at a certain time?

18 A. I believe so. I am trying to recall.
19 I think it was pretty standard. I think it was
20 back then 11 to 12 hour shifts, maybe like two
21 weekends -- I'm sorry, two week days, and then
22 every other weekend. It averaged out to about
23 30 hours per week.

24 Q. And when you would work those 11 or
25 12 hour shifts, what time would you come in?

1 A. I believe it was 8:00 o'clock.

2 Q. 8:00 a.m.?

3 A. 8:00 a.m.

4 Q. And then you would leave at either
5 7:00 or 8:00 in the evening?

6 A. I believe so, unless we were kept
7 over.

8 Q. I am just asking in general,
9 approximately.

10 A. Yes.

11 Q. And you would work generally, would
12 it be two shifts a week, three shifts a week?

13 A. Three shifts a week.

14 Q. Now, when you were in the urgent care
15 providing medical services, were there any other
16 physicians in the urgent care providing services
17 also, or were you the only physician?

18 A. I was the only physician.

19 Q. On the days that you weren't there, I
20 would assume there was another physician that
21 was there, or more than one physician providing
22 urgent care services at the Madison Campus?

23 A. Did you say more than one per shift?

24 Q. No. More than one person that would
25 provide services on the days when you weren't

1 there. Let me reask that question.

2 On the days that you were not at the
3 Madison Urgent Care, who was providing physician
4 services?

5 A. You want specific names?

6 Q. If you know, yes.

7 A. Dr. Hayek was one. He was, I would
8 say, the main one besides me. H-A-Y-E-K. After
9 that, it would vary to fill in the other shifts.
10 I mean, between the two of us, we covered, I
11 would say --

12 Q. The majority of the time?

13 A. -- close to 90 percent. Maybe one
14 weekend wasn't covered. Every other weekend.

15 Q. When you were there, you were the
16 only physician on duty; correct?

17 A. That's correct.

18 Q. What other staff was in the urgent
19 care when you were there? Were there registered
20 nurses?

21 A. Yes, ma'am.

22 Q. How many nurses were there?

23 A. I would say usually one registered
24 nurse and one LPN.

25 Q. Any physician's assistants working?

1 A. No, ma'am.

2 Q. So the total medical staff would have
3 been a physician, a registered nurse and an LPN
4 providing medical services?

5 A. I would say so. In general.

6 Q. Were the support staff, the RN, the
7 LPN, any clerk, were they employees of Lake
8 Hospital System?

9 A. Say it again. The nursing staff?

10 Q. Yes.

11 A. Were they employees?

12 Q. Yes.

13 A. I have no knowledge.

14 Q. Do you know who the employers were
15 for the nursing staff?

16 A. Employers for the nursing staff?

17 Q. Yes. Who the nurses were employed
18 by.

19 A. No. I would assume, but I'm not
20 going to assume.

21 Q. Was the urgent care at the Madison
22 Campus owned and operated by Lake Hospital
23 Systems?

24 A. I believe it was.

25 Q. In general terms, what level of care

1 were you equipped to provide at the Madison
2 Urgent Care?

3 A. That's a pretty nonspecific question,
4 what level of care. Can you be more specific?

5 Q. Well, doctor, I think we think of
6 different levels of care which might be provided
7 in a primary care office as opposed to an urgent
8 care as opposed to an emergency room as opposed
9 to an acute care hospital, and I'm trying to get
10 a general description as to the level of care
11 that you were equipped to provide at the Urgent
12 Care Center.

13 I guess that would depend on what
14 type of equipment you had available, what type
15 of personnel you had available, what type of
16 medical specialists were available for
17 consultation. I am just trying to get a feel
18 for exactly what level of care you were equipped
19 to provide.

20 A. Well, again, when you say provide --

21 Q. I'm speaking at the urgent care. I
22 realize that referrals are made and patients are
23 sent to other places, but in regard to what you
24 were able to provide at the urgent care, that's
25 what I would like you to describe, based on

1 whatever you had available as resources.

2 A. Again, it's somewhat hard to answer.

3 I would say we were there, we were open to the
4 public to see every type of case. We wouldn't
5 turn down anything that walked through the door,
6 but again, if it warranted, you know, sometimes
7 we would call 911 on the spot if a person is
8 bleeding to death in front of you, or it's a
9 heart attack, something like that.

10 Q. And the reason you would be calling
11 911 would be for what reason? For transport,
12 for treatment?

13 A. For transport to the hospital.

14 Q. So you were not equipped to provide
15 care for emergency situations such as acute
16 bleeding or for heart attack, other than just
17 first-aid type of a treatment?

18 A. Again, it would depend on a
19 case-by-case. But if someone came in with chest
20 pain, we would stabilize them, get an EKG and
21 determine. But it would depend on the nature of
22 the case that walked through the door.

23 Q. Well, tell me what type of emergency
24 equipment you had available. You said an EKG
25 machine?

1 A. Yes.

2 Q. Did you have a defibrillator there?

3 A. Yes.

4 Q. Did you have equipment for IV
5 therapy?

6 A. Yes.

7 Q. Any other specific types of emergency
8 equipment?

9 A. Emergency? Oxygen. That's all I can
10 think of right now.

11 Q. Did you have equipment to titrate IV
12 medications?

13 A. No. Not that I was aware of.

14 Q. So you would not be giving a patient
15 medications that required any type of titration,
16 such as to treat shock or something like that?

17 A. Right, no.

18 Q. Did you have any type of protocols as
19 to when 911 should be called for a patient for
20 transport to the hospital? Were there any
21 written protocols for that?

22 A. I believe there were. When I first
23 arrived, there might have been a book with some
24 certain protocols. I can't be certain of that
25 one. But again, it was pretty much left up to

1 the discretion of the attending physician.

2 Q. When phone calls would come in, if a
3 patient was calling in for a problem, were there
4 any protocols that the nurses followed as far as
5 triaging patients; telling them, yes, come to
6 urgent care, no, go to the hospital, or call
7 911? Were there any specific directions that
8 the nurses followed, guidelines?

9 A. I'm sure there were, but not that I
10 was aware of for the nursing department.

11 Q. Did you give the nurses any
12 instructions as to what type of patients they
13 should say call 911, don't come here; drive to
14 the urgent care, just call 911?

15 A. I think they would have the protocol
16 set up in terms of that.

17 Q. But you are not aware of the
18 protocol?

19 A. Not specifically.

20 Q. And you never spoke to the nurses
21 about what the protocols should be in regard to
22 that type of a situation?

23 A. Again, I'm sure protocol existed.

24 Q. Why are you sure, doctor?

25 A. Well, I would assume. I can't be 100

1 percent sure. But there should be a policy that
2 should exist, because they have to follow a
3 certain protocol, as well. It's common sense
4 for an urgent care to have a protocol set up for
5 nursing to handle calls in a specific fashion.
6 I can't be sure. I didn't deal with that.

7 Q. And that's what I am trying to find
8 out, what you do know?

9 A. I really don't.

10 Q. You never had any conversations with
11 the nurses regarding whether they had a protocol
12 or they didn't have a protocol; correct?

13 A. Correct.

14 Q. And do you know who would be
15 responsible for that, as to whether there is a
16 protocol or not? Is there a supervisor for the
17 nursing staff?

18 A. The supervisor at the time was Gloria
19 Mallory.

20 Q. Was she on site? Did she work in the
21 urgent care?

22 A. Yes. I mean, she was --

23 Q. She was what?

24 A. I am trying to recall. I think more
25 toward the end of my stay there she was more

1 managerial than actual -- I know she did her
2 shifts, as well. And she would be there
3 sometimes in her office when the RN and the LPN
4 were there, as well.

5 Q. Is Gloria Mallory a registered nurse?

6 A. Yes, she is.

7 Q. So she would be the one supervising
8 the nurse or the LPN that was in the urgent
9 care?

10 A. I believe it was the whole nursing
11 department. She had some sort of title. I
12 can't recall what it was.

13 Q. Well, in addition to urgent care
14 nursing staff, what other department areas would
15 she be supervising nurses? You had expressed
16 previously that there was a pediatric
17 department. Was she also over the pediatric
18 department?

19 A. Not that I'm aware of.

20 Q. What other areas?

21 A. Just urgent care nursing staff.

22 Q. In the urgent care, were there
23 specialists available for consultation if you
24 felt there was a need for medical consultation?

25 A. Yes.

1 Q. And would those be Lake Hospital
2 Systems specialists that you would be consulting
3 with?

4 MR. KRAUSE: Objection.

5 MR. MERRIAM: You can answer.

6 A. Yes, as far as I knew they were Lake
7 medical staff.

8 Q. Now, I want to talk to you in a
9 little bit more detail about your duties and
10 responsibilities at the urgent care. You have
11 told me that you didn't provide routine follow
12 up for patients that came into the urgent care
13 as a primary care physician would. You saw
14 patients that would come in --

15 A. Could I interrupt?

16 Q. Yes.

17 A. There was a protocol set up where the
18 nurses would have patient callbacks the
19 following day. So sometimes I would check on a
20 patient and look in the note. You could see on
21 this chart that it was done, as well.

22 Q. But my question was more in reference
23 to whether you were following a patient --

24 A. Not personally.

25 Q. -- such as a diabetic coming back to

1 have a blood sugar check?

2 A. Right.

3 Q. That wasn't the type of medical care
4 that you were providing?

5 A. Correct.

6 Q. How often in your practice do you see
7 patients with bowel obstruction or where you
8 suspect bowel obstruction?

9 MR. MERRIAM: At the time?

10 Q. I am asking in your current practice,
11 how often do you see that? I'm looking for an
12 approximation.

13 A. Not very often.

14 Q. Can you be a little more specific?
15 In a month's time or six month's time, how often
16 would you see a patient that you either
17 diagnosed with bowel obstruction or suspect to
18 have bowel obstruction?

19 A. I would say during the past year,
20 none that are really ringing a bell. But I
21 would venture to say maybe one. It's
22 infrequent.

23 Q. Have you personally diagnosed a
24 patient with bowel obstruction?

25 A. No. That's not my duty.

1 Q. You would normally, if it was
2 suspected, send the patient on to a specialist
3 or to the hospital, or whatever appropriate
4 diagnostic?

5 A. To confirm the diagnosis, yes.

6 Q. Can you tell me what your
7 understanding is of the signs and symptoms that
8 would raise a suspicion for bowel obstruction?

9 A. Abdominal pain, persistent vomiting,
10 possibly abdominal distention.

11 Q. Is the pain associated with
12 obstruction typically an intermittent and
13 cramping type pain?

14 A. I would say so. Generally.

15 Q. In the initial sequence of events, is
16 there a difference in presentation between
17 somebody that has small bowel versus large bowel
18 obstruction? As a clinician, are you able,
19 based on a clinical evaluation, to determine
20 small bowel versus large bowel on the initial
21 clinical presentation?

22 A. You are saying without any lab or
23 x-ray?

24 Q. Yes. Just on the clinical
25 presentation.

1 A. No. I would say that would be
2 somewhat hard to do. I mean, let's leave it at
3 that.

4 Q. Do the signs and symptoms of bowel
5 obstruction depend to some extent on the degree
6 of obstruction, the location of the obstruction,
7 as well as the duration of the obstruction?

8 A. I would say so.

9 Q. Can bowel obstruction in some
10 instances occur in a few hours and then in other
11 instances occur over days, weeks?

12 A. Again, it's not my field of
13 expertise, but I would say so. It's possible.

14 Q. Is abdominal distention usually a
15 later finding in intestinal obstruction?

16 A. I would say so.

17 Q. Is abdominal distention less common
18 when the obstruction is in the small intestines
19 as opposed to the large intestines?

20 A. Could you repeat that?

21 Q. Yes. Is abdominal distention less
22 common in obstructions of the small intestine as
23 compared to obstructions of the large intestine?

24 A. I would have to review the
25 literature, to be honest with you.

1 Q. In a patient presenting with
2 abdominal pain, would the development of fecal
3 emesis raise the level of concern for bowel
4 obstruction?

5 MR. KRAUSE: Objection.

6 A. I would say so.

7 Q. What's the significance of fecal
8 emesis?

9 MR. KRAUSE: A continuing objection
10 so I don't have to interrupt you, Jeanne.

11 MS. TOSTI: Yes.

12 MR. KRAUSE: Thank you.

13 Q. From your perspective as a physician,
14 if you are evaluating a patient and they report
15 fecal emesis, what's the significance of fecal
16 emesis, as far as a sign or symptom? If you
17 observe fecal emesis, what's the significance of
18 that?

19 A. I suppose there is a strong
20 likelihood of an obstructive process.

21 (Recess had.)

22 Q. If at the Urgent Care Center a
23 patient is found to have abdominal pain and
24 fecal emesis, is there any particular type of
25 workup that would be done at the urgent care?

1 MR. SCOTT: Objection.

2 MR. KRAUSE: Objection.

3 A. Particular type? No.

4 Q. No particular testing that you as a
5 physician would do in a patient coming in with
6 abdominal pain and fecal emesis?

7 A. I mean, as compared to any other type
8 of patient with abdominal pain?

9 Q. I am asking what you would do at the
10 Urgent Care Center with a patient that presents
11 with abdominal pain and fecal emesis?

12 A. You want to know my workup?

13 Q. Yes. As to what the diagnostic
14 workup at the urgent care would entail.

15 A. The same as I did in this case.

16 Q. Well, doctor, you need to answer my
17 question.

18 MR. MERRIAM: Go through step by
19 step.

20 Q. What would be the appropriate
21 diagnostic workup at the urgent care?

22 A. Blood work.

23 Q. And what would that include? What
24 type of panels?

25 A. Well, what we had at our disposal was

1 limited, to begin with.

2 MR. MERRIAM: She wants to know what
3 you did based on what you had available to you.

4 A. A CBC, a BMP, which is a basic
5 metabolic screen, Chem 7. Acute abdominal
6 series.

7 MR. LENSON: KUB?

8 A. It covers a KUB, chems, a chest
9 x-ray, decubitus film, a urinalysis.

10 MR. MERRIAM: Is that it?

11 THE WITNESS: I think that's pretty
12 much.

13 MR. MERRIAM: That was the blood
14 work. What about the other?

15 A. X-ray and lab.

16 Q. Are there any complications
17 associated with unrelieved bowel obstruction
18 that you are aware of?

19 A. Repeat the question, please.

20 Q. Are there any complications
21 associated with unrelieved bowel obstruction
22 that you are aware of?

23 A. You mean unresolved?

24 Q. Yes.

25 A. There are possible consequences.

1 Q. And what may those be?

2 A. Dehydration. Again, I mean, I
3 haven't read the literature. It's been a while
4 since -- I don't deal with these cases that
5 often to remember the long-term sequelae and
6 consequences of a protracted case of bowel
7 obstruction.

8 Q. Do you know whether unrelieved bowel
9 obstruction can lead to life-threatening fluid
10 and electrolyte imbalances, in some instances?

11 A. I suppose it could.

12 Q. Does the risk for fluid and
13 electrolyte imbalances increase with the
14 duration of the bowel obstruction?

15 A. I would say so, yes.

16 Q. Doctor, are there any general
17 guidelines that you recommend to patients as to
18 when they should seek medical attention for
19 recurrent vomiting at an Urgent Care Center? Is
20 there any particular instructions that you would
21 give to patients as to when they should see a
22 provider in regard to vomiting?

23 A. Again, it varies on a case-by-case
24 scenario. In general, general guidelines?
25 After I have seen that patient and I am giving

1 them advice? I don't really follow the
2 question.

3 Q. I'm just asking if you have any
4 general guidelines?

5 A. No, no general guidelines.

6 Q. Are there complications associated
7 with recurrent vomiting?

8 MR. SCOTT: Objection.

9 A. I would say so.

10 Q. Is one of those complications fluid
11 and electrolyte imbalances?

12 A. Possibly.

13 Q. Is aspiration another complication?

14 A. Possibly.

15 Q. Can recurrent vomiting result in
16 life-threatening complications?

17 MR. SCOTT: Objection.

18 MR. KRAUSE: Continuing objection.

19 MR. MERRIAM: Same objection.

20 A. Repeat the question, please.

21 Q. I said can recurrent vomiting result
22 in life-threatening complications?

23 MR. SCOTT: Continuing objection.

24 MR. KRAUSE: Objection.

25 MR. MERRIAM: Objection. Go ahead

1 and answer.

2 A. Possibly.

3 Q. When a bowel obstruction occurs, do
4 you know if it's possible for the patient to
5 evacuate stool distal to the obstruction for a
6 period of time?

7 A. A complete or partial?

8 Q. Either way. If a patient has complete
9 bowel obstruction, is it possible for a patient
10 to evacuate stool distal to the obstruction for
11 a period of time?

12 A. I would say -- let's just say I'm not
13 sure.

14 Q. Do you have a recollection of Lorna
15 Moeller, as you sit here today? Do you remember
16 her?

17 A. I would say vaguely.

18 Q. Either from your recollection or
19 review of the records, can you tell me when the
20 first time you saw Lorna Moeller was?

21 A. No.

22 Q. Doctor, I'm going to hand you what
23 has been marked as Plaintiff's Exhibit 2. I
24 will let counsel look at it. I would ask on
25 Plaintiff's Exhibit 2, which is, I believe, an

1 Urgent Care Center document from July 24th of
2 1999, looking at that document, can you tell me
3 if you saw Lorna Moeller on July 24th of 1999?

4 A. According to the record, I did.

5 Q. Okay.

6 A. Do I have an independent
7 recollection? No.

8 Q. When you saw her at that point in
9 time, what was the reason that she was being
10 seen?

11 A. Nausea and vomiting.

12 Q. Could you tell me what your plan of
13 care was?

14 A. To discharge the patient, increase
15 fluids, put her on a liquid diet to start with,
16 and slowly advance it as tolerated; follow up
17 with her primary care physician and instruct the
18 staff, because I am sure she was still at the
19 residential center. If vomiting reoccurs, fever
20 greater than 102 degrees Fahrenheit, that she
21 should proceed to the emergency room.

22 Q. Now, when you saw her in July of
23 1999, can you tell from this record as to
24 whether her symptoms resolved prior to the time
25 that she left the urgent care?

1 A. We are talking '99?

2 MS. TOSTI: I would like the witness
3 to be looking at the document while I ask him
4 these questions.

5 MR. SCOTT: Let's get a copy.

6 MS. TOSTI: I think you have a copy
7 of these in the record.

8 MR. SCOTT: I don't have them now.
9 Let's take a break and get a copy.

10 (Recess had.)

11 A. Again, you are asking did the
12 symptoms resolve prior to leaving the urgent
13 care?

14 Q. I am asking with your review of the
15 record if you are able to tell me?

16 A. I can tell you what I wrote feeling
17 better now. That was either per the patient or
18 the caregiver. Feeling better now. Denies
19 nausea or abdominal pain at present. I could
20 tell you the patient called back the following
21 day. Doing fine today. Vomiting has stopped.

22 Q. Now, doctor, if the vomiting had not
23 stopped, what would the recommendation be?

24 MR. KRAUSE: Objection.

25 Q. If when the nurses called and they

1 said there was continued vomiting, what would be
2 the recommendation?

3 MR. MERRIAM: Objection. Go ahead
4 and answer.

5 MR. SCOTT: Objection.

6 A. If the nurses came to me with that
7 information?

8 Q. Yes. Have the patient come back to
9 the urgent care or go to the emergency room.

10 MR. SCOTT: Objection.

11 A. I would have to have further
12 information as to where I wanted her to be seen.

13 Q. And looking at this, with this
14 information, you wouldn't be able to say what
15 your recommendation would be if the nurses said
16 we called her and she is having continuing
17 vomiting?

18 MR. MERRIAM: Objection. Go ahead
19 and answer.

20 A. No.

21 Q. Now, aside from this visit that we
22 just looked at, and then the visit to the urgent
23 care on February 1st of 2000, you have no
24 recollection of having seen her at any other
25 time; is that correct?

1 A. No, not off the top of my head.

2 Q. In regard to the visit on February
3 1st of 2000, if you want to take a look at the
4 records that you have from that visit, what was
5 the chief complaint that brought Lorna Moeller
6 to the urgent care on that date?

7 A. Abdominal pain would be the chief
8 complaint.

9 Q. And was she not also having vomiting?

10 A. Yes.

11 Q. How was the pain described?

12 A. I just had the nurse's notes. She
13 described it from the nurse's notes, so I didn't
14 pursue it myself.

15 Q. Did you take a history on Lorna?

16 A. Yes.

17 Q. Tell me what history you obtained.

18 A. Patient complaining of abdominal pain
19 times one and a half hours. Emesis times two
20 since discomfort began. Positive bowel movement
21 this a.m. Denies hematemesis, melena, or
22 matochezia per caregiver.

23 Q. What is matochezia?

24 A. It's bright red bleeding, rectal
25 bleeding.

1 Q. Okay.

2 A. A.M, meaning morning/midday
3 uneventful per caregiver. And then no fever,
4 without fever, denies fever.

5 MR. SCOTT: What did you say?

6 THE WITNESS: No fever.

7 Q. Now, did you also receive some
8 information from the nurses in regard to the
9 type of pain that she was having?

10 A. Right. That's in the triage notes.

11 Q. And the nurses described it as a
12 sudden onset of abdominal pain with vomiting; is
13 that correct?

14 A. Correct.

15 Q. And according to the history that you
16 took, the pain had been present for an hour and
17 a half. The admission information under
18 statement of problem says three hours. Do you
19 know where the three hours came from?

20 A. No.

21 Q. Who obtains the information in regard
22 to that statement of problem? Is that one of
23 the nurses that takes that down, that initial
24 information?

25 A. Well, she signed it, didn't she?

1 Q. No. There is a typewritten area
2 under statement of a problem on the first page
3 that says abdominal pain times three hours and
4 I'm asking where that information came from?

5 A. That's from the nurse.

6 Q. Was anyone with Lorna when you saw
7 her in the urgent care?

8 A. Yes.

9 Q. Do you know who it was?

10 A. The caregiver.

11 Q. Do you know, was it a male or female?

12 A. I can't recall.

13 Q. You don't recall a name or anything?

14 A. No.

15 Q. Now, did you also do a physical exam
16 when you saw her that day?

17 A. Yes.

18 Q. And did you find any deviations from
19 normal on your physical examination?

20 A. Yes.

21 Q. What deviations from normal did you
22 find on your physical exam?

23 A. Hypoactive bowel sounds.

24 MR. LENSON: Hyper or hypo?

25 THE WITNESS: Hypo.

1 A. Positive tenderness with mild
2 guarding right mid-abdomen. That's basically
3 all the deviations I have listed from the
4 normal.

5 Q. Did Lorna have any signs or symptoms
6 that heightened your concern for bowel
7 obstruction when you saw her?

8 A. I can't recall.

9 Q. Based on what you have recorded on
10 the medical record, is there anything there that
11 would have heightened your concern for bowel
12 obstruction?

13 A. Repeat that, please.

14 Q. Based on the medical record that you
15 have before you, is there anything in what you
16 have written there that would heighten your
17 concern for bowel obstruction?

18 A. In terms of both the history and
19 physical, everything on the chart?

20 Q. Whatever your assessment entailed,
21 doctor.

22 A. Heightened my concern. Again, I
23 think the answer to your question is yes.

24 Q. And what would heighten your concern
25 for bowel obstruction, based on your assessment?

1 MR. LENSON: Are you talking about
2 retrospectively or at the time? Are you talking
3 about at the time?

4 MS. TOSTI: We are discussing his
5 clinical notes from the visit of February 1st.

6 MR. LENSON: I want to make sure, the
7 heightened suspicion retrospectively or at the
8 time?

9 MS. TOSTI: At the time that he saw
10 the patient.

11 Q. What heightened your concern for
12 bowel obstruction?

13 A. Well, I mean, both the history and
14 the physical exam.

15 Q. But I'm asking you specifically, what
16 in the history, what in the exam heightened your
17 concern for bowel obstruction?

18 A. This was two years ago. You know, I
19 can't tell you what I was thinking at the time.
20 I guess it was on my mind. It needed to be
21 ruled out. Possibly that's what my mental
22 process was going through at the time, but I
23 can't -- you know, that's a long time ago to
24 tell you exactly what my thought processes were
25 on that specific day.

1 Q. Well, doctor, we are looking at your
2 assessment. You have history written here, you
3 also have some of your physical assessment
4 written here. I'm asking, based on what is down
5 here in your clinical record, can you tell me
6 any portion of it that would heighten your
7 concern for bowel obstruction?

8 A. Abdominal pain, vomiting, although
9 it's short lived at the time.

10 Q. Hypoactive bowel sounds?

11 A. Hypoactive bowel sounds and some
12 tenderness on the abdomen physical exam.

13 Q. Was there anything in Lorna Moeller's
14 history that would place her at increased risk
15 for bowel obstruction?

16 A. Not that I'm aware of.

17 Q. Did you not record that she had a
18 history of diverticulosis?

19 A. Yes.

20 Q. Would that increase the risk for
21 bowel obstruction?

22 A. I'm not sure. Possibly. I would
23 have to look into that, review the text.

24 Q. Now, doctor, you ordered some
25 diagnostic studies for her; correct?

1 A. Correct.

2 Q. You ordered an abdominal series?

3 A. Correct.

4 Q. A CBC?

5 A. Yes.

6 Q. And a urinalysis with culture
7 insensitivity?

8 A. Yes.

9 Q. And why did you order those
10 particular diagnostic studies?

11 A. A quick answer to your question is,
12 in general, patients that present with abdominal
13 pain, that's the standard panel I get and
14 obtain. Nothing really specific.

15 Q. And when you ordered those diagnostic
16 studies, did you find that there were any
17 deviations from normal? Let's start with the
18 complete blood count.

19 A. The white count was slightly
20 elevated.

21 Q. Can a partial or complete bowel
22 obstruction in some instances cause an elevation
23 of the white blood cell count?

24 A. I'm not sure.

25 Q. Doctor, do you know if fever is

1 sometimes associated with bowel obstruction?

2 A. In my mind, there is not a good,
3 direct correlation that I could really put my
4 finger on, but I'm not saying yes or no to the
5 question. I really don't know.

6 Q. In Lorna Moeller's case, there is a
7 transfer sheet, I believe, prior to her
8 transfer.

9 A. Right.

10 Q. On the transfer sheet, it indicates
11 that she has a fever prior to transfer that I
12 believe is 100.6.

13 A. Right. I noticed that when I
14 reviewed the chart.

15 Q. Why in Lorna Moeller's case did she
16 have fever?

17 A. I'm not certain. Maybe secondary to
18 the urinary tract infection.

19 Q. Did she have any signs of dehydration
20 when you saw her?

21 A. I didn't note any, so I would say no.
22 Otherwise I would have noted it.

23 Q. In regard to her basic metabolic
24 panel, did you find any deviations from normal
25 in that?

1 A. Serum glucose was elevated. Her BUN
2 was elevated. And her BUN creatinine ratio was
3 elevated.

4 Q. And in her case, what was the
5 significance of the elevated BUN and BUN
6 creatinine ratio?

7 A. I don't know what her baseline is to
8 make a good evaluation -- I mean assessment to
9 that question, a good answer.

10 Q. Do BUN and BUN creatinine ratios
11 become elevated with dehydration?

12 A. They can be.

13 Q. Now, she had a random blood sugar of,
14 I think, 207. Was that of any concern when you
15 saw her?

16 A. Meaning, did it emergently need to be
17 treated?

18 Q. I am asking you what the significance
19 of it was. You treated this lady and I am
20 asking as to whether you considered it of any
21 significance?

22 A. Then or looking back on it?

23 MR. MERRIAM: Objection to any
24 retrospective question. I assume she is asking
25 you what you saw at the time.

1 MS. TOSTI: At the time.

2 A. Again, repeat it, please.

3 Q. At the time that you saw her, she had
4 a blood sugar, a random blood sugar of 207. Was
5 it of any significance?

6 A. Just that it was elevated.

7 Q. Did it require any follow up?

8 MR. KRAUSE: Objection.

9 A. Would it have required any follow up?

10 Q. I am asking, whether that random
11 blood sugar of 207 required any follow up in
12 Lorna Moeller's case?

13 MR. KRAUSE: Objection.

14 A. It's hard to speculate. I mean, she
15 might have had a can of Pepsi prior to coming
16 in.

17 Q. So a random blood sugar of 207 may or
18 may not be of significance?

19 A. May or may not.

20 Q. Now, you also ordered abdominal films
21 on her. Did you review those films? Did you
22 look at the actual films?

23 A. Yes, I did.

24 Q. And what were your findings when you
25 looked at the films?

1 A. Again, I didn't appreciate an
2 obstructive pattern, otherwise I would have
3 noted it. I think I recall a decent amount of
4 fecal material; otherwise it was pretty
5 nonspecific, in my mind.

6 Q. What x-ray findings would suggest an
7 obstructive pattern? What would you be looking
8 for?

9 A. A bowel distention, proximal to the
10 obstruction with a collapse distally, air fluid
11 levels, possibly.

12 Q. In the early stages of bowel
13 obstruction, would those x-ray findings always
14 be present?

15 MR. MERRIAM: Objection. Go ahead
16 and answer.

17 A. I'm not a radiologist. I can only
18 speculate.

19 Q. Do you know how long it takes the
20 bowel to distend after complete obstruction
21 occurs?

22 A. No.

23 Q. And if there is a partial or
24 incomplete obstruction, would distention always
25 occur?

1 A. Again, I'm not certain.

2 Q. Can bowel obstruction be ruled out on
3 the basis of a single abdominal x-ray series?

4 MR. KRAUSE: Objection.

5 MR. MERRIAM: Objection.

6 A. I'm not a radiologist.

7 Q. Now, after you completed your
8 evaluation of Lorna Moeller, what was within
9 your differential diagnosis?

10 A. Looking back on it or what was I
11 thinking then? I would just be speculating.

12 MR. MERRIAM: She is not asking you
13 to look back from your vantage point today. She
14 is asking what was your differential diagnosis
15 on that day.

16 A. I can't recall on that day.

17 Q. Well, based on what you have recorded
18 in the notes, can you tell me what was within
19 your differential diagnosis?

20 A. I would have to look back on it from
21 a vantage point of today.

22 Q. Doctor, I'm asking you to look at
23 what you have recorded in the medical records
24 and tell me if based on what you have written
25 there you can discern what was within your

1 differential diagnosis at the time that you saw
2 Lorna Moeller?

3 A. Abdominal pain, unknown etiology.
4 Vomiting. I mean --

5 Q. Doctor, is that your handwriting on
6 the front page of Urgent Care Center records
7 under the area marked diagnosis?

8 A. Yes.

9 Q. Would you tell me what you have
10 written in that spot?

11 A. Rule out small bowel obstruction.

12 Q. Tell me what you have written there.

13 A. UTI.

14 Q. If you read it from the beginning.

15 A. Abdominal pain, quotations below it,
16 rule out small bowel obstruction, and then below
17 that UTI.

18 Q. So is it likely that rule out small
19 bowel obstruction was within your differential
20 diagnosis on the date that you saw Lorna Moeller
21 in the Urgent Care Center?

22 A. Yes.

23 Q. Now, you have indicated that she also
24 had a urinary tract infection; correct?

25 A. Correct.

1 Q. And the basis for that, would you
2 tell me, based on the tests that you did, why
3 you felt she had a urinary tract infection?

4 A. Urine was hazy. There was a large
5 amount of leukocytes. There was a large amount
6 of blood, as well. And proteinuria.

7 Q. I believe the urine culture showed a
8 colony count of 50,000 proteus mirabilis.

9 Would that be considered a sufficient
10 count for the diagnosis of urinary tract
11 infection for that particular pathogen?

12 A. I would say so, yes.

13 Q. Did you order any treatment for the
14 urinary tract infection?

15 A. I would have, but she was being
16 transferred to the emergency department, so I
17 don't hand a prescription to a patient being
18 transferred to the emergency department.

19 Q. Now, did Lorna Moeller have any more
20 emesis while she was in the urgent care?

21 A. I believe so. According to the
22 nurse's notes, looking back on the case.

23 Q. How many more emeses did she have?

24 A. Emesis of small amount times four.

25 MR. LENSON: At what time?

1 THE WITNESS: At 1815 hours.

2 Q. And then at 1910, it also indicates
3 that she had abdominal pain in low abdomen,
4 persists with vomiting; correct?

5 A. That's what it says.

6 MR. LENSON: What time was that?

7 MR. MERRIAM: 1910.

8 Q. Now, in Lorna Moeller's case, was
9 recurrent emesis cause for concern?

10 MR. LENSON: Objection.

11 MR. KRAUSE: Objection.

12 MR. MERRIAM: Objection. Go ahead
13 and answer, if you can.

14 A. Yes.

15 Q. Now, we had just looked at her BUN,
16 which was elevated; correct?

17 A. Correct.

18 Q. And would continuing emesis also
19 raise concern for dehydration in this lady's
20 case?

21 A. Correct.

22 MR. MERRIAM: Objection.

23 Q. Now, did you order intravenous fluids
24 for Lorna Moeller?

25 A. Yes.

1 Q. What did you order for her?

2 A. Normal saline.

3 Q. And the rate that you ordered it at?

4 A. 75 cc's per hour.

5 Q. And why did you order IV fluids for
6 her?

7 A. Because she was vomiting.

8 Q. And the reason that you would order
9 IV fluids for a patient vomiting?

10 A. There might have been a concern about
11 dehydration. I'm not saying I appreciated it at
12 the time. Any patient that's vomiting can
13 possibly lead to that direction.

14 Q. Now, once you completed your
15 assessment, what was your plan of care for her?

16 A. To transfer her to the emergency
17 department.

18 Q. What steps did you take in order to
19 do that?

20 A. First contacted Dr. Kessler, her
21 primary care physician, discussed the case with
22 him.

23 Q. And did you make the phone call to
24 Dr. Kessler?

25 A. I spoke with him directly.

1 Q. And tell me what the content of that
2 conversation consisted of with Dr. Kessler.

3 A. I can't recall.

4 Q. Do you recall anything that
5 Dr. Kessler said in regard to the information
6 that you provided to him?

7 A. No.

8 Q. Did Dr. Kessler recommend one way or
9 the other whether she should be transferred to
10 the emergency room?

11 A. Not that I can recall.

12 Q. So it was your recommendation then
13 that she be transferred to the emergency room?

14 A. Again, I presented the case to him.
15 I can't say whose recommendation it was.

16 Q. I'm just trying to figure out how she
17 ended up at the emergency room and as to whether
18 that was something that was coming from your
19 recommendation or a recommendation from
20 Dr. Kessler. And you don't recall one way or
21 the other?

22 A. I can't be certain.

23 Q. Doctor, after you completed your
24 conversation with Dr. Kessler, what did you do?

25 A. Notified the ED, emergency

1 department.

2 Q. And when you go to transfer a patient
3 to the emergency room department, what is it
4 that you have to do in order to have the patient
5 sent over there? You notify the emergency room
6 department. Who do you speak to?

7 A. The physician on call.

8 Q. And in this case, who was that?

9 A. Dr. Gerald Jeromin.

10 Q. And you spoke with Dr. Jeromin on the
11 evening of February 1st regarding Lorna Moeller?

12 A. Correct.

13 Q. And tell me what you recall from that
14 conversation.

15 A. I can't recall.

16 Q. Is it likely you would have told him
17 that you were sending this patient because of
18 abdominal pain and that you also had within your
19 differential, rule out small bowel obstruction?

20 MR. MERRIAM: Objection.

21 MR. KRAUSE: Objection.

22 A. It's possible.

23 Q. Is it likely, doctor, based on the
24 diagnosis that you reported in your medical
25 notes from that visit?

1 MR. KRAUSE: Objection.

2 MR. LENSON: He already testified he
3 can't recall.

4 A. I can't say one way or another.

5 Q. Well, doctor, when you write down on
6 the --

7 A. I can't say that I would tell the
8 emergency room doctor. I mean, I would say,
9 this is the case and this is what has been
10 happening. He is going to get a copy of my note
11 anyway. He is going to see it. I can't say I
12 verbalized it or --

13 Q. Doctor, when you are making
14 arrangements to transfer a patient to the
15 emergency room, don't you usually provide the
16 emergency room physician with your assessment of
17 the patient and what your findings are?

18 A. Yes.

19 Q. And if you have concluded that you
20 think there is a rule out small bowel
21 obstruction, isn't it likely that you would
22 provide that information to the emergency room
23 physician also?

24 A. It's possible.

25 Q. Don't you usually do it that way?

1 MR. LENSON: Objection.

2 A. I mean, that's part of the
3 differential diagnosis. I mean, I'm not going
4 to rattle off five different things that might
5 be going through my head at the time.

6 Q. Well, I don't think we had five
7 things here.

8 A. Well, I could have listed five
9 things. I am sure I discussed the case. Again,
10 the x-ray was negative, so I don't know if I
11 would have mentioned it's probable.

12 Q. Well, why did you feel she needed
13 additional evaluation then?

14 A. Because the vomiting was persisting.
15 That's all I can assume looking at the chart.

16 Q. And what additional evaluation did
17 you anticipate would be done when she went to
18 the emergency room?

19 MR. KRAUSE: Objection.

20 MR. JAMISON: Objection.

21 MR. LENSON: Objection.

22 MR. MERRIAM: Objection.

23 A. I don't know. More studies, perhaps,
24 I don't know.

25 Q. I'm just trying to find out what your

1 reason was for sending her to the emergency
2 room.

3 MR. LENSON: He already said
4 persistent vomiting.

5 THE WITNESS: Yes, that's what I
6 said.

7 Q. But under your diagnosis you don't
8 have persistent vomiting. You have abdominal
9 pain, urinary tract infection and rule out small
10 bowel obstruction. So I'm wondering if you were
11 anticipating that they were going to do some
12 further evaluation at the emergency room that
13 you weren't able to do at the urgent care?

14 A. I can't answer what they would do,
15 you know.

16 Q. Did you anticipate that she would be
17 admitted to the hospital?

18 MR. MERRIAM: Objection.

19 A. I had no -- no, I didn't anticipate
20 either way.

21 Q. And other than Dr. Jeromin and
22 Dr. Kessler, did you speak to any other
23 physicians regarding Lorna Moeller close in time
24 to this urgent care visit on February 1st?

25 A. No.

1 Q. Do you recall speaking with the
2 caregiver that accompanied Lorna Moeller to the
3 Madison Medical Campus? Do you recall having
4 any conversations with that individual?

5 A. No.

6 Q. At the time that Lorna Moeller was
7 transferred from the urgent care to the
8 emergency room, can you tell me what her
9 condition was?

10 A. Upon discharge from the urgent care?

11 Q. Yes.

12 A. Stable.

13 Q. Was she still having abdominal pain?

14 A. I can't recall. I would be
15 speculating.

16 Q. Doctor, there is an urgent care
17 transfer sheet in the medical records. Would
18 you open to that. Is that your signature at the
19 bottom of the page?

20 A. Yes.

21 Q. Does that mean that you looked at
22 this information and that you concurred with
23 what's included on this page?

24 MR. KRAUSE: I'm sorry, where are we
25 at?

1 MR. LENSON: Transfer sheet.

2 MR. MERRIAM: Urgent care transfer
3 record.

4 MR. KRAUSE: I have it, thanks.

5 A. Yes.

6 Q. Now, the reason for transfer at the
7 top of the page says urinary tract infection,
8 severe abdominal pain, rule out small bowel
9 obstruction. If you didn't concur with that,
10 you would have changed that before the patient
11 left; correct?

12 A. I suppose so.

13 Q. After she was transferred from the
14 urgent care, did you have any further contact
15 with anyone from her group residence? Did you
16 talk to anyone on the phone?

17 A. None whatsoever.

18 Q. And aside from what we have already
19 discussed in your conversations with
20 Dr. Jeromin, did you have any further contact
21 with anyone at Lake East Hospital regarding
22 Lorna Moeller?

23 A. No.

24 Q. Do you have an opinion as to what
25 caused Lorna Moeller's death?

1 MR. KRAUSE: Objection.

2 MR. LENSON: Objection.

3 MR. JAMISON: Objection.

4 MR. MERRIAM: Objection.

5 A. No.

6 Q. Doctor, there were a series of
7 telephone calls that were made to Lake Hospital
8 Systems. I have a copy of some notes
9 referencing those phone calls that I have marked
10 as Plaintiff's Exhibit Number 3?

11 MR. LENSON: Does that come from the
12 Lake Hospital chart?

13 MS. TOSTI: It may have been in the
14 Urgent Care chart, I'm not sure.

15 A. Where is this coming from?

16 Q. At the top of the page it says Lake
17 Hospital Systems patient care progress notes and
18 at the bottom it has a stamp that says Madison
19 Medical Campus.

20 A. Right.

21 Q. And it references on February 3rd at
22 1800 hour, it indicates in the first note that
23 an Eastwood care provider called in. Then there
24 is an additional note for February 4th at 8:30
25 in the morning again saying an Eastwood

1 caregiver called today at 8:30.

2 Now, doctor, do you know, do you
3 recognize the signature on any of these notes?

4 A. No.

5 Q. Would this type of note normally be
6 done by the nursing staff when they take a call
7 at the Urgent Care Center?

8 A. I suppose so.

9 Q. Have you ever seen them make these
10 types of notes when they take a call?

11 MR. MERRIAM: If you know.

12 A. Not really.

13 Q. There is a call there from February
14 3rd at 1800 hour, and I'm going to let you just
15 read it.

16 A. I have trouble reading it.

17 Q. I believe it says Eastwood caregiver
18 call in regard to Lorna Moeller. She was trying
19 to get ahold of Dr. Heng and Dr. Kessler's
20 office but no answer. I gave her the 428-8292
21 number and told her this would get the answering
22 service. They would page them.

23 And then there is another notation,
24 also advised if unable to get ahold of them, or
25 it gets worse, call 911.

1 Do you have any recollection of any
2 of the nurses approaching you in regard to a
3 phone call that they received from an Eastwood
4 care provider regarding Lorna Moeller on
5 February 3rd? This would have been two days
6 after you saw her at the urgent care.

7 A. No.

8 Q. There is another note there from
9 February 4th, again with a caregiver calling.
10 Do you have any recollection of being approached
11 in regard to a caregiver calling in regard to
12 Lorna Moeller on February 4th of 2000?

13 A. No.

14 Q. Now, this particular note on February
15 4th says that they had spoken to Dr. Oh last
16 night and she stated still not had BM and was
17 vomiting bile. And the person that wrote this
18 note apparently told them to call Dr. Oh and see
19 what they wanted to do.

20 When the nurses take calls at the
21 Urgent Care Center, if there is any question in
22 regard to medical advice, do they come to you in
23 order to discern what advice should be given a
24 patient or do they have some other authority
25 that they are supposed to approach when they are

1 taking phone calls?

2 MR. MERRIAM: Objection.

3 A. To be honest with you, I don't know
4 the protocol they have. You would have to speak
5 with the nursing supervisor.

6 Q. And do you know whether you were
7 working on February 3rd at 1800 hour or on
8 February 4th at 8:30 in the morning?

9 A. No, I don't recall.

10 (Recess had.)

11 MS. TOSTI: Doctor, I think I have
12 completed all the questions that I have for you,
13 but some of these gentlemen may have some
14 additional questions for you.

15 MR. SCOTT: I have no questions.

16 EXAMINATION OF ARTHUR M. AMDUR, D.O.

17 BY MR. KRAUSE:

18 Q. Just real quickly, doctor.

19 What time did Lorna Moeller come into
20 your urgent care facility?

21 A. 6:10 p.m.

22 Q. And I see under the nurse's notes a
23 notation, claims BM this evening.

24 A. Correct.

25 Q. I'm on the face sheet. Do you have

1 any idea what time or is there anywhere else in
2 the record that indicates what time the reported
3 bowel movement occurred within the scope of the
4 evening, acknowledging that she came in at 6:10?
5 It was sometime prior to 6:10 she had a bowel
6 movement. Anywhere else that I can get that
7 time from?

8 A. Not that I'm aware of.

9 Q. Just for clarification, there is a
10 difference between calling 911 from your
11 facility as opposed to scheduling an ambulance
12 to come and pick up the patient --

13 A. Correct.

14 Q. -- for an emergent admission?

15 A. Correct.

16 Q. You pointed out regarding the visit
17 to your facility or the urgent care, the nurse's
18 note of the follow-up call saying the vomiting
19 had stopped?

20 A. Correct.

21 Q. Based on your experience as a
22 physician in the urgent care, was that
23 reassuring your mind back then regarding her
24 complaint on that day?

25 A. Yes.

1 Q. Do you have any experience or
2 acknowledge expertise in timing of emesis in
3 relation to bowel obstruction?

4 A. No.

5 Q. I don't know if I missed it, but how
6 many times have you diagnosed bowel obstruction?

7 A. Again, I suspect it. I don't really
8 diagnose it.

9 Q. You have never diagnosed bowel
10 obstruction in the past; is that fair?

11 A. That's fair, I would say so. That's
12 not my job to diagnose it. It's to make sure
13 that somebody does.

14 MR. KRAUSE: That's all I have.
15 Thank you.

16 MR. JAMISON: No questions.

17 EXAMINATION OF ARTHUR M. AMDUR, D.O.

18 BY MR. LENSON:

19 Q. Doctor, my name is Murray Lenson and
20 I represent Dr. Jeromin. I have a couple
21 questions. I appreciate your indulgence.

22 One of the reasons that you refer a
23 patient to the ER that day or that evening was
24 the constellation of the problems this lady was
25 suffering; is that correct?

1 A. I would say so.

2 Q. In other words, you already
3 determined that she had an infectious process,
4 urinary tract infection?

5 A. Correct.

6 Q. She demonstrated emesis historically
7 before she came to the urgent care and during
8 her stay there; correct?

9 A. Correct.

10 Q. And you were concerned about
11 dehydration?

12 A. Yes.

13 Q. So it was a combination of all three
14 that led you to refer her to the ER; is that
15 correct?

16 A. Correct.

17 MS. TOSTI: I don't have any further
18 questions.

19 MR. MERRIAM: The doctor would like
20 to review the transcript so he will not waive
21 the right of signature.

22 I assume you won't hold me to seven
23 days?

24 (Deposition concluded at 4:55 p.m.)

25 (Signature not waived.)

1 AFFIDAVIT

2 I have read the foregoing transcript from
3 page 1 through 69 and note the following
4 corrections:

5 PAGE LINE REQUESTED CHANGE

6

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ARTHUR M. AMDUR, D.O.

18

19

20 Subscribed and sworn to before me this
21 day of , 2002.

22

23 Notary Public

24

25 My commission expires .

CERTIFICATE

State of Ohio,

SS:

County of Cuyahoga.

I, Vivian L. Gordon, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named ARTHUR M. AMDUR, D.O. was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony as above set forth was by me reduced to stenotypy, afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony.

I do further certify that this deposition was taken at the time and place specified and was completed without adjournment; that I am not a relative or attorney for either party or otherwise interested in the event of this action. I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28 (D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 14th day of May, 2002.



Vivian L. Gordon, Notary Public
Within and for the State of Ohio

My commission expires June 8, 2004.

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